



# Federal Hate Crime Prosecutions, 2005–19

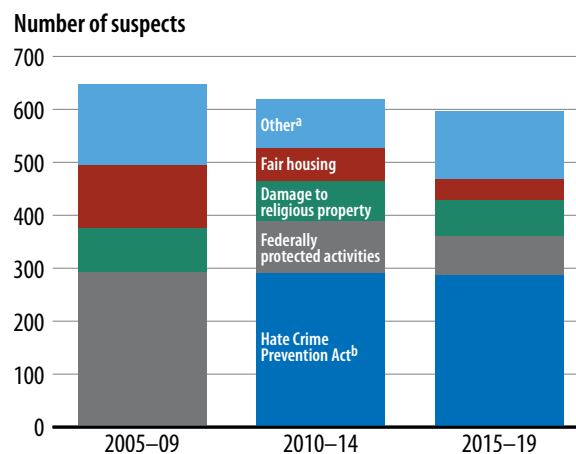
Mark Motivans, Ph.D., *BJS Statistician*

From October 1, 2004 to September 30, 2019, U.S. attorneys investigated a total of 1,864 suspects in matters involving violations of federal hate crime statutes (figure 1).<sup>1</sup> Federal prosecutors referred 17% of the suspects for prosecution. The number of hate crime matters investigated fell 8%, from 647 during 2005-09 (129 per year) to 597 during 2015-19 (119 per year). During the most recent 5-year period of 2015-19, nearly half (48%) of the 597 suspects investigated for a hate crime were referred to U.S. attorneys for Hate Crimes Prevention Act (HCPA) violations.

This report uses data from the Bureau of Justice Statistics' Federal Justice Statistics Program to describe criminal prosecutions over federal hate crimes from 2005 to 2019. Data were collected from the Executive Office for U.S. Attorneys' Legal Information Office Network System and the Administrative Office of the U.S. Courts.

<sup>1</sup>The period represents fiscal years 2005 to 2019, each of which begins October 1 and ends September 30. Data in this report cover fiscal years, which are aggregated into 5-year groups to stabilize trend statistics.

**FIGURE 1**  
Number of suspects in hate crime matters investigated by U.S. attorneys, by lead charge, fiscal years 2005–19



Note: Includes suspects in matters whose lead charge was a hate crime under a substantive federal statute or program category. See appendix table 1 for details.

<sup>a</sup>Includes suspects in matters whose lead charge was not covered by the four federal statutes for hate crimes but was coded as a hate crime using the program category. See *Methodology*.

<sup>b</sup>Statute effective as of 2010.

Source: Bureau of Justice Statistics, based on data from the Executive Office for U.S. Attorneys, Legal Information Office Network System, fiscal years 2005–19.

## HIGHLIGHTS

- During the 15-year period of 2005-19, 1,864 hate crime suspects were referred for prosecution to U.S. attorneys from federal judicial districts in all 50 states.
- Hate crime matters investigated by U.S. attorneys' offices declined 8%, from 647 during 2005-09 to 597 during 2015-19.
- The conviction rate for hate crimes increased from 83% during 2005-09 to 94% during 2015-19.
- About 85% of defendants convicted of a hate crime were sentenced to prison, with an average term of over 7.5 years.
- Most (63%) hate crime matters involved one suspect.
- Insufficient evidence was the most common reason hate crime matters were declined.
- More than 9 in 10 hate crime defendants adjudicated in U.S. district court during 2005-19 were convicted.

## Definition of federal hate crimes

In this report, hate crimes are defined according to statute information from federal justice agencies and include crimes in which the perpetrator selected the victim based on certain characteristics, such as race, color, religion, and national origin.<sup>2</sup> There are four federal statutes specifically for hate crimes:<sup>3</sup>

### **18 U.S.C. § 245. Federally protected activities—**

Prohibits intentional interference, by force or threat of force, with certain specified constitutional rights, where the interference is motivated by race, color, religion, or national origin. Activities protected under this law include (1) enrollment in a public school or college, (2) participation in programs administered or financed by any state, (3) federal and state employment and jury service, (4) interstate travel by common carrier, and (5) use of restaurants, lodging, gas stations, public entertainment facilities, and other establishments serving the public.

### **18 U.S.C. § 247. Damage to religious property—**

Prohibits damaging or destroying religious property because of its religious nature. Prohibits intentionally defacing, damaging, or destroying religious property

---

<sup>2</sup>The U.S. Department of Justice's Civil Rights Division defines hate crimes as "acts of physical harm and specific criminal threats motivated by animus based on race, color, national origin, religion, gender, sexual orientation, gender identity, or disability." See U.S. Department of Justice. (n.d.). *Hate crimes prosecutions*. Retrieved June 2, 2021 from <https://www.justice.gov/crt/hate-crimes-prosecutions#hatecrimes>

<sup>3</sup>See Bosserman, B. K., & Miller, A. M. (2018). Prosecuting federal hate crimes. *U.S. Attorneys' Bulletin*, 66(1), 191-236. <https://www.justice.gov/usao/page/file/1030666/download>; and U.S. Department of Justice. (2017). *Statutes enforced by the Criminal Section*. <https://www.justice.gov/crt/statutes-enforced-criminal-section>

because of the race, color, or ethnic characteristics of any individual associated with that property. Prohibits interference with religious exercise, without regard to race, if a connection with interstate commerce can be shown.

