

JOSH GREEN, M.D.
GOVERNOR



DEPT. COMM. NO. 464

ANNE E. LOPEZ
ATTORNEY GENERAL

MATTHEW S. DVONCH
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
Ka 'Oihana O Ka Loio Kuhina
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1500

August 14, 2023

The Honorable Ronald D. Kouchi
President and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki
Speaker and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Department of the Attorney General's Annual Report on Hate Crimes in Hawaii for Calendar Year 2022, as required by section 846-54, Hawaii Revised Statutes (HRS). In accordance with section 93-16, HRS, I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

All of our annual reports on hate crimes data are posted on our Crime Prevention and Justice Assistance Division's Research and Statistics Branch webpage. These reports date back to 2002, and can be viewed electronically at <https://ag.hawaii.gov/cpja/rs/>.

If you have any questions or concerns, please feel free to call me at (808) 586-1500.

Sincerely,

Anne E. Lopez
Attorney General

c: Josh Green, M.D., Governor
Sylvia Luke, Lieutenant Governor
Legislative Reference Bureau (Attn: Karen Mau)
Leslie H. Kondo, State Auditor
Luis Salaveria, Director of Finance, Department of Budget and Finance
Stacey A. Aldrich, State Librarian, Hawaii State Public Library System
David Lassner, Ph.D., President, University of Hawaii

Enclosure

Criminal Justice Data Brief

Department of the Attorney General

• Crime Prevention & Justice Assistance Division

• ag.hawaii.gov/cpja

Anne E. Lopez, Attorney General

Julie Ebato, Administrator
May 2023

Hate Crimes in Hawaii, 2022

*Prepared by
Paul Perrone, Chief of Research & Statistics*

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 2022. Ten cases were reported to the program for this time period; details appear on page 3. In addition, the Honolulu Department of the Prosecuting Attorney reported three additional cases that should have been submitted for the prior year (CY 2021). Twenty-one-year summary statistics are also included.

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").
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 resi-

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

dents 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

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.

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.

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 2022

As presented below, a statewide total of 10 hate crime incidents, including six from the City and County of Honolulu and four from Maui County, were reported to Hawaii's hate crime statistics reporting program for Calendar Year 2022. Please note that offender ages were calculated at the time of the hate crime incidents, and criminal history tallies were calculated at the time of this report's preparation.

The first hate crime incident occurred in Maui County on July 12, 2020, and the case reached its final disposition on January 5, 2022. In this incident, the offender, a 30-year-old Black male, with a criminal history record including one misdemeanor and four petty misdemeanor/violation convictions, approached the victims, a small group of adult males, on a public beach and inquired if the men are homosexuals. After the victims replied in the affirmative, the offender assaulted two of the men, punching both in the face one time each. The first victim fell and hit his head on a rock and evidently suffered a concussion, and the second victim complained of pain in his jaw area. The offender was arrested, charged with and pleaded guilty to two counts of assault in the second degree and one count of terroristic threatening in the second degree, and was sentenced to four years of probation. An initial filing to seek enhanced hate crime sanctions for one of the assault charges was withdrawn as a condition of the offender's guilty plea.

The second incident occurred in the City and County of Honolulu on July 4, 2021, and the case reached its final disposition on February 23, 2022. In this incident, the alleged offender, a 34-year-old male of Filipino descent, with no criminal convictions, was at a party at a private residence and initiated an altercation with the two female victims by shouting anti-Black racial slurs at them. Victim 1 then attempted to throw a plate at the offender, but missed and hit a third party who hadn't been involved in the altercation. The offender interceded in the new verbal confrontation between Victim 1 and the third party, in the process hitting Victim 1. (Further details on the assault and any injuries were not reported.) The offender was arrested and charged with two counts of assault in the third degree, but the court dismissed the charges without prejudice.

The third incident occurred in Maui County on June 19, 2021, and the case reached its final disposition on May 6, 2022. In this incident, the offender, a 34-year-old White male, with a criminal

history record including two felony convictions and one petty misdemeanor/violation conviction, was laying on a bench at a public harbor and harassing people waiting to board a dinner cruise. The offender directed anti-Black racial insults at some of the people in line, and then at a different man who was also in line and intervened to verbally confront the offender. The offender feigned a lunge at the intervening man, while holding a small unidentified object in his right hand. When responding police officers attempted to arrest the offender, the offender attempted to bite and kick the officers. The offender pleaded "no contest" to one count of Terroristic threatening in the first degree, and one count of assault on a law enforcement officer in the first degree, and was sentenced to a maximum term of five years imprisonment. Enhanced sanctions were not sought in this case, as the only felony-level offenses had been committed against the responding police officers, who were not the victims of the earlier racial harassment and threats. Six additional charges, including three counts each of terroristic threatening and assault on a law enforcement officer, were dismissed.

