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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

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**Bill No:** AB 57                      **Hearing Date:** June 29, 2021  
**Author:** Gabriel  
**Version:** May 24, 2021  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** GC

**Subject:** *Law enforcement: hate crimes*

### HISTORY

**Source:** Author

**Prior Legislation:** AB 2235 (Gabriel), 2020, not heard in Assembly Public Safety  
AB 2236 (Gabriel), 2020, held on suspense in Assm. Appropriations  
AB 1052 (Chu), 2019, held on suspense in Assembly Appropriations  
AB 301 (Chu), 2019, held on suspense in Assembly Appropriations

**Support:** Alameda County District Attorney's Office; American Jewish Committee - San Francisco; American Jewish Committee - Los Angeles; Anti-defamation League; Asian Law Alliance; Asian Pacific American Advocates; Association of Regional Center Agencies; California League of United Latin American Citizens; California NAACP; California Religious Action Center of Reform Judaism; Center for The Study of Hate & Extremism - California State University, San Bernardino; Equality California; Hadassah, the Women's Zionist of America, INC.; Holocaust Museum LA; Israeli-American Civic Action Network; Jewish Center for Justice; Jewish Community Federation and Endowment Fund; Jewish Community Relations Council of San Francisco, the Peninsula, Marin, Sonoma, Alameda and Contra Costa Counties; Jewish Family Services of Silicon Valley; Jewish Federation of Greater Los Angeles, the; Jewish Federation of Greater Santa Barbara; Jewish Public Affairs Committee; Mayor Eric Garcetti, City of Los Angeles; National Council of Jewish Women (NCJW) CA; Progressive Zionists of California; Rabbis and Cantor of Congregation Or Ami; San Jose/Silicon Valley NAACP; Simon Wiesenthal Center, INC.

**Opposition:** None known

**Assembly Floor Vote:** 79 - 0

### PURPOSE

*The purpose of this legislation is to: (1) require that basic courses in peace officer curriculum include instruction on the topic of hate crimes; (2) update some definitions in peace officer training coursework; and (3) require that officers complete refresher training in the area of hate crimes every six 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. (Pen. Code, § 13519.6, subd. (a).)

*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:

Indicators of hate crime;

The impact of these crimes on the victim, the victim's family and the community, and the assistance and compensation available to the victims;

Knowledge of laws dealing with hate crimes and the legal rights of, and the remedies available to, victims of hate crimes;

Law enforcement procedures, reporting, and documentation of hate crimes;

Techniques and methods to handle incidents of hate crimes in a non-combative manner;

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;

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,

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, subd, (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:

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;

The definition of "hate crime", as specified;

References to hate crime statutes as specified; and,

A title-by-title specific protocol that agency personnel are required to follow, including, but not limited to, the following:

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.

Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority.

Accessing assistance, by, among other things, activating the Department of Justice hate crime rapid response protocol when necessary.

Providing victim assistance and follow-up, including community follow-up.

Reporting. (Pen. Code § 13519.6, subd. (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, subd. (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, subd. (b).)

*This bill* specifies that the definition of “bias motivation” in the hate crimes policy requirements for local law enforcement agencies shall include the “discriminatory selection of victims.”

*This bill* additionally specifies that in local law enforcement agency hate crimes policies will make clear that in recognizing suspected religion-bias hate crimes, the policy shall instruct officers to consider whether there were targeted attacks on, or biased references to, symbols of importance to a particular religion or articles considered of spiritual significance to a particular religion.

*This bill* specifies that the Commission on Peace Officers Standards and Training (POST) shall consult with subject-matter experts, including law enforcement agencies, civil rights groups, academic experts, and the Department of Justice in developing hate crimes training for law enforcement officers.

*This bill* requires that POST shall incorporate the video course developed by the commission entitled “Hate Crimes: Identification and Investigation,” or any successor video into the basic course curriculum and make the video course available to stream via the learning portal.

*This bill* require that each peace officers shall be required to complete the “Hate Crimes: Identification and Investigation” course, or any other POST-certified hate crimes course via the learning portal or in-person instruction.

