

Rethinking Hate Crime Policy in Indiana



A Report of the
Indiana Advisory Committee to the
U.S. Commission on Civil Rights

December 2025

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights (Commission) has established an advisory committee in each of the 50 states, the District of Columbia, and the U.S. Territories. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

Letter of Transmittal to the U.S. Commission on Civil Rights

Indiana Advisory Committee to the U.S. Commission on Civil Rights

The Indiana Advisory Committee to the U.S. Commission on Civil Rights submits this report examining hate crimes. The Committee submits this report as part of its responsibility to study and report on civil rights issues in the state. The contents of this report are primarily based on testimony the Committee heard from June through September of 2024. It also includes written testimony submitted within the Committee’s project timeline.

This report begins with a brief background of the issues to be considered by the Committee. It then presents primary findings as they emerged from this testimony, as well as recommendations for addressing areas of civil rights concerns related to hate crimes and data collection. While additional important topics may have surfaced throughout the Committee’s inquiry, those matters that are outside the scope of this specific civil rights mandate are left for another discussion.

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¹ Zachary Kester and Thomas Wheeler resigned prior to the end of the Committee term.

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Project Overview

On May 15, 2023, the Indiana Advisory Committee (Committee) to the U.S. Commission on Civil Rights (Commission) adopted a proposal to undertake a study examining hate crimes. The focus of the Committee's inquiry was to examine the following areas: hate crime laws in other jurisdictions, data collection efforts, the effect of hate crimes on diverse communities, training on how to identify hate crimes, and best practices for reduction in hate crimes and for enforcement and prosecution of hate crimes.

As part of this inquiry the Committee received testimony during seven public briefings via web conference on June 20, 2024; June 27, 2024; September 24, 2024; September 26; November 18, 2024; November 19, 2024; and November 22, 2024.² The Committee invited several stakeholders with a range of backgrounds to provide testimony during their briefings. A list of these individuals can be found in Appendix B.

The following report results from a review of testimony provided at these meetings including those shared during the public comment period, written testimony, and relevant resources submitted during its inquiry period. The report begins with a brief background on the issues to be considered by the Committee. It then identifies primary findings as they emerged from this testimony that align with the Committee's scope. Finally, it makes recommendations for addressing related civil rights concerns. While other important topics may have surfaced throughout the Committee's inquiry, matters that are outside the scope of this specific civil rights mandate are left for another discussion. This report and the recommendations included within it were adopted by a majority of the Committee on November 17, 2025.

The Committee appreciates the willingness of panelists, stakeholders, and members of the public for their testimony during this project.

Background

Hate crimes are message crimes. The driving force behind a hate crime is the offender's perception of the victim and the satisfaction that they derive from creating adversity for the victim. The

² Meeting records and transcripts are available here:

<https://usccr.app.box.com/s/a0an407jp6vwsfabezg2fk86psjc12ew/folder/252136660061>. Briefing before the Indiana Advisory Committee to the U.S. Commission on Civil Rights, June 20, 2024, (web-based), Transcript (hereinafter cited as "6/20/24 Web Briefing"); Briefing before the Indiana Advisory Committee to the U.S. Commission on Civil Rights, June 27, 2024, (web-based), Transcript (hereinafter cited as "6/27/24 Web Briefing"); Briefing before the Indiana Advisory Committee to the U.S. Commission on Civil Rights, September 24, 2024, (web-based), Transcript (hereinafter cited as "9/24/24 Web Briefing"); Briefing before the Indiana Advisory Committee to the U.S. Commission on Civil Rights, September 26, 2024, (web-based), Transcript (hereinafter cited as "9/26/24 Web Briefing"); Briefing before the Indiana Advisory Committee to the U.S. Commission on Civil Rights, November 18, 2024, (web-based), Transcript (hereinafter cited as "11/18/24 Web Briefing"); Briefing before the Indiana Advisory Committee to the U.S. Commission on Civil Rights, November 19, 2024, (web-based), Transcript (hereinafter cited as "11/19/24 Web Briefing"); Briefing before the Indiana Advisory Committee to the U.S. Commission on Civil Rights, November 22, 2024, (web-based), Transcript (hereinafter cited as "11/22/24 Web Briefing").

Federal Bureau of Investigation (FBI) defines these crimes as a criminal offense motivated, in whole or in part, by the offender's bias against race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.³

Bias-motivated crimes in the United States have a long history with many state legislatures introducing laws in the 1980s. These laws have varied widely across jurisdictions with some states codifying new crimes, adding sentencing enhancements to existing statutes, defining protected groups, and mandating reporting.

On a federal level, Congress passed the first federal hate crime statutes in 1968: one prohibiting violent interference with housing rights,⁴ and another prohibiting violent interference with several enumerated rights, including voting and employment activities.⁵ The Hate Crimes Statistics Act of 1990 mandated the collection of data on hate crimes. Almost two decades later, the federal government passed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, expanding the scope of federal hate-crime laws. Other bias-related laws have been enacted and enforced by the U.S. Department of Justice.

Also relevant to the history of codifying hate crimes is the 1993 landmark ruling in *Wisconsin v. Mitchell*.⁶ The case examined the fundamental fairness of hate-crime legislation altogether, holding that carefully crafted hate-crime laws do not infringe on the free exercise of speech and resolved the major constitutional questions on the matter. Today, the federal government and 46 states and the District of Columbia have such laws.⁷ By early 2022, only two states are without active hate-crime laws.⁸

Indiana had once been at the forefront of protections against bias-related acts as early as 1947 when it passed one of the first hate crime laws in the country.⁹ A portion of the law read,

“It shall be unlawful for any person or persons acting with malice to create, advocate, spread or disseminate hatred for or against any person, persons or group of persons, individually or collectively by reason of race, color or religion.”¹⁰

³ Federal Bureau of Investigation, “Hate Crimes Definition”, February 11, 2025, <https://www.fbi.gov/investigate/civil-rights/hate-crimes#Definition>.

⁴ 42 U.S.C. § 3631.

⁵ 18 U.S.C. § 245.

⁶ *Wisconsin v. Mitchell*, 508 U.S. 476 (1993).

⁷ U.S. Department of Justice, “Hate Crimes, Laws and Policies”, <https://www.justice.gov/hatecrimes/laws-and-policies> (hereinafter cited as “*U.S. Department of Justice, Hate Crimes, Laws and Policies*.”).

⁸ Wyoming and South Carolina have no active hate crime laws.

⁹ Jennifer Weingart, “History of Indiana’s Hate Crime Laws,” *NPR*, July 28, 2019, <https://www.npr.org/2019/07/28/746089837/history-of-indianas-hate-crime-laws>.

¹⁰ Ind. Acts 1947, c. 56, § 2.

The law was later ruled unconstitutional as violating the First Amendment.¹¹

Fast forward to 2019, the Indiana General Assembly passed Senate Bill 198, which allows judges to impose longer sentences for crimes motivated by bias and refers to Indiana's bias crimes reporting statute¹² that mentions color, creed, disability, national origin, race, religion and sexual orientation.¹³ The law does not explicitly cover age, sex or gender identity. However, bias can also be considered due to the "victim's or the group's real or perceived characteristic, trait, belief, practice, association, or other attribute."¹⁴ With this language included, legal scholars, including former Indiana Supreme Court Justice Frank Sullivan note that judges are free to include whatever classification they choose to and that the law expressly says judges are "not limited to" the list of attributes referenced that could include gender and gender identity.¹⁵

Recent Bias-Related Incidents in Indiana

Like other states and jurisdictions, there have been crimes that were suspected of being hate crimes in Indiana. Below are summaries of several, including whether they were reported and/or prosecuted as hate crimes.

On January 11, 2023, according to press reports: "An Indiana University student was stabbed in the head while riding a bus in Bloomington, Ind., on Wednesday in an unprovoked attack that officials described as a 'racially motivated incident.' The student, an 18-year-old woman who was not publicly identified, was waiting for the Bloomington Transit bus's doors to open at 4:45 pm when she was stabbed in the head several times, the Bloomington Police Department said in a statement on Thursday."¹⁶ The Bloomington Police Department noted in the probable cause affidavit that suspect, Billie Davis, purportedly told investigators she targeted the student because she assumed her to be Chinese and "made statements that race was a factor in why she stabbed her," and that "Davis made a statement that it would be one less person to blow up our county."¹⁷

¹¹ Tony Cook, "Indiana Once Had a Hate Crimes Law, but It Quietly Disappeared," *Indianapolis Star*, November 30, 2017, <https://www.indystar.com/story/news/politics/2017/11/28/indiana-once-had-hate-crimes-law-but-quietly-disappeared/626926001/>.

¹² Ind. Code Ann. §10-13-3-38.

¹³ Ind. Code §10-13-3-38.

¹⁴ Ind. Code § 35-38-1-7.1 (a)12.

¹⁵ WTHR.com staff, "Former IN Supreme Court Justice Says New Hate Crimes Law Protects Gender, Gender Identity," *Wthr.Com*, April 4, 2019, <https://www.wthr.com/article/news/politics/former-supreme-court-justice-says-new-hate-crimes-law-protects-gender-gender-identity/531-9dfa29c5-78f4-4db3-a190-7d6c57038a1d>.

¹⁶ Jesus Jimenez, "Indiana University Student Stabbed in 'Racially Motivated' Attack, School Says," *New York Times*, January 15, 2023, available at <https://www.nytimes.com/2023/01/15/us/indiana-university-student-stabbed.html>.

¹⁷ Bill Hutchinson, "Hearing postponed for suspect in hate crime stabbing of Indiana University student," *ABC News*, January 25, 2023, at: <https://abcnews.go.com/US/suspect-hate-crime-stabbing-indiana-university-student-set/story?id=96514503>.

On April 15, 2021, Brandon Scott Hole killed four members of the Sikh community in a mass shooting at the FedEx Ground facility in Indianapolis, Indiana.¹⁸ Although horrific, and although the Sikh community was disproportionately affected, it was deemed not to be a “hate crime” because law enforcement concluded that it lacked an element of bias.

Roughly a week later, the murder of Shane Nguyen, a 55-year-old Vietnamese immigrant living in Ft. Wayne, Indiana also made national news.¹⁹ He was brutally killed, and his dismembered body was discovered in a storage unit after three individuals were arrested based on video from a hardware store of them purchasing items that could be used in such a crime. Although the victim was Vietnamese, the crime did not involve the element of bias based on his national origin. These examples illustrate the importance of there being a connection between the protected characteristics – race, sex, national origin, religion and the like – and the perpetrator’s motive for committing the crime.

