



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: LeRonne L. Armstrong
Chief of Police

SUBJECT: 2021 Hate Crime Data Report

DATE: June 1, 2021

City Administrator
Approval

Date

Jun 28, 2021

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report from the Oakland Police Department (OPD) Criminal Investigations Division (CID) On Hate Crimes Which Have Occurred in The City of Oakland Between January 2020 and May 2021.

EXECUTIVE SUMMARY

California law provides a definition of what constitutes a hate crime based on the actual or perceived background of the victim (e.g., gender or race or nationality). This informational report provides data on the 37 substantiated hate crimes which were reported during January 2020 and May 2021 as well as a map that illustrates where hate crimes occurred. The report also provides information on OPD's internal taskforce, which helps with both investigations as well as community collaboration.

BACKGROUND AND LEGISLATIVE HISTORY

The California Penal Code 422.55¹ (PC) defines a hate crime as "a criminal act that has been 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 with a person or group with one or more of these actual or perceived characteristics

¹https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PEN&division=&title=11.6.&part=1.&chapter=1.&article=

California Penal Code (PC) 422.6² states:

- a. No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.
- b. No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.
- c. Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both the above imprisonment and fine, and the court shall order the defendant to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than his or her hours of employment or school attendance. However, no person may be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.
- d. Conduct that violates this and any other provision of law, including, but not limited to, an offense described in Article 4.5 (commencing with Section 11410) of Chapter 3 of Title 1 of Part 4, may be charged under all applicable provisions. However, an act or omission punishable in different ways by this section and other provisions of law shall not be punished under more than one provision, and the penalty to be imposed shall be determined as set forth in Section 654.

(Amended by Stats. 2004, Ch. 700, Sec. 8. Effective January 1, 2005.)

PC 422.75 defines a “felony hate crime allegation” as follows:

The defendant acted in whole or in part because of the actual or perceived characteristic(s) of the victim if:

1. The defendant was biased against the victim based on the victim’s actual or perceived protected characteristic (e.g., gender, race, ethnicity, etc.)
AND
2. The bias motivation caused the defendant to commit the alleged acts.

These two factors must be present to define an incident as a hate crime.

² https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=422.6.

When Did OPD Start Tracking Hate Crimes?

OPD has been reporting hate crimes to the State of California Department of Justice (CA DOJ) Hate Crime Unit and to the Federal Bureau of Investigation (FBI) for the past 13 years. Each entity receives a copy of the crime report along with a hate crime form for each crime. These entities review and advise if the crime report meets the criteria for a hate crime or if the bias motive needs to be modified.

OPD began tracking hate crimes more systematically around 2017 after seeing an increase in hate crimes, including against a Jewish Synagogue building as well as hate crime incidents targeting the lesbian, gay, bisexual, transexual, queer, and other sexual identity (LGBTQ+)-identified people. OPD assigned officers to serve as liaisons to some of these communities at the time. In 2018, OPD created an OPD Hate Crime Hotline³ which still exists to provide a direct reporting tool for victims and witnesses of hate crimes.

OPD created an internal Hate Crimes Taskforce in July of 2020 to expand its capacity to investigate and respond to hate crime investigations. Events that led to the formation of this internal OPD taskforce include:

- ropes found hanging from trees in a Lake Merritt park which led to a concern that the ropes were placed to resemble nooses (this incident was later determined not to be a hate crime); and
- concerns that the national aftermath following the murder of George Floyd by a Minneapolis police officer would lead to hate crimes.

The Hate Crime Taskforce exists in OPD's Criminal Investigations Division (CID) to best respond to and investigate different types of hate crime-related events. The Taskforce is composed of investigators who work closely with community resource officers (that serve diverse communities). The Taskforce also communicates with the CA DOJ and the FBI. Additionally, OPD now has officers assigned as liaisons to the African American, Asian American / Pacific Islander (AAPI), Hispanic/Latino, and LGBTQ+ communities in Oakland.

