

	RUTGERS UNIVERSITY POLICE DEPARTMENT WRITTEN DIRECTIVE SYSTEM		7:1
	BIAS INCIDENT INVESTIGATIONS		
	Effective Date: 04-03-2013		Supersedes: 7:1 (11-23-2005)

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PURPOSE

The purpose of this directive is to ensure that this department maintains its compliance with the New Jersey Attorney General's & County Prosecutor's Guidelines regarding the investigation of Bias Incidents.

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POLICY

It is the policy of this department to safeguard the state and federal rights of all individuals irrespective of their race, religion, ethnicity, gender, handicap, or sexual orientation. Any acts or other crimes designed to infringe upon these rights are viewed very seriously by this department and will be given high priority.

Bias incident investigations will be conducted in a timely fashion using all appropriate resources to rapidly determine the facts and circumstances surrounding each incident. Careful attention will be given to identifying the motive and cause of the bias incident and to identifying the suspects.

Each member of this department has the responsibility and the obligation to investigate suspected or confirmed bias incidents. Each member must be sensitive to the feelings, needs and fears that may be present in the victim(s) and the community at large.

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DISCUSSION

Bias incidents have occurred throughout the State and the Nation. As a result, the victimized communities have been gripped by uncertainty, tension and conflict. The promulgation of these standards serves as recognition that the unique nature of bias incidents requires special handling from law enforcement.

Crimes committed because of 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 crimes jeopardize the active and open pursuit of freedom and opportunity. Bias incidents attack the racial, religious and ethnic heritage of our citizens, important elements of our history and our future. Closely linked to our heritage are individual values, beliefs and identities. Bias incidents undermine these foundations of freedom.

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DEFINITIONS

Bias incident: An attempted or completed action that is motivated by bigotry and bias regarding a person's real or perceived race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin or ethnicity.

Bias Intimidation (N.J.S.A. 2C:16-1, et. seq.): A person commits, attempts to commit, conspires to commit, or threatens to commit an offense specified in N.J.S.A. 2C:11-1 et. seq. through N.J.S.A. 2C:18-1, et. seq. OR N.J.S.A. 2C:33-4, N.J.S.A. 2C:39-3, N.J.S.A. 2C:39-4, or N.J.S.A. 2C:39-5:

- a. with the purpose to intimidate an individual or group of individuals because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin or ethnicity; or
- b. knowing that the conduct constituting the offense would cause an individual or group of individuals to be intimidated because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin or ethnicity; or
- c. under circumstances that caused any victim of the underlying offense to be intimidated and the victim, considering the manner in which the offense was committed, reasonably believed either that:
 - 1) the offense was committed with the purpose to intimidate the victim or any person or entity in whose welfare the victim is interested because of race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin or ethnicity, or
 - 2) the victim or the victim's property was selected to be the target of the offense because of the victim's race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin or ethnicity.

The Bias Intimidation Statute is to be charged in addition to the charge for the underlying offense.

It is important to point out that ALL bias crimes qualify as bias incidents, BUT NOT ALL bias incidents qualify as bias crimes.

Degree of Crime Based on Underlying Offense:

- a. Underlying offense is a DP or PDP – Bias intimidation is a crime of the 4th degree.
- b. Underlying offense is a crime – Bias intimidation is a crime of one degree higher than the most serious underlying crime.
- c. Underlying offense is a crime of the 1st degree – Bias intimidation is a crime of the 1st degree.

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GENERAL

- a. The Attorney General's Guideline on Bias Incidents is a lengthy, comprehensive missive that contains detailed explanations pertaining to such topics as the role of the police executive, the history of law enforcement concerns in bias incidents, and the various functions of other agencies. This directive is not intended to replace the Attorney General's Guidelines as a reference source in dealing with the investigation of bias incidents. Instead, this directive deals mostly with the proper investigation of bias incidents by members of this department.
- b. All members of this department shall take a proactive role in promoting peace and harmony among the diverse groups living and working within this state and the University Community and to protect all citizens from bias related incidents.
- c. All personnel shall conduct a thorough and complete investigation of all suspected and confirmed bias incidents and shall cooperate fully with the respective County Prosecutor's Office in the prompt and appropriate prosecution of these matters.

