

## 411.00 OFFENSES AGAINST PERSONS

### 411.04 HATE/BIAS CRIMES

*(Re-numbered 11-01-97) (Revised 12-08-14) (Revised 11-10-17) (Revised 09-04-19)*

#### A. Philosophy.

1. The Arlington Police Department views crimes that are committed against persons or their property simply because of the victim's race, ethnicity/national origin, religion, disability, gender, gender identity, sexual orientation or status as a peace officer or judge as not only an offense against the targeted individual but as a matter of concern to the entire community deserving of priority attention for both enforcement and investigative personnel.
2. Comprehensive and recurring training on multiculturalism and hate/bias crimes diminishes reliance on stereotyping, and reduces the chances of miscommunication between the police and members of diverse cultural groups. With a better understanding of the diversity in the community, police employees are better able to identify and investigate hate/bias crime offenses, while tending to victim(s) and community concerns.
3. The Arlington Police Department recognizes free speech as a constitutionally protected right. Such activity should be conducted within the confines of the law.
4. The Arlington Police Department also recognizes that hate incidents which do not meet elements of a criminal offense have the same harmful effect in the community as a hate crime. As such, hate incidents shall be investigated and documented for the purposes of providing restoration to the affected community or individuals.

B. **Purpose.** This policy is designed to assist police employees in identifying and investigating hate/bias crimes while providing restoration efforts to victimized individuals. Effective communication between law enforcement and neighborhood stakeholders, who experience a high-profile hate/bias crime, help build stronger relations between the department and the affected community. A swift and strong response by law enforcement can help stabilize and calm the community and serve as a declaration that hate/bias crimes are taken seriously by the Arlington Police Department.

C. **Policy.** It is the policy of the Arlington Police Department to:

1. safeguard the rights of all individuals irrespective of race, ethnicity/national origin, religion, disability, gender, gender identity, age, sexual orientation, or status as a peace officer or judge and/or association with a person or group with one or more of these actual or perceived characteristics;
2. employ necessary resources and vigorous law enforcement action to identify and arrest hate/bias crime offenders;
3. recognize the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences on the community;
4. attend to the security and related concerns of the immediate victims and their families as well as the community; and
5. develop in our employees, an appreciation of similarities and differences among these groups through education and training related to the many cultures comprised in the Arlington community specifically and national communities in general.

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### D. Definitions

*Bias:* A preformed negative opinion or attitude toward a group of persons based on their race, ethnicity/national origin, religion, disability, gender, gender identity, age, sexual orientation, or status as a peace officer or judge.

*Disability:* A physical or mental impairment, whether temporary or permanent, that is due to conditions that are congenital or acquired by heredity, accident, injury, advanced age, or illness.

*Ethnic Group:* A group of persons whose members identify with each other through a common heritage, often consisting of a shared language, culture and/or ideology that stresses common ancestry.

*Gender:* Used synonymously with sex to denote whether an individual is male or female.

*Gender Identity:* A person's internal sense of being male, female, or a combination of both; this internal sense of gender may be different from physical gender at birth.

*Hate/Bias Crime:* A crime which is motivated by prejudice, hatred, or advocacy of violence. A defendant intentionally selects a victim, victims, or in the case of a property crime, the property that is the object of the crime, because of the actual or perceived race, ethnicity/national origin, religion, disability, gender, gender identity, age, sexual orientation, or status as a peace officer or judge. Enhancement penalty under CCP 42.014 will only be applicable to a crime under Title 5 of the Texas Penal Code or section 28.02 or 28.03 or 28.08, which is motivated by prejudice, hatred, or advocacy of violence.

*Hate Group:* Those actions by an individual or group that, while motivated by hate or bias, do not rise to the level of a criminal offense, but the actions portend contemplated criminal actions or violence toward an individual or group. The term does not include constitutionally protected activities or actions by individuals, groups, or entities that may be remediated primarily through civil causes of action.

*Hate/Bias Incident:* Those actions by an individual or group that, while motivated by hate or bias towards persons of a different race, ethnicity/national origin, religion, disability, gender, gender identity, age, sexual orientation, or status as a peace officer or judge, and do not rise to the level of a criminal offense.

