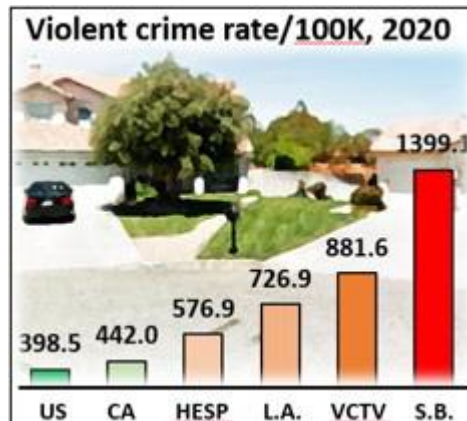


Posted 1/9/23

RACE AND ETHNICITY AREN'T PASS/FAIL

DOJ quashes an attempt to obstruct rentals to Blacks and Hispanics



For *Police Issues* by Julius (Jay) Wachtel. After a decade-and-a-half of trawling for juicy crime and justice developments on which to expound, it's not often that we're (totally) surprised. But that [December 14 piece](#) in the *Los Angeles Times* was definitely a head-snapper. It wasn't just the headline: "Accused of illegally evicting Black and Latino renters, SoCal city, sheriff to pay \$1 million." After all, concerns about racial bias are part of everyday discourse. Instead, it was the reveal that a community of about 100,000 middle-and-upper working class residents got so upset about crime that its leadership enacted an ordinance, effective January 1, 2016, requiring that prospective occupants of rental property pass criminal background checks and thereafter stay out of trouble.

That's right: obtaining and retaining permission to live in a rental was contingent on approval by the San Bernardino County Sheriff's Department, which runs Hesperia's police. Cops notified landlords when tenants stepped out of line. And there were penalties for property owners who failed to heed official "requests" to evict.

Actually, running checks on would-be tenants isn't anything new. Based on a concept developed by the [International Crime-Free Association](#), "crime-free rental housing" programs are in force at scores of communities across the U.S., including "[more than a quarter of all the local governments](#)" in California. Their implementation varies. [Kansas City landlords](#) conduct criminal background checks on prospective tenants and must take the "frequency, recentness, and severity" of their criminal history into account when deciding whether to rent. Police promptly inform owners about tenants' criminal activity, arrests and drug use, and may "*actively push*" for eviction. However, that decision is supposedly left for landlords to make. [KCPD's online guide](#) describes the

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program as “designed to help keep illegal activity off rental property” and provides contact information for the officers who administer it at each patrol division.

ORDINANCE NO. 2015-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, REQUIRING THE REGISTRATION AND REGULATION OF HOUSING RENTAL BUSINESSES FOR CRIME FREE RENTAL HOUSING

Problem is, some cities have apparently gone well beyond “pushing” for eviction. Hesperia’s law, for example, flat-out prohibited

renting or leasing properties to persons with criminal records. What’s more, once individuals *were* housed, landlords were required to evict persons who cops said had misbehaved. These mandates, and many others, formed a [comprehensive, twelve-page ordinance](#) signed by Mayor Eric Schmidt in November 2015. Property owners had to register rental properties with the city, pay an annual fee, and comply with a host of to-do’s. Landlords were required to collect personal identifying information from every prospective adult occupant (not just the person signing a lease) and pay to have each one checked for arrests and such by a commercial service. Rental agreements had to include warnings that entire households would be evicted should any member commit a crime in or near their abode. And the threat *had* to be carried through.

Hesperia justified the move by claiming that there was a “connection between rental properties and increased illegal activity and law enforcement calls for service.” [But the Feds insist](#) that was merely a smokescreen. What did they think was the *real* motive? According to DOJ’s lawsuit, “statements by City and Sheriff’s Department officials indicate that the ordinance was enacted with discriminatory intent and with the purpose of evicting and deterring African American and Latino renters from living in Hesperia.” Their data indicated that Black and Hispanic persons were far more likely than Whites to be denied housing, and once housed to be kicked out. HUD reported that “African American renters were almost four times as likely as non-Hispanic white renters to be evicted because of the ordinance, and Latino renters were 29% more likely than non-Hispanic white renters to be evicted.” Nearly everyone that got booted – 96.3% of individuals and 96.9% of households – lived in a Census block whose majority population was non-White. Yet “only 79% of rental households in Hesperia are located in majority-minority Census blocks.”

