
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 572 **Hearing Date:** June 26, 2018
Author: Quirk-Silva
Version: June 14, 2018
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Law Enforcement: Training: Racial Profiling*

HISTORY

Source: Association of Orange County Deputy Sheriffs

Prior Legislation:

Support: Unknown

Opposition: None known

Assembly Floor Vote: Not relevant

PURPOSE

The purpose of this bill is to require peace officers complete refresher training on their racial profiling and implicit bias training every year rather than every five years.

Existing law prohibits a law enforcement officer from engaging in racial profiling. (Penal Code § 13519.4(f).)

Existing law defines “racial profiling,” as “the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.” (Penal Code § 13519.4(e).)

Existing law requires that the course of basic training for law enforcement officers include adequate instruction on racial and cultural diversity in order to foster mutual respect and cooperation between law enforcement and members of all racial and cultural groups. (Penal Code § 13519.4(b).)

Existing law requires the DOJ to present to the Governor, on or before July 1st, an annual report containing the criminal statistics of the preceding calendar year. (Penal Code § 13010(g).)

Existing law mandates that the annual report contain statistics showing all of the following:

- 1) The amount and the types of offenses known to the public authorities;
- 2) The personal and social characteristics of criminals and delinquents;

- 3) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents;
- 4) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court; and,
- 5) The number of citizens' complaints received by law enforcement agencies, as specified. The statistics must indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

(Penal Code § 13012.)

Existing law requires state and local law enforcement agencies to report statistical data to the DOJ at those times and in the manner that the Attorney General prescribes. (Penal Code § 13020.)

Existing law requires that the Commission on Peace Officers Standards and Training (POST) develop and disseminate guidelines and training for all peace officers in California on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines shall stress understanding and respect for racial, identity, and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a diverse racial, identity, and cultural environment. (Penal Code § 13519.4.)

Existing law provides that the course of basic training for peace officers shall include adequate instruction on racial, identity, and cultural diversity in order to foster mutual respect and cooperation between law enforcement and members of all racial, identity, and cultural groups. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of racial, identity, and cultural awareness and diversity. (Penal Code § 13519.4.)

Existing law provides that “racial or identity profiling,” for purposes of POST training, is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.

Existing law provides that once basic racial profiling and implicit bias training is completed, officers must complete a refresher course every five years. (Penal Code § 13519.4.)

This bill specifies that officers must complete their refresher training on racial profiling and implicit bias training annually.

COMMENTS

1. Need for This Bill

According to the author:

Recent events have resulted in increased tension between law enforcement and the communities whom they protect and serve which has caused a lack of trust. The men and women of law enforcement acknowledge this issue and seek to remedy it in a way they think best serves not only the community, but the law enforcement profession. AB 572 is a solution we believe will help train officers, de-escalate situations in which force potentially may be required, and will lessen the risk of injury or life, of both civilians and officers. When men and women train to become peace officers, they must first complete preservice training that has been developed by the Commission on Peace Officer Standards and Training (POST). This course includes topics regarding racial, identity, and cultural awareness, recognizing implicit bias and preventing racial or identity profiling in law enforcement. This training also includes de-escalation training and tactics. Additionally, under existing law, peace officers are required to take a refresher course on this subject at least every 5 years.

AB 572 will require that this refresher course be taken annually. This will help to ensure that our officers, statewide, maintain adequate and routine training to stop racial or identity profiling in any form. It is critical that law enforcement officers treat all people equally and with respect. In addition to re-enforcing equality, the refresher course will keep officers current with changing racial and cultural trends. As well as training officers on new de-escalation training and techniques. AB 572 is a small step in fostering a stronger and better relationship between the community and law enforcement. Together we will work to ensure safety and justice in our state.

2. Commission on Peace Officers Standards and Training (POST)

The Commission on Peace Officers Standards and Training (POST) was established by the Legislature in 1959 to set minimum selection and training standards for California law enforcement. POST develops and implements various courses to train peace officers, including both basic and continuing professional training. Peace officer basic training includes a minimum of 664 hours of POST-developed training and testing in 42 separate areas of instruction. According to POST's website, most POST-certified basic training academies exceed the 664 minimum hours by 200 or more hours.

