

California Code of Regulations

Title 11, Division 1

Chapter 7.5: Regulations for the Fair and Accurate Governance of the CalGang Database.

Article 1. General

§ 750. Title and Scope.


This Chapter shall be known as the “Department of Justice Regulations for the Fair and Accurate Governance of the CalGang Database,” may be cited as such and referred herein as “these regulations.” Commencing on January 1, 2020, the provisions of these regulations shall govern the policies and procedures of the CalGang Database. Additionally, these regulations do not apply to any other shared gang databases in the state of California; those shall be regulated by Chapter 7.6 of the California Code of Regulations, title 11, sections 770 to 778.5.

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

Article 2. Definitions

Color Key

 = definitions taken from AG’s Model Standards.

 = definition made up from explanations in CalGang System Policies and Procedures.

§ 750.5. Definition of Key Terms.

(a) “Access” means the ability to view, query, add, or retrieve records in a shared gang database.

(b) “Audit” means an objective examination of the CalGang system pertaining to the maintenance of records – as well as examination of the files or a meaningful sample of the files
these regulations.

(c) “Agency” means any law enforcement agency that has access to the CalGang Database.

(d) “CGNAC” means the California Gang Node Advisory Committee.

(e) “Committee” means the Gang Database Technical Advisory Committee.

- 1 (f) “Contacts” are any lawful interactions between an individual and a peace officer.
- 2 (g) “Department” means the California Department of Justice.
- 3 (h) “Dissemination” means the sharing of criminal intelligence among law enforcement
4 authorities in any agency or agencies on a need to know, right to know basis.
- 5 (i) “Gang Associate” means an individual who does anything for the benefit of the gang
6 including, but not limited to, active involvement in gang activities.
- 7 (j) “Need to know” means a state of facts that supports the legitimacy of access to specific
8 intelligence by a person with a right to know. The need to know must be pertinent to and
9 necessary to the performance of a specific law enforcement activity.
- 10 (k) “Node” means a geographically located cluster of participating law enforcement agencies
11 with access to CalGang that may exist from time to time.
- 12 (l) “Node Administrator” means an appointed person from a “Node Agency” who acts as a
13 leader by organizing, providing training, technical support, and coordinating the information
14 collection activities of user agencies in the node.
- 15 (m) “Node Agency” means the law enforcement agency where a Node Administrator is
16 located.
- 17 (n) “Peer audit,” as used in these regulations, means an audit of a node’s CalGang records to be
18 conducted by two Node Administrators from different agencies.
- 19 (o) “Purge” means the elimination – through destruction of contents – that may exist in either
20 hard copy or soft copy forms or both – of the record from the CalGang database when it no
21 longer is in compliance with Article 8 of these regulations.
- 22 (p) “Reasonable suspicion” means that state of known information which establishes sufficient
23 facts to give a trained law enforcement or criminal investigative agency officer, investigator, or
24 employee a basis to believe that there is a reasonable possibility that an individual or
25 organization is involved in a definable criminal activity or enterprise.
- 26 (q) A “reliable informant/source” may be, but is not limited to, a law enforcement officer,
27 family member, friend, neighbor, associate, or fellow gang member. (The case law definition:
28 “Reliable Informant” means a person whose information has in the past led the police to valid
29 suspects, or a victim who is an observer of criminal activity, who by calling/contacting the

1 police, acts openly in the aid of law enforcement. **What is the intent here in defining “reliable**
2 **informant?”)**

3 (r) “Right to know” is the status of being a person or entity engaged in a law enforcement
4 activity that, because of official capacity and/or statutory authority, may have access if there is a
5 need to know. The “right to know” must be in the performance of a law enforcement activity.

6 (s) “Source document” means documentation that adequately supports each entry made to the
7 CalGang database. Such documents may include, but are not limited to, arrest reports or field
8 interview cards.

9 (t) “System misuse” is unauthorized access or misuse of data in a shared gang database.

10 (t) “User Agency” means a law enforcement agency that has access to the CalGang database.

11
12 Note: Authority cited: Section 186.36, Penal Code. Reference: Sections 186.34, 186.35, and
13 186.36, Penal Code.

14
15 **Article 3. Access to the CalGang Database, Admission, and Dissemination of Intelligence.**

16 **§ 751. Access to the CalGang Database.**

17 (a) The CalGang database shall be accessible to a user agency that has undergone the training
18 prescribed by the Department pursuant to section 753 of these regulations. Access is not
19 automatically granted to all employees of a participating agency, rather its use shall be limited to
20 sworn officers and individuals listed within subdivision (k) of Penal Code section 186.36.

