



HATE CRIMES AND

INCIDENTS

PP 2.18-C



!!!STOP!!!

Fill in Roster with name and POST ID.

When Training is done, GO TO METR,
acknowledge attestation.

LAWS:

The Ralph Civil Rights Act 1976, Civil Code 51.7: The Ralph Civil Rights Act, Civil Code section 51.7, provides that it is the right of **every person** in California to be free from **violence or the threat of violence** against their **person or property** because of their **actual or perceived** sex, race, color, ancestry, national origin, religion, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, immigration status, political affiliation, or position in a labor dispute

The Bane Act (part 2: 1872, part 1: 1988) Civil Code 52.1: protection against interference or attempts to interfere by threat, intimidation, or coercion with a person's exercise or enjoyment of any constitutional or statutory rights.

Matthew Shepard and James Byrd, Jr Hate Crimes Prevention Act: Expands federal hate crimes to include victim's actual and perceived sex, sexual orientation, gender identity or disability.

HATE CRIMES, PC 422.55 to 422.57

A criminal Act in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

1. **Disability**: Mental Disability and Physical Disability; regardless of temporary/permanent, congenital, or acquisition. i.e. hereditary, accident, injury, advanced age, or illness
2. **Gender**: Sex, including identity, related appearance, and behavior or stereotypes of person's assigned sex at birth
3. **Nationality**: Citizenship, country or national origin.
4. **Race or ethnicity**: Ancestry, color, and ethnic background.
5. **Religion**: belief, observance, and practice and includes agnosticism or atheism.
6. **Sexual orientation**: heterosexuality, homosexuality, or bisexuality.
7. **Association** with a person or group with one or more of these actual or perceived characteristics. Includes advocacy for, identification with, or being on ground owned or rented by, adjacent to the association with characteristics listed in definition of "hate crime."

HATE CRIME INCIDENTS



An action or behavior motivated by hate but legally protected by the First Amendment right to freedom of expression.

Examples of hate incidents include;

- Name-calling,
- Insults and epithets,
- Distributing hate material in public places,
- and Displaying hate material on a person's own property.

The U.S. Constitution allows hate speech as long as it does not interfere with the civil rights of others. If a hate incident starts to threaten a person or property, it may become a hate crime.

OFFICER RESPONSIBILITIES

1. Davis PD Hate Crime checklist for both Hate Crimes and Incidents
2. Do a thorough Investigation and take a case.
3. Notify Watch Commander: Respond to scene as practical, advise Investigation Lieutenant or Sergeant to confer if investigator need respond. Admin Page.
4. Provide Victim Assistance to include:
 - Medical attention, whether injury is visible or not
 - Provide information on restraining orders, if applicable.
 - Victim Confidentiality
 - Use of Language Line
 - Marsy's Card
 - Legal Options & Rights of Victims of Hate Crimes Information Brochure

DAVIS PD HATE CRIME CHECKLIST

Fill out this sheet as part of your case. Much like our MP and 11166 PC reports.

Attach to the case.

