



**HATE CRIMES
GENERAL ORDER #17.07**

Adopted: 07/07/2010
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POLICY

It is the policy of the Sheriff's Office to ensure that rights guaranteed by the constitutions and laws of the United States and the State of California for all citizens regardless of their race, color, religion, ethnic origin, national origin, or sexual orientation. The Sheriff's Office has a zero tolerance policy for hate crimes, and will investigate all reported prejudice-based incidents and support vigorous prosecution of those apprehended for such acts.

PROCEDURE

A. DEFINITIONS

1. "Prejudice-based incident" or hate crime:

"Any violence, or intimidation by threat of violence against the person or property of another, where the motive of the perpetrator is hatred of one or more of the personal characteristics of the victim(s), including, but not limited to: race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute."

2. Guidelines for hate crime determination:

- a.** The hate crime must involve a specific target, such as an individual, property of an individual, residence, house of worship, religious or ethnic organization, or business.

- b. Graffiti must be racial, ethnic, religious, or homophobic in nature, such as swastikas, KKK, Nazi, or other hate group symbols, slogans or literature, or involve the use of epithets.
- c. Any assault against a person, in the absence of other apparent motivation, when initiated with, or involving racial, ethnic, religious, or homophobic epithets, will be considered to be a hate crime.
- d. Vandalism to a house of worship, ethnic, religious, gay and lesbian organization's property will be considered a hate crime in the absence of evidence of other motives.
- e. Obscene or threatening phone calls, when containing racial, ethnic, religious or homophobic slurs, are considered hate crimes.
- f. Although the following are of concern because they may reflect intergroup tension, they are not considered hate crimes because they are not aimed at a specific target or because of constitutional protections:
 - 1. Graffiti on freeway overpasses, public phone booths, etc.;
 - 2. "Punk rock" or gang graffiti, even if accompanied by a swastika;
 - 3. Interracial crimes, such as robbery, assault or rape, which are motivated by factors other than race, ethnicity, religion, or sexual orientation;
 - 4. Intragroup acts, regardless of graffiti, including gang graffiti and other gang acts;
 - 5. Name calling and epithets not accompanied by assault; and
 - 6. KKK, Nazi, or other similar group rallies, leafleting, or recruiting drives.

Reportable incidents include: criminal acts such as threatening phone calls, physical assaults, destruction of property, bomb threats, and disruption of religious meetings, as well as non-criminal acts, such as name calling or news articles, done with the apparent motive to harass, intimidate, threaten, retaliate, or create conflict among groups having different personal characteristics such as race, religion, ethnicity or sexual orientation.

Motivation: The motivation behind the act determines whether an incident is prejudice-based. When determining motivation, a deputy must ask:

- 1. Why does the victim believe he/she was victimized?

2. Were words or symbols, such as a burning cross or swastika, used or acts performed which are or may be considered to be offensive to the victim or a particular group?
 3. Is there a history of similar acts or crimes directed against the same individual or group, or against the person or persons with whom the victim is associated?
 4. Does a meaningful portion of the community perceive the incident as prejudice-based?
 5. If all the parties involved were of the same race, ethnicity, etc., would the incident still have occurred?
 6. Has an injunction been issued in related cases?
- B.** The proper investigation of hate crime incidents is the responsibility of each deputy. All deputies must be sensitive to the feelings, needs, and fears that may be present in the victim and the community as a result of incidents of this nature. The primary personnel responsible for investigating these types of incidents are the deputies responding first to the alleged incident.

When a deputy on the scene determines (after applying the established criteria) that a hate crime incident is alleged, the crime **must** be thoroughly investigated and a sensitive response provided to the victim(s) and community by following these procedures:

C. INVESTIGATING DEPUTIES

1. Shall respond in a sensitive way to the feelings and needs of the victim(s).
2. Shall immediately take all possible investigative and enforcement action.
3. Shall record the incident on the appropriate form.
4. Shall preserve the crime scene and evidence.
5. Shall note any hate crime-motivated destruction or defacement of property, such as cross burning or a painted swastika, with special attention to paints, drawings, remarks, handwriting, or other graphical evidence. Shall immediately report these findings to the shift sergeant/field commander for evaluating the need to dispatch investigative services officer(s).
6. Shall gather evidence and search the scene on those incidents to which an investigative services officers does not respond.