Hate Crime Reporting

Scholars have struggled to precisely identify the number of hate crimes committed each year. In fact, two different government attempts to quantify the number of hate crimes, the annual FBI Uniform Crime Reporting Program and the National Crime Victimization Survey (NCVS), have suggested very different rates of hate crimes occurring in the United States.²⁰ The NCVS, described by Ron Davis as one of the most inaccurate surveys of its time, reported far more hate crimes occurring annually than the FBI. For example, Davis notes:

In 2011, the total number of incidents throughout the United States reported to the FBI was 6,200, with about 7,000 people victimized. However, a recent study by the Department of Justice’s (DOJ’s) Bureau of Justice Statistics (BJS) showed that more than 250,000 people in the United States over

¹⁸ Steve Almasy, Jason Hanna and Amanda Watts, “Police ID gunman who killed 8 people at an Indianapolis FedEx facility as 19-year-old former employee,” *CNN*, April 17, 2021, at:

<https://www.cnn.com/2021/04/16/us/indianapolis-shooting-fedex-facility/index.html>; “Indianapolis FedEx Shooter Who Killed 4 Sikhs Was Not Racially Motivated, Police Say,” *NPR*, July 28, 2021, at:

<https://www.npr.org/2021/07/28/1021935687/indianapolis-fedex-shooting-sikhs-not-racially-motivated-police-say>;

Tim Fitzsimons, “Indianapolis FedEx mass shooting was ‘preventable,’ families of victims say in negligence lawsuit,” *NBC*, April 11, 2022, at: <https://www.nbcnews.com/news/us-news/indianapolis-fedex-mass-shooting-was-preventable-families-victims-say-rcna23914>; Johnny Magdaleno, “Indianapolis responds with silence to FedEx shooting victims request for \$2.1M in compensation,” *USA Today*, January 12, 2022, at:

<https://www.usatoday.com/story/news/nation/2022/01/12/indianapolis-fed-ex-shooting-victims/9190265002/>.

¹⁹ Tracy Connor, “They Killed Him, Then Used His Money for Tools to Cut Him Up: Police,” *Daily Beast*, April 27, 2021, at: <https://www.thedailybeast.com/mathew-kramer-and-jacob-carreon-hamilton-of-indiana-accused-of-dismembering-shane-nguyen/>;

Natalie Colarossi, “GoFundMe for Shane Nguyen, Missing Indiana Man Found Dismembered, Gains \$90K in Less Than 24 Hours,” *Newsweek*, April 28, 2021, at:

<https://www.newsweek.com/gofundme-shane-nguyen-missing-indiana-man-found-dismembered-gains-90k-less-24-hours-1587209>; “2 Charged in Gruesome Murder of Beloved Community Member Killed And Dismembered Police Say,” *Inside Edition*, May 3, 2021, at: <https://www.insideedition.com/2-charged-in-gruesome-murder-of-beloved-community-member-killed-and-dismembered-police-say-66644>.

²⁰ Ronald L. Davis, “The Hate Crimes Reporting Gap: Low Numbers Keep Tensions High,” *The Police Chief Magazine*, <https://www.policechiefmagazine.org/the-hate-crimes/>.

the age of 12 years old were victimized each year from 2003 through 2011, either through violent or property crimes.²¹

However, other authorities question the accuracy of the NCVS, especially for low incidence events such as rape, sexual assault, and bias crimes, concluding that the NCVS does not have “the precision needed for policy and research purposes.”²² There are likely varied explanations for this discrepancy, depending, in many cases, on the jurisdiction.

There are also several challenges that impede successful hate crime prosecutions. For example, prosecuting a hate crime begins with law enforcement who are responsible for investigating incidents that may be hate crimes and collecting evidence required for prosecution.²³ As a first step, victims must report hate crimes to start the criminal justice process. If victims do not report hate crimes to law enforcement agencies, then there will be nothing to prosecute.

The different communities targeted by hate crimes face different barriers. For instance, with respect to the disability community, barriers in being able to access hate crime reporting websites, as well as a bias against people with disabilities, especially intellectual and developmental disabilities, to serve as witnesses to the crime contributes to an underreporting of crimes overall, including crimes that could be considered hate crimes.²⁴

Gay, lesbian and transgender victims of hate crimes may be reluctant to make an official record of their sexual orientation or transgender status. And while bias may have been a – or even the – motivating factor in the selection of victim, the perpetrator may have avoided making a record of it.

Marginalized groups are sometimes reluctant to contact the police when victimized by hate crimes. They may be afraid of the police generally, be worried that they will not be taken seriously by the police, and/or fear retaliation by the perpetrator(s).

Most hate crimes are prosecuted under state hate crime laws.²⁵ Many hate crime laws require that bias be proven as an element of the crime.²⁶ Interviews with prosecutors, who are focused on

²¹ *Id.*

²² Potential Sources of Error in the NCVS: Sampling, Frame and Processing, National Institutes of Health, Conclusion 7-1, 2014, at: <https://www.ncbi.nlm.nih.gov/books/NBK202273/#:~:text=CONCLUSION%20%2D1%20The%20National,precision%20needed%20for%20policy%20and>.

²³ Bell, Jeannine, "Policing Hatred: Law Enforcement, Civil Rights, and Hate Crime" (2002). Books & Book Chapters by Maurer Faculty. 129. <https://www.repository.law.indiana.edu/facbooks/129>.

²⁴ Debra McKinney, Southern Poverty Law Center, “The Invisible Hate Crime,” December 3, 2024, <https://www.splcenter.org/resources/reports/invisible-hate-crime/>.

²⁵ *U.S. Department of Justice, Hate Crimes, Laws and Policies.*

²⁶ *Ibid.*

winning cases, have shown them to be hesitant about bringing hate crime charges because of the additional complexity involved.²⁷ The requirement that the perpetrator's bias be proven distinguishes bias crimes from other types of crime.

Concerns have been raised about apparent gaps between the number of individuals who report having been victimized to victims' advocacy groups or in victim surveys²⁸ and the number of hate crimes that state/local law enforcement report to the federal government.²⁹ An example of the latter is that initially the death of Heather Heyer, in the 2017 car attack in Charlottesville was not reported in FBI statistics as a hate crime,³⁰ but likely was reclassified.³¹

Federal and State Bias and Discrimination-Related Legislation

*Relevant Federal Legislation*³²

The U.S. Department of Justice enforces federal hate crime laws that cover certain crimes committed on the basis of race, color, religion, national origin, sexual orientation, sex, gender identity, or disability.³³ There are several federal laws and statutes addressing hate crimes. One or more of them can be used to prosecute and sentence a hate crime under federal jurisdiction. There are also laws that provide programmatic standards or provide resources to state and local law enforcement:

- *Conspiracy Against Rights (1870)* – This statute makes it a crime for two or more persons to agree to injure, threaten, or intimidate a person in the United States in the free exercise or enjoyment of any right or privilege secured by the Constitution or laws of the United States or because of his or her having exercised such a right. While there is not a requirement that the act be based on the protected class of the victim, this law has

²⁷ McPhail, B. and Jenness, V., 2005. To Charge or not to Charge? That is the question: The pursuit of Strategic Advantage in Prosecutorial Decision-Making Surrounding Hate Crime. *Journal of Hate Studies*, 4(1), pp.89–119.

²⁸ Stop AAPI-Hate is one organization that takes victim reports of hate crime and does not investigate them. <https://stopaapihate.org/>. The anti-defamation league is another organization that takes victim reports, but its audit of anti-Semitic incidents is slightly investigated <https://www.adl.org/resources/report/audit-antisemitic-incidents-2021>.

²⁹ Indiana Code § 10-13-3-38; Ronald L. Davis and Patrice O'Neill, "The Hate Crimes Reporting Gap: Low Numbers Keep Tensions High," *The Police Chief* 83, May 2016, at: <https://www.policechiefmagazine.org/the-hate-crimes/>.

³⁰ Mallory Simon, Sara Sidner, *Heather Heyer's not on this FBI list. How hate crimes*, FBI: Uniform Crime Report (2017), at: <https://www.cnn.com/2019/08/12/us/charlottesville-heather-heyer-death-not-in-fbi-report-soh/index.html>.

³¹ Virginia, Hate Crime Incidents per bias motivation and quarter by agency (2017), at: <https://ucr.fbi.gov/hate-crime/2017/tables/table-13-state-cutsvirginia.xls>. See also, *Survivors of Hate and Justice Department Hate Crimes and Work Video Montage*, October 25, 2021, at: <https://www.justice.gov/opa/video/survivors-hate-and-justice-department-hate-crimes-work-video-montage> (October 25, 2021), at: <https://www.justice.gov/opa/video/survivors-hate-and-justice-department-hate-crimes-work-video-montage>.

³² Some laws may indicate chargeable offenses while others may promote state and local enforcement training and reporting of hate crimes.

³³ *U.S. Department of Justice, Hate Crimes, Laws and Policies*.

historically been used in Hate Crime prosecutions.³⁴

- *Criminal Interference with Right to Fair Housing (1968)* – This statute within the Fair Housing Act makes it a crime to use or threaten to use force to interfere with housing rights because of the victim’s race, color, religion, sex, disability, familial status, or national origin.³⁵
- *Violent Interference with Federally Protected Rights (1968)* – This statute makes it a crime to use or threaten to use force to willfully interfere with a person’s participation in a federally protected activity because of race, color, religion, or national origin. Federally protected activities include public education, employment, jury service, travel, or the enjoyment of public accommodations.³⁶ Under this statute, it is also a crime to use or threaten to use force against those who are assisting and supporting others in participating in these federally protected activities.³⁷
- *Hate Crime Statistics Act (1990)*³⁸ – This law creates structure and mechanisms for identifying and collecting data on the occurrence of hate crimes on an annual basis. It requires the Attorney General, through the FBI, to collect and publish data on crimes motivated by prejudice based on race, religion, sexual orientation, or ethnicity.³⁹ Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009 broadens the range of covered bias-motivated crimes.⁴⁰
- *Damage to Religious Property, Church Arson Prevention Act (1996)* – This statute prohibits the intentional defacement, damage, or destruction of religious real property because of the religious nature of the property, where the crime affects interstate or foreign commerce, or because of the race, color, or ethnic characteristics of the people associated with the property.⁴¹ The statute also criminalizes the intentional obstruction by force, or threat of force of any person in the enjoyment of that person’s free exercise of religious beliefs.⁴²

³⁴ 18 U.S.C. § 241; The law was originally enacted in Section 6 of the Enforcement Act of 1870, but with slightly different phrasing. See Steve Salch, Note, Protection of Fourteenth Amendment Rights under Section 241 of the United States Criminal Code, 20 SW L.J. 913 (1966) <https://scholar.smu.edu/smulr/vol20/iss4/15>.

³⁵ 42 U.S.C. § 3631.

³⁶ 18 U.S.C. § 245(b)(2).

³⁷ 18 U.S.C. § 245(b)(5).

³⁸ 28 U.S.C. § 534.

³⁹ 28 U.S.C. § 534(a).

⁴⁰ See page 12.

⁴¹ 18 U.S.C. § 247.

⁴² 18 U.S.C. § 247(a)(2).

