

RESPONSE TO INCIDENTS INVOLVING BIAS/HATE

Since January 11, 2019, the Windsor County State's Attorney's Office has agreed to follow the uniform statewide protocol guiding the reporting of hate crimes and other bias incidents in Vermont.

Bias Incidents. Whether rising to the level of a hate crime or not, bias incidents include events intended to threaten, offend or intimidate another because of the other's actual or perceived race, color, religion, age, disability, national origin, ancestry, sexual orientation, gender identity or service in the armed forces. Bias Incidents are a major concern for law enforcement because they include broad harms upon individual victims and communities. Perpetrators attack a victim's very identity, which can result in more severe, longer-lasting injury than if the crimes were committed for other reasons. If gone unaddressed, such crimes also spread fear in targeted communities and spawn concerns amongst victims that the broader community, including law enforcement, will not protect or support them.

It is therefore critical that all members of our law enforcement community have regular access to information regarding reported hate crimes in their community, so they can take swift, effective action to protect victims, apprehend perpetrators and prevent future crimes.

Civil Enforcement. Bias-motivated misconduct that does not constitute a crime—or that may not be provable beyond a reasonable doubt—may nonetheless be subject to civil enforcement by the Attorney General's Office (AGO), the Vermont Human Rights Commission (HRC) or federal authorities, including the U.S. Attorney's Office. For example:

- The AGO may seek a civil hate crimes injunction and compensatory damages, even if there is no criminal prosecution.
- The AGO, HRC and federal authorities may address non-criminal bias incidents under civil laws prohibiting harassment in (1) employment; (2) housing; or (3) places of public accommodation.

Protected Speech. Finally, some bias incidents do not involve either a criminal or civil violation but instead involve speech or expressive conduct that is constitutionally protected. Although enforcement action in response to such protected "hate speech" may not be possible, complaints of such incidents should be documented and taken seriously. The complaints may (1) relate to other actions that are unlawful; (2) identify community conflicts that may lead to unlawful activity; and (3) provide a basis for community outreach regarding positive, lawful responses to hate speech.

Windsor County State's Attorney's Office
Coordinating Agency Responses to Bias Incidents

Bias Incidents. For the purposes of this protocol, the phrase, "Bias Incidents" comprises the following

1. **Hate Crimes:** Actual or attempted crimes maliciously motivated by the victim's actual or perceived race, color, religion, age, disability, national origin, ancestry, sexual orientation, gender identity or service in the armed forces.
2. **Civil Harassment Offenses:** Conduct, whether a crime or not, that violates state or federal civil laws prohibiting harassment or discrimination in daily life, such as employment, housing, or public accommodations.
3. **Biased but Protected Speech:** Speech or expressive conduct that while biased and deeply offensive to members of the community, may nonetheless be constitutionally protected under the Vermont and federal constitutions.

Bias Incident Coordinator.

The Department of State's Attorneys and Sheriffs has designated Evan Meenan to serve as the **Bias Incident Coordinator** for the purposes of the communication protocol below.

Communication Protocol.

1. **Upon receiving a complaint or police report of a Bias Incident the receiving prosecutor will:**
 - a. Follow-up, as appropriate, with the concerned law enforcement agencies in accordance with this office's usual practices. This may include the decision to criminally charge and prosecute an offense.
 - b. Notify either the Department's Bias Incident Coordinator or the Attorney General's Office (AGO). The Department's Bias Incident Coordinator, Evan Meenan may be contacted by phone at **(802) 828-2891** or by email to BiasIncidentCoordinatorSAS@vermont.gov. Alternatively, the AGO may be contacted by phone at **(802) 828-3657** or by email to ago.civilrights@vermont.gov. The Bias Incident Coordinator will further share all reported incidents with the AGO. The purpose of such notice is to enable the Bias Incident Coordinator and the AGO to assess and facilitate other potential responses to the reported Bias Incident, such as:
 - i. Coordination with federal authorities, such as the U.S. Attorney's Office, if the conduct implicates federal law;
 - ii. Civil enforcement actions by the AGO or the Vermont Human Rights Commission in lieu of, or in concert with, criminal enforcement action; and
 - iii. Non-enforcement responses, such as community outreach if the Bias Incident does not violate criminal or civil law.
2. If the Bias Incident Coordinator or AGO receive complaints or reports of any Bias Incidents in this county that allege criminal misconduct, they will contact this office to enable it to:

a. Coordinate notification to concerned law enforcement agencies about the incident to avoid unnecessary duplication of effort; and

b. Discuss other potential responses to the reported Bias Incident as described above.