

# Where is the Line?

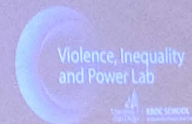
- As a limited public forum, local, state, and federal laws protect public meetings from *disruptive conduct* that goes beyond First Amendment-protected speech
  - The behavior must be *disrupting a meeting*
  - Recognize the difference between offensive speech and actual meeting disruption
- During public comments, people generally have the right to say what they wish if the meeting is not disrupted
  - Can swear, use hate epithets, say horrible things about

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    - Can swear, use hate epithets, say horrible things about Councilmembers, staff, and others

# California Threats and Harassment Initiative

The Impacts of Threats and Harassment on Elected Officials in San Diego, Riverside and Imperial Counties

presented by  
Rachel Locke, MA  
May 28th, 2024 Coronado



IN MEMORY OF  
REAR ADMIRAL JOHN F. SHAW, USN  
The following inscription is dedicated to Rear Admiral John F. Shaw, USN, who served the United States Navy from 1954 to 1984. He was a member of the United States Naval Academy Class of 1954 and served in various capacities during his career, including as a member of the United States Naval Academy Class of 1954. He was a member of the United States Naval Academy Class of 1954 and served in various capacities during his career, including as a member of the United States Naval Academy Class of 1954.

# First Amendment Protections

- Council meetings are considered a limited public forum set aside by government for expressive activities
- Even though Council can reasonably regulate the *time, place, and manner* of speech during a public meeting, the ability to regulate *content* is **significantly limited** by the protections of the First Amendment
- Regulations on speech must be *fairly applied without regard to viewpoint* of speaker (content neutral)
- Council may not censor speech by prohibiting citizens from speaking, even if their speech is, or may be, defamatory

# Examples When Courts Found Removal of Public Speaker Justified

- Comments that result in an *actual, substantial disruption* to the meeting's business
- Speakers who yelled or spoke when it was not time for public comment
- Speakers who spoke too long, refused to leave the podium after speaking, or engaged in extended discussion of irrelevancies
  - Speak to items on agenda or within subject matter jurisdiction
  - NOTE: be cautious about *subjectivity* and *consistency*
- Speaker who dumped trash on floor of School Board meeting room

# General Strategies for Response

- Chair should reasonably focus people on topic of the item or subject matter jurisdiction of City
- Adopt additional Council rules and policies to clarify types of behavior deemed disruptive, if desired
- Have a game plan:
  - Coordinate ahead of time with City Attorney, Clerk, Police, Fire
  - Police will *only* take action to end the disruption at direction of Chair
- Use script for disruptions to advise of illegal behavior, allowing arrest
- Whenever possible, give one reminder and allow people to use their entire speaking time
- Consider hearing non-controversial agenda items first and asking the Clerk to reorder public commenters to break up patterns of comments

# Virtual Public Callers

- Allowing virtual callers provides increased meeting access and anonymity
- City cannot require callers to disclose names or identifying information, or prohibit out-of-area callers
- Based on recent country-wide hate callers, many jurisdictions have reduced or eliminated virtual public comment, except for ADA accommodation
- May choose to ask City Clerk or IBA to survey other cities to determine different options, for Council's consideration

Office of the City Attorney

## Clearing the Chambers

- If order is not restored by removal of individuals who are willfully disrupting meeting, Chair may order room cleared and continue in session
- Only matters on agenda may be heard
- Media must be allowed to stay in room unless participating in disturbance
- Can establish procedure for readmitting those who were not part of disruption

# Background

## National

Reports of threats and harassment of locally elected officials across the country rose between 2022 and 2023

- Half reported receiving insults, over one-third reported harassment and almost 20% were threatened
- Women were 23% more likely to report being harassed and threatened
- Minorities were 10% more likely to be harassed and 30% more likely to be threatened

## Regional

In 2022, California had the highest number of unique incidents of threats and harassment (based on population) observed in any state.

