

**SENECA FALLS POLICE DEPARTMENT  
GENERAL ORDER**

<b>General Order:</b> 492	<b>Rescinds:</b> New Issue
<b>Subject:</b> Hate Crime Incidents and Investigations	<b>NYS Accreditation:</b> 44.2
<b>Effective Date:</b> 07/01/13 <b>By Order Of:</b> Stuart W. Peenstra, Chief of Police	

**I. PURPOSE**

This policy is designed to assist officers in identifying and investigating hate crimes motivated by bias toward an individual's race, national origin, gender, age, disability, religion, ethnic background and/or sexual orientation.

**II. POLICY**

The Seneca Falls Police Department shall conduct a thorough and complete investigation in all suspected and confirmed hate crime incidents utilizing necessary resources to identify and arrest hate crime perpetrators, while being mindful of and responsive to the security concerns of victims and families. Officers should make every effort to become familiar with any organized hate groups operating within the community and all police contacts with those groups should be documented.

**III. DEFINITIONS**

- A. Hate Crime – New York State Penal Law section 485.05 designates crimes or attempts to commit those crimes as Hate Crimes when the primary motive for the crime is based on the victim's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation.
- B. Race – A group of individuals who possess common physical characteristics (e.g. color of skin, facial features, etc.) generally transmitted by heredity or ancestry.
- C. Ethnic Group – A group of people of the same race or national origin who share common or similar traits, languages, customs and traditions.
- D. Religious Group – A group of individuals who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being.
- E. Sexual Orientation – A sexual attraction toward, and responsiveness to, members of one's own sex or members of the opposite sex.
- F. Age – For the purposes of this order, age means an individual sixty years old or more.
- G. Disability – For the purposes of this order, disability means a physical or mental impairment that substantially limits a major life activity.

**IV. PROCEDURE**

**A. Indications of Hate Crimes**

During an investigation, officers should consider the motivation behind the act to determine whether an incident is a bias-related hate crime. The following factors, applied either alone or in combination, should be used to determine if an incident was motivated by animosity towards the victim because of race, gender, ethnicity, etc.

1. Use by the perpetrator of words, symbols, words or acts that may be offensive to an identifiable group (e.g. burning cross, painted swastika).
2. Victim and perpetrator are from different racial, ethnic or religious groups.
3. Victim or victim's group have been subjected recently to prior incidents of a similar nature or multiple incidents occur at the same time and the victims are all members of the same protected class.
4. There has been tension or hostility between the victim's group and another particular racial, religious or ethnic group.
5. Victim is the only minority group member in the neighborhood, park or facility or one of just a few such persons.
6. Incident appears to coincide with a specific holiday or date of significance (e.g. Martin Luther King Day, Passover) and/or occurs in proximity to an establishment that could be associated with one of the protected classes.
7. The perpetrator's perception of the victim (whether accurate or not), or the victim's perception that he/she was selected because they are the member of an identifiable group.
8. Statements made by the perpetrator that help to establish the motivation of the perpetrator. The mere mention of a bias remark does not make an incident bias-related, just as the absence of a remark does not preclude the need to treat the incident as a hate crime.
9. Evidence discovered (e.g. hate literature, religious documents) indicates the possible involvement of an organized group (e.g. Ku Klux Klan, American Nazi Party).
10. The absence of any immediately clear motive could denote a hate crime based solely on the brutal nature of a specific incident, particularly when the perpetrator and victim don't know each other.

**B. Initial Responding Officer**

Initial responding officers at the scene of a suspected hate crime shall take the preliminary actions deemed necessary, including, but not limited to, the following:

1. Secure the scene, restore order and take appropriate action to ensure the situation does not escalate further.
2. Stabilize injured victims and request medical assistance if necessary.
3. Determine whether any perpetrators are present and, if so, take necessary enforcement action if probable cause exists. A proper suspect interview should be conducted in an attempt to establish motive or lack thereof. If the suspect makes any statements it is crucial to note the exact language used.
4. Protect the crime scene and have an evidence technician collect and photograph physical evidence. Look specifically for symbolic objects, such as swastikas and crosses.
5. Identify and interview all victims and witnesses.
6. Notify the appropriate supervisor.

**C. Supervisory Responsibilities**

The supervisor will confer with initial responding officer(s), make any necessary notifications, and request additional personnel if needed to ensure the following:

1. The completion of a thorough preliminary investigation documenting all relevant facts leading to an initial determination as to whether the incident should be classified as a hate crime.
2. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory impact on the community.
3. Take measures to address the safety of the victim and identify agencies or individuals that may provide support and assistance.

**D. Incident Report Preparation**

1. Completed reports should clearly indicate the offense (a Hate Crime designated in the Penal Law), victim characteristics (age, gender, race, ethnicity), as well as the offender's age, gender, race and ethnicity (when available).
2. The narrative portion of the report should document that the victim(s) was intentionally selected or that the act was intentionally committed because of a belief or perception regarding such victim's race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation. The specific bias motivation of the perpetrator should be documented (Ex: selected victim because he was Hispanic, Jewish, Muslim, etc.)

**E. Arrest Processing**

1. The Hate Crimes law is a sentencing enhancement statute, meaning the hate crime shall be deemed to be one category higher than the original specified crime. For example, if a defendant is alleged to have committed a class 'E' felony, upon conviction the charge will be deemed a class 'D' felony and the sentence imposed will be based upon the sentencing range for a 'D' felony. 'A' and 'B' felonies stay the same but are subject to higher penalties. Investigating officers must keep this in mind since a class 'A' misdemeanor charged as a hate crime is deemed a class 'E' felony, which may affect the manner in which the case is handled.
2. Reporting of a hate crime is statutorily required. When an individual is being processed for a hate crime, you must use the letter 'H' with the subdivision of the Penal Law section to highlight the distinction (e.g. 120.00(01H) when an Assault 3rd is being charged as a Hate Crime).
3. The accusatory instrument filed with the court must also list the 'H' designator and the narrative portion of that document must include the elements and facts of the crime that demonstrate that the victim was intentionally selected based on a specific bias.

**F. Records Management Section**

Records management personnel will submit all incidents of reported hate crimes to DCJS using New York State form 3294. Forms must be submitted each month. If no hate crimes were reported, the form must be completed by checking the "Nothing to Report (NTR)" box.

## Law File Changes - Hate Crimes Act of 2000

The Hate Crimes Act of 2000 (Chapter 107 of the laws of 2000) was signed into law on July 10, 2000 and took effect on October 8, 2000. This law added a new Article 485 to the Penal Law entitled "Hate Crimes" and provided that a person commits a hate crime when he or she commits a "specified offense" (as defined in the law) and either:

- (a) Intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or
- (b) Intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.

When a person is convicted of a hate crime pursuant to Article 485, the law provides for the level of a hate crime to be deemed one category higher than the specified offense, when that specified offense is a misdemeanor or a class C, D or E felony. When the specified offense is a class B or A-1 felony, the term of sentence is enhanced.

In order to collect data on the occurrence of hate crimes, and to provide for disposition reporting/tracking, a new set of "hate crime" charges was updated to the DCJS law file based on the specified offenses in Article 485. These were not "new" charges, but rather hate crime variations of existing charges, and were denoted with an "H" in the subsection. For example, on the DCJS law file, PL 120.05 sub 01 DF2 is Assault 2nd- With Intent To Cause Serious Physical Injury. The hate crime variation of this offense is PL 120.05 sub 01H CF2, Assault with Intent to Cause Serious Physical Injury / As a Hate Crime.