

SAN JOSE POLICE COMMUNICATIONS

Basic Dispatch Academy

Hate Crimes

POST Learning Domains #LD107

3 hours

March 2016

Lesson Plan

I. Hate Crime & Hate Incidents defined

A. General Definition

1. When the motivation to threaten, oppress, intimidate, destroy or damage property, or injure another is hatred towards an individuals perceived or actual race, color, religion, ancestry, national origin, disability, gender, or sexual orientation then it is a hate crime.

B. What is hate?

1. BIAS: A preconceived negative opinion or attitude toward a group of persons based on their race, religion, national origin, sexual orientation, gender, mental or physical disability. For purposes of hate crime and hate incidents, “bias” is interpreted as “hate.”
2. A Bigot is any person with a strong conviction or prejudice, especially in regards to race, religion, politics, etc., who is intolerant of any other opinion or belief that does not agree.
 - a. Bigotry, in whole or in part, can be a central motive for hate crime.

C. Penal Code Definition SPEC P

1. California Penal Code Section 13519.6 (a) defines a hate crime as any act of intimidation, harassment, physical force, or threats of physical force directed against any person, or family, or their property or advocate, motivated either in whole or in part by hostility to their real or perceived ethnic background, national origin, religious belief, gender, age, disability, or sexual orientation, with the intention of causing fear and intimidation.

D. **Definition of a Hate Incident** SPEC P

1. Non-criminal conduct that is motivated by hatred or bigotry and directed at any individual, residence, or house of worship, institution or business expressly because of the victim's (person or institution) real or perceived race, nationality, religion, sexual orientation, gender, or disability.

II. Impacts of Hate Crimes

- A. Hate crimes have a devastating effect on victims, victims' families, and communities. Incidents often occur in neighborhoods, places of worship, schools, the victim's workplace, or other locations where the victim has established personal ties.

III. Victims of Hate Crimes

- A. DIRECT victims have had a crime committed against them, reported that a crime has been committed against them, or suffer, as a direct result of a crime, economic loss, physical injury, emotional trauma, or death.
- B. INDIRECT victims have a close relationship to the direct victim, suffer emotional trauma and/or economic loss as a result of being a witness to a crime, are members of the targeted group, or make up the community where a crime has taken place.

IV. Investigative Strategies

- A. Interviewing victims, witnesses, and suspects of hate crimes
- B. Obtaining information that may determine whether a hate incident or hate crime has occurred.
- C. Specific words or actions of the offender are critical to that determination.

V. Investigation of Hate Crimes

- A. Hate crimes can include:
 1. unlawful acts
 2. attempted unlawful acts
 3. threatened unlawful acts

- B. Whether the act actually take place, are attempted, or threatened, they must be directed at causing:
 - 1. physical injury
 - 2. emotional suffering
 - 3. intimidation, or
 - 4. damage to property.
 - C. A Hate crime is not:
 - 1. name calling and epithets, unless they are combined with a crime,
 - 2. attempted crime or threat of a crime.
 - 3. However, a hate crime incident can be name calling and epithets.
 - VI. Conducting Interviews
 - A. Treat the victim(s) with dignity and respect.
 - B. Recognize that victim(s) may direct their anger or frustration at responding officers.
 - C. Permit the victim(s) to vent their emotions.
 - D. Empathize
 - E. Maintain a non-critical, non-judgmental attitude.
 - VII. Reporting of Hate Crime
 - A. The crime report
 - B. Second level review
 - C. DOJ/FBI reporting requirements
 - D. Challenges in reporting the crime
 - VIII. Legal rights and remedies available to victims of hate crimes based on federal law and civil code. [Spec R.](#)
 - A. Federal Criminal Statutes
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1. There are a number of federal criminal statutes that are intended to guarantee individual federally protected rights. The United States Justice Department becomes actively involved in a case after state or local authorities have concluded prosecuting the particular crime or in the absence of state or local prosecution.

B. Federal Protections

1. 18 USC Section 241 Conspiracy to interfere with civil rights
2. 18 USC Section 245 Forcible interference with civil rights
3. 18 USC Section 242 Forcible interference with civil rights under color of authority
4. 42 USC Section 3631 Willful interference with civil rights under the Fair Housing Act.

C. Federal Civil Statutes

1. 42 USC Sections 1981 and 1982 Civil actions under the Civil Rights Act of 1866
2. 42 USC Section 1985(3) Conspiracy to deprive any person or class of persons of equal protection of the laws
3. 42 USC Section 3617 Interference, coercion, or intimidation in violation of the Fair Housing Act

D. California Civil Rights Acts

1. Ralph Civil Rights Act Civil Code 5.7
 - a. Prohibits violence or intimidation by threat of violence against persons or their property because of their real or perceived: race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, position in a labor dispute, or any other arbitrary, class based distinction.
2. Bane Civil Rights Act Civil Code 52.1
 - a. Forbids interference by threats, intimidation, or coercion with an individual's constitutional and statutory rights. Rights protected under the Bane Civil Rights Act 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 and worship.

IX. Elements of a Hate Crime SPEC Q

A. California Criminal Law

1. Desecrating religious symbols PC 11411 (Felony)
2. Interfering with religious freedom PC 11412 (Felony)
3. Terrorizing another PC 11413 (Felony)
4. Terrorizing is defined as causing a person of ordinary emotions and sensibilities to fear for their personal safety.
5. Penal code section 422.6 states that it is a misdemeanor to: by force or threat of force, willfully, injure, intimidate, interfere with, oppress, or threaten, any other person, in the exercise of that person's constitutional rights because of that person's real or perceived: race, color, religion, ancestry, national origin, disability, gender, or sexual orientation.
6. Penal code section 422.7 elevates the crime of interfering with an individual's civil rights to a felony when the suspect: has been convicted of:
 - a. intimidating or interfering with, or
 - b. conspiracy to interfere with an individual's civil rights, and
 - c. has the present ability to
 - d. commit a violent crime,
 - e. causes an actual physical injury, or
 - f. causes property damage in excess of \$500.

F. Additional Penal Code Sections

1. 302 PC Intentionally disturbing a group of people meeting to worship
2. 594.3 PC Knowingly vandalizing a place of worship
3. 1170.75 PC Penalty enhancements for felonies committed because of victim's class membership
4. 1170.8 PC Penalty enhancements for arson, robbery or assault upon persons within a place of worship
5. 1170.85 PC Penalty enhancements for crimes committed against witnesses, the aged, or the disabled
6. 11410 PC The advocacy of violence where harm is likely to result is not protected by the California Constitution.