

Background

Texas Legislature identified hate crime, drugs seized, family violence and sexual assault as the areas in which the State would collect more data than the standard information collected as part of UCR. These mandates assigned DPS the role of collecting and storing hate crime, drug seized, family violence and sexual assault data.

- Health and Safety Code 481.185
- <u>TX Code of Criminal Procedure 5.05</u>
- Government Code 411.042

NIBRS Mandated Reporting-TX HB 4879

In June 2023, the 88th Legislature passed House Bill 4879, ushering in a new era of incident-based reporting.

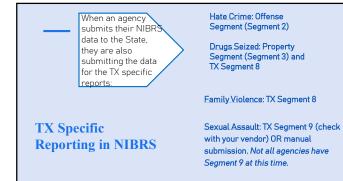
HB 4879 modifies Government Code 411.054 to make NIBRS (National Incident-Based Reporting System) submissions to the Uniform Crime Reporting (UCR) program mandatory.

As of 9/01/2023, ALL local law enforcement agencies MUST:

Adopt a NIBRS-compliant RMS (Records Management System).
 Submit monthly NIBRS data to DPS UCR program using their ORI or file a 'zero report' for months with no reportable NIBRS incidents.

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Segment 8 & 9

The Texas-centric Technical Specifications and Errors Codes is available on the IBR Learning corner (https://www.dps.texas.gov/section/crime-records/compliance-andtraining-bureau) and the DPS website. This is also where the RMS vendors will get the technical specifications and layouts for NIBRS data.

This data is not forwarded to the FBI but is reported in Crime in Texas Online and published annually in Crime in Texas.



Hate Crime Definition

A committed criminal offense that is motivated, <u>in whole or</u> <u>in part</u>, by the offender's bias(es) against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.

Hate Crimes are <u>not</u> separate, distinct crimes, but rather traditional offenses motivated by the offender's bias.

Definitions from: <u>FBI Hate Crime Data Collection Guidelines</u> and Training Manual

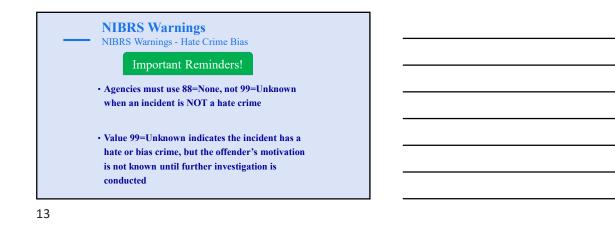
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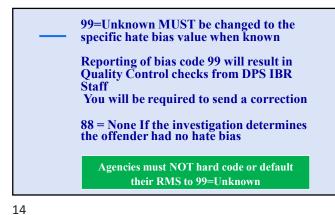
Hate Crime
BackgroundIn response to a growing concern about hate crimes,
on April 23, 1990, Congress passed the Hate Crime
Statistics Act. This law required the Attorney General
(AG) to collect data "about crimes that manifest
evidence of prejudice based on race, religion, sexual
orientation, ethnicity."The AG delegated the responsibilities of developing
the procedures for implementing, collecting, and
managing hate crime data to the Director of the FBI,
who in turn assigned the tasks to the FBI UCR
Program.



Objective	• There must be Objective evidence that the crime was motivated by BIAS.	
NOT Subjective Evidence	• The offender's criminal act must have been motivated, in whole or in part, by his/her BIAS.	
	 Objective facts must be present to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by BIAS. 	

Race/Ethnicity/Anc	estry Bias	
Religious Bias		
Sexual Orientation E	Bias	
Gender Bias		
Gender Identity Bias		
Disability Bias		





—— Hate Crime	1. Case by Case- Reporting agencies must examine each case for facts which clearly provide evidence that the offender's bias motivated him/her to commit the crime.
Crime	
Cautions	2. Misleading Facts- Agencies must be alert to misleading facts.
	3. Feigned Facts- Agencies must be alert to evidence left by the offenders which is meant to give the false impression that the incident was motivated by bias.

Hate Crime	4. Offender's Mistaken Perception- Even if the offender was mistaken about the victim's race, religion, disability, sexual orientation, ethnicity, gender, or gender identity, the offense is still a hate crime as long as the offender was motivated, in whole or in part, by bias against that group.
Cautions	5. Changes in Findings of Bias- If, after an initial incident report was submitted, a contrary finding regarding bias occurs during the investigation, the FBI UCR Program file must be updated with the new finding.



