

2023 RIPA Report – Draft for July Board Meeting

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2023 RIPA Report Draft

I. EXECUTIVE SUMMARY

II. INTRODUCTION

III. “HUMANIZING” THE DATA – IMPACT OF STOPS

PROACTIVE POLICING & THE MENTAL HEALTH IMPACTS ON INDIVIDUALS

A. Summary of RIPA Data Regarding Actions Taken During Stops

The Board used RIPA stop data to analyze actions taken by law enforcement officers during traffic stops, and looks at how those actions differ by racial and other identities. This examination is important because officers can take a variety of actions, from asking someone to exit a vehicle, to conducting a search, or initiating an arrest. These actions vary in intrusiveness and severity and apply to people of color and those with other characteristics that may lend them

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to disparate treatment. This section focuses on racial disparities in the stop data which suggest that communities of color are likely to experience different mental health impacts than their White counterparts as a result of a police encounter.

Based on the stop data collected by law enforcement agencies around the state, the Board found multiple areas of racial disparities related to officer actions. Stopped individuals perceived to be Black had a higher proportion of stops involving at least one reportable action than other race/ethnicity groups (31.1%).¹ In contrast, stopped individuals perceived to be White only had 15.9 percent of their stops involving officers taking actions towards them.² Individuals perceived to be Black were searched at a rate of 20.1 percent, higher than any other group.³ Individuals perceived to be Black were also detained on the curb or in a patrol car at the highest rate (17.9%)⁴, handcuffed (15.4%)⁵, and removed from a vehicle (7.6%) more frequently than other race/ethnicity groups.⁶ The Board then compared this data to residential population data to find that the proportion of stops for Black individuals compared to their proportion of the residential population indicates that Black individuals are stopped 144.2 percent more frequently than expected.⁷ Together, this data indicates that traffic stops and actions taken during those stops have a disproportionate impact on Black communities.

B. Overview

Urban policing practices over the past two decades experienced a movement toward a proactive or aggressive policing approach.⁸ Under this format, officers employ active engagement tactics with individuals in high crime areas to discover “imminent” criminal activity.⁹ This model of

¹ See Analysis of Waves 1, 2, & 3 Stop Data pp. [content forthcoming]

² See Analysis of Waves 1, 2, & 3 Stop Data pp. [content forthcoming]

³ See Analysis of Waves 1, 2, & 3 Stop Data pp. [content forthcoming]

⁴ See Analysis of Waves 1, 2, & 3 Stop Data pp. [content forthcoming]

⁵ See Analysis of Waves 1, 2, & 3 Stop Data pp. [content forthcoming]

⁶ See Analysis of Waves 1, 2, & 3 Stop Data pp. [content forthcoming]

⁷ See Analysis of Waves 1, 2, & 3 Stop Data pp. [content forthcoming]

⁸ Geller, et al., (2014). Aggressive Policing And The Mental Health Of Young Urban Men, American Journal of Public Health, Vol. 104, p. 2321, 2014; Columbia Public Law Research Paper No. 14-382 (2014). Available at: https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2851&context=faculty_scholarship

⁹ Kubrin, et al., (2010). Proactive Policing And Robbery Rates Across US Cities, Criminology, Vol 48 No. 1, p. 63 https://scholarworks.iupui.edu/bitstream/handle/1805/6029/Kubrin_2010_proactive.pdf?sequence=1

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policing has been employed in large cities such as Philadelphia, Chicago, Los Angeles, and New York City, where 4 million stops were recorded by the New York City Police Department (NYPD) between 2004 and 2012.¹⁰ In general, the predominant police contact in each of these cities is with young Black and Latino males with significant disparities in treatment.¹¹ The research shows that the types of contact and frequency of involuntary contacts with law enforcement may have a traumatic impact on the stopped individual, including mental health trauma and anxiety. This is especially true for those individuals reporting intrusive and/or unjust police stops.¹² Further, studies show that police contact targeting (Black) individuals adversely impacts their health in six ways, including through 1) violent confrontation with police that causes injury or death; 2) police language that escalates a confrontation through micro-aggressions or macroaggressions; 3) sub-lethal confrontations with police; 4) adverse health consequences of perceived or vicarious threat, i.e., the mere belief in potential harm by police injures health and indirectly, 5) knowledge of a personal relationship with someone who directly experienced racial profiling; or 6) public events without a personal knowledge of the unarmed person threatened or killed by police as a result of racial profiling, where such events cause both individuals and the community at large to perceive a threat.¹³ Researchers suggest that individuals who are stopped experience high rates of distress, a sense of injustice, feelings of hopelessness and even further, feelings of dehumanization.¹⁴

C. Who is Targeted by Law Enforcement

Aggressive policing strategies are most often employed in disadvantaged communities, often regarded as high-crime areas. These adverse and involuntary contacts most often target Black &

¹⁰ Geller, et al., (2014). Aggressive Policing And The Mental Health Of Young Urban Men, American Journal of Public Health, Vol. 104, p. 1, 2014; Columbia Public Law Research Paper No. 14-382 (2014). Available at: https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2851&context=faculty_scholarship

¹¹ See Geller, et al., p. 2

¹² Sewell, A. Abigail and Jefferson, A. Kevin (2016). Collateral Damage: The Health Effects of Invasive Police Encounters in New York City, Journal of Urban Health, Vol. 93, No. 1, p. 43
https://www.researchgate.net/publication/287269356_Collateral_Damage_The_Health_Effects_of_Invasive_Police_Encounters_in_New_York_City

¹³ Laurence, T. Cato and Walker M. Joanne (2020). Racial Profiling is a Public Health and Health Disparities Issue Vol. 7, No. 3, pp. 393-397
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7231642/>

¹⁴ Geller citing Shedd, C. (2010). Arresting Development: Race, Place, and the End of Adolescence. Feminism Legal Theory Workshop; Feb. 20, 2012; Columbia Law School and Brunson, RK. and Weitzer, R. (2009). Police Relations with Black and White Youths in Different Urban Neighborhoods. Urban Affairs Review Vol. 44, No. 6, 858-885
https://www.researchgate.net/publication/249734933_Police_Relations_With_Black_and_White_Youths_in_Different_Urban_Neighborhoods

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Latino males, with urban young Black men disproportionately targeted, suspected and stopped by the police. The research shows that officers consider the black male to be a dangerous threat, leading to the black male to prove otherwise.¹⁵ This narrative of threat has historical implications resulting in an antagonistic relationship between the Black community and law enforcement dating back to early American history. Slave patrollers monitored movement of Black slaves due to the threat of escape, or rebellion. Monitoring of movement continued following emancipation leading to the creation of legal rules against vagrancy and loitering. Governmental control and isolation of the Black community continued during Jim Crow and throughout American history in the form of segregation, systematically through the construction of public housing and the development of urban ghettos.¹⁶ Social control methodologies like segregated housing assist in the implementation of the broken windows policing methodology that places strict enforcement of all laws, emphasizing interrogations of suspicious persons and enforcing all traffic violations in the neighborhood of interest.¹⁷

1. Targeted Minority Groups

During the nineteenth century, Chinese immigrants also faced social isolation due to race and were often forced into segregated communities leading to the formation of “Chinatowns”. These communities were prominent along the West coast and similar to Black communities faced close spatial monitoring in the form of police squads monitoring and regulating the lives of Chinese workers. The Latino community similarly, faced a long history of segregation and social control in America. In 1970 The U.S. Commission on Civil Rights, in recognition of the deplorable relationship between law enforcement and the Mexican-American communities, held hearings to discuss the tense relationship between the two groups. From those hearings, there were a number of allegations made against law enforcement, including; discrimination against Mexican-Americans, greater excessive use of force against Mexican-Americans as compared to Anglo

¹⁵ Hurst, et al., (2000). The attitudes of juveniles toward the police: A comparison of black and white youth. *Policing: An International Journal of Police Strategies & Management* Vol. 23, No. 1, p. 40 citing Anderson, Streetwise: Race, Class, and Change in an Urban Community (1990)
https://www.researchgate.net/publication/235251263_The_Attitudes_of_Juveniles_Toward_the_Police_A_Comparison_of_Black_and_White_Youth

¹⁶ Bass, Sandra, (2001). Policing space, policing race: Social control imperatives and police discretionary decisions. *Social Justice* Vol. 28, p. 156
https://www.academia.edu/72841533/Policing_Space_Policing_Race_Social_Control_Imperatives_and_Police_Discretionary_Decisions

¹⁷ Kubrin, et al., p. 4, citing Sampson, Robert J. and Cohen, Jacqueline (1988). Deterrent effects of the police on crime: A replication and theoretical extension. *Law & Society Review* Vol. 22, 163-189
https://scholarworks.iupui.edu/bitstream/handle/1805/6029/Kubrin_2010_proactive.pdf?sequence=1

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communities, discriminatory treatment toward Mexican-American youth, and harassment toward Mexican-Americans in general.¹⁸

[SE Asian community content in development]
[Transgender content in development]

D. Reasons For Stop

[Research & Content in Development]

E. Calls For Service and Impact on Mental Health

[Research & Content in Development]

F. Post-Stop Actions and Impact on Mental Health

A number of studies have analyzed how different types of police encounters can have mental and physical health impacts on stopped individuals. Studies have even shown that police presence alone contributes to community fragmentation and poor health outcomes among community members.¹⁹ A Baltimore study found that in neighborhoods with high crime and arrest rates, residents noticed the chilling effect police presence had on community activities.²⁰ Interviews with residents revealed that heightened police presence made them feel like they were under constant surveillance, making them less likely to have a positive relationship with local officers and dissuading them from passing time in public spaces.²¹ Community fragmentation of this type is associated with poor public health outcomes, largely stemming from chronic stress and worry.²² A study of New York City’s “stop and frisk” policies suggests the same; aggressive

¹⁸ See Bass, p. 157 citing Cho, Sumi (1993). Korean Americans and African Americans: Conflict and Construction. Chapter 13 in Reading Rodney King/Reading Urban Uprising (Robert Gooding – Williams, ed. Routledge 1993) and Friedman, Lawrence (1981). The Roots of Justice: Crime and Punishment in Alameda County, Ca. 1870 – 1910. Chapel Hill: University of North Carolina Press and The US Commission on Civil Rights (1970) Mexican Americans and the Administration of Justice in the Southwest. Washington D.C.

¹⁹ Gomez, *Policing, Community Fragmentation, and Public Health: Observations from Baltimore* (2016) 93 J. Urban Health 154, 163.

²⁰ Gomez, *Policing, Community Fragmentation, and Public Health: Observations from Baltimore* (2016) 93 J. Urban Health 154, 159-163.

²¹ Gomez, *Policing, Community Fragmentation, and Public Health: Observations from Baltimore* (2016) 93 J. Urban Health 154, 161.

²² Gomez, *Policing, Community Fragmentation, and Public Health: Observations from Baltimore* (2016) 93 J. Urban Health 154, 163.

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policing and fears of surveillance should be treated as public health issues since they reduce community activity and create environments of high stress.²³

Research has also shown that particularly violent or intrusive encounters with police have an even greater mental health impact on individuals. For Black individuals, merely seeing the police increases anxiety levels, and interacting with officers correlates with higher distress, anxiety, trauma, and depression.²⁴ Further, Black individuals who experience violence or mistreatment at the hands of the police are at increased risk of suicidal ideation, paranoia, anxiety disorders, and post-traumatic stress.²⁵ Surveys of Black individuals confirm that with increased police contact comes increased trauma and anxiety symptoms, indicating that while police presence alone has mental health impacts, additional actions taken by the police are likely to exacerbate poor health outcomes.²⁶

In one survey, participants were asked to describe times they had been stopped and police actions during that stop, including whether they conducted a search, used “harsh or racially tinged language,” or used physical force.²⁷ These factors were combined into a scale representing “police intrusion,” and compared to respondents’ self-reported mental health symptoms. The results showed that additional police contact led to higher anxiety symptoms, and further, that higher levels of police intrusion also corresponded with worse mental health.²⁸ At particularly high levels of intrusion, respondents reported a particularly sharp increase in posttraumatic stress disorder symptoms.²⁹

Another study categorized a number of police encounters in terms of violence, looking at factors related to physical violence (the use of a gun, baton, Taser, or other weapon, hitting, kicking, punishing), psychological violence (using slurs, threatening), sexual violence (forced inappropriate conduct, harassment), and neglect (failure to respond or responding inappropriately to a call for service).³⁰ Respondents reported how often they experienced these types of violence

²³ Kwate and Threadcraft, *Dying Fast and Dying Slow in Black Space: Stop and Frisk’s Public Health Threat and a Comprehensive Necropolitics* (2018) 14 DuBois Review: Social Science Research on Race 535, 537.

²⁴ McNamara, *White Caller Crime: Racialized Police Communication and Existing While Black* (2019) 24 Michigan J. Race and L. 335, 336.

²⁵ McNamara, *White Caller Crime: Racialized Police Communication and Existing While Black* (2019) 24 Michigan J. Race and L. 335, 336.

²⁶ Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men* (2014) 104 American J. Public Health 2321, 2323-24.

²⁷ Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men* (2014) 104 American J. Public Health 2321, 2322.

²⁸ Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men* (2014) 104 American J. Public Health 2321, 2324.

²⁹ Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men* (2014) 104 American J. Public Health 2321, 2324.

³⁰ DeVlyder et al., *Association of Exposure to Police Violence With Prevalence of Mental Health Symptoms Among Urban Residents in the United States* (2018) JAMA Network Open 3-4.

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within the past year and then were asked to report a variety of mental health symptoms, including feelings of psychological distress, psychotic experiences, suicidal ideation, etc.³¹ The study found that psychological distress was linked most clearly with “assaultive” police exposures (i.e. violence with or without a weapon and sexual violence), but that nearly all police exposure resulted in adverse mental health symptoms.³² The “more assaultive” forms of violence (i.e. police use of a weapon or sexual violence) also corresponded with higher rates of suicidal ideation, suicide attempts, and psychotic experiences.³³

G. Policy Recommendations

[Content in Development]

IV. ANALYSIS OF WAVES 1, 2, & 3 STOP DATA

In the fourth year of RIPA stop data reporting, 58 law enforcement agencies in California collected data on 3,184,543 pedestrian and vehicle stops conducted from January 1 to December 31, 2021.³⁴ The data were submitted by Wave 1, Wave 2 and Wave 3³⁵ agencies, as well as a few agencies from Wave 4³⁶ that collected and submitted stop data early.³⁷

³¹ DeVylder et al., *Association of Exposure to Police Violence With Prevalence of Mental Health Symptoms Among Urban Residents in the United States* (2018) JAMA Network Open 3.

³² DeVylder et al., *Association of Exposure to Police Violence With Prevalence of Mental Health Symptoms Among Urban Residents in the United States* (2018) JAMA Network Open 7.

³³ DeVylder et al., *Association of Exposure to Police Violence With Prevalence of Mental Health Symptoms Among Urban Residents in the United States* (2018) JAMA Network Open 7.

³⁴ 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.

³⁵ Gov. Code, § 12525.5(a)(1) states that each agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency’s peace officers for the preceding calendar year. Wave 1 includes agencies that employ 1,000 or more peace officers, Wave 2 agencies employ 667 or more but less than 1,000 peace officers, and Wave 3 agencies employ between 334 and 667 peace officers.

³⁶ Wave 4 includes agencies that employ between one and 334 peace officers.

³⁷ The following agencies were required to start their data collection on January 1, 2022 but chose to start their data collection on January 1, 2021: Arcata Police Department, Belmont Police Department, California State University Chico Police Department, California State University Sonoma Police Department, California State University Stanislaus Police Department, Capitola Police Department, Carlsbad Police Department, Cotati Police Department, Emeryville Police Department, Eureka Police Department, Hillsborough Police Department, Livermore Police Department, Mill Valley Police Department, Petaluma Police Department, Piedmont Police Department, Pomona Police Department, Rohnert Park Department of Public Safety, Contra Costa County Sheriff’s Department, Santa Rosa Police Department, Sonoma County Sheriff’s Department, Sonoma Police Department, University of California Irvine Police Department, University of California San Francisco Police Department, Santa Barbara Police Department, Windsor Police Department, and Sonoma County Junior College District Police Department.

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There were an additional 246,881 stops reported in 2021 compared to 2020, which was as expected with the increase in reporting agencies. However, of the 18 agencies that collected stop data in 2020 and 2021, 13 saw a reduction in stops across years while five saw an increase in stops. The COVID-19 pandemic and its effects on people’s lives – as well as on law enforcement agencies’ practices – may have contributed to the differences in the number of stops between 2020 and 2021 for some agencies.

Table 1. Stops by Agency (2020 and 2021)

Agency	# of Stops 2020	# of Stops 2021	Difference	% point difference from 2020
Alameda CO SO	-	15,505	-	
Anaheim PD	-	26,568	-	
Arcata PD	-	1,428	-	
Bakersfield PD	12,170	11,948	(-) 222	1.8%
Belmont PD	-	1,553	-	
Berkeley PD	-	5,469	-	
CHP	1,696,390	1,749,613	(+) 53,223	3.1%
Capitola PD	-	631	-	
Carlsbad PD	-	5,326	-	
Contra Costa CO SO	-	3,171	-	
Cotati PD	-	1,736	-	
CSU Chico PD	-	334	-	
CSU Sonoma PD	-	272	-	
CSU Stanislaus PD	-	279	-	
Culver City PD	-	9,454	-	
Davis PD	2,644	4,607	(+) 1,963	74.2%
Emeryville PD	-	1,665	-	
Eureka PD	-	2,906	-	
Fresno CO SO	-	19,310	-	
Fresno PD	14,738	10,848	(-) 3,890	26.4%
Hillsborough PD	-	646	-	
Kern CO SO	-	12,277	-	
Los Angeles Unified School District	1,150	100	(-) 1,050	91.3%
Los Angeles World Airport Police	-	4,672	-	
Livermore PD	-	4,552	-	
Long Beach PD	17,210	11,986	(-) 5,224	30.4%
Los Altos PD	-	987	-	
Los Angeles CO SD	104,275	179,972	(+) 75,697	72.6%
Los Angeles PD	521,426	429,307	(-) 92,119	17.7%
Mill Valley PD	-	838	-	

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Agency	# of Stops 2020	# of Stops 2021	Difference	% point difference from 2020
Oakland PD	21,076	13,782	(-) 7,294	34.6%
Orange CO SO	39,855	46,283	(+) 6,428	16.1%
Petaluma PD	-	3,899	-	
Piedmont PD	-	639	-	
Pomona PD	-	4,594	-	
Riverside CO SO	56,339	75,855	(+) 19,516	34.6%
Riverside PD	-	19,267	-	
Rohnert Park PD	-	2,368	-	
Sacramento CO SD	43,881	33,018	(-) 10,863	24.8%
Sacramento PD	51,446	46,680	(-) 4,766	9.3%
San Bernardino CO SO	109,024	98,649	(-) 10,375	9.5%
San Diego CO SO	38,824	21,981	(-) 16,843	43.4%
San Diego PD	150,611	130,112	(-) 20,499	13.6%
San Francisco CO SD	-	628	-	
San Francisco PD	38,615	27,453	(-) 11,162	28.9%
San Jose PD	17,988	17,167	(-) 821	4.6%
Santa Ana PD	-	22,000	-	
Santa Barbara PD	-	4,398	-	
Santa Clara CO SO	-	14,540	-	
Santa Rosa PD	-	6,725	-	
Sonoma CO SO	-	2,582	-	
Sonoma County Junior College District PD	-	551	-	
Sonoma PD	-	249	-	
Stockton PD	-	23,954	-	
UC Irvine PD	-	785	-	
UC San Francisco PD	-	543	-	
Ventura CO SO	-	47,293	-	
Windsor PD	-	588	-	

The data collected include demographic information of stopped individuals, as perceived by the officer, and descriptive information designed to provide context for the reason for the stop, actions taken during the stop, and outcome of the stop. The purpose of collecting these data is to document law enforcement interactions with the public and determine whether certain identity groups experience disparate treatment during stops. Individuals may self-identify differently than how an officer may perceive them. This distinction is important because racial and identity profiling occurs because of how people perceive others and act based on that perception rather than how individuals see themselves. Some of the demographic characteristics collected (e.g. race/ethnicity or age) may be easier to perceive based on visible factors. Other identity

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characteristics (e.g. sexual orientation or disability) may not be as apparent and therefore may be perceived less consistently. The Legislature tasked law enforcement agencies with collecting data based on how officers perceive individuals. This context is important to consider when examining results of analyses performed on stop data.

In this year's report, the Board presents stop data analyses in two sections:

- 1) The first section provides a breakdown of perceived identity group characteristics of the individuals stopped, followed by breakdowns of characteristics (e.g., actions taken by officers) of the stops for each identity group.
- 2) The second section creates benchmarks (i.e., reference points) to compare the stop data results and measure disparities. These benchmarks include comparisons to residential population data and tests for different outcomes at various points of the stop. These outcome-based tests explore search outcomes and the rates of force used by law enforcement.

1.1 Stop Data Demographics

1.1.1 Identity Demographics of Individuals Stopped by Officers

RIPA requires officers to collect perceived identity-related information about the individuals they stop 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.

Race/Ethnicity.³⁸ Officers perceived the highest proportion of individuals they stopped to be Hispanic (42.4%, 1,348,972), followed by White (30.7%, 977,832), Black (15.0%, 478,937), Asian (5.3%, 168,492), Middle Eastern/South Asian (4.8%, 152,441), Multiracial (1.0%, 31,721), Pacific Islander (0.5%, 16,736), and Native American (0.3%, 9,411).³⁹

Gender.⁴⁰ RIPA regulations contain five gender categories, including male, female, transgender man/boy, transgender woman/girl, and gender nonconforming.⁴¹ Overall, the majority of

³⁸ Due to a technical error, one successfully submitted record is missing information for the perceived race/ethnicity of the stopped individual.

³⁹ Officers may select multiple racial/ethnic categories per individual when recording stop data. To avoid counting the same stopped individual in multiple racial/ethnic groups, all stopped individuals whom officers perceived to be part of multiple racial/ethnic groups were categorized as Multiracial. The distribution of the race/ethnicity categories that officers selected when they selected more than one category was as follows: Asian (21.0%), Black (30.7%), Hispanic (72.0%), Middle Eastern/South Asian (29.4%), Native American (14.8%), Pacific Islander (16.8%), and White (66.0%).

⁴⁰ Due to a technical error, four successfully submitted records are missing information for the perceived gender of the stopped individual.

⁴¹ These categories match those found in the regulations informing RIPA stop data collection. For the purposes of this report, "male" refers to cisgender males and "female" refers to cisgender females.

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individuals were perceived as cisgender male (72.1%, 2,296,595) or cisgender female (27.5%, 875,772),⁴² with all other groups collectively constituting less than one percent of stops.⁴³

Age. Individuals perceived to be between the ages of 25 and 34 accounted for the largest proportion of individuals stopped within any one age group (33.1%, 1,052,650). Individuals perceived to be below the age of 10 accounted for the smallest proportion (<0.1%; 1,542) of individuals stopped.⁴⁴

⁴² Cisgender is an adjective used to describe a person whose gender identity conforms with the sex they were assigned at birth.

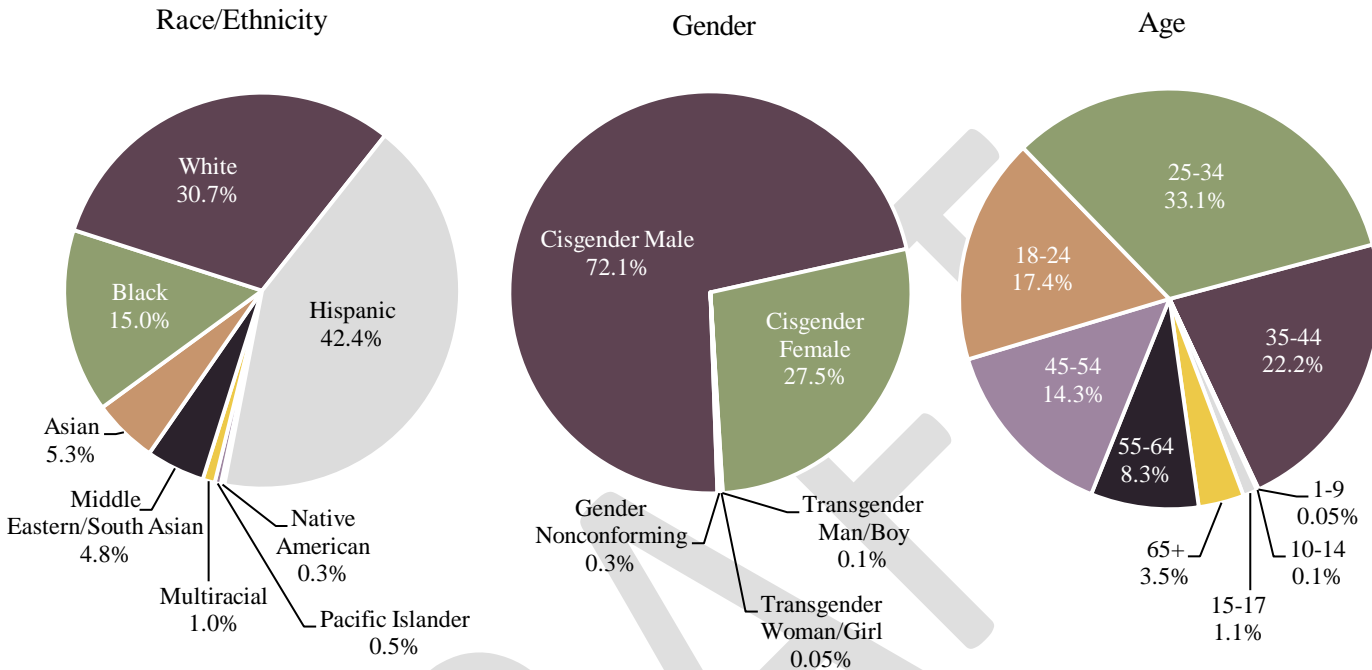
⁴³ The other groups were transgender man/boy (0.1%, 2,550), transgender woman/girl (0.05%, 1,583), and gender non-conforming (0.3%, 8,039).

⁴⁴ Individuals whom officers stopped and 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 who also did not have reportable actions taken towards them).

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Figure X. Race/Ethnicity, Gender and Age Distributions of 2021 RIPA Stop Data



LGBT. Overall, stops of individuals perceived to be LGBT comprised less than one percent of the data (0.8%; 25,995).⁴⁵ Of these 25,995 individuals, officers perceived 4,740 (18.2%) to be transgender. For many individuals, LGBT identity is not a consistently visible characteristic; therefore, the ability of officers to perceive this characteristic may often depend on context. For example, based on social cues or conversations, an officer may perceive the driver and a passenger in a vehicle to be same-sex partners.⁴⁶ An individual’s gender expression – how the person acts, dresses, behaves, and interacts to demonstrate their gender – may influence other people’s perception. Additionally, individuals who are seen as existing outside of gender norms

⁴⁵ . Officers that report the perceived gender of an individual to be transgender must also indicate they perceived the person to be LGBT.

⁴⁶ RIPA seeks to collect perceived data, and the implementing regulations prohibit an officer from asking individuals about their sexual orientation (in addition to gender, age, ethnicity) in order to collect RIPA data. In this hypothetical example, the officer may have overheard a conversation that led to their perception, one of the vehicle occupants identified themselves or the other as a romantic partner (without being asked), or intimacy between individuals may have informed the officer’s perception.

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in ways that are easily perceived often experience more significant surveillance or scrutiny from law enforcement or others. This is sometimes called hypervisibility.⁴⁷

Limited English Fluency. Officers perceived approximately 4.1 percent (128,949) of individuals stopped to have limited or no English fluency.

Disability. Officers perceived 1.2 percent (38,281) of individuals stopped to have one or more disabilities.⁴⁸ Of those perceived to have a disability, the most common disability reported by officers was mental health disability (75.1%; 26,811).⁴⁹

1.1.1 Calls for Service

Officers must indicate whether they made each stop in response to a call for service.⁵⁰ Officers reported that 6.1 percent of stops were made in response to calls for service.⁵¹

Race/Ethnicity. The share of stops made in response to calls for service was highest for Black individuals (9.5%) and lowest for Middle Eastern/South Asian individuals (2.6%).

Key Terms

- Call for service – a stop made in response to a 911 call, radio call, or dispatch
- Officer-initiated – a stop resulting from the officer’s observation not in response to a call for service

⁴⁷ Fernandez and Williams, *We Deserve Better: A report by the members of BreakOUT!* (2014) p. 11 <https://issuu.com/youthbreakout/docs/we_deserve_better_report> [as of Dec. 2, 2021]; Shabalala, “*Violence is everywhere for trans women*” - *Experiences of gendered violence in the lives of Black transgender women in post-apartheid South Africa: a critical transfeminist narrative enquiry* (2020) University of Cape Town: Thesis Honors in Bachelor of Social Science, pp. 21-22 <http://www.psychology.uct.ac.za/sites/default/files/image_tool/images/117/Logos/thesis/VIOLEN~1.PD> [as of Dec. 2, 2021].

⁴⁸ Specific disability categories that the officer could report were blind/limited vision (0.02%), deafness or difficulty hearing (0.06%), developmental disability (0.03%), disability related to hyperactivity or impulsive behavior (<0.1%), mental health disability (0.8%), other disability (0.1%), speech impaired (0.05%), and multiple disabilities (0.1%).

⁴⁹ Individuals perceived to have multiple disabilities—including mental health disabilities—are not included in this statistic.

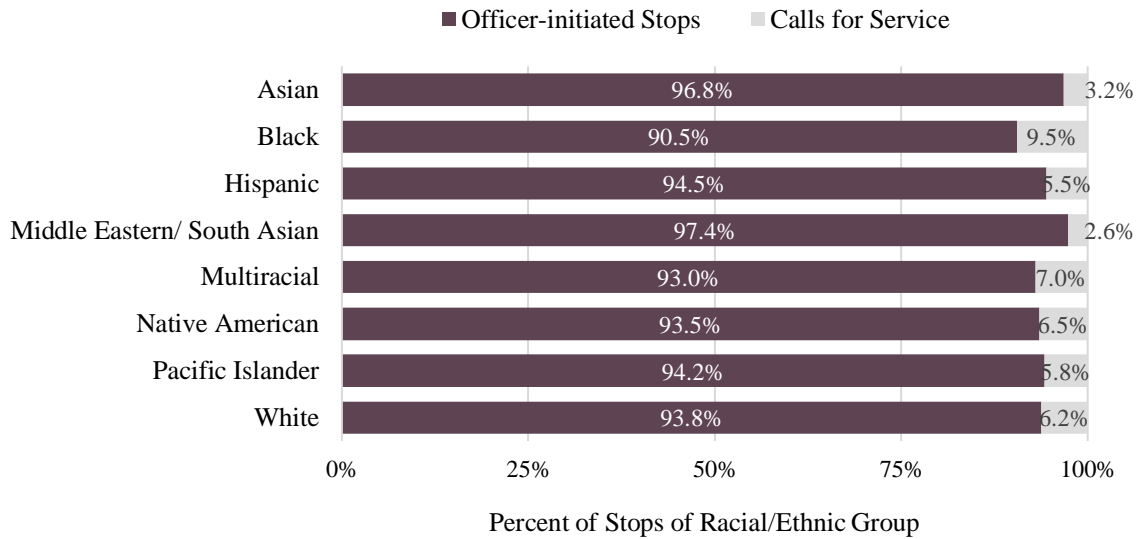
⁵⁰ Calls for service are only reported if they resulted in a “stop,” as defined by section 999.224, subdivision (a)(14) of the RIPA regulations. Officers must note the primary reason for stop in addition to recording whether the stop was made in response to a call for service. The RIPA regulations do not specify whether a stop made after a civilian flags down an officer on the street fits the definition of a call for service; accordingly, data entry for this field may vary across officers and agencies for stops where civilians flagged down officers.

⁵¹ Given that stops for traffic violations constitute a majority of the data but are less likely to be made in response to a call for service, these analyses were also conducted while excluding data from stops where the primary reason for the stop was a traffic violation. Please see [Appendix Table X](#) for all statistics.

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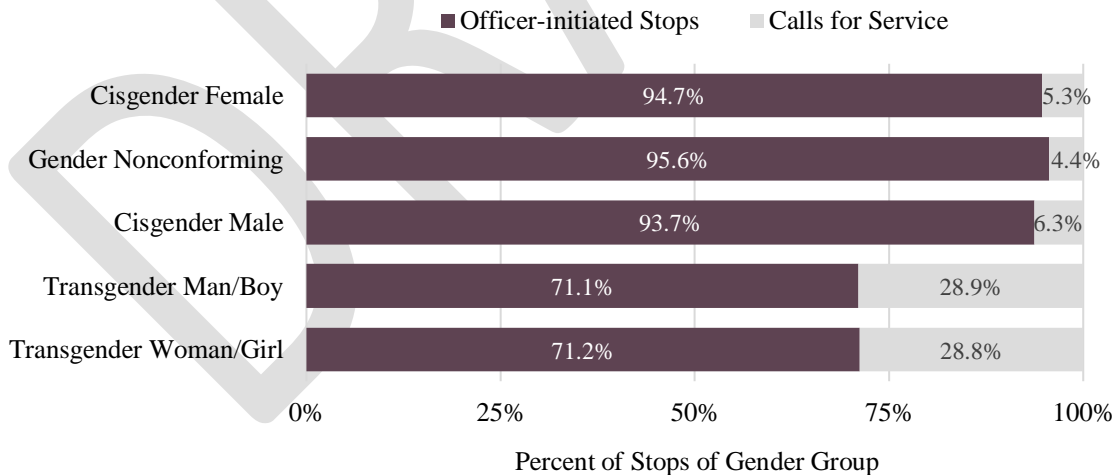
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Figure X. Call for Service Status by Race/Ethnicity



Gender. Stopped individuals perceived as transgender men/boys had the highest proportion of their stops initiated in response to a call for service (28.9%) followed closely by transgender women/girls (28.8%), while stopped individuals perceived as gender nonconforming had the lowest proportion (4.4%).

Figure X. Call for Service Status by Gender

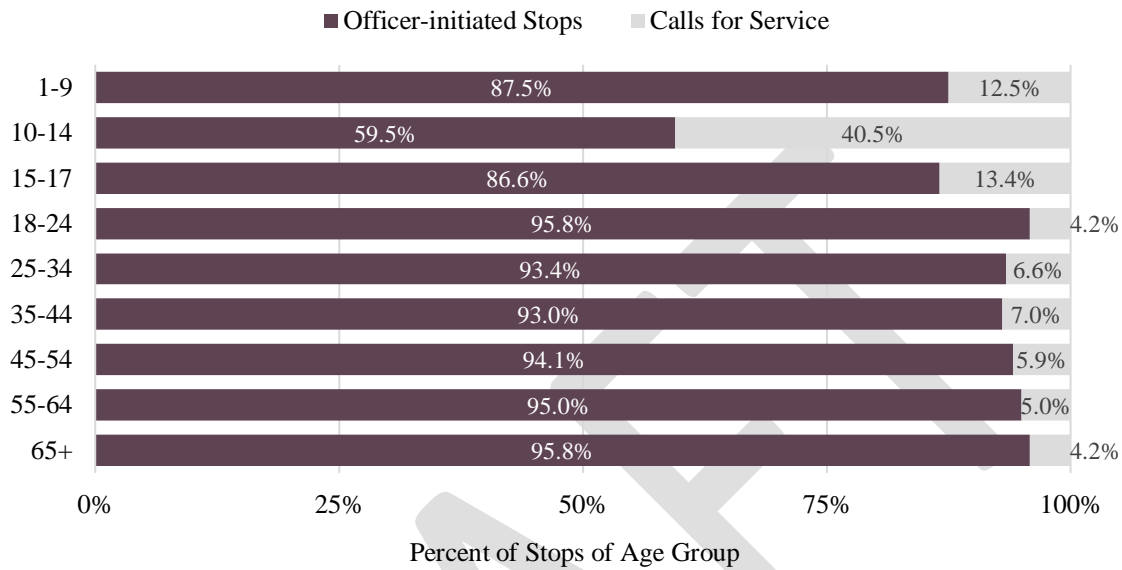


Age. Individuals stopped whom officers perceived to be between the ages of 10 and 14 had the highest proportion of their stops initiated in response to a call for service (40.5%), whereas individuals between the ages of 18 and 24 (4.2%) and individuals aged 65 or higher had the lowest proportion (4.2%).

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Figure X. Call for Service Status by Age Group



LGBT. Stopped individuals whom officers perceived as LGBT had a higher proportion (13.9%) of their stops reported as being in response to a call for service than individuals whom the officers did not perceive to be LGBT (6.0%).

