

No Colors-No Rights

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For many years I have been active in motorcyclists' rights. Working my way up through the ranks I have served as chapter officer to state officer. Certain issues have a way of resurfacing long after they were put to bed. Patches, colors, logos, or emblems continue to be an issue in the motorcyclist community. Respect or fear, the patch holder commands attention.

The American Motorcycle Association once defined the average motorcyclist as comprising ninety-nine percent of the riding population. They claimed the other one percent of riders were the "outlaw" motorcyclists. In an era when the "Wild One" defined the image of the motorcyclist, the clubs took the title of 1% as a banner of pride. Not all patch holder clubs are outlaw, but all outlaw groups have "colors."

"Colors" refer to the specific back patch worn by the biker, generally accompanied by rocker bars; but it's not that simple. It is exceedingly difficult to explain the significance of colors. It is a mentality, a way of thinking, a life commitment to your brothers forever. It's not something you wear or are taught, it is something you are born with. The sense of pride a patch holder feels when he has been accepted and receives his "colors" is akin to the pride of a Marine in full uniform. You belong to an elite group! This is the perception that true club members hold to their heart.

Early on, handshake agreements were made between "civilian riding organizations" and one percenters. The social riding clubs and activist organizations would not represent themselves as one percenters. Civilians would tend to their own affairs and not interfere. In return the one percenters would leave the average motorcyclist alone. The adage, "Look like one and act like one, you will be treated like one" still holds true to-

day. But things are not as simple as they once were. Complications echo throughout the world of motorcycling.

An officer who wears a club patch at the same time as he is representing a rights organization could potentially cause conflict. By inference, associations are made. As a result many rights organizations have a by-law forbidding any back patches at all. Regardless, many individual chapters defy the regulation and have their own patch as a matter of group pride.

Darcie Myers, former ABATE of NY, Rensselaer Chapter President, is married to a club member. "This club honors the wives/significant others who have made contributions to the club via cooking, sewing etc. I was honored by receiving a patch to wear on my vest." She put this patch on her vest along with her chapter president pin and a patch showing her membership in ABATE of NY. The district was concerned and the issue went as far as the board of directors according to Darcie. "Only after stating that my ABATE patches would come off before the other one would, was the issue laid to rest. I would have resigned from ABATE based on their discrimination before I would remove something from my vest," she explained.

Nina Coxen, co founder of Preventing Helmet Disasters (PHD) <http://www.kena.net/phd/>, recalled an incident in California a few years back. A chapter president wore a T-shirt to the ABATE state run that had a logo for ABATE, one for HLDL, and one for BOLT (two other rights organizations) on it. He was instructed to remove his shirt, as it was considered "unacceptable" by event organizers. He refused to do so and left the event. Questioning why a dress code was permitted by an organization that purportedly up-

held freedom, the debate raged on in the state ABATE paper till the editor refused to publish any more letters on the subject. Nina commented (using M/C Laws Digest forum owned by Lee Jordan mclaws-request@UserHome.com). "Any discrimination against our own is indeed reprehensible. We get enough of that b.s. from non-riders. That falls into the same category as the rubs who leave a broke-down brother (or sister) on the side of the road alone, or the dweebs who see somebody broken down and don't stop to help another biker. Hooray for me and to hell with everyone else! It is just stupid. 'No attitudes' has worked just fine for all these years. Discrimination has never worked, it only causes a plethora of problems. I still am in disbelief that people who are *supposedly* fighting for freedom would make impositions of this nature on their own folks. Despicable."

It is a double-edged sword that the organizations must contend with. Jen Runolfsson, Vice President of the Nassau Chapter, ABATE of NY, defends the rights of all motorcyclists. With an MRO chapter that borders two rival club territories, frustration often occurs. "It is truly a shame when all the grown adults in this country built on "Freedom" can't even get along long enough to fight for something that affects all of us. I know first hand what it takes to try to hold an MRO Chapter open in Nassau County, NY. Things get so restricted by the same people we are trying to fight for. People question my affiliations all the time. I have NO affiliations. I am fighting for rights and I hold events to support our cause. I don't care who shows up. It would be nice if I could just go about my business without having to concern myself with who I might piss off."

Independent promoter and President for the Harley Rendezvous, Frank Potter, advertises his well known event requesting "no attitudes." For 21 years this Northeastern event has satisfied riders and even won in a court of law the right to use the name Harley. Potter spoke frankly, "We had some problems in the past and decided it was not in the best interest to have an attitude. We wanted everyone to play well. The groups respect us and we respect them as well. We wanted to create an atmosphere where everyone could en-

joy themselves. We didn't want to single out or insult anyone. It wasn't an order, it wasn't a threat, it was mutual respect."

