

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Paul Joseph
Chief of Police

**SUBJECT: DUTY MANUAL REVISION:
REVISED HATE CRIMES POLICY**

DATE: April 3, 2025

APPROVED

Memo# 2025-003

BACKGROUND

In August 2023, [Assembly Bill 449](#) was signed into law. Effective July 1, 2024, all agencies are now required to adopt a hate crimes policy that aligns with POST's hate crimes model policy framework, which includes a supplemental hate crime report.

To assist California agencies and their personnel, POST developed a short video that provides information regarding the changes in law relating to hate crime investigations. The video provides a review of hate incidents versus hate crimes, discusses statistical trends, and offers key resources and reminders for field officers and deputies. The video is available on the [CA POST YouTube Channel](#) and [POST Website](#).

The Duty Manual and the Department's Hate Crime Investigation Policy have been revised to comply with AB 449. The Department's [Hate Crime Investigation Policy](#) is available on the Department intranet site and in hardcopy at the Department's Assaults Unit Hate Crime Detail.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 2212 HATE CRIMES *Revised 04-03-25*

The investigation of hate crimes and hate-motivated incidents is a Department priority. It is the policy of the San Jose Police Department to ensure that every person in the City of San Jose enjoys the right to be free of any crime committed for the purpose of intimidating or interfering with the free exercise or enjoyment of any right secured to them by the Constitution or laws of the state or the Constitution or laws of the United States. *The Department will comply with the Commission on Peace Officer Standards and Training guidelines and regulations established in California Penal Code 13519.6.* ~~and because of the person's race, color, religion, ancestry, national origin, disability, gender or sexual orientation.~~

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A “hate crime” is a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim(s):

- Disability
- Gender
- Nationality or national origin
- Race or ethnicity
- Religion
- Sexual orientation
- Association with a person or group of persons with one or more of those actual or perceived characteristics.

A “hate incident” is an action or behavior motivated by hate but which, for one or more reasons, is not a crime. Examples of hate incidents include but are not limited to:

- Name-calling
- Insults
- Displaying hate material on your own property
- Posting hate material that does not result in property damage
- Distribution of material with hate messages in public places.

When investigating a hate crime or hate incident, officers should also consider bias motivation. Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, discriminatory selection of victims, 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 being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.

In recognizing suspected disability-bias hate crimes, officers should consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore “deserving victims,” a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

In recognizing suspected religion-bias hate crimes, officers should consider whether there were targeted attacks on, or biased references to, symbols of importance to a particular religion or articles considered of spiritual significance in the particular religion. Examples of religions and such symbols and articles include, but are not limited to:

- In Buddhism, statues of the Buddha
- In Christianity, crosses

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- In Hinduism, forehead markings, known as bindis and tilaks, Aum/Om symbols, and images of deities known as murtis
- In Islam, hijabs
- In Judaism, Stars of David, menorahs, and yarmulke
- In Sikhism, turbans, head coverings, and unshorn hair (including beards).

When receiving a report of a hate crime or hate incident, officers will follow the procedures set forth in the San Jose Police Department Hate Crime Investigations Policy. Current copies of these procedures are maintained by all officers and are also available in each Unit within the Police Department on the Department intranet as well as the Department's R&D Library and Virtual Library Department's Assaults Unit Hate Crime Detail.

When officers are reporting a hate crime or hate incident, officers will complete a General Offense Report (Form 200-2-AFR)(GO) and the Automated Hate Crime/Hate Incident Template. Department members should refer to Duty Manual section R 1584 – AUTOMATED HATE CRIME/HATE INCIDENT TEMPLATE and R 1584.5 – AUTOMATED HATE CRIME/HATE INCIDENT FIELD REPORTING GUIDE.

When a hate crime or a hate incident is reported, if there is indication a Gun Violence Restraining Order is appropriate, officers shall consider seeking an order. Department members should refer to Duty Manual section L 4113 - GUN VIOLENCE RESTRAINING ORDERS.

State law requires officers make hate crime brochures available to any member of the public or victim of a hate crime or hate incident. Hate crime brochures are available at Central Supply and on the Department website.

L 2212.5 NOTIFICATION OF RIGHT TO CONFIDENTIALITY TO VICTIMS OF HATE CRIMES:

Revised 04-03-25

The victim of a hate crime (422.55, 422.56, 422.6, 422.7, and 422.75 PC), or the victim's parent or guardian if the victim is minor, may request their name not be disclosed under the California Public Records Act. Notification of the right to confidentiality, pursuant to Government Code Section ~~6254~~ 7923.600 and Penal Code Section 293, shall be verbally provided to the victim or the victim's parent/guardian if the victim is a minor. The Department member shall document the verbal notification and the response on the Notification of Right to Confidentiality Form (Form 200-45v).

R 1582 NOTIFICATION OF RIGHT TO CONFIDENTIALITY FORM (FORM 200-45V):

Revised 04-03-25

The Notification of Right to Confidentiality Form (Form 200-45v) shall be used by officers to document the notification of right to confidentiality to victims of various crimes specified in Government Code Section ~~6254 (f)(2)~~ 7923.615 (b)(1), as well as the responses of victims provided the advisement.

For the victims of family violence related incidents (Penal Code Sections 273a, 273d, 273.5), hate crimes (Penal Code Sections 422.55, 422.56, 422.6, 422.7, 422.75), sex

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offenses (Penal Code Sections 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 285, 286, 288, 288a, 288.2, 288.3, 288.4, 288.5, 288.7, 289, 647.6), and stalking (PC 646.9), the officer shall inform them, or the victims' parent/guardian if the victims are minor, that the San Jose Police Department shall not disclose their names, upon their request, to any person.

Pursuant to Penal Code Section 293 and Government Code Section ~~6254~~ 7923.615 (c) (1), the Department member shall verbally notify the victim of human trafficking, as defined in Penal Code Section 236.1, that the names and images of the victim and the victim's immediate family, other than a family member who is charged with a criminal offense arising from the same incident, will be withheld from public disclosure and kept confidential at their request, until the investigation or any subsequent prosecution is complete. In addition, the victim will be advised the addresses of the victim and victim's immediate family will remain confidential permanently. The Department member shall document the verbal notification and the response on the Notification of Right to Confidentiality Form (Form 200-45v).

Note: "Immediate family" means any spouse, whether by marriage or not, domestic partner, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

R 1584 AUTOMATED HATE CRIME/HATE INCIDENT TEMPLATE:

Added 04-03-25

The Automated Hate Crime/Hate Incident Template shall be completed by any Department member reporting a hate crime or hate incident. The Automated Hate Crime/Hate Incident Template is submitted with the General Offense Report (Form 200-2-AFR)(GO) or a Supplemental Report (Form 200-3A-AFR). The template serves as a supplemental checklist for the reporting responsibilities in the report narrative. The supervisor reviewing the GO report or Supplemental Report has the responsibility to ensure the Automated Hate Crime/Hate Incident Template has been completed and submitted with the report.

R 1584.5 AUTOMATED HATE CRIME/HATE INCIDENT FIELD REPORTING GUIDE

Added 04-03-25

The Automated Hate Crime/Hate Incident Filed Reporting Guide (Form 205-2) has been developed to assist Department members with note taking purposes for completing the Automated Hate Crime/Hate Incident Template. This field guide will ensure that officers have all the necessary details to complete the automated template. This field guide is not an official police report should not be submitted to the Records Division.

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ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.

A handwritten signature in black ink that reads "Paul Joseph". The signature is written in a cursive style with a large initial "P" and a long, sweeping underline.

Paul Joseph
Chief of Police

PJ:PH:BM