	NEW PALTZ POLICE DEPARTMENT Policy and Procedures	
	<i>Subject</i> 44.2 Hate Crimes	
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Hate Crimes

PURPOSE

This policy is designed to provide guidance to members of the New Paltz Police Department regarding the recognition of and response to hate crimes, as defined by New York State Penal Law §485.05 and pursuant to New York State Executive Law §840(6)(a).


POLICY

The New Paltz Police Department will thoroughly and completely investigate all suspected and confirmed hate crime incidents in accordance with applicable law and the procedures set forth in this policy. The New Paltz Police Department views 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 very seriously and will be given high priority. This agency shall employ all necessary resources and vigorous law enforcement action to identify and arrest hate crime perpetrators.


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. The New Paltz Police Department shall be mindful of and responsive to the security concerns of victims and their families.

DEFINITIONS

- A. **Hate Crime: *The Hate Crimes Act of 2000***: (Chapter 107 of the laws of 2000) was signed into law on July 10, 2000 and took effect on October 8, 2000. This law added a new Article 485 to the Penal Law entitled “Hate Crimes” and provided that a person commits a hate crime when he or she commits a “specified offense” (as defined in the law and this policy) and either:
1. Intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or
 2. Intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.

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3. When a person is convicted of a hate crime pursuant to Article 485, the law provides for the level of a hate crime to be deemed one category higher than the specified offense, when that specified offense is a misdemeanor or a class C, D or E felony. When the specified offense is a class B or A-1 felony, the term of sentence is enhanced.
 4. 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, NYS Penal Law § 485.05 (3).
 - 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:** The term “age” means sixty years old or more.
 - F. **Disability:** a physical or mental impairment that substantially limits a major life activity.
 - G. **Gender:** Refers to the collection of society’s assumptions, expectations, and traditions for how a person of a particular gender is supposed to act and/or be treated by others.
 - H. **Gender Identity:** Refers to an individual’s innate, deeply felt psychological identification as male or female, a blend of both or neither which may or may not correspond to the individual’s body or their designated sex at birth.
 - I. **Gender Expression:** Refers to the external characteristics and behaviors that are socially defined as either masculine or feminine, a blend of both or neither, such as, dress, mannerisms, speech patterns, and social interactions.
 - J. **Sex:** The biological status of a person as male or female (physical attributes, sex organs someone had when they were born).
 - K. **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).
 - L. **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.

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M. **Sexual Orientation:** Refers to an individual’s spiritual, emotional, and physical attraction to another individual.

PROCEDURES

- A. 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.
 2. Stabilizing injured victims and requesting medical aid.
 3. Request a supervisor to the scene.
 4. Providing protection to victims and witnesses by increased police presence.
 5. Protect the crime scene and request a detective to collect and photograph evidence such as hate literature, spray paint cans, and symbolic objects used by hate groups, such as swastikas and crosses.
 6. Identify criminal evidence on the victim if applicable.
 7. Request the assistance of an interpreter or counselor when necessary.
 8. Request the assistance of a detective.
 9. Conduct a preliminary investigation and record information on;
 - i. the identity of suspected perpetrators
 - ii. the identity of witnesses, including those no longer at the scene,
 - iii. prior bias-motivated occurrences in the immediate area or against the same victim.
 - iv. Statement(s) made by suspects; exact language is critical.
 10. Arrest suspected perpetrators if probable cause exists.
 - i. Conduct interview and attempt to establish motive
 11. Consult with the Ulster County District Attorney’s Office if there is a question as to proper criminal charges.
 12. Provide information regarding the Ulster County Crime Victim’s Assistance Board.
 13. 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:
 - i. The motivation of the perpetrator or lack of motive.
 - ii. Statements made by the perpetrator.
 - iii. The presence of multiple perpetrators.
 - iv. The display of offensive symbols, words or acts.
 - v. Was any hate literature found in the possession of the suspect?

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- vi. Is the victim the only person of a particular group at a park or facility?
- vii. Is the victim from a different racial, ethnic, religious group than the perpetrator?
- viii. The absence of any motive. The brutal nature of a particular incident could denote a hate crime, particularly when the perpetrator and victim don't know each other.
- ix. The perpetrator's perception of the victim, whether accurate or not.
- x. 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.
- xi. Multiple incidents occurring in a short time period and all the victims were of the same identifiable group.
- xii. Were the real intentions of the perpetrator 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?
- xiii. Incident occurred in proximity to an establishment that could be associated with one of the protected classes (i.e., houses of worship, LGBTQ community center).
- xiv. The perpetrator targeted a particular portion of the victim's body; i.e. Sikh victims forcibly having their hair cut, or a victim targeted for their sexual orientation being attacked near or around their genitalia.
- xv. The victim's perception that they were selected because they are a member of an identifiable group.

14. Be cognizant of dual motivation by some suspects. Example: A suspect may be looking to commit robberies but specifically targets elderly victims.

