
	SUBJECT <b>Investigation of Hate and Bias Crimes</b>	GENERAL ORDER NUMBER <b>321.40</b>
	DCJS STANDARDS <b>44.2</b>	EFFECTIVE DATE <b>April 1, 2015</b>
		REVISION DATE <b>August 11<sup>th</sup>, 2023</b>
APPROVAL  Richard Bialkowski, Chief of University Police		 April 8, 2019

**I. Policy**

This policy requires that all suspected and confirmed hate crime incidents reported be thoroughly and completely investigated in accordance with applicable law and the procedures set forth below. The New York State University Police (NYSUP) at Cobleskill shall investigate all such reports received by them utilizing victim-focused procedures being mindful of and responsive to the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and far-reaching negative consequences of these crimes on victims, their families, and the community.

**II. Definitions**

**A. Hate Crime:** A person commits a hate crime when one commits a specified offense and either targets a victim or commits a specified offense because of a perception or belief about the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether or not the perception or belief is correct. Hate crimes can be perpetrated against an individual, a group, or against public or private property. For example, hanging a noose or painting a swastika could be deemed hate crimes if the statutory criteria are otherwise met.

**B. Bias:** A negative opinion or attitude toward a person or group of persons based on their race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, or sexual orientation.

**C. Specified Offense:** Any offense defined by the provisions of hate crime law.

**D. Hate Group:** An organization whose ideology is primarily or substantially based on antipathy, hostility, or hatred toward persons based on race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person.

**E. Age:** sixty years old or more.

**F. Disability:** a physical or mental impairment that substantially limits a major life activity.

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

**H. Gender Identity or Expression:** a person's actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.

**I. Interpreter:** A person who is able to convert source language into targeted language, both receptively (i.e., understanding what the person is saying) and expressively (i.e., having the skill needed to convey information back to that person).

**J. 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 that distinguish them as a distinct division of humankind. Examples include Asians, Blacks or African Americans, and Whites.

**K. Sexual Orientation:** heterosexuality, homosexuality, bisexuality or asexuality, whether actual or perceived.

### III. Procedures

#### A. Initial Response

1. Initial responding members at the scene of a suspected hate crime should follow standard protocols contained in NYSUP at Cobleskill General Orders for responding to a crime scene and should take the following specific actions:

a. Secure the scene. Steps should be taken so that the initial situation does not escalate. This includes but is not limited to:

1. Stabilizing injured victims and requesting medical aid;
2. Providing protection to victims and witnesses by increased police presence; and
3. Protecting the crime scene and any physical evidence for collection.

a. If evidence of an inflammatory nature cannot be physically removed, after it has been properly documented for investigatory purposes (e.g., painted words or signs on a wall), facilities management staff shall be contacted to do all that is possible to ensure that the graffiti is removed as soon as possible.

b. Notify and brief a supervisor, as soon as practicable, of any report of a suspected hate crime or activity that reasonably appears to be a hate crime. The Chief of Police shall also be contacted and advised. The mere perception that the incident

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may be motivated by bias should necessitate a notification to a supervisor.

c. Request the assistance of an interpreter for the victim when necessary.

2. Investigate and document all evidence that it may be a hate crime including but not limited to:

a. Interviewing victim(s) and witness(es) at the scene, or as soon as possible thereafter, and canvassing the area for additional sources of information, including symbols used by hate groups. Attempt to establish the victim's perception as to why they believe the crime may have happened.

b. Interviewing the perpetrator(s) to attempt to establish a motive or lack thereof. The nature of a particular incident could denote a hate crime, even when the perpetrator and victim don't know each other. The perpetrator(s)'s perception of the victim (whether accurate or not) will be particularly relevant in a hate crime investigation.

c. Statements made by the perpetrator(s) (exact language is critical).

d) Presence of multiple perpetrators.

e) Display of offensive symbols, words or acts/gestures.

f) Presence of hate literature, spray paint cans, and biased symbolic objects such as swastikas and crosses found in possession of the suspect and/or at or near the scene of the incident.

g) Presence of social media activity for evidence of bias motivation.

h) Tattoos, clothing, paraphernalia, or jewelry suggesting identification by the perpetrator(s) with an organized hate group.

i) Evidence that the victim is the only person of a particular group among others present.

j) Evidence the victim is from a different racial, national origin, religious group than the perpetrator.

k) Date, time or circumstances of the occurrence, such as on a religious holiday or at a gathering of a group of people affiliated by race, ethnicity, religion, sexual orientation, etc.

l) Multiple incidents occurring in a short time period involving victims of the same identifiable group.

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m) Proximity of the incident to an establishment (i.e. Unity Center, etc.) that could be associated with one of the protected categories included in the hate crime law.

n) Certain areas of victim's body targeted by the perpetrator(s) (i.e., Sikh victim forcibly having haircut, or a victim targeted for their gender identity being attacked near or around the person's genitalia.)

o) Existence of dual motivation by a suspect. Example: A suspect may be looking to commit robberies but specifically targets victims of a specific demographic group.

