



**POLICE DEPARTMENT COUNTY OF SUFFOLK**  
 ACCREDITED LAW ENFORCEMENT AGENCY  
**DEPARTMENT DIRECTIVE**  
 PDCS-2008-1

**ORDER NUMBER 18-41**  
**18-63**

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SUBJECT/TOPIC/TITLE HATE CRIMES				
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**RULES AND PROCEDURES**

**CHAPTER 24: TITLE: INVESTIGATIVE OPERATIONS**

**SECTION 6: TITLE: HATE CRIMES**

**I. PURPOSE**

To facilitate members of the Service in identifying and investigating Hate Crimes, Non-Designated Hate Offenses, and Hate Incidents - and assisting victimized individuals and communities. A swift and strong response by the Department can help stabilize and calm the community as well as aid in a victim's recovery.

**II. POLICY**

A. 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 are viewed very seriously by the Suffolk County Police Department and will be given the highest priority. The Department shall employ necessary resources and vigorous law enforcement action to identify and arrest Hate Crime suspects. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, members of the Service shall be mindful of and responsive to the security concerns of victims and their families.

B. In addition, a member of the Service shall investigate all complaints alleging the commission of a Hate Crime, a Non-Designated Hate Offense or a Hate Incident, whether received from a victim, witness, potential witness, or other third party reporter.

**III. DEFINITIONS**

A. Hate Crime - A person commits a Hate Crime when he or she commits a specified offense [NYS Penal Law §485.05(3) - see Appendix A at the end of this Rules and Procedures Section] 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.

3. As per NYS Penal Law §485.05(2), proof of race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people's burden under paragraph 1 or paragraph 2 above.

B. Protected Class - The actual or perceived race, color, national origin, ancestry, gender, religion, religious practice, age (sixty years old or more), disability (physical or mental impairment that substantially limits a major life activity) or sexual orientation of a person.

C. Non-Designated Hate Offenses - Any offenses that are apparently bias-motivated and evince the requisite intent associated with Hate Crimes, but are not specifically categorized as Hate Crimes as per Penal Law §485.05(3). Members shall be cognizant that, although an offense may not be specifically categorized as a Hate Crime as per Penal Law §485.05(3), a non-specified offense may be committed by a perpetrator who intentionally selects the person against whom the offense is committed or intended to be committed - and/or who 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.

Examples of such bias-motivated offenses that may evince the requisite intent associated with Hate Crimes, but are not specifically categorized as Hate Crimes as per Penal Law §485.05(3), are as follows:

1. Aggravated Harassment Second Degree P.L. §240.30  
(Subdivisions 3 and 5) (Subdivisions 1, 2, and 4 are designated as Hate Crimes pursuant to P.L. §485.05(3))-

a. §240.30(3) - A person is guilty of Aggravated Harassment Second Degree when, with intent to harass, annoy, threaten or alarm another person, he or she strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct.

b. §240.30(5) - A person is guilty of Aggravated Harassment Second Degree when he or she commits the crime of Harassment First Degree and has previously been convicted of the crime of Harassment First Degree as defined by Section 240.25 within the preceding ten years.

2. Aggravated Harassment First Degree P.L. §240.31 - A person is guilty of Aggravated Harassment First Degree when with intent to harass, annoy, threaten, or alarm another person, because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct, he or she:

a. §240.31(1) - Damages premises primarily used for religious purposes, or acquired pursuant to section six of the Religious Corporation Law and maintained for purposes of religious instruction, and the damage to the premises exceeds fifty dollars.

b. §240.31(2) - Commits the crime of Aggravated Harassment Second Degree in the manner proscribed by the provisions of subdivision three of Section 240.30 of this article and has been previously convicted of the crime of Aggravated Harassment Second Degree for the commission of conduct

proscribed by the provisions of subdivision three of Section 240.30 or he has been previously convicted of the crime of Aggravated Harassment First Degree within the preceding ten years.

c. §240.31(3) - Etches, paints, draws upon or otherwise places a swastika, commonly exhibited as the emblem of Nazi Germany, on any building or other real property, public or private, owned by any person, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real property.

d. §240.31(4) - Sets on fire a cross in public view.

e. §240.31(5) - Etches, paints, draws upon or otherwise places or displays a noose, commonly exhibited as a symbol of racism and intimidation, on any building or other real property, public or private, owned by any person, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real property.

