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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 25, 2014

Mr. Michael C. Green
Executive Deputy Commissioner
Division of Criminal Justice Services
4 Tower Place
Albany, NY 12203

Re: Hate Crime Reporting
Report 2013-S-67

Dear Mr. Green:

According to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we audited the Division of Criminal Justice Services' (Division) hate crime reporting for the period January 1, 2010 through March 12, 2014. The objective of our audit was to determine whether the Division adequately monitors hate crime reporting and takes steps to ensure complete and accurate reporting.

Background

The Division's mission is to enhance public safety and improve criminal justice. New York State Executive Law requires all State, city, and local police agencies (agencies) to report crime data, including hate crimes, to the Division. Timely and accurate crime reporting is a critical first step to understanding crime, facilitating communication between neighboring departments, and proactively addressing increases in crime. This can improve State and local law enforcement's ability to gauge and react to current statewide crime trends. Crimes are defined as hate based when the victims are believed to have been targeted due to their actual or perceived race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation. Current law does not mandate police officer training in identifying, responding to, and reporting hate crimes. However, the Division does require general policing training. Such training includes a session on hate crime reporting which is not required.

Hate crime incidents that agencies report to the Division include data such as the number of incident(s) reported, date of the incident(s), bias motivation, and both victim and offender demographics. The Division submits this data to the Federal Bureau of Investigation (FBI) for its collection and publication. The Division also compiles hate crime data in an annual statewide

report, in accordance with the Executive Law. Hate crimes are a small percentage of overall crime reported to police in the State. For example, in 2012, the Division reported 723 hate crimes, while total Index crimes (a class of seven serious violent and property crimes reported to the FBI) were over 450,000. As of March 11, 2014, the Division had data for 2,601 hate crimes that occurred in New York State during the period January 1, 2010 through December 31, 2013.

In 2012, of over 500 law enforcement agencies, 19 did not report any hate crime statistics to the Division. Although these 19 agencies did not report, the impact on the overall hate crime statistics was likely insignificant, as these were small agencies that historically have reported low levels of crime. Agencies that have not submitted a hate crime incident report or did not indicate they had “Nothing to Report” for a previous reporting period are deemed “delinquent.” Division policy is to contact each delinquent agency at least three times via e-mail. Occasionally, the Division also follows up with agencies via phone calls. However, because it is not required to do so, the Division does not always maintain documentation of its efforts to contact agencies.

Crime in general is often underreported, with hate crimes being no exception. Hate crimes are underreported because the crimes themselves are not reported, the initial officer does not identify the crime as containing a bias motivator, or the agency does not submit its hate crime incident report to the Division. Also, hate crimes for a given time period may initially be underreported due to delays in reporting. It is important to note that the Division annually updates the online data, as it continues to receive hate crime data after publishing deadlines. For example, at the time of publication, the annual reports for 2010 through 2012 had a total of 1,973 hate crimes versus the total of 1,984 noted in the Division’s database, as of March 11, 2014, for that same period.

This audit addresses the Division’s role under the hate crime statute, in particular whether it adequately monitors hate crime reporting and takes steps to ensure complete and accurate reporting. This audit does not include an evaluation of the sufficiency of hate crime training of police officers across the State, because the Division is not responsible for providing such training. Nor does it address whether each police agency accurately reports hate crimes to the Division.

Results of Audit

Overall, we found the Division adequately monitors hate crime reporting, and it accurately and completely reports hate crime data that it receives. However, we identified a reporting system limitation that, if addressed, could improve the accuracy and usefulness of hate crime data, as well as several individual reporting errors that came to our attention during our review of hate crime data.

Reporting System Limitation

The Division only reports its data associated with a single bias, even when an agency reports multiple biases involved in a crime. For example, in one case we examined, an agency reported multiple biases on its hate crime incident report: both anti-male homosexual and anti-Arab. Because its system allows staff to only record one bias per incident, the Division reported

the case only as an anti-male homosexual incident. The Division stated that police agencies rarely report more than one bias, but that the usual process in such instances would be to contact the agency to determine which bias should be recorded. In this case, we found no evidence the Division contacted the agency. Furthermore, police agency staff did not recall being contacted in regard to this multiple-bias incident. The same agency also stated it had another multiple-bias incident, and had to report that incident as only a single bias.