With over 20,000 motorcyclists and 15 years of experience in the riding community, Don Clady believes in an open admission policy. The original promoter of Super Sunday now held in Middletown, NY, said, "If you say "no-colors," and you have a diversified show, then you can't let anybody in with ANY type of colors or back patches at all. That means you can't allow ninety-nine percent of the riding population. AMA clubs, CMA, Blue Knights, you would have to exclude them also."

It has been said that true club riders are rare nowadays. The boundaries are not as black and white as they once were. With the influx of "week-end warriors" and the cultural assimilation of motorcycle attire, it is difficult to determine the "real thing" from the imitation. New riders may unwittingly find themselves in the middle of a conflict. They are unaware of affiliations, club rivalries, and the social mores attached to various insignia patches. Wear the wrong T-shirt to the wrong event, and the newbie may be asked to remove the offensive shirt. Depending on the new rider's attitude and the club member's mood, that shirt may be forcibly removed.

Business establishments legally can exclude anyone they feel may cause physical harm to the owner, employee, customers or establishment. That does not mean that someone can be denied entrance because the owner watched one too many outlaw biker movies. A preconceived image can either be reinforced or disproved based on a motorcyclist's behavior. The back patch worn by clubs has intensified fear; it is up to club members to change that image.

David Trebing, member and former State Coordinator of ABATE/Concerned Motorcycle Riders of Ohio, is the current State Newsletter Editor for The Ohio Activist. He detailed a predicament encountered a few years ago. Bar owners with an economic perspective were concerned about allowing patches in their establishments, equating it with trouble. It became an issue since ABATE/CMRO were using bars as meeting places. David revealed, "We finally (after considerable debate)

came down on the side that discrimination is discrimination. If we are to publicly espouse the cause of equality and justice, then we need to live by that. We all need each other to preserve our rights and need to work together to do so." They resolved the problem by not having meetings at those particular bars.

Many clubs have charters that forbid its members from membership in other organizations. ABATE/CMRO has an "Associate" membership enabling clubs to join without compromising their loyalties. David Trebling believes the Associate membership was established to circumvent the predicament. ABATE/CMRO has clubs belonging, and individual patch holders who have held various offices at the regional level. "Organizationally, we take a stand against discrimination and that includes businesses that post "no colors" policies, affirmed David. He warns with conviction that with the rise of anti-gang laws across the country, clubs have even more vested interest in the preservation of our collective rights.

In Portland, Oregon, law enforcement often uses the insignia as a way to harass motorcyclists. Motorcycle club members that fit the description of a "criminal gang" - a term easily applied to any organization such as the American Legion - can be labeled and sent a "Gang Affiliation Notice." In apparent opposition to the Bill of Rights, notification is sent informing you that you have the "right" to disprove your affiliation. In other words, you are guilty by association and must prove your innocence. While the original intent of the law was to protect citizens from gang-related activity, in practice it provides police agencies a tool to intimidate and harass.

Bill Bish, National Director of the National Coalition of Motorcyclists, relates, "California has the Unruh Act, which is probably the best anti-discrimination protection in the country ... but even it doesn't specifically mention motorcyclists. Lots of other states have introduced such legislation, to varying degrees of success." Virginia had a new law go into effect July 1, 1999, regarding the use of highways by motorcycles forbidding discrimination by political subdivisions. It is limited in its scope and applies primarily to transportation laws. Illinois has legislation, Statute

Section 68.5-102(A), that makes it an offense for any person to deny or refuse to another the full and equal enjoyment of the facilities of any public place of accommodation. Persons cannot be excluded therefrom so long as they conduct themselves in a peacefully and orderly fashion.

Minnesota's law strictly addresses discrimination of the motorcyclist. (Chapter #367; S.F. #3345; Section 18[604.12]) It forbids denying "access, admission, or usage, to a person solely because the person operates a motorcycle or is wearing clothing that displays the name of an organization or association." It excludes conduct risking the health or safety of another or clothing obscene or including the name or symbol of a criminal gang.

Most states have some provision protecting the civil rights of its citizens. Even though motorcycle clothing or mode of transportation is not specifically mentioned, the issue is covered by the First Amendment. *Cohen V. California*, 403 U.S. 15, was a Supreme Court case ruling in 1971. It was determined that individuals have the constitutional right under the First Amendment to wear clothing which displays writings or designs. The United States Supreme Court has continually upheld and protected personal freedom. Those who discriminate on the basis of clothing, mode of transportation, or club membership could potentially be subjected to lawsuits.

According to a Confederation of Clubs press release dated November 18, 1997, two legal actions favored the right of motorcycle clubs to wear colors. "August 1997, the County of Santa Barbara and the Santa Barbara County Sheriffs Department agreed to settle a lawsuit brought by the Bravados Motorcycle Club based upon actions by about a dozen Sheriffs deputies to refuse club members entry into the Santa Barbara County Fair on April 29, 1995, because they found their club colors, or back patch, to be 'gang attire'," the report stated. The Southern California Confederation of Clubs, initiated the lawsuit for its member club. The Sheriff's Department and the county eventually agreed to settle for \$10,000 in damages and about \$15,000 in legal fees. In addition, the Bravados also won the right to attend the fair wearing their colors.

