



Policy Name:	HATE CRIME AND BIAS INCIDENT INVESTIGATIONS		
Policy #:	OP 4.27	Last Updated:	2021-11-24
Issued By:	INVESTIGATIVE SERVICES BUREAU	Approved By:	SURREY POLICE BOARD
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RELATED POLICIES

1. PURPOSE

- 1.1. To ensure the Surrey Police Service (SPS) responds to and thoroughly investigates Hate Crimes and Hate Motivated Crimes, which are criminal offences motivated by bias, prejudice or hate.
- 1.2. To ensure SPS supports victims of crimes motivated by bias, prejudice or hate and groups or organizations affected by crimes motivated by bias, prejudice or hate.

2. SCOPE

- 2.1. This policy applies to all SPS Members.

3. POLICY

- 3.1. A hate crime is a criminal offence committed against a person or property which is motivated by the suspect’s bias, prejudice or hate against an identifiable group based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.
- 3.2. SPS recognizes that crimes motivated by bias, prejudice or hate are serious incidents that can have a distressing and prolonged impact on victims and affected communities. The main objectives of this policy are to ensure Members:
 - i. fully investigate Hate Crimes and criminal offences that are apparently motivated by bias, prejudice or hate;
 - ii. preserve evidence at crime scenes; and
 - iii. address the concerns of the victim and affected communities.

3.3. Hate Crimes defined in the *Criminal Code* include:

- i. 318 Advocating Genocide
- ii. 319(1) Public Incitement of Hatred
- iii. 319(2) Willful Promotion of Hatred
- iv. 320 Warrant of Seizures
- v. 320.1 Warrant of Seizure
- vi. 430 (4.1) Hate Motivated Mischief – Property of Religious Worship/Use by an Identifiable Group

3.4. SPS Members must balance competing interests and rights. The *Canadian Charter of Rights and freedoms* protects fundamental rights to freedom of expression, while Canadian law recognizes there is a reasonable limit of expression that willfully promote hatred. The complexity of hate/bias incidents often requires conversation with Crown counsel and consideration in relation to Prosecution Services Guidelines.

3.5. Section 718.2 of the *Criminal Code* establishes sentencing principles and requires the Court to consider imposing an increased sentence as an aggravating factor when there is evidence that the offence was motivated by bias, prejudice or hate based on: race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or any other similar factor. It is the responsibility of Members to ensure that when recommending criminal charges that Crown Counsel has been informed that there is evidence that the crime was motivated by bias, prejudice or hate.

4. PROCEDURE

Identifying Hate Crime and Bias Incidents

- 4.1. Often no single factor will be sufficient to clearly determine that a criminal incident is motivated solely by hate or bias toward the victim.
- 4.2. Hate crimes are different from other types of criminal offences because a person or property is victimized based on at least one identifying characteristic, such as race, ethnicity, religious beliefs, sexual orientation, or disability.
- 4.3. Members should attempt to identify hate crimes by assessing various pieces of information which tend to indicate a specific hatred of the victimized person or property which may include:
 - i. statements of suspects that indicate hatred or negative bias;
 - ii. the absence of any other apparent motive;
 - iii. the display of any symbols, graffiti, or any comments, acts or gestures that are associated with hate groups;

- iv. whether the offence coincided with a holiday, event, or date of significance to the victim, or suspect group;
- v. the perception of the victim, or the victim's community of the motivation behind the offence;
- vi. the perception of witnesses to the motivation behind the offence;
- vii. any historical animosity that exists between the victim's group and the suspect's group;
- viii. whether the suspect has been previously involved in similar incidents;
- ix. whether the suspect is a member of or associated to, a group or organization known for its hatred or animosity toward the victims group;
- x. whether several occurrences have occurred in the community with victims from the same group;
- xi. whether the offence occurred at the same time, or shortly after an identified hate group was active in the community.

Frontline Member's Responsibilities

4.4. Members investigating a Hate Crime or a Hate Motivated Crime must follow procedures related to Criminal Investigations and a Supervisor is to be notified of the incident. The investigator must:

- i. obtain audio recorded statement from the victims and witnesses;
- ii. preserve evidence at the crime scene, seize exhibits, including any pamphlet or other written literature;
- iii. complete a General Occurrence (GO) report containing the following information:
 - a. describe the actions, words, markings or other evidence that indicate bias, prejudice, or hate was involved;
 - b. record verbatim any biased, prejudicial or hateful comments and how they relate to the crime or incident;
 - c. have the Integrated Forensic Identification Service attend. Only when IFIS is unavailable, Members may use police issued equipment to photograph the evidence and upload photographs to the investigation file or GO.
 - d. complete a Hate Crimes details page in the GO;
 - e. indicate in PRIME that the incident is a hate crime by use of appropriate study flag on the report; and ensure it is routed to the Diversity Unit.
 - f. detail the reasons if a reported event is believed to be unfounded; and
 - g. if further investigation is required, forward the GO to the appropriate investigative unit.