D. Hate Incident - An incident involving an element of hate or bias regarding a Protected Class, regardless of whether the belief or perception concerning the hate incident target's/victim's membership of a protected class is correct, and regardless of whether said incident is unlawful. The verbal use of racial or bias epithets motivated by the recipient's actual or perceived Protected Class shall constitute a Hate Incident.

#### IV. REFERENCES

- A. NYS Hate Crimes Act of 2000
- B. NYS Penal Law §485.05 Hate Crimes

#### V. RULES AND REGULATIONS

A. Responsibility - The Hate Crimes Unit will have primary investigative responsibility for Hate Crimes, Non-Designated Hate Offenses, and Hate Incidents, except for incidents involving death, or as determined by the Police Commissioner, Chief of Department, or Chief of Detectives. Although another investigative command may have primary investigative responsibility in such circumstances, the Hate Crimes Unit shall nevertheless investigate the hate related nature of the incident, and assist the primary investigator(s) as required. The Hate Crimes Unit is charged with

and will be responsible for determining at any stage of an investigation if the offense is a Hate Crime or Hate Incident.

1. Requests - Requests for the immediate response of the Hate Crimes Unit shall be made via the Communications Section supervisor.

B. Immigration Status - A member of the Service shall not inquire of any victim, witness, potential witness, or person receiving police assistance, as to his/her immigration status. Consistent with constitutional mandates, as well as basic principles of effective policing, victims, as well as witnesses and other persons requesting police assistance, should not be discouraged from approaching police officers out of fear of inquiry into their immigration status. An exception to this requirement shall exist if any of the following situations occur:

1. The District Attorney's Office determines, in writing, that good cause exists to inquire about or investigate the person's immigration status.
2. The person has been arrested for and charged with a crime.
3. As may be constitutionally or otherwise legally required during the criminal litigation discovery process.

## **VI. PROCEDURE**

### A. Officer's Duty

1. Officers shall conduct a thorough and complete investigation in all suspected and confirmed Hate Crimes, Non-Designated Hate Offenses, or Hate Incidents.
2. Officers shall make every effort to become familiar with organized hate groups operating in the community and information regarding such activity should be documented and a copy forwarded to the Hate Crimes Unit and the Criminal Intelligence Section.

B. Initial Response Procedures - Initial responding officers at the scene of a suspected Hate Crime, Non-Designated Hate Offenses, or Hate Incident 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. This includes but is not limited to:

- a. Stabilizing injured victims and providing necessary medical aid.
  - b. Providing protection to victims and witnesses at the scene.
  - c. Protecting the crime scene and notifying the appropriate command that will cause the collection and photographing of physical evidence such as hate literature, spray paint cans, and symbolic objects used by hate groups, such as swastikas and crosses.
2. Request a supervisor and notify the Hate Crimes Unit of the incident via the Communications Section supervisor.
  3. Request the assistance of a translator or counselor when necessary.
  4. Identify criminal evidence on the victim if applicable.
  5. Conduct a preliminary investigation and record information on:
    - a. The identity of suspects.
    - b. The identity of witnesses, including those no longer at the scene.
    - c. Statements made by suspects; exact language is critical.
    - d. Information received or known regarding any prior bias motivated occurrences in the immediate area or of other victims of crimes similar in nature.
  6. Arrest suspect(s) if probable cause exists.
    - a. Detain and/or transport any arrested person to a police facility as directed by a supervisor and/or investigator.
    - b. The protective class status of the suspect, the victim, or of both, is not independently conclusive regarding whether an incident constitutes a Hate Crime.

c. Members of the Department are reminded, consistent with the New York State Penal Law, juveniles can be charged with committing Hate Crimes. Additionally, as per Penal Law Section 485.05 (3), any attempt or conspiracy to commit any of the designated Hate Crimes can be prosecuted as a Hate Crime.