*Race:* A group of persons who possess common physical characteristics, for example, color of skin, eyes, and/or hair; facial features, and so forth, which are genetically transmitted by descent and heredity and distinguish them as a distinct division of humankind. Examples include Asians, blacks or African Americans, and whites.

*Religious Group:* 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. Examples include Catholic, Jewish, Protestant, Muslim, Sikh, Hindu, and atheist.

*Sexual Orientation:* A person's physical, romantic, and/or emotional attraction to members of the same and/or opposite sex. Examples include homosexual, bisexual, and heterosexual.

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*Victim:* Includes, but is not limited to, an individual person, community center, educational facility, entity, family, group, library, meeting hall, office, place of worship, private institution, public agency, or other victim or intended victim whose civil rights are violated by an offender because of actual or perceived characteristics of the victim.

### E. Data Collection.

1. The federal Hate Crime Statistics Act of 1990 and modified in 2009 requires collection of data concerning hate/bias crimes; specifically, crimes committed because of the victim's race, religion, disability, sexual orientation, or ethnicity.
2. The Arlington Police Department shall collect data on hate/bias crimes that include additional categories of bias to supplement what is mandated in the federal Hate Crime Statistics Act.
3. The Arlington Police Department will also collect data on hate/bias incidents. The retention of data regarding non-criminal hate/bias incidents will be in accordance to defined retention schedules pertaining to miscellaneous reports.
4. Crime reporting statistics shall be kept, in accordance to requirements set by Texas Government Code 411.046 and the Hate Crime Statistics Act of 1990, on offenses where there are sufficient objective facts to lead a reasonable and prudent person to conclude that bias motivated, in whole or in part, the offender's actions. These statistics shall be compiled by the Business Services Section as part of the crime reporting data collection procedures.

### F. Report Taker Responsibilities

1. Any employee who receives a report where circumstances indicate reason to believe a hate/bias crime was committed, shall complete a case report for the appropriate Penal Code offense.
2. Case reports or incident reports that document hate/bias crimes and incidents will not be taken by Records Services or on-line.
3. All allegations that support the conclusion that the offense was, by definition, a hate/bias crime shall be documented in the report. These civil rights violations may include, but are not limited to, acts of violence, threats of violence, the display of religious symbols, use of ethnic or sexual slurs, or use of derogatory remarks.
4. The reporting officer determines whether the incident meets hate/bias criteria by considering, but not limited to the following:
  - a. Totality of the circumstances;
  - b. Suspect motivation behind the incident;
  - c. Evidence at the scene, such as the display of symbols or words which are known to the victim to represent a hate group or bias against the victim;
  - d. Statements, comments, or gestures made by any suspects. This conduct should be coupled contemporaneously with a crime but standing alone as an isolated incident may constitute protected speech;
  - e. Prior history or incidents with similar circumstances;
  - f. Similar incidents reported by others in the same area, and;
  - g. Officer's familiarity of the local community where the incident took place.

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- h. Or, if the victim perceives the incident as a hate/bias crime the reporting officer will mark the report as so and the investigative detective will make the final determination if the incident was a hate/bias incident.
5. An employee taking a hate/bias case or incident report shall notify a supervisor or division commander so that the report can be reviewed promptly to ensure completion and accuracy.
6. Hate/Bias case reports shall be investigated by the Gang Unit.
7. Notification from the appropriate investigative section to the Criminal Investigations Lieutenant must be made within 24 hours of the incident so they may collect historical statistics of hate crimes and hate incidents.
8. Victim Services shall be notified of the case or incident while officers are on scene. A Victim Services supervisor shall determine, in coordination with the supervisor on scene, if a Victim Services response is needed.
9. When completing the report, the employee shall select the appropriate bias motivation designation in RMS to identify the offense as a hate/bias crime.
10. If it is determined that the incident did not rise to the level of a criminal offense but was motivated by hate or bias, the reporting officer shall initiate a Hate/Bias Incident Report. The reporting officer shall notify the Criminal Investigations Lieutenant of the case number.
11. In cases where the incident was not a criminal offense, the officer shall refer the target(s) of the incident to the Civil Rights Division of the Department of Justice and to seek private legal advice for additional recourse. The officer shall provide a case report number to the target(s) and advise that the incident will be documented.
12. In the event of questions on whether a hate/bias crime or incident occurred, initial consultation shall be between the reporting officer and the reporting officer's chain of command. The officer shall clear the call with the appropriate MDC special designator indicating the call is a hate/bias crime or incident.
13. Officers shall furnish a copy of the Victim Services brochure (denoted in General Orders 410.12.A) to any person(s) who has filed a hate crime or incident report.
14. All reports that are related to a hate crime or incident, regardless of the offense type, will also be reviewed by Victim Services. Victim Services will be responsible for contacting the victim(s) and providing follow-up support with criminal or civil incidents by resourcing the victim(s) out to the appropriate Federal, State, County, or local entity to include referral of counseling services, if necessary.

