

RACIAL &
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PROFILING
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BOARD

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The Racial and Identity Profiling Advisory Board would like to honor the memory of the Honorable Alice Lytle, who faithfully served on this Board from its inception. We will miss her wisdom and guidance, but her extraordinary contributions to the community and to eliminating racial and identity profiling will live on.

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EXECUTIVE SUMMARY

California’s Racial and Identity Profiling Act of 2015 (RIPA) is truly groundbreaking legislation — the first of its kind and scale in the United States.¹ This law requires nearly all California law enforcement agencies to collect, maintain, and analyze demographic data on all detentions and searches, thereby codifying the recommendation of the President's Task Force on 21st Century Policing which aimed to improve understanding and create evidence based policies through this data collection.² The Racial and Identity Profiling Advisory Board (Board) was created by the Act to shepherd this data collection and provide public reports with the ultimate objective to eliminate racial and identity profiling and improve and understand diversity in law enforcement through training, education, and outreach.³ The Board’s mission is enhanced by the diverse perspectives and backgrounds of its 19 members, as well as by the vibrant discourse brought to board meetings and subcommittees by members of the public and the law enforcement community. Together, the Board and stakeholders share the goals of increasing public safety, improving law enforcement-community relations, and bolstering trust through collaboration, transparency, and accountability.

In its second annual report, the Board has built on the foundation established by its inaugural report released January 1, 2018.⁴ Specifically, this report aims to enhance the transparency of the stop data collection process by providing the public with detailed information on how the data is collected and submitted and how the Department and law enforcement agencies ensure the integrity of this data. This report also provides recommendations that can be incorporated by law enforcement agencies to enhance their policies, procedures, and trainings on topics that intersect with bias and racial and identity profiling.

In summary, this report:

- 1) Reviews the information that law enforcement agencies must collect and report on each stop and how agencies and the Department are ensuring the integrity of this data.
- 2) Provides best practice recommendations for agencies in drafting policies and procedures, and trainings regarding racial and identity profiling and civilian complaints.
- 3) Analyzes the civilian complaint data submitted to the Department in 2017.
- 4) Explores how to address the potential for bias when officers respond to calls for service.
- 5) Analyzes use of force data submitted to the Department in 2017.⁵
- 6) Highlights methodologies that the Board may use to analyze the stop data once it is submitted to the Department by April 1, 2019.

¹ Pen. Code, § 13519.4.

² President’s Task Force on 21st Century Policing. Final Report of the President’s Task Force on 21st Century Policing. (2015).

³ Pen. Code, § 13519.4, subd. (j)(1).

⁴ Racial and Identity Profiling Advisory Board. Racial and Identity Profiling Advisory Board Annual Report 2018. (2018). Available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>

⁵ The Board includes recommendations related to use of force because of its inherent relationship to police stop and search practices. In addition, stop data reports are required to include information regarding actions taken during a stop, such as the discharge or use of firearms, that also constitute a use of force that must be reported to the Department separately as a use of force incident under AB 71.

Best Practices

The Board has drawn from a range of law enforcement, academic, governmental, and non-profit organizations with relevant expertise in addressing racial and identity profiling in policing to compile a set of best practices. These recommendations are provided for law enforcement agencies to consider and implement, where appropriate, to help prevent and address profiling if and when it occurs in policing. Specifically, the Board has highlighted best practice recommendations on the topics of civilian complaint policies and procedures, bias-free policing policies, and trainings related to racial and identity profiling. These recommendations do not represent the full panoply of recommendations or best practices that an agency could and should consider adopting; rather, they aim to provide a foundation on which the Board hopes and plans to continue expanding upon in future reports. These best practices can be found throughout the body of the report as well as compiled in their entirety within Appendix B, for ease of reference.

It is the Board's hope that these best practices will assist law enforcement agencies, policymakers, and community members in developing, assessing, and implementing policies, procedures, and trainings geared toward the elimination of racial and identity profiling in policing. The Board recognizes that there must be sufficient funding in order to implement these recommendations, and further acknowledges that the amount of funding and resources available to implement these recommendations varies depending on the agency. However, agencies are encouraged to seek out grants and funding that will ensure that the stop data collection is utilized to its fullest potential.

Even with a lack of resources, these are recommendations that can and should be adopted to enhance the services that law enforcement agencies provide to the community. The Board encourages cities, counties, and policymakers to work with law enforcement agencies under their purview to ensure they are allocated the necessary funding and resources to implement the best practices described in the report. The Board further recommends that the Legislature provide sufficient funding to the Commission on Peace Officer Standards and Training (POST) to assure that all agencies receive recommended and necessary trainings, including training covering RIPA data collection and analysis, de-escalation, mental health, and addiction, among other relevant topics.

Stop Data

Stop data collection for the eight largest agencies in the state began on July 1, 2018. This data must be reported to the Department of Justice (Department) by April 1, 2019. As of report release, the agencies collecting data are the California Highway Patrol, Los Angeles Police Department, Los Angeles County Sheriff's Department, Riverside County Sheriff's Department, San Bernardino County Sheriff's Department, San Diego County Sheriff's Department, San Diego Police Department, and the San Francisco Police Department. These agencies have informally been termed the "Wave 1" agencies due to the rolling nature of the stop data collection timeline. Starting next year, the Board's annual report will include a detailed analysis of this data. Because the data is not due to the Department until April 1, 2019, the Stop Data section of this report addresses the following: 1) the type of data that is collected; 2) methods of

submitting the data to the Department; 3) data integrity; and 4) potential methodologies to analyze the stop data in the future.

In keeping with the spirit of the RIPA legislation, the Board encourages agencies to view the data elements mandated by the statute and its implementing regulations as the floor, rather than the ceiling. Agencies should not feel limited by the statute or regulations, rather they should consider collecting any additional demographic or other data that would be relevant to identify trends or disparities among the interactions of their officers with the public.

Furthermore, the Board encourages all law enforcement agencies to vigorously analyze their own data to address any issues that may be identified at the local level. In doing so, the Board hopes that both the analysis methodologies used and the findings of those analyses are transparent and available to the public. Law enforcement agencies should also reach out to academics and other stakeholders who can enrich and guide agencies in conducting meaningful analysis of this data.

Racial and Identity Profiling Policies and Accountability

The Board has compiled best practices that should be considered for inclusion by law enforcement agencies to help prevent and identify racial and identity profiling if and where it exists. This section of the report provides specific best practices regarding the following: 1) the creation of a clear written policy and procedure devoted to the prevention of racial and identity profiling; 2) policy accessibility and integration into an agency's culture; 3) definitions for inclusion in the policy and consistent application of the policy's principles; 4) communication with the community; 5) training; 6) data collection and analysis; 7) accountability and adherence to policy; and 8) supervisory review.

Civilian Complaint Procedures and Policies

Having a robust process for handling civilian complaints is an important step toward building trust between law enforcement and the community and ensuring that personnel and policies are working as intended. This section of the report discusses the importance of effective complaint procedures and includes the following: 1) a statewide analysis of the 2017 complaint data submitted to the Department; 2) an agency-level snapshot of the 2017 complaint data submitted to the Department; and 3) provides several recommendations and best practices for agencies to consider in regards to their complaint procedures.

In addition, the civilian complaint section of the report provides best practices regarding 1) the creation of a clear written policy and procedure devoted to civilian complaint procedures; 2) accessibility and communication with the community; 3) details on complaint intake, filing, and tracking process; and 4) details on the investigation process.

Training Related to Racial and Identity Profiling

To address differences in various trainings, the Board has compiled best practices or standards that should be considered for inclusion by law enforcement agencies to help identify and prevent racial and identity profiling if and where it exists. This section of the report provides specific best practices regarding 1) basic training principles and topics; 2) training organization and

delivery; 3) communication and community relationships; 4) tenets of procedural justice; and 5) implicit bias.

Calls for Service and Bias by Proxy

In June 2018, the Board formed a new subcommittee focused on calls for service, the formation of which was sparked by a letter sent to the Board by two state senators expressing their concern regarding racially biased calls for service and what is sometimes called “bias by proxy.” In this report, the Board has devoted a section to this issue, focusing on calls for service through the lens of bias by proxy. The Board conducted a literature review on the issue of bias and calls for service and plans to dive deeper into the various manners in which this data can be accurately collected and analyzed, particularly assessing ways in which the data collected under RIPA can be leveraged toward this goal.

Use of Force

Because of its inherent relationship to law enforcement stop and search practices, the Board has included a review and discussion of use of force in policing in this year’s report. This section specifically addresses the following: 1) an overview of the Assembly Bill 71 (AB 71) data submitted to the Department; 2) an analysis of AB 71 data submitted to the Department in 2017; and 3) a brief overview of academic research on different aspects of law enforcement agencies’ polices regarding use of force.

Conclusion

The Board has come a long way since its inception over the past two and a half years, but there is still a great deal of work that lays ahead. The Board will continue to work on creating actionable solutions to mitigate the harmful ramifications that racial and identity profiling has upon our communities including law enforcement. The Board is hopeful that through persistent collaboration, open and respectful dialogue, and continued engagement with law enforcement and the community, strides will be made toward the identification and elimination of racial and identity profiling in California. The Board will continue to use the responsibilities bestowed upon it by the California Legislature to continually build improved relationships and mutual trust and respect between law enforcement agencies and the communities they serve.

To access a copy of the Board’s 2018 report, please see <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>. The Board also encourages those who have not seen the video explaining the work of the Board, to please view it at <https://www.youtube.com/watch?v=xffqC9Xb9Dw>).

INTRODUCTION

The Racial and Identity Profiling Act of 2015 (RIPA) is groundbreaking legislation — the first of its kind in the United States.⁶ This legislation proclaims that, “racial or identity profiling is a practice that presents a great danger to the fundamental principles of our Constitution and a democratic society. It is abhorrent and cannot be tolerated.”⁷ The legislation included requirements intended to help identify, address, and eliminate racial profiling. RIPA marks a major step toward not only understanding the problem of racial and identity profiling in California, but also toward formulating strategies to reduce the practice and its devastating consequences for all involved.

The law requires, for the first time, nearly all state and local law enforcement agencies to report data on all stops conducted by the agency’s peace officers to the California Department of Justice (Department). RIPA also established the Racial and Identity Profiling Advisory Board (Board), which is tasked with convening and working with the relevant stakeholders, consulting on the data collection, and providing public reports with the ultimate objective to eliminate racial and identity profiling and thus improve outcomes between individuals and law enforcement. The Board, which meets at least three times a year, is enhanced by the diverse perspectives and backgrounds of its 19 members who include law enforcement, attorneys, clergy, academics, community organizations, and youth. The Board and its members are unwavering in their dedication to the pursuit of increased public safety and improving law enforcement-community relations and trust in California through collaboration, transparency, and accountability.

Since its inception in July of 2016, the Board has furthered its mission by 1) actively engaging with the community at robust Board and subcommittee meetings; 2) consulting with the Department during the development of the RIPA regulations; 3) continuing its direct engagement with law enforcement agencies, community members, and other stakeholders on the implementation of stop data collection and submission; and 4) working with the Commission on Peace Officer Standards and Training (POST) on its trainings pertaining to racial and identity profiling, and by issuing its annual reports.

Each year, by January 1, the Board will produce a report that includes detailed findings on the past and current status of racial and identity profiling in law enforcement as well as policy recommendations for eliminating profiling. To view the Board’s first report released January 1, 2018, please see <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf> and the accompanying video <https://www.youtube.com/watch?v=xffqC9Xb9Dw>).⁸ RIPA requires each annual report to include the following:⁹

- An analysis of law enforcement data regarding stops by its officers and civilian complaints against officers.

⁶ Pen. Code, § 13519.4.

⁷ Pen. Code, § 13519.4, subd. (d)(2).

⁸ Racial and Identity Profiling Advisory Board. Racial and Identity Profiling Advisory Board Annual Report 2018. (2018). Available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>

⁹ Pen. Code, § 13519.4, subd. (j)(3)(A-E).

- An analysis of the law enforcement training on racial and cultural differences required by Penal Code section 13519.4.¹⁰
- A review and analysis of racial and identity profiling policies and practices across geographic areas in California, working in partnership with state and local law enforcement agencies.
- Evidence-based research on intentional and implicit biases, and law enforcement stop, search, and seizure tactics.¹¹

RIPA also requires the Board to consult with POST regarding its trainings on racial and cultural differences. Aside from the duties of the Board, RIPA makes the following changes to law enforcement procedures and practices.¹²

- Requires the majority of California’s law enforcement agencies to collect information on stops made by their officers, and report this information to the Department.
- Tasks the Department with writing the regulations to implement this data collection in consultation with the Board and other stakeholders.¹³
- Requires the stop data collected be available to the public and prohibits the personal information of the person stopped and the unique identifying information of the officer from disclosure.
- Makes several changes to the civilian complaint data that is required to be reported to and published by the Department.¹⁴
- Expands the definition of racial profiling to include “identity profiling” and specifically provides that the consideration of a person’s personal characteristics cannot be a basis for deciding who to stop or how to treat a person who has been stopped, except when relying on a specific suspect description.¹⁵
- Makes several changes to law enforcement’s racial and cultural diversity training requirements.¹⁶

As noted above, RIPA requires the majority of California’s law enforcement agencies to collect information on all stops by their officers, excluding stops by custodial officers and those that take place in a custodial setting. A “stop” is defined as any detention or search, including consensual searches.¹⁷

Significantly, the eight largest agencies in the state (those with 1,000 or more officers) began collecting data on July 1, 2018, and are required to submit this data to the Department by April 1, 2019. These agencies are the California Highway Patrol, Los Angeles Police Department, Los Angeles County Sheriff’s Department, Riverside County Sheriff’s Department, San Bernardino County Sheriff’s Department, San Diego County Sheriff’s Department, San Diego Police Department, and the San Francisco Police Department.

¹⁰ Pen. Code, § 13519.4, subd. (3)(B).

¹¹ Pen. Code, § 13519.4, subd. (j)(3).

¹² Assem. Bill No. 1518 (2017-2018 Reg. Sess.) § 1-2.

¹³ Gov. Code, § 12525.2, subds. (a), (e).

¹⁴ Pen. Code, § 13012.

¹⁵ Pen. Code, § 13519.4, subd. (e).

¹⁶ Pen. Code, § 13519.4, subd. (h).

¹⁷ Gov. Code, § 12525.5, subd. (g)(2).

This year's report builds on the discussion in the Board's 2018 report regarding a baseline understanding of racial and identity profiling and what law enforcement agencies are doing to prevent and address it. This report does not include data regarding stops, because, as noted above, the first wave of agencies is not required to submit this data until April 1, 2019.

Specifically, this report aims to enhance the transparency of the stop data collection process by providing the public with detailed information on how the data is collected and submitted and how the Department and law enforcement agencies ensure the integrity of this data. This report also provides recommendations that can be incorporated by law enforcement agencies to enhance their policies, procedures, and trainings on topics that intersect with bias and racial and identity profiling.

In summary, this report:

- 1) Reviews the information that law enforcement agencies must collect and report on each stop, and how agencies and the Department are ensuring the integrity of this data.
- 2) Provides best practice recommendations for agencies in drafting policies, procedures, and trainings regarding civilian complaints and racial and identity profiling.
- 3) Analyzes the civilian complaint data submitted to the Department in 2017.
- 4) Explores how to address the potential for bias when officers respond to calls for service;
- 5) Analyzes the use of force data submitted to the Department in 2017.¹⁸
- 6) Highlights methodologies that the Board may wish to use in analyzing data once it is submitted to the Department by April 1, 2019.

The report also presents a blueprint of the Board's vision for work it hopes to pursue in future reports.¹⁹

As all California law enforcement agencies begin collecting stop data over the next several years, in keeping with the spirit of the RIPA legislation, the Board encourages agencies to view the data elements mandated by the statute and its implementing regulations as the floor, rather than the ceiling, as to what data an agency will collect. As the regulations state, "the data elements...are the minimum that a reporting agency shall collect and report. Nothing in this section prohibits a reporting agency from voluntarily collecting additional data."²⁰ In keeping with the spirit of the legislation, the Board encourages agencies to consider collecting and disseminating any data it deems necessary or important for identifying disparities in law enforcement interactions with the public. Agencies should not feel limited by the requirements in the regulations, but rather view these elements as a minimum requirement.

As the data is submitted to the Department, the Board, law enforcement, and other stakeholders will have the opportunity to analyze stop and complaint data by agency, together with agencies' policies, procedures, and trainings. It is the Board's hope that this analysis will help identify any unjustified disparities in law enforcement interactions with the public, and encourage law

¹⁸ The Board includes recommendations related to use of force because of its inherent relationship to police stop and search practices. In addition, stop data reports are required to include information regarding actions taken during a stop, such as the discharge or use of firearms, that also constitute a use of force that must be reported to the Department separately as a use of force incident under AB 71.

¹⁹ Appendix A of this report contains a summary of legislation enacted in 2018 related to police accountability.

²⁰ Cal. Code, § 999.227 subd. (a)(2).

enforcement agencies, policy makers and community members alike to collaborate to develop solutions.

Furthermore, the Board encourages all law enforcement agencies to vigorously analyze their own data to address any issues that may be identified at the local level. And in doing so, the Board hopes that both the analysis methodologies used and the findings of those analyses are transparent and available to the public. Law enforcement agencies should also reach out to academics and other stakeholders who can supplement and guide agencies in conducting meaningful analysis of this rich data set.

Future Board reports will provide this analytical information as well as continue to provide recommendations that may be helpful in preventing or reducing racial and identity profiling. These recommendations are intended to be utilized by law enforcement and community members in the continual improvement of their departments.

The Board understands that success will only truly occur if all stakeholders are engaged and work collaboratively and constructively. It is in this context that the Board, comprised of professionals of diverse backgrounds and perspectives, comes to the table and offers solutions to move law enforcement-community relations forward. The Board continually welcomes and values public input from community members and law enforcement whether in its public meetings or through direct submission of comments or questions to the Department to be disseminated to the members.²¹ It is the Board's hope that this relationship and engagement will continue to grow and bloom.

Best Practice Recommendations

In its 2018 report, the Board surveyed law enforcement agencies throughout the State of California regarding the policies, procedures, and trainings they utilize to address racial and identity profiling.²² The results of that survey, which include information from only those agencies that submitted a response, highlighted that agencies approach this topic in a highly variable manner. To help address these differences, the Board has compiled and analyzed best practices drawn from a range of law enforcement, academic, governmental, and non-profit organizations with relevant expertise in addressing racial and identity profiling in policing. As a result, the Board is providing these best practices for law enforcement agencies to consider and implement, where appropriate, to help prevent and address profiling if and when it occurs in policing.

Specifically, the Board has highlighted some best practices for civilian complaint policies and procedures, bias-free policing policies, and trainings related to racial and identity profiling. It cannot be emphasized enough that these recommendations do not represent the full panoply of recommendations or best practices that an agency could and should consider adopting, rather, they aim to provide a foundation on which the Board hopes and plans to continue expanding

²¹ Since its first meeting in July of 2016, the Board has met publicly 12 times and has held 21 subcommittee meetings, all of which included constructive public comment and involvement. To submit questions or concerns to the Board, please visit the Board's website at <https://oag.ca.gov/ab953/board> for contact information and subscribe to the Board's mailing list at <https://oag.ca.gov/ab953/subscribe>.

²² Racial and Identity Profiling Advisory Board. Racial and Identity Profiling Advisory Board Annual Report 2018. (2018). Available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>.

upon in future reports. These best practices can be found throughout the body of the report as well as compiled in Appendix B for ease of reference.

The Board began its research into best practices by reviewing the governing law on the prohibitions related to racial and identity profiling. Penal Code section 13519.4, which RIPA amended, expressly states “racial or identity profiling is a practice that presents a great danger to the fundamental principles of our Constitution and a democratic society. It is abhorrent and cannot be tolerated.”²³ The statute expressly prohibits racial and identity profiling, which is defined as “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.”²⁴ Further, racial profiling is unlawful under federal and state constitutional law, violating the fundamental right of equal protection under the law guaranteed by the Fourteenth Amendment of the United States Constitution²⁵ and Article I, Section 7 of the California Constitution.²⁶ Along with this right to equal protection is the fundamental right to be free from unreasonable searches and seizures by government agents as guaranteed by the Fourth Amendment of the United States Constitution.²⁷

In conducting its literature review on best practices for bias-free policing and related policies, the Board focused on identifying consistent standards across a range of relevant law enforcement, academic, governmental, and non-profit organizations that have expertise in this area. Since 2009, the Civil Rights Division of the United States Department of Justice (U.S. DOJ) has conducted investigations or reached reform agreements with 15 police departments and sheriff’s departments throughout the country (two of which are California agencies), aimed at improving bias-free policing policies in law enforcement agencies and implementing procedural justice reforms.²⁸ Many of these investigation reports and consent decrees contain similar policy recommendations, several of which have also been advocated by human and civil rights organizations and researchers who have analyzed policies relating to racial and identity profiling. All of the best practice recommendations contained in this report represent an accumulation of best practices identified by the U.S. DOJ and information sourced from other relevant empirical research conducted by universally well-regarded organizations such as the Police Executive Research Forum (PERF),²⁹ the International Association of Chiefs of Police’s (IACP),³⁰ the Vera Institute,³¹ Fair and Impartial Policing,³² Stanford Social Psychological Answers to Real World Questions (SPARQ),³³ and Center for Policing Equity (CPE),³⁴ among others.

²³ Pen. Code, § 13519.4, subd. (d)(2).

²⁴ Pen. Code, § 13519.4, subd. (e).

²⁵ U.S. Const., 14th Amend.

²⁶ Cal. Const., art. I, § 7.

²⁷ U.S. Const., 4th Amend.

²⁸ U.S. Dept. of Justice Civ. Rights Div., An Interactive Guide to the Civil Rights Division’s Police Reforms (Jan 1, 2017), pp. 8.

²⁹ Police Executive Research Forum (PERF). Information available at <https://www.policeforum.org/>

³⁰ International Association of Chiefs of Police (IACP). Information available at <https://www.theiacp.org/>

³¹ The Vera Institute of Justice. Information available at <https://www.vera.org/>

³² Fair and Impartial Policing. Information available at <https://fipolicing.com/>

³³ Stanford Social Psychological Answers to Real World Questions (SPARQ). Information available at <https://sparq.stanford.edu/>

³⁴ Center for Policing Equity (CPE). Information available at <http://policingequity.org/>

The Board advises that these best practices are general recommendations, created with an eye towards achieving its goal of eliminating racial and identity profiling in policing, but are by no means exhaustive. Rather, these recommendations represent best practices that have appeared in numerous consent decrees and scholarly studies regarding policies on and related to bias-free policing. Each individual law enforcement agency should review its current policies, procedures, and trainings to determine which of the following recommendations fit best within its organization.

It is the Board's hope that these best practice resources will assist law enforcement agencies, policymakers, and community members in developing, assessing and implementing bias-free policing policies, procedures, and trainings. The Board understands that there must be sufficient funding in order to implement these recommendations, and further understands that the amount of funding and resources available to implement these recommendations varies depending on the agency; however, agencies are encouraged to seek out grants and funding that will ensure that the stop data collection is utilized to its fullest potential.

