

Criminal Justice Data Brief

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Hate Crimes in Hawaii, 2020

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Hawaii Revised Statutes §846-51 through §846-54 require the Department of the Attorney General to develop, direct, and report annually on a statewide hate crime statistics reporting program. With input and assistance from Hawaii's county prosecuting attorneys and police departments, the state program was launched on January 1, 2002.

This annual report covers hate crime cases that reached a final disposition during Calendar Year 2020. Four cases were reported to the program for this time period; details appear on page 3. Nineteen-year summary statistics are also included.

Also included in this edition are (1) a brief summary of the statewide transition to the National Incident-Based Reporting System (NIBRS) version of the FBI's Uniform Crime Reporting (UCR) Program, which requires police-level hate crime reporting and will likely lead to a major shift in Hawaii's hate crime statistics reporting program; (2) a summary of a data review project involving the Honolulu Department of the Prosecuting Attorney's hate crime reports and procedures; and (3) appended Honolulu hate crime tallies and case synopses for the 2018 and 2019 reporting years.

Definition and Background

Similar to the federal definition, the term "hate crime" is legally defined in Hawaii as "any criminal act in which the perpetrator intentionally selected a victim, or in the case of a property crime, the property that was the object of a crime, because of hostility toward the actual or perceived race, religion, disability, ethnicity, national origin, gender identity or expression, or sexual orientation of any person" (HRS §846-51). "Gender identity or expression" was added in Hawaii in 2003, but was not included at the federal level until 2013.

It is important to note that hate crimes are not new types of offenses, but rather are traditional offenses (e.g., assault, vandalism) for which an offender's intent is at least partially based upon a bias against one or more of the protected groups.

However, they differ from most traditional offenses in the frequently complicated process of determining whether or not a hate crime has, in fact, occurred. While two heinous and highly publicized hate crimes that occurred nationally in 1998¹ offer clear-cut examples, far more common are thousands of comparatively lesser offenses that exhibit at least one hate crime characteristic (see next section), but where it is difficult to determine the true motive and intent of the offenders. One of the challenges in these otherwise routine cases is in having sufficient investigative resources to definitively answer not only the standard question that the criminal justice system is designed to address, i.e., "Who did what to whom?" but also, "What were the offender's thoughts, biases, and motives – what was in his or her heart and mind at the time?"

The use of the term "intentionally" in Hawaii's hate crime definition adds further complication, as there are specific legal standards that must be met in order to establish criminal intent.

Hate Crime Characteristics

The FBI's national program emphasizes a list of fourteen characteristics that should be considered when determining whether or not an offense is a hate crime (CJIS, 1999). These same characteristics are also utilized in the Hawaii program. A critical concept concerning these characteristics is that they are not stringent criteria, *per se* – there is no requirement as to certain key characteristics or the minimum number of characteristics that must be present in order for an offense to be determined a hate crime.

1. The offender and victim are of a different race, religion, disability, ethnicity/national origin, or sexual orientation (hereafter "group").

¹ The truck-dragging murder of James Byrd, Jr. in Texas in June, and the fatal beating of Matthew Shepard in Wyoming in October.

2. Bias-related oral comments, written statements, or gestures were made by the offender.
3. Bias-related drawings, markings, symbols, or graffiti were left at the crime scene.
4. Certain objects, items, or things which indicate bias were used.
5. The victim is a member of a group which is overwhelmingly outnumbered by other residents in the community where the crime took place.
6. The crime occurred in an area where other hate crimes against the victim's group have occurred, and where tensions remain high against this group.
7. Several incidents occurred in the same locality, at or about the same time, and the victims were all of the same group.
8. A substantial portion of the community where the crime occurred perceives that the incident was motivated by bias.
9. The victim was engaged in activities promoting his/her group.
10. The incident coincided with a holiday or a date of particular significance to the victim's group.
11. The offender was previously involved in a similar hate crime or is a member of a hate group.
12. There are indications that a hate group was involved.
13. A historically established animosity exists between the victim's and the offender's groups.
14. The victim, although not a member of the targeted group, was a member of an advocacy group supporting the precepts of the victim group.

