



# **Criminal Justice Information Services Division Uniform Crime Reporting Program**



## **Hate Crime Data Collection Guidelines and Training Manual**

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## CHANGE DESCRIPTIONS

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## PREFACE

The passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (the Act) in 2009 expanded the bias motivation definitions for hate crimes. The FBI's Uniform Crime Reporting (UCR) Program, which collects and publishes information about crimes motivated by bias, has modified its data collection accordingly by including new and revised definitions, along with corresponding examples.

This publication, a merger of two earlier publications (*Hate Crime Data Collection Guidelines* and the *Training Guide for Hate Crime Data Collection*), reflects the changes in the Act and is intended to assist law enforcement agencies in collecting and submitting hate crime data to the FBI UCR Program, as well as establishing an updated hate crime training program for their personnel. In addition to providing suggested model reporting procedures and training aids for capturing the new bias motivations, the manual is written to raise law enforcement officers' awareness of the hate crime problem. The FBI UCR Program is grateful to all who have assisted in preparing this publication.

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## **I. INTRODUCTION**

### **Purpose and Scope**

This manual is intended to assist law enforcement agencies in reporting incidents of hate crime to the FBI UCR Program. It addresses policy, the types of bias crime to be reported, how to identify a hate crime, and guidelines for reporting hate crime.

Since 1991, thousands of college and university, city, county, state, tribal, and federal law enforcement agencies have voluntarily participated in the hate crime data collection. It is the law enforcement officers within these agencies who investigate offenses, determine those motivated by bias, and report them as known hate crimes that have made crucial contributions to the success of the hate crime data collection. Without their continued support and participation in identifying bias-motivated crimes, the FBI would be unable to annually publish *Hate Crime Statistics*. This partnership and, ultimately, this publication serve as the cornerstone in raising the Nation's awareness about the occurrence of bias-motivated offenses.

### **The Nature of Hate Crime**

In his work entitled, *Taking Rights Seriously*, Ronald Dworkin, Ph.D., stated that “justice as fairness rests on the assumption of a natural right of all men and women to equality of concern and respect, a right they possess not by virtue of birth or characteristics or merit or excellence, but simply as human beings.” Dr. Dworkin's words reflect the Constitutional protections that are guaranteed to all Americans. And yet, there are those who are victimized, sometimes subtly and other times very overtly, for no reason other than the color of their skin, the religion they profess, the heritage of their parents, the disability they possess, their sexual orientation, their gender, or their gender identity. Not only is the individual who is personally touched by these offenses victimized, but the entire class of individuals residing in the community is affected.

### **Background**

#### **A. Legislative Mandate to Report Hate Crime**

In 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 to collect data “about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity.” The Attorney General 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. Under the direction of the Attorney General and with the cooperation and assistance of many local and state law enforcement agencies, the FBI UCR Program created a hate crime data collection system to comply with the congressional

mandate. The FBI UCR Program's first publication on the subject was *Hate Crime Statistics, 1990: A Resource Book*, which was a compilation of hate crime data reported by 11 states that had collected them under state authority in 1990 and were willing to offer their data as a prototype. The program continued to work with agencies familiar with investigating hate crimes and collecting related information so it could develop and implement a more uniform method of data collection on a nationwide scale. *Hate Crime Statistics, 1992*, presented the first data reported by law enforcement agencies across the country that participated in the UCR hate crime data collection. Lawmakers then amended the Hate Crime Statistics Act to include bias against persons with disabilities by passing the Violent Crime and Law Enforcement Act of 1994 in September of that year. The FBI started gathering data for the additional bias type on January 1, 1997. Next, the Church Arson Prevention Act, which was signed into law in July 1996, removed the sunset clause from the original statute and mandated that the hate crime data collection become a permanent part of the FBI UCR Program. Finally, in October 2009, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act amended the Hate Crime Statistics Act under Division E of P.L. 111-84, the *National Defense Authorization Act for Fiscal Year 2010*. As a result, the FBI UCR Program now captures statistics on hate crimes based on gender and gender identity prejudices, as well as hate crimes committed by/directed against juveniles. (Appendix I provides the referenced legislation as amended.)

## **B. Developing a Collection Approach**

The primary emphasis in developing an approach for collecting national hate crime statistics was to avoid placing major new reporting burdens on law enforcement agencies contributing data to the FBI UCR Program. To accomplish this goal the following decisions were made:

**1. The hate crime collection is an adjunct to the UCR collection.** Hate crimes are not separate, distinct crimes, but rather traditional offenses motivated by the offender's bias. For example, an offender may commit arson because of his or her racial bias. It is, therefore, unnecessary to create a whole new crime category. To the contrary, hate crime data can be collected by merely capturing additional information about offenses already being reported to the FBI UCR Program. Another reason for this approach is the fact that the FBI is in the process of upgrading the UCR Program from a tally system, known as the Summary Reporting System (SRS), to an incident-based system, known as the National Incident-Based Reporting System (NIBRS).

Law enforcement agencies reporting in the NIBRS use a data element within their reporting software that indicates the incident involved a bias motivation. These agencies can report considerably more information about the hate crime incident because the NIBRS is a comprehensive data collection. It enables law enforcement agencies to indicate whether any of the NIBRS offenses were bias motivated. (For a list of offenses collected via the NIBRS and

reported in conjunction with the data element indicating whether bias motivated the offense, see Appendix II. For the definition of those offenses collected in the NIBRS, see Appendix III.)

Agencies not yet participating in the NIBRS submit their hate crime data via the Hate Crime Incident Report and the Quarterly Hate Crime Report. The incident report captures the following information about each hate crime incident: the offense type and its respective bias motivation, the location of the incident, the number and type of victims, the number of known offenders, and the known offender's race and ethnicity. (For a list of offense categories collected via the Hate Crime Incident Report in conjunction with the offender's bias motivation, see Appendix II. For the definitions of those offenses collected on the Hate Crime Incident Report, see Appendix III.) To provide for the reporting of hate crimes committed by and/or directed against juveniles, the FBI has provided for law enforcement to indicate on the Hate Crime Incident Report if the victim and/or offender were under 18 years of age and/or 18 years of age and over. Information collected on the Hate Crime Incident Report can be submitted in an electronic format. The hate crime data submission specifications are provided in *Hate Crime Electronic Submission Specifications for the Summary Reporting System*, which is available at [www.fbi.gov/about-us/cjis/ucr/hate-crime](http://www.fbi.gov/about-us/cjis/ucr/hate-crime).

**2. The types of bias motivation to be reported are limited.** There are many kinds of bias. Some of the more common kinds are those against race, religion, disability, sexual orientation, ethnicity, gender, or gender identity. There are also biases against rich people, poor people, the elderly, people who dress differently, smokers, drinkers, people who are overweight, etc. The types of bias to be reported to the FBI UCR Program are limited to those mandated by the Hate Crime Statistics Act and its subsequent amendments, i.e., bias based on “race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.”

## **Conclusion**

The enactment of the Hate Crime Statistics Act of 1990 and its subsequent amendments requiring the collection and publication of nationwide hate crime statistics underscores the emphasis placed on hate crime. National statistics have resulted in greater awareness and understanding of the true dimensions of the problem nationwide. Those charged with the enforcement of the law will be better able to quantify their resource needs and direct available resources to the areas where they will have the most effectiveness. Likewise, community service organizations and groups will be better able to respond to the needs of the victims.

## II. CRITERIA OF HATE CRIME

### A. Bias Motivation

The FBI collects hate crime data regarding criminal offenses motivated, in whole or in part, by the offender's bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity. Due to the difficulty of ascertaining the offender's subjective motivation, bias is to be reported *only if* investigation reveals sufficient objective facts to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. The specific types of bias to be reported, along with their UCR bias codes, are listed below. (More information about some types of biases is provided in Learning Module Two.)

#### Race:

- 11 = Anti-White
- 12 = Anti-Black or African American
- 13 = Anti-American Indian or Alaska Native
- 14 = Anti-Asian
- 15 = Anti-Multiple Races, Group<sup>1</sup>
- 16 = Anti-Native Hawaiian or Other Pacific Islander

#### Religion:

- 21 = Anti-Jewish
- 22 = Anti-Catholic
- 23 = Anti-Protestant
- 24 = Anti-Islamic (Muslim)
- 25 = Anti-Other Religion
- 26 = Anti-Multiple Religions, Group<sup>1</sup>
- 27 = Anti-Atheism/Agnosticism

#### Ethnicity:

- 32 = Anti-Hispanic or Latino
- 33 = Anti-Not Hispanic or Latino

#### Sexual Orientation:

- 41 = Anti-Gay (Male)
- 42 = Anti-Lesbian
- 43 = Anti-Lesbian, Gay, Bisexual, or Transgender (Mixed Group)<sup>2</sup>
- 44 = Anti-Heterosexual
- 45 = Anti-Bisexual

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<sup>1</sup>Report Anti-Multiple Races, Group if more than one victim in the incident is a different race. This also applies to the Anti-Multiple Religions, Group.

<sup>2</sup>Lesbian, Gay, Bisexual, or Transgender is referred to as LGBT.

Disability:

51 = Anti-Physical Disability

52 = Anti-Mental Disability

Gender:

61 = Anti-Male

62 = Anti-Female

Gender Identity:

71 = Anti-Transgender

72 = Anti-Gender Non-Conforming

## **B. Objective Evidence That the Crime was Motivated by Bias**

An important distinction must be made when reporting a hate crime. The mere fact the offender is biased against the victim's actual or perceived race, religion, disability, sexual orientation, ethnicity, gender, and/or gender identity does not mean that a hate crime was involved. Rather, the offender's criminal act must have been motivated, in whole or in part, by his or her bias.

Motivation is subjective, therefore, it is difficult to know with certainty whether a crime was the result of the offender's bias. For that reason, before an incident can be reported as a hate crime, sufficient 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. While no single fact may be conclusive, facts such as the following, particularly when combined, are supportive of a finding of bias:

1. The offender and the victim were of a different race, religion, disability, sexual orientation, ethnicity, gender, and/or gender identity. For example, the victim was African American and the offender was white.

2. Bias-related oral comments, written statements, or gestures were made by the offender which indicates the offender's bias. For example, the offender shouted a racial epithet at the victim.

3. Bias-related drawings, markings, symbols, or graffiti were left at the crime scene. For example, a swastika was painted on the door of a synagogue, mosque, or LGBT Center.

4. Certain objects, items, or things which indicate bias were used. For example, the offenders wore white sheets with hoods covering their faces or a burning cross was left in front of the victim's residence.

5. The victim is a member of a specific group which is overwhelmingly outnumbered by other residents in the neighborhood where the victim lives and the incident took place.

6. The victim was visiting a neighborhood where previous hate crimes had been committed because of race, religion, disability, sexual orientation, ethnicity, gender, or gender identity and where tensions remained high against the victim's group.

7. Several incidents occurred in the same locality, at or about the same time, and the victims were all of the same race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.

8. A substantial portion of the community where the crime occurred perceived that the incident was motivated by bias.

9. The victim was engaged in activities related to his or her race, religion, disability, sexual orientation, ethnicity, gender, or gender identity. For example, the victim was a member of the National Association for the Advancement of Colored People (NAACP) or participated in an LGBT Pride celebration.

