



Kern County Sheriff's Office
Policies and Procedures

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| TITLE: HATE CRIMES | | NO: H-2300 | |
| APPROVED: Donny Youngblood, Sheriff-Coroner | | | |
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POLICY¹

It is the policy of the Sheriff's Office to safeguard the rights of all individuals irrespective of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, and/or association with a person or group with one or more of these actual or perceived characteristics. Any acts or threats of violence, property damage, harassment, intimidation, or other crimes motivated by hate or bias should be viewed very seriously and given high priority.

The Sheriff's Office will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, the Sheriff's Office should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All deputies are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Sheriff or other command-level officer to whom the Sheriff formally delegates this responsibility.

PURPOSE AND SCOPE

The Sheriff's Office 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 agency 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 California Law and best practices to provide members of this agency with guidelines for identifying and investigating incidents and crimes that may be motivated by hatred or other bias.²

DEFINITIONS

In accordance with Penal Code § 422.55; Penal Code § 422.56; Penal Code 422.57; Penal Code § 422.6; Penal Code § 422.87; and Penal Code 422.9, for purposes of all other state law, unless

¹ PC 422.87(a)(9) & PC 13519.6(c)(1)

² PC 422.87(b)

an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

Bias motivation³ - Bias motivation is a pre-existing negative attitude toward actual or perceived characteristics referenced in Penal Code § 422.55. 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.

Disability⁴ - Disability includes mental disability and physical disability as defined in Government Code § 12926, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.

Disability bias⁵ - In recognizing suspected disability-bias hate crimes, deputies 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 disability-bias hate crimes, deputies should consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes but is not limited to situations where a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons, such as inebriated persons or persons with perceived disabilities different from those of the victim. Such circumstances could be evidence that the perpetrator’s motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

Gender⁶ - Gender means sex and includes a person's gender identity and gender expression.

³ PC 422.87(a)(3)(A)&(B)

⁴ PC 422.56(b)

⁵ PC 422.87(a)(3)(C)

⁶ PC 422.56(c) & PC 422.57

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Gender expression⁷ - Gender expression means a person's gender-related appearance and behavior, regardless of whether it is stereotypically associated with the person's assigned sex at birth.

Gender identity⁸ - Gender identity means each person's internal understanding of their gender, or the perception of a person's gender identity, which may include male, female, a combination of male and female, neither male nor female, a gender different from the person's sex assigned at birth, or transgender.

Hate Crime⁹ – “Hate crime” includes but is not limited to a violation of Penal Code § 422.6, and means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- Disability
- Gender
- Nationality
- Race or ethnicity
- Religion
- Sexual orientation
- Association with a person or group with one or more of these actual or perceived characteristics:
 - “Association with a person or group with one or more of these actual or perceived characteristics” includes advocacy for, identification with, or being on the ground premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those the characteristics listed in the definition of “hate crime” under paragraphs 1 to 6, inclusive, of Penal Code § 422.55(a).

Note: A “hate crime” does not need to be motivated by hate but may be motivated by any bias against a protected characteristic.

Hate incident¹⁰ - A hate incident is an action or behavior motivated by hate or bias but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

⁷ PC 422.56(c) & PC 422.57

⁸ 2 CCR § 11030

⁹ PC 422.55, PC 422.56(a), PC 422.87(a)(1), PC 422.9, PC 13519.6(c)(2) &(3), & POST Hate Crimes Model Policy

¹⁰ POST Hate Crimes Model Policy (2024)

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- Name-calling
- Insults and epithets
- Distributing hate material in public places
- Displaying hate material on your own property

Hate speech¹¹ - The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action
- Conspiracy
- Solicitation to commit any crime

In whole or in part¹² - “In whole or in part because of” means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

Nationality¹³ - Nationality includes citizenship, country of origin, immigration status, including citizenship, and national origin.

Race or ethnicity¹⁴ - Race or ethnicity includes ancestry, color, and ethnic background.

