

## Bibliography



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**Assembly Bill No. 63**

**Chapter 1277**

An act to Amend Section 51.7 of, and to add Section 52.1 to, the Civil Code, and to amend Section 1170.75 of, and to add Title 11.6 (commencing with Section 422.6) to Part 1 of, the Penal Code, relating to crimes.

[Approved by Governor September 28, 1987.  
Filed with Secretary of State September 28, 1987.]

LEGISLATIVE COUNSEL'S DIGEST

AB 63, Bane. Crimes: civil rights,

Existing law, among other things, provides that all persons have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of race, color, religion, ancestry, or other specified reasons. Existing law provides for certain civil remedies for aggrieved persons. Among other things, the Attorney General or any district attorney or city attorney or any person aggrieved by a pattern or practice of resistance to the full exercise of those rights is authorized to bring a civil action, as specified, requesting such preventive relief as he or she deems necessary, including injunctive relief, to ensure the full enjoyment of those rights.

This bill would recast those provisions, as specified, to, among other things, exempt speech alone from supporting such a civil action, as specified, and would provide that any action for such preventive relief be filed in the superior court and if an injunction is granted, the order would be required to state the violation of the order is a crime, as specified. The bill would provide for notice to law enforcement officials of any order, or extension, modification, or termination thereof, as specified. The court would be authorized to award the petitioner reasonable attorney fees. The bill in requiring the clerk of the court to notify law enforcement officials of any order, or extension, modification or termination thereof, and in imposing, or termination thereof, and in imposing new duties upon local law enforcement agencies, would impose state-mandated local programs. It would also make a violation of those provisions, as specified, a misdemeanor, thus imposing a state-mandated local program by creating a new crime.

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The bill would also provide that no person shall by force or threat of force injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege, as specified, or knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege, as specified, based upon the other person's race, color, religion, ancestry, national origin, or sexual orientation. Speech alone, as specified, would be exempted from certain provisions of that prohibition. A violation of the foregoing would constitute a misdemeanor; however, the bill would provide that any other crime which is not made punishable by imprisonment in a state prison may constitute a felony if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that person's free exercise or enjoyment of any right, as specified, because of the other person's race, color, religion, ancestry, national origin, or sexual orientation under specified circumstances. This bill would create new crimes and thereby impose a state-mandated local program.

With specified exceptions, existing law provides that a prior felony based on a victim's race, color, religion, nationality, or country of origin is a circumstance in aggravation of the crime for purpose of sentencing.

The bill would add "ancestry" and "sexual orientation" to those stated factors which constitute a circumstance in aggravation of a felony for purposes of imposing a sentence, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons, except as specified.

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

SECTION 1. This act shall be known and may be cited as the Tom Bane Civil Rights Act.

SECTION 2. Section 51.7 of the Civil Code is amended to read:

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**51.7. (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 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.**

**This section does not apply to statements concerning positions in a labor dispute which are made during otherwise lawful labor picketing.**

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

**SECTION 3. Section 52.1 is added to the Civil Code, to read:**

**(a) Whenever a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or law of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured.**

**(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United State, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action or injunctive and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.**

**(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) may also be filed in the superior court for any county wherein the Attorney General has an office, and in any such case, the jurisdiction of the court shall extend throughout the state.**

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(d) Whenever a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement:  
**VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.9 OF THE PENAL CODE.**

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the county clerk to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall forthwith serve one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) Actions under this section shall be independent remedies or procedures that may be available to an aggrieved person under any other provision of law.

(h) In addition to any injunction or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award petitioner reasonable attorney's fees.

(i) Violation of any order described in subdivision (d) may be punished either by prosecution under Section 422.7 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any such proceeding pursuant to Title 5 (commencing with Section 1209)

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of Part 3 of the Code of Civil Procedure, if it be determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars (\$1,000), or the person may be ordered imprisoned in the county jail not exceeding six months, or the court may order both the fine and imprisonment.

(j) Speech alone shall not be sufficient to support an action under subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(k) No order issued in any proceeding under subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

**SECTION 4.** Title 11.6 (commencing with Section 422.6) is added to Part 1 of the Penal Code, to read:

### **TITLE 11.6. CIVIL RIGHTS**

422.6. (a) No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, or sexual orientation.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or

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laws of the United States, because of the other person's race, color, religion, ancestry, national origin, or sexual orientation.

(c) Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in the county jail not to exceed six months, or by a fine not to exceed five thousand dollars (\$5,000), or by both the fine and imprisonment; provided, however, that no person shall be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

422.7. Except in the case of a violation of subdivision (a) or (b) of Section 422.6, any crime which is not made punishable by imprisonment in state prison shall be punishable by imprisonment in state prison or in county jail not to exceed one year, or by fine not to exceed ten thousand dollars (\$10,000), or by both the fine or imprisonment, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, or sexual orientation, under any of the following circumstances, which shall be charged in the accusatory pleading:

(a) The crime against the person of another either include the present ability to commit a violent injury or causes actual physical injury.

(b) The crime against property causes damages in excess of one thousand dollars (\$1,000).

(c) The person charged with a crime under this section has been previously convicted of a violation of subdivision (a) or (b) of Section 422.6, or has been previously convicted of a conspiracy to commit a crime described in subdivision (a) or (b) or Section 422.6.

422.8. Except as otherwise required by law, nothing in Section 422.6, or 422.7 shall be construed to prevent or limit the prosecution of any person pursuant to any provision of law.

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422.9. (a) Any willful and knowing violation of any order issued pursuant to subdivision (a) or (b) of Section 52.1 of the Civil Code shall be a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) A person who has previously been convicted one or more times of violating an order issued pursuant to subdivision (a) or (b) of Section 52.1 of the Civil Code upon charges separately brought as tried shall be imprisoned in the county jail for not more than one year. Subject to the discretion of the court, the prosecution shall have the opportunity to present witnesses and relevant evidence at the time of the sentencing of a defendant pursuant to this subdivision.

(c) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to Section 52.1 of the Civil Code.

SECTION 5. Section 1170.75 of the Penal Code is amended to read:

1170.75. 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, country of origin, ancestry, or sexual orientation, shall be considered a circumstance in aggravation of the crime in imposing a terms under subdivision (b) of Section 1170.