Even without additional resources, there are recommendations that can and should be adopted to enhance the services that law enforcement agencies provide to the community. The Board encourages cities, counties, and policymakers to work with law enforcement agencies under their purview to ensure they are allocated the necessary funding and resources to implement the best practices described in the report. The Board further recommends that the Legislature provide sufficient funding to POST to assure that all agencies receive recommended and necessary trainings, including training covering RIPA data collection and analysis, de-escalation, mental health, and addiction, among other relevant topics.

As the Board continues to carry out its mission, it applauds the efforts of law enforcement agencies and stakeholders to improve law enforcement-community relationships and take steps toward eliminating racial and identity profiling in California. The Board recognizes and understands that real progress cannot be effectuated without both law enforcement and community support. However, it is hopeful that real change can be achieved. California has been a leader on many fronts and this is yet another opportunity to demonstrate to the country that real progress is possible when people work together towards a shared goal, in this case, the elimination of racial and identity profiling in California.

STOP DATA

RIPA requires the majority of California’s law enforcement agencies to collect information on all stops by their officers, excluding stops by custodial officers and those that take place in a custodial setting. A “stop” is defined as any detention or search, including consensual searches.³⁵

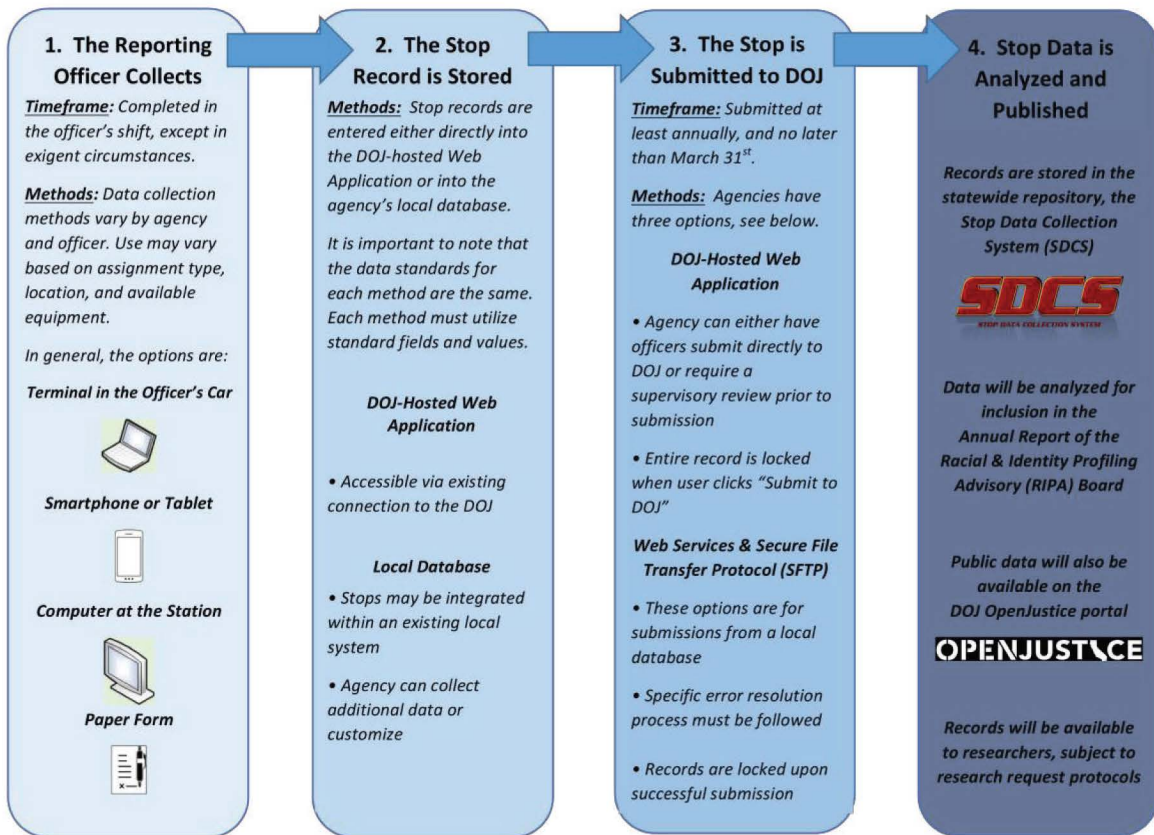
As noted above, agencies with 1,000 or more officers began collecting data on July 1, 2018, and are required to submit this data to the Department by April 1, 2019. These agencies, the eight largest in the state, include the California Highway Patrol, Los Angeles Police Department, Los Angeles County Sheriff’s Department, Riverside County Sheriff’s Department, San Bernardino County Sheriff’s Department, San Diego County Sheriff’s Department, San Diego Police Department, and the San Francisco Police Department. In future years, the Board’s annual report will include a detailed analysis of this data, once it has been submitted to the Department. As the data will not be available to review and analyze until April of 2019, this section will address the following:

- Data to be collected.
- Methods of submitting the data to the Department.
- Data integrity.
- Potential methodologies to analyze stop data.

Figure 1, below, provides an overview of the collection and submission process, from the time the officer collects the data and submits it to their agency to the time the agency submits this data to the Department.

³⁵ Gov. Code, § 12525.5, subd. (g)(2).

Figure 1: Overview of Collection and Submission Process



I. DATA COLLECTION

A. Data Collected

The data collected on each stop includes three types of information: 1) information about the stop itself; 2) perceived information about the person stopped; and 3) information about the officer making the stop. Table 1, below, details the information the officer must report.³⁶

³⁶ For more information on the specific data collected, including a data collection template with the data values, or choices, to select from regarding each data element, please see Appendix C. This template is also available on the Department's website at <https://oag.ca.gov/sites/all/files/agweb/pdfs/riipa/regs-template.pdf>.

Table 1: Officer Reporting Requirements

<i>Information Regarding Stop</i>
<ol style="list-style-type: none">1. Date, Time, and Duration2. Location3. Reason for Stop4. Was Stop in Response to Call for Service?5. Actions Taken During Stop6. Contraband or Evidence Discovered7. Property Seized8. Result of Stop
<i>Information Regarding Officer's Perception of Person Stopped</i>
<ol style="list-style-type: none">1. Perceived Race or Ethnicity2. Perceived Age3. Perceived Gender4. Perceived to be LGBT5. Limited or No English Fluency6. Perceived or Known Disability
<i>Information Regarding Officer</i>
<ol style="list-style-type: none">1. Officer's Identification Number2. Years of Experience3. Type of Assignment

When initially recording the information about each stop (the information that becomes the stop data report) officers will select from a standardized list of responses for each of the categories of information. These standardized lists will ensure that the data collected is uniform for all agencies. As will be discussed later in the section of the report, ensuring the uniformity of the data is a critical step in preserving its integrity. When providing the “reason for the stop” and “basis for the search” (if one is conducted), officers are also required to complete an explanatory field (of no more than 250 characters), in which the officer explains in their own words why the person was stopped and/or searched.

The purposed goal of this explanatory field is to obtain richer information about the reason for the stop and/or search beyond what is contained in the standardized “check the box” lists. And, as required by the RIPA regulations, the explanation provided by the officer in these open fields must include additional detail beyond the general check boxes selected. However, in doing so, law enforcement agencies must adhere to their statutory responsibility to protect the privacy of the person stopped as well as the officer involved. Thus, to ensure that privacy is maintained, the reporting officer should not include any personally identifying information of any individual

community member involved in the stop nor any unique identifying information that could identify any officer involved in the stop.³⁷

As an additional safeguard to ensure privacy, it is critical that officers and supervisors review the open explanatory fields to confirm that this privacy protected information is not submitted to the Department.³⁸ It cannot be emphasized enough that the reporting law enforcement agency is solely responsible for ensuring that personally identifying information of any individual and unique identifying information of any officer is *not* submitted to the Department.³⁹

B. Deadlines for Submitting Stop Data to the Department

The size of an agency determines when it is required to begin collecting and submitting data to the Department. Stop data collection for the eight largest agencies in the state began on July 1, 2018. These agencies have informally been termed the “Wave 1” agencies due to the rolling nature of the stop data collection timeline. Accordingly, the next set of agencies to begin data collection are thus termed “Wave 2” and so on until the final group, “Wave 4” begins collecting the data. Table 2, below, details the collection and reporting deadlines for each “Wave.”

Table 2: Collection and Reporting Deadlines

<i>Reporting Wave</i>	<i>Size of Agency</i>	<i>Data Collection Begins</i>	<i>Data Must be Reported to DOJ</i>	<i>Approx. # of Agencies</i>
1	1,000+	July 1, 2018	April 1, 2019	8
2	667-999	Jan. 1, 2019	April 1, 2020	7
3	334-666	Jan. 1, 2021	April 1, 2022	10
4	1-333	Jan. 1, 2022	April 1, 2023	400+

As noted above, agencies in the first wave of reporting began collecting data on July 1, 2018. These eight agencies are the California Highway Patrol, Los Angeles Police Department, Los Angeles County Sheriff’s Department, Riverside County Sheriff’s Department, San Bernardino County Sheriff’s Department, San Diego County Sheriff’s Department, San Diego Police Department, and the San Francisco Police Department. The staggered starting collection dates allow the individual agencies and the Department to ramp up the systems to collect, store, transmit, and process such a large amount of data. Once the agency begins collecting the data it is statutorily due to the Department no later than April 1 of each year; however, agencies may and are encouraged to submit the data on a more frequent basis, if practical.

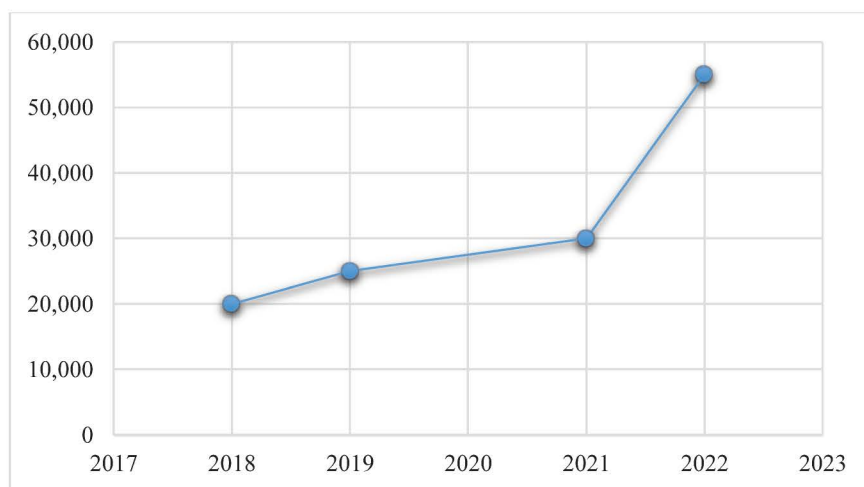
³⁷ Cal. Code Regs., tit. 11, div. 1, ch. 19 § 999.226, subds. (a)(10)(B), (a)(12)(B)(2).

³⁸ AB 1518 amended the stop data collection required by RIPA, to ensure that the badge number or other unique identifying information of peace officers not be made available to the public, and provided that law enforcement agencies are solely responsible for ensuring that personally identifying information of the individual stopped or any other information that is exempt from disclosure are not transmitted to the Department in an open text field. (Gov. Code, § 12525.2, subd. (d)).

³⁹ Cal. Gov. Code, § 12525.2, subd. (d); Cal. Code Regs., tit. 11, div. 1, ch. 19 § 999.228, subd. (d).

As shown in the chart below, the number of officers required to submit stop data is expected to grow significantly over time as more agencies begin collecting data under the deadlines set forth in the statute and illustrated above. Already, in the first year of data collection, approximately 20,000 law enforcement officers across the state are subject to the new stop data requirements, and every subsequent year the total number of officers required to report stop data increases as more agencies begin reporting. Figure 2 visually displays this information.

Figure 2: Estimated Number of Officers Subject to Stop Data Reporting Requirements⁴⁰



C. Outreach and Training

Law enforcement agencies and the Department’s California Justice Information Services Division (CJIS) have been closely collaborating to implement RIPA’s stop data collection requirements. Some of the key activities of CJIS working with reporting agencies over the last several months are listed below.

- Multiple site visits to each agency in Wave 1 and Wave 2.
- Meetings with vendors that supply agencies with local record management systems.
- Publishing technical specifications, data dictionary, and other system documents.
- Regional meetings with Wave 1 and Wave 2 agencies to review and walk through technical documents.
- Recurring conference calls with all Wave 1 and Wave 2 agencies.
- Webinars co-hosted with the Department’s Civil Rights Enforcement Section.
- Processing test records submitted to the Department prior to launching data collection.
- Creating and testing user accounts for agencies to use prior to launching data collection.
- Conducting train-the-trainer sessions with Wave 1 and Wave 2 agencies on the Stop Data Collection System.

⁴⁰ These figures are derived by adding the total number of officers who are subject to the reporting requirements, for each agency, as each tier of agencies begins to collect data. For example, the figure of 20,000 officers for 2018 represents the total number of officers who are subject to the reporting requirements from the eight agencies that began reporting on July 1, 2018. For 2019, the total number of officers from Wave 1 and Wave 2 agencies (15 agencies in all) who will be reporting data is 25,000. These numbers include officers from the previous reporting year.

- Responding to individual questions posed by law enforcement agencies on a case-by-case basis.

Now that the largest eight agencies are actively collecting data, CJIS continues to work closely with the administrators from each of these agencies and provides ongoing training as needed to support their agency's needs. CJIS also maintains a Help Desk to provide 24/7 phone support and trouble shoot any technical issues agencies may experience as they submit their data to the statewide repository. Typical support calls may involve assisting a user to reset their password or explaining a system-generated message.

Finally, individual agencies have also taken a variety of steps to ensure the successful implementation of the new stop data collection and reporting requirements. These activities include, but are not limited to drafting and implementing agency policies regarding the data collection, developing administrative bulletins, conducting in-person trainings, and online tutorials.

II. DATA INTEGRITY

In order for the required collection of stop data to meet the goal of shedding light on the state of racial and identity profiling in California, all stakeholders must be sure that the data is reliable and has been collected with a high degree of integrity.

Data integrity means that:

- Required information is reported accurately (e.g., that stop data records mirror what actually happens during the police-community interactions).
- Each record that is submitted is complete (e.g., there is no missing information about a particular stop).
- All required data is collected systematically (e.g., all stops that are subject to reporting requirements is captured).

To protect the integrity of the stop data collected under RIPA, a number of steps have been taken. Those safeguards are discussed in the following sections.

A. Data Integrity Protocols Maintained by the Department of Justice

All records submitted to the Department are stored in a statewide repository called the Stop Data Collection System (SDCS). A series of rules and user permissions are used by the SDCS to protect the quality and integrity of the data. Some of these rules are listed below.

- Reported data must be complete, and follow uniform standards.
- Access to stop records is restricted.
- A specified error resolution process must be followed.
- Once submitted, perception data is locked and cannot be changed by the officer or agency.
- Transactions are stored in system audit logs.

Once an agency's records are submitted to the Department, the data can only be altered in two circumstances: 1) error validation/correction; or 2) written requests by an agency to CJIS to correct specific information on a case-by-case basis.

Automatic Error Validation/Correction

To ensure data conforms to the requirements of RIPA and its regulations, the system performs validation on every record and every field. The system automatically flags data entries that do not comply with the Department's technical specifications.

For data submitted via the Department-hosted Web Application, errors will be immediately detected. Error messages will be displayed on the screen for correction. Any valid data will be saved, but the record will be flagged with an incomplete status until any errors are resolved. Agency supervisors can access online reports to help ensure incomplete records are resolved in a timely manner.

For agencies submitting data via Web Services or SFTP, error messages are also used to identify any missing or invalid data. All valid data is saved to the system, and the system will return error messages to the submitting agency. A rigorous error resolution process dictates whether or not update messages can be transmitted to correct errors. For example, any perception data fields are locked and cannot be subsequently edited by the agency, even if a perception data field contains an invalid code. If a correction is sent, the automated process will validate whether or not the record or field can be edited. If a change is applied to a record, a detailed audit log captures the original value and edited value.

Written Requests by Agencies to Correct Data After It Has Been Submitted to the Department

Once an agency successfully submits a record to the Department, the record is considered "locked" and the agency can no longer edit the record. If assistance is needed for a correction after the record is locked, requests must be submitted to the Department in writing. Approval is not automatic and is reviewed by management on a case-by-case basis. Any records edited through this exception case would be captured in a detailed audit log to indicate the original value and edited value. As of November 1, 2018, the Department has not received any such requests.

B. Data Integrity Protocols Maintained by Law Enforcement Agencies

As part of its collaborative outreach and work with law enforcement, the Board invited all of the Wave 1 agencies to attend its November 2018 meeting to discuss the agencies various protocols for collecting, submitting, and ensuring the integrity of the stop data they collect and submit to the Department. While not all agencies were able to attend the Board meeting in person, written responses on this topic were either addressed in person, by means of a written response, or a combination of the two by all but one of the Wave 1 agencies.⁴¹ Highlights from their responses and presentations, organized by question, are outlined below.

⁴¹ Riverside County Sheriff's Department did not respond to this request for information nor did they present at the Board meeting.

How Do Officers Collect and Report Stop Data to Their Agency?

The agencies responded that officers have several methods by which to collect data, including 1) mobile digital computers in patrol vehicles; 2) tablets, cell phones or other mobile devices; 3) desktop computers at stations and, as a temporary measure, 3) paper forms that would then be used to input the data electronically. The primary data collection method is electronic. Several agencies noted the length of time officers devoted to collecting and submitting the data for each stop. As more agencies begin to collect data, the Board may wish to explore and analyze this metric as well as agency costs in future reports.

Do Agencies Have Policies and Training Courses to Implement the Stop Data Collection Requirements Mandated by RIPA?

The agencies indicated that they have implemented policies, such as bulletins and orders, and training for their officers and supervisors regarding the data collection required under RIPA. These policies and training materials include bulletins and updates, videos, online training, and ongoing training that occurs regularly during shift briefings by shift supervisors. Several agencies also provided “Train the Trainer” programs and/or other training specifically for supervisors.

The San Diego County Sheriff’s Department also created a specific RIPA Implementation Committee which is tasked with addressing issues related to the stop data collection program. The implementation committee also answers questions regarding RIPA from supervisors, the public, and deputies.

What Steps Are in Place to Ensure the Data Submitted Meets the Department’s Data Standards?

Agencies utilize a variety of automatic validation checks to ensure their systems collect required data and flag entries that contain incomplete or invalid codes. Examples are detailed below.

- An officer may not be able to navigate to the next data capture screen if required data entry fields for the current screen are left blank.
- Data fields are hidden when they do not apply; for example, if the person was not searched, the search-related fields are not shown to the user.
- If the person stopped was not a student, the check boxes that apply only to stops of students in a K-12 setting do not appear in data entry screens. Users must select choices from the reference tables identified in the Department’s technical data dictionary.
- Use of the tables from the Department’s technical data dictionary helps ensure that only valid offense codes, cities and school names are entered.

What Happens to Data After an Officer Completes a Stop Data Record? If a Record is Submitted to a Supervisor for Review, What Changes, if Any, can be Made to the Record?

California Highway Patrol

Supervisors review the record to ensure it complies with law and policy, including confirmation that the open text fields do not contain personally identifiable information (PII) or unique identifying information (UII) of any person. Supervisors also review for grammatical errors and

to confirm that the data complies with the technical specifications. Supervisors cannot edit the record but, if necessary, will return the record to the officer to correct and re-submit.

Los Angeles Police Department

Once a record is placed in a supervisory queue, it is locked (i.e., the officer cannot access the record). A supervisor can only edit the open text fields and will do so if the field contains PII or UII or other grammatical or derogatory information. A supervisor that discovers such information will either remove the PII or UII in question or notify the officer to correct the field. Once a supervisor approves the record, it is flagged so it can be exported to the Department.

Los Angeles County Sheriff's Department

The deputy completes the stop report and submits it. The supervisor will review it, paying particular attention to the open text fields to ensure there is no PII or UII included. If any changes are required, including grammar, the supervisor will send the report back to the deputy for correction. Once approved by the supervisor, the report is submitted to await transmission to the Department. The agency's Data Systems Bureau conducts random audits and reviews of the collected data.

San Bernardino County Sheriff's Department

Once a stop record is submitted, it is saved in the database but held in a review queue. The review queue is used by authorized auditing personnel to ensure no PII, UII, or any other prohibited or non-conforming data has been entered into any of the three open text fields.

The only data that is capable of being viewed and/or corrected is the information contained in the open field narrative sections of the form. All of the other data elements and values are not part of the audit process and are incapable of being changed by auditors. An authorized auditor can remove any PII or UII and clarify text entries in order to ensure compliance with the regulations and ensure any non-conforming information is corrected. The corrected form is then placed into the database for ultimate submission to the Department in accordance with the regulations. The original text and any subsequent corrections made during the auditing process are retained. The complete audit trail is saved in the database to ensure data integrity at all levels.

San Diego Police Department

Once the data is submitted internally, it is maintained in a secured file. A supervisor does directly review the data and an officer cannot make changes once it submits the data to that secured file. Officers must verify, through the use of their daily journals and specific reports, that they have submitted stop data. The supervisor is required to inspect unit history files and approve reports related to data collection to ensure compliance.

San Diego County Sheriff's Department

Deputies cannot change any data once it has been submitted via the agency's application. A sheriff's captain or the RIPA Implementation Committee reviews the database to ensure that it is compliant with Department standards and does not include PII, UII, or errors. San Diego County

Sheriff's Department has an automated process to bulk check for known PII or UII patterns, such as dates and names. Results are reviewed to identify positive PII or UII matches, and errors. If PII, UII, or an error is found in the narrative text fields, only the portion of text that constitutes PII, UII, or error is removed through a manual edit process only available to personnel with administrative privileges.

The changes are captured in an audit log along with the original state of the stop, the time of change, who made the change, and the reason it was necessary. If data errors are encountered as part of the Department submission process, the same edit process is used to fix errors before resubmitting.

San Francisco Police Department

Officers submit data directly to the Department's state repository of stop data, via the Department's web-based application. Currently San Francisco Police Department is not utilizing the supervisory review function of the Department's web-based application, but they informed the Board that they are considering implementing that in the future.

III. METHODS OF DATA SUBMISSION TO THE DEPARTMENT

In the spirit of facilitating the ability of a large and diverse array of individual law enforcement agencies to successfully comply with the stop data requirements, the regulations provide agencies with three methods to submit data. These three methods of submitting data to the statewide repository are: 1) a Department-hosted Web Application, 2) Web Services, and 3) Secure File Transfer Protocol. The Department developed these three submission methods to provide flexibility to meet the needs of an agency's local infrastructure. It is important to note that the data standards for each of these methods are the same. Each method utilized standard fields and validation checks, which will be discussed in the next section of this chapter. Table 3, below, details the submission methods initial reporting agencies will be using.