15. Note that an attack against a transgender victim could be covered under sexual orientation or gender.


B. Supervisory Responsibilities - The supervisor or Officer in Charge if no supervisor is available shall personally respond, 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 personnel necessary to accomplish the following:

- 1. Provide immediate assistance to the crime victim.
 - i. Express the law enforcement agency's official position on the importance of these cases and describe the measures that will be taken to apprehend the perpetrators.
 - ii. Express the department's interest in protecting victims' anonymity whenever possible.
 - iii. Allow the victim a period in which to express their immediate concerns and express their feelings.

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- iv. Communicate with concerned community-based organizations, civic groups, and religious institutions regarding the suspected or confirmed bias incident.
- v. 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, childcare, or other related services.
- vi. Ensure that officers conduct a thorough preliminary investigation.
- vii. 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.
- viii. 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.
- ix. Take preventive measures to ensure the safety of the victim such as ensuring an increase in uniform patrols throughout the affected area.


- C. Detective's Responsibilities - In responding to the scene of an alleged hate crime, detectives 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. Work closely with the Ulster County District Attorney's Office to ensure that a legally adequate case is developed for prosecution.
 - 4. Coordinate with the Ulster County Crime Victim's Assistance Board to ensure the victim is being care for properly.
 - 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 agency and with outside agencies where appropriate.

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7. Maintain contact with the initial responding officer and keep them apprised of the status of the case.
8. Recommend to Commanding Officers whether the incident should be classified as a hate crime.
9. Provide ongoing information to the victim about the status of the criminal investigation.

D. Arrest Processing

1. The Hate Crimes law is a sentencing enhancement statute. Thus, when the specified crime is a misdemeanor or a class C, D, or E, felony, the hate crime shall be deemed to be one category higher. For example, if a defendant is alleged to have committed an Assault in the second degree, which is a “D” felony and it is alleged that the assault was a hate crime, then upon a conviction the assault is deemed to be a “C” felony and the sentence imposed will be based upon the sentencing range for a “C” felony. “A” and “B” felonies charged as hate crimes stay the same but are subject to higher penalties.
2. It is important to realize that a class A misdemeanor charged as a hate crime is deemed a class E felony upon conviction. Reporting of hate crime arrests is statutorily required. It is essential that if an individual is being charged with a hate crime, the arrest is properly coded.
3. When an arrest is being processed for a hate crime, you are required to use the penal law code with the letter “H” to highlight and make the distinction. The letter “H” is applied to the subdivision of the PL section. In those cases where no subdivision exists, a double zero is used with the letter “H”. Use caution when using Live Scan to ensure that the correct offense is selected.
 - i. Example: PL section 120.00, subdivision 1 – Assault 3rd : 120.00(01H), when it is a Hate Crime. Note: Do not use the letter H when you are NOT charging a hate crime or the arrest will be reported as a hate crime arrest by DCJS
4. Accusatory Instrument - the victim of a hate crime can be society as a whole and the hate crime statute does not require specification of any particular person, only “a person.” It is the attribute of the protected class (i.e., sex, race, sexual orientation, etc.), not the name of any particular individual member or members of that class which is of importance.
5. The accusatory paperwork filed with the court should also list the “H” designator. The narrative portion of the accusatory incident must include the elements and facts of the crime that demonstrate that the victim was intentionally selected or the act was intentionally committed because of a belief or perception regarding such person’s race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation.


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E. Records Management Section

1. The Supervisor in charge of IBR crime reporting shall submit all incidents of reported hate crimes to DCJS each month using the State form 3294. Forms must be submitted each month. If no hate crimes were reported, the department must complete the form by checking the “Nothing to Report (NTR)” box.

F. Community Relations and Crime Prevention

1. 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 identification group as a whole. Working constructively with segments of this larger community after such crimes is essential to help reduce fears, stem possible retaliation, prevent additional hate crimes, and encourage any other previously victimized individuals to step forward and report those crimes. This is particularly important if an upward trend has been identified in these crimes. Towards this end, the New Paltz Police Department’s community relations function, or officers so assigned, shall perform the following:
 - i. Provide victim(s) with a point of contact in the department to whom they can direct questions or concerns and keep them informed of the case progress including the end result of the investigation or prosecution.
 - ii. Protect the privacy of the victim and their families as much as possible.
 - iii. Provide any direct assistance reasonably possible and referral assistance to the victim and the family of the victim.
 - iv. Meet with neighborhood groups, residents in target communities and other identified groups, to allay fears, emphasize the agency’s concern over this and related incidents, reduce the potential for counter-violence and reprisals, and provide safety, security, and crime prevention information.
 - v. 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.
 - vi. Conduct public meetings or forums designed to address the community-wide impact of hate crimes and violence in general.
 - vii. 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.
 - viii. Expand, where appropriate, preventive programs such as hate, bias, and crime reduction seminars for school children.

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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
 - 4. Arrest processing procedures for a hate crime.
- B. This policy is not intended to be a substitute for proper training in responding to or investigating hate crimes.