Frequently Asked Questions (FAQs)  
Regarding Civil Rights with Regard to Harassment and Discrimination  
Against Oaklanders During Shelter in Place

June 15, 2020

Issued by: Barbara J. Parker, Oakland City Attorney

My Fellow Oaklanders:

I write today to underscore the critical importance of each of us upholding our legal and moral obligations to each other during this crisis caused by the novel coronavirus (COVID-19). We all are facing uncertainty, fear, and insecurity. It is precisely during such challenging times that we must uphold our laws and values and not tolerate harassment, disenfranchisement, or any other form of unlawful discrimination. We know that hundreds, if not thousands, of residents across California have already reported harassment, discrimination, and assault related to COVID-19.1 It is important during this public health emergency to continue to be vigilant in complying with and enforcing prohibitions against all forms of discrimination, prohibitions which remain enforceable and in place.

For centuries, African Americans, Latinos, Asians and other Oaklanders of color, have been disproportionately subjected to harassment, discrimination, and hate crimes.2 Now, due at least in part to misinformation, falsehoods, and fear spread by the current occupant of the White House and other officials across the nation, targeting of Oaklanders of Asian heritage and residents with disabilities has increased dramatically. I write this letter to:

⇒ Make sure all Oaklanders know their rights with regard to harassment and other forms of illegal discrimination;
⇒ Explain to all locally regulated entities — such as landlords, businesses, and contractors — what their responsibilities are with respect to harassment and discrimination; and
⇒ Affirm the City Attorney Office’s commitment to addressing instances of illegal harassment or discrimination.

2 See FAQ 7 below for additional information about reporting hate crimes.
To assist all Oaklanders, I am providing this information in the form of a Frequently Asked Questions (FAQ) document. These FAQs illustrate some of the challenges that our most at-risk neighbors may be facing at this time, and they apply whether you (1) are sheltered or unsheltered, (2) are documented or undocumented, and (3) have lived in Oakland for generations or are a newcomer.

The FAQs (Attachment A) are not comprehensive, nor does this letter constitute legal advice. Rather, this document should be viewed as a set of guidelines and as information regarding how City authorities view allegations of civil rights violations at this time.

I know these times are difficult, but I am confident that we will make it through the coming weeks and months as a community. Please be kind to one another.

Very truly yours,

BARBARA J. PARKER
City Attorney

Attached: Attachment A
ATTACHMENT A

Frequently Asked Questions (FAQs)
Regarding Civil Rights with Regard to Harassment and Discrimination
Against Oaklanders During Shelter in Place

1. Have any local, state, or federal laws or policies that prohibit discrimination on the basis of any protected status been suspended or waived?

   **Answer:** No. All local, state, and federal protections for individuals’ and groups’ civil rights remain in full force and effect. These include, but are not limited to, protections of individuals on the basis of the following actual or perceived statuses:

   - Race
   - Color
   - Ethnicity
   - National origin
   - Sex (including sexual orientation, gender identity, transgender status, gender expression, nonconformity to sex/gender stereotypes, and/or intersex status)
   - Religion
   - Age
   - Language status
   - Family and/or marital status
   - Disability
   - Medical condition
   - Genetic information
   - Pregnancy status

2. What constitutes unlawful harassment or discrimination?

   **Answer:** Unlawful harassment or discrimination can take many forms. Under California law, it is unlawful, for example, for a business to refuse to provide full service to a customer on

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3 The U.S. Department of Justice released a statement affirming all civil rights protections are still in place. Dep’t of Justice, Protecting Civil Rights While Responding to the Coronavirus Disease 2019, https://www.ada.gov/aag_covid_statement.pdf.

the basis of a protected status (like race or disability).\textsuperscript{5} So is any violence, threat, or intimidation, including interfering with a person’s legal rights, because of a person’s protected status.\textsuperscript{6}

Some examples of unlawful behavior include:

- A hotel refusing to allow a person with disabilities to stay in a room because of their ability or perceived ability status;
- Passersby harassing people on the street due to their actual or perceived race;
- A restaurant refusing to serve a takeout order because of a customer’s actual or perceived gender identity;
- An employer firing an employee because of her actual or perceived national origin.

