

County of Santa Clara

Office of the District Attorney

70 West Hedding Street, West Wing, 5th Floor
San Jose, California 95110
(408) 299-7400



Jeffrey F. Rosen
District Attorney

DATE: August 26, 2021

TO: Honorable Members of the Board of Supervisors
Jeffrey V. Smith, County Executive

FROM: Jeffrey F. Rosen
District Attorney

DocuSigned by:
Jeffrey Rosen
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SUBJECT: **Board Referral Related to Hate Crimes**

At its meeting of May 4, 2021, at the request of Supervisor Lee, the Board requested that the District Attorney provide an off-agenda report to the Board on date uncertain relating to the current reporting structure for hate crimes; and a plan for streamlining the reporting of hate crimes from trusted parties, including social workers, non-profit partners, and community-based organizations. This memo responds to that request.

The attached legislative file provided for the Hate Crimes Task Force provides information responding to the referral.

The District Attorney's Office is proud of its ongoing work related to hate crimes, having collaborated with the County's Network for a Hate Free Community to establish and implement the County's Law Enforcement Policy on Hate Crime in 2001, and having played an active role in various County efforts to combat hate crime ever since.

c: Chief Board Aides
Miguel Marquez, Chief Operating Officer
James R. Williams, County Counsel
Tiffany Lennear, Acting Clerk of the Board of Supervisors

Attachment A

**County of Santa Clara
Office of the District Attorney**



107353

DATE: August 27, 2021
TO: Hate Crimes Task Force
FROM: Jeffrey F. Rosen, District Attorney
SUBJECT: Report on Hate Crimes Protocols and Training

RECOMMENDED ACTION

Receive report from the District Attorney's Office relating to hate crimes reporting structure and training for sworn officers.

FISCAL IMPLICATIONS

There are no fiscal implications associated with this report.

REASONS FOR RECOMMENDATION

Supervisor Lee requested information from the District Attorney's Office related to hate crimes in two Board of Supervisors meetings. This report provides the requested information.

On May 4, 2021, Supervisor Lee asked the District Attorney to provide a report to the Board relating to the current reporting structure for hate crimes; and, a plan for streamlining the reporting of hate crimes from trusted parties, including social workers, non-profit partners, and community-based organizations.

The District Attorney's Office (DAO) hate crimes response is overseen by Chief Assistant DA Jay Boyarsky. Deputy District Attorney Erin West reviews all hate crimes charges for filing, and confers with Supervising Deputy District Attorneys for North County and South County for potential charges related to jurisdictions in those areas. If the hate crime charges are likely to be of significant community interest, a larger group of prosecutors in the DAO reviews them and discusses potential charges. Once a case has been charged, DDA West logs and tracks the cases, and they are assigned to different prosecutors as a "special study." The assigned prosecutor is then responsible for the case from arraignment through

disposition. DDA West compiles an annual report in February, which is provided to the State Department of Justice.

The DAO believes the best approach to streamlining the reporting of hate crimes and involving various trusted parties is to reconstitute the Network for a Hate-Free Community, a committee that brought together community leaders and law enforcement. This group would build trust among various stakeholders, making it more likely that hate incidents are reported and addressed.

On June 22, 2021, Supervisor Lee asked the District Attorney to report to the Hate Crimes Task Force in August 2021 relating to a collaborative plan among County law enforcement agencies to encourage a Peace Officer Standards and Training course for sworn officers to best identify and investigate crimes in the community, including consideration of designing a tool kit for distribution outlining best practices and guidelines relating to conducting community engagement and informing the public of updates made to the agency policies and associated plans.

The Board action at which Supervisor Lee provided this direction was to adopt a resolution recommending additional law enforcement training, policies, and community outreach on hate crimes. In the legislative file accompanying the action, County Counsel reported that the State Commission on Peace Officer Standards and Training (POST) revised its hate crime model policy in 2019, and in August 2020 updated its learning portal course, "Hate Crimes: Identification and Investigation." Our office will work with our partner law enforcement agencies to ensure that sworn officers take the class and to develop a tool kit regarding best practices and guidelines.

As reported in County Counsel's legislative file, the Penal Code requires any agency that has adopted or updated a hate crimes policy since January 1, 2019 must incorporate all of the elements of the POST model policy framework into its policy. We will also work with the law enforcement agencies to make sure the changes have been made and to communicate those to the public.

CHILD IMPACT

The recommended action has no impact on children or youth, but the plans described will have a positive impact by encouraging training of law enforcement officers and clear law enforcement agency protocols for identifying, reporting, and responding to hate crimes.

SENIOR IMPACT

The recommended action has no impact on seniors, but the plans described will have a positive impact by encouraging training of law enforcement officers and clear law enforcement agency protocols for identifying, reporting, and responding to hate crimes.

SUSTAINABILITY IMPLICATIONS

The recommended action will have no/neutral sustainability implications.

CONSEQUENCES OF NEGATIVE ACTION

The Hate Crimes Task Force will be unable to receive this report regarding hate crime protocols and training.