

Suspected Hate Crimes

320.1 PURPOSE AND SCOPE

The Bellingham Police 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, the Bellingham Police Department will utilize all available resources to see that justice is served under the law. This policy has been developed to provide members of the Bellingham Police Department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

320.2 DEFINITIONS

Bias Incident - Offensive derogatory comments directed at a person's sexual orientation, race, or other protected status which cause fear and/or concern in the targeted community during a non-criminal incident.

Bodily injury, physical injury, or bodily harm - Physical pain or injury, illness, or an impairment of physical condition.

Crime with bias elements - An event in which a crime is committed that is not based on bias and during the crime the suspect does or says something directed at the victim's protected status or group. (For example, a Robbery where the perpetrator uses a racial slur. The primary motivation for the crime is the Robbery, the racial slur is secondary).

Gender expression or identity - 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 9A.36.080](#)).

Hate Crime - A crime motivated by prejudice. When a perpetrator targets and commits a crime against a person because they are a member (or perceived member) of a certain group.

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 reasonable person who is a member of the victim's race, color, religion, ancestry, national origin, gender, or sexual orientation, or who has the same gender expression or identity, or the same mental, physical, or sensory disability as the victim ([RCW 9A.36.080](#)).

Sexual orientation - Heterosexuality, homosexuality, or bisexuality ([RCW 9A.36.080](#)).

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.

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320.3 CRIMINAL STATUTES

320.3.1 HATE CRIME OFFENSES

A person is guilty of a hate crime offense 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, ethnicity, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory disability ([RCW 9A.36.080](#)):

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

Prima facie acts of hate are described in [RCW 9A.36.080\(2\)](#).

320.3.2 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](#)).

320.3.3 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 hate crime offense, the victim may bring a civil cause of action for the hate crime offense against the person who committed the offense. A person may be liable to the victim of the hate crime offense for actual damages, punitive damages of up to one hundred 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.

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- (b) Providing victim assistance and follow-up as outlined below, including community follow-up.
- (c) Educating community and civic groups about hate crime laws.

320.6 PROCEDURE FOR INVESTIGATING HATE CRIMES AND BIASED INCIDENTS

Whenever any member of this Department receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, 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) A supervisor shall be notified of the circumstances as soon as practical.
- (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) and supervisor should take reasonable steps to ensure that any such situation does not escalate further.
- (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 interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime.
- (g) If Officers are able to develop probable cause for a Hate Crime or a Crime with Bias, an arrest should be made.
 - 1. If there is no crime, but the reported event appears to have a bias element, the event SHALL be documented.
 - 2. If Officers are not able to make a determination because the case requires further follow-up, the Investigations Unit Supervisors should be notified via e-mail.
- (h) The assigned officer(s) will include all available evidence indicating the likelihood of a hate crime in the relevant report(s). All reports will be completed and submitted by the assigned officer(s) before the end of the shift.
- (i) Any report that is determined to be a hate Crime, a Crime with Bias, or a Bias Incident should have the SBI box marked in Longarm.

320.6.1 INVESTIGATION UNIT RESPONSIBILITY

All cases marked with the SBI flag will then be reviewed by the Investigations Unit Supervisors. The Investigations Supervisor will then:

- (a) Assign the case to a Detective for follow-up (or),
- (b) Complete the Hate Crime worksheet confirming the disposition of the case.

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If a case is assigned, the assigned detective will be responsible for following up on the reported hate crime as follows:

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

320.6.2 HATE/BIAS CRIMES COORDINATOR

The Deputy Chief of Operations 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:

- 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](#)).
- 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](#)).