

# USCCCR

A S U M M A R Y R E P O R T

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*Reporting  
On  
Bias-Related  
Incidents  
In  
Pennsylvania*

*Pennsylvania Advisory Committee  
To The U.S. Commission On  
Civil Rights*

*This summary report of the Pennsylvania Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in the report should not be attributed to the Commission or to the Advisory Committee, but only to individual participants in the community forum where the information was gathered.*

## **THE UNITED STATES COMMISSION ON CIVIL RIGHTS**

The United States Commission on Civil Rights, first created by the Civil Rights Act of 1957, and reestablished by the Civil Rights Commission Act of 1983, is an independent, bipartisan agency of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice; investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

## **THE STATE ADVISORY COMMITTEES**

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 and section 6(c) of the Civil Rights Commission Act of 1983. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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Pennsylvania Advisory Committee to the  
U.S. Commission on Civil Rights

Susan M. Wachter, Chairperson  
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Harrisburg

Stephen W. Mahon  
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**Acknowledgements**

The Pennsylvania Advisory Committee wishes to thank the staff of the Commission's Eastern Regional Division for its help in the preparation of this summary report. The summary report was the principal assignment of Tino Calabria with support from Linda Raufu. The project was carried out under the overall supervision of John I. Binkley, Director, Eastern Regional Division.

TABLE OF CONTENTS

Letter of Transmittal

Amending Vandalism Law to Raise Severity of Offenses . . . . p. 1  
Training Personnel to Respond to Bias-Related Incidents . . p. 3  
Legal Responses and Progress in Pennsylvania . . . . . p. 3  
Defining or Determining Motivation . . . . . p. 4  
Collection Procedures and Data Collected Since Jan. 1987 . . p. 5  
Complexities in Recording Incidents and Compiling Data . . . p. 7  
Data Collection Issues Outside of Pennsylvania . . . . . p. 8  
Local Prevention-Resolution Team and Lack of State Sanctions p. 9

Appendices

Title 37 - Law: . . . . . Appendix A  
    Ethnic Intimidation Statistics Collection  
Pennsylvania Monthly Ethnic Intimidation Report . . . Appendix B



UNITED STATES  
COMMISSION ON  
CIVIL RIGHTS

1121 Vermont Avenue, N.W.  
Washington, D.C. 20425

DATE: September 27, 1987

FROM: Pennsylvania Advisory Committee

RE: Reporting on Bias-Related Incidents in Pennsylvania

TO: Clarence M. Pendleton, Jr., Chairman  
Murray Friedman, Vice Chairman  
William B. Allen  
Mary Frances Berry  
Esther Gonzalez-Arroyo Buckley

Robert A. Destro  
Francis S. Guess  
Blandina Cardenas  
Ramirez

Attached is a summary report on a forum held by the Pennsylvania Advisory Committee in Philadelphia on July 23, 1987. The forum's purpose was to follow-up on the Commission's interest in legislation calling for the collection of statistics on racially- or religiously-motivated incidents. In this forum, the Advisory Committee heard from the head of the State's Inter-Agency Task Force on Civil Tension, representatives of the Pennsylvania State Police unit which collects data on bias-related incidents, and a representative of the Community Relations Service of the U.S. Department of Justice, who monitors similar police efforts from Virginia to Massachusetts.

The State Task Force head asserted that Pennsylvania's Ethnic Intimidation and Institutional Vandalism Act enacted in 1982 has led to tough responses by police and courts and served as a deterrent to incidents. He said Pennsylvania's new hate-issue data collection law, implemented on January 1, 1987, parallels proposed Federal legislation. His assistant then explained how motivation is determined and the training given to help police to make such determinations.

State Police representatives reported that 54 bias-related incidents were reported but speculated that others have gone unreported and mentioned problems in reports received. They also elaborated on how investigations are carried out. The Justice Department representative praised efforts of a Philadelphia Police Department unit which may have led to a decline in local incidents but also asserted that some police agencies seem inclined to underreport. The panelists pointed to a weakness in reporting systems stemming from a lack of sanctions for not reporting incidents; even the FBI Uniform Crime Report is a voluntary system

in which a murder at the local level could go unreported to the state and the FBI.

The Advisory Committee hopes this summary report will prove a useful supplement to its March 1986 report on related matters.

Susan M. Wachter, Chairperson

LeGree S. Daniels

Min J. de Collingwood

Joseph Fisher

Eugene W. Hickock, Jr.

