

Date of Hearing: March 23, 2021
Chief Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

AB 57 (Gabriel) – As Amended February 25, 2021

As Proposed to be Amended in Committee

SUMMARY: Requires the Department of Justice (DOJ) to carry out various duties related to documenting and responding to hate crimes, including conducting reviews of all law enforcement agencies every three years to evaluate the accuracy of hate crime data reported, and 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). Specifically, **this bill:**

- 1) Requires the DOJ, in consultation with subject matter experts, including civil rights organizations, law enforcement agencies, and academic experts to do the following:
 - a) Every three years, conduct reviews of all law enforcement agencies to evaluate the accuracy of hate crime data provided and agencies' hate crime policies. During this review, the department shall obtain all of the following:
 - i) Hate Crimes statistical data;
 - ii) Copies of law enforcement agencies' hate crimes policies; and,
 - iii) Information regarding the agencies community outreach activities on hate crimes, including mandated hate crimes brochures;
- 2) Distribute information to all agencies on hate crimes reporting procedures in cooperation with the Commission on Peace Officer Standards and Training (POST);
- 3) Periodically do outreach to all law enforcement agencies to increase awareness of the DOJ's Hate Crimes Rapid Response Team, as necessary;
- 4) Adds region-specific data fields to the DOJ hate crimes data base, as recommended by the State Auditor in their 2018 report on hate crimes;
- 5) Creates and provide law enforcement agencies with outreach materials to better engage their communities, to provide updates on local trends relating to and statistics regarding hate crimes committed in their communities, and to provide updates regarding threats in the form of hate crimes in their communities. In complying with this paragraph, the department shall do all of the following:
 - a) Provide all outreach materials in the Medi-Cal threshold languages;

- b) Provide guidance and best practices for law enforcement agencies to follow when conducting outreach to vulnerable communities about hate crimes within their jurisdictions. This should include collaboration within city and county human relations and human rights commission;
 - c) Include presentation materials specific to various types of communities historically vulnerable to hate crimes; and,
 - d) Provide required hate crimes materials to POST for inclusion in its model policy framework developed, as specified.
- 6) Implement a school based program in conjunction with school districts and local law enforcement agencies aimed at educating students on the negative consequences of, and how to recognize bias, prejudice, harassment, and violence and report all suspected hate crimes to prevent future hate crimes, as recommended by the State Auditor; and,
 - 7) Submit hate crimes reports provided by local law enforcement agencies to the Federal Bureau of Investigation (FBI) for inclusion in the national crime repository for crime data collected for purposes the Uniform Crime Reporting Program, as required by the national Hate Crimes Statistics Act.
 - 8) Requires POST to consult with subject matter experts including but not limited to law enforcement agencies, civil rights groups, academic experts and the DOJ in developing guidelines and a course of instruction on "Hate crimes" for peace officers, and for persons not yet employed as peace officers but are enrolled in a training academy for law enforcement officers.
 - 9) Requires POST, commencing on or after June 1, 2022 to incorporate the November 2017 video course entitled "Hate Crimes: Identification and Investigation" or any successor video thereto into the basic course curriculum.
 - 10) Provides that POST make the Hate Crimes: Identification and Investigation video available to stream via the learning portal.
 - 11) Requires each peace officer, on or before January 1, 2023, watch the above Hate Crimes video via the learning portal.
 - 12) 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.
 - 13) POST shall require that the above hate crimes refresher course to be taken by in-service peace officers every three years.
 - 14) Makes numerous legislative findings and declarations.

EXISTING LAW:

- 1) 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).)
- 2) 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:
 - a) Indicators of hate crime;
 - b) The impact of these crimes on the victim, the victim's family and the community, and the assistance and compensation available to the victims;
 - c) Knowledge of laws dealing with hate crimes and the legal rights of, and the remedies available to, victims of hate crimes;
 - d) Law enforcement procedures, reporting, and documentation of hate crimes;
 - e) Techniques and methods to handle incidents of hate crimes in a non-combative manner;
 - f) 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;
 - g) 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,
 - h) 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).)
- 3) 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) 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;
 - b) The definition of "hate crime", as specified;

