

HATE CRIMES AND THE VICTIM



October 2010

INTRODUCTION

The San Francisco Police Department applauds your courage in reporting the hate incident or crime committed against you. Many of the feelings you may be experiencing as a result of this incident often times include fear, degradation and a sense of powerlessness.

Hate Crimes are amongst many types of crime which go under-reported each year. Often times, the reason given by victims of a hate crime is that they choose to remain silent about the incident, rather than report the incident to the proper authorities. Current hate crime laws are only effective if victims report these incidents and make a commitment to follow through with the prosecution of the offender. Federal and State laws are in place to protect all victims of hate violence.

Upon learning of this incident, officers from the San Francisco Police Department went to your location to interview you. You provided officers with the facts of the incident. A police report was filed. This information was forwarded to a police inspector for review.

After reviewing your case, a police inspector may contact you to follow-up on your report. The inspector will verify information and the facts you provided. As necessary, you will be requested to be available for additional interviews, photo documentation of injuries, collection of evidence and other necessary investigative requests. A representative from the San Francisco District Attorney's Victim Services will explain community resources that are available to you.

As the case facts are documented and the investigation completed, the inspector will work hand-in-hand presenting the case facts to an Assistant District Attorney. The San Francisco District Attorney's Office will review the case facts for prosecution consideration.

The information contained in this booklet has been prepared to help you understand what is a Hate Incident and Hate Crime. It is our hope that the information provided will assist you in the subsequent criminal and/or civil investigation and the successful possible prosecution of your case. Additional information regarding community and support services is also contained in this booklet.

As always, information contained in this booklet is current, but may change as laws and resources are updated and revised.

SAN FRANCISCO POLICE DEPARTMENT

HATE CRIMES UNIT

The San Francisco Police Department's Hate Crime Unit was formed in December 1990, as a result of a resolution passed by the Board of Supervisors.

The Hate Crime Unit has full-time inspectors working under the direction of the Officer-in-Charge of the Special Investigations Division. The Hate Crimes Unit, (415) 553-1133 handles a wide variety of criminal investigations. Their primary functions are:

1. Investigations involving criminal acts of hate crime incidents.
2. Interaction with community based organizations concerned with Civil Rights issues.
3. Investigations of civil bias motivated complaints and possible referral to the City Attorney's Office.
4. Provide on-going training to law enforcement officers in the area of Bias Motivated crimes.

WHAT IS A HATE CRIME?

The definition of a Hate Crime is any criminal act or attempted criminal act directed against a person(s), public agency, or private institution based on the victim's actual or perceived race, nationality, religion, sexual orientation, disability, or gender. A Hate Crime includes an act that results in injury, however slight; a verbal threat of violence that apparently can be carried out; an act that results in property damage; and property damage or criminal act(s) directed against a public or private agency.

Many acts of hate violence fall under the category of hate crimes and are punishable under state law. Hate Crimes target an individual based on or the perception of the individual's race, color, religion, ancestry, national origin, sexual orientation, gender, or disability.

Bias motivated incidents are:

- Spoken or written threats or on-going patterns of intimidation
- Destruction / vandalism of property
- Physical attacks or attempted attacks

WHAT IS A HATE INCIDENT?

A hate incident is any non-criminal act - including words - directed against a person(s) based on that person's actual or perceived race, nationality, religion, sexual orientation, disability or gender. Hate incidents include, but are not limited to, epithets, distribution of hate material that does not result in property damage, and the display of offensive material on one's own property.

Not all incidents of hatred are crimes. Verbal name calling, although offensive, is not a crime. For this to be a crime, it must be accompanied by a viable threat of violence and the ability to carry the threat out. In order to categorize this as a hate crime, the crime committed against you, must be in whole or in part prejudiced based.

WHAT ARE PROTECTED CLASSES?

Anyone can be a victim of a Hate rime. According to the California Penal Code, the suspect must exhibit a bias motivation against the victim for one of the following reasons: race, religion, national origin, sexual orientation, disability or gender. Financial status or political affiliation is not covered under the California Penal Code.

