



STATE OF RHODE ISLAND
OFFICE OF THE ATTORNEY GENERAL

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GUIDANCE FOR LAW ENFORCEMENT OFFICIALS

TO: Chiefs of Police
FROM: Peter F. Neronha, Attorney General
DATE: December 8, 2020
SUBJECT: Hate Crimes and Civil Rights Violations

Ensuring an effective response to hate crimes and civil rights violations is imperative for law enforcement in Rhode Island. My Office remains grateful for all the work your departments already do to ensure that the community and law enforcement are aligned in the shared goal of reducing crime targeted at minorities and other vulnerable groups. The steps outlined below will build upon that foundation in addressing misconduct motivated by bigotry or hatred of protected groups and improve policing in our State.

Investigation and Prosecution of Hate Crimes and Civil Rights Violations

A hate crime is any criminal act in which the perpetrator intentionally targets a victim because of the perpetrator's hatred or animus towards a person's actual or perceived disability, religion, color, race, national origin or ancestry, gender, or sexual orientation. Whether a crime was motivated by hatred or animus towards a person because of their actual or perceived membership in a protected category is often a highly fact intensive question. Even where such crimes may involve mixed motives (i.e. targeting a person because of their race *and* because of some other reason), they often can be prosecuted as hate crimes under Rhode Island law.

Furthermore, under Rhode Island law, a hate crime is not a separate criminal charge but is rather a *sentencing enhancement*. See Rhode Island Gen. Laws § 12-19-38. A hate crime sentencing enhancement must be filed by the prosecuting authority (either a town solicitor or the Attorney General's Office) with the court *no later than the first pretrial conference*. Therefore, in cases in which additional investigation must be

undertaken to determine the applicability of the hate crime sentencing enhancement, police departments should consult with this Office prior to filing felony or misdemeanor charges¹, or as soon as possible after an arrest is made. If there is a question about the potential applicability of the enhancement, the case should not be resolved at the initial appearance.

In addition to the Hate Crimes Sentencing Act, Rhode Island law also permits this Office to bring a civil action against a person who intentionally interferes with, or threatens to interfere with, another person's constitutional or statutory rights by physical force or violence against the person or property. Rhode Island Gen. Laws § 42-9.3-2. Under the Civil Rights Advocate statute, this Office may seek injunctive or other equitable relief on behalf of the aggrieved person. Conduct that violates this statute may be, but does not have to be, criminal in nature. In other words, this Office may choose to bring a civil action under this law in addition to, or in lieu of, a criminal charge. Examples of conduct that could be addressed by this law include instances where someone interferes with an individual's right to vote by threats of violence or interferes with a person's right to be free from discrimination in housing or employment.

Whenever police departments learn of an alleged hate crime or civil rights violation, I urge you to contact this Office for assistance *as soon as possible*. We have established a dedicated Civil Rights Prosecution Unit (CRPU) within the Criminal Division which will coordinate all such investigations with the Civil Rights Advocate (CRA) within the Civil Division. This joint civil rights team has experience and expertise in both civil and criminal enforcement in this area. Due to the sensitive nature of these cases, and the preference for filing a notice of sentencing enhancement for a hate crime at the same time as the underlying criminal charge when possible, it is critical to involve this Office at the earliest possible stage of investigation.

Upon referring a potential hate crime or civil rights case to this Office, the assigned attorney(s), working with the police department, will be expected to conduct a thorough analysis and investigation prior to giving an opinion on whether an enhancement should be sought in a particular matter.

To contact this Office regarding an alleged hate crime or civil rights violation, please call: Assistant Attorney General Daniel Guglielmo, Chief of the Civil Rights Prosecution Unit, at (401) 274-4400, [REDACTED]; or Special Assistant Attorney General Keith Hoffmann at (401) 274-4400, [REDACTED].

¹ Although typically misdemeanor offenses are prosecuted by town solicitors, this Office is prepared to prosecute misdemeanors potentially subject to the hate crime enhancement when they are referred to this Office. Where you rely on the town solicitor to prosecute misdemeanor hate crimes, we ask that you advise this Office of those cases so that we can better track the incidence of hate crimes in our State.

Hates Crimes and Civil Rights Liaison Officer

To assist in the investigation and prosecution of hate crimes and civil rights violations, I recommend that each police department designate a Hate Crimes and Civil Rights Liaison who will serve as a department contact to this Office's Civil Rights Advocate and Civil Rights Prosecution Unit. The Hate Crimes and Civil Rights Liaison program will position police officers and the Attorney General's Office to respond effectively and forcefully to crime targeted at minority and marginalized groups.

Having a Hate Crimes and Civil Rights Liaison within each department will streamline information sharing between this Office and your departments, facilitate training coordination, and allow us to carry out our law enforcement responsibilities more effectively and protect vulnerable communities. My Office will collaborate with community partners to provide annual in-person training for the Liaison Officers to ensure effective policing of bias-motivated misconduct.

Once you have made this designation, please email my staff at civilrights@riag.ri.gov with the Civil Rights Liaison Officer you have appointed.

With your assistance, I am confident that this program will have a significant positive impact on policing and police-community relations in the State. If you have specific questions about this Guidance, of course you may contact me at (401) 274-4400 [REDACTED] with any questions.