

**State of California  
Office of Administrative Law**

**In re:**  
**Department of Justice**

**Regulatory Action:**

**Title 11, California Code of Regulations**

**Amend sections: 755.8, 756.1, 756.6**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2022-0712-01**

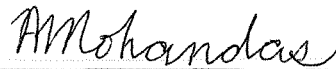
**OAL Matter Type: Regular (S)**

---

This rulemaking action amends the Department of Justice Audit Form CJIS 9005 to better cover gangs that are active in multiple Nodes, and it changes the deadline for the annual written attestation from Node and User Agencies from October 15th to January 1st of the next year.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 8/18/2022.

Date: August 18, 2022



---

Ashita Mohandas  
Attorney

For: Kenneth J. Pogue  
Director

Original: Rob Bonta, Attorney General

Copy: Marlon Martinez

# REGULAR

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2022-0228-03</b>	REGULATORY ACTION NUMBER <b>2022-0712-015</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Justice			AGENCY FILE NUMBER (If any)

**ENDORSED - FILED**  
In the office of the Secretary of State  
of the State of California

**AUG 18 2022**

*1:58 pm*

OFFICE OF ADMIN. LAW  
2022 JUL 12 AM 9:57

### A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b>	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

### B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Fair and Accurate Governance of the CalGang Database		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S)		AMEND	
11		755.8, 756.1, 756.6	
		REPEAL	
3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify)		
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify)			
7. CONTACT PERSON Marlon Martinez		TELEPHONE NUMBER (213) 269-6437	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) marlon.martinez@doj.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Venus D. Johnson <small>Digitally signed by Venus D. Johnson Date: 2022.07.11 16:38:44 -0700</small>	DATE 07/11/22
TYPED NAME AND TITLE OF SIGNATORY Venus D. Johnson, CDAG	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

**AUG 18 2022**

Office of Administrative Law

AM 8/15/22 Per Agency

**CALIFORNIA DEPARTMENT OF JUSTICE**

**TITLE 11. LAW**

**DIVISION 1. ATTORNEY GENERAL**

**CHAPTER 7.5. DEPARTMENT OF JUSTICE REGULATIONS FOR THE  
FAIR AND ACCURATE GOVERNANCE OF THE CALGANG DATABASE**

**TEXT OF PROPOSED REGULATIONS**

**Article 10. Audits**

**§ 755.8. Audits of Designated Criminal Street Gangs.**

(a) At least once every three years from the date a criminal street gang was designated in the CalGang database or from the last time an audit was conducted by the Department, a Node Agency, or a User Agency, a supervisor at each Node Agency and User Agency shall complete an audit of that criminal street gang designated in the CalGang database. Within 30 calendar days of completion of the audit, the Node Agency or User Agency shall complete, sign, and submit a CalGang Gang Audit form CJIS 9005 (rev. January 2022~~orig. November 2019~~), incorporated by reference herein, to the Department documenting the results of each audit and the date each designated criminal street gang was audited.

... (Omitting subdivisions (b)-(g))

Note: Authority Cited: Section 186.36, Penal Code. Reference: Sections 186.34 and 186.36, Penal Code.

**§ 756.1. Written Attestation by a Node Agency or User Agency.**

(a) Attestation Required by the Department. In connection with, or in lieu of, auditing the records or criminal street gang designations of a particular Node Agency or User Agency, the Department may require the Node Agency or User Agency to review any or all of its entries in the CalGang database and provide a written attestation by the head of the Node Agency or User Agency. For entries made prior to the effective date of these regulations, the written attestation shall state that the entries are supported by reasonable suspicion as required by Part 23 of Title 28 of the Code of Federal Regulations. For entries made after the effective date of these regulations, the written attestation shall state that the entries comply with these regulations. The

Node Agency or User Agency shall provide to the Department the written attestation required by this section upon request of the Department and within the time period set by the Department.

(b) Annual Attestation. ~~In addition to the information provided in section 756.6, p~~Prior to ~~January 1~~~~October 15~~ of each calendar year, Node Agencies and User Agencies shall provide to the Department a written attestation from the head of the Node Agency or User Agency that its entries in the CalGang database made during the immediately preceding reporting period, October 1<sup>st</sup> – September 30<sup>th</sup>, ~~prior 12-month period~~ comply with these regulations.

Note: Authority cited: Section 186.36, Penal Code. Reference: Section 186.36, Penal Code.

## **Article 11. Information Sharing and Reporting Data to the Department**

### **§ 756.6. Annual Reporting of Data to the Department.**

(c) Node Agencies and User Agencies shall include with the report described in subdivision (a), a completed copy of a CalGang Misuse Investigation Reporting form CJIS 9008 (rev. January 2022~~orig. November 2019~~), incorporated by reference herein, detailing the number of misuse investigations performed, the type(s) of misuse, and the outcome(s).

Note: Authority cited: Section 186.36, Penal Code. Reference: Sections 186.34, 186.35 and 186.36, Penal Code.