Hate Crime Statistics Reporting in Hawaii

Given the need for the most complete and accurate information, as well as the legal requirement to establish intent, Hawaii's hate crime statistics reporting program is set at the prosecution level. This avoids the pitfall that has occurred in many jurisdictions where the police report hate crime statistics. Specifically, the police are not able to investigate the interpersonal dynamics involved in a large number of relatively less serious offenses that exhibit at least one hate crime characteristic (especially as the overwhelming majority of these

cases would *not* ultimately be determined to be hate crimes), particularly when an offender is not identified/arrested or when the "possible hate crime" aspects of an alleged incident are ambiguous.²

By placing the point of data collection at the prosecution level, Hawaii's program avoids false positives, utilizes limited police resources much more efficiently, and is based on incidents that clearly meet the State's legal definition of hate crimes, i.e., criminal acts for which the intent of the perpetrator(s) is determined to be derived from hostility toward one or more of the protected groups. It also provides the ability to conduct statistical inquiries into case processing and outcomes, which yield important data that are generally not included in other jurisdictions' hate crime reporting.

The prosecutors' ability to make determinations of the intent behind possible hate crimes is dependent upon receiving good preliminary information from the police. In the Hawaii program, it is the police departments' responsibility to ensure that "suspected hate crime" information, when applicable, is clearly and consistently included in their incident reports.

At the request of this Department, the FBI provided hate crime recognition training to Hawaii's police departments on several occasions during the latter half of the 1990s, and conducted specialized training sessions for prosecutors in 2002 and 2020. The police also include a hate crime module in their training programs for officer recruits.

The Hawaii program's data elements generally parallel those utilized in the FBI's program (CJIS, 1999). It was necessary to modify some of the data elements to more appropriately reflect the uniqueness of Hawaii (e.g., "beach or beach park" was added as a location code). In addition, the Hawaii program collects data on charge descriptions and dispositions. A completed hate crime report is due to the program no later than the last business day of the month following one in which a case reaches its final disposition, regardless of whether or not there was a conviction. Although Hawaii law does not provide for enhanced sanctions against perpetrators of misdemeanor-level hate crimes, or against juvenile perpetrators of hate crimes, these cases must still be reported for statistical purposes.

² Although most "possible hate crimes" (i.e., cases that exhibit at least one of the 14 characteristics) are not genuine hate crimes, they must be initially treated as such. Sometimes even seemingly obvious hate crimes may be invalidated upon thorough investigation.

Similar to the FBI's quarterly summary report, an annual summary report form requiring the respective Prosecuting Attorney's (department head) signature is included in the Hawaii program. The annual summary provides the prosecutors' tally of hate crimes disposed and reported, and is useful for verifying data received by the program earlier in the year.

Case Details for 2020

A statewide total of four hate crime incidents, including three from the City and County of Honolulu and one from Maui County, were reported to Hawaii's hate crime statistics reporting program for Calendar Year 2020.

The first hate crime incident occurred in Maui County on April 13, 2019, and the case reached its final disposition on January 15, 2020. In this incident, the offender, a 40-year-old (at the time of the incident) Black male, with a current criminal history record including three misdemeanor convictions, allegedly brandished and swung a machete at the victims – a father and his three children – while uttering anti-White epithets. The offender was arrested and charged with five counts of Terroristic Threatening in the First Degree (a felony offense). Enhanced hate crime sanctions were not sought, and the case was subsequently dismissed.

The second incident occurred in the City and County of Honolulu on September 7, 2019, and the case was disposed on February 21, 2020. In this incident, the offender, a 48-year-old (at the time of the incident) Native Hawaiian male, with a current criminal history record including three felony convictions, four misdemeanor convictions, and 13 petty misdemeanor and/or violation convictions, aggressively approached the victim at a bus stop, shouted anti-Muslim slurs at the victim and challenged him to a fight, and then spat upon him. The offender was arrested and charged with one count of harassment (a petty misdemeanor) and pleaded "no contest" to the same charge. He was sentenced to three days in jail.

