



## Indiana Advisory Committee to the U.S. Commission on Civil Rights Rethinking Hate Crime Policy in Indiana

More than 30 years after the first report, the Indiana Advisory Committee to the U.S. Commission on Civil Rights revisits the topic of hate crime in the state. The 2021-2025 term of the Indiana Advisory Committee acknowledges two reports from earlier committee terms produced in 1992 and 1994 that detail specific findings and recommendations – many of which have overlapping themes and references to their report. Included in this policy brief are notable themes, findings, and recommendations that were revealed during the Committee’s inquiry into this topic.<sup>1</sup>

Considering the Indiana Advisory Committee’s report and this policy brief, the time is now that Indiana must take stronger, more coordinated action to address hate crimes and ensure that all communities are protected.

### **What is the legal definition of a hate crime on a federal level and in Indiana?**

The definition of a hate crime varies based on jurisdiction, but as a baseline, the federal government defines it based on a criminal offense against a person or property motivated in whole, or in part by an offender’s bias against race, religion, disability, sexual orientation, ethnicity, gender, or gender identity. Hateful speech alone is not considered a hate crime. The U.S. Department of Justice, the Federal Bureau of Investigation, and U.S. Attorney’s Offices enforce hate crime-related legislation.

For a long time, Indiana was on the list of states that did not have hate crime legislation in place until it passed a law in 2019. The law explicitly protects against crimes committed based on race, color, religion, national origin, sexual orientation, disability, and creed. The law also protects a victim’s or group’s “real or perceived characteristic, trait, practice, association, or other attribute the court chooses to consider.” Unlike the federal definition that includes more protected

### **Key Points:**

- Indiana’s 2019 hate crime law is rarely invoked.
- In 2022, only 64 of the 476 law enforcement agencies in Indiana voluntarily reported hate crimes to the FBI’s Annual Bias Crime report.
- There is a lack of enforcement, accountability and incentive to report hate crimes among law enforcement agencies and from Indiana universities.
- The intersectionality of a victim’s identity can complicate the accuracy of hate crime reporting because individuals belong to multiple protected groups making it harder for law enforcement to identify a single cause of bias.
- A non-carceral approach provides an equitable path for addressing and preventing hate crimes rather than punitive measures alone.
- Despite its inclusion in the FBI definition of a hate crime, hate crimes motivated by bias against people based on their gender identity, are not explicitly covered in Indiana’s hate crime law.

categories, Indiana’s law does not explicitly cover age, sex, or gender identity.

### **How effective is Indiana’s 2019 hate crime law in practice?**

The perceived effectiveness of Indiana’s 2019 hate crime law varies widely depending on stakeholders. The law has been criticized for its vague language and for omitting protections based on age, sex, and gender identity. Panelists stated that law enforcement often declines to pursue cases that do not clearly meet the statutory criminal threshold, particularly when bias is subtle, contextual, or difficult to prove. Many urged expanded cultural competency training to help officers better recognize how hate-motivated conduct

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<sup>1</sup> Full and complete citations can be found in the report.

manifests within different communities.

Advocates further argued that the law's reliance on judicial discretion—rather than mandatory sentencing enhancements—limits its deterrent effect. States with automatic enhancements, such as California, Maryland, and Virginia, reportedly see higher rates of hate crime prosecution and conviction. According to Dr. Rashawn Ray, Professor of Sociology at the University of Maryland and Senior Fellow at the Brookings Institution, stronger statutory language, clearer accountability mechanisms, and greater statewide uniformity are essential to achieving better outcomes and strengthening community trust.

Panelists also noted that the limitations of Indiana's statute often lead to reliance on federal hate crime laws. For instance, the January 2023 Bloomington knife attack on an Asian woman was ultimately prosecuted federally because Indiana's law could not sufficiently address the nature of the offense. Both Kerry Bennett, Chief Legal Counsel at the Indiana Coalition Against Domestic Violence, Inc. and Dr. Ray confirmed that major hate crime cases in Indiana are more likely to be successfully prosecuted at the federal level, where agencies have more resources, clearer legal standards, and in some cases, lower burdens of proof.

The decentralized structure of Indiana's court system further complicates implementation. As explained by Kerry Hyatt Bennett, Chief Legal Counsel at the Indiana Coalition Against Domestic Violence, each county operates with its own training practices, resources, and prosecutorial priorities. Local political dynamics, community norms, and concerns about jury receptiveness often deter prosecutors from filing hate crime charges, even when evidence of bias is strong. This decentralized system results in inconsistent application of the law across counties.

### **What are the challenges with hate crime reporting in Indiana?**

Panelists emphasized that challenges with hate crime reporting in Indiana are multi-layered and require coordination across institutions, law enforcement, universities, and communities. A central barrier is the absence of statutory requirements for law enforcement agencies to submit hate crime data to the state or federal government. As a result, reporting is inconsistent and incomplete. In 2022, only 64 of Indiana's 476 law enforcement agencies voluntarily submitted data to the FBI's Annual Bias Crime Report.