DOJ backed its claims of discriminatory intent with [extracts from comments](#) voiced by city council members and police managers during the hearings that preceded the law’s enactment (see link, pages 6-10). For example:

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- City Councilmember Russ Blewett: “the purpose of the ordinance was “to correct a demographical problem.”
- Mayor Eric Schmidt: “I can’t get over the fact that we’re allowing . . . people from LA County to ‘mov[e] into our neighborhoods because it’s a cheap place to live and it’s a place to hide’ and ‘the people that aggravate us aren’t from here,’ and that they ‘come from somewhere else with their tainted history’.”
- Sheriff’s Captain (and future City Manager) Nils Bentsen: “[Bentsen] compared the ordinance to his previous efforts evicting people in ‘a Section 8 house’ where ‘it took us years to ... find some criminal charges [and] arrest the people’.”

19	UNITED STATES DISTRICT COURT	
20	FOR THE CENTRAL DISTRICT OF CALIFORNIA	
21	WESTERN DIVISION	
22	UNITED STATES OF AMERICA,	Case No. 5:19-cv-02298 AB (SPx)
23	Plaintiff,	
24	v.	SUPPLEMENTAL COMPLAINT AND
25	CITY OF HESPERIA, COUNTY OF	DEMAND FOR JURY TRIAL.
26	SAN BERNARDINO, and SAN	
27	BERNARDINO COUNTY SHERIFF'S	Hon. André Birotte, Jr.
28	DEPARTMENT,	United States District Judge
	Defendants.	

DOJ also heavily criticized the [law’s alleged impact on innocents](#):

- A Black female householder’s repeated calls about an abusive boyfriend got her and her three children kicked out. Unable to afford other housing, they were forced to move “across the country.”
- A man’s “mental health crisis” led the expulsion of the householder, a Hispanic female, and forced her to relocate to a motel.
- A Black mother’s call for help led to the eviction of the whole family. Unable to secure a replacement rental, they moved away, leaving a teen daughter behind so she could complete high school.

18	UNITED STATES DISTRICT COURT	
19	FOR THE CENTRAL DISTRICT OF CALIFORNIA	
20	WESTERN DIVISION	
21		
22	UNITED STATES OF AMERICA,	Case No. 5:19-cv-02298 AB (SPx)
23	Plaintiff,	
24	v.	CONSENT ORDER
25	CITY OF HESPERIA, et al.,	
26	Defendants.	Honorable André Birotte Jr.
		United States District Judge

Bottom line: [Hesperia recently settled](#). While it will continue to regulate rentals, the Sheriff’s Department is out of the picture and the “crime-free” ordinance is no more. Hesperia has agreed to pay a \$100,000 fine and is allocating nearly a million

bucks to compensate the afflicted and fund projects intended to eliminate housing discrimination. “Civil rights coordinators” will be trained to assess progress during the five-year period that the consent decree is scheduled to run.

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According to the Feds, the disparate outcomes and instances of individual harm weren't by accident but stemmed from animosity towards Blacks and Hispanics. Bigotry, plain and simple. Neither the [Complaint](#) nor DOJ's weighty, self-congratulatory [press release](#) indicated that the city might have had any legitimate reason whatsoever for making decisions that wound up falling hardest on Blacks and Hispanics. Consequently there was no need to address the factors that our [Neighborhoods essays](#) point out are associated with crime. Nor any need to mention the well-known path to a solution. For the record, [let's self-plagiarize](#):

...no matter how well it's done, policing is clearly not the ultimate solution. Preventing violence is a task for society. As we've repeatedly pitched, a concerted effort to provide poverty-stricken individuals and families with child care, tutoring, educational opportunities, language skills, job training, summer jobs, apprenticeships, health services and – yes – adequate housing could yield vast benefits.