4.5. Members identifying a person suspected to be involved in a bias, prejudice or hate incident, that does not meet the threshold to be classified as a criminal offence must complete a GO, ensure the Study Flag is marked "T" and forward the GO information to the assigned Lead Investigator and the Criminal Intelligence and Diversity Units.

Supervisor's Responsibilities

4.6. When notified by a Member that they are investigating a Hate Crime or Hate Motivated Crime, the Supervisor must:

- i. during office hours contact the Supervisor of the appropriate specialized investigative unit (e.g., Major Crime, Cyber Crime, Financial Crime, etc.);
- ii. during non-office hours notify the Duty Officer to contact the on-call Supervisor for the follow-up investigative unit;
- iii. ensure the incident is investigated thoroughly; and
- iv. ensure the Primary Investigator completes the GO by the end of their shift and, if required, confirm that the report is forwarded to the appropriate follow-up investigation unit.

4.7. When notified the Duty Officer must:

- i. inform the on-call Supervisor of the appropriate follow-up investigative unit; and
- ii. in significant cases notify the Media Relations Officer; and
- iii. prepare an Incident Briefing Report for distribution to the Senior Leadership Team.

Hate Crime Prevention and Community Consultation

4.8. When Members investigate Hate Crimes, serious or high-profile Hate Motivated Crimes or high-profile Hate Motivated Incidents, the Diversity Unit must be notified, and the Unit must ensure that relevant organizations within the community are advised of these incidents. The investigating member, in consultation with the Investigative Services Bureau if they have file conduct, should ensure that relevant organizations within the community and the media are advised of the hate crime.

4.9. Non-criminal hate/bias incidents have a potential to generate widespread fear in affected communities, reassurance post incident is an important role for SPS. When appropriate, the Diversity Unit will liaise with other community organizations to develop strategies to prevent the repetition of hate crime offences and to counter the activities of organized hate groups within the community.

APPENDIX A: DEFINITIONS

“Duty Officer” means the Frontline Policing Inspector on duty at any given time.

“Supervisor” means a Frontline Policing Sergeant, Staff Sergeant, or person acting in a Supervisory capacity who is accountable for a particular area or shift on behalf of the SPS.

“Hatred – Supreme Court of Canada R v Keegstra” means emotion of an intense and extreme nature that is clearly associated with vilification and detestation. Hatred against identifiable groups thrives on insensitivity, bigotry and destruction of both the target group and of the values of our society. Hatred is an emotion that, if exercised against members of an identifiable group, implies that those individuals are to be despised, scorned, denied respect and made subject to ill treatment on the basis of group affiliation.

“Hate Crime” means a criminal offence under sections 318, 319 and 430 of the *Criminal Code* advocating genocide, public incitement of hate, willful promotion of hate, and hate-motivated mischief.

“Hate Motivated Crime” means a criminal offence (e.g., assaults, threats, mischief) that is apparently motivated based on a person’s race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or gender identity or expression, or on any other similar factor.

“Hate/Bias Motivated Incident” means an incident that is not a criminal offence, however the incident appeared to be motivated by bias, prejudice or hate. A variety of factors are considered, including the gravity of the behaviour, the nature of the evidence, and public interest considerations.

“Member” means a sworn Police Officer appointed by the Surrey Police Board.

“Supervisor” means a Sergeant, Staff Sergeant, Inspector, Superintendent, Deputy Chief Constable, Chief Constable, and any other person acting in a Supervisory capacity who is accountable for a particular area or shift on behalf of SPS.

APPENDIX B: REFERENCES

Criminal Code, R.S.C. 1985, c. C-46, sections:

- s. 318 Advocating Genocide;
- s. 319(1) Public Incitement of Hatred;
- s. 319(2) Willful Promotion of Hatred;
- s. 320 Warrant of Seizures (Hate Propaganda);
- s. 320.1 Warrant of Seizure (Hate Propaganda);
- s. 430(4.1) Mischief to Religious Property; and
- s. 718(2) Other Sentencing Principles