Table 3: Wave 1 Agency Submission Methods

<i>Agency</i>	<i>Type of Data Submission</i>
California Highway Patrol	Web Services
Los Angeles Police Department	Secure File Transfer Protocol
Los Angeles County Sheriff's Department	Web Services
Riverside County Sheriff's Department	Secure File Transfer Protocol*
San Bernardino County Sheriff's Department	Web Services*
San Diego Police Department	Web Services*
San Diego County Sheriff's Department	Web Services*
San Francisco Police Department	Department-hosted Web Application

**These agencies are using a locally installed copy of an application developed by the San Diego County Sheriff's Departments.*

For additional detail on the three submission methods, please see Appendix D.

IV. POSSIBLE METHODOLOGIES FOR ANALYZING STOP DATA

The 2018 Board report identified different methodologies that could be used to analyze the data regarding stops that is being collected by law enforcement agencies in California, to identify if and where there may be racial and identity profiling.⁴²

Any methodology that evaluates bias suffers from some weakness, so overreliance on one method may lead to inaccurate conclusions. For this reason, the Board presents two possible methodologies that could be used to analyze the data in future reports. Either of the two methodologies, as explained in more detail below, could be applied to analyze the stop data for future Board reports. The benefit of pursuing these proposed analyses is that they can evaluate whether potential racial bias is present in pre-stop decisions and post-stop outcomes.

Pre-stop decisions refer to an officer's decision to stop a given individual. The pre-stop method analyzes the number of stops, and potentially disparate numbers for various identity groups, i.e.,

⁴² Racial and Identity Profiling Advisory Board. Racial and Identity Profiling Advisory Board Annual Report 2018. (2018) pp. 62-68. Available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>

“pre-stop” data, which is also called the “Veil of Darkness” methodology because it compares the data under conditions where there is daylight and darkness.⁴³

Post-stop outcomes refer to the outcomes of a stop and, for purposes of RIPA, would include whether a search conducted during a stop was successful in yielding contraband or evidence. This second “post-stop” method looks specifically at how often searches conducted during a stop were successful across identity groups and the disparity between search and search success rates. This method is referred to as the “outcome test” because it looks at the results of the stop.⁴⁴

The stop data collected under RIPA will contain additional information outside of what could be used to perform the pre-stop and post-stop tests above. For this reason, the Board will also include descriptive analyses to provide readers information that may not be provided using the two methodologies below. These additional types of analyses may take the form of providing the number of civilians of the various identity groups that were stopped. Additionally, these identity groups may be broken down by the proportion of their members that have certain actions (such as use of force, being handcuffed, or having property seized) taken on them, or have certain outcomes (such as being released with no action, being arrested without a warrant, or having a parent or legal guardian contacted) to their stops. Providing these additional statistics and analyses may provide readers with more context in which to view the results of the pre-stop and post-stop analyses. They could also provide more insight into post-stop outcome measures that the examinations of search hit rates do not include.

The below discussion on veil of darkness technique and outcome tests should not be interpreted to be the only forms of analysis that the Board may decide to explore with respect to the stop data analysis that will take place in future Board reports. Indeed, gaining an understanding of the issues the Board is tasked with examining may require the use of additional or supplemental analysis or alternative methods to be employed in the future.

The Board is considering these two analytical approaches for several reasons. First, these methods are well-established in the research literature.⁴⁵ As thoroughly employed, analyzed and critiqued methods, their strengths and weaknesses are well known and will be kept in mind when discussing the results and determining future directions. Second, as established methods, there are also a number of modifications or adjustments that can be made if the need arises. Third, their relatively simple approach makes their application and interpretation straightforward for both the Board and for members of the public to understand. Moreover, the successful replication of findings will build confidence in the findings.

⁴³ Grogger and Ridgeway. *Testing for Racial Profiling in Traffic Stops from Behind a Veil of Darkness*. (2012) 109(1) Journal of the American Statistical Association, pp. 878-887.

⁴⁴ Knowles et al. *Racial Bias in Motor Vehicle Searches: Theory and Evidence*. (2001) 109(1) Journal of Political Economy, pp. 203-229.

⁴⁵ In an ongoing meta-analysis of 155 (at the time of this writing) police racial profiling studies, researchers found that 47 percent ($n = 459$) of the effect sizes of analyses examining racial profiling in stops were from studies using the VOD technique. These researchers also found that 25 percent ($n = 771$) of the effect sizes from all the racial profiling studies they examined were from hit rate analyses (Mitchell, Lawshe, and Morales. *Racial Profiling: A Meta-Analytic Synthesis of the Research*. (2018) Paper presented at the meeting of The American Society of Criminology, Atlanta, GA.

Finally, using these methodologies will make it feasible to apply these tests to all areas of California because they will not require collecting benchmarks manually or pairing the data with external data sources (i.e., creating a measurement by which to compare the data).

Benchmarks are important in the analysis of racial bias because they reflect what behavior would be in an unbiased world. For example, if the benchmark data suggest that two racial or identity groups are present at equal proportions, but one group constitutes the vast majority of stops, then this could indicate racial bias. A typical approach to establishing benchmarks for traffic stops, for example, would involve human observers standing at intersections and streets in order to record the number and percentage of drivers from different racial or ethnic groups that pass through by vehicle. These benchmarks would then be compared against the racial composition of individuals detained during traffic stops in those same areas.

This approach to establishing benchmarks is time and resource intensive. Therefore, establishing similar benchmarks for the entire state would be unrealistic and infeasible. Benchmark data based on resident population is more readily available without manual collection. However, a significant limitation of utilizing resident population data is that civilians are often stopped in geographic areas where they do not live and, thus, are not accounted for in the population data their stops are being compared against. Additionally, the Board has been tasked with examining bias as it pertains not only to race and ethnicity, but also to other identity groups as well, some of which may not be represented in datasets that some studies have used as benchmark data in the past.

These limitations do not mean that rigorous studies cannot employ benchmarking comparison data. They are merely stated as insight into why the two methods discussed in the sections that follow are being considered. The following sections discuss each of the approaches in greater detail.

A. Pre-Stop Analysis: Veil of Darkness Technique

As noted above, one way to analyze pre-stop decisions is by using the veil of darkness technique. Two researchers, Grogger and Ridgeway, developed this approach and first applied it to stop data from Oakland, CA in a RAND Corporation study published in 2006.⁴⁶ The veil of darkness technique is less susceptible to issues surrounding external or manually-collected benchmarking data because it takes advantage of daylight savings changes to establish a benchmark.

Changes in daylight theoretically affect visibility and the ability to perceive attributes of an individual, such as their race or other identity information. The veil of darkness technique examines stops that occur during the inter-twilight period. This period, roughly between 5:00 p.m. and 9:00 p.m., is where it is light out during parts of the year where daylight savings are in effect, but dark during standard time. The veil of darkness technique uses changes in daylight

⁴⁶ Grogger and Ridgeway. *Testing for Racial Profiling in Traffic Stops from Behind a Veil of Darkness*. (2012) 109(1) Journal of the American Statistical Association, pp. 878-887.

savings and the coincident changes in visibility to evaluate bias against racial and other identity groups.⁴⁷

The core assumption of the veil of darkness method is, if law enforcement is targeting drivers of a specific identity group, evidence of profiling would be most apparent during the daylight when a driver's identity is presumably more visible than at night. The veil of darkness method compares the proportion of stopped individuals that an identity group composes during daylight to the group's proportion at night when law enforcement cannot observe their identity group membership as easily. Since schedules do not often change immediately before or after the time change, the populations that will be present during the same period are unlikely to change. If no bias is demonstrated, then the proportions of identity groups stopped before and after the shift in daylight shifts should be very similar. This test is intended to be a measure of bias in the decisions that officers make to initiate stops of civilians.

For the veil of darkness test, establishing benchmarks is not necessary since the driving population immediately before and after daylight savings is likely to be the same.⁴⁸ The benchmark comes from the race-blinding effect of darkness, since it is more difficult to perceive racial identities at night. Rates of nighttime stops will then be compared to those of daylight stops, where race or identity group is more easily perceived and bias is more likely to be evident, to determine if significant differences between who is stopped under the two conditions exists.

Application to RIPA Stop Data

To analyze the RIPA stop data, the analysis would consider stops made in the inter-twilight period, typically sometime between 5:00 p.m. at the earliest and 9:00 p.m. at the latest. To apply the simplest version of this test, the only information that is necessary is the location, time and date of the stop, and the stopped individual's race, gender, or other identity grouping. The statistical methods often used in the veil of darkness tests, like logistic regression, are available to not only estimate the discrepancies between the two, but also report the statistical uncertainty around those estimates.

Additional Considerations and Limitations

The change in daylight savings is intended to serve as a proxy for the visibility of a civilian's race. Depending on ambient lighting, this may not be a completely faithful proxy in urban areas.⁴⁹ Researchers have considered ambient lighting, like proximity to streetlights, and additional contextual information to help evaluate the relative risk of being stopped.⁵⁰ However, a similar undertaking would be infeasible on a statewide scale. Additionally, this approach would be limited to the inter-twilight period and is intended for analysis of vehicle stops. Further, while the method is open to modifications to account for new considerations, in its proposed

⁴⁷ Taniguchi et al., A Test of Racial Disproportionality in Traffic Stops Conducted by the Raleigh Police Department. (2016) RTI International.; Worden et al. *Testing for Racial Profiling with the Veil-of-Darkness Method*. (2012) 15(1) Police Quarterly, pp. 92-111.

⁴⁸ RIPA stop data will have unique considerations to bear in mind. The first is that pedestrian and vehicle stops are reported as one in the data. However, it may be possible to identify some vehicle stops if the reason for the stop is a vehicle-related infraction.

⁴⁹ Horrace and Rohlin, *How Dark is Dark? Bright Lights, Big City, Racial Profiling* (2016). 98(2) Review of Economics and Statistics, pp. 226-232.

⁵⁰ Kalinowski et al., Endogenous Driving Behavior in Veil of Darkness Tests for Racial Profiling (2017).

application other relevant features like tinted windows or make or model of car, which may serve as proxy for race, cannot be accounted for because no data on these issues will be available with RIPA stop data. If the Department becomes aware of methodologies that address these limitations or better measure pre-stop decisions using these stop data, it may elect to include analyses using those methods in the future.

B. Post-Stop Analysis: Outcome Tests

The outcome test, by contrast to the veil of darkness test, helps identify potential bias in decisions made after the stop is made. Outcome tests compare the discrepancies between the percentages of successful searches conducted on stopped individuals. These percentages are also referred to as “hit rates.” For discretionary searches based upon consent, reasonable suspicion, or probable cause, equal hit rates across identity groups may signify a lack of bias, whereas differences may imply differential standards in conducting a search.⁵¹

Like the veil of darkness approach, the outcome test does not require a benchmark in order to work. This is because the comparisons being drawn are between hit rates of identity groups who are searched. The method holds that, under unbiased conditions, the hit rates of individuals would be more or less the same. If the hit rates are more or less the same, officers are using a common threshold of suspicion for each racial and identity group. When the hit rates are significantly different between identity groups, this may suggest that officers are not applying the same standard to justify a search of one group compared others. For instance, a high hit rate would suggest that officers require a large amount of information that suggests to them they will find evidence or contraband, should they choose to conduct a search. Meanwhile, a low hit rate would suggest that officers require less information to justify a search. Evidence for bias exists when we can infer a low threshold to search some identity groups and higher ones for others.

This test requires researchers to identify all stops, as well as those that lead to searches, and of those searches the number of those which lead to discoveries of contraband or evidence, and their locations. With this information in hand, it is possible to use inferential statistics to determine if these differences between hit rates are due to random chance or appear more systematic, thus, evidencing possible biased practices.

Application to RIPA Stop Data

To analyze the RIPA data, comparisons between different racial and identity groups per location could be evaluated. Conventionally, comparisons are made between the majority group and the various minority groups, such as making comparisons between white and black civilians. Comparisons of how often identity groups are searched and how often those searches result in evidence or contraband being found can be made. The types of evidence and contraband that successful searches yield may also be explored using the data that will be available. Inferential statistical tests are available to estimate statistically significant differences.

⁵¹ Knowles et al., *Racial Bias in Motor Vehicle Searches: Theory and Evidence* (2001) 109(1) *Journal of Political Economy*, pp. 203-229.; Persico and Todd, *The Hit Rates Test for Racial Bias in Motor-Vehicle Searches* (2008) 25(1) *Justice Quarterly*, pp. 37-53.

Additional Considerations and Limitations

One disadvantage of using outcome methodology is the “inframarginality,” problem, which has the potential to lead to the incorrect attribution of bias. This problem, as illustrated by Pierson, Simoiu, and Overgoor, can be demonstrated by imagining two identity groups (Group One and Group Two), each with two subgroups (A and B) that have different probabilities of carrying contraband, either low (A) or high (B).⁵² Imagine that Group One A has a 5% chance of holding contraband and Group One B has a 50% chance of holding contraband. Group Two A has 5% chance and Group Two B has a 75% chance of holding contraband. Suppose officers choose to search individuals if they have at least a 10% chance of finding contraband. Even though officers are applying a neutral baseline, they would end up having a lower success rate for Group One than Group Two, which could provide evidence of bias even though they are applying a search threshold without bias. For this reason, it is important to integrate enough information, such as location to hedge against this, where possible.⁵³ Department research staff will make use of the location data, to the extent possible, in order to counter this limitation. Additional tests can be pursued, as needed, in future reports.

⁵² Pierson et al., A Large-Scale Analysis of Racial Disparities in Police Stops Across the United States (2017).

⁵³ Anwar and Hanming, An Alternative Test of Racial Prejudice in Motor Vehicle Searches: Theory and Evidence. (2006) 96(1) American Economic Review, pp. 127-151.; Engel, A Critique of the “Outcome Test” in Racial Profiling Research (2008) 25(1) Justice Quarterly, pp. 1-36.

RACIAL AND IDENTITY PROFILING POLICIES AND ACCOUNTABILITY

One of the Board’s most significant duties is to review and analyze “racial and identity profiling policies and practices across geographic areas in California, working in partnership with state and local law enforcement agencies.”⁵⁴ With this goal in mind, last year the Board surveyed all California law enforcement agencies subject to stop data reporting. The survey sought information on their current policies and practices relevant to racial and identity profiling, efforts to enhance law enforcement-community relations and reduce biases in policing, and policies and methods for receiving civilian complaints. Based on the survey responses, the Board observed that while most agencies did have a specific policy or portion of a policy that addressed racial and identity profiling, there was little consistency in what was included in those policies across those 114 responding agencies out of 425 total agencies.⁵⁵

In an effort to address the observed inconsistencies, the Board has researched existing evidence-based best practices for policies devoted to preventing racial and identity profiling in policing, and compiled best practices or standards that all California law enforcement agencies should review and, if appropriate, adopt in order to help prevent and identify racial and identity profiling if and where it exists. The Board acknowledges that to understand how a law enforcement agency is working to identify and prevent bias and profiling, it will need to examine policies that specifically aim to prevent profiling and biased policing as well as policies that govern prompt and appropriate remediation if potential problems are identified. It is also necessary to analyze the degree to which principles of equitable treatment in the provision of policing services are integrated throughout an agency’s policies, culture, and practices more broadly.

Below, the Board provides best practice recommendations for some of the many policies that are related to the prevention of racial and identity profiling. These recommendations do not represent the full panoply of recommendations or best practices that an agency could and should consider adopting; rather, they aim to provide a foundation the Board hopes and plans to continue expanding upon in future reports. The Board again wishes to emphasize that law enforcement agencies should feel free to adopt additional best practices beyond what are listed here.

I. BEST PRACTICE RECOMMENDATIONS

The following best practice recommendations are drawn from a range of relevant law enforcement, academic, governmental, and non-profit organizations that have expertise in this area. For additional information on the Board’s approach to identifying best practices, please see the introduction.

⁵⁴ Pen. Code §13519.4, subs. (j)(3) & (A)-(E).

⁵⁵ Please note that of the 425 law enforcement agencies in the State that were sent the survey, 114 agencies participated, and thus the responses may not be representative of all agencies in the State.

A. Agencies Should Have a Clear Policy Devoted to the Prevention of Racial and Identity Profiling

Foundational to any bias-free policing policy should be the inclusion of a clear written policy and procedure regarding an agency's commitment to identifying and eliminating racial and identity profiling if and where it exists. Agencies should consider partnering with various stakeholders and representatives of the community in developing this policy. Some of the principles that agencies may wish to include in the policy are listed below.

- Agencies should create a separate policy dedicated to bias-free policing that expressly prohibits racial and identity profiling. The policy should explicitly and strongly express the agency's core values and expectations when it comes to bias-free policing.⁵⁶
- Sworn and non-sworn personnel should be directed to interact with all members of the public in a professional, impartial, fair, respectful, and nondiscriminatory manner.⁵⁷
- All persons (i.e., both members of the public and agency personnel) should be treated equally without regard to protected characteristics. California state civil rights laws should be used as a guide for the characteristics that should be included within the policy. These characteristics include, but are not limited to, race, color, ancestry, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, mental disability, and physical disability.⁵⁸
- Officers should be prohibited from using proxies for protected characteristics, including language ability, geographic location, mode of transportation, or manner of dress, among others.⁵⁹
- The policy should clearly articulate when the consideration of race, ethnicity, disability and other protected characteristics is inappropriate in carrying out duties and when it is legitimate policing to consider them (e.g., when a specific suspect description includes race or other protected characteristics).⁶⁰

⁵⁶ IACP Law Enforcement Policy Center, *Unbiased Policing*; PERF, *Operational Strategies to Build Police-Community Trust and Reduce Crime in Minority Communities* (2018); *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2:16-cv-01731-MCA-MAH.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

⁵⁷ IACP Law Enforcement Policy Center, *Standards of Conduct*; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Newark* (2016) 2:16-cv-01731-MCA-MAH.

⁵⁸ IACP Law Enforcement Policy Center, *Police-Citizen Contacts*; PERF, *Strengthening Relationships Between Police and Immigration Communities in a Complex Political Environment* (2018). *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Seattle* (2012) 12-CV-1282.

⁵⁹ IACP Law Enforcement Policy Center, *Unbiased Policing*; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

⁶⁰ IACP Law Enforcement Policy Center, *Unbiased Policing*; Pen. Code, § 13519.4, subd. (e); PERF, *Constitutional Policing as A Cornerstone of Community Policing* (2015); *U.S. v. City of Cleveland* (2015).

B. Policies Covering the Prevention of Racial and Identity Profiling Should Be Easily Accessible and Well-Integrated into the Agency's Culture

- The policy should be accessible in many formats such as online, in person at the agency, at other governmental and non-governmental locations, and from an agency personnel, if requested.⁶¹
- Agencies should develop and use a language assistance plan and policy that includes protocols for interpretation (including Braille and American Sign Language) that is tailored to particular settings (e.g., interviews in jails or where person is otherwise in custody, interactions at police stations, interactions with officers at stops, etc.).⁶²
- Bias-free policing principles should be integrated into management, policies and procedures, job descriptions, recruitment, training, personnel evaluations, resource deployment, tactics, and accountability systems.⁶³
- The policy should include cross references to other relevant policies from the agency (such as civilian complaints, stops, use of force, training, etc.) and, where possible, provide links to the text of those policies.⁶⁴

C. Policies Covering the Prevention of Racial and Identity Profiling Should Have Concrete Definitions to Ensure Its Principles Are Consistently Applied

- The policy should include a robust list of definitions of key terms, protected classes and characteristics, including but not limited to:⁶⁵
 - racial or identity profiling
 - bias-free policing
 - race
 - color
 - ethnicity
 - national origin
 - ancestry
 - age
 - religion
 - gender identity or expression
 - sexual orientation
 - mental disability
 - physical disability

⁶¹ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

⁶² *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

⁶³ IACP Law Enforcement Policy Center, *Unbiased Policing*; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. City of New Orleans* (2013) 2: 12-cv-01924-SM-JCW.

⁶⁴ *U.S. v. City of Seattle* (2012) 12-CV-1282.

⁶⁵ Pen. Code, § 13519.4, subd. (e); The protected classes and characteristics identified here are derived from various California civil rights laws. These include the Unruh Civil Rights Act, Civil Code section 51 et seq., the Ralph Act, Civil Code section 51.7, the California Fair Employment and Housing Act, Government Code section 12920 et seq., Penal Code section 13519.4, and Government Code sections 12525.5 and 11135, among others.

- “Racial or identity profiling” should be defined in the policy in accordance with California Penal Code 13519.4, subdivision (e), as follows:
 - *“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 non-consensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.”*⁶⁶

D. Policies Covering the Prevention of Racial and Identity Profiling Should Include a Component on the Limited Circumstances in Which Characteristics of an Individual may be Considered

The policy should state that:

- Officers may take into account protected characteristics of an individual in establishing reasonable suspicion or probable cause, only when the characteristic is part of a specific suspect description based on trustworthy and relevant information that links a specific person to a particular unlawful incident.⁶⁷
- Officers must be able to articulate specific facts that support their use of personal characteristics in establishing reasonable suspicion or probable cause.⁶⁸
- Officers may consider relevant personal characteristics of an individual when determining whether to identify services designed for individuals with those characteristics (e.g., behavioral crisis, homelessness, drug use, etc.).⁶⁹

E. Policies Covering the Prevention of Racial and Identity Profiling Should Include a Component on Communication with the Community

The policy should state that:

- All personnel should treat all members of the public with courtesy, professionalism, and respect. Personnel should not use harassing, intimidating, derogatory, or prejudiced

⁶⁶ Again, the list of protected characteristics included in this provision should serve as the floor not the ceiling, and agencies should always feel free to include additional protected or personal characteristics to include.

⁶⁷ IACP Law Enforcement Policy Center, Unbiased Policing.; PERF, Operational Strategies to Build Police-Community Trust and Reduce Crime in Minority Communities (2018); *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.; Pen. Code, § 13519.4, subd. (e).

⁶⁸ IACP Law Enforcement Policy Center, Executing Search Warrants.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

⁶⁹ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

language, particularly when related to an individual's actual or perceived protected characteristics.⁷⁰

- Officers should listen to the member of the public's questions or concerns without interruption and directly address the questions the person may have regarding the stop, including an explanation of options for traffic citation disposition if relevant.⁷¹
- When conducting stops, officers should introduce themselves to the person being stopped and provide an explanation for the stop as soon as soon as reasonable and practicable (ideally before asking the driver for his or her license and registration).⁷²

F. Policies Covering the Prevention of Racial and Identity Profiling Should Include a Component on Training

- All agency personnel, including dispatchers and non-sworn personnel, should be educated on biases (both implicit and overt) and expected to manage them.⁷³
- All officers should be provided with training that is adequate in quality, quantity, scope, and type on investigatory stops, searches, and arrests.⁷⁴
- The training should be created in consultation with law enforcement experts and various stakeholders, provided on a regular basis, and consistently evaluated and updated.⁷⁵

G. Policies Covering the Prevention of Racial and Identity Profiling Should Include a Component on Data Collection and Analysis

- Agencies should consider analyzing the data they have collected, including data collected and reported to the Department regarding stops and civilian complaints.⁷⁶
- Data should be reviewed to identify exceptional and deficient conduct, trends, unexplained disparities, compliance with policy, and training needs and opportunities.⁷⁷
- Data should be reviewed when relevant for investigating complaints of bias.⁷⁸

⁷⁰IACP Law Enforcement Policy Center, Police-Citizen Contacts.; PERF, Promising Practices for Using Community Policing to Prevent Violent Extremism (2016).; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

⁷¹IACP Law Enforcement Policy Center, Police-Citizen Contacts.; PERF, Advice from Police Chiefs and Community Leaders On Building Trust (2016).; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

⁷²*U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

⁷³*U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

⁷⁴*U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

⁷⁵ PERF, Promising Practices for Using Community Policing to Prevent Violent Extremism (2016).; *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.

