
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 1052 **Hearing Date:** July 2, 2019
Author: Chu
Version: February 21, 2019
Urgency: No **Fiscal:** Yes
Consultant: JK

Subject: *Peace Officer Training: Hate Crimes*

HISTORY

Source: Author

Prior Legislation: AB 1985 (Ting), Ch. 26, Stats. 2018
AB 1161 (Ting), 2017, failed passage in Assembly Appropriations
SB 1234 (Kuehl), Ch. 700, Stats. 2004
AB 3407 (Klehs), Ch. 1239, Stats. 1992

Support: Anti-Defamation League; Arc and United Cerebral Palsy California Collaboration; Attorney General Xavier Becerra; California Association of Human Relations Organizations; California Immigrant Policy Center; California Women's Law Center; Center for the Study of Hate & Extremism - California State University, San Bernardino; Hindu American Foundation, Inc.; Japanese American Citizens League Northern California-W.Nevada-Pacific District; Jewish Public Affairs Committee of California; Sikh American Legal Defense and Education Fund; Sikh Coalition; Silicon Valley FACES

Opposition: None known

Assembly Floor Vote: 78 - 0

PURPOSE

The purpose of this bill requires the basic peace officer course curriculum to include on the topic of hate crimes a specified hate crimes video developed by the Commission on Peace Officer Standards and Training (POST), and requires the development of a peace officer in-service hate crimes refresher course to be taken every three years.

Existing law requires that POST develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers, addressing hate crimes.

Existing law states that the hate crimes course of instruction shall make the maximum use of audio and video communication and other simulation methods and shall include instruction in each of the following:

- 1) Indicators of hate crime;
- 2) The impact of these crimes on the victim, the victim's family and the community, and the assistance and compensation available to the victims;
- 3) Knowledge of laws dealing with hate crimes and the legal rights of, and the remedies available to, victims of hate crimes;
- 4) Law enforcement procedures, reporting, and documentation of hate crimes;
- 5) Techniques and methods to handle incidents of hate crimes in a non-combative manner;
- 6) Multimission criminal extremism, which means the nexus of certain hate crimes, antigovernment extremist crimes, anti-reproductive-rights crimes, and crimes in whole or in part because of the victim's actual or perceived homelessness;
- 7) The special problems inherent in some categories of hate crimes, including gender-bias crimes, disability-bias crimes, including those committed against homeless persons with disabilities, anti-immigrant crimes, and anti-Arab, and anti-Islamic crimes, and techniques and methods to handle these special problems; and,
- 8) Preparation for, and response to future anti-Arab/middle Eastern and anti-Islamic hate crime waves that the Attorney General determines is likely. (Pen. Code, § 13519.6 (b).)

Existing law provides that the guidelines developed by POST shall incorporate certain procedures and techniques, as specified, and shall include a framework and possible content of a general order or other formal policy on hate crimes that all state law enforcement agencies shall adopt and the commission shall encourage all local law enforcement agencies to adopt. The elements of the framework shall include, but not be limited to, the following:

- 1) A message from the law enforcement agency's chief executive officer to the agency's officers and staff concerning the importance of hate crime laws and the agency's commitment to enforcement;
- 2) The definition of "hate crime", as specified;
- 3) References to hate crime statutes as specified; and,
- 4) A title-by-title specific protocol that agency personnel are required to follow, including, but not limited to, the following:
 - a) Preventing and preparing for likely hate crimes by, among other things, establishing contact with persons and communities who are likely targets, and forming and cooperating with community hate crime prevention and response networks.
 - b) Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority.
 - c) Accessing assistance, by, among other things, activating the Department of Justice hate crime rapid response protocol when necessary.

- d) Providing victim assistance and follow-up, including community follow-up.
- e) Reporting. (Pen. Code § 13519.6 (c).)

Existing law defines “hate crime” as a criminal act committed, in part or in whole, because of actual or perceived characteristics of the victim, including: disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of the previously listed actual or perceived characteristics. (Pen. Code, § 422.55 (a).)

Existing law requires all state and local agencies to use the above definition when using the term “hate crime.” (Pen. Code, § 422.9.)

Existing law specifies that “hate crime” includes a violation of statute prohibiting interference with a person’s exercise of civil rights because of actual or perceived characteristics, as listed above. (Pen. Code, § 422.55 (b).)

This bill requires POST, commencing on or after June 1, 2020 to incorporate the November 2017 video course entitled “Hate Crimes: Identification and Investigation” or any successor video thereto into the basic course curriculum.

This bill provides that POST make the “Hate Crimes: Identification and Investigation” video available to stream via the learning portal.

This bill provides that POST shall develop and periodically update an interactive refresher course of instruction and training for in-service peace officers on the topic of hate crimes and make the course and make the course available via the learning portal. The course shall cover the fundamentals of hate crime law and preliminary investigation of hate crimes incidents, and shall include updates on recent changes in the law, hate crime trends, and best enforcement practices.

This bill requires POST to offer a refresher course to be taken by in-service peace officers every three years.

COMMENTS

1. Need for This Bill

According to the author:

The results of an audit from a 2018 California State Auditor report entitled Hate Crimes in California showed that four major law enforcement agencies have not adequately identified, reported, or responded to hate crimes. This is problematic because such issues are barriers against fully understanding and addressing hate crimes in California. Furthermore, hate crimes are on the rise. According to an annual report from the California Department of Justice, hate crime events in California have risen 17.4% from 931 in 2016 to 1,093 in 2017 in the year 2017.

