

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

<https://oag.ca.gov/ab953/board>**STATE AND LOCAL RACIAL & IDENTITY PROFILING POLICIES
SUBCOMMITTEE MEETING NOTICE AND AGENDA****Friday, February 26, 2021****10:00 AM**

Via Blue Jeans video and telephone conference ONLY. The public is encouraged to join the meeting at <https://bluejeans.com/710527690> or using the “Join Meeting” link below. This will provide access to the meeting video and audio. We recommend that you log in 5-10 minutes before the start of the meeting to allow sufficient time to set up your audio/video, and to download the Blue Jeans application, if desired.

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A phone dial-in option will also be available.

(408) 317-9254

Meeting ID: 710 527 690



**Interpretive Services
Available Here**

1. INTRODUCTIONS (7 min.)
2. APPROVAL OF SEPTEMBER 30, 2020 SUBCOMMITTEE MINUTES (3 min.)
3. ELECTION OF SUBCOMMITTEE CO-CHAIRS (10 min.)
4. DISCUSSION OF PROPOSED SUBCOMMITTEE WORK (1 hour and 15 min.)
 - Bias-Free Policing Matrix & Future Approach
 - Consent and Supervision Stops & Searches Data and Policy Review
 - Model Policies and Best Practices related to Gender Analysis of Stop Data
5. PUBLIC COMMENT (15 min.)

Both the Blue Jeans application and dial-in number will permit public comment
6. DISCUSSION OF NEXT STEPS (10 min.)
7. ADJOURN

Documents that will be reviewed during the meeting will be posted prior to the meeting in the Upcoming Meeting section of the Board’s website <https://oag.ca.gov/ab953/board>.

The meeting will begin at the designated time. Other times on the agenda are approximate and may vary as the business of the Board requires. For any questions about the Board meeting, please contact Anna Rick, California Department of Justice, 1515 Clay Street, Suite 2100, Oakland, California 94612, ab953@doj.ca.gov or 510-879-3095. If you need information or assistance with accommodation or interpretation requests, please contact Ms. Rick at least five calendar days before the scheduled meeting.

Agencies that Reported Having a Civilian Review Board		Agencies that Reported Discussing the RIPA Board's Findings or Recommendations with Their Civilian Review Board
CHP Long Beach Police Los Angeles County Sheriff Los Angeles Police Oakland Police Orange County Sheriff Riverside Police	San Diego County Sheriff San Diego Police San Francisco Police San Jose Police Santa Clara County Sheriff Stockton Police	CHP Los Angeles County Sheriff Los Angeles Police San Diego Police San Francisco Police

- Only a few agencies reported community engagement as a part of the main actions that they have undertaken to adopt the Board's recommendations. These included San Bernardino County SD and the Riverside Police Department. Riverside PD indicated that they developed a Chief's Advisory Board to receive input and advice from community stakeholders.
- Six of the ten LEAs that indicated that they analyze stop data reported sharing their findings with the public (Los Angeles County SD, Los Angeles PD, San Bernardino County SD, San Diego County SD, San Diego PD, San Francisco PD).

"Findings are made public through quarterly statistical reporting and shared within the department"
 - San Francisco Police

"All sworn and non-sworn members are provided information related to RIPA data ... Additionally, the information is posted on the department website, so the public has access to it." - San Diego County Sheriff

Accountability Systems

Now that the Board has a better understanding of existing accountability and supervisory review within agencies to ensure adherence to bias-free policing, the Board plans to develop and identify best practices to inform model accountability policies in future reports. The overwhelming theme in the Board's research was that accountability does not require a single policy, but rather, a comprehensive accountability *system*. To understand how a law enforcement agency holds its officers and agency accountable to prevent bias and profiling, the Board acknowledges it will also need to examine a series of policies that specifically govern prompt and appropriate remediation of bias-based policing.

Given the importance of accountability in policing, the Board hopes to conduct in-depth research and consult with experts to develop best practices in this subject area. To build a foundation, the Board has begun reviewing evidence-based best practices devoted to accountability. Toward that end, the Board identified categories commonly used that make up

accountability systems, including: (1) data tracking and transparency, (2) early intervention systems, (3) video technology, (4) supervisory oversight, (5) clear policies and pathways, (6) misconduct complaints, (7) discipline, (8) community-based accountability, (9) recruitment, hiring, and promotions, and (10) performance evaluations. These categories and recommended best practices will be developed and explored in the future, and they do not represent the full range of best practices an agency could or should adopt; they aim to provide a foundation upon which the Board can expand in future reports. The Board emphasizes that law enforcement agencies should also collaborate with their communities to ensure accountability measures are relevant to their specific needs. The Board also welcomes input from all stakeholders on areas of interest and specific best practices upon which it should focus.

1. Data Tracking and Transparency

Foundational to any accountability system is data collection and data tracking. Data should be collected on various types of police actions – not just use of force or arrests, but also, for example, the type and number of civilian complaints or adverse comments lodged, failure to activate body worn cameras, vehicle crashes, failure to attend or complete training, and/or any investigations of an officer. The Board recognizes that the specific data a law enforcement agency decides to collect (in addition to what is already required by RIPA) should result from stakeholder engagement. Data collection and tracking is critical because it allows agencies to take inventory of individual or systemic trends in behavior that may need to be addressed and corrected. The Board will explore how data can be used for oversight of individual officers, first-line supervisors, and entire precincts or units. It is essential that this data be accessible to the public, which has a vested interest in ensuring non-biased based policing.

2. Early Intervention Systems

Best practice recommendations on Early Interventions Systems (EIS) is contained in the Civilian Complaint Section (see page 134 of this Report) because the Board’s Civilian Complaints Subcommittee is doing a broader evaluation of EIS.

3. Video Technology

One area for exploration is the use of video technologies, like body worn cameras, and any effect in reducing use of force. In a recent study, researchers found that during shifts where officers used cameras and followed agency protocol more closely, use of force fell by 37 percent when compared to camera-free shifts. Researchers also found that during shifts where officers used cameras and tended to use their discretion instead of following agency protocol, police use of force actually rose 71 percent higher than camera-free shifts.¹⁶⁷ It is clear that use of video technology is not itself a quick fix, and as an accountability tool, it is only as effective as the policies and protocols in place and the oversight of officer adherence to those policies and protocols. Further, it is not enough for agencies to have the technology; agencies must *make use* of the technology. For example, on October 27, 2020, the Los Angeles Office of the Inspector General (OIG) released a data analysis report that focused on officer-initiated stops in

¹⁶⁷ RAND Corporation, RAND Europe, Body-Worn Cameras Associated with Increased Assaults Against Police, and Increase in Use-of-Force if Officers Choose When to Turn on Body-Worn Cameras (May 17, 2016) <<https://www.rand.org/news/press/2016/05/17.html>> (as of Dec. 14, 2020).

2019 (a total of 672,569 stops) to assess the accuracy of officer reporting and to better understand the driving forces behind some of disparities in stop data.¹⁶⁸ After a qualitative review of 190 stops in connection with video footage, the Los Angeles OIG found that the stop data reports were “fully accurate” in only 61 percent of the stops.¹⁶⁹ This example makes clear that the camera technology can be useful as an accountability tool if agencies conduct follow-up and review rather than relying solely on the technology being activated to hold officers accountable. The Board will continue to explore best practices around the use of such technology.

4. Supervisory Oversight

Strong accountability systems include a sufficient number of supervising officers, adequate training for effective supervision, and workloads that allow supervisors to be effective in their oversight responsibilities. Supervisory staff should be proactive, engaged, and consistent in their supervision of line officers. It is critical that there are clear policies outlining what supervisory review looks like and how it will be done. Not only should there be strong supervision of line officers, but agency command staff should also effectively oversee their first-line supervisors to ensure accountability at all levels. Supervisors must be held directly accountable for the quality and effectiveness of their supervision, including whether supervisors identify and effectively respond to misconduct and ensure that officers effectively engage with the community.

Some specific issues that the Board intends to review and consider for future recommendations include having a supervisor at the scene of a use of force or a civilian complaint; reviewing arrest reports, officer activity reports, or other incident reports for the day in conjunction with any video footage for accuracy in reporting and adherence to law and policy; ways to investigate and document use of force incidents; how to provide counseling, support, and direction to officers; and commending and highlighting positive interactions to reinforce these behaviors.

Other areas that the Board intends to review and consider for future recommendations relate to supervision of first-line supervisors, and include leadership training on techniques for effectively guiding and directing officers and promoting effective and constitutional police practices; evaluating written reports, including identification of canned or conclusory language that is not accompanied by specific facts; evaluating officer behavior in video footage and officer reports or data submissions; investigating officer uses of force and identifying corrective measures; building community partnerships and guiding officers on this requirement; handling of allegations of officer misconduct; and leadership development and modeling positive behavior.

¹⁶⁸ Los Angeles Office of the Inspector General, Review of Stops Conducted by the Los Angeles Police Department in 2019 (Oct. 27, 2020) p. 1 <https://a27e0481-a3d0-44b8-8142-1376cfbb6e32.filesusr.com/ugd/b2dd23_d3e88738022547acb55f3ad9dd7a1dcb.pdf> (as of Dec. 14, 2020).

¹⁶⁹ *Id.* at p. 48.

For example, with regard to evaluating officer behavior in video footage and officer reports, in the previously mentioned OIG report, the review included a statistical analysis of RIPA stop data, review of civilian complaint data on racial profiling, and a qualitative review of 190 stops in connection with video footage.¹⁷⁰ When comparing the 190 stop data reports to body worn or in-car camera footage, the Los Angeles OIG found that in only 61 percent of the stop data reports was the data “fully accurate.”¹⁷¹ In the other 39 percent of the stops, the Los Angeles OIG found various issues that contributed to inaccuracies, such as failing to report all actions taken, all individuals stopped, or reporting an incorrect stop or search bases.¹⁷² In light of the Los Angeles OIG’s findings, it recommended that the Los Angeles Police Department change some of its policies – including its bias-free policing policy – to adopt language from RIPA and make it clear that racial profiling is prohibited not only in the initial decision to stop or not stop an individual but in various other types of activities as well.¹⁷³ This kind of in-depth review also allowed the Los Angeles OIG to identify places where officers were not following agency policy on body worn camera activation or stops and searches, identify where officers may need additional training on law and policy, and offer specific actions for the Los Angeles Police to take to help reduce the disparities in stops.¹⁷⁴ It also demonstrates the importance of thorough supervisory oversight to make sure officers are reporting data accurately. The Board will explore this interconnected topic of data integrity and supervisory auditing in a future report.

