

Please note that the data analysis in this draft report is preliminary and will not be finalized until the RIPA Board publishes the final report.

Executive Summary

[CONTENT UNDER DEVELOPMENT]

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Introduction

“There is no tradeoff between effective law enforcement and protection of the civil rights of all Americans; we can and must have both.”¹

In its eighth report, the RIPA Board continues its analysis of the RIPA data in ways that provide more insight into the disparities reflected in the data, the extent to which profiling is occurring, and to offer more precise evidence-based policy solutions that would lead to the elimination of racial and identity profiling generally and for youth specifically. In particular, the RIPA Board builds upon its prior examination of the policing of youth, conducting a quantitative and qualitative analysis of the RIPA data to assess whether youth experience racial and identity disparities in police stops. They do.

Generally, the RIPA data show that in 2023, Black individuals were stopped at a rate of 126.46 percent more often than expected, and White individuals were stopped 4.38 percent *less* frequently than expected based on their proportion of the population. Even though being perceived as Black or Hispanic/Latine(x) significantly increased the chances that an individual would be searched, searches of individuals who are Black or Hispanic/Latine(x) were less likely to lead to the discovery of contraband than searches of White individuals.

The data for under 25 show similar trends.² Youth perceived to be Black are disproportionately stopped by law enforcement. Moreover, youth perceived to be youth of color and those perceived to have disabilities are more likely than others to be stopped in ways indicative of “proactive policing,” which generally suggests greater profiling. Of significant concern is the fact that officers reported using force substantially more in stops involving youth perceived to be Black and Hispanic/Latine(x). They also reported using force substantially more in stops of youth perceived to have a disability than youth perceived not to have a disability. Overall, the data indicate that the risk of being stopped or subjected to more intrusive actions — like detention, arrests, or use of force — increases based on a young person’s race/ethnicity or perceived disability.

The RIPA data for youth are particularly troubling because stops and their associated actions

¹ Ramirez et al., *A Resource Guide on Racial Profiling Data Collection Systems: Promising Practices and Lessons Learned* (2000) U.S. DOJ, p. iii <<https://www.ojp.gov/pdffiles1/bja/184768.pdf>> [as of XX, 2024].

² The 2025 Report defines youth as those under 25. (Arrain et al., *Maturation of the Adolescent Brain* (2013) 9 *Neuropsychiatric Disease and Treatment* 449, 451-452 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3621648/>> [as of XX, 2024].)

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have harmful repercussions for youth that reverberate beyond the initial stop itself. Studies show that direct contact with law enforcement is associated with poor educational outcomes, including reduced test scores and lower grade point averages.³ Moreover, intrusive police encounters undermine a youth’s sense of safety and stability, contributing to the development of stress, anxiety, post-traumatic stress disorder, and depression.⁴ Just as alarming is research showing the criminogenic effect of police contact on youth. “Prior law-abiding behaviors did not protect boys against future police stops, yet being stopped by police was associated with increased engagement in delinquent behavior.”⁵ Based on the 2023 RIPA data, youth of color have more frequent encounters with law enforcement, and based on the rates of those interactions, would be more likely to experience these negative outcomes than their White peers.

The Board remains concerned about the persistence of substantial racial disparities in the rates of stops and the actions taken during stops as they are suggestive of racial and identity profiling, not only at the instance in which an officer decides to stop a person but also throughout the encounter. Racial and identity profiling contributes to disparities beyond those seen in the RIPA data and includes downstream effects like disparities in the criminal justice system as well as in education, health, and economic wellbeing. It is why the Board takes the view that racial and identity profiling undermines public safety.

California law expressly prohibits racial and identity profiling,⁶ and this Board is entrusted with making detailed findings about racial and identity profiling and issuing recommendations aimed at rooting out the practice. In its prior reports, the Board put forth data-driven, evidenced-based policy recommendations that hold promise in achieving the goal of eliminating racial and identity profiling. The Board reaffirms these recommendations and calls upon the Legislature, policymakers, and law enforcement agencies across California to consider and adopt them. In this year’s report, the Board builds on prior recommendations to outline a comprehensive approach to not only eliminate profiling but also improve training — both in the academies and in the field — by deemphasizing policing practices that could lead to profiling and imposing effective accountability measures when officers engage in profiling or other misconduct that

³ Gottlieb and Wilson, *The effect of direct and vicarious police contact on the educational achievement of urban teens* (2019) Children and Youth Services Review 103, 190–199, p. 196; St. John et al., “Reducing Adverse Police Contact Would Heal Wounds for Children and Their Communities” (June 14, 2022) Child Trends: Trauma and Resilience, <<https://childtrends.org/publications/reducing-adverse-police-contact-would-heal-wounds-for-children-and-their-communities>> [as of XX, 2024].

⁴ See Alang et al., *Police Encounters as Stressors: Associations with Depression and Anxiety across Race* (2021) <<https://journals.sagepub.com/doi/full/10.1177/2378023121998128>> [as of XX, 2024].

⁵ Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 17, p. 8267.

⁶ Pen. Code, § 13519.4, subds. (e)-(f).

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harms the public. These recommendations are grounded in research that has examined effective policing practices that are consistent with constitutional principles.

Improving public safety through effective policing grounded in California’s prohibition against profiling and the California and United States Constitutions requires a deep and unwavering commitment from all stakeholders: the reporting law enforcement agencies in California, the Legislature, policymakers, the Commission on Peace Officers Standards and Training (POST), advocates, and communities. The Board remains committed to working with these indispensable parties to facilitate long-term systemic change and achieve the Legislature’s mandate to eliminate racial and identity profiling of all Californians.

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Stop Data

I. DESCRIPTION OF OVERALL STOP DATA

The Racial and Identity Profiling Act (RIPA) requires officers to collect and report information for each stop they make. For purposes of reporting RIPA stop data, a “stop” is any detention of an individual by a peace officer or any interaction with a peace officer during which the officer conducts a search of the person or their property.⁷ The data law enforcement agencies collect and report to the California DOJ for each stop includes, but is not limited to, demographic information for the person stopped as perceived by the officer, information that would provide context for the stop, including events precipitating the stop — like whether the stop was officer initiated or was in response to a call for service — actions taken by officers during the stop, the duration of the stop, and the outcome or result of the stop.⁸

In reporting stop data, RIPA requires officers to report demographic information based on how the officer perceives the person stopped, which may be different than how that person self-identifies. This distinction is important because racial and identity profiling occurs because of how officers perceive civilians and act based on that perception. The demographic data is collected to document law enforcement interactions with the public and determine whether certain identity groups experience disparate treatment during stops. Some of the demographic characteristics collected, such as race, ethnicity, or age, may be easier to perceive based on visible factors. Other identity characteristics, like sexual orientation or disability status, may not be as apparent and, therefore, may be perceived less consistently with how a stopped individual identifies. This information about officer perception is important to consider when examining the analysis of the stop data below.

In 2023, the sixth year of RIPA stop data reporting, all city and county law enforcement agencies, all law enforcement agencies of California public schools and universities, and the

⁷ Cal. Code Regs., tit. 11 § 999.224, subd. (a)(14); see also amend. Cal. Code Regs., tit. 11 § 999.224, subd. (a)(20) (eff. Jan. 1, 2024). A detention “means a seizure of a person by an officer that results from physical restraint, unequivocal verbal commands, or words or conduct by an officer that would result in a reasonable person believing that they are not free to leave or otherwise disregard the officer.” (Cal. Code Regs., tit. 11, § 999.224, subd. (a)(7).)

⁸ The stop data form also includes narrative fields that require officers to include details about the reason for the stop and the basis for any search conducted. (Cal. Code Regs., tit. 11, § 999.226, subd (a)(14) (B).) Throughout the reporting period, each law enforcement agency is responsible for ensuring that all data elements, data values, and narrative explanatory fields in the data they submit to DOJ conform to the regulations. (Cal. Code Regs., tit. 11, § 999.229, subd (b).) Agencies must correct any errors in the data submission process using the DOJ’s error resolution process. (Cal. Code Regs., tit. 11, § 999.229, subd (b).)

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California Highway Patrol were required to report stop data. In total, 539 agencies reported 4,721,135 stops.

This chapter presents the analysis of the 2023 stop data in two parts. The first part analyzes the data law enforcement agencies collected and submitted to the DOJ using racial, gender, and identity demographics to determine whether the data reveals overall trends in stops of different groups based on racial, gender, and identity characteristics, including disability, English fluency, and LGBT status. Overall, the analysis of 2023 data presented in this chapter shows disparities not only in the rate of stops for certain demographic groups but also in the actions taken during stops and the outcomes.

The second part of this chapter, given the Board's focus on youth and policing in this year's report, provides an intersectional analysis of the data collected on stops involving youth under 25 using racial, gender, and identity demographics. As discussed in more detail in the Policy-Focused Data Analysis chapter below, scientific research indicates the adolescent brain undergoes a rewiring process that is not complete until age 25.⁹ That research has led researchers to expand the definition of adolescence to include young people up to age 24. Accordingly, this report adopts a definition of youth that includes those who are under 25.

The developmental and cognitive differences between youth and adults have significant implications for police stops involving youth, leading to legal and social-emotional consequences for young people that could continue to impact them years later. With those developmental realities and potential consequences at the fore, the report analyzes the data to determine whether it reveals trends about interactions between youth and police. In analyzing the data, the report uses the following age categories: 1–7, 8–11, 12–14, 15–17, and 18–24.¹⁰ As shown below, the analysis of the data for youth reveals disparities for racial and identity demographics that are consistent with the trends seen in the overall data.

⁹ Arrain et al., *Maturation of the Adolescent Brain* (2013) 9 *Neuropsychiatric Disease and Treatment* 449, 451-452 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3621648/>> [as of XX, 2024].

¹⁰ Welf. & Inst. Code, §§ 601, 602; California Department of Justice (July 5, 2019) *SB 439 Compliance* [Information Bulletin] p. 1 <https://oag.ca.gov/sites/all/files/agweb/pdfs/info_bulletins/2019-dle-04.pdf> [as of XX, 2024].

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II. OVERALL DATA ANALYSIS

A. Stops

Race and Ethnicity

Officers perceived the highest proportion of individuals stopped to be Hispanic/Latine(x) individuals (43.07%, 2,033,482 stops), followed by White (31.96%, 1,508,816 stops), Black (12.14%, 573,293 stops), Asian (5.72%, 270,230 stops), Middle Eastern/South Asian (5.03%, 237,511 stops), Multiracial (1.22%, 57,444 stops), Pacific Islander (0.57%, 27,100 stops), and Native American individuals (0.28%, 13,259 stops). Persons who were perceived by the officer as more than one race or ethnicity are categorized in this report as Multiracial.

Examining the proportion of individuals stopped by their race/ethnicity identity in relation to the proportion that race/ethnicity identity appears in the California population, showed noticeable disparities. Black individuals were stopped 126.46 percent more often than expected and, Hispanic/Latine(x) individuals were stopped 43.76 percent more often than expected, given the population of the state. Conversely, Asian individuals were stopped 52.82 percent less frequently than expected, and multiracial individuals stopped 91.08 percent less frequently than expected. White individuals were stopped 4.38 percent less frequently than expected.

Gender

Most stops, 99.61 percent (4,702,551 stops), involved persons perceived as cisgender. Cisgender means a person whose gender identity and gender expression align with the person's assigned gender identity at birth, whereas transgender means a person whose gender identity and gender expression do not align with the gender assigned at birth. Among transgender people, persons report being able to "pass" as cisgender, broadly meaning they are not perceived by strangers as transgender. A 2015 survey of transgender persons in the United States found that 40 percent of surveyed transgender persons interacted with police or other law enforcement in the past year, and 65 percent of those persons believed that none of the officers thought or knew they were transgender.

The 2023 RIPA data show that cisgender males (71.13%, 3,358,186) comprised the most common gender category stopped, while cisgender females were the second most common (28.48%, 1,344,365). The remaining 0.39 percent (18,581 stops) is comprised of persons perceived as gender nonconforming individuals (0.21%, 9,867), transgender men/boys (0.12%, 5,664), and transgender women/girls (0.06%, 3,050).

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Disability Status

Of all stops, 98.94 percent (4,671,095 stops) involved an individual with no perceived disability. Of the remaining 1.06 percent of stops (50,040 stops), the most commonly perceived disability was mental health (64.68% of stops with a perceived disability, 32,364 stops), followed by “other” (11.19%, 5,600), speech impaired (8.58%, 4,291), multiple disabilities (5.41%, 2,707), deaf (4.17%, 2,089), developmental (3.24%, 1,622), blind (2.66%, 1,333), and hyperactivity (0.07%, 34).

English Fluency

Officers reported that 94.23 percent (4,453,010) of all stops were of individuals officers perceived to have English fluency. The remaining 5.68 percent of stops (268,125) were of individuals officers perceived to have limited or no English fluency.

LGBT

Officers reported 36,181 (0.77%) stops of persons perceived by the officer as lesbian, gay, bisexual, or transgender (LGBT).

B. Calls for Service

This report examines the proportion of stops made in response to a call for service compared to those that were officer-initiated. Calls for service are calls from the community requesting an officer to stop an individual or respond to a situation, while officer-initiated stops refer to stops initiated at an officer’s discretion. As such, disparities between the proportion of stops that are officer-initiated compared to calls for service may indicate areas where officers and community members direct their attention and resources.

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.

Race and Ethnicity

Overall, officer-initiated stops are more common than calls for service. Calls for service comprise the highest rate of stops for Black individuals (12.49%, 71,586 stops) and Native Americans (14.13%, 1,874 stops). Alternatively, calls for service occur at the lowest rates for Asian individuals (4.42%, 11,935 stops) and Middle Eastern/South Asian individuals (3.44%, 8,179 stops).

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Gender

Overall, calls for service were a more common cause for contact with persons perceived as transgender, both transgender men/boys (23.00%, 1,303 stops) or transgender women/girls (29.38%, 896 stops). In contrast, cisgender females had only 7.54 percent (101,335 stops) of encounters initiated by a call for service, with similar figures for cisgender males (8.56%, 287,502 stops) and gender nonconforming (9.22%, 910 stops).

C. Reason for Stop

In 2023, officers could select one of six primary reasons for initiating a stop.¹¹ This part of the analysis focuses on the two most common reasons for stops: traffic violations and reasonable suspicion. The remaining four reasons available to officers are examined collectively as “other reasons.”

Race and Ethnicity

Across all race and ethnicity groups, the most common reason for a stop was a traffic violation. The groups with the highest proportion of traffic violations were Middle Eastern and South Asian individuals (94.50%, 224,453 stops), followed by Asian individuals (92.57%, 250,159 stops). On the other hand, officers reported the lowest proportion of traffic violations for Native American individuals (73.32%, 9,722 stops).

Officers stopped Black individuals at the highest rate (19.57%, 112,194 stops) for reasonable suspicion, the second most common reason for stops overall. Officers stopped Native American individuals at the second highest rate based on reasonable suspicion (18.86%, 2,500 stops).

Gender

Gender identity groups also had noticeable differences in reasons for stops. Both transgender men/boys (58.81% traffic, 3,331 stops; 35.06% reasonable suspicion, 1,986 stops) and transgender women/girls (51.21% traffic, 1,562 stops; 41.61% reasonable suspicion, 1,269 stops) had higher rates of stops for reasonable suspicion than individuals who were perceived as cisgender or nonconforming. Perceived cisgender and gender nonconforming individuals were stopped at similar rates, with cisgender females being stopped for reasonable suspicion in 10.98 percent (147,555) of stops (86.57% due to traffic violations, 1,163,807 stops), cisgender males being stopped for reasonable suspicion in 13.77 percent (462,365) of stops (82.62% due to traffic violations, 2,764,663 stops), and gender nonconforming individuals being stopped for reasonable suspicion in 12.73 percent (1,256) of stops (83.89% due to traffic violations, 8,277 stops).

¹¹ The reasons for stop include traffic violation, reasonable suspicion, known to be on parole/probation/PRCS/mandatory supervision, knowledge of an outstanding arrest warrant/wanted person, investigation to determine whether the person is a truant, consensual encounter resulting in a search. (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(10)(A).) See also amend. Cal Code Regs., tit. 11, § 999.226, subd. (a)(14)(A) (eff. Jan. 1, 2024) (adding two additional primary reasons for stop).

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Disability

For stops involving an individual with a perceived disability, officers reported that 20.95 percent (10,483 stops) of stops were initiated based on traffic violations, whereas 15.41 percent (7,713 stops) were due to other reasons. On the other hand, officers reported 84.37 percent of stops (3,941,159 stops) of an individual without a perceived disability were for traffic violations, while only 3.15 percent of stops (147,347) — almost five times less than the percentage for those with a disability — were for other reasons. This finding should be interpreted with caution as more research is required to fully examine the intersection between disabilities, officer training, and other demographic variables.

English Fluency

Individual officers perceived as being fluent in English were stopped at the same rate as those with limited or no English fluency (83.7%, 3,727,213 stops for English fluent; 83.7%, 224,429 stops for limited/no English fluency) for traffic violations. Officers stopped a slightly smaller percentage of individuals fluent in English (12.97%, 577,731 stops) compared to those with limited or no English fluency (13.69%, 36,701 stops) for reasonable suspicion.

LGBT Identity

Individuals perceived as being LGBT were more likely to be stopped because of reasonable suspicion (24.39%, 8,824 stops) as opposed to those who were not perceived to be LGBT (12.93%, 605,608 stops). Officers stopped a smaller percentage of individuals perceived as being LGBT for traffic violations (70.20%, 25,400 stops) compared to those not perceived to be LGBT (83.81%, 3,926,242 stops).

D. Actions Taken During Stop

For the action taken during stop data element, officers have the option of recording one or more of 25 actions identified on the stop data form, including reporting that they took no action during the stop. The analyses of the action taken during stops data in this section notes the prevalence of no actions taken, the frequency of use of force actions, the use of searches, handcuffing, detention on a curbside or in a patrol car, and ordered exits from a vehicle.

During stops in 2023, 12.63 percent (596,442) of people stopped were searched, 10.17 percent (480,363) were handcuffed, 13.04 percent (615,694) were detained curbside or in a patrol car, and 4.20 percent (198,085) were ordered to exit a vehicle. Officers reported searching and handcuffing Native American individuals at the highest rate. They reported detaining Black individuals curbside or in a patrol car or ordering them to exit a vehicle during stops at the highest rate compared to other racial/ethnic groups. Of all stops involving Native American individuals, 21.56 percent (2,858 stops) included a search and 18.74 percent (2,485 stops)

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included handcuffing. Of stops involving Black individuals, 18.66 percent (107,000 stops) included detainment curbside or in a patrol car and 6.33 percent (36,306 stops) included an order to exit the vehicle. Conversely, officers reported the lowest rates of all actions in stops involving Middle Eastern/South Asian people (ranging from 1.54% to 4.62%).

The duration of the stop or the number of minutes a stop with an individual took to complete could offer additional insight into whether bias may have affected policing, especially in cases where the stops result in no actions taken. It should also be noted that the duration of a stop could be impacted by several factors, such as the number of actions taken, the type of action(s) taken, the reason for stop, etc.

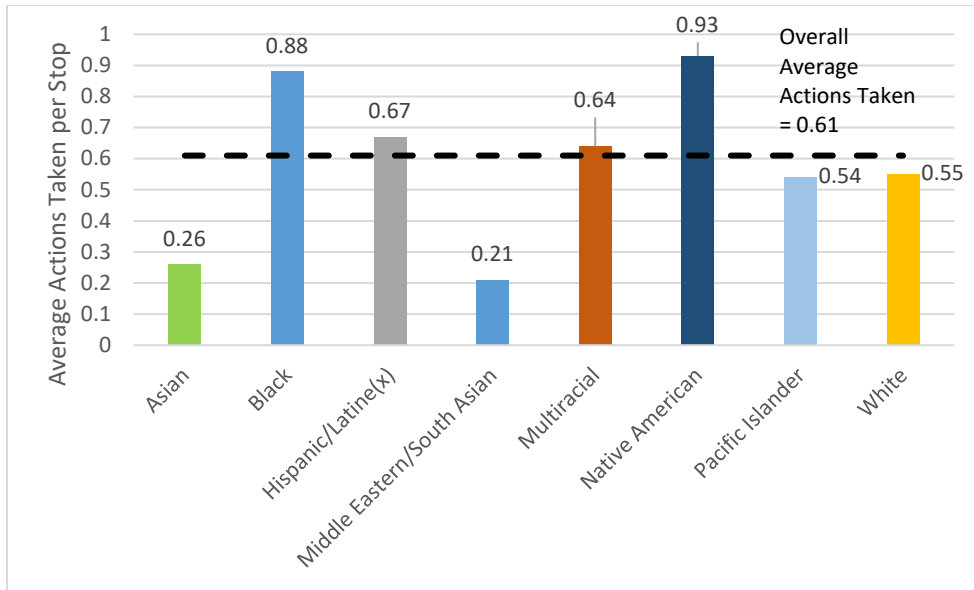
Average Number of Actions Taken During Stop

Taking all stops into account, officers reported an average of 0.61 actions per stop. This number varied significantly by demographic group, however. Officers reported higher than the average number of actions taken during stop for Black (0.88, SD = 1.60, range = 0 - 11), Hispanic/Latine(x) (0.67, SD = 1.45, range = 0 - 13), Multiracial (0.64, SD = 1.46, range = 0 - 12), and Native American (0.93, SD = 1.61, range = 0 - 11) individuals. Officers reported lower actions taken during stops of Asian (0.26, SD = 0.94, range = 0 - 11), Middle Eastern/South Asian (0.21, SD = 0.83, range = 0 - 11), Pacific Islander (0.54, SD = 1.32, range = 0 - 11), and White individuals (0.55 actions, SD = 1.32, range = 0 - 13).¹²

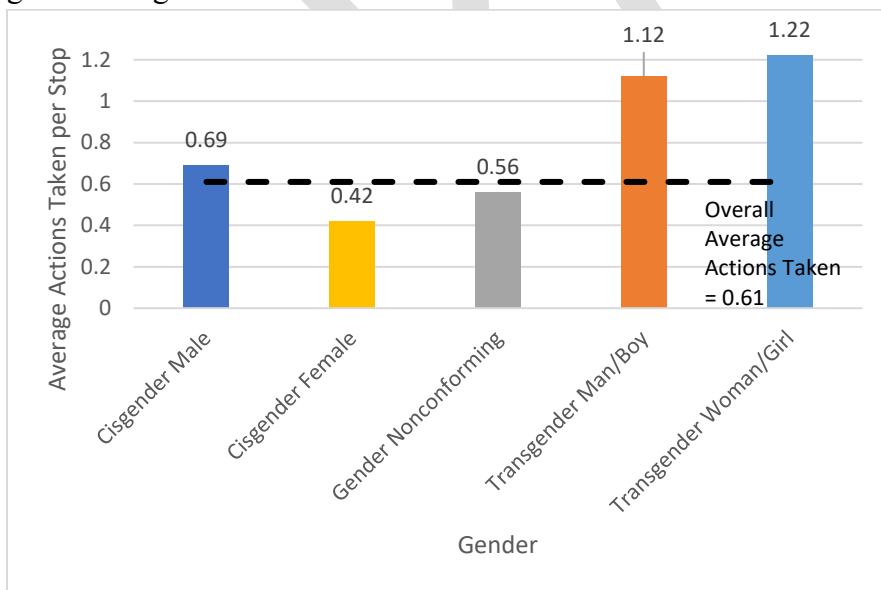
¹² When reporting an average value of a set of data, we will additionally report the standard deviation (SD) and range of the underlying set. The standard deviation is a measure of how dispersed the data is in relation to the average. A larger standard deviation indicates the data points are more spread out, while a smaller standard deviation indicates the data points are clustered more closely around the average. The range states the lowest and highest value in the set. It is found by calculating the square root of the squared difference from the average. For example, if there are five stops of length 2 minutes, 4 minutes, 7 minutes, 11 minutes and 16 minutes, the average stop length is 8 minutes. The difference from the average for each stop is -6, -4, -1, 3, and 8, and the square of those differences is 36, 16, 1, 9 and 64. The average of those five numbers is close to 25, which means that the standard deviation would be about 5. If the five stops were all the same length, the standard deviation would be zero.

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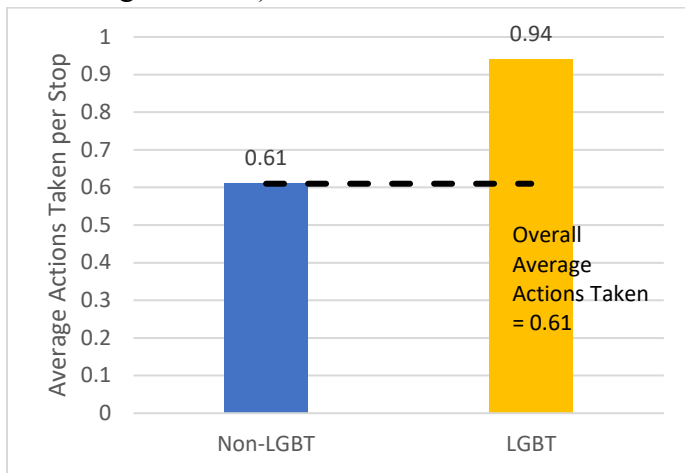
Examining the average number of actions taken during a stop for different perceived gender categories shows a higher rate of actions taken for individuals officers perceived as transgender. Only transgender man/boy (1.12, SD = 1.65, range = 0 - 10) and transgender woman/girl (1.22, SD = 1.70, range = 0 - 12) had actions occur at numbers higher than 1 per stop. Cisgender female (0.42, SD = 1.14, range = 0 - 13) had the lowest number of actions per stop among the different gender categories.



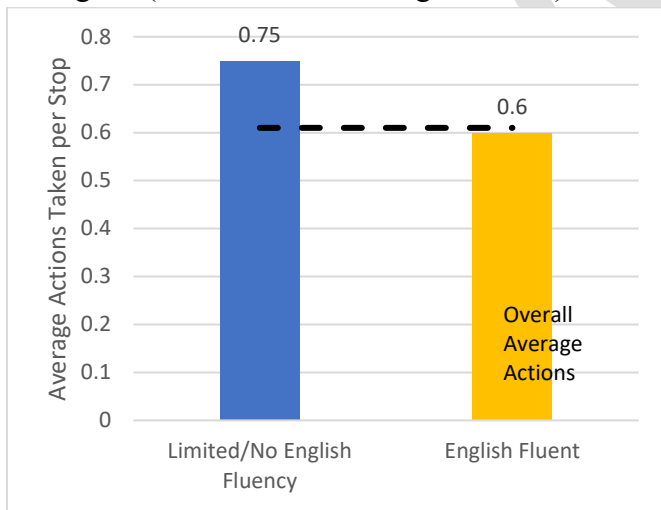
Officers reported an elevated number of actions in stops involving persons perceived as LGBT
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individuals (0.94, SD = 1.61, range = 0 - 12), compared to non-LGBT individuals (0.61, SD = 1.39, range = 0 - 13).



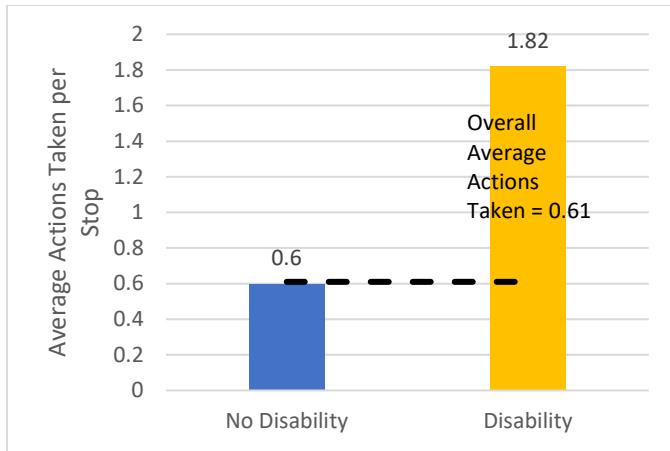
Officers reported more actions taken during the stop, on average, in stops involving people with limited/no English fluency (0.75, SD = 1.38, range = 0 - 12) compared to those who were fluent in English (0.60, SD = 1.51, range = 0 - 13).



Officers reported taking over three times more actions, on average, during a stop of someone with a perceived disability (1.82, SD = 1.72, range = 0 - 12), compared to someone without a perceived disability (0.60, SD = 1.38, range = 0 - 13).

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Duration of Stop by Actions Taken

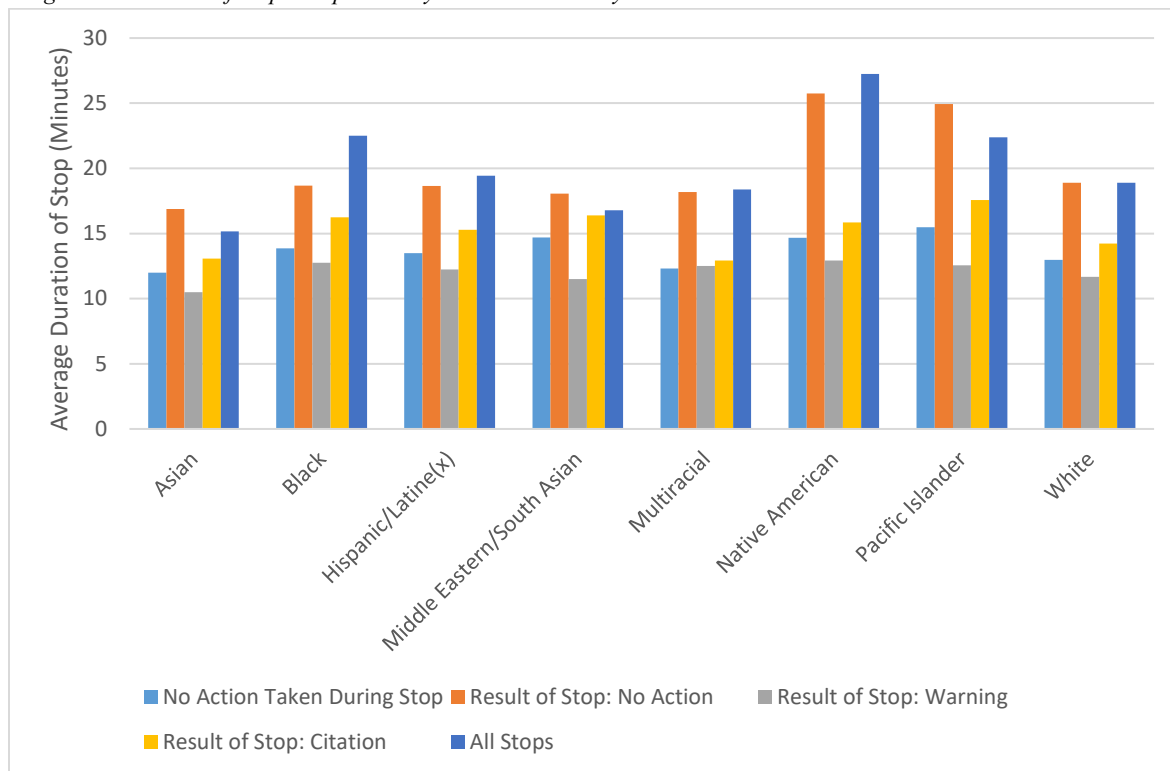
The report examined the duration of stops across race/ethnicity identified for all stops, stops in which no actions occurred, and a subset of common results of a stop. On average, stops in which individuals are given a warning are the shortest across all race and ethnicity categories while stops that resulted in “no action” were the longest.

Native American, Black, and Pacific Islander individuals had the largest disparities in stop duration between stops for which officers reported no action taken and those that involved a citation or warning. Stops of Native American individuals in which they received a warning (4,715 stops, SD = 67, range = 1 – 1,440) were 13 minutes on average and stops for which they received a citation (4,030 stops, SD = 44, range = 1 – 1,440) averaged 16 minutes. However, stops of Native American individuals in which no action was taken (1,207 stops, SD = 92, range = 1 – 1,440) averaged over twice as long at 26 minutes, and all stops (13,259 stops, SD = 77, range = 1 – 1,440) averaged around 27 minutes. Stops for which Black individuals received a warning (206,681 stops, SD = 58, range = 1 – 1,440) averaged 13 minutes, and stops for which they were cited (206,494 stops, SD = 56, range = 1 – 1,440) averaged 16 minutes. However, stops of Black individuals for which the result of the stop was no action taken (47,493 stops, SD = 51, range = 1 – 1,440) averaged 19 minutes, and all stops of Black individuals (573,293 stops, SD = 61, range = 1 – 1,440) averaged 23 minutes. Stops in which Pacific Islander individuals received a warning (9,146 stops, SD = 66, range = 1 – 1,440) averaged 13 minutes, and the stops for which they were cited (12,273 stops, SD = 78, range = 1 – 1,440) averaged 18 minutes. However, stops of Pacific Islander individuals in which no action was taken as a result (1,865 stops, SD = 103, range = 1 – 1,440) averaged 25 minutes and all stops of Pacific Islander individuals (27,100 stops, SD = 82, range = 1 – 1,440) averaged 22 minutes.

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Figure X. Duration of Stop Comparison by Race and Ethnicity



E. Result of Stop

When entering stop data, officers can select up to 11 different options for the result of a stop.¹³ Officers may also select multiple results of stop where necessary (e.g., an officer cited an individual for one offense and warned them about another). Stops were most often reported to result in individuals being issued a citation (44.93%, 2,121,406), followed by a warning (33.67%, 1,589,723), and then arrest (14.15%, 668,176). Officers reported no action taken as the result of stop in under 7 percent of stops (6.71%, 317,018). When officers report “no action taken,” it suggests that those who are stopped were not engaged in criminal activity. Each of the remaining results of stops represented less than 8 percent of the data.

¹³ Results of stop refers to the outcome of the stop officers may select the following options: no action, warning, citation for infraction, in-field cite and release, custodial arrest pursuant to outstanding warrant, custodial arrest without warrant, field interview card completed, noncriminal transport or caretaking transport, contacted parent/legal guardian or other person responsible for the minor, psychiatric hold, contacted U.S. Department of Homeland Security. (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(13); see also amend. Cal. Code Regs., tit. 11, § 999.226, subd. (a)(18) (eff. Jan. 1, 2024) (adding an additional option for the result of a stop).)

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Race or Ethnicity

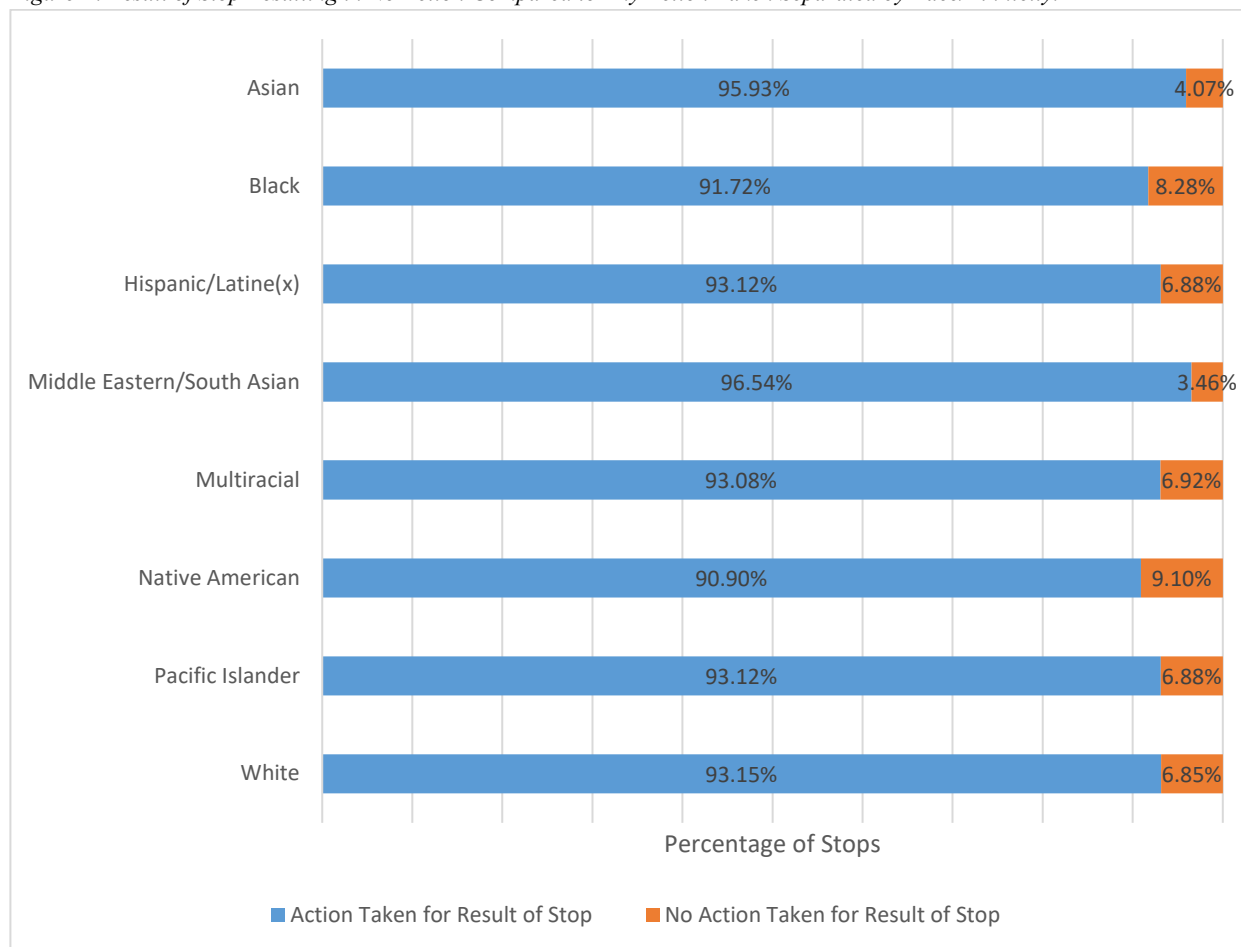
Citations were the most reported action taken for result of a stop, followed by warnings and then arrest for all racial and ethnic groups except stops involving Black individuals and Native Americans, in which warnings were an equal or more common result of a stop than citations.

Black and Native American individuals were the most likely to have no action taken reported as a result of stop, while Asian and Middle Eastern/South Asian individuals are the least likely to have a stop result in no action taken. Stops resulting in no action taken account for 8.28 percent (47,493 stops) of stops involving Black individuals and 9.10 percent (1,207 stops) of stops involving Native American individuals, greater than the 6.71 percent (317,018 stops) overall average. Stops resulting in no action taken account for 4.07 percent (10,998 stops) of stops involving Asian individuals and 3.46 percent (8,229 stops) of stops involving Middle Eastern/South Asian individuals, lower than the 6.71 percent (317,018 stops) overall average.

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Figure X. Result of Stop Resulting in No Action Compared to Any Action Taken Separated by Race/Ethnicity.



An analysis of the data on other result of stop options also shows rates of stop results reveals disparities among racial and ethnic groups. Native American individuals were most likely to have stops result in an arrest (24.59%, 3,261 stops), followed by Black individuals (17.34%, 99,399 stops). Stops resulted in an arrest less than the overall average, for Asian individuals (8.86%, 23,934 stops) and Middle Eastern/South Asian individuals (5.86%, 13,911 stops). Middle Eastern/South Asian individuals were most likely to have stops result in a citation (60.26%, 143,118 stops), followed by Asian individuals (56.55%, 152,818 stops). The individuals least likely to have stops result in a citation were Native American individuals (30.39%, 4,030 stops) and Black individuals (36.02%, 206,494 stops). Stops resulted in a warning at similar rates for individuals in all racial and ethnic groups ranging between 30.71 to 35.65 percent.

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Gender

Disaggregating results of stop by gender categories showed differences in stops involving gender nonconforming or trans individuals compared to cisgender individuals. Officers reported no action as a result for between 6 to 7 percent of stops of cis individuals (6.08% cisgender female, 81,795 stops; 6.96% cisgender male, 233,453 stops). In contrast, officers reported no action as a result for 9 to 11 percent of stops involving gender nonconforming or trans individuals (9.15% gender nonconforming, 903 stops; 9.69% transgender man/boy, 549 stops; 10.43% transgender woman/girl, 318 stops).

For stops that resulted in an action being taken, warnings and citations were the most common result of stop option selected for all gender categories, with relative differences for cisgender and nonconforming individuals compared to transgender individuals. Officers reported stops involving perceived transgender individuals resulting in citations at approximately half the rate as perceived cisgender or gender nonconforming individuals, 43.56 percent (1,462,973 stops for cisgender males) to 48.52 percent (652,289 stops for cisgender females) compared to 20.20 percent (616 stops for transgender women/girls) to 20.67 percent (1,171 stops for transgender men/boys). Conversely, officers arrested individuals perceived as transgender at approximately double the rate of those perceived as cisgender or gender nonconforming, 24.44 percent (1,384 for transgender men/boys) to 27.34 percent (834 for transgender women/girls) compared to 12.2 percent (163,412 stops for cisgender women) to 14.93 percent (501,286 stops for cisgender men).

Disability Status

Officers reported no action taken as a result of stop more often for individuals with perceived disabilities (10.67%, 5,338 stops) compared to individuals without any perceived disability (6.67%, 311,680 stops).

The data show that officers report common stop results at different rates in stops involving individuals with a perceived disability compared to individuals perceived to be without disabilities. Officers reported arresting individuals with a perceived disability (28.20%, 14,109 stops) at higher rates compared to those without a perceived disability (14.0%, 654,067 stops). Conversely, officers gave citations at lower rates to individuals with a perceived disability (7.49%, 3,750 stops) compared to individuals with no perceived disability (45.34%, 2,117,656 stops). Officers arrested individuals at higher rates than citations or warnings only for individuals with a perceived disability.

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English Fluency

Officers reported similar rates of no action taken as a result of stop for individuals perceived as fluent in English (6.76%) as compared to individuals with a perceived limited or no English fluency (5.94%). English fluent and non-fluent individuals had similar rates of stops resulting in citations, warnings, and arrests.

LGBT Identity

The data show disparities in the result of stop data element for stops involving individuals perceived to be LGBT compared to individuals perceived as non-LGBT. Officers reported no action taken more often for stops of individuals perceived to be LGBT (9.43%, 3,380 stops) than for stops of individuals officers perceived as non-LGBT (6.69%, 313,638 stops). As noted previously, stops where officers select no action taken as a result of stop suggests that the individuals stopped were not engaged in criminal activity. Individuals perceived as LGBT (25.02%, 9,052 stops) were arrested at higher rates compared to the individuals officers did not perceive to be non-LGBT (14.07%, 659,124 stops). Conversely, officers issued citations to individuals perceived to be LGBT at lower rates (31.73%, 11,481 stops) than they issued citations to individuals perceived to be non-LGBT (45.04%, 2,109,925 stops). Additional analysis is needed to fully examine these data trends and ascertain the extent to which LGBT bias may be impacting policing in California.

III. YOUTH-FOCUSED DATA ANALYSIS

This year's RIPA report examines youth stops in greater depth. As noted previously, for this year's report, youth is defined as individuals under age 25. When a more in-depth analysis of the data collected for a particular data element is necessary, the analysis presented in this section further disaggregates youth into the following age categories: 1–7, 8–11, 12–14, 15–17, and 18–24. Law enforcement agencies reported 823,773 stops (17.45% of total stops) of individuals perceived to be under 25 in 2023. Of those 823,773 stops, 17,415 involved youth 14 or younger (21.11% of youth stops), and 6,768 (0.82% of youth stops) involved individuals under 12.

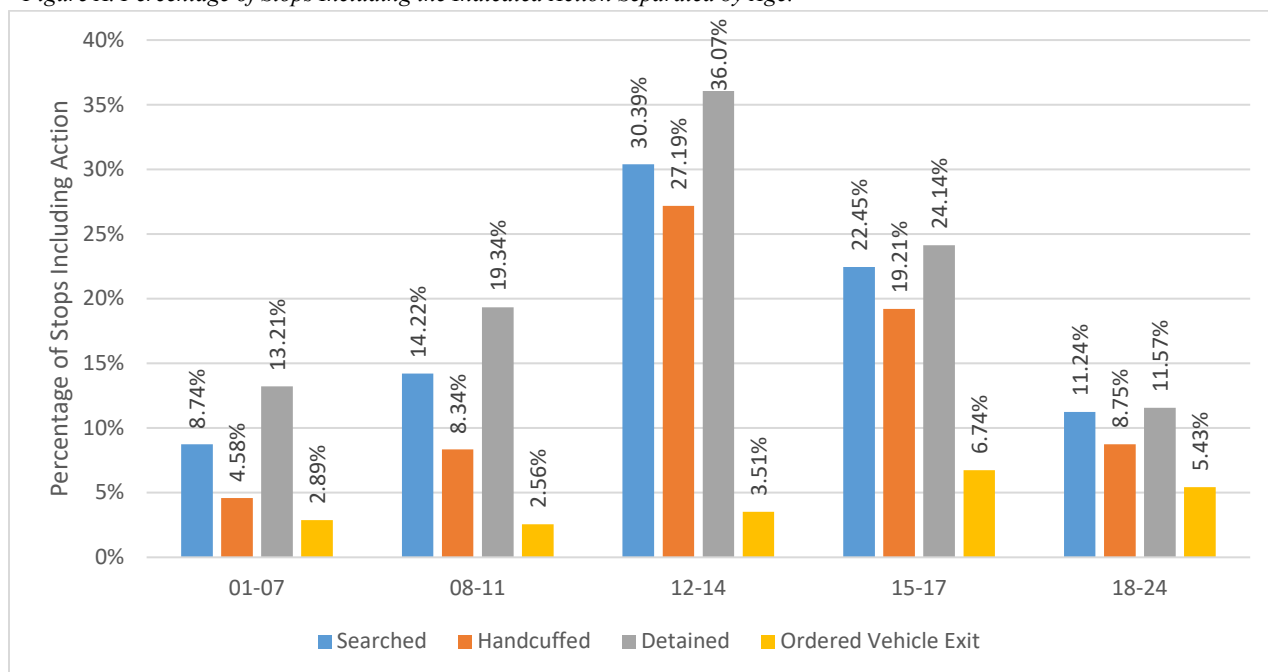
A. Actions Taken During a Stop

Compared to the other youth age categories, officers reported the highest percentage of searches (30.39%, 3,236 stops), handcuffing (27.19%, 2,895 stops), and detainment curbside or in a patrol car (36.07%, 3,840 stops) during stops for youth 12–14. Officers reported the highest rate of ordered vehicle exit during stops for youth 15–17 (6.74%, 4,718 stops).

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Figure X. Percentage of Stops Including the Indicated Action Separated by Age.



B. Types of Use of Force in Youth Stops¹⁴

In 2023, officers reported using lethal and less lethal force in stops of youth under 25. Officers discharged their firearms in 49 stops of youth (37 for youth 18–24, 9 for youth 15–17, and 3 for youth 12–14). Officers also pointed their firearms at youth during 5,369 stops. Comparing across youth age groups, officers pointed their firearms most frequently at youth 18–24 (3,918 stops), followed by youth 15–17 (1,240 stops), then 12–14 (195 stops). Eight stops involved officers pointing firearms at youth 7 and younger, and another eight involved youth 8-11. Officers used their batons in 45 stops of youth under 25 (38 for youth 18–24). They reported using a chemical spray in 64 stops of youth, four involved youth 8–14. Officers also reported using an electronic control device in 149 stops of youth (2 for youth 12–14, 16 for youth 15–17, and 131 for youth 18–24).

¹⁴ Actions defined as use of force include baton, canine bite, chemical spray, electronic control device, firearm discharge, firearm point, handcuffing, impact discharge, other contact, and removed from vehicle with physical contact. (See Pen. Code § 16780, subd. (a).) Use of force actions are categorized into lethal force, less lethal force, and limited force. Lethal force includes firearm discharge. Less lethal force includes baton, canine bite, chemical spray, electronic control device, firearm point, and impact discharge. Limited force includes handcuffing, other contact, and removed from vehicle with physical contact.

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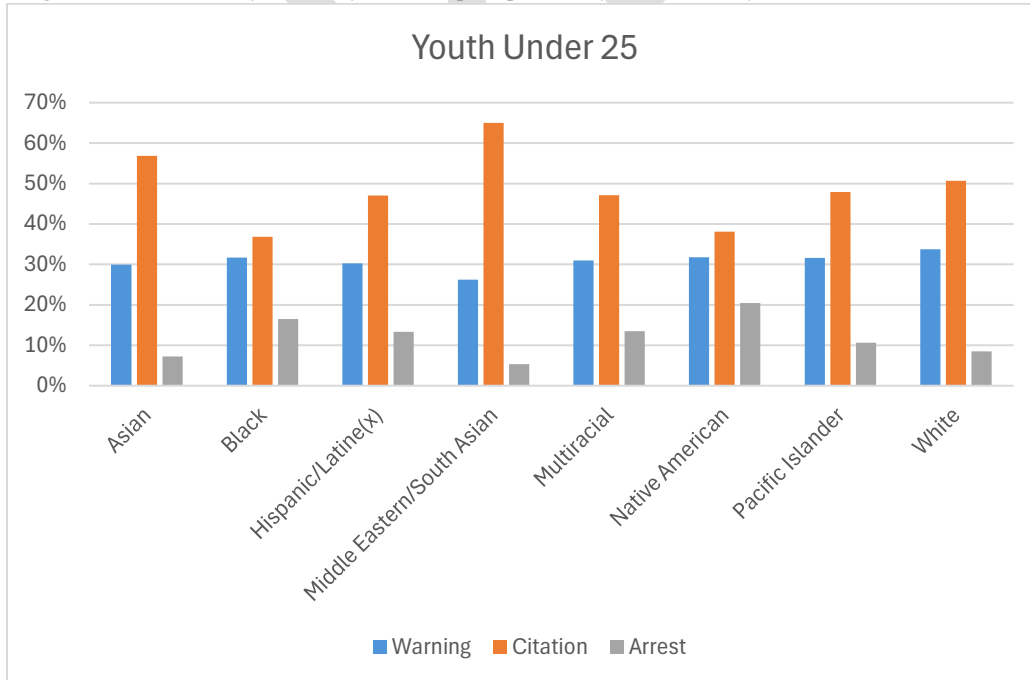
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C. Result of Stop

One option for a result of stop that researchers consider in assessing whether bias may be occurring is the no action taken result of stop. The RIPA data show that, in general, as age increased, the likelihood that an officer would select no action as a result of stop decreased. In other words, as age increased, the likelihood that an officer reported a result of stop that involved an action being taken also increased. For example, officers reported no action taken as a result of a stop at noticeably higher rates for youth perceived to be 11 and younger compared to other age groups. The rate of no action taken was highest for youth 1–7 at 27.73 percent (999 stops), followed by youth 8–11 at 21.80 percent (690 stops), youth 12–14 at 12.19 percent (1,298 stops), and youth 15–17 at 10.29 percent (7,198 stops). The rate of no action taken decreased to 6.72 percent (49,450 stops) for youth 18–24.

The RIPA data also show disparities in the type of result of stop selected for youth 14 and younger compared to youth ages 15–17 and those 18–24. Officers reported selecting arrest as the result of stop for youth 12–14 at the highest rate (28.63%, 3,048 stops), with youth 8–11 at the lowest rates (5.94%, 188 stops). For stops that resulted in a citation, youth 12–14 were cited at the lowest rate (10.96%, 1,167 stops), while about half the stops for youth 18–24 resulted in a citation (50.40%, 371,138 stops). Officers also issued warnings to youth 12–14 at the lowest rate (18.42%, 1,961 stops).

Figure X. Distribution of Results of Youth Stops Separated by Race/Ethnicity



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Across all racial and ethnic categories for youth under 25, officers gave out citations the most often, followed by warnings and then arrests. Officers reported the highest percentage of stops resulting in a citation for stops involving Middle Eastern/South Asian youth (64.98%, 22,989 stops), followed by Asian (56.87%, 22,670 stops), and White youth (50.71%, 109,328 stops). Officers gave out warnings most often in stops involving White (33.71%, 72,672 stops), Black (31.67%, 29,371 stops), and Native American youth (31.76%, 680 stops). Officers arrested Native American (20.41%, 437 stops), Black (16.50%, 15,302 stops), and Multiracial (13.52%, 1,516 stops) individuals the most often.

IV. ANALYSIS OF THE INTERSECTION OF AGE AND OTHER IDENTITY CATEGORIES

RIPA regulations direct officers to make this estimation of age without directly asking a person their age and without the use of a person's identification.¹⁵ Persons generally estimate age by observing a variety of characteristics such as a person's face, hair, voice, or clothing.¹⁶ In estimating age, researchers have found several biases and varying levels of accuracy. For example, some researchers have found that there is an "own-age bias," that persons can estimate age with higher accuracy when estimating members of one's own age groups.¹⁷ Researchers have found that people can learn to more accurately estimate age, and liquor store clerks, who must estimate age as a job function, did so more accurately than the general public.¹⁸

Particularly relevant here, researchers have found that law enforcement officers consistently overestimate the age of Black youth relative to other youth.¹⁹ This bias, discussed more fully in the Policy-Focused Data Analysis chapter, is referred to as adultification bias. If adultification bias is carried through to a stop, its presence could result in a greater likelihood of Black youth being incorrectly identified as older than youth from other racial groups in the RIPA data. Therefore, it may be possible that in the RIPA data, Black youth are systematically incorrectly identified as being older than youth from other racial or ethnic groups that are the same age and,

¹⁵ Cal. Code Regs., tit. 11, § 999.226, subd. (a)(7); see also amend. Cal. Code Regs., tit. 11, § 999.226, subd. (a)(8) (eff. Jan. 1, 2024).

