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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair  
2021 - 2022 Regular

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**Bill No:** SB 764                      **Hearing Date:** April 27, 2021  
**Author:** Umberg  
**Version:** April 15, 2021  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** KW

**Subject:** *Domestic terrorism*

## HISTORY

**Source:** San Diego County District Attorney's Office

**Prior Legislation:** None known

**Support:** California Police Chiefs Association

**Opposition:** ACLU California Action; Asian Americans Advancing Justice – Asian Law Caucus (AAAJ-ALC); Borderlands for Equity; Change Begins with ME Indivisible Group; Council on American Islamic Relations – California; Defending Rights & Dissent; HEART; Islamophobia Studies Center; Jewish Voice for Peace – Los Angeles; Justice for Muslims Collective; MAS PACE; Majdal: Arab Community Center of San Diego; MPower Change; Oakland Privacy; Palestinian Youth Movement – Bay Area; Palestinian Youth Movement – LA-OC-IE Chapter; Palestinian Youth Movement – San Diego; Partnership for the Advancement of New Americas; Pillars of the Community; SURJ – San Diego; South Bay People Power; Tech Workers Coalition; VietRISE; Vigilant Love; We the People – San Diego; Yemeni Alliance Committee

## PURPOSE

*The purpose of this bill is to require the Attorney General to review and assess any hate crime or domestic terrorism training course to ensure they are adequate and relevant. This bill would also require the Attorney General to review and analyze antiterrorism funding to determine if California has funded terrorism resources sufficiently.*

*Existing law* establishes the Department, where department means Department of Justice (DOJ). (Pen. Code § Art. 3, Ch. 1385, Stats. 1953)

*Existing law* states the department is responsible for reviewing state criminal history and overseeing statewide criminal justice programs, like California Criminalistics Institute (CCI). (Pen. Code § Art. 3, Ch. 1385, Stats. 1953)

*This bill* requires the Attorney General to review hate crime and domestic terrorism training programs provided to law enforcement at the state, local and tribal level.

*This bill* requires all individuals administering hate crime and domestic terrorism training programs to have relevant knowledge and experience in these respective areas, academically and professionally.

*This bill* requires the Attorney General shall review funding for antiterrorism from the 10 years prior to 2021, and shall report to the Legislature on or before January 1, 2023, with an analysis of whether California has an appropriately funded approach that focuses resources on the most pressing sources of terrorism.

## COMMENTS

### 1. Need for This Bill

According to the author:

California's marginalized communities have been increasingly subjected to incidents of domestic terrorism and hate crimes. In order to protect these groups, California must ensure that its state and local law enforcement agencies are properly trained and funded.

Recent trends in domestic terrorism reveal a disturbing pattern: these incidents are happening more frequently and are becoming more difficult for law enforcement to track. In March 2021, the Federal Bureau of Investigation's (FBI) Director Christopher Wray testified before congress, noting that the bureau's "domestic terrorism caseload roughly doubled over the past year." Concurrently, the Southern Poverty Law Center (SPLC) noted that domestic terror groups are becoming "more diffuse and difficult to track as they proliferate online and communicate on encrypted platforms." The Center for the Study of Hate & Extremism at Cal State University San Bernardino released a report that showed a 145% surge in Anti-Asian hate crimes in 2020.

Trainings provided to state and local law enforcement must reflect the fact that these issues have proliferated and become more complex. Unfortunately, The Commission on Peace Officer Standards and Trainings, the state agency responsible for developing training programs on both domestic terrorism and hate crimes, had its Quality Assurance Program eliminated in the fiscal year 2017-18. The elimination of this program, which was charged with ensuring that training courses were "contemporary and of "quality nature", left the commission observing in a 2018 letter to the State Auditor that, "[there] is no mechanism to ensure that the curriculum most effectively communicates important issues..."

Additionally, recent changes in federal enforcement and funding for domestic terrorism has left California in a precarious place. In 2019, the Trump Administration slashed valuable staffing and resources from the Office of Targeted Violence and Terrorism Prevention, the federal enforcement agency responsible for racially motivated domestic terrorist incidents. The budget of this office was cut to just 12% of its previous funding under the Obama Administration, and also lost ¾'s of its full time staff. This change occurred after the FBI had already noted a "significant rise" in white supremacist domestic terrorism incidents that year.

SB 764 will help ensure that law enforcement is adequately prepared to address the issues of domestic terrorism and hate crimes. This bill will require the Attorney General's Office to review and ensure the adequacy of existing law enforcement trainings, and also require the Attorney General's Office to review and report on the previous 10 years of antiterrorism funding in the state.

## 2. Domestic Terrorism in the United States

White supremacists and other like-minded extremists conducted 67 percent of terrorist plots and attacks in the United States in 2020. They used vehicles, explosives, and firearms as their predominant weapons and targeted demonstrators and other individuals because of their racial, ethnic, religious, or political makeup—such as African Americans, immigrants, Muslims, and Jews.

There was a rise in the number of anarchist, anti-fascist, and other like-minded attacks and plots in 2020 compared to previous years, which comprised 20 percent of terrorist incidents (an increase from 8 percent in 2019). These types of extremists used explosives and incendiaries in the majority of attacks, followed by firearms. They also targeted police, military, and government personnel and facilities.

