

# Special Report to the Legislature on

## Senate Bill 780



### California Freedom of Access to Clinic and Church Entrances Act and Reproductive Rights Law Enforcement Act



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CRIMINAL JUSTICE STATISTICS CENTER, August 2003

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“Today, our commitment to the rule of law is being tested by those who believe that their opposition to abortion gives them the right to commit acts of violence, even murder, against their fellow citizens who seek only to exercise their constitutional right to choose or to assist others in exercising that right.

I recognize and respect the range of deeply felt beliefs Americans hold on abortion. A continued vigorous debate over abortion is proper. Violence against those who hold differing opinions is not.

I applaud Americans of conscience who differ in their convictions on abortion but who stand united in their opposition to violence. As we begin a new year, let us all reaffirm our devotion to the rule of law and our respect for the diversity of opinion that rule protects.”

William Jefferson Clinton  
42nd U.S. President  
January 2, 1995

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## EXECUTIVE SUMMARY

### **Study Objective**

On January 1, 2002, Senate Bill 780 (2001) enacted two new laws: the California Freedom of Access to Clinic and Church Entrances (or California FACE) Act, and the Reproductive Rights Law Enforcement Act. This bill also directed the California Department of Justice (CADOJ) to develop a plan to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes. This report is the result of that mandate.

### **Method**

This study used a literature review, validation survey, and statistical analyses to develop a list of recommended strategies for the plan.

### *Literature Review*

An extensive literature review of practitioners and experts nationwide resulted in identifying 26 potential strategies for use in California. Major sources that contributed information to this study were: (a) Senate Office of Research, which conducted a survey between 1995 and 2000 of 172 California health service providers (DeGiere, 2002); (b) Feminist Majority Foundation, which conducted a national survey in 2002 of 740 health service facilities (Lonsway, et al., 2003); (c) Police Executive Research Forum, which conducted a survey of 512 major city police chiefs nationwide

between 1996 and 1998 (Kenney, et al., 1999); (d) former Attorney General Janet Reno, who established a National Task Force that published “Report on Federal Efforts to Prevent and Prosecute Clinic Violence for 1998-2000 (Anonymous, 2001); and (e) a law review article “In Your F.A.C.E.: Federal Enforcement of The Freedom of Access to Clinic Entrances Act of 1993 (Tepper, 1997).

### *Validation Survey*

A validation survey was constructed to determine if these 26 strategies were appropriate for California. The validation survey was administered to 47 reproductive health service facilities, 33 police departments, and 25 district attorney’s offices in 25 counties throughout California. Each health service facility was asked to solicit four staff members to complete the survey. Each police department and district attorney’s office was asked to solicit three persons to complete the survey. A total of 92 surveys were completed by three groups of respondents. The 25 counties consisted of three northern urban counties (San Francisco, Sacramento, and Alameda), 13 northern rural counties, three southern urban counties (Los Angeles, Orange, and San Diego), and six southern rural counties.

### *Statistical Analyses*

The survey data were analyzed using a model function called cumulative logits by performing ordered logistic regression using the proportional odds model (McCullagh, 1980). As a result of this statistical analysis, 16 of the 26 strategies were recommended for use in California.

### **Recommendations**

It is recommended that the plan to prevent, report, apprehend, and prosecute anti-reproductive-rights crimes in California should include the following 16 strategies. The plan component (prevention, PRE; reporting, REP; apprehension, APP; or prosecution, PRO) has been indicated for each strategy.

- < #1 Law Enforcement Agencies Should Train Officers (Plan Impact PRE, APP): Law enforcement agencies should provide training to officers on local and federal laws pertaining to demonstrations and protests, First Amendment rights, and reproductive rights of patients. This training should include educating officers about stakeholders' perceptions and perspectives, discussing Pro-Life and Pro-Choice beliefs to sensitize officers to the language surrounding the abortion issue, and other relevant information about recurring abortion-related incidents.
- < #2 Law Enforcement Agencies Should Train Dispatchers (Plan Impact APP):

Law enforcement agencies should provide training to dispatchers concerning deployment procedures, communications, and appropriate language when handling calls for service in abortion-related conflicts.

- < #3 Law Enforcement Agencies Should Establish Event Guidelines (Plan Impact PRE): Before a planned event, a law enforcement officer should meet with leaders from the Pro-Life and Pro-Choice movements to: (a) establish guidelines which outline acceptable behavior, (b) discuss police procedures for violations of these guidelines, and (c) discuss and distribute written information concerning injunctions and relevant laws.
- < #4 Law Enforcement Agencies Should Enforce the Rules (Plan Impact APP): After establishing guidelines and explaining them to participants, law enforcement officers should take consistent and assertive action in response to violations.
- < #5 Law Enforcement Agencies Should Establish Physical Boundaries (Plan Impact PRE): When possible, law enforcement officers should clearly mark injunction and police zones to prevent possible disputes over legally protected territory including designating areas or establishing barriers if counter-demonstrators are present.

- < #6 Law Enforcement Agencies Should Determine Appropriate Personnel Deployment at Planned Events (Plan Impact PRE, APP): To enforce physical boundaries and event guidelines, law enforcement agencies must carefully assess the number of on-scene officers necessary to manage each event because under- or over-deployment of personnel send a message of bias.
- < #7 Law Enforcement Agencies Should Assign Officers as Contacts to Participant Groups (Plan Impact PRE, APP): At large events, in addition to tactical assignments and where resources allow, two or more officers should be assigned as primary contacts to the participant groups. Different officers should be assigned to the clinic, to Pro-Life demonstrators, and to Pro-Choice demonstrators. The purpose of this strategy includes: (a) ensuring that participant issues and needs are addressed and communicated, and (b) allowing officers to communicate with participants.
- < #8 Law Enforcement Agencies Should Establish Arrest Procedures (Plan Impact PRE, APP, PRO): After establishing guidelines for demonstrations, law enforcement should clarify to participants what constitutes a violation, then establish detainment procedures for arresting individuals who violate the law. These procedures should include establishing teams to: (a) make the majority of the arrests (arrest teams); (b) document all relevant information during the arrest procedure (booking/processing teams); and (c) transport the arrestees to the detention facility (transport teams). In addition, officers should have an event response kit containing camera equipment along with copies of injunctions and guidelines pertaining to the event.
- < #9 Law Enforcement Agencies Should Hold Post-Event Briefings (Plan Impact PRE, APP, PRO): After an event, the involved law enforcement agency should hold internal post-event briefings to evaluate its responses and ability to manage the incident. During these meetings, law enforcement officers, tactical planners, and others involved in the event should: (a) review department policies and procedures; (b) analyze the effectiveness of law enforcement's response; and (c) consider additional training for department personnel.
- < #10 Law Enforcement Agencies Should Have Guidelines for Handling the Response (Plan Impact PRE, APP, PRO): To minimize tensions during abortion-related calls for service, responding officers should: (a) use neutral and non-confrontational language; (b) meet with



spokespersons from each of the issue's partisans to determine what is alleged to have occurred; (c) clearly communicate reasons for action or inaction; (d) gather any existing evidence of the reported incident or problem; and (e) have a response kit that includes copies of relevant laws and injunctions for use in answering calls for service.

< #11 Law Enforcement Agencies Should Have Guidelines for Supervisory Approval (Plan Impact APP): To assist law enforcement officers responding to abortion-related calls for service, officers should have sufficient guidelines to ensure that most actions do not require supervisory approval.

< #12 Law Enforcement Agencies Should Collaborate With Other Law Enforcement Agencies (Plan Impact PRE, APP, PRO): Law enforcement agency leaders should establish formal relationships with other law enforcement agencies for sharing information about abortion-related conflicts in other locations.

< #13 Law Enforcement Agencies Should Have Guidelines for Confidentiality of Clergy (Plan Impact PRE, REP): Law enforcement and clergy should establish, in advance, ground rules for managing confidential information and identifying, diverting, and responding to potentially

violent persons.

< #14 Law Enforcement Agencies Should Collaborate With the Criminal Justice System (Plan Impact APP, PRO): Collaborative arrangements should be established among law enforcement agencies, legal liaisons, judges, local prosecutors, U.S. Attorneys, jails, and other agencies tasked with criminal justice system responsibilities related to anti-reproductive-rights crimes.

< #15 Law Enforcement Agencies Should Communicate With Other Interested Parties (Plan Impact PRE, REP): To gain additional perspectives about conflicts of community concerns, law enforcement officers should communicate regularly with business owners and residents in areas affected by abortion-related conflicts. This will aide in the apprehension of law violators by encouraging business owners and residents to report suspicious persons or activities to law enforcement.

< #16 Law Enforcement Officers Should Not Work as Security at Clinics and Events (Plan Impact PRE, REP, APP): Off-duty employment of law enforcement officers by clinics or Pro-Life or Pro-Choice organizations should be avoided because it interferes with officers' ability to maintain a neutral identity and

standing when responding to abortion-related conflict or violence calls for service.

### **Implementation**

Consistent with the legislative intents expressed in subdivisions (c), (d), (e), and (f) of Section 1 of Senate Bill 780 (2001), it is recommended that the Commission on Peace Officer Standards and Training (POST) provide anti-reproductive-rights crimes training which includes the 16 strategies described in this report. The Commission on POST should “provide for regular, periodic, and continuing professional training of peace officers throughout California. This training should take place in conjunction, when appropriate, with training of reproductive health service providers funded by non-commission sources.”

Also, and consistent with good law enforcement agency management practices, it is recommended that agencies evaluate their standard operating procedures with regard to anti-reproductive-rights crime prevention, apprehension, and reporting. Where resources allow, law enforcement agencies should adopt each of the 16 strategies as part of their current law enforcement practices and procedures.

**Executive Summary of Plan Components of  
Prevention (PRE), Reporting (REP), Apprehension (APP), and Prosecution (PRO) for Recommended Strategies**

	Description of Recommended Strategy	PRE	REP	APP	PRO
#1	LEA Should Train Officers (K #3)	X		X	
#2	LEA Should Train Dispatchers (K #4)			X	
#3	LEA Should Establish Event Guidelines (K #5)	X			
#4	LEA Should Enforce the Rules (K #6)			X	
#5	LEA Should Establish Physical Boundaries (K #7)	X			
#6	LEA Should Determine Appropriate Personnel Deployment at Planned Events (K #8)	X		X	
#7	LEA Should Assign Officers as Contacts to Participant Groups (K #8)	X		X	
#8	LEA Should Establish Arrest Procedures (K #9)	X		X	X
#9	LEA Should Hold Post-Event Briefings (K #11)	X		X	X
#10	LEA Should Have Guidelines for Handling the Response (K #12)	X		X	X
#11	LEA Should Have Guidelines for Supervisory Approval (K #12)			X	
#12	LEA Should Collaborate With Other Law Enforcement Agencies (K #13)	X		X	X
#13	LEA Should Have Guidelines for Confidentiality of Clergy (K #14)	X	X		
#14	LEA Should Collaborate With the Criminal Justice System (K #15)			X	X
#15	LEA Should Communicate With Other Interested Parties (K #16)	X	X		
#16	Law Enforcement Officers Should Not Work as Security at Clinics and Events (K #18)	X	X	X	

Notes: LEA: Law Enforcement Agencies  
Complete details of strategies are given in Kenney, et al. (1999).

## INTRODUCTION

### Forward

On January 1, 2002, Senate Bill 780 (2001) enacted two new laws: the California Freedom of Access to Clinic and Church Entrances (or California FACE) Act (Title 11.7 [commencing with section 423] of Part 1 of the Penal Code), and the Reproductive Rights Law Enforcement Act (Title 5.7 [commencing with section 13775] of Part 4 of the Penal Code). This bill also directed the CADOJ to develop a plan to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes, and to carry out the legislative intents expressed in subdivisions (c), (d), (e), and (f) of section 1 of the legislation.

Subdivisions (c), (d), and (e) indicate legislative intents directed to the Commission on Peace Officer Standards and Training (POST). Subdivision (f) describes the legislative intent that “nothing in this act, and no action by anyone pursuant to this act, stigmatize anyone solely because of his or her religious beliefs, because of his or her advocacy of any lawful actions, or because of his or her exercise of the rights of free speech or freedom of religion, and that nothing in this act, and no actions by anyone pursuant to this act, otherwise harm anyone because of his or her beliefs, constitutionally protected speech, or lawful actions.”

An anti-reproductive-rights crime is defined in the legislation as “a crime

committed partly or wholly because the victim is a reproductive health services client, provider, or assistant, or a crime that is partly or wholly intended to intimidate the victim, any other person or entity, or any class of persons or entities from becoming or remaining a reproductive health services client, provider, or assistant.” Criminal penalties are significant and include 6 to 12 months imprisonment in a county jail and a \$2,000 to \$50,000 fine.

This report provides the required plan, outlining strategies to prevent, report, apprehend, and prosecute anti-reproductive-rights crimes. It is recommended that the details of an implementation plan for each strategy in the plan be developed by the Commission on POST. This report does not include a review of professional training currently being conducted by the Commission on POST pursuant to subdivisions (c), (d), and (e) of section 1 of the act. All questions regarding professional training of peace officers should be directed to the Commission on POST.

It will become clear that information describing abortion-related conflict or violence can be characterized as prevention, reporting, apprehension, or prosecution depending on when and how the information is shared. Information regarding an abortion-related conflict and violence *which has not yet occurred* that is provided by stakeholders

(including a health care provider, client, or assistant) to law enforcement is considered to be “prevention.” This would include suspicious individuals, activities, or acts that are believed to be evidence that an abortion-related conflict or violence will happen in the near future. Information provided by a stakeholder about a conflict or violence that *has already occurred* is considered “reporting.” If this report leads to an arrest by law enforcement, this would also include “apprehension.” If the abortion-related crime is shared between officials of the criminal justice system, such as law enforcement and prosecutors, this information would be considered “prosecution.”

Finally, “data collection” occurs when a police report describing the abortion-related crime, and subsequent arrest, is sent to the CADOJ. In June 2002, the CADOJ announced the development of an automated “data collection” system for anti-reproductive-rights crimes that will be available in 2003. Guidelines for sending anti-reproductive-rights crimes data to the CADOJ were provided in Information Bulletin 02-15-BCIA and will not be discussed in this report.

### **Background**

The need to develop a plan to protect women’s reproductive rights in California can be clearly demonstrated by national trends in both anti-choice legislation and anti-reproductive-rights crimes. The ninth edition of *Who Decides? A State-by-State*

*Review of Abortion and Reproductive Rights*, published by the National Abortion Rights Action League (NARAL) (Anonymous, 2000), demonstrates that reproductive choice and legal abortion face historic uncertainty with anti-choice policies continuing to dominate state legislatures even as pro-choice initiatives advance. In addition, the incidence of anti-reproductive-rights crimes across our nation is also increasing. These facts clearly show the necessity to protect women’s reproductive rights in California by developing a plan to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes in California.

Kenney, et al. (1999) note significant events leading up to the *Roe v. Wade*, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed 2<sup>nd</sup> 147 (1972) decision in 1973. The first significant protests against abortion in the United States were launched in the latter half of the 19<sup>th</sup> century with the argument that the practice was not only immoral, it threatened the health of women (Kenney, et al., 1999). By 1890, a campaign pressed by both medical and religious leaders was successful in changing laws in every state to strictly regulate or abolish the practice of abortion. The political tide turned in the late 1960s, in favor of individual control over reproductive rights, and by 1970, permissive abortion laws were passed in 16 states. The anti-abortion movement that arose to counter this wave of permissive abortion laws consisted of Roman Catholic Church-sponsored small groups of medical professionals and church leaders

who were loosely organized.

The 1973 U.S. Supreme Court decision in *Roe v. Wade* dramatically changed the nature of the political debate over abortion by intensifying the anti-abortion movement and shifting it into a national arena (Kenney, et al., 1999). During the early 1970s, this movement focused on the legislative arena where anti-abortion groups, such as the National Right to Life Committee, collaborated to alter the political landscape and overturn the *Roe* decision. Clinic protests were largely peaceful, involving picketing and other constitutionally-protected activities. By the late 1970s to early 1980s, the nature and intensity of protests began to change. Increases in both the number of abortion providers and abortions performed, and anti-abortion activists' increased willingness to employ more extreme tactics resulted in intensified conflict and violence. As a result, Pro-Choice and Pro-Life advocates continue to engage in a contentious relationship, which not only keeps the debate over abortion alive, but ensures the vitality of the opponents' positions. (See Kenney, et al. [1999] for further reading.)

The following discussion of the genesis and development of the Pro-Life and Pro-Choice movements is from Tepper (1997). The 1973 United States Supreme Court decision in *Roe v. Wade* (which held that the right to terminate a pregnancy was inherent in the constitutional right to privacy) was

neither the beginning nor the end of the abortion debate or the heightened sensitivities surrounding it. In fact, the Court's decision in *Roe* motivated some of the most dissonant and sustained criticism that the American judiciary has ever confronted. The Supreme Court's decision in *Roe* galvanized a right-to-life movement that had, of course, predated it in nascent form but that gained cohesion largely by virtue of the Supreme Court's ruling. The decision in *Roe* "made concrete for the right-to-life movement the evil its adherents sought to combat. They portrayed legalized abortion as government-sponsored mass killing. In right-to-life literature, comparisons to the Holocaust abound." The Catholic Church immediately opposed the Court's decision in *Roe v. Wade*. Within one month of the decision, the Catholic hierarchy called for civil disobedience in order to protest the decision, and it commanded that any Catholic having an abortion or assisting in an abortion be excommunicated.

The tactics that many right-to-life groups utilized to express their discontent with legalized abortion are many (Tepper, 1997). These activities ranged from picketing clinics and setting up counseling centers, to informing women of the moral consequences of abortion and the alternatives available, to more extreme acts such as blocking ingress and egress to clinic entrances, harassing clinic employees, throwing plastic replicas of fetuses at those attempting to enter clinics, and lying motionless in the streets and

doorways. The numerous Supreme Court decisions which followed *Roe* and limited a woman's right to have an abortion did little to curb the violent fervor of some right-to-life activists. Pro-choice activists responded to the political activism of their adversaries, in part, by providing escort services and emotional support for women who attempted to enter abortion clinics. However, the emotional and religious convictions of many right-to-life extremists caused them to utilize more ominous tactics. Violent strategies were implemented throughout the United States in order to impede a woman's access to abortion clinics.

The avowed purpose of many of the more extreme right-to-life groups that employed violent and threatening tactics was to ensure that women were denied access to safe and legal abortion services (Tepper, 1997). Anti-abortion activists made it plain that this conduct was part of a deliberate campaign to eliminate access by closing clinics and intimidating doctors. Although violent tactics have generally only been employed by the most extreme right-to-life activists in the more than 20 years following *Roe*, the violent tactics these activists employed during 1994 and 1995 (for example, see Tepper, 1997) included at least 42 bombings, 102 arsons or attempted arsons, 84 assaults, two kidnappings, 327 clinic invasions, nine shootings, 95 incidents of trespass, 16 burglaries, and four murders, as well as countless incidents of death threats, violent confrontations, and harassment. Although

the majority of people who oppose legalized abortion express their religious and political views non-violently, the violence utilized by extremists caused the federal government to examine the need for legislation to address the intensifying brutality.

Baird-Windle and Bader (2001) chronicled the movements leading up to *Roe v. Wade*. They presented the emotional and day-to-day reality of the "abortion wars" since *Roe*, including observations and reactions of front-line workers who describe in their own words being taunted, stalked, and threatened by anti-choice extremists. When the Supreme Court decided *Roe* on January 22, 1973, most Americans believed that the abortion issue was finally settled. Women who desired to terminate unwanted pregnancies could do so, and those who wanted to reproduce could have as many children as they felt capable of rearing. Women's clinics began to proliferate, and it was the dream of entrepreneurs across the nation to make abortion as accessible as dental or optical care and as supportive, caring, and nonjudgmental as possible. Although clinics did open in all 50 states, early opposition made it clear that abortion was different from other medical services. By the late 1970s, well-organized opponents demonstrated that they would do everything possible to close clinics or limit the availability of care. While their efforts to ban abortion have not been successful, the gradual erosion of the right to choose has been extremely successful. At the start of

the 21<sup>st</sup> century, abortion services are available in only 16 percent of U.S. counties. South Dakota has just one provider for the entire state, North Dakota only two, and West Virginia only four. Between 1992 and 1996, the number of providers fell by 14 percent, leaving nearly one-third of American cities without a reproductive health center. Rural areas are worse off, and would-be patients often are forced to travel hundreds of miles to see a physician.

The NARAL's ninth edition of *Who Decides? A State-by-State Review of Abortion and Reproductive Rights* describes the steady erosion of abortion and reproductive rights for our nation as a whole (Anonymous, 2000). This report demonstrates that reproductive choice and legal abortion face historic uncertainty, with anti-choice policies continuing to dominate in state legislatures even as pro-choice initiatives advance. In the NARAL report, Justice Blackman wrote, "Few decisions are more properly intimate, more properly private, or more basic to individual dignity and autonomy, than a woman's decision, with the guidance of her physician and within the limits specified by *Roe v. Wade*, to end her pregnancy. A woman's right to make that choice freely is fundamental."

The NARAL report (Anonymous, 2000) includes the critical finding that more anti-choice legislation was introduced and enacted in the states in 1999 than in any previous year, with 439 measures introduced and 70 enacted. In addition, there has been

an escalation of anti-choice legislative activity over the last five years. As an example, the number of anti-choice measures enacted has increased almost 300 percent since 1995. Anti-choice legislation does not merely restrict abortion, but also impedes a range of reproductive health issues from contraception and sexuality education to the rights of pregnant women. The NARAL state ranking system, which analyzes the cumulative effect of existing laws and court cases relating to abortion in all 50 states, calculated the overall grade for the nation at D + . California and eight other states received a grade of A. More than half of the states received a D or F. North Dakota edged out Louisiana for last place in imposing the heaviest legal burdens on abortion. The NARAL report reveals that women seeking abortion in 2000 had fewer rights than their mothers held in 1973.