SECTION 6. No reimbursement is required by Sections 4 and 5 of this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Furthermore, no reimbursement is required by this act pursuant to Section 6 of Article VIII B of the California Constitution due to the requirement in subdivision (e) of Section 52.1 of the Civil Code, as added by Section 3 of this act, for law enforcement agencies to serve copies of orders issued pursuant to this act on defendants because self-financing authority is provided in Section 26721 of the Government Code to cover any costs that may be incurred in carrying out any program or performing



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any service required by that portion of this act.

However, the requirement in subdivision (e) of Section 52.1 of the Civil Code, as added by Section 3 of this act, for county clerks to mail copies of orders issued pursuant to this act to law enforcement agencies mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), it shall be made from the State Mandates Claims Fund.

**Senate Bill No. 202**

**Chapter 1172**

**An act to add Section 13023 to the Penal Code, relating to criminal records.**

**[Approved by Governor September 30, 1989.  
Filed with Secretary of State  
September 30, 1989.]**

**LEGISLATIVE COUNSEL'S DIGEST**

**SB 202, Watson. Criminal records.**

**Existing law requires local law enforcement agencies and designated state agencies to install and maintain records needed for the reporting of statistical data required by the Attorney General and to report statistical data to the Department of Justice. Existing law requires local enforcement agencies to report information relative to misdemeanor violations relating to obscene matter and justifiable homicides committed within their jurisdiction.**

**This bill would require local law enforcement agencies, at the direction of the Attorney General and subject to the availability of adequate funding for the Department of Justice, to report to the Department of Justice, in a manner to be prescribed by the Attorney General, such information as may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability.**

**This bill would require the Department of Justice to submit an annual report to the Legislature, commencing July 1, 1992, analyzing the results of the information obtained from local law enforcement agencies.**

**This bill would impose a state-mandated local program by imposing new reporting duties on local law enforcement agencies.**

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The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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

SECTION 1. Section 13023 is added to the Penal Code, to read:

130223. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, such information as may be required relative to any criminal acts or attempted property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

SECTION 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the state Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

**California Civil Code § 51**

§ 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 sex, race, color, religion, ancestry, national origin, or blindness or other physical disability 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 sex, color, race, religion, ancestry, national origin, or blindness or other physical disability.

Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever to any new or existing establishment, facility, building, improvement, or any other structure, or to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other provisions of the law.

Nothing in this section shall require any person renting, leasing, or otherwise providing real property for compensation to modify his or her property in any way, or to provide a higher degree of care for a blind or other physically disabled person than for a person who is not physically disabled.

**California Civil Code § 51.5**

**§ 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, sex, or blindness or other physical disability of the person or of the 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.

Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever to any new or existing establishment, facility, building, improvement, or any other structure, or to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other provisions of the law.

Nothing in this section shall require any person renting, leasing, or otherwise providing real property for compensation to modify his or her property in any way, or to provide a higher degree of care for a blind or other physically disabled person than for a person who is not physically disabled.

**California Civil Code § 51.7**

§ 51.7.(Freedom from violence)

(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.

This section does not apply to statements concerning positions in a labor dispute which are made during otherwise lawful labor picketing.

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

(g) Nothing in this section shall be construed to require any construction, alteration, repair, structural, otherwise, or modification of any sort whatsoever to any new or existing establishment, facility, building, improvement, or any other structure, or to augment, restrict, or alter in any way the authority of the State Architect to require construction alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other provisions of the law.

Nothing in this section shall require any person renting, leasing, or otherwise providing real property for compensation to modify his or her property in any way, or provide a higher degree of care for a blind or other physically disabled person than for a person who is not physically disabled.

**California Civil Code § 52**

**Ralph Civil Rights Act**

(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 national origin, or blindness or other physical disability 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 51.7.

(b) Whoever denies the right provided by Section 51.7, or whoever aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition:

(1) an amount to be determined by a jury, or a court sitting without a jury, up to a maximum of three times the amount of actual damages;

(2) a civil penalty of ten thousand dollars (\$10,000) to be awarded to the person denied the right provided by Section 51.7; and

(3) attorney fees as may be determined by the court. In the case of multiple offenders, the ten thousand dollar (\$10,000) civil penalty 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

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(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, national origin, or blindness or other physical disability, 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 section upon timely application if the Attorney General or any district attorney or city attorney certifies that the case is of general public importance. In that 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.

(f) Any person claiming to be aggrieved by an alleged unlawful practice in violation of Section 51 or 51.7 may also file a verified complaint with the Department of Fair Employment and Housing pursuant to Section 12948 of the Government Code.



**California Civil Code § 52.1**

**Active relief from interference with enjoyment of legal rights**

(a) Whenever a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for injunctive and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) may also be filed in the superior court for any county wherein the Attorney General has an office, and in any such case, the jurisdiction of the court shall extend throughout the state.

(d) Whenever a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement: **VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.9 OF THE PENAL CODE.**

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the county clerk to mail, two copies of any order, extend modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the

## **APPENDIX D**

court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall forthwith serve one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) Actions under this section shall be independent of any other remedies or procedures that may be available to an aggrieved person under any other provision of law.

(h) In addition to any injunction or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award petitioner reasonable attorney's fees.

(i) Violation of an order described in subdivision (d) may be punished either by prosecution under Section 422.7 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any such proceeding pursuant to the Code of Civil Procedure, if it be determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars (\$1,000), or the person may be ordered imprisoned in the county jail not exceeding six months, or the court may order both the fine and imprisonment.

(j) Speech alone shall not be sufficient to support an action under subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

## **APPENDIX D**

**(k) No order issued in any proceeding under subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.**

**California Penal Code § 422.6**

**§ 422.6. (Injury or threat to person or damage to property because of specified beliefs or characteristics; Punishment)**

(a) No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate or interfere w,th,e, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color. religion, ancestry, national origin, or sexual orientation.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, or sexual orientation.

