

**2021 HOUSE JUDICIARY**

**HB 1443**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Judiciary

Room JW327B, State Capitol

HB 1443

2/8/2021

Relating to the duty of the peace officer standards and training board to provide training on bias crimes, aggravated assault, harassment, and criminal mischief; to provide for a report to the legislative management; and to provide a penalty

**Chairman Klemin** called the hearing to order at 10:00 AM.

Present: Representatives Klemin, Karls, Becker, Buffalo, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter.

### Discussion Topics:

- Public protection

**Rep. Buffalo:** Introduced the bill. # 5844, # 5845

**Rep. Schneider:** #5966, #5976

**Bradi Hardy, Legislative Coordinator, NDHRC:** #5756, 5757, 5758, 5759, 5760

**Dwight Stanley, Crime Bureau:** Oral testimony and answered questions.

**Kelly Gorz, High Plains Housing Center:** #5767

**Wes Philcome:** Activist out of Fargo, ND: #5780

**Jason Ziegler, Chief of Police, Mandan, ND:** #5884

**Mark Jorritsma, Executive Director, Family Policy Alliance of ND:** #5888

**Pat Bohm, Dept. of Corrections:** #5735

**Additional written testimony:** #5721, #5731, #5733, #5755, #5761, #5763, #5771, #5772, #5776, #5777, #5779, #5784, #5785, #5790, #5791, #5801, #5802, #5863, #5870, #5880, #6439

**Chairman Klemin** closed the hearing at 11:35 AM.

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Committee Clerk by Anna Fiest



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## Location Type

Agencies may specify the location of an offense within a hate crime incident as 1 of 46 location designations. However, not all reporting agencies have made the programming changes to allow the relatively new location designations; therefore, the data collected to date are not yet representative of all location designations. Also, the location type *cyberspace* is collected in the National Incident-Based Reporting System only. The location designations of the hate crime incidents reported in 2019 (based on Table 10) were:

- 24.6 percent of hate crime incidents happened in or near residences/homes.
- 18.2 percent occurred on highways/roads/alleys/streets/sidewalks.
- 9.6 percent took place at schools/colleges (based on 3 designations).
- 4.7 percent happened in parking/drop lots/garages.
- 4.4 percent occurred in churches/synagogues/temples/mosques.
- 2.9 percent took place in restaurants.
- 2.7 percent happened at parks/playgrounds.
- 2.2 percent occurred in commercial office buildings.
- 1.8 percent took place in government/public buildings.
- 1.7 percent happened in convenience stores.
- 1.7 percent occurred in bars/nightclubs.
- 1.5 percent took place in air/bus/train terminals.
- 1.4 percent happened in department/discount stores.
- 1.4 percent occurred in grocery/supermarkets.

- 1.3 percent took place in drug stores/doctors' offices/hospitals.
- 1.2 percent happened in jails/prisons/penitentiaries/corrections facilities.
- 1.0 percent occurred in service/gas stations.
- 6.4 percent of hate crimes took place in the remaining specified location categories or in multiple locations.
- 11.2 percent happened in other/unknown locations.

### **Location by bias motivation**

#### ***Race/ethnicity/ancestry bias***

Law enforcement reported 3,963 hate crime incidents motivated by race/ethnicity/ancestry bias in 2019. Of these:

- 25.3 percent occurred in or near residences/homes.
- 20.5 percent took place on highways/roads/alleys/streets/sidewalks.
- 8.9 percent happened at schools/colleges (based on 3 designations).
- 6.2 percent occurred in parking/drop lots/garages.
- 3.5 percent took place in restaurants.
- 2.5 percent happened at parks/playgrounds.
- 2.3 percent occurred in commercial/office buildings.
- 2.2 percent took place in government/public buildings.
- 2.1 percent happened at convenience stores.
- 1.7 percent occurred at air/bus/train terminals.
- 1.7 percent took place at department/discount stores.
- 1.7 percent happened in bars/nightclubs.

- 1.6 percent occurred in grocery/supermarkets.
- 1.6 percent took place in jails/prisons/penitentiaries/corrections facilities.
- 1.4 percent happened in drug stores/doctors' offices/hospitals.
- 1.3 percent occurred at service/gas stations.
- 7.6 percent took place in the remaining specified location categories or in multiple locations.
- 7.8 percent happened in other/unknown locations.

### ***Religious bias***

Of the 1,521 reported hate crime incidents that occurred due to a religious bias:

- 17.9 percent occurred in or near residences/homes.
- 16.8 percent took place in churches/synagogues/temples/mosques.
- 11.7 percent happened at schools/colleges (based on 3 designations).
- 9.3 percent occurred on highways/roads/alleys/streets/sidewalks.
- 3.3 percent took place at parks/playgrounds.
- 1.8 percent happened in commercial office buildings.
- 1.8 percent occurred in parking/drop lots/garages.
- 1.6 percent took place in government/public buildings.
- 1.2 percent happened in fields/woods.
- 1.1 percent occurred in convenience stores.
- 1.0 percent took place in drug stores/doctor's offices/hospitals.
- 1.0 percent happened in restaurants.

- 1.0 percent occurred in specialty stores (TV, fur, etc.)
- 7.2 percent took place in the remaining specified location categories.
- 23.4 percent happened in other/unknown locations.

### ***Sexual-orientation bias***

Law enforcement reported that bias motivation against a particular sexual orientation prompted 1,195 hate crime incidents in 2019. Of these:

- 28.1 percent occurred in or near residences/homes.
- 22.4 percent took place on highways/roads/alleys/streets/sidewalks.
- 7.3 percent happened at schools/colleges (based on 3 designations).
- 4.4 percent occurred in parking/drop lots/garages.
- 3.8 percent took place in restaurants.
- 3.4 percent happened in bars/nightclubs.
- 2.2 percent occurred at parks/playgrounds.
- 2.2 percent took place in commercial office buildings.
- 1.9 percent happened in air/bus/train terminals.
- 1.6 percent occurred in convenience stores.
- 1.6 percent took place in churches/synagogues/temples/mosques.
- 1.5 percent happened in jails/prisons/penitentiaries/corrections facilities.
- 1.3 percent occurred in government/public buildings.
- 1.0 percent took place in department/discount stores.
- 8.3 percent happened in the remaining specified location categories or in multiple locations.

- 9.1 percent occurred in other/unknown locations.

### ***Gender identity bias***

During 2019, 198 hate crimes motivated by gender identity bias were reported. Of these:

- 25.8 percent took place at residences/homes.
- 25.3 percent happened on highways/roads/alleys/streets/sidewalks.
- 6.1 percent occurred at schools/colleges (based on 3 designations).
- 3.5 percent took place in grocery/supermarkets.
- 3.0 percent happened in parking/drop lots/garages.
- 3.0 percent occurred in commercial office buildings.
- 2.5 percent took place in restaurants.
- 2.0 percent happened in convenience stores.
- 2.0 percent occurred in drug stores/doctor's offices/hospitals.
- 1.5 percent took place in department/discount stores.
- 1.5 percent happened at parks/playgrounds.
- 1.5 percent occurred at shelters—mission/homeless.
- 1.5 percent took place in government/public buildings.
- 1.5 percent happened in jails/prisons/penitentiaries/corrections facilities.
- 1.5 percent occurred in specialty stores (TV, fur, etc.)
- 7.6 percent took place in the remaining specified location categories.
- 10.1 percent happened at other/unknown locations.



### ***Disability bias***

Bias against individuals with a disability (either physical or mental) motivated 157 reported hate crime incidents in 2019. Of these:

- 48.4 percent occurred in or near residences/homes.
- 14.6 percent took place on highways/roads/alleys/streets/sidewalks.
- 9.6 percent happened in schools/colleges (based on 3 designations).
- 4.5 percent occurred in grocery/supermarkets.
- 2.5 percent took place in parking/drop lots/garages.
- 2.5 percent happened in drug stores/doctor's offices/hospitals.
- 1.9 percent occurred in restaurants.
- 1.9 percent took place in service/gas stations.
- 1.3 percent happened in convenience stores.
- 1.3 percent occurred in government/public buildings.
- 1.3 percent took place in liquor stores.
- 5.7 percent happened in the remaining specified location categories or in multiple locations.
- 4.5 percent occurred in other/unknown locations.

### ***Gender bias***

Law enforcement reported 69 gender bias hate crimes in 2019. Of these:

- 29 took place at residences/homes.
- 7 happened at schools/colleges (based on 3 designations).
- 6 occurred on highways/roads/alleys/streets/sidewalks.

- 6 took place in drug stores/doctor's offices/hospitals.
- 2 happened in parking/drop lots/garages.
- 2 occurred in department/discount stores.
- 2 took place in air/bus/train terminals.
- 2 happened in jails/prisons/penitentiaries/corrections facilities.
- 5 occurred in the remaining specified locations.
- 8 took place in other/unknown locations.

### **Multiple-bias incidents**

In 2019, law enforcement agencies reported 211 multiple-bias hate crime incidents. Of these:

- 24.2 percent happened in schools/colleges (based on 3 designations).
- 15.2 percent occurred in or near residences/homes.
- 12.3 percent took place on highways/roads/alleys/streets/sidewalks.
- 8.5 percent happened at parks/playgrounds.
- 6.6 percent occurred in churches/synagogues/temples/mosques.
- 3.8 percent took place in restaurants.
- 3.3 percent happened in commercial office buildings.
- 2.8 percent occurred in air/bus/train terminals.
- 2.4 percent took place in parking/drop lot/garages.
- 1.4 percent happened in bars/nightclubs.
- 1.4 percent occurred in convenience stores.

- 1.4 percent took place in department/discount stores.
- 1.4 percent happened in fields/woods.
- 1.4 percent occurred at shopping malls.
- 8.5 percent took place in the remaining specified location categories.
- 5.2 percent were reported in the other/unknown location category.

ADVISORY MEMORANDUM

**To:** U.S. Commission on Civil Rights  
**From:** North Dakota Advisory Committee to the U.S. Commission on Civil Rights  
**Date:** September 25, 2019  
**Subject:** Advisory Memorandum on Hate Crimes in North Dakota

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The North Dakota State Advisory Committee to the United States Commission on Civil Rights (Committee), in support of the Commission's project on hate crimes, held a briefing on June 19, 2019. The Committee sought to learn about the impact of these crimes statewide as well as the effectiveness of current legislation aimed at preventing hate crimes within North Dakota.

As background, North Dakota has been notorious for high occurrences of hate crimes, ranking second with the most per capita in 2012, 2014, and 2015.<sup>1</sup> While the state reported a five year low of eight bias motivated crimes in 2016, some speculate that this is due in part to a three percent participation rate amongst North Dakota police agencies in the hate crime statistics reporting program.<sup>2</sup> While there was also a relatively low rate in 2017, the Bismarck Tribune reported that seven hate motivated crimes that occurred in Fargo had gone uncounted in the report.<sup>3</sup> Of the fifteen reported in 2017, eight were motivated by the victims' race, five by religion, and two by sexual orientation.<sup>4</sup>

There have been a number of hate related occurrences and crimes in North Dakota that have garnered significant state and national media attention. In 2017, several Somali residents of Fargo were berated by a woman shouting expletives and telling the Somali residents that "we're going to kill every one of you f---ing Muslims."<sup>5</sup> Additional incidents included a woman's hijab being pulled off and a Somali man being beaten in front of his home. This vile rant and other acts initiated a push by activist organizations in the state calling for a change to the state's hate crime laws.<sup>6</sup>

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\* The Committee expresses its appreciation to Patrick Williamson, Georgetown Law Student and the Eastern Regional Office Intern, for his work on this advisory memorandum.

<sup>1</sup> Archie Ingersoll, "North Dakota again ranks 2nd in most hate crimes per capita," Nov. 19, 2016, <https://www.inforum.com/news/4163100-north-dakota-again-ranks-2nd-most-hate-crimes-capita> (noting that North Dakota has held the No. 2 spot since 2012, except in 2013 when it ranked first with 7.1 hate crimes per 100,000 residents).

<sup>2</sup> Dave Olson, "FBI hate crime rate down in ND, but may be missing 7 Fargo cases," Bismarck Tribune, Nov. 18, 2017, [https://bismarcktribune.com/news/state-and-regional/fbi-hate-crime-rate-down-in-nd-but-may-be/article\\_b99b7e2f-a0a0-506d-8b55-a642a94c3797.html](https://bismarcktribune.com/news/state-and-regional/fbi-hate-crime-rate-down-in-nd-but-may-be/article_b99b7e2f-a0a0-506d-8b55-a642a94c3797.html).

<sup>3</sup> Ibid.

<sup>4</sup> FBI 2017 Hate Crimes Statistics, <https://ucr.fbi.gov/hate-crime/2017/tables/table-12.xls>.

<sup>5</sup> KVVR, "Mapleton Woman Fired After Viral Racist Rant, Community Rally Scheduled in Fargo," July 26, 2017, <https://www.kvvr.com/2017/07/26/mapleton-woman-fired-viral-racist-rant-community-rally-scheduled-fargo>

<sup>6</sup> Hukun Dabar, Briefing before the North Dakota State Advisory Committee to the US. Commission on Civil Rights, Fargo, ND, June 19, 2019, transcript, pp. 26 [hereinafter *Fargo Briefing*].

The Committee invited government officials, advocates, an elected official, and the public to speak to the Committee about hate crimes in North Dakota. This Advisory Memorandum highlights the information the Committee learned at the briefing.

## **BACKGROUND**

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

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

The Civil Rights Act of 1968 (CRA) was a momentous statute that criminalized a new class of hate motivated acts.<sup>7</sup> The CRA sought to address racial violence against civil rights workers and individuals pursuing federally protected activities. The CRA permits federal prosecution of any person who willfully injures, intimidates, or interferes with another person, or attempts to do so, by force because of the victim’s race, color, religion, or national origin, provided that the offense occurred while the victim was attempting to engage in a statutorily protected activity.<sup>8</sup> Examples of statutorily protected activities under the CRA include voting; enrolling in or attending any institution of public education; applying for or enjoying employment by any private or public employer; and enjoying the benefits or services of any establishment of public accommodation such as hotels, restaurants, movie theaters, and sports arenas.<sup>9</sup> Importantly, the CRA did not designate as a hate crime offenses that occurred while a victim was not engaged in one of the identified statutorily protected activities. As such, prosecution under the CRA often proved difficult.<sup>10</sup>

While advocacy groups such as the Anti-Defamation League (ADL), the Southern Poverty Law Center (SPLC), and the National Gay and Lesbian Task Force (NGLTF) began compiling data on bias-motivated violence in the 1980s, official federal data was not collected until 1990 with the passage of the Hate Crimes Statistics Act (HCSA).<sup>11</sup> The HCSA requires the Attorney General to collect, as a part of the Uniform Crime Reports (UCR) Program, data “about crimes

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<sup>7</sup> The Civil Rights Act of 1968, 18 U.S.C. 5(b)(2).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> For a successful case using 18 U.S.C. § 245, see *United States v. Nelson*, 277 F.3d 164 (2nd Cir. 2002).

<sup>11</sup> Hate Crimes Statistics Act, Pub. L. No. 101-275, 104 Stat. 140 (codified at 28 U.S.C. § 534)

that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity.”<sup>12</sup> In September 1994, the Violent Crime Control and Law Enforcement Act amended the HCSA to add disabilities as a factor that could be considered as a basis for hate crimes.<sup>13</sup> Although the HCSA mandated hate crimes data collection for five years, the FBI considers the collection of such statistics to be a permanent addition to the UCR Program.<sup>14</sup>

Also included as part of the Violent Crime Control and Enforcement Act of 1994, the Hate Crime Sentencing Enhancement Act<sup>15</sup> (HCSEA) mandated a revision of United States Sentencing Guidelines to provide sentencing enhancements of at least three offense levels for hate crime offenses. The HCSEA included protection for those targeted because of their ethnicity, gender, disability, or sexual orientation, in addition to protecting individuals on the basis of race, color, religion and national origin.<sup>16</sup> Because this sentence enhancement can only be employed when an underlying federal crime is committed, its enactment did not expand the substantive scope of any federal criminal law prohibitions, and it excludes many offenses prosecuted at the state level where hate may be a motive. While the HCSEA did evoke Congressional willingness to address hate crimes, the scope of substantive federal protection remained unchanged.

In 2009, the enactment of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009<sup>17</sup> (HCPA) provided additional authority for federal officials to investigate and prosecute hate crimes. The HCPA closed the loophole in the Civil Rights Act which limited federal hate crime prosecution to cases in which the victim had been engaged in a statutorily protected activity at the time of the crime.<sup>18</sup> The HCPA also authorized the U.S. Department of Justice to investigate and prosecute “certain bias-motivated crimes based on the victim’s actual or perceived sexual orientation, gender, gender identity, or disability.”<sup>19</sup> Finally, the HCPA provided limited jurisdiction “for federal law enforcement officials to investigate certain bias-motivated crimes in states where current law is inadequate”<sup>20</sup> and provided federal aid and

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<sup>12</sup>*Id.*

<sup>13</sup> Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796-2151 (codified at 42 U.S.C. §§ 13701–14223).

<sup>14</sup> 28 U.S.C. § 534. The Church Arson Prevention Act of July 1996 indefinitely extended the mandate for collection of hate crime statistics, making it a permanent part of the UCR program.

<sup>15</sup> Hate Crime Sentencing Enhancement Act, Pub. L. No. 103-322, § 280003, 108 Stat. 1796, 2096 (codified as 28 U.S.C. § 994 .

<sup>16</sup> *Id.*

<sup>17</sup> Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009, Pub. L. No. 111-84, §§ 4701-4713, 123 Stat. 2835, 2835-2845) (codified at 18 U.S.C. § 249 )

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

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

<sup>19</sup> HCPA: WHAT YOU NEED TO KNOW; *See* 18 U.S.C. § 249(a)(1)-(2).

<sup>20</sup> HCPA: WHAT YOU NEED TO KNOW

technical assistance to state, local, and tribal jurisdictions to help them more effectively investigate, prosecute, and prevent hate crimes from occurring.<sup>21</sup>

## **2. Hate Crimes in North Dakota**

North Dakota Law defines a hate crime as any act by force, threat of force, or economic coercion that interferes with a victim exercising his or her right to full and equal enjoyment of a public facility or intimidates a victim from exercising such rights. Specifically, the statute provides:

A person is guilty of a class B misdemeanor if, whether or not acting under color of law, he, by force, or threat of force or by economic coercion, intentionally:

- (1) Injures, intimidates, or interferes with another because of his sex, race, color, religion, or national origin and because he is or has been exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.
- (2) Injures, intimidates, or interferes with another because of his sex, race, color, religion, or national origin in order to intimidate him or any other person from exercising or attempting to exercise his right to full and equal enjoyment of any facility open to the public.<sup>22</sup>

Offenders may be subject to the class B misdemeanor maximum penalty of thirty days imprisonment, a fine of \$1,500, or both.<sup>23</sup> North Dakota does not have legislation authorizing the increased sentence of a defendant who violates § 12.1-14-04. In 2011, several bills were introduced to amend the statutory framework and provide for increased sentences but were ultimately not passed by the legislature.<sup>24</sup>

### **ASSERTIONS AND THEMES FROM THE JUNE 19, 2019 BRIEFING**

#### **North Dakota Hate Crime Law is Inadequate**

Panelist Miriam Zeidman stated that hate crime laws, “send that message that no one should be targeted for a crime because of who they are or who they love and that the state recognizes the unique harm that such crime causes.”<sup>25</sup> Panelists expressed a concern that the law in North Dakota fails to send that message. While North Dakota has technically enacted hate crime legislation, the governing code links hate crime violations to violations of public accommodation laws. Specifically, North Dakota Century Code § 12.1-14-04 prohibits interfering with a victim’s

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<sup>21</sup> 42 U.S.C. § 3716.

<sup>22</sup> N.D. Cent. Code § 12.1-14-04.

<sup>23</sup> N.D. Cent. Code § 12.1-32-01.

<sup>24</sup> Ruth Buffalo, *Fargo Briefing*, transcript, pp. 16-17.

<sup>25</sup> Miriam Zeidman, *Fargo Briefing*, transcript pp. 11.

right to full and equal enjoyment of a public facility based on sex, race, color, religion, or national origin.<sup>26</sup> According to several panelists, this approach to preventing hate crimes is unconventional, ineffective, and in need of reform.<sup>27</sup>

Panelist Miriam Zeidman, the Midwest Civil Rights Counsel for the ADL, said that “[b]oth concepts of addressing hate crime and discrimination in public places are important. But requiring a causal link to public accommodations discrimination renders the hate crime laws less effective.”<sup>28</sup> This is due, in part, to the prevalence of hate crimes unconnected to the use of a public facility. For example, panelist Jack Weinstein recounted several personal experiences of discrimination such as people drawing swastikas on his own property,<sup>29</sup> a crime that would likely not fall under the current statute.

North Dakota’s hate crime laws were also regarded as providing insufficient protection to the LGBTQ community.<sup>30</sup> Kara Ingelhart, an attorney at Lambda Legal, stated that eleven states recognize sexual orientation as a protected category in their hate crimes laws, nineteen protect both sexual orientation and gender identity, and North Dakota protects neither.<sup>31</sup> She suggested that this “send[s] a message that LGBTQ people are still legitimate targets for violence – which is something that very few Americans would support.”<sup>32</sup>

Hate crime laws “send the message that no one should be targeted for a crime because of who they are or who they love and that the state recognizes the unique harm that such crimes cause.”<sup>33</sup> Panelists at the July 19, 2019 briefing expressed a sense that the current law in North Dakota insufficiently addresses hate crimes and the tragic impact they can have on a person, family, and community.<sup>34</sup>

### **A Need for Mandatory Reporting**

Panelist Miriam Zeidman stated that “[c]ollection of data is indispensable to counteract bias motivated crimes.”<sup>35</sup> Generally, we rely on data to identify patterns and trends that inform solutions to issues we face, both legislative and otherwise. Addressing the prevalence of hate crimes in North Dakota is no different. Miriam Zeidman stated that “data collection raises public awareness of the problem and can spark improvement in the local response to the issue.”<sup>36</sup> Zeidman also believes that hate crime laws are most effective when police know how to identify,

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<sup>26</sup> N.D. Cent. Code § 12.1-14-04.

<sup>27</sup> See; Miriam Zeidman, *Fargo Briefing*, transcript, p. 6; Barry Nelson, *Fargo Briefing*, transcript, p. 11; Kara Ingelhart, *Fargo Briefing*, transcript pp. 20-21;

<sup>28</sup> Miriam Zeidman, *Fargo Briefing*, transcript, p. 7.