Finally, between 1977 and 1998, the National Abortion Federation (NAF) reported that the types of incidents and occurrences of abortion-related crime throughout our nation included: murders (6), attempted murders (15), bombings (39), arsons (150), attempted bombings/arsons (73), invasion (355), vandalism (712), assault and battery (104), death threats (290), kidnapping (2), burglary (45), and stalking (385) (NAF, 1998). As defined by NAF, stalking is the "persistent following, threatening, and harassing of an abortion provider, staff member, or patient, *away* from the clinic." According to NAF (1998),



disruptive events since 1977 also include incidents of hate mail and phone calls (4,714), bomb threats (434), and picketing (21,025). The latter category includes 673 clinic blockades.

DeGiere (2002) traced the national history of the criminal fringe of the anti-abortion movement from the 1980s through early 2001. DeGiere (2002) reported that:

- < Since 1993, seven individuals who were employed or volunteered in U.S. clinics, including doctors, staff, and patient or doctor escorts, have been killed in incidents motivated by anti-abortion animus. Several others have received life-threatening injuries.
- < Since 1982, there have been 224 reported arsons and bombings of abortion and family-planning clinics, of which only 77 have been solved.
- < In March 2001, the U.S. 9<sup>th</sup> Circuit Court of Appeals in San Francisco ruled that a website calling for Nuremberg-type trials of “wanted doctors” who perform abortions, and those who assist them, is constitutionally protected free speech. Eight persons listed on this website have been killed. In May 2001, this website began posting photographs of clinic patients.
- < No government agency comprehensively tracks anti-abortion crimes. The NAF reported that 2,584 incidents of violent crime against abortion providers and 680 incidents of clinic blockades occurred

nationwide between 1974 and 2000.

- < A total of 224 anti-abortion arsons and bombings were reported across the nation between 1982 and 2000. Thirty of these occurred in California and 16 in Florida. The California estimate may be conservative because law enforcement agencies are not required to identify pro-choice targets or anti-abortion motives in arsons, bombings, or other crimes. This estimate also excludes crimes such as break-ins, assaults, blockades, vandalism, stalking, and threats of violence involving clinics, personnel, or patients.
- < The large number of arsons and bombings in California may be associated with population size. However, Texas, the second most populous state, has a rate of only 0.67 arsons and bombings per 1 million people compared to a rate of 0.88 for California.
- < The large number of arsons and bombings in California may also be associated with the number of abortions. However, New York, which reported the second largest number of abortions, has a rate of only 5.37 arsons and bombings per 100,000 legal abortions, compared to a rate of 12.61 for California.

The remainder of this report is divided into several sections.

The first section, “Abortion Conflict and Violence,” provides the results of specific studies that have surveyed the magnitude and

scope of abortion crime, both for our nation and for California. These studies include surveys by the Police Executive Research Forum, the Feminist Majority Foundation, and the Senate Office of Research.

The next section, “Strategies From Literary Sources,” collects strategies for building a plan from several sources, including the National Task Force, the Senate Office of Research, and the Police Executive Research Forum.

The following section, “California Validation Survey,” presents the results of a survey conducted by the CADOJ to validate the plan.

The final section, “Discussion,” uses both the literary sources and the validation survey to develop a plan to prevent, report, apprehend, and prosecute anti-reproductive-rights crimes in California.

## ABORTION CONFLICT AND VIOLENCE

Kenney, et al. (1999) report “Little systematic, objective analysis of the nature and the extent of the violence, its antecedents and consequences has occurred. As a result, our knowledge is limited. What is clear, however, is that abortion-related violence has had a profound impact on the provision of abortions and the protests that center around them. Physicians have stopped performing abortions, clinics have closed, and many women seeking abortions now must be escorted into treatment facilities. Protestors, too, have been injured at demonstrations. In addition, violence attributed to the radical fringe appears to have eroded the foundation of the Pro-Life movement, reduced the numbers of people willing to protest, and diminished the financial resources available to these activities.”

This section provides specific details of the magnitude and scope of anti-reproductive-rights crimes, both for our nation and for California, by reviewing surveys from the Police Executive Research Forum (Kenney, et al., 1999), the Feminist Majority Foundation (Sefl, et al., 2000), and the Senate Office of Research (DeGiere, 2002).

### **National Survey by Police Executive Research Forum**

Kenney, et al. (1999) provides the most exhaustive review of what is known about

abortion-related conflict and violence in the United States since the *Roe v. Wade* decision. A synopsis of selected topics is provided below. The reader is encouraged to review Kenney, et al. (1999) for further study.

### *Categories of Conflict and Violence*

There is a broad range of activity associated with anti-abortion sentiment. Incidents surrounding the abortion debate can be loosely organized into four groups: demonstrations, nonphysical harassment, civil disobedience, and violence. This categorization is useful because it separates those activities that are legally protected by the Constitution (the first two groups), from those that are not (the last two groups).

< Demonstrations include peaceful protests involving participants picketing with signs or engaging in prayer at abortion clinics, office buildings, or churches. Often this includes calling out to members of the opposing faction represented at the site and verbal exchanges that can lead to heated debates between participants. Although these activities are protected by the First Amendment, these demonstrations can lead to minor violations of the law such as trespassing, impeding traffic, and repeated noise violations. To control these activities, many localities regulate demonstrations with injunctions

curtailing the physical boundaries of the protest and requiring special permits for participants.

- < Nonphysical harassment includes letter-writing campaigns, phone campaigns, distribution of “wanted posters,” informational contacts with schools and employers of abortion providers and their families, and following members of opposing factions, short of stalking. These activities are fully protected by the First Amendment when the intent is to gather and disseminate information to educate others about the activities of opposing group members.
- < Civil Disobedience includes blockades at abortion clinics, with methods such as passive resistance (e.g., chaining protestors to cars or doors), the placement of impediments (e.g., cars) in front of clinics, and disruption of clinic activities by physically damaging the facility or contributing properties.
- < Violence involves attacks against people, including threats and intimidation, arson, bombing, acid attacks, assault, stalking, and murder. These violent attacks are escalations of the harassment and civil disobedience described above, and are illegal and prohibited by various state and federal statutes.

Kenney, et al. (1999) denote illegal activities covered under civil disobedience and violence as “abortion-related violence.” In addition, while the behaviors defined as

demonstrations and harassment are not violent, their potential to become so, and their role as a medium for promoting violence, make them a concern as “abortion-related conflict.” Therefore, a plan to prevent, report, apprehend, and prosecute anti-reproductive-rights crimes should include both abortion-related violence and conflict.

#### *Participants in the Conflict and Violence*

According to statements made at congressional hearings and to media representatives, abortion clinics and individual members of both Pro-Life and Pro-Choice groups have been victimized by violent attacks ranging from harassment tactics to death threats and physical attacks (Kenney, et al., 1999). Operation Rescue and NAF have documented violence against activists, clinics, and leaders from both sides of the debate, including Randall Terry of Operation Rescue and Susan Hill of the National Women’s Health Organization, who testified that they have been threatened and harassed (Kenney, et al., 1999).

There is a fair amount of debate, however, about the veracity of these claims of violence (Kenney, et al., 1999). Pro-Choice advocates, such as Feminist Majority Foundation President Eleanor Smeal, state, “Pro-Life advocates exaggerate their claims of violent acts and that these acts cannot compare in intensity or number with those perpetrated on Pro-Choice advocates (Kenney, et al., 1999).” After all, they assert,

there have been no murders, arsons, or bombings directed at Pro-Life advocates or their places of business (Kenney, et al., 1999). On the other hand, Pro-Life advocates assert that the media and other sources deliberately ignore acts of violence directed against them (Kenney, et al., 1999).

Although the immediate victims are clearly the most directly affected by abortion-related violence, several additional groups also are affected because of the political nature of the violence (Kenney, et al., 1999). These include peaceful demonstrators on both sides (who may be or fear being victims of violence); patients and providers of abortion services (whose activities are curtailed by the threats of violence); police, prosecutors, and judges (whose personnel and financial resources are tapped to respond to the violence); and the community at large, which has a stake in maintaining the safety of citizens' work and home environments.

#### *Survey Results*

The Police Executive Research Forum (Kenney, et al., 1999) conducted a two-year study on the nature and extent of abortion-related conflict (the form, frequency, and scope of abortion-related violence; trends that exist in type and location of conflict and violence; and activities that have the potential for conflict and violence) and law enforcement's responses to these conflicts (Kenney, et al., 1999). Balancing input from individuals on all sides of the abortion debate, the study addressed these issues in

three research phases: (a) a national survey of police agencies; (b) case studies of sites with experience on the issue; and (c) a series of focus groups that brought together partisans from around the country. Emerging from these analyses were neutral policy recommendations for police agencies that respond to abortion-related conflict.

#### *Survey Method*

The Police Executive Research Forum conducted a national survey of 512 major city police chiefs during the summer of 1996. The population of agencies surveyed included all jurisdictions serving populations of 50,000 or more with at least 70 sworn officers. The survey itself was sent to the chief executive officer of each agency with the request that the person or unit most qualified provide the requested information. Thus, the actual respondent may have been a civilian, a police officer, or a supervisor of a specialized unit who was requested to provide the agency's perspective. A total of 395 agencies from 45 states provided information yielding a response rate of 77%.

#### *Key Findings*

The results from the national survey are summarized below.

- < Seventy percent of those jurisdictions with a population size of at least 50,000 have at least one abortion provider and one-third of these have three or more abortion providers.
- < Of those jurisdictions with known

providers, two-thirds (67%) have experienced actual incidents of abortion-related conflict or violence, ranging from protests and demonstrations to murder, during the past five years. Generally, larger jurisdictions have more providers who have experienced conflict.

- < For those agencies able to assess trends in the number and severity of incidents of conflict and violence in their jurisdiction, most reported that both had become less frequent and less severe. Only nine agencies reported increased incidents. Seven agencies noted that incidents were getting more violent.
- < Those agencies reporting declining numbers of incidents attributed the change to: (a) a reduced number of protestors and changes in their tactics; (b) a reduction in the number of providers and improved security for those providers who remain; and (c) their own local law enforcement efforts. The deterring impact of the Freedom of Access to Clinic Entrances (FACE) law and local judicial actions (restraining orders, lawsuits, and injunctions) were also reported.
- < Those agencies reporting that incidents were getting less violent attributed the change to reduced or changed protestor activity and local law enforcement efforts.
- < Slightly more than half of the agencies that reported incidents of conflict and violence noted that a single facility had

attracted the greatest amount of conflict. This was true for most of the smaller jurisdictions and for about 40% of the largest jurisdictions.

- < To explain why a provider might be targeted for protests and conflict, the police noted the visibility of location, easy access from public sidewalks, and locations near a main thoroughfare as the primary explanations. The potential for media coverage, high number of abortions performed, and availability of large religious populations nearby were also selected as explanations.
- < Most agencies agreed that locally-based groups, with a mix of local and non-local residents, were responsible for initiating the abortion-related conflicts and violence in their communities.
- < Finally, few agencies reported using federal legislation to solve abortion conflicts, and most agencies had little need for federal agencies to respond to the incidents that do occur. Further, few agencies offered either pre-training or in-service training to guide officers' decision making in response to abortion-related issues.

Given the above results, Kenney, et al. (1999) selected nine police departments with experience in responding to abortion-related incidents for more detailed examination and discussions. The results of these case studies and focus-group sessions are reported in Kenney, et al. (1999). The recommendations

from all three phases of research will be

presented in the section “Strategies From Literary Sources.”

### **National Survey by Feminist Majority Foundation**

The Feminist Majority Foundation’s eighth annual National Clinic Violence Survey measured the incidence of anti-abortion violence during 2002 (Lonsway, et al., 2003). A brief summary of this survey is presented below.

#### *Profile of Survey Respondents*

The Feminist Majority Foundation’s National Clinic Access Project identified 739 abortion providers, including clinics with various national organizational affiliation (e.g., NAF or Planned Parenthood Federation of America), as well as independent clinics. Questionnaires were mailed in September 2002. Abortion providers received follow-up telephone calls and e-mails from the Feminist Majority Foundation and their national organizational affiliations. As a result, 338 questionnaires were returned from 47 states and the District of Columbia, giving an overall response rate of 46%.

The survey respondents included non-profit clinics (47%), for-profit facilities (30%), and private doctor’s offices (22%). The majority (67%) of these providers were free-standing. The remainder were located in a medical office group (7%), a strip mall (7%), a high-rise medical building (4%),

another type of high-rise (5%), a hospital (3%), and an “other” building type (7%).

Virtually all clinics offered a variety of women’s health care services in addition to abortion including: birth control services (96% of clinics), pregnancy counseling (83%), emergency contraception (88%), emergency contraception including the “morning after pill” (84%), sexually transmitted disease (STD) testing and treatment (80%), adoption counseling and referral (51%), cancer screening (66%), services related to menopause (49%), HIV/AIDS testing (60%), pre-natal care (21%), and other women’s health care services (27%). Other services include the entire range for a primary care, family, or OB/GYN practice, as well as vasectomies, pregnancy testing, colposcopy, cryotherapy, infertility testing and treatment, artificial insemination, community education, and parent support groups.

#### *Key Findings*

< In contrast to the findings of Kenney, et al. (1999), the clinics which experienced severe violence (defined as blockades, invasions, bombings, arsons, chemical attacks, stalking, gunfire, physical assaults, and threats of death, bomb, or arson) increased from 20% of clinics in both 1999 and 2000, to 23% in 2002. Although the percentage of clinics experiencing severe clinic violence has dropped significantly from its peak of 52% in 1994, almost one-in-four clinics

throughout the country are experiencing severe clinic violence.

- < In 2002, the most commonly reported types of severe violence were bomb threats (6.5% of clinics), stalking of physicians or clinic staff (6.5%), death threats (6.5%), and blockades of clinic entrances (6.8%). Although bomb threats continued their pattern of decline from a peak of 13% of clinics in 1999, the number of stalkings, death threats, and blockades has increased since 2000.
- < Follow-up investigations of those clinics reporting blockades and invasions revealed a changing pattern of tactics of intimidation and obstruction by the extremists. Although blockades and invasions reported in the 2002 survey typically did not involve massive numbers of demonstrators as in the late 1980s and early 1990s, incidents did, nonetheless, involve very aggressive tactics. For example, protestors blocked and interfered with vehicles entering clinic parking lots and initiated confrontations with patients and clinic staff as they attempted to enter a clinic. Sometimes, protestors even blocked the clinic doorway or invaded the clinic to harass and threaten staff and patients, always abandoning their activity moments before law enforcement arrived.
- < The percentage of clinics experiencing three or more forms of violence or harassment increased dramatically in recent years, from 5% in 1999 and 11%

in 2000, to 14% in 2002. This broader measure of violence and harassment includes the severe violence variables plus vandalism, home picketing, and break-ins.

- < Anthrax threat letters have become an increasingly-used tactic of anti-abortion extremists. The percentage of clinics reporting having received an anthrax threat letter increased from 7% in 2000, to 30% in 2002.
- < Anti-abortion intimidation tactics such as “WANTED” posters, internet intimidation, and anti-abortion leafletting increased from 35% of clinics in 2000, to 67% of clinics in 2002. These intimidation tactics are generally targeted at the same clinics victimized by violence and harassment.
- < The percentage of clinics reporting that a physician or other staff member quit their job as a result of anti-abortion violence, harassment, or intimidation increased from 5% in 2000, to 7% in 2002.
- < As in previous years, a clear majority of clinics provided favorable ratings of law enforcement response to clinic violence in 2002. Of those clinics that had contact with local law enforcement, 75% provided “good” or “excellent” ratings. Of those clinics that had contact with state law enforcement, 81% rated their response as good or excellent. Of those clinics that had contact with federal law enforcement, 82% rated their response as good or excellent.



- < The number of clinics reporting that they contacted attorneys or federal law enforcement officials regarding potential violations of Freedom of Access to Clinic Entrances (FACE) law continues to decrease from 11% in 1999 and 10% in 2000, to 7% in 2002.
- < In 2002, federal law enforcement response to reports of FACE violations decreased. The percentage of clinics reporting that they were “provided clear direction for initiating federal Freedom of Access to Clinic Entrances (FACE) complaints” decreased from 58% in 2000, to 16% in 2002. The percentage of contacts resulting in an investigation being opened decreased from 30% in 2000, to 24% in 2002. The percentage of contacts which led to an interview with the involved parties decreased from 33% in 2000, to 16% in 2002. The percentage of criminal FACE actions initiated decreased from 9% in 2000, to 4% in 2002. These results suggest a less aggressive response by federal law enforcement to Freedom of Access to Clinic Entrances (FACE) complaints in 2002, compared to 2000.

**California Survey by Senate Office of Research**

The California Senate Office of Research conducted a survey of 172 publicly identified abortion providers in California to determine the extent and nature of anti-abortion crime in California (DeGiere, 2002).

*Survey Results*

*Clinics Sampled*

In order to reflect current conditions after the federal FACE Act became law in May 1994, the survey obtained data for incidents between 1995 and 2000. Two surveys were constructed. The first was a medical/office survey that identified incidents at clinics or medical offices. The second was a personal survey that identified incidents away from clinics or offices. Fifty-seven locations provided valid responses to the clinic/medical office survey for a response rate of 33%. Fifty-two individuals in 48 locations provided valid responses to the personal survey for a response rate of 27%. Here, the author uses “valid” to denote surveys returned where all questions were completed as instructed. Given the low response rate of 27%, these surveys may not be representative of the total population sampled.

*Key Findings*

Highlights from the clinic/medical office survey include:

- < More than half (50.9%) of the clinics and medical offices experienced anti-reproductive-rights crimes between 1995 and 2000. This total includes threats (95 incidents), vandalism (64 incidents), non-injury assaults (34 persons), blockades (111 incidents in five locations), and injury assaults (four assaults on two persons).

- < Forty-eight percent of those who reported these crimes to law enforcement were dissatisfied with the response. Complaints about responses included officers who were unfamiliar with the law, officers who tried to mediate between the criminals and the victims rather than making arrests, and law enforcement agencies accused of refusing to enforce laws except in major cases.

Highlights from the personal survey data include:

- < Less than one-third (30.4%) of the respondents said they or their families had been targets of anti-reproductive-rights crimes that took place away from their clinics or medical offices between 1995-2000. This total includes threats (31 incidents), vandalism (ten incidents), stalking (nine incidents), non-injury assaults (four incidents), and identity theft (four incidents).
- < Slightly less than half (45.4%) of those who reported these crimes to law enforcement said they were dissatisfied with the response.

#### *Anti-Abortion Organizations*

There are six anti-abortion organizations in California who practice both violent and non-violent anti-abortion crimes, or cooperate with national organizations that do so (see discussion by DeGiere, 2002).

There is growing evidence that

affiliations are occurring between hate groups and violent anti-abortion groups. Whether these affiliations suggest that they are joining forces or simply combining resources is open to debate. However, there is well-documented evidence that some of the same people who have threatened or injured patients and personnel at health care facilities have also committed hate crimes against homosexuals, Jews, and African-Americans. Some authorities believe the influence and financial resources of these individuals is growing as the criminal elements within their groups join forces.

Three of the United States' leading hate crime monitoring groups, the Southern Poverty Law Center, the Northwest Coalition Against Malicious Harassment, and the Anti-Defamation League, published research in 1998 and 1999 noting an overlap between the hate movements they track and anti-abortion extremists (DeGiere, 2002).

The Southern Poverty Law Center concluded, "More and more anti-abortion extremists, white supremacist groups, and the conspiracy-minded 'Patriot' movement have come to share the same enemies list. Many in these previously separate movements agree that everything smacking of 'one-worldism' – the Olympics, the United Nations, and any other global agency – is part of a massive plot to subject Americans to tyranny. Activists in all three movements describe homosexuals as 'sodomites' who deserve capital punishment. Most recently many of these groups are also attacking

abortion.”

The Northwest Coalition Against Malicious Harassment’s 1998 annual conference featured a presentation by University of West Florida sociologist Dallas A. Blanchard, in which he reported, “. . .the recent Birmingham, Alabama bombing, killing of a police officer, and seriously injuring a nurse by blinding her. . .symbolizes what students of the anti-abortion movement have known for over a decade: the increasing interaction and merger of some militia groups and the violent wing of the anti-abortion movement. Anti-abortionists have been schooled in the use of heavy arms and explosives by militia groups since the mid-1980s and have in recent years become more openly allied with pro-violence militia groups. At the same time, a number of these militia organizations have become more vocally anti-abortion.”

The Anti-Defamation League (ADL) in 1999, reported on “Nuremberg Files” creator Neal Horsley’s public endorsement of anti-gay and anti-government violence, and his call for states to seize nuclear weapons to bargain for secession from the United States. The ADL also noted a “fierce opposition to abortion” by some violent, anti-Semitic, and anti-government groups.

The National Observer in San Diego, which calls itself part of the “hardcore Aryan racist movement,” and whose creator pled guilty in March of 2001 to civil-rights violation charges stemming from what police called a three-year string of hate crimes,

embraced the most deadly fringe of the anti-abortion movement in February 2000.

The Freedom Fighter Militia, part of the national Militia network that also includes two California militias, proclaimed itself “pro-life” in April 2000. This organization displays on their website “we are proud supporters and allies with the Army of God,” an anti-abortion extremist group.