10. The incident coincided with a holiday or a date of particular significance relating to a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity, e.g., Martin Luther King Day, Rosh Hashanah, or the Transgender Day of Remembrance (November 20).

11. The offender was previously involved in a similar hate crime or is a hate group member.

12. There were indications that a hate group was involved. For example, a hate group claimed responsibility for the crime or was active in the neighborhood.

13. A historically-established animosity existed between the victim's and the offender's groups.

14. The victim, although not a member of the targeted racial, religious, disability, sexual orientation, ethnicity, gender, or gender identity group, was a member of an advocacy group supporting the victim group.

### **C. Cautions**

1. Need for Case-by-Case Assessment of the Facts—The aforementioned factors are not all-inclusive of the types of objective facts which evidence bias motivation. Therefore, 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. For example, the offender used an epithet to refer to the victim’s race, but the offender and victim were of the same race.

**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. For example, students of a religious school vandalize their own school, leaving anti-religious statements and symbols on its walls in the hope that they will be excused from attending class.

**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. For example, a middle-aged, heterosexual man walking by a bar frequented by gay men was attacked by six teenagers who mistakenly believed the victim had left the bar and was gay. Although the offenders were wrong on both counts, the offense is a hate crime because it was motivated by the offenders’ anti-gay bias.

**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. For example, if an initial finding of no bias was later changed to racial bias or a finding of racial bias was later changed to religious bias, the change should be reported to the FBI UCR Program. However, an agency should not update its report based on the findings of a court, coroner, or jury or the decision of a prosecutor.

### III. DEFINITIONS FOR HATE CRIME DATA COLLECTION

To ensure uniformity in reporting nationwide, the following definitions have been adopted for use in hate crime reporting:

**Bias**—A preformed negative opinion or attitude toward a group of persons based on their race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.

**Bias Crime**—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; also known as Hate Crime.

Note: Even if the offender was mistaken in his or her perception that the victim was a member of the group he or she was acting against, the offense is still a bias crime because the offender was motivated by bias against the group.

**Bisexual**—(adjective) Of or relating to people who are physically, romantically, and/or emotionally attracted to both men and women.

**Disability Bias**—A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age, or illness.

**Person with a Disability**—(adjective) Of or relating to persons who have physical or mental impairments, whether temporary or permanent, due to conditions that are congenital or acquired by heredity, accident, injury, advanced age, or illness; (noun) person with a disability.

**Ethnicity Bias**—A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry. The concept of ethnicity differs from the closely related term *race* in that “race” refers to grouping based mostly upon biological criteria, while “ethnicity” also encompasses additional cultural factors.

Note: When the FBI’s Hate Crime Statistics Program was initially implemented, ethnicity bias was reported as ethnicity/national origin bias. It was then modified by the Office of Management and Budget’s *1997 Revision to the Standards for the Classification of Federal Data on Race and Ethnicity*.

**Gay**—(adjective) Of or relating to people who are physically, romantically, and/or emotionally attracted to people of the same sex.

Note: Generally this word is used to refer to gay men, but may also be used to describe women; the term “gay” is preferred over the term “homosexual.” For FBI UCR Program purposes, however, if reporting an anti-gay bias, the victim should be a male.

**Gender**—(noun) This term is used synonymously with sex to denote whether a newborn is male or female at birth, e.g., “it’s a boy” or “it’s a girl.”

**Gender Bias**—(noun) A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.

**Gender Identity**—(noun) 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.

**Gender Identity Bias**—A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.

**Gender Non-Conforming**—(adjective) 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. Additional information is provided in Section V.

**Hate Crime**—Bias Crime.

**Hate Group**—An organization whose primary purpose is to promote animosity, hostility, and malice against persons of or with a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity which differs from that of the members or the organization, e.g., the Ku Klux Klan, American Nazi Party.

**Heterosexual**—(adjective) Of or relating to people who are physically, romantically, and/or emotionally attracted to people of the opposite sex.

Note: The term straight is a synonym.

**Homosexual**—(adjective) Of or relating to people who are physically, romantically, and/or emotionally attracted to people of the same sex.

Note: This is an outdated clinical term considered derogatory and offensive by many people; current journalistic standards restrict usage of the term; “lesbian” and/or “gay” accurately describes those who are attracted to people of the same sex.

**Lesbian**—(adjective) Of or relating to women who are physically, romantically, and/or emotionally attracted to other women.

Note: Some lesbian women prefer to be described as gay women; preferred over the term “homosexual;” may be used as a noun. For FBI UCR Program purposes, however, if reporting an anti-gay bias, the victim should be a male.

**LGBT**—(noun) Common initialism for “lesbian, gay, bisexual, and transgender,” used here to refer to community organizations or events that serve lesbian, gay, bisexual, transgender, and allied people.

**National Incident–Based Reporting System**—A reporting system implemented in the late 1980s to replace the traditional SRS. NIBRS provides for expanded collection and reporting of offenses and arrests and their circumstances.

**Racial Bias**—A preformed negative opinion or attitude toward a group of persons who possess common physical characteristics, e.g., color of skin, eyes, and/or hair, facial features, etc., genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind, e.g., Asians, Blacks or African Americans, whites.

**Religious Bias**—A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being, e.g., Catholics, Jews, Protestants, atheists.

**Sexual Orientation**—(noun) The term for a person’s physical, romantic, and/or emotional attraction to members of the same and/or opposite sex, including lesbian, gay, bisexual, and heterosexual (straight) individuals.

Note: Avoid the offensive terms “sexual preference” or “lifestyle.”

**Sexual-Orientation Bias**—(noun) A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived sexual orientation.

**Summary Reporting System**—The traditional tally system which has been used since 1930 to collect UCR data.

**Transgender**—(adjective) Of or relating to a person who identifies as a different gender from their gender as assigned at birth.

Note: The person may also identify himself or herself as “transsexual.” Additional information is provided in Section V.

Note: A transgender person may outwardly express his or her gender identity all of the time, part of the time, or none of the time; a transgender person may decide to change his or her body to medically conform to his or her gender identity.

Note: Avoid the following terms: “he-she,” “she-male,” “tranny,” “it,” “shim,” “drag queen,” “transvestite,” and “cross-dresser.”

#### IV. SCENARIOS OF BIAS MOTIVATION

A. 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 get rid of those ‘crazies.’ I’ll burn them out.” *An Anti-Mental Disability Bias should be reported with this incident since the suspect apparently committed the crime due to his bias against persons with psychiatric disabilities.*

B. A transgender woman met a straight man through a social networking application. According to the man, when the two met, they spent nearly three days together. During that time, the woman admitted that she used to be a man. The man then began beating her until she was dead. The man felt justified in beating and killing the transgender woman because he said he was “fooled by her gender presentation.” *An Anti-Transgender Bias should be reported with this incident because the perpetrator targeted the victim as a result of his discovery of her gender identity.*

C. A 29-year-old Japanese-American male was attacked by a 51-year-old white male wielding a tire iron. The victim suffered severe lacerations and a broken arm. The incident took place in a parking lot next to a bar. Investigation revealed that the offender and victim had previously exchanged racial insults in the bar, the offender having initiated the exchange by calling the victim by a well-known and recognized epithet used against the Japanese and complaining that the Japanese were taking away jobs from Americans. *An Anti-Asian Bias should be reported based on the difference in race of the victim and offender, the exchange of racial insults, and the absence of other reasons for the attack.*

D. Three female hikers--a mother, her teenage daughter, and her daughter’s friend--were murdered in a national park. The murders remained unsolved until a man confessed to them more than six months later. This same man also admitted to the murder of a female naturalist later that year. The murderer stated that he had “fantasized about killing all women” since he was a child. *An Anti-Female Bias should be reported with this incident as the offender made his fantasy about killing women become a reality.*

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. *This incident should be reported with an Anti-Male Bias because the evidence indicated that the offender harbored a deep “hatred for men” for rejecting her all of her life.*

**F.** Late in the night, a group of individuals broke in to a local Lesbian, Gay, Bisexual, and Transgender Center. The group painted “We hate fags” and “Die drag queens” on the walls and stole the gay pride rainbow flag that was flown above the front door of the center. *This incident should be reported with an Anti-Lesbian, Gay, Bisexual, or Transgender (Mixed Group) Bias based on the offender’s intent; the property crime was clearly meant to intimidate those that work at and use the services of the center.*

**G.** 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. During the attack, the offenders called the victim by a well-known and recognized epithet used against blacks and told him that blacks were not welcome in the neighborhood. *This incident should be reported with an Anti-Black or African American Bias because the victim and offenders are of different races, the offenders used a racial epithet, and the facts reveal no other reason for the attack than the stated one, i.e., to keep blacks out of the neighborhood.*

**H.** Overnight, unknown persons broke into a synagogue and destroyed several religious objects. The perpetrators drew a large swastika on the door and wrote “Death to Jews” on a wall. Although valuable items were present, none were stolen. *This incident should be reported with an Anti-Jewish Bias because the offenders destroyed religious objects and left anti-Semitic words and graffiti behind, and theft did not appear to be the motive for the burglary.*

**I.** A transgender woman was walking down the street near her home when three men walking toward her said, “Hey, what’s your problem? Huh?” She kept walking, trying to ignore them. However, as they got close, one yelled “We don’t want no queers in this neighborhood,” and a second one knocked her to the ground. *Even though an anti-gay slur was used during the attack, this incident should be reported with an Anti-Transgender Bias because the victim was attacked for presenting as a female despite having been born biologically male.*

**J.** A female doctor at a small hospital found graffiti scratched into her car on three consecutive nights. The words were illegible. An investigation revealed that the scratches were deliberately made, but there were no witnesses or suspects. Although she was the only female doctor at the hospital, there were many female nurses who were not targeted, therefore, that fact alone was not sufficient to determine motive, and the incident would not be reported as bias motivated. However, a month later, two adult males were arrested after being caught on tape vandalizing the female doctor’s car again. They admitted to all the incidents, saying women do not belong in the medical profession. *In addition to the most recent incident being reported with an Anti-Female Bias, the previous incident should subsequently be reported with an Anti-Female Bias because the men’s stereotypes about the appropriate gender roles for women prompted their criminal actions in both incidents.*

**K.** A small neighborhood bar frequented by gay men burned down after being closed for the night. Investigation revealed that the fire was deliberately set, but there were no witnesses or suspects. Although the fire was deliberately set, the fact that the bar was frequented by gay men may have been coincidental. *Therefore, the incident should not be reported as bias motivated.* Two weeks later, three males were arrested on a tip from an informant. They admitted burning down the bar, saying they did it to keep gays out of the neighborhood. *As a result, this incident should subsequently be reported with an Anti-Gay (Male) Bias.*

**L.** A lesbian went to the local hardware store and as she was entering, 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 only to see the same individual that had yelled at her slashing her tires. The man fled the scene after spotting her coming out of the store. *An Anti-Gender Non-Conforming Bias should be reported with this incident since the issue was her clothing and haircut; even though she was a lesbian, her sexual orientation didn’t seem to be the reason she was targeted.*

