

SUBJECT Revised Bias Incident Investigation Standards

GENERAL ORDER

REFERENCE	RESCINDS	DISTRIBUTION
SOP 201:544	GO2006-002	Sworn Dispatchers

Pursuant to the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97, et seq., all prior versions and amendments of the Attorney General's Bias Incident Investigation Standards are hereby rescinded and replaced by this new, revised version.

I. POLICY STATEMENT FROM THE ATTORNEY GENERAL

Bias incidents are increasing throughout the State and the nation. As a result, communities have been gripped by uncertainty, tension, and conflict. The promulgation of the Attorney General's Bias Incident Investigation Standards serves as recognition that the unique nature of suspected or confirmed bias incidents requires special handling by the New Jersey law enforcement community.

Crimes with a component of intimidation based on race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity manifest themselves in a wide spectrum of anti-social activities. These bias incidents jeopardize the active and open pursuit of freedom and opportunity. They erode, undermine, and attack the identity and heritage of our citizens. They also dehumanize people based solely on group affiliation and shake the very foundations of our cultural and religious institutions, as well as our longstanding pursuit of tolerance and acceptance.

Therefore, it shall be the policy of New Jersey law enforcement to bring the investigative and enforcement elements of the law enforcement community into quick action following any and all suspected or confirmed bias incidents. There shall also be special emphasis placed on victim assistance and community relations in order to reduce victim trauma and community tension or fear.

All suspected or confirmed bias incidents are serious and should be treated as such. Bias incident investigations shall be conducted in a timely fashion using all appropriate resources to rapidly determine the facts and circumstances surrounding each incident. Careful attention should be given to identifying the motive and cause of the bias incident and to identifying suspects. Referrals to the County Prosecutors' Offices of Victim-Witness Advocacy or to the Division on Civil Rights shall be made as appropriate.

The proper investigation of a suspected or confirmed bias incident is the responsibility of each New Jersey law enforcement agency confronted with this problem. Each law enforcement officer must be sensitive to the feelings, needs, and fears that may be present in the victims, and the community at large, as a result of a suspected or confirmed bias incident.

II. PURPOSE OF THE BIAS INCIDENT INVESTIGATION STANDARDS

The purpose of these Standards is to establish uniform law enforcement procedures for the response to, and investigation of, bias incidents. This department shall take an active role in promoting peace and harmony among the diverse groups living and working within the Township and protect all citizens from bias incidents. This department shall conduct a thorough and complete investigation of all suspected or confirmed bias incidents and shall cooperate with prosecutors in the prompt and appropriate prosecution of these matters.

III. DEFINITION OF BIAS INCIDENT AND RELATED CRIMINAL VIOLATION

For New Jersey law enforcement purposes, a bias incident is defined as any suspected or confirmed violation of N.J.S.A. 2C:16-1(a)(1) or (2).1, which includes crimes with a component of intimidation based on *race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity*. Some suspected bias incidents may not clearly fit the described definition. In those cases, a common sense approach to the incident must be used. If an incident appears to be bias-based, it should be investigated and reported as such. Verification of motive and intent can be made during the ensuing investigation. Law enforcement officers must recognize that a single bias incident may initially appear as less serious when viewed in the larger context of all crime. Nonetheless, any suspected or confirmed bias incident is serious by its very nature. What may appear to be a minor incident can easily escalate into a larger problem or public safety concern.

IV. REQUIREMENT TO REPORT ALL BIAS INCIDENTS

It is the duty of all law enforcement agencies in the State to report bias incidents to the New Jersey Attorney General's designees. DCJ and NJSP have designated an electronic reporting system for this purpose -- the Electronic Uniform Crime Reporting (eUCR) portal. When a bias incident report is submitted through the eUCR portal, the information is automatically forwarded to the Bias Crimes Unit at DCJ, the NJSP, the New Jersey Office of Homeland Security and Preparedness, and the County Prosecutor. This agency shall report all confirmed or suspected bias incidents through the eUCR system *as soon as is practicable, but not more than 24 hours from the initial law enforcement response*. This agency *also must notify the Monmouth County Prosecutor* of the incident. This notification is to be made through the Professional Responsibility and Bias Crimes Unit via the email address mcpopru@mcponj.org.

