



City of Toronto  
Hate Activity Policy and Procedures

*Approved by City Council, December 17, 1998  
(Corporate Services Committee Report 19, Clause 2)*

## **1. STATEMENT OF PURPOSE**

The purpose of this policy is to assist Members of the Council, employees, service recipients and Agencies, Boards and Commissions to identify a hate motivated crime or incident. The Policy outlines procedures for responding to hate through the City's Human Rights Program.

## **2. POLICY STATEMENT**

The City of Toronto believes that a diversity of racial and ethnic origins and a wide range of cultural and religious backgrounds, as well as its diverse population made up of Aboriginal and First Nations persons, women, people with disabilities, lesbians, gays, bisexuals and transgendered people, immigrants and refugees residing and working within the City, strengthens and enriches the community economically, culturally, politically and socially. In support of this belief, Members of Council, employees and recipients of all municipal services must be able to function in an environment without hatred being perpetrated through institutional practices or individual biases. Therefore, the City of Toronto is committed to:

- eliminating hate activity, harassment and all forms of discrimination through the development of programs and educational resources;
- facilitating combined efforts of each and every sector including staff, government institutions, policing, community groups and elected officials to eliminate hate activity;
- taking remedial measures to ensure that a victim of a hate-motivated crime is assisted in a timely and meaningful way;
- condemning publicly the actions of hate groups/individuals and racist organizations;
- advising the Attorney General of Ontario to proceed, where appropriate, with charges against organizations/groups/individuals for the incitement of hatred in accordance with the Criminal Code of Canada.
- ensuring that every member of Council, employee and service user can work and is served in an environment without hatred being perpetuated through institutional practices or individual bias.

## **3. BACKGROUND INFORMATION**

Hate activity could take the form of:

- Acts of Violence
- Graffiti (e.g. hate group symbols or slogans or epithets defacing property)
- Flyers/literature/hate mail with messages promoting hatred against "identifiable" groups
- Verbal slurs accompanied by a threat
- Recorded telephone hate lines

- Vandalism of ethnic, religious, lesbian or gay, minority sites
- Obscene or threatening phone calls
- Sexual assaults
- Intimidation and harassment
- Music and videos inciting hatred against an identifiable group
- Bomb threats

#### 4. SCOPE

This policy applies to Members of Council, members of the City's agencies, boards and commissions, all employees, service recipients, volunteers, consultants, grant recipients and contractors working with the City and its agencies, boards and commissions and special purpose bodies.

Every person has a right to be free of hate activity with respect to City services and facilities, to the occupancy of City-owned/leased buildings, facilities owned or leased by City grant recipients, to contracts on equal terms, and to employment because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, age, record of offences, marital status, family status, disability, level of literacy, political affiliation, membership in a union or staff association, or any other personal characteristic.

#### 5. DEFINITIONS

**5.1. Definition of a Hate Crime.** A hate crime is defined as a criminal offence committed against a person or property. The evidence demonstrates that the offence was motivated in any part by the suspect/offender's bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.

**The Law:** According to the Criminal Code of Canada section 718.2 *enhanced sentencing* is provided when a crime is motivated by bias/prejudice/hate. It states:

Section 718.2 A court that imposes a sentence shall also take into consideration the following principles:

(a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing:

(i) evidence that the offence was motivated by *bias, prejudice or hate* based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.

**5.2 Definition of Hate Propaganda.** Hate propaganda can be any communication, poster and/or graffiti used by a person or group which promotes hatred based on race, religion, nationality or ethnic origin.

**The Law:** In terms of the law, the hate propaganda section of the Criminal Code of Canada is broken down into two sections, Advocating Genocide and Public Incitement of Hatred and includes the following:

***Advocating Genocide***

Section 318 (1) states that, "Everyone who advocates or promotes genocide is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years".

(2) In this section, "genocide" means any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely:

- a) killing members of the group, or
- b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.

In this section, *identifiable group* means any section of the public *distinguished by color, race, religion or ethnic origin*.

***Public Incitement of Hatred***

Section 319 deals with the "Public Incitement of Hatred". This offence is committed when someone communicates statements in a public place, and incites hatred against any identifiable group where such incitement is likely to lead to a breach of the peace.

The section also states that an offence is committed when anyone who communicates statements, other than in private conversation, wilfully promotes hatred against any identifiable group.

*Communicating* includes words spoken or written or recorded electronically or otherwise, and gestures, signs or other visible representations.

It should be noted that, with the exception of the "breach of the peace" section, no proceedings can be instituted without the consent of the Attorney General of Ontario.