**M.** Six black men assaulted and seriously injured a white man and his Asian male friend as they were walking through a residential neighborhood. Witnesses said the victims were attacked because they were trespassing in a “black” neighborhood. *An Anti-Multiple Races, Group Bias should be reported with the incident because the victims and offenders were of different races, and witnesses reported that the victims were attacked due to the fact they were not Black or African American.*

**N.** A transgender man was outed to the community by a newspaper story after being arrested. Wearing short hair and men’s clothes, the victim had been living and presenting himself as a man to everyone in the community. Two male friends had become enraged after seeing the story, sought him out at a party, where they took him outside and assaulted him. *This incident should be reported with an Anti-Transgender Bias because the victim was attacked as a result of identifying himself as a man despite having been born a female.*

**O.** Five gay, male friends, some of whom were wearing makeup and jewelry, were exiting a well-known gay bar when they were approached by a group of men who were unknown to them. The men began to ridicule their feminine appearance and shouted “sissy,” “girlie-man,” and other slurs at the group, which then escalated to the assailants physically attacking the victims. *This incident should be reported with an Anti-Gender Non-Conforming Bias because the perpetrators viewed some of the victims as inappropriately crossing gender lines.*

**P.** Overnight, an auditorium used by representatives of several religious denominations to hold an ecumenical conference was vandalized by unknown persons. Extensive damage was caused and statements, such as “There is but one true religion” and “Down with the nonbelievers,” were spray painted onto the walls. *The incident should be*

*reported with an Anti-Multiple Religions, Group Bias because the offenders clearly evidenced their hostility against a group representing more than one religion.*

**Q.** A transgender woman was waiting at a bus stop when she was approached by a man with a history of violent assaults and a previous hate crime conviction. The man assaulted the victim and then called her a “she-male” and used other slurs. The police confirmed that the victim had been simply waiting at the bus stop and the assault was completely unprovoked. *An Anti-Transgender Bias should be reported with this incident because the victim was selected solely because of her gender identity and the assailant used an anti-transgender slur during the assault.*

**R.** A man entered a community college and shot a female in a corridor. He then entered a classroom with 10 women and 48 men, fired a shot into the ceiling and said, “I want the women.” “I hate feminists.” He sent all of the men from the room, lined the women up against the wall and opened fire, killing 6 of the women and wounding the others. *This incident should be reported with an Anti-Female Bias because the offender said “I want the women. I hate feminists.” He also removed all of the men, shot only at women, and claimed he needed to “kill the feminists.”*

**S.** An African-American man had just finished a midnight riverboat cruise with his fiancée and friends when he escorted his blind, male friend by the arm into a restroom while holding his girlfriends’ purse. Inside the restroom, another man hurled anti-black and anti-gay insults at the men. The perpetrator followed them out of the restroom, continuing his verbal harassment. He then went to his car, retrieved a gun, returned to confront the men and said, “Now what you got to say?” The perpetrator fired the gun fatally injuring one of the men. *This incident should be reported with an Anti-Black African American Bias and Anti-Gay (Male) Bias because the perpetrator used exclusively anti-black and anti-gay slurs and also acted out on his mistaken perception that the victim was gay.*

**T.** Early in the morning, two Latino immigrant brothers were attacked by two African-American men while walking down the street. The brothers were huddled together to stay warm. The attackers mistakenly believed that the two men were a gay couple because they were walking so closely together. The attackers beat the brothers while using anti-gay and anti-Latino slurs. *This incident should be reported with an Anti-Gay (Male) Bias and Anti-Hispanic or Latino Bias because the perpetrators were motivated by the perceived sexual orientation of the brothers and their race/ethnicity as evidenced by the use of both anti-gay and anti-Latino slurs.*

**U.** At a house party, a transgender woman was ridiculed and made to feel unwelcome. As she attempted to leave, she was severely beaten and killed. *This incident should be reported with an Anti-Transgender Bias because the victim was targeted due to her gender identity.*

V. Two white, gay men were walking through a neighborhood where a number of gay bars and businesses are located. Four Latino men approached them and hit one of the gay men in the face, rendering him unconscious. The assailants then hurled anti-gay slurs at the men and demanded their money and cell phones. *An Anti-Gay Bias should be reported with this incident. The bias was evident in the attack, through the use of slurs, and in the selection of a gay area as the site of the attack, even though robbery was also a motive. Race should not be identified as the bias because there was no evidence of racial or ethnic animosity.*

W. An adult white male was approached by four white teenagers who requested money for the bus. When he refused, one of the youths said to the others, “Let’s teach this [epithet for a gay person] a lesson.” The victim was punched in the face, knocked to the ground, kicked several times, and robbed of his wristwatch, ring, and wallet. When he reported the crime, the victim advised he did not know the offenders and that he was not gay. *The facts are ambiguous.\* Although an epithet for a gay person was used by one of the offenders, the victim was not gay. Such epithets are sometimes used as general insults regardless of the target person’s sexual orientation, and in this case the offenders’ motivation appeared to be limited to obtaining money from the victim. Therefore, the incident should not be designated bias motivated until the investigation positively concludes that the offenders’ bias was a contributing factor in the crime.*

X. A white juvenile male snatched a Jewish woman’s purse, and in doing so, knocked her down and called her by a well-known and recognized epithet used against Jews. The offender’s identity is not known. Although the offender used an epithet for Jews, it is not known whether he belongs to another religious group or whether his motive was anything more than robbery. *Because the facts are ambiguous,\* agencies should not report this incident as bias-motivated until the investigation positively concludes that the offender’s bias was a contributing factor in the crime.*

\*Note: If the facts are ambiguous, (i.e., where some facts are present but are not conclusive), it is only in the NIBRS that incidents involving ambiguous facts can be reported, (i.e., 99 = Unknown). The intent of bias motivation code 99 = Unknown is to allow a NIBRS agency to report a crime in which bias motivation is unknown or when the investigation has not been completed. When it is determined the presence of bias motivation is conclusive, the reported bias motivation code 99 = Unknown should be modified to indicate the results of the subsequent investigation. Law enforcement agencies should be diligent in modifying these types of situations as they become known. In addition, a law enforcement agency not reporting hate crime in the NIBRS would not submit a Hate Crime Incident Report until the investigation determined a bias crime did occur.

## **V. UNDERSTANDING HOW TO DISTINGUISH SEXUAL ORIENTATION, GENDER IDENTITY, ANTI-TRANSGENDER, AND ANTI-GENDER NON-CONFORMING CRIMES**

### **A. Sexual Orientation vs. Gender Identity-Motivated Crimes**

Transgender and gender non-conforming people may be of any sexual orientation (gay, lesbian, bisexual, or heterosexual). Knowing about a person's gender identity (as transgender or gender non-conforming) does not tell you anything about their sexual orientation. They are separate categories.

When crimes are committed against people based on sexual orientation or gender identity, epithets often reveal the motive for the attack. Typical gender identity-related epithets and terms include: "he-she," "she-male," "tranny," "it," and "transvestite." Also, the terms "cross dresser" and "drag queen" may be used in a hateful way, even though some individuals may self-identify with these terms. It is common for perpetrators of anti-transgender hate crimes to attack the victim after learning the victim is transgender.

Confusion in classifying the motive of a crime can occur when a perpetrator is motivated solely because of the victim's gender identity but uses an anti-gay term as well. They do this because they are often more familiar with anti-gay terms like "faggot," "dyke," and "queer," not because they are actually motivated by bias toward the victim's sexual orientation. Therefore, a perpetrator may use anti-gay epithets, even though they have targeted a person entirely because the victim is transgender or gender non-conforming.

### **B. Anti-Transgender vs. Anti-Gender Non-Conforming Motivated Crimes**

It may not always be obvious whether or not a crime should be classified as "anti-transgender" or "anti-gender non-conforming."

Anti-transgender is the category for crimes that are committed primarily because the person lives/presents as a gender different than their sex at birth; for example, crimes that involve someone who identifies as a woman but was born male, or vice versa. Persons may identify themselves as "transgender" or "transsexual." Also, if this person is cross-dressing but has not changed to the gender they identify with, that is also an anti-transgender crime; for example, if a man wearing a dress is attacked after leaving a party, that would be an anti-transgender crime. A possible indication that the crime is anti-transgender is if the word(s) "transgender," "transsexual," "tranny," "transvestite," "drag king," or "drag queen," is used in the commission of a crime.

Anti-gender non-conforming crimes involve people whose appearance is only slightly gender non-conforming—they are not presenting 100 percent as the other gender. An

example would be a male who wears men's clothes and identifies as a male, but wears eye-makeup; when he is attacked for that reason, this is a gender non-conforming crime. The opposite example is a woman who identifies as a woman, but wears a male item of clothing like a tie, and is attacked for that reason. A possible indication that the incident was an anti-gender non-conforming bias is if the word(s) "sissy," "lady," "girlie man," or "tomboy" is used in the commission of a crime.

### **C. Working With Transgender Victims/Witnesses**

Transgender people should be addressed according to the gender they identify and live as now, regardless of the gender they were born as. If someone identifies as a woman (even if born male), she should be addressed as a woman, by using "she," "her," and "Ms." To refer to her, use her preferred name (even if she has not yet legally changed her name). If someone identifies as a man (even if born female), then he should be addressed as a man, with male pronouns, and his preferred name.

If you need to refer to someone's gender identity, the term transgender is the safest to use; be sure to not use words that may be considered offensive epithets. In addition, it is important to know that the term transgender is an adjective, and should not be changed to "transgendered" or "transgenders." If you do not know if someone should be referred to with female or male pronouns, it is acceptable to ask that person their preferred pronoun. Disrespectful attitudes toward the victim or witness of a crime can add to their sense of trauma. By showing respect, officers can avoid a potential conflict with a victim or witness over misuse of proper names and pronouns and focus everyone's attention on solving the crime that occurred.

### **D. Reporting Victim Sex in the NIBRS if an Anti-Transgender Bias Occurs**

The NIBRS collects more detailed data on the victims, offenders, and the circumstances of crime. For example, a NIBRS participating law enforcement agency should report within an incident the age, sex, race, and ethnicity of the victim for each Crime Against Person offense. If the committed offense was bias motivated, or specifically involved an Anti-Transgender Bias, the agency should report the victim's sex as the gender identity expressed by the victim. Whereas on the Hate Crime Incident Report, if the victim type is Individual, only the total number of victims, total victims 18 years of age, and total victims under 18 years of age are collected.

Note: The above-mentioned information (A, B, and C) was provided by the Hate Crime Coalition Working Group. It was possible to include this content due to the subject matter expertise of the working group members.

## **VI. LEARNING MODULES FOR DEFINING AND REPORTING HATE CRIMES**

### **Use of the Enclosed Learning Modules**

Two learning modules are included in this manual for use in the instruction of law enforcement personnel on hate crime matters. The modules are in no way exhaustive or exclusive of either what can be trained or the way the material should be presented. Rather, they are intended merely as a suggested approach to such instruction. In order to obtain the most benefit from the materials, an agency should tailor them to meet its unique needs. The reader may also be interested in the model training programs produced by the International Association of Chiefs of Police (IACP) and the National Organization of Black Law Enforcement Executives (NOBLE). This training information can be obtained by contacting the organizations directly.

