Welcome!

Thank you for being here today

Class will begin promptly at the scheduled time

Please type your name and agency in the Chat Box

HATE CRIME

DATA COLLECTION GUIDELINES

OBJECTIVES

The goal of this training session is to:

❖ Recall the definition of hate crimes, the purpose of the Hate Crime Statistics Act of 1990, and the Texas Government Code 411.046 objective

❖ Identify bias and associate the correct NIBRS offense code

❖ Recognize objective facts, the reporting cautions, and common NIBRS Warnings related to hate crime data collection

HATE CRIMES

A committed criminal offense that 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.

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

Definitions from: FBI Hate Crime Data Collection Guidelines and Training Manual

HATE CRIME DATA COLLECTION GUIDELINES

Criminal Justice Information Services (CJIS) Division
Uniform Crime Reporting (UCR) Program

Hate Crime
Data Collection Guidelines
And Training Manual

Version 3.0
Document Date: 3/1/2022

Prepared by:
Global Law Enforcement Support Section (GLESS)
Crime and Law Enforcement Statistics Unit (CLESU)

NIBRS HATE CRIMES

These are examples and not an exhaustive list.

- 09A-B Murder
- 11A-D and 36A Sex Offenses
- 13A-C All Assaults
- 64 A-B Human Trafficking
- 40A-C Prostitution Offenses
- 120 Robbery

- 220 Burglary
- 290 Destruction/Vandalism of Property
- 200 Arson
- 23A-H Larceny-Theft Offenses
- 26A-E Fraud Offenses
- 510 Bribery

BACKGROUND

The Hate Crime Statistics Act of 1990 was enacted by Congress on April 23, 1990 and amended in 2009 to include the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act.

The act requires the Attorney General of the United States to collect data on crimes "that manifest evidence of prejudice based on race, gender and gender identity, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property."

In 1991, Texas adopted legislation to require Tx DPS to "establish and maintain a central repository for the collection and analysis of information relating to crimes that are motivated by prejudice, hatred, or advocacy of violence."

TX Government Code 411.046

BACKGROUND

Since 1992, the Department of Justice has been publishing an annual report on hate crime through the FBI.

As part of TX Government Code 411.046, the Texas Department of Public Safety was designated the repository for hate crime data collected on a state level.

In order to follow the standards set forth through the Hate Crime Statistics Act, 28 U.S.C. § 534 and TX Government Code § 411.046, Agencies are to report incidents of hate crime monthly.

LEARNING CHECK

1. True or False: The purpose of the Hate Crime Statistics Act of 1990 is to require the collection of data on crimes "that manifest evidence of prejudice based on race, gender and gender identity, religion, disability, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property."

2. True or False: It is mandatory for Texas Law Enforcement Agencies to report hate crime offenses on a monthly basis.

BIAS MOTIVATION

- Race/Ethnicity/Ancestry Bias

- Religious Bias

- Sexual Orientation Bias

- Gender Bias

- Gender Identity Bias

- Disability Bias

- 88 = None (No Bias)

- 99 = Unknown (motivation not known, placeholder value)

BIAS MOTIVATION

Race/Ethnicity/Ancestry Bias

- 11 = Anti-White
- 12 = Anti-Black or African American
- 13 = Anti-American Indian/Alaska Native
- 14 = Anti-Asian
- 15 = Anti-Multiple Races, Group
- 16 = Anti-Native Hawaiian or Other Pacific Islander
- 31 = Anti-Arab
- 32 = Anti-Hispanic or Latino
- 33 = Anti-Other Race/Ethnicity/Ancestry

BIAS MOTIVATION

Religious Bias
- 21 = Anti-Jewish
- 22 = Anti-Catholic
- 23 = Anti-Protestant
- 24 = Anti-Islamic (Muslim)
- 25 = Anti-Other Religion
  - (Ex: Baha'l Faith, Jainism, Shintoism, Taoism, Tenrikyo, Wicca, and Zoroastrainism, Scientology)
- 26 = Anti-Multiple Religions, Group
- 27 = Anti-Atheism/Agnosticism

BIAS MOTIVATION

Religious Bias

- 28 = Anti-Church of Jesus Christ
- 29 = Anti-Jehovah's Witness
- 81 = Anti-Eastern Orthodox (Greek, Russian, etc.)
- 82 = Anti-Other Christian (Ex: Spiritualist, Unity/Unitarianism, Unity Church, Universalist, and Other Metaphysical.)
- 83 = Anti-Buddhist
- 84 = Anti-Hindu
- 85 = Anti-Sikh

