

Exploratory Interview Results

Domestic Violence, Identity Theft and Hacking/Computer Invasion in Cargo Theft, and Negligent Manslaughter

Background

The Federal Bureau of Investigation's (FBI) Uniform Crime Reporting (UCR) Program personnel requested to conduct exploratory interviews for new data values and definitions to be implemented into the existing National Incident-Based Reporting System (NIBRS) in order to capture data about domestic violence, cargo theft, and negligent manslaughter. The method for the exploratory interviews involved asking each participant to review the materials received in an e-mail prior to a telephone interview. During the telephone interviews, the FBI interviewer asked specific, probing questions to determine how respondents came up with their answers. The objective was to identify problems of ambiguity or misunderstanding, identify potential instruction improvements, or highlight other difficulties respondents had in when answering the questions. Participants were provided with two incident examples for domestic violence, two examples for identity theft and hacking/computer invasion, and four examples of negligent manslaughter involving traffic fatalities. The incident scenarios were used to determine if the participants understood the criteria for determining the offenses and to ensure they provided consistent, reliable results for future research and analysis when these components are fully implemented.

Domestic Violence

Results

FBI UCR Program personnel interviewed fifteen different local and state NIBRS participating agencies and based on the totality of their interview results, the NIBRS User Manual provides sufficient detail for the definition of Domestic and Family Violence. However, additional detail is required for the "Domestic Violence" data value, as a number of participants were unsure how to score the new data. Additional details have been added to the NIBRS User Manual. These additions were provided below.

Scenario 1 (Aggravated Assault): A police officer responded to a night time disturbance call at a single family residence. Upon arriving at the scene, the officer knocked on the door. The door was answered by a man and a woman. Over the course of several minutes of questioning, the officer learns the woman is the renter of the home and the man is her ex-boyfriend. They had been arguing because the ex-boyfriend wanted to take the victim's lap top. The ex-boyfriend then began throwing several objects around, breaking them, and threatened to strike the ex-girlfriend with a table lamp, picking it up and "holding it like a baseball bat". The ex-boyfriend

did not actually strike the women. The woman decided to press charges against the man and he was arrested.

Questions:

- In this scenario, is the man guilty of Domestic Violence?
- Why or why not?
- Which UCR offense(s) would be reported?
- Where would the domestic violence circumstance be reported in NIBRS?
- What is the relationship of the victim to the offender in this scenario?
- Is this relationship valid for a domestic violence incident?

Findings: The participants experienced confusion when deciding which offense should be reported (intimidation, attempted aggravated assault, or aggravated assault), since the ex-boyfriend didn't strike the victim.

Revised Scenario 1: A police officer responded to a night time disturbance call at a single family residence. Upon arriving at the scene, the officer knocked on the door. The door was answered by a man and a woman. Over the course of several minutes of questioning, the officer learns the woman is the renter of the home and the man is her ex-boyfriend. They had been arguing because the ex-boyfriend wanted to take the victim's lap top. When the victim said no, the ex-boyfriend began throwing several objects around the house and ultimately struck the woman with a table lamp, causing severe lacerations. Because this incident is domestic related and the offense was aggravated assault, the agency should enter 06 = Domestic Violence.

Resolutions:

- The UCR Program revised Scenario 1 to show the victim was struck with the table lamp to demonstrate the reportable offense was aggravated assault.

Scenario 2 (Murder): A police officer responded to a report of gunshots at a convenience store. Upon arrival, the officer found a crowd in front of the convenience store. He then entered the store to find a male gunshot victim and the store clerk. The clerk reported the victim and a female entered the store and had an argument that lasted several minutes. The female then shot the victim with a handgun and fled the store. The victim was pronounced dead at the scene. The female was apprehended several hours later and identified as the victim's wife.