- *Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act (2009)*⁴³ – This law allows federal criminal prosecution of hate crimes motivated by the victim’s actual or perceived sexual orientation or gender identity. Additionally, it makes it a federal crime to willfully cause bodily injury, or attempt to do so using a dangerous weapon, because of the victim’s actual or perceived race, color, religion, or national origin.⁴⁴ Crimes committed because of the actual or perceived religion, national origin, sexual orientation, gender, gender identity, or disability of any person, if the crime affected interstate or foreign commerce or occurred within federal special maritime or territorial jurisdiction are covered in this law.⁴⁵
- *COVID 19 Hate Crimes Act (2021)*⁴⁶ – This statute directs the Department of Justice to speed up the review of hate crimes for bringing charges. The Department must also work to improve the reporting of hate crimes and hate incidents in light of the rise in anti-Asian hate during the COVID-19 pandemic.⁴⁷ To meet this goal, the law requires the Department to reach out to law enforcement agencies and to provide them with helpful tools and resources for reporting, enforcing, and preventing hate crimes.⁴⁸
- *Khalid Jabara and Heather Heyer National Opposition to Hate, Assault, and Threats to Equality Act (2021)*⁴⁹ – This statute, an amendment to the COVID-19 Hate Crimes Act, provides new grants, training, and other forms of assistance to help state, local, and Tribal law enforcement agencies with hate crime reporting, prioritizing agencies that have a history of not reporting any hate crimes.⁵⁰ The law also directs the Department of Justice to report back to Congress on its efforts to improve hate crime reporting.⁵¹
- *Emmett Till Antilynching Act (2022)*⁵² – The first of its kind, this law makes lynching a federal hate crime offense and amends the already existing federal law against hate crimes.⁵³ It imposes criminal penalties—a fine, up to 30 years of imprisonment, or both—on anyone who commits a hate crime that results in death or serious bodily injury.⁵⁴ It also

⁴³ 18 U.S.C. § 249.

⁴⁴ 18 U.S.C. § 249(a)(1).

⁴⁵ 18 U.S.C. § 249(a)(2).

⁴⁶ 34 U.S.C. § 30501.

⁴⁷ Pub. L. 117–13, § 3 (May 20, 2021), 135 Stat. 266, 34 U.S.C. § 30501.

⁴⁸ *Id.*

⁴⁹ 34 U.S.C. § 30507.

⁵⁰ 34 U.S.C. § 30507(c)(2)(B)(ii).

⁵¹ 34 U.S.C. § 30507(g)(1).

⁵² 18 U.S.C. § 249.

⁵³ 18 U.S.C. § 249(a)(5).

⁵⁴ *Id.*

makes anyone who conspires to kidnap, kill, or commit aggravated sexual abuse liable to these punishments.⁵⁵

In addition to these laws, there are other federal laws that allow for the prosecution of bias-motivated crimes that include the Deprivation of Rights Under Color of Law⁵⁶ and the Freedom of Access to Clinic Entrances.⁵⁷ Additionally, the Committee highlights additional federal laws that address discrimination in this context including the Americans with Disabilities Act,⁵⁸ the Civil Rights Act, Fifth and Fourteenth Amendments,⁵⁹ and Pattern and Practice.⁶⁰

Relevant State Legislation

Central to the Committee's inquiry is Indiana's 2019 hate crime law that allows judges to impose longer sentences for crimes motivated by bias.⁶¹ The law refers to Indiana's bias crimes reporting statute which requires state police to collect data on bias crimes affecting an individual's color, creed, disability, national origin, race, religion, and sexual orientation, but does not explicitly cover age, sex, or gender identity.⁶² However, the law indicates that bias can be considered based on the "victim's or the group's real or perceived characteristic, trait, belief, practice, association, or other attribute."⁶³

Lastly, Ind. Code Ann. § 35-43-1-2 makes it illegal to damage property, including places of worship.

Historical Context of the Indiana Advisory Committee and Documenting Hate Crime Trends

More than 30 years after the first report, Indiana Advisory Committee to the U.S. Commission on Civil Rights revisits the topic of examining hate crimes in the state. The 2021-2025 term of the Indiana Advisory Committee acknowledges two reports of earlier terms: (1) The Increase of Hate

⁵⁵ 18 U.S.C. § 249(a)(6).

⁵⁶ 18 U.S.C. § 242.

⁵⁷ 18 U.S.C. § 248.

⁵⁸ 42 U.S.C. § 12101.

⁵⁹ 42 U.S.C. § 1983.

⁶⁰ 42 U.S.C. § 14141.

⁶¹ See Ind. Code § 35-38-1-7.1(a)(12) allowing a judge to consider as an aggravating circumstance whether, among other things, the person committed the offense with bias due to the victim's or the group's real or perceived characteristic, trait, belief, practice, association, or other attribute the court chooses to consider, including but not limited to an attribute described in IC 10-13-3-1. Another aggravating factor defined in Ind. Code § 35-38-1-7.1(a)(7) includes if the victim of the offense was a person with a disability (defined as someone with a disability as determined by the Social Security Administration) or "mentally or physically infirm" and that the defendant knew or should have known that the person had such characteristics.

⁶² Matthew Shepard Foundation, Indiana's Hate Crime Law, <https://www.matthewshepard.org/wp-content/uploads/2020/08/Indianas-Hate-Crime-Law.pdf>.

⁶³ See Ind. Code § 35-38-1-7.1(a)(12).

Crimes in Indiana (1992);⁶⁴ and (2) Hate Crime in Indiana: A Monitoring of the Level, Victims, Locations, and Motivations (1994) documenting incidents and trends in hate crimes in the early 1990s.⁶⁵ Notably, the 1992 Indiana Advisory Committee received testimony detailing varied, disturbing, and widespread acts of hate targeting a range of people, especially Black Americans and members of the LGBTQ+ community.⁶⁶ This report also highlighted the insufficiency of reporting on these incidents; inadequate state-level statutes and deterrents to address hate crimes; changing demographics; attenuated civics education, including knowledge of civil rights history; poverty; and a political and economic climate characterized by “the powerful emotion of fear” and a “politics of resentment and divisiveness” allowing for hate crimes to “flourish.”⁶⁷ Recommendations to eliminate hate crimes statewide: (1) recognizing, reporting, and expose hate crime activity; (2) training and education for the police and the community in race relations and multicultural awareness; (3) insisting that national and local political leaders take the lead in decrying acts of bigotry; (4) enacting civil and criminal penalties to deter hate crime activity.⁶⁸

In their 1994 follow up report, the Indiana Advisory Committee attempted to report on the number of hate crimes in the state by obtaining data from the Indiana Consortium of State and Local Human Rights Agencies. Through this inquiry, they were able to understand frequency of compliance of reporting from law enforcement agencies, quality of victimization data, and types of crimes committed.

Generally, they concluded that very few law enforcement agencies report hate crime data, “racial intolerance and bigotry remains embedded in the fabric of the state,” where a person lives is the most likely place to be victimized by a hate crime; and the African American community and the gay and lesbian community are more likely to be targeted for hate crime. While no explicit recommendations were outlined, the Committee noted that police cooperation is essential in monitoring hate crimes as the lack of compliance will “curtail study and knowledge of these crimes.”⁶⁹

⁶⁴ U.S. Commission on Civil Rights, Indiana Advisory Committee, *The Increase of Hate Crimes in Indiana*, 1992, <https://www.usccr.gov/files/historical/1992/92-004.pdf> (hereinafter cited as *The Increase of Hate Crimes in Indiana*).

⁶⁵ U.S. Commission on Civil Rights, Indiana Advisory Committee, *Hate Crime in Indiana: A Monitoring of the Level, Victims, Locations, and Motivations*, 1994, pp. 16-7, <https://www.usccr.gov/files/historical/1994/94-001-H.pdf> (hereinafter cited as *Hate Crime in Indiana: A Monitoring of the Level, Victims, Locations, and Motivations*).

⁶⁶ *The Increase of Hate Crimes in Indiana* at 5-10.

⁶⁷ *Ibid.* at 19.

⁶⁸ *Ibid.* at 17-18.

⁶⁹ U.S. Commission on Civil Rights, Indiana Advisory Committee, *Hate Crime in Indiana: A Monitoring of the Level, Victims, Locations, and Motivations*, 1994, pp. 16-7, <https://www.usccr.gov/files/historical/1994/94-001-H.pdf>.

Our findings and recommendations are likely to have overlapping themes and references. You can find them on pages 18-37.

While much has changed since these reports, the work of addressing hate crimes in Indiana remains unfinished. With thanks to our predecessors for laying this groundwork, the 2021-2025 Indiana Advisory Committee to the U.S. Commission on Civil Rights offers this updated report, with our best hope that Hoosiers of goodwill remain committed to making Indiana a welcoming place for all.

Purpose and Scope

The Indiana Advisory Committee intends to contribute to the discourse around reporting of and enforcement of hate crime legislation in Indiana.

Areas of Review/Themes

The Committee will review the following areas as part of its scope:

1. Hate Crime Definitions/Legal Significances.
2. Comparative review of hate crime laws in other states/jurisdictions and in Indiana.
3. Data. Including what is reported at the national, state, and local levels. And consider surveys where individuals report having been victimized by hate crime:
 - a. to understand the circumstances in which hate crimes occur,
 - b. understand causes for gaps in reporting, and
 - c. understand causes for differential reporting across the major data sources, data collection, including the state/local reporting entity.
4. Community impact. The effects hate crimes have on diverse communities, e.g., communities of color (race), of religion, with disabilities and LGBTQ communities.
5. Policies, practices, procedures and laws. Identify and explain those that:
 - a. reasonably explain the gap between hate crime reports, investigation and prosecution,
 - b. assist the public in understanding hate/bias crimes versus other crimes,
 - c. impede effective hate crime prosecutions/enforcement, and
 - d. could add hate crime protections, if appropriate, in Indiana.

6. Training. Describe hate crime training provided in other states/jurisdictions and in Indiana, including identifying those in the criminal justice system that are trained, i.e., stakeholders, including members of the public, including how often the training is provided/frequency.
7. Highlight best practices in other states/jurisdictions and their impact:
 - a. to provide more effective enforcement/prosecutions,
 - b. reduce hate crimes, and
 - c. maintain a low level of hate crimes.

Guiding Questions

The questions below are initial questions that guided the Committee's inquiry into understanding hate crimes broadly.

1. What is a hate crime under federal law?
2. What is a hate crime in Indiana?
3. What are the experiences of hate crime victims in Indiana?
4. What are the experiences of communities impacted by crime that may not fall under the legal definition of hate crime?
5. What training is provided to police, prosecutors, judges and the public about hate crime reporting and enforcement in Indiana?
6. What is the current practice for identifying, investigating, enforcing and reporting hate crime in Indiana?
7. What are best practices for hate crime legislation, policy, and enforcement?
 - a. Defining hate crime
 - b. Sentencing enhancements versus a separate charging statute
 - c. Training
8. Are there barriers to identifying and/or enforcing hate crime legislation?
 - a. Identify and explain the policies, practices and procedures that impede effective hate crime prosecutions/enforcement,
 - b. Identify and explain the policies, practices and procedures that reduce hate crimes and result in effective hate crime prosecutions/enforcement.
9. What data exists regarding the incidence of hate crimes in Indiana and how does Indiana compare to other states/federal data sources?

- a. List reports/sources/citations for hate crimes at national/state/local levels, i.e., who is collecting the data?
 - b. What are the organizations/sources that survey protected classes to self-identify as hate crime victims/survivors?
 - c. Are hate crimes at colleges/universities collected and reported? If not, should such data be collected and to what state/local law enforcement entity should it be reported?
10. What are the reasons for inconsistencies in reported hate crimes data?
11. What are non-carceral approaches for addressing hate crimes?

