

Attorney General's  
Commission on Racial, Ethnic, Religious  
and Minority Violence

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Final Report

April 1986



# ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE

John Van de Kamp  
Attorney General

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The Honorable John K. Van de Kamp  
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Dear Attorney General Van de Kamp:

It is with pleasure that the members of your Commission on Racial, Ethnic, Religious and Minority Violence hereby submit their final report and recommendations.

As we began our deliberations, it was clear that the members were committed to seeking pragmatic and effective solutions to the problem of hate violence. Our efforts, therefore, focused on identifying and analyzing the adequacy of current state laws to deal with hate crimes; identifying measures to increase public awareness of such crimes, and cultural relations education through training programs for law enforcement, school officials, students and the community.

We discovered that while there appear to be some laws on the books dealing with hate crimes, there is neither widespread knowledge of these laws nor of other resources and remedies available to victims. We are delighted that the Department has updated the 1964 handbook on civil rights laws and remedies which will assist community agencies and the public in knowing what avenues they can pursue for assistance.

In light of reports of a marked increase in the incidence of violence, particularly towards new refugee groups, we were heartened by the statewide support for the Commission from community groups and individuals, and by their commitment and dedication to assist in developing solutions to this problem.

We appreciate the opportunity to serve you in seeking solutions to the growing problem of anti-minority hate crimes. Working together we are convinced that California can and will act vigorously to prevent continuing hate violence.

We hope this report and set of recommendations will be useful to you in your efforts to protect the civil rights of the residents of the State of California.

It has been a privilege to serve as the Chairman of your Commission.

Sincerely,

MSGR. WILLIAM J. BARRY  
Chairman

# ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS AND MINORITY VIOLENCE

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# Introduction

# INTRODUCTION

- In Detroit two unemployed auto workers attack and beat to death a Chinese-American man that they have mistaken for Japanese, the country they blame for their unemployment.
- In Fontana a fight between three white teenagers and a Black youth leaves the Black youth paralyzed from the waist down.
- In San Francisco five youths attack and kill a young man in the Polk Street area during a night of "gay bashing".
- In Davis a 17-year-old stabs to death a classmate after months of taunting and belittling him for being Vietnamese.
- In San Diego County white youths organize attacks against Mexicans.

Disturbed at these and other reported incidents of violence motivated by bigotry, Attorney General John K. Van de Kamp in May 1984 established the Commission on Racial, Ethnic, Religious and Minority Violence, to obtain more accurate information to determine the nature and extent of violence based on bigotry and hatred against members of minority communities, including the elderly and disabled. He asked the Commission to make a long-term systematic examination of the sufficiency of the laws and to make recommendations for measures to decrease crimes of bigotry.

The distinguished and diverse leaders appointed to the Commission represented communities and organizations victimized by hate violence.<sup>3</sup>

## Mandate

The Commission's mandate was to:

1. obtain more accurate information to determine the nature and extent of racial, ethnic, religious, and minority violence;
2. develop guidelines for a standard definition of racial, ethnic, religious, and minority violence to allow for uniform identification and reporting of incidents of this nature;
3. encourage implementation of measures designed to decrease the amount of racial, ethnic, religious, and minority violence in California; and
4. act as liaison to adversely affected minority communities.<sup>2</sup>

## Activities

The Commission conducted public meetings in Sacramento, San Francisco, Oakland, Fresno, Los Angeles, Riverside, and San Diego to hear testimony from community representatives on violence motivated by bigotry.<sup>4</sup> Community members presented their descriptions of violence motivated by prejudice in compelling testimony before the Commission. Witnesses who testified before the Commission painted a vivid picture of the pervasiveness of violence motivated by prejudice in their communities.

In San Francisco, the Commission met with representatives of law enforcement agencies and professional organizations to explore the role of law enforcement in preventing and responding to crimes motivated by prejudice. The Commission formed committees on legislation, litigation, and community relations/public education to study proposals from the public and to review existing model programs in California and other states. The Commission's legislative committee held public hearings in Los Angeles and San Francisco to review and evaluate legal remedies available to victims of hate violence.<sup>5</sup>

The Commission maintained liaison with designated representatives of The California Department of Education, The California Department of Corrections, The Fair Employment and Housing Commission, and The Department of Fair Employment and Housing.

## Scope

The Commission was mandated to study crimes and violence perpetrated against specific groups: Blacks, Hispanics, Asians, Native Americans, religious groups, lesbians, gay men, elderly persons, and disabled persons.<sup>6</sup> At the Attorney General's direction, the Commission held public hearings to find facts about hate violence in California and reviewed practical recommendations for curbing it.

The Commission's recommendations for decreasing the amount of violence motivated by prejudice in California focus on measures that can be implemented quickly. The Commission sought to provide pragmatic approaches to curbing hate violence. These recommendations do not address the fundamental political, social, and economic shortcomings in past and present national and international affairs that spawn bigotry.

Resource and time constraints affected the scope of the Commission's work. The Commission did not attempt to investigate the accuracy of each report of

crimes and violence. Lack of adequate data collection and reporting systems prevented the Commission from accurately measuring the incidence of violence motivated by prejudice in the State of California. The Commission found that the lack of accurate information has made it difficult for public bodies to design and to implement strategies to adequately respond to hate violence.

## Definition of Terms

Racial, ethnic, religious, and minority violence, within the Commission's scope of inquiry is referred to as hate violence. When the act involved has criminal sanctions it is referred to as a hate crime. Other synonymous terms include violence and/or crimes motivated by bigotry and violence motivated by prejudice.

The many ways hate crimes and violence are manifested made finding a satisfactory definition difficult. The Commission reasoned that the definition must be broad enough to encompass violence that is only partially motivated by bigotry, yet be specific enough to separate harassment from constitutionally protected free speech.

Commissioners felt that the definition should include incidents specific to violence motivated by bigotry that are clearly serious crimes against a democratic society as well as seemingly minor acts of harassment which, because of their motivation and intent, constitute intimidation and are insidious threats to a free society with serious effects on their victims. A seemingly minor act, such as vandalizing a mailbox or making a prank phone call, takes on ominous overtones when linked to a campaign of intimidation.

The Commission adopted the following definition to provide a context for this report: (Specific definitional guidelines for use by law enforcement and other practitioners are referenced in other sections of the report.)

*The Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence considers an act of hate violence to be any act of intimidation, harassment, physical force or threat of physical force directed against any person, or family, or their property or advocate, motivated either in whole or in part*

*by hostility to their real or perceived race, ethnic background, national origin, religious belief, sex, age, disability, or sexual orientation, with the intention of causing fear or intimidation, or to deter the free exercise or enjoyment of any rights or privileges secured by the Constitution or the laws of the United States or the State of California whether or not performed under color of law.*

The Commission distinguished between hate crimes that involve acts prohibited by the California Penal Code, and acts of hate violence which include violations of rights motivated by bigotry that are not currently punishable under criminal statutes.

The Commission noted and explored the distinction between hate violence and hate crimes against persons based on their race, ethnic background, religious beliefs, and sexual orientation and acts and crimes of violence against elderly and disabled persons. Testimony before the Commission indicated that crimes and violence in the former category were more commonly motivated by hate and more often posed the danger of escalating and disrupting entire communities.

Serious crimes against elderly and disabled persons were found to be motivated primarily by their perceived vulnerability, and the tragic effects limited, for the most part, to the victims and their families. It is important to note, however, that several hate groups list among their goals the "elimination" of disabled persons, and some acts against such persons are motivated by hate.

In considering violence against disabled persons, the Commission defined disabled persons to include those with developmental and physical disabilities and the mentally ill.

## Organization of Report

This report presents an overview of hate violence in California and detailed recommendations for curbing it. A complete list of recommendations follows this introduction. Succeeding chapters restate and detail rationale for the recommendations. Final chapters cite issues of special concern to the Commission that were outside the scope of this report and summarize the Commission's conclusions.

## Footnotes

<sup>1</sup> *Statement of California Attorney General John K. Van de Kamp, May 10, 1984.*

<sup>2</sup> *Ibid.*

<sup>3</sup> *See List of Commission Members*

<sup>4</sup> *Op. Cit., Van de Kamp.*

<sup>5</sup> *See Appendix A.*

<sup>6</sup> *Op. Cit., Van de Kamp.*



# Findings and Recommendations

# FINDINGS AND RECOMMENDATIONS

## Findings

1. ***Hate violence persists in California and poses a threat to the peace and safety of our communities.***

In every region of the state, incidents have occurred in which racial, ethnic, religious, and sexual minorities have been harassed, intimidated, assaulted, and even murdered.

2. ***A central system for collecting and reporting hate crime data is essential.***

Comprehensive data collection will enable California to assess and monitor the magnitude of hate violence and to design and implement effective measures to respond to and prevent it.

3. ***Enactment of a comprehensive civil rights statute with criminal penalties and amendments is necessary to effectively deter hate crimes.***

Existing civil and criminal laws fail to effectively protect the rights of hate violence victims.

4. ***California needs to establish human relations centers in every county charged with responding to and preventing hate violence.***

State agencies should contract with human relations centers to provide victim services and assistance for law enforcement agencies and schools.

5. ***Victims of hate violence need immediate access to practical assistance and support services.***

Meeting the needs of hate violence victims should be a priority for state and local governments and community organizations.

6. ***The development of comprehensive criminal justice policies for responding to and preventing hate crimes is imperative.***

Policies should be formulated for assessing the potential for hate violence, for responding to hate violence, for equal employment opportunity, and for effective law enforcement on American Indian reservations.

7. ***Police officers and district attorneys need training on how to respond to, and prevent, hate crimes.***

Training topics should include recognizing the precursors of hate crimes, responding to hate crimes, working with minority communities, and criminal laws related to hate violence.

8. ***Public awareness of hate violence, its causes and effects, legal remedies, and available resources, must be increased.***

California citizens and service providers lack important information necessary to respond to and prevent hate violence.

9. ***Comprehensive efforts for responding to and preventing violence against elderly and disabled persons are necessary.***

Public policies and practical programs must be developed to address the needs of elderly, physically disabled, developmentally disabled, and mentally ill persons.

10. ***California can respond to and prevent hate violence effectively.***

A review of successful legislative, law enforcement, and community efforts provides convincing evidence that Californians can work together to develop practical programs to end the cycle of hate violence. Consideration should be given to appointing a task force to monitor and provide assistance in the implementation of the following recommendations.

## RECOMMENDATIONS

### Data Collection and Reporting

1. The California Department of Justice should collect and disseminate information on the incidence of hate crimes.
2. County human relations centers should be designated to supplement the work of police departments in:
  - a) gathering information about the incidence of hate violence, and;
  - b) providing information about the incidence of hate violence to the California Department of Justice.
3. California Penal Code Section 628 et seq., which mandates reporting of school violence, should be amended to distinguish violence motivated by bigotry from other forms of school violence and to require distribution of data on hate violence to local school boards.

## Proposed California Civil Rights Act

4. California should enact a comprehensive civil rights statute with criminal penalties.

## The Ralph Civil Rights Act and Other Legal Remedies

5. Legislation should be enacted and judicial procedures developed to facilitate access to the courts for obtaining temporary restraining orders and other forms of injunctive relief for hate violence victims.
6. The Ralph Civil Rights Act should be amended to include an award of fees for legal representation in successful actions.
7. The Ralph and Unruh Civil Rights Acts should be amended to state clearly that the California Department of Fair Employment and Housing and the Fair Employment and Housing Commission have jurisdiction to investigate and hear complaints under the acts.
8. The Ralph Civil Rights Act should be amended to treble the amount of compensatory damages awarded with a minimum \$10,000 fine.
9. A statute should be enacted to toll the right to file libel and slander counterclaims in Ralph Civil Rights Act proceedings until the Ralph Civil Rights Act litigation is completed.
10. Legislation should be enacted to provide trial setting priority for Ralph Civil Rights Act proceedings.
11. State funds should be authorized to compensate successful plaintiffs for court costs and attorney's fees when defendants are judgment proof in Ralph Civil Rights Act proceedings.
12. The California Attorney General should develop and implement administrative procedures and policies for handling complaints involving Ralph Civil Rights Act violations.
13. The California Attorney General should explore Ralph Civil Rights Act proceedings against law enforcement agencies when a pattern and practice of violation occurs in an agency.
14. California Penal Code Section 1170.75 which identifies motive of bias based on race, religion, or ethnicity as an aggravating factor for consideration in sentencing, should be amended to add bias based on sexual orientation, disability, or age as aggravating factors.

## Proposed Hate Violence Prevention and Protection Act

15. The California Attorney General should sponsor a Hate Violence Prevention and Protection Act establishing county human relations centers to:

- a) work with community organizations to respond to and prevent hate crime;
- b) gather information about the incidence of hate violence and report it to the California Department of Justice;
- c) assist local schools in developing programs and curricula addressing human rights issues;
- d) develop responses to hate violence in cooperation with local law enforcement;
- e) develop programs to assist victims and witnesses of hate crimes in cooperation with district attorneys; and
- f) develop and implement conflict resolution programs.

## Victim Assistance

16. County human relations centers should provide services to victims of hate crimes.
17. District attorneys' offices and county human relations centers should develop and implement cooperative programs to provide assistance to victims and witnesses of hate crimes.
18. The California Office of Criminal Justice Planning should provide for training on hate violence for staff of toll free hotlines for crime victims on the particular needs of hate violence victims and distribute public information materials that make it clear that hotlines are available to victims to report hate crimes and receive referrals for getting the help they need.

## Criminal Justice Policy Formulation

19. The California Attorney General should:
  - a) use publications, letters, conferences, and other means to remind local law enforcement agencies and district attorneys' offices of the crucial role they must play in responding to and preventing hate crimes;
  - b) distribute model police procedures for community assessments to identify incidents that may be precursors of hate crimes; and
  - c) provide law enforcement agencies with guidelines on releasing the names and addresses of hate crime victims to the media.
20. Law enforcement agencies should adopt policies and procedures for responding to hate crimes.
21. The California Attorney General should work with local law enforcement agencies and representatives of organizations working with immigrants to develop and distribute model policies for addressing violence perpetrated against undocumented immigrants.
22. The California Commission on Peace Officer Standards and Training (POST) should issue

guidelines governing discrimination against gays and lesbians in law enforcement personnel practices.

23. The Attorney General should appoint a Task Force on American Indians and Justice to analyze law enforcement needs on reservations, the impact of Public Law 280, and other appropriate topics.

## Law Enforcement Training

24. The California Attorney General should recommend that the Commission on Peace Officer Standards and Training (POST) appoint a committee consisting of members of the Commission and minority community representatives to:
  - a) set specific training objectives on hate crimes;
  - b) review course materials, curricula, and resumes of trainers; and
  - c) distribute recommended materials, curricula, and lists of certified trainers to law enforcement agencies and academies.
25. Law enforcement basic academies, field training programs, and advanced officer and management courses should include training on cultural differences and hate crimes.
26. The California Department of Justice should take the lead in working with minority community representatives and prosecutors to develop training programs and materials on prosecuting hate crimes for staff in district attorneys' offices.

## Education and Awareness

27. The California Department of Justice should annually update ***Unlawful Discrimination: Your Rights and Remedies***, the handbook on civil rights laws and remedies, and distribute it to community organizations, law enforcement agencies, schools, and other appropriate organizations.
28. The California Department of Justice should distribute a multi-lingual public information brochure on hate crimes and victims' rights and remedies to community groups, social service agencies, religious institutions, and other organizations.
29. The California Department of Justice should release periodic public reports on the incidence of hate crimes.

30. The California Department of Education should develop a handbook to provide information on gay and lesbian lifestyles and counter myths and stereotypes about gays and lesbians for teachers and school administrators.

## Violence Against the Elderly and Disabled

31. The California Department of Justice should collect and disseminate information on the incidence of violence against elderly and disabled persons.
32. Law enforcement agencies should establish units to respond to situations involving mentally ill persons.
33. Law enforcement agencies should establish escort services for elderly and disabled persons.
34. The California Attorney General should appoint a committee of elderly and disabled community representatives and POST to:
  - a) set specific training objectives for training on violence against elderly and disabled persons:
  - b) develop training guides and review training materials, curricula, and resumes of appropriate trainers; and
  - c) recommend curricula and trainers for law enforcement training centers and agencies.
35. Basic academies, field training programs, and advanced officer courses should include training on violence against elderly and disabled persons.
36. Community organizations should develop self-protection programs for elderly and disabled persons.
37. District attorneys' offices and community organizations should develop cooperative programs for providing assistance to victims of violence against elderly and disabled persons.
38. The California Department of Justice Crime Prevention Center should update crime prevention materials for elderly and disabled persons and distribute multi-lingual materials to senior centers, social service agencies, religious institutions, law enforcement agencies, and other appropriate organizations.

I.

# Hate Violence in California

Viet refugee's mother  
White slaying racism in  
Paris report for violence, growing  
violence in past  
Gay Asianst Loatian family  
in the terrorized says

# CHAPTER ONE: HATE VIOLENCE IN CALIFORNIA

## Hate Violence Today

Hate violence poses a serious threat to California communities. In every region of the state, incidents have occurred in which racial, ethnic, religious, and sexual minorities have been harassed, intimidated, assaulted and even murdered. In some communities, acts motivated by bigotry have sparked widespread community disruption.

Although reliable data on the incidence and severity of hate violence is not available, testimony from community organizations who receive and track reports; from law enforcement officials; and from victims, documents that violence motivated by bigotry is widespread in California.<sup>1</sup> In some communities reported hate violence appears to be increasing.

The Commission has heard testimony from victims and concerned citizens about recent outbreaks of hate violence in every region in California.<sup>2</sup> Examples include:

A Black woman from a rural community reported that her children have been taunted, threatened, and assaulted on school buses so often that they are afraid to go to school.<sup>3</sup>

A community organization representative relayed reports of threatening phone calls and crossburnings.<sup>4</sup>

A legal advocate described systematic attacks on Hispanic farmworkers.<sup>5</sup>

A trade association representative expressed his concern at the lack of official response to violent attacks on Southeast Asian fishermen.<sup>6</sup>

A human rights organization administrator detailed a vicious attack on a Black man married to a White woman in a suburban area.<sup>7</sup>

A service provider warned that AIDS hysteria is causing more violence against gay men.<sup>8</sup>

A community organization representative noted an increase in desecrations and other attacks on synagogues.<sup>9</sup>

A violence prevention program worker described police and private-citizen attacks on gays and lesbians in both urban and rural areas.<sup>10</sup>

A community leader described the disturbing trend of anti-Asian violence.<sup>11</sup>

Other victims and advocates testified about hate vio-

lence manifesting in forms ranging from insidious discrimination to life threatening assaults.

Reports from communities across the state documented the pervasiveness of violence motivated by bigotry in California in 1985 and 1986. There are indications that anti-Asian violence and anti-gay violence are increasing.<sup>12</sup>

Witnesses before the Commission cited the high levels of distrust, fear, and alienation in minority communities in California. Black, Hispanic, Asian, American Indian, gay and lesbian, and disabled community representatives reported discrimination and physical abuses by public officials, particularly police, that continue today.<sup>13</sup> Those abuses are significant because they prevent minority persons from reporting crimes against them and seeking other government assistance.



Diane C. Yu

***“Violence committed against minorities has to be confronted and stopped. The Commission’s work is an effort to respond forcefully and effectively to that challenge.”***

## Causes of Hate Violence

The roots of hate violence appear to be planted in alienation and fear. Some risk of hate violence exists in every community where people of different races, religions, ethnic groups, and sexual orientations live together. Perceived differences in standards of living, in representation in government, in treatment by government officials, and in the options and conditions for employment lead to tensions between those who are more fortunate and those who are deprived.<sup>14</sup>

Fear and alienation are nurtured by stereotypes and myths about minorities. The role that ignorance plays in hate violence is clear in the incidence of violence against Asian Americans and Hispanics. Often the victims are perceived as foreign nationals when in fact they are American citizens. Citizenship is not credited to people whose appearance, language or custom are different from the majority population. Similarly, witnesses before the California Commission on Crime Control and Violence Prevention testified that a lack of understanding forms the nucleus of the anti-gay violence problem. According to public health and mental

health experts, perpetrators of crimes against gays and lesbians possess an irrational fear of victims' real or perceived sexual orientation.

The risk of tensions between groups building to crisis proportions is highest in communities where political and economic inequalities are clearest and where some citizens believe minority groups threaten their well-being. In those communities, alienation, fear, and bigotry combine to threaten the peace and safety of all citizens.

Although accurate data is not available, testimony before the Commission gives credence to Governor Edmund G. Brown Jr.'s Task Force on Civil Rights' dire prediction that hate violence would increase as economic conditions and social program funding decreased.<sup>16</sup> Victims and advocates reported statements from hate crime perpetrators who use reasons such as protecting their jobs and tax dollars to justify their actions.



Judge Alice Lytle

***"Someday we must learn to value the richness and beauty of our diverse racial, ethnic, and cultural heritage. We will all be the better and safer for it."***

## The History of Hate Violence in California

The Commission did not conduct a review of the history of hate violence in California. Rather, Commissioners relied on the work of Governor Edmund G. Brown Jr.'s Task Force on Civil Rights in this area. The Governor's Task Force chronicled hate violence against racial, ethnic, religious, and sexual minorities in every chapter of California history and concluded that tacit support from some public officials and even in state laws can be found in the history of hate violence.<sup>17</sup>

Anti-minority violence is not new in California. Throughout the eighteenth and nineteenth centuries there were outbreaks of violence motivated by bigotry against all minority groups in the state.

In the twentieth century, violence motivated by bigotry continues. The creation of the first Ku Klux Klan in California in the 1920's, the attacks on Hispanics during the so-called "Zoot Suit Riots" in 1943, the internment and assaults on Japanese Americans during World War II, and the increase in anti-Black and anti-Semitic attacks in the 1950's mark low points in California history.

In 1982, Governor Edmund G. Brown Jr.'s Task Force on Civil Rights assessed the extent and sources of racial, ethnic, and religious violence in California. The Task Force concluded that the pattern of hate violence was continuing and even escalating throughout the state.

Recently, organized efforts by minority groups to protect the rights guaranteed them under law have been accompanied by increases in hate violence activity. The experience of gays and lesbians are illustrative.

The California Commission on Personal Privacy in its 1982 report documented the history of violence against gays and lesbians in California. In the 1970's when gays and lesbians began to identify themselves publicly and to organize to defend their rights, they became more visible and subject to attack. Similar reprisals have followed civil rights movements by Blacks and Hispanics.<sup>19</sup> Organized efforts by minority groups to protect their legal rights have been accompanied by increases in hate violence activity.

Today, the influx of Asian immigrants has led to disturbing increases in anti-Asian violence. The resurgence of anti-Asian sentiment in the United States over the past few years has been documented in a growing number of incidents reported in the media.

The 1982 Governor's Task Force on Civil Rights report detailed the history of organized hate groups in California, including the KKK, the American Nazi Party, the Christian Defense League, and the National States' Rights Party. The Task Force noted that "organized hate groups have historically been only the most virulent expression of much more widely distributed anti-minority attitudes and actions. In the 1970's and 1980's, too, these groups have been only one part of a much larger problem."<sup>20</sup>

## Preventing Hate Violence in the Future

The 1982 Governor's Task Force also concluded that "growing violence is not inevitable if we have the will and the commitment to attack its roots."

The Commission has concluded that the incidence of hate violence in California can be reduced. A review of successful legislative, community, and law enforcement efforts in California and other states provides convincing evidence that Californians can work together to develop practical programs to end the cycle of hate violence.<sup>21</sup>



Thomas F. Coleman

***"Homophobia is nurtured by myths and stereotypes about lesbians and gay men and is perpetuated by ineffectual communication."***

Preventing hate violence is not and will not be any easy task. It will require commitment and resources from state and local governments, from community organizations, and from citizens. Reports from successful programs operating now convinced the Commission that California can adequately respond to and prevent hate violence.

## Footnotes

- <sup>1</sup> See Appendix A.
- <sup>2</sup> See Appendix A.
- <sup>3</sup> Muslimah Salahuddin, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Fresno, October 21, 1985.
- <sup>4</sup> Otis Smith, President, Rialto-Fontana Chapter National Association for the Advancement of Colored People, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Riverside, August 26, 1985.
- <sup>5</sup> Susan Brown, Legal Counsel, Mexican American Legal Defense and Educational Fund, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Francisco, October 7, 1985.
- <sup>6</sup> Chieu Pham, Executive Director, Vietnamese Fishermen's Association of America, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.
- <sup>7</sup> Clara Harris, Executive Director, Heartland Human Relations Commission, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Diego, December 13, 1984.
- <sup>8</sup> Diane Christiansen, Executive Director, Communities United Against Violence, estimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.
- <sup>9</sup> David Lehrer, Western States Counsel, Anti-Defamation League, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Los Angeles, May 23, 1985.
- <sup>10</sup> Op. Cit., Christiansen.
- <sup>11</sup> Henry Der, Executive Director, Chinese for Affirmative Action, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.
- <sup>12</sup> Op. Cits, Der and Christiansen.
- <sup>13</sup> See Appendix A.
- <sup>14</sup> Fred Persily, Planning Community Peace, Sacramento, California Governor's Task Force on Civil Rights, 1982, pp. 2-3.
- <sup>15</sup> California Commission on Crime Control and Violence Prevention (in Report of the Commission on Personal Privacy), Sacramento, State of California, 1982, p. 328.
- <sup>16</sup> Governor's Task Force on Civil Rights Report on Racial, Ethnic, and Religious Violence in California, Sacramento, State of California, 1982, p. iv.
- <sup>17</sup> Ibid., pp. 10-24.
- <sup>18</sup> Op. Cit., Report of the Commission on Personal Privacy, p. 328.
- <sup>19</sup> National Gay Task Force, Anti-Gay/Lesbian Victimization, New York, 1984, p. 6.
- <sup>20</sup> Op. Cit., Governor's Task Force, p. 24.
- <sup>21</sup> See Appendix M.



# II.

## Data Collection and Reporting



*Courtesy of Department of Justice, Division of Law Enforcement*

## CHAPTER TWO: DATA COLLECTION AND REPORTING

California law enforcement agencies and community organizations are receiving more reports of hate violence. Testimony before the Commission indicates that hate violence is occurring throughout California. However, consistent information on the nature and extent of hate violence is not available.<sup>1</sup>

A central data collection and reporting system is necessary in order to assess and monitor the magnitude of the hate violence problem as well as for designing and implementing effective measures to respond to and to prevent hate violence. Without access to accurate information, California lacks the ability to determine the severity of the problem, to identify the resources needed to respond to hate violence, and to make decisions about allocating those resources.<sup>2</sup>

Currently, communities that seek to combat hate violence must estimate the frequency of incidence and speculate about any trends or patterns. A data collection and reporting system would provide information for answering essential questions:

1. Are particular communities prone to hate violence?
2. Are certain groups or individuals more than others responsible for hate violence?
3. What measures are effective in preventing hate violence?<sup>3</sup>

Information on hate crimes on school campuses is essential for educators and community decision makers. Community organizations are concerned about tensions and violence motivated by bigotry in schools but current school crime reporting does not specifically include those incidents. As a result, some school administrators and school boards were ignorant of building tensions until serious violence erupted.



