

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

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Final Report

April 1986



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

John Van de Kamp  
Attorney General

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

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

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

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

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

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

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

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

Sincerely,

MSGR. WILLIAM J. BARRY  
Chairman

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

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# Introduction

# INTRODUCTION

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

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

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

## Mandate

The Commission's mandate was to:

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

## Activities

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

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

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

## Scope

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

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

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

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

## Definition of Terms

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

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

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

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

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

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

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

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

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

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

## Organization of Report

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

## Footnotes

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

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

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

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

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

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

# Findings and Recommendations

# FINDINGS AND RECOMMENDATIONS

## Findings

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## RECOMMENDATIONS

### Data Collection and Reporting

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

## Proposed California Civil Rights Act

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

## The Ralph Civil Rights Act and Other Legal Remedies

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

## Proposed Hate Violence Prevention and Protection Act

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

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

## Victim Assistance

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

## Criminal Justice Policy Formulation

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

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

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

## Law Enforcement Training

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

## Education and Awareness

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

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

## Violence Against the Elderly and Disabled

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

I.

# Hate Violence in California

Viet refugee's mother  
White slaying racism in  
Paris report for violence, finds growing  
Gay Asianst Loatian family in the  
Explosives Found Near Synagogue  
Abuse of Hispanics, continues, says

# CHAPTER ONE: HATE VIOLENCE IN CALIFORNIA

## Hate Violence Today

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

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

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

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

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

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

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

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

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

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

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

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

Other victims and advocates testified about hate vio-

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

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

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



Diane C. Yu

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

## Causes of Hate Violence

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

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

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

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

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



Judge Alice Lytle

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

## The History of Hate Violence in California

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

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

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

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

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

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

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

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

## Preventing Hate Violence in the Future

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

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



Thomas F. Coleman

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

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

## Footnotes

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

# II.

## Data Collection and Reporting



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

## CHAPTER TWO: DATA COLLECTION AND REPORTING

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

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

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

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

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



John Saito

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

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

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

California Senate Bill 2080 directed the Department of Justice to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Footnotes**

