

California Department of Justice
CALIFORNIA JUSTICE
INFORMATION SERVICES DIVISION
Veronica Gilliard, Chief/CIO



INFORMATION BULLETIN

Subject:

Attorney General Review of Law Enforcement Agencies' Hate Crime Materials under AB 449 (2023)

No.

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Date:

12-18-2024

Contact for information:

HateCrimePolicyReview@doj.ca.gov

TO: ALL CALIFORNIA LAW ENFORCEMENT AGENCIES

Penal Code section 13023, subdivision (b)(2) requires the Attorney General to collect and review state and local law enforcement agencies' formal hate crimes policies and brochures that such agencies are required to develop pursuant to Penal Code sections 422.87 and 422.92 respectively. The Attorney General's Office will be reviewing such policies and brochures for compliance with the requirements set forth in Penal Code sections 422.87 and 422.92. These requirements can be found below in the "Relevant Statutes" section of this bulletin.

Penal Code section 13023, subdivision (c)(1) requires law enforcement agencies to submit their hate crime policies and brochure to the Attorney General under the following schedule:

- (A) **On or before January 1, 2025**, each law enforcement agency in the Counties of Los Angeles, Orange, San Luis Obispo, Santa Barbara, and Ventura shall produce their hate crime materials to the Department of Justice.
- (B) **On or before January 1, 2026**, each law enforcement agency in the Counties of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma shall produce their hate crime materials to the Department of Justice.
- (C) **On or before January 1, 2027**, each law enforcement agency in the Counties of Colusa, Glenn, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yuba, Alpine, Amador, Calaveras, El Dorado, Placer, Sacramento, San Joaquin, Stanislaus, Tuolumne, and Yolo and the special districts of the San Francisco Bay Area Rapid Transit District, the Department of the California Highway Patrol, the Department of State Hospitals, and the state park system shall produce their hate crime materials to the Department of Justice.
- (D) **On or before January 1, 2028**, each law enforcement agency in the Counties of Fresno, Kern, Kings, Madera, Mariposa, Merced, Tulare, Imperial, Inyo, Mono, Riverside, San Bernardino, and San Diego shall produce their hate crime materials to the Department of Justice.

All law enforcement agencies, including the special districts identified above in paragraph (C), shall produce to the Attorney General's office their hate crime materials on the specified date listed above and every four years thereafter in perpetuity.

CA DOJ Submission Procedures:

1. Each agency is required by law to submit the policy and the brochure to the California Department of Justice (CA DOJ) pursuant to the above referenced schedule. To assist law enforcement in its submissions, CA DOJ will send out a letter and checklist identifying the items you need to submit along with the policy and brochure. Gather your required hate crime policy and brochure documents, complete your checklist items, and email them to HateCrimePolicyReview@doj.ca.gov.
2. You will receive a confirmation email that CA DOJ has received your submission; however, this does not mean that your submission is legally compliant with the requirements set forth in Penal Code sections 422.87 and 422.92.
3. If the submission is incomplete, or should CA DOJ have any questions or require further information or documentation, an analyst will reach out to your agency.
4. In response to a follow-up inquiry, your agency should submit requested information to HateCrimePolicyReview@doj.ca.gov.

CA DOJ Review Process:

1. Once the submission is deemed to contain the required hate crimes policy and brochure, the CA DOJ Division of Public Rights will review the documentation to determine whether it complies with the legal requirements provided in Penal Code sections 422.87 and 422.92.
2. If your agency's policy and/or brochure does not comply with the legal requirements set forth in Penal Code sections 422.87 and 422.92, you will be notified that you shall revise and re-submit a legally compliant policy and/or brochure using the process outlined above in *Submission Procedures*.
3. Your agency will receive a final determination letter regarding your compliance.

Website Posting Process:

1. On or before July 1 of each year, beginning in 2026, the CA DOJ will post on its OpenJustice Website the following information for each agency: (1) the agency's name, (2) if they were required to substantively revise and resubmit any documents, and (3) whether their hate crime policies and brochures are in compliance with state law.

Relevant Statutes

Penal Code section 13023. (a) This section shall be subject to the availability of adequate funding.

(b) (1) The Attorney General shall direct state and local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to hate crimes.

(2) The Attorney General shall review state and local agencies' formal policies on hate crimes required by Section 422.87 and the hate crime brochure required pursuant to Section 422.92. The department shall review the policies and brochures for compliance with law. The department shall instruct any agency that did not submit a policy or brochure, or that submitted a legally noncompliant policy or brochure, to submit compliant documents.

