

SOUTH DAKOTA

Total population: 865,454

Rank of Arab American population by state: 45



0 anti-Arab hate crime incidents were reported in SD in 2016.

South Dakota is the 46th most populated state and has the 45th largest Arab American population.

Housed within the state's Bureau of Criminal Statistics, the South Dakota Criminal Statistical Analysis Center is the state agency responsible for the collection and publication of hate crime data. According to the SAC, there were no anti-Arab hate crime incidents reported in South Dakota in 2016.

HATE CRIME STATUTE



S.D. Codified Laws § 22-19B-1 prohibits any person from committing a crime “maliciously and with specific intent to intimidate or harass” another person or group of persons because of their “race, ethnicity, religion, ancestry, or national origin.”¹ A violation of Section 22-19B-1, whether by assault, damaging or defacing property, or threatening to do so, is considered a felony and is defined as malicious intimidation or harassment.²

The current South Dakota hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity.

DATA COLLECTION STATUTE



There is no South Dakota statute that requires hate crime reporting or data collection. S.D. Codified Laws § 23-6-4 requires the Bureau of Criminal Statistics (BCS), housed within the South Dakota Office of the Attorney General, to “collect and compile information, statistical and otherwise, which will...present an accurate survey of the number and character of crimes committed in the state.”³

S.D. Codified Laws § 23-6-16 requires South Dakota law enforcement agencies to submit reports and information relating to crime as requested by the director of the BCS.⁴ Housed within the BCS, the Criminal Statistical Analysis Center (SAC) fulfills the duties pursuant to S.D. Codified Laws § 23-6-4.

LAW ENFORCEMENT TRAINING STATUTE



There is no South Dakota statute that requires specific law enforcement training on hate crime. Pursuant to S.D. Codified Laws § 23-3-35(4), the South Dakota Law Enforcement Officers Standards and Training Commission (LEOSTC) is authorized to “establish minimum curriculum requirements for preparatory, in-service, and advanced courses and programs for schools operated by or for the state or any political subdivisions of the state for the specific purpose of training recruits or other law enforcement officers.”⁵ Hate crime does not appear to be a mandatory topic of instruction in the current LEOSTC basic training curriculum.⁶

SOUTH DAKOTA

Hate Crime Statute	20/40
No statute; civil action or civil rights law	-
Hate crime statute, with protections for:	10
Race/ethnicity/ancestry	5
Religion	5
Sexual orientation	-
Disability	-
Gender	-
Gender identity	-
Data Collection Statute	0/15
Data collection (voluntary reporting)	-
Mandatory reporting and data collection	-
Law Enforcement Training Statute	0/15
No statute; comprehensive training	-
Mandatory training	-
Annual Hate Crime Report	20/20
Annual hate crime report, including:	10
Anti-Arab hate crime statistics	5
Anti-Islamic (Muslim) hate crime statistics	5
FBI Hate Crime Statistics Participant	10/10
TOTAL	50

¹ S.D. Codified Laws § 22-19B-1 (JUSTIA 2017), available at <https://law.justia.com/codes/south-dakota/2017/title-22/chapter-19b/section-22-19b-1>.

² *Id.*

³ S.D. Codified Laws § 23-6-4 (JUSTIA 2017), available at <https://law.justia.com/codes/south-dakota/2017/title-23/chapter-06/section-23-6-4>.

⁴ S.D. Codified Laws § 23-6-16 (JUSTIA 2017), available at <https://law.justia.com/codes/south-dakota/2017/title-23/chapter-06/section-23-6-16>.

⁵ S.D. Codified Laws § 23-3-35(4) (JUSTIA 2017), available at <https://law.justia.com/codes/south-dakota/2017/title-23/chapter-03/section-23-3-35>.

⁶ Law Enforcement Officers Standards and Training Commission, South Dakota Office of the Attorney General, available at <https://atg.sd.gov/LawEnforcement/Training/Certification/basic.aspx#>.