- d. All personnel shall, when appropriate, work in conjunction with other law enforcement agencies to ensure swift disposition of these matters.
- e. When responding to or investigating bias incidents, all personnel shall:
 - 1. Approach the victim(s) in a sensitive and supportive manner;
 - 2. Reassure the victim(s) that appropriate investigative and enforcement methods will be used to properly address the bias incident;
 - 3. Ensure that a thorough and complete initial response and follow-up investigation are conducted as required by the facts and circumstances surrounding the suspected or confirmed bias incident, including providing appropriate community relations activities and crime prevention programs.
 - 4. Ensure that this department's Bias Incident Investigation Officer or Assistant Bias Incident Investigation Officer is promptly notified.
 - 5. Refer the victim(s) and witness(es) to this department's Victim/Witness Coordinator, University's Office of Violence Prevention/Victim Assistance (VPVA) and/or the County Prosecutor's Office of Victim/Witness Advocacy, as appropriate in accordance with Directive 7:20;
 - 6. Refer the victim(s) and witness(es) to the University's Office of Employment Equity, Workplace Violence Consultation Team, Faculty & Staff Assistance Program and/or Threat Assessment Process, as appropriate;
 - 7. Interact with concerned community service organizations, civic groups, and religious institutions regarding the suspected or confirmed bias incident;
 - 8. Effectively calm the victim(s) and reduce the victim's fear and alienation through direct and ongoing official communication regarding the bias incident.
- f. Actions taken by personnel when responding to bias incidents are visible signs of concern and commitment to the citizens of the community.
- g. While a single bias incident may initially not appear serious when viewed in the larger context of all crime, it is serious by its very nature. What may seem to be a minor occurrence can easily escalate into a larger order maintenance problem of public safety concern.
- h. Bias incidents may generate fear and concern among members of a community. These incidents have the potential of recurring, escalating and possibly causing counter violence. Therefore, these incidents require a thorough and comprehensive response.
- i. It is recognized that many of the procedures enumerated in this directive are no more than sound criminal investigative practices, applicable in any type of criminal investigation. Due to the sensitive nature of these types of incidents, personnel should take special care to adhere to these guidelines.

7:1-6 PRELIMINARY INVESTIGATION

a. Responding Officer:

When the initial responding officer arrives at the scene and determines that an incident may be a bias incident, they shall:

- 1. Apprehend the actor (if applicable);
- 2. Provide assistance to the victim(s);
- 3. Protect the crime scene in preparation for the gathering of evidence;

4. Request that the immediate supervisor respond to the scene;
5. Conduct a standard preliminary investigation;
6. Obtain the names/addresses of all persons who witnessed the incident or who are acquainted with the circumstances of the incident. All such persons should be questioned in detail;
7. Prepare an incident report documenting the facts and circumstances of the incident, including, but not limited to:
 - Names, addresses, and telephone numbers of all victim(s) and witness(es);
 - Where the incident occurred;
 - Person or property targeted;
 - How attacked;
 - Means of attack;
 - Time of attack; time of the incident;
 - Method of operation, trademark, or unusual characteristics of the incident;
 - Any other relative information.
9. Refer the victim(s) and witness(es) to this department's Victim/Witness Coordinator, the University's Office of VPVA, or the Office of Victim/Witness Advocacy within the County Prosecutor's Office with appropriate jurisdiction, as appropriate;

b. Responding Supervisor:

An investigating officer's immediate supervisor, upon learning of a suspected or confirmed bias incident shall respond to all incidents, unless workload or other intervening circumstances make a response impossible. In such cases, the duty tour commander or other duty supervisor may be assigned in the place of the officer's immediate supervisor. A supervisor's response to a bias incident shall be given a high priority that is not to be dispensed with lightly.

Upon arrival at the scene of a suspected or confirmed bias incident, the responding supervisor shall:

1. Supervise the initial response and investigation;
2. Confer with the initial responding officer;
3. Assist in the stabilization of the victim(s), as required;
4. Ensure that the crime scene is protected and preserved;
5. Take any steps to ensure 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 affected location in a fixed post position;
9. Attempt to verify if the occurrence is a confirmed bias incident. 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;

11. Notify headquarters and other levels of command regarding the facts and circumstances surrounding the incident;
12. Request the next level of command respond to the scene, if appropriate;
13. Provide headquarters with updated, factual information regarding the incident;
14. Ensure that the Chief of Police is notified of the incident in a timely manner. It is not necessary to make immediate notification at odd hours for a minor bias incident, but notification must still be made by the start of the next morning following the incident. Incidents of a more serious nature, such as those that have the potential for generating large-scale unrest or publicity, will necessitate an immediate notification. Generally, the Tour Commander will make this decision.
15. ***Ensure that the Bias Incident Investigation Officer is notified of the incident;***
16. Ensure that the necessary basic information is obtained in order to sustain a follow-up investigation;
17. Ensure that all initial response reports are properly completed as soon as possible.

c. Latent Investigator:

Bias incident investigations shall be given the appropriate degree of priority treatment. The investigator must be able to show compassion and sensitivity toward the plight of the victim while gathering evidence needed for juvenile or adult prosecution.

