Racial & Identity Profiling Advisory Board

ANNUAL REPORT

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The Racial and Identity Profiling Advisory (RIPA) Board would like to thank the following staff from the California Department of Justice for their assistance and contributions to this report:

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The RIPA Board would like to thank this year's outgoing Board members Sheriff David Robinson, Micah Ali, Oscar Bobrow, Pastor J. Edgar Boyd, Andrea Guerrero, Edward Medrano, Douglas Oden, Timothy P. Silard, and Timothy Walker for their tremendous contributions and pioneering work on the Racial and Identity Profiling Advisory Board.

The RIPA Board looks forward to working with newly appointed Commissioner of the California Highway Patrol Amanda Ray, who will replace Commissioner Warren Stanley, who has retired from the California Highway Patrol after over 38 years of service. We will miss Commissioner Stanley and we wish him a long and happy retirement.

The RIPA Board thanks Alfred Palma from the California Department of Justice for his diligence and for serving as the travel coordinator to the Board since its inception.

The RIPA Board thanks the Commission on Peace Officer Standards and Training (POST) for its partnership and looks forward to continuing to build on this collaboration.

The RIPA Board thanks Jack Glaser, Ph.D., Professor, Goldman School of Public Policy, University of California, Berkeley; and Emily Owens, Ph.D., Professor, Department of Criminology, Law and Society and Department of Economics, University of California, Irvine, for their expertise and guidance in preparing this year's report.

The RIPA Board appreciates the participation of community members, advocates, members of law enforcement, researchers, and other stakeholders. Public participation is essential to this process, and the RIPA Board thanks all Californians who have attended meetings, submitted letters or email, and otherwise engaged with the work of the Board. We thank the public for continuing its engagement with the RIPA Board as we switched to a 100% virtual platform in light of the COVID-19 pandemic. We look forward to receiving the invaluable input from the public and hope to see you in person again in the near future.

The RIPA Board acknowledges the many challenges facing our communities in 2020, including COVID-19, and wishes everyone a happy and safe 2021!

EXECUTIVE SUMMARY

California's Racial and Identity Profiling Advisory Board (Board) is pleased to release its fourth Annual Report ("Report"). The Report provides recommendations from the Board for all stakeholders – law enforcement agencies, policymakers, Commission on Peace Officer Standards Training (POST), community members, and advocates – to push for policy reform, rooted in best practices, to help all law enforcement agencies eliminate racial and identity profiling and improve law enforcement and community relations. This year's Report analyzes, for the first time, a full year of Racial and Identity Profiling Act (RIPA) stop data, from January 1, 2019 to December 31, 2019, from Wave 1 and 2 agencies. In addition to analysis of the stop data, the Report provides recommendations that can be incorporated by law enforcement agencies to enhance their policies, practices, and trainings on topics that intersect with bias and racial and identity profiling.

Recommendations for Law Enforcement Agencies

Policies: The Board has drawn from a range of law enforcement, academic, governmental, and nonprofit organizations with expertise in addressing racial and identity profiling to provide recommendations to law enforcement agencies. These recommendations do not represent the full extent of best practices, but they provide a starting point upon which agencies can build.

Accountability is a key aspect for effective policing, especially with respect to the elimination of bias. This year's Report identifies the primary categories that make up accountability systems, and the Board hopes to continue its research with the goal of recommending best practices for each category in future years. The Report also continues the Board's work from its 2020 Report with a review of bias-free policing policies for Wave 2 agencies and a follow-up review of the changes made by Wave 1 agencies after last year's review.

The Report also contains recommendations related to calls for service. The Board provides an exemplar agency policy on preventing bias by proxy, provides ideas for protocols to approach calls for service that may be bias-based, and recommends that agencies adopt their own policy and train both dispatchers and officers on this important subject. For example, the Report discusses a research-based approach referred to as "adding friction" – or causing officers or community members to pause before reporting suspicious activity or initiating a stop – and discusses how that approach can help curb racial profiling. Moreover, the Report looks at how law enforcement agencies have historically responded to mental health crises and examines several types of crisis intervention strategies from around the country for law enforcement to consider with their community stakeholders.

Civilian Complaints: Agency-level information regarding the numbers of civilian complaints (2016-2019) is provided for Wave 1 and 2 reporting agencies. Additionally, the Board has included a review of the Wave 2 agencies' complaint forms, a discussion of Early Intervention Systems (EIS) to identify and "flag" at-risk behavior by officers and intervene where necessary, and a discussion of feedback received from law enforcement agencies regarding the actions they have taken in response to the Board's recommendations about complaint procedures.

The Board recommends that law enforcement agencies (LEAs) investigate all complaints fairly and thoroughly and communicate that commitment to the public. To achieve this, agencies must ensure members of the public and employees can easily submit complaints and that there is a system for recording and tracking them. The Board recommends that agencies identify ways to increase the community's involvement in considering the creation or expansion of independent civilian complaint review boards and community-centered mediation resources.

AB 953 Survey: To better understand how law enforcement has used the data analysis and recommendations presented by the Board in its last three reports, the California Department of Justice ("Department") surveyed Wave 1, 2 and 3 agencies. The survey also looked at how agencies engaged in RIPA data analysis and other actions taken by agencies to advance the goals of RIPA. The responses received from 25 of those agencies helped the Board to identify actions that LEAs are taking to advance the goals of RIPA.

Survey questions generally addressed the following areas:

- Use of Board recommendations and findings;

- Use of stop data for accountability purposes;

- Adoption of model bias-free policing policy language;

- Actions taken in response to best practices recommendations regarding civilian complaint procedures and forms; and

- Stop data analysis practices and resources.

The agency responses to the survey are presented throughout the Report and in Appendix E. The Board hopes that this information will be a valuable tool to help identify agency accountability and the positive ways that law enforcement has used the Board's Report to implement policy reform. For example, several law enforcement agencies reported that they reviewed the stop data with multiple levels of staff at their agencies and were using the Report to analyze concerning trends or patterns in their own stop data.

Recommendations for Community Members

The Report contains recommendations that advocates and community members can use to engage with policymakers and law enforcement to improve policies and accountability. The Board hopes that community members will work with law enforcement and policymakers to implement community-based solutions generally, and specifically, to respond to mental health related emergencies and develop community-centered approaches for responding to bias-based incidents. The Board encourages communities to engage with law enforcement to implement its recommendations for best practices for bias-free policing policies, civilian complaints, and accountability highlighted in the Report. The Board appreciates and thanks all of the members of the community for attending Board meetings and providing public comment and hopes community members will continue to provide the rich ideas and discussion at future meetings.

Recommendations for Policymakers

To reduce the disparities between groups who are more and less likely to come into contact with law enforcement, the Board urges policymakers to engage with impacted communities to prioritize housing, education, health care, and broader criminal justice system reforms, in addition to changes to law enforcement agency practices. The Board further recommends that policymakers fund and prioritize community-based solutions to respond to health-related emergencies and socioeconomic issues, such as being unhoused. In the Report, the Board has included eight examples of crisis intervention strategies. This research has laid the groundwork for the Board to develop best practices and model policy recommendations for crisis response in 2021. The Board recommends that the Legislature continue oversight of Mental Health Services Act funding and examine how counties are using Public Safety Realignment funding for community-based services instead of law enforcement activities to meet the rehabilitation goals under state law.

The Board recommends that policymakers require law enforcement agencies to adopt policies addressing bias by proxy and mandate basic training and continuing education courses on bias by proxy prevention for police dispatchers and officers. The Board recommends that policymakers strengthen data collection regarding bias-based calls for service, and study programs for responding to bias-based calls that focus on accountability and repairing the harms caused by these calls. Additionally, the Board recommends that the legislature increase the frequency with which in-service officers receive training to prevent racial and identity profiling practices.

Regarding civilian complaints, the Board renews its request for the legislature to address the conflict between state and federal law by amending Penal Code section 148.6, as the requirements set out by the Penal Code can have a chilling effect on the submission of civilian complaints.

Recommendations for POST

This year several Board members had the opportunity to review two trainings related to racial and identity profiling that were in the pre-production stage within POST, an independent state agency that is tasked with providing minimum selection and training standards for California law enforcement. One of the Board's statutory duties is to work with POST on training recommendations related to racial and identity profiling. This year, the Board recommends that POST emphasize the various perspectives of communities impacted by profiling. The training should include prominent components on officer accountability, officer reporting obligations and protections, and active bystander or peer intervention skills. The Board recommends that the training incorporate evidence-based research and data illustrating the disparate treatment of racial and other identity groups. The Board also recommends that officers receive training to mitigate the influence of bias on their behavior.

The Board reiterates the importance of dispatchers receiving mandatory training on how to identify and handle bias-based calls for service. The Board recommends that POST consider including a three-step protocol that includes "adding friction" for addressing bias-based calls for officer and dispatcher training.

The Board appreciates POST's participation at Board meetings and receiving POST's invitations to assist in the development of some of the trainings related to racial and identity profiling; however, the Board recommends formalizing a collaboration schedule, which will allow the Board to work closely with POST throughout the development and production process for future courses and course updates.

Potential Sources of Disparities Observed in the Stop Data

Consistent with the Board's mandate to evaluate and eliminate racial and identity profiling in policing, the Report explores several potential driving forces shaping the patterns of stop data disparities revealed in the last two years of data collection. The Report discusses explicit bias, including recent examples of racist social media postings by law enforcement officers, and how this unchecked explicit bias may lead to some of the stop data disparities we have observed. The Report further summarizes several studies that may explain how implicit biases may shape officers' interactions. Officers who are unaware of or not actively working to overcome their biases may consequently rely on them in their decision-making and interactions with the public and this could be a contributing factor in the disparities shown in the stop data. The Report contextualizes the issues of explicit and implicit biases within the larger systemic structural inequities that influence the frequency with which officers interact with people of certain races, ethnicities, or identities.

Given the multiple possible sources of disparities observed in the stop data, the Report encourages a multi-pronged approach and provides examples of ways agencies can reduce explicit and implicit bias. The Board also invites other stakeholders to think broadly – beyond the confines of law enforcement reform – about how to reduce inequities in other systems that directly or indirectly contribute to the disparities in the stop data.

Findings Regarding RIPA Stop Data

The 15 largest law enforcement agencies in California, referred to as Wave 1 and Wave 2 agencies in this Report, collected data on pedestrian and vehicle stops and submitted these data to the Department.[1] Reporting agencies collected data on 3,992,074 million stops between January 1, 2019 and December 31, 2019. The California Highway Patrol conducted the most stops (54.4%) of all reporting agencies, which was expected given the size and geographic jurisdiction of the agency and its primary mission with respect to highway safety. Below are some highlights from this year's analysis:

- Individuals perceived to be Hispanic (38.9%), White (33.1%), or Black (15.9%) comprised the majority of stopped individuals; officers stopped individuals of the other five racial/ethnic groups enumerated in the stop data form collectively in 12.1% of stops.

- Individuals perceived to be between the ages of 25 and 34 (32.3%) constituted the largest proportion of stopped individuals of any one age group.

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[1] Wave 1 agencies are the eight largest agencies in the state, which were required to start submitting stop data to the Department by April 1, 2019. Wave 2 agencies are the seven next largest agencies, which were required to start submitting stop data to the Department by April 1, 2020.

Race/Ethnicity

Hispanic 38.9%
White 33.1%
Black 15.9%
Asian 5.7%
Middle Eastern/ South Asian 4.7%
Multiracial 0.9%
Pacific Islander 0.5%
Native American 0.2%

Gender

Male 71.2%
Female 28.6%
Gender Nonconforming 0.06%
Transgender Man/Boy 0.08%
Transgender Woman/Girl 0.05%

Age

25-34 32.3%
35-44 21.9%
18-24 16.3%
44-54 15.5%
55-64 9.1%
65+ 3.7%
15-17 1.1%
10 – 14 0.2%
1 – 9 0.1%
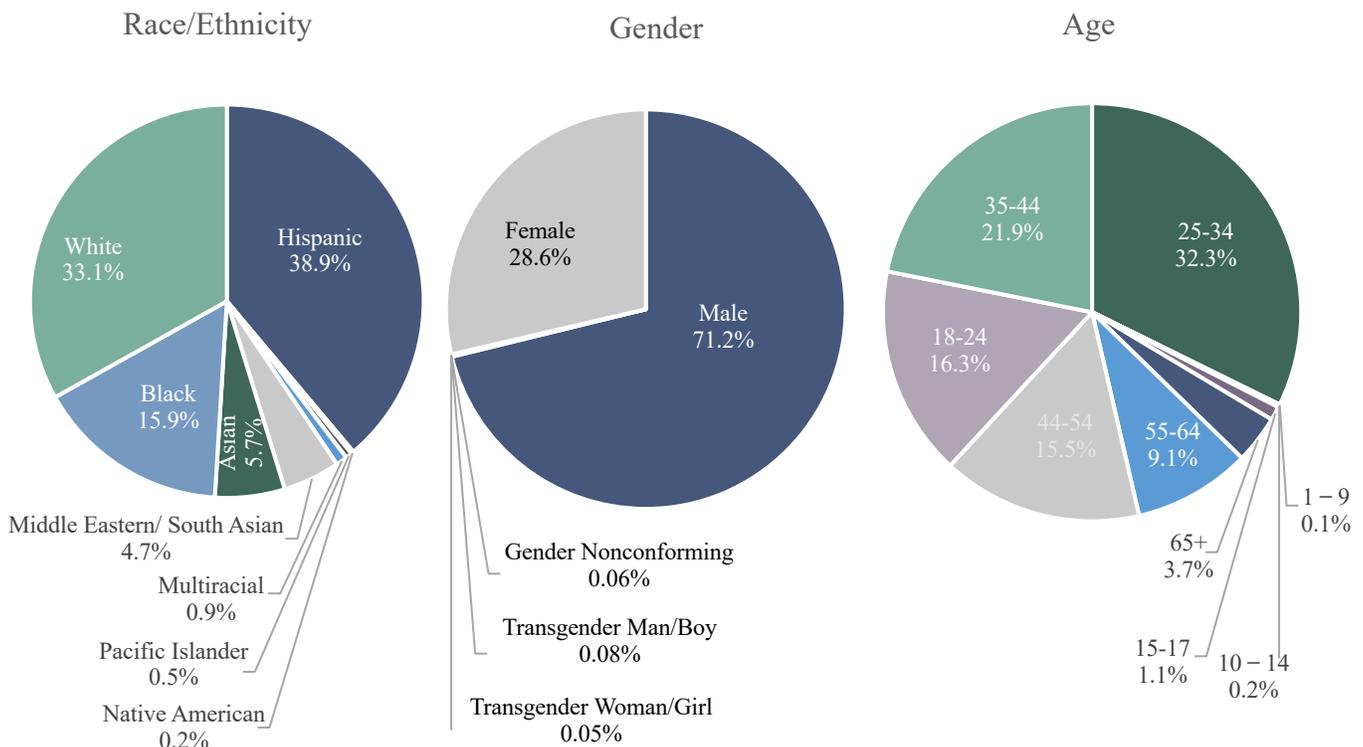
- Less than 1 percent of stopped individuals were perceived to be LGBT.

- Officers perceived 1.1 percent of the individuals they stopped to have one or more disabilities. Of those perceived to have a disability, the most common disability reported by officers was a mental health condition (63.3%).

- The most commonly reported reason for a stop across all racial/ethnic groups was a traffic violation (85.0%), followed by reasonable suspicion that the person was engaged in criminal activity (12.1%).

- Officers searched, detained on the curb or in a patrol car, handcuffed, and removed from vehicles more Black individuals than White individuals, despite stopping more than double the number of White individuals (1,322,201) than Black individuals (635,092).

Actions Taken By Officers During Stop
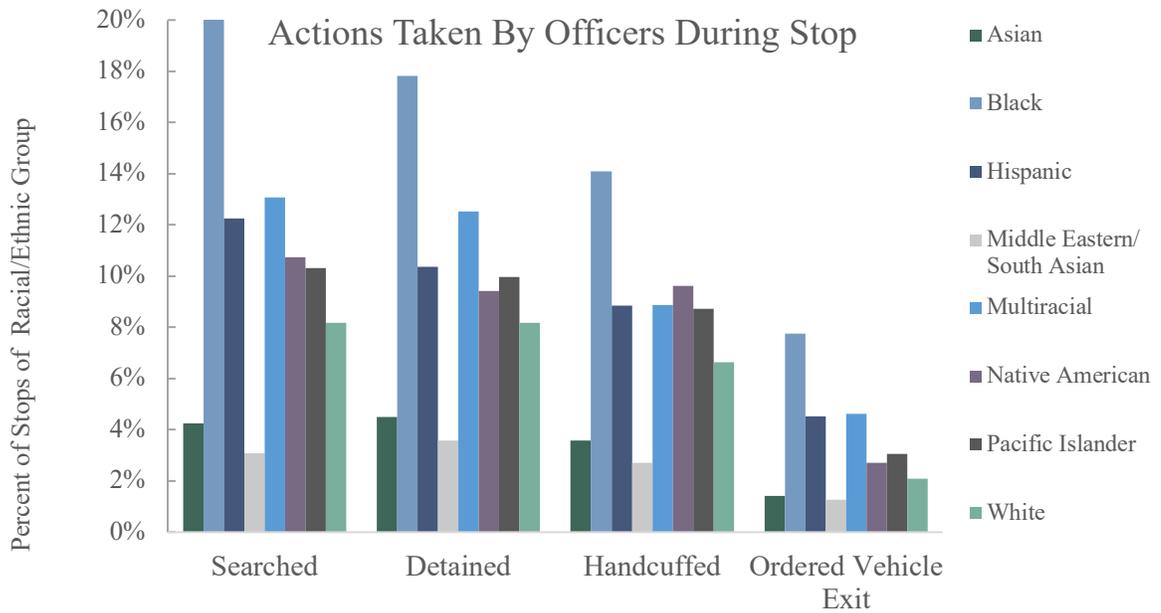
- To provide context for the racial distribution of stopped individuals, the Board compared the stop data distribution to residential population data from the United States Census Bureau from 2018, the most recent available year at the time of the analysis. Black individuals represented a higher proportion of stopped individuals than their relative proportion of the population in the ACS dataset.
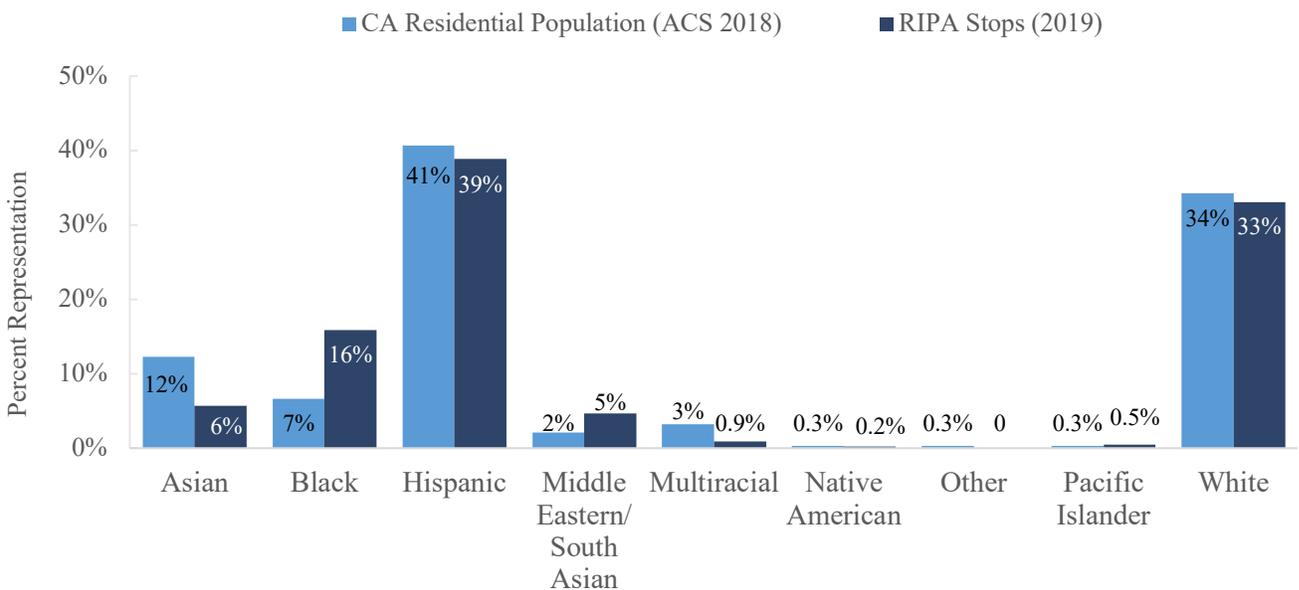
- Results of the Veil of Darkness analysis indicated that darkness (when it is presumably more difficult to perceive an individual's identity) decreased the rates at which Black and Hispanic individuals were stopped compared to White individuals.

- Black and Hispanic individuals were more likely to have force used against them compared to White individuals, while Asian and other individuals were less likely. Specifically, compared to White individuals, the odds of having force used during a stop were 1.45 times and 1.18 times greater for Black and Hispanic individuals, respectively, than White individuals. The odds of force being used during stops of Asian or Other individuals were 0.83 and 0.93 times lower, respectively, compared to White individuals.

Odds of Having Force Used Compared to White Individuals
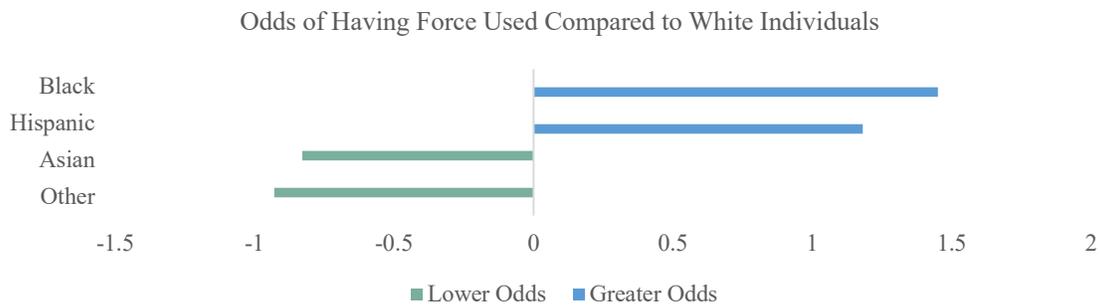
- Search discovery rate analyses showed that individuals perceived as Black, Hispanic, and Native American had higher search rates despite having lower rates of discovering contraband compared to individuals perceived as White.
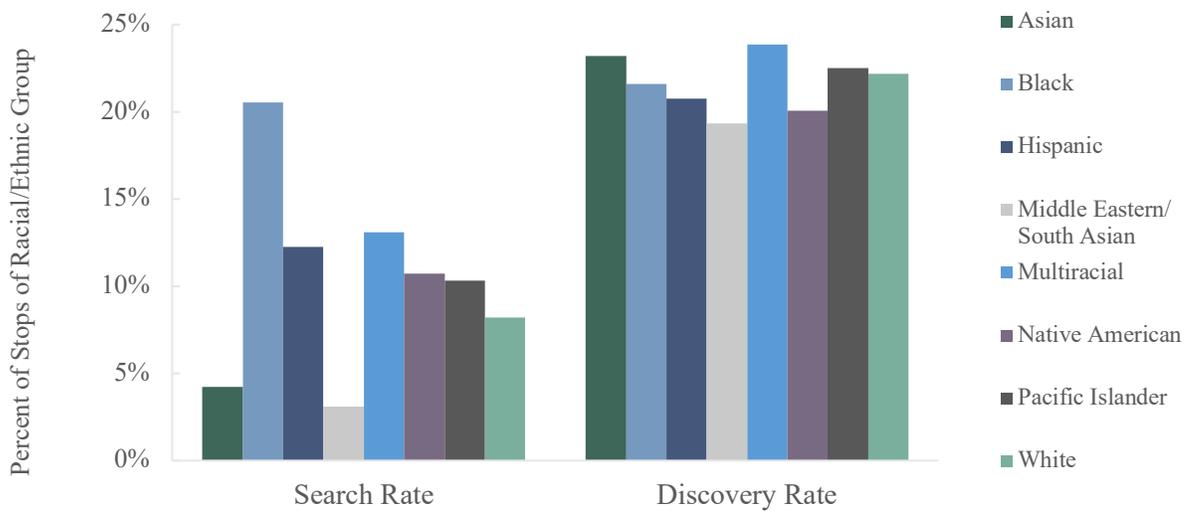
- A vast majority of stopped individuals were perceived as either (cisgender) male (71.2%; 2,841,218) or (cisgender) female (28.6%; 1,143,261), with all other gender groups collectively constituting less than 1 percent of the data. Within each gender group, Black and Hispanic cisgender males and cisgender females had higher search rates but lower discovery rates in comparison to White cisgender males and females. Black and Hispanic transgender/gender nonconforming individuals had higher search and discovery rates than White transgender/gender nonconforming individuals.
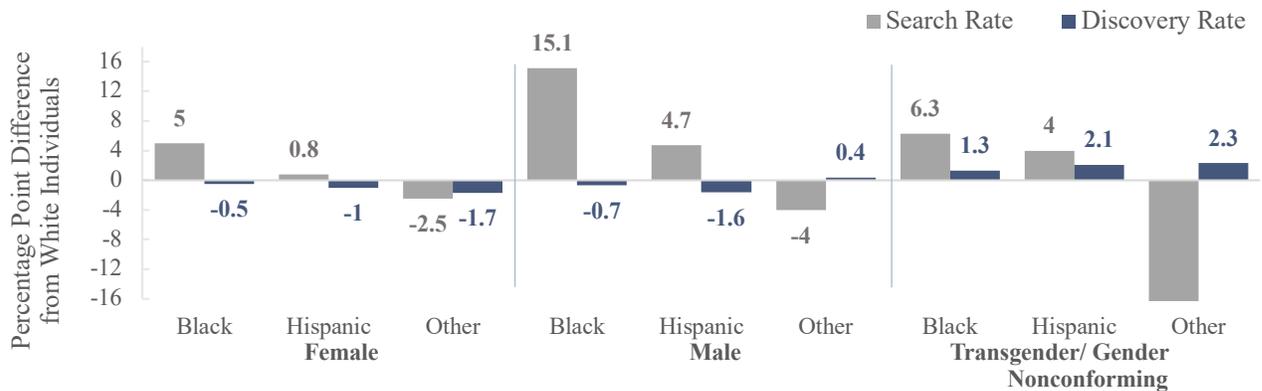
Legend: ■ Search Rate ■ Discovery Rate

Y-axis: Percentage Point Difference from White Individuals

Values by group:

Female:
- Black: 5, -0.5
- Hispanic: 0.8, -1
- Other: -2.5, -1.7

Male:
- Black: 15.1, -0.7
- Hispanic: 4.7, -1.6
- Other: -4, 0.4

Transgender/ Gender Nonconforming:
- Black: 6.3, 1.3
- Hispanic: 4, 2.1
- Other: (negative), 2.3

- In comparison to White individuals (47.0%), individuals from all other racial/ethnic groups (Black, Hispanic, and Other) perceived to have a mental health condition had higher search rates (52.8% - 56.3%). Black and Hispanic individuals perceived to have other types of disabilities had higher search rates than White individuals perceived to have other types of disabilities.   Additionally, Black and Hispanic individuals perceived to have no disability had higher search rates in comparison to White individuals perceived to have no disability.

- The proportion of searched individuals that fall within each age category generally decreases as the age categories get higher; officers perceived over 50% of individuals they searched to be less than 40 years old, and over 80% of individuals they searched to be less than 55 years old. Black individuals were searched at the highest rate of all the race/ethnicity groups for all age categories. For the younger age groups, racial/ethnic disparities were larger, while disparities in search discovery rates were smaller. The data show that officers searched younger Black and Hispanic individuals at rates that were disproportionately high when compared to younger White individuals, despite discovering contraband or evidence from younger Black, Hispanic, and White individuals during a comparable proportion of these stops.

Search Rates by Race/Ethnicity and Age
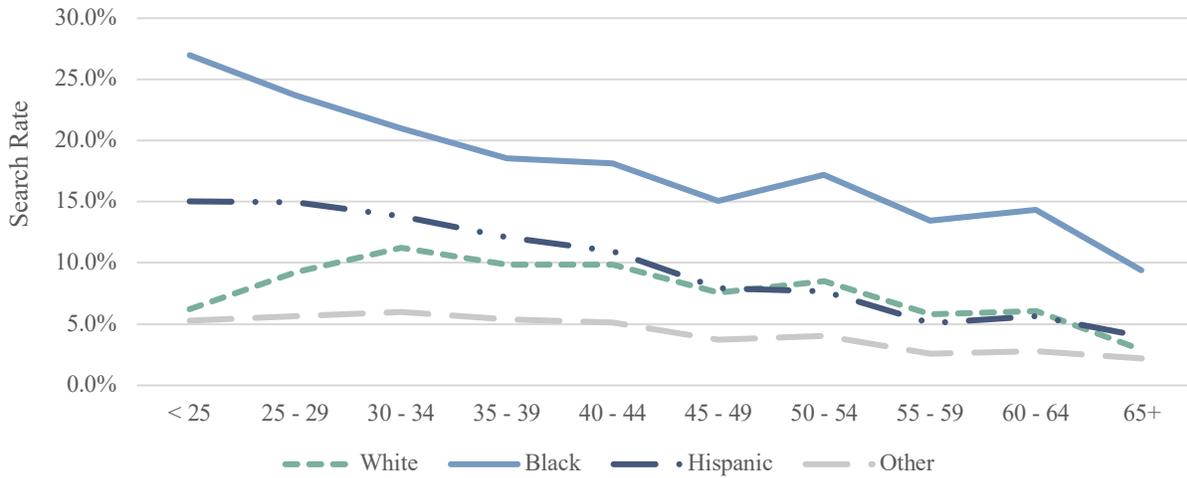
Discovery Rates by Race/Ethnicity and Age
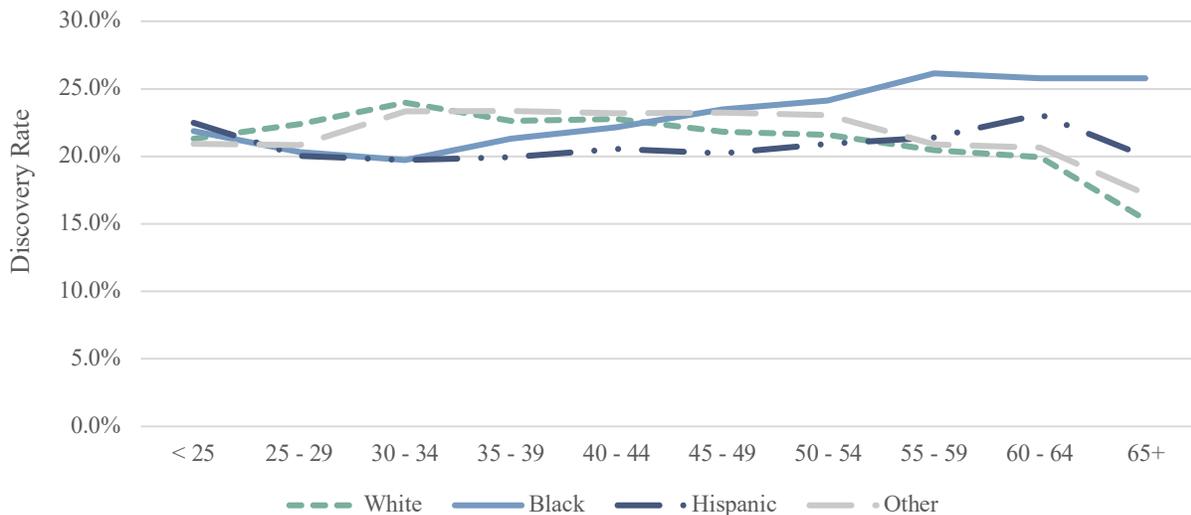
- The proportion of stopped individuals whom officers asked for consent to perform a search varied widely between racial/ethnic groups, from a low of 0.7% of Middle Eastern/South Asian individuals to a high of 5.1% of Black individuals. Officers asked for consent to search Black individuals (5.1%) at twice the rate that they asked White individuals (2.5%). Officers also performed "consent only" searches (where the only basis for the search was that the stopped individual provided consent) of Black individuals (2.4%) at a rate twice the rate they performed these consent only searches of White individuals (1.2%). Despite having higher consent only search rates than White

individuals, Black and Hispanic individuals had lower rates of discovery of contraband or evidence for consent searches than White individuals.
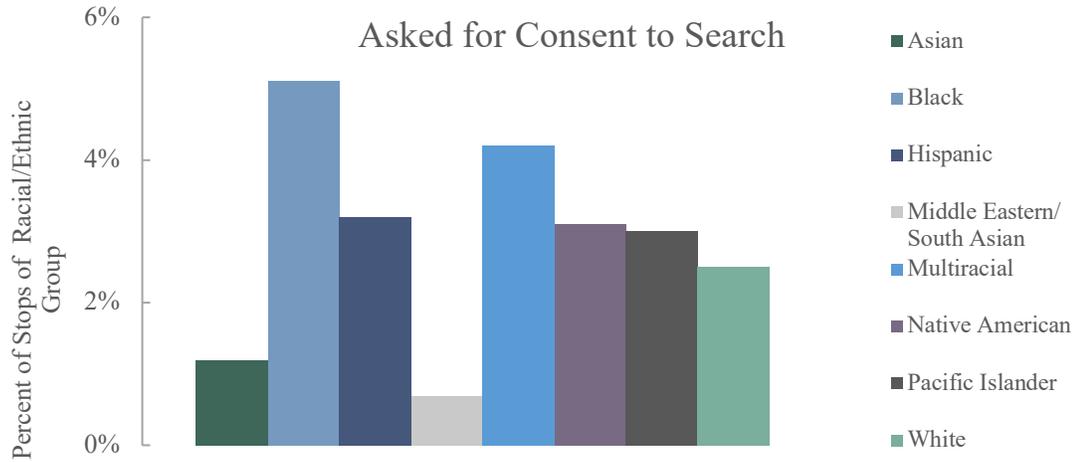
Asked for Consent to Search

Legend:
- Asian
- Black
- Hispanic
- Middle Eastern/South Asian
- Multiracial
- Native American
- Pacific Islander
- White

Y-axis: Percent of Stops of Racial/Ethnic Group (0% to 6%)

- Stopped individuals perceived to be Black had the highest proportion of any racial/ethnic group stopped based on the officer's knowledge that the person was on probation, parole or other supervised status (1.2%), while Middle Eastern/South Asian individuals (0.1%) had the lowest proportion. The proportion of stopped individuals whom officers reported they searched based solely upon a search condition of supervision varied between racial/ethnic groups, from a low of 0.2% of Middle Eastern/South Asian individuals to a high of 3.4% of Black individuals. The discovery rates for these condition-of-supervision searches were lower for all racial/ethnic groups of color than they were for White individuals.

Discovery Rate Differences from White Rate for Known Supervision Searches

Y-axis: Percentage Point Difference from White Individuals (-9 to 3)

X-axis categories: Asian, Black, Hispanic, Middle Eastern/South Asian, Multiracial, Native American, Pacific Islander
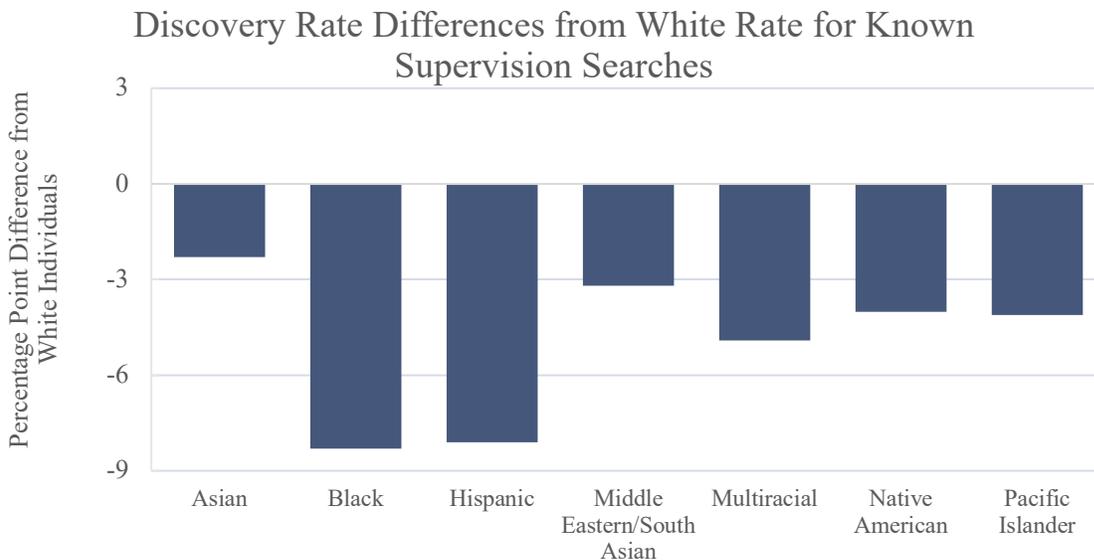
Findings Regarding Civilian Complaint Data

The Report includes an analysis of complaints of racial or identity profiling received in 2019 by the 452 law enforcement agencies subject to RIPA's stop data reporting requirements. Of these agencies, 146 (39.7%) reported 1,153 complaints alleging racial or identity profiling, 955 of which reached disposition in 2019. The figure below displays the proportions of complaints reported by stop data reporting agencies that reached disposition in 2019 broken down by disposition type.

Disposition Distribution of 2019 Complaints

Total Complaints that reached a Disposition 2019

Unfounded, 4301, 49%
Sustained, 971, 11%
Exonerated, 2529, 29%
Not Sustained, 922, 11%

Total Racial and Identity Profiling Complaints that reached a Disposition in 2019

Sustained, 19, 2%
Exonerated, 123, 13%
Not Sustained, 97, 10%
Unfounded, 716, 75%
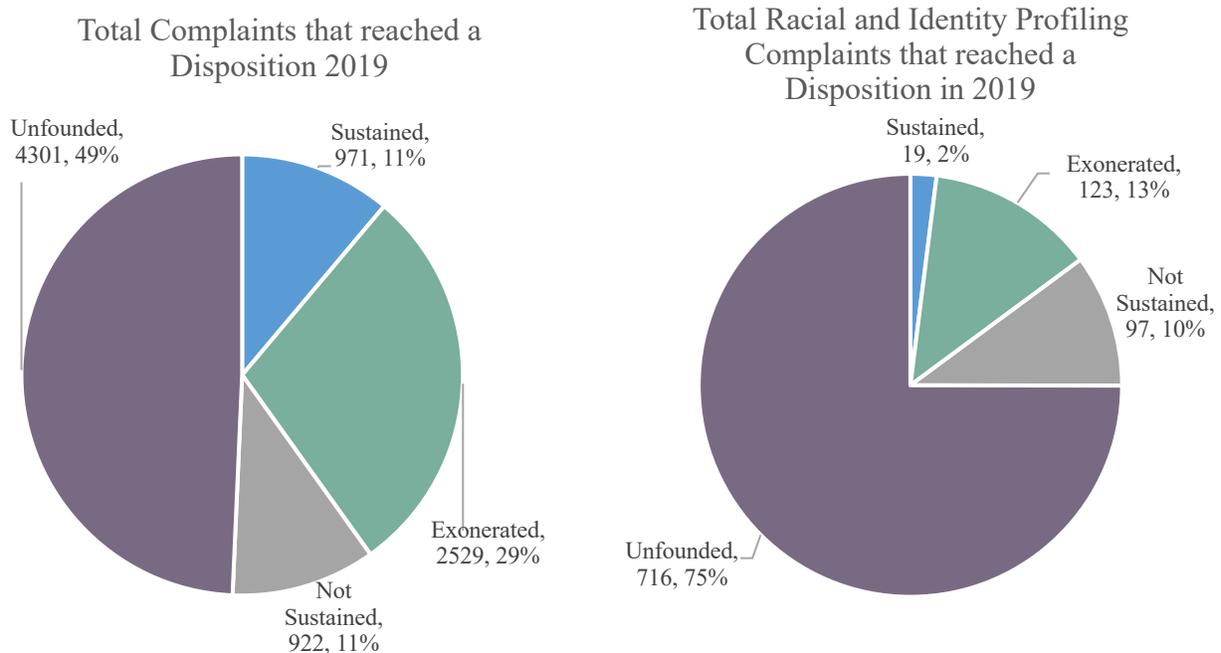
Complaint Disposition Key

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

Exonerated: investigation clearly established that employee's actions that formed basis of allegations in complaint were not a violation of law or agency policy.

Not sustained: investigation failed to disclose sufficient evidence to clearly prove or disprove complaint's allegation.

Unfounded: investigation clearly established that allegation is not true.

Agency-Level Data Snapshot: 2019 Civilian Complaints for Wave 1 and 2 Agencies

Table 1 displays civilian complaint totals broken down for Wave 1 and 2 agencies. The table provides the following information: the total number of complaints reported; the number of complaints reported alleging racial or identity profiling; and the number of sworn personnel each agency employed in 2019.[2]

Table 1: Complaints Reported in 2019 by Agency

Reporting Wave	Agency	Total Complaints Reported	Total Profiling Complaints Reported	Total Sworn Personnel
1	California Highway Patrol	353	21	7,230
1	Los Angeles County Sheriff's Department	1,010	68	9,565
1	Los Angeles Police Department	2,205	426	10,002
1	Riverside County Sheriff's Department	33	0	1,788
1	San Bernardino County Sheriff's Department	113	39	1,927
1	San Diego County Sheriff's Department	214	74	2,601
1	San Diego Police Department	102	25	1,764
1	San Francisco Police Department	842	0	2,279
2	Fresno Police Department	231	13	806
2	Long Beach Police Department	182	9	817
2	Oakland Police Department	1,215	36	740
2	Orange County Sheriff's Department	129	11	1,888
2	Sacramento County Sheriff's Office	205	5	1,348
2	Sacramento Police Department	146	6	678
2	San Jose Police Department	205	36	1,150

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[2] Sworn personnel totals are calculated from the information contained within the Law Enforcement Personnel file available at https://openjustice.doj.ca.gov/data. The DOJ collects the Law Enforcement Personnel data through a one-day survey taken on October 31 of each reporting year.

Conclusion

The Board remains committed to fulfilling the promise of the Racial and Identity Profiling Act to eliminate racial and identity profiling and improve law enforcement-community relations. The stop data results demonstrate there is significant work to be done to prevent further disparities in who is stopped, how they are treated when stopped, and the outcomes of those stops. The Board hopes that all stakeholders will review its data analyses and recommendations – rooted in evidence-based best practices – regarding bias-free policing, bias by proxy, civilian complaint processes and forms, accountability, and early intervention, and explore crisis intervention models to inform data-driven policy and practice reforms.

INTRODUCTION

"A man dies when he refuses to stand up for that which is right. A man dies when he refuses to stand up for justice. A man dies when he refuses to take a stand for that which is true."

– Martin Luther King Jr.

It has now been five years since the passage of the Racial and Identity Profiling Act of 2015 and more than four years since the Racial and Identity Profiling Advisory (RIPA) Board first convened to begin its work to eliminate racial and identity profiling and improve diversity and racial and identity sensitivity in law enforcement.[3] The RIPA Board began its work in July of 2016 amidst a backdrop of painful high-profile shootings involving the police. Even though years have passed and important reforms were enacted, we find ourselves in a similar position today, facing more painful incidents of officer shootings and excessive force disproportionately affecting Black, Indigenous, and other people of color. As our nation is grappling with these incidents and the crisis due to the COVID-19 global pandemic, our country is in a pivotal time.

The work to eliminate racial and identity profiling, as well as improve law enforcement and community relations, is continuous. From its inception, the RIPA Board laid an important foundation for collecting data on police behavior during stops, reviewing complaint processes, analyzing police training courses, reviewing law enforcement policies on bias, and addressing emerging practices regarding calls for service, bias by proxy, gender equity, and the deployment of police to respond to people experiencing mental health crises.

Given the current climate in our country, we recognize now more than ever the urgency of the RIPA Board's pioneering work on the elimination of bias and racial profiling in policing. With several new members joining our Board this year, we are well poised to continue the work before us. The Board is comprised of academics, community representatives, clergy, policy and legal advocates, and law enforcement leaders, who not only create a forum for the Board and the public to discuss strategies for improving police practices, but also put those strategies into practical solutions. The Board's work is enhanced by the diverse perspectives, backgrounds, and areas of expertise of its members. Together, the Board and its stakeholders share the common goals of improving law enforcement-community relations, building trust, making policing equitable, and striving to make all Californians feel respected and safe. This mission can only be achieved through collaboration, transparency, and accountability. The Board's goal is to drive policy to reform policing and positively impact everyone.

Law Enforcement's Role in History

Law enforcement agencies and officers serve an important public safety role in our society, but over the course of history, the role of police has expanded more and more into addressing underlying social problems and inequities in our communities.[4] Author Alex S. Vitale posits that part of our misunderstanding about the nature of policing is that we cannot turn police officers

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[3] Cal. Pen. Code, § 13519.4, subd. (j)(1).

[4] Donella, *How Much Do We Need the Police*, NPR (June 3, 2020) <https://www.npr.org/sections/codeswitch/2020/06/03/457251670/how-much-do-we-need-the-police> (as of Dec. 14, 2020).

into friendly community outreach workers when police have the legal capacity to use violence in situations where the average citizen would be arrested.[5] Thus, when our policymakers delegate certain community caretaking functions, the use of violence increases, because police are trained and equipped to utilize tools of force: control holds, handcuffs, pepper spray, electronic stun weapons, and guns, ultimately leading to arrest and incarceration.[6]

Given the nature of policing in the United States, it is not much of a leap to understand why many individuals have a fear of police, and, as such, this fear should be a part of the discussion about policing in this country. This fear is experienced, spoken about, and passed on from generation to generation, and it is very real, especially for Black, Indigenous, and other people of color. Some of this fear stems from the history of policing in this country, and in particular, Slave Patrols, which were in effect from 1704 in some southern states until the end of the Civil War.[7] The duties of those officers were to uphold the institution of slavery to benefit the White majority, and their policing activities included searching quarters, dispersing gatherings, and preventing and suppressing uprisings of enslaved people.[8] Southerners began to see Slave Patrols as the true instrument of law enforcement,[9] and their role was to oppress enslaved Black people to protect the property rights of Whites without regard for the welfare of Black Americans.

Throughout American history, law enforcement has also been deployed in other contexts to enforce unjust laws and policies, including the forcible removal of Indigenous communities from their native lands, the arrest of suffragettes working for women's right to vote,[10] Japanese internment,[11] the criminalization of the LGBTQ community,[12] and the targeting of immigrants by local and federal authorities.[13] In addition, there are numerous examples of law enforcement officers meeting peaceful protestors with force and aggression.[14] The use of law enforcement to suppress the rights of marginalized and disempowered groups is a thread that has unfortunately continued for centuries in America, and it is often felt most significantly by heavily-policed communities. Both these images of police misconduct and the history of law

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[5] *Ibid*.

[6] *Ibid*.

[7] Kappeler, *A Brief History of Slavery and the Origins of American Policing*, Eastern Ky. U. (Jan. 7, 2014) <https://plsonline.eku.edu/insidelook/brief-history-slavery-and-origins-american-policing> (as of Dec. 14, 2020); see also Waxman, *How the U.S. Got its Police Force*, Time (May 18, 2017) <https://time.com/4779112/police-history-origins/> (as of Dec. 14, 2020) (policing in American developed differently depending on the region and community [rural/urban]).

[8] Hansen, *Slave Patrols: An Early Form of American Policing* (July 10, 2019) National Law Enforcement Museum <https://lawenforcementmuseum.org/2019/07/10/slave-patrols-an-early-form-of-american-policing/> (as of Dec. 14, 2020).

[9] *Ibid*.

[10] Wild, *c. 1910-1920 Suffragettes vs. Police: The Women Prepared to go to Prison for the Vote* (Jan. 12, 2015) Mashable. <https://mashable.com/2015/01/12/suffragettes-vs-police/> (as of Dec. 14, 2020).

[11] See, e.g., *Korematsu v. United States* (1944) 323 U.S. 214.

[12] See, e.g., *Bowers v. Hardwick* (1986) 478 U.S. 186; History, *Stonewall Riots* (June 26, 2020) <https://www.history.com/topics/gay-rights/the-stonewall-riots> (as of Dec. 14, 2020).

[13] National Immigration Law Center, *SB 1070 Four Years Later* (April 23, 2014) <https://www.nilc.org/issues/immigration-enforcement/sb-1070-lessons-learned/> (as of Dec. 14, 2020); National Immigration Law Center, *President Trump's Raids on Immigrant Communities* (Feb. 27, 2017) <https://www.nilc.org/issues/immigration-enforcement/trump-raids-on-immigrant-communities/> (as of Dec. 14, 2020).

[14] *What the 1960s can teach us about modern-day protests* (Interview with Omar Wasow, Professor at Princeton U.), NPR News Hour (May 31, 2020) <https://www.pbs.org/newshour/show/what-the-1960s-can-teach-us-about-modern-day-protests> (as of Dec. 14, 2020).

enforcement's role in American society from its inception remain in the forefront of the public's mind.