- Representatives from across the state have had to deal with incivility, hate speech and intimidation in public and private spaces, leading to resignations and shifts in policy positions

CATHI is the region's only initiative to map and measure threats and harassment of local elected officials

## 1. Literature Review

Contextualized the environment of threats and harassment of locally elected officials in the United States over the last 10 years

## 2. Survey

Sent to 785 elected officials in San Diego, Riverside and Imperial Counties:  
89 School Boards, 7 Community College Boards, 53 Mayors and City Councils, 3 County Boards of Supervisors, 3 Sheriffs, 3 DAs, 3 Assessors, 3 Auditors, 3 Treasurers, 2 City Attorneys

## 3. Key Informant Interviews

Interviewed 20% of survey respondents.

## 4. Social Media Review

Analysis of 460,000 tweets from 2016-2022

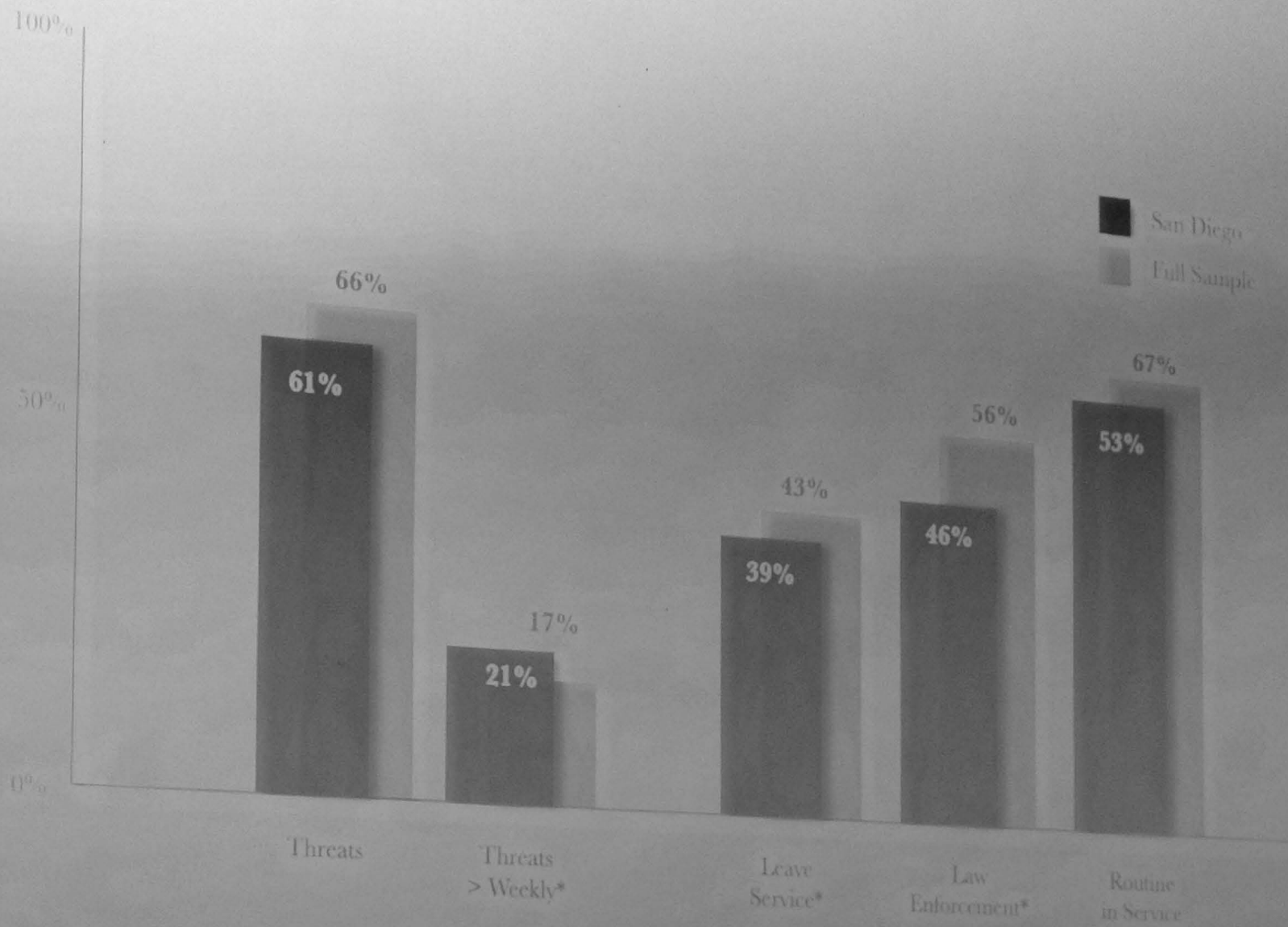
## 5. Traditional Media Review

Print & radio articles citing a threat and/or harassment towards locally elected officials between 2017 and 2023

## Survey: A Culture of Intimidation

- 67% say that being threatened has become a routine part of public service
  - Liberals are more likely (70%) to say it is routine compared to Conservatives (56%) and Moderates (60%)
- More than half (52.6%) say they feel pressure to accept threatening or harassing behavior as a normal part of elected service
  - Officials that have been threatened are more likely (67%) to feel pressure to accept as normal compared to that that have not been threatened (30%)
- 43% that received threats & harassment have considered leaving public service
  - 46% women
  - 39% men

# San Diego Findings



# Findings: Interviews

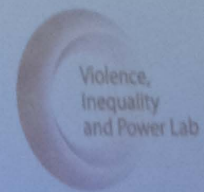
**Scope:** Interviewed 20% of randomly selected survey respondents

## Main Findings:

- Flashpoint topics: LGBTQ+, CRT, Parental Rights, perceptions of corruption, disagreement on policies/stances, National politics playing out at the local level
- Procedural Harassment: Recall efforts and censures to intimidate, punish for contravening ideas
- Perpetrator dynamics: Individual and organized offensives

# Findings: Interviews

- Personalization: Disagreements lead into personalized attacks
- Spread: Harassment comes from public, as well as across peers serving on boards and councils
- Impacts: Security reinforced at home, increased security measures in city council settings, restraining orders, longer meetings