John Saito

***“We need to give sensitive attention to hate violence if we are going to live in the kind of society which we all strive for.”***

### **1. The California Department of Justice should collect and dis-**

### **seminate information on the incidence of hate crimes.**

California Senate Bill 2080 directed the Department of Justice to

- a) recommend an appropriate state agency to implement collection of data on hate crimes;
- b) recommend an appropriate means of statewide collection of data on hate crimes; and
- c) establish uniform guidelines for the consistent identification of hate crimes.<sup>4</sup>

In its report to the legislature pursuant to California Senate Bill 2080, the California Department of Justice, Bureau of Criminal Statistics, summarized its recommendations:

*Appropriate state agency:  
California Department of Justice (DOJ) should be designated as the appropriate state agency to implement and coordinate statewide data collection of crimes motivated all or in part by race, ethnicity, religion, or sexual orientation (RERC).*

*Appropriate means of collection:  
Law enforcement agencies should submit existing crime reports identified as RERC to DOJ. DOJ should collect, analyze, and summarize RERC data.*

*Uniform definitions and guidelines:  
The definitions and guidelines contained in Appendix 3 (S.B. 2080 Report) should be implemented for consistent identification of crimes motivated by race, ethnicity, religion, and sexual orientation.*

*Funding for RERC data collection:  
Adequate funding should be provided to both state and local agencies for RERC data collection and training of law enforcement agency personnel.<sup>5</sup>*

The Department of Justice Bureau of Criminal Statistics made its recommendations based on information provided by a pilot project involving eight law enforcement agencies and from contacts with agencies experienced in collecting hate crimes data.<sup>6</sup> The recommendations included a model for data collection and analysis.

The Commission received regular reports on the progress of the California Senate Bill 2080 project and carefully reviewed the final report. The Commission recommends that the California Department of Justice implement the model program for statewide data collection on hate crimes as designed by the California Senate Bill 2080 project.<sup>7</sup>

## **2. County human relations centers should be designated to supplement the work of police departments in a) gathering information about the incidence of hate violence and b) providing information about the incidence of hate violence to the California Department of Justice.**

The role of human relations centers in data collection and reporting is discussed in depth in Chapter 5 under Recommendation 15 on the passage of a Hate Violence Prevention and Protection Act to create human relations centers.

## **3. California Penal Code Sections 628 et seq., which mandate reporting of school violence, should be amended to distinguish violence motivated by bigotry from other forms of school violence and require distribution of data on hate violence to local school boards.**

Hate violence poses distinct problems and requires modes of response different from response to other forms of school crimes. Information on frequency and location is necessary for schools to be prepared to take immediate action.

California Penal Code Sections 628 et seq. requires reporting of crimes and violence on school grounds or in school programs and activities, but does not mandate specific identification of hate violence. Copies of reports are available for the legislature and for probation departments. The statute is intended to enable school officials and law enforcement agencies to identify school crime and violence and to take response and prevention actions.

Reporting requirements for hate violence are necessary for swift response and preventive action. Too often, concern over crime in the schools only focuses on hate violence when it is too late as in the case of the murder of a high school student in Davis, California.<sup>8</sup>

## **Footnotes**

<sup>1</sup> *Department of Justice, Racial, Ethnic, and Religious Crimes Project, Sacramento, California, p. 1.*

<sup>2</sup> "Police Response to Hate Crimes", *Human Rights Resources*, January, 1985, p. 5.

<sup>3</sup> Rep. Barbara B. Kennelly, *Testimony before the House Judiciary Committee Subcommittee on Criminal Justice, Washington, D.C., March 21, 1985.*

<sup>4</sup> *Op. cit., Racial, Ethnic, and Religious Crimes Project, p. 2.*

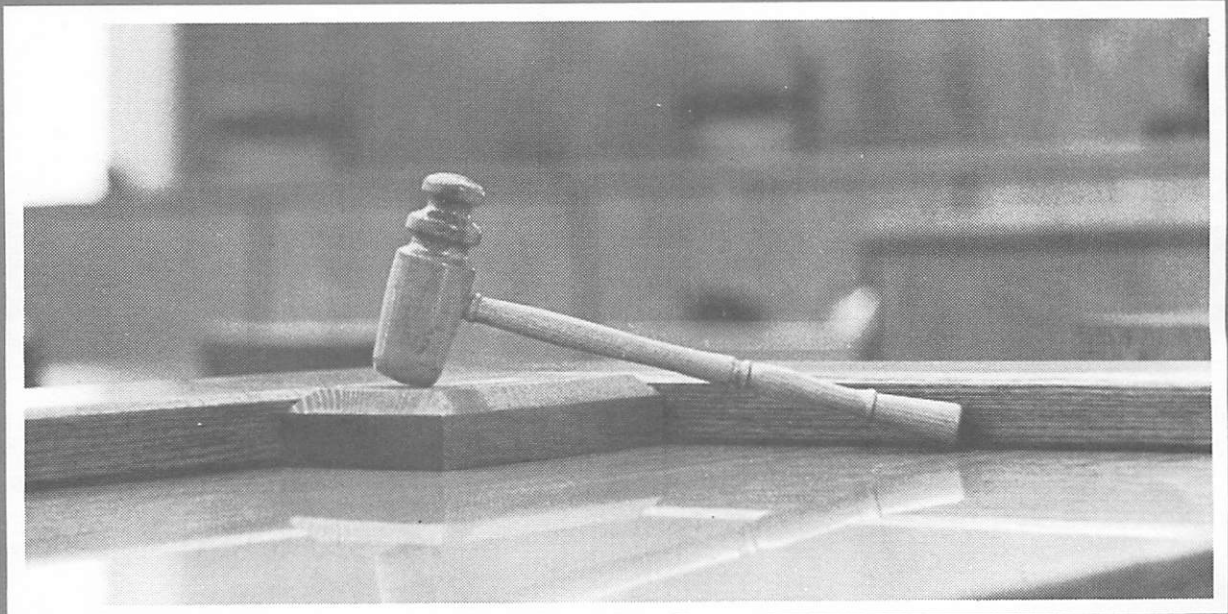
<sup>5</sup> *Ibid., p. v.*

<sup>6</sup> *Ibid., p. 4.*

<sup>7</sup> *Ibid., pp. 14-15.*

<sup>8</sup> Allan Seid, M.D., President, Asian Pacific American Advocates of California, *Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Oakland, January 15, 1986.*

# III. Proposed California Civil Rights Act



# CHAPTER THREE: PROPOSED CALIFORNIA CIVIL RIGHTS ACT

Hate violence persists in part because current state legislation fails to adequately deter and punish perpetrators of crimes motivated by bigotry. Existing criminal and civil laws formulated to address hate violence are seldom used.<sup>1</sup>

In California, when perpetrators of hate violence are charged with crimes, the charges usually ignore the intent of the perpetrators, and the effects of the crimes on victims and the community. Charges of malicious mischief and simple assault to address hate violence are ineffective both in their punishment and in the message of concern society expresses through their enforcement. Existing laws typically address only specific criminal acts, without regard to the civil rights that they violate.

In 1979, the Massachusetts legislature enacted a comprehensive criminal statute, the Massachusetts Civil Rights Act of 1979.<sup>2</sup> The Massachusetts Attorney General's Office credits the law with significantly improving the prosecution of hate crime cases. The law makes violations of civil rights crimes.<sup>3</sup>

The Massachusetts Civil Rights Act is patterned after federal civil rights statutes that protect rights guaranteed by federal laws and the Constitution.<sup>4</sup> The federal statutes have failed to sufficiently deter hate crimes because federal prosecutors lack the resources to enter into the vast number of local cases, and must rely on local prosecutors to handle most crimes motivated by bigotry. Local prosecutors do not usually use penal code provisions specific to hate crimes.<sup>5</sup>



Joaquin Avila

***“This Commission has taken the first step in addressing the present and future problems of discrimination faced by an increasing minority population. These issues cannot be ignored. Their resolution will require concerted action by both governmental agencies and the private sector.”***

The Massachusetts law makes it clear that the state does not tolerate hate violence or other civil rights violations. Penalties include a fine of up to \$1,000 or one year in jail; or if bodily injury results, a fine of up to \$10,000 or imprisonment of up to 10 years, or both.

California must respond forcefully to violence motivated by bigotry. Existing federal and state statutes do not afford adequate protection for the rights of minority citizens. A statute formulated to protect the rights of all citizens must be enacted.

## **4. California should enact a comprehensive civil rights statute with criminal penalties.**

**No person shall by force or threat of force willfully injure, intimidate, or interfere with, oppress, or threaten any persons in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or the laws of the State of California or the Constitution or the laws of the United States.**

California needs a comprehensive criminal statute to protect the civil rights of hate violence victims. The proposed civil rights statute would protect all constitutional rights. Courts have held that among the rights protected by similar federal provisions are: rights to assemble, to vote, to hold personal property and occupy a dwelling without injury or intimidation or interference, to live in racially mixed households, to be free from physical assault, to be free from restraint of speech, of religion.

Existing California criminal laws are not effectively protecting the rights of hate crime victims. Current laws aimed at punishing and deterring violence were not designed to deal with violence motivated by bigotry. Hate violence perpetrators are rarely held accountable for their actions under criminal or civil laws.<sup>6</sup>

A statute patterned after the Massachusetts Civil Rights Act of 1979 will provide protection

for the rights of hate crime victims and perpetrators. The Massachusetts statute has avoided the constitutional challenges made to laws California and other states have passed to address hate crimes. Those statutes seek to forbid certain kinds of conduct (e.g., burning symbols or wearing masks). The laws have been found either to make constitutionally protected acts illegal (along with civil rights violations),<sup>7</sup> or to be not understandable to a "person of reasonable intelligence."<sup>8</sup>

The Massachusetts Attorney General's Office has found that state's statute to be an

effective tool for responding to hate crimes, especially when local prosecution is lacking. That office reports that local prosecutors regularly file charges under the statute.<sup>9</sup>

The proposed California Civil Rights Act would provide uniform and clear standards for prosecuting hate crimes. The law would leave no doubt as to this state's attitude toward violence motivated by bigotry, and would allow perpetrators to be punished even when they lack financial resources to pay damages in civil suits.

## Footnotes

<sup>1</sup> Michael Wong, *Managing Attorney, Asian Law Caucus, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence*, San Francisco, October 7, 1985.

<sup>2</sup> See Appendix G.

<sup>3</sup> Joan Entmacher, *Chief, Civil Rights Department, Massachusetts Attorney General's Office Statement*, December 9, 1985.

<sup>4</sup> 18 U.S.C. 241.

<sup>5</sup> "Racially Motivated Violence and Intimidation: Inadequate State Enforcement and Federal Civil Rights Remedies", 75 *Criminal Law and Criminology* 103, 1984.

<sup>6</sup> Edison McDaniels, *President, San Bernardino Chapter National Association for the Advancement of Colored People, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence*, Riverside, August 26, 1985.

<sup>7</sup> *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

<sup>8</sup> *Ghafari v. Municipal Court of San Francisco*, 87 Cal.App., 150, 225, Cal. Rptr. 813 (1978)

<sup>9</sup> *Op.Cit. Entmacher*.

# IV. The Ralph Civil Rights Act & Other Legal Remedies

“All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their person or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age disability, or position in a labor dispute . . .”

(Civ. Code, Sec. 51.7)

## CHAPTER FOUR: THE RALPH CIVIL RIGHTS ACT AND OTHER LEGAL REMEDIES

The California Department of Justice should take the lead in vigorously enforcing laws pertaining to hate violence. Response to complaints involving violence motivated by bigotry must be a priority, and policies and procedures for handling those complaints are necessary.

Testimony before the Commission has made it clear that existing legal remedies for hate violence are ineffective.<sup>1</sup> The limited legal protection afforded to victims of violence motivated by bigotry is seldom used by local prosecutors and even when cases are brought under the statutes they have limited effectiveness.

California law includes criminal and civil statutes aimed at protecting the rights of hate violence victims,<sup>2</sup> and sentencing laws mandate greater penalties when the motivation for crimes is bias based on race, religion, or ethnicity.<sup>3</sup> However, new legislation is required and existing statutes must be amended to provide more effective relief and to include segments of the population currently excluded from protection of the laws designed to address hate violence.

### Recommendation for facilitating injunctive relief

#### 5. Legislation should be enacted and judicial procedures developed to facilitate access to the courts for obtaining temporary restraining orders and other forms of injunctive relief for hate violence victims.

Criminal acts motivated by bigotry are usually preceded by a series of incidents intended to harass and intimidate the victims. Perpetrators frequently jeer at victims or simply maintain a visible presence nearby to intimidate them. Police may be unable or unwilling to take action because such conduct often does not seem to warrant their involvement, and is not identified as a precursor to hate violence.

In some situations, victims have taken matters in their own hands because, in practical terms, no legal protection was available. As a result, harassment and the cycle of building



David Kasoy

*“The denial of equal justice or equal opportunity to any group threatens the rights of us all.”*

community tensions continued. Intimidation and harassment may spark violent incidents.

Existing laws fail to provide relief for hate violence victims unless the victims can show the court that a victim suffers emotional distress and the harassment serves no useful purpose.<sup>4</sup> The escalating nature of hate violence requires that victims have quick and easy access to court orders prohibiting harassment and other forms of bigotry without unnecessary legal hurdles that require the retention of skilled and costly attorneys. Current legal requirements for obtaining temporary restraining orders that forbid harassment are too costly and time consuming to benefit most hate crime victims.<sup>5</sup>

The California Domestic Violence Prevention Act recognizes the serious nature of domestic violence and provides legal standards and procedures to facilitate the issuance of temporary restraining orders in those cases.<sup>6</sup> Hate violence victims need similar protection.

In many instances, harassment continues after hate crimes are reported. When victims lose confidence in the criminal justice system they often refuse to cooperate with the prosecution and may even seek personal, extralegal retribution.

Legislation that provides protection for victims' civil rights will help ease escalating tensions and encourage victims to cooperate with prosecution efforts. The standard for issuing temporary restraining orders should merely require victims to show that they are being subjected to a pattern of harassment because of their race, color, religion, ancestry, national origin, sex, sexual orientation, age, or disability.



Applicants for restraining orders are sometimes required to pay damages incurred by the enjoined parties in terminating their activity. Since the activity is not condoned the victims should be exempted from paying any damages. The standard should specify that activities that are constitutionally protected are not defined as harassment.

In complex cases, applicants for restraining orders may need representation by counsel to facilitate the issuing of orders for injunctive relief. Legislation should allow the court, at its discretion, to appoint counsel to represent the plaintiff and require the defendant to pay reasonable court costs and attorney's fees.

The Judicial Council and courts should develop procedures for issuing temporary restraining orders in hate violence cases. Simple forms with easy to read instructions will facilitate victim access to the courts. Efficient procedures for service of process, for scheduling of hearings, and for delivery of orders to law enforcement agencies will ensure that orders are carried out.

## **Recommendations for improving the Ralph Civil Rights Act**

- 6. The Ralph Civil Rights Act should be amended to include an award of fees for legal representation in successful actions.**
- 7. The Ralph and Unruh Civil Rights Acts should be amended to state clearly that the California Department of Fair Employment and Housing and the Fair Employment and Housing Commission have jurisdiction to investigate and hear complaints under the acts.**
- 8. The Ralph Civil Rights Act should be amended to treble the amount of compensatory damages awarded with a minimum \$10,000 fine.**

**9. A statute should be enacted to toll the right to file libel and slander counter-claims in Ralph Civil Rights Act proceedings until the Ralph Civil Rights Act litigation is completed.**

**10. Legislation should be enacted to provide trial setting priority for Ralph Civil Rights Act proceedings.**

**11. State funds should be authorized to compensate successful plaintiffs for court costs and attorney's fees when defendants are judgment-proof in Ralph Civil Rights Act proceedings.**

The Ralph Civil Rights Act is the California civil law intended to provide protection and recourse for victims of violence motivated by bigotry. It provides that all citizens have the right to be free from violence, or intimidation by threat of violence because of their race, color, religion, ancestry, national origin, political affiliation, sex, age, disability, sexual orientation, or position in a labor dispute. The act was recently amended to cover any form of arbitrary violence.<sup>7</sup> The Ralph Civil Rights Act has never been used to provide redress for victims of hate crimes. Representatives of community organizations and legal advocacy groups have testified that amendments to the act are necessary to make it a meaningful legal tool.<sup>8</sup>

### Attorney's Fees:

The Ralph Civil Rights Act currently does not provide for attorney's fees. Statements made before the Commission indicate that private attorneys do not use the Ralph Civil Rights Act because the maximum civil penalty of \$10,000 barely covers the costs of difficult, time consuming civil rights litigation.<sup>9</sup> The Ralph Civil Rights Act must be amended to include a standard attorney's fees clause to encourage use of the Act and to ensure that victims receive fair awards in successful actions.

### Fair Employment and Housing Jurisdiction:

Public confusion exists about the responsibilities different state agencies have for responding to complaints made under the Ralph Civil Rights Act and the Unruh Civil Rights Act.<sup>10</sup> The Department of Fair Employment and Housing has a legal mandate to investigate Ralph

Civil Rights Act complaints and the Fair Employment and Housing Commission has the authority to hear the complaints and make awards. The Ralph and Unruh Acts should be amended to clearly state that the Department of Fair Employment and Housing is an appropriate agency to respond to Ralph Civil Rights Act complaints.

### Treble Damages:

The \$10,000 in civil penalties provided by the Ralph Civil Rights Act is not a sufficient penalty for violations of civil rights. The civil penalties fail to make perpetrators of hate violence accountable for the serious nature of their acts, and fail to recompense victims adequately for physical and emotional trauma beyond actual damages.<sup>11</sup> Amendment of the Ralph Civil Rights Act to provide for treble compensatory damages, in addition to a minimum \$10,000 penalty will help deter hate violence and send a clear message of support to victims.

### Delay of Libel and Slander Counter Claims:

Statements before the Commission indicate that some hate violence victims are reluctant to bring suit under the Ralph Civil Rights Act because they fear that the persons they are suing will file libel and slander actions against them.<sup>12</sup> Counter claims are frequently part of the strategy for defending persons charged with civil rights violations.

California Civil Code Section 48.7 delays counter suits for defamation in child abuse cases until the case has been resolved.<sup>13</sup> A similar provision in the Ralph Civil Rights Act is necessary. The amendment will protect the rights of victims of violence motivated by bigotry while Ralph Civil Rights Act proceedings are underway without limiting the rights of defendants to sue after the proceeding is over.

### Trial Setting Priority:

Legal advocates reported that hate violence victims do not seek redress under the Ralph Civil Rights Act because long court delays coupled with other deficiencies in the Act deters them.<sup>14</sup> California law gives preference for earlier scheduling of several types of civil actions based on the serious nature of the acts involved and the potential for further harm to the plaintiff.

Hate violence is clearly a serious act that often escalates to pose grave danger to victims' lives and property. The Ralph Civil Rights Act should be amended to provide for court calendar preference.

### Fund for Attorney's Fees:

Perpetrators of hate crimes may be unable to pay attorney's fees, damages, or any costs awarded to the plaintiff victims by courts in Ralph Civil Rights Act proceedings. The likelihood that damages and costs may never be paid may make attorneys reluctant to represent victims of hate violence in Ralph Civil Rights Act proceedings.<sup>15</sup>

A mechanism for reimbursing court costs is necessary to ensure that all hate violence victims have access to counsel. State funds should be authorized to

pay plaintiff attorney's fees and costs when defendants are unable to satisfy judgments in Ralph Civil Rights Act proceedings.

## **Recommendations to the Attorney General**

### **12. The California Attorney General should develop and implement administrative procedures and policies for handling complaints involving Ralph Act violations.**

The Ralph Civil Rights Act allows the California Attorney General, local district attorneys, and city attorneys to bring Ralph Civil Rights Act suits for injunctive relief in certain situations.<sup>16</sup> Complaints of civil rights violations should be California Department of Justice priorities. Lack of public knowledge of the California Attorney General's role in civil rights violation cases has resulted in underutilization of this remedy.

The California Attorney General should implement policies that ensure quick, effective response to complaints involving hate violence. Policies and procedures should provide guidelines for intake, screening for action, screening for possible criminal enforcement action, referrals for complainants, and training for staff.

The California Attorney General should also take a leading role in preventing and responding to hate violence by considering action in appropriate Ralph Civil Rights Act proceedings. The California Department of Justice should consider action in cases when:

- a) Violations occur in a pattern and practice over a large geographical area that crosses county lines;
- b) Local officials lack the resources to address particularly complex factual or legal issues necessary for successful prosecution;
- c) Local attitudes may impair prosecutions;
- d) Violations are particularly odious; e.g., acts of violence against school children;
- e) Violations are perpetrated by a group or organization rather than individuals.
- f) Violation includes any of the following:
  - 1) great personal injury or major property damage,
  - 2) a large number of persons,
  - 3) a related series of acts over a lengthy period of time,
  - 4) seriously regarded threats of violence.

### 13. The California Attorney General should explore Ralph Civil Rights Act proceedings against law enforcement agencies when a pattern and practice of violation occurs in an agency.

The Commission heard a great deal of testimony claiming biased treatment of residents by local law enforcement agencies in a number of communities in California. The perception by members of a community that the law enforcement agencies they rely on for protection from hate violence are themselves motivated by bias and prejudice must be put to rest if there is to be any progress toward eliminating bigoted behavior, since perception is often as important as reality when dealing with hate violence.

The Attorney General, as the chief law enforcement officer in the State, should investigate complaints of violations of the Ralph Civil Rights Act against local law enforcement agencies when a pattern and practice of discriminatory treatment towards community residents appears to be occurring. Such a policy not only protects the public against law enforcement abuse but protects law enforcement against unfounded and frivolous complaints by assigning to the Attorney General the task of screening complaints for merit.

### Recommendation for improving criminal remedies

### 14. California Penal Code Section 1170.75 which identifies the motive of bias based on race, religion, or ethnicity as an aggravating factor for consideration in sentencing, should be amended to add bias based on sexual orientation, disability, or age as an aggravating factor.

California Penal Code Section 1170.75 provides for longer prison sentences for persons convicted of crimes when the motivation for the crimes is bias against the victim's race, color, religion, or national origin.<sup>17</sup>

California law prescribes lower, middle, and upper terms of imprisonment for all felony crimes. Judges are mandated to impose the middle term unless specified aggravated or mitigating factors are present.

In order to make a clear and consistent statement that California does not tolerate any crimes motivated by bigotry, California Penal Code Section 1170.75 must be amended to include bias based on sexual orientation, age, and disability as aggravating factors requiring the imposition of maximum sentences. The amended law will provide equal retributive and deterrent punishment to perpetrators of all forms of hate violence.

## Footnotes

<sup>1</sup> Robert Links, Board of Directors, American Jewish Committee, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.

<sup>2</sup> See Appendix H.

<sup>3</sup> California Penal Code Section 1170.75. See Appendix I.

<sup>4</sup> California Civil Procedure Code, Section 527.6(b). See Appendix J.

<sup>5</sup> Michael Wong, Managing Attorney, Asian Law Caucus, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.

<sup>6</sup> California Civil Procedure Code, Sections 540-553 (1980).

<sup>7</sup> California Civil Code Section 51.7. See Appendix H.

<sup>8</sup> *Ibid.*, Wong.

<sup>9</sup> Morsell Johnson, President, San Bernardino Chapter, National Association for the Advancement of Colored People, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Riverside, August 26, 1985.

<sup>10</sup> Henry Der, Executive Director, Chinese For Affirmative Action, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, March 4, 1985.

<sup>11</sup> *Op. Cit.*, Johnson.

<sup>12</sup> Juan Arambula, California Rural Legal Assistance, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Fresno, October 21, 1985.

<sup>13</sup> See Appendix L.

<sup>14</sup> *Op. Cit.*, Johnson.

<sup>15</sup> *Ibid.*

<sup>16</sup> California Civil Code, Section 52(c). See Appendix H.

<sup>17</sup> See Appendix I.

# V. Proposed Hate Violence Prevention and Protection Act



## CHAPTER FIVE: PROPOSED HATE VIOLENCE PREVENTION AND PROTECTION ACT

Hate violence poses a serious threat to the well-being of every community in California. The potential for violence motivated by prejudice exists anywhere people of different races, ethnic backgrounds, religions, and sexual orientations live together.<sup>1</sup>

Unlike most crimes, the effects of hate crimes go far beyond the individual victims and perpetrators. When hate crimes are not effectively addressed, the risk of widespread community disruption increases.<sup>2</sup>

Hate violence is a community problem that can only be adequately countered by coordinating local efforts. Some communities are taking important steps to respond to and prevent hate violence, but others complain that they need support and assistance to address the problems in their community. There is a wide disparity in the knowledge, skills and resources communities have to prevent and respond to increasing community tension and conflict resulting from bigotry.

The 1982 Governor's Task Force on Civil Rights concluded:

*On the basis of testimony from many communities across the State, we believe that the most important lesson to be learned from their experience is this: Where communities are well organized and able to mobilize local resources ongoing community efforts against racism and prejudice, racial, ethnic, and religious violence can be effectively diffused. Where those communities are fragmented and disorganized, lacking a common community life or stable problem-solving institutions, violence is most likely to flourish.<sup>3</sup>*

The Commission recognized that the key to developing an atmosphere where people can live in peace and harmony regardless of the circumstances of their birth, age, physical or mental condition or sexual orientation is to ensure that every community has the responsibility and resources necessary to protect their residents. Testimony before the Commission indicates that the color of one's skin, or the faith one follows, or some other attribute that should not interfere with the enjoyment of life, often makes a person a target for physical and mental abuse in a world that must be shared with those who fear and despise people who do not mirror their own characteristics. The Commission also found that the freedom to live free of harassment depends on where one lives. It is tragic that people must consider where it is safe for them to live and where it is safe for them to raise a family, simply because some communities do not have the awareness, commitment, skills or resources to deal with hate violence.



Leticia  
Quezada

***"America can be a truly free society only when acts of hate violence no longer exist. We must learn to accept each other's differences and similarities without reservation or intimidation."***

The basic right to live where one wants without being terrorized must be protected everywhere in California, and to do this every county must be given not only the responsibility, but the resources to carry out its obligation to its residents. In California communities with active human relations or human rights commissions, with concerned law enforcement, and with officials who are concerned with gauging and addressing the level of community tension, residents have joined together to design and implement strategies to prevent and respond to hate violence. Model programs are credited with resolving community conflicts, providing crucial victim assistance, and avoiding the escalation of tensions when hate violence occurs.