(c) Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in the county jail not to exceed six months, or by a fine not to exceed five thousand dollars (\$5,000), or by both the fine and imprisonment; provided, however, the,t no person shall be convicted of violating subdivision (a) based upon speech alone, except upon showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

**California Penal Code § 422.7**

**§ 422.7. (Punishment for crime committed to intimidate another because of specified beliefs or characteristics)**

Except in the case of a violation of subdivision (a) or (b) of Section 422.6, any crime which is not made punishable by imprisonment in state prison shall be punishable by imprisonment in state prison or in county jail not to exceed one year, or by fine not to exceed ten thousand dollars (\$10,000 or by both the fine and imprisonment, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, or sexual orientation, under any of the following circumstances, which shall be charged in the accusatory leading,

(a) The crime against the person of another either includes the present ability to commit a violent injury or causes actual physical injury.

(b) The crime against property causes damage in excess of one thousand dollars (\$1,000).

(c) The person charged with a crime under this section has been previously convicted of a violation of subdivision (a) or (b) of Section 422.6, or has been previously convicted of a conspiracy to commit a crime described in subdivision (a) or (b) of Section 422.6.a

**California Penal Code § 594.3**

**§ 594.3. (Vandalism of place of worship)**

(a) Any person who knowingly commits any act of vandalism to a church, synagogue, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted is guilty of a crime punishable by imprisonment in the state prison or by imprisonment in the county jail for not exceeding one year.

(b) Any person who knowingly commits any act of vandalism to a church, synagogue, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted, which is shown to have been committed by reason of the race, color, religion, or national origin of another individual or group of individuals and to have been committed for the purpose of intimidating and deterring persons from freely exercising their religious beliefs, is guilty of a felony punishable by imprisonment in the state prison.

**California Penal Code § 1170.75**

**§ 1170.75. (Victim's race, color, religion, nationality, or country of origin as aggravating circumstance.)**

**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, country.**

**California Penal Code § 1170.8**

**§ 1170.8. (Activity within or against church aggravating circumstance)**

(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.



**California Penal Code § 1170.85**

**1170.85. (Aggravation of crime of felony assault or battery offense)**

(a) Upon conviction of any felony assault or battery offense, it shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170 if the offense was committed to prevent or dissuade a person who is or may become a witness from attending upon or testifying at any trial, proceeding, or inquiry authorized by law, or if the offense was committed because the person provided assistance or information to a law enforcement officer, or to a public prosecutor in a criminal or juvenile court proceeding.

(b) Upon conviction of any felony it shall be considered a circumstance in aggravation in imposing a term under subdivision (b) of Section 1170 if the victim of an offense is particularly vulnerable, or unable to defend himself or herself, due to age or significant disability.

**California Penal Code § 11410**

§ 11410. (Legislative findings and declarations)

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.

**California Penal Code § 11411**

§ 11411. (Desecration of religious symbols; Terrorizing)

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.

**California Penal Code § 11412**

§ 11412. (Intentions interference with religious worship of another)

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 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.

**California Penal Code § 11413**

(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.

## **APPENDIX K**

(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.

(5) Any bookstore or public or private library.

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

**H.R. 1048**

To provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, homosexuality or heterosexuality, or ethnicity.

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**IN THE HOUSE OF REPRESENTATIVES**

February 22, 1989

Mr. Conyers (for himself, Mr. Fish, Mr. Edwards of California, Mrs. Kennelly, Mr. Dellums, Mr. Traxler, Mr. Berman, Mr. Wyden, Mr. Lewis of Georgia, Mr. Kastenmeier, Mr. Manton, Mr. Studds, Ms. Oakar, Mr. Molinari, Mr. Conte, Mr. Brown of California, Mr. Udall, Mr. Moakley, Mr. Moody, Mr. Miller of Washington, Mr. Campbell of Colorado, Mr. Synar, Mr. Pease, Mr. Blaz, Mr. Green, Mr. DeFazio, Mr. Levine of California, Mr. Bates, Mr. Florio, Mr. Panetta, Mr. Mineta, Mr. Weiss, Mr. Breenan, Mr. Hochbrueckner, Mr. Ackerman, Mr. Fauntroy, Mr. Stark, Mrs. Morella, Mr. Frank, Mr. AuCoin, Mr. Hayes of Illinois, Mr. Dymally, Mr. Garcia, Mr. Sikorski, Mr. Vento, Mr. Shays, Mr. Dixon, Mr. Matsui, Ms. Pelosi, Mr. Fascell, Mr. Feighan, Mr. Henry, Mr. Hoyer, Mr. Bilbray, and Mr. Petri) introduced the following bill; which was referred to the Committee on the Judiciary

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**A BILL**

To provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, homosexuality or heterosexuality, or ethnicity.

*Be it enacted by the Senate and House of Representatives of the United State of America in Congress assembled.*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hate Crime Statistics Act".

**SECTION 2. ACQUISITION AND PUBLICATION OF DATA**

(a) **IN GENERAL** - Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire, for calendar year 1991 through calendar year 1995, data on the incidence of criminal acts that manifest prejudice based on race, religion, homosexuality or heterosexuality, or ethnicity. The crimes with respect to which such data shall be acquired are as follows: homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, threat, and such other crimes as the Attorney General considers appropriate.

(b) **CONSTRUCTION** - Nothing in this Act creates a right for an individual to bring an action complaining of discrimination based on homosexuality.

(c) **LIMITATION ON USE AND CONTENT OF DATA** - Data acquired under this Act shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

(d) **ANNUAL SUMMARY** - The Attorney General shall public an annual summary of the data acquired under this Act.

**SECTION 3. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 1991 through fiscal year 1996.

**HATE VIOLENCE REDUCTION TASK FORCE**  
**PROGRESS REPORT**  
**October, 1989**

A project of the Contra Costa County Human  
Relations Commission and the Friends of  
Human Relations

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CONTRA COSTA COUNTY HUMAN RELATIONS COMMISSION

TESSIE BRAVO-PAREDES

LARRY CUSTUS

RUTH DIXON

CY EPSTEIN

GEORGE FUJIOKA

LEE HOWARD

OCIE HUFF

DAVE JACKSON

SHERRY-ANN NICHOLS

KAT QUISENBERRY

LOU ROSEMAN

DOLORES SANCHES

MARGO SEGURA

KEN STANLEY

WENDELL WILLIAMS

WINNIE WOO

INTRODUCTION

Hate violence (violence, harassment, intimidation or threats of violence motivated by prejudice) in the United States dates back to the conflicts between the settlers and the American Indians. However, despite the abundance of rhetoric deploring acts of bigotry, no community has coordinated the efforts of the schools, law enforcement and community organizations to systematically prevent and respond to it on an ongoing basis. Many exemplary programs can be found that are effective in dealing with a particular aspect of bigotry in a specific setting, but there is no model for weaving efforts to prevent and respond to hate violence into the fabric of the community.

