

## Advisory Memorandum

**To:** U.S. Commission on Civil Rights  
**From:** Maine State Advisory Committee to the U.S. Commission on Civil Rights  
**Date:** April 2020  
**Subject:** Advisory Memorandum on Hate Crimes in Maine

---

The Maine State Advisory Committee to the United States Commission on Civil Rights (Committee), in support of the Commission’s project on hate crimes, held a briefing on July 12, 2019. The Committee sought to learn about the current prevalence of hate crimes in Maine, the structure of hate crime laws within the state, and the effectiveness of current laws to track, report, and combat hate crimes within Maine. The agenda, an excerpt regarding hate crimes from the 2017 Crime in Maine report and a listing of actions brought under the Maine Civil Rights Act from 2010 to November 1, 2018 are attached in the Appendix. This Advisory Memorandum highlights the information the Committee learned at the briefing.

### **BACKGROUND**

A hate crime is criminal behavior targeted at an individual because of his or her real or perceived association with personal characteristics that are protected under civil rights law. The United States Federal Bureau of Investigation (FBI) defines a hate crime as a “criminal offense against a person or property motivated in whole or in part by an offender’s bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.”<sup>1</sup>

#### **1. Hate Crimes Nationally**

The Civil Rights Act of 1968 was a momentous statute that criminalized a new class of hate motivated acts.<sup>2</sup> The Civil Rights Act sought to address racial violence against civil rights workers and individuals pursuing federally protected activities. The Civil Rights Act permits federal prosecution of any person who willfully injures, intimidates, or interferes with another person, or attempts to do so, by force because of the victim’s race, color, religion, or national origin, provided that the offense occurred while the victim was attempting to engage in a statutorily protected activity.<sup>3</sup> Examples of statutorily protected activities under the Civil Rights Act include voting; enrolling in or attending any institution of public education; applying for or enjoying employment by any private or public employer; and enjoying the benefits or services of any establishment of public accommodation such as hotels, restaurants, movie theaters, and sports arenas.<sup>4</sup> Importantly, the Civil Rights Act did not designate as a hate crime offenses that

---

<sup>1</sup> “What We Investigate, Hate Crimes, Defining a Hate Crime, Federal Bureau of Investigation, accessed March 23, 2020, <https://www.fbi.gov/investigate/civil-rights/hate-crimes>.

<sup>2</sup> The Civil Rights Act of 1968, 18 U.S.C. § 245(b)(2).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

occurred while a victim was not engaged in one of the identified statutorily protected activities. As such, prosecution under the Civil Rights Act often proved difficult.<sup>5</sup>

While advocacy groups such as the Anti-Defamation League, the Southern Poverty Law Center, and the National Gay and Lesbian Task Force began compiling data on bias-motivated violence in the 1980s, official federal data was not collected until 1990 with the passage of the Hate Crimes Statistics Act.<sup>6</sup> The Hate Crimes Statistics Act requires the Attorney General to collect, as a part of the Uniform Crime Reports Program, data “about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity.”<sup>7</sup> In September 1994, the Violent Crime Control and Law Enforcement Act amended the Hate Crimes Statistics Act to add disabilities as a factor that could be considered as a basis for hate crimes.<sup>8</sup> Although the Hate Crimes Statistics Act mandated hate crimes data collection for five years, the FBI considers the collection of such statistics to be a permanent addition to the Uniform Crime Reports Program.<sup>9</sup>

Also included as part of the Violent Crime Control and Enforcement Act of 1994, the Hate Crime Sentencing Enhancement Act<sup>10</sup> mandated a revision of United States Sentencing Guidelines to provide sentencing enhancements of at least three offense levels for hate crime offenses. The Hate Crime Sentencing Enhancement Act included protection for those targeted because of their ethnicity, gender, disability, or sexual orientation, in addition to protecting individuals on the basis of race, color, religion and national origin.<sup>11</sup> Because this sentence enhancement can only be employed when an underlying federal crime is committed, its enactment did not expand the substantive scope of any federal criminal law prohibitions, and it excludes many offenses prosecuted at the state level where hate may be a motive. While the Hate Crime Sentencing Enhancement Act did evoke Congressional willingness to address hate crimes, the scope of substantive federal protection remained unchanged.

In 2009, the enactment of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009<sup>12</sup> provided additional authority for federal officials to investigate and prosecute hate crimes. The Hate Crimes Prevention Act closed the loophole in the Civil Rights Act which limited federal hate crime prosecution to cases in which the victim had been engaged in a

---

<sup>5</sup> For a successful case using 18 U.S.C. § 245, see *United States v. Nelson*, 277 F.3d 164 (2d Cir. 2002).

<sup>6</sup> Hate Crimes Statistics Act, Pub. L. No. 101-275, 104 Stat. 140 (codified at 28 U.S.C. § 534).

<sup>7</sup> *Id.*

<sup>8</sup> Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796-2151 (codified at 42 U.S.C. §§ 13701–14223).

<sup>9</sup> 28 U.S.C. § 534. The Church Arson Prevention Act of July 1996 indefinitely extended the mandate for collection of hate crime statistics, making it a permanent part of the Uniform Crime Reports program.

<sup>10</sup> Hate Crime Sentencing Enhancement Act, Pub. L. No. 103-322, § 280003, 108 Stat. 1796, 2096 (codified as 28 U.S.C. § 994).

<sup>11</sup> *Id.*

<sup>12</sup> Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, Pub. L. No. 111-84, §§ 4701-4713, 123 Stat. 2835, 2835-2845 (codified at 18 U.S.C. § 249).

statutorily protected activity at the time of the crime.<sup>13</sup> The Hate Crimes Prevention Act also authorized the U.S. Department of Justice to investigate and prosecute “certain bias-motivated crimes based on the victim’s actual or perceived sexual orientation, gender, gender identity, or disability.”<sup>14</sup> Finally, the Hate Crimes Prevention Act provided limited jurisdiction “for federal law enforcement officials to investigate certain bias-motivated crimes in states where current law is inadequate”<sup>15</sup> and provided federal aid and technical assistance to state, local, and tribal jurisdictions to help them more effectively investigate, prosecute, and prevent hate crimes from occurring.<sup>16</sup>

## 2. Hate Crimes in Maine

### *Overview*

The FBI has been tracking and documenting hate crimes from federal, state, and local law enforcement officials since 1991 pursuant to the Hate Crime Statistics Act of 1990. The FBI’s annual Hate Crimes Statistics Act report provides state-specific bias-motivated criminal activity for each state in the U.S. Since 1992, all Maine police departments have been required to track and report hate crime data for inclusion in the annual *Crime in Maine* report and the FBI’s Hate Crimes Statistics Act report.<sup>17</sup> Maine’s reports must include hate crimes that “manifest evidence of prejudice” based on race, religion, disability, sexual orientation or ethnicity.”<sup>18</sup>

A chart summarizing FBI hate crime data for Maine from 2007 through 2017 follows:

---

<sup>13</sup> 18 U.S.C. § 249; *See* Anti-Defamation League. “Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA) What You Need to Know.” ADL.org.

