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O R D I N A N C E # 91-4

ORDINANCE OF THE TORRANCE COUNTY COMMISSION, State of New Mexico,
(1) adopting an Ordinance to protect the public peace, general welfare, health and safety of the citizens of Torrance County from violations of the Constitutional and Civil Rights of the citizens, (2) providing penalties for violations of the Ordinance, and (3) requesting that the Legislature of the State of New Mexico enact similar legislation to codify within state law such statutes as enacted by county Ordinance and by the United States Congress.

THE COMMISSION FINDS:

1. That the purpose of the Civil Rights Act, 18 U.S.C. §§ 241 et seq. is to protect the citizens of the United States from acts which "injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States."
2. That as part of the Civil Rights Act, 18 U.S.C. § 245(a)(1) allows state and local law enforcement authorities the authority and responsibility for prosecuting acts that may be in violation of the Civil Rights Act and that violate state or local law.
3. That the Commissioners of Torrance County endorse the protections, rights or privileges afforded by the U.S. Constitution and the Civil Rights Act and desire to ensure that those protections, rights or privileges are afforded to the citizens of Torrance County.
4. That an additional purpose of the Civil Rights Act, 42 U.S.C. § 1983, based upon the Act of April 20, 1871, ch 22, § 1, 17 Stat. 13, is to protect citizens of the United States from acts which deprive them from enjoying their Constitutionally protected rights, privileges, and immunities. Should such deprivation occur, such offender shall be liable to the injured party in a suit in equity, or action at law. The Civil Rights Act of 1871 states:

That any person who, under color of law of any law, statute, ordinance, regulation, custom, or usage of any State, shall subject, or cause to be subjected, any person within the jurisdiction of the United States to the deprivation of any

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rights, privileges, or immunities secured by the Constitution of the United States, shall, any such law, statute, ordinance, regulation, custom, or usage of the State to the contrary notwithstanding, be liable to the party injured in any action at law, suite in equity, or other proper proceeding for redress. 17 Stat.13 (1871).

5. That the Civil Rights Act at 18 U.S.C. §§241, 245, states:
If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States . . . They shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life. 18 U.S.C. §241.

Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law. 18 U.S.C. §245(a)(1).

6. That the U.S. Supreme Court has ruled that rights in property are basic civil rights. The Supreme Court states:
Property does not have rights. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel, is in truth a "personal" right, whether the "property" in question be a welfare check, a home, or a savings account. In fact, a fundamental interdependence exists between the personal right to liberty and the personal property right. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized. (Citations omitted)

Congress recognized these rights in 1871 when it enacted the predecessor of §§1983 and 1343(3). We do no more than reaffirm the judgement of Congress today. Lynch v. Household Finance Corp., 405 U.S. 538 (1972)

BE IT DECREED BY THE TORRANCE COUNTY COMMISSION,
STATE OF NEW MEXICO

THE COMMISSION DECLARES:

1. That to provide for the general welfare, public peace, health and safety of the citizens of Torrance County, passage of this Ordinance is required to protect the citizens of Torrance County from current or potential violations of their rights or privilege as guaranteed by the U.S. Constitution, Federal Statutes and Local Ordinances.
2. That the Civil Rights Act, 18 U.S.C. §§241 et seq. shall be adopted as a County Ordinance by the County Commissioners of Torrance County.
3. That all violations of this Ordinance and the rights or privileges that this Ordinance protects, shall be filed with the county, district or prosecuting attorney or with the district court judge for submission to a grand jury. Once a petition regarding such violation of a right or privilege protected by this Ordinance is filed with the county, district or prosecuting attorney or the grand jury, an investigation of such violation must occur, including a determination of the identification of the person(s), including but not limited to any employee of the federal, state or county government responsible for such violation.
4. That nothing in this Ordinance shall be construed to prohibit the county officers or the grand jury from investigating any potential violation of this Ordinance.
5. That all violations of this Ordinance shall be considered a criminal matter, therefore the punishment imposed upon the determination of guilty verdict shall be the maximum punishment allowed by the state law of New Mexico.
6. That if any provision of this Ordinance or the application thereof

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is held invalid, such invalidity does not affect any other provision of this Ordinance which can be given effect without the invalid provision or application, and to those ends the provisions of this Ordinance are severable.

7. That in addition to any criminal actions that may occur through the enforcement of this statute, that every person, who under color or any statute, ordinance, regulation, custom, or usage of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. (This language has been taken from 42 U.S.C. §1983.) In any such action at law, suit in equity, or other proceeding, the injured party may include a request for and offer evidence that punitive and/or monetary damages should be assessed upon the offending party.

THE COMMISSION DIRECTS that a copy of this Ordinance be forwarded to the Legislature for the State of New Mexico and respectfully requests that similar legislation be passed by the state.

PASSED, ADOPTED AND SIGNED by the Torrance County Board of Commissioners as Torrance County Ordinance No. 91-4 and recorded with the Torrance County Clerk this 4th day of September .1991

STATE OF NEW MEXICO

County of Torrance

I hereby certify that this instrument was

filed for record on the 5 day

of Sept A.D., 1991

at 1:54 o'clock P M. and duly

recorded in book 263 at page 2524-2527

Witness my hand and Seal of office

Carla Clayton
County Clerk, Torrance Co., N.M.

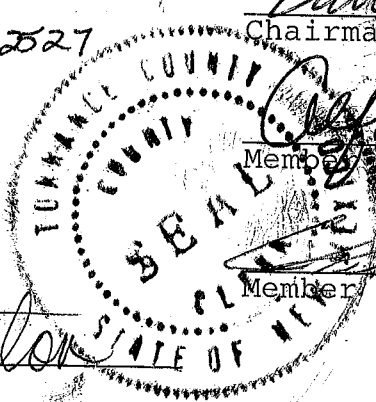
Paula Bohner Deputy

TORRANCE COUNTY COMMISSION

Adam Brown
Chairman

Cliffed Laranaga
Member

Richard Riley Jr.
Member



ATTEST:

Carla Clayton
Clerk of the Board