DATA COLLECTION & STATISTICS

Pursuant to S.D. Codified Laws § 23-6-4, the SAC publishes an annual report on crime statistics. The 1997-2016 editions of *Crime in South Dakota* can be found on the state's Office of the Attorney General website and, excluding the 2004-2007 reports, provide hate crime statistics.⁷



ANNUAL STATEWIDE HATE CRIME REPORT

State-level hate crime statistics published by the SAC include data on both anti-Arab and anti-Islamic (Muslim) hate crime. The SAC published a specialized report on hate crime from 1998 to 2003.⁸ The SAC tabulates hate crime data according to the number of offenses per disaggregated bias motivation category.

- ANTI-ARAB HATE CRIME STATISTICS**
 Anti-Arab hate crime statistics are provided in the 2014-2016 editions of *Crime in South Dakota*. According to the SAC, no anti-Arab hate crime offenses were reported in South Dakota in 2016.
- ANTI-ISLAMIC (MUSLIM) HATE CRIME STATISTICS**
 Anti-Islamic (Muslim) hate crime statistics are provided in the 2008-2016 editions of *Crime in South Dakota*. According to the SAC, a single anti-Islamic (Muslim) hate crime offense was reported in South Dakota in 2015.

UNIFORM CRIME REPORTING (UCR)

By January 2021, the FBI Uniform Crime Reporting (UCR) Program will depend solely on the National Incident-Based Reporting System (NIBRS) to collect nationwide crime data.⁹ This transition entails the sunset of summary-based crime reporting (SRS) and requires cooperation on the part of state UCR programs and individual reporting agencies.

The South Dakota UCR program one of 16 state programs that rely exclusively on NIBRS data.¹⁰

NIBRS reporting enables criminal justice agencies to acquire a better understanding of crime, including hate crime, occurring within their respective jurisdictions. This in turn has positive implications for effective law enforcement response and policy implementation.

CONTACT

South Dakota Statistical Analysis Center
 George S. Mickelson Building
 Suite 5
 1302 East Highway 14
 Pierre, South Dakota 57501-8505
 (605) 773-6312
www.dci.sd.gov

CRIME IN SOUTH DAKOTA HATE CRIME OFFENSES (2000-2016)

Bias motivation	'00	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13	'14	'15	'16
Anti-Arab	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	0	0
Anti-Islamic (Muslim)	0	0	0	0	-	-	-	-	0	0	0	0	1	0	0	1	0
Anti-other race/ ethnicity/ancestry	0	2	0	1	-	-	-	-	3	2	7	0	0	1	1	1	0

According to supplemental data from the FBI, a single anti-Arab hate crime incident was reported in South Dakota in 2015. This total conflicts with SAC statistics. South Dakota law enforcement agencies submit hate crime data to the FBI UCR Program through the SAC.

FBI HATE CRIME STATISTICS (2015-2016)

Bias motivation	'15	'16
Anti-Arab	1	0
Anti-Islamic (Muslim)	0	0

⁷ Statistical Analysis Ctr., South Dakota Office of the Attorney General, *Crime in South Dakota Publications*, <https://atg.sd.gov/OurOffice/Departments/DCI/SAC/CrimeinSouthDakota.aspx>.

⁸ Statistical Analysis Ctr., South Dakota Office of the Attorney General, *Hate Crime Summaries*, <https://atg.sd.gov/OurOffice/Departments/DCI/SAC/HateCrimes.aspx>.

⁹ CJIS Div., Fed. Bureau of Investigation, *SRS to NIBRS: The Path to Better UCR Data*, <https://www.fbi.gov/services/cjis/cjis-link/srs-to-nibrs-the-path-to-better-ucr-data>.

¹⁰ Bureau of Justice Statistics, U.S. Dep't of Justice, *2017 NCS-X Estimation Project (Jul. 27, 2017)*, available at <https://www.bjs.gov/content/pub/pdf/17ncsxp.pdf>.

FBI HATE CRIME STATISTICS

Pursuant to the Hate Crime Statistics Act (HCSA) of 1990 the FBI UCR Program collects data on "crimes that manifest evidence of prejudice based on race, gender or gender identity, religion, disability, sexual orientation, or ethnicity."¹⁰

Since 1993, the FBI UCR Program has published the annual report, *Hate Crime Statistics*, which is based on voluntary submissions from participating law enforcement agencies. In 2016, agencies from 49 states and the District of Columbia participated in the national hate crime statistics program.