### G. Supervisor Responsibilities

1. A supervisor who becomes aware of a suspected or confirmed hate/bias criminal offense shall notify the Police Chief through the appropriate chain of command and the lieutenant over the Criminal Investigations Section.
2. Hate/Bias crimes or incidents likely to garner substantial media attention or likely to generate adverse media coverage that reflects negatively on the department require immediate notification of the appropriate District Deputy Chief via phone. The Deputy Chief shall determine the need for additional notifications. The supervisor shall include in the notification the nature and seriousness of the crime and its potential impact on the community.

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3. It is the responsibility of the geographic supervisor and chain of command to coordinate and participate in restoration efforts following a hate/bias crime or incident. A supervisor in the appropriate geographic chain of command shall be designated as the single point of contact for neighborhood stakeholders participating in the restoration efforts and to ensure that communication remains consistent and accurate.

### H. Criminal Investigations Lieutenant Responsibilities

1. All suspected hate/bias cases or incidents shall be reviewed by the Criminal Investigations Lieutenant for:
  - a. confirmation of correct designation in RMS;
  - b. verification that a reported case meets the crime reporting definition; the Central Investigations Division Deputy Chief shall make the final determination
  - c. compilation and documentation of statistics for all hate/bias crimes and incidents; and;
  - d. hate/bias crimes shall be assigned to the Gang Unit.
2. The Investigative Unit sergeant managing the investigation of a hate/bias crime shall keep the appropriate chain of command and the Criminal Investigations Lieutenant updated on the investigation's progress.
3. The Media Office shall be periodically updated so that efforts can be made to reduce community fear and concern.
4. The detective investigating a criminal offense involving hate/bias shall refer such cases to the FBI field office when the case is referred to the Tarrant County Criminal District Attorney's office.
5. Following the review process and by the 8<sup>th</sup> of each month, the Criminal Investigations Lieutenant and the Records Services coordinator shall confirm:
  - a. the number of hate/bias crimes and incidents reported for the previous month;
  - b. the case number associated with the hate/bias crime reported, and;
  - c. the date of each case.
6. Tracking shall be kept available for all staff through Program Management Statistics and shall be located at <X:\Shared\Program Mgt. Statistics\Monthly Stats>.
7. Statistics shall include:
  - a. the number of hate/bias crimes or incidents reported that met the crime reporting definition;
  - b. the number of hate/bias crimes or incidents reported that did not meet the crime reporting definition;
  - c. the number of hate/bias crimes prosecuted; and
  - d. the report number associated with each case.
8. All crimes with a hate/bias crime element shall be reported monthly by the Business Services Manager to the Texas Department of Public Safety.
9. The Criminal Investigations Lieutenant will prepare an annual report regarding hate crime/incidents encompassing all of the above data and will include an analysis of bias motivation, offender, and location type. He/she will also identify any needs for the department for an improved response to hate crimes/incidents.

- I. **Training.** The department shall require periodic training related to hate/bias crimes and incidents to the police department's core curriculum. The curriculum shall focus on hate/bias

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crime and incident identification and investigation, multiculturalism and diversity courses, and legal and policy updates, as needed. Training will be developed through coordinated effort between the Training Center and the Criminal Investigations Section.