<sup>29</sup> Jack Weinstein, *Fargo Briefing*, transcript, p. 28.

<sup>30</sup> See Kara Ingelhart, *Fargo Briefing*, transcript, p. 20.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*, p. 21.

<sup>33</sup> Miriam Zeidman, *Fargo Briefing*, transcript, p. 11.

<sup>34</sup> See *Ibid.*, p. 6.

<sup>35</sup> Miriam Zeidman, *Fargo Briefing*, transcript, p. 9.

<sup>36</sup> *Ibid.*, p. 10.



respond to, and report these sorts of crimes.<sup>37</sup> Currently, North Dakota law lacks a provision to require mandatory reporting and data collection.

This mandatory reporting should lead to better coordination to between local, state and federal agencies to address hate crimes both to prosecute the hate crimes but also to provide victim support. Both Barry Nelson and Hukun Dabar personally worked with victims of bias motivated hate crimes and found that they were not supported throughout the legal process.<sup>38</sup>

Recognizing and including important demographics, such as the LGBTQ community, in hate crime reporting laws is crucial to ensure the veracity and integrity of collected data. While the majority of hate crimes in the state are motivated by the perpetrators racial bias, sexual orientation and gender identity are not included in the current statutory framework.<sup>39</sup> Failing to include this protected category may lead to the under-identification of hate crimes.<sup>40</sup> With a nationwide fifteen percent of bias motivated crimes being motivated by sexual orientation bias, Panelist Kara Ingelhart believes that current information suggests a higher rate of anti-LGBTQ motivated hate crimes than are statistically known in North Dakota.<sup>41</sup>

### **Public Education**

Public education, especially pertaining to available victim resources, is an important part of a comprehensive effort to combat hate crimes. Although it is important to enact legislation to codify a zero tolerance stance on hate crimes, aiding victims in reporting and dealing with these crimes is also of great concern in North Dakota.<sup>42</sup> As noted previously, North Dakota technically has a hate crime law; however, panelists expressed a concern that those laws are “so obtuse that it’s not identified as such by people who are potentially victims...”<sup>43</sup> A lack of knowledge of and access to resources and recourse available to victims might make them less likely to report occurrences of hate crimes,<sup>44</sup> especially when coupled with the fear experienced in conjunction with being victimized. Jack Weinstein, while recounting his experience reporting bias motivated crimes, noted that while the reporting process was difficult for him, it would “be impossible for those without the voice, security, education, or social capital that I have.”<sup>45</sup>

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<sup>37</sup> Ibid.,p. 9.

<sup>38</sup> Barry Nelson, *Fargo Briefing*, transcript, p. 13-14, Hukun Dabar, *Fargo Briefing*, transcript, p. 26

<sup>39</sup> Kara Ingelhart, *Fargo Briefing*, transcript, p. 23.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> See Barry Nelson, *Fargo Briefing*, transcript, p. 13; Kara Ingelhart, *Fargo Briefing*, transcript, p. 23; Jack Russell Weinstein, *Fargo Briefing*, transcript, p. 31.

<sup>43</sup> Barry Nelson, *Fargo Briefing*, transcript, p. 12.

<sup>44</sup> See Ruth Buffalo, *Fargo Briefing*, transcript, p. 17; Barry Nelson, *Fargo Briefing*, transcript, p. 13; Jack Weinstein, *Fargo Briefing*, transcript, p. 31.

<sup>45</sup> Jack Weinstein, *Fargo Briefing*, transcript, p. 32.

Latisha Mazzuro-Homes emphasized that people need to know what to do when you are a victim of a hate crime in simple and plain language in order to encourage people to report crime. This is particularly important to reach community members if their first language is not English.<sup>46</sup>

Panelist Ruth Buffalo, a state representative, noted that one challenge that we face in North Dakota is that people don't really understand or grasp the fact that their behavior is bias motivated. Recently, there was a case where an individual was taken out of a sweat lodge -during a religious practice -here in Fargo by the authorities. "Should that be a hate crime by pulling somebody out of a sweat lodge -- which is considered a church? They're practicing their civil rights by exercising their religious freedom."<sup>47</sup>

She noted, "[p]eople are afraid to speak out," which is one of the many reasons hate crimes go unreported. One method panelists prescribed for this issue is to educate and inform victims that services and resources are available to them.<sup>48</sup>

### **A Need for Mandatory Training**

The strongest bias motivated crime laws in the country include mandatory bias motivated crime training for law enforcement officers. In order for bias motivated crime laws to be most effective, the first responders must be trained regarding identifying, responding to, and reporting such crimes in addition to working with victims in their communities.<sup>49</sup>

### **Economic Consequences of Insufficient Hate Crime Laws**

Although the impact of the victim, the victim's family, and their community are of the utmost importance, Panelist Kara Ingelhart discussed the economic impact that lackluster hate crimes laws can have on the entire community. Data shows that minority communities, specifically the LGBTQ community, are more likely to reside in regions where there are more inclusive statutory protections for minority communities.<sup>50</sup> Further, evidence suggests that cis-gendered and heterosexual persons also gravitate towards and relocate to inclusive, socially diverse regions.<sup>51</sup> Further, corporate entities have been shown to seek out jurisdictions with more protections for minority populations for recruiting purposes because of the diversity in these regions.<sup>52</sup>

Kara Ingelhart asserted that, in addition to discouraging diversity by disincentivizing minority communities from settling in a particular region, having poor or no protections in place for these communities may also pose economic harm to the particular jurisdiction.<sup>53</sup>

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<sup>46</sup> Latisha Mazzuro-Holmes, *Fargo Briefing*, transcript, p. 34.

<sup>47</sup> See Ruth Buffalo, *Fargo Briefing*, transcript, p. 20.

<sup>48</sup> See Kirsten Dauphinais, *Fargo Briefing*, transcript, p. 48.

<sup>49</sup> See Miriam Zeidman, *Fargo Briefing*, transcript, p. 9.

<sup>50</sup> See Kara Ingelhart, *Fargo Briefing*, transcript, p. 23.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid., p. 24.

## **CONCLUSION**

The Committee submits this Advisory Memorandum in support of the Commission's 2019 report on hate crimes. Based on the briefing and the testimony received, the Committee may consider taking additional steps and examining the topic in more depth.

21.0317.03001  
Title.

Prepared by the Legislative Council staff for  
Representative Schneider  
February 8, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1443

Page 1, line 18, after "training" insert ", including a course of instruction, and ongoing training in identifying and responding to bias crimes"

Page 2, line 11, remove "The board shall develop guidelines, a course of instruction, and ongoing training to"

Page 2, line 12, remove "assist peace officers in identifying and responding to bias crimes."

Page 2, line 13, replace "annual" with "refresher"

Page 2, line 13, after "officers" insert "every two years in identifying and responding to bias crimes"

Page 2, line 14, after "instruction" insert "and ongoing training in identifying and responding to bias crimes established under subdivision c of subsection 1"

Page 2, line 17, after the underscored semicolon insert "and"

Page 2, line 18, remove "Provide instruction on the laws dealing with bias crimes and the legal rights"

Page 2, remove lines 19 through 23

Page 2, line 24, remove "(6)"

Page 3, line 18, remove "in whole or in part"

Page 4, line 11, remove "or e"

Page 5, line 9, remove "A class B felony if the actor damages the property in whole or in part because of:"

Page 5, remove lines 10 through 14

Page 5, line 15, remove "c."

Page 5, line 18, remove the overstrike over "e."

Page 5, line 18, remove "d."

Page 5, after line 20, insert:

"d. A class A misdemeanor if the actor damages the property in whole or in part because of:

(1) The owner's actual or perceived race, color, religion, gender, disability, sexual orientation, gender identity, national origin, or ancestry; or

(2) The property's believed association or affiliation with or representation of race, color, religion, gender, disability, sexual orientation, gender identity, national origin, or ancestry."

Page 6, line 18, replace "Biannually" with "Annually"

Renumber accordingly

21.0317.03001

Sixty-seventh  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1443**

Introduced by

Representatives Buffalo, Boschee, Fegley, Hanson, M. Johnson, Schneider  
Senators Hogan, O. Larsen, Marcellais

1 A BILL for an Act to create and enact a new section to chapter 54-12 of the North Dakota  
2 Century Code, relating to the data collection and reporting of bias crimes; to amend and reenact  
3 sections 12-63-04, 12.1-17-02, 12.1-17-07, and 12.1-21-05 of the North Dakota Century Code,  
4 relating to the duty of the peace officer standards and training board to provide training on bias  
5 crimes, aggravated assault, harassment, and criminal mischief; to provide for a report to the  
6 legislative management; and to provide a penalty.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 12-63-04 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **12-63-04. Board - Powers - Duties - Authority.**

11 The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate  
12 the qualifications of applicants, and approve the examinations for licensing under this chapter.

13 1. The board shall:

- 14 a. Prescribe the criteria for certification of basic, advanced, and specialized peace  
15 officer training curriculum, instructors, and schools;
- 16 b. Certify curriculum, instructors, schools, and officers that have met the training  
17 certification criteria;
- 18 c. Establish the curriculum for basic and advanced peace officer training, including  
19 a course of instruction, and ongoing training in identifying and responding to bias  
20 crimes; and
- 21 d. Prescribe minimum standards of sidearm training and certification for peace  
22 officers before they may carry a sidearm.

23 2. The board shall keep records and minutes necessary to carry out its functions. The  
24 board may:

Sixty-seventh  
Legislative Assembly

- 1 a. Issue subpoenas, examine witnesses, administer oaths, and investigate  
2 allegations of practices violating the provisions of this chapter or rules adopted by  
3 the board.
- 4 b. Examine, under oath, any applicant for licensing.
- 5 c. Examine, under oath, any licensed peace officer during a hearing to suspend,  
6 revoke, or to not renew a license of a peace officer.
- 7 d. Adopt rules relating to the professional conduct of peace officers and to  
8 implement the requirements of this chapter, including rules relating to  
9 professional licensure, continuing education, and ethical standards of practice,  
10 for persons holding a license to practice peace officer duties.
- 11 3. ~~The board shall develop guidelines, a course of instruction, and ongoing training to~~  
12 ~~assist peace officers in identifying and responding to bias crimes.~~ The board shall  
13 provide annual refresher training to all licensed peace officers every two years in  
14 identifying and responding to bias crimes.
- 15 a. The course of instruction and ongoing training in identifying and responding to  
16 bias crimes established under subdivision c of subsection 1 must:
- 17 (1) Include material to help peace officers distinguish a bias crime from any  
18 other crime;
- 19 (2) Help peace officers understand and assist a victim of a bias crime; and
- 20 (3) ~~Provide instruction on the laws dealing with bias crimes and the legal rights~~  
21 ~~of, and the remedies available to, a victim of a bias crime;~~
- 22 ~~(4) Illustrate proper techniques and methods to handle a bias crime incident in~~  
23 ~~a noncombative manner;~~
- 24 ~~(5) Provide training on how to respond to a report of a bias crime, including a~~  
25 ~~report of a bias crime committed under the color of authority; and~~
- 26 ~~(6) Ensure a bias crime is accurately reported as required under section 5 of~~  
27 this Act.
- 28 b. The board shall update the course periodically as necessary.
- 29 c. As used in this subsection, "bias crime" has the same meaning as in section 5 of  
30 this Act.

1       4. The board shall adopt rules relating to the professional conduct of licensed peace  
2       officers involved in confidential informant agreements under chapter 29-29.5, and shall  
3       receive complaints and make determinations if an officer's conduct violated the  
4       protections provided in chapter 29-29.5. Annually, the board shall conduct an audit  
5       evaluating the effectiveness of confidential informant training requirements.

6       4.5. The board shall establish penalties and enforce violations of protections provided in  
7       chapter 29-29.5. The penalties established must be formulated based on the nature,  
8       severity, gravity, and recurrence of violations. The board may deny, suspend, or  
9       revoke a license or may impose probationary conditions, including remedial training.

10       **SECTION 2. AMENDMENT.** Section 12.1-17-02 of the North Dakota Century Code is  
11       amended and reenacted as follows:

12       **12.1-17-02. Aggravated assault.**

- 13       1. Except as provided in subsection 2, a person is guilty of a class C felony if that person:
- 14       a. Willfully causes serious bodily injury to another human being;
- 15       b. Knowingly causes bodily injury or substantial bodily injury to another human  
16       being with a dangerous weapon or other weapon, the possession of which under  
17       the circumstances indicates an intent or readiness to inflict serious bodily injury;
- 18       c. Causes bodily injury or substantial bodily injury to another human being while  
19       attempting to inflict serious bodily injury on any human being; ~~or~~
- 20       d. Fires a firearm or hurls a destructive device at another human being; or
- 21       e. Causes bodily injury to another human ~~in whole or in part~~ because of the victim's  
22       actual or perceived race, color, religion, gender, disability, sexual orientation,  
23       gender identity, national origin, or ancestry.
- 24       2. The person is guilty of a class B felony if the person violates subsection 1 and the  
25       victim:
- 26       a. Is under twelve years of age;
- 27       b. Is a peace officer or correctional institution employee acting in an official capacity,  
28       which the actor knows to be a fact; or
- 29       c. Suffers permanent loss or impairment of the function of a bodily member or  
30       organ.



1       **SECTION 3. AMENDMENT.** Section 12.1-17-07 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **12.1-17-07. Harassment.**

- 4       1. A person is guilty of an offense if, with intent to frighten or harass another, the person:
- 5           a. Communicates in writing or by electronic communication a threat to inflict injury  
6             on any person, to any person's reputation, or to any property;
- 7           b. Makes a telephone call anonymously or in offensively coarse language;
- 8           c. Makes repeated telephone calls or other electronic communication, whether or  
9             not a conversation ensues, with no purpose of legitimate communication; or
- 10          d. Communicates a falsehood in writing or by electronic communication and causes  
11             mental anguish; or
- 12          e. Commits an offense in violation of subdivisions a, b, c, or d in whole or in part on  
13             the basis of actual or perceived race, color, religion, gender, disability, sexual  
14             orientation, gender identity, national origin, or ancestry.
- 15       2. The offense is a class A misdemeanor if it is under subdivision a ~~or e~~ of subsection 1  
16         or subsection 4. Otherwise it is a class B misdemeanor.
- 17       3. Any offense defined herein and committed by use of electronic communication may be  
18         deemed to have been committed at either the place at which the electronic  
19         communication was made or at the place where the electronic communication was  
20         received.
- 21       4. A person is guilty of an offense if the person initiates communication with a  
22         911 emergency line, public safety answering point, or an emergency responder  
23         communication system with the intent to annoy or harass another person or a public  
24         safety agency or who makes a false report to a public safety agency.
- 25           a. Intent to annoy or harass is established by proof of one or more calls with no  
26             legitimate emergency purpose.
- 27           b. Upon conviction of a violation of this subsection, a person is also liable for all  
28             costs incurred by any unnecessary emergency response.
- 29       5. Any offense defined herein is deemed communicated in writing if it is transmitted  
30         electronically, by electronic mail, facsimile, or other similar means. Electronic  
31         communication means transfer of signs, signals, writing, images, sounds, data, or

1 intelligence of any nature transmitted in whole or in part by a wire, radio,  
2 electromagnetic, photo-electronic, or photo-optical system.

3 **SECTION 4. AMENDMENT.** Section 12.1-21-05 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **12.1-21-05. Criminal mischief.**

6 1. A person is guilty of an offense if that person:

7 a. Willfully tampers with tangible property of another so as to endanger person or  
8 property; or

9 b. Willfully damages tangible property of another.

10 2. The offense is:

11 a. A class B felony if the actor intentionally causes pecuniary loss in excess of ten  
12 thousand dollars.

13 b. ~~A class B felony if the actor damages the property in whole or in part because of:~~

14 ~~(1) The owner's actual or perceived race, color, religion, gender, disability,~~

15 ~~sexual orientation, gender identity, national origin, or ancestry; or~~

16 ~~(2) The property's believed association or affiliation with or representation of~~

17 ~~race, color, religion, gender, disability, sexual orientation, gender identity,~~

18 ~~national origin, or ancestry.~~

19 ~~e.~~ A class C felony if the actor intentionally causes pecuniary loss in excess of two  
20 thousand dollars but not in excess of ten thousand dollars or damages tangible  
21 property of another by means of an explosive or a destructive device.

22 ~~c.d.~~ A class A misdemeanor if the actor recklessly causes pecuniary loss in excess of  
23 two thousand dollars or if the actor intentionally causes pecuniary loss of from  
24 one hundred dollars through two thousand dollars.

25 d. A class A misdemeanor if the actor damages the property in whole or in part  
26 because of:

27 (1) The owner's actual or perceived race, color, religion, gender, disability,  
28 sexual orientation, gender identity, national origin, or ancestry; or

29 (2) The property's believed association or affiliation with or representation of  
30 race, color, religion, gender, disability, sexual orientation, gender identity,  
31 national origin, or ancestry.

1           Otherwise the offense is a class B misdemeanor.

2           **SECTION 5.** A new section to chapter 54-12 of the North Dakota Century Code is created  
3 and enacted as follows:

4           **Collection of bias crime information - Report.**

5           1. As used in this section:

6           a. "Bias crime" means:

7                   (1) A criminal act committed against a person or a person's property in whole or  
8                   in part because of actual or perceived race, color, religion, gender, disability,  
9                   sexual orientation, gender identity, national origin, or ancestry or which is  
10                   committed for the purpose of restraining that person from exercising the  
11                   person's rights under the Constitution or laws of this state or of the United  
12                   States in whole or in part because of actual or perceived race, color,  
13                   religion, gender, disability, sexual orientation, gender identity, national origin,  
14                   or ancestry;

15                   (2) An illegal act directed against any person or any person's property in whole  
16                   or in part because of the person's actual or perceived race, color, religion,  
17                   gender, disability, sexual orientation, gender identity, national origin, or  
18                   ancestry; and

19                   (3) All other incidents, as determined by a law enforcement agency, intended to  
20                   intimidate or harass an individual or group in whole or in part because of  
21                   actual or perceived race, color, religion, gender, disability, sexual orientation,  
22                   gender identity, national origin, or ancestry.

23           b. "Law enforcement agency" means a nonfederal public agency authorized by law  
24           or by a government agency or branch to enforce the law and to conduct or  
25           engage in investigations or prosecutions for violations of law. The term includes a  
26           multijurisdictional task force.

27           2. Each law enforcement agency shall collect information on reported bias crimes,  
28           bias-motivations, and on groups and individuals committing bias crimes.

29           3. ~~Biannually~~Annually, each law enforcement agency shall submit information collected  
30           under subsection 2 to the attorney general in a form, time, and manner prescribed by  
31           the attorney general.

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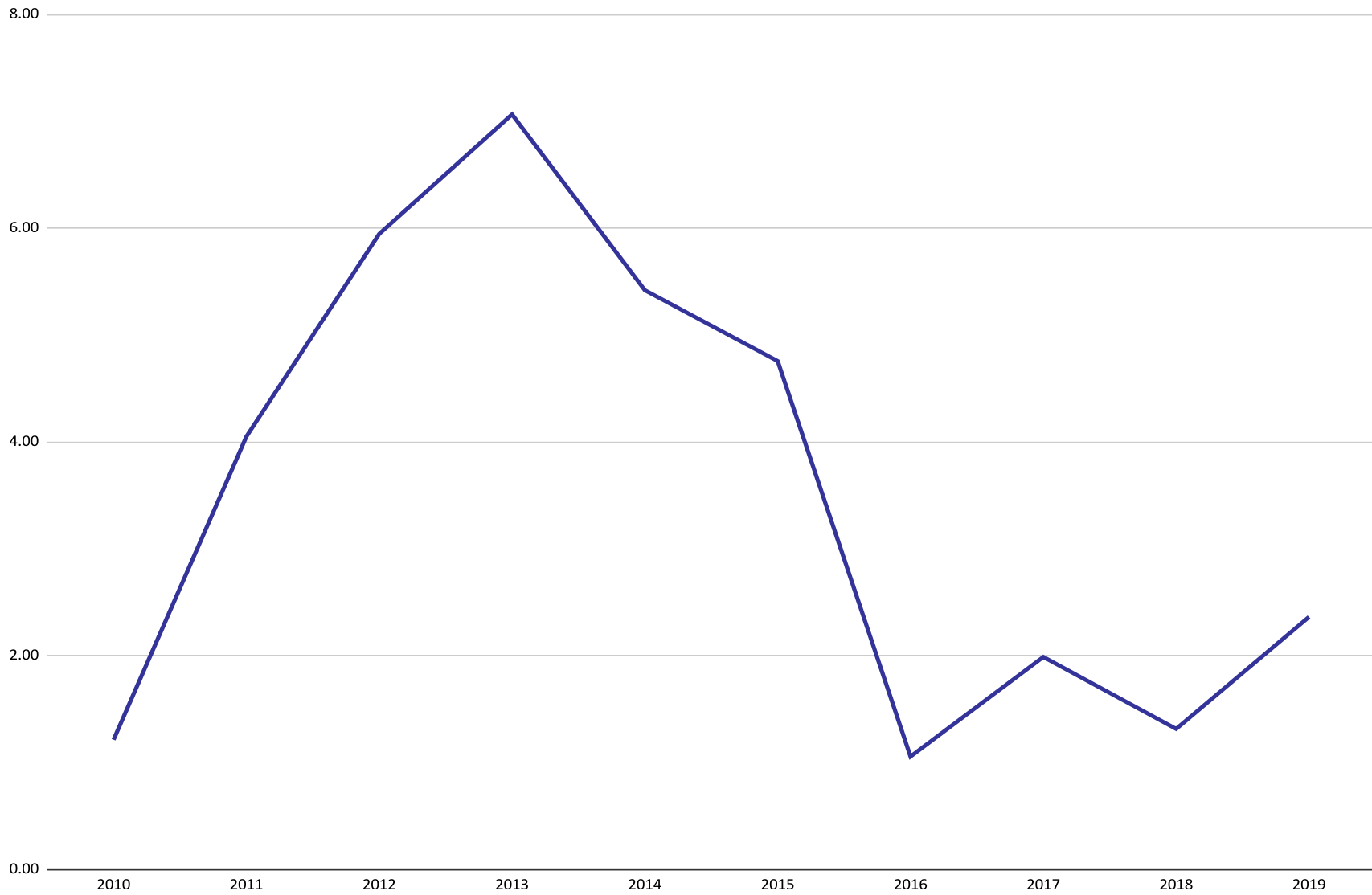
- 1       4. The data and reports compiled under this section are public information and not  
2       exempt from disclosure but may not contain the name of an individual who:
  - 3       a. Committed or allegedly committed a bias crime; or
  - 4       b. Was the victim or the alleged victim of a bias crime.
- 5       5. By July first of each year, the attorney general shall submit to the legislative  
6       management and the governor a written report summarizing the data from the  
7       preceding calendar year including:
  - 8       a. The type of bias crimes occurring in the state;
  - 9       b. The number of bias crimes alleged, prosecuted, and for which a conviction was  
10       obtained; and
  - 11       c. Bias crime victim demographics.
- 12       6. The attorney general may require the reporting of additional information not specified  
13       in this section. The attorney general shall develop standard forms, processes, and  
14       deadlines for the biannual submission of bias crime data by law enforcement  
15       agencies.
- 16       7. If a law enforcement agency fails to file a report within thirty days after the report is  
17       due, the attorney general may compel compliance by any means until the report is  
18       filed.
- 19       8. Annually the attorney general shall submit to the federal bureau of investigation the  
20       statistical data collected under this section regarding the occurrence of bias crimes  
21       within the state.

