

## 2.361 HATE BIAS CRIMES & INCIDENTS

HATE CRIMES ARE NOT SEPARATE, DISTINCT CRIMES, BUT ARE TRADITIONAL OFFENSES MOTIVATED, IN WHOLE OR IN PART, BY THE OFFENDER'S BIAS AGAINST CATEGORIES DETAILED IN 2.361.02. THE MERE FACT THAT AN OFFENDER IS BIASED AGAINST AN INDIVIDUAL GROUP OR CHARACTERISTIC IS NOT SUFFICIENT TO DEEM THE OFFENSE A HATE CRIME. RATHER, THE AGENCY MUST DETERMINE THAT THE OFFENDER'S CRIMINAL ACT WAS MOTIVATED, IN WHOLE OR IN PART, BY THE OFFENDER'S BIAS. To be considered a hate bias incident, the act is not required to be a crime under federal, state, or local statutes.

### 2.361.02 Hate Bias Incident Related Statutes

- A. Specific Maryland hate crime related statutes are:
1. **CR § 10-302** Damaging property of religious entity;
  2. **CR § 10-303** Obstructing exercise of religious belief;
  3. **CR § 10-304** Harassment; destruction of property, based on a person's:
    - a. Race;
    - b. Color;
    - c. Religious beliefs;
    - d. Sexual orientation;
    - e. Gender;
    - f. Disability;
    - g. National origin; or
    - h. Status as homeless;
  4. **CR § 10-305** Damage to associated building based on a person's:
    - a. Race;
    - b. Color;
    - c. Religious beliefs;
    - d. Sexual orientation;
    - e. Gender;
    - f. Disability;
    - g. National origin; or
    - h. Status as homeless;
  5. **CR § 10-306** Penalty;
  6. **CR § 10-307** Additional prosecution not precluded; and
  7. **CR § 10-308** Peaceful speech and activities not infringed.

- B. The Federal Hate Crimes Statistics Act (**28 USC 534**) involves the Uniform Crime Reporting (UCR) of crimes committed because of a person's:
1. Race;
  2. GENDER AND GENDER IDENTITY;
  3. Religion;
  4. Disability (physical or mental);
  5. Sexual orientation (homosexuality or heterosexuality); or
  6. Ethnicity.
- C. **Public Safety (PS) § 2-307** requires Maryland law enforcement agencies to submit to the MSP information on incidents apparently directed against in individual or group because of:
1. Race;
  2. Religion;
  3. Ethnicity; or
  4. Sexual orientation.
- D. THE CLERY ACT, 20 USC § 1092(F) REQUIRES THAT ALL REGULARLY REPORTABLE CRIMES ALSO BE IDENTIFIED IF THE CRIMES WERE MOTIVATED OR BASED BECAUSE OF VICTIMS' ACTUAL OR PERCEIVED:
1. RACE;
  2. GENDER;
  3. GENDER IDENTITY;
  4. RELIGION;
  5. SEXUAL ORIENTATION;
  6. ETHNICITY;
  7. NATIONAL ORIGIN; OR
  8. DISABILITY.

### 2.361.04 Hate Bias Identification Criteria

- A. THIS INFORMATION IS ADAPTED FROM THE FBI'S UCR GUIDE TO HATE CRIME DATA COLLECTION GUIDELINES AND DEPARTMENT OF EDUCATION'S CLASSIFYING AND COUNTING CLERY ACT CRIMES.
- B. IT IS THE PERCEPTION OF THE OFFENDER, NOT THE PERCEPTION OF THE VICTIM, WHICH DETERMINES WHETHER AN INCIDENT IS CLASSIFIED AS HATE RELATED. KNOWING THAT AN OFFENDER IS PREJUDICED IS NOT ENOUGH TO CLASSIFY AN INCIDENT AS HATE RELATED. THERE MUST BE EVIDENCE THAT THE OFFENDER WAS MOTIVATED BY THAT PREJUDICE TO COMMIT THE ACT.

