

**NEW JERSEY INSTITUTE OF TECHNOLOGY
DEPARTMENT OF PUBLIC SAFETY
STANDARD OPERATING PROCEDURES**



SUBJECT: **BIAS INCIDENT INVESTIGATIONS**

EFFECTIVE DATE: April 29, 2019

NUMBER OF PAGES: 14

ACCREDITATION STANDARDS: N/A

BY THE ORDER OF:

Chief of Police Joseph Marswilllo

PURPOSE The purpose of this standard operating procedure is to ensure that this department maintains its compliance with the New Jersey Attorney General’s Guidelines regarding the investigation of bias incidents.

POLICY It is the policy of NJIT Police Department to safeguard the state and federal rights of all individuals irrespective of their race, color, religion, gender, disability, sexual orientation, gender identity or expression, national origin, or ethnicity. Any acts or other crimes designed to infringe upon these rights are viewed very seriously by this agency 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. Referrals to the Essex County Prosecutors’ Offices of Victim-Witness Advocacy or to the Division on Civil Rights shall be made as appropriate.

Each member of NJIT Police 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, as a result of a suspected or confirmed bias incident.

The *Attorney General’s Bias Incident Investigation Standards* is a lengthy, comprehensive document 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 policy is not intended to replace the Attorney General’s Guidelines as a reference source in dealing with the investigation of bias incidents. Instead, this policy deals mostly with the proper investigation of bias incidents by members of this agency.

PROCEDURES

I. ROLE OF THE CHIEF OF POLICE

A. The Chief of Police shall:

1. Publicly announce the agency's bias incident investigation policy. Explain that the public should immediately contact the police when a bias incident occurs. This can be accomplished by posting this policy on the agency's website.
2. Ensure that all officers receive the required and appropriate training in bias incident response and investigation.
3. Ensure that an appropriate initial response is provided to all suspected or confirmed bias incident victims and that a complete follow-up investigation is carried out, as appropriate.
4. Ensure that security is increased in the affected area, as appropriate.
5. Offer to personally meet the victim of a bias incident or designate an officer to do so.
6. Ensure that the bias incident investigation is actively pursued to a successful conclusion or until all leads have been considered.
7. Ensure that all relevant information regarding suspected or confirmed bias incidents is shared with the Essex County Prosecutor's Office and other appropriate law enforcement agencies within a reasonable period of time.
8. Ensure that victim/witness service referrals are made in a timely manner, as appropriate.
9. 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.
10. Ensure that community relations activities and crime prevention programs are conducted, as appropriate.
11. Maintain contact with community leaders concerning the bias incident, realizing that not all information may be able to be shared.
12. Conduct appropriate media relations. Prepare accurate and timely public information news releases, as appropriate.
13. Ensure that all suspected and confirmed bias incidents are reported as required through the *Electronic Uniform Crime Reporting (eUCR) portal* using the NJSP Uniform Crime Reporting procedures.
14. Ensure that victims, and as appropriate, other concerned parties, are informed of the final disposition of the investigation.

II. BIAS INCIDENT INVESTIGATION OFFICER

- A. The bias incident investigation officer shall be under the direct authority of and report directly to the Chief of Police. This bias incident investigation officer can be a uniformed officer or a detective. The Chief of Police may assign one or more officers/detectives to this position.
- B. The Chief of Police and the bias incident investigation officer shall ensure that sufficient personnel are permitted access to and trained in the *Electronic Uniform Crime Reporting (eUCR) portal* to ensure timely reporting of bias incidents in compliance with this policy.
- C. The bias incident investigation officer shall perform the following functions as they relate to the investigation of suspected or confirmed bias incidents:
 - 1. Reassure victim(s) that the appropriate investigative and enforcement methods will be employed to properly address the incident;
 - 2. Serve as the liaison between the victim(s) and the investigating officers;
 - 3. Ensure that the required *Electronic Uniform Crime Reporting (eUCR) portal* has been completed as required. NOTE: when a bias incident report is submitted through the eUCR portal, the information is automatically forwarded to
 - a. The Bias Crimes Unit at DCJ, the NJSP;
 - b. The New Jersey Office of Homeland Security and Preparedness; and
 - c. The Essex County Prosecutor's Office.
 - 4. Ensure that the victim/witness service referrals are made in a timely manner, as appropriate;
 - 5. 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.
 - 6. Ensure that community relations activities and crime prevention programs are conducted, as appropriate;
 - 7. Maintain contact with community leaders concerning the bias incident;
 - 8. Ensure that the victim(s) and other concerned parties are informed of the final disposition of the incident.
- D. The bias incident investigation officer is responsible for maintaining intelligence information on all confirmed or suspected bias related activity occurring within this jurisdiction.