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Segment 8: Texas Only

Segment Level 8 should be submitted as part of a complete incident under the following four circumstances:

(1) when the incident involves family violence; or,

(2) when there are more than three types of drugs involved in a drug seizure case; or,

(3) when marijuana plants were seized from a garden, wild field, cultivated field, or greenhouse; or,

(4) when clandestine labs or precursor chemicals were seized as part of an incident.



Drugs Seized Offenses Definitions

35A – 35B Drug/Narcotic Offenses The violation of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment or devices utilized in their preparation and/or use.

35A Drug/Narcotic Violations The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled substance. **35B Drug Equipment Violations** The unlawful manufacture, sale, purchase, possession, or transportation of equipment or devices utilized in preparing and/or using drugs or narcotics

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Drugs Seized Reporting

The codes for drugs seized and the reporting requirements for the FBI and Texas standards are the same and outlined in the 2023.0 FBI NIBRS User Manual.

DRUG SEIZED: TEXAS REPORTING VS FBI REPORTING

The FBI mandates that the first 3 drugs seized must be reported. To get a more accurate picture, the State of Texas wants the first 17 drugs seized reported.

Drugs Seized-Type of Drugs

- A = Crack Cocaine
- B = Cocaine (all forms except Crack) C = Hashish; Dabs
- D = Heroin
- E = Marijuana; THC Oil, Edibles
- F = Morphine
- G = Opium
- H = Other Narcotics: Codeine, Demerol; Dihydromorphinone or Dilaudid; Hydrocodone or
- Percodan; Methadone, Pentazocine; Propoxyphene or
- Darvon; Oxycontin; Vicodin, Lortabs; Fentanyl,
- Suboxone; etc. I = LSD

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Drugs Seized-Type of Drugs

- J = PCP; Ketamine; Special K K = Other Hallucinogens: BMDA or White Acid; DMT; MDA; MDMA; Mescaline or Peyote; Psilocybin; STP; Spice;
- Dronabinol or Marinol; Ecstasy; K2; etc. L = Amphetamines/Methamphetamines (includes
- Methcathinone); Adderall
- M = Other Stimulants: Adipex, Fastine, and Ionamin (Derivatives of Phentermine); Benzedrine; Didrex; Khat; Bath Salts; Methylphenidate or Ritalin; Phenmetrazine or Preludin; Tenuate; Naphthoylindol; Flakka; Pseudoephedrine; Focalin; etc.
- N = Barbiturates

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Drugs Seized-Type of Drugs

- 0 = Other Depressants: Glutethimide or Doriden, Methaqualone or Quaalude, or Talwin; Benzodiazepines (Klonopin); Xanax; etc
- P = Other Drugs: Antidepressants (Elavil, Triavil, Tofranil,
 - etc.); Aromatic Hydrocarbons; Tranquilizers
- (Chlordiazepoxide or Librium, Diazepam or Valium, etc); Steriods; etc
- U = Unknown Type Drug X = Over 3 Drug Types

Drugs Seized Order of Reporting



What Order Are Drugs Reported In?

Agencies should report them in the order of importance, by "taking into account their quantity, value, and deadliness,". This order of importance is *to be determined by the reporting agency.*

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Additional Texas Drug Information Type Marijuana Fields and Gardens Indicate gardens, wild fields, cultivated fields or greenhouses along with how many seized Type of Drug Manufactured and Number of Clandestine Labs Seized Indicate the type of drug manufactured and number of clandestine labs seized Quantity of Precursor Chemical Seized and Type of Measurement for Precursor Chemical Indicate the quantity of precursor chemical and type of measurement

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Common Quality Control Issues

Example: 35A Drug Violation was reported in an incident, and 10 = Drugs/Narcotics and 11 = Drug Equipment property descriptions were listed. The agency received error 387 error

Solution: The agency will need to add or change a drug offense or drug property description.

If an agency reports 35A Drug Narcotic Violation, it will have to report 10 = Drugs as the property type.

If an agency reports 35B Drug Equipment Violation, it will have to report 11 = Drug Equipment.