7. Take measures to ensure necessary preliminary actions are taken and brief the responding supervisor as to actions taken. During the investigation, look for possible signs that the incident may be a Hate Crime, Non-Designated Hate Offenses, or Hate Incident:

- a. The motivation of the suspect or lack of motive.
- b. Statements made by the suspect.
- c. The presence of multiple suspects.
- d. The display of offensive symbols, words or acts.
- e. Hate literature found in the possession of the suspect.
- f. Consider whether the victim is from a Protected Class different from the suspect.
- g. The absence of any motive. The brutal nature of a particular incident may be indicative of a possible Hate Crime, particularly when the suspect and victim don't know each other.
- h. The suspects' perception of the victim, whether accurate or not.
- i. The victim's perception that they were selected because they are a member of a Protected Class.
- j. The date, time or circumstances of the occurrence - such as on a religious holiday, or at a gathering of a group of people affiliated by ethnicity, religion, sexual orientation, etc.
- k. Determine if the incident is an isolated occurrence or part of a pattern. The behavior may be part of a course of conduct that changes the severity of the event and helps establish criminal culpability in certain cases. The potential to

connect incidents is important and may have significant investigative value.

l. Be alert for multiple incidents occurring in a short time period and all the victims are from the same Protected Class, potentially indicating the presence of a pattern.

m. Consider whether the incident occurred in proximity to an establishment that could be associated with one of the Protected Classes.

n. The suspect may have targeted a particular portion of the victim's body (e.g., a Sikh victim forcibly having their hair cut, or a victim targeted for their sexual orientation being attacked near or around their genitalia).

o. Be cognizant of dual motivation by some suspects. Example: A suspect may be looking to commit robberies and may be specifically targeting elderly victims.

8. The mere mention of a bias remark does not make an incident bias motivated, just as the absence of a remark does not make an incident without bias.

a. Even the mere perception that an incident may be motivated by bias shall necessitate a notification to a patrol supervisor and the Hate Crimes Unit.

#### C. Supervisory Responsibilities

1. Responds to the scene of all possible Hate Crimes, Non-Designated Hate Offenses, or Hate Incidents and confers with the initial responding officer(s).

2. Takes preventive measures to ensure the safety of the victim.

3. Ensures necessary preliminary actions have been taken.

4. Notifies the Hate Crimes Unit and the responsible investigative command. Ensures that officers and investigators conduct a thorough preliminary investigation.

5. Notifies the Communications Section supervisor and other appropriate personnel in the chain of command, depending on the nature and seriousness of the possible Hate Crime, Non-Designated Hate Offense, or Hate Incident, and its potential inflammatory and related impact on the community.

6. Ensures all relevant facts are documented; an Incident Report, Arrest Report, or both.

D. Hate Crime Investigators' Responsibilities

1. In responding to the scene of an alleged Hate Crime, Non-Designated Hate Offense, or Hate Incident, investigators shall assume control of the investigation to include the following:

a. Ensures the scene is properly protected, preserved and processed.

b. Conducts a comprehensive interview of all victims and witnesses.

(1) Allows the victim opportunity to express their immediate concerns and express their feelings.

(2) Expresses the importance the Department places on these types of incidents and describes the measures that will be taken to apprehend the suspect(s).

c. Canvasses the neighborhood for additional sources of information.

d. Determines if the incident is an isolated occurrence or part of a pattern. The behavior may be part of a course of conduct that changes the severity of the event and helps establish criminal culpability in certain cases. The potential to connect incidents is important and could have significant investigative value.

e. Works closely with the District Attorney's Office.

f. Coordinates the investigation with other commands of the Department and with outside agencies where appropriate.

g. Coordinates 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 Hate Crime or Non-Designated Hate Offense.

h. Ensures 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 and requested to take measures to ensure removal as soon as possible. The Hate Crimes investigator shall follow-up to ensure this is accomplished in a timely manner.

i. Notifies the Major Case Section Commanding Officer, or designee.

j. Maintains contact with the initial responding officer(s) and keeps them apprised of the status of the case.

2. Hate Crimes investigators shall take steps to ensure appropriate assistance is being provided to Hate Crime victims, to include the following:

a. Contacts the victim periodically to determine whether they are receiving adequate and appropriate assistance.

b. Provides ongoing information to the victim about the status of the criminal investigation.

c. Identifies 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, child care, or other related services. Provides information regarding New York State Office of Victim Services.

d. Informs the victim about the probable sequence of events in the investigation and prosecution.

e. Explains security measures and precautions to the victim.

3. In every case where a Hate Crimes investigator is consulted and determines that an incident is not a Hate Crime, a non-designated Hate Offense or a Hate Incident, the Hate Crimes investigator will prepare a Supplementary Report indicating the Central Complaint number, the name of the notifying officer, the title of the incident, the follow up command, and the basis for determination by the Hate Crime investigator as to why the incident does not meet the criteria for a Hate Crime, Non-designated Hate Offense or a Hate Incident. This Supplementary Report will be forwarded to the assigned investigative command.

