Arab American Institute

Virginia Advisory Committee to the United States Commission on Civil Rights
Public Briefing: "Hate Crimes in Virginia – Incidents and Responses"
Statement of Kai Wiggins, Policy Analyst, Arab American Institute

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To members of the committee and my fellow panelists, good morning. My name is Kai Wiggins and I am a policy analyst at the Arab American Institute. Before I begin, I would first like to thank the committee for holding a briefing on this important topic, and for inviting the Arab American Institute to share its research and recommendations. I would also like to recognize Ivy Davis at the U.S. Commission on Civil Rights for her guidance and support in coordinating today's proceedings.

The Arab American Institute (AAI) is a nonprofit, nonpartisan organization founded in 1985 to nurture and encourage the participation of Arab Americans in political and civic life. Historically, and as with many communities in the United States, threats of hate crime and targeted violence have prevented Arab Americans from full participation in the democratic process.[1] Given this historical perspective, not to mention the reported nationwide increase of hate crime in recent years,[2] we are committed to promoting effective hate crime prevention in every state, including the commonwealth of Virginia.

I.   Hate Crime Reporting through the UCR System

When it comes to this commitment, our principal concern is improving the national hate crime reporting and data collection system, of which I will provide a general outline before turning to the subject of this briefing. Under the Hate Crime Statistics Act, the Attorney General is required to collect data on "crimes that manifest evidence of prejudice based on race, gender and gender

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[1] Ethnically Motivated Violence Against Arab-Americans: Hearing Before the Subcomm. on Criminal Justice, Comm. on the Judiciary, House of Representatives, 99 Cong. 130 (1986) (Statement of James Zogby, Executive Director, Arab American Institute), https://babel.hathitrust.org/cgi/pt?id=pst.000014264429;view=1up;seq=134.
[2] Press Release, Arab American Institute, Hate Crimes Continue to Surge in America (Nov. 13, 2018), http://www.aaiusa.org/hate_crimes_continue_to_surge_in_america.

identity, religion, disability, sexual orientation, or ethnicity."[3] The Federal Bureau of Investigation (FBI) carries out this requirement through its administration of the Uniform Crime Reporting (UCR) Program, which publishes annual statistics based on crime data submitted from federal, state, and local law enforcement.[4]

While federal departments and agencies are required to provide the Justice Department with data on crimes that occur within their respective jurisdictions,[5] state and local law enforcement participate in the UCR system on a voluntary basis.[6] This should inform our understanding of the federal government's annual hate crime statistics, and in particular, our assessment of the data corresponding to individual law enforcement agencies.[7] One should not overlook, however, that many states, including Virginia, have enacted requirements for law enforcement reporting of hate crime and other types of crime to state-level repositories for criminal justice information.[8] These

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[3] 28 U.S.C. § 534 note. Readers should note the multiple definitions of hate crime in federal law. For the purpose of collecting data under the Hate Crime Statistics Act, and in interpreting the quoted text accompanying this note, the FBI defines hate crime as a "committed criminal offense which is motivated, in whole or in part, by the offender's bias(es) against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity." Fed. Bureau of Investigation, Criminal Justice Information Services Division, Hate Crime Statistics (accessed Mar. 26, 2019), https://www.fbi.gov/services/cjis/ucr/hate-crime. We can look to federal criminal law for additional definitions of hate crime, which include: willfully causing bodily injury, or attempting to do so using a dangerous weapon, because of the victim's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability (18 U.S.C § 249); intentionally defacing, damaging, or destroying, or attempting to do so, any religious real property, because of the religious character of that property or the race, color, or ethnic characteristics of any person associated with that property; or intentionally obstructing, or attempting to obstruct, by force or threat of force, including by threat of force against religious real property, any person in the enjoyment of that person's free exercise of religious beliefs (18 U.S.C. § 247); using or threatening to use force to willfully injure, intimidate, or interfere with, or attempting to do so, any person because of their race, color, religion, national origin and because they are engaging in federally protected activities (18 U.S.C. § 245); or, conspiring to injure, oppress, threaten, or intimidate any person in the free exercise or enjoyment of any right or privilege secured to them by the Constitution or the laws of the United States (18 U.S.C. § 241). As with all federal criminal statutes, prosecution under these statutes requires a basis for federal jurisdiction. For this reason, in addition to the high standard for conviction under federal criminal statutes, not every incident that is reportable as a hate crime in federal statistics would be prosecutable as one under federal criminal law. *E.g.*, United States v. Bledsoe, 728 F.2d 1094 (8th Cir. 2006), United States v. Miller, 767 F.3d 585 (6th Cir. 2010).