Limited English Fluency. Stopped individuals whom officers perceived to have limited or no English fluency had a higher proportion of their stops reported as being in response to a call for service (9.1%) compared to English fluent individuals (5.9%).

Disability. Stopped individuals whom officers perceived as having a disability had a remarkably higher proportion of their stops reported as being in response to a call for service (59.2%) compared to those whom officers did not perceive to have a disability (5.4%).

1.1.1 Primary Reason for Stop

Officers are required to report the primary reason for initiating a stop. Officers select only the primary reason that informed their decision to initiate a stop even if multiple reasons may apply. Officers collect data for both pedestrian and vehicle stops.

Officers may select from eight different primary reasons for a stop. The most common reason for a stop was a traffic violation (86.8%), followed by reasonable suspicion that the person was

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engaged in criminal activity (10.5%).⁵² All other reasons collectively made up less than 3 percent of the data and are grouped together under the category of “Other” in the following sections.⁵³

Race/Ethnicity. Middle Eastern/South Asian individuals had the highest proportion of their stops reported as traffic violations (95.6%) and the lowest proportion of their stops reported as reasonable suspicion (3.7%) and “Other” (0.6%). Relative to other groups, Black individuals had the highest proportion of their stops reported as reasonable suspicion (16.2%) and the lowest proportion of their stops reported as traffic violations (80.5%). Native American individuals had the highest proportion of any racial/ethnic group of their stops reported as “Other” (3.8%).

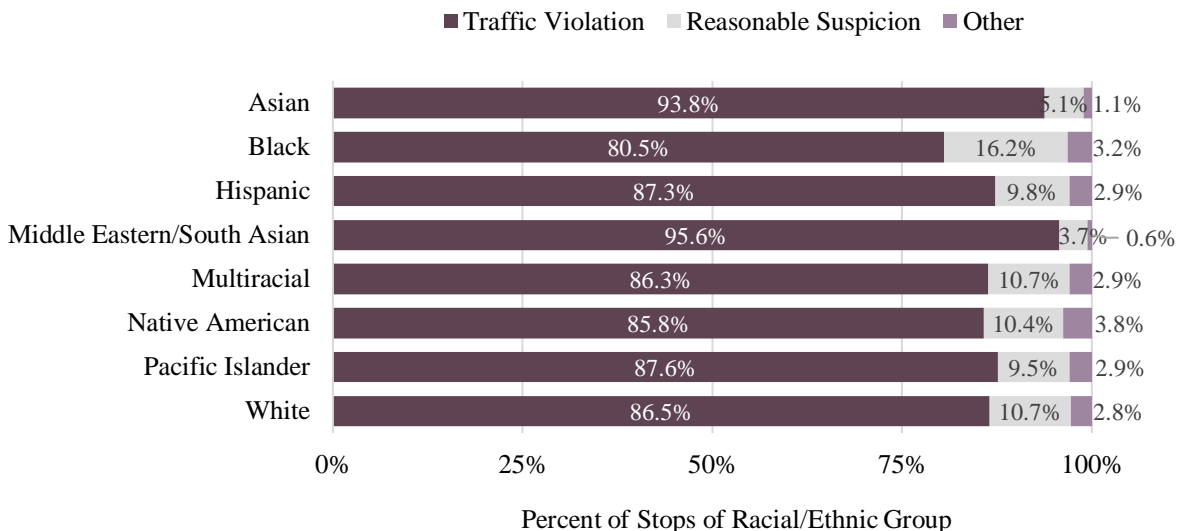
⁵² Although officers may have reasonable suspicion when initiating stops for traffic violations, Section 999.226 (a)(10)(A)(2) of the regulations state officers should not select the “reasonable suspicion” value when the reason for stop is a traffic violation. Instead, officers should select the “traffic violation” value as the primary reason for stop. Reasonable suspicion is a legal standard in criminal law that requires an officer to point to specific articulable facts that the person is engaged in, or is likely to be engaged in, criminal activity (*Terry v. Ohio* (1968) 392 U.S. 1, 31). 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 somebody (*Terry v. Ohio* (1968) 392 U.S. 1, 31). In order to fill a gap in the existing regulations, officers currently select “reasonable suspicion” as the reason for stop when an officer suspects criminal activity. “Reasonable suspicion” is also selected as the reason for stop where officers initiate contact for community caretaking purposes. “Community caretaking” relates to an officer’s non-crime related duties that are not performed for the purpose of investigating a crime. A welfare or wellness check or the officer’s community caretaking function cannot serve as a basis for initiating a detention or search. Because no distinct value exists within the existing RIPA regulations that allows officers to capture when a stop is made during the course of a community caretaking contact, officers must select reasonable suspicion as Reason for Stop and then select “Community Caretaking” as the offense code that serves as the basis for the stop. This designation in the regulations was not intended to suggest that people with mental health disabilities are engaging in criminal activity.

⁵³ Other reasons for a stop that the officer could report included consensual encounter resulting in a search (0.9%), mandatory supervision (0.7%), warrants/wanted person (0.8%), truancy (0.3%), investigation to determine whether student violated school policy (<0.1%), and possible violations of the Education Code (<0.1%). These Primary Reason for Stop categories are combined in this section under the category of “Other.”

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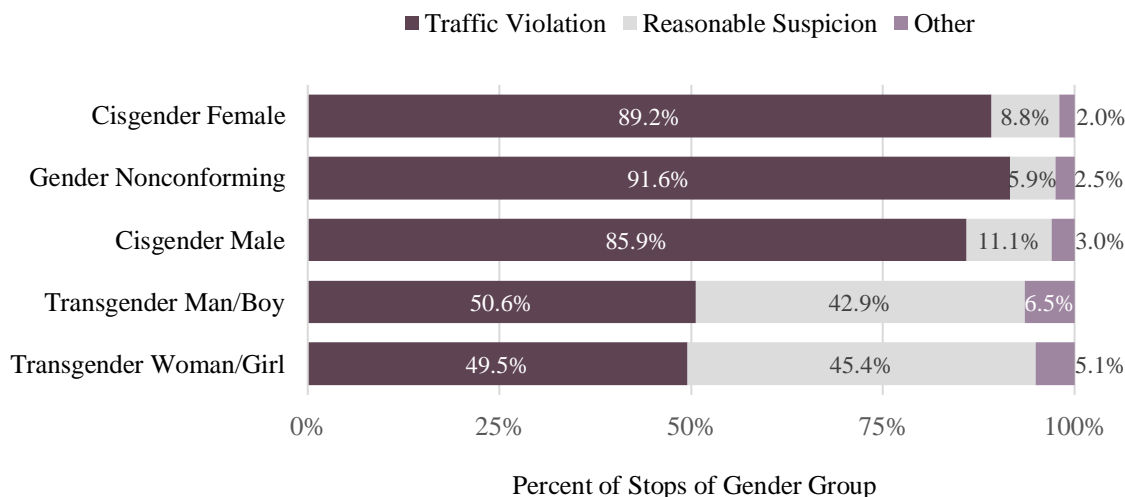
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Figure X. Primary Reason for Stop by Race/Ethnicity



Gender. Of all gender groups, gender nonconforming individuals had the highest proportion of their stops reported as traffic violations (91.6%) and the lowest proportion of their stops reported as reasonable suspicion (5.9%). Cisgender female individuals had the lowest proportion of their stops reported in the categories grouped together as “Other” (2.0%). Transgender women/girls had the lowest proportion of their stops reported as traffic violations (49.5%) and the highest proportion of their stops reported as reasonable suspicion (45.4%) while transgender men/boys had the highest proportion of their stops reported in the categories grouped together as “Other” (6.5%).

Figure X. Primary Reason for Stop by Gender

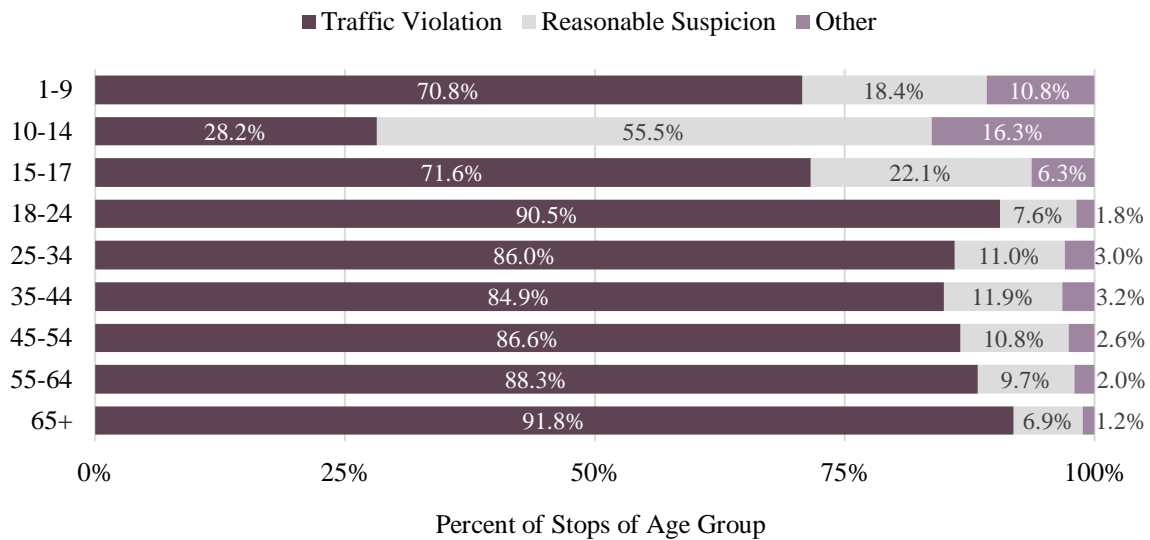


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Age. Individuals perceived to be 65 years or older had the highest proportion of their stops reported as traffic violations (91.8%) and the lowest proportion of their stops reported as reasonable suspicion (6.9%) and in the categories grouped together as “Other” (1.2%). Individuals perceived to be between the ages of 10 and 14 had the lowest proportion of their stops reported as traffic violations (28.2%) and the highest proportion of their stops reported as reasonable suspicion (55.5%) and in the categories grouped together as “Other” (16.3%).⁵⁴

Figure X. Primary Reason for Stop by Age Group



LGBT. Individuals perceived to be LGBT had a lower proportion of their stops reported as traffic violations (72.4%) and a higher proportion of their stops reported as reasonable suspicion and in the categories grouped together as “Other” (22.7%; 4.8%) than individuals who officers did not perceive to be LGBT (86.9% traffic violations, 10.4% reasonable suspicion, and 2.7% other reasons).

Limited English Fluency. Individuals perceived to have limited English fluency had a lower proportion of their stops reported as traffic violations (83.9%) and in the categories grouped together as “Other” (2.4%) compared to individuals whom officers perceived to be fluent in English (86.9% traffic violations and 2.7% other reasons). The opposite was true of reasonable suspicion stops where individuals perceived to have limited English fluency had a higher

⁵⁴ The data shows a higher number of reported traffic violations than many readers may expect for people too young to hold a provisional permit or driver’s license. This could partially be explained by 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 law, which are considered valid reportable traffic violations.

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proportion of their stops reported under this category than individuals perceived as English fluent (13.7% and 10.4%, respectively).

Disability. Stopped individuals perceived as having a disability had a lower proportion of their stops reported as traffic violations (16.7%) and a higher proportion of their stops reported as reasonable suspicion (70.2%) and in the categories grouped together as “Other” (13.1%) than those not perceived to have a disability (87.6% traffic violations, 9.8% reasonable suspicion and 2.6% other reasons).⁵⁵

1.1.1 Actions Taken by Officers During Stops

Officers can select up to 23 different actions taken during the stop (excluding 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 actions taken towards them in a single stop, and officers must report all actions taken towards an individual during a stop.

Officers reported not taking any reportable action during 80.1% of stops and taking actions during 19.9% of stops. Overall, officers averaged less than one (0.6) reportable action per individual they stopped. For stops during which officers took one or more actions, the average number of actions taken by officers was 2.8. The average number of actions taken during stops for each identity group can be found in the Appendix.⁵⁶

Across all stops, the most common actions taken by officers were a search of property or person (11.9%), curbside or patrol car detention (11.3%), handcuffing (9.8%),⁵⁷ and verbally ordered removal from a vehicle (4.3%).⁵⁸ Officers indicated taking each of the other reportable actions towards less than 3 percent of individuals they stopped.⁵⁹

⁵⁵ One possible explanation for why individuals perceived to have a disability have a higher proportion of reasonable suspicion stops is related to how community caretaking contacts are recorded. As mentioned previously, community caretaking relates to an officer’s non-crime related duties that are not performed for the purpose of investigating a crime. Presently, stops for “community caretaking” are captured in the reasonable suspicion data element.

⁵⁶ Please see [Appendix Table X](#) for all descriptive statistics.

⁵⁷ A report of “handcuffing” an individual in this section does not mean that the officers arrested the individual. [Section 1.1.5](#) of this chapter discusses arrests. Additionally, [Appendix Table X](#) displays the percentage of handcuffed individuals who experienced 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 60.8 percent, took some other form of action for 28.1% percent, and took no action towards 11.1% percent of individuals.

⁵⁸ Searches of person or property are captured in separate data fields and were combined for this analysis. Curbside and patrol car detentions are also recorded in distinct data fields and were combined.

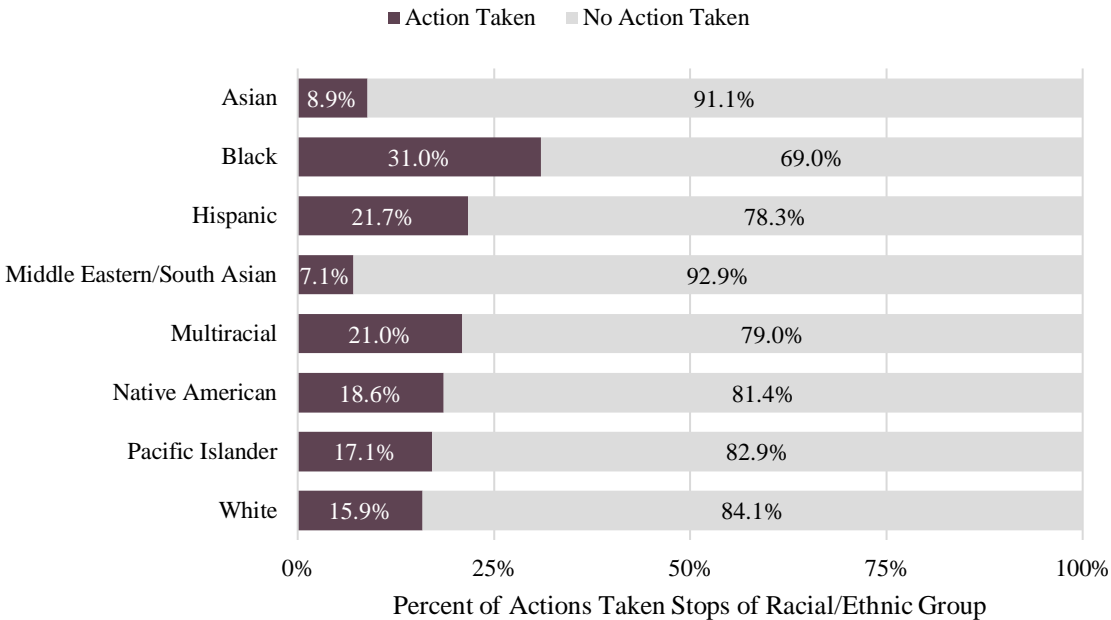
⁵⁹ Other actions include: person removed from vehicle by physical contact (0.5%), field sobriety test (2.2%), canine removed from vehicle or used to search (0.1%), firearm pointed at person (0.5%), firearm discharged (<0.1%), electronic control device used (<0.1%), impact projectile discharged (<0.1%), canine bit or held person (<0.1%), baton or other impact weapon (<0.1%), chemical spray (<0.1%), other physical or vehicle contact (0.5%), person photographed (0.6%), asked for consent to search person (2.8%), received consent to search person (95.5%), asked

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Race/Ethnicity. Stopped individuals perceived to be Black had the highest proportion, relative to other race/ethnicity groups, of their stops involving the officer taking one or more actions towards them (31.0%). Stopped individuals perceived to be Middle Eastern/South Asian had the lowest proportion of their stops involving officers taking actions towards them (7.1%).

Figure X. Actions Taken During Stop by Race/Ethnicity



Of all the race/ethnicity groups, stopped individuals whom officers perceived to be Black had the highest rate of being searched (20.1%), detained on the curb or in a patrol car (17.9%), handcuffed (15.4%), and removed from a vehicle by order (7.6%). Similar to findings from the 2022 Report, officers took these actions towards more Black individuals than White individuals, despite stopping over twice the number of White individuals as Black individuals.⁶⁰ Stopped individuals whom officers perceived to be Middle Eastern/South Asian had the lowest rate for each of these actions (ranging from 1.4% and 3.7%).

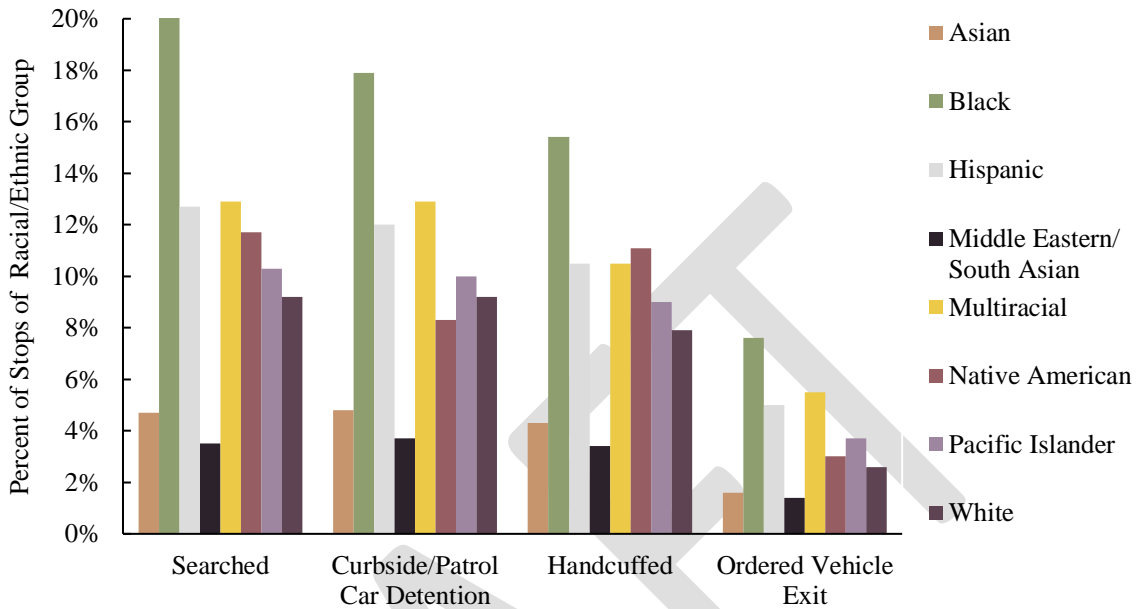
for consent to search property (2.1%), received consent to search property (93.8%), property seized (1.1%), vehicle impounded (1.6%), and written statement (<0.1%).

⁶⁰ See [Appendix Table X](#) for a breakdown of actions taken toward stopped individuals by identity group.

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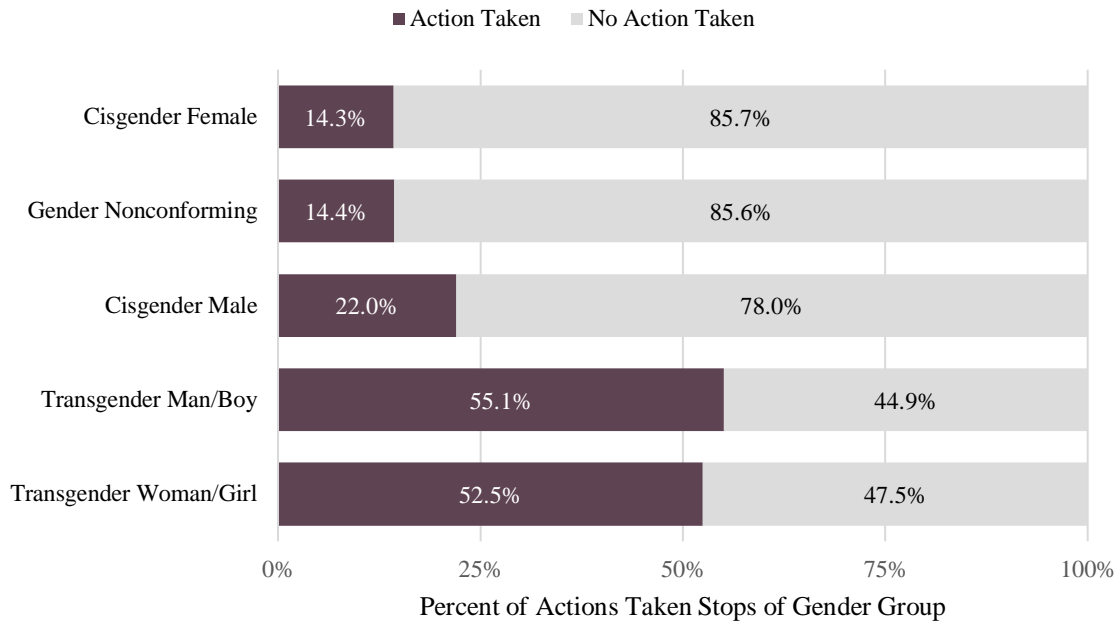


Gender. Stopped individuals perceived to be transgender men/boys had the highest proportion of their stops involve the officer taking actions towards them (55.1%). Individuals perceived to be transgender women/girls also had actions taken toward them during more than half of their stops (52.5%). Individuals perceived to be cisgender female (14.3%) had the lowest proportion of stops with actions taken towards them.

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Figure X. Actions Taken During Stop by Gender

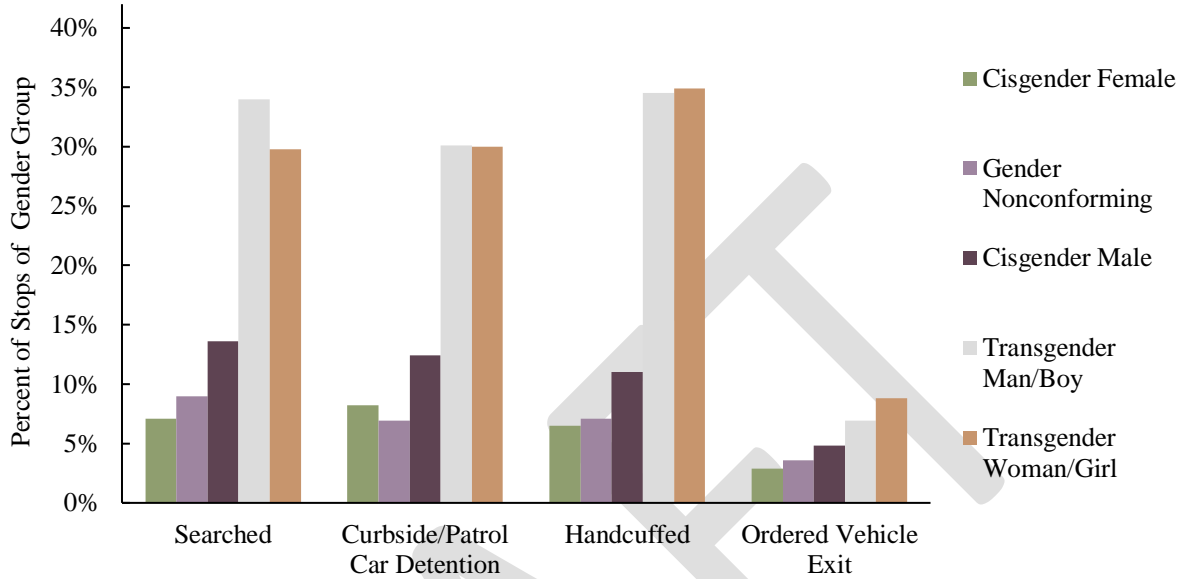


Stopped individuals whom officers perceived as transgender men/boys had the highest rate of being searched (34.0%) and detained curbside or in a patrol car (30.1%), while individuals perceived as transgender women/girls had the highest rates of being handcuffed (34.9%) and being removed by vehicle order (8.8%). Individuals perceived as cisgender female had the lowest rate of being searched (7.1%), handcuffed (6.5%) and removed by vehicle order (2.9%), while individuals perceived as gender nonconforming had the lowest rate of being detained curbside or in a patrol car (6.9%).

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Figure X. Actions Taken During Stop by Gender

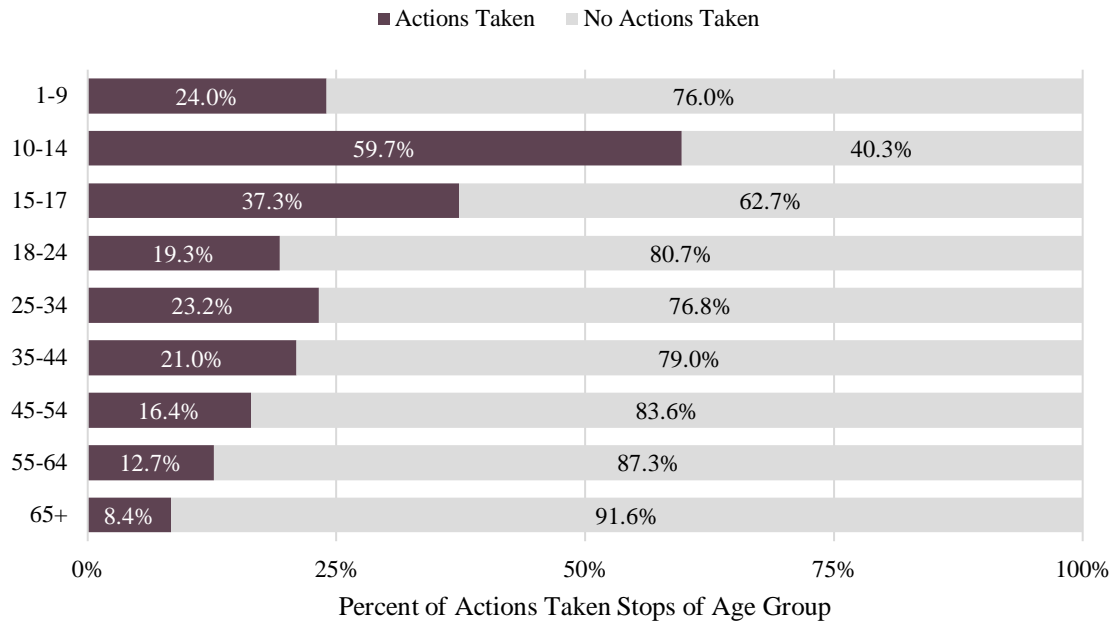


Age. Stopped individuals perceived to be between the ages of 10 and 14 had the highest proportion of their stops involve officers taking actions towards them (59.7%), while individuals perceived to be 65 or higher had the lowest proportion (8.4%).

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Figure X. Actions Taken During Stop by Age Group

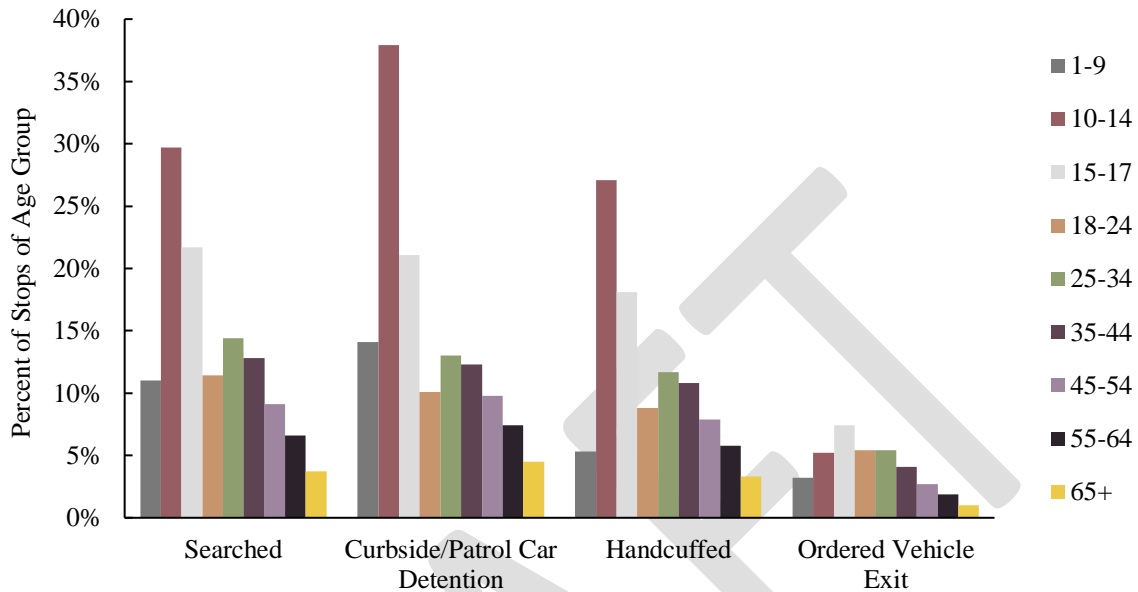


Individuals whom officers stopped and perceived to be between the ages of 10 and 14 had the highest rate of being searched (29.7%), detained on the curb or in a patrol car (37.9%), and handcuffed (27.1%), while those perceived to be between 15 and 17 had the highest rates of being removed from a vehicle by order (7.4%). Those aged 65 or higher consistently had the lowest rate for each of these actions (ranging from 1.0 to 4.5%).

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Figure X. Actions Taken During Stop by Age Group



LGBT. Stopped individuals whom officers perceived to be LGBT had a higher proportion of their stops involving the officers taking actions towards them (32.0%) than individuals officers did not perceive to be LGBT (19.8%).⁶¹

Stopped individuals whom officers perceived to be LGBT were searched (19.3%), detained on the curb or in a patrol car (18.8%), handcuffed (18.2%), and removed from a vehicle by order (5.5%) at a higher rate than individuals officers did not perceive to be LGBT (11.8% searched, 11.2% detained, 9.7% handcuffed, and 4.3% removed from vehicle by order).

Limited English Fluency. Individuals perceived to have limited English fluency had a higher proportion of their stops involve officers taking actions towards them (26.0%) compared to individuals whom officers perceived to be fluent in English (19.6%).

Stopped individuals whom officers perceived to have no or limited English fluency were searched (13.9%), detained on the curb or in a patrol car (12.9%), handcuffed (13.0%), and removed from a vehicle by order (5.8%) at a higher rate than those perceived to speak English

⁶¹ In many instances, officers may not perceive a stopped person’s LGBT identity. As discussed on p. [placeholder], an individual’s gender expression may influence how other people perceive their gender, and contextual information such as conversations and intimacy between individuals may influence other people’s perception of their relationships and sexual orientation. If officers decide to take additional actions towards an individual they stop, the additional interaction may also provide more information for officers to form perceptions about the individual, including LGBT identity.

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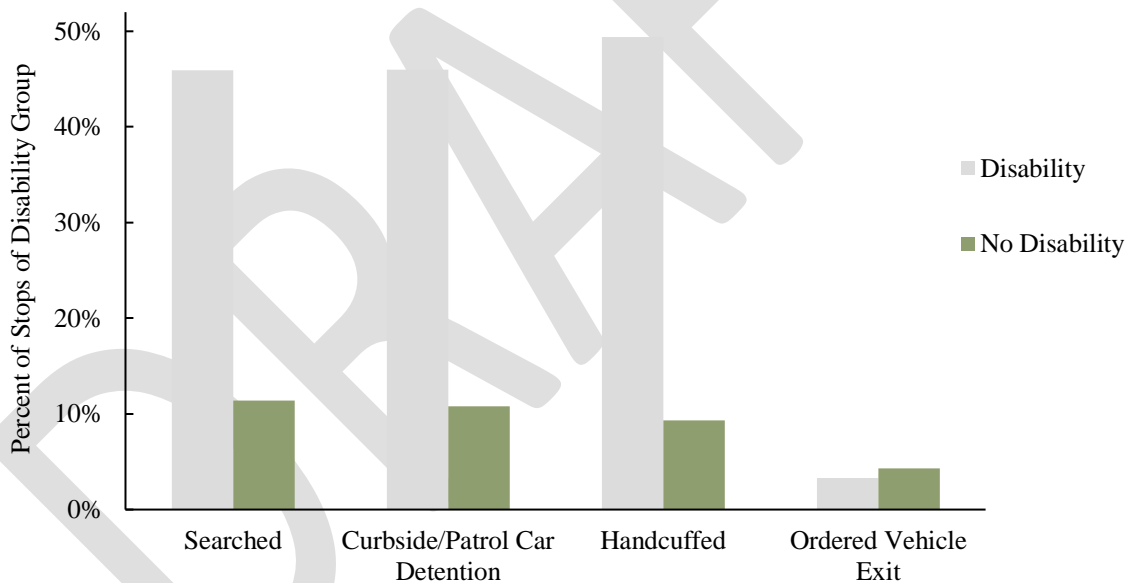
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fluently (11.8% searched, 11.2% detained, 9.6% handcuffed, and 4.2% removed from vehicle by order).

Disability. Stopped individuals perceived as having a disability had a higher proportion of their stops involve officers taking actions towards them (73.6%) than those not perceived to have a disability (19.2%).

Stopped individuals whom officers perceived to have a disability were searched (45.9%), detained on the curb or in a patrol car (46.0%), and handcuffed (49.4%) at a much higher rate than those perceived not to have a disability (11.4% searched, 10.8% detained, and 9.3% handcuffed). Individuals whom officers perceived to have a disability had a lower rate of being removed from a vehicle by order (3.3%) compared to those who were not perceived as having a disability (4.3%).

Figure X. Actions Taken During Stop by Disability Group



1.1.1 Result of Stop

Officers can select up to 13 different result of stop options. Officers may select multiple results of stop for a given 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 (52.0%), followed by

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a warning (26.3%), and then arrest (12.8%).⁶² Officers indicated they took no reportable action towards 7.6 percent of stopped individuals. Each of the other results represented less than 6 percent of the data.⁶³

If officers do not take any action as a result of stop, it may indicate in part that there was an unfounded suspicion of wrongdoing, and that explicit or implicit bias may have influenced the officer in making the stop.⁶⁴

Race/Ethnicity. Officers reported taking no action as the result of stop most frequently during stops of individuals they perceived to be Black (13.2%). The proportion of Black individuals with no action taken towards them as the result of stop was more than double (2.2 times) the proportion of stops of White individuals (6.1%) that resulted in no action. Officers tended to take no action as the result of stop least often (3.3%) during stops of individuals they perceived to be Middle Eastern/South Asian.

⁶² Arrests here include three unique result types: in-field cite and release (5.6% of stopped individuals), custodial arrest without a warrant (5.8% 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.

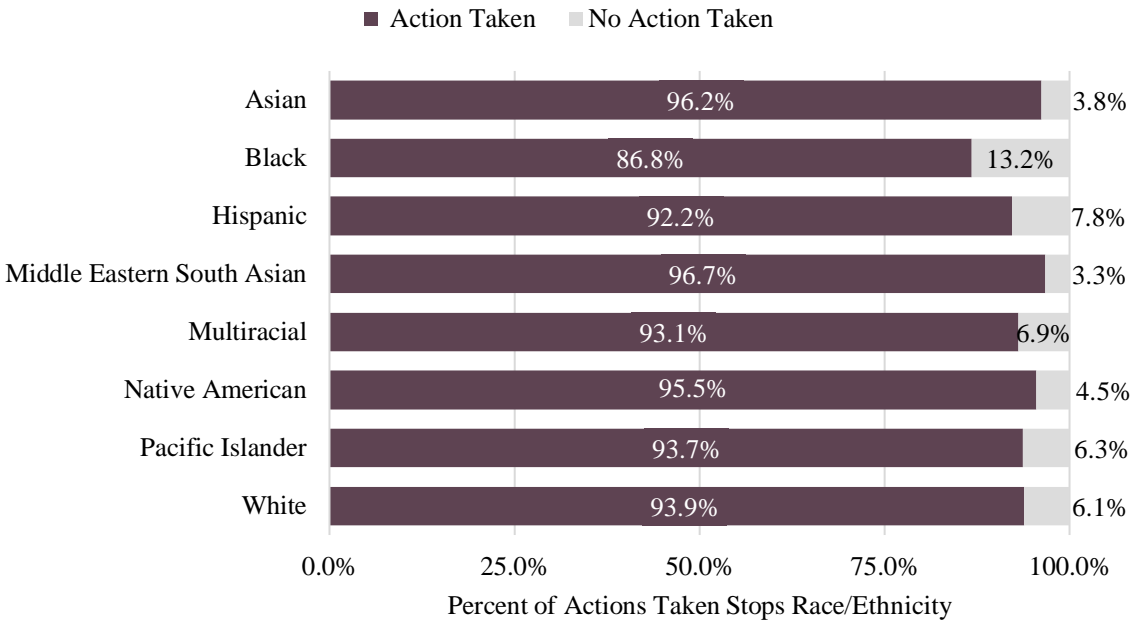
⁶³ Other result categories included field interview card completed (3.8%), noncriminal/caretaking transport (0.4%), contacted parent/legal guardian (0.1%), psychiatric hold (0.8%), contacted U.S. Department of Homeland Security (<0.1%), referred to a school administrator (<0.1%), or referred to a school counselor (<0.1%). Officers can only select “referred to a school administrator” or “referred to a school counselor” as the result category if the stop is of a student in a K-12 public school.