**Table 12****Agency Hate Crime Reporting by Year, 2010-2019, ND**

<i>Year</i>	<i>Number of participating agencies</i>	<i>Population covered</i>	<i>Agencies submitting incident reports</i>	<i>Total number of incidents reported</i>	<i>Hate crime rate, per 1000 persons</i>	<i>Hate crime rate, per 100,000 persons</i>
<b>National Total, 2010</b>	<b>14,977</b>	<b>285,001,266</b>	<b>1,949</b>	<b>6,628</b>	<b>0.02325603705</b>	<b>2.325603705</b>
<b>National Total, 2019</b>	<b>15,588</b>	<b>305,284,239</b>	<b>2,172</b>	<b>7,314</b>	<b>0.02395800066</b>	<b>2.395800066</b>
2010	97	659,331	7	8	0.01213351109	1.21
2011	94	666,780	8	27	0.04049311617	4.05
2012	96	689,607	14	41	0.05945415287	5.95
2013	105	722,021	19	51	0.07063506463	7.06
2014	111	738,176	16	40	0.05418761921	5.42
2015	112	756,927	19	36	0.04756072911	4.76
2016	108	757,493	6	8	0.0105611537	1.06
2017	110	754,604	8	15	0.01987797573	1.99
2018	109	760,650	8	10	0.01314665089	1.31
2019	109	762,062	12	18	0.0236201254	2.36

North Dakota Hate Crime Rate, 2010-2019  
Per 100,000 Persons

Source: United States Department of Justice, Federal Bureau of Investigation. (November 2020). Hate Crime Statistics, 2019. Retrieved 5 Feb 2021, from <https://ucr.fbi.gov/hate-crime>.





## SPECIAL REPORT

JUNE 2017

NCJ 250653

# Hate Crime Victimization, 2004-2015

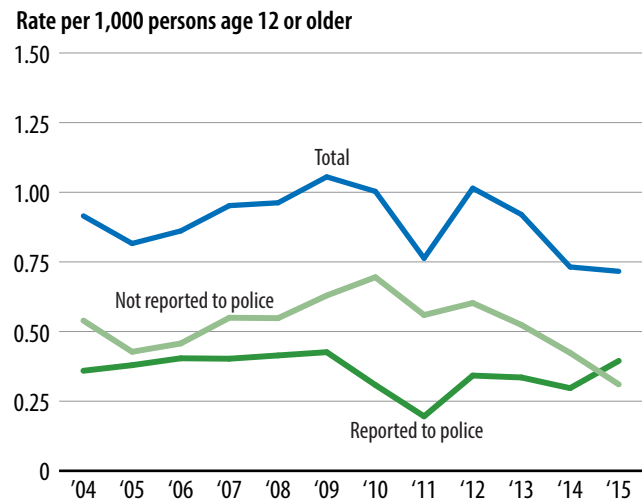
Madeline Masucci, *BJS Intern*  
Lynn Langton, Ph.D., *BJS Statistician*

In 2015, the rate of violent hate crime victimization was 0.7 hate crimes per 1,000 persons age 12 or older (figure 1). This rate was not significantly different from the rate in 2004 (0.9 per 1,000).<sup>1</sup> The absence of statistically significant change in rates from 2004 to 2015 generally held true for violent hate crimes both reported and unreported to police. However, between 2012 and 2015, the rate of unreported violent hate crime declined slightly, from 0.6 to 0.3 victimizations per 1,000 persons 12 or older (90% confidence level).

Findings are primarily from the Bureau of Justice Statistics' (BJS) National Crime Victimization Survey (NCVS), which has collected data on crimes motivated by hate since 2003. The NCVS and the FBI's Uniform Crime Reporting (UCR) Hate Crime Statistics Program are the principal sources of annual information on hate crime in the United States. BJS and the FBI use the hate crime definition established by the Hate Crime Statistics Act (28 U.S.C. § 534): "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity." The NCVS measures crimes perceived by victims to be motivated by an offender's bias against them for belonging to or being associated with a group largely identified by these characteristics.

<sup>1</sup>Unless otherwise noted, the comparisons in this report are significant at the 95% confidence level.

**FIGURE 1**  
Violent hate crime victimizations reported and not reported to police, 2004-2015



Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Estimates based on 2-year rolling averages centered on the most recent year. See appendix table 1 for estimates and standard errors.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2004-2015.

## HIGHLIGHTS

- U.S. residents experienced an average of 250,000 hate crime victimizations each year from 2004 to 2015.
- There was no statistically significant change in the annual rate of violent hate crime victimization from 2004 to 2015 (0.7 per 1,000 persons age 12 or older).
- The majority (99%) of victims cited offenders' use of hate language as evidence of a hate crime.
- During the 5-year aggregate period from 2011-15, racial bias was the most common motivation for hate crime (48%).
- About 54% of hate crime victimizations were not reported to police during 2011-15.
- During 2011-15, Hispanics (1.3 per 1,000) experienced higher rate of violent hate crime victimization than non-Hispanic whites (0.7 per 1,000) and blacks (1.0 per 1,000).

Hate crime victimization refers to a single victim or household that experienced a criminal incident believed to be motivated by hate. For violent crimes (rape or sexual assault, robbery, aggravated assault, and simple assault) and for personal larceny, the count of hate crime victimizations is the number of individuals who experienced a violent hate crime. For crimes against households (burglary, motor vehicle theft, or other theft), each household affected by a hate crime is counted as a single victimization.

This report presents NCVS data on the characteristics of hate crime and its victims from 2004 to 2015. Trend estimates are based on 2-year rolling averages centered on the most recent year. For example, estimates reported for 2015 represent the average estimates for 2014 and 2015. This approach increases the reliability and stability of estimates, which facilitates comparing estimates over time. The report also presents comparisons between the NCVS and the UCR program in terms of overall trends in hate crime victimization and the type of bias that motivated the crime.

### No significant change was observed in the number of violent or property hate crimes from 2004 to 2015

On average, U.S. residents experienced approximately 250,000 hate crime victimizations each year between 2004 and 2015, of which about 230,000 were violent hate

**TABLE 1**  
Hate crime victimizations, 2004–2015

Year	Total		Violent crime			Property crime		
	Number	Percent	Number	Rate <sup>a</sup>	Percent	Number	Rate <sup>b</sup>	Percent
2004*	281,670	1.0%	220,060	0.9	3.1%	61,610	0.5	0.3%
2005	223,060	0.9	198,400	0.8	2.9	21,740 †	0.2 †	0.1 †
2006	230,490	0.8	211,730	0.9	2.8	15,830 †	0.1 †	0.1 †
2007	263,440	1.0	236,860	1.0	3.1	24,640 ‡	0.2 ‡	0.1 ‡
2008	266,640	1.1	241,800	1.0	3.7	22,890 †	0.2 †	0.1 ‡
2009	284,620	1.2	267,170	1.1	4.4	17,450 ††	0.1 ††	0.1 ††
2010	273,100	1.3	255,810	1.0	4.8	17,290 †	0.1 †	0.1 †
2011	218,010	1.0	195,880	0.8	3.6	22,130 †	0.2 †	0.1 ‡
2012	293,790	1.2	263,540	1.0	4.2	30,250	0.2 ‡	0.2
2013	272,420	1.1	242,190	0.9	3.7	30,230	0.2 ‡	0.2
2014	215,010	1.0	194,310	0.7	3.4	19,000 †	0.1 †	0.1 ‡
2015	207,880	1.0	192,020	0.7	3.7	14,160 ††	0.1 ††	0.1 ††

Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Estimates based on 2-year rolling averages, centered on the most recent year. Numbers rounded to the nearest 10. See appendix table 2 for standard errors.

\*Comparison group.

†Significant difference from comparison group at 95% confidence level.

‡Significant difference from comparison group at 90% confidence level.

! Interpret with caution. Estimate based on 10 or fewer sample cases, or the coefficient of variation is greater than 50%.

<sup>a</sup>Per 1,000 persons age 12 or older.

<sup>b</sup>Per 1,000 households.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2004–2015.

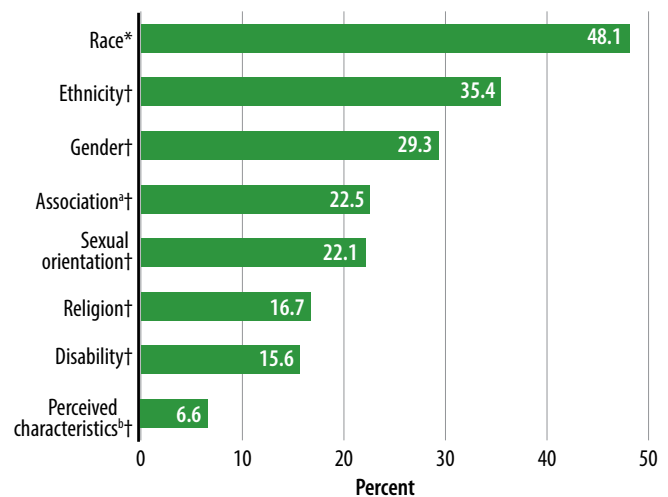
victimizations (not shown). The number of total and violent hate crime victimizations did not change significantly from 2004 to 2015 (table 1). During this period, property hate crime victimizations were also flat following a decline from 2004 to 2005.

In 2015, hate crime victimizations accounted for 1% of the total victimizations captured by the NCVS. Violent hate crime victimizations accounted for 4% of all violent victimizations.

### Racial bias was the most common motivation for hate crime during 2011–15

The NCVS asked hate crime victims about the types of bias they suspected motivated the crime. During the aggregated 5-year period from 2011 to 2015, victims suspected that nearly half (48%) of hate crime victimizations were motivated by racial bias (figure 2). About a third of victims believed they were targeted because of their ethnicity (35%) or their gender (29%). About 1 in 5 believed the hate crime was motivated by bias against persons or groups with which they were associated (23%) or by sexual orientation (22%). About 1 in 6 hate crime victimizations were thought to be motivated by bias against the victim's religion (17%) or disability (16%).

**FIGURE 2**  
Victim's perception of bias in hate crime victimizations, 2011–2015



Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Detail may not sum to total due to victims reporting more than one type of bias motivating the hate-related victimizations. See appendix table 3 for standard errors.

\*Comparison group.

†Significant difference from comparison group at 95% confidence level.

<sup>a</sup>Motivated by victim's association with persons having certain characteristics.

<sup>b</sup>Motivated by offender's perception of victim's characteristics.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.



Between 2007 and 2015, the percentage of hate crimes perceived by victims to be motivated by racial bias decreased from 62% to 48% (figure 3). During that time, the percentage of hate crimes suspected to be motivated by gender bias nearly doubled from 15% in 2007 to 29% in 2015. In 2009, the federal hate crime legislation was amended to include gender and gender identity as protected categories.

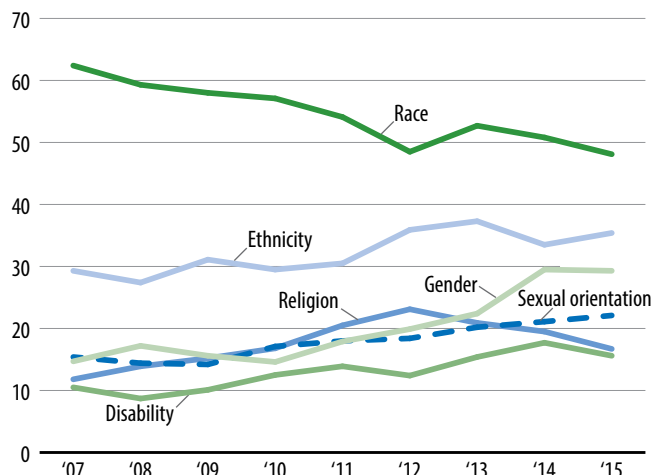
### The majority of victims cited offenders' use of hate language as evidence of a hate crime

For a crime to be classified as a hate crime in the NCVS, the victim must report at least one of three types of evidence that the act was motivated by hate:

- the offender used hate language
- the offender left behind hate symbols
- police investigators confirmed that the incident was hate crime.

During 2011-15, almost all hate crime victims (99%) cited the offenders' use of hate language as evidence that the crime was motivated by hate (table 2). Fewer than 1 in 10 hate crime victims reported that the offender left hate symbols at the scene (5%) or that the victimization was confirmed to be a hate crime by police investigators (7%). (See *Methodology*.)

**FIGURE 3**  
Victims' perception of bias in hate crime victimizations, 2007-2015



Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Estimates based on 5-year rolling averages, centered on the most recent year. Detail may not sum to total due to victims reporting more than one type of bias motivating the hate-related victimizations. See appendix table 4 for estimates and standard errors.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2007-2015.

### During 2011-15, nearly two-thirds (62%) of hate crimes were simple assaults

Overall, about 90% of NCVS-reported hate crimes involved violence, and about 29% were serious violent crimes (rape or sexual assault, robbery, and aggravated assault) (table 3).<sup>2</sup> During 2011-15, violent crime accounted for a higher percentage of hate (90%) than nonhate (25%) crime victimizations. The majority of hate crimes were simple assaults (62%), followed by aggravated assault (18%), robbery (8%), and theft (7%).

<sup>2</sup>For offense definitions see *Criminal Victimization, 2015* (NCJ 250180, BJS web, October 2016, p15), and *Terms and Definitions: Victims* (BJS web).

**TABLE 2**  
Victims' evidence that a hate crime occurred, 2011-2015

Type of evidence	Percent
Hate language	98.7%
Hate symbols	5.4
Confirmed by police investigators	6.9

Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Detail may not sum to total due to victims reporting more than one type of evidence. See appendix table 5 for standard errors.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011-2015.

**TABLE 3**  
Hate and nonhate crime victimizations, by type of crime, 2011-2015

Type of crime	Hate	Nonhate*
<b>Violent crime</b>	90.1% †	25.1%
Rape or sexual assault	2.5! †	1.4
Robbery	8.3 †	2.8
Aggravated assault	17.7 †	4.2
Simple assault	61.6 †	16.7
<b>Personal larceny</b>	0.3%! †	0.6%
<b>Property crime</b>	9.6% †	74.3%
Household burglary	2.1! †	14.8
Motor vehicle theft	0.1! †	2.7
Theft	7.4 †	56.9
<b>Average annual victimizations</b>	236,070 †	22,396,360

Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. See appendix table 6 for standard errors.

\*Comparison group.

†Significant difference from comparison group at 95% confidence level.

! Interpret with caution. Estimate based on 10 or fewer sample cases, or the coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011-2015.

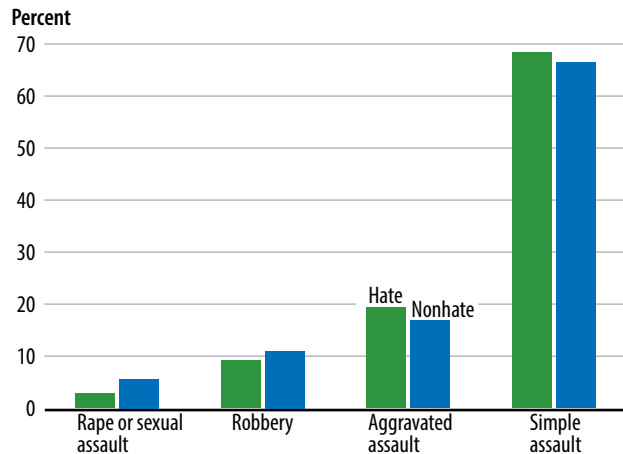
Except for rape or sexual assaults, the distribution of types of violent crimes was fairly similar across hate and nonhate victimizations during 2011-15 (figure 4). Rape or sexual assault accounted for a lower percentage of violent hate (3%) than nonhate (6%) crime victimizations.

### 1 in 4 violent hate crimes involved a weapon during 2006-15

During 2006-15, no statistically significant difference was observed in the percentage of violent hate (24%) and nonhate (21%) victimizations involving a weapon (table 4). However, a lower percentage of violent victimizations involved a firearm in hate (5%) than nonhate (7%) crime victimizations.

The majority (78%) of violent hate crime victims did not suffer from any injuries during the event. A lower percentage of violent hate (22%) victimizations than violent nonhate (26%) victimizations involved an injury (90% confidence level).

**FIGURE 4**  
Type of crime experienced in hate and nonhate violent victimizations, 2011–2015



Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. See appendix table 7 for estimates and standard errors.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

### Hate crime victimizations were more likely to occur outside of the home than nonhate crime victimizations

During 2011-15, the largest portion of hate victimizations occurred at or near the victim's home (39%) (table 5). However, hate crime victimizations were less likely to occur at or near the victim's home than nonhate crime victimizations (61%). A greater percentage of hate victimizations than nonhate victimizations occurred in commercial places, parking lots, on public transportation, and at school.

**TABLE 4**  
Presence of weapons and injuries sustained in violent hate and nonhate crime victimizations, 2006–2015

	Hate	Nonhate*
Presence of weapon	23.7%	21.1%
Firearm	4.5 †	7.2
Any injury sustained	21.8% ‡	25.8%
Average annual victimizations	227,180 †	5,949,080

Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. See appendix table 8 for standard errors.

\*Comparison group.

†Significant difference from comparison group at 95% confidence level.

‡Significant difference from comparison group at 90% confidence level.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2006–2015.

**TABLE 5**  
Hate and nonhate crime victimizations, by location, 2011–2015

Location	Hate	Nonhate*
At or near victim's home	38.7% †	61.0%
At or near a friend's or relative's home	3.5	4.6
Commercial place	14.2 †	6.0
Parking lot, on street, or on public transportation	24.0 †	15.3
School	13.6 †	7.0
Other	6.0	6.1
Average annual victimizations	236,070 †	22,396,360

Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Numbers rounded to the nearest 10. See appendix table 9 for standard errors.

\*Comparison group.

†Significant difference from comparison group at 95% confidence level.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

## Violent hate crimes were less likely to result in arrest than violent nonhate crimes

During 2011-15, less than half of total and violent (42% each) hate crime victimizations were reported to police (table 6). There was no significant difference in the percentage of violent hate (42%) and violent nonhate (46%) crimes reported to police.

For total crime, a higher percentage of complaints were signed in reported hate (31%) than in nonhate (22%) crime victimizations (90% confidence level). This was not true for violent crime.

Violent nonhate (28%) crimes reported to police were nearly three times more likely to result in an arrest than violent hate (10%) crimes. About 4% of all violent hate crimes, whether reported or not, resulted in an arrest (not shown).

## About 2 in 5 hate crime victimizations not reported to police were handled another way

Approximately 54% of hate crime victimizations were not reported to police during 2011-15. The most common reason for not reporting to police was that the victimization was handled another way (41%), such as privately or through a non-law enforcement official (e.g., apartment manager or school official) (table 7). About a quarter (23%) of hate crime victims who did not report the crime believed that police would not want to be bothered or to get involved, would be inefficient or ineffective, or would cause trouble for the victim. About 1 in 5 (19%) crime victims stated that the victimization was not important enough to report to police.

With the exception of reasons that fell in the “other” category, no significant difference was observed in the most important reasons for not reporting hate and nonhate violent crime victimizations to police.

**TABLE 6**  
Police-related actions taken in hate and nonhate crime victimizations, 2011–2015

Police-related action	Total		Violent crime	
	Hate	Nonhate*	Hate	Nonhate*
<b>Reported</b>	42.2%	38.3%	42.0%	46.3%
By victim	69.8	73.9	67.9	62.0
By someone else	30.2	25.9	32.1	37.7
Complaint signed	30.8 ‡	21.5	31.1	34.7
Arrest made	11.5	15.0	10.2 †	28.2
<b>Not reported</b>	54.2%	60.4%	54.1%	51.6%
<b>Average annual victimizations</b>	236,070 †	22,396,360	212,710 †	5,616,830

Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. See appendix table 10 for standard errors.

\*Comparison group.

†Significant difference from comparison group at 95% confidence level.

‡Significant difference from comparison group at 90% confidence level.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

**TABLE 7**  
Most important reason why victimization was not reported to police, 2011–2015

Most important reason	Total hate	Violent <sup>a</sup>	
		Hate	Nonhate*
Handled another way	40.7%	43.5%	37.4%
Not important enough	19.4	20.2	17.8
Police could not do anything	5.1 †	2.8 †	2.3
Police would not help	17.5	15.5	13.4
Other <sup>b</sup>	17.2	18.0 †	29.1

Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Victims were asked to state the most important reason why the incident was not reported to police. See appendix table 11 for standard errors.

\*Comparison group.

†Significant difference from comparison group at 95% confidence level.

! Interpret with caution. Estimate based on 10 or fewer sample cases, or the coefficient of variation is greater than 50%.

<sup>a</sup>Includes rape or sexual assault, robbery, aggravated assault, and simple assault.

<sup>b</sup>Includes victims who could not select one reason as most important.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

## Hispanics experienced a higher rate of violent hate crime victimization than non-Hispanic whites

During 2011-15, males (0.9 per 1,000 persons age 12 or older) and females (0.8 per 1,000) had similar rates of hate crime victimization (table 8). Hispanics (1.3 per 1,000) experienced a higher rate of violent hate victimization than non-Hispanic whites (0.7 per 1,000). However, more than half (53%) of hate crime victimizations were against whites. Whites accounted for a lower percentage of victims of hate crimes than nonhate (64%) victimizations. A higher percentage of violent crime victims were Hispanic in hate (25%) than nonhate (14%) victimizations.

