CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Basic Course Workbook Series

Student Materials

Learning Domain 42
Cultural Diversity/Discrimination
Version 6.4

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Cultural Diversity/Discrimination
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THE ACADEMY TRAINING MISSION

The primary mission of basic training is to prepare students mentally, morally, and physically to advance into a field training program, assume the responsibilities, and execute the duties of a peace officer in society.

FOREWORD

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. We must also thank the California law enforcement agency executives who allowed their personnel to participate in the development of these training materials.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides a self-study document for every learning domain in the Basic Course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. The objective of the system is to improve academy student learning and information retention and ultimately contribute to you becoming a peace officer committed to safety, and to the communities you will serve.

The content of each workbook is organized into sequenced learning modules to meet requirements as prescribed both by California law and the POST Training and Testing Specifications for the Basic Course.

It is our hope that the collective wisdom and experience of all who contributed to this workbook will help you, the student, to successfully complete the Basic Course and to enjoy a safe and rewarding career as a peace officer.

MANUEL ALVAREZ, Jr.
Executive Director

LD 42: Cultural Diversity/Discrimination

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Preface

Introduction

Student workbooks

The student workbooks are part of the POST Basic Course Instructional System. This system is designed to provide students with a self-study document to be used in preparation for classroom training.

Regular Basic Course training requirement

Completion of the Regular Basic Course is required, prior to exercising peace officer powers, as recognized in the California Penal Code and where the POST-required standard is the POST Regular Basic Course.

Student workbook elements

The following elements are included in each workbook:

- chapter contents, including a synopsis of key points
- supplementary material
- a glossary of terms used in this workbook

How to Use the Student Workbook

Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. It is intended to be used in several ways: for initial learning prior to classroom attendance, for test preparation, and for remedial training.

Workbook format

To use the workbook most effectively, follow the steps listed below.

Step	Action
1	Begin by reading the: Preface and How to Use the Workbook, which provide an overview of how the workbook fits into the POST Instructional System and how it should be used.
2	Refer to the Chapter Synopsis at the end of each chapter to review the key points that support the chapter objectives.
3	Read the text.
4	Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter.
5	Refer to the Glossary for a definition of important terms. The terms appear throughout the text and are bolded and underlined the first time they appear (e.g. **term**).

Chapter 1

Recognizing Diversity

Overview

Learning need

Peace officers need to recognize and respect the complexities of cultural diversity to develop skills necessary for identifying and responding to California's changing communities.

Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• define the terms: - culture - cultural diversity	 42.01.1 42.01.2
• describe personal, professional, and organizational benefits of valuing diversity within the community and law enforcement organizations	42.01.4
• explain the historical and current cultural composition of California	42.01.5

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In this chapter

This chapter focuses on basic knowledge needed to recognize the cultural makeup of a community. Refer to the following chart for specific topics.

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Culture and Ethnicity

Introduction

Human beings by nature tend to identify and affiliate with each other in groups whose members share certain things in common. The recognition and preservation of one's identity based on a group affiliation can become a matter of self-esteem and strong personal pride. Group affiliations affect not only how an individual acts or responds, but also how others interact with or respond to that individual.

Leadership

Peace officers shall act as leaders when dealing with the community. They must demonstrate active listening and excellent decision-making skills. It is every officer's responsibility to treat everyone with respect and integrity no matter what their race, creed, or religion. It is not enough to accept difference; we must understand that the differences are to be valued and celebrated for the rich contributions they provide to our society.

Culture

Culture is a broadly used term that refers to a complex group of shared characteristics including beliefs, values, ways of thinking, behaviors, customs, or traditions.

Culture is *learned* and can be passed from one generation to the next. It can condition an individual's thinking and influence both conscious and unconscious behaviors.

Culture can be interpreted broadly, encompassing large groups of people from specific geographic or regional areas (e.g. Californians, New Yorkers, Midwesterners, etc.) or national origins (e.g. Mexicans, Germans, Japanese, Italians, etc.).

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Cultural groups

A **cultural group** is an affiliation of individuals who collectively share any number of common sociocultural characteristics.

Cultural groupings in the United States are most often associated with national origins. Cultural groups are based on factors (some physically distinguishable) that include, but are not limited to:

- Common history
- Common geographical basis
- Some political agreement
- Common beliefs
- Shared customs
- Similar artistic basis
- Morals, mores, and folkways
- Law by consensus
- Common linguistic bonds
- Common racial background

A **subcultural group** is comprised of people who have an association, most often voluntary, within a larger culture who have common values, beliefs, and experiences, and they develop close bonds or feelings of unity and pride with the identity of the subculture. Examples are:

- Law enforcement
- Criminal groups and gangs
- Lesbian, Gay, Bi-Sexual, Transgender, Queer (LGBTQ)
- Amish
- Sikhs

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Ethics

Telling belittling ethnic jokes; using offensive slang or slurs that refer to a particular group; degrading people because they are different or disabled; using phrases that make people indistinguishable such as "you people," "they're all alike." Peace officers may believe that they have the right to think anything they want as long as they act in a professional and unbiased way. The problem with this notion is that personal values and ideas may conflict with the organizational mission and undermine public trust.

Ethnic groups

An **ethnic group** is any group that can be distinguished on the basis of shared characteristics such as nationality, common ancestry, language, common history, race, etc. Individuals within an ethnic group may believe they are alike by virtue of a national origin, or other shared characteristics (**ethnicity**).

Within the United States, there are numerous ethnic groups based on nationality (e.g. Mexicans, Koreans), or race.

NOTE: Even though a person identifies with a cultural or ethnic group, no one person represents the views or behaviors of an entire group. This is because everyone is a member of many groups based on many different factors (e.g. gender, religion, occupation, sexual orientation and gender identity, etc.)

Race

The term **race** or **racial group** usually refers to the categorization of humans into populations or ancestral groups on the basis of various sets of heritable characteristics. The physical features commonly seen as indicating race are salient visual traits such as skin color, cranial or facial features, and hair texture. While racial categories may be marked by sets of common traits, the popular idea of "race" is a social construct without base in scientific fact.

Penal Code Section 422.56 defines race as "Race or ethnicity" includes ancestry, color, and ethnic background.

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Culture as a social environment

Identifying with a cultural or ethnic group can elicit strong feelings of pride, shared beliefs, values, or history. It can provide individuals with "roots" that help maintain a personal identity within a diverse or quickly changing community or environment.

Cultural or ethnic groupings can provide a social environment that:

- provide a sense of security and establish a "comfort zone" where expected behaviors are known
- establish "survival skills" necessary to manage difficult situations and provide solutions for simple problems
- establish a pattern for living and forming relationships
- help individuals cope with, adapt to, or make sense of their physical environment
- offers a common ground which allows for effective communication

Ethnocentrism

Ethnocentrism is an attitude of seeing and judging other cultural or ethnic groups from the perspective of one's *own* culture. Ethnocentric attitudes and behaviors may be a natural part of group pride and identity.

Extreme Ethnocentrism is an individual with extreme viewpoints who may regard their own culture, ethnic, religious or sexual orientation and gender identity group as the center of everything. Their opinions or judgments of other groups are scaled or related with reference to their own group (i.e. "our way is the right way"). Some examples of these attitudes include:

Racism is a doctrine that one race is inherently superior (physically, intellectually, or culturally) to another

Heterosexism is an attitude of seeing and judging others from the perspective of one's own heterosexuality.

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Law enforcement

As communities and regions change because of the influx of multi-cultural individuals, agency personnel are evolving and becoming culturally diverse. What was previously a group of Caucasian males is becoming a workforce made up of individuals of different genders, cultures, and ethnic backgrounds.

Cultural diversity

Cultural diversity means the representation or existence of individuals with distinctly different group affiliations within one organization, community, state, nation, or other social system. Such group affiliations can be based on culture, ethnicity, gender, sexual orientation and gender identity, etc.

Awareness and understanding of the diverse cultures within communities and law enforcement agencies can reduce negative ethnocentric attitudes and practices.

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Benefits of recognizing and respecting diversity

Understanding cultural influences can help peace officers recognize and influence patterns of behavior and build more effective and responsive relationships within the community and within law enforcement itself.

The following table identifies a number of benefits for officers who learn how to recognize and respect diversity.

	Benefits
Personal	• Enhanced officer safety • Increased personal and ethical satisfaction • Career survival
Professional	• Improved quality of service provided • Enhanced community support and improved public trust • Reduced tension between officers and specific cultural groups • Increased access to and cooperation with members of the community • Improved compliance with the letter and spirit of the law
Organizational	• Improved morale, effectiveness, and professionalism within the law enforcement organization • Positive impact on law enforcement's image within the community • Reduction in the number of complaints against officers • Reduction in personal and agency exposure to claims and litigation

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Accepting diversity

A conscious effort is required to learn to accept the ever-changing diversity within a community or law enforcement agency. There is no universal method for accomplishing this. The following table identifies certain actions common to all methods.

	Action
Recognize...	• one's own cultural and ethnic groups • the different cultural groupings • personal bias and ethnocentrisms • personal discomfort levels with differences and change
Understand...	• origins of one's own and other individual's perceptions, stereotypes, and prejudices • benefits of change and diversity
Learn...	• how to effectively communicate with representatives of differing cultural groups • the skills necessary to manage personal bias or prejudices • about the differing norms, values, customs, etc., of specific cultural groups

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Example

A male and a female officer stopped a suspect in his neighborhood for driving under the influence of alcohol. As the officers were completing their investigation, the suspect's wife, children, and neighbors emerged from their homes. The suspect stated he was unable to submit to handcuffing by the female officer in the presence of his family and friends because he would lose face. The officers took into consideration the suspect's concerns and switched their positions. The male officer became the "contact" officer and the female officer took the "cover" position. The officers were able to safely take the suspect into custody without incident. Switching their roles did not compromise officer safety and avoided escalating a situation that may have jeopardized the safety of the officers.

California Past, Present, and Future

Introduction

California is a state with a rich diversity of cultures. Recent increases in the number of immigrants entering the state have had a direct impact on communities. These ongoing changes require peace officers to continuously recognize, appreciate, and utilize the unique talents and contributions of the cultures within their jurisdiction.

Definitions

To understand the nature of changing cultures and the effects of diversity, peace officers need to recognize common definitions of the following terms.

An **immigrant** is an individual who has voluntarily moved from one country to another country with the *intent to live in the new country permanently*. Immigrants may enter the United States only by means of a formal admission process.

A **refugee** is an individual who has fled their native land and been forced to cross national boundaries. Refugees may be attempting to avoid religious, political, or social persecution; or to flee a natural disaster or other events. Refugees may legally enter the United States when granted official refugee status by the Attorney General.

A **migrant** is a person who moves from one location to another within a single country or region. Migration from one state to another within the United States does not require any form of official approval.

Indigenous peoples are any ethnic group who inhabit a geographic region with which they have the earliest known historical connection.

A **minority** is a person with a "minority status" that has been designated by a government or by social scientists. The term is not necessarily related to numbers within a population.

Continued on next page

Definitions (continued)

A **colonialized subject** is a person with a heritage of being oppressed by military conquest (African slaves, Native Americans, etc.).

Demographics are the statistical characteristics of human populations (age, income, household type, and occupation and education levels).

Acculturation and assimilation

Acculturation is the process of learning a new culture. **Assimilation** is the process of gradually taking on or adopting the characteristics of another culture.

The first generation of any cultural group often experiences obstacles in its own acculturation into the new society. Cultural characteristics and ways of the past are more comfortable and understandable. This can be true for immigrants, refugees, or even groups who move from one geographical location to another within the same country.

Each new group is perceived as the "newcomer" and may be met with initial suspicion or even hostility. Adjustment or assimilation into a new and different society or culture can be resisted or be a long and difficult process. Often it is the second or third (or more) generation who assimilates into the existing culture. Individuals of these later generations often form new groupings or cultural identities based on different common elements.

California's past

California has *never* been a homogeneous society. California has always been made up of groups of people representing many different cultures, races, and ethnic groups.

The region now known as California was populated by a number of indigenous cultures of the Americas long before the area was first colonized (taken over) and ruled by the Spanish.

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California Past, Present, and Future, Continued

California's past (continued)

In time, California was further settled by people from every state in the Union and from Mexico, Canada, Europe, and Asia who came to the region for a variety of reasons. Each group has brought its own customs, language, values, etc.

California's present

Today, California leads the nation in the number of inhabitants born in other states or countries. Its population is made up of people from many individual groups including, but not limited to, the following examples.

- Asian/Filipino
- Pacific Islander
- African American
- Latino
- Anglo American
- Native American
- Middle Eastern
- Eastern European
- Caribbean
- Lesbian/Gay/Bi-Sexual/Transgender/Queer (LGBTQ)
- People with Disabilities

California's future

California demographics are still changing and will continue to reflect the evolving cultural diversity of the state. What was once a new cultural group will become part of the existing culture.

A great deal of the population growth in the state is projected to come from the Pacific Rim and Latin America. With this growth will come new languages, values, traditions, etc.

Chapter Synopsis

Learning need	Peace officers need to recognize and respect the complexities of cultural diversity to develop skills necessary for identifying and responding to California's changing communities.
Culture and cultural diversity [42.01.1, 42.01.2]	Culture is a broadly used term that refers to a complex group of shared characteristics including beliefs, values, ways of thinking, behaviors, customs, or traditions. Cultural diversity means the representation or existence of individuals with distinctly different group affiliations within one organization, community, state, nation, or other social system. Such group affiliations can be based on culture, ethnicity, gender, sexual orientation and gender identity, etc.
Benefits of recognizing and respecting diversity [42.01.4]	Understanding cultural influences of individuals can help peace officers recognize and influence patterns of behavior and build more effective relationships within the community and within law enforcement itself.
Historical and current composition of California [42.01.5]	California has *never* been a homogeneous society. California has always been made up of groups of people representing many different cultures, races, and ethnic groups.

Workbook Learning Activities

Introduction

To review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Describe your own cultural heritage. How many generations within your family have been born in the United States? How many generations were born in California? What do others need to know about your cultural heritage to work more effectively and responsibly with you?

2. List the cultural groups, other than those representing a specific ethnicity, with which *you personally* identify.

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Activity questions (continued)

3. Using only the population of students who are in this class with you, identify the following information.

- List the races and ethnicities that are represented. How many individuals are first-generation Americans to this country? To the state?

- How many individuals were born in:
  - California?
  - another state within the United States?
  - another country?

- List the number of languages that are spoken. Other than English, what is the most common? How many individuals can speak more than one language?

- Why is your gender makeup in your classroom significant?

- Describe the value of multilingual skills.