### **18 U.S.C. § 249. The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009—**

Prohibits willfully causing bodily injury, or attempting to cause bodily injury with a dangerous weapon, when the crime was committed because of (1) the actual or perceived race, color, religion, or national origin of any person, (2) the actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability of any person and the crime affected interstate or foreign commerce, or (3) any of these characteristics (actual or perceived) if the crime occurred within federal special maritime and territorial jurisdiction.

### **42 U.S.C. § 3631. Criminal interference with right to fair housing—**

Prohibits forcible interference with any person in selling, purchasing, renting, financing, occupying, or contracting for any dwelling due to that person's race, color, religion, gender, national origin, disability, or family status.

In addition, a general conspiracy statute is used in hate crimes prosecutions:

**18 U.S.C. § 241. Conspiracy against rights—**Prohibits conspiracies to injure any person who is exercising rights or privileges protected by the Constitution or laws of the United States. The statute has been applied to a variety of federal rights, including the right not to be deprived of life without due process of the law, the right to vote in a federal election, and the right to occupy housing free of racially motivated violence.

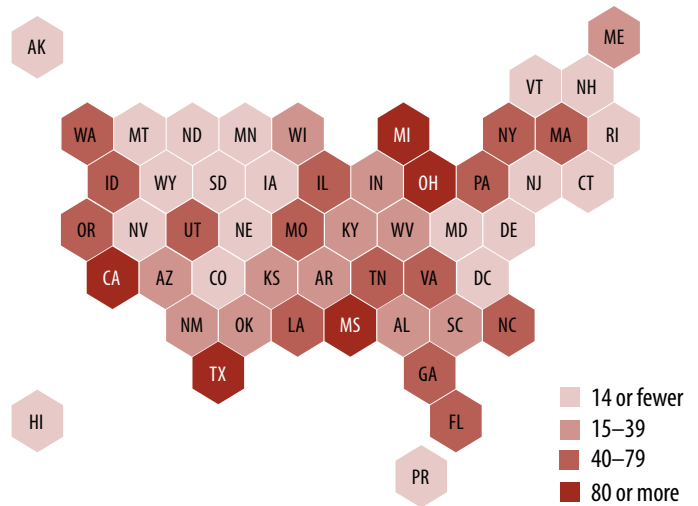
## Investigating federal hate crimes

### U.S. attorneys investigated more than 1,800 hate crime suspects during 2005-19

During the 15-year period of 2005-19, U.S. attorneys investigated 1,864 hate crime suspects (table 1). Of the 597 hate crime suspects in matters opened by U.S. attorneys during the 5-year period of 2015-19, 48% were investigated for HCPA violations. In comparison, 22% were investigated for other offenses, 12% for violations of federally protected activities, 11% for damage to religious property, and 7% for fair housing violations.

During 2005-19, nearly 1 in 3 (32%) hate crime suspects were referred to U.S. attorneys in federal judicial districts in five states: California (11%) and Michigan, Texas, Mississippi, and Ohio (about 5% each) (map 1). Suspects from federal districts in all 50 states were referred to U.S. attorneys for prosecution. Suspects were also referred from the District of Columbia (12), Guam and the Northern Mariana Islands (2), Puerto Rico (1), and the U.S. Virgin Islands (1).

**MAP 1**  
Number of hate crime suspects referred to U.S. attorneys, by state and U.S. territory, fiscal years 2005–19



Note: A total of 1,864 suspects were referred to U.S. attorneys for a hate crime from October 1, 2004 to September 30, 2019. Counts are not shown for Guam and the Northern Mariana Islands (2) and the U.S. Virgin Islands (1). Counts do not take into account population differences across states and territories. See appendix table 3 for details.

Source: Bureau of Justice Statistics, based on data from the Executive Office for U.S. Attorneys, Legal Information Office Network System, fiscal years 2005–19.

**TABLE 1**  
Suspects in hate crime matters investigated by U.S. attorneys, by lead charge, fiscal years 2005–19

Lead charge	Total		2005–09		2010–14		2015–19		Percent change, 2005–09 to 2015–19	Percent change, 2010–14 to 2015–19
	Number	Percent	Number	Percent	Number	Percent	Number	Percent		
Total	1,864	100%	647	100%	620	100%	597	100%	-7.7%	-3.7%
Hate Crime Prevention Act <sup>a</sup>	577	31.0	0	0.0	291	46.9	286	47.9	--	-1.7
Federally protected activities	464	24.9	292	45.1	98	15.8	74	12.4	-74.7	-24.5
Damage to religious property	226	12.1	83	12.8	75	12.1	68	11.4	-18.1	-9.3
Fair housing	222	11.9	120	18.5	62	10.0	40	6.7	-66.7	-35.5
Other <sup>b</sup>	375	20.1	152	23.5	94	15.2	129	21.6	-15.1	37.2

Note: Includes suspects in matters whose lead charge was a hate crime under a substantive federal statute. The lead charge is the primary basis for referring the matter to a U.S. attorney and is usually, but not always, the charge with the greatest possible sentence. See appendix table 1 for estimates for each year. --Less than 0.5%.

<sup>a</sup>Statute effective as of 2010.

<sup>b</sup>Includes suspects in matters whose lead charge was not covered by the four federal statutes for hate crimes but was coded as a hate crime using the program category. See *Methodology*.