¹⁶ See, e.g., Matthew G. Rhodes, *Age estimation of faces: A Review* (2009) 23 Appl. Cognit. Psychol. 3-4; Jenny Vestlund et al., *Experts on Age Estimation* (2009) 50 Scandinavian J. Psych 306.

¹⁷ See, e.g., George & Hole, *Factors Influencing the Accuracy of Age Estimates of Unfamiliar Faces* (1995) 24 Perception 1059 (finding that persons were more able to accurately estimate ages based on faces of persons closer to their own age).

¹⁸ Jenny Vestlund et al., *Experts on Age Estimation* (2009) 50 Scandinavian J. Psych 305-306.

¹⁹ Goff et al., *The Essence of Innocence: Consequences of dehumanizing Black children* (2014) 106 J. of Personality and Social Psychology 533 <<https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>> [as of XX, 2024]

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if so, interacted with during a stop according to their age being perceived as older instead of according to their actual age.

The following sections examine the disparities revealed in the data using an intersectional analysis of age and other demographic categories, including race/ethnicity, gender, perceived LGBT status, disability, and English fluency. To highlight more readily the stops of youth and for ease of describing the analyses, going forward, age has been collapsed into three categories: 1–17, 18–24, and 25 and over.

A. Intersectional Analyses of Age and Race/Ethnicity

Across all age categories, Hispanic/Latine(x) individuals had the most stops, followed by individuals perceived to be White and individuals perceived to be Black. The relative proportions of stops between race/ethnicity categories vary across different age groups. Youth 18-24 show the largest relative disparity between race/ethnicity categories, in which individuals perceived as Hispanic/Latine(x) account for 51.66 percent (380,426) of stops compared to the next most common race/ethnicity, White youth, who account for 25.54 percent (188,082) of stops. The disparity shrinks for individuals perceived as 25 and over, though a disparity still exists. Individuals perceived as Hispanic/Latine(x) age 25 and over account for 41.34 percent (1,611,150) of stops, while the next most common race/ethnicity category, White individuals, account for 33.18 percent (1,293,234) of stops. The proportion of stops for all other race/ethnicity categories remains consistent across all age categories, varying by fewer than 2 percent. Figure X shows the relative proportion of stops for different racial groups in each age category.

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Figure X. Percentage of Stops by Age and Race/Ethnicity.

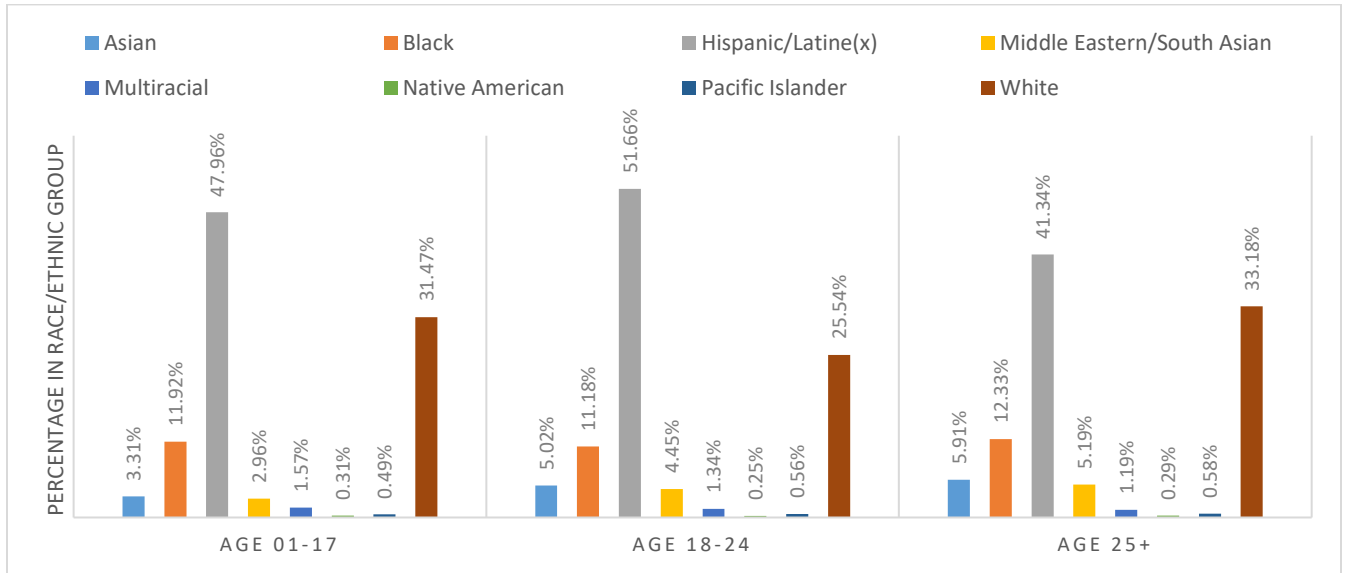
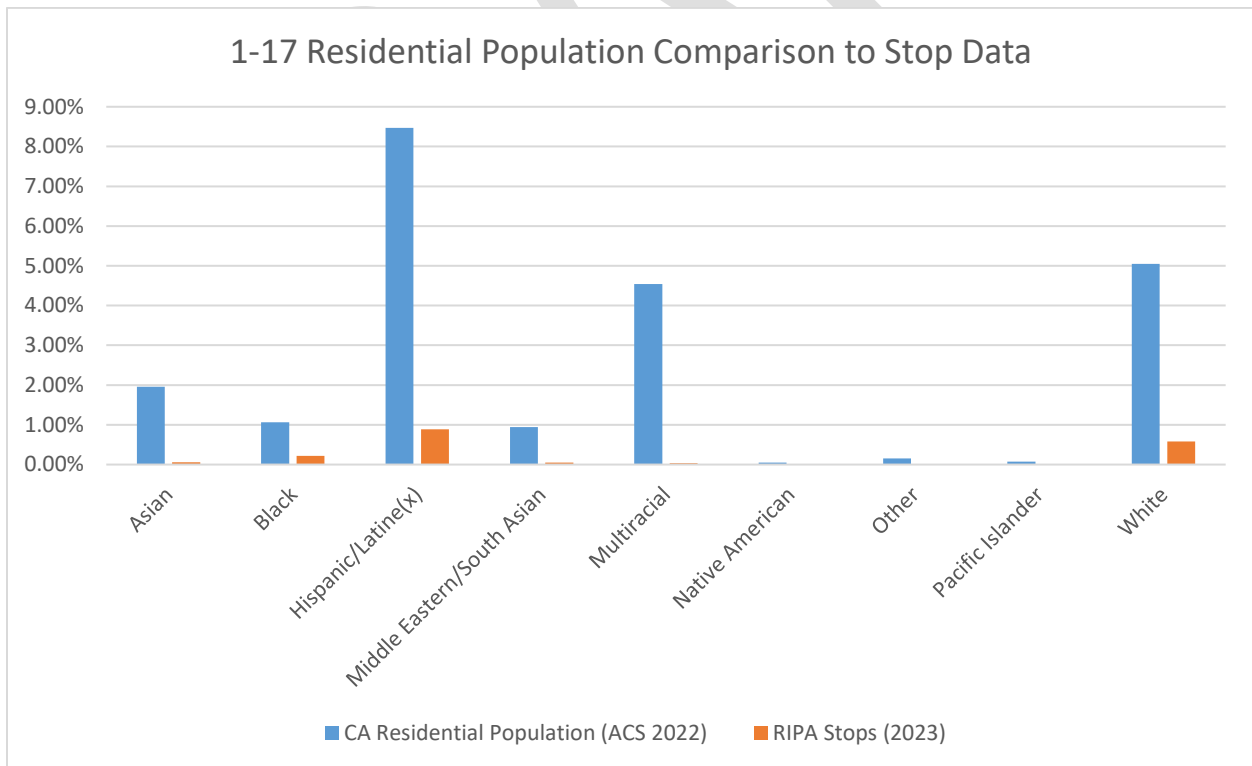


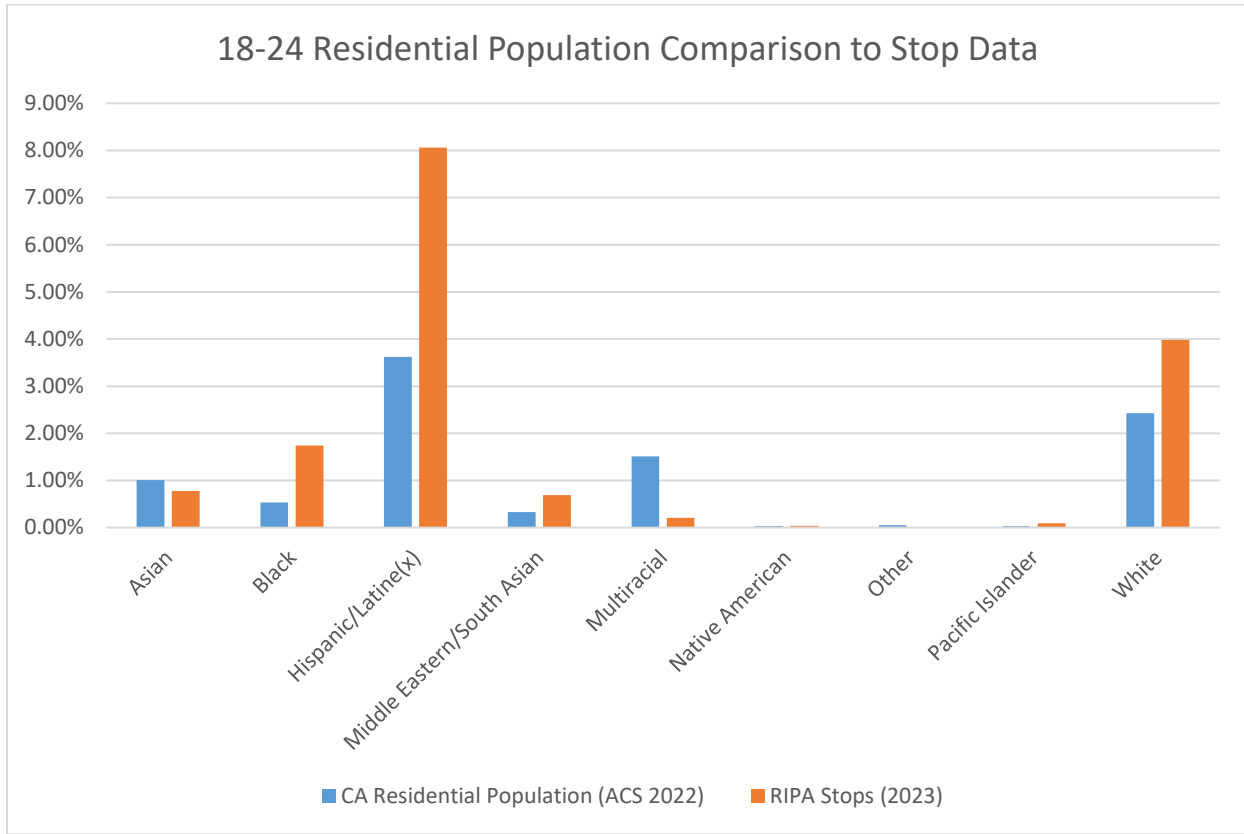
Figure X. 1-17 Residential Population Comparison to Stop Data



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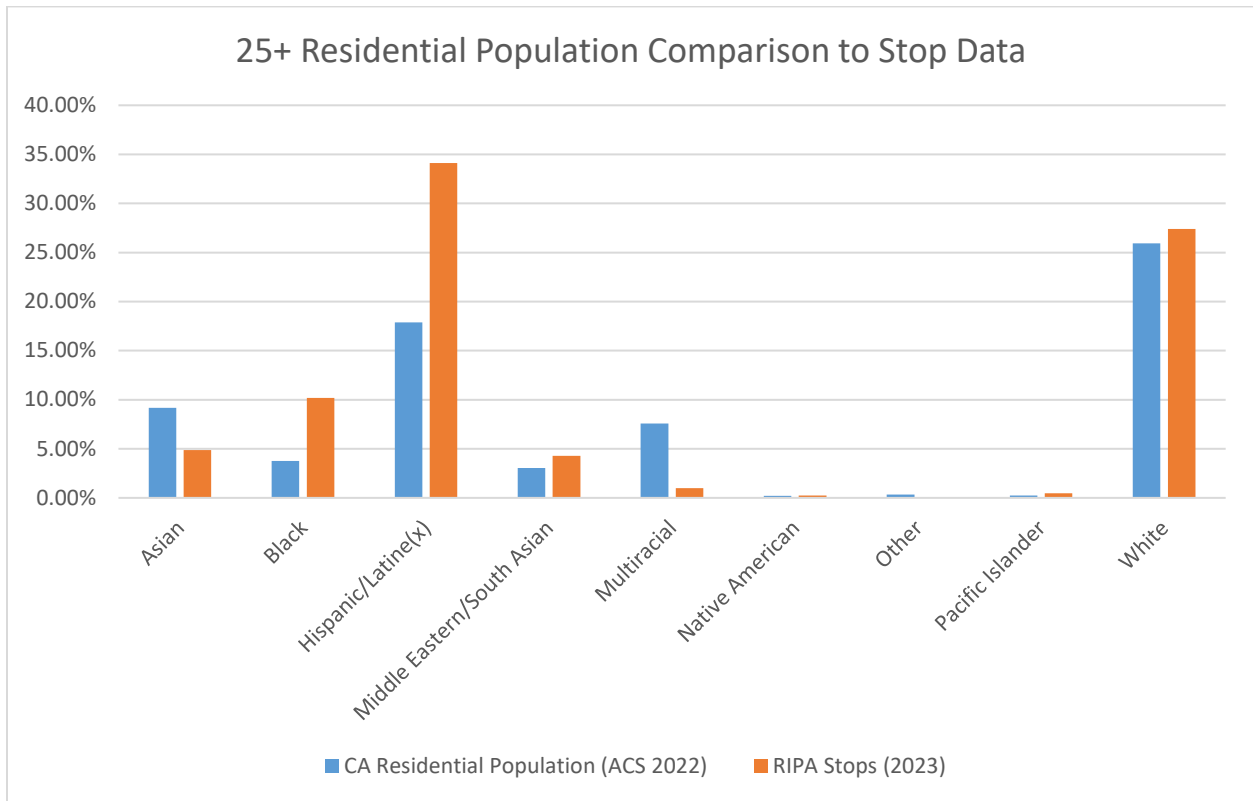
Figure X. 18-24 Residential Population Comparison to Stop Data



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Figure X. 25+ Residential Population Comparison to Stop Data



For all racial and ethnic groups, those over age 25 comprised the largest group of people stopped. Stops of persons perceived as Hispanic/Latine(x) skewed younger than other groups, with 18.71 percent (380,426) of that demographic group perceived to be between 18 and 24 and 2.06 percent (41,906) perceived to be under 18. Stops of persons perceived as White had an older composition, with 85.71 percent (1,923,234) of stops of persons perceived as White being perceived as 25 or older.

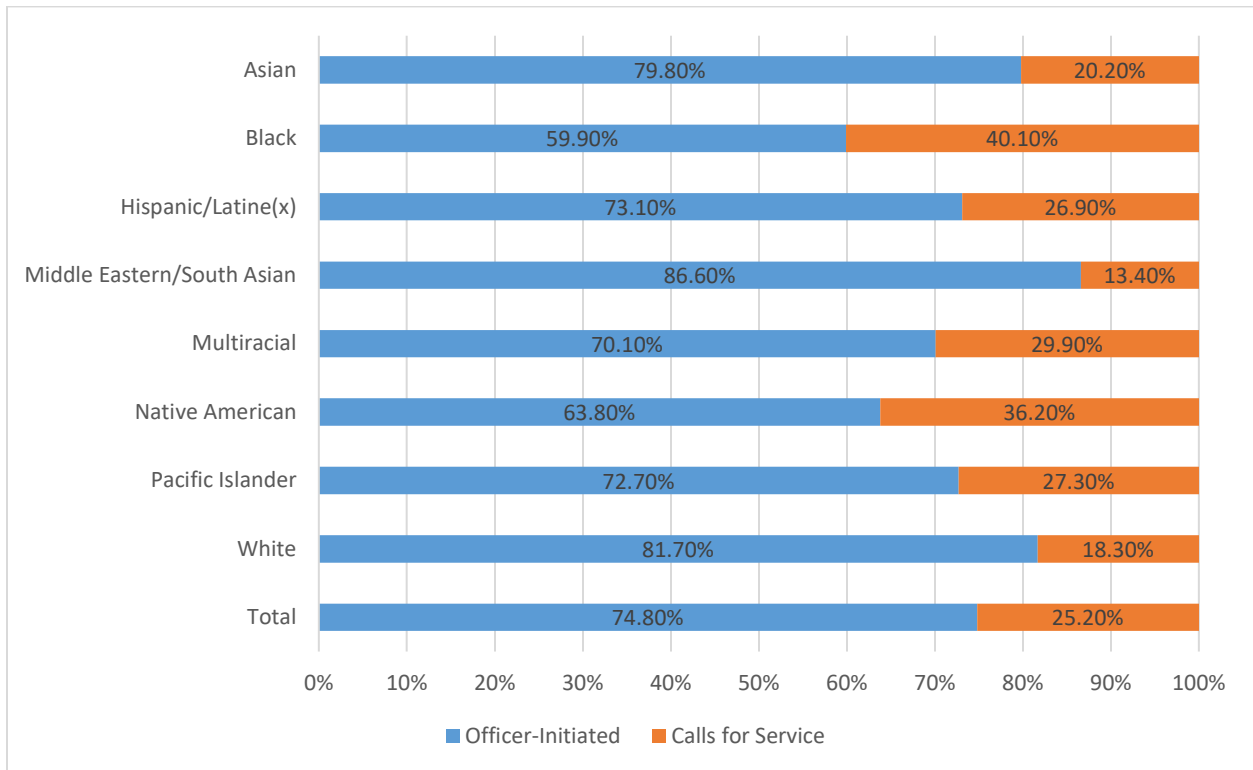
1. Calls for Service

For youth 1–17, there are differences in the percentages of encounters that are officer-initiated compared to calls for service for certain racial groups. Across all stops of persons perceived as 17 and younger, 25.2 percent (22,033) of stops were due to calls for service, and the remaining 74.8 percent (65,351) of encounters were officer-initiated. Of all racial groups, Black youth (40.1%, 4,175) and Native American youth (36.2%, 98) were most likely to be stopped in response to a call for service. Middle Eastern youth (13.4%, 347) and White youth (18.3%, 5,027) were least likely to have stops in response to a call for service.

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Figure X. Proportion of Stops Officer-Initiated and Call for Service of Individuals 17 and Under by Race/Ethnicity.



2. Reason for Stop

For Black youth 17 and under, the most common reason for the stop was reasonable suspicion (55.4%, 5,775). In contrast, officers stopped Middle Eastern/South Asian individuals 17 and under for reasonable suspicion at the lowest rate (15%, 387 stops). Officers stopped Black youth for traffic violations at the lowest rate (33.5%, 3,493). The highest percentages of traffic violations were reported for Middle Eastern or South Asian youth (82%, 2,120), followed by White youth (71.8%, 19,754).

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3. Actions Taken During Stop

RIPA data also show racial and ethnic disparities with respect to actions taken during stops of youth 1-17.²⁰ Within that age group, officers reported the greatest number of actions taken during stops with Black youth (1.71 actions, 10,418 stops, SD = 1.78, range = 0 - 11), followed by Native American youth (1.46 actions, 271 stops, SD = 1.76, range = 0 - 9), Hispanic/Latine(x) youth (1.29 actions, 41,906 stops, SD = 1.67, range = 0 - 11), Multiracial youth (1.18 actions, 1,376 stops, SD = 1.70, range = 0 - 9), and Pacific Islander youth (0.81 actions, 432 stops, SD = 1.47, range = 0 - 8). Officers reported taking fewer actions in stops involving Asian youth (0.56 actions, 2,895 stops, SD = 1.22, range = 0 - 8), White youth (0.53 actions, 27,500 stops, range = 0 - 10), and Middle Eastern/South Asian youth (0.42 actions, 2,586 stops, SD = 1.07, range = 0 - 10) compared to the overall average number of actions taken for youth 17 and under (1.05 actions, 87,384 stops, SD = 1.57, range = 0 - 11). Compared to the other age categories, across all racial and ethnic groups, officers reported the highest average number of actions taken for Black (0.97 actions) and Hispanic/Latine(x) (0.66) youth 18–24.

4. Types of Actions Taken

The following sections examine specific types of actions that can occur during a stop for youth and investigate the disparities across race and ethnicity categories.

Handcuffing

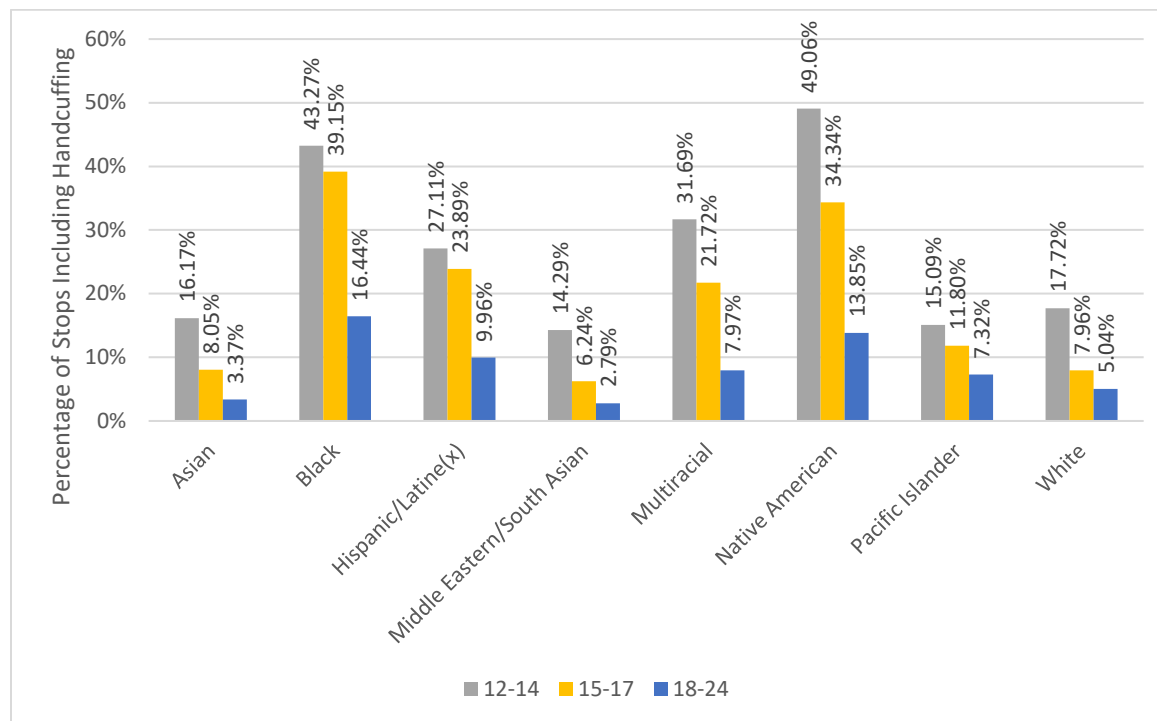
Figure X presents the percentage of stops including youth handcuffing, separated by age category and race/ethnicity. Compared to all groups presented here, officers handcuffed Native American youth 12–14 at the highest rate (49.06%, 26), followed closely by Black youth 12–14 (43.27%, 765), Black youth 15–17 (39.15%, 3,041 stops), and Native American youth 15–17 (34.34%, 68 stops). For stops involving youth 18–24, Black youth were handcuffed most often (16.44%, 13,533 stops), followed by Native American youth (13.85%, 259 stops). Officers reported the smallest percentage of stops including handcuffing in each age category for Middle Eastern/South Asian individuals. Within each racial and ethnic group, the pattern is consistent: individuals in the youngest age categories are handcuffed more often during a stop, with decreasing occurrence as the individual's perceived age increases.

²⁰ Actions taken during a stop include: Admission/Written Statement Obtained from Student, Asked for Consent to Search Person, Asked for Consent to Search Property, Baton, Canine Bite, Canine Search, Chemical Spray, Curbside Detention, Electronic Control Device, Field Sobriety Test, Firearm Discharge, Firearm Point, Handcuffed, Impact Projectile Discharge, No Action Taken, Other Physical or Vehicle Contact, Patrol Car Detention, Person Photographed, Property Seized, Removed from Vehicle by Order, Removed from Vehicle by Physical Contact, Search Person Consent Given, Search Property Consent Given, Searched Person, Searched Property, Vehicle Impounded.

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Figure X. Percentage of Stops Including Youth Handcuffing by Race and Ethnicity.



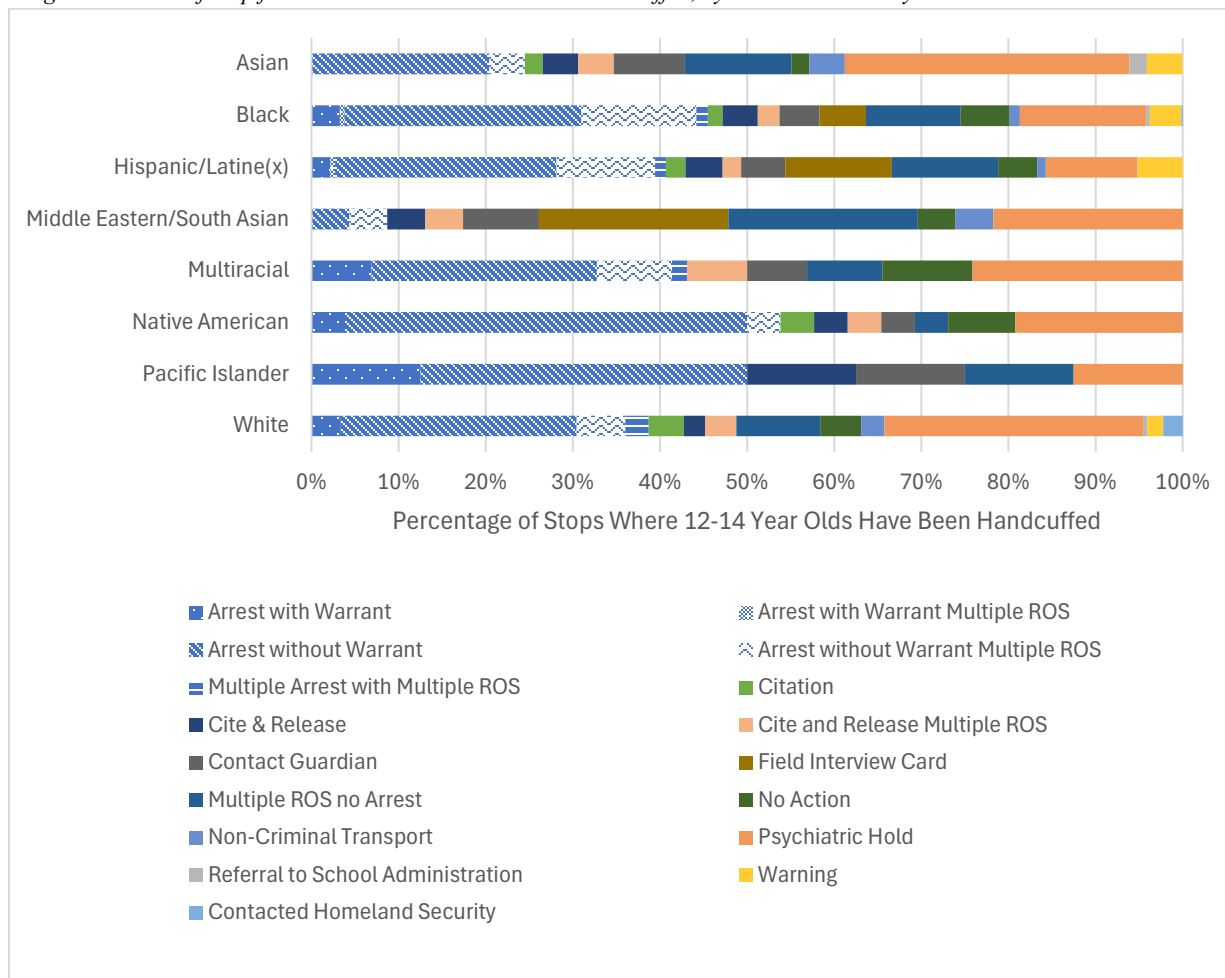
Handcuffing by Result of Stop and Race/Ethnicity

It is important to note that officers may handcuff an individual for a variety of reasons, not just to make an arrest. Analyzing the result of stop data for those who have been handcuffed can provide important context on the nature of the stop. The figures in this section present the results of stop for youth ages 12–24 who have been handcuffed, separated by race and ethnicity. Each of the blue bar segments with a pattern (all on the left side of the figure) represent a result of stop that involves an arrest of some sort. The rest of the bar segments represent other results of stop, including citation, warning, no action, field interview card, contact guardian or school administration, and others.

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Figure X. Result of Stop for Youth 12-14 Who Have Been Handcuffed, by Race and Ethnicity

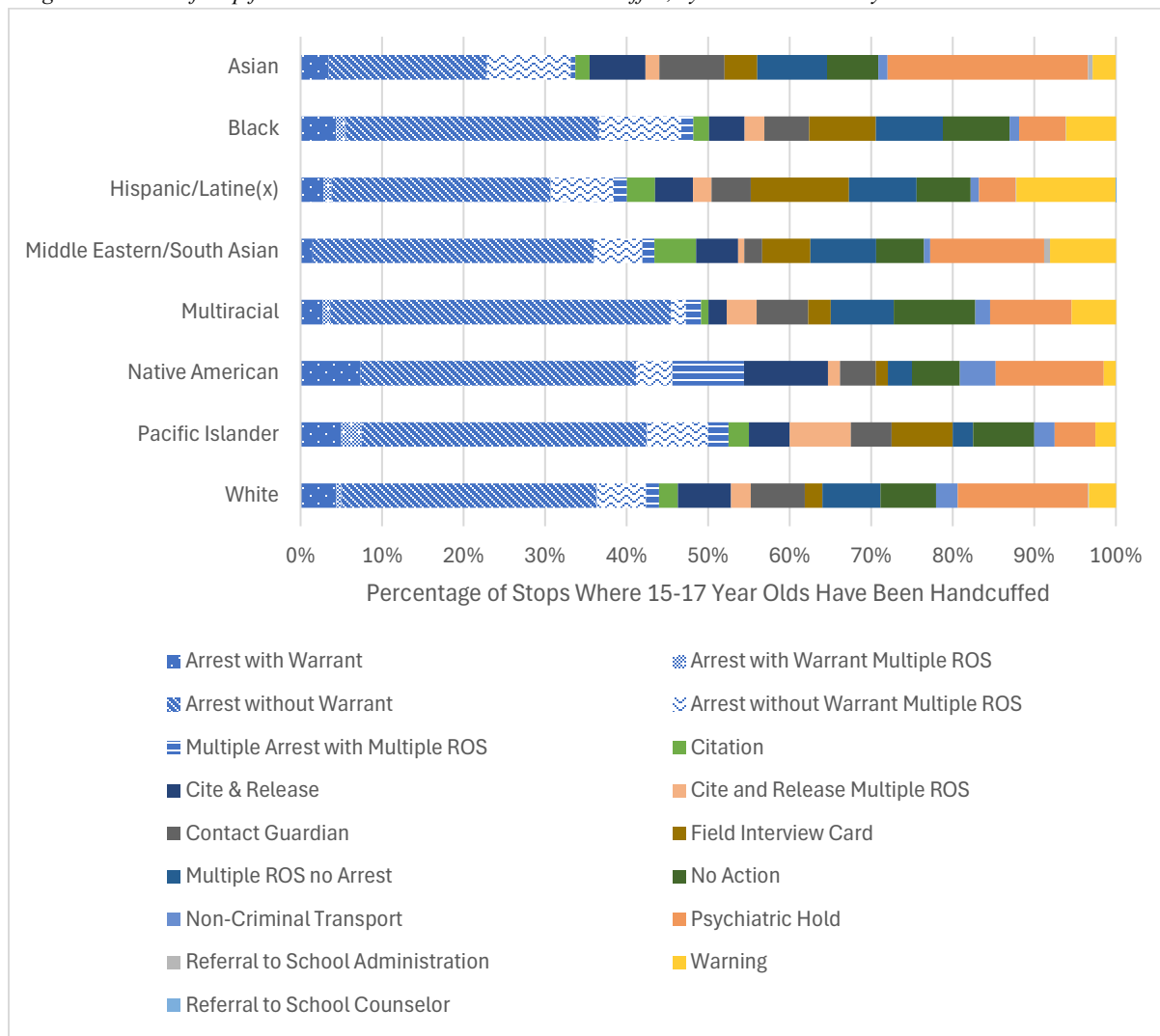


The most common result of stop for Black (27.19%, 208), Hispanic/Latine(x) (25.41%, 386), Multiracial (25.86%, 15), Native American (46.15%, 12), Pacific Islander (47.50%, 3) youth 12–14 was arrest without warrant. For many of these groups, except for Hispanic/Latine(x) and Pacific Islander, the second most common result of stop was psychiatric hold. For Hispanic/Latine(x) youth, the second most common result of stop was field interview card (12.24%, 186), and for Pacific Islander individuals, arrest with warrant, contact of guardian, multiple results of stop without arrest, and psychiatric hold are all tied at 12.50 percent of stops (1 stop in each category). For Middle Eastern/South Asian youth, the most common results of stop were psychiatric hold (21.74%, 5), multiple results of stop without arrest (21.74%, 5) and field interview card (21.74%, 5). For White (29.75%, 133) and Asian (32.65%, 16) youth, the most common result of stop was psychiatric hold.

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Figure X. Result of Stop for Youth 15-17 Who Have Been Handcuffed, by Race and Ethnicity

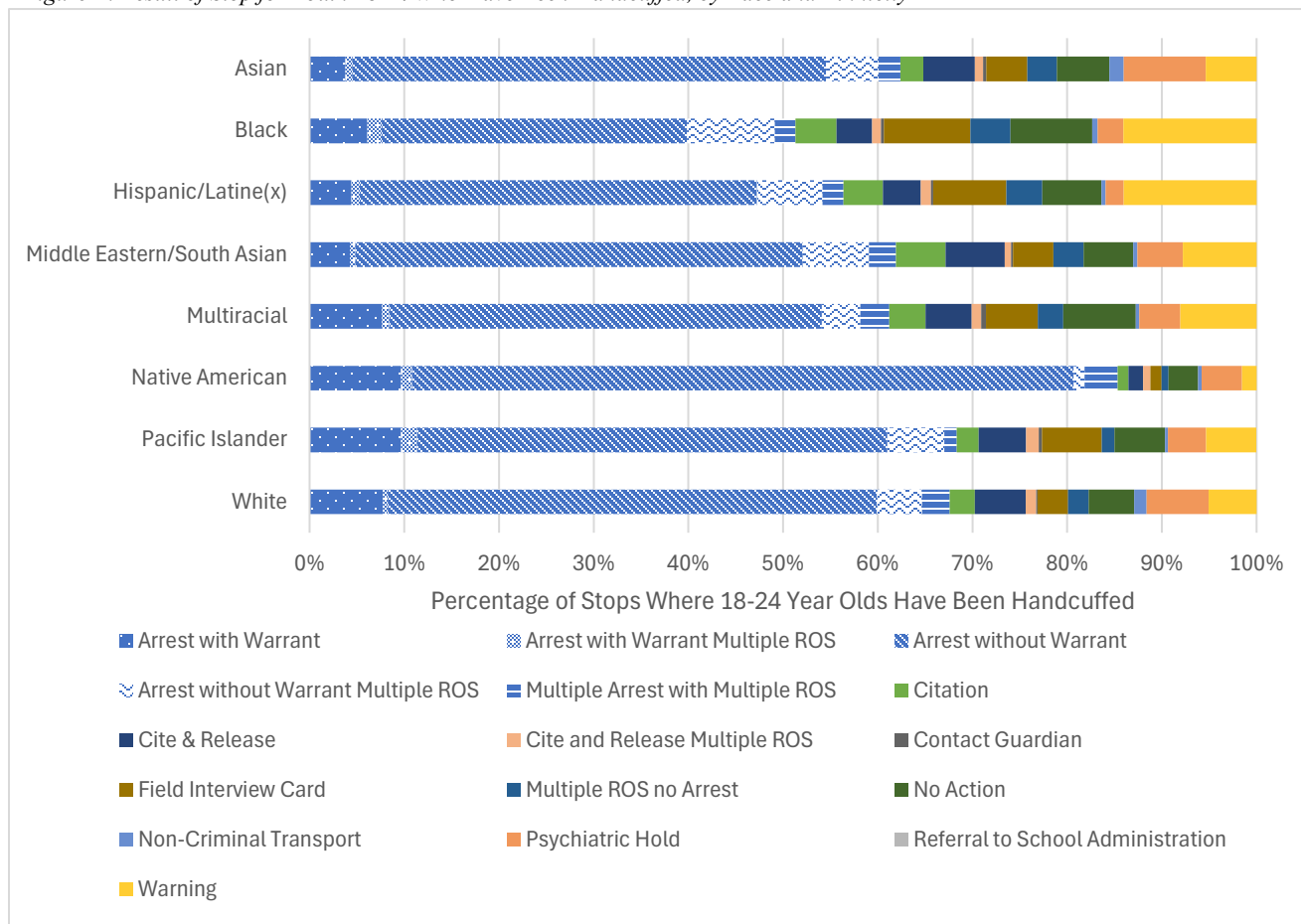


Arrest rates increased for youth 15–17 compared to youth 12–14. Notably, the percentage of youth handcuffed where the result of a stop was a psychiatric hold decreased. Officers reported that for every racial/ethnic group except for Asian, the most common result of stop for youth 15–17 who were handcuffed was arrest without warrant. The most common result of stop for Asian youth 15–17 who were handcuffed was psychiatric hold (24.57%, 43), followed by arrest without a warrant (19.43%, 34). Except for Hispanic/Latine(x) and Black youth, psychiatric hold was the second most common result of stop for all other racial and ethnic groups. Officers reported arrest without a warrant, with other results of stop, as the second most common result of stop for Black youth (10.10%, 307), and field interview cards for Hispanic/Latine(x) youth (12.03%, 952).

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Figure X. Result of Stop for Youth 18-24 Who Have Been Handcuffed, by Race and Ethnicity



Arrest rates for youth 18–24 who were handcuffed during a stop were higher relative to the younger age categories. Indeed, arrest without a warrant was by far the most reported result of stop across all racial and ethnic categories, with the arrest without a warrant rate for Native Americans being the highest across all racial and ethnic groups (69.88%, 181). The second most common result of stop for Black (14.08%, 1,906), Hispanic/Latine(x) (14.04%, 5,319), Middle Eastern/South Asian (7.77%, 71), and Multiracial individuals (8.04%, 63) was a warning. For Asian youth 18–24, the second most common result of stop was psychiatric hold (8.66%, 108). For Native American (9.65%, 25), Pacific Islander (9.67%, 29), and White (7.74%, 734) youth, the second most common result of stop was arrest with a warrant.

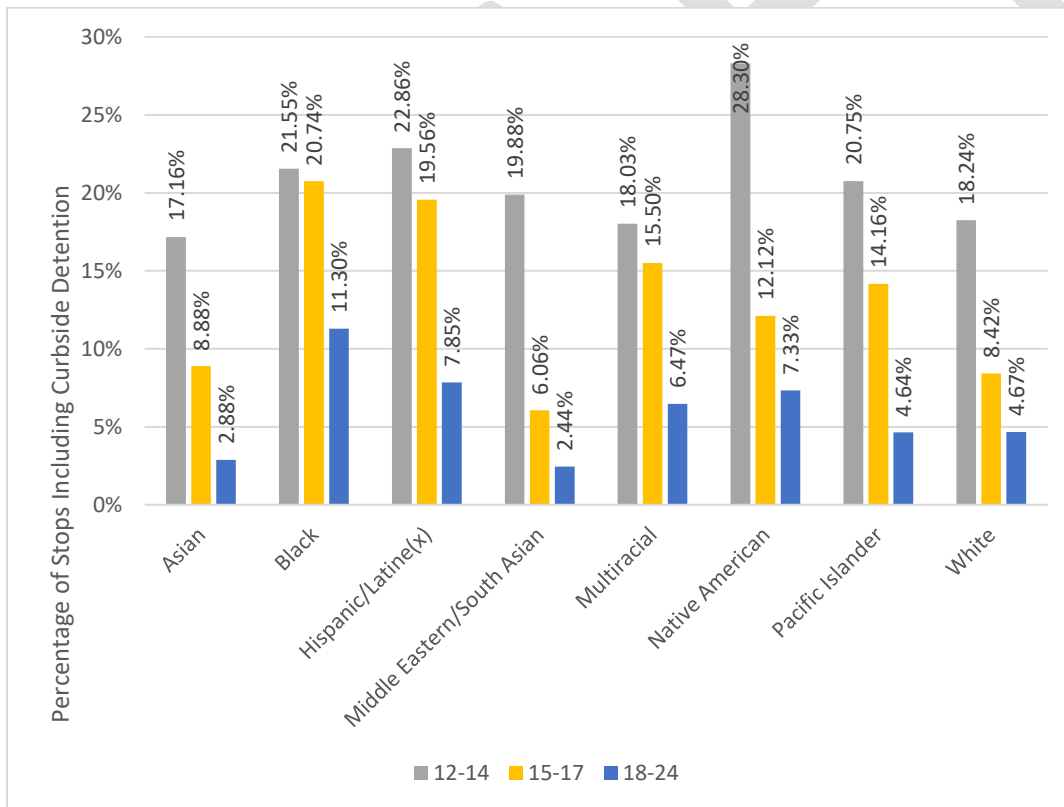
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Curbside Detention, Patrol Car, Removed from Vehicle

Across all race and ethnicity categories, the curbside detention patterns by age category were consistent: officers reported the highest detention rates of individuals perceived to be younger, specifically the 12–14 age category. These rates decreased as the perceived age of the individual increased. The largest within-race difference was for Native American individuals, with a more than 20-point difference in detention rates between youth 12–14 (15 stops) and those between 18 and 24 (137 stops). In fact, officers detained Native American youth 12–14 the most often out of every group (28.30%, 15 stops), followed by Hispanic/Latine(x) youth 12–14 (22.86%, 1,281 stops), and Black youth 12–14 (21.55%, 381 stops). Officers detained Middle Eastern/South Asian youth 18–24 at the lowest rate (2.44%, 801 stops), followed by Asian youth 18–24 (2.88%, 1,064 stops), and Pacific Islander youth 18–24 (4.64%, 190 stops).

Figure X. Youth Curbside Detention by Race and Ethnicity.



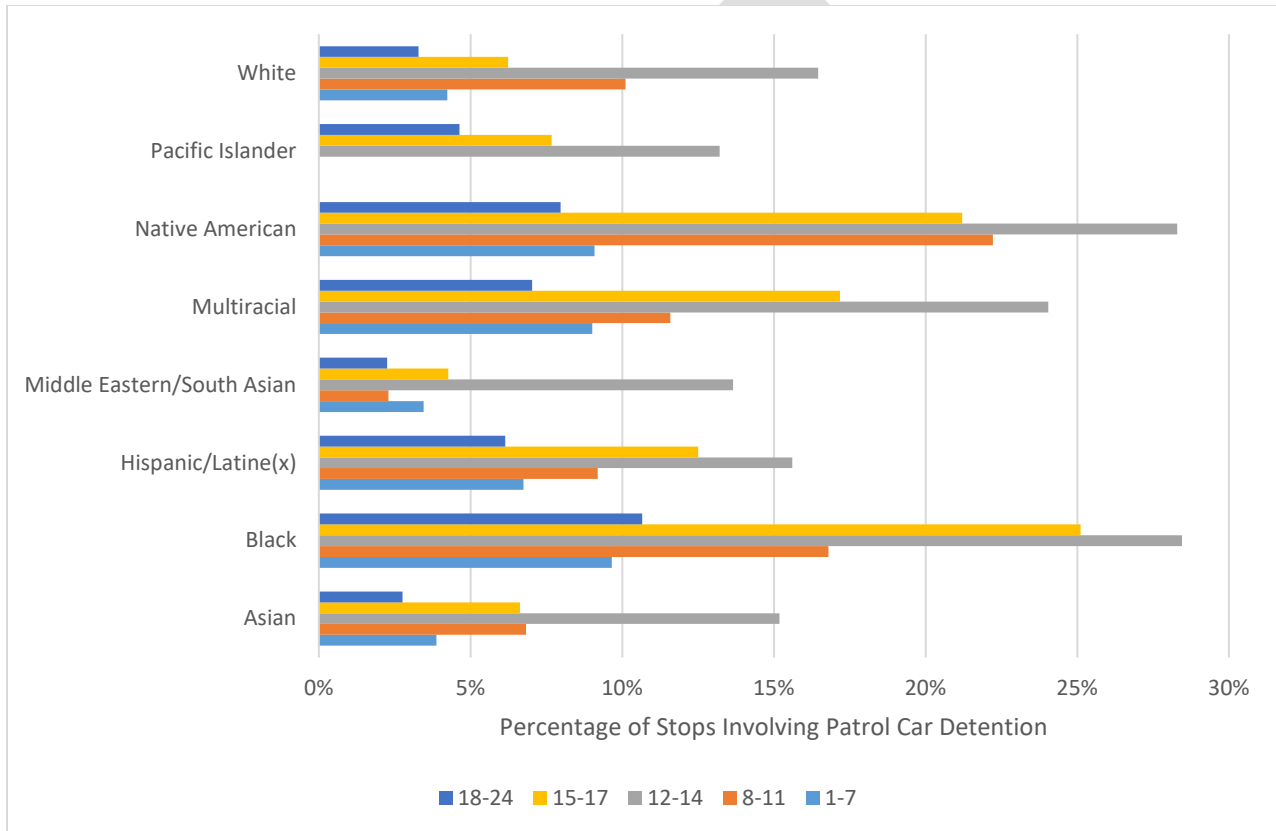
Across all the race and ethnicity categories, officers utilized patrol car detention the most often in stops involving individuals they perceived to be youth aged 12–14. Officers report the highest

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rate of patrol car detention for stops involving Black youth 12–14 (28.45%, 503), followed closely by Native American youth 12–14 (28.45%, 15), and Multiracial youth 12–14 (24.04%, 44). Officers report the lowest rates of patrol car detention for stops involving youth 18–24, except for stops involving Black or Pacific Islander individuals. Officers reported no patrol car detention in stops involving Pacific Islander youth 1–7 and 8–11 and reported patrol car detention in 2.25 percent (739) of stops involving Middle Eastern/South Asian youth 18–24, the third lowest rate of detention.

Figure X. Youth Patrol Car Detention by Race and Ethnicity.

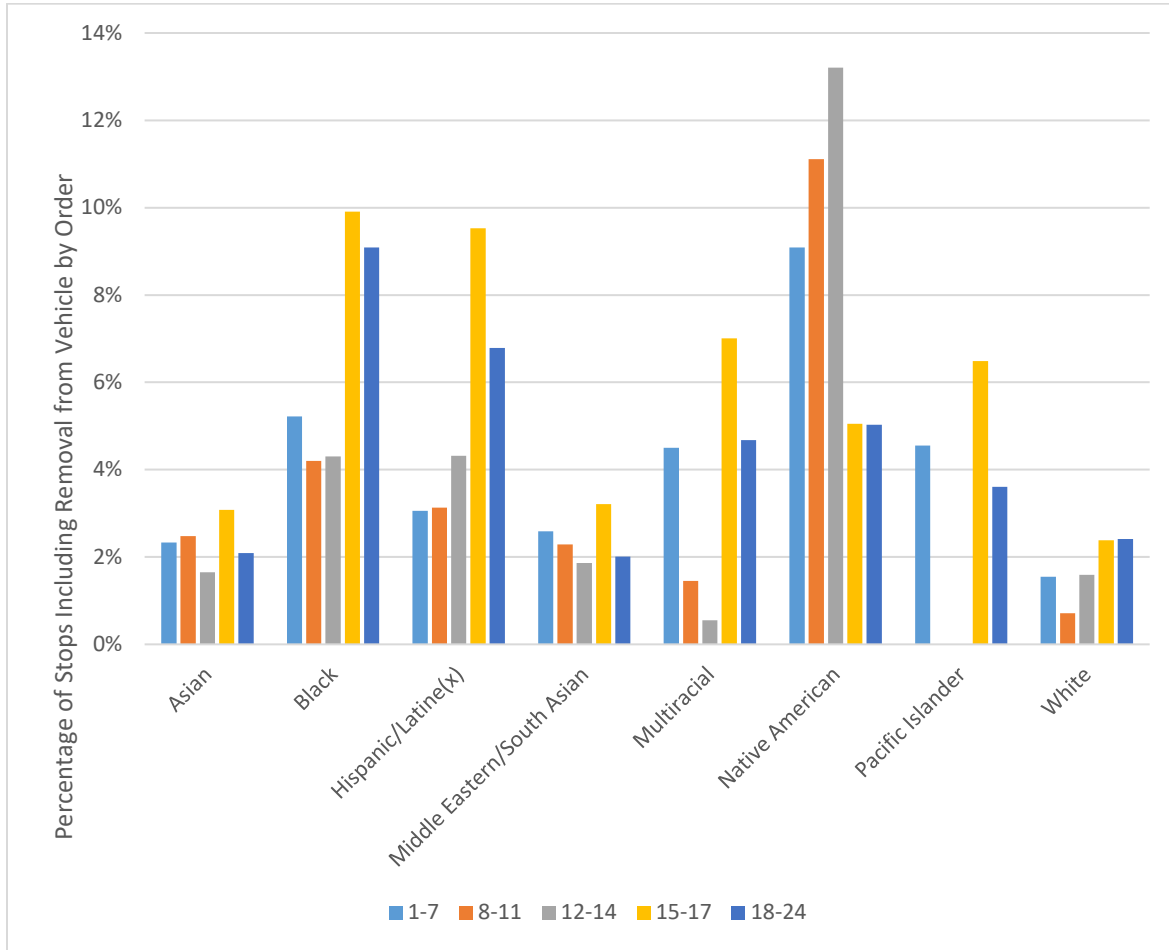


Removal from vehicle by order was most common in stops involving Native American youth 12–14 (13.21%, 7), followed by Native American youth 8–11 (11.11%, 1), and Black youth 15–17 (9.91%, 770). These are closely followed by stops for Hispanic/Latine(x) youth 15–17 (9.53%, 3,156) and Native American youth 1–7 (9.09%, 1). Officers reported no stops that included removal from a vehicle by order for Pacific Islander youth 8–11 and 12–14.

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Figure X. Removal from Vehicle by Order by Race and Ethnicity.



5. Use of Force in Youth Stops by Race and Ethnicity

Officers employed some level of force in at least one stop involving youth 1–7 of all race/ethnicity categories except for Native American and Pacific Islander. Less lethal force²¹ was used in three stops involving Black youth 1–7 (0.78%), three stops involving Hispanic/Latine(x) youth 1–7 (0.17%), and two stops involving White youth 1–7 (0.21%). Officers used limited force the most often in stops involving Multiracial youth 1–7 (13.51%), followed by 9.34 percent of stops involving Hispanic/Latine(x) 1–7, and in 8.88 percent of stops involving White youth 1–7. No stops of youth 1–7 involved lethal force.