- Describe the value in classroom/community diversity?

Continued on next page

Activity questions (continued)

4. Describe your most recent experience where you were with a group and in a situation where you, as an individual, felt *"different."* What exactly made you feel this way? How did the experience impact you? How did you cope with the experience in the moment? How did you cope long-term?

5. Assume you have been assigned to serve a rural jurisdiction with a large Middle Eastern population. What resources would you call upon to help identify and learn about the specific cultural groups within your jurisdiction?

Continued on next page

Activity questions (continued)

6. Select any culture with which you are familiar. How would you compare the elements of that culture with those of "Mainstream America"?

Aspect of Culture	**"Mainstream American" Culture**	**_____ Culture**
Communication and language	Explicit, direct communication Emphasis on content (meaning found in words)	
Dress and appearance	"Dress for success" ideal Wide range of accepted dress codes	
Food and eating habits	Eating on the run fast food	
Concept of time	Promptness is valued Time = money	
Relationships, family, friends	Focus on nuclear family Responsibility for self Value on youth Gender equality	
Values and norms	Independence valued Preference for direct confrontation of conflict Willingness to challenge authority	
Work habits and practices	Reward based on individual achievement Work has intrinsic value	

Chapter 2

Prejudice, Discrimination, and Racial Profiling

Overview

Learning need

Peace officers need to become aware of stereotyping that could lead to prejudicial viewpoints and unlawful acts of discrimination.

Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• define the term stereotype	42.02.1
• discuss the dangers of relying on stereotypes to form judgments or to determine actions	42.02.2
• define the term prejudice	42.02.3
• define the term discrimination	42.02.4
• define the term racial profiling, including the: - conceptual definition - legal definition	42.02.7
• discuss the legal considerations peace officers should take into account related to racial profiling including: - *Penal Code Section 13519.4* - Fourth Amendment - Fourteenth Amendments - current case law - criminal profiling vs. racial profiling	42.02.8

Continued on next page

Learning objectives (continued)

After completing study of this chapter, the student will be able to:	Objective ID
• discuss the impact of racial profiling on the: - individual citizens - community - officer - criminal justice system	42.02.9
• discuss landmark events in the evolution of civil and human rights	42.02.6
• define key indices peace officers should recognize and respect that make up evolving culture among a community	42.02.10
• discuss the obligations of peace officers in preventing, reporting, and responding to discriminatory or biased practices by fellow officers	42.02.11

In this chapter

This chapter focuses on the origins of prejudice and discrimination. Refer to the following chart for specific topics.

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Perceptions and Stereotypes	2-3
Prejudice and Discrimination	2-10
Racial Profiling	2-16
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Perceptions and Stereotypes

Introduction

Individuals are not born with set opinions or perceptions. Instead, they develop these based on many different sources and influences throughout their lifetimes. Recognizing these sources and influences can help an individual differentiate between rational and irrational opinions or perceptions of individuals with differing cultural backgrounds.

Individual perceptions

All individuals develop perceptions, feelings, biases, and thoughts regarding their culture and the culture of others. These perceptions are neither right nor wrong. A common belief is, *one's perception is one's reality.*

To place one's own perceptions of other cultures in proper perspective, peace officers should first recognize and understand how these perceptions of differing cultures developed.

The following table identifies several influences on an individual's perceptions.

Sources	Examples
Cultural/ethnic background	• Family traditions and values • Perceptions of family members or role models • Opinions that are accepted without question as an act of respect
Maturity	• Values, opinions, norms of different generations

Continued on next page

Individual perceptions (continued)

Sources	Examples
Personal experiences	• Past experiences (positive and negative) with people of different cultural backgrounds or different ethnic groups • Experiences of others • Historic local, regional, national, or international events • Recent local, regional, national, or international events • Economic conditions or situations (opportunity, conflicts, real or perceived)
Environmental conditioning	• Region, area, or neighborhood where one grew up or has lived • Influence of culture workplace
Emotional involvement	• Personal interactions and involvements with others (e.g., peers, rivals, personal relationships, etc.)
News media coverage	• "Instant" access to information via television, radio, the Internet, etc. • Newspapers, news magazines, and other printed materials • Open to distortions or sensationalism (accidentally or deliberately)
Entertainment media	• Movies and television presenting accepted or perceived attitudes or opinions
Training/Education	• Instruction regarding languages, different cultures, etc.

Continued on next page

Individual perceptions (continued)

The components of bias include:

- stereotypes (cognitive)
- prejudice (affective)
- discrimination (behavioral)

Implicit Bias

Implicit Bias is a preference (positive or negative) for a social category that operates outside of awareness. We can think of implicit bias as a lens through which we view the world.

- implicit biases are pervasive
- people are often unaware of their implicit biases
- implicit biases predict behavior
- people differ in levels of implicit bias

Personal awareness and introspection are prime strategies towards reducing implicit bias in decision-making.

NOTE: Jerry Kang, Implicit Bias – A Primer For Courts, National Center for State Courts. (2009)

Stereotyping

A **stereotype** is a preconceived or over-simplified generalization involving negative or positive beliefs about another group. When an individual is stereotyped, that person is perceived as having specific behavioral traits and abilities.

Stereotypes can be based on a number of factors including, but not limited to:

- nationality
- ethnicity
- race
- gender
- sexual orientation and gender identity
- socioeconomic status
- age
- physical ability

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Human tendency

Stereotyping is a natural human tendency.

Use of stereotypes can become:

- a means of processing or filtering information and can be considered a tool for simplification of an environment
- a way to fill in information voids about other people in the absence of information to the contrary
- an overreaction to behaviors that do not match an individual's expectations
- a result of the differences in the levels of contact individuals have with members of other groups

Dangers of stereotyping

Stereotyping can mean not only *ascribing differences* to other groups but can also result in *making a judgment* (positive or negative) based on those perceived differences.

The following table identifies two dangerous assumptions regarding use of stereotypes.

Dangerous Assumption	Additional Information
Characteristics of the group are accurate	• Can be factually incorrect • The reliability of the source of the information should be considered
All members of a group share the same characteristics	• No single individual has all the characteristics attributed to a group • No one group's characteristics can describe a single individual

Continued on next page

Stereotypes of law enforcement

Past experiences of individual members of a cultural group or ethnic group can shape their attitudes and expectations regarding the role of government and law enforcement.

The following table identifies several common stereotypes individuals may have of law enforcement officers:

Peace officers...	This stereotype may be reinforced by...	Officers can help counter stereotypes by...
are apathetic.	• insensitive actions, and • lack of empathy.	• considering their own safety and the safety of others at all times, • demonstrating empathy, and • being sensitive to the person's needs and concerns.
are unethical and engage in unprofessional conduct.	• accepting gratuities, • abusing authority, • adhering to a code of silence, • officer brutality, • corruption, or • abusing publicly owned equipment.	• adhering to the Law Enforcement Code of Ethics/Code of Professional Conduct, • holding themselves and peers to the highest standards of behavior, and • using public vehicles for public business only.

Continued on next page

Stereotypes of law enforcement (continued)

Peace officers...	This stereotype may be reinforced by...	Officers can help counter stereotypes by...
discriminate.	• targeting certain groups, or • applying different standards of enforcement or assistance to different groups in the community.	• being aware of their own stereotypes, • treating all people in a professional manner, • remaining impartial, and • not allowing a bad experience on one call to affect judgment on another.
project a poor public image.	• presenting a poor physical image (e.g. overweight), • sloppy uniforms, or • inappropriate demeanor or body language (e.g. acting tough to intimidate others).	• adopting a lifestyle conducive to lifelong fitness, • demonstrating pride in their personal appearance, • controlling their temper and emotions, and • treating others as they would wish to be treated.
are unable or unwilling to handle service calls.	• inadequately trained officers dealing with situations for which they are not prepared, or • officer inability or unwillingness to apply trained job skills.	• responding promptly and courteously to all calls, and • acknowledging their own limitations and calling for assistance when needed.

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Perceptions and Stereotypes, Continued

Preexisting tensions among groups

Preexisting tensions among groups may also be based on:

- demographic or class shifts in communities
- current unstable political conditions or situations in homelands
- historical conflicts, etc.

Possible effects

Peace officers must be aware of their own biases and stereotypes regarding the communities and individuals they serve. Relying on these can potentially lead to:

- developing a lower level of tolerance to *individual* behavior
- forming conclusions before getting to a scene
- decreasing an officer's objectivity concerning the facts of a case
- potential development of officer safety situations (escalation of non-hostile situations)
- negative expectations becoming self-fulfilling prophecies
- inappropriate officer behavior

Prejudice and Discrimination

Introduction

Any preconceived notions, whether positive or negative, about a cultural or ethnic group formed before the facts are known can lead to acts of discrimination.

Prejudice

Prejudice is a prejudgment or point of view about a person or group of individuals that is usually formed before the facts are known.

Prejudice is a:

- process, not a static attitude
- *learned* attitude
- way of thinking about others that may be based on:
  - misconceptions
  - misunderstandings
  - inflexible generalizations

Prejudice vs. stereotype

The following table identifies how a prejudice differs from a stereotype.

Stereotype	Prejudice
• Emphasis is on attitudes and emotional reaction toward individuals • Stereotypes may be used to justify or encourage prejudices	• Emphasis is on assumed group identity categories and traits
• Positive individual experiences with diverse people and groups, increased knowledge and maintaining an open mind are all keys to overcoming prejudice	• Positive individual experiences with diverse people and groups, increased knowledge and maintaining an open mind are all keys to overcoming stereotyping

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Subconscious prejudice

One of the deepest and therefore most dangerous forms of prejudice is subconscious prejudice. Individuals may have been conditioned by such beliefs to the point that their prejudice causes them to act out in a hostile and potentially dangerous way.

Sometimes individuals who were mistreated or who are frustrated and insecure may select individuals or groups as scapegoats or targets of blame. Over an extended period of time, this mistrust and hatred of others becomes a way of life and can influence how this person interacts with others.

NOTE: Prejudice that is unchecked or not challenged may lead to the development of racism: a doctrine that one race is inherently superior (physically, intellectually, or culturally) to another.

Group prejudice

Many members of a cultural group may hold certain prejudicial views of other specific groups. Conforming to such a prejudice may become a "normal" attitude or reaction for members of the original group. Children will model behavior and once the child becomes an adult, the prejudice may be accepted or rationalized without question.

Prejudice and law enforcement

Occupational cultures, including law enforcement, may be susceptible to developing and passing on prejudices against those who are outsiders, or not within their group (i.e. individuals within the community). Certain "us" versus "them" attitudes may develop.

Because law enforcement officers have certain powers over members of a community, prejudicial attitudes could lead to potential abuse and *must never be tolerated within a law enforcement agency*.

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Prejudice and law enforcement (continued)

Overlooking or allowing expressions of prejudice can lead to:

- lack of trust within the organization
- adverse attention from the media
- lack of trust within the community
- complaints or lawsuits
- disciplinary action or dismissal

Discrimination

Discrimination is an *action* or *behavior* that is prompted or based on prejudiced thought. It includes differential treatment based on an unsubstantiated or unfair categorization.

Prejudice vs. discrimination

Because a *prejudice is a thought*, it is private and is not a violation of the law.

A prejudicial *thought that is acted upon*, consciously or unconsciously, may lead to discrimination. Behaviors or acts of discrimination can be unlawful.

Possible effects of prejudice and discrimination

Expressions of prejudice or acts of discrimination on the part of law enforcement officers can:

- deteriorate trust within a law enforcement agency
- prompt an internal or external investigation of a department or agency
- lead to disciplinary action, dismissal, or civil or criminal legal actions
- undermine the authority of higher-ranking officers
- lead to negative attitudes within a department or agency being carried into the community
- lead to mistrust in a community
- further escalate situations to a dangerous level
- lead to racial profiling or bias-based policing

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Human rights

Understanding of civil and human rights changed and broadened during the 20th century and continues to evolve in the 21st century. Groups who were not considered in need of, or meeting, special protections are now afforded such protections under federal statutory law.

Human rights in the United States

Many cultural groups may have experienced a variety of sanctions, problems, or the denial of rights in their native countries. Individuals of certain groups may have experienced direct repression by law enforcement officers or may perceive that law enforcement is controlled by or serves only special-interest groups. Such repression may have been the result of:

- conditions of conflict or war
- martial law by the government
- economic conditions
- political viewpoints that are different from the established government

Recognition of human rights within the United States has been evolving from the time the country was first formed. The following table identifies a number of the critical events that have shaped this country's policies and laws regarding individual human rights.

Event	Significance to Evolution of Human Rights
Initial drafting of the United States Constitution	• Constitutional tolerance of slavery (three-fifths of a person provision in Article 1) • Requirement of Amendments to abolish slavery
Displacement of Native American Indians	• Rationalized by prejudicial attitudes of supremacy and the need to "protect and care for" what was then considered to be an inferior culture (colonialization)

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Human rights in the United States (continued)

Event	Significance to Evolution of Human Rights
Mexican/American War	• Violation of the Treaty of Guadalupe, guaranteeing certain rights to Mexican Americans
Civil War	• Abolition of slavery and recognition of African Americans as human beings rather than "property"
Women's Suffrage	• Recognition of a woman's right to vote • Ending of historical separation of male/female roles and the denial of full rights of women
Internment of American citizens of Japanese descent	• Displacement and internment of individuals during World War II • Denial of rights based solely on ethnic background • A true example of racial profiling-incarceration based solely on race
Federal and state Civil Rights legislation	• Guaranteeing voting rights • Establishment of equal opportunity laws • Extending Federal hate crime protections to include gender, sexual orientation and gender identity, and disability
Americans With Disabilities Act	• Recognition of human rights beyond the boundaries of recognized ethnic groupings • Supreme Court recognition of violation of human rights
Legislation regarding sexual orientation and gender identity	

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Strategies for challenging prejudice

Challenging a prejudice can reduce its "power" and the probability that it will be acted upon and become the basis for discriminating against others. Remaining silent may be interpreted by others as acceptance or agreement.

Some considerations for challenging the prejudice of another person are listed below.

- The person who is expressing the prejudice may be attempting to fit into the group by expressing what the individual believes is an attitude held by all others within the group.

- Attempting to induce guilt in the person expressing prejudice usually does not help, and in fact may only reinforce that person's beliefs.

Some strategies for responding to prejudice include:

- keeping the tone non-defensive and non-confrontational
- paraphrasing the feelings the person has expressed
- giving information or correct inaccurate information that may be the basis for that individual's prejudice
- focusing on the statement, not the individual
- asking the individual not to repeat the statement or behavior

Mutual respect

Law enforcement officers should consider their own words, actions, and behaviors to confirm that they are conveying not only competence and professionalism, but also *respecting* the cultural, ethnic, or racial background of others.