*This bill* specifies that POST shall develop and periodically update an interactive course of instruction and training for in-service peace officers on the topic of hate crimes and make the

course available via the learning portal. The course shall cover the fundamentals of hate crime law and preliminary investigation of hate crime incident, and shall include updates on recent changes in the law, hate crime trends, and the best enforcement practices.

*This bill* specifies that POST shall require the hate crimes course be taken by in-service peace officers every six years.

## COMMENTS

### 1. Need for This Bill

The recent violence against the Asian American and Jewish communities is unacceptable and demands a firm response from every level of government. At this moment, when so many in our state are feeling vulnerable, we must do more to protect those who are targeted by hate. Our legislation will significantly strengthen law enforcement training and coordination to ensure that California is better prepared to address hate crimes and protect vulnerable communities.

### 2. Hate Crimes in California

According to the DOJ's 2016 report, Hate Crimes in California, the total number of hate crime events (an occurrence when a hate crime is involved) decreased 34.7 percent from 2007 to 2016. Filed hate crime complaints decreased 30.5 percent from 2006 to 2015. That being said, hate crime events in California have been on the rise; there was a 10.4 percent rise from 2014 to 2015, and then another 11.2 percent rise from 2015 to 2016. The total number of hate crime events, offenses, victims, and suspects had all increased in 2016.

According to its 2015 report, "The DOJ requested that each law enforcement agency establish procedures incorporating a two-tier review (decision-making) process. The first level is done by the initial officer who responds to the suspected hate crime incident. At the second level, each report is reviewed by at least one other officer to confirm that the event was, in fact, a hate crime." Even with the two-tiered system in place, the DOJ still lists the policies of law enforcement agencies as one of four factors possibly influencing the volume of hate crimes reported.<sup>1</sup>

The Los Angeles Police Department (LAPD) website posted its manual (Volume 1, Section 522), which states its general policy, but does not discuss specific procedures. Among other things, it states, "When any act motivated by hatred or prejudice occurs, the Department will ensure that it is dealt with on a priority basis and use every necessary legal resource to rapidly and decisively identify the suspects and bring them to justice."<sup>2</sup>

According to data from the National Crime Victim Survey by the U.S. Justice Department, hate crimes are significantly underreported. This survey, in comparison to numbers reported to the FBI, suggests that hate crimes likely occur 24-28 times more than they are reported. This

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<sup>1</sup> <https://openjustice.doj.ca.gov/resources/publications>

<sup>2</sup> [http://www.lapdonline.org/lapd\\_manual/volume\\_1.htm#522](http://www.lapdonline.org/lapd_manual/volume_1.htm#522)

underreporting is due in part to a lack of formal training and reporting requirements for local police departments as well as the victim's fear of insensitive treatment by law enforcement.<sup>3</sup>

According to the author, AB 57 addresses the recent wave of hate-motivated violence in the U.S., which has prompted fear and concern in many vulnerable communities, including the Asian Pacific Islander (API) and Jewish communities. Notably, hate crimes targeting Asian Americans in America's largest cities have increased 164% in the past year according to a new study. The Anti-Defamation League has similarly reported a surge of anti-Jewish incidents in recent weeks, which has included violent attacks in Los Angeles and other major urban areas.

According to the Los Angeles Police Department, hate crimes in the City of Los Angeles increased 40% from 2016 to 2019. Even more concerning is that data collected by the U.S. Department of Justice suggests that hate crimes occur 24 to 28 times more frequently than they are reported.

In 2018, the State Auditor released a report on hate crimes in California. Notably, the report found that law enforcement agencies failed to identify and report a significant percentage of hate crimes to the DOJ, and recommended that the DOJ provide better guidance to assist local law enforcement agencies with the identification and investigation of hate crimes and outreach to vulnerable communities. Ultimately, the audit concluded that "law enforcement agencies' inadequate policies and the DOJ's lack of oversight have resulted in the underreporting of hate crimes in the DOJ's Hate Crime Database."

According to the State Auditor, these findings show a need for greater guidance and oversight by the DOJ, including with regards to hate crimes reporting and data collection, hate crime policies, outreach to historically vulnerable communities, coordination between law enforcement agencies, and education for the general public.<sup>4</sup>

The legislation builds on specific recommendations from the audit ensures law enforcement agencies adequately identify, report, or respond to hate crimes.