Among stops involving youth 8–11, officers employed both less lethal and limited force. Less

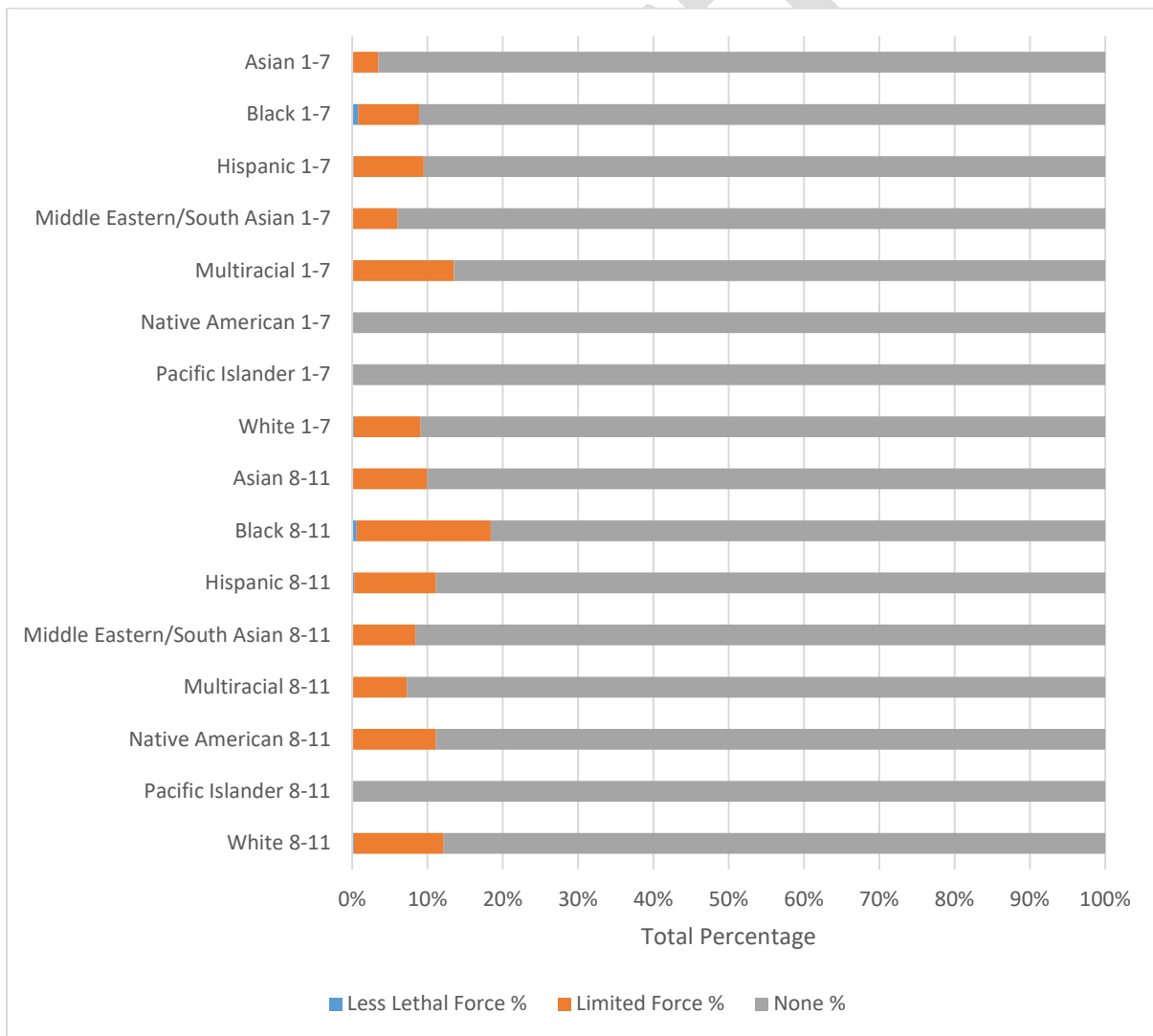
²¹ See *supra* note, 14 for the definitions of the different types of use of force.

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lethal force was only used in stops involving Black, Hispanic/Latine(x), and White youth 8–11, while limited force was used in stops involving all racial/ethnic groups except for Pacific Islander. Officers used less lethal force (0.60%, 3) the most often during stops involving Black youth 8-11. Four (0.28%) stops involving Hispanic/Latine(x) youth 8–11 involved less lethal force, while two (0.24%) stops involving White youth 8–11 included less lethal force. Officers used limited force the most often in stops involving Black youth 8–11 (17.80%, 89), followed by White youth 8–11 (11.89%, 100), and Native American youth 8–11 (11.11%, 1). No stops involving youth 8–11 included lethal force.

Figure X. Use of Force Youth Aged 1-11.



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With a few exceptions, officers used force most often in stops involving youth 12–14, compared to the other age categories. Within the 12–14 age category, overall, officers used some level of force most often in stops involving Native American and Black youth 12–14 (49.06%, 26). Officers reported using lethal force in the form of discharging their firearm in several stops involving youth 12–14. Specifically, in two stops involving Black youth 12–14 (0.11%) and in one stop involving a Hispanic/Latine(x) youth 12–14 (0.02%), officers used lethal force. Officers used less lethal force the most often in stops involving Native American (7.55%, 4) and Multiracial (3.28%, 6) youth 12–14. Additionally, officers used limited force the most often in stops involving Black youth (42.31%, 748) and Native American youth 12–14 (41.51%, 22). Officers reported the use of no force most often in stops involving Asian (83.71%, 252), Middle Eastern/South Asian (82.61%, 133), Pacific Islander (81.13%, 43) youth 12–14.

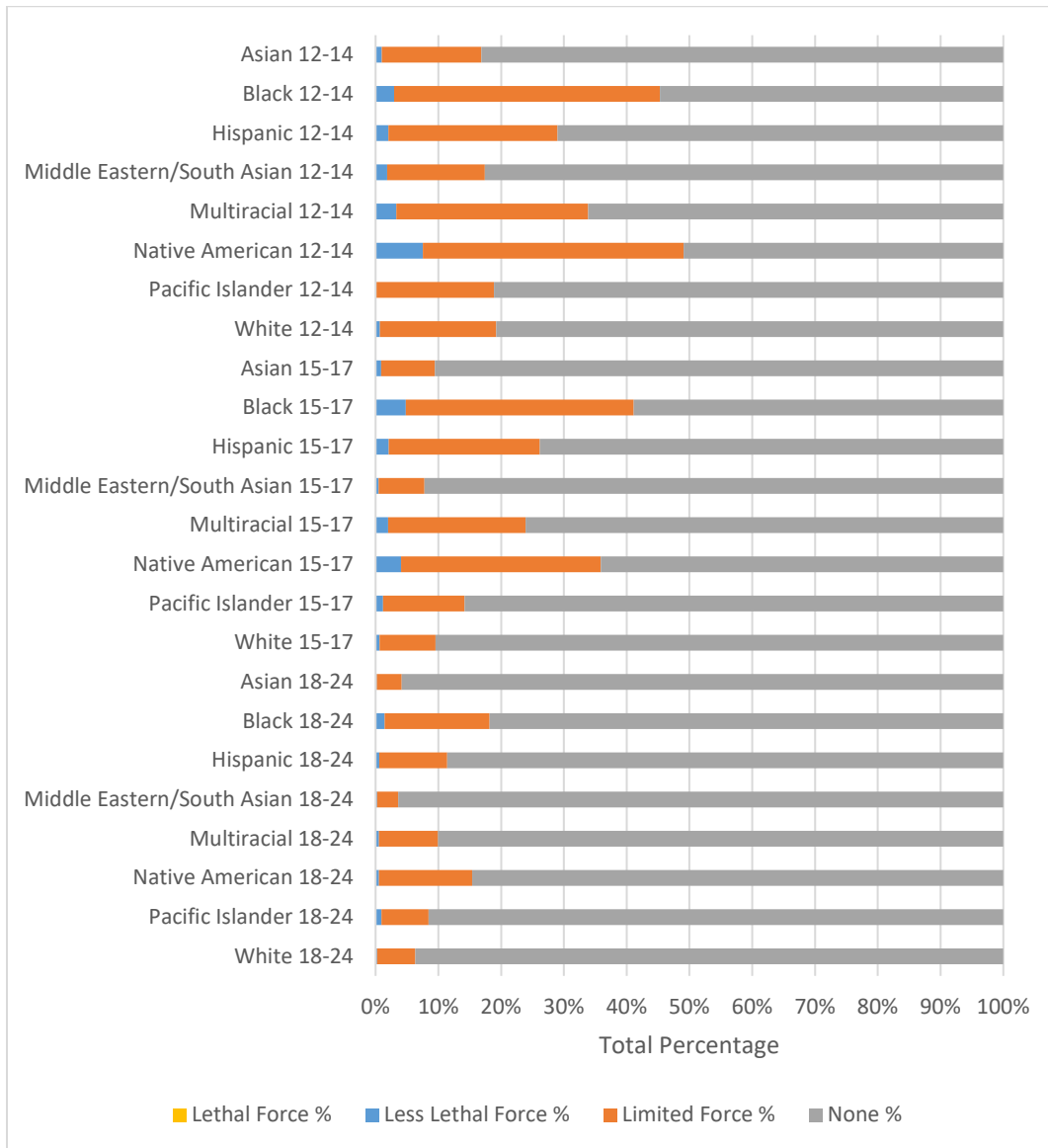
For youth 15–17 officers used lethal force in stops with more racial groups, including Black (0.04%, 3), Hispanic/Latine(x) (0.01%, 3), Asian (0.05%, 1), White (0.004%, 1), and Multiracial (0.10%, 1). Officers used less lethal force most often in stops involving Black (4.80%, 373), Native American (4.04%, 8) and Hispanic/Latine(x) (2.10%, 696) youth 15–17. The same pattern holds for limited force. Officers reported using limited force the most often in stops involving Black (36.32%, 4,570), followed by Native American (31.82%, 127), and Hispanic/Latine(x) (24.05%, 24,465) youth 15–17. When looking at overall rates of force versus no force, officers report using force most often in stops with those same three racial/ethnic groups. Officers report using no force most often in stops involving Middle Eastern/South Asian (92.24%, 2,009), Asian (90.52%, 1,967), and White (90.47%, 20,962) youth 15–17.

In stops involving youth 18–24, use of force rates further decreased. However, officers still used lethal force in stops involving Hispanic/Latine(x) (0.01%, 21), Black (0.01%, 7), Asian (0.01%, 4), White (0.002%, 4), and Pacific Islander (0.02%, 1) youth. Officers used less lethal force at the highest rates in stops involving Black (1.46%, 1,200), Pacific Islander (.93%, 38), and Hispanic/Latine(x) (.60%, 2,291) youth 18–24. Officers reported using limited force most often in stops involving Black (16.69%, 13,740), Native American (14.87%, 278), and Hispanic/Latine(x) (10.80%, 41,071) youth 18–24. Mirroring the trends in the 15–17 age category, officers reported using no force most often in stops involving Middle Eastern/South Asian (96.39%, 31,608), Asian (95.81%, 35,418), and White (93.69%, 176,219) youth 18–24.

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Figure X. Use of Force Youth Aged 12-14.



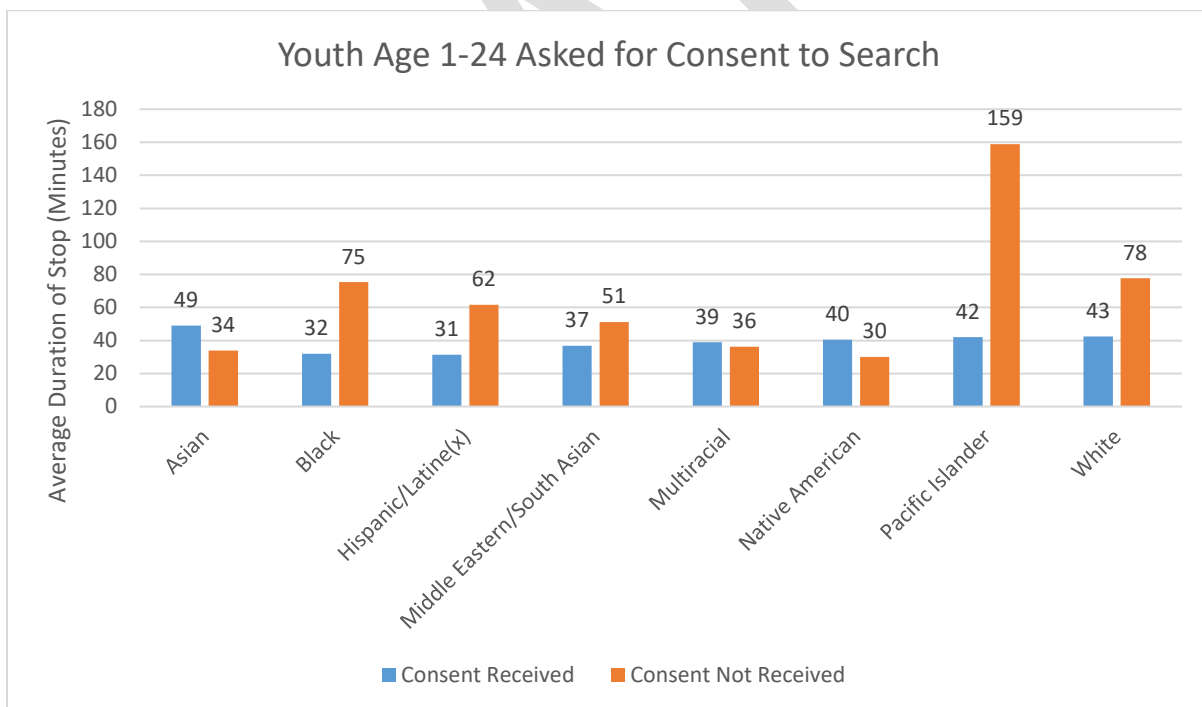
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6. Duration of Youth Stops for Searches by Race and Ethnicity

Officers reported longer stop durations when consent for a search was not given compared to when they received consent for stops involving youth from every racial and ethnic group except Asian youth. For Asian youth, stops in which the officer did not receive consent (41 minutes, 74 stops, SD = 46, range = 2 - 216) were shorter than stops in which they obtained consent (49 minutes, 619 stops, SD = 111, range = 1 – 1,440). The largest disparity between stops in which officers obtained consent compared to stops in which consent was not received was for Pacific Islander youth, whose stops without consent averaged 63 minutes longer than stops in which the officers received consent (105 minutes, 23 stops, SD = 155, range = 10 - 476 vs. 42 minutes, 114 stops, SD = 75, range = 2 - 720). The smallest disparity was for Multiracial youth, whose stops without consent were two minutes longer on average than stops with consent (41 minutes, 67 stops, SD = 47, range = 1 - 240 vs. 39 minutes, 480 stops, SD = 77, range = 1 – 1,440).

Figure X. Comparison of Searches in Youth Stops Separated by Race/Ethnicity and Consent Status

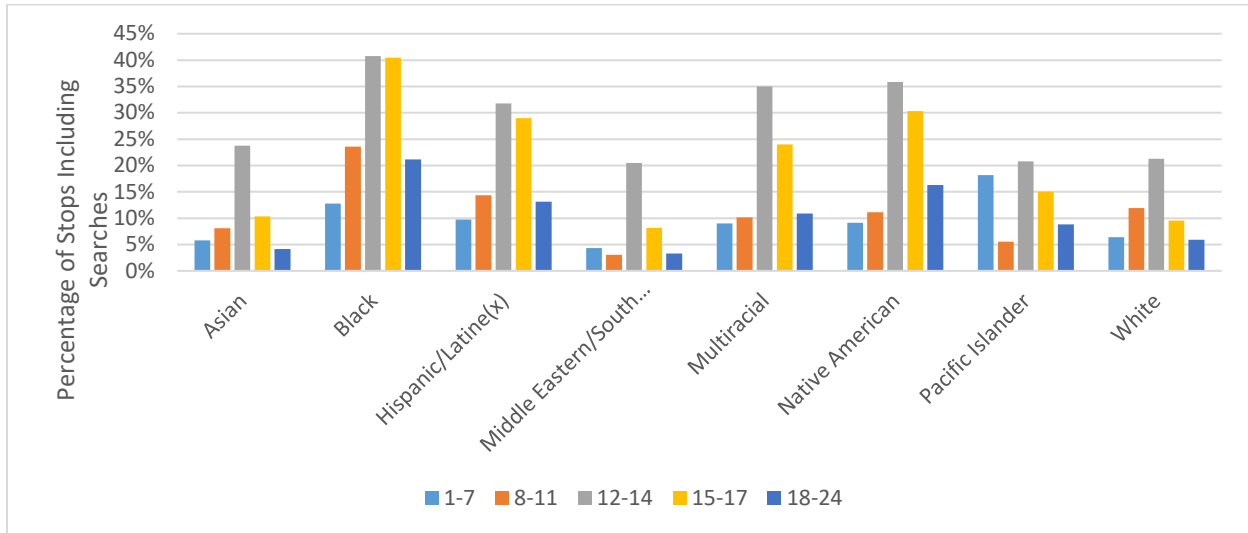


Officers reported the highest rates of search for stops involving Black youth 12–14(40.78%, 118) and Black youth 15–17 (40.48%, 721), followed by Native American youth 12–14 (35.85%, 19). Across all racial and ethnic groups, stops involving youth 12–14 had the highest rate of searches.

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Figure X. Youth Stops Including Searches by Race and Ethnicity



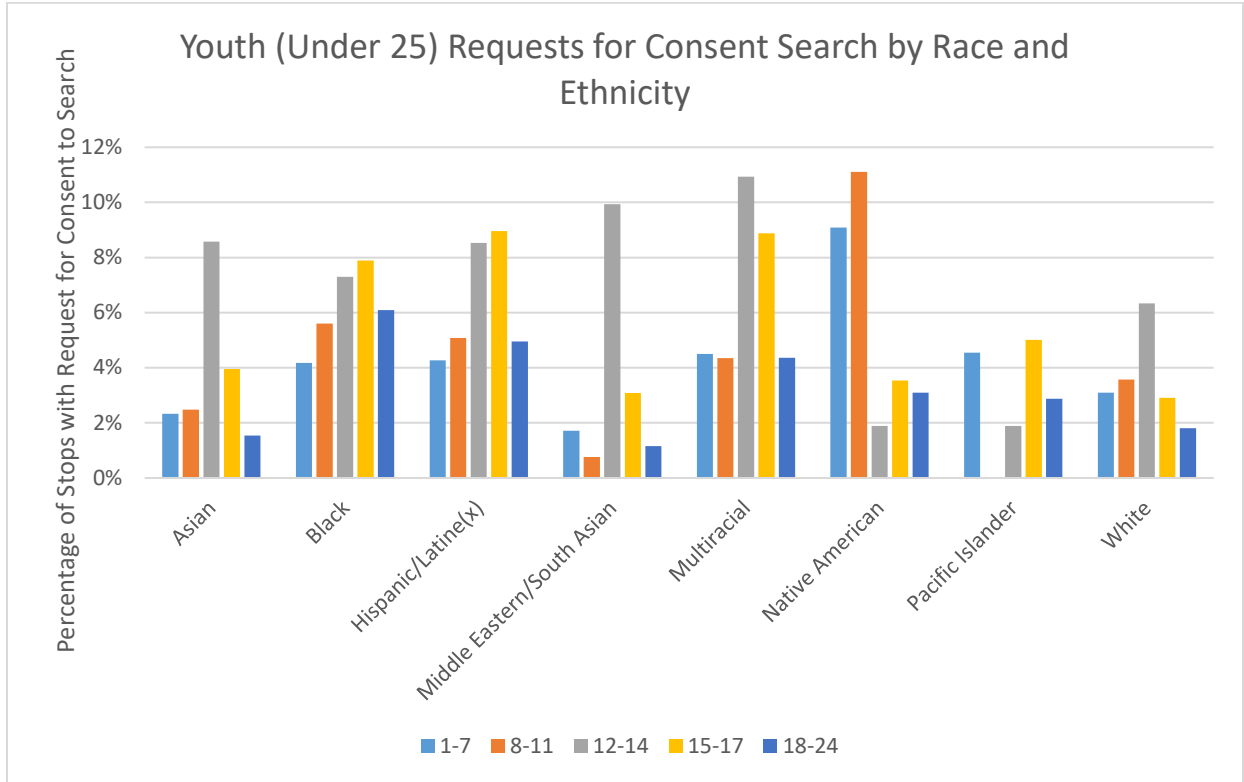
Officers reported the highest rate of requests for consent search for Native American youth 8–11 (11.11%, 1), followed by Multiracial youth 12–14 (10.93%, 20), and Middle Eastern/South Asian youth 12–14 (9.94%, 16). The distribution of requests for consent search by age varied for different racial/ethnic categories. For instance, Asian (8.58%, 26), Middle Eastern/South Asian (9.94%, 16), and Multiracial (10.93%, 20) individuals had the highest rate of requests for consent search for youth 12–14. Black (7.89%, 613), Hispanic/Latine(x) (8.96%, 2,968), and Multiracial (8.88%, 90) youth had the highest rate of requests for consent search for youth ages 15–17. Native American youth 8–11 (11.11%, 1) had the highest rate of requests for consent search

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among their age group.

Figure X. Percentage of Youth Asked for Consent to Search by Race and Ethnicity.



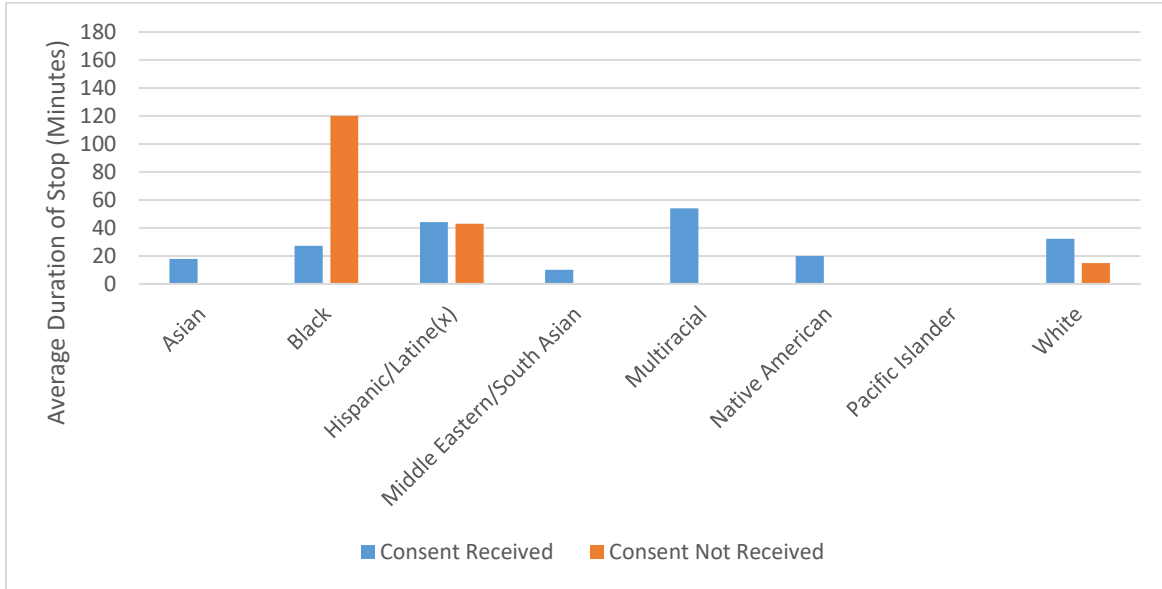
Officers reported not receiving consent to search during stops involving Black, Hispanic/Latine(x), Multiracial, and White youth aged 8–11. In stops involving all other races/ethnicities where consent was requested, it was received. The average stop duration patterns for stops when consent was requested but not received differed by racial/ethnic group. In stops involving Black youth 8–11 (4 out of 28 stops where consent to search was asked), the average duration of the stop was almost five times as long (119 minutes, SD = 129, range = 10 - 300 vs. 27 minutes, SD = 22, range = 5 - 77) if the officer did not receive consent. In stops involving Hispanic/Latine(x) youth 8–11, there was an average of six-minute difference between stops where consent was received (44 minutes, 58 stops, SD = 60, range = 3 - 359) versus when it was not (50 minutes, 15 stops, SD = 45, range = 9 - 180). In stops involving White youth 8–11, the average stop duration was longer when consent was received (32 minutes, 26 stops, SD = 38,

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range = 2 - 134) compared to when it was not received (26 minutes, 4 stops, SD = 7, range = 15 - 30).

Figure X. Average Duration of Stop in Minutes by Consent to Search and Race and Ethnicity, Youth Aged 8-11.

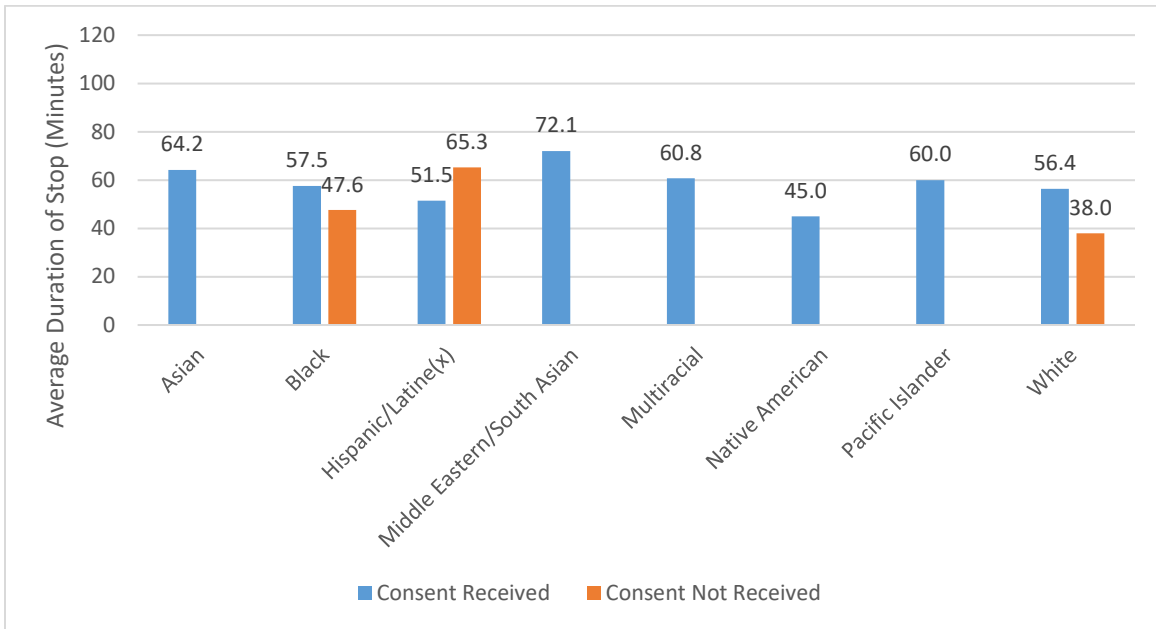


Among stops of youth 12–14, consent to search was not reported in a subset of stops. Specifically, consent to a search was not reported as received in stops involving Multiracial, Native American, and Pacific Islander youth. In stops of Middle Eastern/South Asian youth 12–14, stops were shorter when consent was not received (41 minutes, 2 stops, SD = 28, range = 21 - 60) compared to when it was received (72 minutes, 14 stops, SD = 68, range = 20 - 270). The largest duration difference was for Asian youth ages 12–14, where stops where consent was received (24 stops, SD = 60, range = 1 - 240) were, on average, 64 minutes, and stops where consent was not received were 168 minutes (2 stops, SD = 68, range = 120 - 216). The duration of stop for Black (66 minutes, 17 stops, SD = 76, range = 7 - 300 vs. 58 minutes, 112 stops, SD = 66, range = 2 - 384), Hispanic/Latine(x) (54 minutes, 64 stops, SD = 51, range = 1 - 200 vs. 51 minutes, 414 stops, SD = 54, range = 1 - 368), and White (58 minutes, 24 stops, SD = 47, range = 1 - 180 vs. 56 minutes, 136 stops, SD = 63, range = 1 - 420) 8–11 where consent was not received were longer than in stops where consent was received.

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Figure X. Average Duration of Stop in Minutes by Consent to Search and Race and Ethnicity, Youth Aged 12-14.



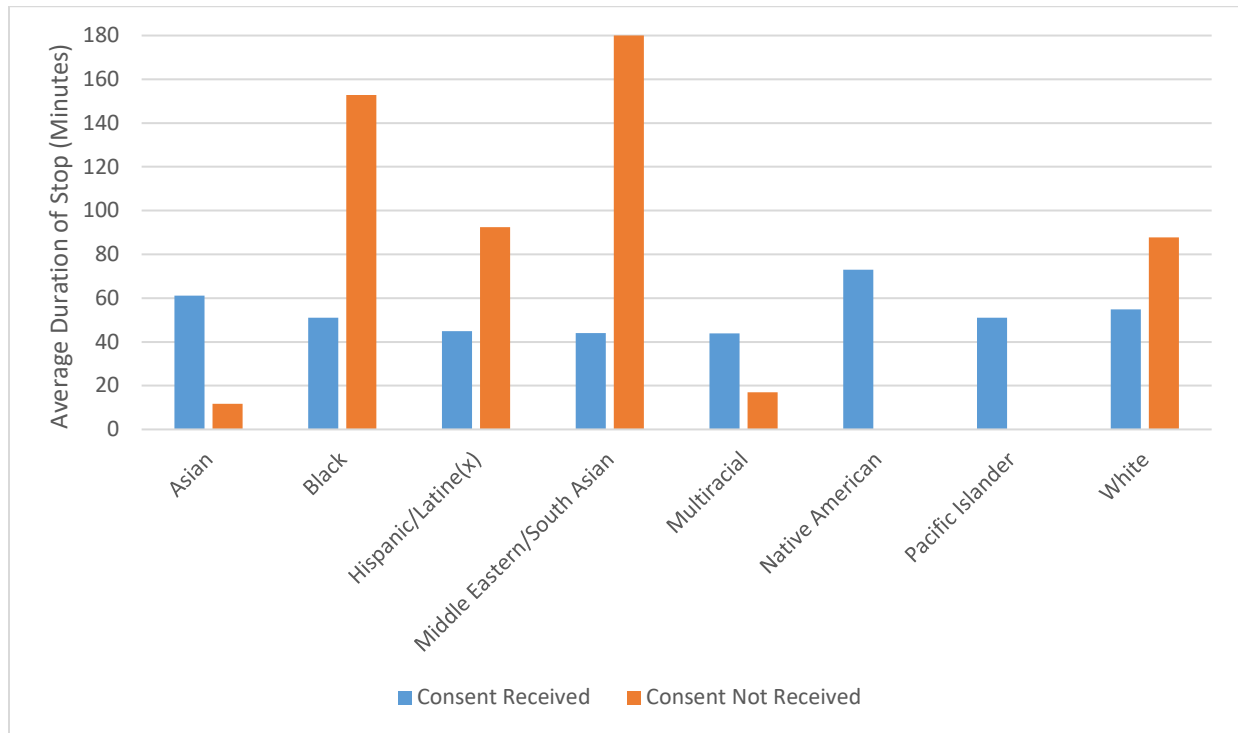
For youth 15–17, the difference in duration for stops in which consent to search was not received compared to those where it was given was significant for all racial/ethnic groups except Native American and Pacific Islander. For stops involving Black, Hispanic/Latine(x), and Middle Eastern/South Asian youth 15–17, when officers were not given consent to search, the average stop duration was longer. Specifically, average stop duration was about 20 minutes longer for stops involving Black individuals (75 minutes, 62 stops, SD = 190, range = 2 – 1,440 vs. 51 minutes, 551 stops, SD = 116, range = 3 – 1,440) and Middle Eastern/South Asian individuals (66 minutes, 8 stops, SD = 83, range = 2 - 215 vs. 44 minutes, 59 stops, SD = 51, range = 5 - 300), almost half an hour longer for Hispanic/Latine(x) individuals (73 minutes, 365 stops, SD = 100, range = 1 - 720 vs. 45 minutes, 2,603 stops, SD = 88, range = 1 – 1,440), and increased approximately 10 minutes for White individuals (63 minutes, 87 stops, SD = 59, range = 1 - 284 vs. 55 minutes, 588 stops, SD = 81, range = 1 - 1,415).

For stops involving Asian (16 minutes, 9 stops, SD = 9, range = 2 - 30 vs. 61 minutes, 77 stops, SD = 164, range = 1 – 1,440) and Multiracial individuals (30 minutes, 13 stops, SD = 15, range = 1 - 60 vs. 44 minutes, 77 stops, SD = 31, range = 5 - 200), officers reported shorter stop durations when consent was not received.

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Figure X. Average Duration of Stop in Minutes by Consent to Search and Race and Ethnicity, Youth Aged 15-17.

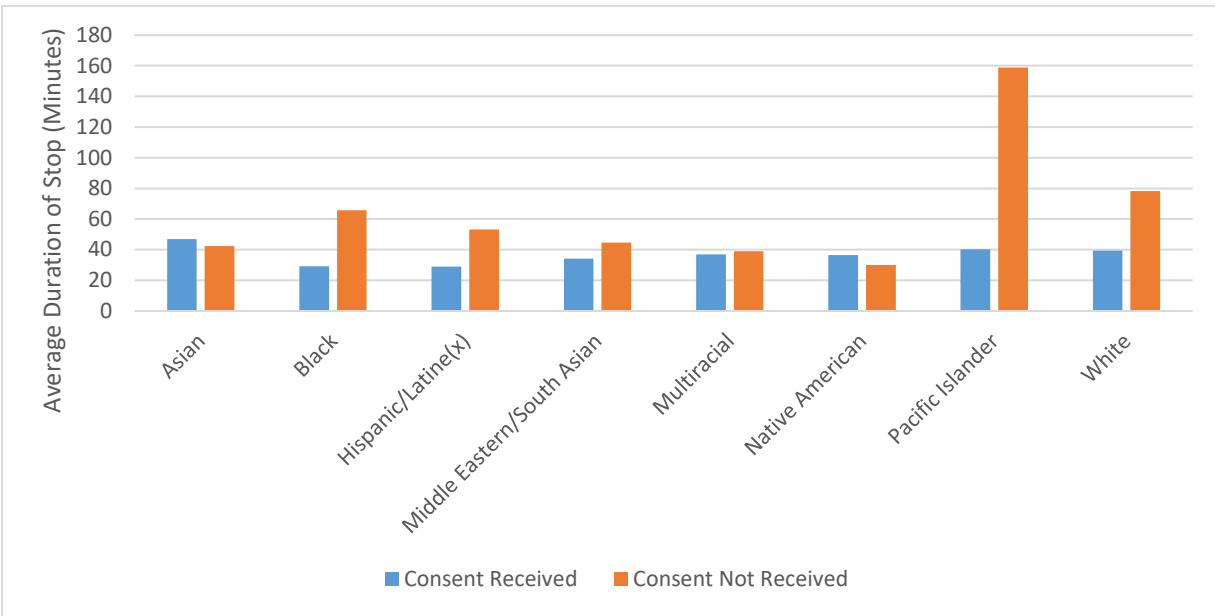


For searches of youth 18–24, for certain racial and ethnic groups, the average stop duration was longer when consent was not received, compared to when consent was received. The difference was more than doubled for Pacific Islander (109 minutes, 22 stops, SD = 157, range = 10 - 476 with consent not received compared to 40 minutes, 96 stops, SD = 79, range = 2 - 720) and Black (66 minutes, 403 stops, SD = 151, range = 1 – 1,440 with consent not received compared to 29 minutes, 4,613 stops, SD = 54, range = 1 – 1,440) youth 18–24.

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Figure X. Average Duration of Stop in Minutes by Consent to Search and Race and Ethnicity, Youth Aged 18-24.



7. Result of Stop by Race/Ethnicity and Age

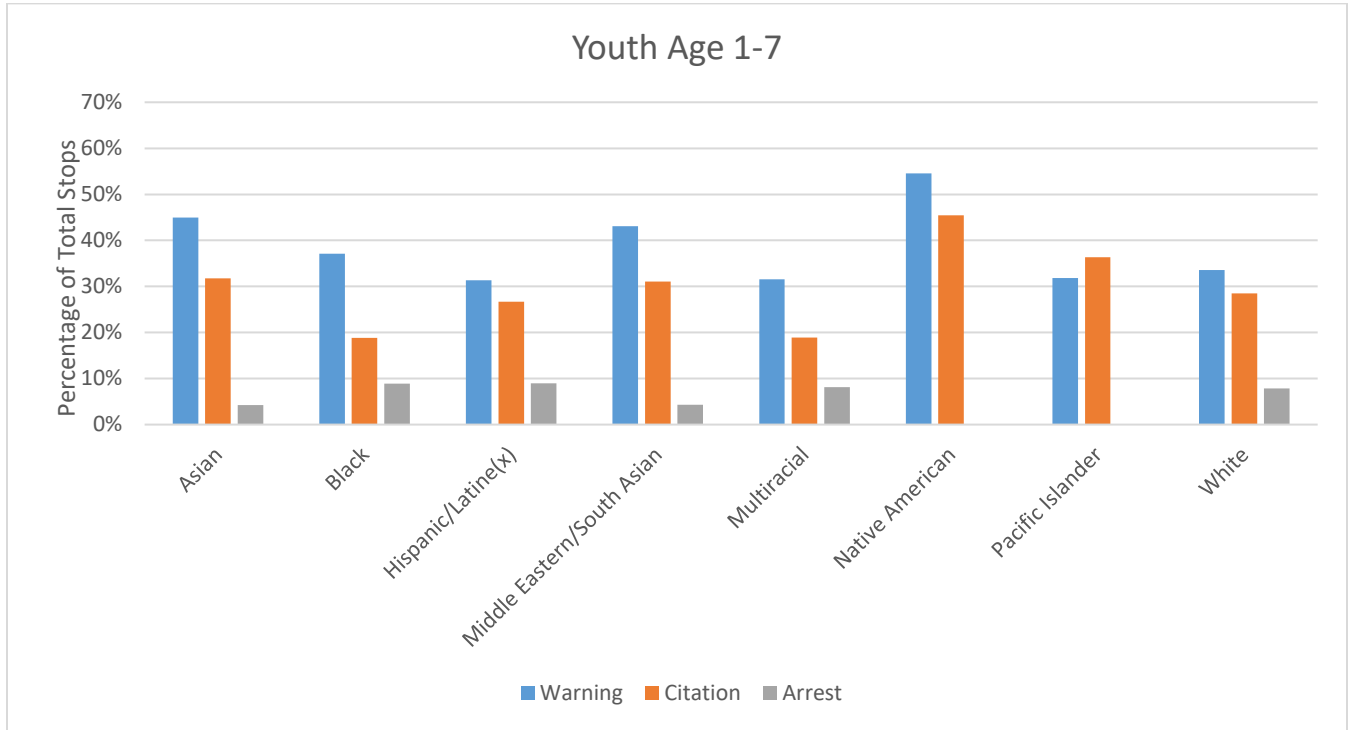
For youth 1-7, across all racial/ethnic groups except one, officers issued warnings more often than citations. The exception was for individuals perceived as Pacific Islander, who received more citations than warnings. Officers reported no arrests in stops involving Native American or Pacific Islander youth 1-7. Officers issued both warnings and citations the most often to Native American youth 1-7, compared to the other racial/ethnic groups. Officers issued warnings to Hispanic/Latine(x) youth 1-7 the least often (31.73%, 544) and reported arrests most often in stops involving Hispanic/Latine(x) youth 1-7 (8.94%, 155). Officers reported making arrests at similar levels in stops of Black (8.88%, 34), Multiracial (8.11%, 9), and

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White youth 1–7 (7.85%, 76).

Figure X. Percentage of Youth (1–7) Stops Including Warnings, Citations, or Arrests by Race and Ethnicity

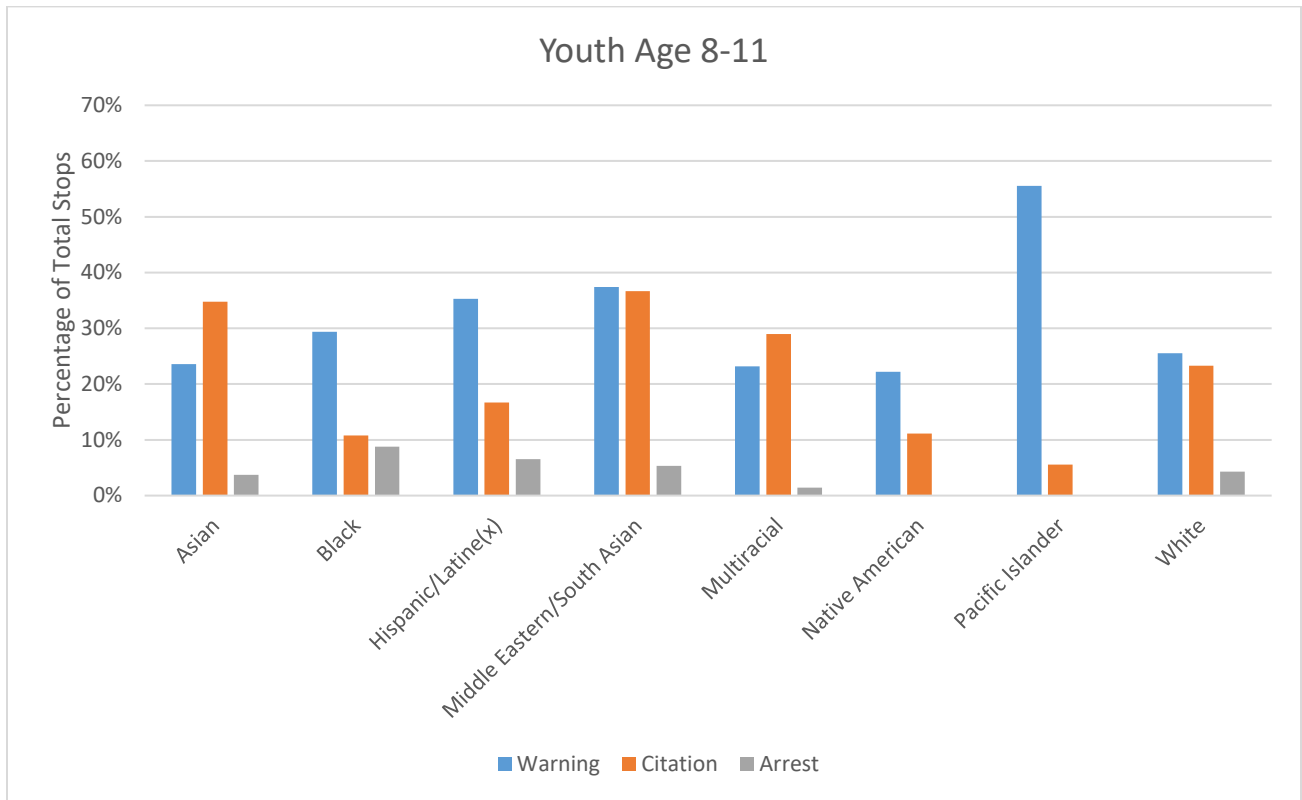


For youth 8–11, officers reported the most arrests in stops involving Black (8.80%, 44), Hispanic/Latine(x) (6.55%, 94), then Multiracial youth (28.99%, 1). No arrests were reported for Native American or Pacific Islander youth 8–11. Officers issued warnings most often to Pacific Islander (55.56%, 10), Middle Eastern/South Asian (37.40%, 49), and Hispanic/Latine(x) (35.31%, 507). Officers issued the most citations in stops involving Middle Eastern/South Asian (36.64%, 48), Asian (34.78%, 56), and then Multiracial youth 8–11 (28.99%, 20).

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Figure X. Percentage of Youth (8-11) Stops Including Warnings, Citations, or Arrests by Race and Ethnicity

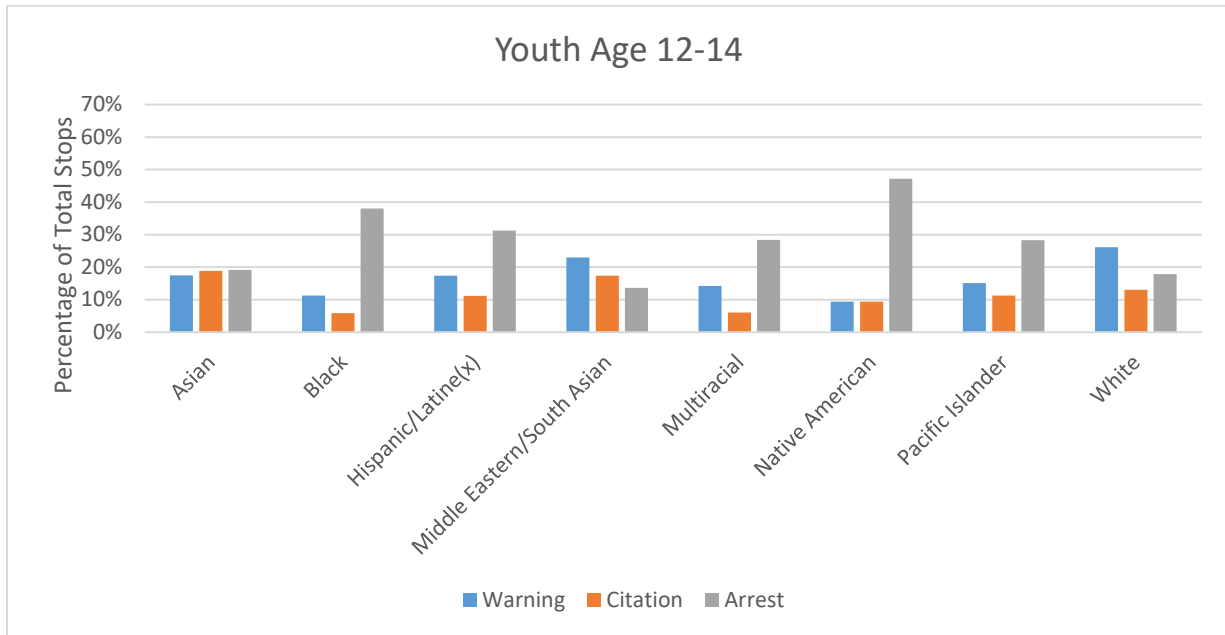


The notable trend in the data was the marked increase in rates of arrest across all racial categories for youth 12-14 compared to younger age groups. In all except one racial category (Middle Eastern/South Asian), arrest rates were higher than warnings or citations. The arrest rate for Middle Eastern/South Asian youth 12–14 was more than double that of youth 8–11. Officers reported making an arrest in almost half (47.17%, 25) of stops involving Native American youth 12–14, followed by 38.07 percent (673) of stops involving Black youth 12–14, and 31.26 percent (1,752) of stops involving Hispanic/Latine(x) youth.

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Figure X. Percentage of Youth (12-14) Stops Including Warnings, Citations, or Arrests by Race and Ethnicity



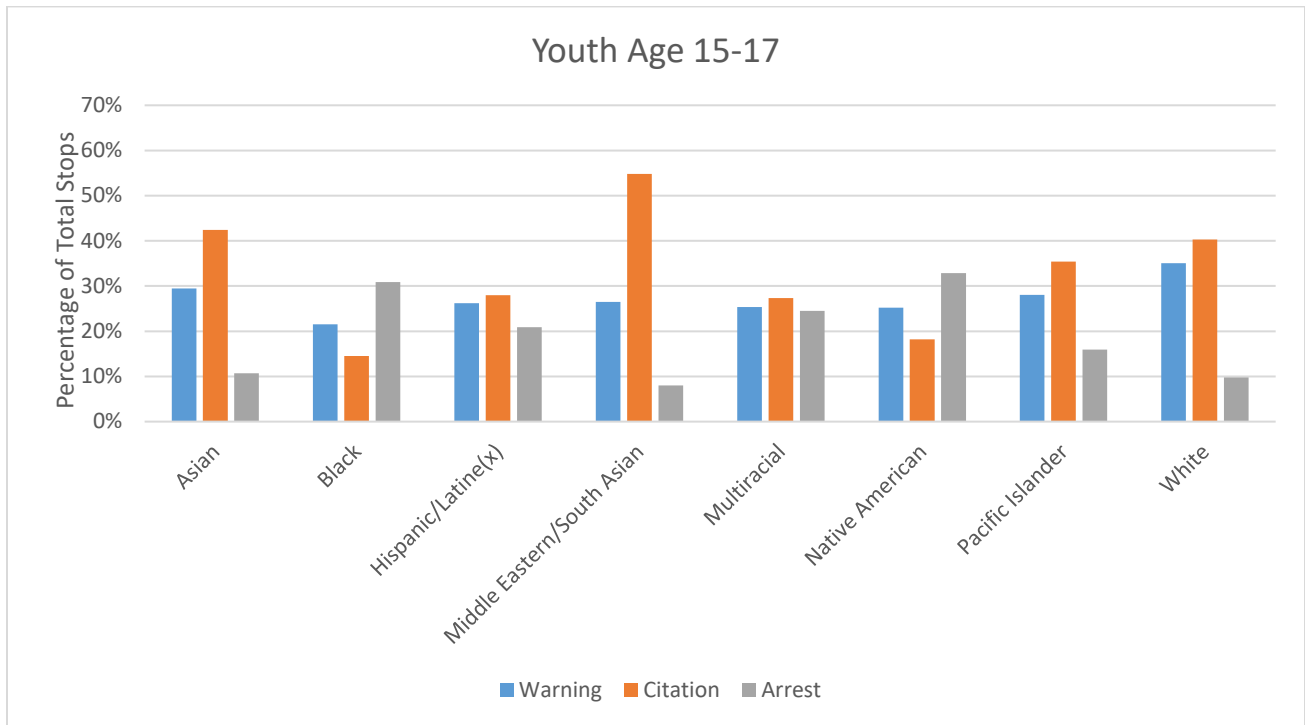
In stops involving youth 15–17, officers issued the most citations to Asian (42.43%, 922), Middle Eastern/South Asian (54.82%, 1,194), and White (40.32%, 9,342) youth. Officers gave out the most warnings to White (35.03%, 8,117), Asian (29.45%, 640), and Pacific Islander (28.02%, 95) youth. Officers reported a higher rate of arrests in stops involving Native American (32.83%, 65), Black (30.89%, 2,399), and Multiracial (24.48%, 248) youth 15–17.

Additional research is needed to ascertain the extent to which bias is a factor in disparities as it relates to actions taken during stops and the duration of those stops.

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Figure X. Percentage of Youth (15-17) Stops Including Warnings, Citations, or Arrests by Race and Ethnicity



In results of stops for youth 18–24, there was a similar distribution across all racial groups for results that included citations, warnings, and arrests. However, officers reported arrests most often for stops involving Native American (18.56%, 347), Black (14.76%, 12,152), and Hispanic/Latine(x) (12.46%, 47,391) youth.