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

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

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

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

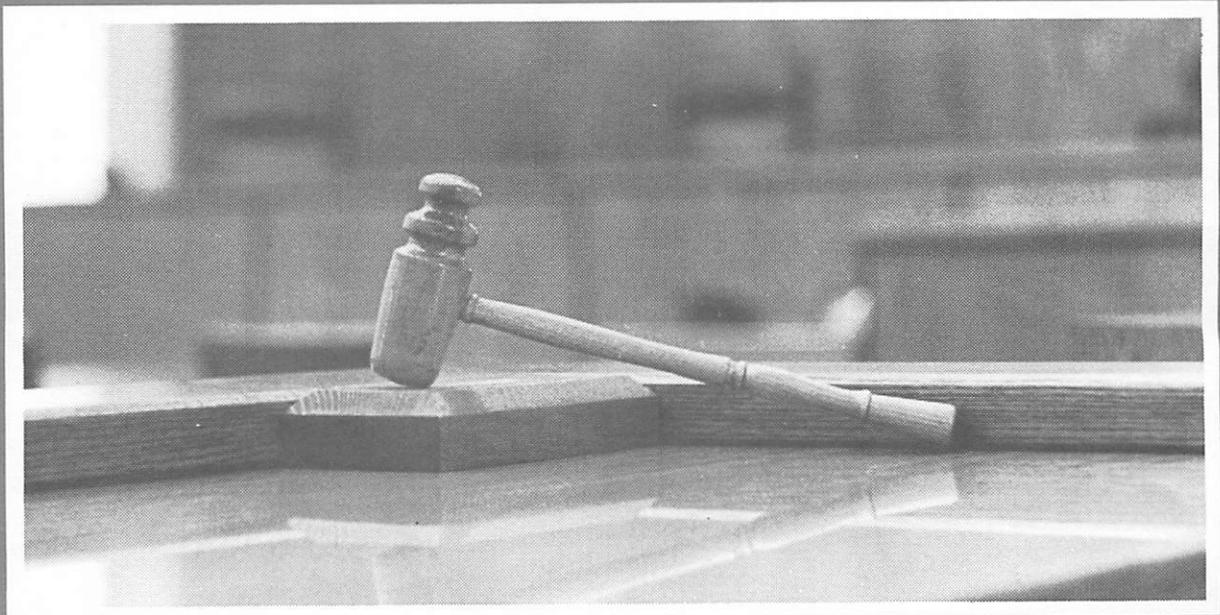
<sup>5</sup> *Ibid., p. v.*

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

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

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

# III. Proposed California Civil Rights Act



# CHAPTER THREE: PROPOSED CALIFORNIA CIVIL RIGHTS ACT

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

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

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

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



Joaquin Avila

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

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

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

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

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

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

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

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

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

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

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

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

## Footnotes

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

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

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

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

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

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

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

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

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

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

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

(Civ. Code, Sec. 51.7)

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

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

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

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

### Recommendation for facilitating injunctive relief

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

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

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



David Kassoy

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### Attorney's Fees:

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

### Fair Employment and Housing Jurisdiction:

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

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

### Treble Damages:

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

### Delay of Libel and Slander Counter Claims:

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

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

### Trial Setting Priority:

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

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

### Fund for Attorney's Fees:

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

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

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

## **Recommendations to the Attorney General**

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

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

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

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

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

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

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

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

### Recommendation for improving criminal remedies

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

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

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

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

## Footnotes

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# V. Proposed Hate Violence Prevention and Protection Act



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

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

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

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

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

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

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



Leticia  
Quezada

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The California Department of Education should provide support for local school

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



**Dr. Hazel  
Hawkins-Russell**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

recognize and handle conflicts motivated by prejudice.

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

## Footnotes

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<sup>19</sup> Ibid.

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

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

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

# VI.

# Victim Assistance



Courtesy: The Sacramento Observer

## CHAPTER SIX: VICTIM ASSISTANCE

The National Organization of Black Law Enforcement Executives found that:

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

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

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

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

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

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

California must protect victims of hate violence.