Total Resistance, chiefly devoted to advocacy of violence against abortion providers and the government, added an anti-gay page in October 2000, with links to a site described by the Southern Poverty Law Center as “America’s most infamous anti-homosexual website.”

Some Army of God leaders in the past have disavowed racism. However, some of the Army of God rhetoric opposing hate-crime laws is virtually indistinguishable from that of white supremacists.

### **Theoretical Explanations of Abortion-Related Violence**

Kenney, et al. (1999) provided a review of this topic and many excellent literary sources for further study. While the scholarly literature on abortion is vast and addresses a variety of topical issues, systematic analysis of violence has been limited. Research has examined the socio-demographic characteristics of women who obtain abortions, the determinants of public attitudes towards abortion, the impact of public policy on abortion rates, and even the political and social origins of the abortion

debate. For the most part, however, researchers have neglected the violence associated with the abortion debate. While few researchers have focused on violence, their studies have been largely atheoretical, or have been case studies of a single violent group within the anti-abortion movement without developing a theory to explain the violence.

Some scholarly studies have applied a more systematic analysis to abortion-related violence and comprehensively examined the field of participants, delineating between different types of groups on each side. To understand why and when violence occurs, these studies have taken a “social movements” perspective.

Generally, research on social movements attempts to explain the emergence, maintenance, and effectiveness of “collective attempts to further a common interest, or secure a common goal, through collective action outside the sphere of established institution.” Scholars have offered competing explanations for why and when social movements resort to violence. They range from individual-level explanations, which seek to explain what norms, values, and environmental factors provide the impetus for collective behavior, to macro-level theories that focus more on the dynamics of the political arena and how this contextualizes the tactics chosen by different groups. (See Kenney, et al. [1999] for further study.)

### **Effects of Abortion-Related Violence**

Tepper (1997) reviewed the impact of anti-abortion violence on the provision of medical services and provides many references for further study. This discussion includes a synopsis of that review.

Congress recognized that the ongoing violence and threat of violence have caused clinics to close and have “caused serious and harmful delays in the provision of medical services and increased health risks to patients. It has also taken a toll on providers, intimidated some into ceasing to offer abortion services and contributed to an already acute shortage of qualified abortion providers.” Doctors have been forced to use drastic means to protect themselves from violence.

The Senate Committee on Labor and Human Resources found that anti-abortion activities have had an adverse impact, not only on abortion providers and patients, but also on the delivery of a wide range of health-care services. Many of the facilities targeted by anti-abortion activists provide a vast scope of health-care services, as well as abortions. The more dramatic protests held outside these facilities, and the ensuing violence, caused the clinics to close down, at least temporarily.

For patients seeking abortion-related services, the detrimental effects of clinic blockades and invasions can be particularly grave. After confronting a blockade, the patient may be too anxiety-ridden to undergo the procedure that day and, if the procedure

is delayed, the health risks to the patient are often increased. Some abortion procedures take more than one day and the patient runs a high risk of complications if she is not able to receive the follow-up procedure.

Anti-abortion tactics have resulted in the closing of numerous clinics nationwide (Tomlin, 1994). Some proponents of FACE have said, "Abortion may remain a legal option in this country, but there will be so few providers that access will be limited and in some cases unavailable . . . Physicians are discontinuing the provision of a needed medical service simply out of fear." The American Medical Association (AMA) has emphasized the critical nature of the problem facing health care professionals:

Due to the growing violence against physicians and health care professionals generally, the AMA believes that FACE represents a critical step in permitting dedicated health care professionals to deliver lawful medical services without fear of harassment, threats or violence. . . Unless the issue of continued violence at health care facilities is directly confronted, the practice of medicine will be severely affected.

Nationwide, 83% of counties have no abortion provider. South Dakota has only one abortion provider for the entire state, and in North Dakota, the only doctor who performs abortions commutes from Minnesota to make such services available.

As a result, some patients are forced to travel over 100 miles to seek medical attention. When the procedure takes more than one day, or access to the clinic is obstructed by any means, such travel can be especially burdensome.

Also, abortion clinics have closed and hospitals have stopped performing abortions, either because they have feared for the safety of their personnel and patients or because clinic landlords have evicted them due to safety concerns for neighboring people and businesses (Kenney, et al., 1999).

The Pro-Life movement has also been affected (Kenney, et al., 1999). Protestors have stopped protesting for several reasons, including fear for their own safety, the organizations they support have been forced to close, or financial difficulties associated with litigation (Kenney, et al., 1999). In addition, a schism has developed between different Pro-Life groups whereby those with peaceful intent distance themselves from others with violent intent or rhetoric in order to retain respectability and legitimacy in their efforts to educate and offer choices to women.

#### **Remedies for Abortion-Related Violence**

Kenney, et al. (1999) provide a review of this topic with many references for additional study. This discussion includes a synopsis of that review. Several criminal justice system approaches have been used to reduce abortion-related violence and increase the safety of stakeholders. For example, the

literature reports on law enforcement agencies' actions to develop strategies to better handle demonstrations. In addition, communities have invoked permits and injunctions to curtail problem behavior, and advocates have pursued legal remedies to violent behavior. For example, following a series of First Amendment events, the Cincinnati Police Department developed several strategies to deal with protests at local abortion clinics. This agency engaged in a multi-step process involving advance planning, setting of guidelines for appropriate protest behavior, use of SWAT teams, the drafting of policies on arrest procedures, and the use of "pain compliance techniques" by officers.

Pro-Choice advocates also have sought legal redress in a variety of ways. Federal laws, such as the Racketeer Influenced and Corrupt Organization (RICO) Act and the Klu Klux Klan Act of 1871, have been used to stop anti-abortion protestors (Kenney, et al., 1999). The applicability of RICO is still under challenge, however, as the definition of racketeering is scrutinized in this context. Furthermore, the statute's true usefulness is in question because it applies to civil remedies based on incidents that have occurred already and cannot be used to prevent violent actions.

Pro-Choice advocates also have tried to prevent protests by invoking the Ku Klux Klan Act of 1871, which protects against ". . . deprivation of. . . equal privileges of the law." In a 1993 case, it was argued that

protestors were "preventing women from exercising their constitutional right to an abortion" and that the Ku Klux Klan Act provided a remedy for that. The Supreme Court disagreed and ruled that the protestors' right to free speech was more "explicitly protected by the Constitution" than the right to an abortion. (See also, discussion by Tepper (1997).)

Because of the inadequacy of these approaches, activists sought more definitive federal legislation. In 1993, a bill was introduced that would have a "broad and far-reaching" impact on abortion protests. This bill, which became the federal Freedom of Access to Clinic Entrances (FACE) law in 1994, made blockade of clinics a federal offense when protestors use or attempt to use "force, threat of force, or obstruction to injure, intimidate, or interfere with any person who is providing or obtaining reproductive health services" or "intentionally damage or destroy the property of a facility, or attempt to do so, because it provides reproductive health services."

The constitutionality of the federal Freedom of Access to Clinic Entrances (FACE) Act is constantly challenged. One example is the use of injunctive relief for clinic blockades. One month after the FACE Act became law, the Supreme Court decided *Madsen v. Women's Health Center*, 512 U.S. 753, 114 S.Ct. 2516 (1994), 129 L.Ed.2d 593, (Figueroa and Kurth, 1994). *Madsen* upheld a state injunction limiting the activities of anti-abortion protestors by

providing buffer zones around a Melbourne, Florida clinic.

Figueroa and Kurth (1994) examined the significance of *Madsen*. In *Madsen*, the Supreme Court resolved an ongoing dispute between anti-abortion and pro-choice advocates. The Court held that conduct which was threatening, harassing, or obstructed traffic would not be entitled to First Amendment protection even if the protestors intended for this conduct to be expressive. The *Madsen* decision is of great importance in that it speaks to the constitutionality of over 40 similar injunctions which have been issued nationwide. In addition, *Madsen* expressly allows clinics, abortion providers, and abortion patients to obtain relief from local courts. Further, *Madsen* enables the states to regulate noise levels and effectively protect patients from experiencing high levels of anxiety, which can lead to serious complications during surgical procedures. A limited buffer zone, similar to the one upheld in *Madsen*, may also provide protection to abortion providers forced to pass through blockades and protestors on a daily basis. Additionally, an appropriately tailored injunction may be used to create a buffer zone around the residences of the clinic staff.

According to Albisa and Lapidus (1995), "Courts are confronted with difficult questions when peaceful and indisputably protected political expression becomes inextricably intertwined with violence, force, intimidation, and other illegal conduct. In

these instances, the parties subject to the violence often seek injunctive relief. While it is axiomatic that illegal conduct does not become transformed into protected expression merely because it is politically motivated, developing injunctive remedies to prevent such illegal conduct and simultaneously protect legitimate speech inevitably involves balancing important interests and engaging in intricate analysis. Moreover, this type of injunctive relief is a traditional private remedy, i.e., a remedy normally applied to a dispute between private parties."

Further, Albisa and Lapidus (1995) argued that, "Clinic access injunctions fall into a category of 'public injunctions.'" Analysis of these injunctions would be better grounded in reality and would better serve the public interest if it recognized that public injunctions differ qualitatively from those issued in private disputes. Consequently, a determination of the appropriate boundaries of clinic access injunctions, vis-a-vis the First Amendment, should include consideration of the broader context of the nationwide campaign of violence, force, and intimidation in which these injunctions are issued." Despite the fact that *Madsen* and the FACE Act are justified as traffic control measures and are not an affirmation of abortion rights, the judicial and legislative recognition of the right to clinic access may prove to be a broad victory for the pro-choice movement (Figueroa and Kurth, 1994). Together, *Madsen* and the FACE Act provide

clinics with both state and federal injunctive relief for blockades. (See also, discussion by Staver (1995).)

Tepper (1997) addressed the need for further federal enforcement of the federal Freedom of Access to Clinic Entrances (FACE) Act and the direct connection that exists between poor law enforcement response and increased violence at clinics. Whether a person believes in a woman's right to have an abortion or is opposed to legalized abortion, the issue of the violence that surrounds persons who provide or seek to obtain abortions must be addressed. Tepper (1997) provided a comprehensive review of this topic, including the violence surrounding the abortion debate in the United States, the enactment of the federal FACE statute and its history, the impact that violence has had on the availability and provision of medical services, and the lack of available federal remedies prior to the enactment of FACE. Tepper (1997) addressed the constitutionality of FACE and the judicial challenges it has overcome, including some of the cases that have been brought under FACE by the U.S. Department of Justice. In addition, Tepper (1997) suggested that stringent federal enforcement of FACE is necessary for the act to accomplish its legislative objectives. According to Tepper (1997), "Federal law enforcement agents must be educated on the authority Freedom of Access to Clinic Entrances (FACE) bestows upon them in order to effectively participate in protecting

clinics and assessing dangerous zones of violent activity. Despite high costs, federal enforcement of FACE must become a more operative part of the solution to ending the violence at abortion clinics nationwide."

Finally, Tepper (1997) stated, "Abortion-related violence cannot continue. Each protestor, on either side of the debate, is constitutionally entitled to voice his or her political opinions about legalized abortion, but regardless of political beliefs, both sides must unify to ensure that violence is not part of the solution. The federal FACE Act can be an effective tool to bring a change in the atmosphere at abortion clinics throughout the United States. Doctors should not have to wear bulletproof vests and hire body guards in order to provide a constitutionally protected service, and women should not have to fear for their lives when they make the already difficult decision to enter an abortion clinic for services. Only if federal law enforcement agencies let their presence and authority be known will FACE protect those seeking and performing abortions."



## STRATEGIES FROM LITERARY SOURCES

This section documents strategies that describe the role of a National Task Force established by former Attorney General Janet Reno; the enactment of two new laws in California: the California Freedom of Access to Clinic and Church Entrances (or California FACE) Act and the Reproductive Rights Law Enforcement Act; and a comprehensive study by the Police Executive Research Forum to report, prevent, apprehend, and prosecute anti-reproductive-rights crimes in California.

### **National Task Force**

Former Attorney General Janet Reno established the National Task Force on Violence Against Health Care Providers in November 1998 in response to the murder of Dr. Barnett Slepian and other attacks on reproductive health care providers (Anonymous, 2001). This National Task Force coordinates the investigation and prosecution of those responsible for these attacks, maintains a database of information related to clinic violence, identifies ways to make at-risk clinics more secure, and enhances training of law enforcement officers on issues related to clinic violence.

The National Task Force was established as the most recent in a series of federal efforts to combat and prevent clinic violence. After escalating levels of violence against reproductive health care clinics across the

country, Congress enacted the FACE Act, which was signed into law by President Clinton in May 1994. This act established federal criminal penalties and civil remedies for “certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health care services.”

In January 1995, President Clinton directed each of the 93 United States Attorneys to establish a local task force to coordinate law enforcement efforts relating to clinic violence. These working groups include representatives from state and local law enforcement and representatives from the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco and Firearms (ATF), and the U.S. Marshals Service. These working groups are designed to maximize the level of coordination and communication among law enforcement officials in the field and improve communications between providers and law enforcement to assess and address threats and other security risks more effectively.

Since the enactment of FACE in 1994, the U.S. Department of Justice has obtained convictions of 56 individuals in 37 criminal cases for violations of FACE and other federal statutes relating to violence against health care providers. The U.S. Department of Justice also has brought 17 civil actions

against more than 100 defendants under FACE. The *Report on Federal Efforts to Prevent and Prosecute Clinic Violence for 1998-2000*, published by this National Task Force, provides an extensive list of instances where the U.S. Department of Justice is pursuing court action against individuals and organizations for interfering with access to reproductive health care services (Anonymous, 2001). Therefore, as the result of this report and other studies, especially that of Tepper (1997), the first proposed strategy for the plan is:

T #1 Development of a Joint State and Federal Educational Program: An educational program should be developed by CADOJ, in cooperation with federal agents, to ensure that local, state, and federal law enforcement officials understand the authority granted by both the California FACE Act and the federal FACE Act, and the need for prompt enforcement.

### **California Senate Office of Research**

This section discusses limitations in the federal FACE Act (or simply FACE) for reporting, preventing, apprehending, and prosecuting anti-reproductive-rights crimes in California based on a review by DeGiere (2002). In response to the abortion-related conflict and violence nationwide, and the need for more effective law enforcement efforts in California, Senate Bill 780, effective January 1, 2002, enacted two new laws: the California Freedom of Access to

Clinic and Church Entrances (or California FACE) Act and the Reproductive Rights Law Enforcement Act. Both laws incorporate some of the changes suggested by DeGiere (2002).

The federal FACE Act of 1994 has resulted in the prosecutions of large-scale activities, such as clinic blockades, and has given federal law enforcement agencies and prosecutors tools to attack other major crimes, such as bombings, arson, and killings. However, federal officers seldom visit the scenes of less heinous anti-reproductive-rights crimes, effectively curtailing prosecution of those offenses under FACE. Further, the expense of bringing civil actions intended to protect against offenses such as harassment may render the act's civil protections moot for smaller clinics. Another weakness includes a lack of explicit legal protections for those who assist others in obtaining or providing abortions.

Prior to January 2002, California had no state law that established concurrent jurisdiction over the crimes that FACE prohibits, although most of these crimes are prohibited by California laws. In states such as New York that have incorporated a state-federal approach in statute, police can make arrests under state law for crimes that federal prosecutors can pursue under FACE. This presents an opportunity that California lacks to pool law enforcement resources.

California does have several laws covering the crimes that FACE covers, however, state penalties are less severe than

the federal FACE Act.

The federal FACE Act of 1994 provides for both criminal and civil penalties for anyone who:

- < Uses force, the threat of force, or physical obstruction to harm, intimidate, or interfere with anyone obtaining or providing reproductive health services or seeking to exercise the right of worship.
- < Intentionally damages, attempts to damage, or destroys the property of a place of worship or a facility that provides reproductive health services.

The federal FACE Act does not prohibit picketing, leaflet distribution, demonstrations, sidewalk counseling, or any other expressive conduct protected by the First Amendment (Tepper, 1997).

The criminal penalties for the federal FACE Act are significant and include:

- < For a first nonviolent offense the maximum sentence is six months in federal prison and a \$10,000 fine, increasing to 18 months in prison and a \$25,000 fine for a second nonviolent offense.
- < For a first violent offense the maximum sentence is a year in federal prison and a \$100,000 fine, increasing to three years in prison and a \$250,000 fine for a second violent offense.
- < The maximum sentence is ten years if bodily injury results and life in prison if

death results.

Civil remedies for the federal FACE Act include:

- < Orders can be sought from federal courts to enjoin or stop violations. Federal courts can, but rarely do, make injunctions enforceable by state and local police.
- < Plaintiffs may elect for damages of \$5,000 per violation in lieu of seeking actual damages.
- < Punitive damages can also be awarded.
- < Attorney fees, expert witness fees, and legal costs in cases brought by private plaintiffs can be recovered from the losing party.
- < Civil damages can be imposed up to \$15,000 for a first violent offense, \$25,000 for a second violent offense, \$10,000 for a first nonviolent offense, and \$15,000 for a second nonviolent offense in cases brought by federal prosecutors or state attorneys general.

The law protects pro-life clinics and counseling centers equally with their pro-choice counterparts. Federal courts consistently have upheld FACE constitutional challenges.

However, the federal FACE Act has several limitations, including:

- < It has been of little use in prosecuting small-scale, anti-abortion crimes, which DeGiere (2002) reports are more

common in California than large-scale crimes against abortion. Federal law enforcement officials generally rely on local police to make arrests, which in some cases can be prosecuted under the tougher federal laws. But California has no law establishing concurrent jurisdiction, and police often are unable to make the connection between arresting for what might be a misdemeanor under state law but perhaps a felony under federal law.

- < FACE does not explicitly protect patient escorts, clinic defenders, patients' friends who assist them, clinic clerical staff, and others who help clients or providers. Some federal jurisdictions interpret FACE to protect these assistants, while some do not.
- < Small clinics often cannot afford to bring the civil suits on which much of the FACE Act's enforcement depends.

California has a wide array of laws that cover most of the crimes that FACE covers, but the penalties are less severe than those imposed by FACE (DeGiere, 2002). DeGiere (2002) documents strategies (DG #1 - DG #7) that can be used by health care administrators, directors, providers, and clients, as well as law enforcement officials and prosecutors, to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes in California. These strategies include:

D #1 A California FACE Act: The enactment of a state FACE Act that mirrors the federal law and creates concurrent state-federal jurisdiction (such as New York did in 1999) would correct weaknesses in federal FACE enforcement in California.

D #2 Define Anti-Abortion Crime as Hate Crime: Some similarities exist between anti-abortion crimes and hate crimes, including links among extremist groups who advocate both crime types (DeGiere, 2002). In addition, both crime types are "message" crimes intended to terrorize both their immediate victims and a broader class of persons. This suggests that efforts to prevent and prosecute both crime types could be linked by defining anti-abortion crimes as hate crimes. However, merging both crime types might create confusion that hinders law enforcement of both crime types. The two types of crimes are conceptually different. Hate crimes are generally directed against victims because of who they are or who they are perceived to be (their race, national origin, gender, disability, religion, or sexual orientation). Anti-abortion crimes are directed against victims because of what they do (seek or provide abortion services). Merging the two types of crimes might prove to be confusing to law enforcement and victims. This confusion might result in hindering enforcement of laws for both crime types.

A compromise that might achieve some of the benefits of statutorily merging both

crime types would be to keep hate crimes and anti-abortion crimes conceptually separate but to attack them in concert.

D #3 Establish Clinic Buffer Zones: In 2000, the U.S. Supreme Court in *Hill v. Colorado*, 519 US 1145 (1997), (98-1856) 530 U.S. 703 (2000), 973 P.2d 1246, aff'd, upheld a Colorado statute creating 100-foot buffer zones around health care facilities. Inside these zones, the Colorado law makes it a misdemeanor to “knowingly approach another person within eight feet of such person, unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with such other person in the public way or sidewalk area.” The Supreme Court found that the Colorado law balances the two sides’ “legitimate and important” concerns. The CADOJ has identified six cities (Los Angeles, Redwood City, San Diego, San Francisco, San Jose, and Santa Barbara) that have adopted local laws establishing buffer zones of various sorts around clinics and medical offices. However, some persons see statutorily established buffer zones as an unnecessary restriction on First Amendment rights to freedom of expression. Such statutorily defined zones may also be inadequate to solve problems at particular locations. In those instances, court injunctions can better target individual situations.

D #4 Restrict Residential Demonstrations:

This could be accomplished by enacting a state law banning or restricting residential picketing and other demonstrations targeting individuals’ homes. The CADOJ has again identified at least 12 local governments that have adopted such local laws.

D #5 Continue and Expand Regional Law Enforcement Task Forces:

As described above, President Clinton in 1994 directed each U.S. Attorney to create a regional Task Force on Violence Against Abortion Providers to coordinate federal, state, and local law enforcement. The Legislature could direct the CADOJ to convene such task forces in any federal judicial districts where they do not exist. Due to partial overlapping among several criminal extremist movements, the Legislature might give the CADOJ the option of combining these task forces with the hate crime task forces and/or domestic terrorism task forces that exist in some regions.

D #6 Continue and Expand Information Gathering and Reporting:

Former Attorney General Janet Reno also created a National Task Force on Violence Against Health Care Providers. Perhaps its most valuable contribution has been to gather and analyze information on threats and suspects and make it available to police and prosecutors. The Legislature could direct the CADOJ to assume an information gathering and assistance function for anti-abortion crimes

similar to that developed by state Attorney General Bill Lockyer for hate crimes. This effort might include crime prevention (utilizing protective intelligence techniques that the U.S. Secret Service has developed) and expanding the hate crime database to include anti-abortion crimes and anti-government-extremist crimes. In addition, this effort might include an analysis and annual publication of anti-abortion crime statistics such as the CADOJ now does for hate crimes.