In cases of suspected or confirmed bias incidents involving: (1) homicide, aggravated sexual assault, sexual assault, aggravated assault, or arson; (2) a law enforcement officer as the alleged perpetrator; (3) an organized hate group as the perpetrator; or (4) a potential to generate large-scale public unrest, this agency *shall also immediately notify the Bias Crimes*

Unit at DCJ. Such immediate notification is to be made by calling the Bias Crimes Unit duty phone at 1-800-277-BIAS (2427). This agency *also must immediately notify the Monmouth County Prosecutor* of such an incident. This notification is to be made through the Professional Responsibility and Bias Crimes Unit. During non-business hours, the Monmouth County Radio Room is to be contacted at 732-577-8700 to facilitate this notification.

In bias incidents where there is a nexus to terrorism, such as when an organized hate group is involved, the Attorney General's SAR Reporting Directive, No. 2016-7, requires additional notifications. *Suspicious activity with a nexus to terrorism must be reported immediately*, per existing protocols. Activity also can be reported 24/7 to NJOHSP's CTWatch at 866-4SAFENJ (866-472-3365) or tips@njohsp.gov.

V. GENERAL ROLE AND RESPONSIBILITIES OF THE LAW ENFORCEMENT CHIEF EXECUTIVE

1. Provide leadership and direction by developing a clear and concise formal bias incident written order or directive based upon these Standards and disseminating it to all law enforcement officers of the agency.
2. Publicly announce the agency's bias incident investigation policy. Explain that the public should immediately contact the police when a bias incident occurs.
3. Ensure that all law enforcement officers of the agency receive required and appropriate training in bias incident response and investigation.
4. Ensure that an appropriate initial law enforcement response is provided to all suspected or confirmed bias incident victims and that a complete follow-up investigation is carried out, as appropriate.
5. Ensure that security is increased in the affected area, as appropriate.
6. Offer to personally meet the victim of a bias incident, or designate an officer to do so.
7. Ensure that the bias incident investigation is actively pursued to a successful conclusion or until all leads have been considered.
8. Ensure that all relevant information regarding suspected or confirmed bias incidents is shared with the appropriate County Prosecutor and other appropriate law enforcement agencies within a reasonable period of time.
9. Ensure that victim/witness service referrals are made in a timely manner, as appropriate.
10. Enlist the aid of faith-based, community, business, and educational groups, as well as other community leaders, in an effort to moderate the impact of the bias incident, to reduce the potential for counter-violence, and to promote positive police-community relations.
11. Ensure that community relations activities and crime prevention programs are conducted, as appropriate.
12. Maintain contact with community leaders concerning the bias incident, realizing that not all information may be able to be shared.
13. Conduct appropriate media relations. Prepare accurate and timely public information news releases, as appropriate.

14. Ensure that all suspected and confirmed bias incidents are reported as required through the eUCR system using the NJSP Uniform Crime Reporting procedures.

15. Ensure that victims, and as appropriate, other concerned parties, are informed of the final disposition of the investigation.

VI. INITIAL LAW ENFORCEMENT RESPONSE TO A BIAS INCIDENT

Bias incidents may generate fear and concern among victims and the community. These incidents have the potential of recurring, escalating, and possibly causing counterviolence. Therefore, bias incidents require a thorough and comprehensive law enforcement response.

Responding Officer

When the initial responding officer arrives on the scene and determines that the situation may involve a bias incident, he or she shall:

1. Apprehend the actor (if applicable).
2. Provide assistance to the victim.
3. Protect the crime scene to prepare for the gathering of evidence.
4. Request that a law enforcement supervisor respond to the scene, as appropriate.
5. Conduct a standard preliminary investigation.
6. Obtain the names and addresses of all persons who witnessed or who are acquainted with the circumstances of the incident. All such persons should be questioned in detail.
7. Prepare a standard police incident report. Document the basic facts and circumstances surrounding the incident to include the following:
 - a. Name, address, telephone numbers and other information regarding the victim and witnesses.
 - b. Where incident occurred.
 - c. Person and/or property targeted.
 - d. How targeted.
 - e. Means of attack.
 - f. Time of incident.
 - g. Method of operation, trademark, or unusual characteristics of incident.
 - h. Any and all other relevant information provided by the victim and witnesses.
8. Refer the victim and witness to the appropriate Office of Victim-Witness Advocacy.

