

Crimes Against Reproductive Rights in California

California Senate Office of Research

May 2001

(Revised January 2002)

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Forward: In the seven months since the California Senate Office of Research first published this report, the Legislature has passed and Governor Gray Davis has signed Senate Bill 780 by Senator Deborah V. Ortiz.

SB 780 as of January 1, 2002, enacts two new laws, the California Freedom of Access and Clinic and Church Entrances (or California FACE) Act and the Reproductive Rights Law Enforcement Act, incorporating some of the options that this report suggests.

Those interested in the text, legislative history and committee analyses of SB 780 can find more information at <http://www.leginfo.ca.gov>.

This revision makes several corrections, adds several additional references, and expands on several points contained in the first edition.

May 2001

Dear Senate Colleagues:

Here is the cold reality of crimes against reproductive rights in California today:

- We lead the nation in arsons and bombings at reproductive health care facilities.
- More than half of surveyed California abortion providers responded that they were targets of anti-reproductive-rights crimes between 1995 and 2000 – a period of relative calm, which may be ending.
- Some of the most violent fringes of the extremist anti-abortion, anti-government, white supremacist, anti-Semitic, and anti-gay movements appear to be coming together, as demonstrated by the 1999 homophobic murders and synagogue and clinic arsons in Redding and Sacramento.

- A federal court in March ruled that it is perfectly legal to post Web sites that target and give their names, photographs, spouses' names, and home addresses. That's exactly what one anti-abortion site does. Seven persons listed on its site have been murdered. The names of 61 Californians are listed there – including seven more California doctors added this year.

The federal Freedom of Access to Clinic Entrances Act and federal agencies' vigorous enforcement have virtually ended large-scale blockades of clinics. Federal law-enforcement agents now have the tools to capture, prosecute, and imprison clinic arsonists, bombers, and murderers. California needs to assure that these protective services continue.

However, the federal government cannot take the place of local police in protecting abortion clients and providers on a day-to-day basis. California must give its police the laws, training, tools, and backup they need to do that job.

At the same time, we need to avoid stigmatizing the law-abiding pro-life movement. Government must target crimes, not beliefs, speech, or lawful actions.

This Senate Office of Research report gives the California Legislature and state Department of Justice facts and options. Now it is up to us to act.

Sincerely,

DEBORAH V. ORTIZ

Senator, 6th District

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Executive Summary

This report examines the history, extent, and future threat of crimes against reproductive rights in the nation and in California, discusses federal and state laws dealing with such crimes, and suggests state legislative options.

As with any other cause that is based on strongly held beliefs, it is important to distinguish very clearly between persons who act lawfully to advance their points of view and those who advocate or practice crimes against their opponents. This report deals exclusively with the latter, and hence does not deal at all with the majority of the pro-life movement. In addition, it tries to distinguish between violent¹ and nonviolent crime, recognizing that nonviolent crime, while in some cases very disruptive and expensive, is less dangerous.

National History and Data

This study traces the national history of the criminal fringe of the anti-abortion movement from the 1980s through early 2001. It examines the California and congressional legislative responses in 1993 and 1994, and the vigorous federal enforcement efforts since then.

Since 1993, seven individuals who were employed or volunteered in U.S. clinics as doctors, staff, and patient or doctor escorts have been killed in incidents motivated by anti-abortion animus. Several others have been dealt life-threatening injuries.

Since 1982, there have been 224 reported arsons and bombings of abortion and family-planning clinics. Only 77 were reported solved.

In March 2001, a three-judge panel of the U.S. 9th Circuit Court of Appeals in San Francisco ruled that a Web site that calls for Nuremberg-type trials of "wanted" doctors who perform abortions, and those who assist them, is constitutionally protected free speech. Eight persons on the site's "wanted" list have been reported killed. In May 2001, the site also began posting some photographs of clinic patients.

No government agency comprehensively tracks anti-abortion crimes. The National Abortion Federation reports 2,584 incidents of violent crime against abortion providers and 680 incidents of clinic blockades from 1974 to 2000 in the United States.

Although data is very limited, there is some evidence that anti-abortion crimes may have risen in California and the rest of the United States in the early months of 2001.

California Data

California led the nation in reported clinic arsons and bombings in 1982-2000 with 30 incidents, according to federal statistics. Because California law-enforcement agencies do not identify the targets or motivations of crimes against clinics in any state or federal reports, this figure based on federal law-enforcement reports may be undercounted statewide.

A Senate Office of Research survey of 172 publicly identified California abortion providers in October 2000 found that more than half reported that they experienced anti-reproductive-rights crimes at their clinics or offices in 1995-2000, which other data have suggested was a relatively quiet period nationwide for this type of activity. The most common crimes reported in the survey were threats of violence, vandalism, non-injury assaults, and blockades. Almost half the respondents who said they reported these crimes to law enforcement also said they were dissatisfied with the response.

A companion SOR survey in October 2000 of the same providers found that more than 30 percent of respondents said they or their families had been targets of anti-reproductive-rights crimes away from their clinics and offices in 1995-2000. Threats of violence, vandalism, and stalking were the most common reported crimes. Almost half of those who said they reported these crimes to law enforcement said they were dissatisfied with the response.

Differences between the way federal statistics are collected and the SOR survey was conducted, and the fact that the reporting periods overlap, make it difficult to directly compare SOR survey and federal data for California.

An Assessment of Threats and Trends

There is some evidence that anti-abortion incidents may be increasing. For example, news reports and representatives of two prominent national provider organizations report increasing incidents at some clinics. In addition, follow-up telephone interviews with clinics that responded to SOR's survey indicate increasing incidents or threats of violence. As this paper will show, there is documented evidence that some of the same people who have threatened or harmed reproductive clinics, patients and personnel also have committed hate crimes against homosexuals, Jews, and African-Americans. Some authorities believe the resources and influence of such groups may be growing as the criminal elements within them increase their affiliations and support of each other's goals.

Current Laws

The federal Freedom of Access to Clinic Entrances (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,

arsons, 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.

California has no state law that establishes concurrent jurisdiction over the crimes that FACE prohibits, although most or all of these crimes also are prohibited by an assortment of 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 a wide (and sometimes confusing) array of laws covering the crimes that FACE covers. However, state penalties for violating the statute that prohibits obstructing the entrance to a health facility are no more than 30 days in jail and a \$2,000 fine on a third offense. The FACE penalty is more severe – prison terms of up to three years and fines of up to \$250,000 for repeat violent crimes, up to 10 years in prison if bodily injury results, and life in prison if death results.

State Legislative Options

If the Legislature wishes to strengthen its laws and response to anti-abortion crime, it has several options for doing so:

- Enact a California FACE Act – A law creating concurrent state jurisdiction over FACE violations could assist both federal and state enforcement efforts by giving state and local peace officers on the scene a clear ability to make arrests. It also would give California a chance to fill what have proven to be gaps in the federal FACE Act, specifically a lack of explicit legal protection for assistants (such as patient escorts, clinics' clerical staff, patients' friends, etc.) and lack of authority under federal law for local prosecutors to bring civil actions against violators.
- Define anti-reproductive-rights crime as a type of hate crime – This would increase penalties for crimes committed against those exercising their freedom of reproductive choice to match penalties for committing crimes classified as hate crimes. An alternative would be to require that law enforcement address these two types of crime in concert.
- Establish buffer zones near clinics that provide reproductive services and restrict anti-abortion demonstrations in residential areas – These alternatives may appear viable; however, locally crafted ordinances – and specifically tailored court injunctions under a California FACE Act – might protect potential targets more effectively and pose less risk of infringing unnecessarily on First Amendment free-expression rights.
- Continue and build on federal initiatives – The Legislature could direct California law-enforcement agencies to build upon the Clinton administration's prevention and enforcement efforts.

A Note on Terminology

We use "pro-life" and "pro-choice," which these movements generally call themselves, to refer to the social movements that oppose or support abortion rights.