### **Learning Module One**

“Learning Module One: Bias-Motivated Crimes—Definitions and Procedures” provides definitions of terms law enforcement officers need to know in dealing with hate crime. It includes a hate crime reporting model that can be adapted for law enforcement use.

The most important aspect of the model concerns the two-tier reviewing process. The purpose of the two-tier procedure is to ensure that suspected bias-motivated incidents undergo two levels of review within the reporting agency. Under the model system, the officer who responds to the incident is responsible for determining whether there is any indication that the offender was motivated by bias. If so, the responding officer should designate the incident as a “Suspected Bias-Motivated Crime” and pass it on for review by a second officer (or unit) possessing greater expertise in hate crime matters. This latter officer or unit has the responsibility for making the final decision as to whether the incident constitutes a hate crime. It is only after the incident has undergone the second review and is determined to be a hate crime that it is ready to be reported as such to the FBI UCR Program.

### **Learning Module Two**

“Learning Module Two: Case Study Exercises of Possible Bias-Related Crimes” gives the student officer the opportunity to apply his or her newly-gained knowledge of hate crime matters to hypothetical cases. The student is to read each case scenario and (1) classify the type of offense(s) involved in the incident, (2) classify the offense as either “Not a Bias-Motivated Crime” or a “Suspected Bias-Motivated Crime,” and (3) provide reasons for his or her decisions.

## **LEARNING MODULE ONE: Bias-Motivated Crimes—Definitions and Procedures**

### **MODULE DESCRIPTION:**

This module provides: (1) definitions of hate crime terminology, (2) a “model” approach to reporting hate crimes, and (3) criteria for determining whether a hate crime has occurred.

### **COURSE OBJECTIVES:**

- The student will be able to define Bias/Hate Crime based on Race, Religion, Ethnicity, Sexual Orientation, Disability, Gender, and Gender Identity, as well as Responding Officer, and Second-Level Judgment Officer/Unit.
- The student will be able to explain the “two-tier” process for reporting hate crimes.
- The student will be able to list the types of criteria used to make a determination of whether a crime was bias motivated.

### **DEFINITIONS FOR HATE CRIME DATA COLLECTION:**

To ensure uniformity in reporting nationwide, the following definitions have been adopted for use in hate crime reporting:

**Bias**—A preformed negative opinion or attitude toward a group of persons based on their race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.

**Bias Crime**—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; also known as Hate Crime.

Note: Even if the offender was mistaken in his or her perception that the victim was a member of the group he or she was acting against, the offense is still a bias crime because the offender was motivated by bias against the group.

**Bisexual**—(adjective) Of or relating to people who are physically, romantically, and/or emotionally attracted to both men and women.

**Disability Bias**—A preformed negative opinion or attitude toward a group of persons based on their physical or mental impairments, whether such disability is temporary or permanent, congenital or acquired by heredity, accident, injury, advanced age, or illness.

**Person with a Disability**—(adjective) Of or relating to persons who have physical or mental impairments, whether temporary or permanent, due to conditions that are congenital or acquired by heredity, accident, injury, advanced age, or illness; (noun) person with a disability.

**Ethnicity Bias**—A preformed negative opinion or attitude toward a group of people whose members identify with each other, through a common heritage, often consisting of a common language, common culture (often including a shared religion) and/or ideology that stresses common ancestry. The concept of ethnicity differs from the closely related term *race* in that “race” refers to grouping based mostly upon biological criteria, while “ethnicity” also encompasses additional cultural factors.

Note: When the FBI’s Hate Crime Statistics Program was initially implemented, ethnicity bias was reported as ethnicity/national origin bias. It was then modified by the Office of Management and Budget’s *1997 Revision to the Standards for the Classification of Federal Data on Race and Ethnicity*.

**Gay**—(adjective) Of or relating to people who are physically, romantically, and/or emotionally attracted to people of the same sex.

Note: Generally this word is used to refer to gay men, but may also be used to describe women; the term “gay” is preferred over the term “homosexual.” For FBI UCR Program purposes, however, if reporting an anti-gay bias, the victim should be a male.

**Gender**—(noun) This term is used synonymously with sex to denote whether a newborn is male or female at birth, e.g., “it’s a boy” or “it’s a girl.”

**Gender Bias**—(noun) A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender, e.g., male or female.

**Gender Identity**—(noun) 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.

**Gender Identity Bias**—A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived gender identity, e.g., bias against transgender or gender non-conforming individuals.

**Gender Non-Conforming**—(adjective) 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. Additional information is provided in Section V.

**Hate Crime**—Bias Crime.

**Hate Group**—An organization whose primary purpose is to promote animosity, hostility, and malice against persons of or with a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity which differs from that of the members or the organization, e.g., the Ku Klux Klan, American Nazi Party.

**Heterosexual**—(adjective) Of or relating to people who are physically, romantically, and/or emotionally attracted to people of the opposite sex.

Note: The term straight is a synonym.

**Homosexual**—(adjective) Of or relating to people who are physically, romantically, and/or emotionally attracted to people of the same sex.

Note: This is an outdated clinical term considered derogatory and offensive by many people; current journalistic standards restrict usage of the term; “lesbian” and/or “gay” accurately describes those who are attracted to people of the same sex.

**Lesbian**—(adjective) Of or relating to women who are physically, romantically, and/or emotionally attracted to other women.

Note: Some lesbian women prefer to be described as gay women; preferred over the term “homosexual;” may be used as a noun. For FBI UCR Program purposes, however, if reporting an anti-gay bias, the victim should be a male.

**LGBT**—(noun) Common initialism for “lesbian, gay, bisexual, and transgender,” used here to refer to community organizations or events that serve lesbian, gay, bisexual, transgender, and allied people.

**National Incident–Based Reporting System**—A reporting system implemented in the late 1980s to replace the traditional SRS. NIBRS provides for expanded collection and reporting of offenses and arrests and their circumstances.

**Racial Bias**—A preformed negative opinion or attitude toward a group of persons who possess common physical characteristics, e.g., color of skin, eyes, and/or hair, facial features, etc., genetically transmitted by descent and heredity which distinguish them as a distinct division of humankind, e.g., Asians, Blacks or African Americans, whites.

**Religious Bias**—A preformed negative opinion or attitude toward a group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being, e.g., Catholics, Jews, Protestants, atheists.

**Sexual Orientation**—(noun) The term for a person’s physical, romantic, and/or emotional attraction to members of the same and/or opposite sex, including lesbian, gay, bisexual, and heterosexual (straight) individuals.

Note: Avoid the offensive terms “sexual preference” or “lifestyle.”

**Sexual-Orientation Bias**—(noun) A preformed negative opinion or attitude toward a person or group of persons based on their actual or perceived sexual orientation.

**Summary Reporting System**—The traditional tally system which has been used since 1930 to collect UCR data.

**Transgender**—(adjective) Of or relating to a person who identifies as a different gender from their gender as assigned at birth.

Note: The person may also identify himself or herself as “transsexual.” Additional information is provided in Section V.

Note: A transgender person may outwardly express his or her gender identity all of the time, part of the time, or none of the time; a transgender person may decide to change his or her body to medically conform to his or her gender identity.

Note: Avoid the following terms: “he-she,” “she-male,” “tranny,” “it,” “shim,” “drag queen,” “transvestite,” and “cross-dresser.”

## **PROCEDURES AND CRITERIA:**

### **Two-Tier Decision-Making Process**

The FBI UCR Program surveyed state UCR Program managers on hate crime collection procedures in use at various law enforcement agencies within their states. It found that most law enforcement agencies that collect hate crime data employ a two-tier decision-making process. The first level is the law enforcement officer who initially responds to the alleged hate crime incident, i.e., the “Responding Officer” (or “First-Level Judgment Officer”). It is the responsibility of the Responding Officer to determine whether there is any indication that the offender was motivated by bias. If there is, the officer is to designate the incident as a “Suspected Bias-Motivated Crime” and forward the case file to a “Second-Level Judgment Officer/Unit.” In smaller agencies this is usually a person specially trained in hate crime matters, while in larger agencies it may be a special unit.

It is the task of the Second-Level Judgment Officer/Unit to review carefully the facts of the incident and make the final determination of whether a hate crime has actually occurred. If so, the incident is to be reported to the FBI UCR Program as a bias-motivated crime.

## **Responding Officer's Responsibilities**

Law enforcement's response to an alleged hate crime begins no differently than to any other crime. The Responding Officer must quickly evaluate what has happened and take any necessary action to stabilize the situation. After that has been done, there are two unique areas of concern which should be recognized by an officer responding to an alleged hate crime:

(1) sensitivity to the needs of the victim and (2) the elements of a bias crime.

First, the Responding Officer should be sensitive to the effects of a bias crime on the victim. A victim of any crime may feel isolated from others, fearful that the occurrence will happen again, and angry that he or she has become a victim. However, there is a deeper level of isolation, fear, and anger that the victim of hate crime feels. This individual has been chosen from the rest of the population to be victimized for no other reason than his or her race, religion, disability, ethnicity, sexual orientation, gender, or gender identity. There is nothing this person can do; indeed, there is nothing he or she ought to do to change his or her race, religion, disability, ethnicity, sexual orientation, gender, and gender identity. And yet, it is because of these very innate qualities that he or she was victimized. This type of personal experience can result, many times, in a feeling of loss of control over one's life. By recognizing these dynamics, the Responding Officer can address the special needs of the victim, thereby placing him or her at some ease and thereby making it easier to elicit from him or her necessary information concerning the alleged offense. Another task of the Responding Officer is to determine whether additional resources are needed on the scene, such as community affairs/relations representatives, mental/physical health professionals, and/or the clergy. At a minimum, the victim should be referred to appropriate social and legal services.

Second, the Responding Officer must be knowledgeable of the elements of a bias-related crime. As set forth in this document, a bias crime is a criminal offense committed against a person or property or if reported in the NIBRS, a crime against society (i.e., Drug/Narcotic Offenses, Gambling Offenses, Pornography/Obscene Material, Prostitution Offenses, and Weapon Law Violations), which is motivated by the offender's bias against the victim's race, religion, disability, ethnicity, sexual orientation, gender, or gender identity. At the level of the Responding Officer, if there is any indication that the offender was motivated by bias to commit the crime, the incident should be classified as a "Suspected Bias-Motivated Crime."

The types of factors to be considered by the Reporting Officer in making a determination of whether the incident is a "Suspected Bias-Motivated Crime" are:

- Is the motivation of the alleged offender known?
- Was the incident known to have been motivated by racial, religious, disability, ethnic, sexual orientation, gender, or gender identity bias?

- Does the victim perceive the action of the offender to have been motivated by bias?
- Is there no clear other motivation for the incident?
- Were any racial, religious, disability, ethnic, sexual orientation, gender, or gender identity bias remarks made by the offender?
- Were there any offensive symbols, words, or acts which are known to represent a hate group or other evidence of bias against the victim's group?
- Did the incident occur on a holiday or other day of significance to the victim's or offender's group?
- What do the demographics of the area tell you about the incident?