The third incident occurred in the City and County of Honolulu on June 17, 2020, and the case was disposed on June 29, 2020. In this incident, the offender, a 45-year-old (at the time of the incident) Native Hawaiian male, with a current criminal history record including five misdemeanor convictions and two petty misdemeanor and/or violation convictions, approached the victim at a homeless shelter and punched him on the ear after uttering an anti-White epithet. The offender was arrested

and charged with Assault in the Third Degree (a petty misdemeanor), to which he pleaded "no contest" and was sentenced to 30 days in jail.

The fourth and final hate crime incident reported for 2020 occurred in the City and County of Honolulu on May 25, 2020, and was disposed on November 2, 2020. In this incident, the offender, a 39-year-old (at the time of the incident) Native Hawaiian male, with a current criminal history record including two petty misdemeanor and/or violation convictions, engaged in a verbal argument with the victim, who was complaining about the offender's loud music and remained on his own property. The offender entered the victim's property, uttered anti-White epithets, and made a thinly-veiled verbal threat against the victim's life. The offender was arrested and charged with Terroristic Threatening in the Second Degree (a misdemeanor), and ultimately pleaded "no contest" to a charge of Harassment (also a petty misdemeanor). He was fined a total of \$200.

The National Incident-Based Reporting System (NIBRS) and the Honolulu Prosecuting Attorney's Hate Crime Cases Reported for 2018 and 2019

As part of a nationwide initiative, the City and County of Honolulu Police Department transitioned to the most current version of the FBI's Uniform Crime Reporting (UCR) Program, known as the National Incident-Based Reporting System (NIBRS), starting in 2018. NIBRS requires FBI-style, police-level hate crime reporting, which Hawaii's county police departments did not previously provide. After developing a NIBRS data repository, the state UCR program (which is also located at the Hawaii Department of the Attorney General) attained its own FBI certification in 2019. The Kauai County Police Department entered the NIBRS certification process in early 2021, and the Hawaii County Police Department and Maui County Police Department are expected to begin later in 2021. Hawaii's first police-level hate crime data will be published in the coming months as a special section of the state UCR program's new, public-facing, Web-based, statistical dashboard for NIBRS crime data. NIBRS hate crime reporting is expected to eventually supersede Hawaii's current prosecutor-level reporting program.

After launching the NIBRS data repository, state UCR program personnel began reviewing, verifying, and otherwise testing and exploring the HPD's initial NIBRS data – a process that is still

ongoing, with various data and procedural revisions and other system improvements made along the way. This is a complicated process that will continue as the other county police departments transition to NIBRS.

Reviewing and verifying the HPD's hate crime data reported through NIBRS afforded state UCR program personnel with the first opportunity to track verified hate crime arrest cases to the City and County of Honolulu's Department of the Prosecuting Attorney. One important, complicating factor to consider here is that, while police departments report hate crimes to their respective state UCR programs around the time of the initial incidents, Hawaii's prosecutors report hate crime cases to the state hate crime statistics reporting program when the cases reach their final prosecutorial/court disposition, which typically occurs months after the arrests were made by the police. And so, for example, if the police report 10 hate crime arrest cases for a given year, it should not be expected that all of those cases will necessarily reach a final disposition and be reported by the prosecutors during that same year. Sufficient time must be allowed for the natural lag that exists between the reporting points, and police cases from one year must be tracked into the subsequent year(s) for the prosecutors' cases. Hawaii's hate crime statistics reporting program was specifically designed to report on final case outcomes (see additional discussion elsewhere in this report), and during a time when there was no expectation for the police to begin NIBRS-style hate crime reporting.