<https://www.adl.org/sites/default/files/documents/assets/pdf/combating-hate/What-you-need-to-know-about-HCPA.pdf> (retrieved September 10, 2019).

<sup>14</sup> HCPA: WHAT YOU NEED TO KNOW; *See* 18 U.S.C. § 249(a)(1)-(2).

<sup>15</sup> HCPA: WHAT YOU NEED TO KNOW

<sup>16</sup> 42 U.S.C. § 3716.

<sup>17</sup> Title 25 M.R.S.A. § 1544.

<sup>18</sup> *Id.*

### Hate Crimes in Maine (2007-2017)<sup>13</sup>

Bias Motivation	'17	'16	'15	'14	'13	'12	'11	'10	'09	'08	'07
<b>Race</b>	17	21	16	11	12	20	18	30	28	32	39
<b>Ethnicity</b>	N/A	N/A	N/A	1	0	3	3	5	2	3	5
<b>Religion</b>	9	11	9	8	3	10	8	7	6	8	7
<b>Anti-Jewish</b>	2	5	1	4	1	6	7	4	5	7	2
<b>Anti-Muslim</b>	N/A	6	5	4	1	1	1	1	1	0	1
<b>Sex. Orient.</b>	4	8	13	8	10	19	26	18	14	20	21
<b>Disability</b>	0	0	0	0	0	0	0	1	0	0	0
<b>Gender</b>	0	0	0	0	0	N/A	N/A	N/A	N/A	N/A	N/A
<b>Gender Identity</b>	2	0	0	0	0	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total</b>	<b>32</b>	<b>40</b>	<b>38</b>	<b>28</b>	<b>25</b>	<b>52</b>	<b>55</b>	<b>61</b>	<b>50</b>	<b>63</b>	<b>72</b>

According to the most recent FBI data available, there were 32 hate crime offenses in Maine in 2017, a notable decrease from 2016, contrary to the trend observed at the national level, where hate crimes increased substantially---by 17 percent---in 2017.<sup>19</sup> Most of Maine's 2017 hate crime offenses were intimidation, followed by simple assault and destruction of property, and the most common location of bias crimes in 2017 was at colleges and universities (7 of the 32 offenses reported in 2017 occurred at the University of Southern Maine). In 2017, there were 132 reporting agencies in the state but only 10 of these reported one or more hate crimes to the FBI.

At the time of the briefing, the most recent report published by the Maine Department of Public Safety was the 2017 *Crime in Maine*.<sup>20</sup> For 2017, as stated, only ten of 132 agencies reported any occurrences of hate crimes in 2017, while fourteen had reported in each of the previous two years.<sup>21</sup> Two of these agencies (Portland, with a population of approximately 67,000 and the University of Southern Maine, located primarily in Portland, with a population of approximately 7,800) accounted for 17 of the 32 hate crimes reported in 2017. Further, in 2017, only five of the state's ten largest cities reported any occurrences of hate or bias related incidents. While these statistics are not necessarily indicative of underreporting of hate crimes, some critics have posited that bias motivated crimes are generally underreported.<sup>22</sup>

The Southern Poverty Law Center noted that in April of 2019, two men allegedly assaulted an African-American man outside of a bar in Biddeford, Maine. The assailants, one of which had Swastikas tattooed on his arm, threw the victim to the pavement and broke his jaw.<sup>23</sup> While state

<sup>19</sup> <https://ucr.fbi.gov/hate-crime/2017/tables/table-13-state-cuts/maine.xls>.

<sup>20</sup> See excerpt of 2017 *Crime in Maine*, Hate Crimes section, pages 47-50 in Appendix. 2018 *Crime in Maine* was released on October 3, 2019.

<sup>21</sup> Ibid.

<sup>22</sup> See Noa Yadidi, *DOJ Report: Majority of hate crimes go unreported*, CNN: POLITICS (June 29, 2017, 2:57 PM), <https://www.cnn.com/2017/06/29/politics/doj-hate-crime-report/index.html>.

<sup>23</sup> Bill Morlin, *Two men accused of federal hate crime for Assault in Maine*, SOUTHERN POVERTY LAW CENTER (Aug. 29, 2018), <https://www.splcenter.org/hatewatch/2018/08/29/two-men-accused-federal-hate-crime-assault-maine-0>.

prosecutors brought civil charges against the men and were issued injunctions, the two assailants are being further prosecuted in state court for state criminal charges [checking status] and in federal court for a violation of the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act.<sup>24</sup> The SPLC stated that “the case marks the first time that the 10-year-old federal statute has been used to bring hate crime charges in Maine...”<sup>25</sup>

Beyond the statistics, the impact on hate crime victims in Maine is profound. As Maine’s District Attorney for York County Kathryn Slattery stated at the briefing:

Prosecution of hate crimes remains a significant issue for local prosecutors. While not an overwhelming number of cases, the impact of these incidents on the individual victim and the community is enormous and worthy of great attention by prosecutors. These types of crimes have an exponential impact beyond the actors involved. Remaining vigilant in recognizing and prosecuting them is only one way to protect and to help our communities recover. The victims- the targets – of these crimes are particularly vulnerable. They may be reluctant to come forward and publicly identify as part of a targeted group, or have lack of trust in law enforcement; or, he or she may have come to Maine thinking it was a safe haven where these types of crimes do not happen only to find themselves targeted because of their actual or perceived membership in a targeted group. Maine can and should be a safe place for all to live and we must all continue to strive to make sure we are that safe haven...<sup>26</sup>

### *Hate Crime Laws in Maine*

Maine has a unique legal framework for addressing hate “crimes” in that actions against bias-motivated conduct may be brought by the Maine Attorney General’s office or by private parties as civil actions to enjoin conduct, under the Maine Civil Rights Act (MCRA).<sup>27</sup> As discussed below, on a parallel track, or separately, charges may be brought by any of the sixteen county District Attorneys under Maine’s criminal code for bias-motivated crimes. The U.S. Attorney may also bring charges for the same conduct, separately or concurrently with Maine’s actions, under the federal hate crime laws cited above.