### **15. The Commission recommends that the California Attorney General sponsor a Hate Violence Prevention and Protection Act establishing county human relations centers to:**

- a) work with community organizations to prevent and respond to hate crimes;**
- b) gather information about the incidence of hate violence and report it to the California Department of Justice;**

- c) assist local schools in developing programs and curricula addressing human relations issues;**
- d) develop responses to hate violence in cooperation with local law enforcement;**
- e) develop programs to assist victims and witnesses of hate crimes in cooperation with district attorneys; and**
- f) develop and implement conflict resolution programs.**



- a. work with community organizations to prevent and respond to hate violence**

Legislation should be enacted to authorize the creation and funding of county human relations centers that would build coalitions of local civil rights and community organizations and be a focal point for preventing and responding to hate crimes.

California's capacity for preventing and responding to hate violence has diminished significantly. Many county human relations and human rights commissions have been eliminated by budget cuts and those that remain have minimal budgets and staffing.<sup>4</sup> Existing human relations (rights) commissions should be given the option to be designated as human relations centers.

In some communities, coalitions of groups have formed to address hate violence, but they are typically dependent on volunteers and the resources they bring with them.<sup>5</sup> Too often, efforts to respond to and prevent hate violence exist without coordination and clear direction.

Enabling legislation should require the California Departments of Justice and Education to contract with the centers for: 1) data collection and maintenance; 2) educational support; 3) law enforcement assistance; and 4) victim-witness assistance programs.

Office of Criminal Justice Planning funds should be mandated for appropriate programs of cooperation between human relations centers and law.

- b. gather information about hate violence and report it to the California Department of Justice**

Currently, a number of community organizations receive reports of hate violence from victims, and some keep track of that data in order to make projections about the incidence of violence motivated by prejudice. Each organization's definition of hate violence, reporting procedures, and data collection mechanism is adapted to their needs and there is no uniformity.

A systematic process for gathering information from the community is necessary to make conclusions about the nature and incidence of hate violence in California. Law enforcement agencies and community organizations agree that hate violence is under-reported.<sup>6</sup> Many hate violence victims are more likely to report incidents to community organizations than to police.<sup>7</sup>

Hate violence victims, like other crime victims, often fear that further acts of violence will result if they report crimes to authorities. That fear combines with distrust of police prevalent in many minority communities and deters the reporting of hate crimes.<sup>8</sup> Language barriers for non-English speaking hate crime victims compound the problem.

Victims do report hate violence to community organizations. Dozens of community organization representatives testified before the Commission about reports they had received of recent hate violence in their communities. Victims turn to community workers for support, emergency aid, and advice after hate violence strikes. Even when hate violence is not directly reported to community organizations, workers often learn of incidents from contacts with community residents.

The Montgomery County, Maryland Network of Neighbors program receives reports of hate violence from victims and witnesses who are reluctant to report incidents directly to police.<sup>9</sup> Victims receive needed services immediately, and police, the county governing body, the Maryland State Police, and the Maryland State Human Relations Commission receive regular reports.<sup>10</sup>

Criteria used by human relations centers to identify hate violence should include but not be limited to the following:

1. the violence should involve a specific target, such as an individual, residence, house of worship, targeted group, organization or business; or be clearly intended to intimidate a targeted group.
2. it should include assaults against a person or institution that involves the use of epithets against a targeted group before,

during, or after the attack. Property crimes should be excluded unless there is evidence of bigotry. Graffiti in public areas should be excluded unless it is so extreme that it indicates the need for organized response.

3. vandalism to a house of worship or to the property of an organization serving a minority group should be included when it is accompanied by evidence of hatred, (graffiti, use of slurs by perpetrators).
  4. incidents without evidence of hate motivation should be included only if a pattern of acts indicates the targeting of a specific group.
- c. assist local schools in developing programs and curricula addressing human relations issues**

Although school campuses have been the scenes of tragic hate crimes,<sup>11</sup> public concern over crimes in schools has not focused on violence motivated by bigotry. To deal with hate violence before it happens is much easier and more effective than responding to it in the glare of public attention. Human relations centers can assist schools in identifying needs and planning strategies that meet the needs of individual school districts.

No resource is currently available to help school administrators prepare specifically for outbreaks of hate violence in schools. The California Department of Education, Office of School Climate assists schools in coping with the threat of violence.<sup>12</sup> However, Office of School Climate programs do not focus on violence motivated by bigotry and cannot alone address the unique community needs of a school district.

Hate violence on school campuses constitutes a community problem, and is not merely an issue for school administrators. Most perpetrators of hate crimes are high school-age youth and the tensions that cause violence in the schools are not confined to school grounds.<sup>13</sup>

Schools need the cooperation of community organizations to devise effective means for responding to and preventing hate violence. Human relations centers can offer schools established lines of communication with parents and students, conflict resolution programs, and assistance for victims and witnesses. When schools work with community organizations to curb hate violence, the result can be a reduction of violence community-wide and protection for quality education in a safe environment.

The California Department of Education should provide support for local school

districts to work with human relations centers to design model curricula (as contemplated by California Assembly Bill 1273) relating to human relations issues. The model curricula should be designed with particular emphasis on the urgent need to reduce the level of violence and hostility in California which is rooted in bigotry based on race, ethnicity, religion, sexual orientation, age, and disability. The Commission noted with satisfaction the adoption by the Los Angeles Unified School District of the "Hands Across the Campus" program, which deals effectively with many of these concerns.<sup>14</sup>



**Dr. Hazel  
Hawkins-Russell**

***"Our schools should inspire students to respect one another regardless of ethnicity, and to appreciate the contributions by each group to our society."***

Teachers are generally assigned the primary responsibility for ensuring that students respect and appreciate human diversity. Unfortunately, few school systems have courses devoted exclusively to human relations. However, the California Department of Education curriculum framework for social studies includes learning goals and units of work on human relations.<sup>15</sup>

Programs addressing human relations issues and the need for community harmony in an atmosphere of plurality are available to schools. These include conflict resolution programs, focused activities designed to demonstrate the virtues of cooperation with all people, unlearning racism exercises, and specialized courses.

Schools lament that it is unfair to expect them to overcome hateful attitudes fostered in the community and at home by simply including work on human relations in their curricula. School district administrators need the assistance of human relations centers and the California Department of Education to select the most suitable programs for their curricula. Schools serve different neighborhoods, each with distinct needs. Community involvement is necessary to develop effective approaches for improving respect and concern for human relations and for developing activities that will prevent hate violence.

- d. develop responses to hate violence in cooperation with local law enforcement agencies**

In communities where standard procedures for communication and cooperation between police and community organizations have been implemented, police and community leaders agree that the exchange of information and utilization of community programs have prevented the escalation of hate violence.<sup>16</sup>

Community organizations are invaluable and, for the most part, untapped resources for law enforcement agencies faced with the potential of violence motivated by bigotry. Community organizations have established lines of communication with residents, and often provide practical conflict resolution programs that can alleviate some problems caused by bigotry.<sup>17</sup>

Unfortunately, few law enforcement agencies and community groups in California have developed the formal lines of communication necessary for working together to prevent hate crimes. In some areas, particularly in minority communities, there are poor relations between community groups and law enforcement. Even in jurisdictions where police-community relations are good, standard procedures for exchanging information and gaining access to community resources usually do not exist. Human relations centers can provide police with coordinated information and access to resources from a range of community organizations representing different minority groups.

**e. develop programs for assisting victims and witnesses of hate crimes in cooperation with district attorneys**

Hate violence has devastating effects on victims and their families.<sup>18</sup> Ramifications go beyond physical harm and property damage to include severe emotional reactions. Even apparently minor incidents, involving no physical injury or property damage, cause feelings of intimidation and fear that pervade every aspect of victims' daily lives.

The Montgomery County, Maryland Human Relations Commission Network of Neighbors and Network of Teens programs provide comprehensive services to hate violence victims. Over 1,000 community volunteers respond to reports of violence motivated by bigotry that come from victims, witnesses, neighbors, and police. Trained volunteers contact victims and their families to offer practical assistance, emergency housing, and emotional support. The networks "offer support and assistance to victims by listening to their experiences, and assuring them that the incident does not reflect the feelings of the community, but of an isolated, extremely small minority,"<sup>19</sup> according to a Network of Neighbors training manual.

Human relations centers can provide the leadership necessary to develop networking programs as exemplified by the Network programs in Maryland and both meet the immediate needs of victims and prevent the escalation of community conflict.

Human relations centers can also provide assistance to victims that is critical to the successful prosecution of hate crimes. Prosecutors report that the reluctance of victims and witnesses to cooperate limits the effectiveness of prosecution efforts. Indeed, many hate crime victims and witnesses fear crime suspects will seek retribution if they testify in court or even provide information to prosecutors.<sup>20</sup>

Some victims and witnesses of hate crimes perceive the criminal justice system as unresponsive, at best, and opposed to their needs, at worst. They distrust the entire judicial system, including local victim-witness assistance programs administered by district attorneys.

Sexual assault victims' advocates' successful efforts provide evidence that community organizations can provide services that benefit victims and prosecutors. Human relations centers can act as the liaison, the trusted link between hate crime victims and witnesses and district attorneys' offices.

Victims may need temporary relocation or other emergency aid, translation, court accompaniment, referrals for counseling, information on the criminal justice system and restitution, and other services. Human relations centers will have the resources and access to other community organizations to provide victim and witness assistance necessary for successful prosecution.

Once hate violence occurs, communities must respond rapidly and appropriately. Apprehending the instigators is only part of the job. Victims must be assisted and the perpetrators prosecuted.<sup>21</sup> Human relations centers are needed to enable communities to effectively carry out the tasks.

**f. develop and implement conflict resolution programs**

Although acts of hate violence are rooted in bigotry, they are often sparked by practical conflicts that can be resolved by communication and negotiation among the groups involved

Few communities in California have conflict resolution programs and fewer still have programs that actually intervene at early signs of a problem and facilitate dialogue and specific agreements to prevent violence. Where they exist, the programs have helped alleviate tensions caused by cultural misunderstandings and differences. In some cases, for example, agreements have been reached between



groups of Black and Hispanic youth to minimize violence, repair property damage from hate graffiti, and settle disputes.<sup>22</sup>

Unfortunately, many community conflict resolution programs lack the resources necessary to address tensions leading to hate violence. Programs have large caseloads of diverse disputes. Staff may not be trained to

recognize and handle conflicts motivated by prejudice.

Human relations centers can work with existing community dispute resolution services to develop and implement conflict resolution programs with the objective of alleviating tensions that lead to hate violence.

## Footnotes

<sup>1</sup> Fred Persily, Planning Community Peace, Sacramento, Governor's Task Force on Civil Rights, 1982, pg.2.

<sup>2</sup> "Police Response to Hate Crimes", Human Rights Resources, January, 1986, p.5.

<sup>3</sup> Governor's Task Force on Civil Rights Report on Racial, Ethnic, and Religious Violence in California, Sacramento, State of California, 1982, p.83.

<sup>4</sup> James McEntee, President, California Association of Human Rights Agencies, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.

<sup>5</sup> Clara Harris, Executive Director, Heartland Human Rights Commission, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Diego, December 13, 1984.

<sup>6</sup> Sergeant Daniel Ortega, San Jose Police Department, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.

<sup>7</sup> Op. Cit., McEntee.

<sup>8</sup> "Help for Hate Crime Victims—A Growing Need", Human Rights Resources, June, 1985, p.4.

<sup>9</sup> "Maryland Program Helps Youth Accused of Hate Crimes", Human Rights Resources, November 1985, p.1.

<sup>10</sup> Montgomery County Human Relations Commission, Handling Hate Violence, Rockville, 1985, p.2.

<sup>11</sup> Allan Seid, M.D., President, Asian Pacific American Advocates of California, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Oakland, January 15, 1986.

<sup>12</sup> Reuben Burton, Chief, Office of Intergroup Relations, California State Department of Education, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Diego, December 13, 1984.

<sup>13</sup> Op. Cit., Handling Hate Violence, Appendix B.

<sup>14</sup> Neil Sandberg, American Jewish Committee/Sydney Brickman, Deputy Superintendent, Los Angeles Unified School District Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Diego, December 13, 1984.

<sup>15</sup> California State Department of Education, History-Social Science Framework, 1981, p.6.

<sup>16</sup> Op. Cit., Handling Hate Violence, p.1.

<sup>17</sup> Baltimore County, Maryland Police Department, General Order, (in Human Rights Resources), February, 1985, p.2.

<sup>18</sup> Montgomery County Human Relations Commission, Network of Neighbors/Network of Teens Training Manual, Rockville, p.4.

<sup>19</sup> Ibid.

<sup>20</sup> Op. Cit. "Help For Hate Crime Victims", p.4.

<sup>21</sup> National Organization of Black Law Enforcement Executives, Racial and Religious Violence: A Law Enforcement Guidebook, Landover, 1985, p.9.

<sup>22</sup> "Cornerstone of Community Conciliation", Human Rights Resources, March, 1985, p.6.

# VI.

# Victim Assistance



*Courtesy: The Sacramento Observer*

## CHAPTER SIX: VICTIM ASSISTANCE

The National Organization of Black Law Enforcement Executives found that:

*Victims of racially and religiously targeted incidents incur damage to their homes and property, injury to their bodies and sometimes death. In addition to physical suffering, being victimized because of one's race, religion, or national origin brings negative attention to one's differences, injures one's dignity and self-esteem, and makes one feel unwanted in the community, yet because most crimes against racial and religious minorities are not extremely violent, victims are usually not given any special attention or assistance.<sup>1</sup>*

The National Gay and Lesbian Task Force studied victimization of gays and lesbians and concluded, "in addition to the physical injury, fear, and trauma, experienced by all victims of violence, gay victims face additional problems. Like rape victims, they are often 'blamed' for incidents they did not invite . . . Those who report incidents are often victimized again—this time by the criminal justice system."<sup>2</sup>

In recent years, public attention has focused on the needs of crime victims, and special assistance has been provided to elderly persons, children, sexual assault victims, and battered spouses. The victims of hate violence need and deserve similar aid.

Victims of hate violence generally express three needs: 1) to feel safe; 2) to feel that people care; 3) to get assistance to meet special needs occasioned by the incident.<sup>3</sup> Unfortunately, these needs frequently go unmet in California communities.

Many victims are reluctant to report violence to the police or seek assistance from other government agencies.<sup>4</sup> Few community organizations have the resources necessary to offer comprehensive victim

services. When assistance is available, victims are often unaware of the services.

California must protect victims of hate violence.

- 16. County human relations centers should provide services to victims of hate crimes.**
- 17. District attorneys' offices and county human relations centers should develop and implement cooperative programs to provide assistance to victims and witnesses of hate crimes.**

Recommendations 16 and 17 are discussed in Chapter 5 under Recommendation 15.

- 18. The California Office of Criminal Justice Planning should provide for training on hate violence for staff of toll free hotlines for crime victims on the particular needs of hate violence victims and distribute public information materials that make it clear that hotlines are available to victims to report hate crimes and receive referrals for getting the help they need.**

Hate violence victims need easy and immediate access to reassurance, information, and practical assistance. They need to know that California does not tolerate violence motivated by bigotry and is prepared to respond to it promptly. Hate violence victims who are reluctant to draw attention to themselves by making reports and seeking assistance in their own communities may be more likely to contact a central information number for help.



**Bishop Will Herzfeld**

***"We can support, through legislation and hard work, existing efforts to break the cycle of violence that grows out of fear and prejudice."***

The California Office of Criminal Justice Planning provides support for telephone services for victims of crimes generally. Staff need training on the dynamics of hate violence, the needs of victims, and the availability of resources. Citizens must be informed that services for hate crime victims are available.

Training for hotline staff and distribution of public information materials on services for hate crime victims would bring public attention to hate crimes, help meet the needs of victims of hate violence, and enhance the data base of information on hate violence incidents.

## Footnotes

<sup>1</sup> National Organization for Black Law Enforcement Executives, Racial and Religious Violence: A Law Enforcement Guidebook, Landover, 1985, p.24.

<sup>2</sup> National Gay Task Force, Anti-Gay/Lesbian Victimization, New York, 1984, p.7.

<sup>3</sup> "Help For Hate Crime Victims—A Growing Need," Human Rights Resources, June, 1985, p.4.

<sup>4</sup> James McEntee, President, California Association of Human Rights Organizations, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.

# VII. Criminal Justice Policy Formulation

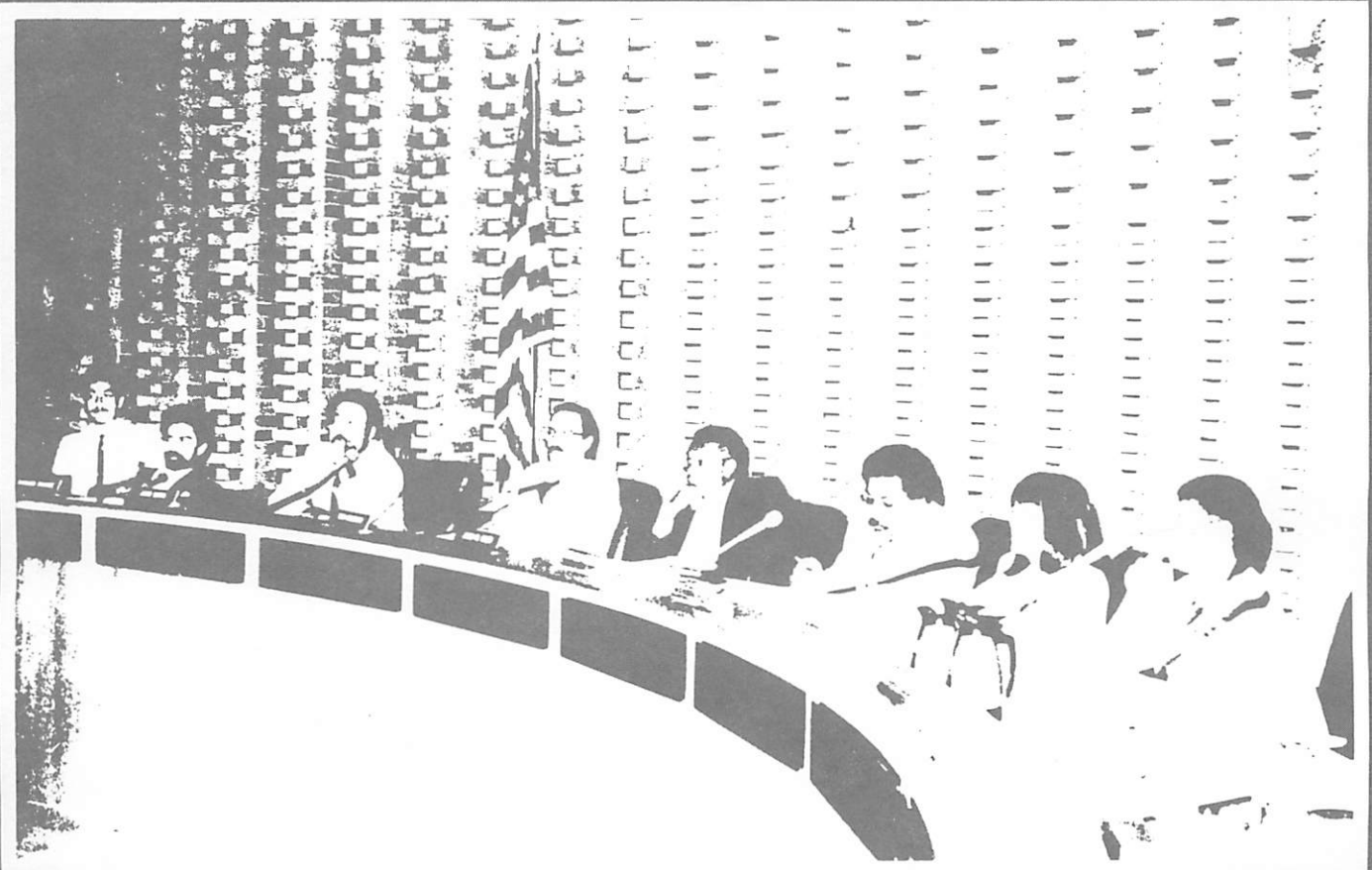


Photo by E.S.J. Photography, Riverside

# CHAPTER SEVEN: CRIMINAL JUSTICE POLICY FORMULATION

Public confidence in law enforcement agencies is essential for effective response to hate crimes. In communities where minority residents believe that police are protecting them, the escalation of violence after an incident can be prevented. If people think they have to protect themselves, however, tensions will build.

Testimony before the Commission indicated that relatively few California communities have the expertise necessary to respond effectively to hate crimes. Few standard policies and procedures exist in California, although the potential for hate violence exists throughout the state.

Law enforcement agencies, with the assistance of the California Department of Justice, developed and follow standard procedures for responding to serious crimes, including homicide, drunk driving, sexual assault, and family violence. Protocols that delineate procedures, responsibilities, communication, and follow-up are necessary for hate crimes as well.

In a few jurisdictions, law enforcement authorities have adopted comprehensive policies for response to hate crimes.<sup>1</sup> Those jurisdictions report an increase in successful prosecutions in hate crime cases and a lessening of tensions between police and minority communities. In other areas, uninformed officials, acting without benefit of well delineated policies, failed to respond to hate violence. The consequent lack of confidence in law enforcement has exacerbated tensions.

## Immigration

Immigrants increasingly are the victims of hate crimes. According to testimony before the Commission, immigrants are unlikely to report crimes against them because they fear reprisals.<sup>2</sup>

Law enforcement agencies need policies that provide for the protection of immigrants' lives and property and that encourage immigrants to request police assistance. When immigrants do not make police reports, the risk is high that tensions will escalate and explode before officials are even aware that a problem exists.

## Equal Employment Opportunities

Equal employment practices in law enforcement agencies help build citizens' confidence in those agencies. Many police departments use equal employment opportunity guidelines issued in the



Antonia Hernandez

*"Misguided efforts at national immigration reform and attacks on bilingualism only exacerbate divisions and resentments among different groups which can undermine the well-being of our entire society."*

1970's to ensure community representation on police forces. These policies should be reviewed and, if necessary, revised to ensure equal employment opportunities for gays and lesbians.

## Policy on Laws Related to American Indian Reservations

Statements before the Commission indicate that American Indian reservations in California are not receiving adequate law enforcement services.<sup>3</sup> The Commission is concerned about limited county law enforcement resources and reported confusion over which law enforcement agencies are responsible for providing services to reservations. Further study of laws, policies, and resource allocation is necessary.

### 19. The California Attorney General should:

- a) use publications, letters, conferences, and other means to remind local law enforcement agencies and district attorneys' offices of the crucial role they must play in responding to and preventing hate crimes;
- b) distribute model police procedures for community assessments to identify incidents that may be precursors of hate crimes; and

**c) provide law enforcement agencies with guidelines on releasing the names and addresses of hate crime victims to the media.**

The California Attorney General should provide leadership for law enforcement's approach to hate crimes. As the chief law enforcement officer in California, the Attorney General must set a tone for enforcing laws against hate crimes. Clear policy statements, technical assistance to law enforcement agencies, and the distribution of informational materials on hate crimes should be priorities.

The California Department of Justice can enhance police capability for preventing hate crimes by distributing model procedures for making community assessments which will identify precursors of hate crimes. Patrol officers collect vital information on community tensions from interactions with community residents as well as from routine calls.

Police officers, with appropriate training, can identify the precursors to hate crimes in situations they encounter on patrol.<sup>4</sup> Procedures should be adopted to ensure that the officers' assessments of the potential for conflict is routinely transferred to supervisors and administrators. Early information on the level of community tension is needed to assist patrol officers in approaching potentially volatile situations, and to enable supervisors and administrators to make informed decisions on contacting community resource organizations, deploying personnel, and implementing contingency plans.<sup>5</sup>

Many victims of hate violence are reluctant to report crimes because they are afraid perpetrators will return for retribution and police will not be able to protect them. They often experience a realistic fear of drawing attention to themselves and to the perceived differences that caused their victimization.

Gay and lesbian victims of crimes motivated by bigotry have particular concerns for their rights to privacy. In some instances employers, landlords, and others learn of their sexual orientations after a hate crime and take discriminatory actions against them.<sup>6</sup>

The California Department of Justice can assist law enforcement agencies in the protection of hate crime victims by distributing guidelines regarding the release of names and addresses of victims to the press. Existing policies protect the rights to privacy of sexual assault victims and of juvenile offenders. Confidentiality for victims of sexual assaults is intended to prevent retribution and minimize the trauma victims' experience. Some victims of some hate crimes need similar protection.

**20. Law enforcement agencies should adopt policies and procedures for responding to hate crimes.**

Police response to crimes motivated by bigotry can determine whether community tensions continue to escalate. If victims and perpetrators are not convinced that police take the crimes seriously, or if they perceive excessive use of police force against minorities, then there is a loss of confidence and increased alienation which results in the exacerbation of tensions and increased conflict.

Contingency plans for police response to hate crimes are rare, despite the pervasiveness of hate violence. Unfortunately, the systems for reporting hate crimes result in minimal recognition of the need for adequate law enforcement responses. Areas where frequent reports of hate crimes are made and jurisdictions where violence is under-reported both need effective contingency plans to prevent community disruption.

The Baltimore County, Maryland Police Department's experience with hate crime response procedures attests to their importance. Law enforcement officials and community leaders concur that the procedures significantly improved police efforts to ensure the safety of victims and to prevent the escalation of violence.<sup>7</sup>

The National Organization of Black Law Enforcement Executives (NOBLE) refined the Baltimore plan and developed model responses for small and large law enforcement agencies.<sup>8</sup> The NOBLE model includes sample policies, delegation of assignments, plans for working with community organizations, and investigation procedures.

Law enforcement agencies should adopt standard policies and procedures for responding to hate crimes, which prepare them for the grave threat hate violence poses to community peace and safety. Office of Criminal Justice Planning funds should be made available to provide technical assistance to law enforcement agencies for implementing response plans, such as the model developed by NOBLE.

**21. The California Attorney General should work with local law enforcement agencies and representatives of organizations working with immigrants to develop and distribute model**

## **policies for addressing violence perpetrated against undocumented immigrants.**

Statements before the Commission indicated that undocumented immigrants usually do not report hate crimes because they fear the police will notify the United States Immigration and Naturalization Service.<sup>9</sup> Organizations working with immigrants claim perpetrators are aware of victims' reluctance to report hate crimes and believe authorities will not learn of their crimes.

The California Attorney General should provide leadership and legal expertise to law enforcement agencies to help ensure that responses to hate crimes against undocumented immigrants are adequate. Model policies ensuring the rights of hate crime victims exist in some California law enforcement agencies.<sup>10</sup> These departments explained that policies were implemented to enable them to protect the lives and property of all community residents and to maintain community peace.