⁷⁶*U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

⁷⁷IACP Law Enforcement Policy Center, Early Warning System.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

⁷⁸*U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

H. Policies Covering the Prevention of Racial and Identity Profiling Should Include a Component That Requires Accountability and Adherence to the Policy

- All agency personnel, including dispatchers and non-sworn personnel, are responsible for knowing and complying with the policy. Personnel who engage in, ignore, or condone bias-based policing should be subject to discipline.⁷⁹
- The policy should include information on the procedure for making a complaint against agency personnel and handling a bias-based policing allegation.⁸⁰
- Officers must report instances of biased policing that they witness or are otherwise aware of. The policy should emphasize that all personnel share the responsibility of preventing bias-based policing in the agency.⁸¹
- The policy should prohibit retaliation against any person, law enforcement or civilian, who alleges biased policing.⁸²

Supervisory Review

Supervising, directing, overseeing, and reviewing the daily activities of police officers, is essential in ensuring that the tenets of bias-free policing are integrated fully into the law enforcement agency and its culture. Below are some recommended best practices for inclusion in policies regarding supervisory review, as well as some systems and technologies that can serve as necessary tools in the supervision and accountability process:

Supervisors should:

- Establish and enforce the expectation that officers will police in a manner that is consistent with the U.S. and California Constitutions and federal and state laws, as well as internal policies.⁸³
- Provide leadership, counseling, direction, and support to officers as needed.⁸⁴
- Lead efforts to engage individuals and groups and ensure that officers are working actively to engage the community and increase public trust.⁸⁵
- Review documentation, including video from body-worn cameras as appropriate, of investigatory stops, detentions, searches, and arrests for completeness, accuracy, and adherence to law and department policy.⁸⁶

⁷⁹ *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

⁸⁰ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. The County of Los Angeles and The Los Angeles County Sheriff's Department* (2015).

⁸¹ IACP Law Enforcement Policy Center, *Unbiased Policing*.; *U.S. v. The County of Los Angeles and The Los Angeles County Sheriff's Department* (2015).

⁸² IACP Law Enforcement Policy Center, *Retaliatory Conduct by Employees*.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

⁸³ PERF, *Constitutional Policing as A Cornerstone of Community Policing* (2015).; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

⁸⁴ IACP Law Enforcement Policy Center, *Employee Mental Health*.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

⁸⁵ PERF, *Advice from Police Chiefs and Community Leaders On Building Trust* (2016).; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

⁸⁶ PERF, *Police Accountability – Findings and National Implications of an Assessment of the San Diego Police Department* (2015).; *U.S. v. City of New Orleans* (2013) 2: 12-cv-01924-SM-JCW.

- Take corrective action, require training, or refer for discipline where appropriate.⁸⁷
- Identify training and professional development needs and opportunities.⁸⁸
- Highlight areas where officers are engaging appropriately and effectively and use those examples during roll call and other training opportunities.⁸⁹
- Consider the use of early identification, warning, or risk management systems to contribute to effective and efficient supervisory review.⁹⁰

⁸⁷ *U.S. v. City of New Orleans* (2013) 2: 12-cv-01924-SM-JCW.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

⁸⁸ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

⁸⁹ IACP Law Enforcement Policy Center, Early Warning System.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

⁹⁰ IACP Law Enforcement Policy Center, Early Warning System; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; Early identification, warning, or risk management systems are flexible management tools that promote supervisory awareness and proactive identification of potentially problematic behavior among officers, and facilitate the delivery of individualized interventions to correct identified problematic or potentially problematic officer behavior and to prevent patterns of misconduct from emerging.

CIVILIAN COMPLAINT POLICIES AND PROCEDURES

California recognizes that having a robust process for handling civilian complaints is an important step toward building trust between law enforcement and the community.⁹¹ Specifically, California law requires that “[e]ach department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the public.”⁹² Analysis of civilian complaint policies and procedures, especially with regard to racial and identity profiling, is an integral piece of the Board’s annual report.

To comply with this mandate, it is important that every law enforcement agency in the state review its civilian complaint policies to ensure that it has accessible and well-formulated contemporary complaint policies and procedures. In order to assure the public that an agency is effectively addressing the concerns of community members, law enforcement agencies should have reliable, transparent mechanisms by which to receive, investigate, and resolve complaints about alleged peace officer misconduct, particularly those involving racial or identity profiling. Both anecdotal and quantitative data received through civilian complaints will help law enforcement agencies identify and redress areas needing improvement.

Written and thorough civilian complaint procedures can provide a myriad of benefits to a law enforcement agency and the community at large. First, communities that feel they have been subjected to racial or identity profiling need to feel there is a fair, accessible mechanism by which their grievances can be addressed. By creating robust civilian complaint procedures, law enforcement agencies can help fortify trust with their communities.

Second, having civilian complaint procedures that are easily accessed by the community will also provide law enforcement with the opportunity to receive feedback and help root out and address potentially problematic practices within their ranks. If analysis of the complaints shows that there is an officer who is the subject of multiple sustained complaints, then they can be identified for training and intervention. Trends in complaints can be tracked to help shape policy within an agency. Indeed, law enforcement agencies across the country have found that civilian complaint data is important management information. Even when complaints are not sustained, they can provide extremely useful information about performance that can be utilized to examine agency and individual officer performance, as well as to obtain an understanding about the perceptions and concerns of the community.

Third, being receptive to civilian complaints allows law enforcement to strengthen their relationship with their communities. Distrust and resentment can evolve among communities that feel marginalized or targeted by law enforcement. To heal these divides, it is imperative that law enforcement agencies demonstrate from investigation to resolution that civilian complaints are heard, taken seriously, and pursued with professionalism and thoroughness.

⁹¹ Pen. Code, § 13012, subd. (c).

⁹² Pen. Code, § 832.5, subd. (a)(1).

This section of the report discusses the importance of effective complaint procedures in cultivating community trust, and includes: 1) a statewide analysis of the 2017 complaint data submitted to the Department; 2) an agency-level snapshot of the 2017 complaint data submitted to the Department; and 3) provides several recommendations and best practices for agencies to consider in regards to their complaint procedures.

I. OVERVIEW OF CIVILIAN COMPLAINT DATA REPORTED TO THE DEPARTMENT

Since 1981, state and local law enforcement agencies that employ peace officers have been submitted the number of non-criminal complaints and complaints alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category to the Department on an annual basis.

RIPA expanded the type of information regarding civilian complaints that is submitted to the Department. Starting on January 1, 2016, complaint information collected pursuant to Penal Code section 13012 must include the numbers of complaints alleging racial or identity profiling, including the specific type(s) of profiling alleged: based on race, color, ethnicity, national origin, religion, gender identity or expression, sexual orientation, or mental or physical disability.⁹³ It should be noted that civilians may file a complaint alleging profiling based on more than one identity type.

Additionally, agencies must include the numbers of complaints that reached the dispositions of “sustained,” “exonerated,” “not sustained,” and “unfounded.” RIPA also requires the Department to disaggregate the data by individual law enforcement agency.⁹⁴

In December 2015, the Department released an information bulletin encouraging departments to “...explicitly inquire on their civilian complaint forms whether the complainant alleges racial or identity profiling and if so, the specific types(s) of racial or identity profiling alleged.”⁹⁵ However, law enforcement agencies may use their own discretion when developing policies and procedures for collecting information regarding complaints made against peace officers.⁹⁶

⁹³ Pen. Code, § 13012, subd. (a)(5)(C).

⁹⁴ Pen. Code, § 13012, subd. (a)(5)(C).

⁹⁵ Cal. Dept. of Justice, “Information Bulletin No. DLE-2015-06” (2015) Available at: https://www.google.com/url?q=https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/dle-2015-06.pdf&sa=U&ved=0ahUKEwj84rrLwo7fAhXJHzQIHROaBeMQFggEMAA&client=internal-uds-cse&cx=001779225245372747843:drcxy6yordo&usg=AOvVaw2B2XMA1uTLypx5NtRUpkOR

⁹⁶ See e.g., Pen. Code, § 832.5.

Due to the discretion law enforcement agencies are given when implementing civilian complaint programs, differences in approaches between agencies could affect the number of complaints observed in the data. Therefore, care should be taken when attempting to make comparisons across agencies. For example, observed differences could be due to a latent difference in the way the officers of the departments interact with civilians as well as other factors. If Agency One makes its complaint forms available in English, Spanish, and Chinese but Agency Two's form is available only in English, then Agency One's complaint form may open up the complaint process to a wider population than Agency Two's form does. In this case, differences in the number of complaints may be partially explained by the presence of a language barrier at Agency Two, but not Agency One.

Other factors, such as agency policies or staffing resources within the units assigned to processing and investigating complaints, may also affect the disposition of complaints after they are reported. The Board hopes that agencies will work to implement the Board's best practice recommendations for handling civilian complaints to increase the ability to compare complaints and complaint systems across the state.

A. Future Civilian Complaint Data Collection Changes

The Board made a series of recommendations in the 2018 report, including:

Further changes to the data collection of civilian complaints may be necessary in the future to unlock the full potential of collecting this type of data... One possibility is that data reporting could be altered to address the issue of complaints reaching disposition in different years than the year in which they are first reported. As the data is currently collected, complaints that reach a disposition (sustained, exonerated, not sustained, unfounded) during a reporting year are not always complaints that were originally reported during that reporting year... Being able to differentiate complaints that stem from the reporting year from complaints that stem from previous years is preferable because these data will likely be presented with year-specific contextual and comparison data. Therefore, it may be useful to collect the data in a way that separates dispositions into two categories; number of complaints reported during the current reporting year, and number of complaints reported during a previous reporting year.⁹⁷

Key Terms

Reported: the number of civilian complaints reported for the statistical year

Sustained: the investigation disclosed sufficient evidence to prove the truth of allegation in the complaint by preponderance of evidence

Exonerated: the investigation clearly established that the actions of the personnel that formed the basis of the complaint are not a violation of law or agency policy

Not sustained: the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation in the complaint

Unfounded: the investigation clearly established that the allegation is not true

Pending: the number of complaints reported in the current year that are still pending

⁹⁷ Racial and Identity Profiling Advisory Board. Racial and Identity Profiling Advisory Board Annual Report 2018. (2018) pp. 34-35. Available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>

The Department took the recommendations made by the Board into consideration and revised the data collection form used to collect civilian complaint information from agencies across the state. All reporting agencies will begin using this new data collection form to submit civilian complaint information to the Department for the calendar year 2019, to be reported to the Department in 2020.

The Department will release an information bulletin to law enforcement agencies to notify them of the new data collection requirements and will provide a copy of the revised data collection form to assist agencies in their collection of this data.

The civilian complaint data collection form that will be used to collect data, starting on January 1, 2019, has three significant revisions from the existing form. First, there will now be specific counts of dispositions of complaints that were initially reported during the statistical year (i.e., complaints that were reported and resolved in the same calendar year will be counted separately from complaints that have not been reported and resolved in the same calendar year). Likewise, complaints that were originally reported in years prior to the statistical year in which they reached dispositions will have separate counts so that they can be distinguished from the more recent complaints.

Second, the Department will report complaints made in local detention facilities separately from other complaints. By doing this, it will be possible to analyze complaints stemming from custodial settings separately from those stemming from non-custodial settings. This will not impact the ability to analyze all complaints as a whole, regardless of setting.

Finally, non-criminal, misdemeanor and felony categories will be further disaggregated by offense level for disposition and profiling category totals. By doing this, it will be possible to see the distribution of different offense levels for not only total complaints and complaints made in local detention facilities, but also specifically for complaints alleging profiling based on race/color/ethnicity/national origin, age, religion, gender identity or expression, sexual orientation, mental disability, and physical disability. This will allow the Board and members of the public to explore potential differences in the number of profiling complaints within each of the three offense levels amongst different identity types.

These three changes in data collection are designed to make the civilian complaint information more user-friendly and more accessible to the public. The changes do not alter any of the categories of information on previous collection forms. No data that was previously available on the previous data collection form has been omitted or sacrificed for any of these changes. Additionally, these changes do not require additional information to be collected by the reporting agencies. Rather, they just require a greater level of detail when reporting the data to the Department moving forward.

B. Overview of Data Examined

The civilian complaint data discussed in this section is limited to only data reported to the Department by agencies that are also subject to the stop data reporting requirements under

RIPA.⁹⁸ This includes all city and county law enforcement agencies that employ peace officers, except those in a custodial setting, the California Highway Patrol, and the law enforcement agencies of the University of California, California State Universities, California Community Colleges, and K-12 school districts. In total, 453 agencies subject to RIPA's stop data reporting submitted information regarding the civilian complaints they received for the calendar year 2017. Data for the full set of agencies that reported civilian complaint information in 2017, including agencies not subject to RIPA's stop data collection requirements (e.g., District Attorney's Offices, Probation Departments, Coroner's Offices, and the California Employee Development Department) is available on the Department's OpenJustice Data Portal.⁹⁹

Civilian Complaints for Stop Data Reporters Statewide

The 453 agencies subject to RIPA reported 9,459 civilian complaints in 2017. The most common complaints alleged conduct that was noncriminal in nature ($n = 8,682$, 91.8%)¹⁰⁰, followed by complaints for conduct that constitutes a misdemeanor offense ($n = 513$, 8.4%); felony complaints were the least common ($n = 264$, 2.8%). Of the complaints that reached a disposition in the 2017 calendar year, 807 (10.2%) were sustained, 1,701 (21.4%) were not sustained, 1,897 (23.9%) were exonerated, and 3,537 (44.5%) were determined to be unfounded. As was noted in the above, not all complaints reach a disposition during the same year in which they were first reported. Therefore, it is likely that some of the complaints that reached disposition in 2017 were originally lodged in 2016 or years prior.

Seventy-nine (17.4%) agencies indicated they did not have any civilian complaints to report during the year of 2017. By contrast, 374 agencies did report that they received one or more civilian complaints. Of those 374 agencies that reported civilian complaints, 141 agencies reported one or more civilian complaints alleging racial or identity profiling. Specifically, those 141 agencies received 865 complaints alleging racial or identity profiling.

Of the racial and identity complaints that reached a disposition in 2017, 10 (1.5%) were sustained, 77 (11.7%) were not sustained, 96 (14.6%) were exonerated, and 476 (72.2%) were determined to be unfounded.

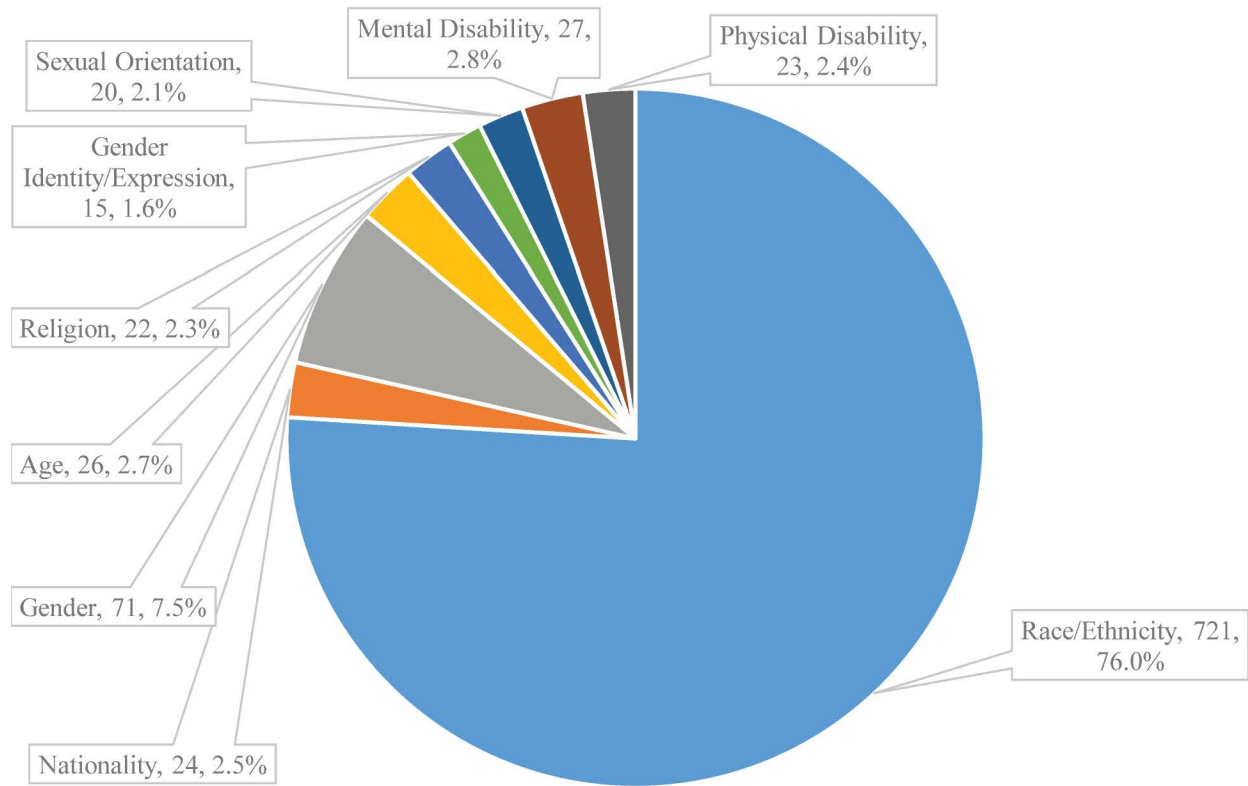
Figure 3 breaks down profiling complaints by specific type of profiling, including race or ethnicity, nationality, physical or mental disability, sexual orientation, gender identity or expression, religion, age, and gender. It should be noted that civilians may file a complaint alleging profiling based on more than one identity type. This means that one complaint alleging multiple types of profiling may be counted multiple times across identity groups. For example, a person may file a complaint stating that they believe that they were profiled based on their nationality and religion. Therefore, numbers in Figure 3 should not be interpreted to mean the discrete number of complaints, because this would serve to over-count the number of individual complaints received by the reporting agencies.

⁹⁸ As noted above, only eight of these 453 agencies have begun collecting stop data as of July 1, 2018. The remainder will begin collecting stop data on a staggered schedule, based upon number of sworn-personnel. Please see the report section on stop data for detailed information regarding RIPA's stop data collection program.

⁹⁹ Cal. Dept. of Justice, OpenJustice Data Portal. Available at: <https://openjustice.doj.ca.gov/data>

¹⁰⁰ "n" refers to the sample size.

Figure 3: Profiling Complaints Reported by Type, 2017



Agency-Level Data Snapshot

California’s largest agencies (Wave 1), which employ more than 999 peace officers (excluding custodial officers) reported the information provided in Table 4 below, including the total number of complaints reported as well as the number of complaints reported alleging racial or identity profiling. The number of sworn personnel each agency employed in 2017 is also provided as additional information by which readers may better understand the size of each agency. Number of calls for service, which the Board collected in a survey for its 2018 report, are not available¹⁰¹ for this year’s report since the Board did not issue another survey. For the previous statistical year, 2016, agencies covered in Tables 4 through 6 reported receiving between 310,000 to 2,400,000 calls for service.

¹⁰¹ As reported to the Department, California Highway Patrol officers made 3,800,000 “public contacts” in 2017. However, this information was not requested from, nor provided by, any other department for context. “Public contacts” is also a different and more expansive metric than “calls for service”, which was provided in the Board’s 2018 report (Available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>.)

Table 4: Wave 1 Agency Complaints and Sworn Personnel

Agency	Complaints Reported	Profiling Complaints Reported	Sworn Personnel
California Highway Patrol	308	24	7,401
Los Angeles County Sheriff's Department	828	31	9,413
Los Angeles Police Department	1,729	215	9,988
Riverside County Sheriff's Department	78	7	1,831
San Bernardino County Sheriff's Department	106	39	1,957
San Diego County Sheriff's Department	6	1	2,601
San Diego Police Department	97	13	1,752
San Francisco Police Department	527	41	2,332

Table 5 displays the same information as Table 4 for California's medium-large agencies, with between 334 and 999 non-custodial sworn personnel. These agencies begin collecting stop data January 1, 2019, and are referred to as Wave 2.

Table 5: Wave 2 Agency Complaints and Sworn Personnel

Agency	Complaints Reported	Profiling Complaints Reported	Sworn Personnel
Fresno Police Department	188	7	786
Long Beach Police Department	168	12	799
Oakland Police Department	1,248	54	744
Orange County Sheriff's Department	116	9	1,843
Sacramento County Sheriff's Department	325	10	1,279
San Jose Police Department	208	33	940

Agencies with 333 non-custodial sworn personnel belong to Wave 3. This wave of reporters begins stop data collection on January 1, 2021. Complaint and sworn personnel information for these agencies can be found in Table 6 below.

Table 6: Ave 3 Agency Complaints and Sworn Personnel

Agency	Complaints Reported	Profiling Complaints Reported	Sworn Personnel
Alameda County Sheriff's Department	42	3	998
Anaheim Police Department	70	16	419
Bakersfield Police Department	62	3	364
Fresno County Sheriff's Department	21	2	412
Kern County Sheriff's Department	100	9	812
Riverside Police Department	36	3	350
Sacramento Police Department	18	0	644
Santa Clara County Sheriff's Department	73	6	1,264
Stockton Police Department	10	0	441
Ventura County Sheriff's Department	123	11	767

Tables 4 through 6 are intended to provide a high-level glimpse at some information available for the larger agencies who employ 333 or more non-custodial sworn personnel, which will all begin collecting stop data by 2021. For a complete look at the data, the dataset containing agencies of all sizes and an extended catalogue of data elements beyond what is available in the tables above can be found at [https://oag.ca.gov/ab953/ Board](https://oag.ca.gov/ab953/Board).

II. BEST PRACTICE RECOMMENDATIONS

The following best practice recommendations are drawn from a range of relevant law enforcement, academic, governmental, and non-profit organizations that have expertise in this area. For additional information on the Board's approach to identifying best practices, please see the section devoted to best practices in the introduction.