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Figure X. Percentage of Youth (18-24) Stops Including Warnings, Citations, or Arrests by Race and Ethnicity

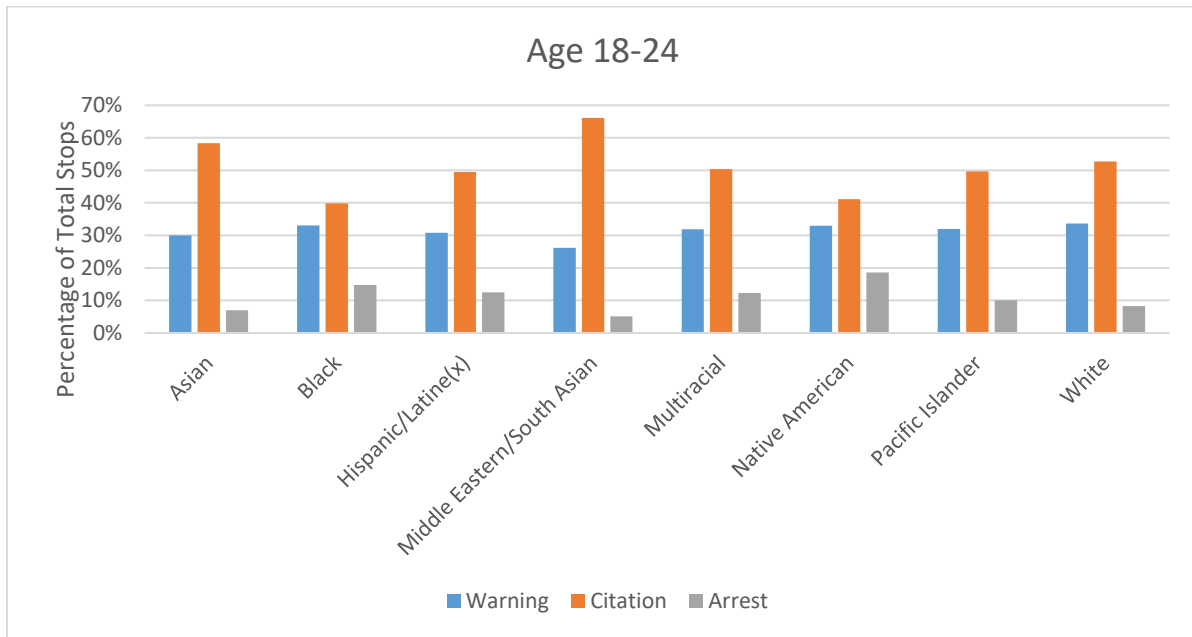
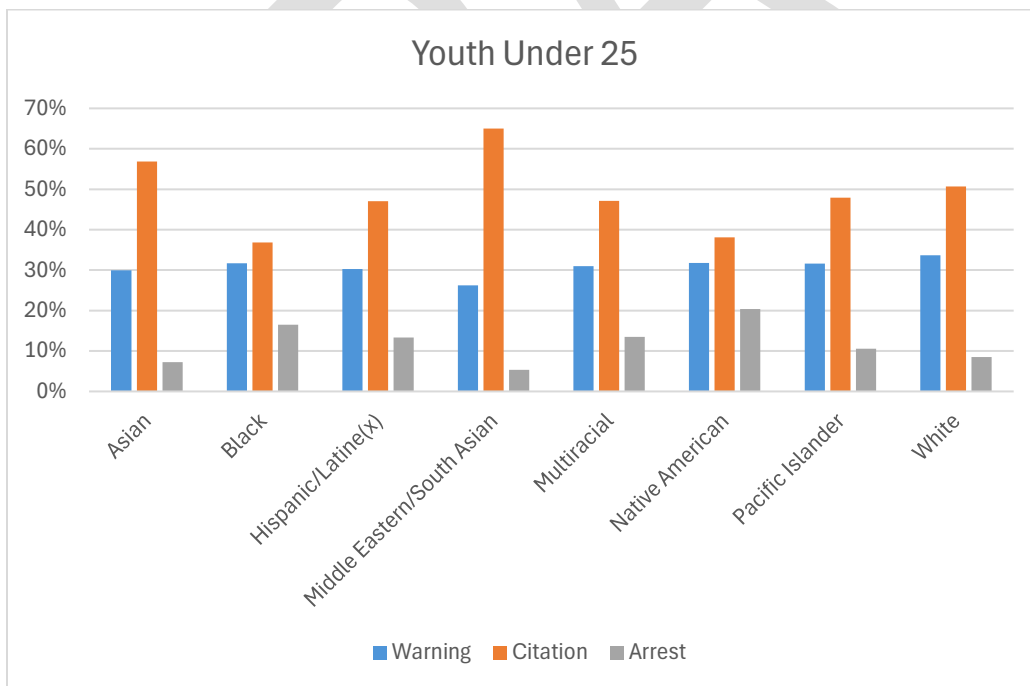


Figure X. Results of Youth Stop Separated by Race/Ethnicity, Age 1-24

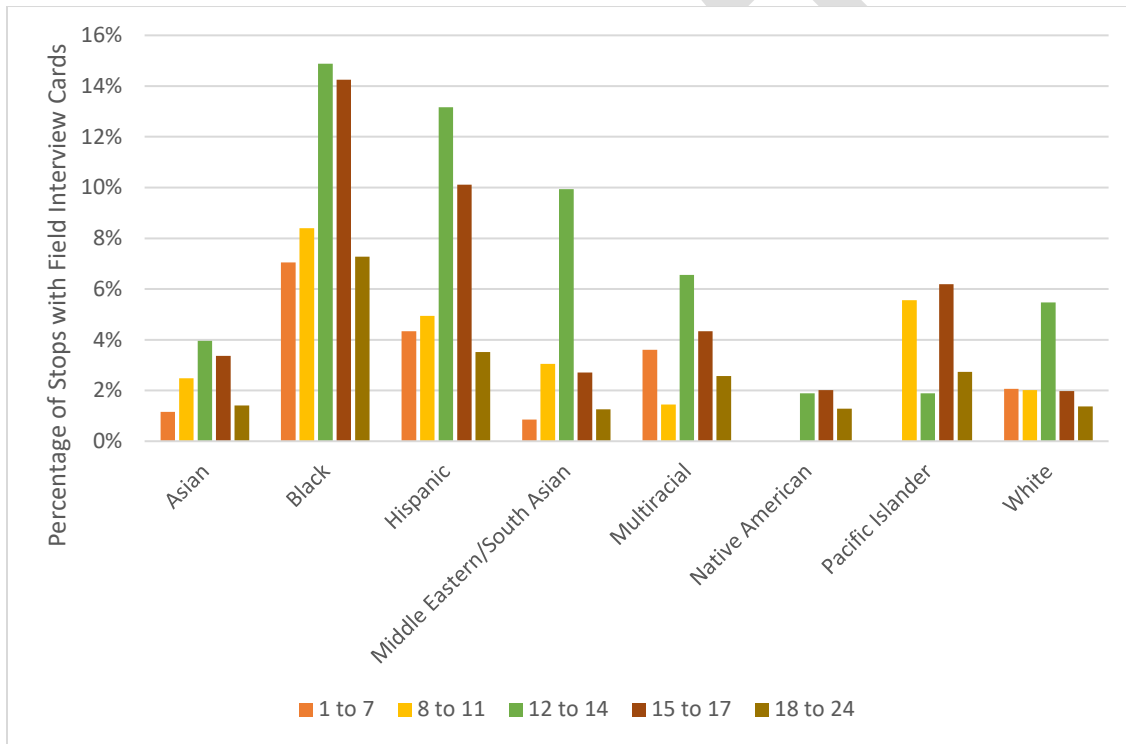


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In six of the eight racial/ethnic categories, officers completed field interview cards in stops involving youth 12–14 most often. The groups with the highest rate of field interview card completion were Black, Hispanic/Latine(x), and Middle Eastern/South Asian youth 12–14. The two racial/ethnic groups that did not fall into this pattern were Native Americans and Pacific Islanders. For those groups, officers filled out field interview cards most often for youth 15–17. The only groups that officers did not complete field interview cards for were for Native American and Pacific Islander youth 1–7 and Native American youth 8–11.

Figure X. Youth Field Interview Cards by Race and Ethnicity



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B. Intersectional Analyses of Youth and Gender

1. Calls for Service

For youth 17 and younger, there were gender disparities in stops initiated based on calls for service. Persons perceived as cisgender had similar rates of stops that were officer-initiated, with 70.91 percent (17,542) for cisgender females and 76.57 percent (47,461) for cisgender males. However, the rates of officer-initiated stops were lower for persons perceived as gender nonconforming (60.80%, 183), transgender men and boys (50.20%, 125), and transgender women and girls (34.78%, 40). Only cisgender males under 18 had a share of officer-initiated stops that was higher than the average for all youth under 18 who were stopped (76.57%, 47,461).

As discussed earlier, the perception and presentation of a person's gender identity has a complicated relationship with law enforcement contact. This relationship not only impacts how an officer perceives a transgender person but also likely affects the circumstances in which an interaction takes place. For example, a 2016 to 2018 study of Bay Area transgender women found that being less likely to "pass" as cisgender was associated with a higher likelihood to experience hate crime violence, but a lower likelihood to voluntarily report that incident to police.²²

2. Reason for Stop

Gender differences also appeared in officer-reported reasons for stops involving youths under 18. Officers reported a higher rate of stopping gender nonconforming and transgender youth for reasonable suspicion than cisgender youth. To that point, officers stopped transgender men and boys (60.65%, 151) as well as women and girls (69.57%, 80) because of reasonable suspicion for the majority of stops. Officers reported similar rates across all three reasons for stop categories for cisgender females and males. Deeper research is needed to explore the intersections between age and perceived transgender status.

3. Searches Conducted During a Youth Stop by Gender and Age

Officers reported longer stop durations when consent was not received versus when it was received for cisgender females, cisgender males, and transgender women/girls. Among stops where consent was received, stops involving gender nonconforming individuals were the longest (65 minutes, 66 stops, SD = 178, range = 5 – 1,440) and stops involving cisgender males were the shortest (32 minutes, 26,494 stops, SD = 62, range = 1 – 1,440). Among stops where consent was not received, those involving transgender men/boys were the shortest (38 minutes, 15 stops,

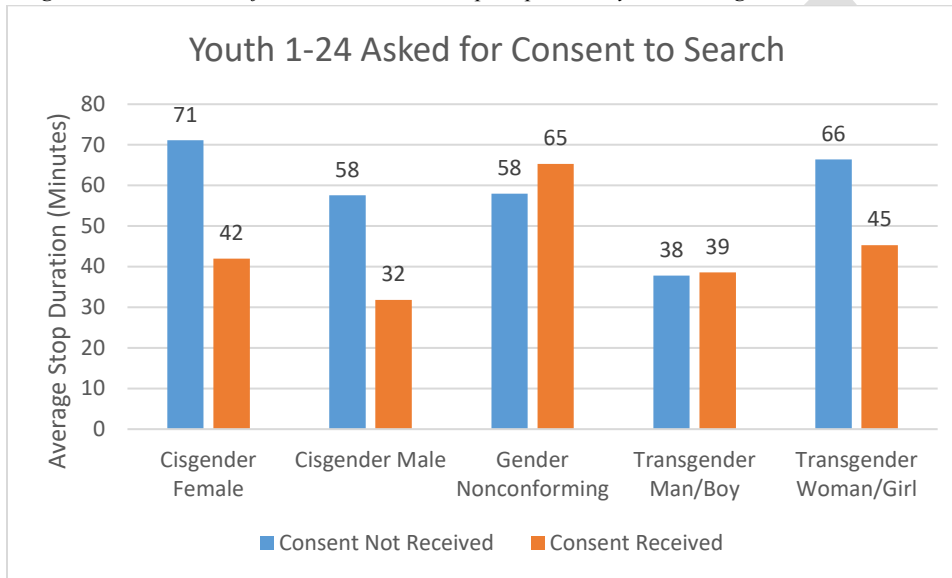
²² Gyamerah et al., *Experiences and Factors Associated with Transphobic Hate Crimes Among Transgender Women in The San Francisco Bay Area: Comparisons Across Race* (2021) BMC Public Health 21:1053 at pp. 7-11.

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SD = 30, range = 12 - 118) and those involving cisgender females were the longest (71 minutes, 619 stops, SD = 142, range = 1 – 1,440). The shortest within-gender disparity was that of stops transgender men/boys. Stops involving transgender men/boys were about a minute longer when consent was received (39 minutes, 59 stops, SD = 52, range = 3 - 300) versus not (38 minutes, 15 stops, SD = 30, range = 12 - 118).

Figure X. Distribution of Searches in Youth Stops Separated by Gender, Age 1-24



4. Duration of Youth Stops by Gender and Actions Taken

Across all gender categories presented here, stops where any actions were taken were longer than those where no actions were taken. Among stops where any actions were taken, those involving gender nonconforming (57 minutes, 475 stops, SD = 94, range = 1 – 1,440) and transgender individuals (transgender men/boys: 53 minutes, 527 stops, SD = 62, range = 1 - 450; transgender women/girls: 52 minutes, 329 stops, SD = 77, range = 1 – 1,141) were the longest. Among stops where no actions were taken, stops involving the same gender groups were the longest (transgender men/boys: 26 minutes, 681 stops, SD = 116, range = 1 – 1,440; transgender women/girls: 19 minutes, 289 stops, SD = 86, range = 1 – 1,440; and gender nonconforming: 17 minutes, 1,630 stops, SD = 63, range = 1 – 1,275).

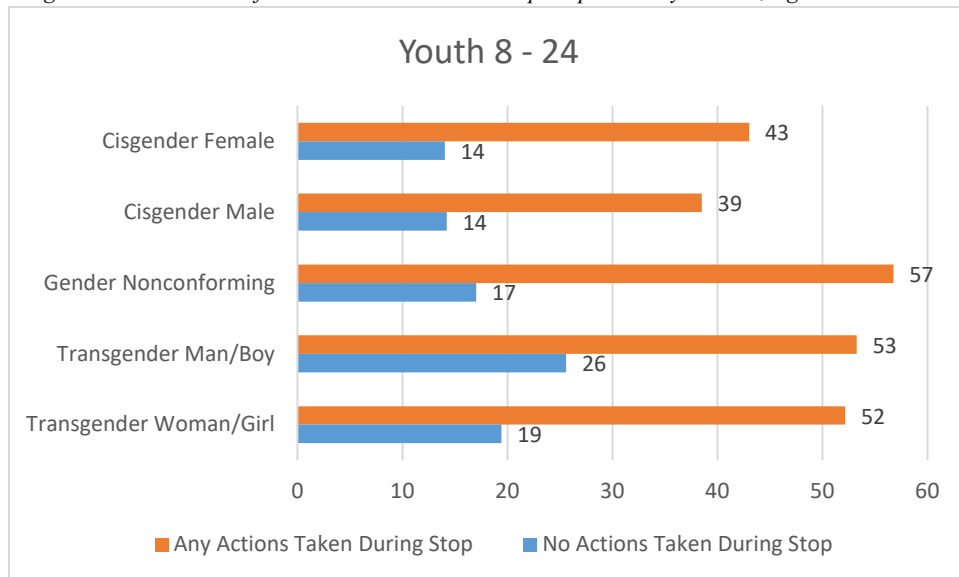
The smallest within-gender duration disparity was in stops involving transgender men/boys. Stops where any actions were taken were twice as long compared to those where no actions were

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taken. The largest within-gender duration disparity was in stops involving gender nonconforming individuals. Stops where any actions were taken were more than three times as long when actions were taken versus no actions were taken.

Figure X. Distribution of Actions Taken in Youth Stops Separated by Gender, Age 8-24



5. Use of Force in Youth Stops by Gender and Age

In stops of youth, cisgender males have the highest number of stops involving use of force at all ages. Specifically, cisgender males experienced force during 228 (10.04%) stops of youth ages 1-7, 280 stops (13.17%) youth ages 8-11, 2,144 stops (30.53%) of youth ages 12-14, 11,458 stops (22.66%) of youth ages 15-17, and 58,324 stops (11.16%) of youth ages 18-24. Transgender youth — both transgender men/boys and women/girls — experienced force during a higher percentage of stops for ages 18-24 than all other gender groups. Transgender men/boys experienced force during 25.00 percent (2) of stops for ages 8-11, 36.00 percent (18) of stops for ages 12-14, 40.21percent (76) of stops for ages 15-17, and 22.37 percent (215) of stops for youth 18-24. Transgender women/girls experienced force during 50.00 percent (1) of stops for youth 8-11, 50.00 percent (14) of stops for youth 12-14, 34.15 percent (28) of stops for youth 15-17, and 30.56 percent (154) of stops for youth 18-24. By comparison, cisgender females have the lowest rate of force across ages 8-24 and experienced force during 9.96 percent (101) of stops of youth ages 8-11, 25.69 percent (898) of stops of youth ages 12-14, 16.90 percent (3,199) of stops for ages 15-17, and 7.45 percent (15,662) of stops for ages 18-24.

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In 2023, there were 45 total reported baton uses on persons under 25 (38 youths 18–24). Thirty-four of those reported use of a baton involved cisgender males ages 15–24. Two reported use of a baton involved youth perceived as transgender or gender nonconforming. Cisgender males were the most common youth recipients of chemical spray use (46), followed by cisgender females (15), gender nonconforming (2), and transgender woman/girl (1). Cisgender males were the most common youth recipients of electronic control device use (8, followed by cisgender females (11). There were no reported uses of electronic control devices on transgender or gender nonconforming youth in 2023. For youth under 25, officers most frequently pointed firearms at cisgender males (4,512), followed by cisgender females (828), gender nonconforming youth (14), transgender men/boys (12), and transgender women/girls (4). Officers reported discharging their firearms at cisgender male youth in 42 stops, cisgender female youth in five stops, and gender nonconforming and transgender man/boy youth in one stop each.

C. Intersectional Analyses of Age and Perceived Disability Status

A comparison of reported stops involving youth who are perceived as having a disability (2,411 stops) to youth perceived as not having any disability (84,973 stops) indicate some differences in stops for youth under 18.

1. Calls for Service by Perceived Disability

Youth perceived as having a disability were stopped due to a call for service at higher rates than youth perceived to not have a disability. For youth with perceived disabilities, a call for service was the initiation for 75.1 percent of stops compared to youth not perceived to have a disability (23.8%) and the overall category of individuals perceived as having a disability (56.96%).

2. Reason for Stop by Perceived Disability

Officers reported the most common reason for stopping youth under 18 with a perceived disability was reasonable suspicion (68.1%, 1,643), followed by other reasons (27.9%, 671), and then traffic violations (4%, 97). On the other hand, the most common reason for stopping individuals with no perceived disability was for a traffic violation (58.7%, 49,914), followed by reasonable suspicion (33.3%, 28,316), and then other reasons (7.9%, 6,742).

3. Use of Force in Youth Stops by Perceived Disability

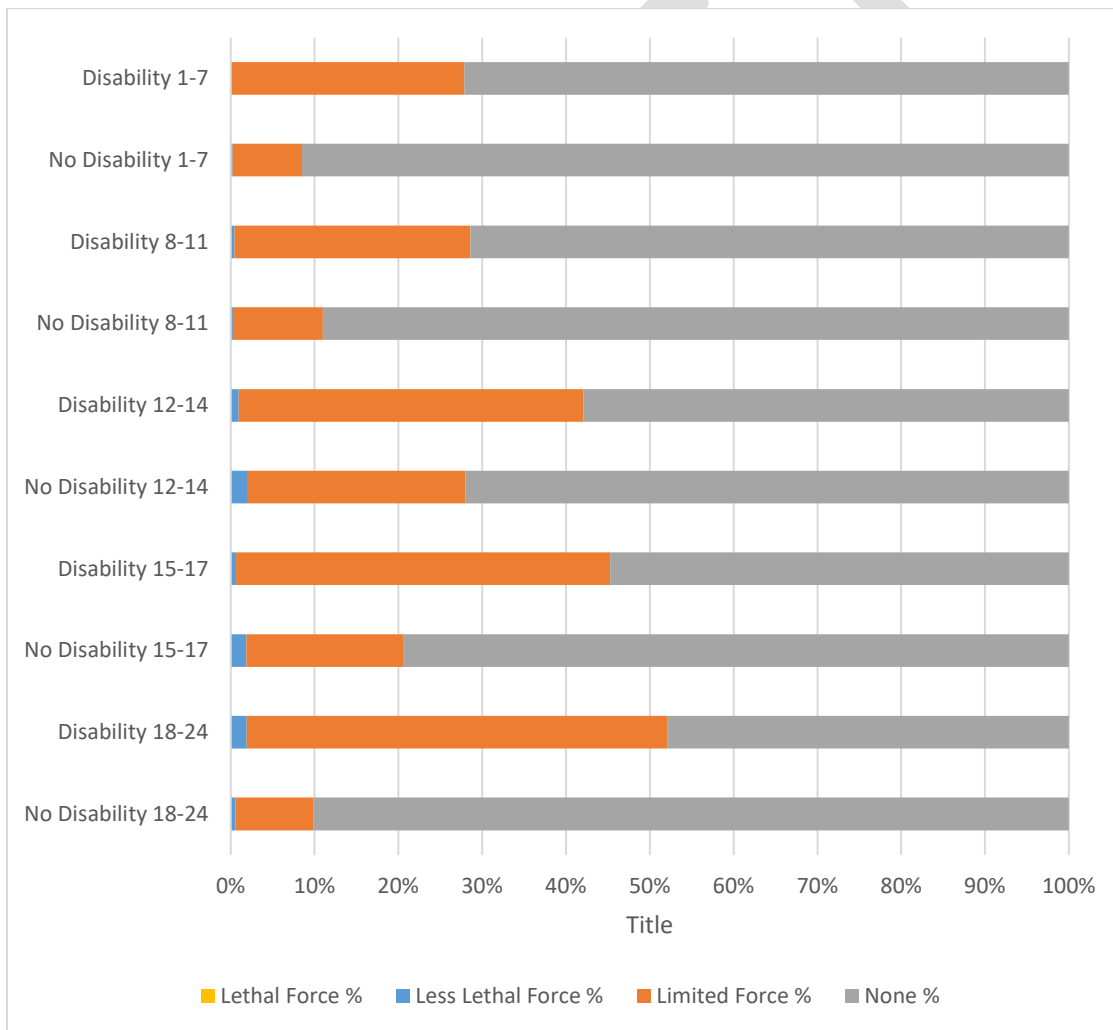
Youth perceived to have a disability experienced force in a higher percentage of stops than youth with no perceived disabilities across all youth age groups. For ages 12–14, the difference is smallest, with 42.05 percent (307) of stops of youth perceived to have a disability involving the use of force, compared to 28.04 percent (2,781) of stops of youth perceived to have no disabilities. That difference is largest at ages 18–24 where 52.07 percent (2,066 stops) of youth

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perceived to have a disability experience use of force during a stop compared to 9.89 percent (72,473 stops) of youth perceived to have no disability.

There were two reported incidents of use of a baton on youth perceived to have a disability (0.02%). Two uses of chemical spray were reported in stops of youth perceived to have a disability (0.03%). Electronic control devices were used in 17 stops involving youth perceived to have a disability (0.27%). A total of 67 stops included pointing firearms at youth perceived to have any disability (1.05%). In 2023, officers reported no discharge firearms at youth perceived to have a disability.

Figure X. Distribution of Use of Force for Youth and Perceived Disability



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D. Intersectional Analyses of Age and Perceived English Fluency

The comparison of officers' reported stops with youth who are perceived as fluent in English to youth perceived as having limited or no fluency in English indicate some minimal differences in stops for youth under 18.

1. Calls for Service in Youth Stops by Perceived English Fluency

Youth who were perceived as not fluent in English were stopped due to calls for service and officer-initiated stops at similar rates (74.80% officer-initiated and 25.20% calls for service) to youth perceived as fluent in English (74.43% officer-initiated and 25.57% calls for service).

2. Reason for Stop in Youth Stops by Perceived English Fluency

The data show smaller disparities in the reasons for stops based on English fluency. For instance, officers reported 57.1 percent (47,991) of stops for traffic violations involved youth under 18 who were perceived as English fluent, while 60.8 percent (2,020) of stops for traffic violations involved youth under 18 with limited or no English fluency.

3. Use of Force in Youth Stops by Perceived English Fluency

Youth perceived to have limited or no English fluency experienced use of force at a higher rate compared to youth with perceived English fluency. The difference is highest for youth ages 1–7 with 21.40 percent (61) of stops including force for youth with limited or no English fluency, compared to 7.75 percent (257) of stops for English fluent youth. The next highest difference is youth ages 18–24 with 21.38 percent (5,882) of stops including force for youth with limited or no English fluency compared to 9.68 percent (68,620) of stops for English fluent youth. Youth ages 12–14 the rates reverse and youth with limited or no English fluency (22.65% of 94 stops) experienced force during a lower percentage of stops than English fluent youth than English fluent youth (29.23% of 2,991 stops).

Officers discharged firearms at youth perceived to have no or limited English fluency in two stops (0.06%) and pointed firearms at youth perceived to have limited or no English fluency in 173 stops (5.21%).

There was one reported incident for baton use on a person perceived to have limited or no English fluency (0.03%). Five uses of chemical spray were reported in stops of youth perceived to have limited or no English fluency (0.15%). Nine uses of electronic control devices involved youth perceived to have limited or no English fluency (0.27%).

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E. Intersectional Analyses of Age and Perceived LGBT Status

A comparison of officers' reported stops with youth under 18 who are perceived as LGBT to youth perceived as non-LGBT shows disparities in stops.

1. Calls for Service in Youth Stops by Perceived LGBT Status

Youth perceived as LGBT were stopped due to calls for service at higher rates compared to non-LGBT youth and adult LGBT individuals. For LGBT youth, 46.9 percent (442) of stops were due to a call for service, compared to non-LGBT youth (25%, 64,851) and adult LGBT individuals (16.3%, 5635,749).

2. Reason for Stop in Youth Stops by Perceived LGBT Status

Officers reported most stops of LGBT youth occurred for reasonable suspicion (53.2%, 501), while for non-LGBT youth most stops were for traffic violations (57.5%, 49,703).

3. Use of Force in Youth Stops by Perceived LGBT Status

Officers reported using force at a higher rate in stops involving youth perceived as LGBT than during stops for non-LGBT youth. The difference in percentage is smallest among youth ages 18–24 where LGBT youth experienced the use of force during 16.35 percent of stops (1,052) while non-LGBT youth ages 18–24 experienced force during 10.07 percent of stops (73,487). Conversely, the difference is highest for youth ages 15–17 where LGBT youth experienced force during 31.31 percent of stops (222) while non-LGBT youth ages 15–17 experienced force during 21.06 percent of stops (14,586).

Officers reported pointing their firearm in 48 stops of youth the officers perceived to be LGBT and discharged their weapons in three stops of youth perceived to be LGBT (0.65%). Officers also reported using less lethal force during stops of youth perceived to be LGBT. Specifically, officers used a baton in two stops of youth perceived as LGBT (0.03%), used a chemical spray in two stops (0.03%), and used an electronic control device in one stop of a youth perceived as LGBT (0.01%).

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Policy-Focused Data Analysis

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POLICY-FOCUSED DATA ANALYSIS

I. YOUTH INTERACTION WITH LAW ENFORCEMENT

A. Introduction

“All youth deserve multiple chances. Some get them. Others do not. Whether you end up incarcerated or in college should not be based on where you live, the color of your skin or how much money your family makes. Some communities have Youth Development while others have containment and suppression. We are a product of those communities that are over-policed and disinvested in. We are more likely to make police contact, not based on our behavior, but how our public resources are spent.”²³

This year’s report focuses on the role of racial and other biases in youth and law enforcement officer encounters, in large part, because of the larger racial disparities that the Board has observed in the stops of youth in previous years. In a global context, the United States is a carceral outlier in the confinement of youth.²⁴ Looking just at pretrial detention, for example, the United States detains approximately 60 out of 100,000 youth, which is the highest rate of 92 reporting countries in the United Nations,²⁵ higher than the average of countries in South America (approximately 19 out of 100,000 youth), the Middle East and North Africa (approximately 7 out of 100,000 youth), and Central and Eastern Europe (approximately 6 out of 100,000 youth).²⁶

The Board, in prior reports, examined the role of the “school-to-prison pipeline” in police stops and made recommendations aimed at reducing interactions between students and law enforcement and racial and disability disparities in the course of those interactions, from the

²³ Hayward Burns Institute, *Los Angeles County: Youth Justice Reimagined* (Oct. 2020) L.A. County, p. 9 <<https://burnsinstitute.org/wp-content/uploads/2020/11/Youth-Justice-Reimagined-2020.pdf>> [as of XX, 2024].

²⁴ Trejos-Castillo et al., *The Square One Project Learned Helplessness, Criminalization, and Victimization in Vulnerable Youth* (Dec. 2020) pp. 5-6 <<https://squareonejustice.org/paper/learned-helplessness-criminalization-and-victimization-in-vulnerable-youth-by-elizabeth-trejos-castillo-evangelina-lopoo-and-anamika-dwivedi-december-2020/>> [as of XX, 2024].

²⁵ Nowak, *The United Nations Global Study on Children Deprived of Liberty* (2019) p. 262 <<https://omnibook.com/view/e0623280-5656-42f8-9edf-5872f8f08562/page/294>> [as of July 25, 2024]; Trejos-Castillo et al., *The Square One Project Learned Helplessness, Criminalization, and Victimization in Vulnerable Youth* (Dec. 2020) p. 5. <<https://squareonejustice.org/paper/learned-helplessness-criminalization-and-victimization-in-vulnerable-youth-by-elizabeth-trejos-castillo-evangelina-lopoo-and-anamika-dwivedi-december-2020/>> [as of XX, 2024].

²⁶ Nowak, *The United Nations Global Study on Children Deprived of Liberty* (2019) p. 262 <<https://omnibook.com/view/e0623280-5656-42f8-9edf-5872f8f08562/page/294>> [as of July 25, 2024].

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initiation to the outcomes.²⁷ Schools, however, are only one pathway for youth to become involved in the criminal legal system, and indeed the majority of law enforcement stops of youth occur in other settings.²⁸ The 2021 RIPA data indicated that youth are at higher risk of law enforcement contact that results in being handcuffed, searched, or detained curbside or in a patrol car than adults.²⁹ This data informs the Board’s examination this year of youth and law enforcement interaction, and an even broader challenge facing youth: what some experts have referred to as the “community-to-prison pipeline,” another pathway that funnels youth into the criminal legal system.³⁰

“The arrest disparity is the entrance to a maze with fewer exits for African American youth than their white peers.”

— Rovner, “Racial Disparities in Youth Commitments and Arrests,” The Sentencing Project (April 2016)

<<https://www.sentencingproject.org/app/uploads/2022/08/Racial-Disparities-in-Youth-Commitments-and-Arrests.pdf>> p. 7 [as of XX, 2024].

The United States remains a carceral outlier even though arrest rates for people under 18, which peaked in 1999, have continued to decline.³¹ Nationally, in most years, only about five percent of youth arrests are for offenses categorized as violent crimes.³² While the overall decline in rates of youth arrests is a positive development, the Board continues to be concerned about the disparities in stops of youth in California.

At the onset of adolescence, racialized youth³³ are exposed to police encounters with greater frequency than White youth.³⁴ These police encounters are more likely to result in further

²⁷ See, e.g., Racial and Identity Profiling Advisory Board (2024). *Annual Report*.

<<https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf>> [as of XX, 2024], pp. 120-122.

²⁸ Racial and Identity Profiling Advisory Board (2023), *Annual Report*. <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of XX, 2024], pp. 137-138.

²⁹ Racial and Identity Profiling Advisory Board (2023), *Annual Report*. <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of XX, 2024], p. 9 [“Within all racial and ethnic groups, the highest observed percentage of stops in which officers handcuffed, searched, or detained individuals curbside or in a patrol car was for adolescents (10-14 years old and 15-17 years old)”].

³⁰ Redfield and Nance, “Joint Task Force on Reversing the School-to-Prison Pipeline Preliminary Report” (February 2016) American Bar Association pp. 67 [“we should really be talking about a community-to-prison pipeline or a cradle-to-prison pipeline. It starts even before young people enter the school building”].

<<https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1765&context=facultypub>> [As of XX, 2024]; Holder et al., *Concentrated Incarceration and The Public-Housing-To-Prison Pipeline in New York City Neighborhoods* (2022) 119 PNAS 36, p. 1.

³¹ Cohen et al. (2016) *When Does a Juvenile Become an Adult?* 88 Temple Law Review 769, 773; Rovner, *Youth Justice by the Numbers* (2023) The Sentencing Project, p. 7.

³² Rovner, *Youth Justice by the Numbers* (2023) The Sentencing Project, p. 1.

³³ The term racialized youth refers to youth whose racial or ethnic identity is constructed in opposition to the dominant white identity in society. (Kumasi and Hughes-Hassell, *Shifting Lenses on Youth Literacy and Identity* (2017) 3 Knowledge Quest 45, 12-21, p. 14.)

³⁴ Weaver and Geller, *De-Policing America’s Youth: Disrupting Criminal Justice Policy Feedbacks That Distort*

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entanglement in the criminal legal system for racialized youth than White youth. This disparity between White youth and youth of color is a longstanding issue.³⁵ As scholars have found, “The arrest disparity is the entrance to a maze with fewer exits for African American youth than their white peers.”³⁶ Reform of law enforcement policies that contribute to the profiling of racialized youth has been seen as critical to reducing the troubling racial disparities impacting Black youth across later stages of the criminal legal system.³⁷

This section of the report focuses on youth and policing beyond the school context and builds on the Board’s prior recommendations to address the issue of racial profiling of youth.

B. Research Shows Youth Are Uniquely Impacted by Law Enforcement Encounters

For this section, the Board broadly defines “youth” as inclusive of “transition age youth,” which the federal government defines as persons between 16 and 24 years of age.³⁸ Within this definition of youth, the Board looks at different age ranges because of significant legal and developmental differences between these groups. Science supports including transition age youth in the Board’s definition of youth:

It is well established that the brain undergoes a “rewiring” process that is not complete until approximately 25 years of age. This discovery has enhanced our basic understanding regarding adolescent brain maturation and it has provided support for behaviors experienced in late adolescence and early adulthood. Several investigators consider the age span 10-24 years as adolescence, which can be further divided into substages specific to physical, cognitive, and social-

Power and Derail Prospects (2019) 685 AAPSS 1, 190–226, p. 201; Del Toro et al., *The Policing Paradox: Police Stops Predict Youth’s School Disengagement Via Elevated Psychological Distress* (2022) 58 Dev. Psychol. 7, 1402-1412, p. 1.

³⁵ For example, data examining rates of arrests from 2003 to 2013 found that Black youth are more than twice as likely to be arrested than White youth; once arrested, Black youth are more likely to have their cases referred to juvenile court; among those cases referred to court, they are less likely to receive diversion; among those cases that are adjudicated, they are less likely to receive probation and more likely to be committed to secure placement in a juvenile facility. (Rovner, “Racial Disparities in Youth Commitments and Arrests,” The Sentencing Project (April 2016) <<https://www.sentencingproject.org/app/uploads/2022/08/Racial-Disparities-in-Youth-Commitments-and-Arrests.pdf>> [as of XX, 2024].)

³⁶ Rovner, “Racial Disparities in Youth Commitments and Arrests,” The Sentencing Project (April 2016) <<https://www.sentencingproject.org/app/uploads/2022/08/Racial-Disparities-in-Youth-Commitments-and-Arrests.pdf>> p. 7 [as of XX, 2024].

³⁷ Bratton and Howard Smith, *Growing Up a Suspect: An Examination of Racial Profiling of Black Children and Effective Strategies to Reduce Racial Disparities in Arrests* (2018) 45 N. Ky. L. Rev. 137, 154.

³⁸ Interagency Working Group on Youth Programs, *Transition & Aging Out* (2022) Youth.gov. <https://youth.gov/youth-topics/transition-age-youth> [as of September 2, 2024].

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emotional development.³⁹

The Board considers several factors in identifying the age categories used for the analyses in this section, including the minimum age (12) whereby California juvenile courts can exercise jurisdiction over youth and the age categories the Board has used in prior reports.⁴⁰

Considering these factors, the following perceived age categories were used in the analysis of the RIPA data in this Report: 1-7, 8-11, 12-14, 15-17, 18-24, and 25 and older.

1. Racial Disparities in Law Enforcement Contact with Youth

Nationally, researchers have found police encounters with racialized youth are often qualitatively different from those with White youth. Racialized youth are stopped more frequently, and when stopped, they experience more intrusive police contact than their White counterparts.⁴¹ When “holding socioeconomic context constant race makes a difference in how youth are treated by police and in their perceptions of officers.”⁴²

Researchers suggest that both over-policing of communities of color and law enforcement intervention with residents who look “out of place” in a community contribute to these disparities in policing.⁴³ Racial disparities in some youth contacts can be explained by structural racism, which contributes to residential segregation, with predominantly Black neighborhoods being particularly heavily policed.⁴⁴

Research “provides evidence that place is an important determinant of police suspicion.”⁴⁵ For instance, researchers observed that Black drivers in predominantly white suburban areas were

³⁹ Arain et al., *Maturation of the Adolescent Brain* (2013) 2013 *Neuropsychiatric Disease and Treatment* 9, 449-461, pp. 451-452 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3621648/>> [as of XX, 2024].

⁴⁰ Welf. & Inst. Code, §§ 601, 602; California Department of Justice (July 5, 2019) *SB 439 Compliance* [Information Bulletin] p. 1 <https://oag.ca.gov/sites/all/files/agweb/pdfs/info_bulletins/2019-dle-04.pdf>.

⁴¹ Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017* (“*Youth-Police Contact: Burdens and Inequities*”) (2021) 111 *Am. J. Public Health* 7, pp. 1300, 1304-1306 <<https://pubmed.ncbi.nlm.nih.gov/34014760/>> [as of XX, 2024].

⁴² Brunson and Weitzer, *Police Relations with Black and White Youths in Different Urban Neighborhoods* (2009) 44 *Urban Affairs Review*, 858-885, p. 879.

⁴³ Carroll and Gonzalez, *Out of Place: Racial Stereotypes and the Ecology of Frisks and Searches Following Traffic Stops* (2014) 51 *Journal of Research in Crime and Delinquency* 5, 559–584, p. 563; Glover, *Police Discourse on Racial Profiling* (2007) 23 *Journal of Contemporary Criminal Justice* 3, 239–247, p. 239.

⁴⁴ Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017* (“*Youth-Police Contact: Burdens and Inequities*”) (2021) 111 *Am. J. Public Health* 7, 1300-1308, p. 1306 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8493138/>> [as of XX, 2024].

⁴⁵ Carroll and Gonzalez, *Out of Place: Racial Stereotypes and the Ecology of Frisks and Searches Following Traffic Stops* (2014) 51 *Journal of Research in Crime and Delinquency* 5, 559–584, p. 563.

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“more likely to be the subject of mobile data terminal queries (an indicator for suspicion) and that queries about Black[] [people] increased with distance from the city.”⁴⁶ Another study on the views of White and Black youth revealed that White youth reported being stopped by the police while “(1) associating with Black males, (2) visiting or traveling through racially mixed or majority-Black neighborhoods, or (3) dressed in hip-hop clothing.”⁴⁷ Because racialized youth are more likely to live in areas with a heavier law enforcement presence, they experience a greater likelihood of law enforcement contact than White youth who are more likely to live in less-policed neighborhoods.⁴⁸

Racial segregation does not fully account for the disparities, however. Some studies show that racial disparities in policing were present in counties with a low concentration of Black youth, higher ratios of Black to White socioeconomic inequality, and higher levels of economic competition (i.e., White-to-Black unemployment ratios).⁴⁹

One phenomenon that may play a role in youth encounters with law enforcement and contribute to racial disparities from the initiation of a stop to its conclusion is the overestimation of the maturity of racialized youth, also known as *adultification*. Adultification bias is the perception of children of color as significantly older — and more likely to be guilty or dangerous — than White children of the same age. This perception bias may cause law enforcement officers to perceive Black youth as more threatening, to exercise their discretion in a more punitive manner, to use more force, and to impose harsher penalties on Black youth.⁵⁰ “Even seasoned police officers sampled in [a] study consistently overestimated the age of Black adolescent felony suspects by approximately 4.6 years.”⁵¹

One study associated the adultification bias with an implicit bias that dehumanizes Black people

⁴⁶ Carroll and Gonzalez, *Out of Place: Racial Stereotypes and the Ecology of Frisks and Searches Following Traffic Stops* (2014) 51 *Journal of Research in Crime and Delinquency* 5, 559–584, p. 563.

⁴⁷ Brunson and Weitzer, *Police Relations with Black and White Youths in Different Urban Neighborhoods* (2009) 44 *Urban Affairs Review*, 858-885, p. 879.

⁴⁸ Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017* (“*Youth-Police Contact: Burdens and Inequities*”) (2021) 111 *Am. J. Public Health* 7, 1300-1308, p. 1306
<<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8493138/>> [as of XX, 2024].

⁴⁹ Andersen, *Race, Ethnicity, and Structural Variations in Youth Risk of Arrest: Evidence from a National Longitudinal Sample* (2015) 42 *Criminal Justice and Behavior* 9, 900-916, pp. 901-902, 904.

⁵⁰ Epstein et al., *Girlhood Interrupted: The Erasure of Black Girls’ Childhood*. Georgetown Law Center on Poverty and Inequality (2017) p. 4; Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children* (2014) 106 *J. of Personality & Soc. Psychol.* 4, p. 535.

⁵¹ Epstein et al. (2017). *Girlhood Interrupted: The erasure of Black girls’ childhood*. Georgetown Law Center on Poverty and Inequality, p. 4, citing Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children* (2014) 106 *J. of Personality & Soc. Psychol.* 4 p. 532 [“The magnitude of this overestimation also bears repeating. Because Black felony suspects were seen as 4.53 years older than they actually were, this would mean that boys would be misperceived as legal adults at roughly the age of 13 and a half”].

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and has “unique effects on the perception of Black male children.”⁵² Adultification bias causes Black youth to be seen as less entitled to the presumption of innocence and the protections that come with childhood, and to instead be seen as dangerous, which can subject Black youth to more intrusive or forceful police actions.⁵³ This bias facilitates the use of force against youth of color and perceptions of police violence against them as more justified.⁵⁴

Adultification begins to impact Black boys as early as age ten, and is greatest for Black girls between the ages of 5 and 14.⁵⁵ In one study, experienced law enforcement officers consistently overestimated the age of Black and Hispanic/Latine(x) children in criminal legal contexts, whereas White children were perceived as their actual chronological ages, if not younger.⁵⁶ The officers overestimated the age of Black youth suspected of felonies by 4.59 years.⁵⁷ In contrast,

⁵² Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children* (2014) 106 J. of Personality & Soc. Psychol. 4, pp. 532, 535 [“The observed associations between dehumanization and violent outcomes for Black children provide further support for our hypothesis that Black children, in contexts of dehumanization, are prematurely treated as adults. Again, the implicit dehumanization of Black children predicted the extent to which police officers overestimate the age of Black suspects, how culpable those Black suspects are perceived to be, and the extent to which officers were more likely to use force on Black suspects than suspects of other races throughout their career, controlling for how much suspects resist arrest or are located in high-crime areas. It is important to highlight that these racial disparities were not predicted by traditional measures of explicit or implicit racial prejudice. Instead, these disparities may be a result of exposure to dehumanizing representations of Blacks [people]”].

⁵³ Epstein et al. (2017). *Girlhood Interrupted: The erasure of Black girls’ childhood*. Georgetown Law Center on Poverty and Inequality. p. 1; Bratton and Smith, *Growing Up a Suspect: An Examination of Racial Profiling of Black Children and Effective Strategies to Reduce Racial Disparities in Arrests* (2018) 45 N. Ky. L. Rev. 137, 154; see also Taylor-Thompson, *Treating All Kids as Kids* (May 24, 2021) Brennan Center for Justice; Perillo et al. *Examining the Consequences of Dehumanization and Adultification in Justification of Police Use of Force Against Black Girls and Boys* (2023) 47 American Psychological Association 36, 38 [“Engaging in ... dehumanization does not entail literally seeing individuals as nonhuman or subhuman but rather ascribing them to fewer traits associated with humanity”].

⁵⁴ Epstein et al. (2017). *Girlhood Interrupted: The erasure of Black girls’ childhood*. Georgetown Law Center on Poverty and Inequality. pp. 1, 4; Goff et al, *The Essence of Innocence: Consequences of dehumanizing Black children* (2014) 106 J. of Personality and Social Psychology 4, 526-545, pp. 526, pp. 529, 536 <<https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>> [as of XX, 2024].

⁵⁵ Epstein et al. (2017). *Girlhood Interrupted: The erasure of Black girls’ childhood*. Georgetown Law Center on Poverty and Inequality. p. 1; Goff et al, *The Essence of Innocence: Consequences of dehumanizing Black children* (2014) 106 J. of Personality and Social Psychology 4, 526-545, pp. 526, 529, 536 <<https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>> [as of XX, 2024]; Perillo et al., *Examining the Consequences of Dehumanization and Adultification in Justification of Police Use of Force Against Black Girls and Boys* (2023) 47 American Psychological Association, p. 36.

⁵⁶ Goff et al, *The Essence of Innocence: Consequences of dehumanizing Black Children* (2014) 106 J. of Personality and Social Psychology 4, 526-545, pp. 534-535 <<https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>> [as of XX, 2024].

⁵⁷ Goff et al, *The Essence of Innocence: Consequences of dehumanizing Black Children* (2014) 106 J. of Personality and Social Psychology 4, 526-545, p. 535 <<https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>> [as of XX, 2024].

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officers *underestimated* the age of White youth suspected of felonies by 0.78 years.⁵⁸ This means, for example, that officers may see a 10-year-old Black child as 15 years old — but a White child as just 9 years old.

An analysis of the 2023 RIPA data noted disparities in officer perception of the relative ages of Black youth and White youth when youth were stopped *together*. When this occurs, the data suggests that officers perceived the Black youth to be slightly older than the White youth (.19 years, or 2.3 months) older on average. This racial gap in perceived age is most visible for female youth, among whom Black youth are perceived to be .33 years (4 months) older on average. Because RIPA data records the officer’s perception and not an individual’s actual age, it is unclear why officers are more likely to perceive Black youth as older than White youth when they are stopped together. These disparities in perceived age suggest adultification bias, but more analysis is needed to more concretely assess officer perception of the relative ages of Black and White youth when they are stopped together.⁵⁹

2. Impact of Law Enforcement Interactions⁶⁰ on Youth

“[T]he single most common proactive policing strategy — directing officers to make contact with individual boys and young men in ‘high-crime’ areas — may impose a terrible cost.”

— Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 17, 8261-8268, p. 8267.

Negative police encounters could have a harmful impact in a child’s life, and the earlier this negative experience occurs, the more harmful that impact is likely to become.⁶¹ One study found that “the frequency of police stops predicted more frequent engagement in delinquent behavior 6, 12, and 18, mo[nths] later, whereas delinquent behavior did not predict subsequent reports of police stops.”⁶² The research clarifies that it is not the absence of cordial language that defines a police encounter as “negative;” rather, it is the set of

⁵⁸ Goff et al., *The Essence of Innocence: Consequences of dehumanizing Black Children* (2014) 106 J. of Personality and Social Psychology 4, 526-545, p. 535 <<https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>> [as of XX, 2024].

⁵⁹ The methodology used involved looking at those stops where a group of young people were stopped together at the same time. There is no reason to assume that, when they are part of a group, Black youth are actually older than their White peers. Additional analyses, in which youths’ actual ages can be analyzed to verify these conclusions, would allow for a more conclusive analysis of adultification. Because RIPA data records the officer’s perception and not an individual’s actual age, however, it would be difficult to conduct a more conclusive analysis using the RIPA data.

⁶⁰ The Board defines “law enforcement interactions” as those interactions between youth and law enforcement that would constitute a stop for the purposes of the RIPA data. Those interactions are defined by statute and the Code of Regulations as detentions, or interactions that results in searches. (Gov. Code, § 12525.5, subd. (g)(2); Cal. Code Regs., tit. 11, § 999.224 (a)(20).)

⁶¹ Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 17, 8261-8268, p. 8267.

⁶² Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 17, 8261-8268, p. 8266.

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practices commonly associated with “proactive policing”⁶³ that are the most negatively consequential on youth.⁶⁴ A wealth of research demonstrates that negative law enforcement encounters can undermine children and teens’ sense of safety and stability, and contribute to the development of stress, anxiety, post-traumatic stress disorder, and depression.⁶⁵

Studies also show that direct contact with law enforcement — and vicarious exposure to proactive policing practices, such as when a child observes their parent or family members stopped because of strict enforcement of low-level crimes or extensive use of police stops — are associated with negative education outcomes, including reduced test scores and lower grade point averages.⁶⁶

Researchers conclude that contact with law enforcement — including simply being *stopped* by police — could have long-term consequences on youth, including higher levels of law-violating behavior and fewer educational and employment opportunities.⁶⁷ One study of more than 2,000 middle-school students showed that youth who were merely stopped (but not arrested) by police showed lower levels of school commitment, poorer grades, less participation in prosocial activities, less anticipated guilt, and higher levels of delinquency,⁶⁸ and that being stopped is associated a 60 percent increase in delinquency.⁶⁹

⁶³ “Proactive policing” is a model of policing “in which officers actively engage citizens in high-crime areas to detect imminent criminal activity or disrupt circumstances interpreted as indicia that ‘crime is afoot.’” Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men* (Dec. 2014) 104 *American Journal of Public Health* 12, 2321-2327, p. 2321. It encompasses tactics such as stop-and-frisk or *Terry* stops.

⁶⁴ Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 *PNAS* 17, 8261-8268, p. 8261.; Rios et al., *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk* (2020) p. 67 (“Officers used courtesy and punitive strategies during stops. Although officers often voiced or conveyed a positive intention during the initial contact with gang-associated Latinos, the final outcome of these encounters was often negative”).

⁶⁵ Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017* (“*Youth-Police Contact: Burdens and Inequities*”) (2021) 11 *Am. J. Public Health*. pp. 1300-1302, p. 1306 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8493138/>> [as of Nov. 29, 2022]; Jackson et al., *Police Stops Among At-Risk Youth: Repercussions for Mental Health* (2019) *Journal of Adolescent Health* 1-6, p. 2; Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 *PNAS* 17, pp. 8263-8266.

⁶⁶ Gottlieb and Wilson, *The effect of direct and vicarious police contact on the educational achievement of urban teens* (2019) *Children and Youth Services Review* 103, 190-199, p. 196; St. John et al., “Reducing Adverse Police Contact Would Heal Wounds for Children and Their Communities” (June 14, 2022) *Child Trends: Trauma and Resilience*, <<https://childtrends.org/publications/reducing-adverse-police-contact-would-heal-wounds-for-children-and-their-communities>> [as of May 8, 2024].

⁶⁷ Wiley and Esbensen, *The Effect of Police Contact: Does Official Intervention Result in Deviance Amplification?* (2013) 62 *Crime & Delinquency* 3, 283-307, p. 285.

⁶⁸ Wiley et al., *The Unintended Consequences of Being Stopped or Arrested: An Exploration of the Labeling Mechanisms Through Which Police Contact Leads to Subsequent Delinquency* (2013) 51 *Criminology* 4, 927-966, p. 931.

⁶⁹ Wiley et al., *The Unintended Consequences of Being Stopped or Arrested: An Exploration of the Labeling Mechanisms Through Which Police Contact Leads to Subsequent Delinquency* (2013) 51 *Criminology* 4, 927-966, p. 951.

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A study of the mental well-being among youth who witnessed police stops demonstrated notable findings regarding the effects of those stops on their mental health.⁷⁰ In that study, researchers looked at a random sample of more than 2,500 youth with no history of being directly stopped by police, and more than 1,400 youth who reported “having witnessed police stops in their neighborhoods and/or schools,” but who themselves had never been directly stopped by the police.⁷¹ Researchers assessed: (1) whether witnessed police stops affected youth mental well-being (depression, anxiety, and happiness); (2) whether the level of police officer intrusiveness⁷² affected youth mental well-being; (3) whether youth experienced emotional distress (fear, anger, or feeling unsafe) during the witnessed stop, and to what degree the amount of police officer intrusiveness affected such distress; and (4) whether there were any variations by youth sex and/or youth race and ethnicity.⁷³

The researchers made three main findings. First, youth who witnessed stops had poorer mental well-being than those who had not witnessed any stops, including greater depression and anxiety and lower levels of happiness.⁷⁴ Second, among those youth who had witnessed stops, any type of officer intrusiveness — pat-downs, searches, use of harsh language, racial slurs, threats of physical force or actual use of force, or handcuffing — was consistently associated with diminished mental well-being, explained in part by the emotional distress reported during the witnessed stop.⁷⁵ Third, youth of color (Latine, Black, other race) reported less anxiety than their White counterparts after witnessing an intrusive stop, while Black and Hispanic/Latine(x) youth reported greater reductions in happiness than White youth.⁷⁶ This last finding suggests that — at least in the case of witnessed stops — “there may be critical racial/ethnic differences in mental health responses, even if youth across the board are more likely to experience adverse mental health outcomes.”⁷⁷

⁷⁰ Jackson et al., *Youth Mental Well-Being Following Witnessed Police Stops* (2022) 99 J. of Urban Health 783-793, pp. 790-791.

⁷¹ Jackson et al., *Youth Mental Well-Being Following Witnessed Police Stops* (2022) 99 J. of Urban Health 783-793, p. 785.

⁷² “Police officer intrusiveness” was measured by asking youth who witnessed stops whether the stop involved: (1) a frisk them or pat them down; (2) a search of bags or pockets; (3) the officer’s use of harsh language; (4) the officer’s use of racial slurs; (5) the officer’s threat of physical force; (6) the officer’s use of physical force; or (7) the officer’s use of handcuffs. (Jackson et al., *Youth Mental Well-Being Following Witnessed Police Stops* (2022) 99 J. of Urban Health 783-793, p. 786.)

⁷³ Jackson et al., *Youth Mental Well-Being Following Witnessed Police Stops* (2022) 99 J. of Urban Health 783-793, p. 784.

⁷⁴ Jackson et al., *Youth Mental Well-Being Following Witnessed Police Stops* (2022) 99 J. of Urban Health 783-793, pp. 790-791.

⁷⁵ Jackson et al., *Youth Mental Well-Being Following Witnessed Police Stops* (2022) 99 J. of Urban Health 783-793, p. 791.

⁷⁶ Jackson et al., *Youth Mental Well-Being Following Witnessed Police Stops* (2022) 99 J. of Urban Health 783-793, p. 791.

⁷⁷ Jackson et al., *Youth Mental Well-Being Following Witnessed Police Stops* (2022) 99 J. of Urban Health 783-793, p. 791.

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These disparities impact not only youth who have committed violations but also youth engaged in lawful activity. One study found that non-delinquent Black and Latino boys faced the same risk of law enforcement surveillance as “self-reported” delinquent boys.⁷⁸ The research showed that “[p]rior law-abiding behaviors did not protect boys against future police stops, yet being stopped by police was associated with increased engagement in delinquent behavior.”⁷⁹ Black youth “expressed hopelessness regarding the situation because they felt that officers would never see them as anything other than symbolic assailants, even when they were engaged in entirely lawful activity.”⁸⁰

These studies shed light on the enduring consequences of typical police interactions with youth. Indeed, the “applied police model, which emphasizes extensive police contact at low levels of suspicious behavior, can lower the educational performance of African American boys, with implications for child development and racial inequality.”⁸¹ “[T]he single most common proactive policing strategy⁸² — directing officers to make contact with individual boys and young men in ‘high-crime’ areas — may impose a terrible cost.”⁸³

C. Youth-Specific RIPA Stop Data Analysis

As discussed above, proactive policing practices, which often emphasize enforcement of quality of life and other low-level violations as a tool for intrusive police activities in areas deemed high-crime areas, can have harmful effects on youth, particularly youth of color. Part of what drives disparities in police encounters and facilitates the resulting negative consequences on youth, are implicit biases such as the adultification bias. This year’s RIPA data suggests that police departments across California may be engaging in proactive policing practices.

The RIPA regulations define the interactions with members of the public that officers must report.⁸⁴ The regulations define a stop as any detention of a person by a peace officer and any

⁷⁸ Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 17, 8261-8268, pp. 8261-8262, 8267.

⁷⁹ Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 17, p. 8267.

⁸⁰ Brunson and Weitzer, *Police Relations with Black and White Youths in Different Urban Neighborhoods* (2009) 44 Urban Affairs Review, 858-885, p. 879.

⁸¹ Legewie and Fagan, *Aggressive Policing, and the Educational Performance of Minority Youth* (April 2019) 84 American Sociological Review 2, 220-247, p. 239.