D #7 Continue and Expand Police Training:

The Legislature could direct the Commission on POST to develop a mandatory curriculum on anti-abortion crime. For example, this could be a two-hour session for use in police academies and a one-hour session for use in the biennial Advanced Officers Training. The curriculum could include relevant criminal and civil law. The Legislature could give POST the option of combining the anti-abortion crime training with its existing hate-crime training.

**Police Executive Research Forum**

As stated previously, Kenney, et al. (1999) examined abortion-related crime and conflict in three research phases: (a) a national survey of police agencies; (b) case studies of sites with experience on the issue; and (c) a series of focus groups that brought together partisans from around the country. One result of this study was a list of strategies to improve police response to

abortion-related conflict and violence. Kenney, et al. (1999) grouped these strategies (K #1 - K #19) into five general domains:

- < Organizational preparedness
- < Responding to planned or large events
- < Responding to calls for service
- < Collaborating with external sources
- < Establishing and maintaining police neutrality

In addressing abortion-related conflicts, police agencies should recognize the multiple goals they must balance and that many of these goals are often in conflict with each other. These goals include (Kenney, et al., 1999): (a) maintain order and protect clinics that are legal businesses; (b) mediate conflicts between stakeholders and participants; (c) protect the constitutional rights of demonstrators and other participants; (d) protect the rights of patients to enter clinics safely without intimidation or harassment; and (e) protect the rights of surrounding businesses, residents, and passers-by.

*Organizational Preparedness*

Departments should implement organizational changes to manage their responses to abortion-related conflicts and violence. These changes should include the establishment of a police liaison to work with stakeholders in the abortion controversy, and the creation of training on department

procedures for officers and dispatchers. By instituting these measures, police department officials will help officers respond consistently and impartially to incidents as

they occur. This policy domain includes four strategies:

K #1 Establishing a Liaison Between Police and Stakeholders: Police departments should, where resources allow, assign one or more officers to act as liaisons between the police and stakeholders in the abortion issue. In appointing liaison officers, department officials should designate personnel who understand the complexities of the issue, have respect for stakeholder concerns, and can maintain their neutrality during the assignment. Agency leaders should also choose officers who have been granted the authority to speak for the department. As part of their role, liaison officers should: (a) develop relationships with prominent Pro-Life and Pro-Choice activists, churches, area businesses, and other groups that abortion-related activity might affect; (b) be notified when other officers in the police department receive calls concerning an abortion-related event; (c) ensure that in-service training is provided to patrol officers and special units responding to abortion-related conflicts, including discussing Pro-Life and Pro-Choice beliefs to sensitize officers to the language surrounding the abortion issue; and (d) remain aware of arrest records and criminal histories of participants to assist in the

identification of patterns of escalating conflict behaviors.

K #2 Role of Liaison to Communicate Police Policies: In addition to liaison officers' informal contacts with stakeholders (recommendation K #1), they should meet both formally and regularly with Pro-Life and Pro-Choice activists to inform them about department procedures, relevant laws, and injunctions. During these meetings, officers should provide written guidelines to sidewalk counselors, escorts, and other participants outlining appropriate and legal conduct during protests. These meetings will help activists exercise their rights safely within legal parameters and enhance communication between officers and participants.

K #3 Training for Officers: Departments should provide training for officers on local and federal laws pertaining to demonstrations and protests, First Amendment rights, and reproductive rights of patients. The liaison officer should play an important role in officer training by educating other officers about stakeholders' perceptions and perspectives, the appropriate use of language, and other relevant information about recurring abortion-related incidents. Recurring incidents are symptoms of underlying conflict and require a comprehensive response from the agency. Officers' assessments of activists' actions affect police responses. Without an understanding of the community with whom

they are interacting, officers' reactions to an abortion-related conflict could exacerbate tensions rather than mitigate them. Consequently, officers may unintentionally perpetuate the conflict rather than effect its resolution.

K #4 Training for Dispatchers: In addition to training for patrol and tactical officers, departments should also provide training to dispatchers concerning deployment procedures, communications, and appropriate language when handling calls for service in abortion-related conflicts.

#### *Responding to Planned or Large Events*

To manage large or planned events, it is important that police department officials establish guidelines and communicate these policies to stakeholders before an event occurs. The department should also consider policies regarding appropriate personnel deployment to manage the event, arrest procedures for civil disobedience, and policies for managing the media. In turn, these established procedures will help reduce the potentials for conflict and violence. This policy domain includes seven strategies:

K #5 Establishing Event Guidelines: Before a planned event, the liaison officer should meet with leaders from the Pro-Life and Pro-Choice movements to communicate established guidelines. Officers should outline acceptable behavior and discuss

police procedures for violations of these guidelines. To help clarify event guidelines, officers should discuss and distribute written information concerning injunctions and relevant laws. In addition, officers should gather information about the upcoming event, such as the participation of visiting activists.

K #6 Enforcing the Rules: After establishing guidelines and explaining them to participants, the police should take consistent and assertive action in response to violations. Officers responding to an abortion-related conflict should not decide which laws they will enforce nor attempt to obtain participants' compliance to one rule by "bending" another. This type of flexibility negatively impacts participants' perceptions of police neutrality, while altering the relationship between stakeholders and the police.

K #7 Establishing Physical Boundaries: When possible, officers should clearly mark injunction and police zones to prevent possible disputes over legally protected territory. The police also should designate areas or establish barriers if counter-demonstrators are present. These physical barriers help minimize conflict and violence among the demonstrators.

K #8 Determining Appropriate Personnel Deployment: To enforce physical boundaries and event guidelines, agencies must carefully



assess the numbers of on-scene officers necessary to manage each event. In making this decision, the police should neither under- nor over-deploy personnel because both send a message of bias. When in doubt, agency officials should position additional personnel at a nearby location until officers can determine the nature and scope of the event. At large events, in addition to tactical assignments and where resources allow, two or more officers should be assigned as primary contacts to the clinic and the demonstrators (both Pro-Life and Pro-Choice). This strategy has a number of advantages, including ensuring that participant issues and needs are addressed and communicated, and allowing police to communicate with participants.

K #9 Arrest Procedures: Before responding to an event, police agency officials should establish procedures for arresting individuals who violate the law. After establishing guidelines for demonstrations, agency leaders should clarify what constitutes a violation and establish detainment procedures for these individuals. In Dallas, officers monitor the activities of demonstrators and issue an initial warning to individuals who fail to comply with the law. After this warning, officers issue citations and inform the individuals that additional disobedience will result in arrests. To prevent demonstrators from becoming re-involved in the event after an arrest, the Cincinnati Police Department has established a procedure of detaining

arrestees until the conclusion of the ongoing event.

When responding to abortion-related conflicts, officers have an obligation to protect the safety of individuals and should only compromise that safety when individuals pose an immediate danger to the officer or another citizen. Passive offenders do not exceed this threshold. As such, the use of disproportionate force against these violators is an inappropriate means to achieve a desired outcome and compromises the rights of the offenders. Other agencies, such as Brookline, Dallas, and Cincinnati, have demonstrated that with adequate planning, acceptable alternative methods include:

- < Establish Arrest Teams: As a tactical decision, departments may choose to establish designated arrest teams comprised of two or more officers who have the responsibility of making the majority of all arrests.
- < Establish Booking/Processing Teams: Agencies should establish booking/processing teams that document all relevant information during the arrest procedure. The teams should maintain an arrest log containing information about the arrestee, the charge, the arrest team, the time of the arrest, and the defendant's identification number.
- < Establish Transport Teams: Once the processing team records all relevant information, transport officers are

responsible for transporting the arrestees to the detention facility. It is also their responsibility to ensure that adequate vehicles and space in detention facilities are available.

- < Create an Event Response Kit: Agencies should establish an event “response kit” that contains relevant documents and supplies for officers responding to events. This kit should include camera equipment along with copies of injunctions and guidelines pertaining to the event.

K #10 Managing the Media On-Scene:

Department officials should develop guidelines for managing the on-scene media. While the media have multiple roles to play at demonstrations and protests, their goal of finding and displaying the most dramatic images makes them a unique stakeholder of police concern. Police should view the media as event participants with legitimate rights to information access, including regular educational briefings, post-event reviews, and on-scene access to other participants. When appropriate, the police should establish designated areas for media where demonstrators and others can be brought for interviews. Access to clinic personnel and patients is limited by their rights to privacy on private property.

K #11 Department Post-Event Briefing:

After an event, the involved police agency should hold internal post-event briefings to evaluate its responses and ability to manage the incident. During these meetings, the liaison officer, tactical planners, and others involved in the event should: (a) review department policies and procedures; (b) analyze the effectiveness of liaison officers; and (c) consider additional training for department personnel. The agency can use this information to modify and improve its policies for police responses to future planned events.

*Responding to Calls for Service*

Officers should develop relationships with clinic staff and regular demonstrators to prepare for their response to calls for service to an abortion-related conflict. These contacts will allow officers to understand the concerns of the parties and communicate department policies and procedures before conflict occurs. This policy domain includes one strategy:

K #12 Handling the Response: As with planned events, each agency should develop and maintain a response kit for its officers that includes copies of relevant laws and injunctions for use in answering calls for service. In an effort to further diffuse conflicts and tensions among participants, some modifications to traditional methods of responding to calls for service may be appropriate. Typically, as officers respond to service requests, their focus is on gathering

information from the complaining party. If some immediate action is not required, they are then free to leave the scene, usually to respond to subsequent requests. When responding to abortion-related conflicts, however, this approach leaves some participants with the impression that the police are unconcerned with the varying perspectives of the conflict. Kenney, et al. (1999) found that officers' procedures for handling calls for service were not neutral. Further, officers who obtained information from only one source were accused of "choosing sides" and that their resulting actions or inaction were prompted by a biased perspective. To minimize tensions during abortion-related calls for service, responding officers should: (a) use neutral and non-confrontational language; (b) meet with spokespersons from each of the issue's partisans to determine what is alleged to have occurred; (c) clearly communicate reasons for action or inaction; and (d) gather any existing evidence of the reported incident or problem. Finally, to assist officers responding to calls for service, officers should have sufficient guidelines to ensure that most actions do not require supervisory approval. During the delay waiting for supervisory approval (assuming the officer is not discouraged from action altogether), violators and witnesses often leave the scene, which further hinders a response even if permission is received.

#### *External Collaborations*

To assist in carrying out its objectives, each department should arrange cooperative working relationships with a variety of external agencies. At a minimum these should include other members of the criminal justice system who can support and streamline the procedures the department puts into place. This policy domain includes four strategies:

K #13 Collaboration With Other Police Agencies: To enhance the ability of officers to respond effectively to planned events and calls for service, department leaders should establish formal relationships with other law enforcement agencies. These relationships will allow agencies to share and gather information about abortion-related conflict in other locations, which may help prepare for visiting demonstrators and protests.

K #14 Forming Coalitions Within the Religious Community: Coalitions involving the liaison officer and religious leaders from both the Pro-Life and Pro-Choice communities should be formed to prepare for and identify dangerous individuals. Kenney, et al. (1999) found that many activists who have become involved in violent crimes were active members of church groups. By collaborating with the police, clergy may help preempt future violence by compelling potentially violent individuals to pursue peaceful activities. Since the clergy also have an obligation to protect individuals who confide in them, ground rules for managing

confidential information and identifying, diverting, and responding to potentially troubled persons should be established in advance.

K #15 Collaborations With the Criminal Justice System: Additional collaborative arrangements should be established between police and other agencies tasked with criminal justice system responsibilities, including legal liaisons, judges, local prosecutors, U.S. Attorneys, and jails. Through these collaborations, officers will help develop successful cases against violent offenders and civilly disobedient activists while reducing the impact of events on the criminal justice system.

K #16 Communications With Other Interested Parties: The police also should communicate regularly with business owners and residents in areas affected by abortion-related conflicts. These information exchanges may give officers additional perspectives about conflicts and community concerns which would aid in the apprehension of law violators.

#### *Issues of Impartiality and Bias*

The police should be aware of events, procedures, and responses that can lead to the introduction or perception of bias. Examples range from the methods used to gather statements when responding to calls for service to officers accepting free coffee from participants during an event. This

policy domain includes three strategies:

K #17 Officers as Stakeholders: Recognizing that many officers may hold personal beliefs on the abortion issue itself, agencies should develop strategies to prevent these personal beliefs from intruding into officers' job performances. The goal of these efforts should be to protect officers' First Amendment rights to express their views while requiring them to perform their job impartially.

K #18 Security at Clinics and Events: Off-duty employment of police officers by clinics, Pro-Life, or Pro-Choice organizations should be avoided because it interferes with officers' ability to maintain a neutral identity and standing.

In communities where abortion issues are a subject of contested social debate, police agencies should consider carefully the question of off-duty employment of officers by clinics, Pro-Life, or Pro-Choice organizations. Such employment can create a perception of officer bias. Aside from perceptions, there is also potential for real bias to affect officers' actions, since those who work off-duty for either clinics or advocacy groups may develop loyalties to their employers. These loyalties may influence officers' ability to remain impartial when responding to abortion-related conflicts. Kenney, et al. (1999) found that "allowing officers to work off-duty for those entities give the perception that [the

department] is not neutral” and that it “owes [its] allegiance to whomever is paying [it] at the moment.”

In some jurisdictions, local policies or labor agreements restrict the ability of police administrators to impose such limitations on off-duty employment. In such cases, Kenney, et al. (1999) recommend that outside employment be governed by the following guidelines: (a) matched employment where participants on both sides of the issue have similar hiring opportunities; (b) payment for off-duty work should be made to the city or local jurisdiction rather than to the officer directly; (c) restrict the use of uniforms and police equipment; (d) restrict the regularity of employment; and (e) limit the areas where employment is allowed.

K #19 Safety Tips and “Target Hardening” for Stakeholders: All stakeholders should invite police to perform security “audits” and offer advice. Such audits can assist local clinics with safety and target-hardening tips while familiarizing police with each clinic’s physical layout, entrances, exits, and security strengths and weaknesses. This knowledge could be critical in the event of an emergency at a clinic in which an expedient police response is required (e.g., a bombing or clinic invasion). Security advice to the clinics may include: (a) installing bulletproof glass and other target-hardening measures; (b) using intercoms for admissions into clinics; (c) documenting suspicious events and individuals by videotape or photograph;

(d) developing secure methods of access for doctors and other clinic staff; (e) using non-traceable transportation for doctors (i.e., registering vehicles in the clinic’s name); and (f) installing alarm systems and/or hiring private security personnel.

### **Conclusions**

Kenney, et al. (1999) summarize the overall message behind the strategies described above. Police agencies should use these strategies to establish clear guidelines regarding abortion-related events, demonstrations, and responses to calls for service. These guidelines should outline acceptable behavior for the abortion-conflict participants and explain the consequences of violating these specifications. In developing these rules and procedures, departments should consult the community and other interested stakeholders and consider the multiple goals they must balance to address abortion-related conflicts. When responding to these situations, police need to protect the constitutional rights of Pro-Life and Pro-Choice activists while mediating conflicts that may arise between the parties. Officers must safeguard clinics (since they are legal businesses), the rights of patients to safely enter a clinic without harassment, and the rights of surrounding business owners and residents, all while protecting the rights of citizens to peacefully protest at these locations. By establishing a structured response to abortion-related events and demonstrations, the police can effectively

reduce abortion clinic-related conflicts.

### **Directions for Future Research**

Kenney, et al. (1999) provide excellent comment on the need for future research in the area of understanding abortion-related conflict and violence. According to Kenney, et al. (1999), “While this research offers crucial insight into the nature and extent of abortion-related conflict and violence, it leaves some areas unexplored.” First, we should determine if smaller police agencies and rural communities experience incidents that are similar to larger jurisdictions. Kenney, et al. (1999) expressed concern that some of the project’s policy recommendations may not be applicable in rural settings. Before reaching this conclusion, however, the concerns and needs of these smaller communities, as well as the structure of the abortion-related conflict they experience, should be assessed.

In addition, the research community should work to develop better methods of systematically measuring and evaluating incidents of abortion-related violence. Among the most difficult issues addressed were the questions of what constitutes conflict and violence, as well as the unwillingness of many to report potential incidents. Until abortion-related conflict and violence is better understood and more accurately measured, effective police policies and responses will be a difficult goal to obtain.

While the violent incidents the media portrays are quite rare, the unpredictable nature of this violence makes it difficult for

the police to prevent. By gaining stakeholders’ trust, however, the police can establish networks in the community that alert police to events or individuals that are likely to erupt in violence. In turn, the police can reduce conflicts and violence and assist in creating a forum for stakeholders to

peacefully express their differing views on this difficult issue.

## CALIFORNIA VALIDATION SURVEY

### **Validation Survey**

An extensive literature review of several national surveys—California Senate, Office of Research (DeGiere, 2002), Police Executive Research Forum (Kenney, et al., 1999), and National Task Force on Violence Against Health Care Providers, U.S. Department of Justice (Anonymous, 2001)—resulted in a list of 26 proposed strategies to report, prevent, apprehend, and prosecute anti-reproductive-rights crimes. In order to verify that these strategies are valid for California, a validation survey was constructed and administered to reproductive health facility staff, police officers, and prosecutors in 25 counties throughout California. Additional survey technical details can be found in Appendix I—Validation Survey.

### **Analysis of Plan Strategies**

Statistical analyses were used to identify statistically significant differences in survey responses for each strategy and for each group of survey respondents. To accomplish this, the survey data were modeled using a proportional odds model.

The statistical analyses performed with this model determined if groups of survey respondents (police officers, prosecutors, or health facility staff) agreed, disagreed, or were undecided about the use of each strategy. Appendix II – Analysis of Plan

Strategies describes this analysis in detail. Appendix III – Derivation of Logistic Model defines the components of the proportional odds model. The end result of these analyses is given in Appendix Table 2.6 for each strategy and each group of survey respondents.

## DISCUSSION AND CONCLUSION

The objective of this report is to develop a plan to prevent, report, apprehend, and prosecute anti-reproductive-rights crimes by using the views from practitioners and experts in California to validate 26 strategies proposed by an extensive literature review. Considerable evidence exists that these 26 proposed strategies are appropriate and valid for our nation as a whole. This evidence consists of several national surveys discussed earlier including the two-year study by Kenney, et al. (1999), who surveyed 512 major city police chiefs, including case studies of sites with experience on the issue, and a series of focus groups that brought together partisans from around the country. The results of the California validation survey conducted in this study provide additional evidence that 16 of the 26 identified strategies should be included in the plan.

Based on responses from health service facilities alone, all strategies should be included in the plan (Appendix Table 2.6). This is not surprising because health service facilities often have to combat abortion-related conflict and violence on a daily basis. They are, therefore, the first contact with abortion-related conflict and violence and are in favor of any strategy that would require law enforcement officials to do more to protect the safety of their staff and property. Law enforcement is the second contact with

these incidents. They are called to respond to many, but not all, of these incidents, and only a portion of those requested calls for service result in an arrest.

Based on responses from police officers alone, fewer strategies should be included in the plan (Appendix Table 2.6). Most law enforcement officials are knowledgeable about resources and practices available to combat crime of many types.

Prosecutors were largely “Undecided”; that is, they were neither in favor of, nor in disagreement with, most of the strategies (Appendix Table 2.6). Given that most abortion-related conflict and violence occurs in urban counties, and four of the six urban county district attorney offices did not respond to the survey, the survey results cannot be said with confidence to reflect the viewpoints of a representative sample of prosecutors.

Therefore, combining responses from both health service facilities and police officers resulted in 16 recommended strategies for the plan (Table 1). It should be noted that prosecutors agreed with 6 of these 16 recommended strategies. Table 1 also shows that each recommended strategy contributes to one or more components of prevention, reporting, apprehension, or prosecution as previously defined in this report. Remember that “prevention” pertains to information about an abortion-related



conflict or violence incident which has not yet occurred. “Reporting” pertains to an incident that has already occurred and the information is provided to law enforcement. “Apprehension” pertains to a report that leads to an arrest. “Prosecution” pertains to an arrest that results in the crime being prosecuted.

The survey results also indicate the need for advocacy and education of stakeholders (namely residents, reproductive health facility staff, business owners, police officers, and prosecutors) to empower them with an understanding of the California Freedom of Access to Clinic and Church Entrances (California FACE) Act and the federal FACE Act. This will enable them to take action to prevent, report, apprehend, and prosecute anti-reproductive-rights crimes.

**Table 1**  
**Plan Components of Prevention (PRE), Reporting (REP), Apprehension (APP), and Prosecution (PRO)**  
**for Recommended Strategies**

	Description of Recommended Strategy	PRE	REP	APP	PRO
#1	LEA Should Train Officers (K #3)	X		X	
#2	LEA Should Train Dispatchers (K #4)			X	
#3	LEA Should Establish Event Guidelines (K #5)	X			
#4	LEA Should Enforce the Rules (K #6)			X	
#5	LEA Should Establish Physical Boundaries (K #7)	X			
#6	LEA Should Determine Appropriate Personnel Deployment at Planned Events (K #8)	X		X	
#7	LEA Should Assign Officers as Contacts to Participant Groups (K #8)	X		X	
#8	LEA Should Establish Arrest Procedures (K #9)			X	X
#9	LEA Should Hold Post-Event Briefings (K #11)	X		X	X
#10	LEA Should Have Guidelines for Handling the Response (K #12)	X		X	X
#11	LEA Should Have Guidelines for Supervisory Approval (K #12)			X	
#12	LEA Should Collaborate With Other Law Enforcement Agencies (K #13)	X		X	X
#13	LEA Should Have Guidelines for Confidentiality of Clergy (K #14)	X	X		
#14	LEA Should Collaborate With the Criminal Justice System (K #15)			X	X
#15	LEA Should Communicate With Other Interested Parties (K #16)	X	X		
#16	Law Enforcement Officers Should Not Work as Security at Clinics and Events (K #18)	X	X	X	

Notes: LEA: Law Enforcement Agencies  
Complete details of strategies are given in Kenney, et al. (1999).

