

GENERAL ORDER

April 2016

Immediately

V.3:1

Distribution: All Employees

Subject: **HATE CRIMES REPORTING**

Index as: Bias Incidents Hate Crimes Report Procedures, Hate Crimes

Accreditation Standards:

Cross Reference: §775.085 and §877.19, F.S.S.

Replaces: I.O. V.5:3, Hate Crimes Reporting (December 12, 2008)

This Order consists of the following sections:

- I. Policy
- II. Definition
- III. Investigation of Suspected Hate Crimes
- IV. Reporting Requirements
- V. Follow-up Investigation

I. POLICY

A. It is the policy of this Department that investigative and enforcement resources shall promptly respond to, and thoroughly investigate, any reported or observed criminal acts resulting from hatred or bias, based upon of race, color, national origin, religion, gender, marital status, age, disability, sexual orientation, genetic information, gender identity, or other protected categories.

B. The State of Florida provides that the commission of certain offenses targeting specified classes of persons shall be classified as hate crimes due to their prejudicial basis.

C. Further, Florida law recognizes that prejudice resulting in criminal acts against members of particular groups inflict great individual and societal harm and are, thus, deserving of enhanced punishment, as well as enhanced application of investigative resources and timely support for the victims and witnesses of such events.

II. DEFINITION

A. **HATE CRIME** – A criminal act or attempt in which there is evidence the act was motivated by the of race, color, national origin, religion, gender, marital status, age, disability, sexual orientation, genetic information, gender identity, or other protected categories.

1. That the perpetrator perceived, knew or had reasonable grounds to believe the victim was within the delineated class.

2. Age is defined as being over sixty-five (65). Disability may be either mental or physical; and while both are not included in §877.19, F.S.S., they are included in the definition of a hate crime as directed by the Florida Department of Law Enforcement (FDLE) and are, like those in §877.19, F.S.S. subject to special reporting requirements and additional penalties (§775.085, F.S.S.).

III. INVESTIGATION OF SUSPECTED HATE CRIMES

A. Standards of probable cause are the same for identifying a probable hate crime, as with any other criminal act or attempt.

B. Elements required to support the classification of a suspected hate crime are:

1. The incident must involve a criminal act or attempt; and

2. The criminal act or attempt and the *selection of the victim by the offender* must be motivated by prejudice based upon the person's of race, color, national origin, religion, gender, marital status, age, disability, sexual orientation, genetic information, gender identity, or other protected categories.

3. The perpetrator perceived, knew, or had reasonable grounds to know or perceive that the victim was a member of the class included in the statute.

C. The motivation behind the act is the key element in determining whether an incident is hate-related. A hate crime would be reported when the investigation reveals sufficient objective facts to lead a reasonable and prudent person to conclude the offender's actions were motivated, in whole or in part, by bias.

D. Investigating Officers should attempt to determine the motivation or purpose of the crime. Merely making or uttering a comment or slur to a person within the delineated class is insufficient to substantiate a hate crime.

1. For example, a robbery committed for monetary gain, during which a slur is uttered, would not constitute a hate crime, absent other articulable proof.

2. Characteristics that may help in classification of hate crimes may include, but are not limited to:

a. The nature of the incident itself; *e.g.*, a cross-burning, etc.

b. Circumstances leading up to the incident.

c. Statements or gestures made by the perpetrator.

d. Telephone, mail or verbal threats which depict a prejudicial motivation.

e. The use of symbols associated with prejudicial acts, such as a swastika, gang sign, graffiti, or desecration of a religious emblem.

f. The proximity to a significant holiday or event.

g. The proximity to a place known to be frequented by members of a particular group.

h. Any other physical evidence.

E. Questionable incidents shall be brought to the attention of a Field Supervisor prior to preparation of the Investigating Officer's report.

F. There is substantial community interest in the incidence of hate crimes. Investigating Officers should ensure notifications are made appropriate to the incident so as to provide prompt investigative and victim service support.

IV. REPORTING REQUIREMENTS

A. State law requires the accurate classification and reporting of suspected hate crimes (§877.19, F.S.S.).

B. Suspected hate crime incident reports shall be titled with the proper offense (offense screen), and the pertinent facts signifying the matter is a hate crime shall be properly entered in the "Bias" pick list/submenu which is part of the reporting system (Figure 1).

1. In addition to the basis for the primary incident, the narrative of the report must contain facts to support a belief that the event was motivated by bias.

2. However, if the investigation does not support sub-classification as a bias-based incident, but the Investigating Officer wishes to record the fact this was a consideration in the investigation, the Investigating Officer shall include their observations and determination in the narrative.

3. The report will be submitted for supervisory review, approval and routing based on the primary crime.

V. FOLLOW-UP INVESTIGATION

A. Investigative Services Bureau (ISB)

1. ISB case reviewers shall assign all matters that are alleged to be motivated by hate. Investigative personnel shall conduct an investigation and make a final determination of any incident classified as a hate crime.

a. Follow-up reports shall be prepared on all incidents which have an allegation of being motivated by bias and believed to be a hate crime. The follow-up reports will become a permanent part of the investigative file.

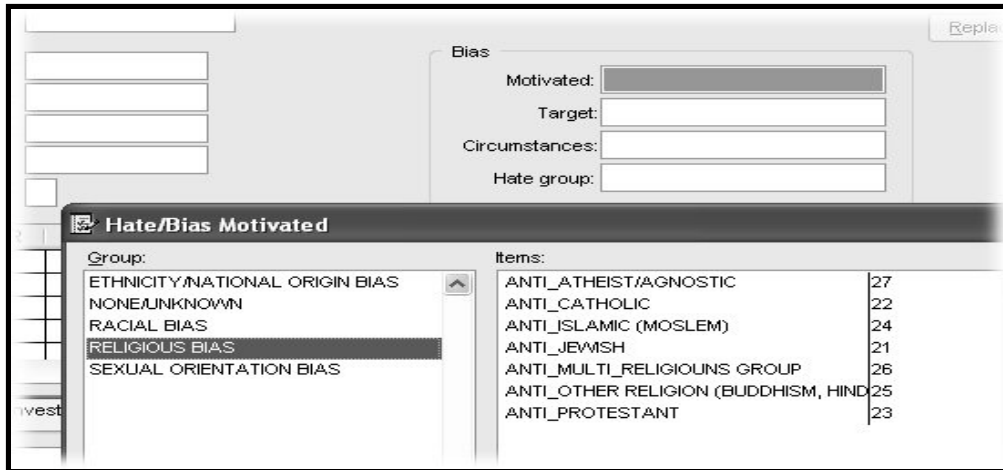


Figure 1

b. In all cases, classification changes shall be included in the report to ensure accurate UCR reporting.

2. Copies of bias-motivated crime reports shall be forwarded to the Intelligence Unit.

B. Records and Identification (R&I) Division

1. Information released in response to public records requests, related to bias-based incidents, shall not include the name of any victim(s).

2. The R&I Division shall:

- a. Provide copies of possible hate crime incident reports to the Bureau Assistant Chiefs for review, and
- b. Submit required reports of hate crime incidents to the FDLE.

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