



**CALIFORNIA MOTORCYCLE  
ANTI-PROFILING COALITION**

**END MOTORCYCLE PROFILING**

**April 2018**

**RE: Support AB 2972 Prohibiting Motorcycle Profiling**

To All California Assembly Members,

The California Motorcycle Anti-Profilng Coalition urges your yes vote when AB 2972, a proposal prohibiting the practice of motorcycle profiling, is taken up on the Assembly Floor Thursday, April 19th. With over 800,000 registered, California motorcyclists are a vital constituency. Law enforcement should be based on a person's behavior, not their appearance or associations. AB 2972 is a simple solution with zero fiscal or budgetary impact. There is no legitimate reason not to address the problem.

However, during the public hearing in the Assembly Public Safety Committee, and in opposition letters, law enforcement has voiced several concerns that we feel are easily addressed.

First, the California Highway Patrol denies that they profile motorcyclists, pointing to a statistic saying a small number of motorcyclists are cited compared to other vehicles. But the number of citations does not accurately reflect the profiling issue. Many times profiling incidents amount to "fishing expeditions" resulting in no citation. For example, The Thousand Oakes Acorn reported the CHP and Ventura PD recently targeted and pulled over 50 persons leaving a biker's rights event discussing profiling legislation. No citations were issued, but many felt harassed when asked questions about their associations. (1 & 2)

According to the 2016 National Motorcycle Profiling Survey (NMPS), with a 1.4% margin of error, 46% of Californian motorcyclists reported being victims of profiling during the last 5 years, many multiple times, without receiving a ticket. (3 & 4)

Second, the California State Sheriff's Association testified that AB 2972 may prevent the apprehension of an active suspect described as a motorcyclist, but Legislative Counsel went to great lengths to prevent this scenario by adding the qualifying phrase "*without any individualized suspicion of that particular person.*" If police stop a person riding a motorcycle or wearing specific attire matching an active felony description, then there would be specific individualized suspicion.

Third, the Sheriff's Association also argues that courts already find profiling unconstitutional, so the law is redundant. But this argument ignores the long history of codifying legal principles through legislation, which legal scholars argue is key to an effective system of law. For example, racial profiling has long been considered unconstitutional, yet most states have found it appropriate and necessary to codify these principles legislatively because judicial decisions alone have not sufficiently reduced profiling. (5)

Finally, a private cause of action strengthens the prohibition and is modeled after established state and federal civil rights relief provisions. Profiling has constitutional implications so explicit relief, which must be deemed reasonable by a California court, is appropriate.

Vote Yes on AB 2972 and protect a constituency comprised of nearly a million Californians.

Respectfully,

The California Motorcycle Anti-Profilng Coalition- Legislative Committee  
antiprofilngbill@abate.org

**ENDNOTES**

1. Bikers decry police 'profiling', Thousand Oakes Acorn, March 16, 2016, p.1

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**ACORN SERIES**  
**Bikers decry police 'profiling'**

Clubs explore civil rights action over perceived mistreatment

Part one of a two-part series  
 By Kyle Jorrey  
 tonewstip@theacorn.com



KYLE JORREY/Acorn Newspapers

Proceedings began promptly at 7:30 p.m. with the Pledge of Allegiance. A pastor's invocation followed. The sound of a gavel brought the meeting to order. If not for the abundance of leather, tattoos and Harley-Davidson merchandise, it could have been any group of citizens gathering to air their grievances. But a parent-teacher association this most definitely was not. In late January, about 50 individuals, mostly men but also a few women, representing at least 12 different area motorcycle clubs assembled inside the Thousand Oaks Elks Lodge to discuss what they say is the unfair targeting of bikers by area law enforcement. The *Acorn* was invited to attend. Nothing said was off the record. Nearly everyone came dressed in cut-off vests, or "cuts," as they're called in the biker community, with accompanying patches identifying their associations. Some touted the United States or different branches of the military, others Jesus Christ. The majority brandished more menacing

**ORGANIZING**—Chuck Pedersen of Thousand Oaks, legislative director for ABATE of California, addresses a room full of motorcycle club members during a meeting at the T.O. Elks Lodge in January. Pedersen called the event, which brought bikers together to discuss their grievances, the first of its kind in the city. The Rev. Rick Fish looks on.

sounding names like the Nomads, Militants, Silent Natives and Sons of Hell. At least one represented the infamous Hells Angels.

