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## INTRODUCTION

The Bias Motivated Incident Response Plan addresses campus climate, accountability with students and advocacy for persons affected by bias motivated incidents. This Plan is being written as a proactive measure to adequately serve students affected by bias motivated incidents. The Plan streamlines existing efforts to address bias motivated incidents on the Central Washington University main campus. Collaborative partners include Department of Public Safety and Police Services, Diversity Education Center, Student Affairs and Enrollment Management, University Housing and New Student Programs, Center for Student Empowerment, Student Health, Counseling and Wellness Services and the Office for Equal Opportunity.

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## UNIVERSITY POLICY/STUDENT CODE OF CONDUCTS DEPARTMENT OF PUBLIC SAFETY AND POLICE SERVICES

### POLICY FOR REPORTING HATE CRIMES

Law enforcement's response to an alleged hate crime begins no differently than to any other crime. The Responding Officer must quickly evaluate what has happened and take any necessary action to stabilize the situation. After that has been done, there are two unique areas of concern which should be recognized by an officer responding to an alleged hate crime: (1) sensitivity to the needs of the victim; and (2) the elements of a bias crime.

First, the Responding Officer should be sensitive to the effects of a bias crime on the victim. A victim of any crime may feel isolated from others, fearful that the occurrence will happen again, and angry that he/she has become a victim. However, there is a deeper level of isolation, fear, and anger that the victim of hate crime feels. This individual has been chosen from the rest of the population to be victimized for no other reason than his/her race, religion, ethnicity/national origin, or sexual orientation. There is nothing this person can do; indeed, there is nothing he/she ought to do to change his/her race, religion, ethnicity, or sexual orientation. And yet, it is because of these very innate qualities of the person that he/she was victimized. This type of personal experience can result, many times, in a feeling of loss of control over one's life. By recognizing these dynamics, the Responding Officer can address the special needs of the victim, thereby placing him/her at some ease and thereby making it easier

to elicit from him/her necessary information concerning the alleged offense. Another task of the Responding Officer is to determine whether additional resources are needed on the scene. At a minimum, the victim should be referred to appropriate social and legal services.

Second, the Responding Officer must be knowledgeable of the elements of bias-related crime. A bias crime is a criminal offense committed against a person or property which is motivated by the offender's bias against the victim's race, religion, ethnicity or national origin, or sexual orientation. At the level of the Responding Officer, if there is any indication that the offender was motivated by bias, the incident should be classified as a Suspected Bias Incident and then forwarded to a sergeant for review.

The types of factors to be considered by the reporting officer in making a determination of whether the incident is a Suspected Bias Incident are?

- . Is the motivation of the alleged offender known?
- . Was the incident known to have been motivated by racial, religious, ethnic, or sexual orientation bias?
- . Does the victim perceive the action of the offender to have been motivated by bias?
- . Is there no clear other motivation for the incident?
- . Were any racial, religious, ethnic, or sexual orientation bias remarks made by the offender?
- . Were there any offensive symbols, words, or acts which are known to represent a hate group or other evidence of bias against the victim's group?
- . Did the incident occur on a holiday or other day of significance to the victim's group?
- . What do the demographics of the area tell you about the incident?

If these or other factors indicate that the offender may have been motivated by bias, the incident should be classified as a Suspected Bias Incident and sent on to the Sergeant for review. While the mere utterance of a racial epithet by the offender does not provide sufficient basis to report a crime as a Suspected Bias Incident, it, combined with other factors indicating bias, could do so. For the purpose of first-level bias crime reporting, the old adage, "when in doubt, check it out" should be followed--i.e., questionable cases should be referred to the Sergeant for resolution.

#### SERGEANT RESPONSIBILITIES

The second tier in the decision making process is where the first preliminary decision is made by a reviewer regarding whether an offense was bias motivated. The sergeant who reviews preliminary decisions must be specially trained to the point of being "expert" on bias matters. The Responding Officer had to determine whether there was any indication that the offense was motivated by bias. The Sergeant must carefully sift through the facts using more stringent criteria to determine whether the incident was, in fact, a hate crime.

During the second review, the Sergeant should have time to consider carefully the findings of the Responding Officer and perhaps even conduct interviews of the victims and witnesses, if necessary. For an incident to be reported as a hate crime, sufficient objective facts must be presented to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by bias. While no single fact may be conclusive, positive answers to the types of questions listed below are supportive of a finding of biased motivation. But, an important distinction should be made. The mere fact that the offender is biased against the victim's racial, religious, ethnic/national origin, and/or sexual orientation group does not mean that a hate crime was involved. Rather, the offender's criminal act must have been motivated, in whole or in part, by his/her bias.