Due to office/records accessibility limitations and other unprecedented burdens and priorities for Hawaii's justice agencies, the COVID-19 pandemic delayed much of the hate crime data verification and case tracking project throughout 2020, as did the changeover in Honolulu's publicly-elected Prosecuting Attorney. The project concluded with a verification of the Honolulu prosecutor's cases for 2020 as reported earlier herein, and, pursuant to a determination that several of the HPD's verified hate crime arrest cases for 2018 and 2019 had not been recognized and reported by the Honolulu prosecutor, amended tallies and case synopses for those years, as presented below. It should be added that both the prior and current administrators of the Honolulu Department of the Prosecuting Attorney were responsive, diligent, and overall very helpful in providing the necessary information and revising internal reporting procedures where indicated. Also, at the request of the prosecutor and with coordination from the state UCR program, personnel from the FBI's UCR and Civil Rights units

created and presented a specialized hate crime recognition training session for deputy prosecuting attorneys, their supervisors, and department administrators in December 2020.

Hate Crimes, 2018 (Appended) – Department of the Prosecuting Attorney, City and County of Honolulu

A total of four (revised from zero) hate crime cases reached their final disposition at the Honolulu prosecutor's office during Calendar Year 2018, as follows:

The first hate crime incident occurred on June 9, 2018, and the case was disposed on October 23, 2018. In this incident, the victim witnessed the offender, a 71-year-old (at the time of the incident) male of Chinese descent, with a current criminal history record including 16 misdemeanor convictions and 13 petty misdemeanor and/or violation convictions, challenge another unknown male to a fight, so the victim began video recording the incident. The unknown male walked away and the offender turned to the victim and verbally threatened him (and his wife, though it is not clear if she was physically present) with grave bodily harm and an anti-Black epithet. The victim called 911 and the offender was arrested and charged with Terroristic Threatening in the Second Degree (a misdemeanor), to which he pleaded "no contest" and was sentenced to one year of probation. [Note: This case involves the same offender as the one involved in the fourth 2019 case; see next page.]

The second incident occurred on August 4, 2018 and was disposed on November 7, 2018. In this incident, the offender, a 30-year-old (at the time of the incident) White male, with a current criminal history record including six petty misdemeanor and/or violation convictions, walked up to a car and spat in the driver's face after uttering an anti-Hispanic epithet. The offender was arrested and charged with one count of Terroristic Threatening in the Second Degree (a misdemeanor) and one count of Harassment (a petty misdemeanor), and was found not guilty by reason of insanity.

The third incident occurred on November 15, 2018 and was disposed on November 27, 2018. In this incident, the offender, a 35-year-old (at the time of the incident) White male, with a current criminal history record including four misdemeanor convictions and 11 petty misdemeanor and/or violation convictions, assaulted a shopping center security guard who was attempting to intervene in a disruptive incident caused by the offender. The of-

fender kicked the victim several times in the legs and groin, and poked him in the chest, while uttering multiple anti-Black epithets. The offender was arrested and charged with Assault in the Third Degree (a misdemeanor) and Criminal Property Damage in the Fourth Degree (a petty misdemeanor). He pleaded “no contest” to both charges and was sentenced to 30 days in jail.

The fourth and final incident for 2018 occurred on November 22, 2018 and was disposed on December 5, 2018. In this incident, the offender, a 39-year-old (at the time of the incident) White male, with a current criminal history record including 11 felony convictions, three misdemeanor convictions, and eight petty misdemeanor and/or violation convictions, approached the victim on a public sidewalk, and pointed a baseball bat at him while making a non-bias-related insulting comment. The victim attempted to walk away but saw the offender pull an object from a backpack, and shortly thereafter heard what sounded like three shots fired from an air gun. The victim felt something hit his collarbone that caused pain and bleeding. The offender then shouted that the victim should “go back to China.” The offender was arrested and charged with Assault in the Third Degree (a misdemeanor) and Restrictions on Use of Air Gun (a county ordinance violation). He pleaded “no contest” to both charges and was sentenced to one year of probation, including 30 days in jail.