## RECOMMENDATIONS

The plan to prevent, report, apprehend, and prosecute anti-reproductive-rights crimes in California should include the following 16 strategies from the complete list of 26 strategies described in the section “Strategies From Literary Sources.” These strategies have been listed below, indicating which component (prevention, PRE; reporting, REP; apprehension, APP; or prosecution, PRO) each strategy will impact in the plan.

### #1 Law Enforcement Agencies Should Train Officers (K #3) (Plan Impact PRE, APP):

Law enforcement agencies should provide training to officers on local and federal laws pertaining to demonstrations and protests, First Amendment rights, and reproductive rights of patients. This training should include educating other officers about stakeholders’ perceptions and perspectives, discussing Pro-Life and Pro-Choice beliefs to sensitize officers to the language surrounding the abortion issue, and other relevant information about recurring abortion-related incidents.

### #2 Law Enforcement Agencies Should Train Dispatchers (K #4) (Plan Impact APP):

Law enforcement agencies should provide training to dispatchers concerning deployment procedures, communications, and appropriate language when handling calls for service in abortion-related conflicts.

### #3 Law Enforcement Agencies Should Establish Event Guidelines (K #5) (Plan Impact PRE):

Before a planned event, a law enforcement officer should meet with leaders from the Pro-Life and Pro-Choice movements to: (a) establish guidelines outlining acceptable behavior; (b) discuss police procedures for violations of these guidelines; and (c) discuss and distribute written information concerning injunctions and relevant laws.

### #4 Law Enforcement Agencies Should Enforce the Rules (K #6) (Plan Impact APP):

After establishing guidelines and explaining them to participants, law enforcement officers should take consistent and assertive action in response to violations.

### #5 Law Enforcement Agencies Should Establish Physical Boundaries (K #7) (Plan Impact PRE):

When possible, law enforcement officers should clearly mark injunction and police zones to prevent possible disputes over legally-protected territory, including designating areas or establishing barriers if counter-demonstrators are present.

### #6 Law Enforcement Agencies Should Determine Appropriate Personnel Deployment at Planned Events (K #8) (Plan

Impact PRE, APP):

To enforce physical boundaries and event guidelines, law enforcement agencies must carefully assess the number of on-scene officers necessary to manage each event because under- or over-deployment of personnel both send a message of bias.

#7 Law Enforcement Agencies Should Assign Officers as Contacts to Participant Groups (K #8) (Plan Impact PRE, APP):

At large events, in addition to tactical assignments and as resources allow, two or more officers should be assigned as primary contacts to the participant groups. Different officers should be assigned to the clinic, to Pro-Life demonstrators, and to Pro-Choice demonstrators. The purpose of this strategy includes: (a) ensuring that participant issues and needs are addressed and communicated, and (b) allowing officers to communicate with participants.

#8 Law Enforcement Agencies Should Establish Arrest Procedures (K #9) (Plan Impact APP, PRO):

After establishing guidelines for demonstrations, law enforcement should clarify to participants what constitutes a violation and establish detainment procedures for arresting individuals who violate the law. These procedures should include establishing teams to: (a) make the majority of the arrests (arrest teams); (b) document all relevant information during the arrest procedure (booking/processing teams);

and (c) transport the arrestees to the detention facility (transport teams). In addition, officers should have an event response kit containing camera equipment along with copies of injunctions and guidelines pertaining to the event.

#9 Law Enforcement Agencies Should Hold Post-Event Briefings (K #11) (Plan Impact PRE, APP, PRO):

After an event, the involved law enforcement agency should hold internal post-event briefings to evaluate its responses and ability to manage the incident. During these meetings, law enforcement officers, tactical planners, and others involved in the event should: (a) review department policies and procedures; (b) analyze the effectiveness of law enforcement's response; and (c) consider additional training for department personnel.

#10 Law Enforcement Agencies Should Have Guidelines for Handling the Response (K #12) (Plan Impact PRE, APP, PRO):

To minimize tensions during abortion-related calls for service, responding officers should: (a) use neutral and non-confrontational language; (b) meet with spokespersons from each of the issue's partisans to determine what is alleged to have occurred; (c) clearly communicate reasons for action or inaction; (d) gather any existing evidence of the reported incident or problem; and (e) have a response kit that includes copies of relevant laws and injunctions for

use in answering calls for service.

#11 Law Enforcement Agencies Should Have Guidelines for Supervisory Approval (K #12) (Plan Impact APP):

To assist law enforcement officers responding to abortion-related calls for service, officers should have sufficient guidelines to ensure that most actions do not require supervisory approval.

#12 Law Enforcement Agencies Should Collaborate With Other Law Enforcement Agencies (K #13) (Plan Impact PRE, APP, PRO):

Law enforcement agency leaders should establish formal relationships with other law enforcement agencies for sharing information about abortion-related conflicts in other locations.

#13 Law Enforcement Agencies Should Have Guidelines for Confidentiality of Clergy (K #14) (Plan Impact PRE, REP):

Law enforcement and clergy should establish, in advance, ground rules for managing confidential information and identifying, diverting, and responding to potentially violent persons.

#14 Law Enforcement Agencies Should Collaborate With the Criminal Justice System (K #15) (Plan Impact APP, PRO):

Collaborative arrangements should be established among law enforcement agencies, legal liaisons, judges, local prosecutors, U.S.

Attorneys, jails, and other agencies tasked with criminal justice system responsibilities related to anti-reproductive-rights crimes.

#15 Law Enforcement Agencies Should Communicate With Other Interested Parties (K #16) (Plan Impact PRE, REP):

Law enforcement officers should communicate regularly with business owners and residents in areas affected by abortion-related conflicts to gain additional perspectives about conflicts and community concerns. This will aide in the apprehension of law violators by encouraging business owners and residents to report suspicious persons or activities to law enforcement.

#16 Law Enforcement Officers Should Not Work as Security at Clinics and Events (K #18) (Plan Impact PRE, REP, APP):

Off-duty employment of law enforcement officers by clinics or Pro-Life or Pro-Choice organizations should be avoided because it interferes with officers' ability to maintain a neutral identity and standing when responding to abortion-related conflict or violence calls for service.

## IMPLEMENTATION

The above plan is provided pursuant to the California Freedom of Access to Clinic and Church Entrances (or California FACE) Act (Title 11.7 [commencing with section 423] of Part 1 of the Penal Code), and the Reproductive Rights Law Enforcement Act (Title 5.7 [commencing with section 13775] of Part 4 of the Penal Code) which directs the Attorney General to develop a plan to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes, and to carry out the legislative intents expressed in subdivisions (c), (d), (e), and (f) of section 1 of the act that enacts this title in the 2001-2002 session of the Legislature. Specifically, as provided in the above subdivisions, it is recommended that the Commission on Peace Officer Standards and Training (POST) adopt each of the 16 strategies as part of their current law enforcement training, practices, and procedures to combat anti-reproductive-rights crimes.

Pursuant to subdivision (c) of section 1 of the act, “state and local law enforcement agencies should continue and build on. . .” the federal actions in California that proved effective in “reducing and punishing crimes intended to violate a woman’s right to reproductive choice.”

Pursuant to subdivision (d)(1) of section 1 of the act, the Commission on POST, in cooperation with the CADOJ and other subject-matter experts, should “provide for

regular, periodic, and continuing professional training of peace officers throughout California, and. . .this training [should] take place in conjunction with, when appropriate, reproductive health service providers funded by non-commission sources.”

Finally, pursuant to subdivision (d)(2) of section 1 of the act, training conducted by Commission on POST should include “anti-government extremist crimes and certain hate crimes motivated by hostility to real or perceived ethnic background or sexual orientation, commonly committed by some of the same persons who commonly commit anti-reproductive-rights crimes of violence.”

## REFERENCES

- Albisa, C. & Lapidus, L. M., Protecting Speech: Preventing Violence; Ensuring Access to Reproductive Health Care: How Do We Draw the Lines? (1995) 14(2) St. Louis U. Pub. L. Rev., pp. 495-527
- Agresti, A., Categorical Data Analysis (3<sup>rd</sup> ed., 2002), pp. 267-313), Hoboken, New Jersey: John Wiley & Sons Inc.
- Anonymous, *Who Decides? A State-by-State Review of Abortion and Reproductive Rights, Ninth Edition, 2000* (2000), pp. i - xii, The National Abortion Rights Action League (NARAL) Foundation/ NARAL, NARAL So. Cal. Off., Los Angeles, CA
- Anonymous, *National Task Force on Violence Against Health Care Providers. Report on Federal Efforts to Prevent and Prosecute Clinic Violence 1998-2000* (2001), Washington, D.C.: U.S. Department of Justice, Civil Rights Division, Criminal Section
- Baird-Windle, P. & Bader, E.J., Targets of Hatred Anti-Abortion Terrorism, (2001), pp. 1-3, New York, New York: St. Martin's Press LLC Scholarly and Reference Division and Palgrave Publishers Ltd.
- DeGiere, G., *Crimes Against Reproductive Rights in California. California Senate Office of Research, 2002* (2002), Sacramento, California
- Figueroa, E. & Kurth, M., *Recent Developments: Madsen and the FACE Act: Abortion Rights or Traffic Control?* (1994) 5(1) UCLA Women's L.J., pp. 247-275
- Kenney, D. J., Rose, D., Shelley, T.O., Maglieri, C., Reuland M. & Weisel, D.L., *Conflict of Rights: Public Safety and Abortion Clinic Conflict and Violence* (1999), Washington, D.C.: Police Executive Research Forum
- Lonsway, K.A., Jackman, J., Koenig, E., Leader, J. & Campos, P., *National Clinic Violence Survey Report 2002* (2003) Los Angeles, California: Feminist Majority Foundation, Publicity Manager, National Center for Women & Policing
- McCullagh, P., Regression models for ordinal data (with discussion) (1980), 42 *Journal of the Royal Statistical Society, Series B*, pp. 109-142
- National Abortion Federation, Washington, D.C., *Incidents of Violence and Disruption Against Abortion Providers, 1998* (1998)

Staver, M.D., *Injunctive Relief and the Madsen Test* (1995) 14(2) St. Louis U. Pub. L. Rev., pp. 465-494

Tepper, A. K., *In Your F.A.C.E.: Federal Enforcement of The Freedom of Access to Clinic Entrances Act of 1993* (1997) 17 Pace L. Rev., pp. 489-551

Tomlin, C., *The Reign of Terror: The Judiciary's Inability to Stop Anti-abortion Violence Forces Congress Back to the Drawing Board* (1994) 18 Law and Psych. Rev., pp. 423-438



## APPENDIX I-VALIDATION SURVEY

An extensive literature review of several national surveys, summarized in the preceding section of this report, resulted in a list of 26 proposed strategies to report, prevent, apprehend, and prosecute anti-reproductive-rights crimes. In order to validate these strategies, a validation survey was constructed and administered to experts and practitioners in 25 counties throughout California (Appendix Table 2.1).

### Developing Survey Questions

Twenty-six proposed strategies for the plan were obtained from three primary sources: DeGiere (2002), Kenney, et al. (1999), and Anonymous (2001). Appendix Table 2.2 shows each strategy with a notation for its source as (D #1 - D #7) for DeGiere (2002), (K #1 - K #19) for Kenney, et al. (1999), and (T #1) for Anonymous (2001). These strategies have already been discussed in the above section “Strategies From Literary Sources.” Four DeGiere (2002) strategies (D #1, D #2, D #6, and D #7) were excluded from the validation survey. DeGiere (2002) strategy “Passing a bill containing a California FACE Act” (D #1) has already been done. DeGiere (2002) strategies “Defining Anti-Abortion Crime as Hate Crime” (D #2) and “Continue and Expand Information Gathering and Reporting” (D #6) were excluded because a separate CADOJ data collection effort has been defined for each crime type. DeGiere (2002) strategy “Continue and Expand Police Training” (D #7) will be addressed by the Commission on POST. Four strategies, each containing two different issues, were addressed as two separate questions in the survey. These strategies were “Continue and Expand Regional Law Enforcement Task Forces” (D #5), “Determining Appropriate Personnel Deployment” (K #8), “Handling the Response” (K #12), and “Forming Coalitions Within the Religious Community” (K #14). The strategy “Managing the Media On-Scene” (K #10) was excluded from the survey because it was rejected by all participants of the Kenney et al. (1999) study.

The measurement scale, to obtain the viewpoints of experts and practitioners in the field for each strategy, consisted of a 5-point Likert scale (1-Strongly Disagree, 2-Disagree, 3-Undecided, 4-Agree, 5-Strongly Agree). A Likert scale containing five different responses provides an accurate scale to measure a person’s viewpoint. Measurement scales with fewer than five choices force a respondent to choose a response which may not best represent their viewpoint. The five-point scale used in this study enables a person to choose “Undecided” if they do not favor or disagree with a strategy. This scale also provides a measure of the strength of agreement or the strength of disagreement for a particular strategy.

## **Conducting the Survey**

The survey was administered to 47 reproductive health service facilities, 33 police departments, and 25 district attorney's offices in 25 counties throughout California (Appendix Table 2.1). These counties consisted of three northern urban counties (San Francisco, Sacramento, and Alameda), 13 northern rural counties, three southern urban counties (Los Angeles, Orange, and San Diego), and six southern rural counties. For reproductive health service facilities, surveys were mailed to four health service facilities in each of six urban counties (with the exception of eight facilities for Los Angeles), and one survey was mailed to a single health service facility in each of the remaining 19 rural counties. For police departments, a survey was mailed to at least one police department in each county. For district attorney's offices, a survey was mailed to the district attorney's office in that county. Addresses for health service facilities were obtained from NAF and Feminist Majority Foundation. CADOJ provided addresses for police departments and district attorney's offices.

The survey was administered using several letter mailing and telephone calling campaigns. Participants received a notification letter and telephone call to alert them that they had been selected to participate in the study. Three weeks later, participants received the survey in the mail. Participants who did not complete the survey after four weeks received a reminder letter and telephone call. Surveys were included in the study if received within two weeks after the reminder.

## **Participant Response**

### *Site Specific Response*

Survey responses were solicited from 33 police departments, and 25 district attorney's offices, and 47 reproductive health service facilities in 25 counties throughout California. Each police department and district attorney's office was asked to solicit three persons to complete the survey. Each reproductive health service facility was asked to solicit four staff members to complete the survey.

A total of 92 surveys were completed by three different groups of respondents. From the 33 police departments solicited, 20 completed a total of 40 surveys, giving a response rate per police department of 61%. From the 25 district attorney's offices solicited, 13 completed a total of 15 surveys, giving a response rate per district attorney's office of 52%. From the 47 reproductive health service facilities solicited, 16 completed a total of 37 surveys, giving a response rate per reproductive health service facility (hereinafter referred to as health facilities) of 34%.

### *Urban and Rural County Response*

Surveys were completed by 42 individuals in six urban counties (Alameda, Sacramento, San Diego, San Francisco, Los Angeles, and Orange) and by 50 individuals in 19 rural counties. The similarity in number of surveys completed in urban compared to rural counties masks the lower-than-expected response rate for the six urban counties. For health facilities, four in Alameda did not respond, only one survey was received from eight facilities in Los Angeles, and only one survey was received from four

facilities in Orange. For police departments, San Francisco did not respond, and only one survey was received from three police departments in Alameda. For district attorney's offices, San Francisco, Sacramento, Orange, and San Diego did not respond.

#### *Police Department Response*

Police officers in 20 different cities throughout California completed a total of 40 surveys. The survey asked police officers to report the incidence of nine abortion-related crime types during the year 2002 (See Appendix I, Copy of Validation Survey, Questions #10 through #18). For each crime type, at least 83% of police officers reported the absence of abortion-related crime. Specifically, the percentage of officers reporting the absence of abortion-related crime was 98% for murder or attempted murder; 93% for bombing, arson, or attempted bombing or arson; 83% for trespass; 83% for vandalism; 93% for assault; 93% for death threat; 98% for kidnapping; 95% for burglary; and 98% for stalking.

#### *District Attorney Office Response*

Prosecutors in 13 district attorney's offices throughout California completed a total of 15 surveys. Twenty percent of the prosecutors reported they prosecuted at least one anti-reproductive-rights crime during 2002.

#### *Reproductive Health Service Facility Response*

Health facility staff in 16 health facilities in 12 different cities throughout California completed a total of 37 surveys. Health facilities can provide either reproductive health services or referrals to those services. All of the facilities who returned surveys provided reproductive health services to their clients. Categories of persons who completed the survey included: medical doctor or nurse (35% of surveys), administrator or director (30%), staff member (22%), and assistant or escort (14%). Two questions in the survey requested information about frequency of demonstrations or picketing events and average number of demonstrators or picketers at these events during 2002. The frequency of these events was reported as daily (3% of surveys), once or more per week (30%), once or more per month (11%), once or more per year (30%), and unable to remember (27%). Average number of demonstrators or picketers at these events ranged from one to five (54% of the facilities), six to ten (19%), and unable to remember (27%).

Copy of Validation Survey

**California Department of Justice**

**ANTI-REPRODUCTIVE-RIGHTS  
CRIME SURVEY**



**Criminal Justice Statistics Center  
January 2003**

## Anti-Reproductive-Rights Crime Survey

### INSTRUCTIONS

Senate Bill 780, effective January 1, 2002, enacted two new laws, the California Freedom of Access to Clinic and Church Entrances (or California FACE) Act (Title 11.7 [commencing with section 423] of Part 1 of the Penal Code), and the Reproductive Rights Law Enforcement Act (Title 5.7 [commencing with section 13775] of Part 4 of the Penal Code). This legislation describes an *anti-reproductive-rights crime* as a crime committed partly or wholly because the victim is a reproductive health services client, provider, or assistant, or a crime that is partly or wholly intended to intimidate the victim, any other person or entity, or any class of persons or entities from becoming or remaining a reproductive health services client, provider or assistant. *Reproductive health services* are defined as “those services provided in a hospital, clinic, physician’s office, or other facility and includes medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.”

The California Department of Justice (DOJ) is developing a plan to report, prevent, apprehend, and prosecute anti-reproductive-rights crimes in California which will include some of the strategies contained in the attached survey. You are being asked to rate the importance of each strategy in the plan by using a 5-point scale.

- 1 –I STRONGLY DISAGREE with this strategy.**
- 2 –I DISAGREE with this strategy.**
- 3 –I am UNDECIDED or NEUTRAL.**
- 4 –I AGREE with this strategy.**
- 5 –I STRONGLY AGREE with this strategy.**

### AN EXAMPLE

Consider the following strategy:

Police departments should provide more law enforcement officers to monitor demonstrations at health care facilities.

Your Response:

If you AGREE that this strategy should be included in the plan, you would score your response as follows:

- 4 –I AGREE with this strategy.**

## **Anti-Reproductive-Rights Crime Survey**

### **SURVEY INSTRUCTIONS**

Administrators of Health Service facilities should select four persons to complete the attached survey. Police Chiefs and District Attorneys should each select three persons to complete the survey.

For Health Service facilities, a person should be selected from each of the following: (a) an administrator or director, (b) a medical doctor or nurse, (c) a staff member who provides counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of pregnancy, and (d) an assistant or escort. These individuals should respond to Question #1 through Question #7 and then skip to Question #22 and answer the remaining questions.

For Police Chiefs, these individuals should have experience responding to or investigating abortion-related conflict or violence calls for service. These individuals should begin by responding to Question #8 through Question #18 and then skip to Question #22 and answer the remaining questions.

For District Attorneys, these individuals should have knowledge of or experience prosecuting state or federal anti-reproductive-rights crimes as defined by the Reproductive Rights Law Enforcement Act (Title 5.7 [commencing with section 13775] of Part 4 of the Penal Code). These individuals should begin by responding to Question #19 through Question #21 and then skip to Question #22 and answer the remaining questions.

For additional copies of this survey please contact Dr. Robert Richard Springborn, at (916)227-3557.

### **FOR EACH OF THE FOLLOWING QUESTIONS**

**CIRCLE THE BEST ANSWER OR**

**FILL IN THE BLANK**

## Anti-Reproductive-Rights Crime Survey

### REPRODUCTIVE HEALTH SERVICE FACILITIES SHOULD START HERE

Question #1 Which category which best describes your health care facility? (a) your office provides abortion-related health care services, or (b) your office refers clients to a different facility where abortion-related health care services are provided.

Question #2 Which category which best describes you? (a) administrator or director; (b) medical doctor or nurse; (c) a staff member; or (d) assistant or escort.

Question #3 What is the name of your health services facility? Do not provide the address.

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Question #4 In what city is this health services facility located?

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Question #5 In what county is this health services facility located?

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Question #6 During 2002, on days when there were demonstrators or picketers at your facility, estimate the *average number* of demonstrators or picketers at the facility where you work: (a) 1 - 5; (b) 6 - 10; (c) 11 - 20; (d) More than 20; or (e) Do Not Know.

Question #7 During 2002, estimate the *usual frequency* of demonstrators or picketers at your facility: (a) Daily; (b) Once or More Per Week; (c) Once or More Per Month; (d) Once or More Per Year, or (e) Do Not Know.

### LAW ENFORCEMENT SHOULD START HERE

Question #8 What is the name of your Law Enforcement Agency?

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Question #9 What is the city or jurisdiction of your agency?