As a result of this system limitation, stakeholders may not be fully aware of the number of incidents where multiple-bias motivations have been reported and may therefore be relying on skewed data. Although multiple-bias incidents appear to be relatively rare, only by tracking them will stakeholders be able to monitor trends and detect changes. Modification of the system would enable the Division to collect data on multiple-bias incidents accurately and completely.

Reporting Errors

As part of our testing of hate crime data, we also found several clerical errors which appear to have had little or no effect on overall reporting of hate crime statistics. In one case, Division staff misclassified demographic information, inaccurately classifying the victim as “Other Race” when the agency had actually reported the race as “Unknown.” In another instance, the Division classified the victim’s ethnicity as “Unknown,” while the agency had reported the ethnicity as “Non-Hispanic.” Neither of these errors materially impacted the overall reporting of hate crime data, which does not specifically focus on this demographic information. However, as a result of another data entry error, Division staff incorrectly reported to the FBI the type of location where the crime occurred for two different incidents.

Such human errors will inevitably occur in any system that relies on data entry. Even so, the Division implemented a new database for crime reporting in 2013, which now has certain system edits built in to minimize the likelihood of some human errors. For example, if an agency submits a hate crime incident report that is included in the database, but Division staff do not input any supporting data from that incident report (e.g., victim demographics), a message box will appear asking if the entry should actually indicate “Nothing to Report.” This additional check helps improve reporting accuracy.

Recommendation

1. Determine the feasibility of amending the database program code to allow for reporting of multiple biases.

Audit Scope, Objective, and Methodology

We audited the Division’s reporting of hate crimes for the period January 1, 2010 through March 12, 2014 to determine whether the Division adequately monitors hate crime reporting and takes steps to ensure complete and accurate reporting.

To accomplish our objectives, we reviewed relevant State laws as well as applicable

policies and procedures, and interviewed Division staff to gain an understanding of their policies and procedures for hate crime reporting and an understanding of internal controls relevant to the reporting of hate crimes. We analyzed information obtained from the Division to determine whether its data matched what agencies submitted. In addition, we examined previously published data sets to determine whether the data matches the current information on record.

We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Reporting Requirements

A draft copy of this report was provided to Division officials to obtain their comments. Their comments were considered in preparing this final report and are attached in their entirety at the end. Division officials stated they will work with the Office of Information Technology Services to assess the options to modify the database to collect multiple-bias types.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the head of the Division shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendation contained herein, and where the recommendation was not implemented, the reasons therefor.

Major contributors to this report were Steve Goss, Joel Biederman, Heidi Nark, Thierry Demoly, and Christi Martin.

We wish to thank Division management and staff for the courtesies and cooperation they extended to our auditors during this review.

Very truly yours,

John Buyce, CPA, CIA, CFE, CGFM
Audit Director

cc: Robert Wright, Director of Internal Audit and Compliance

Agency Comments



STATE OF NEW YORK
DIVISION OF CRIMINAL JUSTICE SERVICES
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80 South Swan Street
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ANDREW M. CUOMO
GOVERNOR

MICHAEL C. GREEN
EXECUTIVE DEPUTY COMMISSIONER

July 10, 2014

Mr. John Buyce
Audit Director
Office of the State Comptroller
110 State Street
Albany, NY 12236

Dear Mr. Buyce:

Thank you for the opportunity to respond to the draft report detailing the findings and recommendations related to the Office of the State Comptroller's (OSC) audit of the Division of Criminal Justice Services (DCJS) hate crime reporting program.

DCJS is committed to ensuring the quality of reporting hate crime incident data. Statewide training efforts have been in place for several years and focus on ensuring law enforcement agencies understand the definition of hate crime, are better educated in identifying bias motivation, and are properly documenting the reported incident.

For ease of review, we have listed OSC's recommendation followed by our response:

Determine the feasibility of amending the database programming code to allow for reporting of multiple biases.

DCJS will work with the Office of Information Technology Services (OITS) to assess the programming options and potential impacts of modifying the current database to collect multiple bias types.

Please contact Bob Wright at 457-1417 if you have any questions.

Very truly yours,

A handwritten signature in blue ink that reads "Michael C. Green".

Michael C. Green
Executive Deputy Commissioner

cc: M. Bonacquist
T. Salo
B. Wright
A. Dean

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