Methodology

As a matter of historical precedent, and in order to achieve transparency, Committee studies involve a collection of public, testimonial evidence and written comments from individuals directly impacted by the civil rights topic at hand; researchers and experts who have rigorously studied and reported on the topic; community organizations and advocates representing a broad range of backgrounds and perspectives related to the topic; and government officials tasked with related policy decisions and the administration of those policies.

Committee studies require Committee members to use their expertise in selecting a sample of panelists that is the most useful to the purposes of the study and will result in a broad and diverse understanding of the issue. This method of (non-probability) judgment sampling requires Committee members to draw from their own experiences, knowledge, opinions, and views to gain understanding of the issue and possible policy solutions. Committees are composed of volunteer professionals who are familiar with civil rights issues in their state or territory. Members represent a variety of political viewpoints, identities, occupations, races, ages, and gender identities, as well as a variety of backgrounds, skills, and experiences. The intentional diversity of each Committee promotes vigorous debate and full exploration of the issues. It also serves to assist in offsetting biases that can result in oversight of nuances in the testimony.

In fulfillment of the Committees' responsibility to advise the Commission on civil rights matters in their locales, Committees conduct an in-depth review and thematic analysis of the testimony received and other data gathered throughout the course of their inquiry. The Indiana Advisory Committee made good faith efforts to invite relevant speakers to ensure diverse perspectives are included, but due to the unavailability of some speakers, their perspectives were not reflected in this report. Committee members use this publicly collected information, often from those directly impacted by the civil rights topic of study, or others with direct expert knowledge of such matters,⁷⁰

⁷⁰ The titles of invited speakers referenced in the report reflect the position held during the Committee's inquiry period.

to identify findings and recommendations to report to the Commission. Drafts of the Committee's report are publicly available and shared with panelists and other contributors to ensure that their testimony was accurately captured. Reports are also shared with affected agencies to request clarification regarding allegations noted in testimony.

For the purposes of this study, **Findings** are defined as what the testimony and other data *suggested, revealed, or indicated* based upon the data collected by the Committee. Findings refer to a synthesis of observations confirmed by majority vote of members, rather than conclusions drawn by any one member. **Recommendations** are specific actions or proposed policy interventions intended to address or alleviate the civil rights concerns raised in the related finding(s). Where findings indicate a lack of sufficient knowledge or available data to fully understand the civil rights issues at hand, recommendations may also target specific directed areas in need of further, more rigorous study. Recommendations are directed to the Commission; they request that the Commission itself take specific action, or that the Commission forward recommendations to other federal or state agencies, policy makers, or stakeholders.

Findings

In keeping with their duty to inform the Commission of (1) matters related to discrimination or a denial of equal protection of the laws; and (2) matters of mutual concern in the preparation of reports of the Commission to the President and the Congress,⁷¹ the Indiana Advisory Committee submits the following findings to the Commission:

Finding I: Since the passage of Indiana's hate crime reporting law, there have been few cases citing the statute for enforcement purposes. This raises concern about the gap between statutory intent and practical application in Indiana.

Testimony focused on the law's vague statutory language, lack of mandated sentencing enhancements, inconsistent enforcement across counties, limited police engagement, and unchecked prosecutorial discretion—particularly in the context of plea bargaining—diminishing the law's effectiveness in addressing hate crimes.

Hate crime laws are important for deterrence;⁷² however, Indiana's statutory framework is limited in scope and contains ambiguous language. Jeanine Bell, Curt and Linda Robin Professor of Law and Social Justice at Loyola University of Chicago School of Law testified that unlike many states with robust hate crime statutes, Indiana's law does not include a stand-alone criminal charge or mandatory sentencing enhancements.⁷³ Instead, it relies on aggravator-based enhancements, which allow judges to shift a sentence within the existing statutory range but do not guarantee

⁷¹ 45 C.F.R. § 703.2 (2018).

⁷² Lieberman Testimony, *6/20/24 Web Briefing*, p. 9.

⁷³ Bell Testimony, *11/18/24 Web Briefing*, pp. 13-4.

additional penalties.⁷⁴ This framework creates discretion at the judicial level that can result in minimal or no consequences for bias-motivated behavior.⁷⁵ Panelists argued that this structure dilutes the law’s deterrent effect and fails to signal the seriousness of hate-based offenses.⁷⁶

Zachary A. Myers, U.S. Attorney for the Southern District of Indiana and Jeff Kehr, Chief Deputy Prosecuting Attorney for the Monroe County Prosecutor’s Office testified that proving bias motivation “beyond a reasonable doubt” poses significant legal and evidentiary challenges.⁷⁷ Federal investigations often involve deep dives into a suspect’s social media, online activity, and past conduct to establish motive—resources that are not always available at the state level.⁷⁸ U.S. Attorney Myers acknowledged that even in strong cases, federal prosecutors may choose not to bring hate crime charges if the burden of proof for motive cannot be met.⁷⁹ However, bias can still influence sentencing through the federal sentencing guidelines, even when formal hate crime charges are not pursued.⁸⁰

Panelists consistently agreed that Indiana’s law is underdeveloped compared to federal statutes and laws in other states.⁸¹ Chief Prosecutor Kehr and U.S. Attorney Myers strongly supported the addition of enhanced charges—rather than mere sentencing enhancements—as a more effective mechanism to address the full harm of hate-motivated violence.⁸² U.S. Attorney Myers noted federal cases where detailed investigation of bias was critical to building a strong case and argued that Indiana lacks both the statutory tools and systemic support to pursue similar strategies.⁸³

Professor Bell added that another structural weakness lies in Indiana’s failure to define protected traits in its hate crime law. The omission of these traits—due to political compromise when the law was passed in 2019—undermines its clarity and utility for both law enforcement and prosecutors.⁸⁴ She testified that explicitly listing traits such as race, religion, gender identity, and sexual orientation sends a powerful message of protection and sets clear expectations for enforcement agencies.⁸⁵ Without these definitions, officers may lack the legal motivation or guidance to identify and document bias in their reports, resulting in underreporting and weak case

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*; Ray Testimony, *11/19/24 Web Briefing*, pp. 26-7.

⁷⁷ Myers Testimony, *11/18/24 Web Briefing*, pp. 27-8.

⁷⁸ Kehr Testimony, *11/18/24 Web Briefing*, p. 15.

⁷⁹ Myers Testimony, *11/18/24 Web Briefing*, p. 26.

⁸⁰ *Ibid.*

⁸¹ Bennett Testimony, *11/19/24 Web Briefing*, pp. 21-2, 30-1.

⁸² Kehr Testimony, *11/18/24 Web Briefing*, pp. 20-2; Myers Testimony, *11/18/24 Web Briefing*, pp. 22-3

⁸³ Myers Testimony, *11/18/24 Web Briefing*, pp. 15-6.

⁸⁴ Bell Testimony, *11/18/24 Web Briefing*, pp. 6-7.

⁸⁵ *Ibid.*

development.⁸⁶ Professor Bell shared that in 2022, only 219 out of 348 Indiana police departments submitted hate crime data to the FBI, underscoring the lack of consistency and engagement among local agencies.⁸⁷

Dr. Rashawn Ray, Professor of Sociology at the University of Maryland and Senior Fellow at the Brookings Institution provided a broader sociological perspective, noting that effective hate crime laws clearly distinguish between prejudice (attitudes) and discrimination (actions), and ensure that impact—not just intent—is part of enforcement considerations.⁸⁸ He emphasized that Indiana’s law lacks mandatory enhancements and leaves sentencing largely to judicial discretion, limiting its deterrent potential.⁸⁹ In contrast, states like California, Maryland, and Virginia that impose automatic enhancements for bias-motivated offenses tend to see higher prosecution and conviction rates.⁹⁰ Dr. Ray asserted that stronger statutory language, greater accountability, and uniformity across jurisdictions are essential for improving outcomes and community trust.⁹¹

Another recurring theme among panelists was Indiana’s reliance on federal hate crime statutes.⁹² Professor Bell noted that the January 2023 Bloomington case, where a racially motivated knife attack on an Asian woman was ultimately prosecuted at the federal level due to the limitations of Indiana’s law.⁹³ Kerry Hyatt Bennett, Chief Legal Counsel at the Indiana Coalition Against Domestic Violence, Inc.; and Adjunct Professor of Law at the Indiana University Robert H. McKinney School of Law addressed the decentralized nature of Indiana’s court system highlighting that each of Indiana’s counties operates independently, leading to inconsistent training, resource allocation, and willingness to file hate crime charges.⁹⁴ Local politics, cultural dynamics, and prosecutorial risk aversion—especially in cases with uncertain jury outcomes—further undermine uniform application of the law.⁹⁵ This decentralized system often results in counties opting not to pursue hate crime charges, even in cases with strong indicators of bias.⁹⁶

⁸⁶ Ibid

⁸⁷ Ibid.

⁸⁸ Ray Testimony, *11/19/24 Web Briefing*, p. 2.

⁸⁹ Ibid., p. 16.

⁹⁰ Ibid., p. 26.

⁹¹ Ibid., pp. 26-7.

⁹² Bennett Testimony, *11/19/24 Web Briefing*, pp. 21-2; Bell Testimony, *11/18/24 Web Briefing*, p. 9; Ray Testimony, *11/19/24 Web Briefing*, pp. 2-6.

⁹³ *United States v. Davis*, 1:23-cr-00055, (S.D. Ind.); Bell Testimony, *11/18/24 Web Briefing*, p. 9; “Bloomington Woman Sentenced to Six Years in Federal Prison For,” December 11, 2024, <https://www.justice.gov/usao-sdin/pr/bloomington-woman-sentenced-six-years-federal-prison-racially-motivated-stabbing-18>.

⁹⁴ Bennett Testimony, *11/19/24 Web Briefing*, pp. 21-2.

⁹⁵ Ibid.

⁹⁶ Ibid.

Professor Bennett also warned that the lack of prosecutorial consistency in Indiana leads to significant gaps in civil rights enforcement. In a recent Monroe County case, local prosecutors deferred entirely to the U.S. Department of Justice.⁹⁷ Professor Bennett and Dr. Ray both confirmed that major hate crime cases in Indiana are more likely to be prosecuted successfully at the federal level, given better resources, clearer legal standards, and lower burdens of proof in some circumstances.⁹⁸

Finally, panelists offered constructive suggestions for improving Indiana's hate crime statute. Elaine Chiu, Professor of Law at St. John's University School of Law proposed adopting more inclusive and flexible legal language based on New York's model statute, which includes a clear evidentiary standard and lists protected traits.⁹⁹ She recommended amending the phrase "in whole or in substantial part" to "in whole or in part," as the current wording imposes an unnecessarily high evidentiary burden.¹⁰⁰ In addition, she urged the inclusion of evidentiary guidance, jury instructions, and law enforcement training within the statute itself to ensure consistency and reduce discretion that currently weakens enforcement.¹⁰¹ Dr. Ray stated that effective hate crime laws are those that (1) clearly define protected groups and (2) include mandatory sentencing enhancements beyond base criminal penalties. Indiana's law lacks strong sentencing mandates, giving judges the discretion to impose additional penalties rather than make it a requirement.¹⁰² For instance, an Indiana judge may increase the number of years to a sentence due to hate motivation.¹⁰³ Whereas, in other states bias motivation triggers an automatic sentencing enhancement and is not left to the judge's discretion.¹⁰⁴ He emphasized that accountability and clarity in law are essential for effectiveness. Additionally, he referenced that those states with stricter laws (e.g., California, Maryland, Virginia) see more prosecutions and convictions, which may contribute to deterrence over time.¹⁰⁵

⁹⁷ Ibid.