The Sergeant should seek answers to the following types of questions before making a determination of whether or not an incident was motivated by bias:

- . Is the victim a member of a target racial, religious, ethnic/national origin, or sexual orientation group?
- . Were the offender and the victim of different racial, religious, ethnic/national origin, or sexual orientation groups? For example, the victim was black and the offenders were white.
- . Would the incident have taken place if the victim and offender were of the same race, religion, ethnic group, or sexual orientation?
- . Were biased oral comments, written statements, or gestures made by the offender which indicates his/her bias? For example, the offender shouted racial epithet at the victim.
- . Were bias-related drawings, markings, symbols, or graffiti left at the crime scene? For example, a swastika was painted on the door of a synagogue.
- . Were certain objects, items, or things which indicate bias used (e.g., the offenders wore white sheets with hoods

covering their faces) or left behind by the offender(s) e.g., a burning cross was left in front of the victim's residence)?

Is the victim a member of a racial, religious, ethnic/national origin, or sexual orientation group which is overwhelmingly outnumbered by members of another group in the neighborhood where the victim lives and the incident took place? This factor loses significance with the passage of time, i.e., it is most significant when the victim first moved into the neighborhood and becomes less significant as time passes without incident.

Was the victim visiting a neighborhood where previous hate crimes had been committed against other members of his/her racial, religious, ethnic/national origin, or sexual orientation group and where tensions remain high against his/her group?

Have several incidents occurred in the same locality, at or about the same time, and are the victims all of the same racial, religious, ethnic/national origin, or sexual orientation group?

Does a substantial portion of the community where the crime occurred perceive that the incident was motivated by bias?

Was the victim engaged in activities promoting his/her racial, religious, ethnic/national origin, or sexual orientation group? For example, the victim is a member of the NAACP, participates in gay rights demonstrations, etc.

Did the incident coincide with a holiday relating to, or a date of particular significance to a racial, religion, or ethnic/national origin group (e.g., Martin Luther Day, Rosh Hashanah, etc.)?

Was the offender previously involved in a similar hate crime or is he/she a member of a hate group?

Were there indications that a hate group was involved? For example, a hate group claimed responsibility for the crime or was active in the neighborhood.

Does a historically established animosity exist between the victim's group and the offender's group?

Is this incident similar to other known and documented cases of bias, particularly in this area? Does it fit a similar modus operandi to these other incidents?

Has this victim been previously involved in similar situations?

Are there other explanations for the incident, such as a childish prank, unrelated vandalism, etc.?

Did the offender have some understanding of the impact his/her actions would have on the victim?

## DIRECTOR'S RESPONSIBILITY

The third tier and final step in the decision making process is left to the Director and/or his designee. Effective January 1, 2005 the Director formed a partnership with the Central Washington University Diversity Education Center. In particular, the Director of the Diversity Education Center and the Director of Public Safety and Police Services will work together to review any criminal investigation in which a preliminary determination has been made that the incident may be a Suspected Biased Incident. Both Directors will collaborate on a process for that review and determine if any additional resources would be beneficial to the review. Ultimately, the decision to classify an incident as a Hate Crime or not will rest with the Director of Public Safety because of his statutory responsibility. The collaboration with the Diversity Education Center Director will help to insure that every opportunity has been made to understand the dynamics of each situation and the Department of Public Safety and Police Services uses the best campus resources available in the decision making process.

In any case where the Director has determined an incident to be a Hate Crime, the incident shall be included in the FBI's Uniform Crime Report.

## EXCERPT FROM THE CWU JUDICIAL CODE

Proscribed Conduct - A student shall be subject to disciplinary action or sanction upon violation of any of the following conduct proscriptions (including, but not limited to):

- . actual or attempted physical/emotional abuse of any person or conduct which threatens or endangers the health and safety of any person or which intentionally or recklessly causes a reasonable apprehension of harm to any person;
- . harassment of any sort or any malicious act which causes harm to any person's physical or mental well being;
- . recklessly engaging in conduct which creates a substantial risk of physical harm to another person;
- . theft or malicious destruction, damage or misuse of University property, private property of another member of the University community, whether occurring on or off campus; or theft or malicious destruction, damage or misuse on campus of property of a nonmember of the University community;

## DEFINITIONS

Hate Crime is an actual criminal offense motivated, in whole or in part, by the offender's bias toward the victim's status. According to the federal law, the types of prejudice and bias motivation are limited to those based on race, religion, sexual orientation, ethnicity/national origin, and disability. For example, an aggravated assault motivated by the actual or perceived sexual orientation of a victim constitutes a clear case of a hate crime. Because hate crimes are not separate, distinct crimes, but rather traditional offenses motivated by the offender's bias, CWU Department of Public Safety and Police Services has an enforcement protocol in place to assist with investigating and reporting of hate crimes.

