

INVESTIGATION OF HATE CRIMES		
<input type="checkbox"/> new: <input type="checkbox"/> rescinds: <input checked="" type="checkbox"/> amends: All previous	cross-reference: NY State Education Law-NY State Penal Law accreditation standards: NYSLEAP Standard(s) 44.2	
effective date: August 31, 2011	amend date: October 05, 2023	

I. PURPOSE

This policy is designed to provide guidance to the NY State University Police Department members when investigating and responding to hate crimes, as defined by New York State Penal Law section 485.05, pursuant to New York Executive Law section 840. (6) (a) and the New York State Education Law section 6431.

II. POLICY

The policy requires that all suspected and confirmed hate crime incidents be thoroughly and completely investigated in accordance with applicable law and the procedures set forth below. The guidance of this policy is based on the utilization of 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.

III. 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 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 older.
- F. **Disability:** A physical or mental impairment that substantially limits a significant life activity.

- G. **Gender:** The term gender refers to the cultural and social characteristics attributed to men and women on the basis of perceived biological differences.
- H. **Gender Identity or Expression:** A person's actual or perceived gender-related identity, appearance, behavior, expression, or another 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 the 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- the color of skin, eyes and/or hair, facial features, and so forth, which are genetically transmitted by descent and heredity and distinguish them as a distant division of humankind. Examples include Asians, Blacks or African Americans, and Whites.
- K. **Sexual Orientation:** Heterosexuality, homosexuality, bisexuality, or asexuality, whether actual or perceived.

IV. PROCEDURES

A. Initial Response

1. Initial responding officers at the scene of a suspected hate crime should follow the standard protocol for responding to a crime scene and should take the following specific actions:
 - Secure the scene. Steps should be taken so that the initial situation does not escalate. This includes, but is not limited to:
 - Stabilizing injured victims and requesting medical aid;
 - Providing protection to victims and witnesses by increased police presence; and
 - Protecting the crime scene and any physical evidence for collection. If evidence of an inflammatory nature cannot be physically removed after it has been appropriately documented for investigatory purposes (i.e., 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.
 - 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 mere perception that the incident may be motivated by bias should necessitate a notification to a supervisor.
 - Request the assistance of an interpreter when necessary.
 - Request the assistance of an investigator when necessary.

2. Investigate and document all evidence that it may be a hate crime, including but not limited to:
- 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 of why they believe the crime may have happened.
 - 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 do not know each other. The perpetrator(s) perception of the victim (whether accurate or not) will be particularly relevant in a hate crime investigation.
 - Statements made by the perpetrators(s) (exact language is critical).
 - Presence of multiple perpetrators.
 - Display of offensive symbols, words, or acts/gestures.
 - 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.
 - Presence of social media activity for evidence of bias motivation.
 - Tattoos, clothing, paraphernalia, or jewelry suggest identification by the perpetrator(s) with an organized hate group.
 - Evidence that the victim is the only person of a particular group among others present.
 - Evidence the victim is from a different racial, national origin, or religious group than the perpetrator.
 - 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.
 - Multiple incidents are occurring in a short time period involving victims of the same identifiable group.
 - Proximity of the incident to an establishment (i.e., houses of worship, LGBTQ community center) that could be associated with one of the protected categories included in the hate crime law.
 - Certain areas of the victim's body are targeted by the perpetrator(s).
 - Existence of dual motivation by a suspect. (i.e., a suspect may be looking to commit robberies but specifically targets certain people).

B. Supervisory Responsibilities

1. The supervisor shall personally respond to the scene 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. The supervisor shall request any appropriate additional resources or other victim support when necessary to accomplish the following:
 - Provide support and assistance (i.e., The Office of Victim Services www.ovs.ny.gov or 1-800-247-8035).
 - Explain to the victim(s) about the probable sequence of events in the investigation, prosecution, and the victim's right to be informed about the case status throughout the course of the investigation and prosecution.
2. Ensure that officers and investigators conduct a thorough preliminary investigation.
3. Ensure that all relevant facts are documented on an incident and/or an arrest report and make the initial determination as to whether the incident should be classified as a hate crime. All related reports should be marked "HATE CRIME."
4. Conduct necessary notifications (i.e., members of the impacted community & press) 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 Investigations

1. Work closely with the prosecutor'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

1. Incident reports should indicate the following information:
 - Specified offense designed by hate crime penal law;
 - Victim age, gender, race, and ethnicity (when the victim(s) is an individual);
 - 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 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 (i.e., selected victim because the person was African American, Latino, Jewish, Muslim, gay, transgender, etc.)

V. RESPONSE TO VICTIM

- A. Provide immediate assistance to the crime victim utilizing a victim-centered approach.
 1. Express the law enforcement agency's official position on the importance of hate crime cases and describe the measures taken to apprehend the perpetrators.
 2. Take preventive measures to ensure the safety of the victim.
 - Express the department's interest in protecting the victim's anonymity whenever possible.
 - Explain any security measures and precautions to the victim.
 3. 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:
 - Allowing the victim the option to have a victim advocate or others present (including, for example, a family member);
 - Encouraging the victim to give a statement in their own words uninterrupted; use open-ended questions
 - Employing trauma-informed questions using caution not to affect the victim's account of the event and
 - Providing an opportunity for follow-up questions.
 4. Protect the privacy of the victim and their families as much as possible.
 5. Provide the victim with community resources that may provide support and assistance such as advocacy, healthcare, civil legal services, and counseling services.
 6. Provide the victim -with referral information for the New York State Division of Human Rights at www.dhr.ny.gov or 718-741-8400.
 7. Provide victims 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 investigation.

VI. COMMUNITY RELATIONS AND CRIME PREVENTION

- A. Hate crimes are viewed in the community as a crime against the targeted victim and 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 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 proactive response to hate crimes;
 - Build strong relationships and lines of communication;
 - Provide safety, security, and crime prevention information; and
 - Reduce the potential for counter-violence and reprisals.
2. Engage the media as partners in restoring victimized communities through sensitive and accurate reporting. Information regarding hate crimes should be prepared for the media in an accurate and timely manner.
3. Conduct public meetings or forums designed to address the community-wide impact of hate crime and violence in general.
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 campus and local communities to expand appropriate preventive programs such as hate, bias, and crime reduction seminars for students.

VII. REPORTING

- A. Establish and utilize a standard system for collecting, analyzing, and reporting hate crime incidents.
- B. All incidents of reported hate crimes are to be submitted to DCJS each month electronically.

VIII. TRAINING

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

BY ORDER OF

Mark T. DePaull
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Chief of Police