Today's law enforcement personnel did not create these historical fears in our communities, yet the fear exists. In order to repair and heal those wounds, police must acknowledge and work within the context of that negative history and systemic violence that has and continues to be directed at marginalized communities. Our police and our communities can, however, change that fear with every interaction. Respect and dignity among individuals should prevail even if someone is taken into custody.

The Board's hope is that fear, panic, dread, anxiety, and distrust will not continue to be the first emotions that arise when an individual sees someone in a police uniform. We raise this dark history because systemic change is not solely about reactive policy change; it also requires a long-term commitment to reconsider the way things have been done and develop new models to move forward.

The Call for Justice

The year 2020 has been unprecedented in so many respects, but in particular with respect to widespread frustration against law enforcement. In March, Breonna Taylor was killed in her Louisville, Kentucky apartment as she lay asleep in bed when officers entered her home in a botched "No Knock" search warrant. The month of May brought the horrific death, captured on video, of George Floyd in Minneapolis, Minnesota.[15] In June, Rayshard Brooks was killed by police in Atlanta, Georgia, and in August, Jacob Blake was shot multiple times in the back and partially paralyzed in Kenosha, Wisconsin. These acts of violence all resulted in protests, curfews, backlash, and calls from the community for justice.

This year we have seen unprecedented numbers of people marching across the globe in support of Black Lives Matter. Law enforcement agencies, academics, governmental entities, community members, and advocates have begun to examine their own biases and how to implement reforms, fund community-based solutions, and engage in other actions that will result in a more inclusive society. Local, state, and federal governments have made commitments to listen – but it will take bold action at all levels of government to change the core problems that lead to systemic injustice.

How Data Can Create Change

The RIPA Board's analysis of the data collected will help identify racial and identity profiling and inform concrete actions or policies that can eliminate disparities. Law enforcement agencies and officers are required to submit information on stops made by officers, including their perceptions regarding the identities of the persons stopped, actions taken during the stops, and the stops' outcomes. In this year's annual report, as in previous years, the RIPA Board shares

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[15] Officer Chauvin, who is White, kept his knee on Mr. Floyd's neck for at least eight minutes and 15 seconds. A video analyzed by the New York Times shows that Chauvin did not remove his knee even after Mr. Floyd lost consciousness and for a full minute and 20 seconds after paramedics arrived at the scene. (Hill et al., *How George Floyd Was Killed in Police Custody*, New York Times (May 31, 2020) <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html> (as of Dec. 14, 2020).

detailed findings for the public, law enforcement, and other government officials, including analyses, review, and recommendations regarding:

- Civilian complaint data associated with stops made by officers;

- Law enforcement training on racial and identity profiling;

- Policies and practices used by law enforcement agencies across the state; and

- Evidence-based research on the impact of implicit bias and explicit bias in policing.[16]

The data collected includes several categories: 1) information regarding the stop, 2) information regarding the officer's perception of the person stopped, and 3) information regarding the officer themselves. Table 1 shows in detail each element officers are required to report.[17]

Table 1: Officer Reporting Requirements

Information Regarding Stop
1. Date, Time, and Duration
2. Location
3. Reason for Stop
4. Was Stop in Response to Call for Service?
5. Actions Taken During Stop
6. Contraband or Evidence Discovered
7. Property Seized
8. Result of Stop

Information Regarding Officer's Perception of Person Stopped
1. Perceived Race or Ethnicity
2. Perceived Age
3. Perceived Gender
4. Perceived to be LGBT
5. Limited or No English Fluency
6. Perceived or Known Disability

Information Regarding Officer
1. Officer's Identification Number
2. Years of Experience
3. Type of Assignment

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[16] Cal. Pen. Code, § 13519.4, subd. (j)(3)(D).

[17] For more information on the specific data collected, see State of California Department of Justice (2017) AB 953: Template Based on the Final Regulations <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/regs-template.pdf> (as of Dec. 14, 2020).

This is the first year the Board has a full year's worth of data collected from the 15 largest law enforcement agencies in California regarding the perceived race or identity of the person stopped. We hope law enforcement across the state will use the RIPA stop data and the Board's recommendations and analyses to strengthen their policies and practices — and, in turn, better serve our communities. In the coming years, nearly every law enforcement agency within the state of California will be responsible for collecting this information.

Table 2: Collection and Reporting Deadlines by "Wave"

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

The findings in this year's report show similar disparities to last year's report and reveal some key findings. In stops with discretionary searches, it was more probable for Black and Hispanic individuals to be searched compared to White individuals, despite also being less likely to be found in possession of contraband or evidence. In other words, officer searches of non-White individuals tended to be less successful at finding contraband or evidence, even though they were searched more often. Black individuals not only had the highest rate of being searched by police, but also the highest rate of being detained on the curb or in a patrol car, handcuffed, and removed from a vehicle by order.

This report provides a unique opportunity and obligation for a public Board like the RIPA Board to speak and to act. Now is the time for bold and aggressive leadership by law enforcement Chiefs, Sheriffs, and Commissioners to use this data and their resources to help reduce the inequality and adverse outcomes experienced by individuals because of their race, ethnicity, identity, or disability. It also provides opportunities for legislators to make needed legislative changes identified by the Board. With new data coming in every year, it is time to redouble our efforts for the future. The time is now to build on the foundation laid by the Board and push forward to create the changes our communities demand. The RIPA Board will continue to be vigilant, visible, and outspoken in working towards this change.

EXPLICIT BIAS, IMPLICIT BIAS, AND OTHER DRIVING FORCES FOR STOP DATA DISPARITIES

The RIPA Board's mandate is to evaluate and eliminate racial and identity profiling in policing. Penal Code section 13519.4 subdivision (e) defines racial and identity profiling as "the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description."

How we understand the problem of racial and identity profiling shapes where we look for solutions, and therefore, it is critical to evaluate the factors that give rise to disparities in the first place. RIPA stop data collected in 2018 and 2019 reveal patterns of disparities in law enforcement interactions with civilians. As revealed in the 2020 report, individuals perceived to be Black were searched at nearly three times the rate of individuals perceived to be White.[18] Similarly, officers arrested individuals perceived to be Black at nearly 1.6 times the rate as individuals perceived to be White.[19] In order to encourage lasting, holistic, and proactive policy change, it is important to confront the driving forces behind such disparities. Below the Board looks at two likely driving forces – implicit and explicit biases.

Implicit Bias

Implicit biases held by law enforcement officers may explain differential treatment of certain races and identity groups. Implicit biases arise from the natural functioning of the human brain and refer to the beliefs or attitudes a person holds that can shape their understanding, actions, and decisions in an unconscious manner.[20] Relying on their implicit biases, individuals may make unconscious associations in an attempt to quickly make sense of a complex, highly evolving environment.[21]

Implicit biases are shared by the general public and, in recent years, they have become a common part of the national dialogue on race and law enforcement reform. When implicit biases are rooted in negative stereotypes of particular races, ethnicities, or other identities, they may cause people to act in ways that can have a negative impact on others. This is true even if a person's implicit bias conflicts with their consciously-held or self-professed beliefs.[22]

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[18] See Racial and Identity Profiling Advisory Board, Supplemental Technical Report 2020 ("2020 RIPA Technical Report") (2020) p. 10 <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-tech-report-2020.pdf> (as of Dec. 14, 2020).

[19] *Id.* at p. 45.

[20] Bennett, *Introduction to Implicit (Unconscious) Bias* (2019) 89 The Advoc. (Texas) 35, 35.

[21] Krieger Hamilton, *The Content of Our Categories: A Cognitive Bias Approach to Discrimination and Equal Employment Opportunity* ((1995) 47 Stan. L. Rev. 1161, 1187 [citing Vinacke, *Stereotypes As Social Concepts* (1957) 45 J. Soc. Psychol. 229, 229].

[22] Richardson, *Police Efficiency and the Fourth Amendment* (2012) 87 Ind. L.J. 1143, 1148.

In the context of policing, implicit biases may help explain some of disparities seen in stops.[23] For example, studies show that people's attention is drawn more quickly to Black individuals, especially young Black men, than to White individuals.[24] Researchers reason that this "attentional bias" relates to people's unconscious belief – formed as the result of inaccurate societal messaging, policies, and practices – that Black men are threatening,[25] and people pay more attention to faces that are stereotypically associated with threat.[26] Relatedly, researchers have also observed that when White participants view Black faces, there is increased activity in the regions of the brain associated with threat and fear processing, disgust reactions, and social stereotyping.[27] This attentional bias and brain activity associated with threat and fear, among other processes, may explain disproportionate stops of Black individuals in some jurisdictions. That is, officers may have an attentional bias towards Black individuals, and may experience brain activity associated with threat and fear processing, which causes the officers to pay more attention to Black individuals and, in turn stop them at disproportionate rates.

Another study of more than 950 online participants demonstrated that people inaccurately perceive Black men as larger, and for some participants, as more threatening than similarly-sized White men.[28] In these types of studies, the race of the participant typically does not have much of an impact as to the perception of Black men's size, reflecting that what is affecting a person's perception is *exposure* to the stereotype (e.g., from having lived in a society that has created and broadly reinforced negative stereotypes about certain identities) rather than necessarily agreeing with the stereotype on a conscious level.[29] In one experiment, researchers showed participants a series of color photographs of White and Black male faces and asked them to estimate each man's height and weight based on the face alone.[30] Participants – regardless of race – estimated the Black men to be larger than White men.[31] White participants also judged the Black men as more capable of harm.[32] Participants, in turn, judged that use of force against Black men was more justified than the force used against White men.[33] In

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[23] Our discussion generally focuses on implicit bias as it relates to Black and White individuals because research has primarily focused in that area. The Board acknowledges there is a significant need for research on implicit bias as it relates to people of other races, ethnicities, and identities.

[24] Richardson, *Police Efficiency and the Fourth Amendment* (2012) 87 Ind. L.J. 1143, 1150 [citing Trawalter, et al., *Attending to Threat: Race-Based Patterns of Selective Attention* (2008) 44 J. Experimental Soc. Psychol. 1322, 1324].

[25] *Ibid*.

[26] Guillermo, et al., *Attentional Biases Toward Latinos* (2016) 38 Hisp. J. of Behav. Sci., 264, 274 <http://psych.colorado.edu/~jclab/pdfs/Guillermo%20&%20Correll%20(2016)%20attention%20to%20latinos.pdf > (as of Dec. 14, 2020).

[27] Specifically, the amygdala, the anterior insula, and the anterior temporal lobe regions of the brain—which are involved in threat processing, disgust reactions, and social stereotyping, respectively—are activated when White participants view Black faces. Salmanowitz, *Unconventional Methods for A Traditional Setting: The Use of Virtual Reality to Reduce Implicit Racial Bias in the Courtroom* (2016) 15 U.N.H.L. Rev. 117, 123 [citations omitted].

[28] See generally Wilson, et al., *Racial Bias in Judgments of Physical Size and Formidability: From Size to Threat* (2017) 113 J. Personality and Soc. Psychol. 59.

[29] *Id.* at pp. 74-75.

[30] *Id.* at p. 63.

[31] *Id.* at pp. 70-71.

[32] *Id.* at pp. 69-70. Notably, Black participants did not judge Black men as more capable of harm, leading researchers to posit that while Black participants hold onto the same "size stereotypes," they do so without the "associated group-based threat." *Id*. at 70. In other words, "Black targets presumably are judged [by Black participants] as larger merely as a result of stereotypes, and not because of a threat looming mechanism." *Id*.

[33] *Id.* at pp. 70-71.

another experiment, participants estimated men with darker skin and more "prototypically" Black facial features to be larger than similarly-sized men with lighter skin and less "prototypically" Black facial features.[34] These results suggest that societal messaging can affect what an individual may unconsciously perceive to be true or not true about a particular group.

Other studies have also shown that people implicitly and inaccurately associate Black individuals with crime, due to broader societal messaging, policies, and practices that shape unconscious biases. Priming people with an image of a Black person's face sped up participants' visual processing of crime-related objects, while priming them with an image of a White person's face slowed down their processing of those same crime-related objects. [35] Specifically, researchers studied how long it took White male participants to recognize blurred objects slowly becoming clearer after they were first subliminally primed with either White faces or Black faces (e.g., were shown the images so quickly as to not be able to consciously report having even seen them). It took participants less time to recognize crime-related objects (e.g., knife or gun) after they viewed Black faces than after they viewed White faces.[36] Moreover, this association between Black individuals and crime is bidirectional; "Black faces and Black bodies can trigger thoughts of crime, [and] thinking of crime can trigger thoughts of Black people."[37]

These unconscious negative responses to Black individuals may conflict with a person's consciously-held beliefs[38] and may shape a variety of law enforcement interactions. For example, an officer may not have racist views toward Black individuals, but nonetheless may stop this group more frequently because the officer is acting on unchecked implicit bias that causes them to pay closer attention to Black individuals even if there is no criminal behavior.[39] Indeed, the RIPA 2019 stop data shows that the search rates for Black individuals were higher than for White individuals, despite the fact that the discovery rate of contraband/evidence was higher for White individuals.[40] This suggests that officers suspect Black individuals of carrying weapons more frequently than White individuals and thus search Black individuals at a higher rate even if the data does not support such an association.[41]

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[34] Wilson, et al., Racial Bias in Judgments of Physical Size and Formidability: From Size to Threat (2017) 113 J. Personality and Soc. Psychol. 59, 70-72.

[35] "'Priming' is a cognitive phenomenon that reveals how exposing people to photos, symbolic representations, or members of stereotyped groups activates a vast network of stereotypes about that group. Psychologists define priming as the incidental activation of knowledge structures, such as trait concepts and stereotypes, by the current situational context." Smith, et al., *The Impact of Implicit Racial Bias on the Exercise of Prosecutorial Discretion* (2012) 35 Seattle U. L. Rev. 795, 798 [citation and internal quotation marks omitted].

[36] Eberhardt, et al., *Seeing Black: Race, Crime, and Visual Processing* (2004) 87 J. Personality & Soc. Psychol. 876, 881 <https://web.stanford.edu/~eberhard/downloads/2004-SeeingBlackRaceCrimeandVisualProcessing.pdf> (as of Dec. 14, 2020).

[37] *Id*. at p. 876.

[38] Jolls, et al., *The Law of Implicit Bias* (2006) 94 Cal. L. Rev. 969, 970-71 [citing Greenwald, et al., *Implicit Bias: Scientific Foundations* (2006) 94 Calif. L. Rev. 945, 955-56].

[39] Richardson, *Police Efficiency and the Fourth Amendment* (2012) 87 Ind. L.J. 1143, 1150 [citing Trawalter, et al., *Attending to Threat: Race-Based Patterns of Selective Attention* (2008) 44 J. Experimental Soc. Psychol. 1322, 1324].

[40] See Table 5, Discovery-rate analysis, at p. 61.

[41] Eberhardt, et al., *Seeing Black: Race, Crime, and Visual Processing* (2004) 87 J. Personality & Soc. Psychol. 876, 881 <https://web.stanford.edu/~eberhard/downloads/2004-SeeingBlackRaceCrimeandVisualProcessing.pdf> (as of Dec. 14, 2020).

Explicit Bias

Another factor that may contribute to disparities in stop data is explicit bias. The following examples demonstrate that, despite state law and agency policies that strictly prohibit bias-based policing, there are officers who display explicit biases against individuals of certain racial or identity groups. And, as a result, these individuals may act on their biases in deciding who to stop and how to interact with the individuals they stop.

Explicitly racist or bigoted social media posting among law enforcement appears to be a widespread problem nationwide, as brought to light by advocates, including The Plain View Project. The Plain View Project, formed in 2016, examined the Facebook accounts of 2,900 officers from eight departments across the country and an additional 600 retired officers from those same departments, and now maintains an active database.[42] The Plain View Project found thousands of troubling Facebook posts that included racist or otherwise offensive language. As a result, several departments conducted investigations of their officers.[43] The Philadelphia Police Department, for example, placed 72 officers on administrative leave while it conducted an investigation.[44]

California agencies have likewise had to address explicit bias within their ranks. As one example, the partner of an active San Jose Police Department officer earlier this year detailed the existence of a private Facebook group, "10-70DSJ," where former and current SJPD officers have exchanged racist posts for years.[45] In this Facebook group, one retired officer described Black Lives Matter activists as "racist idiots," "un-American" and "'enemies' that the police 'swore an oath against.'"[46] An active officer commented in another post that "black lives don't really matter."[47] Another retired officer posted a fake advertisement for "Sharia Barbie," a barbie wearing a hijab and with a black eye that "comes with jihab [sic], bruises, & Quran [with] stoning accessories available for additional purchase." That same retired officer once commented that he would "re-purpose the hijabs into nooses."[48] Similarly, an officer who at the time of the exposé taught "race-bias policing" in the Training Unit, posted an image that stereotyped all Muslims as terrorists.[49] The San Jose Police Department has since placed four officers on administrative leave pending an investigation, and the Santa Clara County District Attorney's Office dismissed 14 criminal cases involving the officers who posted in the Facebook

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[42] The Plain View Project, About the Project <https://www.plainviewproject.org/about> (as of Dec. 14, 2020).

[43] Andone, *This group found thousands of offensive Facebook comments by police. Here's what you should know*, CNN.com (June 20, 2019) < https://www.cnn.com/2019/06/20/us/plain-view-project-what-is/index.html> (as of Dec. 14, 2020).

[44] *Ibid*.

[45] Paulsen, *Racism and Hate behind the Blue Wall: Exposing Secret Law Enforcement Facebook Group* (June 26, 2020) <https://blog.usejournal.com/racism-and-hate-behind-the-blue-wall-exposing-secret-law-enforcement-facebook-groups-6cf23a596a98> (as of Dec. 14, 2020); ABC7 News, *4 San Jose police officers put on leave amid investigation into alleged racist Facebook posts* (June 28, 2020) <https://abc7news.com/san-jose-police-department-report-news-sjpd-facebook/6275266/> (as of Dec. 14, 2020).

[46] ABC7 News, *4 San Jose police officers put on leave amid investigation into alleged racist Facebook posts* (June 28, 2020) <https://abc7news.com/san-jose-police-department-report-news-sjpd-facebook/6275266/> (as of Dec. 14, 2020).

[47] Paulsen, *Racism and Hate behind the Blue Wall: Exposing Secret Law Enforcement Facebook Group* (June 26, 2020) <https://blog.usejournal.com/racism-and-hate-behind-the-blue-wall-exposing-secret-law-enforcement-facebook-groups-6cf23a596a98> (as of Dec. 14, 2020).

[48] *Ibid.*

[49] *Ibid.*

group because the integrity of those cases were compromised by the racist posts.[50] Other California agencies, such as the Los Angeles County Sheriff's Department and San Francisco Police Department, have also had to address biased social media posted by their deputies and officers.[51]

These examples of explicit biases among law enforcement agencies – both nationwide and in this state – suggest that the problem is far more widespread than most people might believe. Critically, these examples trigger a deeper concern about affiliations with white supremacist and extremist groups. Indeed, the Federal Bureau of Investigation cautioned that "[d]omestic terrorism investigations focused on militia extremists, white supremacist extremists, and sovereign citizen extremists often have identified active links to law enforcement officers…"[52]

These affiliations have a real world impact on the communities officers are tasked with serving and protecting. In a highly publicized set of incidents, Philadelphia Police Department officers did not intervene when violent mobs, mostly comprised of White men, attacked Black Lives Matter protestors earlier this year.[53] Officers in the same department also socialized with men wearing Proud Boys regalia and carried a Proud Boys flag at a "Back the Blue" party at the Fraternal Order of Police Lodge.[54]

While the exact scale of explicit racism in law enforcement agencies is difficult to measure, there are numerous examples to suggest a significant problem that could negatively impact officers' interactions with the public. Indeed, these examples raise concerns about "[w]ho might be sitting in jail because what looked like an objective stop, what looked like a clean interaction, may actually have been driven by bigotry."[55] Thus, any efforts to address stop data disparities would necessarily need to look at the forms, and scope, of explicit bias within individual law enforcement agencies.

Systemic Disparities May Feed into Stop Data Disparities

While explicit and implicit biases may be contributing factors to the disparities found in stop data, they are a part of a larger complex of driving forces. That is, explicit and implicit biases

[50] KPIX 5, *Santa Clara County DA Dismisses Cases Involving Officers Who Posted Racist Facebook Messages* (Oct. 22, 2020) <https://sanfrancisco.cbslocal.com/2020/10/22/santa-clara-county-da-dismissing-cases-officers-racist-facebook-messages/> (as of Dec. 14, 2020).

[51] Chabria, *When cops abuse social media, the results are explosive: 'One post can become a movement,'* Los Angeles Times (Oct. 13, 2020) <https://www.latimes.com/california/story/2020-10-13/cops-social-media-dangerous-combo-era-racial-reckoning> [describing a Facebook post by a Los Angeles County Sheriff's Captain, stating that Andres Guardado, a Salvadoran American killed by a deputy in Gardena, "chose his fate"] (as of Dec. 14, 2020); Fuller, *San Francisco Police Chief Releases Officers' Racist Texts*, N.Y. Times (April 29, 2016) < https://www.nytimes.com/2016/04/30/us/san-francisco-police-orders-officers-to-complete-anti-harassment-class.html> (as of Dec. 14, 2020).

[52] Federal Bureau of Investigation, Counterterrorism Policy Directive and Policy Guide (April 1, 2015) 89 <https://assets.documentcloud.org/documents/3423189/CT-Excerpt.pdf> (as of Dec. 14, 2020); Levin, *White supremacists and militias have infiltrated police across US, report says*, The Guardian (Aug. 27, 2020) < https://www.theguardian.com/us-news/2020/aug/27/white-supremacists-militias-infiltrate-us-police-report> (as of Dec. 14, 2020).

[53] German, *White Supremacist Links to Law Enforcement are an Urgent Concern*, Brennan Center (Sept. 1, 2020) <https://www.brennancenter.org/our-work/analysis-opinion/white-supremacist-links-law-enforcement-are-urgent-concern> (as of Dec. 14, 2020).

[54] *Ibid.*

[55] ABC7 News, *4 San Jose police officers put on leave amid investigation into alleged racist Facebook posts* (June 28, 2020) <https://abc7news.com/san-jose-police-department-report-news-sjpd-facebook/6275266/> (as of Dec. 14, 2020).

may, in part, explain individual officer behavior, but there are other systemic factors that impact certain racial, ethnic, and other identity groups that help to explain stop disparities in the aggregate.[56] Biases and systemic inequities found in other systems, and the interconnectedness of those other systems with the criminal justice system, may result in officers interacting more frequently with people from certain races, ethnicities, and identities, which in turn renders those individuals more vulnerable to certain types of treatment by officers during those interactions.[57] Any analysis of stop data disparities – and the policies to address those disparities – should take into account underlying systemic inequalities. Indeed, overlooking the systemic contributing factors to racial disparities "can guide policy attitudes and preferences in ways that perpetuate [those very] disparities."[58]

Larger Societal Constructs Render Some People More Vulnerable to Police Interactions

Larger systemic and social oppression can inform officers' decisions – both directly and indirectly – to interact more with certain groups and in different ways, and thus lead to stop data disparities. Criminal behavior alone cannot explain those disparities.[59] For example, changing demographics of a city may drive local governing bodies to increase police presence in Black and Latinx neighborhoods, which, in turn, increases the likelihood that officers have more contacts with people in those neighborhoods.[60] Further, the changing demographics of a neighborhood may increase calls for service driven by explicit or bias by proxy,[61] as discussed in more detail later in this Report (page 83).

One study observed that development in certain neighborhoods in New York City was associated with an increase in low-level arrests in the same neighborhoods.[62] Specifically, these neighborhoods saw between 0.2 percent and 0.3 percent more discretionary arrests with every 5 percent increase in their property values.[63] Another analysis found that a neighborhood in Harlem – where the White resident population increased from 2 percent to 10 percent in just six years between 2000 and 2016 and the median home values almost doubled (adjusted for

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[56] Hetey, et al., *The Numbers Don't Speak for Themselves: Racial Disparities and the Persistence of Inequality in the Criminal Justice System* (2018) 27(3) Current Directions Psychol. Sci. 183, 185 <https://journals.sagepub.com/doi/pdf/10.1177/0963721418763931> (as of Dec. 14, 2020).

[57] *Ibid*.

[58] *Ibid.*

[59] For example, a study of stops by Oakland Police Department found that Black individuals were stopped, searched, handcuffed, and arrested at higher rates than White individuals, and this disparity remained significant, even after researchers controlled for neighborhood crime rates and racial demographics. (Stanford SPARQ, *Strategies for Change: Research Initiatives and Recommendations to Improve Police Community Relations in Oakland, Calif.* (2016) <https://stanford.app.box.com/v/Strategies-for-Change> (as of Dec. 14, 2020).

[60] Beck, Policing Gentrification: Stops and Low-Level Arrests during Demographic Change and Real Estate Reinvestment (Jan. 8, 2020) 19:1 City and Community 245, 248 <https://onlinelibrary.wiley.com/doi/full/10.1111/cico.12473> [describing a study that found that gentrification in New York City was associated with more police stops] (as of Dec. 14, 2020).

[61] Johnson, *Co-Opting the Police: What can be done about "Profiling by Proxy?"* (Apr. 2, 2019) Nat. Police Foundation <https://www.policefoundation.org/co-opting-the-police-what-can-be-done-about-profiling-by-proxy/> (as of Dec. 14, 2020).

[62] Beck, *Policing Gentrification: Stops and Low-Level Arrests during Demographic Change and Real Estate Reinvestment* (Jan. 8, 2020) 19:1 City and Community 245, 248 <https://journals.sagepub.com/doi/pdf/10.1111/cico.12473> (as of Dec. 14, 2020).

[63] *Ibid.* Specifically, neighborhoods saw an increase of 0.2 percent for "order-maintenance" arrests, which are arrests for quality-of-life offenses "like disorderly conduct, property damage, or trespassing," and an increase of 0.3 percent for "proactive" arrests, which are arrests that are "not easily visible" and require an officer "to pursue and search a suspect" such as "drug possession, weapon possession, and driving while intoxicated." *Id*. at p. 247.

inflation) – received 3,000 quality-of-life complaints in one block between 2015 and 2017, up from just 130 complaints in the previous three years.[64] As these studies suggest, larger social forces have an impact on policing and may explain some stop data disparities. All stakeholders should be aware of these dynamics when seeking to reduce disparities and achieve reforms.

Other systemic inequities may also lead members of certain racial and identity groups to live in poverty, which itself results in "a substantially higher rate of involvement with the juvenile and criminal justice systems"[65] because of the disproportionate policing of lower-income neighborhoods.[66] Transgender individuals, for example, are more likely to live in poverty and experience higher unemployment and homelessness than cisgender individuals because they face systemic discrimination in education, employment, and housing.[67] Transgender individuals, in turn, may be more likely than cisgender individuals to participate in underground economies (such as sex work) to survive.[68] Doing so renders them more vulnerable to arrests for "quality of life" crimes.[69]

After a person becomes entangled in the criminal justice system, additional systemic barriers keep them further entrenched in the system.[70] Research demonstrates that a "criminal record has a significant negative impact on hiring outcomes, even for applicants with otherwise appealing characteristics," and Black applicants with a record saw a 60 percent drop in the likelihood of getting a callback or job offer – twice the same drop-off for otherwise identical White applicants with a record (30 percent).[71] Individuals with criminal records also face serious barriers to housing. Federal law, for example, prohibits persons convicted of certain crimes from securing public housing and other forms of federally-assisted housing.[72] And, many landlords routinely exclude individuals with criminal records from private housing.[73] In sum, job

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[64] Vo, *They Played Dominoes Outside Their Apartment For Decades. Then The White People Moved In And Police Started Showing Up*, BuzzFeed (June 29, 2018) <https://www.buzzfeednews.com/article/lamvo/gentrification-complaints-311-new-york> (as of Dec. 14, 2020).

[65] U.S. Dept. of J., Nat. Inst. of Corrections, Policy Review and Development Guide, Lesbian, Gay, Bisexual, Transgender, and Intersex Persons in Custodial Settings (2015) <https://info.nicic.gov/sites/info.nicic.gov.lgbti/files/lgbti-policy-review-guide-2_0.pdf> (as of Dec. 14, 2020).

[66] See, e.g., Stolper, Community Service Society, *New Neighbors and the Over-Policing of Communities of Color* (Jan. 6, 2019) <https://www.cssny.org/news/entry/New-Neighbors> (as of Dec. 14, 2020).

[67] See generally Grant et al., National Center for Transgender Equality & National Gay and Lesbian Task Force, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* (2011) <https://transequality.org/sites/default/files/docs/resources/NTDS_Exec_Summary.pdf> (as of Dec. 14, 2020).

[68] Carpenter, et al., *Walking While Trans: Profiling of Transgender Women by Law Enforcement, and the Problem of Proof* (2017) 24 Wm. & Mary J. Women & L. 5, 38, n. 40.

[69] *Ibid.*

[70] For example, prosecutors are less likely to plea bargain with and offer a reduction in charges to Black defendants than White defendants, and when they do offer plea bargains, prosecutors are more likely to include prison time for Black defendants. Similarly, federal prosecutors are twice as likely to charge Black defendants with offenses that carry a mandatory minimum sentence than similarly situated White defendants. (Avery, et al., *Racial Bias in Post-Arrest and Pretrial Decision Making: The Problem and A Solution* (2019) 29 Cornell J.L. & Pub. Pol'y 257, 265 [citations omitted].)

[71] Pager, et al., *Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records* (2009) 63 Annals of Am. Acad. of Pol. and Soc. Sci., 195, 199 <https://scholar.harvard.edu/files/pager/files/annals_sequencingdisadvantage.pdf> (as of Dec. 14, 2020).

[72] National Housing Law Project, An Affordable Home on Reentry (2018) pp. 7-8 <https://www.nhlp.org/wp-content/uploads/2018/08/Rentry-Manual-2018-FINALne.pdf> (as of Dec. 14, 2020).

[73] Crowell, *A Home of One's Own: The Fight Against Illegal Housing Discrimination Based on Criminal Convictions, and Those Who are Still Left Behind* (2017) 95 Tex. L. Rev. 1103, 1105-06.

and housing insecurity can push a person further into poverty and, in turn, increase their interactions with law enforcement.

Criminal Justice System Involvement and the Impact on the Type of Policing Actions Taken

Moreover, once involved in the system, the type of interactions a person subsequently has with law enforcement may create additional disparities. Mass incarceration and other disparities in the criminal justice system disproportionately impact Black individuals. Black individuals, for example, account for 30 percent of those on probation or parole.[74] The waiver of Fourth Amendment protections against unwarranted searches and seizures is a fairly standard probation or parole supervision term, which permits officers to search a supervised person *without* probable cause and based on their discretion.[75] The RIPA 2018 stop data showed that individuals perceived to be Black were almost three times as likely to be searched as individuals perceived to be White. In 23.9 percent of stops involving a search of a person perceived to be Black, the officer provided the basis for search as a condition of their supervision; in comparison, officers conducted the same type of searches on only 18.8 percent of individuals perceived to be White.[76] These disparities invite further research into whether officers assume that Black individuals are on supervision (e.g., have a criminal record), and in turn ask Black individuals about their supervision status more frequently than they ask White individuals.[77] The Board hopes to delve into this question more deeply in next year's report.

Policy Decisions to Reduce Stop Data Disparities

Because there are likely multiple sources of the disparities we observe, effectively reducing these disparities will necessarily require a multi-pronged approach. One prong would be to address explicit bias. Law enforcement agencies, for example, could use the background check

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[74] The Pew Charitable Trusts, *Community Supervision Marked by Racial and Gender Disparities* (Dec. 6, 2018) <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/12/06/community-supervision-marked-by-racial-and-gender-disparities> (as of Dec. 14, 2020); Chanin, et al., *Traffic Enforcement Through the Lens of Race: A Sequential Analysis of Post-Stop Outcomes in San Diego, California* (2018) 29(6-7) Crim. Justice Pol. Rev. 561, 564 <https://spa.sdsu.edu/documents/Traffic_enforcement.pdf> (as of Dec. 14, 2020).)

[75] See generally *United States v. Knights* (2001) 534 U.S. 112; *Samson v. California* (2006) 547 U.S. 843.

[76] See 2020 RIPA Technical Report, *supra* note 18, at p. 11; see also Chanin, *supra* note 74, at pp. 564-65 ["Similarly, officer discretion is used in determining whether a driver or passenger is on probation or parole. In each case, this discretionary authority may be applied differently based on driver race . . . . On the other hand, once it is determined that a driver/passenger is on probation or parole, the officer has full legal authority to conduct a search. Indeed, Ridgeway (2006) notes that departmental policy in some jurisdictions advises officers to conduct these searches. Moreover, people of color—and men especially— are disproportionately more likely to be on parole or probation relative to the general population . . . . Together, these factors complicate efforts to make meaning of any disparities identified in Fourth waiver searches."]

[77] In one notable example, an off-duty Black officer was pulled over by fellow officers in his predominantly Black neighborhood for a minor traffic violation and was first asked whether he was on probation or parole. The situation escalated to the point where officers slammed the off-duty officer to the ground. The off-duty officer sued and the court concluded that the officers' actions could be viewed by a jury as motivated by the off-duty officer's race. The court reasoned that the question about supervision status was not relevant to a traffic stop and that a "reasonable juror could conclude that this occurred because [the off-duty officer] was an African American man driving in a predominantly African American neighborhood . . . ." (*Adamson v. City of San Francisco* (N.D. Cal. Sept. 17, 2015) No. 13-CV-05233-DMR, 2015 WL 5467744, at *8.) The court allowed the off-duty officer to proceed with a Ralph Act claim, which provides that "[a]ll persons within [California] have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property" because of race. (Cal. Civ. C. §§ 51.7(a), 51(b).)

included as part of the hiring process to evaluate explicit biases,[78] and monitor agency-issued cell phones and computers to ensure employees do not use those devices to exchange racist or other offensive content. Additionally, in an approach similar to The Plain View Project, agencies could proactively conduct a review of their personnel's social media to identify problematic behavior and discipline officers to demonstrate to the entire agency that racist or bigoted viewpoints are not tolerated.[79]

Another component of a multi-pronged approach is for law enforcement agencies to work to manage how implicit biases affect officers' behavior through training and education.[80] Managing implicit biases improves policing and is consistent with the tenets of procedural justice.

As noted above, efforts to reduce disparities observed in stop data cannot be limited to rooting out officers with explicit biases or finding ways for officers to override their implicit biases. Rather, addressing biases among individual officers should be components of a larger, more comprehensive approach to reducing stop data disparities. Any meaningful effort to address stop data disparities must recognize and address the structural dimensions of those disparities. For example, law enforcement agencies can also train officers on the impact urban development has on policing, including how it can lead to increased stops or arrests in a particular neighborhood, and on how to use critical thinking skills to recognize whether a call for service is premised by bias by proxy, rather than on criminal activity.[81] Law enforcement agencies should take other steps to remove structural practices that contribute to misconceptions about race and identity; for example, agencies can decline to post mug shot photographs.[82]

Further, responsibility to address disparities extends beyond law enforcement. Policymakers must contextualize these disparities and acknowledge that others within the broader criminal justice system, including attorneys and judges, play a part in creating and maintaining structural inequities that increase the frequency of law enforcement's interactions, including stops, with certain racial and identity groups. The Board urges policymakers to prioritize not only changes to law enforcement agency practices, but also to policies involving housing, education, health care, and criminal justice in order to remediate the disparities created by these and other systems.

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[78] Of course, it is possible that these vetting efforts could drive bias further underground; that is, officers might be able to hide their explicit biases by knowingly providing "appropriate" answers in the hiring process to evade scrutiny. Agencies should be mindful of this concern when determining measures to evaluate officers for bias in the hiring process.

[79] The Plain View Project, About the Project <https://www.plainviewproject.org/about> (as of Dec. 14, 2020).

[80] Two ways agencies can do this is by increasing positive contacts with members of a group against whom a person is biased and "counter-stereotyping," which involves exposure to information that contradicts a stereotype of a group. Both strategies disrupt the neural pathways that associate members of a group with a certain negative stereotype. (Paterson & Edwards, *Implicit Injustice: Using Social Science to Combat Racism in the United States*, 2015 Harv. J. Racial & Ethnic Just. Online 1, 20–21 (2015) [citing Calvin Lai, *Reducing implicit racial preferences*, 143 J. Experimental Psychology 1765, 1766].)

[81] See Racial and Identity Profiling Advisory Board, Annual Report 2020 (Jan. 1, 2020) pp. 54-57 <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf> (as of Dec. 14, 2020).

[82] Egelko, *San Francisco to Stop Releasing Suspect Mug Shots in Effort to Prevent Racial Bias*, S.F. Chronicle (July 1, 2020) <https://www.sfchronicle.com/crime/article/San-Francisco-police-to-stop-releasing-suspect-15379672.phps> (as of Dec. 14, 2020).

ANALYSIS OF 2019 STOP DATA

In 2019, the 15 largest law enforcement agencies in California collected data on 3,992,074 pedestrian and vehicle stops and submitted these data to the DOJ.[83] These data include information regarding more stops than were collected the previous year because the 2019 data includes records from both Wave 1 and Wave 2 agencies from January 1 to December 31, 2019. The 2018 RIPA stop data only included the eight largest agencies in California and records submitted between July 1 and December 31, 2018. These differences are significant and should be considered if data comparisons are made between these two years.

All of the data collected include demographic information of stopped individuals, as *perceived by the officer*, as well as a range of descriptive information designed to contextualize the reason for the stop, actions taken during the stop, and resolution of the stop. The purpose of collecting these data is to document law enforcement interactions with the public and determine whether certain populations are subject to disparate treatment during stops based upon the officer's perception of that person's identity.

Individuals may self-identify *differently* than how an officer may perceive them. This distinction is critical to the purpose of collecting these stop data and reflects the primary task assigned to the Board, which is to eliminate racial and identity profiling -- based on how *officers perceive* someone -- and improve diversity and racial and identity awareness in law enforcement. This is the context under which RIPA data should be analyzed and interpreted.

For this year's report, the Board presents stop data analyses in three different sections:

1. The first section provides a breakdown of each identity group followed by their rates of experiencing stop outcomes.

2. The second section attempts to create benchmarks (i.e., reference points) by which to compare the stop data results and measure disparities. These benchmarks include comparisons to residential population data and tests for equality of outcomes at different points during the stop. These outcome-based tests explore search outcomes, the impact of daylight (i.e., when it might be easier to see race or other identity characteristics) on who is stopped, and the rates of force used by law enforcement.

3. The third section focuses on the intersections of race/ethnicity by gender, age and disability type. The third section also explores search and discovery rates specifically for consent and supervision searches.

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[83] Gov. Code § 12525.5(g)(2) defines a "stop" as any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control.

1.1 Stop Data Demographics

1.1.1 Identity Demographics of those Who Were Stopped

Officers collect perceived identity-related information on six key demographics: race/ethnicity, gender, age, lesbian-gay-bisexual-transgender (LGBT) identity, English fluency, and disability. Officers are *not* permitted to ask individuals to self-identify for RIPA stop data collection purposes. Thus, all demographic data in this report reflects the perceptions of officers and may differ from how some stopped individuals self-identify.

Race/Ethnicity. Officers perceived the highest proportion of individuals they stopped to be Hispanic (38.9%; 1,552,485), followed by White (33.1%; 1,322,201), Black (15.9%; 635,092), Asian (5.7%; 228,790), Middle Eastern/South Asian (4.7%; 187,128) and all other groups (1.7%; includes 0.5% or 21,092 Pacific Islander, 0.2% or 8,271 Native American, and 0.9% or 37,015 Multiracial individuals). Officers may select multiple racial/ethnic categories per individual when recording stop data. All stopped individuals perceived to be part of multiple racial/ethnic groups were categorized as Multiracial, to avoid counting the same stopped individual in multiple racial/ethnic groups.

Gender. RIPA regulations contain five gender categories, including male, female, transgender man/boy, transgender woman/girl, and gender nonconforming.[84] A vast majority of stopped individuals were perceived as either (cisgender) male (71.2%; 2,841,218) or (cisgender) female (28.6%; 1,143,261), with all other groups collectively constituting less than 1 percent of the data.[85]

Age. Individuals perceived to be between the ages of 25 and 34 were stopped more than any age group (32.3%; 1,288,541). Individuals perceived to be below the age of 10 accounted for the smallest proportion (<0.1%; 1,927) of stopped individuals amongst all the age groups.[86]

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[84] These categories match those found in the regulations informing RIPA stop data collection (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(5)(A)(1-5)). For the purposes of this report, "male" refers to cisgender males and "female" refers to cisgender females.

[85] The other groups were perceived as follows: transgender man/boy (0.08%; 3,294), transgender woman/girl (0.05%; 1,870), and gender non-conforming (0.06%; 2,431).

[86] Stopped individuals perceived to be less than 10 years of age constituted less than one of every 500 individuals stopped. However, the Department is currently exploring the possibility that, in some cases, officers may have (1) incorrectly recorded the age of these stopped individuals (i.e. typographical errors) or (2) recorded data in cases that are not reportable under Section 999.227 (b) of the RIPA regulations (i.e. recording data for young passengers not suspected of committing a violation whom also did not have reportable actions taken towards them).

Figure 1. Race/Ethnicity, Gender, and Age Distributions of 2019 RIPA Stop Data

Race/Ethnicity

Hispanic 38.9%
White 33.1%
Black 15.9%
Asian 5.7%
Middle Eastern/ South Asian 4.7%
Multiracial 0.9%
Pacific Islander 0.5%
Native American 0.2%

Gender

Male 71.2%
Female 28.6%
Gender Nonconforming 0.06%
Transgender Man/Boy 0.08%
Transgender Woman/Girl 0.05%

Age

25-34 32.3%
35-44 21.9%
18-24 16.3%
44-54 15.5%
55-64 9.1%
65+ 3.7%
15-17 1.1%
10 − 14 0.2%
1 − 9 0.1%
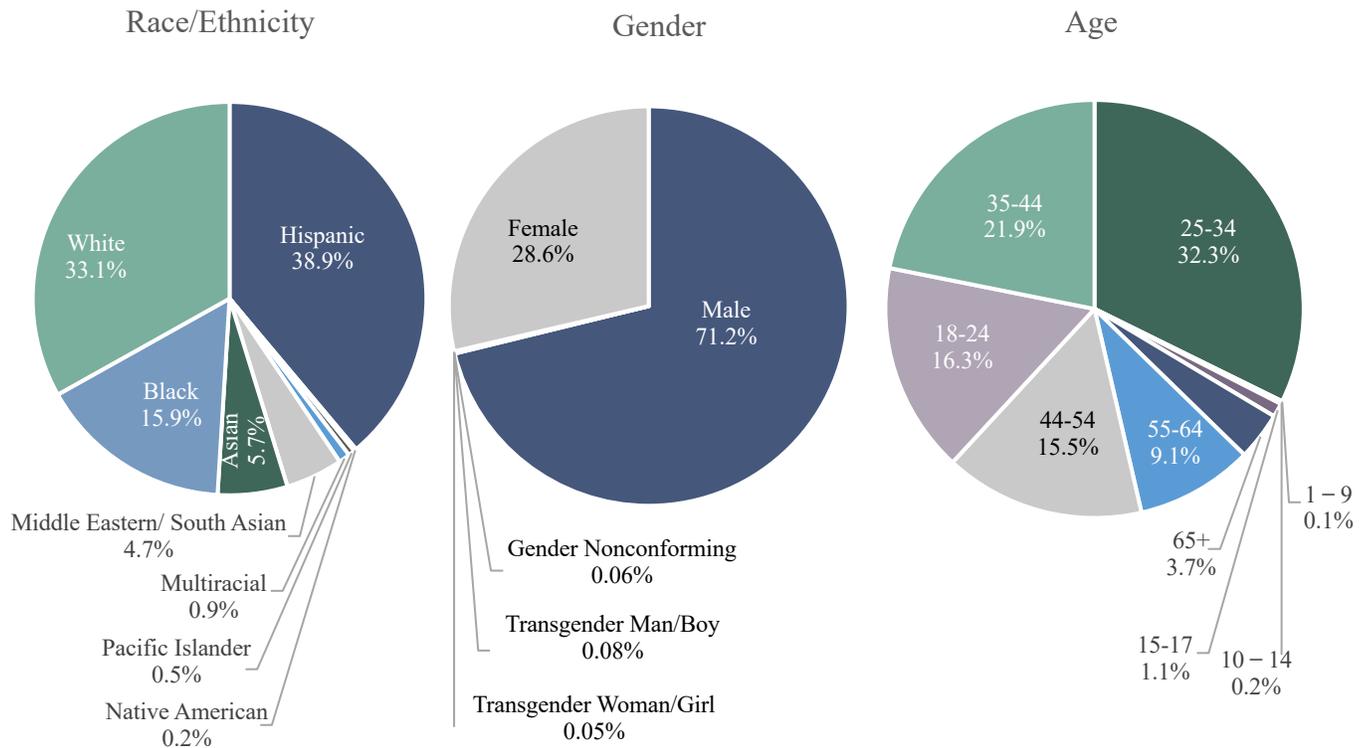
LGBT. Stops of individuals perceived to be LGBT comprised less than 1 percent (26,382) of the data.[87]

Limited English Fluency. Officers perceived approximately 4.1 percent (164,907) of stopped individuals to have limited or no English fluency.

Disability. Officers perceived 1.2 percent (46,035) of the individuals they stopped to have one or more disabilities. Of those perceived to have a disability, the most common disability reported by officers was mental health condition (63.3%; 29,124).[88]

1.1.2   Primary Reason for Stop

Officers may only report one reason for stop and it must be the *primary* reason. In instances where multiple reasons may apply, officers can only select the primary reason that informed their decision to initiate a stop. Officers may select from eight different primary reasons for stop which include both pedestrian and vehicle stops. The most common reason provided for a stop was a traffic violation (85%), followed by reasonable suspicion that the individual stopped was engaged in criminal activity (12.1%).[89] The law requires an officer to have reasonable

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[87] Officers perceived 0.66 percent of stopped individuals to be LGBT.

[88] Individuals perceived to have multiple disabilities—including mental health conditions—are not included in this statistic.

[89] Although officers may have reasonable suspicion when initiating stops for traffic violations, the regulations state that officers should not select the "reasonable suspicion" value when the reason for stop is a traffic violation. Instead, officers should select the "traffic violation" value as the primary reason for stop (Cal. Code Regs. tit. 11 § 999.226, subd. (a)(10)(A)(2)).

suspicion before they can detain/stop an individual. Reasonable suspicion is a legal standard in criminal law that requires an officer to point to specific articulable facts that would lead a reasonable person to believe that a crime is, was, or is about to occur. Reasonable suspicion to stop someone is also established whenever there is any violation of law. Reasonable suspicion requires more than just an officer having a hunch that the person committed a crime, but is a lesser standard than probable cause, which is required to arrest someone.[90] All other reasons for the stop collectively made up less than 3 percent of the data and are categorized together for the purposes of graphical representation in the following sections.[91]

Race/Ethnicity. Out of all the racial/ethnicity groups in the data, Middle Eastern/South Asian individuals had the highest proportion of their stops reported as traffic violations (95.4%) and the lowest proportion of their stops reported as reasonable suspicion (4%). Black individuals had the lowest proportion of their stops reported as traffic violations (74.7%) and the highest proportion of their stops reported as reasonable suspicion (21%). Black individuals had the highest proportion of any racial/ethnic group (4.3%) of their stops reported in the categories grouped together as "Other" in Figure 2, while Middle Eastern/South Asian individuals had the lowest proportion (0.6%) of their stops fall into these categories.

Figure 2. Primary Reason for Stop by Perceived Race/Ethnicity

■ Traffic Violation   ■ Reasonable Suspicion   ■ Other

| Race/Ethnicity	Traffic Violation	Reasonable Suspicion	Other
Asian	93.3	5.6	1.1
Black	74.7	21.0	4.3
Hispanic	86.4	10.7	2.9
Middle Eastern/South Asian	95.4	4.0	0.6
Multiracial	83.3	13.2	3.6
Native American	83.2	12.7	4.1
Pacific Islander	84.8	12.1	3.2
White	85.5	11.7	2.8

Percent of Stops of Racial/Ethnic Group
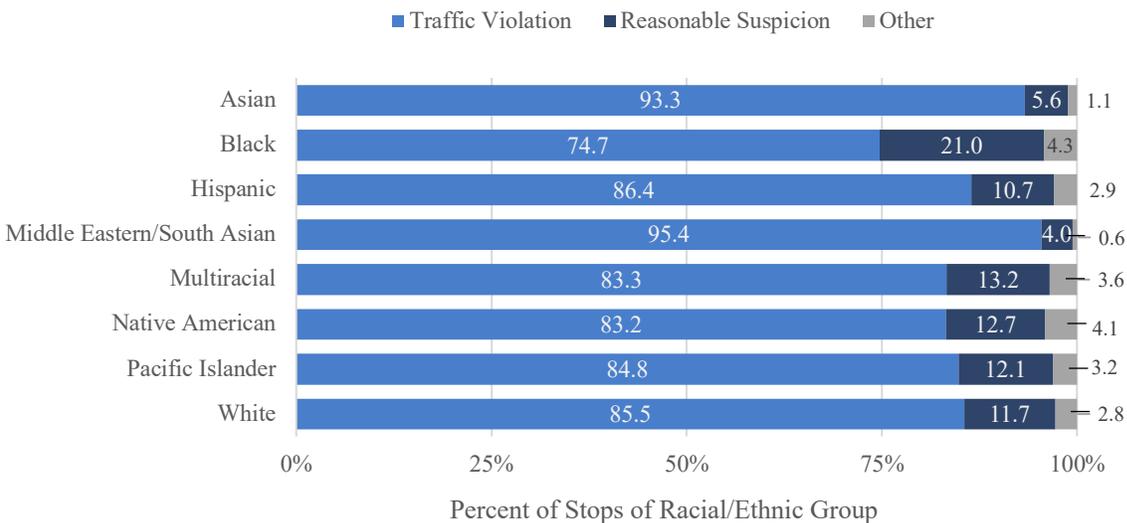
[90] "Reasonable suspicion" is currently being used to capture stops where an officer suspects criminal activity, but also stops where officers initiate contact for community caretaking purposes without suspecting an individual of criminal activity because no distinct value exists within the RIPA regulations for solely community caretaking contacts. Approximately 4.9 percent of stops initiated for reasonable suspicion were due to community caretaking functions. Given the small percentage, community caretaking stops were not separated out from the reasonable suspicion stops. This designation in the regulations was not meant to suggest that homelessness and people with mental health conditions are engaging in criminal activity; rather, the DOJ is aware of this issue and working on a resolution.

