

HATE AND BIAS CRIMES

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I. GENERAL CONSIDERATIONS AND GUIDELINES

This policy is designed to assist officers in identifying crimes motivated by bias toward an individual's race, religion, ethnicity, handicap, sexual orientation, presumed immigration status or gender and to define appropriate steps for assisting victims and apprehending suspects.

- The key to a successful law enforcement response to Hate Crime/Incidents is **building a partnership with victims and the community.**
- There needs to be a **relationship of trust and cooperation between the police and the community.**
- Citizens need to be encouraged to come forward whenever a Hate Crime/Incident occurs and to have **confidence that the police will handle these matters with the seriousness and concern they deserve.**
- Citizens **need to view the police as allies** and support law enforcement efforts in the fight against hate violence.

Hate Crime/Incidents are viewed very seriously by this department and will be given high priority. The department will use every necessary resource rapidly and decisively to identify the perpetrators, arrest them, and take vigorous enforcement action.

Also, recognizing the particular fears and anguish typically suffered by victims of these crimes, the potential for reprisal and escalation of violence, and the possible far-reaching negative consequences of these acts on the community and the department, particular attention shall be given to addressing the security and related concerns of the immediate victims as well as their families and others affected by the crime. See departmental policy **4.04 - Victim/Witness Assistance**.

II. POLICY

It is the policy of the Williamstown Police Department to safeguard the federal and state rights of all individuals irrespective of their race, religion, ethnicity, handicap, sexual orientation, presumed immigration status or gender and to treat seriously any acts or threats of violence, property damage, harassment, intimidation, or other crimes that are designed to infringe upon these rights.

Bias crimes are viewed very seriously and will be given high priority. The department will use every necessary resource rapidly and decisively to identify the perpetrators, arrest and prosecute them, and take vigorous enforcement action.

III. DEFINITIONS

The following phrases shall have the following meanings:

Advocacy Organization: Any non-profit or not-for-profit group which represents or **serves constituencies** targeted in hate crimes motivated by the forms of bias enumerated in **520 CMR 13.02(3)**; or gathers information relating to the incidence, circumstances, patterns, causes, or nature of hate crime/incident(s) or any specific type(s) of hate crime or incident.

Bias indicators: Objective facts, circumstances, or patterns of criminal act(s) which, standing alone or in conjunction with other facts or circumstances, suggest that the offender's actions were motivated, in whole or in part, by any form of bias enumerated in 520 CMR 13.02.

Bias Motive: Hatred, hostility, or negative attitudes towards, or prejudice against any group or individual on account of race, religion, ethnicity, handicap, or sexual orientation, presumed immigration status or gender, which is a contributing factor, in whole or in part, in the commission of a criminal act. A bias motive can be inferred from the presence of one or more bias indicators. The specific forms of bias covered by the Hate Crime Reporting Act are:

Racial/Ethnic/National Bias

- Anti-Black
- Anti-White
- Anti-Asian
- Anti-Hispanic
- Anti-Arab
- Anti-Other Racial/Ethnic/National Group

Religious Bias

- Anti-Jewish
- Anti-Catholic
- Anti-Protestant
- Anti-Islamic (Moslem)
- Anti-Other Religion

Sexual Orientation Bias

- Anti-Gay (Male)
- Anti-Lesbian (Female)
- Anti-Other Sexual Orientation

Handicap Bias

- Anti-Person with AIDS
- Anti-Physically Disabled
- Anti-Mentally Disabled
(i.e., mental illness, mental retardation)

Gender Bias

- Anti-Male

Anti-Female

A bias motive may also consist of an intent to interfere with, disrupt, or deprive another person(s) of his/her constitutional rights by threats, intimidation, harassment, or coercion.

Crime Reporting Unit: A joint project of the state police and the Criminal History Systems Board responsible for collecting incident reports submitted by law enforcement authorities and disseminating periodic reports analyzing and interpreting crime rates and trends in the Commonwealth.ⁱ

Hate Crime:

- A. Any criminal act to which a bias motive is evident as a contributing factor, or
- B. Any act which constitutes a violation of:
 - 1. M.G.L. c. 265, ss. 37 or 39;
 - 2. M.G.L. c. 266, s. 127A;
 - 3. M.G.L. c. 272, s. 92A.

Hate Incident: Any act whether consisting of conduct, speech or expression, to which a bias motive is evident as a contributing factor, without regard for whether the act constitutes a crime.

Hate Group: An organization, formal or informal, which promotes bias, animosity, hostility, or malice against persons belonging to a racial, religious, ethnic/national origin, handicap, sexual orientation or gender group (e.g., the Ku Klux Klan, American Nazi Party, etc.).

Hate Crime Report: An account of a hate crime from a law enforcement source received or collected by the Crime Reporting Unit.

Hate Incident Report: An account of a hate incident from a civil rights agency or advocacy organization received or collected by the Crime Reporting Unit.

