

HATE CRIMES

6.13.01 PURPOSE

This order establishes policies and outlines procedures for investigating and reporting hate crimes.

6.13.02 POLICY

The San Francisco Police Department recognizes and places a high priority on the rights of all individuals guaranteed under the state and federal constitution and incorporated in state and federal law.

The City of San Francisco values the great diversity of its people and recognizes that a threat against any portion of our community is truly a threat against our diverse way of life. Acts or threats of violence motivated by hatred or prejudice are serious acts, often vicious in nature, which tear at the fabric of our community. These occurrences generate fear and concern among victims as well as the entire community and have the potential of recurring, escalating and possibly causing counter-violence.

It is the policy of the San Francisco Police Department to ensure that the rights of all people, as guaranteed by the constitutions of the United States and the State of California, are protected. Among those constitutional guarantees is the right of all people to live without fear of attack or threat from an individual or group due to hatred or prejudice. An act or threat of violence motivated by hatred or prejudice threatens this constitutional guarantee and generates fear and concern among victims and the public.

6.13.03 DEFINITIONS

- A. **Hate Crime** - California Penal Code 422.55 defines a hate crime as “a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim: disability, gender, nationality, race or ethnicity, religion, sexual orientation; or because of the person’s association with a person or group with one or more of these actual or perceived characteristics.
- B. **Victim** – California Penal Code 75589(i) defines victim as including, but not limited to “a community center, educational facility, entity, family group, individual, office, meeting hall, person, place of worship, private institution, public agency, library, or other victim or intended victim of the offense.”
- C. **Threats and Vandalism to Interfere with Civil Rights** – California Penal Code 422.6 makes it a stand-alone crime to willfully injure intimidate, interfere with, oppress, or threaten, by force or threat of force, another person’s free exercise or enjoyment of their civil rights, or

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knowingly deface, damage, or destroy their property, because of that person's actual or perceived protected characteristic(s).

D. Bias Motivation - A preexisting negative attitude toward actual or perceived characteristics referenced in California Penal Code Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to: hatred, animosity, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, desire for social dominance, desire for social bonding with those of one's "own kind"; or the victim is perceived as being weak, worthless, or fair game because of a protected characteristic, including but not limited to, disability or gender.

E. Hate Incident - An action or behavior motivated by hate but which is legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include: name-calling, communicating insults and epithets, displaying hate material on your own property, posting hate material that does not result in property damage, distribution of materials with hate messages in public places.

Although hate incidents are not criminal events, it is important to note that these incidents have a traumatic impact on the victims as well as on the community at large. Hate incidents can be indicators of, or precursors to, hate crimes and should be investigated and documented as part of an overall strategy to prevent hate crimes.

F. Hate Speech – While the utterance of hate speech alone does not constitute a hate crime, it is applicable to other violations of the California Penal Code. The following types of speech are generally not protected by the First Amendment: fighting words, credible threats, perjury, blackmail, incitement to lawless action, solicitation to commit any crime.

G. "In Whole or In Part Because of" – California Penal Code 422.56(d) defines this term to mean "that the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that the crime would not have been committed but for the actual or perceived characteristic."

6.13.04 PROCEDURES

A. Officer Duties

1. Initial Response and Notification

- a. Secure the crime scene and ensure the safety of victim(s), witness(es), and suspected perpetrator(s).
- b. Notify your supervisor or the Special Investigations Division (SID).
 - i. After 1700 hours and weekends: notify Department of Operations Center (DOC).

2. Incident Report

- a. Document facts, including bias motivation, in the narrative and include, verbatim, any statements made prior to or during the incident.
 - b. Indicate the relevant characteristics, such as the race, ethnicity, sex, religion, or sexual orientation of the victim and the suspect (if known).
 - c. Photograph and collect all evidence from the scene.
 - d. Report Indication
 - i. Hate Crime - check the appropriate secondary code in the title of the report, e.g. "Battery/ Hate Crime" and check the prejudice-based box of the incident report. Assign the case to 5S200, SID.
 - ii. Prejudiced-Based and only includes utterance of hate speech - check the appropriate primary code in the title of the report as the specific criminal act, or list it as "Suspicious Occurrence" and check the prejudice-based box of the incident report.
 - a. A secondary code in the title of the report, "Hate Crime" should not be added.
3. Victim Assistance and Follow-Up
- a. Provide the SFPD Hate Crimes Brochure, Marsy's card, and any applicable forms.

B. Patrol Supervisor Duties

1. Initial Response and Notification
 - a. Respond to the scene and confer with the initial responding officer(s).
 - i. Ensure that necessary preliminary actions have been taken.
 - ii. Request any appropriate personnel necessary as necessary to manage the incident.
 - b. Notify the Lieutenant and other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
2. Incident Management
 - a. Ensure that all relevant facts are documented on an incident and/or arrest report.
 - b. Respond to and investigate any reports of hate crimes committed under the color of authority as required by California Penal Code 422.6.
 - c. Make a final determination as to whether the incident should be classified as a hate crime after consultation with the Hate Crimes Unit of the Special Investigations Division.
 - d. Ensure adherence to California Penal Code 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
3. Victim Assistance and Follow-Up
 - a. Ensure appropriate resource assistance is provided to the victim.
 - b. Supervisors should also be aware of the immigration remedies available to victims of crime. (U-Visa, T-Visa, S-Visa, etc.).

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C. Community Engagement Division (CED) Duties

1. Victim Assistance and Follow-Up
 - a. Upon notification, Provide referral assistance to the victim and their family as appropriate.
2. Community Outreach and Assistance
 - a. Meet with residents in target communities to allay fears; emphasize the agency's concern over this and related incidents; reduce the potential for counter-violence; and provide safety, security, and crime prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
 - b. Conduct public meetings on hate crime threats and violence in general.
3. Education and Training
 - a. Expand, where appropriate, preventive programs such as hate, bias, and crime reduction seminars for school children.
 - b. Provide orientation of and with communities of specific targeted victims. Hate crimes are not only a crime against the targeted victim(s) but also have impacts on the victim's family and community.

D. SID Officer-in-Charge and Hate Crimes Coordinator Duties

1. Prevention
 - a. SID will coordinate with other local law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents and determine if organized hate groups are involved.
 - b.
2. Initial Response
 - a. Contact the California Department of Justice Hate Crime Rapid Response Unit when it has been determined that a triggering event has occurred, if appropriate.
 - b. Make the final determination as to whether the incident should be classified as a hate crime.
3. Education and Training
 - a. Collaborate with the Training Division and Terrorism Liaison Unit to periodically train and update department members on hate crimes, trends, etc.
 - b. Ensure the SFPD Hate Crimes brochure is updated and accessible for officers to distribute to victims of hate crimes and all other interested persons.
4. Reporting
 - a. Share hate crime data on a quarterly basis pursuant to San Francisco Administrative Code 96A.5.
 - b. Report hate crimes to the California Department of Justice as required by the Attorney General.

6.13.05 TRAINING

All members of the San Francisco Police Department will be trained in the Hate Crimes policy. The Department will issue updates to policy and law via department bulletins.

6.13.06 CRIMINAL STATUTES

- A. California Penal Code section 422.6 – Misdemeanor
- B. California penal code section 422.7 – Wobbler
- C. California penal code 422.75 – Felony enhancement
- D. California penal code 422.55 definition of hate crimes
- E. California penal code 422.56 definition of terms in hate crime statutes

6.13.07 CIVIL STATUTES

- A. Civil Code 52.1- Bane Act
- B. Civil Code 51.7 & 52 – Ralph Act

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