A. Agencies Should Have Civilian Complaint Policies and Procedures That Contain Basic Principles

- Agencies should have an accessible, fair, and transparent complaint process. The process should be set forth in writing and made widely and permanently available within the agency and to the public.¹⁰²
- All complaints should be accepted, whether in person, in writing, over the telephone, anonymously, or on behalf of another individual.¹⁰³

¹⁰² PERF, Police Accountability – Findings and National Implications of an Assessment of the San Diego Police Department (2015); *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹⁰³ PERF, Police Accountability – Findings and National Implications of an Assessment of the San Diego Police Department (2015); *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

- Agencies should develop an easily understandable and usable complaint form that individuals may use when filing a complaint regarding alleged personnel misconduct. This form should be available online as well as in writing at a variety of governmental and community-centered locations and should be made available in multiple languages. The form should not contain any language that could reasonably be construed as discouraging the filing of a complaint.¹⁰⁴
- Agencies should document and investigate all complaints of alleged personnel misconduct, in a thorough, unbiased, timely manner. The standards for review should be clearly delineated in policies, trainings, and procedures featuring detailed examples to ensure proper application.¹⁰⁵
- All complainants, subject personnel, and witnesses should be treated objectively and fairly.¹⁰⁶
- The complaint policy should encourage individuals to come forward rather than discourage or intimidate complainants. Retaliation against any person who reports alleged misconduct or cooperates with an investigation should be expressly prohibited.¹⁰⁷
- All sworn and non-sworn law enforcement personnel should be sufficiently trained on the complaint policy, procedure, and requirements.¹⁰⁸

B. Policies on Civilian Complaints Should Be Easily Accessible and Well Communicated to the Community

- Complaint procedures and forms should be made available in multiple languages and at a location within the agency’s office that is easily accessible to the public.¹⁰⁹ In addition, the procedures and complaint forms should be available online and in writing at a variety of governmental and community-centered public locations.¹¹⁰
- Agency personnel should have complaint forms in their patrol vehicles so that complaints can be addressed immediately in the field. Agencies may consider distributing business cards with the personnel’s name, rank, and contact information to assist the public in

¹⁰⁴IACP Law Enforcement Policy Center, Investigation of Employee Misconduct.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.

¹⁰⁵ IACP Law Enforcement Policy Center, Investigation of Employee Misconduct.; *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

¹⁰⁶ *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

¹⁰⁷ IACP Law Enforcement Policy Center, Retaliatory Conduct by Employees.; *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

¹⁰⁸ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

¹⁰⁹ California state law requires local agencies that receive state funding to provide language access service to limited English proficient (LEP) populations. Agencies should assess which languages are most appropriate for their community and create a translation plan to ensure the forms are available in multiple languages including those for individuals with disabilities (e.g., Braille or American Sign Language). For additional information on the legal requirements for language access, please see the recommendations around translation and interpretation services made in the “civilian complaint policies and procedures” section of the Board’s 2018 report available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>.

¹¹⁰ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

lodging complaints. They may also consider requiring supervisors to respond to the field to take complaints.¹¹¹

- The agency should contact the complainant as soon as possible with a verification that the complaint has been received and that it is being reviewed.¹¹²
- Reports of complaint statistics should be made available to the public on a regular basis.¹¹³

C. Any Policy on Civilian Complaints Should Contain Details on the Intake, Filing, and Tracking Process

- Agencies should establish written policies and procedures for accepting, processing and investigating complaints, ensuring fairness to the subject personnel and complainants.¹¹⁴
- All complaints and their dispositions should be appropriately documented and tracked, preferably electronically.¹¹⁵
- All agency personnel, including dispatcher and non-sworn personnel, should be trained to properly handle complaint intake, including how to provide complaint material and information, the consequences for failing to properly take complaints, and strategies for turning the complaint process into positive police-civilian interaction.¹¹⁶
- An agency's complaint procedures should be explained to the complainant and the complainant should be advised where and with whom the complaint may be filed.¹¹⁷
- All complaints should be given a unique number for tracking purposes.¹¹⁸

D. Policies on Civilian Complaints Should Contain Details on the Investigation Process

- Agencies should clearly detail the investigation procedure for complaints to ensure all complaints are appropriately and objectively reviewed.¹¹⁹
- Any investigation should be completed by someone of higher rank than the person who is the subject of the investigation.¹²⁰
- All investigations should adhere to written timelines from the date the complaint was filed.¹²¹

¹¹¹ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Newark* (2016) 2:16-cv-01731-MCA-MAH.

¹¹² *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹¹³ *U.S. v. City of Newark* (2016) 2:16-cv-01731-MCA-MAH.

¹¹⁴ IACP Law Enforcement Policy Center, Investigation of Employee Misconduct.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB at 87-95. *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

¹¹⁵ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2:16-cv-01731-MCA-MAH.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹¹⁶ *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

¹¹⁷ IACP Law Enforcement Policy Center, Investigation of Employee Misconduct.; *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2:16-cv-01731-MCA-MAH.

¹¹⁸ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹¹⁹ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

¹²⁰ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

¹²¹ IACP Law Enforcement Policy Center, Investigation of Employee Misconduct.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

- Agencies should promptly identify, collect, and consider all relevant evidence, including audio or video recordings.¹²²
- Agencies should not seek personal information that is not necessary to process the complaint, and which may discourage submission (e.g., social security number, driver's license information, etc.).¹²³
- Agencies should take all reasonable steps to locate and interview all witnesses, including civilian witnesses. Interviews should be conducted in a timely, respectful, and unbiased manner. All agent and witness statements should be objectively evaluated.¹²⁴
- If the complainant cannot identify the subject officer's name, all reasonable efforts to identify the officer should be made.¹²⁵
- Agencies should accept all complaints regardless of when the alleged incident occurred. Depending upon the age and severity of the allegations, the agency may or may not need to take action, but should at minimum accept the complaint and conduct an initial review.¹²⁶
- Agencies should adhere to a stated time limit on how quickly the investigation process is commenced after receiving a complaint and deadlines to ensure timely resolution.¹²⁷
- Agencies should clearly define investigation disposition categories and make this information available to the public.¹²⁸
- The agency should regularly assess the effectiveness of the complaint process and determine if there is a need for a re-evaluation of existing policies, procedures, or trainings.¹²⁹
- Agencies should consider the appropriateness of independent oversight models such as a civilian review Board or independent auditor.¹³⁰
- Agencies should document all investigation findings and keep all complaints available for internal analysis and audits for at least five years.¹³¹
- Agencies should consider conducting regular, targeted, and random integrity audits.¹³²

¹²² IACP Law Enforcement Policy Center, Investigation of Employee Misconduct.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹²³ IACP Law Enforcement Policy Center, Investigation of Employee Misconduct.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹²⁴ IACP Law Enforcement Policy Center, Investigation of Employee Misconduct.; *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. City of New Orleans* (2013) 2: 12-cv-01924-SM-JCW.

¹²⁵ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of New Orleans* (2013) 2: 12-cv-01924-SM-JCW.

¹²⁶ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

¹²⁷ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹²⁸ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.

¹²⁹ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

¹³⁰ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. City of New Orleans* (2013) 2: 12-cv-01924-SM-JCW.

¹³¹ IACP Law Enforcement Policy Center, Resource Investigation of Employee Misconduct.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹³² *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

TRAINING RELATED TO RACIAL AND IDENTITY PROFILING

The Board is charged with working on training related to racial and identity profiling, including analyzing trainings developed by POST. POST courses include training designed to meet the requirements of the racial and cultural differences training outlined in Penal Code section 13519.4.¹³³ POST is a state agency established to provide minimum testing, hiring, and training standards for peace officers in California.¹³⁴ While participation in POST is voluntary, the vast majority of California law enforcement agencies participate in the POST program, and are therefore eligible to receive the services that POST offers. Across California, there are 39 POST-certified basic law enforcement training academies that present the Regular Basic Course training to officers.¹³⁵

In its 2018 report, the Board analyzed POST's training and provided recommendations for the expanded training that officers must take every five years. Specifically, the Board analyzed the POST courses, Racial and Cultural Differences, Bias-Based Policing: Remaining Fair and Impartial, and Principled Policing: Implicit Bias and Procedural Justice. The Board found that several of the trainings did not meet all of the curriculum requirements under Penal Code section 13519.4.¹³⁶ The Bias-Based Policing training has since been removed for this reason and POST is in the process of being replaced with a training that does meet the requirements. The Board will work closely with POST on the creation and implementation of this new training.

The Board has conducted research on existing evidence-based best practices for trainings devoted to preventing racial and identity profiling in policing and compiled a list of recommendations. The Board recommends that POST consider including these practices in POST's "expanded training/refresher course" under Section 13519.4.¹³⁷ These training recommendations apply, but are not limited to, POST trainings. They are intended to promote the standardization of the practices for how law enforcement can properly and proactively address racial and identity profiling in policing and build and maintain community trust and confidence.

I. OVERVIEW OF THE BOARD'S COLLABORATION WITH POST IN 2019

The Board and POST have maintained their collaborative relationship in an effort to fulfill the important requirements set forth in Penal Code section 13519.4.¹³⁸ The Board and POST met and the Board provided initial feedback on POST's ongoing assessment and improvement of its procedural justice/principled policing training for law enforcement. The Board and a POST representative have discussed the following projects and ideas: 1) an 8-hour principled policing basic course to be piloted in January 2019; 2) an update and review of the existing 8-hour Principled Policing Course; 3) exploring the potential of including in trainings the Curriculum Augmentation Videos (CAV) created by nationally recognized experts; 4) exploring the potential to use virtual reality or augmented reality as a training tool; 5) the potential of auditing courses to

¹³³ Pen. Code, § 13519.4.

¹³⁴ Pen. Code, § 13500-13553.

¹³⁵ Cal. POST, Course Catalogue (2018). Available at: <https://catalog.post.ca.gov/Default.aspx>

¹³⁶ Pen. Code, § 13519.4.

¹³⁷ Pen. Code, § 13519.4, subds. (a)-(h).

¹³⁸ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

ensure curriculum and facilitation continuity statewide; and 6) researching online learning platforms to deliver the principled policing training in a cost-effective manner.

Several members of the Board attended and participated in Principled Policing trainings and one member attended a three-day POST training development workshop.

II. BEST PRACTICE RECOMMENDATIONS

The following best practice recommendations are drawn from a range of relevant academic, governmental, and non-profit organizations that have expertise in this area. For additional information on the Board's approach to identifying best practices, please see the introduction.

A. Trainings on Racial and Identity Profiling Should Incorporate Basic Principles

The training should:

- Begin with providing all trainees with relevant definitions and scientific research, including a sufficient understanding and definitions of implicit and explicit bias and stereotyping. The training should also emphasize that a great deal of human behavior and brain processing occurs without conscious perception and that all members of society frequently act on their biases. The training should present scientific peer-reviewed research on bias and how it can influence on behavior.¹³⁹
- Be developed in partnership with academic institutions or consultants with the requisite expertise to assist in developing and implementing trainings. These institutions or consultants should have documented experience conducting such racial and identity profiling trainings for institutional actors (and, ideally, helping design successful interventions).¹⁴⁰
- Provide all agency personnel with the knowledge and skills to identify bias and minimize its impact upon law enforcement activities and interactions with members of the public.¹⁴¹
- Reflect the agency's commitment to procedural justice, bias-free policing, and community policing.¹⁴²
- Instill in all officers the expectation they will police diligently and have an understanding of and commitment to the rights of all individuals they encounter. This includes reinforcing that protecting civil rights is a central part of the police mission and is essential to effective policing. All personnel should be made aware of the requirements of

¹³⁹ Hart, Subjective Decisionmaking and Unconscious Discrimination (2005) 56 Ala. L. Rev., p. 741.; Greenwald and Krieger, Implicit Bias: Scientific Foundations (2006) 94 Calif. L. Rev. 945-946; Greenwald and Mahzarin, Implicit Social Cognition: Attitudes, Self-Esteem, and Stereotypes (1995), 102(1) Psych. Review, p. 4-6.; SPARQ (2016) Principled Policing: Training to Build Police-Community Relations.

¹⁴⁰ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

¹⁴¹ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

¹⁴² *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH at 1-2; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

the United States and California Constitutions and relevant federal, state, and local laws related to equal protection and unlawful discrimination.¹⁴³

- Provide all trainees with a sufficient understanding and definition of implicit and explicit bias and stereotyping emphasizing that all members of society frequently act on their biases. The training should present scientific peer-reviewed research on bias and its influence on behavior.¹⁴⁴
- Provide officers with information regarding the existence of and how to access all health and wellness programs, physical fitness programs, stress management tools, confidential crisis counseling, or other support services available to address the heavy burdens placed on today's police officers. Research suggests that stress and having to make quick decisions under pressure can often lead to people relying on stereotypes.¹⁴⁵ In addition, training should discuss methods, strategies, and techniques to reduce a reliance on unguided discretion in making stops.¹⁴⁶
- Utilize adult learning approaches, including experimental learning and realistic scenario-based training to provide officers with opportunities to develop skills in realistic settings; this includes learning by doing, and refining their understanding of policies, expectations, or concepts by applying them to the types of situations they may come across in their day-to-day work.¹⁴⁷
- Include an assessment of whether officers comprehend the material taught.¹⁴⁸
- Complete and consistent training records for all trainings should be maintained for all agency personnel. Agency-wide training analysis should be regularly completed and trainings should be consistently reviewed and updated.¹⁴⁹
- Agencies should consider integrating a feedback loop or "check-ins" among trainees in between trainings to allow officers to reflect on and apply what they learned in the trainings to their daily lives.¹⁵⁰

B. Training on Racial and Identity Profiling Should Be Well Organized and Delivered Regularly

- Training should be relatively short and frequently provided (for example, agencies should consider offering a series of two-hour trainings several times a year rather than an eight-hour training every four or five years).¹⁵¹

¹⁴³ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹⁴⁴ Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

¹⁴⁵ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; Dovidio and Gaertner Aversive Racism and Selection Decisions: 1989 and 1999 (2000) 11 Psych. Science, p. 319-323.; Levinson and Young, Different Shades of Bias: Skin Tone, Implicit Racial Bias, and Judgments of Ambiguous Evidence (2010) 112, 307 West Virg. L.Rev., 326-231.

¹⁴⁶ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB; Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).; Kang et al., *Implicit Bias in the Courtroom*, (2012) 59 UCLA L. rev. 1124, 1142.

¹⁴⁷ *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

¹⁴⁸ *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

¹⁴⁹ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

¹⁵⁰ *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

¹⁵¹ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

- Training should include members of the community who are knowledgeable about various communities and local issues, including representatives knowledgeable on issues of race, ethnicity, national origin, gender, age, religion, sexual orientation, gender identity, and disability.¹⁵²
- Consider expanding training options to include courses on topics such as power imbalance, statistics, and methods for effective supervision.¹⁵³
- Trainings should be evaluated for their impact on police-community relations.¹⁵⁴

C. Training on Racial and Identity Profiling Should Address Communication and Community Relationships

The training should:

- Address the benefits of and means to achieve effective community engagement, including how to establish formal partnerships and actively engage community organizations and diverse groups within the community to form positive relationships. This could include examples of successful partnerships and engagement.¹⁵⁵
- Cover cultural competency, cultural awareness, and sensitivity, including the impact of historical trauma on police-community interactions and locally relevant incidents and history.¹⁵⁶
- Include effective communications skills, including how to recognize and overcome communication obstacles.¹⁵⁷

D. Training on Racial and Identity Profiling Should Include the Tenets of Procedural Justice

The training should:

- Emphasize the core tenets of procedural justice (an approach to policing that emphasizes the importance of treating everyone equally and with respect).¹⁵⁸
 - Community members should be given a voice and be allowed to tell their story and respectfully interact.
 - The law must be applied equally to all members of the community.
 - Officers must show respect and demonstrate trustworthiness.
- Emphasize the importance of how people are treated during the course of an interaction as well as the outcome of that interaction.¹⁵⁹

¹⁵² *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

¹⁵³ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.; Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).

¹⁵⁴ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; Fridell, Lorie. *A Comprehensive Program to Produce Fair and Impartial Policing* (2017); *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

¹⁵⁵ Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).

¹⁵⁶ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).

¹⁵⁷ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹⁵⁸ Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).; PERF, Legitimacy and Procedural Justice: A New Element of Police Leadership (2014).; SPARQ, Principled Policing: Training to Build Police-Community Relations (2016).

¹⁵⁹ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

- Cover various threats to procedural justice, including officer stress, time pressure, and poor health, as well as poor historical relations between police and communities.¹⁶⁰
- Cover various procedural, behavioral, and psychological strategies to reduce threats to procedural justice and improve police-community relations.¹⁶¹
- Feature police and community perspectives.¹⁶²

E. Training on Racial and Identity Profiling Should Cover Implicit Bias

The training should:

- Define implicit bias as “thoughts or feelings about people that we are unaware of and can influence our own and others’ actions.”¹⁶³
- Define stereotyping.¹⁶⁴
- Discuss how bias manifests in everyone, even well-intentioned people.¹⁶⁵
- Cover the varied sources of implicit bias.¹⁶⁶
- Present a series of empirical studies on bias in an easily understandable manner.¹⁶⁷
- Discuss how bias might manifest in work and decision-making.¹⁶⁸
- Highlight positive strategies for mitigating bias and improving police-community relations.¹⁶⁹
- Discuss how to identify officers who may be manifesting bias and how to respond. Include self-evaluation strategies for identifying bias in oneself.¹⁷⁰
- Discuss how to talk openly about bias with individuals and groups.¹⁷¹

¹⁶⁰ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP; SPARQ, Principled Policing: Training to Build Police-Community Relations (2016).

¹⁶¹ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).; SPARQ. (2016) Principled Policing: Training to build Police-Community Relations.;

¹⁶² *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB; SPARQ, Principled Policing: Training to Build Police-Community Relations (2016).

¹⁶³ Dovidio et al., Why Can’t We Just Get Along, Interpersonal Biases and Interracial Distrust (2002) 8 Cultural Diversity & Ethnic Minority Psychol. p. 88, 94. Greenwald and Krieger, Implicit Bias: Scientific Foundations, (2006) 94 Calif. L. Rev. 945, 946, 951.; Greenwald and Mahzarin, Implicit Social Cognition: Attitudes, Self-Esteem, and Stereotypes (1995) 102(1), Psych. Rev. p. 4-6; Hart, Subjective Decisionmaking and Unconscious Discrimination (2005) 56 Ala. L. Rev. 741.; SPARQ, Principled Policing: Training to Build Police-Community Relations (2016).

¹⁶⁴ SPARQ, Principled Policing: Training to Build Police-Community Relations (2016).

¹⁶⁵ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.; Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).

¹⁶⁶ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; SPARQ, Principled Policing: Training to Build Police-Community Relations (2016).

¹⁶⁷ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.; SPARQ, Principled Policing: Training to Build Police-Community Relations (2016).

¹⁶⁸ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).

¹⁶⁹ *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.; SPARQ, Principled Policing: Training to Build Police-Community Relations (2016).

¹⁷⁰ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.; Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

¹⁷¹ Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).; *U.S. v. City of Newark* (2016) 2: 16-cv-01731-MCA-MAH.

- Include experiential learning techniques to apply the training to real-life scenarios.¹⁷²

III. VISION FOR FUTURE REPORTS

In the coming years, the Board hopes to more comprehensively analyze POST’s trainings relating to bias and racial and identity profiling and continue to work with the organization on ensuring that its trainings feature the above evidence-based best practices as much as possible.

Given that effective policing requires not only appropriate training but also suitable recruitment, performance assessment, and promotion practices, the Board also plans to cover these topics in next year’s report. Specific areas that may be covered by the Board include:

- Methods and techniques to attract, retain, and reward diverse, representative, and highly qualified officers capable of carrying out the complicated policing mission successfully.¹⁷³
- How to incorporate requirements regarding bias-free policing and equal protection into an agency’s hiring, promotion, and performance assessment processes.
- The potential detrimental impact on police work, culture and policy-community relationships if an agency fails in its responsibility to hire qualified personnel.
- How to better design hiring and promotion policies to ensure high officer morale, which will foster positive interactions with the community, especially in the area of procedural justice and identifying bias.

¹⁷² *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2: 16-cv-01731-MCA-MAH.; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.; SPARQ, *Principled Policing: Training to Build Police-Community Relations* (2016).

¹⁷³ Pettigrew and Tropp, *A Meta-Analytic Test of Intergroup Contact Theory* (2006) 90 *J. Personality & Soc. Psychol.* 751; Pettigrew and Tropp, *How Does Intergroup Contact Reduce Prejudice? Meta-Analytic Tests of Three Mediators* (2008) 38 *Eur. J. of Soc. Psychol.* 922.; Schmader et al., *A Metacognitive Perspective on the Cognitive Deficits Experienced in Intellectually Threatening Environments* (2009) 35 *Personality & Soc. Psychol. Bull.* 584, 585-95.

CALLS FOR SERVICE AND BIAS BY PROXY

In June of 2018, the Board formed a new subcommittee focused on calls for service, the creation of which was sparked by a letter sent to the Board by two state senators expressing their concern regarding racially biased calls for service and what is sometimes called “bias by proxy.” Bias by proxy can be defined as “when an individual calls the police and makes false or ill-informed claims of misconduct about persons they dislike or are biased against.”¹⁷⁴ Specifically, the senators posed the following questions for the Board to consider:

- How can our public safety systems, from dispatchers to patrol officers, better identify calls for service based on racial bias?
- How can police respond to protect the rights and dignity of innocent black people targeted in these incidents?
- How can training and policies help officers identify and resolve such a situation quickly and respectfully?
- What role do police play in following up with a caller to address possible racism that prompted an unnecessary and unjust call, and how much departmental and public resources are expended in responding to calls motivated by racial bias?

In 2017, approximately 28.1 million Californians made a call to the emergency telephone service 911.¹⁷⁵ These calls are generally initiated by the public, relayed through 911, and divulged to the public safety personnel via a dispatcher. Once an officer is assigned a call by the dispatcher, they must respond and typically issue some type of resolution back to the dispatcher indicating the action taken to address the call. An officer never knows what type of call they will receive from the dispatcher and must be prepared to react appropriately and fairly in all situations with very little notice. Calls for service are the most common way in which law enforcement officers initiate contact with the public; analyzing these interactions can thus be useful in understanding the law enforcement-community relationship.

In this report, the Board has focused on calls for service through the lens of bias by proxy. The Board will continue to analyze this important topic in future reports. The Board reviewed the varied ways in which these calls can be examined and leveraged in pursuit of the ultimate goal of addressing and eliminating racial and identity profiling in policing.

While it is a crime to make a false 911 report,¹⁷⁶ it is the unfortunate truth that some calls made by the public are motivated by racial or identity bias, whether implicit or explicit. Given procedural requirements, dispatchers and officers usually must respond to these calls, causing what is often known as bias or profiling by proxy. When the police act on a request for service rooted in racial bias or stereotyping, they risk perpetuating the caller’s bias and damaging the relationship between the community and the police and, in some instances, posing particular harms to all parties involved.

Concerns about the detrimental impact of biased calls for service are not new. Nonetheless, an increasing number of high-profile instances of profiling by proxy in recent years caught on

¹⁷⁴ Fridell, *A Comprehensive Program to Produce Fair and Impartial Policing* (2017) p. 90.

¹⁷⁵ Cal. Gov. Office of Emergency Services, *CA 9-1-1 Emergency Communications Branch* <<http://www.caloes.ca.gov/cal-oes-divisions/public-safety-communications/ca-9-1-1-emergency-communications-branch>> [as of Dec. 17, 2018].