Racial Profiling

Introduction

Understanding the concepts and legal aspects of racial profiling is essential for officers to effectively carry out their legal obligations and responsibilities in the community.

Racial profiling

"Racial or identity profiling" is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.. *(Penal Code Section 13519.4(e))*

Clarifying concepts

The subject of racial profiling raises controversy among many individuals, social groups, and professions.

The following table clarifies some racial profiling controversies common to law enforcement

Controversy	Response
Officers will be limited in their effectiveness.	Officers can still do their job effectively by profiling behavior and characteristics. (**criminal profiling**)
Racial profiling is racism.	Racial profiling and racism are not the same.

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Clarifying concepts (continued)

Controversy	Response
Certain races are more likely to engage in criminal activity, e.g. drug dealing, armed robbery, car theft, computer crime, domestic violence, terrorism, etc.	There are no race-specific crimes. Members of all cultures commit crimes. Actions of some members of a culture should not influence how we view all members of that culture. The majority of all groups are law abiding.
Racial profiling does not really happen	Data indicates when minorities are stopped, they are detained longer and subject to searches more often.

Legal considerations

State and federal laws address racial profiling and peace officer's legal requirements and obligations.

State law

Penal Code Section 13519.4 restates existing obligations imposed by the Fourth and Fourteenth Amendments to the United States Constitution. It reinforces law enforcement's obligation not to racial profile and to report situations when discrimination or racial profiling by law enforcement is observed.

Pursuant to *Penal Code Section 13519.4* and for the purposes of *Government Code Section 12525.5*, "stop" means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body and property in the person's possession or control.

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Federal law

The Fourth Amendment of the United States Constitution:

- protects the peoples' right to be free from unreasonable detentions or searches and seizures, and requires probable cause for warrants to be issued

  The reasonable suspicion or probable cause for detentions or searches and seizures must be:

  - individualized to a particular person
  - focused on the person to be stopped or detained
  - based on the individual being suspected of engaging in unlawful activity

The Fourteenth Amendment of the United States Constitution:

- requires that peace officers apply the law equally to all people regardless of race, creed, nationality, religious preference, or national origin

  Key concepts of this amendment are:

  - individualized suspicion cannot be based on race unless race was provided as a specific descriptor

  - when law enforcement efforts focus on one particular ethnic group while ignoring similar unlawful conduct by other ethnic groups, they are violating the Fourteenth Amendment

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Case law

Whren vs. United States provides broad discretion on the part of officers to make pretext stops. An officer may use a traffic violation to investigate the possibility that the driver is engaged in a more serious activity, i.e., weaving out of the lane raises suspicion of driving under the influence. An officer should observe articulable behavior or characteristics to initiate a pretext stop. If the pretext is based solely on race, the stop constitutes racial profiling.

A stop can be legal under the Fourth Amendment yet be illegal under the Fourteenth Amendment.

Criminal profiling vs. racial profiling

Criminal profiling is a legitimate practice based on articulable behaviors or characteristics that can be analyzed and evaluated. Officers must have individualized suspicion based on articulable behavior or characteristics to detain anyone.

Racial profiling occurs when *race alone* is used to predict criminality. Officers can take race into consideration if it is part of a description of an individual involved in a crime. The following table shows some of the ways in which racial profiling can manifest itself.

Race out of place	When a person of a particular race is stopped or detained because he or she is in an area primarily or predominantly comprised of another race.
Race tips the scale	When an officer has two people in two identical situations and the race of one party is used to select which person is stopped or detained.
Inner-city high crime	When an officer works in a predominantly single-race area where the majority of crime is committed by people of a particular race, he or she could form a belief that all people of that race are criminals, and this belief influences the officer's decision making for enforcement contacts.

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Civil rights

While the genesis of the civil rights movement addressed the rights of African Americans, it continues to evolve, guaranteeing the equal treatment and protection under the law for all races, religions, and genders.

Lessons learned

The civil rights movement had a profound effect on the nation and law enforcement. A community's experience, history, and heritage can affect how it views law enforcement today. The civil rights movement provided several lessons related to law enforcement practices.

Law Enforcement Practice

The civil rights movement precipitated changes in how peace officers carry out their work. Three notable changes are:

- desegregation of the law enforcement profession
- transition from an enforcement approach to community policing
- establish trust with the communities served

Peace Officer's Role

One of the largest legacies from the civil rights movement was the elevation of a peace officer's role to protect and enforce civil rights for all people. This means:

- there is an expectation from the community of a higher ethical standard for peace officers

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Bias-based policing as a human rights issue

Failure to recognize and eliminate bias-based policing constitutes a human rights issues. Protecting civil rights is not an inconvenience for peace officers; it is the foundation of professional policing.

Bias-based policing is not solely a law enforcement problem. It can be solved through:

- police citizen partnerships
- mutual trust and respect

To eliminate bias-based policing, professional peace officers must:

- recognize and respond effectively to any allegations of bias-based policing
- accept and carry out their responsibility to maintain public trust through their actions by:
  - treating each person fairly
  - explaining why each contact is made
  - learning about the cultures in their jurisdiction
  - learning common phrases in languages other than English
  - not racial profiling
  - interacting with the community on a non-enforcement basis

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Impact of racial profiling

Racial profiling negatively impacts everyone. It results in a:

- *direct* impact on the individual profiled
- *collective* impact on the entire community
- *residual* impact on the
  - officer, which can:
    - affect credibility
    - compromise officer safety
    - impede criminal investigations due to lack of community trust and cooperation
  - entire criminal justice system, resulting in:
    - jurors who have been affected by racial profiling
    - a negative perception of law enforcement
    - officer credibility issues which can result in refusals to file by the prosecution

Community considerations and evolving cultures

For law enforcement, especially, it is important to recognize and respect the key indices that make up different cultures within the community.

Everyone can associate with a culture and in some cases, more than one culture. For example, a female peace officer of Chinese descent could associate with at least three cultures: women, law enforcement, and the Chinese culture. She may also relate to other cultures:

- every person needs to be recognized as an individual:
  - without having dispersions cast upon them due to the actions of other members of their culture(s)
- this is true of all people and cultures

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Community considerations and evolving cultures (continued)

Law enforcement itself is a subculture. Its members share values, a way of thinking, behaviors, customs, and even a language. When a member of law enforcement does something illegal, no officer wants to be viewed in the same light simply because of his or her association with the culture.

Policing is an excellent way to build trust and improve relations with the community because communities want to:

- be involved in law enforcement efforts
- respect peace officers, and
- be respected

Community policing

In the case of policing, officers who understand the dynamic of cultural diversity are more likely to have successful outcomes to their calls for service than officers who have to rely on intuition. An officer who understands the cultural differences within the communities we serve is more likely to be safe than an officer who does not.

Ethical considerations and obligations

Peace officers are critical to, and very visible examples of, ethically carrying out responsibilities related to racial profiling. Some ethical considerations for officers include:

- racial profiling runs counter to the type of policing California agencies want to do
- it is every officer's obligation to prevent, report, and respond to discriminatory or biased practices by fellow officers (*Penal Code Section 13519.4(h)(4)* - Duty to Report)

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Ethical considerations and obligations (continued)

- the change in the community's perception about racial profiling will not take place with policy, but as a result of individual officers' actions
- peace officers are sworn to protect and defend the Constitution of the United States, which ensures equality and justice for people

Leadership

Individual leadership plays an important role in law enforcement's handling of ethical considerations and obligations regarding racial profiling. Leaders:

- stand up for what they think is right and influence others to do the right thing
- know their agencies' direction and focus, and follow that direction
- remember who they serve and how they should serve them
- recognize that everyone has biases, and that while they can't control what others think, they can control actions based on their own biases
- always act within the laws (Fourth and Fourteenth Amendments), and serve community members equally and fairly
- know that it is easy to "justify" any pretext stop; however, they also know that ethical decision-making demands recognizing one's biases and choosing not to act out of those biases in selecting who is stopped and how the law is enforced
- have the courage to confront when unethical behavior occurs
- hold themselves to higher ethical standards
- help their agencies in supporting ethical behavior and legal obligations not only because of civil liability concerns, but because supporting this direction is the right thing to do; it is what the United States was founded upon: justice for ALL people

Continuing evolution

Recognition of civil and human rights will continue to evolve as federal and state governments continue to recognize sources of prejudice and discrimination.

Chapter Synopsis

Learning Need	Peace officers need to become aware of stereotyping that could lead to prejudicial viewpoints and unlawful acts of discrimination.
Stereotype [42.02.1]	A stereotype is a preconceived or over-simplified generalization involving negative or positive beliefs about another group.
Dangers of stereotyping [42.02.2]	Stereotyping can mean not only *ascribing differences* to other groups but can also result in *making a judgment* (positive or negative) based on those perceived differences.
Prejudice and discrimination [42.02.3, 42.02.4]	Prejudice is a prejudgment or point of view about a person or group of individuals that is usually formed before the facts are known. Discrimination is an *action* or *behavior* that is prompted or based on prejudiced thought.
Racial profiling and racism [42.02.7]	Racial profiling is when race alone is used as a predictor of criminal behavior. Racism is when behavior or actions are motivated by hatred or a sense of superiority.
Legal consideration [42.02.8]	Peace officers have an obligation: • not to racial profile • to report when discrimination or racial profiling by law enforcement is observed

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Chapter Synopsis, Continued

Landmark events in civil and human rights [42.02.6]	Civil and human rights changed and broadened in the 20th century and continue to evolve in the 21st century. Recognition of human rights within the United States has been evolving from the time the country was formed.
Impact of racial profiling [42.02.9]	Racial profiling negatively impacts everyone.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Using your own words, define the following terms. How are they similar to each other? How are they different? Give an example of each.

Term	Similarities/Differences	Examples
Stereotype		
Prejudice		
Racism		
Racial Profiling		

Continued on next page

Activity questions (continued)

2. Look back at the answers and description you wrote for the Workbook Learning Activities in Chapter 1 of this workbook. How many of your responses were based on stereotypes (positive or negative) or personal prejudices?

3. Think about your own commonly held stereotypes (positive or negative) regarding the following groups. What were the sources or influences that led to their development? Was there a particular experience that helped form a stereotype? Is there any factual basis for continuing to rely on the stereotype? How would you defend the stereotype if it were challenged by another person?

   - Pacific Islanders
   - New Yorkers
   - Latino/Hispanic Americans
   - Gays and Lesbians
   - Senior citizens
   - Middle Eastern individuals
   - Native Americans
   - Teenagers
   - The opposite gender
   - Law enforcement officers
   - People with disabilities

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Activity questions (continued)

4. Describe your *first* contact with a peace officer in that individual's official capacity (i.e. issuing you a speeding ticket, etc.). What preconceived perceptions and stereotypes did you have regarding officers before this encounter? Did you maintain those same beliefs after the contact? If they changed, were they for the better or worse? Explain your answers.

5. You and your partner are having a discussion when an African American male approaches and interrupts. He is obviously very excited, out of breath, and is having difficulty describing what he has just seen. Your partner, who is Anglo American, responds to the man in slang dialect and says, "Hey man, settle down Homey. Jus' take a breath an' tell us what you want, Bro'." What would you do? Would you say anything to the man? If so, what? Would you say anything to your partner? If so, when and what?

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Activity questions (continued)

6. At roll-call briefing, you receive information about several complaints by community members about drug activity in the vicinity of Main and Grove Streets. The description of the individual reported to be possibly selling narcotics is male Hispanic, 18-25 years of age.

   While on patrol, you observe a male Hispanic about 20 years of age, standing on the corner of Main and Grove Streets with his hands in his pockets. What would you do? If you opt to contact him, what will you say to him? What are your articulable behaviors and characteristics to warrant a legal stop or detention?

Workbook Corrections

Suggested corrections to this workbook can be made by going to the POST website at: www.post.ca.gov

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Student notes

Chapter 3

Effective Law Enforcement Contacts

Overview

Learning need

Peace officers must recognize that one of the most reliable strategies for successful contacts with individuals from differing cultural, racial, or ethnic backgrounds is to treat all individuals and groups with dignity and respect.

Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• explain strategies for effective communication within a diverse community, including: - verbal communication - active listening - nonverbal communication	42.03.2 42.03.3 42.03.4
• describe positive officer behaviors during contacts with members of a cross-cultural community	42.03.5
• discuss articles of faith that can be interpreted as a weapon, including: - identification of the article - proper handling and respect for the article	42.03.6

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Overview, Continued

In this chapter

This chapter focuses on peace officers' actions and behaviors that can enhance their interactions with the members of an intercultural community. Refer to the chart below for specific topics.

Topic	See Page
Cross-Cultural Communication	3-3
Cross-Cultural Contacts	3-11
Chapter Synopsis	3-21
Workbook Learning Activities	3-22

Cross-Cultural Communication

Introduction

All forms of communication involve a sender (speaker) and a receiver (listener). Effective communication between the sender and the receiver can be strained under stressful conditions, even between two people with a shared cultural background. Communication between a sender and receiver from different cultural backgrounds and no apparent common ground can be strained or unnatural and lead to misunderstandings and communication breakdowns.

Benefits of developing appropriate skills

A primary goal of peace officers is to obtain complete and accurate information in a safe manner. Officer conduct and actions when first making contact with an individual with a different cultural background can serve to either enhance or hinder this process.

Developing appropriate contact and communication skills can:

- improve the quality of the information gathered from the individual
- enhance cooperation of the individual and other members of the community
- increase officer confidence and professionalism
- demonstrate a caring attitude
- enhance officer safety
- reinforce a positive image of law enforcement within the community

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Verbal language skills

In an ideal environment, assigning increasing numbers of bilingual officers to these areas would be preferable. Realistically, this may not be possible. Individuals who do not speak English may not understand why they are being stopped or approached by a peace officer. They may be unfamiliar with the legal system and unaware of their rights.

When attempting to communicate with an individual who speaks little English or for whom English is a second language, officers should:

- be patient
- speak slowly and clearly
- speak at a normal volume (Speaking louder will not help comprehension.)
- face the person they are addressing (even when using a translator)
- use short, simple sentences
- pause frequently
- allow enough time for the person to formulate responses
- repeat statements or questions in different ways, if necessary
- use gestures, actions, or written text to aid understanding
- provide feedback and encouragement
- summarize what the individual is saying to check comprehension

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Additional cultural considerations

The following table identifies a number of additional issues for officers to consider when communicating verbally in a cross-cultural situation.