⁸² As noted above, “proactive policing” has also been described as a model “in which officers actively engage citizens in high-crime areas to detect imminent criminal activity or disrupt circumstances interpreted as indicia that ‘crime is afoot.’” Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men* (Dec. 2014) 104 American Journal of Public Health 12, 2321-2327, p. 2321. It encompasses tactics such as stop-and-frisk or Terry stops.

⁸³ Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 17, 8261-8268, p. 8267.

⁸⁴ Cal. Code Regs., tit. 11, § 999.227, subd. (a)(1).

[https://govt.westlaw.com/calregs/Document/I68382E401CA411EDA215EE927E227AB0?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I68382E401CA411EDA215EE927E227AB0?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) [as of Sept. 20, 2024].

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interaction in which the officer conducts a search.⁸⁵ A detention, as defined by the regulations, is a seizure of a person by an officer that results from physical restraint, unequivocal verbal commands, or words or conduct by an officer that would result in a reasonable person believing they are not free to leave or otherwise disregard the officer.⁸⁶ A search, as defined by the regulations, is a search of a person’s body or property in the person’s possession or under their control, and includes a pat-down search of a person’s outer clothing as well as a consensual search.⁸⁷ Although the RIPA regulations broadly cover stops, it could be assumed that some law enforcement interactions with youth do not meet this definition of a stop under the RIPA regulations and, consequently, officers are not required to report those interactions under RIPA.

Looking at the 2023 RIPA data, law enforcement officers reported 823,773 stops involving youth 24 and younger (17.5% of all stops).

Figure X. Total Stops by Age (Youth under 25)



⁸⁵ Cal. Code Regs., tit. 11, § 999.224, subd. (a)(20).

[https://govt.westlaw.com/calregs/Document/I685812501CA411ED890AE7AF96486F56?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I685812501CA411ED890AE7AF96486F56?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) [as of Sept. 20, 2024].

⁸⁶ Cal. Code Regs., tit. 11, § 999.224, subd. (a)(7).

[https://govt.westlaw.com/calregs/Document/I685812501CA411ED890AE7AF96486F56?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I685812501CA411ED890AE7AF96486F56?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) [as of Sept. 20, 2024].

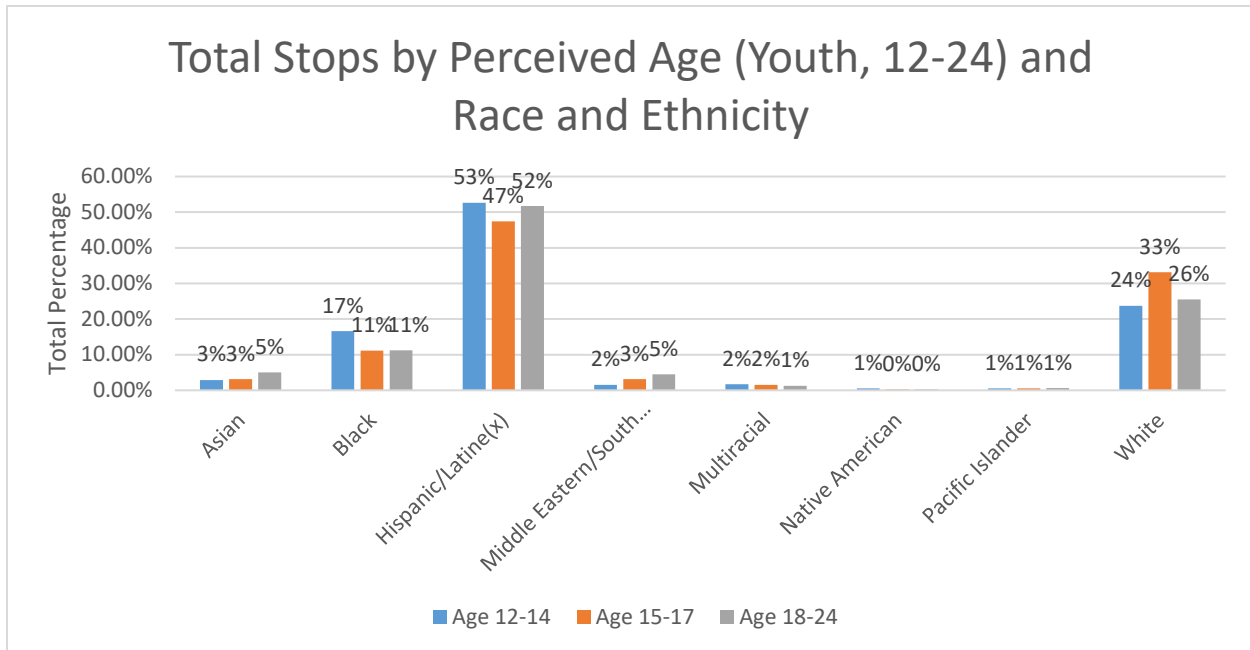
⁸⁷ Cal. Code Regs., tit. 11, § 999.224, subd. (a)(19).

[https://govt.westlaw.com/calregs/Document/I685812501CA411ED890AE7AF96486F56?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I685812501CA411ED890AE7AF96486F56?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) [as of Sept. 20, 2024].

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Table X. Total Stops by Perceived Age (Youth, 12-24) and Race and Ethnicity



1. Demographics of Youth Who Are Interacting with Law Enforcement in California

In 2022, the most recent year for which population data was available at the time of writing, California was home to approximately 39 million people, of whom over 12 million (nearly one in three) Californians were under 25 years of age and nearly nine million (approximately one in five) Californians were under 18 years of age.⁸⁸ LGBT population in California largely reflects the racial and ethnic diversity of the state and younger Californians are much more likely than older Californians to identify as LGBT.⁸⁹ An estimated 234,000 youth ages 13–17 identify as lesbian, gay, or bisexual, and an estimated 22,200 youth ages 13–17 identify as transgender.⁹⁰

⁸⁸ Statista (2024). *Distribution of Resident Population in California, by Age Group*.

<<https://www.statista.com/statistics/912915/california-population-share-age-group/>> [31.2 percent of Californians were under 25 years of age and 22.8 percent were under 18 years of age.] [as of Apr. 26, 2024]; U.S. Census Bureau American Community Survey 2017-2021 5-Year Estimates; U.S. Census Bureau (2023). *Quick Facts: California*. <<https://www.census.gov/quickfacts/fact/table/CA/PST045222#PST045222>> [as of Apr. 29, 2024].

⁸⁹ Johnson, *California's LGBT Population* (June 8, 2022) Public Policy Institute of California

<<https://www.ppic.org/wp-content/uploads/californias-lgbt-population-july-2022.pdf>> [as of XX, 2024].

⁹⁰ Conron, *LGBT Youth Population in the United States* (2020) UCLA School of Law Williams Institute. p. 1

<<https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Youth-US-Pop-Sep-2020.pdf>> [as of XX, 2024].

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Among transition age youth,⁹¹ about 13.6 percent of youth ages 18–24 (about 514,400 youth) identify as lesbian, gay, bisexual, and/or transgender, while Californians older than 24 are less likely to identify as LGBT.⁹²

Current national estimates of disability prevalence from different data sources range from 8 percent to over 30 percent of the population.⁹³ Understanding that these are comparatively conservative estimates, in this Report, the Board references data about disability prevalence from the American Community Survey because it provides California-specific estimates for youth and adults.⁹⁴ Californians over 18 make up a larger percentage of the total number of those with disabilities (an estimated 8.3% of Californians, or more than two million people) compared to Californians under 18 (an estimated 3.7% of Californians, or approximately 320,000 people).⁹⁵

2. Reason for Stops

This section discusses the data collected on the reasons officers reported for stopping youth. As shown below, there are large disparities between youth of color and White youth in the stop data. The disparities within this data suggest that bias may affect an officer’s decision to stop youth and how racial and identity profiling applies to stops of youth.

a) Reasonable Suspicion — Generally

The 2023 RIPA data shows that the percentage of stops for reasonable suspicion varied across racial or ethnic groups. Consistently across all age groups, however, Black youth had a larger percentage of stops based on reasonable suspicion compared to other racial or ethnic groups.

⁹¹ As noted above, “transition age youth” are those youth which the federal government defines as persons between 16 and 24 years of age. (Interagency Working Group on Youth Programs, *Transition & Aging Out* (2022) Youth.gov. <https://youth.gov/youth-topics/transition-age-youth> [as of September 2, 2024].)

⁹² Flores and Conron. (2023). *Adult LGBT Population in the United States*. UCLA School of Law Williams Institute. p. 13. <<https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Adult-US-Pop-Dec-2023.pdf>> [as of June 6, 2024]. An estimated 8.1 percent of Californians ages 25-34 identify as LGBT, an estimated 3.7 percent of Californians ages 35-49 identify as LGBT, an estimated 2.5 percent of Californians ages 50-64 identify as LGBT, and an estimated 1.6 percent of Californians who are 65 and older identify as LGBT.

⁹³ National Center on Birth Defects and Developmental Disabilities. (2024). *Disability Datasets*. <<https://www.cdc.gov/ncbddd/disabilityandhealth/datasets.html>> [as of Aug. 14, 2024]. Even when the Census Bureau’s American Community Survey and the Center for Disease Control’s Behavioral Risk Factor Surveillance System use the same set of six questions, differences in data collection methods and response rates produce different prevalence estimates.

⁹⁴ National Center on Birth Defects and Developmental Disabilities. (2024). *Disability Datasets*. <<https://www.cdc.gov/ncbddd/disabilityandhealth/datasets.html>> [as of Aug. 14, 2024].

⁹⁵ U.S. Census Bureau. "Selected Social Characteristics in the United States." *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP02*, 2022, <<https://data.census.gov/table/ACSDP5Y2022.DP02?q=DP02&t=Disability&g=040XX00US06>> As of [Aug. 14, 2024].

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Perceived Race and Ethnicity: Among youth perceived to be 12-14, 72.9 percent of the stops of youth perceived to be Black (1,288 stops) and 64.0 percent of stops of youth perceived to be Hispanic/Latine(x) (3,589 stops) were based on reasonable suspicion. Comparatively, 51.4 percent of the stops of youth perceived to be White were based on reasonable suspicion (1,296 stops).

Among youth perceived to be 15-17, 54.0 percent of the stops of youth perceived to be Black (4,194) and 36.7 percent of stops of youth perceived to be Hispanic/Latine(x) (12,152 stops) were based on reasonable suspicion. In comparison, only 18.9 percent of the stops of youth perceived to be White were based on reasonable suspicion (4,368 stops).

Among youth perceived to be 18-24, 17.4 percent of the stops of youth perceived to be Black (14,278 stops) and 12.3 percent of stops of youth perceived to be Native American (229 stops) were based on reasonable suspicion, compared to only 7.8 percent of the stops of youth perceived to be White (14,588 stops).

Perceived Gender: Youth perceived as gender nonconforming or transgender had a larger percentage of stops for reasonable suspicion than youth perceived as cisgender.⁹⁶

Among youth perceived to be 12-24, 24.8 percent of stops of youth perceived to be transgender or gender nonconforming were based on reasonable suspicion (969 stops), compared to 12.2 percent of stops of youth perceived to be cisgender (98,973 stops).

b) Reasonable Suspicion — Analysis of Specific Offenses

In this section, the Board conducts a closer review of seven specific offenses commonly seen in police interactions with youth. In continuation of the Board’s work to address pretextual stops, the Board reviews stops related to loitering and pedestrian roadway violations. The Board chose to review stops related to disturbing the peace, trespassing, and vandalism because disparities in these stops could indicate the proactive policing of youth. Finally, the Board reviews stops related to an example of an age-based offense, underage drinking, because this offense is specific to youth. Youth advocates have recommended that law enforcement redirect all instances of status offenses — like underage drinking — to pre-arrest diversion services, outside of the formal criminal legal system.⁹⁷

This section includes comparisons of stop data to the estimated population in California to examine whether racial and ethnic groups are overrepresented in stops compared to their proportion of the population. Population estimates analyses assume that the distribution of stops

⁹⁶ As defined in the Code of Regulations, “‘cisgender’ means a person whose gender identity and gender expression align with the person’s assigned sex at birth.” (11 Cal. Code. Regs. § 999.226 (a)(6)(B)(1).)

⁹⁷ Mendel, *Protect and Redirect: America’s growing movement to divert youth out of the justice system* (2024) The Sentencing Project < <https://www.sentencingproject.org/app/uploads/2024/03/Protect-and-Redirect-Americas-Growing-Movement-to-Divert-Youth-Out-of-the-Justice-System.pdf> > [as of XX, 2024].

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will generally resemble the overall racial and ethnic distribution of residents of California.

(1) Loitering

Despite extensive policing reform, there has been substantial continuity in policing practices to regulate urban order related to conceptions about the ideal use of public space.⁹⁸ Loitering charges are particularly vulnerable to overuse and the labeling of otherwise innocuous behavior of standing or waiting on the street as “loitering” shapes and reinforces perceptions of normal behavior as deviant or criminal.⁹⁹ In certain communities, “loitering” is viewed as disruptive to the ideal regular ordering of the urban environment.¹⁰⁰ There were racial differences in the proportions of stops of youth that officers reported for suspected loitering violations.¹⁰¹

Of all stops of youth 1–24 for suspected loitering violations, 40.58 percent were of youth perceived as Hispanic/Latine(x) (784 stops), 32.58 percent were of youth perceived as Black (627 stops), and 20.55 percent were of youth perceived as White (343 stops).

While the proportion of stops of White youth perceived to be 1 to 24 years for suspected loitering offenses was lower than the proportion of White youth in California’s population, the proportion of stops of Hispanic/Latine(x) and Black youth for suspected loitering offenses greatly surpassed the proportion of those groups in the population.

⁹⁸ Bland, *‘Lurking’ and ‘Loitering’: the genealogy of languages of police suspicion in Britain* (2021) Policing and Society, pp. 664-665.

⁹⁹ Bland, *‘Lurking’ and ‘Loitering’: the genealogy of languages of police suspicion in Britain* (2021) Policing and Society p. 665.

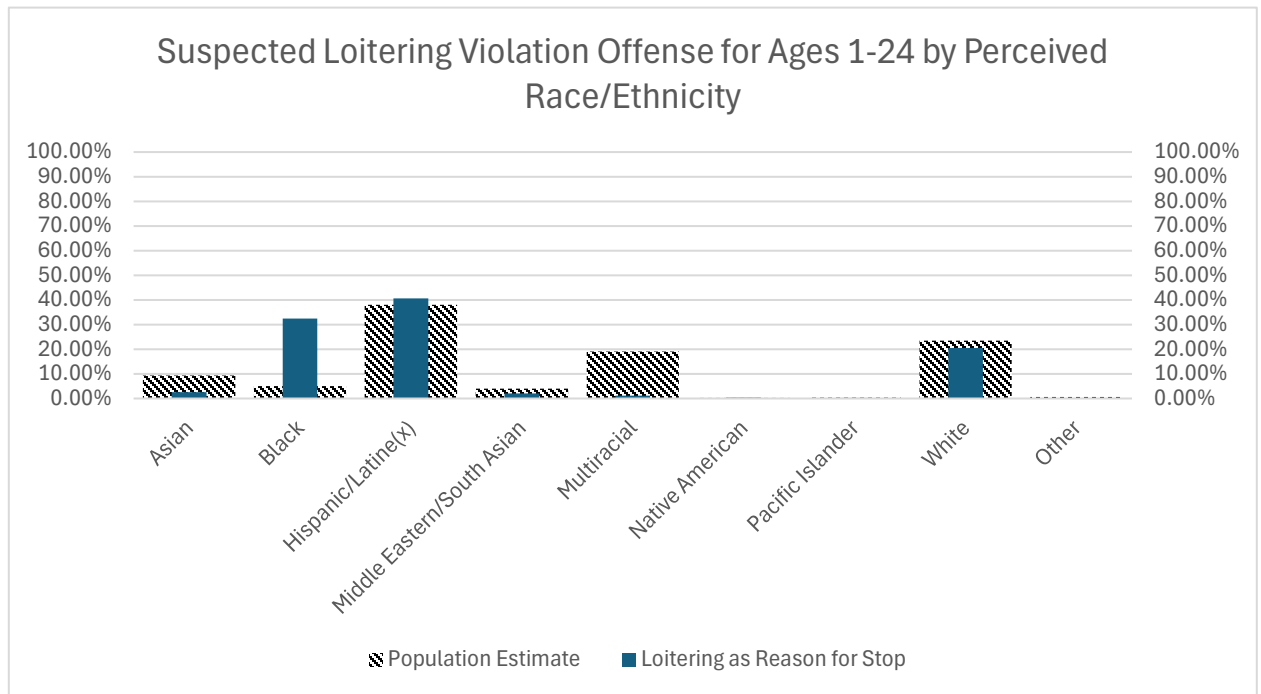
¹⁰⁰ Bland, *‘Lurking’ and ‘Loitering’: the genealogy of languages of police suspicion in Britain* (2021) Policing and Society p. 668. Following ratification of the Thirteenth Amendment to the U.S. Constitution in 1865, Southern states “quickly passed ‘Black Codes’ – new laws that explicitly applied only to Black people and subjected them to criminal prosecution for “offenses” such as loitering, breaking curfew, vagrancy, having weapons, and not carrying proof of employment.” (Equal Justice Initiative, *Convict Leasing* (2013). <<https://eji.org/news/history-racial-injustice-convict-leasing/>> [as of XX, 2024].)

¹⁰¹ Pen. Code, §§ 555.2, 647 subd. (b)(1), 647 subd. (b)(2), 647 subd. (c), 647 subd. (d), 647 subd. (e), 647 subd. (h), 647 subd. (i), 653.23 subd. (a)(1), 653.23 subd. (a)(2), 653b, subd. (a); Pub. Utilities Code, § 120451; Cal. Health and Safety Code, § 11532 subd. (a).

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Figure X. Suspected Loitering Violations, Youth 1-24, separated by Perceived Race/Ethnicity



(2) Pedestrian Roadway Violations

There were racial differences in the proportions of stops of youth that officers reported for suspected pedestrian roadway violations. Pedestrian roadway stops include offenses such as not crossing at a designated intersection or a pedestrian’s failure to obey a traffic sign.¹⁰²

Of all stops of youth 1–24 for suspected pedestrian roadway violations, 42.76 percent were of youth perceived as Hispanic/Latine(x) (1,429 stops), 30.283 percent were of youth perceived as Black (1,012 stops), and 20.74 percent were of youth perceived as White (693 stops).

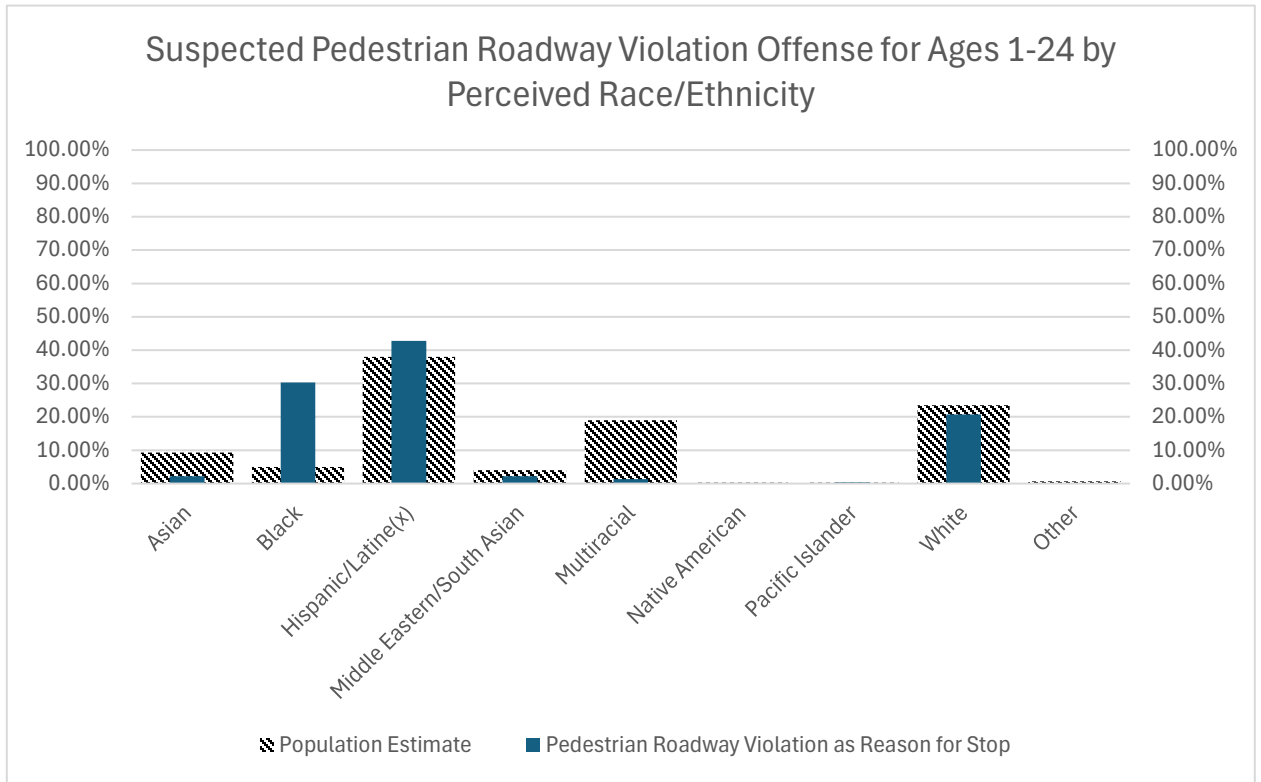
While the proportion of stops of White youth for suspected pedestrian roadway violations was lower than the proportion of White youth in California’s population, the proportion of stops of Hispanic/Latine(x) and Black youth for suspected pedestrian roadway violations greatly surpassed the proportion of those groups in the population.

¹⁰² Veh. Code, §§ 21106, subd. (b) 21451, subd. (c), 21451, subd. (d), 21452, subd. (b), 21453, subd. (d), 21456, subd. (b), 21456.1, 21461.5, 21950, subd. (b), 21953, 21954, 21955, 21956, 21960, 21966, 23331.

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Figure X. Suspected Pedestrian Roadway Offenses Youth 1-24, separated by Perceived Race/Ethnicity



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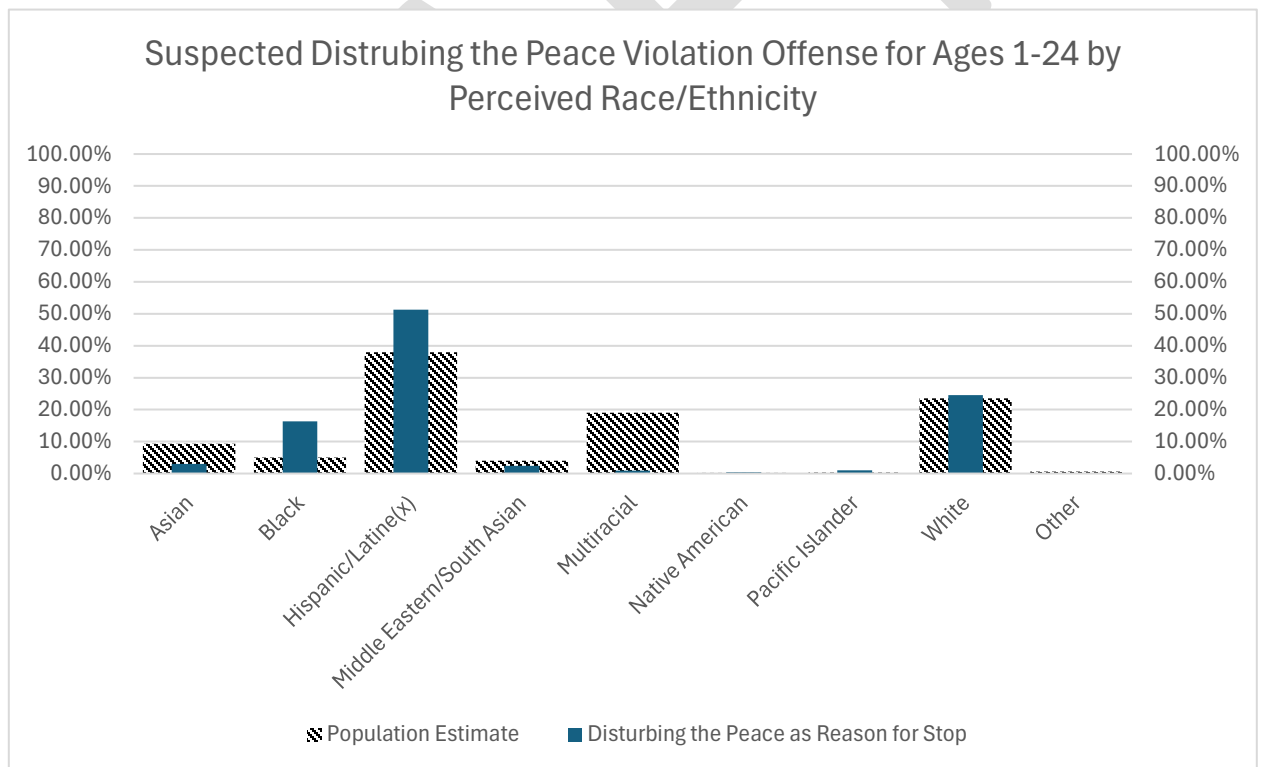
(3) Disturbing the Peace

There were racial differences in the proportions of stops of youth that officers reported for suspected disturbing the peace violations.¹⁰³

Of all stops of youth 1–24 for suspected disturbing the peace violations, 51.34 percent were of youth perceived as Hispanic/Latine(x) (1,498 stops), 16.38 percent were of youth perceived as Black (478 stops), and 24.57 percent were of youth perceived as White (717 stops).

While the proportion of stops of White youth for suspected disturbing the peace violations was comparable to the proportion of White youth in California’s population, the proportion of stops of Hispanic/Latine(x) and Black youth for suspected disturbing the peace violations greatly surpassed the proportion of those groups in the population.

Figure X. Suspected Disturbing the Peace Violations, Youth 1-24, separated by Perceived Race/Ethnicity



¹⁰³ Pen. Code, §§ 415 subd. (1), 415 subd. (2), 415 subd. (3), 415 subd. (A)(1), 415 subd. (A)(2), 415 subd. (A)(3).

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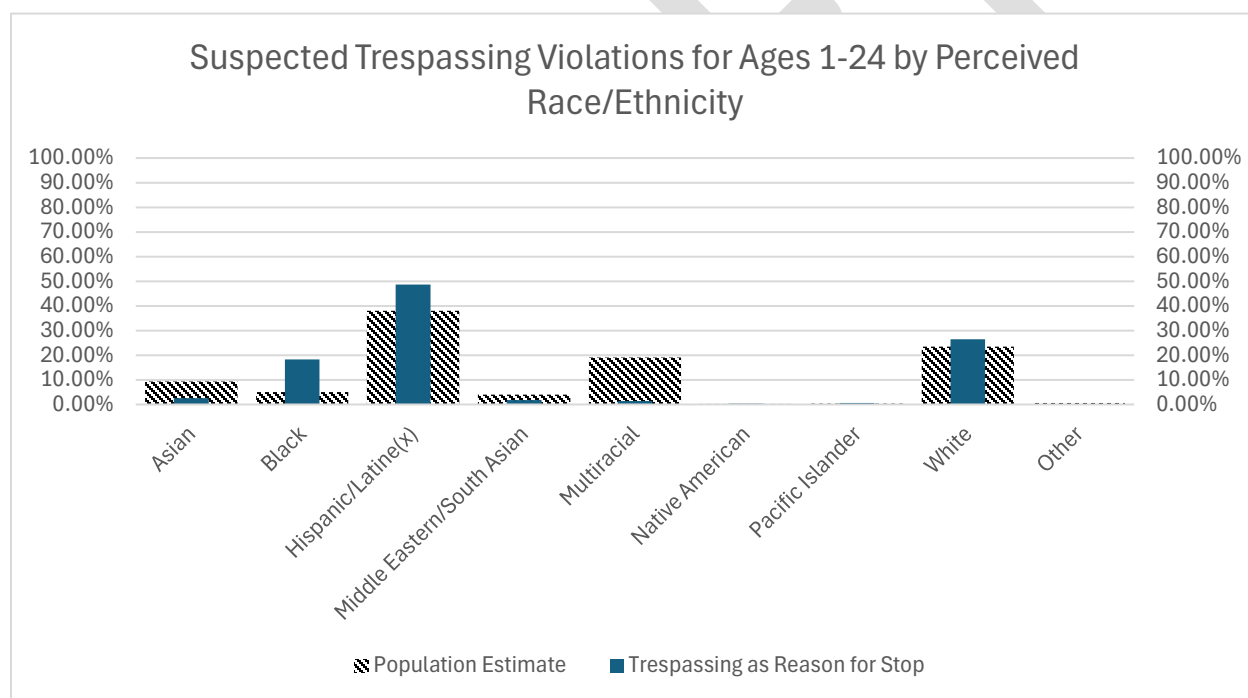
(4) Trespassing

There were racial differences in the proportions of stops of youth that officers reported for suspected trespassing violations.¹⁰⁴

Of all stops of youth perceived to be 1-24 for suspected trespassing violations, 48.65 percent were of youth perceived as Hispanic/Latine(x) (2,693 stops), 18.32 percent were of youth perceived as Black (1,014 stops), and 26.43 percent were of youth perceived as White (1,463 stops).

The proportion of stops of Hispanic/Latine(x), Black, and White youth perceived to be 1-24 for suspected trespassing violations was greater than the proportion of those groups in the population. The disproportionality in relation to residential population was greater for Hispanic/Latine(x) and Black youth.

Figure X. Suspected Trespassing Violations Youth 1-24, separated by Perceived Race/Ethnicity



¹⁰⁴ Military and Veterans Code, § 398; Pen. Code, §§ 369i subd. (A), 369i subd. (A)(1), 369i subd. (B), 369i subd. (B)(1), 554 subd. (A), 554 subd. (B), 554 subd. (C), 554 subd. (D), 554 subd. (E), 554 subd. (F), 554 subd. (G), 554 subd. (H), 554 subd. (I), 558, 587B, 601, 601 subd. (A), 601 subd. (A)(1), 601 subd. (A)(2), 602, 602 subd. (A), 602 subd. (B), 602 subd. (C), 602 subd. (D), 602 subd. (E), 602 subd. (F), 602 subd. (G), 602 subd. (H)(1), 602 subd. (I), 602 subd. (J), 602 subd. (K), 602 subd. (L)(1), 602 subd. (L)(2), 602 subd. (L)(3), 602 subd. (L)(4), 602 subd. (M), 602 subd. (N), 602 subd. (O), 602 subd. (P), 602 subd. (Q), 602 subd. (R), 602 subd. (S), 602 subd. (T), 602 subd. (T)(1), 602 subd. (U)(1), 602 subd. (V)(1), 602 subd. (W), 602 subd. (X)(1), 602.1, 602.1 subd (A), 602.3 subd (A), 602.5, 602.6, 602.7, 602.8 subd (A), 602.13 subd (A) 634; Cal. Streets and Highways Code, § 27174.2.

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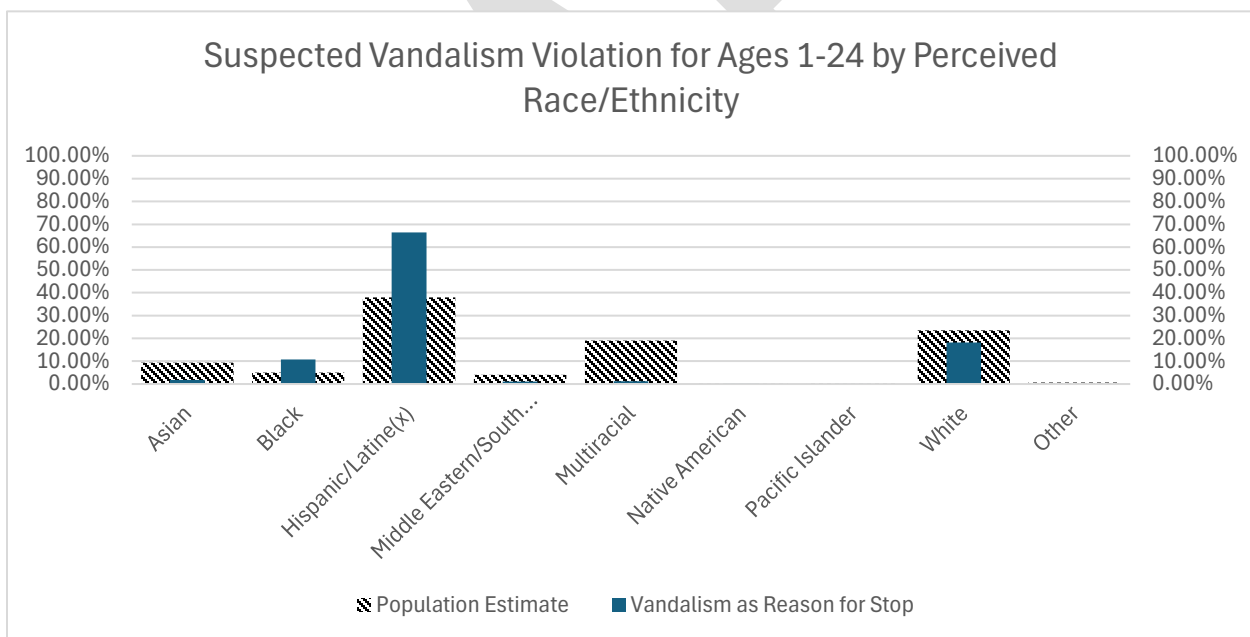
(5) Vandalism

There were racial differences in the proportions of stops of youth that officers reported for suspected vandalism violations.¹⁰⁵

Of all stops of youth 1–24 for suspected vandalism violations, 66.38 percent were of youth perceived as Hispanic/Latine(x) (2,444 stops), 10.78 percent were of youth perceived as Black (397 stops), and 18.20 percent were of youth perceived as White (670 stops).

While the proportion of stops of White youth for suspected vandalism violations was slightly lower than the proportion of White youth in California’s population, the proportion of stops Black youth for suspected vandalism violations was greater than the proportion of Black youth in the population and the proportion of stops of Hispanic/Latine(x) youth for suspected vandalism violations greatly surpassed the proportion of Hispanic/Latine(x) youth in the population.

Figure X. Suspected Vandalism Violations Youth 1-24, separated by Perceived Race/Ethnicity



¹⁰⁵ Cal. Pen. Code, §§ 594 subd. (A), 594 subd. (A)(1), 594 subd. (A)(2), 594 subd. (A)(3), 594 subd. (B)(1), 594 subd. (B)(2)(A), 594 subd. (B)(2)(B), 594.2 subd. (A), 594.3 subd. (A), 594.3 subd. (B), 594.7, 640.7.

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(6) Status Offenses

The term “delinquency offense” refers to an offense a minor commits that is processed in juvenile court that would be prosecuted in criminal court if an adult committed the same offense.¹⁰⁶ “Status offenses” are actions that are illegal only because of a youth’s age.¹⁰⁷ Nationally, in 2019, status offenses accounted for about 11 percent of the cases in juvenile courts.¹⁰⁸ Of all cases processed in juvenile courts, law enforcement agencies referred 18 percent of status offense cases, compared with 83 percent of delinquency cases.¹⁰⁹ Among status offense cases, law enforcement agencies were more likely to be the referral source for those related to curfew, underage drinking, and possession of alcohol than other status offense cases.¹¹⁰

Girls are charged more often with status offenses than delinquency offenses. While nationally, girls were involved in only 28 percent of the delinquency cases formally processed in 2019, they were involved in 44 percent of status offense cases.¹¹¹ Unhoused youth are also particularly vulnerable to status offenses.¹¹²

As previously mentioned, the Board below reviews stops related to underage drinking as an example of an age-based offense, specific to youth.

(a) Underage Drinking

In California, the use of alcohol is prohibited for youth under 21.¹¹³ There were racial differences in the proportions of stops of youth that officers reported for suspected underage drinking.

Of all stops of youth 1–24 for suspected underage drinking, 53.1 percent were of youth perceived as Hispanic/Latine(x) (1,845 stops) and 31.1 percent were of youth perceived as White (1,081 stops). The proportion of stops of Hispanic/Latine(x) and White youth perceived to be 1-24 for

¹⁰⁶ Puzanchera et al. (2022). *Youth and the Juvenile Justice System: 2022 notional report*. National Center for Juvenile Justice. pp. 92, 139.

¹⁰⁷ Youth.gov (2023). *Youth Involved with the Juvenile Justice System*. <<https://youth.gov/youth-topics/juvenile-justice/youth-involved-juvenile-justice-system>> [as of XX, 2024].

¹⁰⁸ Puzanchera et al. (2022). *Youth and the Juvenile Justice System: 2022 notional report*. National Center for Juvenile Justice. p. 168.

¹⁰⁹ Puzanchera et al. (2022). *Youth and the Juvenile Justice System: 2022 notional report*. National Center for Juvenile Justice. p. 168.

¹¹⁰ Puzanchera et al. (2022). *Youth and the Juvenile Justice System: 2022 notional report*. National Center for Juvenile Justice. pp. 139, 168.

¹¹¹ Puzanchera et al. (2022). *Youth and the Juvenile Justice System: 2022 notional report*. National Center for Juvenile Justice. p. 169.

¹¹² Toolis & Hammack, *The Lived Experience of Homeless Youth: A Narrative Approach* (2015) 2 Qualitative Psychology 1, pp. 50-68.

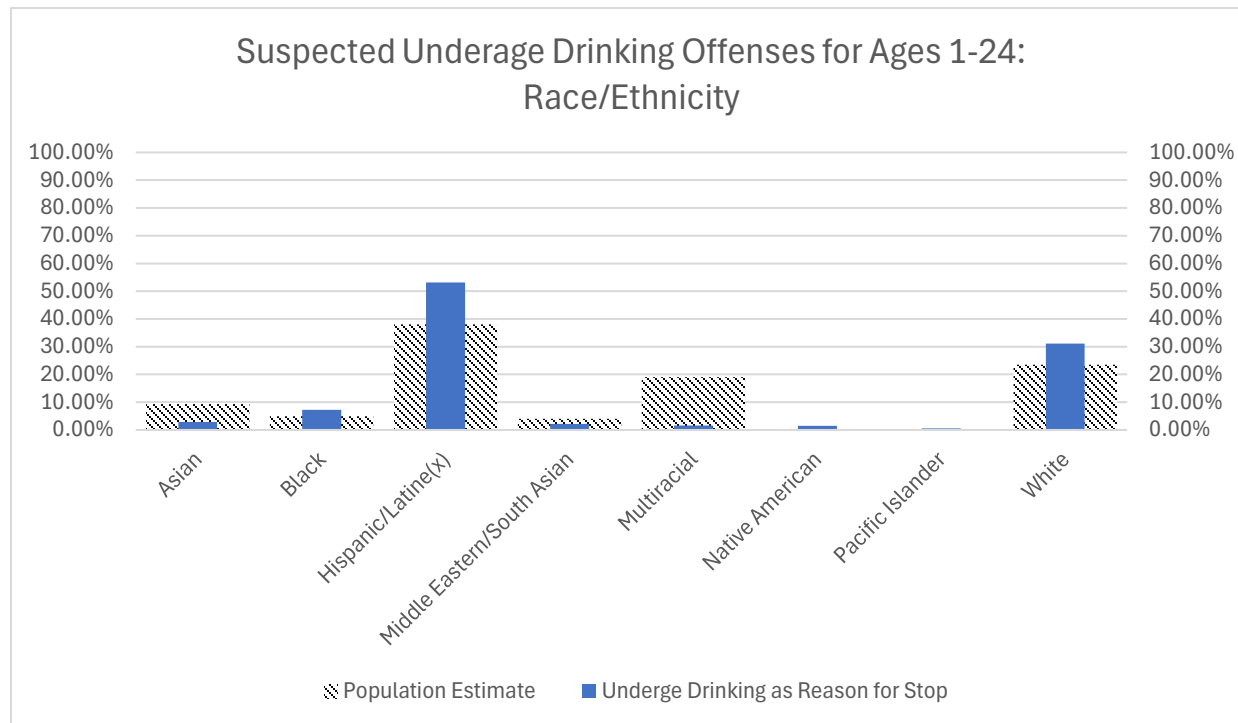
¹¹³ Bus. & Prof. Code 25662(A); 25663(A); 25663(B); 25665; Cal. Pen. Code 303; Cal. Pen. Code 647(F); Cal. Veh. Code 23136(A); Cal. Veh. Code 23140(A) [Updated]; 25658(B); 25658(C); 25658.5; Cal. Pen. Code 303 (A); 23140 [Repealed].

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suspected underage drinking was greater than the proportion of those groups in the population. The disproportionality in relation to residential population was greater for Hispanic/Latine(x) youth.

Figure X. Suspected Underage Drinking Violations, Youth 1-24, separated by Perceived Race/Ethnicity



National research shows that use of alcohol by high school students has declined since the mid-1990s and reached historic lows in 2019.¹¹⁴ While there were not large changes in students’ perception about the availability of alcohol across this period, students’ decreased use of alcohol was tied to the students’ perceptions of possible harm from use.¹¹⁵ This suggests the importance of a public health approach to addressing youth use of alcohol.

c) Traffic Violations

There were racial differences in the proportion of traffic stops officers reported for equipment, moving, and non-moving violations in stops of youth. Among traffic stops of youth perceived to be 15–17, Hispanic/Latine(x) youth had 26.3 percent of their traffic stops for equipment violations (4,757 stops) and Black youth had 22.7 percent of their traffic stops for equipment

¹¹⁴ Puzzanchera et al. (2022). Offending by youth in *Youth in the Juvenile Justice System*. National Center for Juvenile Justice. pp. 59 & 62.

¹¹⁵ Puzzanchera et al. (2022). Offending by youth in *Youth in the Juvenile Justice System*. National Center for Juvenile Justice. p. 63.

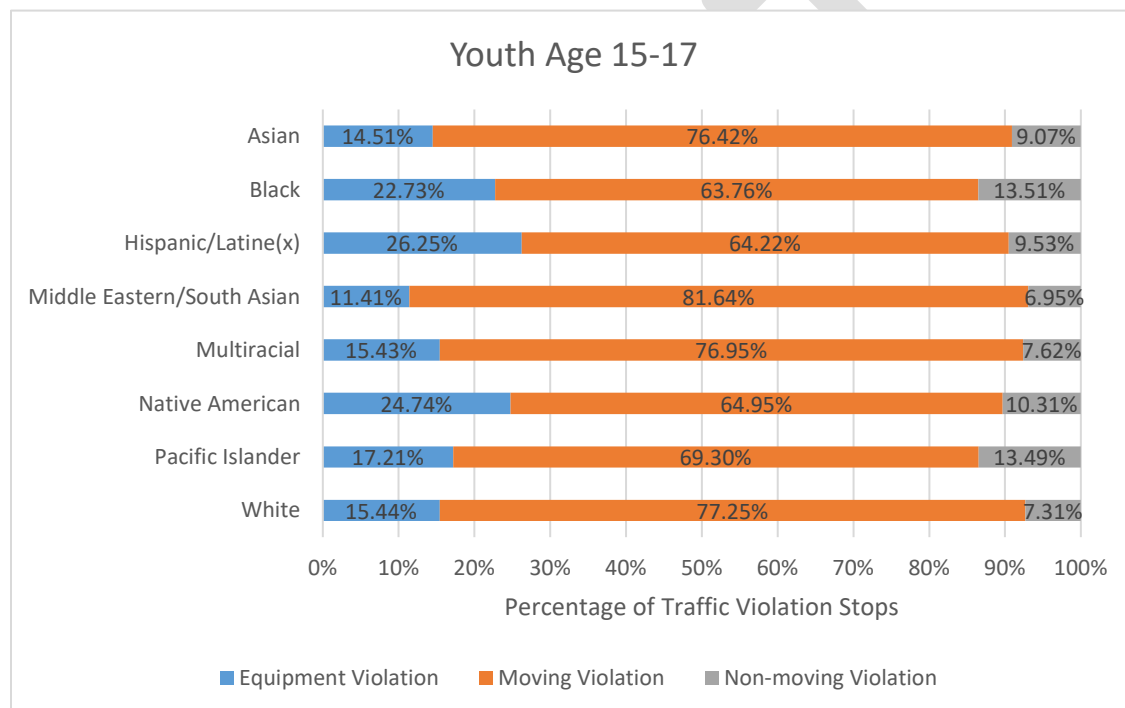
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violations (646 stops), while White youth had 15.4 percent of their traffic stops for equipment violations (2,728 stops).

Among traffic stops of youth perceived to be 15–17, both Black and Pacific Islander youth had 13.5 percent of their stops for non-moving violations (384 and 29 stops respectively), while White youth had 7.3 percent of their stops for non-moving violations (1,292 stops).

Figure X. Type of Traffic Violation as Reason for Stop by Race and Ethnicity, Youth (15-17)

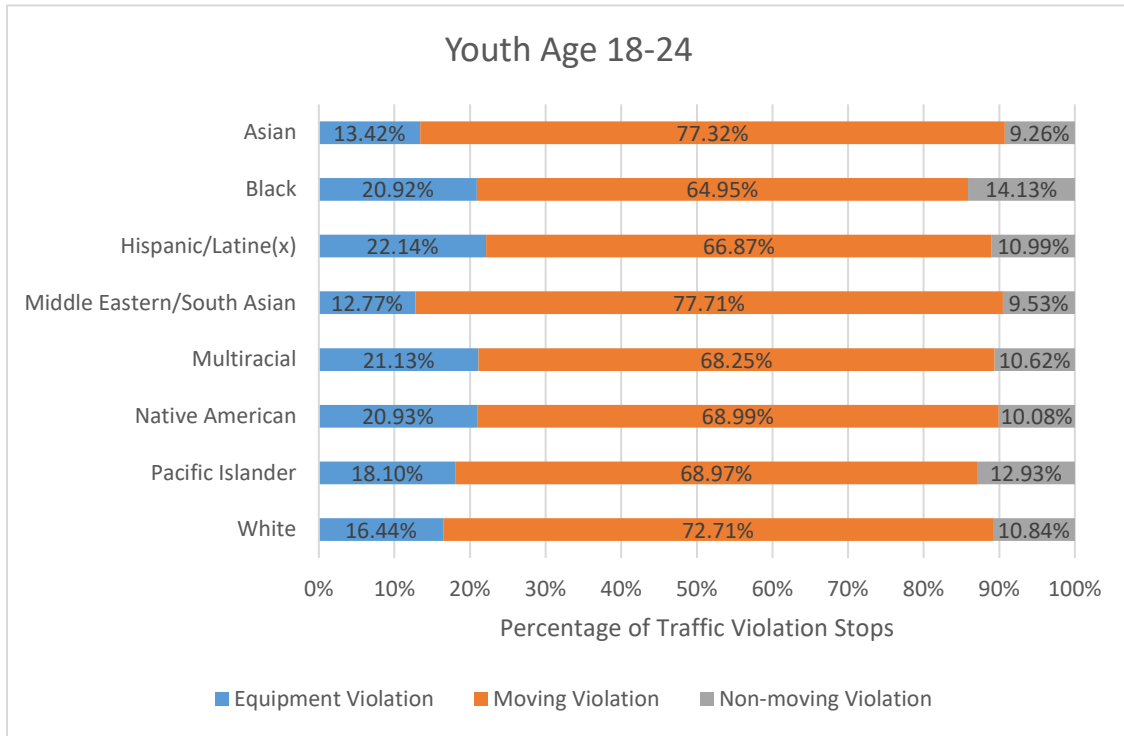


Among traffic stops of youth perceived to be 18–24, Multiracial youth had 21.1 percent of their stops for equipment violations (1,830 stops) and Native American youth had 20.9 percent of their stops for equipment violations (330 stops), while White youth had 16.4 percent of their stops for equipment violations (28,104 stops). In this age group, Black youth had 14.1 percent of their traffic stops for nonmoving violations (9,278 stops) and Pacific Islander youth had 12.9 percent of their stops for nonmoving violations (472 stops), while White youth had 10.8 percent of their stops for nonmoving violations (18,5286 stops).

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Figure X. Type of Traffic Violation as Reason for Stop by Race and Ethnicity, Youth (18-24)



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3. Calls for Service

Officers reported calls for service related to 51.5 percent of the stops of youth perceived to be 12–14 (5,481 stops), 22.0 percent of the stops of youth perceived to be 15–17 (15,384 stops), and 5.9 percent of the stops of youth perceived to be 18–24 (43,647 stops).

The stop data shows racial, gender, and disability disparities in the percentage of stops for which there was a related call for service.

Perceived Race and Ethnicity: Among youth perceived to be 12–14, officers reported that 66.0 percent of the stops of youth perceived to be Pacific Islander (35 stops) and 59.8 percent of stops of youth perceived to be Black (1,057 stops) had a related call for service, compared to 47.9 percent of the stops of youth perceived to be White (1,207 stops).

Among youth perceived to be 15–17, officers reported that 37.0 percent of the stops of youth perceived to be Black (2,872 stops) and 33.8 percent of stops of youth perceived to be Native American (67 stops) had a related call for service, compared to 15.1 percent of the stops of youth perceived to be White (3,503 stops).

Among youth perceived to be 18–24, officers reported that 10.2 percent of the stops of youth perceived to be Black (8,427 stops) and 9.4 percent of stops of youth perceived to be Native American (175 stops) had a related call for service, compared to 4.9 percent of the stops of youth perceived to be White (9,136 stops).

Perceived Gender: Among youth perceived to be 12–24, officers reported that 19.0 percent of youth perceived to be transgender or gender nonconforming (742 stops) had a related call for service, compared to 7.8 percent of the stops of youth perceived to be cisgender (63,770).

Perceived Disability: Among youth perceived to be 12–24, officers reported that 66.1 percent of youth perceived to have a disability had a related call for service (4,031 stops), compared to 7.5 percent of stops of youth perceived to not have a disability (60,481 stops).

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4. Actions Taken by Officers During Stops

The section below discusses actions taken by officers during stops, which can inform how bias may impact officers' actions during a stop and the need to address the detrimental effects of those actions on youth.

a) Use of Force ¹¹⁶ Actions Generally

The 2023 RIPA data shows racial and disability disparities in the use of force on youth. Compared to the other age categories, officers reported the use of force most frequently during stops of people aged 12–14 (29.0% of stops; 3,088 incidents where force was used), followed by people aged 15-17 (21.2% of stops; 14,808 incidents where force was used).

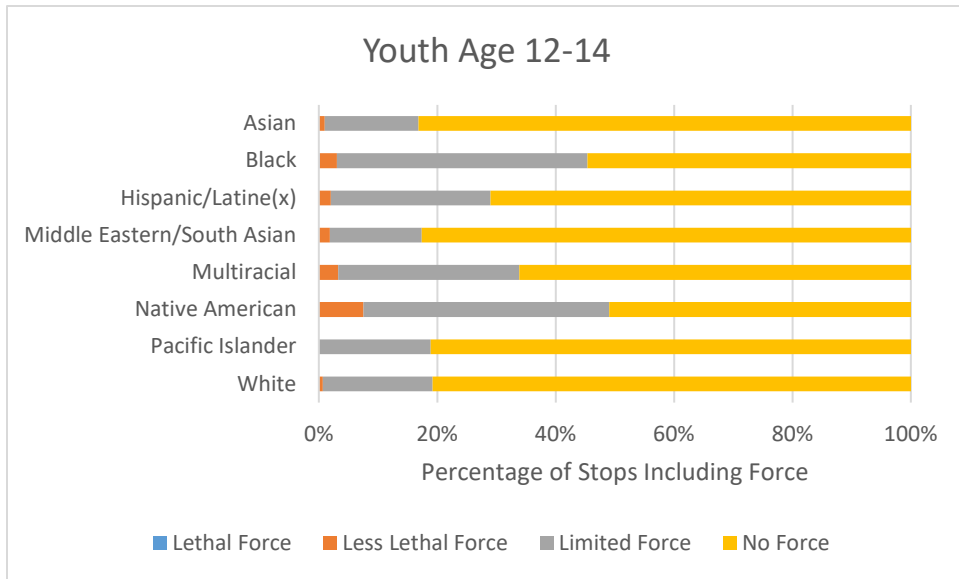
Perceived Race and Ethnicity: Among youth perceived to be 12–14, officers used force on 49.1 percent of the youth they stopped who they perceived to be Native American (26 youth) and 45.4 percent of the youth they stopped who they perceived to be Black (802 youth), including the use of lethal force on two youth. In contrast, officers used force on 19.2 percent of the youth they stopped who they perceived to be White (484 youth).