5. Clear Policies and Pathways

While it is evident that any department policy on bias-free policing or ensuring adherence to bias-free policing should be crystal clear to line officers, first-line supervisors, and all other staff, the Board will examine how to ensure that there are no doubts about what an agency prohibits and to impel agency action when an officer does not adhere to its policies. Policies should also make clear the departmental expectations and hold officers to the highest standards of integrity. Eliminating racial and identity profiling in policing is no small task; it requires a clear prohibition on bias-based policing and a thorough understanding by everyone in the agency that a violation of policy and failure to report misconduct will not be tolerated. However, explicit policies alone will not ensure accountability. The Board will also examine best practices to ensure that there are pathways for officers to report their peers’ behavior (including confidentially or anonymously) and avenues to elevate their report if their first-line supervisor does not take action.

¹⁷⁰ See generally Los Angeles Office of the Inspector General, Review of Stops Conducted by the Los Angeles Police Department in 2019 (Oct. 27, 2020) <https://a27e0481-a3d0-44b8-8142-1376cfbb6e32.filesusr.com/ugd/b2dd23_d3e88738022547acb55f3ad9dd7a1dcb.pdf> (as of Dec. 14, 2020).

¹⁷¹ *Id.* at p. 48.

¹⁷² *Id.* at pp. 48-49.

¹⁷³ *Id.* at pp. 5-6, 56.

¹⁷⁴ See generally Los Angeles Office of the Inspector General, Review of Stops Conducted by the Los Angeles Police Department in 2019 (Oct. 27, 2020) <https://a27e0481-a3d0-44b8-8142-1376cfbb6e32.filesusr.com/ugd/b2dd23_d3e88738022547acb55f3ad9dd7a1dcb.pdf> (as of Dec. 14, 2020).

6. Misconduct Complaints

In general, agencies with strong accountability systems investigate all complaints made by members of the public and those made from within the agency. The Board plans to explore how best practices can guarantee that *all* complaints will be fairly and thoroughly investigated. Thus, agencies must ensure that members of the public have access to submit complaints and that complaints will be faithfully recorded, tracked, and investigated. Best practices may also include how to conduct investigations into misconduct complaints with integrity and create mechanisms to increase the community's involvement in the process. Additionally, the Board and agencies may consider the potential role of independent civilian complaint review boards, or other stakeholders can explore their establishment by working with their boards of supervisors, city councils, or mayors through ballot initiatives.

Some specific issues that the Board intends to review and consider for future recommendations include having a supervisor at the scene of a use of force or a civilian complaint; reviewing arrest reports, officer activity reports, or other incident reports for the day in conjunction with any video footage for accuracy in reporting and adherence to law and policy; ways to investigate and document use of force incidents; how to provide counseling, support, and direction to officers; and commending and highlighting positive interactions to reinforce these behaviors.

The Board intends to review best practices that include precluding any involved supervisor from participating in the investigation; providing personnel serving as investigators with enhanced training on conducting employee misconduct investigations; and preventing officers with a history of sustained civilian complaints or who have been disciplined for excessive use of force, discrimination, or dishonesty from being eligible for assignment to Internal Affairs or any other interagency misconduct investigation team. The Board will also examine best practices regarding time limits on investigations of alleged misconduct, both for agency response to the subject of the complaint and internally with its officers.

7. Discipline Policies

Accountability systems should incorporate not only formal disciplinary or corrective measures, but also include informal training and feedback to improve job performance. Generally, discipline is determined by agency policy, but it is also often influenced by what is included in an agency's Memorandum of Understanding (MOU) based on negotiations between the agency and their employee's union.¹⁷⁵ MOUs may attempt to dictate requirements regarding agency accountability and officer discipline. The Board hopes to explore best practices around negotiated discipline standards for both administrative misconduct (e.g. calling in sick when the officer is not actually sick) and excessive force or bias-based policing, officer leave following misconduct, documentation of disciplinary actions and preservation of the documentation, and the use of disciplinary boards to ensure that discipline policies are implemented fairly, objectively, and progressively where appropriate.

¹⁷⁵ MOUs, also known as collective bargaining agreements, are written binding agreements that are the result of negotiations between an employer and a labor union.

Agency discipline policies and procedures should set out what types of discipline an officer can expect for each kind of violation and establish the range of discipline for each type of violation. The Board will examine best practices for discipline policies and the concept of progressive discipline when there are multiple incidents of misconduct.

8. Community-Based Accountability

For law enforcement agencies to fully practice accountability, the community must be included in those efforts to keep individual officers and the agency as a whole accountable. The Board will review avenues for community involvement, including community participation in oversight, advisory, or disciplinary boards. There are important considerations to ensure effective community participation on these bodies, such as making the selection process for civilian members transparent and unbiased; for example, bias in the selection process can happen when there are irrelevant requirements that have no bearing on a candidate's qualifications to be on such a body, such as whether someone has a criminal history or their immigration status. Additionally, the Board will examine best practice recommendations on reliable, comprehensive, and representative annual community surveys that can serve to inform agencies about the community's perception of the quality of their provision of service.

9. Recruitment, Hiring, and Promotions

How an agency recruits, hires, and promotes its personnel is integral to a robust accountability system. Not everyone is fit to be a law enforcement officer or able to embody the high standards of integrity required for modern day policing. Recruitment alone is insufficient; agencies must also ensure they are taking concrete steps to retain and promote officers who excel at performing their duties and engage in bias-free policing, while holding others accountable and not rewarding those who fail to live up to the mission of fair and equitable policing.

Strategies for thoughtful and diverse recruitment is the foundation for accountability within law enforcement. The Board will research best practices, including establishing a strategic hiring and recruitment plan;¹⁷⁶ identifying specific recruiting targets (such as increasing female officer retention);¹⁷⁷ seeking community input;¹⁷⁸ creating a diverse central recruitment team or unit to ensure consistency and cohesion;¹⁷⁹ training for recruiters and background investigators in procedural justice and implicit bias focused on specific issues or strategies relevant to the hiring process;¹⁸⁰ developing and reviewing recruitment materials to reflect the agency's values and mission;¹⁸¹ and compliance with the strategic recruitment and hiring plan through data

¹⁷⁶ Cal. Dep't of Justice, Review of Sacramento Police Dep't: Report and Recommendations Phase II (2020) pp. 83-84 <https://oag.ca.gov/system/files/attachments/press-docs/SPD%20Report%20Phase%20II_0.pdf> (as of Dec. 14, 2020).

¹⁷⁷ *Ibid.*

¹⁷⁸ *Id.* at p. 86.

¹⁷⁹ *Id.* at p. 81; Hillard Heintze, San Francisco Police Department Collaborative Reform Initiative: Phase I – Initial Progress Report (May 16, 2019), p. 70 <<https://oag.ca.gov/system/files/attachments/press-docs/hillard-heintze-initial-progress-report-sfpd-phase-i.pdf>> (as of Dec. 14, 2020).

¹⁸⁰ Cal. Dep't of Justice, Review of Sacramento Police Dep't: Report and Recommendations Phase II (2020) p. 91 <https://oag.ca.gov/system/files/attachments/press-docs/SPD%20Report%20Phase%20II_0.pdf> (as of Dec. 14, 2020).

¹⁸¹ *Id.* at p. 77.

tracking, audits, and periodic assessments.¹⁸² For example, one potential best practice could be for recruiters and background investigators to review a candidate’s social media account to look for behavior that would make the candidate unfit to be an officer, including ties to hate groups or any comments or postings demonstrating racism or white supremacy, sexism, homophobia, or other problematic views or beliefs. With respect to recruitment materials, best practices may include developing the qualities the agency is looking for and highlight the “guardian” over “warrior” mentality¹⁸³, distributing materials widely, and strategically targeting recruitment for gender and racial or ethnic diversity.¹⁸⁴

Promotion within agencies should be a transparent process. The Board will also examine promotion metrics, including performance evaluations for promotions or lateral hiring; consideration of officer discipline history or history of civilian complaints; and recognizing officers who embody the mission of equity and bias-free policing.

10. Performance Evaluations

Performance evaluations have traditionally focused on metrics such as arrests or other police actions that do not underscore the importance of good, thoughtful, and constitutional police work. That kind of structure creates a system that may inadvertently encourage behavior that is contrary to effectively and fairly serving the community as a whole. Instead, the Board plans to examine best practices to evaluate officers’ behaviors in engaging in bias-free constitutional policing, such as an officer’s demonstrated: a) integrity and ethical decision-making;¹⁸⁵ b) commitment to community engagement and building relationships and trust with communities; and c) commitment to bias-free policing. Performance reviews may also play a role in evaluating an officer’s communication skills,¹⁸⁶ general safety habits, completion of training requirements, and their effective use of de-escalation and crisis management techniques. The Board will also examine best practices around civilian commendations or complaints, post-discipline compliance with policy and corrective action plans, and specific officer behaviors, such as the quality and accuracy of officer reports, search warrants, and supportive affidavits or declarations.

Wave 2 Agency Bias-Free Policing Policies Review

In its 2019 report, the Board found that while most agencies did have a specific policy or portion of a policy addressing racial and identity profiling, there was little consistency across agencies in the substance of those policies. In its 2020 report, the Board built upon this finding and provided model language that law enforcement agencies could include in their bias-free policing policies. The Board also reviewed the bias-free policing policies for the eight Wave 1

¹⁸² *Id.* at pp. 83-84, 92.

¹⁸³ *Id.* at p. 77.

¹⁸⁴ *Id.* at pp. 81-82.

¹⁸⁵ U.S. Dep’t of Justice, Office of Community Oriented Policing, *Implementing a Comprehensive Performance Management Approach in Community Policing Organizations: An Executive Guidebook* (2015) pp. 3, 14, 33.

¹⁸⁶ *Id.* at pp. 3, 14, 37.

agencies, based on the best practices outlined in the 2019 report. This year, the Board is extending its review to include the seven Wave 2 agency policies.¹⁸⁷

Oakland Police Department (Oakland Police): The Oakland Police have an eight page, stand-alone policy titled “Prohibitions Regarding Racial Profiling and Other Bias-Based Policing,” which became effective November 15, 2004. From the outset, the policy delineates its purpose: to reaffirm the Oakland Police’s commitment to providing service and enforcing laws in a fair and equitable manner and to establish a relationship with the community based on trust and respect. To accomplish this purpose, the policy includes a definition of racial profiling and a statement on the limited circumstances in which characteristics of individuals may be considered in policing decisions. The policy also helps officers better understand racial profiling by providing examples of different police interactions, such a consent searches, where racial profiling may arise. Moreover, it also clearly establishes that consent searches should not be based on actual or perceived race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability. To assist with the community relationship building piece, the policy includes a section for officers on how to communicate with the community when conducting stops. In addition to this stand-alone bias-free policy, a separate rule on “Professional Conduct and Responsibilities” also touches on how officers should conduct themselves towards others.¹⁸⁸ Another rule titled “Field Interviews & Stop Data Report” dictates how officers should record RIPA stop data. The rule states that Oakland Police use stop data “as a critical component of risk management,” with the goal “to reduce the risk of negative disparate impact on the community by enhancing precision policing, understanding racial disparities.”