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

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

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

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



**Bishop Will Herzfeld**

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

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

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

## Footnotes

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

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

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

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

# VII. Criminal Justice Policy Formulation

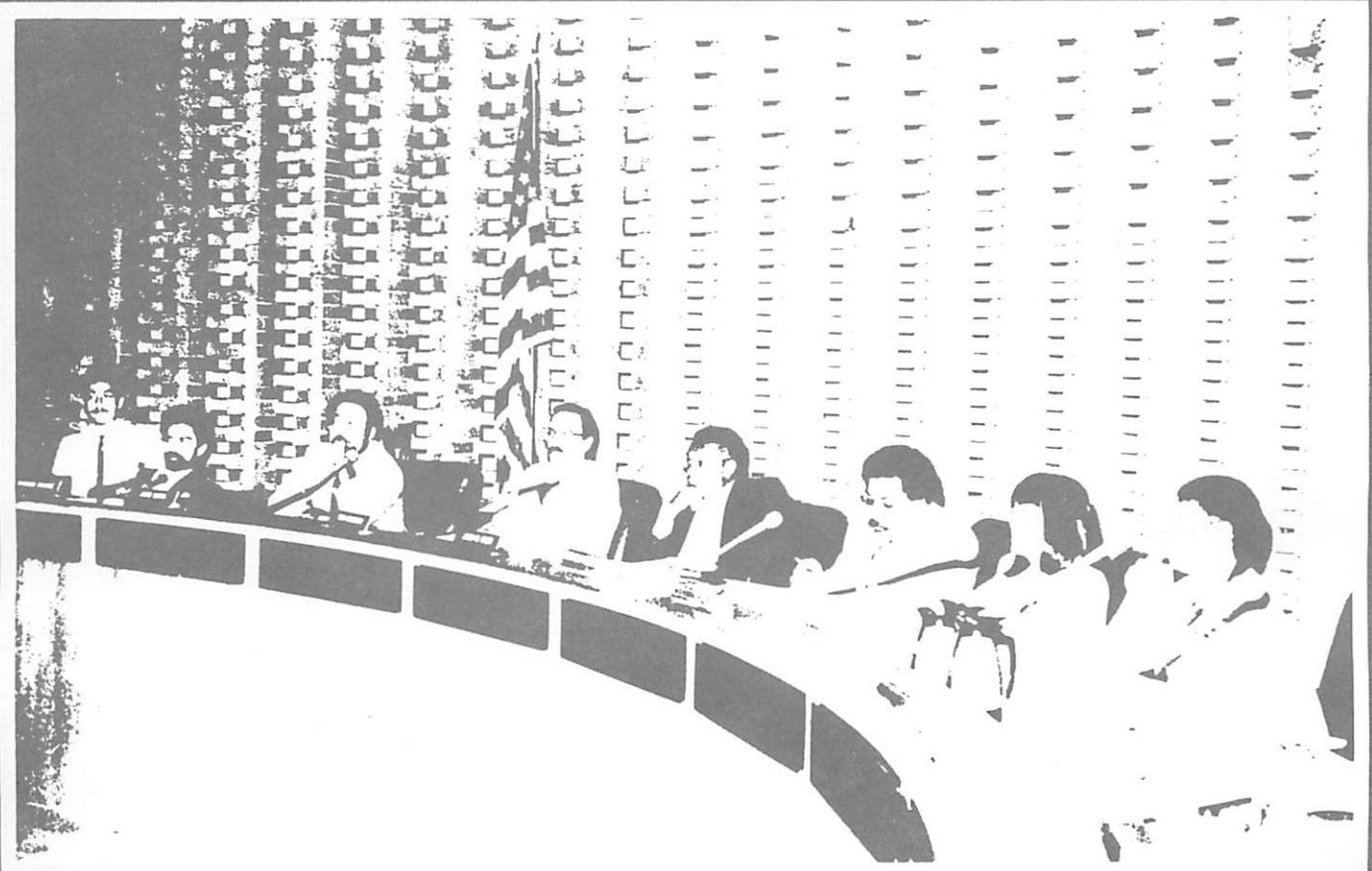


Photo by E.S.J. Photography, Riverside

# CHAPTER SEVEN: CRIMINAL JUSTICE POLICY FORMULATION

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

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

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

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

## Immigration

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

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

## Equal Employment Opportunities

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



Antonia Hernandez

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

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

## Policy on Laws Related to American Indian Reservations

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

### 19. The California Attorney General should:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Footnotes**

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

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

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

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

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

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

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

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

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

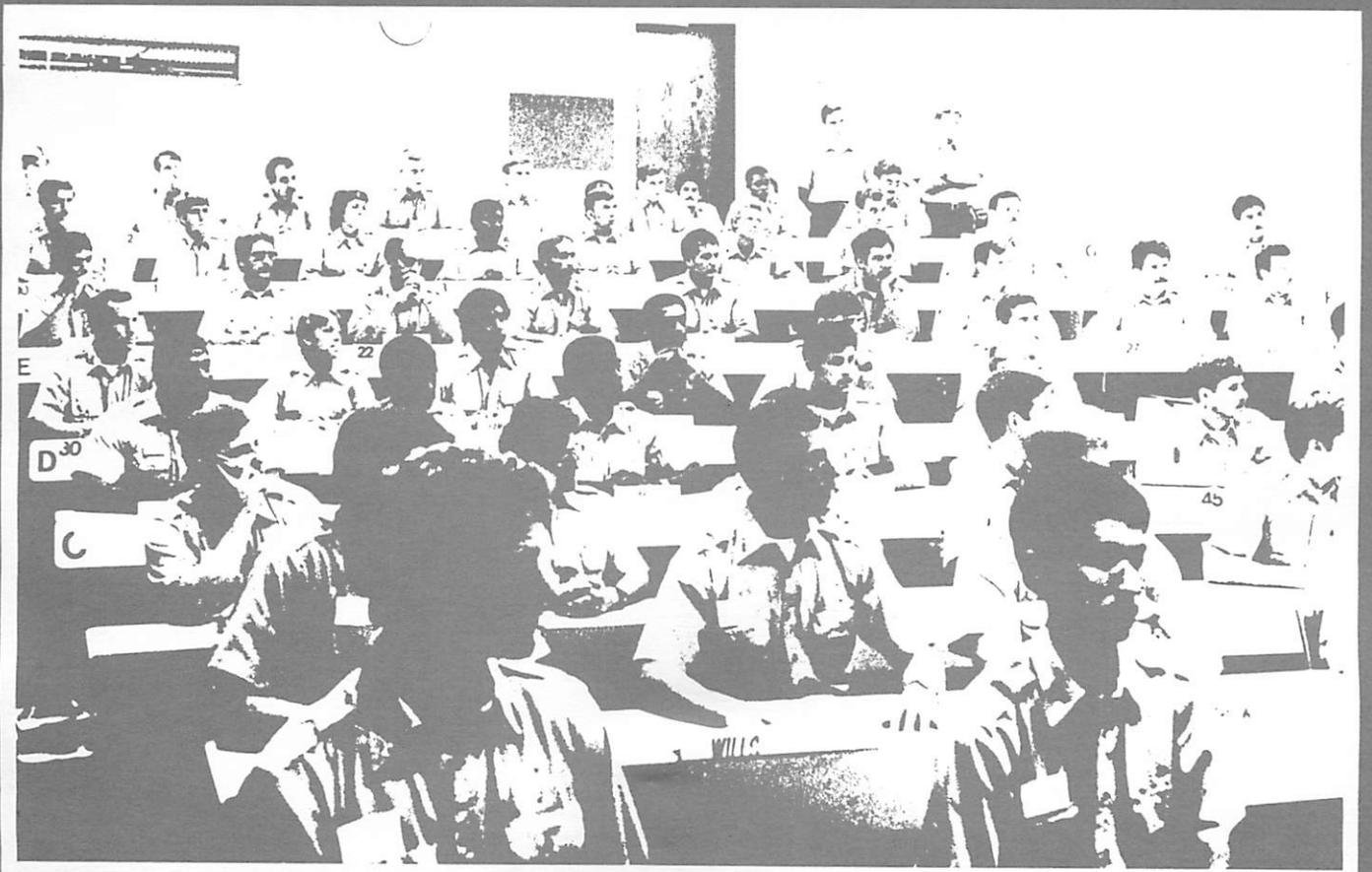
<sup>10</sup> Police departments in San Jose, Los Angeles, and some other California cities have adopted policies delineating procedures in contacts with undocumented immigrants.

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



Vincent Harvier

# VIII. Law Enforcement Training



## CHAPTER EIGHT: LAW ENFORCEMENT TRAINING

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

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

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

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

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

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

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

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

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

#### **Basic Academy Training**

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

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

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

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

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

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



Irma Castro

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

### Field Training Programs:

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

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

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

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

### Advanced Officer and Management Courses:

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

POST certified courses should include but not be limited to

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

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

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

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

## FOOTNOTES

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

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

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

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

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



## CHAPTER NINE: EDUCATION AND AWARENESS

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

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

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

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

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

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



John W. Mack

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **FOOTNOTES**

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

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

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

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

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

# Violence Against Elderly and Disabled Persons



Courtesy of California Association of Health Facilities

## CHAPTER TEN: VIOLENCE AGAINST ELDERLY AND DISABLED PERSONS

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

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

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

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

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

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

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



Janet Levy

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



**Richard Chavez**

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

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

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

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

## Basic Academy:

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

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

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

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

Performance objectives should be expanded to include the following:

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

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

## Field Training Program:

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

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

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

assist elderly and disabled crime victims;

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

## Advanced Officer Courses:

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

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

## Recommendations for community action

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

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

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

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

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

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

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

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

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

## **Footnotes**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# XI.

# Special Considerations



Courtesy: The Catholic Herald

## CHAPTER ELEVEN: SPECIAL CONSIDERATIONS

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

### Undocumented Immigrants and Refugees

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



**Judge  
Armando  
Rodriguez**

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

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

### Violence Against Women

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

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

### “English-Only” Laws

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

### Hate Violence in Prisons

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

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

# XII.

## Findings

## CHAPTER TWELVE: FINDINGS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



Msgr. William  
J. Barry

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

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