



Roll Call Training Bulletin

Produced by: [REDACTED]
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Daniel Hahn, Chief of Police

Volume 80

Bias Motivated or Hate Crime Incidents June 24, 2020

BACKGROUND

Recent events have prompted a heightened awareness of bias motivated or hate crime incidents by the media and the general public. This bulletin will assist officers and supervisors in recognizing and evaluating possible bias motivated or hate crime incidents and the criminal charges that may result from them.

DEFINITIONS

Bias motivated: Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 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, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as weak, worthless, or "fair game" because of a protected characteristic, including but not limited to, disability or gender.

Hate crime: "Hate crime" includes, but is not limited to, a violation of PC§ 422.6 and means 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
 - "Association with a person or group with these actual or perceived characteristics" includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of "hate crime" under paragraphs 1 to 6, inclusive of Penal Code § 422.55(a).

Note: A "hate crime" need not be motivated by hate but may be motivated by any bias against a protected characteristic.

Hate Incident: A hate incident is an action or behavior motivated by hate or bias that does not rise to the level of a criminal offense. Examples of hate incidents include:

- Name-calling
- Insults and epithets
- Distributing hate material in public places
- Displaying hate material on private property



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Hate Speech: The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action
- Conspiracy
- Solicitation to commit any crime

In whole or in part: "In whole or in part because of" means 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 a crime would not have been committed but for the actual or perceived characteristic.

SUMMARY

General Order 524.04 (Bias Motivated Crimes), states that any alleged bias motivated or hate crime incident shall be investigated. Please be aware that Penal Code 422.55 clearly states the actual or **perceived** characteristics of the victim plays an important role when determining if a suspect should be charged with the hate crime statute.

If a suspect believes a victim has the characteristics listed above in Penal Code 422.55, and the crime was committed in whole or even **in part** due to those perceived characteristics, the elements of a hate crime have been met.

Once it has been determined that a bias motivated or hate crime incident has taken place, officers should handle the call pursuant to GO 524.04.

Officers charging suspects with a hate crime against persons shall use PC § 422.6(a) "No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics of the victim."

Officers charging suspects with a property related hate crime shall use PC § 422.6(b) "No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55."