So was *anything* beyond racial animus at work? There was one intriguing hint. During hearings for the proposed ordinance, witnesses repeatedly blamed Hesperia's crime [on persons who relocated from Los Angeles](#). Mayor Eric Schmidt complained that "I can't get over the fact that we're allowing...people from LA County" to "mov[e] into our neighborhoods because it's a cheap place to live and it's a place to hide...[they] come from somewhere else with their tainted history." And while [DOJ's Complaint](#) didn't get into causes beyond bias, it pointed out (by way of disagreeing with that shot at L.A.) that "approximately three-quarters of new Hesperia residents between 2012 and 2016 moved there from other parts of San Bernardino County." Well, here's a map:

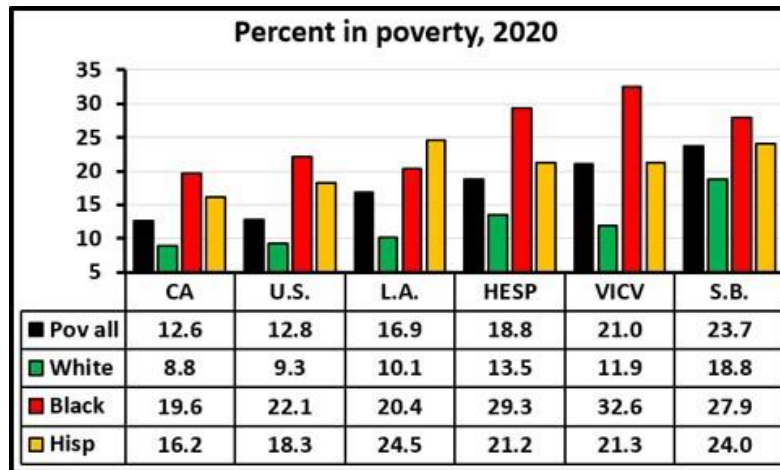


Hesperia (2020 pop. 95,163) has two sister cities, San Bernardino (pop. 216,784) and Victorville (pop. 122,958). Rating sites are lukewarm about each

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Check out those red trend lines. From about 2015 on, Hesperia, Victorville and San Bernardino seemed essentially on the same track. We computed r (correlation) scores. These can range from zero, meaning no relationship, to one, denoting a perfect relationship. Between 2015-2020 the correlation between Hesperia's rates and Victorville's was a sky-high .94, and between Hesperia's and San Bernardino's a slightly lower but still robust .79.

Crime aside, what about economic conditions? Hesperia was never an affluent place. Still, [2020 Census data](#) reveals that its economy is in considerably better shape than Victorville's or San Bernardino's:



Yet in Hesperia as elsewhere, the burden of poverty falls far most heavily on Blacks and Hispanics. But there's not a hint that economic inequality came up during debate. Instead, Hesperia's officials took a conceptual shortcut. Equating crime with race and ethnicity, they sought to prevent the former by reapportioning the latter. Consider, for example, councilmember Russ Blewett's [shameful comments](#):

...Russ Blewett stated the purpose of the ordinance was “to correct a demographical problem.” He stated he “could care less” that landlords and organizations...disagreed with him about the ordinance, and stated that the City needed to “improve our demographic.” Blewett also stated that “those kind of people” the ordinance would target were “no addition and of no value to this community, period,” and that he wanted to “get them the hell out of our town.”

In the end, it wasn't criminal record checks that brought DOJ's reproach. Whether or not everyone who voted for the ordinance suffered from racial animus, its odor suffused the proceedings. And the consequences could make it even tougher for well-intentioned efforts to improve economically-challenged, violence-stressed neighborhoods to take hold.