(c) (1) Law enforcement agencies are required to submit the hate crime documents required by the Attorney General as follows:

(A) On or before January 1, 2025, each law enforcement agency in the Counties of Los Angeles, Orange, San Luis Obispo, Santa Barbara, and Ventura shall produce their hate crime materials to the Department of Justice.

(B) On or before January 1, 2026, each law enforcement agency in the Counties of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, and Sonoma shall produce their hate crime materials to the Department of Justice.

(C) On or before January 1, 2027, each law enforcement agency in the Counties of Colusa, Glenn, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, Yuba, Alpine, Amador, Calaveras, El Dorado, Placer, Sacramento, San Joaquin, Stanislaus, Tuolumne, and Yolo and the special districts of the San Francisco Bay Area Rapid Transit District, the Department of the California Highway Patrol, the Department of State Hospitals, and the state park system shall produce their hate crime materials to the Department of Justice.

(D) On or before January 1, 2028, each law enforcement agency in the Counties of Fresno, Kern, Kings, Madera, Mariposa, Merced, Tulare, Imperial, Inyo, Mono, Riverside, San Bernardino, and San Diego shall produce their hate crime materials to the Department of Justice.

(2) The production of hate crime materials pursuant to paragraph (1) shall proceed on a four-year schedule and shall be ongoing. All law enforcement agencies, including special districts, shall produce to the Attorney General's office their hate crime materials on the specified date listed above, and then every four years thereafter in perpetuity.

(d) On or before July 1 of each year, the Department of Justice shall update the OpenJustice Web portal with the information obtained from law enforcement agencies pursuant to this section. The information shall include the names of agencies that submitted compliant policies and brochures, including any agency that submitted revised compliant documents. The department shall submit its analysis of this information to the Legislature in the manner described in subdivision (g) of Section

13010.

(e) Law enforcement agencies shall additionally post the information required in paragraph (1) of subdivision (b) to their internet websites on a monthly basis.

(f) For purposes of this section, "hate crime" has the same meaning as in Section 422.55.

Penal Code section 422.55. For purposes of this title, and for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

(a) "Hate crime" means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

(1) Disability.

(2) Gender.

(3) Nationality.

(4) Race or ethnicity.

(5) Religion.

(6) Sexual orientation.

(7) Association with a person or group with one or more of these actual or perceived characteristics.

(b) "Hate crime" includes, but is not limited to, a violation of Section 422.6.

(Added by Stats. 2004, Ch. 700, Sec. 6. Effective January 1, 2005.)

Penal Code section 422.56. For purposes of this title, the following definitions shall apply:

(a) "Association with a person or group with one or more of these actual or perceived characteristics" includes advocacy for, identification with, or being on the premises owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of the characteristics listed in the definition of "hate crime" under paragraphs (1) to (6), inclusive, of subdivision (a) of Section 422.55.

(b) "Disability" includes mental disability and physical disability, as defined in Section 12926 of the Government Code, regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness. This definition is declaratory of existing law.

(c) "Gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior regardless of whether it is stereotypically associated with the person's assigned sex at birth.

(d) "In whole or in part because of" means that the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the

prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that the crime would not have been committed but for the actual or perceived characteristic. This subdivision does not constitute a change in, but is declaratory of, existing law under *In re M.S.* (1995) 10 Cal.4th 698 and *People v. Superior Court (Aishman)* (1995) 10 Cal.4th 735.

(e) "Nationality" means country of origin, immigration status, including citizenship, and national origin. This definition is declaratory of existing law.

(f) "Race or ethnicity" includes ancestry, color, and ethnic background.

(g) "Religion" includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

(h) "Sexual orientation" means heterosexuality, homosexuality, or bisexuality.

(i) "Victim" includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public agency, library, or other victim or intended victim of the offense.

(Amended by Stats. 2021, Ch. 295, Sec. 1. (AB 600) Effective January 1, 2022.)

Penal Code section 422.87. (a) Each state and local law enforcement agency shall, by July 1, 2024, adopt a hate crimes policy that shall include, but not be limited to, all of the following:

(1) The definitions in Sections 422.55 and 422.56.