**TABLE 8**  
Characteristics of violent crime victims, 2011–2015

Victim characteristic	Percent		Rate	
	Hate	Nonhate <sup>a</sup>	Hate	Nonhate <sup>a</sup>
<b>Sex</b>	100%	100%	0.8	21.3
Male*	51.7	50.7	0.9	22.1
Female	48.3	49.3	0.8	20.5
<b>Race/Hispanic origin<sup>b</sup></b>	100%	100%		
White*	53.4	63.6	0.7	20.7
Black	14.5 †	14.5 †	1.0	25.2 †
Hispanic	24.7 †	14.3 †	1.3 †	19.8
Other <sup>c</sup>	7.5 †	7.6 †	0.9	23.3
<b>Age</b>	100%	100%		
12–17*	17.1	17.0	1.5	38.5
18–24	15.1	18.4	1.1	34.0 †
25–34	11.8	20.9 †	0.6 †	27.5 †
35–49	28.7 †	24.1 †	1.0	22.1 †
50–64	25.3 ‡	16.3	0.9 ‡	14.9 †
65 or older	2.1 †!	3.2 †	0.1 †!	4.2 †
<b>Household income</b>	100%	100%		
\$24,999 or less*	31.9	29.1	1.7	42.0
\$25,000–\$49,999	14.4 †	19.5 †	0.6 †	20.9 †
\$50,000 or more	27.9	28.3	0.6 †	16.3 †
Not reported	25.8	23.1 †	0.7 †	17.2 †

Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Detail may not sum to total due to rounding. See appendix table 12 for standard errors.

\*Comparison group.

†Significant difference from comparison group at 95% confidence level.

‡Significant difference from comparison group at 90% confidence level.

! Interpret with caution. Estimate based on 10 or fewer sample cases, or the coefficient of variation is greater than 50%.

<sup>a</sup>Per 1,000 persons age 12 or older.

<sup>b</sup>White, black, and other race categories exclude persons of Hispanic or Latino origin.

<sup>c</sup>Includes American Indian and Alaska Natives; Asian, Native Hawaiian, and Other Pacific Islanders; and persons of two or more races.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

For both hate (90% confidence level) and nonhate violent crime victimizations, young persons ages 12 to 17 had a higher rate of victimization than persons age 50 or older. In both hate and nonhate violent victimizations, persons in households in the lowest income bracket had the highest rate of victimization than all other income categories.

## The largest percentage of violent hate crimes occurred in the West

The percentage (46%) and rate (1.6 per 1,000) of violent hate victimization occurring in the West was greater than that of any other region (table 9). The South accounted for a lower percentage of hate (19%) than nonhate (32%) crime victimizations.

During 2011-15, more than 90% of violent hate crime victimizations were against persons living in urban (47%) and suburban (46%) areas. A lower percentage of violent hate crime (7%) than nonhate crime (13%) involved persons in rural areas. For both hate (1.2 per 1,000) and nonhate (24.9 per 1,000) crimes, the rates of victimization were highest in urban areas.

**TABLE 9**  
Region and location of residence of violent hate crime victims, 2011–2015

Region	Percent		Rate	
	Hate	Nonhate	Hate	Nonhate
<b>Region</b>	100%	100%	0.8	21.3
Northeast*	14.8	17.9	0.7	21.0
Midwest	20.9	23.4 †	0.7	22.0
South	18.6	31.7 †	0.4	18.7
West	45.8 †	27.1 †	1.6 †	24.7 †
<b>Location of residence</b>	100%	100%	0.8	21.3
Urban*	47.2	38.6	1.2	24.9
Suburban	45.9	48.6 †	0.7 †	20.0 †
Rural	6.9 †	12.8 †	0.4 †	17.7 †

Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. See appendix table 13 for standard errors.

\*Comparison group.

†Significant difference from comparison group at 95% confidence level.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

### Nearly half (46%) of violent hate crime victimizations were committed by a stranger

The NCVS asks victims of violent crime about the characteristics of the offender. In both hate (63%) and nonhate (78%) violent crime victimizations, the majority of offenders acted alone during 2011-15 (table 10). However, a higher percentage of violent hate crimes (30%) involved multiple offenders than violent nonhate crimes (17%).

Across violent hate and nonhate crimes, a greater percentage of offenders were male than female. Males were less likely to be offenders in violent hate crimes (61%) than violent nonhate crimes (69%) (90% confidence level). A lower percentage of violent victimizations were committed by white offenders in violent hate (38%) than violent nonhate (54%) crimes. Whites and blacks accounted for a similar proportion of violent hate crime offenders.

During 2011-15, persons age 30 or older accounted for the largest percentage of offenders in both violent hate (43%) and violent nonhate (37%) crimes. A lower percentage of offenders were ages 18 to 29 in violent hate crime (17%), compared to violent nonhate crime (28%).

Nearly half (46%) of violent hate crime victimizations were committed by a stranger. In comparison, the majority (55%) of violent nonhate victimizations were committed by someone at least casually known to the victim. A lower percentage of offenders were known to the victim in hate (44%) than nonhate (55%) violent crime.

### Differences in hate crime counts collected by the NCVS and UCR program can largely be attributed to victims' reporting and police classification

In addition to the NCVS data on hate crime victimization, the other main measure of hate crime in the United States is the FBI's Hate Crime Statistics Program, part of the Uniform Crime Reporting (UCR) program. The NCVS and UCR were designed to be complementary but different.<sup>3</sup> The FBI's Hate Crime Statistics Program includes only reported crimes that police determined to be and recorded as hate crimes. Alternatively, the NCVS is based on victims' perceptions that a crime was motivated by bias because the offender used hate language, left hate symbols, or police confirmed that it was a hate crime. The NCVS includes hate crimes that were both reported and not reported to police.

<sup>3</sup>For more information on the differences between the NCVS and UCR program, see *The Nation's Two Crime Measures* (NCJ 246832, BJS web, September 2014).

**TABLE 10**

**Characteristics of violent offenders as reported by victims of hate and nonhate crime victimization, 2011–2015**

Offender characteristic	Hate	Nonhate*
<b>Number of offenders</b>	100%	100%
1	63.4 †	78.0
2 or 3	19.0 †	11.2
4 or more	10.7 †	5.3
Unknown	7.0	5.5
<b>Sex</b>	100%	100%
Male	60.9 ‡	69.0
Female	17.1	19.1
Both male and female <sup>a</sup>	8.6 †	4.6
Unknown	13.3 †	7.4
<b>Race<sup>b</sup></b>	100%	100%
White	37.7 †	53.6
Black	34.3 †	22.2
Other <sup>c</sup>	12.8	11.4
Various races <sup>d</sup>	2.4 †!	0.4
Unknown	12.8	12.4
<b>Age</b>	100%	100%
17 or younger	15.4	17.3
18–29	16.7 †	28.2
30 or older	43.3	36.8
More than one age group	8.5 ‡	4.8
Unknown	16.1	12.8
<b>Relationship to victim</b>	100%	100%
At least casually known	44.4 †	54.8
Stranger	46.0 †	37.2
Unknown	9.6	8.0
<b>Average annual victimizations</b>	212,710 †	5,616,830

Note: Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. See appendix table 14 for standard errors.

\*Comparison group.

†Significant difference from comparison group at 95% confidence level.

‡Significant difference from comparison group at 90% confidence level.

! Interpret with caution. Estimate based on 10 or fewer sample cases, or the coefficient of variation is greater than 50%.

<sup>a</sup>Includes multiple offenders.

<sup>b</sup>White, black, and other race categories exclude persons of Hispanic or Latino origin.

<sup>c</sup>Includes American Indian and Alaska Natives; Asian, Native Hawaiian, and Other Pacific Islanders; and persons of two or more races.

<sup>d</sup>Includes multiple offenders of two or more racial groups.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

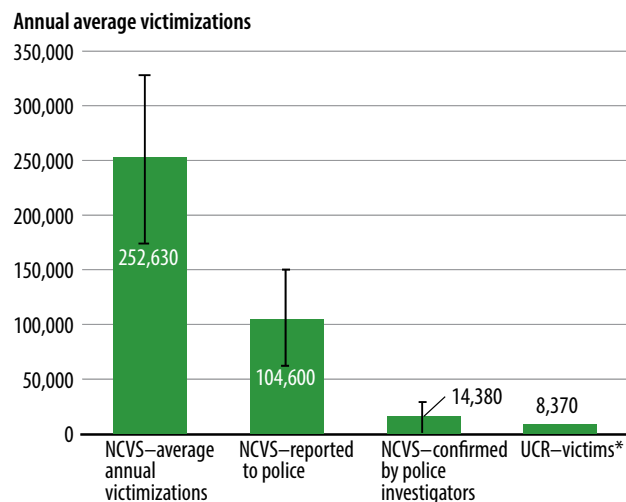
Due to the differences in the scope of the two collections, the overall annual counts of hate crime in the United States are significantly higher based on NCVS data than the UCR program. Based on data from the NCVS during 2003-15, persons age 12 or older experienced an annual average of 252,630 hate crime victimizations, of which about 41% (104,600) were reported to police (figure 5). Of those 104,600, about 14% (14,380) were confirmed by police investigators as hate crimes. The remaining 86% of those reported to police were classified as hate crimes in the NCVS because the offender used hate language or left hate symbols at the crime scene.

The NCVS annual estimate of 14,380 hate crimes confirmed by police investigators as hate crimes was not statistically different from the UCR annual average number of hate crime victims (8,370) during the same period.

### Violent crimes made up 87% of NCVS hate crimes reported to police, but 60% of hate crimes recorded in the UCR program

Another major difference between the two collections is that the NCVS focuses on hate crimes experienced by individuals, while the UCR program also captures hate crimes committed against businesses, religious institutions, other organizations, and society as a whole. The two

**FIGURE 5**  
NCVS and UCR hate crime victimizations, 2003–2015



Note: In the NCVS, crime is classified as hate crime if the victim perceived that the offender was motivated by bias because the offender used hate language, left behind hate symbols, or the police investigators confirmed that the incident was a hate crime. Numbers rounded to the nearest 10. Error bars on NCVS estimates are based on 95% confidence levels. The standard error for average annual victimizations is 38,990; reported to police is 23,326; and confirmed by police investigators is 7,834.

\*Includes murder/nonnegligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, other crimes against persons, robbery, burglary, larceny-theft, motor vehicle theft, arson, destruction/vandalism, other crimes against property, and crimes against society.

Source: Bureau of Justice Statistics, National Crime Victimization Survey (NCVS), 2003–2015; and FBI, Uniform Crime Reporting (UCR) Program, Hate Crime Statistics, 2003–2015.

surveys also measure somewhat different types of crimes. For instance, the UCR program measures homicide and vandalism, while the NCVS does not.

Due to the differences between the two collections, from 2003-15, 87% of NCVS hate crimes reported to police were violent crimes, while 60% of UCR program recorded hate crimes were violent (table 11). Serious violent crime accounted for 31% of NCVS hate crime reported to police, compared to about 13% of UCR hate crime. Vandalism and intimidation, two crimes not measured in the NCVS, accounted for about 60% of UCR hate crime.

During 2003-15, the UCR program also reveals that 100 persons were victims of hate crime homicide (murder or nonnegligent manslaughter) (not shown). This was an average of eight hate crime homicides per year in the United States during this 12-year period. However, in 2015 there were 18 recorded hate crime homicides.

**TABLE 11**  
Hate crime victimizations recorded by the NCVS and UCR, by offense, 2003–2015

Hate crime offense	NCVS			UCR <sup>b</sup>
	Total	Not reported <sup>a</sup>	Reported	
<b>Violent crime</b>	89.0%	90.4%	87.0%	60.2%
Homicide	~	~	~	0.1
Forcible rape <sup>c</sup>	2.3	3.2!	1.3!	0.1
Robbery	6.9	7.1	6.8	1.9
Aggravated assault	18.1	15.0	23.0	10.8
Simple assault	61.7	65.0	55.9	20.0
Intimidation	~	~	~	27.0
Other violent <sup>d</sup>	~	~	~	0.2
<b>Property crime</b>	11.0%	9.6%	13.0%	38.7%
Burglary	4.2	1.0!	8.6	2.1
Larceny-theft <sup>e</sup>	6.8	8.7	4.3	2.7
Motor vehicle theft	--!	--!	0.1!	0.2
Vandalism	~	~	~	32.5
Other property <sup>f</sup>	~	~	~	1.2

Note: In the NCVS, crime is classified as hate crime if the victim perceived that the offender was motivated by bias because the offender used hate language, left behind hate symbols, or the police investigators confirmed that the incident was a hate crime. See appendix table 15 for NCVS standard errors.

--Less than 0.05%.

~Not applicable.

! Interpret data with caution; estimate based on 10 or fewer sample cases, or coefficient of variation is greater than 50%.

<sup>a</sup>Excludes victims who did not know whether the hate crime was reported to police.

<sup>b</sup>Includes murder/nonnegligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, other crimes against persons, robbery, burglary, larceny-theft, motor vehicle theft, arson, destruction/vandalism, other crimes against property, and crimes against society.

<sup>c</sup>The NCVS includes rape and other sexual assault.

<sup>d</sup>Includes offenses other than those listed that are collected as part of the National Incident-Based Reporting System.

<sup>e</sup>Larceny is typically classified as a personal rather than property crime in the NCVS.

<sup>f</sup>Includes arson and offenses other than those listed that are collected as part of the National Incident Based Reporting System.

Source: Bureau of Justice Statistics, National Crime Victimization Survey (NCVS), 2003–2015; and FBI, Uniform Crime Reporting (UCR) Program, Hate Crime Statistics, 2003–2015.

## Methodology

### Survey coverage

The National Crime Victimization Survey (NCVS) is an annual data collection conducted by the U.S. Census Bureau for the Bureau of Justice Statistics (BJS). The NCVS is a self-report survey in which interviewed persons are asked about the number and characteristics of victimizations experienced during the prior 6 months. The NCVS collects information on nonfatal personal crimes (rape or sexual assault, robbery, aggravated and simple assault, and personal larceny) and household property crimes (burglary, motor vehicle theft, and other theft) both reported and not reported to police. In addition to providing annual level and change estimates on criminal victimization, the NCVS is the primary source of information on the nature of criminal victimization incidents.

Survey respondents provide information about themselves (e.g., sex, race, Hispanic origin, age, marital status, education level, and income) and whether they experienced a victimization. For each victimization incident, the NCVS also collects information about the offender (e.g., sex, race, Hispanic origin, age, and victim-offender relationship), characteristics of the crime (including time and place of occurrence, use of weapons, nature of injury, and economic consequences), whether the crime was reported to police, reasons the crime was or was not reported, and victim experiences with the criminal justice system.

The NCVS is administered to persons age 12 or older from a nationally representative sample of households in the United States. The NCVS defines a household as a group of persons who all reside at a sampled address. Persons are considered household members when the sampled address is their usual place of residence at the time of the interview and when they have no usual place of residence elsewhere. Once selected, households remain in the sample for 3 years, and eligible persons in these households are interviewed every 6 months either in person or over the phone for a total of seven interviews.

All first interviews are conducted in person with subsequent interviews conducted either in person or by phone. New households rotate into the sample on an ongoing basis to replace outgoing households that have been in the sample for the 3-year period. The sample includes persons living in group quarters, such as dormitories, rooming houses, and religious group dwellings, and excludes persons living in military barracks and institutional settings such as correctional facilities or hospitals, and persons who are homeless.

### Nonresponse and weighting adjustments

In 2015, 95,760 households and 163,880 persons age 12 or older were interviewed for the NCVS. Each household was interviewed twice during the year. The response rate was 82% for households and 86% for eligible persons.

Victimizations that occurred outside of the United States were excluded from this report. In 2015, less than 1% of the unweighted victimizations occurred outside of the United States and were excluded from the analyses.

Estimates in this report use NCVS data files from 2003 through 2015, weighted to produce annual estimates of victimization for persons age 12 or older living in U.S. households. Because the NCVS relies on a sample rather than a census of the entire U.S. population, weights are designed to inflate sample point estimates to known population totals and to compensate for survey nonresponse and other aspects of the sample design.

The NCVS data files include both person and household weights. Person weights provide an estimate of the population represented by each person in the sample. Household weights provide an estimate of the U.S. household population represented by each household in the sample. After proper adjustment, both household and person weights are also typically used to form the denominator in calculations of crime rates.

Victimization weights used in this analysis account for the number of persons present during an incident and for high-frequency repeat victimizations (i.e., series victimizations). Series victimizations are similar in type but occur with such frequency that a victim is unable to recall each individual event or describe each event in detail. Survey procedures allow NCVS interviewers to identify and classify these similar victimizations as series victimizations and to collect detailed information on only the most recent incident in the series.

The weight counts series incidents as the actual number of incidents reported by the victim, up to a maximum of 10 incidents. Including series victimizations in national rates results in large increases in the level of violent victimization. However, trends in violent crime are generally similar, regardless of whether series victimizations are included. In 2015, series incidents accounted for about 1% of all victimizations and 4% of all violent victimizations. Weighting series incidents as the number of incidents up to a maximum of 10 incidents produces more reliable estimates of crime levels, while the cap at 10 minimizes the effect of extreme outliers on rates. Additional information on the series enumeration is detailed in the report *Methods for Counting High-Frequency Repeat Victimizations in the National Crime Victimization Survey* (NCJ 237308, BJS web, April 2012).

## Standard error computations

When national estimates are derived from a sample, as with the NCVS, caution must be used when comparing one estimate to another estimate or when comparing estimates over time. Although one estimate may be larger than another, estimates based on a sample have some degree of sampling error. The sampling error of an estimate depends on several factors, including the amount of variation in the responses and the size of the sample. When the sampling error around an estimate is taken into account, the estimates that appear different may not be statistically different.

One measure of the sampling error associated with an estimate is the standard error. The standard errors vary from one estimate to the next. Generally, an estimate with a small standard error provides a more reliable approximation of the true value than an estimate with a large standard error. Estimates with relatively large standard errors are associated with less precision and reliability and should be interpreted with caution.

To generate standard errors around numbers and estimates from the NCVS, the Census Bureau produced generalized variance function (GVF) parameters for BJS. The GVFs take into account aspects of the NCVS complex sample design and represent the curve fitted to a selection of individual standard errors based on the Jackknife Repeated Replication technique. The GVF parameters were used to generate standard errors for each point estimate (e.g., counts, percentages, and rates) in this report.

BJS conducted tests to determine whether differences in estimated numbers, percentages, and rates in this report were statistically significant once sampling error was taken into account. Using statistical programs developed specifically for the NCVS, all comparisons in the text were tested for significance. The primary test procedure was the Student's t-statistic, which tests the difference between two sample estimates. Differences described as greater, larger than, or higher passed a test at the 0.05 level of statistical significance (95% confidence level). Findings that passed a test at the 0.10 level of significance are noted in the text (90% confidence level). Caution is required when comparing estimates not explicitly discussed in this report.

Data users can use the estimates and the standard errors of the estimates provided in this report to generate a confidence interval around the estimate as a measure of the margin of error. The following example illustrates how standard errors can be used to generate confidence intervals:

According to the NCVS, in 2015, the violent hate crime victimization rate among persons age 12 or older was 0.7 per 1,000 persons (see table 1). Using the GVFs, it was determined that the estimated victimization rate has a standard error of 0.15 (see appendix table 2). A confidence interval around the estimate was generated by multiplying the standard errors by  $\pm 1.96$  (the t-score of a normal, two-tailed distribution that excludes 2.5% at either end of the distribution). Therefore, the 95% confidence interval around the 0.7 estimate from 2015 is  $0.7 \pm (0.15 \times 1.96)$  or (0.4 to 1.0). In other words, if different samples using the same procedures were taken from the U.S. population in 2015, 95% of the time the violent victimization rate would fall between 0.4 and 1.0 per 1,000 persons.

BJS also calculated a coefficient of variation (CV) for all estimates, representing the ratio of the standard error to the estimate. CVs provide a measure of reliability and a means for comparing the precision of estimates across measures with differing levels or metrics.

## Evidence that hate crimes occurred

For NCVS crimes to be classified as hate crimes, the victim had to report one of three types of evidence that the offender was motivated by bias: (1) the offender used hate language, (2) the offender left hate signs or symbols at the scene, or (3) police investigators confirmed that it was a hate crime. In addition to the three types of evidence that were used to classify incidents as hate crimes, victims may have additional reasons for believing that the victimization was bias-motivated. In addition to these three reasons, victims could have reported that—

- the offender committed similar hate crimes or crimes of bigotry in the past
- the incident occurred on or near a holiday, event, location, gathering place, or building commonly associated with a specific group (e.g., at a gay pride march, synagogue, Korean church, etc.)
- other hate crimes or crimes of prejudice or bigotry happened to the victim or occurred in the neighborhood
- their feelings, instincts, or perception lead them to suspect this incident was a hate crime or crime of prejudice or bigotry, even though there was not enough evidence to know for sure.



During 2011-15, about 83% of hate crime victims offered one or more additional reasons for believing the crime was motivated by hate beyond the type of evidence required for classification. More than 60% had a feeling or instinct that the crime was motivated by hate. Thirty percent reported the offender had previously committed crimes of prejudice or bigotry, and 18% stated that a hate crime had previously happened in the area. About 5% of victims said that the incident occurred near a holiday, event, location, gathering, or building commonly associated with a specific group. Although 7% of hate crimes were confirmed by police investigators, 22% of hate crime victims told police that they believed the incident was a hate crime (not shown).

About 91% of persons who reported these other types of evidence also reported one of the three needed to classify them as a victim of hate crime for the NCVS. If the NCVS standard was relaxed to include these other types of evidence, it would not have a statistically significant impact on the average annual number of hate crime victimizations. During 2011-15, there were about 254,200 hate crime victimizations each year using the expanded evidence categories, which is not statistically different from the 236,100 under the current definition.

**APPENDIX TABLE 1****Estimates and standard errors for figure 1: Violent hate crime victimizations reported and not reported to police, 2004–2015**

Year	Rate			Standard error		
	Total	Not reported	Reported	Total	Not reported	Reported
2004	0.9	0.5	0.4	0.19	0.13	0.11
2005	0.8	0.4	0.4	0.17	0.11	0.10
2006	0.9	0.5	0.4	0.16	0.11	0.10
2007	1.0	0.5	0.4	0.16	0.11	0.09
2008	1.0	0.5	0.4	0.18	0.12	0.10
2009	1.1	0.6	0.4	0.23	0.17	0.13
2010	1.0	0.7	0.3	0.21	0.16	0.10
2011	0.8	0.6	0.2	0.15	0.13	0.06
2012	1.0	0.6	0.3	0.17	0.12	0.09
2013	0.9	0.5	0.3	0.19	0.13	0.10
2014	0.7	0.4	0.3	0.14	0.10	0.08
2015	0.7	0.3	0.4	0.15	0.09	0.10

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2004–2015.

