

# OCDA Hate Crime Information

## Introduction

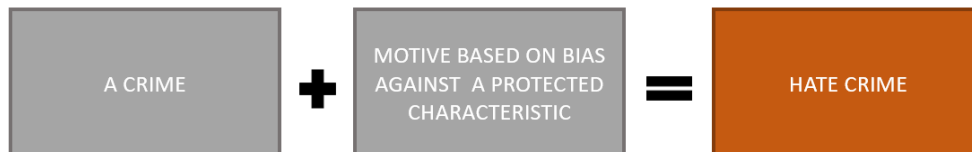
Hate crimes are steadily on the rise in Orange County. The Orange County Human Relations Commission recorded a 12% increase in hate crimes from 2017 to 2018. In 2018, the OCDA received 32 cases for consideration of hate crime charges. This was a dramatic increase from the 17 cases received in 2017 and the 12 cases received in 2016. This may reflect an actual increase in perpetration of hate crimes, an increase in awareness and recognition of hate crimes by the public and law enforcement, or a combination of these.

It is important to note that many victims of hate crimes belong to marginalized groups or have marginalized identities. These individuals may normalize hate crimes. One reason that many crimes are not reported or prosecuted as hate crimes may be that the victim is not comfortable disclosing their protected characteristic to police. This may be a particular aspect of their identity that they have not disclosed to their family. However, in order to properly prosecute hate crimes, we need this information. Thus, it is important to be sensitive when asking these identity questions – assuring the victim they can be open and honest with you, emphasizing the importance of holding the suspect accountable for their true crime, preventing future victimization of people with the protected characteristic, and providing a safe and private surrounding for your interview.

## Protected Characteristics – P.C. § 422.55(a)

“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. Includes mental disability and physical disability
- 2) Gender. Includes sex, gender identity, and gender expression.
- 3) Nationality. Includes citizenship, country of origin and national origin
- 4) Race or ethnicity. Includes ancestry, color, or ethnic background
- 5) Religion. Includes all aspects of religious belief, observance, and practice; includes agnosticism and atheism
- 6) Sexual orientation. Includes 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 the ground owned or rented by, or adjacent to, group or person with protected characteristics.



## Hate Crime Charges & Enhancements

<b>P.C. § 422.6(a)</b>	Interference with Civil Rights by Force or Threat
<b>P.C. § 422.6(b)</b>	Interference with Civil Rights by Damaging Property
<b>P.C. § 422.7</b>	Used to Enhance Misdemeanor to Felony Based on Bias-Motivation
<b>P.C. § 422.75</b>	Enhancement for Any Felony w/ Bias Motivation
<b>P.C. § 594.3</b>	Vandalism to Place of Worship or Cemetery
<b>P.C. § 11411</b>	Terrorizing by Noose, Cross Burning, or Other Symbol
<b>P.C. § 11412</b>	Threats Obstructing Exercise of Religion

## **Motive**

The important question of whether a crime is a hate crime turns on the defendant's motivations. As the definition includes the language "actual *or perceived*" characteristics of the victim, we prosecute hate crimes if the defendant acted from a bias motivation, whether he correctly identified his victim or not. For example, if an Islamophobic defendant attacked a Sikh in the mistaken belief he was Muslim, and committed that act because he perceived the victim to be Muslim, it is a hate crime even though the defendant was mistaken.

## **Potential Hate Crime Victims**

- Individuals
- Businesses
- Schools
- Religious institutions
- Community centers
- Outreach groups
- Public property

## **Vandalism to Public Property**

A hate-motivated vandalism committed against public property may still be a hate crime even though the property itself is not directly associated with a protected characteristic. An example of this is a public school – public property that on its own does not have any protected characteristics under hate crime law. For example, a defendant who writes racial epithets targeting African-Americans on the classroom door of the school's only African-American teacher and a music building area where African-American students regularly congregate, a hate crime may be charged.

## **Resources**

1. Orange County Human Relations Commission: <http://www.ochumanrelations.org/>
2. Anti-Defamation League: <https://www.adl.org/>
  - a. Resource Library <https://www.adl.org/education-and-resources/resource-knowledge-base>
    - i. Information on various hate groups and current developments
  - b. Hate Symbols Database re: tattoos, clothing, or literature: <https://www.adl.org/hate-symbols>