⁶⁴ *Investigation of the Baltimore City Police Department* (Aug. 2016) U.S. DOJ, p. 28
<<https://www.justice.gov/opa/file/883366/download>> [as of XXX].

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Figure X. Stop Result by Race/Ethnicity

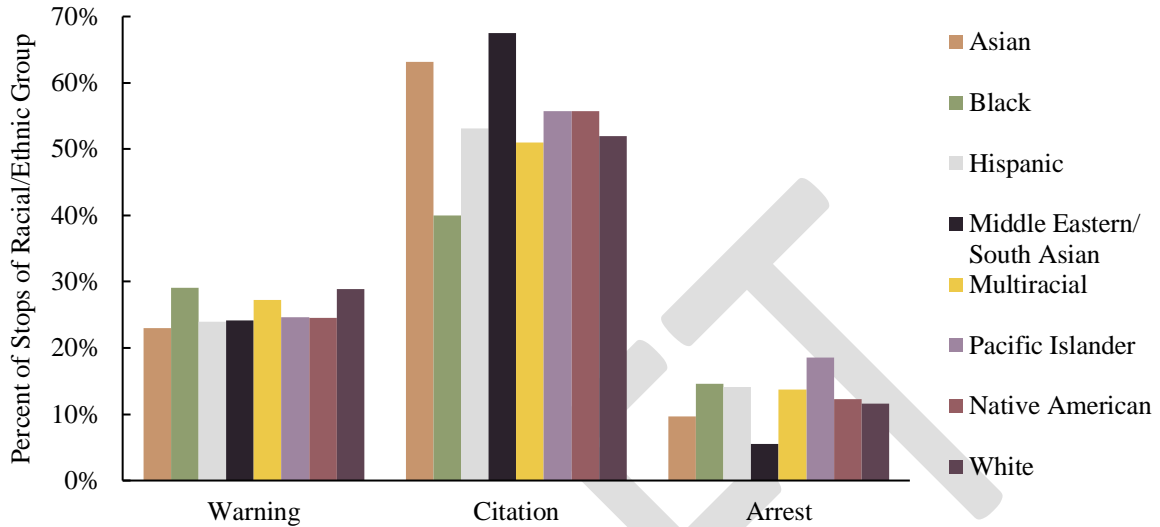


Compared to other races/ethnicities, stopped individuals perceived as Middle Eastern/South Asian were cited at the highest rate (67.5%), while individuals perceived to be Black were cited at the lowest rate (40.0%). Stopped individuals officers perceived to be Black were warned at the highest rate (29.1%); Asian individuals were warned at the lowest rate (23.0%). Officers arrested stopped individuals they perceived to be Native American at the highest rate (18.6%) and individuals they perceived as Middle Eastern/South Asian at the lowest rate (5.5%).

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Figure X. Stop Result by Race/Ethnicity

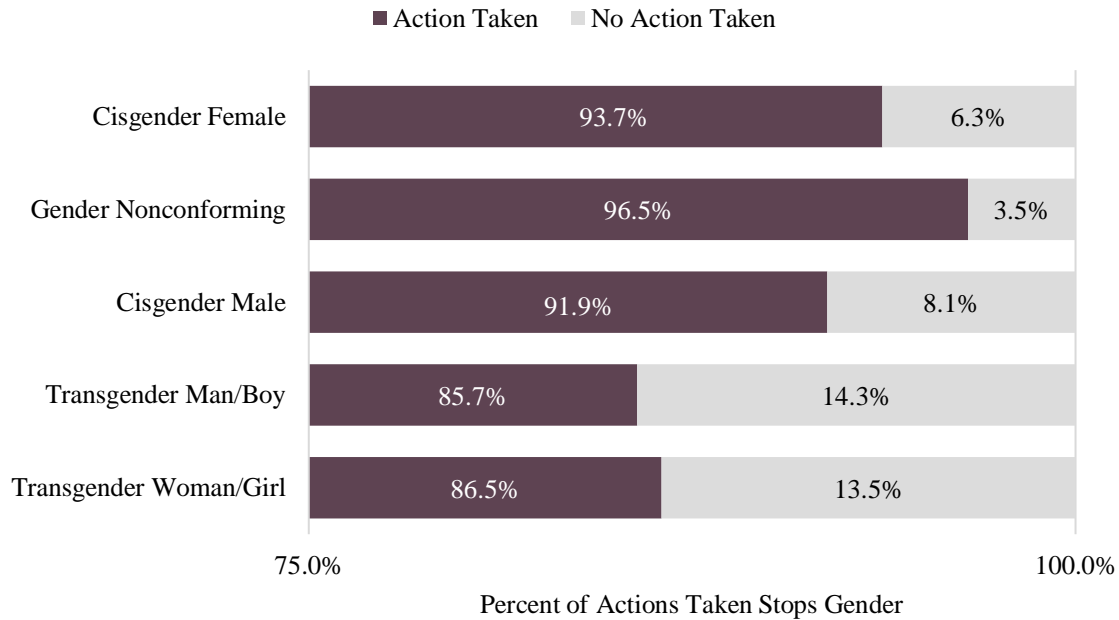


Gender. Officers took no action as the result of stop most often during stops of individuals they perceived to be transgender men/boys (14.3%); this rate exceeded the no action rate of cisgender males (8.1%). Similarly, officers took no action against stopped individuals whom officers perceived to be transgender women/girls at a higher rate (13.5%) than for individuals whom officers perceived to be cisgender females (6.3%). Officers took no reportable action least frequently during stops of gender nonconforming individuals (3.5%).

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Figure X. Stop Result by Gender

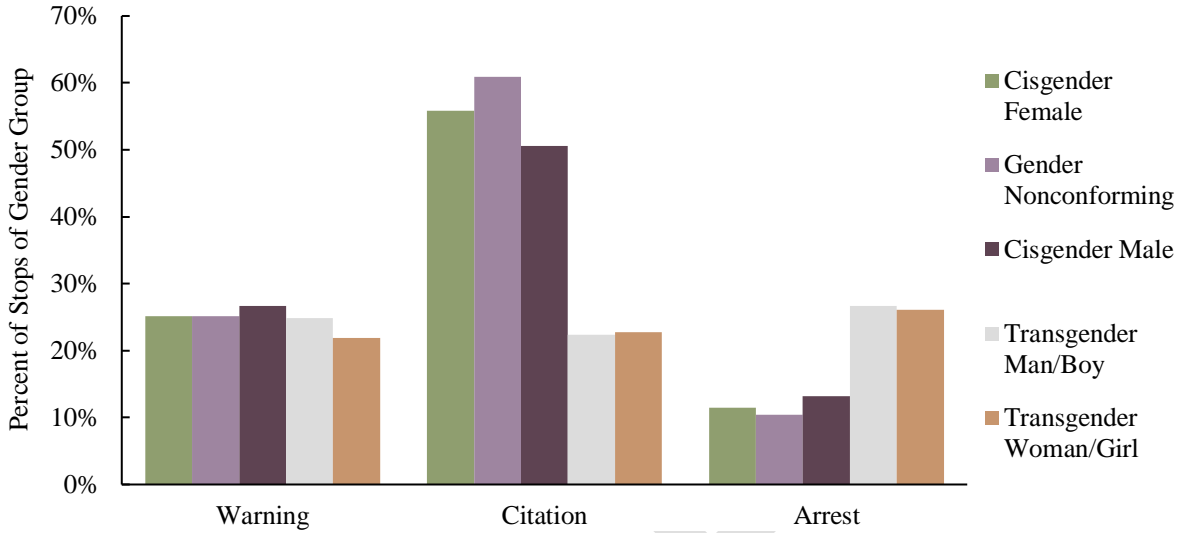


Citation rates ranged from 22.4 percent of stopped individuals perceived as transgender men/boys to 60.9 percent of individuals whom officers stopped and perceived as gender nonconforming. Warning rates ranged from 21.9 percent of stopped individuals perceived as transgender women/girls to 26.7 percent of individuals whom officers perceived as cisgender males. Finally, compared to other genders, officers arrested individuals perceived as transgender men/boys at the highest rate (26.7%), while arresting stopped individuals perceived as gender nonconforming at the lowest rate (10.4%).

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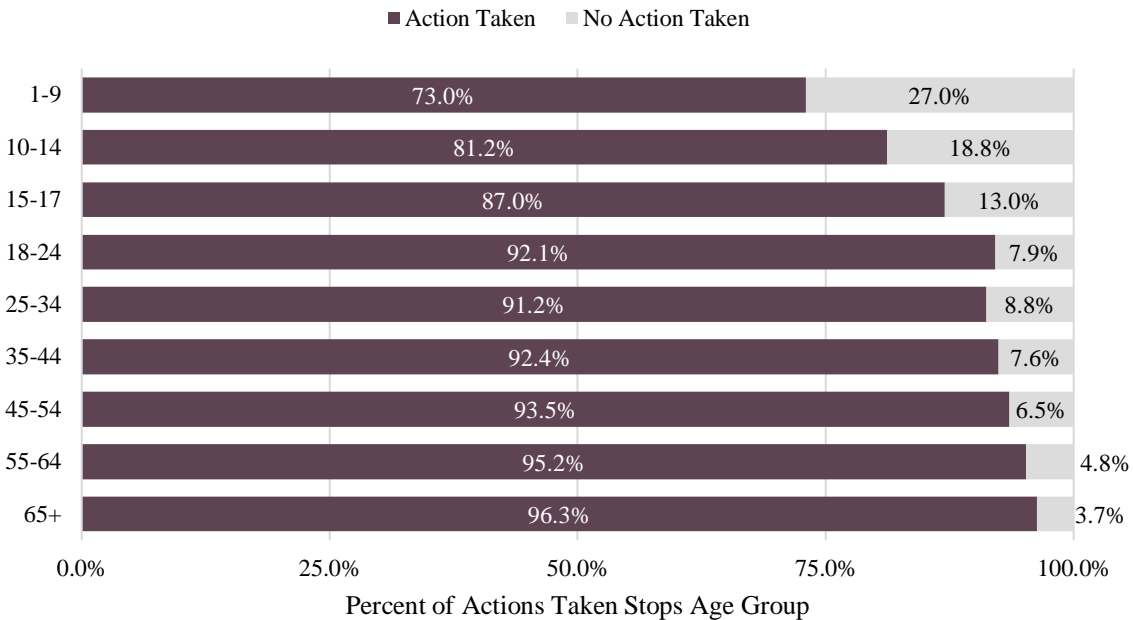
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Figure X. Stop Result by Gender



Age. The proportion of stopped individuals that had no action taken as the result of a stop tended to decrease as age groups went up, with individuals perceived to be between the ages of one and nine having the highest no action rate (27.0%) and individuals perceived to be 65 or more years old having the lowest no action rate (3.7%).

Figure X. Stop Result by Age Group

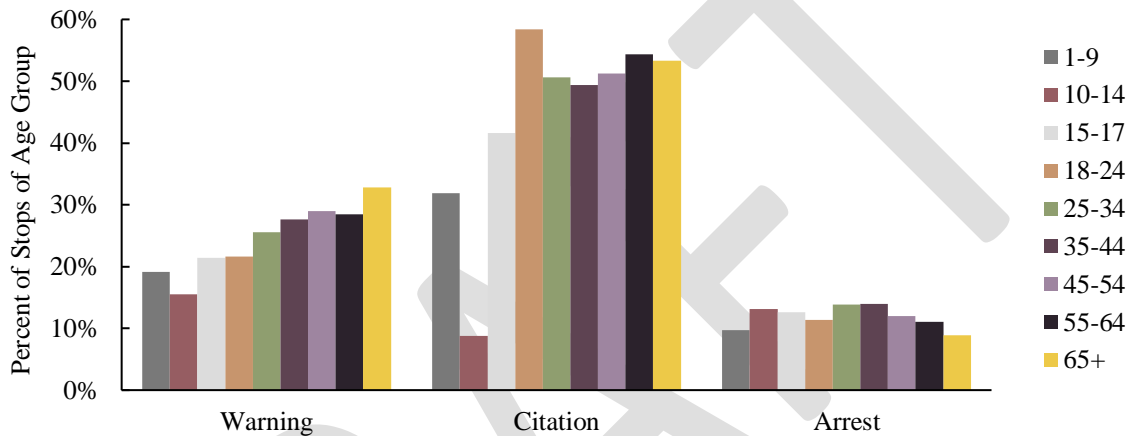


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Citation rates ranged from 8.8 percent for stopped individuals perceived as 10 to 14 years old to 58.4 percent of individuals perceived as 18 to 24 years old. Individuals perceived as 10 to 14 years old had the lowest rate for being warned (15.5%), whereas individuals perceived as 65 and older had the highest rate of being arrested (32.8%). Arrest rates ranged from 8.9 percent for stopped individuals perceived as 65 and older to 14 percent of individuals perceived as 35 to 44 years old.

Figure X. Stop Result by Age Group



LGBT. Officers took no action as the result of stop during a higher proportion of the stops of people they perceived to be LGBT (9.7%) than during stops of people they did not perceive to be LGBT (7.6%). Individuals whom officers perceived to be LGBT had a lower rate of being cited (38.5%) or warned (23.2%), while having a higher rate of being arrested (23.1%) than individuals whom officers did not perceive to be LGBT (52.1% cited, 26.3% warned, and 12.7% arrested).

Limited English Fluency. Officers took no action as the result of stop during a lower proportion of the stops of individuals whom officers perceived to have limited or no English fluency (6.3%) than individuals whom officers perceived to be English fluent (7.7%). Individuals whom officers stopped and perceived to have no or limited English fluency had a lower rate of being cited (51.1%) or being warned (25.7%) while having a higher rate of being arrested (16.5%) when compared to individuals perceived to speak English fluently (52.1% cited, 26.3% warned, and 12.6% arrested).

Disability. Officers took no action as the result of the stop during a higher proportion of the stops of people they perceived to have a disability (12.1%) than during stops of people they perceived to not have a disability (7.5%). Further, stopped individuals whom officers perceived as having a disability had much lower rates of being cited (7.2%) or warned (14.1%) and higher rates of

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being arrested (22.4%) than those perceived to not have a disability (52.6% cited, 26.4% warned, and 12.6% arrested).

1.1 *Tests for Racial/Ethnic Disparities*

A holistic approach to data analysis is critical because there is no single approach or consensus in the research literature about what analyses can best help identify racial or identity profiling. For this reason, the following section contains multiple commonly used analyses designed to identify differences in various elements of police stops across racial/ethnic groups. These tests for racial/ethnic disparities include:

- a comparison to residential population data;
- an analysis of search discovery rates; and
- an analysis examining use of force rates.⁶⁵

Each of these analyses test for racial/ethnic disparities in a different way. As a result, each analysis has methodological strengths and weaknesses. A detailed description of the methodology for each analysis is available in [Appendix X](#), along with discussions of some considerations for each analytical approach.

1.1.1 Residential Population Comparison

Comparing stop data to residential population data is a common method of analysis. This type of analysis assumes that the distribution of who is stopped likely resembles the demographics of residents within a comparable geographic region. But this is, of course, 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). Residential population demographics from the United States Census Bureau's 2020 American Community Survey (ACS) provided the benchmark for estimating the expected demographic breakdown of the 2021 stop data.⁶⁶ Differences between stop population proportions and residential population proportions for each racial/ethnic group can be caused by several factors, including potential differences in exposure to criminogenic⁶⁷ factors, allocation of law enforcement resources, elements that draw large populations of non-residents to

⁶⁵ Previous reports have also included an additional analysis, referred to as the Veil of Darkness test, in this section. The Board voted to discontinue the inclusion of this analysis during a meeting on March 22, 2022. See Minutes from March 22, 2022, available at (to be filled in once approved and posted).

⁶⁶ When these analyses were conducted, 2020 was the most recent year for which the five-year ACS data/information was available. The Census Bureau's methodology implemented for the 2020 five-year ACS data is different from previous years due to the significant impact of the COVID-19 pandemic on the Census Bureau's data collection efforts. Please see [section X of the Disparity Tests Methods Appendix \(Appendix X\)](#) for further information.

⁶⁷ "Criminogenic" is defined as "(of a system, situation, or place) causing or likely to cause criminal behavior." Oxford English Dict. Online (2021) <<http://www.oed.com>> [as of Dec. 3, 2021].

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congregate in a place (e.g., retail sectors, employment centers, tourist attractions, etc.), and officer bias.

Benchmarking using residential population data involves comparing the distribution of racial/ethnic groups stopped by agencies to the distribution of residents in the areas serviced by the same agencies. In 2021, not all agencies within the state collected RIPA data, which presents issues when trying to compare to state population data as a whole. Given that RIPA data collection happened primarily in the areas of the state patrolled by the 58 collecting agencies, the ACS estimates were weighted to display a distribution more reflective of just the areas served by the reporting agencies in 2021, rather than the state as a whole.⁶⁸

Figure X displays the racial/ethnic distribution from the 2021 RIPA Stop Data of individuals whom officers stopped, alongside the weighted distribution of residents from the ACS. These analyses were repeated for all reporting agencies, excluding California Highway Patrol, and for each individual agency.⁶⁹

Overall, the disparity between the proportion of stops and the proportion of residential population was greatest for Multiracial and Black individuals. Multiracial individuals were stopped 87.4 percent less frequently than expected, while Black individuals were stopped 144.2 percent more frequently than expected.⁷⁰ The proportion of stops corresponding to Native American individuals most closely matched estimates from residential population data (3.1% more frequent than expected). Compared to White individuals, who were stopped 11.4 percent less frequently than expected based on their share of the residential population, the greatest disparities between stop data and residential population data estimates occurred for Black and Multiracial individuals. The disparity for Black individuals was 2.8 times as great as the disparity for White individuals. For Multiracial individuals, the disparity was 0.1 times as great as the disparity for White individuals. This indicates that individuals perceived as Black were substantially more likely to be stopped compared to White individuals, while individuals

⁶⁸ See **section X of the Disparity Tests Methods Appendix (Appendix X)** for a detailed explanation of the weighting schema used for the overall comparison. The need to adjust population estimates to be more reflective of the areas served by a subset of agencies will no longer exist once all agencies across the state are required to submit data in 2023.

⁶⁹ These results can be found in **Table X of Appendix X**. The California Highway Patrol (CHP) accounts for a large proportion of stop records from 2021 (54.9%). Given that the practices of municipal agencies may differ substantially from those of a state patrol agency like the California Highway Patrol, the Board also performs tests for disparities while only examining municipal agency data and exclude CHP.

⁷⁰ Stop data classifying the race/ethnicity of stopped individuals is based upon officer perception, while race/ethnicity in the ACS is based on self-identification. Some research indicates that it is more difficult to classify the race of multiracial individuals than it is to classify the race of monoracial individuals and that people may often classify multiracial individuals as monoracial. See generally Iankilevitch et al., *How Do Multiracial and Monoracial People Categorize Multiracial Faces?* (2020) *Social Psychological and Personality Science* <<https://doi.org/10.1177/1948550619884563>> [as of Dec. 2, 2021]; see also Chen and Hamilton, *Natural ambiguities: Racial categorization of multiracial individuals* (2012) *J. of Experimental Social Psychology* <<https://doi.org/10.1016/j.jesp.2011.10.005>> [as of Dec. 2, 2021].

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perceived as Multiracial were substantially less likely to be stopped.⁷¹ After excluding California Highway Patrol records from the analysis, the data continued to show the greatest disparities for the stops of Black and Multiracial individuals; relative disparities compared to those of White individuals were larger than the all-agency disparities for individuals perceived to be Asian, Black, and Native American.⁷²

Figure X. Weighted Residential Population Comparison to Stop Data⁷³

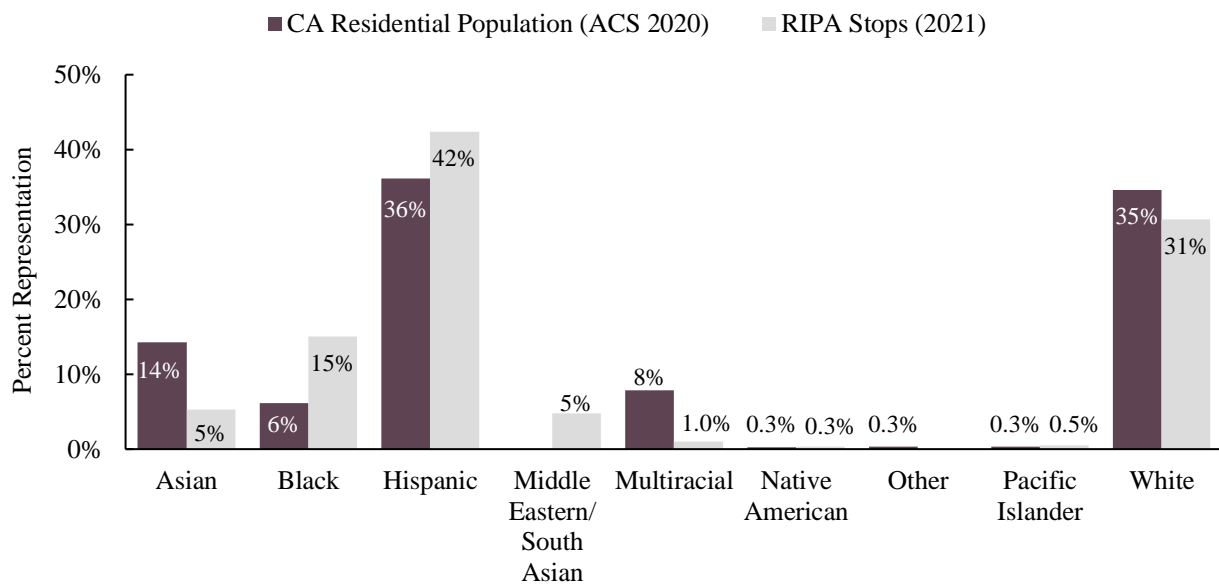


Figure X displays the racial/ethnic distribution from the 2021 RIPA Stop Data of individuals stopped by the California Highway Patrol, alongside the unweighted distribution of residents from the ACS. Overall, the disparity between the proportion of stops and the proportion of residential population was greatest for Multiracial and Black individuals. Multiracial individuals were stopped 88.9 percent less frequently than expected, while Black individuals were stopped 107.8 percent more frequently than expected.⁷⁴ The proportion of stops corresponding to White

⁷¹ See Appendix X Table X for all disparity ratios and how the ratios are calculated.

⁷² See Appendix X for results of the ACS comparison with CHP data excluded.

⁷³ Because the ACS table used for these analyses does not contain a race category that is comparable to the Middle Eastern/South Asian group within the RIPA data, there is no residential population bar for this group in Figure X. For more information about the ACS data used in this section, see Appendix X.

⁷⁴ 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 it is to classify the race of monoracial individuals and that people may often classify multiracial individuals as monoracial. See Iankilevitch et al., *supra* note 97; see also Chen and Hamilton, *supra* note 97.

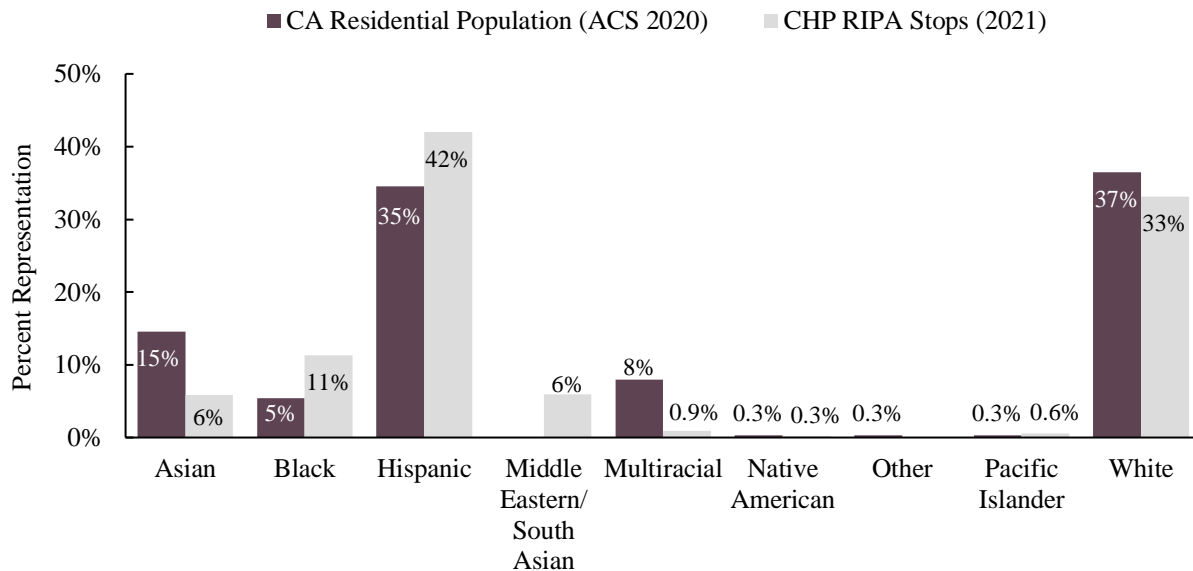
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individuals most closely matched estimates from residential population data (9.2 less frequent than expected).

When examining the CHP distribution, the greatest disparities between stop data and residential population data estimates occurred for Black and Multiracial individuals when compared to White individuals, who were stopped 9.2 percent less frequently than expected based on their share of the residential population. The disparity for Black individuals was 2.3 times as great as the disparity for White individuals. For Multiracial individuals, the disparity was 0.1 times as great as the disparity for White individuals. This indicates that individuals perceived as Black were substantially more likely to be stopped compared to White individuals, while individuals perceived as Multiracial were substantially less likely to be stopped.⁷⁵

Figure X. Unweighted Statewide Residential Population Comparison to CHP Stop Data



1.1.1 Discovery Rate Analysis

Researchers developed an empirical test that examines the rate at which officers discover contraband or evidence across the racial/ethnic groups of individuals they search. The test assumes that if officers are searching people of a particular identity group more frequently but finding less contraband, the searches of individuals in that

Discovery Rates

These analyses measure the rates at which contraband or evidence is discovered in stops where a search was performed. The Board refers to these rates as discovery rates.

⁷⁵ Please see [Appendix X Table X](#) for all disparity ratios and how the ratios are calculated.

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identity group may be, at least in part, because of their perceived identity.⁷⁶ Using this framework, we tested for differential treatment by conducting comparisons of search and discovery rates across identity groups.⁷⁷

Descriptive Analysis. Overall, officers searched 11.9 percent of individuals they stopped. Officers discovered contraband or evidence from 24.6 percent of individuals they searched. Search and discovery rates varied between racial/ethnic groups. Out of all racial/ethnic groups, stopped individuals perceived as Black had the highest search rates (20.1%), while stopped individuals perceived as Middle Eastern/South Asian had the lowest search rate (3.5%). Individuals perceived as White were searched 9.2 percent of the time. This means that the search rate of Black individuals was 2.7 times the search rate of White individuals. Although officers stopped 498,895 more individuals perceived to be White than individuals perceived to be Black, officers searched 6,622 more Black individuals than White individuals.⁷⁸ On the other end of the search rate distribution, officers searched individuals perceived to be Middle Eastern/South Asian less than half as often they searched individuals perceived to be White.

Search discovery rates did not vary as widely between racial/ethnic groups as did search rates. Discovery rates ranged from 21.0 percent of individuals officers searched and perceived as Middle Eastern/South Asian to 26.9 percent of individuals officers perceived as Multiracial. The discovery rate for individuals perceived as White was 25.5 percent.

Figure X. Search and Discovery Rates by Race/Ethnicity (All Search Types)

⁷⁶ See [Appendix X](#) for a discussion of the limitations of this type of analysis.

⁷⁷ See Knowles et al., *Racial Bias in Motor Vehicle Searches: Theory and Evidence* (2001) J. Political Econ. 109(1).

⁷⁸ Officers also searched more individuals whom they perceived to be Hispanic (171,454) than they did individuals whom they perceived to be White (89,536). However, officers also stopped more Hispanic individuals (1,348,972) than White individuals (977,832), which was not the case for Black individuals (478,937).

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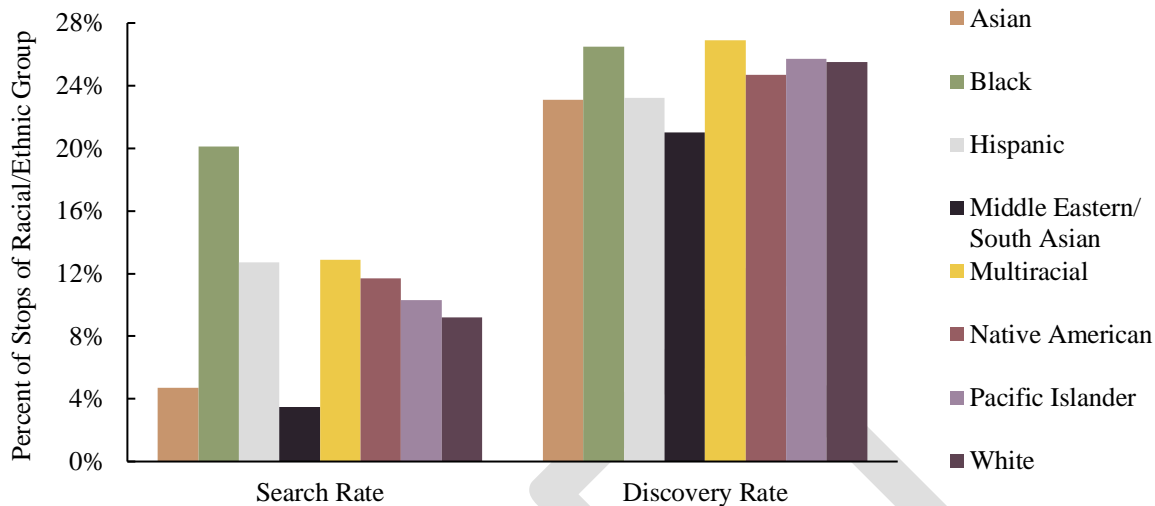
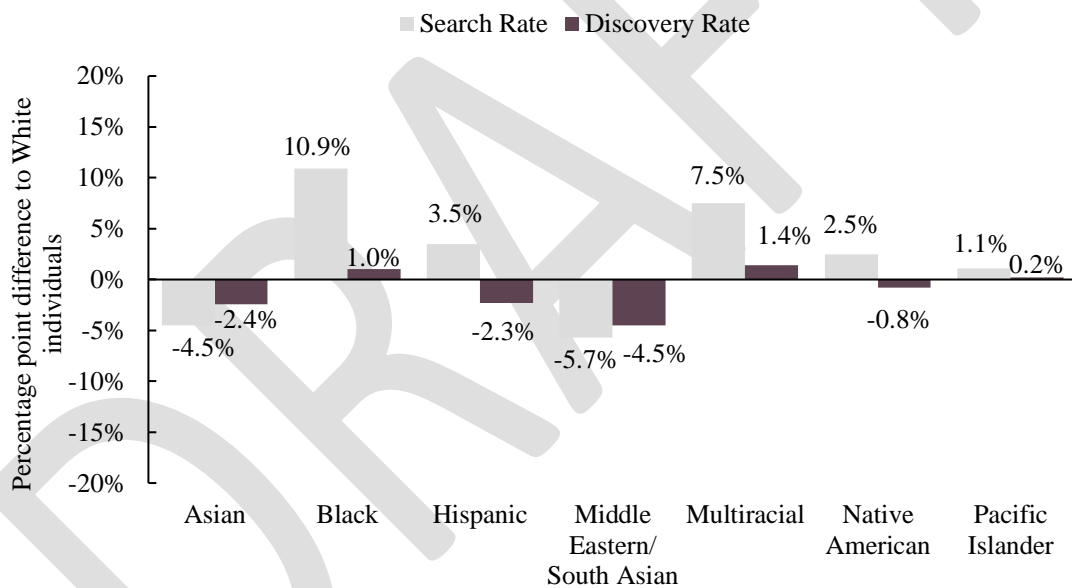


Figure X displays the difference in search and discovery rates for each racial/ethnic group of color from the search and discovery rates for individuals perceived as White (9.2% and 25.5%, respectively). All racial/ethnic groups of color had higher search rates than individuals perceived as White, except for individuals perceived as Asian and Middle Eastern/South Asian. Search rate disparities were largest for individuals perceived to be Black, who officers search 10.9 percent more often than individuals they perceived as White (20.1% vs. 9.2%). Officers also searched individuals perceived to be Multiracial (+7.5%), Hispanic (+3.5%), Native American (+2.5%), and Pacific Islander (+1.1%) more often than stopped individuals perceived to be White. Discovery rates were higher during stops with searches of Black individuals (+1.0), Multiracial individuals (+1.4%), and Pacific Islander individuals (+0.2%) when compared to the discovery rate during searches of White individuals while discovery rates were lower during stops with searches of all other racial or ethnic groups of color: Asian (-2.4%), Hispanic (-2.3%), Middle Eastern/South Asian (-4.5%), and Native American (-0.8%).

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Figure X. Racial/Ethnic Disparities in Search and Discovery Rates



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Multivariate Analysis. To consider how multiple variables may be associated with officers’ decisions to search and whether officers discovered contraband or evidence, these data were also analyzed using multivariate statistical models.⁷⁹ One key consideration is the level of discretion available to officers in their decision to conduct a search. Some searches are based on protocol and are often required under departmental policy (hereafter, referred to as administrative searches), such as during an arrest, vehicle inventory, or search warrant. These administrative types of searches may afford little discretion to the officer in their decision to conduct a search because of agency policy.⁸⁰ Other types of searches occur in situations where more discretion is available to the officer and are based on some subjective threshold of suspicion that the officer may find contraband or evidence. Examples of these types of searches include those conducted when an officer asks for consent to search or when officers suspect an individual has a weapon. Previous research shows individuals of certain racial/ethnic groups have a greater chance of being subjected to discretionary searches, and when there is discretion or subjectivity, bias can play a role.⁸¹ 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 race/ethnicity groups, especially when comparing individuals perceived as Black or Hispanic to individuals perceived as White (see Table 2). Compared to White individuals, i Black (+0.4 percentage points) and Hispanic (+0.3 percentage points) individuals had a higher

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.” 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 shows a very low likelihood that chance explains the resulting disparity.

⁷⁹ Please see [Appendix X](#) for a full description of the methodology.

⁸⁰ Administrative searches are not instances where the police officer has no discretion at all, but rather where the officer makes an earlier choice that leads to a search, such as a choice to make an arrest that requires a search. Stops where officers perform administrative searches still possess the potential for bias to affect an interaction, either by the officer at points prior to the search, or at a command level when setting policies and priorities.

⁸¹ See generally Ridgeway, *Assessing the Effect of Race Bias in Post-Traffic Stop Outcomes Using Propensity Scores* (2006) J. Quant. Criminol. 22(1) 1, 9 <<https://www.rand.org/pubs/reprints/RP1252.html>> [as of Dec. 2, 2021]; Greenwald and Krieger, *Implicit Bias: Scientific Foundations* (2006) 94 Calif. L. Rev. 945; Hart, *Subjective Decisionmaking and Unconscious Discrimination* (2005) 56 Ala. L. Rev. 741, 769-771 <<https://ssrn.com/abstract+788066>> [as of Dec. 2, 2021]; Greenwald and Banaji, *Implicit Social Cognition: Attitudes, Self-Esteem, and Stereotypes* (1995) Psych. Review, 102(1) 4, 4-6; Eberhardt and Hetey et. al., *Data for Change: A Statistical Analysis of Police Stops, Searches, Handcuffings, and Arrests in Oakland, Calif., 2013-2014* (2016) Stanford SPARQ pp. 15-16 <<https://stacks.stanford.edu/file/druid:by412gh2838/Data%20for%20Change%20%28June%2023%29.pdf>> [as of Dec. 2, 2021].