III. GENERAL

- A. Bias incident is any suspected or confirmed offense or unlawful act that occurs to an individual, group of individuals, private property, or public property on the basis of race, color, religion, gender (except matters involving a violation of N.J.S.A. 2C: 14-2 or N.J.S.A. 2C: 14-3), disability, sexual orientation, gender expression, or ethnicity. Although not specifically mentioned by the New Jersey Attorney General, this agency shall include transgender status as a predicate for classifying an incident as a bias incident.
1. Some suspected bias incidents might not clearly fit the above definition. In these cases, a common sense approach to the incident must be used. If an incident appears to be bias based, it should be investigated as such. Verification of intent can be made during the ensuing investigation.
 2. 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.
- B. All personnel shall take a proactive role in promoting peace and harmony among the diverse groups living and working within this state 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 Essex County Prosecutor' Office in the prompt and appropriate prosecution of these matters.
- D. When appropriate, all personnel shall 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 agency's bias incident investigation officer is promptly notified;
 5. Refer the victims and witnesses to the Essex County Prosecutor's Office of Victim/Witness Advocacy, as appropriate;
 6. Interact with concerned community service organizations, civic groups, and religious institutions regarding the suspected or confirmed bias incident;

7. Effectively calm the victim(s) and reduce the victim's fear and alienation through direct and ongoing official communication regarding the bias incident.
 8. Notify the Division of Criminal Justice (DCJ), the Division of State Police (NJSP), and the Essex County Prosecutor's Office of all bias incidents as required in this policy.
 9. Ensure that victims and other concerned parties are afforded all the rights and protections provided under the *New Jersey Constitutional Amendment for Victim's Rights* (N.J. Const. art. I, para. 22) and the *Crime Victim's Bill of Rights* (N.J.S.A. 52:4B-34, et seq.)
- F. Actions taken by officers 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 listed in this policy 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, officers should take special care to adhere to this policy.
- J. In cases of suspected or confirmed bias incidents involving any of the below bias incidents, officers shall also **immediately** notify the Bias Crimes Unit at DCJ. The Bias Crimes Unit duty phone is available on DCJ's website at www.nj.gov/oag/dcj/biascrime/. Officers also must **immediately** notify the Essex County Prosecutor's Office of such an incident. These incidents are:
1. Homicide;
 2. Aggravated sexual assault;
 3. Sexual assault;
 4. Aggravated assault;
 5. Arson;
 6. Any bias incident when a law enforcement officer as the alleged perpetrator;
 7. Any bias incident when an organized hate group as the perpetrator; or
 8. The bias incident has a potential to generate large-scale public unrest,

- K. In bias incidents when 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 county protocols. Activity also can be reported 24/7 to NJOHSP's CTWatch at **866-4SAFENJ** (866-472-3365) or tips@njohsp.gov.

IV. PRELIMINARY INVESTIGATION

- A. Responding officer – When the initial responding officer arrives at the scene and determines that an incident may be a bias incident, he/she 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 investigation report documenting the facts and circumstances of the incident, including, but not limited to:
 - a. Names, addresses, telephone numbers of all victims and witnesses;
 - b. Where the incident occurred;
 - c. Person or property targeted;
 - d. How targeted;
 - e. Means of attack;
 - f. Time of the incident;
 - g. Method of operation, trademark, or unusual characteristics of the incident;
 - h. Any other relative information provided by the victim and/or witnesses.
 8. Refer the victims and witnesses to the Essex County Prosecutor's Office of Victim/Witness Advocacy, as appropriate;
- B. Responding supervisor – Upon learning of a suspected or confirmed bias incident, the investigating officer's immediate supervisor shall respond to all incidents unless workload or other intervening circumstances make a response impossible. In such cases, another 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 through the chain-of-command.
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 reports are properly completed as soon as possible.