Sam Hwang

Stephen W. Mahon

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Sieglinde A. Shapiro

Carl E. Singley

M. Mark Stolarik

## REPORTING ON BIAS-RELATED INCIDENTS IN PENNSYLVANIA<sup>1</sup>

In March 1986, the Pennsylvania Advisory Committee submitted a briefing memorandum to the Commission entitled **The Status of Bigotry and Violence in Southwestern and Southeastern Pennsylvania in the Mid-1980s**. The present summary report is based on a forum held on July 23, 1987, regarding related developments, especially the implementation of Pennsylvania's new law requiring the collection of data on bias-related incidents.

### Amending Vandalism Law to Raise Severity of Offenses

Mr. Richard B. Anliot, Coordinator of the Pennsylvania Inter-Agency Task Force on Civil Tension as well as Education and Community Services Director at the Pennsylvania Human Relations Commission (PHRC), prefaced his remarks by noting that his Task Force was also represented at the Advisory Committee's June 1985 Forum, when the Committee was looking into racially and religiously motivated violence and intimidation in southeastern Pennsylvania. Since then, his Task Force has added the State System of Higher Education to its regular membership. Active as resource agencies are the Philadelphia Commission on Human Relations, the Philadelphia Police Department, the Pennsylvania Chiefs of Police Association, the Community Relations Service of the U.S. Department of Justice, and the Anti-Defamation League (ADL) of B'nai B'rith.

Mr. Anliot described Pennsylvania Senate Bill No. 235,<sup>2</sup> which has already been passed by the Senate, as one intended to amend the State's Institutional Vandalism Law.<sup>3</sup> In order to raise the level of an incident or crime from a misdemeanor of the second degree to a felony of the third degree, the existing Institutional Vandalism Law requires that there be at least \$5,000 worth of damage against public places, defined as including cemeteries and religious institutions. But Senate Bill No. 235, if it were to become law, "would in effect remove that limit [in cases in which any damage

<sup>1</sup>This summary report is based on the official transcript of the July 23, 1987, forum which is on file in the Eastern Regional Division. Other documentation is cited where appropriate.

<sup>2</sup>S.Res. 235, Pa. Leg., 1987 session.

<sup>3</sup>18 Pa. Cons. Stat. Ann. Section 3307 (Purdon Supp. 1985.)



is done] to venerated objects, namely, a public monument or structure or place of worship or burial."

Regarding the State's Ethnic Intimidation Statistics Collection Act (see Attachment A),<sup>4</sup> implemented on January 1, 1987, Mr. Anliot explained that this law "most nearly parallels the one that's been proposed at the Federal level" to produce a national report on bias-related incidents.<sup>5</sup> Since representatives of the State Police would be commenting on the State law, he focused on an issue in which the Task Force has been particularly involved lately--"the problem of, in effect, attitudes within the black community where Asians have successfully started up businesses. . . . And there is pretty obviously some pretty strong stereotyping between both racial groups. . . ."

Mr. Anliot was referring to situations in some black communities where Asians may have established businesses and where questions or assumptions have sprung up about how a person applies for assistance from the Federal or State governments in order to start up a new venture. For such reasons, the Task Force invited the appropriate governmental agencies to a then-upcoming meeting to clarify how guaranteed loans or grants can be obtained.<sup>6</sup> This,

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<sup>4</sup>71 Pa. Cons. Stat. Ann. Section 250 (Purdon Supp. 1987.)

<sup>5</sup>Two bills--HR 3193, introduced by Rep. John Conyers, Jr., of Michigan, and HR 993, introduced by Rep. Barbara B. Kennelly of Connecticut--are currently in Committee in the U.S. House of Representatives. The main difference between them is that the former includes crimes motivated by bias against homosexuals, and the latter excludes them. See "'Hate Crimes' Bills Pending in Congress," *The Monitor*, Center for Democratic Renewal, Nov. 1987, p. 2. A third bill, S. 702 introduced by Senator Paul Simon of Illinois, does not require reports to be made of bias-related crimes against homosexuals.

<sup>6</sup>On July 30, 1987, a representative of the U.S. Small Business Administration told the Task Force that "No preference is given to refugees as opposed to U.S. citizens," and "cited the possibility that both blacks and Hispanics are experiencing a higher approval rate than Asians in their applications for loans from banks. It is clear that Asian groups are helping each other with both money and technical know-how. . . ." From the minutes of the July 30, 1987, Task Force meeting by Richard B. Anliot, p. 2. A Pennsylvania Minority Business Development Authority representative offered data from his agency showing that during fiscal years 85-86 and 86-87, blacks won approval for 15 applications and Asians for two applicatons. (Asian

Mr. Anliot noted, was one example of how the Task Force can try to create better understanding of the facts and reduce misconceptions.