Depending on the circumstances of the precipitating event, the latent investigation may be conducted by the Bias Incident Officer, Assistant Bias Incident Officer, detective bureau personnel, juvenile bureau personnel, or a combination of these resources. Investigative personnel shall respond to the scene of a suspected or confirmed bias incident as directed by supervisory officers. When the investigator arrives at the scene and determines that the situation may be a bias incident, they shall:

1. Assume control of the investigation;
2. Ensure that the scene is properly protected and preserved;
3. Conduct a thorough and comprehensive latent criminal investigation;
4. Continue bias incident verification procedures, as necessary;
5. Ensure that the scene is properly documented. This will include the collection and preservation of physical evidence and photographing and sketching the scene;
6. Interview the victim(s) and witness(es). Take written statements;
7. Canvass the community for other victims or witnesses;
8. Obtain information necessary to complete the Uniform Crime Report Supplementary Bias Incident Offense Report. This function will normally be the responsibility of the Bias Incident Officer or Assistant Bias Incident Officer. Primary elements of the investigation include, but are not limited to:
 - Persons targeted: This includes the name, address and telephone number of the victim;

- Object targeted: This includes details on the type of premises against which the offense was committed;
 - How targeted: This includes the way that the person or property was attacked or damaged;
 - Means of attack: This includes the instrument, tool, device, or method by which the person or property was attacked or damaged;
 - Time and date: This includes the time/date reported and the time/date the offense was committed;
 - Trademark: This includes the method of operation or individual identifying characteristics of the incident that may serve to distinguish the offense from others committed in much the same fashion. This element is useful in connecting a suspect with past incidents. If a series of bias incidents have occurred, these investigative elements will be crucial in developing an operating pattern and in identifying the suspects. This investigative process will also assist in identifying participation of organized hate groups.
9. Conduct surveillance and other appropriate investigative activities in order to obtain additional evidence and to identify suspects;
 10. Contact other law enforcement agencies as required;
 11. Work closely with the County Prosecutor's Office with appropriate jurisdiction to ensure that legally sufficient cases are presented for prosecution and that all charges are approved as required by local protocol;
 12. Assist the victim(s) and witness(es) in obtaining appropriate support services;
 13. Prepare standard investigative reports documenting the bias incident investigation, as appropriate;
 14. Ensure that all bias incidents are reported to the Uniform Crime Reporting System using New Jersey State Police UCR procedures and report forms;
 15. Assist community relationship activities and crime prevention programs, as appropriate.

Note: Investigators should ensure that all physical remains of the incident are immediately removed after crime scene processing is completed. If the remains cannot be physically carried away (i.e. paint on walls, etc.), the appropriate level of command should attempt to notify the building or property owners regarding the need for immediate, complete removal as soon as possible after the crime scene has been fully processed. Any remains on school property should be referred to the school principal. Any remains of public property should be referred to the Department of Public Works.

The latent investigator's immediate supervisor shall ensure that all required notifications to outside agencies are accomplished.

Investigators shall be sensitive to the safety concerns of the victim(s) and witness(es), and arrange for the appropriate security measures to be implemented to protect persons and property.

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CONFIRMATION GUIDELINES

- a. To assist officers in confirming whether an incident is bias motivated, the following criteria should be applied. These criteria are not all inclusive.

Common sense and good judgment must also be applied in the final determination.

- The absence of any other apparent motive for the incident;
- Display of bias symbols, words, graffiti, or other types of evidence;
- A common sense review of the facts and circumstances surrounding the incident. Consider the totality of the circumstances;
- How the victim(s) feel about the incident;
- Statements made by the suspect(s);
- Statements made by the witness(es);
- Prior history of similar incidents in the same area affecting the same victim group.

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

- Is the victim from one racial, religious, ethnic or other protected group and the suspect from another?
- Did the incident occur solely because of racial, religious, ethnic or other protected difference between the victim(s) and actor(s) or for another reason?
- Is the victim the only racial, religious, ethnic or other protected group member in the neighborhood or one of a few?
- Did the victim(s) recently move into the area?
- Is the victim acquainted with neighbors and/or associated with local community groups?
- What was the trademark of the actor(s)? Is it similar to other documented bias incidents?
- Has the victim experienced past or repeated incidents of a similar nature?
- Is there a connection between the date of the incident and holidays, school activities or other special public discussions or events?
- Has there been prior or recent media coverage of similar events?
- Is there an ongoing neighborhood problem that may have contributed to the incident?
- Could the act be retribution for some conflict with neighbors or area juveniles?
- Does the trademark signify a copy cat syndrome of other incidents?
- Is an organized hate group indicated in the incident?
 - Is literature involved?
 - Is there any documented or suspected organized hate group activity in the area?
 - Was organized group involvement actually present or made to appear so?
- Were the real intentions of the actor(s) to commit a bias incident or were there other motives?
- Does the actor have a true understanding of the impact of the bias incident on the victim?
- Was the victim put in fear due to the incident?