### **B. Supervisory Responsibilities**

1. A supervisor shall personally respond to the scene, if on duty, and confer with the initial responding officer(s), take measures to ensure that necessary preliminary actions have been taken, and make appropriate departmental notifications as necessary. If not on duty, the supervisor shall ensure any appropriate additional personnel, community resources, or other victim support are contacted when necessary to accomplish the following:

a. Provide support and assistance to the victim.

b. Explain to the victim about the likely sequence of events in the investigation and prosecution and the victim's right (see Attachment A) to be informed about the case status throughout the course of the investigation and prosecution.

2. Ensure that officers have the resources to conduct a thorough investigation.

3. Ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime. All related reports should be clearly marked "Hate Crime."

4. Conduct necessary notifications (e.g. Chief of Police) depending on the nature and seriousness of the offense and its potential impact on the community.

5. Arrange for an increase in uniform patrols throughout the affected area.

### **C. Follow-up Investigation**

1. Work closely with the District Attorney's Office to ensure that a legally adequate case is developed for prosecution.

2. Coordinate the investigation with other local, state and federal agencies, as necessary.

### **D. Incident Report Preparation**

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1. Incident reports should clearly indicate the following information:
  - a. Specified offense - as designated by hate crime penal law
  - b. Victim age, gender, race, and ethnicity (when victim(s) is an individual(s))
  - c. Offender age, gender, race, and ethnicity (when available)
2. The narrative portion of the Incident report should document that the victim(s) was intentionally selected or that the act was intentionally committed because of a belief or perception regarding such victim(s)'s race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, or sexual orientation. The specific bias motivation of the perpetrator should be documented (Ex: selected victim because the victim was Hispanic, Jewish, Muslim, transgender, etc.)

### IV. Victim

- A. Provide immediate assistance to the crime victim utilizing a victim centered approach.
  1. Express the department's position on the importance of hate crime cases and describe the measures that will be taken to apprehend the perpetrators.
  2. Take preventive measures to ensure the safety of the victim.
    - a. Express the department's interest in protecting victims' anonymity whenever possible.
    - b. Explain any security measures and precautions that may be available to the victim
    - c. Conduct all interviews with victims utilizing the principles of a trauma-informed approach that supports the immediate and long-term recovery of the victim by:
      1. Allowing the victim the option to have a victim advocate or others present (including, for example, a family member);
      2. Encouraging the victim to give a statement in their own words uninterrupted; use open ended questions
      3. Employing trauma-informed questions using caution to not affect the victim's account of the event; and
      4. Providing an opportunity for follow-up questions.
    - d. Protect the privacy of the victim and their families as much as possible.

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e. Provide the victim with community resources that may provide support and assistance such as advocacy, healthcare, civil legal services, and counseling services.

f. In cases where a police or peace officer is summoned for suspected criminal activity based on the belief or perception about the individual's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation and a reasonable person would not suspect such violation, the supervisor should provide the victim with referral information for the New York State Division of Human Rights (DHR). For other civil matters where discrimination is alleged against an individual in areas such as employment, housing, credit, and places of public accommodation, refer the individual to DHR.

g) Provide victim(s) with a point of contact in the department to whom they can direct questions or concerns and explain that they have the right to be informed about the case status throughout the course of the investigation and prosecution.

### **V. Community Relations and Crime Prevention**

A. Hate crimes are viewed in the community not only as a crime against the targeted victim(s), but also as a crime against the victim's community as a whole. Working constructively with the community after such crimes is essential to help reduce fears, stem possible retaliation, prevent additional hate crimes, and encourage other victims to step forward and report those crimes. The following are community relations strategies that can be used to enhance the proactive approach of law enforcement's response to hate crimes.

1. Meet with campus groups and residents including targeted communities to emphasize law enforcement's commitment to:

- a) a proactive response to hate crimes;
- b) build strong relationships and lines of communication;
- c) provide safety, security, and crime prevention information; and
- d) reduce the potential for counter-violence and reprisals.

2. Engage other areas of campus such as communications and marketing as partners in restoring victimized communities through sensitive and accurate reporting. Information regarding hate crimes should be prepared for the campus in an accurate and timely manner.

3. Conduct public education campaigns designed to address the community-wide impact of hate crime and violence in general.

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4. Establish liaisons with formal community-based organizations and leaders to mobilize resources that can be used to assist victims and prevent future hate incidents and crimes.
5. Collaborate with communities to expand, where appropriate, preventive programs such as hate, bias, and crime reduction informational presentations.

### **VI. Reporting**

- A. All incidents of reported hate crimes are to be submitted to DCJS each month using the online reporting platform via the IJ Portal. A form must be submitted even if no hate crimes were reported by checking the Nothing to Report (NTR) box. Form 3294 (see Attachment B) can be used as a reference when tallying monthly hate crime information.
- B. All incidents of hate crimes will be documented in the annual security and fire safety report published each year.
- C. All incidents of hate crime will be documented in the appropriate area of the UPD webpage.

### **VII. Training**

- A. Officers will be periodically trained on:
  1. The components of Penal Law § 485.05 and related case law;
  2. Familiarity with organized hate groups operating in the community;
  3. Response to a hate crime; and
- B. This policy is not intended to be a substitute for proper training in responding to or investigating hate crimes.