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For Questions #10 through #20, estimate the number of times during 2002 that you have responded to calls for service at a reproductive health services facility for each of the following.

Question #10 Estimate the number of murders or attempted murders: (a) None; (b) One; (c) Two; (d) Three; (e) Four; (f) Five; (g) Six; (h) Seven to Twelve; (i) More than Twelve.

## Anti-Reproductive-Rights Crime Survey

Question #11 Estimate the number of bombings, arsons, or attempted bombings/arsons: (a) None, (b) One; (c) Two; (d) Three; (e) Four; (f) Five; (g) Six; (h) Seven to Twelve; (i) More than Twelve.

Question #12 Estimate the number of trespasses: (a) None; (b) One; (c) Two; (d) Three; (e) Four; (f) Five; (g) Six; (h) Seven to Twelve; (i) More than Twelve.

Question #13 Estimate the number of vandalism: (a) None; (b) One; (c) Two; (d) Three; (e) Four; (f) Five; (g) Six; (h) Seven to Twelve; (i) More than Twelve.

Question #14 Estimate the number of assaults: (a) None; (b) One; (c) Two; (d) Three; (e) Four; (f) Five; (g) Six; (h) Seven to Twelve; (i) More than Twelve.

Question #15 Estimate the number of death threats: (a) None; (b) One; (c) Two; (d) Three; (e) Four; (f) Five; (g) Six; (h) Seven to Twelve; (i) More than Twelve.

Question #16 Estimate the number of kidnappings: (a) None, (b) One, (c) Two, (d) Three, (e) Four, (f) Five, (g) Six, (h) Seven to Twelve, (i) More than Twelve.

Question #17 Estimate the number of burglaries: (a) None; (b) One; (c) Two; (d) Three; (e) Four; (f) Five; (g) Six; (h) Seven to Twelve, (i) More than Twelve.

Question #18 Estimate the number of stalkings: (a) None; (b) One; (c) Two; (d) Three; (e) Four; (f) Five; (g) Six; (h) Seven to Twelve; (i) More than Twelve.

### PROSECUTORS SHOULD START HERE

Question #19 In what county is your District Attorney's office located?

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Question #20 In what city is the office located?

---

Question #21 How many anti-reproductive-rights crimes were prosecuted in your county during 2002? (a) None; (b) One; (c) Two; (d) Three; (e) Four; (f) Five; (g) Six; (h) Seven to Twelve (i) More than Twelve.



## Anti-Reproductive-Rights Crime Survey

### ALL PERSONS SHOULD COMPLETE THE REMAINING QUESTIONS

Question #22 Law Enforcement Agencies Should Establish Clinic Buffer Zones: A state law should be enacted to establish buffer zones around clinics and medical offices. For example, a Colorado law makes it a misdemeanor to “knowingly approach another person within eight feet of such person, unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with such other person in the public way or sidewalk area.”

1–Strongly Disagree; 2–Disagree; 3–Undecided; 4–Agree; 5–Strongly Agree

Question #23 Law Enforcement Agencies Should Restrict Residential Demonstrations: A state law should be enacted to ban or restrict residential picketing and other demonstrations targeting individuals’ homes.

1–Strongly Disagree; 2–Disagree; 3–Undecided; 4–Agree; 5–Strongly Agree

Question #24 The California DOJ Should Continue and Expand Regional Task Forces: The California DOJ should convene a regional Task Force on Violence Against Abortion Providers to coordinate federal, state, and local law enforcement in any federal judicial districts where they do not exist.

1–Strongly Disagree; 2–Disagree; 3–Undecided; 4–Agree; 5–Strongly Agree

Question #25 The California DOJ Should Combine Task Forces: The California DOJ should seek to combine the U.S. Attorney’s Task Force on Violence Against Abortion Providers with the hate crime task forces and/or domestic terrorism task forces that exist in some regions in California.

1–Strongly Disagree; 2–Disagree; 3–Undecided; 4–Agree; 5–Strongly Agree

Question #26 Law Enforcement Agencies Should Establish a Liaison: Law enforcement agencies should assign one or more officers to act as law enforcement liaisons between officers and stakeholders. These officers should understand the complexities of the issue, have respect for stakeholder concerns, be able to maintain their neutrality during the assignment, and be granted the authority to speak for the department. As part of their role, liaison officers should: (a) develop relationships with prominent Pro-Life and Pro-Choice activists, churches, area businesses, and other groups that abortion-related activity might affect, (b) be notified when other officers in the agency receive calls concerning an abortion-related event, (c) ensure that in-service training is provided to patrol officers and special units responding to abortion-related conflicts, and (d) remain aware of arrest records and criminal histories of participants to assist in the identification of patterns of escalating conflict behaviors.

1–Strongly Disagree; 2–Disagree; 3–Undecided; 4–Agree; 5–Strongly Agree

## Anti-Reproductive-Rights Crime Survey

Question #27 Law Enforcement Agencies Should Define the Role of Liaison Officers: The law enforcement agency liaison officer should meet both formally and regularly with Pro-Life and Pro-Choice activists, sidewalk counselors, escorts, and other participants to outline appropriate and legal conduct during protests. During these meetings officers should provide written guidelines that define department procedures, relevant laws, and injunctions to help all participants exercise their rights safely within legal parameters and enhance communication between officers and participants.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #28 Law Enforcement Agencies Should Train Officers: Law enforcement agencies should provide training to officers on local and federal laws pertaining to demonstrations and protests, First Amendment rights, and reproductive rights of patients. The liaison officer should play an important role in officer training by educating other officers about stakeholders' perceptions and perspectives, discussing Pro-Life and Pro-Choice beliefs to sensitize officers to the language surrounding the abortion issue, and other relevant information about recurring abortion-related incidents.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #29 Law Enforcement Agencies Should Train Dispatchers: Law enforcement agencies should provide training to dispatchers concerning deployment procedures, communications, and appropriate language when handling calls for service in abortion-related conflicts which enables dispatchers to handle calls impartially without pre-screening calls based on personal ideologies.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

**The next series of questions, #30 through #36, relate to responding to planned or large events.**

Question #30 Law Enforcement Agencies Should Establish Event Guidelines: Before a planned event, the law enforcement agency liaison officer should meet with leaders from the Pro-Life and Pro-Choice movements to communicate: (a) established guidelines which outline acceptable behavior, (b) discuss police procedures for violations of these guidelines, and (c) discuss and distribute written information concerning injunctions and relevant laws.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #31 Law Enforcement Agencies Should Enforce the Rules: After establishing guidelines and explaining them to participants, law enforcement officers should take consistent and assertive action in response to violations.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

## Anti-Reproductive-Rights Crime Survey

Question #32 Law Enforcement Agencies Should Establish Physical Boundaries: When possible, law enforcement officers should clearly mark injunction and police zones to prevent possible disputes over legally protected territory including designating areas or establishing barriers if counter-demonstrators are present.

1–Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #33 Law Enforcement Agencies Should Determine Appropriate Personnel Deployment at Planned Events: To enforce physical boundaries and event guidelines, law enforcement agencies must carefully assess the number of on-scene officers necessary to manage each event because under- or over-deployment of personnel both send a message of bias.

1–Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #34 Law Enforcement Agencies Should Determine Personnel Deployment at Large Planned Events: At large events, in addition to tactical assignments, two or more officers should be assigned as primary contacts to the participant groups. Different officers should be assigned to the clinic, to Pro-Life demonstrators, and to Pro-Choice demonstrators. The purpose of this strategy includes: (a) ensuring that participant issues and needs are addressed and communicated, (b) allowing officers to communicate with participants, and (c) assisting with on-scene intelligence gathering.

1–Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #35 Law Enforcement Agencies Should Establish Arrest Procedures: After establishing guidelines for demonstrations, law enforcement should clarify to participants what constitutes a violation and establish detainment procedures for arresting individuals who violate the law. These procedures should include establishing teams to: (a) make the majority of the arrests (arrest teams), (b) document all relevant information during the arrest procedure (booking/processing teams), and (c) transport the arrestees to the detention facility (transport teams). In addition, officers should have an event response kit that contains camera equipment along with copies of injunctions and guidelines pertaining to the event.

1–Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #36 Law Enforcement Agencies Should Hold Post-Event Briefings: After an event, the involved law enforcement agency should hold internal post-event briefings to evaluate its responses and ability to manage the incident. During these meetings, the liaison officer, tactical planners and others involved in the event should: (a) review department policies and procedures, (b) analyze the effectiveness of liaison officers, and (c) consider additional training for department personnel.

1–Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

## Anti-Reproductive-Rights Crime Survey

**The next series of questions, #37 and #38, relate to responding to calls for service.**

Question #37 Law Enforcement Agencies Should Have Guidelines for Handling the Response: To minimize tensions during abortion-related calls for service, responding officers should: (a) use neutral and non-confrontational language, (b) meet with spokes-persons from each of the issue's partisans to determine what is alleged to have occurred, (c) clearly communicate reasons for action or inaction, (d) gather any existing evidence of the reported incident or problem, and (e) have a response kit that includes copies of relevant laws and injunctions for use in answering calls for service.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #38 Law Enforcement Agencies Should Have Guidelines for Supervisory Approval: To assist law enforcement officers responding to abortion-related calls for service, law enforcement agencies should not require that all actions receive prior supervisory approval.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

**The next series of questions, #39 through #44 relate to external collaborations.**

Question #39 Law Enforcement Agencies Should Collaborate With Other Law Enforcement Agencies: Law enforcement agency leaders should establish formal relationships with other law enforcement agencies for sharing information about abortion-related conflicts in other locations.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #40 Law Enforcement Agencies Should Form Coalitions With the Religious Community: Coalitions involving the law enforcement agency liaison officer and religious leaders from both the Pro-Life and Pro-Choice communities should be formed to prepare for and identify dangerous individuals.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #41 Law Enforcement Agencies Should Have Guidelines for Confidentiality of Clergy: Law enforcement and clergy should establish in advance ground rules for managing confidential information and identifying, diverting, and responding to potentially violent persons.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

## Anti-Reproductive-Rights Crime Survey

Question #42 Law Enforcement Agencies Should Collaborate With the Criminal Justice System: Collaborative arrangements should be established among law enforcement agencies, legal liaisons, judges, local prosecutors, U.S. Attorneys, jails, and other agencies tasked with criminal justice system responsibilities related to anti-reproductive-rights crimes.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #43 The California DOJ Should Lead the Development of a Joint State and Federal Educational Program: An educational program should be developed by the California DOJ in cooperation with federal agents to ensure that local, state, and federal law enforcement officials understand the authority granted by both the California FACE Act and the federal FACE Act, and the need for prompt enforcement.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #44 Law Enforcement Should Communicate With Other Interested Parties: Law enforcement officers should communicate regularly with business owners and residents, in areas affected by abortion-related conflicts, to gain additional perspectives about conflicts and community concerns which will aide in the apprehension of law violations by encouraging business owners and residents to report suspicious persons or activities to law enforcement.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

**The next series of questions, #45 through #47, relate to issues of impartiality and bias.**

Question #45 Law Enforcement Officers as Stakeholders: Law enforcement agencies should develop strategies to prevent officers' personal beliefs from intruding into their job performances. The goal of these efforts should be to protect officers' First Amendment rights to express their views while requiring them to perform their job impartially.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #46 Law Enforcement Officers Working as Security at Clinics and Events: Off-duty employment of law enforcement officers by clinics or Pro-Life or Pro-Choice organizations should be avoided because it interferes with officers ability to maintain a neutral identity and standing when responding to abortion-related conflict or violence calls for service.

1-Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

## Anti-Reproductive-Rights Crime Survey

Question #47 Safety Tips and “Target Hardening” for Stakeholders: Law enforcement agencies should offer to perform security “audits” and offer advice to health services facilities. Such audits can assist local clinics with safety and target hardening tips while familiarizing police with each clinic’s physical layout, entrances, exits, and security strengths and weaknesses. This security advice may include: (a) installing bulletproof glass and other target-hardening measures, (b) using intercoms for admissions into clinics, (c) documenting suspicious events and individuals by videotape or photograph, (d) developing secure methods of access for doctors and other clinic staff, (e) using non-traceable transportation for doctors (i.e., registering vehicles in the clinic’s name), and (f) installing alarm systems and/or hiring private security personnel.

1–Strongly Disagree; 2-Disagree; 3-Undecided; 4-Agree; 5-Strongly Agree

Question #48 Provide strategies *not included in the above survey* which could be used to prevent, report, apprehend, and prosecute anti-reproductive-rights crimes in California.

**Provide your answers to Question #48 on a separate sheet of paper and attach it to this survey.**

**PLEASE RETURN ALL TEN PAGES OF THIS SURVEY  
AND YOUR ANSWER TO QUESTION #48 TO THE:**

California Department of Justice  
Criminal Justice Statistics Center, Room E-232  
Attention: Senate Bill 780 Survey  
4949 Broadway  
Sacramento, California 95820

**THANK YOU FOR COMPLETING THIS SURVEY !!!**

## APPENDIX II-ANALYSIS OF PLAN STRATEGIES

The proposed strategies for the plan (strategies #1 through #26) are presented in the validation survey (Questions #22 through #47 in Appendix I, Copy of Validation Survey). The objective of this analysis is to determine if there were significant differences between the five different survey response frequencies (1=Strongly Disagree to 5=Strongly Agree) for each strategy and for each group of respondents. An overview of the survey results will be presented followed by the use of a logistic regression model to statistically test survey response differences.

### Overview

For all participants and for all strategies, 9.32% responded “Strongly Disagree” or “Disagree,” 12.92% responded “Undecided,” and 77.76% responded “Agree” or “Strongly Agree” (Table 1). Similar results were found for each group of participants. For all strategies combined, about 73% of police officers, 59% of prosecutors, and 91% of health facility staff were in agreement with (Agree or Strongly Agree) all proposed strategies.

#### Survey Responses for Police Officers, Prosecutors, and Health Facility Staff for All Strategies Combined

Group	Strongly Disagree or Disagree	Undecided	Agree or Strongly Agree
All groups	9.32%	12.92%	77.76%
Police Officers	14.52%	12.60%	72.88%
Prosecutors	16.41%	24.36%	59.23%
Health Facility Staff	0.83%	8.63%	90.54%

Note: Responses for each question are given in Appendix Tables 2.2 and 2.3

The final question in the survey (Question #48, Appendix 1, Copy of Validation Survey) solicited additional strategies that should be included in the plan. Due to the fact that only eight responses were received, this very limited information was excluded from this report.

### Logistic Regression

The survey data (above) are “raw” values obtained from the validation survey. Statistical analyses are required to assess statistically significant differences in these responses for each strategy and for each group of survey respondents. Therefore, the survey data were modeled using a model function called cumulative logits by performing ordered logistic regression using the proportional

odds model (McCullagh 1980). Appendix III defines the components of the proportional odds model.

The explanatory variable in the proportional odds model was group type (police department, district attorney's office, or reproductive health service facility) where reproductive health service facility served as a reference or baseline value.

The proportional odds model was applied to the analysis of the survey data using the following steps: (a) a Score Test to evaluate the appropriateness of the proportional odds assumption, (b) global tests for goodness-of-fit, (c) model effect estimates, and (d) hypotheses test to investigate differences between survey response categories. Due to the lower than expected response rate, the frequency of each of the five response values for all strategies and all groups was increased by 1.

### **Score Test**

The score test calculates the appropriateness of the proportional odds assumption. This test determines whether, if you fit a different set of explanatory variable parameters  $\beta_k$  for each logit function, those sets of parameters are equivalent. The hypothesis tested is that there is a common parameter  $\beta$  instead of distinct  $\beta_k$ . The hypothesis can be stated as  $\beta_k = \beta$  for all  $k$ . Thus, if you reject the null hypothesis, you reject the assumption of proportional odds and you need to consider a different approach such as modeling generalized logits.

For this study, the proportional odds model assumption was satisfied for all strategies using a critical  $p$  value of 0.0020 adjusted for testing twenty-six strategies (Appendix Table 2.4).

### **Goodness-of-Fit**

The global null hypothesis that all model effects  $\beta_g = 0$ , where  $g$  indexes the different explanatory variables in the model, was tested using the Likelihood Ratio, Score, and Wald Chi-Square test. Since group was the only model effect, these tests also evaluate the explanatory capability of the model effect "group." A significant global group effect means that there is at least one significant difference between health service facilities, police departments, and district attorney offices. All three tests gave similar  $p$  values.

There were significant global group differences for 15 of 26 strategies (strategies #1, #3 - #8, #10, #11, #17, #19, #20, #22 - #24) (Appendix Table 2.4). For the remaining 11 strategies, there was no significant global group difference. The lack of a significant global group difference does not preclude significant differences between specific groups. Strategies #2 and #26 had no global group effect but a highly significant difference between police officers and health facility staff. In addition, strategy #15 had no global group effect but a highly significant difference between prosecutors and health facility staff. Group differences are examined more closely in the next section.



## Model Effect Estimates

The coefficient  $\beta$  is interpreted as relative change in cumulative probability of agreement, starting with the lowest category of agreement (1=Strongly Disagree), using information from all four model logits. The relative change can be expressed in terms of the cumulative probability of agreement or model odds. In terms of the cumulative probability of agreement, an estimate of  $\beta_{PD}$  is the relative change in cumulative probability for police officers versus cumulative probability for health facility staff. Similarly,  $\beta_{DA}$  estimates relative change in cumulative probability for prosecutors versus cumulative probability for health facility staff. In terms of model odds, an estimate of  $\exp(\beta_{PD})$  is the relative change in model odds for police officers versus model odds for health facility staff. Similarly,  $\exp(\beta_{DA})$  is the relative change in model odds for prosecutors versus model odds for health facility staff. Since the model odds are based on a cumulative probability of agreement using all four model logits, this relative change is also called cumulative odds ratios.

In this study, the results were examined in terms of a relative change in cumulative probability of agreement. For strategy #1, there was a highly significant difference between groups. The coefficient estimate of  $\beta_{PD} = 2.8657$  means the relative change in cumulative probability of agreement for police officers is 2.87 times larger than the cumulative probability of agreement for health facility staff (Appendix Table 2.4). In addition, for strategy #1, the coefficient estimate of  $\beta_{DA} = 2.3802$  means that the relative change in cumulative probability of agreement for prosecutors was 2.38 times larger than the cumulative probability of agreement for health facility staff (Appendix Table 2.4). Combining both results, this means that both police officers and prosecutors show a significantly higher cumulative probability of agreement than health facility staff.

The relative change in cumulative probability of agreement for police officers was significantly higher than that for health facility staff for 13 strategies (strategies #1- #5, #7, #8, #11, #19, #22 - #24, #26) (Appendix Table 2.4). For the remaining 13 strategies, there was no significant difference between police officers and health facility staff. In addition, the relative change in cumulative probability of agreement for prosecutors was significantly higher than that for health facility staff for 13 strategies (strategies #1, #3 - #8, #15, #17, #19, #20, #22, #24). For the remaining 13 strategies, there was no significant difference between these two groups.

Estimates of the cumulative probability of agreement are sensitive to the distribution of survey responses. The estimated cumulative probability of agreement for health facility staff was more horizontal because only 9.46% of their responses were “Strongly Disagree,” “Disagree,” or “Undecided” (Appendix Table 2.3). This is compared to a steeper estimated cumulative probability for police officers and prosecutors, for whom 27.12% and 40.77% of their responses, respectively, were “Strongly Disagree,” “Disagree,” or “Undecided” (Appendix Table 2.3). Therefore, for most

strategies the relative change in cumulative probability was larger for both police officers and prosecutors compared to health facility staff (Appendix Table 2.4).

A more specific test to examine the differences between probability of survey response category “Disagree” (both Strongly Disagree and Disagree) compared to probability of survey response category “Agree” (Strongly Agree and Agree) is discussed below.

### **Revised Model Odds Tests**

Differences between the probability of survey responses “Strongly Disagree” or “Disagree,” compared to the probability of survey response “Strongly Agree” or “Agree,” were evaluated as described in Appendix III.

The model odds test maximizes the statistical power of distinguishing between “Disagree” (Strongly Disagree and Disagree) and “Agree” (Strongly Agree and Agree) by removing the response “Undecided,” which confounds the clarity of the test. Given that one of the survey responses has been removed, it is prudent to re-check the appropriateness of the proportional odds assumption. The *p* values for the Score Test in Appendix Table 2.5 show that the proportional odds model assumption was satisfied for all strategies.

For police officers, there was a highly significant difference between the probability of “Strongly Disagree” and “Disagree” compared to the probability of “Agree” and “Strongly Agree” for strategies #7 - #18, #20, #21, #23, and #25 (Appendix Table 2.5). Given the distribution of responses for these strategies (Appendix Table 2.3), this indicates that police officers “Agree” with these strategies (Appendix Table 2.6). For the remaining nine strategies, given the lack of a significant difference in model odds (Appendix Table 2.5) and the distribution of survey responses in Appendix Table 2.3, police officers were “Undecided” in their response to these strategies (Appendix Table 2.6).

For prosecutors, there was a highly significant difference between the probability of “Strongly Disagree” and “Disagree” compared to the probability of “Agree” and “Strongly Agree” for strategies #9 - #11, #14, #18, and #23 (Appendix Table 2.5). Given the distribution of responses for these strategies (Appendix Table 2.3), this indicates that prosecutors “Agree” with these strategies (Appendix Table 2.6). For the remaining 20 strategies, given the lack of a significant difference in model odds (Appendix Table 2.5) and the distribution of survey responses in Appendix Table 2.3, prosecutors were “Undecided” in their response to these strategies (Appendix Table 2.6).

For the health facility staff, there was a highly significant difference between the probability of “Strongly Disagree” and “Disagree” compared to the probability of “Agree” and “Strongly Agree” (Appendix Table 2.5) for all strategies. Given the distribution of survey responses in Appendix Table 2.3, health facility staff “Agree” with all strategies (Appendix Table 2.6).