## **22. California Commission on Peace Officer Standards and Training (POST) should issue guidelines governing discrimination against gays and lesbians in law enforcement personnel practices.**

In the early 1970s, equal employment opportunity guidelines intended to protect women, and racial, and ethnic minorities were formulated under the Law Enforcement Assistance Act and distributed to law enforcement agencies. Guidelines did not specifically protect the rights of gays and lesbians. POST should assist local law enforcement agencies in developing equal employment opportunity guidelines that prevent discrimination against gays and lesbians as many law enforcement agencies continue to use those early equal employment opportunity guidelines.

## **23. The Attorney General should appoint a Task Force on American Indians and Justice to analyze law enforcement needs on reservations, the impact of Public Law 280, and other appropriate topics.**

Statements before the Commission suggested that confusion over law enforcement jurisdictional responsibilities results in unanswered calls for assistance and long delays when American Indians require service from county sheriff departments. According to statements before the Commission sheriffs are not fully aware of their responsibilities for law enforcement on American Indian reservations because United States Public Law 280, which assigns responsibility for reservations to state rather than federal entities, has not been interpreted clearly.<sup>11</sup>

The Commission was unable to gather complete information on hate violence against American Indians and the adequacy of civil rights protections for them. However, the Commission was concerned about the effects of U.S. Public Law 280 on law enforcement services for American Indians on reservations.

The Commission did not have sufficient information to make specific recommendations for ensuring community peace and safety on American Indian reservations. The Commission learned that the California Department of Justice is currently involved in discussions with American Indian and law enforcement leaders but statements indicated that more attention is needed. To prevent violence and protect the lives and property of American Indians, the California Department of Justice should create a task force mandated to complete a thorough investigation of the need for additional civil rights protections for American Indians; interpretation and implementation of United States Public Law 280; law enforcement services on American Indian reservations; and other relevant issues.

## **Footnotes**

<sup>1</sup> *Police departments in San Jose, California; Baltimore County, Maryland; Boston, Massachusetts; and New York City, New York have implemented policies and procedures for response to hate crimes.*

<sup>2</sup> *Juan Arambula, California Rural Legal Assistance, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Fresno, October, 21, 1985.*

<sup>3</sup> *Vincent Harvier, Commissioner, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Oakland, January 15, 1986.*

<sup>4</sup> *Gary Kusonoki, Police Officer/Executive Director, Training Innovations Research Group, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Riverside, August 26, 1985.*

<sup>5</sup> *Lieutenant Walt Adkins, San Jose Police Department, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.*

<sup>6</sup> *Diane Christiansen, Executive Director, Communities United Against Violence, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.*



<sup>7</sup> Baltimore County, Maryland Police Department, General Order.

<sup>8</sup> See Appendix M.

<sup>9</sup> Susan Brown, Legal Counsel, Mexican American Legal Defense and Educational Fund, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.

<sup>10</sup> Police departments in San Jose, Los Angeles, and some other California cities have adopted policies delineating procedures in contacts with undocumented immigrants.

<sup>11</sup> Op. Cit., Harvier.



Vincent Harvier

# VIII. Law Enforcement Training



## CHAPTER EIGHT: LAW ENFORCEMENT TRAINING

Law enforcement officials, police officers, and prosecutors are essential in efforts to respond to and prevent hate violence but, often they are not trained to handle situations involving violence motivated by bigotry. Lack of training produces inadequate and inappropriate responses that exacerbate community tensions.

When hate crimes occur, police response has a significant impact on whether victims cooperate with the prosecution or whether community tensions continue to build. In cities where adequate training occurs, police departments report an increase in successful prosecutions and a reduction in incidents involving hate violence.

Usually police officers are faced with a set of clues that indicate tensions that cause hate crimes are increasing. With training, police officers are able to identify escalating community conflict and alert others to the need for steps to be taken to prevent violence.

Staff in offices of district attorneys are responsible for the prosecution of hate crimes, but laws enacted specifically to punish perpetrators are rarely used. District attorneys and their staffs need more information on appropriate laws and more exposure to successful prosecution strategies.

### **24. The California Attorney General should recommend that the Commission on Peace Officer Standards and Training (POST) appoint a committee of commission members and minority community representatives to:**

- a) set specific training objectives on hate crimes;**
- b) review course materials, curricula, and resumes of trainers.**
- c) distribute recommended materials, curricula, and lists**

### **of certified trainers to law enforcement agencies and academies.**

### **25. Law enforcement basic academies, field training programs, and advanced officer and management courses should include training on cultural differences and hate crimes.**

The California Commission on Police Officers Standards and Training (POST) establishes standards for police training. Standards include functional areas of instruction, learning goals, and performance objectives.<sup>1</sup> These standards should include goals and objectives for training on cultural differences and hate crimes for basic academies, field training programs, and advanced officer and management courses.

#### **Basic Academy Training**

A survey of 12 California police academies found wide variations in both the amount of time allocated and the approaches used to train about cultural differences. No academy provides instruction on hate crimes.

*"The student will identify basic methods on dealing effectively with cultural and socio-economic issues."*

*"The student will identify the folkways, mores, values, and particular needs for police services of each of the following community groups: a) racial minority; b) ethnic group; c) women; d) sexual orientation; e) economic group; f) elderly/youth; g) physically handicapped; and h) developmentally disabled."<sup>2</sup>*

Performance objectives should be amended to include, but not be limited to, the following:

1. The student will identify situations when routine complaints i.e., vandalism and disturbance calls are warning signals of hate violence;
2. The student will identify circumstances that indicate crimes may be motivated by bigotry;
3. The student will identify and have a working knowledge of California Penal Code sections dealing with hate violence; and
4. The student will identify the needs of hate crime victims and the appropriate referral resources available;

Law enforcement training related to hate crimes should employ a method enabling trainees to analyze actual incidents to determine appropriate decision-making and actions. Training guides should be prepared to assist instructors in using this teaching method.



Irma Castro

***“As the presence of people of color increases in California’s population, so does the potential for violence based on a person’s color, creed, and ethnicity. It is up to us to make sure that they can share equally in the benefits and fruits of our society.”***

### Field Training Programs:

New recruits entering a police department are paired with specially trained field training officers (FTOs) for training and evaluation. During the probationary period FTOs are role models for new police officers. They teach recruits the practical realities of police work and critique their responses to people and situations. Recruits usually model their work after FTOs since the FTOs’ evaluations usually determine whether a law enforcement agency hires a recruit permanently.

Training objectives for field training programs should include, but not be limited to, the following:

1. The student will demonstrate a working knowledge of the needs for police services in minority communities;
2. The student will demonstrate an ability to deal with people from different cultural and socio-economic groups;
3. The student will demonstrate a working knowledge of California laws on hate crimes;

4. The student will demonstrate a working knowledge of procedures for responding to hate crimes;
5. The student will demonstrate a working knowledge of how to identify signals indicating the potential for hate violence;
6. The student will demonstrate a working knowledge of the needs of hate crime victims and the appropriate referral resources; and
7. The student will demonstrate a working knowledge of community resources available to help prevent the escalation of community tensions.

### Advanced Officer and Management Courses:

POST requires law enforcement agencies to provide continued training for police officers and managers and reimburses wages paid during their attendance at certified courses. POST certifies courses based on training needs. Representatives of law enforcement agencies and community organizations testified before the Commission that police need training on how to work with new immigrants and gays and lesbians,<sup>3</sup> and how to identify and respond to hate crimes.<sup>4</sup>

POST certified courses should include but not be limited to

1. responding to influxes of new immigrants;
2. working with gays and lesbians;
3. identifying hate crimes; and
4. responding to hate group tactics.

## **26. The California Department of Justice should take the lead in working with minority community representatives and prosecutors to develop training programs and materials on prosecuting hate crimes for staff in district attorneys’ offices.**

District attorneys and their staffs should receive information on laws against hate violence and successful prosecution strategies for hate crimes. Without sufficient training, prosecutors will continue the current pattern of not using laws intended to punish perpetrators and deter hate crimes.<sup>5</sup>

The California Department of Justice currently sponsors seminars and conferences to provide prosecutors with information on spe-

## FOOTNOTES

Ron Allen, Bureau Chief, California Commission on Peace Officer Standards and Training, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Diego, December 13, 1985.

Gary Kusunoki, Police Officer/Executive Director, Training Research Innovations Group, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Riverside, August 26, 1985.

Diane Christiansen, Executive Director, Community United Against Violence, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, March 4, 1985.

<sup>4</sup> California Commission on Peace Officer Standards and Training, Performance Objectives for the Basic Course Sacramento, 1984, pp. 9-14.

<sup>5</sup> Morsell Johnson, President, San Bernardino Chapter, National Association for the Advancement of Colored People, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Riverside, August 26, 1985.



*Courtesy of U.C. Davis*

## CHAPTER NINE: EDUCATION AND AWARENESS

The amelioration of hate violence in California requires the efforts of government officials, community leaders, and most importantly, private citizens. Data collection, community action, public policies, and effective law enforcement all depend on the informed cooperation of hate violence victims, witnesses, and their neighbors.

Some communities have taken important steps to deter hate violence and protect victims of crimes motivated by bigotry. Citizens in these communities have access to information about the incidence of hate violence and information about available resources and legal remedies for victims.

In other communities, lack of public awareness contributes to an entrenched cycle of alienation and violence. Citizens ignore escalating tensions until they explode in hate violence. When the community is unprepared to respond to violence, victims conclude that local institutions tolerate or even support violence against them. Alienation results, and the threat of violence increases.<sup>1</sup>

The Commission's legislative committee found in public hearings on the effectiveness of current laws that most citizens, community workers, and police are unaware of the Ralph Civil Rights Act, the California civil law that protects hate violence victims. Few citizens are aware that some California criminal laws specifically outlaw and delineate punishment for crimes motivated by bigotry.<sup>2</sup>

Community leaders from around the state have testified that citizens and even community organizations lack information about the pervasiveness of hate crimes and legal remedies available to victims. As long as ignorance persists, the cycle of alienation and violence will continue.

Measures to increase public awareness are an essential component of reducing the amount of violence motivated by bigotry in California. Dissemination



John W. Mack

***"It is my sincere hope that our efforts will lay the foundation for the reduction in the tragic violence, too often inflicted upon racial minorities and numerous other groups of vulnerable individuals, who are simply victims of bigotry and hatred."***

of information on remedies and resources for hate violence victims is also imperative for effective response.

### **27. The California Department of Justice should annually update *Unlawful Discrimination: Your Rights and Remedies*, the handbook on civil rights laws and remedies, and distribute it to community organizations, law enforcement agencies, schools, and other appropriate organizations.**

The California Department of Justice has recently prepared a handbook to provide community organizations and private citizens with information on laws and procedures related to civil rights violations. The handbook provides a much needed lay person's summary of the Ralph Civil Rights Act and other laws against hate violence. It also contains easy to read directories of state and selected local agencies available to help victims of hate violence and other forms of bigotry protect their rights.

The handbook will be an important tool for community organizations and law enforcement agencies that receive reports of hate violence. Witnesses have testified before the Commission that many community workers and police officers are not educated about hate violence victims' rights and remedies, particularly under civil law. With regular updating and distribution, *Unlawful Discrimination: Your Rights and Remedies*, will serve as a guide for community institutions where hate violence victims seek help.

### **28. The California Department of Justice should distribute a multi-lingual public information brochure on hate crimes and victims' rights and remedies to community groups, social ser-**

## **vice agencies, religious institutions, and other organizations.**

The California Department of Justice should supplement the detailed resource and referral information provided in *Unlawful Discrimination: Your Rights and Remedies* with a simple, concise public information brochure, as exemplified by other crime prevention brochures. This multi-lingual brochure should be distributed widely to inform citizens that California does not tolerate hate violence and protects victims' rights by providing legal remedies.

A public information brochure serves three important functions by (1) increasing public awareness of hate violence and laws against it; (2) providing victims with practical information; and (3) informing victims, perpetrators, and the general public that California is prepared to take action to protect the rights of all residents.

## **29. The California Department of Justice should release periodic public reports on the incidence of hate crimes.**

For too long, residents of California have thought that violence motivated by bigotry occurs somewhere else—not in their communities. Lack of accurate data on hate violence allows that belief to persist. Californians are no longer shocked by reports of racial violence in other parts of the world, but would probably respond differently to hearing about hate violence that occurs in their own neighborhoods. Media reports on violence motivated by bigotry have focused on those highly publicized activities of hate groups. Many local news gatherers are either unaware of or choose not to report the daily acts of intimidation that occur against minorities in their communities.<sup>4</sup>

The California Department of Justice should release periodic public reports on hate violence to increase public awareness and concern. These reports will provide the media with accurate information, not currently available from state or local sources.

## **30. The California Department of Education should develop a handbook to provide information on gay and lesbian lifestyles and counter myths and stereotypes about gays and lesbians for teachers and school administrators.**

Teachers and school administrators need accurate information to dispel myths and stereotypes about gays and lesbians. Community organization leaders told the Commission that much of the violence motivated by bigotry against gays and lesbians is perpetrated by school aged youth and that many young gays and lesbians are victimized in schools.<sup>5</sup>

Fear of gay and lesbian lifestyles causes violence and hampers efforts to respond to hate crimes against gays and lesbians in schools and elsewhere. In some communities, school officials have found that information on gays and lesbians for teachers and administrators has enhanced their ability to teach about those lifestyles and to respond to and prevent violence against gay and lesbian students.

The California Department of Education should work with gay and lesbian community representatives to prepare materials on myths and stereotypes about gays and lesbians. Materials should be distributed to teachers and school administrators in all California school districts.

## **FOOTNOTES**

<sup>1</sup> *Governor's Task Force on Civil Rights Report on Racial, Ethnic, and Religious Violence, Sacramento, State of California, 1982, p.83.*

<sup>2</sup> *James McEntee, President, California Association of Human Rights Organizations, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.*

<sup>3</sup> *Herbert Troupe, Board of Directors, Black Agenda, Inc., Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Los Angeles, May 23, 1985.*

<sup>4</sup> *John Esterle, Director, Crime and the News Media, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Oakland, January 15, 1986.*

<sup>5</sup> *Diane Christiansen, Executive Director, Community United Against Violence, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, March 4, 1985.*



# Violence Against Elderly and Disabled Persons



Courtesy of California Association of Health Facilities

## CHAPTER TEN: VIOLENCE AGAINST ELDERLY AND DISABLED PERSONS

Violence, and fear of violence, limits the rights of elderly and disabled persons to live freely and to participate in their communities. Perceived or real vulnerability and social isolation combine to encourage crimes against elderly and disabled persons and to magnify the impact of violence.

Violence against elderly and disabled persons occurs in almost every California community. Persons over age 65, physically disabled individuals, the developmentally disabled, and the mentally ill are all victimized by perpetrators who view them as easy prey.<sup>1</sup> In some instances, disabled persons are targets of intimidation and violence motivated by hatred.

Despite a myriad of crime prevention programs for the elderly and a growing number of programs for disabled persons, violence against these groups continues. Continued violence creates fear that makes victims of elderly and disabled persons who are not actually abused.<sup>2</sup> The elderly and disabled often live with fear that affects their daily lives and devastates them almost as much as if they were physically attacked.

New reporting requirements and media attention have focused on violence against elderly persons and have begun to alert the public to violence against the disabled. Despite the passage of important new laws many elderly and disabled persons are the victims of family and institutional violence. Family members experiencing the stress of caring for elderly or disabled persons and staff of "helping" facilities sometimes perpetrate violence against them.<sup>3</sup>

Testimony before the Commission documents the need for increased attention to violence against developmentally disabled persons. When these persons are the victims of violence, the criminal justice system's response is often inadequate.<sup>4</sup> Victims' statements and their competency as witnesses are questioned. As a result, police, prosecutors, and courts fail to provide protection for victims.

Changing fiscal policies have reduced the services available for mentally ill persons and have increased the number of mentally ill persons living on the streets in California communities.<sup>5</sup> Increasingly, they are becoming victims of violence, and subjected to "mercy arrests" which act simply to provide them housing in county jails.

A plethora of social problems and attitudes contributes to the incidence and perpetuation of violence against elderly and disabled persons: lack of respect, stereotypes, economic and political inequalities, and



Janet Levy

*"It is essential that older Californians enjoy the respect, support, and security so vital to the American scene."*

institutional discrimination. The Commission's recommendations focus on: 1) public officials' response to violence; and 2) pragmatic approaches to helping elderly and disabled persons identify the options and resources available to them in the face of pervasive violence.

### **31. The California Department of Justice should collect and disseminate information on the incidence of violence against elderly and disabled persons.**

The California Department of Justice currently collects information on the age of crime victims. Collection and dissemination of information on crimes against elderly and disabled persons is essential for responding to and preventing these crimes.

Accurate information on the extent and nature of violence against elderly and disabled persons is not available. Lack of information impedes efforts to protect the rights of these persons. Collection and dissemination of data on crimes against elderly and disabled persons would provide guidance for potential victims, law enforcement agencies, community organizations, and government decision makers.

Successfully responding to and preventing crimes requires information on those crimes. Without uniform data collection, it is impossible to determine the amount and kinds of violence or to evaluate prevention efforts.

The California Department of Justice has recommended that law enforcement agencies include identification of hate crimes on the uniform crime reports forwarded to the department. Notation that victims are elderly

or disabled should also appear on the crime reports for efficient data collection.

### **32. Law enforcement agencies should establish units to respond to situations involving mentally ill persons.**

Law enforcement agencies are experiencing increasing contacts with mentally ill persons as the number of mentally ill persons living in the streets increases. When police contacts with mentally ill persons are not handled effectively, the results can be inadequate services for mentally ill persons; use of police force, including deadly force; and officer injuries and deaths.<sup>6</sup>

The San Francisco Police Department has developed a model approach for handling contacts with mentally ill persons.<sup>7</sup> The department's Psychiatric Liaison Unit has developed standard operating procedures for department personnel relating to mentally ill persons. The unit trains patrol officers, acts as liaison between police and mental health workers, and responds to calls when mental health workers or patrol officers need special assistance.

The model is distinct from some other police approaches to dealing with mentally ill persons. In some jurisdictions, officers trained for special responses, weapons tactics, and hostage negotiations are designated to respond to calls involving mentally ill persons. Too often, police approach mentally ill persons in the same manner as sane but dangerous criminals causing the risk of violence to escalate.<sup>8</sup>

Office of Criminal Justice Planning funds should be allocated to assist large city police departments and sheriff departments in creating units for response to the mentally ill.

### **33. Law enforcement agencies should establish escort services for elderly and disabled persons.**

In many California communities, elderly and disabled persons are frequently attacked in the course of performing their daily routines. Crime, and fear of crime, limit their freedom of movement and their ability to live independently.

However, some communities operate effective programs that educate and protect elderly and disabled citizens. Common elements of the most successful programs are: public agency-community cooperation, integral involvement of elderly and disabled persons in program planning and implementation, and

the premise that *elderly and disabled persons* are capable and can live full lives.

In San Francisco, the police department works with community groups and elderly persons to provide escort services in high crime areas with a large elderly population. Police and citizens credit the program with decreasing crime and ameliorating the fears of elderly persons in those areas.<sup>9</sup>

The rights of elderly and disabled persons to move freely and to live where they choose must be preserved. Community escort programs that stress community-law enforcement cooperation and respect for elderly and disabled persons can reduce violence against the elderly and disabled and protect their rights.



**Richard Chavez**

*"When my seven year old daughter looks at me and tells me she loves me she does not see a wheelchair or braces; all she sees is her father. Through her I see a better world."*

### **34. The California Attorney General should appoint a committee of elderly and disabled community representatives and POST to:**

- a) set specific training objectives for training on violence against elderly and disabled persons;
- b) develop training guides and review training materials, curricula, and resumes of appropriate trainers;
- c) recommend curricula and trainers for law enforcement training centers and agencies.

### **35. Basic academies, field training programs, and advanced officer courses should include training on violence against elderly and disabled persons.**

## Basic Academy:

Police academies provide fundamental information on law enforcement concepts and practices for students. Courses currently include performance objectives aimed at providing students with information and skills for working with elderly and disabled persons:

*The student will identify the folkways, mores, values, and particular needs for police services of elderly, youth, physically handicapped, and developmentally disabled.*

*The student will identify the following situations which are likely to cause severe stress or crisis for citizens . . . elderly person hearing prowler or burglar.<sup>10</sup>*

The Patrol Procedure Section of the basic course includes a block of instruction, with the learning goal the student will gain the ability to appropriately and legally deal with the mentally ill,<sup>11</sup> is included in the patrol procedures section of the basic course.

Performance objectives should be expanded to include the following:

1. The student will identify elderly and disabled persons' reactions to victimization;
2. The student will identify community resources available to assist elderly and disabled crime victims;
3. The student will identify disabilities that may be confused with the effects of alcohol and drug use;
4. The student will identify procedures for communicating with hearing-impaired persons;
5. The student will identify issues to be considered in contacts with elderly and disabled persons; and
6. The student will understand laws and reporting procedures related to elder abuse.

Training guides should present exercises involving police interaction with elderly and disabled persons and provide discussion guides.

## Field Training Program:

New officers frequently model their behaviors and attitudes toward elderly and disabled persons from their experience with field training officers (FTOs). FTOs have significant influence on the delivery of police services to those populations.

Field training program objectives should include, but not be limited to, the following:

1. The student will demonstrate a working knowledge of the needs for police services for elderly and disabled persons;
2. The student will demonstrate an ability to work effectively with elderly and disabled crime victims;
3. The student will demonstrate a working knowledge of community resources available to

assist elderly and disabled crime victims;

4. The student will demonstrate the ability to communicate with hearing-impaired persons;
5. The student will demonstrate the ability to identify disabilities commonly confused with the effects of drug and alcohol use; and
6. The student will demonstrate a working knowledge of the law and reporting requirements related to elder abuse.

## Advanced Officer Courses:

Police officers should be encouraged, throughout their careers, to increase their knowledge of the dynamics, laws, resources, and procedures related to violence against elderly and disabled persons. Training topics should include, but not be limited to:

1. elder abuse laws and reporting procedures;
2. resources for elderly and disabled crime victims;
3. forms of fraud commonly perpetrated on the elderly and disabled;
4. techniques and resources for dealing with the mentally ill; and
5. techniques and resources for handling developmentally disabled victims and offenders.

## Recommendations for community action

### **36. Community organizations should develop self-protection programs for elderly and disabled persons.**

The belief that elderly and disabled persons are helpless victims, incapable of defending themselves in any way, is a myth. Within their physical and psychological limits, elderly and disabled persons can identify options for dealing with criminal attacks against them.<sup>12</sup> Innovative self-protection programs, following the empowerment models of women's self-defense classes, help elderly and disabled persons identify their limits and options. Participants in the programs report that their feelings of fear and powerlessness decline as they learn specific skills for defending themselves.<sup>13</sup>

### **37. District attorneys' offices and community organizations should develop cooperative programs for providing assistance to victims of violence against elderly and disabled persons.**

When elderly and disabled persons are victimized, the effects of the violence can be far more traumatic and long-lasting than for some other crime victims.<sup>14</sup> Cooperation with the criminal justice system can be psychologically and physically difficult for elderly and disabled persons. They may have special needs for transportation, for communication when hearing-impaired, for access to offices and courts, for counseling, and for medical services.

Community organizations possess excellent resources for assisting in the prosecution of crimes against elderly and disabled persons. Elderly and disabled persons can provide victims with effective counseling and other needed services.

### **38. The California Department of Justice Crime Prevention Center should update crime prevention materials for elderly and**

**disabled persons and distribute multi-lingual materials to senior centers, social service agencies, churches, law enforcement agencies, and other appropriate organizations.**

Elderly and disabled persons need information on options for preventing and responding to violence. Crime prevention materials can identify potentially dangerous situations, make suggestions for self-protection, and list available community resources.

Current materials should be periodically updated to include information on new laws and resources. The multi-lingual materials should be distributed to elderly and disabled persons through organizations and agencies that serve them.

## **Footnotes**

<sup>1</sup> *Barbara Waxman, Consultant, Disability and Public Policy, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Riverside, August 26, 1985.*

<sup>2</sup> *J. D. Hirschel and K. B. Rubin, "Special Problems faced by Elderly Victims of Crime," Journal of Sociology and Social Work, June 1982, p. 369.*

<sup>3</sup> *Janet Levy, Commissioner, Statement to the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Fresno, October 21, 1985.*

<sup>4</sup> *Nora Baladerian, Mental Health Consultant, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, Riverside, August 26, 1985.*

<sup>5</sup> *Officer Forrest Fulton, Officer in Charge, San Francisco Police Department Psychiatric Liaison Unit, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, October 7, 1985.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *See Appendix M.*

<sup>8</sup> *See Appendix M.*

<sup>9</sup> *Mark Forrester, Director, San Francisco Senior Escort Outreach Program, Testimony before the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence, San Francisco, March 4, 1985.*

<sup>10</sup> *California Commission on Peace Officer Standards and Training, Basic Course Unit Guide, Sacramento, 1984, pp. 45/1-45/6.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Linda Kenoyer, Senior Citizen Self Protection Instructor's Manual, Seattle, Alternatives to Fear, 1984, p.5.*

<sup>13</sup> *Linda Kenoyer and Py Bateman, Peace of Mind: Senior Citizens Self Protection, Seattle, Alternatives to Fear, 1984, p.11.*

<sup>14</sup> *Op. Cit., Baladerian.*

# XI.

# Special Considerations



Courtesy: The Catholic Herald

## CHAPTER ELEVEN: SPECIAL CONSIDERATIONS

The Commission heard testimony on many issues outside its mandated purview. Commissioners felt that several of those issues relate in important ways to violence motivated by bigotry and warranted special consideration. The Commission lacks the information necessary to make specific recommendations on these topics, however, Commissioners urged careful study of the following issues confronting California today.

### Undocumented Immigrants and Refugees

Testimony before the Commission made it clear that undocumented immigrants and refugees are often victims of hate violence. Misunderstandings and the perception that immigrants and refugees threaten American workers' jobs fuel the hate that causes violence motivated by bigotry. Statements made to the Commission indicated that undocumented immigrants and refugees are particularly vulnerable to hate violence. They are reluctant to report crimes against them for fear of being arrested and deported themselves.



**Judge  
Armando  
Rodriguez**

***“As unemployment, crime, and other problems continue to exacerbate, the natural tendency to blame the most recent arrivals for them will continue, and both state and federal agencies will have to continue addressing these issues.”***

Protection for immigrants and refugees is essential. California must act not only to protect their lives and property but also to prevent the escalation of hate violence into widespread community disruption. Efforts to curb attacks on undocumented immigrants and refugees and the provision of extended stay opportunities are in the best tradition of California.

### Violence Against Women

The Commission has heard with concern reports of continuing violence against women in their homes and on the streets. The dynamics of violence against women and hate violence are similar in that stereotypes and social conditioning act to cause and perpetuate both forms of violence.