[4] Fed. Bureau of Investigation, Criminal Justice Information Services Division, Uniform Crime Reporting (UCR) Program, https://www.fbi.gov/services/cjis/ucr.

[5] 28 U.S.C. § 534 note. While federal departments and agencies are required to report crimes to the Justice Department under this section, hate crime data submissions from federal law enforcement are not incorporated into the FBI's annual hate crime statistics report.

[6] There are, however, incentives for state and local law enforcement agencies to participate in the UCR system. For example, allocations to States and units of local government through the Edward J. Byrne Memorial Justice Assistance Grant (JAG) Program, authorized under the Omnibus Crime Control and Safe Streets Act of 1968 (24 U.S.C. § 10101 et seq.), are based in part on violent crime data reported to the UCR program. *See* Dep't of Justice, Bureau of Justice Assistance, Edward Byrne Justice Assistance Grant (JAG) Program Fact Sheet (updated Oct. 11, 2018), https://www.bja.gov/publications/2018-JAG-Fact-Sheet.pdf.

[7] The FBI discourages the use of non-contextualized UCR data for the purpose of ranking or comparing participating law enforcement agencies. *See* Fed. Bureau of Investigation, Uniform Crime Reporting Statistics: Their Proper Use (May 2017), https://ucr.fbi.gov/ucr-statistics-their-proper-use.

[8] Prior to the 2019 state legislative session, 29 states had laws requiring some form of hate crime reporting or data collection on the part of law enforcement. *See* Arab American Institute Foundation, Underreported, Under Threat: Hate Crime in the United States and the Targeting of Arab Americans (Jul. 2018) (discussion of data collection statutes in executive summary), http://www.aaiusa.org/hate-crimes.

entities generally perform the function of state UCR programs, which serve as intermediaries between the federal program and participating agencies.[9]

In this respect, agencies in some states have greater incentives to report hates crime than others participating in the UCR system, as those agencies might be required under state law to submit hate crime data that components of state government customarily transmit to the federal government. These discrepancies could have some effect on the numbers we see reflected in federal hate crime statistics. Other factors related to state code, such as the nature or existence of criminal statutes offering protections for hate crime victims, or laws requiring basic and in-service training on hate crime for law enforcement, might also have an effect. At the local level, some agencies have adopted specific hate crime policies and devote substantial resources to hate crime prevention. These factors are also worthy of consideration.

Having provided this general outline of the national hate crime reporting and data collection system, I hope the committee appreciates the intersecting, multi-scalar factors that might affect the nature and extent of hate crime reporting in particular jurisdictions: a centralized federal program collects, but does not require, hate crime data from state and local agencies under congressional mandate; these agencies must answer to different state laws that require, incentivize, or generally promote the provision of hate crime data; and these agencies have also adopted different policies, not to mention institutional cultures or attitudes,[10] toward hate crime and hate crime reporting.

Therefore, in crafting policy recommendations to improve the national hate crime reporting and data collection system, we must take a comprehensive approach, one that is attentive to these intersecting, multi-scalar factors. And when we assess the landscape in a particular state, as we are in this briefing, these considerations should inform our perspectives.

II.   Hate Crime in Virginia: The Legal Framework and Historical Data

I will devote the remainder of my time to briefing the committee on the present legal framework in Virginia to address, prevent, or respond to hate crime. Given my time constraints and the information my fellow panelists have already provided, I will concentrate on the relevant state laws and not address the question of federal hate crime enforcement.[11] Furthermore, while my

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[9] The FBI maintains a directory of State UCR programs. *See* Fed. Bureau of Investigation, Criminal Justice Information Services Division, State UCR Program Contacts (accessed Mar. 26, 2019), https://ucr.fbi.gov/state-ucr-program-contacts-1.

[10] For a discussion of factors that either encourage or discourage hate crime reporting in law enforcement agencies, *see* Jack McDevitt and Joan C. Weiss, Improving the Quality and Accuracy of Bias Crime Statistics Nationally, Center for Criminal Justice Policy Research/Justice Research Statistics Association (Jul. 2000) (section beginning at 115), http://www.jrsa.org/pubs/reports/bjs_bias_crime_data.pdf.