(For a detailed treatment of the law, refer to the Criminal Code of Canada sections 318-320).

In keeping with the requirements of the law, elected officials are liable if their actions incite hatred against identifiable groups.

**5.3 Definition of Telephone Recording Promoting Hate.** Telephone recordings contain messages that promote hatred against an identifiable group or verbal exposure to hatred by use of a telephone line.

**The Law:** The authority to investigate such incidents is obtained from the Canadian Human Rights Act, section 13(1) states:

It is a discriminatory practice for a person or a group of persons acting in concert to communicate over the telephone or cause to be so communicated repeatedly, in whole or in part, by means of the facilities of a telecommunication undertaking within the legislative authority of Parliament, *any matter that is likely to expose a person or persons to hatred or contempt* by reason of the fact that, that person or persons are identifiable on the basis of a "prohibited" ground of discrimination.

As per the Canadian Human Rights Act Section 3(1): A prohibited ground of discrimination is: race, national or ethnic origin, color, religion, age, sex, marital status, sexual orientation, family status, disability and conviction for which a pardon has been granted.

**5.4 Definition of Hate Activity under the Ontario Human Rights Code.** Any one who displays hate in public through *any notice, sign, symbol, emblem* is in violation of the Ontario Human Rights Code.

**The Law:** Section 13(1) states: A right under Part I is infringed by a person *who publishes or displays before the public or causes the publication or display before the public of any notice, sign, symbol, emblem or other similar representation that indicates the intention of the person to infringe a right under Part I or that is intended by the person to incite the infringement of a right under Part I. Section 13 of the Code applies to hate activity.*

To meet the requirements of section 13:

- . the display must be public
- . a person must have the intention to infringe a right under Part 1
- . the display must take place within the context of one of the prohibited grounds.

This section has been specifically applied in public housing, parks and recreation, and child care centers.

## **6. USE OF PUBLIC FACILITIES**

Public space, facilities and properties within the jurisdiction of the City of Toronto, and owned or leased by recipients of City grants will not be available or accessible to any individual or group that promotes views and ideas which are likely to promote discrimination, contempt or hatred for any person on the basis of race, national or ethnic origin, ancestry, color, citizenship, religion, age, sex, marital status, family status, sexual orientation, gender identity, disability, political affiliation, receipt of public assistance or level of literacy.

The City of Toronto (through its Facilities and Real Estate Division, as well as through incorporating the above statement in contracts/agreements with recipients of City grants) requests potential users of public space to certify that they will not be conducting any business that violates the Criminal Code of Canada - hate propaganda laws and human rights act.

## **7. PROCEDURES**

All incidents have to be reported to the City's Human Rights Office. Perpetrators of hate crimes will be charged by the police under the Criminal Code of Canada. In some cases incidents may also be dealt with as part of a complaint under the City's Human Rights and Harassment Policy.

### **7.1. Whom to Notify**

- 1.1 Notify your direct supervisor. The supervisor should first attend to safety requirements, obtain and record all details by asking questions such as who, when, where, what, why, how (use the Hate and Racial Incident Intake Form). If it is an emergency, the supervisor **is required** to act immediately based on existent emergency guidelines and notify the police. The supervisor is also required to report the information to the City's Human Rights Office.
- 1.2 Some departments such as Works and the Toronto Transit Commission already have Graffiti Removal Offices. Follow the existing procedure.
- 1.3 The Toronto Transit Commission (TTC) has its own procedures for dealing with hate crimes throughout the system. All such incidents must be reported to the TTC Human Rights Unit and the Corporate Security Department for appropriate action and follow-up.

**7.3 Gathering and Verification of Information.** A specific form will be used to collect all relevant information.

**7.4 Investigation.** If the incident is a criminal offence, the local police division should be contacted to conduct an investigation. If it is a violation of the Canadian Human Rights Act, the matter should be referred to the Canadian Human Rights Commission.

The following are examples of how hate motivated incidents should be dealt with:

***Handling of Hate Mail.*** In order that the police obtain fingerprints from hate mail and from any other object involved in a hate-motivated incident, ensure that the item is handled as little as possible. Place the item in a protective envelope or clear plastic bag. Keep the item aside and inform your direct supervisor immediately.

***Bomb Threat.*** Follow the Bomb Threat procedures of the specific site. In addition, notify Building Security of the hate motivated bomb-threat incident. Building security have to notify police that the bomb threat is hate-motivated. Police are required to take specific actions in such cases.