Source: Bureau of Justice Statistics, based on data from the Executive Office for U.S. Attorneys, Legal Information Office Network System, fiscal years 2005–19.

The FBI has jurisdiction to investigate hate crimes. Investigations are frequently conducted in collaboration with state and local law enforcement agencies. The FBI was the agency of referral for the majority (89%) of federal hate crime matters investigated by U.S. attorneys during 2005-19 (table 2). Federal and state task forces accounted for 3% of hate crime referrals in this period. Referrals from federal and state task forces increased from 7 during 2005-09 to 39 during 2015-19. The Bureau of Alcohol, Tobacco, Firearms and Explosives, which provides expertise in firearms, arson, and explosives investigations in its jurisdiction, accounted for 2% of referrals during 2005-19.

### Hate crime matters had an average of two suspects

Sixty-three percent of hate crime matters investigated by U.S. attorneys during 2005-19 involved 1 suspect, while 37% involved multiple suspects (table 3). The number of suspects ranged from 2 to 10 persons per matter (not shown in table). Hate crime matters over fair housing (47%) and HCPA (44%) violations were the most likely to involve multiple suspects. Matters involving damage to religious property (22%) were the least likely to involve multiple suspects.

**TABLE 2**  
Agencies that referred hate crime matters investigated by U.S. attorneys, fiscal years 2005–19

Referral agency	Total		2005–09		2010–14		2015–19	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Total</b>	1,864	100%	647	100%	620	100%	597	100%
<b>U.S. Department of Justice</b>	1,708	91.6%	614	94.9%	568	91.6%	526	88.1%
Federal Bureau of Investigation	1,655	88.8	590	91.2	547	88.2	518	86.8
Bureau of Alcohol, Tobacco, Firearms and Explosives	32	1.7	13	2.0	15	2.4	4	0.7
Other justice agencies <sup>a</sup>	21	1.1	11	1.7	6	1.0	4	0.7
<b>Other federal agencies<sup>b</sup></b>	94	5.0%	26	4.0%	36	5.8%	32	5.4%
<b>Federal/state task forces</b>	62	3.3%	7	1.1%	16	2.6%	39	6.5%

<sup>a</sup>Includes the U.S. Marshals Service and Drug Enforcement Administration.

<sup>b</sup>Includes the U.S. Department of Homeland Security, U.S. Department of Commerce, U.S. Department of Defense, U.S. Department of the Interior, U.S. Department of State, U.S. Department of the Treasury, and other agencies.

Source: Bureau of Justice Statistics, based on data from the Executive Office for U.S. Attorneys, Legal Information Office Network System, fiscal years 2005–19.

**TABLE 3**  
Suspects in hate crime matters investigated by U.S. attorneys, by suspects per matter, fiscal years 2005–19

Lead charge	Total		Suspects per matter		Average number of suspects per matter
	Suspects	Matters	One suspect	Multiple suspects	
<b>Total</b>	1,864	1,435	62.8%	37.2%	1.8
<b>Federal hate crime</b>	1,489	1,144	62.0%	38.0%	1.8
Hate Crime Prevention Act <sup>a</sup>	577	424	56.3	43.7	1.9
Federally protected activities	464	364	65.3	34.7	1.7
Damage to religious property	226	197	78.3	21.7	1.4
Fair housing	222	159	53.2	46.8	1.8
<b>Other<sup>b</sup></b>	375	291	66.1%	33.9%	1.8

Note: Includes suspects in matters whose lead charge was a hate crime under a substantive federal statute or program category. The lead charge is the primary basis for referring the matter to a U.S. attorney and is usually, but not always, the charge with the greatest possible sentence.

<sup>a</sup>Statute effective as of 2010.

<sup>b</sup>Includes suspects in matters whose lead charge was not covered by the four federal statutes for hate crimes but was coded as a hate crime using the program category. See *Methodology*.

Source: Bureau of Justice Statistics, based on data from the Executive Office for U.S. Attorneys, Legal Information Office Network System, fiscal years 2005–19.

## Prosecuting hate crimes

U.S. attorneys' offices and the Civil Rights Division of the U.S. Department of Justice (DOJ) are jointly responsible for enforcement of criminal civil-rights statutes. Several federal statutes for hate crimes require certification from the U.S. attorney general or designee before prosecution may be undertaken.<sup>4</sup> No indictment, information, or criminal complaint under these statutes may be issued without such certification. U.S. attorneys' offices and attorneys from the DOJ's National Security Division consult with the Civil Rights Division in any case involving an act of domestic terrorism in which the underlying incident was motivated (or is suspected of being motivated) in whole or in part by one of the biases listed in any of the four federal statutes specifically for hate crimes.<sup>5</sup>

<sup>4</sup>See 18 U.S.C. §§ 245, 247, and 249.