We use "anti-reproductive rights" and "anti-abortion," rather than "pro-life," to refer to persons or movements advocating or practicing criminal actions, either violent or nonviolent, to oppose abortion. Some elements of the pro-life and anti-abortion movements generally make the same distinction in using these terms.²

Chapter One: Crimes Reported to Date Against Reproductive Rights

National History

The first, scattered attacks on clinics providing abortions were reported shortly after the 1973 Roe v. Wade U.S. Supreme Court decision that legalized abortion throughout the country.³ The first reported clinic arson was in 1977, and the first known series of violent crimes began with the kidnapping of a doctor and his wife in 1982.⁴ A man called the Federal Bureau of Investigation to take credit for the kidnapping and to announce he was from the Army of God, the first reported use of that term in this regard. He was later captured and convicted of the kidnappings and three clinic bombings in two other states the same year.⁵ Other waves of anti-abortion violence – never solved – were attributed to the Army of God in 1983 and 1984.⁶

Some elements of the white-supremacist underground movement also began attacking abortion in the 1980s. The Christian Identity movement stated that it saw abortion as the suicide of the Aryan race, while the Posse Comitatus publicly blamed Jewish doctors and nurses for abortions.⁷

A broader anti-abortion movement that included crimes of obstruction, trespass, and vandalism began to emerge nationally in 1984, when Randall Terry – acting on what he said was a vision from God – began organizing clinic and medical office "actions" in Binghamton, NY. His tactics included destroying clinic interiors and jamming clinic door locks with glue as well as human blockades and more conventional protests such as lawful demonstrations.⁸

In 1985, Joseph Scheidler of Chicago published a book outlining similar tactics. Most of the book's tactics are lawful, and it denounces violence as unproductive.⁹ However, it also suggests sitting in to disrupt clinics, vandalizing abortion-provider advertising, trespassing in clinics and on the property of the homes of abortion providers and clinic employees, using noise to disrupt pro-choice rallies, "invading" pro-choice religious services, withholding taxes, interfering with businesses that share buildings with abortion clinics, using friends who work in government offices to obtain opponents' home addresses, and violating court injunctions and local ordinances restricting clinic or home demonstrations. It also reports that lawful pro-life pickets outside clinics commonly increase patients' medical complications by up to 400 percent.¹⁰

Terry and Scheidler in 1986 began a coordinated, nationwide, street-level anti-abortion campaign. In 1987, they launched Operation Rescue (OR), a national action organization.¹¹ OR organized major clinic blockades in cities throughout the country in the late 1980s and early 1990s. OR succeeded in goals to disrupt clinical practices in Los Angeles, Orange County, San Diego and elsewhere, sometimes through misdemeanor actions.¹²

The first reported anti-abortion shooting was in 1991 in Springfield, Missouri, where a masked gunman shot and paralyzed a clinic manager and shot and wounded the building maintenance manager.¹³

Clinic arsons more than doubled – increasing from eight in 1991 to 21 in 1992 – after a U.S. Supreme Court decision in 1992 upheld women’s basic right to abortion,¹⁴ although we know of no hard evidence demonstrating a connection.

During this time, anti-government groups and causes began to rise. It is not clear whether this rise coincided with or contributed to the rise in anti-abortion violence but some believe it did. In 1992, a standoff and killings in Ruby Ridge, Idaho, demonstrated the strength of the resolve of anti-government groups. That tragic series of events began when heavily armed Christian Identity adherent Randy Weaver barricaded himself and his family in their isolated rural home to avoid a federal arrest warrant charging him with an illegal gun sale. The warrant stemmed from a sting operation, part of a federal investigation of an alleged white-supremacist underground arms business. U.S. Marshal William Degan was shot and killed and another marshal was wounded while surveilling the Weaver property. Their return shots killed Weaver’s 14-year-old son, Sam. The long siege that followed resulted in the shooting death of Weaver’s wife, Vicki, as she held their infant son in her arms, and ended with Weaver’s surrender.

In the wake of Ruby Ridge, Christian Identity leader Pete Peters called a meeting in Estes Park, Colorado, in 1992 of previously mutually hostile factions from throughout the United States.¹⁵ This "Gathering of Christian Men" or "Rocky Mountain Rendezvous," as it came to be known, included 160 representatives of Aryan Nations (now renamed the Aryan National Alliance¹⁶), the Ku Klux Klan, neo-Nazis, and pro-gun and anti-abortion activists. Larry Pratt of the Gun Owners of America represented the latter two groups. This common front gave the first major boost to an armed anti-government movement in the 1990s, infused with the doctrine of "leaderless resistance."¹⁷

The first reported anti-abortion murder came in 1993, when Michael Griffin shot and killed a doctor outside a clinic in Pensacola, FL.¹⁸ Griffin was subsequently convicted of premeditated, first-degree murder in the killing.

Following the Florida murder, a nationwide group of anti-abortion leaders signed a Defensive Action Statement, openly condoning the killing. The statement’s originator was Paul Hill.^{19,20} Acting on his stated beliefs, Hill in 1994 killed a doctor and a clinic escort, also in Pensacola. Hill’s double slayings prompted some of the same and other signers to issue the Second Defensive Action Statement, condoning those killings.²¹ In 1997, the group began holding annual "White Rose Banquets" to honor anti-abortion killers, arsonists, bombers, and other convicted violent criminals.²²

In California, the Legislature and Governor Pete Wilson in 1993 enacted Assembly Bill 1097 (Lee) to make it a misdemeanor to intentionally physically obstruct an individual trying to enter or exit health-care facilities.²³ This was followed in 1994 by Assembly Bill 600 (Speier) to create a tort of "commercial blockade" of health care facilities, allowing private lawsuits against those who "intentionally prevent an individual from entering or exiting a health care facility by physically obstructing the individual's passage or by disrupting the normal functioning of a health care facility."²⁴

Nationally, Congress and President Bill Clinton responded to the escalating tactics of the anti-abortion movement by enacting the Freedom of Access to Clinic Entrances (FACE) Act of 1994,²⁵ which Chapter Three of this report discusses.

At the end of 1994, a shooting rampage in Brookline, MA, left two clinic receptionists dead and five other persons – patients’ relatives, friends and a security guard – wounded.²⁶

The Massachusetts shootings prompted President Clinton in January 1995 to direct U.S. attorneys throughout the country, the U.S. Marshals Service, and the U.S. Department of Justice to take steps, discussed in Chapter Three, to protect providers and thwart violence. Later that year, the U.S. Supreme Court agreed to permit protective buffer zones around clinics.²⁷

For the first time, clinics nationally in 1995 reported decreases in every category of violence. There were further reported decreases in 1996, followed by a plateau in most categories but an increase in bombings in 1997.²⁸ That year began with two bombs exploding in an Atlanta clinic. The first, inside the clinic, caused no injuries. The second, which went off outside a few minutes later, injured seven people, including federal law-enforcement officers. It was the first time an anti-abortion terrorist had used a secondary explosive specifically to attack police who responded to the first blast.

An off-duty police officer working as a clinic security guard was killed in a Birmingham, AL, bombing in January 1998 that also permanently blinded a nurse.²⁹

The most recent known anti-abortion killing also came in 1998 – the shooting of Dr. Barnett A. Slepian in his family home in Amherst, NY. His death spurred then Attorney General Janet Reno to create a National Task Force on Violence Against Health Care Providers, which Chapter Three also discusses.³⁰ Dr. Slepian's name appeared as a fatality on the "Nuremberg Files" Web site within hours of the shooting. Former Californian James Kopp was charged with the murder, and arrested in France in March 2001. Two other persons, including "White Rose Banquet" leader Dennis Malvasi,³¹ were arrested as accomplices.

The most recent known attempted slaying was the stabbing of Dr. Garson Romalis in his medical office in Vancouver, B.C., in 2000, the second attempt on his life.³²

Dr. Romalis's name and photograph are among those on the "Nuremberg Files" site that since 1995 has listed the names – and, in some cases, pictures and home addresses – of hundreds of abortion providers, their spouses, clinic owners and workers, judges, lawyers, police officers, and pro-choice politicians and celebrities.³³ The site reports that 14 persons targeted on the list nationwide have been "wounded," including Dr. Romalis, and eight³⁴ have become "fatalities."³⁵ On March 28, 2001, the U.S. 9th Circuit Court of Appeals in San Francisco ruled the site is constitutionally protected because it does not actually threaten violence. "If their statements merely encouraged unrelated terrorists, then their words are protected by the First Amendment," said Judge Alex Kozinski in the 3-0 ruling. Planned Parenthood and other plaintiffs are seeking a rehearing before the full court.

National Data

Between 1993 and the present, seven individuals who were employed or volunteered in clinics as doctors, staff, and patient or doctor escorts have been killed in incidents motivated by anti-abortion animus. Several others have been dealt life-threatening injuries.³⁶

Between 1982 and March 1, 2000, there were 224 reported arsons and bombings of abortion and family-planning clinics. Only 77 were reported solved.³⁷

No government agency tracks total anti-abortion crime. The National Abortion Federation reports 2,584 incidents of violent crime against abortion providers and 680 incidents of clinic blockades from 1974 to 2000.³⁸

California Leads the Nation in Arsons and Bombings

California was the scene of 30 of the United States' 224 reported anti-abortion arsons and bombings from 1982 to 2000. The second-place state, Florida, reported 16.³⁹

The California figure may be undercounted. California law-enforcement agencies are not required to identify pro-choice targets or anti-abortion motives in arsons, bombings or other crimes. The figure also omits crimes such as break-ins, assaults, blockades, vandalism, stalking and threats of violence involving clinics, personnel or patients.

The large number of anti-abortion arsons and bombings in California obviously is associated with the large population. However, the second-most populous state, Texas (with a population of 20.9 million in 2000 compared with California's 33.9 million), reported only 14 arsons and bombings,⁴⁰ less than half of California's count.