¹⁷⁶ Pen. Code § 148.5.

camera and widely viewed have brought into the national spotlight questions regarding basic fairness and racial and identity discrimination when it comes to calls for service. Some of the many incidents that garnered national attention include when two black men were arrested after an employee of Starbucks in Philadelphia called 911 and reported that the men had not ordered anything; when a black graduate student was interrogated by the police after her dorm neighbor called because she was napping in the common area; and when members of a black sorority were questioned by a state trooper while performing community service picking up litter on a Pennsylvania highway.¹⁷⁷

Similar high-profile incidents have occurred in California. This includes one incident that occurred in Rialto, California, where a neighbor called the police on three black filmmakers renting an Airbnb.¹⁷⁸ The neighbor justified her reaction by stating that the filmmakers were suspicious-looking because they did not wave to her. Another incident occurred in Oakland, California, where a white woman called the police on black men barbecuing in the park's designated barbecue area because they were using charcoal grill in a non-charcoal grilling spot.¹⁷⁹ An additional incident occurred in San Francisco, California where a woman called the police on an eight-year old black girl for selling water without a permit.¹⁸⁰ While these incidents, among others, have shed necessary light on the persisting issues and, in some cases, incited the re-evaluation of businesses' policies and the need for additional employee training, they have also highlighted how easily a system designed to ensure the public's safety can become a proxy for discrimination and bias when misused.

I. BIAS BY PROXY

The Vera Institute of Justice warns that bias by proxy, defined above, may arise when “officers rely on the emergency dispatcher’s recitation of what a biased caller claims to have happened instead of making an independent and professional assessment of the caller’s claims.”¹⁸¹ Racially motivated calls for service may stem from explicit racial profiling or implicit bias. Conflict theories assert that “when members of one community (usually the majority) feel their interests are being infringed, they will wield power to exercise control over the ‘other.’”¹⁸²

The Board does not want to discourage anyone from calling 911 in an emergency, but rather raises this issue because biased or misleading information provided to 911 can lead to fatal consequences. In conducting a literature review on the issue of bias and calls for service, the Board found relatively little empirical evidence on this topic. The Board has noted this gap in the literature and plans to dive deeper into the various manners in which this data can be accurately collected and analyzed, particularly assessing ways in which the data collected by RIPA can be leveraged toward this goal.

¹⁷⁷ Wootson, *You Know Why the Lady Called the Police: Black People Face 911 Calls for Innocuous Acts*, Washington Post (May 30, 2018) p. 1.

¹⁷⁸ Taylor, *Even in Oakland, Calling the Cops on Black People Just Living Their Lives*, S.F. Chronicle (May 17, 2018) p. 1.

¹⁷⁹ Guzman, *Video Shows Woman Calling Police Over Barbecue at Lake Merritt*, S.F. Gate (May 10, 2018) p. 1.

¹⁸⁰ Ting, *New Viral Video Shows SF Woman Dubbed “Permit Betty” Calling Authorities on Street Vendor*, S.F. Chronicle (Jul. 14, 2018) p. 1.

¹⁸¹ Thureau and Stewart, *Avoiding ‘Profiling by Proxy’* (2015) Vera Institute of Justice.

¹⁸² Lum, *Does the “Race of Places” Influence Police Officer Decision Making?* (2009) p. 4-5.

While data specifically on bias by proxy is not currently collected, agencies can begin to address this issue through recruitment, hiring, and training.¹⁸³ For example, as part of its hiring process, the Kalamazoo Police Department interview has included a hypothetical scenario that requires an applicant to discuss bias.¹⁸⁴ The hypothetical is a white woman calls about a suspicious black man in a car.¹⁸⁵ The applicant is asked to explain how they would respond to such a call.¹⁸⁶ The Chief does not have a “right answer” but rather wants to see the applicant’s thought process.¹⁸⁷ Posing a hypothetical that focuses on profiling by proxy is crucial in all parts of the hiring process, including dispatchers.

Non-profit organizations, Fair and Impartial Policing¹⁸⁸, Vera Institute of Justice,¹⁸⁹ and ACLU¹⁹⁰ offer the following suggestions for how to best address the issue:

- Train officers and dispatchers to be aware of the potential for biased-based motivations behind calls for service.¹⁹¹
 - Officers should exhibit critical decision making, drawing on their training to assess whether there is criminal conduct.
- Police officers and dispatchers should undergo anti-bias training.¹⁹²
- Dispatchers should be trained on how to relay information without including biased assumptions and to collect enough information necessary to verify criminal activity.¹⁹³
- For bias-motivated calls, dispatchers should be allowed to use discretion to inform caller that an officer will not respond to call without legitimate basis of criminal conduct.¹⁹⁴
 - If dispatchers must assign an officer, they should be allowed to inform officers of their concerns with the call for service.
 - Agencies should develop policies and other materials that assist dispatchers in identifying biased calls and establish operating procedures for how biased calls should be forwarded to police.¹⁹⁵

PERF suggests that nationwide changes to emergency communications technology will assist in identifying implicit bias by proxy.¹⁹⁶ New technology will allow callers to include videos, photographs, live video feed, and other relevant media to dispatchers, and dispatchers will be able to forward this information to responding officers. PERF is hopeful that allowing officers the opportunity to review relevant information before arriving on the scene will better inform their response to any given call for service and, by extension, reduce bias by proxy incidents. However, readers should be cautioned that the perceived benefits of such an updated system is

¹⁸³ *Ibid* n. 1 at 50.

¹⁸⁴ *Supra*.

¹⁸⁵ *Supra*.

¹⁸⁶ *Supra*.

¹⁸⁷ *Supra*.

¹⁸⁸ Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).

¹⁸⁹ Thureau and Stewart, Avoiding ‘Profiling by Proxy’ (2015) Vera Institute of Justice.

¹⁹⁰ Takei, How Police Can Stop Being Weaponized by Bias-Motivated 911 Calls, (2018) American Civil Liberties

Union.

¹⁹¹ Thureau and Stewart, Avoiding ‘Profiling by Proxy’ (2015) Vera Institute of Justice.

¹⁹² *Ibid*.

¹⁹³ Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).

¹⁹⁴ Pen. Code § 148.5.

¹⁹⁵ Fridell, A Comprehensive Program to Produce Fair and Impartial Policing (2017).

¹⁹⁶ PERF, Critical Issues in Policing Series: The Revolution in Emergency Communications (2017).

speculative at this point and would require updated agency policies and empirical research to evaluate outcomes.

II. VISION FOR FUTURE REPORTS

For future reports, the Board plans to evaluate how to address the gap in data and empirical evidence on bias by proxy. Further, the Board plans to address what kind of training, policies, and procedures may exist for dispatchers with respect to racially motivated calls for service. The Board also hopes to review what kind of training, policies, and procedures may exist for responding officers with respect to racially motivated calls for service. Additionally, the Board plans to review how officers are trained to handle emergencies that may require the assistance of a Critical Intervention Team, such as mental health issues, when responding to calls for service.

USE OF FORCE

Use of force incidents occur during or after stops or attempted stops and are among the information officers are required to include in RIPA stop data reports. Because of its inherent relationship to police stop and search practices, the Board decided to include a review and discussion of use of force issues in this year's report.

Assembly Bill 71 (AB 71), effective January 1, 2016, requires law enforcement agencies in California to report use of force interactions between an officer and a civilian that involve a shooting or that results in death or serious bodily injury, as defined by Government Code section 12525.2.¹⁹⁷ This groundbreaking legislation is the first of its kind, making California the only state to have mandated the reporting of these types of officer uses of force. This section of the Report analyzes the data collected in 2017 and reported to the Department in 2018. Due to the fact that the scope of the incidents that are reported in accordance with AB 71 is narrowly defined, these results should not be used to generalize other types of uses of force employed by law enforcement.

I. URSUS USE OF FORCE DATA

A. Overview of Use of Force Data Reported to the Department

The Department consulted with law enforcement agencies and stakeholders to determine what information to collect regarding use of force incidents, and issued a law enforcement bulletin in December 2015 to assist LEAs with this reporting requirement.¹⁹⁸

Incidents must be reported to the Department under AB 71 only when:

1. There is a *discharge of a firearm* by a peace officer; or
2. There is a *discharge of a firearm* by a civilian; or
3. There is a use of force by peace officer against civilian that results in *serious bodily injury or death*; or
4. There is a use of force by civilian against peace officer that results in *serious bodily injury or death*.

Agencies began collecting data on January 1, 2016. Law enforcement agencies enter and submit the required use of force data to the Department through the use of an online reporting platform named URSUS. All agencies employing peace officers are required to submit these data on an annual basis. The Department publishes a report and two datasets to its OpenJustice public data portal each year; one dataset contains incident-level information on all cases reported to the Department, and the other contains person-level information on individuals involved in these use of force incidents.

Readers can find both datasets, as well as supporting documentation that outlines the information contained within the datasets, at <https://openjustice.doj.ca.gov/data> under the “URSUS

¹⁹⁷ Gov. Code § 12525.2.

¹⁹⁸ See Division of Law Enforcement Information Bulletin No. 16-12-CJIS, “Use of Force Incident Reporting,” published December 2015, available at https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/16-12-cjis-use-force-incident-reporting-ursus.pdf.

- Use of Force” section. The Department also publishes a yearly report on this data that can be found at

<https://openjustice.doj.ca.gov/resources/publications> under the “URSUS - Use of Force Incident Reporting” section. Number of calls for service, which the Board collected in a survey for its 2018 report, are not available¹⁹⁹ for this year’s report since the Board did not issue another survey. For the previous statistical year, 2016, Wave 1-3 agencies reported receiving between 310,000 to 2,400,000 calls for service.

Known Limitations of Use of Force Data

It is important to understand that although all incidents in the URSUS datasets involve use of force, not all uses of force are represented in the data. Only use of force incidents between an officer and civilian that involve the discharge of a firearm or result in serious bodily injury or death are reportable under AB 71.²⁰⁰ Incidents are reportable if either party of an incident, law enforcement or civilian, sustains a serious bodily injury or dies from a use of force, or if either party discharges a firearm. Use of force incidents that do not meet either of these criteria will thus not be captured in the data set. Therefore, the sample of cases presented in the section below is not representative of all use of force incidents, or law enforcement-civilian encounters, that occur in California. Additionally, not every reporting agency submitted its use of force data for the 2017 calendar year to the Department by the reporting deadline.

Another limitation in analyzing use of force data submitted to the Department in the context of RIPA is that the information collected for each use of force incident differs from the information collected for each stop under RIPA. Groups from the RIPA data and the URSUS data cannot directly compared because the information is collected and categorized in different ways. Each dataset provides useful information, but they are not comparable. URSUS data analysis is more limited in the number of identity groups that may be examined than the stop data analysis will be in the coming years. Only race, gender, age, and observed behavior indicating a civilian may have a mental disability are available in the URSUS data. RIPA, however, requires that an officer report the perceived race or ethnicity, gender, LGBT status, and age of the stopped person, as well as whether the person has limited or no English fluency and whether they have a perceived or known disability. Officers are not permitted to ask the person stopped or refer to a driver’s license to obtain this information.

Key Terms

Serious Bodily Injury: a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ
Discharge of a firearm: Includes any discharge of a firearm during an interaction between a civilian and an officer, regardless of whether any person was injured. A firearm is defined as a weapon that fires a shot by the force of an explosion, e.g., a handgun, rifle, shotgun, and other such device commonly referred to as a firearm. Not included in this definition are electronic control devices; stun guns; BB, pellet, air, or gas-powered guns; or weapons that discharge rubber bullets or bean bags.

¹⁹⁹ As reported to the Department, California Highway Patrol officers made 3,800,000 “public contacts” in 2017. However, this information was not requested from, nor provided by, any other department for context. “Public contacts” is also a different and more expansive metric than “calls for service”, which was provided in the 2018 report.

²⁰⁰ Gov. Code § 12525.2.

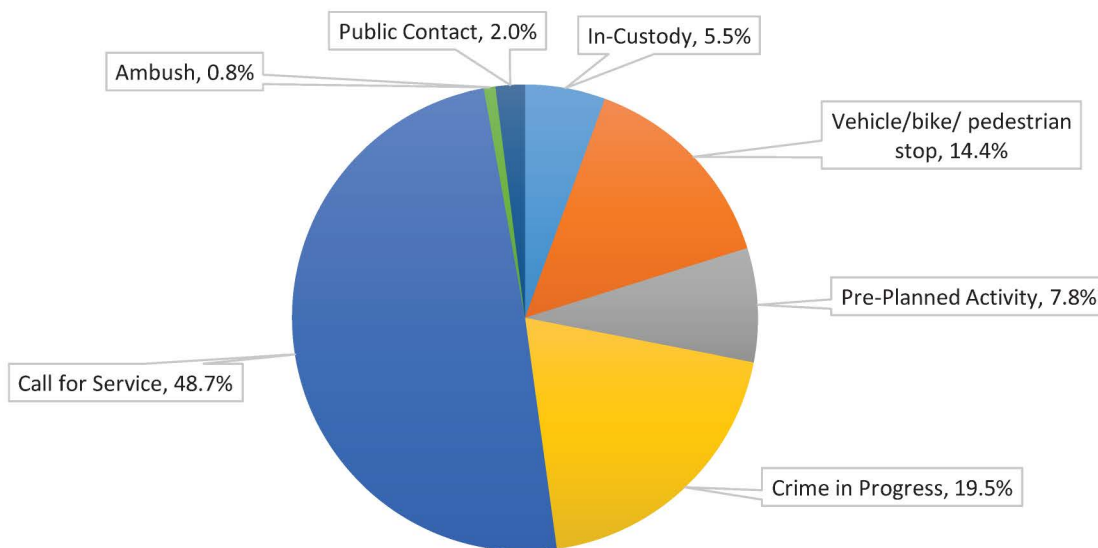
While RIPA data regarding the subject of a stop is based on officers' perceptions, with the exception of perceived mental disabilities, URSUS data regarding subjects is not limited to officer perception regarding the subject. For URSUS reporting, officers are permitted to reference identification documents, search databases, and obtain self-report or third-party information in identifying a civilian's race and ethnicity, gender, and age range.

Descriptive Observations

B. Incident information

From January 1 to December 31, 2017, law enforcement agencies that employ peace officers throughout the state reported a total of 707 use of force incidents that met AB 71 criteria (i.e., they involved either the discharge of a firearm or incidents that resulted in serious bodily injury or death). Of these reported incidents, 344 (48.7%) occurred when law enforcement received a call for service, 138 (19.5%) occurred while either a crime was in progress or while officers were investigating suspicious persons or circumstances, and 102 (14.4%) resulted from a vehicle or pedestrian stop. The least common reason for contact, with six (0.8%) incidents, was an ambush without warning. Most of the incidents ($n = 505$, 71.4%) resulted in the arrest of a civilian. Figure 4 visually displays this information.

Figure 4: Reason for Initial Contact



In 2017, thirty-nine incidents (5.5%), occurred after the civilian had been placed in a custodial setting. The most common stage in the custodial process for use of force incidents to occur was while the civilian had been booked and was awaiting trial, representing 38.5 percent of the cases

that occurred in a custodial setting. The remaining cases that took place in a custody setting occurred during the following stages: 1) awaiting booking (17.9%); 2) booked – no charges filed (5.1%); 3) other (12.8%); 4) out to court (12.8%) and; 5) sentenced (12.8%).

In most instances ($n = 674$, 95.3%), one civilian was involved in the use of force incident; the highest number of civilians in a single use of force incident was three. The number of law enforcement officers involved in these incidents ranged from one ($n = 288$, 40.7%), which was the most common number of officers to be involved, to seventeen ($n = 1$, 0.1%). Roughly ninety-five percent (94.8%) of use of force incidents involved between one and five law enforcement officers, with an average of 2.31 officers ($SD = 1.85$).

C. Civilian Information

A total of 741 civilians were involved in the 707 reportable use of force incidents in 2017. Of these civilians, most ($n = 390$, 52.6%) were seriously injured during the incident, with 172 (23.2%) having died (see Table 2 of Appendix E for breakdown by civilian race or ethnicity), 51 (6.9%) receiving a less serious injury or injuries, 120 (16.2%) not having sustained any injury, and 8 (1.1%) having an unknown injury status due to the civilians having fled from law enforcement (see Table 10 of Appendix E). Of the 741 civilians, 516 (69.6%) were reported to have assaulted an involved officer or officers (see Table 12 of Appendix E). Most civilians ($n = 487$, 65.7%) were taken into custody after the use of force incident (see Table 11 of Appendix E). Of those arrested, 15 (3.1%) were taken for an involuntary psychiatric hold under Welfare and Institutions Code 5150.

Civilian Race or Ethnicity

The race or ethnicity of all civilians, except for those who fled and evaded law enforcement ($n = 8$, 1.1%), is captured in the URSUS use of force data. It should be noted that the URSUS data collection system allows for law enforcement agencies to classify individuals as belonging to more than one racial or ethnic group, but that these individuals ($n = 3$, 0.4%) have been coded into one group for civilians that are multiple races or ethnicities for all the analyses presented in this report. In 2017, civilians who were Hispanic ($n = 325$, 43.9%), white ($n = 224$, 30.2%) and black ($n = 143$, 19.3%) collectively accounted for more than ninety percent (93.4%) of the cases in the dataset (see Table 1 of Appendix E). This being said, Asian

Key Terms

Lethal Force: Discharge of firearm (hit); discharge of firearm (miss); knife, blade, or stabbing instrument

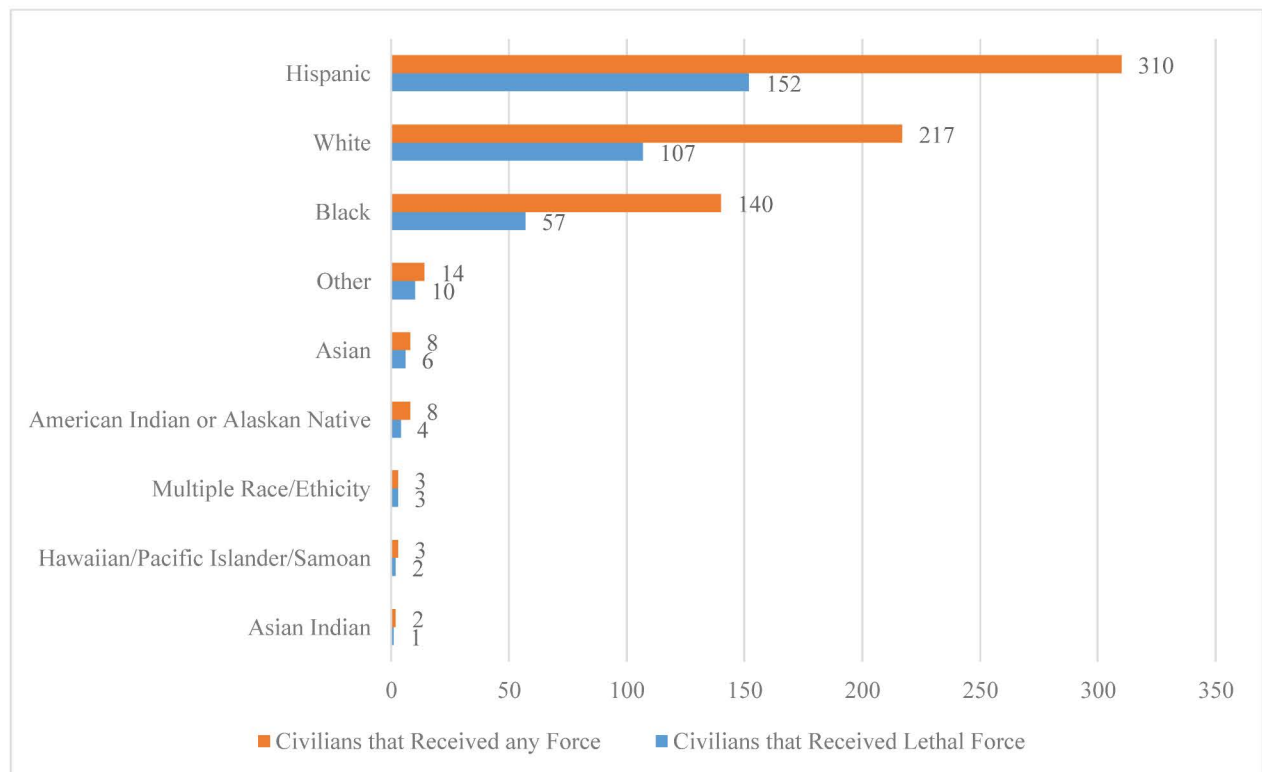
Less Lethal Force: Blunt or impact weapon; chemical spray (e.g. OC/CS); electronic control device; impact projectile; other dangerous weapon; civilian vehicle contact; officer vehicle contact; animal; K-9 contact

Physical Force: Carotid restraint control hold; other control hold/takedown; other physical contact (use of hands, fists, feet, etc.)

Threat of Firearm: Threat of using a firearm against another person

civilians had lethal force²⁰¹ used on a higher proportion of their members (6 out of 8 individuals) than other racial and ethnic groups. Less lethal force was used on 100 percent of Asian Indian civilians, although there were only two members of this ethnicity group in the 2017 data. Readers are cautioned that, because the total number of Asian and Asian Indian civilians in the data set is very low, it is difficult to draw inferences or conclusions about use of force and these groups. For this reason, we also report on groups with larger numbers in the data set. Of the three racial groups that compose most of the civilians in the dataset, white civilians had the highest proportion of lethal force ($n = 107$, 49.3%) used on them, Hispanic civilians had the highest less lethal force ($n = 114$, 36.8%), and black civilians had the highest proportion of physical force ($n = 66$, 47.1%). All races and ethnicities had a low number of their members have a threat of a firearm reported to have be used on them (see Table 6 of Appendix E). Figure 5 displays the number of civilians from each race/ethnicity group that had lethal force used on them and also how many civilians from each group had force of any type (including lethal force) used on them.²⁰²

Figure 5: Civilians Receiving Lethal Force and All Force Types by Civilian Race or Ethnicity



²⁰¹ The Key Terms box on this page displays how the use of force types in URSUS were grouped into the categories discussed in this chapter.

²⁰² Civilians in the dataset that had no force used on them are not represented in Figure 5.

Civilian Gender

More than ninety percent ($n = 679$, 91.6%) of civilians in the URSUS data were male, while the remaining 53 civilians (7.2%) were female (see Table 4 of Appendix E). Female and male civilians were within two percent of each other in the proportion of cases that had less lethal force used on them and were within one percent of each other in the proportion of cases where the threat of a firearm was employed on them. Larger differences in the distribution of force type are observed between these two groups when lethal and physical force are used (see Table 7 of Appendix E). The proportion of male civilians ($n = 327$) that had lethal force used on them was more than 1.5 times the proportion of female civilians ($n = 15$) that had this force type used on them, 49.9 and 30.6 percent respectively. Meanwhile, the proportion of female civilians that received physical force ($n = 30$, 61.2%) was more than 1.5 times the proportion of male civilians receiving the same type of force ($n = 251$, 38.3%).

Gender was not reported for the eight (1.1%) civilians that fled and evaded capture. In 2017, there was only one AB 71-reportable incident involving a transgender person. This person had physical and less lethal force used on them. However, the force types from a single case are not likely to generalize to the population as a whole.