This project is designed to demonstrate how communities can systematically organize efforts to control bigotry. The motivating force for the plan is the belief that hate violence has the potential to be so disruptive to the community and to victims that the concerted efforts of schools, law enforcement and public and private organizations are needed to respond to it.

Community awareness of hate violence is growing rapidly. California, Maryland and New York have commissioned special task forces to recommend ways to control it within the last few years and new legislation has been passed in a number of states. The timing for developing a model community approach to reduce hate violence is excellent.

A model county hate violence system would have, at a minimum,

the following characteristics:

Prevention

1. Tailored educational curricula and programs designed to promote appreciation for differences among people reaching all students within the county;
2. School conflict resolution, and other programs, designed to defuse conflicts that have the potential to promote prejudice and bigotry operating within every school;
3. Community programs designed to promote understanding and prevent conflicts among the diverse population of the county;
4. Ongoing staff training for personnel in relevant private and public organizations.

Response

1. A sustained effort to encourage victims of bigotry to report incidents and a simple well publicized process for making reports;
2. Uniform reporting by public and private agencies designated to receive complaints of bigotry, and a protocol for funneling reports into a county repository for analysis;
3. A procedure for ensuring immediate victim support and protection;
4. A response plan that goes beyond apprehension of the perpetrators to include strategies to prevent recurrence;
5. Contingency plans to prevent the escalation of incidents into broader community conflict;
6. A monitoring and assessment process designed to identify precursors of hate violence and provide recommendations to prevent potential flare-ups.

While no definitive data exists on the incidence of hate violence because of the absence of a national or statewide official reporting process, increases are being reported by organizations that routinely track incidents. Relatively few incidents of hate

## APPENDIX M

violence perpetrated in California are traceable to organized groups but the number of organizations promoting acts of bigotry are proliferating (Skinheads, The Order, White Aryan Resistance and the Aryan Brotherhood), and few areas are free of their influence.

BACKGROUND

The Contra Costa County Human Relations Commission received a San Francisco Foundation grant to begin designing a countywide integrated plan for reducing hate violence. The Contra Costa County Hate Violence Reduction Task Force representing relevant public agencies and private organizations has designed this county system for preventing and responding to hate violence.

The Task Force is comprised of representatives of the:

Contra Costa County Human Relations Commission  
Concord Human Relations Commission  
Richmond Human Relations Commission  
Contra Costa County District Attorney  
Contra Costa County Sheriff  
Brentwood Police Department  
Concord Police Department  
Pittsburg Police Department  
Richmond Police Department  
Contra Costa County Probation Department  
California Department of Justice  
California Fair Employment and Housing Commission  
Contra Costa County Department of Health  
Contra Costa County Housing Authority  
Richmond Housing Authority  
Acalanes Unified School District  
Mount Diablo Unified School District

Pittsburg Unified School District  
Richmond Unified School District  
San Ramon Unified School District  
Parent Teachers' Association (PTA)  
California Teachers' Association  
Association of California School Administrators  
Pittsburg Community Organizing Committee  
NAACP Racial Intolerance Task Force  
Black Families Association  
Hispanic Roundtable  
GLAD (a gay/lesbian organization)  
Japanese American Citizens League  
Asian Law Caucus  
Center for New Americans  
Filipino-American Association  
Churches and Synagogues  
Self Esteem Task Force  
Crisis Hotline  
Housing Alliance  
Contra Costa Conflict Resolution Panels

Three committees (Criminal Justice, Education, Community) were charged with drafting appropriate models for preventing and responding to hate violence in Contra Costa County, and a steering committee, composed of representatives from each working committee, is responsible for molding the separate models into an integrated county system. The Committees are staffed by the Contra Costa

County Human Relations Commission.

The design phase of the project is completed. It consists of:

- Policies, procedures and training for police response to hate crimes;
- Policies and procedures for the prosecution of hate crimes by the District Attorney.<sup>1</sup>
- Policies and guidelines for K-12 school responses to bias-related incidents;<sup>2</sup>
- Curriculum development to integrate appreciation of diverse peoples and violence prevention in appropriate subject areas;<sup>3</sup>
- Information sharing on school programs designed to prevent and respond to bias-related incidents;
- Training curriculum designed to enable neighborhood watch programs, religious institutions, and community organizations to provide assistance to victims of hate violence;
- an outreach plan to facilitate "living room" discussions among diverse people to break down stereotypes through open communication.
- A conflict resolution project to train community leaders to assess, intervene in and resolve disputes that might lead to hate violence.<sup>4</sup>

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<sup>1</sup>These procedures have been implemented and are operational.

<sup>2</sup> A 1989 bill introduced by Senator Torres of Los Angeles drafted in consultation with the Hate Violence Reduction Task Force to require all K-12 schools in California to have policies and guidelines similar to those adopted in Contra Costa County passed the Legislature but was vetoed.

<sup>3</sup> The Education Committee is working with curriculum directors from school districts in Contra Costa County to integrate appropriate curricula into frameworks for History-Social Science, English and Performing Arts.

<sup>4</sup>The Contra Costa County Human Relations Commission has been awarded a portion of county court filing fees to serve as the central referral center for dispute resolution programs in the county and to train community leaders to assess community tensions, and to intervene in and resolve disputes that have the potential

GOALS AND OBJECTIVES

GOAL: TO IMPLEMENT PLANS FOR A MODEL COUNTY SYSTEM TO PREVENT AND RESPOND TO BIGOTRY.