***Threatening Phone-calls.*** Hate motivated threatening phone-calls or voicemail messages must be documented immediately by the receiver. Notify your direct supervisor immediately.

***Graffiti.*** If there is hate motivated graffiti, notify your direct supervisor who will notify police. Do not remove it until the material has been investigated by a police officer.

**7.5 Victim Assistance and follow-up.** Appropriate staffing resources will be allocated for the provision of victim assistance. Wherever applicable, referrals will be made to appropriate community agencies and victim-services programs.

**7.6 Classification of reported incidents.** Incidents reported will be classified accordingly. An annual report will be compiled by the City's Human Rights Office and submitted to City Council and to the City's Community Advisory Committee on Anti-Racism and Anti-Hate.

**7.7 Training of all personnel.** The City will provide training based on request. Training opportunities will be published in the City's Educational and Training calendar.

**7.8 Resource Allocation for efficient response to hate activity.** The City will allocate appropriate resources for the efficient response to hate activity.

## **8. MONITORING AND EVALUATION**

The City of Toronto's Community Advisory Committee on Anti-Hate and Anti-Racism, which is a staff inter-agency committee chaired by a Member of Council, will receive deputations. It will take appropriate action to advocate for the elimination of hate activity and review the annual report.

## **9. GUIDELINES TO HELP DETERMINE AN ALLEGED HATE CRIME**

**FACTORS TO CONSIDER TO DETERMINE A HATE CRIME.** The following factors help individuals understand how to identify a hate motivated crime. Criminal offences are investigated by the police. The following factors are considered when investigating a criminal offence purported to be motivated by hate:

- Absence of motive
- Perception of the victim
- Location

- Graffiti/symbols used
- The date and time of the occurrence
- Victim easily identifiable
- Profile of the victim
- New coverage of similar events
- The groups involved in the attack
- The manner and means of the attack
- Similar incidents in the same area or against the same victim(s)
- Statements/gestures by the suspect(s).

The following questions form a reliable guide to assess if a crime is motivated by hate:

- . Is the victim a member of a target racial, religious, ethnic/national or sexual orientation group?
- . Were the offender and the victim of different racial groups?
- . Would the incident have taken place if the victim and offender were of the same racial group?
- . Were biased verbal comments, written statement or gestures made by the offender that indicated their bias?
- . Was certain clothing worn (i.e. offender wore a t-shirt which read, "white power forever"?)
- . Was a sign left, such as a graffiti with a "hate logo"?
- . Have several incidents occurred in the same locality?
- . Does the community feel that the incident was motivated by hate?
- . Was the victim involved in promoting their racial group?
- . Did the incident coincide with a holiday relating to religious or cultural significance?
- . Is the offender previously involved in a similar hate crime?
- . Did a hate group take responsibility for the crime?
- . Does a historically established animosity exist between the victim's group and the offender's group?
- . Did the offender have some understanding of the impact their actions would have on the victim?

## **10. INSTITUTIONS RESPONSIBLE FOR DEALING WITH HATE CRIMES**

**10.1 Hate Crime/Hate Propaganda – Police.** Each police division has a trained Hate Crimes Detective. If there is evidence that a criminal offence motivated by hate has occurred, the local police services are informed immediately. The Police Services have an extensive hate crimes protocol to follow when such incidents are reported. The Toronto Police Services have a Hate Crimes Unit available at 808-3500 to assist with identification of a hate crime. The Police Services are responsible for handling criminal offences. If it is an emergency, call 911. If it is not an emergency, call 808-2222.

**10.2 Hate Telephone Lines -- Canadian Human Rights Commission.** Call the Canadian

Human Rights Commission. When it receives the complaint the Commission follows the process outlined below:

- Is the Commission the right agency to handle your complaint?
- If yes, the complaint is accepted for investigation
- If no, the complaint is referred to another agency that might help.
- An investigation begins. Sometimes it results in an early settlement that both parties agree to.
- If the complaint cannot be settled, a report is prepared for the Commission.
- The Commission may dismiss the complaint, appoint a conciliator, or send the complaint to a Human Rights Tribunal.

**10.3 Further Resources.** Refer to the City of Toronto’s publication, “HATE: Communities Can Respond” for a comprehensive coverage on resources available to deal with hate crimes.

## **11. CONCLUSION**

Every individual is required to be vigilant and report incidents. This policy and guidelines are developed for the purpose of keeping Toronto a safe city. This policy is a work-in-progress. Amendments and changes will be recommended based on research from environmental scans.