21
22 (b) A Node Agency that is permitted to use the CalGang database may share intelligence from
23 that database with an agency and/or other parties that do not use the CalGang database to track
24 gang intelligence. The Node Agency may release information from the database only to persons
25 who demonstrate a right to know and need to know.

26 (1) The Node Agency that disseminates the information shall utilize the proxy feature on
27 the CalGang database to conduct a search for the requesting agency and/or party.

28 (2) The Node Agency performing the search by proxy shall record what information was
29 released, when it was released, to whom it was released and why it was released. The user

1 agency shall keep a record of this information for the same length of time as the duration of
2 the record being shared.

3 (3) When conducting a search using the proxy feature, the Node Agency shall require the
4 requesting agency or party to provide the following information:

5 (A) Last name of the requestor;

6 (B) First name of the requestor;

7 (C) ID number (badge number or other identifier unique to this requestor only);

8 (D) Agency requesting the information;

9 (E) Telephone number of the requestor; and

10 (F) Email of the requestor.

11 (c) Nothing in subdivision (b) limits section 755.5 or Penal Code sections 186.34 and 186.35.

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

14
15 **§ 751.5. Admission as a Node Agency.**

16 (a) The Department shall review requests from all agencies interested in becoming a Node
17 Agency. The Department shall base its decisions on such requests based on the following
18 factors:

19 (1) The ability of an agency to serve in a leadership role in organizing and coordinating
20 information collection activities of the law enforcement agencies within a region to be
21 served by a new node.

22 (2) The geographic area to be covered.

23 (3) The ability of the prospective agency to provide technical support to maintain the
24 Node Agency.

25 (4) The ability of the prospective agency to meet the costs associated with becoming a
26 Node Agency; including recruitment, training of users, sufficient staff to manage the Node,
27 and travel expenses for participation in CGNAC meetings.

28 (5) An appointed member of each Node shall participate in the CGNAC, which includes
29 attending all meetings and participating in audits.

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

2
3 **§ 752. CalGang User Agreement Form and Terms.**

4 (a) Each user shall complete a CalGang Database Agreement form. These forms shall be kept
5 on file by the Node Administrator.

6 (b) Node Administrators are responsible for the prompt deactivation of accounts within their
7 node when necessary.

8 (1) The accounts of users separated from their agencies shall be disabled, and/or revoked
9 from the CalGang database when the Node Administrator is notified of the separation.

10 (A) A user agency shall inform its Node Administrator of a separation within three
11 business days from the date of the separation.

12 (B) A Node Administrator shall disable and/or revoke the account within two
13 business days after receiving the notice of separation.

14 (2) The accounts of users that change agencies shall require disabling to ensure changes
15 in access privileges are appropriate to changes in job function or location.

16 (c) An account shall be disabled and/or revoked if account privileges are no longer applicable
17 to a user's functions or need-to-know basis changes due to changes in the user's status.

18 (d) An account shall be disabled and/or revoked, if it is determined that the account has been
19 compromised or misused and may only be reinstated at the direction of the Department's system
20 personnel or the Node Administrator or his or her designee.

21 (e) Any user account that has been inactive for 90 days shall be disabled. The user shall submit
22 a written request to the Node Administrator within 180 days for reactivation of the user's
23 account. If reinstatement is not requested, access to the user account shall be revoked.

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

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1 **§ 752.5. The Committee’s Access to the CalGang Database.**

2 The Committee shall not have access to or discuss individual records contained in the CalGang
3 database during its open or closed sessions. However, a Committee member may access or
4 discuss records outside of the meetings provided such access is permitted by law.

5
6 Note: Authority cited: Section 186.36, Penal Code. Reference: Section 186.36, Penal Code.

7
8 **Article 4. Training, Exam, and Requirements to be an Instructor.**

9 **§ 753. User Training.**

10 (a) Access to the CalGang database shall only be allowed to individuals who have been
11 properly trained on the use of the CalGang database and its related policies and procedures.

12 (b) Training shall only be conducted by an approved instructor. Requirements to become an
13 approved instructor are set forth in section 754 of these regulations.

14 (c) At a minimum, instruction from an approved instructor shall address the following:

15 (1) Definition of a street gang, gang member, and associate.

16 (2) Accepted gang member, associate, and photo input criteria.

17 (3) Definition and explanation of criminal predicate and reasonable suspicion.

18 (4) Local, state and federal statutes and policies regarding criminal intelligence
19 information.