18. Ensure that the *Electronic Uniform Crime Reporting (eUCR) portal* is completed as soon as practicable but, no later than 24 hours from the initial response.
- C. Follow-up 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. Investigative personnel shall respond to the scene of a suspected or confirmed bias incident as directed by supervisory officers. The work of the investigator will involve working with people with diverse backgrounds. The investigator must be able to show compassion and sensitivity toward the plight of the victim while gathering the evidence needed for prosecution.
1. Investigators assigned to handle bias incident cases should have a background in working sensitive cases. They should also have experience handling community relations. In any case where language barriers are an issue, if possible, investigators fluent in the particular language should be assigned to assist in the investigation.
 2. Additionally, investigators should be generally familiar with various forms of bias incidents and organized hate groups operating within the State of New Jersey. The DCJ Bias Crimes Unit and the Office of Homeland Security and Preparedness can provide information and assistance regarding organized hate groups operating within the State.
 3. When the investigator arrives at the scene and determines that the situation may be a bias incident, he/she shall:
 - a. Assume control of the investigation;
 - b. Ensure that the scene is properly protected and preserved;
 - c. Conduct a thorough and comprehensive latent criminal investigation;
 - d. Continue bias incident verification procedures, as necessary;
 - e. Ensure that the scene of the bias incident is thoroughly documented and searched. Gather evidence 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
 - f. Interview the victims and witnesses. Take written statements;
 - g. Canvass the community for other victims or witnesses;
 - h. Obtain information necessary to complete the *Uniform Crime Report Supplementary Bias Incident Offense Report*. Primary elements of the investigation include, but are not limited to:
 - 1) Persons targeted: This includes the name, address and telephone number of the victim;

- 2) Object targeted: This includes details on the type of premises against which the offense was committed;
- 3) How targeted: This includes the way that the person or property was attacked or damaged;
- 4) Means of attack: This includes the instrument, tool, device, or method by which the person or property was attacked or damaged;
- 5) 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.
- 6) Time and date: This include the time/date reported and the time/date the offense was committed;
 - i. Conduct surveillance and other appropriate investigative activities in order to obtain additional evidence and to identify suspects;
 - j. Contact other law enforcement agencies as required;
 - k. Notify the Essex County Prosecutor's Office as soon as possible, not to exceed 24 hours.
 - l. Work closely with the Essex County Prosecutor's Office to ensure that legally sufficient cases are presented for prosecution;
 - m. Assist the victims and witnesses in obtaining appropriate support services;
 - n. Prepare standard investigation reports documenting the bias incident investigation, as appropriate;
 - o. Ensure that all bias incidents are reported to the *Electronic Uniform Crime Reporting (eUCR) portal* using New Jersey State Police UCR procedures and report forms;
 - p. Assist community relationship activities and crime prevention programs, as appropriate.
 - q. 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 (e.g., 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.

- 1) Any physical remains on school property should be referred to the appropriate school principal.
- 2) Any remains of public property should be referred to the appropriate Department of Public Works.
- 3) Any remains on private property should be referred to the homeowner or property management official.
4. Investigators shall be sensitive to the safety concerns of the victims and witnesses and arrange for the appropriate security measures to be implemented to protect persons and property.
5. 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.
6. 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.

V. 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.
 1. Motive:
 - a. The absence of any other apparent motive for the bias incident;
 - b. Display of any bias symbols, words, graffiti, or other types of evidence;
 - c. Statements made by the suspects;
 - d. Statements made by the witnesses;
 - e. Prior history of similar incidents in the same area affecting the same victim or community group;
 - f. A common sense review of the facts and circumstances surrounding the incident. Consider the totality of the circumstances.
 2. When the above criteria are applied, it may be helpful to ask the following questions:
 - a. Is the victim from one racial, religious, ethnic, or another protected group and the suspect from another?

- b. 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?
- c. Is the victim the only racial, religious, ethnic or other protected group member in the neighborhood or one of a few?
- d. Did the victim(s) recently move into the area?
- e. Is the victim acquainted with neighbors and/or associated with local community groups?
- f. What was the trademark of the actor(s)? Is it similar to other documented bias incidents?
- g. Has the victim experienced past or repeated incidents of a similar nature?
- h. Is there a connection between the date of the incident and holidays, school activities or other special public discussions or events?
- i. Has there been prior or recent media coverage of similar events?
- j. Is there an ongoing neighborhood problem that may have contributed to the incident?
- k. Could the act be retribution for some conflict with neighbors or area juveniles?
- l. Does the trademark signify a copycat syndrome of other incidents?
- m. Is an organized hate group indicated in the incident?
 - 1) Is literature involved?
 - 2) Is there any documented or suspected organized hate group activity in the area?
 - 3) Was organized group involvement actually present or made to appear so?
- n. Were the real intentions of the actor(s) to commit a bias incident or were there other motives?
- o. Does the actor have a true understanding of the impact of the bias incident on the victim?
- p. Was the victim put in fear due to the incident?
- q. Did the victim feel threatened due to the incident?

- B. 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.

