How OSU Police respond to incidents of bias or intimidation
By Paul S. Denton, Chief of Police

This past academic year saw an uncommon increase in calls to OSU Police reporting incidents of incivility and bias. In some cases responding officers were able to readily determine that a crime had been committed and a victim stepped forward to report the offense. In other situations officers had to exercise discretion and judgment, particularly for events on the Oval where citizens engaged in free speech, or when the evidence and victim of an affront were less certain.

The role of police in a society is defined by the needs and expectations of the community. The core, fundamental purpose of police officers on a college campus is to safeguard the institution as an open and free learning environment. The men and women of The Ohio State University Police Division are sworn by oath to defend constitutional rights. The OSU Police mission states that officers perform their duties supporting the principles of education, enforcement of laws, and protection of life and property.

In civil affairs the police fall under the executive branch of government. In a campus community the police are representatives of the institutional executives, charged by the trustees to enforce the law and institutional rules. It is important to keep in mind that police do not make laws or institutional rules. Their charge is clearly distinct and separate which is to enforce or uphold the rule of law.

Policing is far more complex than law enforcement and enforcement is not the only outcome of an officer’s response to a complaint. Police officers more often take on the role of mediator and peace maker to maintain public order.

It may be easier to put these concepts into perspective and provide a better understanding of police response when incivility or bias is encountered with some example situations.

EXAMPLE 1 “The Obvious Crime”

This is a fictional scenario. An Asian student returning to her car in a campus lot finds the driver side window broken out, a large rock on the front seat and a note written in marker across the front windshield. The note contains a racial slur and the statement “your kind don’t know how to drive.” The student calls OSU Police to report the damage.

This student is clearly the victim of a crime. Under Ohio law the crime would most likely be criminal mischief. The issue for the police officer to determine is whether or not this is a biased crime or is there evidence that the person responsible for the crime was motivated by race, color, religion, or national origin of another person or group of persons. If so determined by the officer, the consequence for the perpetrator if or when apprehended, is the possibility of an additional criminal charge of Ethnic Intimidation and a higher penalty for the crime under the law. Evidence which supports this as being
a biased crime is the racial slur and the statement about “your kind” which could be interpreted as either referring to the victim’s race, sex or national origin.

This incident becomes more complex for the officer because of the differences between Ohio Law and the Columbus City Code since both apply to the OSU campus. Under the Columbus Code the motives or reasons for the commission of the offense of Ethnic Intimidation are broader and include the victim's race, sex, sexual orientation, gender identity or expression, color, religion, national origin, ancestry, age, disability, familial status or military status.

The OSU Officer will complete an offense report, collect the evidence of the crime and investigate fully to try and identify the person responsible. Until that person is caught and agrees to be interviewed the true motive for the crime may not be known. The most compelling and visible evidence of motive is the criminal behavior and words.

EXAMPLE 2 “Discourse in the Public Square”

This scenario is based on factual information. The Westboro Baptist Church headed by Fred Phelps and consisting mainly of his family members is a nationally known group who travel from city to city to demonstrate. They profess extreme ideologies against homosexuality and other issues. Their demonstrations include picketing funerals of US servicemen and desecrating the flag. They are monitored and described as a hate group by the Anti-Defamation League and Southern Poverty Law Center. A legal challenge to their demonstrations at servicemen’s funerals was heard by the US Supreme Court and the court ruled in their favor. As distasteful their actions may be and contrary to our OSU believes and principles, the Westboro demonstrations are legal.

Groups and individuals with differing views and opinions regularly visit campus. Not all are as extreme as Westboro. Some intentionally want a confrontation, some use signs and banners to incite a response; others merely want to have their say then leave. All enjoy the protection of the US Constitution and right of free speech.

The police goal is to maintain the peace and assure campus safety. If OSU Police is contacted in advance we advise groups on how to hold a safe event on campus. If someone wishes to formally reserve space for an event we inform them of the university rules and procedures. Individual or group who simply come to campus are generally free to use public spaces (i.e. sidewalks, green space) within established limits.

OSU Police have response plans to address demonstrations, protests and counter protests of all sizes. We remain neutral in terms of the issues under debate. Police officers do not decide which opinions or point of view are appropriate to be heard on campus.

Occasionally, these public discussions cause affront and officers are called because of a disturbance. These are difficult situations since the underlying cause is a significant difference of opinion between individuals choosing to debate.
These discussions can be emotionally charged, animated, even strongly worded yet remain voluntary, civil and within the constraints of the law.

There are limits however, especially when an individual or member of a protest group verbally or physically abuses or intimidates another person. A criminal assault occurs if the attack causes or is likely to cause physical harm to another person. Disorderly conduct occurs if the verbal confrontation causes another to be alarmed, threatens harm, provokes fear, is insulting, taunting, or challenging to the degree that a violent response is provoked. It is also disorderly conduct if protestors or demonstrators impede the movement of persons such as blocking sidewalks, roadways or entrances to buildings.

Like Example 1 when a crime is alleged to have occurred OSU police will complete an offense report, collect evidence and investigate fully to try and identify the person responsible. These cases are less clear as there is rarely physical evidence and conduct must be assessed by officers after the fact based on victims or witness statements. Both parties involved may present a different and equally reasonable view of the incident.

The best suggestion if verbally insulted or confronted by someone with whom you strongly disagree is to not engage in debate. Ignore the person if you can and walk away. If you believe that you have been the victim of a crime in these situations act civilly and calmly tell the person you are offended by their comment and you want them to stop or you will call the police. If the verbal insult continues call OSU Police, then ask for others to remain as witnesses on your behalf. If witnesses cannot wait for police to arrive ask for their name and contact information. Ask if anyone has a video recording of the incident which could be used as evidence. The determination as to whether or not a crime has been committed will be based on the nature of the verbal confrontation, your feelings and reaction to the abuse and your ability to convey this clearly to the reporting officer.

Keep in mind that to pursue criminal charges in these situations you will be required to attend court. Without your presence and statement as the crime victim the criminal charge will most likely be dismissed.

In closing, students, faculty and staff are always welcome to call OSU Police for information and advice. Diversity, service and respect are among our core values. These values reflect the expectations of the OSU Community and guide our response to calls for service.