[91] Other reasons for stop that the officer could report included consensual encounter resulting in a search (1.1%), mandatory supervision (0.7%), warrants/wanted person (0.7%), truancy (0.4%), investigation to determine whether student violated school policy (<0.1%), and possible violations of the Education Code (<0.1%).

Gender. Females had the highest proportion of their stops reported as traffic violations (88.0%) and the lowest proportion of their stops reported as reasonable suspicion (9.9%). Transgender women/girls had the lowest proportion of their stops reported as traffic violations (35.3%) and the highest proportion of their stops reported as reasonable suspicion (56.9%).

Figure 3. Primary Reason for Stop by Perceived Gender

Percent of Stops of Gender Group
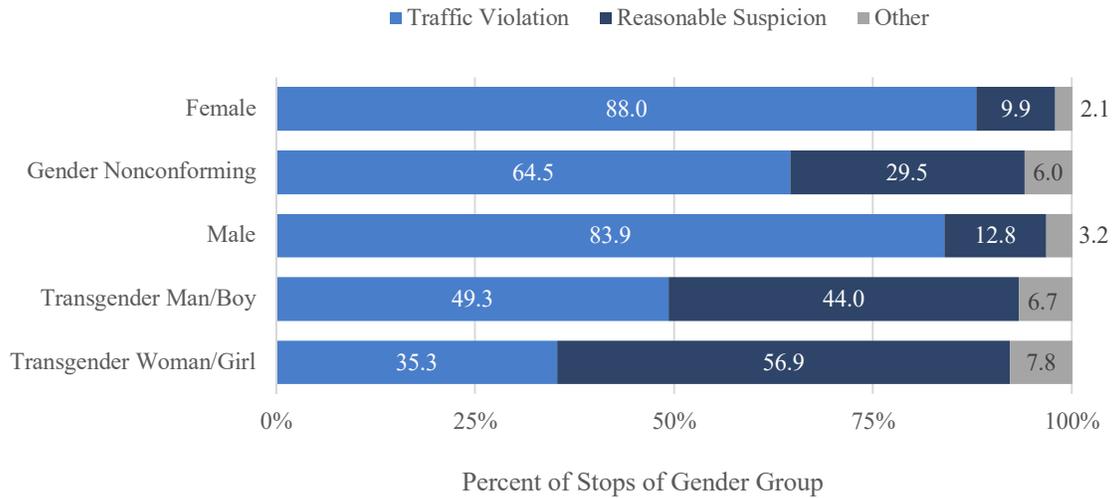
Age. Individuals perceived to be 65 years or older had the highest proportion of their stops reported as traffic violations (91.0%) and had the lowest proportion of their stops reported as reasonable suspicion (7.6%). Individuals perceived to be between the ages of 10 and 14 had the lowest proportion of their stops reported as traffic violations (20.1%) and the highest proportion of their stops be reported as reasonable suspicion (60.9%).[92]

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[92] The data shows an unexpected number of reported traffic violations for people too young to hold a provisional permit or driver's license. This could partially be explained cases where officers (1) incorrectly recorded the age of the stopped individuals, (2) recorded data for passengers in the vehicles they stop, or (3) recorded violations of bicycle or motorized scooter laws.

Figure 4. Primary Reason for Stop by Perceived Age Group

Legend: ■ Traffic Violation ■ Reasonable Suspicion ■ Other

Age Group	Traffic Violation	Reasonable Suspicion	Other
1-9	65.9	22.9	11.3
10-14	20.1	60.9	19.1
15-17	58.8	30.5	10.6
18-24	86.7	10.8	2.5
25-34	84.5	12.3	3.2
35-44	84.7	12.2	3.0
45-54	85.3	12.1	2.6
55-64	86.4	11.5	2.1
65+	91.0	7.6	1.4

Percent of Stops of Age Group
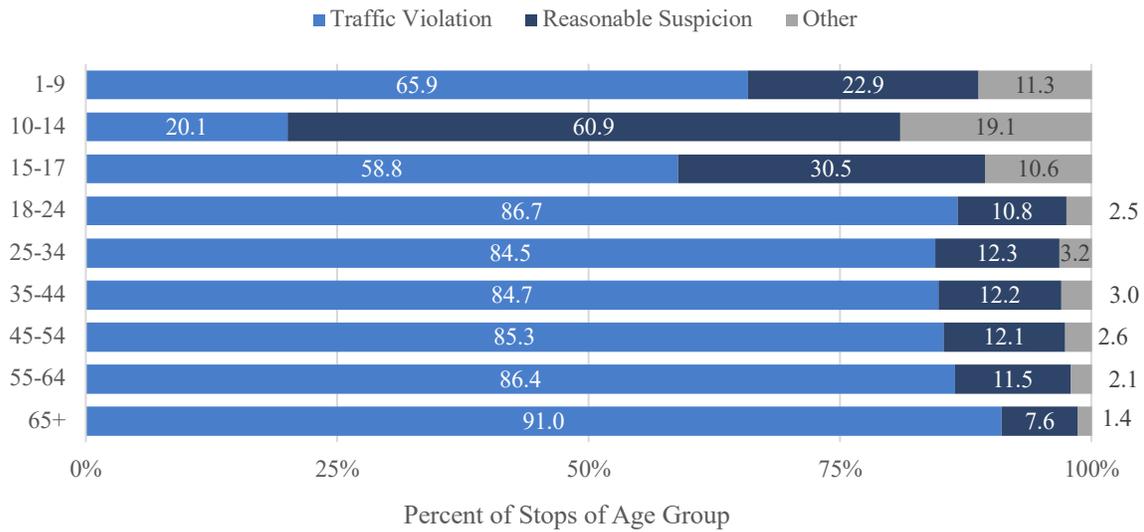
LGBT. Individuals perceived to be LGBT had a lower proportion of their stops reported as traffic violations (61.8%) and a higher proportion of their stops reported as reasonable suspicion (31.9%) than individuals who officers did not perceive to be LGBT (85.2% traffic violations and 11.9% reasonable suspicion).

Limited English Fluency. Individuals perceived to have limited English fluency had a lower proportion of their stops reported as traffic violations compared to individuals whom officers perceived to be fluent in English (83.1% and 85.1%, respectively). The opposite was true of reasonable suspicion stops where individuals perceived to have limited English fluency had a higher proportion of their stops reported under this category than individuals perceived as English fluent (14.8% and 11.9%, respectively).

Disability. Stopped individuals perceived as having a disability had a lower proportion of their stops reported as traffic violations (18.8%) and a higher proportion of their stops for reasonable suspicion (69.6%) than those not perceived to have a disability (85.8% traffic violations and 11.4% reasonable suspicion).[93]

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[93] Part of the reason why individuals perceived to have a disability have a much higher proportion of their stops reported as reasonable suspicion stops than individuals not perceived to have a disability is due to how community caretaking contacts are currently captured within the RIPA data. As mentioned in note 90, stops for community caretaking are captured in the reasonable suspicion data element. Only 0.3 percent of individuals without a disability were stopped for community caretaking purposes, compared to 22.5 percent of stopped individuals with a disability.

1.2 Calls for Service

RIPA regulations require that officers indicate if a stop was made in response to a call for service, radio call, or dispatch.[94] Officers reported making stops in response to calls for service approximately 5 percent of the time.[95]

Race/Ethnicity. Stops were initiated in response to a call for service at the highest rates for Black individuals (8.4%) and the lowest rates for Middle Eastern/South Asian individuals (2.2%).

Key Terms
o   Call for service – a stop made in response to a call for service, radio call or dispatch
o   Officer-initiated – a stop not made in response to a call for service, radio call or dispatch

### Figure 5. Call for Service Status by Perceived Race/Ethnicity
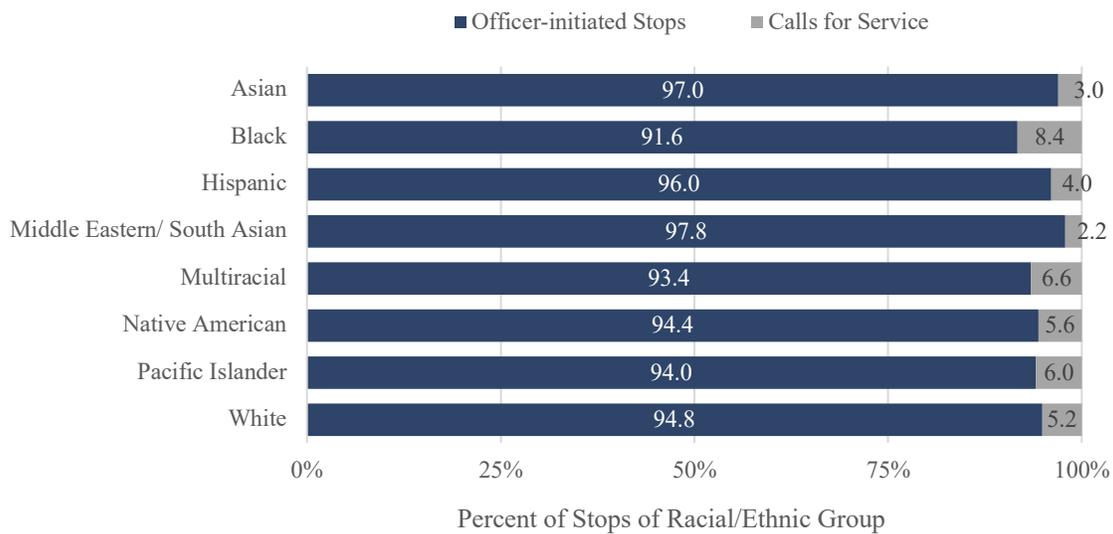
Gender. Stopped individuals perceived to be transgender women/girls had the highest rate of being stopped in response to a call for service (26.0%) while stopped individuals perceived to be female had the lowest rate (4.6%).

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[94] An interaction that occurs when an officer responds to a call for service is only reported if it meets the definition of a "stop" as set forth in section 999.224, subd. (a)(14) of the RIPA regulations. A call for service is not a reason for stop value under the RIPA regulations. Rather, officers indicate whether or not a stop was made in response to a call for service in addition to providing a primary reason for stop (Cal. Code Regs, tit. 11 § 999.226, subd. (a)(11)).

[95] Given that stops for traffic violations constitute a majority of the data, but are less prone to be made in response to a call for service, these analyses were also conducted while excluding data from stops where officers indicated that the primary reason for the stop was a traffic violation. See Appendix Table A.3 for all statistics.

Figure 6. Call for Service Status by Perceived Gender
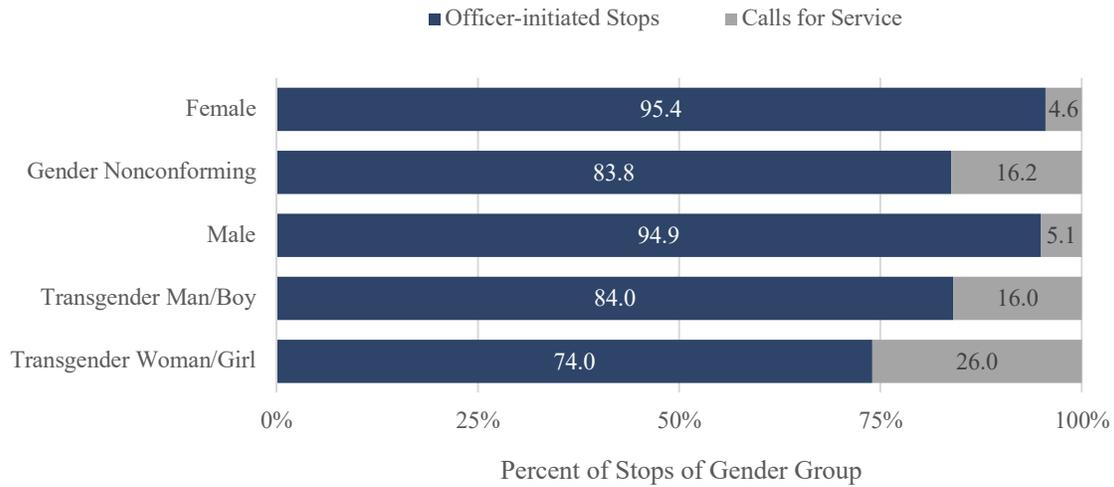
■ Officer-initiated Stops   ■ Calls for Service

Gender	Officer-initiated Stops	Calls for Service
Female	95.4	4.6
Gender Nonconforming	83.8	16.2
Male	94.9	5.1
Transgender Man/Boy	84.0	16.0
Transgender Woman/Girl	74.0	26.0

Percent of Stops of Gender Group

Age. Stopped individuals perceived to be between the ages of 10 and 14 had the highest rate of being stopped in response to a call for service (36.1%) whereas individuals aged 65 or higher had the lowest rate (3.4%).

Figure 7. Call for Service Status by Perceived Age Group

■ Officer-initiated Stops   ■ Calls for Service

Age	Officer-initiated Stops	Calls for Service
1-9	87.4	12.6
10-14	63.9	36.1
15-17	85.7	14.3
18-24	96.1	3.9
25-34	94.8	5.2
35-44	94.6	5.4
45-54	95.2	4.8
55-64	95.8	4.2
65+	96.6	3.4

Percent of Stops of Age Group
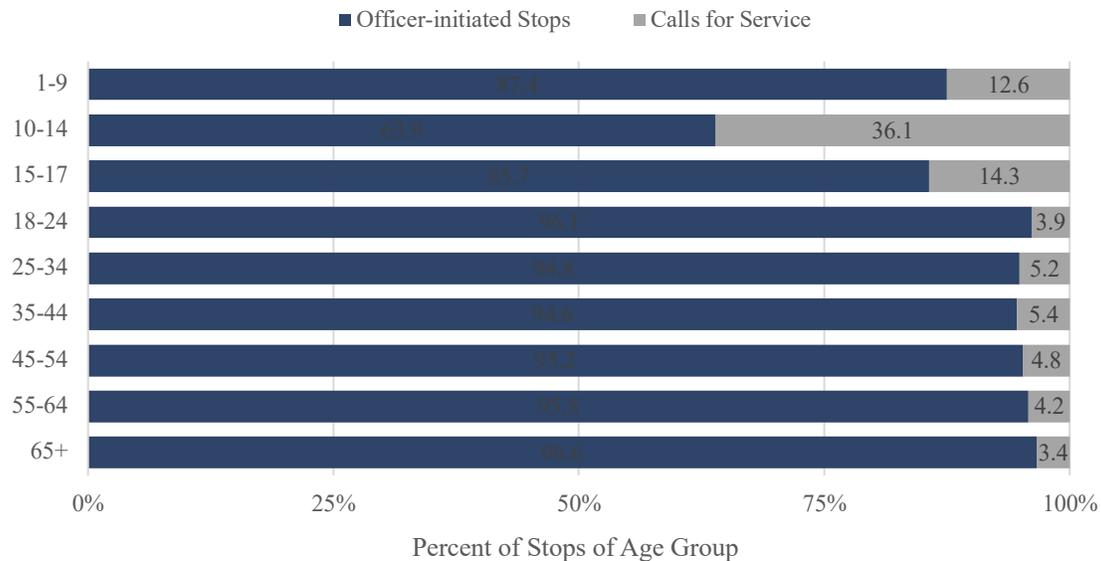
LGBT. Stopped individuals perceived as LGBT had a higher rate (15.4%) of being stopped in response to a call for service than individuals whom the officers did not perceive to be LGBT (4.9%).

Limited English Fluency. Stopped individuals whom officers perceived to have limited or no English fluency had a higher rate of being stopped in response to a call for service (6.4%) compared to English fluent individuals (4.9%).

Disability. Stopped individuals perceived as having a disability had a substantially higher rate of being stopped in response to a call for service (47.9%) compared to those whom officers did not perceive to have a disability (4.5%).

1.3 Actions Taken During Stop by Officers

Officers can select up to 23 different actions taken during the stop, (which do not include the actions categorized as stop results, such as arrest). These actions include, for example, asking someone to exit a vehicle, conducting a search, and handcuffing someone (separate from arresting that person). A stopped individual may have multiple reported actions taken towards them in a single stop. Overall, an average of 0.5 actions were taken by officers during a stop and actions were taken on 19.0% of stopped individuals.[96] Put another way, officers did not submit any reportable actions taken during the majority of the stops they conducted. Looking only at stops in which actions were recorded, the average number of recorded actions taken by officers was 2.5. The average number of actions taken during stops was also calculated for each identity group and can be found in Appendix A.5.[97]

Across all stops, the most common action taken by officers was a search of property or person (11.3%), followed by curbside or patrol car detention (10.2%), handcuffing (8.4%)[98], and verbally ordered removal from a vehicle (3.9%).[99] Each other action was reported for less than 2 percent of individuals stopped.[100]

Race/Ethnicity. Compared to other races/ethnicities, stopped individuals perceived to be Black had the highest rate of being searched (20.5%), detained on the curb or in a patrol car (17.8%), handcuffed (14.1%), and removed from a vehicle by order (7.7%). Officers searched, detained on the curb or in a patrol car, handcuffed, and removed from vehicles more Black individuals than White individuals, despite stopping more than double the number of White individuals than Black individuals.[101] Stopped individuals perceived to be Middle Eastern/South Asian had the lowest rate for each of these actions (ranging between 1.3 and 3.6%).

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[96] See Appendix Tables A.6 through A.9 for breakdowns by identity group for all other actions taken during stops, including those where no actions were taken.

[97] See Appendix Table A.4 for all descriptive statistics.

[98] A report of "handcuffing" an individual in this section does not mean that the officers arrested the individual. Section 1.4 of this chapter discusses arrests. Additionally, Appendix Table A.10 displays what percentage of individuals handcuffed had each of the following three stop results: arrested, no action taken, and result of stop other than an arrest or no action taken. Of the individuals handcuffed, officers arrested 58.1 percent, took some other form of action for 32.5 percent, and took no action towards 9.4 percent of individuals.

[99] Searches of person or property are captured in separate data fields and were combined for this analysis. Curbside and patrol car detainments are also recorded in distinct data fields and were combined.

[100] Other actions include: person removed from vehicle by physical contact (0.2%), field sobriety test (1.5%), canine removed from vehicle or used to search (<0.1%), firearm pointed at person (0.4%), firearm discharged (<0.1%), electronic control device used (<0.1%), impact projectile discharged (<0.1%), canine bit or held person (<0.1%), baton or other impact weapon (<0.1%), chemical spray (<0.1%), other physical or vehicle contact (0.4%), person photographed (0.5%), asked for consent to search person (2.7%), received consent to search person (80.0%), asked for consent to search property (1.7%), received consent to search property (71.2%), property seized (0.8%), vehicle impounded (1.2%), written statement (<0.1%), or none (81.0%).

[101] See Appendix Table A.5 for a breakdown of the number of stopped individuals from each identity group and actions taken during the stop.

## Figure 8. Actions Taken During Stop by Perceived Race/Ethnicity
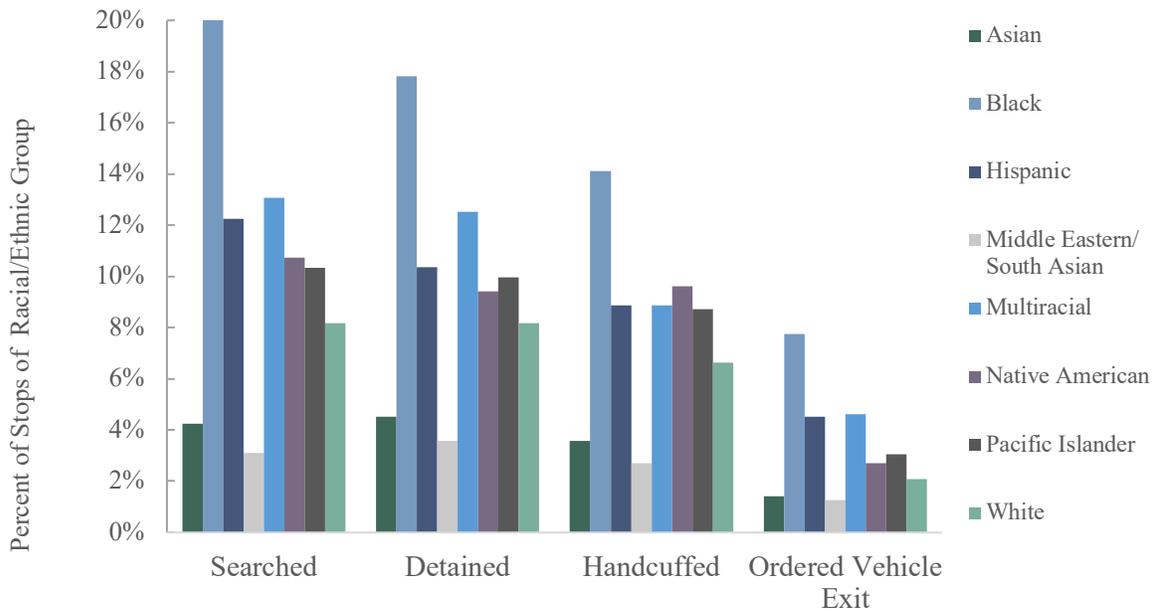
Gender. Stopped individuals perceived as transgender women/girls had the highest rate of being searched (32.6%), detained on the curb or in a patrol car (36.1%), and handcuffed (33.7%); gender-nonconforming individuals had the highest rates of being removed from a vehicle by order (11.7%). Stopped individuals perceived as (cisgender) females had the lowest rate for each of these actions (ranging from 2.6 to 7.4%).

Figure 9. Actions Taken During Stop by Perceived Gender
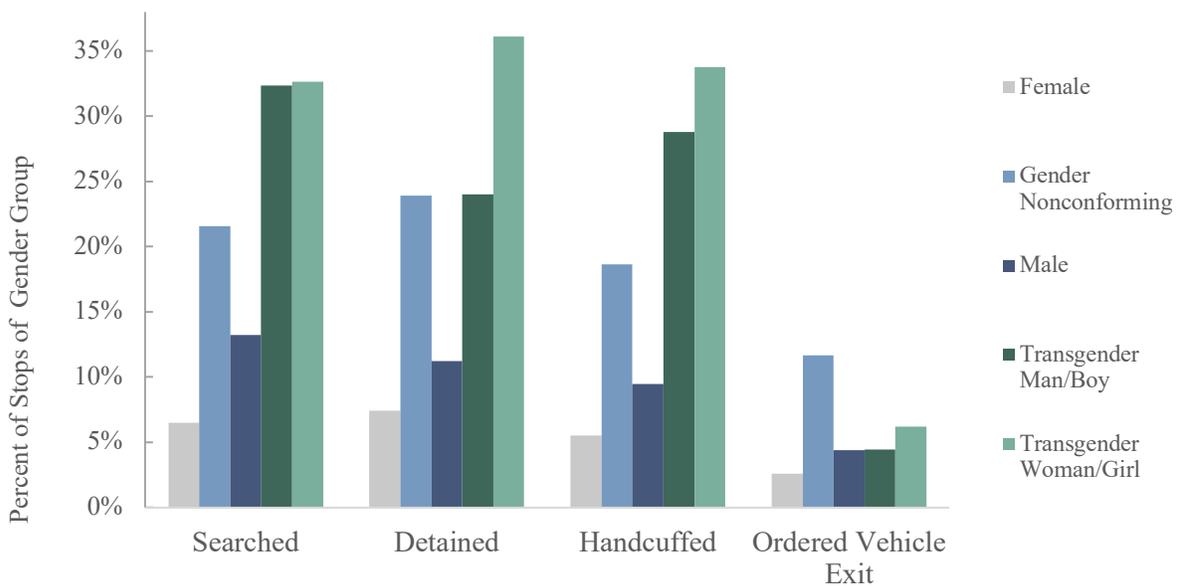
Age. Stopped individuals perceived to be between the ages of 10 and 14 had the highest rate of being searched (34.7%), detained on the curb or in a patrol car (33.6%), and handcuffed (30.2%), while those perceived to be between 15 and 17 had the highest rates of being removed from a vehicle by order (7.9%). Those aged 65 or higher consistently had the lowest rate for each of these actions (ranging from 0.9 to 4.5%).

Figure 10. Actions Taken During Stop by Perceived Age Group
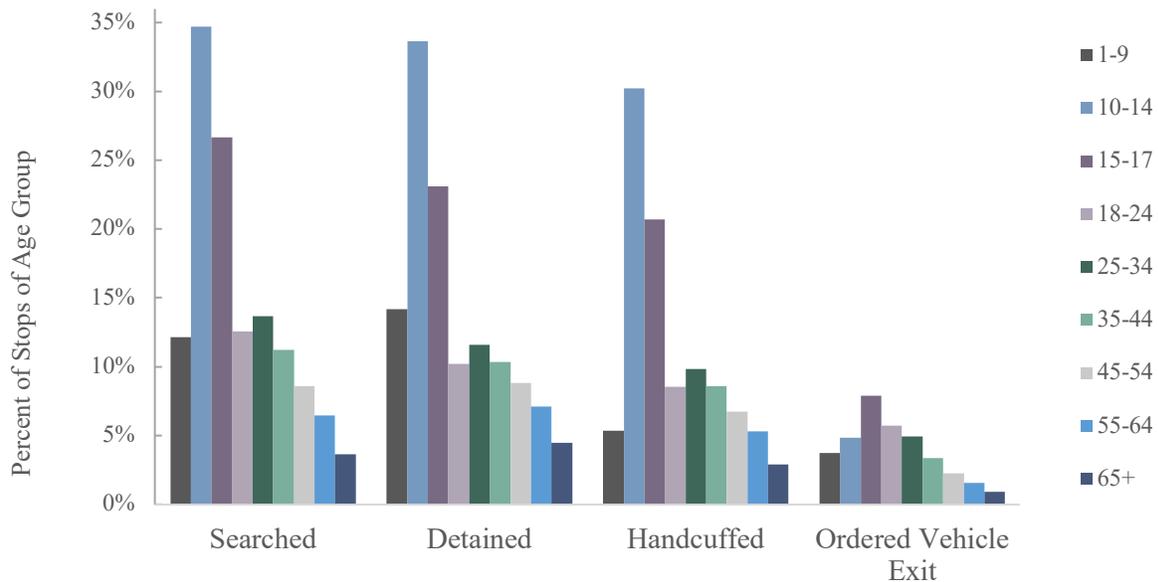
LGBT. Stopped individuals perceived to be LGBT also had a higher rate of being searched (21.9%), detained on the curb or in a patrol car (20.8%), handcuffed (20.1%), and removed from a vehicle by order (4.7%) than individuals not perceived to be LGBT (11.3% searched, 10.1% detained, 8.3% handcuffed, 3.9% removed from vehicle by order).

Limited English Fluency. Stopped individuals perceived to have no or limited English fluency had a higher rate of being searched (13.5%), detained on the curb or in a patrol car (11.5%), handcuffed (10.9%), and removed from a vehicle by order (5.3%) than those perceived to speak English fluently (searched 11.2%, detained 10.1%, handcuffed 8.3%, removed from vehicle by order 3.8%).

Disability. Individuals perceived to have a disability were searched (43.4%), detained on the curb or in a patrol car (39.4%), and handcuffed (45.1%) at a rate higher than those perceived not to have a disability (searched 11.0%, detained 9.8%, and handcuffed 7.9%). Stopped individuals perceived to have a disability had a lower rate of being removed from a vehicle by order (3.4%) compared to those who were not perceived as having a disability (3.9%).

Figure 11. Actions Taken During Stop by Perceived Disability Group
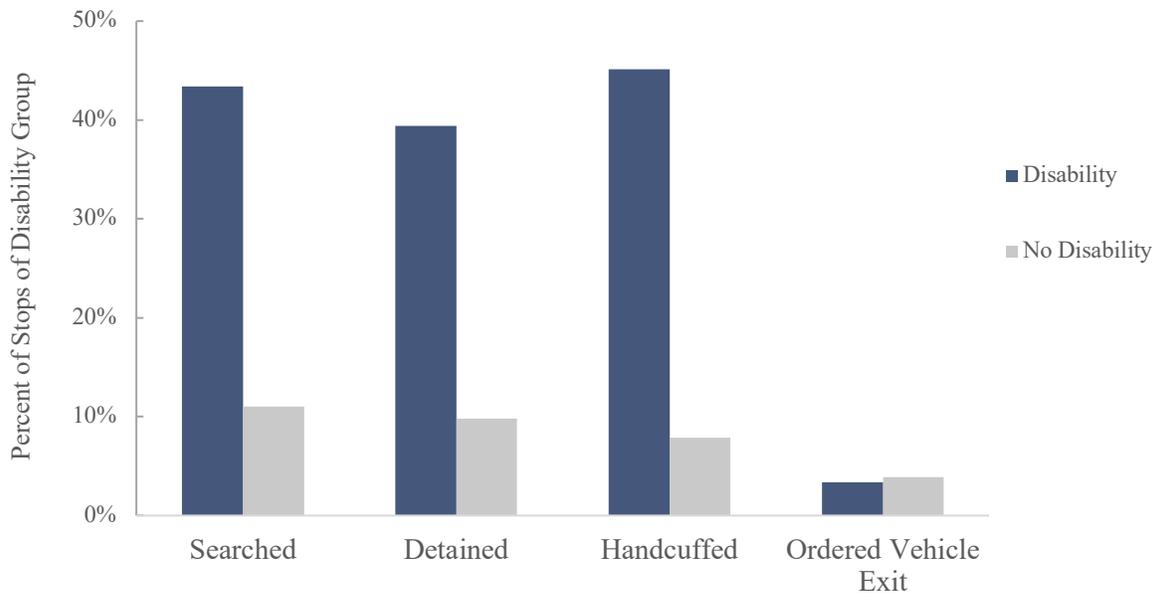

1.4 Result of Stop

Officers can select up to 11 different stop disposition (or outcome) categories when recording stop data. Officers may select multiple dispositions per stop where necessary (e.g., an officer cited an individual for one offense and warned them about another). Individuals were most often issued a citation (53.1%), followed by a warning (24.8%), and then arrest (11.3%).[102] Each of the other results represented less than 10 percent of the data.[103]

Race/Ethnicity. Compared to other races/ethnicities, stopped individuals perceived as Middle Eastern/South Asian had the highest rate of being cited (68.3%), while individuals perceived to be Native American had the highest rate of being warned (28.0%) or arrested (14.7%). Stopped individuals perceived as Black had the lowest rate of being cited (39.1%) whereas stopped individuals perceived as Middle Eastern/South Asian had the lowest rate of being warned (21.9%) or arrested (5.3%).

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[102] Arrests here include three different result types: in-field cite and release (4.8% of stopped individuals), custodial arrest without a warrant (5.0% of stopped individuals), and custodial arrest with a warrant (1.7% of stopped individuals). It is possible for multiple arrest conditions to apply to the same individual in a single stop.

[103] Other result categories included no action (8.0%), field interview card completed (5.6%), noncriminal/caretaking transport (0.4%), contacted parent/legal guardian (0.1%), psychiatric hold (0.7%), contacted U.S. Department of Homeland Security (<0.1%), referred to a school administrator (<0.1%), or referred to a school counselor (<0.1%).

## Figure 12. Stop Result by Perceived Race/Ethnicity
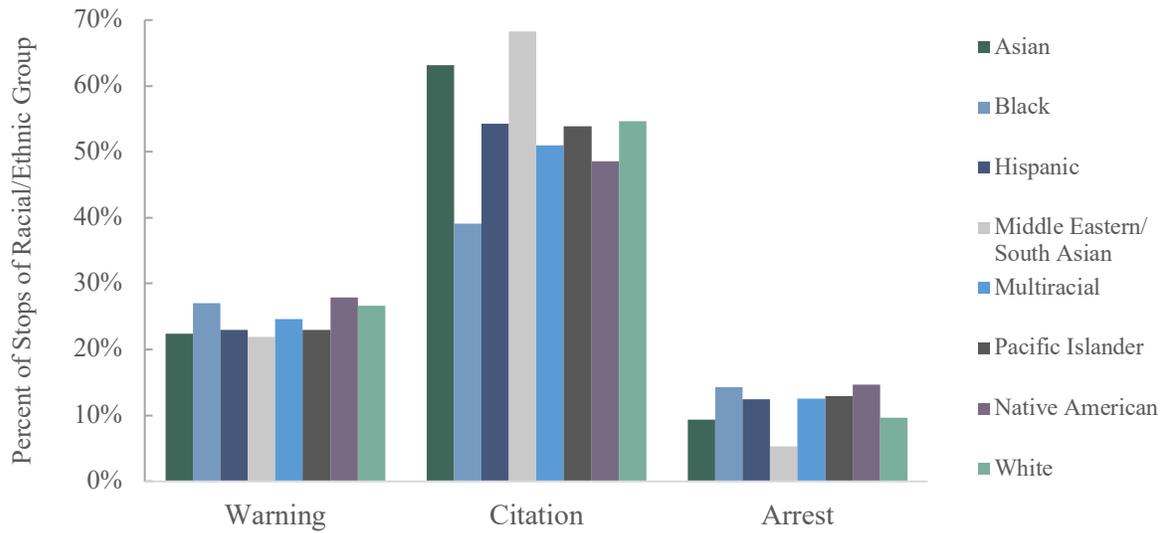
Gender. Citation rates ranged from 18.5 percent of stopped individuals perceived as transgender women/girls to 57.3 percent of stopped individuals perceived as (cisgender) females. Warning rates ranged from 18.8 percent of stopped individuals perceived as gender nonconforming to 25.3 percent of stopped individuals perceived as (cisgender) males. Finally, compared to other gender identities, stopped individuals perceived as transgender women/girls had the highest rate of being arrested (27.9%) while stopped individuals perceived as (cisgender) females had the lowest rate (10.5%).

Figure 13. Stop Result by Perceived Gender
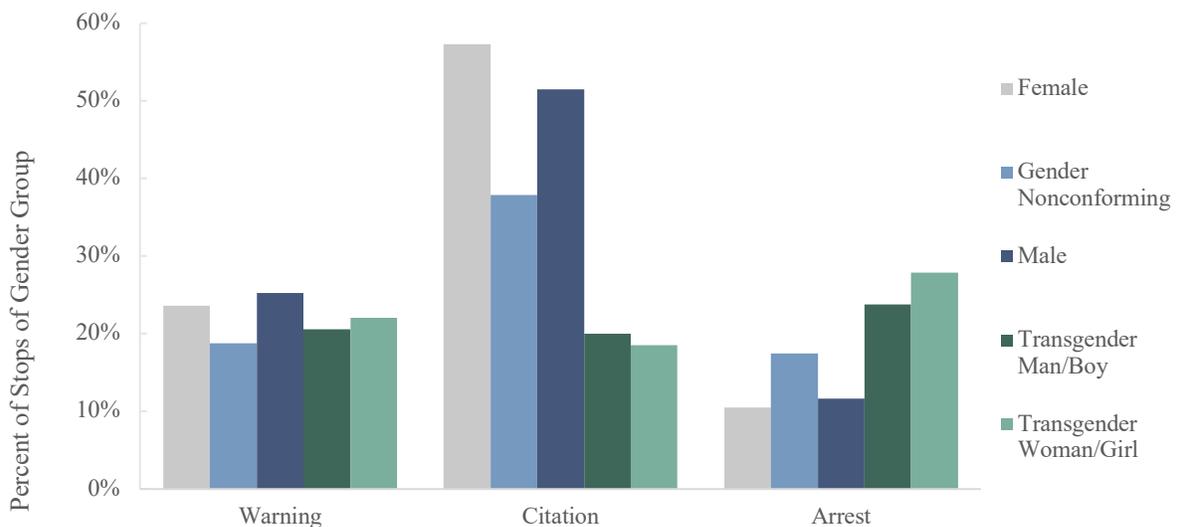
Age. Citation rates for those who were stopped ranged from 9.1 percent for individuals perceived as 10 to 14 year olds to 56.5 percent of individuals perceived as 18 to 24 year olds. Warning rates across age groups of stopped individuals ranged from a low of 13.3 percent of individuals perceived as 10 to 14 years old to a high of 29.9 percent of individuals perceived as 65 and older. Compared to other age groups, stopped individuals perceived as 10 and 14 also had the highest rate of being arrested (20.7%) while stopped individuals perceived as 1 to 9 year olds had the lowest rate (7.8%).[104]

Figure 14. Stop Result by Age Group
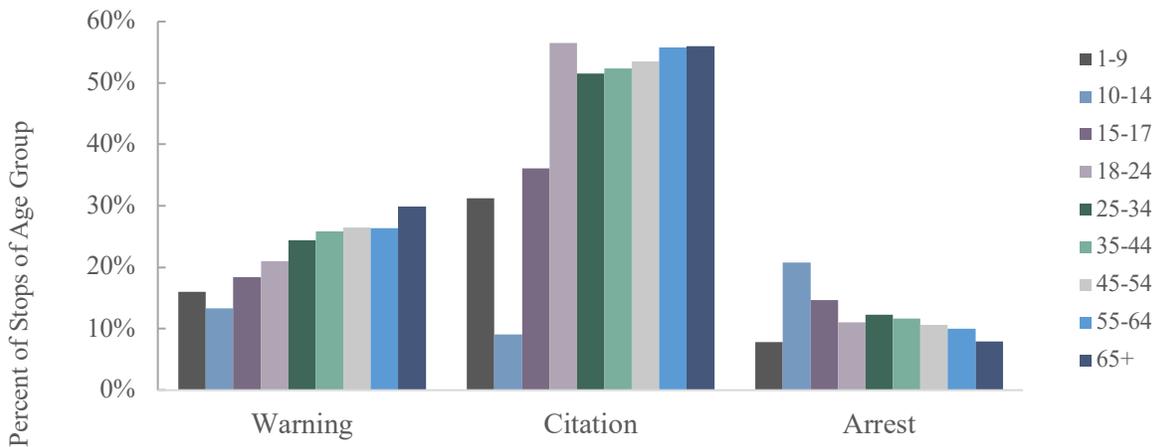
LGBT. Stopped individuals perceived as LGBT had a lower rate of being cited (33.9%) or warned (21.1%) while having a higher rate of being arrested (22.4%) than individuals whom officers did not perceive to be LGBT (cited 53.2%, warned 24.8%, arrested 11.3%).

Limited English Fluency. Stopped individuals officers perceived to have no or limited English fluency had a lower rate of being cited (51.8%) while having a higher rate of being warned (25.3%) or arrested (13.4%) when compared to individuals perceived to speak English fluently (cited 53.2%, warned 24.8%, arrested 11.2%).

Disability. Stopped individuals perceived as having a disability had lower rates of being cited (9.5%) or warned (14.6%) and higher rates of being arrested (20.2%) than those perceived to not have a disability (cited 53.6%, warned 24.9%, arrested 11.2%).

1.5 Tests for Racial/Ethnic Disparities

There is no consensus in the literature about what analyses are best for identifying racial profiling or racially biased policing and no single approach is perfect. For this reason, the following section contains multiple commonly used analyses designed to identify differences in

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[104] The unexpectedly high number of arrests for individuals perceived to be below 15 years of age may partially be explained by incorrectly recorded age values, but we cannot know for sure.

various elements of police stops across the perceived racial/ethnic identities of stopped individuals. These tests for racial/ethnic disparities include:

- a comparison to residential population data;

- an analysis of search discovery rate;

- an analysis of stop frequencies by time of day; and

- an analysis examining use of force rates.

Each of these analyses tests for racial/ethnic disparities in a different manner. As a result, each type of analysis will have its own methodological strengths and weaknesses. A detailed description of the methodology for each analysis in this section is available in Appendix B, along with discussions of some considerations and limitations for each analytical approach.[105]

1.5.1   Residential Population Comparison

Comparing stop data to the underlying residential population is a commonly used methodology. An assumption of this type of comparison is that the distribution of who is stopped would be similar to who resides within a comparable geographic region. However, this is not always the case, as people may travel a considerable distance from where they live for a number of reasons (e.g., to go to work, visit family). Here, the Board used residential population demographics from the United States Census Bureau's 2018 American Community Survey (ACS) to provide a benchmark for what might be the expected demographic breakdown of the 2019 stop data.[106] For example, we would expect approximately a third of the individuals stopped by law enforcement to be White since White individuals constitute approximately a third of the population in the regions of California served by the Wave 1 and Wave 2 agencies. It is important to note that disparities between stop population proportions and residential population proportions for each racial/ethnic group can be caused by several factors which include, but are not limited to, potential differences in offending rates and officer bias.

Apart from the CHP, none of the Wave 1 and 2 agencies conduct operations widely across the entire State of California. Accordingly, the ACS demographic estimates were adjusted to better represent the jurisdictions of law enforcement agencies whose data are included in this report, rather than comparing against the whole state population.[107]

Figure 15 displays the racial/ethnic distribution of stopped individuals from the 2019 RIPA Stop Data alongside the weighted distribution from the ACS. These analyses were repeated for all reporting municipal agencies, excluding California Highway Patrol, and for each individual agency; those individual results can be found in Appendix Table C.1. As explained above, all

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[105] See Racial and Identity Profiling Advisory Board, Annual Report 2020 (Jan. 1, 2020) pp. 30-31
<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf> (as of Dec. 14, 2020).
[106] 2019 ACS data were not available at the time these analyses were performed.
[107] See Appendix B.1 for a full description of the methodology.

race/ethnicity data reported under RIPA is based on officer perceptions, while the ACS data is self-reported. [108]

Overall, the disparity between the proportion of stops and the proportion of residential population was greatest for Multiracial and Black individuals.[109] Multiracial individuals were stopped 70.7 percent less frequently than expected, while Black individuals were stopped 140.9 percent more frequently than expected.[110] The proportion of stops corresponding to White individuals most closely matched estimates from residential population data (3.44% less frequent than expected). Compared to White individuals, the greatest disparities between stop data and residential population data estimates occurred for Black and Multiracial individuals. The disparity for Black individuals was 2.5 times as great as the disparity for White individuals. For Multiracial individuals, the disparity was 0.3 times as great as the disparity for White individuals.

This indicates that Black individuals were significantly more likely to be stopped relative to their share of the residential population—compared to White individuals—while Multiracial individuals were significantly less likely to be stopped. After excluding California Highway Patrol records from the analysis, the data continued to show the greatest disparities in these estimates for Multiracial and Black individuals. Compared to White individuals, the disparity between stop data and residential population estimates for all municipal agencies increased for all groups except for Asian and Middle Eastern/South Asian individuals.

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[108] See Appendix B.1 for further discussion of the limitations to this type of analysis.

[109] See Appendix Table C.1 for all descriptive statistics.

[110] Stop data classifying the race/ethnicity of stopped individuals is based upon officer perception. Some research indicates that it is more difficult to classify the race of multiracial individuals than to classify the race of monoracial individuals and that people may often classify multiracial individuals as monoracial. See Chen & Hamilton, *Racial Ambiguities: Racial categorization of multiracial individuals* (2012) 48 J. of Experimental Social Psychology 152; Iankilevitch et al., *How Do Multiracial and Monoracial People Categorize Multiracial Faces?* (2020) 11(5) Soc. Psychological and Personality Science 688.

Figure 15. Residential Population Comparison to Stop Data
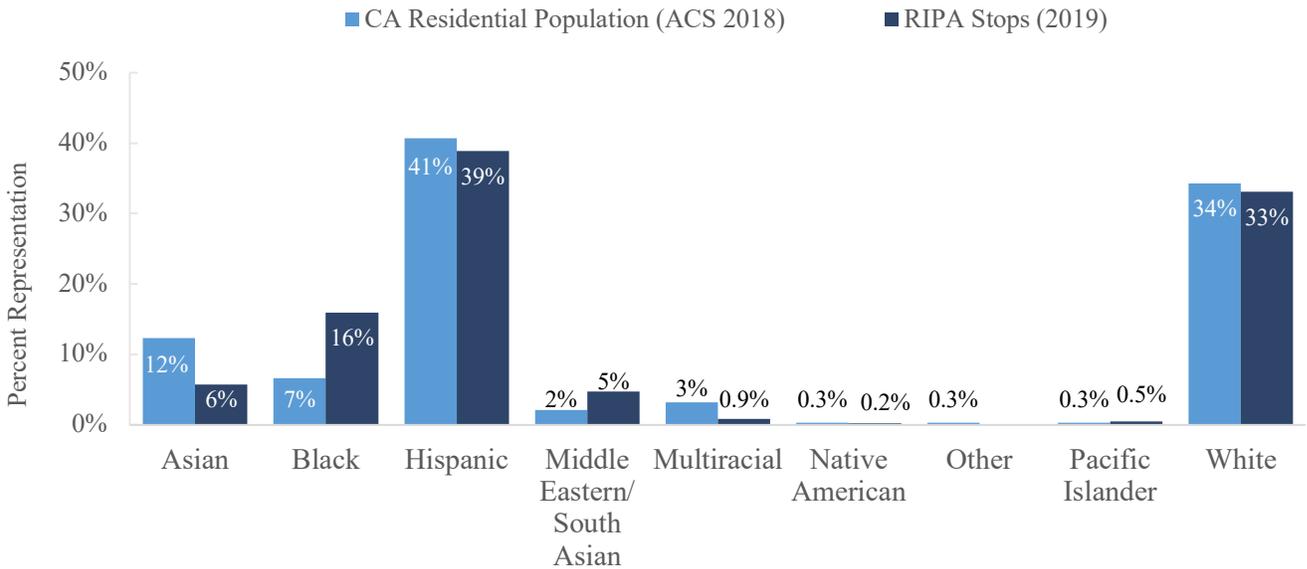
1.5.2 Discovery-rate Analysis

These data show police generally search each racial/ethnicity group at different rates. Researchers have developed an empirical test for distinguishing how much of this disparity may be explained by biased officer behavior. The test attempts to measure the efficiency of searches by comparing the rate at which contraband or evidence is discovered across racial/ethnicity groups. One assumption of the test is that if officers are less likely to find contraband after searching people of a particular identity group, then those individuals are objectively less suspicious and may be searched, at least in part, because of their perceived identity.[111] Using this framework, we tested for differential treatment by conducting comparisons of search and discovery rates across identity groups.[112]

Descriptive Analysis. Overall, officers searched 11.3 percent of all stopped individuals and they discovered contraband or evidence in 21.4 percent of those searches. Search and discovery rates varied widely between racial/ethnic groups. Specifically, search rates ranged from 3.1 percent of stopped individuals perceived as Middle Eastern/South Asian to 20.5 percent of stopped individuals

Discovery Rates

These analyses measure the rates at which contraband or evidence is discovered in stops where a search was performed. In the 2020 RIPA report, these analyses were called "search yield rates." They are also often referred to in research literature as "hit rates." The Board believes that "discovery rates" is a more transparent term than "search yield rates" and that it helps speak more directly to the data being analyzed, given that these analyses make use of data element referred to as "Contraband or Evidence *Discovered*" in the RIPA regulations.

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[111] See Appendix B.2 for a discussion of the limitations to this type of analysis.

[112] Knowles et al., *Racial Bias in Motor Vehicle Searches: Theory and Evidence* (2001) 109 J. Pol. Econ. 203.

perceived as Black. Individuals perceived as White were searched 8.2 percent of the time. The 12.3 percentage point difference in search rates between stopped Black and White individuals had the following impact: although officers stopped 687,109 more individuals perceived to be White than individuals perceived to be Black, officers searched 22,096 more Black individuals than White individuals.[113] Search discovery rates did not vary as widely between racial/ethnic groups as did search rates. Discovery rates ranged from 19.3 percent of stopped individuals perceived as Middle Eastern/South Asian individuals to 23.9 percent of stopped individuals perceived as Multiracial. The discovery rate for stopped individuals perceived as White was 22.2 percent.

