

## **POLICY**

Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate and bias and designed to infringe upon the rights of individuals are viewed very seriously by the Suffolk County Police Department and will be given high priority. The Department shall employ necessary resources and vigorous law enforcement action to identify and arrest hate crime suspects. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, members of the Service shall be mindful of and responsive to the security concerns of victims and their families.

Additionally, during the course of an investigation, a Member of the Service shall not inquire of a victim of a crime or a witness to a crime, as to his/her immigration status.

## **DEFINITIONS**

- A. Hate Crime - A person intentionally selects and/or commits a violation of the law against individuals or property based on a belief or perception regarding race, color, national origin, ancestry, gender, religion, religious practice, age (based on the victim being 60 years old or more), disability (physical or mental impairment that substantially limits a major life activity) or sexual orientation regardless of whether the belief or perception is correct.
  
- B. Hate Crime Evidence - Proof of race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence.
  
- C. Hate Crime / Aggravated Harassment First Degree – A person will be charged with this class E felony when their hate offense includes any of the following:
  - 1. Damage to premises primarily used for religious services and/or instruction and the damage to the premises exceeds fifty dollars.
  - 2. Setting on fire a cross in public view.
  - 3. Etches, paints, draws upon or otherwise places and/or displays a swastika or a noose, on any building or other real property, public or private, owned by a person, firm or corporation or any public agency or instrumentality, without

express permission of the owner or operator of such building or real property.

4. Commits the crime of aggravated harassment in the second degree and has been previously convicted of the crime of aggravated harassment in the second degree or the person has been previously convicted of the crime of aggravated harassment in the first degree within the preceding ten years.

D. Hate Crime / Aggravated Harassment Second Degree - A person will be charged with this class A misdemeanor when their hate offense includes any of the following:

1. Communication with another person, anonymously or otherwise, by any form of electronic or written means, in a manner that is likely to cause the receiving person annoyance or alarm.
2. Makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.
3. Strikes, shoves, kicks or otherwise subjects another person to physical contact, or attempts and/or threatens to do the same.

## **RULES AND REGULATIONS**

A. Responsibility - It shall be the responsibility of the Hate Crimes Unit to review all offenses and to have primary investigative responsibility for hate offenses, except for incidents involving death or serious physical injury that may result in death. In such cases the Homicide Section or the appropriate Precinct Detective Squad Section shall have primary investigative responsibility. The Hate Crimes Unit shall nevertheless investigate the hate related nature of the incident, and assist the primary investigator(s) as required. The Hate Crimes Unit is charged with and will be responsible for determining at any stage of an investigation if the offense is a hate crime.

1. Requests - Requests for the immediate response of the Hate Crimes Unit to a scene location shall be made via the Duty Officer.
2. Immigration Status - A member of the Service, during the

course of an investigation, shall not inquire of a victim of a crime or a witness to a crime, as to his/her immigration status.

## **PROCEDURE**

### A. Officer's Duty

1. Officers shall conduct a thorough and complete investigation in all suspected and confirmed hate crime incidents.
2. Officers should make every effort to become familiar with organized hate groups operating in the community and police contacts should be documented.

### B. Initial Response Procedures - Initial responding officers at the scene of a suspected hate crime shall take preliminary actions deemed necessary, including, but not limited to, the following:

1. Secure the scene. Steps should be taken so that the initial situation does not escalate. This includes but is not limited to:
  - a. Stabilizing injured victims and requesting medical aid.
  - b. Providing protection to victims and witnesses by increased police presence.
  - c. Protect the crime scene and notify the appropriate command that will cause the collection and photographing of physical evidence such as hate literature, spray paint cans, and symbolic objects used by hate groups, such as swastikas and crosses.
2. Request a supervisor and notify the Hate Crime Unit of the incident via the Duty Officer.
3. Request the assistance of a translator or counselor when necessary.
4. Identify criminal evidence on the victim if applicable.
5. Conduct a preliminary investigation and record information on:

- a. the identity of suspects.
  - b. the identity of witnesses, including those no longer at the scene.
  - c. statements made by suspects; exact language is critical.
  - d. information received or known regarding any prior bias motivated occurrences in the immediate area or of other victims of crimes similar in nature.
6. Arrest suspect(s) if probable cause exists.
- a. Detain and/or transport any arrested person to a police facility as directed by a supervisor and/or investigator.
7. Take measures to ensure that necessary preliminary actions have been taken and brief the responding supervisor as to those actions. During your investigation, look for possible signs that the incident may be a hate crime:
- a. The motivation of the suspect or lack of motive.
  - b. Statements made by the suspect.
  - c. The presence of multiple suspects.
  - d. The display of offensive symbols, words or acts.
  - e. Was any hate literature found in the possession of the suspect?
  - f. Is the victim the only person of a particular group in or around the incident location?
  - g. Is the victim from a different racial, ethnic, religious group, or a different sexual orientation than the suspect?
  - h. The absence of any motive. The brutal nature of a particular incident could denote a hate crime, particularly when the suspect and victim don't

know each other.