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During the one-hour meeting—which police were aware of ahead of time—attendees shared stories of being pulled over without cause, of being detained for inordinate lengths of time, of unreasonable searches. Some said they couldn't travel together in Ventura County without attracting a police presence. "This is a unique county," said one organizer, who did not want to be identified. "They have wording that they don't want people with patches." Dubbed JAB (Just A Biker), the meeting's purpose, according to its provided agenda, was to "discuss profiling and unfair practice in the motorcycle community in order to develop an environment to create solutions." The fact that the meeting was held at the same time as a nationwide discussion about police racial profiling was taking place wasn't lost on attendees. "We don't want to make this 'us against them,' like what's going on around the country. We respect the police and realize they have a job to do," the organizer said. "But we (bikers) also have the responsibility to defend our own rights. . . . Yes, we know there's a lot of history, but if we don't start now, when? It's like a tiny hammer on a giant rock. We want to start chipping away. We don't want to take the legal route, but if we have to, we will. We just want to be able to ride our bikes without being bothered. This is America, and we have the right to travel freely." Chuck Pedersen, a resident of Thousand Oaks, is legislative affairs director for A Brotherhood Against Totalitarian Enactments, better known as ABATE, a non-profit dedicated to preserving motorcyclists' freedom of choice and freedom of the road, according to its website. Pedersen had a hand in organizing the JAB meeting.

## 2. Bikers decry police 'profiling', Thousand Oaks Acorn, March 16, 2016, p.2

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March 10, 2016

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KYLE JORREY/Acorn Newspapers

**UNDER SUSPICION**—Members of a Ventura County-based motorcycle club are detained on Thousand Oaks Boulevard Jan. 28 after a meeting at the Thousand Oaks Elks Lodge to discuss unfair treatment of bikers by local law enforcement. No arrests were made during the stop.

"This a first," he said. "What we're talking about is protecting our rights and freedoms, and having some discussions so you know how to handle yourself if you get pulled over."

When he's not in Sacramento lobbying on behalf of riders, he's traveling around the state informing fellow bikers about how changing laws could affect them.

While Pedersen came to the Jan. 28 meeting mainly to talk about another important issue to bikers—lane-splitting and possible legislation surrounding the practice—he said he understands where the clubs are coming from with regard to tough policing.

"For most of us, this is just a lifestyle. We aren't criminals. We like to ride. We like the brotherhood. But some law enforcement don't see it that way," Pedersen said.

Rick Fish, senior pastor at Simi Valley's unofficial biker church, Live Ride, joined Pedersen and two other bikers in leading the meeting. "Frankly, we're done with it," Fish said of the treatment by police. "We're being harassed for no other reason than we ride a Harley and wear a patch. What we're finding out is we have to use the legal system. It's the way we have to do it."

Fish said the group is trying to educate more club riders about what exactly the law does and does not allow when it comes to being pulled over.

"A lot of us, we don't know our rights," Fish said. "If you don't know them, you don't get to use them."

To that end, Bay Area civil rights attorney William Weiss was invited to speak to the group about what they can do in a situation where they feel the police are infringing on their constitutional rights.

Weiss, a biker himself with a history of representing motorcyclists in court, strongly encouraged the local bikers to start wearing cameras, such as GoPros, to record all their interactions with police.

"When you have videos you have something you can take to the judge," he said, adding, "Police

don't like when you sue them."

The attorney said he's seen firsthand how some law enforcement officers approach patch-wearing bikers.

"It could be a serious accident, you could be there bleeding; they see you're wearing a cut and they want to ask you questions about your club—before you get medical treatment," Weiss said.