Law Enforcement Supervisor

Upon arriving at the scene of a suspected or confirmed bias incident, he or she shall:

1. Supervise the preliminary response and investigation.
2. Confer with the initial responding officer.

3. Assist in the stabilization of the victim as required.
4. Ensure that the crime scene is properly protected and preserved.
5. Take steps to insure that the incident does not escalate.
6. Determine if additional personnel are required to provide complete public safety services.
7. Arrange for an immediate increase of patrols throughout the affected area, as appropriate.
8. If the potential exists for further acts of violence or damage to property, arrange for officers to be assigned to the location of the incident in a fixed post position.
9. Attempt to verify if the occurrence is a confirmed bias incident following the guidelines for confirming bias incidents contained in these Standards. Verification assistance should be provided by other levels of command and/or additional investigative personnel, as required.
10. Request that investigative personnel respond to the scene if a bias incident is suspected or confirmed.
11. Notify headquarters and other levels of command regarding the facts and circumstances surrounding the incident.
12. Request that the next level of command respond to the scene, as appropriate.
13. Provide their agency's headquarters with updated factual information regarding the incident.
14. Ensure that the chief executive of the law enforcement agency is notified of the incident.
15. Ensure that the necessary basic information is obtained to sustain a follow-up investigation.
16. Ensure that all initial response reports are properly completed as soon as possible.

VII. BIAS INCIDENT FOLLOW-UP INVESTIGATIONS

Bias incident investigations shall be given the appropriate degree of priority treatment. Follow-up investigations and community relations activities shall be timely and comprehensive. The victim shall be kept informed of the progress of the investigation. Referrals to the appropriate support services shall be made, as required. Referrals shall also be made to the Division on Civil Rights, if appropriate.

Investigator Responsibilities

When the investigator arrives on the scene and determines that the situation may be a bias incident, he or she shall:

1. Assume control of the bias incident follow-up investigation.
2. Ensure that the scene of the bias incident is properly protected and preserved.
3. Conduct a thorough and comprehensive follow-up criminal investigation. Continue bias incident verification procedures following the guidelines for confirming bias incidents contained in these Standards, as necessary.
4. Ensure that the scene of the bias incident is properly documented and searched and evidence is gathered for analysis, as required. Documenting the crime scene should include

taking samples of physical evidence, securing and transporting into custody related movable evidence, and photographing the crime scene, as appropriate.

5. Interview all victims and witnesses.

6. Canvass the community to identify other victims and witnesses. Conduct additional interviews, as necessary.

7. Determine the primary elements of the incident and obtain information necessary to complete the data elements of the Uniform Crime Supplementary Bias Incident Offense Report. Primary elements of the investigation include:

a. Person(s) targeted - This includes the name, address, telephone number, personal background and other details of the victim(s).

b. Object targeted - This includes details on the type of premises, building, or institution against which the offense was committed (private premises, public property or property primarily used for religious, educational, residential, memorial, charitable, or cemetery purposes, or for assembly by persons of a particular race, color, religion, sexual orientation or ethnicity).

c. How targeted - This includes the way in which the person or property was attacked or damaged (assaulted, put in fear of bodily violence by placing on public or private property a symbol, an object, a characterization, an appellation or graffiti that exposes another to threats of violence, contempt or hatred on the basis of race, color, creed or religion, defacement or damage by placing of symbol, an object, a characterization, an appellation, or graffiti that exposes another to threat of violence, contempt or hatred on the basis of race, color, religion, sexual orientation or ethnicity).

d. Means of attack - This includes the instrument, tool, device, or method by which the person or property was attacked or damaged.

e. Time and date - This includes both the time and date reported and the actual time and date the offense was committed.

f. Trademark - This includes the modus operandi (M.O.), or individual identifying characteristics, of the bias incident, which may serve to distinguish the offense from others committed in much the same fashion. This element is helpful in connecting a suspect with past incidents.

g. If a series of bias incidents has occurred, these investigative elements will be crucial in developing an operating pattern and in identifying suspects. This investigative process will also assist in identifying participation of organized hate groups.

8. Conduct surveillance and other appropriate investigative activities in order to obtain additional evidence and to identify suspects.

9. Contact other appropriate law enforcement agencies for assistance, as required. Notify the County Prosecutor's Office as soon as possible, not to exceed 24 hours.

10. Work closely with the County Prosecutor to ensure that legally sufficient cases are presented for prosecution.

11. Assist the victim/witness in obtaining appropriate support services.

12. Prepare standard investigative reports documenting the bias incident investigation, as appropriate.
13. Ensure that all suspected and confirmed bias incidents are reported through the eUCR system.
14. Assist with community relations activities and crime prevention programs, as appropriate.

Investigators should ensure that all physical remains of the incident are removed after crime scene processing is completed. If the remains cannot be physically carried away (example: paint on walls), the appropriate level of command should attempt to notify building or property owners regarding the need for complete removal as soon as possible after the crime scene has been fully processed.