### 3. POST Training Requirements

POST was created by the legislature in 1959 to set minimum selection and training standards for California law enforcement. (Pen. Code, § 13500, subd. (a).) Their mandate includes establishing minimum standards for training of peace officers in California. (Pen. Code § 13510, subd. (a).) As of 1989, all peace officers in California are required to complete an introductory course of training prescribed by POST, and demonstrate completion of that course by passing an examination. (Pen. Code, § 832, subd. (a).)

According to the POST website, the Regular Basic Course Training includes 42 separate topics, ranging from juvenile law and procedure to search and seizure. [POST, *Regular Basic Course Training Specifications*.]<sup>5</sup> These topics are taught during a minimum of 664 hours of training. [POST, *Regular Basic Course, Course Formats*]<sup>6</sup> Over the course of the training, individuals are trained not only on policing skills such as crowd control, evidence collection and patrol

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<sup>3</sup> <http://www.lahumanrelations.org/hatecrime/reports/2013>

<sup>4</sup> <https://www.auditor.ca.gov/pdfs/reports/2017-131.pdf>

<sup>5</sup> <http://post.ca.gov/regular-basic-course-training-specifications.aspx>

<sup>6</sup> <http://post.ca.gov/regular-basic-course.aspx>

techniques, they are also required to recall the basic definition of a crime and know the elements of major crimes. This requires knowledge of the California Penal code specifically.

#### 4. Argument in Support

According to the Anti-Defamation League:

The Anti-Defamation League (ADL) writes in support of AB 57 (Gabriel), which implements recommendations for law enforcement from the State Auditor to improve law enforcement's ability to prevent, respond to, and document hate crimes. Most significantly, AB 57 would strengthen training requirements for peace officers and require improved guidance, outreach, data collection and reporting by the California Department of Justice (DOJ).

Founded in 1913 in response to an escalating climate of antisemitism and bigotry, ADL has now become a leading anti-hate organization. ADL drafted the nation's first model hate crime statute in the early 1980s. To date, 46 states plus Washington DC have adopted hate crime laws, mostly based on ADL's model, and we continue to advocate for effective legislation wherever needed. ADL is also the leading non-governmental organization training law enforcement in all aspects of hate crime, including investigations, reporting, and community engagement.

In 2019, law enforcement agencies (LEAs) reported 1,015 hate crimes to the California Department of Justice (DOJ), a 4.8 percent decrease from 2019, but far from 2014's historic low of 758.1 According to the FBI in 2019 California reported more hate crimes than any other state, and almost forty percent more than the second highest reporting state, New York.<sup>2</sup> Although 2020 statistics are not yet available, we anticipate seeing an increase in reported hate crimes targeting Asian-Americans due to scapegoating during the pandemic.<sup>3</sup>

In 2018 the State Auditor issued a report entitled *Hate Crimes in California: Law Enforcement Has Not Adequately Identified, Reported, or Responded to Hate Crimes*. The audit revealed that LEAs failed to identify and report a significant percentage of hate crimes to DOJ. The Auditor further found that several of the audited LEAs did not provide refresher hate crime trainings containing critical instructions for identifying hate crimes, along with information regarding any relevant updates in the law. Consequently, the Audit recommended that DOJ provide better oversight guidance to assist LEAs with the identification and investigation of hate crimes and outreach to vulnerable communities. In addition, it recommended that LEAs provide periodic hate crime trainings for their officers.

AB 57 strengthens LEAs' ability to effectively identify and investigate hate crimes by codifying these recommendations. It requires the Commission on Peace Officer Standards and Training to develop, periodically update, and make available on its learning portal an interactive refresher course on hate crimes which in-service peace officers would take every three years. In addition, the bill requires DOJ to implement the Audit's recommendations, including that DOJ review the accuracy of LEAs hate crime data and policies every three years.

Importantly, AB 57 also requires DOJ to create and distribute to LEAs outreach materials to better engage with their communities on this subject. 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 57 is therefore essential to strengthening law enforcement's ability to respond to hate crime in their communities.

**-- END --**