- C. BEFORE AN INCIDENT CAN BE CLASSIFIED AS A HATE CRIME, SUFFICIENT OBJECTIVE FACTS MUST BE PRESENT TO LEAD A REASONABLE AND PRUDENT PERSON TO CONCLUDE THAT THE OFFENDER'S ACTIONS WERE MOTIVATED, IN WHOLE OR IN PART, BY BIAS. WHILE NO SINGLE FACT MAY BE CONCLUSIVE, FACTS SUCH AS THE FOLLOWING, PARTICULARLY WHEN COMBINED, ARE SUPPORTIVE OF A FINDING OF BIAS.
1. OFFENDERS AND VICTIMS WERE OF DIFFERENT IDENTIFIED GROUPS. FOR EXAMPLE, VICTIMS WERE BLACK AND OFFENDERS WERE WHITE.
  2. BIAS-RELATED ORAL COMMENTS, WRITTEN STATEMENTS OR GESTURES WERE MADE BY OFFENDERS WHICH INDICATE THEIR BIAS. FOR EXAMPLE, OFFENDERS SHOUTED RACIAL EPITHETS AT VICTIMS.
  3. BIAS-RELATED DRAWINGS, MARKINGS, SYMBOLS OR GRAFFITI WERE LEFT AT CRIME SCENES. FOR EXAMPLE, SWASTIKAS WERE PAINTED ON SYNAGOGUE DOORS.
  4. CERTAIN OBJECTS, ITEMS OR THINGS WHICH INDICATE BIAS WERE USED. FOR EXAMPLE, A BURNING CROSS PHOTO WAS TAPED TO A VICTIM'S DORM ROOM DOOR.
  5. VICTIMS ARE MEMBERS OF IDENTIFIED GROUPS THAT ARE OVERWHELMINGLY OUTNUMBERED BY OTHER RESIDENTS IN THE STUDENT HOUSING FACILITY WHERE VICTIMS LIVE AND INCIDENTS TOOK PLACE. THIS FACTOR LOSES SIGNIFICANCE WITH THE PASSAGE OF TIME. FOR EXAMPLE, IT IS MORE SIGNIFICANT WHEN A VICTIM FIRST MOVED INTO THE FACILITY, AND BECOMES LESS AND LESS SIGNIFICANT AS TIME PASSES WITHOUT INCIDENT.
  6. SEVERAL INCIDENTS OCCURRED IN THE SAME LOCATION AT OR ABOUT THE SAME TIME, AND THE VICTIMS WERE ALL OF THE IDENTIFIED GROUP.
  7. A SUBSTANTIAL PORTION OF THE CAMPUS COMMUNITY WHERE THE CRIME OCCURRED PERCEIVED THAT THE INCIDENT WAS MOTIVATED BY BIAS.
8. VICTIMS WERE ENGAGED IN ACTIVITIES PROMOTING THEIR RACE, RELIGION, DISABILITY, SEXUAL ORIENTATION, ETC. FOR EXAMPLE, A VICTIM WAS A MEMBER OF THE NAACP OR PARTICIPATED IN GAY RIGHTS DEMONSTRATIONS ON CAMPUS.
9. AN INCIDENT COINCIDED WITH A HOLIDAY OR A DATE OF PARTICULAR SIGNIFICANCE RELATING TO A RACE, RELIGION, ETC. SUCH AS MARTIN LUTHER KING DAY OR ROSH HASHANAH.
10. AN OFFENDER WAS PREVIOUSLY INVOLVED IN A SIMILAR HATE CRIME OR IS A HATE GROUP MEMBER.
11. THERE WERE INDICATIONS THAT A HATE GROUP WAS INVOLVED. FOR EXAMPLE, A HATE GROUP CLAIMED RESPONSIBILITY FOR THE CRIME OR WAS ACTIVE ON THE CAMPUS.
12. A HISTORICALLY ESTABLISHED ANIMOSITY EXISTED BETWEEN THE VICTIM'S AND THE OFFENDER'S GROUPS.
13. THE VICTIM, ALTHOUGH NOT A MEMBER OF THE TARGETED RACIAL, RELIGIOUS, ETC. GROUP, WAS A MEMBER OF AN ADVOCACY GROUP SUPPORTING THE PRECEPTS OF THE VICTIM GROUP.
- D. THERE ARE ADDITIONAL CONSIDERATIONS IN DETERMINING WHETHER AN INCIDENT IS A HATE CRIME.
1. THERE MUST BE A CASE-BY-CASE ASSESSMENT OF THE FACTS. THE PREVIOUSLY LISTED FACTORS ARE NOT ALL-INCLUSIVE OF THE TYPES OF OBJECTIVE FACTS THAT GIVE EVIDENCE OF BIAS MOTIVATION. EXAMINE EACH CASE FOR FACTS THAT CLEARLY PROVIDE EVIDENCE THAT THE OFFENDER'S BIAS MOTIVATED THE CRIME.
  2. BE ALERT TO MISLEADING FACTS, SUCH AS THE OFFENDER USED AN EPITHET TO REFER TO THE VICTIM'S RACE, BUT THE OFFENDER AND VICTIM WERE OF THE SAME RACE.
  3. SOME APPARENT FACTS MAY BE DELIBERATELY PRESENT TO GIVE A FALSE IMPRESSION. FOR EXAMPLE, SOME RELIGIOUS STUDIES STUDENTS COMMIT VANDALISM WITH ANTI-RELIGIOUS STATEMENTS AND SYMBOLS HOPING THAT THEY WILL BE EXCUSED FROM CLASS.

