

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

HATE / BIAS CRIMES
SUBJECT

DATE: July 24, 2013

NO: I-11

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: Hate Crimes
Bias Crimes

I. POLICY:

It is the policy of the Stockton Police Department to ensure the rights guaranteed to all, irrespective of their race, religion, ethnic/national origin, sexual orientation, gender, or disability are protected. Any acts or threats of violence, property damage, harassment, intimidation or other crimes designed to infringe upon those rights will be handled with the utmost priority. The Stockton Police Department is dedicated to maintaining a cooperative effort with local, state, and federal agencies as well as the communities we serve toward the immediate investigation of reported hate crimes and hate-related incidents, and prosecution as appropriate. Particular attention shall be given to addressing the safety and related concerns of the victims as well as their families and others affected by the crime.

II. DEFINITIONS:

- A. Hate Crime - A "hate crime" is defined in California Penal Code Section 13023, which states in part "any criminal act(s) or attempted criminal act(s) to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, gender, or physical or mental disability."
- B. Hate Incident - Not all expressions of hate or group bias rise to the level of a hate crime as defined in state and federal statute. Derogatory words or epithets directed against a member of a protected class, as listed above, if not accompanied by a threat of harm with the ability to carry it out, are considered protected speech and not a hate crime.
- C. Race - A group of persons who possess common physical characteristics genetically transmitted by descent and heredity that distinguish them as a distinct division of humankind.
- D. Ethnic/National Origin - A group of persons of the same race or national origin who share common or similar traits, languages, customs, and traditions.
- E. Religious Belief - A group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being.
- F. Sexual Orientation - A sexual attraction toward, and responsiveness to, members of one's own sex or members of the opposite sex.
- G. Gender - Male, female, or transgender (Transgender refers to persons who are post operative, in transition from male to female or from female to male).
- H. Disability - Any person or group of persons with a physical disability, or who are mentally challenged.

III. LAW

- A. Officers will familiarize themselves with Penal Code Sections 190.2(a)(16), 302, 403, 422.6, 422.7, 422.75, 422.8, 422.76, 422.9, 640.2, 1170.8, 1170.85, 1547, 11410, 11411, 11412, 11413, and 13023.
- B. Officers should also be aware there are several federal and civil statutes that address hate crimes, including, but not limited to the following: the Ralph Act (Civil Code sections 51.7-52), the Bane Act (Civil Code 52.1), Education Code sections 48900.3 and 48915, and Government Code sections 13959-13969.

IV. PROCEDURE

- A. To ensure that all bias motivated incidents/crimes are investigated, officers responding to citizen reports or on-view situations, will document the incident on a crime/arrest report if an actual law violation occurs, or on an S.I.R. for all other bias motivated incidents.
 - 1. The following is a list of factors to consider when determining whether or not an incident is a hate crime. It is not all inclusive, but provides a general guideline for consistent identification of such crimes.
 - a. Is the motivation of the offender known?
 - b. Are the victim and the offender from different racial, religious, ethnic, sexual orientation, or is the victim targeted because of his or her physical or mental disability?
 - c. Were any racial, religious, ethnic, sexual orientation, physical or mental disability bias remarks made by the offender?
 - d. Were there any offensive symbols, words, or acts that are known to represent a hate group or other evidence of bias against the victim's group?
 - e. Does the victim perceive the action of the offender to have been motivated by bias?
 - f. Did the incident occur on a holiday or other day of significance to the victim's group or the offender's group?
 - g. What do the demographics of the area tell you about the incident? Was the victim in an area where the predominant population is dissimilar to the victim's group?
 - h. Is there no other clear motivation for the incident?
- B. Officers will notify their immediate supervisor of any hate crime or bias incident. The on-duty Watch Commander will also be apprised of the situation.
- C. Officers will mark the hate crime box on the crime report and will route the report(s) to the Vice/Criminal Intelligence Unit for follow-up.

V. REPORTING REQUIREMENTS

- A. The Vice/Criminal Intelligence Unit is responsible for compiling department statistics on hate crimes and ensuring the data is reported in accordance with state guidelines.
- B. The Vice/Criminal Intelligence Sergeant shall review all reports involving hate/bias incidents to determine if it should be classified as a hate crime. Before making a final determination regarding classification, the following questions should be asked as part of the review process.
 - 1. Is the victim a member of a targeted racial, religious, ethnic, sexual orientation, physical, or mental disability group?
 - 2. Has the victim or victim group been subjected to repeat attacks of a similar nature?
 - 3. Does a substantial portion of the community where the crime occurred perceive that the incident was motivated by bias?
 - 4. Would the incident have taken place if the victim and offender were the same race, religion, ethnic group, sexual orientation, physical, or mental disability?