OBJECTIVES:

1. To provide training to law enforcement agencies to ensure that they will appropriately implement hate crime response policies and protocols.
2. To ensure that each school within the County utilizes curriculum designed to promote appreciation for diversity and to prevent bias-related conflict.<sup>5</sup>
3. To implement guidelines for responding to bias-related incidents in three selected K-12 school districts representing urban, suburban and rural areas in Contra Costa County.
4. To provide ongoing information to teachers and school administrators about programs that promote appreciation for diversity and help to prevent bias-related incidents in the school.
5. To train 30 agencies consisting of neighborhood watch programs, religious institutions and relevant community agencies to:
  - a. maintain a network of staff and volunteers to provide emergency counseling and support to victims of bias-related incidents;
  - b. calm community tensions, resolve conflicts, and control rumors;<sup>6</sup>
  - c. respond to incidents of harassment and intimidation motivated by bigotry that are referred by law enforcement because they lack the necessary elements of a "crime".

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to lead to hate violence.

<sup>5</sup> This objective is being implemented by the Chair of the Education Committee of the Hate Violence Reduction Task Force in cooperation with curriculum directors of all school districts in Contra Costa County.

<sup>6</sup> The Contra Costa County Human Relations Commission has received a grant under Garamendi legislation to train community leaders in the assessment, intervention and resolution of bias-related conflict.



6. To involve a cross-section of 1,000 diverse people in Contra Costa County in "living room" dialogues where they can communicate openly about differences and negative stereotypes can be challenged in a non-confrontational manner.
  
7. To draft and gain approval of memoranda of understanding delineating policies and protocols for cooperative working relationships among the local, state and federal public and private organizations that will participate in the countywide system for preventing and responding to hate violence.

**HATE VIOLENCE REDUCTION CENTER**

**PURPOSE:**

The Hate Violence Reduction Center serves several purposes:

1. It gathers data on hate violence from community organizations and law enforcement agencies so that an accurate analysis can be made of the:
  - a. types of hate violence are occurring within the county;
  - b. locations where hate violence is occurring;
  - c. frequency of hate violence incidents and trends;
  - d. need for additional strategies and resources.
2. It serves as a catalyst to maintain an ongoing dialogue among criminal justice, education and community agencies to assess needs and develop programs based on analyses of incidents of hate violence.
3. It provides for training of staff of neighborhood watch, religious and community organizations to provide assistance to victims of hate violence and monitors the provision of the services.
4. It serves as a central referral center for victims of hate violence.

**STRUCTURE**

The Hate Violence Reduction Task Force, made up of three committees (criminal justice, education and community) serves as the assessment, planning and program development board to the Center. The County Human Relations Commission serves as the office of record.

PROCEDURES -

Referral Source

Victim (When the victim reports directly to the Center)

1. A report of the incident is taken and the details entered into a database for statistical analysis.
2. When a crime is involved the Center will encourage the victim to notify the appropriate law enforcement agency.
3. The Center may provide direct victim assistance through the auspices of the County Human Relations Commission or refer the victim to an appropriate victim assistance project and follow up to ensure that the victim receives needed services.

Criminal Justice

1. Hate Violence Crime Reports or Summaries received from local police departments:
  - a. Will be coded for type of hate crime, location and date and entered into database;
  - b. When victim assistance appears to be needed, staff will call the law enforcement agency to inquire whether a referral was appropriate and whether one was made;
    - 1) if a referral was made staff will confirm the that services were rendered;
    - 2) if a referral is needed staff will refer the victim to an appropriate agency and confirm the provision of services.
  - c. If the need for public response to a report becomes apparent because of the nature of the incident or because of community or media attention, Center staff will discuss appropriate responses with the Police Chief, Sheriff or their designee and confer on how media inquiries will be addressed.
2. Quarterly summaries of data on hate crimes from all sources will be submitted to all law enforcement agencies within the county and to the California Department of Justice.

3. The Hate Violence Reduction Task Force will analyze the data identify particular areas needing attention and confer with appropriate law enforcement agencies, schools, and community groups to design and implement strategies to meet the identified needs.

#### Education

1. Bias-related incident reports received from school districts in Contra Costa County:
  - a. will be coded for type of incident, school and date and entered into a database;
  - b. when victim assistance appears to be needed, the school will be called to inquire whether a referral was appropriate and whether one was made or needed;
    - 1) if a referral was made staff will confirm that services were rendered;
    - 2) if a referral is needed staff will refer the victim to an appropriate agency.
  - c. if, the need for public response to a report becomes apparent because of the nature of the incident, or because of community or media attention, Center staff will meet with the Principal, School Superintendent or their designee to confer on appropriate responses, and to discuss how media inquiries will be addressed.
2. Quarterly summaries of data on bias-related incidents received from schools will be submitted to the Contra Costa County Superintendents' Association and the Contra Costa County Office of Schools.
3. The Hate Violence Reduction Task Force will analyze the data identify particular areas needing attention and work with appropriate school districts, law enforcement agencies and community groups to design and develop programs to meet the identified needs.

#### Community

1. Bias-related incident and hate crime reports will be received from community organizations including religious organizations and neighborhood watch programs:
  - a. If it appears that a crime may have been committed the Center will contact the reporting agency to determine if law enforcement has been contacted and

- if not, whether the victim can be contacted to encourage the filing of a report;
- b. Reports will be coded for type of bias-related incident or hate crime, location and date, and entered into database;
  - c. When victim assistance appears to be needed, the agency will be called to inquire whether appropriate service was provided or if additional assistance is needed;
    - 1) if a referral was made to another agency staff will confirm that services were provided;
    - 2) if a referral is needed staff will refer the victim to an appropriate agency;
    - 3) Center staff will provide technical assistance and consultation to victim assistance providers.
  - d. if, the need for public response to a report becomes apparent because of the nature of the incident or because of community or media attention, Center staff will meet with the community agency to confer on appropriate responses and to discuss how media inquiries will be addressed.
2. The Hate Violence Reduction Center will provide for training community agencies to render assistance to victims of hate violence, and coordinate and monitor hate violence victim assistance efforts within the County. Data relating to the type of victim assistance provided will be reported to the Center by service providers and summarized in quarterly reports.
  3. Quarterly summaries of data on bias related incidents and the provision of victim assistance will be submitted to the Board of Supervisors and appropriate agencies.
  4. The Hate Violence Reduction Task Force will analyze the data, identify particular areas needing attention, and work with appropriate law enforcement agencies, schools and community groups to design and implement strategies to meet the identified needs.

CRIMINAL JUSTICE COMPONENT

Objective

To provide training to law enforcement agencies to ensure that they will appropriately implement hate crime response policies and protocols.