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probability of being searched despite being less likely to be found in possession of contraband or evidence in stops with discretionary searches (-1.9 and -1.7 percentage points, respectively).⁸² However, the difference in discovery rates between White and Black individuals during stops with administrative (i.e., low discretion) searches was relatively small (+0.3 percentage points) and not statistically significant. Asian individuals (-2.1 percentage points) and those from other racial/ethnic groups that were combined together⁸³ (-1.7 percentage points) were less likely to be searched compared to White individuals; however, there were no significant differences in the rate of contraband or evidence discovered during stops with discretionary searches for either group.⁸⁴ Asian individuals (-2.4% points), Hispanic individuals (-0.9% points) and those from the combined group (-2.3% points) were less likely to have contraband or evidence discovered in stops with administrative searches. These analyses were repeated for all agencies excluding California Highway Patrol and for each individual agency in order to consider the impact of different locales on the findings; these results can be found in the Appendix.⁸⁵

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

Group	Search Rates	Discovery Rates	
		Discretionary Searches	Administrative Searches
Asian	*** ↓ 2.1%	↓ 1.4%	** ↓ 2.4%
Black	*** ↑ 0.4%	*** ↓ 1.9%	↑ 0.3%
Hispanic	*** ↑ 0.3%	*** ↓ 1.7%	** ↓ 0.9%
Other	*** ↓ 1.7%	↓ 1.5%	*** ↓ 2.3%

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.

1.1.1 Use of Force Analysis

An officer uses force when they exert any physical coercion or control over a person.⁸⁶ This can include a range of actions, such as taking a person out of their car by physically touching them or pointing or using a firearm when interacting with a person. The Board offers two approaches for

⁸² Please see Appendix Table X for model statistics.

⁸³ Individuals whom officers 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.

⁸⁴ Please see Appendix Table X for model statistics.

⁸⁵ Please see Appendix Table X for model statistics.

⁸⁶ Seattle Police Department Manual, 8.050 – Use of Force Definitions (Apr. 2021) <<https://www.seattle.gov/police-manual/title-8--use-of-force/8050--use-of-force-definitions>> [as of XXX].

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examining use of force across racial/ethnic groups.⁸⁷ 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 race/ethnicity groups.⁸⁸ The second applies a statistical test to determine whether officers applied force disparately between White individuals and individuals from racial/ethnic groups of color. These data show use of force occurs in about one percent of reported stops. However, the Board recognizes that, despite the low occurrence rate relative to other actions officers take during stops, the gravity of the outcomes of many incidents that involve force necessitates examination of these data for disparate outcomes.

⁸⁷ The California Department of Justice issues a Use of Force Incident Reporting Annual Report, also known as the URSUS Report. However, the types of use of force incidents included in the URSUS Report are more narrowly defined than the incidents collected for RIPA stop data reporting. See *Use of Force Incident Reporting* (2020) Cal. Dept. Justice <<https://data-openjustice.doj.ca.gov/sites/default/files/2021-06/USE%20OF%20FORCE%202020.pdf>> [as of Dec. 2, 2021].

⁸⁸ See *The Use-of-Force Continuum* (2009) Nat. Inst. of Justice <<https://nij.ojp.gov/topics/articles/use-force-continuum>> [as of Dec. 2, 2021].

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Use-of-force Continuum. Of the 23 actions taken by officers during stops that are reportable under RIPA, for purposes of these analyses, at least nine constitute types of force.⁸⁹ The statistics reported below divide these nine actions into three separate categories based on the level of force used, including lethal, less-lethal, and other physical or vehicle force. **Table X** displays the actions taken by officers during stops within level of force categories.⁹⁰ Officers reported using lethal force against 0.005 percent (155) of individuals they stopped. Officers reported using less-lethal force against 0.6 percent (18,605) of individuals they stopped. Lastly, officers reported taking actions constituting limited force towards 0.8 percent (26,989) of individuals they stopped.

Table X. Actions Taken by Officers During Stops within Level of Force Categories

Lethal Force	Less-Lethal Force	Limited Force (Other Physical or Vehicle Contact)
<ul style="list-style-type: none"> • Firearm discharged or used 	<ul style="list-style-type: none"> • Electronic control device used • Impact projectile discharged or used • Canine bit or held person • Baton or other impact weapon used • Firearm pointed at person⁹¹ • Chemical spray used 	<ul style="list-style-type: none"> • 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 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

⁸⁹ For the purpose of these analyses, the nine actions taken by an officer during a stop included in **Table X**, regardless of the officer’s intent or civilian compliance level, are considered uses of force.

⁹⁰ Section 999.226(a)(12)(A)(15) of the RIPA regulations define 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 types of force, such as hard hand controls or forcing someone to the ground.

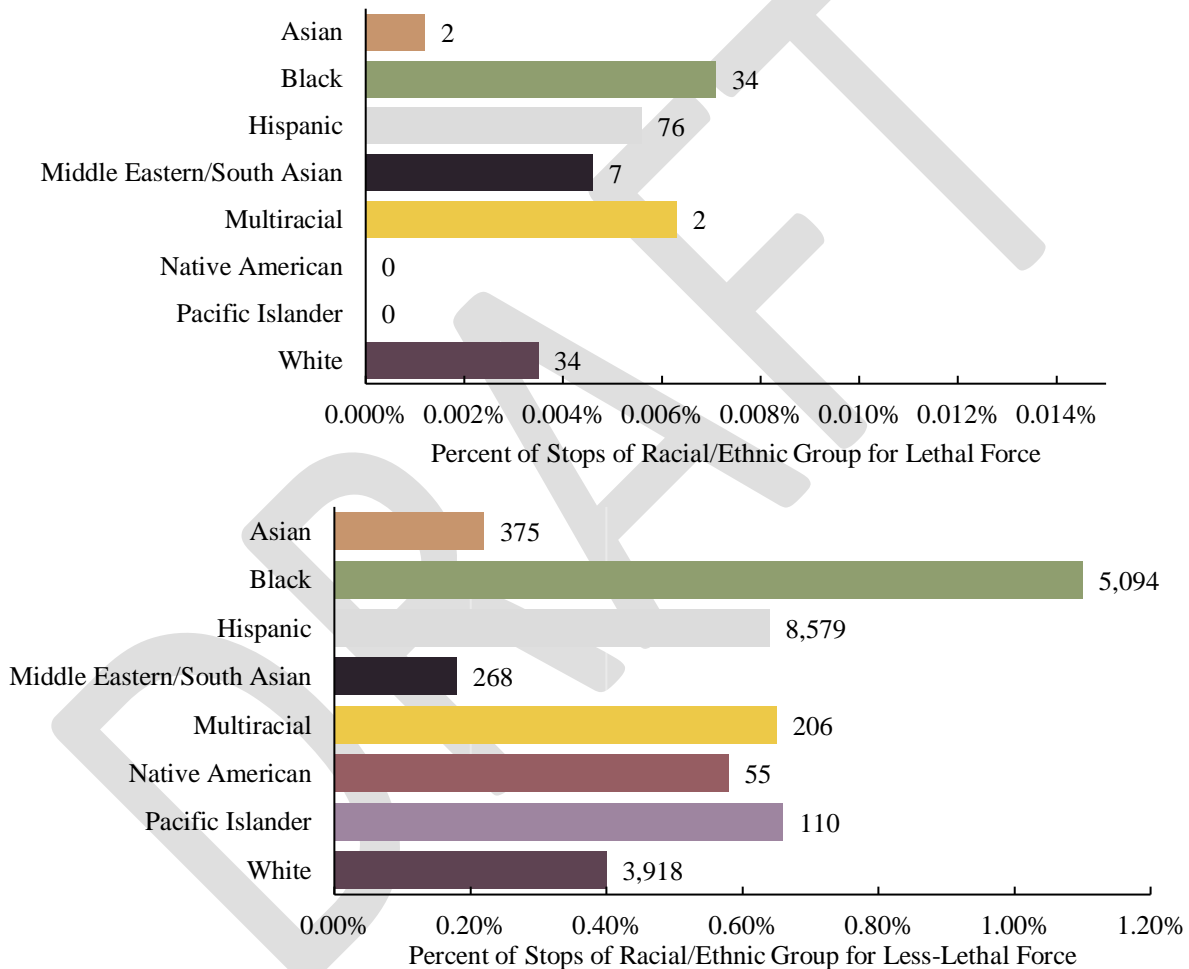
⁹¹ Other ongoing use of force data collection in the state of California classifies the threat of a firearm as a type of force. Given that the threat of a firearm is inherent to the intentional pointing of a firearm at another person, pointing a firearm was also classified as a use of force in this set of analyses, for consistency with other use of force reporting within California. See Gov. Code, § 12525.2; see also *Use of Force Incident Reporting*, *supra* note 119.

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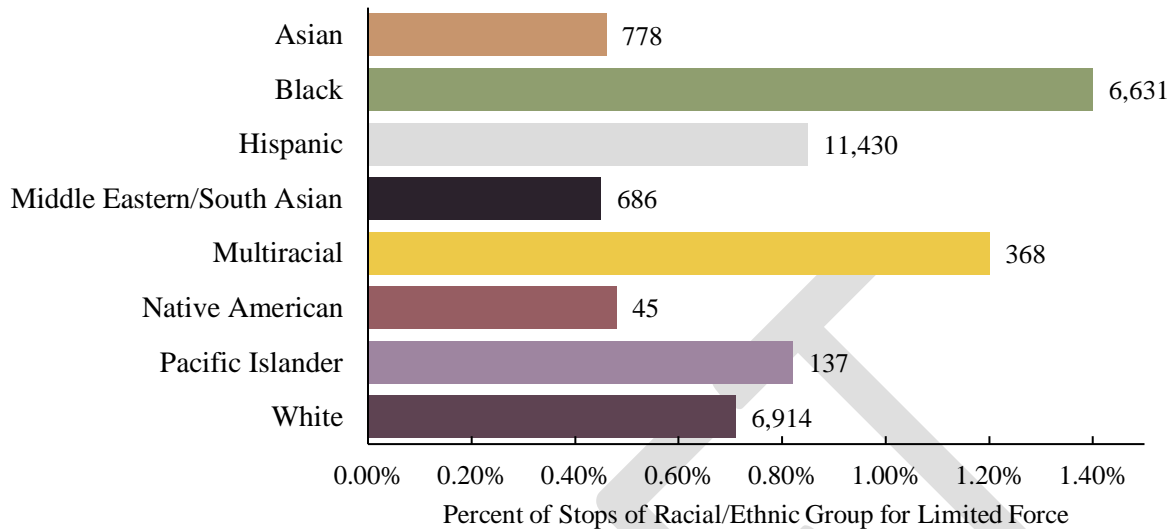
racial/ethnic group included two Asian, 34 Black, 76 Hispanic, seven Middle Eastern/South Asian, 34 White, and two Multiracial individuals. Officers did not report using lethal force against any individuals they perceived as Native American or Pacific Islander. Black individuals had the highest rates of less-lethal force (1.1%) and other physical or vehicle force (1.4%) used by officers against them during a stop, while Middle Eastern/South Asian individuals had the lowest rates (0.2% limited force, 0.5% less-lethal force).

Figure X. Use of Force Rates by Race/Ethnicity



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Multivariate Analysis. The data were also analyzed using multivariate statistical models to consider the impact of the stopped individuals’ race/ethnicity and multiple other factors (e.g. officer who made the stop, time of day, etc.) on whether force was used during a stop.⁹² Data for the four racial/ethnic groups least frequently stopped by officers were combined into a single group to increase statistical power for the test; these groups included Middle Eastern/South Asian, Multiracial, Native American, and Pacific Islander individuals.

Results of 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. Compared to White individuals, the odds of officers using force during a stop were 1.24 times and 1.09 times as high for Black and Hispanic individuals, respectively. Asian and Other individuals whom officers stopped had lower odds of having force used against them (0.69 and 0.84 respectively), relative to the odds for individuals officers perceived as White.⁹³ When the analysis excluded data from California Highway Patrol, the disparities observed were similar to the findings when examining all stops.⁹⁴

⁹² Please see Appendix X for a full description of the methodology.

⁹³ Please see Appendix Table X for model statistics.

⁹⁴ Please see Appendix Table X for model statistics.

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Table X. Summary of Multivariate Use of Force Rate Analysis Findings by Race/Ethnicity

Asian	Black	Hispanic	Other
*** ↓ 0.69	*** ↑ 1.24	*** ↑ 1.09	*** ↓ 0.84

Note. Values represent the use of force rate for the listed race/ethnicity group relative to the rate for White individuals. The arrows indicate the direction of the difference (↓ indicating a lower and ↑ indicating a higher use of force rate than White individuals). Statistically significant disparities are indicated with asterisks; *** p < 0.001; ** p < 0.01; * p < 0.05.

V. POLICY FOCUSED DATA ANALYSIS

a. Pretext Stops

A. Introduction

“The Board calls on policymakers and law enforcement and municipal leaders to consider ways to eliminate pretextual stops and therefore reduce any potential for harm stemming from such stops.”⁹⁵

[Will be Developed in Subcommittees]

1. History of Pretextual Stops

[Will be Developed in Subcommittees]

In 1996, the United States Supreme Court in *Whren v. United States* held that any traffic offense committed by a driver was a legitimate legal basis for a stop and that the personal or subjective motives of an officer are not a factor in the Court’s Fourth Amendment constitutional analysis.⁹⁶ *Whren* has been sharply criticized, because if an officer can point to an objective reason for the stop, such as a broken tail light, a subjective and biased motivation for the stop would not affect the constitutionality of the search.⁹⁷

Although *Whren* is still established law, many people have spoken out against the ruling and emphasized its damaging effects.⁹⁸ For example, Justice Sonia Sotomayor explained, in an important dissent, why this practice is troubling:

⁹⁵ RIPA 2022 Report, p. 141 <<https://oag.ca.gov/system/files/media/ripa-board-report-2022.pdf>> [as of XXX].

⁹⁶ *Whren v. United States* (1996) 517 U.S. 806, 819.

⁹⁷ *Whren v. United States* (1996) 517 U.S. 806, 813. See Chin and Vernon, Reasonable but Unconstitutional: Racial Profiling and the Radical Objectivity of *Whren v. United States* (2015) 83 Geo. Wash. L.Rev. 882, 941

⁹⁸ Justice Kennedy wrote in a dissent in *Md. v. Wilson* just a year after the *Whren* decision that “[t]he practical effect of our holding in *Whren*, of course, is to allow the police to stop vehicles in almost countless circumstances (*Md. v. Wilson* (1997) 519 U.S. 408, 423). Justice Ginsburg later argued in a concurrence in *District of Columbia v. Wesby*

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Although many Americans have been stopped for speeding or jaywalking, few may realize how degrading a stop can be when the officer is looking for more. This Court has allowed an officer to stop you for whatever reason he wants—so long as he can point to a pretextual justification after the fact.⁹⁹

She goes on to explain:

For generations, black and brown parents have given their children ‘the talk’—instructing them never to run down the street; always keep your hands where they can be seen; do not even think of talking back to a stranger—all out of fear of how an officer with a gun will react to them.¹⁰⁰

. . . . By legitimizing the conduct that produces this double consciousness, this case tells everyone, white and black, guilty and innocent, that an officer can verify your legal status at any time. It says that your body is subject to invasion while courts excuse the violation of your rights. It implies that you are not a citizen of a democracy but the subject of a carceral state, just waiting to be cataloged.¹⁰¹

. . . . We must not pretend that the countless people who are routinely targeted by police are ‘isolated.’ They are the canaries in the coal mine whose deaths, civil and literal, warn us that no one can breathe in this atmosphere. They are the ones who recognize that unlawful police stops corrode all our civil liberties and threaten all our lives. Until their voices matter too, our justice system will continue to be anything but.¹⁰²

B. Data Analysis

[Under development]

C. Developing Models: Policies and Practices Eliminating Pretextual Stops and Limiting Officer Discretion in Routine Encounters.

As the Board and its stakeholders continue to develop innovative ways to address racial and identity profiling, the Board is examining emerging law enforcement policies, district attorneys’ approaches to addressing pretext stops, and new legislation. The Board hopes to track

that “[t]he Court’s jurisprudence, I am concerned, sets the balance too heavily in favor of police unaccountability to the detriment of Fourth Amendment protection... [citing Professor Wayne LaFave] ‘The apparent assumption of the Court in *Whren*, that no significant problem of police arbitrariness can exist as to actions taken with probable cause, blinks at reality.’” (*District of Columbia v. Wesby* (2018) ___U.S.___ [138 S.Ct. 577, 594, 199 L.Ed.2d 453, 472]; citing 1 W. LaFave, *Search and Seizure* §1.4(f), p. 186 (5th ed. 2012).)

⁹⁹ *Utah v. Strieff* (2016) 579 U.S. 232, 252; citing, *Whren v. United States* (1996) 517 U. S. 806, 813.

¹⁰⁰ *Utah v. Strieff* (2016) 579 U.S. 232, 252; citing, W. E. B. Du Bois (1903) *The Souls of Black Folk*; J. Baldwin (1963) *The Fire Next Time*; T. Coates (2015) *Between the World and Me*.

¹⁰¹ *Utah v. Strieff* (2016) 579 U.S. 232, 252.

¹⁰² *Utah v. Strieff* (2016) 579 U.S. 232, 254; citing, Guinier, and Torres (2002) *The Miner’s Canary*, pp. 274-283.

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reported effectiveness of these efforts so they may serve as models for other communities exploring these issues.

i. Law Enforcement Policies

Berkeley Police Department (Berkeley PD): In 2020, Berkeley established the Mayor’s Fair and Impartial Policing Working Group tasked with listening to community experts, reviewing stop data, and developing recommendations to improve policing.¹⁰³ In 2021, the working group issued a recommendation that Berkeley PD make decisions about traffic stops based on how much doing so would contribute to public safety¹⁰⁴ In 2022, Berkeley PD implemented the recommendations by encouraging officers to focus on stops that directly impact public safety and satisfies one of three prongs.¹⁰⁵ Prong 1 includes stops for behavior that has been shown to increase the risks of a collision, such as speeding, failure to yield to a pedestrian in a crosswalk, running red lights or stop signs, and failure to yield.¹⁰⁶ Prong 2 focuses on responding to calls from community members about issues such as a DUI driver, unsafe driving incidents, or hit and run with a vehicle description.¹⁰⁷ Finally, for Prong 3, the task force notes that violations for seatbelts or distracted driving are important public safety stops.¹⁰⁸

[Data info to be added later]

City of Berkeley, Special Presentation to Mayor: Fair and Impartial Policing Working Group (Feb. 23, 2021) <https://www.cityofberkeley.info/Clerk/City_Council/2021/02_Feb/Documents/2021-02-23_Presentations_Item_1_SPECIAL_Pres_Mayor_pdf.aspx> [as of XXX]; The working group consists of representatives from Berkeley PD, Police Review Commission, ACLU of Northern California, NAACP, Latinxs Unidos de Berkeley, Berkeley Community Safety Coalition, Associated Students of University of California, and an academic expert.¹⁰³

¹⁰⁴ City of Berkeley, Supplemental Materials Related to March 8, 2022 Quarterly Update on Implementation of Fair and Impartial Policing Recommendations (Mar. 25, 2022) <<https://berkeleyca.gov/sites/default/files/2022-04/Supplemental%20materials%20FIP%20032522.pdf>> [as of XXX].

¹⁰⁵ City of Berkeley, Supplemental Materials Related to March 8, 2022 Quarterly Update on Implementation of Fair and Impartial Policing Recommendations (Mar. 25, 2022) <<https://berkeleyca.gov/sites/default/files/2022-04/Supplemental%20materials%20FIP%20032522.pdf>> [as of XXX].

¹⁰⁶ City of Berkeley, Supplemental Materials Related to March 8, 2022 Quarterly Update on Implementation of Fair and Impartial Policing Recommendations (Mar. 25, 2022) <<https://berkeleyca.gov/sites/default/files/2022-04/Supplemental%20materials%20FIP%20032522.pdf>> [as of XXX].

¹⁰⁷ City of Berkeley, Supplemental Materials Related to March 8, 2022 Quarterly Update on Implementation of Fair and Impartial Policing Recommendations (Mar. 25, 2022) <<https://berkeleyca.gov/sites/default/files/2022-04/Supplemental%20materials%20FIP%20032522.pdf>> [as of XXX].

¹⁰⁸ City of Berkeley, Supplemental Materials Related to March 8, 2022 Quarterly Update on Implementation of Fair and Impartial Policing Recommendations (Mar. 25, 2022) <<https://berkeleyca.gov/sites/default/files/2022-04/Supplemental%20materials%20FIP%20032522.pdf>> [as of XXX].

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Berkeley PD’s approach is different from many of the other policies we will review in that it does not prohibit certain types of traffic stops, but rather positively identifies stops that further the purpose of public safety.¹⁰⁹ The policy does appear to provide officers with the discretion to determine if a stop is for the purpose of increasing public safety. Berkeley is exploring other ways to address traffic safety, including civilian enforcement models, which are discussed more below.¹¹⁰ The Board is interested to see the impacts of these policies and specifically their effectiveness in reducing disparities in stops and searches during traffic stops.

Los Angeles Police Department (LAPD): In 2022, the LAPD chief of police proposed a policy, which was approved by the Board of Police Commissioners, that establishes limitations on pretextual stops. The policy is intended to improve “communities’ trust that the officer’s actions are fair and without bias.”¹¹¹ The policy defines pretext stops as “where officers use reasonable suspicion or probable cause of a minor traffic or code violation (e.g., Municipal Code or Health and Safety Code) as a pretext to investigate another, more serious crime that is unrelated to that violation.”¹¹²

Similar to the Berkeley PD policy, the LAPD policy allows for traffic stops only if the officer believes the violation “significantly interferes with public safety.”¹¹³ The LAPD policy, however, does not define which specific code sections pose a risk to public safety and instead appears to leave that to the officer’s discretion. The department explicitly addresses the issue of pretext stops, stating:

[P]retextual stops shall not be conducted unless officers are acting upon articulable information in addition to the traffic violation, which may or may not amount to reasonable suspicion, regarding a serious crime (i.e., a crime with potential for great bodily injury or death), such as a Part I violent crime, driving under the influence (DUI), reckless driving, street racing, street takeovers, hit and run, human or narcotics trafficking, gun violence, burglary, or another similarly serious crime. Such decisions

¹⁰⁹ City of Berkeley, Special Presentation to Mayor: Fair and Impartial Policing Working Group (Feb. 23, 2021) <<https://berkeleyca.gov/sites/default/files/documents/2021-02-23%20Special%20Item%2001%20Report%20and%20Recommendations%20-%20Pres%20Mayor.pdf>> [as of XXX]..

¹¹⁰ City of Berkeley, Special Presentation to Mayor: Fair and Impartial Policing Working Group (Feb. 23, 2021) <<https://berkeleyca.gov/sites/default/files/documents/2021-02-23%20Special%20Item%2001%20Report%20and%20Recommendations%20-%20Pres%20Mayor.pdf>> [as of XXX]..

¹¹¹ Los Angeles Police Dept., Limitation on Use of Pretextual Stops: 1/240.06 (Mar. 1, 2022).

¹¹² Los Angeles Police Dept., Limitation on Use of Pretextual Stops: 1/240.06 (Mar. 1, 2022).

¹¹³ Los Angeles Police Dept., Limitation on Use of Pretextual Stops: 1/240.06 (Mar. 1, 2022).

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should not be based on a mere hunch or on generalized characteristics such as a person's race, gender, age, homeless circumstance, or presence in a high-crime location.¹¹⁴

If an officer conducts a pretextual stop, they must document the reasons for doing so on body-worn camera and state the articulable information or intelligence used to initiate the stop.¹¹⁵ Finally, officers' actions or questioning must be limited to the original legal basis for the stop absent additional reasonable suspicion or probable cause that would justify "expanding the duration or the scope of the detention."¹¹⁶ If an officer fails to justify the reason for extending the stop, they may be disciplined, including receiving additional training.¹¹⁷

These policies were developed in response to data collection and an analysis, including RIPA data, showing disparities in stops and searches of motorists.¹¹⁸ The Office of the Inspector General (OIG) audited the LAPD's stop data and body-worn camera videos of stops. The OIG audit showed Black and Hispanic/Latine(x) drivers are stopped more than White drivers and have lower contraband yield rates.¹¹⁹ The report concludes "some portion of the racial disparities seen in both stops and post-stop activity, particularly in stops for traffic or other minor violations, were the result of strategies designed to use these violations as a pretext to identify or suppress more serious crimes. The data also indicates that these strategies are, on balance, of limited effectiveness in identifying evidence of illegal firearms or other serious crimes."¹²⁰

Police Commissioner William Briggs was quoted in support of LAPD's new pretext policy, noting: "Those pretextual stops do not result in guns being taken off the streets, those pretextual stops do not result in curtailing murders and curtailing shootings... There is no data that anyone can point to that establishes that pretextual stops curtail violent crime in our city."¹²¹

Push LA, a coalition of advocates,¹²² argued the policy leaves too much discretion to officers "whose racist practices have been repeatedly called into question" to determine if a stop is

¹¹⁴ Los Angeles Police Dept., Limitation on Use of Pretextual Stops: 1/240.06 (Mar. 1, 2022).

¹¹⁵ Los Angeles Police Dept., Limitation on Use of Pretextual Stops: 1/240.06 (Mar. 1, 2022).

¹¹⁶ Los Angeles Police Dept., Limitation on Use of Pretextual Stops: 1/240.06 (Mar. 1, 2022).

¹¹⁷ Los Angeles Police Dept., Limitation on Use of Pretextual Stops: 1/240.06 (Mar. 1, 2022).

¹¹⁸ LAPD Officers Now Required to Explain 'Pretextual Stops' (Mar. 1, 2022) NBC Los Angeles

<<https://www.nbctv.com/local-2/whats-lapd-pretextual-stops/2838133/>> [as of XXX].

¹¹⁹ Review of Stops Conducted by the Los Angeles Police Department in 2019 (Oct. 2020) Office of the Inspector General <https://www.oig.lacity.org/files/ugd/b2dd23_d3e88738022547acb55f3ad9dd7a1dcb.pdf> [as of XXX].

¹²⁰ Review of Stops Conducted by the Los Angeles Police Department in 2019 (Oct. 2020) Office of the Inspector General <https://www.oig.lacity.org/files/ugd/b2dd23_d3e88738022547acb55f3ad9dd7a1dcb.pdf> [as of XXX].

¹²¹ *Los Angeles Police Will Have to Justify 'Pretextual Stops' or Face Discipline* (Mar. 2022) CBS Los Angeles <<https://www.cbsnews.com/losangeles/news/la-police-commission-changes-policy-on-pretextual-stops/>> [as of XXX].

¹²² ACLU SoCal, Advancement Project CA, Black Lives Matter Los Angeles, Brotherhood Crusade, Brothers, Sons, Selves, Children's Defense Fund California, Community Coalition, Coalition for Humane Immigrant Rights Los Angeles, LA Voice, Labor Community Strategy Center, Million Dollar Hoods, SEIU 2015, SEIU Local 99, Southern Christian Leadership Conference (SCLC), Southern California Social Justice Learning Institute.

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“intended to protect public safety.”¹²³ The coalition expressed frustration the community was not directly involved in the development of this policy.¹²⁴ Push LA urged the department to instead adopt a policy ending all pretextual stops and consent searches, which the community has been demanding from the Commission for years.¹²⁵

LAPD is currently developing training for these new policies. The Board hopes to review the trainings as well as any studies or reviews showing the impact and effectiveness of these policies on reducing disparities that can be gleaned from analysis of the stop data. The Board is interested in any future audits that may be conducted of body worn camera footage and compliance with these new directives. The Board is also interested in learning more about how LAPD engages community partners, such as Push LA, in the developments of these trainings and any additional policy changes related to pretextual stops.

San Francisco Police Department (SFPD) (Developing): SFPD is considering adopting a policy to reduce racial bias in traffic enforcement and limit the use of pretextual stops. The proposed policy being reviewed by the Commission bans all pretext stops and detentions for certain vehicle code violations.¹²⁶ Prohibited stops include: failure to display both license plates or registration, driving with expired registration, failure to illuminate license plate, driving without headlights, taillights, and break lights (except if no lights are functioning and the stop occurs at night), obstructed windows, failure to signal, littering, improper U-turn, sleeping in a car, and any parking infraction.¹²⁷ The policy also limits pedestrian and bicycle stops by prohibiting stops for crossing the street outside of a cross walk, riding a bike on a sidewalk,

¹²³ Push LA also asserted the policy would likely increase funding for training – which is contrary to the community’s call to divest from systems of policing – and expressed frustration at not being involved in the development of the new policy; See PushLA Public Comment Letter to Police Commission, *Opposition Relative to policy revision regarding pretextual stops* (Feb. 2022) pp. 4 -6
<<https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2022/02/Public-Comment-Regarding-Pretextual-Stops-BOPC-22-023-Part-II.pdf>> [as of XXX].

¹²⁴ PushLA Public Comment Letter to Police Commission, *Opposition Relative to policy revision regarding pretextual stops* (Feb. 2022) pp. 4 -6
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¹²⁵ PushLA Public Comment Letter to Police Commission, *Opposition Relative to policy revision regarding pretextual stops* (Feb. 2022) pp. 4 -6
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¹²⁶ Draft General Order, Traffic Enforcement & Curtailing the Use of Pretext Stops (2022) San Francisco Police Department.

¹²⁷ Draft General Order, Traffic Enforcement & Curtailing the Use of Pretext Stops (2022) San Francisco Police Department.

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riding on a non-motorized scooter on a sidewalk, and failure to ride a bike as close as possible the edge of the road.¹²⁸

The proposed policy outlines several exceptions and allows for an officer to issue a citation for the enumerated offenses if the primary reason for the stop was for any felony, misdemeanor, or infraction.¹²⁹ The policy also allows for stops of any commercial vehicles or vehicles that match a suspect description in a serious or violent crime.¹³⁰ Additionally, if a car is unoccupied, an officer can issue a citation for any of the listed offenses or mail the person a ticket.¹³¹

In addition to prohibiting certain stops, the policy also limits searches and questioning during traffic stops.¹³² Officers may not ask investigatory questions regarding unrelated suspected criminal activity unless there is reasonable suspicion or probable cause to question, such as seeing a gun in plain view.¹³³ Similarly, officers may not ask for consent to search or if someone is on supervision unless they have reasonable suspicion or probable cause of a criminal offense.¹³⁴

The proposed policy change is intended to address racial disparities in traffic stops. The policy notes that pretext stops and searches are disproportionately used against people of color and “provide no demonstrable public safety benefit.”¹³⁵ The policy also explains that “limiting this ineffectual practice” will actually improve public safety by freeing up resources and enabling officers to focus only on public safety violations.¹³⁶

This policy is similar to other tiered traffic enforcement models, but takes the additional step of also prohibiting consent searches and supervision inquiries. In its 2022 Report, the RIPA Board report made the recommendations to end consent searches and supervision inquiries and hopes policymakers will also consider these reforms when taking steps to end pretextual stops. These

¹²⁸ Draft General Order, Traffic Enforcement & Curtailing the Use of Pretext Stops (2022) San Francisco Police Department.

¹²⁹ Draft General Order, Traffic Enforcement & Curtailing the Use of Pretext Stops (2022) San Francisco Police Department.

¹³⁰ Draft General Order, Traffic Enforcement & Curtailing the Use of Pretext Stops (2022) San Francisco Police Department.

¹³¹ Draft General Order, Traffic Enforcement & Curtailing the Use of Pretext Stops (2022) San Francisco Police Department.

¹³² Draft General Order, Traffic Enforcement & Curtailing the Use of Pretext Stops (2022) San Francisco Police Department.

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additional steps help mitigate the harmful effects of pretextual stops and other routine police encounters by limiting the actions an officer can take once a stop has already been initiated.

Many agencies and municipalities outside of California have been examining pretextual traffic stops and developing policies and practices to reduce or eliminate disparities caused by such stops. The Board examines these efforts to learn from measured successes when considering policy recommendations for California agencies.

Lansing (Michigan) Police Department (LPD): In July 2020, the Lansing PD chief of police issued an internal memorandum to address pretextual traffic stops in an effort to improve community relations and end any perception of bias-based policing practices.¹³⁷ The new policy creates a primary and secondary traffic enforcement model.¹³⁸ The policy directs that officers can only stop a person for a primary public safety violation and not solely for one of the listed secondary violations.¹³⁹ These secondary violations include: a loud exhaust, inoperable license plate lamp, cracked taillights, cracked windshield, window tint, or dangling ornaments (obstructed window).¹⁴⁰ Such a tiered traffic enforcement model has been replicated in several departments throughout the nation, but in practice what is classified as a primary or secondary violation varies. The chief expressly noted the policy is “focused on protecting the individual constitutional rights of our citizens while eliminating any aspect, inferred or otherwise, of bias-based traffic policing practices. Policing methodology, other than using the constitutional policing model, could damage police legitimacy and improperly disrupt the lives of those that live, visit and work in the City of Lansing.”¹⁴¹ This model exemplifies how departments can and should consider the harms of pretextual stops on community relations.

Brooklyn Center (Minnesota) Police Department (Brooklyn Center PD): In April 2021, Daunte Wright was shot and killed during what could be characterized as a pretextual traffic stop for expired plates and an air freshener hanging from the window (obstructed window).¹⁴² The officer who shot him was convicted on manslaughter. In the wake of this killing, a month later the city of Brooklyn Center passed “The Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Resolution” which took immediate steps to “prevent any further harm and to ensure the pace and safety of all City residents” by prohibiting “custodial arrests or

¹³⁷ Lansing Police Dept., Internal Memorandum: New Guidelines for Traffic Stops (July 1, 2020).

¹³⁸ Lansing Police Dept., Internal Memorandum: New Guidelines for Traffic Stops (July 1, 2020).

¹³⁹ Lansing Police Dept., Internal Memorandum: New Guidelines for Traffic Stops (July 1, 2020).

¹⁴⁰ Lansing Police Dept., Internal Memorandum: New Guidelines for Traffic Stops (July 1, 2020).

¹⁴¹ Lansing Police Dept., Internal Memorandum: New Guidelines for Traffic Stops (July 1, 2020).

¹⁴² Siemaszko, *Daunte Wright was stopped for expired plates, but driving while Black may have been his ‘crime’* (Apr. 12, 2021)NBC News <<https://www.nbcnews.com/news/us-news/daunte-wright-was-stopped-expired-plates-driving-while-black-may-n1263878>> [as of XXX].

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searches of persons or vehicles, for any non-moving traffic infraction, non-felony offense, or non-felony warrant...”¹⁴³ These policy changes were issued alongside a number of other reforms, including the development a civilian traffic enforcement program (which will be discussed in detail in the next section). This policy is unique in that shifts an officer’s incentives for making a traffic stop by forbidding an officer from searching or arresting someone if the underlying basis of the stop is a traffic offense or misdemeanor.

Minneapolis (Minnesota) Police Department (Minneapolis PD): In 2021, shortly after the killing of Daunte Wright, the Minneapolis PD also adopted new policies addressing the conditions under which an officer may initiate a traffic stop. The policy stipulates that officers may not initiate a traffic stop when the only suspected offense is expired registration, window obstruction, or inoperable license plate lights.¹⁴⁴ However, officers may make stops for equipment violations that involve headlights, turn signals, rear lights, or parking lights. For those types of stops, officers are instructed to provide the driver with a “Lights On” coupon to assist the driver in paying for the needed vehicle repair.¹⁴⁵ If the offense does not qualify for the voucher program, then the officer can give a warning or ask that the car remain parked until it can be repaired.¹⁴⁶ This policy was developed in part after a review of traffic stop data which showed that even though Black drivers are disproportionately searched during pretext stops they are “far less likely to be arrested than White drivers who are searched.”¹⁴⁷ One study by the local Public Defender’s Office found “Black drivers accounted for nearly 80% of police searches and routine traffic stops in predominantly White Minneapolis.”¹⁴⁸ The ACLU of Minnesota applauded the development of this policy but strongly encouraged MPD to “expand it to all low-level violations that don’t affect public safety.”¹⁴⁹ Although the police departments voucher

¹⁴³ *Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act ("Act")*, City Council of the City of Brooklyn Center, Minnesota, Resolution 2021-73 (May 15, 2021).

¹⁴⁴ Minneapolis Police Department Policy and Procedure Manual, Traffic Stops No. 7-601 (Oct. 8, 2021) pp. 424 - 426. <<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>> [as of XXX].