Figure 16. Search and Discovery Rates by Perceived Race/Ethnicity
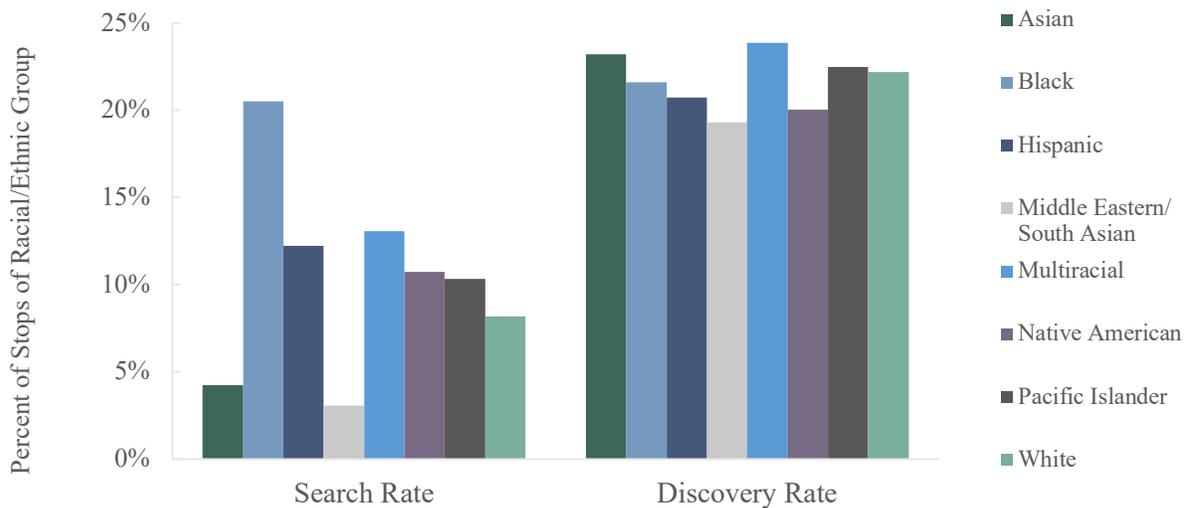
For this Report, we compared the search and discovery rates for each group to those for individuals perceived as White. All racial/ethnic groups of color had higher search rates than individuals perceived as White, except for individuals perceived as Asian and Middle Eastern/South Asian. Discovery rates were also lower for most groups compared to individuals perceived as White; those perceived as Pacific Islander, Asian, or Multiracial had higher discovery rates. Individuals perceived as Black, Hispanic, and Native American had higher search rates despite having lower rates of discovering contraband compared to individuals perceived as White.

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[113] Officers searched more individuals perceived to be Hispanic (190,167) than individuals perceived to be White (108,248). However, officers also stopped more Hispanic individuals (1,552,485) than White individuals (1,322,201) but not Black individuals (635,092).

Figure 17. Racial/Ethnic Disparities in Search and Discovery Rates
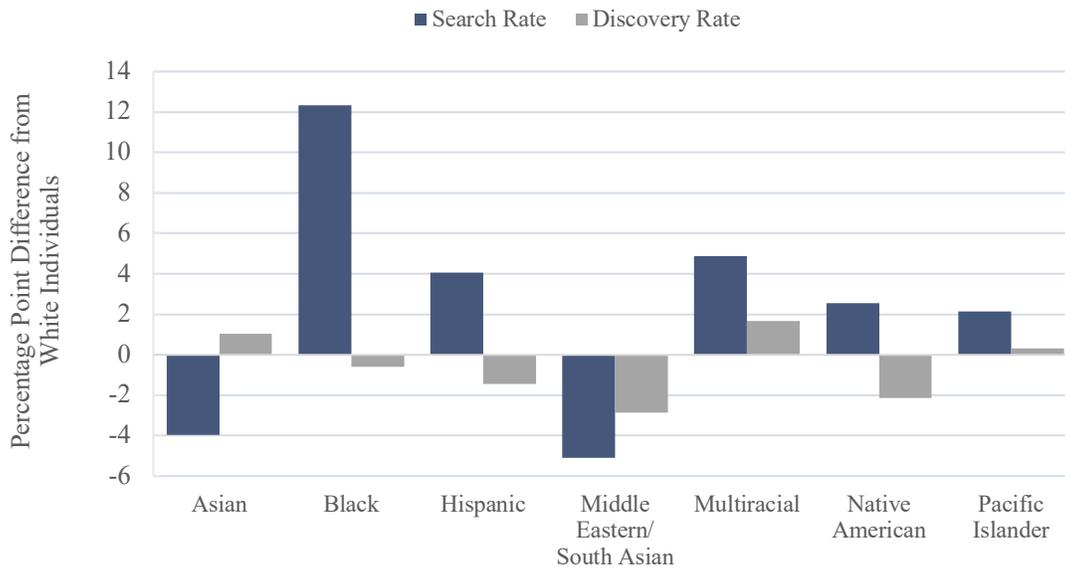
Multivariate Analysis. To consider how multiple variables (i.e., multivariate), alongside the perceived race/ethnicity of the stopped individual, are associated with decisions by officers to search and whether officers discovered contraband or evidence, these data were also analyzed using statistical models.[114] One key consideration is the level of discretion available to officers in their decision to conduct a search in the first place. Some searches are based on protocol and are often required under departmental policy, such as during an arrest, vehicle inventory, or search warrant; these administrative types of searches afford little to no discretion to the officer in their decision to initiate a search. Other types of searches are conducted in situations where more discretion is available to the officer and are likely based on some subjective threshold of suspicion that contraband or evidence may be found. Examples of these types of searches include those conducted because an officer smelled contraband or when officers suspect the individual of having a weapon. Previous research has shown that these discretionary searches tend to be conducted disparately, and individuals of certain racial/ethnic groups of

> **Statistical Significance Testing**
>
> These tests provide a common framework for evaluating evidence provided by data against a specific hypothesis. For example, the hypothesis tested by the discovery-rate analysis is, "Searches of stopped individuals from racial/ethnic groups of color and White individuals are equally likely to reveal contraband." But, if the test provides strong enough evidence that disparities between groups are larger than can reasonably be explained by chance alone, then we can say that our findings are *statistically significant*. In other words, the evidence provided by the data renders as very low the likelihood that chance explains the resulting disparity.

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[114] See Appendix B.2 for a full description of the methodology.

color have a greater chance of being subjected to discretionary searches.[115] As such, the multivariate analysis was applied to (1) search rates overall, (2) discovery rates during discretionary searches, and (3) discovery rates during administrative searches.

The results showed multiple statistically significant differences in search and discovery rates across racial/ethnicity groups, especially when comparing individuals perceived as Black or Hispanic to individuals perceived as White (see Table 3). Compared to White individuals, it was more probable for Black (+1.8% points) and Hispanic (+0.4% points) individuals to be searched despite being less likely to be found in possession of contraband or evidence in stops with discretionary searches (-1.9% points and -1.3% points, respectively).[116] However, the difference in discovery rates between White and Black individuals during stops with administrative searches was not statistically significant. Asian individuals (-2.1% points) and those from racial/ethnic groups that were combined together[117] (-1.8% points) were also less likely to be searched compared to White individuals, but did not have a significant difference in the rate of contraband or evidence discovered during stops with discretionary searches.[118] Both Hispanic individuals (-1.3% points) and those from the combined group (-2.9% points) were less likely to have contraband or evidence discovered in stops with administrative searches. These analyses were repeated for all municipal agencies excluding California Highway Patrol and for each individual agency alone in order to consider the impact of different locales on the findings; these results can be found in the Appendix.[119]

Table 3. Summary of Multivariate Discovery Rate Analysis Findings by Race/Ethnicity

Group	Search Rates	Discovery Rates	
		Discretionary Searches	Administrative Searches
Asian	*** ↓ 2.1%	↓ 0.7%	↓ 0.8%
Black	*** ↑ 1.8%	*** ↓ 1.9%	↓ 0.4%
Hispanic	*** ↑ 0.4%	*** ↓ 1.3%	*** ↓ 1.3%
Other	*** ↓ 1.8%	↓ 1.1%	*** ↓ 2.9%
Note. Values represent percentage point difference compared to the rate for White individuals, with arrows indicating the direction of the difference. Statistically significant disparities are indicated with asterisks; *** p < 0.001; ** p < 0.01; * p < 0.05.			

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[115] Ridgeway, *Assessing the Effect of Race Bias in Post-traffic Stop Outcomes Using Propensity Scores* (2006) 22 J. Quantitative Criminology 1.

[116] See Appendix Table C.2.1.1 for model statistics.

[117] Individuals perceived to be Middle Eastern/South Asian, Multiracial, Native American, or Pacific Islander were combined into one group in order to gain the statistical power needed to conduct these multivariate analyses.

[118] See Appendix Table C.2.2.1 for model statistics.

[119] See Appendix Tables C.2.1.1, C2.2.1 and C.2.3.1 for model statistics.

1.5.3 Veil of Darkness Analysis

A key problem in exploring racial disparities is establishing the proper benchmark against which to compare the racial/ethnic distribution of individuals stopped by law enforcement. One approach presumes that it may be more difficult for police to perceive the race/ethnicity of an individual prior to stopping them after dark than during daylight. In other words, to the extent that it is harder to identify someone at night, we would expect darkness to decrease the likelihood that individuals of racial/ethnic groups of color are disproportionately stopped relative to White individuals. This hypothesis is called the veil of darkness (VOD) which has been used by researchers to test for racial/ethnic disparities in law enforcement encounters.

The Intertwilight Period. The most conventional version of the VOD approach, followed here, is to only examine vehicle stops that occur during the intertwilight period. The reason for this is that the intertwilight period spans the hours of the day that are light during one part of the year and dark during the other because of daylight saving time; this period occurs twice on any given day, once around dawn and once around dusk. Stops made during the lighter portion of this period (i.e., after sunrise but before sunset) are compared to stops made during the darker portion of this period.[120] Figure 18 shows an example of both morning and evening intertwilight periods for stops made in Sacramento using RIPA data.

Figure 18. Morning and Evening Intertwilight Periods for Sacramento
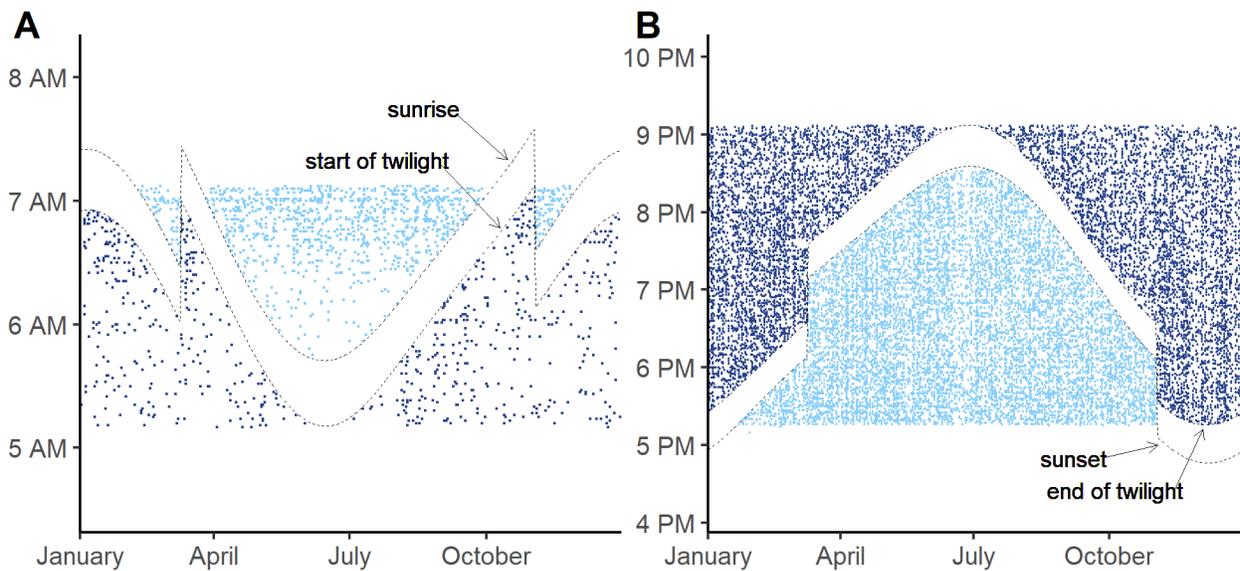
Notes: Each dot represents a single stop made by law enforcement in Sacramento on a given day and time. Light blue dots represent stops made during daylight. Dark blue dots represent stops made after dark. Only stops made

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[120] Civil twilight is defined as the illumination level sufficient for most ordinary outdoor activities to be done without artificial lighting before sunrise or after sunset. Therefore, it is dark outside when civil twilight ends; civil twilight ends when the sun is six degrees below the horizon.

within the morning (A) and evening (B) intertwilight periods were included in the analysis. Stops made between the start of civil twilight and sunrise (white band) were excluded from the morning intertwilight period. Stops made between sunset and the end of civil twilight (white band) were excluded from the evening intertwilight period. Stops that occurred within the white-banded area were excluded because the lighting conditions during this period are more difficult to classify as either dark or light. Discontinuities in the curves in March and November reflect Daylight Saving Time adjustments.

Multivariate Analysis. These analyses take into account how multiple variables (e.g., time of day, location) may contribute to disparities in stops made in the dark compared to those in the light.[121] As mentioned previously, this analysis only includes data for individuals stopped for traffic violations during the morning and evening intertwilight periods.[122] Stops made in response to a call for service were also excluded from this analysis because officers utilized information from a third party (e.g., dispatcher or caller) when making the decision to stop the individuals in these cases; the VOD test is best applied to stops where officers are making stops solely based on their own judgement. These filtering criteria were applied to the data in order to approximate the conditions under which the VOD hypothesis would be most accurate. Finally, the four racial/ethnic groups who were least frequently stopped were combined into a single group to increase statistical power for the test; these groups included individuals perceived to be Middle Eastern/South Asian, Multiracial, Native American, and Pacific Islander.

The results showed that some racial/ethnic groups were stopped at different rates, relative to White individuals, depending on visibility conditions. Darkness decreased the rates at which Black (-0.5% points) and Hispanic (-1.4% points) individuals were stopped compared to White individuals; individuals from the racial/ethnic groups that were combined together (-0.8% points) also collectively had lower rates of being stopped during darkness.[123] Given the large number of stops submitted by California Highway Patrol as compared to the municipal agencies, the analyses were repeated while excluding CHP data. This analysis continued to show darkness decreasing the probability of being stopped during the intertwilight period for Black (-1.5% points) and Hispanic (-1.0% points) individuals.[124] These results suggest that individuals of certain racial/ethnic groups of color may be more likely to be stopped when it is easier to perceive their race/ethnicity. These disparities could reflect biased police behavior or the effect of some factor that is not yet being considered by this test.[125]

1.6   Use of Force Analysis

California law provides that "[a]ny peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance."[126] State law strictly provides when an officer may reasonably use deadly force; it is universally accepted that deadly force is the

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121 See Appendix B.3 for a full description of the methodology.
122 Traffic Violations include all categories of "Reason for Stop" defined under Section 999.226, subd. (a)(10)(A)(1) of the RIPA Regulations.
123 See Appendix Table C.3 for model statistics.
124 See Appendix Table C.3 for model statistics.
125 See Appendix B.3 for a discussion of the limitations surrounding VOD.
126 Cal. Pen. Code, § 835a, subd. (b).

highest level of force that an officer could use.[127] However, there are no guidelines in California as to what constitutes the range or continuum of force between the lowest level of force and deadly force. Additionally, the specific data elements collected under RIPA have never been adapted to reflect any existing use-of-force continuum.

The Board offers two approaches for examining use of force across racial/ethnic groups.[128] The first uses a modified version of a use-of-force continuum from the National Institute of Justice to compare escalating levels of force between racial/ethnicity groups.[129] The second applies a statistical test to determine whether force was used disparately between White individuals and individuals from racial/ethnic groups of color. These data show that use of force is generally rare in California and is reported in about one percent of stops. However, the Board recognizes that, despite the low occurrence rate relative to other actions that officers take during stops, the gravity of the outcomes of many incidents that involve uses of force necessitates the examination of these data for disparate outcomes.

Use-of-force Continuum. Of the 23 actions that officers can report for RIPA, at least nine constitute types of force. These nine actions have been divided into three separate categories based on the level of force used, including lethal, less-lethal, and other physical or vehicle force. Table 4 displays what actions taken by officers during stops were grouped into each of the level of force categories.[130] Lethal use of force was used against 0.004 percent (154) of stopped individuals. Less-lethal force was used against 0.4 percent (16,795) of stopped individuals. Actions constituting limited force were used against 0.6 percent (23,795) of stopped individuals.

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[127] *Ibid*.

[128] The California Department of Justice issues a Use of Force Incident Reporting Annual Report, also known as the URSUS Report (see <https://data-openjustice.stg.doj.ca.gov/sites/default/files/2020-06/USE%20OF%20FORCE%202019.pdf> (as of Dec. 14, 2020)). However, the types of use of force incidents covered by the URSUS Report are more narrowly defined than the incidents collected and reported under RIPA.

[129] See National Institute of Justice, The Use-of-Force Continuum <https://nij.ojp.gov/topics/articles/use-force-continuum> (as of Dec. 14, 2020).

[130] Section 999.226, subd. (a)(12)(A)(15) of the RIPA regulations defines the "Other physical or vehicle contact" data element within the "Action Taken by Officer During Stop" variable. Officers are instructed to select this data element when they use a number of different use of force types, such as hard hand controls or forcing someone to the ground. This data element is also what officers are instructed to select when they utilize a carotid restraint. The Department has previously noted that carotid restraints often involve a needlessly high risk of causing unnecessary and accidental serious bodily injury (see Cal. Dept. of J., Sac. Police Dept. Rep. and Recommendations (2019), pp. 16, 25, 78 <https://oag.ca.gov/system/files/attachments/press-docs/spd-report.pdf> (as of Dec. 7, 2020)). However, since carotid restraints are not distinguished from the other types of force captured under the "Other physical or vehicle contact" data element, it is possible that some instances when officers used this type of force are categorized under the other physical or vehicle force category in these analyses. This categorization is a reflection of how the data are collected under the RIPA regulations and not a reflection of the Department's view on the use of carotid restraints.

Table 4. Use of Force Categories and Applicable RIPA Actions

Lethal force	Less-lethal force	Other physical or vehicle force
• Firearm discharged or used	• Electronic control device used • Impact projectile discharged or used • Canine bit or held person • Baton or other impact weapon used • Firearm pointed at person[131] • Chemical spray used	• Person removed from vehicle by physical contact • Other physical or vehicle contact. This refers to any of the following contacts by the officer, when the purpose of such contact is to restrict movement or control a person's resistance: any physical strike by the officer; instrumental contact with a person by an officer; or the use of significant physical contact by the officer.

Less than 0.1 percent of stopped individuals from each racial/ethnic group had lethal force used against them. The total number of individuals who had lethal force used against them by perceived racial/ethnic group included three Asian, 37 Black, 73 Hispanic, two Middle Eastern/South Asian, one Native American, two Pacific Islander, 35 White, and one Multiracial individual. Black individuals had the highest rates of less-lethal force (0.8%) and other physical or vehicle force (1.1%) used by officers against them during a stop, while Middle Eastern/South Asian individuals had the lowest rates (0.1% and 0.3%, respectively).

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[131] California Government Code section 12525.2, subdivision (b)(4), requires the California Department of Justice to annually collect data related to certain types of force. The Department of Justice classifies the threat of a firearm as a type of force that must be reported to the Department per URSUS. (See Use of Force Incident Reporting (July 2019) Data Elements and Values Defined, p. 7 <https://data-openjustice.stg.doj.ca.gov/sites/default/files/dataset/2019-07/URSUS%202018%20Context_062519.pdf> (as of Dec. 14, 2020)). Given that the threat of a firearm is inherent to the intentional pointing of a firearm at another person, pointing a firearm was classified as a use of force in this set of analyses, for consistency with other use of force reporting within California. Not all agency policies in California categorize pointing a firearm at a person as a reportable use of force.

Figure 19. Use of Force Rates by Perceived Race/Ethnicity

Lethal Force

(y-axis: Percent of Stops of Racial/Ethnic Group)

- Asian: 3
- Black: 37
- Hispanic: 73
- Middle Eastern/South Asian: 2
- Multiracial: 1
- Native American: 1
- Pacific Islander: 2
- White: 35

Less-Lethal Force

(y-axis: Percent of Stops of Racial/Ethnic Group)

- Asian: 367
- Black: 5,194
- Hispanic: 7,234
- Middle Eastern/South Asian: 217
- Multiracial: 191
- Native American: 30
- Pacific Islander: 117
- White: 3,445

Limited Force

(y-axis: Percent of Stop of Racial/Ethnic Group)

- Asian: 854
- Black: 7,049
- Hispanic: 7,881
- Middle Eastern/South Asian: 615
- Multiracial: 268
- Native American: 30
- Pacific Islander: 149
- White: 6,949

Legend: Asian, Black, Hispanic, Middle Eastern/South Asian, Multiracial, Native American, Pacific Islander, White

Multivariate Analysis. To consider the impact of the stopped individuals' perceived race/ethnicity and multiple other factors on whether any use of force occurred during a stop, these data were analyzed using statistical models.[132] Data for the four racial/ethnic groups least frequently stopped by officers were combined into a single group to increase the sample size for the test; these groups included Middle Eastern/South Asian, Multiracial, Native American, and Pacific Islander individuals.

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[132] See Appendix B.4 for a full description of the methodology.

The analysis showed that Black and Hispanic individuals were more likely to have force used against them compared to White individuals, while Asian and other individuals were less likely. Specifically, compared to Whites, the odds of having force used during a stop were 1.45 times and 1.18 times greater for Black and Hispanic individuals, respectively. The odds of force being used during stops of Asian or other individuals were 0.83 and 0.93 times lower, respectively, compared to White individuals.[133] Excluding the data from California Highway Patrol, which contributed a majority of the stop data records, had little impact on these disparities.[134]

1.7 Report-Specific Analyses

1.7.1 Intersectional Analyses

The Board recognizes that many aspects of an individual's identity may intersect, resulting in different experiences during encounters with law enforcement. Disparities in stop frequencies and outcomes between racial/ethnicity groups, for example, may be best explained when considering how the outcomes for perceived race/ethnicity intersect with a person's perceived gender. Accordingly, the search discovery rate analysis was extended to racial/ethnic group comparisons within gender and disability groups.

> **Reminder Regarding Identity Group Data**
>
> Gov. Code § 12525.5(b)(6) states, "[t]he perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped." This means that identity characteristics collected under RIPA are a reflection of officer perception, rather than self-identification by stopped individuals. It is important to note that stopped individuals may self-identify differently than how an officer perceives them.

1.7.1.1 Race/Ethnicity by Gender

Less than 1 percent (7,595) of individuals stopped in 2019 were perceived to be transgender or gender nonconforming. Among the stopped individuals perceived to be transgender or gender nonconforming, 43.4 percent were perceived to be a transgender man/boy, 32.0 percent were perceived to be gender nonconforming, and the remaining 24.6 percent were perceived to be a transgender woman/girl. Data for transgender and gender nonconforming individuals were combined due to low numbers, in order to increase statistical power. Thus, the following three gender groups will be discussed in the analyses: (cisgender) male, (cisgender) female, transgender/gender nonconforming.

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[133] See Appendix Table C.4 for model statistics.

[134] See *ibid.*

Descriptive Analysis. Officers searched 6.5 percent of (cisgender) females they stopped and discovered contraband or evidence during 20.9 percent of these stops where they conducted searches. Among all racial/ethnicity groups, Black and Hispanic (cisgender) females were searched at a higher rate (10.7% and 6.5% respectively) in comparison to White (cisgender) females (5.7%). Despite having higher search rates, Black and Hispanic (cisgender) females had lower search discovery rates (21% and 20.5% respectively) than White (cisgender) females (21.5%). (Cisgender) females from the combined racial/ethnic groups had lower search (3.2%) and discovery rates (19.8%) in comparison to White (cisgender) females.

Approximately 13.2 percent of (cisgender) males were searched by officers and contraband or evidence was discovered on 21.5 percent of (cisgender) males whom officers searched. Black (24.5%) and Hispanic (cisgender) males (14.1%) had higher search rates in comparison to White (cisgender) males (9.4%) while (cisgender) males from the combined racial/ethnic groups had lower search rates (5.4%). Despite having higher search rates, Black and Hispanic (cisgender) males whom officers searched had lower discovery rates (21.7% and 20.8% respectively) in comparison to White (cisgender) males (22.4%). (Cisgender) males from the combined racial/ethnic groups had the highest discovery rate (22.8%).

Officers searched 29 percent of the transgender/gender nonconforming individuals they stopped; they discovered contraband or evidence on 20.2 percent of transgender/gender nonconforming individuals whom they searched. Despite large differences in search rates, discovery rates in the stops of individuals perceived to be transgender/gender nonconforming were similar to the discovery rates in stops of individuals perceived to be cisgender. Across racial/ethnic groups, search rates varied greatly amongst individuals whom officers perceived to be transgender/gender nonconforming. Hispanic and Black transgender/gender nonconforming individuals had higher search rates (36.7% and 34.4% respectively) than White transgender/gender nonconforming individuals (30.4%), while transgender/gender nonconforming individuals from the combined racial/ethnic groups had lower search rates (12.9%). Discovery rates for White transgender/gender nonconforming individuals were lower (18.8%) than the discovery rates for all other racial/ethnic groups for transgender/gender nonconforming individuals (20.1% - 21.1%).

## Figure 20. Search Rates by Perceived Race/Ethnicity and Gender
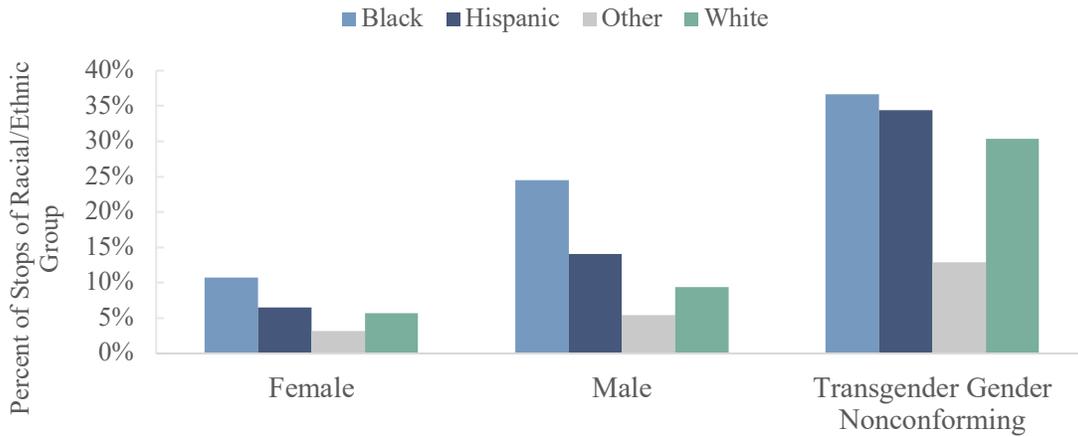
## Figure 21. Discovery Rates by Perceived Race/Ethnicity and Gender
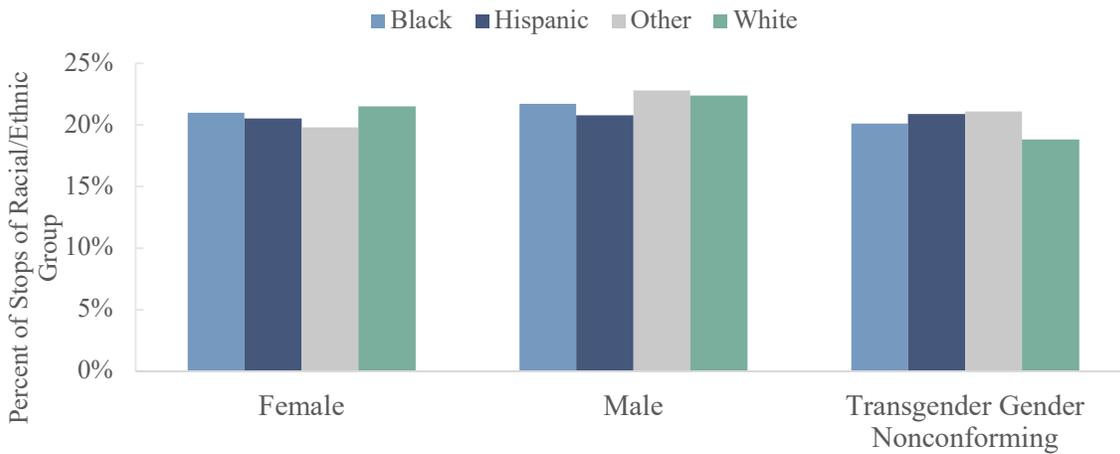
Figure 22. Racial/Ethnic Disparities in Search and Discovery Rates by Gender
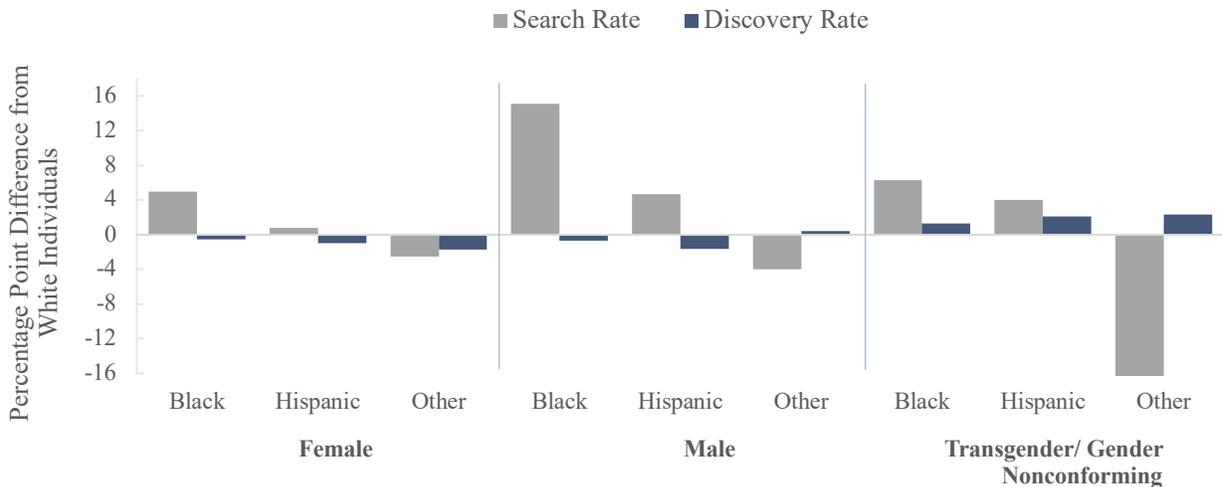
Multivariate Analysis. The descriptive analyses show racial/ethnic disparities in search and discovery rates within each perceived gender group of stopped individuals. To consider how multiple variables, including the perceived race/ethnicity of the stopped individuals of each gender category, are associated with decisions by officers to search and whether officers discovered contraband or evidence, these data were analyzed using multivariate statistical models.[135] As with the previous discovery-rate analysis, the multivariate analysis was applied to (1) search rates overall, (2) discovery rates during discretionary searches, and (3) discovery rates during administrative searches (see Table 5).

The results of these analyses showed statistically significant differences when comparing Black and Hispanic (cisgender) males to White (cisgender) males.[136] Black and Hispanic (cisgender) males were more likely to be searched (+2.2% points and +0.7% points respectively) than White (cisgender) males, while also being less likely to have contraband or evidence discovered (-1.7% points and -1.0% points respectively) during stops with discretionary searches. Hispanic (cisgender) males were also less likely to have contraband or evidence discovered (-1.3% points) in stops with administrative searches in comparison to White (cisgender) males; no statistically significant differences in administrative search discovery rates were observed between White and Black (cisgender) males. While (cisgender) males from the combined racial/ethnic groups were less likely to be searched (-2.2% points) than White (cisgender) males, the tests did not yield statistically significant differences for discretionary or administrative search discovery rates.

Officers were more likely to search (+0.2% points) and were less likely to discover contraband or evidence during stops in which they conducted discretionary searches of Black (cisgender) females than White (cisgender) females (-3.4% points). The difference in discovery rates during stops with administrative searches between Black and White (cisgender) females was not statistically significant. Hispanic (cisgender) females were less likely to be searched (-0.4% points) and had lower discretionary and administrative discovery rates (-2.2% and -2.5% points, respectively) than White (cisgender) females. Officers were less likely to search (cisgender) females from the combined racial/ethnic groups (-1.3% points) and less likely to discovery contraband or evidence during stops with administrative searches (-3.3% points) in comparison to White (cisgender) females. There were no statistically significant differences in discovery rates for discretionary searches between (cisgender) females within the combined racial/ethnic groups and White (cisgender) females.

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[135] See Appendix B.2 for a full description of the methodology.
[136] See page 50 for a simplified definition of statistically significant.

Table 5. Summary of Multivariate Discovery Rate Analysis Findings by Perceived Race/Ethnicity and Gender

Group		Search Rates	Discovery Rates	
			Discretionary Searches	Administrative Searches
Male	Black	*** ↑ 2.2%	*** ↓ 1.7%	↓ 0.4%
	Hispanic	*** ↑ 0.7%	*** ↓ 1.0%	*** ↓ 1.3%
	Other	*** ↓ 2.2%	↓ 0.9%	↓ 1.3%
Female	Black	* ↑ 0.2%	*** ↓ 3.4%	↓ 0.8%
	Hispanic	*** ↓ 0.4%	** ↓ 2.2%	*** ↓ 2.5%
	Other	*** ↓ 1.3%	↓ 1.0%	* ↓ 3.3%
Transgender/ Gender Nonconforming	Black	↑ 0.3%	↑ 7.4%	↑ 7.4%
	Hispanic	↑ 1.9%	↓ 3.6%	↑ 11.0%
	Other	↓ 1.6%	↓ 18.0%	↓ 4.8%

Note. Values represent percentage point difference compared to the rate for White individuals, with arrows indicating the direction of the difference. Statistically significant disparities are indicated with asterisks; *** p < 0.001; ** p < 0.01; * p < 0.05.

1.7.1.2   Race/Ethnicity by Disability

Analyses were also repeated for the intersection of perceived racial/ethnicity and disability groups. Less than 2 percent (46,035) of individuals stopped in 2019 were perceived to have a disability. The most common perceived disability was a mental health condition; officers reported mental health condition as the disability type for 63.3 percent of stopped individuals perceived to have a disability.[137] Due to relatively small numbers of stopped individuals perceived to have some of the disability types, disability groups were categorized into the following three groups to increase statistical power: no disability, mental health condition, and other disability.[138]

Descriptive Analysis. Overall, police officers searched 51.8 percent of stopped individuals who were perceived to have a mental health condition, and contraband or evidence was discovered on 12.5 percent of these individuals whom officers searched. In comparison to White individuals (47.0%), individuals from all other racial/ethnic groups (Black, Hispanic, and Other) perceived to have a mental health condition had higher search rates (52.8% - 56.3%). For

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[137] Individuals perceived to have multiple disabilities—including cases where one of the disabilities is a mental health condition—are not included in this statistic.

[138] The "other" types of disabilities include the following disability groups: blind (4.9%), deafness (15.4%), developmental disability (8.9%), hyperactivity disorder (0.2%), multiple disabilities (20.9%), speech impairment (13.3%), and other (36.6%). Percentages presented in parentheses in the preceding sentence are relative to the total number (16,911) of individuals categorized into the "other" disability group for these analyses.

discovery rates, all other racial/ethnic groups perceived to have a mental health condition had higher discovery rates (12.5% - 13.4%) than those who were White (11.3%).

Officers searched 28.9 percent (4,887) of individuals perceived to have other types of disabilities and discovered contraband or evidence during 20.7 percent of stops where they performed a search. Black and Hispanic individuals perceived to have other types of disabilities had higher search rates (36.2% and 33.9% respectively) in comparison to White individuals perceived to have other types of disabilities (24.9%). Discovery rates were higher for Black individuals perceived to have other types of disabilities (22.5%) than for White individuals (20.3%). Hispanic individuals perceived to have other types of disabilities had lower discovery rates (20.0%) compared to White individuals. Individuals perceived to have other types of disabilities from the combined racial/ethnic groups had lower search (16.5%) and discovery rates (18.7%) than White individuals.

Officers searched 11 percent (432,183) of individuals with no perceived disabilities and discovered contraband or evidence on 21.7 percent of these individuals. Across racial/ethnic groups, Black and Hispanic individuals with no perceived disabilities were searched at a higher rate (20% and 12% respectively) than White individuals with no perceived disability (7.8%). Black and Hispanic individuals with no perceived disabilities also had lower discovery rates (21.9% and 20.9% respectively) when compared to White individuals with no perceived disability (22.8%). Individuals with no perceived disabilities from the combined racial/ethnic groups were searched at a lower rate (4.5%) but had a higher discovery rate (22.9%) than White individuals.

### Figure 23. Search Rates by Perceived Race/Ethnicity and Disability.
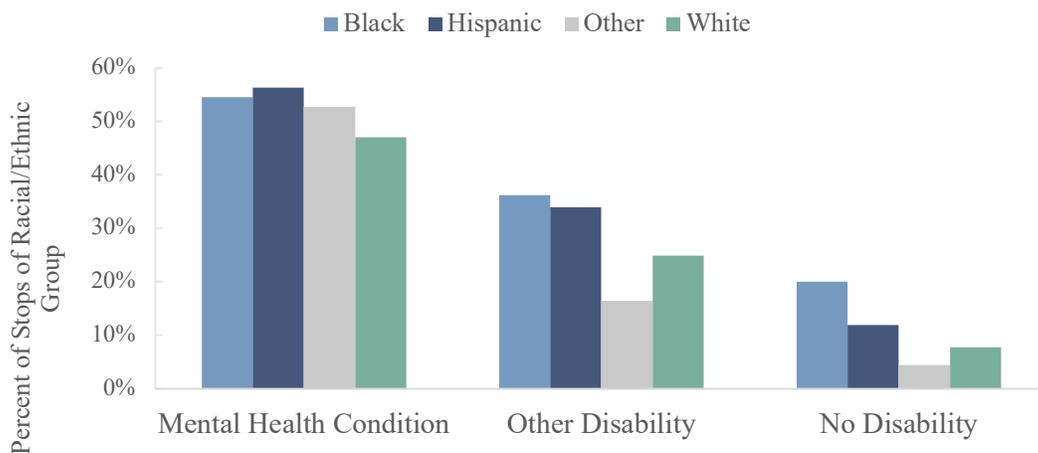
**Figure 24. Search Discovery Rates by Perceived Race/Ethnicity and Disability.**
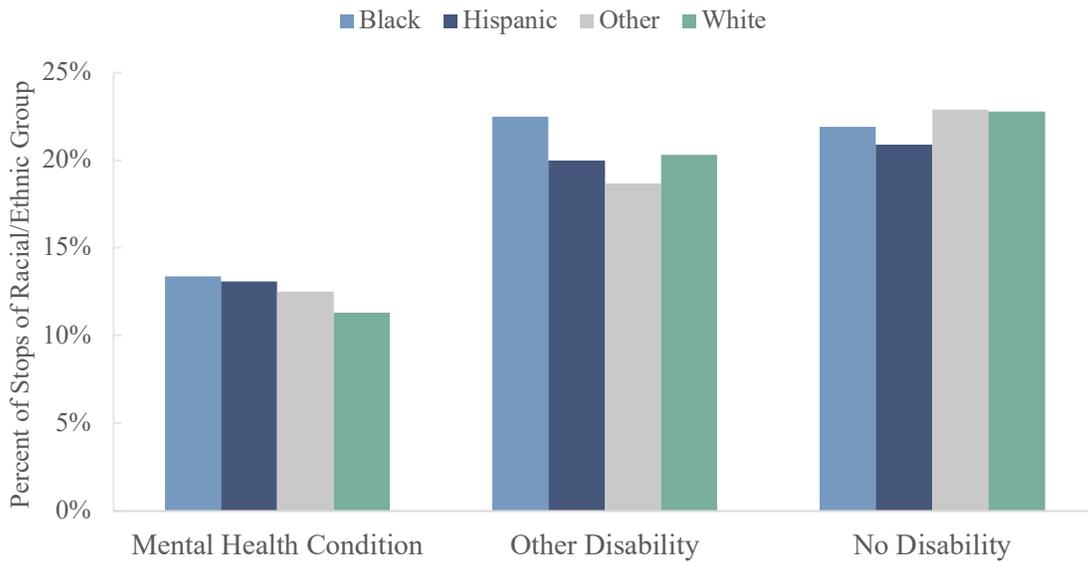
Figure 25. Racial/Ethnic Disparities in Search and Discovery Rates by Disability Group
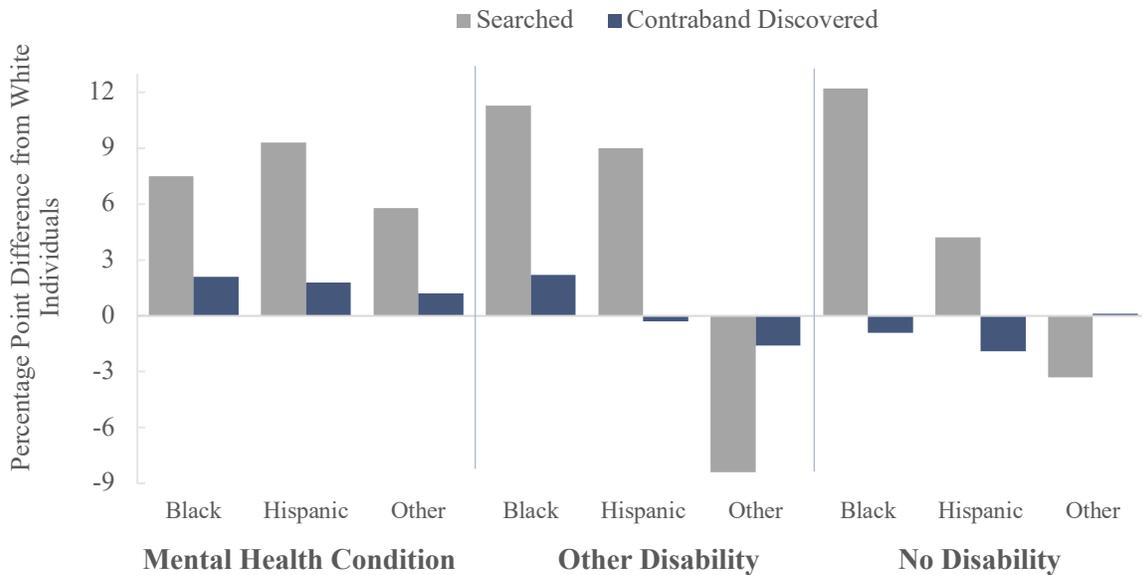
Multivariate Analysis. As with the race/ethnicity by gender analyses, multivariate analyses were used to help consider how multiple variables, including the race/ethnicity of the stopped individuals of each disability category, are associated with officers' decisions to search and the likelihood of discovering contraband or evidence.[139] The multivariate analysis was applied to (1) search rates overall, (2) discovery rates during discretionary searches, and (3) discovery rates during administrative searches (see Table 6).

Results for administrative searches revealed that Black individuals perceived to have a mental health condition were more likely to have contraband or evidence discovered (+5.9% points) than White individuals perceived to have a mental health condition. However, for search rates and discretionary search discovery rates, the analysis found no statistically significant differences between White and Black individuals perceived to have a mental health condition. Similarly, no statistically significant differences were found in search or discovery rates (either discretionary or administrative) for Hispanic individuals or for individuals from the combined racial/ethnic groups perceived to have a mental health condition. Additionally, tests did not yield any statistically significant differences in the search or discovery rates for those perceived to have an "other" type of disability for Black individuals, Hispanic individuals, or individuals from the racial/ethnic groups that were combined.[140]

For discretionary searches, Black and Hispanic individuals with no perceived disabilities were more likely to be searched (+1.8% points and +0.7% points respectively) but less likely to be found in possession of contraband or evidence (-2.2% points and -1.6% points respectively) than White individuals with no perceived disabilities. However, for administrative searches, no significant disparities in discovery rates were found between Black and White individuals with no perceived disabilities. For administrative searches, Hispanic individuals with no perceived disabilities were less likely to have contraband or evidence discovered (-1.3% points) in comparison to White individuals with no perceived disabilities. Individuals from the combined racial/ethnic groups with no perceived disabilities were less likely to be searched (-1.8% points) in comparison to White individuals with no perceived disabilities. For administrative searches, individuals from the combined racial/ethnic groups with no perceived disabilities were less likely to have contraband or evidence discovered (-1.8% points) in comparison to White individuals with no perceived disabilities. For the discretionary search discovery rate, no statistically significant differences were found between individuals with no perceived disabilities from the combined racial/ethnic groups and White individuals with no perceived disabilities.

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[139] See Appendix B.2 for a full description of the methodology.
[140] See Appendix Table C.2.3.3 for model statistics.

Table 6. Summary of Multivariate Discovery Rate Analysis Findings by Perceived Race/Ethnicity and Disability

Group		Search Rates	Discovery Rates	
			Discretionary Searches	Administrative Searches
Mental Health	Black	↑ 1.1%	↓ 0.3%	** ↑ 5.9%
	Hispanic	↑ 2.0%	↑ 2.0%	↑ 1.5%
	Other	* ↑ 3.0%	↓ 2.2%	↑ 1.8%
None	Black	*** ↑ 1.8%	*** ↓ 2.2%	↓ 0.5%
	Hispanic	*** ↑ 0.7%	*** ↓ 1.6%	*** ↓ 1.3%
	Other	*** ↓ 1.8%	↓ 0.8%	** ↓ 1.8%
Other Disability	Black	↑ 2.7%	↑ 7.0%	↑ 10.6%
	Hispanic	↑ 1.0%	↓ 3.4%	↑ 3.9%
	Other	↓ 0.0%	↓ 7.8%	↓ 6.7%

Note. Values represent percentage point difference compared to the rate for White individuals, with arrows indicating the direction of the difference. Statistically significant disparities are indicated with asterisks; *** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$.

1.7.1.3 Search and Discovery Rates by Perceived Race/Ethnicity and Age

The following section examines search and discovery rates by perceived race/ethnicity and age. Findings generally indicated that younger individuals were searched at a higher rate than older individuals. Individuals between the ages of 25 to 29 were searched at the highest rate (14.0%), followed by individuals less than 25 years old (13.7%); individuals 65 years of age or older were searched at the lowest rate (3.6%).

Examining search rates by race/ethnicity and age, Black individuals less than 25 years old were searched at the highest rate (27.0%) within their racial/ethnic group. Recall that Black individuals were searched at the highest rates out of all racial/ethnic groups. Hispanic individuals younger than 25 years of age were searched at a higher rate (15.0%) than other age groups within their racial/ethnic group. For White individuals and individuals from the Other racial/ethnic group, individuals between the ages of 30 and 34 were searched at the highest rates (11.2% White; 6.0% Other).[141]

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[141] As with the previous intersectional analyses, stopped individuals perceived to be Asian, Middle Eastern or South Asian, Native American, Pacific Islander, or Multiracial were combined into the "Other" category.

Figure 26. Search Rates by Perceived Race/Ethnicity and Age
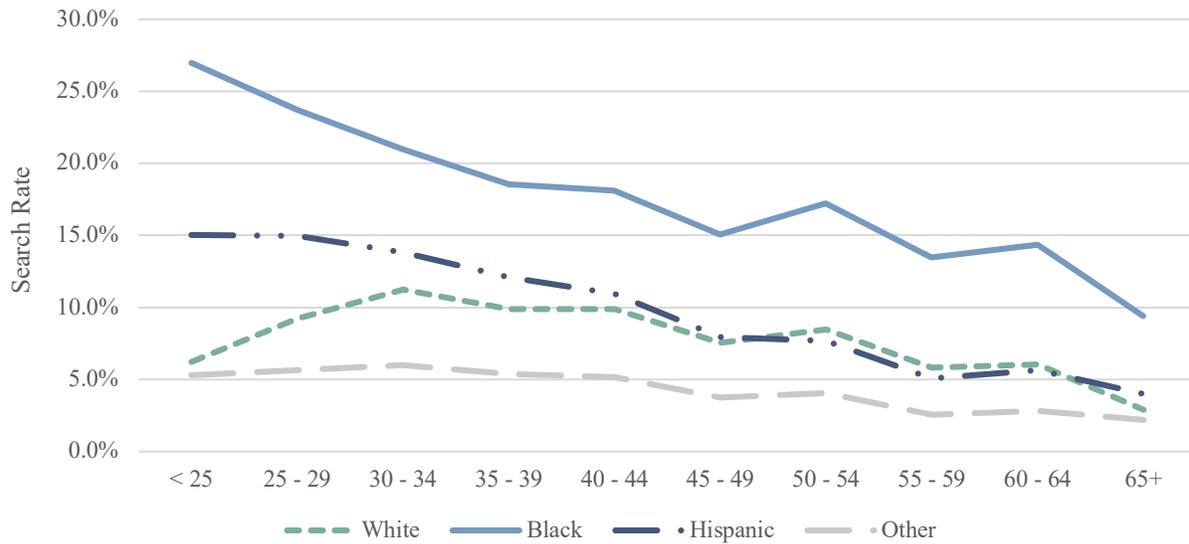
Search rates were also calculated as difference scores between each racial/ethnic group and White individuals. Black individuals had higher search rates than White individuals in every age group. Officers searched a higher proportion of Hispanic individuals whom they stopped than White individuals for all age ranges less than 50 years old. Individuals from other combined racial/ethnic groups had lower search rates than White individuals in all age groups.