Religion¹⁵ - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Religious bias¹⁶ - In recognizing suspected religion-bias hate crimes, deputies 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 a particular religion. Examples include, but are not limited to:

¹¹ POST Hate Crimes Model Policy (2024)

¹² PC 422.56(d) & In re M.S. (1995) 10 Cal.4th 698 and People v. Superior Court (Aishman) (1995) 10 Cal.4th 735

¹³ PC 422.56(e)

¹⁴ PC 422.56(f)

¹⁵ PC 422.56(g)

¹⁶ PC 422.87(a)(3)(D)

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- Buddhism – Statues of the Buddha
- Christianity – Crosses
- Hinduism – Forehead markings (known as bindis and tilaks) and images of deities (known as murtis)
- Islam – Hijabs [Islamism]
- Judaism – Stars of David, menorahs, and yarmulke
- Sikhism – Turbans, head coverings, and unshorn hair (including beards)

Sexual orientation¹⁷ - Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim¹⁸ - Victim includes but is not limited to:

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person
- Place of worship
- Private institution
- Public agency
- Library
- Other victim or intended victim of the offense

CRIMINAL STATUTES

Penal Code 422(a) -Prohibits the verbal, written or electronically transmitted threat to commit great bodily injury or death to another person, causing that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family’s safety.

Penal Code 422.6(a) - Prohibits the use of force or threats of force to willfully injure, intimidate, interfere with, oppress, or threaten any person in the free exercise or enjoyment of rights and privileges secured by the Constitution or law because of the person's real or perceived characteristics listed in Penal Code 422.55(a). Speech alone does not constitute a violation of this section except when the speech itself threatened violence and the defendant had the apparent ability to carry out the threat.

¹⁷ PC 422.56(h)

¹⁸ PC 422.56(i)

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Penal Code 422.6(b) - Prohibits knowingly defacing, damaging or destroying the real or personal property of any person for any of the purposes set forth in Penal Code 422.6(a).

Penal Code 422.7 - Provides for other criminal offenses involving threats, violence or property damage in excess of \$400 to become felonies if committed for any of the purposes set forth in Penal Code 422.6.

Penal Code 422.56 & 422.57 - Defines gender for purposes of various hate crime statutes.

Penal Code 422.77 - Provides for the criminal enforcement of any order issued pursuant to Civil Code § 52.1.

Penal Code 423.2(b), (d), (f) - Crimes against places of religious worship.

Penal Code 594.3 - Prohibits vandalism to religious buildings or places of worship.

Penal Code 11411 - Prohibits terrorizing by placing or displaying any unauthorized sign, mark, symbol, emblem or other physical impression (including Nazi swastika, noose, or burning cross).

Penal Code 11412 - Prohibits terrorizing threats of injury or property damage to interfere with the exercise of religious beliefs.

Penal Code 11413 - Prohibits use of explosives or other destructive devices for terrorizing another at health facilities, places of religion, group facilities and other specified locations.

CIVIL STATUTES

Civil Code 51.7 - Except for statements made during otherwise lawful labor picketing, all persons in this state have the right to be free from any violence or intimidation by threat of violence against their person or property because of actual or perceived race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability or position in a labor dispute. Civil Code § 52 - Provides for civil suit by individual, Attorney General, District Attorney or County Counsel for violation of Civil Code 51.7, including damages, Temporary Restraining Order and injunctive relief. Civil Code 52.1 - Provides for Temporary Restraining Order and injunctions for violations of individual and Constitutional rights enforceable as criminal conduct under Penal Code 422.9.

PLANNING AND PREVENTION¹⁹

Sheriff's Office employees investigating potential hate crimes should take particular note of the vast amount of underreporting of hate crimes, and the more extreme underreporting of anti-

¹⁹ PC 422.87(a)(4) & PC 13519.6(c)(4)(A), (C), (D)

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disability and anti-gender hate crimes. While it is recognized that not all crimes can be prevented, the Sheriff's Office is committed to taking a proactive approach to prevent and prepare for likely hate crimes by engaging in various strategies including:

- Deputies 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. This may include conducting or participating in public meeting on hate crimes and violence in general.
- Establish and maintain relationships with formal community-based organizations and leaders, such as the Sheriff's Community Advisory Council.
- Accessing assistance by, among other things, activating the Department of Justice Hate Crime Rapid Response Protocol when necessary, which can be accessed via the Office of the Attorney General website.²⁰ The purpose of the protocol is to provide law enforcement with additional resources to thoroughly investigate hate crimes. The protocol can be activated in the following circumstances:
 - Serious bodily injury or death, or appear calculated to cause such;
 - Acts of arson or attempted arson;
 - Use of explosives; and/or
 - A mass casualty incident, or any action appeared calculated to trigger a mass casualty incident.
- Providing victim assistance and community follow-up as outlined below.