¹⁴⁵ Minneapolis Police Department Policy and Procedure Manual, Traffic Stops No. 7-601 (Oct. 8, 2021) pp. 424 - 426. <<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>> [as of XXX].

¹⁴⁶ Minneapolis Police Department Policy and Procedure Manual, Traffic Stops No. 7-601 (Oct. 8, 2021) pp. 424 - 426. <<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>> [as of XXX].

¹⁴⁷ Crann, et. al., *Minneapolis police cut back on pretextual traffic stops in effort to reduce racial profiling* (Aug. 17, 2021) NPR News <<https://www.mprnews.org/story/2021/08/17/minneapolis-police-ending-pretextual-traffic-stops-in-effort-to-reduce-racial-profiling#:~:text=Minneapolis%20Police%20Department%20data%20shows%20that%20Black%20drivers,suspicious%20of%20Black%20drivers%20than%20they%20should%20be.%E2%80%9D>> [as of XXX].

¹⁴⁸ *Study: Most Minneapolis police stops involved Black drivers* (Aug. 7, 2020) Associated Press <<https://abcnews.go.com/US/wireStory/study-minneapolis-police-stops-involved-black-drivers-72239347>>

¹⁴⁹ Jany, *Minneapolis police to scale back low-level traffic stops* (Aug. 12, 2021) StarTribune <<https://www.startribune.com/minneapolis-police-to-scale-back-low-level-traffic-stops/600087423/>> [as of XXX].

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program is promising, other emerging models open up the broader possibility of removing these duties from law enforcement, which could instead be handled by a separate traffic department.¹⁵⁰

Philadelphia (Pennsylvania) Police Department (Philadelphia PD): In 2021, the city of Philadelphia passed the “Reimagining Driver Safety Bill” prohibiting certain types of stops. Officers may not stop a person for any motor vehicle violation unless the person presents an imminent public safety risk.¹⁵¹ Instead, officers are instructed to issue a warning or notice and send it by mail to the person’s registered DMV address.¹⁵² There are 60 enumerated exceptions to this rule including if there is reasonable suspicion to believe someone is DUI, driving while under age, or if an officer is conducting accident scene clearance.¹⁵³ Part of the impetus behind this change was evidence of racial disparities that emerged from data collection on all stop-and-frisks or pedestrian searches ordered as a part of a 2011 settlement agreement.¹⁵⁴ The data revealed that Black drivers constituted 72% of those stopped between 2018-2019 but represented only 48% of the city’s population.¹⁵⁵ The Defender Association of Philadelphia commented that the bill is a “great first step to building more trust between our police and communities of color.”¹⁵⁶ Councilmember Isaiah Thomas said in support, “A person of color’s first exchange with a police officer shouldn’t be during a discriminatory traffic stop. By working closely with the PPD, we were able to identify traffic stops that do nothing to keep people safer and remove the negative interaction. I believe this Philadelphia legislation can set a precedent for other cities, not only through the policy itself but through the collaborative process.”¹⁵⁷ This approach is similar to Berkeley’s, which allows for traffic stops only if there is a public safety concern. The

¹⁵⁰ *Reimagining Driver Safety Bill*, City Council of Philadelphia, Bill No. 210636 (Oct. 27, 2021); Reimagining Public Safety/BerkDOT (May 19, 2021) Task Force Meeting Agenda <<https://www.berkeleyside.org/wp-content/uploads/2021/05/Reimagining-5-19-BerkDOT.pdf>> [as of XXX]; Oakland Reimagining Public Safety Task Force: Report and Recommendations (Apr. 2021) City of Oakland <<https://cao-94612.s3.amazonaws.com/documents/Oakland-RPSTF-Report-Final-4-29-21.pdf>> [as of XXX].

¹⁵¹ *Reimagining Driver Safety Bill*, City Council of Philadelphia, Bill No. 210636 (Oct. 27, 2021).

¹⁵² *Reimagining Driver Safety Bill*, City Council of Philadelphia, Bill No. 210636 (Oct. 27, 2021).

¹⁵³ *Reimagining Driver Safety Bill*, City Council of Philadelphia, Bill No. 210636 (Oct. 27, 2021).

¹⁵⁴ Simko-Bednarski, Brown, and Tucker, *Mayor signs legislation making Philadelphia the first major US city to ban police from stopping drivers for low-level traffic violations* (Nov. 4, 2021) <<https://edition.cnn.com/2021/11/03/us/philadelphia-traffic-stop-equality-bill-mayor-approval/index.html>> [as of XXX].

¹⁵⁵ Simko-Bednarski, Brown, and Tucker, *Mayor signs legislation making Philadelphia the first major US city to ban police from stopping drivers for low-level traffic violations* (Nov. 4, 2021) <<https://edition.cnn.com/2021/11/03/us/philadelphia-traffic-stop-equality-bill-mayor-approval/index.html>> [as of XXX].

¹⁵⁶ Simko-Bednarski, Brown, and Tucker, *Mayor signs legislation making Philadelphia the first major US city to ban police from stopping drivers for low-level traffic violations* (Nov. 4, 2021) <<https://edition.cnn.com/2021/11/03/us/philadelphia-traffic-stop-equality-bill-mayor-approval/index.html>> [as of XXX].

¹⁵⁷ *Councilmember Thomas Introduces Driving Equality Agenda* (Jun. 24, 2021) City Council Philadelphia <<https://phlcouncil.com/councilmember-thomas-introduces-driving-equality-agenda/>> [as of XXX].

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policy is unique, however, in that it requires officers to instead mail a ticket, thus reducing the footprint of policing and eliminating unnecessary contact between civilians and the police.

Pittsburgh (Pennsylvania) Police Department: In late 2021, the Mayor of Pittsburgh created a Community Task Force, which issued a number of recommendations on ways to improve public safety.¹⁵⁸ Based on those recommendations the city developed a primary and secondary traffic enforcement model, wherein officers cannot solely stop someone for a secondary offense, such as an expired registration.¹⁵⁹ Another recommendation was to increase the share of “encounter-free traffic enforcement among non-criminal incidents” and even entirely shift some duties to other departments, which is discussed in more detail below.¹⁶⁰ This model is similar to others that created a tiered traffic enforcement program, such as in Lansing, Michigan, but it also notes the need to create additional policies that further reduce police officers’ role in traffic enforcement, if not eliminate it entirely, similar to the Berkeley model.

St. Louis (Missouri) Police Department (Developing): In an effort to improve public safety, the city of St. Louis is working in partnership with the Center for Policing Equity (CPE) to develop policy recommendations to address racial disparities in policing.¹⁶¹ CPE recommended banning the use of pretextual stops and prohibiting stops based on low-level violations (like obstructed windows, registration offenses, or jaywalking). CPE also recommended prohibiting officers from asking questions beyond the scope of the original reason for the stop.¹⁶² CPE argues these policy changes will promote procedural justice and reduce racial disparities in police stops.¹⁶³

¹⁵⁸ Pittsburgh Bureau of Police’s Response to Mayor’s Community Task Force Recommendations, City of Pittsburgh Police Department <<https://pittsburghpa.gov/police/task-force-police-reform>> [as of XXX].

¹⁵⁹ Deluca, *Pittsburgh councilman to introduce bill proven police from conducting certain traffic stops* (Nov. 9, 2021) WPXI <<https://www.wpxi.com/news/top-stories/pittsburgh-councilman-introduce-bill-prevent-police-conducting-certain-traffic-stops/WDAIWIN7GZERTB67EMKFJ46TGA/>> [as of XXX].

¹⁶⁰ Pittsburgh Bureau of Police’s Response to Mayor’s Community Task Force Recommendations, City of Pittsburgh Police Department <<https://pittsburghpa.gov/police/task-force-police-reform>> [as of XXX].

¹⁶¹ *Reimagining Public Safety in the City of St. Louis: A Vision for Change* (Apr. 2022) Center for Policing Equity <https://policingequity.org/images/pdfs-doc/Reimagining_Public_Safety_in_St._Louis_Final_Report.pdf> [as of XXX].

¹⁶² *Reimagining Public Safety in the City of St. Louis: A Vision for Change* (Apr. 2022) Center for Policing Equity <https://policingequity.org/images/pdfs-doc/Reimagining_Public_Safety_in_St._Louis_Final_Report.pdf> [as of XXX].

¹⁶³ *Reimagining Public Safety in the City of St. Louis: A Vision for Change* (Apr. 2022) Center for Policing Equity <https://policingequity.org/images/pdfs-doc/Reimagining_Public_Safety_in_St._Louis_Final_Report.pdf> [as of XXX].

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In support of their recommendations, CPE cites data showing that non-White drivers are more frequently subject to pretextual stops.¹⁶⁴ Further, according to CPE experts this policy change could also reduce the likelihood of use of force incidents by decreasing opportunities for unnecessary interactions.¹⁶⁵ In St. Louis, data showed that those who are perceived as Black made up 81.2% of use of force incidents but 47.5 percent of the city’s population. In contrast, those perceived as White comprised 17.8% of those involved in use of force incidents, but make up 42.9% of the population.¹⁶⁶

Developing Best Practices: These models contain key provisions other law enforcement agencies and municipalities may wish to explore when creating their own policies.

[Will be Developed in Subcommittees]

iv. *District Attorneys’ Offices*

Los Angeles District Attorney (L.A. District Attorney): In 2020, the L.A. District Attorney issued special directives identifying specific misdemeanor charges, such as window obstruction, that have minimal effects on public safety.¹⁶⁷ The goal of the policy is to improve public safety by redirecting resources and issues that are not criminal in nature from the criminal legal system to another more appropriate agency, reducing the overall footprint of the criminal legal system in traffic enforcement.¹⁶⁸ The L.A. District Attorney’s policies address misdemeanor convictions broadly, such as declining to file charges on loitering offenses, and also addresses charges that can stem from pretextual stops. Further, the policies identify types of “quality of life offenses” that would be better suited for agencies with expertise in working with those with mental health disabilities, experiencing homelessness, or drug misuse.¹⁶⁹

Misdemeanor charges will be declined or dismissed in the following types of cases, unless a specific exception enumerated in the policy applies: trespass¹⁷⁰, disturbing the peace¹⁷¹, driving

¹⁶⁴ *Reimagining Public Safety in the City of St. Louis: A Vision for Change* (Apr. 2022) Center for Policing Equity <https://policingequity.org/images/pdfs-doc/Reimagining_Public_Safety_in_St_Louis_Final_Report.pdf> [as of XXX].

¹⁶⁵ *Reimagining Public Safety in the City of St. Louis: A Vision for Change* (Apr. 2022) Center for Policing Equity <https://policingequity.org/images/pdfs-doc/Reimagining_Public_Safety_in_St_Louis_Final_Report.pdf> [as of XXX].

¹⁶⁶ Obradovic, *St. Louis City Considers Curtailing Police Response* (Mar. 31. 2022) Riverfront Times <<https://www.riverfronttimes.com/news/st-louis-city-considers-curtailing-police-response-37427348>> [as of XXX].

¹⁶⁷ Los Angeles District Attorney’s Office, *Special Directive: Misdemeanor Case Management* (Dec. 2020).

¹⁶⁸ Los Angeles District Attorney’s Office, *Special Directive: Misdemeanor Case Management* (Dec. 2020).

¹⁶⁹ Los Angeles District Attorney’s Office, *Special Directive: Misdemeanor Case Management* (Dec. 2020).

¹⁷⁰ Pen. Code § 602(a)-(y)

¹⁷¹ Pen Code § 415(1)-(3)

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without a license¹⁷², driving on a suspended license¹⁷³, criminal threats¹⁷⁴, drug and paraphernalia possession¹⁷⁵, minor in possession of alcohol¹⁷⁶, drinking in public¹⁷⁷, under the influence of a controlled substance¹⁷⁸, public intoxication¹⁷⁹, loitering¹⁸⁰, loitering to commit prostitution¹⁸¹, and certain types of misdemeanor resisting arrest.¹⁸²

One of the driving forces for this policy change is data analysis showing misdemeanor cases disproportionately affect those with disabilities. In Los Angeles County, 47 percent of those in custody for misdemeanor cases have a mental health disability and 60 percent have substance use disorders.¹⁸³ Those who are unhoused account for 20 percent of arrests in the county but only represent 1.7% of the overall population of the county.¹⁸⁴ The policy also notes that misdemeanor convictions, such as driving on a suspended license, can have serious disparate impacts based on someone's immigration status.¹⁸⁵

The policy explains that in order to best serve public safety, people who are in need of services or treatment should be helped by treatment providers in the community rather than being funneled into the criminal legal system thus freeing prosecutors to instead focus their limited time and resources on the most serious cases.¹⁸⁶ A key aspect of improving public safety in communities is decriminalization – identifying and eliminating enforcement of certain charges that have a disparate impact on targeted communities and are better suited for a non-criminal response.¹⁸⁷

San Francisco District Attorney (S.F. District Attorney): In 2020, the former S.F. District Attorney created a groundbreaking policy to address racial and identity profiling by declining to file contraband charges resulting from pretextual stops. The policy is “intended to discourage the use of traffic laws as a pretext to stop and search people of color based on implicit or express bias.”¹⁸⁸ The policy establishes a presumption against filing charges based on possession of

¹⁷² Vehicle Code § 12500(a)-(e)

¹⁷³ Vehicle Code § 14601.1(a)

¹⁷⁴ Pen Code § 422

¹⁷⁵ Health & Safety Code §§ 11350, 11357, 11364, & 11377

¹⁷⁶ Business & Professions § 25662(a)

¹⁷⁷ Los Angeles County Municipal Code §13.18.010

¹⁷⁸ Health & Safety Code § 11550

¹⁷⁹ Pen. Code § 647(f)

¹⁸⁰ Pen. Code § 647(b),(c), (d), (e)

¹⁸¹ Pen. Code § 653.22(a)(1)

¹⁸² Pen. Code § 148(a)

¹⁸³ Los Angeles District Attorney's Office, Special Directive: Misdemeanor Case Management (Dec. 2020).

¹⁸⁴ Los Angeles District Attorney's Office, Special Directive: Misdemeanor Case Management (Dec. 2020).

¹⁸⁵ Los Angeles District Attorney's Office, Special Directive: Misdemeanor Case Management (Dec. 2020).

¹⁸⁶ Los Angeles District Attorney's Office, Special Directive: Misdemeanor Case Management (Dec. 2020).

¹⁸⁷ Los Angeles District Attorney's Office, Special Directive: Misdemeanor Case Management (Dec. 2020).

¹⁸⁸ San Francisco District Attorney's Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

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contraband if (1) the search stems from an infraction-related stop, such as a broken taillight, and (2) there is no other legal justification for the search, such as contraband seen in plain view.¹⁸⁹

The policy also includes declining to file charges for “consent-only” searches, citing “long-standing and documented racial and ethnic disparities in law enforcement request for consent to search.”¹⁹⁰ Additionally, the District Attorney will not file contraband-related charges stemming from any detention for an infraction, such as a traffic ticket, that is prolonged based on a supervision inquiry and subsequent search.¹⁹¹ This directive applies specifically to infraction-related stops and post stop searches where there is “no other articulable suspicion of criminal activity,” and to any possession-related charges that may result from the stop or search.¹⁹² The policy does not prevent prosecution for non-possessionary crimes (such as a DUI) nor is it meant to discourage enforcement of traffic offenses.¹⁹³

This policy was developed in response to nearly 20 years of reporting showing sharp disparities in who is stopped and searched during pretext traffic infraction stops.¹⁹⁴ For example, in 2002, the ACLU issued a report analyzing San Francisco’s stop data, and found that Black motorists were twice as likely to be asked for consent to search and 3.3 times more likely to be searched during a traffic stop. Hispanic/Latine(x) drivers were 2.6 more likely times to be searched during a traffic stop.¹⁹⁵ Years later, the trend remains. In 2016 researchers found in San Francisco Black and Hispanic/Latine(x) drivers were significantly more likely to be searched in a traffic stop than any other group following a stop.¹⁹⁶ In another report issued that year by the U.S. Department of Justice, researchers noted across the country Black and Hispanic/Latine(x) drivers were less likely to be found with contraband but “Black people were 24% more likely to be stopped for a traffic violation than their estimated population in the driving community and 9% more likely than their estimated population among potential traffic violators.”¹⁹⁷

¹⁸⁹ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

¹⁹⁰ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

¹⁹¹ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

¹⁹² San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

¹⁹³ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

¹⁹⁴ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

¹⁹⁵ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

¹⁹⁶ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

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Based on the numerous studies cited above, the use of this enforcement tactic causes great harm to individuals and communities in relation to the minimal yield rate associated with this invasive law enforcement tactic, has a negative effect on building necessary trust with affected communities and has hindered the effective prosecution of criminal cases. – Policy Directive, see footnote XXX

In 2020, San Francisco Police Department conducted its own analysis of the RIPA stop data and found that Black people were stopped at almost 5 times their representation in the city’s population and White individuals; the analysis also found that those perceived as Black were searched at 2.9 times the rate of those perceived to be White, yet had lower yield rates of contraband from those searches.¹⁹⁸ The proposed SFPD policy notes that according to RIPA statewide data, contraband is rarely found in traffic stops, and contraband was seized in approximately 1.3% of all traffic stops, and weapons or ammunition seized in 0.6% of all traffic stops.¹⁹⁹

The S.F. District Attorney explains that numerous studies have shown pretext stops are not an effective crime prevention strategy and causes significant harms to targeted communities.²⁰⁰ The S.F. District Attorney’s approach targets the types of enforcement action, such as consensual search stemming from a traffic violation, and establishes a presumption that a charging DA will not pursue charges from those stops.²⁰¹

Washtenaw County (Ann Arbor, Michigan): In 2021, the Washtenaw County District Attorney issued a policy directive that deputies will decline to file charges in the following circumstances: (1) any possession of contraband arising from an infraction-related stop or a consent search where there is no other legal justification for the search; or (2) any infraction-related stop.²⁰² The policy defines the possession of contraband charge as a controlled substance, possession of stolen, embezzled, or converted property, minor in possession of alcohol, as well as certain possession of weapon offenses.²⁰³ A driving factor in this policy change was a careful

¹⁹⁸ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

¹⁹⁹ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

²⁰⁰ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

²⁰¹ San Francisco District Attorney’s Office, Policy Directive: Declination of Contraband Charges Based on Pretextual Stops (2020).

²⁰² Washtenaw County Office of the Prosecuting Attorney, Policy Directive 2021-09: Policy Regarding Pretext Stops <<https://www.washtenaw.org/DocumentCenter/View/19235/Pretext-Stops-Policy>> [as of XXX].

²⁰³ Washtenaw County Office of the Prosecuting Attorney, Policy Directive 2021-09: Policy Regarding Pretext Stops <<https://www.washtenaw.org/DocumentCenter/View/19235/Pretext-Stops-Policy>> [as of XXX].

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review of both national and local stop data which strongly indicates that “pretext stops are one driver of inequity in our justice system.”²⁰⁴

Ramsey County (Minneapolis, Minnesota): The Ramsey County District Attorney does not prosecute cases if the charge or allegation is “the sole result of a non-public traffic safety stops or from searching the vehicle based only on the consent and without any articulable suspicion.”²⁰⁵ The policy specifies that non-public traffic safety stops include violations for: expired vehicle registration, improper illumination of license plates, muffler noise violations, window obstruction, window tint, and certain vehicle lighting violations.²⁰⁶ The office will also decline to prosecute cases stemming from consensual searches. The Ramsey County District Attorney notes “one goal of the policy is to address racial disparities in traffic stops.” The other goal is to improve people's trust in the police.²⁰⁷

Ingham County (Lansing, Michigan): Ingham County prosecutors apply a heightened scrutiny to all traffic stops and automobile searches and do not file charges or decline a request for a warrant if (1) the allegations result from non-public safety related stop and (2) there was a consent-only search resulting in a finding of possession of contraband²⁰⁸ or the stop resulted in the citation for an infraction.²⁰⁹ Like other offices, Ingham County defines non-public safety as “common infractions that do not typically pose an actual danger to a person, property, or the general public [and] include: window tint, expired registration, a single defective tail light, failing to stop leaving a private drive, driving in the left lane, some defective equipment

²⁰⁴ Washtenaw County Office of the Prosecuting Attorney, Policy Directive 2021-09: Policy Regarding Pretext Stops <<https://www.washtenaw.org/DocumentCenter/View/19235/Pretext-Stops-Policy>> [as of XXX].

²⁰⁵ Lick, *Ramsey County to end felony prosecutions from non-public safety traffic stops* (Sept. 2021) KARE 11 <<https://www.kare11.com/article/news/local/ramsey-county-end-felony-prosecutions-non-public-safety-traffic-stops/89-672301f3-0824-4f12-87a1-890fba5d0a86>> [as of XXX].

²⁰⁶ Lick, *Ramsey County to end felony prosecutions from non-public safety traffic stops* (Sept. 2021) KARE 11 <<https://www.kare11.com/article/news/local/ramsey-county-end-felony-prosecutions-non-public-safety-traffic-stops/89-672301f3-0824-4f12-87a1-890fba5d0a86>> [as of XXX].

²⁰⁷ Lick, *Ramsey County to end felony prosecutions from non-public safety traffic stops* (Sept. 2021) KARE 11 <<https://www.kare11.com/article/news/local/ramsey-county-end-felony-prosecutions-non-public-safety-traffic-stops/89-672301f3-0824-4f12-87a1-890fba5d0a86>> [as of XXX].

²⁰⁸ Possession of contraband includes the following: possession of a controlled substance (MCL 333.7403); receiving or concealing stolen, embezzled, or converted property (MCL 750.535); minor in possession of alcohol (MCL 436.1703); carrying a concealed weapon (MCL 750.227), possession of a blackjack, slungshot, billy, metallic knuckles, sand club, sand bag, bludgeon, or portable device directing electrical current (MCL 750.124(1)(d)); possession or transportation of a firearm or pneumatic gun in a vehicle (MCL 750.227c-d); and possession of a firearm in public by a minor (MCL 750.234f), See Ingham County Prosecutor’s Office, Policy regarding Heightened Scrutiny of Traffic Stops and Automobile Searches (July 2021) <https://eastlansinginfo.news/wp-content/uploads/2021/07/Heightened-Scrutiny-of-Traffic-Stops.Final_.7.26.21-1-1.pdf> [as of XXX].

²⁰⁹ Ingham County Prosecutor’s Office, Policy regarding Heightened Scrutiny of Traffic Stops and Automobile Searches (July 2021) <https://eastlansinginfo.news/wp-content/uploads/2021/07/Heightened-Scrutiny-of-Traffic-Stops.Final_.7.26.21-1-1.pdf> [as of XXX].

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infractions, and driving while license suspended.”²¹⁰ The Ingham County policy was developed in partnership with the Vera Institute of Justice to review charging data²¹¹ and national studies showing significant racial disparities on stops and searches for contraband. The policy emphasizes there is more work to do but “this policy is one step towards change.”²¹²

Chittenden County (Burlington, Vermont): Burlington prosecutors apply heightened scrutiny to all traffic stops to “ensure they are not being used for pretextual purposes” and do not file charges stemming from non-public safety stops if the stops appear to be “made only for the purpose of fishing for evidence or other crimes.” The policy cites an example in which a search is conducted during a traffic stop after the driver consents and evidence unrelated to the reason for the stop is discovered. The Burlington policy defines non-public safety violations to include: a broken taillight or brake light, failing to signal lane change, expired registration, driving on a suspended license, excessively loud muffler, tinted windows, idling of a vehicle, window obstruction, improper vehicle plates, and stops done strictly for warrant checks.²¹³ This policy, like others, was developed after a review of national and statewide data showing significant disparities in the stop and search rates of Black and Hispanic/Latine(x) drivers.²¹⁴ The Burlington district attorney noted “it is making the discretionary choice to not proceed with charges resulting from non-public safety stops to help alleviate implicit racial bias, help restore our community’s faith in local institutions, and improve safety within our community.”

²¹⁰ Ingham County Prosecutor’s Office, Policy regarding Heightened Scrutiny of Traffic Stops and Automobile Searches (July 2021) <https://eastlansinginfo.news/wp-content/uploads/2021/07/Heightened-Scrutiny-of-Traffic-Stops.Final_.7.26.21-1-1.pdf> [as of XXX].

²¹¹ Preliminary data from the Ingham County Prosecutor’s Office’s (ICPO) collaborative partnership with the Vera Institute for Justice shows that there is a significant racial disparity in charged cases in Ingham County. Black and Hispanic people represent 12 percent of the population in Ingham County, yet they represent 41 percent of the misdemeanor caseload and 54 percent of the felony caseload in the ICPO. Black people in Ingham County are 4.6 times more likely to be charged with a misdemeanor and 7.6 times more likely to be charged with a felony than white people. Ingham County Prosecutor’s Office, Policy regarding Heightened Scrutiny of Traffic Stops and Automobile Searches (July 2021) <https://eastlansinginfo.news/wp-content/uploads/2021/07/Heightened-Scrutiny-of-Traffic-Stops.Final_.7.26.21-1-1.pdf> [as of XXX].

²¹² Ingham County Prosecutor’s Office, Policy regarding Heightened Scrutiny of Traffic Stops and Automobile Searches (July 2021) <https://eastlansinginfo.news/wp-content/uploads/2021/07/Heightened-Scrutiny-of-Traffic-Stops.Final_.7.26.21-1-1.pdf> [as of XXX].

²¹³ Office of the Chittenden County State’s Attorney, Non-Public Safety Stop Policy (Dec. 2021) <<https://s3.documentcloud.org/documents/21177955/sarah-george-memo.pdf>> [as of XXX].

²¹⁴ “A recent study found that Black Vermonters were four times more likely to be stopped and three times more likely to be searched during a stop than White Vermonters. Latinx Vermonters also were both stopped and searched at higher rates. This is in spite of the fact that searches of Black and Latinx drivers resulted in lower “hit” rates (the rate at which illegal contraband is found) than White or Asian drivers,” See Office of the Chittenden County State’s Attorney, Non-Public Safety Stop Policy (Dec. 2021) <<https://s3.documentcloud.org/documents/21177955/sarah-george-memo.pdf>> [as of XXX].

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Manhattan County (New York, New York): In 2022, the Manhattan District Attorney issued a memo containing new charging policies and procedures directing deputies not to prosecute specific charges including “any violation, traffic infraction, or other non-criminal offense not accompanied by a misdemeanor or felony.”²¹⁵ The memo also includes policies directing deputies not to prosecute charges such as trespass, misdemeanor resisting arrest, refusing to pay public transit fair, driving without a license, and prostitution.²¹⁶

Developing Best Practices: Many of these policies contain several core components other District Attorney Offices may wish to consider when developing strategies to address pretextual stops.

[Will be Developed in Subcommittees]

1. State Legislatures

Virginia: In July 2021, the state of Virginia passed a groundbreaking law to curtail pretext stops and searches that has served as the model for other laws across the country. Virginia’s law develops a primary and secondary tiered traffic enforcement model which prevents an officer from stopping someone or issuing a citation for certain specified offenses unless there is another legal cause to stop the person.²¹⁷ If a charge stems from a search or stop solely based on the restricted offenses, then the evidence will not be admissible in court.²¹⁸ Those infractions include

²¹⁵ Manhattan District Attorney, Day One Letter (Jan. 2022) <<https://www.manhattanda.org/wp-content/uploads/2022/01/Day-One-Letter-Policies-1.03.2022.pdf>> [as of XXX].

²¹⁶ Manhattan District Attorney, Day One Letter (Jan. 2022) <<https://www.manhattanda.org/wp-content/uploads/2022/01/Day-One-Letter-Policies-1.03.2022.pdf>> [as of XXX].

²¹⁷ H 5058, Virginia Acts of Assembly (2020 Reg. Sess.) <<https://static1.squarespace.com/static/58afc5861b631bb7fa6729f6/t/609325f4e3157f0a949d8c45/1620256244752/1/egp604.exe-14.pdf>; <https://acluva.org/en/know-your-rights/police?msclkid=a3559f6cb9c411ec9d06ca64814e29c4>> [as of XXX].

²¹⁸ H 5058, Virginia Acts of Assembly (2020 Reg. Sess.) <<https://static1.squarespace.com/static/58afc5861b631bb7fa6729f6/t/609325f4e3157f0a949d8c45/1620256244752/1/egp604.exe-14.pdf>; <https://acluva.org/en/know-your-rights/police?msclkid=a3559f6cb9c411ec9d06ca64814e29c4>> [as of XXX].

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window tints, dangling objects, expired registration, loud exhaust, jaywalking, marijuana odor, or defective equipment such as lights out.²¹⁹

The legislation aims to directly address “many of the most commonly used pretexts, which police use to conduct investigations of ‘hunches’ for which they have no evidence. Those ‘hunches’ are often driven by implicit if not explicit racial bias, leading to dramatic racial disparities in traffic and pedestrian encounters.”²²⁰ Advocacy organizations in Virginia have applauded the efforts to limit pretextual stops but encourage leaders to push further and also prohibit consent searches during traffic stops, create a civilian traffic enforcement agency, and identify over-enforced misdemeanors.²²¹

Connecticut: In a 2022 report, Connecticut’s Police Transparency and Accountability Task Force²²² recommended the state adopt a primary and secondary stop system, similar to the Virginia law, where a traffic stop must be based on a primary traffic violation and cannot be based on a secondary violation alone.²²³ A secondary traffic violation may include stops for violations regarding window tints, display-of-plate, certain vehicle lighting, obstructed windshield, vehicle licensing (such as expired registration), driving without a license, and some equipment violations.²²⁴

²¹⁹ H 5058, Virginia Acts of Assembly (2020 Reg. Sess.)

<<https://static1.squarespace.com/static/58afc5861b631bb7fa6729f6/t/609325f4e3157f0a949d8c45/1620256244752/1egp604.exe-14.pdf>; <https://acluva.org/en/know-your-rights/police?msclkid=a3559f6cb9c411ec9d06ca64814e29c4>> [as of XXX].

²²⁰ *Success Story: Many Policing ‘Pretexts’ Eliminated in Virginia* (2021) Justice Forward Virginia <<https://justiceforwardva.com/pretextual-policing?msclkid=a354cd74b9c411ec9514ea0e364ec6d2>> [as of XXX].

²²¹ *Success Story: Many Policing ‘Pretexts’ Eliminated in Virginia* (2021) Justice Forward Virginia <<https://justiceforwardva.com/pretextual-policing?msclkid=a354cd74b9c411ec9514ea0e364ec6d2>> [as of X

²²² Connecticut Police Transparency & Accountability Task Force: Final Report (Jan. 2022) <https://www.cga.ct.gov/jud/tfs/20200116_Police%20Transparency%20and%20Accountability%20Task%20Force/1%20Reports/Final%20Report%20January%2011%202022%20PTATF.pdf#:~:text=Through%20this%20new%20legislation%2C%20Connecticut%20established%20the%20Police,regarding%20improved%20police%20transparency%20and%20accountability%20in%20Connecticut.?msclkid=eaddcc52baa211ecb80273dc10181428> [as of XXX].

²²³ Connecticut Police Transparency & Accountability Task Force: Final Report (Jan. 2022) <https://www.cga.ct.gov/jud/tfs/20200116_Police%20Transparency%20and%20Accountability%20Task%20Force/1%20Reports/Final%20Report%20January%2011%202022%20PTATF.pdf#:~:text=Through%20this%20new%20legislation%2C%20Connecticut%20established%20the%20Police,regarding%20improved%20police%20transparency%20and%20accountability%20in%20Connecticut.?msclkid=eaddcc52baa211ecb80273dc10181428> [as of XXX].

²²⁴ Connecticut Police Transparency & Accountability Task Force: Final Report (Jan. 2022) <https://www.cga.ct.gov/jud/tfs/20200116_Police%20Transparency%20and%20Accountability%20Task%20Force/1%20Reports/Final%20Report%20January%2011%202022%20PTATF.pdf#:~:text=Through%20this%20new%20legislation%2C%20Connecticut%20established%20the%20Police,regarding%20improved%20police%20transparency%20and%20accountability%20in%20Connecticut.?msclkid=eaddcc52baa211ecb80273dc10181428> [as of XXX].

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These recommendations are to address observed disparities in the treatment of community members in traffic stops. The Task Force’s report notes that “stops categorized as equipment-related and administrative have demonstrated statistically significant racial and ethnic disparities and were the primary focus for inclusion in a secondary traffic law system.”²²⁵ The report explains that violations such as administrative violation and equipment violations are not the result of any criminal intent but rather not having the financial resources to bring the vehicle in compliance with the law.²²⁶ Of note, the state (currently/also) prohibits officers from requesting consent to search a vehicle stopped for a motor vehicle violation.²²⁷

The RIPA Board encourages lawmakers to consider various measures, including prohibiting consent searches of vehicles or creating a primary and secondary traffic systems, and how they might reduce significant disparities and inequitable enforcement of traffic laws.

Vermont: In 2022, Vermont’s state legislature proposed amendments to the law addressing how officers respond, if at all, to certain infractions. The legislation provides officers may enforce the enumerated traffic codes only if the person is detained for another suspected violation of the law.²²⁸ The traffic violations include: failure to carry registration, failure to display registration or display unobstructed license numbers, operating with a learner’s permit, obstructed windshield, headlights and certain lighting violations, and seat belts.²²⁹ Similarly, the bill outlines pedestrian violations that may be enforced only if the person is detained for another violation of the law.²³⁰ The pedestrian violations include: not crossing at control signals, pedestrians on roadways, pedestrians misusing the crosswalk, panhandling or highway solicitations, and duties of pedestrians generally.²³¹

The catalyst for this change was a review of Vermont traffic stop data showing significant disparities in policing and that non-public safety stops are not productive and locating

²²⁵ Connecticut Police Transparency & Accountability Task Force: Final Report (Jan. 2022) <https://www.cga.ct.gov/jud/tfs/20200116_Police%20Transparency%20and%20Accountability%20Task%20Force/1%20Reports/Final%20Report%20January%2011%202022%20PTATF.pdf#:~:text=Through%20this%20new%20legislation%2C%20Connecticut%20established%20the%20Police,regarding%20improved%20police%20transparency%20and%20accountability%20in%20Connecticut.?msclkid=eaddcc52baa211ecb80273dc10181428> [as of XXX].

²²⁶ Connecticut Police Transparency & Accountability Task Force: Final Report (Jan. 2022) <https://www.cga.ct.gov/jud/tfs/20200116_Police%20Transparency%20and%20Accountability%20Task%20Force/1%20Reports/Final%20Report%20January%2011%202022%20PTATF.pdf#:~:text=Through%20this%20new%20legislation%2C%20Connecticut%20established%20the%20Police,regarding%20improved%20police%20transparency%20and%20accountability%20in%20Connecticut.?msclkid=eaddcc52baa211ecb80273dc10181428> [as of XXX].

²²⁷ Conn. Gen. Stats. §§ 54-33b; 54-33o

²²⁸ H. 635 (2022) Vermont.

²²⁹ H. 635 (2022) Vermont.

²³⁰ H. 635 (2022) Vermont.

²³¹ H. 635 (2022) Vermont.

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contraband or other evidence of a crime.²³² Specifically, the data shows these non-public safety stops, enumerated in the legislation, are “20 times more likely than a safety stop to be one in which the officer takes no action — that is, no warning, ticket, arrest or search.”²³³ Moreover, the data show that Black drivers are twice as likely as white drivers to have no action taken during a non-public safety stop.”²³⁴

[Best Practices in Development]

Oregon²³⁵: In 2022, Oregon (passed/considered) a law to address pretextual stops by prohibiting officers from making a stop based solely based on specified traffic infractions. The law includes stops for operating without required lighting equipment such as headlights, taillights, and break lights as long as one corresponding light is in compliance.²³⁶ This change, like many other states, has been prompted by a review of state-collected stop data showing racial disparities in stops and searches.²³⁷ In addition to restricting certain types of stops, the Oregon laws further prevents pretext stops and searches by decriminalizing offenses, such as drug possession. This measure disincentivizes law enforcement searches and instead focuses law enforcement efforts on evidence-based violence prevention to improve public safety.²³⁸

The Board encourages legislatures in addition to limiting certain types of pretextual stops also decriminalize certain offenses, which is discussed in more detail on page XX below. By decriminalizing specific types of possession offenses, Oregon’s laws address both the practice of

²³² Seguino, Brooks, and Autilio, *Reducing pretext stops can lower racial disparities in Vermont Policing* (Feb. 2022) Vermont Digger <<https://vtdigger.org/2022/02/25/seguino-brooks-and-autilio-reducing-pretext-stops-can-lower-racial-disparities-in-vermont-policing/#:~:text=A%20bill%20in%20the%20Vermont%20House%20%28H.635%20An,vehicle%20for%20another%20suspected%2C%20more%20serious%20traffic%20violation.?msclkid=c561ddbbb9bb11eca3bf2d5b68b04178>> [as of XXX].

