

CATEGORY	DATE ADOPTED	LAST REVIEW	NEXT REVIEW
4	01/24/2011	03/01/2017	03/01/2019

## TUSTIN POLICE DEPARTMENT GENERAL ORDERS

### POLICY 338     HATE CRIMES

#### **338.1                    PURPOSE AND SCOPE**

This department recognizes and places a high priority on the rights of all individuals guaranteed under the Constitution and the laws of this state. When such rights are infringed upon by violence, threats, or other harassment, this department will utilize all available resources to see that justice is served under the law. This policy has been developed to meet or exceed the provisions of Penal Code § 13519.6(c) and provides members of this department with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.

##### **338.1.1                    ACCREDITATION STANDARDS**

This policy pertains to the following CALEA Standards: None applicable.

This policy pertains to the following Standard Operating Procedures:

#### **338.2                    DEFINITIONS**

**Hate crimes** – Penal Code § 422.55(a) 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:

- a) Disability;
- b) Sex;
- c) Nationality;
- d) Race or ethnicity;
- e) Religion;
- f) Peace Officer status;
- g) Sexual orientation;
- h) Association with a person or group with one or more of these actual or perceived characteristics.
- i) Examples of hate crimes include, but are not limited to:
  - 1) Interfering with, oppressing or threatening any other person in the free exercise or enjoyment of any right or privilege secured by the constitution or laws because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6);
  - 2) Defacing a person's property because of one or more of the actual or perceived characteristics of the victim (Penal Code § 422.6(b));
  - 3) Terrorizing a person with a swastika or burning cross (Penal Code § 11411);
  - 4) Vandalizing a place of worship (Penal Code § 594.3).

The federal Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act expands federal hate crimes to include crimes motivated by a victim's actual or perceived sex, sexual orientation, gender identity or disability (18 USC § 249).

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**Victim** - Includes, but is 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 (Penal Code § 422.56)

### 338.3 PREVENTING AND PREPARING FOR LIKELY HATE CRIMES

While it is recognized that not all crimes can be prevented, this department is committed to taking a proactive approach to preventing and preparing for likely hate crimes by, among other things:

- a) Officers should make an affirmative effort to establish contact with persons and groups within the community who are likely targets of hate crimes to form and cooperate with prevention and response networks.
- b) Accessing outside agency assistance when necessary.
- c) Providing victim assistance and follow-up as outlined below, including community follow-up.

### 338.4 PROCEDURE FOR INVESTIGATING HATE CRIMES

Whenever any member of this department receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, the following should occur:

- a) Officer(s) will be promptly assigned to contact the victim, witness, or reporting party to investigate the matter further as circumstances may dictate.
- b) A supervisor should be notified of the circumstances as soon as practical.
- c) Once “in progress” aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of present suspects, etc.), the assigned officer(s) will take all reasonable steps to preserve available evidence that may tend to establish that a hate crime was involved.
- d) The assigned officer(s) will interview available witnesses, victims, and others to determine what circumstances, if any, indicate that the situation may involve a hate crime. No victim of or witness to a hate crime, who is not otherwise charged with or convicted of a crime under state law, may be detained for or turned over to federal authorities exclusively for any actual or suspected immigration violation (Penal Code § 422.93(b)).
- e) Depending on the situation, the assigned officer(s) or supervisor may request additional assistance from detectives or other resources for further investigation.
- f) The assigned officer(s) will include all available evidence indicating the likelihood of a hate crime in the relevant report(s). All related reports will be clearly marked as “Hate Crimes” and, absent prior approval of a supervisor, will be completed and submitted by the assigned officer(s) before the end of the shift.
- g) The assigned officer(s) will provide the victim(s) of any suspected hate crime with a brochure on hate crimes (Penal Code § 422.92). Such brochures will also be available to members of the general public upon request. The assigned officer(s) would also make reasonable efforts to assist the victim(s) by providing available information on local assistance programs and organizations.
- h) The assigned officer(s) and supervisor should take reasonable steps to ensure that any such situation does not escalate further (e.g., Possible Temporary Restraining Order through the District Attorney or City Attorney Penal Code § 136.2 or Civil Code § 52.1 as indicated).

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### 338.4.1 INVESTIGATIONS DIVISION RESPONSIBILITY

If a case is assigned to the Investigations Division, the assigned detective will be responsible for following up on the reported hate crime as follows:

- a) Coordinate further investigation with the District Attorney and other appropriate law enforcement agencies as appropriate.
- b) Maintain contact with the victim(s) and other involved individuals as needed.
- c) Maintain statistical data on suspected hate crimes and tracking as indicated and report such data to the Attorney General upon request pursuant to Penal Code § 13023.

### 338.5 TRAINING

All members of this department will receive POST approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6.