

DURHAM POLICE DEPARTMENT

**86 Dover Road
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POLICY #: 42.1.1.3

SUBJECT: Investigations, Civil Rights Violations

CALEA STANDARDS:

NOTE: This written directive is for the internal governance of the Durham Police Department, and as provided by RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

PURPOSE

The purpose of this policy is to provide general guidance for members of the Durham Police Department with regard to their responsibilities to detect, report, and prosecute civil rights violations.

POLICY

It is the policy of the Durham Police Department to vigorously investigate any incident in which a resident or visitor to our community is persecuted, discriminated against, or subjected to illegal and unconstitutional behavior by any person by means of violating the civil rights of the victim. The Durham Police Department shall use the civil and criminal provisions of RSA 354-B, in conjunction with the New Hampshire Criminal Code and the enhanced penalty provisions of RSA 651:6(1)(g) to guarantee the rights of all people to live their lives without any person or group committing illegal acts against them because of their race color, religion, national origin, ancestry, sexual orientation, gender, or disability.

PROCEDURE

Definitions

Civil Rights Violation: Actual or threatened physical force or violence against any person by actual or threatened damage to or trespass on property, when such actual or threatened conduct is motivated by race color, religion, national origin, ancestry, sexual orientation, gender, or disability.

Threatened Physical Force or Threatened Damage to or Trespass on Property: A communication, by physical contact or declaration, of intent to inflict harm on a person, or a person's property by some unlawful act with a purpose to terrorize or coerce.

- The Deputy Chief shall be the designated Civil Rights Officer (CRO) for the Durham Police Department.
- The CRO shall remain familiar with and up to date with changes in State and Federal law governing civil rights, and shall serve as the Department's point of contact in matters relating to Civil Rights Violations.
- The CRO shall coordinate Civil Rights training with the Captain on a periodic basis to ensure that civil rights law and the investigation of violations is adequately addressed.
- It is the responsibility of every member to enforce the Civil Rights Act (CRA), and no member should delay acting on reported violations.
- Whenever an actual, suspected, or reported civil rights violation is investigated by or referred to a member, a copy of the report and any supplemental or follow up reports shall be referred to the CRO.
- The CRO shall examine all such reports to ensure an adequate and timely response.
- The CRO will follow up with victims; oversee prosecution of criminal charges where there is sufficient evidence, and refer cases to the Attorney General's Office for possible civil relief.
- Among the civil relief granted under the CRA, a victim may have obtained an injunction or a protective order. If a person claims that another person of any age has violated the terms of such an order, ask to see a copy of the order if available. If a copy is not available, attempt to obtain one from the issuing court. Injunctions expire after three years unless renewed or extended by the court, upon motion by the Attorney General.
- Upon probable cause to believe terms of such an order have been violated, officers shall arrest the offender for a Class A Misdemeanor under RSA 354-B: 4, in addition to making an arrest for any other crime that has been committed by the offender. (The most typical crimes involved will be assault, criminal mischief, or criminal threatening.)
- When making an arrest for any crime where there is reasonable grounds to believe the actor was substantially motivated to commit the act because of hostility toward the victim's religion, race, creed, sexual orientation, national origin, or sex, this fact shall be documented by the prosecutor in order to trigger the enhanced penalty provisions of RSA 651:6.

- The CRO shall ensure that a copy of any offense or arrest report detailing a violation of the CRA is forwarded to the Attorney General's Civil Division and the Department shall cooperate fully with the AG's Office in any proceeding against the violator.
- Injunctions and protective orders issued under the CRA are referred by the issuing court to the law enforcement agency having jurisdiction where the act was committed, and where the defendant resides. Any such information received by the Department shall be referred to the CRO and shall be posted at the Strafford County Dispatch Center where it shall be readily available to all personnel.
- Dispatchers shall make responding officers aware of the existence of an injunction or protective order when the officers are responding to an incident that involves person or locations that would be covered by the injunction or order.
- Civil injunctions and protective orders against persons under the age of 17 shall conform to the same confidentiality requirements of RSA 169-B:35-37, inclusive, however, this does not prevent the court from issuing such orders against persons under the age of 17.