BIAS MOTIVATION

Sexual Orientation Bias

- 41 = Anti-Gay(Male)
- 42 = Anti-Lesbian
- 43 = Anti-Lesbian, Gay, Bisexual, or Transgender (Mixed Group)
- 44 = Anti-Heterosexual
- 45 = Anti-Bisexual

Gender Bias

- 61 = Anti-Male
- 62 = Anti-Female

Gender Identity Bias

- 71 = Anti-Transgender
- 72 = Anti-Gender Non-Conforming

DEFINITIONS

Gender Identity- A person's internal sense of being male, female, or a combination of both; that internal sense of a person's gender may be different from the person's gender as assigned at birth.

- **Note**: A transgender person may express their gender identity through gender characteristics, such as clothing, hair, voice, mannerisms, or behaviors that do not conform to the gender-based expectations of society.

DEFINITIONS

Gender Non-Conforming- Describes a person who does not conform to the gender-based expectations of society, e.g., a woman dressed in traditionally male clothing or a man wearing makeup.

- **Note**: A gender non-conforming person may or may not be a lesbian, gay, bisexual, or transgender person but may be perceived as such.

BIAS MOTIVATION
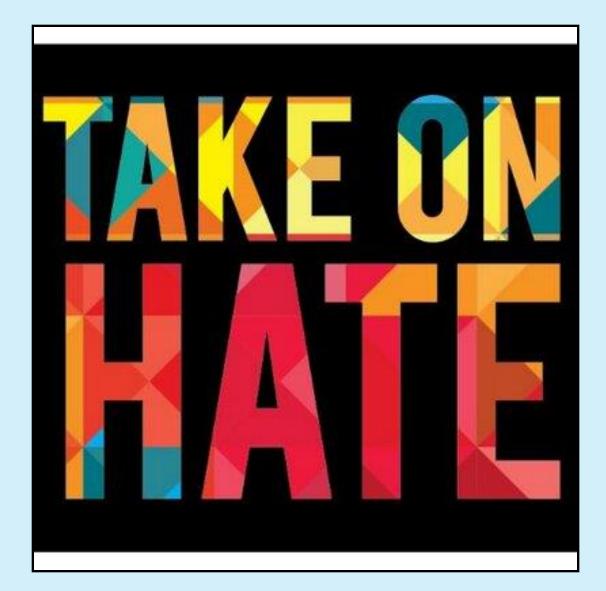
Disability Bias

> 51 = Anti-Physical Disability

> 52 = Anti-Mental Disability

88 = None (No Bias)

99 = Unknown (motivation not known, placeholder value)

NOT Protected:

While law enforcement officers and judges were given protected status by Texas in 2017, they are not a protected class for the FBI, unless it is determined that the crime of which they are a victim occurred because of their inclusion in one of the FBI bias categories.

SCENARIO 1

A. While driving through a predominantly Mexican-American neighborhood, an African-American male stopped his car to repair a flat tire. A group of Mexican-Americans leaving a bar across the street accosted the driver and then attacked him with bottles and clubs. During the attack, the offenders call the victim by a well-known epithet used against African-Americans and told him that "blacks were not welcome in the neighborhood."

Is this a Hate Crime?

What is the Bias?

What is the reportable NIBRS Offense?

SCENARIO 2

B. A white juvenile male snatched a woman's purse, and in doing so, knocked her down and called her by a well-known and recognized epithet used against Jews.

Is this a Hate Crime?

What is the reportable NIBRS Offense?

SCENARIO 3

C. Late in the night, a group of individuals broke into a local Lesbian, Gay, Bisexual, and Transgender Center. The group painted "We hate f--s" and "Die drag queens" on the walls and stole the gay pride rainbow flag that was flown outside above the front door of the center.

Is this a Hate Crime?

What is the Bias?

What is the reportable NIBRS Offense?

SCENARIO 4

D. A group home for persons with psychiatric disabilities who were in transition back into the community was the site of a reported arson. Investigation revealed that neighbors had expressed many concerns about the group home in town meetings and were angry that the house was located in their community. Shortly before the fire was reported, a witness heard a male state, "I'll burn them out."