<sup>5</sup>See 18 U.S.C. §§ 245, 247, and 249 or 42 U.S.C. § 3631. See also U.S. Department of Justice. (2018, March). *Justice manual*. <https://www.justice.gov/jm/jm-8-3000-enforcement-civil-rights-criminal-statutes>

## U.S. attorneys prosecuted 17% of suspects in matters investigated for hate crimes during 2005-19

During 2005-19, U.S. attorneys concluded investigations of 1,878 suspects in hate crime matters (table 4). To conclude a matter, U.S. attorneys may file charges and prosecute defendants in U.S. district court, file charges and prosecute matters before U.S. magistrates, or decline matters, resulting in no further action in U.S. district court. U.S. attorneys declined to prosecute 82% of suspects, prosecuted 17%, and disposed of 1% for prosecution by U.S. magistrates. During 2005-19, U.S. attorneys prosecuted hate crimes as part of other charges most often (22%), followed by hate crimes involving damage to religious property (19%), the HCPA (18%), and fair housing (16%).

**TABLE 4**  
**Suspects in hate crime matters concluded by U.S. attorneys, by outcome of investigation and lead charge, fiscal years 2005–19**

Lead charge	Total	Percent of suspects—		
		Prosecuted	Disposed for prosecution by U.S. magistrate	Not prosecuted
<b>Total</b>	1,878	16.6%	1.0%	82.4%
2005–09	665	15.5	1.1	83.5
2010–14	657	17.7	0.9	81.4
2015–19	556	16.6	1.1	82.4
<b>Federal hate crime</b>	1,446	14.9%	1.1%	84.0%
Hate Crime Prevention Act <sup>a</sup>	440	17.9	1.8	80.2
Federally protected activities	527	10.3	1.0	88.8
Damage to religious property	229	18.8	0.4	80.8
Fair housing	250	15.6	0.8	83.6
<b>Other<sup>b</sup></b>	432	22.2%	0.7%	77.1%

<sup>a</sup>Statute effective as of 2010.

<sup>b</sup>Includes suspects in matters whose lead charge was not covered by the four federal statutes for hate crimes but was coded as a hate crime using the program category. See *Methodology*.

Source: Bureau of Justice Statistics, based on data from the Executive Office for U.S. Attorneys, Legal Information Office Network System, fiscal years 2005–19.

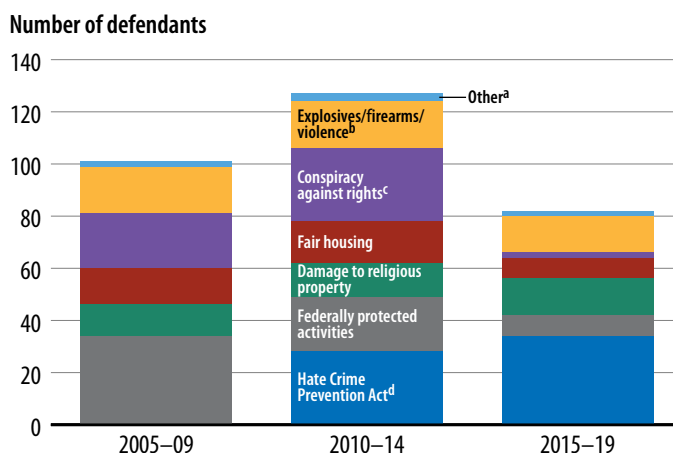
## Insufficient evidence was the most common reason hate crime matters were declined

During 2005-19, U.S. attorneys declined to prosecute 1,548 hate crime suspects. More than half (55%) were not prosecuted because of insufficient evidence—the most common reason across all three 5-year periods (table 5). The second most-common reason was the prioritization of federal resources (15%), followed by the suspect being subject to the authority of another jurisdiction (13%) and the federal government lacking legal jurisdiction to file charges (legally barred) (13%). Between 2005-09 and 2015-19, the share of declinations due to insufficient evidence rose from 49% to 63%, while the share due to a policy of the DOJ or U.S. attorneys’ offices fell from 16% to 7%. Use of alternatives to prosecution increased from 1% to 11% across those periods, while declinations due to prosecution being legally barred decreased from 19% to 4%.

## Cases in U.S. district court

During 2005-19, 310 defendants were charged with a hate crime in cases terminated in U.S. district court. A total of 202 defendants (65%) were charged with a hate crime as the most serious offense, and 108 (35%) had a hate crime as a secondary offense (table 6). Among the 108 defendants, the most serious offenses charged included conspiracy against rights (16.5%), explosives used in a felony (7.4%), explosives-related offenses (3.5%), and firearms and violent offenses (5.2%) (figure 2). Eighteen defendants were adjudicated with a hate crime as a secondary offense during 2015-19, down from 41 during 2005-09.

**FIGURE 2**  
Number of defendants charged with a hate crime in cases terminated in U.S. district court, by most serious offense, fiscal years 2005–19



Note: Includes felony defendants, Class A misdemeanants in cases handled by U.S. district judges or U.S. magistrates, and other misdemeanants in cases handled by U.S. district judges. The most serious offense is the one with the greatest statutory-maximum sentence at case termination, as determined by court personnel. Defendants in more than one case are counted separately.

<sup>a</sup>Includes fraud and false statements and misprision (concealing knowledge) of a felony.

<sup>b</sup>Includes explosives used in a felony (18 U.S.C. § 844(h)); explosives-related offenses (other subsections of 18 U.S.C. § 844); and firearms offenses, carjacking, murder, kidnapping, simple assault, and threats.

<sup>c</sup>18 U.S.C. § 241.

<sup>d</sup>Statute effective as of 2010.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Criminal Master File, fiscal years 2005–19.