3. **I heard that COVID-19 came from an Asian country. I am afraid that I, my family, and/or my business will be infected with COVID-19. May I take steps to avoid interacting with Asian people to protect myself, my family, and/or my business?**

**Answer:** No. Although COVID-19 is believed to have originated in China, there is no scientific evidence that people of Asian descent carry or are infected with COVID-19 more than anyone else. There are no public health or legal justifications for discriminating against people of Asian descent or who are perceived to be of Asian descent, whether out of fear of COVID-19 or otherwise.\textsuperscript{7} This means, among other things, that it is unlawful or illegal to:

- Harass or intimidate someone, verbally, physically, or otherwise, because of their actual or perceived Asian heritage;

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\textsuperscript{7} Note that it is a common practice in many Asian countries to wear face masks in public to protect against pollution and/or disease, that mask-wearing is not a reason to avoid interacting with someone if you would otherwise interact with them, and that, regardless of race or national origin, face masks are considered a net positive to public health. See Hillary Leung, *Why Wearing a Face Mask is Encouraged in Asia, But Shunned in the U.S.*, TIME, March 12, 2020, https://time.com/5799964/coronavirus-face-mask-asia-us/ (describing how in some Asian countries, wearing a mask “has become a ‘symbol and a tool of protection and solidarity . . . bound up in sociocultural practice’”); Knuvul Sheikh, *More Americans Should Probably Wear Face Masks for Protection*, N.Y. Times, March 27, 2020, https://www.nytimes.com/2020/03/27/health/us-coronavirus-face-masks.html (“[Researchers] found that washing hands more than 10 times daily was 55 percent effective in stopping [SARS] transmission, while wearing a mask was actually more effective — at about 68 percent.”). Note that on April 17, 2020, the Alameda County Public Health Department issued an order making wearing masks or other face coverings mandatory in public: http://www.acphd.org/media/569455/health-officer-order-20-08-face-coverings-2020.04.17.pdf.
• Refuse to rent or sell property to someone because of their actual or perceived Asian heritage;
• Evict someone because of their actual or perceived Asian heritage;
• Refuse entry to or remove someone from your “essential business” because of their actual or perceived Asian heritage;
• Refuse to obey lawful orders of public officials, including police officers, because of their actual or perceived Asian heritage;
• Refuse to receive medical care from a person because of their actual or perceived Asian heritage; or
• Fire or take other adverse employment action against an employee because of their actual or perceived Asian heritage.

4. What are potential consequences of discriminating against or harassing people because of a protected status?

Answer: Under California law, depending on the violation, you can be fined $25,000 per violation, plus additional financial penalties, and may face criminal charges. Discrimination is also harmful to public health: individuals and communities facing discrimination see increased levels of mental health challenges, including anxiety and depression; greater risk of alcohol and other forms of substance abuse; higher rates of cancer diagnoses and worse outcomes; and increased rates of hypertension, among other harms.

5. Many people have been told that COVID-19 is a foreign virus, typically hearing that it is from China. I am of Asian descent, may be perceived to be of Asian descent, or am associated closely (e.g., a family member) with someone who is or may be perceived to be of Asian descent. I and/or my family have experienced harassment or other form(s) of discrimination because of my/their/our heritage. What should I do?

Answer: You should not have to experience such treatment: it is unacceptable now and always. All of your civil rights remain legally protected. The City takes these claims seriously and will continue to work to keep all people safe from harassment and other forms of discrimination, including during this emergency.

If you have been harassed or otherwise discriminated against by a member of the public, that likely violates one or more of California’s civil rights laws and you can speak to the police to file a complaint, or use the resources listed below in FAQ 7 to contact a lawyer to discuss your legal rights. If you have been harassed or otherwise discriminated against by a private company or business or a nonprofit, that likely violates the Unruh Act, and you

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8 Judicial Council of California Civil Jury Instructions No. 3068 (2012).
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may use the resources below to contact a lawyer. If you have been harassed or otherwise discriminated against by a government employee, you may file a claim or complaint with that government.