Questions:

- In this scenario, is the female guilty of domestic violence?
- Why or why not?
- Which UCR offense(s) would be reported for the incident?
- Where would the domestic violence circumstance be reported in NIBRS?
- What is the relationship of the victim to the offender in this scenario?

- Is this relationship valid for a domestic violence incident?

Findings

- Most participants were unsure of how to report the domestic violence component of this incident.

Revised Scenario 2 (Murder): A police officer responded to a report of gunshots at a convenience store. Upon arrival, the officer found a crowd in front of the convenience store. He then entered the store to find a male gunshot victim and the store clerk. The clerk reported the victim and a female entered the store and had an argument that lasted several minutes. The female then shot the victim with a handgun and fled the store. The victim was pronounced dead at the scene. The female was apprehended several hours later and identified as the victim's wife. Because this incident is domestic related and the offense was murder, the agency should enter 06 = Domestic Violence.

Resolutions:

- An explanation has been added to the *NIBRS User Manual* under Data Element 31 (Aggravated Assault/Homicide Circumstances) to announce the change in data value 06 which now represents "Domestic Violence".

Cargo Theft Fraud Offenses

Identity Theft

Results

Most participants felt the definitions for cargo theft and identity theft that were provided, adequately described the Cargo Theft incident when identity theft is a factor. A limited amount of questions arose from the scenario where FBI UCR Program personnel referenced the 26F = Identity Theft offense. Most centered on using another fraud offense, impersonation, based on the end-user inferring information from the scenario that was provided. FBI has determined, based on the participant responses, additional clarification was required when defining identity theft and impersonation. These changes have been made within the *NIBRS User Manual*.

Scenario 1: A subject used a stolen commercial driver's license with like characteristics to enter a trucking company. Once gaining unlawful access to the building, the suspect absconded the premises with the vehicle and the cargo within the trailer.

Questions:

- Is the subject in this scenario guilty of committing a cargo theft through fraud?
- If so, why or why not?

Revised Scenario 1: A subject used a stolen commercial driver's license with like characteristics to enter a trucking company (UCR Offense Code 26F = Identity Theft). Once gaining unlawful access to the building, the suspect drove away with the vehicle and the cargo within the trailer (UCR Offense Code 240 = Motor Vehicle Theft and 23H = All Other Larceny).

Hacking\Computer Invasion

Results

Most participants felt the definition for hacking/computer invasion that were provided, adequately described the new fraud offense. Several questions that arose from the scenarios where the FBI Program personnel referenced the 26G = Hacking/Computer Invasion offense centered around using another fraud offense, wire fraud, based on information that was provided in the scenario. FBI has determined, based on the participant responses, that two cargo-related fraud offenses are used in this cargo theft situation. These changes have been made to the scenarios.

Scenario 1: An unknown subject hacked into a shipping company's computer system. Upon obtaining entry into the system, the subject redirected the cargo to an alternate location. The cargo was unlawfully seized on the docks of the alternate location.

Questions:

- Is the subject guilty of committing a cargo theft through fraud?
- If so, why or why not?

Revised Scenario 1: An unknown subject hacked into a shipping company's computer system (UCR Offense Code 26G = Hacking/Computer Invasion). Upon obtaining entry into the system, the subject redirected the shipment to an alternate location (UCR Offense Code 26E = Wire Fraud). The cargo was unlawfully seized, by a group of unknown subjects on the docks of the alternate location across town (UCR Offense Code 23F = Theft from Motor Vehicle).

Negligent Manslaughter

Results

Most participants felt the NIBRS User Manual provides sufficient detail for the definition. However, additional elements are required for the "Offender Suspected of Using" and "Type Weapon/Force Involved" data values. Several participants were unsure how to use these modified data values. Additional directions for identifying these data values were added to the *NIBRS User Manual*.