3. Racial Profiling and Bias Training by POST and the Effect of this Legislation

Law enforcement officers are prohibited from engaging in racial profiling. (Penal Code § 13519.4(f).) "Racial profiling" is currently defined as the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped. (Penal Code § 13519.4(e).)

Although racial profiling is prohibited, studies show that racial profiling by law enforcement does occur. For example, according to a report by the Oakland Police Department, African-

Americans, who compose 28 percent of Oakland’s population, accounted for 62 percent of police stops from last April to November. The figures also showed that stops of African-Americans were more likely to result in felony arrests. And, while African-Americans were more likely to be searched after being stopped, police were no more likely to find contraband from searching African-Americans than members of other racial groups.¹

Likewise, in 2010, the Los Angeles Times reported that “The U.S. Department of Justice has warned the Los Angeles Police Department that its investigations into racial profiling by officers are inadequate and that some cops still tolerate the practice.”... “The Justice Department's concerns, which were conveyed in a recent letter obtained by The Times, are a setback for the LAPD, which remains under federal oversight on the issue.” The article noted, “[p]rofilng complaints typically occur after a traffic or pedestrian stop, when the officer is accused of targeting a person solely because of his or her race, ethnicity, religious garb or some other form of outward appearance. About 250 such cases arise each year, but more damaging is the widely held belief, especially among black and Latino men, that the practice is commonplace.”²

AB 1102 (Murray), Statutes of 2000, Chapter 684 created a requirement that law enforcement not engage in racial profiling and mandated that POST develop a curriculum to train officers.

AB 953 (Weber), Statutes of 2015, Chapter 466 modified the definition of “racial profiling required local law enforcement agencies to report specified information on stops to the Attorney General's office; and, established the Racial and Identity Profiling Advisory Board (RIPA).

This bill requires peace officers complete refresher training on their racial profiling and implicit bias training every year rather than every five years.

4. Argument in Support

According to the Association of Orange County Deputy Sheriffs:

On behalf of the Association of Orange County Deputy Sheriffs (AOCDS) we are proud to sponsor, AB 572 (Quirk-Silva). Additionally in support are: The Fraternal Order of Police (FOP) California Lodge, the Long Beach Police Officers Association (LBPOA), and the Sacramento County Deputy Sheriffs’ Association (SCDSA).

When men and women train to become peace officers, they must first complete preservice training that has been developed by the Commission on Peace Officer Standards and Training (POST). This course includes topics regarding racial, identity, and cultural awareness, recognizing implicit bias and preventing racial or identity profiling in law enforcement. This training also includes de-escalation training and tactics. Currently, peace officers are only required to take this course every 5 years. AB 572 will require peace officers to receive a refresher course annually on racial, identity, and cultural awareness, recognizing implicit bias and preventing racial or identity profiling in law enforcement. In addition, this training will require annual training on de-escalation training and techniques.

¹ (http://www.mercurynews.com/crime-courts/ci_25410009/report-blacks-comprise-62-percent-oakland-police-stops.)

² (<http://articles.latimes.com/2010/nov/14/local/la-me-lapd-bias-20101114>.)

Recent events have resulted in increased tension between law enforcement and the communities whom they protect and serve which has caused a lack of community trust. The men and women of law enforcement acknowledge this issue and seek to remedy it in a way they think best serves not only the community, but the law enforcement profession. AB 572 is a solution we believe will help train officers, de-escalate situations in which force potentially may be required, and will lessen the risk of injury or life, of both civilians and officers.

Annual training will help to ensure that our officers, statewide, maintain adequate and routine training to stop racial or identity profiling in any form. It is critical that law enforcement officers treat all people equally and with respect. In addition to re-enforcing equality, the refresher course will keep officers current with changing racial and cultural trends. As well as training officers on new de-escalation training and techniques. AB 572 is a small step in fostering a stronger and better relationship between the community and law enforcement. Together we will work to ensure safety and justice in our state.

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