4. OFFENDERS MAY BE MISTAKEN IN THEIR PERCEPTIONS. FOR EXAMPLE, A NON-GAY STUDENT LEAVING A GAY RIGHTS MEETING IS SUBSEQUENTLY ASSAULTED BY SUSPECTS WHO MISTAKENLY BELIEVED THE VICTIM WAS GAY. THIS IS STILL A HATE CRIME BECAUSE OF THE SUSPECTS' MOTIVATION.

#### **2.361.06 Investigating Hate Bias Incidents**

- A. With the exception of those crimes that are the responsibility of the Baltimore County Police Department consistent with **2.407 Concurrent Jurisdiction**, officers will respond to, investigate, and report on ALL ALLEGED hate bias incidents that occur and are reported within our primary jurisdiction.
- B. Thorough investigations will be conducted to determine if incidents will be classified as:
1. **Verified** – An incident committed against a person or property which is motivated, in whole or in part, by the offender's bias against AN IDENTIFIED CLASS DESCRIBED IN STATE OR FEDERAL LAW;
  2. **Inconclusive** – Those incidents where the evidence is conflicting, incomplete, or otherwise insufficient to classify as verified;
  3. **Unfounded** – A reported act when the evidence/investigation definitely indicates that it was not motivated by bias against AN IDENTIFIED CLASS DESCRIBED IN STATE OR FEDERAL LAW or the incident did not occur.
- C. In addition to the normal and thorough steps made during preliminary investigations, officers' duties and responsibilities include, but are not limited to:
1. Ensuring supervisors are notified and requested to respond;
  2. Attempting to initially determine whether or not the incidents are verified hate bias related;
  3. Taking enforcement actions that are immediately available;
  4. Briefing responding supervisors with information that includes, but is not limited to:
    - a. When and where incidents occurred;
    - b. What was done that is alleged to have been hate bias motivated and the hate bias motivation;