By utilizing the above-listed strategies, it is the goal of the Sheriff's Office to have community engagement and to build trust and cooperation with the community. It is hoped this relationship with the community will encourage hate crime victims to come forward, who may otherwise fail to report the crime to the Sheriff's Office or other law enforcement agency.

In order to facilitate the guidelines contained within this policy, deputies will continuously work to build and strengthen relationships with the community, engage in dialogue, and provide education to the community about this policy. Sheriff's Office personnel are also encouraged to learn about the inherent issues concerning their communities in relation to hate crimes.

Although hate incidents are not criminal events, they can be indicators of, or precursors to, hate crimes. Hate incidents should be investigated and documented, if necessary, as part of an overall strategy to prevent hate crimes.

²⁰ Refer to the following link: <https://oag.ca.gov/system/files/media/ag-rapid-response-team-protocol-21.pdf>

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PROCEDURE FOR INVESTIGATING HATE CRIMES²¹

Whenever any member of the Sheriff's Office receives a report of a suspected hate crime or other activity that reasonably appears to involve a potential hate crime, the following will occur:

- Deputy(s) will be promptly assigned to contact the victim, witness, or reporting party to investigate the matter further as circumstances may dictate.
- A supervisor should be notified of the circumstances as soon as practical.
- Once “in progress” aspects of any such situation have been stabilized (e.g., treatment of victims, apprehension of present suspects, etc.), the assigned deputy(s) will take all reasonable steps to preserve available evidence that may tend to establish that a hate crime was involved.
- The assigned deputy(s) will interview available witnesses, victims and others to determine what circumstances, if any, indicate that the situation may involve a hate crime.
- Deputies shall ensure they are sensitive to the effects of the crime on the victim and determine if any additional resources are necessary for the victim at the scene (e.g. community and legal services, hate crime brochure).
- No victim of or a 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.²²
- Depending on the situation, the assigned deputy(s) or supervisor may request additional assistance from detectives or other resources to further the investigation, including activation of the Department of Justice Hate Crime Rapid Response Protocol.
- If a hate crime is reported to have occurred under the color of authority, the assigned deputy(s) shall, as soon as practical, notify their immediate supervisor. The supervisor should, if feasible, respond to the scene of the investigation and ensure all necessary investigatory steps are taken and are to notify the Watch Lieutenant/Commander.
- The assigned deputy(s) will include all available evidence indicating the likelihood of a hate crime in the relevant report(s), such as considering the relevance of specific dates and phrases used.
- All related reports will be clearly marked as “Hate Crimes.” This is done in the “Offenses Tab,” under the specific charge and by selecting a bias and filling in the additional information.
- Absent prior approval of a supervisor, the report will be completed and submitted by the assigned deputy(s) before the end of the shift.
- The assigned deputy(s) will complete the supplemental hate crime checklist and turn it

²¹ PC 13519.6(c)(4)(B - E)

²² PC 422.93(b)

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into the Crimes Reports Unit prior to the completion of their shift (**Attachment A**).²³

- In addition to providing a Marsy's Card, the assigned deputy(s) will provide the victim(s), or any interested person, of any suspected hate crime with a brochure on hate crimes that has been approved by the Training Section Lieutenant, or their designee. Such brochures will also be available to members of the general public upon request (**Attachment B**).²⁴
- The assigned deputy(s) should also make reasonable efforts to assist the victim(s) by providing available information on local assistance programs and organizations.
- The assigned deputy(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 County Counsel).²⁵
- If a hate crime is reported within a Detentions Bureau facility, the previously described investigatory steps will be followed. Additionally, the on-duty detentions facility supervisor will, as soon as feasible, confer with the Crimes Against Persons Sergeant to ensure the necessary steps for the investigation are taken to aid in potential follow-up.