The large number of arsons and bombings here also may be associated with the large number of abortions. California reported 237,830 legal abortions in 1996, more than any other state. However, New York reported the second-largest number of abortions, 167,600⁴¹ – yet New York, the third-most populous state, reported only nine arsons and bombings,⁴² less than a third of the California total.

SOR Survey of California Providers

In an effort to determine more thoroughly the extent and nature of anti-abortion crime in California, the Senate Office of Research in October 2000 surveyed 172 publicly identified abortion providers. We sent two survey forms. One concerned incidents at clinics or medical offices. The other, which we call a personal survey, concerned incidents away from the clinics or offices.

To produce data that reflect conditions under current laws, we asked only about incidents between January 1, 1995, when California's clinic-protection civil statute⁴³ took effect, and late 2000. The federal FACE Act took effect in May 1994.

We received valid responses to the clinic/medical office survey from 57 locations, a rate of 33 percent, and responses to the personal survey from 52 individuals in 48 locations, a response rate of 27 percent.⁴⁴

Here are some highlights from the clinic/medical office survey data:

- 50.9 percent of responding clinics and medical offices reported that they experienced anti-reproductive-rights crimes during 1995-2000.
- 34 percent reported threats, with 95 separate incidents.⁴⁵
- 25.4 percent reported vandalism, with 64 incidents.
- 18.1 percent reported non-injury assaults, with assaults on 34 persons.
- 9 percent reported blockades, with 111 incidents of blockades in five locations.⁴⁶
- 7.2 percent reported injury assaults, with four assaults on two persons.

- 48 percent of those who reported these crimes to law enforcement said they 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 victims rather than making arrests, and law-enforcement agencies accused of refusing to enforce laws except in major cases.

Here are some highlights of the personal survey data:⁴⁷

- 30.4 percent of respondents said they or their families had been targets of anti-reproductive-rights crimes that took place away from their clinics or medical offices in 1995-2000.
- 19.5 percent reported threats, with 31 individual threats.
- 8.6 reported vandalism, with 10 incidents.
- 8.6 percent reported stalking, with nine incidents.
- 6.5 percent reported non-injury assaults, with four incidents.
- 6.5 percent reported groundless, harassing lawsuits, with six incidents.
- 4.3 percent reported identity theft, with four incidents.
- 45.4 percent of those who reported these crimes to law enforcement said they were dissatisfied with the response.

Meanwhile, news reports and personal communications with abortion providers show some clinics across the United States have reported an escalation of crimes – threats, vandalism, several arsons, one non-injury shooting, and obstruction – since mid-December 2000.⁴⁸ Likewise, in California, follow-up calls in January and February 2001 to several of the clinics that we surveyed in October indicated some increase in threats, vandalism, stalking, and obstruction. While these data are not conclusive, they suggest that such crime, both violent and nonviolent, may be increasing, at least in some parts of the state.

Chapter Two: A Look at Threats and Trends

There are six anti-abortion organizations in California known to advocate, condone, or practice anti-abortion crimes, violent or nonviolent, or that openly cooperate with national organizations that do so.⁴⁹ One of the six openly cooperates with the Missionaries to the Preborn based in Milwaukee, a national organization closely associated with the most violent national anti-abortion group, the Army of God.⁵⁰ Note, however, that at least one other California pro-life group called the Missionaries to the Preborn disclaims any association with the Milwaukee-based national organization.

Those who kill, bomb or commit arson in the name of opposing abortion typically are highly mobile, working across many states. They include two of the FBI's 10 Most Wanted Fugitives.⁵¹ One, who also leads the U.S. Bureau of Alcohol, Tobacco and Firearms' Most Wanted List,⁵² testified that he was on his way to the West Coast to kill an abortion provider – using his personally expanded version of the "Nuremberg Files" list – when captured in Illinois in 1999.⁵³ He escaped this year,⁵⁴ and has vowed to kill employees of clinics across the country.⁵⁵

Sixty-one Californians are identified as abortion providers or supporters on the "Nuremberg Files" Web site, including seven California doctors added to the list this year.⁵⁶ In May 2001, the site also began posting photos of clinic patients, employees, and volunteers.⁵⁷ The site's creator justifies this with an explicit call to punish women who choose abortion.⁵⁸

Paul Seave, the former U.S. attorney for the Sacramento area and now crime and violence prevention chief in the California Department of Justice, has judged that a "period of relative calm may be ending" in the incidence of crimes against reproductive rights in the United States.⁵⁹

There is growing evidence that affiliations between hate groups and violent anti-abortion groups are occurring. Whether the affiliations between these two historically separate movements suggest that they are joining forces or combining resources is open to debate. However, there is well-documented evidence that some of the same people who have threatened or harmed reproductive clinics, patients and personnel also have committed hate crimes against homosexuals, Jews, and African-Americans. Some authorities believe the resources and influence of such groups may be growing as the criminal elements within them join forces. We discuss this in some detail here because of its major implications for policy-making and law-enforcement, as covered in Chapter Three.⁶⁰

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 the anti-abortion extremists this report covers.

- The Southern Poverty Law Center's detailed analysis 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,' people who deserve capital punishment. And in the latest development, many of those involved in these groups are bitterly attacking abortion.⁶¹

- 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 [AL] bombing, killing a police officer and seriously injuring a nurse, 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 heavy arms and explosives uses by militia groups at least 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. Eric Rudolph is the dramatic characterization of these trends.⁶²

Rudolph, reportedly influenced by Christian Identity since childhood⁶³ and associated with an anti-government militia,⁶⁴ is on both the FBI's 10 Most Wanted Fugitives list and the ATF's Most Wanted list on charges of bombing two clinics, a gay bar, and the Atlanta Olympics park.⁶⁵

- The Anti-Defamation League 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. ADL also noted a "fierce opposition to abortion" by some violent, anti-Semitic, anti-government groups.⁶⁶

The three anti-hate groups' reports confirmed research that pro-choice and other writers published starting in 1993.⁶⁷

In addition, the Web sites of various extremist anti-abortion, anti-government, and hate groups show these recent additions:

- The Nationalist Observer in San Diego, which calls itself part of the "hardcore Aryan racist movement" and whose creator pled guilty in March 2001 to civil-rights violation charges stemming from what police called a three-year string of hate crimes,⁶⁸ embraced the most deadly fringe of the anti-abortion movement in February, 2000.⁶⁹
- The Freedom Fighter Militia,⁷⁰ part of the national Militia Network⁷¹ that also includes two California militias,⁷² proclaimed itself "pro-life" in April 2000.⁷³ It now states that "we are proud supporters and allies with ...the Army of God," an anti-abortion extremist group. Its site links to an Army of God site.⁷⁴ The Army of God site now reciprocates, boasting an "all new" Patriot Page⁷⁵ with links to two militia sites.⁷⁶
- Total Resistance,⁷⁷ chiefly devoted to advocacy of violence against abortion providers and the government, added an anti-gay page in October 2000 with links to a site⁷⁸ described by the Southern Poverty Law Center as "America's most infamous anti-homosexual Web site."⁷⁹
- Army of God double murderer Hill, now on Death Row, since at least 1998 has described his anti-abortion violence as part of a "culture war" that includes battles between "big and little government, high and low taxation, abortion rights or no abortion rights, rights to sodomy or no sodomy rights."⁸⁰ In November 2000, a site authorized by Hill linked to another Army of God site that includes anti-Semitic messages.⁸¹
- Some Army of God leaders in the past have disavowed racism. But some of the Army of God rhetoric opposing hate-crime laws now is virtually indistinguishable from that of white supremacists.⁸²

The anti-abortion White Rose Banquet, now openly associated with the Army of God, this year also highlighted a call for anti-gay murder.⁸³

In Oregon, sheriff's deputies and federal agents raided a home near Sandy in February 2001 as part of an ongoing investigation of a white supremacist group, and seized Army of God literature along with bricks of C-4 plastic explosives, homemade grenades, blasting caps, primers, fuses, black powder, timing devices, ammonium nitrate and fuel oil – the same substances used in the 1995 bombing of the federal building in Oklahoma City. Officers arrested three persons on charges that included unlawfully possessing machine guns, sawed-off shotguns, silencers, and bombs.⁸⁴

Lastly, the crimes of two brothers, Benjamin Mathew Williams and James Tyler Williams, in 1999 suggest to some that a growing mingling of the messages of hate groups and violent anti-abortion groups is having a deadly effect. The two brothers are charged with murdering a gay couple in the Redding, California, area and pleaded guilty to committing arson against

two synagogues, a Torah center, and an abortion clinic in Sacramento. One of the brother's public statements,⁸⁵ literature that police found in the Williams' house and phone records obtained by police⁸⁶ indicate the brothers were at least peripherally part of a large national network that included various extremists.⁸⁷ In accord with the "leaderless resistance" promoted by some extremist groups, there is no evidence any of their associates participated or conspired in the crimes that have been charged to the Williams brothers.