For civil actions, the Maine Attorney General is primarily responsible for enforcing the Maine Civil Rights Act, which calls for an injunctive order to prohibit conduct that “intentionally interferes or attempts to intentionally interfere by physical force or violence against a person, damage or destruction of property or trespass on property or by the threat of physical force or violence against a person, damage or destruction of property or trespass on property with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State or violates section 4684-B...”<sup>28</sup> Such an injunction may prohibit conduct in the future by the defendant against the original victim or any future victim and can prohibit the defendant from

---

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Kathryn Slattery Testimony, *Hate Crimes Briefing*, transcript, p. 26.

<sup>27</sup> ME..STAT. tit. 5, § 4681 et. seq.

<sup>28</sup> ME..STAT. tit. 5, § 4681.

being in the vicinity of a specific place or in the vicinity of a named victim or group. Violation of a civil rights order issued by a court under the MCRA is a Class D crime.<sup>29</sup>

As of March 2019, there were nearly 300 such injunctions in effect, with only nine criminal prosecutions for violations of the orders.<sup>30</sup>

As stated, Maine county District Attorneys may also enforce against hate crimes under its criminal statutes. Panelist Kathryn Slattery, York County District Attorney, contends that while Maine has no specific hate crime statute, she has adequate weapons in her arsenal to attack hate crimes.<sup>31</sup> Her “line of attack” is threefold: via the criminal code,<sup>32</sup> through sentencing<sup>33</sup> and through a separate criminal provision regarding interference with civil and constitutional rights.<sup>34</sup>

First, when enforcing via the criminal code, District Attorney Slattery explains:

From a criminal law perspective, a hate crime in its simplest form is an act prohibited under criminal law, which is motivated by bias. Hate crime must always be based on criminal conduct under the provisions in our criminal code. If there's no criminal act, then there's no hate crime regardless of the presence of bias. And that is the start of every analysis that we engage in.

We always ask, “Can we prove each and every element of the offense that carries charge?” In Maine, our criminal code as has been highlighted, does not contain a specific crime labeled as a hate crime. Existing statutes, by and large are the sole framework in which we approach prosecution to address the wrongs arising out of incidents.<sup>35</sup>

She added:

[In jurisdictions where motivation of bias or prejudice against the victim is an element of the crime, prosecutors must] “get inside defendant’s head” and prove his specific motivation against the chosen victim .... Maine has not taken this latter approach. As a prosecutor I see a distinct advantage in this. I will still have to prove each element of the underlying crime. Part of the evidence I present will include evidence of defendant’s motivation in committing the crime and his/her specific actions toward the victim, but I will not be required to prove motivation beyond a reasonable doubt....<sup>36</sup>

---

<sup>29</sup> *Id.* at § 4681(6).

<sup>30</sup> Edward D. Murphy, *Men Accused of hate crime in Biddeford now charged with attacking black man in Portland on same day*, PORTLAND PRESS HERALD (Mar. 12, 2019), <https://www.pressherald.com/2019/03/12/two-accused-of-biddeford-hate-crime-charged-with-another-attack-in-portland-on-same-day/>. See also Christopher Parr, *The Maine Civil Rights Act: History, Enforcement, Application and Analysis*, 53 ME. L. REV. 189, 193 (2001).

<sup>31</sup> Kathryn Slattery, Briefing before the Maine Advisory Committee to the U.S. Commission on Civil Rights, August, ME, July 12, 2019, transcript p. 25 (hereinafter Hate Crime Briefing).

<sup>32</sup> ME..STAT. tit. 17-A.

<sup>33</sup> ME..STAT. tit. 17-A, § 1501(8)(B)..

<sup>34</sup> ME..STAT. tit. 17, § 2931.

<sup>35</sup> Slattery Testimony, *Hate Crimes Briefing*, transcript p. 25.

<sup>36</sup> *Ibid.*, 26.

Second, although Maine does not have a specific hate crime enhancement in sentencing, it has a general sentencing provision in the criminal code which permits sentences to be imposed that consider a defendant's choice of victim.<sup>37</sup>

Last, Maine criminal prosecutors may also charge under Title 17 § 2931, which addresses a defendant's intentional interference with an individual's civil and constitutional rights. That provision states that a person "may not, by force, or threat of force, intentionally injure, intimidate or interfere with, or intentionally attempt to injure, intimidate or interfere with or intentionally oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to that person by the Constitution of Maine or by the United States Constitution or laws of the United States." Violation of this section is a Class D crime. According to the Maine District Attorney's statewide database, this section has been charged 18 times since 2015,

In terms of the logistics of coordinating her criminal actions with the civil actions by the Maine Attorney General's Office, DA Slattery testified that of the civil rights orders initiated by the Maine AG between 2010 and 2018, seven were entered against individuals for conduct under her jurisdiction (York County), and that all 7 were involved in concurrent criminal prosecutions and subject to the penalties of the criminal code in addition to the restrictions placed on them by the civil process. In her view, the two systems in Maine, civil and criminal, complement each other well.

## **Assertions and Themes from the July 12, 2019 Briefing**

### **(1) Underreporting**

Nationally, 13 percent of law enforcement agencies reported a single hate crime in 2017.<sup>38</sup> Over 80 cities with populations over 100,000 were among those that reported none.<sup>39</sup> Many critics believe that this minimal level of participation indicates an underreporting of hate crimes.<sup>40</sup> Maine appears to generally follow this trend with only 10 of the state's 132 law enforcement agencies, roughly seven percent, reporting any occurrences of hate crimes in 2017.<sup>41</sup> Two of those 10 agencies accounted for over half of the reported hate crimes.<sup>42</sup> Many of the following assertions and themes contribute to or impact the reporting and underreporting of hate crimes. The Committee heard testimony regarding particular issues that significantly impact it such as barriers to minority communities in reporting,<sup>43</sup>

---

<sup>37</sup> ME..STAT. tit.17-A, § 1501(8)(B) ("The selection by the person of the victim or of the property that was damaged or otherwise affected by the crime because of the race, color, religion, sex, ancestry, national origin, physical or mental disability, sexual orientation or homelessness of that person.").

<sup>38</sup> Amy Feinman, Briefing before the Maine State Advisory Committee to the U.S. Commission on Civil Rights, Augusta, ME, July 12, 2019, transcript, p. 3 (hereinafter *Hate Crime Briefing*).

<sup>39</sup> Amy Feinman, Northeast Area Civil Rights Counsel, ADL, Written Statement for the Hate Crimes Briefing before the Maine State Advisory Committee, July 12, at p. 6 (hereinafter Feinman Statement).

<sup>40</sup> Jaweed Kaleem, "FBI Reports Spike in Hate Crimes in 2017," *Providence Journal*, Nov. 13, 2018, 10:14 PM, <https://www.providencejournal.com/news/20181113/fbi-reports-spike-in-hate-crimes-in-2017?template=ampart>.