6. I learned that people with underlying health conditions or other disabilities may be more susceptible to COVID-19 and may get sicker than other people. I am afraid that I, my family, and/or my business will be infected with COVID-19. May I take steps to avoid interacting with disabled people to protect myself, my family, and/or my business?

Answer: No. Although COVID-19 is believed to impact people with underlying health conditions more severely, on average, than those without such conditions, there is no scientific evidence that disabled people are more likely to infect other people than anyone else. In addition, it remains unlawful to discriminate against anyone on the basis of their actual or perceived ability status, or their association (e.g., a family member) with a disabled person. There are neither public health nor legal justifications for discriminating against disabled people or their associates, whether out of fear of COVID-19 or otherwise. This means, among other things, that it is unlawful or illegal to:

- Refuse to rent or sell property to someone because of their actual or perceived ability status;
- Evict someone because of their actual or perceived ability status;
- Refuse entry to or remove someone from your “essential business” because of their actual or perceived ability status;
- Harass or intimidate someone, verbally, physically, or otherwise, because of their actual or perceived ability status;
- Refuse to obey lawful orders of public officials, including police officers, because of their actual or perceived ability status;
- Refuse to receive medical care from a person because of their actual or perceived disability status; or
- Fire or take other adverse employment action against an employee because of their actual or perceived disability status.

7. I tried to get a COVID-19 test, access medical treatment, engage in commerce, perform my job, access unemployment or other benefits, and/or access essential services during the emergency, and believe I was unable to do so because of one of the protected statuses listed above in FAQ 1. Do I have any legal recourse?

Answer: Yes. Your civil rights are still important and must still be protected. A number of legal services organizations are still taking new cases and may be able to help you directly. If you believe you have been harassed or discriminated against, examples of such organizations that may be able to assist you include:
For issues related to employment, housing, criminal justice, immigration or voting, you can contact Asian Americans Advancing Justice – Asian Law Caucus by phone at (415) 896-1701.

For issues related to employment, you can contact Legal Aid at Work online at https://legalaidatwork.org/clinics-and-helplines/ or by phone at (866) 864-8208.

For issues related to housing, you can contact the Eviction Defense Center by phone at (510) 452-4541.

For issues related to immigration, employment, or housing, you can contact Centro Legal de la Raza by phone at (510) 437-1554.

For issues related to civil rights or discrimination, you can contact ACLU of Northern California online at https://www.aclunc.org/our-work/get-help or by phone at (415) 621-2488.

For issues related to disability discrimination, you can contact:
  o Disability Rights California online at https://www.disabilityrightsca.org/contact-us/how-to-get-help or by calling 1-800-776-5746.
  o Disability Rights Education & Defense Fund online at https://dredf.org/, by phone at 510.644.2555, or by email at info@dredf.org.

Many other organizations may still be open and accepting referrals; we will continue to update this list on our website. You may also find a lawyer through Alameda County’s lawyer referral service by calling (510) 302-2222 and choosing option 4.

If you believe any government employee has denied you essential services due to a protected status, you can file a complaint or claim directly with that government. If you believe the City Attorney should file suit on your behalf against a party that threatened or intimidated you due to your protected status, you may contact the city’s Neighborhood Legal Corps phone line at (510) 238-6628. If you want to report a hate crime, you can do so by contacting the Oakland Police Department at (510) 637-4283. You can also file complaints with state and federal agencies depending on your claim and should consider consulting with a lawyer before doing so.

8. What resources are available for me to learn more about COVID-19?  

Answer: For more information about COVID-19, visit:

  • The Centers for Disease Control (CDC) website: www.cdc.gov
  • The World Health Organization (WHO) website: www.who.int
  • California’s Resources for Employers and Workers: www.labor.ca.gov/coronavirus2019/
  • The Alameda County Public Health website: http://www.acphd.org/
  • The City of Oakland’s COVID-19 website: https://www.oaklandca.gov/topics/covid-19

10 To request a copy of this document in another language, please call (510) 238-3601.