**APPENDIX TABLE 2****Standard errors for table 1: Hate crime victimizations, 2004–2015**

Year	Total		Violent crime			Property crime		
	Number	Percent	Number	Rate	Percent	Number	Rate	Percent
2004	52,925	0.19%	45,235	0.19	0.60%	16,563	0.14	0.08%
2005	43,684	0.16	40,606	0.17	0.57	9,178	0.08	0.05
2006	41,304	0.15	39,155	0.16	0.49	7,903	0.07	0.04
2007	41,808	0.15	38,905	0.16	0.48	10,939	0.09	0.06
2008	47,841	0.19	44,861	0.18	0.64	10,208	0.08	0.06
2009	61,025	0.26	58,627	0.23	0.91	8,907	0.07	0.05
2010	54,876	0.25	52,530	0.21	0.91	9,133	0.07	0.06
2011	42,840	0.19	39,880	0.15	0.69	10,119	0.08	0.06
2012	48,156	0.19	44,941	0.17	0.67	12,029	0.10	0.07
2013	52,884	0.21	48,992	0.19	0.71	11,367	0.09	0.06
2014	40,019	0.18	37,437	0.14	0.61	8,868	0.07	0.06
2015	41,455	0.20	39,429	0.15	0.72	8,055	0.06	0.05

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2004–2015.

**APPENDIX TABLE 3****Standard errors for figure 2: Victim's perception of bias in hate crime victimizations, 2011–2015**

Offender bias	Standard error
Race	3.81%
Ethnicity	3.57
Gender	3.35
Association	3.02
Sexual orientation	3.00
Religion	2.65
Disability	2.56
Perceived characteristics	1.66

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

## APPENDIX TABLE 4

### Estimates and standard errors for figure 3: Victims' perception of bias in hate crime victimizations, 2007–2015

Year	Estimate						Standard error					
	Disability	Religion	Sexual orientation	Gender	Ethnicity	Race	Disability	Religion	Sexual orientation	Gender	Ethnicity	Race
2007	10.5%	11.8%	15.4%	14.7%	29.3%	62.4%	1.73%	1.85%	2.10%	2.06%	2.78%	3.13%
2008	8.7	13.9	14.4	17.2	27.4	59.3	1.90	2.40	2.44	2.65	3.23	3.75
2009	10.1	15.2	14.2	15.6	31.1	58.0	2.42	2.96	2.87	3.00	4.02	4.49
2010	12.5	16.8	17.1	14.6	29.5	57.1	2.46	2.84	2.87	2.66	3.62	4.14
2011	13.9	20.5	18.0	17.9	30.5	54.1	2.50	3.01	2.82	2.82	3.54	4.01
2012	12.4	23.1	18.4	19.9	35.9	48.5	2.26	3.01	2.73	2.82	3.53	3.76
2013	15.4	20.9	20.2	22.4	37.3	52.7	2.88	3.33	3.28	3.44	4.15	4.40
2014	17.7	19.5	21.1	29.5	33.5	50.8	2.35	2.45	2.54	2.91	3.04	3.33
2015	15.6	16.7	22.1	29.3	35.4	48.1	2.56	2.65	3.00	3.35	3.57	3.81

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2007–2015.

## APPENDIX TABLE 5

### Standard errors for table 2: Victims' evidence that a hate crime occurred, 2011–2015

Type of evidence	Percent
Hate language	0.91%
Hate symbols	1.49
Confirmed by police investigators	1.70

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

## APPENDIX TABLE 6

### Standard errors for Table 3: Hate and nonhate crime victimizations, by type of crime, 2011–2015

Type of crime	Hate	Nonhate
<b>Violent crime</b>	2.37%	0.70%
Rape or sexual assault	0.92	0.11
Robbery	1.56	0.16
Aggravated assault	2.19	0.20
Simple assault	3.67	0.55
<b>Personal larceny</b>	0.27%	0.06%
<b>Property crime</b>	2.12%	0.52%
Household burglary	0.85	0.30
Motor vehicle theft	0.21	0.12
Theft	1.90	0.58
<b>Average annual victimizations</b>	40,935	561,896

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

## APPENDIX TABLE 7

### Estimates and standard errors for figure 4: Type of crime experienced in hate and nonhate violent victimizations, 2011–2015

Type of violent crime	Estimate		Standard error	
	Hate	Nonhate	Hate	Nonhate
Rape or sexual assault	2.8%	5.6%	1.02%	0.42%
Robbery	9.2	11.0	1.72	0.56
Aggravated assault	19.6	16.9	2.39	0.69
Simple assault	68.4	66.5	3.67	1.25

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

## APPENDIX TABLE 8

### Standard errors for table 4: Presence of weapons and injuries sustained in violent hate and nonhate crime victimizations, 2006–2015

	Hate	Nonhate
<b>Presence of weapon</b>	2.25%	0.69%
Firearm	0.99	0.38
<b>Any injury sustained</b>	2.18%	0.76%
<b>Average annual victimizations</b>	37,725	312,482

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2006–2015.

## APPENDIX TABLE 9

### Standard errors for table 5: Hate and nonhate crime victimizations, by location, 2011–2015

Location	Hate	Nonhate
At or near victim's home	3.66%	0.57%
At or near a friend's or relative's home	1.19	0.19
Commercial place	2.45	0.22
Parking lot, on street, or on public transportation	3.10	0.37
School	2.40	0.24
Other	1.57	0.23
<b>Average annual victimizations</b>	40,935	561,896

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

## APPENDIX TABLE 10

### Standard errors for table 6: Police-related actions taken in hate and nonhate crime victimizations, 2011–2015

Police-related action	Total		Violent crime	
	Hate	Nonhate	Hate	Nonhate
<b>Reported</b>	3.73%	0.54%	3.88%	1.30%
By victim	5.03	0.73	5.34	1.65
By someone else	4.81	0.67	5.14	1.56
Complaint signed	4.84	0.62	5.08	1.52
Arrest made	3.19	0.53	3.15	1.40
<b>Not reported</b>	3.83%	0.57%	3.98%	1.32%
<b>Average annual victimizations</b>	40,935	561,896	38,387	330,495

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

**APPENDIX TABLE 11**

**Standard errors for table 7: Most important reason why victimization was not reported to police, 2011–2015**

Most important reason	Total hate	Violent	
		Hate	Nonhate
Handled another way	4.72%	4.99%	1.51%
Not important enough	3.64	3.88	1.09
Police could not do anything	1.90	1.46	0.34
Police would not help	3.48	3.44	0.94
Other	3.45	3.69	1.37

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

**APPENDIX TABLE 12**

**Standard errors for table 8: Characteristics of violent hate crime victims, 2011–2015**

Victim characteristic	Percent		Rate	
	Hate	Nonhate	Hate	Nonhate
<b>Sex</b>			0.08	0.76
Male	3.98%	1.31%	0.11	0.95
Female	3.96	1.31	0.10	0.89
<b>Race/Hispanic origin</b>				
White	3.98%	1.30%	0.08	0.84
Black	2.58	0.79	0.19	1.56
Hispanic	3.27	0.78	0.21	1.24
Other	1.85	0.54	0.23	1.78
<b>Age</b>				
12–17	2.79%	0.86%	0.28	2.23
18–24	2.63	0.90	0.21	1.94
25–34	2.33	0.96	0.13	1.52
35–49	3.47	1.02	0.16	1.18
50–64	3.31	0.84	0.14	0.91
65 or older	0.95	0.32	0.05	0.44
<b>Household income</b>				
\$24,999 or less	3.60%	1.11%	0.26	2.07
\$25,000–\$49,999	2.57	0.92	0.12	1.20
\$50,000 or more	3.43	1.10	0.10	0.84
Not reported	3.33	1.00	0.12	0.94

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

**APPENDIX TABLE 13**

**Standard errors for table 9: Region and location of residence of violent hate crime victims, 2011–2015**

Region	Percent		Rate	
	Hate	Nonhate	Hate	Nonhate
Northeast	2.60%	0.88%	0.13	1.23
Midwest	3.05	1.01	0.13	1.19
South	2.89	1.15	0.08	0.93
West	3.94	1.08	0.21	1.27
<b>Location of residence</b>				
Urban	3.96%	1.24%	0.15	1.16
Suburban	3.94	1.31	0.09	0.88
Rural	1.78	0.74	0.10	1.16

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

**APPENDIX TABLE 14**

**Standard errors for table 10: Characteristics of violent offenders as reported by victims of hate and nonhate crime, 2011–2015**

Offender characteristic	Hate	Nonhate
<b>Number of offenders</b>		
1	3.89%	1.14%
2 or 3	2.92	0.68
4 or more	2.22	0.44
Unknown	1.78	0.45
<b>Sex</b>		
Male	3.93%	1.26%
Female	2.79	0.91
Both male and female	1.98	0.40
Unknown	2.48	0.53
<b>Race</b>		
White	3.78%	1.32%
Black	3.68	0.99
Other	2.43	0.69
Various races	1.02	0.09
Unknown	2.43	0.72
<b>Age</b>		
17 or younger	2.66%	0.87%
18–29	2.76	1.10
30 or older	3.90	1.22
More than one age group	1.98	0.41
Unknown	2.71	0.74
<b>Relationship to victim</b>		
At least casually known	3.92%	1.32%
Stranger	3.94	1.22
Unknown	2.10	0.56
<b>Average annual victimizations</b>	38,387	330,495

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2011–2015.

**APPENDIX TABLE 15**

**Standard errors for table 11: Hate crime victimizations recorded by the NCVS and UCR, by offense, 2003–2015**

Hate crime offense	NCVS		
	Total	Not reported	Reported
<b>Violent crime</b>	1.52%	1.78%	2.29%
Homicide	~	~	~
Forcible rape	0.53	0.80	0.58
Robbery	0.83	1.07	1.21
Aggravated assault	1.28	1.48	2.05
Simple assault	2.24	2.73	3.20
Intimidation	~	~	~
Other	~	~	~
<b>Property crime</b>	1.42%	1.75%	2.33%
Burglary	0.73	0.46	1.59
Larceny/theft	1.15	1.70	1.41
Motor vehicle theft	~	~	0.18
Vandalism	~	~	~
Other property	~	~	~

~Not applicable.

Source: Bureau of Justice Statistics, National Crime Victimization Survey (NCVS), 2003–2015.



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable and valid statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. Jeri M. Mulrow is acting director.

This report was written by Madeline Masucci and Lynn Langton. Barbara Oudekerk verified the report. Caitlin Scoville and Jill Thomas edited the report. Tina Dorsey produced the report.

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# Hate Crime Statistics

Briefing prepared for the Virginia Advisory Committee, U.S. Commission on Civil Rights,  
*Panel 1: Hate Crime History in VA, Current Legal Framework, Enforcement and Data*

Barbara Oudekerk, PhD  
Bureau of Justice Statistics

March 29, 2019



BUREAU OF JUSTICE STATISTICS

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# 2 Federal Sources of Data on Hate Crime

## **FBI's Hate Crime Statistics Program**

- Part of the Uniform Crime Reporting (UCR) Program
- Hate crime data compiled from law enforcement agencies since 1990s

## **Bureau of Justice Statistics' National Crime Victimization Survey (NCVS)**

- Nationally representative, household-based survey administered by the U.S. Census Bureau
- Hate crime data collected since 2003

Both sources define hate crime according to the **Hate Crime Statistics Act**

- Motivated by bias against the victim due to his or her race, ethnicity, gender or gender identity, sexual orientation, religion or disability

# NCVS Definition of Hate Crime

Victim believes the victimization was a hate crime, and he or she was targeted due to:

- Race
- Ethnicity
- Religion
- Sexual orientation
- Disability
- Gender
- Association with a group identified by one of these characteristics (*e.g., multi-racial couple*)
- Offender's perception that the victim belonged to a group identified by these characteristics (*e.g., perceived as Jewish because at a synagogue*)

Victim has corroborating evidence of hate motivation:

- Offender used language that made them suspect the incident was a hate crime
- Offender left hate symbols -OR-
- Victim reported that the police investigation confirmed that a hate crime occurred

Includes hate crimes reported and NOT REPORTED to police



# NCVS vs. FBI's UCR Hate Crime Statistics

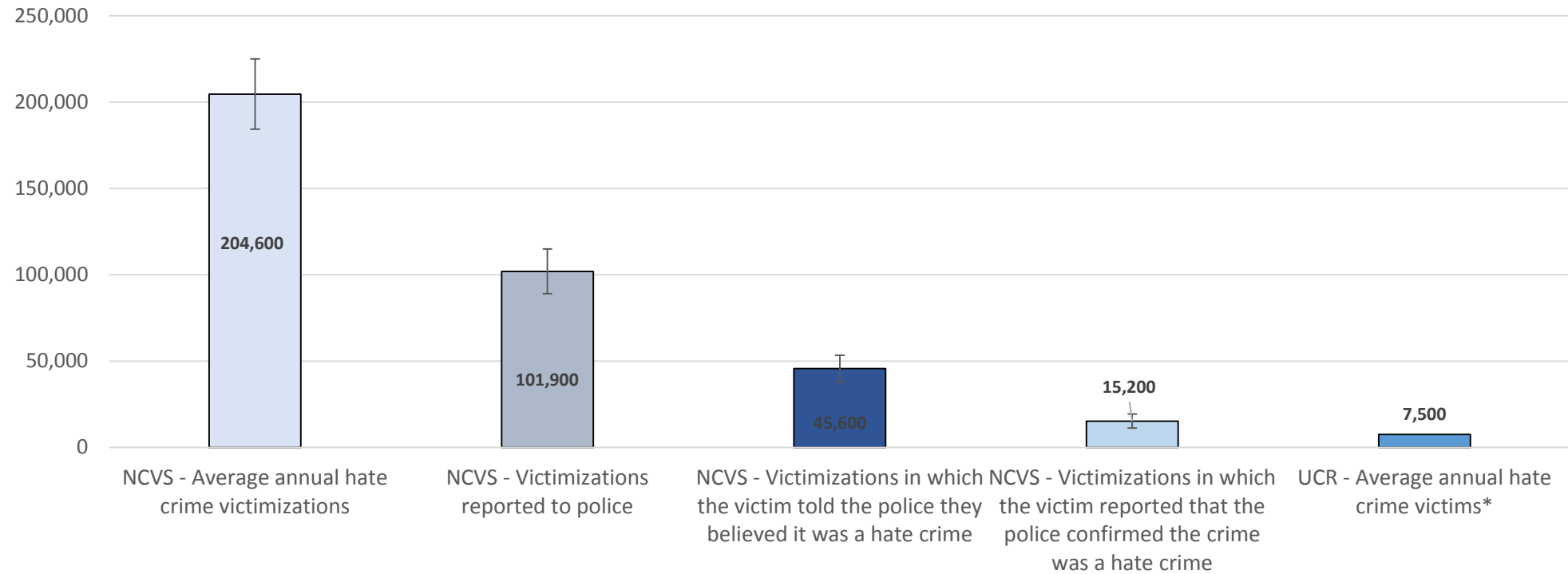
## Victimization Survey - NCVS

- Includes hate crime incidents and victimizations reported and not reported to police
- Based on victim perceptions and crime scene evidence; not necessarily recorded as hate-motivated by investigators
- Captures hate crimes against persons 12 or older
- Does not include businesses or organizations, institutionalized populations, or persons in military barracks

## Police Data - UCR

- Based on law enforcement agency reports and classification
- Includes hate crime offenses, incidents, and offenders reported to police
- Includes homicide, arson, vandalism
- Captures offenses against all persons, regardless of age
- Captures hate crimes against organizations, businesses, institutions, schools, and religious facilities

# Figure 1. NCVS and UCR Hate Crime Statistics, 2013-2017

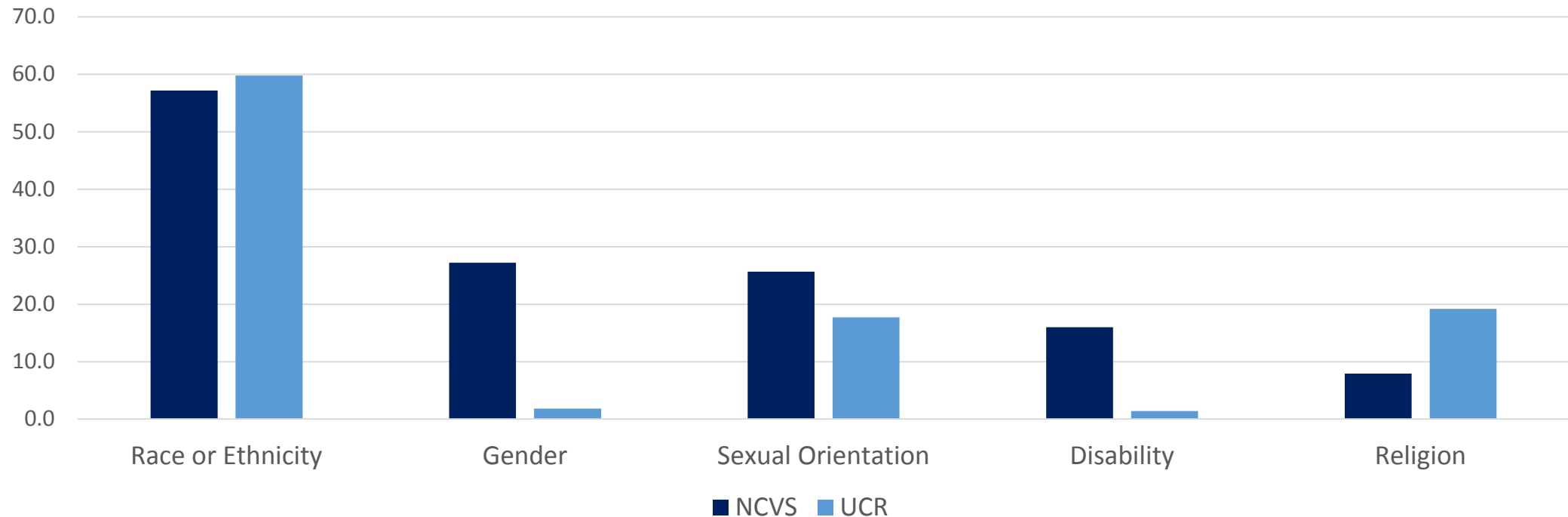


Note: In the NCVS, crime is classified as hate crime if the victim perceived that the offender was motivated by bias because the offender used hate language, left behind hate symbols, or the police investigators confirmed that the incident was a hate crime. Numbers rounded to the nearest 100. Error bars on NCVS estimates are based on 95% confidence levels. See appendix table 1 for standard errors.

\*Includes victims who experienced murder/nonnegligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, other crimes against persons, robbery, burglary, larceny-theft, motor vehicle theft, arson, destruction/vandalism, other crimes against property, and crimes against society.

Source: Bureau of Justice Statistics, National Crime Victimization Survey (NCVS), 2013–2017; and FBI, Uniform Crime Reporting (UCR) Program, Hate Crime Statistics, 2013–2017.

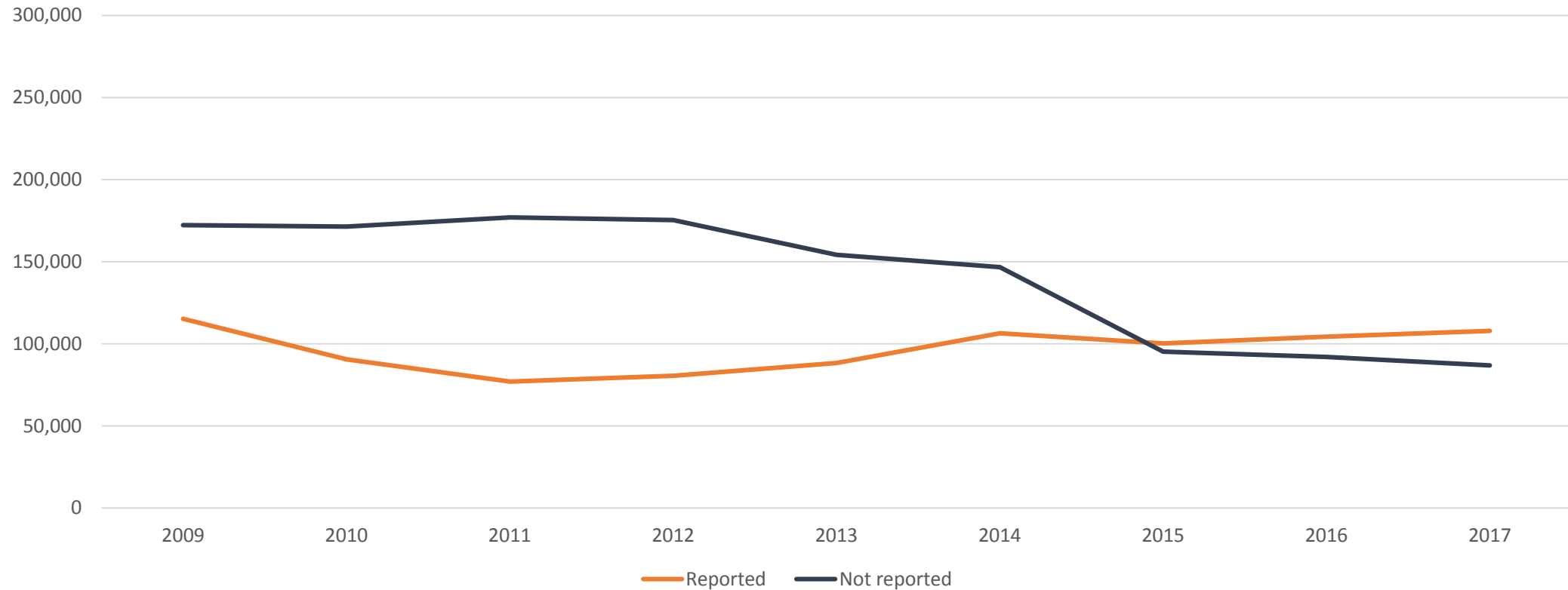
# Figure 2. Percent of hate crime victimizations by type of bias in the NCVS and UCR, 2013-2017



Note: In the NCVS, hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Detail might not sum to total due to victims reporting more than one type of bias motivating the hate-related victimizations. In the UCR, hate crime includes victims of single-bias incidents who experienced murder/nonnegligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, other crimes against persons, robbery, burglary, larceny-theft, motor vehicle theft, arson, destruction/vandalism, other crimes against property, and crimes against society. About 1.5% of all hate crime victims reported multiple-bias incidents in the UCR. See appendix table 2 for estimates and standard errors.

Source: Bureau of Justice Statistics, National Crime Victimization Survey (NCVS), 2013-2017; FBI, Uniform Crime Reporting Program, Hate Crime Statistics, 2013-2017.

# Figure 3. Number of hate crime victimizations reported and not reported to police, 2009-2017



Note. Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Estimates based on 3-year rolling averages. See appendix table 3 for estimates and standard errors.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2009-2017.

