



Memorandum

TO: RULES AND OPEN
GOVERNMENT COMMITTEE

FROM: Councilmember Esparza
Councilmember Carrasco
Councilmember Arenas
Councilmember Foley

SUBJECT: Hate Crimes Action

DATE: August 21st, 2019

Approved

Date

8/21/19

RECOMMENDATION

1. Engage in a regional Hate Crimes Task Force convened by the County, with other interested jurisdictions (e.g., City of Gilroy), to develop a clear set of recommendations to address hate crime, racism and violence incited by hate speech in our community. The Hate Crimes Task Force will be a time-limited working group.
2. The task force will recommend school or school-based programs to promote positive change in our community culture relative to hate crimes and violence.
3. The task force will develop recommendations to employ existing state and federal law to protect women from hate crimes; the task force will examine the pathology of hate crimes to develop the best methods and policies to address them.
4. The task force will explore hate crimes' impacts on the local Latino community, our immigrant community more broadly, the LGBTQ community, religious minority community, and involve the San Jose Office of Immigrant Affairs, the Santa Clara County Office of Immigrant Relations, the Santa Clara County Office of LGBTQ Affairs, and institutions supporting religious rights.
5. The task force will develop recommendations on investments in law enforcement intelligence to combat the illegal gun trade and to monitor the increase of hate speech.
6. Request that the task force and the Administration periodically report back to the Public Safety, Finance, and Strategic Support Committee and the Committee of the Whole regarding the task force's progress.
7. Adopt a resolution in support of meaningful regulations that prevent more gun violence and stop the proliferation of hate crimes.

BACKGROUND

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A culture of hate and hate-inspired violence has been engulfing our nation, and it erupted in our own community on July 28th of 2019 in Gilroy. This memo outlines concrete steps that we can take locally to address this menace.

According to the Southern Poverty Law Center, we have had four straight years of growth in the number of hate groups that are operating across the United States of America. FBI hate crime statistics indicate a similar trend with a 1000 plus incident increase in racially motivated hate crimes from 2016 to 2017.

The Center for the Study of Hate and Extremism indicates that political invective, terror attacks and elections can serve as catalysts to transform implicit biases and prejudicial attitudes into hurtful and harmful behaviors. Levin and Reitzel state, "It is material that stereotypes, hatreds and conspiracy theories, previously segregated primarily among hard core hatemongers have gained significant currency within the mainstream socio-political arena and in social media." The center indicates that the widespread proliferation of hateful messaging is playing a significant role in giving rise to hate crimes in the United States. Organizers and activists working to draw attention to the rise of hate crimes propose that the constant downplaying of the growth of white nationalism in the United States plays a critical role in giving permission to those who espouse hateful rhetoric and prejudices to violently enact their beliefs. It is incumbent upon us as policy makers to swiftly take action to address the root of the problem that leads to hate crimes.

Furthermore, while attacks on protected classes from original civil rights era legislation provided protection on the basis of race, national origin and religion, it wasn't until 2009 that gender was included. With the passage of the Sheppard Byrd Act in 2009, according to the American Association of University Women, "For the first time in history, the new hate crimes prevention law authorized the U.S. Department of Justice to prosecute individuals who commit violent crimes against others because of their gender..." We also count on state law for the protection of women, since gender is a protected class under state hate crimes law. Given the prevalence of attacks on women, it is imperative that we determine how we can avail ourselves of the protections of both state and federal law to address hate crimes against women.

Between 2009-2014, a shocking 57% of mass shooting "perpetrators had killed an intimate partner or family member" (Azadeh Aalai, Ph.D. in *Psychology Today*, quoting the EverytownResearch.com study *Guns and Violence Against Women*.) The same study concludes that "people with a history of committing domestic violence are five times more likely to subsequently murder an intimate partner when a firearm is in the house".

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In the recommendations that have been set forth above, we ask for the establishment of a time limited Hate Crimes Task Force that bring the expertise and resources of the City, County and neighboring jurisdictions that would focus on Hate Crimes in our jurisdictions. The task force would be comprised of experts derived from the various jurisdictions as well as academics. In addition, the task force would be inclusive of representation of youth and the LGBTQ community. This task force would be charged with working to understand the prevalence of hate crimes including what leads a person to transform their prejudicial beliefs into harmful actions. The task force would also study hate crimes against women and develop recommendations to further extend the protections of state and federal law to women in our community. In addition, the task force will examine the relationship of firearm accessibility to hate crimes and legislation that can help reduce potential perpetrators from accessing lethal weapons.