Civilian Age

URSUS captures civilian age as a range, rather than as a distinct number. The age of civilians involved in the URSUS use of force incidents ranged from people aged 10-17 at the lower end, to a person aged 76-80 at the higher end (see Table 3 of Appendix E). Nearly ninety percent (89.2%) of the civilians were fifty years old or below. The age group with the highest number of civilians that were involved in use of force incidents was the twenty-one to thirty years old group ($n = 262$, 35.4%). Twenty civilians (2.7%) were minors aged 10-17 at the time of their respective incidents.

The civilian age groups that had the highest proportion of their members receive each type of force was as follows: 10-17 ($n = 12$, 66.7%) for lethal force, 51-60 ($n = 29$, 50%) for less lethal force, above 60 ($n = 7$, 53.8%) for physical force, and 18-20 ($n = 2$, 3.8%) for threats of a firearm (see Table 9 of Appendix E). However, each of these groups only accounts for a small portion, less than three percent, of the civilians involved in the use of force incidents. Of the age groups that accounted for at least ten percent of the civilians in the 2017 data, 41-50, received the highest proportion of lethal ($n = 58$, 50.9%) and less lethal ($n = 42$, 36.8%) force, civilians aged 31-40 the highest proportion of physical force ($n = 85$, 42.7%), and civilians between 21-30 received the highest proportion of threats of a firearm ($n = 3$, 1.2%).

Perceived Mental Disability Status

Due to important distinctions from other identity groups in the way this data element is captured, the Board recommends that readers reference the Known Limitations section of this chapter in order to understand the way that civilians were classified for the perceived mental disability status variable. In 2017, law enforcement perceived eighty-four (11.3%) civilians involved in the reported use of force incidents to exhibit signs indicating that they had a mental disability (see

Table 5 of Appendix E). A higher proportion of civilians perceived to have a mental disability received force across all categories than other civilians (see Table 8 of Appendix E).

II. REVIEW OF RESEARCH ON THE EFFICACY OF USE OF FORCE POLICIES IN DECREASING DEADLY AND LESS LETHAL INCIDENTS

Research evaluating the relationship between administrative policy and use of force incidents in various police departments suggests that contemporary use of force policies that contain concrete instructions and limits on when certain types of force should be used correspond with a decrease in deadly and less lethal force incidents. While these studies cannot prove that the change in policy solely *caused* any fluctuation in rates of deadly and less lethal use of force incidents, several did find that the two changes were correlated.

An early study on this topic analyzed data from the New York City Police Department in 1979 found that police shootings steadily decreased after the department implemented a policy regulating shooting discretion in 1972.²⁰³ Importantly, the study did not observe an increase in officer injury or death in conjunction with new policy changes.²⁰⁴ Similar analysis of the Philadelphia Police Department's administrative policy on the use of deadly force completed in 2000 found that on-duty police shootings decreased after the department implemented restrictions that limited an officer's discretion to use deadly force in 1980.²⁰⁵ This new policy re-introduced deadly force restrictions that were in place within the department from June 1973 to December 1974. Specifically, the policy implemented in 1980 directed officers to use deadly force only in circumstances where necessary to protect human life, when no other alternative exists, to detain fleeing felons known to be in possession of a deadly weapon that they either threatened to use or have used, or to detain fleeing felons who have committed forcible felonies.²⁰⁶

Another recent analysis of the relationship between police agency policies and rates of officer-involved gun deaths found that agencies that require officers to report when an officer drew a firearm had, on average, lower rates of officer involved shooting deaths when compared to agencies that did not have this requirement.²⁰⁷

Sam Sinyangwe, a data scientist who focuses his analysis on police best practices, presented, at the June 2018 RIPA Board meeting, his findings on the relationship between use of force policies and observed lethal use of force. force.²⁰⁸ In his review of 91 of the largest municipal police departments in the country, he relayed the following:

²⁰³ Fyfe, *Administrative Interventions on Police Shooting Discretion: An Empirical Examination* (1979) 7 J. Brim. Just. 309, reprinted in *Readings on Police Use of Deadly Force*, p. 277-279.

²⁰⁴ *Id.*, p. 279.

²⁰⁵ White, *Assessing the Impact of Administrative Policy on Use of Deadly Force By On- and Off-Duty Police* (2000) *Evaluation Review* 24, 3, p. 307-314.

²⁰⁶ *Id.*, p. 307-314.

²⁰⁷ Jennings and Rubado, *Preventing the Use of Deadly Force: The Relationship between Police Agency Policies and Rates of Officer-Involved Gun Deaths* (2017), pp. 217-226.

²⁰⁸ Sam Sinyangwe presented to the Board in June of 2018. For additional information on this presentation, please see <https://oag.ca.gov/ab953/Board>

- Restrictive use of force policies were associated with fewer officer involved deaths
- Police departments with more restrictive use of force policies had fewer officer involved deaths per population²⁰⁹
- Police departments with more restrictive use of force policies had fewer officer involved deaths per 100,000 arrests.²¹⁰
- Officers in departments with more restrictive use of force policies were less likely to die in the line of duty
- Officers in departments with more restrictive use of force policies were less likely to be assaulted in the line of duty
- Officers in departments with more restrictive use of force policies were approximately as likely to sustain an injury during an assault.

A more recent 2017 assessment of the Seattle Police Department by the Seattle Police Monitor revealed a nearly 11 percent decrease in use of force incidents after the department implemented a policy with clear directives and prohibitions on certain types of force used.²¹¹ For example, updated policy directs officers to use force that is proportional to the level of resistance provided by the citizen and to de-escalate situations whenever safe to do so.²¹² This study, however, did not observe an increase in officer injury after their agency implemented new use of force policies.²¹³

Studies regarding the efficacy of these more contemporary and limited use of force policies, such as the ones identified above, are an important yardstick to measure whether these contemporary policies have their intended outcome—to reduce the number of force incidents without an increase to civilian and officer injury or death. For example, the Seattle Police Monitor regularly releases reports that include longitudinal quantitative and qualitative data analysis of police practices to evaluate the effectiveness of policy changes.

Accordingly, it is essential for law enforcement agencies to continue to self-evaluate and measure the effectiveness of their use of force policies. To accomplish this, agencies may consider partnering with research organizations or academic institutions to evaluate outcomes if and when agencies implement more restrictive use of force policies. This continued analysis may result in ongoing revisions to policies, more training, improvements to organizational culture, or other important interventions.

In future reports, as the Board begins to evaluate stop data reports, the Board may offer best practices recommendations related to police stops and use of force.

²⁰⁹ Relevant for departments that had four or more of the eight restrictive use of force policies.

²¹⁰ Relevant for departments that had six of the eight use of force policies under review.

²¹¹ Seattle Police Monitor, Ninth Systemic Assessment: Use of Force (2017), p. 30.

²¹² *Id.* p. 13-16

²¹³ *Id.* p. 55-56.

CONCLUSION

The Board has come a long way since its inception over the past two and a half years, but there is still a great deal of work that lays ahead. As you can see from this report, the Board members are dedicated to identifying and addressing racial and identity profiling in California. The Board will continue to work on creating actionable solutions to mitigate the harmful ramifications that racial and identity profiling has upon our communities including law enforcement. The Board is hopeful that through persistent collaboration, open and respectful dialogue, and continued engagement with law enforcement and the community, strides will be made toward the identification and elimination of racial and identity profiling in California. The Board will continue to use the responsibilities bestowed upon it by the California Legislature to continually build improved relationships and mutual trust and respect between law enforcement agencies and the communities they serve.

APPENDIX A: RELEVANT LEGISLATION ENACTED IN 2018

In 2018, the State of California proposed and enacted several landmark pieces of legislation related to police accountability. Below is a summary of several relevant bills, which were enacted in 2018, and which are effective January 1, 2019.

SB 978²¹⁴

This legislation requires law enforcement agencies to post their policies and procedures online.

SB 1421²¹⁵

This legislation modifies California's police confidentiality laws to allow public access to records relating to firearms discharges or other serious uses of force and sustained on the job sexual assault and dishonesty by officers. Records that must be released include investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; materials compiled and presented for review to the district attorney or to any entity charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the. Released records must be redacted to remove personal data and to preserve the anonymity of complainants and witnesses. Agencies may withhold records that are the subject of an active criminal or administrative investigation.

AB 748²¹⁶

This legislation establishes a standard for the release of body-worn camera footage of officer-involved shootings and other critical incidents by balancing privacy interests with the public's interest in the footage. With exceptions for protecting privacy and the integrity of pending investigations, the bill requires agencies to release footage within 45 days of an officer-involved shooting or use of force that results in death or great bodily injury.

SB 923²¹⁷

This legislation requires all law enforcement agencies and prosecutorial entities to adopt regulations for conducting photo lineups and live lineups with eyewitnesses to ensure reliable and accurate suspect identifications. The bill establishes minimum required standards for conducting lineups, including recording the identification procedures.

²¹⁴ Sen. Bill No. 978 (2017-2018 Reg. Sess.) § 1-2.

²¹⁵ Sen. Bill No. 1421 (2017-2018 Reg. Sess.) § 1-5.

²¹⁶ Assem. Bill No. 748 (2017-2018 Reg. Sess.) § 1-2.

²¹⁷ Sen. Bill No. 923 (2017-2018 Reg. Sess.) § 1-3.

This legislation, which adds Section 625.4 to the Welfare and Institutions Code, places limits on the collection and use of voluntary DNA reference samples from minors. Among other things, the law requires written consent by the minor and approval by the minor's parent or legal guardian. In addition, any agency that obtains a voluntary DNA reference sample directly from a minor shall determine within two years whether the minor remains a suspect in a criminal investigation. If the sample collected does not implicate the minor within two years, the agency is required to expunge the sample from any databases or data banks in which they have been entered. An agency shall make reasonable efforts to expunge such samples if requested by the minor, unless the sample has implicated the minor in a criminal investigation. A voluntary DNA reference sample taken from a minor shall not be searched, analyzed, or compared to other DNA samples or profiles to investigate crimes other than the investigation for which the sample was taken, unless permitted by a court order. The law provides for penalties, including attorney's fees and costs, if an agency is found by clear and convincing evidence to have maintained a practice of collecting voluntary DNA reference samples directly from a minor in violation of this section. This law is limited to the voluntary collection of DNA samples from a minor, and does not affect other laws that permit the collection or use of DNA other circumstances.

²¹⁸ Assem. Bill No. 1584 (2017-2018 Reg. Sess.) § 1.

APPENDIX B: COMPILED BEST PRACTICE RECOMMENDATIONS

Racial and Identity Profiling Policies

1. Agencies Should Have a Clear Policy Devoted to the Prevention of Racial and Identity Profiling

Foundational to any bias-free policing policy should be the inclusion of a clear written policy and procedure regarding an agency's commitment to identifying and eliminating racial and identity profiling if and where it exists. Agencies should consider partnering with various stakeholders and representatives of the community in developing this policy. Some of the principles that agencies may wish to include in the policy are below.

- Agencies should create a separate policy dedicated to bias-free policing that expressly prohibits racial and identity profiling. The policy should explicitly and strongly express the agency's core values and expectations when it comes to bias-free policing.
- Sworn and non-sworn personnel should be directed to interact with all members of the public in a professional, impartial, fair, respectful, and nondiscriminatory manner.
- All persons (i.e., both members of the public and agency personnel) should be treated equally without regard to protected characteristics. California state civil rights laws should be used as a guide for the characteristics that should be included within the policy. These characteristics include, but are not limited to, race, color, ancestry, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, mental disability, and physical disability.
- Officers should be prohibited from using proxies for protected characteristics, including language ability, geographic location, mode of transportation or manner of dress, among others.
- The policy should clearly articulate when the consideration of race/ ethnicity, disability and other protected characteristics is inappropriate in carrying out duties and when it is legitimate policing to consider them, e.g., when a specific suspect description includes race or other protected characteristics.

2. Policies Covering the Prevention of Racial and Identity Profiling Should Be Easily Accessible and Well-Integrated into the Agency's Culture

- The policy should be accessible in many formats such as online, in person at the agency, at other governmental and non-governmental locations, and from an officer or employee, if requested.
- Agencies should develop and use a language assistance plan and policy that includes protocols for interpretation (including Braille and American Sign Language) that is tailored to particular settings (e.g., interviews in jails or where person is otherwise in custody, interactions at police stations, interactions with officers at stops, etc.).
- Bias-free policing principles should be integrated into management, policies and procedures, job descriptions, recruitment, training, personnel evaluations, resource deployment, tactics, and accountability systems.

- The policy should include cross references to other relevant policies from the agency (such as civilian complaints, stops, use of force, training, etc.) and, where possible, provide links to the text of those policies.

3. Policies Covering the Prevention of Racial and Identity Profiling Should Have Concrete Definitions to Ensure Its Principles Are Consistently Applied

- The policy should include a robust list of definitions of key terms, protected classes and characteristics, including but not limited to:
 - racial or identity profiling
 - bias-free policing
 - race
 - color
 - ethnicity
 - national origin
 - ancestry
 - age
 - religion
 - gender identity or expression
 - sexual orientation
 - mental disability
 - physical disability
- “Racial or identity profiling” should be defined in accordance with California Penal Code 13519.4, subdivision (e), as follows:
 - *“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 non-consensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.”*

4. Policies Covering the Prevention of Racial and Identity Profiling Should Include a Component on the Limited Circumstances in Which Characteristics of an Individual may be Considered

The policy should state that:

- Officers may take into account protected characteristics of an individual in establishing reasonable suspicion or probable cause, only when the characteristic is part of a specific suspect description based on trustworthy and relevant information that links a specific person to a particular unlawful incident.
- Officers must be able to articulate specific facts that support their use of personal characteristics in establishing reasonable suspicion or probable cause.
- Officers may consider relevant personal characteristics of an individual when determining whether to identify services designed for individuals with those characteristics (e.g., behavioral crisis, homelessness, drug use, etc.).

5. Policies Covering the Prevention of Racial and Identity Profiling Should Include a Component on Communication with the Community

The policy should state that:

- All employees should treat all members of the public with courtesy, professionalism, and respect. Employees should not use harassing, intimidating, derogatory, or prejudiced language particularly when related to an individual’s actual or perceived protected characteristics.
- Officers should listen to the member of the public’s questions or concerns without interruption and then directly address the questions the person may have regarding the stop, including an explanation of options for traffic citation disposition if relevant.
- When conducting stops, officers should introduce themselves to the person being stopped and provide an explanation for the stop as soon as soon as reasonable and practicable (ideally before asking the driver for his or her license and registration).

6. Policies Covering the Prevention of Racial and Identity Profiling Should Include a Component on Training

- All agency personnel, including dispatchers and non-sworn personnel, should be educated on biases, both implicit and overt, and expected to manage them.
- All officers should be provided with training that is adequate in quality, quantity, scope, and type on investigatory stops, searches, and arrests.
- The training should be created in consultation with law enforcement experts and stakeholders, provided on a regular basis, and consistently evaluated and updated.

7. Policies Covering the Prevention of Racial and Identity Profiling Should Include a Component on Data Collection and Analysis

- Agencies should consider analyzing the data they have collected, including data collected and reported to the Department regarding stops and civilian complaints.
- Data should be reviewed to identify exceptional and deficient conduct, trends, unexplained disparities, compliance with policy, and training needs and opportunities.
- Data should be reviewed when relevant for investigating complaints of bias.

8. Policies Covering the Prevention of Racial and Identity Profiling Should Include a Component That Requires Accountability and Adherence to the Policy

- All agency personnel, including dispatchers and non-sworn personnel, are responsible for knowing and complying with the policy. Employees who engage in, ignore, or condone bias-based policing should be subject to discipline.
- The policy should include information on the procedure for making a complaint and handling a bias-based policing allegation.
- Officers must report instances of biased policing that they witness or are otherwise aware of. The policy should emphasize that all employees share the responsibility of preventing bias-based policing in the agency.
- The policy should prohibit retaliation against any person, law enforcement or civilian, who alleges biased policing.

Supervisory Review

Supervising, directing, overseeing, and reviewing the daily activities of police officers, is essential in ensuring that the tenets of bias-free policing are integrated fully into the law enforcement agency and its culture. Below are some recommended best practices for inclusion in policies regarding supervisory review, as well as some systems and technologies that can serve as necessary tools in the supervision and accountability process:

Supervisors should:

- Establish and enforce the expectation that officers will police in a manner that is consistent with the U.S. and California Constitutions and federal and state laws, as well as internal policies.
- Provide leadership, counseling, direction, and support to officers as needed.
- Lead efforts to engage individuals and groups and ensure that officers are working actively to engage the community and increase public trust.
- Review documentation, including video from body-worn cameras as appropriate, of investigatory stops, detentions, searches, and arrests for completeness, accuracy, and adherence to law and department policy.
- Take corrective action, require training, or refer for discipline where appropriate.
- Identify training and professional development needs and opportunities.
- Highlight areas where officers are engaging appropriately and effectively and use those examples during roll call and other training opportunities.

Consider the use of early identification, warning, or risk management systems to contribute to effective and efficient supervisory review.

Civilian Complaint Policies and Procedures

1. Agencies Should Have Civilian Complaint Policies and Procedures That Contain Basic Principles

- Agencies should have an accessible, fair, and transparent complaint process. The process should be set forth in writing and made widely and permanently available within the agency and to the public. All complaints should be accepted, whether in person, in writing, over the telephone, anonymously, or on behalf of another individual.
- Agencies should develop an easily understandable and usable complaint form that individuals may use when filing a complaint regarding alleged personnel misconduct. This form should be available online as well as in writing at a variety of governmental and community-centered locations and should be made available in multiple languages. The form should not contain any language that could reasonably be construed as discouraging the filing of a complaint.
- Agencies should document and investigate all complaints of alleged personnel misconduct, in a thorough, unbiased, timely manner, and as practicable. The standards for review should be clearly delineated in policies, trainings, and procedures featuring detailed examples to ensure proper application.
- All complainants, subject personnel, and witnesses should be treated objectively and fairly.
- The complaint policy should encourage individuals to come forward rather than discourage or intimidate complainants. Retaliation against any person who reports alleged misconduct or cooperates with an investigation should be expressly prohibited.

- All sworn and non-sworn law enforcement employees should be sufficiently trained on the complaint policy, procedure, and requirements.

2. Policies on Civilian Complaints Should Be Easily Accessible and Well Communicated to the Community

- Complaint procedures and forms should be made available in multiple languages and at a location within the agency's office that is easily accessible to the public. In addition, the procedures and complaint forms should be available online and in writing at a variety of governmental and community-centered public locations.
- Agency personnel should have complaint forms in their patrol vehicles so that complaints can be addressed immediately in the field. Agencies may consider distributing business cards with the personnel's name, rank, and contact information to assist the public in lodging complaints. They may also consider requiring supervisors to respond to the field to take complaints.
- The agency should contact the complainant as soon as possible with a verification that the complaint has been received and that it is being reviewed.
- Reports of complaint statistics should be made available to the public on a regular basis.

3. Any Policy on Civilian Complaints Should Contain Details on the Intake, Filing, and Tracking Process

- Agencies should establish written policies and procedures for accepting, processing and investigating complaints, ensuring fairness to the subject personnel and complainants.
- All complaints and their dispositions should be appropriately documented and tracked, preferably electronically.
- All agency personnel, including dispatcher and non-sworn personnel, should be trained to properly handle complaint intake, including how to provide complaint material and information, the consequences for failing to properly take complaints, and strategies for turning the complaint process into positive police-civilian interaction.
- An agency's complaint procedures should be explained to the complainant and the complainant should be advised where and with whom the complaint may be filed.
- All complaints should be given a unique number for tracking purposes.

4. Policies on Civilian Complaints Should Contain Details on the Investigation Process

- Agencies should clearly detail the investigation procedure for complaints to ensure all complaints are appropriately and objectively reviewed.
- Any investigation should be completed by someone of higher rank than the person who is the subject of the investigation.
- All investigations should adhere to written timelines from the date the complaint was filed.
- Agencies should promptly identify, collect, and consider all relevant evidence, including audio or video recordings. Agencies should not seek personal information that is not necessary to process the complaint, and which may discourage submission (e.g., social security number, driver's license information, etc.).

- Agencies should take all reasonable steps to locate and interview all witnesses, including civilian witnesses. Interviews should be conducted in a timely, respectful, and unbiased manner. All agent and witness statements should be objectively evaluated.
- If the complainant cannot identify the subject officer's name, all reasonable efforts to identify the officer should be made.
- Agencies should accept all complaints regardless of when the alleged incident occurred. Depending upon the age and severity of the allegations, the agency may or may not need to take action, but should at minimum accept the complaint and conduct an initial review.
- Agencies should adhere to a stated time limit on how quickly the investigation process is commenced after receiving a complaint and deadlines to ensure timely resolution.
- Agencies should clearly define investigation disposition categories and make this information available to the public.
- The agency should regularly assess the effectiveness of the complaint process and determine if there is a need for a re-evaluation of existing policies, procedures, or trainings.
- Agencies should consider the appropriateness of independent oversight models such as a civilian review Board or independent auditor.
- Agencies should document all investigation findings and keep all complaints available for internal analysis and audits for at least five years.
- Agencies should consider conducting regular, targeted, and random integrity audits.

Racial and Identity Profiling Training

1. Trainings on Racial and Identity Profiling Should Incorporate Basic Principles

The training should:

- Begin with providing all trainees with relevant definitions and scientific research, including a sufficient understanding and definitions of implicit and explicit bias and stereotyping. The training should also emphasize that a great deal of human behavior and brain processing occurs without conscious perception and that all members of society frequently act on their biases. The training should present scientific peer-reviewed research on bias and how it can influence on behavior.
- Be developed in partnership with academic institutions or consultants with the requisite expertise to assist in developing and implementing trainings. These institutions or consultants should have documented experience conducting such racial and identity profiling trainings for institutional actors (and, ideally, helping design successful interventions).
- Provide all agency employees with the knowledge and skills to identify bias and minimize its impact upon law enforcement activities and interactions with members of the public.
- Reflect the agency's commitment to procedural justice, bias-free policing, and community policing.
- Instill in all officers the expectation they will police diligently and have an understanding of and commitment to the rights of all individuals they encounter. This includes reinforcing that protecting civil rights is a central part of the police mission and is essential to effective policing. All employees should be made aware of the requirements of the United States and California Constitutions and relevant federal, state, and local laws related to equal protection and unlawful discrimination.
- Provide all trainees with a sufficient understanding and definition of implicit and explicit bias and stereotyping emphasizing that all members of society frequently act on their biases. The training should present scientific peer-reviewed research on bias and its influence on behavior.
- Provide officers with information regarding the existence of and how to access all health and wellness programs, physical fitness programs, stress management tools, confidential crisis counseling, or other support services available to address the heavy burdens placed on today's police officers. Research suggests that stress and having to make quick decisions under pressure can often lead to people relying on stereotypes. In addition, training should discuss methods, strategies, and techniques to reduce a reliance on unguided discretion in making stops.
- Utilize adult learning approaches, including experimental learning and realistic scenario-based training to provide officers with opportunities to develop skills in realistic settings; this includes learning by doing, and refining their understanding of policies, expectations, or concepts by applying them to the types of situations they may come across in their day-to-day work.
- Include an assessment of whether officers comprehend the material taught.