Oakland Police prohibits its members from engaging in, ignoring, or condoning racial profiling or other bias-based policing. Furthermore, the policy requires members to report incidents and makes clear that members will be subject to discipline if they fail to comply. For supervisory review, the policy details six supervisor responsibilities in addition to ensuring their subordinates know and understand the policy. A supervisor is required to monitor their subordinates, review all Stop-Data Collection Forms they submit, sign those forms once reviewed, and conduct periodic audits. The policy explicitly provides that supervisors and commanders will be subject to discipline if they themselves violate the policy or if they know or should know that their subordinates are out of compliance.

Sacramento Police Department (Sacramento Police): The Sacramento Police has a stand-alone “Bias-Based Policing” policy dated June 5, 2017. The policy defines bias-based policing and racial profiling and explicitly prohibits the detention, interdiction, or disparate treatment of any person based on their actual or perceived characteristics by officers. Sacramento Police make clear that complaints of such behavior will be thoroughly investigated and require officers to report knowledge or information they may have about conduct that would violate this policy. Moreover, Sacramento Police provide for an Administrative Review of citizen complaints and concerns relating to its bias-free policy to ensure officers are conducting stops and citizen

¹⁸⁷ The policies of the Wave 2 law enforcement agencies can be found in Appendix Table F.1.

¹⁸⁸ Oakland Police Department, Manual of Rules, Section 314.04 Conduct Toward Others – Harassment and Discrimination (September 30, 2010) <<https://cao-94612.s3.amazonaws.com/documents/oak032180.pdf>> (as of Dec. 14, 2020).

contact in accordance with the policy. Although this review is designated as annual, the Professional Standards Unit provides complaint data “on demand” to the Captain to review and act on, but there is no indication how often this may occur. Similarly, the Sacramento Police updated its “Internal Investigation Manual – RM 220.01” to more accurately track complaints alleging “profiling” as a standalone allegation. While the bias-free policing policy does not provide guidance on the collection or use of RIPA demographic data associated with stops, detentions or seizures conducted, the agency’s General Order 210.09 does. To ensure compliance with RIPA and the agency’s Bias-Based Policing policy, the general order requires supervisors to monitor and examine all police activities of those in their command. Sacramento Police has also recently implemented an administrative “Use of Force Review Board,” which meets monthly to review uses of force that do not involve firearm discharge or death. This review will include whether the officer adhered to the bias-based policing policy in addition to use of force laws and agency policies.

Fresno Police Department (Fresno Police): The Fresno Police has a stand-alone¹⁸⁹ policy that became effective June 1, 2020. The policy defines racial or bias-based policing and includes a component on the limited circumstances in which characteristics of individuals may be considered. There is a component on encounters with the community, which requires officers engaging in non-consensual encounters to be prepared to articulate a sufficient reasonable suspicion to justify the contact. It also includes a component on officer training and encourages members to familiarize themselves with racial and cultural differences, if they have not yet received training. The policy discusses the collection of stop data through Cal DOJ’s Stop Data Collection System pursuant to AB 953. The policy makes clear that it is the responsibility of all members of Fresno Police to prevent, report, and respond appropriately to discriminatory or biased practices. The policy addresses supervisory review by describing an annual review conducted by the Audit & Inspections Unit. According to the policy, that unit reviews the Internal Affairs database for complaints alleging bias and reviews meeting minutes detailing complaints received at the Chief’s Advisory Board committee meetings. The results of the annual review are then published in their Annual Bias-Based Policing Report, which details recommendations regarding training issues, policies and procedures, and changes in federal or state mandates. The annual reports previously included analysis of traffic stop data, but Fresno Police no longer plans to include this in their reports because it will submit stop data to the California DOJ. Fresno Police’s website includes links to California DOJ’s OpenJustice website, where their stop data will be publicly available, and the AB 953 webpage, where RIPA Board reports include stop data analysis. The bias-based policing policy is referenced in two other policies regarding interactions with transgender individuals and personnel complaints.

Orange County Sheriff’s Department (Orange County Sheriff): The Orange County Sheriff has a stand-alone¹⁹⁰ policy on “Bias Free Policing” and a separate policy on “Racial and Identity Profiling Act (RIPA).” The Bias Free Policing policy defines racial profiling or bias based policing

¹⁸⁹ Fresno Police’s policy is provided by a private corporation through a paid subscription service offered to law enforcement agencies around the country.

¹⁹⁰ Orange County Sheriff’s policy is provided by a private corporation through a paid subscription service offered to law enforcement agencies around the country.

and includes a component on the limited circumstances in which characteristics of individuals may be considered. There is no specific component on how officers should conduct themselves in encounters with the community. The policy includes a component on officer training and encourages members to familiarize themselves with racial and cultural differences, if they have not yet received training. The policy makes clear that it is the responsibility of all members of Orange County Sheriff to prevent, report, and respond appropriately to clear discriminatory or biased practices. The RIPA policy delineates the data fields that must be reported. Neither policy includes a component on data analysis or addresses supervisory review. The Bias-Free Policing policy has a section titled “supervisor responsibility,” which establishes that the S.A.F.E. Division Captain should review the Orange County Sheriff’s efforts to prevent racial/biased based profiling and submit any concerns to the Sheriff; this section does not discuss direct supervisory review. Separately, the Internal Affairs Unit Manager and the Captain (or an authorized designee) are required to ensure all data regarding civilian complaints and stops are collected and reported. Orange County Sheriff reported that the Technology Division was primarily overseeing the collection of RIPA data, but Orange County Sheriff formed a working group to determine how to analyze and review the data being sent to the Department after they realized they needed to ensure the proper information was being recorded.

Long Beach Police Department (Long Beach Police): The Long Beach Police issued a special order on bias-free policing on September 2, 2020. The special order is in effect until it is included in the agency’s Department Manual. Additional relevant content is provided in the Department’s Policy Manual sections “3.2 General Responsibilities – Employees” and “3.4 Conduct Toward the Public.” These policies are available on the Long Beach Police’s website; the new special order is not yet available online. The new special order includes definitions of racial profiling, biased policing, and specified characteristics. It also includes a component on the limited circumstances in which characteristics of individuals may be considered. Section 3.4 includes a section on encounters with the community in which officers are required to provide their names and department IDs or those of other officers upon request. Additionally, the special order requires officers to inform community members of the reason for the contact preferably at the beginning or by the end of an encounter to avoid misunderstandings. Under the new order, supervisors are required to ensure compliance and initiate investigations when violations are alleged. Moreover, it is the supervisors’ responsibility to ensure employees are not retaliated against for reporting suspected instances of biased policing. The policies and special order do not discuss annual training on bias/racial profiling, stop data analysis, or accountability. The agency issued a special order on stop data collection in December 2018. That special order requires all stop data to be reviewed to ensure there is no identifiable information included and that the Administration Bureau completes a quarterly audit. Long Beach Police has stated that they are developing a stop data dashboard to provide commanding officers with the ability to analyze the type of stops, reasons for stops, searches conducted, and actions taken in the field by their officers.

Sacramento County Sheriff’s Office (Sacramento County Sheriff): The Sacramento County Sheriff does not have a stand-alone bias-free policing policy. Applicable content is included in the General Order: Detentions, Arrests, Search Seizure, and Immigration Enforcement and General Order: AB 953 RIPA Compliance. Both of these policies are available online under the

transparency section of the website. The Detentions, Arrests, Search Seizure, and Immigration Enforcement General Order includes the definition of racial or identity profiling provided in Cal. Penal Code section 13519.4(e) and a component on the limited circumstances in which characteristics of individuals may be used. Sacramento County Sheriff puts the responsibility on every member of its agency to prevent, report, and respond appropriately to dispel discriminatory or biased practices. This General Order discusses encounters with the community, specifically discussing encounters with non-English speaking persons, persons with wheelchairs and other devices, and persons who are deaf or hard of hearing. The AB 953 General Order details the stop data required to be collected and discusses supervisory review. Supervisors are required to review and approve or reject each officer's AB 953 stop data reports. This review is limited to ensuring there is no unique identifying information sent to Cal DOJ. Neither general order includes information about racial and identity profiling training or data analysis. While its policies do not discuss data analysis, Sacramento County Sheriff reported to DOJ that it conducts data analysis on AB 953 stop data and uses the analysis for training and improvement in serving its community. Moreover, it informed DOJ that it has replicated the Board's annual report for its agency and created monthly dashboards of the data for department managers to review. Sacramento County Sheriff also stated that it provides Principled Policing and Bias Based Policing training to its officers on an ongoing basis; this training is not referenced in their policies but parts of it have been incorporated into the agency's academy curriculum.

San Jose Police Department (San Jose Police): The San Jose Police has a stand-alone policy that was last revised on February 15, 2011. In addition to this policy, there are two other policies that are relevant to bias-free policing, namely the "C 1305 Equality of Enforcement" and "C 1308 Courtesy" sections. All three of these policies are available online. The stand-alone bias-based policing policy includes a definition of bias-based policing and explains that biased actions can occur not only upon initiation of the stop, but also throughout the stop. The stand-alone policy does not contain an explanation of the limited circumstances in which characteristics of individuals may be considered. Policies C 1305 and C 1308 detail how an officer should conduct themselves during encounters with the community, e.g. officers should be courteous and professional, control their tempers, and exercise patience even in the face of extreme provocation. None of the three policies address bias/racial profiling training. However, the department reported that it requires Fair and Impartial Policing training, which includes implicit bias, Biased Based Policing, and Procedural Justice Training. Additionally, it has increased police academy cultural diversity and discrimination training beyond the state minimum. Moreover, command officers receive eight hours of Preventing and Responding to Anti-Muslim Bigotry training. The San Jose Police also has a separate policy on Documenting Detentions Pursuant to the Racial and Identity Profiling Act of 2015 (AB 953). None of the policies discuss data analysis, accountability, or supervisory review. San Jose Police informed CA DOJ that it does have a procedure for data analysis that is not detailed in its Bias-Based Policy. It also hired researchers from the University of Texas at El Paso and San Antonio to statistically analyze the stop data. Additionally, San Jose Police has separate policies and procedures for accountability and supervisory review. All personnel are expected and bound to follow the prohibition against discriminatory policing and a commitment to equality in

enforcement in anything they do. San Jose Police supervisors can hold their officers accountable through civilian complaints alleging bias based policing – whether or not they are founded. If a civilian complaint’s allegations of bias based policing are determined to be unfounded, a Supervisory Referral Complaint is created as a follow up. When a Supervisory Referral Complaint is made, a supervisor or captain must discuss the interaction and officer’s behavior and what, if any, impact it could have on the department’s operations.