**TABLE 5**  
Suspects in hate crime matters that U.S. attorneys declined to prosecute, by reason, fiscal years 2005–19

Reason not prosecuted	Total		2005–09		2010–14		2015–19	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	1,548	100%	555	100%	535	100%	458	100%
Insufficient evidence <sup>a</sup>	829	55.1	267	49.2	278	54.2	284	63.3
Prioritization of federal resources <sup>b</sup>	232	15.4	84	15.5	117	22.8	31	6.9
Referred to another jurisdiction <sup>c</sup>	193	12.8	83	15.3	45	8.8	65	14.5
Legally barred <sup>d</sup>	190	12.6	105	19.3	67	13.1	18	4.0
Alternative to federal prosecution <sup>e</sup>	61	4.1	4	0.7	6	1.2	51	11.4

Note: A hate crime matter opened and under consideration for prosecution was declined when, prior to the filing of a complaint, information, or indictment, a decision was made to discontinue investigating the matter. Reason for not prosecuting was missing for 29 suspects during 2005–19. Data exclude 7 suspects whose matter was opened in error and 7 whose matter was declined due to the suspect being unavailable (e.g., due to death or fugitive status).

<sup>a</sup>The case could not be proven in court beyond a reasonable doubt.

<sup>b</sup>Declined due to an existing policy of the U.S. Department of Justice or U.S. attorneys’ offices.

<sup>c</sup>Defendant was subject to the authority of another jurisdiction.

<sup>d</sup>The federal government lacked jurisdiction to file charges.

<sup>e</sup>A civil, administrative, or disciplinary alternative was used.

Source: Bureau of Justice Statistics, based on data from the Executive Office for U.S. Attorneys, Legal Information Office Network System, fiscal years 2005–19.

**TABLE 6****Defendants charged with a hate crime in cases terminated in U.S. district court, by most serious offense, fiscal years 2005–19**

Most serious offense	Total		2005–09		2010–14		2015–19	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	310	100%	101	100%	127	100%	82	100%
Hate crime	202	65.2%	60	59.4%	78	61.4%	64	78.0%
Hate Crime Prevention Act <sup>a</sup>	62	20.0	0	0.0	28	22.0	34	41.5
Federally protected activities	63	20.3	34	33.7	21	16.5	8	9.8
Damage to religious property	39	12.6	12	11.9	13	10.2	14	17.1
Fair housing	38	12.3	14	13.9	16	12.6	8	9.8
Other crime with hate crime as secondary offense	108	34.8%	41	40.6%	49	38.6%	18	22.0%
Conspiracy against rights <sup>b</sup>	51	16.5	21	20.8	28	22.0	2	2.4
Explosives used in a felony <sup>c</sup>	23	7.4	10	9.9	7	5.5	6	7.3
Explosives-related <sup>d</sup>	11	3.5	1	1.0	4	3.1	6	7.3
Firearms/violence <sup>e</sup>	16	5.2	7	6.9	7	5.5	2	2.4
Other <sup>f</sup>	7	2.3	2	2.0	3	2.4	2	2.4

Note: Includes felony defendants, Class A misdemeanants in cases handled by U.S. district judges or U.S. magistrates, and other misdemeanants in cases handled by U.S. district judges. The most serious offense is the one with the greatest statutory-maximum sentence at case termination, as determined by court personnel. Defendants in more than one case are counted separately. Details may not sum to totals due to rounding. See appendix table 2 for estimates for each year.

<sup>a</sup>Statute effective as of 2010.

<sup>b</sup>18 U.S.C. § 241.

<sup>c</sup>18 U.S.C. § 844(h).

<sup>d</sup>Other subsections of 18 U.S.C. § 844.

<sup>e</sup>Includes firearms offenses, carjacking, murder, kidnapping, simple assault, and threats.

<sup>f</sup>Includes fraud and false statements and misprision (concealing knowledge) of a felony.

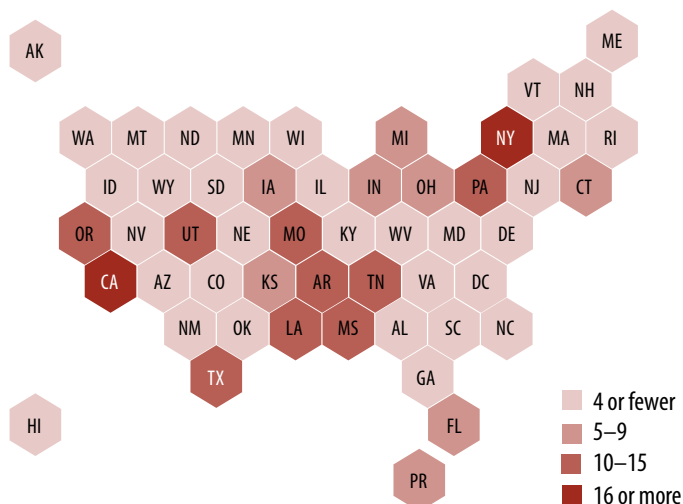
Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Criminal Master File, fiscal years 2005–19.

## More than 9 in 10 hate crime defendants adjudicated in U.S. district court during 2005-19 were convicted

During 2005-19, a total of 284 (92%) of the 310 defendants in hate crime cases terminated in U.S. district court were convicted (table 7). The conviction rate for all hate crimes increased from 83% during 2005-09 to 94% during 2015-19.