## **Contact Information**

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Appendix table 1. Estimates and standard errors for Figure 1 NCVS and UCR hate crime victimizations, 2013-2017

	Estimate	Standard error	95% confidence interval	
			Lower bound	Upper bound
NCVS - Average annual hate crime victimizations	204,600	20,347	184,269	224,962
NCVS - Victimization reported to police	101,900	12,954	88,991	114,899
NCVS - Victimization in which the victim told the police they believed it was a hate crime	45,600	7,821	37,775	53,417
NCVS - Victimization in which the victim reported that the police confirmed the crime was a hate crime	15,200	4,055	11,186	19,297
UCR - Average annual hate crime victims*	7,500	--		

Note: In the NCVS, crime is classified as hate crime if the victim perceived that the offender was motivated by bias because the offender used hate language, left behind hate symbols, or the police investigators confirmed that the incident was a hate crime. Numbers rounded to the nearest 100. Error bars on NCVS estimates are based on 95% confidence levels.

\*Includes victims who experienced murder/nonnegligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, other crimes against persons, robbery, burglary, larceny-theft, motor vehicle theft, arson, destruction/vandalism, other crimes against property, and crimes against society.

-- Not applicable.

Source: Bureau of Justice Statistics, National Crime Victimization Survey (NCVS), 2013–2017; and FBI, Uniform Crime Reporting (UCR) Program, Hate Crime Statistics, 2013–2017.

Appendix table 2. Estimates and standard errors for Figure 2 Percent of hate crime victimizations by type of bias in the NCVS and UCR, 2013-2017

Type of bias	UCR <sup>a</sup>	NCVS <sup>b</sup>	NCVS 95% confidence interval	
			Lower bound	Upper bound
Race or ethnicity	59.8	57.2	53.3	61.1
Gender	1.8	27.2	23.8	30.6
Sexual orientation	17.7	25.7	22.4	29.0
Disability	1.4	16.0	13.3	18.7
Religion	19.2	7.9	6.0	9.8

<sup>a</sup>In the UCR, hate crime includes victims of single-bias incidents who experienced murder/nonnegligent manslaughter, forcible rape, aggravated assault, simple assault, intimidation, other crimes against persons, robbery, burglary, larceny-theft, motor vehicle theft, arson, destruction/vandalism, other crimes against property, and crimes against society. About 1.5% of all hate crime victims reported multiple-bias incidents in the UCR.

<sup>b</sup>In the NCVS, hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Detail might not sum to total due to victims reporting more than one type of bias motivating the hate-related victimizations.

Source: Bureau of Justice Statistics, National Crime Victimization Survey (NCVS), 2013-2017; FBI, Uniform Crime Reporting Program, Hate Crime Statistics, 2013-2017

Appendix table 3. Estimates and standard errors for Figure 3 Number of hate crime victimizations reported and not reported to police, 2009-2017

	Total	Estimates		Total	Standard errors	
		Reported	Not reported		Reported	Not reported
2009	287,700 ‡	115,300	172,400 †	40,604	22,125	28,823
2010	261,800	90,500	171,400 †	36,801	18,402	27,817
2011	255,300	77,000	177,000 †	34,122	15,328	26,625
2012	268,000 ‡	80,500	175,400 †	31,156	14,159	23,498
2013	254,900	88,400	154,300 †	34,726	17,316	24,881
2014	266,000 ‡	106,500	146,700 †	28,919	15,896	19,558
2015	197,600	100,300	95,300	26,686	17,091	16,538
2016	200,100	104,400	92,100	26,607	17,564	16,234
2017*	197,700	107,900	86,900	24,008	16,366	14,306

Note. Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Estimates based on 3-year rolling averages.

\*Comparison group.

‡Significant difference from comparison group at 90% confidence level.

†Significant difference from comparison group at 95% confidence level.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2009-2017.



Appendix table 4. Percent of hate crime victimizations reported and not reported to police, 2009-2017

	Estimates			Standard errors	
	Total	Reported	Not reported	Reported	Not reported
2009	100 %	40.1 %†	59.9 %†	5.21 %	5.37 %
2010	100	34.5 †	65.5 †	5.08	5.31
2011	100	30.1 †	69.3 †	4.45	4.79
2012	100	30.0 †	65.4 †	3.97	4.36
2013	100	34.7 †	60.5 †	4.88	5.22
2014	100	40.0 †	55.2 ‡	4.10	4.25
2015	100	50.7	48.2	5.28	5.26
2016	100	52.2	46.0	5.37	5.32
2017*	100	54.6	44.0	4.96	4.88

Note. Detail might not sum to total due to missing data and rounding. Hate crime includes incidents confirmed by police as bias-motivated and incidents perceived by victims to be bias-motivated because the offender used hate language or left behind hate symbols. Estimates based on 3-year rolling averages.

\*Comparison group.

‡Significant difference from comparison group at 90% confidence level.

†Significant difference from comparison group at 95% confidence level.

Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2009-2017.

**RE: Testimony in Support of HB 1443**

Greetings Chairman Klemin and members of the Committee,

I am Brandi Hardy, the Legislative Coordinator for the North Dakota Human Rights Coalition.

We are here in support of HB 1443. A bill that would standardize training and reporting for peace officers responding to bias crimes, aggravated assault, harassment, and criminal mischief.

A bias crime, sometimes known as a hate crime, is defined by the FBI as a 'criminal offense against a person or property motivated in whole or in part by an offender's bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.' HB 1443 mimics much of this language with its definition from section 5, lines 26 - 31. According to Hate Crime Victimization Report, 90% of hate crimes involved violence, with 29% of those resulting in rape or sexual assault, robbery, and aggravated assault. Overall, hate crimes accounted for a higher rate of violence, than non-hate crimes.

HB 1443 would add comprehensive, fully-inclusive bias crime protections to North Dakota law. Sending a strong message that hatred and prejudice are not North Dakota values. That everyone is welcome here and should be able to live their lives free from the threat of bias-motivated crimes.

At first glance, ND hate crime reports look relatively low. However, when we start cross referencing two national sources, we can see there are gaps in our state's reporting.

The first of these sources is the FBI's Uniform Crime Reporting (UCR). Data collection is based on law enforcement agency reports and classifications. They capture offenses against all persons, regardless of age, and hate crimes against organizations, businesses, schools, and religious facilities.

The second source is the National Crime Victimization Survey (NCVS). Data collected is based on hate crimes reported and not reported to law enforcement agencies. It captures offenses against persons 12 or older but does not include properties.

In 2019, ND reported 18 bias motivated crimes statewide. This is out of a population of 760,000 people. That number equals 2.4 hate crimes per 100,000 persons.

But if we look at 2015 NCVS, which is the most recent data available, we see the national average being closer to 70 crimes per 100,000 persons over the age of 12. Meaning, the

**Brandi Hardy**  
**Legislative Coordinator**  
**NDHRC**  
**February 8th, 2021**

national estimate is about 29 times higher than reported cases in ND. By using this data, ND could have expected approximately 446 hate crime cases in 2019. Simply put, we are greatly underreported in ND.

How have bias crimes gone so under-reported? A lot of that has to do with our inconsistency. If we look at 2019 as an example, there were 109 participating agencies with only 12 reporting bias-motivated crimes. This could be due to the training each department is receiving and the perception of the crime from the peace officer. Through HB 1443, ND would establish the framework from subjective reporting to objective reporting.

HB 1443 will allow us to start destigmatizing biases we have in North Dakota. This is the same thing we did as a state when we started addressing human trafficking. Legislation was introduced and passed to create consistencies in services for survivors and track trends in our state. By passing HB 1443, we are protecting ALL residents who love to call ND home.

I urge the committee to vote DO PASS on HB 1443.

Thank you for your time. I stand for questions.

Brandi Hardy  
Legislative Coordinator  
[brandihardy60@gmail.com](mailto:brandihardy60@gmail.com)

#5767



**67th Legislative Assembly, House Judiciary Committee  
Public Hearing on House Bill 1443  
February 8th, 2021**

Good Morning. My name is Kelly Gorz and I am the Associate Director of High Plains Fair Housing Center, a private nonprofit with the mission to strengthen communities and ensure equal access to housing across North Dakota. On behalf of High Plains Fair Housing Center and myself, I would like to thank Chairman Klemin and the House Judiciary Committee for the opportunity to speak today in support of HB1443.

Our mission is to strengthen communities and to ensure equal access to fair housing in the region through training, education, enforcement, and advocacy. Fair Housing is a right protected by federal and state laws. Fair Housing means you may freely choose a place to live without regard to your race, color, religion, sex, national origin, or because you are disabled or have children in your family and in North Dakota because you are on public assistance, because of your age, or marital status. Nationwide, fair housing centers play a key role in responding to (bias) hate crimes because of the alarming statistic that more than 30% of all (bias) hate crimes happen at or near a person's home.

Importantly, when a bias-motivated crime is committed, often, the victim's entire community is left feeling victimized, vulnerable, fearful, isolated, and unprotected by the law. The impact of bias-motivated crime is far greater than the already terrible impact on the individual. The damage to the very fabric of a community where a hate crime has occurred must also be taken into account. Hate crimes in effect, create a kind of public injury because they rapidly erode public confidence in being kept free and safe from these crimes. To that extent, crimes of this nature can traumatize entire communities.

North Dakota is one of only five states in the nation that does not currently have bias crime laws in place. There are five general types of hate crime statute classifications: penalty enhancement; independent offense; data collection; training; and civil action, remedies, or commission development. The states with the broadest and comprehensive protections against hate crime have a combination of all five of these statute classifications. High Plains Fair Housing Center has produced a research report that has been emailed to the committee members for their reference with regard to various bias crime legislation that is in place nationwide.

Bias crimes hurt all levels of a community and this is the time for North Dakota to convey that it will not tolerate crimes that intentionally send a message of fear to our neighbors. Now is the time to address this important need in our community.

Thank you for your time.

[www.highplainsfhc.org](http://www.highplainsfhc.org)

High Plains Fair Housing Center | [info@highplainsfhc.org](mailto:info@highplainsfhc.org)  
PO Box 5222 | Grand Forks, ND 58206 | 701-203-1077

Nothing in this letter is legal advice, for legal advice please see an attorney.

#5780

My name is Wess Philome, and I am an activist based out of Fargo, North Dakota, a place that I have called home for about 15 years. I would like to advocate my position, which is in support of HB1443. After the death of George Floyd, my call to action grew stronger. During this time, I would begin to face a rapid increase of threats to myself and others who worked alongside of me. At one point, death threats were almost received daily. I remember on two separate occasions I left my house only to see the same man in the same truck parked outside of my residence at 8 a.m. in the morning. The first time he drove off, a week later he stayed to insure that I saw him. While continuing to advocate for change there were many more incidents that struck deep to my core. I would come to learn that North Dakota did not have a bias crime law to deter those motivated by hate. Over the past 4 months we have worked diligently to draft a bill that would see to protect all people in our community from those motivated by hate. A focus was also placed on making sure that our law enforcement officers were properly trained to identify and track such crimes. This collaborative effort showed what it means to be North Dakota Legendary. It truly showed what we can accomplish when we come together. I hope that for the sake of better protecting all who call our great state home, that we can see HB1443 drafted into law. Thank you for your consideration.

February 8th, 2021  
House Judiciary Committee  
HB 1443  
Rep. Lawrence R. Klemin, Chair

Chairman Klemin and the House Judiciary Committee, I am Jason Ziegler. I am currently the Chief of Police for the City of Mandan and a current sitting North Dakota P.O.S.T. Board member. I come before you as a law enforcement officer of almost 31 years and have also been a certified law enforcement trainer in two states.

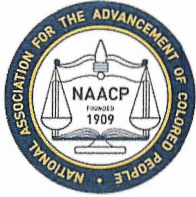
I appear today in opposition as written to HB 1443.

I first want to state that I am for any training that will make our communities safer and law enforcement better equipped to serve them. I also want to thank the Bill sponsor for starting this necessary discussion.

My opposition as written to HB1443 is for the following reasons:

- POST Board is not designed to provide the training, the trainers or write the curriculum for courses. We are designed to review applicants for licenses, review request for funding, review curriculum for POST credits for recertification and to review adverse actions against licenses police officers. To add the responsibilities of providing annual training would require personnel to do so.
- With annual training will have a fiscal cost to every department which may require agencies to pay officers overtime to attend training.
  - There is a concern that a set curriculum across the state for law enforcement may be difficult do to resources vary from city to city and county to county based on location and financial abilities.
    - An annual 2hr Refresher may be more appropriate. For example Mandan PD subscribes to the Police One Academy which has a 2hr virtual course that would provide easy access to the training and the Officers would receive POST Credit for the training.
- 12-63-04.3.a.(2)&(3) which states peace officers understand and assist a victim of a bias based crime and provide instruction on the laws dealing with bias crimes and legal rights of and the remedies available to a victim of bias crime incidents. Law enforcement does this already under Marsy's Law.
- 12-63-04.3.a.(4) Illustrate proper techniques and methods to handle a bias crime incident in a non-combative manner. This implies that the police is combative when handling bias based crimes. I am not sure what the reason for this section is.
  - Each officer is held to the Peace Officers Code of Conduct (109-02-05-01.4.g.) which states: To engage in illegal harassment or intimidation of another individual, or to condone acts of illegal harassment or intimidation by other police officers.
- The bi-annual reporting seems redundant and agencies are already reporting all the requested information on our Uniformed Crime Reports annually.

In closing as I stated above I believe that this is a good starting point and it's important that law enforcement leadership work with the Bill's sponsor so that we can address making a Bill that will benefit our communities and give clear direction to law enforcement.



**WASHINGTON BUREAU · NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE**

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#5888

**STATE-BY-STATE HATE CRIME LAWS**

STATE	Criminalizes interference with religious worship	Penalty Enhancement for crimes motivated by race, religion, or ethnicity	Penalty Enhancement for crimes motivated by sexual orientation	Penalty Enhancement for crimes motivated by gender	Penalty Enhancement for crimes motivated by gender identity	Penalty Enhancement for crimes motivated by disability	Penalty Enhancement for crimes motivated by political affiliation	Penalty Enhancement for crimes motivated by age
Alabama		X				X		
Alaska		X		X		X		
Arizona		X	X	X		X		
Arkansas	X							
California	X	X	X	X	X	X	X	X
Colorado		X	X		X	X		
Connecticut		X	X	X	X	X		
Delaware		X	X	X	X	X		
D.C.	X	X	X	X	X	X	X	X
Florida	X	X	X			X		X
Georgia								
Hawaii		X	X	X	X	X		X
Idaho	X	X						
Illinois		X	X	X	X	X		
Indiana								
Iowa		X	X	X		X	X	X
Kansas		X	X					X
Kentucky		X	X					
Louisiana		X	X	X		X	X	X
Maine		X	X	X		X		X
Maryland	X	X	X	X	X	X		
Massachusetts	X	X	X		X	X		
Michigan	X	X		X				



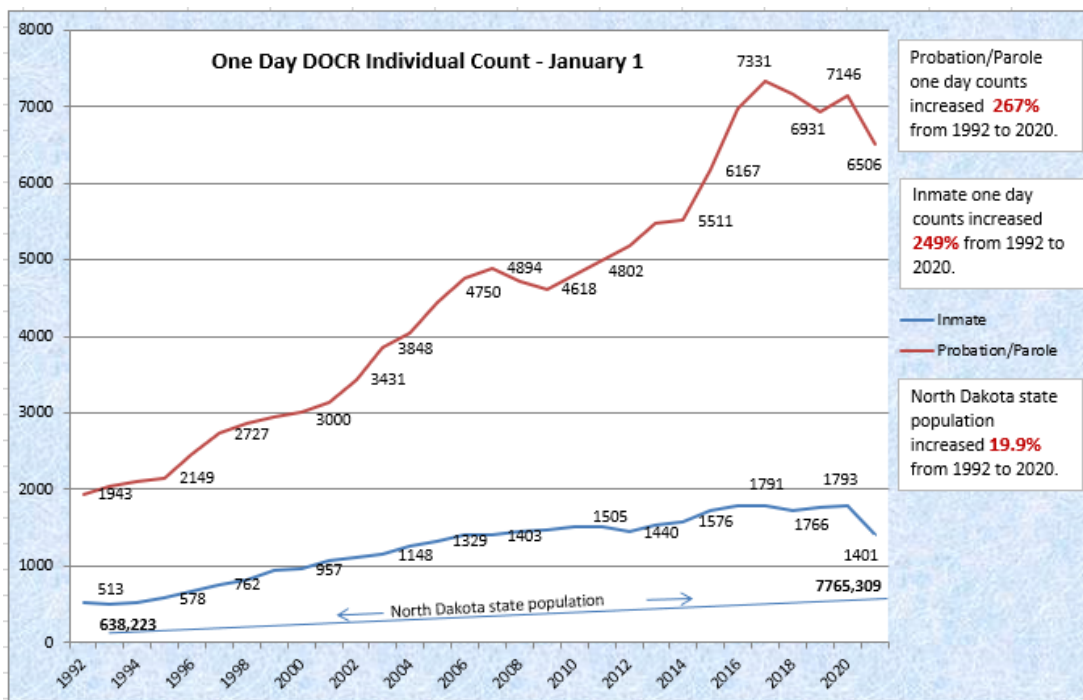


HOUSE JUDICIARY COMMITTEE  
REPRESENTATIVE LAWRENCE KLEMIN, CHAIRMAN  
FEBRUARY 8, 2021

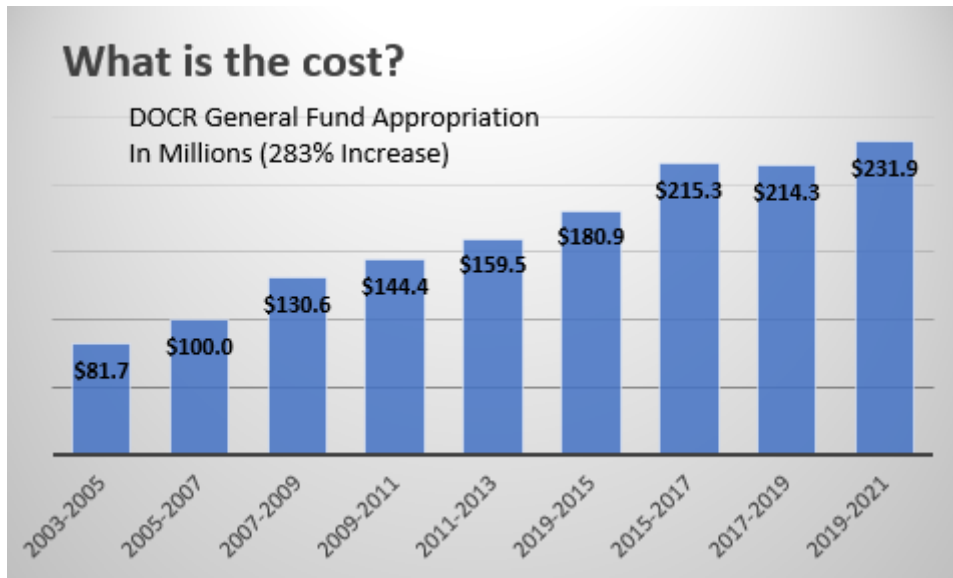
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**PATRICK N. BOHN, DIRECTOR FOR NORTH DAKOTA PAROLE & PROBATION,  
NORTH DAKOTA DEPARTMENT OF CORRECTIONS & REHABILITATION  
PRESENTING TESTIMONY RE: HB 1443**

My name is Pat Bohn and I am the Director for North Dakota Parole and Probation, a division of North Dakota Department of Corrections and Rehabilitation (DOCR). I am here to testify neutral on behalf of the department on HB 1443.

We support the efforts of the bill to promote bias training for law enforcement and even working to gather data on bias driven crime; however, we have concerns about the penalty enhancement provisions as well as the data collection requirements. The department has generally sought to educate policymakers on criminal penalty expansion or enhancements. We are not aware of any evidence indicating that carving



ut and adding or enhancing criminal penalties for the very broad range of bias will result in neutralizing assaults or aggressive behavior stemming from bias. It is these types of enhancements that incrementally



contribute to the growth in not only corrections but our broader criminal justice system. It also has life-long implications to those convicted of a Felony. According to the data of the [National Inventory of Collateral Consequences of Conviction](#), North Dakota has 542 collateral consequences to a conviction compiled in century and administrative code. If you enact such a policy, I'd encourage you to establish baseline data and performance measures that could be revisited by future legislatures to determine whether the penalties are neutralizing or reducing the behavior that you aim to change. I want to be clear that by no means are we condoning these types of behaviors.

In closing we understand the concerns and issues this bill is attempting to address but carving out more special groups and creating new or enhancing criminal penalties will likely not improve the issue and only serve to further grow the criminal justice system and possibly produce unintended collateral consequences to a felony

conviction. We also respect your decision and will execute our responsibilities accordingly. If you have any questions, I'd be glad to try and answer them.

# City of Minot

To: House Judiciary Committee      Police Department  
Re: HB1443 – Support if Amended

Committee Members,

I would like to address the following concerns with House Bill 1443 as presented for consideration. I speak to you against this bill as written, but I would support if the following changes were made. In concept, this bill sets the foundation for law enforcement to have better, more consistent training, enforcement, and tracking of bias related (hate) crimes in our communities. I am currently the Chief of Police for Minot Police Department and I have 26 years of service as a sworn officer with our department. In addition, I speak from my experience and current appointment as Chairman for the North Dakota Peace Officer Standards and Training Board.

My main concerns with this bill are as follows:

- I use my experience on the POST Board to speak to the fact that they are not the “trainers”, but they would be the agency that would approve the curriculum for the training.
  - The Board is made up of nine members from various agencies across the state and only has two permanent employees assigned. Only one of these employees is a certified instructor for the State of ND. This is not their only area of responsibility as they also have oversight of the State’s 24/7 program.
- If there is a training requirement, how do the various agencies fund this training effort for their departments. This concern includes the training time commitment the small agencies face when they do not have an instructor for the topic.
- Two points of concern under the outline provided on what the training must cover:
  - (3) Provide instruction on... the remedies available to, a victim of a bias crime.
    - The concern is that they are talking about a set curriculum across the state for all law enforcement. I know the resources available to victims of certain crimes are different from city to city and would not be available in some rural counties.
  - (4) Illustrate proper techniques and methods to handle a bias crime incident in a noncombative manner.
    - I am unsure what this item relates to in the training curriculum, but I read it to mean we need training to ensure we are not “combative” when dealing with victims of bias related offenses.
- This bill currently only addresses enhancements in 2 of the 3 crimes written into the bill.
  - 12.1-17-02 Aggravated Assault – under (e) it would make any assault based on the actual or perceived bias as listed a C felony.
    - If the assault is based on bias and I cause serious bodily injury it remains a C felony and there is no enhancement.
  - 12.1-21-05 Criminal Mischief – as written enhances a b-misdemeanor to a B felony for any damage to property for one of the bias listed in the definition.
    - Based on this rationale, it is more serious to damage the property of another person than it is to physically assault them.