¹¹⁶ The stop data regulations define “use of force.” “As used in this section, “use of force” refers to an officer’s actions towards the person stopped, defined as: (1) the use of handcuffs or flex cuffs; (2) the use of physical compliance tactics and techniques, including the use of any part of the officer’s body to make contact with the stopped person to restrict movement or control a person’s resistance (e.g., physical strikes, hard hand controls, the forcible taking of a person to the ground, and hitting or kicking the person); (3) the use of a peace officer’s canine to gain compliance and/or to stop or apprehend a person; (4) the use of a peace officer’s canine to bite or hold a person; (5) pointing a firearm; (6) discharging a firearm; (7) unholstering a firearm; (8) pointing or sparking an electronic control device; (9) using an electronic control device in dart-mode; (10) using an electronic control device in drive-stun mode; (11) pointing an impact projectile weapon at person; (12) discharging or using an impact projectile (e.g., blunt impact projectile, rubber bullets or bean bags); (13) drawing a baton or other impact weapon; (14) using a baton or other impact weapon or other object (including a firearm) to strike or prod; (15) using a chemical spray (e.g., pepper spray, mace, or other chemical irritant); (16) removing a person from a vehicle by physical contact; and (17) using a vehicle to apprehend a stopped person. (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(17)(A) <[https://govt.westlaw.com/calregs/Document/I68D35CD01CA411EDB75D87F4AE3C972D?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/I68D35CD01CA411EDB75D87F4AE3C972D?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))> [as of September 23, 2024].)

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Figure X. Youth (12-14), Use of Force by Race and Ethnicity

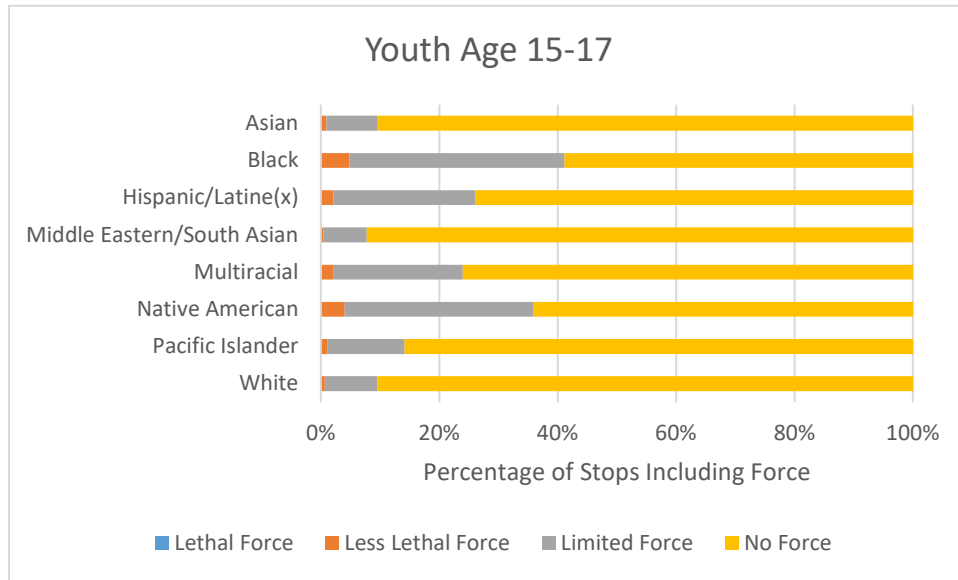


Among youth perceived to be 15–17, officers used force on 41.2 percent of the youth they stopped who they perceived to be Black (3,197 youth) and 35.9 percent of the youth they stopped who they perceived to be Native American (71 youth). In contrast, officers used force on 9.5 percent of the youth they stopped who they perceived to be White (2,207 youth).

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Figure X. Youth (15-17), Use of Force by Race and Ethnicity

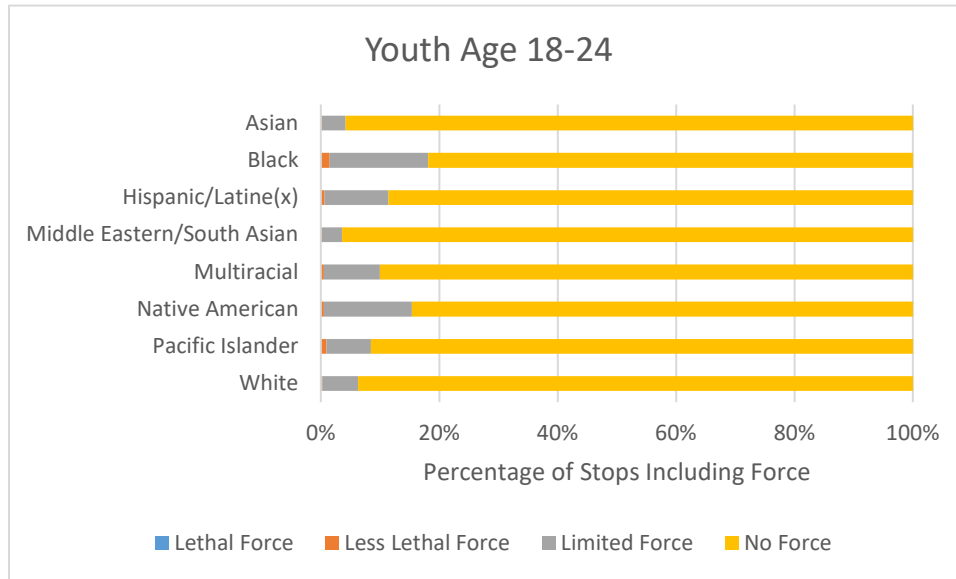


Among youth perceived to be 18-24, officers used force on 18.2 percent of the youth they stopped who they perceived to be Black (14,947 youth) and 15.4 percent of the youth they stopped who they perceived to be Native American (288 youth). Officers used force on 6.3 percent of the youth they stopped who they perceived to be White (11,863 youth).

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Figure X. Youth (18-24) Use of Force by Race and Ethnicity



Perceived Disability: There were disparities in the use of force on youth perceived to have a disability. Among youth perceived to be 12–24, officers used force on 48.4 percent of the youth they stopped who they perceived to have a disability (3,086 youths). They used force on 11.0 percent of the youth they stopped who they perceived not to have a disability (90,054 youths).

(1) Use of Force — Handcuffing

Compared to the other age categories, officers reported the use of handcuffs most frequently during stops of youth 12–14 (27.2% of stops; 2,895 youths handcuffed), followed by youth 15–17 (19.2% of stops; 13,441 youths handcuffed).

There were racial, disability, and gender disparities in the handcuffing of youth during stops.

Perceived Race and Ethnicity: Among youth perceived to be 12–14, officers handcuffed 49.1 percent of the youth they stopped who they perceived to be Native American (26 youths handcuffed) and 43.3 percent of the youth they stopped who they perceived to be Black (765

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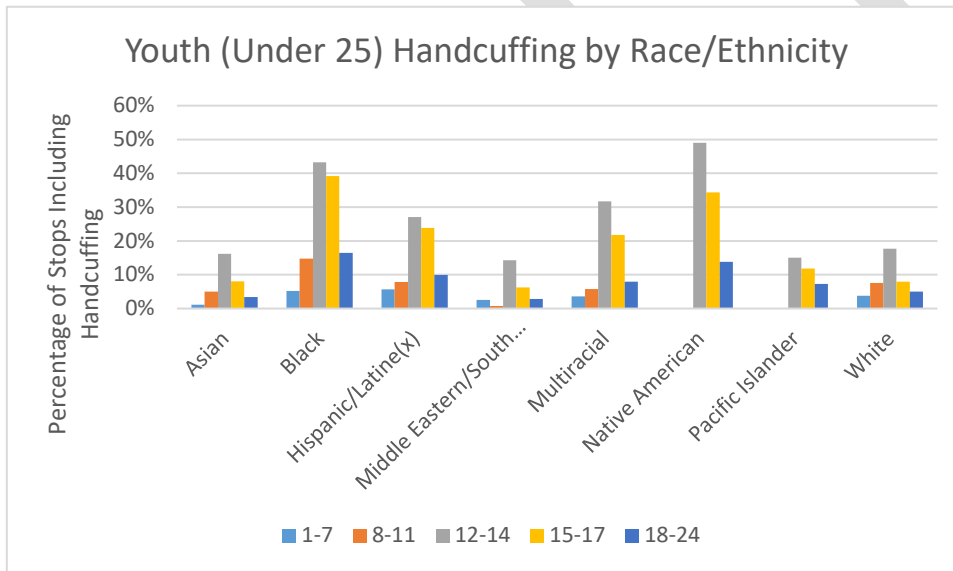
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youth handcuffed). Officers handcuffed 17.7 percent of the youth they stopped who they perceived to be White (447 youths handcuffed).

Among youth perceived to be 15–17, officers handcuffed 39.2 percent of the youth they stopped who they perceived to be Black (3,041 youth handcuffed) and 34.3 percent of the youth they stopped who they perceived to be Native American (68 youth handcuffed). Officers handcuffed 8.0 percent of the youth they stopped who they perceived to be White (1,845 youth handcuffed).

Among youth perceived to be 18–24, officers handcuffed 16.4 percent of the youth they stopped who they perceived to be Black (13,533 youth handcuffed) and 13.9 percent of the youth they stopped who they perceived to be Native American (259 youth handcuffed). Officers handcuffed 5.0 percent of the youth they stopped who they perceived to be White (9,479 youth handcuffed).

Figure X. Percentage of Stops Including Youth Handcuffing by Race and Ethnicity



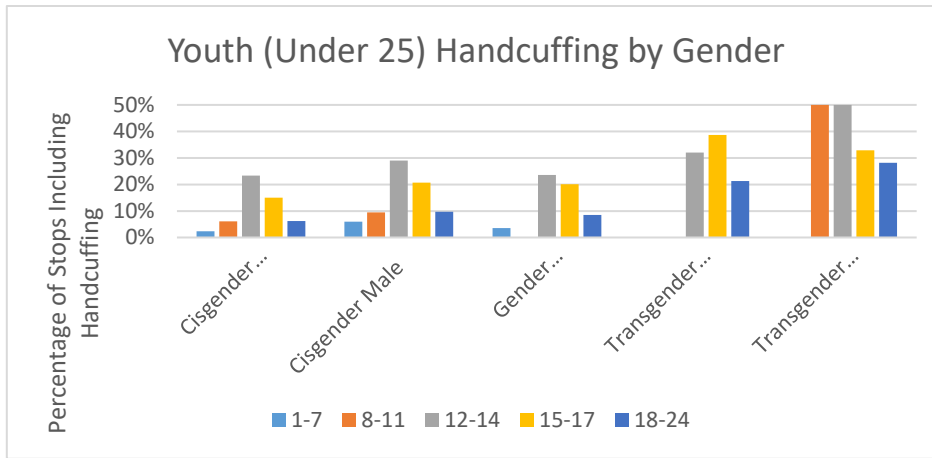
Perceived Disability: Among youth perceived to be 12–24, officers handcuffed 47.8 percent of the youth they stopped who they perceived to have a disability (2,912 youths handcuffed). They handcuffed 9.6 percent of youth they stopped who they perceived not to have a disability (77,822 youths handcuffed).

Perceived Gender: Among youth perceived to be 12–24, officers handcuffed 17.6 percent of the youth they stopped who they perceived to be transgender or gender nonconforming (687 youth handcuffed). They handcuffed 9.8 percent of youth they stopped who they perceived to be cisgender (80,047 youth handcuffed).

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Figure X. Percentage of Stops Including Youth Handcuffing by Gender



Analysis of the results of stops in which youth were handcuffed included in the Stop Data chapter of this Report, pgs XX-XX.

(2) Use of Force — Firearm Pointed

Compared to the other age categories, officers reported pointing a firearm at youth most frequently during stops of youth 12–14 (1.8% of stops; 195 encounters where firearms were pointed at youths), followed by youth 15–17 (1.8% of stops; 1,240 encounters where firearms were pointed at youths).

There were racial disparities in the pointing of firearms at youth during stops.

Perceived Race and Ethnicity: Among youth perceived to be 12–14, officers pointed firearms at 7.6 percent of youth they stopped who they perceived to be Native American (4 youths), and 2.9 percent of the youth perceived to be Black (52 youths). Officers pointed firearms at 0.6 percent of the children they stopped who they perceived to be White (15 youths).

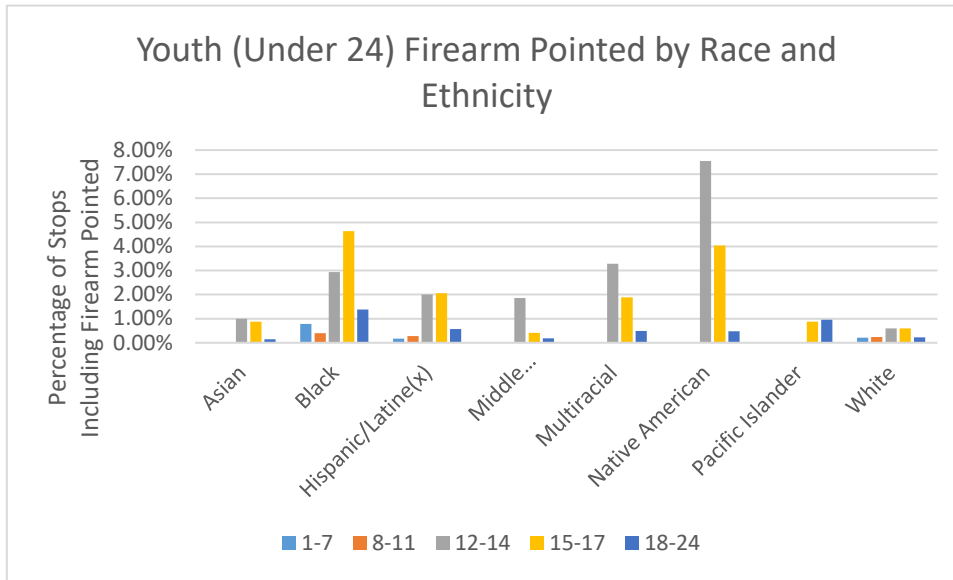
Among youth perceived to be 15–17, officers pointed firearms at 4.0 percent of the youth they stopped who they perceived to be Native American (8 youths) and 4.6 percent of the youth they stopped who they perceived to be Black (360 youths). Officers pointed firearms at 0.6 percent of the youth they stopped who they perceived to be White (140 youths).

Among youth perceived to be 18–24, officers pointed firearms at 1.4 percent of the youth they stopped who they perceived to be Black (1,133 youths) and 1.0 percent of the youth they stopped who they perceived to be Pacific Islander (39 youths). Officers pointed firearms at 0.2 percent of the youth they stopped who they perceived to be White (412 youths).

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Figure X. Percentage of Stops Including Firearm Pointed by Race and Ethnicity



(3) Use of Force — Chemical Spray Use

Among youth perceived as 18–24, officers used chemical spray against 22 youths perceived as Hispanic/Latine(x), 16 youths perceived as Black, and 5 youths perceived as White.

(4) Use of Force — Electronic Control Device Use

Among youth perceived as 18–24 officers used an electronic control device against 70 youths perceived as Hispanic/Latine(x), 32 youths perceived as Black, and 23 youths perceived as White.

b) Curbside or Patrol Car Detention

Compared to the other age categories, officers reported the highest percentage of curbside or patrol car detentions during stops of youth 12–14 (36.1% of stops; 3,844 youth detained curbside or in a patrol car), followed by stops of youth 15-17 (24.1% of stops; 16,863 youth detained curbside or in a patrol car).

(1) Curbside Detention

The stop data show racial disparities in the curbside detention of youth.

Perceived Race and Ethnicity: Among youth perceived to be 12–14, officers detained 28.3 percent of the youth they stopped who they perceived to be Native American (15 detained curbside) and 22.9 percent of the youth they stopped who they perceived to be

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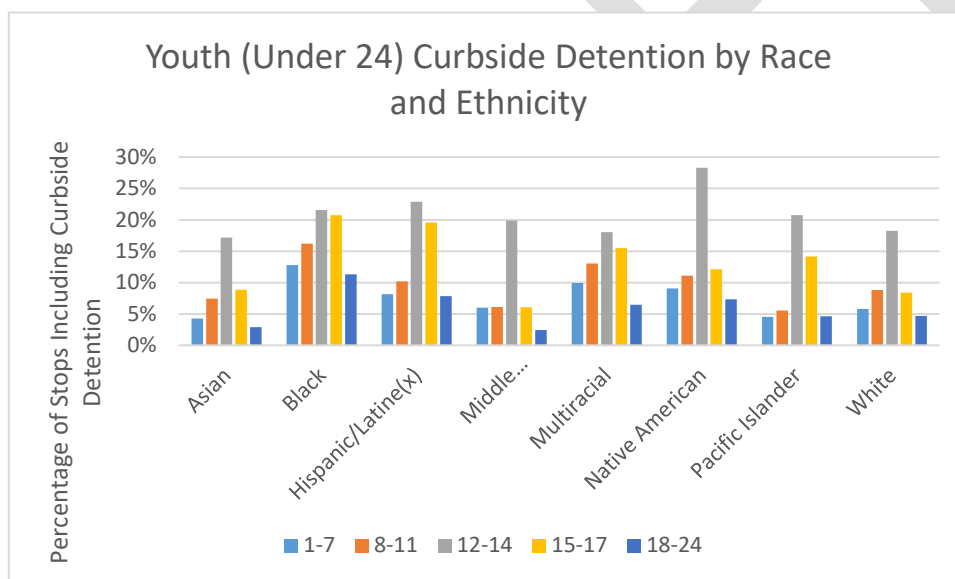
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Hispanic/Latine(x) on the curb (1,281 detained curbside). Officers detained 18.2 percent of the youth they stopped who they perceived to be White on the curb (460 detained curbside).

Among youth perceived to be 15–17, officers detained 20.7 percent of the youth they stopped who they perceived to be Black (1,611 youth detained curbside) and 19.6 percent of the youth they stopped who they perceived to be Hispanic/Latine(x) on the curb (6,481 youth detained curbside). Officers detained 8.4 percent of the youth they stopped who they perceived to be White on the curb (1,950 youth detained curbside).

Among youth perceived to be 18–24, officers detained 11.3 percent of the youth they stopped who they perceived to be Black (9,298 youth detained curbside) and 7.9 percent of the youth they stopped who they perceived to be Hispanic/Latine(x) on the curb (29,862 youth detained curbside). Officers detained 4.7 percent of the youth they stopped who they perceived to be White on the curb (8,775 youth detained curbside).

Figure X. Youth Curbside Detention by Race and Ethnicity



(2) Patrol Car Detention

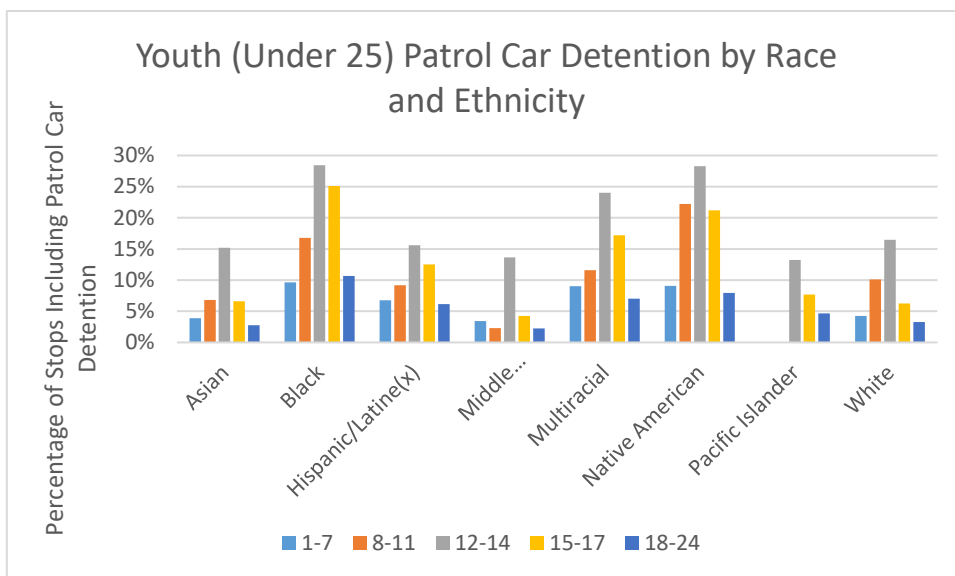
The stop data show racial and ethnic and disability disparities in the patrol car detention of youth.

Perceived Race and Ethnicity: Among youth perceived to be 12–24, officers detained 12.2% of the youth they stopped who they perceived as Black (11,224 youth) and 9.7 percent of the youth they stopped who they perceived as Native American in a patrol car (206 youth). Officers detained 3.8 percent of the youth they stopped who they perceived as White in a patrol car (8,042 youth).

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Figure X. Youth Patrol Car Detention by Race and Ethnicity



Perceived Disability: Among youth perceived as 12–24, officers detained 29.3 percent of the youth they stopped who they perceived to have a disability in a patrol car (1,784 youth). They detained 6.1 percent of youth they stopped who they perceived not to have a disability in a patrol car (49,249 youth).

c) Searches

The RIPA data reveals that search rates during stops varied among youth by age group.

Compared to the other age categories, officers reported the highest percentage of searches during stops of youth 12–14 (30.4% of stops; 3,236 searches), followed by stops of youth 15–17 (22.5% of stops; 15,705 searches).

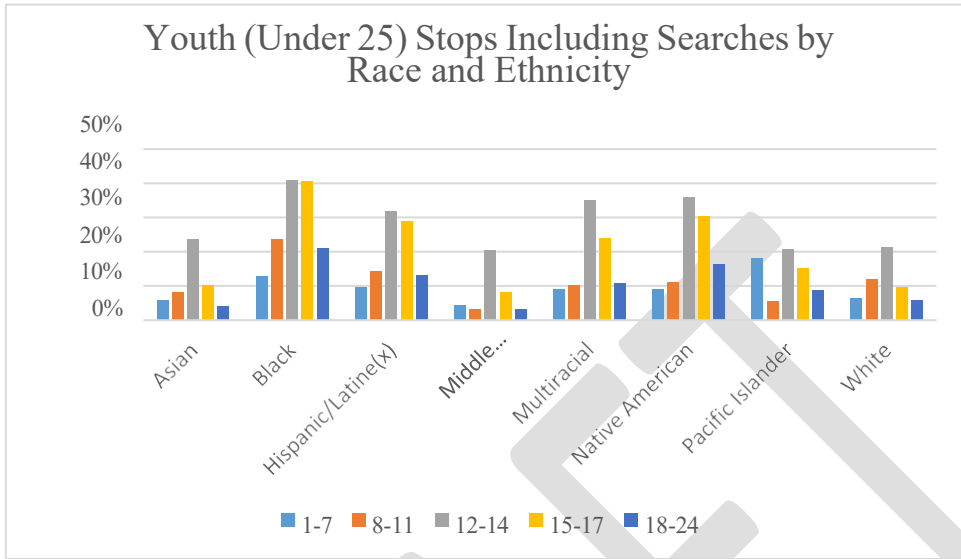
The stop data show racial and ethnic, disability, and gender disparities in searches of youth.

Perceived Race and Ethnicity: Among youth perceived to be 12–24, officers searched 23.1 percent of the youth they stopped who they perceived as Black (21,254 youth) and 18.1 percent of the youth they stopped who they perceived as Native American (383 youth). Officers searched 6.5 percent of the youth they stopped who they perceived as White (13,815 youth).

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Figure X. Youth Stops Including Searches by Race and Ethnicity



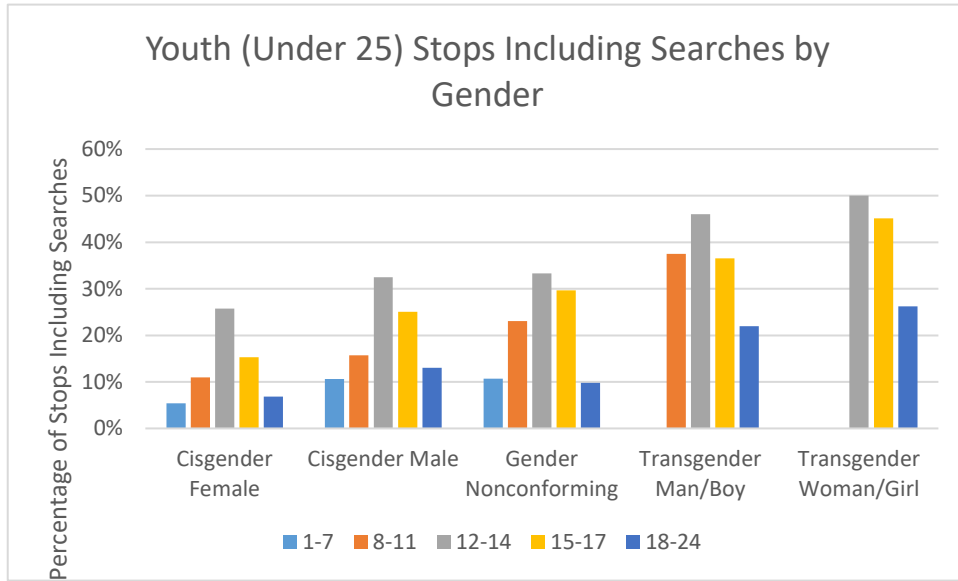
Perceived Disability: Among youth perceived as 12–24, officers searched 46.8 percent of the youth they stopped who they perceived to have a disability (2,854 youth). They searched 12.2 percent of the youth they stopped who they perceived not to have a disability (98,876 youth).

Perceived Gender: Among youth perceived to be 12–24, officers searched 19.0 percent of the youth they stopped who they perceived to be transgender or gender nonconforming (744 youth). They searched 12.4 percent of the youth they stopped who they perceived to be cisgender (100,986 youth).

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Figure X. Youth Stops Including Searches by Gender



(1) Consent Only Searches

The data show officers searched 283 youth 12–14 (2.66% of stops) based on consent. Officers searched 1,715 youth 15–17 (2.45% of stops) and 11,120 youth 18–24 (1.51% of stops) based solely on consent.

The stop data shows racial and ethnic, disability, and English fluency disparities in the searches of youth based solely on consent.

Perceived Race and Ethnicity: Among youth perceived to be 12–14, officers searched 3.1 percent of the youth they stopped who they perceived as Middle Eastern/South Asian (5 youth) and 3.0 percent of the youth they stopped who they perceived as Hispanic/Latine(x) (170 youths) based solely on consent. Officers searched 2.3 percent of the youth they stopped who they perceived as White (57 youths) based solely on consent.

Among youth perceived to be 15–17, officers searched 3.4 percent of the youth they stopped who they perceived as Hispanic/Latine(x) (1,133 youths) and 3.2 percent of the youth they stopped who they perceived as Pacific Islander (11 youths) based solely on the consent. Officers searched 1.2 percent of the youth they stopped who they perceived as White (284 youths) based solely on consent.

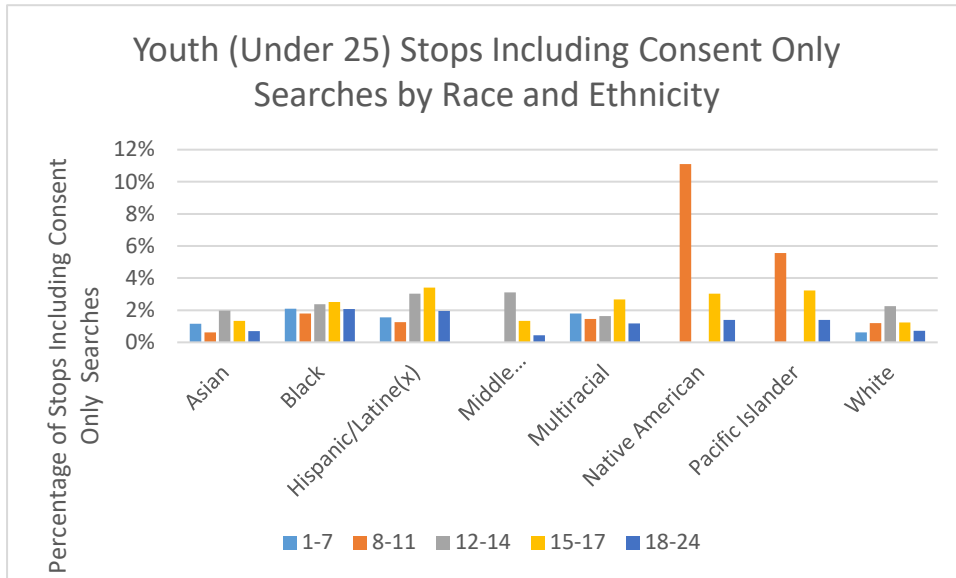
Among youth perceived to be 18–24, officers searched 2.1 percent of the youth they stopped who they perceived as Black (1,710 youths) and 2.0 percent of the youth they stopped who they

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perceived as Hispanic/Latine(x) (7,472 youths) based solely on consent. Officers searched 0.7 percent of the youth they stopped who they perceived as White (1,356 youths) based solely on consent.

Figure X. Percentage of Youth Stops with Consent Only Searches by Perceived Race and Ethnicity



Perceived Disability: Among youth perceived as 12–24, officers searched 4.6 percent of the youth they stopped who they perceived to have a disability (278 youths) based solely on consent. They searched 1.6 percent of the youth they stopped who they perceived not to have a disability (12,862 youths) based solely on consent.

Perceived English Fluency: Among youth perceived as 12–24, officers searched 2.5 percent of the youth they stopped who they perceived to have limited or no English fluency (755 youths) based solely on consent. They searched 1.6 percent of the youth they stopped who they perceived to be fluent in English (12,385 youths) based solely on consent.

(2) Supervision Searches

Officers searched 717 youth 1–17 and 6,186 youth 18–24 based solely on supervision. The stop data shows racial and ethnic disparities in the searches of youth based solely on supervision.

Among youth perceived to be 1–17, officers conducted supervision searches in 1.2 percent of the stops of youth they perceived as Hispanic/Latine(x) (512 youths searched based on supervision) and 1.1 percent of the stops of youth they perceived as Black (116 youths searched based on supervision). Officers conducted supervision searches in 0.2 percent of the stops of youth they perceived as White (58 youths searched based on supervision).

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Among youth perceived to be 18–24, officers conducted supervision searches in 2.1 percent of the stops of youth they perceived as Black (1,699 youths searched based on supervision) and 1.3 percent of the stops of youth they perceived as Native American (25 youths searched based on supervision). Officers conducted supervision searches in 0.4 percent of the stops of youth they perceived as White (794 youths searched based on supervision).

(3) Canine Searches

The stop data shows disparities in the use of canines to search youth across perceived racial and ethnic identities and perceived English fluency.

Perceived Race and Ethnicity: Officers used canines to search four youths they stopped who they perceived as Black and age 12–14 (0.23% of stops). They used canines to search seven youth officers perceived as Hispanic/Latine(x) and 12-14 (0.12% of stops) and one youth they perceived as White and age 12–14 (0.04% of stops).

Officers used canines to search 32 youths they stopped who they perceived as Black and 15–17 (0.41% of stops). They used canines to search 55 youth officers perceived as Hispanic/Latine(x) and 15–17 (0.17% of stops) and nine youths they perceived as White and age 15–17 (0.04% of stops).

Officers used canines to search 16 youth they stopped who they perceived as Multiracial and 18–24 (0.16% of stops). They used canines to search three youths they stopped who they perceived as Native American and 18–24 (0.16% of stops) and 63 youth they stopped and perceived as White and 18–24 (0.03% of stops).

Perceived English Fluency: Officers used canines to search 74 youth who they perceived to have limited English fluency and between ages 12–24 (0.24% of stops). They used canines to search 552 youth officers perceived to be fluent in English and between ages 12–24 (0.07% of stops).

d) Photographing of Youth

The RIPA stop data shows racial disparities in officers photographing youth during stops. Officers photographed eight youths they stopped who they perceived as Multiracial and between 12–14 (4.4% of stops). They photographed 232 youths who they perceived as Hispanic/Latine(x) and 12–14 (4.1% of stops), 73 youths they perceived as Black and 12–14 (4.1% of stops), and 65 youths they perceived as White and 12–14 (2.6% of stops).

Officers photographed 18 youths they stopped who they perceived as Pacific Islander and 15–17 (5.3% of stops). They photographed 10 youths they stopped who they perceived as Native American and 15–17 (5.1% of stops), 306 youths they stopped who they perceived as Black and

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15–17 (3.9% of stops), and 249 youths they stopped and perceived as White and 15–17 (1.1% of stops).

Officers photographed 131 youths they stopped who they perceived as Multiracial and 18–24 (1.3% of stops). They photographed 43 youth they stopped who they perceived as Pacific Islander and between 18–24 (1.1% of stops), 847 youths they stopped who they perceived as Black and between 18–24 (1.0% of stops), and 976 youths they stopped and perceived as White and 18–24 (0.5% of stops).

5. Results of Stops

When completing the “result of stop” field, officers must report the outcome of the stop. The stop data regulations define the outcome options officers can select at the conclusion of a stop. The options for reportable outcomes include No Action, Verbal Warning, Written Warning, Citation for Infraction, In-field Cite and Release, Custodial Arrest pursuant to Outstanding Warrant, Custodial Arrest without Warrant, Field Interview Card Completed, Noncriminal Transport or Caretaking Transport, Contacted Parent/Legal Guardian or Other Person Legally Responsible for the Person, Psychiatric Hold, Contacted U.S. Department of Homeland Security, Referral to School Administrator, Referral to School Counselor or Other Support Staff. Officers select multiple results of stop where necessary (e.g., an officer cited an individual for one offense and warned them about another). This information helps to illuminate how bias could impact an officer’s decisions during a stop, and how those decisions can impact racial and ethnic groups more often when compared to White youth.

a) No Reportable Action Taken Data and Warning Only Results of Stops

The percentage of stops that result in no reportable action taken is higher among younger age groups (12–14, 15–17) and lower among transitional age youth and adults (perceived 18–24 and 25+). Officers reported that 12.2 percent of the stops of youth perceived as 12–14 resulted in no action (1,298 stops resulting in no action), 10.3 percent of stops of youth perceived as 15–17 resulted in no action (7,198 stops resulting in no action), and 6.7 percent of stops of youth perceived as 18–24 resulted in no action (49,450 stops resulting in no action).

The stop data show racial and ethnic disparities in stops that resulted in the officer not taking any of the reportable actions (for example, Citation for Infraction, In-field Cite and Release, Custodial Arrest without Warrant, and other reportable actions listed above).

Among youth perceived to be 12–14, officers reported taking no action as the result of 13.2 percent of the stops of youth who they perceived as Pacific Islander (7 youths) and 12.7 percent of the stops of youth who they perceived as Hispanic/Latine(x) (710 youths). Officers reported taking no action as the result of 11.4 percent of the stops of youth they perceived as White (288 youths).

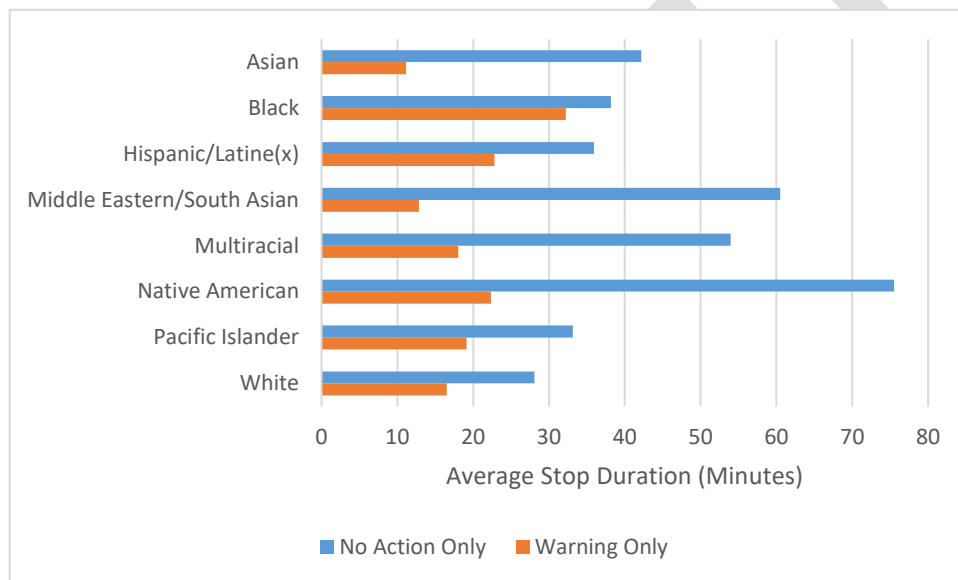
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Among the stops of youth perceived to be 12–14 that resulted in no reportable action, on average, the stops of youth officers perceived as Native American lasted one hour and sixteen minutes, the stops of youth officers perceived as Middle Eastern/South Asian lasted 61 minutes, and the stops of youth officers perceived as White lasted 28 minutes.

Among the stops of youth perceived to be 12–14 that resulted in a warning only, on average, the stops of youth officers perceived as Black lasted 32 minutes, the stops of youth officers perceived as Hispanic/Latine(x) lasted 23 minutes, and the stops of youth officers perceived as White lasted 17 minutes.

Figure X. Average Stop Duration, Stops in which Officers Reported Taking No Action and Stops that Resulted in a Warning Only, Age 12-14



Among youth perceived to be 15–17, officers reported taking no action as the result of stop for 13.0 percent of the stops of youth who they perceived as Black (1,012 youths) and 11.7 percent of the stops of youth who they perceived as Hispanic/Latine(x) (3,891 youth). Officers reported taking no action as the result of 8.0 percent of the stops of youth they perceived as White (1,842 youths).

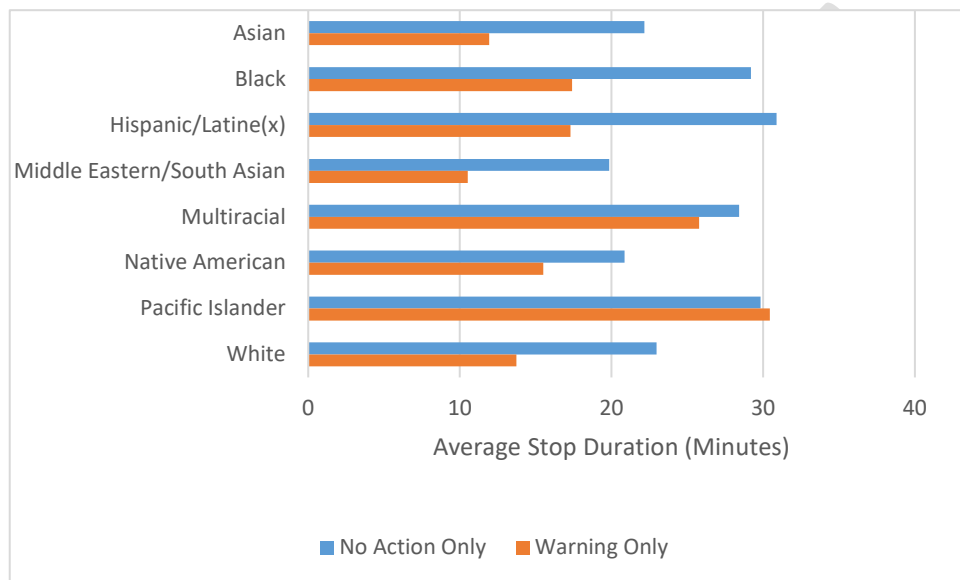
Among the stops of youth perceived to be 15–17 that resulted in no reportable action, on average, the stops of youth officers perceived as Hispanic/Latine(x) lasted 31 minutes, the stops of youth officers perceived as Pacific Islander lasted 30 minutes, and the stops of youth officers perceived as White lasted 23 minutes.

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Among the stops of youth perceived to be 15–17 that resulted in a warning only, on average, the stops of youth officers perceived as Pacific Islander lasted 30 minutes, the stops of youth officers perceived as Multiracial lasted 26 minutes, and the stops of youth officers perceived as White lasted 14 minutes.

Figure X. Average Stop Duration, Stops in which Officers Reported Taking No Action and Stops that Resulted in a Warning Only, Age 15-17



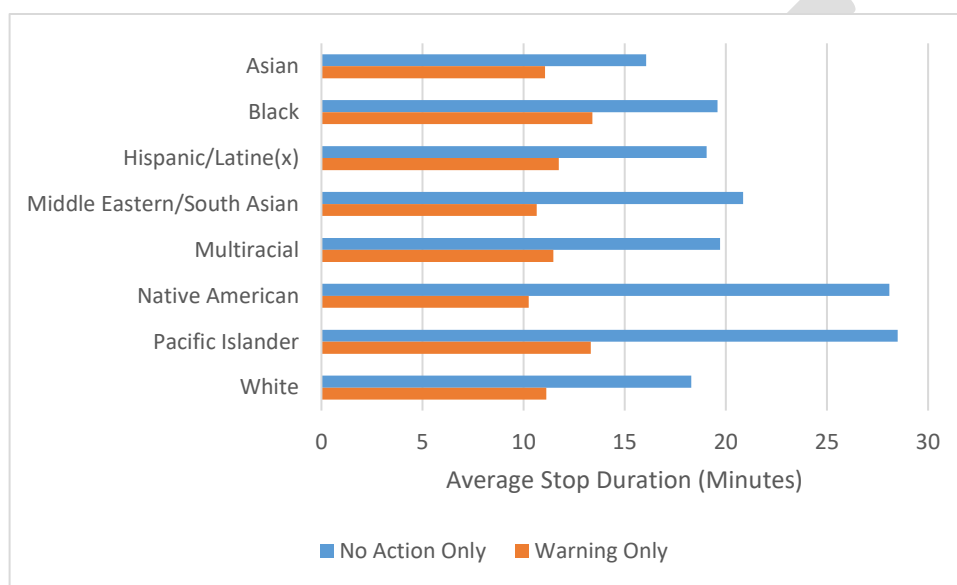
Among youth perceived to be 18–24, officers reported taking no action as the result of 9.6 percent of the stops of youth who they perceived as Black (7,870 youths) and 7.8 percent of the stops of youth who they perceived as Native American (146 youths). Officers reported taking no action as the result of 5.8 percent of the stops of youth they perceived as White (10,861 youths). Among the stops of youth perceived to be 18–24 that resulted in no reportable action, on average, the stops of youth officers perceived as Pacific Islander lasted 29 minutes, the stops of youth officers perceived as Native American lasted 28 minutes, and the stops of youth officers perceived as White lasted 18 minutes.

Among the stops of youth perceived to be 18–24 that resulted in a warning only, on average, the stops of youth officers perceived as Black or Pacific Islander lasted 13 minutes and the stops of youth officers perceived as White lasted 11 minutes.

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Figure X. Average Stop Duration, Stops in which Officers Reported Taking No Action and Stops that Resulted in a Warning Only, Age 18-24



As the Board has discussed in prior reports, disparities in stops that result in officers taking no reportable action should be carefully evaluated to determine whether the stop was sufficiently supported by reasonable suspicion. Additionally, the racial and ethnic disparities in the duration of stops that resulted solely in the officer giving the youth a warning are concerning as these longer detentions have a disproportional impact on racialized youth.

b) Field Interview Cards (Associating with Other Youth)

(1) Gang Profiling

Gang profiling is the practice through which law enforcement agencies document individuals as an alleged member, associate, or affiliate of a gang and place their identities in gang databases.¹¹⁷ Research discussed in this section reveals that gang profiling may be used as a

¹¹⁷ Catalyst California. (Apr. 2024). *New Report from Pillars of the Community and Catalyst California Exposes the San Diego Police Department's Racist Gang Profiling*. <<https://www.catalystcalifornia.org/campaign-tools/maps-and-data/end-gang-profiling-in-southeast-san-diego-data-and-stories-from-community-members>> [as of July 26, 2024].

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proxy for racial profiling. Officers use field interview cards when interrogating and designating people as alleged gang members.¹¹⁸ Officers use fact based and uncorroborated information when designating people as gang members or associates in databases.¹¹⁹

CalGang is a shared gang database, meaning it is accessed by law enforcement agencies outside of the agency that created the records it includes.¹²⁰ Several regulations establish the criteria for designating an organization as a criminal street gang, designating a person as a gang member or associate, the policies and procedures for providing notice to a person whose information is in the database, responding to information requests and removal requests, for sharing information from a shared database, and the retention period for maintaining information about individuals in a shared database.¹²¹

Youth as young as 13 are entered into the CalGang system.¹²² On September 30, 2023, the CalGang database included information about 19,146 people and, of those, 172 were youth 13–17.¹²³ California law requires law enforcement agencies to provide written notice to individuals prior to designating them as a suspected gang member, associate, or affiliate in a shared gang database.¹²⁴ The notice must include the basis for the designation.¹²⁵ If the person is younger than 18, the law enforcement agency must provide the notice to them and their guardian.¹²⁶ These notices must also describe the process for the person who has been designated as a gang

¹¹⁸ Catalyst California. (Apr. 2024). *New Report from Pillars of the Community and Catalyst California Exposes the San Diego Police Department’s Racist Gang Profiling*. <<https://www.catalystcalifornia.org/blog/new-report-from-pillars-of-the-community-and-catalyst-california-exposes-the-san-diego-police-departments-racist-gang-profiling>> [as of July 26, 2024].

¹¹⁹ Cal. Pen. Code 186.34 (a)(2). In 1987, the Los Angeles County Sheriff’s Department developed the first gang database in the U.S. (REALSearch Action Research Center. (2012). *Tracked and Trapped: Youth of color, gang databases and gang injunctions*. Youth Justice Coalition. p. 1. <<https://www.youth4justice.org/wp-content/uploads/2012/12/TrackedandTrapped.pdf>>; Catalyst California. (Apr. 2024). *New Report from Pillars of the Community and Catalyst California Exposes the San Diego Police Department’s Racist Gang Profiling*. <<https://www.catalystcalifornia.org/blog/new-report-from-pillars-of-the-community-and-catalyst-california-exposes-the-san-diego-police-departments-racist-gang-profiling>> [as of July 30, 2024].)

¹²⁰ Pen. Code, § 186.34, subd. (a)(4).

¹²¹ Pen. Code, § 186.36, subds. (1)(2)-(7).

¹²² Racial and Identity Profiling Advisory Board (2023). *Annual Report*. pp. 121, 123 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Mar. 19, 2024].

¹²³ California Department of Justice. (2023). *Attorney General’s Annual Report on CalGang*. p. 1 <<https://oag.ca.gov/system/files/media/ag-annual-report-calgang-2023.pdf>> [as of August 1, 2024]; California Department of Justice. (2023). *AG Annual Report on CalGang 2023: 2023 dataset*. <<https://www.oag.ca.gov/system/files/media/calgang-ag-dataset-2023.xlsx>> [as of August 1, 2024].

¹²⁴ Pen. Code, § 186.34, subd. (c)(1).

¹²⁵ Pen. Code, § 186.34, subd. (c)(1).

¹²⁶ Pen. Code, § 186.34, subd. (c)(1). The law allows for an exemption of the notice requirement when providing the notice would “compromise an active criminal investigation or compromise the health or safety of the minor” who has been designated as a gang member, associate, or affiliate.

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member, their guardian, if they are under 18, or their attorney to contest their designation in the gang database.¹²⁷

Additionally, individuals can make a written request to any law enforcement agency in California about whether they have been designated as a suspected gang member, associate, or affiliate in any shared database to which the agency has access and, if so, what law enforcement agency made that designation.¹²⁸ A person who has been designated as a suspected gang member, associate, or affiliate can request information from the law enforcement agency that made the designation about the basis for the designation.¹²⁹ This information may help a person who has been designated as a gang member, associate, or affiliate to contest that designation.¹³⁰ Law enforcement agencies must provide a written response to these requests within 30 days.¹³¹

If a person submits written documentation to a local law enforcement agency contesting their designation as a gang member, associate, or affiliate, the agency must provide a written response within 30 days either affirming that they have removed the person from the database or stating the agency's reason for denying the request.¹³² The Cal DOJ's 2023 Annual Report on CalGang reported that law enforcement agencies added 1,956 people to the CalGang database between October 1, 2022, and September 30, 2023, and at the end of that period, 19,146 individuals were included in CalGang. Yet law enforcement agencies reported receiving only 15 requests for removal from the database between October 1, 2022, and September 30, 2023,¹³³ granting only four of the 15 requests for removal.¹³⁴

If the law enforcement agency denies the request contesting a person's designation in CalGang or fails to respond by the deadline, the person requesting removal from the database can ask the court to review the documentation they provided to the agency and the agency's decision and order the agency to remove the person from the database.¹³⁵ Law enforcement agencies reported that zero petitions contesting a person's designation in CalGang were adjudicated between October 1, 2022, and September 30, 2023.¹³⁶ The data for petitions and removals included in the CalGang Annual Report demonstrate how infrequently a person's information will be removed,

¹²⁷ Pen. Code, § 186.34, subd. (c)(2).

¹²⁸ Pen. Code, § 186.34, subd. (d)(1).

¹²⁹ Pen. Code, § 186.34, subd. (d)(1)(B).

¹³⁰ Pen. Code, § 186.34, subd. (e).

¹³¹ Pen. Code, § 186.34, subd. (d)(3).

¹³² Pen. Code, § 186.34, subd. (e).

¹³³ California Department of Justice. (2023). *AG Annual Report on CalGang 2023: 2023 dataset*. p. 4 <<https://www.oag.ca.gov/system/files/media/calgang-ag-dataset-2023.xlsx>> [as of September 26, 2024].

¹³⁴ California Department of Justice. (2023). *AG Annual Report on CalGang 2023: 2023 dataset*. p. 4 <<https://www.oag.ca.gov/system/files/media/calgang-ag-dataset-2023.xlsx>> [as of September 26, 2024].

¹³⁵ Pen. Code, §§ 186.34, subd. (e), 186.35, subd. (c). There are deadlines and rules for making this request to the court. Pen. Code, § 186.35, subd. (b).

¹³⁶ California Department of Justice. (2023). *AG Annual Report on CalGang 2023: 2023 dataset*. p. 4 <<https://www.oag.ca.gov/system/files/media/calgang-ag-dataset-2023.xlsx>> [as of September 26, 2024].

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based on their petition, once a law enforcement officer adds that information to a gang database.¹³⁷

(2) Demographics of Individuals Entered in CalGang

Law Enforcement Agency ¹³⁸	Number of Youth 13-17 Designated in CalGang Database
Los Angeles County Sheriff's Department	37
Riverside Police Department	24
San Diego Police Department	20
Riverside County District Attorney's Office	19
Escondido Police Department	17
Santa Ana Police Department	11
Riverside County Sheriff's Department	10
San Bernardino County Sheriff's Department	7
San Luis Obispo County Sheriff's Department	5
Fontana Police Department	4
South Gate Police Department	3
Huntington Park Police Department	2
Inglewood Police Department	2
National City Police Department	2
Riverside County Probation Department	2
Burbank Police Department	1
Chula Vista Police Department	1
Gardena Police Department	1
Hawthorne Police Department	1
Orange County Sheriff's Department	1
Orange Police Department	1
Placentia Police Department	1

There are also stark racial disparities in the law enforcement agencies' designations of people as suspected gang members, associates, or affiliates in CalGang.

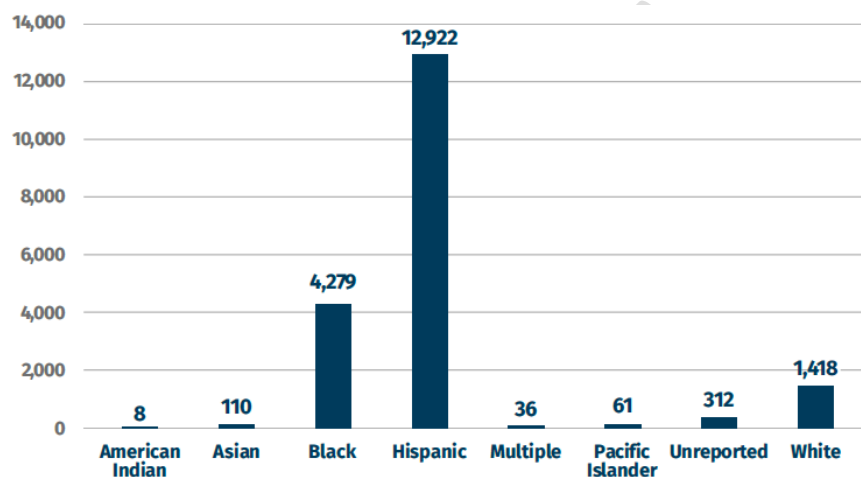
¹³⁷ California Department of Justice. (2023). *AG Annual Report on CalGang 2023: 2023 dataset*. <<https://www.oag.ca.gov/system/files/media/calgang-ag-dataset-2023.xlsx>> [as of September 26, 2024].

¹³⁸ California Department of Justice. (2023). *AG Annual Report on CalGang 2023: 2023 dataset*. <<https://www.oag.ca.gov/system/files/media/calgang-ag-dataset-2023.xlsx>> [as of August 1, 2024].

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Racial/Ethnic Distribution of People Designated in CalGang



(3) Field Interview Cards

Field interview cards are one of the source documents for the information law enforcement agencies enter into the statewide CalGang database.¹³⁹

In many law enforcement agencies in California, a field interview card is one of the documents officers complete to record and “track[] contacts made during stops and investigations, as well as arrests. . . . [A field interview card] is generally [but not always] entered into a searchable database.”¹⁴⁰ A review of the policies of the Wave 1 and Wave 2 agencies show that there are no policies prohibiting the use of field interview cards for youth or prohibiting their entry into the CalGang database. Just one agency, the San Diego Police Department, has a policy regarding the use of field interview cards in youth interactions, but this policy is administrative only.¹⁴¹

¹³⁹ California Department of Justice. (2023). *Attorney General’s Annual Report on CalGang*. p. 1 <<https://oag.ca.gov/system/files/media/ag-annual-report-calgang-2023.pdf>> [as of July 30, 2024].