- c. The type, nature, size, etc. of the items that were left on-scene, damaged, burned, etc.; and
  - d. What, if any arrests have been made or are imminently anticipated;
5. Collecting evidence with departmental resources or consistent with **2.508 Forensic Assistance**, paying directed attention to unlawful or impermissible:
- a. Hate bias words or phrases reportedly used by suspects;
  - b. Written symbols, epithets, graffiti; and
  - c. Physical symbols such as crosses, nooses, flyers, literature, etc.;
6. Taking steps to ensure that physical debris, damage, etc. not collected as evidence is removed, covered, or otherwise mitigated as much as possible until restorations can be made unless it is the product of First Amendment protected free speech and otherwise conforms to existing laws and policies;
7. Providing victims and witnesses with assistance and referrals consistent with **2.436 Victim / Witnesses Services**;
8. Taking other steps as directed by supervisors;
9. Completing initial reports.
- D. In addition to the normal and thorough information contained in initial reports, officers will include any other applicable information, such as:
1. Objects targeted – identify the object, person, or institution targeted;
  2. Explanations of how the persons or property was attacked, damaged, etc.;
  3. Identifying the means of attack – tools, weapons, or means by which the persons or property were attacked or damaged;
  4. Any trademark MOs or other unique identifying characteristics;
  5. What types, if any, of hate bias motivation was involved in incidents;
  6. If organized hate groups were involved;
  7. If victims recently moved to the area;
  8. If victims had previously been targets of hate bias incidents;
  9. If multiple incidents occurred, were all victims members of the same targeted group;

10. The steps and courses of action that were taken during preliminary investigations;
  11. Referring suspects who are members of the university community to appropriate disciplinary bodies;
  12. All notifications that were made to other units, officials, allied agencies and what, if any, response or actions were made; and
  13. Special details or activities that were implemented in response to incidents.
- E. Supervisors' duties and responsibilities include, but are not limited to:
1. Responding to scenes without unnecessary delay;
  2. Ensuring they are briefed by officers;
  3. Reassuring victims that incidents will be actively pursued;
  4. Ensuring any unlawful or impermissible evidence is processed with departmental resources or consistent with **2.508 Forensic Assistance**;
  5. Ensuring physical debris, damage, etc. not collected as evidence is removed, covered, or otherwise mitigated as much as possible until restorations can be made unless it is the product of First Amendment protected free speech and otherwise conforms to existing laws and policies;
  6. Ensuring Communications is given information relating to:
    - a. When and where incidents occurred;
    - b. What was done that is alleged to be hate bias motivated and the hate bias motivation;
    - c. The type, nature, size, etc. of the items that were left on-scene, damaged, burned, etc.; and
    - d. What, if any arrests have been made or are imminently anticipated;
  7. Ensuring notifications are made consistent with **2.424 Notifications**;
  8. Ensuring that victims and witnesses are provided assistance and referrals consistent with **2.436 Victim / Witnesses Services**;
9. Taking other steps as directed by commanders;
  10. Ensuring preliminary investigations are completed and documented in departmental reports.
- F. The supervisor responsible for the investigations function will, as necessary, ensure that:
1. Investigators respond to incident scenes;
  2. Evidence is processed with departmental resources or consistent with **2.508 Forensic Assistance**;
  3. Follow-up investigations are conducted;
  4. Suspects who are affiliated with the university are referred to appropriate offices for administrative disciplinary processes;
  5. Victims and witnesses are referred to appropriate campus departments when incidents do not involve criminal violations;
  6. Community outreach is conducted consistent with **2.408 Community Policing and Involvement**;
  7. Criminal intelligence information is collected to assist tracking hate groups and extremists; and
  8. The commander responsible for the investigative function is informed when incidents are not handled consistent with agency directives.
- G. Commanders will, as appropriate for their respective commands:
1. Ensure incidents are actively pursued with high priority until cases are cleared or all reasonable leads have been exhausted;
  2. Provide assistance and resources to their own personnel or other commands who may have investigative or follow-up responsibilities for hate bias incidents; and
  3. Be personally involved with outreach efforts to victims and the community.