⁹⁸ Ibid; Ray Testimony, *11/19/24 Web Briefing*, pp. 2-6.

⁹⁹ Chiu Testimony, *6/27/24 Web Briefing*, pp. 12-3. Referencing New York Penal Laws 40, PART 4, TITLE Y, ARTICLE 485.

¹⁰⁰ Ibid.

¹⁰¹ Chiu Testimony, *6/27/24 Web Briefing*, p. 20.

¹⁰² Ray Testimony, *11/19/24 Web Briefing*, pp. 26-7.

¹⁰³ Ibid.

¹⁰⁴ Ibid., p. 26.

¹⁰⁵ Ibid.

Finding II: Indiana’s 2019 hate crime law contains vague language that lacks explicit protections for gender and uncertain application for other protected classes.

Three clear examples of this are in domestic violence cases, crimes against the disability community, and crimes against the transgendered community.¹⁰⁶

While Indiana law allows for bias to be considered as a sentencing aggravator,¹⁰⁷ this provision remains underused, particularly in domestic violence cases. Prosecutor Kehr acknowledged the theoretical possibility of applying this enhancement in such cases but noted that it has not been used in Monroe County.¹⁰⁸ Professor Bennett argued that gender-specific inclusion in hate crime statutes may not be necessary to address domestic violence despite the critique of the law¹⁰⁹ since Indiana law provides enhancements for domestic violence committed: (1) in presence of children, (2) against pregnant persons, and (3) in violation of protective orders.¹¹⁰

It is also worth noting that law enforcement has shown reluctance to pursue gender-based hate crime charges out of concern that it might open the door to treating all domestic violence cases as hate crimes, further stalling implementation.¹¹¹ Professor Bell recalled a case where gender was successfully used as the basis for hate crime prosecution in a domestic violence context, but emphasized initial resistance from law enforcement.¹¹² Additionally, U.S. Attorney Myers affirmed that gender-based violence, particularly stemming from misogynistic ideologies (e.g., incel-related mass murders), would be prosecuted as hate crimes at the federal level if applicable. He emphasized that domestic violence offenders are high-risk for broader public violence.¹¹³

Indiana's decentralized judicial system compounds the issue. Professor Bennett emphasized that the state lacks a unified court system that results in wide prosecutorial discretion and inconsistent application of laws across counties.¹¹⁴ Some communities aggressively prosecute domestic violence and protective order violations, while others avoid these cases entirely due to cultural norms or anticipated jury resistance resulting in a patchwork of enforcement that undermines

¹⁰⁶ The Indiana Advisory Committee did not have time to review legal sufficiency review comments submitted by the U.S. Commission on Civil Rights’ Office of the General Counsel concerning statements of this nature and its conflict with January 2025 executive orders related to gender due to the government shutdown and their term expiration on November 18, 2025.

¹⁰⁷ Ind. Code § 35-38-1-7.1.

¹⁰⁸ Kehr Testimony, *11/18/24 Web Briefing*, p. 9.

¹⁰⁹ Bennett Testimony, *11/19/24 Web Briefing*, p. 6.

¹¹⁰ Ind. Code § 35-42-2-1.3; Bennett Testimony, *11/19/24 Web Briefing*, p. 7.

¹¹¹ Bell Testimony, *11/18/24 Web Briefing*, p. 27.

¹¹² *Ibid.*

¹¹³ Myers Testimony, *11/18/24 Web Briefing*, pp. 27-8.

¹¹⁴ Bennett Testimony, *11/19/24 Web Briefing*, pp. 21-2, 30-1.

statewide accountability.¹¹⁵ Further complicating matters are societal attitudes that minimize domestic violence as private or familial issues.¹¹⁶ This framing obscures underlying gender bias and deters thorough investigation or prosecution.¹¹⁷ Cultural factors such as victim-blaming and juror bias often inhibit effective legal responses, especially in smaller or more insular jurisdictions.¹¹⁸

Professor Bennett emphasized that there are high rates of domestic violence in Indiana with 42.5 percent of women and 27.9 percent of men in Indiana experiencing intimate partner physical violence, sexual violence, or stalking in their lifetime.¹¹⁹ This places Indiana among the highest in the nation for domestic violence prevalence.¹²⁰ These numbers intensified during the COVID-19 pandemic which saw over 150 percent increase in legal case intakes and 181 percent increase in domestic violence homicides between 2020–2022.¹²¹ In 2023, the Indiana Supreme Court labeled domestic violence a public health crisis, citing its intensified impact on victims and their households.¹²²

Even with these trends, Professor Bennett questioned the effectiveness of pursuing crimes of domestic violence through a hate crime sentencing enhancement model as the way to impact the issue of domestic violence due to general response from law enforcement.¹²³ She points out that relying on law enforcement is risky as the response can backfire because survivors may be arrested, retaliated against, or face CPS allegations.¹²⁴ Secondly, domestic violence cases are “classically” under-prosecuted as many cases are often pretrial diverted, plea bargained down or dismissed.¹²⁵ Under-prosecution also occurs even in repeat offenses where prosecutors can enhance the charges to a felony charge, but only if they were able to secure the initial conviction of a misdemeanor charge.¹²⁶ Finally, she cautions the unintended consequences of applying hate crime laws to domestic violence.

¹¹⁵ Ibid., pp. 27-8.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ Ibid., p. 6.

¹²⁰ CDC/NISVS (referenced implicitly via prevalence statistics).

¹²¹ ICADV internal data (legal services intake); Indiana state data on homicides.

¹²² 2023 Indiana Supreme Court opinion, <https://law.justia.com/cases/indiana/supreme-court/2023/23s-po-00089.html>.

¹²³ Bennett Testimony, *11/19/24 Web Briefing*, p. 6.

¹²⁴ Ibid.

¹²⁵ Ibid., p. 7.

¹²⁶ Ibid.

Panelists discussed how cases of domestic violence can be charged as hate crimes and what changes need to be made. Dr. Ray analyzed specific language included in the law. He used a Maryland hate crime law as an example, highlighting that its language allows for bias to be considered if it was “*partly due to*” the perpetrator’s motivation. For example, a person does not assault someone just because they were drunk — they were drunk *and* harbored hatred (e.g., misogyny or racism).¹²⁷ He advocated for legislative changes that would include a similar change. From a prosecutor’s perspective, Chief Prosecutor Kehr stated that he would support legislation that would enable prosecutors to charge higher-level offenses or impose greater penalties in cases motivated by hate or bias, including those involving domestic violence.¹²⁸ Lastly, Professor Bennett called for multidisciplinary, coordinated responses, not purely criminal/legal remedies and system-wide awareness to unify understanding across civil and criminal courts regarding domestic violence and its intersection with application to the state’s hate crime law. Specifically, she advocated statewide judiciary training on power dynamics, civility, and diversity because Indiana does not have a unified court system.¹²⁹

Crimes against people with disabilities, for example, are often not characterized as hate crimes or motivated by bias even when the incident is related to the person's disability status.¹³⁰ Testifying to crimes against people with disabilities, Marlene Sallo, Executive Director for the National Disability Rights Network notes that law enforcement misclassifies these crimes as abuse rather than hate crimes, especially when perpetrated by caregivers or family members.¹³¹

Despite its inclusion in the FBI definition of hate crime,¹³² hate crimes motivated by bias against people based on their gender identity, are not explicitly covered in recent updates to Indiana legislation, which refers back to characteristics listed in the Hate Crime Reporting Act of 2000.¹³³ The list in the Hate Crime Reporting Act of should be updated to include Gender Identity.¹³⁴

¹²⁷ Ray Testimony, *11/19/24 Web Briefing*, p. 29.

¹²⁸ Kehr Testimony, *11/18/24 Web Briefing*, pp. 7-9.

¹²⁹ Bennett Testimony, *11/19/24 Web Briefing*, pp. 21-2, 30-1.

¹³⁰ Sallo Testimony, *6/27/24 Web Briefing*, p. 28

¹³¹ *Ibid.*

¹³² Federal Bureau of Investigation, “Hate Crimes Definition”, February 11, 2025, <https://www.fbi.gov/investigate/civil-rights/hate-crimes#Definition>.

¹³³ Niloofar Asgari, “Hate Crime Legislation in Indiana: Analyzing Indiana’s Place in Nationwide Effort to Hold Perpetrators Accountable,” *Policy Perspectives*, March 11, 2020, <https://policy-perspectives.org/2020/02/05/hate-crime-legislation-in-indiana-analyzing-indianas-place-in-nationwide-effort-to-hold-perpetrators-accountable/>.

¹³⁴ The Indiana Advisory Committee did not have time to review legal sufficiency review comments submitted by the U.S. Commission on Civil Rights’ Office of the General Counsel concerning statements of this nature and its conflict with January 2025 executive orders related to gender due to the government shutdown and their term expiration on November 18, 2025.

Finding III: Existing hate crimes data do not accurately reflect the reality of hate crime acts. Three key reasons for this are underreporting by law enforcement, the hesitancy of impacted communities to report incidents to law enforcement, and intersectionality of victims' multiple identities.

Several panelists testified to the efforts of law enforcement when responding to bias-related incidents. While law enforcement emphasized that they take crimes very seriously, especially violent crimes,¹³⁵ other panelists argue that their efforts fall short in identifying, investigating and ultimately reporting bias-related incidents. Komal Kaur Sahi, Vice President of Operations at Umeed-Hope, Inc. and Immigration Attorney for Adams Immigration Law L.L.C., testified that law enforcement often dismisses cases that do not meet the criminal threshold, especially when bias motivation is subtle or difficult to prove.¹³⁶ She argued that a good response to these incidents from law enforcement starts with victims being heard and taken seriously and urged for law enforcement to receive more cultural training to better understand how communities are targeted.¹³⁷ Additionally, Professor Bell testified to a situation where law enforcement quickly made the determination that a crime did not rise to the level of a hate crime, but when prosecutors revisited the case they learned of more evidence that supported the claim to pursue charges.¹³⁸

Hate crime data is deeply flawed primarily because the law does not require law enforcement to submit data.¹³⁹ Additionally, bias-related incidents are not technically crimes and thus are not captured.¹⁴⁰ This is particularly concerning because hate crimes against vulnerable populations such as people with disabilities, people experiencing homelessness, and people who are undocumented are even more likely to be undercounted, resulting in data “deserts.”¹⁴¹ Scott Simpson, Managing Director of Campaign and Programs at the Leadership Conference on Civil and Human Rights noted that “every data point is a story and [these] stories matter.”¹⁴² To that effect, the data is mediated by law enforcement, which can distort or limit its reliability.¹⁴³ To compound the issue further, communities often distrust police due to experiences of persecution in their countries of origin or fear of immigration consequences and are less likely to report these

¹³⁵ Meyers Testimony, *11/18/24 Web Briefing*, p. 11.