Chapter Three: Current Laws and Legislative Options

Federal Freedom of Access to Clinic Entrances Act of 1994

The federal Freedom of Access to Clinic Entrances Act of 1994 (which also protects places of worship) 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 to worship;
- Intentionally damages, attempts to damage, or destroys the property of a place of worship or a facility that provides reproductive health services.⁸⁸

The criminal penalties are significant:

- A first nonviolent violation is punishable by up to six months in federal prison and a fine of up to \$10,000. A first violent offense is punishable by up to a year in prison and a fine of up to \$100,000.
- A second nonviolent offense is punishable by up to 18 months in prison and a \$25,000 fine. A second violent offense is punishable by up to three years in prison and a \$250,000 fine.
- If bodily injury results, the criminal can be sentenced to up to 10 years in prison, and if death results, life in prison.
- Civil remedies also are provided:
- 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 also can be awarded.
- Attorneys' fees, expert witness fees, and legal costs in cases brought by private plaintiffs can be recovered from the losing party.
- Civil damages of up to \$10,000 can be imposed for a nonviolent first violation, \$15,000 for violent first violations, \$15,000 for second nonviolent violations, and \$25,000 for violent second violations in cases brought by federal prosecutors or state attorneys general.

The U.S. Department of Justice since 1994 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 department also has brought 17 civil actions against more than 100 defendants under FACE for interfering with access to reproductive health care services.⁸⁹

The law protects pro-life clinics and counseling centers equally with their pro-choice counterparts.⁹⁰

Federal courts consistently have upheld FACE against constitutional challenges.⁹¹

However, the federal FACE Act has limitations:

- It has been of little use in prosecuting small-scale anti-abortion crimes, which our survey shows are more common than large-scale crimes against abortion in California. 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 are often unable to make the connection between arresting for what might be a misdemeanor under state law but perhaps a felony if prosecuted under federal law.⁹²
- 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 can't afford to bring the civil suits on which much of the FACE Act's enforcement depends.

State Law

California has a wide array of laws that cover most – and very likely all – of the crimes that FACE covers. But the penalties are much less severe than those imposed by FACE. The principal statutes covering blockading and obstructing health-care facilities are:

- Section 602.11, which even on a third offense limits penalties to 30 days in jail and a \$2,000 fine; and
- Civil Code Sections 3427, et seq., which provide no criminal penalties.

See the Appendix for a complete list of relevant sections of the California's civil and penal statutes.

State Legislative Options

A California FACE Act

The Legislature might choose to enact a state FACE Act, mirroring the federal law and creating concurrent state-federal jurisdiction, as New York did in 1999.⁹³ Such a law might correct weaknesses cited earlier in federal FACE enforcement in California.⁹⁴

Criminal fines for misdemeanors and for felony-misdemeanors under the federal FACE Act are much higher than those California customarily enacts for misdemeanors. Such fines may be justified by the conduct of some anti-abortion defendants in civil cases who have filed bankruptcy in jurisdictions throughout the United States in an effort to eliminate their court-ordered civil judgments.

Former President Clinton vetoed bankruptcy-reform legislation in 2000 in part because it did not make court-ordered civil judgments non-dischargeable – in other words, it did not prevent courts from forgiving the fines in the event of bankruptcy. Criminal fines, on the other hand, are non-dischargeable in bankruptcy.

Define Anti-Abortion Crime as Hate Crime

Some similarities exist between anti-abortion crimes and hate crimes, including, as this paper has shown, some links among extremist groups that advocate both types of crimes. In addition, both are "message" crimes, intended to terrorize both their immediate victims and a broader class of persons. This suggests that efforts to prevent and punish these acts could be linked by defining anti-abortion offenses as hate crimes, as the government of British Columbia has recommended that Canada do.⁹⁵

This option does have at least three potential drawbacks, however:

- The two types of crimes are conceptually somewhat different. Hate crimes generally are 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, on the other hand, generally are directed against victims because of what they do – seek or provide abortion services. Merging the two types of crimes might prove confusing to law enforcement and victims, possibly hindering enforcement of laws prohibiting one or both types of crimes.⁹⁶
- The FACE Act has proven effective in deterring and punishing major anti-abortion crimes. Some pro-choice advocates fear that merging anti-abortion crime into the general concept of hate crime could reduce some of this effectiveness.
- Conversely, some opponents of hate crimes are concerned that expanding the definition to include anti-abortion crime could weaken public support for hate-crime laws.

An approach that might achieve some of the benefits of statutorily merging the two types of crimes, while perhaps avoiding some of the potential drawbacks, would be to keep hate crimes and anti-abortion crimes conceptually separate but to attack them in concert. Some of the options that follow would move in that direction.⁹⁷

Establish Clinic Buffer Zones

The U.S. Supreme Court in *Hill v. Colorado* in 2000 upheld a Colorado statute⁹⁸ 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, 6-3, that the Colorado law balances the two sides' "legitimate and important" concerns. The court's significant findings included the following:

- Petitioners' [pro-life demonstrators'] First Amendment interests are clear and undisputed. On the other hand, the state's police powers allow it to protect its citizens' health and safety, and may justify a special focus on access to health care facilities and the avoidance of potential trauma to patients associated with confrontational protests. Moreover, rules providing specific guidance to enforcement authorities serve the interest in evenhanded application of the law. Also, the statute deals not with restricting a speaker's right to address a willing audience, but with protecting listeners from unwanted communication.
- The statute is easily distinguishable from the one in *Carey*, which prohibited all picketing except for picketing of a place of employment in a labor dispute, thereby according preferential treatment to expression concerning one particular subject. In

contrast, [the Colorado law] merely places a minor place restriction on an extremely broad category of communications with unwilling listeners.

- The eight-foot zone should not have any adverse impact on the readers' ability to read demonstrators' signs. That distance can make it more difficult for a speaker to be heard, but there is no limit on the number of speakers or the noise level. Nor does the statute suffer from the failings of the 'floating buffer zone' rejected in Schenck. The zone here allows the speaker to communicate at a 'normal conversational distance,' ... and to remain in one place while other individuals pass within eight feet. And the 'knowing' requirement protects speakers who thought they were at the proscribed distance from inadvertently violating the statute. Whether the eight-foot interval is the best possible accommodation of the competing interests, deference must be accorded to the Colorado Legislature's judgment. The burden on the distribution of handbills is more serious, but the statute does not prevent a leafletter from simply standing near the path of oncoming pedestrians and proffering the material, which pedestrians can accept or decline.

Several respondents to our 2000 survey suggested a similar law be enacted in California.

On the other hand, some persons see statutorily established buffer zones as an unnecessary restriction on First Amendment rights to freedom of expression. Such statutorily defined zones also may be inadequate to solve problems at particular locations. In this view, court injunctions can better target individual situations.

In addition, the California Department of Justice⁹⁹ has identified six cities – Los Angeles,¹⁰⁰ Redwood City,¹⁰¹ San Diego,¹⁰² San Francisco,¹⁰³ San Jose,¹⁰⁴ and Santa Barbara¹⁰⁵ – that have adopted local laws establishing buffer zones of various sorts around clinics and medical offices.

A California FACE Act could further empower the courts to act by injunction when necessary, while leaving local governments free, as they are now, to craft buffer-zone laws that meet their particular needs.

Restrict Residential Demonstrations

Some respondents to our 2000 survey suggested enactment of a state law banning or restricting residential picketing and other demonstrations targeted at individuals' homes.

The state Department of Justice¹⁰⁶ has identified at least 12 local governments, covering much of the population of California, that have adopted such local laws.¹⁰⁷

The same arguments could be made against such a state law as are made against a clinic buffer-zone law. A California FACE Act could leave local government free to craft residential-demonstration laws, like clinic buffer-zone laws, that meet their particular needs, while also empowering the courts to act by injunction when necessary.

Continue and Expand Regional Law-Enforcement Task Forces

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.¹⁰⁸

The Legislature could direct the California Department of Justice to convene such task forces in any federal judicial districts where they have not already been formed or no longer exist. Because of partial overlapping among several criminal extremist movements, the Legislature might give the department the option of combining these task forces with the hate crime task forces and/or the domestic terrorism task forces that exist in some regions.

Continue and Expand Information-Gathering and Reporting

Former Attorney General Reno also created a National Task Force on Violence Against Health Care Providers.¹⁰⁹ Perhaps its most valuable contribution has been to gather and analyze information on threats and suspects and make it available to police and prosecutors.¹¹⁰

The Legislature could direct the California Department of Justice to assume a similar information-gathering and assistance function, as state Attorney General Bill Lockyer already has done for hate crimes. Part of the goal could be crime prevention, perhaps utilizing protective intelligence techniques that the U.S. Secret Service has developed.¹¹¹ The Legislature might direct the California Department of Justice to expand its new hate-crime data base to include anti-abortion crime and anti-government-extremist crime.