[11] Congress has enacted multiple statutes enabling federal criminal prosecutions of hate crimes, *see supra* note 3. Along with the federal Hate Crime Statistics Act, federal hate crime statutes comprise but one facet of the broader legal framework to address and prevent hate crime in Virginia. For example, James Alex Fields Jr. was indicted on federal hate crime charges under the Matthew Shepard and James Byrd, Jr., Hate Crime Prevention Act (18 U.S.C. § 249), and an additional federal hate crime statute (18 U.S.C. § 245), for driving his car into a crowd of anti-racist protestors in Charlottesville, Va., on Aug. 12, 2017, killing Heather Heyer and wounding many others. *See* Dep't of Justice, Civil Rights Division, Hate Crime Laws (updated Mar. 7, 2019), https://www.justice.gov/crt/hate-crime-

written statement includes a review of historical hate crime data submitted from state and local agencies through the UCR system and a series of recommendations, these are not included in my oral statement. I am prepared to answer any questions the committee might have on these items during the panel discussion and have submitted my full written statement for the record.

A. The Legal Framework

One component of our research and advocacy at the Arab American Institute is a comparative review of hate crime laws in each state and the District of Columbia.[12] In conducting this review, we generally ask three questions. First, does the state have a hate crime statute applicable to a broad range of criminal conduct that offers inclusive protections for hate crime victims?[13] Second, does the state require law enforcement agencies to report hate crime and collect hate crime data? And third, does the state authorize mandatory basic and in-service hate crime training for law enforcement personnel?

To answer the first question: Yes, Virginia has a hate crime statute, though it is neither applicable to a broad range of criminal conduct nor offers inclusive protections for hate crime victims.[14] In Virginia, defendants who commit simple assault, assault and battery, or entering another person's property for the purpose of damaging it, and in doing so, intentionally select the victim or the property associated with the victim because of their race, religious conviction, color, or national origin, are subject to enhanced penalties. These provisions do not extend to other forms of criminal conduct against persons or property, such as murder or arson.[15] Moreover, they do not apply to crimes in which the defendant intentionally selects the victim or property associated with the victim because of their sexual orientation, gender, disability, or gender identity.

On to the second question: Virginia code requires law enforcement agencies to report hate crimes to the Virginia State Police, which maintains a central repository for the collection and analysis of hate crime information.[16] This law, which predates the federal Hate Crime Statistics Act by two years, currently provides a three-part definition of hate crime. For the purposes of data collection under this section, hate crime is defined to include "criminal acts," "illegal acts," and "all other incidents, as determined by law enforcement authorities," that are directed against persons or their property because of their race, religion, or ethnic or national origin. The range of criminal conduct covered under this definition of hate crime is more expansive than that which is

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laws. *See also* Press Release, Dep't of Justice, Office of Public Affairs, Ohio Man Charged with Federal Hate Crimes Related to August 2017 Rally in Charlottesville (Jun. 27, 2018), https://www.justice.gov/opa/pr/ohio-man-charged-federal-hate-crimes-related-august-2017-rally-charlottesville.

[12] Arab American Institute Foundation, Underreported, Under Threat: Hate Crime in the United States and the Targeting of Arab Americans (Jul. 2018), http://www.aaiusa.org/hate-crimes.

[13] The term "hate crime statute" is generally defined as a stand-alone criminal statute prohibiting certain forms of bias-motivated criminal conduct, or provisions that authorize enhanced penalties for crimes when they are found to be bias-motivated. A total of 45 states and the District of Columbia have some form of hate crime statute, with penalty enhancement being the more common approach.

[14] Va. Code §§ 18.2-57 & 18.2-121.

[15] Virginia does have laws prohibiting certain hate crime-related property offenses, such as cross burning, or placing noose or swastika, on private property or in a public place with intent to intimidate. *See* Lawyers' Committee for Civil Rights Under Law, Stop Hate Project, State Hate Crime Overviews, Virginia, https://8449nohate.org/legal-overviews/state-hate-crime-overviews/virginia.

[16] Va. Code § 52.8-5.

subject to hate crime penalty enhancement under Virginia criminal code. However, consistent with Virginia's hate crime statute, the definition of hate crime used for reporting and data collection does not include crimes motivated by sexual orientation, gender, disability, or gender identity.