¹³⁶ Sahi Testimony, *9/26/24 Web Briefing*, p. 13.

¹³⁷ Ibid.

¹³⁸ Bell Testimony, *11/18/24 Web Briefing*, p. 10.

¹³⁹ Simpson Testimony, *9/24/24 Web Briefing*, p. 3.

¹⁴⁰ Ibid.

¹⁴¹ Levin Testimony, *6/20/24 Web Briefing*, pp. 20-1.

¹⁴² Simpson Testimony, *9/24/24 Web Briefing*, p. 10.

¹⁴³ Borja Testimony, *9/26/24 Web Briefing*, pp. 17-8.

crimes.¹⁴⁴ In many cases, victims, including undocumented individuals, avoid reporting hate incidents altogether even when they are eligible for certain legal protections such as U visas.¹⁴⁵

Intersectionality can also complicate the accuracy of reporting because individuals belong to multiple protected groups making it harder for law enforcement to identify a single cause of bias.¹⁴⁶ Executive Director Sallo for the National Disability Rights Network argued that reporting tends to focus on visible or obvious identities (e.g., race) and often misses other protected characteristics.¹⁴⁷ Testifying to crimes against people with disabilities, she notes that law enforcement misclassifies these crimes as abuse rather than hate crimes, especially when perpetrated by caregivers or family members.¹⁴⁸

As it relates to law enforcement conducting the administrative reporting of bias-related incidents, Executive Director Sallo and Dr. Ray highlighted the importance of the intake process in reporting. When responding to bias-related incidents, law enforcement and medical personnel should ask questions to capture all relevant identities and details.¹⁴⁹ Additionally, law enforcement should receive training to identify and document bias motivations, specifically by using a standardized script or questions to help determine whether bias played a role in the incident. Dr. Ray suggests modifying reporting documents to include prompts that ask, “Was this incident provoked by bias?” as it could potentially encourage more accurate data collection by law enforcement.¹⁵⁰ An out of state example of this is seen in New York. Professor Chiu testified that New York added a hate crime checkbox on its police complaint form (“61 form”) to force consideration during law enforcement intake.¹⁵¹ Currently, Indiana law enforcement can choose from 35 markers of different biases in which law enforcement can report a hate crime.

Also of relevance is that there is no state report that chronicles the number of prosecutions of hate crimes. The only way the Indiana State Police tracks an incident is if it is a crime. If a non-criminal incident took place, no recording will be made of it.¹⁵²

Panelists repeatedly noted that bias-related incidents that do not initially appear to rise to the level of a hate crime are not reported as such. This lack of reporting from law enforcement and victims

¹⁴⁴ Sahi Testimony, *9/26/24 Web Briefing*, p. 16.

¹⁴⁵ Ibid.

¹⁴⁶ Ray Testimony, *11/19/24 Web Briefing*, pp. 12-3; Sallo Testimony, *6/27/24 Web Briefing*, p. 28.

¹⁴⁷ Sallo Testimony, *6/27/24 Web Briefing*, p. 28.

¹⁴⁸ Ibid.

¹⁴⁹ Sallo Testimony, *6/27/24 Web Briefing*, p. 28.

¹⁵⁰ Ray Testimony, *11/19/24 Web Briefing*, pp. 12-3.

¹⁵¹ Chiu Testimony, *6/27/24 Web Briefing*, p. 26.

¹⁵² Ben III Testimony, *11/22/24 Web Briefing*, p. 16.

contributes to the inaccuracy of hate crimes statistics in the state.¹⁵³ Professor Chiu testified that some of these incidents, if investigated further by looking into the alleged perpetrator's history and social media usage, may lead to a hate crime conviction.¹⁵⁴

Accountability to report hate crimes among law enforcement was a theme among some panelists. This is notable since only 64 of the 476 law enforcement agencies in Indiana reported hate crimes to the FBI's Annual Bias Crime report.¹⁵⁵ Among those agencies, twenty agencies reported zero incidents, and 412 agencies did not report any data.¹⁵⁶ Lack of reporting from Indiana universities is also a concern because the Cleary Act requires universities to report hate crimes,¹⁵⁷ but universities have not been consistently reporting them.¹⁵⁸ It is recommended that Indiana State Police partner with the Indiana Criminal Justice Institute (ICJI), which is funded by the U.S. Department of Justice, to ensure agencies are equipped to report hate crimes.¹⁵⁹ Due to the lack of enforcement within the Indiana statute for law enforcement agencies to report, there is no incentive for law enforcement agencies to comply or even utilize the ICJI discretionary funding.¹⁶⁰ Larger law enforcement agencies such as Indianapolis Metropolitan Police Department or Hamilton County typically use the funding provided by the ICJI and usually report; however, smaller police departments do not utilize the funding and do not report.¹⁶¹ Rebecca Weininger, Deputy Director at the Anti-Defamation League for the Midwest Region advocated to incentivize law enforcement to improve reporting. Additionally, she proposed a two-tiered approach to improving reporting: (1) require mandatory training to assume good faith and lack of knowledge; and (2) If underreporting persists, audit and enforce accountability.¹⁶² To ensure compliance, jurisdictions that persistently do not report should receive an annual audit.¹⁶³ Dr. Ray added that Indiana State Police should conduct periodic audits of non-reporting law enforcement agencies and provide the necessary resources required to report (i.e. training).¹⁶⁴ He emphasized that understanding jurisdictional differences in reporting between state police, local police, and sheriff's departments

¹⁵³ Ray Testimony, *11/19/24 Web Briefing*, p. 3.

¹⁵⁴ Chiu Testimony, *6/27/24 Web Briefing*, p. 20.

¹⁵⁵ Indiana State Police, *Updated Bias Crime Booklet*, 2022, <https://www.in.gov/isp/files/Bias-Crimes-Biannual-Report-2-10-2023.pdf>.

¹⁵⁶ *Ibid.*

¹⁵⁷ 20 U.S.C. § 1092.

¹⁵⁸ Lieberman Testimony, *6/20/24 Web Briefing*, p. 25.

¹⁵⁹ Ben III Testimony, *11/22/24 Web Briefing*, p. 16.

¹⁶⁰ Ben III Testimony, *11/22/24 Web Briefing*, p. 16.

¹⁶¹ *Ibid.*, p. 16.

¹⁶² Weininger Testimony, *9/24/24 Web Briefing*, p. 28.

¹⁶³ *Ibid.*

¹⁶⁴ Ray Testimony, *11/19/24 Web Briefing*, pp. 17-8.

is key in audits as it could help identify gaps and deploy support more effectively.¹⁶⁵ Mr. Simpson agreed that mandatory reporting and conditional funding are seen as effective tools in improving hate crime statistics.¹⁶⁶ This applies not only to hate crimes, but also to related issues, such as Death in Custody Reporting, where law enforcement also resist transparency.¹⁶⁷ He pointed to New York and California that have prioritized hate crimes enforcement, reporting, and community engagement.¹⁶⁸

Panelists testified that more reporting channels are needed and that community organizations play an important role in helping victims report. Maliha Zafar, Executive Director for the Indiana Muslim Advocacy Network (IMAN) recommended that a CAIR chapter be funded and established in Indiana to provide a local, trusted reporting mechanism for the Muslim community.¹⁶⁹ Community-based reporting systems are vital, as individuals fear both personal and family-level consequences if they report to government bodies.¹⁷⁰ IMAN held an event with the FBI Indiana office to educate the community on filing hate crime reports, including providing Arabic translations, but fear of surveillance discouraged attendance.¹⁷¹ Offering a similar example of organizations serving specific racial/ethnic groups, Melissa Borja, Co-Chair for the Hoosier Asian American Power highlighted Michigan's Advisory Commission on Asian Americans that was instrumental during COVID-19 in relaying Asian American concerns to state leaders and coordinating community resources.¹⁷² Another example of community organizations capturing bias related incidents is through the effort of the Indiana Muslim Advocacy Network.¹⁷³ Yacob Saadeh conducted a listening tour in mosques and with Muslim Student Associations in high schools and universities throughout Indiana and gathered reports of Islamophobic incidents.¹⁷⁴ Hate crimes and discrimination faced by Muslims in Indiana are severely underreported due to lack of trust, particularly given past surveillance and targeting by the FBI and other authorities.¹⁷⁵

Several panelists focused on the state's role in improving reporting. Robin Toma, Executive Director for the Los Angeles County Commission on Human Rights testified to their efforts to

¹⁶⁵ Ibid.

¹⁶⁶ Simpson Testimony, *9/24/24 Web Briefing*, pp. 29-30.

¹⁶⁷ Ibid.

¹⁶⁸ Simpson Testimony, *9/24/24 Web Briefing*, pp. 29-30.

¹⁶⁹ Zafar Testimony, *9/24/24 Web Briefing*, pp. 16-7.

¹⁷⁰ Ibid.

¹⁷¹ Ibid.

¹⁷² Borja Testimony, *9/24/24 Web Briefing*, pp. 17-8.

¹⁷³ Saadeh Testimony, *9/24/24 Web Briefing*, pp. 9-12.

¹⁷⁴ Ibid.

¹⁷⁵ Zafar Testimony, *9/24/24 Web Briefing*, pp. 9.

improve reporting by working with multiple entities that collect bias-related incidents.¹⁷⁶ Ms. Weininger suggested to revive Indiana’s defunct Governor’s Task Force on Hate Crimes as a state-specific solution to track local trends, evaluate law effectiveness, and support community-informed strategies.¹⁷⁷ To provide additional access to communities with limited English language proficiency, Ms. Borja suggested language accessibility should also be provided to victims.¹⁷⁸ Additionally, she recommended to create a statewide hate incident reporting system that captures non-criminal incidents, is independent of law enforcement to encourage trust and participation especially among undocumented individuals, and provides access to social services for victims.¹⁷⁹ Human relations commissions (city-level mediating bodies) could play a valuable role in reporting as a trusted agency.¹⁸⁰

Also related to reporting is the need for follow-up provided by law enforcement and other agencies. Michael Lieberman, Senior Policy Counsel for Hate and Extremism at the Southern Poverty Law Center emphasized the importance of prevention and services provided to victims of hate crimes.¹⁸¹

Finding IV: Hate crimes often mirror catalytic events.

Social, cultural, economic, and political contexts matter greatly when explaining the causes and consequences of civil rights violations. This is certainly the case for bias incidents and hate crimes as targeted hostility and confrontations stem from historically-rooted prejudices and grievances.¹⁸² Notably, spikes in these types of activities can often be linked to specific catalytic events.

Panelists offered myriad examples of such patterns and events, past and present. U.S. Attorney Myers reminded us that the U.S. Department of Justice itself was established by Congress in 1870 to quell violence by the Ku Klux Klan—extremist expressions of opposition to emancipation and the Reconstruction Amendments (13A, 14A, 15A) abolishing slavery and guaranteeing equal protection and voting rights.¹⁸³ Since then, hate crimes perpetrators have looked to this chilling history as a perverse type of inspiration. As Mr. Lieberman explained, “When a cross is burned on the front lawn of a Black family, it sends a message because everyone knows what the charred remains of a cross mean[s].”¹⁸⁴

¹⁷⁶ Toma Testimony, *11/22/24 Web Briefing*, pp. 2-7.