Scenario 1: A driver of one boat struck another while on a lake. The driver who struck the other boat drove to the shore and called 911. Upon arrival, the police officer interviewed the driver and observed the driver's eyes were bloodshot, watery and drooping. He also observed that the

driver appeared unsteady. The officer asked the driver if he had been drinking who responded that he had not. The officer asked the gentleman to perform several Field Sobriety Tests (Horizontal gaze Nystagmus, Finger-to-Nose, Walk and Turn, One-Leg Stand). The driver completed and passed the tests. The officer then requested the driver perform a breathalyzer test. The driver blew into the machined which indicated a .09 percent weight of alcohol in the person's blood. At that point, the officer arrested the driver. A passenger in the other boat passed away at the scene from injuries received during the accident.

Questions:

- In this scenario, is the driver guilty of negligent manslaughter based on the UCR Program's newly revised definition?
- Why or why not?
- Would a weapon also need to be reported in this incident?
- If so, which one?

Findings

- The state participants indicated they would not be able to ask the offender to blow into a breathalyzer on scene because they don't carry the breathalyzers in their cars.
- Several participants didn't understand the boat needed to be reported as the weapon.

Revised Scenario 1: The driver of one boat struck another while boating on a lake. The driver was determined to be intoxicated after failing a battery of field sobriety tests. The driver was charged with 09B = Negligent Manslaughter because a passenger in the other boat died as a result of the injuries received from the incident. The weapon data value should be 35 = Motor Vehicle/Vessel.

Scenario 2: A driver swerved out of her lane into oncoming traffic, striking another vehicle. A passing motorist stopped and called 911. A police officer nearby responded to the call as did EMS. The driver of the vehicle that caused the accident suffered minor injuries and was ambulatory and communicative when the officer arrived. The officer asked the driver of the vehicle that caused the accident why she swerved into the other lane. The driver stated she did not remember exactly what happened or why she swerved into oncoming traffic. One of the passengers in the other vehicle passed away at the scene due to the injuries which resulted from the accident. The officer observed the driver of the vehicle that caused the accident talking and texting on her cell phone frequently at the scene. The officer asked the driver if she had a hands free device and the driver responded that she did not own a hands-free device. The officer was able to obtain the phone records of the driver and found a series of texts were sent and received immediately prior to the accident. The driver was then arrested for distracted driving.

Questions:

- In this scenario, is the driver guilty of negligent manslaughter based on the UCR Program's newly revised definition?
- Why or why not?
- Was the offender in this scenario guilty of using a device while driving?
- If so, which one?
- How would the device be reported in NIBRS.

Findings

- A couple of participants were not sure where to report the device (cell phone) in NIBRS

Revised Scenario 2: A driver swerved out of her lane into oncoming traffic, striking another vehicle. A passing motorist stopped and called 911. The responding officer asked the driver that caused the accident why she swerved into the other lane. She didn't recollect why she swerved into oncoming traffic. One of the passengers in the other vehicle passed away at the scene due to the injuries received during the crash. The officer observed the driver that caused the crash talking and texting on her cell phone at the scene. He asked the driver if she had a hands-free device and the driver responded that she didn't own a hands-free device. The officer was able to obtain the phone records of the driver and found a series of texts were sent and received immediately prior to the accident. The driver was arrested for negligent manslaughter due to driving distracted while using a cell/smartphone. The offender suspected of using data value should be C = Computer Equipment/handheld devices.

Scenario 3: A police officer is stationed on the highway in a location known for speeding. He measures a vehicle travelling 12 miles over the posted limit and attempts to pull the vehicle over. The vehicle attempts to evade the officer, increasing its speed and passing other vehicles on the left and right, to include driving on the shoulder of the road. During the pursuit, several vehicles attempting to enter the highway were required to pull off onto the shoulder to avoid striking the evading vehicle. During the pursuit, the vehicle exceeds 100 mph, which is 30 miles over the speed limit. The pursuit ended in a crash with another vehicle, killing the driver in that vehicle. The crash is assessed to be the fault of the evading vehicle.