**Tables of Survey Analysis Results**

**Appendix Table 2.1  
List of Urban and Rural Counties Receiving Validation Survey**

County Type	County Name
Northern urban	Sacramento San Francisco Alameda
Northern rural	Shasta Humboldt Butte Mendocino Sonoma Marin San Joaquin San Mateo Stanislaus Santa Clara Fresno Inyo Monterey
Southern urban	Los Angeles Orange San Diego
Southern rural	San Luis Obispo Kern San Bernardino Santa Barbara Ventura Riverside

**Appendix Table 2.2**

**Frequency of Each Response (SD=Strongly Disagree, D=Disagree, U=Undecided, A=Agree, SA=Strongly Agree) for Each Strategy (See Appendix I) and All Groups Combined**

Strategy	SD	D	U	A	SA
#1 LEA Should Establish Clinic Buffer Zones (D #3)	8	12	13	27	32
#2 LEA Should Restrict Residential Demonstrations (D #4)	8	10	5	31	38
#3 CADOJ Should Continue and Expand Regional Task Forces (D #5)	2	15	17	27	31
#4 CADOJ Should Combine Task Forces (D #5)	1	12	17	43	19
#5 LEA Should Establish a Liaison (K #1)	4	16	12	32	28
#6 LEA Should Define the Role of Liaison Officers (K #2)	3	13	11	45	20
#7 LEA Should Train Officers (K #3)	0	9	5	47	31
#8 LEA Should Train Dispatchers (K #4)	0	7	9	47	29
#9 LEA Should Establish Event Guidelines (K #5)	0	2	1	58	31
#10 LEA Should Enforce the Rules (K #6)	0	0	5	42	45
#11 LEA Should Establish Physical Boundaries (K #7)	0	4	7	53	28
#12 LEA Should Determine Appropriate Personnel Deployment at Planned Events (K #8)	2	4	8	50	28
#13 LEA Should Assign Officers as Contacts to Participant Groups (K #8)	0	7	19	42	24
#14 LEA Should Establish Arrest Procedures (K #9)	0	1	7	40	44
#15 LEA Should Hold Post-Event Briefings (K #11)	0	0	6	50	36
#16 LEA Should Have Guidelines for Handling the Response (K #12)	0	5	5	55	27
#17 LEA Should Have Guidelines for Supervisory Approval (K #12)	1	4	22	47	18
#18 LEA Should Collaborate With Other Law Enforcement Agencies (K #13)	0	2	10	42	38

Notes: LEA: Law Enforcement Agencies  
 CADOJ: The California Department of Justice  
 Literature source as (D) DeGiere (2002), (K) Kenney, et al. (1999), and (T) Anonymous (2001)

**Appendix Table 2.2 (continued)**

Strategy	SD	D	U	A	SA
#19 LEA Should Form Coalitions With the Religious Community (K #14)	0	12	23	32	25
#20 LEA Should Have Guidelines for Confidentiality of Clergy (K #14)	1	5	28	36	22
#21 LEA Should Collaborate With the Criminal Justice System (K #15)	0	6	11	53	22
#22 CADOJ Should Lead the Development of a Joint State and Federal Educational Program (T #1)	2	8	14	36	32
#23 LEA Should Communicate With Other Interested Parties (K #16)	0	2	9	57	24
#24 Law Enforcement Officers as Stakeholders (K #17)	2	9	13	45	23
#25 Law Enforcement Officers Should Not Work as Security at Clinics and Events (K #18)	4	10	18	37	23
#26 Safety Tips and “Target Hardening” for Stakeholders (K #19)	1	9	14	50	18
Total	39	184	309	1,124	736
Percent of Total	1.63%	7.69%	12.92%	46.99%	30.77%

Notes: LEA: Law Enforcement Agencies

CADOJ: The California Department of Justice

Literature source as (D) DeGiere (2002), (K) Kenney, et al. (1999), and (T) Anonymous (2001)

**Appendix Table 2.3**

**Frequency of Survey Response for Each Strategy and Each Group (See Appendix 2.1 for definition of strategies.)**

Strategy	Police Department			District Attorney Office			Health Facility		
	Disagree	Undecided	Agree	Disagree	Undecided	Agree	Disagree	Undecided	Agree
1	16	8	16	4	4	7	0	1	36
2	15	2	23	2	2	11	1	1	35
3	11	12	17	6	5	4	0	0	37
4	8	7	25	4	6	5	1	4	32
5	12	3	25	8	4	3	0	5	32
6	8	4	28	7	2	6	1	5	31
7	6	2	32	3	1	11	0	2	35
8	4	5	31	2	1	12	1	3	33
9	1	0	39	1	0	14	0	1	36
10	0	1	39	0	2	13	0	2	35
11	4	5	31	0	0	15	0	2	35
12	3	2	35	3	3	9	0	3	34
13	4	6	30	3	5	7	0	8	29
14	1	2	37	0	3	12	0	2	35
15	0	0	40	0	4	11	0	2	35

Notes: Survey Response Category “Disagree” includes Strongly Disagree and Disagree  
 Survey Response Category “Agree” includes Strongly Agree and Agree

**Appendix Table 2.3 (continued)**

Strategy	Police Department			District Attorney Office			Health Facility		
	Disagree	Undecided	Agree	Disagree	Undecided	Agree	Disagree	Undecided	Agree
16	3	2	35	2	2	11	0	1	36
17	4	7	29	1	9	5	0	6	31
18	2	3	35	0	4	11	0	3	34
19	8	9	23	3	9	3	1	5	31
20	5	13	22	1	9	5	0	6	31
21	3	6	31	3	2	10	0	3	34
22	7	7	26	3	5	7	0	2	35
23	1	7	32	1	1	13	0	1	36
24	8	7	25	3	4	8	0	2	35
25	8	4	28	3	5	7	3	9	25
26	9	7	24	1	3	11	0	4	33
Total	151	131	758	64	95	231	8	83	871
Percent <sup>1</sup>	14.52%	12.60%	72.88%	16.41%	24.36%	59.23%	0.83%	8.63%	90.54%

Notes: Survey Response Category “Disagree” includes Strongly Disagree and Disagree

Survey Response Category “Agree” includes Strongly Agree and Agree

<sup>1</sup> Percentage of group responses

**Appendix Table 2.4**

**Score Test, Group Effect and Model Effect Estimates for Each Strategy (See Appendix 2.1 for definition of strategies.)**

Strategy	Score test <i>p</i> Value	Group Effect <i>p</i> Value	$\beta_{PD}$ [PD versus HSF ]		$\beta_{DA}$ [DA versus HSF ]	
			Estimate	<i>p</i> Value	Estimate	<i>p</i> Value
1	0.8432	< 0.0001	2.8657	< <b>0.0001</b>	2.3802	< <b>0.0001</b>
2	0.5134	0.0045	1.3487	<b>0.0010</b>	0.6452	0.2010
3	0.1035	< 0.0001	2.8478	< <b>0.0001</b>	3.2271	< <b>0.0001</b>
4	0.4716	< 0.0001	1.6122	<b>0.0002</b>	2.2619	< <b>0.0001</b>
5	0.0029	< 0.0001	2.0873	< <b>0.0001</b>	2.8805	< <b>0.0001</b>
6	0.3733	0.0007	1.0659	0.0103	1.9671	<b>0.0002</b>
7	0.0426	< 0.0001	2.0673	< <b>0.0001</b>	2.5832	< <b>0.0001</b>
8	0.0215	< 0.0001	1.8254	< <b>0.0001</b>	1.8401	<b>0.0007</b>
9	0.8010	0.0212	0.8176	0.0568	1.4892	0.0085
10	0.0891	0.0018	1.3289	0.0023	1.6763	0.0021
11	0.5183	0.0019	1.5213	<b>0.0006</b>	1.2338	0.0221
12	0.1918	0.0243	0.6929	0.0924	1.4035	0.0077
13	0.2409	0.0117	0.7464	0.0635	1.4990	0.0035
14	0.6314	0.0046	1.0488	0.0135	1.6373	0.0022
15	0.4529	0.0030	0.3875	0.3510	1.8930	<b>0.0007</b>

Notes: *p* values in italic bold are significant at a critical *p* value of 0.0020.

Score Test *p* value Evaluating the Proportional Odds Assumption (see text of Appendix II).

Group Effect *p* value for global test of model effect group (see text of Appendix II).

Estimate and *p* Value for Police Department (PD) versus Health Service Facility (HSF) for all four logits.

Estimate and *p* Value for District Attorney's Office (DA) versus Health Service Facility (HSF) for all four logits.



**Appendix Table 2.4 (continued)**

Strategy	Score test <i>p</i> Value	Group Effect <i>p</i> Value	$\beta_{PD}$ [PD versus HSF ]		$\beta_{DA}$ [DA versus HSF ]	
			Estimate	<i>p</i> Value	Estimate	<i>p</i> Value
16	0.9352	0.0072	0.9650	0.0240	1.6312	0.0030
17	0.2543	0.0013	1.0434	0.0128	1.8823	<b><i>0.0004</i></b>
18	0.4177	0.0679	0.8254	0.0440	0.9870	0.0550
19	0.2303	< 0.0001	1.5483	<b><i>0.0002</i></b>	2.2221	<b><i>&lt; 0.0001</i></b>
20	0.7786	0.0014	1.2437	0.0024	1.6415	<b><i>0.0016</i></b>
21	0.8570	0.0052	1.0184	0.0167	1.6445	0.0023
22	0.4927	< 0.0001	2.1662	<b><i>&lt; 0.0001</i></b>	2.4931	<b><i>&lt; 0.0001</i></b>
23	0.5795	0.0012	1.6197	<b><i>0.0004</i></b>	1.3892	0.0125
24	0.9253	< 0.0001	1.7135	<b><i>0.0001</i></b>	2.0962	<b><i>0.0001</i></b>
25	0.1837	0.1005	0.1463	0.7072	1.0296	0.0378
26	0.8240	0.0029	1.4599	<b><i>0.0007</i></b>	1.0520	0.0455

Notes: *p* values in bold italic are significant at a critical *p* value of 0.0020.

Score Test *p* value Evaluating the Proportional Odds Assumption (see text).

Group Effect *p* value for global test of model effect group (see text).

Estimate and *p* Value for Police Department (PD) versus Health Service Facility (HSF) for all four logits.

Estimate and *p* Value for District Attorney's Office (DA) versus Health Service Facility (HSF) for all four logits.

Model Effect Estimates Significant at 0.0020 in italics.

**Appendix Table 2.5**  
**P Values for Score Test, and Model Odds Test for Each Group**  
**(See Appendix 2.1 for definition of strategies.)**

Strategy	Score Test <i>p</i> Value	Model Odds Test <i>p</i> Values		
		Police Department	District Attorney Office	Health Facility
1	0.7078	0.8710	0.1794	< <b><i>0.0001</i></b>
2	0.4357	0.1040	0.0033	< <b><i>0.0001</i></b>
3	0.0672	0.3785	0.9181	< <b><i>0.0001</i></b>
4	0.6891	0.0109	0.6317	< <b><i>0.0001</i></b>
5	0.1183	0.1010	0.5506	< <b><i>0.0001</i></b>
6	0.4811	0.0023	0.8448	< <b><i>0.0001</i></b>
7	0.2260	<b><i>0.0001</i></b>	0.0837	< <b><i>0.0001</i></b>
8	0.0907	<b><i>0.0002</i></b>	0.0084	< <b><i>0.0001</i></b>
9	0.9203	< <b><i>0.0001</i></b>	<b><i>0.0013</i></b>	< <b><i>0.0001</i></b>
10	0.2844	< <b><i>0.0001</i></b>	< <b><i>0.0001</i></b>	< <b><i>0.0001</i></b>
11	0.6410	< <b><i>0.0001</i></b>	<b><i>0.0007</i></b>	< <b><i>0.0001</i></b>
12	0.1172	< <b><i>0.0001</i></b>	0.0092	< <b><i>0.0001</i></b>
13	0.3864	< <b><i>0.0001</i></b>	0.0877	< <b><i>0.0001</i></b>
14	0.8112	< <b><i>0.0001</i></b>	<b><i>0.0005</i></b>	< <b><i>0.0001</i></b>
15	0.9116	< <b><i>0.0001</i></b>	0.0046	< <b><i>0.0001</i></b>

Notes: *p* values in bold italic are significant at a critical *p* value of 0.0020.  
Model Odds Tests *p* values for Probabilities of Strongly Disagree or Disagree versus Agree or Strongly Agree.

**Appendix Table 2.5 (continued)**

Strategy	Score Test <i>p</i> Value	Model Odds Test <i>p</i> Values		
		Police Department	District Attorney Office	Health Facility
16	0.8269	< <b><i>0.0001</i></b>	0.0090	< <b><i>0.0001</i></b>
17	0.6462	<b><i>0.0002</i></b>	0.0616	< <b><i>0.0001</i></b>
18	0.7129	< <b><i>0.0001</i></b>	< <b><i>0.0001</i></b>	< <b><i>0.0001</i></b>
19	0.3874	0.0216	0.7141	< <b><i>0.0001</i></b>
20	0.6713	<b><i>0.0019</i></b>	0.0431	< <b><i>0.0001</i></b>
21	0.7810	< <b><i>0.0001</i></b>	0.0484	< <b><i>0.0001</i></b>
22	0.5249	0.0055	0.0991	< <b><i>0.0001</i></b>
23	0.4782	< <b><i>0.0001</i></b>	<b><i>0.0004</i></b>	< <b><i>0.0001</i></b>
24	0.7821	0.0024	0.1989	< <b><i>0.0001</i></b>
25	0.5258	<b><i>0.0003</i></b>	0.5861	< <b><i>0.0001</i></b>
26	0.6914	0.0077	0.0051	< <b><i>0.0001</i></b>

Notes: *p* values in bold italic are significant at a critical *p* value of 0.0020 .  
 Model Odds Test *p* values for Probabilities of Strongly Disagree or Disagree versus Agree  
 or Strongly Agree.

**Appendix Table 2.6**  
**Summary of Validation Survey Results as Agree (A), Disagree (D), or Undecided (U)**

Strategy	Police Department	DA Office	Health Facility
#1 LEA Should Establish Clinic Buffer Zones (D #3)	Undecided	Undecided	Agree
#2 LEA Should Restrict Residential Demonstrations (D #4)	Undecided	Undecided	Agree
#3 CADOJ Should Continue and Expand Regional Task Forces (D #5)	Undecided	Undecided	Agree
#4 CADOJ Should Combine Task Forces (D #5)	Undecided	Undecided	Agree
#5 LEA Should Establish a Liaison (K #1)	Undecided	Undecided	Agree
#6 LEA Should Define the Role of Liaison Officers (K #2)	Undecided	Undecided	Agree
#7 LEA Should Train Officers (K #3)	Agree	Undecided	Agree
#8 LEA Should Train Dispatchers (K #4)	Agree	Undecided	Agree
#9 LEA Should Establish Event Guidelines (K #5)	Agree	Agree	Agree
#10 LEA Should Enforce the Rules (K #6)	Agree	Agree	Agree
#11 LEA Should Establish Physical Boundaries (K #7)	Agree	Agree	Agree
#12 LEA Should Determine Appropriate Personnel Deployment at Planned Events (K #8)	Agree	Undecided	Agree
#13 LEA Should Assign Officers as Contacts to Participant Groups (K #8)	Agree	Undecided	Agree
#14 LEA Should Establish Arrest Procedures (K #9)	Agree	Agree	Agree
#15 LEA Should Hold Post-Event Briefings (K #11)	Agree	Undecided	Agree
#16 LEA Should Have Guidelines for Handling the Response (K #12)	Agree	Undecided	Agree
#17 LEA Should Have Guidelines for Supervisory Approval (K #12)	Agree	Undecided	Agree
#18 LEA Should Collaborate With Other Law Enforcement Agencies (K #13)	Agree	Agree	Agree
#19 LEA Should Form Coalitions With the Religious Community (K #14)	Undecided	Undecided	Agree

Note: Literature source as (D) DeGiere (2002), (K) Kenney, et al. (1999), and (T) Anonymous (2001).

**Appendix Table 2.6 (continued)**

Strategy	Police Department	DA Office	Health Facility
#20 LEA Should Have Guidelines for Confidentiality of Clergy (K #14)	Agree	Undecided	Agree
#21 LEA Should Collaborate With the Criminal Justice System (K #15)	Agree	Undecided	Agree
#22 CADOJ Should Lead the Development of a Joint State and Federal Educational Program (T #1)	Undecided	Undecided	Agree
#23 LEA Should Communicate With Other Interested Parties (K #16)	Agree	Agree	Agree
#24 Law Enforcement Officers as Stakeholders (K #17)	Undecided	Undecided	Agree
#25 Law Enforcement Officers Should Not Work as Security at Clinics and Events (K #18)	Agree	Undecided	Agree
#26 Safety Tips and “Target Hardening” for Stakeholders (K #19)	Undecided	Undecided	Agree

Note: Literature source as (D) DeGiere (2002), (K) Kenney, et al. (1999), and (T) Anonymous (2001)

### APPENDIX III–DERIVATION OF LOGISTIC MODEL

Ordinal variables have ordered categories, but distances between categories are unknown. An example is political philosophy (liberal, moderate, conservative). Although a person categorized as moderate is more liberal than a person categorized as conservative, no numerical value describes *how much more* liberal that person is. In this study, there were five different survey responses (1= Strongly Disagree, 2= Disagree, 3= Undecided, 4= Agree, 5= Strongly Agree). These data are ordinal because even though the five responses constitute an increasing scale of agreement from Strongly Disagree (no agreement) to Strongly Agree (high agreement), no numerical value can be given to the categories. Methods for ordinal variables utilize the category ordering. While typical logistic regression models analyze a dichotomous response, logistic regression is also applicable to ordinal responses. Agresti (2002) shows that logistic regression models with terms that reflect ordinal characteristics, such as monotone trend, have improved model parsimony and power. Therefore, the survey data were modeled using a model function called cumulative logits by performing ordered logistic regression using the proportional odds model (McCullagh, 1980).

#### *The Odds*

For the probability  $\pi_{hj}$  of success the “odds” are defined to be:

$$\Omega = (\pi_{hj}) / [1 - \pi_{hj}].$$

The odds are nonnegative with  $\Omega > 1.0$ , when a success is more likely than a failure. When  $\pi_{hj} = 0.75$ , for instance, then  $\Omega = 0.75 / 0.25 = 3.0$  which means that a success is three times as likely as a failure, and we expect about three successes for every one failure. When  $\Omega = 1 / 3$ , a failure is three times as likely as a success. In this study, the five survey responses have a probability  $\pi_{hj}$  defined as:

$\pi_{h1}$  = probability of response Strongly Disagree

$\pi_{h2}$  = probability of response Disagree

$\pi_{h3}$  = probability of response Undecided

$\pi_{h4}$  = probability of response Agree

$\pi_{h5}$  = probability of response Strongly Agree,

where  $h$  is an index value for the value of the group effect ( $h = 1$  for Police Department,  $h = 2$  for District Attorney Office, and  $h = 3$  for Health Service Facility), and  $j$  is the index for the five survey response probabilities.

### *Cumulative Logits*

One way to use categorical data that has five different ordered levels is to form logits of cumulative probabilities,

$$P(Y \leq j | \mathbf{x}) = \pi_1(\mathbf{x}) + \dots + \pi_j(\mathbf{x}), \quad j = 1, \dots, J,$$

where  $\mathbf{x}$  is a vector of explanatory variable values.

The logit is defined as the log of the odds. The cumulative logits are defined as:

$$\begin{aligned} \text{logit} [ P(Y \leq j | \mathbf{x}) ] &= \log \{ P(Y \leq j | \mathbf{x}) / [ 1 - P(Y \leq j | \mathbf{x}) ] \} \\ &= \log \{ [ \pi_1(\mathbf{x}) + \dots + \pi_j(\mathbf{x}) ] / [ \pi_{j+1}(\mathbf{x}) + \dots + \pi_J(\mathbf{x}) ] \} \\ &\quad j = 1, \dots, J - 1. \end{aligned}$$

Each cumulative logit uses all  $J$  response categories.

A model for  $\text{logit} [ P(Y \leq j | \mathbf{x}) ]$  alone is an ordinary logit model for a binary response in which categories 1 to  $j$  form one outcome and categories  $j + 1$  to  $J$  form the second. Models which use all  $J - 1$  cumulative logits in a single parsimonious model will be even better. In this study there are four cumulative probabilities  $\theta_{hj}$ :

$\theta_{h1}$  = probability of response Strongly Disagree

$\theta_{h2}$  = probability of response Strongly Disagree or Disagree

$\theta_{h3}$  = probability of response Strongly Disagree, Disagree, or Undecided

$\theta_{h4}$  = probability of response Strongly Disagree, Disagree, Undecided, or Agree,

where  $h$  is an index value for the value of the group effect ( $h = 1$  for Police Department,  $h = 2$  for District Attorney's Office, and  $h = 3$  for Health Service Facility), and  $j$  is the index for the four cumulative probabilities. Since the cumulative probabilities for all responses must equal 1.0, defining the final cumulative probability  $\theta_{h5}$  would be redundant.