E. Major Case Section Commanding Officer's Responsibilities

- The Commanding Officer of the Major Case Section, or designee, closely reviews case folders relating to every Hate Crimes Unit investigation to ensure proper investigative techniques and Department procedures were followed and to make certain the victim(s) was contacted and kept apprised of the ongoing investigation and has been made aware of any appropriate victim services available. The Major Case Section Commanding Officer or designee shall further act as a liaison to the Suffolk County District Attorney's Office and the United States Attorney's Office to ensure the proper charging and prosecution of hate crimes.

F. Supervisory Review of Hate Crimes Cases -

1. The supervisory review of Hate Crimes Unit cases will begin at the level of the Major Case Section Commanding Officer. The Commanding Officer, or designee, will review each case on an ongoing basis.

2. The Commanding Officer of the Major Case Section, or designee, will conduct random audits of Hate Crimes Unit cases and report the results via Internal Correspondence to the Commanding Officer of the Major Crimes Bureau on a quarterly basis. Fifteen percent (15%) of the cases will be selected, on a quarterly basis, for random audit using a computerized selection program which selects case numbers at random. The Internal Correspondence will provide a brief description of the case along with a synopsis of the investigation. The synopsis will be based on Subdivision VI. D. of this Section, Hate Crimes Investigators' Responsibilities, which serves as the required criteria for a complete investigation.

3. The Commanding Officer of the Major Crimes Bureau will conduct a quarterly review of the Hate Crimes Unit's cases with the Commanding Officer of the Major Case Section, or designee, and any other personnel deemed necessary.

4. The Commanding Officer of the Major Crimes Bureau will prepare a report describing the aforementioned random audits and forward the same through the chain of command. Said report will be done every six months.

5. The Commanding Officer of the Major Case Section or his /her designee will prepare a monthly report of Hate Crimes Unit cases. The report will consist of a description of the incident, a synopsis of the investigation, and the case status. This status report will be the subject of a monthly briefing conducted by the Chief of Department or his designee. The Commanding Officer of the Major Case Section or his/her designee shall be prepared to describe the investigative techniques utilized in each case.

6. The Commanding Officer of the Major Case Section, or his/her designee, upon completion of the quarterly review will notify Hate Crimes personnel via Internal Correspondence of the findings of the review to ensure compliance with Section VI., D. Hate Crime Investigators Responsibilities. Recommendations on investigation methods used will be provided, if needed.

G. Recommended Procedure When Suspect is Not in Custody or Has Not Been Identified -

1. Coordinate investigation with other Department commands.
2. Conduct an extensive canvass and distribute bulletins in area of the incident.
3. Debrief individuals arrested in the area.
4. Work with media to attempt to garner witnesses and investigative leads.
5. Follow up leads in timely manner.

H. Incident Report Preparation - Incident Reports should clearly indicate the following information:

1. Hate Crime designated Penal Law.
2. Victim's Protected Class (if applicable).
3. Offender's Protected Class (if applicable).

4. The narrative portion of the Incident Report should document that the perpetrator intentionally selected the person against whom the offense is committed or intended to be committed - or, that the perpetrator intentionally committed the act or acts constituting the offense - in whole or in substantial part because of a belief or perception that the victim is a member of a protected class, regardless of whether the belief or perception is correct. The apparent specific bias motivation of the suspect should be documented (Ex: selected victim because he was Hispanic, Jewish, Muslim, etc.).

I. Hate Crimes Unit Data Tracking and Analysis - A system for recording data related to Hate Crimes and Hate Incidents. Data captured will be analyzed, categorized, and mapped, with resultant information utilized to conduct educational, outreach and other initiatives geared towards reducing bias and the likelihood of the successful commission of Hate Crimes. The Commanding Officer of the Major Case Section, or his /her designee, shall be responsible to maintain the Hate Crimes Unit database.

1. Data relating to Hate Crimes (as per New York State Department of Criminal Justice Services Hate Crime Incident Report, DCJS 3294), Hate Incidents and other incidents, (Possible Hate Offenses on Communications Section Log), will be entered into the appropriate category within the Hate Crimes Unit database. The Hate Crimes Unit will be responsible for entering, maintaining, and analyzing the Hate Crimes Unit database. The data will consist of: Central Complaint number, date of occurrence, address of occurrence, category (DCJS, Hate Incident, Other), Penal Law name and section(if applicable), bias motivation, latitude and longitude, Precinct of occurrence, the victim and offender(s) sex, age, race and ethnicity if known.

