

SANTA CLARA POLICE DEPARTMENT GENERAL ORDER 41.6

HATE CRIMES

ISSUED APRIL 2006

41.6.1 Purpose

The purpose of this General Order is to establish a policy and procedure for handling crimes and incidents that are motivated by hatred or prejudice arising from differences in race, religion, gender, ethnic background, culture or sexual orientation.

41.6.2 Policy

The policy of the Santa Clara Police Department is to ensure that the rights guaranteed by Federal, State, and Local laws and the United States Constitution are protected for all people regardless of their race, gender, ethnic background, national origin, religious belief, sex, age, disability, sexual orientation or political affiliation. When such rights are infringed upon by violence, threats, or harassment, the Department will use all resources necessary to rapidly identify the persons responsible for criminal offenses, arrest them and bring them before the courts.

All criminal acts of racial, religious or political hate motivated violence will be viewed as serious, and the investigation of them will be given priority. Such acts generate fear and concern among victims and the public, and have the potential for recurring, escalating and possibly causing counter-violence.

All reported incidents that are non-criminal and that are motivated by race, ethnicity, religion, sexual orientation, or political affiliation will be investigated and documented by a police report. Such incidents have the potential to reoccur and escalate into a criminal offense. Examples of such incidents would be peaceful demonstrations, picketing and/or subversive group meetings. This information would be for intelligence gathering.

41.6.3 Definition

The California Attorney General's Office most recent edition of "Law Enforcement Guidelines for Hate Crime Policy" defines "hate crime" as "any criminal act or attempted criminal act directed against a person or persons by another based upon the victim's actual or perceived race, nationality, religion, sexual orientation, gender, mental disability, or physical disability. A hate crime includes any criminal act or attempted criminal act against the property of a public agency or private institution because it is identified or associated with a person or group of an identifiable race, nationality, religion, sexual orientation, gender, mental disability, or physical disability."

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41.6.4 Procedures

Field Operations:

When a Patrol Officer responds to a report of a hate-motivated crime or incident, the officer shall:

- Arrest the responsible(s) party if applicable.
- Advise their Sergeant of the situation.
- Attempt to calm the victim by being empathetic and supportive.
- Conduct a thorough preliminary investigation consistent with Department policy and procedure.
- Provide assistance to the victim by giving them referral information such as counseling and other appropriate support and assistance agencies.
- Include information in the report indicating why this incident appears to be hate-motivated.

Field Operations Supervisor:

The Patrol Supervisor, upon being notified of a possible hate-motivated crime or incident, shall:

- Whenever possible, respond to the scene, interview the patrol officer, and confirm whether or not a hate-motivated crime or incident has occurred.
- Take whatever steps necessary to ensure that the incident does not escalate, i.e., notify Investigations and appropriate outside agencies.
- Assist in calming the victim (if necessary). Ensure that the assigned officer conducts a thorough preliminary investigation.
- The Patrol Supervisor shall notify the Watch Commander or the Patrol Captain, as appropriate.
- The Patrol Supervisor shall include a summary of the incident in their watch commander's report.

Watch Commander:

The Watch Commander, upon being notified of a possible hate-motivated crime or incident, shall:

- Discuss the incident with the Supervisor, as appropriate.
- Notify any other persons deemed appropriate (such as the crime analyst) due to the circumstances of the crime or non-criminal incident.
- The Watch Commander shall report the incident in his/her watch commander's report.

Records:

Records will be responsible for ensuring that all hate-motivated crime/incident reports are also sent to the crime analysis unit. Records will also be responsible for reporting such crimes/incidents in accordance with state law.

Investigations:

If the type of crime requires a follow-up, the investigator assigned the case shall:

- Determine the priority level of the case.
- Conduct a follow-up investigation consistent with Department policy and procedure.
- Keep the Detective Bureau Lieutenant informed as to the progress of the investigation.
- Prepare the case for prosecution in court, if appropriate.
- The Investigations Lieutenant shall ensure that all follow-up investigations are completed, and when necessary, forward a copy of the report to Crime Prevention.

Community Services Unit: Crime Prevention

Shall receive copies of relevant reports so they will be aware of problems/potential problems in our community.

Members of the Community Services Unit shall meet with neighborhood groups as necessary to allay fears and suspicions, reduce the potential for counter-violence, and provide safety and protection information.

References

California Penal Code Sections 136.2, 139, 190.2(a)(16), 302, 422.6(a)(b)(c), 422.7, 427.9, 538(c), 594.1, 594.3, 640.8, 1170.75, 1170.8, 1170.85, 11410, 11411(a), 11412 and 11413.