Common Quality Control Issues

Seized Drugs over 3

If more than three drugs/narcotics are seized, the quantities of the two most important should be entered first. In the third field, the LEA should enter X = Over 3 Drug Types. The quantity field will be left blank. This triggers the Segment 8 (TX seized drug report) to open for the agency to enter the rest of their seized drugs. Property type of 10 = Drugs/Narcotic I.Drug type: H 2. Drug type: M 3. Drug type: X Drug quantity: 60 Drug quantity: 30

Drug measurement: DU Drug measurement: DU

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Common Quality Control Issues

Unknown Drug Type

Your Officer seized a bag with a substance that he can not identify. The substance is sent to a lab to verify what it is. He should report the 35A Drug/Narcotic Violation Property loss code of 6 = seized Property type of 10 = Drugs/Narcotics Drug type is U = Unknown Drug quantify 1 = none Drug measurement = XX



Family Violence Definition

Texas Family Code Sec. 71.004. FAMILY VIOLENCE. "Family violence" means:

(1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;

(2) abuse, as that term is defined by Sections 261.001(1)(C), (E), (G), (H), (I), (J), (K), and (M), by a member of a family or household toward a child of the family or household; or

(3) dating violence, as that term is defined by Section 71.0021.

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Family Violence Data Guidelines

An incident should be flagged as family violence when the incident involves Crimes Against Persons OR Robbery and at least one of the victim-to-offender relationship pairings is:

SE = Victim was Spouse	IL = Victim was In-Law
CS = Victim was Common-Law Spouse	SP = Victim was Stepparent
PA = Victim was Parent	SC = Victim was Stepchild
SB = Victim was Sibling (Brother or Sister)	SS = Victim was Stepsibling
CH = Victim was Child	XS = Victim was Ex-Spouse
OF = Victim was Other Family Member	GC = Victim was Grandchild
GP = Victim was Grandparent	XR = Ex-Relationship (Ex-boyfriend/girlfriend)
BG = Victim was Boyfriend/Girlfriend	

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XR = **Ex-Relationship**

The 2019 NIBRS specifications were updated to include (ex-relationship) as a victim/offender relationship choice.

XR

According to the NIBRS definitions, this relationship is considered "outside the family but known."

For Texas Family Violence reports, XR is considered "within family" and would therefore require a Segment 8 for crimes against person/robbery and will produce a family violence report.

OK = Otherwise Known

For TX family violence reporting purposes, a roommate, whether platonic or romantic, is considered family.

Since 'Otherwise Known' could mean a roommate or someone who is literally known with no other relationship, it can be both familial or non-familial

Any assaultive offense that involves a relationship of 'OK' MUST include a Segment 8 and will require either a Y (yes it was a family member) or N (no, it was not a family member). *Texas warning 1863*

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Family Violence: — Common Quality Control Issues

Multiple Weapons/Injuries selected, one of which is "none".

Selecting more than one assault offense per relationship pairing (should only report the most serious).

For Texas Family Violence reporting purposes, a roommate, whether platonic or romantic, is considered family.

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Family Violence: Common Quality Control Issues

Agencies will receive a QC warning for reporting the relationship of the offender to the victim, rather than the victim to the offender relationship

NIBRS Rules state you MUST report the relationship of the Victim to the Offender.

Age ranges should be 3 to 5 years and no more than 10 years.



Sex Offenses Definition

Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

Definition from: 2023.0 National Incident-Based Reporting System User Manual

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Sexual
Assault
Reporting• Currently, agencies
can report Sexual
Assault data in one of
two ways:• Inclusion in the
NIBRS file as
Segment 9• Manual entry of
individual sexual
assault reports

Sexual Assault Reporting

This is the ONLY area of UCR that is based on Penal Code. Collects data on nine specific offenses:

- PC 21.02 Continuous Sexual Abuse of Young Child or Children
- PC 21.11(a)(1) Indecency with a Child by Contact
 PC 21.11(a)(2) Indecency with a Child by Exposure

- PC 22.011 Sexual Assault
 PC 22.021 Aggravated Sexual Assault
 PC 43.25 Sexual Performance by a Child
- PC 22.012(a)(1) Indecent Assault
- PC 22.012(a)(2, 3 or 4) Indecent Assault
- PC 22.011(f)(2) Sexual Assault Donor without Consent