Figure 27. Search Rate Differences by Perceived Race/Ethnicity and Age

Search Rates: Hispanic Individuals

Search Rates: Other Individuals
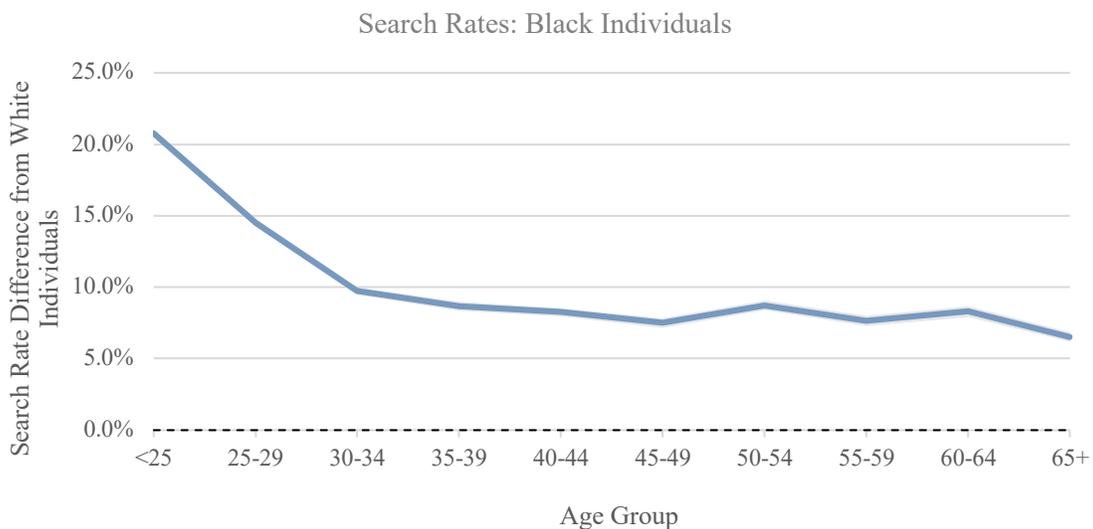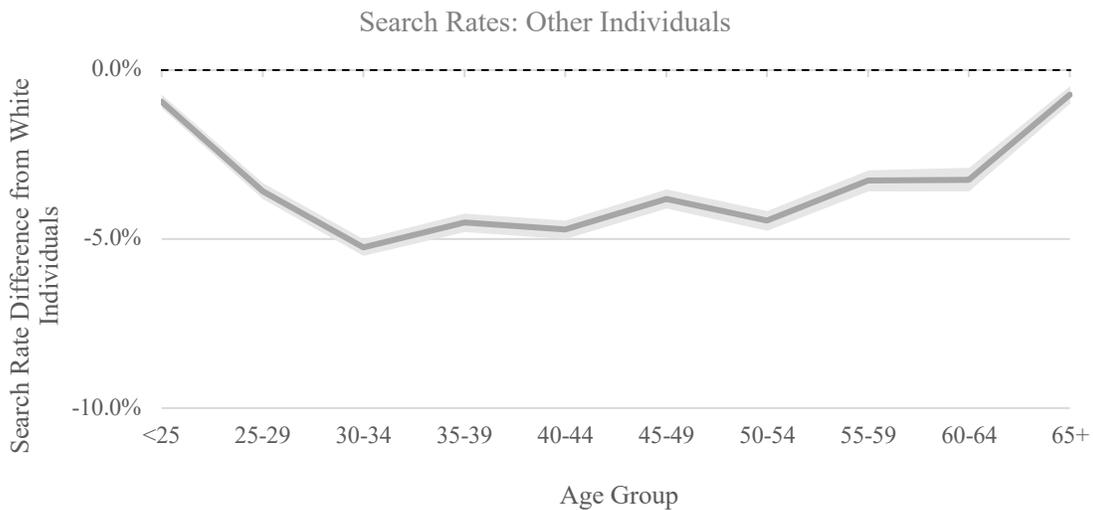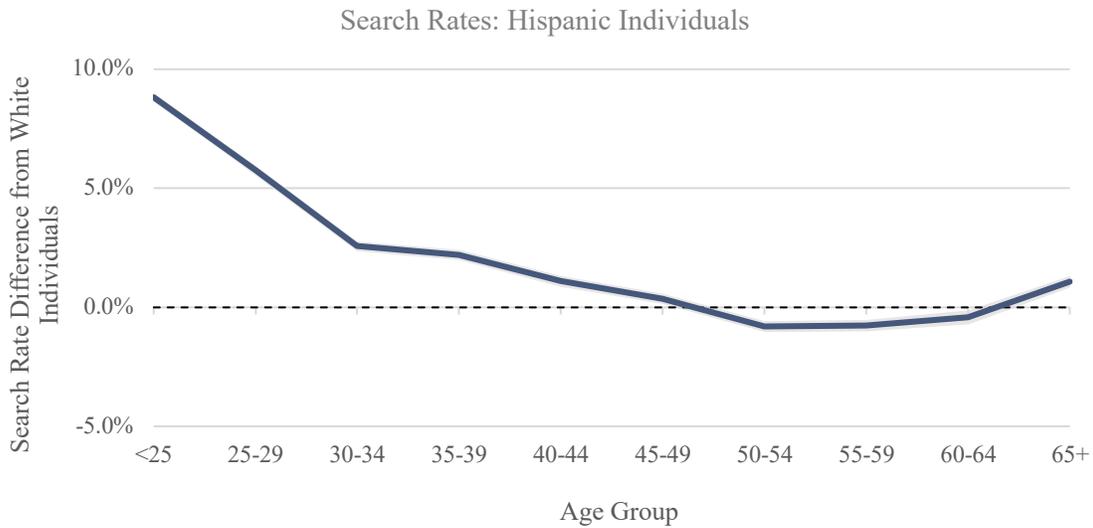
The differences in discovery rates across race/ethnicity and age were not as large as the racial/ethnic differences for search rates. White individuals had the widest range in discovery rates across age groups, while Hispanic individuals had the smallest range.[142] Discovery rates for Black individuals started out lower and increased with age, ranging from 19.7 percent for individuals between the ages of 30 and 34 to 26.1 percent for individuals between the ages of 55 and 59. Discovery rates for Hispanic individuals were less variable across age groups and ranged from a low of 19.7 percent for individuals between the ages of 30 and 34 to a high of 23.1 percent for individuals between the ages of 60 and 64. For White individuals, discovery rates generally decreased across age groups and ranged from 15.3 percent for individuals 65 years of age and older to 24.0 percent for individuals between the ages of 30 and 34. For the category consisting of all combined remaining racial/ethnic groups, discovery rates ranged from

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[142] The discovery rate range across the age categories was 6.4 percent for Black individuals, 3.4 percent for Hispanic individuals, 6.1 percent for individuals from the grouped race/ethnicity category, and 8.7 percent for White individuals.

17.2 percent for individuals 65 years of age and older to 23.4 percent for individuals between the ages of 35 and 39.

Figure 28. Discovery Rates by Perceived Race/Ethnicity and Age
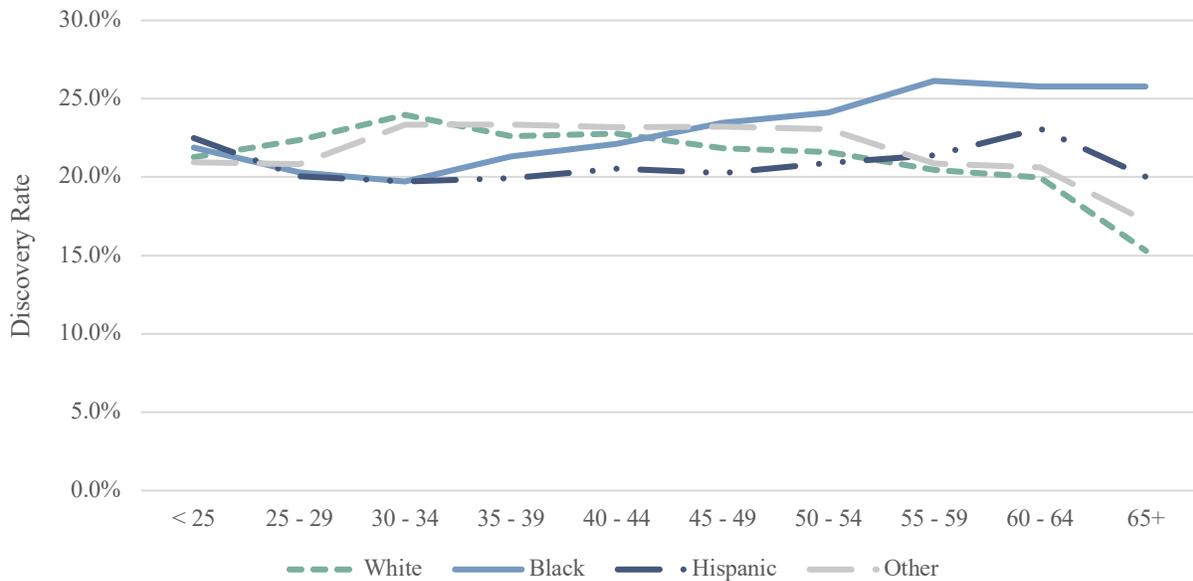
Discovery rates were also calculated as differences between each racial/ethnic group and White individuals. It is possible that differences in discovery rates will occur by chance. The more data that is collected for RIPA, the more confident we can be about the generalizability of the findings. Confidence intervals, shown in the gray shaded regions, include a range of plausible values that discovery rates could take with more data. If zero is not contained in the confidence interval, then we can say that the difference is large enough to rule out chance. As shown in the following figure, there do not seem to be significant differences in discovery rates between individuals in the Other group and White individuals. However, for Black individuals, discovery rates appear to be lower than rates for White individuals between the ages of 25 and 39, and higher for individuals aged 45 and above. Hispanic individuals had lower discovery rates than White individuals between the ages of 25 and 49, and higher rates from age 60 and older.

Figure 29. Discovery Rate Differences by Perceived Race/Ethnicity and Age

Discovery Rates: Black Individuals

Discovery Rates: Hispanic Individuals

Discovery Rates: Other Individuals
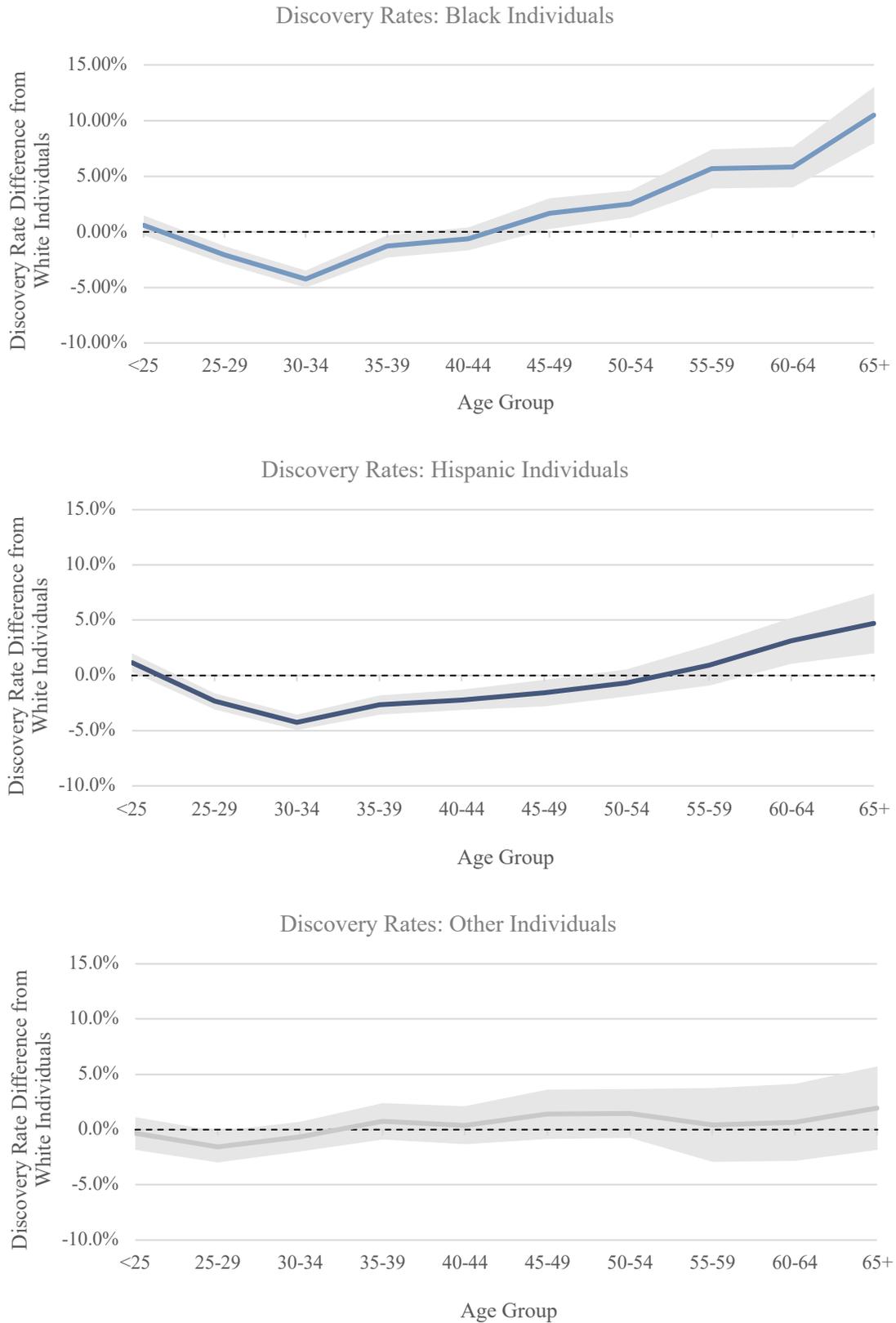
1.7.2   Consent Search and Discovery Rates

One type of search, called a "consent search," occurs when a police officer requests permission to search an individual's person, car, or residence and the person agrees voluntarily. A discretionary search occurs when an officer does not suspect any specific criminal wrongdoing warranting a search, but asks for consent to search nonetheless.[143]   In this context, a person has the right to decide whether to give the officer permission to search.[144] Many individuals agree to searches because they do not know that they can refuse the search or mistakenly believe that they must allow the search because the police are asking them to submit to one.

In the RIPA data, officers may indicate whether they asked for consent to search in two separate data fields: "Asked for consent to search person" and "Asked for consent to search property." Officers may also indicate whether they received consent to perform a search from the stopped individual. The rate at which officers asked for consent to perform a search ranged from 0.7 percent of stopped individuals perceived to be Middle Eastern/South Asian to 5.1 percent of stopped individuals perceived to be Black. Officers who asked individuals for consent to perform a search reported the highest rates of consent given for White individuals (89.4%) and the lowest rates for Black individuals (66.3%).[145] Of stops where officers indicated individuals consented to a search, Hispanic individuals were searched at the highest rates (78.1%) while Pacific Islander individuals were searched at the lowest rates (68.9%). The descriptive statistics for all groups and analyses discussed in this section is found in the Appendix.[146]

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[143] See *Fla. v. Royer* (1983) 460 U.S. 491, 497.
[144] See *U. S. v. Drayton* (2002) 536 U.S. 194, 202.
[145] See Appendix Table A.12 for consent rates by race/ethnicity.
[146] See Appendix A.12 for all descriptive statistics.

Figure 30. Stopped Individuals Asked for Consent to Search by Perceived Race/Ethnicity
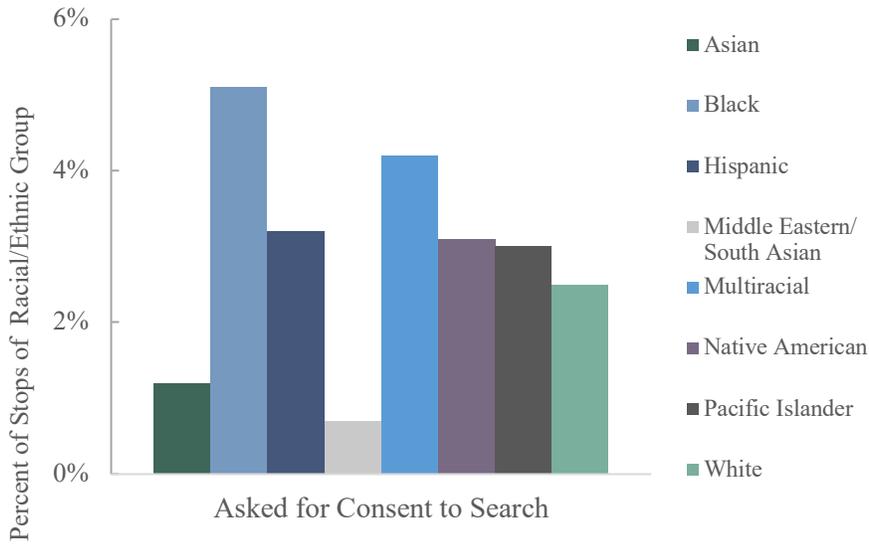
Under RIPA, officers must indicate the basis for the search by selecting up to 13 different criteria, including consent given. When applicable, officers may indicate that they had multiple bases for performing a search. However, officers provided "consent given" as the sole basis for the searches they performed for 62,323 (1.6%) stops. The rate at which these "consent searches" occurred varied considerably for each racial/ethnic group, ranging from 0.4 percent of Asian individuals to 2.4 percent of Black individuals who were stopped; the rate for Black individuals was almost six times the rate for Asian individuals.

Figure 31. Stopped Individuals Searched Only for Consent by Perceived Race/Ethnicity
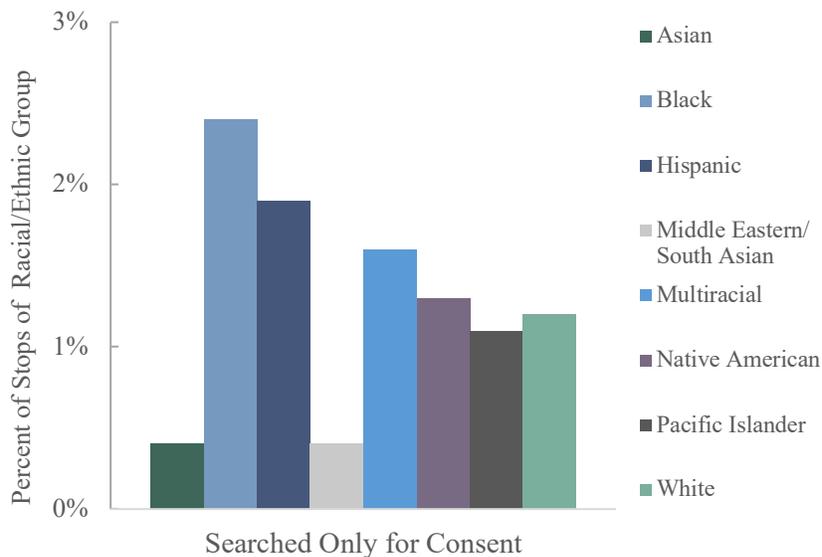
A part of this disparity might be explained by differences in the rates at which each group is searched by law enforcement generally, but not necessarily by differences in the proportion of all searches that officers conducted for consent only. In fact, the proportion of each group's searches based solely on consent were less variable than other types of searches. Asian individuals (10.3%) had the lowest proportion of their searches conducted only for consent while Hispanic individuals had the highest proportion (15.3%); the rate for Hispanic individuals was roughly 1.5 times the rate of Asian individuals. As mentioned in earlier discussion, when asked by officers, not all racial/ethnic groups gave consent to searches at the same rate. Differences in consent rates can have an effect on differences in the proportion of all searches that were for consent only. For example, Black individuals had a lower rate of giving consent for searches when asked than all other racial/ethnic groups. This likely drove down the proportion of searches that were for consent only for Black individuals below what it would have been, had black individuals consented at higher rates.

Figure 32. Proportion of Searches Conducted Only for Consent by Perceived Race/Ethnicity

■ Searched Only for Consent Given   ■ All Other Bases for Search

Group	Searched Only for Consent Given	All Other Bases for Search
Asian	10.3%	89.7%
Black	11.5%	88.5%
Hispanic	15.3%	84.7%
Middle Eastern/ South Asian	11.8%	88.2%
Multiracial	11.9%	88.1%
Native American	12.4%	87.6%
Pacific Islander	10.6%	89.4%
White	14.4%	85.6%

Percent of Searches of Racial/Ethnic Group
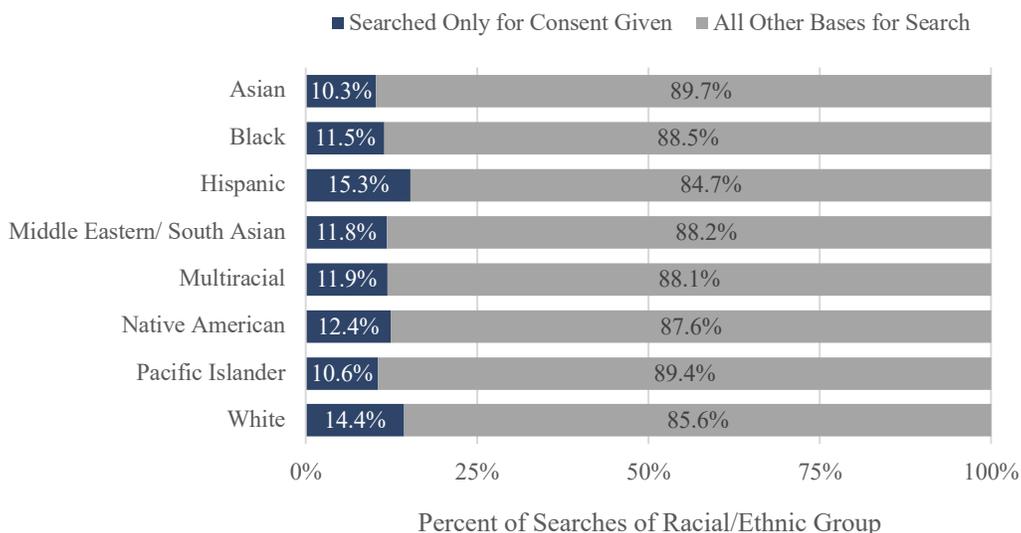
Previous analyses in this report have focused on discovery rates for discretionary searches overall, which included consent searches. In this section, discovery rates are presented and compared only for consent searches and for discretionary searches that exclude consent given as a basis for search.[147] However, it is important to note that—unlike many other types of searches—consent only searches do not include an element that may establish probable cause, which likely impacts the interpretation of these discovery rates.

For consent searches, discovery rates were highest for Asian individuals (16.5%) and the lowest for Black individuals (9.0%). For discretionary searches that exclude consent given as a basis for search, discovery rates were highest for Multiracial individuals (26.4%) and lowest for Pacific Islander individuals (20.6%). These results indicate that discovery rates between racial/ethnic

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[147] These discretionary search analyses exclude searches where the individual gave consent in combination with other search bases.

groups were more variable for consent searches than for other discretionary searches. Consent searches also generally had lower discovery rates than other discretionary searches. Discovery rates are presented in the following figure for each racial/ethnic group as differences from White individuals; White individuals had a discovery rate of 13.3 percent for consent searches and 23.9 percent for other discretionary searches. In comparison, contraband or evidence was discovered in 12,102 (21.3%) stops of Black individuals involving other discretionary searches.

Figure 33. Discovery Rate Differences for Consent Searches and Other Discretionary Searches by Perceived Race/Ethnicity
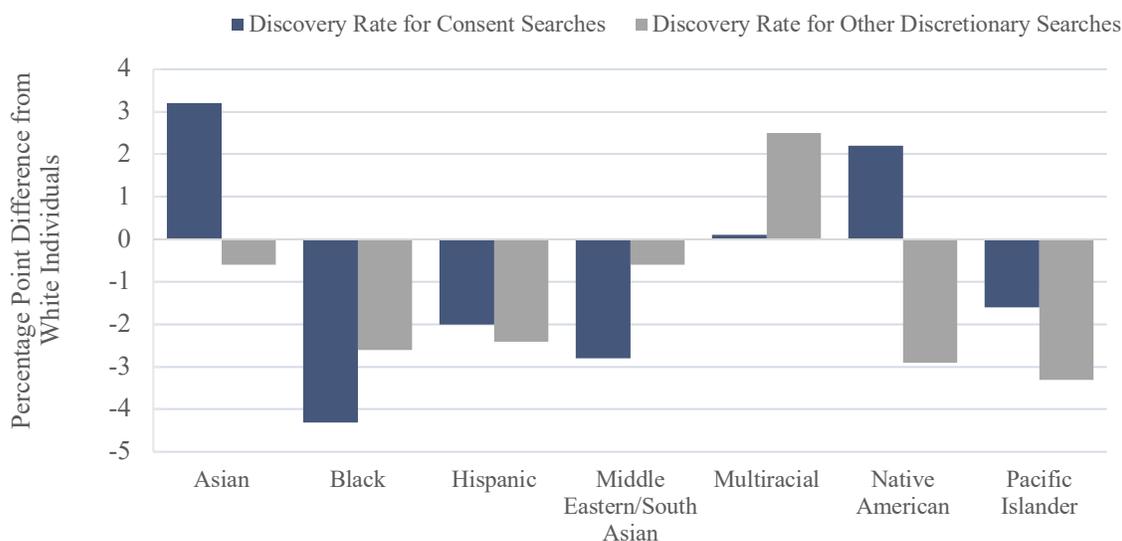
Given the disparities in consent only searches and discovery rates, and that neither state nor federal law requires officers to suspect any criminal wrongdoing before they request consent to search a person or their property, an obvious question is raised: should individuals be subjected to a search if, based on the officer's perception, the individual is innocent of engaging in apparent criminal activity? Some states, including Minnesota,[148] New Jersey,[149] and Rhode Island,[150] have imposed rules on consent searches, either through their legislature or court rulings.[151] For example, New Jersey's Senate Judiciary Committee in 2001 found that the

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

[149] 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.]

[150] 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."]

[151] 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 Dec. 14, 2020).

"possible utility of consent searches is outweighed by the violations of civil rights accompanying their abuse"[152] and recommended that the state prohibit such searches. Additionally, agencies in California have limited the use of consent searches. From 2001 to 2006,[153] 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.[154] The Board hopes to review the data surrounding consent searches and analyze this issue further in future reports.[155]

1.7.3 Supervision Search and Discovery Rates

In California, there are multiple forms of state and local supervision, including parole,[156] probation,[157] post-release community supervision (PRCS),[158] and mandatory supervision.[159] If a person is on supervision, they may be searched by officers only if it is an explicit term of the

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[152] 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 Dec. 14, 2020).

[153] Since 2006, however, the department has resumed the practice of conducting consent searches.

[154] *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 Dec. 14, 2020).

[155] This 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" (2020 Bill Text Conn. H.R. 6004A § 21 (21)(a)(1)). The Board would like to examine this and other data-driven strategies in future years.

[156] Parole is a period of supervision that follows a state prison sentence and the person remains under the control of the California Department of Corrections and Rehabilitation's Division of Adult Parole Operations. People on parole are supervised by parole agents, and must follow certain requirements or "conditions" of parole. Cal. Code Regs., tit. 15, § 2355; Root & Rebound, *What are the main types of supervision in California?* <https://roadmap.rootandrebound.org/parole-probation/introduction/what-are-the-main-types-of-supervision-in-californ/> (as of Dec. 14, 2020).

[157] "Probation is a type of supervision that a judge orders at trial as *part of the original sentence*, either as an alternative to incarceration OR in addition to incarceration." Root & Rebound, *What are the main types of supervision in California?* <https://roadmap.rootandrebound.org/parole-probation/introduction/what-are-the-main-types-of-supervision-in-californ/> (as of Dec. 14, 2020). Probation can be formal (meaning the individual has to check in with a probation officer) or informal (meaning there is no assigned probation officer). Cal. Pen. Code, § 1203.

[158] PRCS is a form of supervision when the individual released from state prison after incarceration for a non-violent, non-serious, non-sexual crime is placed under supervision by county probation officers, instead of being placed on state parole. Cal. Pen. Code § 3450; Cal. Code Regs., tit. 15, §§ 3079-3079.1.

[159] "Mandatory Supervision is a form of supervision provided for through a process called 'split sentencing,' a judge can split the time of a sentence between a jail term and a period of supervision by a county probation officer." Root & Rebound, *What are the main types of supervision in California?* <https://roadmap.rootandrebound.org/parole-probation/introduction/what-are-the-main-types-of-supervision-in-californ/> (as of Dec. 8, 2020); Cal. Pen. Code § 1170 (h)(5)(B).

person's supervision conditions.[160] Further, sometimes conditions of supervision allow for search of specific items – such as a cellphone – while others do not.[161]

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").[162] Stopped individuals perceived to be Black had the highest proportion of their group stopped for known supervision (1.2%) while Middle Eastern/South Asian individuals (0.1%) had the lowest proportion. A majority (76.6%) of individuals who were stopped for known supervision were searched. Black individuals stopped for known supervision had the highest rates of being subject to a search (79.5%) while Native American individuals had the lowest rates (64.9%).[163] The descriptive statistics for all groups and analyses discussed in this section may be found in the Appendix.[164]

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

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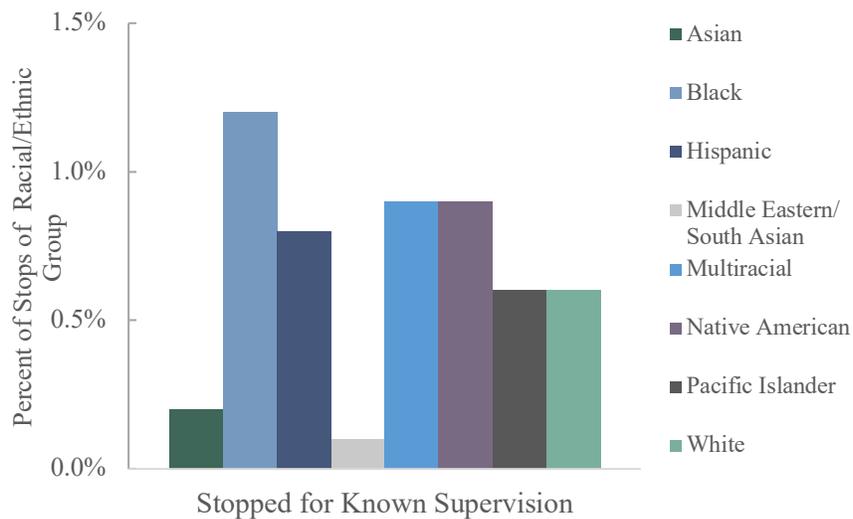
[160] *People v. Sanders* (2003) 31 Cal. 4th 318, 333; *People v. Reyes* (1998) 19 Cal. 4th 743, 750-754; *In re Jaime P.* (2006) 40 Cal. 4th 128.

[161] *U.S. v. Lara* (9th Cir. 2016) 815 F.3d 605, 610; see also *Riley v. Cal.* (2014) 573 U.S. 373, 403.

[162] RIPA data regulations define the "known supervision" primary reason for stop category as, "Known to be on parole/probation/PRCS/mandatory supervision." The regulations indicate that "[t]he officer shall select this data value if the officer stopped the person because the officer knows that the person stopped is a supervised offender on parole, on probation, on post-release community supervision (PRCS), or on mandatory supervision. The officer shall not select this data value if the officer learns that the person has this status only after the person is stopped," (Cal. Code Regs, § 999.226, subd. (a)(10)(A)(3)). Under the law in California, an officer must know that the individual is under supervision and that they have a specific search condition *prior* to conducting a supervision related search. A search made without awareness of whether the individual is under supervision, and when there is no other legal basis for search, cannot be justified by the officer's later-acquired knowledge that the individual is under supervision. *People v. Sanders* (2003) 31 Cal. 4th 318, 333; *People v. Reyes* (1998) 19 Cal. 4th 743, 750-754; *In re Jaime P.* (2006) 40 Cal. 4th 128. Moreover, if evidence is obtained as the result of that unjustified search, it will be suppressed or excluded from any court proceeding. *People v. Sanders* (2003) 31 Cal. 4th 318, 335.

[163] Search rates in stops made for known supervision for all racial/ethnic groups: Asian (78.5%), Black (79.5%), Hispanic (77.6%), Middle Eastern/South Asian (75.4%), Multiracial (76.6%), Native American (64.9%), Pacific Islander (71.4%), and White (72.0%).

[164] See Appendix Table A.13 for all descriptive statistics.

Under the RIPA regulations, officers may only indicate that the *reason for stop* was known supervision when the officer knew this information prior to initiating the stop. However, officers can indicate supervision status as a basis for search regardless of when this status is learned. As such, only 28,015 individuals were stopped for known supervision, but 96,328 individuals were searched due to their supervision status. In cases where an officer performs a search pursuant to a condition of supervision, the officers must indicate that a basis for the search was "Condition of parole/probation/PRCS/mandatory supervision" (hereafter collectively referred to as "condition of supervision"). Condition of supervision was the sole search basis reported for 63.5 percent of these searches while the other 36.5 percent included additional search bases in combination with condition of supervision. Rates of searches where the only basis was known supervision varied between racial/ethnic groups; rates ranged from 0.2 percent of Middle Eastern/South Asian individuals to 3.4 percent of Black individuals who were stopped. Middle Eastern/South Asian individuals (7.6%) also had the lowest proportion of their searches conducted solely due to a condition of supervision while Black individuals had the highest number and proportion (21,905; 16.8%) of their searches occur for this reason. In comparison, 15,328 searches (14.2%) were conducted solely due to a condition of supervision for White individuals.

Figure 35. Stopped Individuals Searched Only for Condition of Supervision by Perceived Race/Ethnicity
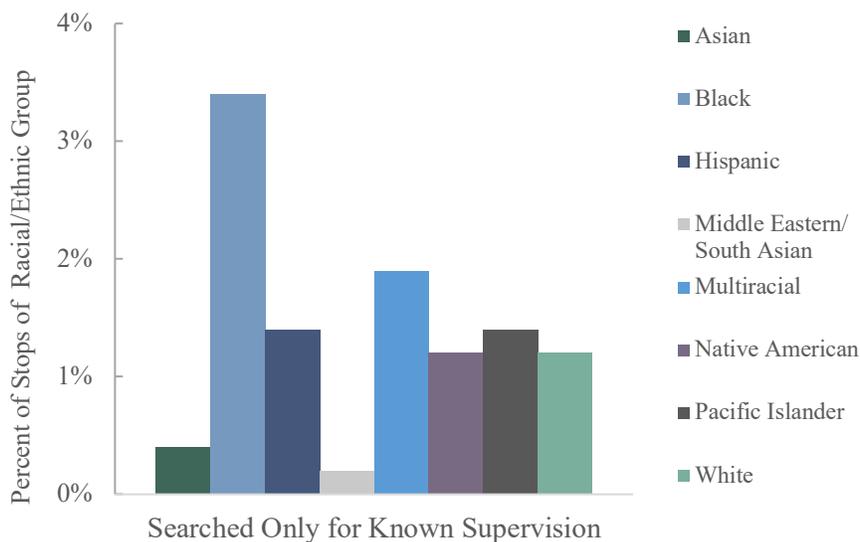
Discovery rates in this section are reported for condition of supervision searches alone and for discretionary searches that exclude condition of supervision as a basis for search. Overall, discovery rates for condition of supervision searches alone (17.4%) were lower than discovery rates for other discretionary searches (20.0%). For condition of supervision searches, discovery rates were highest for White individuals (23.4%) and lowest for Black individuals (15.1%), a difference of 8.3 percentage points from the highest to the lowest rate. Officers discovered contraband during stops with condition of supervision searches of White individuals more times (3,584) than during stops with condition of supervision searches of Black (3,314) and Hispanic

(3,267) individuals, despite officers performing thousands more searches of this type for Black and Hispanic individuals (21,905 and 21,386 searches, respectively) than for White individuals (15,328 searches).[165] For discretionary searches that exclude condition of supervision as a basis for search, Multiracial individuals (23.2%) had the highest discovery rates while Pacific Islander individuals (19.1%) had the lowest rates, a range of 4.1 percent. These results show that discovery rates between racial/ethnic groups were more variable for known supervision searches than for other discretionary searches. Additionally, known supervision searches generally had lower discovery rates than other discretionary searches. The rates are also presented for each racial/ethnic group as differences from White individuals in the following figure; White individuals had a discovery rate of 23.4 percent for condition of supervision searches and 19.3 percent for other discretionary searches.

Figure 36. Discovery Rates for Condition of Supervision Searches and Other Discretionary Searches by Perceived Race/Ethnicity
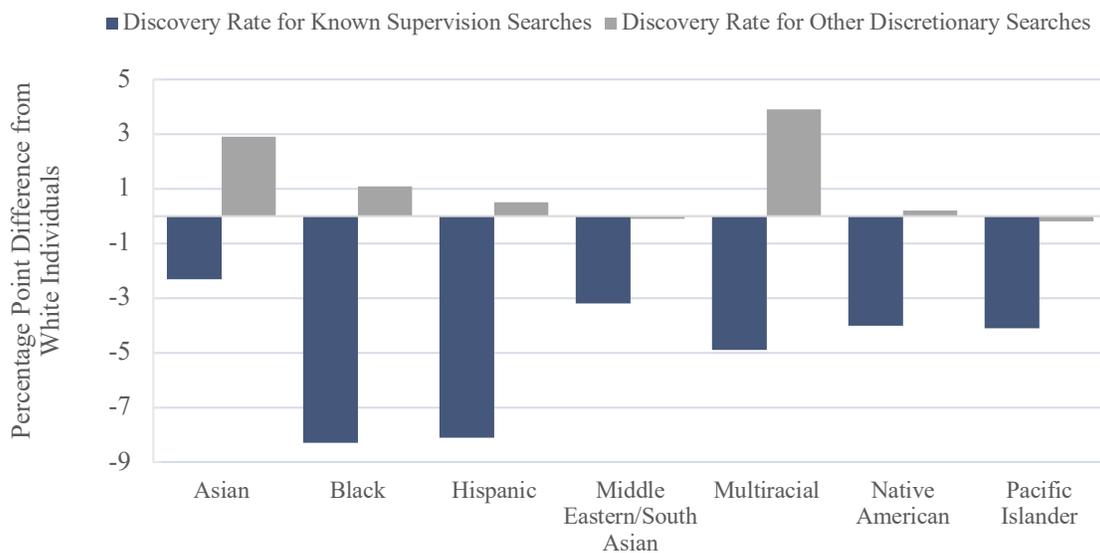
How is Law Enforcement Using RIPA Data?: Survey Responses Regarding Stop Data Analysis

To find out how law enforcement agencies are using RIPA data, the Department surveyed Wave 1, 2, and 3 agencies in summer 2020. The agencies' responses helped the Board to understand the impact of the data analysis and Board recommendations within law enforcement agencies and to identify the actions agencies are taking to advance the goals of RIPA.

The survey was distributed to 15 Wave 1 and Wave 2 agencies and 11 Wave 3 stop data collection agencies. Wave 1 and Wave 2 agencies were included in the full survey (26

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[165] See Appendix Table A.13 for condition of supervision search and discovery rates.

questions), and Wave 3 agencies were included in the portions that did not pertain to data analysis (13 questions), as they had not yet begun collecting data at the time of the survey.

Survey questions addressed:

- use of Board recommendations and findings;

- use of stop data for accountability purposes;

- adoption of model bias-free policing policy language;

- actions in response to best practices recommendations regarding civilian complaint procedures; and

- stop data analysis practices and resources.

Appendix Tables E.2 and E.3 provide the list of questions asked in each survey.

As of October 29, 2020, 25 of the 26 agencies surveyed had responded; the only agency that did not respond was Sacramento County Sheriff's Office. For the responding agencies, a captain or lieutenant answered for fourteen agencies, other command staff responded for seven agencies, and an administrator, program analyst, program manager, or IT supervisor responded for four agencies. Frequencies were calculated for each question requiring a 'Yes' or 'No' response. Qualitative content analyses were conducted to identify and summarize themes and patterns manifested in the responses to open-ended questions.

Long Beach Police Department, San Bernardino County Sheriff's Department, San Diego County Sheriff's Department, San Diego Police Department, and San Francisco Police Department indicated that they used the stop data analyses in the 2020 RIPA Board Report to identify trends in their stop data. Long Beach, Los Angeles, and San Diego Police Departments indicated that they used the Report to develop additional analyses aimed at identifying patterns in their stop data.

> *"SDPD has looked at the stop data provided in the Annual Report to develop analysis related to low/high discretionary stops, specifically related to the Department's procedures and culture, yield rates, and post-stop outcomes"*
> *- San Diego PD*

> *"The Department is using the Report as a guide in its review and analysis of its data to identify trends and patterns"*
> *– Long Beach PD*

Ten of the 14 Wave 1 and 2 agencies that responded reported that they analyze stop data.

Agencies Reported That They Analyze Stop Data		
California Highway Patrol	Oakland PD	San Diego PD
Long Beach PD	Orange County SD	San Francisco PD
Los Angeles County SD	San Bernardino County SD	
Los Angeles PD	San Diego County SD	

Agencies Specified That They Analyze the Following			
Reason for Stop	**Actions Taken during Stop**	**Data regarding Searches**	**Result of Stop**
Los Angeles PD	Orange County SD	Oakland PD	Los Angeles PD
Oakland PD	San Bernardino SD	Orange County SD	Oakland PD
Orange County SD	San Francisco PD	San Diego PD	Orange County SD
San Bernardino SD		San Francisco PD	San Bernardino SD
San Diego PD			San Diego PD
San Francisco PD			San Francisco PD

The San Francisco Police Department additionally reported that they analyzed complaints of bias. The Oakland Police Department indicated that they conduct analyses with respect to race and the Orange County Sheriff's Department indicated that they conduct analyses of stops and perceived age, English proficiency, LGBT identity, gender, race, and disability.

Los Angeles Police Department, San Bernardino County Sheriff's Department, San Diego County Sheriff's Department, and San Diego Police Department indicated that they use population estimates for benchmark comparisons. Los Angeles Police Department reported that they additionally use crime statistics and suspect description data for comparison. San Francisco Police Department reported using trends over time and geographic districts for benchmark comparisons. California Highway Patrol indicated that they are currently collecting data on all public contacts, including non-discretionary contacts (e.g., traffic crashes, disabled motorists, etc.), to use as more precise benchmarks.

"The annual report is useful, and provides solid recommendations and insights into other agencies and data, but local analysis is essential to advancing the goals of RIPA. Also, this analysis has to be done by outside groups that begin in a position of neutrality, have expertise, and credibility" - San Diego PD

"SFPD conducted analysis to better understand search hit rate by type of search as compared to sister agencies across the state" - San Francisco PD

The Survey also asked law enforcement agencies whether they collected any data in addition to what is required by RIPA. Six of the 14 Wave 1 and 2 agencies that responded indicated that they collect additional data elements other than those mandated by RIPA regulations. Long Beach and Sacramento Police Departments reported that their stop data collection includes whether the perception of the identity characteristics of the stopped person was made prior to the detention. Long Beach Police Department also indicated that they collect the following data elements: "Does the person live in Long Beach?", "Attending a Special Event?", "Is this Event Action Plan Related Activity?" Los Angeles Police Department reported they require officers' explanation of the reason for stop to include a description of the violation or code. Oakland Police Department indicated that their data collection includes whether the reason for stop was "intelligence led" and information about the officers' regularly assigned squad and assigned squad specifically at the time of the stop. San Diego Police Department reported that they collect data for field interviews and data about the beat where the stop occurred. San Francisco Police Department indicated that they collect additional data elements when there is a use of force.

> *"SDPD requires any field interview to be documented in RIPA, and does not allow the officer to document it as a consensual contact. Field Interviews give the impression the person contacted is not free to leave and the data collected is entered into a database"*
> *- San Diego PD*

California Highway Patrol and Long Beach Police Department indicated that they are inquiring about working with an academic institution and Los Angeles and Oakland Police Departments reported they are already working with an academic institution to analyze their data. San Diego Police Department and San Diego County Sheriff's Department both indicated that they have contracted with a non-profit research organization for an independent analysis of their data.

> *"The Sheriff's Department contracted with the Center for Police Equity (CPE). They are an outside non-profit research company. CPE is currently reviewing the data. Once they are finished the findings will be released to the department and the public" - San Diego County SD*

> *"We have engaged outside academics (two separate groups), the Inspector General's Office, and have created a RIPA Steering committee made of Department and Civilian members" – Los Angeles PD*

Eleven of the 14 Wave 1 and 2 agencies that responded indicated that they review stop data with staff.

> *"There are a couple levels of discussion; one involves members of the Chief's Executive Committee which looks at broad trends and patterns. Data has also been discussed with supervisors, and officers, as well as with community groups"*
> *- San Diego PD*

> *"The department is currently reviewing the data set with Executive Staff to analyze benchmarks and trends and identify next steps"*
> *- Long Beach PD*

> *"Statistics for officers with the most stops are reviewed at monthly Risk Management meetings at the Area level."*
> *- Oakland PD*

> *"Information and data analysis was provided to commanders with talking points to share with the community and discuss at briefings."*
> *- San Bernardino County SD*

Ten of the 14 Wave 1 and 2 agencies that responded indicated that they analyze stop data. Six of the 14 Wave 1 and 2 agencies that responded indicated that they shared their findings with the public (Los Angeles County SD, Los Angeles PD, San Bernardino County SD, San Diego County SD, San Diego PD, and San Francisco PD). Los Angeles Police Department, San Diego County Sheriff's Department and San Francisco Police Department indicated that they make agency-generated reports available to the public. San Bernardino County Sheriff's Department reported having created a data dashboard.

Several agencies indicated that they share their findings with external oversight bodies. The Los Angeles County Sheriff's Department reported sharing their findings with the Office of Inspector General for Los Angeles County and the Civilian Oversight Commission for Los Angeles County. The Los Angeles Police Department also stated that they are working with the Office of the Inspector General. Oakland Police Department indicated that they are working with a federal monitoring team and San Francisco Police Department reported presenting their findings to the San Francisco Police Commission.

> *"Findings were captured in the Department's public quarterly reporting, and presented to the SFPD's Commission … The police commission is interested in both in using the data to provoke public policy discussions and, increasingly, in contributing analytic questions that the data may help answer."*
> *– San Francisco PD*

Agencies Reported Using the Following Approaches to Hold Staff Accountable for the Submission of Stop Data		
Departmental Policy	**Management-Level Officer Review**	**Internal Audit Procedures**
CHP San Francisco PD	CHP Oakland PD Riverside County SD San Bernardino County SD	Los Angeles County SD San Diego PD

"The LASD regularly audits stops and back seat detentions within the Antelope Valley stations' response area. The entire contact is analyzed along with how the call was cleared…The LASD internal audits for all stations within the Department are posted for the public on-line and shared with the Office of Inspector General for Los Angeles County and the Civilian Oversight Commission for Los Angeles County.
– Los Angeles County SD

"Riverside County Sheriff has built a compliance verification tool for command staff and their management teams to use."
– Riverside County Sheriff

"Daily reviews are conducted by watch commanders to ensure compliance and deficiencies are corrected immediately"
- San Bernardino SD

"SDPD developed internal inspection procedures to make sure stop data is accurate, collected and submitted"
– San Diego PD

Six agencies (Bakersfield PD, Fresno PD, Long Beach PD, Los Angeles County SD, Riverside County SD, San Francisco PD) indicated that there were some barriers to analyzing the data or exporting it to analyze it, including difficulty in creating reports, auditing the data, or integrating the data collection systems with other departments systems. Five agencies indicated that additional funding for staff and other resources was necessary to conduct stop data analyses (CHP, Sacramento PD, San Bernardino County SD, San Diego County SD, San Diego PD).

Agencies identified additional resources that would assist them in analyzing their stop data. Fresno Police Department indicated that additional training would be helpful. San Francisco Police Department indicated that model analyses would be helpful and San Diego County Sheriff's Department specified that guidelines for "Veil of Darkness" analysis would be helpful.

Agencies were asked about some of the challenges they encountered with data analysis. CHP reported that the volume of data being collected, maintained, and reviewed is challenging (since CHP stopped more than 2 million individuals in 2019). Los Angeles County Sheriff's

Department determined that a more robust internal auditing ability is required for their reporting system. San Francisco Police Department reported that commute/tourist/daytime population considerations present a challenge for the analysis of population benchmarks (e.g., while the population of San Francisco is approximately 800,000 residents, this number can balloon to 1.5 million during the day). Long Beach Police Department also indicated that it had been challenging to identify benchmark data sets.

Four agencies provided comments regarding the data elements included in the regulations. Oakland Police Department commented that the regulations regarding the reporting of community caretaking incidents should be changed and San Francisco Police Department commented that the use of geocoding to report the precise locations of stops should be allowed. San Jose Police Department commented that a data element should be added to report the actions taken by the person who was stopped, for example the actions taken by a subject preceding an officer's use of force. San Diego Police Department commented that a data element regarding officers' perception of whether the person stopped was unhoused should be added.