The Taskforce has conducted outreach including periodic public meetings with these diverse Oakland communities. Community Resource Officers have also partnered with the Alameda County District Attorney's Office to conduct training sessions. These sessions have featured trainings on how to properly identify and report hate crimes as well as safety and security tips. Recently, these community meetings have focused on the AAPI community in and near Chinatown; however, OPD conducts hate crime-focused meetings with various communities across the City.

In recent months, there have been increased public awareness of hate crimes – particularly in Oakland's AAPI community due to awareness of high-profile regional and nationwide AAPI hate crimes. OPD has investigated all reports of hate crimes in Oakland and Chief LeRonne L. Armstrong has participated in media conferences to raise awareness and call upon assistance from the community. Leaders and members throughout OPD have participated in neighborhood visits and events as a means of bringing awareness.

³ (510) 637-4283 or non-emergency OPD phone number: (510) 777-3333. Messages left on the hotline are checked daily by OPD staff.

ANALYSIS AND POLICY ALTERNATIVES

Between January 2020 and May 2021, there have been 46 hate crime incidents reported to OPD; nine of these incidents were determined to not meet hate crime criteria (PC 422.55 or PC 422.6) upon follow-up investigations. There have been 15 arrests relating to the remaining 37 verified hate crimes; two of these incidents had more than one victim. There was one victim in each of the other cases; the remaining cases are still pending. An analysis of these arrests shows that hate crimes and incidents are often connected to additional crimes such as: assault and battery, arson, vandalism, and criminal threats. Typically, a crime such as an assault or battery is also a hate crime because the assailant uses language indicating animus toward a protected category (as explained on page one in terms of PC 422.5). The same type of threshold applies for vandalism or arson – there needs to be evidence of animus towards a protected category.

Table I provides additional information regarding the 37 verified hate crimes which occurred in Oakland between January 2020 and May 2021.

Table I: Hate Crimes in Oakland, January 2020 to May 2021: Protected Category Type

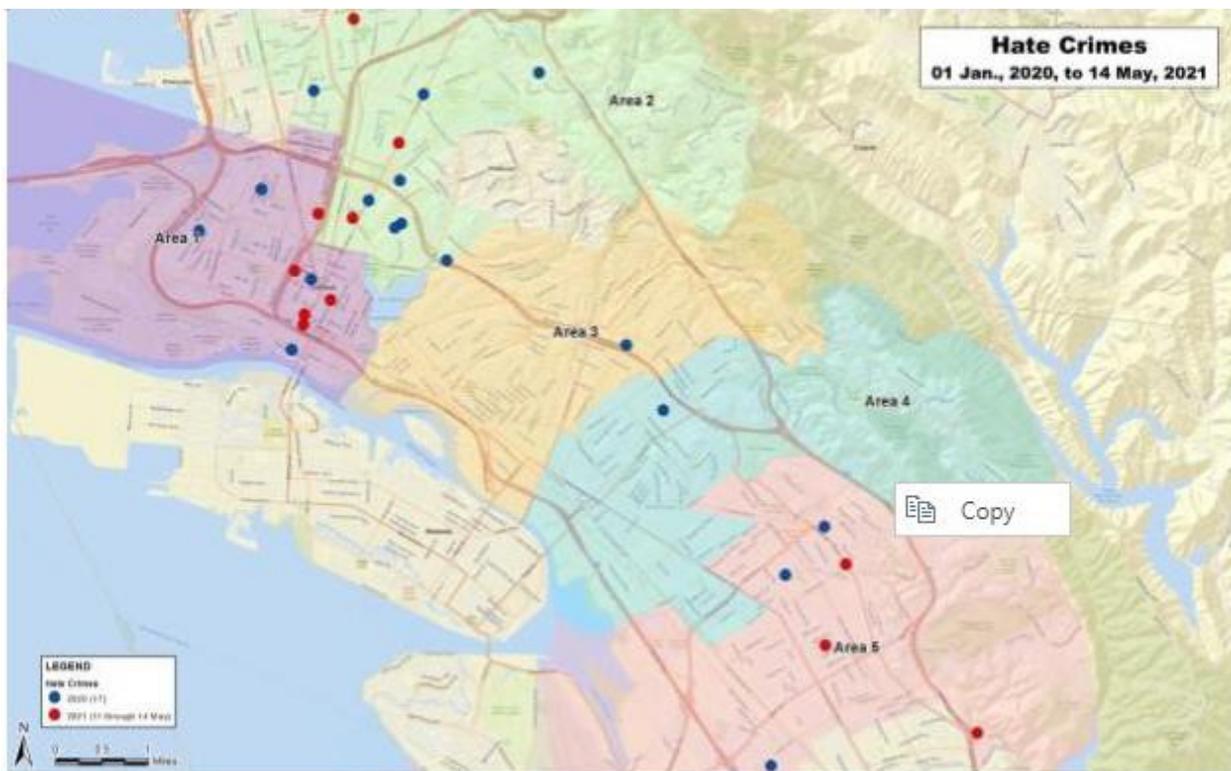
Hate Crime Protected Category	Total Victims	Race of Suspects*
Race or Ethnicity: Black	11	Unknown: 5 White: 3 Hispanic: 1 AAPI: 2
Race or Ethnicity: AAPI	7	Unknown: 1 Black: 6
Race or Ethnicity: White	4	Unknown: 1 Black: 3
Race or Ethnicity: Hispanic	3	Black: 3
Race or Ethnicity: Native American	0	None Reported
Sexual Orientation: LGBTQ+	10	Unknown: 3 White: 4 Black: 15 Note: Multiple incidents had more than one suspect
Disability	0	None Reported
Religion: Jewish	2	Unknown: 1 Native American: 1