<sup>41</sup> *Uniform Crime Report*, Executive Division of the Rhode Island State Police, at pg. 270 (2019), <http://risp.ri.gov/documents/UCR/2018.pdf>.

<sup>42</sup> Feinman Testimony, *Hate Crimes Briefing*, transcript, p. 3.

<sup>43</sup> Michael Sauschuck Testimony, *Hate Crimes Briefing*, transcript, p. 30.

insufficient law enforcement training on investigating and reporting these crimes,<sup>44</sup> and an incomplete statutory framework.<sup>45</sup>

## **(2) Barriers to Reporting**

One panelist noted that although people in minority communities endure many shocking experiences, many will not “jump head first into a whole [criminal justice] system where there’s a lot more unknowns than there are knowns.”<sup>46</sup> This feeling stems, in part, from many systemic and cultural barriers and variables that prevent people from reporting hate crimes, ultimately leading to even deeper data collection issues.

Many barriers present themselves to different communities, posing challenges to reporting a hate crime. For example, the immigrant community often faces significant barriers to reporting because they may not want to “draw attention to themselves regardless of how [they] feel.”<sup>47</sup> Often, immigrant communities, particularly illegal immigrants, feel pressure to not report a hate crime out of fear it may jeopardize their status in the United States.<sup>48</sup> Further, communities are more likely to report when they trust that law enforcement will properly investigate a case.<sup>49</sup> Unfortunately, the Committee heard testimony that indicated that the immigrant community might lack trust in law enforcement.<sup>50</sup> As discussed further in assertion (5), lacking trust in law enforcement is not an issue only impacting the immigrant community. Many minority groups struggle with this, particularly the LGBTQ community.

One panelist, a representative of a local law enforcement organization, did note steps that his particular agency is taking to combat some of these barriers and reduce underreporting.<sup>51</sup> One such initiative included partnering with community organizations such as the Immigrant Resource Center of Maine and the Come Alive group.<sup>52</sup> This involvement was cited as vital to ensuring that lines of communication were open between law enforcement and some of the most vulnerable residents of Maine to hate crimes.<sup>53</sup>

## **(3) Law Enforcement Training**

As noted by the Anti-Defamation League, “law enforcement...play[s] a critical role and carr[ies] significant responsibility when it comes to identifying and responding to hate crimes

---

<sup>44</sup> See Feinman Testimony, *Hate Crimes Briefing*, transcript, p. 5.

<sup>45</sup> Ibid.

<sup>46</sup> Sauschuck Testimony, *Hate Crimes Briefing*, transcript, p. 30.

<sup>47</sup> Ibid.

<sup>48</sup> See Leanne Robbin Testimony, *Hate Crimes Briefing*, transcript, p. 14.

<sup>49</sup> See Sauschuck Testimony, *Hate Crimes Briefing*, transcript, p. 30; Slattery Testimony, *Hate Crimes Briefing*, transcript, p. 28.

<sup>50</sup> See Robbin Testimony, *Hate Crimes Briefing*, transcript, p. 14.

<sup>51</sup> Moen Testimony, *Hate Crimes Briefing*, transcript, p. 28.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.



and bias incidents.”<sup>54</sup> Ensuring that officers are properly trained to handle hate crimes is vital to ensuring not only justice for victims, but also thorough, complete data collection surrounding these crimes. While the Anti-Defamation League commended the state of Maine for their broad adoption of having specially trained Civil Rights Officers in most departments, they noted that the codification for mandatory, comprehensive hate crime training for all law enforcement is important in combatting these crimes.<sup>55</sup> Comprehensive training may also have the residual benefit of building trust between a better equipped law enforcement staff and the communities which they serve.

The Anti-Defamation League recommended, in addition to codifying mandatory training, implementing a state-wide summit on hate crime training. This may allow a deeper dive into the complex framework of hate crimes in Maine and enable police to better understand the vastly important position they hold in combatting and alleviating hate crimes and the fear they instill in the state’s community.<sup>56</sup>

#### **(4) Statutory Framework in Maine**

Maine’s statutory framework governing hate crimes is unique, and there are many ways that it could be clarified and strengthened. As noted previously, Maine provides both civil and criminal remedies for interfering with another person’s rights.<sup>57</sup> Further, the state’s sentencing law has the purpose of “permit[ing] sentences that do not diminish the gravity of offenses,” particularly those where a victim is chosen based on their race, color, religion, sex, ancestry, national origin, disability, sexual orientation, or homelessness.<sup>58</sup> This structure is very different from the framework for hate crime laws adopted by most states, which is to either define hate crimes as a distinct criminal offense, or provide for mandatory sentencing enhancements for committing a crime based on bias or animus.<sup>59</sup>

The Anti-Defamation League asserted several recommendations on strengthening the existing framework for prosecuting hate crimes. First, they suggested the statute be amended to expressly include protections from conduct which is motivated by gender, gender identity or expression, or ethnicity bias.<sup>60</sup> Further, the framework should be amended to include both associational and mistaken identity crimes.<sup>61</sup> The inclusion of associational crimes would criminalize actions motivated by the victims association with a protected group, and the inclusion of mistaken identity crimes would protect victims that are not but were perceived to be part of a protected category by the offender.

---

<sup>54</sup> Feinman Testimony, *Hate Crimes Briefing*, transcript, p. 5.

<sup>55</sup> Ibid.

<sup>56</sup> Feinman Statement, at p. 15.

<sup>57</sup> Feinman Statement, at p. 12.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Feinman Testimony, *Hate Crime Briefing*, transcript, p. 5.

<sup>61</sup> Ibid.