20 (5) Physical, technical security, and data dissemination.

21 (6) Practical, hands-on system usage.

22 (7) Best practices for gathering criminal intelligence.

23 (8) Notification and removal guidelines in accordance with Articles 6 and 8.

24 (9) Any policies, procedures, guidelines pertinent to the CalGang database.

25 (10) Consequences of system misuse and unauthorized use of data.

26 (d) Additional training hours may be added by the training instructor or Node Administrator.

27
28 Note: Authority cited: Section 186.36, Penal Code. Reference: Section 186.36, Penal Code.

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1 **§ 753.5. Initial Exam Information and Recertification Exam.**

2 (a) Once instruction is completed, all users shall be tested on the curriculum described in
3 subdivision (c) of section 753 in a manner prescribed by the Node Administrator.

4 (b) Every 24 months after the date of certification or recertification, all users shall take a
5 recertification exam and electronically complete a CalGang User Agreement form. The
6 recertification exam, results, and forms shall be stored within the CalGang system and be
7 viewable only to the Node Administrators, IT contractors, and the Department so that the
8 Department can verify the authenticity of this process.

9 (c) The CalGang database will prompt the user to take the recertification test upon login once
10 the certification has expired. Upon completing the exam, the user will be immediately notified
11 as to whether the user passed or failed the exam.

12 (d) The Node Administrator shall allow a user no more than three opportunities to retake the
13 exam. If the user fails to pass the exam, the user shall contact the Node Administrator to
14 complete a refresher training. If a user fails to pass the exam, the user's access shall be revoked.
15 Access will be restored once the user passes the recertification exam.

16 (e) A failure to login for 180 days will require the user to take the online recertification training
17 upon reinstatement of the user's account. A failure to login for one year will result in the user
18 having to be retrained by any Node Administrator or his or her designee.

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

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22 **§ 754. Requirements to Become an Approved Instructor.**

23 Approved instructors shall be graduates of training outlined in subdivision (c) of section 753, and
24 they shall be tested in system use proficiency. Instructors shall take an approved "Train the
25 Trainer" course of instruction that shall provide an in-depth familiarization with all system
26 applications, intelligence file guideline requirements, proper use and any additional
27 administrative requirements.

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

1 Article 5. Designation Criteria to Enter an Individual into the CalGang Database.

2 § 754.5. Designation Criteria for an Individual to be Classified as a “Gang Member” or
 3 “Gang Associate.”

4 (a) An individual may be entered into a shared gang database and designated as a “gang
 5 member” or “gang associate” when at least two of the unique criteria listed below, coupled with
 6 the officer’s reasonable suspicion, are found to exist through investigation. The designation shall
 7 be supported by source documents. The unique criteria are:

- 8 (1) Subject has admitted to being a gang member;
- 9 (2) Subject has been arrested for offenses consistent with gang activity;
- 10 (3) Subject has been identified as a gang member by a reliable informant or source;
- 11 (4) Subject has been arrested with or seen associating with documented gang members;
- 12 (5) Subject has been seen displaying gang symbols and/or hand signs;
- 13 (6) Subject has been seen frequenting gang areas (must document specific location);
- 14 (7) Subject has been seen wearing a gang style of dress (must document specific items);
- 15 and
- 16 (8) Subject has gang tattoos.

17 (b) The unique criteria requirement for initial entry may be satisfied by contacts made between
 18 law enforcement and the individual on separate occasions upon which the individual may be
 19 designated as a “gang member” or “gang associate” and entered into the CalGang database.

20 (c) Any subsequent entries into the database require only one unique criterion to be met. If the
 21 initial entry has purged, an individual shall only be entered into the database if at least two of the
 22 unique criteria in subdivision (a) are met.

23 (d) A tattoo located in the same place on an individual’s body that is the exact same tattoo used
 24 previously to satisfy the “gang tattoo” criterion during a contact shall not be used as a criterion
 25 twice unless the tattoo tied to that criterion has been purged from the CalGang database.

26 (e) If an individual has multiple tattoos that are the same or similar, and each one of those
 27 tattoos is on a different location on the individual’s body, each tattoo may be used to satisfy the
 28 “gang tattoo” criterion multiple times during one contact. However, each one of those tattoos
 29 shall only be documented to meet the “gang tattoo” criterion once each, and cannot be re-entered

1 into the database as a criterion on subsequent contacts, unless the tattoo tied to that criterion has
2 been purged from the CalGang database

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

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6 **Article 6. Notification of Inclusion in the CalGang Database**

7 **§ 755. Notifying an Individual of Inclusion in the CalGang Database.**

8 Any notice under subdivision (c) of Penal Code section 186.34, may, at the discretion of the
9 agency delivering the notice, be delivered in person at the time of contact, or to the mailing
10 address provided by the individual at the time of contact or, if such an address is unavailable at
11 the time of contact, notice can be provided to an address determined during the course of an
12 investigation. In addition to the requirements set forth under subdivision (c) of Penal Code
13 section 186.34, a written notice required thereunder shall clearly indicate:

14 (a) Whether the person is designated as a member, associate, or affiliate.