FOLLOWUP INVESTIGATION RESPONSIBILITY²⁶

If a case is assigned to the Detectives Section, or to a patrol detective or deputy assigned to a substation, the assigned personnel will be responsible for following up on the reported hate crime as follows:

- Ensure the previously described investigatory steps were followed and take any necessary steps are taken for complete investigation.
- Use investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
- Fully investigate any report of hate crime committed under the color of authority pursuant to Penal Code sections 422.6 and 13519.6.
- Coordinate further investigation with the District Attorney and other law enforcement agencies, as appropriate.
- Maintain contact with the victim(s) and other involved individuals as needed.

²³ PC 422.87(a)(6)

²⁴ PC 13519.6(c)(4)(E), PC 422.87(a)(8) & PC 422.92 – NOTE: The CA Civil Rights Department is required to provide existing brochures, making revisions as needed, to local law enforcement agencies upon request for reproduction and distribution to victims of hate crimes and other interested parties. In complying with PC 422.92, the Sheriff's Office utilizes the California Department of Justice's standardized brochure, which is also available online in fourteen languages (<https://oag.ca.gov/hatecrimes>).

²⁵ Penal Code 136.2 or Civil Code 52.1 as indicated

²⁶ PC 13519.6(c)(4)(B - E)

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- Referring victim(s) to support and outreach services in the community.
- If necessary, and if the incident qualifies as a triggering event, contact the California Department of Justice and seek to have the Attorney General invoke the Department’s Hate Crime Rapid Response Protocol to provide aid.
- Ensure that hate crimes are properly investigated and documented, so they may be accurately reported as outlined below.

REPORTING²⁷

In addition to the above internal reporting requirements, the Crime Reports Unit will maintain statistical data on suspected hate crimes and hate crime documents as required and report such data to the California Department of Justice upon request by the Attorney General pursuant to Penal Code 13023. This is accomplished by ensuring the appropriate hate crime-related tabs are selected in the “offense” portion of the LERMS report through the process outlined in the “Procedure for Investigating Hate Crimes” Section.

Pursuant to Penal Code 13023, the Kern County Sheriff’s Office is required to submit this policy, required by Penal Code 422.87, and the Hate Crimes Brochure, required by PC 422.92, to the Department of Justice on or before January 1, 2028, and then every four years thereafter in perpetuity. The Attorney General shall review the policies and brochures for compliance with law. The department shall instruct any agency that did not submit a policy or brochure, or that submitted a legally noncompliant policy or brochure, to submit compliant documents. In complying with PC 422.92, the Sheriff’s Office utilizes the California Department of Justice’s standardized brochure (Attachment B), which is also available online in fourteen languages.²⁸

In addition, the Crime Reports Unit will provide a monthly report relative to hate crimes to the Technology Services Section to publish on the public Sheriff’s Office website pursuant to Penal Code 13023(e).

TRAINING²⁹

All sworn members (deputy sheriff rank) of the Sheriff’s Office will receive POST-approved training, as outlined below, on hate crime recognition and investigation, as provided by Penal Code 13519.6. This policy is also readily accessible to all personnel in the field via SharePoint. The Training Section Lieutenant, or their designee, will be responsible for ensuring this policy and relevant updates are redistributed to personnel periodically.

Additionally, at a minimum of every six years, affected personnel will be required to complete

²⁷ PC 422.87(a)(5), PC 422.92, & PC 13023

²⁸ <https://oag.ca.gov/hatecrimes>

²⁹ PC 422.87(a)(7), (10) & PC13519.6(e)

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the California Commission on Peace Officer Standards and Training (POST) course entitled “Hate Crimes: Identification and Investigation,” other POST-approved course(s) as directed, or in-person instruction, in conjunction with the redistribution of this policy.

Additionally, all newly hired sworn staff will review the above-mentioned CA POST course on Hate Crimes within one year of their commission. Those personnel hired as Deputy Sheriff Trainees who attend the Kern County Sheriff’s Office Regional Training Center Academy and receive the above-required training will be exempt from the one-year commission requirement, as they will have received this training during the academy curriculum.

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