

CH-100, item 6—Describe Harassment

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After years of persistent harassment directed at me by John Webster, my employer the City of San Jose, obtained a workplace violence restraining order against him, in response to an escalation in the harassing and menacing behavior. (Attached as **Exh. 1** to this Request for Orders to Stop Harassment.) The permanent injunction, issued July 25, 2003 by Judge Thomas Cain, was recently upheld by the Sixth District Court of Appeal. (Attached as **Exh. 2**.) To ensure that I am able to maintain continuity in the protection afforded by the injunction, even as my employment situation changes, I am requesting a personal restraining order that is not tied to my status as an employee of the City of San Jose.

In 1990, in the course of my duties as a police officer, I was involved in a sting operation in an investigation of possible child, exploitation. My involvement was limited to speaking on the telephone with John Webster. During the calls, which were recorded, Mr. Webster made statements about a plan involving sexual relations with his children. Mr. Webster was subsequently prosecuted and entered a plea of no contest to a felony charge of child pandering. Following his conviction, Mr. Webster has for years engaged in a pattern of harassment against me.

The history of harassing and menacing behavior is as follows and is based on the declarations of Glenn McCourtie, Ken Ferguson, Julie Marin, Mike Alford, Nora Frimann and Samuel Herbert, which were originally attached to the City's Petition For injunction Prohibiting Violence Or Threats Of Violence Against Employee¹:

In September 1994, John Webster approached my colleague Sgt. Glenn McCourtie at a mall and spoke to him for 45-50 minutes about me and his 1990 criminal case. McCourtie described Mr. Webster as intense, strange and paranoid, and was concerned about Mr. Webster's intensity and fixation on me after so much time had elapsed.

The following year, Mr. Webster began to take more overt action. In September 1995, Mr. Webster went to my workplace and dropped off a "reward" poster accusing me of altering evidence. Similar posters were distributed to the public at a local bar and dance club and through the mail. In January 1996, Mr. Webster went to my workplace again to leave me additional documents related to his accusations against me. In addition to the personal visits to my workplace, Mr. Webster also took out advertisements in the local newspapers accusing me of altering evidence.

For several years and continuing to the present, Mr. Webster has maintained a website devoted in part to condemning me. At the time of the City's petition for a restraining order, the website included (1) a copy of a declaration that I signed regarding

¹For the Court's convenience, the Petition and the supporting declarations are provided as an attachment to this Request for Orders to Stop Harassment [**Exh. 3**].

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Mr. Webster's 1990 criminal conviction, (2) the undercover tape recordings of the telephone conversations leading up to Mr. Webster's arrest, (3) Mr. Webster's views about sexual fantasies and the propriety of arranging sexual experiences for his own children, and (4) a request to readers of the website for my address and the addresses of my family members.

Mr. Webster also resumed more direct communications, sending items to me at my workplace. In July 1999, Mr. Webster mailed to me a postcard that stated, "I challenge Brenda Herbert in a duel to the truth!" In the fall of 2000, I received a flyer from Mr. Webster, who was then running for Assembly as a Libertarian candidate. The campaign mailer referred to me with a sketch of my likeness and accused me of editing the tapes used in his criminal case more than a decade earlier. In June 2001, I received a copy of the Libertarian newsletter *Frontiersman* with a notation that I was mentioned in Mr. Webster's article in that issue.

Mr. Webster then took a more aggressive approach, attempting to compel a face-to-face encounter. In January 2002, Mr. Webster subpoenaed me to testify at his trial before the United States Tax Court. The Internal Revenue Service had brought an action against Mr. Webster for failure to pay taxes. Mr. Webster claimed that he did not have to pay taxes, and in fact, the government owed him money as a result of his allegedly wrongful prosecution in 1990. He sought to compel me to testify to admit to alleged wrongdoing back in 1990. The City of San Jose filed a motion to quash the subpoena on my behalf which was granted.

Beginning around August 2002 and continuing for months, Mr. Webster repeatedly circled my workplace at the Police Department in a large truck with an oversized sign that stated, "San Jose BAD COPS Starring Lt. Brenda Herbert ALTER EVIDENCE." On a number of those occasions, for hours at a time, Mr. Webster was observed sitting in his parked truck on the street by the Police Department. In September 2002, Mr. Webster parked the vehicle across from my workplace and remained in the truck looking through binoculars at employees as they left the office. At some point, Mr. Webster managed to take a photograph of another City of San Jose employee, whom he apparently believed to be me. Mr. Webster published this employee's photograph on his website and in mailings sent to the public at-large vilifying her as "the face of evil".