2. The Hate Crimes Unit analyzes the data in real time for the existence of patterns or trends that indicate hate crimes or hate incidents may be occurring wherein the victim(s) had been targeted as a member of a protected class. The analysis will also seek to identify clusters of incidents in a geographic area, incidents occurring within a similar time frame and the demographics of the offenders when known. The Hate Crimes Unit will prepare a map from the data on a monthly basis. The map will be available through the GIS map portal to: the Police Commissioner, 1<sup>st</sup> Deputy Police Commissioner, Deputy Police Commissioner, Chief of Department and Executive Officer, Chief of Detectives and Deputy Chief

of Detectives, Chief of Patrol, Assistant Chief of Patrol, Deputy Chief of Patrol and Inspector in the Chief of Patrol's Office, Chief of Operations and Executive Officer, and the Inspector, Deputy Inspector, Captain, Detective Lieutenant and Crime Section Commanding Officer in each Precinct. The Commanding Officer of the Major Case Section, or designee, and all Hate Crimes personnel will also have access to the GIS map portal.

3. Information of possible trends and patterns regarding the type of hate act, frequency of occurrence, geographic area of occurrence and type of victim will be utilized to:

a. Alert appropriate Patrol and Detective Division personnel, including Precinct and Bureau Commanding Officers, of said activity.

b. Alert supervisory personnel within Community Relations Bureau of potential patterns of activity. School Resource Officers will also be provided with said information.

c. Alert the Special Advisor to the Police Commissioner on Minority Affairs of potential patterns of activity.

d. Coordinate educational and other initiatives in an effort to reduce bias and prevent the possible commission of Hate Crimes.

e. Coordinate with associated governmental organizations and agencies such as the Human Rights Commission, the Suffolk County Office of Minority Affairs, etc.

f. Coordinate with community-based groups and religious organizations.

4. A report analyzing these trends shall be produced annually, disseminated throughout the Department and made available to the public via the Department's internet page.

J. Hate Crime Victim Advocacy, Offender Awareness Education and Community Educational Services -

1. Suffolk County STOPBIAS - An educational program for Hate Crime offenders. Offenders meet with members of law

enforcement agencies, a sensitivity facilitator and a representative from the offended community for the purpose of examining the incident itself, and the effect of hateful conduct on the injured party and the community. STOPBIAS is also available as a community-wide educational program for schools, religious and civic associations. There are no age restrictions on program participation, and parents can attend with children. Participants are recommended by the Suffolk County Probation Department or a Judge as part of sentencing. Voluntary referrals can be made through the Department, District Attorney's Office, school districts and community-based organizations. Voluntary referrals may also be appropriate for Hate Incidents. The STOPBIAS phone number is 631-793-5488.

2. Suffolk County Crime Victims Center's Hate Crime Advocacy and Outreach Program - Victims of Hate Crimes can experience mental, physical and/or emotional trauma that can have a lifelong devastating impact. Early intervention and the provision of crime victim services can greatly reduce the negative impact crime has on victims, their family and the community. The Suffolk County Crime Victim Center's Hate Crime Advocacy and Outreach Program may assist with the provision of crime victim services to Hate Crime Victims, and is available twenty-four hours a day at 631-626-3156.

## **VII. ACCREDITATION**

A. NYSLEAP 44.2

## **VIII. INDEX**

Hate Crime - 24/6

### **Hate Crimes 24.6 Appendix A**

#### **NYS Penal Law Specified Hate Crime Offenses §485.05(3)**

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 120.05 assault in the second degree  
 120.10 assault in the first degree  
 120.12 aggravated assault upon a person less than eleven years old  
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150.15 arson in the second degree  
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155.35 grand larceny in the third degree  
155.40 grand larceny in the second degree  
155.42 grand larceny in the first degree  
160.05 robbery in the third degree  
160.10 robbery in the second degree  
160.15 robbery in the first degree  
240.25 harassment in the first degree  
240.30 (sub divisions 1, 2, or 4) aggravated harassment in the second degree  
- or any attempt or conspiracy to commit any of the foregoing offenses

END