RACIAL AND IDENTITY PROFILING POLICIES AND ACCOUNTABILITY

Any police action based on racial profiling or other biases alienates the public, fosters distrust of police, and undermines legitimate law enforcement efforts. For this reason, it is imperative that every California law enforcement agency have a strong commitment to bias-free policing throughout their policies and practices. In advancing its goal to eliminate racial and identity profiling in law enforcement, the Board has taken its charge to "work in partnership with state and local law enforcement agencies to review and analyze racial and identity profiling policies and practices across geographic areas in California" very seriously. [166]

Survey: State and Local Policies and Accountability

In an effort to qualitatively measure the impact of RIPA on law enforcement agency's policies and accountability, the Survey conducted by the Department contained questions regarding agency's policies. Some of the findings include:

- 24 of the 25 agencies that responded to the survey indicated that they have a bias-free policing policy. The agency that did not have an existing policy, Los Angeles World Airport PD, indicated that they were in the process of developing one. Half of the agencies with a bias-free policing policy indicated that they adopted some portion of the model language provided in the RIPA Board 2020 Annual Report.

Agencies that Reported Adoption of Some Portion of the RIPA Board's Model Bias-Free Policing Policy Language	
CHP	Orange County Sheriff
Santa Clara Sheriff	San Bernardino County Sheriff
Fresno Police	San Diego County Sheriff
Kern County Sheriff	San Diego Police
Long Beach Police	San Francisco Police
Los Angeles County Sheriff	San Jose Police

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[166] Cal. Pen. Code, §13519.4, subd. (j)(3)(C).

- Agencies reported various methods of holding staff accountable to their bias-free policing policy, including conducting investigations, providing additional training, and taking other corrective actions or discipline.

Agencies Reported Using the Following Approaches to Hold Staff Accountable and Respond to Non-Compliance with Bias-Free Policing Policies		
Conduct Investigations when Violations Are Reported or Identified	**Provide Additional Training**	**Other Corrective Action or Discipline**
Bakersfield Police Fresno Police Kern County Sheriff Los Angeles County Sheriff Los Angeles Police Orange County Sheriff Riverside County Sheriff San Diego County Sheriff San Diego Police San Jose Police Ventura County Sheriff	Alameda County Sheriff Bakersfield Police CHP Kern County Sheriff San Bernardino County Sheriff	Alameda County Sheriff Bakersfield Police CHP Kern County Sheriff Long Beach Police Riverside Police San Bernardino County Sheriff San Diego Police San Francisco Police Ventura County Sheriff

"All staff is held accountable and takes yearly training updates in this area. All supervisors are further instructed on how to hold subordinates accountable for their actions. …. The City and County of San Francisco have departments established which monitor and encourage racial diversity and training for all city/[county] employees." – San Francisco Sheriff

"Any employee of our Department can report violations to our Internal Affairs Unit or the City of San Jose, Independent Police Auditor's Office" - San Jose Police

- 13 of the 25 agencies surveyed indicated that they have a civilian review board. Of those agencies, five reported discussing the RIPA Board's findings with their civilian review boards.

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

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[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.

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[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.

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[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.

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[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

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[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" mentality[183], 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-f ree 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

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[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

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[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-alone[189] 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 is it 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-alone[190] 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

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[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

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[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.

CALLS FOR SERVICE AND BIAS BY PROXY

One aspect of policing that is critical to police-community relations are individuals' requests or calls for assistance from the police (e.g., 911 calls), often referred to as "calls for service." Law enforcement's response to such calls is critical because these interactions may involve life and death situations for the caller, the officer, and the subject of the call. How law enforcement responds can shape community expectations and perceptions of law enforcement more broadly. The Board believes it is imperative to improve law enforcement response models to protect all members of the community, regardless of race or identity, especially when responding to individuals in crisis.

In its prior reports, the RIPA Board recommended improving trainings and creating policies related to bias by proxy. Bias by proxy occurs "when an individual calls the police and makes false or ill-informed claims about persons they dislike or are biased against."[193] High-profile bias by proxy cases continue to occur and have now become an inflection point in the movement for change after the infamous case of Amy Cooper, who made a false police report against Christian Cooper, a Black man who was birdwatching in Central Park.[194] We know that these issues are not new, but they are representative of a deeper and more persistent problem that requires education, reform, and training for the public, law enforcement, and dispatchers. Resolving these issues involves taking a closer look at dispatchers' role in police responses and outcomes.

This year the Board expanded its exploration of issues related to calls for service by reviewing best practices for responding to calls specifically about individuals in crisis. Both law enforcement and community members generally agree that police officers should not be the first responders to people experiencing a variety of purely social—in other words, non-criminal— issues, such as a mental health crisis, drug overdose, or simply being unhoused. Police are often asked to play the role of both law enforcement and social worker, without the benefit of a degree or in depth training in social work.

One way to combat this is to employ a community first response, which is a response to a call for service that prioritizes community-based solutions to a crisis instead of a law enforcement response, or *before* police arrive on a scene (e.g., having a licensed therapist be the first responder to a mental health crisis). Community-based problems require community-based solutions. The community should be the first responders to situations such as health-related emergencies or socioeconomic issues such as being unhoused. A community first response allows law enforcement agencies to focus more of their valuable resources on preventing or investigating crime, while allowing skilled specialists to assist those who are having a crisis.

All stakeholders must invest in our communities so the most appropriate person can respond to a crisis and, in the process, agencies and communities can develop emergency response models

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[193] Fridell, Producing Bias-Free Policing: A Science-Based Approach (2017) Springer International Publishing, p. 90.

[194] Nir, *How 2 Lives Collided in Central Park, Rattling the Nation*, The New York Times (Jun. 14, 2020) <https://www.nytimes.com/2020/06/14/nyregion/central-park-amy-cooper-christian-racism.html> (as of Dec. 14, 2020).

that are better equipped to protect everyone equally. This year, the Board discusses developing models for future best practice recommendations.

Responding to Bias-Based Calls for Service

Trainings, Policies, and Procedures for Dispatchers and LEAs

Emergency dispatchers are required to take the POST basic training for dispatchers in order to serve in this position. According to POST, after completing the basic training course – a minimum of 120 hours – dispatchers are required to take an additional 24 hours of training every 2 years. Crisis Intervention Training (CIT) is not required for dispatchers, though 3,756 dispatchers (out of 8,057) in California had taken the class as of October of 2020. The only section in the POST basic training for dispatchers that addresses bias is a section titled "Community Policing/Cultural Diversity/Hate Crimes/Gang Awareness," where the topic of bias is discussed generally. The basic training addresses the history of community policing and the role the dispatcher plays, including helping identify trends as well as potential neighborhood issues, communicating problem areas, and awareness of what is important to the communities served.[195] The POST basic training dispatch course does address responding to hate crimes, but the focus is on how dispatchers take incident reports of hate crimes.

> *"The Department is in the process of developing … bias by proxy training for its civilian personnel based on the recommendations by the Board."*
> *- San Diego PD*

Based on the Board's review of the applicable POST trainings, the Board recommends that POST expand trainings to address bias by proxy so that dispatchers and first responders can prevent abuse of the 911 dispatch system. The Board recommends updated trainings that include how to: (1) diffuse or deescalate the situation; (2) assess when a bias-based call is being made; (3) mitigate the bias when transferring a call to first responders; and (4) notify law enforcement when a dispatcher suspects the 911 caller is making a bias-based call or filing a false police report.

Bias by proxy occurs with a range of behaviors. Although there are all too many reports of Amy Coopers in this world, dispatchers should also be mindful of the potential for implicit bias in the reports of seemingly well-intentioned callers. Dispatchers, as well as law enforcement, need further mandatory training on how to address both implicit and explicit bias when addressing 911 callers, as well as how to identify bias within themselves.

A Restorative Justice Approach to Biased Based Calls for Service

Knowingly filing a false police report is a crime.[196] By contrast, incidents of bias-based calls may not rise to the level of criminal behavior, and sometimes are protected speech. Nevertheless, an individual who experiences a bias-based call may feel unsafe or unwelcome in their community.   Therefore, the RIPA Board and the Communities Against Hate, a coalition of 15

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[195] See Commission on Peace Officer Standards and Training, Public Safety Dispatchers' Basic Course: Training Specifications (July 2011) <https://post.ca.gov/Portals/0/Publications/Dispatcher_Basic_Course.pdf?ver=2019-07-12-131112-730> (as of Dec. 14, 2020).
[196] Cal. Penal Code, § 148.5.

national organizations,[197] both recommend that law enforcement agencies conduct thorough reviews of bias-based incidents, and that agencies strengthen data collection around those incidents and their responses to them.[198] The National Coalition of Anti-Violence Programs (NCAVP) echoes the recommendation to increase efforts to encourage reporting and underscores the need to increase community-based reporting infrastructure.[199] The National LGBT/HIV Criminal Justice Working Group additionally identified investment in bystander intervention programs and other community safety models as key strategies that will allow communities to intervene and respond to violence more effectively.[200] It is imperative that departments collect data and track when bias-based calls are made. This allows departments to examine if there is a larger systemic issue within, for example, a particular neighborhood or if there are repeat bias-based callers who must be flagged.

The Board believes a restorative justice approach is essential to address bias-based calls and cases when someone files a suspected false police report. Restorative justice "is a theory of justice that emphasizes repairing the harm caused by criminal behavior. It is best accomplished through cooperative processes that allow all willing stakeholders to meet, although other approaches are available when that is impossible. This can lead to transformation of people, relationships and communities."[201] The Board acknowledges that when biased calls are made to law enforcement, it deeply impacts the relationship within the community and with the police. As such, a restorative justice approach that focuses on the harm caused by the criminal behavior and repairing the harm through community collaboration is needed to address the underlying causes of bias-based behaviors.

While behaviors that feed on and perpetuate bias must be condemned and punished, the Board also recognizes that many advocacy organizations and individuals do not support penalty-enhancement bills.[202] The Board is concerned that while these laws are framed as mechanisms to protect bias-targeted communities, they have contributed to perpetuating

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[197] The coalition partners include: The Leadership Conference Education Fund, Lawyers' Committee for Civil Rights Under Law, New York City Anti-Violence Project, Asian Americans Advancing Justice, Hollaback!, Muslim Advocates, National Action Network, National Center for Transgender Equality, National Council of Jewish Women, National Disability Rights Network, National Network for Arab American Communities, Religious Action Center, South Asian Americans Leading Together, The Sikh Coalition, and UnidosUS (formerly National Council of La Raza). The Southern Poverty Law Center serves as strategic advisor.

[198] Communities Against Hate, Hate Magnified: Communities in Crisis (2019) pp. 7-8. <https://hatemagnified.org/CAH-hatemagnified2019.pdf> (as of Dec. 14, 2020).

[199] National Coalition of Anti-Violence Programs, National Report on LGBTQ & HIV-Affected Violence in 2017 (2018) p. 24 <http://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf> (as of Dec. 14, 2020). The NCAVP hate violence incident-reporting model includes false police reporting incidents. *Id.* at p. 47.

[200] Saenz, Ingelhart, and Ritchie, The Impact of the Trump Administration's Federal Criminal Justice Initiatives on LGBTQ People & Communities and Opportunities for Local Resistance (2018) p. 25. <https://www.lambdalegal.org/sites/default/files/publications/downloads/the_impact_of_the_trump_administrations_federal_criminal_justice_initiatives_on_lgbtq_people_communities_and_opportunities_for_local_resistance.pdf> (as of Dec. 14, 2020).

[201] Center for Justice & Reconciliation, *Lesson 1: What Is Restorative Justice?* Prison Fellowship International <http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-1-what-is-restorative-justice/> (as of Dec. 14, 2020).

[202] Penalty-enhancement bills are laws that increase criminal penalties; lengthen sentences, for bias-related crimes. Penalties are enhanced "either through assigning a higher sentencing range for bias-motivated crimes or 'upgrading' a bias-driven offense to a more serious category of crime." Franklin, K. *Good Intentions: The Enforcement of Hate Crime Penalty Enhancement Statutes* (2002) The American Behavioral Scientist*, 46(1), 154-55.

social disparities. Instead, communities and prosecuting agencies should emphasize the importance of restorative and transformative justice[203] responses to bias-motivated incidents.

A restorative justice approach that addresses bias-based calls can be a tool to educate the bias-based caller and to reconcile their actions by acknowledging the harm done to the affected community or individual.[204] The approaches can be as simple as an apology or required community service at an organization working with people of color, or as in depth as a court-ordered cultural sensitivity training.[205] One tactic departments could employ is for dispatchers to code a suspected bias-based call as a "restorative justice" matter. When officers are dispatched, they could enter the situation with the mindset that the alleged suspect may be the victim of a bias-based call. Shift supervisors should also be dispatched in these situations and help "close out the call" to let the bias-based caller know that no suspicious or criminal activity was found and to educate the caller on what is or is not an appropriate basis for calling 911.

> *"The LASD also employs a random service review audit process during which field supervisors contact community members involved in requests for service. Field supervisors ask them a variety of questions to determine if they were or were not satisfied with the service they received or if they have any service or personnel complaints regarding any [or] all deputy personnel who were present at the call"*
> *- Los Angeles County SD*

In the case of Amy Cooper, the District Attorney's office is exploring a restorative justice approach where Amy Cooper not only takes responsibility for her actions in filing a false police report, but is also educated on how her bias-based behavior was harmful.[206] The District Attorney hopes that by using a restorative justice approach, "this process will both enlighten,

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[203] "Transformative justice [is] a liberatory [liberating] approach to violence . . . [which] seeks safety and accountability without relying on alienation, punishment, or State or systemic violence, including incarceration or policing." This is a similar approach to restorative justice, but instead of relying on the government or criminal justice system, it instead promotes healing and accountability through a cooperative community engagement. "Transformative Justice seeks to provide people who experience violence with immediate safety and long-term healing and reparations while holding people who commit violence accountable within and by their communities. This accountability includes stopping immediate abuse, making a commitment to not engage in future abuse, and offering reparations for past abuse. Such accountability requires on-going support and transformative healing for people who sexually abuse." Transformative Justice, Transform Harm (Oct. 01, 2020) <https://transformharm.org/transformative-justice/>. See also Toward Transformative Justice: A Liberatory Approach to Child Sexual Abuse and other forms of Intimate and Community Violence, Generation 5 (2007) <http://www.usprisonculture.com/blog/wp-content/uploads/2012/03/G5_Toward_Transformative_Justice.pdf> (as of Dec. 14, 2020).

[204] Communities Against Hate, Hate Magnified: Communities in Crisis (2019) pp. 34-35 <https://hatemagnified.org/CAH-hatemagnified2019.pdf> (as of Dec. 14, 2020); National Coalition of Anti-Violence Programs, National Report on LGBTQ & HIV-Affected Violence in 2017 (2018) p. 8. <http://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf> (as of Dec. 14, 2020).

[205] Communities Against Hate, Hate Magnified: Communities in Crisis (2019) pp. 34-35 <https://hatemagnified.org/CAH-hatemagnified2019.pdf> (as of Dec. 14, 2020); National Coalition of Anti-Violence Programs, National Report on LGBTQ & HIV-Affected Violence in 2017 (2018) p. 7. <http://avp.org/wp-content/uploads/2019/01/NCAVP-HV-IPV-2017-report.pdf> (as of Dec. 14, 2020).

[206] The victim of the racist call has stated he does not wish to participate in the prosecution. (*Woman who called cops on Black birdwatcher made 2nd 911 call, prosecutors reveal*, WABC (Oct. 15, 2020). <https://abc7ny.com/society/amy-cooper-expected-to-agree-to-community-service/7021351/> [as of Dec. 14, 2020]).

heal, and prevent similar harm to our community in the future."[207] A restorative justice process provides a unique opportunity for the community to come together and have a conversation about the impact of explicit or implicit bias and incidents that reinforce hate.

Best Practices for Responding to Bias-Based Calls

The Board continues to review evidence-based best practices and policies in responding to bias-based calls. The San Francisco Police Department is one of the few law enforcement agencies within the state of California that directly addresses bias by proxy in its policies. Within the policy, the agency defines it as:

> [W]hen individuals call the police and make false or ill-informed claims of misconduct about persons they dislike or are biased against based on explicit racial and identity profiling or implicit bias. When the police act on a request for service rooted in implicit, explicit or unlawful bias, they risk perpetuating the caller's bias. Members should use their critical decision-making skills drawing upon their training to assess whether there is criminal conduct.[208]

The policy goes on to reiterate that officers should be cognizant of "racial and identity profiling, implicit bias, and bias by proxy" while carrying out their duties.[209] The Board recommends that the legislature: (1) require law enforcement agencies to adopt a policy addressing bias by proxy and (2) mandate a specific course on bias by proxy for both dispatchers and officers as part of their basic training and continuing education. Specifically, for bias by proxy, the policy should include:

> *"SFPD was in the process of renewing its Bias General Order that addressed all recommendations on bias policy from the RIPA board, and included a nation leading bias by proxy policy"*
> *- San Francisco PD*

- How officers can identify a bias-based call for service;

- How sworn personnel and dispatchers should interact with the community member who has made a bias-based call for service;

- How an officer should interact with a community member who is the subject of a bias-based call;

- How the shift supervisor should interact with the caller;

- Required training for officers and dispatchers that covers responding to bias-based calls for service; and

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[207] *Woman who called cops on Black birdwatcher made 2nd 911 call, prosecutors reveal*, WABC (Oct. 15, 2020) <https://abc7ny.com/society/amy-cooper-expected-to-agree-to-community-service/7021351/> (as of Dec. 14, 2020).
[208] See San Francisco Police Department (2020) General Order 5.17: Bias Free Policing Policy <https://sfgov.org/policecommission/sites/default/files/Documents/PoliceCommission/draft_DGO_5.17_Policy_Prohibiting_Biased_Policing_-_redlined_01242020%20FINAL.pdf> (as of Dec. 14, 2020).
[209] *Ibid.*

- Guidelines for how to implement a restorative justice approach to address bias-based incidents in their communities.

Additionally, departments should consider using a three-step protocol to approaching bias-based calls, which is something that the Board raised in last year's report. Former RIPA Board Member Jennifer Eberhardt and researchers at Stanford University, in conjunction with tech company Nextdoor – an online platform where neighbors can gather and share information – developed a strategy of "*if you see something suspicious, say something specific*" to curb racial profiling on the platform. Dr. Eberhardt's team recommend "adding friction," which simply means slowing people down and causing them to pause and consider specifically what is "suspicious" about what they are observing. This approach has been highly effective in mitigating bias. In fact, the strategy was so effective that Nextdoor was able to curb racial profiling by 75 percent. The three-step checklist included:

- First, they asked users to pause and think, "What was this person doing that made him suspicious?" The category "Black man" is not grounds for suspicion.

- Second, they asked users to describe the person's physical features, not simply their race and gender.

- Third, they realized that many people did not seem to know what racial profiling was, nor that they were engaging in it. So Nextdoor provided them with a definition and told them that it was strictly prohibited.[210]

Trainings for both law enforcement and dispatchers should consider implementing this approach or working on developing something similar. The simple act of adding friction is an invaluable tool that research shows reduces profiling.[211] When the same Stanford researchers also worked with the Oakland Police Department, they found that asking officers to pause and ask a question before every stop: "is this stop intelligence led?", or in other words, "do I have prior information to tie this particular person to a specific crime?" By adding that question to the form officers completed during a stop, they slowed down and thought about why they were considering stopping someone. This intelligence-led question resulted in a massive drop in the number of stops of those perceived as Black and Hispanic or Latinx. In fact, adding these sources of friction reduced stops of those perceived as Black by 43 percent and those perceived as Hispanic or Latinx by 35 percent.[212] By implementing this approach, agencies may be able to

[210] Eberhardt, How racial bias works -- and how to disrupt it (June 2020) Ted Talk <https://www.ted.com/talks/jennifer_l_eberhardt_how_racial_bias_works_and_how_to_disrupt_it/transcript?language=en.> (as of Dec. 14, 2020).

[211] *Ibid.* See also Strategies for Change: Research Initiatives and Recommendations to Improve Police Community Relations in Oakland, Calif. (2016) Stanford SPARQ <https://stanford.app.box.com/v/Strategies-for-Change> (as of Dec. 14, 2020).

[212] Eberhardt, How racial bias works -- and how to disrupt it (June 2020) Ted Talk. <https://www.ted.com/talks/jennifer_l_eberhardt_how_racial_bias_works_and_how_to_disrupt_it/transcript?language=en.> (as of Dec. 14, 2020); See also Oakland Police Department, Office of Chief of Police, 2016-18 Racial Impact Report (2019) p. 3 <https://cao-94612.s3.amazonaws.com/documents/OPD-Racial-Impact-Report-2016-2018-Final-16Apr19.pdf.> (as of Dec. 14, 2020).

prevent officers from being dispatched to calls for service that do not involve a crime, but rather are the result of either implicit or explicit bias.

Responding to a Mental Health Crisis

> *"Over the years, reductions in state and local budgets have slashed funding for mental health services, homelessness, and substance abuse and recovery services; offender reentry programs; educational and vocational training opportunities; and programs that promote economic improvement. By default, police agencies have been required to fill the void created by funding cuts in social and medical welfare systems, which often places police officers in an untenable position.*
>
> *For example, the "defunding" of mental health services by state and local governments in recent years means that the police are often the only ones left to call to situations where a social worker or mental health professional would have been more appropriate and safer for all involved. Although police agencies are working to train officers in crisis intervention or mental health first aid, this does not take the place of proper medical treatment."*
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> *- International Association of Chiefs of Police*

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"A comprehensive and integrated crisis network is the first line of defense in preventing tragedies of public and patient safety, civil rights, extraordinary and unacceptable loss of lives…"[214] Civil rights leaders have long advocated for funding social services and community-based programs that better address individual needs rather than asking the criminal justice system to address issues such as being unhoused or mental health conditions. Law enforcement has also explained that over time they have been asked to be the "catch all" for issues our society has failed to solve, and there needs to be a better solution.[215]

The vast majority of calls for service are actually best suited for a community responder model, where social service agencies are the first responders to nonviolent calls or a mental health crisis. In fact, only 4 percent of calls for service involve a report of a violent crime.[216] Further, in a study of over 264 cities, researchers found that "every 10 additional organizations focusing on crime and community life in a city with 100,000 residents leads to a 9 percent reduction in

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213 International Association of Chiefs of Police (Jun. 08, 2020) IACP Statement on "Defunding the Police" <https://www.theiacp.org/news/blog-post/iacp-statement-on-defunding-the-police> (as of Dec. 14, 2020).

214 Substance Abuse and Mental Health Services Administration (2020) National Guidelines for Behavioral Crisis Care: Best Practices Tool Kit, p. 8 <https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf> (as of Dec. 14, 2020).

215 Sipes, *Social Workers Need to Step Up and Replace Cops,* Crime in America (July 13, 2020) <https://www.crimeinamerica.net/social-workers-need-to-step-up-and-replace-cops/> (as of Dec. 14, 2020).

216 Asher and Horwitz, *How Do the Police Actually Spend Their Time?* New York Times (Jun. 19, 2020) <https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html> (as of Dec. 14, 2020).

the murder rate, a 6 percent reduction in the violent crime rate, and a 4 percent reduction in the property crime rate."[217]

The Board recognizes that even with specialized crisis intervention training for officers and other county programs in which social workers and law enforcement work together, nearly 1 in 4 fatal police shootings in the United States in the past 5 years involved someone experiencing a mental health crisis.[218] Nationwide, about one third to half of use of force incidents by police involved someone with a disability or mental health conditions.[219]

Investing in the community and social services is a common sense approach to modern policing that reduces the overall violent crime rates, encourages an efficient use of community resources, and saves countless lives by connecting people to the care they need. In developing new crisis models, it is important to be mindful of the lessons of our past as we also move into the future of reimagined approaches to healthcare.

How the Mental Health System Has Historically Interacted with the Criminal Justice System

Mental health advocates in our country have struggled and continue to strive to achieve equal rights and fair treatment of those with disabilities. State-run mental institutions developed in the 1800's after Dorothea Dix reported on the appalling treatment of those afflicted with mental illness in the jails.[220]

Unfortunately, the state-run institutions turned into a terrifying, abusive, horrific environment for those who were committed to them. The conditions of these institutions gave rise to the deinstitutionalization movement. Disability rights advocates fought to move severely mentally ill people from the inhumane conditions of state-run institutions to community-based care and advocated that treatment of mental illness should be in the least restrictive setting.[221] However, funding for community mental health centers was not prioritized by the federal or state governments over several decades, and states have continued to cut spending for mental health related services. From 2009 to 2012, states cut over $4.35 billion dollars allocated for community-based care –the largest reduction in budget since the deinstitutionalization movement. In 2012, California had a mental health budget of $2.8 billion, a $760 million dollar

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[217] In reaching these conclusions researchers reviewed crime rates and treads in 264 cities spanning a period of 20 years. Sharkey, Torrats-Espinosa & Takyar, *Community and the Crime Decline: The Causal Effect of Local Nonprofits on Violent Crime.* (2017) American Sociological Review, 82(6), 1214-1240 <https://journals.sagepub.com/doi/10.1177/0003122417736289> (as of Dec. 14, 2020).

[218] *Fatal Force: Police Shootings Database*, Washington Post (Nov. 18, 2020) <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/> (as of Dec. 14, 2020).

[219] Perry and Carter-Long, *The Ruderman White Paper on Media Coverage of Law Enforcement Use of Force and Disability* (March 2016) Ruderman Family Foundation <https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability_final-final.pdf.> (as of Dec. 14, 2020).

[220] Dorothea Dix, *Memorial to the Legislature of Massachusetts*, *Old South Leaflets* (1843) vol. 7, pp. 489-519 <https://college.cengage.com/history/ayers_primary_sources/dorothea_dix_speaks_insane_persons.htm.> (as of Dec. 14, 2020).

[221] *Deinstitutionalization: A Psychiatric "Titanic,"* PBS: Frontline (1997) <https://www.pbs.org/wgbh/pages/frontline/shows/asylums/special/excerpt.html#ret7> (as of Dec. 14, 2020).

reduction from 2009 funding levels.[222] In the vacuum that was created by these severe funding cuts, prisons and jails took over the role of caretaking for people suffering from a variety of ailments; we as a society began to criminalize and punish what we gave up trying to heal and soothe. Today, one third of unhoused persons suffer from a serious untreated mental health condition.[223] Approximately 2 million people with mental illness are booked into jail each year; nearly 15 percent of men and 30 percent of women in the jails have a serious mental health condition that requires treatment.[224] In fact, the Los Angeles County Jail is effectively one the largest "mental institutions" in the country.[225]

Police have been inappropriately tasked with the responsibility of helping alleviate a health crisis. Police officers and departments are not trained mental health clinicians and – even with the best of training – should not be the first responders in many of these situations. Nor can emergency rooms be the only alternative to providing treatment to people with a medical condition, as this often creates a revolving door where some patients can never achieve long-term stabilization.[226]

> *"With non-existent or inadequate crisis care, cots escalate due to an overdependence on restrictive, longer-term hospital stays, hospital readmissions, overuse of law enforcement and human tragedies that result from lack of access to care. Extremely valuable psychiatric inpatient assets are over-burdened with referrals that might be best-supported with less intrusive, less expensive services and supports."*
>
> *- Substance Abuse and Mental Health Services Administration (SAMHSA)*

Removing mental health care from carceral institutions, such as jails and state-run institutions, and bringing it back into the community, should be the path forward. The Board calls upon our leaders to fulfill the promise that was made over 60 years ago to fund community based solutions so everyone can live with dignity, autonomy, and respect.

Developing Crisis Response Models

This year, the RIPA Board invited several experts to speak about mental health and law enforcement interactions. One of those experts was Emily Lyles, a Licensed Clinical Social Worker in California with the Kern County Behavioral Health and Recovery Services who also oversees the Mobile Evaluation Team (MET) and co-chairs the Crisis Intervention Team (CIT). Emily Lyles discussed the development and implementation of one of the first co-response

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[222] Lippman, *State Mental Health Cuts Hit Low-Income Patients Hard.* Huffington Post (Sep. 19, 2012) <https://www.huffpost.com/entry/state-mental-health-cuts_n_1897769> (as of Dec. 14, 2020).

[223] Mondics, *How Many People with Serious Mental Illness Are Homeless?* The Treatment Advocacy Center <https://www.treatmentadvocacycenter.org/fixing-the-system/features-and-news/2596-how-many-people-with-serious-mental-illness-are-homeless> (as of Dec. 14, 2020).

[224] *Jailing People with Mental Illness*, National Alliance on Mental Illness <https://www.nami.org/Advocacy/Policy-Priorities/Divert-from-Justice-Involvement/Jailing-People-with-Mental-Illness> (as of Dec. 14, 2020).

[225] Los Angeles County Sheriff's Department, *Welcome to Twin Towers* <http://shq.lasdnews.net/pages/PageDetail.aspx?id=1404> (as of Dec. 14, 2020).

[226] Substance Abuse and Mental Health Services Administration (2020) National Guidelines for Behavioral Crisis Care: Best Practices Tool Kit, p. 8 <https://www.samhsa.gov/sites/default/files/national-guidelines-for-behavioral-health-crisis-care-02242020.pdf> (as of Dec. 14, 2020).

teams in the nation, where law enforcement and social workers team up to respond to mental health calls. She discussed how Kern County uses this approach to "reroute" people from the criminal justice system to treatment.

Vinny Eng also presented to the Board. Mr. Eng is a community organizer and mental health advocate who lost his sibling, Jazmyne Ha Eng. Jazmyne was killed by sheriff's deputies while experiencing a mental health crisis in a mental health facility. This tragedy became the impetus for his advocacy, which focuses on preventing similar outcomes for others experiencing a crisis. Vinny Eng advocated that the Board look at models where law enforcement is not the first point of contact for mental health crisis response and that the community must be involved throughout the process in order to achieve meaningful reforms. Vinny Eng further recommended that the Board not subdivide issues of race and disability because both are deeply intertwined, noting Mental Health America reports that Black adults are 20 percent more likely to report serious psychological distress than Whites.[227]

> *"We cannot arrest and incarcerate our way out of poverty, homelessness and mental illness. We cannot continue to expect officers to be guardians of safety, social workers, case managers, and counselors."*
> *- Vinny Eng*

The Board has started to examine several types of crisis intervention strategies from around the country in its exploration of developing best practices and model polices. There is no one-size-fits-all solution – each person and each crisis is different. Likewise, each community has different needs and gaps in social services that must be addressed. The examples below are presented in a timeline to demonstrate the evolution of crisis response in our country. This list is by no means exhaustive and should be seen as a starting point for leadership, communities, and law enforcement to discuss how they can improve calls for services through a community first response. We hope by carefully examining our past, we can better reimagine the future of public safety.

Memphis Model: Crisis Intervention Teams

The Crisis Intervention Teams (CIT) model began in Memphis, TN in 1988 when a mother called the police to help her son, who was having a mental health crisis; her son was killed by police.[228] The City of Memphis took this tragic moment to bring together the community to develop a new approach to public safety. Since then, the program has been replicated nationally and internationally, with over 2,700 CIT programs.[229]

The basis behind the CIT program is to train a select group of police officers to respond to certain crisis calls. The core element of CIT involves officers interested in the program taking a

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[227] Mental Health America (2020) Racism and Mental Health <https://www.mhanational.org/racism-and-mental-health> See also, U.S. Department of Health and Human Services Office of Minority Health (Sep. 25, 2019) Mental and Behavioral Health - African Americans <https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=4.> (as of Dec. 14, 2020).

[228] Rogers, McNiel & Binder, *Effectiveness of Police Crisis Intervention Training Programs.* (2019) Journal of the American Academy of Psychiatry and the Law, p. 2 <http://jaapl.org/content/jaapl/early/2019/09/24/JAAPL.003863-19.full.pdf> (as of Dec. 14, 2020).

[229] *Id.* at p. 3.

40-hour or 1-week course on crisis response. In Memphis, the instructors include mental health workers, advocates, and officers familiar with CIT.[230] The program also requires dispatchers to undergo an 8-hour training to recognize mental health calls that should be rerouted to the CIT. Finally, the program has a "centralized drop-off mental health facility," where there is automatic acceptance of patients transported by CIT officers.[231]

The research on the outcomes of the CIT programs indicate mixed results. "[T] here is concern about the lack of evidence of efficacy for specific goals and concern over the opportunity cost of pursuing this model to the exclusion of others."[232] One study found that CIT training appeared to have little to no effect on injuries in police encounters with individuals with mental illness, and there is no measurable difference between use of force with CIT trained officers and those without it.[233] However, CIT has shown to be effective in improving officer satisfaction and self-perceived reduction in the use of force; moderate cost reductions have also occurred in cities that have implemented CIT programs by diverting people from the jails to hospitals.[234] CIT recommends that 20 to 25 percent of officers be trained in the program to ensure coverage of all shifts.[235]

In their best practices guide, CIT acknowledges that even after 30 years of service, they "still see too many people jailed, left to the streets, and with no place to go for care except the emergency department." CIT helps give officers some tools to mitigate the tragedies of an unaddressed health crisis. CIT sees itself as a temporary solution until our society develops mental health solutions for a mental health crisis. The end goal should be "a robust crisis response and community mental health system that prevents people from entering the revolving door of the criminal justice system."[236]

Mobil Evaluation Teams (MET): Kern County

The MET is a Crisis Intervention Unit that is dispatched by law enforcement agencies to the scene of behavioral health crises to provide on-scene crisis intervention and evaluations conducted under Welfare and Institutions Code section 5150. MET teams were first formed in the 1990's in Los Angeles and quickly expanded to Kern County, which developed one of the

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[230] *Id.* at pp. 2-3.

[231] Larger metropolitan areas have deployed multiple facilities within geographically dispersed areas. Rural settings present specific challenges in using the CIT model for crisis response.

[232] Rogers, McNiel & Binder, *Effectiveness of Police Crisis Intervention Training Programs* (2019) Journal of the American Academy of Psychiatry and the Law, pp. 5-6 <http://jaapl.org/content/jaapl/early/2019/09/24/JAAPL.003863-19.full.pdf> (as of Dec. 14, 2020).

[233] Kerr, Morabito & Watson, *Police Encounters, Mental Illness, and Injury: An Exploratory Investigation* (2010) Journal of Police Crisis Negotiations, 10(1-2), 116-132 <https://journals.sagepub.com/doi/10.1177/0011128710372456> (as of Dec. 14, 2020).

[234] Rogers, McNiel & Binder, *Effectiveness of Police Crisis Intervention Training Programs* (2019) Journal of the American Academy of Psychiatry and the Law, pp. 5-6 <http://jaapl.org/content/jaapl/early/2019/09/24/JAAPL.003863-19.full.pdf.> (as of Dec. 14, 2020).

[235] *Yale Police Department participates in Crisis Intervention Team (CIT) Training*, Yale News (Sep. 09, 2020) <https://your.yale.edu/news/2020/09/yale-police-department-participates-crisis-intervention-team-cit-training.> (as of Dec. 14, 2020).

[236] CIT International (Aug. 2019) *A Best Practice Guide for Transforming Community Response to Mental Health Crisis* <https://citinternational.org/bestpracticeguide> (as of Dec. 14, 2020).

first co-response models in the nation.[237] Through the MET collaboration with behavioral health specialists, what starts as a law enforcement response can instead lead to an intervention provided by a mental health professional, resulting in verbal de-escalation and a resolved call for service. These teams are also responsible for providing CIT training to officers.

The MET teams in Kern County responds to 2,600-3,000 calls for service a year. The Kern model adopts several approaches to providing care:

- Mental health providers participate in the 911 dispatch system, and they can either be dispatched by law enforcement or can respond directly on the 911 to mental health calls.

- MET provides CIT training to officers in Kern County, including Bakersfield Police Department and Kern County Sheriff's Office.

- Co-response teams have a social worker riding along with an officer.

- Smart911 is a program used by MET that allows callers to pre-enter health information, such as a mental health diagnosis or prescribed medications.[238]

Kern County has encountered several obstacles to providing community-based care for residents in crisis. As is the case with many behavioral health services, MET teams have struggled with funding throughout the years. First, the county currently funds its program through the general behavioral health fund for the county and by billing those who are using the services (i.e., charging the person who is in crisis.) Additionally, it has been a challenge to connect patients to community-based care, and teams are left with few options for long-term care for patients. "Currently, the ratio of patients to mental health care providers in Kern County is 580:1. Although this is not the highest ratio in California, it is well above California as a whole (380:1)."[239] Nevertheless, despite these challenges, in 2020 Kern County is providing 24/7 access through virtual crisis response.

Eugene, Oregon: CAHOOTS (Crisis Assistance Helping Out On the Streets)

The CAHOOTS program in Oregon has been a model for many cities who are "reimagining public safety." It is a 24/7 mobile crisis intervention program that has been utilized by the city of Eugene since 1989. The intervention team is dispatched through both the 911 call center and a non-emergency line. CAHOOTS is a mobile health clinic that will arrive at the dispatched location in a van and will either offer services to the person in crisis at their location or

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[237] Department of Mental Health (2019) Mental Evaluation Team Progress Report Fiscal Year 2018-19 <https://lasd.org/pdfjs/web/FY2018-19%20Annual%20Report%20on%20MET.PDF> (as of Dec. 14, 2020).

[238] "When you call 9-1-1, your Smart911 Safety Profile displays on the 9-1-1 screen and the 9-1-1 call takers can view your addresses, medical information, home information, description of pets and vehicles, and emergency contacts. You can provide as much or as little information as you like. Smart911 is a national service meaning your Smart911 Safety Profile travels with you and is visible to any participating 9-1-1 center nationwide." Smart911 <https://www.smart911.com/> (as of Dec. 14, 2020).

[239] Kern County Public Health Services Department, (2018-2019) Community Health Assessment and Improvement Plan <https://kernpublichealth.com/wp-content/uploads/2019/12/KCPHSD-Community-Health-Assessment-and-Improvement-Plan-2018.2019.pdf.> (as of Dec. 14, 2020).

transport the person to an appropriate community provider. They handle about 20 percent of all 911 calls in the city.

The teams consist of (1) either a nurse or EMT and (2) a crisis worker who has several years of experience in the mental health field. The CAHOOTS program is considered a co-response model, meaning that if a crime is reported, the police may be dispatched instead of or in addition to the crisis intervention team.[240] The team is equipped to handle matters such as conflict resolution, welfare checks, substance abuse issues, and aid to those who are experiencing thoughts of self-harm. In addition to their professional backgrounds, team members have over 500 hours of required training. The team relies on trauma-informed de-escalation and harm reduction techniques to help those in crisis.[241]

CAHOOTS staff are not police officers and, thus, are not armed. Instead, CAHOOTS staff rely on their training to reach non-violent resolutions. The consulting director for the program has explained that one of the biggest obstacles they have faced is overcoming social stigmas surrounding mental health and substance use and the belief that these calls are inherently dangerous. "It is our experience that folks in crisis just aren't dangerous."[242]

The program has helped the city save about $8 million dollars annually on public safety and $14 million in emergency rooms costs.[243] Alameda County is working in collaboration with Bonita House to create a similar mobile response team that will be funded in part by the Mental Health Services Act. Los Angeles County has also voted to contract with non-profit partners to create an unarmed crisis response team similar to the CAHOOTs program to respond to non-violent calls.[244] This type of reform may be a starting place for some communities, but certainly is not the only model or the right model for every community.

San Francisco: Street Crisis Response Teams

Since the death of George Floyd, there has been a renewed interest in developing new models for crisis response. The city of San Francisco, in collaboration with a community-based steering committee, is working to develop alternative responses to non-violent calls. Notably, the steering team is guided by the Human Rights Commission of SF and consists of community members from Hospitality House, GLIDE, San Francisco AIDS Foundation, Urban Alchemy, Street Violence Intervention Program, At the Crossroads, Metta Fund, and HealthRight360.[245],

[240] Crisis Assistance Helping Out On the Streets (CAHOOTS) White Bird Clinic Media Guide 2020 <https://whitebirdclinic.org/wp-content/uploads/2020/06/CAHOOTS-Media-Guide-20200626.pdf.> (as of Dec. 14, 2020).

[241] *Ibid.*

[242] Westervelt, *Mental Health and Police Violence: How Crisis Intervention Teams Are Failing*. NPR (Sep. 18, 2020) <https://www.npr.org/2020/09/18/913229469/mental-health-and-police-violence-how-crisis-intervention-teams-are-failing> (as of Dec. 14, 2020).

[243] Crisis Assistance Helping Out On the Streets (CAHOOTS) White Bird Clinic, Media Guide 2020 <https://whitebirdclinic.org/wp-content/uploads/2020/06/CAHOOTS-Media-Guide-20200626.pdf.> (as of Dec. 14, 2020).

[244] Meeks, *Los Angeles will create unarmed crisis response teams for nonviolent 911 calls*, CNN (Oct. 14, 2020) <https://www.cnn.com/2020/10/14/us/los-angeles-unarmed-crisis-response-teams-911-calls/index.html> (as of Dec. 14, 2020).

[245] City of San Francisco, Mayor's Office (Sep. 8, 2020) Mayor London Breed Announces Launch of Alternatives to Policing Steering Committee <https://sfmayor.org/article/mayor-london-breed-announces-launch-alternatives-policing-steering-committee> (as of Dec. 14, 2020).

Sheryl Evans Davis, Executive Director of the San Francisco Human Rights Commission said, "this is the beginning of a process to address the system failures and inequities disproportionately experienced by people of color and people in crisis. I look forward to hearing from those directly impacted, learning from the Steering Committee and hearing the alternatives created, informed, supported and led by community."[246]

The city is currently working in collaboration with the community to develop the best crisis response model for the city. Instead of armed officers responding to psychiatric calls or non-violent calls, the city will focus on developing mobile crisis response teams, consisting of paramedics, mental health professionals, and peer support specialists (e.g., someone who has personally experienced a mental health crisis). This program is similar to the CAHOOTS crisis response teams.[247]

The Board wanted to highlight this program as an example of how cities developing crisis response systems can effectively do so in collaboration with the community and those directly impacted by the services.

New York: Not911

Not911 is a mobile app that aides the user in resolving a variety of community-based issues without the police. The app was created by a nonprofit software company, Emergent Works, that trains and employs formally incarcerated people.[248] The designers recognized that many people are fearful of calling the police for a variety of reasons, such as immigration status.[249]

The app allows users to choose from a variety of agencies and nonprofits to address issues such as mental health calls, assistance for those who are unhoused, domestic violence, drug overdose, or legal support. Presently the app is only available to New York City-based organizations that offer counseling, mediation, and intervention services.[250] The app is currently available for download at https://not911.nyc/.

The Board's Vision for Crisis Intervention Models

As these crisis response models continue to develop, the Board hopes to continue to explore different types of responses. For example, there is a nonprofit mobile crisis response team that launched in California in 2020 that is completely independent from the police department and traditional 911 dispatch centers.[251] The Board is interested in learning more about this and

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[246] *Ibid.*

[247] Westervelt, *Removing Cops from Behavioral Crisis Calls: 'We Need To Change The Model,'* NPR (Oct. 19, 2020) <https://www.npr.org/2020/10/19/924146486/removing-cops-from-behavioral-crisis-calls-we-need-to-change-the-model> (as of Dec. 14, 2020).

[248] Emergent Works (2020) <https://www.emergentworks.org/> (as of Dec. 14, 2020).

[249] Scotland and Quin, *Meet the Formerly Incarcerated Software Engineers Who Built a No-Police Alternative to 911*, Codeburst.io (Sept. 18, 2020) <https://codeburst.io/meet-the-formerly-incarcerated-software-engineers-who-built-a-no-police-alternative-to-911-5a5af163f8b2?gi=9e0d442d73c8.> (as of Dec. 14, 2020).

[250] Emergent Works (2020) <https://www.emergentworks.org/> (as of Dec. 14, 2020).

[251] Nonko, *A Volunteer-Run Program Could Be Model for Mental Health Response Without Police Intervention*, Next City (Oct. 1, 2020) <https://nextcity.org/daily/entry/volunteer-run-program-model-mental-health-response-police-intervention> (as of Dec. 14, 2020).

other models and consulting with experts in the mental health crisis intervention field to assess what models may serve as exemplars for law enforcement agencies in California.

The Board also hopes to review data on the efficacy of the different types of community-based responses and how they can be further improved. We encourage communities to come together and create a forum for families, providers, and law enforcement to discuss the best approaches to resolving this health care crisis. We must uplift our communities, listen to their needs, and be inclusive of disability when we discuss reforms so that we can move away from using jails and the criminal justice system as a substitute for treating societal issues. There are several resources that may be available to communities seeking to fund crisis intervention models, including funds available from the Mental Health Services Act, prison realignment funds through AB 109, and potentially the CAHOOTS Act, if passed by the U.S. legislature. Although some of this funding has been available for some time, counties have either not spent the funds or have expended the funds on increasing law enforcement budgets. These sources could be an invaluable resource for advocates and communities to finance innovative community-based responses to crisis care.

Mental Health Services Act

The Mental Health Services Act can be a tremendous resource for counties in funding innovative approaches to mental health reforms and creating new crisis response models. The MHSA was passed by the California State legislature in 2004, but counties largely did not utilize these funds. In 2018, the legislature conducted an audit of MHSA funds and found that due to poor oversight of expenditures, many counties had amassed millions in unspent MHSA funds.[252] The Board recommends that community members or law enforcement officers who have questions about how your county or city is spending MHSA funds should contact the California Department of Health Care Services, Phone, (916)-713-8756, FAX, (916) 440-7621, mhsa@dhcs.ca.gov.

AB 109: Public Safety Realignment

Another source of funding for community-based care is AB 109, prison realignment legislation. In 2011, the California Legislature passed AB 109, which sought to move persons serving a sentence for a low-level offense from jail into community-based programs, often referred to as "realignment." The bill included funding provisions for implementing and providing rehabilitative and supportive services.[253] In the bill, the legislature specifically encouraged counties to use the funds to "invest in community based alternatives" to incarceration; however, there is little oversight and the spending of these funds is largely up to the broad discretion of local leaders. Since its enactment, local governments on average have

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[252] California State Auditor (Feb. 2018) Mental Health Services Act, The State Could Better Ensure the Effective Sue of Mental Health Services Act Funding <https://auditor.ca.gov/pdfs/reports/2017-117.pdf.> (as of Dec. 14, 2020).

[253] California Mental Health Planning Council. (2012) Implementing AB 109: How Four California Counties Met the Challenge of the 2011 Public Safety Realignment in Their Communities <https://www.dhcs.ca.gov/services/MH/Documents/AB%20109%20Imp%20Feb%202013_FINAL.pdf> (as of Dec. 14, 2020).

only used 11 percent of those funds for community-based services, while the remaining funds went back into the jails and probation departments.[254]

Some counties spend more of their budgets on community-based care, while others have taken AB 109 funding and increased local law enforcement budgets. For example, Contra Costa, Orange County, and Sacramento County spend 75 to 100 percent of their AB 109 budget on law enforcement. By contrast, San Diego, San Francisco, and Santa Cruz spend 0 to 25 percent of their AB 109 funds on law enforcement. This distinction is critical, since community-based programs, such as drug treatments, mental health counseling, employment assistance, and anger management, are highly effective at reducing recidivism rates, reducing costs associated with incarceration, and improving public safety.[255] For instance, Santa Cruz, which spent a majority of its AB 109 funds on community-based services, saw a 20 percent reduction in its jail population.[256]

The Crisis Assistance Helping Out On the Streets (CAHOOTS) Act

The CAHOOTS Act is pending legislation that was introduced in the United States Congress in August 2020; identical bills were introduced in both the House and Senate. If it passes, this legislation would enhance state Medicaid funding for community-based mobile crisis response programs for those who may be experiencing a mental health or substance use disorder crisis. The federal government would pay 95 percent of the programs costs **and** offer up to $25 million in grants to establish or expand existing programs.[257] Thus, California law enforcement agencies would not be responsible for the majority of the costs to implement or expand such programs.

In order to qualify for funding under the Act, the mobile crisis response teams must meet certain minimum requirements. They must be multidisciplinary teams composed of behavioral health care professionals, including nurses, social workers, and peer support specialists, who are trained in trauma care, de-escalation strategies, and harm reduction. The services must be available 24-7 and voluntary for the individuals experiencing the mental health or substance use disorder crisis. The crisis teams must maintain relationships with relevant community partners, including medical and behavioral health providers, community health centers, crisis respite centers, managed care organizations, or other social services organizations.[258]

Vision for Future Reports

The Board will continue to analyze best practices and policies regarding bias by proxy. We will explore both evidenced-based best practices and individual agency's policies. We hope to start developing model policies for trainings for dispatchers in how to handle bias-based calls.

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[254] *Ibid.*

[255] Flynn, *Putting Teeth into A.B. 109: Why California Historic Public Safety Realignment Act Should Require Reentry Programming.* (Aug. 2013) Golden Gate University L.Rev. Vol. 43, Issue 3, Art. 7, pp. 9-20 <https://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=2104&context=ggulrev.> (as of Dec. 14, 2020).

[256] *Ibid.*

[257] Crisis Assistance Helping Out On the Streets Act (2019-2020) 116 H.R. 7961; see also Crisis Assistance Helping Out On the Streets Act (2019-2020) 116 S. 4441.

[258] Crisis Assistance Helping Out On the Streets Act (2019-2020) 116 H.R. 7961; see also Crisis Assistance Helping Out On the Streets Act (2019-2020) 116 S. 4441.

Additionally, we would like to review best practices for how agencies can implement a restorative justice approach to bias-based calls.

In the coming years, the Board also hopes to consult with community members and experts in the field of crisis response. The Board recognizes that community based solutions to crisis response will come from communities themselves. We hope to invite leaders from some of these organizations to inform the Board of developing best practices surrounding crisis response. The Board will continue to review different national and international crisis response models, as well as data on the efficacy of different models, and make recommendations aimed at improving crisis intervention in California.