Victims of hate crimes are not always limited to those individuals or institutions directly targeted by the crime. For example, racist graffiti or vandalism on campus may target an entire population without actually damaging any of their individual property. While damaged property belongs solely to the institution, indirect "victims" of such crime are also the individuals of the status evoked in the racist message. This plan will advocate for persons affected and track hate crimes that are not perpetrated against any particular individual if such crimes generate an indirect, but unequivocal impact on the individuals or populations at risk (e.g., defacing of public statues, burning down of synagogues, destroying certain books in a library, altering of road-side signs, etc.).

Bias Motivated Incident is an action in which a person is made aware that her/his status is offensive to another, but does not rise to the level of a crime. Incidents are motivated by bias as targeted individuals or groups are intentionally selected because of the actual or perceived race, religion, sexual orientation, disability, ethnicity/national origin and, for the purposes of this program, sex, gender, gender identity and gender expression. For example, a university student of certain ethnicity/national origin continually encounters messages denigrating her ethnic background written on the classroom chalkboard or posted around her residence hall. There is no actual crime committed. Remarks are easily erased or removed, no property is damaged, and the student is never assaulted. While not a hate crime, this episode is a clear case of a bias motivated incident. To report a bias incident, sufficient objective facts must be present to lead a reasonable and prudent person to conclude that the offender's actions are motivated by bias toward the status of a targeted individual or a group.

Victim/Person affected - these terms are used interchangeably with one another. Not all persons affected by an incident will consider themselves a victim. Many will,

however, so the terms are interchangeable depending on the situation.

## REPORTING AND ASSISTANCE

The University's highest concern is for the emotional and physical well being of persons affected by a bias motivated incident or hate crime. The person affected shall have access to all university services that can help students maintain emotional and psychological well being and provide for the safety of the person affected. These include, but are not limited to, assistance in changing academic and living arrangements if these changes are reasonably available. The Incident Response Coordinator will be the first official point of contact (963-1685), other than the police, for facilitating victim access to all needed services. Other departments, if contacted first, will make a referral to the Incident Response Coordinator.

Central Washington University encourages all members of the campus community who believe they are victims of a bias motivated incident or the crime to immediately report the incident to the police agency of jurisdiction. Although reporting is not required, it is strongly encouraged. If the incident occurs in the residence halls or apartments, the Office of Housing and New Student Programs and Public Safety should be contacted as well as the Incident Response Coordinator (Director of the Diversity Education Center). Immediate reporting to the police is an important factor in successful investigation and prosecution of bias incidents and hate crimes.

Persons affected or victims are not required to pursue prosecution just because they report a crime to a police agency. However, the reporting of a bias motivated incident or hate crime may prevent others from being affected.

Any member of the university community can file a third party report with the Incident Response Coordinator, Student Affairs and Enrollment Management, or Police Services detailing a potential bias motivated incident or hate crime. It is important to note that the university cannot initiate student judicial action or a criminal complaint against the alleged offender based on a third party report. The report is encouraged, nonetheless, as it can provide useful information for protecting the community-at-large and connecting similar reports while protecting the victim's anonymity.

## LEGAL RECOURSE AND DISCIPLINARY ACTIONS

Where there is sufficient evidence to believe the university regulations prohibiting harassment, physical/emotional abuse (see

I.B above) have been violated, the university may pursue disciplinary action through its Student Rights and Responsibilities Policy (see the undergraduate catalogue or [www.cwu.edu/~catalogs/01\\_appendix.html#rights](http://www.cwu.edu/~catalogs/01_appendix.html#rights)). Sanctions for persons found in violation of these policies may include suspension and/or expulsion from the university. Education, including combating hate and bias/ tolerance/self awareness, may be required of the alleged offender. The university, through the Office of the Vice President of Student Affairs and Enrollment Management, reserves the right to pursue disciplinary action in the case of an off-campus incident, when the alleged offender is a student and the behavior involved threatens the health, safety, and/or property of the university, its staff and students. When proceedings are conducted on campus in cases of a bias motivated incident, the person affected and the alleged offender (if known) are entitled to: (a) the opportunity to have an advocate present and (b) be informed of the outcome of the proceeding. For a detailed description of due process see the Student Judicial Code, sections V and VI, or visit online <http://www.cwu.edu/~saffairs/studentjudicialcode.html>

No victim of a bias motivated incident shall be penalized or retaliated against in any way for his/her participation in the university's complaint process. A victim/person affected has the right to avoid face-to-face interaction with the offender (if known) during any campus judicial hearings. She/he also has the right to appeal the findings of the investigations conducted by the Office of the Vice President of Student Affairs and Enrollment Management.