Forty percent of the 284 hate crime convictions during 2005-19 occurred in federal judicial districts in six states: New York (30), California (26), Texas (19), Arkansas (15), Tennessee (13), and Pennsylvania (12) (map 2). During this 15-year period, all but 10 states saw at least one hate crime conviction. Defendants were also convicted in Puerto Rico (6) and the District of Columbia (2). There were no convictions reported for Guam and the Northern Mariana Islands or for the U.S. Virgin Islands.

**MAP 2**  
Number of hate crime defendants convicted in U.S. district court, by state and U.S. territory, fiscal years 2005–19



Note: A total of 284 defendants were convicted in U.S. district court for a hate crime from October 1, 2004 to September 30, 2019. Counts are not shown for Guam and the Northern Mariana Islands (0) and the U.S. Virgin Islands (0). Counts do not take into account population differences across states and territories. See appendix table 3 for details. Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Court, Criminal Master File, fiscal years 2005–19.

**TABLE 7**  
Defendants charged with a hate crime in cases terminated in U.S. district court, by disposition of case and most serious offense, fiscal years 2005–19

Most serious offense	Total	Convicted		Not convicted	
		Number	Percent	Number	Percent
<b>Total</b>	310	284	91.6%	26	8.4%
2005–09	101	84	83.2	17	16.8
2010–14	127	123	96.9	4	3.1
2015–19	82	77	93.9	5	6.1
<b>Hate crime</b>	202	181	89.6%	21	10.4%
Hate Crime Prevention Act <sup>a</sup>	62	56	90.3	6	9.7
Federally protected activities	63	52	82.5	11	17.5
Damage to religious property	39	36	92.3	3	7.7
Fair housing	38	37	97.4	1	2.6
<b>Other crime with hate crime as secondary offense<sup>b</sup></b>	108	103	95.4%	5	4.6%

Note: Includes felony defendants, Class A misdemeanants in cases handled by U.S. district judges or U.S. magistrates, and other misdemeanants in cases handled by U.S. district judges. The most serious offense is the one with the greatest statutory-maximum sentence at case termination, as determined by court personnel. Defendants in more than one case are counted separately. Details may not sum to totals due to rounding.

<sup>a</sup>Statute effective as of 2010.

<sup>b</sup>Includes conspiracy against rights (18 U.S.C. § 241); explosives used in a felony (18 U.S.C. § 844(h)); explosives-related offenses (other subsections of 18 U.S.C. § 844); firearms offenses, carjacking, murder, kidnapping, simple assault, and threats; and fraud and false statements and misprision (concealing knowledge) of a felony.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Criminal Master File, fiscal years 2005–19.



Eighty-five percent of defendants convicted of a hate crime during 2005-19 received a prison sentence (table 8). About 14% were sentenced to probation only, and 1% received a suspended sentence. The likelihood of receiving a prison sentence varied by the type of hate crime at conviction. The likelihood of receiving a prison sentence was greatest for defendants convicted of HCPA

violations (96%) and was the lowest for defendants convicted of damage to religious property (63%). About 96% of the 56 defendants convicted of HCPA violations and 78% of the 37 defendants convicted of a fair housing violation received a sentence to prison. Defendants convicted of hate crimes as secondary offenses had a 95% imprisonment rate during the 15-year period.

**TABLE 8**  
**Defendants convicted of a hate crime in cases terminated in U.S. district court, by sentence imposed and most serious offense, fiscal years 2005–19**

Most serious offense	Total	Percent sentenced to—		
		Prison	Probation only	Suspended sentence
<b>Total</b>	284	84.8%	13.8%	1.4%
2005–09	84	83.3	15.5	1.2
2010–14	123	87.8	11.4	0.8
2015–19	77	81.6	15.8	2.6
<b>Hate crime</b>	181	78.9%	18.9%	2.2%
Hate Crime Prevention Act <sup>a</sup>	56	96.4	1.8	1.8
Federally protected activities	52	71.2	26.9	1.9
Damage to religious property	36	62.9	31.4	5.7
Fair housing	37	78.4	21.6	^
<b>Other crime with hate crime as secondary offense<sup>b</sup></b>	103	95.2%	4.8%	^

Note: Includes felony defendants, Class A misdemeanants in cases handled by U.S. district judges or U.S. magistrates, and other misdemeanants in cases handled by U.S. district judges. The most serious offense is the one with the greatest statutory-maximum sentence at case termination, as determined by court personnel. Defendants in more than one case are counted separately. Details may not sum to totals due to rounding.

^No cases.

<sup>a</sup>Statute effective as of 2010.

<sup>b</sup>Includes conspiracy against rights (18 U.S.C. § 241); explosives used in a felony (18 U.S.C. § 844(h)); explosives-related offenses (other subsections of 18 U.S.C. § 844); firearms offenses, carjacking, murder, kidnapping, simple assault, and threats. Fraud and false statements and misprision of a felony do not appear in this table (sentences to prison).

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Criminal Master File, fiscal years 2005–19.

**Hate Crime Prevention Act charges received the longest prison sentences and exceeded federally protected activities charges in number**

The average prison sentence in all hate crime convictions doubled between 2005-09 and 2015-19, from 62 to 125 months (table 9). HCPA violations

(126 months) received the highest average sentence among hate crimes charged as the most serious offense, followed by damage to religious property (44 months), federally protected activities (39 months), and fair housing (35 months). Hate crimes charged as a secondary offense to a more serious offense received an average prison sentence of 118 months during 2005-19.