- Normalization: Many respondents indicated they felt pressure to accept threats and harassment as normal



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## Findings: Social Media Review (Prominence and Twitter Presence)

**Scope:** Analyzed replies and mentions of office-holders identified twitter handles between Jan 2016 and December 2022 (~460,000) tweets.

100% of SD city policymakers in the sample received aggressive tweets.

12% of policymakers from smaller cities (<100,000) received aggressive tweets.

Women received almost 4 times as many aggressive tweets, controlling for prominence and frequency.

### Activity Matters!

About 80% of aggressive tweets were sent to policymakers who tweet more than twice per day.

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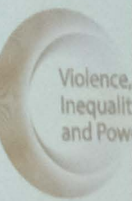
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# Why this Matters

## Individual

Sense of Security

Mental Health and Stress

Willingness to Serve

Disengagement from  
constituents

## Community

Productive and Civil  
Debate

Diverse Representation

Higher turnover rates of  
electeds

Disenfranchised voters

## Institutional

Decreased functionality  
of local governments

Greater polarization and  
mistrust

Normalization of violent  
rhetoric and behavior

Perceptions of  
illegitimate and  
ineffective governance

## Last Year's Community Recommendations

- 1) Increased accountability for perpetrators
- 2) Document and record all events - even minor ones
- 3) Enhance protection for officials
- 4) Consider revisions to the Brown Act
- 5) Additional training for officials
- 6) Prepare to prevent and mitigate threats and harassment
- 7) Work with community organizations to engage on constructive conversations
- 8) Do more research

## Recommendations from Elected Officials

- Post Codes of Conduct with consequences for violators
- More robust training for School Board Members, and more engagement from the CA and SD School Board Association
- Educate the public on civil debate and discussions
- Stronger legal penalties for perpetrators
- More robust police presence

# Case Law Addressing Disruption

- Very fact specific:
  - what happened and why?
  - did public have notice of rules?
  - were people given warnings?
  - were same rules applied to everyone?
  - were rules applied based on viewpoint?
  - were rules applied consistently?
- No law yet about call-in speakers

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