CIVILIAN COMPLAINTS: POLICIES AND DATA ANALYSES

California law enforcement agencies have been submitting complaint information to the Department since 1981. The passage of RIPA required law enforcement agencies to submit the number of complaints alleging racial or identity profiling along with the number of complaints with dispositions of "sustained," "exonerated," "not sustained," and "unfounded."[259] This data is then disaggregated and analyzed for inclusion in the Board's annual report. Included below is an overview and analysis of the civilian complaint data submitted to the DOJ, a review of the Wave 2 agencies civilian complaint forms, and a foundational discussion of Early Intervention Systems (EIS).

As the Board has noted in its earlier Reports, state law gives each law enforcement agency discretion to implement their complaint processes and outreach differently.[260] This variability can affect the number of complaints an agency may receive and the outcome of those complaint investigations. Thus, making comparisons across law enforcement agencies should be done with care, as the differences may be the result of a variety of factors. The Board has identified the following factors as important to consider in analyzing complaint data: 1) lack of uniformity regarding what constitutes a "civilian complaint" and how to quantify complaints; 2) lack of uniformity regarding how to process civilian complaints; 3) accessibility and knowledge of an agency's complaint process; 4) accessibility for people with disabilities; and 5) the potential deterrent impact of language that comes from Penal Code section 148.6 on complaint forms. For example, one agency may make it easier for civilians to file complaints than another agency and thus increase the number of complaints reported. Other observed agency variabilities include differences in language access, staffing, and policies or practices with respect to which unit or other governmental body conducts the complaint investigation. The RIPA Board continues to encourage California law enforcement agencies to standardize the collection of complaint information by using more consistent protocols and incorporating best practice recommendations provided in the Board's 2019 report.[261]

Overview of Civilian Complaint Data

The civilian complaint data for 2019 was submitted to the Department by 691 agencies employing peace officers in California. The agencies reported 15,890 complaints across three categories: non-criminal, misdemeanor, and felony. The majority of complaints (15,025, or 94.6%) alleged non-criminal conduct; complaints alleging behavior constituting a misdemeanor offense accounted for 3 percent (472) of complaints, and allegations of behavior constituting a felony represented 2.5 percent (393) of complaints.

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[259] "Sustained" means the investigation disclosed sufficient evidence to prove the truth of the allegation in the complaint by a preponderance of the evidence. "Exonerated" means the investigation clearly established that the employee's actions that formed the basis of the complaint were not a violation of law or agency policy. "Not sustained" means the investigation failed to disclose sufficient evidence to clearly prove or disprove the complaint's allegation. "Unfounded" means the investigation clearly established that the allegation is not true. Cal. Pen. Code, § 13012, subd. (a)(5)(B).

[260] See Cal. Pen. Code, § 832.5.

[261] See Racial and Identity Profiling Advisory Board Report (2019) pp. 41-44
<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2019.pdf> (as of Dec. 14, 2020).

Law enforcement agencies are required to report the number of complaints that contain an allegation of racial or identity profiling.[262] Specifically, agencies submit data to the Department detailing profiling complaints that fall into nine categories: race/ethnicity, physical disability, mental disability, sexual orientation, gender, religion, gender identity/expression, age, and nationality.[263] Agencies reported 1,427 complainants alleging an element, or elements, of racial or identity profiling, constituting 9 percent of the total complaints reported in 2019.

The total number of racial and identity profiling allegations (1,701) reported to the Department exceeds the total number of racial and identity profiling complaints (1,427) due to reported allegations of profiling based on multiple identity group characteristics. For example, a civilian may file a complaint alleging they experienced profiling based on both their gender and sexual orientation. This example would count as a single complaint with two types of alleged identity profiling. Accordingly, Figure 37, below, displays the number of reported allegations that fell into each of the nine identity group types.

Figure 37. Total Allegations of Racial and Identity Profiling Reported in 2019
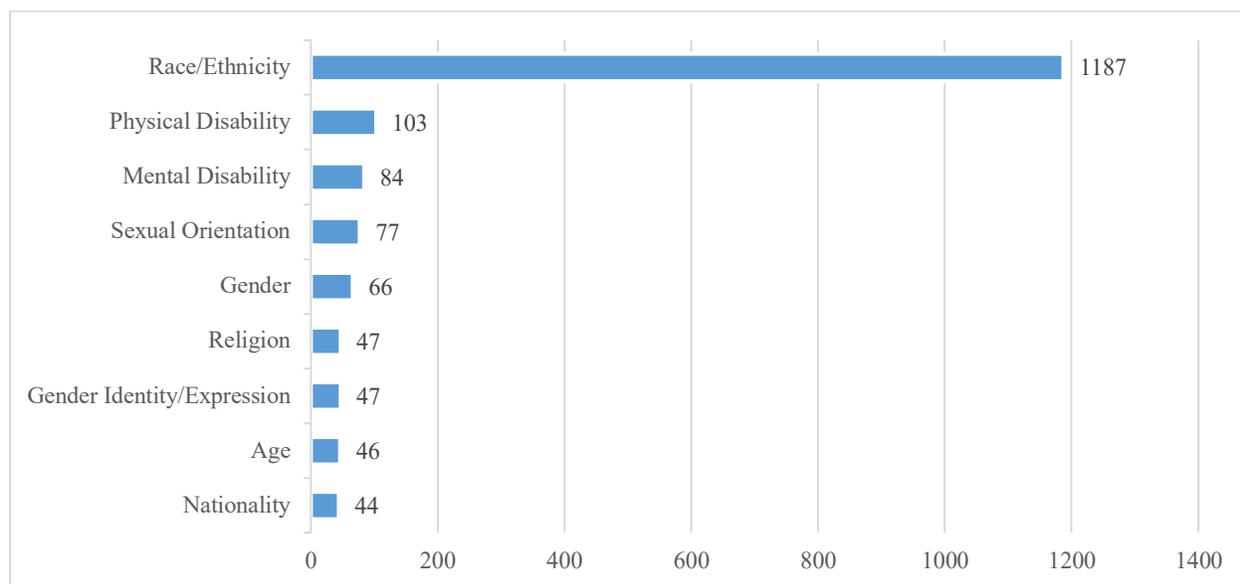
Analysis of Civilian Complaint Data Submitted by Agencies Subject to Stop Data Reporting

Of the 691 agencies employing peace officers in California that reported civilian complaint data in 2019, 452 agencies are subject to RIPA's stop data reporting requirements (hereafter RIPA agencies). These 452 RIPA agencies include municipal and district police departments, county sheriff's departments, the California Highway Patrol, and the law enforcement agencies of the University of California, California State Universities, California Community Colleges, as well as K-12 school district police departments.[264] The sections that follow examine only the data

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[262] Cal Pen Code, § 13012, subd. (a)(5)(A).

[263] *Ibid.*

[264] For more information on the law enforcement agencies that are required to report under RIPA, see Cal. Code Regs., tit. 11, § 999.225 <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-final-text-110717.pdf?> (as of Dec. 14, 2020).

submitted by the stop data reporting agencies that either are or will soon begin collecting RIPA stop data.

Civilian Complaints for Stop Data Reporting Agencies

RIPA agencies reported 10,987 civilian complaints in 2019. Most complaints alleged noncriminal conduct (10,224, or 93.1%), followed by complaints for conduct that constitutes a misdemeanor offense (439, or 4%); complaints alleging conduct that constitutes a felony were the least common (324, or 2.9%). Of the 10,987 complaints reported, 8,723 reached a disposition in the 2019 calendar year. Of those 8,723 complaints that reached a disposition, 971 (11.1%) were sustained, 2,529 (29%) were exonerated, 922 (10.6%) were not sustained, and 4,301(49.3%) were unfounded.[265] Eighty-four RIPA agencies (18.6%) reported that they did not receive any civilian complaints in the 2019 calendar year. The remaining 368 (81.4%) RIPA agencies reported they received one or more civilian complaints; 146 (39.7%) of these agencies reported one or more civilian complaints alleging racial or identity profiling. These 146 agencies reported 1,153 complaints alleging racial or identity profiling, 955 of which reached disposition in 2019. Of these 955 racial and identity profiling complaints, 19 (2%) were sustained, 123 (12.9%) were exonerated, 97 (10.2%) were not sustained, and 716 (75%) were determined to be unfounded. Figure 38 displays the distribution of disposition types within the 2019 data for (1) all complaints that reached disposition and (2) complaints of racial and identity profiling that reached disposition.[266]

## Figure 38. Disposition Distribution of 2019 Complaints
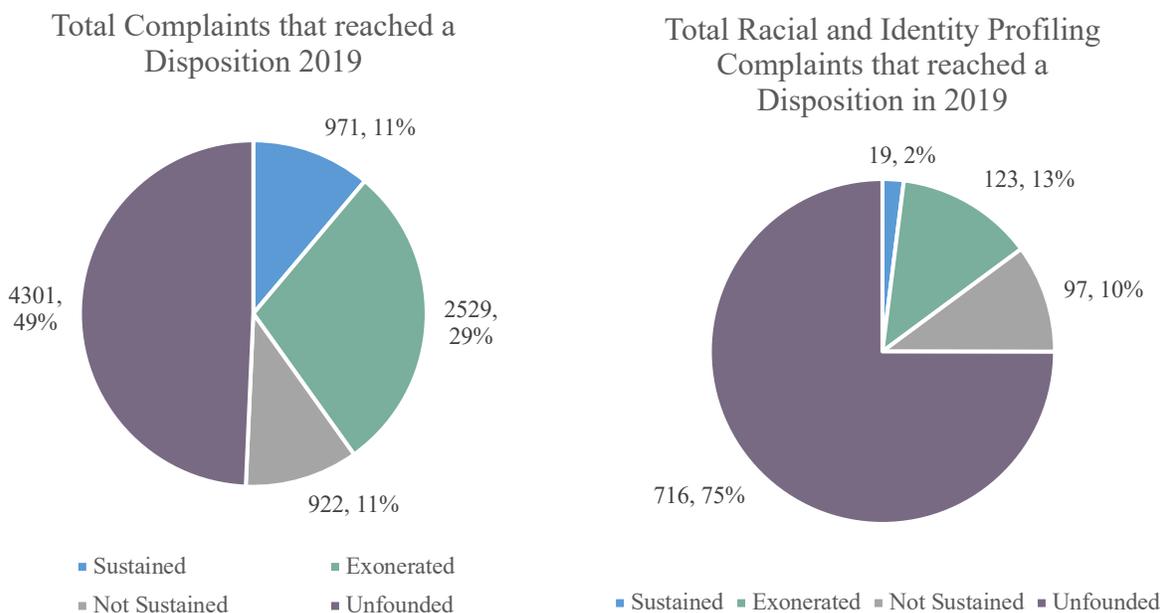
Total Complaints that reached a Disposition 2019

Total Racial and Identity Profiling Complaints that reached a Disposition in 2019

Figure 38 displays the 1,323 allegations of racial or identity profiling reported by stop-data-reporting agencies in 2019 broken down by identity type: race/ethnicity, mental disability, physical disability, gender, nationality, age, gender identity/expression, religion, and sexual orientation.[267]

Figure 39. Total Racial and Identity Profiling Allegations Reported by Reporting Agencies in 2019
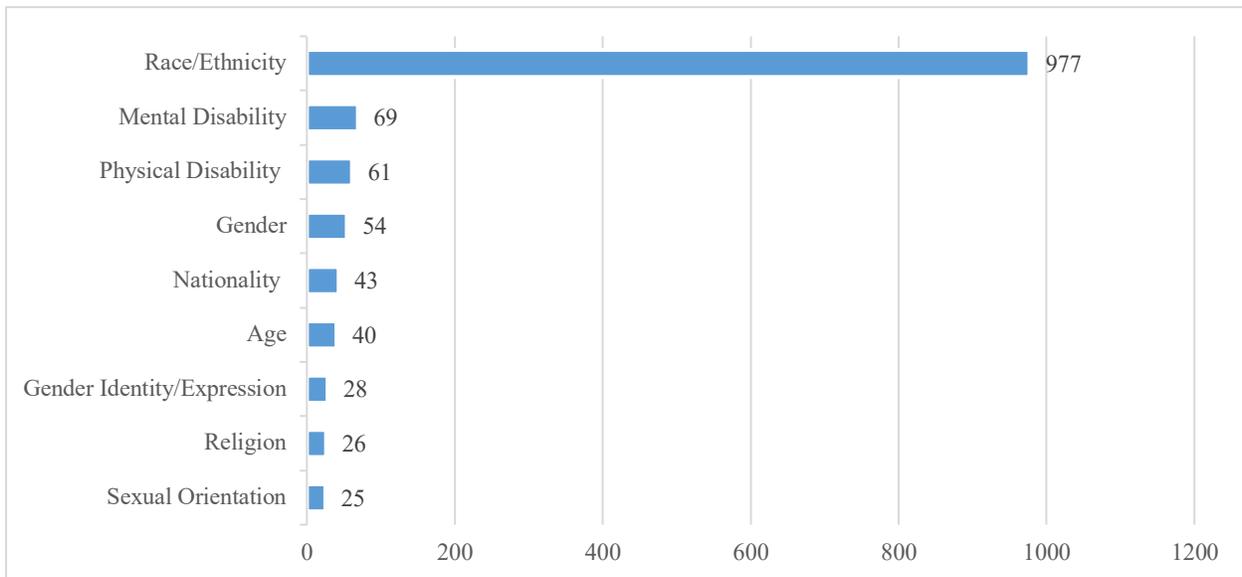
Agency-Level Data Snapshot: 2019 Civilian Complaints for Wave 1 and 2 Agencies

Table 7 displays civilian complaint totals broken down for Wave 1 and 2 agencies.[268] The table provides the following information: the total number of complaints reported; the number of complaints reported alleging racial or identity profiling; and the number of sworn personnel each agency employed in 2019.[269]

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[267] The total number of racial and identity profiling allegations (1,323) reported by stop-data-reporting agencies exceeds the total number of racial and identity profiling complaints (1,153) due to reported allegations of profiling based on multiple identity group characteristics.

[268] Wave 1 agencies are the eight largest agencies in the state; they were required to start submitting stop data to the Department by April 1, 2019. Wave 2 agencies are the seven next largest agencies that were required to start submitting stop data to the Department by April 1, 2020. (Gov. Code, § 12525.5(a)(2)).

[269] Sworn personnel totals presented are calculated from the information contained within the Law Enforcement Personnel file available at https://openjustice.doj.ca.gov/data. The DOJ collects the Law Enforcement Personnel data through a one-day survey taken on October 31st of each reporting year.

Table 7:

Reporting Wave	Agency	Total Complaints Reported	Total Profiling Complaints Reported	Total Sworn Personnel
1	California Highway Patrol	353	21	7,230
1	Los Angeles County Sheriff's Department	1,010	68	9,565
1	Los Angeles Police Department	2,205	426	10,002
1	Riverside County Sheriff's Department	33	0	1,788
1	San Bernardino County Sheriff's Department	113	39	1,927
1	San Diego County Sheriff's Department	214	74	2,601
1	San Diego Police Department	102	25	1,764
1	San Francisco Police Department	842	0	2,279
2	Fresno Police Department	231	13	806
2	Long Beach Police Department	182	9	817
2	Oakland Police Department	1,215	36	740
2	Orange County Sheriff's Department	129	11	1,888
2	Sacramento County Sheriff's Office	205	5	1,348
2	Sacramento Police Department	146	6	678
2	San Jose Police Department	205	36	1,150

Cross-Year Comparisons

Figures 40 through 43 display the number of total complaints reported (Figures 40 and 42), as well as the total number of racial and identity profiling complaints reported (Figures 41 and 43)

for Wave 1 and 2 agencies across the four years that agencies have been required by RIPA to submit expanded civilian complaint data to the Department.[270]

Wave 1 Agency Complaints Reported (2016-2019)

Wave 1 agencies reported 4,872 civilian complaints in 2019. This total constituted a 19.1 percent increase relative to the total number of civilian complaints reported in the year prior (4,091), a 32.4 percent increase from 2017 (3,679), and a 24.8 percent increase from 2016 (3,904).

The majority of Wave 1 agencies (7 out of 8) experienced an increase in the number of civilian complaints reported between 2018 and 2019. The agency that experienced the largest percentage increase from 2018 to 2019 was the San Diego County Sheriff's Department (San Diego Sheriff), with a 2,278 percent increase in complaints (from 9 to 214).[271] The Riverside County Sheriff's Department (Riverside Sheriff) was the only Wave 1 agency to experience a decrease (28.3%) in their number of complaints reported, with 33 complaints in 2019, down from 46 in 2018.

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[270] See Cal. Pen. Code, § 13012, subd. (a)(5)(A)(iii).

[271] This increase can partially be attributed to the San Diego Sheriff's change in reporting practices instituted after comparing its numbers to those of its peers in the 2020 RIPA Board report. Previously, San Diego Sheriff only reported internal affairs investigations into deputy misconduct or policy or law violations as civilian complaints. Now, it reports all complaints received by Internal Affairs. Relative to most other Wave 1 agencies, San Diego Sheriff reported low numbers of complaints across the four years covered in Figure 40. Agencies with lower numbers of complaints reported are more susceptible to large percentage changes from year to year. San Diego Sheriff did not have the largest cross-year increase in complaints reported amongst Wave 1, in raw terms.

Figure 40. Wave 1 Total Complaints Reported
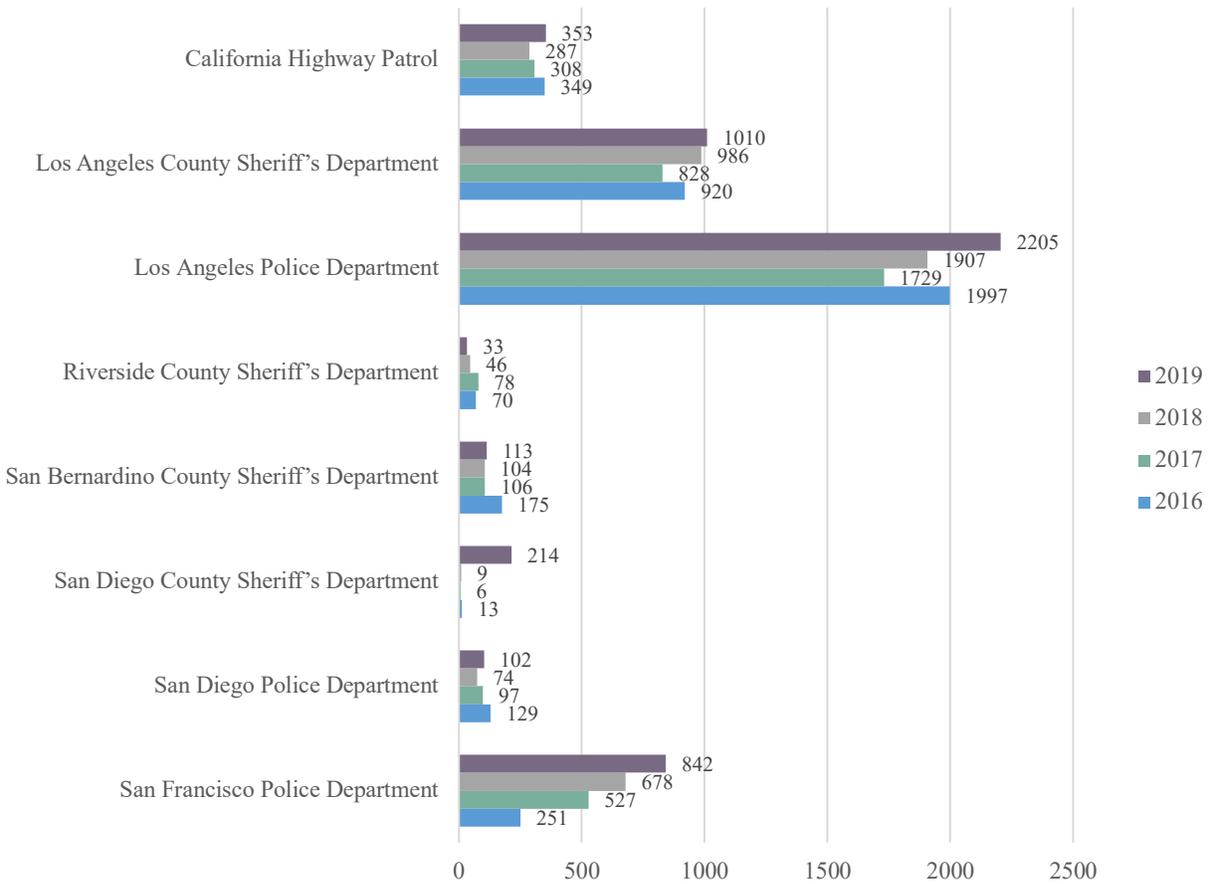
Figure 41 displays the total number of racial and identity profiling complaints reported by Wave 1 from 2016 through 2019. The total number of racial and identity profiling complaints was 653 in 2019, which is a 44.5 percent increase from 2018, a 76 percent increase from 2017, and a 406 percent increase from 2016.[272]

Of the eight agencies in Figure 41, five experienced an increase in the number of reported racial and identity profiling civilian complaints between 2018 and 2019, while the other three experienced a decrease. San Diego Sheriff had the largest relative increase, 7,300 percent, of Wave 1 agencies.[273] Conversely, the San Francisco Police Department (San Francisco PD) had

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[272] The first year that agencies were required to track their number of racial and identity profiling complaints and report it to the Department was 2016. As a result, the low number of racial and identity profiling complaints reported in 2016, compared to subsequent years, may partially be the result of the learning curve of agencies having to collect the data in a different manner than they had historically.

[273] As is the case with the total number of civilian complaints reported by San Diego Sheriff, the stark increase in profiling complaints reported can partially be attributed to the San Diego Sheriff's change in reporting practices that the agency instituted between the 2018 and 2019 civilian complaint reporting periods. See note 271 for further details.

the largest relative decrease in the number of racial and identity profiling complaints reported from 2018 to 2019 (21 to 0, 100%).[274]

Figure 41. Wave 1 Total Racial and Identity Profiling Complaints Reported
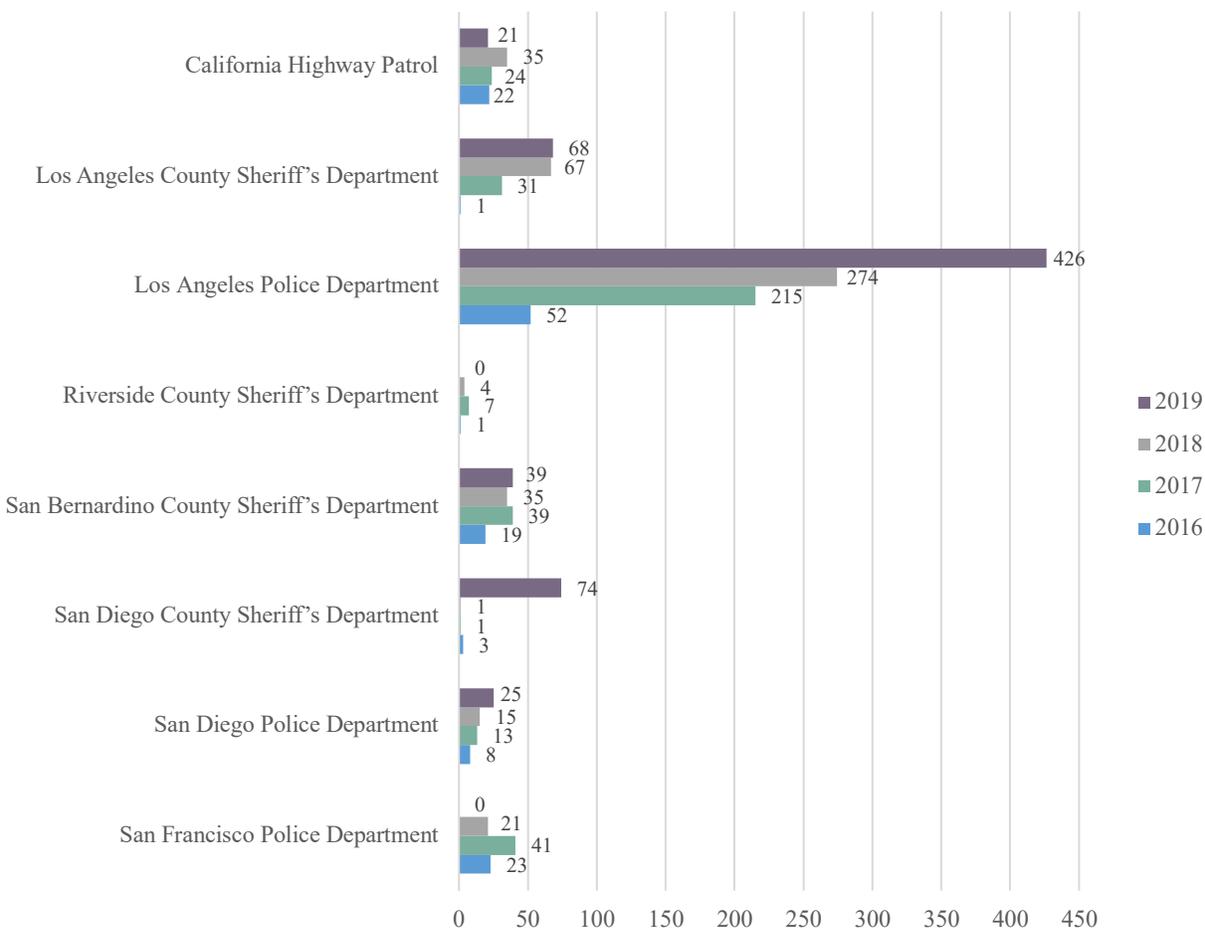
Wave 2 Agency Complaints Reported (2016-2019)

In 2019, the total number of civilian complaints for all Wave 2 agencies was 2,313, which was a 3.6 percent decrease from the previous year. The number of civilian complaints reported in 2019 was 1.9 percent higher than in 2017 and 10.4 percent higher than in 2016.

Less than half of Wave 2 agencies (3 out of 7) experienced an increase in the total number of civilian complaints reported between 2018 and 2019. The agency that experienced the largest relative increase from 2018 in 2019 was the Sacramento Police Department (Sacramento PD), with a 3,550 percent increase. This increase may be attributed to the Sacramento PD's change in policy in August 2019, which ended Sacramento PD's practice of categorizing certain complaints as "inquiries" to be resolved informally at the precinct/watch level. This policy change followed the Department's review of Sacramento PD's practices and its

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[274] Riverside Sheriff also had a 100 percent relative decrease from 2018 to 2019; however, San Francisco PD had a larger decrease in the raw number of complaints (21 compared to 4) than Riverside Sheriff, which is why San Francisco PD is highlighted as experiencing the largest decrease.

recommendation that all personnel complaints be tracked uniformly and classified by type of alleged misconduct.[275] This change is also in line with the RIPA Board's recommendation in its 2020 Report that law enforcement agencies should provide clear policies and direction as to how the term "complaint" should be defined to avoid significant disparities in how to identify, quantify, and process complaints.[276] On the other end of the distribution, the agency that experienced the highest percentage decrease in complaints reported was the Sacramento County Sheriff's Office, which saw a 32.3 percent decrease in number of complaints from 2018 to 2019.

Figure 42. Wave 2 Total Complaints Reported
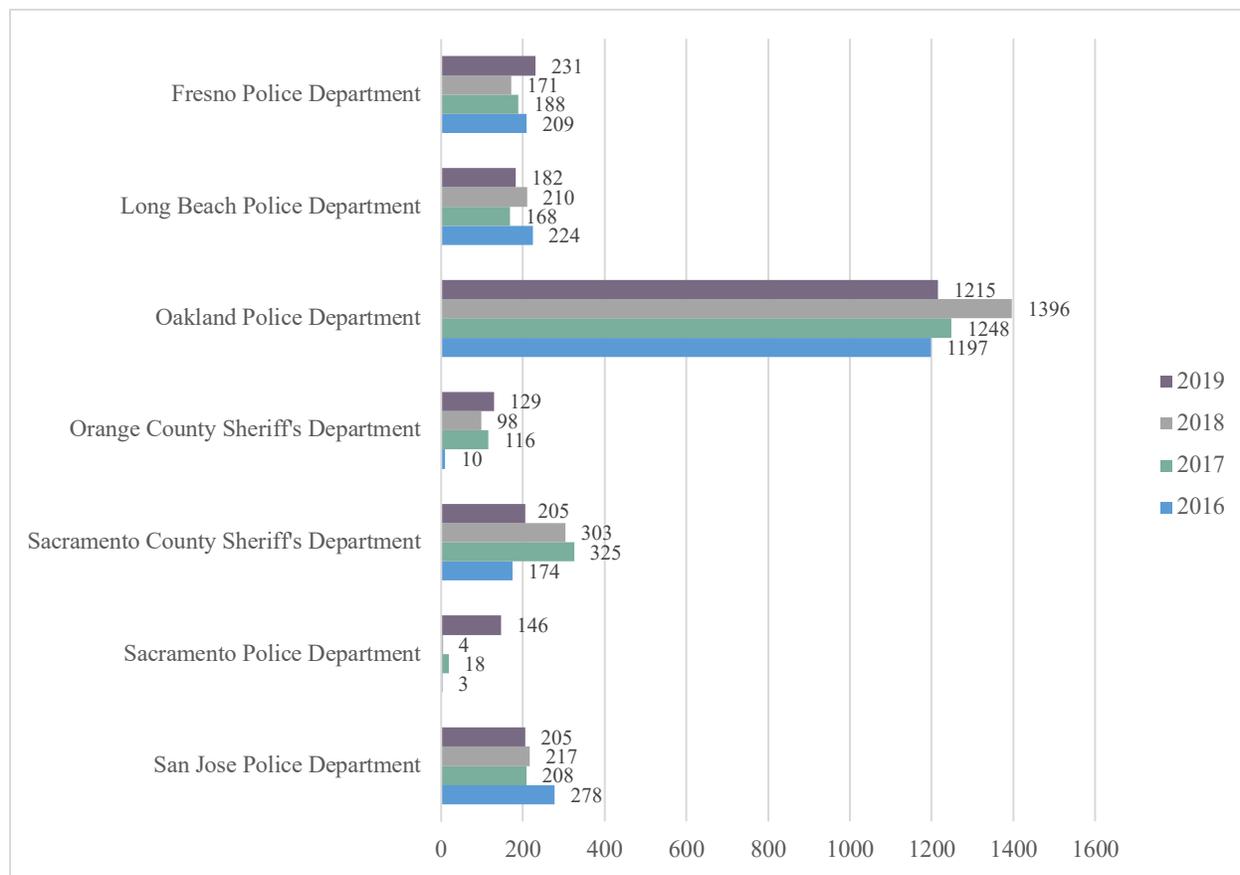
Wave 2 agencies reported a total of 116 racial and identity profiling complaints in 2019. This was a 7.9 percent decrease from the number of racial and identity profiling complaints reported in 2018; a 7.2 percent decrease from 2017; and a 1.8 percent increase from 2016.

Of the seven agencies in Figure 39, four experienced an increase in the number of racial and identity profiling complaints reported between 2018 and 2019, while the other three experienced a decrease or remained the same. The Sacramento PD had the largest relative increase: it reported zero racial and identity profiling complaints in 2018 and six in 2019. On

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[275] See Racial and Identity Profiling Advisory Board, Annual Report 2020 (Jan. 1, 2020) pp. 68-69
<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf> (as of Dec. 14, 2020).
[276] *Ibid.*

the other end of the spectrum, the Oakland Police Department had the largest decrease in total racial profiling allegation complaints reported from 2018 to 2019 resulting in a 37.9 percent decrease. Lastly, the San Jose Police Department reported the same number of racial and identity profiling complaints, 36, in both 2018 and 2019.

AB 953 Survey: Civilian Complaint Procedures

As noted in the Policies and Accountability section, the Department conducted a survey of Wave 1, 2, and 3 agencies to learn about the impact of the Board's recommendations and data analysis within law enforcement agencies. As of December 10, 2020, 25 of the 26 agencies surveyed had responded. With respect to civilian complaints, some of the findings include:

- Seven of the 25 agencies surveyed indicated that they took actions in response to the Board's recommendations regarding civilian complaint procedures.

Agencies that Reported Taking Actions in Response to the RIPA Board's Recommendations Regarding Civilian Complaint Procedures	
Kern County Sheriff	San Diego Police
Orange County Sheriff	San Francisco Police
Sacramento Police	Santa Clara County Sheriff
San Bernardino County Sheriff	

A few agencies provided examples of the actions they took.

"[SFPD] looked at complaints of bias by percentage and quantity comparatively. Findings were captured in the department's public quarterly reporting, and presented to the SFPD's Commission and public" - San Francisco Police

"Any complaints are immediately referred to our Internal Affairs Unit for investigation" – Kern County Sheriff

- Six agencies indicated that they were reviewing and determining how to implement the best practices related to civilian complaint procedures.

Report Currently Reviewing and Determining How to Implement the RIPA Board's Recommendations Regarding Civilian Complaint Procedures	
Kern County Sheriff	San Diego Police
Los Angeles County Sheriff	San Francisco Police
Sacramento Police	Santa Clara County Sheriff

Figure 43. Wave 2 Total Racial and Identity Profiling Complaints Reported

Fresno Police Department
- 2019: 13
- 2018: 8
- 2017: 7
- 2016: 4

Long Beach Police Department
- 2019: 9
- 2018: 8
- 2017: 12
- 2016: 4

Oakland Police Department
- 2019: 36
- 2018: 58
- 2017: 54
- 2016: 41

Orange County Sheriff's Department
- 2019: 11
- 2018: 8
- 2017: 9
- 2016: 0

Sacramento County Sheriff's Department
- 2019: 5
- 2018: 8
- 2017: 10
- 2016: 14

Sacramento Police Department
- 2019: 6
- 2018: 0
- 2017: 0
- 2016: 0

San Jose Police Department
- 2019: 36
- 2018: 36
- 2017: 33
- 2016: 51

> *"LASD is in the process of revising the classifications of completed community complaint investigations to better reflect current law" – Los Angeles County Sheriff*

> *"Deficiencies in the complaint form and procedures have been forwarded to our oversight partner agency, who has control of the complaint form content" – San Francisco Police*

- Bakersfield, Riverside, and Stockton Police Departments indicated that the Board's recommendations were already incorporated in their civilian complaint procedures.

> *"Our department has a Civilian Panel that conducts a parallel investigation on all civilian complaints…"*
>
> *"We have [had] an Early Warning System for over 15 years to help identify potential issues before they become systemic or catastrophic"*
> *- Riverside Police*

Wave 2 Civilian Complaint Form Review

In its 2019 report, the Board made recommendations for best practices for civilian complaint procedures and policies.[277] In its 2020 report, the Board built upon this review and made recommendations regarding civilian complaint forms after reviewing literature regarding best practices for civilian complaint procedures and forms.[278] Through this lens, the Board conducted an initial review of the Wave 1 agencies' civilian complaint forms in its 2020 report; the Board is now extending that review to the Wave 2 agencies.[279]

Long Beach Police Department: The Long Beach Police Department (Long Beach Police) accepts complaints: (1) in person, (2) by telephone, (3) by mail, or (4) by e-mail. On the agency's public website, a member of the public can find the civilian complaint process and form.[280] The civilian complaint form and process are available in English, Spanish, Khmer, and Tagalog. Long Beach Police follows the City of Long Beach's Language Access Policy passed in 2018. The policy provides that while Spanish-speaking residents numerically qualify for services under state law, Long Beach also has a "substantial number of limited English speaking Cambodian and Filipino residents" for whom services and materials should be provided in their spoken languages.[281] The current complaint forms were translated by a contract professional services translator in 2013. The agency permits third-party complaints and anonymous complaints. Long Beach Police also provides a contact list that includes their Citizen's Police Complaint Commission (CPCC), as well as other local, state, and federal offices from which a complainant can seek assistance if they feel their complaint was not properly investigated.

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[277] See Racial and Identity Profiling Advisory Board Report (2019) pp. 41-44 <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2019.pdf> (as of Dec. 14, 2020).
[278] See Racial and Identity Profiling Advisory Board Report (2020) p. 58-80 <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf> (as of Dec. 14, 2020).
[279] See Appendix G for the Wave 2 civilian complaint forms.
[280] The complaint form and procedures can be located here: Long Beach Police Department, Citizen Complaint Procedure <http://www.longbeach.gov/police/contact-us/citizen-complaint-procedure/> (as of Dec. 14, 2020).
[281] City of Long Beach, Language Access Policy (2018) <http://www.longbeach.gov/globalassets/health/media-library/documents/healthy-living/office-of-equity/language-access-resolution-and-policy-update-2018---english> (as of Dec. 14, 2020).

Oakland Police Department: Civilian complaints regarding the Oakland Police Department (Oakland Police) personnel can be submitted to either the agency's Internal Affairs Division[282] or to the Citizens' Police Review Agency (CPRA).[283] Complaints filed directly with Oakland Police's Internal Affairs Division will be investigated by the Internal Affairs Division, whereas those submitted to the CPRA will be investigated by the CPRA. The agency reports that Internal Affairs and CPRA investigate concurrent complaints. It is unclear from their websites whether there is a difference in the type of complaints each entity investigates. The Internal Affairs Division accepts complaints: (1) by phone, (2) by mail, (3) by e-mail, (4) by fax or (5) in person out in the field, at their main office, or any of the other designated locations. The CPRA receives complaints: (1) online, (2) by mail, or (3) by fax. The online civilian complaint form is only available in English. A PDF version of the complaint form is available in English, Spanish, Chinese, or Vietnamese. A description of the civilian complaint process is only available with the CPRA's English online submission form. Unlike the PDF form, the online version allows complainants to "decline to state" certain demographic and contact information such as date of birth or phone number. Both the PDF and online complaint forms provide an open narrative space for the complainant to share what they would like to happen as a result of the investigation. Through an online portal, a complainant can track the status of the investigation of their complaint. Oakland Police reports it also accepts anonymous or third party complaints.

San Jose Police Department: The San Jose Police Department's (San Jose Police) Internal Affairs Unit accepts civilian complaints: (1) by phone, (2) by letter, (3) by e-mail, (4) by fax, or (5) online. Complaints can be submitted to the agency itself, the Internal Affairs Unit, or the Office of the Independent Police Auditor. Regardless of who the complaint is submitted to, it will be investigated by the Internal Affairs Unit. The online complaint form is available in English, Spanish, and Vietnamese;[284] San Jose Police's standard documents are translated into these three languages due to the prevalence of these languages in their community. If another language is required, its Duty Manual requires vital documents to be translated by an on-duty certified interpreter or a contracted translation service. The complaint form and other documents are generally translated by sworn personnel who are certified as interpreters or San Jose Police's contracted translation services. The form uses language from Cal. Penal Code section 148.6 language and describes the complaint process. The online form asks for any witnesses and their contact information. The form also specifically asks the complainant to designate whether the complaint involves race or identity profiling concerns. Anyone can file a complaint and it can be submitted anonymously. San Jose Police offers a voluntary Mediation Program for alleged misconduct deemed minor or where there is a misunderstanding about enforcement action, neglect of duty, or police procedure.

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[282] The online complaint form and procedures can be located here: City of Oakland, Report Police Misconduct <https://www.oaklandca.gov/services/report-police-misconduct> (as of Dec. 14, 2020).

[283] The online complaint form and procedures can be located here: <https://apps.oaklandca.gov/CPRA/?_ga=2.235015489.1909800277.1607078516-1525498134.1584741107> (as of Dec. 14, 2020).

[284] The online complaint form and procedures can be located here: San Jose Police Department, Internal Affairs < https://www.sjpd.org/about-us/organization/office-of-the-chief-of-police/internal-affairs> (as of Dec. 14, 2020).

Sacramento County Sheriff's Office: The Sacramento County Sheriff's Office (Sacramento County Sheriff) accepts complaints: (1) online, (2) in person, (3) by phone, or (4) in writing. All complaints are investigated by the Internal Affairs Bureau. The online complaint form is available in English and can be translated into other languages by using the Google translate button located at top right hand corner of the website.[285] The online form includes nearly verbatim language from Cal. Penal Code section 148.6 but provides a check box to mark if the complainant wishes to remain anonymous. The agency reports that a complainant may e-mail video or photos associated with the incident to Internal Affairs at the e-mail listed. There is no information attached to this online form about the civilian complaint process except for how to contact the Internal Affairs unit. Complaints that are submitted in other languages are translated by an employee who is fluent in the language or by a county-contracted translation service. In addition to the online complaint form, the agency has a PDF, or printed, version of the civilian complaint form that complainants can access in-person and includes Cal. Penal Code section 148.6 language. Unlike the online version, the PDF form makes clear that a third party can submit complaints, which is a Board recommendation, and provides a space for information of an attorney or representative to be included.

Sacramento Police Department: The Sacramento Police Department (Sacramento Police) takes civilian complaints: (1) by phone, (2) in writing, (3) in person, (4) online or (5) by e-mail. The agency's website includes information on the personnel complaint process in English. At the very bottom of the webpage, there is a Google translate button that allows complainants to translate the complaint procedures into other languages. While the complaint procedures reference Cal. Penal Code section 148.6, the Sacramento Police removed quoted language from the code on their webpage that could be seen as dissuading someone from reporting misconduct. Sacramento Police implemented an online complaint form in November 2020.[286] The form is in English but can also be translated using the Google translate feature at the bottom of the webpage. A separate City of Sacramento body, the Office of Public Safety Accountability (OPSA), has an online complaint form.[287] OPSA's online complaint form is not directly linked on the Sacramento Police's website. A complainant can learn of OPSA and its online complaint form by downloading the Sacramento Police's "Complaint Procedure Brochure." OPSA receives complaints: (1) online, (2) by phone, or (3) in person at their office. The online complaint form is available in English but can also be translated by using the Google translate button at the very bottom of the webpage. On August 1, 2019, Sacramento Police updated its civilian complaint procedures based upon recommendations made by Cal DOJ. As of July 2020, Sacramento Police's Internal Affairs Division is working with the new incoming OPSA director to enter into an MOU regarding OPSA's role and responsibilities with respect to

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[285] The online complaint form can be located here: Sacramento County Sheriff's Office, Professional Standards <https://www.sacsheriff.com/pages/professional_standards_division.php> (as of Dec. 14, 2020).

[286] A link to the online complaint form and procedures can be located here: City of Sacramento Police Department, Complaint Form <https://www.cityofsacramento.org/Police/Contact/Personnel-Complaint/Personnel-Complaint-Form (as of Dec. 14, 2020).

[287] A link to the online complaint form and procedures can be located here: City of Sacramento Office of Public Safety Accountability (OPSA), Public Safety Complaint Form <https://www.cityofsacramento.org/OPSA/complaint-process/online-complaint> (as of Dec. 14, 2020).

complaints, including steps to either link the OPSA complaint form on Sacramento Police's website or duplicate the form on Sacramento Police's website.

Fresno Police Department: The Fresno Police Department (Fresno Police) accepts civilian complaints: (1) online, (2) in person, (3) by mail, and (4) by phone. These methods are outlined in the agency's "Complaint Procedures" brochure. The brochure states that complaint procedures help civilians, the community, and the police. Fresno Police determines the language translations needed for their complaint form and brochure by conducting a four-factor analysis outlined in their Limited English Proficiency Services policy. Documents are then translated by certified employees or an outside agency if no employees are certified in that language. The printed civilian complaint form and brochure are available in English, Hmong, and Spanish. For those languages that do not meet the four-factor threshold, the agency attempts to provide meaningful access for LEP individuals attempting to make a complaint through other translation resources like a language line or a certified bilingual employee. The online civilian complaint form is available in English only.[288] Before someone can access the online form, they must click a box acknowledging that they read and understand an advisory that is nearly verbatim language from Cal. Penal Code section 148.6. This language is also included in the printed version of the form and requires a signature. The form provides a phone number to call if the complainant's contact information changes. Additionally, the form asks if photos were taken of any injuries suffered and the name of the person who took the photos. The form also asks if the complaint was filed with any other City of Fresno department or outside agency. If the complaint has been filed with another department, the form requests the date of such report and the person contacted. Lastly, the form has a specific section for racial and identity profiling complaints. The print version of the form is nearly identical to the online version, with the exception of including a mailing address. The printed forms were last revised December 2018. If a complaint is submitted in person at the station, the complainant receives a "complaint receipt" which provides the case and event number and the date on which the complaint was received. Fresno Police accepts anonymous and third-party complaints to the extent that sufficient information is provided. Details of the civilian complaint process are outlined in the brochure, which is not available with the online complaint form.

The City of Fresno also has an Office of Independent Review (Fresno OIR), which participates in the Fresno Police Department's civilian complaint process. Members of the public can submit their complaints to the Fresno OIR or the Fresno Police Department; if the complaint is submitted to the Fresno OIR, it is routed to the department. Regardless of where the complaint is submitted, the Fresno OIR has complete access to the department's Internal Affairs and reviews all civilian complaints.[289] Based on the complaints received and reviewed, the Fresno OIR produces quarterly reports that indicate whether it concurs with the disposition of each civilian complaint investigation. The reports also include a specific section on biased based

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[288] The online version of the complaint form can be located here: City of Fresno Police Department, Internal Affairs Online Complaint Form <https://www.fresno.gov/police/services-special-units/internal-affairs/internal-affairs-online-complaint-form/> (as of Dec. 14, 2020).
[289] More specifically, this also includes responding to police officer shootings of civilians and reviewing those investigations.

complaints and recommendations to the department. Moreover, the Fresno OIR regularly meets with members of the community and fields questions about the complaint process.

Orange County Sheriff's Department: The Orange County Sheriff's Department (Orange County Sheriff) accepts complaints: (1) in person, (2) by mail, or (3) by phone to the Internal Investigations Unit during regular business hours and to the Watch Commander if after regular business hours. On the agency's public website, there is a webpage with links to the civilian complaint form available in 27 languages.[290]   The agency reports that these languages were determined by Orange County's population. The complaint form was translated by bilingual employees and Google translate. Orange County Sheriff reports that third-party or anonymous complaints are accepted. The end of the civilian complaint form includes nearly verbatim language from Cal. Penal Code section 148.6. Information on the complaint process is attached to the complaint form itself and explained on the agency's public website.

Wave 2 Agency	Form Accessible Online?	Can Submit Online?	Multiple Methods of Submission?	Available in Multiple Languages?[291]
Long Beach Police	✔	✔	✔	✔
Oakland Police	✔	✔	✔	✔ OS[292] ✘ PV[293]
San Jose Police	✔	✔	✔	✔
Sacramento County Sheriff	✘	✔	✔	✔
Sacramento Police	✔	✔	✔	✔
Fresno Police	✔	✔	✔	✔
Orange County Sheriff	✔	✘	✔	✔

[290] The 27 languages include Albanian, Armenian, Cambodian, Chinese, Dutch, English, Farsi, French, Hebrew, Hindi, Hungarian, Llongo, Indo, Italian, Japanese, Korean, Lao, Polish, Punjabi, Russian, Spanish, Swedish, Tagalog, Tamil, Thai, Urdu, and Vietnamese. A link to the online complaint form and procedures can be located here: Orange County Sheriff's Department, How to File a Complaint <https://www.ocsheriff.gov/commands-divisions/professional-services-command/professional-standards/how-file-complaint> (as of Dec. 14, 2020).

[291] Federal and state law require federally and state assisted law enforcement agencies to provide meaningful access to Limited English Proficient (LEP) individuals. Under federal law, to determine the extent of its obligation to provide services to the LEP population, the Federal Coordination and Compliance Section recommends that law enforcement agencies engage in a four-factor analysis. (See U.S. Dep't of Justice, Federal Coordination and Compliance Section, Planning Tool: Considerations for Creation of a Language Assistance Policy and Implementation Plan for Addressing Limited English Proficiency in a Law Enforcement Agency <https://www.justice.gov/crt/fcs/Law_Enforcement_Planning_Tool> (as of Dec. 14, 2020). California state law also requires local agencies that receive state funding to provide language access services to LEP populations. (Gov. Code, § 11135, subd. (a); Gov. Code, § 7290). Law enforcement agencies may ask local community-based organizations to help translate complaint forms or create a database of qualified interpreters for speakers of any language, including sign language.

[292] "OS" refers to the online submission form.

[293] "PV" refers to the printed or PDF version of the complaint form.

