
GENERAL ORDER

FAIRFAX COUNTY POLICE DEPARTMENT



SUBJECT: BIAS CRIME POLICY

NUMBER: 520.7

CANCELS ORDER DATED: 1-1-13

ISSUE DATE: 7-1-14

I. PURPOSE

This policy sets forth the procedures for police intervention in cases of reported or identified bias crimes (also known as hate crimes) and incidents. The provisions of this policy are intended to supplement the investigative and reporting requirements already imposed by laws and existing regulations and General Orders.

II. POLICY

Bias crimes differ from other crimes because of the potential effect on the victim(s) and community stability. Officers shall respond to bias crimes as they would to any crime and take appropriate action to arrest and pursue criminal remedies whenever sufficient probable cause exists. Regardless of the feasibility of pursuing criminal prosecution, Department members shall initiate efforts to ensure that resources are coordinated to help communities overcome the impact that bias crimes or incidents may have on individuals and/or groups.

III. DEFINITIONS

- A. Bias Crime – Also known as Hate Crime. Any unlawful action committed against a person because of race, religious conviction, ethnic/national origin, disability, and/or sexual orientation. The *Code of Virginia* does not specifically define a bias crime or hate crime as a violation of law, but does provide enhanced penalties for assault and battery (§ 18.2-57) and vandalism (as defined by § 18.2-121) when the acts are committed against a person based upon their race, religious conviction, color or national origin.
- B. Bias Incident – Involves behaviors that, though motivated by bias against a victim's race, religious conviction, ethnic/national origin, disability, and/or sexual orientation, are not criminal acts (i.e., distribution of unsolicited hate literature hostile or hateful speech or other disrespectful/discriminatory behavior may be motivated by bias but is not a criminal violation of criminal law) but may be classified as a violation of civil statutes. They become criminal acts only when they directly incite perpetrators to commit violence against persons or the destruction of property.

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- C. Race – A group of persons who possess common physical characteristics generally transmitted by descent and heredity that distinguish them as a distinct division of humankind.
- D. Ethnic Group – A group of persons of the same race or national origin who share common or similar traits, languages, customs, and traditions.
- E. Religious Group – Any persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being.

IV. RESPONSE TO BIAS CRIMES

A. Preliminary Investigation

The preliminary investigation of bias crimes shall be in accordance with the provisions set forth in General Order 501.2, Investigative Responsibilities. In addition, officers shall conduct the following procedures when a bias crime is identified:

- 1. The investigating officer shall notify a first line supervisor as soon as practicable.
- 2. Victims shall be provided with the Virginia Crime Victim and Witness Rights brochure.

B. Supervisory Responsibilities

- 1. Upon notification that a bias crime has been committed, a first line supervisor shall respond to the scene if it is within the confines of Fairfax County.
- 2. The first line supervisor shall:
 - a. Confer with the initial responding officer.
 - b. Ensure all preliminary investigative steps have been followed.

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- c. Request additional support, if required, to conduct specialized investigative and/or support steps.
 - d. Notify appropriate command personnel.
 - e. Determine appropriate investigative steps for follow-up actions to arrest perpetrators.
 - 3. If the event occurred outside Fairfax County, the first line supervisor shall ensure that the appropriate jurisdiction is contacted and provided with all relevant information.
- C. Command Responsibilities
 - 1. Station commanders shall review the facts and circumstances of a reported bias crime or incident and evaluate the need for community intervention. The goals of community intervention are:
 - a. To foster a partnership with the affected community,
 - b. Attempt to heal the harm inflicted upon its members,
 - c. Enlist community support in sending a clear message to the perpetrators that such behavior will not be tolerated,
 - d. Enlist community support and assistance in prosecuting offenders and preventing acts of retaliation or escalation.
 - 2. The following are suggested community intervention techniques:
 - a. Meet with residents and neighborhood groups in target communities, and other interested groups, to allay fears, relay the Department's concern and response to the incident(s), reduce the potential counter-violence, and provide safety and crime prevention information.
 - b. Consult with the agency Bias Crime Investigations Coordinator.

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- c. Establish liaison with formal or informal organizations and leaders within the affected community.
- d. Where appropriate, utilize available resources to educate the community on bias crimes and incidents.
- e. Conduct aggressive proactive follow-up procedures to ensure the needs of the community are being met to reduce fear and prevent recurrence of similar events.
- f. Provide appropriate services and resources to the victims and witnesses of bias crimes and incidents.
- g. Request assistance from the Human Rights Commission to hold community meetings.

V. INVESTIGATIVE RESPONSIBILITIES

All bias crimes shall receive follow-up investigation. Bias crimes shall be investigated in accordance with General Order 501.2, Investigative Responsibilities.

VI. RESPONSE TO BIAS INCIDENTS

Bias incidents include actions that are motivated by bias but do not meet the necessary elements for a criminal offense. Examples of such behaviors include name calling, using racial slurs, or disseminating racist leaflets. Although the event may involve a criminal act, the incident may be an act that rises to the level of a civil violation. Law enforcement can help to defuse potentially dangerous situations and prevent bias-motivated criminal behavior by responding to and documenting bias-motivated speech or behavior even if it does not rise to the level of a criminal offense.

When confronted with a potential bias incident, the investigating officer(s) should seek voluntary compliance to obtain as much information as possible regarding the incident under the guidelines established by General Order 540.2, Police-Citizen Contacts.

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VII. REPORTING PROCEDURES

- A. Officers shall document bias crimes and incidents in an incident report, to include completing the bias section event tab.
- B. Event Classification for Bias Crimes and Incidents
 - 1. If a criminal offense occurred, the event type should reflect the specific crime. The bias section event tab shall also be completed.
 - 2. If there is no criminal offense, use the appropriate event classification, (e.g., "suspicious event"). The bias section event tab shall also be completed.
- C. All bias crimes and incidents shall be sent by link to:
 - 1. Station commander
 - 2. Affected Patrol Bureau commander
 - 3. Planning and Research Bureau (PRB) commander
 - 4. Public Information Office
 - 5. Appropriate investigative authority (Criminal Investigations Bureau or Criminal Investigations Section)
 - 6. Criminal Intelligence Division (CID) commander
- D. PRB shall track and record all bias crimes and prepare the Virginia State Police Form SP-47, as required.
- E. The PRB commander will serve as the Bias Crime Investigations coordinator and ensure that appropriate departmental resources are allocated. In concert with station command, the coordinator shall liaison with all community groups affected by bias crimes and/or incidents, and shall coordinate with other County agencies as necessary.

The Bias Crime Investigations coordinator will analyze all records received and share information, as deemed appropriate, with the following for further action:

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1. Victim Services Section
2. Commonwealth's Attorney's Office
3. Human Rights Commission

The coordinator will compile an annual report on bias crime.

- F. The CID commander is responsible for coordinating all intelligence related activities and shall establish a clearinghouse system for collection and review of investigative reports for intelligence gathering.
- G. The Office of the Chief will be responsible for forwarding a copy of the Department's annual report on bias crimes to the following groups:
 1. Fairfax County Board of Supervisors
 2. Human Rights Commission
 3. Chief's Citizen Advisory Council

VIII. LEGAL REFERENCES

Code of Virginia

8.01-42.1
18.2-57
18.2-121
18.2-423
18.2-423.1
52-8.5

IX. ACCREDITATION STANDARDS REFERENCE

VLEPSC
ADM.
20.01

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This General Order becomes effective July 1, 2014 and rescinds all previous rules and regulations pertaining to the subject.

Chief of Police

County Executive