BIAS INDICATORS:

The following criteria can assist law enforcement officers in determining whether a particular crime should be classified as a hate crime or a hate crime incident. These criteria are not all-inclusive and each case must be examined on its own facts and circumstances. Common sense judgment should also be applied in

making the determination whether a crime should be classified as a hate crime.

- The offender shouted a racial or anti-gay epithet at the victim.
- A swastika was painted on the door of a synagogue.
- The offenders wore white sheets and white hoods or left a burning cross in front of the victim's residence.
- Several incidents have occurred in the same locality, at or about the same time.
- Victims or witnesses perceive that the incident was motivated by bias.
- The victim was engaged in activities promoting a racial, religious, ethnic/national origin, handicap, sexual orientation or gender group.
- The incident coincided with a holiday relating to or a date of particular significance.
- The offender was previously involved in a similar bias crime or is a member of, or associates with, a hate group.
- A hate group claimed responsibility for the crime or was active in the neighborhood.
- A historically established animosity exists between the victim's group and the offender's group.
- The victim is a member of the advocacy group supporting the precepts of the victim group, or is friendly with members of a victim group.
- There was no clear economic motive for an assault and battery.
- The victim was in or near an area or place commonly associated with or frequented by a particular gender group (e.g., a gay bar).
- The victim was in the company of, or married to, a member of a targeted group

- The victim has received harassing mail or phone calls or has been the victim of verbal abuse based on his/her affiliation with a targeted group.

IV. FACTORS IDENTIFYING HATE CRIME INCIDENTS

In attempting to determine whether a particular crime or incident should be classified as a Hate Crime/Incident, the responding officer should evaluate the presence of the following factors:

A. The crime/incident involves:

1. An act, threat or attempt, against the person or property of another by an individual or a group;
 - a. That constitutes an expression of racial, religious, ethnic, or sexual orientation hostility; or
 - b. To injure, intimidate, interfere with or oppress any person or group in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the Commonwealth or the United States,

B. The crime/incident involves:

1. Telephone calls, written communications or electronic messages that contain racial, religious, ethnic/national origin, handicap, sexual orientation or gender slurs or epithets;
2. Assaults or vandalism attributable to the victim's race, religious, ethnicity, handicap, sexual orientation or gender group; or
3. Symbolic gestures, drawings, markings, or graffiti with racial, religious, ethnic/national origin, handicap, sexual orientation or gender connotations.

V. PATROL OFFICER'S RESPONSIBILITIES

When an officer at the scene of an incident believes that it may have been motivated by racial, religious, ethnic/national origin, handicap, sexual orientation or gender bias, the officer shall take any preliminary actions necessary, such as:

- A. Determining whether any perpetrators are present and, if so, taking appropriate enforcement measures;
- B. Restoring order to the crime scene and taking any necessary actions to gain control of the situation;
- C. Identify any injured individuals and take steps to provide immediate medical assistance (EMS);
- D. Identifying any witnesses or others who have knowledge of the crime;
- E. Protect the crime scene;
- G. Conducting the preliminary investigation of the incident and filing a complete and detailed report according to departmental procedures.
 - Note specifically in the title of the report that the incident appears to be a possible Hate Crime.
- C. Request any appropriate additional personnel necessary to complete the preliminary investigation and to begin the follow-up investigation;
- D. Assist with the investigation to include preliminary interviews of the victim and any witnesses to the incident; and
- E. Ensure that all relevant facts are documented on the incident and/or arrest report and make an initial determination as to whether the incident should be classified as a Hate Crime/Incident.
- F. Responding in a courteous, respectful and professional manner to the needs of the victim (see department policy on Victim/Witness Assistance);
- G. Identifying any injured parties and taking steps to provide medical assistance;
- H. Identifying any witnesses or others who have knowledge of the crime;
- I. Protecting the crime scene;
- J. Notifying the Shift Supervisor; and

VII. CASE OFFICER(S) RESPONSIBILITIES:

- A. The designated case officer(s) assigned to alleged Hate Crimes and/or incidents shall be responsible for the following:

1. Assure that the crime scene is properly protected, preserved, and processed and that all physical evidence of the incident is photographed, collected, labeled, and submitted according to current departmental procedures. 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 remove such material as soon as possible once it has been photographed.
 2. Conduct a comprehensive interview with all victims and witnesses at the scene, or as soon as possible thereafter, and canvass the neighborhood for additional sources of information;
 3. Work closely with the District Attorney's office to ensure that a legally adequate case is developed for prosecution;
 4. Coordinate the investigation with other appropriate law enforcement agencies in an effort to obtain an analysis of any discernible patterns, organized groups, and/or suspects potentially involved in the offense;
 5. Notify 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;
 6. Make the final determination as to whether the incident should be classified as a Hate Crime or Incident with the final decision resting with the Chief/LT. b. Note specifically in the title of the report that the incident appears to be a possible bias crime.
 7. Complete any reports necessary to comply with statistical reporting requirements for Hate Crimes.
- B. The designated case officer(s) shall also take the lead role in providing ongoing assistance to the crime victim to include:
1. Providing ongoing information to the victim about the status of the criminal investigation; and,
 2. Contacting the victim periodically to determine whether he is receiving adequate and appropriate assistance.
 3. Provide immediate assistance to the crime victim(s), allowing them a period of time in which to express their feelings;