Also as part of the information-gathering effort, the Legislature could direct local law-enforcement agencies to report and the California Department of Justice to analyze and annually publish anti-abortion crime statistics, as the department does now for hate crimes.¹¹² The Legislature might give the department the option of combining these reports.¹¹³

The Legislature also could direct the department to establish a statewide toll-free phone line to receive anti-abortion crime reports. Such a line could bring information from primary sources. It also would give victims and witnesses another place to turn if they believed local law enforcement was not responding adequately, as some of our survey respondents reported. The Legislature could give the department the option of merging the line with a proposed statewide toll-free line for reporting hate crimes.¹¹⁴

Continue and Expand Police Training

The Legislature could direct the Commission on Peace Officer Standards and Training (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.¹¹⁵ 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,¹¹⁶ or could direct that the hate-crime training include information on partial overlaps with anti-abortion criminal extremist movements.

Any training should avoid stigmatizing the pro-life movement and should distinguish clearly between lawful and criminal actions.

Endnotes

1. By "violent crime," we mean crime that meets the United States Code definition of "crime of violence": "an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense." (18 U.S.C. Sec. 16)
2. Mason, *From Protest to Retribution: The Guerilla Politics of Pro-Life Violence*, New Political Science, November 1, 2000; Paul Hill, *Anti-Abortion - Pro-Life Test*, www.freespeech.org/paulhill/QandA.html; and Joshua Graff, *Adjutants for the Army Of God*, Gaithersburg, Maryland, aaog.homestead.com/Main.html.
3. For more exhaustive reports on the national history from several perspectives, see: Patricia Baird-Windle and Eleanor J. Bader, *Targets of Hatred: Anti-Abortion Terrorism*, Palgrave for St. Martin's Press, New York, 2001; Jerry Reiter, *Live from the Gates of Hell: An Insider's Look at the Antiabortion Underground*, Prometheus Books, Amherst, New York, 2000; Daniel Voll, Neal Horsley and the Future of the Armed Abortion Conflict, *Esquire*, February 1, 1999; Pro-Life Articles: A History of Operation Rescue, The Forerunner International, Melbourne, Florida, www.forerunner.com/forerunner/X0408.html; Clinic Violence Intimidation and Terrorism, National Abortion and Reproductive Rights Action League, Washington, D.C., July 10, 2001, www.naral.org/mediareources/fact/terrorism.html; and other documents noted below.
4. U.S. Department of Justice, National Task Force on Violence Against Health Care Providers, Washington, D.C., www.usdoj.gov/crt/crim/faceweb.htm.
5. Joni Scott, *From Hate Rhetoric to Hate Crime: A Link Acknowledged Too Late*, The Humanist, Amherst, New York, January/February, 1999, <http://humanist.net/publications/humanist/articles/scott.html>
6. Deputy Larry Richards, Domestic Terrorism: Army of God, Terrorism Early Warning Group, Emergency Operations Bureau, Los Angeles County Sheriff's Department, March 23, 1998 (also published in *Police and Security News*, Quakertown, Pennsylvania, July/August, 1998).
7. Deputy Larry Richards, Los Angeles County Sheriff's Department, Domestic Terrorism: Phineas Priests, *Police and Security News*, Quakertown, PA., March/April, 1999; and Anti-Defamation League, *Anti-Abortion Extremism in Cyberspace*, in *Poisoning the Web: Hatred Online*, 1999, www.adl.org/poisoning_web/anti_abortion.html.
8. Captain Lesli Lord, San Diego Police Department, *The Cincinnati Police Division's Response to Antiabortion Demonstrations*, Police Executive Research Forum, Washington, D.C., 1994.
9. The forward by Franky Schaffer states, "From time to time we have seen unfortunate episodes of violence against the abortion industry. However, the case can be made that this violence is often instigated by the abortion industry itself, because the very violence of abortion, the cruel dismembering piece by piece of unborn children, sparks a violent antagonism which, though not excusable, is understandable.... Unfortunately, violence begets violence." It also quotes columnist Cal Thomas as saying, "Tactically, as well as politically, the bombing of abortion clinics is probably not a good idea."
10. Joseph M. Scheidler, *Closed: 99 Ways to Stop Abortion*, Ignatius Press, San Francisco, 1985.
11. Lord, *op sit*.
12. U.S. Department of Justice, *op. cit.*; and Claudia Wrazel, California Senate Judiciary Committee, Sacramento, personal communication, April 2001.
13. *Violence Against Reproductive Health Care Centers: Resource Guide*, Revised Edition, National Clinic Access Project/Feminist Majority Federation, Planned Parenthood Federation of America, National Abortion Federation, 2000.
14. Richards, *op. cit.*
15. Richard Abanes, *American Militias: Rebellion, Racism, and Religion*, InterVarsity Press,

Downers Grove, Illinois, 1997; John Keith Akins, *God, Guns, and Guts: Religion and Violence in Florida Militias*, Ph.D. dissertation, University of Florida, May 1998; Morris Dees with James Corcoran, *Gathering Storm: America's Militia Threat*, HarperCollins Publishers Inc., New York, 1996; Joel Dyer, *Harvest of Rage: Why Oklahoma City Was Only the Beginning*, Westview Press, Boulder, Colorado, 1997; and Kenneth Stern, *A Force Upon the Plain: The American Militia Movement and the Politics of Hate*, Simon & Shuster, New York, 1996.

16. Ken McVay, Aryan National Alliance (ex Aryan Nations), The Nizkor Project, www1.us.nizkor.org/hweb/orgs/american/aryan-nations.

17. Louis R. Beam, *Leaderless Resistance*, www.geocities.com/totalresistance/leaderlessresistance.html.

18. *Violence Against Reproductive Health Care Centers*, op. cit.

19. "If you are saying there is a national conspiracy to stop abortion and even use force to do so, I would unequivocally say there is! I am certainly part of it." Hill, quoted by Scott, op. cit., and Hill, *Should We Defend Born And Unborn Children With Force?*, July, 1993, www.webcom.com/~pinknoiz/right/knownenemy.html.

20. The group also included Joseph Forman of Blue Jay, CA, founder of Operation Rescue of California; Richard R. Murphy, self-identified as a Sacramento attorney; Rachelle Shannon, who is in federal prison for attacking clinics in Redding, Chico, and Sacramento and in Oregon and Nevada and shooting a doctor in Kansas.

21. Joseph Forman, Richard R. Murphy, Rachelle Shannon, Paul Hill, Michael Bray, Donald Spitz, Matthew Trewhella, Gary McCullough, et al, *Defensive Action Statement and The Second Defensive Action Statement*, Army of God, Pro-Life Virginia, www.ArmyofGod.com/defense.html and www.ArmyofGod.com/defense2.html; *Defensive Action, The Abortion Rights Activist*, www.cais.com/agm/main/statemen.htm; *Defensive Action*, Pink Noise Studios, www.webcom.com/~pinknoiz/right/defensiveaction.html; Stephen J. Hedges, David Bowermaster, Susan Headden, *Abortion: Who's Behind the Violence?* U.S. News & World Report, November 14, 1994; and *Violence Against Reproductive Health Care Centers*, op. cit.

22. Reformation Lutheran Church, *Fifth Annual White Rose Banquet*, Bowie, Maryland, www.streetpreach.com/BRAY/banquet.htm; and John Yewell, *Straight Shooters*, *The Independent*, Durham, North Carolina, January 24, 2001, www.indyweek.com/durham/2001-01-24/index.html.

23. Penal Code Section 602.11.

24. Civil Code Sections 3427 to 3427.4.

25. Title 18 U.S. Code, Section 248, www.usdoj.gov/crt/crim/248fin.htm

26. *Violence Against Reproductive Health Care Centers*, op. cit.

27. Madsen, et al., v. Women's Health Center, Inc., et al., 114 S.Ct.2516, 1994.

28. *Violence Against Reproductive Health Care Centers*, op. cit.

29. *Violence Against Reproductive Health Care Centers*, op. cit.

30. U.S. Department of Justice, op. cit.

31. Dennis Malvesi, *White Rose Banquet*, Bowie, Maryland, January 21, 2001, www.streetpreach.com/BRAY/malvesispeech.htm; and John Yewell, *Straight Shooters*, *The Independent*, Durham, North Carolina, January 24, 2001, www.indyweek.com/durham/2001-01-24/index.html.

32. *Violence Against Reproductive Health Care Centers*, op. cit.

33. Neal Horsley, *The Nuremberg Files*, Carrollton, Georgia, www.ru486registry.com/atrocity/aborts.html, www.ru486registry.com/atrocity/index.html, www.xs4all.nl/~oracle/nuremberg/aborts.html, and www.trellis.net/lane/aborts.html.

34. *The Nuremberg Files*, like some pro-choice writers, counts one more anti-abortion killing than the U.S. Bureau of Alcohol, Tobacco and Firearms counts.