And now we come to the third question. All law enforcement officers in Virginia are required to complete statewide certification examinations developed and administered by the Department of Criminal Justice Services.[17] While the department's training manual and compulsory minimum training standards include nonspecific sections on investigating and reporting hate crime, hate crime training is not explicitly required under state law.[18] In contrast, some states have laws requiring specific forms of hate crime training, which include provisions relating to investigating certain types of hate crime, reporting hate crime incidents, and providing assistance to victims and communities.[19]

As I have already emphasized, we must acknowledge the potential effect of state laws and agency-level factors on the nature and extent of hate crime reporting in particular jurisdictions as reflected in federal hate crime statistics. This should inform both our analysis of hate crime data and the recommendations we promote to improve hate crime data.

B. Historical Data

A second component of our research and advocacy at the Arab American Institute is the assessment of UCR hate crime data published in both state and federal statistics. Most states, including Virginia, publish annual statistics based on hate crime data submitted from state and local agencies to state UCR programs. For example, in May 2018, the Virginia State Police published its annual "Crime in Virginia" report, which includes information on hate crimes reported by state and local law enforcement agencies in 2017.[20]

According to the state police, 207 hate crimes were reported in Virginia in 2017. While the report provides breakdowns according to offense and bias motivation, agency-specific data are not provided. As the result of a public records request to the Virginia State Police, we discovered that the Charlottesville Police Department reported no hate crimes between August 10 and 12, 2017, coinciding with the now-infamous "Unite the Right" rally and the killing of Heather Heyer. Although we reached out to the Charlottesville Police Department in regard to this apparent oversight, the response we received was inconclusive. Given they were omitted from state UCR hate crime statistics, the events in Charlottesville were not reflected in the federal government's annual hate crime report.[21]

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[17] Va. Code § 15.2-1706

[18] Virginia Dep't of Criminal Justice Services, Compulsory Minimum Training Standards (accessed Mar. 26, 2019), https://www.dcjs.virginia.gov/law-enforcement/programs/compulsory-minimum-training-standards.

[19] *E.g.,* Cal. Pen. Code § 13519.6, Conn. Gen. Stat. §§ 7-294n & 4a-2c, N.J. Rev. Stat. § 52:17B-7712.

[20] Virginia State Police, Uniform Crime Reporting Program, Crime in Virginia 2017 (2018), http://www.vsp.virginia.gov/downloads/Crime_in_Virginia/Crime_in_Virginia_2017.pdf.

[21] Maya Berry, "Charlottesville Won't Show Up in Federal Hate Crime Stats," Washington Post (Sept. 21, 2018), https://www.washingtonpost.com/outlook/2018/09/24/charlottesville-wont-show-up-federal-hate-crime-stats/?noredirect=on&utm_term=.767212c530d1.

Glaring omissions of this nature are more common than we would like to admit. Along with the killing of Heather Heyer, at least two additional high-profile hate crime murders that occurred in 2017 were seemingly excluded from federal hate crime statistics.[22] In our research, we have found that no single factor accounts for inaccurate or underreported hate crime data. In the United States, we have over 18,000 law enforcement agencies, more than 300 of which are in Virginia alone.[23] Each agency is subject to its own policies, conventions, and potentially limited resources, not to mention disparate state legal frameworks. While the federal government provides guidelines for state and local law enforcement on hate crime reporting and data collection through the UCR system,[24] the presence of various complicating factors, such as conflicting state, federal, and local definitions of hate crime and related policies—whether applied in the context of criminal law or for the purposes of data collection—risk engendering confusion. This is likely what occurred in the case of Charlottesville.

These admissions should influence, but not govern, our perception of historical hate crime data in Virginia. For the purposes of this briefing, I have provided three representations of hate crime data submitted from state and local law enforcement through the UCR system: annual totals since 1991, which is the first year during which data were collected under the Hate Crime Statistics Act; breakdowns according to bias motivation from the last five years of available data (2013-2017); and hate crime reporting rates among major local jurisdictions in the most recent reporting year (2017).

The chart to the right is based on the Federal Bureau of Investigation's Hate Crime Statistics dataset, which is available for download on its Crime Data Explorer website.[25] This dataset features incident-level data submitted from the nation's law enforcement agencies since 1991. The totals reflected in the dataset do not always match those recorded in the federal government's annual *Hate Crime Statistics* report.