¹⁷⁷ Weininger Testimony, *9/24/24 Web Briefing*, p. 30.

¹⁷⁸ Borja Testimony, *9/26/24 Web Briefing*, pp. 17-8.

¹⁷⁹ *Ibid.*

¹⁸⁰ *Ibid.*, pp. 26-7.

¹⁸¹ Lieberman Testimony, *6/20/24 Web Briefing*, p. 9.

¹⁸² Simpson Testimony, *9/24/24 Web Briefing*, pp. 2-6.

¹⁸³ Myers Testimony, *11/18/24 Web Briefing*, p. 21.

¹⁸⁴ Lieberman Testimony, *6/20/24 Web Briefing*, p. 8.

In our time, increases in hate crimes have followed watershed moments such as 9/11, Barack Obama’s presidency, and the 2020 police murder of George Floyd as Center for the Study of Hate and Extremism founder Brian Levin noted.¹⁸⁵ Mr. Simpson likewise correlated Barack Obama’s victory with an increase in extremism against marginalized groups and emphasized “the 2016 election empowered White nationalists and provided them with a platform, one that they’ve been seeking since the historic election of America’s first Black president in 2008.”¹⁸⁶

Since then, polarized politics and contested elections have come to play an outsized role in fomenting bias and hatred. Mr. Simpson noted,

“Today’s political climate is highly charged with White supremacist, anti-immigrant, misogynist, anti-government movements moving into the political mainstream, movements seeking to erase the history and contributions of people of color to our society and deny the rights of the LGBTQ+ community.”¹⁸⁷

He added that in general, hate crimes have increased during recent election cycles, with white nationalist hate groups playing a key role by promoting conspiracy theories and nativist sentiments.¹⁸⁸ As he put it, “Great Replacement Theory [the narrative that the white race is in danger of extinction]... has consequences.”¹⁸⁹ The COVID-19 pandemic was another such moment of exacerbated bias tied to racial divides and anti-immigrant sentiment. Elaine Chiu, Professor of Law at St. John’s University School of Law, reported on this critical context for the increase in bias and unprovoked hate crimes occurring in public spaces against Asian Americans in New York City.¹⁹⁰ Given our nation’s inflamed political milieu, Mr. Simpson stressed the importance of public officials speaking out against hate to prevent further outbreaks of violence.¹⁹¹

The ongoing Israel-Palestine war highlights the multifaceted impact of catalytic, polarizing events entangled with identity-based conflict. Adding another layer of complexity is the disagreement within Jewish communities about the proper definition of “antisemitism.”¹⁹² This dispute presents a unique challenge to collecting accurate bias incidents and hate crimes data.¹⁹³ To be sure, there have been alarming incidents of white supremacist/neo-Nazi activity targeting Jews across the

¹⁸⁵ Levin Testimony, 6/20/2024 *Web Briefing*, p. 6.

¹⁸⁶ Simpson Testimony, 9/24/2024 *Web Briefing*, p. 4.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ Ibid.

¹⁹⁰ Chiu Testimony, 6/27/2024 *Web Briefing*, p. 2.

¹⁹¹ Simpson Testimony, 9/24/2024 *Web Briefing*, p. 4.

¹⁹² Vimal Patel, “Defining Antisemitism is the Subject of Bitter Debate,” *New York Times*, July 15, 2025 <https://www.nytimes.com/2025/07/15/us/defining-antisemitism.html>.

¹⁹³ Ibid.

United States over the past few years.¹⁹⁴ Mr. Simpson testified that “the more recent outbreak of violence in the Middle East has created a climate of increased hate, targeting Arab, Jewish, and Muslim Americans—a climate that has been exploited by White supremacists to further hateful agendas.”¹⁹⁵

Conflicting definitions of hate and bias even within impacted communities complicate this issue. For example, stakeholders disagree whether or not criticisms of Israel’s government should be considered “antisemitism.” This debate has played out with particular intensity on college and university campuses, including in Indiana.¹⁹⁶ Ms. Weininger argued that criticisms of Israel cross the line into antisemitism, per the Anti-Defamation League’s position.¹⁹⁷ She noted that Jewish students have “acutely felt” the impact of the Israel/Palestine issue as antisemitism.¹⁹⁸ In contrast, Daniel Segal, member of Jewish Voice for Peace, maintained that “mistakenly categorizing criticisms of the Israeli state as antisemitism”—referencing the International Holocaust Remembrance Alliance (IHRA)’s definition—“sow[s] confusion” and fosters hate towards Jews *and* Arabs, Palestinians, and Muslims.¹⁹⁹ Mr. Segal expressed deep concern that the Indiana State Legislature’s reliance on the IHRA puts the First Amendment right to freedom of speech at risk.²⁰⁰

In all, it behooves federal, state, and local policymakers to pay close attention to the relationship between hate crimes and catalytic events. These relationships are immensely complicated especially with differing views of what constitutes hate within impacted communities. Overlooking the multifaceted social, cultural, economic, and political contexts imperils effective solutions for protecting all people from bigotry and violence.

¹⁹⁴ LCHHR Education Fund, *Cause for Concern 2024: The State of Hate*, notes “The number of reported anti-Jewish hate crime incidents increased by 20 percent from 2020 to 2021, according to the latest FBI report.”

¹⁹⁵ Simpson Testimony, *9/24/2024 Web Briefing*, p. 4.

¹⁹⁶ President Donald J. Trump Executive Order, “Additional Measures to Combat Anti-Semitism,” January 29, 2025 <https://www.whitehouse.gov/presidential-actions/2025/01/additional-measures-to-combat-anti-semitism/>; Open Letter from Indiana University Bloomington Jewish faculty to Quinn Buckner, Chair, Indiana University Board of Trustees, Pamela Whitten, President, Indiana University, and Rahul Shrivastav, Provost, Indiana University Bloomington, March 24, 2025 <https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:32cf0d44-0ef3-4cf3-a4ac-51bd6b80b113?viewer%21megaVerb=group-discover>; Jewish faculty urge IU admin to support free speech following Dept. of Ed threat.

¹⁹⁷ Weininger Testimony, *9/24/2024 Web Briefing*, p. 12.

¹⁹⁸ *Ibid.*, pp. 7, 12.

¹⁹⁹ Daniel Segal Written Statement at 3-5. See also IHRA working definition of antisemitism: <https://holocaustremembrance.com/resources/working-definition-antisemitism>.

²⁰⁰ *Ibid.*

Finding V: A holistic, non-carceral approach that emphasizes education, community engagement, restorative justice, culturally responsive services, and structural reforms offers a more effective and equitable path for addressing and preventing hate crimes than punitive measures alone.

Several panelists emphasized the need to shift from solely punitive responses to more holistic strategies that address root causes, promote accountability, and center impacted communities. While some acknowledged that law enforcement responses may be necessary in certain cases earlier in this report, others strongly advocated for restorative justice and non-carceral alternatives to reduce the long-term harms of incarceration²⁰¹—particularly for misdemeanor hate crimes.²⁰²

While there are known criticisms of the hate crime law not doing enough, there are equal concerns about further criminalizing marginalized communities—even those the laws aim to protect.²⁰³ Ms. Borja referenced the Asian American Legal Defense and Education Fund (AALDEF), which opposes harsher sentencing laws for hate crimes.²⁰⁴ AALDEF argued that longer prison terms do not deter crime and may in fact increase recidivism. Ms. Borja shared that a recent Massachusetts hate crime bill enhancing sentencing failed, and that was likely a positive outcome from a reformist lens.²⁰⁵ When discussing the effectiveness of hate crime laws, Mr. Simpson warned against applying an overly securitized approach that rebrands hate crimes as issues of domestic terrorism, which has historically harmed religious and racial minority communities.²⁰⁶

Panelists highlighted the importance of tailored education as a rehabilitative tool for those who commit hate crimes. Professor Bell shared that Illinois' hate crime law incorporates mechanisms for rehabilitation with the intention to prevent offenders from becoming more radicalized in prison. Central to Illinois's hate crime law is a mediation program which allows offenders to perform community service with members of the group they targeted.²⁰⁷ For example, an offender who targeted Asian Americans might serve with an Asian American community organization.²⁰⁸ However, she also cautions that there is no statistical data that is available to demonstrate the effectiveness of the program, but emphasized that these programs are rooted in building empathy and understanding of different communities.²⁰⁹ Similarly, Professor Chiu referenced a 2022 New

²⁰¹ Sallo Testimony, *6/27/24 Web Briefing*, pp. 22-3; Simpson Testimony, *9/24/24 Web Briefing*, pp. 24-5; Toma Testimony, *11/22/24 Web Briefing*, pp. 19-20.

²⁰² Chiu Testimony, *6/27/24 Web Briefing*, pp. 23-4.

²⁰³ Simpson Testimony, *9/24/24 Web Briefing*, pp. 29-30.

²⁰⁴ Borja Testimony, *9/26/24 Web Briefing*, p. 21.

²⁰⁵ *Ibid.*

²⁰⁶ Simpson Testimony, *9/24/24 Web Briefing*, pp. 24-5.

²⁰⁷ 720 ILCS 5/12-7.1 (b-10), <https://www.ilga.gov/documents/legislation/ilcs/documents/072000050k12-7.1.htm>.

²⁰⁸ Bell Testimony, *11/18/24 Web Briefing*, p. 29.

²⁰⁹ *Ibid.*

York State law requiring hate crime education for convicted individuals.²¹⁰ Executive Director Sallo also testified to her experience working with a reformed white supremacist, emphasizing that interaction with targeted communities and human connection was key to transformation.²¹¹ She also views that programs are most effective when informed by lived experiences and tailored education, especially for youth offenders.²¹²

Beyond offender rehabilitation, community-level responses and local partnerships were viewed as important solutions to hate crime prevention. Executive Director Zafar emphasized that hate crime prevention requires a multi-pronged strategy that includes deep engagement with impacted communities, such as building relationships between elected officials and religious minority groups.²¹³ She cited her organization's work in fostering trust and responsiveness.²¹⁴ Mr. Simpson lifted up the Philadelphia Human Relations Commission as a robust local model for addressing hate through a non-carceral, civil rights infrastructure rooted in neighborhood and family involvement.²¹⁵

Federal resources have historically been available to support such efforts. At the time that the Committee received testimony, the U.S. Department of Justice's Community Relations Service was used as an educational tool to provide special programs to communities as their mission is to mediate and educate the communities to address conflicts. These special programs include strengthening police and community partnerships; dialogue on race; bias incident and hate crimes forums; protecting places of workshop forums; school spirit; and campus spirit programs.²¹⁶ Executive Director Sallo noted that there may be federal funding via U.S. DOJ for community-based programs, including grants through the Office for Victims of Crime, and Community-based hate crimes programs that encourage awareness and local solutions.²¹⁷

Executive Director Zafar also stressed the importance of elected officials proactively engaging with diverse communities, especially marginalized or frequently targeted groups. She encouraged local representatives to visit mosques, observe community practices, and build relationships grounded in mutual understanding. In adopting these practices, these relationships create important channels for communication and responsiveness when hate incidents occur.²¹⁸ Institutions must

²¹⁰ Chiu Testimony, *6/27/24 Web Briefing*, p. 23; N.Y. Penal Law art. 485.10 (as amended by S.6570, A.1202).

