

Hate Crime Investigations



CITY & COUNTY OF SAN FRANCISCO

Police Department
Special Investigations Division

Hate Crime Definition

California penal code **422.55** defines a hate crime as follows:

“Hate crime” 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:

- (1) **Disability**
- (2) **Gender**
- (3) **Nationality**
- (4) **Race or ethnicity**
- (5) **Religion**
- (6) **Sexual orientation**
- (7) **Association**

Actual Characteristics: Ill will or bias motivation because of the Victim’s real status.

Perceived Characteristics: Ill will or bias motivation based on assumed perception of the Victim.

Bigotry must be the central motivation for the attack, rather than economics, revenge, etc., as in other kinds of crime. Cross-racial crimes are NOT automatically considered a hate crime.

Safety with Respect

Hate Incidents/Hate Speech

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

- Name-calling
- Communicating insults and epithets
- Displaying hate material on your own property. (Swastika, Hanging Noose, Burning Cross)
- Posting hate material that does not result in property damage including on-line posts.
- Distribution of materials with hate messages in public places.

Although **hate incidents are not criminal events**, It is important to note that these incidents have a traumatic impact on the victims as well as on the community at large. Hate incidents can be indicators of, or precursors to, hate crimes and should be investigated and documented as part of an overall strategy to prevent hate crimes.

Hate Speech – 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
- Credible Threats
- Incitement to lawless action
- Solicitation to commit any crime

The utterance of Hate Speech alone does not constitute a Hate Crime but is applicable to other violations of the California penal code.

Community Liaison Unit

The Community Liaison Unit (CLU) has been established within the Community Engagement Division (CED) to assist in fostering relationships between the Department and historically marginalized and Limited English Proficiency (LEP) communities in the City of San Francisco.

CLU coordinates with the Investigations Bureau to provide support and outreach to victims of prejudice based/hate crime incidents and other incidents of violence against historically marginalized communities involving serious bodily injury or loss of property.

CLU serves as a liaison between SFPD and victims, to ensure victims are connected with a wide range of services, to assist in the investigative process and possess an understanding of the criminal justice process. CLU acts in a supportive role with the primary investigative unit retaining investigative oversight of the investigation.

CLU serves as a liaison between the SFPD and victims for the following types of incidents:

- Hate Crimes and Prejudiced Based Incidents
- Violent Crimes involving serious or life-threatening injuries involving marginalized communities

Criminal Charging Enhancement

Penal Code 422.75: *a person who **commits a felony that is a hate crime** or attempts to commit a felony that is a hate crime, shall receive an **additional term of one, two, or three years in the state prison**, at the court's discretion.*

Penal Code 422.6: misdemeanor hate crime enhancement charge

Penal Code 422.7: “wobbler” enhancement charge

CIVIL REMEDIES

The State of California currently has two civil right statutes, which are designed to protect you against bias motivated incidents.

Ralph Civil Rights Act
(51.7 & 52 Civil Code)

Bane Civil Rights Act
(52.1 CC & 422.6 PC)

These remedies include:

- A court order to protect you from further threats or acts of violence.
- Actual monetary damages and a \$25,000 fine against the responsible party or person(s).
- Attorney's fees

SFPD Hate Crime Tip Line

(415)558-5588 (Multi-language)

(415)575-4444 (Anonymous Tip Line)

Thank you.

Any questions?

You can reach me at jamie.hyun@sfgov.org

Special Investigations Division

(415)553-1133