REPORTING A HATE CRIME TO THE POLICE

It is the policy of the San Francisco Police Department:

“To ensure that rights guaranteed by the constitutions and laws of the State of California and the United States are protected for all citizens regardless of any personal characteristic, and to take a proactive role to protect all citizens against Hate Crimes by investigating prejudiced-based criminal incidents and supporting vigorous prosecution of such cases.”

If you believe you have been a victim of a Hate Crime:

1. Report the incident immediately to the San Francisco Police Department. If you believe your life is in immediate danger, call 911 by phone.
2. Write down verbatim the hate language, which was made to you by the offender.
3. Save any evidence (letters, writings, photos, video etc.) that may assist in the investigation and prosecution of the person(s) responsible for this crime.
4. Contact a representative of the San Francisco District Attorney’s Victim Services or an appropriate community based organization that will assist you through the legal process.
5. If you have general questions regarding your case, contact the investigating inspector at the SFPD Hate Crimes Unit at (415) 553-1133 during regular business hours.

LAWS PERTAINING TO HATE CRIMES

If you are a victim of hate violence, you may have the option of pursuing several legal alternatives.

1. Criminal Prosecution

-The San Francisco Police Department will present your case to the District Attorney's office. If the District Attorney believes the evidence supports the charge, he/she will present this matter in a criminal court of law.

Penal Code 422.6 (a) makes it unlawful, by force or threat of force, to oppress, injure, intimidate, or interfere with any person in the free enjoyment of any right guaranteed by state or federal law because of his or her race, color, religion, ancestry, national origin, disability, gender or sexual orientation or because the victim is perceived to have one or more of these characteristics

2. File a civil lawsuit against the responsible

-The City Attorney, District Attorney, State Attorney General or private legal counsel can all help you in this regard. Additionally, the Department of Fair Employment and Housing, your local Human Rights Commission, and various community groups may be of assistance.

CIVIL REMEDIES

The State of California currently has two civil right statutes, which are designed to protect you against bias motivated incidents.

They are the **“Ralph Civil Rights Act”** and the **“Bane Civil Rights Act.”**

The Ralph Act

Civil Code 51.7 and 52, provides that a person has a civil right to be free of violence or the threat of violence against the person or his or her property, because of the person’s race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability or position in a labor dispute or because the person is perceived to have one or more of these characteristics.

The Bane Act

Civil Code 52.1 and California Penal Code 422.6, provides protection from interference by threats, intimidation, or coercion or from attempts to interfere with someone’s state or federal statutory or constitutional rights (these include association, assembly, due process, education, employment, equal protection, expression, formation and enforcement of contracts, holding of public office, housing, privacy, speech, travel, use of public facilities, voting, worship, and protection from bodily restraint or harm, from personal insult, from defamation, and from injury to personal relations). Proof that such interference occurred because of the victim’s membership in a protected class is not required.

Additional remedies are available through the Ralph and Bane Civil Rights Acts. These remedies include:

- A court order to protect you from further threats or acts of violence.
- Actual monetary damages and a \$25,000 fine against the responsible party or person(s).
- Attorney's fees

If you want to report an incident of verbal harassment that does not meet the legal definition of a hate crime, you may do so by contacting a community resource agency located at the end of this booklet.

VICTIM AND COMMUNITY RESPONSE TO HATE CRIMES, SHORT AND LONG TERM EFFECTS.

Hate Crimes can have both immediate and long-term effect on the victim and the community. Being aware of these responses will help you recognize and deal with the aftermath of being a victim of a hate crime.

Initially, you may feel a sense of numbness with feelings of shock and disbelief. You may feel powerless and helpless because of this. This is a natural reaction. Feelings of anger, fear, helplessness and anxiety may begin to emerge. It is important to reach out to community resources and speak with a professional counselor or other supportive person to assist in alleviating these fears. Please take a moment and review the list of community agencies willing to assist you at the end of this booklet.