If these or other factors indicate that the offender may have been motivated by bias to commit the crime, the incident should be classified as a "Suspected Bias-Motivated Crime" and sent on to the Second-Level Judgment Officer/Unit for review. While the mere utterance of a racial epithet by the offender does not provide sufficient basis to report a crime as a "Suspected Bias-Motivated Crime," it, combined with other factors indicating bias, could do so. For the purpose of first-level bias crime reporting, the old adage of "when in doubt, check it out" should be followed, i.e., questionable cases should be referred to the Second-Level Judgment Officer/Unit for resolution.

### **Second-Level Judgment Officer's/Unit's Responsibilities**

The second tier in the decision-making process is where the final decision is made regarding whether an offense was bias motivated. Therefore, the people who make final decisions must be specially trained to the point of being "experts" on bias matters. The Responding Officer had merely to determine whether there was any indication that the offense was motivated by bias. On the other hand, the Second-Level Judgment Officer/Unit must carefully sift through the facts using more stringent criteria to determine whether the incident was, in fact, a hate crime.

The second level of review can be a specially trained officer, investigator, supervisor, or specially-established hate crime unit. This does not mean that every agency must establish a "Special Hate Crime Unit." Given the fiscal constraints prevalent throughout most of the law enforcement community, such a proposition would be an unreasonable requirement. However, what is suggested is that somewhere in the agency's already established crime reporting review process, someone should be specifically tasked with the responsibility of reviewing "Suspected Bias-Motivated Crimes" and making the final decision as to the existence or nonexistence of bias motivation.

During the second review, the Second-Level Judgment Officer/Unit should have time to consider carefully the findings of the Responding Officer and perhaps even conduct interviews of the victims and witnesses if necessary. For an incident to be reported as a hate crime, sufficient 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. While no single fact may be conclusive, positive answers to the types of questions listed below are supportive of a finding of bias motivation. It is important for a distinction to be established. The mere fact that the offender is biased against the victim's race, religion, disability, ethnicity, sexual orientation, gender, and/or gender identity does not mean a hate crime was involved. Rather, the offender's criminal act must have been motivated, in whole or in part, by his or her bias.

The Second-Level Judgment Officer/Unit should seek answers to the following types of questions before making the final determination of whether an incident was motivated by bias:

- Is the victim a member of a specific race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Was the offender of a different race, religion, ethnicity, sexual orientation, gender, or gender identity than the victim? For example, the victim was African American and the offender was white.
- Would the incident have taken place if the victim and offender were of the same race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Were biased oral comments, written statements, or gestures made by the offender which indicated offender's bias? For example, the offender shouted a racial or ethnic epithet at the victim.
- Were bias-related drawings, markings, symbols, or graffiti left at the crime scene, e.g., a swastika was painted on the door of a synagogue, mosque, or LGBT Center.?
- Were certain objects, items, or things that indicate bias used, e.g., the offenders wore white sheets with hoods covering their faces; a burning cross was left in front of the victim's residence?
- Is the victim a member of a specific group which is overwhelmingly outnumbered by other residents in the neighborhood where the victim lives and the incident took place?

- Was the victim visiting a neighborhood where previous hate crimes had been committed because of race, religion, disability, ethnicity, sexual orientation, gender, or gender identity and where tensions remained high against victim's group?
- Have several incidents occurred in the same locality, at or about the same time, and were the victims all of the same race, religion, disability, ethnicity, sexual orientation, gender, or gender identity?
- Does a substantial portion of the community where the crime occurred perceive that the incident was motivated by bias?
- Was the victim engaged in activities related to his or her race, religion, disability, ethnicity, sexual orientation, gender, or gender identity? For example, the victim was a member of the NAACP or participated in an LGBT Pride celebration.
- Did the incident coincide with a holiday or a date of particular significance relating to a race, religion, disability, ethnicity, sexual orientation, gender, or gender identity, e.g., Martin Luther King Day, Rosh Hashanah, or the Transgender Day of Remembrance (November 20)?
- Was the offender previously involved in a similar hate crime or is a hate group member?
- Were there indications that a hate group was involved? For example, a hate group claimed responsibility for the crime or was active in the neighborhood.
- Does a historically-established animosity exist between the victim's and offender's groups?
- Is this incident similar to other known and documented cases of bias, particularly in this area? Does it fit a similar modus operandi to these other incidents?
- Has this victim been previously involved in similar situations?
- Are there other explanations for the incident, such as a childish prank, unrelated vandalism, etc.?
- Did the offender have some understanding of the impact his or her actions would have on the victim?

The Second-Level Judgment Officer/Unit should respond to the scenes of large bias incidents, such as race riots, demonstrations, etc. When doing so, a determination should be made whether additional resources should be called to the scene, such as police tactical units, community affairs/relations representatives, mental/physical health professionals, and faith leaders.

It is important to note that only after the Second-Level Judgment Officer/Unit has made a decision that the crime was bias motivated should it be reported to the FBI UCR Program.

## **LEARNING MODULE TWO: Case Study Exercises of Possible Bias-Related Crimes**

### **MODULE DESCRIPTION:**

This module provides the student officer with hypothetical case scenarios to practice his or her knowledge gained from Learning Module One.

### **COURSE OBJECTIVES:**

The student will be able to evaluate a hypothetical case and (1) classify the offenses involved in the incident, (2) classify the incident as either “Not a Bias-Motivated Crime” or a “Suspected Bias-Motivated Crime,” and (3) give the reasons for his or her decision.

### **RULES FOR THE EXERCISE SESSION:**

The student officer is to read the hypothetical cases and (1) classify the offense(s) involved in each incident, (2) classify the fact situations as either “Not a Bias-Motivated Crime” or a “Bias-Motivated Crime,” and (3) give reasons for his or her bias classification decisions.

### **EXERCISE CASES:**

**Exercise (1):** Deputy Sheriff Jackson received a radio call to go to an apartment and interview an individual complaining of threats made over the telephone. Upon arriving at the apartment, the complainant, a white female, informed Deputy Jackson she is a lesbian and that over the last two weeks she has received repeated telephone calls from a person who stated that the complainant had been seen going into “gay bars,” and therefore, she would have to be “punished.”

**Crime Classification:** Intimidation

**Bias Classification:** Anti-Lesbian

**Reasons:** Threats were made to harm the victim physically because of her sexual orientation.

Note: In addition to collecting hate crimes based on gender and gender identity, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act requires statistics to be captured on hate crimes committed by/directed against juveniles. In Exercise 1, however, it is not possible to report the age of the offender. Therefore, if an agency reports their hate crime incidents on the Hate Crime Incident Report, for this incident, one offender should be reported and the age breakdown should be entered as 00.

**Exercise (2):** On January 1, a woman was walking alone after leaving a party when she was tackled to the ground by a man. He began choking her and yelling “I hate you,” “You bitch.” Nearby, an-undercover officer heard the man’s yelling. The officer was able to restrain the man but he continued screaming “I hate all of the bitches.” The victim indicated she had never seen the man before. Later the man told the officer he had been at a bar and had tried to talk to a woman. She had laughed at him and he said he was not going to take it anymore.

**Crime Classification:** Aggravated Assault

**Bias Classification:** Anti-Female

**Reasons:** The offender attacked the woman because of his bias against women. This is evidenced by his statements and also by what he told the officer.

**Exercise (3):** On February 2, at 3:30 a.m., as Detective Phipps was returning home at the end of his tour, he came across a vehicle that appeared abandoned. When he approached the vehicle, he found an unconscious individual who was biologically male who had sustained several bruises to the head and was partially dressed in women’s clothing. Written on the windshield of the vehicle was the word “Tranny,” and on the passenger seat of the vehicle, he saw a woman’s dress and wig. A state-issued driver’s license was found in the car and it identified the victim as having a female name.

**Crime Classification:** Aggravated Assault

**Bias Classification:** Anti-Gender Non-Conforming and Anti-Transgender

**Reasons:** The incident should be reported with an Anti-Gender Non-Conforming Bias and Anti-Transgender Bias because the victim appears to have been targeted for dressing in a way that does not correspond to the victims; birth sex. It is unclear based on the evidence if the victim was attacked for wearing women’s clothing and a wig at the time of the attack (anti-gender non-conforming) or for living as a female despite being born biologically male (anti-transgender).

**Exercise (4):** As Officer Sloan was walking her “beat,” her attention was drawn to two individuals who were engaged in a shouting match. As the officer approached, she overheard the two men, one white and the other black, shouting obscenities at each other. The argument concerned a parking space to which each believed he was entitled. As the argument continued, a racial epithet was shouted by one of the men. At this point, Officer Sloan arrived at the scene and quieted the men. What appeared to have happened was that one of the drivers had gotten to the parking space first but did not use his turn signal to indicate he was waiting to pull into the parking space. The second driver, coming upon what appeared to be an unoccupied parking space, proceeded to maneuver his car around the first driver’s car and into the space. The argument then began.

**Crime Classification:** None

**Bias Classification:** Unbiased Crime Incident

**Reasons:** The argument only involved the issue of which driver deserved to get the parking space. One of the questions one should ask in investigating alleged bias incidents is: “Would the incident have taken place if both the victim and offender were of the same race, religion, ethnicity, sexual orientation, gender, or gender identity? If the answer is ‘Yes,’ it is “Not a Bias-Motivated Crime.”

**Exercise (5):** During the midnight tour, Deputy Sheriff Hennessey was patrolling her assigned watch area. Shining her cruiser light on various business establishments, she noticed one building had been spray painted. The graffiti included racial epithets used against Asians and threats against the owners of a Chinese restaurant which is located in the building. The deputy knows the Chinese owners are the only Asians in that business district. No other buildings were spray painted.

**Crime Classification:** Destruction/Damage/Vandalism of Property

**Bias Classification:** Anti-Asian

**Reasons:** The offenders apparently were motivated by their bias against Asians. This is evidenced by their use of Asian epithets and the fact that no other business in the area was spray painted.

**Exercise (6):** At 8:30 p.m., Officer Gregory responded to a report of an altercation at a bar/restaurant. Upon arriving at the scene, he found paramedics providing medical care to an African-American male. The victim informed him he was accosted by three white male patrons who repeatedly asked if he were gay. He politely told them he was not. Officer Gregory also spoke to the bartender who indicated he had noticed the odd behavior in the men, as they took turns leaving the restaurant to wait outside, then returning while another took their place. Upon leaving the restaurant, the victim was approached and racial and gay epithets were said and the male was struck forcefully in the head by one of the men. The blow knocked the victim to the pavement where he struck his head and was knocked unconscious.

**Crime Classification:** Aggravated Assault

**Bias Classification:** Anti-Black or African American and Anti-Gay (Male)

**Reasons:** The offenders apparently were motivated by their perception that the man was gay and their bias against African Americans.

Note: Up to five bias motivations per offense type can be reported.

**Exercise (7):** On July 9, at approximately 10:30 p.m., Officer Cassidy was dispatched to investigate a 911 call. Upon arriving at the location, she found a woman who had been beaten. The victim explained to the officer she had been walking home from an LGBT Center when she was accosted by two men. She stated the men beat her and were also verbally abusive and mocked her for her short hair style and for how masculine her clothes and shoes were.