Wave 2 Agency	Stand-Alone Bias-Free Policing Policy?	Clearly Written?	Easily Accessible? ¹⁹¹	Uses Concrete Definitions of Bias-Free Policing and/or Racial & Identity Profiling	Component on Limited Circumstances in which Characteristics of Individual May Be Considered?
Oakland Police	✓	✓	✓	✓	✓
Sacramento Police	✓	✓	✓	✓	✓
Fresno Police	✓	✓	✓	✓	✓
Orange County Sheriff	✓	✓	✓	✓	✓
Long Beach Police	✓	✓	✓	✓	✓
Sacramento County Sheriff	✗	✓	✓	✓	✓
San Jose Police	✓	✓	✓	✓	✗

Wave 2 Agency	Component on Encounters with Community?	Component on Racial and Identity Profiling Training?	Component on Data Analysis?	Component on Requiring Accountability?	Supervisory Review?
Oakland Police	✓	✓	✓	✓	✓
Sacramento Police	✓	✓	✓	✓	✓
Fresno Police	✗	✓	✓	✓	✓
Orange County Sheriff	✗	✓	✗	✓	✗
Long Beach Police	✓	✗	✗	✗	✓
Sacramento County Sheriff	✓	✗	✗	✓	✓
San Jose Police	✗	✗	✗	✗	✗

¹⁹¹ Beginning January 1, 2020, each law enforcement agency must conspicuously post on their website all current standards, policies, practices, operation procedures, and education and training materials that would otherwise be available to the public through a Public Records Act request. (Cal. Pen. Code, § 13650.)

Wave 1 Agency Bias-Free Policing Policies Review Follow-Up

The Board also followed up on its review of the Wave 1 agency's bias-free policing policies.¹⁹²

California Highway Patrol (CHP): Since last year's review, CHP reported that it is currently developing a stand-alone bias-free policing policy based on existing departmental policies and procedures, as well as some of the model policy language outlined in the Board's 2020 report.

San Diego Police Department (San Diego PD): San Diego PD updated its Non-Bias Based policing policy in February 2020 to include many of the key components recommended by the RIPA Board. The policy touches on training and the expectations the agency has for its officers. For example, while the previous policy stated officers should make every effort to prevent or report instances of discrimination, the new policy specifies how to do so. Additionally, the policy is clear that those who engage in, ignore, or condone discrimination will be subject to discipline. The policy also now includes supervisory review to ensure compliance with RIPA. San Diego PD reported to DOJ that they have implemented various oversight measures to ensure officers are correctly submitting RIPA data. For example, officers are required to include information on every RIPA stop data submitted in their daily journals. Officer actions that generate reports and RIPA stop data collection, including arrests and detentions, require officers to include language that RIPA entries were submitted before their reports are approved by their supervisors. San Diego PD informed DOJ that it released a training bulletin regarding the auditing of RIPA data by supervisors and command staff in January 2019 that is complemented by the February 2020 policy. The training bulletin details that on a monthly basis, sergeants must audit RIPA entries for two members of their squad on a rotating basis. If discrepancies are found, the sergeant must discuss this with the officer and a next level supervisor must be briefed to determine if this is an ongoing issue that requires corrective action. Moreover, the training bulletin requires notes and documentation in quarterly management reports regarding any reporting discrepancies identified in the monthly reviews and how those were addressed.

San Bernardino County Sheriff's Department (San Bernardino Sheriff): Since the Board's review last year, San Bernardino Sheriff has amended its bias-free policing policies to reflect some key best practices. These updates include a new policy with definitions related to bias, such as racial and identity profiling, bias-based policing, implicit bias, bias by proxy, reasonable suspicion, detention, and probable cause. The Bias-Free Policing policy now includes a component on the limited circumstances in which characteristics of an individual may be considered. Additionally, San Bernardino Sheriff's RIPA Data Collection and Analysis policy provides that it will regularly analyze data to assist it with identifying practices that may have a disparate impact on a group relative to the general population. Relatedly, the San Bernardino Sheriff reported it adopted a new policy on December 8, 2020 regarding supervisory and command staff review. This policy requires supervisors to ensure that all personnel, including dispatchers and professional staff, understand and comply with all policies related to RIPA. To ensure this compliance, supervisors are required to conduct and record daily random audits. Daily audits include a review of how many stop data forms an officer submitted during their

¹⁹² The policies of the Wave 2 law enforcement agencies can be found in Appendix F.2.

shift. Additionally, each station must conduct random audits that compare the type of calls with the number of forms completed. At the end of a watch commander's shift, they will run a random unit history and tally up the number of forms to ensure an accurate number were submitted. When a supervisor discovers a discrepancy, they must provide remedial training. The policy also requires commanders to monitor a RIPA dashboard that allows for review of demographics of individuals stopped. Lastly, the policy requires that RIPA stop data be reviewed at department staff meetings and that the agency share its data at public meetings.

Los Angeles County Sheriff's Department (LA County Sheriff): LA County Sheriff provided additional pertinent policies this year. LA County Sheriff's "Constitutional Policing and Stops" policy, which it reports has been in place since May 2017, explicitly states the Department's commitment to equal protection of the law; it does not include a concrete definition of bias-free policing or racial and identity profiling. Separately, the "Stops, Seizures, and Searches" policy, also in place since May 2017, includes a component on the limited circumstances in which characteristics of individuals may be considered. Various policies discuss encounters with the community, including its "Consensual Encounters," "Logging Field Activities, and "Interacting with Transgender and Gender Non-Conforming Persons." With respect to training, requirements for racial and identity profile training are detailed in the June 2019 "Training Requirements for Sworn Personnel." While LA County Sheriff reported that it has the ability to analyze data collected on detentions and community contacts, and has conducted those audits in the past, it does not have a policy directing regular audits on the data. LA County Sheriff also has separate specific policies on supervisory review of public complaints alleging racial bias. These policies include the "Policy of Equality-Procedures-External Complaint Monitoring," which requires LA County Sheriff's Affirmative Action Unit to process these complaints and forward them to the Equity Unit for investigation where appropriate, as well as the "Procedures for Department Service Reviews," which covers individual and agency wide reviews submitted by members of the public. The LASD also employs a random service review audit process, during which field supervisors contact community members involved in requests for service.

San Diego County Sheriff's Department (San Diego County Sheriff): The San Diego County Sheriff updated its Non-Biased Based Policing policy in July 2020. The policy now includes a component on encounters with the community, training, and data analysis. San Diego County Sheriff provides officers with implicit bias training and cultural sensitivity throughout the year in the form of digital learning platforms, in-person training, and training bulletins. San Diego County Sheriff reported to DOJ that RIPA stop data is reviewed at the station and executive level to ensure accountability. The revised policy does not include a component on accountability or supervisory review.

San Francisco Police Department (San Francisco PD): The San Francisco PD's Bias-Free Policing Policy now includes a section on training, which mandates training for both sworn and civilian members on principled policing, cultural diversity, racial profiling, creating inclusive environments, managing implicit bias, and bias by proxy. Although San Francisco Police has a separate policy on data analysis – San Francisco Administration Code 96A.3 – it is not referenced in the bias-free policing policy.

Los Angeles Police Department (Los Angeles Police): On November 8, 2019, the Los Angeles Police updated its policy prohibiting biased based policing to include additional protected characteristics and makes clear that it includes both actual or perceived membership in one of these identity groups. These characteristics include immigration status, employment status, English fluency, and houselessness. The policy does not reference training; the agency reports that it does not intend to include specific training aspects in the policy due to their ever-changing nature, but it is committed to training its officers on these topics. For example, all new recruits are required to attend an 8-hour training course with the Museum of Tolerance. Additionally, concepts from trainings on implicit bias and procedural justice, provided to the officers in 2017, have since been integrated into multiple training courses, including leadership briefs and roll call trainings. Los Angeles Police also report that it conducted a 4-hour training in March 2019 with Gang Enforcement Details personnel on procedural justice, the impact on communities, and responses to implicit bias. The agency also provided the Board with a copy of its updated use of force policy, which includes a section on fair and unbiased policing.

While the policy prohibiting biased based policing does not reference data analysis, the agency shared that it has various data analyses projects underway. These projects include its own RIPA report on its data, an analysis from the California Policy Lab, another study by Northwestern University’s Mathematical Methods in the Social Sciences program, and a report by the Office of the Inspector General (LA OIG). Moreover, the agency reports that it is in the process of refining a dashboard that would allow command staff the ability to analyze data specific to their area of responsibility and compare it to stops across the city at large.

Riverside County Sheriff’s Department (Riverside County Sheriff): The Riverside County Sheriff updated its Bias-Based Policing policy in July 2020 to include a component on supervisory review. The policy now requires supervisors to periodically audit officers’ RIPA data entries to ensure all required stops are being reported. The agency reported to DOJ that is in the process of rolling out a new computer-aided dispatch and record management system, which will allow for data analysis; this system is scheduled to go live mid-2021.

Vision for Future Reports

In the coming years, the Board hopes to conduct more comprehensive research – examining both current agency policies and protocols and evidence-based research – into each area of accountability systems to identify best practices.