Consideration	Additional Information
Speak with the appropriate person	• In certain situations, it is more effective to obtain initial information from the head of the family or from a respected community leader • Maintain visual focus on the person of authority if using another person for translation purposes
Allow time to build rapport and trust	• It may be necessary to establish and maintain an appropriate level of trust before an individual will be willing to share information • Attempting to rush may reduce an individual's willingness to cooperate
Information may be expressed in different ways	• Not all cultures communicate in a linear manner (one point at a time in a chronological order) • Officers may be required to ask additional questions to ensure their own understanding of what is being said
Understand the meaning of "yes"	• Answering a question with "yes" may be a sign of respect or courtesy rather than a confirmation of a fact • Open ended questions will help the officer recognize whether or not the individual understands what is being asked

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Inappropriate verbal communication

Certain forms of communication can contribute to a negative response from a cross-cultural community and must be avoided. The following table identifies a number of these.

Use of...	by officers can...
• profanity	• have a negative effect on the professional image of the officer.
• derogatory or offensive terminology	• detract from professional effectiveness. • make individuals reluctant to cooperate. • demonstrate a lack of cultural, racial, or ethnic awareness. • indicate a lack of sensitivity for the feelings of others.
• law enforcement jargon	• cause confusion and mistrust. • be demeaning to the individual.

Active listening

Communication involves not only speaking but also listening. In times of stress and when interacting with an individual with limited skills in the English language, taking the time and effort to actively listen is even more critical.

Active listening involves deliberate and conscious concentration on the part of the listener on:

- what is being said
- how it is being said
- why it is being said

NOTE: Active listening on the part of the officers also aids in ensuring officer safety. Officers are required to become more aware of the individual with whom they are interacting.

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Steps to active listening

The following table identifies the four primary steps of active listening.

Step	Action
1	• Remain open minded, unbiased, and ethical
2	• *Listen* carefully to the context of the message • Ask the individual to slow down or repeat the message if necessary
3	• Interpret the message by considering how and why it was said. • The meaning may not be only in the words that were said but in the nonverbal communication
4	• Act appropriately

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Nonverbal communication

In a situation involving cross-cultural communication, nonverbal communication can constitute an even greater role than it does with individuals with the same cultural background. It is also an area where variations in meaning can be the greatest.

The following table identifies factors for consideration regarding one's own and another individual's nonverbal messages, which may also compromise officer safety.

Element	Consideration	Example
Gestures	• Many common gestures could be offensive to individuals from other cultural backgrounds	Signaling a person to "come here" using a hand signal with the back of the hand up can be insulting to some Asian and Latin Americans
Facial expressions	• Facial expressions may have very different meanings depending on the cultural background of the individual	In some cultures, individuals respond to loss of face or shame by smiling
Body positioning	• The amount of space or "comfort zone" between individuals can vary depending on acceptable practices of different cultural groups • Officer's should be aware of their body language	Individuals from a Middle Eastern culture may attempt to move closer when speaking with an officer Crossing your arms or looking at your watch could imply you don't care

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Nonverbal communication (continued)

Element	Consideration	Example
Eye contact	• It may be disrespectful in some cultures to maintain direct eye contact with an authority figure such as a peace officer.	In certain Asian cultures, children are taught to look down when being spoken to by an adult.

NOTE: Although the examples given in the above table all pertain to cultural groupings based on ethnicity, officers should be aware that nonverbal communication can vary based on numerous other factors (e.g. religion, gender, stages of assimilation, developmental disabilities such as autism, etc.).

Examples

An officer stopped to check a vehicle pulled over to the side of the road. The officer was able to determine that the driver was an older Korean woman who appeared to be upset at the sight of the officer approaching her car. She began speaking in broken English and pointed to a piece of paper with an address on it. The officer determined that the woman was lost. The officer spoke to the woman in a slow, calm manner and convinced her to follow him to a nearby Korean business. He spoke to the owner who gladly helped the officer by translating the officer's directions for the woman. Because of the officer's extra efforts and reassuring nature, the woman no longer feared peace officers.

Continued on next page

Examples (continued)

An officer responded to a call regarding a suspicious boy who had been sitting on the edge of a fountain at the entrance of a local museum. The boy failed to respond when the officer spoke to him. As the officer approached the boy, she saw that he was rocking back and forth and wringing his hands. The boy avoided any eye contact and did not appear to be aware of the officer's presence. The officer thought that the boy might be autistic. She did not attempt to touch him. The officer attempted to identify the boy and contact family members.

An officer pulled over a vehicle for speeding in a residential area. The officer was able to determine that the occupants of the car, a woman, a man, and two children, were Hispanic. Even though the woman was driving and could speak English, she would not respond to the officer's questions and would only speak to the man in the car. Rather than attempting to speak with her further, the officer addressed questions to the man, who was the authority figure of the family. The officer completed the stop without incident.

Cross-Cultural Contacts

Introduction

A professional peace officer possesses integrity and demonstrates behaviors that encompass a respect for human dignity, concern for human rights, and recognition of the value of diversity.

Expectations of law enforcement

Members of cross-cultural communities use a variety of criteria to evaluate how well officers meet that community's expectations. These criteria are a mixture of perceptions and objective measures, such as response time.

The table below shows several of the criteria that members of a community use to evaluate officers, as well as ways officers demonstrate performance within these criteria.

Criteria	Examples
Use of time and equipment	• Response time to: - crimes in progress - emergency calls - other calls for service • Level of response • Responsible driving habits
Officer behavior	• Demeanor, respectful attitude • Treatment of members of the community (i.e. fair, impartial) • Moral and ethical standards • Judgement • Use of force • Empathy as a trait of a leader

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Expectations of law enforcement (continued)

Criteria	Examples
Problem solving and conflict resolution skills	• Community policing • Understanding changing diversity trends within the community • Sensitivity to community needs, expectations, and goals • Active community participation - Public education activities - Cooperative problem-solving ventures between the community and agency • Crime prevention - Neighborhood watch - Recognition of crime problems • Recognition of non-law enforcement situations (e.g. street repairs, lack of recreational facilities, lighting conditions)

Issues of legality

Groups representing different cultural backgrounds may differ in their understanding of the "legality" of specific actions or behaviors. They may also question a law enforcement officer's authority to intervene.

Officers need to be aware of these perceptions and take appropriate steps to educate individuals regarding the law.

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Issues of legality (continued)

A given cultural group may believe that:

- substantive corporal punishment of a child is permissible and appropriate when administered by a parent as a form of discipline
- criminal victimization should not be reported to law enforcement, but should be handled strictly "within the group" or as a "family matter"

Intragroup variations

There is no simple list of "do's" and "don'ts" for officers to memorize when dealing in an official capacity with individuals from differing cultural backgrounds. Such an approach cannot be used because generalizations can be proven erroneous and therefore counterproductive.

Varying dimensions of diversity exist among members of the same cultural group. These variations can include, but are not limited to:

- generational differences (i.e. first, second, third generation)
- economic differences
- differing levels of education
- varying religious beliefs
- work experience and backgrounds
- age differences
- physical or developmental disabilities of members within the community

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Faith based issues

Freedom of religion is a cornerstone of civil rights. All people have the right to practice their religion without fear or interference. When contacting people in the field or entering a private home or entering a place of worship, officers may see religious artifacts that could include but are not limited to the following:

- symbols
- books
- altars
- prayer rugs
- shrines
- pictures or statues of religious figures
- turbans

Officers should be respectful of any articles or areas that are used for prayer or worship. Depending on the circumstances, it may be appropriate to remove their shoes or head covering when entering the building or areas of worship.

Identification and handling

As part of their religious practices, some people may carry items that appear to be weapons. Members of the Sikh faith carry a dagger in a sheath that is known as a “kirpan”. The “kirpan” is often carried on a shoulder strap hanging off to one side or may be sewn into the clothing. This is one of the five symbols of their faith that are carried on their person. If it is necessary for an officer to remove the “kirpan” from the person, if possible, they should:

- Treat the “kirpan” with respect
- If safe to do so, do not place the “kirpan” on the ground or in the dirt
- Return the item to the owner in the same condition as when you removed it
- Take time to explain your actions

Officer safety is always the foremost and should not be compromised.

Continued on next page

Image courtesy of Vicky Singh, Sikhsangat.com

Reassurance

If a cursory search or arrest of a Sikh is required (for reasons independent of those pertaining to the articles of faith), this is suggested initial contact with a Sikh prior to a cursory search:

- Circumstances permitting, the officer should inform the person what he is going to do and why
  - I need to conduct a cursory search
  - My intention is not to remove the turban
  - I understand that this is an article of faith I will be respectful of it, but we need to do this
  - I'm patting it down to make sure there's nothing there that could jeopardize my safety or the safety of others around us, including you

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Cursory search

How do you conduct a cursory search of a turban?

- You are being detained for _____ and I need to conduct a cursory search
- My intention is not to remove the turban
- I understand that this is an article of faith and I will be respectful of it, but for your safety and mine I need to conduct the search
- I will not pull or dislodge the turban, and will avoid aggressively handling the turban (during a cursory search it should not come off)
  - Removing the turban is akin to a strip search for Sikhs, and should not be done unless a strip search is warranted. There should be probable cause to arrest and whenever possible the removal should be done in private. Retying the turban could take up to 15 minutes

Identification of items

What can an officer expect when requesting for, or searching the turban?

- The top knot of hair feels like a small bun
- A small comb
- Hairnet/string that holds up the beard and is tied atop the head
- Silai –a pen shaped object like a small knitting needle used to tuck hair into turban; used occasionally
- Layers of cloth
- A second layer of cloth beneath the turban, which is sometimes called an under turban
- A couple of small pins to hold the turban closed
- All of these items that may be felt in the turban are small and generally flat or near flat grooming items
- As in all pat searches the officer should provide an explanation of why the pat search is in order, this will prevent the person from feeling they are targeted for their religion

Continued on next page

Identifying the presence of a kirpan

What is the process for identifying whether the Sikh is carrying a kirpan?

- A Sikh of either gender who carries a kirpan is likely to be carrying the 4 other visible articles of faith, i.e. long beard/hair, a head covering, a steel or iron bracelet, and a small comb
- The officer should ask if the Sikh is carrying a kirpan before beginning the search. The kirpan may be visible over the clothing or under a jacket and is generally worn in a shoulder strap worn diagonally over the body or around the waist

Knife vs. kirpan

What is the process for identifying something as a kirpan instead of a knife or other item?

- The item will typically be sheathed and often has a curved tip upward
- The most common kirpan is generally 6-9 inches long
- Most kirpan are not sharp and may be sewn into the sheath

Conducting search with kirpan present

How would an officer conduct a cursory search with someone if he/she was carrying a kirpan?

- The pat down should be conducted meeting agency standards, as with any search the officer must have proper legal authority to conduct search
- Because the kirpan is a religious item, treat it with respect

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Removal of kirpan

If the person needs to be detained or arrested, what should be done with a kirpan (if it cannot be left on the person)?

- Typically, the kirpan is easily removed by taking it directly out of the shoulder strap
- If the kirpan is worn under the clothes, agency policy should be followed regarding searching persons of the opposite gender, if possible, the removal should be conducted in a private place
- Once removed the kirpan should be kept in a respectful, clean place away from dirt and off the floor/ground

General guidelines

Effective law enforcement contacts with members of differing cultural groups cannot be reduced to a "recipe-style" approach. Peace officers should remain ethical and apply certain behaviors consistently with all members of the community. By doing so, officers continue to reinforce their role as a leader.

Officers should:

- make a conscious effort to recognize and challenge their own stereotypes and prejudices that could affect their behavior

- capitalize on the availability of resources such as language lines and translator services when they would aid in the performance of their duties

- continuously recognize and learn about specific cultural, racial, and ethnic groups that are represented in their jurisdiction. Considerations should include, but are not limited to:
  - history of the group
  - values and customs
  - religious conventions
  - language (at least at a very basic level)
  - the group's attitudes toward law enforcement

- look for opportunities to educate the community regarding how law enforcement works

- establish cultural building blocks between officers and members of the community such as:
  - acting as mentors
  - providing ride-alongs
  - supporting youth programs and athletic groups
  - serving on community advisory boards

Example

A peace officer responded to a family dispute in a Hispanic neighborhood. When the officer approached, a woman came to the front door. The officer tried to talk to the woman, but she did not respond and looked away. The officer, observing a man in the room, addressed him in Spanish, asking permission to enter the house. The man agreed and the officer entered the house. Knowing it was important to show respect to the man in his home, the officer maintained a calm, non-judgmental attitude while questioning him. The incident was settled peaceably after it was determined that no crime occurred.

Peace officers investigating a series of burglaries in a Vietnamese neighborhood suspected that three Vietnamese gang members were involved. The investigating officers enlisted the assistance of a Vietnamese American peace officer from another unit. This officer used his knowledge of the culture to question one suspect, using phrases such as, “Let’s not shame our family,” and “What about your parents?” The officer obtained a statement from the suspect, which implicated the other gang members.

Chapter Synopsis

Learning need	Peace officers must recognize that one of the most reliable strategies for successful contacts with individuals from differing cultural, racial, or ethnic backgrounds is to treat all individuals and groups with dignity and respect.
Effective verbal communication [42.03.2]	When attempting to communicate with an individual who speaks little English or for whom English is a second language, officers should: • be patient • speak slowly and clearly • speak at a normal volume (Speaking louder will not help comprehension.) • face the person they are addressing (even when using a translator) • use short, simple sentences • pause frequently • allow enough time for the person to formulate responses • repeat statements or questions in different ways, if necessary • use gestures, actions, or written text to aid understanding • provide feedback and encouragement • summarize what the individual is saying to check comprehension
Active listening [42.03.3]	Active listening involves deliberate and conscious concentration on the part of the listener.
Nonverbal communication [42.03.4]	In a situation involving cross-cultural communication, nonverbal communication can constitute an even greater role than it does with individuals with the same cultural background.
Guidelines for officer behavior [42.03.5]	Effective law enforcement contacts with members of differing cultural groups cannot be reduced to a “recipe-style” approach. Peace officers should remain ethical and apply certain behaviors consistently with all members of the community. By doing so, officers continue to reinforce their role as a leader.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Recall a recent situation where you attempted to interact with an individual from a different cultural background than your own. Describe any of the barriers to effective communication that you experienced. How did you overcome them?

2. You have stopped a vehicle because of a faulty taillight. The driver of the vehicle is angry and states, "You stopped me just because I'm _____!" Describe how you would handle the situation. What would you say to the person?