Receiving no response, Mr. Webster took additional steps to make contact with me, corresponding directly to me for the first time, and then appearing at my home. On February 24, 2003, Mr. Webster hand-delivered to my workplace a disturbing and rambling letter in which he blamed me, who he had thought might have been his "soul mate", for causing his estrangement from his children. In the letter, he insisted that I confess the past wrongs against him, and suggested that afterward, we might write a book together. He also, for the first time, confessed that he had "gone to all the trouble with all the flyers, handouts, billboard truck, and the web-site" in the hope that I would sue him

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for defamation. Then, he could get me on the witness stand to vindicate himself and would then sue me, the Police Department and the City. Webster also enclosed with the letter, a flyer with my husband's name and our home address printed on it. In the flyer, Webster stated, "Lt. Herbert sells her soul." Webster added veiled threats, referring to me as "the face of EVIL," and warning, "Bad cops turn good citizens into Terrorists." He also stated, "This is what was happening to cause the Oklahoma bombing where hundreds of innocent people were killed as 'collateral damage' in an effort to send a message...."

That same month, Mr. Webster and a companion appeared at my home. Mr. Webster knocked on the door loudly and continued knocking for some time when no one came to the door. He returned on a subsequent occasion and, again, persistently knocked when no one answered the door. Receiving no answer, Mr. Webster spoke with a child next door and confirmed that I resided at that location.

Following the escalation in Mr. Webster's actions and out of concern for my safety, the City of San Jose sought and obtained a permanent injunction preventing Webster from coming within 300 yards of me, my workplace and my home. The Court granted the injunction after hearing on July 25, 2003. The Court Order further specified that Webster (1) shall not telephone or send correspondence to me by any means, (2) shall not assault, batter, or stalk me, (3) shall not follow or stalk me to or from the place of work, (4) shall not follow me during work hours, and (5) shall not enter my workplace.

After some months, even as he was enjoined from contacting me and pending his appeal, Webster resumed his harassing behavior.

In late September 2004, Mr. Webster called and emailed the Police Department requesting a phone number for Brenda Herbert where people could call her or leave messages for her directly during work hours. Mr. Webster stated that he wanted to publish a voicemail phone number for Brenda Herbert so that individuals could contact her "concerning her participation in illegal activity." Mr. Webster also disclosed that he had my unlisted home phone number, but requested a daytime number to post on his website.

On or about October 7, 2004, the City Attorney's Office responded to Mr. Webster by letter advising that the Police Department would be providing him with information for persons who want to make complaints about police officers. The City Attorney's Office further informed Mr. Webster that it was the City's belief that encouraging others to contact me directly on his behalf could be a violation of the restraining order, and should that occur, the issue would be taken to the Court to enforce the injunction. Thereafter, on or about October 9, 2004, the Chief of Police Robert Davis responded to Mr. Webster by letter providing the phone numbers for the Office of the Independent Police Auditor and the Internal Affairs Unit.

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Despite the City Attorney's warning, about a week later, on or about October 18, 2004, Mr. Webster sent letters to my neighbors describing his allegations of misconduct against me stemming from the 1990 criminal investigation and also asking that they contact me about the contents of the letter or at least deliver the letter to me. In a section headed *What you can do to help*, Mr. Webster suggested to the neighbors the following:

You might want to come across as a concerned neighbor/citizen that wants to help resolve the dispute by listening to both sides of the issue. ... However, the instant that she tries to make me out as being evil, remind her that does not justify the altering of evidence, ever.

If she persists in claiming that no evidence was altered in my case, insist that she then take action in Court against me, not for "harassment" but for the "Defamation of Character" or for "Making false accusations against the Police". Either of these two approaches would allow me to depose her under oath about her role of that 1990 sting giving me the opportunity to prove that my accusations are in fact true.

Finally, he said, "If you do nothing else you might want to notify Lt. Herbert that you are a neighbor of hers and that you received and read this letter." As Mr. Webster contemplated, my neighbors brought the letters to my attention. (Copies of the letters are attached as **Exh. 4.**)

The decision of the trial court was affirmed in its entirety by the appellate court on December 16, 2004, and the restraining order remains in effect.

Most recently, on January 5, 2005, Mr. Webster sent a lengthy email to the San Jose Police Department and others. In the email, he repeated the same allegations that he has made against me for years, divulged that he contacted at least one of my neighbors by telephone, and confirmed again that his purpose is to drive me to file a lawsuit against him. (A copy of the email is attached as **Exh. 5.**)

The continuing harassment, including threatening conduct, has caused me great emotional distress, anxiety and concern for my safety.