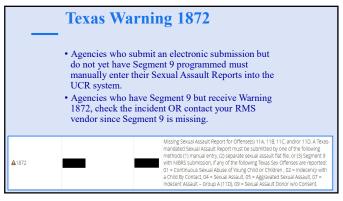
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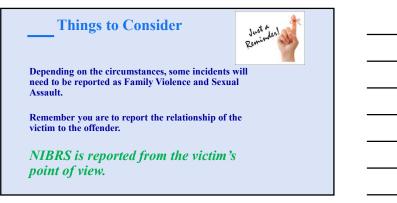
Considerations in Sexual Assault Reporting
Age of Victim
Some offenses only require reporting if the victim of the offense is under the age of 17
NIBRS Victim Type
In NIBRS, the victim in some offenses is Society, however there must be a person as a victim for the Texas sexual assault report. As a result, the incident will require more data than is typically submitted for these
offenses (extended Segment 9)

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Considerations in Sexual Assault Group A or Group B Offense In Group B Offenses, the information is only reported if there is an arrest. However, the TX reporting mandate must be met with regardless of arrest. The Agency would submit a "solo" extended Segment 9. 36B – Statutory Rape Is NOT a valid NIBRS code to translate from the Texas Sexual Assault penal codes.

The Texas Penal code 22.01(c)(1) defines a child as a person younger then 17 years of age. In the State of Texas, a child cannot give consent. If someone is unable to consent, any action would be considered forcible and would fall under 11A Rape, 11B Sodomy, or 11C Sexual Assault with an Object.







Learning Check T/F NIBRS and Texas Specific reporting are mandated in the State of Texas. True Per HB 4879, effective 9/01/2023, mandated all law enforcement agencies to report NIBRS, which includes the Texas Specific reports, to the DPS UCR Program

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Learning Check

Two friends, one 16 and the other 17 years old, walk past an abandoned building when they hear someone call out to them. They instinctively turn around and see an adult male who is naked and leaning against the building.

1. What NIBRS offense is this? 90C Disorderly Conduct (indecent exposure)

2. Does this require a Texas Sexual Assault Report? Yes, but only for the 16-year-old victim



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Learning Check

How many specific reports are there for the State of Texas? Can you name them all?

Four – they include:

- Hate Crime
- Drugs Seized
- Family Violence
- Sexual Assaults



Learning Check

Multiple Choice: What agencies are required to submit hate crime, drug seized, family violence, and sexual assault reports monthly?

- a. Sheriff Offices and Police Departments
- b. ISD and College Police Departments
- c. ALL Texas law enforcement agencies
- d. Only agencies that investigate these types of offenses

C. All Texas Law enforcement agencies

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Learning Check

An agency arrests a man after his employer reports him for using his work computer to share images of child pornography with other employees.

- 1. What NIBRS offense is this? 370 Pornography
- 2. Does this require a Texas Sexual Assault Report? Yes, the offender is promoting Sexual Performance by a Child (TX PC 43.25)

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Learning Check

T/F If a Texas NIBRS rule differs from an FBI NIBRS rule, Texas agencies should always follow the Texas Specific when reporting. True For Data Quality purposes, DPS has added Texas-Specific validations that supersede the NIBRS guidelines

True

Learning Check

Multiple Choice: In what order should drugs be submitted?

- A. In the order they were discovered
- B. In alphabetical order
- C. In numerical order
- D. In order of "importance" as determined by the LEA
 - **D. In order of "importance" as determined by the agency**



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Learning Check

T/F

Texas drug codes in Segment 8 follow the same NIBRS drug codes for reporting

True



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Learning Check

T/F An incident should be reported as family violence when it includes a familial relationship involving Crimes Against Persons or Robbery.

TRUE







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NIBRS & Other IBR Trainings

Crimes Against Persons Crimes Against Property Group B Offenses Hate Crimes Cargo Theft NIBRS Overview NIBRS Overview for ISDs

Texas Specific Reports

Texas "T" Errors Molly Jane's Law /ViCAP LEEP Overview & Agency Administrative Duties N-DEx Overview & Audit Use of Force Overview & Manual Entry NIBRS Errors & Warnings

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