## **(5) LGBTQ Community and Hate Crimes**

The LGBTQ community has experienced a rise in hate crimes over the last several years according to FBI data.<sup>62</sup> One panelist asserted that the climate and tone of discourse in Maine contributes to the continued targeting of LGBTQ persons in the state.<sup>63</sup> For example, a debate on the House floor in 2018 surrounding a bill banning conversion therapy for the LGBTQ community sparked intense, vitriolic rhetoric amongst lawmakers.<sup>64</sup> Further, in 2017, KKK flyers were circulated in the state, calling for an attack on transgender people.<sup>65</sup>

Findings from the 2017 National Climate Survey and the Maine Integrated Youth Health Survey have shown stark data on the experience of LGBTQ youth in the state. According to these surveys, one in three transgender students have been threatened or injured with a weapon in the last year, and most LGBTQ students experienced anti-LGBTQ victimization at school.<sup>66</sup> One particularly jarring example of such victimization was a social media post from a Maine high school student which contained a picture of the student holding a gun with a caption reading “Now that Trump is the President, all the faggots can get out.”<sup>67</sup> This victimization was not limited to the student population in the state. The Maine Human Rights Commission reported that they received 49 complaints of violations regarding sexual orientation and four regarding gender identity—both of these numbers are up from previous years.<sup>68</sup>

Although Maine’s laws do protect people from hate crimes based on sexual orientation and have been interpreted to include gender identity,<sup>69</sup> the LGBTQ community may not be as likely to report these crimes. One panelist highlighted statistics from respondents to the 2016 National Transgender Survey that were from Maine that show transgender persons experience the highest level of mistreatment from police, with 62 percent experiencing some type of mistreatment.<sup>70</sup> This has culminated in 59 percent of the transgender community stating that they would feel uncomfortable asking the police for help if they needed it.<sup>71</sup>

## **(6) Extremist Propaganda on the Rise**

According to the Anti-Defamation League, nationally, “2018 data shows a 182 percent increase in white supremacist propaganda efforts, with 1,187 cases reported, compared to 421 cases in 2017.”<sup>72</sup> Maine has not been exempted from these efforts in the past several years. For example, Augusta saw recruitment efforts by the Traditionalist American Knights,

---

<sup>62</sup> Drew Testimony, *Hate Crime Briefing*, transcript, p. 7.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Drew Testimony, *Hate Crime Briefing*, transcript, p. 8.

<sup>67</sup> Ibid.

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Drew Testimony, *Hate Crime Briefing*, transcript, p. 8.

<sup>72</sup> Feinman Statement, at p. 7.

a Klan group, which posted a flyer stating “[y]ou can sleep tonight knowing the Klan is awake!”<sup>73</sup> Further, the Daily Stormer Book Club, an alt right group, distributed flyers which read: “Why are Jews after our guns?”<sup>74</sup>

## **(7) College Campuses Impacted by Hate Crimes**

College campuses continue to be a target for hate crimes, both nationally and within the state of Maine. One of the most common locations for hate crimes in 2017 in Maine was the campus of the University of Southern Maine, which accounted for seven—almost 22 percent—of the state’s hate crimes.<sup>75</sup>

Nationally, college campuses have also seen a dramatic rise in extremist propaganda efforts. The Anti-Defamation League documented 313 cases of extremist propaganda on college campuses nationwide during the 2018-19 academic year—a seven percent increase from the previous year.<sup>76</sup> Although Maine campuses in particular did not see such recruitment efforts underway within the state, the national trend is cause for concern.

## **(8) Education Initiatives**

A comprehensive effort to combat hate crimes should include a forward-looking approach by utilizing education initiatives, particularly in the school system, to shift the culture of the state. The Anti-Defamation League recognizes anti-bias education in schools as “the best way to combat identity-based hatred and bigotry.”<sup>77</sup> This type of education can help to facilitate positive social change in Maine, and is vital in creating a climate of acceptance. This initiative in particular may be of the utmost importance on college campuses due to the large number of hate motivated crimes committed at these institutions both within the state and across the country.<sup>78</sup>

---

<sup>73</sup> Ibid., p. 8.

<sup>74</sup> Ibid., p. 8.

<sup>75</sup> Ibid., p. 5.

<sup>76</sup> Ibid., p. 7.

<sup>77</sup> Feinman Testimony, *Hate Crimes Briefing*, transcript, p. 5.

<sup>78</sup> Feinman Statement, at p. 16.



**Maine Advisory Committee**  
U.S. Commission on Civil Rights

## **Briefing on Hate Crimes**

The Holocaust and Human Rights Center, 46 University Drive, Augusta, ME

July 12, 2019

### **AGENDA**

**Welcome & Introductions** 10:00 a.m. EDT

#### **Briefing**

- **Gia Drew**, Program Director, EqualityMaine
- **Amy Feinman**, Attorney, Anti-Defamation League
- **Halsey Frank**, United States Attorney for the District of Maine
- **James Moen**, Chief, Auburn Police Department
- **Leanne Robbin**, Maine Assistant Attorney General
- **Michael J. Sauschuck**, Commissioner, Department of Public Safety
- **Kathryn Slattery**, York County District Attorney
- **Dawud Ummah**, Community Affairs Director, NAACP Prison Branch

#### **Public Comment Session**

**Adjournment** 1:00 p.m. EDT (subject to change)

NOTICE - Written statements and documents related to this briefing, including, but not limited to, articles, reports, and studies, or written submissions related to the hate crimes must be submitted no later than Monday, August 12, 2019:

By email to: [ero@usccr.gov](mailto:ero@usccr.gov)  
By mail to: Eastern Regional Office  
U.S. Commission on Civil Rights  
1331 Pennsylvania Ave. NW  
Suite 1150

Washington, DC 20425

**Arson Breakdown by County**

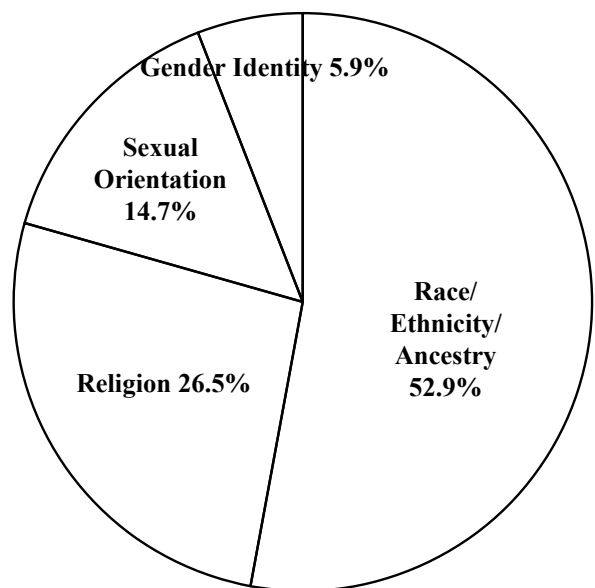
County	No. Offenses			Estimated Value of Property Loss		
	2016	2017	% change	2016	2017	% change
Androscoggin	12	5	-58.3%	\$18,390	\$10,700	-41.8%
Aroostook	8	2	-75.0%	\$192,100	\$85,033	-55.7%
Cumberland	25	16	-36.0%	\$442,350	\$6,025	-98.6%
Franklin	6	—	-100.0%	\$185,000	—	-100.0%
Hancock	9	—	-100.0%	\$35,300	—	-100.0%
Kennebec	26	—	-100.0%	\$516,302	—	-100.0%
Knox	6	—	-100.0%	\$86,000	—	-100.0%
Lincoln	3	—	-100.0%	\$131,000	—	-100.0%
Oxford	14	—	-100.0%	\$23,800	—	-100.0%
Penobscot	24	3	-87.5%	\$339,150	\$4,900	-98.6%
Piscataquis	6	—	-100.0%	\$15,200	—	-100.0%
Sagadahoc	11	—	-100.0%	\$153,060	—	-100.0%
Somerset	7	—	-100.0%	\$131,190	—	-100.0%
Waldo	11	—	-100.0%	\$651,195	—	-100.0%
Washington	5	—	-100.0%	\$162,000	—	-100.0%
York	36	7	-80.6%	\$416,867	\$1,354	-99.7%
Fire Marshal	—	102	100.0%	—	\$5,037,034	100.0%
MDEA	—	—	—	—	—	—
State Police	—	1	100.0%	—	—	—
<b>Totals</b>	<b>209</b>	<b>136</b>	<b>-34.9%</b>	<b>\$3,498,904</b>	<b>\$5,145,046</b>	<b>47.0%</b>