For the most part, hate crime data is collected at the state level and forwarded to the FBI UCR Program. A total of 48 states maintain a state-level UCR data collection. UCR programs in 38 states publish annual hate crime statistics. Some participating law enforcement agencies submit hate crime data directly to the FBI UCR program.¹¹



FBI HATE CRIME STATISTICS PARTICIPANT

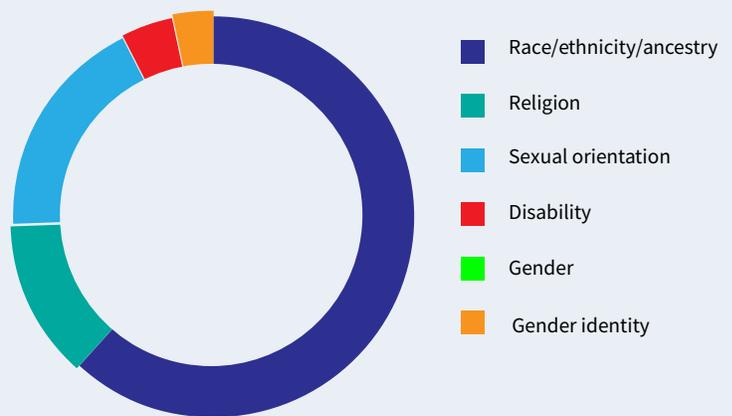
Law enforcement agencies in South Dakota submit hate crime data to the FBI UCR Program through the SAC. According to the FBI UCR Program's annual report, *Hate Crime Statistics*, 18 hate crime incidents, involving 21 offenses, were reported in South Dakota in 2016.

In 2016, 12 of the 112 South Dakota law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program. The Watertown Police Department, which represents the fifth largest city in South Dakota, submitted only zero data.

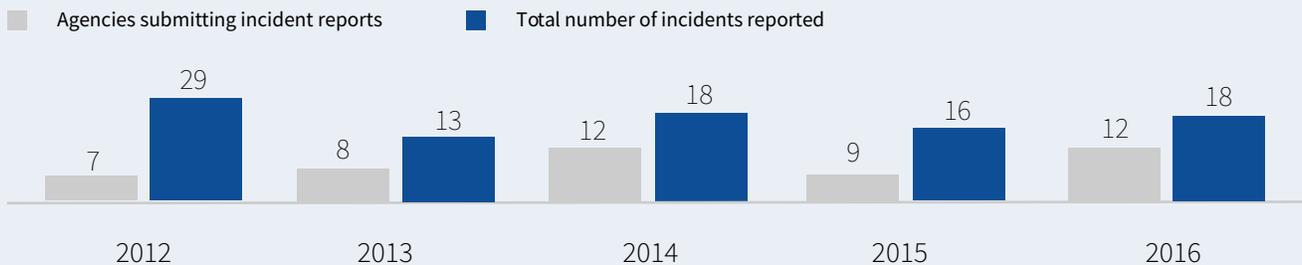
According to annual hate crime statistics published by the SAC, 21 hate crime offenses were reported in South Dakota in 2016. This total is consistent with the FBI UCR Program's annual report, *Hate Crime Statistics, 2016*. Discrepancies occur between state and federal hate crime statistics for 2012-2013 and 2015.

FBI HATE CRIME STATISTICS: SOUTH DAKOTA 2012-2016

Incidents per bias motivation	2012	2013	2014	2015	2016	Total
Race/ethnicity/ancestry	22	10	11	9	6	58
Religion	4	2	2	2	2	12
Sexual orientation	3	1	3	5	5	17
Disability	0	0	1	0	3	4
Gender	-	0	0	0	0	0
Gender identity	-	0	1	0	2	3
Total	29	13	18	16	18	94



PARTICIPATION IN UCR HATE CRIME STATISTICS PROGRAM



SUMMARY

The current South Dakota hate crime statute is not sufficiently inclusive, as it does not offer protections for sexual orientation, disability, gender, or gender identity. Furthermore, South Dakota does not have statutes that require reporting, data collection, or specific law enforcement training on hate crime. The South Dakota Division of Criminal Investigation, Criminal Statistical Analysis Center, maintains the state clearinghouse for all police-reported crime data, including hate crime, and is responsible for publishing annual statistics. Copies of *Crime in South Dakota* can be found on the state's Office of the Attorney General website and include both anti-Arab and anti-Islamic (Muslim) hate crime statistics. In 2016, 12 South Dakota law enforcement agencies submitted hate crime incident reports to the FBI UCR Program. The remaining 100 participating agencies provided only zero data. A total of 4 participating agencies recorded blank data in at least one quarterly submission period. South Dakota receives an overall score of 50 points, denoting a limited response to hate crime.