★ *The Magic City* ★

- 12.1-17-07 Harassment – confirms if you harass someone based on one of the areas of bias, it is still harassment. There is not an enhancement listed.
  - There are several crimes that should have enhancements that were not written into this bill and are likely to be encountered. The major one being terrorizing since most of the assaults and property damage, if done for the sake of bias, are meant to cause fear or intimidation so this crime would remain a C felony. Another law that an enhancement should be considered relate to causing a death, such as negligent homicide or attempted murder, these would remain the same with no enhancement.
- The final point is the bi-annual reporting, which seems redundant since we already report this data, if identified through investigation, in our Uniform Crime Reporting to the state and federal agencies.

In general, I voice that I am in support of addressing the issue of bias as a state and want justice for the victims of these crimes. By the same token, I want this to be a fair and complete process so we can truly close the gaps in the investigations, sentencing, and resources available. As a state, the law enforcement, prosecutors, victim & human rights advocates, and other interested parties need to have a bill in place that helps them support the victims and hold the violators accountable for their actions.

Without changes to the areas listed above, this bill only provides a good foundation for a law, but it misses the mark in many areas that are critical in a bias or hate crime law.

Thank you for your time and consideration of my written testimony. Please feel free to contact me with any questions you may have concerning my views on House Bill 1443. I hope we can work on this together and pass a valuable law to address the bias experienced by some members of our communities.

Respectfully,



John Klug  
Chief of Police  
701-857-9800  
[John.klug@minotnd.org](mailto:John.klug@minotnd.org)

Testimony for HB1443

My name is Gretchen Graf and I live in Grand Forks. I want to express my support for HB 1443 which will add North Dakota to the many states which are on record in opposition to bias crimes.

I serve a small church committed to justice and compassion. The banner on the front of our altar reads "Hate Has No Home Here." The banner and our shared values affirm that all persons are children of God and deserve to be treated with respect and dignity. We are enriched by difference and we have nothing to fear from diversity. We all benefit when we acknowledge our commitment to one another out loud.

It's time that North Dakota to join 45 other states in making it clear that behaviors based on bias toward anyone or any group which endanger life or property or threaten the well-being of others, including hate-filled speech or written documents, have no place among us. We need to affirm that we intend for all persons to live in safety and the rights of all persons to the full dignity of humanity will be respected.

Thank you.

Dear Committee,

As you consider HB 1443, please consider the times in your life when you were afraid. We all have these experiences whether they be fear for ourselves, our health, our safety, or our family. There are times when we are scared and I want you to for a moment reflect on how it impacted you and your life at that moment. I will keep this testimony brief, in hopes you take some time to reflect on what I'm asking.

I ask this because I and many others I know in the queer community moved out of North Dakota due to fear. As a queer woman I was afraid to be assaulted or harassed or worse. I lived in fear when I lived in this state. I stopped going out at night, I never talked about my partner at work, and had to constantly think about how safe I was in any given situation.

I was afraid if the worse were to happen it wouldn't be treated seriously. I was born in ND, I consider ND my home state, I consider myself a North Dakotan, but I'm living in Minnesota because here I'm protected and feel safe. It feels similar to the security health insurance gives you, knowing that health issues will still come up, but at least there is a net designed to protect me if it does.

I strongly urge you to vote "DO PASS" on this legislation and send a strong message that our state makes a stand against prejudice, biased, and/or hate crimes.

Thank you for your consideration,  
Faye Seidler



Amy Stetzel  
Director, Upper Midwest  
CSH

February 7, 2021

The Honorable Larry Klemin  
Chair, North Dakota House Committee on Judiciary  
600 East Boulevard Avenue, Room JW327B  
Bismarck, ND 58501

Dear Representative Klemin,

On behalf of Corporation for Supportive Housing (CSH), I am writing in support of HB 1443 - Identify and Report Bias Based Crimes. The bill would protect victims of a bias-motivated crime in aggravated assault, harassment, and criminal mischief; which is a critical first step toward protecting all community members and dismantling a long history of interpersonal and institutional discrimination and racism.

The COVID-19 pandemic has highlighted the perpetuation of racialized and cultural bias and their deadly consequences in our society. Racism and xenophobic hysteria showed up early in the pandemic crisis in the treatment of people of Chinese heritage. Black individuals seeking justice against racial violence and oppression were further targeted for demanding that their lives matter.

North Dakota is only 1 of 5 states in the U.S. without hate crime legislation. If we cannot begin to address the basic protections for those who have become victims of hate crimes, then we will never get to the deeper work of creating a more just and equitable society where all people are able to thrive.

Black, Indigenous and People of Color (BIPoC) are over-represented in national and North Dakota homelessness, child welfare, and justice statistics due to the historical legacy and persistence of structural racism<sup>i</sup>. The biases that have kept us from protecting victims of hate crimes, have further exacerbated the disparities that we see across the systems that are often meant to protect the most vulnerable.

CSH supports this bill as a tool (first step) to address the compounding impacts of interpersonal and institutional racism and discrimination and urges you to pass HB 1443.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Amy Stetzel".

Amy Stetzel  
Director, Upper Midwest  
CSH

---

<sup>i</sup> See CSH's Racial Disparities and Disproportionality Index for more information: <https://www.csh.org/supportive-housing-101/data/>



Chairman Klemin, members of the House Judiciary committee, my name is Barry Nelson, I live in Fargo, North Dakota and for the past four years, I have been a community organizer for the North Dakota Human Rights Coalition. As a lifelong resident of the state of North Dakota I can attest to the resiliency, the tenacity, the community spirit of my home state. As a white male, I can also testify that I believe I have experienced nothing but respect and dignity from my fellow residents.

Sadly, in the past decade, I have been confronted over and over again that not everyone in our great state can say the same thing. And, what consistently has been the case is that some of the same people that I believe treat me with this level of dignity and respect do not afford the same amenities to our communities of color, of people from other parts of the world, to members of the lesbian, gay, bisexual and transgender community, to our neighbors with disabilities. I have heard too many stories of people being mocked, ignored, dismissed and, yes, physically attacked and injured.

I am asking that you vote do pass on HB 1443 which would provide peace officer standards and training when dealing with bias crimes, criteria around data collection and guidance on penalties for hate crimes.

Let me tell you why:

- Almost twenty years ago, two young men were brutally assaulted and beaten in the doorway of their apartment. They were assaulted by the manager of the apartment building and two of his adult children. While beating them they were using racial epithets. As a result of their injuries, one of the men had permanent damage to his vision. The police chief at that time called this an obvious hate crime, perpetrated on these two men only for the reason that they were black, originally from the Sudan. This was my first introduction to the immense impact of a hate crime. At a community forum shortly after the attack hundreds of people from communities of color and immigrant communities gathered to speak of the fear this unprovoked attack had upon every one of them. Fear that made them keep their children indoors, of not feeling safe to shop or walk the streets. It was then that I learned that North Dakota did not have hate crime laws.
- In 2017, I had the opportunity as organizer with North Dakota Human Rights Coalition to work with High Plains Fair Housing and the Afro American Development Association to develop a community response to an anticipated spike in hate crimes directed at people because of real or perceived national origin. Some learning moments for me:
  - 1) North Dakota from FBI reports was the second highest in per capita hate crimes in the whole of the United States in the years, 2014, 2015 and 2016!
  - 2) Three community forums were held in Fargo. Dozens of people, all people of color, came forward to tell of stories of attacks, verbal and physical. They told us of incidences of one, two, five years before. Stories of being harassed, of the local mosque being targeted by speeding cars and have graffiti spray painted. There was a story – verified – of a man who literally had his nose bit off. Of individuals being trailed when leaving work.
  - 3) In the spring of 2017, another man originally from Somalia was seriously beaten by two men – as he was moving into his new apartment. He was beaten, strangled, sending him to the emergency room. I personally met with him the next day after he was released.
  - 4) Not a month later, in a highly publicized incident, a middle-aged woman was videotaped threatening three young Somali women, saying that all Moslems should be killed.
  - 5) In Bismarck another videotaped incident showed several masked men surrounding two indigenous men as they were attempting to leave a hotel.

- This past summer the issue of no hate crime laws became front and center when during a peaceful march to protest the murder of George Floyd in Fargo/West Fargo, a man gunned his pickup into a group of marchers. One of the marchers in an attempt to protect a group of children jumped in front of the pickup truck, ended up being hit and injured.
- Since July of this past year a group of residents spearheaded by North Dakota Human Rights Coalition, High Plains Fair Housing and One Fargo have been working on developing a bias crime bill that can address this serious issue in North Dakota. In closing, hate or bias crime exists in North Dakota. In fact, through experience from other parts of the country, we know that bias crime is seriously under reported. North Dakota is one of four states without hate or bias crime legislation.

As I have attempted to illustrate, hate or bias crime has been around for a very long time. The time to address this is now. North Dakota must establish a high bar with the language that hate directed at any resident will not be tolerated.

Barry Nelson

Fargo, North Dakota

701-388-6156

Representatives Buffalo, Boschee, Fegley, Hanson, M. Johnson, Schneider Senators Hogan, O. Larsen, Marcellais.

Amanda Myhre  
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**Date of Hearing:** February 8, 2021 at 10:00AM

**In support of House Bill No. 1448** - Relating to the duty of the peace officer standards and training board to provide training on bias crimes, aggravated assault, harassment, and criminal mischief; to provide for a report to the legislative management; and to provide a penalty.

My name is Amanda Myhre, I'm half Lakota Sioux and Norwegian and an enrolled member of the Standing Rock Sioux Tribe, and have lived in North Dakota most of my life. I am also a NDSU graduate in 2008 and received my master's degree in 2018. I felt compelled to provide written testimony in support of HB 1448 related to the duty of the peace officer to provide training on bias crimes for two simple reasons.

The first reason related to a personal story that happened in 2008. I was living in Fargo, ND with my Caucasian boyfriend at the time, and we came back from going out to eat for supper. Unfortunately, my ex-boyfriend was intoxicated and began to argue with me at our apartment. He became physical and grabbed me around my neck and threw me to the ground and began choking me. I was kicking and tried to scream so our neighbors would hear and call the police. The police soon arrived, and two policewomen showed up and I felt relieved. However, my relief soon turned in to fear and soon a nightmare, because the two officers had gathered the information. When I provided information, I struggled to talk because I was still trying to breath and the officer stated I had 60 seconds to tell her or I would be arrested. I did the best I could, but the officers concluded I was at fault because he had once scratch on his face and I was arrested and charged with Disorderly Conduct. Later, the State's Attorney dismissed the charges because my ex-boyfriend told the SA what happened.

Although my story seems like one in a million, I know I am not the only Native American women who has experienced abuse by their significant partner. According to the National Institute of Justice (NIJ) Research Report (2016), 96% of Native female victims of sexual violence experience violence at the hands of a non-Native perpetrator; 21 percent have experienced interracial violence. More than 4 in 5 American Indian and Alaska Native (AI/AN) women (84.3 percent) have experienced violence in their lifetime.

It has just been recently that Savannah's Act has passed, there is so much more we can do on a local level and passing HB 1448 would provide peace officers with training, understanding, and

assist victims in reporting incidents. I urge the committee to pass H.B. No. 1448. Thank you for this opportunity to testify.

## Testimony in support of HB 1443

Sixty-seventh Legislative Assembly of North Dakota

Thomas D. Isern\*  
3803 Willow Road  
West Fargo ND

8 February 2021

This testimony is in support of HB 1443, a bill to amend 54-12 of the Century Code, strengthening our capacity as people of North Dakota to discourage, prevent, and respond to crimes of bias. The writer speaks as a fourth-generation prairie farmer; a lifelong Republican; and a scholar of the history of the northern plains, all of which elements factor into what is said here.

In this time and place, we have both a public responsibility and a historic opportunity to bridge cultural divides and act for justice. Like many North Dakotans, until quite recently I believed we were making progress. I was aware that the scholarly literature of the Dakota War of the 1860s, the genesis story of Dakota Territory, establishes the racially motivated animus parcel to that conflict; likewise I knew of the many racially motivated acts of discrimination and violence committed here against persons of color, including the alarming rise of the Ku Klux Klan in twentieth-century North Dakota; and I knew from personal observation the racially motivated abuse heaped upon persons of color, Native and newcomer, by people of the historic settler society, my own society. To acknowledge these happenings is not to express any hostility to North Dakota. It is, rather, to express that love of North Dakota that calls upon its better angels. And as I said, I believed that our better angels were bending us in a good direction.

Events of the past five years have proven otherwise. I was naive and complacent. I have witnessed illegal acts of physical violence committed against persons of color, including ones by officers of the law; I have witnessed demonstrations of race hatred in such public places as cafes, taverns, and basketball tournaments; and I have heard--including during the present legislative session--profoundly racist statements emanating from members of the majority party, my party. I am not ashamed of North Dakota. I am ashamed of these acts, and so I speak in favor of HB 1443, asking that my representatives enact legislation directly countering the recent rise of race hatred. This is an American problem, and a North Dakota problem. It is a responsibility for America, and an opportunity for North Dakota.

HB 1443 delineates the seriousness of racially motivated crimes and proposes actions to discourage and prevent them. I am particularly pleased to read clauses touching upon crimes committed under color of law. I work at an institution that trains professionals in criminal justice. We need this law on the books as a clear signal to them. I might add that over the past five years I have observed an alarming rise in student tolerance for, even adherence to, organizations propounding race hatred. So we need this law for all of us.

HB 1443 does no harm to anyone who does not engage in criminal acts. It reclaims the majority party's historic role of opposition to racial violence and injustice. It accepts the responsibility of our settler society to do right by Natives and newcomers. And it begins the process of getting back on the right side of history.

Thank you for considering my testimony, and for your service to North Dakota.

\*Professor of History & University Distinguished Professor, North Dakota State University. The statement of this position and affiliation in no way implies that Dr. Isern is here speaking on behalf of the university; rather, inasmuch as the statement hearkens to historical circumstances in our state and region, the statement merely indicates that the writer has knowledge and capacity to speak to such matters.

Chairman Klemin and Members of the House Judiciary Committee:

Thank you for your time and the opportunity to give testimony on HB 1443.

My name is Kristin Rubbelke and I am the Executive Director of the North Dakota Chapter of the National Association of Social Workers (NASW-ND). I am submitting written testimony on behalf of NASW-ND's support of HB 1443. Our support for this bill is consistent with the NASW Code of Ethics which asserts that:

“Social workers should be aware of the impact of the political arena on practice and should advocate for changes in policy and legislation to improve social conditions in order to meet basic human needs and promote social justice...

Social workers should promote policies and practices that demonstrate respect for difference, support the expansion of cultural knowledge and resources, advocate for programs and institutions that demonstrate cultural competence, and promote policies that safeguard the rights of and confirm equity and social justice for all people...

Social workers should act to prevent and eliminate domination of, exploitation of, and discrimination against any person, group, or class on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability” (Code 6.04).

NASW-ND fully supports HB 1443 because it will protect North Dakota victims from bias crimes committed in whole or in part because of actual or perceived race, color, religion, gender, disability, sexual orientation, gender identity, national origin, or ancestry and hold perpetrators of bias crime accountable for their actions. It will also provide ongoing training to assist peace officers in identifying and responding to bias crimes and improve and safeguard the equality and social justice rights of all North Dakotans.

Thank you for your consideration and we kindly ask for your support of HB 1443.

Sincerely,



Kristin Rubbelke  
Executive Director  
NASW-ND

**Testimony in SUPPORT of HB1443  
Related to Hate/Bias crime,  
House Judiciary Committee**

February 8, 2021 • ND State Capitol

Submitted by Cheryl Kary, Ph.D.

[Cheryl@sacredpipe.net](mailto:Cheryl@sacredpipe.net) • 701.426.1315

Chairperson and members of the Committee:

My name is Cheryl Kary and I am the Executive Director of the Sacred Pipe Resource Center, a local non-profit serving the American Indian population in Bismarck-Mandan and Lincoln. I would like to offer this testimony in support of HB1443, relating to the addition of definitions and procedures for bias/hate crimes in North Dakota.

In its annual report on national hate crime statistics, the FBI found that murders classified as hate crimes more than doubled from 2018 to 2019, representing a surge to the highest level since 2008. That total includes 7,103 hate crime incidents involving a single identified type of bias and 211 incidents involving more than one type. You may think that we do not need a bias/hate crime section in the NDCC because it wouldn't happen to you. But this is not about you but about the constituents you serve that may be the victims of such crimes.

What we know about hate crimes is that they are an extreme form of prejudice made more likely in the context of social and political change. We also know that hate/bias crimes cause higher levels of psychological distress for victims, including PTSD, than other violent crimes and that has a higher cost on society. Finally, we know that we are currently living in a time of "social and political change", we are living in a State with a lot of prejudice toward outsiders, and we have a history of unresolved conflict between racial groups. Unfortunately, we also have a history of refusing to discuss, address, or face these issues. This does not mean they are not a part of our experience in this State. By including bias/hate crimes in our NDCC, we are sending a clear signal that we value diversity and the inherent human value of every person, regardless of outward differences.

I encourage you to support HB1443 and the additional protection it will provide for the citizens of this State.



TO: Chairman Weisz, Vice Chairwoman Rohr,  
and members of the ND House Human Services Committee,

I write you today as a Lutheran clergy in North Dakota who supports fairness and freedom. No one should live in fear of threats, harassment, or physical harm that is motivated by prejudice. HB 1443, Identify and Report Bias Based Crimes, is a solution for a very real issue in our state.

HB 1443 would provide peace officer standards and training when dealing with bias crimes. The bill would protect victims of a bias-motivated crime in aggravated assault, harassment, and criminal mischief. HB 1443 protects ALL community members no matter their race, color, religion, gender, disability, sexual orientation, gender identity, national origin, or ancestry.

As a gay man, I know what it is like to be targeted because of my sexual orientation. Hate-based crimes have increased significantly in recent years and we as citizens and faithful individuals need to take a stand against all types of violence, threats and crimes that target people of color and other marginalized individuals.

I believe God calls us “do justice, to love kindness, and to walk humbly with our God.” (Micah 6:8) This bill will do much to create a safer and just society for all people in North Dakota.

I ask you to issue a “Do Pass” for HB 1443.

Sincerely,

Rev. Joe A. Larson  
St. Mark's Lutheran Church  
417 Main Avenue, Suite 401, Fargo, ND 58103  
pastorjoe@stmarkslutheranfargo.com Cell: 612-750-5079

February 8, 2021

Honorable members of the North Dakota House Judiciary Committee,

My name is Adam Fortwengler. I am the program coordinator at Global Friends Coalition, a nonprofit in Grand Forks that supports families who have been resettled here as refugees. I am writing in strong support of HB 1443, which would bring North Dakota's time as one of the last five states without a bias crime law to a close. Our state has one of the highest rates of reported bias crimes in the nation. Our largest communities, and no doubt many others across the state, have been rocked with horrendous crimes of hate. In Grand Forks, our community was shaken in December of 2015 when Matthew Gust targeted and firebombed Juba Café, a popular Somali restaurant in town. We've more recently seen multiple incidents of violence, harassment, and property damage targeted at people because of their race, ethnicity, religious beliefs, or identity. These crimes not only harm the direct target of such acts, but also deeply affect the communities in which the target is a part of, including the larger community as a whole.

This bill provides deeper protection for ALL North Dakotans, regardless of their actual or perceived race, religion, ethnicity, country of origin, immigration status, orientation, identity, or disability.

HB 1443 ensures that perpetrators of bias crimes are held accountable for their especially heinous acts. The bill further provides the two-pronged benefit of training law enforcement in acknowledging, investigating, and reporting bias crimes, and introduces more thorough statewide tracking of bias crimes in North Dakota. Better understanding the problem will help eliminate it from our communities.

I urge you to act and let the world know that hate has no home in North Dakota. Please vote "do pass" on HB 1443. Thank you.

Best regards,

A handwritten signature in black ink, appearing to read 'Adam Fortwengler', written in a cursive style.

Adam Fortwengler  
Program Coordinator  
Global Friends Coalition

## Testimony Presented on HB 1443 to the

### House Judiciary Committee

Representative Lawrence R. Klemin, Chairman

Dr. Timothy J. Mahoney, Mayor for City of Fargo  
Matuor Alier, Chair of Human Relations Commission  
Nicole Crutchfield, Planning Director City of Fargo

February 8, 2021

Chairman Klemin, members of the House Judiciary Committee, we wish to speak in support of HB 1443. We recognize that hate crimes happen in our community and our state. According to the FBI, there were 14 reported hate crimes in North Dakota for 2019.

North Dakota is one of four states without hate crime legislation. This legislation would provide equal protection for all North Dakota residents, visitors, and workers.

We know that law enforcement including rank, file and leadership of the Fargo Police Department support state hate/bias crime legislation as it would provide law enforcement additional options to address and hold accountable those who would commit a crime based on someone's protected status.

A strong aspect of this bill is the fact that protected communities are enumerated. Any resident could be subject to a hate crime, but it is important that communities known to be at higher risk are clearly listed. Members of communities of color, of minority religion, of the Lesbian, Gay, Bisexual and Transgender, of communities of people with disabilities are known to receive the greatest amount of hate directed at them.

We also support the importance HB 1443 places upon data collection and training of members of law enforcement. As much as we are encouraged and support the efforts of the Fargo Police Department to address this need, we recognize the importance of consistency throughout the state and believe appropriations to support the implementation of the measure will aid law enforcement agencies.

We recognize that hate crime goes largely unreported. The reasons for this are that many people do not know of their rights, they may fear retaliation, or they do not believe their community would support them.

Our strongest basis for supporting HB1443 is the belief that ALL residents of our community and our state have a right to live with safety and security and without fear. Passing HB1443 sends a clear and inconvertible message: our communities do not sanction hate at any level.

Chairman Klemin and Members of the House Judiciary Committee,

My name is Ashley Eagle, and I am a resident of Grand Forks, ND. I urge you to issue a "do pass" on HB1443.

HB 1443 protects ALL North Dakotans no matter their race, color, religion, gender, disability, sexual orientation, gender identity, national origin, or ancestry.

As North Dakota becomes increasingly diverse, the need for legislation against crimes based on hate and fear of the perceived "other" grows more and more pressing. This legislation would hold perpetrators of bias crime accountable for their actions, while also providing training for law enforcement and data collection.