²³³ Seguino, Brooks, and Autilio, *Reducing pretext stops can lower racial disparities in Vermont Policing* (Feb. 2022) Vermont Digger <<https://vtdigger.org/2022/02/25/seguino-brooks-and-autilio-reducing-pretext-stops-can-lower-racial-disparities-in-vermont-policing/#:~:text=A%20bill%20in%20the%20Vermont%20House%20%28H.635%20An,vehicle%20for%20another%20suspected%2C%20more%20serious%20traffic%20violation.?msclkid=c561ddbbb9bb11eca3bf2d5b68b04178>> [as of XXX].

²³⁴ Seguino, Brooks, and Autilio, *Reducing pretext stops can lower racial disparities in Vermont Policing* (Feb. 2022) Vermont Digger <<https://vtdigger.org/2022/02/25/seguino-brooks-and-autilio-reducing-pretext-stops-can-lower-racial-disparities-in-vermont-policing/#:~:text=A%20bill%20in%20the%20Vermont%20House%20%28H.635%20An,vehicle%20for%20another%20suspected%2C%20more%20serious%20traffic%20violation.?msclkid=c561ddbbb9bb11eca3bf2d5b68b04178>> [as of XXX].

²³⁵ Oregon SB 1510 (2022 Reg. Sess.)

²³⁶ Oregon SB 1510 (2022 Reg. Sess.)

²³⁷ *Statistical Transparency of Policing Report* (Dec. 2021) Oregon Criminal Justice Commission <https://www.oregon.gov/cjc/CJC%20Document%20Library/STOP_REPORT_2021_FINAL.pdf> [as of XXX].

²³⁸ Goerling and Goldstein, *Our view: Policing bill would repair police, community relations* (Feb. 2022) Portland Tribune <<https://pamplinmedia.com/pt/10-opinion/537347-430280-our-view-policing-bill-would-repair-police-community-relations>> [as of XXX].

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pretext stops and the incentives for making those stops. Legislatures should consider creating a package of reforms to address and end pretextual stops that include decriminalization as a core component in those reforms.

New York²³⁹: The state of New York takes a different approach to address pretextual stops with significant disparities by targeting or focusing the law on specific enforcement actions. In 2020, the state repealed its anti-loitering statutes, known as the “Walking While Trans” ban.²⁴⁰ The state law was prompted in part by data from the New York State Division of Criminal Justice Services that shows “91% of people arrested under the statute were Black and Latinx people, and 80% identified as women.”²⁴¹

Similarly, in 2022 the state considered additional measures to address pretext stops by amending the law to create secondary enforcement of certain equipment violations. The law narrowly prohibits traffic stops for obstructed windshield or obstructed view unless there is reasonable cause to believe the person has committed another vehicle code violation. State Assemblyman Edward Gibbs argued in support of the bill:

[I]magine living in a district where the police force is predominantly Black and Brown and you’re pulled over simply because you’re white and because you’ve switched lanes without signaling...Now you’re accosted at your window by an officer with his hand on a revolver while banging on your window with a flashlight. It’s very intimidating just for switching lanes without signaling... I want you to imagine the fear we go through driving and being pulled over, seeing the siren, wondering if today is your day, will I survive this time? Will the officer be kind? Will the officer be mindful that you have a family at home waiting for you? These are the things that we do every day and see and experience in our district.²⁴²

New York’s policy is similar to many other primary and secondary traffic enforcement models listed above. However, it may serve as a model for other states when looking to end pretextual

²³⁹ State of New York, AB 7599 (2021-2022 Reg. Sess.) <<https://legislation.nysenate.gov/pdf/bills/2021/a7599>> [as of XXX]. \

²⁴⁰ Diaz, *New York Repeals ‘Walking While Trans’ Law* (Feb. 2021) NPR <<https://www.npr.org/2021/02/03/963513022/new-york-repeals-walking-while-trans-law?msclkid=9ababd9cbaae11eca704261ccccab707>> [as of XXX].

²⁴¹ Hoylman, *State Senate Passes Hoylmans Bill to Repeal ‘Walking While Trans’ Ban* (Feb. 2021) The New York State Senate, Press Release <<https://www.nysenate.gov/newsroom/press-releases/brad-hoylman/state-senate-passes-hoylman-bill-repeal-walking-while-trans-ban>> [as of XXX].

²⁴² Whittaker, *Obstructed View would be Secondary Violation* (Mar. 2022) Observer Today <<https://www.observertoday.com/news/page-one/2022/03/obstructed-view-would-be-secondary-violation/?msclkid=0145a3c1baad11ecbee750f4e79c7b9f>> [as of XXX].

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stops of pedestrians. Although the statute is narrowly focused on loitering, it underscores the need for legislatures to consider addressing pretextual stops beyond just traffic violations.

California (Pending or Passed Legislation):

In 2022, the Governor signed the Safer Streets for All Act in an effort to address pretextual stops, predominantly of LBGT community members, by removing from the Penal Code the law criminalizing loitering to engage in sex work.²⁴³

Developing Best Practices: These new laws rely on several different approaches to end pretextual stops. The Board highlights several approaches here that legislatures may wish to review when considering their own policies:

[Will be Developed in Subcommittees]

D. Developing Models: Reimagining Traffic Enforcement

Some municipalities are considering entirely novel approaches to traffic enforcement to not only eliminate pretextual stops but also improve public safety. Both the inequities in traffic enforcement and the lack of effectiveness in terms of locating contraband raise questions about whether municipalities should continue allocating police resources to traffic enforcement and instead study ways in how those resources could be better used.²⁴⁴ For example, one study of LAPD stops and arrests data showed law enforcement spends a substantial amount of time on traffic violations, from January and September 2019 the department spent 300,748 hours on pedestrian and traffic stops.²⁴⁵ The study also found drivers perceived as Black were stopped 9 times more often than White drivers, yet White drivers were 20% more likely to be found with contraband.²⁴⁶

Leaders should consider how they can eliminate unnecessary contacts with law enforcement and by extension the criminal justice system. There are several key issues municipalities may wish to

²⁴³ Sen. Bill No. 357 (2021-2022 Reg. Sess.).

²⁴⁴ Reimagining Traffic Safety & Bold Political Leadership in Los Angeles (May 2021) Race Counts and PushLA <<https://www.racecounts.org/push-la>> [as of XXX].

²⁴⁵ Reimagining Traffic Safety & Bold Political Leadership in Los Angeles (May 2021) Race Counts and PushLA <<https://www.racecounts.org/push-la>> [as of XXX].

²⁴⁶ Reimagining Traffic Safety & Bold Political Leadership in Los Angeles (May 2021) Race Counts and PushLA <<https://www.racecounts.org/push-la>> [as of XXX].

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address when considering strategies to accomplish this, including: (1) limiting the use of fines and fees for traffic violations; (2) decriminalizing certain offenses; and (3) creating a traffic program that involves unarmed civilians rather than a law enforcement response.

1. Limiting Fines and Fees

*“Fines and fees have devastated the lives of millions of Americans, trapping them in a cycle of poverty and punishment — with the harms overwhelmingly falling on people of color and people living on low incomes. State and local governments can support residents by eliminating fines and fees, and by creating sustainable ways to balance their budgets that don’t put the burden on residents.”*²⁴⁷

As early as the 1910’s, law enforcement agencies found “taking on traffic meant they could hire officers and expand their investigative powers.”²⁴⁸ In the 1920’s, the Los Angeles Police Department’s traffic division was entirely funded by fines and fees.²⁴⁹

A key reason to end fines and fees is eliminating any financial conflict of interest between law enforcement and traffic revenues.²⁵⁰ Several studies reviewing traffic ticketing practices found ticketing increases when municipalities are struggling financially.²⁵¹ Another incentive for increased ticketing is federal highway safety grant funds that subsidize and fund ticket writing by law enforcement.²⁵² These financial interests unfortunately led some communities to “essentially repurpose armed officers as revenue agents searching for infractions largely unrelated to public safety.”²⁵³

Fines and fees also disproportionately impact lower-income Black and Brown communities and decrease public safety.²⁵⁴ For example, if someone cannot afford to fix a broken taillight and

²⁴⁷ Roadmap to Bold and Equitable Fine and Fee Reform (2020) PolicyLink

<https://www.policylink.org/sites/default/files/ccffj_guide_062520_a_BRIEF.pdf> [as of XXX].

²⁴⁸ McIntire and Keller, The Demand for Money Behind Many Police Traffic Stops (Nov. 2021) New York Times <<https://www.nytimes.com/2021/10/31/us/police-ticket-quotas-money-funding.html>> [as of XXX].

²⁴⁹ McIntire and Keller, The Demand for Money Behind Many Police Traffic Stops (Nov. 2021) New York Times <<https://www.nytimes.com/2021/10/31/us/police-ticket-quotas-money-funding.html>> [as of XXX].

²⁵⁰ Redesigning Public Safety: Traffic Safety Recommendations (2022) Center for Policing Equity <<https://policingequity.org/images/pdfs-doc/RPS-ShortForm-TrafficSafety-Final.pdf>> [as of XXX].

²⁵¹ Woods, *Traffic Without the Police*, 73 Stan.L. Rev. 1471 (2021); citing Colgan, Beyond Graduation: Economic Sanctions and Structural Reform, 69 D UKE L.J. 1529, 1552-53 (2020); Garrett & Wagner, Red Ink in the Rearview Mirror: Local Fiscal Conditions and the Issuance of Traffic Tickets, 52 J.L. & E CON. 71, 88 (2009).

²⁵² McIntire and Keller, The Demand for Money Behind Many Police Traffic Stops (Nov. 2021) New York Times <<https://www.nytimes.com/2021/10/31/us/police-ticket-quotas-money-funding.html>> [as of XXX].

²⁵³ McIntire and Keller, The Demand for Money Behind Many Police Traffic Stops (Nov. 2021) New York Times <<https://www.nytimes.com/2021/10/31/us/police-ticket-quotas-money-funding.html>> [as of XXX].

²⁵⁴ Redesigning Public Safety: Traffic Safety Recommendations (2022) Center for Policing Equity <<https://policingequity.org/images/pdfs-doc/RPS-ShortForm-TrafficSafety-Final.pdf>> [as of XXX].

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they receive a ticket, adding to the financial cost to repair the light.²⁵⁵ In Los Angeles, tickets can cost \$500 dollars or more, creating financial challenges and in some cases impeding individuals' ability to make necessary vehicle repairs.²⁵⁶ Instead, agencies should consider ways to support community members in correcting those violations, such as a voucher program. Such programs have been shown to improve public safety while addressing the inequitable and impacts of fines and fees.²⁵⁷

The Board encourages both the legislature and municipalities to consider ending all fines and fees. Instead, the Board recommends they consider policies and programs that assist a person in making needed vehicle repairs, such as the voucher program in Minneapolis, Minnesota.²⁵⁸

2. Decriminalizing Certain Offenses

In addition to reducing fines and fees, communities should consider ways to decriminalize or reform how traffic or low-level offenses are sanctioned or punished.²⁵⁹ This approach may provide additional opportunities to reduce unnecessary contact between civilians and law enforcement officers “in ways that facilitate their entry into, or continued contact with the criminal justice system.”²⁶⁰

[Section in development]

In addition to decriminalizing certain traffic offenses, policymakers should consider what low-level violations may be used for officers to conduct a pretextual stop in the first place. For example, the war on drugs that began in the 1970's increased the incentive for officers to conduct pretextual stops to investigate for any evidence of drug activity.²⁶¹ In fact, a core

²⁵⁵ Redesigning Public Safety: Traffic Safety Recommendations (2022) Center for Policing Equity <<https://policingequity.org/images/pdfs-doc/RPS-ShortForm-TrafficSafety-Final.pdf>> [as of XXX].

²⁵⁶ Reimagining Traffic Safety & Bold Political Leadership in Los Angeles (May 2021) Race Counts and PushLA <<https://www.racecounts.org/push-la>> [as of XXX].

²⁵⁷ Redesigning Public Safety: Traffic Safety Recommendations (2022) Center for Policing Equity <<https://policingequity.org/images/pdfs-doc/RPS-ShortForm-TrafficSafety-Final.pdf>> [as of XXX].

²⁵⁸ Minneapolis Police Department Policy and Procedure Manual, Traffic Stops No. 7-601 (Oct. 8, 2021) pp. 424 - 426. <<https://www.minneapolismn.gov/media/-www-content-assets/documents/MPD-Policy-and-Procedure-Manual.pdf>> [as of XXX].

²⁵⁹ Woods, *Traffic Without the Police*, 73 Stan.L. Rev. 1471 (2021)

²⁶⁰ Woods, *Traffic Without the Police*, 73 Stan.L. Rev. 1471 (2021)

²⁶¹ Alexander, *The New Jim Crow* (2010) p. 67; See also Stern, *The War on Drugs and Jim Crow's The Most Wanted: A Social and Historical Look at Mass Incarceration* (Jun. 2017) Ramapo J. of L & Society <<https://www.ramapo.edu/law-journal/thesis/war-drugs-jim-crows-wanted-social-historical-look-mass-incarceration/>> [as of XXX.]

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component of the war on drugs was and is the use of investigatory traffic stops.²⁶² Several jurisdictions have taken steps to decriminalize certain possession-related offenses; this is another potential strategy towards ending pretextual stops.

For example in 2020, Oregon removed criminal penalties for possession of drugs and instead directed funding to evidence-based treatment programs.²⁶³ As a result of these reforms, thousands of people avoided entering into the criminal legal system and all of the results of getting tangled up in the system that can affect people for life (e.g. trouble finding a job and other barriers to re-entry).²⁶⁴ The program directs funds to evidence-based crime prevention such as funding community-based organizations that provide harm reduction services, peer support specialists, and housing.²⁶⁵

[Content will be developed in subcommittees]

Based on its research of best practices, the Board may consider certain factors for decriminalizing certain charges, including but not limited to:

- (1) Identifying charges, such as driving without a license or drug possession, that do not pose a serious risk to public safety and use those resources to instead implement evidence-based crime prevention strategies.²⁶⁶
- (2) Removing charges that impose a significant financial burden on communities including law enforcement resources spent on minor offenses.²⁶⁷
- (3) Analyzing the data and corresponding harms certain enforcement actions have on communities, especially when these offenses are disproportionately used against Black and Brown community members.²⁶⁸

²⁶² Lacey, Brett A., *An Examination of the Evolution of Racially Biased Pretextual Investigatory Stops and Their Legitimacy in Policing* (2017) Illinois State University: Theses and Dissertations. p. 2 <<https://ir.library.illinoisstate.edu/etd/760>> [as of XXX].

²⁶³ Drug Decriminalization in Oregon, One Year Later: Thousands of Lives Not Ruined by Possession Arrests, \$300 Million + in Funding for Services (Nov. 2021) Drug Policy Alliance <<https://drugpolicy.org/press-release/2021/11/drug-decriminalization-oregon-one-year-later-thousands-lives-not-ruined>> [as of XXX].

²⁶⁴ Drug Decriminalization in Oregon, One Year Later: Thousands of Lives Not Ruined by Possession Arrests, \$300 Million + in Funding for Services (Nov. 2021) Drug Policy Alliance <<https://drugpolicy.org/press-release/2021/11/drug-decriminalization-oregon-one-year-later-thousands-lives-not-ruined>> [as of XXX].

²⁶⁵ Drug Decriminalization in Oregon, One Year Later: Thousands of Lives Not Ruined by Possession Arrests, \$300 Million + in Funding for Services (Nov. 2021) Drug Policy Alliance <<https://drugpolicy.org/press-release/2021/11/drug-decriminalization-oregon-one-year-later-thousands-lives-not-ruined>> [as of XXX].

²⁶⁶ Woods, *Traffic Without the Police*, 73 Stan.L. Rev. 1471 (2021).

²⁶⁷ Woods, *Traffic Without the Police*, 73 Stan.L. Rev. 1471 (2021).

²⁶⁸ Woods, *Traffic Without the Police*, 73 Stan.L. Rev. 1471 (2021);

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3. Civilian Enforcement Models

One approach municipalities are taking to eliminate pretextual stops is creating a traffic program that involves civilians instead of armed officers. This allows law enforcement to focus their resources and skills on serious and violent offenses while also reducing unnecessary interactions between the public and the police.

In *Traffic Without the Police*, Jordan Woods outlines several considerations agencies may wish to implement in developing a civilian traffic enforcement program: (1) The traffic department should operate independently of the police department and should not conduct any criminal investigations²⁶⁹; (2) The traffic monitors should not be armed and only have the authority to issue a traffic ticket²⁷⁰; and (3) If there is a suspected criminal violation, traffic enforcement can radio for police to request assistance (which may similarly occur if a parking attendant locates a stolen vehicle).²⁷¹

There are also several cities both in California and nationally that have started developing policies to create a civilian traffic department. These models may serve as starting points for other jurisdictions considering their own traffic departments.

Berkeley: In 2020, the Berkeley City Council voted to: “[p]ursue the creation of a Berkeley Department of Transportation to ensure a racial justice lens in traffic enforcement and the development of transportation policy, programs and infrastructure, and identify and implement approaches to reduce and/or eliminate the practice of pretextual stops based on minor traffic violations.”²⁷² The new program, known as BerkDOT, will absorb some of the responsibilities of the police department, such as the unarmed traffic unit, crossing guards, parking enforcement, paving, collision investigations, and traffic control.²⁷³

Another measure Berkeley is exploring is the use of automated speed cameras and ways to target areas with high risks (like school zones).²⁷⁴ The city will consult with the community on the appropriate deployment of these license plate readers to ensure equitable enforcement. The city

²⁶⁹ Woods, *Traffic Without the Police*, 73 Stan.L. Rev. 1471 (2021).

²⁷⁰ Woods, *Traffic Without the Police*, 73 Stan.L. Rev. 1471 (2021).

²⁷¹ Woods, *Traffic Without the Police*, 73 Stan.L. Rev. 1471 (2021).

²⁷² Reimagining Public Safety/BerkDOT (May 19, 2021) Task Force Meeting Agenda <<https://www.berkeleyside.org/wp-content/uploads/2021/05/Reimagining-5-19-BerkDOT.pdf>> [as of XXX].

²⁷³ Reimagining Public Safety/BerkDOT (May 19, 2021) Task Force Meeting Agenda <<https://www.berkeleyside.org/wp-content/uploads/2021/05/Reimagining-5-19-BerkDOT.pdf>> [as of XXX].

²⁷⁴ Response and Recommendations to NICJR Report (March 2022) Reimagining Public Safety Berkeley Task Force p. 35 <<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/RPSTF%20Agenda%20Packet-%20February%2010%202022.pdf>> [as of XXX].

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has allocated \$175K for research, development, and community engagement to create the BerkDOT program.²⁷⁵

The purpose of removing officers from certain types of traffic enforcement is twofold: to increase public safety by having officers focus on serious criminal activity and “reduce the potential for violence, humiliation, and harassment during traffic stops.”²⁷⁶ The city notes policing driving is actually not an effective traffic safety measure²⁷⁷, does not promote crime prevention²⁷⁸, and contributes to significant racial bias seen in the BPD stop data.²⁷⁹ In a survey of Berkeley community residents, researchers found only 39% of people in the city actually felt that the laws made them safer and 69% felt that police making traffic stops can lead to “unsafe or violent counters for people of color, particularly Black people.”²⁸⁰ Of Black respondents, 30% explained that a fear of being stopped by the police impacts their mobility and how they choose to get around in the city.²⁸¹

²⁷⁵ Response and Recommendations to NICJR Report (March 2022) Reimagining Public Safety Berkeley Task Force p. 35 <<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/RPSTF%20Agenda%20Packet-%20February%2010%202022.pdf>> [as of XXX].

²⁷⁶ Response and Recommendations to NICJR Report (March 2022) Reimagining Public Safety Berkeley Task Force, p. 110 <<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/RPSTF%20Agenda%20Packet-%20February%2010%202022.pdf>> [as of XXX]

²⁷⁷ Response and Recommendations to NICJR Report (March 2022) Reimagining Public Safety Berkeley Task Force, pp. 86-87 <<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/RPSTF%20Agenda%20Packet-%20February%2010%202022.pdf>> [as of XXX]; Citing Mears, Daniel P., and Andrea M. Lindsey Speed <<https://ir.lawnet.fordham.edu/ulj/vol44/iss4/2/>> [as of XXX]; Donnell, Eric T., Kristin Kersavage, and Lisa F. Tierney (2018) Self-Enforcing Roadways: A Guidance Report. No. FHWA-HRT-17-098. United States. Federal Highway Administration <<https://www.fhwa.dot.gov/publications/research/safety/17098/17098.pdf>> [as of XXX].

²⁷⁸ Response and Recommendations to NICJR Report (March 2022) Reimagining Public Safety Berkeley Task Force, pp. 86-87 <<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/RPSTF%20Agenda%20Packet-%20February%2010%202022.pdf>> [as of XXX]; Citing Fliss, Mike Dolan, Frank Baumgartner, Paul Delamater, Steve Marshall, Charles Poole, and Whitney Robinson, Re-prioritizing traffic stops to reduce motor vehicle crash outcomes and racial disparities (2020) *Injury epidemiology* 7, No. 1 1-15. <<https://inpejournal.biomedcentral.com/articles/10.1186/s40621-019-0227-6>> [as of XXX]; Chohlas-Wood, Alex, Sharad Goel, Amy Shoemaker, and Ravi Shroff, *An analysis of the Metropolitan Nashville Police Department's traffic stop practices* (2018) Stanford Computational Policy Lab <http://www.law.nyu.edu/sites/default/files/upload_documents/Shroff_nashville-traffic-stops.pdf> [as of XXX].

²⁷⁹ Response and Recommendations to NICJR Report (March 2022) Reimagining Public Safety Berkeley Task Force, p. 86 <<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/RPSTF%20Agenda%20Packet-%20February%2010%202022.pdf>> [as of XXX]

²⁸⁰ Response and Recommendations to NICJR Report (March 2022) Reimagining Public Safety Berkeley Task Force p. 112 <<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/RPSTF%20Agenda%20Packet-%20February%2010%202022.pdf>> [as of XXX]; Citing City of Berkeley. Initial Review of Results: Survey of City of Berkeley Residents, Reimagining Policing Project (Oct. 15, 2021) <https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/21-8226%20Report%20of%20Preliminary%20Findings%20-%20Draft.pdf> [as of XXX].

²⁸¹ Response and Recommendations to NICJR Report (March 2022) Reimagining Public Safety Berkeley Task Force p. 112 <<https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/RPSTF%20Agenda%20Packet-%20February%2010%202022.pdf>> [as of XXX].

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Oakland²⁸²: The Oakland Police Department acknowledged that the policy of reducing traffic stops for minor violations was not enough to meaningfully reduce the disparities seen in their stop data.²⁸³ In an effort to end pretextual stops entirely, the city of Oakland is also developing a model where civilians will enforce certain traffic laws in addition to requiring officers to have a specific crime-related reason for stop. The program, OakDOT, will focus on places with high collision rates, while officers will focus on high risk violations and serious crimes. The first phase of this transition was to transfer duties such as crossing guards, towing, and special event traffic support to OakDOT.

One of the primary reasons for the shift is to increase public safety by creating OakDOT, an agency dedicated to traffic safety and reducing collisions. They also explain it is an inefficient use of resources to have Oakland PD enforce traffic stops which are non-violent and do not require a response by an armed officer. The city notes this change may free up some of the police budget allowing for the police department to save additional funds so they can focus on implementing other recommendations to improve policing and reducing crime in the city.

Los Angeles: Los Angeles is considering alternative traffic enforcement models that do not involve the use of the police department. In February of 2021, the City Council passed a motion to study the feasibility of creating a traffic safety department that is separate from the police department; the study is ongoing.²⁸⁴ The study will explore “alternative models that do not rely on armed officers to conduct traffic enforcement, moving violations and vehicle code enforcement, DUI details, traffic collision reporting and investigation, fare enforcement, bandit cab enforcement, and other programmatic areas.”²⁸⁵ The report will also include best practices and recommendations for transferring traffic enforcement from LAPD to LADOT (Los Angeles Department of Transportation).²⁸⁶

agendas/RPSTF%20Agenda%20Packet-%20February%2010%202022.pdf> [as of XXX]; Citing City of Berkeley. Initial Review of Results: Survey of City of Berkeley Residents, Reimagining Policing Project (Oct. 15, 2021) <https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/21-8226%20Report%20of%20Preliminary%20Findings%20-%20Draft.pdf> [as of XXX].

²⁸² Oakland Reimagining Public Safety Task Force: Report and Recommendations (Apr. 2021) City of Oakland <<https://cao-94612.s3.amazonaws.com/documents/Oakland-RPSTF-Report-Final-4-29-21.pdf>> [as of XXX].

²⁸³ Woods, *Traffic Without the Police*, 73 Stan.L. Rev. 1471 (2021).

²⁸⁴ LA Motion 20-0875 (2021) Ad Hoc Police Reform <https://clkrep.lacity.org/onlinedocs/2020/20-0875_mot_06-30-2020.pdf> [as of XXX]; See also Stop the Stops: Remove LAPD Officers from Routine Traffic Stops (2022) Push LA <<https://pushla.org/stop-the-stops/>> [as of XXX].

²⁸⁵ LA Motion 20-0875 (2021) Ad Hoc Police Reform <https://clkrep.lacity.org/onlinedocs/2020/20-0875_mot_06-30-2020.pdf> [as of XXX].

²⁸⁶ LA Motion 20-0875 (2021) Ad Hoc Police Reform <https://clkrep.lacity.org/onlinedocs/2020/20-0875_mot_06-30-2020.pdf> [as of XXX].

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In its motion, the City Council explained that traffic stops are often pretextual in nature and data demonstrates that these stops disproportionately impact Black and Hispanic/Latine(x) community members.²⁸⁷ Specifically, Black and Hispanic/Latine(x) individuals are stopped, removed from a car, searched, handcuffed, and detained on a curb more frequently than White individuals.²⁸⁸ The City Council asserted that the overpolicing of public spaces and criminalization of certain quality of life offenses creates barriers to mobility for some people, especially Black and Hispanic/Latine(x) individuals, which can then impact their job prospects, educational opportunities, health care, and contribute to disparities in income.²⁸⁹

Minneapolis: The city council of Minneapolis is developing a division dedicated to traffic control services. The department addresses issues such as enforcing all non-moving violations, removal of abandoned or illegally parked cars, and traffic control for large events.²⁹⁰ The goal is to eliminate racial disparities observed in traffic enforcement and at the same time increase public safety by creating a department focused on problem-solving traffic safety concerns.²⁹¹

Brooklyn Center: In addition to taking steps to eliminate pretextual stops, Brooklynn Center is also creating an alternative response to traffic stops to allow officers to focus their “time training and expertise on serious threats to the immediate safety.”²⁹² The new department developed by the city will take on the responsibility of enforcing all non-moving traffic violations and the city will eliminate some traffic infractions.²⁹³ The policy asserts that “relying on our armed law enforcement officers as first responders in these situations has resulted in escalation, harm, and a tragic and potentially avoidable loss of life for our residents, including the lives of Daunte Wright and Kobe Drimock-Heisler.”

²⁸⁷ LA Motion 20-0875 (2021) Ad Hoc Police Reform <https://clkrep.lacity.org/onlinedocs/2020/20-0875_mot_06-30-2020.pdf> [as of XXX].

²⁸⁸ LA Motion 20-0875 (2021) Ad Hoc Police Reform <https://clkrep.lacity.org/onlinedocs/2020/20-0875_mot_06-30-2020.pdf> [as of XXX]; See also Stop the Stops: Remove LAPD Officers from Routine Traffic Stops (2022) Push LA <<https://pushla.org/stop-the-stops/>> [as of XXX].

²⁸⁹ LA Motion 20-0875 (2021) Ad Hoc Police Reform <https://clkrep.lacity.org/onlinedocs/2020/20-0875_mot_06-30-2020.pdf> [as of XXX]; See also Stop the Stops: Remove LAPD Officers from Routine Traffic Stops (2022) Push LA <<https://pushla.org/stop-the-stops/>> [as of XXX].

²⁹⁰ Traffic Control Services, City of Minneapolis <<https://www2.minneapolismn.gov/government/departments/reg-services/divisions/traffic-control/>> [as of XXX].

²⁹¹ Traffic Control Services, City of Minneapolis <<https://www2.minneapolismn.gov/government/departments/reg-services/divisions/traffic-control/>> [as of XXX].

²⁹² *Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act ("Act")*, City Council of the City of Brooklyn Center, Minnesota, Resolution 2021-73 (May 15, 2021).

²⁹³ *Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Act ("Act")*, City Council of the City of Brooklyn Center, Minnesota, Resolution 2021-73 (May 15, 2021).

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E. Board Recommendations and Conclusions

[Will be Developed in Subcommittees]

b. Youth and Law Enforcement

- I. [Brief Discussion of Context of Youth Profiling Outside of Schools](#)
- II. [Field Interview Cards and Labeling of Youth](#)
 - A. **[Other Research Areas:](#)**
 1. [Housing Consequences](#)
 2. [Social Media Surveillance](#)
- III. [Consequences of Youth Vulnerability](#)
- IV. [Current Context of Schools](#)
- V. [History of School Policing](#)
 - A. **[Oakland Unified School District Police Force](#)**
- VI. [School-Based Police](#)
 - A. **[Safety Outcomes of Police in Schools](#)**
 1. [Reported Crime Incidents](#)
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 - B. **[Student Experiences of Alienation in Relation to School Policing](#)**
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 - A. **[Potential Definition of “Youth”](#)**
- IX. [Policy Considerations](#)

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I. Brief Discussion of Context of Youth Profiling Outside of Schools

Hullenaar et al. (2021) Youth Violent Offending in School and Out: Reporting, Arrest, and the School-to-Prison Pipeline, *Justice Quarterly*, 38:7, 1319-1341 [“This study used violent victimization data from the National Crime Victimization Survey (1994–2018) to examine whether criminal justice interventions (i.e. reporting to the police and arrest) for youth-perpetrated violence were more likely to occur in school than outside school. On average, violence at school was 8.4 percentage points less likely than violence outside school to be reported to the police, but if there was a police report, violence in school was 8.0 percentage points more likely to involve an arrest. These statistical differences remained stable throughout the study period. Further analyses of the pooled sample by the offender’s gender and race found that school violence was associated with an increased likelihood of arrest only for Black youth, not White youth, and only for boys, not girls. Implications of these results for the school-to-prison pipeline argument are discussed.”]

Growing Up a Suspect: An Examination of Racial Profiling of Black Children and Effective Strategies to Reduce Racial Disparities in Arrests, 45 *N. Ky. L. Rev.* 137 [“A Black child's journey through the juvenile justice system often begins with law enforcement interaction. Child arrest rates prove that racial bias in arrests drives disparities at every contact point in the juvenile justice system. Because of this, reforming law enforcement policies is imperative, not only to reduce racial profiling of Black children, but also to reduce the disproportionate contact and subsequent treatment that Black children experience in America's justice system.” (p. 4). “Black children are more likely to be stopped and held by police for engaging in conduct identical to their White counterparts. Profiling of Black children breeds mistrust that results in a dislike of police and other authority figures in the juvenile justice system. Strained relationships are not the only negative consequence of racial profiling. Physically, Black children have force used against them more frequently than their White counterparts. Research has also shown that the dehumanization of Black children leads law enforcement to use a higher degree of force against Black children.” (p. 30)]

Geller, Youth–Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014–2017 (July 2021 p. 1306) [Although vicarious police contact was common across race, personal experiences were racially disparate and patterned by class. These findings—particularly the robust disparities in critical stop intrusion—suggest that police encounters with non-White adolescents are qualitatively different, substantially more aggressive than those with White adolescents, and potentially traumatic. Notably, disparities were concentrated among children of less educated mothers, and not observed among the children of college graduate mothers. These findings stand in contrast to previous literature that has found high-SES minority youth to experience particularly disparate policing and underscore the salience of policing in the lives of already vulnerable young people.]

Rovner, Racial Disparities in Youth Incarceration Persist (Feb. 2021 p. 6) [The disparity is large because of different responses to similar youthful actions. Part of the differential response

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is due to residential segregation, wherein youth of color are likely to live in heavily policed, dense, urban neighborhoods. Tufts University Sociologist Daanika Gordon notes police are therefore more likely to intervene in behavior by youth of color that would go unremarked or ignored by police in neighborhoods where white youth predominantly live Residential segregation leads to school segregation, and students of color often experience their misbehaviors treated as a disciplinary or policing issue while their white peers' misbehaviors are more frequently seen as behavioral health concerns, potentially meriting a modified curriculum and additional school support personnel to assist with behavioral needs.”]

Del Toro, The criminogenic and psychological effects of police stops on adolescent black and Latino boys (April 2019 p. 1) [The existing literature, however, does not explore what the short and long-term effects of police contact are for young people who are subjected to high rates of contact with law enforcement as a result of proactive policing. Using four waves of longitudinal survey data from a sample of predominantly black and Latino boys in ninth and tenth grades, we find that adolescent boys who are stopped by police report more frequent engagement in delinquent behavior 6, 12, and 18 months later, independent of prior delinquency, a finding that is consistent with labeling and life course theories. We also find that psychological distress partially mediates this relationship, consistent with the often stated, but rarely measured, mechanism for adolescent criminality hypothesized by general strain theory. These findings advance the scientific understanding of crime and adolescent development while also raising policy questions about the efficacy of routine police stops of black and Latino youth. Police stops predict decrements in adolescents' psychological well-being and may unintentionally increase their engagement in criminal behavior.]

Geller et al., American Journal of Public Health, Aggressive Policing and the Mental Health of Young Urban Men (Dec. 2014) Vol 104, No. 12 [“Proactive police stops are predicated on low levels of suspicion and rarely result in arrest, summons, or seizure of contraband suggesting that the vast majority of individuals stopped have done nothing wrong. Contacts of this nature may trigger stigma and stress responses and depressive symptoms. These stresses can be compounded when police use harsh language, such as racial invective or taunts about sexuality. Finally, to the extent that individuals stopped believe that they were targeted because of their race or ethnicity or may be targeted again, they may experience symptoms tied to the stresses of perceived or anticipated racism.” (pg. 1). “Although proactive policing practices target high-crime, disadvantaged neighborhoods, affecting individuals already facing severe socioeconomic disadvantage, our findings suggest that young men stopped by the police face a parallel but hidden disadvantage: compromised mental health. We found that young men reporting police contact, particularly more intrusive contact, also display higher levels of anxiety and trauma associated with their experiences.” (pg. 4). “This raises concerns that the aggressive nature of proactive policing may have implications not only for police---community relations but also for local public health. In fact, the significant associations between both health outcomes and respondent perceptions of procedural justice suggest that police--- community relations and local public health are inextricably linked.” (pg. 5)]

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II. Field Interview Cards and Labeling of Youth

Cite to 2023 RIPA Report Pretext Section [Youth and Actions Taken and Result of Stop by Race/Ethnicity and Loitering-Related Stops and Youth and Actions Taken and Result of Stop by Race/Ethnicity and Jaywalking-Related Traffic Violation Stops]

Howell, *Gang Policing: The Post Stop and Frisk Justification for Profile-Based Policing*, (2015) 5 U. Denv. Crim. L. Rev. 1, 3, 12-3. [“The gang narrative, however, is essentially the same as the narrative used to justify both the overuse of stop-and frisk itself and the racial disparities that flowed from stop-and-frisk. Rather than requiring actual criminality, each narrative turns on two core concepts - place and person. Stop-and-frisk, according to the NYPD, was not directed at youth of color but at high-crime places and suspicious people.” (pg. 3). “No criminal conduct whatsoever is required to be identified as a gang member. The gang allegation provides a facially race-neutral means for policing the usual suspects in the usual way. However, because gang databases and intelligence are secret, this policing avoids both public and judicial scrutiny.” “The dramatic nature of youth crime and the quasi-mythical construction of gang crime gives rise to a belief that gang crime is far more common than it actually is and that young vulnerable children are recruited into gangs where they engage in violent crime. More importantly, the conflation of gangs and gang membership with violent crime creates the misimpression that gang membership alone is a proxy for violent criminality. To assess the narrative that attributes large proportions of violent crime to gangs, it is necessary to attempt to disentangle myth from reality.” (pg. 4). “Despite claims that gangs are corrupting ever more and ever younger youth, the rates of violence crime among youth under 18 appears to have declined more dramatically than rates for adults during the last decade. This is the case even in a state like California, which reports high numbers of gangs and gang members. In California, juvenile violent offense rates are lower than at any time during the sixty years that statistics have been kept. Indeed, the juvenile crime rates in the 1950s were 2.5 times higher than they were in 2011”. (pg. 6) “The use of the gang menace to create a moral panic 68 and increase support for intensive profile-based policing is a well-established policing tactic. 69 In studies across the country, law enforcement has been able to push through legislation and obtain resources and support by providing the media with stories recounting increased gang crime violence. 70 The media is not necessarily a victim in the creation of moral panic but may benefit commercially from sensational and disproportionate coverage of youth and gang violence, which in turn reshapes public opinion and criminal justice policy as well. 71 While moral panics may involve any type of deviant behavior, they have been used extensively to highlight the risk of youth gang violence even in an era when youth gang is declining.”]

