

Marin County School/Law Enforcement Partnership



A Protocol on Collaborated Efforts for Combating Hate Crimes or Bias-Related Incidents in Marin County

The Marin County School/Law Enforcement Partnership gratefully acknowledges the support and efforts of the San Joaquin County Hate Crimes Task Force and the East Contra Costa County Collaborative on Hate Crimes from which this protocol, in part, was developed.

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Introduction

In November 2000, at the request of the Marin County School/Law Enforcement Partnership, representatives from law enforcement and the District Attorney, education and Marin Human Rights Roundtable on Hate and Violence met to discuss the need for an organized and unified effort to combat hate crimes and bias-motivated incidents. Booker T. Neal, an expert on the subject from the Community Relations Services, U.S. Department of Justice, has volunteered to assist our efforts. Two tasks were identified.

1. Develop a countywide protocol for law enforcement and education that deals with identifying hate crimes in bias-related incidents.
2. Identify training and services for participants to heighten knowledge and awareness of prevention and intervention techniques to combat hate crime and bias-motivated incidents.

Attendance at school provides young citizens with one of their first exposures to different cultures. Schools provide a natural setting where young people can learn social skills, which will affect their future attitudes and beliefs, their respect for the institutions of government, and their tolerance for persons of different religions, races, colors and ethnic backgrounds.

All hate crimes and bias incidents are serious matters that deserve prompt attention by appropriate law enforcement authorities. However, such incidents are especially serious when they occur on school grounds or involve school-aged children. Hate crimes and bias incidents by their nature have a great potential to disrupt the educational environment and thereby deprive students and educators of their fundamental rights to safe campuses. We all have a responsibility to protect the rights and interests of children and to ensure their emotional well-being. Therefore, the overriding strategy established and supported by the School/Law Enforcement Partnership is to provide students with a safe environment, one which is conducive to learning and free of violence, fear and intimidation.

We recognize that some incidents involving bias or hate may at first appear to be minor in nature. However, we believe that these types of incidents may quickly escalate into a problem affecting public safety. Awareness and knowledge of how to deal with hate crime and bias-motivated incidents will serve students, parents, school staff, law enforcement and community members well in their efforts to build a safer community.

We further recognize that some bias-based acts committed in schools may warrant a firm and decisive response even though, technically, such acts do not constitute crimes and thus do not invoke the limited jurisdiction of the criminal and juvenile justice systems. The parties agree in this regard that the definition of a "bias-motivated incident" is broader than the definition of a "hate crime," so that certain bias-motivated incidents, though deserving condemnation, discipline and remediation, do not constitute "hate crimes" which could be handled by the police through the juvenile/adult justice systems.

In responding to the evolving problem of hate crimes and bias incidents, the parties acknowledge they must not limit their focus to those who commit these anti-social or criminal acts. In order to reduce individual trauma and fear and reduce community tensions, the focus should embrace the victims and potential victims of these acts.

We believe that one of the best deterrents to hate crimes and bias-motivated incidents is to affirm, by word and by deed, that such acts will not be tolerated. The parties involved in this effort worked to develop clearly defined procedures so that law enforcement and District Attorney, school personnel and community members would have a single protocol for these types of incidents. The goal is to have all involved parties know what they are expected to do in the event of a hate crime or suspected bias-motivated incident committed on school grounds or involving school-aged children. The resulting memorandum of understanding provides such a protocol to insure that threats of violence in a school environment or by school-age children off campus are addressed, and, whenever possible, to prevent incidents before they occur.

In our efforts to develop a common protocol with working guidelines, we wish to strongly emphasize our belief that hate crimes and bias-motivated incidents are incompatible with the basic educational mission and the environment of any school and our communities.

Goal

Work to eliminate the number of hate crimes and bias incidents in Marin County.

Mission

Law enforcement and education agree to support safe communities through awareness and knowledge of prevention and intervention efforts to combat hate crime and bias incidents.

Problem

Regrettably, hate crimes and bias incidents occur in our society. This anti-social behavior victimizes communities. Hate crimes and bias incidents, by their nature, are confrontational, inflame tensions and promote social hostility. These acts jeopardize the active and open pursuit of freedom and opportunity. They represent nothing less than a direct attack upon the racial, religious and ethnic heritage of our citizens.

Membership

The Hate Crime Collaborative is comprised of members of the Marin County School/Law Enforcement Partnership and volunteers from the community who are willing to maintain a unified effort to combat hate crime and bias incidents. Membership should have the following representation:

- Law Enforcement – TBA
- Education – TBA
- Community Agencies
- Health and Human Services
- PTA
- District Attorney

Roles of Law Enforcement and Education

Law Enforcement will agree to:

- Give all suspected hate crimes and bias-related incidents occurring on school property or involving school-age children prompt law enforcement response.
- Conduct a thorough investigation with the assistance of school officials, which will include notifying parents or guardians or another responsible

- adult as soon as practicable. (6254(f) Government Code states that police have the discretion not to disclose hate crime investigations.)
- Provide a press release that complies with investigative and confidentiality requirements regarding the investigation **when appropriate.**
 - Work with the education community to review protocols continually, improve communication, and assist other organizations and communities to combat hate crime and bias incidents.
 - Participate in joint training for law enforcement and school staff on hate crimes and bias-related incidents.
 - Provide victim witness advocacy through the District Attorney's office whether or not a suspect is apprehended.