The cumulative probabilities can be defined in terms of the individual probabilities:

$$\begin{aligned}\theta_{h1} &= \pi_{h1} \\ \theta_{h2} &= \pi_{h1} + \pi_{h2} \\ \theta_{h3} &= \pi_{h1} + \pi_{h2} + \pi_{h3} \\ \theta_{h4} &= \pi_{h1} + \pi_{h2} + \pi_{h3} + \pi_{h4}\end{aligned}$$

In addition, since again the cumulative probabilities for all responses must equal 1.0, then

$\pi_{h5} = 1 - \theta_{h4}$ . Therefore, the four different model odds are defined as:

$$\begin{aligned}\Omega_1 &= (\theta_{h1}) / [1 - \theta_{h1}] = \pi_{h1} / [\pi_{h2} + \pi_{h3} + \pi_{h4} + \pi_{h5}] \\ \Omega_2 &= (\theta_{h2}) / [1 - \theta_{h2}] = [\pi_{h1} + \pi_{h2}] / [\pi_{h3} + \pi_{h4} + \pi_{h5}] \\ \Omega_3 &= (\theta_{h3}) / [1 - \theta_{h3}] = [\pi_{h1} + \pi_{h2} + \pi_{h3}] / [\pi_{h4} + \pi_{h5}] \\ \Omega_4 &= (\theta_{h4}) / [1 - \theta_{h4}] = [\pi_{h1} + \pi_{h2} + \pi_{h3} + \pi_{h4}] / \pi_{h5}\end{aligned}$$

#### *Proportional Odds Model*

A model that simultaneously uses all cumulative logits is

$$\begin{aligned}\text{logit} [ P ( Y \leq j | \mathbf{x} ) ] &= \log \{ \text{Odds} ( P ( Y \leq j | \mathbf{x} ) ) \} \\ &= \log \{ P ( Y \leq j | \mathbf{x} ) / [ 1 - P ( Y \leq j | \mathbf{x} ) ] \}\end{aligned}$$

and since:

$$P ( Y \leq j | \mathbf{x} ) = \theta_{hj} = \exp ( \alpha_j + \beta' \mathbf{x} ) / [ 1 + \exp ( \alpha_j + \beta' \mathbf{x} ) ]$$

then:

$$\text{logit} [ P ( Y \leq j | \mathbf{x} ) ] = \alpha_j + \beta' \mathbf{x} , \quad j = 1, \dots, J - 1$$

Each of the four cumulative logits has its own intercept  $\{ \alpha_j \}$ . The  $\{ \alpha_j \}$  are increasing in  $j$ , since  $P ( Y \leq j | \mathbf{x} )$  increases in  $j$  for fixed  $\mathbf{x}$ , and the logit is an increasing function of this probability.

This model has the same effects  $\beta$  for each logit. For a continuous predictor  $\mathbf{x}$  and for a fixed  $j$ , the response curve is a logistic regression curve for a binary response with outcomes  $Y \leq j$  and  $Y > j$ . The response curves for  $j = 1, 2, 3$ , and 4 have the same shape. They share exactly the same rate of increase or decrease but are horizontally displaced



from each other. For this study consisting of five response values and three levels of one explanatory variable, the proportional odds model fits a total of 12 different logits to the data.

### *Cumulative Odds Ratios*

The proportional odds model estimates cumulative odds ratios that are identical for each of the four logits. Remember that the assumption of the proportional odds model is that every logit  $\theta_{hj}$  has a different intercept  $\{\alpha_j\}$  but the same model effect  $\beta$ . In this study there are two cumulative odds ratios. The first, for Police Department versus Health Service Facility, is  $\exp(\beta_{PD})$ , and the second, the cumulative odd ratio for District Attorney Office versus Health Service Facility, is  $\exp(\beta_{DA})$ . These cumulative odds ratio estimates are the same for each of the four logits defined above.

### *Revised Model Odds Tests*

Differences between the probability of survey responses “Strongly Disagree” or “Disagree” compared to the probability of survey response “Strongly Agree” or “Agree” were evaluated using the following model odds:

$$\Omega'_h = (\theta'_h) / [1 - \theta'_h] = [\pi'_{h1} + \pi'_{h2}] / [\pi'_{h3} + \pi'_{h4}],$$

where  $\pi'_{h1}$  is the probability of “Strongly Disagree,”  $\pi'_{h2}$  is the probability of “Disagree,”  $\pi'_{h3}$  is the probability of “Agree,”  $\pi'_{h4}$  is the probability of “Strongly Agree.”

The null hypothesis was that the above model odds equals 1.0. Rejecting the null hypothesis indicates that there is a significant difference between the probability of “Strongly Disagree” and “Disagree” compared to the probability of “Agree” and “Strongly Agree.”

## Senate Bill No. 780

### CHAPTER 899

An act to add Title 11.7 (commencing with Section 423) of Part 1 of, and to add and repeal Title 5.7 (commencing with Section 13775) to Part 4 of, the Penal Code, relating to the protection of constitutional rights.

[Approved by Governor October 14, 2001. Filed  
with Secretary of State October 14, 2001.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 780, Ortiz. Protection of the exercise of constitutional rights.

Existing provisions of federal law make it a crime and provide a civil remedy for the commission of certain activities that interfere with a person's access to reproductive health services facilities or with a person's participation in religious services or that damage or destroy property of a reproductive health facility or place of worship.

Existing provisions of state law authorize a civil action for damages resulting from the commission of specified activities that interfere with a person's access to a health facility or with the facility's functioning, and a court in which a proceeding for this relief is filed, is required to take all reasonable action to protect, as specified, the parties and witnesses in the matter.

Under other existing provisions of state law, it is a crime to make a threat, as specified, causing a person to refrain from engaging in a religious service or to commit an act of terrorism, as specified, at a place of religious worship or at a location where abortion counseling services, education, or other specified activities are conducted. Existing law also makes it a crime to damage or destroy the real or personal property of a place of worship or to interfere with the exercise of a person's religious beliefs because of his or her religion.

Under existing law, the Attorney General is required to collect from local law enforcement agencies information relating to crimes motivated by, among other personal characteristics, a person's religion, which the Department of Justice analyzes and submits in an annual report to the Legislature.

This bill would add similar provisions in state law to make it a crime and would provide a civil remedy for the commission of the acts prohibited under federal law, as described above. The bill would require a court in proceedings regarding the prohibited acts to take all actions reasonably required to protect the safety and privacy of the parties, witnesses, and persons who are victims, or at risk of becoming victims,



of the prohibited activities. This bill would allow specified persons to use pseudonyms in civil actions related to prohibited acts. The bill would authorize as remedies in the civil action injunctive relief, compensatory and punitive damages, attorney's fees, costs of the suit, and statutory damages. This bill would also authorize the Attorney General, a district attorney, or a city attorney to file an action to enjoin prohibited acts, for compensatory damages to persons aggrieved by prohibited acts, and for civil penalties, as specified.

The bill would also require the Attorney General to assume specified duties related to planning, information gathering, and analysis with respect to anti-reproductive-rights crimes, as defined. The bill would also require the Attorney General to submit various reports on this issue to the Legislature. The bill would require the Commission on Peace Officer Standards and Training to develop a training course on anti-reproductive-rights crimes. This bill would provide that the requirements for information gathering, reporting, planning, and course development related to anti-reproductive-rights crimes would be repealed on January 1, 2007.

Because this bill would create a new crime and would impose a reporting requirement on local law enforcement agencies, it would impose a state-mandated program.

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

**SECTION 1.** The Legislature finds the following:

(a) Federal law enforcement activities proved effective between 1993 and 2001, in reducing and punishing crimes intended to violate a woman's right to reproductive choice. However, the level and threat of those crimes in 2001 remained unacceptably high, and continued and increased law enforcement remained necessary.



(b) Federal actions that proved effective in reducing and punishing these crimes include the vigorous criminal and civil enforcement of the Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248) by the United States Department of Justice and the United States Attorney's Office; the creation by the United States Department of Justice of the national Task Force on Violence Against Health Care Providers that gathers and analyzes information, which is made available to law enforcement agencies and prosecutors, on threats against reproductive health service providers and those persons suspected of engaging in this activity; the creation by the United States Attorney's Office of regional task forces on violence against abortion providers that coordinate federal, state, and local law enforcement efforts in connection with preventing this activity; the provision of instruction by the United States Marshals Service to ensure reproductive health services providers are able to promptly communicate threats they receive to the appropriate federal, state, and local law enforcement officials; other security training and advice provided by the United States Marshals Services and the Bureau of Alcohol, Tobacco and Firearms to reproductive health service providers; the protection provided by the United States Marshals Service, the Bureau of Alcohol, Tobacco, and Firearms, and the Federal Bureau of Investigation to those persons most at risk from anti-reproductive-rights crime; the training of law enforcement officers and reproductive health services providers in regional sessions sponsored by the United States Attorney's Offices in cooperation with the Feminist Majority Foundation, the National Abortion Federation, and the Planned Parenthood Federation of America, and certified by the Commission on Peace Officer Standards and Training; and the instruction provided by the United States Department of Justice and Federal Bureau of Investigation personnel in those training sessions.

(c) It is the intent of the Legislature that state and local law enforcement agencies continue and build on these services in California.

(d) (1) It is the intent of the Legislature that the Commission on Peace Officer Standards and Training, pursuant to Section 13778 of the Penal Code and in cooperation with the Department of Justice and other subject matter experts, provide for regular, periodic, continuing professional training of peace officers throughout California, and that this training take place in conjunction, when appropriate, with training of reproductive health service providers funded by noncommission sources.

(2) It is the intent of the Legislature that training pursuant to Section 13778 of the Penal Code include information on crimes, including antigovernment extremist crimes and certain hate crimes motivated by



hostility to real or perceived ethnic background or sexual orientation, commonly committed by some of the same persons who commonly commit anti-reproductive-rights crimes of violence. Likewise, it is the intent of the Legislature that the guidelines and course of instruction and training pursuant to Section 13519.6 of the Penal Code include information on these crimes.

(e) Nothing in this act is intended to define anti-reproductive-rights crimes or antigovernment extremist crimes as hate crimes, or otherwise to expand or change the definition of hate crimes.

(f) It is the intent of the Legislature that nothing in this act, and no action by anyone pursuant to this act, stigmatize anyone solely because of his or her political or religious beliefs, because of his or her advocacy of any lawful actions, or because of his or her exercise of the rights of free speech or freedom of religion, and that nothing in this act, and no actions by anyone pursuant to this act, otherwise harm anyone because of his or her beliefs, constitutionally protected speech, or lawful actions.

SEC. 2. Title 11.7 (commencing with Section 423) is added to Part 1 of the Penal Code, to read:

TITLE 11.7. CALIFORNIA FREEDOM OF ACCESS TO CLINIC  
AND CHURCH ENTRANCES ACT

423. This title shall be known and may be cited as the California Freedom of Access to Clinic and Church Entrances Act, or the California FACE Act.

423.1. The following definitions apply for the purposes of this title:

(a) “Crime of violence” means an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another.

(b) “Interfere with” means to restrict a person’s freedom of movement.

(c) “Intimidate” means to place a person in reasonable apprehension of bodily harm to herself or himself or to another.

(d) “Nonviolent” means conduct that would not constitute a crime of violence.

(e) “Physical obstruction” means rendering ingress to or egress from a reproductive health services facility or to or from a place of religious worship impassable to another person, or rendering passage to or from a reproductive health services facility or a place of religious worship unreasonably difficult or hazardous to another person.

(f) “Reproductive health services” means reproductive health services provided in a hospital, clinic, physician’s office, or other facility and includes medical, surgical, counseling, or referral services relating



to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

(g) “Reproductive health services client, provider, or assistant” means a person or entity that is or was involved in obtaining, seeking to obtain, providing, seeking to provide, or assisting or seeking to assist another person, at that other person’s request, to obtain or provide any services in a reproductive health services facility, or a person or entity that is or was involved in owning or operating or seeking to own or operate, a reproductive health services facility.

(h) “Reproductive health services facility” includes a hospital, clinic, physician’s office, or other facility that provides or seeks to provide reproductive health services and includes the building or structure in which the facility is located.

423.2. Every person who, except a parent or guardian acting towards his or her minor child or ward, commits any of the following acts shall be subject to the punishment specified in Section 423.3.

(a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant.

(b) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(c) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant.

(d) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(e) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility.



(f) Intentionally damages or destroys the property of a place of religious worship.

423.3. (a) A first violation of subdivision (c) or (d) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed two thousand dollars (\$2,000).

(b) A second or subsequent violation of subdivision (c) or (d) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed five thousand dollars (\$5,000).

(c) A first violation of subdivision (a), (b), (e), or (f) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed twenty-five thousand dollars (\$25,000).

(d) A second or subsequent violation of subdivision (a), (b), (e), or (f) of Section 423.2 is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed fifty thousand dollars (\$50,000).

(e) In imposing fines pursuant to this section, the court shall consider applicable factors in aggravation and mitigation set out in Rules 4.421 and 4.423 of the California Rules of Court, and shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), or a prior violation of a statute of another jurisdiction that would constitute a violation of Section 423.2 or of the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 423.2.

(f) This title establishes concurrent state jurisdiction over conduct that is also prohibited by the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), which provides for more severe misdemeanor penalties for first violations and felony-misdemeanor penalties for second and subsequent violations. State law enforcement agencies and prosecutors shall cooperate with federal authorities in the prevention, apprehension, and prosecution of these crimes, and shall seek federal prosecutions when appropriate.

(g) No person shall be convicted under this article for conduct in violation of Section 423.2 that was done on a particular occasion where the identical conduct on that occasion was the basis for a conviction of that person under the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248).

423.4. (a) A person aggrieved by a violation of Section 423.2 may bring a civil action to enjoin the violation, for compensatory and punitive damages, and for the costs of suit and reasonable fees for attorneys and expert witnesses, except that only a reproductive health



services client, provider, or assistant may bring an action under subdivision (a), (c), or (e) of Section 423.2, and only a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom in a place of religious worship, or the entity that owns or operates a place of religious worship, may bring an action under subdivision (b), (d), or (f) of Section 423.2. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of a final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of one thousand dollars (\$1,000) per exclusively nonviolent violation, and five thousand dollars (\$5,000) per any other violation, for each violation committed.

(b) The Attorney General, a district attorney, or a city attorney may bring a civil action to enjoin a violation of Section 423.2, for compensatory damages to persons aggrieved as described in subdivision (a) and for the assessment of a civil penalty against each respondent. The civil penalty shall not exceed two thousand dollars (\$2,000) for an exclusively nonviolent first violation, and fifteen thousand dollars (\$15,000) for any other first violation, and shall not exceed five thousand dollars (\$5,000) for an exclusively nonviolent subsequent violation, and twenty-five thousand dollars (\$25,000) for any other subsequent violation. In imposing civil penalties pursuant to this subdivision, the court shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248), or a prior violation of a statute of another jurisdiction that would constitute a violation of Section 423.2 or the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of Section 423.2.

(c) No person shall be found liable under this section for conduct in violation of Section 423.2 done on a particular occasion where the identical conduct on that occasion was the basis for a finding of liability by that person under the federal Freedom of Access to Clinic Entrances Act of 1994 (18 U.S.C. Sec. 248).

423.5. (a) (1) The court in which a criminal or civil proceeding is filed for a violation of subdivision (a), (c), or (e) of Section 423.2 shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:

(A) A reproductive health services client, provider, or assistant who is a party or witness in the proceeding.

(B) A person who is a victim of, or at risk of becoming a victim of, conduct prohibited by subdivision (a), (c), or (e) of Section 423.2.

(2) The court in which a criminal or civil proceeding is filed for a violation of subdivision (b), (d), or (f) of Section 423.2 shall take all





action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:

(A) A person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(B) An entity that owns or operates a place of religious worship.

(b) Restraining orders issued pursuant to paragraph (1) of subdivision (a) may include provisions prohibiting or restricting the photographing of persons described in subparagraphs (A) and (B) of paragraph (1) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons. Restraining orders issued pursuant to paragraph (2) of subdivision (a) may include provisions prohibiting or restricting the photographing of persons described in subparagraphs (A) and (B) of paragraph (2) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons.

(c) A court may, in its discretion, permit an individual described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) to use a pseudonym in a civil proceeding described in paragraph (1) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons. A court may, in its discretion, permit an individual described in subparagraph (A) or (B) of paragraph (2) of subdivision (a) to use a pseudonym in a civil proceeding described in paragraph (2) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons.

423.6. This title shall not be construed for any of the following purposes:

(a) To impair any constitutionally protected activity, or any activity protected by the laws of California or of the United States of America.

(b) To provide exclusive civil or criminal remedies or to preempt or to preclude any county, city, or city and county from passing any law to provide a remedy for the commission of any of the acts prohibited by this title or to make any of those acts a crime.

(c) To interfere with the enforcement of any federal, state, or local laws regulating the performance of abortions or the provision of other reproductive health services.

(d) To negate, supercede, or otherwise interfere with the operation of any provision of Chapter 10 (commencing with Section 1138) of Part 3 of Division 2 of the Labor Code.

(e) To create additional civil or criminal remedies or to limit any existing civil or criminal remedies to redress an activity that interferes with the exercise of any other rights protected by the First Amendment to the United States Constitution or of Article I of the California Constitution.



(f) To preclude prosecution under both this title and any other provision of law, except as provided in subdivision (g) of Section 423.3.

SEC. 3. Title 5.7 (commencing with Section 13775) is added to Part 4 of the Penal Code, to read:

TITLE 5.7. REPRODUCTIVE RIGHTS LAW ENFORCEMENT  
ACT

13775. This title shall be known and may be cited as the Reproductive Rights Law Enforcement Act.

13776. The following definitions apply for the purposes of this title:

(a) “Anti-reproductive-rights crime” means a crime committed partly or wholly because the victim is a reproductive health services client, provider, or assistant, or a crime that is partly or wholly intended to intimidate the victim, any other person or entity, or any class of persons or entities from becoming or remaining a reproductive health services client, provider, or assistant. “Anti-reproductive-rights crime” includes, but is not limited to, a violation of subdivision (a) or (c) of Section 423.2.

(b) “Subject matter experts” includes, but is not limited to, law enforcement agencies experienced with anti-reproductive-rights crimes, and organizations such as the American Civil Liberties Union, the American College of Obstetricians and Gynecologists, the California Abortion and Reproductive Rights Action League, the California Medical Association, the Feminist Majority Foundation, the National Abortion Federation, the National Organization for Women, and the Planned Parenthood Federation of America that represent reproductive health services clients, providers, and assistants.

(c) “Crime of violence,” “nonviolent,” “reproductive health services;” “reproductive health services client, provider, or assistant;” and “reproductive health services facility” each has the same meaning as set forth in Section 423.1.

13777. (a) Except as provided in subdivision (d), the Attorney General shall do each of the following:

(1) Collect and analyze information relating to anti-reproductive-rights crimes, including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats. The analysis shall distinguish between crimes of violence, including, but not limited to, violations of subdivisions (a) and (e) of Section 423.2, and nonviolent crimes, including, but not limited to, violations of subdivision (c) of Section 423.2. The Attorney General shall make this information



available to federal, state, and local law enforcement agencies and prosecutors in California.

(2) Direct local law enforcement agencies to report to the Department of Justice, in a manner that the Attorney General prescribes, any information that may be required relative to anti-reproductive-rights crimes. The report of each crime that violates Section 423.2 shall note the subdivision that prohibits the crime. The report of each crime that violates any other law shall note the code, section, and subdivision that prohibits the crime. The report of any crime that violates both Section 423.2 and any other law shall note both the subdivision of Section 423.2 and the other code, section, and subdivision that prohibits the crime.

(3) On or before July 1, 2003, and every July 1 thereafter, submit a report to the Legislature analyzing the information it obtains pursuant to this section.

(4) (A) Develop a plan to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes, and to carry out the legislative intent expressed in subdivisions (c), (d), (e), and (f) of Section 1 of the act that enacts this title in the 2001-2002 session of the Legislature.

(B) Make a report on the plan to the Legislature by December 1, 2002. The report shall include recommendations for any legislation necessary to carry out the plan.

(5) Make a report to the Legislature in 2005, that evaluates the implementation of the act that enacts this title in the 2001–02 Regular Session, any legislation recommended pursuant to subparagraph (B) of paragraph (4), and the plan developed pursuant to subparagraph (A) of paragraph (4). The report shall also include a recommendation concerning whether the Legislature should extend or repeal the sunset date in Section 13779 and recommendations regarding any other necessary legislation.

(b) In carrying out his or her responsibilities under this section, the Attorney General shall consult the Governor, the Commission on Peace Officer Standards and Training, and other subject matter experts.

(c) To avoid production and distribution costs, the Attorney General may submit the reports that this section requires electronically or as part of any other reports that he or she submits to the Legislature, and shall post the reports that this section requires on the Department of Justice Web site.

(d) The Attorney General shall implement this section to the extent the Legislature appropriates funds in the Budget Act or another statute for this purpose.

13778. (a) The Commission on Peace Officer Standards and Training, utilizing available resources, shall develop a two-hour telecourse on anti-reproductive-rights crimes and make the telecourse



available to all California law enforcement agencies as soon as practicable after chaptering of the act that enacts this title in the 2001–2002 session of the Legislature.

(b) Persons and organizations, including, but not limited to, subject-matter experts, may make application to the commission, as outlined in Article 3 (commencing with Section 1051) of Division 2 of Title 11 of the California Code of Regulations, for certification of a course designed to train law enforcement officers to carry out the legislative intent expressed in paragraph (1) of subdivision (d) of Section 1 of the act that enacts this title in the 2001–02 Regular Session.

(c) In developing the telecourse required by subdivision (a), and in considering any applications pursuant to subdivision (b), the commission, utilizing available resources, shall consult the Attorney General and other subject matter experts, except where a subject matter expert has submitted, or has an interest in, an application pursuant to subdivision (b).

13779. This title shall remain in effect until January 1, 2007, and as of that date is repealed unless a later enacted statute deletes or extends that date.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