4. Assist the victim in identifying or contacting individuals or agencies that may provide support and/or assistance, such as family members, friends, clergy, and/or community service agencies;
 5. Provide security and precautionary advice to the victim;
 6. Supervise the preliminary investigation to include preliminary interviews of the victim and any witnesses to the incident; and
 7. Review incident and/or arrest report and make an initial determination as to whether the incident should be classified as a bias crime.
- C. Community Relations and Crime Prevention
1. Hate crimes and incidents are viewed in the community not only as crimes against the targeted victim, but also as a crime against the victim's racial, religious, ethnic/national origin, handicap, sexual orientation or gender group as a whole.
 2. Working constructively with segments of this larger audience after such incidents is essential to help reduce fears, stem possible retaliation, help prevent additional bias crimes and/or incidents, and encourage any other previously victimized individuals to step forward and report those crimes.
 3. Towards this end, the department's community relations function, shall take the following steps as appropriate:
 - a. Meet with neighborhood groups, residents in target communities, and other identified groups to allay fears, relay the department's concerns over and response to this and related incidents, reduce the potential for counter-violence and provide safety, security, and crime prevention information;
 - b. Provide direct and referral assistance to the victim and his/her family;
 - c. Conduct public meetings on racial, religious, ethnic, and sexual orientation threats and violence in general, and as they relate to specific incidents;

- d. Establish a liaison with formal organizations and leaders;
- e. Expand, where appropriate, existing preventive programs such as anti-hate seminars for school children; and
- f. Create Memoranda of Understanding with community civil rights organizations and advocacy groups.

VIII. RECORDS AND REPORTING

- A. If additional information becomes available, an amended report or additional data or information if necessary shall be submitted to the Crime Reporting Unit.
- B. Names of victims and perpetrators of Hate Crimes shall be referenced and identified by case number assigned by the police department, the time and date of the incident, and other particularized information deemed relevant by the Crime Reporting Unit.
 - 1. It shall be the responsibility of the officer assigned to NIBRS compliance [National Incident Based Reporting System] to ensure that all bias crimes are properly reported to the Crime Reporting Unit on a monthly basis.
 - 2. The Massachusetts Hate Crime Reporting Form shall be used to report Hate Crimes to the Crime Reporting Unit.
 - 3. If additional information becomes available, an amended report or additional data or information shall be submitted to the Crime Reporting Unit.
 - 4. Names of victims and perpetrators of bias crimes should not be reported to the Crime Reporting Unit on the prescribed form. Crimes shall be referenced and identified by the case number, the time and date of the incident, and other particularized information deemed relevant by the Crime Reporting Unit.

IX. COMMUNITY RELATIONS AND CRIME PREVENTION

- A. Hate Crime/Incidents are viewed in the community not only as crimes against the targeted victim, but also as a crime

against the victim's racial, religious, ethnic/national origin, handicap, sexual orientation, presumed immigration status or gender group as a whole. Working constructively with segments of this larger audience after such incidents is essential to help reduce fears, stem possible retaliation, help prevent additional Hate Crimes/Incidents, and encourage any other previously victimized individuals to step forward and report those crimes. Towards this end, the Chief of Police, or officers so assigned, may:

1. Meet with neighborhood groups, residents in target communities, and other identified groups to allay fears, relay the department's concerns over and response to this and related incidents, reduce the potential for counter-violence and provide safety, security, and crime prevention information;
2. Provide direct and referral assistance to the victim and family members;
3. Conduct public meetings on race, religious, ethnic, and sexual orientation threats and violence in general, and as it relates to specific incidents;
4. Establish liaison with formal organizations and leaders; and
5. Expand, where appropriate, existing preventive programs such as anti-hate seminars for school children.

XI. TRAINING

All sworn officers and dispatchers of the Williamstown Police Department shall be required to acknowledge reading this procedure. In addition, refresher training under this procedure shall be done as part of annual Ethics training. This training may also include topics such as:

- Implicit bias
- Massachusetts Civil Rights Officer Training
- Mass. Chiefs Police Association roll-call video 'Hate Crimes Re-visited'
- Bias-based profiling
- Fair and Impartial Policing
- LGBTQ2S+ & the Police 'Relationship Building' and "Suicide Prevention"

ⁱ M.G.L. c. 22C, §32.