School Districts will agree to:

- Have a policy on hate crime and bias-related incidents (include obligation to report to police).
- Communicate specific school rules that apply to hate crime and bias-related incidents to parents/guardians and students.
- Inform staff of proper responses and reporting of hate crimes and bias-related incidents.
- Provide school programs aimed at improving sensitivity, conflict resolution and personal relationships among students.
- Assist law enforcement with the investigation when a hate crime or hate incident has occurred.
- Take appropriate student discipline measures with those responsible for hate crimes and bias-related incidents.
- Promptly notify their police agency of any graffiti or vandalism that may express hate or bias.
- Ensure all "bias or hate-related" graffiti or vandalism is photographed before removal or repair.
- Ensure evidence is preserved in the event of a suspected hate crime or bias-related incident.
- Participate in joint training for law enforcement and school administrative staff on hate crimes and bias-related incidents.
- Conduct an administrative investigation in response to a complaint of bias in accordance with governing board policies.
- Notify parents or guardians of juveniles at the appropriate times and/or at the conclusion of an administrative investigation.

Procedures

Procedures for Law Enforcement:

- Officers will ensure that all hate crimes are investigated, properly classified and documented on a crime/arrest report according to the countywide protocol adopted by the chiefs of police association.
- During the initial assessment of the incident, which may include interviews of students and school staff, the officer will notify the appropriate school administrator of the law enforcement officer's evaluation of the incident and appropriate course of action.
- Incidents involving minor students will require the notification of the minor's parents or legal guardian. Time and method of notification will depend on each department's policy.
- Reports of all completed investigations involving juveniles shall be forwarded to the District Attorney's Office, as well as the Marin County Probation Department. Reports of all completed investigations involving adults shall be forwarded to the District Attorney's Office for review and prosecution when a provable case exists. School administration will be provided key contact persons from the Marin County Probation Department and the District Attorney's Office.

Procedures for Educators:

- Any staff member, upon receiving information that a person is threatening to commit or has committed a bias-motivated act, shall immediately report the threat to a school administrator.

The administrator shall:

- Report the incident to law enforcement.
- Conduct an administrative investigation and maintain a record for future investigative use
- Be available and cooperative in providing staff, witness and information to law enforcement investigators
- Take appropriate disciplinary action per Education Code, board policy and school rules
- Report the incident to the superintendent or designee

California Bias Crime Sections

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) **Bias 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, if not accompanied by a threat of harm with the ability to carry it out, are considered protected speech and not a hate crime but could be considered a hate incident.
- (c) **Race** – A group of persons who possess common physical characteristics; e.g., color of skin, eyes and/or hair, facial features, etc., genetically transmitted by descent and heredity that distinguish them as a distinct division of humankind (Asians, Blacks, Whites, etc.).
- (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.g., Arabs, Hispanics, etc.
- (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 non-existence of a Supreme Being; e.g., Catholics, Jews, Protestants, etc.
- (f) **Sexual Orientation** – A sexual attraction toward, and responsiveness to, members of one’s own sex or members of the opposite sex; e.g., gays, lesbians, heterosexuals, etc.
- (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.

Note: The victim does not have to be an actual member of a group to establish a hate incident or crime. It is based upon the perception of the perpetrator.

Law:

- (a) Officers will familiarize themselves with Penal Code Sections 422.6, 422.7, 422.75, 422.8, 422.9, 422.95, 11410, 11411, 11412 and 11413.
- (b) Officers will familiarize themselves with their department's policy and/or procedures regarding the investigation of hate crimes and bias incidents.
- (c) Officers and school personnel will familiarize themselves with California Education Code Section 48900.3 relating to pupils who have "caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in subdivision (e) of Section 233."

Determining a Hate/Bias Incident

The following are factors to consider when determining whether or not an incident is a hate crime. The list is not all inclusive, but provides general guidelines for consistent identification of such crimes.

- 1) Is the motivation of the offender known?
- 2) Are the victim and the offender from different racial, religious, ethnic, sexual orientation, gender or is the victim targeted because of his or her physical or mental disability?
- 3) Were any racial, religious, ethnic, sexual orientation, physical or mental disability bias remarks made by the offender?
- 4) 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?
- 5) Does the victim perceive the action of the offender to have been motivated by bias?
- 6) Did the incident occur on a holiday or other day of significance to the victim's group or the offender's group?
- 7) 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?
- 8) Is there no other clear motivation for the incident?