The measures necessary for reducing the incidence of violence against women and hate violence are often similar. The Commission found valuable models for legislative, law enforcement, and community action in the efforts of advocates for battered women and sexual assault victims.

### “English-Only” Laws

The Commission was disturbed by reports of several laws and ordinances aimed at banning translation of official government forms and foreign language public signs. The laws and ordinances point to the existence of the alienation and fear that cause hate violence in the communities where they are introduced. The laws and ordinances are symptoms of a serious threat to the peace and safety of those communities.

### Hate Violence in Prisons

Statements concerning the prevalence of hate violence in prisons alarmed the Commission. The nature and extent of violence motivated by bigotry in California Department of Corrections and California Youth Authority facilities must be explored. It appears that an increasing number of serious assaults in correctional facilities are motivated by bigotry.

Prisons and other correctional facilities do not exist in isolation from our communities. Anti-minority prison violence must be curbed in order to reduce the risk of provoking attitudes of bigotry and incidents of violence in the community where those inmates will eventually return.

# XII.

## Findings



## CHAPTER TWELVE: FINDINGS

The Commission has made several findings about hate violence in California:

1. ***Hate violence persists in California and poses a threat to the peace and safety of our communities.***

In every region of the state, incidents have occurred in which racial, ethnic, religious, and sexual minorities have been harassed, intimidated, assaulted, and even murdered.

2. ***A central system for collecting and reporting hate crime data is essential.***

Comprehensive data collection will enable California to assess and monitor the magnitude of hate violence and to design and implement effective measures to respond to and prevent it.

3. ***Enactment of a comprehensive civil rights statute with criminal penalties and amendments is necessary to effectively deter hate crimes.***

Existing civil and criminal laws fail to effectively protect the rights of hate violence victims.

4. ***California needs to establish human relations centers in every county charged with responding to and preventing hate violence.***

State agencies should contract with human relations centers to provide victim services and assistance for law enforcement agencies and schools.

5. ***Victims of hate violence need immediate access to practical assistance and support services.***

Meeting the needs of hate violence victims should be a priority for state and local governments and community organizations.

6. ***The development of comprehensive criminal justice policies for responding to and preventing hate crimes is imperative.***

Policies should be formulated for assessing the potential for hate violence, for responding to hate violence, for equal employment opportunity, and for effective law enforcement on American Indian reservations.

7. ***Police officers and district attorneys need training on how to respond to and prevent hate crimes.***

Training topics should include recognizing the precursors of hate crimes, responding to hate crimes, working with minority communities, and criminal laws related to hate violence.

8. ***Public awareness of hate violence, its causes and effects, legal remedies, and available resources, must be increased.***

California citizens and service providers lack important information necessary to respond to and prevent hate violence.

9. ***Comprehensive efforts for responding to and preventing violence against elderly and disabled persons are necessary.***

Public policies and practical programs must be developed to address the needs of elderly, physically disabled, developmentally disabled, and mentally ill persons.

10. ***California can respond to and prevent hate violence effectively.***

A review of successful legislative, law enforcement, and community efforts provides convincing evidence that Californians can work together to develop practical programs to end the cycle of hate violence.



Msgr. William  
J. Barry

***"Together we have shared skills and insight in our common concern. We now hope that our recommendations will offer direction and support to a brighter day to reduce and control violence suffered by minorities."***

The Commission recommends that the Attorney General appoint a Task Force to monitor and coordinate efforts for the implementation of the recommendations made in its report.



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PERSONS TESTIFYING BEFORE COMMISSION

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ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS  
AND MINORITY VIOLENCE

REPORT OF THE EDUCATION/COMMUNITY RELATIONS SUBCOMMITTEE

A major goal of the Education Subcommittee is to develop strategies to increase public awareness of the reality and nature of violence against minorities; to provide information to the public and victims on their rights under the law and the resources and remedies available.

The subcommittee recommends the following actions:

**Community Relations**

1. That the Attorney General introduce legislation urging creation of Human Relations Commissions in each county and that funding be provided to allow them to fulfill their mandate.
  - that funding be provided for translators to work with hate crime victims; and for the development of intensive community training seminars on the judicial system.
  - that the Human Relations Commissions be encouraged to establish a statewide network for information sharing, identification of model programs which can be implemented in other areas and statewide as appropriate.
2. That the Department of Justice Civil Rights Section annually update and distribute the civil rights handbook to: community organizations, law enforcement agencies, schools, and other appropriate agencies.
3. That a brochure be developed for distribution to the public as an information handout on victims rights and remedies, and that it be distributed in mass quantities to community groups, agencies, churches, etc.; and that it be translated into other languages as appropriate.
4. That the Attorney General consider development of a Civil Rights newsletter, and that it be given wide distribution to community groups, schools, etc. to raise public awareness of the problem of RERMV crimes, and current events in the area of civil rights.
5. That the Department of Justice Crime Prevention Center update its brochures on how to avoid becoming a victim for the elderly and disabled, and that these brochures be made available in other than English languages.
6. That the media be made aware of their responsibility to portray a positive image of all ethnic, religious and minority groups; and that sensitivity in reporting crimes is an important factor in fighting RERMV.

7. That the Attorney General consider establishment of an "800" number to serve as a hotline for victims of RERMV crimes to provide information on where and how to report these crimes.

### **Education/Training**

California has a rich history of racial, ethnic, religious and lifestyle differences, and tensions seem to reappear with each new generation. One of the best places to start to reduce these generational antagonisms is our schools. According to one report, 46.8% of the students in our schools are minority students. In order to reduce the tensions which lead to violence we must teach our young people how to relate to one another. Therefore, the subcommittee recommends the following actions:

8. That the Attorney General impress upon the Superintendent of Public instruction the necessity for cultural relations programs in the public school curricula, and encourage implementation of such programs on a statewide basis.
9. That the Department of Education provide training for teachers and administrators on sensitivity to cultural diversity; effective teaching of human relations and cultural awareness; and response to racial, ethnic, religious, and minority violence.
10. That the Department of Education evaluate curricula to insure it includes accurate information, not stereotypes, about immigrant cultures.
11. That the Department of Education produce a booklet on the myths and stereotypes about homosexuality.
12. That the Attorney General stress to law enforcement the need for sensitivity to diverse cultures and human relations; and that he request that the time assigned to community/cultural relations segment of the POST basic training course for law enforcement officers be increased.
13. That the POST Commission study the issue of sexual orientation nondiscrimination and issue guidelines governing local law enforcement employment policies and practices.

In addition, the Subcommittee recommends that the Commission stress to the Attorney General that, while not specifically within its mandate, to the degree that the movement to provide sanctuary for persons from Central America seeking refuge in this country results in exploitation and violence, it must be addressed by our criminal justice system to assure full protection of their civil rights.

Likewise, the problems of undocumented persons, particularly as they become victims of crime and violence because they are an especially vulnerable group who easily become targets for exploitation should be addressed, and the Subcommittee recommends that the Commission urge the Attorney General to explore means of addressing and alleviating these problems.

The issues of school and gang violence, as well as prison violence, while also not in this Commission's mandate, cannot be ignored when dealing with the whole issue of violence based on bigotry and hatred. The Subcommittee recommends that the Commission urge the Attorney General to explore means of alleviating and/or eliminating these problems.

  
Bishop Will Herzfeld  
Education/Community Relations  
Subcommittee Chairperson

**ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS,  
AND MINORITY VIOLENCE**

**REPORT OF LEGISLATIVE SUBCOMMITTEE**

The goal of the Legislative subcommittee is to inquire whether or not legislation affecting the racial, ethnic, religious and minority violence is adequate or whether better and stronger remedies, civil and criminal, should be instituted in order to combat this type of violence.

The Committee held two public hearings - one in Los Angeles and one in San Francisco to determine the effectiveness of the Ralph Civil Rights Act, and to hear testimony regarding other remedies to make the Act more effective.

Testimony was received from private individuals, attorneys and lay persons, law enforcement officers, as well as community and minority civil rights organizations such as the NAACP, MALDEF, Chinese for Affirmative Action, Asian Law Caucus, APAAC, etc.

Based on this testimony the Legislative subcommittee recommends the following actions:

Recommendations:

1. The Ralph Act should be amended to include the awarding of legal fees for legal representation in successful actions.
2. A criminal statute patterned after the Massachusetts Civil Rights Act of 1979 should be enacted to deter and respond to hate crimes.
3. California Penal Code Section 628 et. seq. should be amended to include specific notation of incidents of racial, ethnic, religious or minority violence. Reports should be required to be sent to local school boards and local human rights agencies as well as those agencies specified in existing legislation.
4. A statute patterned after California Civil Code Section 48.7 should be enacted to bar libel and other counter claims in Ralph Act actions until the Ralph Act action has been resolved.
5. Legislation should be enacted to provide for calendar preference for Ralph Act actions.
6. The Ralph Act and Unruh Act should be amended to clearly state that the Fair Employment and Housing Commission has jurisdiction in actions involving violence motivated by bigotry.
7. The Attorney General should recommend the development of Judicial Council forms and procedures patterned after those utilized in domestic violence cases to facilitate restraining orders and other forms of injunctive relief for victims of hate crimes.

8. The Ralph Act should be amended to treble the actual damages awarded.
9. Legislation should be enacted to extend S.B. 2080 and require the California Department of Justice to collect and disseminate information on the incidence of hate crimes.
10. Legislation should be enacted to authorize state funds to provide costs and attorneys fees for plaintiffs who prevail in Ralph Act actions and in seeking injunctive relief against hate violence when the defendant(s) is (are) judgement proof.
11. Legislation should be enacted to amend California Penal Code section 1175.5, which identifies motivation by bias based on race, religion, or ethnicity as aggravating factors for consideration in sentencing, to include bias based on sexual orientation, disability, or age as aggravating factors for consideration at sentencing.

Signed: \_\_\_\_\_

*Diane C. Yu*  
Diane C. Yu

Chairperson

Legislative Subcommittee

January 15, 1986

ATTORNEY GENERAL'S COMMISSION ON RACIAL ETHNIC, RELIGIOUS  
AND MINORITY VIOLENCE

REPORT OF LITIGATION SUBCOMMITTEE

Purpose:

The subcommittee is to develop strategies to assist the Attorney General in exercising his enforcement authority under applicable statutes with particular emphasis on the Ralph Act.

Background:

At the first meeting of the RERMV Commission, the suggestion was made that the Attorney General explore the possibility of bringing a civil action under the Ralph Act. The Act provides that all citizens have the right to be free from violence, or intimidation by threat of violence because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation or position in a labor dispute....(Civil Code, Section 51.7)

Subdivision (b) of the Act provides that whoever denies the right or aids, incites, or conspires in the denial of the Section 51.7 right is liable for actual damages and an additional \$10,000 in punitive damages.

Subdivision (c) of the Act allows the Attorney General, the District Attorney, or the City Attorney to bring a civil action based on section 51.7 if there is reasonable cause to believe that persons are engaged in a pattern or practice of resistance to the full enjoyment of the rights embodied in the Act.

The first meeting of the subcommittee was confined to a discussion of possible strategies under the Ralph Act with subsequent meetings to be devoted to the Attorney General's general enforcement powers. The Subcommittee first identified criteria the Attorney General could use in selecting cases for Ralph Act enforcement. Two considerations were paramount in identifying the criteria. They were the need to 1) utilize limited Attorney General resources in a manner designed to produce the most successful result; 2) avoid a perception on the part of local officials that the Attorney General is unilaterally interfering in essentially local matters.

Criteria:

The criteria identified by the subcommittee are the following:

- (1) Multi-jurisdictional acts constituting a pattern and practice that crosses county lines;

- (2) Complexity of issues - Local officials may lack the resources to handle a factually or legally complicated matter;
- (3) High degree of controversy - Serious political or other constraints may impair the ability of local officials to handle a particular set of circumstances;
- (4) Egregiousness of the acts forming the basis of the suit. This criterion is further subdivided as follows:
  - a) great property or personal injury.
  - b) numerous victims;
  - c) series of acts of long duration;
  - d) serious threats of future violence.
- (5) Case is of general "public interest" - This may include acts of violence against school children or acts of violence occurring in areas experiencing violence, in the recent past; e.g., Watts.
- (6) Perpetrator of violence is a group as opposed to individuals.

There is some degree of overlap in these criteria, but they are sufficiently distinguishable from one another to serve as convenient guidelines.

#### Recommendations:

The Subcommittee felt that certain administrative and political steps should be taken by the Attorney General to ensure that the office is properly prepared to handle a new type of case. The recommendations are:


- (1) An administrative procedure should be created within the Attorney General's office to provide for referral to the Civil Rights Enforcement Unit of matters involving possible Ralph Act violations
- (2) At the same time these matters should be referred to the Division of Law Enforcement, Bureau of Organized Crime & Criminal Intelligence (BOCCI), for possible inclusion into its statistical network. There should also be developed a "feedback" mechanism from BOCCI to the Civil Rights Enforcement Unit whenever the BOCCI notes circumstances indicating a pattern and practice of violence. Sources for "pattern and practice" information could be: 1) complaints coming into the Attorney General's office, 2) Department of Fair Employment and Fair Employment and Housing Commission files, 3) newspaper articles and TV news items, 4) local law enforcement files; etc.;
- (3) Screening procedures for the selection of Ralph Act cases should be developed for use at the initial intake stage and at the Civil Rights Enforcement Unit level;
- (4) Intake personnel in Attorney General's office should be trained in the use of appropriate criteria for use in screening cases;



- (5) A Referral policy should be utilized within the Civil Rights Enforcement Unit for cases that are unsuitable for Attorney General's Ralph Act enforcement but have potential for Ralph Act or regular Penal Code enforcement at the local level;
- (6) The Attorney General should provide training in Ralph Act enforcement for local district attorneys, city attorneys and law enforcement using P.O.S.T. and other mechanisms. In this regard the Attorney General should explore the possible use of the California Specialized Training Institute (CSTI) as an additional training vehicle for local law enforcement.
- (7) The Attorney General should take steps to heighten the sensitivity of local law enforcement to the importance of attaching more priority to Ralph Act type cases. One method of beginning this process would be through distribution of a letter expressing the Attorney General's new enforcement policy in this regard attached to a press release announcing the policy.
- (8) The Attorney General should solicit the assistance of district attorneys and city attorneys early in the development of Ralph Act enforcement policy.
- (9) The Attorney General should explore the feasibility of directly prosecuting under selected Penal Code provisions cases of racial violence unsuited for the Ralph Act or other civil enforcement.
- (10) The Attorney General should explore the possibility of Ralph Act enforcement against local law enforcement in appropriate cases. Such cases would, of necessity, require a showing of a "pattern and practice" within a police or sheriff agency. Moreover given the importance of honest, unbiased police enforcement to the safety and well-being of the community such an action would certainly be within the public interest.
- (11) The Attorney General should explore intervention into Ralph Act cases brought by district attorneys, city attorneys or private individuals. The letters mentioned earlier should include notification of this aspect of the Attorney General's enforcement policy.

It should be noted that one recommendation coming out of the Subcommittee dealt with an issue within the purview of the Legislative subcommittee. The Litigation Subcommittee submits the following recommendation: The Attorney General should be given express statutory authority to train police, district attorneys and city attorneys in the area of racial, ethnic, religious and minority violence.

Signed:

  
Alice A. Lytle, Chair

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Armando Rodriguez

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**UNIFORM DEFINITIONS AND GUIDELINES**  
**For Identification of Crimes Motivated, All or in Part, by**  
**Race, Ethnicity, Religion, and Sexual Orientation**

**DEFINITIONS**

**A reportable crime is any act or attempted act to cause physical injury, emotional suffering, or property damage, which is or appears to be motivated, *all or in part*, by race, ethnicity, religion, and sexual orientation.**

**Motivation** – Incentive, inducement, desire, emotion, or similar impulse resulting in some type of action.

**Race** – Any group or class of individuals with common characteristics distinguished by form of hair, color of skin and eyes, stature, bodily proportions, etc., that are genetically transmitted to classify it as a distinct human type.

**Ethnic Group** – Any group or class of individuals within a culture or social system that can be distinguished on the basis of variable traits including nationality, religion, linguistics, ancestry, traditions, attire, etc.

**Religion** – A personal awareness or conviction of the existence of a supreme being, supernatural powers, or influences controlling one's own humanity or all nature's destiny.

**Sexual Orientation** – The direction of sexual, emotional, and/or physical attraction and preference, which may be primarily towards persons of the opposite sex (heterosexuality), primarily towards persons of the same sex (gay, lesbian), or toward both in some proportion (bisexuality).

**GUIDELINES TO IDENTIFY REPORTABLE CRIMES****A. Criteria**

The following criteria should be used in determining whether a crime was motivated, *all or in part*, by race, ethnicity, religion, and sexual orientation. The criteria, which should be applied singularly and in combination, are not all inclusive but provide a general guideline for consistent identification of such crimes.

1. A symbol(s), word(s), or act(s) which is or may be offensive to a specific race, ethnic group, religious group, or persons with differing sexual orientation (swastika, cross burning, "nigger," "queer," etc.).
2. Statements/actions of the victim(s), suspect(s), and other involved parties.
3. Prior history of similar crimes in same area or against the same victim group.
4. Community response to the crime.

**B. Questions to Consider When Identifying Crimes Motivated, All or in Part, by Race, Ethnicity, Religion, and Sexual Orientation**

1. Did the crime occur *all or in part* because of racial, ethnic, religious, or sexual differences between the persons/groups or for other reasons (childish pranks, unrelated vandalism, school rivalry, etc.)?
2. Has the victim or victim group been subjected to repeated attacks of a similar nature?
3. Is the victim the only minority group member in the neighborhood or one of a few?
4. Did the victim recently move into the area; is the victim acquainted with neighbors and/or local community groups?
5. When multiple incidents occur at the same time, are all victims of the same race, ethnicity, religion, or sexual orientation?
6. Has the victim been associated with recent or past activities relating to his/her race, ethnicity, religion, or sexual orientation (e.g., gay rallies, demonstrations, holiday celebrations, conferences/conventions, religious meetings, etc.)?
7. Has there been prior/recent news coverage of events of a similar nature?
8. What was the manner and means of attack (e.g., color of paint, correctness of the spelling of words, symbols or signs used, etc.)? Is it similar to other documented incidents?
9. Is there an ongoing neighborhood problem that may have initiated or contributed to the act (e.g., could the act be retribution for some conflict with neighbors, area juveniles, etc.)?
10. Does the crime indicate possible involvement by an organized group? For example:
  - a. Is the literature printed or handwritten?
  - b. Does the name signify a "copy-cat" syndrome?
  - c. Is there any documented or suspected organized group activity in the area?
  - d. Was this group "involved" in a true sense, or as a fear or scare tactic?
11. Does the party(s) responsible have a true understanding of the impact of the crime on the victim or other group members?

Senate Bill No. 2080

CHAPTER 1482

An act to add Chapter 8 (commencing with Section 13870) to Title 6 of Part 4 of the Penal Code, relating to crime, and making an appropriation therefor.

[Approved by Governor September 25, 1984. Filed with  
Secretary of State September 26, 1984.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2080, Watson. Racial, ethnic, and religious crimes.

Under existing law, the Attorney General has various powers and duties relative to criminal justice.

This bill would require the Attorney General, for one year, to develop a program model to collect, compile, and analyze information about racial, ethnic, and religious crimes and submit a report to the Legislature, as specified.

The bill would appropriate \$75,000 to the Department of Justice for that purpose.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 8 (commencing with Section 13870) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 8. INFORMATION ON RACIAL, ETHNIC AND RELIGIOUS CRIMES

13870. The Legislature finds that racial, ethnic, and religious crimes occur throughout California and that no single agency now either provides assistance or monitors the full range of this crime in the state on a consistent basis. The Legislature further declares that exposure of the facts about racial, ethnic, and religious crimes will lead to greater public awareness of the problem of bigotry and prejudice and will provide a foundation for developing remedies to the problem.

In enacting this chapter, the Legislature intends to take the preliminary steps needed to establish a statewide information center to receive and evaluate information reflecting racial, ethnic, and religious crime. It is intended that this information will provide a precise picture of the geographic distribution of these crimes and trends over time.

13871. The Attorney General shall, on January 1, 1985, commence a one-year project to develop a program model to collect, compile, and analyze information about racial, ethnic, and religious crimes. The project shall include, but not be limited to, all of the following duties:

(a) Develop uniform guidelines for consistent identification of racial, ethnic, and religious crimes.

(b) Recommend an appropriate means for statewide collection of data on racial, ethnic, and religious crimes.

(c) Recommend an appropriate state agency to implement collection of this information.

(d) Submit to the Legislature a final report describing the findings of the study by January 1, 1986.

13872. The crimes that shall be the focus of this chapter shall include a wide variety of incidents, which reflect obvious racial, ethnic, or religious motivations, ranging from vandalizing a place of worship to assaults between members of gangs, including, but not limited to, incidents that occur on school grounds and between gang members and any other incidents that law enforcement officers on a case-by-case basis identify as having a racial, ethnic or religious motivation. They shall not include incidents of discrimination in employment.

SEC. 2. The sum of seventy-five thousand dollars (\$75,000) is hereby appropriated from the General Fund to the Department of Justice for the purposes of this act. The funds appropriated by this section shall be available for encumbrance until January 1, 1986.

## CHAPTER 1.2. REPORTING OF SCHOOL CRIME

## § 628. Legislative intent

It is the intent of the Legislature in enacting this section to ensure that schools, school districts, local government, and the Legislature have sufficient data and information about the type and frequency of crime occurring on school campuses to permit development of effective programs and techniques to combat crime on school campuses.

(Added by Stats.1984, c. 1607, p. —, § 1.)

## 1933 Legislation.

Former § 628 was repealed by Stats.1897, c. 89, p. 90, § 1; Stats.1933, c. 73, p. 511, § 1421. See Historical Note preceding § 626 in the Main Volume.

§§ 628a to 628m. Repealed by Stats.1897, c. 89, p. 90, § 1; Stats.1933, c. 73, p. 511, § 1421

See Historical Note, under chapter heading preceding § 626 in the Main Volume.

## § 628.1. Standard form

By June 30, 1985, the State Department of Education, in consultation with the Department of Justice and a representative selection of school districts which currently compile school crime statistics, shall develop a standard school crime reporting form for use by all school districts throughout the state. No individual shall be identified by name or in any other manner on this reporting form. The form shall define what constitutes the criminal activity required to be reported and shall include, but not be limited to, all of the following:

(a) Description of the crime.

(b) Victim characteristics.

(c) Offender characteristics, if known.

(d) Total students enrolled at the school reporting the crime on November 15 for the first reporting period and April 15 for the second reporting period.

(Added by Stats.1984, c. 1607, p. —, § 1.)

## 1961 Legislation.

Former § 628.1, added by Stats.1951, c. 359, p. 807, § 1, providing that failure to render aid to a hunting injury

victim was a misdemeanor, was repealed by Stats.1961, c. 1815, p. 3864, § 3. See now, Fish & G.C. § 3009.

## § 628.2. Reports by schools; compilation of data; distribution; use for evaluation of crime prevention programs; public documents

On forms prepared and supplied by the State Department of Education, each school in a school district shall forward a completed report of crimes committed on school grounds at the end of each reporting period to the district superintendent.

The district superintendent shall compile the school data and submit the aggregated data to the State Department of Education not later than February 1 for the reporting period of July 1 through December 31, and not later than August 1 for the reporting period January 1 through June 30.

Asterisks \* \* \* indicate deletions by amendment

The State Department of Education shall distribute, upon request, to each office of the county superintendent of schools and each county probation department, a summary of that county's district reports and the summary of statewide aggregated data. This information shall be supplied not later than January 1 of each year for the previous school year. The department shall also submit to the Legislature a summary of the statewide aggregated data not later than January 1 of each year for the previous school year. In addition, commencing with the second annual report, the department shall also evaluate school district crime prevention programs by comparing the numbers and rates of crimes and the resulting economic losses for each year against those of previous years.

All school district, county, and statewide reports prepared under this chapter shall be deemed public documents and shall be made available to the public at a price not to exceed the actual cost of duplication.

(Added by Stats.1984, c. 1607, p. —, § 1.)



C. 265

ANNOTATED LAWS OF MASSACHUSETTS

Sec. 35

**Sec. 37. Civil Rights Violations; Sentence and Punishment.**

No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with, or oppress or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him by the constitution or laws of the commonwealth or by the constitution or laws of the United States. Any person convicted of violating this provision shall be fined not more than one thousand dollars or imprisoned not more than one year or both; and if bodily injury results, shall be punished by a fine of not more than ten thousand dollars or by imprisonment for not more than ten years, or both. (1979, 801 Sec. 2, approved Nov. 16, 1979, effective 90 days thereafter.)

CALIFORNIA CIVIL CODE

PERSONAL RIGHTS

**§ 51. [Citation of section: Civil rights of persons in business establishments]**

This section shall be known, and may be cited, as the Unruh Civil Rights Act.

All persons within the jurisdiction of this State are free and equal, and no matter what their race, color, religion, ancestry, or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

This section shall not be construed to confer any right or privilege on a person which is conditioned or limited by law or which is applicable alike to persons of every color, race, religion, ancestry, or national origin.

DISCRIMINATION

**§ 51.5. [Discrimination by business establishment prohibited]**

No business establishment of any kind whatsoever shall discriminate against, boycott or blacklist, refuse to buy from, sell to, or trade with any person in this state because of the race, creed, religion, color, national origin, or sex of such person or of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

As used in this section "person" includes any person, firm, association, organization, partnership, business trust, corporation, or company.

Added Stats 1976 ch 366 § 1.

*Note*—Stats 1976 ch 366 also provides: § 3. It is the intent of the Legislature that the State of California by the provisions of this act not preempt this area of concern so that other jurisdictions in the state may take actions appropriate to their concerns.

14 Am Jur Proof of Facts 2d 511, Racial Discrimination in Sale of Real Estate, §§ 17 et seq. (Proof of refusal to sell property because of racial discrimination).

Mohr and Weber, The Unruh Civil Rights Act: Just how far does it reach. (1977) 11 Bev Hills BJ 32.

Kids allowed: Children may not be excluded from apartments and condominiums, but mobile home parks are a different matter. (1983) 3 Cal Law No. 11 p 22.

Review of Selected 1976 California Legislation. 8 Pacific LJ 201.

Trailer park as place of public accommodation within meaning of state civil rights statutes. 70 ALR3d 1142.

Refusal to rent residential premises to persons with children as unlawful discrimination. 30 ALR4th 1187.

