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THIRD READING

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Bill No: AB 958  
Author: Gipson (D)  
Amended: 7/8/21 in Senate  
Vote: 21

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SENATE PUBLIC SAFETY COMMITTEE: 5-0, 7/6/21  
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/26/21  
AYES: Portantino, Bates, Bradford, Jones, Kamlager, Laird, McGuire

ASSEMBLY FLOOR: 73-1, 5/28/21 - See last page for vote

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**SUBJECT:** Peace officers: law enforcement gangs

**SOURCE:** Author

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**DIGEST:** This bill defines law enforcement gangs and sets a statewide minimum standards for law enforcement agencies to discipline officers who participate in the activities of law enforcement gangs.

**ANALYSIS:**

Existing law:

- 1) Requires each class of public officers or employees declared by law to be peace officers shall meet minimum standards, including that they be free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation that might adversely affect the exercise of the powers of a peace officer. (Gov. Code, § 1031, subd. (f).)
- 2) Establishes the Commission on Peace Officer Standards and Training (POST) to set minimum standards for the recruitment and training of peace officers, develop training courses and curriculum, and establish a professional certificate

program that awards different levels of certification based on training, education, experience, and other relevant prerequisites. (Pen. Code, §§ 830-832.10 and 13500 et seq.)

- 3) Establishes the Peace Officer Bill of Rights (POBOR). (Gov, Code, § 3300.)
- 4) States that no public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure. Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him or her with insubordination. (Gov, Code, § 3304 subd. (a).)
- 5) Provides no punitive action nor denial of promotion on grounds other than merit shall be undertaken by any public agency against any public safety officer who has successfully completed the probationary period that may be required by his or her employing agency without providing the public safety officer with an opportunity for administrative appeal. (Gov, Code, § 3304 subd. (b).)
- 6) States no chief of police may be removed by a public agency, or appointing authority, without providing the chief of police with written notice and the reason or reasons therefor and an opportunity for administrative appeal. For purposes of this subdivision, the removal of a chief of police by a public agency or appointing authority, for the purpose of implementing the goals or policies, or both, of the public agency or appointing authority, for reasons including, but not limited to, incompatibility of management styles or as a result of a change in administration, shall be sufficient to constitute "reason or reasons." Nothing in this subdivision shall be construed to create a property interest, where one does not exist by rule or law, in the job of Chief of Police. (Gov, Code, § 3304 subd. (c).)
- 7) Provides that, except as specified, no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998.

This bill:

- 1) Defines a “law enforcement gang” as a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, excluding, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other officers who threaten or interfere with the activities of the group.
- 2) Requires that law enforcement agencies maintain a policy that prohibit participation in a law enforcement gang and that makes violation of that policy grounds for termination. A law enforcement agency shall cooperate in any investigation into these gangs by an inspector general, the Attorney General, or any other authorized agency. Notwithstanding any other law, local agencies may impose greater restrictions on membership and participation in law enforcement gangs, including for discipline and termination purposes.
- 3) Provides that except as specifically prohibited by law, a law enforcement agency shall disclose the termination of a peace officer for participation in a law enforcement gang to another law enforcement agency conducting a pre-employment background investigation of that former peace officer.
- 4) Makes various findings and declarations related to law enforcement gangs.

## **Background**

Allegations of malicious behavior by gangs formed within law enforcement agencies has not been strictly limited to the Los Angeles County Sheriff. However, it does appear to be the agency with the most prolific problem.

Recently, the Center for Juvenile Law & Policy at Loyola Law School in Los Angeles released a detailed, comprehensive report about the “fifty year history”

how sheriff deputy gangs have negatively impacted policing in Los Angeles and infected the fairness of legal proceedings in Los Angeles Superior Court (Loyola Report). The report made a variety of policy recommendations for the Los Angeles Sheriff Department to deal with the problem of law enforcement gangs and their unlawful behavior, the first of which was to enforce a policy prohibiting deputies from participating in subgroups that violate the rights of others or have violated the rights of others in the past.