A victim of a bias motivated incident or hate crime has legal recourse outside the university, if he/she chooses. Campus authorities will assist victims in notifying proper law enforcement authorities including Public Safety and local police. It is the victim's right to decide whether or not to file a complaint. Legal advocacy is available, see response coordinator for more information.

#### ROLE OF THE INCIDENT RESPONSE COORDINATOR

**The Incident Response Coordinator will neither investigate nor adjudicate complaints relating to a bias motivated incident or hate crime. In the event of a bias incident complaint, the Incident Response Coordinator ensures appropriate services are made available. These include:**

- . Crisis counseling to the victim/person affected.
- . Appropriate medical referral (if needed).
- . Referral to the Health and Counseling Center to meet with a

counselor who will provide additional emotional support and assist victims in sorting out feelings associated with the incident.

Provide advice on the university's discrimination complaint procedures, disciplinary action (if alleged offender is known), alternative housing assignments, academic assistance, and the role of advocate in other proceedings.

Make every effort to contact victim/person affected within 24 hours and, while respecting whatever decision they have made, encourage them to get some type of assistance.

**The Incident Response Coordinator coordinates the process of reporting incidents by:**

Encouraging person(s) affected to report the occurrence to Public Safety for investigation and/or prosecution.

Notifying the following offices (or others) as appropriate and with the victim's consent: Office for the Vice President for Student Affairs and Enrollment Management (if the alleged offender is a student), Office for Equal Opportunity (if the alleged offender is an employee), University Housing and New Student Programs (if either the victim or the alleged offender is living in the residential community), Health and Counseling Center, Academic Affairs (if the victim needs to alter course schedule), and the Office of International Student Programs (if either the victim or the alleged offender is involved in that program), Student Employment Office (if the alleged offender is a university student employee).

**The Incident Response Coordinator maintains and provides appropriate statistical information by:**

Maintaining generic statistical information and providing data to Public Safety is required under the Clery Act. (The Jeanne Clery disclosure of Campus Security Policy and Crime Statistics Act - for information see [www.ed.gov/admins/lead/safety/campus.html](http://www.ed.gov/admins/lead/safety/campus.html))

Maintaining the confidentiality at the informal-service level with the exception of the mandated statistical summaries required by the Clery Act.

**Other duties of the Incident Response Coordinator include:**

Coordinating campus resources and educational efforts.

Advising the Equity and Services Council, a student organization which provides services and programmatic efforts to all students at CWU.

- Working closely with the Diversity Council and its eleven commissions.

## HOW TO HELP A FRIEND

Individuals who are contacted by a person affected by a bias motivated incident should encourage that person to:

- Contact Public Safety
- Talk with the university's Incident Response Coordinator

If the victim wishes to speak only to you:

- Ascertain whether the victim needs immediate medical assistance. Ask the victim directly if he/she is all right physically. If the victim needs medical attention, refer him/her to the Emergency Room, Kittitas Bally Community Hospital or the University's Health and Counseling Center.
- Find out the victim's most critical concerns and respond in a non-judgmental way. Recommend appropriate resources for the victim and feel free to consult with the Incident Response Coordinator for additional guidance.
- Remember, the person affected may wish to do nothing further, other than have this conversation.
- Report the incident to Public Safety (names of victims are not required) so the university can comply with legal reporting requirements.

## EDUCATION FOR PREVENTION

The Diversity Education Center is committed to providing effective education and outreach relating to combating hate and bias on college campuses. This includes ally development, tolerance, self-actualization and reflection, sensitivity trainings and exposure to a variety of topics and issues that address multicultural issues. The Center believes in the development of a set of cultural competencies that assist and prepare students for life after college. Programs and events range from cultural celebrations, to issue based lectures and forums to advocacy trainings and personal development.

## CONTACTS

Incident Response Coordinator (Director of Diversity Education Center): 509-963-1685  
CWU Public Safety and Police Services: 509-963-2958  
Vice President for Student Affairs and Enrollment Management: 509-963-1515

Office for Equal Opportunity: 509-963-2205  
Center for Student Empowerment: 509-963-2127  
Sexual Assault Response Coordinator: 509-963-3214  
Wellness Center/SAFE: 509-963-3213  
Health and Counseling Center: 509-963-1391  
Crisis Line - Lower County: 509-925-4168  
Crisis Line - Upper County: 509-674-2881  
Central WA Comprehensive Mental Health: 509-925-9861  
Kittitas Valley Community Hospital: 509-962-9841  
Disability Support Services: 509-963-2171  
Office of International Student Programs: 509-963-3612