- c) References to hate crime statutes as specified; and,
- d) A title-by-title specific protocol that agency personnel are required to follow, including, but not limited to, the following:
 - i) 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.
 - ii) Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority.
 - iii) Accessing assistance, by, among other things, activating the Department of Justice hate crime rapid response protocol when necessary.
 - iv) Providing victim assistance and follow-up, including community follow-up.
 - v) Reporting. (Pen. Code § 13519.6, subd. (c).)
- 4) 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).)
- 5) Requires all state and local agencies to use the above definition when using the term “hate crime.” (Pen. Code, § 422.9.)
- 6) 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).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "As hate crimes are on the rise, the Legislature must stand united against hate. Hate-motivated violence isn't theoretical—it deeply impacts our communities in California and it requires a forceful response. AB 57 would implement specific recommendations from the State Auditor to better prevent, respond to, and document hate crimes in California. 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."
- 2) **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*; <<http://post.ca.gov/regular-basic-course-training-specifications.aspx>>.] These topics are taught during a minimum of 664 hours of training. [POST, *Regular Basic Course, Course Formats*, available at: [<<http://post.ca.gov/regular-basic-course.aspx>>.] Over the course of the training, individuals are trained not only on policing skills such as crowd control, evidence collection and patrol 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.

- 3) **Need for Revision of Hate Crime Policy:** 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 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. <http://www.lahumanrelations.org/hatecrime/reports/2013_hateCrimeReport.pdf> (as of March 29, 2017)
- 4) **Hate Crime Reporting 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.

(<<https://openjustice.doj.ca.gov/resources/publications>> [Feb. 9, 2018].)

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."

(<http://www.lapdonline.org/lapd_manual/volume_1.htm#522> [Feb. 9, 2018].)

5) **Prior Legislation:**

- a) AB 301 (Chu) of the 2019 Legislative Session was similar to this bill in that it required DOJ to carry out various duties related to documenting and responding to hate crimes,

including conducting reviews of all law enforcement agencies every three years to evaluate the accuracy of hate crime data reported. AB 301 was held on the Assembly Appropriations Committee suspense file.

- b) AB 1052 (Chu) of the 2019 Legislative Session required the POST basic training course on hate crimes to include a specified video, and to make the course available on-line and would have required all peace officers to have viewed the course by 2021.
- c) AB 2235 (Gabriel) of the 2020 Legislative Session was similar to this bill in that it required DOJ to carry out various duties related to documenting and responding to hate crimes, including conducting reviews of all law enforcement agencies every three years to evaluate the accuracy of hate crime data reported. AB 2235 was not heard by the Committee due to Covid-19 restrictions
- d) AB 2236 (Gabriel) of the 2020 Legislative Session required the Commission on Peace Officer Standards and Training (POST) to develop a peace officer in-service hate crimes refresher course to be taken every five years. AB 2236 was held on the Assembly Appropriations suspense file.

6) Argument in Support: According to the *Simon Wiesenthal Center and Museum of Tolerance*, “AB 57 would implement specific recommendations from the State Auditor to better prevent, respond to and document hate crimes in California. Most importantly, AB 57 strengthens existing training requirements for peace officers and requires improved guidance, outreach, data collection and reporting by the DOJ.

In 2018, the California State Auditor released a report with the key finding that law enforcement agencies have not adequately identified hate crimes, responded to them or reported them to the DOJ. The State Auditor recommended that the DOJ provide better guidance to assist local law enforcement agencies with the identification and investigation of hate crimes and with outreach to vulnerable communities.

Since the beginning of the COVID-19 pandemic, hate incidents directed against both the Asian American and Jewish communities have been on rise. The increase in hate-motivated violence and the increase in the number of hate groups have made improving law enforcement’s ability to correctly identify and respond effectively to hate crimes a priority.”

REGISTERED SUPPORT / OPPOSITION:

Support

Anti-defamation League
Asian Law Alliance
Asian Pacific American Advocates
California League of United Latin American Citizens
California NAACP
Center for The Study of Hate & Extremism - California State University, San Bernardino
Hadassah, the Women's Zionist of America, INC.
Jewish Center for Justice

Jewish Community Federation and Endowment Fund
Jewish Federation of Greater Los Angeles, the
Jewish Federation of Greater Santa Barbara
Jewish Public Affairs Committee
Progressive Zionists of California
San Jose/silicon Valley NAACP
Simon Wiesenthal Center, INC.

Opposition

None

Analysis Prepared by: Gregory Pagan / PUB. S. / (916) 319-3744