- Complete and consistent training records for all trainings should be maintained for all agency employees. Agency-wide training analysis should be regularly completed and trainings should be consistently reviewed and updated.
- Agencies should consider integrating a feedback loop or “check-ins” among trainees in between trainings to allow officers to reflect on and apply what they learned in the trainings to their daily lives.

2. Training on Racial and Identity Profiling Should Be Well Organized and Delivered Regularly

- Training should be relatively short and frequently provided (for example, agencies should consider offering a series of two-hour trainings several times a year rather than an eight-hour training every four or five years).
- Training should include members of the community who are knowledgeable about various communities and local issues, including representatives knowledgeable on issues of race, ethnicity, national origin, gender, age, religion, sexual orientation, gender identity, and disability.
- Consider expanding training options to include courses on topics such as power imbalance, statistics, and methods for effective supervision.
- Trainings should be evaluated for their impact on police-community relations.

3. Training on Racial and Identity Profiling Should Address Communication and Community Relationships

The training should:

- Address the benefits of and means to achieve effective community engagement, including how to establish formal partnerships and actively engage community organizations and diverse groups within the community to form positive relationships. This could include examples of successful partnerships and engagement.
- Cover cultural competency, cultural awareness, and sensitivity, including the impact of historical trauma on police-community interactions and locally relevant incidents and history.
- Include effective communications skills, including how to recognize and overcome communication obstacles.

4. Training on Racial and Identity Profiling Should Include the Tenets of Procedural Justice

The training should:

- Emphasize the core tenets of procedural justice (an approach to policing that emphasizes the importance of treating everyone equally and with respect).
 - Community members should be given a voice and be allowed to tell their story and respectfully interact.
 - The law must be applied equally to all members of the community.
 - Officers must show respect and demonstrate trustworthiness.
- Emphasize the importance of how people are treated during the course of an interaction as well as the outcome of that interaction.

- Cover various threats to procedural justice, including officer stress, time pressure, and poor health, as well as poor historical relations between police and communities.
- Cover various procedural, behavioral, and psychological strategies to reduce threats to procedural justice and improve police-community relations.
- Feature police and community perspectives.

5. Training on Racial and Identity Profiling Should Cover Implicit Bias

The training should:

- Define implicit bias as “thoughts or feelings about people that we are unaware of and can influence our own and others’ actions.”
- Define stereotyping.
- Discuss how bias manifests in everyone, even well-intentioned people.
- Discuss varied sources of implicit bias.
- Present a series of empirical studies on bias in an easily understandable manner.
- Discuss how bias might manifest in work and decision-making.
- Highlight positive strategies for mitigating bias and improving police-community relations.
- Include experiential learning techniques to apply the training to real-life scenarios.
- Discuss how to identify officers who may be manifesting bias and how to respond. Include self-evaluation strategies for identifying bias in oneself.
- Discuss how to talk openly about bias with individuals and groups.

APPENDIX C: RIPA TEMPLATE BASED ON THE FINAL REGULATIONS

Additional data values for the stop of a student in a K-12 public school are listed in red.

1. Originating Agency Identifier (prepopulated field)

2. Date, Time, and Duration of Stop

Date: (e.g., 01/01/19)

Start Time (approx.): (e.g. 1530)

Duration of Stop (approx.): (e.g. 30 min.)

3. Location

- Report one (listed in order of preference): block number and street name; closest intersection; highway and closest highway exit. If none of these are available, the officer may report a road marker, landmark, or other description, except cannot report street address if location is a residence.
- City: _____
- Check here to indicate stop is of a student at K-12 public school: _____
 - Name of -12 Public School _____

4. Perceived Race or Ethnicity of Person Stopped (select all that apply)

- Asian
- Black/African American
- Hispanic/Latino(a)
- Middle Eastern or South Asian
- Native American
- Pacific Islander
- White

5. Perceived Gender of Person Stopped (may select one from options 1-4 AND option 5, if applicable, or just option 5)

1. Male
2. Female
3. Transgender man/boy
4. Transgender woman/girl
5. Gender nonconforming

6. Person Stopped Perceived to be LGBT (Yes/No) (“Yes” must be selected if “Transgender” was selected for “Perceived Gender”)

7. Perceived Age of Person Stopped (input the perceived, approximate age)

8. Person Stopped Has Limited or No English Fluency (check here if Yes ____)

9. Perceived or Known Disability of Person Stopped (select all that apply)

- Deafness or difficulty hearing
- Speech impairment or limited use of language
- Blind or limited vision
- Mental health condition
- Intellectual or developmental disability, including dementia
- Disability related to hyperactivity or impulsive behavior
- Other disability
- None

10. Reason for Stop (select one - the primary reason for the stop only)

- Traffic violation
 - Specific code (CJIS offense table; select drop down) and
 - Type of violation (select one)
 - Moving violation
 - Equipment violation
 - Non-moving violation, including registration violation
- Reasonable suspicion that person was engaged in criminal activity
 - Specific Code (drop down; select primary if known) and
 - Basis (select all applicable)
 - Officer witnessed commission of a crime
 - Matched suspect description
 - Witness or victim identification of suspect at the scene
 - Carrying suspicious object
 - Actions indicative of casing a victim or location
 - Suspected of acting as a lookout
 - Actions indicative of a drug transaction
 - Actions indicative of engaging in a violent crime
 - Other reasonable suspicion of a crime
- Known to be on parole/probation/PRCS/mandatory supervision
- Knowledge of outstanding arrest warrant/wanted person
- Investigation to determine whether person was truant
- Consensual encounter resulting in search
- Possible conduct warranting discipline under Education Code sections 48900, 48900.2, 48900.3, 48900.4, and 48900.7 (select specific Educ. Code section & subdivision)
- Determine whether student violated school policy

A brief explanation is required regarding the reason for the stop and must provide additional detail beyond the general data values selected (250-character maximum).

11. Stop Made in Response to a Call for Service (Yes/No) (Select “Yes” only if stop was made in response to call for service, radio call, or dispatch)

12A. Actions Taken by Officer(s) During Stop (select all that apply)

- Person removed from vehicle by order
- Person removed from vehicle by physical contact
- Field sobriety test conducted
- Curbside detention
- Handcuffed or flex cuffed
- Patrol car detention
- Canine removed from vehicle or used to search
- Firearm pointed at person
- Firearm discharged or used
- Electronic control device used
- Impact projectile discharged or used (e.g. blunt impact projectile, rubber bullets or bean bags)
- Canine bit or held person
- Baton or other impact weapon used
- Chemical spray used (e.g. pepper spray, mace, tear gas, or other chemical irritants)
- Other physical or vehicle contact

- Person photographed
- Asked for consent to search person
 - Consent given
 - Consent not given
- Search of person was conducted
- Asked for consent to search property
 - Consent given
 - Consent not given
- Search of property was conducted
- Property was seized
- Vehicle impound
- Admission or written statement obtained from student
- None

12B. Basis for Search (if search of person/property/both was conducted; select all that apply)

- Consent given
- Officer safety/safety of others
- Search warrant
- Condition of parole/probation/PRCS/mandatory supervision
- Suspected weapons
- Visible contraband
- Odor of contraband
- Canine detection
- Evidence of crime
- Incident to arrest
- Exigent circumstances/emergency
- Vehicle inventory (for search of property only)
- Suspected violation of school policy

A brief explanation is required regarding the basis for the search and must provide additional detail beyond the general data values selected (250-character maximum). This field is not required if basis for search is “condition of parole/probation/PRCS/mandatory supervision.”

12C. Contraband or Evidence Discovered, if any (during search/in plain view; select all that apply)

- None
- Firearm(s)
- Ammunition
- Weapon(s) other than a firearm
- Drugs/narcotics
- Alcohol
- Money
- Drug paraphernalia
- Suspected stolen property
- Cell phone(s) or electronic device(s)
- Other contraband or evidence

12D. Basis for Property Seizure (if property was seized; select all that apply)

- Safekeeping as allowed by law/statute
- Contraband
- Evidence
- Impound of vehicle
- Abandoned property

- Suspected violation of school policy

Type of Property Seized (select all that apply)

- Firearm(s)
- Ammunition
- Weapon(s) other than a firearm
- Drugs/narcotics
- Alcohol
- Money
- Drug paraphernalia
- Suspected stolen property
- Cell phone(s) or electronic device(s)
- Vehicle
- Other contraband or evidence

13. Result of Stop (select all that apply)

- No action
- Warning (verbal or written): Code/ordinance cited (drop down)
- Citation for infraction: Code/ordinance cited (drop down)
- In-field cite and release: Code/ordinance cited (drop down)
- Custodial arrest pursuant to outstanding warrant
- Custodial arrest without warrant: Code/ordinance cited (drop down)
- Field Interview Card completed
- Noncriminal transport or caretaking transport (including transport by officer, transport by ambulance, or transport by another agency)
- Contacted parent/legal guardian or other person responsible for the minor
- Psychiatric hold (Welfare & Inst. Code, §§ 5150, 5585.20.)
- Referred to U.S. Department of Homeland Security (e.g., ICE, CBP)
- Referral to school administrator
- Referral to school counselor or other support staff

14. Officer's Identification (I.D.) Number (prepopulated field)

15. Officer's Years of Experience (total number of years worked as a peace officer)

16. Type of Assignment of Officer (select one)

- Patrol, traffic enforcement, field operations
- Gang enforcement
- Compliance check (e.g. parole/PRCS/probation/mandatory supervision)
- Special events (e.g. sports, concerts, protests)
- Roadblock or DUI sobriety checkpoint
- Narcotics/vice
- Task force
- K-12 public school, including school resource officer or school police officer
- Investigative/detective
- Other (manually specify type of assignment)

APPENDIX D: METHODS OF SUBMITTING STOP DATA TO THE DEPARTMENT

1. The Department's Web-Based Application

The Department developed a web-based application that agencies can use to collect and submit stop data using a computer, smart phone, tablet, or mobile data terminals (MDTs) in patrol cars. The Department developed this web-based application, in part, to ensure that smaller agencies without adequate resources would not be unduly burdened by the new stop data requirements and would be able to fully comply. With this application, officers can either input information about a stop immediately after the stop takes place or once they return to the station.

Of the Wave 1 agencies, as of November 1, 2018, the San Francisco Police Department is using the Department-hosted web application. The Fresno Police Department and the San Jose Police Department, which will begin collecting stop data on January 1, 2019 as part of Wave 2, also plan to use the Department-hosted web application.

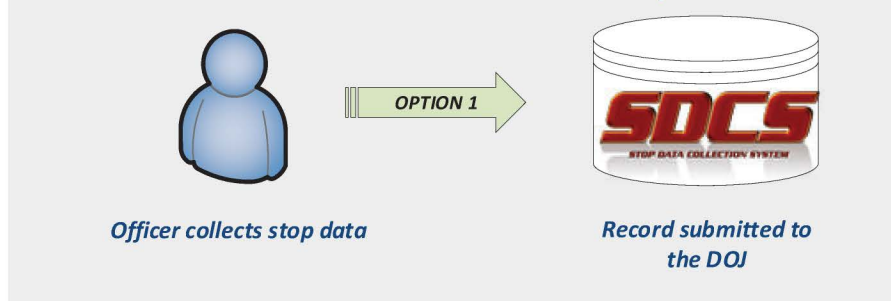
The Department-hosted web application has several features that ensure the quality of the data, while making it efficient to use. To support the varying work environments and constant demands on officers, the system will save data as it is entered on the officer's device. For example, if an officer must respond to an urgent call for service and is interrupted, the record will be stored with a status of "in-progress" and can be completed later during their shift. An online Dashboard summarizes the status of each officer's stop data records, and will flag any that are incomplete so that officers are prompted to complete them.

To ensure the uniformity of the data being collected, as information about a stop is being entered, any blank or invalid data fields will return immediate errors for the officer to correct. This mechanism prevents an officer from submitting incomplete or invalid entries. An officer will thus not be able to advance to the next page until he or she submits valid data, i.e., has selected one or more of the choices provided to respond to each data element and has not either left that element blank or submitted the wrong code for the element.

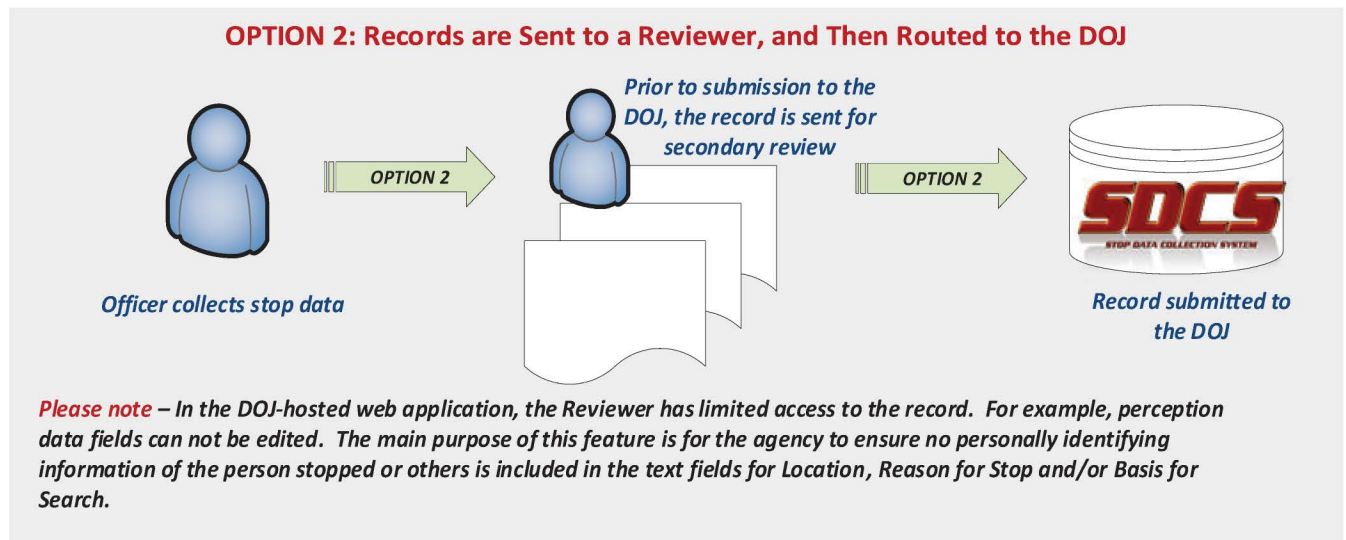
Agencies that use the Department's web-based application will select one of two workflows to submit their records:

- **Option 1:** Officer enters data, and submits the record immediately and directly to the Department by selecting "submit" on the application.
- **Option 2:** After the stop is entered by an officer, it is routed to a supervisor for review prior to submission to the Department.

OPTION 1: Officer Submits Records Directly to the DOJ



OPTION 2: Records are Sent to a Reviewer, and Then Routed to the DOJ



When an agency elects to use the review process (Option 2 shown above), designated administrators from the agency will review the record prior to submitting it to the Department. This helps ensure reported data is accurate, complete and does not contain any personally identifiable information of the person stopped, or other information exempt from disclosure pursuant to Government Code section 12525.5, subdivision (d). However, some fields remain locked and are not editable, even during this administrative review. Specifically, the locked fields are:

- Agency ORI Number
- Officer's Identification Number
- Date of Stop
- Time of Stop
- Perceived Race or Ethnicity of Person Stopped
- Perceived Gender of Person Stopped
- Perceived Age of Person Stopped
- Person Stopped Perceived to be LGBT
- Perceived or Known Disability of Person Stopped
- Person Stopped Has Limited or No English Fluency

The initial data fields describing the stop (Agency ORI Number, Officer's Identification Number, Date of Stop and Time of Stop) are locked because subsequent edits could circumvent the validation that protects against duplicate records. All of the fields related to an officer's perception of the person stopped are also locked since those perceptions would be specific to the reporting officer and not something that a second party could later verify or correct.

The Department's web-based application stores all records indefinitely. If the reporting agency would like to access their records, reports are available on-line, and copies of the records can be downloaded.

2. Web Services

Another option for data collection and submission involves a "system-to-system web service."²¹⁹ Agencies that use this method will collect their data in a local system and then submit the data to the Department. The records will be stored locally, with a copy of records transmitted to the Department.

As of November 1, 2018, the following first wave agencies are using Web Services: California Highway Patrol, Los Angeles County Sheriff's Department, San Bernardino County Sheriff's Department, San Diego County Sheriff's Department, and San Diego Police Department.

3. Secured File Transfer Protocol (SFTP)

SFTP is similar to Web Services in that agencies collect the data in a local repository and then submit that data to the Department. Agencies that select SFTP are permitted to submit batch uploads of stop data, in a number of file formats, including Excel.²²⁰

As of November 1, 2018, the following first wave agencies are using SFTP: Los Angeles Police Department and Riverside County Sheriff's Department.

²¹⁹Cal. Code Regs., tit. 11, div. 1, ch. 19 § 999.228, subd. (b).

²²⁰Cal. Code Regs., tit. 11, div. 1, ch. 19 § 999.228, subd. (b).

APPENDIX E: URSUS USE OF FORCE TABLES

Table 1

Civilian Race/Ethnicity Distribution

Race/Ethnicity	<i>n</i>	Percent
American Indian or Alaskan Native	9	1.2
Asian	8	1.1
Asian Indian	2	0.3
Black	143	19.3
Hawaiian/Pacific Islander/Samoan	3	0.4
Hispanic	325	43.9
Other	16	2.2
White	224	30.2
Multiple Race/Ethnicity	3	0.4
Unknown	8	1.1
Total	741	100.0

Table 2

Deceased Civilians by Race/Ethnicity

Race/Ethnicity	Deceased Civilians
American Indian or Alaskan Native	2 (1.2%)
Asian	3 (1.7%)
Asian Indian	1 (0.6%)
Black	26 (15.1%)
Hawaiian/Pacific Islander/Samoan	1 (0.6%)
Hispanic	81 (47.1%)
Other	2 (1.2%)
White	55 (32.0%)
Multiple Race/Ethnicity	1 (0.6%)
Total	172 (100.0%)

Table 3*Civilian Age Distribution*

Age Group	<i>n</i>	Percent
10-17	20	2.7
18-20	55	7.4
21-30	262	35.4
31-40	205	27.7
41-50	119	16.1
51-60	58	7.8
61 and over	14	1.9
Unknown	8	1.1
Total	741	100.0

Table 4*Civilian Gender Distribution*

Gender	<i>n</i>	Percent
Female	53	7.2
Male	679	91.6
Transgender	1	0.1
Unknown	8	1.1
Total	741	100.0

Table 5*Civilian Perceived Mental Disability Distribution*

Disability	<i>n</i>	Percent
No	649	87.6
Yes	85	11.5
Unknown	7	0.9
Total	741	100.0

Table 6*Type of Force Received by Civilian Race/Ethnicity*

Race or Ethnicity	Lethal	Less Lethal	Physical	Threat of Firearm	Group Total
American Indian or Alaskan Native	4 (50.0%)	2 (25.0%)	3 (37.5%)	0 (0.0%)	8
Asian	6 (75.0%)	0 (0.0%)	3 (37.5%)	0 (0.0%)	8
Asian Indian	1 (50.0%)	2 (100.0%)	0 (0.0%)	0 (0.0%)	2
Black	57 (40.7%)	45 (32.1%)	66 (47.1%)	3 (2.1%)	140
Hawaiian/Pacific Islander/Samoan	2 (66.7%)	1 (33.3%)	1 (33.3%)	0 (0.0%)	3
Hispanic	152 (49.0%)	114 (36.8%)	122 (39.4%)	4 (1.3%)	310
Other	10 (71.4%)	3 (21.4%)	4 (28.6%)	0 (0.0%)	14
White	107 (49.3%)	74 (34.1%)	83 (38.2%)	2 (0.9%)	217
Force Category Total	339	241	282	9	702

Percentages in parentheses refer to how many individuals received that use of force. A single individual can receive multiple uses of force. This table does not include cases where a civilian's race or ethnicity is unknown.

Table 7*Type of Force Received by Civilian Gender*

Gender	Lethal	Less Lethal	Physical	Threat of Firearm	Group Total
Female	15 (30.6%)	16 (32.7%)	30 (61.2%)	1 (2.0%)	49
Male	327 (49.9%)	225 (34.4%)	251 (38.3%)	8 (1.2%)	655
Transgender	0 (0.0%)	1 (100.0%)	1 (100.0%)	0 (0.0%)	1
Force Category Total	342	242	282	9	705

Percentages in parentheses refer to how many individuals received that use of force. A single individual can receive multiple uses of force. This table does not include cases where a civilian's gender is unknown.

Table 8*Type of Force Received by Whether Civilian was Perceived to have a Mental Disability*

Has Disability	Lethal	Less Lethal	Physical	Threat of Firearm	Group Total
No	301 (48.3%)	207 (33.2%)	248 (39.8%)	7 (1.1%)	623
Yes	42 (50.6%)	35 (42.2%)	34 (41.0%)	2 (2.4%)	83
Force Category Total	343	242	282	9	706

Percentages in parentheses refer to how many individuals received that use of force. A single individual can receive multiple uses of force. This table does not include cases where the officer perception of a civilian's mental disability status is unknown.

Table 9*Type of Force Received by Civilian Age*

Age Group	Lethal	Less Lethal	Physical	Threat of Firearm	Group Total
10-17	12 66.7%	1 5.6%	7 38.9%	0 0.0%	18
18-20	28 52.8%	16 30.2%	21 39.6%	2 3.8%	53
21-30	123 49.2%	79 31.6%	96 38.4%	3 1.2%	250
31-40	89 44.7%	71 35.7%	85 42.7%	2 1.0%	199
41-50	58 50.9%	42 36.8%	47 41.2%	1 0.9%	114
51-60	27 46.6%	29 50.0%	19 32.8%	1 1.7%	58
61 and over	5 38.5%	4 30.8%	7 53.8%	0 0.0%	13
Force Category Total	342	242	282	9	705

Percentages in parentheses refer to how many individuals received that use of force. A single individual can receive multiple uses of force. This table does not include cases where a civilian's age range is unknown.

Table 10*Civilian Injury Level Distribution*

Injury Level	<i>n</i>	Percent
Injury	51	6.9
Serious bodily injury	390	52.6
Death	172	23.2
Uninjured	120	16.2
Unknown	8	1.1
Total	741	100.0

Table 11*Civilian Custody Outcome Distribution*

Custody Outcome	<i>n</i>	Percent
Cited and released	21	2.8
Deceased	163	22.0
Fled	8	1.1
In custody (other)	472	63.7
In custody (W&I section 5150)	15	2.0
Suicide	6	0.8
None of these	56	7.6
Total	741	100.0

Table 12*Civilians who Assaulted Officers*

Assaulted Officer	<i>n</i>	Percent
No	225	30.4
Yes	516	69.6
Total	741	100.0