The problem, Fish said, is that clubs like Live Ride that associate with the so-called "1 percent clubs," those classified as OMGs, or outlaw motorcycle gangs, by the U.S. attorney general's office, are immediately seen as co-conspirators, whether it's just meeting up at a cookout or going on a long ride together.

"I minister to these clubs. Just the other day I was sharing the Word with a member of the Satan's Slaves. That doesn't make me a criminal," Fish said.

The meeting ended at 8:30, as abruptly as it began.

Though a few of the bikers stuck around to chat and share a drink at the lodge's bar, most headed out for their respective hometowns.

As the riders turned onto Thousand Oaks Boulevard, making their way to the freeway, they found themselves tailed by vehicles from the Ventura County Sheriff's Office and California Highway Patrol, who appeared from all directions.

One club was stopped near the Arco station, another on the northbound freeway on-ramp. According to police records, no arrests were made.

Asked about the bikers being pulled over and whether it would deter the JAB group from having another meeting in T.O., an unidentified organizer said it would not.

"It's why we have to meet," he said. "It's why we need to be organized. This is what we deal with every day. That was nothing new. We don't want to have to go the legal route, but if we have to we will. We'd like to open up lines of communication with the police, but right now no one's listening."

*Part two of the series will focus on law enforcement's side of the story.*

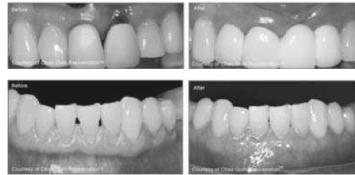


KYLE JORREY/Acorn Newspapers

**GOOD POLICING, OR HARASSMENT?**—A Ventura County sheriff's deputy photographs the patch on a biker's cut-off vest after one of the biker's fellow club members was pulled over for a vehicle code violation.

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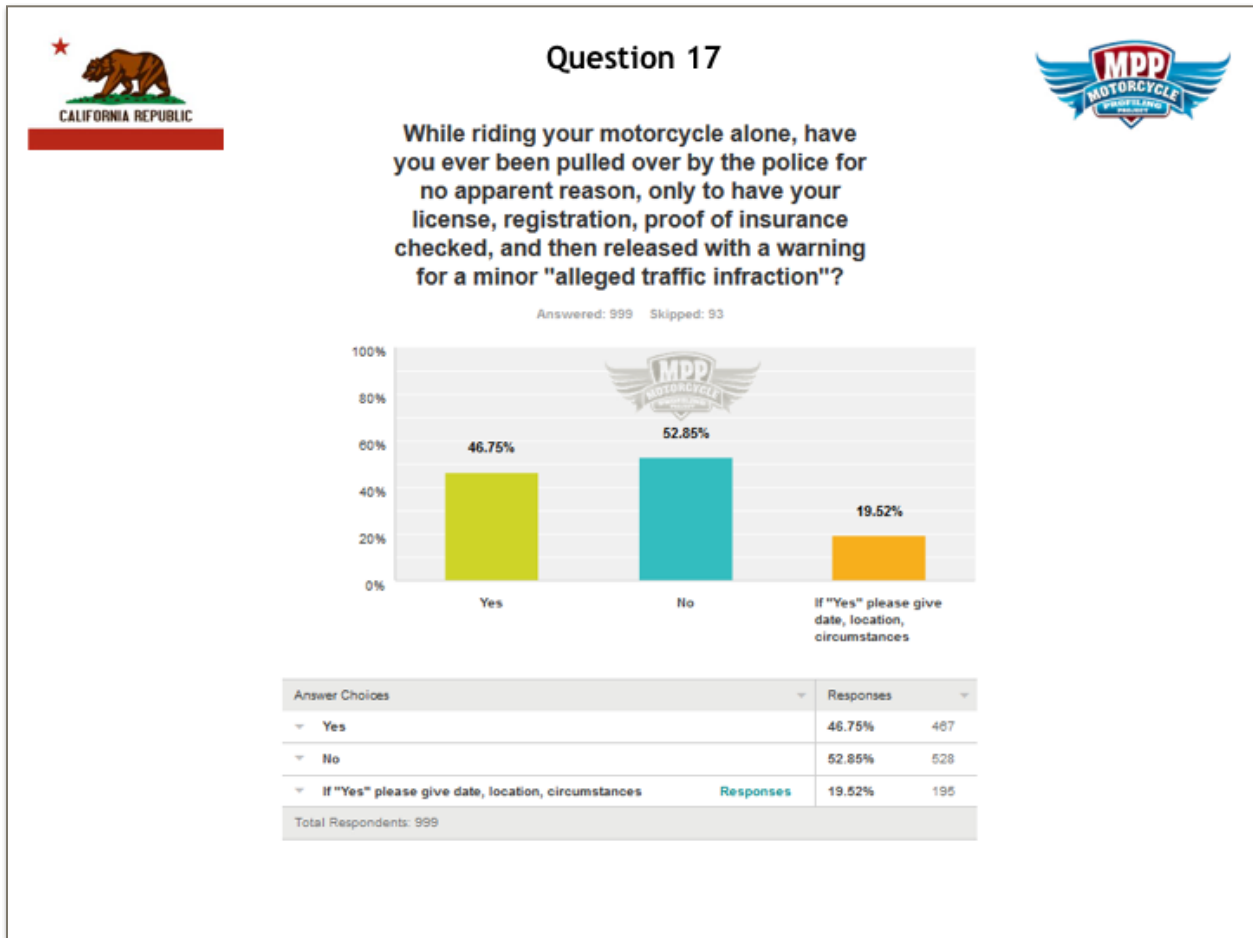
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3. 48% of California motorcyclists have been profiled the last 5 years, without getting a ticket.