The fourth incident occurred in the City and County of Honolulu on May 22, 2022, and the case reached its final disposition on May 24, 2022. In this incident, the offender, a 28-year-old White male, with a criminal history record including one petty misdemeanor/violation conviction, allegedly harassed the victim, who was the offender's roommate, by directing anti-male-homosexual remarks at him while brandishing a firearm. The victim also reported to responding police officers that the offender had sexually assaulted him several months earlier. The alleged offender was arrested, but the case was declined for prosecution two days later after being deemed legally insufficient.

The fifth incident occurred in the City and County of Honolulu on May 31, 2022, and the case reached its final disposition on June 9, 2022. In this incident, the offender, a 65-year-old Black male, with a criminal history including six felony convictions, 23 misdemeanor convictions, and 74 petty misdemeanor/violation convictions, was making excessive noise in a courtyard area and was asked to leave by the victims, an adult male and adult female. The offender directed several anti-Filipino racial insults at both victims, verbally threatened to kill the male victim, and warned the female victim that he would come back to look for her. The offender was arrested and charged with two counts of harassment, to which he pleaded "no contest" and was sentenced to two days in jail.

The sixth incident occurred in Maui County on July 21, 2019, and separate cases against the two offenders who were apprehended reached their final dispositions on July 26, 2022 and August 31, 2022, respectively. In this incident, Offender 1, a 29-year-old White male with a criminal history record including a single misdemeanor conviction, and Offender 2, a 30-year-old male of Hawaiian descent, with a criminal history including one felony conviction and three misdemeanor convictions, terrorized a family of visitors at a beach and assaulted the husband/father, who attempted to defend his family. The man was punched in the back of the head, kicked, grabbed by the throat, and told that he would be killed in front of his family. Anti-White racial slurs were made by the offenders continuously throughout the assault. Responding police officers arrested Offenders 1 and 2 a short while later, but at the time of this report there is still an active warrant out for a third offender. Offenders 1 and 2 were each charged with assault in the first degree, criminal property damage in the first degree, unauthorized entry into a motor vehicle in the first degree, two counts of terroristic threatening in the second degree, assault in the third degree, two counts of endangering the welfare of a minor in the second degree, and harassment. Offender 1 pleaded "no contest" to a single count of assault in the third degree (reduced from assault in the first degree) and was sentenced to six months of probation. Offender 2 was found guilty of assault in the first degree, a single count of terroristic threatening in the second degree, and both counts of endangering the welfare of a minor in the second degree, and was sentenced to four years of probation including two days in jail. Enhanced hate crime sanctions were sought for the initial felony-level assault charges against both offenders, but the jury did not agree that the offenders had targeted the victims based on their hostility toward the victims' actual or perceived race.

The seventh incident occurred in the City and County of Honolulu on June 24, 2022, and reached its final disposition on October 19, 2022. In this incident, the offender, a 33-year-old female of Hawaiian descent, with a criminal history record including one misdemeanor conviction and two petty misdemeanor/violation convictions, stood outside the victim's residence and damaged a window frame and two screens, while swearing and yelling anti-White racial slurs at the victim inside her home. It is not clear if there was any sort of precipitating altercation between the victim and offender. The offender was arrested, charged, and pleaded "no contest" to harassment and criminal property

damage in the fourth degree, and was ordered to pay restitution to the victim, and a total of \$100 in fines.

The eighth incident occurred in the City and County of Honolulu on December 16, 2021, and the case reached its final disposition on October 24, 2022. In this incident, the offender, a 40-year-old White male, with a criminal history record including one felony conviction, one misdemeanor conviction, and three petty misdemeanor/violation convictions, approached the victim, who was changing a tire on his vehicle in a service station parking lot, and asked him if he needed assistance. After the victim declined the assistance, the offender became agitated and threatened the victim with physical violence while uttering anti-White racial slurs. The offender unsuccessfully attempted to grab a golf club from the victim's golf bag, and then removed an axe from his own backpack and chased the victim while waving the axe. Responding police officers arrested the offender, who made additional anti-White comments about the victim. The offender was charged with and pleaded "no contest" to a charge of terroristic threatening in the first degree, and was sentenced to four years of probation to include a jail term equal to the time already served; enhanced hate crime sanctions were not sought for this felony offense. The police also charged the offender with unauthorized entry into a motor vehicle, but prosecution was declined for this charge.

The ninth incident occurred in the City and County of Honolulu on June 1, 2021, and the case reached its final disposition on November 23, 2022. In this incident, the offender, a 21-year-old male of Hawaiian descent, with a criminal history record including two felony convictions, two misdemeanor convictions, and two petty misdemeanor/violation convictions, approached the victim as she exited her vehicle in an apartment complex parking lot; stuck his middle finger at her; shoved her in the chest; uttered an anti-homosexual insult; and punched her in the face with a closed fist. The offender was arrested and charged with assault in the third degree, to which he pleaded "no contest" and was sentenced to six months of probation, restitution, and community service, and was ordered to stay away from the victim.