VI. INTERAGENCY COOPERATION

- A. This agency shall develop a cooperative relationship with the Essex County Prosecutor 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 Chief of Police or his/her designee will develop a multi-agency, coordinated approach to the investigation.
- C. Other agency roles include:
 - 1. The Division of Criminal Justice has the broad responsibility of overseeing the criminal justice process and the law enforcement function. This is accomplished through interaction with various levels of government in order to secure the benefits of a uniform and efficient enforcement of the criminal law and administration of criminal justice. Located within DCJ are:
 - a. The Prosecutors Supervision and Training Bureau assists in the coordination of anti-bias and bias incident training. The Attorney General's Continuing Law Enforcement Affirmative Relations (CLEAR) Institute is a part of the Prosecutors Supervision and Training Bureau.
 - b. The Bias Crimes Unit receives and reviews all notifications of bias incidents from local law enforcement agencies, county prosecutors' offices, and the NJSP. In certain cases, the Bias Crimes Unit may participate in the investigation or prosecution of a bias incident. Tips from the public to the Attorney General's Bias Crimes Hotline or Bias Crimes Website are also reviewed by the Bias Crimes Unit. Those tips are retained for investigation by the Bias Crimes Unit or referred to a local law enforcement agency for investigation, as appropriate.
 - 2. The New Jersey State Police are responsible for collecting statistics on suspected and confirmed bias incidents. The data collected in these submissions is compiled and is used to generate the annual *Bias Incident Offense Report for New Jersey* and is also submitted to the Federal Bureau of Investigation's (FBI) UCR unit to be included in the *Federal Annual Hate Crime Report*. The UCR Repository serves as the storage repository for the bias incident data submitted by the police community of New Jersey.
 - 3. The New Jersey Office of Homeland Security and Preparedness along with the NJSP, DCJ, and all 21 county prosecutors' offices' bias crime officers, shall be notified of all suspected or confirmed bias incidents by an instant notification from the *eUCR* module within the New Jersey Infoshare system. At such time, each incident shall be reviewed by NJOHSP for a possible nexus to terrorism and, if appropriate, entered into the New Jersey Suspicious Activity Reporting System (NJSARS).

- a. Incidents that involve an organized extremist group or extremist ideology will be of particular interest for further investigation and inclusion by NJOHSP and the FBI.
 - b. The eUCR module shall also be available to query within the Global Search feature of Infoshare, thus allowing for a single, federated query of various law enforcement systems throughout the State.
4. The county prosecutors' duties include providing county-wide law enforcement leadership and assisting and supplementing law enforcement agencies within one's jurisdiction with personnel and investigative resources, as necessary. The county prosecutors' offices shall be notified of a suspected or confirmed bias incident as soon as possible, not to exceed 24 hours. The county prosecutors' offices shall monitor the investigation of all suspected or confirmed bias incidents, within one's jurisdiction, as necessary.
5. 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*, N.J.S.A. 10:5-1 to -49. Among other things and with some exceptions, the *Law Against Discrimination* 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 *Law Against Discrimination* 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:
- a. Employment;
 - b. Housing and real estate;
 - c. Credit and contracting; and
 - d. Places of public accommodation, including schools, government buildings, restaurants, hotels, stores, hospitals, theaters, and other places open to the public.

When DCR's investigation shows probable cause to believe prohibited discrimination or harassment has occurred, DCR will prosecute the violation either in the Office of Administrative Law or in Court. After an administrative hearing, if DCR's Director finds that the LAD has been violated, the Director has the power to order appropriate remedies, including money damages to the victim, injunctive relief, changes in policies, anti-bias or anti-discrimination training, and statutory penalties.

In some cases, a bias incident could also constitute a violation of the LAD. When confronted with a suspected or confirmed violation of *New Jersey's Law Against Discrimination*, the victim shall be informed of the Division on Civil Rights' jurisdiction and referred to the Division, if appropriate, contact the Division on Civil Rights.

6. The Division on Civil Rights Inter-Agency Services can provide the following services to law enforcement agencies upon request. Many of these services are available in a bilingual format.
 - a. Education and training relating to acts of bias, prejudice, discrimination, and harassment;
 - b. Literature, publications and exhibits relating to acts of bias, prejudice, discrimination, and harassment; and
 - c. Model policies to address discrimination and harassment.
7. The Division on Civil Rights can also send staff members to participate in community events hosted by law enforcement agencies to address bias incidents in the community. Division on Civil Rights Branch Offices:

Northern Regional Office/Newark
P.O. Box 46001 31 Clinton Street, 3rd floor Newark, NJ 07102
973.648.2700

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

Southern Regional Office/Cherry Hill
5 Executive Campus, Suite 107 Cherry Hill, NJ 08002
856.486.4080

South Shore Regional Office/Atlantic City
1325 Boardwalk, 1st floor, Atlantic City, NJ 08401
609.441.3100