The Loyola Report originated from juveniles who were represented by the Center for Juvenile Law & Policy (Center). The minor clients of the Center were often detained and charged with gang crimes. However, the juveniles informed the Center that they were often arrested by officers of the Los Angeles County Sheriff's Department (LASD) who were themselves gang members. The Loyola Report found that the LASD has a long history of deputies forming secret subgroups at stations in minority communities. These subgroups often have tattoos, hand signals, and rituals that are similar to street gangs. These subgroups were found to foster a culture that resists police reforms, and encouraging and celebrating aggressive tactics such as use of excessive force against minority communities.

The Loyola Report made the following specific recommendations:

- The LASD should enforce its new policy (3-01/050.83) prohibiting deputies from participating in subgroups that violate the rights of others or have violated the rights of others in the past;
- The LASD should periodically require existing employees to fill out its "tattoo image form" that it currently requires all applicants to fill out;
- The LASD should acknowledge the existence of all known deputy gangs and cliques and disclose all internal documents about the gangs and cliques pursuant to the California Public Records Act;
- Los Angeles deputy district attorneys should affirmatively ask sheriff's deputies expected to testify as prosecution witnesses whether they belong to a deputy gang or clique and, if they do, disclose this affiliation to the defense prior to trial pursuant to *Brady v. Maryland*;
- Defense counsel should move, pursuant to *Pitchess v. Superior Court* and *Brady v. Maryland*, to discover if any sheriff's deputies involved in the investigation of the charged offenses is affiliated with a deputy gang or clique;
- Judges should allow defense counsel to cross-examine deputies regarding their tattoos and affiliations with deputy subgroups and require prosecutors to affirmatively disclose this information to defense counsel;
- The Los Angeles Sheriff Civilian Oversight Commission (COC) should host town halls in East Los Angeles, Lynwood, South Los Angeles, Compton, and

the Antelope Valley to solicit community input about deputy gangs or cliques operating in these areas;

- The COC should direct the Office of Inspector General to investigate all current deputy gangs and, if necessary, use its subpoena power to obtain testimony and documents regarding the deputy gangs;
- The Sheriff should regularly attend COC public hearings in order to engage with the commission and community members about how to address the longstanding problem of deputy gangs and cliques within the department;
- A non-profit organization, educational institution, or the Office of the Inspector General should create and maintain a database of all deputies known to be affiliated with a deputy gang or clique, catalogue specific acts of misconduct associated with the gang or clique, and make the information available to the public; and
- The Los Angeles County Board of Supervisors should direct its counsel to stop requesting protective orders and non-disclosure agreements as a condition of settlement in civil suits because such tactics facilitate hiding deputy gang misconduct from the public.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- *Department of Justice.* The department reports ongoing annual costs of \$986,000 for 2.0 Deputy Attorneys General, 1.0 Senior Analyst, and 2.0 Legal Secretaries for enforcement of AB 958. (General Fund)
- *Law enforcement agencies.* Unknown, potentially-significant one-time costs in the aggregate for law enforcement agencies across the state to adopt policies prohibiting law enforcement gangs. Actual costs to each agency would vary depending in large part on the extent that its current policies align with this measure. The California Highway Patrol, for example, indicate minor and absorbable costs to update its policies to comply with AB 958. Local costs to comply with this measure would be subject to reimbursement by the state to the extent that the Commission on State Mandates determines that this bill imposes a state-mandated local program. Considering that there are over 500 local law enforcement agencies across the state, costs to implement this measure could reach into the hundreds of thousands of dollars. (General Fund, special funds, local funds)

Additionally, to the extent that AB 958 leads to the commencement of additional termination or other disciplinary actions against peace officers, this

bill could result in cost pressures to the General Fund to provide additional funding to state and local law enforcement agencies for their compliance with procedures required by POBOR. The Commission on State Mandates has determined already that POBOR imposes a mandate on local jurisdictions that is reimbursable by the state. Currently, the state's backlog for POBOR mandate reimbursements (through FY 2019-2020) is about \$110.3 million.

**SUPPORT:** (Verified 8/26/21)

County of Los Angeles

**OPPOSITION:** (Verified 8/26/21)

None received

**ASSEMBLY FLOOR:** 73-1, 5/28/21

**AYES:** Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

**NOES:** Stone

**NO VOTE RECORDED:** Bryan, Gallagher, Cristina Garcia, Maienschein, Ting

Prepared by: Gabe Caswell / PUB. S. /  
8/28/21 11:19:16

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