

## Suspected Bias Incidents

### 320.1 PURPOSE AND SCOPE

This department recognizes and places a high priority on the rights of all individuals guaranteed under the Constitution and the laws of this state. When such rights are infringed upon by violence, threats or other harassment, this department will utilize all available resources to see that justice is served under the law. This policy has been developed to provide members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

### 320.2 DEFINITIONS

Except where otherwise noted, the following definitions are provided per [RCW 9A.04.110](#):

**Bodily Injury, Physical Injury, or Bodily Harm** - Physical pain or injury, illness, or an impairment of physical condition.

**Malice and Maliciously** - To import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

**Reasonable Person** - A member of the victim's race, color, religion, ancestry, national origin, gender, or sexual orientation, or who has the same mental, physical, or sensory handicap as the victim ( [RCW 9A.36.080](#)).

**Sexual Orientation** - Heterosexuality, homosexuality, bisexuality and gender expression or identity. As used in this definition, gender expression or identity means having or being perceived as having a gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the sex assigned to that person at birth ( [RCW 49.60.040](#)).

**Threat** - To communicate, directly or indirectly, the intent to cause bodily injury immediately or in the future to any other person or to cause physical damage immediately or in the future to the property of another person.

### 320.3 CRIMINAL STATUTES

#### 320.3.1 MALICIOUS HARASSMENT

A person is guilty of malicious harassment if he/she maliciously and intentionally commits one of the following acts because of his/her perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap ( [RCW 9A.36.080](#)):

- (a) Causes physical injury to the victim or another person.

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- (b) Causes physical damage to or destruction of the property of the victim or another person.
- (c) Threatens a specific person or group of persons and places that person, or members of the specific group of persons, in reasonable fear of harm to person or property. The fear must be a fear that a reasonable person would have under the circumstances.

### 320.3.2 PRIMA FACIE ACTS OF HATE

Prima facie acts of hate are ( [RCW 9A.36.080](#)):

- (a) Burning a cross on property of a victim who is or whom the actor perceives to be of African American heritage.
- (b) Defaces property of a victim who is or whom the actor perceives to be of Jewish heritage by defacing the property with a swastika.

### 320.3.3 THREATS TO BOMB OR INJURE PROPERTY

It is unlawful for any person to threaten to bomb or otherwise injure any public or private school building, any place of worship or public assembly, any governmental property, or any other building, common carrier, or structure, or any place used for human occupancy; or to communicate or repeat any information concerning such a threatened bombing or injury, knowing such information to be false and with intent to alarm the person or persons to whom the information is communicated or repeated ( [RCW 9.61.160](#)).

### 320.3.4 FEDERAL JURISDICTION

The federal government has the power to investigate and prosecute bias-motivated violence by giving the U.S. Department of Justice jurisdiction over crimes of violence where the perpetrator has selected the victim because of the person's actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity or disability ( [18 USC § 245](#)).

### 320.4 CIVIL STATUTES

In addition to the criminal penalty provided in [RCW 9A.36.080](#) for committing a crime of malicious harassment, the victim may bring a civil cause of action for malicious harassment against the harasser. A person may be liable to the victim of malicious harassment for actual damages, punitive damages of up to ten thousand dollars, and reasonable attorneys' fees and costs incurred in bringing the action ( [RCW 9A.36.083](#)).

### 320.5 PREVENTING AND PREPARING FOR LIKELY HATE CRIMES

While it is recognized that not all crime can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely hate crimes by:

- (a) Making an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes to form and cooperate with prevention and response networks.
- (b) Providing victim assistance and follow-up as outlined below, including community follow-up.

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- (c) Educating community and civic groups about hate crime laws.

### **320.6 PROCEDURE FOR INVESTIGATING HATE CRIMES**

Whenever any member of this department receives a report of a Suspected Bias Incident or other activity that reasonably appears to involve a potential Suspected Bias Incident, the following should occur:

- (a) Officer(s) will be promptly assigned to contact the victim, witness, or reporting party to investigate the matter further as circumstances may dictate.
- (b) It is the responsibility of the Shift Supervisor to respond to the scene of reported Suspected Bias Incidents. The supervisor will ensure a complete and detailed preliminary investigation is conducted, and that all initial response reports are properly completed before the officer is released from duty. In addition the supervisor will confer with the responding officer(s) and make the decision as to whether or not the report is to be initially labeled as a Hate/Bias Crime. The supervisor will assist in the stabilization of the victim as needed. This should include assisting the victim in identifying and contacting individuals or agencies that may provide support and assistance. The supervisor will take steps to ensure that the incident does not escalate and determine the need for possible call out of investigations personnel.
- (c) Once "in progress" aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of present suspects, etc.), the assigned officer(s) will take all reasonable steps to preserve available evidence that may tend to establish that a hate crime was involved.
- (d) The assigned officer(s) will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime.
- (e) Depending on the situation, the assigned officer(s) or supervisor may request additional assistance from detectives or other resources to further the investigation.
- (f) The assigned officer(s) will include all available evidence indicating the likelihood of a hate crime in the relevant report(s). All related reports will be clearly marked as "SBI" and, absent prior approval of a supervisor, will be completed and submitted by the assigned officer(s) before the end of the shift.
- (g) The assigned officer(s) and supervisor should take reasonable steps to ensure that any such situation does not escalate further.

#### **320.6.1 INVESTIGATION UNIT RESPONSIBILITY**

All SBI cases will be assigned to the Investigation Unit, the assigned detective will be responsible for following up on the reported hate crime as follows:

- (a) Complete a Hate/Bias crime worksheet.
- (b) Coordinate further investigation with the County Prosecutor and other appropriate law enforcement agencies, as appropriate.
- (c) Maintain contact with the victim(s) and other involved individuals as needed.

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The Major Crimes Supervisor shall indicate his/her opinion on the worksheet and submit it to the Hate/Bias Crimes Coordinator.

The Hate/Bias Crimes Coordinator (Deputy Chief overseeing Investigations) will review the worksheet and return it to the Lieutenant of Investigations with recommendations. This review process should be completed on the same day that the case is assigned to the investigating detective. The detective assigned will ensure that the Bellingham Police Department Hate/Bias Crimes Coordinator is personally updated on the progress and disposition of all such crimes. In addition, the detective assigned will provide the Department's Hate/Bias Crimes Coordinator with a complete file at the conclusion of the investigation.

The Records Bureau will maintain statistical data on suspected hate crimes and tracking as indicated and report such data to the Washington Association of Sheriff's and Police Chiefs (WASPC) ( [RCW 36.28A.030](#)).

### **320.6.2 HATE/BIAS CRIMES COORDINATOR**

The Deputy Chief who oversees Investigations shall be designated as the Bellingham Police Departments Hate/Bias Crimes Coordinator.

In his/her absence, the Chief of Police will assign this function.

The Hate/Bias Crimes Coordinator is responsible for the following:

- The Coordinator will maintain a liaison with community groups and City and County departments regarding Hate/Bias Crimes.
- The Coordinator will ensure adequate investigative follow up on each Hate/Bias Crime and assist with prosecution matters when necessary, and will maintain a complete file of all Hate/Bias Crimes.
- The Coordinator will cause a monthly recap of activity to be distributed to the designated supervisors in this department.
- The Coordinator will act as a resource for media relations, and will be the resource/referral person for victims, assuring victims are contacted through follow up.

### **320.7 TRAINING**

All members of this department will receive CJTC approved training on hate crime recognition and investigation ( [RCW 43.101.290](#)).