**HATE CRIME**

Commencing in 1992, law enforcement officers are to report hate crimes as a supplementary report to the UCR program. Under Title 25 sec. 1544, hate crimes are defined as those that “manifest evidence of prejudice based on race, religion, sexual orientation or ethnicity ...”. On June 26, 1997, disability bias was added to the definition of hate crime, creating two new categories: Anti-Mental Disability and Anti-Physical Disability. Two new categories are added to Hate Crime Motivation: Gender and Gender Identity. There have also been numerous other additions to Bias Types. Maine’s hate crimes are further reported to the FBI as part of the federal Hate Crimes Statistics Act.

The reported number of hate crime incidents in Maine in 2017 was 33. These incidents involved 43 victims with at least 35 offenders, and resulted in a total of 33 offenses.

In 2017, the most commonly reported bias motivation was race/ethnicity/ancestry, followed by religion, sexual orientation, and gender identity hate crimes.



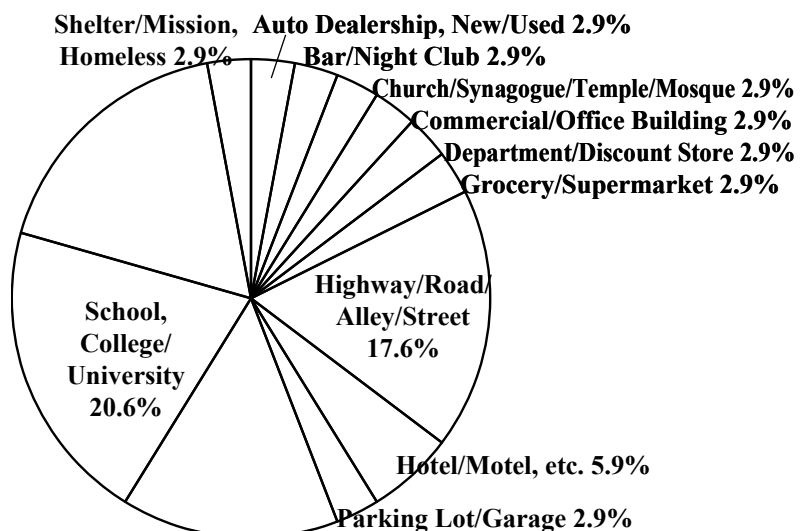
**Hate Crime 2017**

Number of incidents .....	33
Number of victims .....	43
Number of offenders .....	35
Number of offenses .....	33

<i>Hate Crime Bias Motivation</i>				
Bias Nature	Group %	Bias Type	No.	% of Total
Race/ Ethnicity/ Ancestry	52.9%	Anti-American Indian or Alaska Native	—	—
		Anti-Arab	1	2.9%
		Anti-Asian	—	—
		Anti-Black or African American	12	35.3%
		Anti-Hispanic or Latino	1	2.9%
		Anti-Multiple Races Group	—	—
		Anti-Native Hawaiian or other Pacific Islander	1	2.90%
		Anti-Other Race/Ethnicity/Ancestry	3	8.8%
		Anti-White	—	—
		Religion	26.5%	Anti-Buddhist
		Anti-Catholic	1	2.9%
		Anti-Eastern Orthodox (Russian, Greek, Other)	—	—
		Anti-Hindu	—	—
		Anti-Islamic (Muslim)	6	17.6%
		Anti-Jehovah's Witness	—	—
		Anti-Jewish	2	5.9%
		Anti-Mormon	—	—
		Anti-Multiple Religions Group	—	—
		Anti-Other Christian	—	—
		Anti-Other Religion	—	—
		Anti-Protestant	—	—
		Anti-Sikh	—	—
		Anti-Atheism/ Agnosticism	—	—
Sexual Orientation	14.7%	Anti-Bisexual	—	—
		Anti-Gay (Male)	2	5.9%
		Anti-Heterosexual	—	—
		Anti-Lesbian	1	2.9%
		Anti-Lesbian, Gay, Bi-sexual, or Transgender (Mixed Group)	2	5.9%
Disability	—	Anti-Mental Disability	—	—
		Anti-Physical Disability	—	—
Gender	—	Anti-Female	—	—
		Anti-Male	—	—
Gender Identity	5.9%	Anti-Gender Nonconforming	—	—
		Anti-Transgender	2	5.9%
<b>Total</b>	<b>100.0%</b>		<b>34</b>	<b>100.0%</b>