Continued on next page

Activity questions (continued)

3. You are called to J.F. Kennedy Middle School on a report of a weapon on campus. In the principal's office, you encounter an adolescent male student wearing a leather sheath attached to his belt. The sheath holds a silver dagger. When asked, the student tells you that he is a Sikh, and that the dagger is a religious symbol. Wearing a dagger is an accepted practice in his country. What actions, if any, would you take? Please explain.

4. Your coworker on patrol asks to speak with you about an upcoming department party. He tells you, "I am gay and I don't feel comfortable attending. Do you think I should bring my partner?" How would you respond to this question? What are the issues presented? What work conditions keep people from being comfortable with their sexual orientation and gender identity? How do organizations include, exclude employees?

Workbook Corrections

Suggested corrections to this workbook can be made by going to the POST website at: www.post.ca.gov

Chapter 4

Sexual Orientation and Gender Identity

Overview

Learning need

Peace officers need to recognize and respect the complexities of sexual orientation and gender identity and develop the skills necessary to understand, effectively communicate, and respond to the needs of the community and law enforcement workplace.

Learning objectives

Discuss the difference between sexual orientation and gender identity, and how they intersect with:

After completing study of this chapter, the student will be able to:	Objective ID
• Discuss the difference between sexual orientation and gender identity, and how they intersect with each other, race, culture, and religion.	42.04.10 42.04.11
• Define the terminology used to identify and describe the difference between sexual orientation and gender identity.	42.04.12
• Discuss ways to create an inclusive workplace within law enforcement for sexual orientation and gender identity minorities.	42.04.13
• Identify important moments in history related to sexual orientation and gender identity minorities and law enforcement.	42.04.14

Continued on next page

In this chapter

This chapter focuses on recognizing and respecting the complexities of sexual orientation and gender identity, and developing the necessary skills to respond to the needs of the community. Refer to the following chart for specific topics.

Topic	See Page
Sexual Orientation and Gender Identity	4-3
Terminology	4-5
Inclusive Workplace within Law Enforcement	4-7
Important Moments in History	4-11
Chapter S synopsis	4-13
Workbook Learning Activities	4-14

Sexual Orientation and Gender Identity

Introduction

Peace officers should be aware of the differences between sexual orientation and gender identity and how they intersect with each other, race, culture, and religion.

Sexual orientation and gender identity

Sexual orientation and gender identity are two independent aspects of a person. Both of these identities are innate, and each has a spectrum. Not all people identify as either straight or gay, male or female. There are many variations of sexual orientation and gender identity along these spectrums. People may realize their sexual orientation and gender identity at almost any Age and decide to share this aspect of their identity by "coming out."

Much like eye and hair color, who you are attracted to is not a choice. Sexual Behavior, however, is a choice. In other words, you may find another person attractive, but decide not to act on that attraction.

A male or female gender designation is commonly assigned at birth based on genitalia. This is usually referred to as assigned sex at birth. The majority of people develop a gender identity that is consistent with their assigned sex at birth. Some people develop a gender identity that varies from their assigned sex at birth. In some cases, the inconsistency of gender identity from assigned sex at birth is so significant that the person decides to change personal attributes to match their gender identity. These changes may include name, pronouns, clothing, hairstyle, behavior, and anatomy. A legally recognized change of gender does not require a change of anatomy.

Sexual orientation and gender identity minorities exist in every race, culture and religion. The traditions of some races, cultures, and religions may impact one's ability to "come out" as a sexual orientation and/or gender identity minority. This is especially true in communities of color, conservative religions, and regions of the state where these groups are dominant.

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Sexuality orientation and gender identity (continued)

Peace officers may be called to mediate family disputes involving matters of sexual orientation and gender identity. In order to understand and resolve these conflicts, peace officers should consider the significant influence that culture and religion can have on how family members accept or reject other family members. For example, a child who identifies as a sexual orientation and/or gender identity minority may not feel safe at home. They may run away and become homeless. Forty percent of youth experiencing homelessness identify as a sexual orientation and/or gender identity minority (UCLA Williams Institute, July 2012 and University of Chicago, November 2017). Additional studies have shown consistent results over time.

Terminology

Introduction

Law enforcement officers should have a working knowledge of the terminology related to sexual orientation and gender identity minorities.

Biological sex

Biological sex is used to classify an individual as male, female, or intersex. Intersex is a word used to describe an individual having both male and female characteristics and/or reproductive organs at birth. This condition may not become apparent until later in life, such as during puberty.

Sexual orientation

Sexual orientation is a person's physical, emotional and romantic attraction to people of the same and/or other gender. For example, straight, gay, lesbian, and bisexual.

- Straight: A person attracted to a person of the opposite gender.
- Gay: A person attracted to a person of the same gender.
- Lesbian: A woman who is attracted to another woman.
- Bisexual: A person who may be attracted to persons of either gender.

Gender identity

Gender identity is a person's sense of being male, female, or something other or in-between. This is regardless of the sex assigned at birth. Gender identity is not the same as gender expression or sexual orientation.

- Transgender: A person whose personal identity and gender is different than their sex assigned at birth.
- Cisgender: A person whose personal identity and gender corresponds with their birth sex.
- Non-binary: A person who does not identify exclusively as male or female. For example, non-binary, which is being used as a sex classification by the Department of Motor Vehicles (DMV) as of January 1, 2019.

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Gender expression

Gender expression is the way a person expresses themselves, typically through their name, pronouns, appearance, clothing, haircut/hairstyle, behavior, etc. For example, masculine, feminine, or gender non-conforming.

It is important not to assume an individual's gender simply based on their appearance. One's gender identity and/or gender expression have nothing to do with one's sexual orientation and gender identity.

What about the "Q"?

What about the "Q"? The "Q" includes individuals who identify either as questioning or queer. Questioning is to be unsure of or re-examining one's sexual orientation and/or gender identity. For those who embrace the term "queer", it can be used as an umbrella term for those who do not wish to categorize their sexuality and/or gender based on binary systems. It is important to note "queer" has been used as a slur to bully and harass. With this historic and current level of nuance, Members are strongly advised to use caution when the word "Queer" is being used, the context, and or paraphrasing to avoid misunderstandings (i.e. The perception of a police officer calling someone "Queer", may be very different than a "Queer" person calling themselves "Queer".)

The following terms should be avoided because they may be considered offensive: homosexual, homo, transvestite, transsexual, he/she, it, shim, or tranny. The terms sexual preference and lifestyle should also be avoided as they both imply the presence of choice when there is no choice.

Inclusive Workplace Within Law Enforcement

Introduction

Peace officers should have a working knowledge of what it means to have an inclusive workplace within law enforcement for sexual orientation and gender identity minorities.

Demonstrating respect for diversity

In order to establish and promote an inclusive workplace within law enforcement, coworkers should treat each other with mutual respect and consideration. This requires an awareness of the various sexual orientation and gender identities that could be held by employees. Some of the most basic ways to show respect are to:

- use their correct name and pronoun
- ask them respectfully and privately if unsure
- treat all employees equally
- validate personal relationships regardless of sexual orientation and gender identity

Intentionally or repeated misgendering or misnaming a coworker (i.e. say "she" when they self-identify as "he") or call them by their old name ("dead name") is highly inappropriate, could be a violation of privacy, and possibly discriminatory.

Names and titles change for a variety of reasons throughout a career such as name changes due to marriage and divorce or religious conversion. Just as an officer who promotes to sergeant must be referred to as sergeant, so too should a person who has changed their name be referred to by their new name.

Continued on next page

Inclusive Workplace Within Law Enforcement Continued

Recognizing personal bias and its potential negative effect on workplace conduct

Individual values and personal beliefs may conflict with another's sexual orientation and/or gender identity. These values and beliefs do not necessarily need to be abandoned, but they never permit discourtesy or impoliteness towards co-workers.

Be aware of demeaning language and phrases related to sexual orientation and gender identity that can be offensive or harmful to co-workers. An expectation of a law enforcement professional is to speak up if you witness derogatory behavior or hear comments targeting another employee based on sexual orientation and/or gender identity. All employees deserve to be treated respectfully.

Honoring the right to privacy and confidentiality

It is important to understand that all private conversations amongst coworkers regarding sexual orientation and gender identity should remain confidential. All employees have the right to determine the extent to which their sexual orientation and gender identity is disclosed.

If you have questions about sharing such information, ask yourself, "What legitimate purpose does sharing this information serve in the workplace?" Inadvertent disclosure of sexual orientation and gender identity information could lead to discrimination and harassment. Avoid participation in gossip and rumoring about coworkers and other forms of inappropriate and unprofessional behavior.

Not Making Assumptions

Avoid making assumptions about your co-workers, especially based on stereotypes related to appearance, body language, and other personality attributes

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Inclusive Workplace Within Law Enforcement Continued

Understanding reasons why employees may not report incidents of harassment/ discrimination.

Employees may be reluctant to report harassment/discrimination due to:

- Fear of being perceived as physically, mentally, or emotionally incompetent for law enforcement
- Fear of "**outing**" oneself due to the reporting process
- Potential loss of promotion or specialty assignment
- Embarrassment
- Fear of retaliation or increased harassment
- Not wanting to get offender in trouble
- Belief that supervisors or coworkers condone or minimize the behavior
- Lack of confidence in the process
- Fear of perceived association

Law enforcement employees can create an inclusive workplace by honoring the use of their identified pronouns, supporting coworkers when they "come out", and treating same-sex relationships as all others.

Examples:

Consider what a bigoted *suspect* may do after hearing such private information

What is the proper pronoun to use when addressing a person whose gender in ***unknown*** to you?

Continued on next page

Inclusive Workplace Within Law Enforcement, Continued

Scenario:

When a title is unknown or unclear, the officer can omit using gendered titles or they can ask how the person would like to be referred to as.

- Some nonbinary individuals prefer to be referred to as they, them, or their in the singular. Another route is referencing them by name alone.

What is the proper pronoun to use when addressing a person who may be a ***transwoman*** (**a person assigned male at birth that transitions to female**)?

Now consider how this scenario could change if other people are in earshot of this conversation (i.e. coworkers or strangers walking by...).

Important Moments in History

Introduction

Identify important moments related to sexual orientation and gender identity minorities, and law enforcement.

Protests

For much of the 20th Century, sexual orientation and gender identity minorities were considered criminals and deviants by law. Law enforcement would routinely target establishments specifically because they were frequented by the LGBTQ community and make arrests based on these discriminatory laws.

In the early morning hours of June 28, 1969, police conducted a raid on the Stonewall Inn, a New York City bar catering to LGBTQ clientele. The event turned into a violent protest and led to a seven-day long series of riots. The Stonewall Riots are largely considered the start of the LGBTQ civil rights movement in the United States. One year later, the first LGBTQ protest marches took place in New York, Los Angeles, San Francisco, and Chicago, commemorating the memory of the Stonewall Riots. These protest marches have evolved into pride parades, festivals, and marches, which take place in major cities all around the world.

Changes in law

In 2003, the U.S. Supreme Court declared sodomy laws unconstitutional across the entire 50 states.

In 2009, President Obama signed the Matthew Shepard and James Byrd, Jr. Hate Crimes Preventions Act into law. The Act was named for two men who were murdered; Matthew Shepard because he was gay and James Byrd, Jr. because he was Black. The new law expanded previous hat crime legislation to officially include crimes motivated by actual or perceived gender, sexual orientation and gender identity, and disability.

In 2015, the U.S. Supreme Court declared same-sex marriage a Constitutional right nationwide.

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Important Moments in History

Defining moments

In 1973, after years of studies, analysis, and changing cultural attitudes, the American Psychiatric Association removed homosexuality from the official list of mental illnesses. Similarly, in 2013 Gender Identity Disorder was removed.

During the 1980's and 1990's, the AIDS epidemic devastated the LGBTQ community. As thousands of people died from the virus, fear spread throughout the country. First responders had little information about how the virus was contracted and this dramatically affected the way law enforcement responded to calls for service.

In 1999, the Transgender Day of Remembrance (November 20) was founded to honor those who have been murdered, and continue to be murdered, as a result of transphobia. In a 2015 California Transgender Survey of 3,453 people, 55% of the respondents reported experiencing high levels of mistreatment and harassment by police in the past year. This included being verbally harassed, repeatedly referred to as the wrong gender, physically assaulted, and sexually assaulted. Many also reported being forced by officers to engage in sexual activity to avoid arrest. Fifty-six percent of respondents said they would feel uncomfortable asking the police for help if they needed it.

On June 12, 2016, an armed suspect entered Pulse, a popular LGBTQ dance club in Orlando, Florida. The suspect murdered 49 people and injured 50 more. At the time, this incident was the worst mass-shooting in U.S. History.

Chapter Synopsis

Learning need	Peace officers need to recognize and respect the complexities of sexual orientation and gender identity and develop the skills necessary to understand, effectively communicate, and respond to the needs of the community and law enforcement workplace.
Sexual orientation and gender identity [42.04.10, 42.04.11]	Sexual Orientation and Gender Identity are independent of one another and require a foundational understanding of each. In order to effectively respond to LGBTQ community needs, peace officers must be aware of how sexual orientation and gender identity relate to race, culture, and religion.
Terminology [42.04.12]	With the developing construct and shifting usage of terminology within the LGBTQ community, it is necessary that peace officers recognize and use appropriate vocabulary when communicating with members of the LGBTQ community.
Inclusive workplace within law enforcement [42.04.13]	Workplace inclusion is creating a workplace environment where all individuals are treated fairly, with dignity and respect, and have the opportunity and resources to contribute fully to the success and mission of the organization regardless of sexual orientation and gender identity.
Important moments in history [42.04.14]	Important historical events related to the LGBTQ community have created significant changes in federal, state, and local laws.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. You are called to a residence regarding a family dispute. The reporting party is the wife/mother who states that she and her husband were just told by their 17-year-old son that he is gay. The husband became irate and threw a beer bottle across the room away from she and their son. What officer safety considerations do you have before and during the contact? What actions would you take to de-escalate the situation? What considerations do you have regarding this family dynamic that might help resolve the dispute?

2. You walk into the briefing room and observe two of the senior officers making jokes about an officer, who is not in the building. You realize that they are making inappropriate jokes about the officer's sexual orientation that can be heard down the hallway. What actions, if any, would you take? What notifications, if any, would you make?

Continued on next page

Chapter 5

Hate Crimes

Overview

Learning need

Peace officers need to have a lawful basis for recognizing criminal acts as hate crimes and understand the impact of such crimes on victims and communities.

Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• state the legal definition of a hate crime based on the Penal Code	42.05.08
• classify the crime and the elements required to arrest for: - desecrating religious symbols - interfering with religious freedom - terrorizing another - interfering with an individual's civil rights	42.05.09
• explain the legal rights and remedies available to victims of hate crimes based on federal law and civil code	42.05.10
• describe the impact of hate crimes on victims, the victims' families, and the community	42.05.11
• discuss the indicators of hate crimes	42.05.12
• explain considerations when investigating and documenting incidents involving possible hate crimes	42.05.13

Continued on next page

In this chapter

This chapter focuses on peace officers' responsibilities in dealing with hate crimes. Refer to the chart below for specific topics.

Topic	See Page
Laws Related to Hate Crimes	5-3
Federal and Civil Actions Related to Hate Crimes	5-9
Impact of Hate Crimes	5-15
Investigation and Documentation of Hate Crimes	5-19
Chapter Synopsis	5-29
Workbook Learning Activities	5-30

Laws Related to Hate Crimes

Introduction

California's changing demographics have been accompanied by an increase in intergroup conflicts. Hate crimes are regarded by law enforcement as civil rights violations and as terrorist acts against individuals or specific groups.

Definition

A **hate crime** is defined in *Penal Code Section 422.55* as:

- A criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

  - Disability
  - Gender
  - Nationality
  - Race or ethnicity
  - Religion
  - Sexual Orientation
  - Association with a person or group with one or more of these actual or perceived characteristics

NOTE: *Penal Code Section 422.55(b)* "Hate crimes" includes, but is not limited to, a violation of *Penal Code Section 422.6*.

NOTE: When an individual or group commits a crime motivated by two or more criminal extremist views, the acts would be considered **multi-mission criminal extremism**. An example would be a bombing of a government welfare office that has a high-minority clientele by someone motivated by hatred of the government and hatred of the particular racial group. In this case, the anti-government extremist crime and hate crimes create multi-mission criminal extremism.

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Crimes that are often hate crimes

Certain hate crimes identified within the penal code can stand alone or be recognized as the more specific crime listed within a crime report. The following table identifies a number of hate crimes that stand alone.

	Crime Elements	**Crime Classification**	***Penal Code Section***
Desecrating religious symbols	• Burning a cross or other religious symbol • on the property of another • without that person's consent • knowing it is a religious symbol, ***or*** • displaying a Nazi swastika or other symbol • hanging of a noose • for the purpose of terrorizing another	Misdemeanor and felony applications	*11411*
Interfering with religious freedom	• Any person who - with intent to cause - attempts to cause, or - causes another • person to refrain from exercising that person's religion • by means of threat directly communicated • to commit an unlawful injury, or • to reasonably appear to the recipient that such threats could be carried out	felony	*11412*

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Laws Related to Hate Crimes, Continued

Crimes that are often hate crimes (continued)

	Crime Elements	Crime Classification	*Penal Code Section*
Terrorizing another	• Any person who • explodes or attempts to explode • a destructive device • for the purpose of terrorizing another	felony	*11413*

NOTE: **Terrorizing** is defined as causing a person of ordinary emotions and sensibilities to fear for his or her personal safety.

NOTE: *Penal Code Section 11413* applies to any library, bookstore, courthouse, home of a court officer, church, temple, synagogue, place of worship, or abortion clinic

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Interfering with an individual's civil rights

Certain penal code sections related to hate crimes are intended to be coupled with more prominent underlying criminal acts, such as assault, battery, vandalism, etc.

Penal Code Section 422.6 states that it is a misdemeanor to:

- by force or threat of force
- *willfully*
- injure, intimidate, interfere with, oppress, or threaten
- any other person
- in the exercise of that person's constitutional rights
- because of that person's real or perceived:
  - race or ethnicity
  - nationality
  - religion
  - gender
  - disability
  - sexual orientation and gender identity

Willfully is defined as any act done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly, or inadvertently.

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Enhanced penalty

Penal Code Section 422.7 elevates the crime of interfering with an individual's civil rights to a *felony* when the suspect:

- has been convicted of:
  - intimidating or interfering with, or
  - conspiracy to interfere with an individual's civil rights, *and*
- has the present ability to
  - commit a violent crime,
  - causes an actual physical injury, or
  - causes property damage in excess of $400.

Additional statutes

The following table identifies additional penal code sections related to hate crimes.

Description	***Penal Code Section***
• Special circumstances may apply if the murder was motivated by hate	*190.2*
• Intentionally disturbing a group of people meeting to worship	*302*
• Knowingly vandalizing a place of worship	*594.3*
• The advocacy of violence where harm is likely to result is not protected by the California Constitution	*11410*

Continued on next page

Examples

A group of teenagers burned a cross on the front lawn of a house owned by an East Indian family who had recently moved into a predominately Caucasian neighborhood. This is the crime of desecrating a religious symbol, *Penal Code Section 11411*, and is a hate crime that can stand alone.

Two lesbians who frequently had dinner together in a local restaurant were approached by two men who told them, "We don't want your kind in a family place like this. Stay out and nobody will get hurt." When the women ignored the threat and continued to patronize the restaurant, the men followed them home one night and assaulted them. In addition to assault, the men are guilty of the crime of interfering with an individual's civil rights because of that person's sexual orientation and gender identity, *Penal Code Section 422.6.*

Federal and Civil Actions Related to Hate Crimes

Introduction

Legal rights and remedies are afforded to victims of hate crimes under federal and state laws. These statutes provide both criminal and civil causes of action for hate crime victims.

Federal criminal statutes

A number of federal criminal statutes are intended to guarantee individual federally protected rights. The United States Justice Department becomes involved actively in a case after state or local authorities have concluded prosecuting the particular crime or in the absence of state or local prosecution.

The following table identifies a number of these statutes.

	Description	***Federal Code***
Conspiracy to interfere with civil rights	• Prohibits conspiracies to injure citizens exercising rights protected by the Constitution or laws of the United States	*18 USC Section 241*
Forcible interference with civil rights	• Prohibits intentional interference, by force or threat of force, with certain specified rights • Enacted in 1968 in response to violent attacks on civil rights workers in the South • Gender, sexual orientation and gender identity, or disability were added in 2009	*18 USC Section 245*

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Federal and Civil Actions Related to Hate Crimes, Continued

Federal criminal statutes (continued)

	Description	*Federal Code*
Forcible interference with civil rights under color of authority	• Prohibits willful deprivation of civil rights by those acting under color of law • Frequently used to prosecute violent misconduct by law enforcement officials	*18 USC Section 242*
Willful interference with civil rights under the Fair Housing Act	• Prohibits forcible interference with any person's right to sell, purchase, rent, etc., any dwelling	*42 USC Section 3631*

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Federal and Civil Actions Related to Hate Crimes, Continued

Federal civil statutes

A number of federal civil statutes provide for legal actions involving racially motivated violence by individuals.

The following table identifies a number of these statutes.

	Description	***Federal Code***
Civil actions under the Civil Rights Act of 1866	• *Section 1981* provides that all citizens shall have the same legal rights enjoyed by white citizens • *Section 1982* provides that all citizens shall have the same property rights enjoyed by white citizens • Both sections were enacted by Congress shortly after ratification of the 13th Amendment prohibiting slavery	*42 USC Sections 1981 and 1982*
Conspiracy to deprive any person or class of persons of equal protection of the laws	• Imposes civil liability on those who conspire to deprive others of the protection of the law • Enacted to provide redress for victims of the Klan during Reconstruction	*42 USC Section 1985(3)*
Interference, coercion, or intimidation in violation of the Fair Housing Act	• Provides a civil cause of action for anyone whose rights under the Fair Housing Act are violated	*42 USC Section 3617*

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State civil statutes

California has two principal civil rights statutes that are used to address hate-related violence or threats of violence. The following table identifies each statute.

	Description	***Civil Code Section***
Ralph Civil Rights Act	• Prohibits violence or intimidation by threat of violence against persons or their property because of their real or perceived: - race - color - religion - ancestry - national origin - political affiliation - sex - sexual orientation and gender identity - age - disability - position in a labor dispute (excluding statements made during otherwise lawful labor picketing) - any other arbitrary, class-based distinction	*51.7*

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Federal and Civil Actions Related to Hate Crimes, Continued

State civil statutes (continued)

	Description	*Civil Code Section*
Bane Civil Rights Act	• Forbids interference by threats, intimidation, or coercion with an individual's constitutional and statutory rights • Examples of the rights protected under the Bane Civil Rights Act include, but are not limited to: - association - assembly - due process - education - employment - equal protection - expression - formation and enforcement of contracts - holding of public office - housing - privacy - speech - travel - use of public facilities - voting - worship	*52.1*

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State civil statues (continued)

NOTE: An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars ($25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section, and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

NOTE: Since the Bane Act forbids interference with rights guaranteed by California laws, many Ralph Act violations are also violations of the Bane Civil Rights Act.

Impact of Hate Crimes

Introduction

Hate crimes have a devastating effect on victims, victims' families, and communities. Incidents often occur in neighborhoods, places of worship, schools, the victim's workplace, or other locations where the victim has established personal ties.

Victims of hate crimes

The *victim* of a hate crime is not limited to the person who is the direct target of an attack or other offense. The table below identifies the two different types of victims associated with crimes.

	Persons who...
Direct victims	• have had a crime committed against them • report that a crime has been committed against them • suffer, as a direct result of a crime, economic loss, physical injury, emotional trauma, or death
Indirect victims	• have a close relationship to the direct victim • suffer emotional trauma and/or economic loss as a result of being a witness to a crime • are members of the targeted group • make up the community where a crime has taken place

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Reactions to hate crimes

Victims of crime may experience reactions that are outside the range of their general experience. Such a trauma can often produce impacts that last days, weeks, or even years after the initial event. In some cases, these impacts are compounded by tangible or concrete effects such as a physical injury or economic loss.

The following table identifies a number of reactions that are common to victims of hate crimes.

Reaction	Description
Bitterness	• Perception that law enforcement will not respond adequately
Helplessness/ frustration	• Inability to affect the circumstances that led to their victimization • Feeling that they may not be able to report their victimization because they don't want to reveal such information as immigration status, sexual orientation and gender identity, etc.
Anger	• Outrage at the unfairness of being victimized because of one's race, ethnic origin, sexual orientation and gender identity, etc. • Desire for retaliation
Fear	• Regarding - possible future incidents - continued intimidation - the safety of children and other family members
Prolonged emotional trauma	• Recurrent and intrusive memories of the crime • Intense discomfort with events that are reminders of the crime

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Effects on communities

Besides the effects hate crimes have on individual victims, they also cause:

- distrust between groups
- disharmony among communities
- tension between communities and law enforcement agencies when incidents are not handled appropriately, thoroughly, or in a timely manner

Peace officer reactions

An officer's ability to work with and effectively communicate with the victims and witnesses of a crime can dramatically affect the outcome of an investigation. For this reason, it is critical that a peace officer recognize and treat *all victims* of a crime with respect and compassion.

NOTE: Additional information about victimization, crisis reactions, and victim assistance strategies is contained in LD 4: *Victimology / Crisis Intervention*.

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Examples

A Filipino family's vehicle was set on fire in the middle of the night. They found the words "Die Jap" and "Remember Pearl Harbor" spray-painted on their garage door. Investigation revealed the suspects were Caucasian teenagers who had overheard their parents discussing the recent anniversary of the bombing of Pearl Harbor. Believing the family was of Japanese descent, the teenagers vandalized their property. As a result of the incident, the Filipino family felt intimidated and fearful of further incidents and decided to avoid any contact with their Caucasian neighbors.

A Caucasian teenager was accosted and attacked by a group of Vietnamese youths who are gang members. The gang members beat him and called him derogatory names. When the boy arrived home, his parents called the police. The responding officer was of Vietnamese descent. When the officer attempted to interview the victim, the boy was reluctant to disclose information to the officer, feeling intimidated and fearful. He also assumed that no action would be taken by an officer who shared the same ethnic heritage with his attackers.

Several members of a Caucasian supremacist group resided in an ethnically diverse neighborhood. These group members had advocated racially motivated violence and were suspected of committing violent crimes in other states, although they had not been convicted of such crimes. Their reputation and presence had outraged members of the community who felt they were in constant danger from these individuals.

Investigation and Documentation of Hate Crimes

Introduction

Incidents involving hate crimes tend to generate fear and concern among victims and the community. Peace officers need to recognize the serious nature of such incidents and to assure the community that the criminal acts are being investigated thoroughly.

Criminal acts

Hate crimes can include:

- unlawful acts (e.g. vandalism, battery, assault, murder, etc.)
- attempted unlawful acts (e.g. attempted arson, attempted assault, etc.)
- threatened unlawful acts (e.g. murder, assault)

Whether the acts actually take place, are attempted, or threatened, they must be directed at causing:

- physical injury
- emotional suffering
- intimidation
- damage to property

NOTE: Name calling and epithets, if they are not combined with a crime, attempted crime, or threat of a crime are not considered criminal acts.

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Bias motivation

Penal code section 422.87(a)(3)(B) states that, "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, 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."

Bigotry

A **bigot** is any person with a strong conviction or prejudice, especially in regard to race, religion, politics, etc., who is intolerant of any other opinion or belief that does not agree with his or her opinion or belief.

Bigotry, in whole or in part, can be a central motive for hate crimes. It can take the form of intolerance or hatred based on:

- race/ethnicity
- religion
- nationality
- gender
- sexual orientation and gender identity
- disability

Motivation

Determining motivation or specific intent can be critical to recognizing a crime as a hate crime. **Specific intent** is the specific design, resolve, or determination to commit an act (or also in the case of hate crimes, to attempt or threaten to commit an act).

When investigating a suspected hate crime, attempting to answer the following questions can aid the officer in determining the motivation or specific intent of the suspect.

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Motivation (continued)

- Is the suspect's motivation known?
- Does the victim perceive the action to have been motivated by hate or bigotry?
- Is there any other clear motivation for the act?
- Were there any bias remarks made by the offender? Were there any offensive symbols, words, or acts known to represent a hate group or other evidence of bias against the victim's group?
- Did the incident occur on a holiday or other day of significance to the victim's group or the suspect's group?
- What do the demographics of the area reveal about the incident?

Indicators of hate crimes

Physical indicators can lead investigating officers to determine that a criminal act is based on bigotry and could be considered a hate crime. The following table identifies a number of these indicators.