Wave 2 Agency	Third Party Complaints Allowed?	Includes Narrative Field for Description of Complaint?	Does Not Include Language from PC §148.6?[294]	Complaint Process Information Attached to Form?
Long Beach Police	✓	✓	✓	✗
Oakland Police	✓	✓	✓	✓ OS ✗ PV
San Jose Police	✓	✓	✗	✓
Sacramento County Sheriff	✓	✓	✗ OS ✗ PV	✗
Sacramento Police	✓	✓	✓	✓
Fresno Police	✓	✓	✗	✗ OS ✓ PV
Orange County Sheriff	✓	✓	✗	✓

Early Intervention Systems

Law enforcement accountability is necessary to ensure legitimacy and improve relationships between law enforcement officers and the communities they serve. The killing of George Floyd in Minneapolis in May 2020 is a prime example of how a lack of accountability can have potentially harmful and even deadly effects; in the case of George Floyd, two of the four officers involved had previously been the subject of several complaints (one had six and another had sixteen filed against him). [295] Although we will never know for sure, George Floyd's death may have been preventable with the implementation of strong accountability measures

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[294] The Ninth Circuit and California Supreme Court have come to opposite conclusions regarding whether Penal Code section 148.6 is constitutional. (Compare *People v. Stanistreet* (2002) 29 Cal. 4th 497, 510 [Section 148.6 is a permissible regulation of prohibited speech, namely, false allegations against peace officers, which, on its face, does not violate the First Amendment to the United States Constitution] with *Chaker v. Crogan* (2005) 428 F.3d 1215, 1222, cert. denied, 547 U.S. 1128 (2006) [Penal Code section 148.6's criminal sanction violated the First Amendment of the United States Constitution because it regulated content-based speech on the basis of that speech's content].) As such, many California law enforcement agencies have removed the warning from their civilian complaint forms and accept anonymous complaints. The California Attorney General's Office has also determined that a law enforcement agency can investigate allegations of police misconduct, even if the complainant did not sign the admonition as required by Penal Code section 148.6. (79 Ops. Cal.Atty.Gen. 1631 (1996).) The RIPA Board strongly supports the acceptance of anonymous complaints. The RIPA Board also renews its request to the California Legislature to address this conflict, since the requirements set out by the Penal Code can have a chilling effect on the submission of civilian complaints. For purposes of this review, a checkmark denotes that an agency does *not* include Penal Code section 148.6 language on their form.

[295] Barker, et al., *Officers Charged in George Floyd's Death Not Likely to Present United Front*, The New York Times (June 4, 2020) <https://www.nytimes.com/2020/06/04/us/george-floyd-police-records-chauvin.html> (as of Dec. 14, 2020).

that would have flagged these officers as needing training, reassignment, discipline, or termination.

Accountability in law enforcement can take many different forms. The Board's Civilian Complaints subcommittee has been particularly interested in the use of Early Intervention Systems (EIS). This section provides a background on these systems and how they can be used to keep community members and officers safe while improving officer skills development. The Board is in the process of conducting research on how California law enforcement agencies use EIS and whether there is evidence that EIS are effective.

Early Intervention System Use in Law Enforcement Agencies

EIS have been around in some form or another since the 1970's, but were often limited to very few categories of performance, such as use of force and civilian complaints.[296] EIS are a necessary and valuable administrative tool that can enhance integrity and accountability of both individual officers and whole agencies.[297] These systems are not meant to take over the job of supervisors or predict officer behavior. Instead, they are meant to be part of a larger performance management system. Ideally, EIS should provide an opportunity for agencies to: identify potentially at-risk behavior *before* the need for disciplinary action, promote civilian and officer safety, and provide officers with resources and tools to re-direct performance and behaviors.[298] Moreover, while EIS may flag certain officer behavior that needs correction, any intervention should not replace discipline when it is needed.[299]

A strong EIS includes key components: identification of at-risk behaviors, evaluation of "flagged" officer behavior, intervention to address that behavior, and monitoring to ensure long-term change. Indicators – usually different types of police action – are used to track officer behavior.[300] While there are many indicators used to identify at-risk officer behavior, they may vary by agency. Current literature does not define a minimum number of indicators for EIS to include. However, "the more potential indicators that can be identified and captured in the system, the more likely it is that an agency will be able to detect" which officers' behaviors need to be redirected to improve their performance."[301] Agencies will then set a specific threshold for each indicator, which is usually a set number of times an officer engages in a specific behavior. When that threshold is met, an officer's behavior is then "flagged" for review. Some agencies may flag officer behavior only when it meets the threshold for one indicator, whereas others may institute a multilayered approach with successive "flags" to determine what kind of supervisor response and intervention is warranted.[302] When creating

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[296] Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 2.

[297] U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) p 6.

[298] Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 1.

[299] U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) p. 5.

[300] Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 1.

[301] *Id.* at p. 3.

[302] *Id.* at p. 5.

thresholds for specific indicators that will be flagged, it is also important for the system to identify when an officer has nearly met the threshold across various indicators to ensure interventions are undertaken and at-risk behavior by officers is not missed simply because they do not meet the threshold in a single category.[303] Moreover, agencies should also have a system that lets them run assessments of officers and not simply rely on flagging. These assessments would be useful for individual performance evaluations.[304]

EIS Requires Supervision of Both Line Officers and First-Line Supervisors

Effective first-line supervisors are required to make EIS function well.[305] An EIS should not only apprise supervisory staff of subordinate officer and group behavior, but also supervisor behavior.[306] Command staff should have a separate system authorization and login to monitor supervisors' oversight of their subordinates as well. A system that allows for this kind of management will assist an agency in holding itself accountable.[307]

First-line supervisors require support through training and mentoring by command staff on how to correct behavior. Training and policies should encourage supervisors to regularly review system data, such as before roll call, be proactive in addressing potential problems, documenting those meetings, and reporting back to the supervisor's own chain of command.[308]

When an officer's behavior is identified as needing intervention, supervisors must be required to include a note with information about when they reviewed the information, what resources they recommended, and what actions were taken. Including this information will assist with monitoring and management of that monitoring.[309]

Common Indictors Used in EIS

The type and number of indicators varies across agencies. Current literature does not set out a best practice for the number of indicators, though there is some consensus around which types of police behavior to oversee. The U.S. DOJ includes these types of indicators in its consent decrees with agencies across the nation.[310] Some agencies will include other indicators that they deem helpful. Research shows the most common EIS indicators include:

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[303] *Id.* at p. 6.

[304] *Id.* at p. 6.

[305] U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) pp. 5-6.

[306] Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 5.

[307] Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 7.

[308] U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) p. 11.

[309] Amendola and Davis, Best Practices in Early Intervention Implementation and Use in Law Enforcement Agencies (Nov. 2018) p. 7.

[310] See *U.S. v. City of Seattle* (W.D. Wash. 2012) 12-cv-1282; *U.S. v. the County of Los Angeles and the County of Los Angeles Sheriff's Dep't* (C.D. Cal 2015) 15-cv-3174; *U.S. v. City of New Orleans* (E.D. La. 2013) 17-cv-1924; *U.S. v. Police Department of the City of Baltimore, et al.* (Md. 2017) 17-cv-0099.

- All misconduct and community complaints against the officer, including disposition of each allegation

- Racial and identity profiling allegations

- All reportable uses of force, broken down by level and type

- Number of shootings or weapons discharges

- All injuries and deaths to persons in the officer's custody or an officer's presence at the scene of any deaths

- Vehicle pursuits and traffic collisions involving agency equipment

- All instances in which force is used and a person is charged with Failure to Obey, Resisting Arrest, Assault on an Officer, Disorderly Conduct, Trespassing, or similar charges

- All instances in which an officer issues three or more citations during a single encounter

- Violations of the agency's body-worn and in-car camera policies

- All instances in which an agency learns:

    o That a declination to prosecute any crime or municipal code violation was based upon concerns of the Prosecutor about an officer's credibility;

    o That a court has made a negative credibility determination regarding an officer; or

    o That a motion to suppress evidence was granted on the grounds of a constitutional violation by an officer

- All criminal proceedings initiated against an officer, as well as all civil or administrative claims filed with or against the agency or its agents that result from the actions of sworn personnel

- All disciplinary action taken against officers

- All non-disciplinary corrective action required of officers

- All awards and commendations received by officers, including those received from civilians

- Officer sick leave usage

- Training record for each officer

- Loss or theft of agency property in custody of the employee, including money, firearms, force instruments, ID cards

- Interviews or interrogations in violation of agency policy and law

- Arrests, especially excessive discretionary arrests

- Off-duty employment

- Traffic Stops

- Warrantless searches and seizures

Possible Interventions to Provide "Flagged" Officers

Interventions should vary to meet the wide range of officers' needs.[311] The more targeted or specialized an intervention, the better it will be at helping the officer achieve needed improvements.

The most common intervention includes counseling by the officer's immediate supervisor. These counseling sessions can be both informal and formal. They may arise from something a supervisor witnesses in the field and wants to correct immediately or when an EIS flags potentially risky behavior. Another common form of intervention is training, which is directed by a supervisor depending on the flagged behavior. In some instances, officers may self-identify training needs. Another type of intervention may be to send a crisis intervention team that is trained to immediately respond to an incident whereby officers can get immediate peer counseling in the event of an officer involved shooting or use of force involving serious bodily injury.

Some agencies have employed a creative type of intervention through reassignment and relief from duty. Each assignment in an agency comes with different risk factors, which some individuals are more suited for than others. If an officer has been given the opportunity to remedy behavior and alternatives for re-assignment do not succeed or are not available, it may be in the best interest of all (the officer, the agency, and the public) to transfer the officer to an assignment where the particular problematic situations are less likely to happen.[312] Similarly, some agencies have employed a "temporary relief from duty" option where sergeants have the authority to relieve an officer from duty without loss of pay if that officer is clearly under a great deal of stress or unfit for duty that day. Where this has been used, there has been no formal action taken or documented. However, these types of interventions should be tracked to ensure there is no abuse of this practice.[313]

Some interventions are less about the officers' skills development and instead are more personal. These interventions can include wellness programs or professional counseling on personal or family issues. This kind of intervention may require buy-in from officers because of stigmas that can be attached to obtaining counseling.[314] The U.S. Department of Justice found that officers were more open to support from their peers through formal peer officer support

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[311] U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) p. 6.
[312] *Id.* at p. 26.
[313] *Id.* at p. 26.
[314] *Id.* at p. 23.

programs. These programs are often comprised of a few officers in a precinct or unit who receive training to be designated as peer support.[315]

Once an intervention is provided to an officer, it is imperative that the supervisor follow through to see if the officer changes their behavior.[316] The practice of follow through has been found to vary among agencies; some do it for the long term, while others do not follow up at all. Some agencies make interventions voluntary and could be one reason that there may be no follow-through.[317] Follow-through could include observing an officer out in the field several times a month or periodic check-ins and inquiring if officer needs more support. It is critical that clear follow-through actions are designated for a supervisor to reinforce the need to improve or modify behavior.

U.S. DOJ EIS Recommendations

In various pattern and practice investigations and consent decrees, U.S. DOJ has required agencies to adopt an EIS or improve a system an agency may already have in place. In this process, DOJ has recommended similar best practices, including:

- EIS policy should include a mechanism for review of an officer whose activity has already triggered an indicator threshold so that the threshold is lower if EIS is triggered again.[318]

- Collect trends for supervisors, precinct, squad, and unit.

- Collect trends for precinct-level activity on use of force, complaints and dispositions, number of officers triggering EIS review, and supervisor EIS reviews with officers.

- EIS policy should include directives setting forth the specific information that the EIS will capture, as well as data storage, data retrieval, reporting, data analysis, pattern identification, supervisory use, supervisory/departmental intervention, documentation, audits, access to the system, and confidentiality of personally identifiable information.

- All data must be entered in a timely, accurate and complete manner.

- Comparisons should be done by peer group between officers of similar assignment and duties.

- Command staff collect and, at least quarterly, analyze EIS information related to supervisor, squad, and officer trends.

- First line supervisors and lieutenants review EIS data for all officers under their direct command at least monthly, and whenever an officer first comes under their supervision.

- At least quarterly, supervisors will review broader, pattern-based reports.

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[315] *Id.* at pp. 24-25.
[316] *Id.* at pp. 27-28.
[317] *Id.* at pp. 27-28.
[318] See *U.S. v. City of Seattle* (W.D. Wash. 2012) 12-cv-1282; *U.S. v. the County of Los Angeles and the County of Los Angeles Sheriff's Dep't* (C.D. Cal 2015) 15-cv-3174; *U.S. v. City of New Orleans* (E.D. La. 2013) 17-cv-1924; *U.S. v. Police Department of the City of Baltimore, et al.* (Md. 2017) 17-cv-0099.

- EIS protocol should include data storage, data retrieval, reporting, data analysis, pattern identification, supervisory use, supervisory/departmental intervention, documentation, audits, access to the system, and confidentiality of information protected by law.

- Offer a variety of intervention options like counseling, training, or other supervised, monitored, and documented actions plans and strategies to correct behavior.

- Aggregate statistical information should be kept indefinitely and used to evaluate longitudinal trends.

Promising Practices

It is no surprise that any accountability measure, including EIS, must be supported by management and achieve buy-in from the line staff, command staff, and unions. Agency EIS have the most success when the chief or sheriff has advocated for and supported the system within the agency.[319] To ensure officers do not feel that this system is a "gotcha" system but rather something they should be invested in, it is imperative that an agency adequately educate its members. Officer training should include what the EIS captures and how that data will be interpreted, as well as the purpose of the data.[320] Supervisors should be trained to understand their role in the accountability process and how this may alter their current responsibilities.[321]

Agencies must also clearly outline how EIS works, how and why it will be used, and what interventions will look like in their policies and protocols.[322] Agencies can provide EIS training at the academy, during roll call, through literature, or during in-service trainings or informal meetings.[323] It is important for agencies to stress how the use of EIS and improvement of agencies' accountability systems as a whole will improve officer and community safety by improving officers' skills.

Examples of EIS in Practice: Phoenix and Seattle Police Department

The Board describes these two agency's systems only to give readers a clearer understanding of how EIS works, but does not endorse these systems, as more research regarding the effectiveness of these systems is needed.

Phoenix PD[324]

Phoenix's system includes five phases: 1) identification, 2) notification, 3) supervisor review, 4) intervention, and 5) follow-up. The "identification" phase covers both officer and supervisor "potential risk behavior." When the system issues an employee or supervisor alert, each alert is reviewed on a case-by-case basis by a coordinator who considers certain factors. Next, in the "notification" phase, the system informs the employee's chain of command. The alert includes information helpful to command staff to understand what happened. When the alert is sent by

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[319] U.S. Dep't of Justice, Office of Community Oriented Policing, Supervisions and Intervention within Early Intervention Systems: A Guide for Law Enforcement Executives (Dec. 2005) p. 5.

[320] *Id.* at p. 37.

[321] *Ibid.*

[322] *Id.* at p. 42.

[323] *Id.* at p. 43.

[324] See generally Phoenix Police Dept. Personnel Support Services, Operations Order 3.8 (Aug. 2017) pp. 5-7.

the coordinator, it is copied to command up to bureau/precinct commander/administrator. During the "supervisor review" phase, a first-line supervisor reviews all pertinent information provided, meets with employee, and determines if intervention would be beneficial. This phase must be completed with 14 calendar days and the first- and second-line supervisors work together. The employee is encouraged to be an active participant and provide feedback in a private meeting aimed at addressing the root cause of the potential risk behavior. If intervention is required, during the "intervention phase," the supervisor meets with the officer again to go over recommended intervention(s) and create timelines for specific performance. Interventions can take three different forms:

- Supervisory-based intervention: handled solely in chain of command by providing guidance or specific strategies that employee can implement immediately.

- Training-based intervention: requires employee to take training as soon as possible to improve performance.

- Wellness-based intervention: includes support services like Employee Assistance Program (professional counseling services provided through the governmental employer), peer support program, critical incident stress management, police chaplaincy program.

The final "follow-up" phase must be complete within 45 days after a supervisor receives an alert. Documentation must be submitted and should include the time and date of the meeting with the officer and a statement that the alert was reviewed. This documentation is forwarded to a second-line supervisor for approval and then the second-line supervisor sends the completed and approved documentation to the coordinator. Phoenix PD's EIS includes different indicators or behaviors and sets different thresholds for employees and supervisors that will flag their behavior for review.

Seattle PD[325]

The Seattle Police Department's EIS policy begins by explaining what EIS is and why the agency uses it. Seattle PD's EIS has specific time frames when each phase of the system is to be followed. The Early Intervention Assessment begins with an Early Intervention Coordinator notifying a Sergeant/First-Line Supervisor that an assessment needs to be completed within three days of identifying the employee. Within 14 days of receiving the notice, the Sergeant/First-Line Supervisor must complete the assessment form and submit it to the chain of command. Within three days of receiving that assessment, a Lieutenant/Manager must complete an EIS approval form and submit it to the Captain/Director. Within seven days of receiving the assessment, the Captain/Director must review it, complete an EIS approval form, and submit it to the EIS Coordinator. Next, at least one week before the next committee meeting, the EIS coordinator must submit the assessment to a "Performance Review

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[325] See generally Seattle Police Department Manual, 3.070 Early Intervention System (Apr. 1 2020) <https://www.seattle.gov/police-manual/title-3---employee-welfare/3070---early-intervention-system> (as of Dec. 14, 2020).

Committee." Within seven days of the meeting, the "Performance Review Committee" must review the assessment and either reject it by sending it back to the chain of command or accepting it and sending it the Bureau Chief. Within 5 days of receiving the assessment, the Bureau Chief will review and approve the assessment.

The agency has all officers separated and assigned into five peer groups, which determines the threshold level upon which an alert will be triggered. If an employee meets the threshold of a risk factor, then an Early Intervention Assessment is conducted and may result in a mentoring plan, for which a supervisor is directly liable for tracking progress of the officer. Additionally, the EIS policy provides that an assessment will be conducted at the aggregate level if an officer has a total of 10 indicators during a six-month period. The agency's policy clearly delineates examples of the types of interventions an officer may participate in and the roles and tasks of the coordinator, first-line supervisor, lieutenant and managers, captains and directors, and the bureau chief.

Vision for Future Reports

In the coming years, the Board will do a deeper dive into the use of civilian complaints within EIS and the effectiveness of EIS in holding individual officers, supervisors, units, and agencies accountable. Additionally, the Board remains committed to creating a uniform "complaint" definition to help create consistency throughout the State of California regarding what kinds of reports should constitute a complaint.

LAW ENFORCEMENT TRAINING RELATED TO RACIAL AND IDENTITY PROFILING

Law enforcement agencies receive training related to the mandates of RIPA from the California Department of Justice, internally within their agencies, and from POST.

California Department of Justice POST Certified Course

In 2020, the Department received certification from POST to conduct in-person classroom trainings, Reporting Stop Data for RIPA (AB 953). Due to COVID-19, plans to offer a classroom-based course were paused; however, the team also developed a web-based option for the course, with sessions beginning in Fall 2020.

The course provides a detailed review of the RIPA legislation and the role of the RIPA Board, in addition to key definitions and an in-depth review of the data fields that are reported with a stop. During the sessions, emphasis is placed on how the reporting requirements apply to the various scenarios officers may encounter while on duty. Attendees will learn the data collection process, from the time it is collected locally, to when and how it is reported to the DOJ's statewide repository, to its analysis and publication in the Board's Annual Report. The course instructors include staff in both the Department's Civil Rights Enforcement Section and California Justice Information Services Division to discuss legal questions related to RIPA, as well as administrative/technical aspects of implementation. The training incorporates multiple learning approaches, including a PowerPoint presentation, videos, interactive review of scenarios, a system demonstration, and knowledge checks. The goal of the course is to ensure uniform reporting across agencies.

Sessions are four hours in length, and the Department will offer these approximately twice a month. The target audience includes sworn and non-sworn law enforcement personnel responsible for working on their agency's overall RIPA implementation. Participants are asked to share their role in their agency's implementation of stop data collection and their existing knowledge of RIPA in the hopes of best tailoring the course to fit the real world needs of the attendees and their respective agencies.

The Department presented an overview and selected contents at the POST Subcommittee meeting on August 5, 2020. The Department incorporated the Board's feedback before the first training session in October 2020.

AB 953 Survey: Training and Recruitment

The Department's survey to the Wave 1, 2 and 3 agencies also addressed how the agencies were incorporating the Board's recommendations and best practices into their training. Fifteen of the 25 agencies surveyed indicated that they incorporated the Board's recommendations into their training.

Agencies Indicated That They Have Incorporated the Board's Recommendations into Their Training		
Alameda County SO	Los Angeles PD	San Diego County SD
Bakersfield PD	Orange County SD	San Diego PD
CHP	Riverside County SD	San Francisco PD
Fresno PD	Sacramento PD	San Jose PD
Los Angeles County SD	San Bernardino County SD	Stockton PD

Ten agencies described how they incorporated the Board's recommendations into their training.

Alameda County SO: reported sharing and discussing the 2019 RIPA Board Report during SDCS training as it related to data being collected and shared.

Fresno PD: indicated that the recommendations were included in Roll Call Training Bulletins.

Los Angeles County SD: indicated that they require POST-approved anti-bias training annually.

Orange County SD: reported implementing a training video, bulletin, and briefing training.

Sacramento PD: indicated that all academy recruits and sworn personnel receive training on racial and other equity, which is provided in the academy and through Continuing Professional Training (CPT), policy updates, roll call training bulletins, and roll call training.

San Bernardino County SD: reported that data analysis and talking points were provided to commanders to discuss at briefings.

San Diego County SD: reported that training was provided to sworn and non-sworn employees at daily briefing, online, and in-person with community groups.

San Francisco PD: reported that implicit bias or procedural justice training was incorporated into 12 courses, including required bi-annual CPT training, stand-alone courses on bias, and management courses for civilians.

San Jose PD: indicated that they teach the requirements of AB 953 data collection and remind everyone of existing policies consistent with the RIPA Board's recommendations.

> *"Training has been provided in person and on-line to sworn and non-sworn employees. This training has been conducted at daily briefing, on-line and in person with community groups" – San Diego County SD*

> *"All academy recruits and sworn personnel receive training on racial and other equity …. Training is provided in the academy, Continuing Professional Training (CPT), policy updates, roll call training bulletins and roll call training" - Sacramento PD*

> *"SFPD currently includes implicit bias or procedural justice training through 12 courses, from required bi-annual AO/CPT training to stand alone courses on bias, to management courses for civilians. These courses draw on a wide variety of sources, including the RIPA reports, as they are drafted and/or updated"*
> *- San Francisco PD*

Several agencies indicated that they were in the process of developing or updating training materials in line with best practices.

Bakersfield PD: reported that its Quality Assurance Unit was reviewing the 2020 RIPA Board Annual Report to assess future trainings.

CHP: indicated that they were updating the departmental training curriculum in compliance with RIPA and associated statutory requirements.

San Diego PD: indicated that while sworn officers have participated in implicit bias and bias by proxy training for years, they are currently developing similar training for civilian personnel.

> *"The Department is in the process of developing implicit bias and bias by proxy training for its civilian personnel based on Board Recommendations"*
> *- San Diego PD*

> *"The department's Quality Assurance Unit is currently reviewing all relevant information (including the 2020 RIPA Board Annual Report) while assessing future training…."*
> *- Bakersfield PD*

Additionally, several agencies reported that they had already incorporated the Board's recommendations in their training.

Los Angeles PD: indicated that they would continue to include the Board's recommendations as they create new training.

Riverside County SD: reported that deputies receive ongoing training.

San Francisco County Sheriff: indicated that diversity and racial bias training was pre-existing.

Santa Clara County SO: indicated that they have not specifically adopted the Board's recommendations, but continue to develop training based on best practices and new legislation.

Stockton PD: reported that they conduct ongoing procedural justice training, racial profiling, and implicit bias training.

Agencies Reported Training as One of Their Approaches to Ensure Compliance with their Bias-Free Policing Policies and as One Method to Address Non-Compliance	
Use Training & Supervision to Ensure Staff Meet the Bias-Free Policing Policy Expectations	**Additional Training is One Method Used to Respond to Violations**
Fresno County SO San Diego PD San Francisco County SO Santa Clara County SO Ventura County SD	Alameda County SD Bakersfield PD CHP Kern County SD San Bernardino County SD

> *"All staff is held accountable and take yearly training updates in this area …The City and County of San Francisco has city departments established which monitor and encourage racial diversity and training for all city/[County] employees."*
> *–San Francisco County SO*

> *"SDPD holds personnel accountable by establishing clear expectations in policy and procedures, providing training and supervision to help meet those expectations…"*
> *–San Diego PD*

Hiring

The San Diego County Sheriff's Department indicated one of the main actions they have taken to adopt the Board's recommendations has been to change their hiring procedures to reflect the county demographics. The Board plans to further evaluate issues relating to recruitment, hiring, retention, and promotion during 2021.

Diversity in Law Enforcement

The RIPA Board was created with the purpose of eliminating racial and identity profiling and improving and understanding diversity in law enforcement through training, education, and outreach. The Board has undertaken a review of literature about the impact of diversity in law enforcement and the communities served and hopes to examine law enforcement recruitment, hiring, and promotions in future years.

Research studies on diversity in law enforcement show correlations between police officer behavior and the race of the officer and driver during police stops. Numerous studies have found that public officials of color are more likely to implement policies that reduce disparate

treatment toward people of color.[326] In the case of racial profiling, White officers have been shown to be more likely to stop and search Black motorists, whereas officers of color treat drivers of color more fairly than White officers.[327]

The literature also suggests a correlation between the racial, ethnic, or gender composition of a police force and decreased police violence. However, this change in law enforcement officer behavior occurs only when there are enough officers of color that feel safe representing the interests of members of the same race. This concept, known as critical mass, suggests that individuals help other minorities within an organization or community they serve when empowered by large enough numbers from similar backgrounds within that organization.[328] Nevertheless, there can be challenges to this concept of critical mass, including officers of color conforming to organizational culture for career success, peer pressure, or the internalization of the dominant organizational view.[329] Additional challenges to critical mass include significant trust issues between communities of color and law enforcement, including historical legacies of slavery, segregation, and discrimination.[330]

These challenges, along with allegations of racial profiling and the perceptions it creates in communities of color, make it more difficult for law enforcement officers to meaningfully collaborate with community members to achieve public safety.[331] Given how important these diversity issues are for law enforcement behavior and community relations, the Board looks forward to further exploring these critical matters next year.

[326] Wright and Headley, *Police Use of Force Interactions: Is Race Relevant or Gender Germane?* (May 2020) American Rev. of Public Admin. pp. 1-14 [citing Capers, *The effect of the external environment on bureaucratic representation: Assessing the passive to active representation link* (2018) vol. 48, No. 4, The American Rev. of Public Admin].

[327] Nicholson-Crotty, Nicholson-Crotty & Fernandez, *Will More Black Cops Matter? Officer Race and Police-Involved Homicides of Black Citizens* (2017) volume 77, No. 2, Public Admin. Rev. pp. 206-16 [citing Gilliard-Matthews, Kowalski & Lundman, *Office Race and Citizen-Reported Traffic Ticket Decisions by Police in 1999 and 2002* (2008) volume 11, No. 2, Police Quarterly, pp. 202-19]; see also Antonovics & Knight, *A New Look at Racial Profiling: Evidence from the Boston Police Department* (2009) volume 91, No. 1, Review of Economics and Statistics, pp. 163-177; and Hong, *Representative bureaucracy, organizational integrity, and citizen coproduction: Does an increase in police ethnic representativeness reduce crime?* (Oct. 2015) volume 35, No. 1, J. of Policy Analysis and Management, pp. 11-33.

[328] Nicholson-Crotty, Nicholson-Crotty & Fernandez, *Will More Black Cops Matter? Officer Race and Police-Involved Homicides of Black Citizens* (2017) volume 77, No. 2, Public Admin. Rev. p. 209.

[329] Wilkins and Williams, *Black or Blue: Racial Profiling and Representative Bureaucracy* (2008) volume 68, No. 4, Public Administration Rev. pp. 654-64 [citing Romzek, *Employee Investment and Commitment: The Ties That Bind* (1990) volume 50, No. 3, Public Administration Rev. pp. 374-382].

[330] Wilkins & Williams, *Black or Blue: Racial Profiling and Representative Bureaucracy* (2008) Public Administration Rev., volume 68, No. 4, p. 655 [citing Russell-Brown, *The Color of Crime: Racial Hoaxes, White Fear, Black Protectionism, Police Harassment, and other Macroaggressions* (1998) New York University Press].

[331] Wilkins & Williams, *Black or Blue: Racial Profiling and Representative Bureaucracy* (2008) volume 68, No. 4, Public Administration Rev. p. 655.

California Commission on Peace Officers Standards and Training (POST)

POST is a state entity in the California Executive Branch that reports directly to the Governor. POST is responsible for setting the minimum selection and training standards for over 96,000 law enforcement officers and dispatchers in California; more than 600 agencies participate in the voluntary POST program. POST has approximately 135 staff and over 30 Law Enforcement Consultants. It has a current budget of approximately $82 million. The Commission holds three public meetings per year to establish standards and regulations and to give direction to POST staff. The Commission established an advisory committee of 14 appointed individuals that provides a two-way communication link between the Commission and organizations that share an interest in the Commission's work.

Legislative Mandate

In 2015, RIPA amended Penal Code section 13519.4, which created specific training requirements for POST, as well as guidelines to prevent racial and identity profiling. The law requires academy level courses for new recruits and expanded training for seasoned in-service officers. The Legislature stressed that these courses should teach understanding and respect for racial, identity, and cultural differences and development of effective non-combative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

Penal Code section 13519.4 requires that the curriculum "be evidence-based and include and examine evidence-based patterns, practices, and protocols that prevent racial or identity profiling." In developing the training, POST must consult with the RIPA Board, which, in turn, includes its review of the law enforcement training in its annual report.

Summary of Racial and Identity Profiling Training Courses

The information below details how POST has worked with the RIPA Board POST Subcommittee on training and recruitment over the past three years. POST's goal has been to develop academy level courses for all new recruits and expanded training courses for seasoned in-service officers. The five courses established to meet the mandates of RIPA are aimed at teaching respect for racial, identity and cultural differences, and they consist of two academy courses: 1) Principled Policing in the Community and 2) Cultural Diversity/Discrimination, and three courses for in-service officers: 1) Bias and Racial Profiling, 2) Implicit Bias and Profiling Update Self-Paced Refresher and 3) Implicit Bias and Profiling Update Self-Paced Refresher for Supervisors. The Board has reviewed two of the five mandated courses. In addition, this Report provides information relating to other courses on procedural justice and implicit bias that are being developed or updated by POST.

2018 RIPA Report

In the 2018 RIPA Report, the Board reviewed two POST training courses for in-service officers: "Biased Based Policing: Remaining Fair and Impartial" and "Principled Policing."

After the Board's feedback concerning the Biased Based Policing course, POST replaced the course with a two-hour training video course entitled, "Bias and Racial Profiling."

The Board reviewed the 2015 "Principled Policing" course – developed in partnership with the Department of Justice, Stanford University, the Oakland and Stockton Police Departments, the California Partnership for Safe Communities, and the Empower Initiative – and found that it met many requirements established by Penal Code section 13519.4. However, the Board recommended that the course be updated to include: 1) the obligations of peace officers in preventing, reporting and responding to discriminatory or biased practices by fellow police officers; 2) a discussion of California' s prohibition against racial and identity profiling; and 3) community participation. POST has integrated elements of the Board recommendations into the new mandated academy course entitled, "Principled Policing in the Community."

2019 RIPA Report

In the 2019 RIPA Report, the Board conducted evidence-based research and identified best practices for trainings devoted to preventing racial and identity profiling in policing. These best practices include:

- evidence-based and scientific peer-reviewed research on bias, principles of civil rights, and constitutional policing and reflecting the agency's commitment to procedural justice, bias-free policing, and community policing;

- communication and community relationships;

- the tenets of procedural justice (voice, neutrality, respectful treatment, and trustworthiness); and

- implicit bias, explicit bias, and cultural competency.

2020 Training Updates

Since the 2020 RIPA Report, POST has continued efforts to strengthen training courses aimed at meeting the mandates of RIPA and Penal Code section 13519.4. The following are the five standard courses offered by POST:

Academy Courses	In-Service Training
• Principled Policing in the Community – 26 hour in-person course • Cultural Diversity/Discrimination – 16 hour in-person course	• Bias and Racial Profiling – 2 hour video • Profiling and Implicit Bias Refresher for Supervisors – 2 hour online course (Spring 2021) • Profiling and Implicit Bias Refresher – 2 hour online course (Fall 2020)

POST also created or updated other courses related to racial and identity profiling and principled policing.

- Procedural Justice/Implicit bias training, an 8-hour course for in-service officers that is voluntary but meets the legislative mandates. It covers several topic areas such as Principled Policing, law enforcement cynicism, community relations, and implicit bias. As of January 2020, 6000 officers had completed the training.

- POST modified supervisory, management, and executive level courses to include the four tenets of procedural justice.

- POST produces between three and five short videos (3-5 minutes long) entitled, "Did You Know." These videos are about procedural justice and implicit bias and are used during rollcall, training, or community meetings.

- POST has had a long-term relationship with the Museum of Tolerance (MOT) in Los Angeles. Each year, POST enters a $1.5 million contract for instruction on a series of courses. All students who attend the POST Supervisory Leadership Institute attend the training at the MOT.

- POST has developed a Distance Learning Grant Program (DLGP) pursuant to the California State Budget Act of 2020. The DLGP is designed to award funds on a competitive basis to help with the development and facilitation of the delivery of quality training aimed at increasing equitable access to high-quality learning experiences while using distance learning technologies. The program is funded at $5,000,000 and must address issues in one of the following five program areas: Use of Force and De-escalation, Implicit Bias and Racial Profiling, Community Policing, Cultural Diversity, and Organizational Wellness.

Recent Updates to the POST Training Program for 2021

1. The "Bias and Racial Profiling" course is a two-hour training video, which was reviewed by the RIPA Board and released by POST in May 2020. As of July 2020, a total of 4,635 individuals had completed the training.

2. The "Principled Policing" course was updated in October 2020 to update curriculum. It is a voluntary 8-hour course for in-service officers.

3. The "Principled Policing in The Community" course was approved to be included in the POST Basic Academy Learning Domain 3. This is a 26-hour mandatory course for new recruits and became effective April 2020.

4. The "Principled Policing Train-The-Trainer" (T4T) is a 24-hour course – one for instructors in the basic academy and one for in-service instructors. After two initial T4T presentations in September 2020, the Principled Policing course for in-service students will be deployed across the state.

5. POST is developing a two-hour instructor video, tentatively titled "Principled Policing Instructor Video." The video will be used as a resource in the aforementioned T4T instructor training and will enable all instructors to use the same video resource, whether basic or in-service. The video will 1) provide video scenario resources for Principled Policing instructors to use in their classes and 2) enhance the instructor's facilitation skills and effectiveness by providing both facilitation tips and recommendations based on what occurs within the video program's examples. It will also provide commentary on how instructors can bring forth additional Principled Policing-specific content beyond just the examples in the video scenarios.

6. The self-paced online "refresher" training course is almost complete and is expected to be released by February 2021. The course will be tentatively titled "Profiling and Implicit Bias Refresher."

7. The supervisor module for the self-paced "refresher' course is currently under development. POST anticipates releasing the supervisor module in the spring of 2021. The module will be tentatively titled "Profiling and Implicit Bias Refresher for Supervisors."

Officers are required to take a mandatory two-hour refresher course every five years after leaving the academy, and the Board reviewed two of the courses designed to meet this requirement.

Board Member Review of Profiling and Implicit Bias Self-Paced Online Refresher Course

One of the five mandatory courses created by POST on racial and identity profiling and cultural diversity is entitled, "Profiling and Implicit Bias Refresher." It is a self-paced course and is located on the POST Learning Portal, which means officers can take this course at any time.

The POST curriculum development process includes analysis, design, and review phases before the course is released to the field. POST invited the Board to participate early in the course development process for the "Profiling and Implicit Bias Refresher" and again after the content was created.

During the initial analysis phase, POST had one-on-one interviews with Board members (past and present), which included Ben McBride, Warren Stanley, Sandra Brown, Marianna Marroquin, and David Robinson. POST then worked with Subject Matter Experts (SME) from the Museum of Tolerance and their trained instructors to establish learning objectives in line with the mandates in Penal Code section 13519.4. Additionally, POST used both SME's and law enforcement officers to test different prototypes. In April 2020, POST invited Board members to review an online demonstration of a draft of the course and hosted content review and feedback sessions. Four current Board members, Steve Raphael, Melanie Ochoa, LaWanda Hawkins and Sandra Brown, provided comments on the course.

The Board members[332] expressed that while an in-classroom course is the preferred form of delivery, the modules of this online course were structured and designed very well. The Board members liked that the course included the topics of constitutional rights, implicit bias, connecting with the community, procedural justice, accountability, and de-escalation. The Board was also pleased to see that if an officer answers a question incorrectly, they could not proceed and would need to answer the question correctly before going forward to the next scenario.

Nevertheless, Board members concluded that because the content, scenarios, and desired outcomes are critical to the course success, the subject areas listed above need to be strengthened, clarified, discussed in greater detail, or changed. The Board offered a variety of recommendations for improvement. Board members expressed concerns that the course included scripted bias scenarios as a teaching tool even though actual footage of officer-involved situations is available and would be more effective. The Board members expressed that greater care should be taken when selecting teaching examples needed to achieve the desired outcome. They felt that the course would benefit from providing more guidance and discussion about the legal implications and consequences of bias. The Board also recommended that the course include some classroom discussion regarding the reasons why POST included certain bias based scenarios. Lastly, the Board pointed out that the course did not sufficiently emphasize officer accountability, reporting obligations, and how officers should respond after observing biased behavior by their peers, nor did the course take advantage of teaching opportunities provided in scenarios applying reasonable suspicion and the use of social media.

Board Member Review of Bias and Racial Profiling Video Course

Another of the five mandatory courses created by POST is entitled, "Bias and Racial Profiling." Officers can view this training video either in a facilitated group or individual setting. Before her passing in December 2018, the Honorable Alice Lytle, a RIPA Board member, was very involved in the early development of this curriculum, served as an SME, and provided guidance to POST. Other SME's working on the training course video included representatives from the Fresno County District Attorney's Office, the Council on Islamic Relations, the Museum of Tolerance, the Stockton Police Department, the Glendale Community College Police Department, and an advocate of the LGBTQ community. Course development meetings were held with collaborators in October and December of 2018 and again in February 2019. Additionally, POST interviewed the SME's individually.

In April 2020, following the post-production of the video, Board members were invited to view the final version of the video prior to its release in May 2020. Board member participants

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[332] These are a compilation of comments made by individual Board members – they are not verbatim and do not necessarily reflect those of more than one reviewer.

included Sandra Brown, Angela Sierra, Nancy Frausto, Melanie Ochoa, and David Swing. Board members[333] reviewed the video and provided POST the following comments.

Some Board members were pleased with the course and thought it was designed to enhance critical thinking and tackle difficult subjects in a way that did not seem artificial. Some felt it was professional and well put together and some liked the historical segments. Board members felt that it could be helpful for community members to see the included conversations between officers.

Some Board members expressed concerns about specific scenarios that needed deeper discussions involving parole and probation, explicit versus implicit bias, the use of highly offensive terms to describe groups of individuals, and the need to use real data to illustrate the disparate treatment of people of color. Some Board members believed that the training should include the role of contemporary police, illustrate how misconduct can create present-day views of law enforcement, and provide officers with the tools to combat personal or agency issues. The Board members also believed that the training was lacking because it did not include RIPA stop data, it did not use actual incidents and events involving officers, nor did it use examples of ways to communicate with different groups of people when stopped (e.g. people with hearing or learning disabilities). Finally, the course did not discuss the "wrongness" of a stop and the bias that led to the stop; and it did not cover situations where officers may not be fully aware of how their actions change as the stop evolves.

Unfortunately, POST advised that it could not adopt any of the above recommendations by the Board members due to the limited time available between the time that POST previewed the video to the Board members and the video's release, since the video was already in post-production. Because POST was unable to change the video, but did want the input of the Board and the Department, POST invited Department personnel who staff the RIPA Board to review and edit the participant's guide based on Board member suggestions. The guide would be used to edit the facilitator's guide that is used during the presentation of the course. POST incorporated most of these comments into the guide, so many of them will be addressed during the classroom discussion portion of the training. POST has expressed a strong desire and commitment to ensure this does not happen again, and has pledged to work closely with the Board throughout the entire process in the future. The Board looks forward to developing a stronger working relationship with POST moving forward.

Vision for Future Reports

Law enforcement training must be relevant to today's circumstances and the oath officers take to protect and serve everyone. Training is critical to law enforcement culture, community relations, and outcomes that prevent innocent people from being harassed, criminalized, or

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unnecessarily injured or killed. Training is also critical to ensure that all community members are treated equitably when they come into contact with a law enforcement officer.

The Board will continue its work to review all five training courses designated by POST with assistance from outside consultants. The Board will specifically review the two Academy courses, Learning Domain 3, Principled Policing in the Community and Learning Domain 42, Cultural Awareness/Discrimination. The Board also looks forward to working with POST on the development of the Profiling and Implicit Bias Refresher Course for Supervisors. In the coming years, the Board also hopes to examine the impact of implicit bias training in law enforcement.

Finally, the Board would like POST to consider the following training ideas. Namely, POST should:

- Use the data and analysis from the RIPA reports to examine the disparities between racial and identity groups and identify topic areas of concern for future course development.

- Use actual footage of law enforcement encounters in lieu of scripted scenarios.

- Provide training tools and techniques that emphasize community member perspectives during officer encounters.

- Provide courses on officer peer behavior accountability. Officers should be trained how and when to report incidents to their supervisor and be assured they will not be harassed, ridiculed, or retaliated against.

- Provide training courses aimed at deeper discussions regarding; 1) possible officer bias that leads to a stop, how the situation evolves during the stop, and how negative outcomes can be prevented; 2) community perceptions of consent and the behavior or event that turns consent into detention; 3) parole and probation stops and searches; and 4) verbal and non-verbal communication during a stop to prevent escalation.

- Connect recruit academy training with field training and determine how implicit bias and racial and identity profiling and cultural awareness training are being applied.

- Ensure that Field Training Officers have received sufficient training in implicit bias, profiling, and cultural awareness to perform their job fairly and equitably.

- Make the Principled Policing Course, which includes a community presenter component, mandatory for all officers.

- Provide in-service officer racial and identity and cultural awareness training more frequently than two hours every five years.

Vision for Future Reports

- The Board will continue to analyze POST's trainings on bias free policing and racial and identity profiling to ensure that its trainings incorporate the most up-to-date evidence based best practices. In addition to training, the Board hopes to explore best practices in hiring and diversity in law enforcement in the coming years.

RELEVANT LEGISLATION ENACTED IN 2020

This Report highlights relevant legislation enacted in 2020, an unprecedented year for legislative reforms regarding policing, criminal justice, and mental health. This legislation may impact the Board's work towards eliminating racial and identity profiling, as well as require updated trainings for officers. All bills are effective on January 1, 2021, unless otherwise specified.

Police Practices

AB 1196 – Choke Holds

Assembly Bill 1196 establishes that law enforcement agencies are not authorized to use a carotid restraint or a choke hold. A carotid restraint is "a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of restricting blood flow and may render the person unconscious in order to subdue or control the person." A choke hold is "any defensive tactic or force option in which direct pressure is applied to a person's trachea or windpipe."[334] The author, Assemblymember Gipson, noted: "In the Eric Garner case, NY Commissioner James O'Neill said that the officer's failure to relax his grip while subduing him triggered a fatal asthma attack. With the high profile death of George Floyd in Minneapolis, where a peace officer used his knee to subdue and detain him, it is clear that similar methods of restraining suspects are incredibly risky and should no longer be allowed."[335] This legislation ensures that these methods of restraint are no longer authorized throughout the state of California.

AB 846 – Public Employment: Public Officers or Employees Declared by Law to be Peace Officers

AB 846 establishes that the emotional and mental health evaluations included as minimum standards for peace officers in the state must include bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation. The law states that when police departments are advertising positions for peace officers, they must emphasize community-based policing, familiarization between law enforcement and community residents, and collaborative problem-solving, while de-emphasizing the paramilitary aspects of the job. AB 846 also establishes that by January 1, 2022, POST must study, review, and update their regulations and associated training materials related to officer candidates' screening for emotional and mental conditions to incorporate identification of the explicit and implicit bias described above.

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[334] AB 1196 as amended does not have a prohibition on "techniques or transport methods that involve a substantial risk of positional asphyxia." This is something law enforcement may wish to address when updating their policies.
[335] Assem. Floor Analyses, analysis of AB 1196 (2019-2020 Reg. Session), as amended Aug. 31, 2020, p. 1.

AB 1506 – Police Use of Force

AB 1506 establishes that by July 1, 2023, the California Department of Justice will create a division that, upon the request of a law enforcement agency, will review the use-of-force policy of the agency and make recommendations for changes. Additionally, the law requires that beginning in 2021 a "state prosecutor," e.g., the Attorney General unless otherwise specified or named, will investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian.

SB 480 – Law Enforcement Uniforms

SB 480 establishes that law enforcement agencies may not authorize or allow employees to wear a uniform that is camouflage or a uniform that is substantially similar to the United States Armed Forces or state active militia.

AB 1185 – Sheriff Oversight

AB 1185 establishes that a county, through action of the board of supervisors or a vote of county residents, may create a sheriff's oversight board or an inspector general's office. The law further allows for those entities to have the authority to issue subpoenas when deemed necessary to investigate a matter within their jurisdiction.

AB 1775 – False Reports and Harassment

AB 1775 amends existing law protecting Californians from violence or intimidation by threat of violence to provide that intimidation by threat of violence includes, but is not limited to, "making or threatening to make a claim or report to a police officer or law enforcement agency that falsely alleges that another person has engaged in unlawful activity or in an activity that requires law enforcement intervention," knowing that the claim or report is false, or with reckless disregard for the truth or falsity of the claim or report. The bill also increases the criminal penalties for knowingly using the 911 emergency system for the purpose of harassing another. In addition, the bill clarifies that under certain circumstances a false report could be a hate crime and provides for civil remedies for a violation. The bill also establishes that communications between a person and a law enforcement agency in which the person knowingly or recklessly makes a false report that another person has committed or is committing a criminal act will not be privileged in a judicial, legislative, or other official proceeding.

Criminal Justice Reform

SB 132 – Transgender Respect, Agency, and Dignity Act

SB 132 requires the state Department of Corrections and Rehabilitation (CDCR) to treat an incarcerated person who is transgender, nonbinary, or intersex, in a manner consistent with that person's gender identity. Further, SB 132 requires CDCR to house a person based on the person's preference. CDCR must also search the person according to the search policy for that person's gender identity or the gender designation of the facility where they are housed, whichever is the preference of the person. The bill additionally mandates that CDCR personnel

record the person's self-reported gender identity, gender pronouns, and honorifics during the intake process. SB 132 requires not only CDCR staff but also contractors and volunteers to properly address people by the appropriate name and pronoun.

Youth

AB 901 – Youth "Juvenile"

AB 901 limits various authorities of the juvenile court and other local entities in addressing the issue of truant youth. As one example, under AB 901, a juvenile court judge may no longer adjudge a minor a ward of the court on the basis they habitually refuse to obey the reasonable and proper orders or directions of school authorities. Under AB 901, a peace officer must also first refer a minor who is habitually truant or habitually refuses to obey the reasonable and proper orders or directions of their parent or guardian to a community-based resource, the probation department, a health agency, a local educational agency, or other governmental entities that may provide services before issuing a notice to appear in juvenile court to determine whether the minor should become a ward of the court. AB 901 also prohibits a juvenile court from rendering a judgment that a parent or guardian of a youth deemed insubordinate or disorderly bring them to school daily. Probation officers under AB 901 are now required to refer a youth who has four or more truancies in a school year to services provided by a community-based resource, the probation department, a health agency, a local educational agency, or other governmental entities that may provide services.

SB 203 – Juveniles: Custodial Interrogation

SB 203 establishes that youth under 18 must consult with an attorney prior to any custodial interrogation and before waiving their Miranda rights. Previously, the law only provided these protections for youth who are 15 and younger and it was set to expire on January 1, 2025. SB 203 extends these protections indefinitely.

Mental Health

AB 3242 – Mental Health and Involuntary Commitment

Existing law authorizes the involuntary, up-to-72-hour commitment and treatment of people with certain mental health disorders for their own protection. AB 3242 permits an examination or assessment to determine whether an involuntary commitment is necessary to be conducted using telehealth. AB 3242 has an impact on community assisted transport teams that respond to mental health emergencies and allow teams to seek doctor approval without having to have a police officer or clinician respond to the scene directly.

AB 1976 – Mental Health Services: Assisted Outpatient Treatment (known as "Laura's Law")

AB 1976 requires counties to develop an assisted outpatient treatment (AOT) program unless they affirmatively opt out. The bill also repeals the January 1, 2022 expiration of, and extends indefinitely, Laura's Law, a state law that permits the court to order AOT under two conditions: (1) if the person meets existing involuntary commitment requirements or the person has refused treatment and their mental health condition is substantially deteriorating; and (2) AOT

would be the least restrictive level of care necessary to ensure the person's recovery and stability in the community. Previously, AOT was only available in counties where it was adopted by the board of supervisors.

AB 2112 – Suicide Prevention

AB 2112 establishes a statewide office for suicide prevention that, among other duties, provides information and technical assistance on suicide prevention and assesses regional and statewide suicide prevention policies and practices. The new department is also responsible for developing evidenced-based best practices.

CONCLUSION

The Board has come a long way in the last four years, but there is more work ahead to fulfill the goal of the Racial and Identity Profiling Act of 2015 to eliminate racial and identity profiling in California. The Survey responses from law enforcement agencies demonstrate the significant impact the work of the Board is having on agency policy, training, and procedures. Agencies are discussing the Report with their staff, incorporating best practices for their bias-free policing policies and complaint forms, analyzing their data to identify disparities, and engaging with their communities. The Board will continue to evaluate stop data and highlight disparities to inform data-driven policy and practice recommendations. Each year, the Board delves deeper into topics of import to the community and law enforcement to make recommendations that will continue to effect positive change and ultimately improve relationships and trust between law enforcement and the community.