CONCLUSION

The San Francisco Police Department and District Attorney's Office appreciate your on-going cooperation as your matter is resolved. You were willing to take the first step in reporting this incident. Your actions may have prevented someone else from being hurt or injured in the same way. By taking this positive step, you have empowered yourself and have taken control of what happens to you.

We hope the information in this booklet was helpful and informative to you. Please call the San Francisco Police Department Hate Crimes Unit, (415) 553-1133 or any of the community agencies listed with any questions or issues of concern.

2010

COMMUNITY REFERRAL LIST

ORGANIZATION

AREA OF EXPERTISE

**ANTI DEFAMATION LEAGUE
(415) 981-3500**

**ANTI-SEMITISM
www.ADL.org**

**ASIAN LAW CAUCUS
(415) 896-1701**

**VIOLENCE AGAINST
ASIANS. [www.
ASIANLAWCAUCUS.org](http://www.ASIANLAWCAUCUS.org)**

**CHINESE FOR AFFIRMATIVE ACTION
(415) 274-6750**

**CHINESE AMERICAN
COMMUNITY.
www.CAASF.org**

**COMMUNITY UNITED AGAINST VIOLENCE
(415) 777-5500**

**GAY, LESBIAN,
BISEXUAL, TRANSGENDERED
COMMUNITIES.
www.CUAV.org**

**FAIR EMPLOYMENT AND HOUSING
(800) 884-1684**

**ALL COMMUNITIES
www.DFEH.ca.gov**

**F.B.I. CIVIL RIGHTS UNIT
(415) 553-7400**

**ALL COMMUNITIES
www.FBI.gov**

**S.F. HUMAN RIGHTS COMMISSION
(415) 252-2500**

**ALL COMMUNITIES
www.HRC.org**

**ISLAMIC NETWORK GROUP
(408) 296-7312**

**ISLAMIC COMMUNITIES
www.ING.org**

**JAPANESE AMERICAN CITIZENS LEAGUE
(415) 921-5225**

**JAPANESE AMERICAN
COMMUNITY.
www.JACL.org**

**LAWYERS COMMITTEE FOR CIVIL RIGHTS
(415) 543-9444**

**ALL COMMUNITIES
www.LCCR.com**

**N.A.A.C.P.
(415) 922-0650**

**AFRICAN AMERICAN
COMMUNITY.
www.NAACP.org**

2010

COMMUNITY REFERRAL

ORGANIZATION

S.F. DISTRICT ATTORNEY'S OFFICE
(415) 553-9044 (415) 553-1752

LA RAZA CENTRO LEGAL
(415) 863-0764

AREA OF EXPERTISE

ALL COMMUNITES
www.SFGOV.org

LATIN COMMUNITY
www.LARAZACRC.org

REFERENCES

Bargioni, S. (1990). *Hate Crimes and the Victim, a Guide to the Legal Process*
San Francisco Police Department, Special Investigation Division, Hate Crimes Unit.

Mikkelson, K. (2001). *A Summary of California and Federal Laws Pertaining to Hate Crimes*. Civil Rights Enforcement Section, Oakland, CA.

Wong, A. (2005). *Hate Crimes and the Victim, a Guide to the Legal Process.(Revision)*
San Francisco Police Department, Special Investigation Division, Hate Crimes Unit.

Peace Officer Standards and Training (POST). *Hate Crimes Investigations and Training*
Retrieved on October 10, 2004, from <http://www.POST.ca.gov/>

San Francisco Government. (2004). *Office of the District Attorney, Hate Crimes Unit*.
Retrieved on October 10, 2004, from http://www.ci.sf.us/site/da_page.asp?id=329/

International Association of Chiefs of Police. (1999). *Responding to Hate Crimes: A Police Officer's Guide to investigation and Prevention*.

Department of Fair Housing. (2004). *The Ralph Act*
Retrieved on October 10, 2004, from <http://www.dfeh.ca.gov/statutes/Ralph.asp/>