Flores, *Challenging Guilt by Association: Rethinking Youths’ First Amendment Right to Associate and Their Protection from Gang Databases* (2022) 107 Cornell L. Rev. 3. [“The use of vague and broad criteria for inclusion in gang databases is a threat to the constitutional rights of youths in the United States. Police often include youths in low-income neighborhoods in these databases based on their association with family, neighbors, and classmates. Further, the labeling of youths as gang members or gang affiliated is often based on inaccurate and unreliable data.

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Accordingly, community advocates and scholars have extensively scrutinized the use and effects of gang databases.”]

A. Other Research Areas:

1. Housing Consequences
2. Social Media Surveillance

III. Consequences of Youth Vulnerability

Cite to 2022 RIPA Report Consent Searches [“Given the disparities in the data on consent searches, the Board questions whether consent searches are truly voluntary. While the data reflect that most people consent to a search when asked by an officer, research discussed in the Report reflects that this “consent” is not necessarily voluntarily because of the inherent power inequality between a law enforcement officer and a member of the public. The research shows that this inherent power inequality is particularly pronounced among vulnerable populations, such as people with mental health disabilities or youth, who may be more likely to succumb to authoritative pressure. Indeed, RIPA data reflects that for both people with mental health disabilities and youth, a larger proportion of their stops that began as consensual encounters resulted in searches, as compared to people without mental health disabilities or adults.” “Youth are especially susceptible to comply with an officer’s request, and the U.S. Supreme Court has recognized that “children are generally more vulnerable to outside influences than adults and have limited understandings of the criminal justice system and the roles of the institutional actors within it.” “The RIPA data also reveal that children have a higher proportion of their stops begin as a consensual encounter and then result in a search than their adult counterparts.” (pg. 110) “As one solution, some law enforcement agencies and state legislatures have prohibited consent searches based on the type of search, such as a car or a cell phone.” (pg. 111)]

Trejos-Castillo et al. The Square One Project Learned Helplessness, Criminalization, and Victimization in Vulnerable Youth (Dec. 2020 pg. 13, 20) [“Social policies and justice systems typically follow a “universalist” approach with limited regard to the unique contexts transecting individual life trajectories, and, as such, are not well equipped to address historically complex interactions between race, ethnicity, class, and gender or sexual identity. By failing to integrate a developmental perspective into justice system practices, generations of harm and trauma that are distributed unequally in our society fail to be acknowledged. Inequitable treatment persists when governmental actors do not take intergenerational violence and its psycho-social effects into account when interacting with vulnerable youth.” “Three proposed “recommendations to better serve vulnerable youth: respond to youth offending with restorative justice practices and policies; make community-based reintegration programs and welfare services an immediate and universal priority for all justice-involved youth; and fortify social service systems to prevent learned helplessness and diminish youth criminalization.”]

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IV. Current Context of Schools

Murphy and Hanson (2021). Racial and Ethnic Disparities in Student Perceptions of School Fairness, Discipline, and Racial/Ethnic Conflict. California Healthy Kids Survey Factsheet #18. San Francisco, California. WestEd. Available at:

https://calschls.org/site/assets/files/1036/factsheet-18_disparities_fairness_discipline_racialconflict.pdf.

California schools have seen improvements in the rates of exclusionary discipline (i.e., suspensions and expulsions) over the past decade. However, studies have shown that students of color, students with disabilities, and LGBTQ+ students are the most likely to experience exclusionary discipline, when compared to their peers, without evidence of higher rates of poor behavior. Furthermore, these disparities persist despite the recent declines in suspension and expulsion rates. Exclusionary discipline is associated with poor short-term academic and socio-emotional outcomes such as low grades, absences, and being pushed out of school. In the long-term, students who experience higher rates of exclusionary discipline may also be at higher risk for contact with the criminal legal system.

Losen et al. (2022). Unmasking School Discipline Disparities in California: What the 2019-2020 data can tell us about problems and progress. Center for Civil Rights Remedies at the Civil Rights Project of UCLA.

“The harsh reality is that students of color, low-income students, and those the state considers ‘high needs’ have been disproportionately harmed by the COVID-19 pandemic, both directly and indirectly. Students have returned to school with what appear to be greater and more intense social/emotional needs (Jones, 2021; Klein, 2021), some of which is likely attributable to the disproportionate adversity COVID-19 brought down on these groups, such as the loss of a family member, loss of housing, and loss of employment.”

“Moreover, according to *The Washington Post*, many school districts across the United States, including Oakland Unified in California, have experienced a steep rise in chronic absenteeism (Meckler, 2022). Unfortunately, students of color, those with disabilities, and those in high-needs groups could continue to lose more instruction time than their peers, particularly if school discipline practices continue as they have in the past, and if schools have insufficient resources to provide trauma-informed and/or restorative justice responses to behavioral problems.”

“[R]esearch indicates that denying instruction in response to misconduct is often counter-productive (Darling-Hammond et al., 2021; Pearman et al., 2019) and it raises concerns that excessive use of disciplinary exclusion adds to racial inequity in the opportunity to learn. To the extent that non-punitive responses are equally or more effective at fostering productive learning environments and can replace punitive disciplinary removal, the frequent and persistent use of punitive suspensions is hard to justify.”

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“[W]hile some districts are cutting expenditures for school resource officers, or even eliminating school-employed police officers, others are increasing their budgets for school resource officers and school security guards. This is despite the evidence indicating that a high number of such employees is associated with higher rates of disciplinary removal and absenteeism, as well as greater racial disparities in school discipline (Sorensen et al., 2021).”

“As school boards outline their goals in local control of accountability plans (LCAPs) and decide how to spend any additional state or federal funding made available under the American Recovery Act, this new information [data about disciplinary exclusion] will be critical. We also call attention to the problem that some districts apparently, and inappropriately, diverted funds intended to support high-needs students to increase their police forces and pad their school security budgets.”

Whitaker et al. (2019). Cops and No Counselors: How the lack of school mental health staff is harming students. American Civil Liberties Union. P. 4. Available at: <https://www.aclunc.org/sites/default/files/030419-acluschooldisciplinereport.pdf>.

The ACLU’s 2019 School Discipline Report found that 1.7 million students attend schools with police but no counselors; 10 million students attend schools with police but no social workers; 14 million students attend schools with police but no counselors, nurse, psychologist, or social worker. “Professional standards recommend at least one counselor and one social worker for every 250 students, and at least one nurse and one psychologist for every 750 students and every 700 students respectively.” Students are 21 times more likely to visit school-based health centers for mental health care than community mental health centers.

“When there are no other behavioral resources at hand, some teachers request help from law enforcement.”

According to the National Center for Education statistics, 48 percent of all public schools are patrolled by police officers.

“Data from the National Center for Education Statistics indicates that compared to police in schools with predominantly white students, police in schools with predominantly students of color are significantly more likely to have duties focused on maintaining school discipline while being less likely to coordinate with emergency teams and police in the presence of an actual threat.”

Hanson et al. (2012). Racial/Ethnic Differences in Student Achievement, Engagement, Supports, and Safety: Are they greater within schools or between schools in California? California Healthy Kids Survey Factsheet #13. Los Alamitos: WestEd Health and Human

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Development Program for the California Department of Education. Available at:
https://data.calschls.org/resources/FACTSHEET-13_20120405.pdf.

Statewide data, as self-reported by approximately 1.3 million 7th, 9th, and 11th graders on the California Healthy Kids Survey, shows that there are racial/ethnic safety gaps in elementary and high school levels. “Like the other indicators of school-related well-being, African American and Latino students are less likely than their White counterparts to report that they feel safe or very safe at school.” “About half of the African American/White gap is due to within-school differences and half is due to between-school differences, in both middle and high school. The same pattern is evident for the Latino/White gap among high school students. Among middle school students, however, the total gap between Latinos and Whites is primarily attributable to between-school differences among students in these two groups. These results suggest that practices designed to ensure that African American, Latino/a, White, and Asian students have equal access to resources and adult supports within the same school may be effective in ameliorating the school safety gap.

V. *History of School Policing*

A. [Oakland Unified School District Police Force](#)

The Center for Public Integrity. (2021). The History of School Policing [Timeline].

Available at: <https://publicintegrity.org/education/criminalizing-kids/the-history-of-school-policing/>.

The institution of school district police departments was prompted by biases related to the integration of schools. The Los Angeles School Police Department is thought to be the first school policing program in the nation.

McBride (2020, June 23). How Oakland Unified School District Got Its Own Police Force. *The Oaklandside*. Available at: <https://oaklandside.org/2020/06/23/how-oakland-unified-school-district-got-its-own-police-force/>.

“Oakland Unified School District established its police force in the 1950s, partly in response to Black migration to Oakland during and after World War II... ‘Racial anxieties about the city’s rapidly changing demographics led to an increasing integration of school and recreational programs with police and penal authorities.’ ... To address white residents’ fears, Murch’s research showed, the city government connected several departments, including schools parks and recreation, and family services, with probation and criminal justice divisions to monitor ‘troublemakers’ and delinquent youth.

The Oakland Unified School District Police Department “began with two officers who were tasked with patrolling campuses and other district buildings and responding to burglar alarms. Calls regarding more serious alleged crimes were left to the Oakland Police Department. ... In 1963, the president of the Northern California chapter of the NAACP called on Black residents

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to track and report school principals who frequently called the police on Black students, a point community members still make in 2020.”

VI. School-Based Police

California Department of Education. (2022). School Directory (Districts and Counties).

Available at: <https://www.cde.ca.gov/SchoolDirectory/active-or-pending-districts-counties-schools/0/4/25>.

There are 1,029 school districts in California.

California Department of Education. (2022). DataQuest: 2021-22 Enrollment by Ethnicity and Grade. Available at:

<https://dq.cde.ca.gov/dataquest/dqcensus/EnrEthGrd.aspx?cds=00&agglevel=state&year=2021-22>.

These districts served 5,892,240 students during the 2021-2022 school year.

Curran, F.C., Fisher, B.W., Viano, S., & Kupchick, A. (2019). Why and When Do School Resource Officers Engage in School Discipline? The Role of Context in Shaping Disciplinary Involvement. American Journal of Education, 126, 35.

The most common school-based law enforcement strategy in California is to have a school resource officer (SRO) through a relationship with a local police or sheriff’s department. SROs are sworn officers with arrest power assigned to a school or district on a full- or part-time basis and typically are not trained as educators.

Petrosino, A. Fronius, T., & Taylor, D. (2020). Research in Brief: School-Based Law Enforcement. U.S. Department of Education, Institute of Education Sciences. Available at: <https://www.wested.org/resources/research-in-brief-school-based-law-enforcement/>.

Another common approach is for districts to establish their own police department that is independent of the municipal police agency.

Commission on Peace Officer Standards and Training. (2022). Law Enforcement Agency Data (Reimbursable, Region, Certificate Type, Agency Type). Available at:

https://post.ca.gov/Portals/0/post_docs/hiring/Agency_List_Reimbursable_Info.pdf.

There are 16 school district police departments in the state. [Request that Graphic Designer create a map of California with place markers for the 16 school district law enforcement agencies]

Lytle Hernández, K. (2020, June 30). Kelly Lytle Hernández’ Presentation during Safe Schools Hearing: Impact of Police in Schools. California Department of Education.

Available at: <https://www.facebook.com/CAEducation/videos/safe-schools-hearing-impact-of-police-in-schools/288417659174199>.

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School-based policing programs began in the 1950s and increased in the 1980s and 1990s. Nationally, one to three percent of schools had a police officer presence in the 1980s. In 2020, 80 percent of large schools (over 1,000 students) had police officer presence at least one day per week. Federal funding has supported this trend.

A. [Safety Outcomes of Police in Schools](#)

The School Policing Research to Policy Collaborative & the Federal School Discipline and Climate Coalition. (2021). School Police Research Briefing Series. P. 1. Available at: <http://www.schooldisciplinedata.org/ccrr/docs/Facts%20about%20School%20Policing.pdf>. “School police do not reduce levels of school crime, nor prevent or reduce the severity of school shootings.”

Petrosino, A. (2020, June 30). Anthony Petrosino’s Presentation during Safe Schools Hearing: Impact of Police in Schools. California Department of Education. Available at: <https://www.facebook.com/CAEducation/videos/safe-schools-hearing-impact-of-police-in-schools/288417659174199>.

WestEd researchers found that across twelve studies, crime incidents and self-reported information about victimization did not demonstrate a positive impact for schools with school-based police. In studies that included student and staff perceptions of safety, the researchers found that students and staff did not perceive schools with school-based police to be safer.

1. [Reported Crime Incidents](#)

Livingston, M., Rossheim, M., & Stidham Hall, K., (2019). A Descriptive Analysis of School and School Shooter Characteristics and the Severity of School Shootings in the United States, 1999-2018. *Journal of Adolescent Health*. 64, 797-799.

An analysis of school shooting severity in the United States between 1999 through 2018 found that the presence of a school resource officer did not lessen the severity of school shooting incidents.

Whitaker, A., Torres-Guillén, S., Morton, M., Jordan, H., Coyle, S., Mann, A., & Sun, W. “[E]valuation of the impact of North Carolina’s state grant program for school resource officers (SROs) concluded that middle schools that used state grants to hire and train SROs did not report reductions in serious incidents like assaults, homicide, bomb threats, possession and use of alcohol and drugs, or the possession of weapons.”

2. [Survey Self-Reporting of Experiences of Victimization](#)

Petrosino, A. (2020, June 30).

The FBI has collected data on active shooter incidents since 2004. On average, nationally, there are four active shooter events per year across 132,000 schools. Each event is terrifying.

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Lande (2020, June 30). Lande’s Presentation during Safe Schools Hearing: Impact of Police in Schools. California Department of Education. Available at: <https://www.facebook.com/CAEducation/videos/safe-schools-hearing-impact-of-police-in-schools/288417659174199>.

Former SROs note that, in the absence of school-based police, law enforcement officers will continue to respond to schools in relation to crimes that schools are required to report to police. SROs raise concerns about officers that are not specifically trained to work with youth conducting these investigations.

3. [Student Perceptions of Safety](#)

4. [Staff Perceptions of Safety](#)

B. [Student Experiences of Alienation in Relation to School Policing](#)

Curran, F.C., Fisher, B.W., Viano, S., & Kupchick, A.

“Although 79% of SROs initially report not being involved in discipline, we find that the majority involve themselves in nuanced ways that are shaped by relationships with school staff, official policies, and the characteristics of students served.” SROs involvement in discipline may create disciplinary contexts that are more punitive and rule driven rather than focused on addressing the underlying causes of misbehavior.

VII. [School District Police Departments](#)

Commission on Peace Officer Standards and Training. (2022).

There are only two school district police departments in Northern California: Stockton Unified and Twin Rivers Unified School District Police Departments.

There are three school district police departments in Central California: Clovis Unified and San José Unified School District Police Departments and Kern High School District Police Department.

There are 11 school district police departments in Southern California: Apple Valley Unified, Compton Unified, Fontana Unified, Hacienda La Puente Unified, Montebello Unified, San Bernardino Unified, Santa Ana Unified, Val Verde Unified School District Police Departments, Los Angeles School Police Department, San Diego City Schools Police Department, and Snowline Joint Unified School District. Four of these departments are in Los Angeles County and four are in San Bernardino County.

VIII. [Data Considerations](#)

California Department of Education. (2022). “DataQuest”

Youth and student demographics in California differ from the demographics of older age groups. The benchmark data for this subset of youth stop data will not be the same as for the full data set that includes all age groups.

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Ethnic Distribution of Public School Students 2021-2022	
Hispanic or Latino	55.9%
White	21.1%
Asian	9.5%
African American	5.1%
Two or More Races	4.3%
Filipino	2.3%
Not Reported	1.0%
American Indian or Alaska Native	0.5%
Pacific Islander	0.4%

19.14 percent of students were English learners.

12.65 percent of students had disabilities.

A. Potential Definition of “Youth”

Interagency Working Group on Youth Programs. (2022). *Transition & Aging Out. Youth.gov*. Available at: <https://youth.gov/youth-topics/transition-age-youth>.

The federal government’s Interagency Working Group on Youth Programs defines “transition age youth” to include persons between 16 to 24 years of age.

IX. Policy Considerations

Shore, R., Singh, R. (2022, March 25). *Discipline in Light of COVID, Remote Instruction, and Online Activities* [Presentation]. 22nd Annual School Law Institute, New York, NY. <https://www.pli.edu/programs/S/school-law-institute?msclid=a4c39d66c5b711ecbfdb8566c799b75a>.

There is a movement toward creating trauma-sensitive and healing-centered schools. These schools use a strengths-based approach. They recognize schools as sites of trauma. They emphasize whole school change and focus on ensuring all students feel physically, psychologically...

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McBride, Ashley. (2020, June 23).

“...some say they are in favor of keeping school officers because those officers have specialized training to respond to youth-training city police don’t have...”

VI. POLICIES AND ACCOUNTABILITY

VII. CALLS FOR SERVICE AND BIAS BY PROXY

From the time we are little, we are taught to call 911 to summon the police, fire department or an ambulance in times of crisis or emergency. Dispatchers are the first point of contact and can make significant decisions that affect the ultimate disposition of a call.²⁹⁴ Thus, encouraging critical thinking and training and supporting dispatchers increases the likelihood of a successful and proper response to a 911 call, especially when a call involves a non-violent crisis or bias-by-proxy.

Dispatchers play an integral role in the response and outcome of a call for service for a number of reasons. They serve as the conduit between the 911 caller and the response team, which can be either law enforcement or a crisis intervention team. A dispatcher interacts directly with the 911 caller, hearing the voice and tone of the caller and any background noises, and can ask questions as necessary. The dispatcher then makes the choice to (1) send law enforcement; (2) send a crisis intervention team in jurisdictions that have them; (3) send out a medical or fire team; or (4) not to send out a team. Thus, the ability to discern whether a call is about a non-violent crisis, such as mental health²⁹⁵ or substance abuse episode, or improperly fueled by bias, is an important skill. Additionally, the response team relies on the information gathered by a dispatcher. That information may color how a team responds to a particular incident and may contribute to or prevent a volatile interaction.

The importance of dispatcher communication and critical decision-making was demonstrated in the incident involving a woman colloquially known as “BBQ Becky.” In that case, a woman called the police twice on Black men barbecuing at Lake Merritt in Oakland, California for allegedly using charcoal grills in a non-designated area.²⁹⁶ Bias-by-proxy occurs when an

²⁹⁴ Given the RIPA Board’s focus on racial and identity profiling, this section will focus on calls for service that traditionally receive law enforcement a response, including mental health or substance abuse crises calls, rather than calls that traditionally receive a medical or fire department response, such as calls involving injured person or a fire.

²⁹⁵ “Only 4% of the general population experiences mental health issues that severely impact or limit their daily activities or functioning in any given year. However, according to data provided by the California Highway Patrol, at least 16% of officer-involved shootings from 2011-2014 involved people with mental illness diagnoses or strong indications of mental illness.” Public Safety Dispatchers: Mental Health Training, Assem. Bill No. 680 (2019-2020 Reg. Sess.)

²⁹⁶ See Aponte, *2 Investigates obtains 'BBQ Becky's' viral 911 calls* (Sept. 2, 2018) KTVU Fox 2 <<https://www.ktvu.com/news/2-investigates-obtains-bbq-beckys-viral-911-calls>> [as of July 8, 2022]

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individual calls the police and makes false or ill-informed claims about persons they dislike or are biased against.²⁹⁷ After the first call, the dispatcher marked the call as “no further description,” indicating it was a low priority call.²⁹⁸ When police did not arrive, the woman placed a second call to 911 about two hours later. In listening to the reason for the call and engaging further with the caller, a second dispatcher suspected something was not right and questioned the woman’s mental state and asked if she had visited a mental facility.²⁹⁹ The 911 caller escalated the reason for her call stating she was being harassed and followed.³⁰⁰ Eventually, officers arrived and assessed the 911 caller and determined she did not meet the threshold for a psychiatric hold.³⁰¹ Both dispatchers played a pivotal role in the non-volatile outcome of the 911 call. By designating the call a low priority, the first dispatcher indicated that this was not an incident involving a public safety risk nor one that needed an immediate police response.³⁰² As a result, officers did not arrive and engage with the Black men who were the subject of the call.³⁰³ Similarly, the second dispatcher’s discernment that something was not right about the call and caller prevented an unwarranted escalation of the situation once law enforcement arrived. The dispatcher’s coding of the call and information given to the responding officers primed them to approach the situation as one that was not involving a public safety risk, thus allowing the officers to properly focus their inquiries and preventing an unjustified law enforcement response.³⁰⁴ Such critical thinking exhibited by the second dispatcher is an essential skill for dispatchers, especially with calls involving possible bias-by-proxy or mental health or substance abuse crises.

²⁹⁷ Fridell, *Producing Bias-Free Policing: A Science-Based Approach* (2017) Springer International Publishing, p. 90

²⁹⁸ Aponte, *2 Investigates obtains 'BBQ Becky's' viral 911 calls* (Sept. 2, 2018) KTVU Fox 2 <<https://www.ktvu.com/news/2-investigates-obtains-bbq-beckys-viral-911-calls>> [as of July 8, 2022]

²⁹⁹ Aponte, *2 Investigates obtains 'BBQ Becky's' viral 911 calls* (Sept. 2, 2018) KTVU Fox 2 <<https://www.ktvu.com/news/2-investigates-obtains-bbq-beckys-viral-911-calls>> [as of July 8, 2022]

³⁰⁰ *Original BBQ Becky Meme Video - The First Viral "Karen"* (Apr. 29, 2018) <https://www.youtube.com/watch?v=Fh9D_PUe7QI> Youtube [as of July 8, 2022]

³⁰¹ Aponte, *2 Investigates obtains 'BBQ Becky's' viral 911 calls* (Sept. 2, 2018) KTVU Fox 2 <<https://www.ktvu.com/news/2-investigates-obtains-bbq-beckys-viral-911-calls>> [as of July 8, 2022]

³⁰² See Aponte, *2 Investigates obtains 'BBQ Becky's' viral 911 calls* (Sept. 2, 2018) KTVU Fox 2 <<https://www.ktvu.com/news/2-investigates-obtains-bbq-beckys-viral-911-calls>> [as of July 8, 2022]

³⁰³ Officers responded to a Quik Stop approximately two blocks away from where the men were barbecuing and engaged with the 911 caller without the two men present. *Original BBQ Becky Meme Video - The First Viral "Karen"* (Apr. 29, 2018) <https://www.youtube.com/watch?v=Fh9D_PUe7QI> Youtube [as of July 8, 2022]

³⁰⁴ The second dispatcher questioned the caller’s mental state asking if the caller had been to John George, a psychiatric hospital. When on scene, officers assessed the 911 caller for a 51-50 psychiatric hold, which allows a police officer to take a person into custody for up to 72 hours to evaluate their mental state and whether they are a danger to themselves or to others, but ultimately decided she did not meet the criteria. Aponte, *2 Investigates obtains 'BBQ Becky's' viral 911 calls* (Sept. 2, 2018) KTVU Fox 2 <<https://www.ktvu.com/news/2-investigates-obtains-bbq-beckys-viral-911-calls>> [as of July 8, 2022]

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Understandably, dispatchers may sometimes be apprehensive about not sending a law enforcement team.³⁰⁵ A survey of Phoenix, Arizona’s 911 operators determined that liability concerns led dispatchers to send out the crisis intervention team less often than they could have.³⁰⁶ “These dispatchers feared that threats to safety could emerge and they might be reprimanded for not sending patrol.”³⁰⁷ There are several resources that can be utilized to help a dispatcher make better-informed decisions.

Training dispatchers regarding mental health issues and bias-by-proxy can help dispatchers make a decision about sending a law enforcement response. Assembly Bill 680 legislates mandatory mental health training for dispatchers as of January 2021. Lawmakers reasoned that dispatchers must be “better equipped to identify, collect, and relay information regarding mental health issues in a manner that improves safety for all involved including the individual in crisis, family members, bystanders and first responders.”³⁰⁸ POST is currently updating its dispatcher training³⁰⁹ to include training on mental health, crisis intervention, and de-escalation techniques.³¹⁰ [INSERT ADDITIONAL TRAINING UPDATE INFO WHEN IT BECOMES AVAILABLE]. Additionally, POST is updating its dispatcher training to integrate the effects of implicit and explicit biases; dispatchers will be trained to be aware of their own biases and how they may affect professional demeanor and behavior.³¹¹ The goal of the training is for dispatchers to conduct calls free from bias.³¹² The new training will also discuss dispatcher “priming” of police officers.³¹³ In other words, dispatchers will be trained on how word selection, tone, and pitch can influence a peace officer’s response to a call.³¹⁴ POST is also

³⁰⁵ Beck, Reuland, & Pope, *Case Study: Robust Crisis Care and Diverting 911 Calls to Crisis Lines*, (Nov. 2020) Vera Institute of Justice < <https://www.vera.org/behavioral-health-crisis-alternatives/robust-crisis-care-and-diverting-911-calls-to-crisis-lines>> [as of July 8, 2022]

³⁰⁶ Beck, Reuland, & Pope, *Case Study: Robust Crisis Care and Diverting 911 Calls to Crisis Lines*, (Nov. 2020) Vera Institute of Justice < <https://www.vera.org/behavioral-health-crisis-alternatives/robust-crisis-care-and-diverting-911-calls-to-crisis-lines>> [as of July 8, 2022]

³⁰⁷ Beck, Reuland, & Pope, *Case Study: Robust Crisis Care and Diverting 911 Calls to Crisis Lines*, (Nov. 2020) Vera Institute of Justice < <https://www.vera.org/behavioral-health-crisis-alternatives/robust-crisis-care-and-diverting-911-calls-to-crisis-lines>> [as of July 8, 2022] (citing Galdys and Taylor, March 4, 2020, call; and Moody, June 18, 2020, call.)

³⁰⁸ Public Safety Dispatchers: Mental Health Training, Assem. Bill No. 680 (2019-2020 Reg. Sess.)

³⁰⁹ Dispatchers are required to complete a 120 hour training course within their first year on the job. 6/21/22 presentation

³¹⁰ Poulos, *June 21, 2022 RIPA Calls for Service Subcommittee Meeting* (June 22, 2022), Youtube < <https://www.youtube.com/watch?v=l-cFR8z1rqU>> [as of July 8, 2022]

³¹¹ Poulos, *June 21, 2022 RIPA Calls for Service Subcommittee Meeting* (June 22, 2022), Youtube < <https://www.youtube.com/watch?v=l-cFR8z1rqU>> [as of July 8, 2022]

³¹² Poulos, *June 21, 2022 RIPA Calls for Service Subcommittee Meeting* (June 22, 2022), Youtube < <https://www.youtube.com/watch?v=l-cFR8z1rqU>> [as of July 8, 2022]

³¹³ Poulos, *June 21, 2022 RIPA Calls for Service Subcommittee Meeting* (June 22, 2022), Youtube < <https://www.youtube.com/watch?v=l-cFR8z1rqU>> [as of July 8, 2022]

³¹⁴ Poulos, *June 21, 2022 RIPA Calls for Service Subcommittee Meeting* (June 22, 2022), Youtube < <https://www.youtube.com/watch?v=l-cFR8z1rqU>> [as of July 8, 2022]

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working on including cultural diversity, specifically regarding the LGBTQ+ community and hate crimes, into dispatcher training.

California's 911 call system is also being updated to Next Generation 911 (NG911) to keep pace with current technology.³¹⁵ This system will give dispatchers access to more information as they answer calls.³¹⁶ NG911 will be able to handle short message service (SMS) and real-time text (RTT).³¹⁷ Callers will be able to share text messages with dispatchers that can include videos, voice messages, and pictures.³¹⁸ With more information at their disposal, dispatchers will be able to better assess a situation, which will, hopefully, increase confidence in their decisions whether to send out law enforcement, some other type of response team, or provide alternatives to sending responders at all.

Additionally, 911 dispatchers will work contemporaneously with a newly created mental health crisis hotline to reduce law enforcement response to crisis calls. Federal legislation mandated a new three-digit phone number, 988, be created to handle mental health and crisis intervention incidents.³¹⁹ This number would work in conjunction with 911. California Assembly Bills 988³²⁰ and 1988³²¹ implement and name the national 988 system in California; 988 launched on July 16, 2022.³²² 988 will work towards "suicide prevention and immediate, localized emergency response for individuals in mental health crisis by trained mental health professionals," rather than law enforcement agencies.³²³ Currently, there is an overreliance on law enforcement responding to mental health crises; police and the criminal justice system often serve as the "default mental health provider."³²⁴ As a result, approximately 25% of those killed

³¹⁵ Federal legislation mandates that all states update their 911 systems in an effort to modernize the nation's 911 systems to keep pace with evolving technology and to increase safety and security of the public, including first responders and other public safety personnel. The current systems "lack the advanced functionality, interoperability, and capabilities that come with the adoption of new digital communications technologies." Next Generation 911 Act of 2019, S.B. No. 1479, 116th Congress (2019-2020)

³¹⁶ *Next Generation 9-1-1 (NG9-1-1) in California*, Cal OES Governor's Office of Emergency Services <<https://www.caloes.ca.gov/businesses-organizations/plan-prepare/ca-9-1-1-technology>> [as of July 8, 2022]

³¹⁷ Emergency Services: Text to 911, Assem. Bill No. 1168 (2019-2020 Reg. Sess.)

³¹⁸ *Next Generation 911 Solutions: Real-Time Text for 9-1-1*, (Oct. 14, 2021) NGA <<https://nga911.com/news/post/next-generation-911-solutions-real-time-text-9-1-1>> [as of July 8, 2022]

³¹⁹ National Suicide Hotline Designation Act of 2020, S.B. No. 2661, 116th Congress (2019-2020)

³²⁰ Mental Health: 988 Crisis Hotline, Assem. Bill No. 988 (2021-2022 Reg. Sess.) [Bill Text - AB-988 Mental health: 988 crisis hotline. \(ca.gov\)](#)

³²¹ Warren-911-Emergency Assistance Act, Assem. Bill. No. 1988 (2021-2022 Reg. Sess.)

³²² Mental Health: 988 Crisis Hotline, Assem. Bill No. 988 (2021-2022 Reg. Sess.) [Bill Text - AB-988 Mental health: 988 crisis hotline. \(ca.gov\)](#)

³²³ AB 988 – The Miles Hall Lifeline Act: 988 Suicide and Mental Health Crisis Hotline <<https://women.ca.gov/wp-content/uploads/sites/96/2021/04/7.-AB-988-Fact-Sheet.pdf>> [as of July 8, 2022]

³²⁴ AB 988 – The Miles Hall Lifeline Act: 988 Suicide and Mental Health Crisis Hotline <<https://women.ca.gov/wp-content/uploads/sites/96/2021/04/7.-AB-988-Fact-Sheet.pdf>> [as of July 8, 2022].

Currently, 10% of law enforcement agencies' budgets – and 20% of staff time – are spent responding to individuals with mental illness. *Id.*

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in police-involved shootings since 2015 had a known mental illness and are disproportionately Black men.³²⁵ The 988 system will help stem law enforcement response to calls in which a mental health response or substance abuse response is the more appropriate response. It will be answered by the state’s thirteen certified suicide prevention call centers³²⁶ and be available 24 hours a day and 7 days a week. Currently, responses to 988 calls will be based on local resources, including existing crisis intervention teams.³²⁷ However, AB 988 mandates a five-year implementation plan to include the following:³²⁸

(A) Access to crisis counselors through telephone call, text, and chat, 24 hours per day, seven days per week.

(B) Mobile crisis teams that operate statewide 24 hours per day, seven days per week, and can respond to individuals in crisis in a timely manner. Mobile crisis teams shall be able to respond to clearly articulated suicidal or behavioral health contracts made or routed to 988 as an alternative to law enforcement unless there is a medical emergency, someone is in immediate danger, or there is a reported crime where law enforcement is mandated to respond by state or federal law.

(C) Access to crisis receiving and stabilization services.³²⁹

[UPDATE SECTION AS 988 DEVELOPS]

Services are also available through another three-digit phone number, 211. It is “a free phone number and online database that connects people to local health and human services such as food, housing, child care, utility assistance, crisis intervention, disaster response information and more.”³³⁰ Individuals may call “211” or search online for resources and get connected with mental health services such as residential treatment programs, adult or child psychiatric hospitals, and mental health care in the community. 211 may also connect individuals with

³²⁵ AB 988 – The Miles Hall Lifeline Act: 988 Suicide and Mental Health Crisis Hotline <<https://women.ca.gov/wp-content/uploads/sites/96/2021/04/7.-AB-988-Fact-Sheet.pdf>> [as of July 8, 2022]

³²⁶ *About, 988 California Suicide Prevention and Mental Health Crisis Lifeline* <<https://www.988california.org/#:~:text=988%20California%20is%20a%20consortium%20of%20thirteen%20California,Substance%20Abuse%20and%20Mental%20Health%20Services%20Administration%20%28SAMHSA%29>> [as of July 8, 2022]

³²⁷ Call with AB 988 Sponsors Lauren Finke, Kennedy Forum, and Tara Gamboa-Eastman, Steinberg Institute (July 18, 2022)

³²⁸ Mental Health: 988 Crisis Hotline, Assem. Bill No. 988 (2021-2022 Reg. Sess.) [Bill Text - AB-988 Mental health: 988 crisis hotline. \(ca.gov\)](#) The plan must be developed no later than December 31, 2023. *Id.*

³²⁹ Mental Health: 988 Crisis Hotline, Assem. Bill No. 988 (2021-2022 Reg. Sess.) [Bill Text - AB-988 Mental health: 988 crisis hotline. \(ca.gov\)](#)

³³⁰ *211 Is a Free Information and Referral Service That Connects People to Health And Human Services in Their Community 24 Hours a Day, 7 Days a Week*, 211 <<https://www.211ca.org/about-2-1-1>> [as of July 8, 2022]. In 2016, California 211 programs responded to over 2.8 million inquiries from people seeking services such as rent and mortgage assistance, food and shelter, health care, job training, transportation, child care, and elder care. *Id.*

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substance abuse treatment facilities and may also connect unhoused individuals with shelters and public assistance resources. By calling into this number or accessing this site, users may decrease calls to 911.

911 dispatchers are an extremely important part of the operation that responds to calls for service. They engage with the caller and the response team. They assess the circumstances of a call and determine the appropriate response. As such, dispatchers play an important role in reducing armed law enforcement responses to crisis calls and bias-by-proxy calls, and instead direct a community-based response.

CRIST INTERVENTION MODELS – will include update on models previously discussed in RIPA Reports

VIII. CIVILIAN COMPLAINTS

California state law requires law enforcement agencies to submit civilian complaint data to the Department of Justice. This requirement was established in 1981 and expanded in 2015 under the RIPA penal code statutes. RIPA added a requirement to report the total number of complaints alleging racial or identity profiling. Additionally, RIPA required law enforcement agencies to include the number of complaints with dispositions of “sustained,” “exonerated,” “not sustained,” and “unfounded.”³³¹ This data is analyzed annually for the Board’s reports.

RIPA’s requirements demonstrate the Legislature’s intention that civilian complaints serve as an effective law enforcement accountability measure. Since its inception, the Board has worked toward developing recommendations around policy and practices geared toward ensuring that the Legislative goals are achieved. Toward that end, below is an overview and analysis of the 2021 civilian complaint data submitted to the DOJ, and a holistic overview of the Board’s prior and current recommendations with respect to civilian complaints. While this overview is meant to be comprehensive, it is not exhaustive, as the Board and agencies are always striving to implement emerging best practices.

[A. Overview of Civilian Complaint Data](#)

³³¹ “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. (Pen. Code, § 13012, subd. (a)(5)(B).)

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[Data analysis still in process; section to be added later]

B. Civilian Complaint Processes and Best Practices

a. Recap of Civilian Complaint Definition

While state law governs civilian complaint procedures generally, currently law enforcement agencies have discretion in designing and implementing their complaint processes.³³² This includes defining what constitutes a “civilian complaint.” Because law enforcement agencies decide how to label complaints, they control what incidents are investigated, reported, and retained.