**Davis Police Department
HATE CRIME CHECKLIST**

Page _____ of _____

| | | |
|----------------|--|---|
| VICTIM | <p>Victim Type:</p> <input type="checkbox"/> Individual Legal name (Last, First): _____ Other Names used (AKA): _____ <input type="checkbox"/> School, business or organization Name: _____ Type: _____ <small>(e.g., non-profit, private, public school)</small> Address: _____ <input type="checkbox"/> Faith-based organization Name: _____ Faith: _____ Address: _____ | <p>Target of Crime (Check all that apply):</p> <input type="checkbox"/> Person <input type="checkbox"/> Private property <input type="checkbox"/> Public property <input type="checkbox"/> Other _____ <p>Nature of Crime (Check all that apply):</p> <input type="checkbox"/> Bodily injury <input type="checkbox"/> Threat of violence <input type="checkbox"/> Property damage <input type="checkbox"/> Other crime: _____ Property damage - estimated value _____ |
| | <p>Type of Bias (Check all characteristics that apply):</p> <input type="checkbox"/> Disability <input type="checkbox"/> Gender <input type="checkbox"/> Gender identity/expression <input type="checkbox"/> Sexual orientation <input type="checkbox"/> Race <input type="checkbox"/> Ethnicity <input type="checkbox"/> Nationality <input type="checkbox"/> Religion <input type="checkbox"/> Significant day of offense (e.g., 9/11, holy days) <input type="checkbox"/> Other: _____ Specify disability (be specific): _____ | <p>Actual or Perceived Bias – Victim's Statement:</p> <input type="checkbox"/> Actual bias [Victim actually has the indicated characteristic(s)]. <input type="checkbox"/> Perceived bias [Suspect believed victim had the indicated characteristic(s)]. <i>If perceived, explain the circumstances in narrative portion of Report.</i> <p style="text-align: center;">Reason for Bias:</p> Do you feel you were targeted based on one of these characteristics? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i> Do you know what motivated the suspect to commit this crime? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i> Do you feel you were targeted because you associated yourself with an individual or a group? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i> Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Describe in narrative portion of Report.</i> Are there Indicators the suspect is affiliated with a criminal street gang? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Describe in narrative portion of Report.</i> |
| BIAS | <p>Bias Indicators (Check all that apply):</p> <input type="checkbox"/> Hate speech <input type="checkbox"/> Acts/gestures <input type="checkbox"/> Property damage <input type="checkbox"/> Symbol used <input type="checkbox"/> Written/electronic communication <input type="checkbox"/> Graffiti/spray paint <input type="checkbox"/> Other: _____ <i>Describe with exact detail in narrative portion of Report.</i> | |
| | <p>Relationship Between Suspect & Victim:</p> Suspect known to victim? <input type="checkbox"/> Yes <input type="checkbox"/> No Nature of relationship: _____ Length of relationship: _____ <i>If Yes, describe in narrative portion of Report</i> Prior reported incidents with suspect? Total # _____ Prior unreported incidents with suspect? Total # _____ Restraining orders? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If Yes, describe in narrative portion of Report</i> Type of order: _____ Order/Case# _____ | |
| WEAPONS | Weapon(s) used during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____ Weapon(s) booked as evidence? <input type="checkbox"/> Yes <input type="checkbox"/> No Automated Firearms System (AFS) Inquiry attached to Report? <input type="checkbox"/> Yes <input type="checkbox"/> No | |

HATE CRIME CHECKLIST

Page _____ of _____

| | | | | | | | | | | | | | | | | | | | | |
|---|---|--|--|--|--------------------------|----------------------------|--------------------------|----------------------------|--------------------------|---------------------------------|--------------------------|---------------------------------|--------------------------|----------------------------|--------------------------|--|--|--|---|--|
| EVIDENCE | Witnesses present during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No Total # of photos: _____ D#: _____ Taken by: _____ Serial #: _____ | Statements taken? <input type="checkbox"/> Yes <input type="checkbox"/> No Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo <input type="checkbox"/> Known to victim | | | | | | | | | | | | | | | | | | |
| | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center; vertical-align: top;"> <p>VICTIM</p> <input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____ </td> <td style="width: 50%; text-align: center; vertical-align: top;"> <p>SUSPECT</p> <input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____ </td> </tr> </table> <p style="text-align: center;">ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):</p> Has suspect ever threatened you? <input type="checkbox"/> Yes <input type="checkbox"/> No Has suspect ever harmed you? <input type="checkbox"/> Yes <input type="checkbox"/> No Does suspect possess or have access to a firearm? <input type="checkbox"/> Yes <input type="checkbox"/> No Are you afraid for your safety? <input type="checkbox"/> Yes <input type="checkbox"/> No Do you have any other information that may be helpful? <input type="checkbox"/> Yes <input type="checkbox"/> No Resources offered at scene: <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____ | | <p>VICTIM</p> <input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____ | <p>SUSPECT</p> <input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____ | | | | | | | | | | | | | | | | |
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INVESTIGATION

This will likely be heavily in the news and thus scrutinized.