Two deputies of the Sheriff's Department of Clark County, Washington, allegedly informed various bar owners within their jurisdiction that they would not respond to 911 emergency calls if the proprietors chose to allow patch holders in their establishments. The Confederation of Clubs of Washington pursued the lawsuit on behalf of the Free Souls M/C. The press release informed, "In exchange for dismissing the lawsuit (July, 1997), the Sheriff and his deputies agreed to a number of stipulations, including paying \$20,000 to the Free Souls MC for legal expenses; not to campaign for other bar and taverns to adopt 'no colors' policies; to develop a written protocol for deputies to use when discussing perceived problems regarding wearing of 'club colors' with owners of such establishments; and to basically avoid conflict and confrontation with the Free Souls MC and to cooperate with the club in the resolution of any future concerns."

Lynn Wesley, Motorcycle Riders Foundation PA State Representative, believes it is vital that rights organizations uphold a standard of non discrimination. "How can we possibly ask others to do what we are not doing ourselves?" Believing it to be an issue of vital importance, yet understanding the difficulties, she holds firm in her position.

Tom Christofles, former ABATE of PA Assistant State Legislative Coordinator, disagrees with "no-colors" rules. "I for one don't want to see that on any flyers. These are my personal feelings, I can't speak for anyone else. My motto is you ride a bike you're OK with me." Bob O'Hare, former ABATE of PA Assistant State Coordinator thinks, "I believe it is something that should be handled from chapter to chapter because the situation is different from region to region." Ron Main, former ABATE of PA District #4 Coordinator, in reply to a request for policy clarification wrote, "Please be advised that it not the policy of ABATE of PA or District #4. to discriminate against any club or organization in any way shape or form." A District flyer advertising an event mistakenly had "no colors" written on it. When brought to the District's attention, the words were stricken from the flyer. "No one who shows up at the event will be barred due to wearing colors," Ron con-

firmed.

A retired Marine Gunnery Sgt., "Gunny" Hutcheson, authors a monthly e-mail column called "From the Gunny's Sack." Riding since 1948, he emphasizes, "When we discriminate amongst ourselves we are cutting our own throats. Motorcyclists, no matter what they ride or what patch they wear, are an exclusive brotherhood and we had better never forget that if we expect to regain our freedoms. To not do so is an abomination and it sickens me." Gunny is the AIM Chief of Staff for Oregon, a member of Oregon ABATE, Oregon BikePAC, also participates in NCOM and the Oregon Confederation of Clubs.

Bill Gawthrop, Anne Arundel County Chapter, ABATE of Maryland, offered suggestions for motorcyclists faced with "no color" edicts within their organization. "First, ask for a copy of the charter or by-laws. If the patch or color issue is not in the charter or by-laws, tell the local leadership that where there is no law, there is no violation of law. When they persist, ask them for a "legal" (procedural) basis for their action in an organization that relies on law and procedure. If we cannot extend that protection among ourselves, we cannot expect to obtain it from the state." ABATE of Maryland opposes the "no colors" policy. Bill speaks from the perspective of a retired Army officer (24 years service) who, after defending the values of free expression overseas, is more than a little unhappy coming home finding that these values are under attack in our own back yard.

Observation has shown that within the motorcycling community, wearing a T-shirt can result in an embarrassing situation. How many places in society require us to remove an article of clothing to gain entrance and acceptability? Using "no-colors" to restrict access may serve as an invitation to confrontation or lawsuits. The biking community may encounter more restrictions and social mores with inherent contradictions than any other segment of society. We cry discrimination yet we discriminate. We declare freedom—yet we limit it. We say we don't care what others think—then weaken our beliefs to gain acceptance. We claim brotherhood—then betray it. The duplicity in thinking and action is

apparent.

Part of the problem is that we live in a litigious society and we often find ourselves in the position of having to be more concerned for liability considerations than the issues we believe in. The other part of the problem is a moral and spiritual one—we are human and are prey to pettiness and jealousy. We can not afford to be guilty of the very thing we despise. In order to insure our own personal freedom we have to support and uphold the freedom of even those we disagree with. The relentless observation needed to insure our freedoms is mentally exhausting, especially when the discrimination comes from within our own ranks. We can not allow ourselves to grow lax. It is truly a dilemma.

Joe “Cowboy” Dickey, State Coordinator for ABATE of Pennsylvania, uses the words of Walter Lippmann to express his feelings. “Whereas each man claims his freedom as a matter of right, the freedom he accords to other men is a matter of tolerance.”

PeachezZukowski ©1999

814-628-5102 (home) 814-628-5015 fax (call
home # first) peachez@penn.com