#### Training Personnel to Respond to Bias-Related Incidents

Another major focus of the Task Force has been on the training of police in matters pertaining to race relations and bias-related incidents. As a result, the Pennsylvania Chiefs of Police Association has circulated articles about the Ethnic Intimidation Law and the availability of training for local police forces. A September 1986 law now also requires that the State Police train its members in "identifying and responding to ethnic tension situations and complaints of violations" based on ethnic intimidation or institutional vandalism.<sup>7</sup>

In similar fashion, the president of the State District Attorneys Association sent to every district attorney in the Commonwealth a memorandum summarizing the law, urging vigorous prosecution by the district attorneys and offering briefings on the law at their various staff meetings. The approximately 1,200 district justices of the Commonwealth have also become apprised of the law through Mr. Anliot's 1986 article in *The Journal of the Special Court Judges Association*.<sup>8</sup>

#### Legal Responses and Progress in Pennsylvania

Since many bias-related incidents occur in schools, an effort soon to be launched involves the briefing of school administrators. School-based problems can be much more complicated, stated Mr. Anliot, because the decision to call in law enforcement officers is usually a decision made by the individual school principal. The Task Force is looking to its own State education representatives for guidance on policies and procedures through which more incidents might be prosecuted in the courts. Mr. Anliot added

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Indians won approval for four applications in the same period.)  
From the July 30, 1987, minutes, p. 3.

<sup>7</sup>Pennsylvania House Bill 1553, to amend State P.L. 177, No. 175, was signed into law on Sept. 29, 1986, thereby becoming No. 71, P.S. Section 711, according to Anliot.

<sup>8</sup>Richard B. Anliot, "Ethnic Intimidation," *The Journal, Special Court Judges Association of Pennsylvania*, Box 889, Harrisburg, Pa. 17108, Oct. 1986, pp. 6-7.

that the experience of the Task Force has been that "a consistent, tough legal response to ethnic intimidation" offers one of the best deterrents against the recurrence of incidents in general.

An example of where this approach has been taken outside school settings happened in the Harrisburg area. The black victim of a cross burning urged the court not to sentence the perpetrators to jail. However, the court insisted on handing down jail sentences which Mr. Anliot attributed to the court's sensitivity to the seriousness of the crime. He added that the newspapers much more frequently list ethnic intimidation among charges being filed against alleged perpetrators, and he suggested that this may also indicate a significant increase in convictions for incidents.

On the other hand, Mr. Anliot also pointed out that the Task Force has continued to press its educational activity because there is "still a strong tendency on the part of a police department not to include that charge, particularly if the victim doesn't insist on it. And, even if the victim makes the charge, still it's a great temptation and still happens too frequently that the charge gets dropped, either at the level of the police department in writing up the charges or if it gets to another level."

At the same time, Mr. Anliot offered a personal opinion that some progress is being made in the sense that "across the Commonwealth there is much more awareness that, I would say, it's a more serious crime to commit these offenses. It's not just juvenile pranks. The punishment is very much more serious. . . . [M]aybe the individual instances of prejudice haven't been reduced, but . . . there's less translating of those kinds of prejudice into unlawful acts."

#### Defining or Determining Motivation

Regarding the question of motivation on the part of perpetrators of incidents and how law enforcement officials can detect any such motivation when investigating incidents, Mr. Robert A. Clough, assistant to Mr. Anliot at the PHRC and on the Task Force, referred to a Task Force training kit which he shared with the Advisory Committee. The kit included copies of the various laws

related to ethnic intimidation and institutional vandalism, and in a definitional section, "malicious intention" is given as an intention "motivated by hatred toward the race, color, religion, or national origin of another individual or group of individuals." The "necessary elements" or underlying offenses are listed, and they range through harrassment, criminal trespass, arson, and criminal homicide.<sup>9</sup>

Mr. Clough explained that an individual convicted of a charge of ethnic intimidation could find that his or her sentence could be raised "from a summary offense, which is 90 days, \$300 fine, to a third degree misdemeanor . . . which could be one year imprisonment and \$2,500 fine." To help the arresting officer or other police official determine that ethnic intimidation was an added component of the crime committed, the training encouraged by the Task Force or directly involving Task Force members offers an explanation of the laws plus discussions of the cultures and backgrounds of the racial and religious minorities found to be victimized by ethnic intimidation.