The tenth and final incident for CY 2022 occurred in Maui County on February 28, 2022, and the case reached its final disposition on December 8, 2022. In this incident, the offender, a White female juvenile, threatened another juvenile with a large kitchen knife after having harassed the victim

with anti-Semitic insults in several earlier altercations. The offender and victim had previously been friends until the offender learned that the victim is Jewish. The offender was arrested and charged with terroristic threatening in the first degree. She admitted to the charge and was sentenced to 75 hours of community service and anger management treatment, and was ordered to write a letter of apology to the victim.

Additional CY 2021 Incidents for the City and County of Honolulu

In their review of cases for inclusion in this report for Calendar Year 2022, personnel from the Honolulu Department of the Prosecuting Attorney also identified and reported three additional hate crime cases that should have been submitted for the CY 2021 report. The case information for these three incidents is summarized below, and amended figures for CY 2021 appear in the data tables presented in the next section.

The first additional Honolulu incident for CY 2021 occurred on May 5, 2020, and the case reached its final disposition on June 6, 2021. In this incident, the offender, a 49-year-old White male, with a criminal history record including five misdemeanor convictions and one petty misdemeanor/violation conviction, entered an elevator with the victim, who was not known to him, and uttered an anti-Asian insult before pushing the victim into the elevator wall and slapping the side of his face, which also resulted in the victim's eyeglasses breaking. The offender was arrested and charged with assault in the third degree, to which he pleaded "no contest" and was sentenced to one year of probation, mental health treatment, domestic violence intervention treatment, mental health testing and medication as ordered, and a suspended jail term of 30 days.

The second additional incident occurred on July 19, 2021, and the case reached its final disposition the next day, on July 20, 2021. In this incident, the alleged offender, a 34-year-old Black male, with a criminal history record including one misdemeanor conviction and seven petty misdemeanor/violation convictions, boarded a city bus and refused to pay or leave, and directed several anti-White racial insults at one of the responding police officers. The offender was arrested, but the case was declined for prosecution after being deemed legally insufficient.

The third additional incident occurred on July 2, 2021, and the case reached its final disposition on

October 15, 2021. In this incident, the offender, a 58-year-old female of Hawaiian descent, with a clear criminal history record, threatened and harassed the victim, who was walking past the offender's church. The offender turned on her handheld grass cutter and brandished it in menacing fashion while uttering anti-Muslim slurs and verbally threatening to kill the victim. She was arrested and charged with terroristic threatening in the second degree, and was granted a deferral for pleading "no contest" to a reduced charge of harassment.

Summary Statistics, 2002-2022

A total of 64 hate crime cases were reported to Hawaii's hate crime statistics reporting program since its inception in 2002, yielding a 21-year average of 3.05 cases reported statewide per year and 0.77 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
2021	5**	0	0	1	6**
2022	6	0	4	0	10
Total	41	3	7	13	64

* Revised July 2021 ** Revised May 2023

Due to multiple biases expressed in some cases, the 64 hate crime cases identified above involved a total of 72 bias instances, as categorized below:

Bias Type	# of Bias Instances	% of Total Bias Instances	% within Bias Type
Race/Ethnicity/Nat'l Origin	57	79.2	
Anti-White	28	38.9	49.1
Anti-Black	13	18.1	22.8
Anti-Filipino	4	5.6	7.0
Anti-Arab/Middle Eastern	3	4.2	5.3
Anti-Hispanic	3	4.2	5.3
Anti-Japanese	2	2.8	3.5
Anti-Asian (non-specific)	1	1.4	1.8
Anti-Chinese	1	1.4	1.8
Anti-Micronesian	1	1.4	1.8
Anti-Russian	1	1.4	1.8
Sexual Orientation	9	12.5	
Anti-Homosexual (non-specif.)	6	8.3	66.7
Anti-Female Homosexual	2	2.8	22.2
Anti-Male Homosexual	1	1.4	11.1
Religion	6	8.3	
Anti-Jewish	3	4.2	50.0
Anti-Muslim	3	4.2	50.0

soon be transitioned to a more powerful, flexible, and user-friendly *Microsoft Power BI* platform, and will continue to be expanded and enhanced throughout the foreseeable future. NIBRS hate crime reporting is expected to eventually supersede Hawaii's current prosecutor-level reporting program. As noted earlier herein, police-level hate crime reporting includes incidents regardless of whether or not arrests were made, and the incidents are reported to the state program at the time of the initial police reports, rather than when the cases reach a final disposition.

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:
ag.hawaii.gov/cpja

Update on the National Incident-Based Reporting System (NIBRS) and Hate Crime Statistics Reporting in Hawaii

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 January 2018. NIBRS requires FBI-style, police-level hate crime reporting, which Hawaii's county police departments did not previously provide. After developing a sophisticated electronic data repository as required for NIBRS, the state UCR program (which is also located at the Hawaii Department of the Attorney General) attained its own NIBRS certification in February 2019. The Kauai County Police Department and Maui County Police Department attained certification in November 2021 and September 2022, respectively, and at the time of this report, the Hawaii County Police Department is in the final stage of the certification process. Hawaii's initial police-level hate crime data are presented as a special section of the state UCR program's preliminary online statistical dashboard for NIBRS crime data, available at nibrs.hawaii.gov. The dashboard will