**Crime Classification:** Aggravated Assault

**Bias Classification:** Anti-Gender Non-Conforming

**Reasons:** The perpetrators attacked the victim because she did not fit the image they associated as female.

**Exercise (8):** At 11 p.m. Officers Reid and Shandler responded to the scene of a reported house arson. The target of the arson was a group home for persons with psychiatric disabilities who were in transition back into the community. Investigation revealed that neighbors had expressed many concerns about the group home and were angry that the house was located in their community. Shortly before the fire was reported, a witness heard a male voice state, "I'll get rid of those 'crazies.' I'll burn them out."

**Crime Classification:** Arson

**Bias Classification:** Anti-Mental Disability

**Reasons:** The suspect committed the crime of arson primarily because of his bias against persons with psychiatric disabilities. The witness heard a statement that supports the bias motivation finding.

**Exercise (9):** While on patrol in his police car, Officer Lopez noticed an individual, who later identified himself as Mr. Chopra, attempting to scrub some painted words and markings off of his car, which was parked outside the apartment building where he lives. Officer Lopez asked Mr. Chopra what happened to his car. Mr. Chopra explained that he had moved into the neighborhood three weeks ago and unknown persons had repeatedly painted his car and the door of his apartment with Anti-Black or African American epithets/slurs. Mr. Chopra said he did not understand why this was happening to him because he is not African American and he had immigrated to the United States from India.

**Crime Classification:** Destruction/Damage/Vandalism of Property

**Bias Classification:** Anti-Black or African American

**Reasons:** Although Mr. Chopra is not African American, it is the perception of the offenders that he is a member of a minority against which they are biased. Even when offenders erroneously target the victims, their offenses are still bias-motivated crimes because the offenders were motivated by bias.

Note: Additional scenarios of bias motivations are provided in Section IV.

## APPENDIX I

### Legislation

#### *As Amended, 28 U.S.C. § 534*

§ “[Sec. 1.] (a) This Act may be cited as the ‘Hate Crime Statistics Act’.

“(b)

(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, for each calendar year, about 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) The Attorney General shall establish guidelines for the collection of such data including the necessary evidence and criteria that must be present for a finding of manifest prejudice and procedures for carrying out the purposes of this section.

“(3) Nothing in this section creates a cause of action or a right to bring an action, including an action based on discrimination due to sexual orientation. As used in this section, the term ‘sexual orientation’ means consensual homosexuality or heterosexuality. This subsection does not limit any existing cause of action or right to bring an action, including any action under the Administrative Procedure Act or the All Writs Act [5 U.S.C.S. §§ 551 et seq. or 28 U.S.C.S. § 1651].

“(4) Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

“(5) The Attorney General shall publish an annual summary of the data acquired under this section, including data about crimes committed by, and crimes directed against, juveniles.

“(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section through fiscal year 2002.

“Sec. 2. (a) Congress finds that—

“(1) the American family life is the foundation of American Society,

“(2) Federal policy should encourage the well-being, financial security, and health of the American family,

“(3) schools should not de-emphasize the critical value of American family life.

“(b) Nothing in this Act shall be construed, nor shall any funds appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality.”

PUBLIC LAW 103-322—SEPT. 13, 1994

108 STAT. 2131

Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting “disability,” after “religion,”.

Approved September 13, 1994.

PUBLIC LAW 104-155—JULY 3, 1996

Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by striking “for the calendar year 1990 and each succeeding 4 calendar years,” and by inserting “for each calendar year.”

Approved July 3, 1996.

PUBLIC LAW 111-84—OCTOBER 28, 2009

On October 28, 2009, the President signed into law the *Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act*, under Division E. P.L. 111-84, the *National Defense Authorization Act for Fiscal Year 2010*. This Act also complements a 1968 United States federal hate-crime law. The new law, 18 U.S.C. §249, includes crimes motivated by a victim’s actual or perceived gender, sexual orientation, gender identity, religion, race, color, national origin, or disability. The *Matthew Shepard and James Byrd Jr, Act* specifically states under Sec. 4709. Statistics.:

Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting “gender and gender identity,” after “race;” and

Subsection (b)(5) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting “including data about crimes committed by, and crimes directed against, juvenile,” after “data acquired under this section.”

## **CHRONOLOGY OF ACT AND AMENDMENTS**

1990—Congress passed the Hate Crime Statistics Act to collect data “about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity.”

1994—The Violent Crime and Law Enforcement Act of 1994 amended The Act to include bias against persons with disabilities.

1996—The Church Arson Prevention Act removed the sunset clause from the original statute and mandated that hate crime data collection become a permanent part of the FBI UCR Program.

2009—The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act amended the FBI’s collection to include statistics on hate crimes based on gender and gender identity prejudices, as well as hate crimes committed by/directed against juveniles.

## APPENDIX II

### SUBMITTING HATE CRIME DATA TO THE FBI UCR PROGRAM

There are two methods for reporting hate crime data to the FBI UCR Program: the hate crime data element in the NIBRS and the Hate Crime Incident Report and the Quarterly Hate Crime Report. The offenses that are reported must be reported in accordance with the requirements of the NIBRS or SRS, depending on which system is applicable.

#### A. NIBRS Hate Crime Reporting

**1. Who submits hate crime data in the NIBRS format?** Agencies participating in the NIBRS include the hate crime data element in their electronic data submissions.

**2. How are the data transmitted?** NIBRS participants use Data Element 8A, Bias Motivation, as a mandatory data element with the electronic submission of each Group A offense at the end of the Offense Segment (Level 2). The technical and coding requirements for reporting data in the NIBRS are provided in the *NIBRS Technical Specification*, which is available at [www.fbi.gov/about-us/cjis/ucr/nibrs](http://www.fbi.gov/about-us/cjis/ucr/nibrs). The submission of the Hate Crime Incident Report and the Quarterly Hate Crime Report are not necessary for NIBRS participants.

**3. To which offenses does the hate crime data element apply?** The hate crime data element applies to all Group A offenses. They are listed below. (The UCR Offense Codes for the NIBRS are also included.)

200 = Arson

Assault Offenses:

13A = Aggravated Assault

13B = Simple Assault

13C = Intimidation

510 = Bribery

220 = Burglary/Breaking and Entering

250 = Counterfeiting/Forgery

290 = Destruction/Damage/Vandalism of Property

Drug/Narcotic Offenses:

35A = Drug/Narcotic Violations

35B = Drug/Equipment Violations

270 = Embezzlement

210 = Extortion/Blackmail

Fraud Offenses:

- 26A = False Pretenses/Swindle/Confidence Game
- 26B = Credit Card/Automated Teller Machine Fraud
- 26C = Impersonation
- 26D = Welfare Fraud
- 26E = Wire Fraud

Gambling Offenses:

- 39A = Betting/Wagering
- 39B = Operating/Promoting/Assisting Gambling
- 39C = Gambling Equipment Violations
- 39D = Sports Tampering

Homicide Offenses:

- 09A = Murder and Nonnegligent Manslaughter
- 09B = Negligent Manslaughter

Human Trafficking Offenses:

- 64A = Commercial Sex Acts
- 64B = Involuntary Servitude

100 = Kidnapping/Abduction

Larceny/Theft Offenses:

- 23A = Pocket-picking
- 23B = Purse-snatching
- 23C = Shoplifting
- 23D = Theft From Building
- 23E = Theft From Coin-Operated Machine or Device
- 23F = Theft From Motor Vehicle
- 23G = Theft of Motor Vehicle Parts or Accessories
- 23H = All Other Larceny

240 = Motor Vehicle Theft

370 = Pornography/Obscene Material

Prostitution Offenses:

- 40A = Prostitution
- 40B = Assisting or Promoting Prostitution
- 40C = Purchasing Prostitution

120 = Robbery

Sex Offenses:

- 11A = Rape
- 11B = Sodomy
- 11C = Sexual Assault With An Object
- 11D = Fondling
- 36A = Incest
- 36B = Statutory Rape

280 = Stolen Property Offenses

520 = Weapon Law Violations

The definitions of these offenses for reporting hate crime in the NIBRS can be found in Appendix III.

**4. How does NIBRS Data Element 8A, Bias Motivation, work?** This data element indicates whether the offender was motivated, in whole or in part, to commit the offense because of his or her bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity. Due to the difficulty of ascertaining the offender's subjective motivation, bias is to be reported *only if* investigation reveals sufficient objective facts to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. The most appropriate of the following codes is to be entered into the data element:

Race:

- 11 = Anti-White
- 12 = Anti-Black or African American
- 13 = Anti-American Indian or Alaska Native
- 14 = Anti-Asian
- 15 = Anti-Multiple Races, Group<sup>3</sup>
- 16 = Anti-Native Hawaiian or Other Pacific Islander

Religion:

- 21 = Anti-Jewish
- 22 = Anti-Catholic
- 23 = Anti-Protestant
- 24 = Anti-Islamic (Muslim)
- 25 = Anti-Other Religion
- 26 = Anti-Multiple Religions, Group<sup>3</sup>
- 27 = Anti-Atheism/Agnosticism

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<sup>3</sup>Report Anti-Multiple Races, Group if more than one victim in the incident is a different race. This also applies to the Anti-Multiple Religions, Group.

Ethnicity:

- 32 = Anti-Hispanic or Latino
- 33 = Anti-Not Hispanic or Latino

Sexual Orientation:

- 41 = Anti-Gay (Male)
- 42 = Anti-Lesbian
- 43 = Anti-Lesbian, Gay, Bisexual, or Transgender (Mixed Group)<sup>4</sup>
- 44 = Anti-Heterosexual
- 45 = Anti-Bisexual

Disability:

- 51 = Anti-Physical Disability
- 52 = Anti-Mental Disability

Gender:

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

Gender Identity:

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

None/Unknown: (NIBRS submissions only)

- 88 = None (no bias)
- 99 = Unknown (offender's motivation not known)

Note: In the NIBRS, incidents which do not involve any facts indicating bias motivation on the part of the offender are to be coded as 88 = None, while incidents involving ambiguous facts (i.e., where some facts are present but are not conclusive) should be coded as 99 = Unknown. The intent of bias motivation code 99 = Unknown is to allow an agency to report a crime in which bias motivation is unknown or when the investigation has not been completed. When it is determined the presence of bias motivation is conclusive, the reported bias motivation code 99 = Unknown should be modified to indicate the results of the subsequent investigation. Law enforcement agencies should be diligent in modifying these types of situations as they become known. A review of year-end hate crime data should have few, if any, hate crimes coded as 99 = Unknown.

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<sup>4</sup>Lesbian, Gay, Bisexual, or Transgender is referred to as LGBT.

## **B. SRS Hate Crime Reporting**

**1. Who submits the Hate Crime Incident Report and the Quarterly Hate Crime Report?** Agencies that participate in the SRS submit the Hate Crime Incident Report and the Quarterly Hate Crime Report, along with the FBI UCR Program requirements; i.e., the offenses which are reported using the incident report must also be reported in accordance with the requirements of the SRS.