Mr. Clough's training kit also contained copies of materials from training programs put on at separate locations in June and July 1987. They showed that role playing, including interrogation of a suspect by police, is part of such training. "[W]e include all aspects, so that the police departments get at least a cosmic view of what their requirements are in enforcing this law and also something about the people that are involved," said Mr. Clough.

#### Collection Procedures and Data Collected Since January 1987

Corporal Charles Lee of the Pennsylvania State Police Bureau of Community Service noted that implementation of the Ethnic Intimidation Statistics Collection Act commenced on January 1. He also stated that the instrument for collecting the data, Form J (see Attachment B), is "an additional form to the Uniform Crime Report disseminated to every police department and every law enforcement agency in Pennsylvania for use when they turn in their Uniform Crime Report at the end of the month."

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<sup>9</sup>State Act 1982, P.L. 537, No. 154, Section 1, June 18, 1982.

He reported that 54 incidents were submitted on Form J during the first five months of 1987. He also offered his opinion that probably not all incidents were reported, adding that the local police are not mandated to return Form J and that the law does not call for sanctions to be imposed for a failure to return Form J. If Form J is not received from a police jurisdiction, his unit has been assuming that no incidents occurred during the month being covered. He acknowledged that it would be helpful if each jurisdiction were to return the Form J and report "zero," if there actually had been no incidents. But he also pointed to the added paperwork burden on the approximately 1,300 police departments around the Commonwealth and the resultant burden on his own unit.

The reporting officer--who assists in the administration of Form J and who is not usually the investigating officer at the scene of the crime--must indicate on Form J the date and time of the incident; the victim's race or ethnicity, age, gender, and religious affiliation; the alleged offender's race or ethnicity, age, gender, and religious affiliation, if known; whether the alleged offender had been arrested; the type of weapon used, if any; the nature of injuries, if any; and the extent of damages, if any. Some reporting officers include whether an arrest is pending. However, names, addresses, and phone numbers are not recorded. Convictions are also not reported but would eventually appear in the files of the courts of record. All data are presently kept on paper and cannot be computerized until the State supplies a computer, Corporal Lee also noted.

In the discussion period, Harrisburg, Philadelphia, and Pittsburgh were referred to as examples of major police jurisdictions. Corporal Lee said that, were such jurisdictions not to file Form J with the State Police, there would be some inquiry made by his unit. The corporal added that he believed that the Task Force would also look into the matter. Mr. Clough agreed that the Task Force would do so and expected that he would go through the Bureau of Community Services of the Pennsylvania State Police which would then go out to the local jurisdiction. A former police officer himself, Mr. Clough suggested that, if the local jurisdiction "still didn't do it, I'd go out there and they'd do it."

Whatever the status may be of the reporting from individual jurisdictions, Corporal Lee subsequently noted that the data which are collected are not reported to the public. He said that, according to the law, the data "can only be disseminated through written request on letterhead to the Commissioner of the State Police, and . . . he would give the information out through our Bureau but only to contributing agencies for their use."

#### Complexities in Recording Incidents and Compiling Data

Elaborating on how it is determined that a crime falls under the Ethnic Intimidation and Institutional Vandalism Act, Trooper Dennis Eckenrode of the State Police explained that the police

go after whether there are racial slurs, whether there were swastikas put there, cross burning or any number of different things. They'll look to see what brought this crime to their notice. Also in any type of crime, there are usually interviews made with neighbors, people in the neighborhood, children . . . and they can say, well, so and so always said that he didn't want that black family to move in down the street, or things like that. Then it becomes ethnic intimidation.

He also expanded on the use of Form J, pointing out that problems have emerged from insufficient or wrong information being recorded. For example, the criteria for data to be entered regarding victim information were described by Corporal Lee. However, the criteria are not explicitly reflected on Form J itself. Consequently, some Form Js have arrived simply giving a person's name and address which, therefore, yielded no information on race or ethnicity. Trooper Eckenrode said that Corporal Lee and he have made follow-up phone calls regarding incidents to date. He also noted that further work with the community relations officers involved in the field should help to reduce such problems.

An hypothetical situation was described in which two white persons were involved in an altercation, and the investigating officer decided that the incident did not include an element of ethnic intimidation. However, the victim claimed that he had been seen by the alleged perpetrator when he had gone to his synagogue and so the victim argued that the incident involved the

intimidation due to his being Jewish. According to Corporal Lee, if the officer in this situation continued to believe ethnic intimidation was not a motive, the victim could turn to an appropriate civil rights commission or to the Task Force. Ultimately, even if the officer stood firm on his opinion, it would remain possible for the incident to be reported as ethnic intimidation once the Task Force or the State Police undertake a review.