Of those, twenty agencies reported zero incidents, while 412 agencies submitted no data at all.

Universities also demonstrate inconsistent compliance with the Clery Act, which requires institutions of higher education to report crimes occurring on or near campus. Panelists noted that underreporting among universities remains a significant gap in statewide data collection.

Even when data are submitted, they often fail to capture the full scope of bias-motivated incidents. Hate crime statistics submitted to the FBI are intended to include all reported hate crimes, not only those resulting in arrest or prosecution. Because the evidentiary standard for reporting is lower than that required to pursue criminal charges, these data theoretically should reflect the full range of bias-motivated incidents known to police. However, the lack of uniform reporting undermines this intended comprehensiveness.

The Indiana hate crime statute does not require agencies to report, nor does it include enforcement mechanisms to encourage participation. Consequently, many agencies, particularly smaller departments, do not submit data and do not utilize discretionary training funds offered by the Indiana Criminal Justice Institute (ICJI). Larger departments, such as the Indianapolis Metropolitan Police Department or Hamilton County agencies, typically use ICJI funding and report more consistently, creating uneven capacity and compliance.

Panelists also raised concerns about intersectionality in reporting. Individuals may belong to multiple protected groups, making a singular determination of bias more complex. Executive Director Marlene Sallo of the National Disability Rights Network noted that reporting frequently prioritizes more visible characteristics (e.g., race), while undercounting incidents related to disability or other less visible identities. This leads to incomplete data and obscures the full spectrum of communities affected by hate-motivated harm.

### **Besides legal remedies to address hate crimes, what are alternative approaches?**

A holistic, non-carceral approach that centers education, community engagement, restorative justice, culturally responsive services, and structural reform offers a more effective and equitable pathway for addressing and preventing hate crimes than punitive

measures alone. Panelists emphasized shifting from exclusively punitive strategies toward approaches that address root causes, foster accountability, and prioritize the needs and experiences of impacted communities.

Community-level responses and local partnerships were frequently highlighted as critical components of prevention efforts. Maliha Zafar, Executive Director for the Indiana Muslim Advocacy Network argued that effective hate crime prevention requires deep and sustained engagement with affected communities, including proactive relationship-building between elected officials and religious or cultural minority groups. She encourages local representatives to visit mosques, observe community practices, and build relationships grounded in respect and mutual learning. These efforts create vital communication channels that improve responsiveness when hate incidents occur.

Offender rehabilitation by way of tailored education and community service can be a crucial tool to build empathy and understanding of different communities. For instance, embedded in Illinois' hate crime law is a mediation program which allows offenders to perform community service with members of the group they targeted. Similarly, in New York convicted individuals are required to receive training or counseling in hate crime prevention and education.

Panelists also stressed the importance of proactive legislative and policy strategies that improve community well-being and reduce the conditions that allow hate to flourish. Christopher Hegarty, Board Member at the ACLU of Indiana, pointed to local policy changes such as Lafayette's 1990s non-discrimination ordinance, which strengthened protections in housing and employment and contributed to a safer and more equitable environment for LGBTQ residents. Additional investments in urban infrastructure, youth programs, mental health care, Medicaid expansion, and other social equity supports were also cited as long-term, non-carceral strategies that help prevent hate-motivated harm. These

solutions, panelists noted, are especially important for protecting Black and Brown communities, who are disproportionately affected by both hate crimes and the risks associated with over-policing.<sup>2</sup>

### Recommendations (selected):

#### The U.S. Congress should:

- Pass legislation aimed at ensuring that incidents in which hate is a contributing factor are recognized as hate crimes.

#### The U.S. Department of Justice should:

- Prioritize enforcement and prosecutions involving allegations of violation of federal hate crime statutes.

#### The Indiana General Assembly should:

- Amend Indiana's hate crime law to list the protected classes and include sex, gender identity, and age as protected classes; expand the list of specified offenses; and give more evidentiary guidance empowering prosecutors where hate crime is involved.
- Mandate and fund culturally competent hate crime training for law enforcement that emphasizes awareness of diverse identities within communities.

#### Local City and County Governments should:

- Coordinate with local human rights councils and community organizations to prevent incidents of hate and promote non-carceral approaches.
- Establish a coordinated hate crime and/or bias response and designate an office or person of primary responsibility.



### Policy Brief

The U.S. Commission on Civil Rights (Commission) is an independent, bipartisan agency established by Congress and directed to study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, national origin, or in the administration of justice. This product is part of the Indiana Advisory Committee's study, Rethinking Hate Crime Policy in Indiana. This policy-oriented summary of the published report is intended to aid stakeholders seeking solutions to this complex issue. You can find the full report here:

[Rethinking Hate Crime Policy in Indiana | U.S. Commission on Civil Rights](#)