35. Horsley sometimes says that he merely intends to put abortion providers on trial in

something like the Nuremberg war-crime trials, hence his site's name. However, he has openly supported violence that he labels "terrorism." (Horsley, Understanding the Army of God, Carrollton, Georgia, www.christianguallery.com/aog.html.) He was a featured speaker at a conference in conjunction with the 2001 White Rose Banquet honoring violent anti-abortion criminals. (Reformation Lutheran Church, White Rose Conference, Bowie, Maryland, www.streetpreach.com/BRAY/bray.html.)

36. U.S. Department of Justice, op. cit.

37. U.S. Bureau of Alcohol, Tobacco, and Firearms, Washington, D.C. quoted in *Violence Against Reproductive Health Care Centers*, op. cit.

38. NAF also reports 9,027 incidents of hate mail and harassing phone calls and 45,558 incidents of picketing, which we omit from this count because NAF gives no indication they were crimes. *Incidents of Violence and Disruption Against Abortion Providers*, National Abortion Federation, Washington, D.C., www.prochoice.org.

39. ATF, op. cit.

40. Ibid.

41. *Family Planning Perspectives*, Volume 30, Number 6, November/December, 1998.

42. ATF, op. cit.

43. Title 6 (commencing with Section 3427) of Part 1 of Division 4 of the Civil Code, enacted by Assembly Bill 600 by Assemblywoman (now Senator) Jackie Speier, Chapter 1193, Statutes of 1994.

44. Only one of the doctors on The Nuremberg Files list whom we surveyed responded.

45. The survey defined "threat" tightly: "By 'threat,' we mean a specific, concrete, unequivocal, immediate, and unambiguous statement that a reasonable person would hear as a serious expression of intent to injure or assault and that convincingly expresses an intention of being carried out (e.g., 'We'll blow this place up next week if you're still doing abortions'). We don't mean a statement that is merely caustic, abusive, or political rhetoric (e.g., 'Abortionists are murders who deserve the death penalty')."

46. Some respondents evidently interpreted our question about "blockades" to exclude efforts to obstruct individual clients' access.

47. Our surveys included the first known effort to gather data directly from persons such as clinic clients, volunteers, landlords, and others beyond the clinic administrators and providers. Our cover letter asked administrators and providers to copy the survey form and give it to others. Few evidently did so. Most responses were from the same persons who responded to our clinic/medical office survey.

48. Claudia Kolker, *Bush Policy Ignites Both Sides of Abortion Issue*, [Los Angeles Times](#), February 4, 2001; Ann Glazier, security director, Planned Parenthood Federation of America, and Christopher Quinn, security director, National Abortion Federation, personal communications, February 2001; and *Anti-Abortion Violence Alerts*, Feminist Majority Foundation, March 16 and June 27, 2001, www.feminist.org/rrights/antialert.html

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49. Operation Rescue West, Sacramento, www.operationrescue.org. Operation Rescue of California, Blue Jay (Christopher Quinn, security director, National Abortion Federation, personal communication, March 2001, and Operation Rescue of California, Pink Noise Studios, www.r3.org/~pinknoiz/right/terror3.html). California Life Coalition, Santee, www.killbabies.com/clc.html. "Ministries which have specifically agreed to cooperate with Voice For Life," Voice For Life/LifeSavers Ministries, Bakersfield, voiceforlife.glorifyjesus.com: Cherish And Resect Everyone, Los Angeles, voiceforlife.glorifyjesus.com/missions/ca/CARE; Voice for the Unborn, Modesto, www.voicefortheunborn.com; Operation Save America (formerly Operation Rescue), Dallas, Texas, www.operationsaveamerica.org/index.html; Operation Save America Buffalo, Cheektowaga, New York, voiceforlife.glorifyjesus.com/missions/ny/buffalo/osa; and

Missionaries to the Preborn, Milwaukee, Wisconsin, www.missionariestopreborn.com. Note, however, that at least three other pro-life organizations called Voice for Life have no evident association with the Bakersfield-based Voice For Life.

50. Yewell, op cit,; and Burghardt, God, Guns and Terror: Missionaries to the Preborn, BACORR, San Francisco, www.webcom.com/~pinknoiz/right/bacorr1.html. Also see endnote 20 above.

51. Federal Bureau of Investigation, The FBI's Ten Most Wanted Fugitives, Washington, D.C., www.fbi.gov/mostwanted/topten/fugitives/rudolph.htm, and <http://www.fbi.gov/mostwanted/topten/fugitives/waagner.htm>.

52. U.S. Bureau of Alcohol, Tobacco and Firearms, ATF Most Wanted, www.atf.treas.gov/wanted/pages/17waagner.htm; and U.S. Marshals Service, Wanted by US Marshals, www.usdoj.gov/marshals/wanted/waagner.html.

53. Illinois police arrested self-described anti-abortion "warrior" Clayton Waagner in September, 1999, after a crime spree that covered Ohio, West Virginia, Florida, Georgia, the Carolinas, Delaware, New Jersey, and Massachusetts. He testified in federal court in Champagne, Illinois, that he had lost his nerve when trying to kill several abortion providers, and was on his way to the West Coast to try again. Dennis B. Roddy, Clinic Stalker Couldn't Pull the Trigger, Pittsburgh Post-Gazette, March 12, 2000, www.post-gazette.com/regionstate/20000312shooter3.asp.

54. Dennis B. Roddy, Illinois Jail Escape by Anti-Abortion Radical Puts Clinics on Alert, Pittsburgh Post-Gazette, March 3, 2001, www.post-gazette.com/headlines/20010303waagner2.asp.

55. It doesn't matter to me if you're a nurse, receptionist, bookkeeper, or janitor, if you work for the murderous abortionist I'm going to kill you." Waagner, Army of God/Pro-Life Virginia, June 18, 2001, armyofgod.com/Claytonsmessage.html.

56. Horsley, The Nuremberg Files, www.ru486registry.com/atrocity/aborts.html, and www.ru486registry.com/atrocity/index.html.

57. Horsley, The Nuremberg Files, www.abortioncams.com; www.babybutchers.com; <http://abolishabortion.com>; and www.bestchoice.com.

58. "The pro-life movement has sown confusion in this nation by treating mothers who kill their children as victims who needed to be ministered to rather than infanticides who must be punished." Horsley, An Abortion Deterrence is at Hand, May 22, 2001, www.bestchoice.com/deter.htm

59. "A survey completed last year by the Feminist Majority Foundation found that from 1998 to 1999, there was a 13 percent increase in the number of anthrax threats against clinics. Here in the Eastern District of California, the Choice Medical Group Clinic in Sacramento was the target of an arson attack in 1999, and there were at least seven other arson attacks and one bombing at reproductive health services clinics in the United States that year. More incidents of violence, including the stabbing of a doctor at a clinic in Vancouver, British Columbia, several months ago, occurred in 2000." Paul L. Seave, United States Attorney, Sacramento, personal communication, January 16, 2001.

60. We are talking only about some of the most extreme members of these movements, who advocate or practice the most violent crimes, rather than those who lawfully exercise their constitutional rights to protest abortion or other practices or who act criminally but nonetheless nonviolently.

61. Frederick Clarkson, Anti-Abortion Extremism: Extremists, "Patriots" and Racists Converge, Intelligence Report, Southern Poverty Law Center, Montgomery, Alabama, Summer, 1998, www.splcenter.org/intelligenceproject/ip-index.html.

62. Dallas A. Blanchard, Clinic Violence in America, Annual Conference, Northwest Coalition Against Malicious Harassment, October 16, 1998, www.wlo.org/www/blanchard.html.

63. Mark Juergensmeyer, Terror in the Mind of God: The Global Rise of Religious Violence, University of California Press, 2000.

64. Raja Mishra, Militia, Anti-Abortion Fringes Starting to Align, Authorities Say, Dallas

Morning News, March 15, 1998.

65. FBI, op. cit.; and ATF, ATF Most Wanted, www.atf.treas.gov/wanted/pages/01rudolph1.htm.

66. Anti-Defamation League, Anti-Abortion Extremism in Cyberspace, in Poisoning the Web: Hatred Online, 1999, www.adl.org/poisoning_web/anti_abortion.html.