#### Data Collection Issues Outside of Pennsylvania

Mr. Frank Tyler, Conciliator with the Community Relations Service of the U.S. Department of Justice, described the scope of his work in bias-related incidents from Virginia to Massachusetts. He observed that one problem stemmed from some police departments' apparently defining such incidents more narrowly than other police departments in order to underreport. "The result is that these communities appear to be more harmonious than others which have reported more honestly, a situation which creates a strong incentive for originally well-intentioned agencies to begin to underreport so as not to stigmatize their communities as racist."

In addition, Mr. Tyler mentioned that some observers have raised concerns that both noncriminal activities and criminal activities must be reported. For example, police jurisdictions "would be required to report racial name-calling incidents or Klan meetings of which they are aware," activities which are not necessarily crimes in themselves. Research in California revealed another concern, which is that the data collected actually represent cases reported, whether verified at the time of the report or not verified.

Regarding the concern about reporting both noncriminal and criminal activities, Corporal Lee stated that the Pennsylvania statute requires that an underlying crime must be committed in order for an incident to be reported on Form J. Mr. Tyler's example of a Ku Klux Klan meeting would not be reported "if it's just simply a meeting and nobody gets hurt" or nothing else untoward occurs. However, Mr. Clough elaborated on the corporal's variation on Mr. Tyler's example, hypothesizing that across the

street from the Klan meeting stands a synagogue and that participants at the Klan meeting begin "yelling racial slurs and names. Then you can say they are taking that meeting into the rights of that other organization. That could be a crime . . . of harassment."

#### Local Prevention-Resolution Team and Lack of State Sanctions

Mr. Tyler went on to point out that the Philadelphia Police Department has organized an eight-person unit called the Prevention-Resolution Team. Besides carrying out projects designed to prevent conflicts in neighborhoods, this unit wields arrest powers which it uses. According to Mr. Tyler, the rate of arrests for the Philadelphia Police Department in general is about 33 percent of the complaints made, but for the Prevention-Resolution Team it is 50 percent, and the unit has only been operational since September 1986. He suggested that the number of local incidents may be decreasing "because [the Team] made some arrests and people know that they are not going to take any stuff. And these officers go around and train other officers and that word is getting home. So we're finding a decrease, I think . . . [although] we don't have any statistics to back that up."

During the discussion period, Advisory Committee members, guest panelists, and Ms. Evelyn Hull Warner, a member of the audience and the President of Montgomery County's NAACP, also dwelt on the shortcomings of a reporting system in which no sanctions are imposed for failure to report and in which some of those expected to report may even be opposed to doing so. At the same time, Mr. Anliot noted that there is also no requirement that the FBI's Uniform Crime Report (UCR), mentioned at the outset of the forum, be completed. He explained that police departments across the U.S. submit the UCR to the FBI solely on a voluntary basis.

Mr. Anliot further indicated that in Pennsylvania, if a local police department chose not to report a murder to the State Police, there would be no penalty for not reporting it. Moreover, since the State Police furnishes the UCR to the FBI, the murder, which stayed unreported at the local level, would, therefore, not become registered with the FBI.



Closing the forum, the Chairperson noted that at least one loophole--the lack of sanctions for failing to report--had been identified regarding Federal legislation proposing collection of statistics on bias-related incidents. The Advisory Committee then voted unanimously that a summary report of the Committee's forum should be submitted to the U.S. Commission on Civil Rights.

## Title 37—LAW

### STATE POLICE

#### [37 PA. CODE CH. 53]

#### Ethnic Intimidation Statistics Collection

The State Police, by this order, adopts amendments to 37 Pa. Code by adding Subpart G, Chapter 53 as set forth in Annex A.

#### *Statutory Authority*

The regulations are adopted under section 710 of The Administrative Code of 1929 (71 P. S. § 250).

Notice of proposed rulemaking was published at 17 Pa.B. 3753 (September 19, 1987) with a 30-day comment period. No written comments were received from the public or persons regulated. The regulations are adopted without change, as originally proposed.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), a copy of the proposal was submitted on September 8, 1987, to the Independent Regulatory Review Commission and to the Chairpersons of the Senate Law and Justice Committee, and on September 9, 1987, to the Chairpersons of the House Judiciary Committee. In addition to the proposal, the Commission and the Committees were provided with a copy of a detailed Regulatory Analysis Form prepared by the State Police in compliance with Executive Order 1982-2, "Improving Government Regulations."

