



POLICY AND PROCEDURE

NO.510

Hate Crimes

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POLICY:

It is the policy of the Worcester Police Department to aggressively investigate "Hate Crimes", so called, to insure that the inhabitants of the City of Worcester are protected against the insidious effects of crimes, attempted crimes or threats thereof, which are motivated by bigotry and bias. This department recognizes the destructive effects of a criminal act or acts, which are perpetrated solely on the basis of the victim's racial, religious, ethnic, handicap, gender or sexual orientation. Moreover, the Worcester Police Department shall cooperate with other police agencies as required by law and in a manner consistent with the furthering of the objective of this policy and procedure. Accordingly, the following procedure shall be adhered to in the investigation of these matters.

PROCEDURE:

1. Definitions: "Hate Crimes", so called, shall be defined as follows: any criminal act coupled with overt action motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicapped, gender or sexual orientation prejudice, or which otherwise deprives another person of his constitutional rights by threats, intimidation, coercion, or which seeks to interfere with or disrespect a person's exercise of constitutional rights through harassment or intimidation.

Hate crime should also include, but not be limited to, acts that constitute violation of:

- a. Chapter 265 Sections 37i, and 39ii
 - b. Chapter 272 Section 127Aiii
 - c. Chapter 266 Section
 - d. Chapters 272
2. Reporting Procedure: It is mandatory that an incident report be filed upon any actual or suspected incident of a hate or bias crime. All reports of hate/bias crimes or incidents must be forwarded to the Hate/Bias Crime section of the Detective Bureau.

Hate crimes should also include, but not be limited to, acts that constitute violation of Sections 37 (thirty-seven) and (39) thirty-nine of Chapter 265 (two-hundred and sixty-five) Section 127A (one hundred and twenty-seven A) of Chapter 266 (two hundred and sixty-six, and Chapters 272 (two hundred and seventy-two)

3. Indicia of Hate Crime/Bias Crime Presence:

- a. Comments: written statements, gestures, verbal or otherwise communicated threats of criminal acts with no identifiable motivation other than the communication of hatred and/or bias
- b. Drawings: markings, symbols, graffiti
- c. Representation Of Organized Hate Groups: i.e. white hoods, burning crosses, other readily recognized symbols of hatred groups whether organized or informal
- d. Previous Existence If Bias/Crime Indicators: several incidents occurring in same area, victim in same area where bias crime committed against his/her group.
- e. Victim/Witness Perception: victims or witnesses perceive that incident was bias motivated, a suspect was previously involved in a similar incident or, involved with an organized hate group.
- f. Racial, Ethnic, Gender and Cultural Difference: animosity between suspect and victim's group, incident coincided with a holiday or date of significance to victim's group, victim was engaged in an activity promoting his/her group, victim is a member of an advocacy group, race, religion, national origin or sexual orientation is different than offender.

Per:

Edward P. Gardella
Chief of Police

GENERAL LAWS OF MASSACHUSETTS:

Chapter 265: Section 37. Violations of constitutional rights punishment. Section 37. No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the commonwealth or by the constitution or laws of the United States. Any person convicted of violating this provision shall be fined not more than one thousand dollars or imprisoned not more than one year or both; and if bodily injury results, shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than ten years, or both.

GENERAL LAWS OF MASSACHUSETTS:

Chapter 265: Section 39. Assault or battery for purpose of intimidation; punishment. Section 39. (a) Whoever commits an assault or a battery upon a person or damages the real or personal property of a person with the intent to intimidate such person because of such person's race, color, religion, national origin, sexual orientation, or disability shall be punished by a fine of not more than five thousand dollars or by imprisonment in a house of correction for not more than two and one-half years, or by both such fine and imprisonment. The court may also order restitution to the victim in any amount up to three times the value of property damage sustained by the owners of such property. For the purposes of this section, the term "disability" shall have the same meaning as "handicap" as defined in subsection 17 of section one of chapter one hundred and fifty-one B; provided, however, that for purposes of this section, the term "disability" shall not include any condition primarily resulting from the use of alcohol or a controlled substance as defined in section one of chapter ninety-four C. (b) Whoever commits a battery in violation of this section and which results in bodily injury shall be

punished by a fine of not more than ten thousand dollars or by imprisonment in the state prison for not more than five years, or by both such fine and imprisonment. For purposes of this section, "bodily injury" shall mean substantial impairment of the physical condition, including, but not limited to, any burn, fracture of any bone, subdural hematoma, injury to any internal organ, or any injury which occurs as the result of repeated harm to any bodily function or organ, including human skin.

There shall be a surcharge of one hundred dollars on a fine assessed against a defendant convicted of a violation of this section; provided, however, that moneys from such surcharge shall be delivered forthwith to the treasurer of the commonwealth and deposited in the Diversity Awareness Education Trust Fund established under the provisions of section thirty-nine Q of chapter ten. In the case of convictions for multiple offenses, said surcharge shall be assessed for each such conviction. A person convicted under the provisions of this section shall complete a diversity awareness program designed by the secretary of the executive office of public safety in consultation with the Massachusetts commission against discrimination and approved by the chief justice for administration and management of the trial court. A person so convicted shall complete such program prior to release from incarceration or prior to completion of the terms of probation, whichever is applicable.

GENERAL LAWS OF MASSACHUSETTS:

Chapter 266: Section 127A. Destruction of place of worship, etc.; punishment. Section 127A. Whoever willfully, intentionally and without right, or wantonly and without cause, destroys, defaces, mars, or injures a church, synagogue or other building, structure or place used for the purpose of burial or memorializing the dead, or a school, educational facility or community center or the grounds adjacent to and owned or leased by any of the foregoing or any personal property contained in any of the foregoing shall be punished by a fine of not more than two thousand dollars or not more than three times the value of the property so destroyed, defaced, marred or injured, whichever is greater, or by imprisonment in a house of correction for not more than two and one-half years, or both; provided, however, that if the damage to or loss of such property exceeds five thousand dollars, such person shall be punished by a fine of not more than three times the value of the property so destroyed, defaced, marred or injured or by imprisonment in a state prison for not more than five years, or both. (Amended by 1989, 121, Sec. 1 effective 7-6-89.) Whoever threatens to burn, deface, mar, injure, or in any way destroy a church, synagogue or other building, structure, or place of worship, shall be punished by a fine of not more than one thousand five hundred dollars, or by imprisonment in a jail or house of correction for not more than one year, or both. (Added by 1989, 121, Sec. 2 effective 7-6-89.)