Indicator	Examples
Target(s) of criminal act	• When the criminal act involves specific: - individuals - residences - places of worship - religious or ethnic organizations - businesses
Acts of vandalism	• When there is an absence of other motives and vandalism has occurred to a facility of a(n): - religious group - ethnic organization - religious organization - LGBTQ organization

NOTE: Reference *Penal Code Section 13519.6*

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Indicators of hate crimes (continued)

Indicator	Examples
Presence of graffiti	• When the specific circumstances involve graffiti that is: - racial - ethnic - religious - homophobic
Threatening telephone calls	• When the incident involves obscene or threatening telephone calls, which contain: - racial slurs - ethnic slurs - religious slurs - homophobic slurs

Collection of evidence

The collection and preservation of evidence substantiating that a hate crime has occurred can be critical. Such evidence may include:

- photographs of injuries, graffiti, vandalism, drawings, tattoos, etc., and
- physical evidence, such as:
  - hate/bias literature
  - tape recordings (e.g., threat messages left on answering machines)
  - computer messages, letters, notes
  - videos

NOTE: Additional information regarding the collection of evidence is included in LD 30: *Preliminary Investigation*.

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Conducting interviews

Interviews with victims, witnesses, and potential suspects can also be critical when determining if a criminal act is motivated by bigotry or hate. The following table identifies a number of considerations for officers when conducting such interviews.

Interview	Considerations	Possible Questions to Ask
Victims	• Treat the victim(s) with dignity and respect • Recognize that victim(s) may direct their anger or frustration at responding officers • Permit the victim(s) to vent their emotions • Empathize • Maintain a non-critical, non-judgmental, attitude	• Why do you think you were attacked? • Did you want to react? Fight or flight? • Were you afraid? Of what? • Have there been any prior incidents? • Are you the only group member or only one of a few in the neighborhood? • Have you recently moved to the area? • Have you been involved in any recent public activity that would make you a target? • Has there been any neighborhood problems(s) that you think could have spurred this incident? • Did the perpetrators distribute or carry any literature? • What is your perception of what happened? • Did the perpetrators say anything to you? • What was the appearance of the perpetrators?

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Conducting interviews (continued)

Interview	Considerations	Possible Questions to Ask
Witnesses	• A door-to-door or other area search for witnesses should be initiated • Be alert for any signs of bias shown by the witnesses	• Why do you think the incident occurred? • Who do you think is responsible for the incident (individuals and/or groups)? Why? • Have any other similar incidents occurred in this neighborhood?
Suspect	• Many times, hate crimes suspects are proud of their actions and will be anxious to talk • Note clothing, tattoos, general appearance • Determine whether suspects were involved in prior incidents	• Why did you pick this person? • How do you feel about (type of victim)? • Did you go looking for (type of victim)? • Did he/she just happen to cross your path? • Do you belong to any groups or organizations? (either general or specific) • Did the day this occurred have special significance?

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Other considerations

Although anyone can commit a hate crime, the following identifies the four most common categories of offenders:

Mission Offender
- Well organized
- Committed to racial cleansing
- Usually has a separatist agenda

Identity Conflicted
- Motivated by self-hatred
- Will join fringe hate groups
- Will commit crimes against people who share their characteristics that they cannot accept - sexual orientation and gender identity/race

Thrill Seeker
- Commits hate crime outside his/her community
- Attacks individuals he or she perceives to be inferior
- Usually travels/attacks in groups

Reactive
- Respond to what they perceive is an invasion of their community
- Have seen a demographic transformation or class shift in the community

NOTE: Additional information on hate crimes investigative techniques and documentation, along with victims' rights and remedies, are available through POST's "Hate Crimes" DVD.

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Documentation

An officer's investigative report regarding incidents involving hate crimes must present each event in a complete and clear manner. Any investigation, arrest, prosecution, or other action taken must be initiated, supported, or justified *by the information included in the report* written by that officer.

The following considerations, although not all-inclusive, may be helpful in establishing the essential elements of a crime:

- Are the victim(s) and/or suspect(s) members of different groups (e.g., ethnic, racial, religious, etc.)?
- Was the incident motivated by hostility between/among groups or group members?
- Has there been any prior (recent) news coverage of events of a similar nature?
- What was the manner and means of attack (e.g., color of paint, correct spelling of words, symbols, or signs used, etc.)?
- Is there any ongoing neighborhood problem(s) that may have spurred the event?
- Did the attack occur on a holiday or day of significance to the victim or the suspect?
- Is there a lack of apparent motive?

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Examples

Workers, arriving one morning at a local Jewish community center, discovered that the center had been vandalized. Windows had been smashed, paint had been sprayed on the walls, and furniture had been destroyed. Nothing appeared to have been stolen. The perpetrators had also painted a swastika on the front door. This incident involving vandalism can be classified as a hate crime because the target was a religious organization, the perpetrators left anti-Semitic graffiti, and theft did not appear to be a motive.

A nightclub frequented by gay men was burned down after it had closed for the night. A peace officer interviewed a suspect who, after questioning, admitted to setting fire to the club. When the officer asked him how he felt about homosexuals, the man replied that they were evil and should be destroyed. This information led to the classification of this incident as a hate crime.

In the above example, besides taking notes during the interview with the suspect, the officer obtained a search warrant, searched the suspect's car and home, and found examples of violent, anti-gay literature. By including this information in the investigative report, the officer added to the evidence that a hate crime had occurred.

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Penal code section 422.56

For the purposes of hate crimes, the following definitions shall apply:

Term	Definition
Disability	Includes mental disability and physical disability as defined in Government Code Section 12926 regardless of whether those disabilities are temporary, permanent, congenital, or acquired by heredity, accident, injury, advanced age, or illness.
Gender	Means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth
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.
Nationality	Includes citizenship, country of origin, and national origin.
Race or ethnicity	Includes ancestry, color, and ethnic background.
Religion	Includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.
Sexual orientation	Means heterosexuality, homosexuality, or bisexuality.
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.

Chapter Synopsis

Learning need	Peace officers need to have a lawful basis for recognizing criminal acts as hate crimes and understand the impact of such crimes on victims and communities.
Definition of a hate crime [42.05.08]	*Penal Code Section 422.55* defines a hate crime.
Hate crimes [42.05.09]	Certain hate crimes identified within the penal code can stand alone or be recognized as the more specific crime listed within a crime report.
Interfering with another's civil rights [42.05.10]	A number of federal civil statutes which provide for legal actions involving racially motivated violence by individuals.
Impact of hate crimes [42.05.11]	Victims of crime may experience a number of reactions that are outside the range of their general experience. Such a trauma can often produce impacts that last days, weeks, or even years after the initial event.
Indicators of hate crimes [42.05.12]	A number of physical indicators can lead investigating officers to determine that a criminal act is based on bigotry and could be considered a hate crime.
Investigating and documenting hate crimes [42.05.13]	Interviews with victims, witnesses, and potential suspects can also be critical when determining if a criminal act is motivated by bigotry or hate. An officer's investigative report regarding incidents involving hate crimes must present each event in a complete and clear manner. Any investigation, arrest, prosecution, or other action taken must be initiated, supported, or justified *by the information included in the report* written by that officer.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Explain in your own words what constitutes a hate crime. In what ways can a peace officer tell and document that a crime is motivated by the hostility required to classify the act as a hate crime?

2. A school classroom used by a Jewish teacher was vandalized. Officers identified the perpetrators as a group of students who are unhappy about failing a test given by the teacher. The students' statements indicate that the vandalism was motivated by a desire to get even for the poor test grades. However, one of the actions of the vandals was to carve swastikas into the chalkboard. The students told officers that the purpose of this action was to intimidate their teacher and cause him to fear for his safety. Have the students committed a hate crime? Explain your answer, then name the applicable crimes.

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Activity questions (continued)

3. A gay male is assaulted and beaten by two men as he exits a popular gay bar. Add details to this scenario that would cause this crime to be classified as a hate crime. Then pose an alternate set of details that would indicate that the assault was unlikely to be a hate crime.

4. A group of African American gang members explode a pipe bomb on the front lawn of an African American family that recently moved into their neighborhood. Just before the bomb went off, occupants of the house heard the group shout racial epithets and tell them to leave the neighborhood. Have the gang members committed the crime of terrorizing another? Why or why not?

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Activity questions (continued)

5. A community-based organization is considering buying a suburban residence for use as a group home for four developmentally disabled adults. The realtor, who also lives in the neighborhood, informs other neighbors when the group makes an offer and allows the neighbors access to the house for sale. During this time, three neighbors spray paint, "Retard get out," on the living room wall so the community organization will discover it during the planned home inspection. What crimes have been committed and by whom? Do civil as well as criminal penalties apply? Explain.

6. Has a person who bombs an abortion clinic for the sole purpose of stopping abortions completed a hate crime? Explain.

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Activity questions (continued)

7. When a Muslim university student is beaten and raped and marked with religious slogans as part of a hate crime, who might be some of the indirect victims of the act? Describe possible impacts of the crime on the direct and indirect victims. How do you think these reactions differ from those surrounding a non-hate motivated assault?

8. What role does the determination of specific intent play in a hate crime investigation? List three examples of physical evidence that could indicate a hate crime. What other types of evidence can help officers prove intent?

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Student notes

Chapter 6

Sexual Harassment

Overview

Learning need

Peace officers need to understand what constitutes sexual harassment, how to respond to sexual harassment in the workplace, and the legal remedies available through the sexual harassment complaint process.

Learning objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• state the legal definition of sexual harassment	42.06.1
• discuss the federal and state laws dealing with sexual harassment to include: - Title VII - *Government Code Section 12940* et seq. - concept of quid pro quo - concept of hostile work environment - current case law	42.06.2
• explain the legal remedies available to a victim of sexual harassment	42.06.3
• describe behaviors that constitute sexual harassment, including: - verbal - physical - visual - written material - sexual favors - threats - hostile work environment - force	42.06.4

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Learning objectives (continued)

After completing study of this chapter, the student will be able to:	Objective ID
• explain the mandated sexual harassment complaint process guidelines	42.06.5
• state the protections that exist to prevent retaliation against anyone submitting a sexual harassment complaint	42.06.6
• describe the methods for responding to sexually offensive or unwanted behavior	42.06.7

In this chapter

This chapter focuses on the laws and policies relating to sexual harassment. Refer to the chart below for specific topics.

Topic	See Page
Laws Dealing with Sexual Harassment	6-3
Sexual Harassment Awareness	6-8
Sexual Harassment Complaints	6-13
Chapter Synopsis	6-17
Workbook Learning Activities	6-19

Laws Dealing with Sexual Harassment

Introduction

Sexual harassment in the workplace has been identified as a significant problem in both the private and public sectors. Government codes are specific in prohibiting any action interpreted as harassment in the workplace. The law enforcement community must support a zero tolerance for sexual harassment against any person, sworn or nonsworn.

Definition of sexual harassment

Sexual harassment refers to sexually oriented behavior that:

- is unwelcome
- is personally offensive
- creates an intimidating, hostile or offensive work environment

What makes certain behavior sexual harassment is the complainant's interpretation of the behavior, regardless of the originator's intent. What one individual thinks is humorous, for example, could be offensive to another and therefore considered sexual harassment.

Sexual harassment under the law

Sexual harassment can be defined as unwelcome and unwanted sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment
- submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that individual
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, offensive working environment

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State laws

Sexual harassment in the workplace is a violation of California state law. The following table identifies state laws dealing with sexual harassment in the workplace.

Title	Application	*Code Section*
Unlawful practices in the workplace	• Includes sexual harassment as an unlawful employment practice • States employer responsibilities in taking corrective action against sexual harassment	*Government Code Section 12940*
Illegality of sexual harassment	• Mandates distribution of information on illegality of sexual harassment • Protects against retaliation for filing complaints	*Government Code Section 12950*
Sexual harassment in the workplace	• Mandates development of complaint guidelines for peace officers who are victims of sexual harassment in the workplace • Mandates training for law enforcement officers on sexual harassment in the workplace	*Penal Code Section 13519.7*

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Laws Dealing with Sexual Harassment, Continued

Additional statutes

Sexual harassment in the workplace is a violation of the *California Fair Employment and Housing Act* (FEHA). Violations are investigated by the Department of Fair Employment and Housing (DFEH).

Workers can also file under the *California Worker's Compensation Law* for claims of emotional injury arising out of sexual harassment.

Federal laws

Sexual harassment in the workplace is a violation of federal civil rights law. Specifically, it is a violation of *Title VII of the 1964 Civil Rights Act*, as amended.

Complaints filed under federal civil rights law are filed with the Equal Employment Opportunity Commission (EEOC). The EEOC investigates job discrimination claims, including claims of sexual harassment. The EEOC may investigate the complaint, negotiate remedies, or make an award to the complaining party.

If the EEOC does not find a cause of action, it can issue the complaining party a **right to sue letter**. This letter allows individuals to pursue an action in federal court using the individual's own attorney. An individual may also request a right to sue letter immediately upon filing with the EEOC.

Civil liabilities

Peace officers found to be guilty of sexual harassment can be subject to administrative and civil liabilities, including:

- disciplinary action from verbal reprimand through termination
- civil suit
- fines imposed by EEOC and/or DFEH
- punitive damages

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Laws Dealing with Sexual Harassment, Continued

Categories of legal action

Two categories or types of legal action have developed in the area of sexual harassment:

- quid pro quo
- hostile work environment

Quid pro quo

Quid pro quo is a form of sexual harassment in which the submission to, or rejection of, sexual advances is explicitly or implicitly made a condition of employment or an employment decision. For example, being required to engage in sexual conduct could be made a condition for:

- continued employment
- promotion
- special assignment

Hostile work environment

Hostile work environment refers to:

- sexually harassing conduct
- within the complainant's immediate work environment (please refer to current case law for the definition of work environment)
- which is so pervasive or severe as to interfere with an individual's job performance
- which conduct may or may not be directed at the complainant

The courts have ruled that simply being forced to work in a hostile or offensive environment can also be damaging to the employee. The basic concept of hostile work environment is that a person need not actually be fired or denied a promotion to suffer an economic injury.

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Laws Dealing with Sexual Harassment, Continued

Examples

A peace officer made sexually suggestive remarks to a female dispatcher on two occasions. On the second occasion the dispatcher told the officer she found his remarks offensive and asked him to stop. The officer apologized and the remarks ceased. The officer, however, continued to direct offensive suggestions and sexually explicit remarks to other female officers in the dispatcher's work area. The dispatcher could have filed a complaint of sexual harassment, since the behavior took place in her immediate work environment and contributed to an environment offensive to the dispatcher.

A male supervisor asked a female subordinate out for dinner. The female officer politely declined, saying she was tired after a series of night shifts. The supervisor suggested that he could change her work schedule to eliminate night shifts, if she would reconsider going out with him. The supervisor has sexually harassed the female officer by requesting a date in exchange for an employment benefit.