The Independent Regulatory Review Commission at a public meeting on October 1, 1987, approved the proposed regulations as published at 17 Pa.B. 3753. The Senate Law and Justice Committee met on September 28, 1987, and voted unanimously to recommend approval. The House Judiciary Committee has taken no

action to disapprove the proposed regulations; therefore, they have been deemed approved, as provided by section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), on October 9, 1987. The various oversight requirements of the Regulatory Review Act have been fulfilled by the review of the notice of proposed rulemaking and no additional review of the final order adopting the regulation is required.

#### *Finding*

The State Police finds:

(1) That public notice of intention to adopt the regulations adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) That the adoption of the regulations of the State Police in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

#### *Order*

The State Police, acting under the authorizing statute, orders:

## RULES AND REGULATIONS

(1) The regulations of the State Police, 37 Pa. Code Chapter 53, are amended by adding §§ 53.1, 53.2, 53.11—53.14 and 53.21 to read as set forth at 17 Pa.B. 3753 (September 19, 1987).

(2) The Commissioner of the State Police shall submit this order and 17 Pa.B. 3753 to the Office of Attorney General and the Office of General Counsel for approval as to legality as required by law.

(3) The Commissioner of the State Police shall certify this order and 17 Pa.B. 3753 and deposit the same with the Legislative Reference Bureau as required by law.

(4) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

*By the State Police*

# PROPOSED RULEMAKING

## STATE POLICE

[37 PA. CODE CH. 53]

### Ethnic Intimidation Statistics Collection; Collection, Preservation, Protection and Dissemination of Information

The State Police proposes to amend 37 Pa. Code Part I by promulgating a new subpart as set forth in Annex A.

The regulations are proposed under section 710 of The Administrative Code of 1929 (71 P. S. § 250) as amended by the act of October 3, 1986 (P. L. 1414, No. 129).

Notice of proposed rulemaking is given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202).

The purpose of these regulations is to implement and maintain the efficient administration of the Ethnic Intimidation Statistics Collection Act, specifically:

(1) To conform with the Ethnic Intimidation Statistics Collection Act. The act requires the State Police to collect information relating to crimes and incidents related to the race, color, religion or national origin of individuals or groups.

(2) To establish a uniform, simplified procedure for the collection of this information. The act requires this information to be reported monthly by all local law enforcement agencies and the State Fire Marshal.

(3) To establish conditions for the use or availability of this information as may be necessary to its preservation, the protection of confidential information or the circumstances of a pending prosecution. The act provides that the Commissioner of the State Police may, by regulation, establish such conditions.

The regulations affect the State Police, all local law enforcement agencies, the State Fire Marshal and agencies, departments, boards, commissions or officials who request any information, records or statistics collected.

#### *Fiscal Impact*

The regulations will have the following fiscal impact:

The State Police will incur the costs of:

(1) printing and distributing the reporting document, Return J, Pennsylvania Monthly Ethnic Intimidation Report, of the Uniform Crime Reporting Program report form system;

(2) printing and distributing a change sheet and revised pages for the Pennsylvania Supplemental Uniform Crime Reporting Manual to incorporate the new Return J;

(3) compiling and reporting the required information when acting in the capacity of a reporting agency; and

(4) collecting the information submitted by all reporting agencies and compiling and disseminating the information requested when acting in an administrative capacity.

The State Fire Marshal will incur the cost of compiling and reporting the required information as a reporting agency.

Local law enforcement agencies will incur the cost of compiling and reporting the required information as a reporting agency.

The regulations will have no fiscal impact on private entities.

#### *Paperwork*

The regulations will create the need for an additional report form. Return J of the Uniform Crime Reporting Program report form system will be utilized by reporting agencies to relay the required information to the State Police.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), a copy of this proposal was submitted on September 8, 1987, to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Standing Committees on Judiciary, and Law and Justice, respectively. In addition to the proposal, the Commission and the Committees were provided with a copy of a detailed Regulatory Analysis Form prepared by the State Police in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request. The State Police will consider any comments or suggestions received by the Commission and the Committees, together with any public comments, prior to adopting final regulations.