**2. How are the data transmitted?** (a) Agencies may submit the Hate Crime Incident Report and the Quarterly Hate Crime Report and (b) State UCR Programs which transmit their agencies' data in an electronic format can obtain electronic data submission specifications from the FBI UCR Program in order to include hate crime data as part of their regular SRS submissions. The hate crime data submission specifications are provided in *Hate Crime Electronic Submission Specifications for the Summary Reporting System*, which is available at [www.fbi.gov/about-us/cjis/ucr/hate-crime](http://www.fbi.gov/about-us/cjis/ucr/hate-crime).

**3. What does the Hate Crime Incident Report and the Quarterly Hate Crime Report look like?** The Hate Crime Incident Report and the Quarterly Hate Crime Report are available at [www.fbi.gov/about-us/cjis/ucr/reportingforms/quarterly-hate-crime-report](http://www.fbi.gov/about-us/cjis/ucr/reportingforms/quarterly-hate-crime-report).

**4. What offenses are to be reported?** SRS agencies should use the Hate Crime Incident Report to report the following offense categories:

- 01 = Murder and Nonnegligent Manslaughter
- 02 = Rape
- 03 = Robbery
- 04 = Aggravated Assault
- 05 = Burglary
- 06 = Larceny-theft
- 07 = Motor Vehicle Theft
- 08 = Arson
- 09 = Simple Assault
- 10 = Intimidation
- 11 = Destruction/Damage/Vandalism of Property

The definitions of these offenses for reporting hate crime on the Hate Crime Incident Report can be found in Appendix III.

**5. Additional instructions** — The following additional instructions are applicable to law enforcement agencies submitting Hate Crime Incident Reports:

**a. Simple Assault and Intimidation** — In the SRS, Simple Assault and Intimidation are not reported separately. Both are reported on the Return A—Monthly Return of Version 1.0, 12/19/2012

Offenses Known to the Police form as Other Assaults-Simple, Not Aggravated. For the purpose of hate crime reporting, SRS agencies should report Simple Assault and Intimidation separately using the definitions found in Appendix III.

**b. Destruction/Damage/Vandalism of Property** — In the SRS, Vandalism is reported on the Age, Sex, Race, and Ethnicity of Persons Arrested form only when arrests occur. Likewise, destruction and damage of property, which may be reported as either Vandalism or All Other Offenses depending on the facts of the case, are reported only when arrests occur. However, for the purpose of hate crime reporting, all three offenses fall into the category of Destruction/Damage/Vandalism of Property and should be reported regardless of whether arrests have taken place. The offense is defined in Appendix III.

**c. Nonapplicability of the Hierarchy Rule** — In the SRS under the Hierarchy Rule, only the most serious Part I offense in a multiple-offense incident is to be reported. However, for hate crime reporting purposes, all of the above-mentioned offenses which were identified as bias motivated and occurred during the incident should be reported.

**d. UCR Offense and Code Segment** — The number of victims involved in each offense for which bias/hate motivation has been determined should be listed. When Individual is reported as the Victim Type, the Total Number of Victims, Total Number of Victims 18 and over, and Total Number of Victims under 18 must also be reported. Similar information on the offender, if known, is collected.

In the event of multiple offense codes and victims, only those for which bias/hate motivation exists should be listed. **Do not** list an offense code and its victims when the motivation is clearly not bias motivated or when the motivation is unknown.

For example, a robbery occurred at a bar and its patrons were robbed by two offenders. During the robbery, a female Asian patron was raped by one of the offenders. Subsequent investigation reveals that while the robbery motive did not involve bias, the rape was bias motivated. Therefore, only the rape should be reported as a hate crime.

**e. Updating** — For updating purposes, a copy of the report should be retained by the agency. Corrections/updates should be accomplished by sending a corrected Quarterly Hate Crime Report and Hate Crime Incident Report with changes made and “adjustment” indicated or by sending an adjusted record in an electronic submission. Incidents can be deleted by simply identifying them on the Quarterly Hate Crime Report Summary Page.

Note: In the hate crime data collection, more than one offense can be reported within each incident once it is determined the offense(s) was motivated by bias. Certain combinations of offenses, however, cannot occur to the same victim. Specifically, Mutually Exclusive offenses are ones that cannot occur to the same victim according to UCR definitions. Lesser Included

offenses are ones where one offense is an element of another offense and cannot be reported as having happened to the victim along with the other offense. For example:

Aggravated Assault is a lesser included offense of Murder, Rape, Sodomy, Sexual Assault With an Object, and Robbery.

Incest and Statutory Rape are mutually exclusive offenses and cannot occur with rape. Incest and Statutory Rape involve consent, while Rape is without the consent of the victim.

If reporting a hate crime on the Hate Crime Incident Report, only the Lesser Included offenses are applicable. Lesser Included and Mutually Exclusive Offenses are defined as follows:

Murder and Nonnegligent Manslaughter

Mutually Exclusive: Negligent Manslaughter

Lesser Included: Aggravated Assault, Simple Assault, and Intimidation

Negligent Manslaughter

Mutually Exclusive: Murder, Aggravated Assault, Simple Assault, and Intimidation

Rape

Mutually Exclusive: Incest and Statutory Rape

Lesser Included: Aggravated Assault, Simple Assault, Intimidation, and Fondling

Sodomy

Mutually Exclusive: Incest and Statutory Rape

Lesser Included: Aggravated Assault, Simple Assault, Intimidation, and Fondling

Sexual Assault With An Object

Mutually Exclusive: Incest and Statutory Rape

Lesser Included: Aggravated Assault, Simple Assault, Intimidation, and Fondling

Fondling

Mutually Exclusive: Incest and Statutory Rape

Lesser Included: Simple Assault and Intimidation

Robbery

Lesser Included: Aggravated Assault, Simple Assault, Intimidation, Larceny-Theft Offenses, and Motor Vehicle Theft

Aggravated Assault

Lesser Included: Simple Assault and Intimidation

Simple Assault

Lesser Included: Intimidation

Incest

Mutually Exclusive: Rape, Sodomy, Sexual Assault With An Object, and Fondling  
Statutory Rape

Mutually Exclusive: Rape, Sodomy, Sexual Assault With An Object, and Fondling

## APPENDIX III

### UCR OFFENSE DEFINITIONS

#### A. Offenses and Definitions Collected in the NIBRS

**Arson**—To unlawfully and intentionally damage, or attempt to damage, any real or personal property by fire or incendiary device.

**Assault Offenses**—An unlawful attack by one person upon another.

**Aggravated Assault**—An unlawful attack by one person upon another wherein the offender uses a weapon or displays it in a threatening manner, or the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness. This also includes assault with disease (as in cases when the offender is aware that he/she is infected with a deadly disease and deliberately attempts to inflict the disease by biting, spitting, etc.).

**Simple Assault**—An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

**Intimidation**—To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Bribery**—(Except “Sports Bribery”) The offering, giving, receiving, or soliciting of anything of value (i.e., a bribe, gratuity, or kickback) to sway the judgment or action of a person in a position of trust or influence.

**Burglary/Breaking and Entering**—The unlawful entry into a building or other structure with the intent to commit a felony or a theft.

**Counterfeiting/Forgery**—The altering, copying, or imitation of something, without authority or right, with the intent to deceive or defraud by passing the copy or thing altered or imitated as that which is original or genuine; or the selling, buying, or possession of an altered, copied, or imitated thing with the intent to deceive or defraud.

**Destruction/Damage/Vandalism of Property**—(Except “Arson”) To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

**Drug/Narcotic Offenses**—(Except “Driving Under the Influence”) 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.

**Drug/Narcotic Violations**—The unlawful cultivation, manufacture, distribution, sale, purchase, use, possession, transportation, or importation of any controlled drug or narcotic substance.

**Drug Equipment Violations**—The unlawful manufacture, sale, purchase, possession, or transportation of equipment or devices utilized in preparing and/or using drugs or narcotics.

**Embezzlement**—The unlawful misappropriation by an offender to his/her own use or purpose of money, property, or some other thing of value entrusted to his/her care, custody, or control.

**Extortion/Blackmail**—To unlawfully obtain money, property, or any other thing of value, either tangible or intangible, through the use or threat of force, misuse of authority, threat of criminal prosecution, threat of destruction of reputation or social standing, or through other coercive means.

**Fraud Offenses**—(Except “Counterfeiting/Forgery” and “Bad Checks”) The intentional perversion of the truth for the purpose of inducing another person, or other entity, in reliance upon it to part with something of value or to surrender a legal right.

**False Pretenses/Swindle/Confidence Game**—The intentional misrepresentation of existing fact or condition, or the use of some other deceptive scheme or device, to obtain money, goods, or other things of value.

**Credit Card/Automated Teller Machine Fraud**—The unlawful use of a credit (or debit) card or automated teller machine for fraudulent purposes.

**Impersonation**—Falsely representing one’s identity or position, and acting in the character or position thus unlawfully assumed, to deceive others and thereby gain a profit or advantage, enjoy some right or privilege, or subject another person or entity to an expense, charge, or liability which would not have otherwise been incurred.

**Welfare Fraud**—The use of deceitful statements, practices, or devices to unlawfully obtain welfare benefits.

**Wire Fraud**—The use of an electric or electronic communications facility to intentionally transmit a false and/or deceptive message in furtherance of a fraudulent activity.

**Gambling Offenses**—To unlawfully bet or wager money or something else of value; assist, promote, or operate a game of chance for money or some other stake; possess or transmit wagering information; manufacture, sell, purchase, possess, or transport gambling equipment, devices or goods; or tamper with the outcome of a sporting event or contest to gain a gambling advantage.

**Betting/Wagering**—To unlawfully stake money or something else of value on the happening of an uncertain event or on the ascertainment of a fact in dispute.

**Operating/Promoting/Assisting Gambling**—To unlawfully operate, promote, or assist in the operation of a game of chance, lottery, or other gambling activity.

**Gambling Equipment Violations**—To unlawfully manufacture, sell, buy, possess, or transport equipment, devices, and/or goods used for gambling purposes.

**Sports Tampering**—To unlawfully alter, meddle in, or otherwise interfere with a sporting contest or event for the purpose of gaining a gambling advantage.

**Homicide Offenses**—The killing of one human being by another.

**Murder and Nonnegligent Manslaughter**—The willful (nonnegligent) killing of one human being by another.

**Negligent Manslaughter**—The killing of another person through negligence.

**Human Trafficking Offenses**—The inducement of a person to perform a commercial sex act, or labor, or services, through force, fraud, or coercion. Human trafficking has also occurred if a person under 18 years of age has been induced, or enticed, regardless of force, fraud, or coercion, to perform a commercial sex act.

**Commercial Sex Acts**—Inducing a person by force, fraud, or coercion to participate in commercial sex acts, or in which the person induced to perform such act(s) has not attained 18 years of age.

**Involuntary Servitude**—The obtaining of a person(s) through recruitment, harboring, transportation, or provision, and subjecting such persons by force, fraud, or coercion into voluntary servitude, peonage, debt bondage, or slavery (not to include commercial sex acts).

**Kidnapping/Abduction**—The unlawful seizure, transportation, and/or detention of a person against his/her will, or of a minor without the consent of his/her custodial parent(s) or legal guardian.