¹⁴⁰ Off. of the Inspector General, *Review of Stops Conducted by the Los Angeles Police Department in 2019* (“OIG Review of LAPD Stops”) (Oct. 2020) p. 39 <https://www.oig.lacity.org/files/ugd/b2dd23_d3e88738022547acb55f3ad9dd7a1dcb.pdf> [as of Sep. 25, 2024].

¹⁴¹ San Diego Police Department Procedure 6.03—Field Interview Report [“Officers are to forward the gold copy or a photocopy of any Field Interview conducted on individuals found or contacted on school campuses to School Police at MS 726A. Distribute the original and yellow copy as outlined above in this procedure. If the youth/juvenile is involved in high-risk behavior (refer to DP 3.08, Juvenile Procedures, for criteria), a copy of the Field Interview Report needs to be sent to the Juvenile Services Team Sergeant in the command where the juvenile was contacted”].

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These databases record information about the interaction, such as who the person is with, if they have any monikers or nicknames, and any alleged criminal affiliations.¹⁴²

Some agencies, like LAPD, use field interview cards to collect information about a person's social media accounts.¹⁴³ In a study of the Gang Suppression Team in a predominantly Hispanic/Latine(x) community in a mid-size California city, researchers observed that officers regularly tracked social media accounts using information they obtained from field interview cards.¹⁴⁴

They asked questions like, “What’s your Twitter handle?” or “What’s your Facebook ID? You don’t have anything to hide, do you?” Their justification was typically, “I want to see what you are up to.” Civilians appeared obligated to provide officers with their social media information to demonstrate innocence. These social media accounts were later scanned by officers, during down time or criminal investigations ... Information from these accounts was regularly collected to use as evidence in potential criminal cases.¹⁴⁵

The study also found that police officers often assumed individuals who identified as Hispanic/Latine(x) were members of a gang, simply because of their racial and ethnic background.¹⁴⁶ Indeed, researchers found that the agency’s policies “conflated ‘criminal gang member’ with ‘Latino,’ further stigmatizing an already racially criminalized population.”¹⁴⁷ The practice entailed physical surveillance, typically in the form of stop-and-frisk, and social media surveillance of suspected Hispanic/Latine(x) gang members or those associated with them. Through these surveillance practices, officers took photographs with geographic tags and created digital profiles of individuals stopped or surveilled. Officers scanned social media accounts “to track gang-associated Latinos activities, routines, conflicts, and whereabouts.”¹⁴⁸

Officers then uploaded information obtained through surveillance into CalGang. Researchers found that, by entering data points that were strongly associated with Hispanic/Latinas as an ethnic or racial group into a computer system database, and by engaging in proactive policing, the officers engendered “feelings of indignity and violation” by those they encountered, who

¹⁴² *The CalGang Criminal Intelligence System* (Aug. 2016) Cal. State Auditor Report 2021-130, at p. 11 <<https://www.auditor.ca.gov/pdfs/reports/2015-130.pdf>> [as of Nov. 29, 2022].

¹⁴³ *LAPD Field Interview (FI) Cards NR21240jl* (“*Field Interview Cards*”) (Sep. 2021) <<https://www.lapdonline.org/newsroom/lapd-field-interview-fi-cards-nr21240jl/>> [as of XX, 2024]

¹⁴⁴ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy policing and Latino stop-and-frisk*. *American Sociological Review*. pp. 59, 64, 69.

¹⁴⁵ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy policing and Latino stop-and-frisk*. *American Sociological Review*. p. 69.

¹⁴⁶ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy policing and Latino stop-and-frisk*. *American Sociological Review*. p. 69.

¹⁴⁷ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy policing and Latino stop-and-frisk*. *American Sociological Review*. p. 68.

¹⁴⁸ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy policing and Latino stop-and-frisk*. *American Sociological Review*. p. 68.

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expressed how they felt officers were using these tactics “as a means of tracking them.”¹⁴⁹ These tactics subject suspected gang-associated Hispanic/Latines to what the researchers described as “racialized vulnerability to police scrutiny,” which equates to racial profiling. Researchers found that individuals subject to such policies harbored “feelings of indignity and violation,” and expressed how they felt officers were using these tactics “as a means of tracking them.”¹⁵⁰ Conversely, officers described such tactics as “techniques for making suspects behave,” reinforcing the notion that these policies were being used to stigmatize and control marginalized communities under the guise of normal police interaction.¹⁵¹

The RIPA stop data also show racial and ethnic, disability, and gender disparities in the use of field interview cards. Officers reported completing 23,296 field interview cards during stops of youth aged 1–24. Officers likely completed additional field interview cards during interactions with youth that did not meet the definition of “stop” as defined in the stop data reporting regulations. Field interview cards completed during those interactions are not captured in the stop data, however.

Compared to other age categories, officers completed field interview cards during a higher percentage of stops of youth perceived to be 12–14 (11.1 percent of stops).

Perceived Race and Ethnicity: Among youth perceived to be 12–24, officers reported completing a field interview card as the result of 8.0 percent of the stops of youth who they perceived as Black (7,358 youths) and 4.2 percent of the stops of youth who they perceived as Hispanic/Latine(x) (17,489 youths). Officers reported completing a field interview card as the result of 1.5 percent of the stops of youth they perceived as White (3,178 youths).

¹⁴⁹ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy policing and Latino stop-and-frisk*. American Sociological Review. p. 69.

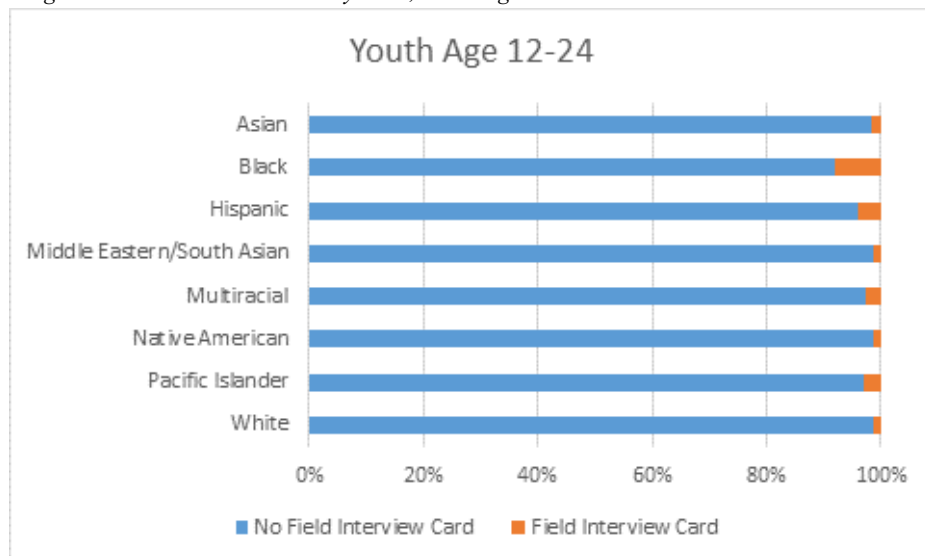
¹⁵⁰ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy policing and Latino stop-and-frisk*. American Sociological Review. p. 69.

¹⁵¹ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy policing and Latino stop-and-frisk*. American Sociological Review. p. 69 [noting that such encounters “served to expand racialized punitive social control”].

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Figure X Field Interview Cards by Race, Youth Age 12-24



Perceived Disability: Among youth perceived to be 12–24, officers reported completing a field interview card as the result of 12.1 percent of the stops of youth who they perceived to have a disability (736 youths) and 3.6 percent of the stops of youth who they perceived not to have a disability (28,857 youths).

II. LAW ENFORCEMENT POLICIES RELATED TO YOUTH

As of 2022, there are over 12 million (nearly one in three) Californians under 25, and nearly nine million (approximately one in five) Californians under 18.¹⁵² Given the size of this population, its unique vulnerabilities, and the data indicating disparities, it is crucial to adopt youth-specific policies that seek to eliminate disparities, are developmentally appropriate, and provide additional protections.

The policies of law enforcement agencies, such as those related to the use of force, can influence, or shape the quality and outcomes of an officer’s interactions with youth. Researchers recommend that state and local agencies “assemble diverse groups of experts and stakeholders to draft model standards and policies that integrate best practices for working with youth.”¹⁵³ These

¹⁵² Statista (2024). *Distribution of Resident Population in California, by Age Group*. <<https://www.statista.com/statistics/912915/california-population-share-age-group/>> [31.2 percent of Californians were under 25 years of age and 22.8 percent were under 18 years of age.] [as of Apr. 26, 2024]; U.S. Census Bureau American Community Survey 2017-2021 5-Year Estimates; U.S. Census Bureau (2023). *Quick Facts: California*. <<https://www.census.gov/quickfacts/fact/table/CA/PST045222#PST045222>> [as of Apr. 29, 2024].

¹⁵³ Thureau, “Where’s The State? Creating and Implementing State Standards For Law Enforcement Interactions with Youth” (May 2017) *Strategies for Youth*, 3 <https://strategiesforyouth.org/sitefiles/wp-content/uploads/2017/06/SFY_StandardsReport_053117.pdf> [as of XX, 2024].

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policies and standards would convey the clear expectations for outcomes of interactions with youth from leadership to rank and file and help “develop oversight mechanisms to ensure compliance.”¹⁵⁴

In 2021, the Board surveyed Wave 1 and 2 agencies about various policies, including their policies on civilian complaints, and reported its findings in its 2022 Report. In June, July, and August of 2024, the Board requested updated policies from Wave 1 and Wave 2 agencies relating to youth and policing and civilian complaint processes. Among some of the questions were:

- 14. *How does your agency define youth?*
- 15. *Does your agency have a written policy pertaining to questioning of youth?*
- 18. *Does your agency have a written use of force policy specific to youth?*¹⁵⁵

The below chart shows those agencies’ responses to the survey, as well as those agencies’ policies in other areas, such as the use of field interview cards with youth and youths’ entry into the CalGang database.

LEA POLICIES Youth	Policies Regulating Use of Force Against Youth ¹⁵⁶	Policies Prohibiting Deception in Youth Interviews	Policies Limiting or Prohibiting Field Interview (FI) Cards for Youth	Policies Limiting or Prohibiting Entering Youth into CalGang Database	Policies Mandating Deflection / Pre-Arrest Youth Diversion ¹⁵⁷
Lexipol ¹⁵⁸	✓	?	✗	✗	✗

¹⁵⁴ Thureau, “Where’s The State? Creating and Implementing State Standards For Law Enforcement Interactions with Youth” (May 2017) Strategies for Youth, 3 <https://strategiesforyouth.org/sitefiles/wp-content/uploads/2017/06/SFY_StandardsReport_053117.pdf> [as of XX, 2024].

¹⁵⁵ A copy of the survey can be found in the appendix.

¹⁵⁶ Agencies with a ✓ in this category have at least some use of force policies related to youth. As shown below, almost all these policies relate to force used against youth *after* they have been placed in custody.

¹⁵⁷ Pre-arrest youth deflection or diversion is a topic covered in section III.B. of this section, below.

¹⁵⁸ Lexipol is a private company that provides law enforcement agency policy and training manuals and documents that reflect federal and state statutes, case law, regulation, and best practices. Many law enforcement agencies in California purchase Lexipol’s policies and implement them as their own policies for their officers. As noted in the Board’s 2022 Report, “Most of the policies are 2-3 pages in length and include nearly identical language with few exceptions, likely because the agencies have not made any changes to the template provided by Lexipol.” Racial and Identity Profiling Advisory Board (2022). Annual Report. p. 150 <<https://oag.ca.gov/system/files/media/ripa-board-report-2022.pdf>> [as of May 17, 2024]. (For more information on Lexipol, please see <http://www.lexipol.com/>.)

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LEA POLICIES Youth	Policies Regulating Use of Force Against Youth¹⁵⁶	Policies Prohibiting Deception in Youth Interviews	Policies Limiting or Prohibiting Field Interview (FI) Cards for Youth	Policies Limiting or Prohibiting Entering Youth into CalGang Database	Policies Mandating Deflection / Pre-Arrest Youth Diversion¹⁵⁷
CHP	✓	✗	✗	✗	✗
Fresno PD	✓	✗	✗	✗	✗
LAPD	✓	✗	✗	✗	?
LASD	✓	✗	✗	✗	?
Long Beach PD	✗	✗	✗	✗	✗
Oakland PD	✓	✗	✗	✗	✗
OC Sheriff	✓	✗	✗	✗	✗
Riverside SD	✓	✗	✗	✗	✗
Sacramento SD	✓	✗	✗	✗	✗
Sacramento PD	✓	✗	✗	✗	✗
San Jose PD	✓	✗	✗	✗	✗
San Diego SD	✓	✗	✗	✗	✗
SFSD	✓	✗	✗	✗	✗
San Bernardino SD	✓	✗	✗	✗	✗
Riverside SD	✓	✗	✗	✗	✗

✗ indicates there is not a policy addressing the issue; ✓ indicates there is a policy addressing the issue; ? indicates more research is required or policy unclear.

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A. Special Considerations for Youth: Use of Force

Like all California residents, youth are protected by state and federal laws that govern law enforcement officers, and officers are required to comply with these laws when they interact with youth. In California, a “peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.”¹⁵⁹ California law further requires “officers to utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible as well” as a requirement that “an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance,” and an officer shall use deadly force “only when necessary in defense of human life.”¹⁶⁰ Further, and as noted in last year’s report,¹⁶¹ international treaties that set standards for the use of force against civilians are applicable to law enforcement agencies within the United States.¹⁶² There are also best practices guidelines published by a number of organizations regarding the use of force generally.¹⁶³

However, there are no California state laws that distinguish between the amount or type of force law enforcement can use against youth as compared to adults. The decision to impose limits on use of force relating to youth is left to the individual agencies and to the individual officers themselves. A review of use of force policies from the largest 15 law enforcement agencies in California, as well as private company Lexipol, indicates few, if any, *additional* protections, or guidelines relating to the use of force toward youth.

¹⁵⁹ Pen. Code, § 835a, subd. (b).

¹⁶⁰ Gov. Code, § 7286, subd. (b)(1)-(2). Further, the decision by a peace officer to use force “shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies,” and is “evaluated from the perspective of a reasonable officer in the same situation, based on the totality of circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” (Pen. Code, § 835a, subd. (a)(3)-(4).)

¹⁶¹ Racial and Identity Profiling Advisory Board (2024). *2024 RIPA Report: Recommendations and best practices*. p. 162 <<https://oag.ca.gov/system/files/media/ripa-best-practices-2024.pdf>> [as of September 23, 2024].

¹⁶² The international standard for the use of force by law enforcement limits force to that which is legitimate, necessary, and proportionate. This standard is articulated in the United Nations’ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Code of Conduct for Law Enforcement Officials, which derive from treaties that the United States has entered, including the International Covenant on Civil and Political Rights. (U.N., Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders: Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) pp. 1-4 <<https://www.ohchr.org/sites/default/files/firearms.pdf>> [as of September 23, 2024]; U.N. Gen. Assem., Code of Conduct for Law Enforcement Officials (1979) article 3

<<https://www.ohchr.org/sites/default/files/codeofconduct.pdf>> [as of September 23, 2024]; U.N. Gen. Assem., International Covenant on Civil and Political Rights (1966) articles 6–7

<<https://www.ohchr.org/sites/default/files/ccpr.pdf>> [as of September 23, 2024].)

¹⁶³ See, e.g., Police Executive Research Forum, Guiding Principles On Use of Force” (March 2016) <<https://www.policeforum.org/assets/30%20guiding%20principles.pdf>> [as of September 23, 2024].

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As noted above, the 2023 RIPA data shows racial and disability disparities in the use of force on youth. For example, officers handcuffed youth perceived to be Black or Native American and 12–14 at rates more than twice as high (43.3% and 49.1%, respectively) as White youth (17.7%). These disparities were magnified for youth perceived to be 15–17; officers handcuffed youth in this age category and perceived to be Black at a rate of 39.2 percent, perceived to be Native American at a rate of 34.3 percent, and perceived to be White at a rate of just 8.0 percent. Officers also handcuffed youth perceived to be 15–17 and to have a disability at more than twice the rate (45.3%) than those youth perceived not to have a disability (20.7%).¹⁶⁴

Similarly, the 2023 RIPA data shows racial disparities in law enforcement interactions which include officers pointing firearms at youth. For example, officers pointed their firearms at youth perceived to be Black, Hispanic/Latine(x), or Native American and 12–14 at much higher rates (2.9%, 2.0%, and 7.6%, respectively) than White youth (0.6%). These disparities persisted for youth perceived to be 15–17; officers pointed firearms at youth in this age category who were perceived to be Black at a rate of 4.6 percent, Hispanic/Latine(x) at a rate of 2.1 percent, and Native American at a rate of 4.0 percent, compared to rates of youth perceived to be White at (again) 0.6 percent.¹⁶⁵

Generalized use of force actions show similar trends. The 2023 RIPA data shows officers used force against youth perceived to be Black or Native American and 12–14 at rates more than twice as high (45.4% and 49.1%) as White youth (19.2%). Again, these disparities were magnified for youth perceived to be 15–17; officers used force in this age category against youth perceived to be Black or Native American more than more than three times (41.2% and 35.9%, respectively) as often as White youth (9.5%). Officers used force against youth perceived to be 15–17 and to have a disability at more than twice the rate (45.3%) than those youth perceived not to have a disability (20.7%).¹⁶⁶

In the absence of use of force policies specific to youth, there is a high likelihood such disparities will persist. Without youth-specific policies, the decision to use force on youth, and the type of force used, is left entirely to officer discretion and, in the absence of effective training on engaging and deescalating with youth, the lack of youth-specific force policies could be even more detrimental to youth. As noted earlier, research shows youth of color are likely to suffer from adultification bias, or the misperception of youth of color as significantly older (and more likely to be guilty or dangerous) than White youth of the same age. This misperception bias may cause law enforcement officers to perceive Black youth as more threatening, to exercise their discretion in a more punitive manner, and to use more force on Black youth.¹⁶⁷ Policies coupled with trainings that limit the use of force against youth generally and prioritize de-escalation may

¹⁶⁴ See Table 20, “Youth Use of Force by Identity Group,” Appendix.

¹⁶⁵ See Table 24, “Youth Stops by Age Group Including Firearm Pointed,” Appendix.

¹⁶⁶ See Table 20, “Youth Use of Force by Identity Group,” Appendix.

¹⁶⁷ Epstein et al. (2017). *Girlhood Interrupted: The erasure of Black girls’ childhood*. Georgetown Law Center on Poverty and Inequality. p. 1; Goff et al., *Measuring Racial Disparities in Police Use of Force: Methods Matter* (2021) 37 J. of Quantitative Criminology 2, 1083-1113.

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mitigate against such outcomes.

1. Use of Force in the Field vs. After Youth Have Been Placed in Custody

When looking at law enforcement policies relating to use of force on youth, it is important to distinguish between permitted use of force “in the field” — that is, during a police encounter outside of the confines of a police station — and the permitted use of force after youth have already been placed in custody. Just one agency, LAPD, has a policy that directs officers’ use of force in the field. That policy looks at what officers should do when detaining youth suspected of committing a felony, a misdemeanor, or a low-level citable offense. According to the policy, youth who are suspected of *felony* offenses should “normally be handcuffed; however, there may be circumstances that would make the handcuffing of a juvenile arrestee inappropriate.”¹⁶⁸ Youth who are suspected of committing *misdemeanor* offenses may be handcuffed at the officer’s discretion.¹⁶⁹ Youth suspected of “*citable* offenses or other non-violent offenses” should not be handcuffed unless the officer “can clearly articulate a specific reason why the handcuffing was appropriate.”¹⁷⁰

Other than this policy, there are no law enforcement policies submitted by Wave 1 or Wave 2 agencies that relate to any special considerations or prohibitions regarding the use of force against youth *in the field*. Rather, most law enforcement policies focus on placing limits on the use of force while youths are *in temporary custody at the station*.¹⁷¹

2. Use of Handcuffs on Youth While in Police Custody

Law enforcement policies regarding the use of handcuffs while in police custody vary widely across agencies. While most agencies permit youth to be handcuffed while in temporary custody, the Riverside County Sheriff’s Department and the Fresno Police Department limit the use of handcuffs or restraints on youth under 13, unless the youth “is suspected of a dangerous felony or when the [officer] has a reasonable suspicion that the juvenile may resist” or attempt to

¹⁶⁸ Los Angeles Police Department, Juvenile Manual 7.30—Handcuffing of Juveniles.

¹⁶⁹ Los Angeles Police Department, Juvenile Manual 7.30—Handcuffing of Juveniles.

¹⁷⁰ Los Angeles Police Department, Juvenile Manual 7.30—Handcuffing of Juveniles, emphasis added.

¹⁷¹ California Highway Patrol, HPM 100.69(3)—Arrests and Custody of Minors; San Francisco Police Department General Order 7.01—Policies and Procedures for Juveniles Detention, Arrest, and Custody 4, 6

<<https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO7.01%20Juvenile%20Policies%20and%20Procedures.pdf>> [as of March 26, 2024];

Sacramento Sheriff’s Department General Order 21/01

<https://www.dropbox.com/scl/fo/q0qinzwfvyxg3dbwgjyra/h/General%20Orders?dl=0&preview=21-01+Prisoner+Security-Handcuffing.pdf&subfolder_nav_tracking=1> [as of March 28, 2024]; 14. Sacramento Police Department General Order GO 580.02—Use of Force

<<https://www.cityofsacramento.gov/content/dam/portal/police/Transparency/policy/GO/Section-500/GO-58002-Use-of-Force-122321.pdf>> [as of March 28, 2024].

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escape.¹⁷² Further, Riverside notes that youth who are detained pursuant to a child protective custody warrant “should not be handcuffed or physically restrained unnecessarily,” but if they “become threatening, violent, or combative,” they may be restrained for the safety of the deputy or others.¹⁷³ The San Jose Police Department permits children under 12 to be handcuffed if they are suspected of committing murder or sexual assault, or they are a danger to themselves or others.¹⁷⁴

Some agency policies do permit handcuffing, but state that youth should not be handcuffed to a stationary object (San Diego Police Department,¹⁷⁵ Riverside Sheriff’s Department,¹⁷⁶ Fresno Police Department¹⁷⁷) or handcuffed to an adult (Los Angeles Sheriff’s Department,¹⁷⁸ Sacramento Sheriff’s Department¹⁷⁹). Two agencies, the Oakland Police Department and the San Francisco Police Department,¹⁸⁰ permit the handcuffing of youth to stationary objects, subject to the watch commander’s approval.¹⁸¹

¹⁷² Riverside County Sheriff’s Department Standards Manual 306.2.3—Restraint of Juveniles <<https://www.riversidesheriff.org/DocumentCenter/View/6956/Department-Standards-Manual-71522>> [as of May 9, 2024]; Fresno Police Department Manual 306.4—Application of Handcuffs <<https://www.fresno.gov/wp-content/uploads/2024/04/PolicyManual-Redacted-April-2024.pdf>> as of May 9, 2024].

¹⁷³ Riverside County Sheriff’s Department Standards Manual 323.7—Child Protective Custody Warrants – Use of Force and Restraints <<https://www.riversidesheriff.org/DocumentCenter/View/6956/Department-Standards-Manual-71522>> [as of May 9, 2024].

¹⁷⁴ San Jose Police Department Line/Operations Procedures L 3011.5—Handcuffing Juveniles.

¹⁷⁵ San Diego Police Department Procedure 3.08—Juvenile Procedures.

¹⁷⁶ Riverside County Sheriff’s Department Standards Manual 324—Temporary Custody of Juveniles <<https://www.riversidesheriff.org/DocumentCenter/View/6956/Department-Standards-Manual-71522>> [as of May 9, 2024].

¹⁷⁷ Fresno Police Department Policy Manual 324—Temporary Custody of Juveniles <<https://www.fresno.gov/wp-content/uploads/2024/04/PolicyManual-Redacted-April-2024.pdf>> [as of May 9, 2024].

¹⁷⁸ Los Angeles Sheriff’s Department, Manual of Policies and Procedures 5-02/100.60—Transportation and Handcuffing of Juveniles.

¹⁷⁹ Sacramento Police Department General Order GO 580.02—Use of Force <<https://www.cityofsacramento.gov/content/dam/portal/police/Transparency/policy/GO/Section-500/GO-58002-Use-of-Force-122321.pdf>> [as of March 28, 2024]

¹⁸⁰ San Francisco Police Department General Order 7.01—Policies and Procedures for Juveniles Detention, Arrest, and Custody 4, 6 <<https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO7.01%20Juvenile%20Policies%20and%20Procedures.pdf>> [as of May 17, 2024].

¹⁸¹ Oakland Police Department General Order O-09—Detention of Juvenile Offenders <<https://public.powerdms.com/oakland/tree/documents/489>> [as of March 28, 2024].

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a) Hobble restraints¹⁸² and TASERs¹⁸³ On Youth While in Police Custody

Law enforcement policies regarding the use of restraints, TASERs, or other devices on youth also vary across agencies, but notably, there are fewer agencies that have specific policies relating to or prohibiting such uses of force. The Orange County Sheriff's Department advises that "[d]ue caution should be considered" when applying the "Hobble restraint procedure," an "Electronic Control Device,"¹⁸⁴ or a "Conducted Energy Device" (i.e., a TASER)¹⁸⁵ on youth in custody, but the agency does not preclude their use, and the agency's policies do not otherwise differentiate between the use of force toward youth and adults.

Similarly, the Riverside County Sheriff's Department and the Fresno Police Department advise that the use of a TASER on youth "should generally be avoided" unless other available options are ineffective or would endanger the deputy or others.¹⁸⁶ As with the Orange County Sheriff's Department, these agencies do not preclude the use of the TASER on youth, and the agencies' policies do not otherwise differentiate between the use of force towards youth compared to adults.

¹⁸² Orange County Sheriff's Department Policy Manual 306.4—Use of Hobble Restraint <<https://ocsheriff.gov/sites/ocsd/files/2024-04/Department%20Manual%20%28Lexipol%29%202024-04-18.pdf>> [as of May 9, 2024]. According to the policy, "The Ripp Hobble is made of one-inch wide polypropylene webbed belting with a tested strength of 700 lbs. The hobble has a one-inch wide side, alligator-jawed, friction-locking clip and steel-snap swivel. The overall length of the hobble shall be a minimum of 42 inches." The policy also refers to the EZ Leg Control Belt, which "is a black nylon belt that is 2 inches wide with a 7 inch loop at the end with a tensile strength of 518 pounds. The control belt is equipped with a 2 inch black buckle, 2 inch D-Ring, and 3 inch Aluminum Carabiner. The overall length of the control belt is 90 inches." (Orange County Sheriff's Department Policy Manual 306.3—Authorized Equipment.)

¹⁸³ A TASER is a "a gun that fires electrified darts to stun and immobilize a person." (Merriam-Webster.com Dictionary, Merriam-Webster, <<https://www.merriam-webster.com/dictionary/Taser>> [as of Oct. 1, 2024].) According to Axon, the company which holds the TASER trademark, a TASER is an "energy weapon" which "deploy[s] probes from a distance" to send "electrical current to temporarily incapacitate subjects by inducing neuromuscular incapacitation, or NMI." (Axon, "The Truth About TASER," <<https://www.axon.com/resources/the-truth-about-taser>> as of Oct. 1, 2024.) Axon notes that this process "can be painful for individuals during that brief electrical cycle, so an exposure to a TASER energy weapon should be treated seriously. After exposure to a TASER energy weapon, it is recommended a subject be monitored for 20 minutes to ensure they are feeling well." (Axon, "The Truth About TASER," <<https://www.axon.com/resources/the-truth-about-taser>> as of Oct. 1, 2024.)

¹⁸⁴ Orange County Sheriff's Department Policy Manual 309.5—Use of the Electronic Control Device <<https://ocsheriff.gov/sites/ocsd/files/2024-04/Department%20Manual%20%28Lexipol%29%202024-04-18.pdf>> [as of May 9, 2024].

¹⁸⁵ Orange County Sheriff's Department Policy Manual 312.5—Use of the Conducted Energy Device (CED) – TASER X26 <<https://ocsheriff.gov/sites/ocsd/files/2024-04/Department%20Manual%20%28Lexipol%29%202024-04-18.pdf>> [as of May 9, 2024].

¹⁸⁶ Riverside County Sheriff's Department Standards Manual 310.5.2—Use of the TASER – Special Deployment Considerations <<https://www.riversidesheriff.org/DocumentCenter/View/6956/Department-Standards-Manual-71522>> [as of May 9, 2024]; Fresno Police Department Policy Manual 309.4 Electronic Control Device (ECD) – Special Deployment Considerations <<https://www.fresno.gov/wp-content/uploads/2024/04/PolicyManual-Redacted-April-2024.pdf>> [as of May 9, 2024].

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b) Other Agency Policies

Some law enforcement policies are specific to just one agency. One agency, LAPD, prohibits the use of force on youth to compel them to participate in an in-person identification procedure, or lineup.¹⁸⁷ One agency, the Long Beach Police Department, has no policy relating to use of force on youth either in the field or while in custody.

B. Special Considerations for Youth: Questioning by Law Enforcement

Law enforcement interactions with youth — even the initial stop, covered by RIPA data — often involve some form of police questioning, be it requests for information to be included in a field interview card, a consent to search property, or questioning related to a law enforcement investigation. Adolescents are less capable of understanding their constitutional rights than their adult counterparts, and are more prone to falsely confessing to a crime they did not commit.¹⁸⁸ Research suggests that “[b]ecause adolescents are more impulsive, are easily influenced by others (especially by figures of authority), are more sensitive to rewards (especially immediate rewards), and are less able to weigh in on the long-term consequences of their actions, they become more receptive to coercion.”¹⁸⁹ The context of custodial interrogation is believed to exacerbate these pressures.

¹⁸⁷ Los Angeles Police Department Juvenile Manual (2017) 002012.100—Juvenile Refuses to Participate in Line-Up <https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2021/09/05_01_2011_DB_OSO_Juvenile-Manual.pdf> [as of May 12, 2024].

¹⁸⁸ See, e.g., Luna, *Juvenile False Confessions: Juvenile Psychology, Police Interrogation Tactics, And Prosecutorial Discretion* (2018) 18 Nev. L.J. 291, 297 <<https://scholars.law.unlv.edu/nlj/vol18/iss1/10/>> [as of XX, 2024]; Meyer & Reppucci, *Police Practices and Perceptions Regarding Juvenile Interrogation and Interrogative Suggestibility* (2007) 25 Behav. Sci. & L. 757, 763; Ceci & Bruck, *Suggestibility of the Child Witness: A Historical Review and Synthesis* (1993) 113 Psychol. Bull. 3, 403-409; Note, *Questioning the Reliability of Children’s Testimony: An Examination of the Problematic Elements* (1995) 19 Law & Psychol. Rev. 203-215; Owen-Kostelnick et al., *Testimony and Interrogation of Minors: Assumptions About Maturity and Morality* (2006) 61 Am. Psychologist 4, 286-304; Redlich, *The Susceptibility of Juveniles to False Confessions and False Guilty Pleas* (2010) 62 Rutgers L.Rev. 943, 952; Viljoen et al., *Legal Decisions of Preadolescent and Adolescent Defendants: Predictors of Confessions, Pleas, Communication with Attorneys, and Appeals* (2005) 29 Law & Hum. Behav. 3, 253; Note, *No Match for the Police: An Analysis of Miranda’s Problematic Application to Juvenile Defendants* (2011) 38 Hastings Const. L.Q. 1053, 1066-1069.

¹⁸⁹ See, e.g., Luna, *Juvenile False Confessions: Juvenile Psychology, Police Interrogation Tactics, And Prosecutorial Discretion* (2018) 18 Nev. L.J. 291, 297 <<https://scholars.law.unlv.edu/nlj/vol18/iss1/10/>> [as of XX, 2024]; Meyer & Reppucci, *Police Practices and Perceptions Regarding Juvenile Interrogation and Interrogative Suggestibility* (2007) 25 Behav. Sci. & L. 757, 763; Ceci & Bruck, *Suggestibility of the Child Witness: A Historical Review and Synthesis* (1993) 113 Psychol. Bull. 3, 403-409; Note, *Questioning the Reliability of Children’s Testimony: An Examination of the Problematic Elements* (1995) 19 Law & Psychol. Rev. 203-215; Owen-Kostelnick et al., *Testimony and Interrogation of Minors: Assumptions About Maturity and Morality* (2006) 61 Am. Psychologist 4, 286-304; Redlich, *The Susceptibility of Juveniles to False Confessions and False Guilty Pleas* (2010) 62 Rutgers L.Rev. 943, 952; Viljoen et al., *Legal Decisions of Preadolescent and Adolescent Defendants: Predictors of Confessions, Pleas, Communication with Attorneys, and Appeals* (2005) 29 Law & Hum. Behav. 3, 253; Note, *No Match for the Police: An Analysis of Miranda’s Problematic Application to Juvenile Defendants* (2011) 38 Hastings Const. L.Q. 1053, 1066-1069.

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1. Special Considerations for Youth of Color During Police Questioning

Youth generally are more susceptible to police coercion and pressure than adults and are more suggestible than adults to the inherent power imbalance between officer and suspect in a custodial setting.¹⁹⁰ Research shows there are unique vulnerabilities that make youth of color even more subject to coercive tactics during interrogations that could lead to false confessions. One of those additional vulnerabilities is racial bias in the officer's assessment of whether the youth is being deceptive. Another of those vulnerabilities is adultification bias, or the likelihood that the officer would perceive the youth as older — and therefore, guiltier — than their White peers.¹⁹¹

Research shows that the behavior of youth of color in interrogations may affect officers' assessment of whether they are being deceptive.¹⁹² Cross-cultural differences in nonverbal communication styles could cause youth of color “to appear more deceptive” to police during interrogations, which could cause an officer to increase pressure on the youth to confess.¹⁹³ For example, there are significant race-based differences even in nonverbal behaviors in response to questioning, and some behaviors — for example, inappropriate smiling or minimal eye contact — can be deemed “suspicious” by police.¹⁹⁴ However, these subjective “cues” are unreliable in assessing culpability, and may in fact be more indicative of cultural background.¹⁹⁵ Immaturity can also cause misperceptions of behaviors as well. For example, Black youth who do not make eye contact because of nervousness may be misperceived as being deceptive.¹⁹⁶

Another vulnerability in the context of interrogations unique to people of color is *stereotype threat*.¹⁹⁷ The term *stereotype threat* describes a person's concern that they may be perceived in

¹⁹⁰ Kassir et al., *Police-Induced Confessions: Risk Factors and Recommendations* (Feb. 2010) 34 *Law and Human Behavior* 1, 8.

¹⁹¹ Epstein et al. (2017). *Girlhood Interrupted: The erasure of Black girls' childhood*. Georgetown Law Center on Poverty and Inequality. pp. 1 and 4; Goff et al, *The Essence of Innocence: Consequences of dehumanizing Black children* (2014) 106 *J. of Personality and Social Psychology*. pp. 526, 529, 536 <<https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>> [as of Nov. 29, 2022].

¹⁹² Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 175.

¹⁹³ Najdowski, *Stereotype Threat in Criminal Interrogations: Why Innocent Black Suspects Are at Risk for Confessing Falsely* (2011) 17 *Psychology, Public Policy, and Law* 4, 563.

¹⁹⁴ Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 175.

¹⁹⁵ Johnson, *Race and Police Reliance on Suspicious Non-verbal Cues* (2007) 30 *Policing: An International Journal of Police Strategies & Management* 2, 277– 290.

¹⁹⁶ Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 176.

¹⁹⁷ Najdowski, *Stereotype Threat in Criminal Interrogations: Why Innocent Black Suspects Are at Risk for Confessing Falsely* (2011) 17 *Psychology, Public Policy, and Law* 4, 563; Steele and Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans* (1995) 69 *Journal of Personality and Social Psychology* 5, 797-811.

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light of a negative stereotype that applies to their demographic group.¹⁹⁸ Unfortunately, many widely-known negative stereotypes about people of color exist, and these stereotypes contribute to both the conscious and unconscious biases people of color encounter every day. The mere existence of the stereotype “means that anything one does or any of one’s features that conform to it make the stereotype more plausible as a self-characterization in the eyes of others.”¹⁹⁹ “[B]ecause of negative stereotypes that depict Black people as criminals, Black (vs. White) individuals are more likely to be suspected . . . of committing crimes.”²⁰⁰ Black individuals who are aware of this stereotype could experience increased stress when interrogated by police, which could be perceived inaccurately as indicative of deception or guilt.²⁰¹ Youth of color “are aware of negative stereotypes that apply to them, and activating stereotypes can negatively influence their performance” in a number of settings, including, for example, standardized testing.²⁰² The effects of stereotype threat “may be even more harmful” to youth than adults, because they “deplete cognitive resources and impair self-regulatory strategies, abilities that are already limited among youth.”²⁰³ Stereotype threat is not limited to any one racial or ethnic identity, and can apply to any individual aware of the negative stereotypes that may apply to them.²⁰⁴

¹⁹⁸ Najdowski et al., *Stereotype Threat and Racial Differences in Citizens’ Experiences of Police Encounters* (2015) 39 *Law and Human Behavior* 5, 463-477; Steele and Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans* (1995) 69 *Journal of Personality and Social Psychology* 5, 797-811.

¹⁹⁹ Steele and Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans* (1995) 69 *Journal of Personality and Social Psychology* 5, 797-811.

²⁰⁰ Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 174.

²⁰¹ Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 174.

²⁰² Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 175.

²⁰³ Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 175.

²⁰⁴ Interestingly, stereotype threat can also be experienced by police officers, with similar deleterious effects. (Trinkner et al., *The Force of Fear: Police Stereotype Threat, Self-Legitimacy, and Support for Excessive Force* (2019) 43 *Law and Human Behavior* 5, 421-435.) Officers who are concerned about being labeled as racist — i.e., the “racist police officer” stereotype — may, over time, come to resemble or embody the stereotype as a result of stereotype threat. (*Id.*) In one study, researcher demonstrated that the more officers were more concerned about being labeled as racist, the higher the proportion of their uses of force occurred against Black residents. (Goff et al., *Protecting equity: The Consortium for Police Leadership in Equity report on the San Jose Police Department* (2012) Los Angeles: The Consortium for Police Leadership in Equity, University of California Los Angeles.) This becomes a self-perpetuating cycle. (See, e.g., Sanchez and Rosenbaum, *Racialized Policing: Officers’ Voices on Policing Latino and African American Neighborhoods* (2011) *J. of Ethnicity in Criminal Justice* 9, 152-178.) “[I]t is easy to imagine how an erosion in public trust could lead to increased unreasonable force, further eroding public trust.” (Trinkner et al., *The Force of Fear: Police Stereotype Threat, Self-Legitimacy, and Support for Excessive Force* (2019) 43 *Law and Human Behavior* 5, 421-435.)

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2. *Miranda* Warnings²⁰⁵

When an initial law enforcement encounter progresses to placing an individual in custody and questioning, policies relating to the reading of *Miranda* warnings are implicated. As discussed below, many police agencies have policies directing law enforcement to notify youth of their rights under *Miranda* immediately upon being placed in custody. However, research demonstrates that youth may be particularly vulnerable to police questioning even if notified of their *Miranda* rights. The increased stress resulting from stereotype threat may impair a suspect's ability to comprehend legal concepts, such as the scope of their rights under *Miranda*.²⁰⁶ Studies show that youth, generally, are less protected by the *Miranda* warnings officers give than adults under custodial interrogation. Youth also are more likely to waive their rights and speak to officers, even when it is against their interests to do so for many reasons. For example, youth suspects under 15 “are more likely to believe that they should waive their rights and tell what they have done, partly because they are still young enough to believe that they should never disobey authority.”²⁰⁷ Youth are also more likely to waive their rights if they believe not doing so will create “the potential for immediate negative consequences.”²⁰⁸ For example, they will waive their rights if they believe doing so will allow them to go home.²⁰⁹ Relatedly, research shows that youth do not consider the long-term consequences of having their statements used against them — and being subject to adjudication as a result — when deciding whether to waive their rights.²¹⁰

In 2017, recognizing that children and adolescents are “much more vulnerable to psychologically coercive interrogations,”²¹¹ the California Legislature passed Senate Bill No. 395, which requires that youth 15 and younger consult with legal counsel before a custodial interrogation. This consultation is mandatory and cannot be waived.²¹² In 2020, Senate Bill No. 203 (2019-

²⁰⁵ *Miranda v. Arizona* (1966) 384 U.S. 436. The decision in the *Miranda* case requires officers, before questioning a suspect in a custodial interrogation setting, to explain to the suspect their rights — to remain silent, to have an attorney present during questioning at no cost to them, to stop answering any questions at any time, and that any statement may be used as evidence against them.

²⁰⁶ Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 174.

²⁰⁷ Kassir et al., *Police-Induced Confessions: Risk Factors and Recommendations* (Feb. 2010) 34 *Law and Human Behavior* 1, 8.

²⁰⁸ Kassir et al., *Police-Induced Confessions: Risk Factors and Recommendations* (Feb. 2010) 34 *Law and Human Behavior* 1, 8.

²⁰⁹ Kassir et al., *Police-Induced Confessions: Risk Factors and Recommendations* (Feb. 2010) 34 *Law and Human Behavior* 1, 8.

²¹⁰ Kassir et al., *Police-Induced Confessions: Risk Factors and Recommendations* (Feb. 2010) 34 *Law and Human Behavior* 1, 8.

²¹¹ Sen. Bill 395 (2017-2018 Regular Sess.)

https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB395 [as of XX, 2024].

²¹² Welf. & Inst. Code, § 625.6; California Department of Justice (March 15, 2023) *Mandatory Consultation with Counsel Prior to Custodial Interrogations of Youth Under 18* [Information Bulletin] p. 1

<https://oag.ca.gov/system/files/media/2023-dle-02.pdf> [as of XX, 2024].

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2020 Reg. Sess.) (SB 203) extended these protections to youth 17 and younger.²¹³ In 2022, California also passed the Juvenile Custodial Interrogations Reform Bill, which prohibits law enforcement from using physically and psychologically harmful interrogation techniques on youth aged 17 and younger.²¹⁴ The bill went into effect on July 1, 2024.²¹⁵

C. Consent Searches

As discussed in the 2022 RIPA Report, agreeing to an officer’s request to conduct a search does not necessarily feel voluntary or that there is a choice in the matter, given the inherent power imbalance between law enforcement officers and members of the public.²¹⁶ The 2019, 2020, and 202²¹⁷ RIPA data show that individuals perceived to be Black or Multiracial were asked for consent to search at a higher rate than those who are perceived to be White.²¹⁸ Further, the 2023 RIPA data show that Black youth perceived to be 15–17 were stopped for an average of 51.0 minutes when they gave consent to search, but 152.8 minutes when they did not.²¹⁹ This stands in sharp contrast to White youth perceived to be in the same age range; those who gave consent to search were stopped for an average of 54.9 minutes, but an average of 87.7 minutes when they did not give consent.²²⁰

²¹³ Sen. Bill 203 (2019-2020 Regular Sess.)
<https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB203> [as of XX, 2024]; Welf. & Inst. Code § 625.6.

²¹⁴ Assem. Bill 2644 (2021-2022 Reg. Sess.)
<https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2644> [as of XX, 2024]; Welf. & Inst. Code § 625.7.

²¹⁵ Assem. Bill 2644 (2021-2022 Reg. Sess.)
<https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2644> [as of XX, 2024]; Welf. & Inst. Code § 625.7.

²¹⁶ Racial and Identity Profiling Advisory Board (2022) *Annual Report*. pp. 109, 112-114, 116-118
<<https://oag.ca.gov/system/files/media/ripa-board-report-2022.pdf>> [as of XX, 2024].

²¹⁷ See Table 29, “Percentage of Youth by Age Group Asked for Consent to Search,” Appendix.

²¹⁸ Racial and Identity Profiling Advisory Board (2022) *Annual Report*. p. 100
<<https://oag.ca.gov/system/files/media/ripa-board-report-2022.pdf>> [as of XX, 2024].

²¹⁹ See Table 37, “Average Duration of Stop in Minutes by Consent to Search and Identity Among Youth Stops by Age Group,” Appendix.

²²⁰ See Table 37, “Average Duration of Stop in Minutes by Consent to Search and Identity Among Youth Stops by Age Group,” Appendix.

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D. Legitimacy Policing

Since the 1970s, policing strategies such as hotspot policing and proactive policing have contributed to the criminalization of marginalized communities.²²¹ In recent years, community, courtesy, and procedural justice policing have emerged as modern solutions to issues of racism and excessive force among law enforcement.²²² “Legitimacy policing” is a term describing a model which focuses on improving the perception of law enforcement as legitimately or properly carrying out their role in the community.²²³ Perceptions of police legitimacy can ensure that individuals are cooperative with law enforcement when they interact with officers and that the public perceives officers as respectful, trustworthy, and even-handed when interacting with the community.²²⁴

The “legitimacy policing continuum” describes how officers draw upon multiple policing practices during interactions and how the use of these practices improves or diminishes police legitimacy.²²⁵ On one end of the continuum are those law enforcement practices which emphasize respectfulness, courtesy, and fairness.²²⁶ On the other end of the continuum are punitive law enforcement practices, like stop-and-frisk, police harassment, and violence.²²⁷ The legitimacy policing continuum is characterized by officers drawing upon approaches that fall on both ends of this “continuum” during individual interactions.²²⁸

Research shows that individuals are less likely to believe that they have been subject to racial profiling when they are treated with politeness and respect by law enforcement officers.²²⁹ In contrast, punitive and investigatory law enforcement actions reduce police legitimacy, and can be

²²¹ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 58.

²²² Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 72.

²²³ Mazerolle et al., *Procedural justice and police legitimacy: a systematic review of the research evidence* (2013) 9 Journal of Experimental Criminology 13, 245-274, p. 246.

²²⁴ Mazerolle et al., *Procedural justice and police legitimacy: a systematic review of the research evidence* (2013) 9 Journal of Experimental Criminology 13, 245-274, p. 246.

²²⁵ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 59.

²²⁶ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 61-63.

²²⁷ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. pp. 61-62.

²²⁸ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 61.

²²⁹ Tyler and Wakslak, *Profiling and Police Legitimacy: Procedural Justice, Attributions of Motive, and Acceptance of Police Authority* (2004) 42 Criminology 2, 253-281, p. 277.

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seen as a form of racial profiling, “even when conducted with courtesy and respect.”²³⁰

Researchers observing the work of a Gang Suppression Team within a law enforcement agency in a small California city found that the officers used components from several policing models in their interactions with the public in marginalized communities.²³¹ For criminalized individuals, there was no difference in perceptions of legitimacy between policing that was courteous, polite, and respectful and those practices that were punitive: the stopped individuals perceived that the combination of approaches was intended to further criminalize and control them “by closely scrutinizing and regulating their daily routines and behaviors.”²³²

The researchers observing the interactions of Gang Suppression Team officers with suspected gang-associated Hispanic/Latine(x) individuals found that officers flagged individuals as suspicious due to their race and their style.²³³ Police assumed gang membership based on the “specificities of individuals’ racialized self-presentation.”²³⁴ Police interactions that utilized practices from multiple areas of the “legitimacy policing continuum” contributed to feelings of indignation and violation, and individuals stated they were aware that law enforcement officers were “using courtesy approaches in pretext stops as a means of tracking them.”²³⁵ Additionally, while the consistent threat of force to resolve conflict gave officers a feeling of authority, it also prompted resentment in the Hispanic/Latine(x) individuals they policed.²³⁶ The combination of tactics typical of legitimacy policing often shifts the responsibility for harassment and excessive force from the police to the individual being policed.²³⁷ This dynamic enables officers to use the stopped person’s rejections of polite overtures to justify punitive treatment.²³⁸ Legitimacy policing produces an environment where trust and relationship building is subordinate to the

²³⁰ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 59.

²³¹ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. pp. 62, 64.

²³² Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. pp. 62-63, 68.

²³³ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. pp. 66-67.

²³⁴ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 69.

²³⁵ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 68.

²³⁶ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 71.

²³⁷ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 72.

²³⁸ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 72.

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primary focus on stop-and-frisk, surveillance, and data collection.²³⁹ These practices represent a general shift from a culture of investigating crime to surveilling individuals considered prone to committing crime.²⁴⁰

Punitive and investigatory law enforcement actions such as stop-and-frisk, hot spot policing, proactive intervention, and police saturation have historically been used — and continue to be used — to reinforce social inequities and criminaliz[e] marginalized communities.²⁴¹ These policing practices are “rooted within long-standing perceptions of urban ordering.”²⁴² In this sense, these practices reinforce the concept of policing as “upholding order, particularly in the urban sphere.”²⁴³ Researchers found that the Gang Suppression Team officers “consistently described their surveillance strategies as techniques for making suspects behave.”²⁴⁴ These officers regularly told suspected gang-associated Hispanic/Latine(x) individuals that they were “checking up on how they were doing.”²⁴⁵

As noted previously, the most common proactive policing strategy²⁴⁶ — deploying officers to places where crime is likely to be reported, and directing officers to interact with the people most likely to be accused of crimes — “may impose a terrible cost.”²⁴⁷ Research shows that if a law enforcement agency engages in proactive policing and disproportionately assigns officers to particular neighborhoods, this will result in more frequent contact between law enforcement and individuals within those neighborhoods.²⁴⁸ Such proactive policing practices “extend a historical

²³⁹ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 72.

²⁴⁰ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 58.

²⁴¹ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 58; Bland. (2021). ‘Lurking’ and ‘loitering’: the genealogy of languages of police suspicion in Britain. *Policing and Society*. p. 667.

²⁴² Bland. (2021). ‘Lurking’ and ‘loitering’: the genealogy of languages of police suspicion in Britain. *Policing and Society*. p. 667.

²⁴³ Bland. (2021). ‘Lurking’ and ‘loitering’: the genealogy of languages of police suspicion in Britain. *Policing and Society*. p. 664.

²⁴⁴ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 68.

²⁴⁵ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy policing and Latino stop-and-frisk*. American Sociological Review. p. 69.

²⁴⁶ As noted above, “proactive policing” has also been described as a model “in which officers actively engage citizens in high-crime areas to detect imminent criminal activity or disrupt circumstances interpreted as indicia that ‘crime is afoot.’” Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men* (Dec. 2014) 104 *American Journal of Public Health* 12, 2321, p. 2321. It encompasses tactics such as stop-and-frisk or *Terry* stops.

²⁴⁷ Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (April 2019) 116 *PNAS* 17 pp. 8261-8268, 8267.

²⁴⁸ Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (April 2019) 116 *PNAS* 17, 8261-8268, p. 8261.

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pattern of racialized criminalization in the use of stops.”²⁴⁹ Further, and as noted above, these practices reduce police legitimacy.

Researchers recommended that law enforcement agencies that are committed to community policing “consider de-emphasizing the stop-and-frisk and other investigatory stops as significant crime prevention strategies, and instead promote and reward a dignity policing model that allows criminalized civilians to feel safe and protected by officers and departmental culture.”²⁵⁰ The available research shows that law enforcement policies and practices which ensure that law enforcement is legitimate — that officers are respectful, trustworthy, and transparent in their actions — “can enhance citizen perceptions and attitudes toward compliance, cooperation, satisfaction, and confidence with police.”²⁵¹ Policies which emphasize neutral decision making during law enforcement interactions, or demonstrating dignity and respect toward individuals during such interactions, effectively improve perceptions of law enforcement legitimacy.²⁵²

III. THE PATH FORWARD: DEVELOPMENTALLY APPROPRIATE RESPONSES AND BOARD RECOMMENDATIONS

A. Law Enforcement Agencies Should Adopt Policies Restricting or Proscribing the Use of Force on Youth

Law enforcement policies relating to use of force on youth are especially important, as the research shows officer interactions with youth frequently result in the use of force, and the use of force is directed disproportionately against youth of color. The 2023 data shows that of all stops of youth under 25, 11.3 percent involved the use of force. This is consistent with proportions of all stops across all age categories, where 11.5 percent of all stops involved the use of force. However, among all stops of youth under 25 in which force was used, 20.5 percent were of Black youth, and 58.0 percent were Hispanic/Latine(x). Other studies outside of California also show racial disparities in the use of force.²⁵³ Nationally, youth are involved in just 3.5 percent of

²⁴⁹ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 58.

²⁵⁰ Rios et al. (2020). *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Review. p. 72.

²⁵¹ Mazerolle et al., *Procedural justice and police legitimacy: a systematic review of the research evidence* (2013) 9 Journal of Experimental Criminology 13, 245-274, p. 264.

²⁵² Mazerolle et al., *Procedural justice and police legitimacy: a systematic review of the research evidence* (2013) 9 Journal of Experimental Criminology 13, 245-274, p. 264-265.