HATE CRIME INCIDENTS REPORTED IN VIRGINIA 1991-2017
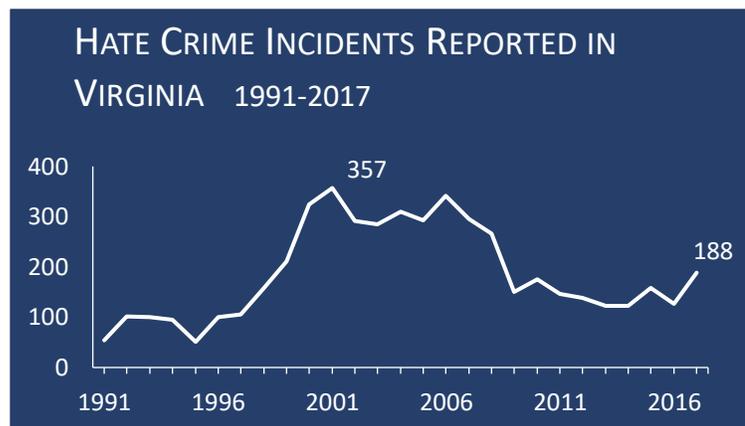
Source: Fed. Bureau of Investigation, Crime Data Explorer

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[22] On February 22, 2017, an Indian immigrant named Srinivas Kuchibhotla was killed at a bar in Olathe, Kansas, when a man shot him because of his perceived national origin. Kuchibhotla's friend Alok Madasani was also targeted but survived the shooting, as did a man named Ian Grillot who attempted to intervene. On May 26, 2017, two men named Ricky John Best and Taliesin Myrddin Namkai-Meche were stabbed to death on a train in Portland, Oregon. Best and Namkai-Meche were killed, and another man named Micah David Cole Fletcher was wounded, when they attempted to discourage a man from harassing two teenage passengers with racist and anti-Muslim slurs. Maya Berry & Kai Wiggins, "FBI Stats on Hate Crime Are Scary. So Is What's Missing," CNN (Nov. 14, 2018), https://www.cnn.com/2018/11/14/opinions/fbi-hate-crimes-data-whats-missing-berry-wiggins/index.html.
[23] Brian A. Reaves, Ph.D., Census of State and Local Law Enforcement Agencies, 2008, Dep't of Justice, Bureau of Justice Statistics (Jul. 2011), https://www.bjs.gov/content/pub/pdf/csllea08.pdf.
[24] Fed. Bureau of Investigation, Criminal Justice Information Services Division, Hate Crime Data Collection Guidelines and Training Manual (Feb. 27, 2015), https://ucr.fbi.gov/hate-crime-data-collection-guidelines-and-training-manual.pdf.
[25] Fed. Bureau of Investigation, Crime Data Explorer, Documents & Downloads (accessed Mar. 28, 2019), https://crime-data-explorer.fr.cloud.gov/downloads-and-docs.

For example, according to the report's 2001 edition, 362 hate crime incidents were reported in Virginia that year,[26] compared to 357 in the dataset. A similar discrepancy occurred in the 2017 data.[27]

According to the dataset, the greatest number of hate crime incidents reported in Virginia occurred in 2001. This is not surprising, as in the aftermath 9/11, the country saw a surge of hate crimes targeting Arab Americans and American Muslims, and those perceived to be Arab or Muslim.[28] In recent years, and in keeping with national trends, the number of reported hate crime incidents appears to be on the rise in the commonwealth.
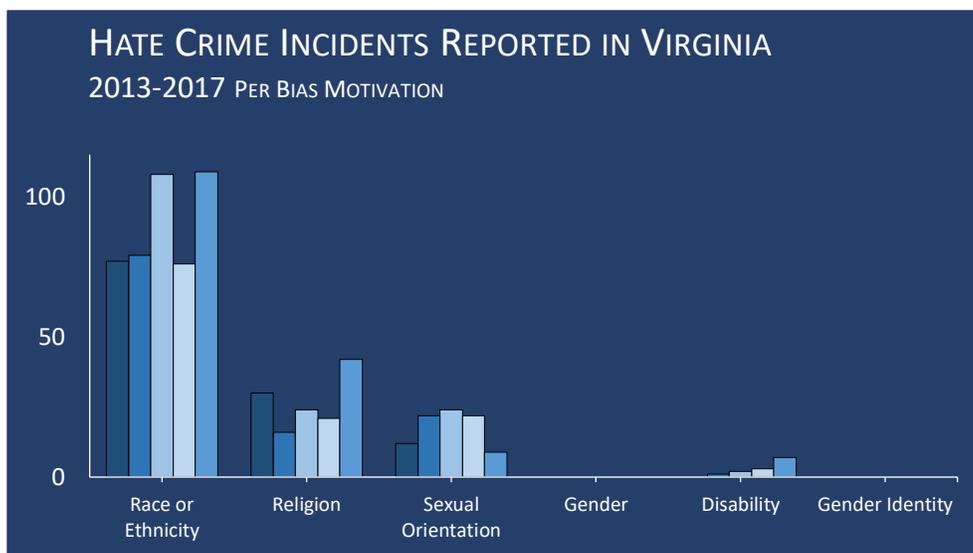
Source: Fed. Bureau of Investigation, *Hate Crime Statistics, 2013-2017*