Steps

1. Meet with the District Attorney to develop and implement guidelines for the prosecution of hate crimes.<sup>7</sup>
2. Produce police hate crime response training films that provide information on; how to distinguish hate crimes from other types of crime, how to report it, and the response protocol for officers at the scene and support personnel after the incident is reported.
  - a. A subcommittee of the Hate Violence Reduction Task Force will script a police training film that demonstrates how supervisory and line police officers should respond to hate crimes in accord with the procedures adopted by the Contra Costa County Police Chiefs' Association.
  - b. The subcommittee will review and select appropriate footage from newstapes provided by KRON-TV (The NBC channel in the San Francisco Bay Area) and local law enforcement agencies of bias-related incidents occurring within the county to demonstrate the relevance and importance of specific procedures for responding to hate crimes.
  - c. Comments by the sheriff or police chief will be appended to the film provided each agency .

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<sup>7</sup> This step has already been taken. See Attachment for a copy of the District Attorney procedures. These procedures are considered a model for the State of California, and the California Department of Justice has designated the Contra Costa County District Attorney as the primary resource referral for district attorneys seeking information on establishing systems to process hate crimes.

- d. Police Academy film editors will create a training film for each police agency in the county. The film will consist of a 2 minute trailer by the chief law enforcement executive, illustrations of the impact of hate violence using actual footage of incidents occurring in the county, and a combination of actual and simulated scenes to demonstrate how hate crimes should be handled by law enforcement agencies.
3. Prepare written tests to law enforcement personnel to ensure that they have the necessary knowledge to identify and respond appropriately to hate crimes.
4. Work with each police department to ensure that the film is shown to all personnel and that the test is taken and scored to ensure that personnel are familiar with the policies and procedures for responding to hate crimes.

CRIMINAL JUSTICE POLICIES AND PROTOCOL<sup>8</sup>

HATE CRIME DEFINITION <sup>9</sup>

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 various 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 which may be primarily towards persons of the same sex (homosexuality), persons of the opposite sex (heterosexuality) or toward both in some proportion (bisexuality).

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<sup>8</sup> These policies and protocols were adopted by the Contra Costa County Police Chiefs' Association for inclusion in each of their jurisdictions.

<sup>9</sup> This definition was drafted by the California Department of Justice, Bureau of Criminal Justice Statistics.



**GUIDELINES TO IDENTIFY REPORTABLE CRIMES**

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 are not all inclusive but provide a general guideline for consistent identification of such crimes.

1. The presence of symbols, words, or acts which are, 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 or 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. Whether community organizations, leaders or a number of residents perceive or claim the crime to be motivated by bias against an individual or group's race, ethnicity, religion or sexual orientation.

**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 or for other reasons?
2. Has the victim or victim's 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?

## APPENDIX M

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, 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, manner of spelling words, symbols or signs used, etc.)?
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, juveniles, etc.)?
10. Does the crime indicate possible involvement by an organized group? For example:
  - a. Is the literature printed?
  - b. Does the name signify a "copy-cat" syndrome?
  - c. Is there 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 an understanding of the impact of the crime on the victim and other group members?

POLICY <sup>10</sup>

It is the policy of this Department to ensure that all rights guaranteed by State laws and the United States Constitution are protected for all people regardless of their race, color, ethnic background, religion or sexual orientation. When such rights are infringed upon by violence, intimidation, or other harassment, the Department shall take all appropriate steps to identify responsables of criminal offenses, arrest them and assist in their vigorous prosecution.

All criminal offenses of violence, intimidation or harassment based on racial, religious, ethnic background, or sexual orientation shall be viewed as serious, and an investigation shall be considered high priority as such acts tend to generate fear and concern among victims and the public. They have a potential for recurrence and escalating to the point of counterviolence.<sup>11</sup>

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<sup>10</sup> This policy is derived from the report prepared by the National Organization of Black Law Enforcement Executives under the auspices of the United States Department of Justice.

<sup>11</sup> Departments, at their option, may wish to develop a policy for dealing with reports of incidents that may not be chargeable as a crime, but are likely to have similar impact on the victim(s) and members of the victim(s) group.

Concord Police Department's policy on racial, religious, ethnic and sexual orientation complaints contains the following provision:

All reported incidents that are non-criminal that were motivated all or in part by race, ethnicity, religion and/or sexual orientation shall be documented by a police report. An administrative follow-up and disposition will be made on appropriate incidents by the Community Relations Unit.

REPORTING <sup>12</sup>

The goal of reporting "hate crime" is to depict the nature and volume of criminal activity within a given geographical area. In order to achieve the goal the data collected must be accurate, consistent and complete.

Determining the motivation of a crime is difficult. Officers may be called upon to make a subjective determination using whatever information the victim or crime scene can provide. Even an experienced crime analyst may not be able to clarify the motivation in all cases. Every officer may not become an expert in hate crime identification, but their degree of expertise can be increased through training.

Officers may feel that the data will not help the police department but will be used against it, or that their time is better used doing other activities. To counter this attitude, training should not only focus on the technical aspects of reporting, but should also include the purpose and benefits of reporting.

Existing police reports can be used for reporting hate crimes, but a box or part of the report should be designated for officers to put in a code letter or symbol indicating whether or not the

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<sup>12</sup> The discussion of issues pertaining to reporting is derived from a document prepared by the California Department of Justice Bureau of Criminal Justice Statistics as part of a legislatively mandated study.

crime should be considered a "hate crime". Since reports may vary slightly from agency to agency, each department should choose their own space and symbol for the entry. Many departments have chosen to use the letter "R" to signify a hate crime. The Criminal Justice Committee recommends that departments consider utilizing a forced entry requiring officers to enter some symbol in the designated space to indicate whether or not a hate crime was committed, e.g. R = hate crime, NR = not a hate crime.

Officers should be trained to include information within the narrative of the report to indicate why a crime is classified as a "hate crime" when they classify it as such.

**RESPONSE PROTOCOL <sup>13</sup>**

The Criminal Justice Committee recognizes that there is wide variance in departmental resources among the law enforcement agencies within Contra Costa County and has opted to identify the minimal response elements that should be adopted by each law enforcement agency within Contra Costa County. Each department should review their existing policy (when appropriate) to ensure that the minimal elements are included within it. Departments who have no policy or who want to review their personnel assignments relative to responding to "hate crimes" should review the models for large and small departments provided by the Hate Violence Reduction Task Force.