Community leaders and organizations are important resources during any bias incident investigation. These resources can help to broaden the investigator's understanding of the incident. They can also help to convince reluctant victims and witnesses to cooperate with investigators and encourage more victims to report bias incidents.

Investigators shall be sensitive to the safety concerns of victims and witnesses, and arrange for appropriate security measures to be implemented to protect persons and property.

VIII. GUIDELINES FOR CONFIRMING BIAS INCIDENTS

To assist law enforcement officers in confirming whether a suspected bias incident is actually motivated by bias, the following criteria shall be applied. These criteria are not all-inclusive. Common sense judgment must also be applied in the final determination.

Motive

1. The absence of any other apparent motive for the bias incident.
 2. Display of any bias symbols, words, graffiti, or other types of evidence.
 3. Statements made by the suspects.
 4. Statements made by the witnesses.
 5. Prior history of similar incidents in the same area affecting the same victim or community group.
 6. A common sense review of the facts and circumstances surrounding the incident.
- Consider the totality of the circumstances.

When the above criteria are applied, it may be helpful to ask the following questions:

1. Is the victim from one racial, religious, or ethnic group and the suspect from another?
2. Did the incident occur solely because of a bias against the victim by the actor involving a status or class protected under N.J.S.A. 2C:16-1, or for other reasons?
3. Is the victim the only member of a particular protected class or status under N.J.S.A. 2C:16-1 in the neighborhood, or one of a few?

4. Did the victim recently move into the area?
5. Is the victim acquainted with neighbors and/or associated with local community groups?
6. What was the trademark (M.O. of the actor)? Is it similar to other documented bias incidents?
7. Has the victim experienced past or repeated incidents of a similar nature?
8. Is there a connection between the date of the incident and holidays, school activities or other special public discussions or events?
9. Has there been prior or recent media coverage of similar incidents?
10. Is there an ongoing neighborhood problem that may have contributed to the event?
11. Does the M.O. signify a “copycat” of other incidents?
12. Is an organized hate group indicated in the incident?
 - a. Is hate literature involved? What type is it?
 - b. Is there any documented or suspected organized hate group activity in the area?
 - c. Was organized group involvement actually present or made to appear so?
13. Were the real intentions of the actor to commit a bias incident or were there other motives?
14. Does the actor have a true understanding of the impact of the bias incident on the victim?
15. Was the victim put in fear due to the incident?
16. Did the victim feel threatened due to the incident?

If after applying these criteria and asking the appropriate questions, a suspected bias incident cannot be definitively determined to be any other type of incident or is a borderline case, it should be treated as a bias incident for continuing investigation purposes.

IX. INTER-AGENCY COOPERATION

Monmouth County Prosecutor’s Office

Prior to charging Bias Intimidation under N.J.S.A. 2C:16-1, this department must obtain the approval of the Monmouth County Prosecutor’s Office, Professional Responsibility and Bias Crimes Unit. During regular business hours, the investigator or supervisor shall contact the Professional Responsibility Unit to discuss any such cases. During non-business hours, the Monmouth County Radio Room is to be contacted at 732-577-8700 to facilitate this discussion.

Division on Civil Rights

The Division on Civil Rights (DCR), as part of the Department of Law and Public Safety, under the authority of the Attorney General, is responsible for enforcing New Jersey’s Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49.

Among other things and with some exceptions, the LAD makes it unlawful to discriminate against or harass a person based on race, color, creed/religion, sex/gender, disability, sexual orientation, gender identity or expression, national origin, nationality and ancestry. The LAD also prohibits discrimination and harassment based on age, pregnancy, breastfeeding, marital status, familial status, domestic partnership status, civil union status, and service in the U.S. armed forces.

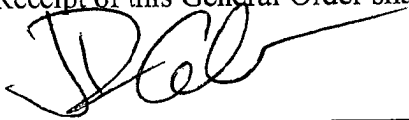
DCR's jurisdiction is limited to addressing acts of bias, prejudice, discrimination, and harassment in:

- Employment;
- Housing and real estate;
- Credit and contracting; and
- Places of public accommodation, including schools, government buildings, restaurants, hotels, stores, hospitals, theaters, and other places open to the public.

Where it appears that there may have been discrimination or harassment based on any of the characteristics listed above, the victim should be referred to the:

Division on Civil Rights
Central Regional Office/Trenton
609.292.4605
P.O. Box 89
140 East Front Street, 6th floor
Trenton, NJ 08625-0089

Receipt of this General Order shall be via Directive Management System



Captain J. Cole
Administrative Commander

For

Richard Derechailo
Chief of Police