15 (b) The name of the gang the individual is connected to in the database, if any.

16 (c) The basis for the designation.

17 (d) One or more outreach and intervention services, as appropriate.

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

21
22 **Article 7. Information Requests**

23 **§ 755.5. Information Requests.**

24 (a) The Department authorizes each agency to develop a verification of identity form that the
25 agency may use to determine whether the information request is made by an authorized person.

26 (b) If an agency chooses to develop a verification of identity form, the form may seek
27 information verifying the requesting person's name, address, date of birth, driver license number,
28 state identification number, or state bar number. The agency shall not have the authority to

1 request a copy of a birth certificate or a proof of citizenship document to satisfy its written
2 verification of identity requirement.

3 (c) An agency’s response to an information request pursuant to subdivision (d) of Penal Code
4 section 186.34 shall include:

- 5 (1) Verification that the request was received and the date of its receipt.
- 6 (2) Whether the person is designated as a gang member or associate.
- 7 (3) The name of the gang the individual is connected to in the database.
- 8 (4) The basis for the designation.
- 9 (5) A reference to Penal Code section 186.35 as regarding the person’s right to petition
10 the court to review the designation.
- 11 (6) One or more outreach and intervention services, as appropriate.

12 (c) If responding to an information request that would compromise an active investigation or
13 the health and safety of a minor, the receiving agency shall respond with the following
14 information:

- 15 (1) Verification that the request was received and the date of its receipt.
- 16 (2) One or more outreach and intervention services, as appropriate.

17
18 Note: Authority cited: Section 186.36 of the Penal Code. Reference: Sections 186.34, and
19 186.36, Penal Code.

20
21 **§ 756. Retention Period for Information Requests and Responses**

22 (a) An agency shall maintain copies of all information requests and responses for the length of
23 time that an individual’s record is housed in the CalGang database or for [five or three years],
24 whichever is longer.

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26 Note: Authority cited: Section 186.36 of the Penal Code. Reference: Sections 186.34, and
27 186.36, Penal Code.

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1 **Article 8. Retention of Records, Purging, and Source Documents.**

2 **§ 756.5. Duration of the Retention Period.**

3 (a) An individual's record shall be retained in the CalGang database for up to five OR three
4 years. The database shall automatically purge the record once the retention date has expired.

5 (b) Anytime additional criterion is added to an individual's existing record in the CalGang
6 database, the retention date will programmatically reset based on the new entry data. Thus, the
7 individual's record shall not be automatically purged until three years OR five years have
8 elapsed from the date the last criterion was added to the individual's record.

9
10 Note: Authority cited: Section 186.36, Penal Code. Reference: Section 186.36, Penal Code.

11
12 **§ 757. Source Documents.**

13 (a) A Node Agency that enters any information into the CalGang database shall maintain all
14 source documents to show that there is adequate support for each entry. The source documents
15 shall be retained for the same duration as the CalGang record it supports.

16 (b) At any time source documents are found to be missing or incomplete to adequately support
17 a criterion, the Node Agency shall remove the unsupported criterion.

18 (1) Removal shall be conducted within 30 days from the date the Node Agency
19 discovered that the source documents was lacking or inappropriate.

20 (2) If a record in the database contains both adequate and inadequate source documents,
21 the record shall remain in the database, on the basis of the adequate source documents if
22 there is enough information present to satisfy the two unique criteria requirement pursuant
23 to section 753.5 of these regulations.

24 (c) Each Node Agency shall establish a process to audit the source documents that the Node
25 Agency relied upon to either create a new record or to add additional criteria to an individual's
26 record.

27
28 Note: Authority cited: Section 186.36, Penal Code. Reference: Section 186.36, Penal Code.

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1 Article 9. Audits and System Misuse.

2 § 757.5. Audits.

3 (a) At least a minimum of three times a year, Node Administrators shall conduct peer audits on
4 a statistically valid sample of randomly selected records from within their node that provides a
5 95% confidence level and a 4% error rate. Node Administrators will report all results to the
6 Department. Any records and/or criteria found to be out of compliance with these regulations
7 shall be purged within 30 days of completion of the audit.