I. CONSENT SEARCHES

RIPA 2021 Report:¹

In 2019, Officers provided “consent given” as the sole basis for the searches they performed for 62,323 (1.6%) stops

Figure 30. Stopped Individuals Asked for Consent to Search by Perceived Race/Ethnicity

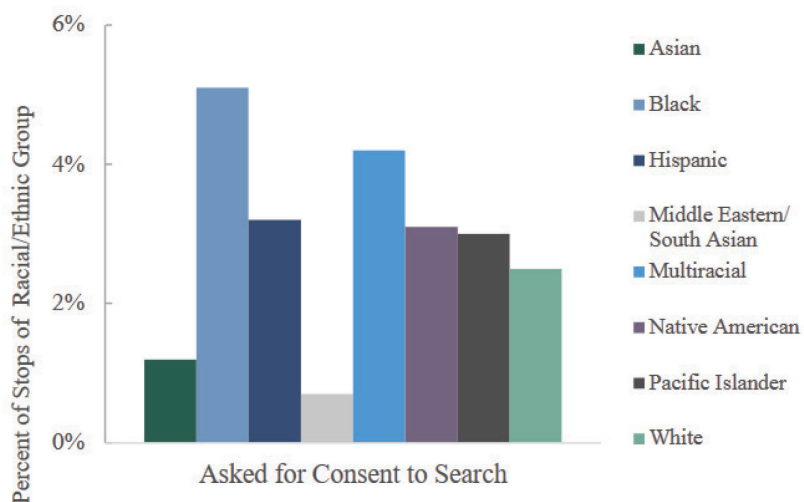
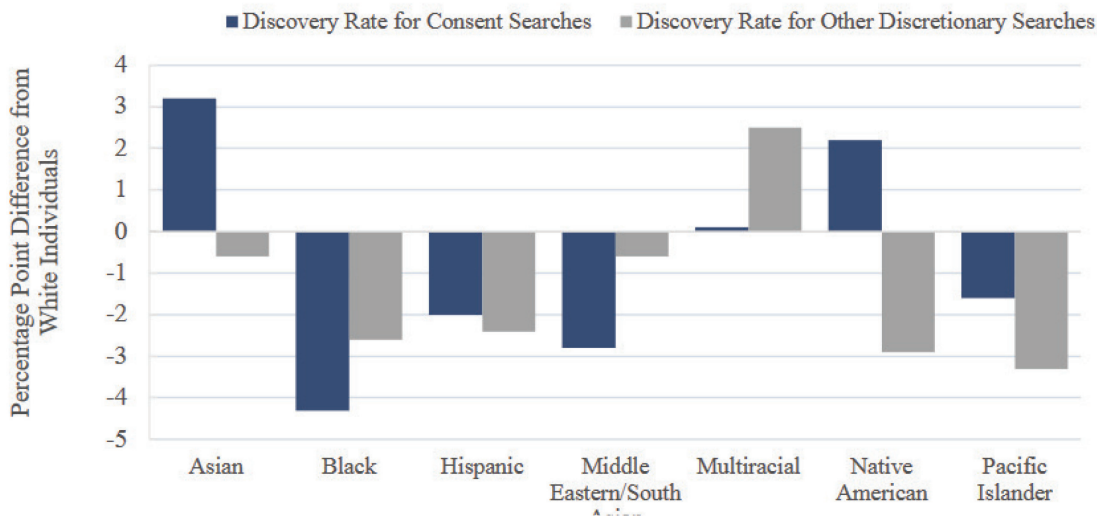


Figure 33. Discovery Rate Differences for Consent Searches and Other Discretionary Searches by Perceived Race/Ethnicity



¹ All the information in the document referenced as “RIPA 2021 Report” was taken from various sections of the 2021 Report and is being used as a reference for the subcommittee meeting.

Given the disparities in consent only searches and discovery rates, and that neither state nor federal law requires officers to suspect any criminal wrongdoing before they request consent to search a person or their property, an obvious question is raised: should individuals be subjected to a search if, based on the officer's perception, the individual is innocent of engaging in apparent criminal activity?

POLICIES LIMITING CONSENT SEARCHES

RIPA 2021 Report:

Some states, including Minnesota,² New Jersey,³ and Rhode Island,⁴ have imposed rules on consent searches, either through their legislature or court rulings.⁵

New Jersey's Senate Judiciary Committee in 2001 found that the possible utility of consent searches is outweighed by the violations of civil rights accompanying their abuse" and recommended that the state prohibit such searches.⁶

² See *State v. Fort* (Minn. 2003) 660 N.W.2d 415, 416.

³ See *State v. Carty* (2002) 170 N.J. 632 [finding that consent searches violated the state constitution and holding that evidence seized as a result of consent search in the absence of reasonable suspicion shall be suppressed.]

⁴ See R.I. Gen. Laws, § 31-21.2- 5 (the state also requires reasonable suspicion for police to use a drug sniffing dog) [“(a) Unless there exists reasonable suspicion or probable cause of criminal activity, no motor vehicle stopped for a traffic violation shall be detained beyond the time needed to address the violation. Nothing contained herein shall prohibit the detention of a motor vehicle for a reasonable period of time for the arrival of a canine unit or subsequent criminal investigation, if there is reasonable suspicion or probable cause of criminal activity; (b) No operator or owner-passenger of a motor vehicle shall be requested to consent to a search by a law enforcement officer of his or her motor vehicle which is stopped solely for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity.”]

⁵ Am. Civ. Liberties Union Foundation, Campaign Against Racial Profiling (Apr. 2006) Consent Search Bans

<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.aclu.org%2Ffiles%2Fimages%2Fasset_upload_file125_28283.doc> (as of Feb. 22, 2021).

⁶ N.J. Sen. Judiciary Com., Rep. of the N.J. Sen. Judiciary Com. Investigation of Racial Profiling and the N.J. State Police (June 11, 2001) p. 87

<<https://www.njleg.state.nj.us/RacialProfiling/sjufinal.pdf>> (as of Feb. 22, 2021).

Additionally, agencies in California have limited the use of consent searches. From 2001 to 2006, the CHP issued a moratorium on consent searches of vehicles after evidence presented in a class action lawsuit showed that Hispanic or Latinx individuals were three times as likely to be searched and Black individuals were twice as likely to be searched than those identified as White.⁷ Since 2006, however, the department has resumed the practice of conducting consent searches.

Last year, Ken Barone and Dr. Matthew Ross, from The Institute for Municipal and Regional Policy (IMRP) at Central Connecticut State University, presented to the RIPA Stop Data Subcommittee on data analysis methodologies. Since 2011, they have been conducting stop data analysis of law enforcement agencies in Connecticut and several other states. The Board believes that these types of analyses are important to help agencies develop data-driven strategies to eliminate racial and identity profiling.

One such data-driven example the researchers shared involved the practice of consent searches within the Hamden Police Department. The researchers from IMRP discovered a significant disparity in the race/ethnicity of individuals asked for consent to search and a low yield rate of contraband discovered from those searches. In response, the Hamden Police Chief prohibited consent searches. After this policy change, the racial/ethnic disparity in the stop data regarding who was searched significantly decreased and the search yield rate increased dramatically from 7 percent to close to 80 percent.

Again, this shows how the data can be used to direct resources toward effective policing strategies. Subsequently, the state of Connecticut passed legislation that significantly limited consent searches. The new law provides, in part, that “[n]o law enforcement official may ask an operator of a motor vehicle to conduct a search of a motor vehicle or the contents of the motor vehicle that is stopped by a law enforcement official solely for a motor vehicle violation”⁸

The Board would like to examine this and other data-driven strategies in future years.

⁷ Rodriguez v. Cal. Highway Patrol (N.D. Cal. 2000) 89 F. Supp. 2d 1131; Am. Civ. Liberties Union of Northern Cal., ACLU of Northern CA Hails Landmark Racial Profiling Settlement (Feb. 27, 2003) <<https://www.aclu.org/press-releases/aclu-northern-ca-hails-landmark-racial-profiling-settlement>> (as of Feb. 22, 2021).

⁸ 2020 Bill Text Conn. H.R. 6004A § 21 (21)(a)(1).

II. PAROLE/PROBATION/PRCS/MANDATORY SUPERVISION STOPS & SEARCHES

RIPA 2021 Report:

In 2019, Wave 1 and 2 agencies reported making 28,015 (0.7%) stops where the primary reason for stop was that the stopped individual was known to be on parole, probation, PRCS or mandatory supervision (hereafter collectively referred to as “known supervision”).

Only 28,015 individuals were stopped for known supervision, but 96,328 individuals were searched due to their supervision status.

Figure 34. Individuals Stopped for Known Supervision by Perceived Race/Ethnicity

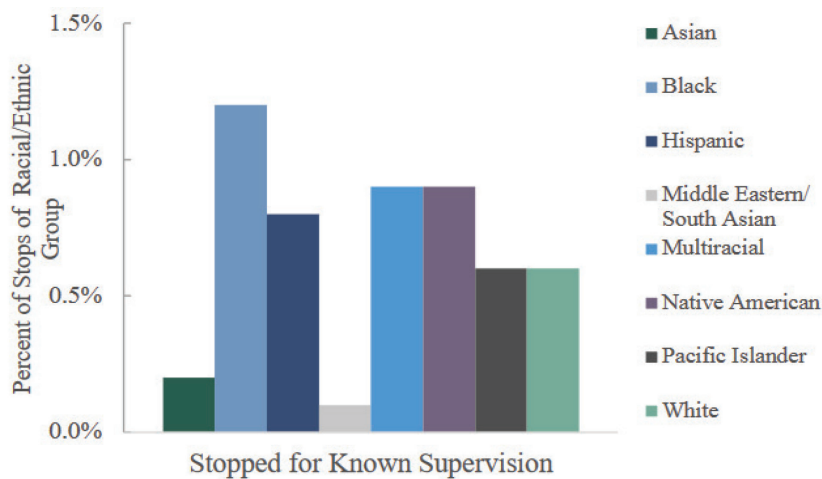


Figure 35. Stopped Individuals Searched Only for Condition of Supervision by Perceived Race/Ethnicity

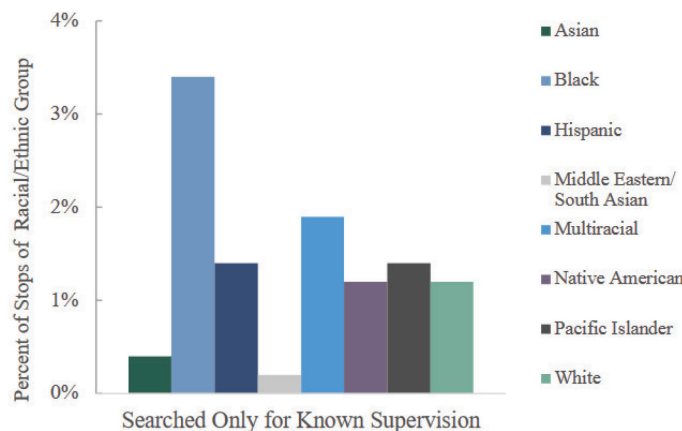
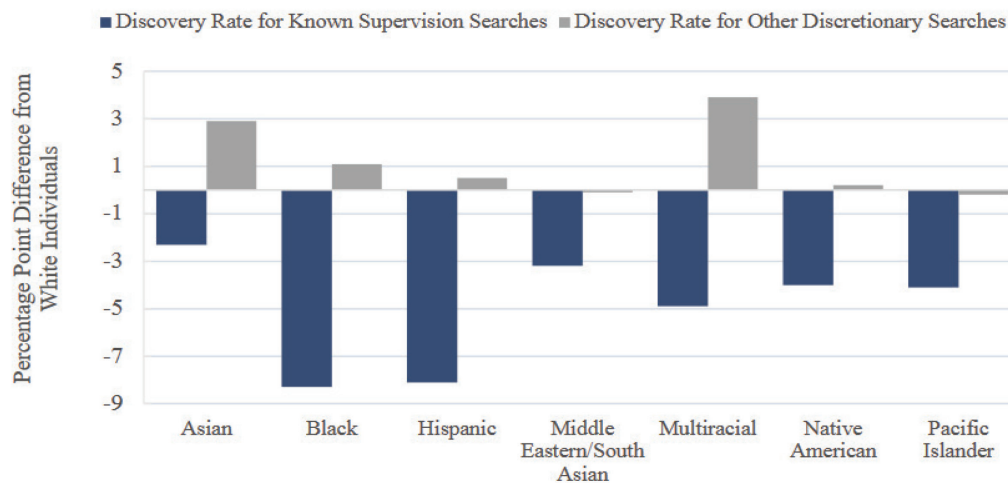


Figure 36. Discovery Rates for Condition of Supervision Searches and Other Discretionary Searches by Perceived Race/Ethnicity



POLICIES LIMITING PROBATION AND PAROLE INQUIRIES

Oakland PD (Full Policy Attached)

B - 3. Inquiring About Supervised Release Status

Inquiring about an individual's Supervised Release status, at the beginning of an interaction without proper justification is unjust. Such an immediate inquiry is viewed by the community as an improper assumption by the Officer that the individual has a criminal history. To that end, Officers shall not immediately inquire whether an individual is on Supervised Release unless there is an Immediate Threat to Officer safety or the safety of others. Any subsequent inquiries about probation, parole, mandatory supervision and PRCS status shall be framed in a respectful manner.