## CALGANG<sup>®</sup> GANG AUDIT FORM

At least once every three years from the date a criminal street gang was designated in the CalGang database, or from the last time an audit was conducted by the Department, a Node Agency, or a User Agency, a supervisor shall complete an audit of that criminal street gang.

Legally obtained criminal intelligence and other information must be thoroughly evaluated to determine that all of the required elements of the gang's documentation are current. To pass the audit, a gang must satisfy the elements in boxes 1-56\* of the Gang Information table.

Within 30 days of completion of the audit, please forward a signed copy of this form to the Department at [CalGang@doj.ca.gov](mailto:CalGang@doj.ca.gov). For questions please contact your Node Administrator.

### AGENCY INFORMATION:

Agency Name:

City or County:

Supervisor's Name & Rank:

Supervisor's Identification Number:

Supervisor's E-mail Address:

Supervisor's Phone Number:

### GANG INFORMATION:

Gang Name:

Clique or Sub-gang:

1. Is the Gang a Local\* Gang?  YES  NO

*Local = active in your node*

2. The criminal street gang has 3 or more persons who meet the requirements to be designated as a Gang Member or Associate pursuant to subdivision (c) of section 752.2 of the California Code of Regulations, Title 11.

YES  NO

If no, please indicate the node (to which the gang belongs) and the name of the gang, if different:

23. One of the primary activities of the criminal street gang is the commission of crimes enumerated in paragraphs 1-25 and 31-33 of subdivision (e) of Penal Code section 186.22. Please provide the enumerated crime(s) and the date of the most recent crime:



# CALGANG<sup>®</sup> GANG AUDIT FORM

34. Reasonable suspicion exists that the criminal street gang collectively or individually engages in or has engaged in a pattern of definable criminal activity:  
 YES       NO

45. Please list the common signs, symbols, slogans, and name(s) that the criminal street gang uses:

56. \*Reasonable suspicion was present at the time of the criminal street gang's initial designation (\*Only required if the criminal street gang was entered into the CalGang database on or after the effective date of Chapter 7.5 of the California Code of Regulations, Title 11.)  
 YES       NO

(Pass) My signature below certifies that I have conducted a thorough audit of the gang listed on this form, on behalf of my agency. I have evaluated that all requirements to be designated in the CalGang database as criminal street gang have been met.

-(Fail) My signature below certifies that I have conducted a thorough audit of the gang listed on this form, on behalf of my agency. During the audit, I found that one or more of the requirements to be designated as a criminal street gang were missing. Subsequently, my agency deleted the gang and any associated persons designated as a Gang Member or Associate from the CalGang database.

**Supervisor's Signature:** \_\_\_\_\_

### DOJ USE ONLY

Audit Passed:

YES

NO

Reviewer Name: \_\_\_\_\_

If no selected, please list reason(s) for failure:

Your signature below indicates that you have confirmed the failed criminal street gang was deleted:

Date of Confirmation: \_\_\_\_\_



# CALGANG<sup>®</sup>

## MISUSE INVESTIGATION REPORTING

<input type="text"/>	<input type="text"/>
Reporting Year	Agency Name
<input type="text"/>	<input type="text"/>
Date	Originating Agency Identifier (ORI)

<input type="text"/>	<input type="text"/>
Name of Person Completing Form	Name of Agency Point of Contact
<input type="text"/>	<input type="text"/>
E-mail Address of Person Completing Form	E-mail Address of Agency Point of Contact
<input type="text"/>	<input type="text"/>
Phone Number	Phone Number

1. Total number of investigations performed related to CalGang misuse:

2. Total number of misuse investigations with NO misuse found:

3. Total number of misuse investigations still pending:

4. Total number of **founded** misuse violations from investigations:\*

A. Total numbers of administrative actions taken on founded misuse violations:

Counsel	<input type="text"/>	Reprimand	<input type="text"/>	Training	<input type="text"/>	Suspension	<input type="text"/>
Resignation	<input type="text"/>	Termination	<input type="text"/>	Other	<input type="text"/>	No action**	<input type="text"/>

5. How many misuse investigations originated from the following:

A. Private Citizen Complaints	<input type="text"/>	B. Internal Within Agency	<input type="text"/>
C. From Another Agency	<input type="text"/>	D. Department of Justice	<input type="text"/>

**Regardless of whether your agency had any reported misuse, submit this form by October 15 of each year for the previous reporting year, October 1st–September 30th. Include the number of investigations performed related to misuse and include any disciplinary action taken, if applicable. The agency may need to contact their internal investigations department. Failure to submit this form will result in your agency's name being posted in the Attorney General's Annual Report on CalGang and action may be taken pursuant to Chapter 7.5 of the California Code of Regulations, Title 11, §751.6.**

**\*Total number of actions taken may exceed total number of founded misuse violations.**

**\*\*If any number other than 0 is entered in "Other" or "No Action," it is required that the agency attach documentation that supports the decision. Personal information within the documentation should be redacted or omitted.**