

GENERAL ORDER

PREJUDICE-BASED INCIDENTS

This order specifies what action the Department will take to comply with the Ralph Civil Rights and Bane Acts, which establish penalties for prejudice-based conduct. The order outlines investigating and reporting procedures along with the duties of the patrol supervisor and the lieutenant.

I. POLICY

- A. It is the policy of the San Francisco Police Department to ensure that rights guaranteed by the constitutions and laws of the United States and the State of California are protected for all citizens regardless of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute. These eleven groups listed are only examples of the classes of victims protected.
- B. The Department will take a proactive role to protect all citizens against prejudice-based conduct by promoting peace and harmony among the diverse groups living and working within the City and County of San Francisco.
- C. The Department will investigate all reported prejudice-based incidents and support vigorous prosecution of those apprehended for such acts.
- D. Studies have shown that hate crime victims are more severely traumatized than victims of opportunistic crimes. Therefore, officers shall be courteous and sensitive to the needs of hate crime victims and refer them to the Hate Crimes Unit where they can receive referral to community organizations.

II. GUIDELINES

- A. By enacting the Ralph and Bane Civil Rights, which added Sections 51.7 and 52.01 to the Civil Code and Section 422.6, et seq. to the Penal Code, the legislature sought to discourage criminal and noncriminal incidents motivated by hatred or prejudice by creating civil and criminal penalties for such conduct. Refer to Penal Code Sections 422.6 (a) and (b).

B. IDENTIFYING PREJUDICE-BASED INCIDENTS

Prejudice-based incidents include violent or threatening acts directed at the person or property of any listed or similar individual or group. They include, but are not limited to, acts such as threatening phone calls, physical assaults, destruction of property, bomb threats and the disturbance of religious meetings. Also included are non-criminal acts such as name calling done with the apparent motive to harass, intimidate, threaten, retaliate or create conflict between groups having different personal characteristics such as race, religion, ethnicity or sexual orientation.

1. **MOTIVATION.** The motivation behind the act determines whether an incident is prejudice-based. When determining motivation, an officer must ask:
 - a. Why does the victim believe he/she was victimized?
 - b. Were words or symbols (e.g., burning cross, swastika) used or acts performed which are or may be considered to be offensive to the victim or a particular group?
 - c. Is there a history of similar acts or crimes directed against the same individual or group, or against the person(s) with whom the victim is associated?
 - d. Does a meaningful portion of the community perceive the incident as prejudice-based?
 - e. If all the parties involved were of the same race, ethnicity, etc., would the incident still have occurred?
 - f. Has an injunction been issued in related cases?

III. PROCEDURES

A. INVESTIGATING AND REPORTING/DUTIES OF REPORTING OFFICER

1. **NOTIFICATION.** If an incident appears to be prejudice-based, protect the crime scene and notify your supervisor and the Hate Crimes Unit of the Special Investigations Division, or the Operations Center after 1700 hrs. and on weekends.
2. **INCIDENT REPORT.** After conducting a preliminary investigation:
 - a. Indicate in your report that the incident is prejudice-based by checking the appropriate box and write "Prejudice-Based" in the title of the report, e.g., Battery/Prejudice-Based. Assign the case to 5S200. Code it 15300 plus any other applicable code numbers.
 - b. Include facts that support your conclusion in the narrative and include verbatim any statements made prior to or during the incident.
 - c. Indicate the relevant characteristics, such as the race, ethnicity, sex, religion or sexual orientation of the victim and the suspect (if known).
3. **RESOURCES AND REFERRALS.** Prejudice-based incidents are traumatic not only to the victim and his/her family, but to the entire community. Therefore, you should provide reassurance and information on resources not only to the victim, but to others affected.

B. MISDEMEANOR ARRESTS. Make an arrest whenever you have reasonable cause to believe a misdemeanor has occurred in your presence. When a misdemeanor has occurred, but not in your presence, tell the victim (preferably in private) that she/he may make a private person's arrest (see DGO 5.04, Arrests by Private Persons). After making the arrest, tell the victim to call the Hate Crimes Unit the next business day.

C. COURT PROTECTIVE ORDERS. Court protective orders are issued by a civil or criminal court and may prohibit an individual from contacting, harassing or molesting the applicant. Read all court orders carefully to determine their specific terms. All types of orders are valid throughout California, and violation of any term of a court protective order is a misdemeanor.

DGO 6.13
Rev. 06/12/96

- D. DUTIES OF THE PATROL SUPERVISOR.** Respond to the scene. Notify the lieutenant and take measures to prevent the situation from escalating. Ensure that the reports are accurate, complete and submitted by the end of the tour of duty.
- E. DUTIES OF THE LIEUTENANT.** After being notified of a serious prejudice-based incident or an incident with a potential for escalation or retaliation, immediately notify the Hate Crimes Unit of the Special Investigations Division or the Operations Center after 1700 hrs. or on weekends. Also attempt to notify the district captain.
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References

Hate Crimes and the Victim, A Guide to the Legal Process, SFPD