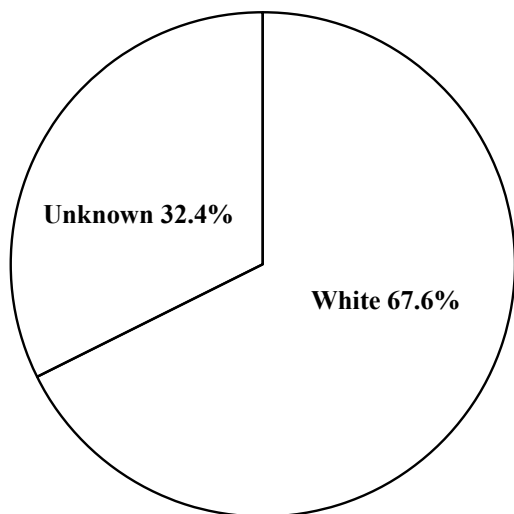
<i>Hate Crime Locations</i>		
Location	No.	%
Abandoned/Condemned Structure	—	—
Air/Bus/Train Terminal	—	—
Amusement Park	—	—
Arena/Stadium/Fairgrounds/Coliseum	—	—
ATM Separate from Bank	—	—
Auto Dealership, New/Used	1	2.9%
Bank/Savings and Loan	—	—
Bar/Night Club	1	2.9%
Camp/Campground	—	—
Church/Synagogue/Temple/Mosque	1	2.9%
Commercial/Office Building	1	2.9%
Community Center	—	—
Construction Site	—	—
Convenience Store	—	—
Daycare Facility	—	—
Department/Discount Store	1	2.9%
Dock/Wharf/Freight/Modal Terminal	—	—
Drug Store/Doctor's Office/Hospital	—	—
Farm Facility	—	—
Field/Woods	—	—
Gambling Facility/Casino/Race Track	—	—
Government/Public Building	—	—
Grocery/Supermarket	1	2.9%
Highway/Road/Alley/Street	6	17.6%
Hotel/Motel, etc.	2	5.9%
Industrial Site	—	—
Jail/Prison	—	—
Lake/Waterway	—	—
Liquor Store	—	—
Military Installation	—	—
Park/Playground	—	—
Parking Lot/Garage	1	2.9%
Rental Storage Facility	—	—
Residence/Home	5	14.7%
Rest Area	—	—
Restaurant	—	—
School, College/University	7	20.6%
School, Elementary/Secondary	6	17.6%
Service/Gas Station	—	—
Shelter/Mission, Homeless	1	2.9%
Shopping Mall	—	—
Specialty Store	—	—
Tribal Lands	—	—
Other/Unknown	—	—
<b>Total</b>	<b>34</b>	<b>100.0%</b>

The most frequently reported location of bias crimes in 2017 was colleges and universities. The second most common location was tied between highways, roads, alleys and streets, and elementary and secondary schools. The third was residences and homes.



The most common race of suspected offenders of hate crimes was white.

<b>Suspected Offenders' Race</b>	<b>No.</b>	<b>% of Total</b>
White	23	67.6%
Black or African American	—	—
American Indian or Alaska Native	—	—
Asian	—	—
Group of Multiple Races	—	—
Unknown	11	32.4%
Native Hawaiian or Other Pacific Islander	—	—
<b>Total</b>	<b>34</b>	<b>100.0%</b>



Information on the victims of hate crimes is limited to victim type. While bias motivation information identifies the offender's bias, it is important to note that the victim may not actually belong to the group the offender sought to harm. For this reason, information on the victims' actual group membership is not recorded.

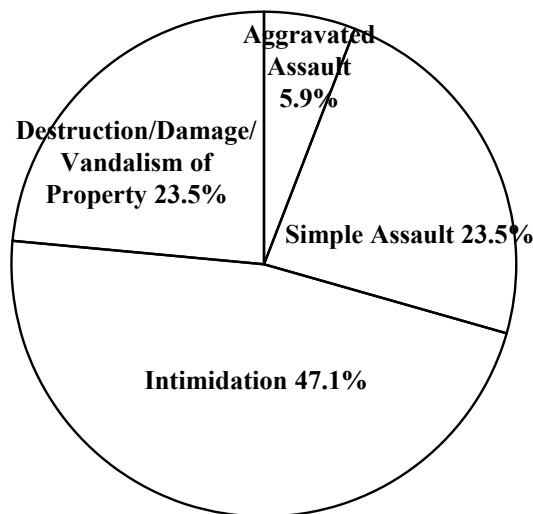
Victim type, in the hate crime data collection program, is listed as: individual, business, financial institution, government, religious organization, other and unknown. Of these victim types, individuals were reported to be the main hate crime target.

<b>Victim Type</b>	<b>No.</b>	<b>% of Total</b>
Individual	31	91.2%
Business	—	—
Financial Institution	—	—
Government	—	—
Religious Organization	2	5.9%
Other	1	2.9%
Unknown	—	—
<b>Total</b>	<b>34</b>	<b>100.0%</b>

Offense information in the hate crime data collection program are defined in accordance with federal Uniform Crime Reporting definitions and do not necessarily conform to Maine state definitions. Complete offense definitions are available in the appendix to this publication.

Hate crime offense information falls into the eight index crimes — murder, rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson — plus the non-index crimes of simple assault, intimidation and vandalism. New hate crime offenses of human trafficking, commercial sex acts; and human trafficking, involuntary servitude, have been added.

<b>Offense</b>	<b>Volume</b>	<b>% of Total</b>
Murder	—	—
Rape	—	—
Robbery	—	—
Aggravated Assault	2	5.9%
Burglary	—	—
Larceny-Theft	—	—
Motor Vehicle Theft	—	—
Arson	—	—
Simple Assault	8	23.5%
Intimidation	16	47.1%
Destruction/Damage/Vandalism of Property	8	23.5%
Human Trafficking, Commercial Sex Acts	—	—
Human Trafficking, Involuntary Servitude	—	—
<b>Total</b>	<b>34</b>	<b>100.0%</b>



***Hate Crime Offenses Reported by Agency***

**Augusta Police Department**

1.....Simple Assault.....Anti-Islamic (Muslim)

**Biddeford Police Department**

1.....Aggravated Assault.....Anti-Arab

1.....Simple Assault.....Anti-Gay (Male)

**Lewiston Police Department**

1.....Destruction/Damage/Vandalism.....Anti-Black or African American

**Old Orchard Beach Police Department**

1.....Simple Assault.....Anti-Black or African American

1.....Intimidation.....Anti-Black or African American

1.....Intimidation.....Anti-Gay (Male)

**Portland Police Department**

1.....Aggravated Assault.....Anti-Black or African American

2.....Intimidation.....Anti-Other Race/Ethnicity/Ancestry

1.....Intimidation.....Anti-Lesbian

1.....Intimidation.....Anti-Native Hawaiian or Other Pacific Islander

2.....Intimidation.....Anti-Islamic (Muslim)

3.....Simple Assault.....Anti-Black or African American

1.....Simple Assault.....Anti-Other Race/Ethnicity/Ancestry

**Rumford Police Department**

1.....Intimidation.....Anti-Black or African American

**Saco Police Department**

1.....Destruction/Damage/Vandalism.....Anti-Jewish

1.....Destruction/Damage/Vandalism.....Anti-Catholic

1.....Intimidation.....Anti-Hispanic or Latino

**Sanford Police Department**

1.....Intimidation.....Anti-Transgender

2.....Intimidation.....Anti-Black or African American

1.....Simple Assault.....Anti-Black or African American

**University of Maine, Gorham**

1.....Destruction/Damage/Vandalism.....Anti-Black or African American

1.....Intimidation.....Anti-Islamic (Muslim)

1.....Intimidation.....Anti-Jewish

2.....Destruction/Damage/Vandalism.....Anti-Islamic (Muslim)