In its 2022 Annual Report, the Board identified the lack of a uniform definition as a gap in the law that inhibits equitable access to the civilian complaint process and, in some cases, causes inequities in civilian complaint data.³³³ As such, the Board renews its recommendation from the 2022 Annual Report that the legislature add the following definition to Penal Code section 832.5:

(1) Complaint means either of the following:

(A) any issue brought to a department or agency where the complainant perceives that a department or agency employee engaged in criminal conduct, abusive or discriminatory behavior, inappropriate or discourteous conduct, or violation of any law or rules, policies, and regulations of the department or agency; or

(B) disagreement solely with the policies, procedures, or services of the department or agency and not with the performance of any personnel. If during the course of investigating this type of complaint, conduct is discovered that could be the basis of a complaint under subdivision (1)(A), the investigator shall report this conduct to a supervisor, which should be logged, tracked, and investigated separately from the original complaint.³³⁴

b. Civilian Complaint Processes and Best Practices

Current law gives each individual law enforcement agency the freedom to create their own civilian complaint process, and outlines few requirements for that process. Such discretion by law enforcement agencies results in unequal access to the civilian complaint process, and lack of

³³² See Pen. Code, § 832.5.

³³³ See Racial and Identity Profiling Advisory Board, Annual Report (2022) at pp. 227-28.

³³⁴ 2022 RIPA Report Pg 230

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transparency and accuracy in reporting. The Board believes standardization of the civilian complaint process would help resolve these issues. [Best practices in development].

1. Intake and Access to the Complaint Process

The civilian complaint process should be accessible, fair, and transparent from beginning to end.

The first step to achieving that is ensuring that the community has access to the complaint process in writing and the civilian complaint form is made widely and permanently available. This means that forms should be provided in a variety of locations, such as within the agencies' offices, government buildings, and community-centered sites.³³⁵ Each location offering a form should include posted signage notifying the public of their right to make a complaint.³³⁶

Officers also play an important role in ensuring the public is informed of their right to make a complaint because of regular interaction with the community. When a member of the public describes alleged misconduct to an officer, that officer should be prepared to explain the person's right to file a complaint and explain the complaint process in a manner that is easily understandable and promotes action if desired. Additionally, officers should be required to submit a complaint if a member of the public provides the officer with information about alleged misconduct by another officer.³³⁷ This should occur even if the community member does not wish to pursue a complaint themselves or does not express a desire for any remedy, such as discipline of the officer.

The second step to achieving an accessible, fair, and transparent process is accepting all complaints from all people. This includes complaints made in-person, in writing, by telephone, e-mail, fax, and online. Complaints should be accepted from everyone, including minors, parents or legal guardians filing on behalf of their minor dependent, non-English-speaking persons, anonymous parties, and third-party complainants. Examples of third-party complainants include witnesses to misconduct against another person or persons who are aware of misconduct by an officer. Restrictions on how complaints are made and who is able to make complaints may limit or deter members of the public from pursuing a complaint.

The content of the complaint form should meet the needs of all community members. Best practice recommendations suggest that forms should be provided in any language spoken by

³³⁵ 2022 RIPA Report Pg 230

³³⁶ 2022 RIPA Report Pg 230

³³⁷ 2022 RIPA Report Pg 231

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more than 5% of the jurisdiction’s population, as defined in the Dymally-Alatorre Bilingual Services Act.³³⁸ In addition, forms should be accessible to people with disabilities by use of methods like minimum 14-point font or high contrast colors of text (note full list is on pg. 72 of 2020 RIPA Report).³³⁹

Beyond the content of the form, it is important to make accommodations so all can access the complaint process equally. This may include asking people with disabilities what accommodations would help them engage with the investigation more easily, providing interpreters or translations, and recognizing other cultural needs of the complainant.³⁴⁰ [Additional content in development].

The United States Department of Justice (US DOJ) released a report through the Office of Community Oriented Policing Services (“COPS”) detailing the civilian complaint intake, classification, and investigation process. This report, Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice, was developed through a collaborative partnership of the Los Angeles (California) Police Department and eleven other major city and county law enforcement agencies. The agencies created best practice standards in internal affairs work, with a focus on developing or improving community trust and mutual respect and ensuring equal treatment of all citizens. A key principle in this work is ensuring the civilian complaint process does not discourage complainants in any way. The report discusses that discouragement from filing a complaint can happen in many ways, including by the phrasing of the content contained on the complaint form itself or in the description of the agency’s complaint investigation process on their website or in a printed brochure. The report explicitly states that unless required by law, no threats or warnings of prosecution or potential prosecution for filing a false complaint should be made orally or in writing to a complainant or potential complainant. As such, the Board remains concerned about Penal Code Section 148.6, which requires all complaints to include the complainant’s signature on an advisory stating knowingly false complaints are subject to prosecution.

In past reports, the RIPA Board discussed conflicting conclusions from the California Supreme Court³⁴¹ and the United States Court of Appeals for the Ninth Circuit³⁴² about whether section

³³⁸ 2022 RIPA Report Pg 231-233 (everything in Intake section up until FN 3)

³³⁹ 2020 RIPA Report Pg 74

³⁴⁰ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg 10

³⁴¹ *People v. Stanistreet* (2002) 29 Cal.4th 497

³⁴² *Chaker v. Crogan* (2005) 9th Cir. [428 F.3d 1215]

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148.6 violates the First Amendment. As evidenced by recent litigation, this conflict means California law enforcement agencies do not have clear direction whether they are required to comply with section 148.6. In 2017, the Los Angeles Police Protective League, a local police union, sued the City of Los Angeles seeking an injunction enforcing section 148.6 because the city had not been requiring complainants to sign an advisory. In May 2022, an appellate court ruling in *Los Angeles Police Protective League v. City of Los Angeles* concluded that section 148.6 is not a violation of the First Amendment.³⁴³ This case demonstrates the need for legislative action to resolve concerns about these statutes; thus, the RIPA Board renews its recommendation to delete or amend Section 148.6. The Board advises that section 148.6 no longer include that a complaint must be signed and in writing. The Board believes that making this change to the law will create a more uniform and equitable civilian complaint procedure across the state and ensure more accurate civilian complaint data.

Practices such as running warrants or immigration checks on complainants at intake solely because they are complainants should not be tolerated.³⁴⁴ [Content in development].

Lastly, complaint forms and instructions must explicitly inquire whether the complaint alleges racial or identity profiling and provide space to specify the type of racial or identity profiling alleged as required by state law.

Law enforcement agencies should implement these recommendations to ensure full and equal access to their complaint forms and processes. Moreover, agencies should consider an online portal for members of the public to prepare and submit their complaints. An online portal is made better by the added ability to track the complaint.

2. Timeline of Complaint Process

Beyond intake and access, establishing a timeline for the complaint process is key to fairness and transparency. While specific timelines may vary by agency, each department should develop written internal deadlines to complete an investigation and review process and require supervisory approval for deviation from those deadlines.³⁴⁵

One best practice recommendation is for the entire investigation to be completed within X days [research continuing on timeframe recommendation] of the original complaint. If the

³⁴³ *L.A. Police Protective League v. City of L.A.* (Cal.App., May 19, 2022, No. B306321) [2022 WL 1580024]

³⁴⁴ <https://cops.usdoj.gov/ric/Publications/cops-p164-pub.pdf>

³⁴⁵ CITE

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investigation is very complex, there should be a provision that it can take longer than X days, but only with a written request from the investigator that is granted by the Chief of Police.³⁴⁶

Officers should be notified within X hours of the original complaint. [Research continuing on timeframe recommendation]. Correspondence to the complainant should be included in the policy, and the time frame should be clearly defined. In general, complainants should be notified of a disposition within one week of the conclusion of the investigation.³⁴⁷ [Research continuing on timeframe recommendation].

Another best practice recommendation is to establish a timeline by which complainant and witnesses should be interviewed by the investigator. One suggestion for smaller agencies has been that the complainant and witnesses should be interviewed by the investigator within 24 hours of filing the complaint, and preferably, within 24 hours of the incident, allowing the investigator to get information from the complainant and witnesses while it is still fresh in their minds. This timeline may need to be expanded for larger agencies or depending on staffing, but the principle of timely interviews should apply. Policies should specify the precise amount of time the investigator will wait for a representative, like a union or lawyer, to appear at the interview to avoid unnecessary delays.³⁴⁸

3. Tracking Complaints

As is true of any accountability measure, careful tracking of complaints is a critical part of the process. Agencies should use a uniform system for accepting, documenting, investigating, and reporting complaints. This allows agencies to provide accurate and complete reporting data and improve their ability to respond to personnel or operational problems identified by the communities they serve.³⁴⁹

³⁴⁶ <https://www.theiacp.org/sites/default/files/2018-08/BP-InternalAffairs.pdf>

International Association of Chiefs of Police strategy guide geared towards smaller police departments. Authored by Chief Beau Thurnauer, a twenty-two-year veteran of the Manchester, Connecticut Police Department.

³⁴⁷ <https://www.theiacp.org/sites/default/files/2018-08/BP-InternalAffairs.pdf>

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³⁴⁸ <https://www.theiacp.org/sites/default/files/2018-08/BP-InternalAffairs.pdf>

International Association of Chiefs of Police strategy guide geared towards smaller police departments. Authored by Chief Beau Thurnauer, a twenty-two-year veteran of the Manchester, Connecticut Police Department.

(Everything after previous FN is from this source)

³⁴⁹ 2020 RIPA Report Pg 69-70

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The tracking system should be automated, where feasible, and capable of capturing information regarding the complaint that is important for case tracking. The tracking system should alert investigators and those responsible for management of the complaint process when deadlines are about to expire or have expired.³⁵⁰ [Research continuing].

4. *Communication with Complainant*

Careful tracking of complaints leads to easier communication with complainants. According to Penal Code section 832.7, law enforcement agencies are required to provide a complainant with the complainant's own statement(s) *at the time the complaint is filed*, but it is unclear whether this requirement extends to any additional statements the complainant may provide throughout the investigation.³⁵¹

While the law is narrow and unclear, communication with the complainant should happen immediately upon receipt of the complaint and regularly throughout the investigation process. It is important for the investigating officer to get in touch with the complainant early on so that they can hear firsthand how the complainant experienced discrimination. As previously mentioned, agencies want the investigator to get information from the complainant while it is still fresh in their minds. Agencies should establish protocol and policy for engagement with complainants regarding police misconduct within the first 48 hours of reporting and monthly thereafter until the investigation is closed.³⁵²

Upon submission of a complaint, complainants should be provided with the following:

- Written acknowledgement of their complaint with a tracking number, the identity of the investigator, and contact information or other information to track the progress of their complaint;
- an opportunity to review their complaint and/or statements for accuracy;
- standards for review and disposition categories in the agency's policy; and
- a timeline for complaint investigations and procedures that must be followed.³⁵³

³⁵⁰ <https://cops.usdoj.gov/ric/Publications/cops-p164-pub.pdf>

³⁵¹ 2022 RIPA Report Pg 228

³⁵² CITE

³⁵³ 2022 RIPA Report Pg 231

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It is also important to routinely update the complainant on the investigation. IPCC suggests every 28 days.³⁵⁴ This is important because complainants often already have low trust in law enforcement and may anticipate additional adverse treatment when contacting the police. Complainants with low levels of trust in the police may prefer to communicate through a mediator or advocate or communicate over the phone instead of going to a police station. It is important to offer these options to increase access to the complaint process.³⁵⁵ Complainants should be notified of any delays in the investigation process immediately to help avoid exacerbation of mistrust.³⁵⁶ Additionally, agencies should use regular letter notifications for each phase of the investigation: receipt, request for interview, ongoing update, and closing.³⁵⁷ Surveys of complainant satisfaction can be helpful to promote the quality of investigations.³⁵⁸

5. Investigating Complaints

Like acceptance of complaints, all complaints should be investigated. No department or agency should terminate an investigation solely based on a complainant's withdrawal of a complaint.³⁵⁹ [Content in development].

[Content in development to introduce independent review boards and their role/purpose]. Many scholars believe the only way to maintain public confidence in the integrity of police departments is to have independent investigations of all complaints.³⁶⁰ When structuring a body to investigate civilian complaints, there should be no points of influence between the department and the investigating body.³⁶¹ That said, any oversight board or independent investigator must be familiar with the agency's training procedures and culture. It is important to impartiality, however, for them not to become overly familiar with how officers think.³⁶² In some circumstances, all public employees are barred from serving on an external review committee [, may need more research to clarify why].³⁶³

³⁵⁴ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg VI

³⁵⁵ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg 11

³⁵⁶ 2022 RIPA Report Pg 231

³⁵⁷ CITE

³⁵⁸ 40BritJCriminology659, Pg 667

³⁵⁹ 2022 RIPA Report Pg 232

³⁶⁰ 40BritJCriminology659, Pg 660

³⁶¹ 40BritJCriminology659, Pg 662-663

³⁶² 40BritJCriminology659, Pg 663

³⁶³ 40BritJCriminology659, Pg 664

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Whether through an independent review board or an internal investigation, when beginning to collect evidence, investigators should establish several key lines of inquiry to look for indirect evidence of discrimination.³⁶⁴ Direct evidence is often unavailable to support allegations. Examples of key lines of inquiry include officer complaint history and patterns of behavior, comparing how the complainant was treated to how other individuals without the same protected characteristics are treated, and language used during the police encounter.³⁶⁵

Next, investigators should speak directly with the officer and interview them about the assessments they made, why they took the actions they did, and what, if any, assumptions they made.³⁶⁶ The investigator should inquire about why the officer believes the complainant might have felt discriminated against.³⁶⁷ Investigators should also ask the officer if they felt they had adequate training to respond to the situation they faced. This may not only help the specific investigation but could also help identify problematic patterns or practices at the department level or training improvement needs.³⁶⁸ It is also important to ask the complainant what they see as the preferred outcome of the investigation.³⁶⁹

Lastly, investigators should consider any local, national, or international events that may impact stereotypes or police-community relations. Examples include recent use-of-force incidents or spikes in certain types of crime. Consideration of the current climate will help when evaluating the possibility that an officer acted upon a stereotype.³⁷⁰

Of note, independent bodies in charge of civilian complaints are most effective if they have power to both conduct investigations and to adjudicate and direct police management/training.³⁷¹ If the complaint only results in reprimands or cautions, it may be less effective at deterring

³⁶⁴ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg VIII

³⁶⁵ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg VIII

³⁶⁶ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg VIII

³⁶⁷ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg VIII

³⁶⁸ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg 51

³⁶⁹ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg 9

³⁷⁰ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg 25

³⁷¹ 40BritJCriminology 659, Pg 661

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misconduct. In some circumstances, few complaints result in dismissals or fines, which can undermine public confidence in the investigation process.³⁷² Some have suggested adding employment provisions to the contracts of police commissioners or department heads that allow for termination if the complaint resolution process is inefficient or ineffective.³⁷³ [Research continuing on investigating complaints within the agency, as well as external community-based and non-community-based bodies].

6. Complaint Disposition

While state law lacks instructions on how agencies should investigate civilian complaints, it requires agencies to report the outcome under the four categories of “frivolous,” “unfounded,” “exonerated,” or “sustained.”³⁷⁴ State law also requires agencies to provide the complainant with written notification of the disposition within 30 days.³⁷⁵

Even if the investigation does not result in a favorable outcome for the complainant, it is important for agencies to make the complainant feel respected and heard to maintain positive police-community relations.³⁷⁶ Timely communication of the disposition is a key part of positive relationship building. In addition, complainants appreciate direct apologies for any failings found during the investigation.³⁷⁷

7. Auditing the Complaints Process

To ensure the system is effective, agencies should conduct regular independent audits of the civilian complaint review process.³⁷⁸ Generally, the number of complaints is not a reliable indicator of the effectiveness of the complaints process; the number of complaints may reflect public confidence in investigation procedures, and declines in complaints could reflect less police misconduct or a “deterioration in public confidence.”³⁷⁹ Internal audits and oversight of the process and agency’s response to the process can help agencies and the public understand

³⁷² 40BritJCriminology659, Pg 666

³⁷³ 40BritJCriminology659, Pg 670

³⁷⁴ 2022 RIPA Report Pg. 228; see also RIPA Report Pg. 203

³⁷⁵ 2022 RIPA Report pg. 229

³⁷⁶ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg X

³⁷⁷ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg X

³⁷⁸ 40BritJCriminology659, Pg 672

³⁷⁹ 40BritJCriminology659, Pg 661

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how the systems are working and where improvement is needed. DOJ best practices includes a recommendation for agencies to periodically collect and analyze civilian complaints trends.³⁸⁰

Auditing practices can be as simple as asking directly on the complaint form whether any attempt to intimidate the complainant has been made, or following up with the complaint for feedback once the process is over.[Research continuing]. More sophisticated practices include use of video camera surveillance or undercover officers posing as complainants to test the integrity of the process.³⁸¹ [Content in development].

Agencies should compile and periodically publicly produce aggregate data about the number of civilian complaints received and the number of internal investigations conducted to offer greater insight into the nature and effectiveness of its accountability measures.³⁸² Agencies should also have the ability to audit its complaint system to account for complaints received by a variety of means, like complaints logged in separate, unconnected databases, to meet its legal obligations to report civilian complaints (Section 832.5). Where possible, information should be integrated among the various databases. Various sources of misconduct allegations (e.g., civilian complaints, use of force incidents, domestic violence complaints, complaints by peer officers or supervisors, etc.), should not be siloed, so agencies can identify and remedy at-risk behavior as quickly as possible.³⁸³ Police departments must have a robust system for recording officer conduct, so that this data can be referenced when complaints are filed against particular officers.³⁸⁴

8. Use of Complaints in Early Intervention Systems, Discipline, Training

The civilian complaints process is an effective accountability tool; however, complaints investigations are strongest when incorporated in proactive accountability measures.³⁸⁵ An example is the use of complaints in early intervention systems (EIS). EIS are a performance management tool used to enhance integrity and accountability of officers and agencies.³⁸⁶ The Board provided a detail explanation of EIS in the 2021 Annual Report.³⁸⁷ EIS should provide an

³⁸⁰ 2021 RIPA Report Pg 136-137

³⁸¹ <https://cops.usdoj.gov/ric/Publications/cops-p164-pub.pdf>

³⁸² CITE

³⁸³ 2020 RIPA Report pg 69-70

³⁸⁴ https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/guidelines_for_handling_allegations_of_discrimination.pdf Pg 16

³⁸⁵ 40BritJCriminology659, Pg 672-673

³⁸⁶ 2021 RIPA Report Pg. 135

³⁸⁷ 2021 RIPA Report pg. 135

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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.³⁸⁸

Effective use of complaints in EIS requires analyzing EIS data to uncover the nature of problematic performance. For example, law enforcement agencies should use their data to identify trends. Trends might include the type of stop from which most civilian complaints are originating, whether complaints or use-of-force incidents are more common among certain identity groups, , or the volume of complaints increased at a certain point in history.³⁸⁹ Effective use of complaints in EIS also relies on a wide range of intervention options that can be used, depending on the officer’s needs and also provide opportunities to reward positive behavior.³⁹⁰ This helps officers view the system as non-disciplinary and increases buy-in.³⁹¹ Labeling consequences as “interventions” instead of “warnings” may also help officers view the EIS as helpful, instead of punitive.³⁹² Additionally, clear distinctions should be made between EIS preventative interventions and the formal disciplinary system.³⁹³

Supervisors must have a full understanding of the EIS for it to be successful. Specifically, it is important for supervisors to understand “the data that are captured in the system, and how the data are used.”³⁹⁴ This also includes understanding responsibilities to monitor officer behavior and identify patterns of behavior and performance before formal complaints are filed.³⁹⁵ Supervisors should meet with officers regularly as they approach EIS thresholds.³⁹⁶ Lower level officers, because they are more often on the street, are most likely to engage with the EIS system and reach potential thresholds for intervention. If supervisors are knowledgeable about the system, they can help educate lower level officers.³⁹⁷ This also helps avoid “supervisor shopping,” when officers try and switch duties to avoid oversight or EIS interventions.³⁹⁸ Lastly supervisors should be knowledgeable about the spectrum of resources available to help

³⁸⁸ <https://cops.usdoj.gov/RIC/Publications/cops-p105-pub.pdf>

³⁸⁹ COPS Strategies for Intervening, Pg 30

³⁹⁰ COPS Strategies for Intervening, Pg 4

³⁹¹ COPS Strategies for Intervening, Pg 5

³⁹² COPS Strategies for Intervening, Pg 13

³⁹³ COPS Strategies for Intervening, Pg 28

³⁹⁴ COPS Strategies for Intervening, Pg 12

³⁹⁵ COPS Strategies for Intervening, Pg 18

³⁹⁶ COPS Strategies for Intervening, Pg 19

³⁹⁷ COPS Strategies for Intervening, Pg 9

³⁹⁸ COPS Strategies for Intervening, Pg 39

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officers.”³⁹⁹ Supervisors must follow through after an officer’s intervention, and be prepared to recommend a new intervention if the first did not address the performance issue.⁴⁰⁰

EIS should be a final check on officer behavior. Identifying performance problems and intervening early will result in fewer problematic incidents in the field later, and a lot of time saved that otherwise would have been spent investigating complaints.⁴⁰¹ [Content in development that draws from the principles of EIS to be applied more generally to LEAs without EIS].

[Conclusion]

IX. POST TRAINING AND RECRUITMENT

A. Introduction and Background

The Racial and Identity Profiling Act (RIPA) establishes that peace officers shall not engage in racial or identity profiling.⁴⁰² The Act requires every peace officer in California to participate in expanded training certified by the Commission on Peace Officers Standards and Training (POST)⁴⁰³.

POST is the central hub for all training and regulations for peace officers throughout California they develop minimum standards, disseminate guidelines, and certify training. Currently, POST has a budget of \$110.2 million and 263 positions which represents an increase from prior years largely due to the Decertification Program established by SB 2.

Penal Code 13519.4(h) requires POST to consult with the RIPA Board on training courses related to bias in policing. Over the past five years, RIPA Board members have contributed a significant amount of time reviewing and commenting on curriculum, videos, online course materials and onsite classroom training. The 2023 report highlights the RIPA Board’s reviews and comments on two courses that focus on racial and identity profiling. One of the courses is a Basic Academy course, which focuses on the racial and identity profiling portion of Learning Domain 42, Cultural Diversity/Discrimination. The other course is aimed at updating the curriculum for trainers and is entitled, “Racial and Identity Profiling Train the Trainer Curriculum Update.”

³⁹⁹ COPS Strategies for Intervening, Pg 12

⁴⁰⁰ COPS Strategies for Intervening, Pg 25

⁴⁰¹ <https://cops.usdoj.gov/RIC/Publications/cops-p105-pub.pdf>

⁴⁰² Pen. Code § 13519.4 (f).

⁴⁰³ Pen. Code §13519.4 (g).

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Additionally, members of the RIPA Board have collaborated with POST on some of their regulations. AB 846 required POST to screen for bias in the hiring process and SB 2 (Officer Decertification) required POST to define serious misconduct. Pursuant to these measures, POST has proposed implementation regulations, and the RIPA Board has been engaged in reviewing the regulations. The Board's comments are contained in this report.

This year's report also includes a summary of three state agencies' reviews on law enforcement training in California.

B. POST Interface with RIPA

Since the enactment of RIPA, the RIPA Board members have been reviewing courses related to bias and racial and identity profiling. Below is a list of reviewed courses.

- 1) Principled Policing: Implicit Bias and Procedural Justice (8 hrs)
- 2) In Service Officers – Bias and Racial Profiling Video (2 hrs)
- 3) In Service Officers – Beyond Bias Racial and Identity Profiling Online (2 hrs)
- 4) Supervisors – Beyond Bias Racial and Identity Profiling Online (2 hrs)
- 5) Supervisors – Racial and Identity Self-Assessment (2 hrs)
- 6) In Service Officers – Strategic Communication Skills Online (2 hrs)
- 7) New Recruits – Basic Academy Learning Domain #3 Principled Policing in the Community (26 hrs)

Basic Academy LD 42, Cultural Diversity/Discrimination

For the 2023 Report, the RIPA Board has been reviewing and commenting on two training courses. In the course provided under Learning Domain 42, Cultural Diversity/Discrimination, the Board reviewed Chapter 2, Prejudice, Discrimination and Racial Profiling and Chapter 4, Sexual orientation and Gender Identity Profiling. [The Board's reviews are currently in progress]

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Racial Profiling Train the Trainer Curriculum Update

The other course focuses on training the trainer and is entitled “Racial Profiling, Train the Trainer Curriculum Update.” The Museum of Tolerance (MOT) has been contracted by POST to develop the curriculum and deliver the training. [The Board’s reviews are currently in progress]

C. Recent Trends and Developments

1. Recent Legislation with RIPA Board Input

Over the past two years, there has been increased attention to the law enforcement community. Recent laws have focused on officer biases and conduct, as they relate to bias evaluations in hiring and officer decertification.

i. AB 846 Bias Evaluations in Hiring

AB 846 was signed into law on September 20, 2020, amending Cal. Gov. Code, §1031. The addition of Cal. Gov. Code, §1031.3 directed POST to develop regulations for screening peace officer candidates to include measures of implicit and explicit bias.⁴⁰⁴ POST noticed the draft regulations in 2021. The RIPA Board submitted a letter on October 22, 2022 during the public comment period with two recommendations: 1) that the regulations require a review of candidates’ social media, and 2) that investigators and evaluators record their relevant findings, determinations, and factual bases.⁴⁰⁵

POST reviewed the proposed changes to Commission regulations 1953 and 1955 in the RIPA Board’s October 2021 letter. POST initially notified the Board that they were unwilling to accept the Board’s two recommendations. However, after POST submitted the draft regulations to the Office of Administrative Law (OAL), OAL rejected the submission and directed POST to reengage with the Board. As a result, the Board reemphasized its two recommendations, which were ultimately accepted by POST.

Members of the RIPA Board began then meeting with POST staff in December 2021 in a series of meetings, which included a contributing psychologist who specializes in psychological screening. Collectively, the RIPA Board and POST staff crafted the actual draft language that reflected the Board’s proposals and that could be implemented by practitioners screening and documenting implicit and explicit biased based behavior of potential peace officer candidates. Essentially, the Background Narrative Report and the Psychological Evaluation is proposed to

⁴⁰⁴ Gov. Code §1031.3.

⁴⁰⁵ See appendix XX for a copy of RIPA’s Oct. 22, 2021 Letter.

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include specific information on the bias assessment, including identifying sources used, and providing findings to the screening psychologist and the hiring department. Additionally, a new section was added to regulation 1953 devoted to the implementation of mandatory social media checks for all peace officer applicants known as cybervetting.⁴⁰⁶

ii. SB 2 Decertification

The RIPA 2022 Report Identified SB 2 as legislation enacted in 2021 that could impact the Board’s work toward eliminating racial and identity profiling. Entitled the Kenneth Ross Jr. Police Decertification Act of 2021, SB 2 includes a wide range of changes to peace officer employment and liability.⁴⁰⁷ The Act amended Cal. Pen. Code, §13509.5 and Cal. Pen. Code, §13509.6 to create a new Peace Officer Standards Accountability Division within POST and a Peace Officer Standards Advisory Board (POST Advisory Board) – primarily composed of non-officers who are members of the public – charged with investigating and reviewing allegations of misconduct that could be grounds for decertification.⁴⁰⁸ Under the Act, POST is required to review the investigations conducted by law enforcement about serious misconduct and work in conjunction with the POST Advisory Board.⁴⁰⁹

POST was charged with developing regulations aimed at defining serious misconduct under Penal Code Section 13510.8.

RIPA Board member Melanie Ochoa represented the Board at the SB 2 stakeholder workshop hosted by POST on January 27 and 28, 2022. At the RIPA POST subcommittee meeting on March 7, 2022, Board member Ochoa provided an update on her participation and shared several concerns with the definition of “serious misconduct” and with the definition of “demonstrating bias” in particular being proposed by POST. At this meeting, the subcommittee voted to present their concerns to the full RIPA Board on March 30, 2022. The RIPA Board recommended that a letter be sent to POST with their concerns. The RIPA Board sent the letter to POST on April 18, 2022.⁴¹⁰ The specific recommendations were as follows:

- Clarify that bias based upon an officer’s *perception* of an individual’s identity, not only their actual identity, would be a basis for decertification.
- The definition of bias should explicitly include, but not be limited to, conduct that would constitute illegal profiling as defined by Penal Code Section 13519.4.
- Acts or omissions that would render an individual ineligible as a peace officer under Government Code Section 1031.3 should be included as grounds of decertification.

⁴⁰⁶ That action is currently under OAL review and the deadline for OAL to make a decision on that action is July 19, 2022. OAL File No. 2022-0606-02SR.

⁴⁰⁷ Sen. Bill No. 2 (2021-2022 Reg. Sess.).

⁴⁰⁸ Sen. Bill No. 2 (2021-2022 Reg. Sess.).

⁴⁰⁹ Sen. Bill No. 2 (2021-2022 Reg. Sess.).

⁴¹⁰ See appendix YY for a copy of RIPA’s letter Apr. 22, 2022 letter.

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(April 18, 2022 letter from RIPA Co-Chairs Steve Raphael and Melanie Ochoa to POST Executive Director Manny Alvarez).

The POST Commission issued proposed regulations 1205 on June 10, 2022 POST and the RIPA Board resubmitted its April 18, 2022 letter on July 7, 2022 during the public comment period.

2. Increased State Agency Reviews of Law Enforcement Training in California

i. California Little Hoover Commission: Steps to Improve Law Enforcement Training in California 2021

The Little Hoover Commission (LHC) released three publications in 2021 examining law enforcement training in California: California Law Enforcement Survey, California law Enforcement Basic Training Academies and Law Enforcement Training: Identifying What Works for Officers and Communities.⁴¹¹ In the executive summary of Law Enforcement Training: What Works for Officers and Communities the LHC stated “In the wake of deadly police encounters involving Black Americans and excessive use of force, lawmakers have looked to police training as one means to implement reform. In the Fall 2020, the Little Hoover Commission launched a study to examine the role of the Commission of Peace Officer Standards and Training (POST) in shaping law enforcement training standards for California’s peace officers.”⁴¹² The study was released in 2021.

“California spends millions of dollars on law enforcement training each year, yet there is very little evidence to demonstrate which types of training actually achieve intended goals and positively impact officer behavior in the field-and which do not. California must assess and improve training for its nearly 700 law enforcement agencies and more than 87,000 full-time sworn and reserve peace officers. Such action would be an essential step toward meaningful law enforcement reform.”⁴¹³

In its study, the Little Hoover Commission made eleven substantive recommendations directed at legislators and POST:

⁴¹¹ *Steps to Improve Law Enforcement Training in California: Fact Sheet* (2021) Little Hoover Commission, p. 1.

⁴¹² *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

⁴¹³ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

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- 1) Lawmakers should temporarily refrain from amending or adding new law enforcement training and instead provide POST funding to assess how well existing training is working in the field and adjust training mandates.⁴¹⁴
- 2) POST should revise its process for evaluating law enforcement training to include additional course certification criteria that incorporate training outcomes.⁴¹⁵
- 3) To encourage more rigorous analysis of officer training programs, POST should establish a process to collect and secure data for research purposes in order to improve training.⁴¹⁶
- 4) To foster collaboration with academic researchers, POST should establish a permanent academic review board to ensure training standards are aligned with the latest scientific research findings into new and existing standards and training.⁴¹⁷
- 5) Lawmakers should provide funding for POST to compare and evaluate California's 41 basic training academies and identify best practices. POST should report its findings to the Legislature in a report not later than one year after funding is appropriated for this purpose.⁴¹⁸
- 6) POST should review and evaluate the current basic academy curriculum to, among other things, review the effectiveness and relevancy of courses for today's community needs and identify the gaps in foundational training necessary to prepare new officers.⁴¹⁹
- 7) POST should assess and evaluate the Field Training Program to determine how it could be more complimentary to the basic academy program.⁴²⁰

⁴¹⁴ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

⁴¹⁵ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

⁴¹⁶ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

⁴¹⁷ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

⁴¹⁸ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

⁴¹⁹ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

⁴²⁰ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

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8) POST should establish a new advanced academy experience, required for officers with between two – five years of experience, to reinforce entry level training and incorporate the ore advanced concepts currently embedded in the basic academy.⁴²¹

9) POST should assess the existing continuing professional training requirements to determine whether curricula remain relevant and necessary and make adjustments as needed.⁴²²

10) POST should identify and implement ways to improve officer access to continuing education.⁴²³

11) Lawmakers should modify the POST Commission to add additional public members and ensure that includes members of vulnerable communities, health and mental health professionals who serve vulnerable communities, and experts in adult education and scientific research.⁴²⁴

ii. 2022 California State Auditor Report: Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct

In a letter dated April 26, 2022 to the Governor, Speaker of the Assembly, and President Pro Tempore of the Senate, the Acting California State Auditor Michael Tilden transmitted an audit report of law enforcement departments on biased conduct, concluding:

Their agencies audit of five law enforcement departments throughout the State uncovered the actions of some officers at each department who engaged in biased conduct, either during their on-duty interactions with individuals or online through their social media posts. What the audit found was that these five departments had not adequately guarded against biased conduct among their officers.

The State Auditor went on to say that this report makes specific recommendations about steps each department can take to better ensure that Californians receive fair and impartial policing services. The State Auditor also made several recommendations to the Legislature to better align expectations in state law with best practices for addressing bias in policing, such

⁴²¹ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

⁴²² *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

⁴²³ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

⁴²⁴ *Steps to Improve Law Enforcement Training in California: Executive Summary* (2021) Little Hoover Commission, pp. 1-2.

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as by adopting a uniform definition of biased conduct, requiring more frequent and thorough training, and increasing independent oversight.⁴²⁵

Summary Audit Highlights

The State Auditor conducted an audit of five law enforcement departments throughout the State—the Los Angeles Sheriff; the police departments of San Bernardino, San José, and Stockton; and CDCR—to assess their efforts to guard against officers' biased conduct, and found the following:

- Some officers at each department had engaged in biased conduct.⁴²⁶
 - Some misconduct occurred during on-duty interactions, and we identified 17 officers who promoted biased content on social media.
 - The State Auditor did not definitively identify any officers as members of hate groups.
- None of the departments had fully implemented best practices to mitigate the effects of officer bias.⁴²⁷
 - Each of the departments had struggled to ensure that its officers fully reflect the diversity of the community.
 - Each department's training about bias could be more frequent and include additional content.
 - The local departments could do more to build and strengthen relationships with their communities.
 - None had established adequate systems for proactively identifying and correcting problematic officer performance trends.
- The local departments did not consistently or adequately investigate their officers' possibly biased conduct.⁴²⁸

⁴²⁵ *Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct* (2021-105) California State Auditor Report <<https://www.auditor.ca.gov/reports/2021-105/index.html>> [as of XXX].

⁴²⁶ *Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct* (2021-105) California State Auditor Report <<https://www.auditor.ca.gov/reports/2021-105/index.html>> [as of XXX].

⁴²⁷ *Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct* (2021-105) California State Auditor Report <<https://www.auditor.ca.gov/reports/2021-105/index.html>> [as of XXX].

⁴²⁸ *Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct* (2021-105) California State Auditor Report <<https://www.auditor.ca.gov/reports/2021-105/index.html>> [as of XXX].

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- Many investigations were narrowly focused on blatant signs of bias, relied heavily on officers' denials, or did not account for how officers' conduct reasonably appeared.
- Each department needs a better framework for consistently identifying, investigating, and tracking incidents of bias.
- State-level intervention would help ensure broader use of practices that address bias.⁴²⁹
 - Local departments have not proactively adopted best practices to address the threat that bias poses to fair and impartial law enforcement.
 - External reviews and oversight would be effective measures for increasing departments' adoption of best practices.

The state Auditor concluded:

- The agencies have not used sufficient strategies to achieve representative diversity in hiring.
- The agencies have not implemented robust community engagement strategies or employee training practices.
- The agencies have not established sufficient, proactive processes to identify possibly biased behavior.
- The agencies have not consistently conducted adequate investigations of alleged biased behavior.

D. Measuring Training Outcomes and Effectiveness of Racial and Identity Profiling Courses Offered by POST

[Will be Developed in Subcommittees]

E. Best Practices and Training Recommendations

⁴²⁹ *Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct* (2021-105) California State Auditor Report <<https://www.auditor.ca.gov/reports/2021-105/index.html>> [as of XXX].

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[Will be Developed in Subcommittees]

F. Vision for Future Reports

[Will be Developed in Subcommittees]

X. RELEVANT LEGISLATION ENACTED IN 2022

XI. CONCLUSION

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