**TABLE 9**  
**Defendants sentenced to prison for a hate crime in cases terminated in U.S. district court, by prison term and most serious offense, fiscal years 2005–19**

Most serious offense	Total	Prison sentence			
		Mean	Median	Minimum	Maximum
<b>Total</b>	240	90 mos.	42 mos.	1 mos.	470 mos.
2005–09	70	62	33	1	470
2010–14	108	58	33	1	470
2015–19	62	125	88	6	470
<b>Hate crime</b>	142	72 mos.	33 mos.	1 mos.	470 mos.
Hate Crime Prevention Act <sup>a</sup>	54	126	71	6	470
Federally protected activities	37	39	18	1	470
Damage to religious property	22	44	27	6	178
Fair housing	29	35	15	6	180
<b>Other crime with hate crime as secondary offense<sup>b</sup></b>	98	118 mos.	60 mos.	1 mos.	470 mos.

Note: Includes felony defendants, Class A misdemeanants in cases handled by U.S. district judges or U.S. magistrates, and other misdemeanants in cases handled by U.S. district judges. The most serious offense is the one with the greatest statutory-maximum sentence at case termination, as determined by court personnel. Defendants in more than one case are counted separately. Details may not sum to totals due to rounding.

<sup>a</sup>Statute effective as of 2010.

<sup>b</sup>Includes conspiracy against rights (18 U.S.C. § 241); explosives used in a felony (18 U.S.C. § 844(h)); explosives-related offenses (other subsections of 18 U.S.C. § 844); firearms offenses, carjacking, murder, kidnapping, simple assault, and threats. Fraud and false statements and misprision of a felony do not appear in this table (sentences to prison).

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Criminal Master File, fiscal years 2005–19.

## Methodology

### Data sources

The Bureau of Justice Statistics' Federal Justice Statistics Program (FJSP) collects, standardizes, and reports on administrative data received from six federal justice agencies: the U.S. Marshals Service, Drug Enforcement Administration, Executive Office for U.S. Attorneys (EOUSA), Administrative Office of the U.S. Courts (AOUSC), Federal Bureau of Prisons, and U.S. Sentencing Commission. FJSP data are used to prepare reports and support the FJSP web-based data analysis tool. FJSP data are archived at the National Archive of Criminal Justice Data.

### *Executive Office for U.S. Attorneys*

The Legal Information Office Network System database contains information on the investigation and prosecution of suspects in criminal matters received and concluded and criminal cases filed and terminated by U.S. attorneys. Suspects may be counted more than once in a fiscal year if they are involved in multiple matters received and concluded during the period. A matter is defined as a referral in which an attorney spends 1 hour or more investigating. The lead charge is used to classify the most serious offense at referral and is defined as the substantive statute that is the primary basis of referral. In addition, the program category measure is used to identify suspects in matters whose lead charge was not covered by the four federal statutes for hate crimes but was coded as 05F (Civil Rights - Racial violence, including hate crimes) or 05H (Civil Rights - Hate crimes arising out of terrorist attacks on U.S.) in the Legal Information Office Network System.

### *Administrative Office of the U.S. Courts*

The Criminal Master File contains information about the criminal proceedings against defendants whose cases were filed and terminated in U.S. district courts. It includes information on cases involving felonies and Class A and B misdemeanors handled by U.S. district judges. A felony is classified as an offense for which the maximum term of imprisonment is more than 1 year in prison. Offenses classified as misdemeanors include those for which the maximum term of imprisonment is less than 1 year in prison. Class A misdemeanors include offenses for which the maximum term of imprisonment is less than 1 year but more than 6 months. Class B misdemeanors include offenses for which the maximum term of imprisonment is less than 6 months but more than 30 days. Offenses are based on the most serious offense charged, as determined by the probation officer responsible for interviewing the defendant. The probation officer classifies the major offenses charged into four-digit offense codes that are maintained and updated by the AOUSC. For defendants charged with more than one offense on an indictment, the probation officer chooses the offense carrying the most severe penalty or, in the case of two or more charges carrying the same penalty, the one with the highest offense severity. The offense severity level is determined by the AOUSC, which ranks offenses according to the maximum sentence, type of crime, and maximum fine amount.

### Unit of analysis and reporting period

In the EOUSA data, the unit of count is a suspect in a matter referred to a U.S. attorney. Suspects in more than one matter are counted separately. In the AOUSC data, the unit of count is a defendant in a case terminated in U.S. district court. The reporting periods are fiscal years 2005 through 2019.

**APPENDIX TABLE 1****Number of suspects in hate crime matters investigated by U.S. attorneys, by lead charge, fiscal years 2005–2019**

Fiscal year	Total	Hate Crime Prevention Act <sup>a</sup>	Federally protected activities	Damage to religious property	Fair housing	Other <sup>b</sup>
Total	1,864	577	464	226	222	375
2005	198	0	88	28	38	44
2006	83	0	41	17	9	16
2007	107	0	46	14	26	21
2008	133	0	62	11	19	41
2009	126	0	55	13	28	30
2010	145	37	38	25	19	26
2011	153	86	22	19	10	16
2012	127	70	10	14	12	21
2013	112	54	17	14	11	16
2014	83	44	11	3	10	15
2015	101	52	9	12	5	23
2016	110	42	19	17	7	25
2017	111	46	15	13	9	28
2018	114	55	18	7	9	25
2019	161	91	13	19	10	28

Note: Includes suspects in matters whose lead charge was a hate crime under a substantive federal statute or program category. The lead charge is the primary basis for referring the matter to a U.S. attorney and is usually, but not always, the charge with the greatest possible sentence.