The chart above is based on data recorded in the five most recent editions (2013-2017) of the Federal Bureau of Investigation's annual *Hate Crime Statistics* report.[29] The data represent the total number of hate crime incidents reported in Virginia according to six reportable bias motivations: race or ethnicity; religion, sexual orientation, gender, disability, and gender identity. As a reminder, hate crime protections in Virginia criminal code extend only to crimes motivated by race, religious conviction, color, or national origin.[30] Virginia's hate crime data statute is also limited to this narrow set of bias motivations.[31] Despite the relatively moderate number of

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[26] Fed. Bureau of Investigation, Criminal Justice Information Services Division, Profile of States Participating in Hate Crime Reporting, Hate Crime Statistics, 2001 (2002), https://ucr.fbi.gov/hate-crime/2001.

[27] While 188 incidents are recorded in the Hate Crime Statistics dataset, 193 incidents were recorded in the FBI's annual report. Fed. Bureau of Investigation, Criminal Justice Information Services Division, Agency Hate Crime Reporting by State, Hate Crime Statistics, 2017 (Nov. 2018), https://ucr.fbi.gov/hate-crime/2017/topic-pages/tables/table-12.xls.

[28] *See generally,* United States Commission on Civil Rights, Federal Civil Rights Engagement With Arab and Muslim American Communities (Sept. 2014), https://www.usccr.gov/pubs/docs/ARAB_MUSLIM_9-30-14.pdf.

[29] Fed. Bureau of Investigation, Criminal Justice Information Services Division, Hate Crime (accessed Mar. 28, 2019), https://ucr.fbi.gov/hate-crime.

[30] Va. Code §§ 18.2-57 & 18.2-121

[31] Va. Code § 52.8-5. Readers should note that, despite the constraints of Virginia's data collection statute, the Virginia State Police publishes annual statistics for crimes motivated by sexual orientation and disability. *See supra* note 20.

incidents motivated by sexual orientation reported in Virginia over the five most recent years, we have limited data corresponding to the bias motivations of gender, disability, or gender identity. This could be an effect of limitations in the state legal framework. Indeed, according to federal statistics, no hate crimes motivated by gender or gender identity have ever been reported in Virginia.[32]

The table to the right is based on data recorded in the 2017 edition of the Federal Bureau of Investigation's annual *Hate Crime Statistics* report.[34] The data represent the annual hate crime reporting rates for municipal police departments serving major population centers in Virginia.

Hate crime reporting rates vary significantly among major U.S. jurisdictions. In 2017, the American cities (populations over 100,000) with some of the highest reported hate crime rates were: Eugene, Oregon (42.8); Seattle, Washington (32.4); Washington, DC (24.35);

HATE CRIME INCIDENTS REPORTED IN VIRGINIA 2017 PER MAJOR JURISDICTION			
Agency	Total	Population	Rate[33]
Virginia Beach	7	454,353	1.54
Norfolk	2	245,190	0.82
Chesapeake	6	240,119	2.50
Richmond	2	226,236	0.88
Newport News	4	181,738	2.20
Alexandria	3	158,256	1.90
Hampton	3	134,929	2.22
Roanoke	0	100,027	0.00

Source: Fed. Bureau of Investigation, *Hate Crime Statistics, 2017*

and Boston, Massachusetts (20.6).[35] These are cities with municipal police departments that devote significant resources to hate crime prevention, and that are located in states (excluding Washington, DC) that have enacted comprehensive hate crime laws.