C – 2. Individuals on Supervised Release for Non-Violent Offenses

When considering conducting a warrantless search condition for an individual on Supervised Release for a Non-Violent Offense, Officers shall consider articulable facts which demonstrate that the individual is connected in some way to criminal activity or that the individual is an Imminent Threat to Officer or citizen safety.

Absent a connection to criminal activity or a threat to the Officer or citizen safety, the warrantless search condition shall not be invoked.

The mere fact that an individual is on probation, parole, mandatory supervision or PRCS is not in itself a connection to criminal activity.

C – 3. Traffic Stops of Individuals on Supervised Release for Non-Violent Offenses

When officers contact an individual on Supervised Release for a Non-Violent Offense during a vehicle stop for any infraction and there are no articulable facts present which demonstrate that the individual is connected in some way to criminal activity, or that the individual is an Imminent Threat to Officer or citizen safety, Officers shall not search that individual or his/her vehicle pursuant to any Supervised Release search clauses or conditions.

San Diego (Full Policy Attached)

Asking about a person's probation or parole status and previous arrests can be interpreted as unmerited, and in some circumstances, even discriminatory. Although in some instances it is important to determine an individual's criminal history, officers should be aware of the impact and perception that such immediate questioning may have on law abiding citizens. Poor relations with the community can breed feelings of distrust, anger and fear.

During the course of citizen contacts, officers should not ask about a person's probation or parole status, or other legally documented status, unless the officer has independent knowledge of the person's criminal history or the totality of the circumstances would necessitate the information be immediately ascertained.

Others – ?



DEPARTMENTAL GENERAL ORDER

**R-02: SEARCHES OF INDIVIDUALS ON PROBATION,
PAROLE, MANDATORY SUPERVISION AND PRCS (POST-
RELEASE COMMUNITY SUPERVISION)**

Effective Date: 11 Oct 19
Coordinator: Training Division

Individuals on probation with certain court-imposed search clauses and individuals on probation, parole, mandatory supervision and post-release community supervision (PRCS) may be subject to warrantless searches as a term and/or condition of their supervised release by law enforcement. While these searches are a legitimate law enforcement tool, the Department emphasizes that the mere fact that an individual is on probation, parole, mandatory supervision or PRCS is not in itself a connection to criminal activity.

For the purpose of this Policy, probation, parole, mandatory supervision and PRCS are collectively referred to as “Supervised Release.”

COMMAND INTENT

The intent of this Policy is to enhance the effectiveness of Officers¹ when coming into contact with those individuals on Supervised Release and to provide clear guidelines for the use of Supervised Release searches. The Department values the abilities of officers to make sound judgments and decisions when using law enforcement tools available to them – such as Supervised Release searches – to ensure Officer, community and subject safety. At the same time, the Department recognizes that those on Supervised Release, as well as the community at large, consider warrantless searches to be overly intrusive.

Accordingly, the Department seeks to build community trust through transparency of Department operations by requiring Officers to document articulable facts supporting a decision to affect a warrantless search.

A. DEFINITIONS**A - 1. Non-Violent Offenses**

“Non-Violent Offenses” are defined as offenses in which violence or use of a weapon is not a factor. Examples include simple possession of controlled substances or property crimes such as petty theft.

A – 2. Violent Offenses

Offenses involving the use of force, the threat of force, the use or possession of a weapon, sexual violations against the person of another, human trafficking, and the use of force or threats to public safety. Battery on a Peace Officer (Penal Code § 243(b)), Reckless Evasion in a Vehicle (Vehicle Code § 2800.2(a)), or a violent felony as defined in Penal Code § 667.5(c.), fall into the categories of violent crimes, weapons offenses, sex crimes and/or

¹ “Officer” or “Officers” refer(s) to sworn members of the Department of any rank.

crimes involving threats to public safety. These categories of crimes are collectively referred to as “Violent Offenses.”

A – 3. Cursory Search

A “Cursory Search”, also known as a pat search or search for weapons, is further defined as a limited search of the outer clothing in a manner designed to determine whether the person being searched is in possession of any weapons or items which may be used as such. Cursory searches typically require reasonable suspicion that the person being searched is armed and/or dangerous, and are governed by applicable case law and Department policy.²

A – 4. Full Search

A “Full Search” of a person is defined as a “relatively extensive exploration”³ of the person being searched, including their clothing, their pockets, and containers in their possession. A Full Search of a person is most typically conducted incident to that person’s arrest.

B. SUPERVISED RELEASE SEARCHES AND THE COMMUNITY

B - 1. Purpose of Supervised Release Searches

Warrantless searches of individuals on Supervised Release shall⁴ further a legitimate law enforcement purpose. Such searches shall not be:

1. Arbitrary;
2. Capricious; or
3. Harassing

B - 2. Procedural Justice Considerations

Officer contact with individuals on Supervised Release provides Officers with an opportunity to practice the tenets of procedural justice: voice, neutrality, respect, and trustworthiness.

B - 3. Inquiring About Supervised Release Status

Inquiring about an individual’s Supervised Release status, at the beginning of an interaction without proper justification is unjust. Such an immediate inquiry is viewed by the community as an improper assumption by the Officer that the individual has a criminal history. To that end, Officers shall not immediately inquire whether an individual is on Supervised Release unless there is an Immediate Threat⁵ to Officer safety or the safety of others. Any subsequent inquiries about probation, parole, mandatory supervision and PRCs status shall be framed in a respectful manner.

² See for example *Terry v. Ohio*, 392 US 1 (1968) and OPD Training Bulletin I-O.02, *Legal Aspects of Searching Persons*.

³ *US v. Robinson*, 414 US 218, 236 (1973)

⁴ Manual of Rules 175.77: SHALL – Indicates that the action is mandatory.

⁵ An “Immediate Threat” is defined in Departmental General Order K-3 (II)(B).

C. REQUIREMENTS FOR SUPERVISED RELEASE SEARCHES

Supervised Release searches shall be conducted in consideration of the totality of the circumstances surrounding the encounter.

C - 1. Knowledge of Searchable Supervised Release Status

Officers shall have knowledge and confirm that knowledge that an individual is currently on Supervised Release, with a clause or condition which allows the Officer to conduct a warrantless search, prior to conducting any such warrantless search. Officers may learn of, and confirm, an individual's Supervised Release status: from a check of law enforcement databases such as AWS, CRIMS⁶, CLETS⁷, and CORPUS; by direct contact with the individual's Supervised Release officer/supervisor; or from direct contact with another Department Officer who fulfilled one of the two above methods of confirmation.

In situations where an Officer has prior knowledge of the individuals' searchable Supervised Release status, the Officer shall confirm the validity of the individual's Supervised Release status via a records check prior to effecting any warrantless search.

For purposes of this Section, confirmation within the prior 72 hours shall be deemed sufficient. Officers shall also document the basis of their knowledge and confirmation, in conformance with Section D-1.

In situations where an individual communicates to an Officer that the individual is on Supervised Release with a warrantless search condition, the Officer shall still confirm the validity of the individual's Supervised Release status via a records check. If the individual is mistaken concerning his or her Supervised Release status, the Officer shall provide the correct information and document the results in the appropriate report.

C - 2. Individuals on Supervised Release for Non-Violent Offenses

When considering conducting a warrantless search condition for an individual on Supervised Release for a Non-Violent Offense, Officers shall consider articulable facts which demonstrate that the individual is connected in some way to criminal activity or that the individual is an Imminent Threat to Officer or citizen safety. Absent a connection to criminal activity or a threat to the Officer or citizen safety, the warrantless search condition **shall not** be invoked.

The mere fact that an individual is on probation, parole, mandatory supervision or PRCS is not in itself a connection to criminal activity.

⁶ CRIMS is the recommended database for confirming probation status.

⁷ CLETS is the recommended database for confirming parole status.

C – 3. Traffic Stops of Individuals on Supervised Release for Non-Violent Offenses

When officers contact an individual on Supervised Release for a Non-Violent Offense during a vehicle stop for any infraction and there are no articulable facts present which demonstrate that the individual is connected in some way to criminal activity, or that the individual is an Imminent Threat to Officer or citizen safety, Officers **shall not** search that individual or his/her vehicle pursuant to any Supervised Release search clauses or conditions.

C – 4. Individuals on Supervised Release for Violent Offenses

Individuals contacted or detained who are found to be on searchable Supervised Release for Violent Offenses may be searched pursuant to the terms of their Supervised Release conditions.

C – 5. Cursory and Full Searches

In those instances where a Cursory Search is justified and the individual to be searched is on Supervised Release and the terms and/or conditions of an individual's Supervised Release allow for a warrantless search, a Full Search may be conducted of the area which would be subject to a Cursory Search.

D. MEMORIALIZING FACTS OF THE SEARCH

D - 1. Required Documentation

Officers conducting a Supervised Release search shall, at a minimum, document the following in the appropriate report:

1. The circumstances of the encounter/detention;
2. How and when it was determined that the individual was Supervised Release and, if the Officer made this determination based on prior knowledge, the basis for that knowledge;
3. How the Supervised Release status and warrantless search condition was verified including, if verified via a Mobile Data Terminal (MDT), a paste of this information from the MDT to the body of the report (if feasible);
4. Any articulable facts which informed the decision to search; and
5. The type(s) of search completed and disposition.