Under Civ. Code, § 51.5, which provides that "No business establishment of any kind whatsoever shall discriminate against . . . refuse to buy from, sell to, or trade with any person . . . because of the race, creed, religion, color, national origin or sex of such person . . .," and under the Unruh Civil Rights Act "in general (Civ. Code, §§ 51, 51.5, 52) "business establishment" had the broadest meaning reasonably possible, including all commercial and noncommercial entities open to and serving the general public. Thus, publishers of a "Christian Yellow Pages" limiting advertisements to those placed by born-again Christians, which clearly had business-like attributes and fit both the commercial and noncommercial aspects of the meaning of "business establishment," were a "business establishment" within the meaning of the Unruh Civil Rights Act, notwithstanding the fact that they operated under the aegis of a nonprofit religious corporation and believed their work was a ministry. *Pines v Tomson* (1984, 2d Dist) 160 Cal App 3d 370, 206 Cal Rptr 866.

Sec. 51.7. Freedom from violence or intimidation

(a) All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute. The identification in this subdivision of particular bases of discrimination is illustrative rather than restrictive.

(b) As used in this section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality.

(Amended by Stats. 1984, c. 1437, p. ---, Sec. 1; Stats. 1985, c. 497, p. ---, Sec. 1.)

**1984 Amendment.** Inserted subdivision designation (a) at the beginning of the existing paragraph; added to subd. (a), "sexual orientation, age, disability,"; and added subd. (b).

**1985 Amendment.** Added the last sentence of subd. (a).

**Law Review Commentaries**

Unruh Civil Rights Act: An uncertain guarantee. (1983) 31 U.C.L.A. Law Rev. 443.

PERSONAL RIGHTS

§ 52. Denial of civil rights or discrimination; damages; civil action by people or person aggrieved; intervention

**§ 52. [Actions for damages and other relief]**

(a) Whoever denies, or who aids, or incites such denial, or whoever makes any discrimination, distinction or restriction on account of sex, color, race, religion, ancestry, or national origin contrary to the provisions of Section 51 or 51.5, is liable for each and every such offense for the actual damages, and such amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than two hundred fifty dollars (\$250), and such attorney's fees as may be determined by the court in addition thereto, suffered by any person denied the rights provided in Section 51 or 51.5.

(b) Whoever denies the right provided by Section 51.7, or whoever aids, incites, or conspires in such denial, is liable for each and every such offense for the actual damages, and ten thousand dollars (\$10,000) in addition thereto, suffered by any person denied such right. In the case of multiple offenders, the ten thousand dollar (\$10,000) fine shall be prorated between them.

(c) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights hereby secured, and that the pattern or practice is of such a nature and is intended to deny the full exercise of the rights herein described, the Attorney General, any district attorney or city attorney, or any person aggrieved by the pattern or practice may bring a civil action in the appropriate court by filing with it a complaint (1) signed by the officer (or in his or her absence the individual acting on behalf of the officer) or by the person aggrieved, (2) setting forth facts pertaining to the pattern or practice, and (3) requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for such pattern or practice, as he or she deems necessary to insure the full enjoyment of the rights herein described.

(d) Whenever an action has been commenced in any court seeking relief from the denial of equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States on account of race, color, religion, sex, or national origin, the Attorney General or any district attorney or city attorney for or in the name of the people of the State of California may intervene in the action upon timely application if the Attorney General or any district attorney or city attorney certifies that the case is of general public importance. In such action the people of the State of California shall be entitled to the same relief as if it had instituted the action.

(e) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved party.

Amended Stats 1974 ch 1193 § 2; Stats 1976 ch 366 § 2, ch 1293 § 2.5; Stats 1978 ch 1212 § 1; Stats 1981 ch 521 § 1, effective September 16, 1981.

**Amendments:**

**1974 Amendment:** (1) Added "sex,"; and (2) deleted the comma after "national origin".

**1976 Amendment:** (1) Designated the former section to be subd (a); (2) amended subd (a) by adding (a) "or 51.5" wherever it appears; (b) "such amount as may be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damage but in no case less than" after "damages, and"; and (c) ", and such attorneys fees as may be determined by the court" before "in addition"; and (3) added subds (b)-(c).

**1978 Amendment:** (1) Added "or any district attorney or city attorney" after "Attorney General" wherever it appears in subds (c) and (d); and (2) substituted subd (c)(1) for former subd (c)(1) which read: "(1) signed by him (or in his absence the Acting Attorney General)".

**1981 Amendment:** (1) Deleted "of this code" after "Section 51 or 51.5" wherever it appears in subd (a); (2) generally eliminated "such"; and (3) amended subd (c) by (a) substituting "there is" for "the Attorney General or any district attorney or city attorney has" after "Whenever"; (b) substituting the comma after "Attorney General" for "or"; (c) adding ", or any person aggrieved by the pattern or practice" after "city attorney"; and (d) adding "or she" near the end of the subdivision.

Aggrieved person alleging violation of section prohibiting discrimination in publicly assisted housing accommodation to file verified complaint with State Fair Employment Practice Commission only upon waiver of his rights or claims under this Section: H & S C § 35731.

Witkin Summary (8th ed) pp 3143, 3719, 3720, 3721, 3723, 3731.

Cal Jur 3d Amusements and Exhibitions § 18, Civil Rights §§ 2, 3, 7, 11, 15, Damages § 119, Hotels, Motels, and Restaurants § 20.

Cal Practice Rev. Ch 8A, Class Actions, Action for Violation of Unruh Civil Rights Act, Ch 109, Proceeding To Obtain Redress for Violation of State Fair Housing Laws (Rumford Act).

6 Fed Proc, L Ed, Civil Rights §§ 11:1 et seq.

3 Am Jur Proof of Facts 2d 221, Racial Discrimination in Employment—Recruiting and Hiring Practices, §§ 12 et seq. (proof of racially discriminatory recruiting practices, or discriminatory application and operation of facially neutral, hiring policies).

4 Am Jur Proof of Facts 2d 477, Racial Discrimination in Employment—Post-Hiring Practices, §§ 11 et seq. (Racially discriminatory post-hiring practices).

14 Am Jur Proof of Facts 2d 511, Racial Discrimination in Sale of Real Estate, §§ 17 et seq. (Proof of refusal to sell property because of racial discrimination).

21 Am Jur Trials pp 1, 9 (Employment discrimination action under Federal Civil Rights Acts).

Mohr and Weber, The Unruh Civil Rights Act: Just how far does it reach. (1977) 11 Bev Hills BJ 32.

Discrimination under the Unruh Civil Rights Act. 60 CLR 1024.

Kids allowed: Children may not be excluded from apartments and condominiums, but mobile home parks are a different matter. (1983) 3 Cal Law No. 11 p 22.

Housing discrimination against children: The legal status of a growing social problem. (1977-78) 16 J of Fam L 559.

May private clubs lawfully discriminate? (1975) 51 LA BJ 9.

Review of Selected 1976 California Legislation. 8 Pacific LJ 201.

Review of Selected 1978 California Legislation. 10 Pacific LJ 374.

Review of 1981 Legislation. 13 Pac LJ 784.

California's approach to racial discrimination in employment; complaint process or voluntary affirmative action. 5 USF LR 404.

## CALIFORNIA PENAL CODE

**§ 1170.75. Felony attempted or committed because of victim's race, color, religion, nationality, or country of origin; aggravation of crime**

Except in a case in which the person has been convicted of an offense subject to Section 1170.8, the fact that a person committed a felony or attempted to commit a felony because of the victim's race, color, religion, nationality, or country of origin, shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

(Added by Stats.1984, c. 1449, § 1.)

**Library References**

Criminal Law ⇐986.2(1).  
C.J.S. Criminal Law §§ 1573, 1983(2).

**§ 1170.8. Arson, robbery, or assault in places of worship; aggravation of crime**

(a) The fact that a robbery or an assault with a deadly weapon or instrument or by means of any force likely to produce great bodily injury was committed against a person while that person was in a church, synagogue, or building owned and occupied by a religious educational institution, or any other place primarily used as a place of worship where religious services are regularly conducted, shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

(b) Upon conviction of any person for a violation of Section 451 or 453, the fact that the person intentionally burned, or intended to burn, a church, synagogue, or building owned and occupied by a religious educational institution, or any other place primarily used as a place of worship where religious services are regularly conducted, shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

(Added by Stats.1982, c. 929; p. 3383, § 1.)

**§ 11400****PENAL CODE****ARTICLE 4. CRIMINAL SYNDICALISM****§ 11400. Definition****Law Review Commentaries**

Right of publicity: Dispelling survivability, preemption and first amendment myths threatening to eviscerate a

recognized state right. Michael J. McLane, (1984) 20 C.W. L.R. 415.

**ARTICLE 4.5. TERRORIZING****Section**

11410. Legislative findings, declaration and intent.

11411. Terrorism; burning or desecration of religious symbols; placement or display of physical impressions; punishment.

11412. Threats obstructing exercise of religion.

11413. Terrorism; use of destructive device, explosive or commission of arson; places of worship; places or meetings involving abortion; punishment [New].

*Article 4.5 was added by Stats.1982, c. 1624, p. 6489, § 2.*

**§ 11410. Legislative findings, declaration and intent**

The Legislature finds and declares that it is the right of every person regardless of race, color, creed, religion or national origin, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. It is not the intent of this chapter to interfere with the exercise of rights protected by the Constitution of the United States. The Legislature recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs. The Legislature further finds however, that the advocacy of unlawful violent acts by groups against other persons or groups under circumstances where death or great bodily injury is likely to result is not constitutionally protected, poses a threat to public order and safety and should be subject to criminal and civil sanctions.

(Added by Stats.1982, c. 1624, p. 6489, § 2.)

**Library References**

Breach of the Peace ⇨1(1).

C.J.S. Breach of the Peace § 2 et seq.

**§ 11411. Terrorism; burning or desecration of religious symbols; placement or display of physical impressions; punishment**

Any person who burns or desecrates a cross or other religious symbol, knowing it to be a religious symbol, or places or displays a sign, mark, symbol, emblem, or other physical impression, including but not limited to a Nazi swastika on the private property of another without authorization for the purpose of terrorizing another or in reckless disregard of the risk of terrorizing another shall be punished by imprisonment in the county jail not to exceed one year or by fine not to exceed five thousand dollars (\$5,000) or by both such fine and imprisonment for the first such conviction and by imprisonment in the county jail not to exceed one year or by fine not to exceed fifteen thousand dollars (\$15,000) or by both such fine and imprisonment for any subsequent conviction. As used herein, "terrorize" means to cause a person of ordinary emotions and sensibilities to fear for personal safety.

(Added by Stats.1982, c. 1624, p. 6490, § 2.)

**Library References**

Breach of the Peace ⇨1(4).

C.J.S. Breach of the Peace § 2 et seq.

**§ 11412. Threats obstructing exercise of religion**

Any person who, with intent to cause, attempts to cause or causes another to refrain from exercising his or her religion or from engaging in a religious service by means of a threat, directly

Underline indicates changes or additions by amendment



PENAL CODE

§ 11501

communicated to such person, to inflict an unlawful injury upon any person or property, and it reasonably appears to the recipient of the threat that such threat could be carried out is guilty of a felony.

(Added by Stats.1984, c. 1119, p. —, § 1.)

§ 11413. **Terrorism; use of destructive device, explosive or commission of arson; places of worship; places or meetings involving abortion; punishment**

(a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive, or who commits arson, in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony, and shall be punished by imprisonment in the state prison for three, five, or seven years and a fine not exceeding ten thousand dollars (\$10,000).

(b) Subdivision (a) applies to the following places:

(1) Any health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or any place where medical care is provided by a licensed health care professional.

(2) Any church, temple, synagogue, or other place of worship.

(3) The buildings, offices, and meeting sites of organizations that counsel for or against abortion or among whose major activities are lobbying, publicizing, or organizing with respect to public or private issues relating to abortion.

(4) Any place at which a lecture, film-showing, or other private meeting or presentation that educates or propagates with respect to abortion practices or policies, whether on private property or at a meeting site authorized for specific use by a private group on public property, is taking place.

(c) As used in this section, "terrorizing" means to cause a person of ordinary emotions and sensibilities to fear for personal safety.

(Added by Stats.1985, c. 1489, p. —, § 2.)

## CODE OF CIVIL PROCEDURE

## § 527.6

Executive Bd. of Culinary Workers, Bartenders, Hotel, Motel and Club Service Workers (1981) 177 Cal.Rptr. 690, 124 C.A.3d 666.

**§ 527.6. Harassment; temporary restraining order and injunction; procedure; costs and attorney fees; punishment**

(a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order, and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, "harassment" is a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff. "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with \* \* \* subdivision (a) of Section 527 \* \* \*. A temporary restraining order may be granted with or without notice upon an affidavit which, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(d) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response which explains, excuses, justifies, or denies the alleged harassment or may file a cross-complaint under this section. At the hearing, the judge shall receive such testimony as is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) Nothing in this section shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(f) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition.

(g) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the clerk to mail, a copy of each temporary restraining order or injunction, or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

(h) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(i) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(j) This section does not apply to any action covered by Section 4359 or 7020 of the Civil Code, or by Chapter 4 (commencing with Section 540) of this title, or by Title 1.6C (commencing with Section 1788) of the Civil Code. Nothing in this section shall preclude a plaintiff's right to utilize other existing civil remedies.

(k) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

(Amended by Stats.1979, c. 795, p. 2708, § 8, operative July 1, 1980; Stats.1980, c. 1158, p. 3878, § 5; Stats.1981, c. 182, p. 1101, § 2; Stats.1982, c. 423, p. 1774, § 1; Stats.1984, c. 1163, p. —, § 1.)

Asterisks \* \* \* indicate deletions by amendment

OFFICIAL FORMS

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**1979 Amendment.** Substituted "The court shall order the plaintiff or the attorney for the plaintiff to deliver and the clerk to mail" for "The clerk shall transmit" at beginning of subd. (g), and substituted reference to "Section 4359 or 7020 of the Civil Code, by Chapter 4 (Commencing with Section 540) of this title" for "subdivision (b) of Section 527 of this code" in subd. (j).

**1980 Amendment.** Substituted in the first sentence of subd. (b) "the person" for "such person"; substituted in subd. (f) "shall be personally served" for "be personally served"; substituted in the first sentence of subd. (g) "to deliver or the clerk to mail" for "to deliver and the clerk to mail", "the order" for "such order" and "the law enforcement agencies" for "such law enforcement agencies"; and substituted in the second sentence of subd. (g) "shall make available" for "may make available".

**1981 Amendment.** Inserted in subd. (i) "Section 273.6 of the Penal Code" for "Section 166 of the Penal Code".

**1982 Amendment.** Substituted "punishable" for "a misdemeanor" in subd. (i).

**1984 Amendment.** Deleted "the provisions of" before and "of the Code of Civil Procedure" after "subdivision (a) of Section 527" in first sentence of subd. (c); inserted "or may file a cross-complaint under this section" in second sentence of subd. (d); substituted "is" for "shall be" before "punishable" in subd. (i); substituted "does" for "shall"

before "not apply" in subd. (j); and made other nonsubstantive changes.

**Law Review Commentaries**

Restraining order legislation for battered women: A reassessment. (1982) 16 U.S.F.L.Rev. 703.

Notes of Decisions

1. In general

Activities of former resident of mobile home park in exercising his right of petition to administrative agencies, executive or judicial branch of government regarding park conditions, improvements, inspections, and permits could not be classified as harassing "course of conduct" within meaning of this section so as to entitle park owner to injunction against them. *Smith v. Silvey* (App. 2 Dist.1983) 197 Cal.Rptr. 15, 149 C.A.3d 400.

Evidence that, following physician's termination from his staff position at defendant hospital, hospital continued course of conduct toward physician which could only be described as undue harassment to prevent his returning to the staff constituted evidence of repeated wrongful acts so as to make injunctive relief available, rather than evidence of "completed act" which could not be redressed by preliminary injunction. *Volpicelli v. Jared Sydney Torrance Memorial Hospital* (1980) 167 Cal.Rptr. 610, 109 C.A.3d 242.

§ 527.7. Groups meeting, advocating and acting in furtherance of unlawful force or violence against persons; injunctions; bad faith actions

(a) It shall be unlawful for any group, association, organization, society, or other assemblage of two or more persons to meet and to advocate, and to take substantial action in furtherance of, the commission of an unlawful act of violence or force directed to and likely to produce the imminent and unlawful infliction of serious bodily injury or death of another person within this state.

(b) Whenever it reasonably appears that any group, association, society, or other assemblage of two or more persons has met and taken substantial action in furtherance of the commission of an act of violence made unlawful by subdivision (a) and will engage in those acts in the future, any aggrieved individual may bring a civil action in the superior court to enjoin the advocacy of the commission of any act of violence made unlawful by subdivision (a) at any future meeting or meetings. Upon a proper showing by clear and convincing evidence, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted.

(c) Whenever it appears that an action brought under this section was groundless and brought in bad faith for the purpose of harassment, the trial court or any appellate court may award to the defendant attorney's fees and court costs incurred for the purpose of defending the action.

(Added by Stats.1982, c. 1624, p. 6489, § 1.)

**Library References**

Conspiracy ⇐23.  
C.J.S. Conspiracy §§ 34, 35.

§ 529. Undertaking; objection; insufficiency; dissolution of injunction; exceptions

(a) On granting an injunction, the court or judge must require . . . an . . . undertaking on the part of the applicant . . . to the effect that . . . the applicant will pay to the party enjoined such damages, not exceeding an amount to be specified, as . . . the party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled . . . to the injunction. Within five days after the service of the injunction, the person enjoined may . . . object to the

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undertaking. If the court determines that the applicant's undertaking is insufficient and a sufficient undertaking is not filed within the time required by statute, the order granting the injunction must be dissolved.

(b) This section does not apply to any of the following persons:

- (1) Either spouse against the other in a proceeding for legal separation or dissolution of marriage.
- (2) The plaintiff in proceedings pursuant to Chapter 4 (commencing with Section 540).
- (3) The plaintiff in proceedings pursuant to Section 7020 of the Civil Code.
- (4) A public entity or officer described in Section 995.220.

(Amended by Stats.1979, c. 795, p. 2710, § 9, operative July 1, 1980; Stats.1982, c. 517, p. 2340, § 123.)

#### Law Revision Commission Comment 1982 Amendment

Section 529 is amended for consistency with the Bond and Undertaking Law. See Sections 995.220 (undertaking not required of public entity or officer), 995.310 (sureties on undertaking), 995.920 (grounds for objection), 995.930 (manner of making objection), 995.950 (hearing on objection), 995.960 (determination of sufficiency of undertaking).

Unlike Section 995.930, Section 529 requires objection to an undertaking to be made within 5 days after service of the injunction, rather than within 10 days after service of the undertaking. The other changes in Section 529 are technical. (16 Cal.L.Rev.Comm. Reports 501).

**1979 Amendment.** Substituted "either spouse against the other in a proceeding for legal separation or dissolution of marriage, or plaintiff in proceedings pursuant to Chapter 4 (commencing with Section 540) of this title, or plaintiff in proceedings pursuant to Section 7020 of the Civil Code" for "or either spouse against the other in an action for divorce or separate maintenance" in first sentence.

**1982 Amendments.** Added subdivision designation; deleted exception, substituted "an" for "a written" before "undertaking", deleted "with sufficient sureties," before "to the effect", substituted "the applicant" for "he" before "will pay" and "the" for "such" before "party" and substituted "to the injunction" for "thereto" in first sentence of subd. (a); rewrote former last sentence and added last sentence of subd. (a); and added subd. (b).

Bond or undertaking given before Jan. 1, 1983 to remain in effect notwithstanding repeal or amendment by Stats. 1982, c. 517 of all or part of statute, and law governing the bond or undertaking to be continued in effect, see note under Bus. & Prof. C. § 125.5.

#### Cross References

Bond and Undertaking Law, see § 995.010 et seq.

#### Law Review Commentaries

Injunction bonding in environmental litigation. Alexander T. Henson and Kenneth F. Gray (1979) 19 Santa Clara L.Rev. 541.

Restraining order legislation for battered women: A reassessment. (1982) 16 U.S.F.L.Rev. 703.

Security for costs requirement in California. (1978) 6 Pepperdine L.Rev. 191.

#### Library References

Recommendations relating to statutory bonds and undertakings, 16 Cal.L.Rev.Comm. Reports 501 (1982).

#### Notes of Decisions

Sufficiency of sureties 12.5

Asterisks \* \* \* indicate deletions by amendment

#### 2. Construction and application

Sections 1041 and 1057 containing general provisions relating to suretyship did not explicitly or implicitly require that plural language "sureties" in this section requiring that undertaking conditional to issuance of preliminary injunction be accompanied "with sufficient sureties" as meaning two or more sureties; §§ 1041 and 1057 simply prescribed what sureties must undertake and what officer taking bond must require in event noncorporate surety is furnished. *River Trails Ranch Co., Ltd. v. Superior Court In and For Modoc County* (1980) 168 Cal.Rptr. 747, 111 C.A.3d 562.

#### 4. — Temporary restraining order, undertaking

The posting of security is not a prerequisite to the issuance of a valid temporary restraining order. *Wallace v. Miller* (1983) 189 Cal.Rptr. 637, 140 C.A.3d 636.

#### 5. — Temporary or preliminary injunction, undertaking

Protective order, which prevented homeowners association from performing any topping, cutting, removal, replacement, installation or relocation of trees and bushes at town house project until completion of association's action for negligent design of landscaping because root systems of plants allegedly interfered with underground utility system, had purpose to preserve evidence, i.e., maintain status quo, and thus order was tantamount to a prohibitory injunction, with result that order was void without an undertaking. *Northpoint Homeowners Ass'n v. Superior Court In and For Santa Clara County* (1979) 157 Cal.Rptr. 42, 95 C.A.3d 241.

#### 8. — Amount of undertaking

Upon granting preliminary injunction, court must require a bond or allow a deposit in lieu thereof to protect party against whom injunction lies, and amount of bond is fixed by the judge, exercising sound discretion, based on probable damage enjoined party may sustain because of the injunction. *Hummell v. Republic Federal Sav. & Loan* (1982) 183 Cal.Rptr. 708, 133 C.A.3d 49.

CODE OF CIVIL PROCEDURE

§ 540  
NOTE 1

CHAPTER 4. PREVENTION OF DOMESTIC VIOLENCE

Article	Section
1. General Provisions .....	540
2. Protective Orders .....	545
3. Registration and Enforcement of Orders .....	550

*Chapter 4 was added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980.*

ARTICLE 1. GENERAL PROVISIONS

Section
540. Purpose.
541. Short title.
542. Definitions.
543. Forms and instructions; promulgation.

*Article 1 was added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980.*

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*Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.*

<p><b>Law Review Commentaries</b> California's response to domestic violence. Honorable Billy G. Mills and Mary Lyons McNamar (1981) 21 Santa Clara L.Rev. 1.</p>	<p>Restraining order legislation for battered women: A reassessment. (1982) 16 U.S.F.L.Rev. 703.</p>
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§ 540. Purpose

The purposes of this chapter are to prevent the recurrence of acts of violence by a spouse or household member against another spouse or other family or household members, or by a putative parent against a person as provided in subdivision (d) of Section 542, and to provide for a separation of the persons involved in such domestic violence for a period of time sufficient to enable such persons to seek resolution of the causes of the violence.

(Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980. Amended by Stats.1984, c. 1163, p. —, § 2.)

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1984 Amendment. Inserted “, or by a putative parent against a person as provided in subdivision (d) of Section 542.”

**Library References**  
Divorce §87.  
C.J.S. Divorce § 103.

an action for legal separation or dissolution of marriage from filing a concurrent action under the Act, clear intent of legislature was that spouses who were parties to an action for legal separation or dissolution of marriage would continue to obtain pendente lite injunctive relief under Fair Law Act (Civ.C. § 4000 et seq.). In re Marriage of Hook, (App. 3 Dist.1983) 195 Cal.Rptr. 541, 147 r 970.

Notes of Decisions

1. In general  
Although Domestic Violence Prevention Act (this section et seq.), does not explicitly prevent spouses who have filed

Asterisks \* \* \* indicate deletions by amendment

§ 541

CODE OF CIVIL PROCEDURE

§ 541. Short title

This chapter may be cited as the Domestic Violence Prevention Act. (Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980.)

OFFICIAL FORMS

Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.

§ 542. Definitions

As used in this chapter, the following words have the following meanings:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(b) "Domestic violence" is abuse perpetrated against a family or household member, or against a person as provided in subdivision (d).

(c) "Family or household member" means a spouse, former spouse, parent, child, any other person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who within the last six months regularly resided in the household.

(d) A person who is the parent of a minor child shall be eligible to proceed under this chapter where there exists (1) the presumption that the male parent is the father of any minor child of the female parent pursuant to Section 7000 et seq. of the Civil Code and (2) one parent has perpetrated abuse against the other parent as defined in subdivision (a).

(Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980. Amended by Stats.1980, c. 1158, p. 3880, § 6; Stats.1984, c. 1163, p. —, § 3.)

OFFICIAL FORMS

Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.

1980 Amendment. Inserted in subd. (a) "herself"; substituted in subd. (c) "a spouse" for "spouse"; deleted in subd. (d) "and has sexual relations with another family or household member residing in the household" following "residing in the household"; and deleted at the end of subd. (d) "during which time he or she had sexual relations with another family or household member presently residing in the household".

1984 Amendment. Inserted "or against a person as provided in subdivision (d)" in the definition of "Domestic violence"; and added subd. (d).

Library References Words and Phrases (Perm.Ed.)

§ 543. Forms and instructions; promulgation

The Judicial Council shall promulgate forms and instructions for applications for orders and orders granted pursuant to this chapter.

(Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980.)

OFFICIAL FORMS

Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.

ARTICLE 2. PROTECTIVE ORDERS

Section

- 545. Issuance upon affidavit which shows reasonable proof of past act or acts of abuse.
546. Ex parte protective orders; annulment, dissolution of marriage and certain nonmarital relationships; order to show cause if granted without notice.
547. Orders issuable upon notice and hearing.
547.5. Visitation limited to situations in which third person is present; best interest of child; considerations.

Underline indicates changes or additions by amendment

**Section**

- 548. Duration of order; extension.
- 549. Remedies in this chapter additional to other remedies.

*Article 2 was added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980.*

**Cross References**

Certified copy of order, exemption from fee for indigent plaintiff, see Government Code § 26833.5.

**Law Review Commentaries**

Temporary restraining orders. (1982) 13 Pacific L.J. 675.

**§ 545. Issuance upon affidavit which shows reasonable proof of past act or acts of abuse**

A temporary restraining order may be granted with or without notice to restrain any person upon an affidavit which, to the satisfaction of the court, shows reasonable proof of a past act or acts of abuse for the purpose of preventing a recurrence of domestic violence and assuring a period of separation of the persons involved. A temporary restraining order may be granted pursuant to this chapter to any family or household member who, prior to or at the time such order is granted, was actually residing with the person or persons at whom such order is directed, or to a person provided in subdivision (d) of Section 542. The right to petition for relief shall not be denied because the plaintiff has vacated the household to avoid abuse, and in the case of a marital relationship, notwithstanding that a petition for legal separation, nullity of marriage, or dissolution of marriage has not been filed. Such order may be granted in the manner provided in Section 527.

(Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980. Amended by Stats.1984, c. 1163, p. —, § 4.)

**OFFICIAL FORMS**

*Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.*

1984 Amendment. Inserted "or to a person provided in subdivision (d) of Section 542" in the second sentence.

**Law Review Commentaries**

Restraining order legislation for battered women: A reassessment. (1982) 16 U.S.F.L.Rev. 703.

**Library References**

Divorce ⇐87.  
C.J.S. Divorce § 103.

**§ 546. Ex parte protective orders; annulment, dissolution of marriage and certain nonmarital relationships; order to show cause if granted without notice**

The court may issue ex parte any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant any of the orders set forth in paragraphs (2), (3) and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of \* \* \* such child. In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be \* \* \* dissolved, on the earliest day that the business of the court will permit, but not later than \* \* \* 20 days or, if good cause appears to the court, \* \* \* 25 days from the date the temporary restraining order is granted. The court may on motion of the plaintiff or on its own motion shorten the time for service on the defendant of the order to show cause.

The court may issue an ex parte order pursuant to this article, excluding one party, from a residence or dwelling only when the affidavit in support of an application for the order affirmatively shows facts sufficient for the court to ascertain that the plaintiff has a right under color of law to possession of the premises.

(Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980. Amended by Stats.1980, c. 1158, p. 3880, § 7; Stats.1981, c. 182, p. 1103, § 3.)

**OFFICIAL FORMS**

*Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.*

**Asterisks \* \* \* indicate deletions by amendment**

1980 Amendment. Substituted in the second sentence of subd. (a) "why the order should not be granted" for "why the order should not be dissolved".

1981 Amendment. Substituted in the first sentence of the first paragraph "such child" for "the child"; substituted in the second sentence of the first paragraph "why the order should not be dissolved" for "why the order should not be

granted"; and substituted in the second sentence of the first paragraph "20 days" for "15 days" and "25 days" for "20 days".

**Law Review Commentaries**

Restraining order legislation for battered women: A reassessment. (1982) 16 U.S.F.L.Rev. 703.

**§ 547. Orders issuable upon notice and hearing**

The court may issue upon notice and a hearing, any of the following orders:

(a) Any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant, any of the orders set forth in paragraphs (2), (3), (5) and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of the child. After notice and a hearing, the court may order the exclusion of one party from the common dwelling of both parties or from the dwelling of the other party on a finding only that physical or emotional harm would otherwise result to the other party or any person under the care, custody, or control of the other party or to any minor child of the parties or of the other party.

(b) Where there exists a presumption that the defendant is the natural father of any minor child, pursuant to Section 7004 of the Civil Code, and the child is in the custody of the plaintiff, the court may order a party to pay any amount necessary for the support and maintenance of the child if such an order would otherwise be authorized in an action brought pursuant to Part 7 of Division 4 (commencing with Section 7000) of the Civil Code; however any order pursuant to this subdivision shall be without prejudice in any such action.

(c) An order that restitution be paid to the family or household member for loss of earnings and out-of-pocket expenses, including, but not limited to, expenses for medical care and temporary housing, incurred as a direct result of the abuse or any actual physical injuries sustained therefrom; an order that restitution be paid by plaintiff for out-of-pocket expenses incurred by a party as a result of any order issued ex parte which is found by the court to have been issued upon facts shown at a noticed hearing to be insufficient to support the order; or an order requiring that the defendant shall pay any public or private agency for the reasonable cost of providing services to a family or household member required as a direct result of the abuse inflicted by the defendant or any actual injuries sustained therefrom.

(d) An order requiring any party to participate in counseling where the parties so stipulate or where it is shown that the parties intend to continue to reside in the same household or have continued to reside in the same household after previous instances of domestic violence.

(e) An order for the payment of attorneys fees and costs of the prevailing party.

(Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980. Amended by Stats.1980, c. 1158, p. 3881, § 8; Stats.1982, c. 578, p. 2598, § 1; Stats.1982, c. 1238, p. 4563, § 1; Stats.1984, c. 439, p. —, § 2.)

**OFFICIAL FORMS**

*Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.*

1980 Amendment. Substituted "the" for "such" throughout the section.

1982 Amendment. Substituted "; an order that restitution" for ", or an order that restitution", and added "; or an order requiring that the defendant shall pay any public or private agency for the reasonable cost of providing services to a family or household member required as a direct result of the abuse inflicted by the defendant or any actual injuries sustained therefrom" in subd. (c).

1984 Amendment. Inserted the second sentence of subd. (a).

**Cross References**

Effect of amendment of section by two or more acts at the same session of the legislature, see Government Code § 9605.

**Law Review Commentaries**

Restraining order legislation for battered women: A reassessment. (1982) 16 U.S.F.L.Rev. 703.

Underline indicates changes or additions by amendment



**§ 550**

**CODE OF CIVIL PROCEDURE**

**Section**

- 551. Willful and knowing violation of order; penalty.
- 552. Statements on face of order; expiration date and notice.
- 553. Appointment of counsel to represent plaintiff; payment of attorneys' fees and costs.

*Article 3 was added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980.*

**§ 550. Transmittal of copy of order and proof of service to local law enforcement agency; availability to officers**

The court shall order the plaintiff or the attorney for the plaintiff to deliver \* \* \* or the county clerk to mail a copy of any order, or extension, modification or termination thereof granted pursuant to this chapter, by the close of the business day on which \* \* \* the order, extension, modification or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the plaintiff or the attorney for the plaintiff, having jurisdiction over the residence of the plaintiff and such other locations where the court determines that acts of domestic violence against the plaintiff are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms and current status of any order issued pursuant to this chapter to any law enforcement officer responding to the scene of reported domestic violence.

(Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980. Amended by Stats.1980, c. 1158, p. 3881, § 9.)

**OFFICIAL FORMS**

*Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.*

**1980 Amendment.** Substituted in the first sentence "to deliver or the county clerk to mail" for "to deliver and the county clerk to mail" and "the order" for "such order"

**Law Review Commentaries**  
Restraining order legislation for battered women: A reassessment. (1982) 16 U.S.F.L.Rev. 703.

**§ 551. Willful and knowing violation of order; penalty**

Any willful and knowing violation of any order authorized in this chapter granted in accordance with the terms of paragraph (2), (3) or (6) of subdivision (a) of Section 4359 of the Civil Code shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

(Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980.)

**OFFICIAL FORMS**

*Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.*

**Law Review Commentaries**

Restraining order legislation for battered women: A reassessment. (1982) 16 U.S.F.L.Rev. 703.

**§ 552. Statements on face of order; expiration date and notice**

Any order issued pursuant to this chapter shall state on its face the date of expiration of the order and a notice in substantially the following form:

"NOTICE: These orders shall be enforced by all law enforcement officers in the State of California."

(Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980.)

**OFFICIAL FORMS**

*Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.*

Underline indicates changes or additions by amendment

**CODE OF CIVIL PROCEDURE**

**§ 564**

**§ 553. Appointment of counsel to represent plaintiff; payment of attorneys' fees and costs**

(a) The court may, in its discretion, appoint counsel \* \* \* to represent the plaintiff in any proceeding to enforce the terms of an order issued pursuant to this chapter in accordance with the terms of paragraph (2), (3) or (6) of subdivision (a) of Section 4359 of the Civil Code.

(b) In any proceeding in which private counsel \* \* \* was appointed by the court pursuant to subdivision (a), the court may order the defendant to pay reasonable attorneys' fees and costs incurred by the plaintiff \* \* \*.

(Added by Stats.1979, c. 795, p. 2710, § 10, operative July 1, 1980. Amended by Stats.1981, c. 182, p. 1103, § 4.)

**OFFICIAL FORMS**

*Mandatory and optional Forms adopted and approved by the Judicial Council are set out in Volume 23, Forms.*

**1981 Amendment.** Deleted in two places "or the district attorney" following "counsel" and omitted at the end of subd. (b) "or to reimburse the county for costs incurred

because of the representation of plaintiff in such proceeding by the district attorney".

## CALIFORNIA CIVIL CODE

## PERSONAL RIGHTS

## CIVIL CODE

## § 49

§ 48.7 Child abuse; prohibition against libel or slander action while charges pending; tolling of limitations; pleadings; demurrer; attorney fees and costs

(a) No person charged by indictment, information, or other accusatory pleading of child abuse may bring a civil libel or slander action against the minor, the parent or guardian of the minor, or any witness, based upon any statements made by the minor, parent or guardian, or witness which are reasonably believed to be in furtherance of the prosecution of the criminal charges while the charges are pending before a trial court. The charges are not pending within the meaning of this section after dismissal, after pronouncement of judgment, or during an appeal from a judgment.

Any applicable statute of limitations shall be tolled during the period that such charges are pending before a trial court.

(b) Whenever any complaint for libel or slander is filed which is subject to the provisions of this section, no responsive pleading shall be required to be filed until 30 days after the end of the period set forth in subdivision (a).

(c) Every complaint for libel or slander based on a statement that the plaintiff committed an act of child abuse shall state that the complaint is not barred by subdivision (a). A failure to include that statement shall be grounds for a demurrer.

(d) Whenever a demurrer against a complaint for libel or slander is sustained on the basis that the complaint was filed in violation of this section, attorney's fees and costs shall be awarded to the prevailing party.

(e) Whenever a prosecutor is informed by a minor, parent, guardian, or witness that a complaint against one of those persons has been filed which may be subject to the provisions of this section, the prosecutor shall provide that person with a copy of this section.

(f) As used in this section, child abuse has the meaning set forth in Section 11165 of the Penal Code.

(Added by Stats.1981, c. 253, p. —, § 1.)

## Library References

Libel and Slander ↪34.

C.J.S. Libel and Slander § 87 et seq.



# Network of Neighbors

Founded in 1977, the Network of Neighbors is predicated on the belief that the local community can play an important role in combatting hate activity. There are currently over 600 member households. Purposes of the Network are:

1. to offer support to victims by listening and offering assistance and reassurance.
2. to help create a sense of community among those who live near each other—in the conviction that in these times of alienation, mutual support is vital.
3. to keep the citizens informed of hate activities occurring in the county.
4. to keep the Human Relations Commission and the County police informed of the hate activities which may be known to Network members, but not reported to the HRC and the police.

# Network of Teens

The Network of Teens was founded in 1982. Its members are teenagers who will reach out to offer support to their peers who have been victimized.

# The Network of Neighbors and You

1. Personally welcome and offer assistance to new residents in your area.
2. Encourage your church or synagogue group, civic association, or club to engage a speaker from the Network of Neighbors.
3. Join the Network of Neighbors and respond, if needed.
4. Report incidents as they occur to the police and to the Human Relations Commission.

# What Network Members Do...

Once notified about an incident, a member calls upon a victim and listens, conveys concern, and offers reassurance. The member assists in whatever way possible—often offering to contact other agencies on behalf of the victim. Confidentiality is maintained by the Network member unless permission is received from the victim to share the particulars.

# The Human Relations Commission

The Human Relations Commission of Montgomery County, Maryland, is the county agency charged with enforcing anti-discrimination laws. The Commission protects individual rights in employment, housing, and public accommodation. Individuals are protected against discrimination based on:

- race
- color
- religion
- ancestry
- age (in employment)
- national origin
- sex
- marital status
- handicap

Additionally, the Human Relations Commission endeavors to promote community integrity and racial harmony, and to alleviate tension caused by prejudice, provocation, and harassment. Community relations efforts include:

- education through speaking engagements and workshops.
- intervention in communities experiencing tension from overt prejudice, provocation, and harassment.
- coordination of the Network of Neighbors/Network of Teens, a county-wide support effort for victims of hate activity.

**A MODEL LAW ENFORCEMENT RESPONSE**

Outlined below is a recommended model law enforcement response to incidents of racially and religiously targeted harassment and violence. The model is designed to be an ideal, but practical approach to prevention and response. The first section of the model contains the role and responsibilities of the chief executive of the agency. The model will be meaningless if the chief executive does not provide leadership by ensuring that a departmental response is developed and implemented. In the second section, a model directive is outlined.

**A. Role and Responsibilities of the Chief Executive**

1. Provide leadership by developing a strong policy statement and disseminating it to all officers and the public at large;
2. Develop a directive which defines a racially or religiously targeted incident and outlines procedures for responding to such incidents;
3. Ensure that all sworn personnel receive human relations training and that investigators receive specialized training;
4. Ensure that an appropriate response is given to all serious incidents and that follow-up investigation is carried out;
5. Require that periodic reports of incidents and the actions taken be submitted to the chief executive's office;
6. Assure that an annual review of incidents and departmental response is prepared and submitted to the chief elected official of the jurisdiction;
7. Ensure that prompt and immediate action is taken against officers who violate the policy by such conduct as failure to take reports of incidents or involvement in a hate violence incident.
8. Keep abreast of all legislative action proposed or taken to alter or amend existing police authority in racial or religious harassment investigations.

Excerpt from National Organization of Black Law Enforcement Executives, Racial and Religious Violence: A Law Enforcement Guidebook.

B. Sample Directive

1. Policy Statement

It is the policy of the \_\_\_\_\_ Department to ensure that rights guaranteed by state laws and the U.S. Constitution are protected for all citizens regardless of their race, color, ethnicity or religion. When such rights are infringed upon by violence, threats or other harassment, the Department will use every necessary resource to rapidly and decisively identify the perpetrators, arrest them and bring them before the court.

All acts of racial or religious violence or threats will be viewed as serious, and the investigations will be given priority attention. Such acts may generate fear and concern among victims and the public and have the potential of recurring, thus escalating and possibly causing counter-violence.

2. Definition

A racially or religiously targeted incident is an act or a threatened or attempted act by any person or group of persons against the person or property of another individual or group which may in any way constitute an expression of racial or religious hostility. This includes threatening phone calls, hate mail, physical assaults, vandalism, cross burnings, firebombing and the like.

3. Responsibilities (A large Agency Model)

A. Patrol Officer

- (1) When a patrol officer arrives on the scene and determines that the incident may be racially or religiously targeted, he or she will:
  - o Request a patrol supervisor;
  - o Protect the crime scene;
  - o Stabilize the victim;
  - o Apprehend the perpetrator (if applicable);
  - o Conduct a preliminary investigation;
  - o Provide assistance to the victim and/or referral to the appropriate legal or service agency;
  - o Prepare a field report;
- (2) Conduct a follow-up investigation within seven days of any incident that he or she initially responds to.

B. Patrol Supervisor

- (1) Upon arriving at the scene of a possible racially/religiously targeted incident, he or she will:
  - o Interview the patrol officer;
  - o Determine whether additional personnel, such as a crime scene search officer, are needed;
  - o Ascertain if the occurrence is racially or religiously motivated;
  - o Take steps to insure that the incident does not escalate;
  - o Assist in the stabilization of the victim;
  - o Supervise the preliminary investigation;
- (2) Notify the district commander, watch commander or senior official on duty, as appropriate;
- (3) Assure that all reports are properly completed and submitted prior to the end of that tour of duty.

c. District/Station Commander

- (1) After being notified of a hate violence incident, he or she will:
  - o Immediately report to the scene if the incident is determined to be serious;
  - o Notify appropriate units such as community relations or crime prevention, investigative and intelligence;
  - o Ensure that the chief executive is notified;
  - o Determine whether the Public Information Office should be notified;
  - o Determine whether community, religious and civic leaders should be informed and if their assistance is needed;
- (2) Review all field reports prior to their submission to the chief executive and intelligence unit;
- (3) Personally visit the victim (or the surviving family) within one week of the incident;
- (4) Conduct surveillances and other appropriate activities to ferret out suspects and/or evidence;

- (5) Assure that follow-up investigations are conducted;
- (6) Prepare scheduled reports of incidents for the chief executive, community relations unit and intelligence unit.

d. Investigative Unit

- (1) Receive copies of all reports of racially or religiously targeted incidents and establish a file or cross reference file system for the reports;
- (2) Canvass the community to identify and interview witnesses;
- (3) Coordinate the investigation with the crime scene search officer or appropriate unit;
- (4) Conduct surveillances and other appropriate activities to ferret out suspects and/or evidence;
- (5) Coordinate victim assistance with crime prevention unit.
- (6) Notify other relevant agencies or networks;
- (7) Maintain liaison with other units of the department;
- (8) Coordinate the investigation with other law enforcement agencies where appropriate;
- (9) Prepare cases for prosecution in court and provide testimony;
- (10) Keep the reporting/arresting officer informed of the status of the case;
- (11) Keep the victim informed of the status of the case;
- (12) Prepare monthly reports for the district commander;
- (13) Develop factual information for the Public Information Office;
- (14) Prepare monthly tally reports of reported incidents.

e. Community Relations or Crime Prevention Unit

- (1) Meet with neighborhood groups, residents in target communities and other groups to allay fears, reduce the potential for counter-violence and provide safety and protection information;



- (2) Assist victims and their families;
- (3) Conduct public meetings on racial/religious threats and violence in general and as it relates to specific incidents;
- (4) Establish a liaison with formal minority organizations and leaders;
- (5) Expand existing preventive programs such as anti-hate seminars for school children.

f. Intelligence Division

- (1) Assist in investigations;
- (2) Maintain liaison with federal, state and local agencies for the exchange of intelligence information;
- (3) Notify the district commander or chief executive of patterns or anticipated movement of hate groups.

g. Training Division (Police Academy)

- (1) Include human relations training in recruit and in-service training programs;
- (2) Include courses on minority cultures in recruit training. Solicit input from minority officers and community leaders;
- (3) Review and revise training program to reflect changes in the community and in society;
- (4) Provide training in victim assistance;
- (5) Assure that investigators receive specialized training.

4. Responsibilities (A Small Agency Model)

a. Chief Executive

In addition to the role and responsibilities of the chief executive that are outlined in section A, the small agency chief must also carry out most of the functions of the community relations unit, public relations officer and district commander of the large agency. The additional specific responsibilities of the small agency chief are outlined below:

- (1) After being notified of a hate violence incident, he will:

- o Determine whether immediate response is needed by the chief executive;
  - o Immediately report to the scene if the incident is serious;
  - o Designate a supervisor to oversee investigation;
  - o Determine whether community, religious and civic leaders should be informed;
  - o Determine whether the press should be notified;
  - o Ensure that appropriate action is taken by subordinates;
- (2) Personally visit the victim (or the surviving family) within one week of the incident;
  - (3) Meet with neighborhood groups, residents in target communities and other groups to allay fears, reduce the potential for counter-violence and provide safety and protection information;
  - (4) Coordinate the investigation with other law enforcement agencies where appropriate;
  - (5) Notify other relevant agencies or networks with jurisdiction or interest;
  - (6) Maintain contact with minority organizations and leaders;
  - (7) Document all actions taken.

b. Uniformed Officer

- (1) When a uniformed officer arrives on the scene and determines that the incident may be racially or religiously targeted, he or she will:
  - o Protect the crime scene;
  - o Stabilize the victim;
  - o Apprehend the perpetrator (if applicable);
  - o Notify the uniform supervisor;
  - o Conduct a preliminary investigation;
  - o Take steps to insure that the incident does not escalate;

- o Provide assistance to the victim;
- o Prepare a field report;
- (2) Conduct follow-up investigations;
- (3) Canvass the community to identify and interview witnesses;
- (4) Coordinate victim assistance.

c. Uniform Supervisor

- (1) Immediately report to the scene of any serious incident;
- (2) Determine whether additional personnel are needed;
- (3) Notify the chief executive if the incident is serious;
- (4) Receive and review all field reports;
- (5) Supervise the preliminary investigation of all serious cases;
- (6) Prepare periodic reports on hate violence activity for the chief executive;
- (7) Assist the chief executive in carrying out community relations functions.

d. Investigator/Intelligence Officer

- (1) Assume control of the investigation;
- (2) Maintain all reports of racially and religiously targeted incidents;
- (3) Contact appropriate state and/or local law enforcement agencies for assistance with serious cases;
- (4) Maintain liaison with federal, state and local agencies for intelligence information exchange;
- (5) Keep the arresting officer informed of the status of the case;
- (6) Keep the victim informed of the status of the case;

- (7) Prepare case for prosecution in court and provide testimony;
- (8) Conduct surveillances and other appropriate activities to ferret out suspects and/or evidence.

e. Training

The training responsibility may have to be carried out with the cooperation of regional or state agencies.

**THE POLICY AND PROCEDURE FOR  
HANDLING OF RACIAL, RELIGIOUS & ETHNIC INCIDENTS  
BY THE BALTIMORE COUNTY POLICE DEPARTMENT**

**PURPOSE:**

The purpose of this policy and procedure is threefold. First, the Police Department will take a proactive role by promoting peace and harmony among the diverse groups living and working within the County to protect all citizens against racial, religious and ethnic intimidation and harassment.

Second, the Police Department will immediately conduct a thorough investigation of all malicious or criminal incidents that are racially, religiously or ethnically motivated and support maximum prosecution of those who are apprehended for such acts.

Third, State law now requires all law enforcement agencies of the State to furnish to Maryland State Police "...information relating to incidents directed against racial, religious or ethnic groups." The Department must insure that all such incidents are reported to MSP and any such reported violations are dealt with immediately.

**BACKGROUND:**

In the past several years, racially and religiously motivated incidents have increased throughout the State and country. Racially or religiously motivated criminal acts not only have a devastating effect on the individual victim, but also threaten the democratic foundations of our society. Tensions and pressures are also generated within the neighborhoods affected. This Department has taken the approach that the unique nature of these crimes requires special handling from our agency. We feel an obligation not only to investigate the criminal acts but to recognize and react in a positive manner to the emotional trauma experienced by the victims, families and citizens of the community which has witnessed/suffered such incidents. Field Operations Bureau SOP 81-4, which predated the passage of the Maryland law requiring the reporting of such incidents, focused on sensitizing field operations police officers to incidents that are racially, religiously or ethnically motivated. Thus, officers responding to these hate incidents are able to:

- o Approach victims in an empathetic and supportive manner.
- o Effectively calm the victim and reduce the victim's alienation.
- o Reassure the victim that every available investigative and enforcement tool will be utilized by the police to find and prosecute the person(s) responsible for the crime.

## POLICY:

It shall be the policy of this Department to bring the investigative and enforcement elements of the Police Department into quick action following any and all reported or observed incidents of racial, religious or ethnic hatred. There is to be special emphasis placed on victim assistance and community cooperation in order to reduce victim/community trauma fear. It must be remembered that the actions taken by this agency in dealing with incidents of racial, religious and ethnic bias are visible signs of concern and commitment to the community on the part of Baltimore County government and its Police Department.

## CRITERIA FOR REPORTING R/R/E INCIDENTS

The following criteria are to be used in determining whether or not an incident is of a racially, religiously or ethnically biased nature and covered by this policy. The list is not all-inclusive. Some incidents may not clearly fit a specific definition. In those cases, a common-sense approach must be used: If it looks like an incident of racial, religious or ethnic biased, it is and should be reported as such. Verification can be made later in the investigation .

Any criminal act which is directed at any racial, religious or ethnic group. For example:

1. Burning cross or religious symbol - Any violation of Article 27, Section 10A.
2. Explosives - Any violation of Article 27, Section 138A, perpetrated against a person or persons because of their race, religion or ethnic origin.
3. Bomb threats - Any violation of Article 27, Section 151A perpetrated against a person or persons because of their race, religion or ethnic origin.
4. Destroying, injuring property of another - Any violation of Article 27, Section 111, which is directed against racial, religious or ethnic groups because of their race, religion or ethnic origin.

\*If in violating Section 111, any symbol of written language or symbol which has been historically directed against persons because of their race, religion or ethnic origin should be reported. Examples include but are not limited to: swastikas, "nigger."

5. Assault - Any verbal assault or assault and battery which is directed against a person/persons because of their race, religion or ethnic origin.

6. Disorderly conduct - Any violation of Articles 27, Section 123, (written or oral) directed against a person/persons because of their race, religion or ethnic origin and disturbs the peace and tranquility of the community.
7. Interrupting or disturbing religious meetings - Any violation of Articles 27, Section 470, which is directed against a person/persons because of their race, religion or ethnic origin.
8. Possession of firearm in proximity of public demonstration - Any violation of Article 27, Section 366, which occurs at a public demonstration for racial, religious or ethnic purposes.
9. Unlawful use of the telephone - Any violation of Article 27, Section 555A, which is directed against racial, religious, or ethnic groups because of their race, religion or ethnic origin. Example: racial, religious or ethnic slurs.
10. All common-law offenses.

Any noncriminal act directed at any racial, religious or ethnic group (or individuals within these groups), which, while not criminal, is done with the apparent intention to:

1. Harass.
2. Intimidate.
3. Threaten.
4. Retaliate.
5. Create racial, religious or ethnic conflict.

The key criterion in determining whether these incidents fit into the definition of an incident of racial, religious or ethnic bias is the motivation behind the act.

#### CRITERIA FOR VERIFICATION OF R/R/E INCIDENTS

In determining whether or not an incident reported as a racial, religious or ethnically motivated act is actually verified as such, the following criteria should be applied, either singularly or in combination.

The judgment of the investigator must also be applied in the final determination since the criteria listed below are not all inclusive.

1. Motive.
2. A lack of any other apparent motive for the R/R/E act.
3. Display of any racially, religiously or ethnically offensive symbol(s) or act(s).

4. A common-sense review of the circumstances surrounding the entire incident itself (i.e. the totality of circumstances).
5. Effect on the victim(s).
6. Statement(s) of suspect(s)/victim(s).
7. Prior history of similar incidents in same area or against the same victim group.
8. A violation of any of the offenses enumerated in the above section outlining criteria for reporting R/R/E acts.

In applying the above criteria to determine whether or not a reported case will actually be verified, it may be helpful to ask the following questions. As with the application of criteria, the following list is not all inclusive.

Questions to Consider When Verifying Racial/Ethnic Hate incidents:

1. Is victim black (or other ethnic group) and the suspect white?  
Is victim white and the suspect black (or other ethnic group)?
2. Did the incident occur because of the black (or other ethnic group)/white situation or for other reasons?
3. Is victim the only ethnic/minority group member or one of few in neighborhood?
4. Did victim recently move to area?
5. When multiple incidents occur at same time, are all victims black or other ethnic group members?
6. Has victim been involved in any recent or past public activities relating to discrimination (e.g., NAACP, anti-Klan, etc.)?
7. Has there been prior (recent) news coverage of events of a similar nature?
8. What about the manner and means of attack (e.g. color of paint, correct spelling of words, symbols or signs used, etc.)?
9. Has the victim had past or repeated attacks of a similar nature?
10. Has the correspondence of the act to holidays (Halloween), school activities (rivalry), etc., been considered?
11. Is there an ongoing neighborhood problems that may have spurred the event.
12. Could the act be retribution for some conflict with neighbors, area juveniles, etc.