As provided by sections 5(c) and 6(a) of the Regulatory Review Act (71 P. S. §§ 745.5(c) and 745.6(a)), this proposal shall be deemed approved by the Standing Committees on October 9, 1987, and by the Independent Regulatory Review Commission on October 19, 1987, unless the Committees or the Commission recommends disapproval. If either the Committees or the Commission recommends disapproval, the Regulatory Review Act specifies detailed procedures for review by the State Police, the Governor and the General Assembly of objections raised.

#### *Effective Date*

The regulations will become effective upon final publication in the *Pennsylvania Bulletin*. The effective date of the act was January 1, 1987. All law enforcement agencies contributing to the Uniform Crime Reporting Program, which number in excess of 1,000 agencies, were notified of the provisions of the act and the associated reporting requirements in October 1986. Each reporting agency was provided with instructions regarding the

Material proposed to be added to an existing rule or regulation is printed in bold face and material proposed to be deleted from such a rule or regulation is enclosed in brackets [ ] and printed in bold face. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in standard type face.

For details relating to fiscal notes see the box at the bottom of the first page of the Rules and Regulations heading of the *Pennsylvania Bulletin*.

completion and submission of the Return J report form in December 1986. No comments, suggestions or objections have been received from any reporting agency regarding this method of collecting the required information.

#### Sunset Date

No sunset date has been established because the State Police will continue to monitor the Ethnic Intimidation Statistics Collection Act and evaluate suggestions and recommendations from interested parties and will promulgate amendments to the regulations as necessary or required.

#### Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding the proposal to the State Police within 30 days of the publication of this notice in the *Pennsylvania Bulletin*. All comments should be directed to: Major Edward J. Sabol, Director, Bureau of Research and Development, State Police, 1800 Elmerton Avenue, Harrisburg, Pa. 17110, (717) 783-5536.

#### By the State Police

JOHN K. SCHAFER,  
Acting Commissioner

Fiscal Note: 17-51. (1) General Fund and local law enforcement agencies; (2) \$3,370; (3) \$1,150; \$1,200; \$1,250; \$1,300; \$1,350; (4) N/A; (7) General Government Operations; (8) recommends adoption. The costs enumerated above would provide for the printing and distributing of the ethnic intimidation report, collecting the data submitted by reporting agencies and compiling and disseminating the information when requested. The State Fire Marshal and local law enforcement agencies would also incur costs to compile and report required information to the State Police.

### Annex A

## TITLE 37. LAW

### PART I. STATE POLICE

#### Subpart G. ETHNIC INTIMIDATION STATISTICS COLLECTION

#### CHAPTER 53. COLLECTION, PRESERVATION, PROTECTION AND DISSEMINATION OF INFORMATION

##### PRELIMINARY PROVISIONS

Sec. 53.1.	Definitions.
53.2.	Scope.

##### GENERAL PROVISIONS

53.11.	Responsibilities of reporting agencies.
53.12.	Responsibilities of the Department.
53.13.	Information required to be submitted.
53.14.	Dissemination of information.

##### FORMS

53.21.	Forms.
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#### PRELIMINARY PROVISIONS

##### § 53.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

**Act**—The Ethnic Intimidation Statistics Collection Act (71 P. S. § 250).

**Commissioner**—The Commissioner of the State Police.

**Department**—The State Police.

**Ethnic intimidation**—Malicious intention motivated by hatred toward the race, color, religion or national origin of another individual or group of individuals manifested through the commission of an act which is a necessary element of an offense under the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

(i) Article B (relating to offenses involving danger to the person).

(ii) Chapter 33 (relating to arson, criminal mischief and other property destruction (excluding section 3307 (relating to institutional vandalism))).

(iii) Section 3503 (relating to criminal trespass).

(iv) Section 5504 (relating to harassment by communication or address).

**Reporting agency**—A Commonwealth law enforcement agency contributing to the Pennsylvania Uniform Crime Reporting Program and the State Fire Marshal.

**Uniform Crime Reporting (UCR) Program**—A program established by law which provides a Statewide view of crime trends and volume based on the submission of statistics by law enforcement agencies throughout this Commonwealth. The Department, under the act of November 22, 1978 (P. L. 1166, No. 274) (71 P. S. §§ 1190.21—1190.30) and an inter-agency agreement between the Department and the Commission on Crime and Delinquency, acts as the administrator of the UCR Program, with the authority and responsibility for collection and dissemination of this statistical information.

##### § 53.2. Scope.

This chapter sets forth rules for the submission, collection, preservation, protection and dissemination of information, records or statistics relative to crimes and incidents related to ethnic intimidation. This chapter is applicable to Commonwealth law enforcement agencies, the State Fire Marshal and agencies, departments, boards, commissions or officials who are required to report information or who request information, records or statistics collected.