**Larceny/Theft Offenses**—The unlawful taking, carrying, leading, or riding away of property from the possession, or constructive possession, of another person.

**Pocket-picking**—The theft of articles from another person's physical possession by stealth where the victim usually does not become immediately aware of the theft.

**Purse-snatching**—The grabbing or snatching of a purse, handbag, etc., from the physical possession of another person.

**Shoplifting**—The theft, by someone other than an employee of the victim, of goods or merchandise exposed for sale.

**Theft From Building**—A theft from within a building which is either open to the general public or where the offender has legal access.

**Theft From Coin-Operated Machine or Device**—A theft from a machine or device which is operated or activated by the use of coins.

**Theft From Motor Vehicle**—(Except “Theft of Motor Vehicle Parts or Accessories”) The theft of articles from a motor vehicle, whether locked or unlocked.

**Theft of Motor Vehicle Parts or Accessories**—The theft of any part or accessory affixed to the interior or exterior of a motor vehicle in a manner which would make the item an attachment of the vehicle, or necessary for its operation.

**All Other Larceny**—All thefts which do not fit any of the definitions of the specific subcategories of Larceny/Theft listed above.

**Motor Vehicle Theft**—The theft of a motor vehicle.

**Pornography/Obscene Material**—The violation of laws or ordinances prohibiting the manufacture, publishing, sale, purchase, or possession of sexually explicit material, e.g., literature, photographs, etc.

**Prostitution Offenses**—To unlawfully engage in or promote sexual activities for anything of value.

**Prostitution**—To engage in commercial sex acts for anything of value.

**Assisting or Promoting Prostitution**—To solicit customers or transport persons for prostitution purposes; to own, manage, or operate a dwelling or other establishment for the purpose of providing a place where prostitution is performed; or to otherwise assist or promote prostitution.

**Purchasing Prostitution**—To purchase or trade anything of value for commercial sex acts.

**Robbery**—The taking, or attempting to take, anything of value under confrontational circumstances from the control, custody, or care of another person by force or threat of force or violence and/or by putting the victim in fear of immediate harm.

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

**Rape**—(Except “Statutory Rape”) The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Sodomy**—Oral or anal sexual intercourse with another person, without the consent of the victim including instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Sexual Assault With An Object**—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, including instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Fondling**—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

**Sex Offenses, Nonforcible**—(Except “Prostitution Offenses”) Unlawful, nonforcible sexual intercourse.

**Incest**—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

**Statutory Rape**—Nonforcible sexual intercourse with a person who is under the statutory age of consent.

**Stolen Property Offenses**—Receiving, buying, selling, possessing, concealing, or transporting any property with the knowledge that it has been unlawfully taken, as by Burglary, Embezzlement, Fraud, Larceny, Robbery, etc.

**Weapon Law Violations**—The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

## **B. Offenses and Definitions Collected on the Hate Crime Incident Report**

**Murder and Nonnegligent Manslaughter**—The willful (nonnegligent) killing of one human being by another. Deaths caused by negligence, attempts to kill, assaults to kill, suicides, accidental deaths, and justifiable homicides are excluded.

**Rape**—Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

**Robbery**—The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

**Aggravated Assault**—An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the

use of a weapon or by means likely to produce death or great bodily harm. Simple assaults are excluded.

**Burglary (Breaking or Entering)**—The unlawful entry of a structure to commit a felony or a theft. Attempted forcible entry is included.

**Larceny-theft (Except Motor Vehicle Theft)**—The unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles or automobile accessories, shoplifting, pocket-picking, or the stealing of any property or article which is not taken by force and violence or by fraud. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

**Motor Vehicle Theft**—The theft or attempted theft of a motor vehicle. A motor vehicle is self-propelled and runs on the surface and not on rails. Specifically excluded from this category are motorboats, construction equipment, airplanes, and farming equipment.

**Arson**—Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

**Simple Assault**—An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

**Intimidation**—To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and/or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

**Destruction/Damage/Vandalism of Property**—To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

## **APPENDIX IV**

### **UCR HATE CRIME STATISTICS DATA**

The FBI annually publishes *Hate Crime Statistics*. This publication includes data on criminal offenses that are motivated, in whole or in part, by the offender's bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.

More detailed data (e.g., the subcategory breakdowns of bias motivations, the known offenders' races, and the victim types for each agency submitting hate crime data to the FBI UCR Program) are furnished in the FBI UCR Program's Hate Crime Master Files. For information on obtaining these data, please contact the FBI's Criminal Justice Information Services Division via e-mail at [cjis\\_comm@leo.gov](mailto:cjis_comm@leo.gov) or by telephone at (304) 625-4995.

## APPENDIX V

### OMB RACE DEFINITIONS

The OMB is part of the Executive Office of the President. The OMB is comprised of four resource management offices, which were created by statute. The Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. Chapter 35) established the Office of Information and Regulatory Affairs within the OMB to develop and oversee the implementation of Government-wide policies, principles, standards, and guidelines concerning statistical collection procedures and methods. The PRA covers all aspects of Federal information resources management, including OMB review and approval of agency information collection. This oversight involves a triennial review and approval of all FBI UCR Program reporting forms. Therefore, compliance with the OMB's directives is imperative to the FBI UCR Program's operations.

In 1994, in response to the need to reflect the increasing diversity of the population of the United States, OMB began a comprehensive review of the racial and ethnic categories being used in collaboration with the Interagency Committee for the Review of the Racial and Ethnic Standards. The OMB accepted the recommendations of the Interagency Committee in 1997 and released standards for federal data on race. Since the FBI UCR Program had been granted a temporary variance, the program held the changes in abeyance until its data submission methods were updated. In order to conform to the new guidelines, the FBI issued its own guidance on how law enforcement agencies should collect and maintain race and ethnicity data. These revised standards have two categories for data on ethnicity and five minimum categories for data on race. The new categories and their definitions are as follow:

#### Ethnic Categories (Hispanic or Latino and Not Hispanic or Latino)

**Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

#### Racial Categories

**American Indian or Alaska Native:** A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

**Asian:** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

**Black or African American:** A person having origins in any of the black racial groups of Africa.

**Native Hawaiian or Other Pacific Islander:** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

**White:** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

## APPENDIX VI

### ORGANIZATIONS OFFERING INFORMATION CONCERNING ANTI-BIAS EDUCATION

American Association of University Women  
1111 Sixteenth Street, NW  
Washington, DC 20036  
[www.aauw.org](http://www.aauw.org)

Anti-Defamation League  
605 Third Avenue  
New York, New York 10158-3560  
[www.adl.org](http://www.adl.org)

Human Rights Campaign  
1640 Rhode Island Avenue, NW  
Washington, DC 20036  
[www.hrc.org](http://www.hrc.org)

International Association of Chiefs of Police  
515 North Washington Street  
Alexandria, Virginia 22314  
<http://www.theiacp.org>

The Leadership Conference on Civil and Human Rights  
10<sup>th</sup> Floor  
1629 K Street, NW  
Washington, DC 20006  
[www.civilrights.org](http://www.civilrights.org)

National Center for Transgender Equality  
Suite 700  
1325 Massachusetts Avenue, NW  
Washington, DC 20005  
<http://transequality.org>

National Council of Jewish Women (NCJW)  
Suite 1901  
475 Riverside Drive  
New York, New York 10115  
<http://www.ncjw.org>

National Disability Rights Network  
Suite 211  
900 Second Street, NE  
Washington, DC 20002  
<http://www.napas.org>

National Gay and Lesbian Task Force  
6<sup>th</sup> Floor  
1325 Massachusetts Avenue, NW  
Washington, DC 20005  
[www.theTaskForce.org](http://www.theTaskForce.org)

## APPENDIX VII

### DEPARTMENT OF JUSTICE, COMMUNITY RELATIONS SERVICE, REGIONAL OFFICES

The Community Relations Service (CRS) serves as “*America’s Peacemaker*” for the U.S. Department of Justice, by responding to community conflicts that arise from differences of race, color, and national origin. CRS helps communities mediate disputes, provides conflict resolution training, and helps communities enhance their capacity to independently prevent and resolve future conflicts.

#### **New England Regional Office (Region I—CT, MA, ME, NH, RI, VT)**

Suite 222  
408 Atlantic Avenue  
Boston, Massachusetts 02110  
Telephone: (617) 424-5715  
Facsimile: (617) 424-5727

#### **Northeast Regional Office (Region II—NJ, NY, Puerto Rico, Virgin Islands)**

Suite 36-118  
26 Federal Plaza  
New York, New York 10278  
Telephone: (212) 264-0700  
Facsimile: (212) 264-2143

#### **Mid-Atlantic Regional Office (Region III—DE, DC, MD, PA, VA, WV)**

Suite 208  
200 2nd & Chestnut Street  
Philadelphia, Pennsylvania 19106  
Telephone: (215) 597-2344  
Facsimile: (215) 597-9148

#### **Southeast Regional Office (Region IV—AL, FL, GA, KY, MS, NC, SC, TN)**

Suite 900  
75 Piedmont Avenue, NE  
Atlanta, Georgia 30303  
Telephone: (404) 331-6883  
Facsimile: (404) 331-4471

#### **Midwest Regional Office (Region V—IL, IN, MI, MN, OH, WI)**

Room 2130  
230 South Dearborn Street  
Chicago, Illinois 60604  
Telephone: (312) 353-4391  
Facsimile: (312) 353-4390

**Southwest Regional Office (Region VI—AR, LA, NM, OK, TX)**

Suite 2050  
1999 Bryan Street  
Dallas, Texas 75201  
Telephone: (214) 655-8175  
Facsimile: (214) 655-8184

**Central Regional Office (Region VII—IA, KS, MO, NE)**

Suite 0802  
601 E. 12th Street  
Kansas City, Missouri 64106  
Telephone: (816) 426-7434  
Facsimile: (816) 426-7441

**Rocky Mountain Regional Office (Region VIII—CO, MT, ND, SD, UT, WY)**

Suite 650  
1244 Speer Boulevard  
Denver, Colorado 80204-3584  
Telephone: (303) 844-2973  
Facsimile: (303) 844-2907

**Western Regional Office (Region IX—AZ, CA, HI, NV, Guam)**

Suite 1880  
888 S. Figueroa Street  
Los Angeles, California 90017  
Telephone: (213) 894-2941  
Facsimile: (213) 894-2880

**Northwest Regional Office (Region X—AK, ID, OR, WA)**

Suite 1808  
915 Second Avenue  
Seattle, Washington 98174  
Telephone: (206) 220-6706  
Facsimile: (206) 220-6706

**Field Offices**

Suite 624  
51 S.W. First Avenue  
Miami, Florida 33130  
Telephone: (305) 536-5206  
Facsimile: (305) 536-6778

Suite 1404  
211 W. Fort Street  
Detroit, Michigan 48226  
Telephone: (313) 226-4010  
Facsimile: (313) 226-2568

Suite 12605  
515 Rusk Avenue  
Houston, Texas 77002  
Telephone: (713) 718-4861  
Facsimile: (713) 718-4862

Suite 3-330  
90 Seventh Street  
San Francisco, California 94103  
Telephone: (415) 744-6565  
Facsimile: (415) 744-6590