Hate Crimes, 2019 (Appended) – Department of the Prosecuting Attorney, City and County of Honolulu

A total of seven (revised from one) hate crime cases reached their final disposition at the Honolulu prosecutor’s office during Calendar Year 2019, as follows:

The first hate crime incident occurred on March 16, 2018, and the case was disposed on February 11, 2019. In this incident, the offender, a 51-year-old (at the time of the incident) male of Filipino descent, with a current criminal history record including one misdemeanor conviction, verbally interfered with the victim’s efforts to move a television into his own apartment, while repeatedly using an anti-Black epithet in reference to the victim. An argument ensued and the offender allegedly head-butted the victim. The offender was arrested and charged with Assault in the Third Degree (a misdemeanor), but the case was later dismissed.

The second incident occurred on March 4, 2018 and was disposed on February 15, 2019. In

this incident, the offender, a 48-year-old (at the time of the incident) male of Filipino descent, with a clear criminal history record, approached the two victims, a father and son who were the offender’s neighbors, and made anti-Filipino remarks before physically assaulting them. The offender was arrested and charged with two counts of Assault in the Third Degree (a misdemeanor), and was granted a one-year deferral of a “no contest” plea. This case is notable as it featured an offender whose criminal motivation evidently involved a bias against an ethnic group to which he also belongs.

The third incident occurred on December 22, 2018 and was disposed on February 22, 2019. In this incident, the offender, a 27-year-old (at the time of the incident) male of Samoan descent, with a current criminal history record including 11 misdemeanor convictions and four petty misdemeanor and/or violation convictions, approached the victim at an open air location in downtown Honolulu and, without provocation, punched the victim, who fell to the ground. The offender continued to punch and kick the victim, while referring to the victim with an anti-Black epithet. The offender was arrested and charged with Assault in the Third Degree (a misdemeanor), to which he pleaded “no contest” and was sentenced to one year of probation.

The fourth incident occurred on January 27, 2019 and was disposed on March 6, 2019. In this incident, the offender, a 72-year-old (at the time of the incident) male of Chinese descent, with a current criminal history record including 16 misdemeanor convictions and 13 petty misdemeanor and/or violation convictions, verbally threatened to kill two of his neighbors and their dog, while wielding a golf club in a threatening manner. The offender’s verbal threats included many anti-female-homosexual epithets directed at the victims, who at the time of the incident had already been granted a court injunction against the offender in an effort to stop his ongoing harassment. The offender was arrested and charged with two counts of Terroristic Threatening in the Second Degree (a misdemeanor), and two counts of violation of a restraining order or injunction (see HRS § 604-10.5, Power to Enjoin and Temporarily Restrain Harassment; also a misdemeanor). The offender pleaded “no contest” to all charges and was sentenced to a 160-day jail term. [Note: This case involves the same offender as the one involved in the first 2018 case; see prior page.]

The fifth incident occurred on January 31, 2017, and was disposed on April 2, 2019. In this incident, the offender, a 26-year-old (at the time of

the incident) White male, with a current criminal history record including one felony conviction, two misdemeanor convictions, and one petty misdemeanor or violation conviction, followed the victim into an alley and without provocation or other interaction, stabbed the victim three times from behind before the victim's two friends pulled away the offender, who then ran off. The victim survived but sustained serious injuries that required surgery. The victim and both friends are part-Black, and one of the friends stated that two days before the stabbing incident, the offender had attempted to pick an unprovoked fight with him and uttered anti-Black epithets. The friend stated that he had never seen the offender prior to the first altercation. In addition, the offender was involved in an entirely separate criminal case that occurred approximately four months prior to the stabbing incident, during which the offender approached a Black male who was publicly preaching, and without provocation or other interaction, yelled profanities at the preacher and then punched him in the face. The totality of this information suggested to the deputy prosecuting attorney handling the stabbing case that it was a racially-motivated offense. The offender was charged with Attempted Murder in the Second Degree and pleaded guilty to the lesser charge of Assault in the First Degree. Enhanced hate crime sanctions were not sought in this felony case, and the offender was sentenced to an indeterminate 10-year term of imprisonment. [Note: This case was first reported in the *Hate Crimes in Hawaii, 2019* publication.]