D - 2. Use of Portable Digital Recording Devices During the Encounter

Officers shall follow Department General Order I-15.1 (II)(A) regarding the activation of an Officer's portable digital recording device during encounters with individuals on Supervised Release.

By order of



Anne E. Kirkpatrick
Chief of Police

Date Signed: [Enacted City
Council 9 Jul 19, 87804 CMS]

San Diego Police Department

TRAINING BULLETIN

A PUBLICATION OF THE SAN DIEGO POLICE DEPARTMENT

SHELLEY ZIMMERMAN
CHIEF OF POLICE

TB 14-02

APRIL 9, 2014

CITIZEN CONTACTS – INQUIRIES OF PROBATION OR PAROLE

I. PURPOSE

Asking about a person's probation or parole status and previous arrests can be interpreted as unmerited, and in some circumstances, even discriminatory. Although in some instances it is important to determine an individual's criminal history, officers should be aware of the impact and perception that such immediate questioning may have on law abiding citizens. Poor relations with the community can breed feelings of distrust, anger and fear.

II. BACKGROUND

With the recent implementation of California State Assembly Bill 109, officers routinely encounter individuals who are on probation or parole, and subject to court ordered restrictions, including consent to search and seizure. As a result, upon first contact with citizens, officers often initiate a conversation with questions about a person's probation or parole status, the existence of prior arrests, and questions about previous criminal conduct.

In recent months, the San Diego Police Department has experienced an increase in citizen complaints, as well as community concerns, related to questions about previous arrests, and/or probation or parole status.

III. CITIZEN CONTACT GUIDELINES

Feelings of distrust, anger and fear can be overcome when officers communicate tactfully, with courtesy, and work to establish mutual respect with members of the community. This can be accomplished when officers accurately assess the situations they encounter, and develop information about citizens they contact that is independent of their criminal history, affiliations, or probation/parole status. Additionally, officers should make every effort to communicate their

reasons for the citizen interaction which will help the community better understand, and further our efforts to instill trust in police contacts.

During the course of citizen contacts, officers should not ask about a person's probation or parole status, or other legally documented status, unless the officer has independent knowledge of the person's criminal history or the totality of the circumstances would necessitate the information be immediately ascertained.

An officer can use computer checks to determine a person's criminal status. Officers should use these other methods instead of questioning the person directly. A person may be questioned about the conditions or limitations of probation or parole after an officer first obtains independent knowledge of the person's criminal history.

Department Procedure 4.01 will be updated to include segments of this Training Bulletin.

[New York governor signs bill to repeal 'walking while trans' ban](#)

CNN Wire

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Body

NEW YORK (CNN) -- New York Gov. Andrew Cuomo signed a bill Tuesday repealing a controversial statute commonly known as the "walking while trans" ban.

Both houses of the New York Legislature voted Tuesday to pass the bill that repeals a 1976 penal law statute aimed at prohibiting loitering for the purpose of prostitution, but which ultimately led to years of law enforcement discrimination against trans people of color.

The statute "led to arbitrary and discriminatory enforcement by targeting women from marginalized groups that are at high risk for sex trafficking and other exploitation and abuse," according to the sponsor memo from state Sen. Brad Hoylman.

The statute allowed police to "stop-and-frisk trans women of color and other marginalized groups for simply walking down the street," Hoylman said in a news release.

"This outdated, discriminatory statute has led to hundreds of unnecessary arrests of transgender women of color and a broader culture of fear and intimidation for transgender and gender nonconforming New Yorkers," Hoylman said.

From 2012 to 2015, 85% of people arrested under the penal law were Black or Latinx, according to city arrest statistics cited in the sponsor memo.

"Officers have expressly warned transgender women that 'girls like them' would be arrested if they were seen outside after midnight. One officer, when asked how he was trained to identify prostitutes, testified that he was trained to look for women with Adams apples, big hands and big feet," it says.

The Legal Aid Society filed a class action lawsuit against the City of New York and New York Police Department (NYPD) officers in 2016 on behalf of several transgender women who argued they'd been unjustly targeted by law enforcement under the law.

That lawsuit resulted in the NYPD revising its patrol guide in 2019 regarding loitering for purposes of engaging in a prostitution, "which now specifically prohibits officers from relying on 'gender, gender identity, clothing, and location' alone or in combination to establish probable cause, and requires more detailed factual narratives about officers' observations," a Legal Aid Society news release says.

CNN reached out to NYPD officials for comment on the new legislative change but did not immediately hear back.

District attorneys in New York have also declined to prosecute cases connected to the penal law in recent years.

New York governor signs bill to repeal 'walking while trans' ban

"The Legal Aid Society has represented women assumed to be loitering for prostitution because they were wearing a 'short dress,' 'a skirt and high heels,' 'tight black pants,' or 'a black dress.' Women were also targeted for standing outside, speaking to one another, or walking from a subway or grocery store back to their residence," the organization said in a news release Tuesday.

Cuomo, in a statement released after he signed the bill into law, called the statute "archaic."

"COVID exposed low tide in America and the 'walking while trans' policy is one example of the ugly undercurrents of injustices that transgender New Yorkers -- especially those of color -- face simply for walking down the street," Cuomo said in the statement.

"For too long trans people have been unfairly targeted and disproportionately policed for innocent, lawful conduct based solely on their appearance. Repealing the archaic 'walking while trans' ban is a critical step toward reforming our policing system and reducing the harassment and criminalization transgender people face simply for being themselves."

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**POLICE
DEPARTMENT**

**MODEL
POLICY**

**ON INTERACTIONS
WITH TRANSGENDER
PEOPLE**

This model policy document reflects what NCTE identified as national best practices for police officers' interactions with transgender people. These practices and policies were developed for a larger publication titled "FAILING TO PROTECT AND SERVE: Police Department Policies Towards Transgender People," which also evaluates the policies of the largest 25 police departments in the U.S.

This publication contains model language for police department policies, as well as other criteria about policies that should be met for police departments that seek to implement best practices. **For most criteria, we drew directly from model policies developed by Andrea J. Ritchie and the National LGBTQ/ HIV Criminal Justice Working Group, a coalition of nearly 40 organizations including NCTE,** and later published in the appendices of the Community Oriented Policing Services (COPS) "Gender, Sexuality, and 21st Century Policing" report. The Working Group's model policies were the foundation for the criteria in this report and were updated and modified as needed.

While these are presented as model policies, they should be adapted by police departments in collaboration with local transgender leaders to better serve their community. **For assistance in policy development and review, please contact Racial and Economic Justice Policy Advocate, Mateo De La Torre, at mdelatorre@transequality.org or 202-804-6045, or ncte@transequality.org or 202-642-4542. NCTE does not charge for these services.**

#1: Availability of Policy on Transgender Interactions:

Department's Transgender policies should be readily accessible to the public at no cost via the Department's website and external search engines. An ideal policy would include all of the following criteria, either in a "Transgender Policy" or cross referenced from other sections within said policy.

#2: Non-Discrimination and Profiling Based on Gender Identity:

Model Policy:

1. Members shall *not*:
 - A. Request identification or otherwise initiate contact solely based on actual or perceived sexual orientation or gender identity or expression
 - B. Inquire about intimate details of an individual's sexual practices, genitals, anatomy or medical history, or conduct a search to determine a person's anatomy or assign gender.
 - C. Use language that is demeaning or derogatory to another person, in particular, language aimed at a person's actual or perceived gender identity, gender expression, or sexual orientation. This includes "he-she," "tranny," "faggot," "punk," "it," "shim," "thing," "dyke," "bull-dagger" or any other derogatory term.
 - D. Engage in any sexual harassment of members of the public, while on or off duty, as defined by the department's policy on sexual misconduct.
 - E. Consider an individual's gender identity, gender expression, or actual or perceived sexual orientation as a reason to stop, question, search or arrest that individual, a basis for reasonable suspicion, or as prima facie evidence that the individual is, has or is about to engage in a crime, including, but not limited to, prostitution or lewd conduct.
2. Officers should be aware that the presence of needles may be indicative of prescribed hormone treatment and/or therapy and is not necessarily indicative of illegal drug possession, use or drug paraphernalia.

#3: Non-Discrimination Based on Sexual Orientation:

Model Policy:

Policy must clearly prohibit profiling, harassment, and discrimination based on sexual orientation or perceived sexual orientation. See criteria #2 for recommended policy language.

#4: Non-Binary Recognition:

Best Practice:

Policies and training materials should recognize that not all people identify as male or female.

Note: *Model policy language on non-binary identities is included in each of the gender-specific model policies that follow: Use of Respectful Language, Department Forms/Records, Search Procedures, Transportation, Removal of Appearance Related Items, Bathroom Use, and Training.*

HOW A POLICE DEPARTMENT CAN DESCRIBE NON-BINARY PEOPLE IN EASY-TO-UNDERSTAND LANGUAGE AND GIVE BASIC INFORMATION ABOUT USING PRONOUNS

Most people – including most transgender people – are either male or female. But some people don't neatly fit into the categories of "man" or "woman," or "male" or "female." For example, some people have a gender that blends elements of being a man or a woman, or a gender that is different than either male or female. Some people don't identify with any gender. Some people's gender changes over time.

People whose gender is not male or female use many different terms to describe themselves, with non-binary being one of the most common. Other terms include genderqueer, agender, bigender, and more. None of these terms mean exactly the same thing – but all speak to an experience of gender that is not simply male or female.

Different non-binary people may use different pronouns. Many non-binary people use "they" while others use "he" or "she," and still others use other pronouns. Asking whether someone should be referred to as "he," "she," "they," or another pronoun may feel awkward at first, but is one of the simplest and most important ways to show respect for someone's identity.

#5: Use of Respectful Communication and Language:

Model Policy:

1. Members shall:
 - A. Address the public using names, pronouns and titles of respect appropriate to the individual's gender identity as expressed by the individual (e.g. "she, her" for an individual who requests she/her pronouns; "he, his" for an individual who requests he/his pronouns; "they, them" for an individual who requests "they/them" pronouns.).
 - B. Respectfully treat trans, intersex and gender-nonconforming individuals in a manner appropriate to the individual's gender identity and/or expression, which may be different from their sex assigned at birth or what is listed on their official government-issued identification.
2. Members should be aware that individuals' names may change over time, whether due to marriage, changes in gender identity, or other factors, and should always use the name currently used by individuals.

#6: Department Forms/Records: Name, Gender, and Pronouns

Best Practices:

All departmental forms and records should include a space for "Name currently used (if different from legal name)," and "Legal Name" in addition to any spaces currently designated for "alias." (e.g. a transgender woman might use the name Jane Doe ("Name Currently Used"), her nickname might be JD ("Alias"), and the legal name on her ID might be different ("Legal Name"). Pronouns should be recorded along with "Name Currently Used."

