

# Assembly Bill 655

## California Law Enforcement Accountability Reform Act (CLEAR Act)

Assembly Member Ash Kalra

### SUMMARY

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AB 655, also known as the California Law Enforcement Accountability Reform Act (CLEAR Act), combats the infiltration of extremists in our law enforcement agencies.

The bill would require screening for official membership in a hate group, participation in hate group activities, or other public expressions of hate be included in a background check upon hiring and would trigger an investigation that if sustained, could result in disqualification from being a peace officer. Additionally, if a complaint alleging such conduct is filed against a peace officer, this would also create grounds for an investigation, and if sustained, could lead to termination.

### BACKGROUND

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Over the past fifteen years, the FBI has identified organizations committed to “domestic terrorism” that include militia extremists and white supremacist extremists with active links to law enforcement.<sup>1</sup> Without any coordinated federal response to this prevalent issue, state action is long overdue.

The infiltration of law enforcement agencies by extremist organizations threatens the integrity of criminal investigations; jeopardizes the safety of elected officials, peace officers, and the public; and invites biased and discriminatory application of laws and services. While peace officers have the right to freedom of expression and association, the U.S. Supreme Court has ruled that the government can limit employment opportunities in sensitive public sector jobs where group membership or speech would interfere with their duties<sup>2</sup>. The exercise of First Amendment protections by a peace officer are further curtailed when it causes, or threatens to cause, actual

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<sup>1</sup> Federal Bureau of Investigation, Counterterrorism Division, Intelligence Assessment, [White Supremacist Infiltration of Law Enforcement](#), October 17, 2006 and Federal Bureau of Investigation and Department of Homeland Security, Joint Intelligence Bulletin, [White Supremacist Extremism Poses Persistent Threat of Lethal Violence](#), May 10, 2017. Cited by Brennan Center for Justice, [Hidden in Plain Sight: Racism, White Supremacy, and Far-Right Militancy in Law Enforcement](#), August 27, 2020.

<sup>2</sup> *Garcetti v. Ceballos* (547 U.S. 410 (2006)).

harm or disruption to the mission and functions of a public safety agency<sup>3</sup>.

The reality and dangers of employing peace officers with known hate group affiliations is heightened for those targeted by these organizations, as evidenced by two decades of reports by federal agencies and investigative journalists. Most recently, the January 6, 2021, insurrection at the U.S. Capitol building by right wing extremists with the apparent cooperation, participation, and support of some law enforcement and military personnel, underscores the threat that extremist infiltration poses to equal justice and the rule of law.

In California, sheriff’s departments across the state have been plagued by texting, email, and social media scandals where officers exchanged racist and homophobic messages. Continued failure to address extremism, racism, and bias among peace officers contributes to the erosion of public confidence in the legitimacy and fairness of our justice system.

### SOLUTION

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AB 655 will increase public trust in law enforcement by rooting out those who would jeopardize public safety with extremist and violent behavior.

Specifically, The CLEAR Act would ensure all peace officers in the state of California applying for employment undergo a background check that includes examining whether the officer holds official membership in a hate group or participated in public expressions of hate or violence. Further, discovery of these expressions, membership, or participation with hate groups can become grounds for disciplinary review and termination.

### SPONSOR

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San Jose State University Human Rights Institute

### CONTACT

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<sup>3</sup> *Ibid.*