¹⁰ 28 U.S.C. § 534 (JUSTIA 2016), available at <https://law.justia.com/codes/us/2016/title-28/part-ii/chapter-33/sec.-534>.

¹¹ Uniform Crime Reporting Program, Fed. Bureau of Investigation, Data Quality Guidelines, https://ucr.fbi.gov/data_quality_guidelines.

¹² CJIS Div., Fed. Bureau of Investigation, Table 11: Offenses, *Hate Crime Statistics, 2016* (Nov. 13, 2017), <https://ucr.fbi.gov/hate-crime/2016/tables/table-11>.

ADVOCACY RESOURCES - South Dakota

IMPROVING THE RESPONSE

Most states have failed to enact sufficient legislation to address, prevent, and counteract hate crime in American communities. To accompany our federal hate crime laws, state legislatures must pass the following:

1. **An inclusive hate crime statute**, which covers a wide range of criminal offenses and provides enhanced penalties for crimes motivated because of citizenship status, race, ethnicity, color, disability, age, ancestry or national origin, gender or gender identity, sexual orientation, religion, or homelessness. Such protections are pursuant to model hate crime legislation drafted by the Arab American Institute. According to the model statute, penalty enhancement may incorporate alternatives to fines or increased prison sentences. Alternatives include restitution for victims and communities, participation in educational programs, and restorative justice.
2. **Statutes that require reporting, data collection, and specific law enforcement training on hate crime.** Centralized state agencies must publish comprehensive, accessible statistics on the nature and extent of hate crime occurring within their state. These statistics must conform to national UCR standards and include the bias motivation categories identified in the FBI's annual report, *Hate Crime Statistics*. States must also require law enforcement training schools to provide comprehensive training to ensure that officers are prepared to investigate, report, and respond to hate crime incidents.

STATE RECOMMENDATIONS

According to our rating methodology, South Dakota receives an overall score of 50 points, denoting a limited response to hate crime. Advocates for an improved response to hate crime in South Dakota should promote the following:

1. The current South Dakota hate crime statute offers protections for race, ethnicity, religion, ancestry, and national origin. The South Dakota hate crime statute should be amended to include protections for **citizenship status, color, disability, age, gender or gender identity, sexual orientation, homelessness**, or association with a person or group with one of these actual or perceived characteristics.
2. While South Dakota publishes statistics in the form of an annual hate crime report, state code does not require hate crime reporting or data collection. In 2016, 12 of the 112 South Dakota law enforcement agencies participating in the national hate crime statistics program submitted incident reports to the FBI UCR Program.
 - Law enforcement agencies must report hate crimes to the South Dakota Bureau of Criminal Statistics (BCS), which is currently responsible for publishing annual hate crime statistics.
 - The BCS should be required by law to collect data and publish statistics, conforming to national UCR standards, on the nature and extent of hate crime within the state. The BCS currently provides hate crime data corresponding to the bias motivation categories identified in the FBI UCR Program's annual report, *Hate Crime Statistics*.
3. South Dakota state code does not require specific law enforcement training on hate crime. The South Dakota Law Enforcement Officers Standards and Training Commission must establish minimum standards and curriculum requirements, which include instruction relating to investigating and reporting hate crime incidents, for law enforcement training throughout the state.

STATE CONTACTS

Advocates for an improved response to hate crime in South Dakota should contact current state legislators and members of Congress.

South Dakota Legislature

Both Chambers: <http://www.sdlegislature.gov>

United States Senate

Contact: South Dakota

<https://www.senate.gov/senators/contact>

United States House of Representatives

Directory of Representatives: South Dakota

<https://www.house.gov/representatives#state-south-dakota>