**RESPONSE PRIORITY**

All hate crimes are priority calls and shall require dispatch of an officer to the scene. In the event the complainant specifically requests that an officer not respond, the Department shall follow up with the complainant for details of the report, or to make referrals.<sup>14</sup>

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<sup>13</sup> This protocol is adapted from the Concord Police Department General Order No. 61.

<sup>14</sup> Concord Police Department dispatches an officer to the scene of incidents that are not considered crimes but may have similar impact on the victim and community. These are treated as "hate incidents" and an officer is sent as soon as practical unless the Watch Commander modifies the priority or type of response.

RESPONSIBILITIES <sup>15</sup>

Each department should have a policy which includes, at a minimum, the following

At the crime scene

- Ensure that there are appropriate personnel;
- Apprehend the responsible (if applicable);
- Protect the crime scene and evidence;
- Stabilize the victim
- Conduct a preliminary investigation, including a neighborhood survey for witnesses when appropriate;
- Reassure the victim that the crime will be treated seriously and refer the victim to appropriate resource agencies;
- Collect and process evidence.<sup>16</sup>

Following the initial response

Complete an Offense Report, enter the letter R or other designated symbol in the appropriate space (box) and ensure that the description of the incident includes information indicating why the motivation appears all or in part to be based on differences in race, religion, ethnicity or sexual orientation;

The report of the responding officer is analyzed by a supervisor to make a final determination of the classification of the incident as a "hate crime".

Notify the senior on duty Supervisor (in smaller departments this may be the Chief).

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<sup>15</sup> These are responsibilities which shall be included in each department's policy. Suggested personnel assignments to carry out the responsibilities for large and small law enforcement agencies are available in the United States Department of Justice study contracted to the National Organization of Black Law Enforcement Executives.

<sup>16</sup> This procedure may be modified when a Department has an evidence collection unit.

## APPENDIX M

Provide for increased patrol in the area as appropriate.

Refer cases to the FELONY FILING DESK of the appropriate branch of the District Attorney's Office for prosecution.

Keep the victim informed of the status of the case.

Keep the arresting officer informed of the status of the case;

Reports should be filed with the California Department of Justice and may be provided to the Hate Violence Reduction Task Force for analysis.

Take appropriate steps to prevent the situation from escalating including meeting with concerned community organizations and notifying appropriate agencies.

Ensure that all physical remains of the crime are removed after processing is completed. If the remains are not easily removable (i.e. paint on walls and vehicles), the supervisor shall attempt to notify the appropriate parties of the need for removing the remains and shall report the presence of the remains to the local or county human relations commission director for follow-up.

Identify training needs relative to responding to hate crimes and hate incidents



**TRAINING**

**LEARNING GOAL: The student will be able to identify and respond appropriately to crimes motivated by hatred against the victim's race, ethnicity, religion, or sexual orientation.**

**LEARNING OBJECTIVES:**

1. The student will be able to define a reportable hate crime.
2. When responding to a report of criminal activity the student will be able to identify clues indicating that the incident should be classified as a hate crime.
3. The student will demonstrate the ability to designate a hate crime on the crime report.
4. The student will be able to identify the responding officer's procedural responsibilities at the scene of a suspected hate crime.

Advanced Officers' learning objectives are all of the above and:

5. The student will be able to identify the supervising officer's procedural responsibilities following the initial response.

**OFFICER INFORMATION**

Each department will make information available through an appropriate vehicle to assist officers in identifying hate crimes, following the appropriate procedures, and in locating victim assistance resources

SCHOOL COMPONENT

K-12 SCHOOL CURRICULUM

Objective

To ensure that each school within the County utilizes curriculum designed to promote appreciation for diversity and to prevent bias-related conflict.<sup>17</sup>

Steps

1. The Education Committee will review existing frameworks for History-Social Science, English, and Performing Arts to identify objectives related to the promotion of appreciation for diversity and the prevention of bias-related conflict.
2. The Chair of the Education Committee met with the County School Superintendents' Association and was directed to meet with each district's curriculum director to ensure that the curriculum meets the objectives of promoting appreciation for diversity and the prevention of bias-related conflict.
3. The Education Committee will work with curriculum directors of each district in Contra Costa County to review and, if necessary, set curriculum to promote appreciation for diversity and prevent bias-related conflict.
4. The curricula objectives and plans will be gathered by the Hate Violence Reduction Center and incorporated in the project report.

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<sup>17</sup> This objective is being implemented by the Chair of the Education Committee of the Hate Violence Reduction Task Force in cooperation with curriculum directors of all school districts in Contra Costa County.

GUIDELINES FOR  
RESPONDING TO BIAS-RELATED INCIDENTS  
ON THE SCHOOL CAMPUS

Objective

To implement guidelines for responding to bias-related incidents in three selected K-12 school districts representing urban, suburban and rural areas in Contra Costa County.

Steps

1. Staff to the Hate Violence Reduction Task Force will meet with officials for the Mount Diablo Unified School District, Concord; Richmond Unified School District, Richmond; and the Liberty Union High School District, Brentwood and select appropriate middle and secondary schools for implementing guidelines for responding to bias related incidents.<sup>18</sup>
2. Education Committee members will:
  - a. Meet with district and school site administrators to explain the purpose of the guidelines and the method proposed to gain their implementation;
  - b. Host a series of meeting with site administrators, and certificated and classified personnel to draft protocols for responding to bias-related incidents utilizing the hate violence reduction guidelines as the basis for the plan.
  - c. Meet with district and site administrators to draft a response protocol for coordinating efforts to respond to bias-related incidents.
  - d. Meet with site administrators and local law enforcement, mental health, and other appropriate public agencies groups to draft response protocols.
  - e. Meet with site administrators and the Hate Violence

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<sup>18</sup> This has been accomplished. High schools were selected in the Mount Diablo and Liberty Union High School Districts and a middle school in the Richmond Unified School District.

Reduction Center staff and other hate violence victim support groups to draft response protocols.