67. Tracey Jefferys-Renault and Jerry Sloan, Without Justice for All: A Report on the Christian Right in Sacramento and Beyond, Planned Parenthood of Sacramento Valley, Sacramento, 1993; Michael Novick, Women's Rights: Target For Racist Terror: Neo-Nazi Involvement in the Anti-Abortion Movement, People Against Racist Terror, Burbank, 1993; John Goetz, Missionaries' Leader Calls for Armed Militias, Front Lines Research, Planned Parenthood Federation of America Inc., New York, August, 1994, www.plannedparenthood.org/Library/opposition/vol1num2/art1.htm; Loretta Ross, Anti-Abortionists and White Supremacists Make Common Cause, *The Progressive*, Madison, Wisconsin, October, 1994; Sandi DuBowski and Goetz, Bushwhacked! The USTP & The Far Right, Front Lines Research, Planned Parenthood Federation of America Inc., New York, November, 1994, www.plannedparenthood.org/Library/opposition/vol1num3/art1.htm; Chip Berlet, Armed and Dangerous, *Boston Globe*, January 6, 1995; Tom Burghardt, The Anti-Abortion/Neo-Nazi Connection, Bay Area Coalition for Our Reproductive Rights (BACORR), San Francisco, January 22, 1995; Berlet, Clinic Violence, The Religious Right, Scapegoating, Armed Militias, & the Freemason Conspiracy, The Body Politic, Cambridge, Massachusetts, February and March, 1995, www.publiceye.org; Burghardt, Neo-Nazis Salute the Anti-Abortion Zealots and Salvi Plugged into Right, *CovertAction Quarterly*, Washington, D.C., Spring, 1995; Berlet and Mathew N. Lyons, Militia Nation, *The Progressive*, Madison, Wisconsin, June, 1995; Laura Allan, Links Between Right Wing Militias and Anti-Abortion Movement Exposed, Feminist Majority Report, Arlington, Virginia, Summer 1995, www.feminist.org/research/72%5Ffright.html; Burghardt, Paul Hill: A Phineas Priest? Theology Used to Justify Political Murder, BACORR, San Francisco, July 3, 1995, burn.ucsd.edu/archives/ats-l/1995.Jul/0015.html; and Berlet, John Salvi, Abortion Clinic Violence, and Catholic Right Conspiracism, *The Public Eye*, Political Research Associates, Sommerville, Massachusetts, March 19, 1996, www.publiceye.org.

68. Nationalist Observer creator Alex Curtis pled guilty in March, 2001, to federal civil-rights charges stemming from what prosecutors called a three-year campaign of harassment that included leaving threatening and racist messages at the offices or homes of U.S. Representative Bob Filner, La Mesa Mayor Art Madrid, the San Diego ADL director, and a local civil-rights activist. Curtis and another defendant also were accused of spray-painting anti-Semitic slogans and symbols on two synagogues. Marisa Taylor, Indictment Charges 4 with Hate Crimes: Years-Long, Graffiti-Strewn Trail Led to Arrests, Authorities Say, *San Diego Union-Tribune*, November 11, 2000.

69. "We should look to the extreme anti-abortion forces to see where our movement is headed.... There is only one way to actually stop a Jew abortion doctor. Most have been squeezed out of the business because security costs are too high. Some kike doctors have been stopped cold, when they lose their offices in a (sic) explosion or their life from a bullet." Alex Curtis, *Weekly Broadcast Archive, 1998-2000*, San Diego, February 2, 2000, www.whiteracist.com.

70. William Legaard, Freedom Fighter Militia, 1st Regiment Based In Northern Idaho, <http://homestead.juno.com/vikingwarrior2/freedomfighters.html>.

71. Militia Network, http://highdesertmilitia.freeyellow.com/Militia_Network.htm.

72. High Desert Militia of Southern California, <http://highdesertmilitia.freeyellow.com/Index.htm>, and Northern California Militia, www.rcsis.com/users/pcm.

73. The partial nature of the extremist overlap is demonstrated again by the Freedom Fighter Militia and High Desert Militia of Southern California sites both explicitly rejecting racism. Freedom Fighter Militia attacks "our Enemies (sic) the Racists, Anarchists, The Gay

Rights Movement, Tree Huggers, Liberals, Gun Grabbers, And last but not least the Media." (Legaard, op. cit.)

74. Joshua Graff, Adjutants for the Army Of God, Gaithersburg, Maryland, <http://aaog.homestead.com>.

75. These sites do not define their meanings of the words "Patriot" and "Constitutionalist." To some extremists, "Patriot" means something much different than the common meaning - not just a person who loves the country, but who also hates the government. Likewise, to some, "Constitutionalist" means a person who rejects the legality of the constitutional government.

76. "I believe it is time to bring a new element to the AAOG site. We all know that there are problems in this country, and we should all know that these problems all stem from two main factors; a general anti-God sentiment in the leaders and many people in the nation, and an evergrowing anti-Constitutional trend." The AAOG's Patriot Page, <http://aaog.homestead.com/patriot.html>.

77. Total Resistance, www.geocities.com/totalresistance.

78. Westboro Baptist Church, God Hates Fags, Topeka, Kansas, www.godhatesfags.com.

79. A City Held Hostage: Homosexual-Hater Fred Phelps' Lawsuits and Heavy-Handed Tactics Have 'Bullied into Submission' an Entire Kansas City, Intelligence Report, Southern Poverty Law Center, Montgomery, Alabama, Spring, 2001, www.splcenter.org/intelligenceproject/ip-index.html.

80. Juergensmeyer, op. cit.

81. The site's moderator reported that he removed messages that offended him -- a description that evidently did not cover references to "Jewish abortionists" and other anti-Semitic remarks from anonymous contributors that he kept on line. "This board is for intelligent people, not wacko babykilling sex perverted freaks." (Donald Spitz, Army of God/Pro-Life Virginia, Yes Some Were Taken Down, January 15, 2001). Leave Messages for James Kopp, Eric Rudolph and Other Unknown Soldiers in the Army of God, www.armyofgod.com and disc.server.com/Indices/134588.html, and This is the Authorized Paul Hill Website, www.armyofgod.com/MikeBray.html.

82. "... no one gives a damn that six white people were butchered by two black men. Except, of course, the rest of the whites out there who are getting mighty fed up with the course of events -- and arming and supplying themselves with additional ammunition at incredible rates these days.... The real purpose of 'hate crimes' [laws] is not to penalize racial hate but to stigmatize whites as those exclusively responsible for racial hate. To stigmatize whites as being totally responsible for ALL the problems of America! And of course, the world. You see, in order to completely destroy America, you must first destroy everything American. Obviously, this nation having been founded by Christian white men and women, or white men and women having deep spiritual beliefs, what better way than to more quickly erode the foundations of America than to completely dis-credit (sic) the race of people, specifically the men of that race upon which this country was built?" (Site moderator Donald Spitz commented, "The principles set forth here, from my experience, are absolutely true.") Hate Crimes Against Whites Blacked Out By Media, Army of God/Pro-Life Virginia, www.freespeech.org/paulhill/Dieiscast.html.

83. "The speaker who steals the show is a street and campus preacher named Chuck Spingola.... 'If you deal with these people long enough, you understand the wisdom of God when he says they should be put to death. ... My wife used to say, "Honey, do you believe all homosexuals should be put to death?" I said no, dear, you get about a half a dozen of the activists, you kill them, and the rest of them will go back in the closet.'" John Yewell, Straight Shooters, The Independent, Durham, North Carolina, January 24, 2001, www.indyweek.com/durham/2001-01-24/index.html.

84. Stuart Tomlinson, Deputies, Feds Arrest Corbet Couple: An Investigation Continues into Activities of White Separatist Group, Including Drugs and Weapons, Portland Oregonian, March 2, 2001.

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85. Sam Stanton, Suspect Talks of Role in Synagogue Arsons, Sacramento Bee, December 9, 1999, www.sacbee.com/news/special/arson/120999_admit.html; and Gary Delsohn and Sam Stanton, 1 Brother Confesses to Arsons: Others Aided Attack on Temple, He Says, Sacramento Bee, January 7, 2000, www.sacbee.com/news/special/arson/index.html.
86. Maline Hazle, Phone Records Raise Questions: Report from Williams House Reveals Multitude of Calls Across the Country, Redding Record Searchlight, November 7, 1999, www.redding.com/news/Special_Matson_Mowder/mm102499_01.htm.
87. The Williams brothers' computer also included anti-abortion literature they appear to have been producing in the name of "Operation Rescue Militant."
88. Title 18 U.S. Code Section 248, www.usdoj.gov/crt/crim/248fin.htm.
89. National Task Force on Violence Against Health Care Providers, U.S. Department of Justice, Washington, D.C., www.usdoj.gov:80/crt/crim/tfreppub.htm.
90. One of the successful prosecutions was of a criminal who made a bomb threat to a pro-life counseling center. (Catherine Mahoney, National Task Force on Violence Against Health Care Providers, Washington, D.C., personal communication, February, 2001.) At least one private civil case also resulted in a finding against a person who made death threats against a volunteer in a pro-life counseling center. (About F.A.C.E., Lifeline, Life Legal Defense Foundation, Napa, 1998, <http://lildf.org/News1998.htm#ABOUT>)
91. National Task Force on Violence Against Health Care Providers, U.S. Department of Justice Washington, D.C., www.usdoj.gov:80/crt/crim/faceweb.htm.
92. Police officers and prosecutors who spoke to this author on condition of anonymity, February 2001
93. New York Penal Law Sections 240.70-240.71.
94. Senate Bill 780 of 2001 by Senator Deborah Ortiz would take this approach.
95. B.C. Wants Abortion Violence to be Hate Crime, Vancouver Star, March 26, 2001.
96. Reporting Hate Crimes: The California Attorney General's Civil Rights Commission on Hate Crimes, Final Report, California Department of Justice, Sacramento, March, 2001, <http://caag.state.ca.us/publications/civilrights/reportingHC.pdf>.
97. SB 780 also includes some provisions taking this approach.
98. Colo. Rev. Stat. @ 18-9-122(3) (1999).
99. Catherine Ysrael, Civil Rights Enforcement Section, California Department of Justice, at Law Enforcement Briefing, February 8 and 9, 2001, Fresno and Sacramento.
100. Los Angeles Municipal Code, Chapter V, Article 6.1, Section 56.45, enacted 1995.
101. Redwood City Municipal Code, Chapter 17, Articles I and II, Sections 17.1-17.15, enacted 1993.
102. San Diego Municipal Code, Chapter 5, Article 2, Division 10, Sections 52.1001-52.1002, 52.1001-52.1003, enacted 1993.
103. San Francisco Police Code, Article 43, Sections 4301-4307, enacted 1993.
104. San Jose Municipal Code, Chapter 10.08, Sections 10.08.010-10.08.040, enacted 1992.
105. Santa Barbara Municipal Code, Sections 9.99.010-9.99.030, enacted 1993.
106. Catherine Ysrael, op. cit.
107. Burbank Municipal Code, Article 3, Sections 20-303, enacted 1990; Carlsbad Municipal Code, Title 8, Chapter 8.54, Section 8.54.010-8.54.020, enacted 1993; Davis Municipal Code, Article 35.06, Sections 35.06.010-35.06.020, enacted 1992; Glendale Municipal Code, Title 9, Chapter 20, Section 9.20.080, enacted 1991; Los Angeles Municipal Code, Chapter V, Article 6.1, Section 56.45, enacted 1995; Los Angeles County Code, Title 13, Chapter 13.43, Section 13.43.010, enacted 1990; Poway Municipal Code, Title 9, Chapter 9.02, Section 9.02.010, enacted 1993; Sacramento County Code, Title 9, Chapter 9.83, Section 9.83.00-9.83.015, enacted 1993; San Diego Municipal Code, Chapter 5, Article 2, Division 10, Sections 52.1001-52.1002, 52.1001-52.1003, enacted 1993; San Jose Municipal Code,