8 (b) Audits of CalGang shall ensure that:

9 (1) Each criteria selected is validated by supporting documents.

10 (2) Organizations designated as criminal street gangs have no less than three members.
11 Node Administrators shall verify that the gang is an active gang in another node, provide
12 supporting documents, history, and comments.

13 (3) The purge date is in compliance with the time period provided in section 756.5.

14 (4) All active users meet the requirement for database access outlined in Article 3 of
15 these regulations.

16 (c) The Department shall report the results of all audits quarterly and include proposed actions
17 to address any deficiencies found on the Attorney General's website.

18 (d) In addition to the other audits required in this section, user agencies may audit their own
19 records and purge any record that does not meet the criteria for entry. The Department reserves
20 the ability to audit the records of each user agency.

21 (1) Node Agencies that audit their own records shall report their results to the Department
22 every time they conduct their own audit.

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24 Note: Authority cited: Section 186.36, Penal Code. Reference: Section 186.34 and 186.36, Penal
25 Code.

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1 **§ 758. System Misuse.**

2 (a) The Department, with the advice of CGNAC, is responsible for overseeing system
3 discipline and conformity with policies and procedures. Any violations shall be investigated by
4 the agency head or his or her designee and reported to the Department and CGNAC.

5 (b) The Node Administrator shall revoke access to the CalGang database for any user who
6 shares information from the CalGang database for employment or military screening purposes.

7 (c) The Node Administrator shall temporarily suspend or revoke access to the CalGang
8 database for any user who shares information from the CalGang database for federal immigration
9 purposes, unless such sharing is required by state or federal statute or regulation.

10 (d) If system misuse results in a violation of state or federal law, including these regulations,
11 the Department, with the advice of CGNAC, shall have the power to take the following actions:

12 (1) Issue a letter of censure.

13 (2) Temporary suspension of violator's access.

14 (3) Removal of violator's access (applicable to individual user or entire user agency).

15
16 **Article 10. Information Sharing, Disclosures, and CalGang Database Integrity.**

17 **§ 758.5. Information Sharing and Disclosures.**

18 (a) Gang database records are not intended to be relied upon to form an opinion of gang
19 membership or substitute actual expertise regarding criminal street gangs. Records shall not be
20 attached to, or referenced, in any report, with the exception of statistical reports pursuant to
21 subdivision (d). When a reference is necessary, such documents shall only reflect that the
22 information was obtained from a law enforcement source.

23 (b) Release of criminal intelligence information is on a right-to-know and need-to-know basis
24 only. Nothing in this subdivision limits section 755.5 or Penal Code sections 186.34 and 186.35.

25 (c) Users of a database are not prohibited or restricted from sending to, or receiving from,
26 federal immigration authorities, information regarding the citizenship or immigration status,
27 lawful or unlawful, of an individual or from requesting from federal immigration authorities
28 information regarding a person's immigration status, maintaining such information, or

1 exchanging such information with any other federal, state, or local government entity, pursuant
2 to Sections 1373 and 1644 of Title 8 of the United States Code.

3 (d) All requests for statistics shall be submitted in writing to the Department and may be
4 released with the approval of the Node Administrator. A copy of the request and released
5 statistics shall be forwarded to the Node Administrator.

6
7 **Article 11. Equipment.**

8 **§ 759. System Equipment.**

9 (a) Upon request, CGNAC shall provide a list of recommended equipment, which is
10 compatible with the current needs and future expansion, to authorized Node Agencies. This
11 listing will be developed in coordination with appropriate vendors.

12
13 **§ 759.5. Equipment Security and Missing Equipment Notification.**

14 (a) Measures shall be taken to place terminals and equipment that transmit or receive database
15 information in an area with physical security to provide protection from theft, damage,
16 vandalism, or sabotage, and preclude access to confidential information by unauthorized
17 personnel. This includes protection from unauthorized viewing of any information displayed on
18 the actual terminals/devices or manually stored/printed data at all times.

19 (b) User agencies shall notify the Node Administrator in writing within one business day of
20 any missing equipment that could potentially compromise the confidentiality of the CalGang
21 database.

22 (c) The Node Administrator shall notify the Department within one business day after
23 discovery of any missing equipment that could potentially compromise the confidentiality of the
24 CalGang database.

25
26 Note: Authority cited: Section 186.36, Penal Code. Reference: Section 186.36, Penal Code.