2.....Destruction/Damage/Vandalism.....Anti-Lesbian, Gay, Bisexual or Transgender  
(Mixed Group)

**Waldo County Sheriff's Office**

1.....Intimidation.....Anti-Transgender

**10            34**  
**Agencies    Offenses**



Civil Rights Orders  
2010-11.1.2018

CR Number	Police Department	Defendant-Last	Defendant-First	DOB	Bias	Disposition
CR-2010-004	Alfred	Emerton	Kenneth	11/14/1953	Sexual Orientation	ORDER/Served
CR-2010-006	Milbridge	Merchant	Sherman	10/19/1994	National Origin, Ancestry	ORDER/Served
CR-2010-006	Milbridge	Ray	Benjamin	12/18/1990	National Origin, Ancestry	ORDER/Served
CR-2010-011	South Portland	Panagakos	William	2/2/1960	National Origin	ORDER/Served
CR-2010-014	South Portland	St. Pierre	Corey	6/23/1989	Race	ORDER/Served
CR-2010-023	Biddeford	Ryan	Michael V.	10/12/1979	Race	ORDER/Served
CR-2010-035	Augusta	Johnson	Eddie L.	8/20/1949	Race	ORDER/Served
CR-2011-004	Waterville	Kibbin	Erin-Marie	3/20/1978	Sexual Orientation	ORDER/Served
CR-2011-009	Biddeford	Melnick	Daniel	9/12/1993	Sexual Orientation	ORDER/Served
CR-2011-009	Biddeford	McDonough	Nicholas	5/15/1991	Sexual Orientation	ORDER/Served
CR-2011-016	Ogunquit	Hodgkins	Kyle T.	1/4/1993	Sexual Orientation	ORDER/Served
CR-2011-017	Fort Kent	Mitchell	Patrick	3/17/1990	Race	ORDER/Served
CR-2012-030	Houlton	Crandall	Lee	11/28/1983	Race	ORDER/Served
CR-2012-031	Auburn	Champagne	Ronald P.	6/25/1961	Sexual Orientation	ORDER/Served
CR-2012-041	Androscoggin County	Drew	Joshua	9/13/1984	Sex	ORDER/Served
CR-2012-052	Sanford	McMahon	Lonnie	9/12/1995	Race	ORDER/Served
CR-2012-052	Sanford	McMahon	Michael S.	7/16/1993	Race	ORDER/Served
CR-2012-060	Poland	Thurlow	Kim B.	10/13/1961	Sexual Orientation	ORDER/Served
CR-2013-022	Belfast	Vega	Clover E.	5/8/1985	Sexual Orientation	ORDER/Served
CR-2013-039	Auburn	Getchell	Adam J.	4/29/1983	Race	ORDER/Served
CR-2013-041	Auburn	Hanning	Keith C.	12/31/1935	Race	ORDER/Served
CR-2013-042	Portland	Boucher	Justin D.	1/26/1983	Race	ORDER/Served
CR-2013-044	South Portland	Forbis	Sharon	8/18/1942	Race	ORDER/Served
CR-2013-068	Piscataquis County	Benson	Warren R.	5/30/1991	Sex	ORDER/Served
CR-2014-001	Jackman	Nielsen	Christian	10/23/1995	Race	ORDER/Served
CR-2014-001	Jackman	Maldovan	Dalton	11/18/1993	Race	ORDER/Served
CR-2014-010	Portland	Kiper	Adolph	2/10/1940	National Origin	ORDER/Served
CR-2014-037	Waterville	MacDougal	Tharren	2/22/1975	Sexual Orientation	ORDER/Served
CR-2014-048	South Portland	Pallas	Nicholas L.	12/31/1979	Ancestry	ORDER/Served
CR-2014-075	Westbrook	O'Brien	Keith W.	9/18/1984	Ancestry, Race	ORDER/Served
CR-2015-001	Portland	Hixon	David B.	6/9/1981	National Origin, Religion	ORDER/Served
CR-2015-029	Brewer	Blanchard	Robert A.	7/27/1989	Race	ORDER/Served
CR-2015-036	Newport	Brown	Roger	11/2/1972	Sexual Orientation	ORDER/Served
CR-2015-036	Newport	Brown	Angel	10/18/1995	Sexual Orientation	ORDER/Served
CR-2015-045	Lewiston	Belanger	Nicholas M.	5/31/1996	National Origin	ORDER/Served
CR-2015-071	Rockland	Eustis	William J.	8/11/1988	Ancestry, National Origin	ORDER/Served
CR-2015-072	Portland	Ingalls	Brian	5/27/1989	Constitutional	Complaint
CR-2015-073	Portland	Bean	Benjamin W.	5/29/1984	Race	ORDER/Served
CR-2015-073	Portland	Bean	Charles J.	3/1/1980	Race	ORDER/Served
CR-2016-039	Bridgton	Sicilliani	John	2/26/1986	Race	ORDER/Served
CR-2016-049	Portland	Vincent	Carl	9/26/1972	National Origin, Religion	ORDER
CR-2016-055	Augusta	Brown	William	9/11/1984	Constitutional	ORDER/Served
CR-2016-061	Portland	Suckiel	Edward	3/7/1966	National Origin, Religion	Complaint
CR-2016-062	Portland	Lee	Craig	2/13/1943	National Origin, Religion	ORDER/Served
CR-2016-064	Portland	Corbin	Thomas	9/15/1987	Race	ORDER/Served
CR-2016-065	Augusta	Crockett	Elijah	5/29/1983	National Origin, Religion	ORDER/Served
CR-2016-065	Augusta	Wing	Heatherly	12/22/1978	National Origin, Religion	ORDER/Served
CR-2016-073	Bar Harbor	Day	James	10/1/1994	Ancestry	ORDER/Served
CR-2016-082	Waterville	Hoyt	Edward	9/28/1958	National Origin, Race	ORDER/Served
CR-2017-005	Portland	Hoffman	Jamie Lee	12/9/1996	Race	ORDER/Served
CR-2017-034	Brunswick	Kerns	Christopher S.	12/24/1999	Race, National Origin	ORDER/Served
CR-2017-055	Brunswick	Taylor	Jesse James	6/21/1981	Sexual Orientation	ORDER/Served
CR-2017-062	Rumford	Farrar	Eric	4/5/1981	Race	ORDER
CR-2017-062	Rumford	Farrar	Kyle J.	3/20/1983	Race	ORDER
CR-2018-026	Biddeford	Diggins	Maurice A.	1/9/1984	Race	ORDER/Served
CR-2018-026	Biddeford	Leo	Dusty W.	11/26/1990	Race	ORDER/Served