Sexual Harassment Awareness

Introduction

Law enforcement is a mixed-gender occupation, reflecting the public it serves.

Gender issues

Assumptions about roles for men and women in law enforcement continue to exist.

The following table identifies characteristics or roles that have been attributed to a particular gender.

	Males	**Females**
Stereotypical Roles	• Compete to win at any cost • Make decisions • Protect and/or provide for the family	• Cooperate to avoid conflict • Nurture and be responsible for the emotional care of the family, pregnancy, and childcare
Examples	In American society, men have been regarded as protectors of women and children. This perception can contribute to tensions between male and female peace officers. Male officers who are conditioned to protect women feel they now have the added responsibility to protect female officers. Female officers feel patronized and not fully accepted as capable of doing the job.	If childcare and overall responsibility for the family is seen as primarily the woman's role, female officers are faced with the dilemma of trying to raise a family and have a successful career.

NOTE: Lesbian, Gay, Bi-Sexual, Transgender, Queer (LGBTQ) issues. Awareness of issues challenging LGBTQ officers is essential to effective organizational performance.

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Power issues

Sexual harassment may also be based on the misuse and abuse of power. Ways in which a peace officer can use his or her position to harass another employee include:

- requesting a date or sex
- excluding an employee from work activities
- reinforcing subservient status (e.g. requiring subordinates to perform services such as getting coffee, etc.)
- patronizing another employee (referring to female officers as “honey” or “babe”)
- failing to report a harasser

Gender bias

Gender bias is unequaled treatment in the workplace based upon real or perceived gender.

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Forms of harassment

Different forms of harassment can constitute sexual harassment. The following table describes the various forms of sexual harassment.

Forms of Harassment	Examples
Physical	• Physical interference or contact which impedes normal movement when directed at an individual • Unwelcome touching (e.g. back rubs, brushing up against an individual, hugging, patting, kissing, and grabbing body parts) • Physically assaulting a person
Verbal	• Repeated, unsolicited, derogatory comments or slurs • Continued requests for social or sexual contact after being advised such is unwelcome (e.g. unwanted phone calls) • Discussion of sexual exploits • Sexually patronizing comments (e.g. “honey,” “babe,” “doll,” etc.) • Commenting on body parts • Telling vulgar or sexist jokes • Making obscene or suggestive sounds or gestures • Questioning a person’s sexual practices • Requesting employees wear sexually suggestive or demeaning clothing • Threats to intimidate a person, including failure or refusal to provide timely backup, a loss of assignment or job status, etc.
Non-Verbal	• Sexually offensive or suggestive computer software, posters, cartoons, pictures, drawings, magazines, or objects

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Forms of harassment (continued)

Forms of Harassment	Examples
Written	• Notes or greeting cards • Love letters • Unwanted invitations • E-mail • Internet websites • Texting • Social networking NOTE: Unsolicited and unwelcome written communications, if continued over a period of time, can be very distressing and frightening to the recipient.

Sexual harassment in law enforcement

Peace officers must treat all individuals with respect and dignity. Sexual harassment is *ethically wrong* in all situations, whether peace officers are interacting with the public or fellow officers.

Sexual harassment is also *counterproductive*, causing personal and organizational discord. Situations involving sexual harassment that are allowed to persist can result in serious or even lasting damage to an organization.

Finally, sexual harassment is *illegal*. As described in an earlier section of this chapter, sexual harassment in the workplace is a violation of federal civil rights law and of state law. Individuals and employers can be found legally and financially liable for sexual harassment.

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Examples

A female peace officer offered to give a male colleague a back rub. The male officer was embarrassed by the offer and declined. The female officer ignored his refusal, approached him, and proceeded to rub his neck and shoulders while other officers observed and made jokes. The female officer has physically harassed the male officer, engaging in inappropriate touching.

Several peace officers, male and female, routinely engaged in discussing sexual exploits and telling vulgar jokes. One junior female officer, who worked in the same area, was offended by the conversations she was forced to hear every day. The junior officer complained to her supervisor. The peace officers have engaged in verbal sexual harassment and created support for a claim that a hostile work environment existed.

A peace officer asked a female colleague out to dinner on two occasions. Both times the female officer declined. The male officer began leaving notes and greeting cards for the female officer. The female officer asked him to stop sending the notes. The male officer ignored her request and continued to send notes. He has engaged in a form of written sexual harassment.

Sexual Harassment Complaints

Introduction

Many law enforcement departments and agencies have adopted *zero tolerance* policies regarding sexual harassment. These organizations will not tolerate any type of behavior which constitutes sexual harassment under the law or which could contribute to a hostile workplace for men or women.

Complaint process

Penal Code Section 13519.7 mandates development of complaint guidelines for peace officers who are victims of sexual harassment in the workplace. The guidelines apply to peace officers who are employees of:

- city police departments
- county sheriff's departments
- districts
- state university police departments

NOTE: Law enforcement agencies that are not specifically named in *Penal Code Section 13519.7* may voluntarily elect to follow the guidelines.

NOTE: Any agency may choose to extend their complaint policy to include non-peace officer employees.

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Supervisor and management responsibilities

Supervisors' and managers' responsibilities in the complaint process are both reactive and proactive as described in the following table:

Reactive Responsibilities	Proactive Responsibilities
• Listen to the complainant. • Provide counsel on options. • Document the complaint. • Take appropriate investigative actions.	• Act when inappropriate behaviors occur before a complainant comes forward. • Ensure ongoing training of subordinates.

Penalties for offender

The penalties an offender may be liable for, if found guilty of sexually harassing conduct, may include:

- disciplinary action from verbal reprimand through termination,
- civil suit
- fines imposed by EEOC and/or DFEH
- negative impact on career, family, credibility, reputation, etc.

NOTE: Offenders may be held personally responsible for punitive fines.

Protection from retaliation

Employers are required to prevent and/or stop retaliation against any person making a complaint of sexual harassment. *Government Code Section 12950* protects complainants and witnesses in sexual harassment cases.

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Responding to sexual harassment

Peace officers need to know how to respond to sexually offensive or unwanted behavior in the workplace, and if necessary, how to initiate a sexual harassment complaint.

- When appropriate, recipients of perceived sexual harassment may inform the harasser that the conduct is unwelcome, offensive, and should cease, but are not legally required to do so.

- Where the complainant is uncomfortable with a personal confrontation, he/she should contact any supervisor, manager, department head, or their equivalent.

- Where the complainant perceives that the department's internal environment is not conducive to making an internal complaint, he/she has the option of reporting the harassment to an entity external to the department, such as:

  - city or county (e.g. human resources office)
  - state (e.g. DFEH)
  - federal (e.g. EEOC)

Peace officers are not required to follow the chain of command in reporting sexual harassment in the workplace.

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Examples

Two peace officers, male and female, had an intimate relationship that lasted several months. At the end of that time, the female officer ended the relationship. The male officer refused to accept that the relationship was over and continued to ask the female officer to resume the relationship, approaching her at work, calling her repeatedly at home, and leaving notes at her office. The female officer complained to her supervisor that she was being harassed. Her supervisor verbally warned the harasser and documented the warning. The harassment ceased after the supervisor's action.

A female peace officer complained to her sergeant that a fellow officer was verbally harassing her, making crude and vulgar remarks to her. The sergeant explained the complaint process to her and advised her about her options. The sergeant also documented the complaint and began an investigation of the charges.

Chapter Synopsis

Learning need	Peace officers need to understand what constitutes sexual harassment, how to respond to sexual harassment in the workplace, and the legal remedies available through the sexual harassment complaint process.
Definition of sexual harassment [42.06.1]	Sexual harassment refers to sexually oriented behavior that: • is unwelcome • is personally offensive • creates an intimidating, hostile or offensive work environment
State and federal laws [42.06.2]	Sexual harassment in the workplace is a violation of California state law. Sexual harassment in the workplace is also a violation of federal civil rights law. Specifically, it is a violation of *Title VII of the 1964 Civil Rights Act*, as amended.
Legal remedies [42.06.3]	Complaints filed under federal civil rights law are filed with the Equal Employment Opportunity Commission (EEOC).
Sexual harassment awareness [42.06.4]	Different forms of harassment can constitute sexual harassment.
Sexual harassment complaint process guidelines [42.06.5]	*Penal Code Section 13519.7* mandates development of complaint guidelines for peace officers who are victims of sexual harassment in the workplace.

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Protection from retaliation [42.06.6]	Employers are required to prevent and/or stop retaliation against any person making a complaint of sexual harassment. *Government Code Section 12950* protects complainants and witnesses in sexual harassment cases.
Responding to sexual harassment [42.06.7]	When appropriate, recipients of perceived sexual harassment may inform the harasser that the conduct is unwelcome, offensive, and should cease, but are not legally required to do so.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. Unofficial department policy in a tightly knit precinct department has been that "the new guy makes the coffee," for as long as anyone can remember. No one has ever objected. Based on this policy, the new female rookie officer is asked to make the coffee on her first morning. When she protests, she is told, "the new guy always makes the coffee." Though she makes the coffee the first day, she refuses on the second day, saying it is sexual harassment. What misperceptions or stereotypes do you think are feeding into the situation?

2. Honestly consider your own attitudes and perceptions about the opposite sex. Identify any generalizations, either positive or negative that you make based on your upbringing, past experience, or other influences. Critically assess how any of these generalizations might cause you to behave in a way that might make a member of the opposite sex feel uncomfortable or might affect the way you could function as partners. If possible, check your impressions with a classmate of the opposite sex.

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Activity questions (continued)

3. A female officer dated a male officer in her department for a six-month period. After the relationship ended, she realized that the male officers in her department were whispering about her and talking about her behind her back. She even heard one or two of them make references to certain personal garments she owned. She has come to you for advice, as a colleague, regarding any action(s) she should take. What do you suggest? Explain the reason for your answer.

4. Explain how engaging in actions that could be perceived as creating a hostile work environment could affect an officer personally and professionally. Identify three actions or circumstances that would cause a workplace to be hostile to you, personally.

Glossary

Introduction	**The following glossary terms apply only to Learning Domain 42: Cultural Diversity/Discrimination.**
acculturation	The process of learning a new culture
active listening	Involves deliberate and conscious concentration on the part of the listener on what is being said, how it is being said, and why it is being said
assimilation	The process of gradually taking on the characteristics of another culture
bigot	Any person with a strong conviction or prejudice, especially in regard to race, religion, politics, etc., who is intolerant of any other opinion or belief that does not agree with his or her opinion or belief
colonialized subject	A person with a heritage of being oppressed by military conquest (African slaves, Native Americans, etc.)
criminal profiling	A legitimate practice based on articulable behaviors or characteristics that can be analyzed and evaluated
cultural diversity	The representation or existence of individuals with distinctly different group affiliations within one organization, community, state, nation, or other social system. Such group affiliations can be based on culture, ethnicity, gender, sexual orientation and gender identity, etc.
cultural group	An affiliation of individuals who collectively share any number of common sociocultural characteristics

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Glossary, Continued

culture	A complex group of shared characteristics including beliefs, values, ways of thinking, behaviors, customs, or traditions
demographics	The statistical characteristics of human populations (age, income, household type, occupation, and education levels
discrimination	An action or behavior that is prompted or based on prejudiced thought. Includes differential treatment based on an unsubstantiated or unfair categorization
ethnic group	Any group within a culture that can be distinguished on the basis of shared characteristics such as nationality, common ancestry, language, common history, race, etc.
ethnicity	Condition of belonging to an ethnic group; individuals within an ethnic group may believe they are alike by virtue of a national origin, or other shared characteristics
ethnocentrism	An attitude of seeing and judging other cultural or ethnic groups from the perspective of one's *own* culture. Individuals with extreme ethnocentric viewpoints may regard their own cultural or ethnic group as the center of everything
extreme ethnocentrism	An individual with extreme viewpoints who may regard their own cultural, ethnic, religious, or sexual orientation and gender identity group as the center of everything. Their opinions or judgments of other groups are scaled or related with reference to their own group (i.e. "our way is the right way")

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hate crime	Any act of intimidation, harassment, physical force, or threats of physical violence, directed against any person or family, or their property or advocate, motivated either in whole or in part by hostility to their real or perceived ethnic background, national origin, religious belief, gender, age, disability or sexual orientation and gender identity, with the intention of causing fear and intimidation
heterosexism	An attitude of seeing and judging others from the perspective of one's own heterosexuality
hostile work environment	Sexually harassing conduct, within the complainant's immediate work environment, which is so pervasive or severe as to interfere with an individual's job performance. May or may not be directed at the complainant (Please refer to current case law for the definition of work environment.)
immigrant	An individual who has voluntarily moved from one country to another country with the *intent to live in the new country permanently*
indigenous peoples	Are any ethnic group who inhabit a geographic region with which they have the earliest known historical connection
migrant	A person who moves from one location to another within a single country or region

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minority	A person with a "minority status" that has been designated by a government or by social scientists. The term is not necessarily related to numbers within a population
multi-mission criminal extremism	The nexus of certain hate crimes, antigovernment extremist crimes, anti-reproductive-rights crimes, and crimes committed in whole or in part because of the victims' actual or perceived homelessness
prejudice	A prejudgment or point of view about a person or group of individuals that is usually formed before the facts are known
quid pro quo	A form of sexual harassment in which the submission to or rejection of sexual advances is explicitly or implicitly made a condition of employment or an employment decision
race/racial group	Any of the different varieties of populations of human beings distinguished by *a)* physical traits such as hair, eyes, skin color, body shape, etc.: traditionally, the three primary divisions are Caucasoid, Negroid, and Mongoloid
racial profiling	Is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on the entire class of people without any individualized suspicion on the particular person being stopped
racism	A doctrine that one race is inherently superior (physically, intellectually, or culturally) to another
refugee	An individual who has fled from that person's native land and been forced to cross national boundaries

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right to sue letter	A letter issued by the Equal Employment Opportunity Commission (EEOC) allowing individuals to pursue an action in federal court using the individual's own attorney
sexual harassment	Sexually oriented behavior that is unwelcome, is personally offensive, and creates an intimidating, hostile, or offensive work environment
specific intent	The specific design, resolve, or determination to commit an act (or also in the case of hate crimes, to attempt or threaten to commit an act)
stereotype	A preconceived or over-simplified generalization involving negative or positive beliefs about another group
subcultural group	People who have an association, most often voluntary, within a larger culture who have common values, beliefs, and experiences, and they develop close bonds or feelings of unity and pride with the identity of the subculture
terrorizing	Causing a person of ordinary emotions and sensibilities to fear for their personal safety
willfully	Any act done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly, or inadvertently