<sup>a</sup>Statute effective as of 2010.

<sup>b</sup>Includes suspects in matters whose lead charge was not covered by the four federal statutes for hate crimes but was coded as a hate crime using the program category. See *Methodology*.

Source: Bureau of Justice Statistics, based on data from the Executive Office for U.S. Attorneys, Legal Information Office Network System, fiscal years 2005–2019.

**APPENDIX TABLE 2**

**Number of defendants charged with a hate crime in cases terminated in U.S. district court, by most serious offense, fiscal years 2005–2019**

Fiscal year	Total	Hate crime				Other crime with hate crime as secondary offense		
		Hate Crime Prevention Act <sup>a</sup>	Federally protected activities	Damage to religious property	Fair housing	Conspiracy against rights <sup>b</sup>	Explosives/firearms/violence <sup>c</sup>	Other <sup>d</sup>
Total	310	62	63	39	38	51	50	7
2005	22	0	9	4	2	3	3	1
2006	15	0	5	5	2	1	2	0
2007	20	0	3	2	3	7	5	0
2008	22	0	7	1	3	4	7	0
2009	22	0	10	0	4	6	1	1
2010	28	0	7	1	1	11	7	1
2011	27	0	5	6	6	7	3	0
2012	17	1	3	1	3	4	5	0
2013	42	23	4	3	5	3	2	2
2014	13	4	2	2	1	3	1	0
2015	20	11	4	0	2	1	1	1
2016	11	4	1	5	0	0	1	0
2017	17	8	1	3	2	0	2	1
2018	18	9	1	4	2	0	2	0
2019	16	2	1	2	2	1	8	0

Note: Includes felony defendants, Class A misdemeanants in cases handled by U.S. district judges or U.S. magistrates, and other misdemeanants in cases handled by U.S. district judges. The most serious offense is the one with the greatest statutory-maximum sentence at case termination, as determined by court personnel. Defendants in more than one case are counted separately.

<sup>a</sup>Statute effective as of 2010.

<sup>b</sup>18 U.S.C. § 241.

<sup>c</sup>Includes explosives used in a felony (18 U.S.C. § 844(h)); explosives-related offenses (other subsections of 18 U.S.C. § 844); and firearms offenses, carjacking, murder, kidnapping, simple assault, and threats.

<sup>d</sup>Includes fraud and false statements and misprision (concealing knowledge) of a felony.

Source: Bureau of Justice Statistics, based on data from the Administrative Office of the U.S. Courts, Criminal Master File, fiscal years 2005–2019.

**APPENDIX TABLE 3****Number of hate crime suspects referred to U.S. attorneys and hate crime defendants convicted in U.S. district court, by state and U.S. territory, fiscal years 2005–19**

State/territory	Suspects referred to U.S. attorneys	Defendants convicted in U.S. district court	State/territory	Suspects referred to U.S. attorneys	Defendants convicted in U.S. district court
Total	1,864	284	Montana	7	0
Alabama	35	4	Nebraska	11	2
Alaska	6	2	Nevada	12	1
Arizona	35	0	New Hampshire	5	0
Arkansas	31	15	New Jersey	9	1
California	200	26	New Mexico	23	2
Colorado	11	0	New York	67	30
Connecticut	9	7	North Carolina	48	4
Delaware	4	2	North Dakota	4	2
District of Columbia	12	2	Northern Mariana Islands	0	0
Florida	67	7	Ohio	90	9
Georgia	42	2	Oklahoma	24	0
Guam	2	0	Oregon	56	11
Hawaii	10	0	Pennsylvania	72	12
Idaho	47	4	Puerto Rico	1	6
Illinois	56	4	Rhode Island	9	4
Indiana	31	7	South Carolina	30	4
Iowa	12	8	South Dakota	8	0
Kansas	21	5	Tennessee	48	13
Kentucky	20	1	Texas	99	19
Louisiana	57	10	U.S. Virgin Islands	1	0
Maine	22	0	Utah	41	11
Maryland	6	1	Vermont	2	0
Massachusetts	52	4	Virginia	59	3
Michigan	102	9	Washington	42	4
Minnesota	8	2	West Virginia	34	0
Mississippi	97	11	Wisconsin	19	2
Missouri	47	10	Wyoming	1	1

Source: Bureau of Justice Statistics, based on data from the Executive Office for U.S. Attorneys, Legal Information Office Network System; and from the Administrative Office of the U.S. Courts, Criminal Master File, fiscal years 2005–19.



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

This report was written by Mark Motivans. George E. Browne verified the report.

David Fialkoff and Edrienne Su edited the report. Carrie Epps-Carey produced the report.

July 2021, NCJ 300952



NCJ 300952

Office of Justice Programs  
Building Solutions • Supporting Communities • Advancing Justice  
[www.ojp.gov](http://www.ojp.gov)