

It involves a question of legal

By Lynn Ludlow

Amendment IV: Seizures, Searches and Warrants. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

—Ratified Dec. 15, 1791, U.S. Constitution

The Fourth Amendment and its key phrase, "probable cause," are at the heart of constitutional issues raised by critics of stop-on-sight questioning of hundreds of black

men by police looking for The City's shoot-on-sight random killer.

Attorney Benjamin James Jr., who prepared the suit filed Friday in U.S. District Court to halt the mass questioning of possible suspects, said the police descriptions and sketches are vague and unspecific.

Paul Halvonik, general counsel for the American Civil Liberties Union of Northern California, said the ACLU-NAACP-Mexican American Legal Defense Fund will file a similar suit tomorrow in the same court.

"You can't have 'probable cause' for the arrest of hundreds of people," he said yesterday. "That's like

rights

trying to get a search warrant for 'a Victorian house in San Francisco.'

Police spokesmen disagree, saying the descriptions are enough to justify "probable cause to talk to people."

"We don't see any constitutional issues," said Police Sgt. David Roche, an attorney in the legal department. "It's our contention that we've had sufficient description to be able to pick and choose just a small group that fits it."

James, a black man himself, was bitter.

"The attempt by police to employ dragnets is not un-

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precedented, although the courts have enjoined dragnets," he said.

"What would be unprecedented is the elevation of skin color to 'probable cause.'"

The suit will be argued Wednesday before Judge Alfonso Zirpoli at a hearing to see if he has cause to order a halt to what the suit describes as "indiscriminate stopping, searching, interrogating or detaining plaintiffs and the class represented without lawful warrant or probable cause . . ."

Sgt. Roche said police have been instructed carefully to respect rights of those stopped in the massive police effort, part of Operation Zebra aimed at the gunman who has slain 12 persons and wounded six. The victims, selected apparently at random, are all white; the gunman is described as black.

"If we were stopping people totally outside the description," Roche said, "we could be on thin ice. But we're not."

The descriptions supplied by survivors and witnesses are for a man 20 to 30 years of age, 5 feet 9 to 6 feet in height, slender to medium build and resemblance to sketches showing a slender face, narrow mustache and medium-short black hair.

James said the description matches thousands of young men.

Halvonik said, "You can't have dragnets. They (the police) are trying to argue that there's a distinction between probable cause to detain and probable cause to arrest. There isn't. If there's probable cause to stop them, then there's probably cause

to go into all the houses of black San Franciscans too."

Halvonik cited a Baltimore case in which police attempted to search every home in the black neighborhoods for a murder suspect, but the manhunt was halted by court order. He's confident that the Operation Zebra stop-and-question project will be halted Wednesday.

The project was announced Wednesday by

Mayor Alioto, who was flanked by nine black civic leaders. But there was considerable evidence that man other blacks, while urging a quick arrest of the Zebra killer, didn't think it was such a good idea.

Percy Steeler Jr., executive director of the Bay Area Urban League, said, "Why must this City carry out a procedure, warned against by our constitutional fathers, which would only cre-

ate more frustration and further alienate an already oppressed group? We do not condone violence. We deplore violence in all its manifestations and ramifications and call for an early arrest of this maniac . . ."

Other constitutional issues raised by James included the due process and equal protection clauses in the 14th Amendment and rights to travel guaranteed in Arti-

cle 1, Section 8, and the 5th and 14th Amendments.

The suit also mentions an amendment seldom invoked. It says the manhunt detentions "are badges and incidents of slavery, in that only members of the black race are singled out for the discriminatory treatment set out herein, and such acts are outlawed and proscribed by the 13th Amendment to the Constitution of the United States."