4. Based on Consumer Research Systems standards, the 2016 NMPS has a 1.4% margin of error with over 5,000 participants, which means that the survey findings are representative of the target population. With an estimated 800,000 Registered Motorcyclists, 48% equals 384,000 victims that never receive a citation. These findings alone justify a new law.

5. Codification Summary: The California State Sheriff's Association argues State and federal courts say profiling is already unconstitutional and illegal, so there is no reason for a redundant law. This argument ignores the long history and tradition of codifying legal principles through the legislature, which legal scholars argue is key to a comprehensible and effective system of law. AB 2972 eliminates all ambiguity and provides specific protection to a group experiencing irrefutable profiling. With zero budgetary impact, there is simply no downside.

- A primary responsibility of any legislative body is to codify judicial principles through legislative action. For example, racial profiling has been considered unconstitutional for many decades, yet most states have found it appropriate and necessary to codify these principles legislatively because judicial determinations alone have not eliminated the problem. And many of these laws explicitly prohibit the practice of profiling, exactly as 2972.

- Current mechanisms of relief have not reduced motorcycle profiling and are not specific to motorcyclists or motorcycle club colors and associations.
- The US House of Representatives Law Revision Council says, "*Codification brings greater certainty of law in a legal system.*" Codifying legal precedent "*is useful for researching and proving the general and permanent laws of the United States.*" "*Code is precise in form and is, therefore, easier to learn.*"
- Legal scholars agree that codifying legal principles through statute makes for a more comprehensive and effective system of law. A law review article titled *CODIFIED AND JUDGE MADE LAW, The Role of Courts and Legislators in Civil and Common Law Systems, 1982* concludes:
  - A system of law must be created and developed by the interaction between legislature and judiciary. It must exist both of statute law and of court made law.
  - A case law system would become an old curiosity shop if it was not constantly reinvigorated by statute.
  - Codifying the judiciary by statute "*produces as its end result a comprehensive summing up of the law as developed by the courts,*" and creates "*a new starting point for those courts in continuing to develop this law.*"
- The legal system too obtuse for most average people. Proponents of codification and the legal system see the benefits of public notice through language average citizens comprehend. By using simple language to inform the citizenry, the state allows people more freedom without fear of the unexpected.