- f. Draft a comprehensive plan for response to bias-related incidents on the campus that has the support of district and site administrators.
  - g. Train site administrators and staff to administer and operate the response plan.
3. Evaluation and monitoring of the implementation of the guidelines will be conducted by the Hate Violence Reduction Task Force. A report will be prepared for distribution to other school districts to assist in replication of the process.
  4. The implementation of the guidelines will be integrated with each school district's staff development efforts to train teachers to work in multi-cultural environments.

GUIDELINES FOR A SCHOOL RESPONSE TO BIAS RELATED INCIDENTS<sup>19</sup>

DEFINITIONS:

Bias-related incident - any occurrence on the school campus that involves a verbal, written, or physical action that is intended to create emotional suffering, physical harm, or property damage to a pupil because of his or her race, ethnic background, national origin, religious belief, sex, sexual orientation, or physical or mental disability.

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 various 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 which may be primarily towards persons of the same sex (homosexuality), persons of the opposite sex (heterosexuality) or toward both in some proportion (bisexuality).

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<sup>19</sup> These are the only guidelines known to exist anywhere in the United States. The guidelines have been endorsed by the California Teachers' Association for implementation on a statewide basis and legislation that would mandate guidelines for all school districts in California has been passed by the State Legislature and is awaiting gubernatorial consideration.

Disability - What constitutes a disability in a school setting for purposes of identifying a bias-related incident goes beyond technical and legal definitions in order to identify the need to work with students to increase their appreciation for diversity. For purposes of these guidelines any inherent physical or mental characteristic of an individual can be considered a disability when it is the motivation for adverse treatment by other students.

CRITERIA

The following guidelines are adopted to assist schools identify bias-related incidents.

Clues to the identification of a bias-related incident

1. The presence of symbols, words, or acts which are, 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 or actions of the victim(s), perpetrator(s), and other involved parties.
3. Prior history of involvement of the same perpetrators in similar incidents against the same victim group.
4. Pupil, parent or community response to the incident.

**RESPONSE PROTOCOL**

Personnel resources among schools varies widely and this protocol lists the minimal response elements that should be adopted by each school. The Task Force recommends that schools consider developing school based conflict resolution programs and integrating their services into the response protocol. Each district and school should designate duties to appropriate staff to ensure that staff responsibilities for responding to bias-related incidents are understood.

**RESPONSE PRIORITY**

All reports of bias-related incidents shall require staff response.

**RESPONSIBILITIES AT THE SCENE**

- A. Ensure that there are adequate personnel to prevent further activity, if necessary request law enforcement assistance;
- B. Apprehend the responsible (if applicable) and send them to an appropriate area of the school where they can be isolated from further activity and questioned, or when appropriate, referred to conflict resolution services.
- C. Isolate the area until evidence of the incident can be identified;
- D. Provide assistance to the victim(s) if applicable. Reassure the victim and his or her family that the incident will be treated seriously and provide references to victim support agencies;
- E. Conduct a preliminary investigation, including the questioning of witnesses when appropriate;

Instructions For Completing A Bias-Related Incident Report

Ensure that the description of the incident includes information indicating why the motivation appears all or in part to be based on differences in race, religion, ethnicity, sexual orientation or other bias.

The goal of reporting bias-related incidents is to depict the nature and volume of activity. In order to achieve the goal the data collected must be accurate, consistent and complete.

Determining the motivation behind an incident is difficult. Teachers and administrators are called upon to make a subjective guess using whatever information the victim, the perpetrator, or the scene of the incident can provide. Not every administrator or teacher should be expected to become an expert in determining whether an incident is bias-related but their degree of expertise can be increased through training.

Administrators may feel that the data will not help the school or school district but will be used against it, or that their time is better used doing other activities. To counter this attitude, training should not only focus on the technical aspects of reporting, but should also include the purpose and benefits of reporting.

School staff should be trained to include information within the narrative of the report to indicate why an incident is classified as "bias-related.



Questions to consider in reporting bias-related incidents:

1. Did the incident occur all or in part because of racial, ethnic, religious, or sexual differences between the persons or for other reasons?
2. Has the victim or victim's group been subjected to repeated attacks of a similar nature?
3. Is the victim the only minority group member in the school or one of a few?
4. Did the victim's family recently move into the area; is the victim's family 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. holiday celebrations, 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, manner of spelling words, symbols or signs, etc)
9. Is there an ongoing neighborhood problem that may have contributed to the act (e.g. could the act be retribution for some conflict with other juveniles, etc.)?
10. Does the incident indicate possible involvement by an organized group? For example:
  - a. Is the literature printed?
  - b. Does the name signify a "copy-cat" syndrome?
  - c. Is there 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 an understanding of the impact of their activity on the victim and other group members?

**RESPONSIBILITIES AFTER THE INITIAL RESPONSE**

- A. Complete a bias-related incident report.
- B. The report of the responding staff member is processed by the principal or vice-principal.
- C. Notify the senior administrator on duty.
- D. Alert other staff and provide for increased supervision as appropriate.
- E. Keep the victim, the victim's family and community organizations expressing concern informed of the response being taken.
- F. Provide reports to the Superintendent and appropriate public agencies, including the county agency responsible for collecting data.
- G. Take appropriate steps to prevent the situation from escalating including, but not limited to:
  - 1. meeting with students, parents, concerned community organizations and others to demonstrate concern and enlist cooperation.
  - 2. meeting with all staff to provide accurate information and to prevent rumors as often as necessary.
  - 3. establishing a protocol for dealing with the media, when appropriate, to ensure accurate information.
- H. Ensure that all physical remains of the incident (e.g. graffiti) are removed after processing is completed.
- I. Identify training needs relative to responding to bias-related incidents

BIAS PREVENTION AND RESPONSE

INFORMATION SYSTEM PROJECT

Objective

To provide ongoing information to teachers, school administrators and concerned community agencies about programs that promote appreciation for diversity and prevent bias-related incidents in schools.

Steps

1. A survey will be conducted to identify existing school programs that could serve as model strategies for promoting appreciation for diversity and preventing and responding to bias-related incidents on the campus.
2. A monthly newsletter highlighting human relations programs operating within the schools of Contra Costa County will be distributed to all schools and educational groups within the County. Information on model programs will include its purpose and results, and who can be contacted for more information.
3. A resource person, familiar with the model projects will provide consultation and technical assistance to teachers and administrators seeking information to help them address a particular human relations issue.