²¹¹ Sallo Testimony, *6/27/24 Web Briefing*, pp. 22-3.

²¹² *Ibid.*

²¹³ Zafar Testimony, *9/26/24 Web Briefing*, pp. 28-9.

²¹⁴ *Ibid.*

²¹⁵ Simpson Testimony, *9/24/24 Web Briefing*, pp. 29-30.

²¹⁶ Lock Testimony, *6/20/24 Web Briefing*, pp. 9-14.

²¹⁷ Sallo Testimony, *6/27/24 Web Briefing*, p. 24

²¹⁸ Zafar Testimony, *9/26/24 Web Briefing*, pp. 28-9.

self-reflect on their consistency and fairness in evaluating and responding to discrimination complaints.²¹⁹

Panelists also touched on the need for culturally responsive services for impacted communities following hate crime incidents. Mr. Lieberman testified that services should be tailored for certain protected groups including LGBTQ individuals, Jews, Arabs, Muslims, women, and people with disabilities.²²⁰ These services should be provided by cultural and religiously specific providers who can understand the values and belief systems of clients and can communicate in their language.²²¹

The importance of education was also noted as a means of prevention of hate crimes. Executive Director Zafar emphasized the need for deeper Diversity, Equity, and Inclusion training, especially in schools and universities.²²² In particular, she argued that there is a lack of clarity and education among administrators about the intersection of racism, Islamophobia, and other forms of discrimination.²²³ She suggested deeper training on recognizing and responding to religious-based hate, particularly toward Muslims and Sikhs.²²⁴ Additionally, she advocated for inclusive and responsive school environments as they are crucial for student safety and well-being.²²⁵

As it relates to education about hate and tolerance in schools, Ms. Borja contends that there should be standards especially in partnerships between government and private/religious institutions. When the government delegates services to private or religious institutions, standards should be enforced, regardless of the realm. Religious institutions can be important allies in combating racism as they have historically supported immigrants and refugees and can positively contribute to anti-racism work. However, she recognizes that some religious institutions may also propagate harmful ideologies, such as white Christian nationalism. Therefore, they must be held accountable like any other institution.²²⁶

Panelists also highlighted that proactive prevention through other types of legislation is a more effective long-term safety strategy to ensure communities feel safe. For instance, Christopher Hegarty, Board Member at Indiana ACLU, said local policy changes that improve material conditions, like the City of Lafayette's non-discrimination ordinance that was passed in the 1990s, earlier than most Indiana cities, provided a foundation for protections in housing and employment. While not directly addressing hate crimes, this type of ordinance, he contends, creates a safer, more

²¹⁹ Saadeh Testimony, *9/26/24 Web Briefing*, p. 35; Borja Testimony, *9/26/24 Web Briefing*, pp. 30-1.

²²⁰ Lieberman Testimony, *6/20/24 Web Briefing*, p. 9.

²²¹ Zafar Testimony, *9/26/24 Web Briefing*, p. 30; Borja Testimony, *9/26/24 Web Briefing*, p. 30.

²²² Zafar Testimony, *9/26/24 Web Briefing*, p. 22.

²²³ *Ibid.*, 14-5.

²²⁴ Zafar Testimony, *9/26/24 Web Briefing*, p. 22.

²²⁵ *Ibid.*, pp. 14-5; Sahi Testimony, *9/26/24 Web Briefing*, p. 13; Borja Testimony, *9/26/24 Web Briefing*, p. 15.

²²⁶ Borja Testimony, *9/26/24 Web Briefing*, p. 28.

equitable environment for the LGBTQ community.²²⁷ Ms. Borja also testified that additional investments in urban infrastructure, youth development programs, public health (mental health care and Medicaid expansion), and social equity supports serve as preventative measures.²²⁸ She emphasized that non-carceral solutions such as these are crucial for protecting Black and brown communities, who are historically at risk of police violence.²²⁹

Recommendations

Among their duties, advisory committees of the Commission are authorized to advise the Agency (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws, and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.²³⁰

Given the rapidly changing nature of federal policies since January 2025, including uncertainties regarding the future of civil rights protections as well as civil liberties writ large, it is especially challenging for the Committee to imagine workable recommendations to address hate crimes. Nonetheless, the Committee remains hopeful that there will be opportunities to do so in a productive manner aligning with the longstanding mission of the Commission.

In keeping with these responsibilities, and given the testimony heard on this topic, the Committee submits the following recommendations to the Commission:

1. **The U.S. Commission on Civil Rights should issue this report and its recommendation to the U.S. Congress to:**
 - a. Pass legislation mandating that law enforcement report hate crime data as a condition to receive federal Victims of Crimes Act funding and/or other applicable federal funding sources.
 - b. Fully fund the Community Relations Service within the U.S. Department of Justice.
 - c. Use Congress' public profile to message actively against hate crimes.
 - d. Pass legislation aimed at ensuring that incidents in which hate is a contributing factor are recognized as hate crimes.

²²⁷ Hegarty Testimony, *11/19/24 Web Briefing*, pp. 20-1.

²²⁸ Borja Testimony, *9/26/24 Web Briefing*, p. 30.

²²⁹ Zafar Testimony, *9/26/24 Web Briefing*, p. 30; Borja Testimony, *9/26/24 Web Briefing*, p. 30.

²³⁰ 45 C.F.R. § 703.2 (2018).

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2. **The U.S. Commission on Civil Rights should issue this report and its recommendation to the U.S. Department of Justice to:**
 - a. Prioritize enforcement and prosecutions involving allegations of violation of federal hate crime statutes.
 - b. Ensure web-based mechanisms to report hate or bias-motivated incidents comply with web accessibility standards.
 - c. Restore funds appropriated to the Community Relations Service.
 - d. Use the U.S. DOJ's public profile to message actively against hate crimes.
 3. **The U.S. Commission on Civil Rights should issue this report and its recommendation to the Federal Bureau of Investigations to:**
 - a. Continue to prioritize and address the serious nature of the rise in organized White supremacy groups.
 4. **The U.S. Commission on Civil Rights should issue the following recommendations to the Indiana General Assembly to:**
 - a. 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.²³¹
 - b. Mandate and fund culturally competent hate crime training for law enforcement that emphasizes awareness of diverse identities within communities.
 - c. Mandate reporting of hate crimes with incentives, and audits of agencies that do not comply and consequences for non-reporting. Establish a centralized and accessible online portal for reporting.
 - d. Revive Indiana's Hate Crimes Task Force.
 - e. Fund agencies and programs that provide robust victim services after a hate crime is committed.
 - f. Establish an Office of Hate Crime Prevention.

²³¹ The Indiana Advisory Committee did not have time to review legal sufficiency review comments submitted by the U.S. Commission on Civil Rights' Office of the General Counsel concerning statements of this nature and its conflict with January 2025 executive orders related to gender due to the government shutdown and their term expiration on November 18, 2025.

5. The U.S. Commission on Civil Rights should issue the following recommendations to the Indiana Governor to:

- a. Direct the Indiana Department of Education to provide robust civics education and outreach to build shared identities and common ground as a hate crime prevention measure.
- b. Sign hate crime legislation passed by the Indiana General Assembly in line with the Committee's recommendations.
- c. Revive Indiana's Hate Crimes Task Force.
- d. Direct the Indiana Department of Education to prioritize anti-bullying policies and provide resources to schools.
- e. Direct the Indiana Department of Education to require training for school resource officers on bias incidents and hate crimes.

6. The U.S. Commission on Civil Rights should issue the following recommendations to the local city and county governments to:

- a. Establish a coordinated hate crime and/or bias response and designate an office or person of primary responsibility.
- b. Coordinate with local human rights councils and community organizations to prevent incidents of hate and promote non-carceral approaches.
- c. Encourage local communities to look for informal opportunities to expand programs that encourage dialogue and outreach to build shared identities and common ground. This could include libraries, faith groups, community centers, schools, etc.

Appendix A: Project Materials

All project materials can be found here:

<https://usccr.app.box.com/s/a0an407jp6vwsfabezg2fk86psjc12ew/folder/252136660061>

Appendix B: Invited Speakers

June 20, 2024 Web Briefing – National Perspectives I

- Brian Levin, Commissioner for the California Civil Rights Department; and Professor Emeritus of Criminal Justice at California State University, San Bernardino
- Michael Lieberman, Senior Policy Counsel - Hate and Extremism at the Southern Poverty Law Center
- Justin Lock, Acting Director for the Community Relation Service, U.S. Department of Justice

June 27, 2024 Web Briefing – National Perspectives II

- Elaine Chiu, Professor of Law at St. John’s University School of Law
- Marlene Sallo, Executive Director for the National Disability Rights Network

September 24, 2024 Web Briefing – National Perspectives III

- Scott Simpson, Managing Director of Campaign and Programs for The Leadership Conference on Civil and Human Rights
- Rebecca Weininger, Deputy Director at the Anti-Defamation League – Midwest Region
- Robert Katz, Professor of Law at the Indiana University Robert H. McKinney School of Law; and Director for the Center for the Study of Law and Antisemitism

September 26, 2024 Web Briefing – State Perspectives

- Melissa Borja, Co-Chair for the Hoosier Asian American Power
- Komal Kaur Sahi, Vice President of Operations at Umeed-Hope, Inc.; and Immigration Attorney for Adams Immigration Law L.L.C.
- Maliha Zafar, Executive Director for the Indiana Muslim Advocacy Network (IMAN)
- Yaqoub Saadeh, Community Engagement Coordinator, Indiana Muslim Advocacy Network

November 18, 2024 Web Briefing – Federal and Indiana Hate Crime Laws

- Zachary A. Myers, United States Attorney for the Southern District of Indiana

- Jeannine Bell, Curt and Linda Robin Professor of Law and Social Justice at Loyola University of Chicago School of Law
- Jeff Kehr, Chief Deputy Prosecuting Attorney for the Monroe County Prosecutor's Office

November 19, 2024 Web Briefing – Hate Crimes Impact

- Rashawn Ray, Professor of Sociology at the University of Maryland; and Senior Fellow at the Brookings Institution
- Kerry Hyatt Bennett, Chief Legal Counsel at the Indiana Coalition Against Domestic Violence, Inc.; and Adjunct Professor of Law at the Indiana University Robert H. McKinney School of Law
- Kelley Coures, Author of “Out in Evansville: An LGBTQ+ History of River City”
- Christopher Hegarty, Board Member at Indiana ACLU

November 22, 2024 Web Briefing – Hate Crimes Reporting and Data Collection

- Raymond Benn III, First Sergeant for the Indiana State Police
- Robin Toma, Executive Director for the Los Angeles County Commission on Human Relations

Indiana Advisory Committee to the United States Commission on Civil Rights



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