Chapter 10.09, Sections 10.09.010-10.09.030, enacted 1992; Santa Ana Municipal Code, Part II, Chapter 10, Article I, Section 10-110, enacted 1989; Solana Beach Municipal Code, Title 7, Chapter 7.38, Section 7.38.010-7.38.020, enacted 1993; and Tustin City Code, Chapter 5, Section 6510-6530, enacted 1998.

108. Attorney General Reno likewise encouraged U.S. attorneys to convene hate crimes task forces.

109. National Task Force on Violence Against Health Care Providers, U.S. Department of Justice, Washington, D.C., www.usdoj.gov:80/crt/crim/tfreppub.htm.

110. A U.S. Department of Justice source who spoke to this author on condition of anonymity.

111. Robert A. Fein and Bryan Vossekuil, Protective Intelligence and Threat Assessment Investigations: A Guide for State and Local Law Enforcement Officials, Office of Justice Programs, U.S. Department of Justice, Washington, D.C., July, 1998, www.ncjrs.org/txtfiles/170612.txt

112. Penal Code Section 13023.

113. Law-enforcement data on hate crimes have helped academic researchers who are working on solutions to the problem, and who tend to overlook anti-abortion crime because of the lack of similar reports on that problem. Ryken Grattet, Sociology Department, University of California, Davis, personal communication, November, 1999.

114. Proposed by Reporting Hate Crimes, op cit, and Senate Bill 144 of 2001 by Senator Kevin Murray.

115. Suggested by William Green, security director, Planned Parenthood, San Diego, private communication, January, 2001.

116. Penal Code Section 13519.6.

Appendix

Relevant Sections of California Penal and Civil Codes

California Penal Code

Arson, bombing, acid attacks, and vandalism

Section 451 makes arson a felony.

Section 11413 makes it a felony to bomb or commit arson to a health-care facility, a place where a meeting where abortion counseling or practice is taking place, or an office or meeting site of an organization that counsels for or against abortion or lobbies, publicizes, or organizes with respect to abortion. It is punishable by up to seven years in prison and a \$10,000 fine.

Sections 12303-12305, 12308, 12309, 12310, and 12312 make possession and use of destructive devices felonies.

Section 594.4 makes it a felony-misdemeanor to willfully and maliciously damage any structure with butyric acid or similar substances, with fines escalating to a maximum of \$50,000 for damage of \$50,000 or more.

Section 954 makes vandalism a felony-misdemeanor, with a fine of up to \$50,000 for damage of \$50,000 or more.

Assault and battery

Sections 240 et seq. make assault a misdemeanor.

Sections 241 et seq. make battery a misdemeanor.

Section 244 makes acid, flammable-substance, and caustic-chemical attacks on another person a felony-misdemeanor.

Obstruction

Section 647c makes obstruction of a street, sidewalk, or other public place a misdemeanor.

Section 602.11 makes it a low misdemeanor to intentionally prevent an individual from entering or exiting from a health-care facility by physical detention or obstruction. A first offense carries no minimum jail time, and a fine of up to \$299. A second offense is punishable by a minimum of five days in jail and a fine of up to \$500. A subsequent offense carries a minimum of 30 days of jail time and a fine of up to \$2,000.

Riot, unlawful assembly, and disturbing the peace

Sections 401-409 make rioting, inciting to riot, and unlawful assembly misdemeanors.

Section 416 makes it a misdemeanor for two or more persons to assemble for the purpose of disturbing the public peace or committing any unlawful act, and to fail to disperse on an officer's command. Persons who violate this section and cause property damage are required to make restitution directly to their victims.

Stalking

Sections 646.9 and 646.91 make stalking a felony-misdemeanor.

Threats and terror

Section 422 makes threats a felony-misdemeanor. It defines "threats" tightly.??

Section 11411 makes it a crime to place a sign, mark, symbol, emblem, etc., on private property to terrorize the owner or occupant. The first offense is a high misdemeanor, with penalties of up to one year in jail and a \$5,000 fine. A subsequent offense is a high misdemeanor, punishable by up to a year in jail and a \$15,000 fine; or, if it is part of a pattern of conduct, a felony-misdemeanor, punishable by up to three years in prison and a \$10,000 fine.

Trespass

Section 602 makes it misdemeanor trespass to fail to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by a peace officer or the owner.

Section 601 makes it a felony trespass to make a threat to cause serious bodily injury followed by entering the victim's home or workplace with the intent to execute the threat.

Violation of injunctions

Section 166 makes contempt of court, including violating an injunction, a misdemeanor.

California Civil Code

Section 52.1, the Bane Civil Rights Act, makes it a tort to use threats, intimidation, or coercion to interfere with any constitutionally protected right.

Section 1708.7 makes stalking a tort.

Section 1708.8 makes certain invasion of privacy a tort.

Title 6 (commencing with Section 3427) of Part 1 of Division 4 makes it a tort to intentionally prevent an individual from entering or exiting a health-care facility by physically obstructing the individual's passage or by disrupting the facility's normal functioning.?

A court may issue an injunction prohibiting particular persons from committing any of these torts. Violation of an injunction is a misdemeanor under Penal Code Section 166.

Acknowledgments

The author gratefully acknowledges the many contributions of the following persons, and others who asked to remain anonymous.

Dallas A. Blanchard, Sociology Department, University of South Florida

Jan Carroll, California ProLife Council

Margaret Crosby, American Civil Liberties Union of Northern California

Edward E. "Ned" Dolejsi, California Catholic Conference

Tamar Galatzen, Anti-Defamation League

Ann Glazier, Planned Parenthood Federation of America

Ryken Grattet, Sociology Department, University of California, Davis

William Green, Planned Parenthood, San Diego

Hedy Immoos, Bureau of Investigation, California Department of Justice

Mark Juergensmeyer, Sociology Department, University of California, Santa Barbara

Kathy Kneer, Planned Parenthood Affiliates of California and Yolo County Republican Central Committee

Cathleen Mahoney, National Task Force on Violence Against Health Care Providers, U.S. Department of Justice

Margie Moore, Feminist Majority Foundation

Christopher Quinn, National Abortion Federation

Larry Richards, Los Angeles County Sheriff's Department

Elizabeth C. Sholes, Planned Parenthood and California Attorney General's Civil Rights Commission on Hate Crimes

Martha Swiller, Planned Parenthood, Los Angeles

Benjamin B. Wagner, Assistant U.S. Attorney

Michael Wagner, Planned Parenthood Federation of America

Robert Wassmer, Economics Department, California State University, Sacramento

Patricia Wynne, California Department of Justice

Catherine Ysrael, Civil Rights Enforcement Section, California Department of Justice

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He holds a master's degree in government from California State University, Sacramento, where his thesis topic was militia and other anti-government extremist activity in California and the state political response. At CSUS, he also completed graduate work in terrorism in the university's Criminal Justice Department.