- Did the victim feel threatened due to the incident?
 - Has the victim(s) been recently spotlighted in the media, newspapers, radio or television?
- c. If after applying these criteria and asking the appropriate questions, a suspected bias incident cannot be definitely determined to be any other type of incident or is a borderline case, it should be confirmed as a bias incident for continuing investigation purposes>

7:1-8 INTER-DEPARTMENT COOPERATION

- a. This department shall develop a cooperative relationship with each of the County Prosecutors and other federal, state, and local law enforcement agencies, as appropriate.
- b. If this community or surrounding communities are experiencing multi-jurisdictional patterns of bias incidents, this department will develop a multi-department, coordinated approach to the investigation.
- c. The New Jersey Division of Criminal Justice, Office of Bias Crime & Community Relations shall be the office for statewide investigation and monitoring of bias incidents. This office will coordinate appropriate additional resources when requested.
- d. The Prosecutors Supervisory Section within the Division of Criminal Justice acts as the primary liaison between the Attorney General and the county prosecutors. This section is responsible for assisting in the coordination and monitoring of bias incident investigations. This section also reviews citizen complaints that had been directed against a prosecutor's office related to its actions and decisions concerning bias incidents.
- e. The Civil Affairs Unit of the Central Security Bureau of the New Jersey State Police has the responsibility to investigate bias incidents perpetrated by known hate groups operating in the State of New Jersey. The Civil Affairs Unit also monitors the operational activities of local authorities relative to all such incidents.

7:1-9 NOTIFICATION PROCESS

- a. Upon learning of a suspected or confirmed bias incident, the Bias Incident Officer or Assistant Bias Incident Officer shall make the following notifications as soon as practicable but not to exceed 24 hours:
 - County Prosecutor's Office with appropriate jurisdiction;
 - Division of Criminal Justice, Office of Bias Crime and Community Relations;
 - Division of State Police, Central Security Bureau, Intelligence Service Section, Civil Affairs Unit.

Notification can be made by telephone or by faxing a copy of a completed Supplementary Bias Incident Investigative Report during business hours.
- b. The Bias Incident Officer or Assistant Bias Incident Officer shall notify the above agencies immediately if a suspected or confirmed bias incident:
 - Involves a Homicide, Sexual Assault, Aggravated Assault or Arson; or
 - Involves a law enforcement officer as an alleged actor; or
 - Involvement of an organized hate group is suspected; or

- There exists a potential for large-scale unrest.

Notification shall be made by direct telephone communication or by contacting the duty pager, if applicable.

- c. If a bias incident involves any of the criteria listed in section b above, the Bias Investigation Officer is to be immediately recalled in addition to any other investigative recalls made necessary by the underlying incident.
- d. In the course of investigating a bias incident, the investigating officer may encounter violations of New Jersey's Law Against Discrimination. The Law Against Discrimination deals with acts of discrimination in areas related to:
 - Employment;
 - Housing;
 - Public accommodations;
 - Business transactions.

When an officer is confronted with a suspected or confirmed violation of New Jersey's Law Against Discrimination, they shall contact the Division of Civil Rights. The underlying incident or act should still be documented for investigative purposes.

7:1-10 DEPARTMENT RESPONSIBILITIES

- a. The Department shall assign two sworn officers, within the criminal investigative section, as the Department's Bias Incident Officer or Assistant Bias Incident Officer.
- b. The Bias Incident Officer shall perform the following functions as they relate to the investigation of suspected or confirmed bias incidents:
 - Reassure victim(s) that the appropriate investigative and enforcement methods will be employed to properly address the incident;
 - Serve as the liaison between the victim(s) and the investigating officers;
 - Make the necessary notifications listed in section 7:1-9;
 - Complete the required Uniform Crime Report Supplemental Report;
 - Ensure that the Victim/Witness service referrals are made in a timely manner, as appropriate;
 - Enlist the aid of religious, community, business, and educational groups as well as community leaders in an effort to moderate the impact of the bias incident, to reduce the potential for counter violence and to promote good police/community relations.
 - Ensure that community relations activities and crime prevention programs are conducted, as appropriate;
 - Maintain contact with community leaders concerning the bias incident;
 - Ensure that the victim(s) and other concerned parties are informed of the final disposition of the incident.
- c. The Bias Incident Investigation Officer shall be responsible for maintaining intelligence information on all confirmed or suspected bias related activity occurring within this department's jurisdiction.

RESOURCES

Community leaders and community organizations are important resources to be used during any bias incident investigation, suspected or confirmed. They can help to broaden the investigator's understanding of the incident and help convince uncooperative victim(s) and witness(es) to cooperate with investigators. They can also encourage more victims to report bias incidents.