The strength of North Dakota's law enforcement is directly linked to their ability to serve and protect – as is their motto. This means protecting all members of the community. To do so properly, it is important that officers are trained in the best practices to do so.

Furthermore, it is plainly unacceptable that ND is one of only five states without this type of legislation. North Dakota is a much kinder and friendlier place than that statistic would have you believe – it is time to prove that and mend such a glaring oversight by passing this legislation. Thank you for your time.

Chairman Klemin and Members of the House Judiciary Committee:

Thank you for your time and the opportunity to provide testimony in support of HB 1443.

I am currently serving in my third term on the Grand Forks City Council. While I am not writing in an official capacity as an elected official, I am writing in relation to my role some eight years ago when, as a member of the Council, I supported the work that helped Grand Forks to become the first city in the state to support action similar to the current HB 1443.

At that time, Grand Forks acted to protect the housing and employment rights of persons regardless of their perceived race, color, religion, gender, disability, sexual orientation, gender identity, national origin, or ancestry.

Doing so has not resulted in frivolous or excessive legal action. Instead, it sent a clear message that Grand Forks supports policies and practices respectful of difference, and in doing so the city presents itself as a welcoming community.

That action supported workforce and economic development. HB 1443 will provide similar benefit for the State of North Dakota.

Additionally, I am proud of the fair-minded attitude of law enforcement officers in my community. At the same time, I recognize that they are vulnerable to lawsuits and other legal actions resulting from the difficult decisions they must make in their day-to-day responsibilities. HB 1443 will help to assure that peace officers receive the training necessary for their professional obligations, and that training will also be useful support in the event of legal action taken against officers accused of ignoring or otherwise violating the civil rights of individuals.

Thank you for your service to our state, its communities, and to law enforcement professionals across North Dakota, and thank you for your consideration to support of HB 1443.

Sincerely,

Bret A. Weber  
412 So. 6<sup>th</sup> St  
Grand Forks, ND 58201

Dear Chairman Klemin and Members of  
the House Judiciary Committee,

I hope the day is finding you well. My name is Charles Nixon. I am a resident of Fargo, North Dakota and am writing to urge you to issue a "do pass" on HB 1443.

This legislation holds special significance to me as a Black man. I did not grow up here in ND, but the state I did grow up in had robust hate crime laws on the books from well before I was politically aware. Since I became more aware of the laws affecting my day to day life growing up in my first home, it was always a given to me that there was some mechanism to legally protect me and others in marginalized communities from abuse at the hands of others, as well as mechanisms to make law enforcement especially aware of these

abuses. To find out that my new home of North Dakota does not have legal protections of the same caliber in place was surprising.

Laws to hold perpetrators of such heinous crimes specifically accountable should be on the books in any US State. In an ideal world they wouldn't be needed anywhere, but the reality is that the world we live in is full of hateful people, and every vulnerable group should have a legal deterrent protecting them from harm, no matter their creed, gender identity, sexual orientation, race, color, disability, national origin, ancestry, or race. Our world and State are also only growing more diverse, and a requirement that law enforcement know how to deal with these types of crimes quickly and decisively is a must. HB 1443 accomplishes all of this.

North Dakota needs this legislation, especially since it is only one of five states to not have these full protections in place. Again, I urge you to pass HB 1443, for the good of our whole community here in North Dakota.

Thank you for your time,

Charles I Nixon, Jr.



**TESTIMONY BY JOEL FRIESZ**  
**IN SUPPORT OF HB 1433**  
**MONDAY, FEBRUARY 8, 2021**

Chairman Klemin and House Judiciary Committee Members. Please accept this as written testimony in support of HB 1433 pertaining to bias crimes.

Through my work in the field of Restorative Justice over the past 16 years in North Dakota, I've had the opportunity to work directly with hate crimes, victims, and offenders. I support this bill because it distinguishes a bias crime from other forms of crime which is an important element to identifying and treating the root cause of this specific form of violence. There are certain forms of violence, such as bias crimes, that need to be looked at separately due to its unique nature (Domestic Violence is another example). A bias crime is targeting a person or group because of their identity and should be handled with an extra set of factors that will make the response and prevention efforts more effective. I especially appreciate the training element of this bill as training is critical in identifying and responding to a bias crime in the best way possible for all parties involved as to not worsen the impacts of the harm done. I also appreciate the reporting element of this bill as collecting and studying data on specific forms of crime is another important element in crime prevention and response.

Thank you for the opportunity to share this information with you. I am happy to answer any questions or provide additional information.

Joel Friesz

Email: [joelfriesz@outlook.com](mailto:joelfriesz@outlook.com)

Phone: 701-799-0387

Fargo, ND



### Testimony Opposed to House Bill 1443

Mark Jorritsma, Executive Director  
Family Policy Alliance of North Dakota  
February 8, 2021

Good morning Chairman Klemin and members of the House Judiciary Committee. My name is Mark Jorritsma and I am the Executive Director of Family Policy Alliance of North Dakota. I am testifying in opposition to House Bill 1443 and respectfully request that you render a “DO NOT PASS” on this bill.

The stated purpose of this bill is to, “develop guidelines, a course of instruction, and ongoing training to assist peace officers in identifying and responding to bias crimes”. And what are bias crimes, you ask? According to Section 5 of the bill, bias crimes are criminal, illegal, or all other incidents intended to intimidate or harass a person or group:

*... because of actual or perceived race, color, religion, gender, disability, sexual orientation, gender identity, national origin, or ancestry ...*

In other words, thought crimes. But it doesn’t end there. The bill goes on to say, “Each law enforcement agency shall collect information on reported bias crimes, *bias - motivations*, and on groups and individuals committing bias crimes.” That’s right, law enforcement needs to document bias motivations of these “bias crimes”. Then after all this is said and done, law enforcement needs to report bias crime information to the FBI – a federal agency that can then provide overwatch on whether North Dakotans are being unduly biased towards each others.

Come on, are we seriously considering this? The number of lawsuits and associated costs due to this bill would be staggering, and that doesn’t even include the \$335,000 in costs identified in the fiscal note.

I could list many, many more significant flaws with this proposed legislation, but suffice it to say that Family Policy Alliance of North Dakota believes that if voted into law, this legislation would be a vast intrusion of the state into citizens’ private lives and do nothing but quell the freedom of expression and freedom of speech that this country was founded upon.

It is for these reasons that we strongly urge your committee to vote a “DO NOT PASS” on HB1443. I would now be happy to stand for any questions.

1515 Burnt Boat Drive, Suite C148  
Bismark, ND 58530

P 866.655.4545

UNLEASHING CITIZENSHIP

[FamilyPolicyAlliance.com/NorthDakota](http://FamilyPolicyAlliance.com/NorthDakota)



LIFFRIG FAMILY SCHOOL OF EDUCATION  
AND BEHAVIORAL SCIENCES

2-7-2021

**HB 1443**

Dear Honored Legislators:

I am writing in support of HB 1443, Hate and Bias Crime. As a serving member of the ND Parole Board, ND Pardon Advisory Board, and the North Dakota Minority Justice Implementation Committee under the Honorable Anthony Swain Benson (Northeast Judicial District) this bill is of particular interest to me.

According to the most recent annual report by The North Dakota Minority Justice Implementation Committee, we are tasked with implementing the recommendations from the Race and Bias Commission regarding racial and ethnic bias in the courts. Based upon a two-year study, the Commission collected testimony and statistical evidence to examine bias in as many areas of the court system as possible. Study areas included access to courts, criminal and juvenile justice, civil courts, the legal profession, court personnel, and public perceptions.

HB 1443 would further support our efforts in providing equity to citizens of all racial/ethnic background in circumstances involving the law. Racial intolerance in the form of bias or harassment is not a true reflection of our North Dakota values and principles. Thus I urge you to support this bill during this legislative session.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Lamb', written over a white background.

Dr. Carmelita Lamb-Associate Dean  
Liffrig Family School of Education and Behavioral Sciences

Support for House Bill 1443

Erica Thunder

Commissioner, North Dakota Department of Labor and Human Rights

House Judiciary Committee

02/08/2021

Dear Chairman Klemin and member of the House Judiciary Committee,

For the record my name is Erica Thunder and I serve as Commissioner for the North Dakota Department of Labor and Human Rights. I am testifying today in support of HB 1443.

By the very nature of the duties of the Department I lead, we are an enforcement and education agency. We enforce laws under North Dakota Century Code in both our Wage and Hour division, as well as our Housing and Human Rights division. We consider those two of the three duties we are legally required to do, and the last of those duties is to educate the public on those areas of laws. We handle complaints, claims, and cases in a variety of areas under those divisions, spanning from wage claims, to claims of discrimination based on protected categories of people engaging in protected activities (e.g. a claim of discrimination based on race while on the job).

One area our agency has been asked about often but has been unable to provide information or collect data on, is bias crimes. This is because the Department does not have a definition in North Dakota Century Code to use as "teeth" to track these types of claims when a citizen calls in to report an issue. This is extremely disconcerting to us, and especially because we are one of so few states without a definition of this type of act in our law.

As mentioned above, we are also an agency who educates on our laws. Bias crimes have come up in almost every presentation and/or educational format I have spoken in since my time as Commissioner. While I can generally speak about what that crime could look like based on nearly every other State who has this law in their books, I again, have no basis in North Dakota Century Code to speak on this area specifically. I believe this Bill fulfills both important functions at hand, it gives proper definitions to work with, along with providing a layout of how peace officers are able to be trained and go forth to use the language in this Bill.

I believe HB 1443 is a necessary Bill, and I urge the committee to give it a "Do Pass". I certainly am available at any time for further questions.

Thank you,

*Erica Thunder*

Erica Thunder, JD

Commissioner

North Dakota Department of Labor and Human Rights

**House Judiciary Committee  
Lawrence Klemin, Chairman**

**Testimony in Favor of HB 1443--Bias Crimes**

Representative Mary Schneider-District 21

*February 8, 2021*

Every year, thousands of violent bias crimes occur, affecting not only the victims and their families, but the entire communities they target. HB 1443 would add comprehensive, fully-inclusive bias crime protections to North Dakota law for the first time, sending a strong message that hatred and prejudice are not North Dakota values, and that everyone is welcome here and should be able to live their lives free from the threat of bias-motivated crimes. This bill is both needed and timely.

According to the [most recent FBI hate crimes statistics \(2019\)](#), hate crimes in the U.S. [rose](#) to the highest level in more than a decade.

Hate-motivated killings in 2019 also reached the highest level recorded by the FBI.

Anti-transgender hate crimes rose 20% in 2019 over the year prior.

However, these numbers represent only a fraction of bias-motivated incidents. Reporting hate crimes to the FBI is purely voluntary, and [less than 15%](#) of law enforcement agencies in the country reported hate crimes data to the FBI in 2019. Since we don't have a hate crimes statute in North Dakota, it's not clear that all jurisdictions here accurately report or have clear directives on what should be reported.

HB 1443 would require local law enforcement to be trained on recognizing, investigating, and reporting hate crimes, and would require law enforcement agencies to report hate crime statistics to the FBI.

This data is important for helping advocates and law enforcement fully understand the problem and deliver targeted, effective solutions.

Even based on the limited data available, reported hate crimes increased by 80% from 2018 to 2019 in North Dakota. (10 incidents were reported statewide to the FBI in [2018](#) and 18 incidents were reported statewide in [2019](#).)

Proponents of this bill have been talking to law enforcement about the training adjustments and other minor changes needed to gain their universal support. I want the committee to know we can bring you amendments quickly and that those may lower the training costs and fiscal note.

**NDLA, H JUD - Shimek, Delores**

**From:** Satrom, Bernie L.  
**Sent:** Sunday, February 7, 2021 3:11 PM  
**To:** NDLA, H JUD - Shimek, Delores  
**Subject:** FW: Regarding HB 1443 to be heard Monday 2/8/21 I urge a 'do not pass'

**\*\*\*\*\* CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. **\*\*\*\*\***

Greetings House Judicial Committee,

My name is Gail Biby. I live in Fargo in District 45. I love North Dakota and want to see the freedom I have enjoyed for more than 7 decades to be enjoyed by my six grandchildren. I think HB 1443 could jeopardize that freedom. If HB 1443 is passed I believe we will endanger our First Amendment rights by taking that first step on the slippery slope to deciding punishment based on how one feels at the time of the crime.

This is one definition of bias: NOUN 1. prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair.

The thing about bias is that we ALL have a bias. It is based on our worldview. I happen to have a biblical worldview so it colors everything I think and usually what I do (wish I were more consistent). For example: I believe murdering a child in the womb is morally reprehensible therefore I have a prejudice against doctors who kill little boys and girls in the womb. Now obviously that bias could not be used to justify murdering an abortionist. But murder is already a crime; law enforcement doesn't need to take into account the reason I murdered. If someone accosts a person with green skin on the street and beats them up because they don't like green skin...it's their bias...then assaulting someone is already against the law, the reason for the assault doesn't matter. It's always hateful to harm another like this. Bias as seen in this bill is just another way to say 'hate crime' or 'hate speech'. Hate is almost always at the root of violent offenses.

From the bill: Causes bodily injury to another human in whole or in part because of the victim's actual or perceived race, color, religion, gender, disability, sexual orientation, gender identity, national origin, or ancestry. One could rightly argue that causing bodily injury to another is already a crime. Should the crime be considered worse because I have mean thoughts about this green skinned-person? Who would then decide what my motivation was? Would I then be judged on my feelings or speech? Additionally 'causes bodily injury' is already mentioned on pg. 3 line 11 so why repeat it on line 18 by adding one's thoughts or feelings?

Again, from the bill: Commits an offense in violation of subdivisions a, b, c, or d in whole or in part on the basis of actual or perceived race, color, religion, gender, disability, sexual orientation, gender identity, national origin, or ancestry.

Here's that:

a. Communicates in writing or by electronic communication a threat to inflict injury on any person, to any person's reputation, or to any property; b. Makes a telephone call anonymously or in offensively coarse language; c. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; or d. Communicates a falsehood in writing or by electronic communication and causes mental anguish.

Well these are mostly already offenses under the law and it doesn't matter one bit that you sent 58 nasty texts, made 28 threatening phone calls or published lies on FB because you don't like green-skinned people. These are already offenses under the law and can be so adjudicated regardless of the bias against green-skinned people. (I also think all men should wear red sweaters-my bias-but that doesn't give me the right to FORCE all men to wear red sweaters and to beat up those who don't.)

Another question regarding this bill is who would do the bias training? Any reeducation on this issue would be done from the presenter's bias. Bias neutrality is an impossibility because we are shaped by the family, the country, the values we grew up with. I repeat: we all have biases because they are shaped by our worldviews. Whoever does the instructing will do so from their own bias.

Any attempt to treat lawbreakers based on WHY they did something is going to then be based on WHY the judge, the jury etc. find this lawbreaker's actions wrong. This will not result in good judgement. Treatment of lawbreakers must be based on the law. All of the offenses listed in this bill are already illegal acts and can be so handled by the courts. WHY I beat up that green-skinned person doesn't really matter; what matters is that I caused bodily harm. The court system and the government must not be in the business of determining what my thoughts are. Take a look at Canada; they don't have a Bill of Rights and are now dealing with the state determining what preachers may or may not preach.

One other thought on hate crimes: if I commit a crime, does it really matter if I did so out of hate? Who is capable of determining my thought processes, my feelings? What matters is that what I have done is a crime against the law and must be so dealt with. Killing green-skinned people is murder; it's against the law. What difference does it make if I did it out of hate or fear or stupidity?

I urge you to resist this attempt and send it out of committee with a 'do not pass'.

*Gail M. Biby*

Fargo, ND  
D45

from [Mail](#) for Windows 10

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Judiciary

Room JW327B, State Capitol

HB 1443 PM

2/8/2021

Relating to the duty of the peace officer standards and training board to provide training on bias crimes, aggravated assault, harassment, and criminal mischief; to provide for a report to the legislative management; and to provide a penalty

**Chairman Klemin** called the meeting at 4:05PM

Present: Representatives Klemin, Karls, Becker, Buffalo, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter.

### Discussion Topics:

- Amendment
- Bias crime in ND
- Fiscal note
- Prescribed training by academy.
- Enhanced penalties

**Rep. Schneider:** Fiscal note will not be needed.

**Chairman Klemin** went through the proposed amendments: 21.0317.03001 4:16

**Rep. K. Hanson** motion made to adopt amend Section 1

**Rep. Buffalo** seconded

Voice vote failed.

**Rep. Becker** do Not Pass Motion Made

**Rep. T. Jones** seconded

Roll Call Vote:

Representatives	Vote
Chairman Klemin	Y
Vice Chairman Karls	Y
Rep Becker	Y
Rep. Christensen	Y
Rep. Cory	Y
Rep T. Jones	Y
Rep Magrum	Y



Rep Paulson	Y
Rep Paur	Y
Rep Roers Jones	Y
Rep B. Satrom	Y
Rep Vetter	Y
Rep Buffalo	N
Rep K. Hanson	N

12-2-0 Motion carried **Carrier: Rep. Becker**

**Chairman Klemin** stopped at 4:23 PM.

DeLores D. Shimek  
Committee Clerk by Anna Fiest

Introduced by

Representatives Buffalo, Boschee, Fegley, Hanson, M. Johnson, Schneider  
Senators Hogan, O. Larsen, Marcellais

1 A BILL for an Act to create and enact a new section to chapter 54-12 of the North Dakota  
2 Century Code, relating to the data collection and reporting of bias crimes; to amend and reenact  
3 sections 12-63-04, 12.1-17-02, 12.1-17-07, and 12.1-21-05 of the North Dakota Century Code,  
4 relating to the duty of the peace officer standards and training board to provide training on bias  
5 crimes, aggravated assault, harassment, and criminal mischief; to provide for a report to the  
6 legislative management; and to provide a penalty.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 12-63-04 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **12-63-04. Board - Powers - Duties - Authority.**

11 The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate  
12 the qualifications of applicants, and approve the examinations for licensing under this chapter.

13 1. The board shall:

- 14 a. Prescribe the criteria for certification of basic, advanced, and specialized peace  
15 officer training curriculum, instructors, and schools;
- 16 b. Certify curriculum, instructors, schools, and officers that have met the training  
17 certification criteria;
- 18 c. Establish the curriculum for basic and advanced peace officer training, including  
19 a course of instruction, and ongoing training in identifying and responding to bias  
20 crimes; and
- 21 d. Prescribe minimum standards of sidearm training and certification for peace  
22 officers before they may carry a sidearm.

23 2. The board shall keep records and minutes necessary to carry out its functions. The  
24 board may:

Sixty-seventh  
Legislative Assembly

- 1 a. Issue subpoenas, examine witnesses, administer oaths, and investigate  
2 allegations of practices violating the provisions of this chapter or rules adopted by  
3 the board.
- 4 b. Examine, under oath, any applicant for licensing.
- 5 c. Examine, under oath, any licensed peace officer during a hearing to suspend,  
6 revoke, or to not renew a license of a peace officer.
- 7 d. Adopt rules relating to the professional conduct of peace officers and to  
8 implement the requirements of this chapter, including rules relating to  
9 professional licensure, continuing education, and ethical standards of practice,  
10 for persons holding a license to practice peace officer duties.
- 11 3. ~~The board shall develop guidelines, a course of instruction, and ongoing training to~~  
12 ~~assist peace officers in identifying and responding to bias crimes.~~ The board shall  
13 provide annual refresher training to all licensed peace officers every two years in  
14 identifying and responding to bias crimes.
- 15 a. The course of instruction and ongoing training in identifying and responding to  
16 bias crimes established under subdivision c of subsection 1 must:
- 17 (1) Include material to help peace officers distinguish a bias crime from any  
18 other crime;
- 19 (2) Help peace officers understand and assist a victim of a bias crime; and
- 20 (3) ~~Provide instruction on the laws dealing with bias crimes and the legal rights~~  
21 ~~of, and the remedies available to, a victim of a bias crime;~~
- 22 ~~(4) Illustrate proper techniques and methods to handle a bias crime incident in~~  
23 ~~a noncombative manner;~~
- 24 ~~(5) Provide training on how to respond to a report of a bias crime, including a~~  
25 ~~report of a bias crime committed under the color of authority; and~~
- 26 ~~(6) Ensure a bias crime is accurately reported as required under section 5 of~~  
27 this Act.
- 28 b. The board shall update the course periodically as necessary.
- 29 c. As used in this subsection, "bias crime" has the same meaning as in section 5 of  
30 this Act.

1       4. The board shall adopt rules relating to the professional conduct of licensed peace  
2       officers involved in confidential informant agreements under chapter 29-29.5, and shall  
3       receive complaints and make determinations if an officer's conduct violated the  
4       protections provided in chapter 29-29.5. Annually, the board shall conduct an audit  
5       evaluating the effectiveness of confidential informant training requirements.

6       4.5. The board shall establish penalties and enforce violations of protections provided in  
7       chapter 29-29.5. The penalties established must be formulated based on the nature,  
8       severity, gravity, and recurrence of violations. The board may deny, suspend, or  
9       revoke a license or may impose probationary conditions, including remedial training.

10       **SECTION 2. AMENDMENT.** Section 12.1-17-02 of the North Dakota Century Code is  
11       amended and reenacted as follows:

12       **12.1-17-02. Aggravated assault.**

- 13       1. Except as provided in subsection 2, a person is guilty of a class C felony if that person:
- 14       a. Willfully causes serious bodily injury to another human being;
- 15       b. Knowingly causes bodily injury or substantial bodily injury to another human  
16       being with a dangerous weapon or other weapon, the possession of which under  
17       the circumstances indicates an intent or readiness to inflict serious bodily injury;
- 18       c. Causes bodily injury or substantial bodily injury to another human being while  
19       attempting to inflict serious bodily injury on any human being; ~~or~~
- 20       d. Fires a firearm or hurls a destructive device at another human being; or
- 21       e. Causes bodily injury to another human ~~in whole or in part~~ because of the victim's  
22       actual or perceived race, color, religion, gender, disability, sexual orientation,  
23       gender identity, national origin, or ancestry.
- 24       2. The person is guilty of a class B felony if the person violates subsection 1 and the  
25       victim:
- 26       a. Is under twelve years of age;
- 27       b. Is a peace officer or correctional institution employee acting in an official capacity,  
28       which the actor knows to be a fact; or
- 29       c. Suffers permanent loss or impairment of the function of a bodily member or  
30       organ.

**REPORT OF STANDING COMMITTEE**

**HB 1443: Judiciary Committee (Rep. Klemin, Chairman)** recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1443 was placed on the Eleventh order on the calendar.