* OPD enters the suspect description as provided by the victim, witness, and/or from any obtained surveillance footage or photos.

Locations of Reported Hate Crimes

Figure I is a map of where hate crimes have occurred in Oakland during the data reporting period of January 2020 – May 2021. There is no known connection between hate crimes and public transportation nodes or large events. At least two hate crime incidents did occur near the homeless encampment at 5th Street and Webster Street (suspects may also live in or associate with this encampment).

Figure I: Location of Oakland Hate Crimes: January 2020 – May 2021



Hate Crime Penalties

Penalties for hate crimes convictions vary depending on the nature of the crime. There may be a prison sentence for the underlying crime, particularly if the crime is a felony. There can be an additional sentence for the hate crime conviction. PC 422.75 allows for additional prison terms of one year in state prison for each prior felony conviction for hate crimes.

The Oakland Police Department conducts investigations, makes arrests, and presents cases to the Alameda County District Attorney's Office. After a case is presented for charging, connection, sentencing data, and any prosecution penalties can be found at the Alameda County District Attorney's website (<https://www.alcoda.org>).

PUBLIC OUTREACH / INTEREST

No public outreach was necessary for the production of this report beyond standard noticing requirements.

COORDINATION

The Office of the City Attorney consulted with OPD in the production of this report.

FISCAL IMPACT

There is no fiscal impact associated with this report.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this report.

Environmental: There are no environmental opportunities associated with this report.

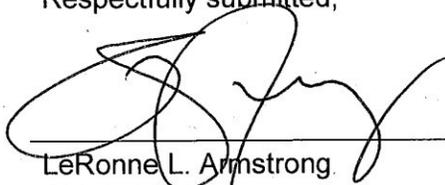
Race and Social Equity: Hate crimes impact defined groups, regardless of which category (e.g., disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics). OPD efforts to investigate incidents of hate crimes supports the safety of everyone who identifies with a defined group. Many Oakland residents and visitors are potentially members of or associated with these defined groups (e.g., by gender, race, and/or sexual orientation). Therefore, these efforts support the entire Oakland community and our goal to provide a safe environment for all those who live in or visit the City of Oakland.

ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE

Staff Recommends That The City Council Receive An Informational Report from the Oakland Police Department (OPD) Criminal Investigations Division (CID) On Hate Crimes Which Have Occurred in The City of Oakland Between January 2020 and May 2021.

For questions regarding this report, please contact Acting Lieutenant Alexis Nash at anash@oaklandca.gov.

Respectfully submitted,



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