With hate crimes on the rise throughout the state of California, it is imperative that our peace officers take comprehensive trainings and be equipped with the proper tools to identify, report, and respond to hate crimes. Our state prides itself in being diverse and progressive through policies that denounce hate and provide

equal protection to all of its residents. AB 1052 will provide resources to help prepare peace officers to address hate crimes and protect the communities that they serve.

2. POST Hate Crime Training

Hate crime perpetrators target their victims based on discrimination against immutable characteristics such as age, color, disability, gender, gender identity, national origin, race, sex, and sexual orientation. Immutability can be characterized in one of two ways. Some characteristics, such as age, disability, and race, cannot be altered by an individual's voluntary act. However, other characteristics, such as religion and gender, can only be altered with substantial cost or difficulty to the individual. This implies that some characteristics that are entirely possible for individuals to change, such as religion, have such a powerful impact on the construction of individual identity that they effectively operate as if they were unchangeable.

According to the LA Times hate crimes have increased in the past three years.¹ In 2017, there were 1,093 reported incidents, reflecting a 17.4% increase. Los Angeles recently recorded its highest level of reports in a decade with a 13% increase.² Reporters have cited a number of reasons but nevertheless in the 2018 California Auditor's Report, titled "Hate Crimes in California", they had found that law enforcement were not trained to identify, report, or respond to hate crimes.³

In 2018, AB 1985 (Ting) worked to create recommendations to how local law enforcement agencies could update their hate crime policy. To comply with these regulations POST created "POST Hate Crimes Model Policy".⁴ These guidelines were set force only if law enforcement executives chose to update their current policies, meaning there are law enforcement agencies that can choose to maintain their policies as they are.

The minimum legal requirements are the following:

- 1) The definitions in Penal Code sections 422.55 and 422.56.
- 2) The content of the model policy framework that the Commission on Peace Officer Standards and Training developed pursuant to Section 13519.6 (above) and any content that the commission may revise or add in the future, including any policy, definitions, response and reporting responsibilities, training resources, and planning and prevention methods.
- 3) Information regarding bias motivation
 - a) For the purposes of this paragraph, "bias motivation" is a preexisting negative attitude toward actual or perceived characteristics.
 - i. In recognizing suspected disability-bias hate crimes, the policy shall advise officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias.

¹ <https://www.latimes.com/local/lanow/la-me-ln-hate-crimes-surge-california-20180710-story.html>

² <https://www.latimes.com/local/lanow/la-me-ln-hate-crime-la-big-cities-20190131-story.html>

³ <https://www.bsa.ca.gov/pdfs/factsheets/2017-131.pdf>

⁴ http://lib.post.ca.gov/Publications/hate_crimes.pdf

- ii. In recognizing suspected disability-bias hate crimes, the policy also shall advise officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias.
- b) Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes and a plan for the agency to remedy this underreporting (emphasis added).
- c) A protocol for reporting suspected hate crimes to the Department of Justice.
- d) A checklist of first responder responsibilities.
- e) A specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers.
- f) The title or titles of the officer or officers responsible for assuring that the department has a hate crime brochure ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.
- g) A requirement that all officers be familiar with the policy and carry out the policy at all times unless directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.
- h) Any local law enforcement agency that updates an existing hate crimes policy or adopts a new hate crimes policy may include any of the provisions of a model hate crime policy and other relevant documents developed by the International Association of Chiefs of Police that are relevant to California and consistent with this chapter.

However, the model policy framework has a much more detailed framework that covers:

- 1) Initial Response;
- 2) Investigation;
- 3) Supervision;
- 4) Planning and Prevention;
- 5) Reporting.

This bill requires consistent updates on POST's hate crime training.

3. “Hate Crimes: Identification and Investigation” Video

According to POST’s website, the “Hate Crimes: Identification and Investigation” Video consists of:

This training program provides an overview of hate crimes in California, including the law that defines them, the victims and communities such crimes affect, and the recommended methods to successfully investigate hate crimes.

Segments include:

- Overview
- What is a Hate Crime?
- Understanding the Victims
- Initial Investigation
- Reporting and Documentation
- Outreach and the Community
- Final Thoughts

4. Arguments in Support

According to the Anti-Defamation League:

In its May 2018 report entitled *Hate Crimes in California: Law Enforcement Has Not Adequately Identified, Reported, or Responded to Hate Crimes*, the California State Auditor found that some of the audited law enforcement agencies do not provide refresher hate crime trainings containing critical instructions for identifying hate crimes, along with information regarding any updates in hate crime law. The report noted that the agencies would be better prepared to identify and investigate hate crimes by providing their officers with periodic refresher hate crime training. Among other findings in the report, this demonstrates the need for further training on hate crime identification and policy for California peace officers.

California has a comprehensive set of hate crime laws that is a model for other states. However, laws are only effective and impactful when they are implemented fully. Passage of AB 1052 will enhance law enforcement’s ability to respond effectively to any hate crimes in their communities.

According to the California Women’s Law Center:

It is crucial that peace officers are appropriately and consistently trained to identify, report and respond to hate crimes. AB 1052 will ensure peace officers receive comprehensive training for hate crime identification, and will require all in-service peace officers take a refresher course every three years. AB 1052 will also require that the Commission on Peace Officer Standards and Training develop and update this refresher course.