(2) The content of the model policy framework that the Commission on Peace Officer Standards and Training developed pursuant to Section 13519.6, and any content that the commission may revise or add in the future, including any policy, definitions, response and reporting responsibilities, training resources, the supplemental hate crime report, and planning and prevention methods.

(3) (A) Information regarding bias motivation.

(B) For the purposes of this paragraph, "bias motivation" is a preexisting negative attitude toward actual or perceived characteristics referenced in Section 422.55. Depending on the circumstances of each case, bias motivation may include, but is not limited to, hatred, animosity, discriminatory selection of victims, resentment, revulsion, contempt, unreasonable fear, paranoia, callousness, thrill-seeking, desire for social dominance, desire for social bonding with those of one's "own kind," or a perception of the vulnerability of the victim due to the victim being perceived as being weak, worthless, or fair game because of a protected characteristic, including, but not limited to, disability or gender.

(C) (i) In recognizing suspected disability-bias hate crimes, the policy shall instruct officers to consider whether there is any indication that the perpetrator was motivated by hostility or other bias, occasioned by factors such as, but not limited to, dislike of persons who arouse fear or guilt, a perception that persons with disabilities are inferior and therefore "deserving victims," a fear of persons whose visible traits are perceived as being disturbing to others, or resentment of those who need, demand, or receive alternative educational, physical, or social accommodations.

(ii) In recognizing suspected disability-bias hate crimes, the policy also shall instruct officers to consider whether there is any indication that the perpetrator perceived the victim to be vulnerable and, if so, if this perception is grounded, in whole or in part, in anti-disability bias. This includes, but is not limited to, if a perpetrator targets a person with a particular perceived disability while avoiding other vulnerable-appearing persons such as inebriated persons or persons with perceived disabilities different than those of the victim, those circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

(D) 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 in a particular religion. Examples of religions and such symbols and articles include, but are not limited to:

(i) In Buddhism, statues of the Buddha.

(ii) In Christianity, crosses.

(iii) In Hinduism, forehead markings, known as bindis and tilaks, Aum/Om symbols, and images of deities known as murtis.

(iv) In Islam, hijabs.

(v) In Judaism, Stars of David, menorahs, and yarmulke.

(vi) In Sikhism, turbans, head coverings, and unshorn hair, including beards.

(4) Information regarding the general underreporting of hate crimes and the more extreme underreporting of anti-disability and anti-gender hate crimes and a plan for the agency to remedy this underreporting.

(5) A protocol for reporting suspected hate crimes to the Department of Justice pursuant to Section 13023.

(6) A checklist of first responder responsibilities, including, but not limited to, being sensitive to effects of the crime on the victim, determining whether any additional resources are needed on the scene to assist the victim or whether to refer the victim to appropriate community and legal services, and giving the victims and any interested persons the agency's hate crimes brochure, as required by Section 422.92.

(7) A specific procedure for transmitting and periodically retransmitting the policy and any related orders to all officers, including a simple and immediate way for officers to access the policy in the field when needed.

(8) The title or titles of the officer or officers responsible for ensuring that the department has a hate crime brochure as required by Section 422.92 and ensuring that all officers are trained to distribute the brochure to all suspected hate crime victims and all other interested persons.

(9) A requirement that all officers be familiar with the policy and carry out the policy at all times unless

directed by the chief, sheriff, director, or other chief executive of the law enforcement agency or other command-level officer to whom the chief executive officer formally delegates this responsibility.

(10) A schedule of the hate crime training required by Section 13519.6 and any other hate crime or related training the agency may conduct.

(b) A law enforcement agency that updates an existing hate crimes policy or adopts a new hate crimes policy may include any of the provisions of a model hate crime policy and other relevant documents developed by the International Association of Chiefs of Police that are relevant to California and consistent with this chapter.

Penal Code section 422.92. (a) Every state and local law enforcement agency in this state shall make available a brochure on hate crimes to victims of these crimes and the public.

(b) The Civil Rights Department shall provide existing brochures, making revisions as needed, to local law enforcement agencies upon request for reproduction and distribution to victims of hate crimes and other interested parties. In carrying out these responsibilities, the department shall consult the Civil Rights Council, the Department of Justice, and the California Victim Compensation Board.

(Amended by Stats. 2022, Ch. 48, Sec. 71. (SB 189) Effective June 30, 2022.)

For questions about this Information Bulletin, please contact Hate Crime Policy Review via email at HateCrimePolicyReview@doj.ca.gov.

Sincerely,

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For ROB BONTA
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