Questions:

- In this scenario, is the driver of the evading vehicle guilty of negligent manslaughter?
- Why or why not?

Findings:

- Participants understood this scenario as written.

Revised Scenario 3: A police officer is stationed on the highway in a location known for speeding. He measures a vehicle travelling 12 miles over the posted limit and attempts to pull the vehicle over. The vehicle attempts to evade the officer, increasing its speed and passing other vehicles on the left and right, to include driving on the shoulder of the road. During the pursuit, several vehicles attempting to enter the highway were required to pull off onto the shoulder to avoid striking the evading vehicle. During the pursuit, the vehicle exceeds 100 mph, which is 30 miles over the speed limit. The pursuit ended in a crash with another vehicle, killing the driver in that vehicle. The crash is assessed to be the fault of the evading vehicle. The evading driver was injured but survived and was subsequently charged with Negligent Manslaughter as a result of reckless driving. The offender suspected of using data value should be N = Not applicable.

New/Revised Definitions and Data Elements

Domestic and Family Violence is defined as:

“The use, attempted use, or threatened use of physical force or weapon; or the use of coercion or intimidation; or committing a crime against property by a current or former spouse, parent, or guardian of the victim; a person with whom the victim shares a child in common; a person who is or has been in a social relationship of a romantic or intimate nature with the victim; a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian; or by a person who is or has been similarly situated to a spouse, parent, or guardian of the victim.”

The approved data values are as follows:

Data Element 31 – Aggravated Assault/Murder Circumstances

06 = Domestic Violence

Data Element 35 – Relationship of Victim to Offender

Crimes against Property were added as valid data values.

200 = Arson

210 = Extortion/Blackmail

220 = Burglary/Breaking & Entering

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

250 = Counterfeiting/Forgery

26A = False Pretenses/Swindle/Confidence Game

26B = Credit Card/Automated Teller Machine Fraud

26C = Impersonation

26D = Welfare Fraud

26E = Wire Fraud

26F = Identity Theft

26G = Hacking/Computer Invasion

270 = Embezzlement

280 = Stolen Property

290 = Destruction/Damage/Vandalism of Property

510 = Bribery

New Victim to Offender Relationship Code

XR = Victim was Ex-Relationship (ex-boyfriend/ex-girlfriend)

Cargo Theft is defined as:

“The criminal taking of any cargo including, by not limited to, goods, chattels, money, or baggage that constitutes, in whole or in part, a commercial shipment of freight moving in commerce, from any pipeline system, railroad car, motortruck, or other vehicle, or from any tank or storage facility, station

house, platform, or depot, or from any vessel or wharf, or from any aircraft, air terminal or air navigation facility, or from any intermodal container, intermodal chassis, trailer, container freight station, warehouse, freight distribution facility, or freight consolidation facility. For purposes of this definition, cargo shall be deemed as moving in commerce at all points between the point of origin and the final destination, regardless of any temporary stop while awaiting transshipment or otherwise.”

Identity Theft is defined as:

“Wrongfully obtaining and using another person’s personal data (e.g., name, date of birth, Social Security number, driver’s license number, credit card number).”

Hacking/Computer Invasion is defined as:

“Wrongfully gaining access to another person’s or institution’s computer software, hardware, or networks without authorized permissions or security clearances.”

Negligent Manslaughter is defined as:

“The killing of another person through negligence.”

“This offense includes killings from hunting accidents, gun cleaning, children playing with guns and arrests associated with driving under the influence, distracted driving (using a cell/smartphone), and reckless driving traffic fatalities.”

*“**Note:** It does not include deaths of persons due to their own negligence and accidental deaths not resulting from gross negligence, and accidental traffic fatalities.”*

The approved data values are as follows:

Data Element 8 – Offender Suspected of Using

C = Computer Equipment (handheld devices)

Data Element 13 – Type Weapon/Force Involved

35 = Motor Vehicle/Vessel