All forms and records should include designations for male, female, a gender-neutral designation (such as "non-binary" or the abbreviation "X"), and "Unknown" for instances where the gender of the individual has not been disclosed and is otherwise unknown.

Model Policy:

Members shall:

1. Record an individual's currently used name under "Name Currently Used" in all Department forms and records if different from legal name. Members shall use this name when addressing, recording, or referring to an individual.
2. Record an individual's legal name as stated on government issued ID or other legal paperwork under "Legal Name" in all Department forms and records.
3. Note an individual's gender as "M," "F," "X," or "Unknown" based on the individual's expressed gender identity. If unsure or if the individual has not disclosed, members shall respectfully ask for how the individual identifies regardless of gender marker on government ID.
4. Pronouns shall be recorded as stated by the individual.

Some states and municipalities allow for a gender neutral designation (usually "X") on identification documents. Members shall consider identification with X gender markers as legal forms of identification.

Members shall *not*:

1. Consider or document the name an individual currently uses as an "alias" or "nickname."

#7: Search Procedures:**Model Policy:**

1. Under no circumstances shall members of the department frisk or search any person, including searches premised on an individual's consent, for the purpose of viewing or assigning gender based on the person's anatomy or genitalia or for any demeaning or harassing purpose.
2. Trans, intersex, and gender-nonconforming individuals shall not be subject to more invasive searches or frisk procedures than other individuals in the field or in police holding facilities.

3. Before searching an individual when no other lawful basis exists for the search, members shall inform the individual of their right to refuse a search based on consent (if applicable), and ask for the written consent of the individual to be searched. If no such consent is provided, then no search will be conducted.
4. Before conducting any search of an individual in the field or at a police holding facility, officers conducting the search will ask the individual to be searched their preference with respect to the gender of the officer conducting the search (i.e. a trans woman may prefer to be searched by female members of the department). This request will be honored absent exigent circumstances, which shall be documented in writing as set forth below. This provision does not apply to frisks conducted to ensure officer safety.
 - A. If exigent circumstances exist or the search involves a frisk conducted to ensure officer safety and there is no time to determine whether the individual would feel safer being searched by a male or female officer, then the default should be for the individual to be searched by a female officer, unless a male officer is explicitly requested prior to or during the search. A search of a transgender, gender non-conforming, or intersex person by an officer of the same sex as the person's gender identity or of the requested gender shall be considered a proper "same-sex" search for purposes of PREA and any other applicable law.
 - a. If no officer of the gender requested is available, then the members shall:
 - i. Summon an officer who is of the gender requested by the individual to conduct the search; and if no such officer is available or the individual's request is not honored for any other reason, the member shall document the individual's preference with respect to the gender of the officer performing the search, and the reason the individual's preference was not honored, in the command log.
 - ii. If an officer of the requested sex is not available to conduct a legally necessary strip search, then such a search may only be conducted in private by a physician as a last resort.

#8: Transportation:

Model Policy:

1. All members are required to contact dispatch at the beginning and end of transport and to document mileage from start to finish of each trip to transport arrestees.
2. When transporting trans, intersex, and/or gender-nonconforming individuals, members shall transport with other arrestees of the same self-identified gender unless the individual has expressed a safety concern and wish to be transported alone or with people of a different gender.
3. If a person does not identify as male or female, they shall be transported with arrestees of the gender they express to be safest for them.

#9: Officer Sexual Misconduct:

Model Policy:

This department has a zero tolerance policy with respect to sexual harassment, sexual assault, sexual misconduct, sexual abuse, and rape of any member of the public by any member of the department. Engaging in such conduct will be grounds for immediate discipline, up to and including suspension and termination from the force.

1. Members are prohibited from:
 - A. Engaging in any on-duty sexual activity by officers
 - B. Engaging in any on- or off-duty sexual activity using department/city property
 - C. Using official position to coerce, persuade, force, or initiate sexual contact
 - D. Failing to report sexual misconduct
 - E. Performing non-exigent searches of women by male officers
2. Department shall employ the following prevention and oversight measures:
 - A. partner with independent victim service providers to conduct post-arrest exit interviews;
 - B. Conduct regular unannounced supervision;
 - C. Conduct regular "sting" audits for officer sexual misconduct;

- D. Conduct annual independent audits for sexual misconduct compliance;
 - E. Publish annual data on alleged incidents of sexual misconduct
3. Department shall fully incorporate PREA lockup standards.
- A. Abuse Prevention Planning (hiring, training, searches)
 - B. Evidence and Referral Protocols
 - C. Training and Education
 - D. Risk Screening
 - E. Reporting
 - F. Official Response to a Report
 - G. Investigations
 - H. Staff Discipline and Prosecutions
 - I. Medical and Mental Care
 - J. Data Collection and Review
 - K. Audits and Corrective Action

#10: Placement in Temporary Lockup:

Model Policy:

1. In the event that a transgender or gender-nonconforming person is in police custody and held in an area segregated by gender:
 - A. The individual shall be consulted on where they feel most safe before placement, and every effort will be made to ensure the person will be placed where they say they will feel most safe.
 - a. Should the individual's assessment of their safety change over the course of detention, they will immediately be moved to a location where they feel safer.
 - B. Unless individuals express a concern for their safety, individuals shall be housed in a manner consistent with their gender identity.
 - a. Safety preference for placement will be documented in writing.
 - b. All placements made that are not in accordance with what the arrested individual specifies would be safest shall be documented in writing, with a detailed explanation for why the safety requests of the individuals were overridden.

2. Transgender, gender-nonconforming, and intersex individuals shall not:
 - A. be arbitrarily placed in segregated cells solely because of their transgender, gender-nonconforming, or intersex status or for their own protection unless they have expressly requested to be so placed.
 - B. be handcuffed to railings, chairs, or other devices for any length of time solely because of their transgender, gender nonconforming, or intersex status or for their own protection.
 - C. be held longer than necessary for processing.

#11: Access to Medical Care in Lockup:

Model Policy:

1. Prescription hormones shall be treated like any other prescription medication necessary for an individual's health and wellbeing.
2. Whenever a trans, intersex, and/or gender-nonconforming individual expresses a need for medical attention, members shall handle the situation with the same urgency and respect as any medical need or injury.

#12: Removal of Appearance Related Items:

(e.g. prosthetics, bras, clothes, undergarments, wigs, chest binders, or cosmetic items)

Model Policy:

1. Transgender people shall not be asked to remove appearance-related items (such as prosthetics, bras, clothes, undergarments, wigs, chest binders, or cosmetic items), regardless of where they are housed, if non-transgender individuals of the same gender identity are not also required to do so.
 - A. If the individual does not identify as male or female, they should be allowed to keep appearance-related items regardless of placement, unless the items are disallowed for all arrestees regardless of gender.
 - B. Whenever practicable, removal of items shall be conducted in private.

#13: Bathroom Use:

Model Policy:

1. Trans, intersex, and gender non-conforming individuals shall not, on the basis of gender identity or expression, be stopped, questioned, or arrested for using a gender-segregated or single-sex restroom including public restrooms.
2. Trans, intersex and gender-nonconforming individuals shall be allowed to use the restroom in accordance with their gender identity or where they feel the most safe while in police custody.

#14: Use of condoms as evidence for prostitution-related offenses:

Many people participate in sex work, drug sales, and other activities that are currently criminalized (“underground economy”) to earn an income, or in exchange for food, a place to sleep, or other goods or services. The commercial sex trade exists in a variety of forms, including street-based and online sex work. Participation in the sex trade is often higher among those who have faced family rejection, poverty, or unequal opportunities in employment, housing, and education. Numerous studies have documented higher levels of participation in sex work among transgender people, and in particular people of color and those facing homelessness or poverty.

Model Policy:

Members of the service are advised that confiscating, citing, and invoicing condoms as arrest evidence for any prostitution-related offenses may compromise public health by creating a disincentive for individuals to carry, distribute, share, or receive condoms in order to engage in safer sex practices.

Members shall *not*:

1. Confiscate unused condoms from individuals under any circumstances.
2. Cite or rely on the presence or possession of condoms to any degree as the basis for reasonable suspicion or probable cause to believe that an individual has engaged in or intends to engage in any prostitution-related charge, including patronizing, promoting, maintaining a premise, or trafficking.

3. Comment on the presence or possession of unused condoms, or ask individuals questions regarding the purpose and intended use of condoms, or regarding their sexual practices.
4. Harass individuals or businesses engaged in the distribution of condoms, or threaten to use presence or possession of condoms as a basis for ongoing harassment or initiation of any law enforcement action.

#15: Training:

Best Practices:

1. The department should implement full and regular training of new recruits, current members of the department, supervisors, and commanders on this policy and other matters related to the LGB and trans, intersex, and gender-nonconforming community.
2. Trainings should be led or co-facilitated in meaningful part by members of the LGBT community who have experience with the department and by organizations knowledgeable about these issues and communities.
3. Training on trans, intersex, and gender-nonconforming issues should be incorporated throughout all officer trainings, including during search and seizure training and “cultural sensitivity” training.
4. Members should receive 8 hours of training specifically on trans, intersex, and gender-nonconforming issues and periodic roll-call trainings or other shorter “in-service” trainings.

#16: Immigration Enforcement Cooperation:

Best Practices:

NCTE encourages Police Departments to work with their local communities to establish comprehensive immigration and oversight policies and mechanisms for their jurisdiction. The following criteria are meant as a starting point to describe the overall position of the Department towards the communities they police.

Members shall *not*:

1. Honor civil immigration notification and hold requests from USDHS (“detainer requests”) by continuing to hold in custody without a judicial warrant an individual who is eligible for release on a criminal matter, or by sharing that individual’s information, including release date, with USDHS for purposes of aiding them with civil immigration enforcement.
2. Take police action for the purposes of determining immigration status.
3. Inquire about individuals’ immigration status, country of birth, or first language.

Members shall:

1. Provide police services to all persons, including those who are undocumented, to ensure a safe environment.

#17: Civilian Oversight:

Best Practices:

Independent oversight bodies should:

1. Be a standing body, independent of both law enforcement and political interference.
2. Have the authority to initiate and conduct investigations independently, including subpoena power and the authority to impose discipline up to and including terminating an officer for misconduct.
3. Report annually on the types of complaints received and their dispositions, and work collaboratively with community members and organizations to address issues and situations related to the community, even when official reprimand or discipline was not implemented.
4. Accept and investigate anonymous complaints, whether filed by the individual or by third parties/organizations on their behalf.



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