Is this a Hate Crime?

What is the Bias?

What is the reportable NIBRS Offense?

SCENARIO 5

E. A woman took a handgun into a fitness center, entered the men's locker room, and fired numerous shots. Two men were killed and one other man was injured in the shooting. The killer's blog revealed that she had planned the attack for some time and harbored a deep "hatred for men" for rejecting her all of her life.

Is this a Hate Crime?

What is the Bias?

What is the reportable NIBRS Offense?

SCENARIO 6

F. A woman went to the local hardware store and as she was entering, she heard someone yell, "Hey there lady, you wanna be a man? You look like a man." She was wearing painting coveralls and had short hair. After making her purchase, she left the store and saw the same individual that had yelled at her slashing her tires.

Is this a Hate Crime?

What is the Bias?

What is the reportable NIBRS Offense?

OBJECTIVE NOT SUBJECTIVE

Objective evidence that the crime was motivated by BIAS.

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.

CAUTIONS

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.

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.

CAUTIONS

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.

5. Changes in Findings of Bias-If, after an initial incident report was submitted, a contrary finding regarding bias occurs, during the course of the investigation, the FBI UCR Program file must be updated with the new finding.

HATE CRIME QUALITY CONTROL

- **NIBRS Warnings related to Hate Crime (Bias)**
  - 1220: All Bias Motivations has a value of "None (no bias) (mutually exclusive)" (88) OR "Unknown (offender's motivation not known) (mutually exclusive)" (99)
    - An incident was reported with hate bias 99=Unknown
  - 1226 (Multiple offenses with hate bias other than 88=None)
  - 1223: Incident reported with offense rape (11A) associated with hate crime
  - 1427: Data Element 25 (Type of Victim) is "S" Society, and Data Element 8A (Bias Motivation) is other than "88" = None (no bias).
    - Drug/Narcotic Offenses (35A-B) with 99=Unknown bias

- These warnings may appear in an agency's NIBRS submission and as FBI QC emails
- Because of the seriousness of the topic, agencies should pay attention to and address these NIBRS Warning to report accurate data

HATE CRIME QUALITY CONTROL

- **NIBRS Warnings related to Hate Crime (Bias)**
- **Solution:** Agencies must use 88=None, not 99=Unknown when an incident is NOT a hate crime (in any way, shape, or form)

- Value 99=Unknown indicates the incident <u>may</u> be a hate or bias crime but the offender's motivation is not known until further investigation is conducted (we don't know which bias was the motivator, but one was)

  - 99=Unknown <u>MUST</u> be changed to the specific hate bias value; 88=None if the investigation determines the offender had no hate bias

HATE CRIME QUALITY CONTROL

- Sexual Assault offenses reported as a hate crime
  - We encourage agencies to double check sexual assault incidents with hate biases to report the most accurate data
  - Warnings, 1223 -11A; 1224 – 11B; 1225 – 11C

- 99 = Unknown must be updated

- Reporting of bias code other than 88 = None will result in Quality Control checks from DPS IBR Staff

- **Agencies must NOT hard code their RMS to default to 99=Unknown**

LEARNING CHECK

1. Do hate crimes have <u>subjective</u> or <u>objective</u> evidence?

2. Yes or No: Is it still considered a hate crime if the offender had a misperception of the victim?

LEARNING CHECK

3. Yes or No: Should 99 = Unknown be changed if the investigation determines there was no bias involved?

REVIEW

❖Hate Crime is included in the monthly NIBRS flat file submission as part of a NIBRS offense

❖Bias Motivation: It does not matter if the victim is a member of a protected group, only that the offender is motivated by their bias against the group.

❖Facts/Investigation must support hate crime criteria.

Uniform Crime Reporting
IBR

Texas Department of Public Safety

512-424-2091

NIBRS@dps.texas.gov

NIBRS & Other IBR Trainings

Crimes Against Persons

Crimes Against Property

Crimes Against Society

Group B Offenses

Cargo Theft

Texas Specific Reports

Errors and How to Fix Them

NIBRS Overview

Texas "T" Errors

Molly Jane's Law & ViCAP

LEEP/NDEx/DataBroker

Use of Force

Human Trafficking

How to Read a Flat File

Email the IBR Training at IBR.Training@dps.Texas.gov

Training and Compliance
Training Team