While the issues surrounding hate crimes may seem overwhelming, we cannot rely on the Federal Government to respond. Unfortunately, the Federal Government has failed to take meaningful action in addressing the issues of hate crimes. As the rhetoric of some of our national political leaders continues to deepen divisions and vilify minority communities, the Federal Bureau of Investigation has so far failed to produce data on hate crimes from 2018. A recent investigation by ProPublica has shown that while the FBI has stated that there have been 90 arrests in the past nine months as a result of domestic terrorism investigations, the Bureau has been unable or unwilling to give additional information on any of those arrests.

Paired with the volatile topic of hate crimes in the United States is the unique presence of access to lethal weapons. Amnesty USA reports that more than 30,000 people are killed with guns each year in the United States. Findings by Everytown For Gun Safety show that one-third of gun deaths are homicides and that access to a firearm doubles the risk of death by homicide. Lastly, the non-profit, Gun Violence Archive recently calculated that as of the most recent shooting in Dayton, OH there have been 250 mass shootings in 2019, surpassing the number of days in the year. A mass shooting is defined as an incident where at least four people have been shot. While many legislators attribute weak gun laws and unfettered access to firearms as the cause of these shootings, very few legislators are working to address the relationship between hate crimes and gun violence.

The prevalence of illegal guns whether they are stolen or purchased and transferred across state lines represents a threat to our safety. In June of this year we learned of the consequences of illegal guns in our City with the heinous quadruple murder-suicide carried out by a felon who by law had no right to own a gun, according to The Mercury News, "Police said that the black Springfield XD 9mm semiautomatic handgun Ta used in the massacre was reported stolen in Tucson, Arizona, in 2017." Furthermore, the proliferation of firearms that are being transported across state lines to California poses another significant threat to our safety with the perpetrator

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of mass shooting in Gilroy as an egregious example. We therefore must take swift action to provide our public safety officials the necessary resources that they require to decrease the number of illegal firearms that are present in our community.

Given the climate we are experiencing in the County and beyond, it is imperative that we ensure that our schools have access to the curriculum and training contained in this program to help change the community's attitude towards violence through programming in our schools. The Task Force will recommend school or school-based programming to promote a change in our community culture relative to violence.

Lastly, we ask that the Council adopt a resolution modeled after the County's resolution supporting the adoption of a federal comprehensive assault weapons ban. Such a ban was in place between 1994 and 2004, and a recent study suggests that it reduced the probability of mass shooting fatalities by seventy percent. The six deadliest mass shootings in the United States in the past decade all involved use of assault weapons, most acquired legally. Over 200 people lost their lives in these shootings, and nearly 1000 were injured. Senator Feinstein introduced a bill in January of this year which would ban assault weapons of the type used in many of these shootings. The Senate Majority has declined to put it up for a vote. Given the inaction by our Federal Government in the face of the crisis we are facing as a nation, the least we can do for our community is to send a message on behalf of our constituents demanding that meaningful action be taken to keep our communities safe.

The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.

Attachment A

RESOLUTION NO.

**A RESOLUTION OF THE CITY OF SAN JOSE SUPPORTING
PASSAGE OF A FEDERAL COMPREHENSIVE
ASSAULT WEAPONS BAN**

WHEREAS, gun violence is an ongoing crisis in modern American life, with 255 mass shootings in the United States since the start of 2019 alone;

WHEREAS, assault weapons by their design increase the potential lethality of shootings;

WHEREAS, states have passed more than three hundred gun safety laws in the last decade;

WHEREAS, the federal government has yet to pass any significant assault weapons regulation in recent years; and,

WHEREAS, research shows that a ban on assault weapons would reduce the probability and extent of injuries and deaths, especially in the case of mass shootings;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Jose that:

Section 1: Council urges Congress to enact and the President to sign comprehensive assault weapon ban legislation.