1. Usual steps are expected. ID and obtain statements of all Victims, Suspects (exact wording), Witnesses (Regardless if left scene). Use Body Camera.
2. Document Victim characteristics if bias was in whole or in part a motivation.
3. Evidence Collection, Scene Preservation, photographs
4. Document location history of both location and victim related to Hate Crimes/Incidents
5. Canvass

INDICATORS:

- **History of persons or area**: Establishing patterns of both victimization and victimizing
- Perceptions from those involved
- Clothing, tattoos, emblems worn
- Anniversaries or marked dates in calendars for both suspect and victim (Anniversary World Trade bombing, Hitler's Birthday, etc.)
- Lack of other motivations for crime, to show the driving force was the bias
- Suspect's Motives and Affiliations
- Social media activity of those involved (especially suspect, victim announcing their meetings or special events)
- Victim and Suspect are of different groups
- Language said prior/during/post the incident

REPORTS:

1. All hate crime or incident reports shall indicate on the face page under the “Special Circumstance” box either “Hate Crime” or “Hate Incident” as appropriate.
2. Scan Davis PD Hate Crime Document, **Both Hate Crimes and Incidents**
3. Under ‘Attachments’ there is a ‘Get Attachment Agency Forms.’ Click it and add the DOJ Hate Crime Report attachment for **Hate Crime Reports**, not incidents. Fill it out and scan it to the report.

422.6 PC, HATE CRIME

422.6(a) PC: No person, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.

422.6(b) PC: No person, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.

This is a misdemeanor

PROSECUTOR MUST ESTABLISH FOLLOWING ELEMENTS FORCE AND VIOLENCE:

To prove it was by Force:

- The defendant used force to willfully interfere with, injure, intimidate, oppress, or threaten another person's legally protected right or privilege.
- The defendant did so in whole or in part because of the other person's actual or perceived protected characteristic(s), or because of the other person's association with a person or group having one or more of these characteristics.
- The defendant intended to interfere with the person's legally protected right.

To prove threat of Physical Violence against a specific person or group:

- The threat would have caused a reasonable person to be afraid because the defendant appeared able to carry out the threat.
- The defendant used the threat to willfully interfere with, injure, intimidate, oppress, or threaten another person's free exercise of a legally protected right.
- The defendant did so in whole or in part because of the other person's actual or perceived protected characteristic(s), or because of the other person's association with a person or group having one or more of these characteristics.
- The defendant intended to interfere with the person's legally protected right.

PROSECUTOR MUST ESTABLISH FOLLOWING ELEMENTS VANDALISM:

To prove interference with another's civil rights by damaging or destroying their property:

- The defendant knowingly damaged or destroyed someone else's real or personal property.
- The defendant did so for the purpose of intimidating or interfering with that person's free exercise of a legally protected right.
- The defendant did so in whole or in part because of the other person's actual or perceived protected characteristic(s), or because of the other person's association with a person or group having one or more of these characteristics.
- The defendant intended to interfere with the person's legally protected right. A conviction for interfering with another person's civil rights under PC § 422.6 is a misdemeanor that can be punished by up to a year in jail, up to a \$5,000 fine, and up to 400 hours of community service. (PC § 422.6, subd. (c).)

422.7 PC, HATE CRIME

(sentence enhancement) – If the defendant is convicted of a misdemeanor that was motivated by bias and the misdemeanor caused the victim to suffer an injury, or the defendant had the ability to violently commit injury, or the misdemeanor caused property damage in excess of \$950, the prosecution may use this in aggravation and charge the misdemeanor as a felony.

(Felony wobbler: 16 months, or two or three years in county jail and/or fine up to \$10,000; or one year in jail.)

This is a Felony

OTHER LAWS RELATED TO HATE CRIMES

302 PC: misdemeanor to intentionally disturb a group of people who have met to worship.

11411(a) PC: Misdemeanor to hang noose knowing it is symbol of threat to life/property.

11411(b) PC: Misdemeanor to cause a person to fear for their safety by displaying racist signs with purpose to terrorizing owner or occupant.

11411(c) PC: misdemeanor or a felony to engage in a pattern of conduct for the purpose of terrorizing the owner or occupant of private property or in reckless disregard of terrorizing the owner or occupant of that private property by placing a racist symbol on that property on two or more occasions.

11411(d) PC: Provides that any person who burns or desecrates a cross or other religious symbol, knowing it to be a religious symbol, on the private property of another without authorization for the purpose of terrorizing the owner or occupant or in reckless disregard of terrorizing them, or who burns, desecrates or destroys a cross or other religious symbol, knowing it to be a religious symbol, on the property of a primary school, junior high school or high school, for the purpose of terrorizing any person who attends, works at or is otherwise associated with the school shall be guilty of a felony or misdemeanor.

11412 PC: Felony to attempt to discourage religious activities by threats of violence.