#### GENERAL PROVISIONS

##### § 53.11. Responsibilities of reporting agencies.

(a) A reporting agency is responsible for submitting the information required in § 53.13 (relating to information required to be submitted) when a crime or incident related to ethnic intimidation occurs within its reporting jurisdiction. This information shall be reported on a monthly basis in conjunction with and as an attachment to the monthly UCR Program submission. The form prescribed in § 53.21 (relating to forms) shall be submitted as the reporting document. If no crime or incident related to ethnic intimidation occurs, no submission is required.

(b) A reporting agency shall be guided by the Pennsylvania Supplemental Uniform Crime Reporting Manual in determining the appropriate reporting jurisdiction.

##### § 53.12. Responsibilities of the Department.

(a) The Department is responsible for collecting, preserving, protecting and disseminating the information which is submitted by reporting agencies.

(b) Requests for ethnic intimidation information, records or statistics and the release of this information shall be regulated as provided in § 53.14 (relating to dissemination of information).

§ 53.13. Information required to be submitted.

A reporting agency shall include the following information when reporting crimes and incidents related to ethnic intimidation:

- (1) Date the incident occurred.
- (2) Time the incident occurred.
- (3) Type of incident.
- (4) Victim information.
- (5) Offender information.
- (6) Arrest information.
- (7) Description of weapons used, injuries and property damage sustained.

§ 53.14. Dissemination of information.

(a) A reporting agency or other interested agency, department, board, commission or official desiring information, records or statistics collected under the act shall address the request to the Commissioner, State Police, Department Headquarters, 1800 Elmerton Avenue, Harrisburg, Pennsylvania 17110. The request shall be made upon the official letterhead stationery of the requesting agency, department, board, commission or official and shall specify:

- (1) The exact information, records or statistics being requested.
- (2) The need for and anticipated use of the information, records or statistics being requested.

(b) The Commissioner, or a designee, will determine whether or not the requested information, records or statistics will be furnished and will inform the requestor of the determination. The determination will be based upon consideration of:

- (1) The information furnished by the requestor as provided in subsection (a).
- (2) The necessity to preserve the information, records or statistics.
- (3) The necessity to protect confidential information or the circumstances of a pending prosecution.

FORMS

§ 53.21. Forms.

(a) The reporting document prescribed by the Department to be utilized by a reporting agency to report crimes or incidents related to ethnic intimidation shall be Return J, Pennsylvania Monthly Ethnic Intimidation Report, of the UCR Program report form system.

(b) The Return J report form and detailed instructions for its completion will be furnished to law enforcement agencies in the UCR Program by the Department through a State Police UCR Liaison Officer.

[Pa.B. Doc. No. 87-1483. Filed September 18, 1987, 9:00 a.m.]

5

JURIS NO.

PA  
ORI (NCIC) NO.

PENNSYLVANIA  
MONTHLY ETHNIC INTIMIDATION REPORT

Forward By 5th Day After The End of Each Month To The  
Assigned State Police Station

Report forms are available ONLY thru your  
State Police Liaison Officer

Enclosure (1)  
Special Order 86-193

1	2	3	4	5	6	7
DATE	TIME	TYPE OF INCIDENT	VICTIM INFORMATION	OFFENDER INFORMATION	ARREST	SUMMARY OF INCIDENT (Describe Weapons, Injuries, and Property Damage)
						WEAPONS - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: INJURY - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: PROPERTY DAMAGE - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE:
						WEAPONS - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: INJURY - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: PROPERTY DAMAGE - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE:
						WEAPONS - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: INJURY - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: PROPERTY DAMAGE - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE:
						WEAPONS - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: INJURY - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: PROPERTY DAMAGE - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE:
						WEAPONS - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: INJURY - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE: PROPERTY DAMAGE - <input type="checkbox"/> NO <input type="checkbox"/> YES TYPE:

ATTACHMENT B

Department Reporting \_\_\_\_\_  
 County \_\_\_\_\_ Pa. \_\_\_\_\_ Zip Code \_\_\_\_\_

Report for the Month of \_\_\_\_\_, 19\_\_\_\_  
 Date of Report \_\_\_\_\_, 19\_\_\_\_

Prepared By \_\_\_\_\_ Title \_\_\_\_\_  
 Head of Department \_\_\_\_\_

PENNSYLVANIA STATE POLICE  
UCR RETURN J (10-86)