Each year, many agencies in major American cities either do not participate in the UCR system or report that no hate crimes occurred in their jurisdictions. In 2017, nearly 100 municipal police departments serving populations greater than 100,000, including the Roanoke Police Department, reported no hate crimes through the UCR system.[36]

Looking at data alone, we cannot determine whether state and local agencies are underreporting hate crimes occurring within their jurisdictions. Nevertheless, adjusting UCR hate crime data for population provides greater context when it comes to hate crime reporting in different communities and could bring certain trends to light.

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[32] Pursuant to the Matthew Shepard and James Byrd, Jr., Hate Crime Prevention Act, the FBI incorporated gender and gender identity into the UCR hate crime data collections beginning in 2013. Fed. Bureau of Investigation, Criminal Justice Information Services Division, About Hate Crime Statistics, Hate Crime Statistics, 2017 (Nov. 2018), https://ucr.fbi.gov/hate-crime/2017/resource-pages/about-hate-crime.

[33] Incidents reported per 1,000 people.

[34] Federal Bureau of Investigation, Criminal Justice Information Services Division, Hate Crime Statistics, 2017 (Nov. 2018), https://ucr.fbi.gov/hate-crime/2017.

[35] *Ibid*.

[36] With jurisdiction over a population greater than 1.6 million, the Las Vegas Metropolitan Police Department was the largest municipal police department (in terms of population served) to report no hate crime incidents through the UCR system in 2017. No agencies in Hawai'i participated in the UCR hate crime data collections, and 12 states had fewer than 10 law enforcement agencies submit UCR hate crime data in 2017. *Supra* note 22.

III.   Recommendations

In crafting policy recommendations to improve our hate crime statistics, and by extension, our response to hate crime, we must account for the intricacies of the national hate crime reporting and data collection system. A more complete understanding of the nature and extent of hate crime in American communities will necessitate a coordinated federal, state, and local approach.

A. Federal Recommendations

The Arab American Institute is working to advance efforts in Congress that would promote improved data collection under the Hate Crime Statistics Act and greater accountability of state and local law enforcement. In particular, the Department of Justice should study the relationship between hate crime reporting of state and local law enforcement agencies, the legal frameworks to address, prevent, or respond to hate crime in those agencies' respective states, and the policies those agencies have implemented relating to hate crime or hate crime reporting. To facilitate this research, Congress could also require states and units of local government receiving federal grants to collect this information from certain agencies that are sub-recipients of those grants.

This approach would assist the federal government in developing policies to improve the collection of hate crime data. Moreover, in the provision of a public report, the federal government would furnish state legislative bodies like the Virginia General Assembly with information relevant to state-level reform. A public report of this nature would also promote civilian oversight of law enforcement and provide Virginia residents with a better understanding of how state and local agencies are working to address hate crime in their communities.

B. State Recommendations

The Virginia General Assembly should strengthen the present legal framework to address, prevent, or respond to hate crime in the commonwealth. Currently, Virginia criminal code authorizes enhanced penalties for a narrow range of criminal conduct motivated by race, color, religious conviction, or national origin.[37] At the very least, hate crime protections should be extended to crimes motivated by sexual orientation, gender, disability, or gender identity. Legislators should also consider the limitations of the penalty enhancement provisions presently codified in Virginia criminal code, which are not applicable to a broad range of criminal conduct and impose mandatory minimum sentences.

State lawmakers should amend the definition of hate crime in Virginia's hate crime data collection statute to include incidents directed against persons or their property because of their sexual orientation, gender, disability, and gender identity. Furthermore, the General Assembly should also consult with the Department of Criminal Justice Services regarding the potential utility of a law requiring mandatory basic and in-service law enforcement training on identifying, reporting, and responding to hate crime.

C. Local Recommendations

Law enforcement agencies in Virginia should adopt policies on identifying, investigating, and reporting hate crimes, in addition to a standardized system of collecting, analyzing, and reporting the incidence of hate crime within their jurisdictions. These policies and standards should be

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[37] Va. Code §§ 18.2-57 & 18.2-121

consistent with state law and regulations while incorporating federal hate crime data collection guidelines to ensure uniform reporting.[38]

IV.   Conclusion

On behalf of the Arab American Institute, I am grateful to this committee for the opportunity to share our research and recommendations. We will gladly provide any additional material if requested.

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[38] The International Association of Chiefs of Police (IACP) has developed a comprehensive model hate crime policy. International Association of Chiefs of Police, Investigation of Hate Crimes (accessed Mar. 28), https://www.theiacp.org/resources/policy-center-resource/hate-crimes.