- i. The suspects' perception of the victim, whether accurate or not.
  - j. The date, time or circumstances of the occurrence, such as on a religious holiday, or an event occurring at a gathering of a group of people affiliated by ethnicity, religion, sexual orientation, etc.
  - k. Multiple incidents occurring in a short time period and all the victims were of the same identifiable group.
  - l. Were the real intentions of the suspect racial, color, religious or ethnic oriented, or were there other reasons such as pranks, unrelated vandalism, or a dispute arising out of a non-bias related disagreement?
  - m. Incident occurred in proximity to an establishment that could be associated with one of the protected classes.
  - n. The suspect targeted a particular portion of the victim's body; for example a Sikh victim forcibly having their hair cut, or a victim targeted for their sexual orientation being attacked near or around their genitalia.
  - o. The victim's perception that they were selected because they are a member of an identifiable group.
  - p. Ascertain if the incident is an isolated occurrence or part of a pattern. The behavior may be part of a course of conduct that changes the severity of the event and help establish criminal culpability in certain cases. The potential to connect incidents is pertinent and could have significant investigative value.
8. The mere mention of a bias remark does not make an incident bias motivated, just as the absence of a remark does not make an incident without bias. Even the mere perception that the incident may be motivated by bias shall necessitate a notification to a patrol supervisor.

9. Be cognizant of dual motivation by some suspects. Example:  
A suspect maybe looking to commit robberies but specifically targets elderly victims.
  10. Note that an attack against a transgender victim could be covered under sexual orientation or gender.
- C. Supervisory Responsibilities - The supervisor shall respond to the scene and confer with the initial responding officer(s), take measures to ensure that necessary preliminary actions have been taken, and notify the Hate Crime Unit and/or the responsible investigative command. Ensure that officers and investigators conduct a thorough preliminary investigation:
1. Ensure that all relevant facts are documented on an incident or arrest report or both and make an initial determination as to whether the incident should be classified as a hate crime.
  2. Notify the Duty Officer and other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
  3. Take preventive measures to ensure the safety of the victim.
- D. Investigators' Responsibilities - In responding to the scene of an alleged hate crime, investigators shall assume control of the follow-up investigation to include the following:
1. Ensure that the scene is properly protected, preserved, and processed and that all physical evidence of the incident is removed as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed (e.g., painted words or signs on a wall), the owner of the property shall be contacted to do all that is possible to ensure that the graffiti is removed as soon as possible. The officer or investigator shall follow-up to ensure that this is accomplished in a timely manner.
  2. Conduct a comprehensive interview with all victims and witnesses (and depose) at the scene, or as soon as possible thereafter, and canvass the neighborhood for additional sources of information.
  3. Ascertain if the incident is an isolated occurrence or part of a

pattern. The behavior may be part of a course of conduct that changes the severity of the event and help establish criminal culpability in certain cases. The potential to connect incidents is pertinent and could have significant investigative value.

4. Work closely with the District Attorneys Office to ensure that a legally adequate case is developed for prosecution.
5. Coordinate the investigation with agency, state, and regional crime analysis centers. These sources shall provide the investigative officer with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.
6. Coordinate the investigation with other units of the Department and with outside agencies where appropriate.
7. Maintain contact with the initial responding officer and keep them apprised of the status of the case.
8. Recommend to commanding officer whether the incident should be classified as a hate crime.
9. Investigative officers shall take steps to ensure that appropriate assistance is being provided to hate crime victims, to include the following measures:
  - a. Contact the victim periodically to determine whether they are receiving adequate and appropriate assistance.
  - b. Provide ongoing information to the victim about the status of the criminal investigation.
  - c. Express the Department's official position on the importance of these cases, and describe the measures that will be taken to apprehend the suspect(s).
  - d. Express the Department's interest in protecting victims' anonymity whenever possible.
  - e. Allow the victim a period in which to express their immediate concerns and express their feelings.

- f. Identify individuals or agencies that may provide support and assistance. These may include family members or close acquaintances, a family clergyman or Departmental chaplain, as well as community service agencies that provide victim assistance, shelter, food, clothing, child care, or other related services. Provide information regarding New York State Crime Victims Board.
- g. Tell the victim about the probable sequence of events in the investigation and prosecution.
- h. Explain security measures and precautions to the victim.

E. Recommended Steps When Suspect is Not in Custody or Has Not Been Identified

- 1. Coordinate investigation with other Department units.
- 2. Conduct extensive canvass and distribute bulletins in area of the incident.
- 3. Debrief individuals arrested in the area.
- 4. Work with media to attempt to garner witnesses and investigative leads.
- 5. Follow-up leads in timely manner.

F. Incident Report Preparation - Incident reports should clearly indicate the following information:

- 1. Offense – Hate Crime designated Penal Law.
- 2. Victim age, gender, race, and ethnicity (when victim(s) is an individual(s)).
- 3. Offender age, gender, race, and ethnicity (when available).

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 race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation. Specific

bias motivation of the suspect should be documented (Ex: elected victim because he was Hispanic, Jewish, Muslim, etc...).