Far-left and far-right violence was deeply intertwined—creating a classic “security dilemma.” Since it is difficult to distinguish between offensive and defensive weapons, armed individuals from various sides reacted to each other during protests and riots, and each side's efforts to protect itself and acquire weapons generally threatened others.

To evaluate the terrorism threat in the United States, CSIS compiled a data set of 61 incidents that occurred in the country between January 1 and August 31, 2020.<sup>1</sup> These incidents included both attacks and plots. The authors coded the ideology of the perpetrators into one of four categories: religious, violent far-right, violent far-left, and other (there were no ethno-nationalist attacks or plots during this period). All religious attacks and plots in the CSIS data set were committed by terrorists motivated by a Salafi-jihadist ideology. Of the four attacks coded as “other,” all were committed by adherents of the Boogaloo movement. This section analyzes the data in three parts: number of attacks and plots, targets and tactics, and fatalities.

Most domestic terrorist attacks and plots between January 1 and August 31, 2020 were committed by white supremacists, anti-government extremists from the violent far-right, and involuntary celibates (incels). Far-right terrorists committed 67 percent of attacks and plots, far-left terrorists committed 20 percent, and extremists with other motivations (such as supporters of the Boogaloo movement) and Salafi-jihadists each committed 7 percent.

The intent of this bill is to allow the Attorney General's Office to review and assess any hate crime or domestic terrorism training course to ensure they are adequate and relevant and also require the Attorney General to review and analyze antiterrorism funding to determine if California has funded terrorism resources sufficiently. The purpose of which would be to determine the scope of the issue in California and begin to address the best ways for our state to deal with the issue of domestic terrorism.

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<sup>1</sup> <https://www.csis.org/analysis/war-comes-home-evolution-domestic-terrorism-united-states>

### 3. Argument in Support

According to the California Police Chief's Association:

Domestic terrorism is unique in that its origins and organizers are often difficult to identify. Ideologies can become so entrenched in a marginalized base that efforts to influence public policy and intimidate a general populace are veiled in political rhetoric or protected by doctrine meant to liberate, not threaten civilian populations.

The threat of domestic terrorism has only grown in recent years, and law enforcement agencies need additional resources to combat this critical threat. California alone has over 70 active hate groups expressing violent ideologies, yet forces dedicated to minimizing their impact remain inadequate.

SB 764 will ensure that California no longer relies solely on the federal government for counter-terrorism resources. Instead, state and local agencies will work in conjunction with the Attorney General's office to secure the adequacy of California's materials and trainings on hate crimes and violence.

### 4. Argument in Opposition

According to Asian Americans Advancing Justice – Asian Law Caucus:

We, the undersigned community and civil rights organizations, write to express our opposition to Senate Bill 764 (Umberg). Our organizations are appreciative of the recent steps taken by Senator Umberg's office to address some of the concerns we have previously raised regarding the bill. Specifically, in its original form, SB 764 would have created yet another law enforcement task force, unnecessarily expanded police powers, added more money to already bloated police department budgets, and could have potentially given California law enforcement agencies additional tools to surveil and criminalize Arab, Middle Eastern, Muslim, South Asian (AMEMSA), Black, immigrant, and other marginalized communities. We are thankful to Senator Umberg for listening to our concerns and removing several of SB 764's problematic provisions.

Despite the amendments made, however, we continue to have concerns. If enacted, SB 764 could leave communities traditionally targeted by counterterrorism policies further subject to policing and surveillance...

...The term "domestic terrorism," for instance, is wholly undefined as it occurs in the current language of the bill, risking that training materials and future reports will continue to center purported and perceived threats posed by Black, AMEMSA, immigrant, and other marginalized communities, leading to increased enforcement and scrutiny of those communities.

Additionally, SB 764's current language leaves unclear what "the most significant domestic terrorism threats" are, or how they will be determined, with respect to the training provisions of the bill. Such a vague definition leaves open the probability that, given the history of the disproportionate focus on Black,

AMEMSA, and other marginalized communities in relation to counterterrorism laws, policies, and programs (including trainings), these communities will continue to be the center of attention for future trainings, leading to further bias and potential criminalization. The same stands for SB 764's use of the term "most pressing sources of terrorism" in relation to its mandated report to be submitted by the Attorney General's office by January 1, 2023.

The purpose of any report mandated by the bill is unclear and without parameters, leaving open the possibility that any such report will lead to the expansion of law enforcement authority and increased funding and resources for counterterrorism enforcement in this state. The mandated report would also seemingly only paint a partial picture, without taking into consideration the discriminatory nature of federal, state, and local counterterrorism laws and policies and their disproportionate impact on Black, AMEMSA, immigrant and other marginalized communities. SB 764, in fact, makes no mention of any analysis of the civil rights abuses and implications that have resulted from counterterrorism enforcement and policy over the last two decades and beyond. The fact that it does not do so reflects another gap in the current bill, and one that further risks entrenching the existing distrust that communities which have been traditionally targeted by such policies have towards government actors and institutions implementing them.

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