The sixth incident occurred on August 5, 2019 and was disposed on August 15, 2019. In this incident, the offender, a 58-year-old (at the time of the incident) male of Filipino descent, with a current criminal history record including three misdemeanor convictions and three petty misdemeanor and/or violation convictions, threatened a fast food restaurant manager who intervened in the offender's harassment of another restaurant employee. The offender threatened to kill the manager, and uttered a variety of anti-Filipino and anti-immigrant insults. The offender was arrested and charged with Terroristic Threatening in the Second Degree (a misdemeanor), to which he pleaded "no contest" and was sentenced to one year of probation (including nine days in jail), and to undergo a mental health assessment and anger management counseling. As was the case in the second 2019 incident reported herein, this incident is noteworthy because it featured an offender whose criminal motivation involved the expression of bias against an ethnic group to which he also belongs.

The seventh and final incident for 2019 occurred on July 5, 2019 and was disposed on December 3, 2019. In this incident, the offender, a 25-year-old (at the time of the incident) male of Samoan descent, with a current criminal history record including one misdemeanor conviction and one petty misdemeanor or violation conviction, approached the victims (one male and one female, and both active duty military personnel), who were speaking together while seated on a bench outside of a bar in Waikiki, and began directing anti-White (and anti-U.S. military) insults at the victims. The offender then punched the male victim in the head, causing the victim to fall backward, and then punched the female victim as she stood up from the bench. The offender was arrested and charged with two counts of Assault in the Third Degree (a misdemeanor), pleaded "no contest" to one count, and the second count was dropped pursuant to the plea. The offender was fined \$300.

Summary Statistics, 2002-2020

A total of 48 hate crime cases were reported to Hawaii's hate crime statistics reporting program since its inception in 2002, yielding a 19-year average of 2.5 cases reported statewide per year and 0.63 cases reported per participating agency per year. The following table provides statewide and county tallies of hate crime cases reported annually to Hawaii's program:

Year	C&C of Honolulu	Hawaii County	Maui County	Kauai County	State Total
2002	2	0	0	0	2
2003	1	0	0	0	1
2004	1	0	0	0	1
2005	0	1	0	0	1
2006	6	0	0	0	6
2007	1	0	0	0	1
2008	0	1	0	0	1
2009	0	0	1	0	1
2010	2	0	0	0	2
2011	1	0	0	0	1
2012	0	0	0	0	0
2013	0	1	0	3	4
2014	0	0	0	1	1
2015	0	0	0	2	2
2016	1	0	0	2	3
2017	1	0	0	2	3
2018	4*	0	1	1	6
2019	7*	0	0	1	8
2020	3	0	1	0	4
Total	30	3	3	12	48

* Revised July 2021

Due to multiple biases expressed in some cases, the 48 hate crime cases identified above involved a total of 56 bias instances, as categorized below:

Bias Type	# of Bias Instances	% of Total Bias Instances	% within Bias Type
Race/Ethnicity/Nat'l Origin	46	82.1	
Anti-White	21	37.5	45.7
Anti-Black	11	19.6	23.9
Anti-Arab/Middle Eastern	3	5.4	6.5
Anti-Filipino	3	5.4	6.5
Anti-Hispanic	3	5.4	6.5
Anti-Japanese	2	3.6	4.3
Anti-Chinese	1	1.8	2.2
Anti-Micronesian	1	1.8	2.2
Anti-Russian	1	1.8	2.2
Sexual Orientation	6	10.7	
Anti-Homosexual (non-spezif.)	5	8.9	83.3
Anti-Female Homosexual	1	1.8	16.7
Religion	4	7.1	
Anti-Jewish	2	3.6	50.0
Anti-Muslim	2	3.6	50.0

Reference

Criminal Justice Information Services Division (October 1999). *Hate Crime Data Collection Guidelines*. U.S. Department of Justice: Federal Bureau of Investigation.

This report can be downloaded in PDF format from the Crime Prevention & Justice Assistance Division web site:

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