13. If "KKK" is indicated in the incident:
  - A. Is the literature printed or handwritten?
  - B. Was the name used as "copy-cat" syndrome?
  - C. Is there true Klan activity known in the area?
  - D. Was this group indicated in a true sense or as a fear or scare tactic?
14. What was the motivation (as far as can be determined or reasonably inferred) of the party(s) responsible?
15. Where the true (documentable) intentions of the party(s) responsible racially/ethnically oriented or were other reasons such as pranks, vandalism, etc.?
16. Do the party(s) responsible have true understanding of the impact of the incident on blacks or other ethnic group members?

Questions to Consider When Verifying Anti-Semitic or Religious Hate Incidents:

1. Were the victims Jewish? Christian? Moslem? Buddhist? (or a member of any other religious group)? If so, is their faith known to others in the immediate area?
2. When multiple incidents occur at the same time, are all victims either Jewish or members of other religious groups (e.g., Catholics, Moslems, etc.)?
3. Has the victim been involved in any recent or past public causes relating to his faith (e.g., the Jewish "holocaust," etc.)?
4. Has there been prior (recent) news coverage of events of a similar nature?
5. What about the manner and means of attack (e.g., color of paint, correct spelling of words, symbols or signs used, etc.)?
6. Have the victims had past attacks of a similar nature?
7. Has the correspondence of the act to holidays (Halloween), school games (rivalry), etc., been considered?
8. Is there an ongoing neighborhood problems that may have spurred the event?
9. Could the act be retribution for some conflict with neighbors, area juveniles, etc.?
10. What was the motivation (as far as can be determined or reasonably inferred) of the party(s) responsible?

11. Were the true (documentable) intentions of the party(s) responsible anti-Semitism, a prank, or vandalism, etc.?

12. Do the party(s) responsible have a true understanding of the impact of the incident on members of the Jewish faith or other identifiable religious groups?

NOTE: If, after applying one or more of the above criteria, a reported R/R/E incident cannot be definitely determined to be any other type of problem (or is a "borderline" case), it shall be verified as such for investigative and statistical purposes.

PROCEDURES:

The proper investigation of R/R/E incidents is the responsibility of all Baltimore County police officers. Each officer must be sensitive to the feelings, needs and fears that may be present in the community as a result of incidents of this nature. The primary personnel responsible for investigating these types of incidents are the precinct personnel in the area in which the incident occurs. The Police Community Relations Division is available upon request of the Commanding Officer of the precinct concerned. The Intelligence Section's responsibility is to analyze incidents as they occur.

When an officer on the scene makes a determination (after applying the established criteria) that an incident is of racial, religious or ethnic bias, the following procedures are activated. To achieve a thorough investigation and a sensitive response to the victims and community, responsibilities shall be as follows:

- a. Whenever any incident as described above comes to the attention of a Department member, the incident will be immediately reported.
- b. Investigating officers shall:
  - (1) Respond in a sensitive way to the feelings and needs of the victim(s).
  - (2) Immediately take all possible investigative and enforcement action.
  - (3) Preserve the crime scene and evidence.
  - (4) Notify the Crime Laboratory if a cross burning or any other racially motivated destruction of property takes place (for possible later comparison, e.g., paints, drawings, remarks, handwriting, etc.)
  - (5) Gather evidence and process the scene on incidents to which the Crime Laboratory does not respond.
  - (6) Prepare a detailed report.

- (7) Make a follow-up visit to assure the victim that the police are doing everything possible to eliminate the fear factor and apprehend the suspect(s).

c. The field supervisor shall:

- (1) Respond immediately to the scene of all incidents as defined above.
- (2) Ensure that the crime scene is protected.
- (3) Ensure that the Crime Laboratory has been notified if a cross burning or any other racially motivated destruction of property takes place.
- (4) Request the Crime Laboratory to respond if a cross burning is not involved but the expertise of the Crime Laboratory is needed.
- (5) Ensure that the scene is properly processed and evidence gathered for incidents in which the Crime Laboratory does not respond.
- (6) Visit, as soon as possible, the victims, assuring them that the investigation will be actively pursued.
- (7) Notify the Communications Center as soon as possible of the following information (if applicable):
  - (a) Any disturbance or destruction of property that is racially religiously or ethnically motivated.
  - (b) Size of cross burned and the materials from which it was made.
  - (c) Exact time and location of the incident.
  - (d) Type of neighborhood (racial, ethnic and socio-economic make-up).
  - (e) Whether arrests are imminent or the names, addresses, dates of birth, sex, and race of any persons arrested.  
NOTE: The field supervisor shall also ensure that a computer message is sent to the Communications Center with the above information.
- (8) Arrange for an immediate increase of patrols throughout the affected area.
- (9) Ensure that all physical remains of the incident are removed after processing is completed. If the remains are too large to be transported by police vehicle, a commercial truck shall be used. If the remains cannot be removed (example: paint on walls), the supervisor shall attempt to impress upon building or property owners the need for complete restoration as soon as possible.

- (10) Ensure that the report contains full data on the materials used (cross, literature, paint, etc.) including size, construction, wrappings, messages, plus the method of removal and the disposition of the remains.
  - (11) Ensure that copies of all photos taken by precinct personnel are forwarded to the Intelligence Section for analysis purposes and monitoring only.
- e. The Crime Laboratory shall respond to the scene of any cross burning or any other racially, religiously or ethnically motivated destruction of property and shall (if applicable):
- (1) Obtain a sample of the cross, paints, or other materials used.
  - (2) Photograph and process the scene.
  - (3) Gather and take custody of any related evidence.
  - (4) Forward copies of all photographs taken by the Crime Laboratory to the Intelligence Section for analysis and monitoring purposes only.
- f. Precinct commanders shall:
- (1) Ensure that the investigation is actively pursued to a successful conclusion or until all leads have been exhausted.
  - (2) Ensure that the investigation is considered a top priority matter by the investigating personnel.
  - (3) Ensure that personnel make an immediate follow-up contact with the victims to assure that the investigation will be actively pursued.
  - (4) Makes personal contact with the victims if the severity of the case dictates this action.
  - (5) Ensure that increased patrols through the affected area are continued as long as necessary, but at least for several days following the incident.
  - (6) Maintain contact with community leaders concerning the progress of the investigation, and ensure that the words and/or symbols that cannot be removed (paint) have been appropriately covered or eliminated as soon as possible.
  - (7) Assure that victims and other concerned parties are informed of a case clearance.
  - (8) Assure that the Public Information Officer is apprised of such incidents, clearances, and any other information which may be of interest to the media.

- (9) Contact, if necessary, the Police Community Relations Division for assistance.
- g. The Intelligence Section shall:
- (1) Respond to the scene if a response is warranted in the opinion of the Intelligence Section supervisor.
  - (2) Record all cross burnings and other incidents with related analyses to detect patterns, suspects, or the participation of organized groups.
  - (3) Assist the precinct commander and investigators with intelligence data, advice, etc.; however, the responsibility the investigation will remain with the precinct commander.
- h. The Police Community Relations Division shall (if contacted by the precinct commander):
- (1) Canvass the neighborhood to inform residents of the incident.
  - (2) Attempt to mobilize community sentiment against the incident.
  - (3) Enlist the aid of religious groups, and leaders in all areas of society in an effort to obtain public condemnation of the incident.
  - (4) Reduce fear in the affected neighborhood.
  - (5) Report all investigative leads to the precinct commander.
- i. The Records and Communications Division is responsible for ensuring that cross burnings and other incidents are reported to the Maryland State Police in accordance with the requirements of the law.

**GUIDELINES - RACIAL, RELIGIOUS  
& ETHNIC - REPORTING SYSTEM**

Articles 88B, Sections 9 and 10, Maryland Annotated Code, provided:

**Section 9 Criminal Information.**

(a) In general - the Department shall collect information relative to the incidence of crime within the State, the identity of known and suspected offenders, and the arrest, disposition, and incarceration of such offenders. All law enforcement agencies of the State and all places for the confinement of persons convicted of crime, including Patuxent Institution and hospitals for the criminally insane, shall furnish such information at such times, in such form, and to such extent as may be prescribed by rule of the Superintendent.

(b) Information relating to incidents directed against racial, religious or ethnic groups.

(1) The Department shall collect and analyze information relating to incidents apparently directed against racial, religious, or ethnic groups.

(2) The Department request such information from all local law enforcement agencies and from the State Fire Marshal and include the information in its analyses. (1963, ch. 547 Setion 1; 1981. ch. 404.)

Effect of amendment - The 1981 amendment, effective July 1, 1981, designated the formerly undesignated provisions of the section as subsection (a) and added subsection (b).

**Section 10 Dissemination of Information to Participating Agencies**

(a) In general - Any information, records, and statistics collected pursuant to this subtitle shall be available for use by any agency required to furnish information, to the extent that such information is reasonably necessary or useful upon it by law. The superintendent may by rule establish such conditions for the use of availability of such information as may be necessary to its preservation, the protection of confidential information or the circumstances of a pending prosecution.

SAN FRANCISCO POLICE DEPARTMENT

UNIT GENERAL ORDER  
CONTROL CODE (83-1)  
REV. 5/30/85

ORDER NO. 1

Index as Psychiatric Liaison Unit

Third order describes the Psychiatric Liaison Unit (PLU), and procedures related to its operation.

I. COMPOSITION

The PLU presently consists of a variable number of Q-2 rank police officers on permanent assignment or temporary loan basis, one of whom is designated as "Officer-in-charge". For supervisory and administrative purposes, the unit is considered as part of the Warrant Bureau and reports accordingly. Normal watch hours are Monday through Friday 0900 - 1700 hours.

II. UNIT ACTIVITIES AND RESPONSIBILITIES

The PLU is responsible for a wide variety of activities and services including, but not limited to:

1. Voluntary and involuntary hospitalizations under Welfare & Institutions Code Provisions.
2. Evaluation of Mentally disturbed individuals.
  - a. On-site
  - b. Off-site
3. Record management of mentally disturbed individuals.
  - a. Criminal Justice system (Police, Custodial, Judicial)
  - b. Mental Health system (Public, Private sector)
  - c. Anecdotal and Collateral
4. Case origination and resolution.
5. Case acceptance and resolution.
  - a. Interdepartmental
  - b. Outside agency
  - c. Civilian referral
6. Case consultation.
  - a. Interdepartmental
  - b. Outside agency
  - c. Civilian referral

7. Teaching and Training.
  - a. Departmental (Academy, FTO, AOT)
  - b. Outside agency
8. Special document preparation (General Orders, Communication surveys, etc.).
9. Liaison and special services.
  - a. Outside law enforcement agencies (SS, FBI, IRS, NIS)
  - b. Outside mental health system agencies (TOP, CHMS, PHD)
  - c. Dignitary protection assignments
10. Public and media relations.
11. Court testimony and certification preparation
12. Property return certification.
13. Departmental administrative duties

### III. UNIT PROCEDURES

#### A. General

On a rotating and daily basis, the Officer-in-charge will designate a PLU member as Officer-of-the-Day (OD). It will be the responsibility of the OD to report personnel status to the Warrant Bureau, receive any documentation or messages for the unit, determine and schedule PLU activities for the day, assign individual officer workloads, document PLU activity for the day, and fulfill any departmental or administrative duties as needed.

During normal watch hours, requests for PLU assistance will be directed to the OD so that the unit may function in as effective and efficient a manner as possible. At other times, requests for PLU assistance may be made through the Officer-in-Charge, or the OD by telephone or pager system, or through FOB or the Operations Center. It shall be the duty of the OD to inform FOB and the Operations Center as to which telephone and pager numbers will be operational.

#### B. Special

Procedures for activities which are repetitive in nature, such as hospitalizations, or property return, are the subject of specific Unit General Orders. Unique procedures will be determined by the OD with the approval of the Officer-In-Charge.



#### IV. Unit contact

Individuals desiring PLU assistance shall be encouraged to contact the unit by mail at San Francisco Police Department; Psychiatric Liaison Unit; Room 450; 850 Bryant Street; San Francisco, CA 94114, or by telephone at (415) 553-1207. Immediate or emergency notifications may be made through FOB, or the Operations Center. These procedures insure the greatest likelihood of request receipt and response.

Dist:MF

File:psu-ugol

Date: 5/30/85

## A. HANDLING OF 5150'S\*

### Findings:

- 1) The Police Department responded to 18,000 calls regarding incidents involving mentally disturbed individuals during the last year. This resulted in about 2,000 involuntary detentions for psychiatric evaluation under section 5150 of the W&I Code; the remaining 16,000 calls were handled by the Police by arrest or other disposition. In some of these cases, the Police were called for assistance by various agency case workers even though no criminal or violent behavior had been committed by the individual.
- 2) Approximately 1100 visits/months are made at the psychiatric emergency services at SFGH and Mt. Zion. A recent survey of clients revealed that 4% had addresses in counties outside San Francisco. About 17% were homeless San Francisco residents.
- 3) There are probably 200-300 mentally ill people milling around the Tenderloin, South of Market and other areas in San Francisco who meet 5150 criteria for grave disability but who are not taken into custody for evaluation because of a lack of resources.
- 4) In recent months there have been several times when both emergency services have had to close temporarily to police-initiated 5150's. (It was noted that acute beds are sometimes made available to voluntary clients during periods of diversion.)
5. Jail is being increasingly utilized for mentally ill people who have committed minor crimes because of the unavailability of acute beds.
- 6) The use of vagrancy laws to control the mentally ill would cause severe liability problems for the City, would cause disruption and overcrowding in City jail and only serves as a very temporary solution.

\*The term "5150" pertains to any person, who as a result of a mental disorder, is a danger to others, or to himself or herself, or is gravely disabled.

City and County of San Francisco

# SENIOR ESCORT OUTREACH PROGRAM

## PRESS INFORMATION PACKET

330 Ellis Street, Suite 608  
San Francisco, CA 94102  
(415) 928-4422

**Contact Persons:**

**Mark Forrester, Director**  
**Vince Reyes, Assistant Director**  
**Raul Moreno, Neighborhood Coordinator**  
**Thelma Kavanagh, President, Senior Advisory Council**

CRIME PREVENTIONSAN FRANCISCO'S ANSWER IS SENIOR ESCORT PROGRAM

San Francisco's answer to crime against its elderly is the Senior Escort-Outreach Program, a pioneer in the area of crime prevention.

Variously funded since 1978, the program, under the directorship of Mark Forrester, is now fully funded through the police department's budget, and its Permanent Civil Service employees are trained at the Police Academy and supervised by officers of the Community Services Division of the Police Department.

The agency is mandated to serve any person 55 years of age or older who lives in one of the seven high-crime, low-income and largely ethnic neighborhoods designated. There is no means test.

Since its beginning in 1978, the Escort Program has provided nearly 450,000 protective escorts without a single incident of criminal victimization of the senior being escorted.

Offices operate with one Neighborhood Coordinator and an average of five escorts who tend to reflect the ethnicity of the neighborhoods.

Services offered are of two types - one-on-one escorts and street patrolling. All involved neighborhoods have an escort office to which seniors may call for appointments to be escorted. While medical services are given top priority, seniors may go to a variety of destinations including those that are recreational. In addition, staff in each office plan shopping and recreational group trips.

A second type of service is typified by the Western Addition Walking Patrol which, using walkie-talkies, cover the streets in an area near its Laguna Street base station where street muggings and purse-snatchings with elderly victims were numerous. The great success of that patrol in reducing street crime has encouraged the formation of two other such patrols which now operate in the North and South of Market.

Volunteers within the program do telephone and other office work and run senior advisory councils, but all escorts are done by Civil Service employees who have undergone checks by the Police Department and have been trained in all aspects of their duties during five weeks of Police Academy training which includes First Aid and CPR (cardio-pulmonary resuscitation).

## PARTIAL LIST OF INCIDENTS/EVENTS REPORTED IN THE PRESS

5/83	Pacific News Service	Immigrant Students Face Brutal Resentments
5/10/83	Sacramento Union	Slain Viet Teen-Ager Buried
5/18/83	Sacramento Bee	Laotian Neighbors Raise Tenants' Ire
6/11/82	Sacramento Union	Intern refugees, Group Here Urges
6/11/82	Sacramento Bee	Council Asked To Fight Racism Against Local Indochinese refugees
6/24/83	Sacramento Bee	Asians Organize Efforts To Counter Violence
7/13/83	East/West	Advocates Act On Violence And Bills
12/9/83	Sacramento Bee	Head Of White Student Union Threatens Violence In Letter
12/14/83	East/West	Pierman To Stand Trial For Murder Of Vietnamese Student
12/14/83	East/West	Don't Overlook Racist Hotline
12/14/83	East/West	Davis Community Reacts To Racist Incidents
1/84-2/84	Newsletter of the National Gay Task Force	Violence Project Documents 1,682 Anti-Gay/Lesbian Incidents
1/18/84	East/West	Santa Clara Officials Hear Bigotry Charges
1/21/84	The Tribune	Racist Effigy Found In Jamul
2/84	Article in Air Cal Magazine	The Ethnic Explosion: Orange County's Silent Phenomenon
2/2/84	Sacramento Bee	Racism Rides Capital CB Waves
2/21/84	San Diego Union	Report By State Panel Cites Racism In County

2/26/84	San Francisco Examiner	Hard Times, Influx Of Refugees Blamed For Anti-Asian Violence
2/27/84	San Francisco Examiner	Applause And Hisses In Richmond For TV Show On Police Problems
2/27/84	San Francisco Examiner	Richmond Cheers, Jeers, "60 Minutes"
2/28/85	San Francisco Chronicle	Richmond Fight Over "60 Minutes" Ends In Death
3/2/84	Asian Week	Mainstream Paper Notes Rising Anti-Asian Bigotry
3/14/84	Sacramento Bee	Deputies Hunt North Highlands Man Accused Of Assaulting Laotian, 15
4/29/84	The Denver Post	Blackballed? Sifford Says Prejudice Lives
5/4/84	Sacramento Bee	Davis Works To Heal Wounds Left By High School Killing
5/9/84	Sacramento Bee	Indochinese Refugees, US Society Adjusting To Each Other
5/15/84	San Francisco Chronicle	Oakland Cops Sued For \$4.8 Million
5/19/84	Sacramento Union	Board Spotlights Abuse Of Elderly
5/22/84	San Francisco Chronicle	Reports Of Police Brutality Denied By Oakland's Chief
5/23/84	San Diego Tribune	Despicable Propaganda
5/23/84	East/West	Anti-Asian Violence Growing, Say Sacramento Residents
6/1/84	Sacramento Bee	Alien Drowns While Fleeing From Border Patrol
6/13/84	San Francisco Chronicle	San Marino's Jump In Asian Immigration
6/24/84	Los Angeles Times	Jury Tackles Civil Rights Question In Beating Death Of Chinese-American
7/11/84	East/West	Anti-Asian Bigotry An Expression Of Historical Bias, Says LA Commission

7/11/84	Los Angeles Times	Old Woman's Cries For Help Prove Real
7/12/84	San Francisco Chronicle	Escort Team For Elderly To Be Enlarged
7/30/84	Los Angeles Daily Journal	Asian Task Force: Fighting Crime By Bridging A Culture Gap
8/9/84	Bay Area Reporter	Do Anti-Gay Police Belong On Gay Cases
8/10/84	Sacramento Bee	CB Racists Face Federal Probe
8/15/84	Sacramento Bee	Channels Of Hatred
8/17/84	Sacramento Bee	CB Radio Racists Vow To Stay On Air
8/17/84	San Francisco Chronicle	When Old People Are Abused
8/24/84	Sacramento Bee	KFBK Host Suspended Over Ethnic Term
9/11/84	Sacramento Bee	Interracial Couple Battles Taunts, Burned Cross
9/11/84	Sacramento Bee	Asian-Americans Targets Of Rising Violence, Panel Says
9/11/84	Sacramento Union	Panel Reports Sharp Increase In Racist Acts
9/11/84	San Francisco Chronicle	Grim Report On Violence Against Asians
9/11/84	San Diego Tribune	Bias In State Said Rising Against Asian-Americans
9/11/84	San Francisco Chronicle	Grim Report On Violence Against Asians
9/12/84	San Francisco Chronicle	Trial Begins In Davis Killing
9/21/84	Sacramento Union	Laotian Family Terrorized
9/27/84	Los Angeles Daily Journal	Local Educators Tell Of Neglect Of Asians In California Schools
10/2/84	San Francisco Examiner	Teen Convicted In Viet Student's Death
10/20/84	Sacramento Union	City Police Investigating Racist Literature

10/23/84	Sacramento Bee	Boy, 13 Arrested On Racist Fliers
11/7/84	East/West	Law Students Conference Addresses Anti-Asian Violence And Stereotypes
11/7/84	San Francisco	Attorney General Talks About Violence, Crime
11/8/84	Sacramento Bee	Council Asked To Fight Racism Against Local Indochinese Refugees
11/10/84	San Francisco Chronicle	FBI Probing Ordeal Of Black Family
11/21/84	Precinct Reporter	Investigation Re-Opened In Brutal Beating of Black Youth In Fontana
11/24/84	San Diego Union	Two Plead Guilty In Assault On Racially Mixed Jamul Couple
12/1/84	Sacramento Union	Latest Knifing Attributed To Race War In Prison
12/2/84	Los Angeles Times	Fontana's Racial Tensions Emerge After "The Incident"
12/2/84	Parade Magazine	Are Our Children Less Prejudiced Today?
12/23/84	San Francisco Examiner	Panel Finds Growing Violence Against Asians In The Cities
1/85-2/85	APAAC Alert	Anti-Asian Violence, Bigotry, And Discrimination
1/2/85	San Diego Tribune	Abuse Of Hispanics Continues Coalition Says
1/5/85	San Francisco Examiner	Putting A Stop On The Open Door
1/17/85	San Francisco Chronicle	S.F. Urged To Probe Field-Training Cops
1/23/85	San Francisco Examiner	Viet Refugee's Mother Calls His Slaying Racism
1/31/85	The Tribune	Tirade Targets Illegals
2/4/85	Los Angeles Times	Anti-Asian Bigotry: An "Alarming" Rise As Refugees Pour In
2/5/85	Sacramento Bee	Chavoor Admitted Calling Man A "Dumb Jap," Official Testifies
2/5/85	San Francisco Examiner	Increase In Incidents Of Anti-Asian Bigotry Reported



2/14/85	Asian Week	^Misconduct^ Proven In Hirabayashi Case
2/21-28/85	Suttertown News	Anti-Asian Violence In Davis
2/17/85	Parade Magazine	How Can We Protect Our Elderly
2/18/85	Sacramento Bee	Panel To Review Efforts To Fight Elderly Abuse
3/85	APAAC Alert	Asian American Success
3/5/85	Sacramento Bee	Moorhead Wants Answer To Elderly Abuse
3/8/85	Sacramento Bee	Abuse Of Aged Probed But Not Prosecuted, Workshop Finds
3/20/85	East/West	Oakland Asian Community Questions Police Protection of Refugees
3/29/85	Los Angeles Times	The Abuse and Neglect of the Elderly
4/8/85	The Tribune	Hmong Find Nuances of U.S. Baffling
4/30/85	The Tribune	Cambodians Find Life of Sorrow Here
5/2/85/	San Diego Union	Agent Cleared In Shooting Here
5/2/85	San Diego Tribune	Outrage Over Border Shooting Heats Up
5/2/85	San Francisco Examiner	With Refugees, A New Wave of Crime, Bigotry
5/3/85	San Diego Union	State Will Study Border Shooting
5/20/85	San Diego Tribune	Asians in School: Melting pot Near the Boiling Point
5/21/85	San Diego Union	Hostility To Asian Students Is Targeted
5/28/85	Sacramento Bee	Bias Rises, Immigrant Asians Say
7/85-8/85	APAAC Alert	^Year Of The Dragon^ Draws Asian Outrage Coast-To-Coast
8/31/85	New York Times	Violent Incidents Against Asian-Americans Seen As Part Of Racist Pattern

9/15/85	Times	Korean Merchants, Black Customers-- Tension Grows
10/30/85	San Francisco Examiner	Asians Fear A New Surge Of Racial Hatred, Violence
10/30/85	San Francisco/Asian Week	State Hears Testimony On Rise Of Anti-Asian Bias
11/1/85	Pacific Citizen/L.A.	Asians Call For Steps Against Violence
11/6/85	East/West	Minorities Urge More Protection
11/17/85	San Francisco Examiner	White Supremacists Ripe For Violence Report Warns
11/23/85	Salinas Californian	LULAC Charges Salinas Police With Brutality
11/24/85	The Tribune	Black's Suicide Stabbings In Concord Spark Calls For New Investigations
12/85	APAAC Alert	Language And Racial Intolerance On The Rise
1/8/86	Sacramento Bee	Teen Held In Death Of Man During Clash
1/9/86	San Francisco Chronicle	2 Blacks Sue Over "Klan" Attack
1/16/86	The Tribune	Panel Urges Action To Reduce "Hate Crimes"
1/19/86	Sacramento Bee	Feisty Pair Attack The Attacker
1/22/86	The Tribune	Anti-KKK Group Plans Protest
1/30/86	Los Angeles Times	Couple Convicted Of Abusing Elderly Blind Woman In Their Care
1/31/86	The Tribune	Tirade Targets Illegals
2/2/86	San Francisco Examiner	Study: Newcomers To U.S. Face Growing Hostility
2/10/86	Orange County Register	Vietnamese-Born Police Officer At Home In OC
2/18/86	Sacramento Union	Mentally Retarded Take The Stand In Sexually Abuse Trials

2/28/86	San Francisco Examiner	End Of The Line: The Death Of Timothy Lee
3/18/86	Sacramento Bee	Illegal Alien's Body Discovered In River
	San Francisco Examiner	Applause And Hisses In Richmond For TV Show On Police Problems
	Sacramento Bee	Davis March Mourns Death Of Asians, Protests Racism Rise
	Los Angeles Herald Examiner	Abuse Of The 'Old' Must Stop
	The Tribune	Surrender Of 5 Ends Siege Of Racist Camp
5/11/85		Elderly Protest Physical Abuse, Loss Of Dignity
	Chinese for Affirmative Action	Indiana Jones And The Temple Of Racial Stereotypes
		US-Asian Trade Relations Blamed For Backlash
		Judge Labels Klan 'Slimy, Yellow,' But Drops Charges
		Asian-Americans Under Attack Discrimination In USA On Rise
		Bigotry Manifestations, Sources And Solutions Presented In LA
	East/West	No Clues Yet In Killing Of Davis Grad Student; Asian Harassment Continues
1985	Pacific News Service	Killing Of Henry Liu Casts Chinese-Americans' Rights Into Doubt
	The Tribune	Anti-Klan Pickets March At Attack Hearing
	Sacramento Bee	Car Owned By Black Activist Is Vandalized At McClellan