



Police Department  
*"Pride in Service"*



## **SAN MARINO POLICE DEPARTMENT UPDATED PRESS RELEASE**

**RELEASE DATE:** June 15, 2020

**SUBJECT:** Racial comments posted on social media

**CASE NUMBER:** CR20-0499

On June 4, 2020, an employee of the San Marino Unified School District, not a District representative, notified San Marino Police Department of possible racial comments, videos, and, photographs posted on social media platforms. Immediately upon receiving this information, the police department initiated a criminal investigation.

In order to be able to establish the elements of a crime and a connection to acts of hate, it is imperative for the department to speak with victims. The department has contacted a person who identifies them self as a whistleblower and, in news articles, uses an alias of Eugene Debs. Since the investigation has started, we have contacted the whistleblower more than once in an attempt to gather additional information concerning possible crimes and identification of victims. Some of the possible victims are juveniles, and as required by law, we will not release any of that confidential information.

It has proved difficult to locate potential victims who are willing to come forward and be publicly identified. We have attempted to work with the District and identify individuals in photographs that have been posted by the whistleblower. As of today, we are still working with the District to obtain the information. We are encouraging all of the possible victims of these photos, videos, and comments, or the parents of the possible victims, to contact the department.

The Department assures the community that we are taking this seriously and are exploring all areas of these incidents and any related criminal conduct. As of now, the investigation is continuing and will continue until all leads are exhausted. The department is utilizing the assistance of the Federal Bureau of Investigation (FBI) as well as the LA County District Attorneys' Office as part of our efforts to investigate these allegations.

The Department's investigation is limited to whether a crime has been committed. The First Amendment of the U.S. Constitution prohibits the U.S. Department of Justice from prosecuting people for their beliefs or language. Although untrue or stereotypical beliefs and expressions can be offensive, they are not considered a crime, nor is it

criminal to join with others who share such views. However, once the protected speech includes a nexus to a crime, the First Amendment no longer offers protection, and actors may be prosecuted for committing a crime based on hate. This is why it is critical to have identified victims. Without them, offensive speech on its own, even if clearly demonstrated by evidence, is not considered a criminal act.

Many community members have come forward and expressed their concern in regards to the acts of prejudice and bias that are being posted on social media platforms. The San Marino Police Department understands that hate affects families, communities, and at times, the entire nation. However, per the Constitution and the current state of law, hate itself is not a crime. Hate speech may violate an organization's policies and guidelines, but it is at the discretion of the organization to investigate and take appropriate action to reduce or eliminate that conduct. Administrative actions by an organization are outside of the scope and authority of the Police Department.

The San Marino Police Department regularly references the following information about hate crimes, hate incidents, and related crimes:

- The State of California, department of Justice <https://oag.ca.gov/hatecrimes>
- he United States Department of Justice <https://www.justice.gov/hatecrimes/learn-about-hate-crimes>

From those sources, the following terms are explained:

Hate Incident. A hate incident is an action or behavior motivated by hate but legally protected by the First Amendment right to freedom of expression. Examples of hate incidents include:

- Name-calling,
- Insults,
- Distributing hate material in public places, and
- Displaying hate material on your own property.

The U.S. Constitution allows hate speech as long as it does not interfere with the civil rights of others. If a hate incident starts to threaten a person or property, it may become a hate crime.

#### Hate Crime (Penal Code 422.55)

A hate crime is a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

- 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.

In the simplest terms, a hate crime must include both the expression of hate and the commission of a crime.

### Criminal Threat (Penal Code 422)

Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety.

### Victim

A victim is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act.

### Crime

The crime in hate crime is often a violent crime, such as assault, murder, arson, vandalism - or threats to commit such crimes. It may also cover conspiring or asking another person to commit such crimes, even if the crime was never carried out.

The San Marino Police Department is encouraging any possible victims or witnesses to contact the San Marino Police Department. If you have any further information, questions, or concerns please contact Detective V. Wilson at (626) 300-0728.

If you wish to remain anonymous, please contact "LA Crime Stoppers" at 1(800) 222-8477, or use the application "P3 MOBILE APP" on google play or the App Store, or use the website <http://lacrimestoppers.org>.