7. Shall prepare a detailed report.

D. SHIFT SERGEANT/WATCH COMMANDER

1. Shall respond immediately to the scene of all incidents as defined above.
2. Shall ensure that the crime scene is protected.
3. Shall request investigative services officer(s) if any hate crime-motivated destruction or defacement of property has taken place which cannot be documented by the investigating deputy or if the special expertise of investigation services is needed.
4. Shall ensure that the scene is properly searched and evidence is gathered for incidents in which investigation services does not respond.
5. Shall visit the victim(s) as soon as possible. Assure each victim that the preliminary investigation, as well as any follow-up, will be actively pursued.
6. Shall notify division commander of all hate crime incidents. The division commander shall notify the Assistant Sheriff, Field Enforcement Bureau, of all hate crime incidents.
7. Shall arrange for an immediate increase of patrols throughout the affected area.
8. Shall ensure that all physical evidence from the incident is removed for processing. . If the evidence is too large to be transported by police vehicle, a commercial truck shall be used. If the evidence cannot be physically carried away (example: paint on walls), the shift sergeant or watch commander shall attempt to impress upon building or property owners the need for complete restoration as soon as possible.
9. Shall ensure that the report contains full data on the materials used (cross, literature, paint, etc.), including size, construction, wrappings, messages, plus the method of removal and the disposition of the remains.
10. Shall ensure that copies of all photos taken are forwarded to the intelligence section for analysis and monitoring purposes.

E. DIVISION COMMANDER AND/OR LIEUTENANT

1. Shall ensure that the investigation is actively pursued to a successful conclusion until all leads have been exhausted.

2. Shall ensure that the investigation is considered a top priority matter by the investigating personnel.
3. Shall ensure that personnel make an immediate follow-up contact with the victim(s) to assure each that the investigation will be actively pursued.
4. Shall make personal contact with the victim(s) if the severity of the case (as measured by the magnitude of the crime, the impact upon the community, etc.) dictates this action.
5. Shall ensure that increased patrols through the affected area are continued as long as necessary, but at least for several days following the incident.
6. Shall ensure that the word(s) and/or symbol(s) that cannot be carried away (example: paint) have been appropriately covered or eliminated as soon as possible.
7. Shall ensure that the victim(s) and concerned parties are informed of a case clearance contact and coordinate activities with the Assistant Sheriff, Field Enforcement Bureau, and the Public Information Officer.

F. ASSISTANT SHERIFF, FIELD OPERATIONS BUREAU

1. Shall ensure that the investigation is actively pursued to a successful conclusion or until all leads have been exhausted.
2. Shall ensure that shift sergeant/watch commander and lieutenant/division commander have made follow-up contact with the victim(s) to assure each that the investigation will be actively pursued.
3. Shall make personal contact with the victim(s) if the severity of the case (as measured by the magnitude of the crime, and the impact on the community) dictates this action.
4. Shall notify the Sheriff. Make regular reports to the Sheriff about the investigation and contact with the victim(s) and the community and if requested to do so by the Sheriff, shall notify the chair of the Board of Supervisors and the Director of the Santa Clara County Human Relations Commission within 3 business days, as required by County Ordinance A20-13.
5. Shall ensure that the public information officer is apprised of such incidents, clearances, and any other information which may be of interest to the media.

6. Shall ensure that the Sheriff's Office response is adequate, such as increased patrols through the affected area as long as necessary.
7. Shall maintain contact with community leaders concerning the progress of the investigation.
8. Shall ensure that the victim(s) and other concerned parties are informed of a case clearance.
9. Shall coordinate with the public information officer, division commander(s) and other department personnel, as necessary.
10. Shall ensure that the incident is properly reported to the Department of Justice.

G. INTELLIGENCE SECTION

1. Shall respond to the scene if a response is warranted in the opinion of the intelligence section lieutenant.
2. Shall collect data for the purpose of tracking organized hate groups and extremists to detect patterns and suspects of criminal activity.

H. INVESTIGATIVE SERVICES DEPUTIES

1. Shall respond to the scene of any hate crime-motivated destruction or defacement of property.
2. Shall obtain a sample of the cross, paints, or other materials used.
3. Shall photograph and process the scene.
4. Shall gather and take custody of any related evidence.
5. Shall forward copies of all photographs to the intelligence section for analysis and monitoring purposes.

I. CLASSIFICATIONS OF REPORTED HATE CRIME INCIDENTS

1. Verified

To be verified as a reported hate crime, an incident must meet either or both of the following conditions:

- a. It must be motivated or apparently motivated by racial, religious, ethnic, and/or sexual orientation, prejudice.
- b. The incident is perceived by the victim as being motivated by hate crime prejudice.

2. Unverified

The unverified classification is for those incidents where the evidence is conflicting, incomplete, inconclusive, or otherwise insufficient to classify as verified or unfounded. In some cases a detective from the intelligence section may be asked to gather additional information.

3. Unfounded

A reported hate crime incident will be classified unfounded if the evidence definitely indicates that the incident is not a hate crime or if the incident never occurred, for example, a false report.



**LAURIE SMITH
SHERIFF**