²⁵³ A 2021 analysis of data on approximately 3,000 instances of police use of force against children aged 16 and under showed Black children made up more than 50 percent of those against whom force was used, though they are only 15 percent of youth nationwide. The Associated Press, *Tiny wrists in cuffs: How police use force against children* (Oct. 2021) NPR <<https://www.npr.org/2021/20/10/1047618263/tiny-wrists-in-cuffs-how-police-use-force-against-children>> [as of XX, 2024]. The data in this analysis included incidents from 25 police departments in 17 states.

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law enforcement interactions, but account for 30.1 percent of those involving force.²⁵⁴ The majority (81%) of police use of force against youth are initiated by police.²⁵⁵

A review of the 2023 RIPA data shows there is clear racial disparity in the use of force during police stops of youth, with Black youth, Native American youth, and Hispanic/Latine(x) youth all facing greater risk of use of force than White youth. Overall, 20.7 percent of youth suspects who are perceived to be Black, 12.8 percent perceived to be Hispanic/Latine(x), 18.0 percent perceived to be Native American experience use of force in police stops, compared to just 6.9 percent perceived to be White. Further, 18.9 percent of youth who are perceived to be Black, 11.3 percent of youth perceived to be Hispanic/Latine(x), 16.5 percent of youth perceived to be Native American are handcuffed during stops, compared to just 5.5 percent of youth perceived to be White.

The data further show that for youth perceived to be Black, the risk of any use of force is 3.0 times greater than for youth perceived to be White, while the risk of less lethal force is 6.2 times greater, the risk of the use of limited force is 3.0 times greater, and the risk of the use of handcuffs is 3.4 times greater. For youth perceived to be Hispanic/Latine(x), the risk of any use of force is 1.9 times greater than for youth perceived to be White, while the risk of less lethal force is 2.6 times greater, the risk of use of limited force is 1.9 times greater, and the risk of use of handcuffs is 2.0 times greater. For youth perceived to be Native American, the risk of any use of force is 2.6 times greater than for youth perceived to be White, while the risk of less lethal force is 3.5 times greater, the risk of use of limited force is 2.6 times greater and the risk of use of handcuffs is 3.0 times greater.

The use of force on youth can be harmful in several ways, affecting their ability to cope with stressful situations.²⁵⁶ In the immediate aftermath, police use of force against youth and adolescents can lead to acute distress. It may also lead to “a cascade of psychological sequelae,” including the development or worsening of mental illness, and result in traumatization, serious injury, lower attainment in education and employment, or death.²⁵⁷ Further, data shows that the use of force against women has been growing at a higher rate than the use of force against men nationwide; as such, it is important to understand the unique vulnerabilities that Black girls may

²⁵⁴ McKitten and Thureau, “Where’s The State? Creating and Implementing State Standards For Law Enforcement Interactions with Youth” (May 2017) Strategies for Youth, 5 <https://strategiesforyouth.org/sitefiles/wp-content/uploads/2017/06/SFY_StandardsReport_053117.pdf> [as of XX, 2024].

²⁵⁵ McKitten and Thureau, “Where’s The State? Creating and Implementing State Standards For Law Enforcement Interactions with Youth” (May 2017) Strategies for Youth, 5 <https://strategiesforyouth.org/sitefiles/wp-content/uploads/2017/06/SFY_StandardsReport_053117.pdf> [as of XX, 2024].

²⁵⁶ American Psychiatric Association, “Position Statement on Police Interactions with Children and Adolescents in Mental Health Crisis,” <<https://www.psychiatry.org/getattachment/085c5817-87e3-4fd9-8885-ed1d83ec7266/Position-Police-Interactions-with-Children-Adolescents-in-Crisis.pdf>> [as of XX, 2024].

²⁵⁷ American Psychiatric Association, “Position Statement on Police Interactions with Children and Adolescents in Mental Health Crisis,” <<https://www.psychiatry.org/getattachment/085c5817-87e3-4fd9-8885-ed1d83ec7266/Position-Police-Interactions-with-Children-Adolescents-in-Crisis.pdf>> [as of XX, 2024].

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face in connection to police use of force.²⁵⁸

Given the risk of harm to youth from police use of force, researchers and advocates have continuously recommended that law enforcement adopt policies and procedures which use “developmentally appropriate, trauma-informed de-escalation tactics” before exerting force on youth.²⁵⁹ This includes providing warnings and a sufficient time for youth to respond to officer commands, restricting the use of TASERS and other weapons meant to subdue individuals, restricting the pointing of weapons at youth, and refraining from engaging in “unnecessary, overly aggressive, or otherwise improper actions” that may cause the situation to escalate.²⁶⁰ Such policies should also include appropriate training for police officers to avoid the unnecessary escalation of police interactions with youth.²⁶¹ Law enforcement should employ alternatives to arrest when appropriate, and — if it is necessary to detain youth suspected of an offense — limit the use of physical restraints as much as possible.²⁶²

B. Restorative Justice and Deflection/Pre-Arrest Diversion

“The arrest experience is traumatic and can be life-altering.”

— Illinois Juvenile Justice Commission, “Preventing Youth Arrests through Deflection.”

As discussed above, there are unique considerations relating to law enforcement interactions with youth, and the research demonstrates that such interaction should be qualitatively different from those police encounters with adults. Law enforcement policies that are sensitive to those unique considerations — and treat youth differently than adults — are in line with the wealth of research referenced in this report. Robust law enforcement

policies regarding youth should address every aspect of police interaction with youth, *starting from the initial police stop*, to avoid the negative and harmful effects of police interaction on youth, and especially youth of color.

One way to treat youth differently, starting from the initial police stop, is to emphasize *restorative justice* models of conflict resolution when encountering youth suspected of violations. Previously conceived of as radical or experimental, restorative justice models have in

²⁵⁸Tapp and Davis, *Contacts Between Police and the Public, 2020* (2022) U.S. DOJ Special Report, p. 5 <<https://bjs.ojp.gov/media/document/cbpp20.pdf>> (noting that the rate of use of force reported by women increased from 1.1 percent in 2018 to 1.2 percent in 2020, and that during the same period, the rate of reported use of force by men decreased from 3 percent to 2.7 percent); Perillo et al., *Examining the Consequences of Dehumanization and Adultification in Justification of Police Use of Force Against Black Girls and Boys* (2023) 47 American Psychological Association 36, 37.

²⁵⁹ Strategies for Youth, “Policy 5: Use of Force with Youth,” p. 2 <<https://strategiesforyouth.org/Model-Policy5.pdf>> [as of XX, 2024].

²⁶⁰ Strategies for Youth, “Policy 5: Use of Force with Youth,” p. 2 <<https://strategiesforyouth.org/Model-Policy5.pdf>> [as of XX, 2024].

²⁶¹ Herz, *Improving Police Encounters with Juveniles: Does Training Make a Difference?* (2001) 3 Just. Rsch. & Pol’y 57, 59 (2001).

²⁶² Strategies for Youth, “Policy 5: Use of Force with Youth,” <<https://strategiesforyouth.org/Model-Policy3.pdf>> [as of XX, 2024].

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recent years become acknowledged as powerful alternatives to criminal sentencing and punishment. Rather than focusing on the ultimate result of conviction as a “punishment” of the accused through retribution, incarceration, or incapacitation, restorative justice focuses on the need for “repairing” the harm to the wronged party the accused caused. Restorative justice models may also focus on repairing the harms the accused has experienced, “[u]nderstanding and responding to the needs of each involved party and the broader community is central to the collective creation of a just outcome.”²⁶³ Restorative justice programs have been implemented across the country in both schools and the courts to divert youth offenders out of the criminal legal system.²⁶⁴

Diversion — where youth offenders can avoid some of the negative effects of the court system — is one form of restorative justice programs that has been shown to be more effective than the juvenile courts in reducing recidivism, and is more developmentally appropriate.²⁶⁵ Relatedly, youth who do not get the benefit of diversion accumulate longer court histories, leading to harsher consequences for any subsequent arrest.²⁶⁶

Diversion can be offered at many different points during a youth’s journey through the criminal legal system. *Deflection*,²⁶⁷ also known as *pre-arrest diversion*²⁶⁸ or *pre-booking diversion*,²⁶⁹ occurs when authorities do not arrest the youth suspected of a violation, and do not refer the case to juvenile court.²⁷⁰ Therefore, no arrest is recorded, and there is no formal involvement in the

²⁶³ Pointer, “What is ‘Restorative Justice’ and How Does it Impact Individuals Involved in Crime?” (August 2021) Bureau of Justice Assistance National Training and Technical Assistance Center, <<https://bjatta.bja.ojp.gov/media/blog/what-restorative-justice-and-how-does-it-impact-individuals-involved-crime>> [as of XX, 2024].

²⁶⁴ Martinez, “The Promise and Limits of Restorative Justice for Youth” (August 12, 2021) The Imprint, <<https://imprintnews.org/justice/juvenile-justice-2/the-promise-and-limits-of-restorative-justice-for-youth/57793>> [as of XX, 2024].

²⁶⁵ The Sentencing Project, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (August 2022), pp. 1-2 <<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>> [as of XX, 2024].

²⁶⁶ The Sentencing Project, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (August 2022), p. 1 <<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>> [as of XX, 2024].

²⁶⁷ See, e.g., Illinois Juvenile Justice Commission, “Preventing Youth Arrests through Deflection,” <<https://ijjc.illinois.gov/wp-content/uploads/2021/08/IJJC-Deflection-Report-November-2020.pdf>> [as of XX, 2024].

²⁶⁸ The Sentencing Project, *Diversion: a Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (August 2022) p. 7 <<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>> [as of July 30, 2024].

²⁶⁹ See, e.g., Ellis, “CYS Restorative Justice Diversion,” <<https://tinyurl.com/5n7kbrr8>> [as of XX, 2024].

²⁷⁰ The Sentencing Project, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (August 2022) <<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>> [as of XX, 2024]; Ellis, “CYS Restorative Justice Diversion,” <<https://tinyurl.com/5n7kbrr8>> [as of XX, 2024]; Illinois Juvenile Justice Commission, “Preventing

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legal system.²⁷¹ After arrest, youth could be offered *pre-filing* diversion (where there is an arrest, but no charges have been filed); *pre-adjudication* diversion (where there is an arrest and charges have been filed), and even *post-adjudication* restorative justice (which can occur as part of a youth’s re-entry terms).²⁷²

Although diversion *can* happen at different points in time, experts have reached consensus that the *best* time for diversion to happen is immediately, at the point of first contact with law enforcement;²⁷³ indeed, multiple studies have shown that *any* contact with the system — even just an arrest, or an initial court date — makes it more likely that a child will experience negative outcomes later in life, including making it less likely they will finish school, and more likely they will become further ensnared in the system.²⁷⁴ As the Illinois Juvenile Justice Commission noted, “[t]he arrest experience is traumatic and can be life-altering. It typically involves being taken into custody, handcuffed, transported in a police vehicle to a police facility, fingerprinted and detained (sometimes cuffed to an object) while being ‘processed.’”²⁷⁵

These findings indicate that deflection or pre-arrest diversion should be the norm, not the exception. As the initial contact between youth and law enforcement is crucial, researchers recommend that law enforcement reassess their approach to youth contact entirely, with an understanding that each contact should end in pre-arrest diversion where possible. Notably, this year, the California Legislature “reaffirm[ed] its support for utilizing research- and evidence-based, trauma-informed, community-based programs that include alternatives to arrest, incarceration, and formal involvement with the juvenile justice system, and which aim to deflect or divert youth from justice system engagement at the earliest possible point.”²⁷⁶

In 2021, there were more than 40 statutes, laws, and provisions throughout California

Youth Arrests through Deflection,” <<https://ijjc.illinois.gov/wp-content/uploads/2021/08/IJJC-Deflection-Report-November-2020.pdf>> [as of XX, 2024].

²⁷¹ The Sentencing Project, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (August 2022) <<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>> [as of XX, 2024]; Ellis, “CYS Restorative Justice Diversion,” <<https://tinyurl.com/5n7kbrr8>> [as of XX, 2024].

²⁷² Ellis, “CYS Restorative Justice Diversion,” <<https://tinyurl.com/5n7kbrr8>> [as of XX, 2024].

²⁷³ See, e.g., Illinois Juvenile Justice Commission, “Preventing Youth Arrests through Deflection,” <<https://ijjc.illinois.gov/wp-content/uploads/2021/08/IJJC-Deflection-Report-November-2020.pdf>> [as of XX, 2024] (“Procedurally-just interactions, which avoid arrests whenever possible and advance racial equity, must be prioritized in every . . . community”).

²⁷⁴ Washburn, “LA County Embarks on Sweeping Youth Diversion Plan” (March 8, 2018) California Health Report, <<https://www.calhealthreport.org/2018/03/08/la-county-embarks-sweeping-youth-diversion-plan/>> [as of XX, 2024].

²⁷⁵ Illinois Juvenile Justice Commission, “Preventing Youth Arrests through Deflection,” p. 5 <<https://ijjc.illinois.gov/wp-content/uploads/2021/08/IJJC-Deflection-Report-November-2020.pdf>> [as of XX, 2024].

²⁷⁶ Sen. Bill 1484 (2023-2024 Regular Sess.) § 1 <https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB1484> [as of XX, 2024].

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implementing some form of diversion or restorative justice for youth offenders.²⁷⁷ In Santa Cruz County, the implementation of two publicly-funded youth diversion programs for youth charged with certain offenses contributed to a 27 percent drop in juvenile hall bookings between 2011 and 2020.²⁷⁸ In 2022, Los Angeles County created and implemented its Department of Youth Development (DYD); a portion of its mission focuses on “community-based youth diversion and restorative practices.”²⁷⁹ An internal review of DYD’s programs noted that only 5 percent of youth who enrolled in DYD’s diversion program had a petition filed within 12 months, compared to around 20 percent of youth who had not enrolled in the program.²⁸⁰

Unfortunately, youth of color are not referred to diversion at the same rate as White youth, depriving them of the short and long-term benefits of diversion and restorative justice programs. In Los Angeles County’s DYD program, for example, Black youth were deemed eligible for diversion at lower rates than White youth, and Black youth enrolled in diversion at much lower rates than White youth.²⁸¹ However, Black and Hispanic/Latine(x) youth who were enrolled substantially completed their formal diversion at a rate at least equivalent to White youth.²⁸²

Other research similarly shows youth of color referred to diversion at lower rates than their White counterparts. Nationally, 52 percent of White youth in 2019 were referred to diversion out of juvenile courts, compared to only 40 percent of Black youth, and 44 percent of

²⁷⁷ Martinez, “The Promise and Limits of Restorative Justice for Youth” (August 12, 2021) The Imprint, <<https://imprintnews.org/justice/juvenile-justice-2/the-promise-and-limits-of-restorative-justice-for-youth/57793>> [as of XX, 2024].

²⁷⁸ Martinez, “The Promise and Limits of Restorative Justice for Youth” (August 12, 2021) The Imprint, <<https://imprintnews.org/justice/juvenile-justice-2/the-promise-and-limits-of-restorative-justice-for-youth/57793>> [as of XX, 2024].

²⁷⁹ Department of Youth Development, “About Us,” <<https://dyd.lacounty.gov/about/>> [as of XX, 2024].

²⁸⁰ Department of Youth Development, “DYD’s Second Annual Report” <https://dyd.lacounty.gov/wp-content/uploads/2024/07/DYD-Year-2-in-Review.pdf> [as of July 30, 2024].

²⁸¹ Department of Youth Development, “LA County Department of Youth Development – Diversion Program Outcome and Equity Assessment & Cost Benefit Analysis” (2024), <https://dyd.lacounty.gov/wp-content/uploads/2024/07/DYD_Outcome-Equity-Report_Final-Report.pdf> [as of July 30, 2024]. There are several factors that affect the rates at which youth decide to enroll in diversion programs which are unrelated to a child’s interest in participating or motivation to participate. For example, DYD notes that factors such as youth proximity to available diversion programs may explain lower Black youth enrollment, especially if those programs are located “outside a reasonable traveling distance from their residence at a greater rate than other racial and ethnic groups.” (Department of Youth Development, “LA County Department of Youth Development – Diversion Program Outcome and Equity Assessment & Cost Benefit Analysis” (2024) p. 31 <https://dyd.lacounty.gov/wp-content/uploads/2024/07/DYD_Outcome-Equity-Report_Final-Report.pdf> [as of July 30, 2024].) Other research demonstrates that the imposition of diversion fees or costs has disproportionate impact, exacerbating disparities. (Schlesinger, *Decriminalizing Racialized Youth through Juvenile Diversion* (2018) 28 *The Future of Children* 1, 59-81; see also the Sentencing Project, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (August 2022) p. 16.

²⁸² Department of Youth Development, “LA County Department of Youth Development – Diversion Program Outcome and Equity Assessment & Cost Benefit Analysis” (2024), <https://dyd.lacounty.gov/wp-content/uploads/2024/07/DYD_Outcome-Equity-Report_Final-Report.pdf> p. 46 [as of July 30, 2024].

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Hispanic/Latine(x) youth.²⁸³ These disparities appear to be increasing. In 2005, the share of White youth referred to diversion “was 20 percent higher than the share for Black youth. By 2019, the gap had jumped to 30 percent.”²⁸⁴ Such disparities have been seen in various states.²⁸⁵

Effective restorative justice programs should account for racial disparities in who is referred to these programs, and at the very least, youth of color should be referred to those programs in proportion to the population.

These disparities are particularly troubling because restorative practices have significant benefits for youth of color. In Los Angeles, Black youth who successfully completed diversion had the highest share of improvement across development goals compared to White or Hispanic/Latine(x) youth, including social support and caring adult relationships.²⁸⁶

Research shows that one major driver of these disparities is discretion authorities have in choosing who is referred to restorative justice programs.²⁸⁷ Effective diversion programs mandate diversion for specific violations, or create a presumption for diversion for those violations, removing such discretion and making such programs available regardless of race or identity.²⁸⁸ Researchers also recommend explicitly targeting racial disparities in diversion

²⁸³ Sickmund et al., “Easy Access to Juvenile Court Statistics: 1985-2019” (2019) <<https://www.ojjdp.gov/ojstatbb/ezajcs/>> [as of July 30, 2024].

²⁸⁴ The Sentencing Project, *Diversion: a Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (August 2022) <<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>> [as of July 30, 2024].

²⁸⁵ For example, one study of youth accused of drug offenses in Florida noted that Black youth were significantly less likely to be given pre-adjudication diversion when compared to White youth. (Hayes-Smith and Hayes-Smith, *Race, Racial Context, and Withholding Adjudication in Drug Cases: A Multilevel Examination of Juvenile Justice* (2009) 7 J. of Ethnicity in Criminal Justice 3, 163-185, p. 176.) This disparity was not affected by the relative size of the Black population, racial economic inequality, concentrated disadvantage, or the crime rate. (Hayes-Smith and Hayes-Smith, *Race, Racial Context, and Withholding Adjudication in Drug Cases: A Multilevel Examination of Juvenile Justice* (2009) 7 J. of Ethnicity in Criminal Justice 3, 163-185, p. 179.) Researchers opined that the prevalence of structural inequality and racial bias in the criminal legal system was a driver for these racial disparities. (Hayes-Smith and Hayes-Smith, *Race, Racial Context, and Withholding Adjudication in Drug Cases: A Multilevel Examination of Juvenile Justice* (2009) 7 J. of Ethnicity in Criminal Justice 3, 163-185, p. 169.)

²⁸⁶ Department of Youth Development, “LA County Department of Youth Development – Diversion Program Outcome and Equity Assessment & Cost Benefit Analysis” (2024), <https://dyd.lacounty.gov/wp-content/uploads/2024/07/DYD_Outcome-Equity-Report_Final-Report.pdf> p. 61 [as of July 30, 2024].

²⁸⁷ The Sentencing Project, *Diversion: a Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (August 2022) <<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>> [as of July 30, 2024]; Department of Youth Development, “LA County Department of Youth Development – Diversion Program Outcome and Equity Assessment & Cost Benefit Analysis” (2024), <https://dyd.lacounty.gov/wp-content/uploads/2024/07/DYD_Outcome-Equity-Report_Final-Report.pdf> [as of July 30, 2024]; Hashim et al., *Justice for All? Suspension Bans and Restorative Justice Programs in the Los Angeles Unified School District* (February 2018) 93 Peabody J. of Educ. 2, 174-189.

²⁸⁸ The Sentencing Project, *Diversion: a Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (August 2022) <<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>> [as of July 30, 2024].

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participation, prioritizing the reduction in such disparities.²⁸⁹ Kentucky, for example, amended its court diversion programs significantly in 2014. Among other reforms, the new law mandated that all youth be offered diversion for certain first-time misdemeanor complaints, and limited prosecutors' authority to override diversion decisions for youth meeting the criteria.²⁹⁰ Those changes resulted in a 4.6 percent decrease in disparities between White and Black youth referred to diversion over a four-year period.²⁹¹

There are no agency-wide policies in any Wave 1 or Wave 2 agencies in California *mandating* diversion, much less pre-arrest diversion, for youth suspected of offenses. Making diversion mandatory — or, at the very least, mandating the offer of diversion to youth absent specific, articulable exceptions — would likely reduce discrepancies between White and non-White youth in participating in these programs. Los Angeles County's DYD program is a step in the right direction, and law enforcement agencies should be encouraged to assess the benefits and feasibility of such programs going forward.

C. Prior Board Recommendations Related to Youth

The Board has, in prior reports, made several recommendations regarding police interactions with youth. These recommendations are consistent with and supported by the research discussed in this section, as they recognize and are sensitive to the unique considerations present in any law enforcement interaction with youth. They are also consistent with the unique considerations present in law enforcement's interaction with youth of color. When it approved these recommendations, the Board concluded that, if implemented, they would mitigate the harmful effects of racial and identity profiling.

The Board wishes to highlight some of the most salient ones below, both as a reminder of those recommendations the Board previously approved in this space, and to demonstrate how those prior recommendations inform, complement, and further this year's recommendations regarding youth.

- The Legislature should encourage municipalities and law enforcement agencies to implement protocols that (1) use licensed health care and mental health workers rather than law enforcement as first responders when emergency services are requested for children and adolescents in mental health crisis; (2) limit use of force against children

²⁸⁹ The Sentencing Project, *Diversion: a Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* (August 2022) <<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>> [as of July 30, 2024].

²⁹⁰ Harvell et al., "Assessing Juvenile Diversion Reforms in Kentucky" (September 2020) <https://www.urban.org/sites/default/files/publication/102853/assessing-juvenile-diversion-reforms-in-kentucky_0.pdf> [as of July 30, 2024].

²⁹¹ Harvell et al., "Assessing Juvenile Diversion Reforms in Kentucky" (September 2020) pp. 20-21 <https://www.urban.org/sites/default/files/publication/102853/assessing-juvenile-diversion-reforms-in-kentucky_0.pdf> [as of XX, 2024].

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during mental health calls; (3) train law enforcement personnel who respond to and/or interact with youth in mental health crisis on effective developmentally appropriate communication that emphasizes de-escalation techniques and non-punitive trauma-informed interventions; and (4) allocate resources to historically underfunded and underserved communities to break the cycle of poverty and criminalization of racial minority children and adolescents.²⁹²

- The Legislature, municipalities, and law enforcement agencies should prohibit the collection of field interview cards and entries of youth into CalGang, or any agency database designed to track criminal information after youth are questioned or a field interview is conducted without the presence of an attorney.²⁹³
- If an agency does not adopt the previous recommendation, the agency should recognize and state in their policies that these encounters may not be fully consensual, and officers should be required to inform the individuals subject to the field interview that they do not have to respond to questions and are free to leave.²⁹⁴
- Policymakers should consider providing youth with additional protections and safeguards prior to waiving any rights, particularly if any statements they make could lead to their inclusion in a criminal database or could be used against them in criminal proceedings.²⁹⁵
- Policymakers should reform use of force policies and practices to take into account the physical and developmental differences between youth and adults.²⁹⁶

The Board has also made other recommendations which, while not specific to youth, are also consistent with and supported by the research discussed in this section. These recommendations should, at the very least, be applied to all police interactions with youth:

- The Legislature should encourage law enforcement agencies to adopt policies that prohibit the use of force, except when necessary to prevent injury or harm to the individual or officer, against children and persons with physical and mental disabilities because the use of force “can undermine public trust and should be used as a last resort when all other reasonable means have been exhausted.” Relatedly, the Legislature should recommend that police use less confrontational tactics and de-escalation during mental health calls. And finally, the Legislature should encourage municipalities and law enforcement agencies to modify policies, procedures, and practices to avoid

²⁹² Racial and Identity Profiling Advisory Board (2024). *2024 RIPA Report* pp. 120-121 <<https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf>> [as of September 23, 2024].

²⁹³ Racial and Identity Profiling Advisory Board (2024). *2024 RIPA Report: Recommendations and best practices*. p. 3 <<https://oag.ca.gov/system/files/media/ripa-best-practices-2024.pdf>> [as of May. 10, 2024].

²⁹⁴ Racial and Identity Profiling Advisory Board (2024). *2024 RIPA Report: Recommendations and best practices*. p. 3 <<https://oag.ca.gov/system/files/media/ripa-best-practices-2024.pdf>> [as of May. 10, 2024].

²⁹⁵ Racial and Identity Profiling Advisory Board, 2023 *RIPA Report: Recommendations and Best Practices* (2023) p. 3 <<https://oag.ca.gov/system/files/media/2023-ripa-report-best-practices.pdf>> [as of XX, 2024].

²⁹⁶ Racial and Identity Profiling Advisory Board, 2023 *RIPA Report: Recommendations and Best Practices* (2023) p. 3 <<https://oag.ca.gov/system/files/media/2023-ripa-report-best-practices.pdf>> [as of XX, 2024].

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discrimination on the basis of disability responding to calls involving people with mental health and physical disabilities.²⁹⁷

- The Legislature, law enforcement agencies, and local policymakers should prohibit or limit supervision inquiries during stops (i.e. asking whether the stopped person is under a form of supervision).²⁹⁸
- The Legislature should prohibit law enforcement from asking an individual their probation, parole, or supervision status, unless there are articulable facts establishing probable cause that a crime has been committed.²⁹⁹
- Officers should be prohibited from detaining or searching a person simply because an officer is aware of the person’s supervision status, recommending that the officer should instead, at a minimum, have a reasonable suspicion the person is engaged in criminal activity.³⁰⁰
- Policymakers should consider requiring officers to have probable cause prior to conducting a search of youth or take measures to prohibit officers from requesting consent to search youth without an attorney present.³⁰¹

This year’s RIPA data, consistent with prior years, demonstrates disparities in how police interact with racialized youth and underscores how important these recommendations continue to be. This year’s focus on youth and policing allows the Board to look closely at the realities of youth interaction with police. For example, although the Board has recommended law enforcement should be prohibited from using field interview cards for youth, law enforcement agencies still complete field interview cards on Black and Hispanic/Latine(x) youth far more frequently than on White youth.³⁰² While the Board recommended that children not be entered

²⁹⁷ Racial and Identity Profiling Advisory Board (2024). *2024 RIPA Report*. p. 121

<<https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf>> [as of September 23, 2024].

²⁹⁸ Racial and Identity Profiling Advisory Board, *2022 RIPA Report: Recommendations and Best Practices* (2022) p. 7 <<https://oag.ca.gov/system/files/media/2022-ripa-report-best-practices.pdf>> [as of XX, 2024].

²⁹⁹ Racial and Identity Profiling Advisory Board, *2023 RIPA Report: Recommendations and Best Practices* (2023) p. 2 <<https://oag.ca.gov/system/files/media/2023-ripa-report-best-practices.pdf>> [as of XX, 2024].

³⁰⁰ Racial and Identity Profiling Advisory Board, *2022 RIPA Report: Recommendations and Best Practices* (2022) p. 7 <<https://oag.ca.gov/system/files/media/2022-ripa-report-best-practices.pdf>> [as of XX, 2024]; see also Strategies for Youth, “Policy 2: Investigatory Stops, Non-custodial Interviews, and Search and Seizure of Youth” <<https://strategiesforyouth.org/Model-Policy2.pdf>> [as of August 1, 2024].

³⁰¹ Racial and Identity Profiling Advisory Board, *RIPA Report: Recommendations and Best Practices* (2023) pp. 3-4 <<https://oag.ca.gov/system/files/media/2023-ripa-report-best-practices.pdf>> [as of XX, 2024]. Some scholars have suggested that because of these disparities and the lack of voluntariness in agreeing to a search — as well as the racial disparities that characterize the rate of consent searches — officers should be required to have probable cause before conducting a search of anyone, especially youth. (Annitto, *Consent Searches of Minors* (2014) 38 N.Y.U. Rev. of L. & Social Change 1-2, 7, 18, 36-37, 41, 45, 48-49 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2412356> [as of XX, 2024].)

³⁰² See, e.g., **Figure 149, Appendix**. Officers completed field interview cards on youth perceived to be between the ages of 12 and 14 and Black in 14.9 percent of stops (263 stops), Hispanic/Latine(x) in 13.17 percent of stops (738 stops), and just 5.47 percent of stops (138 stops).

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into CalGang, 172 entries in CalGang were of youth 13–17.³⁰³ Although the Board has made recommendations that would limit the amount of time a person was stopped or searched, the data shows youth 15–17 and perceived to be Native American, Black, Pacific Islander, and Middle Eastern were stopped for durations far longer than White youth.³⁰⁴ Unless the Board’s recommendations are considered and implemented, there is a high likelihood that the data will continue to show these disparities, and a high likelihood that racial and identity profiling will continue to persist.

D. Board Recommendations

The research discussed in this section shows that there are many harmful, unintended effects of law enforcement interaction with youth, and youth of color specifically. Part of these harmful effects are the result of racial and identity profiling, as shown in the RIPA data. To better align existing expectations in state law with best practices for interacting with youth, and to reduce the harmful outcomes of racial and identity profiling, the Board recommends that law enforcement agencies, municipalities, district attorneys, and the Legislature do the following:

1. The Legislature should convene a panel of experts to recommend standards, policies, and training for officers as it relates to the disparities and research set forth in the 2025 RIPA report with respect to youth, with a focus on use of force, de-escalation, and child development.³⁰⁵ Members of the panel should include, at a minimum, affected community members, experts in the development of use of force policies and trainings, child development experts, law enforcement experts, and human rights experts.
2. The Legislature should review the efficacy of existing deflection and diversion programs and explore the expansion to universal deflection or diversion for youth accused of a status offense, misdemeanor, or other low-level offense with a rebuttable presumption of eligibility that can be overcome with evidence-based considerations.³⁰⁶

³⁰³ California Department of Justice. (2023). *Attorney General’s Annual Report on CalGang*, p. 1 <<https://oag.ca.gov/system/files/media/ag-annual-report-calgang-2023.pdf>> [as of August 1, 2024]; California Department of Justice. (2023). *AG Annual Report on CalGang 2023: 2023 dataset*. <<https://www.oag.ca.gov/system/files/media/calgang-ag-dataset-2023.xlsx>> [as of August 1, 2024].

³⁰⁴ See Tables 37 and 38, Appendix. Across all stops, youth between the ages of 15-17 and perceived to be Native American were stopped for an average of 58.0 minutes, or nearly an hour; Black youth were stopped for an average of 48.5 minutes; Pacific Islander youth were stopped for an average of 38.1 minutes; White youth in that age group were stopped for just 23.6 minutes. When they did not give consent to be searched, youth between the ages of 15-17 and perceived to be Middle Eastern were stopped for an average of 181.0 minutes, or more than 3 hours. Hispanic/Latine(x) youth were stopped for an average of 152.8 minutes, or more than 2½ hours. Black youth were stopped for an average of 92.4 minutes, or more than 1½ hours. White youth in that age group were stopped on average for 87.7 minutes.

³⁰⁵ See, e.g., Strategies for Youth, “Policy 5: Use of Force with Youth,” <<https://strategiesforyouth.org/Model-Policy5.pdf>> [as of August 1, 2024].

³⁰⁶ See Harvell et al., “Assessing Juvenile Diversion Reforms in Kentucky” (September 2020)

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3. The Legislature, agencies, and municipalities should explore how limiting officer discretion in stops could reduce racial disparities and make specific findings from their study to act on.³⁰⁷
4. The Board recommends that law enforcement agencies reevaluate proactive policing practices that have a disparate impact and should collaborate with community-based organizations to find alternatives to increase public safety.³⁰⁸

These types of partnerships can be profoundly impactful for youth and avoid many of the negative, long-lasting effects of becoming involved in the criminal legal system.³⁰⁹

IV. CONCLUSION AND VISION FOR FUTURE REPORTS

A wealth of research demonstrates that law enforcement interaction with youth can have profound consequences for those youth later in life and can affect both the youth and the community at large. Policies that recognize the youth-specific impact of law enforcement interactions can target racial disparities, benefiting the state as a whole. The Board will continue to explore the interaction between youth and law enforcement — and any policy developments which affect that interaction — in subsequent reports. The Board hopes that by identifying data trends that show disparities or demonstrate racial profiling, communities, agencies, and municipalities will use the data to develop policies to reduce and prevent disparate treatment.

https://www.urban.org/sites/default/files/publication/102853/assessing-juvenile-diversion-reforms-in-kentucky_0.pdf [as of July 30, 2024].

³⁰⁷ In response to emerging research, several law enforcement agencies in California, including California Highway Patrol (CHP) and Los Angeles Police Department (LAPD), have adopted policies to limit officer discretion in stops. (California Highway Patrol, General Order: Search and Seizure Policy, 100.91 (Aug. 2019); L.A. County Board of Police Commissioners, Department Manual Vol. 1: 240.06 Policy Limitation on Use of Pretextual Stops (Mar. 2022) pp. 1–2 <http://www.lapdpolicecom.lacity.org/030122/BPC_22-042.pdf> [as of XX, 2024].) In Los Angeles, this policy has led to a small, but statistically significant, reduction in the disparities of stops between White and Black individuals. (Boehme and Mourtgos, *The Effect of Formal De-policing on Police Traffic Stop Behavior and Crime: Early Evidence from LAPD's Policy to Restrict Discretionary Traffic Stops* (2024) Criminology and Public Policy, 1-26, p. 528 [noting that share of Black drivers stopped decreased by 3.6% since the introduction of the policy].)

³⁰⁸ See Rios et al., *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk*. American Sociological Rev. 72.

³⁰⁹ For example, organizations such as Centinela Youth Services, which has partnered with law enforcement agencies in Los Angeles County for nearly 50 years (Centinela Youth Services, “About Us,” <<https://www.cys-la.org/about>> [as of XX, 2024]), has provided restorative justice services and diversion to more than 1,200 youth suspected of misdemeanors, felonies, status offenses, or high-needs youth who are truant, suspended or expelled from school (Centinela Youth Services, “Centinela Youth Services (CYS): Everychild Restorative Justice Centers” <<https://file.lacounty.gov/SDSInter/bos/supdocs/121501.pdf>> [as of XX, 2024]). Youth who participate in CYS’s diversion programs have much lower recidivism rates (just 11 percent, compared to 30–60 percent for youth going through the normal justice process), complete 6 times more community service hours, and are 166 times more likely to pay monetary restitution. (Centinela Youth Services, “CYS Restorative Justice Diversion” <<https://tinyurl.com/2s3pfk9t>> [as of XX, 2024].)

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POST TRAINING AND RECRUITMENT

I. INTRODUCTION

*“Implicit bias is the residue that an unequal world leaves on an individual’s mind and brain, residue that has been created and built into institutional policies and practices and socialized into patterns of behavior over hundreds of years through the workings of culture.”*³¹⁰

Law enforcement training is a crucial part of eliminating racial and identity profiling. If done properly, trainings have the power to create a culture of accountability within departments. The RIPA Board plays a vital role in helping develop, analyze, and revise trainings related to racial and identity profiling by consulting with the Peace Officer Standards and Training (POST) on the “evidence-based patterns, practices, and protocols that prevent racial and identity profiling” prescribed in the training courses.³¹¹ This year’s report focuses on the Board’s participation in POST’s development of guidelines for an optional racial and identity profiling course. To meet the Penal Code section’s mandate for guidelines, the report includes recommendations to create guidelines that apply to *all* racial and identity profiling courses and assist law enforcement agencies with the development of mandatory policies that inform law enforcement professionals of relevant legal standards including RIPA’s prohibition against racial and identity profiling.

This section of the report also includes POST’s response to the 2024 RIPA recommendations, a literature review of emerging research on the effectiveness of anti-bias training, and policy recommendations for the California Legislature and the POST Commission to improve peace officer training, reduce disparities, and ultimately end racial and identity profiling in California.

II. POST RESPONSE TO 2024 RECOMMENDATIONS

Over the past eight years, the RIPA Board has reviewed POST’s training and course materials related to racial and identity profiling and made recommendations to align those courses with AB 953’s goal of eliminating racial -and identity profiling.³¹² POST identified the relevant courses and related materials for the Board to review. Much of these courses and materials were developed by the Simon Wiesenthal Museum of Tolerance (MOT)³¹³ with POST’s approval and

³¹⁰ See Hetey et al., “When the Cruiser Lights Come On:” *Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, p. 125 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

³¹¹ Pen. Code, § 13519.4, subs. (h) and (j)(3)(B).

³¹² Recommendations from the RIPA Board have varied over the years but routinely included calls for increased community engagement by POST and revisions to bolster existing trainings and reduce disparities in stop data.

³¹³ The Museum of Tolerance (MOT) is a “human rights laboratory and educational center dedicated to challenging visitors to understand the Holocaust in both historic and contemporary contexts and confront all forms of prejudice and discrimination in our world today.” Museum of Tolerance, *Our History and Vision*, <<https://www.museumoftolerance.com/about-us/our-history-and-vision/>> [as of XX, 2024].

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certification of course content. POST partners with MOT to provide law enforcement officers, recruits, supervisors, and command staff with cultural diversity, hate crime, and racial profiling programming.³¹⁴ This group of courses is referred to as the Tools for Tolerance for Law Enforcement and Criminal Justice.³¹⁵ POST provides over \$1.5 million in funding annually, mandated by the Legislature, to MOT to develop the curriculum and deliver the training.³¹⁶ MOT conducts a “Train-the-Trainer” training for all law enforcement agency instructors who teach the racial and identity profiling courses at their law enforcement agencies or academies.

Despite updated training on racial and identity bias offered through POST, and perhaps also through officers’ own law enforcement agency, disparities in who is stopped and is subjected to intrusive actions during traffic and pedestrian stops persist. Across all years of the RIPA data collection (2018-2023), RIPA data show that individuals perceived as Black, Hispanic/Latine(x), as having a disability, or transgender are consistently treated in disparate ways. The training reportedly raises cultural awareness; however, it is not effectively reducing disparities in stops and actions taken by officers.

The RIPA data show racial and identity profiling continues to impact all aspects of a stop, from the decision to initiate the stop to actions taken during the stop, including the result of the stop. For example, the 2023 RIPA data demonstrated officers reported arresting individuals with a perceived disability (28.20%, 14,109 stops) at higher rates compared to those without a perceived disability (14.0%, 654,067 stops).³¹⁷ Additionally, Black individuals were stopped 126.46 percent more often than expected, given their relative proportion of the California population.³¹⁸ Yet officers reported taking no action as a result of a stop more frequently for individuals perceived to be Native American or Black than for other demographic groups.³¹⁹

³¹⁴ Commission on Peace Officer Standards and Training, *Cultural Diversity Program*, <<https://post.ca.gov/cultural-diversity>> [as of XX, 2024].

³¹⁵ Museum of Tolerance, Tools for Tolerance for Law Enforcement and Criminal Justice <<https://www.museumoftolerance.com/for-professionals/programs-workshops/tools-for-tolerance-for-law-enforcement-and-criminal-justice/>> [as of XX, 2024].

³¹⁶ In both 2023-2024 and 2024-2025, POST paid the Museum of Tolerance (MOT) \$1,566,000. (POST Finance Committee, Contracts Requiring Approval (June 2024) <https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2650332/FY24-25_Contracts_Requiring_Commission_Approval.pdf> [as of XX, 2024]; POST Finance Committee, Contracts Requiring Approval (March 2024) <https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2454114/FY24-25_Contracts_Requiring_Approval.pdf> [as of XX, 2024].)

³¹⁷ Racial and Identity Profiling Advisory Board, *2025 Report*, at p. XX.

³¹⁸ Racial and Identity Profiling Advisory Board, *2025 Report*, at p. XX.

³¹⁹ A stop that results in no action such as, no citation, warning, or arrest, is an indicator of pretext. Where levels of pretext stops are elevated, there are higher search rates for racial and ethnic groups of color. (See Pierson, et al., *A Large-Scale Analysis of Racial Disparities in Police Stops Across the United States* (July 2020) p. 739 <<https://doi.org/10.1038/s41562-020-0858-1>> [as of XX, 2024]; see also, U.S. DOJ, Investigation of the City of Minneapolis and the Minneapolis Police Department (June 2023) p. 35 <<https://www.justice.gov/opa/press-release/file/1587661/download>> [as of XX, 2024].)

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The persistence of these disparities raises serious questions about whether training and awareness alone are enough to eliminate bias in policing. Current research, discussed below, and prior reports have concluded that the most effective way to eliminate racial bias is by changing behavior, namely through a combination of training that is linked to improved behavioral changes and policies that limit officer discretion and address department culture. Anti-bias trainings can be helpful in setting the stage, but ultimately real and lasting culture change is needed to eliminate the pernicious effects of racial and identity profiling in law enforcement.



RIPA data should inform and strengthen the training that is designed to eliminate racial and identity profiling in California. Pursuing more data-driven trainings can also lead to enhanced officer and civilian safety in the field. To that end, in the 2024 Report, the Board recommended improvements to training and guidelines. POST delivered its response to the recommendations, in a June 2024 POST Commission meeting.³²⁰ A summary of the Board’s recommendations and POST’s responses are as follows:

RIPA Board Recommendation	POST Response	POST Response
Adopt protocols and publish separate guidelines on racial and identity profiling-related courses, apart from publication in Basic Training curriculum.	In Progress	POST convened two workshops in May and October 2024 with subject matter experts to develop guidelines on racial and identity profiling-related courses. However, as discussed in this Report, the POST materials used in the workshop do not apply to all trainings or provide policy recommendations to agencies.
Adopt a process and publish timelines for RIPA Board and community review of trainings (Pen. Code, § 13519.4, subd. (b)).	X	POST concluded its community/stakeholder input is sufficient, and POST lacks the resources to address further recommendations such as assigning a community engagement coordinator.
Allow time for meaningful feedback throughout curriculum updates and development, including community sourcing of subject matter experts.	✓	POST agreed to provide verbal updates for (curriculum-related) regulatory items to the Board and share non-regulatory items with sufficient time to review.

³²⁰ See POST Commission Meeting Agenda, Report on Racial and Identity Profiling Advisory (RIPA) Board 2024 Annual Report (June 13, 2024), pp. 258-271 <https://post.ca.gov/Portals/0/post_docs/commissionmeetings/2024/2024-06-13_Commission_Meeting_Agenda.pdf> [as of XX, 2024].

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RIPA Board Recommendation	POST Response	POST Response
Measure course effectiveness of all POST Racial and Identity Profiling [certified] courses.		POST stated it lacks legal authority to collect data on individual officer actions and performance following training. Instead, “POST believes measuring the effectiveness of [racial and identity] training should fall to local law enforcement agencies and the communities they serve.” POST agreed to request the Museum of Tolerance (MOT) include “a more in-depth review” of RIPA data in the MOT Racial and Identity Train-the-Trainer course.
Include individual officer and supervisor accountability and reporting as a required training topic in all racial and identity profiling courses. ³²¹		POST will recommend to MOT to “further incorporate the importance of accountability, [] specifically to highlight officer peer behavior and supervisor accountability.” POST stated it will ensure this topic is included in all racial and identity courses.

The Board appreciates and welcomes POST’s written responses to the Board’s recommendations and looks forward to POST implementing the recommendations and updating the Board. In addition to publishing its reviews in the RIPA reports, the Board relayed the training recommendations for each of the reviewed courses directly to the POST Commission via annual letter. Board members also made in-person presentations at regularly scheduled POST Commission meetings in March 2023,³²² June 2023,³²³ and June 2024.³²⁴

III. POST’S DEVELOPMENT OF ITS RACIAL AND IDENTITY PROFILING GUIDELINES

In August 2023, POST agreed to develop racial and identity profiling guidelines as a standalone document and included Board members in their development. Previously, the Board understood that Penal Code section 13519.4’s mandatory guidelines were dispersed throughout POST’s training curricula. The Board anticipated that clear independent profiling guidelines would create uniformity across trainings and policy with respect to legal standards and effectiveness, whether for recruits, seasoned officers, supervisors, or command staff. The Board recommended that POST use its Use of Force Guidelines as a template. POST invited RIPA Board members to

³²¹ Racial and Identity Profiling Advisory Board, *2024 Report*, at p. 219.

³²² POST Commission, March 22, 2023, Meeting Minutes, pp. 21-24
https://post.ca.gov/Portals/0/post_docs/commissionmeetings/2023/2023-03-22_Commission_Meeting_Minutes.pdf [as of XX, 2024].

³²³ POST Commission, June 8, 2023, Meeting Minutes, pp. 64-72
https://post.ca.gov/Portals/0/post_docs/commissionmeetings/2023/2023%2006-08_POST_Commission.pdf [as of XX, 2024].

³²⁴ POST Commission, June 13, 2024, Meeting Minutes, pp. 52-66
https://post.ca.gov/Portals/0/post_docs/commissionmeetings/2024/2024.06.13_Full_Commission_Meeting.pdf [as of XX, 2024].

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participate in the guideline development workshops.

In May and October 2024, POST convened subject matter experts for two workshops to develop the guidelines using the certified Museum of Tolerance (MOT) Racial and Identity Profiling course for trainers — *Racial Profiling: Issues and Impact* — as the template curriculum. This MOT curriculum was updated in 2022, after 20 years, with the input of several Board members as subject matter experts. However, the RIPA Board was not provided an opportunity to review the final curriculum before its implementation and have numerous recommendations for improvement.³²⁵

At the second workshop in October, POST informed the subject matter experts and the DOJ, for the first time, that the racial and identity guidelines will serve as a template 5-hour optional course for advanced officer training on racial and identity profiling that agencies can use to develop their own training. Board members understood that POST interpreted the term “guidelines” found in Penal Code section 13519.4 and other similar statutes requiring training *and* guidelines (e.g., Penal Code section 13519.10 “Use of force”; Penal Code section 13519.6 “Hate Crimes”) as a tool to assist law enforcement agencies with the development of policies. POST explained that the guidelines it is developing are instructor guidelines for law enforcement agencies to teach an optional course.

While the Board agrees that it is imperative that the guidelines aid law enforcement training, Penal Code section 13519.4 instructs POST to “develop and disseminate” both “guidelines” and “trainings for all peace officers in California.” As section 13519.4 makes clear, the “course of instruction and the guidelines shall stress understanding and respect for racial, identity, and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties” including section 13519.4’s prohibition against racial profiling. Given section 13519.4’s treatment and POST’s interpretation of “guidelines” and “training” as two distinct terms, the Board expects the guidelines to serve as more than just an optional training tool. Indeed, anything short of a tool that aids law enforcement agencies with the development of mandatory policies and trainings regarding a peace officer’s duty to abstain from racial and identity profiling falls short of the mandate in section 13519.4. The sections below discuss in greater detail the training requirements outlined in section 13519.4 as well as the process for POST’s development of racial and identity profiling guidelines.

POST anticipates completing the guidelines by early 2025.³²⁶

³²⁵ Racial and Identity Profiling Advisory Board, *2023 Report*, at pp. 195-212.

³²⁶ See POST Commission Meeting Agenda, Report on Racial and Identity Profiling Advisory (RIPA) Board 2024 Annual Report (June 13, 2024), p. 262 <https://post.ca.gov/Portals/0/post_docs/commissionmeetings/2024/2024-06-13_Commission_Meeting_Agenda.pdf> [as of XX, 2024].

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A. RIPA Requirements Regarding POST Trainings and Guidelines

RIPA requires POST to develop and disseminate guidelines and mandatory training for all peace officers to address racial and identity profiling.³²⁷ RIPA specifies that POST courses and its guidelines on profiling must “stress understanding and respect for racial, identity, and cultural differences,” and “prescribe evidence-based patterns, practices, and protocols that prevent racial or identity profiling.”³²⁸ RIPA also mandates the Board to “analyze law enforcement training” proscribed by the statute.³²⁹ In developing the courses, POST must consult with the RIPA Board and community groups and individuals with “an interest and expertise in the field of racial, identity, and cultural awareness and diversity.”³³⁰

Penal Code section 13519.4, subdivision (h), lists the following necessary subjects for curricula instruction:

1. Identification of key indices and perspectives that make up racial, identity, and cultural differences among residents in a local community;
2. Negative impact of intentional and implicit biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations and contributed to injury, death, disparities in arrest detention and incarceration rights, and wrongful convictions;
3. The history and role of the civil and human rights movement and struggles and their impact on law enforcement;
4. Specific obligations of peace officers in preventing, reporting, and responding to discriminatory or biased practices by fellow peace officers;
5. Perspectives of diverse, local constituency groups and experts on racial, identity, and cultural and police-community relations issues in a local area; and
6. The prohibition against racial or identity profiling in subdivision (f).³³¹

The law also requires POST to create refresher courses on racial and identity profiling and cultural awareness for in-service officers.³³² Officers must take these courses at a minimum of every five years.³³³ There are no statutory guidelines for the refresher courses, nor does POST provide them. The POST-certified refresher courses offered by agencies differ significantly in content. For example, the Sacramento Police Department refresher course walks officers through racial profiling hypotheticals to practice applying the law and provides instruction on how the

³²⁷ Pen. Code, § 13519.4, subd. (a).

³²⁸ Pen. Code, § 13519.4, subds. (a) and (h).

³²⁹ Pen. Code, § 13519.4, subd. (j)(3)(B).

³³⁰ Pen. Code, § 13519.4, subds. (b) and (h).

³³¹ Pen. Code, § 13519.4, subd. (h).

³³² Pen. Code, § 13519.4, subd. (i).

³³³ Pen. Code, § 13519.4, subd. (i).

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brain forms association, including the Black crime association as an example of implicit bias.³³⁴ In contrast, the S.F. Bay Area Rapid Transit (BART) District Police Department refresher course curriculum is scant.³³⁵ There are no hypotheticals or discussion on implicit bias, nor is there a description of the negative impacts and effects of racial profiling on individual citizens or the community.³³⁶

B. POST Current Standards for Racial and Identity Profiling

Before an officer can exercise powers as a peace officer, they must complete the Regular Basic Course academy training.³³⁷ Forty-two POST-certified academies across California present the entry-level training.³³⁸ Mandatory regular basic course training consists of 664 hours of training, spread across 42 course subjects, called Learning Domains (LD).³³⁹ After basic course training, newly assigned peace officers complete a field training program with the agency that will employ them to transition from a classroom setting to gaining real world, hands-on experience. During this time, academy graduates serve as peace officers, including acting with the authority granted to them under the law, while under the supervision of a Field Training Officer (FTO).³⁴⁰ This field training program lasts for a minimum of 10 weeks or 400 hours.³⁴¹

POST regulations and guidelines dictate training content and the framework for the LDs. According to POST, officer training and guidelines on racial and identity profiling are scattered across various LDs, including LD 42: Cultural Diversity/Discrimination, a 16-hour course, and LD 3: Principled Policing in the Community, a 26-hour course. Neither LD 3 nor LD 42 are formally evaluated in the POST-constructed comprehensive tests at the conclusion of regular

³³⁴ Sacramento Police Department, Racial Profiling Update, course number 23287. Search courses in POST Open Data. <<https://opendata.post.ca.gov/Home/search>> [as of XX, 2024].

³³⁵ S.F. Bay Area Rapid Transit District Police Department Police Department, Racial Profiling Update, course number 23287. Search courses in POST Open Data. <<https://opendata.post.ca.gov/Home/search>> [as of XX, 2024].

³³⁶ S.F. Bay Area Rapid Transit District Police Department Police Department, Racial Profiling Update, course number 23287. Search courses in POST Open Data. <<https://opendata.post.ca.gov/Home/search>> [as of XX, 2024].

³³⁷ Cal. Code Regs., tit. 11, § 1005, subd. (a)(1).

³³⁸ Commission on Peace Officer Standards and Training, Regular Basic Course <<https://post.ca.gov/regular-basic-course>> [as of XX, 2024].

³³⁹ Commission on Peace Officer Standards and Training, Regular Basic Course Training Specifications <<https://post.ca.gov/regular-basic-course-training-specifications>> [as of XX, 2024]; <<https://post.ca.gov/regular-basic-course>> [as of XX, 2024]; Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1)(a)(ii); POST Presentation to SB 882 Advisory Committee (July 25, 2024) <<https://oag.ca.gov/system/files/media/sb882-072524-agenda-item-11.pdf>> [as of XX, 2024].

³⁴⁰ Cal. Code Regs., tit. 11, § 1004, subd. (a)(1)(A).

³⁴¹ POST, Commission Procedure D-13—Field Training <<https://post.ca.gov/Commission-Procedure-D-13-Field-Training>> [as of XX, 2024]; Cal. Code Regs., tit. 11, § 1004, subd. (a)(1); POST Presentation to SB 882 Advisory Committee (July 25, 2024) <<https://oag.ca.gov/system/files/media/sb882-072524-agenda-item-11.pdf>> [as of XX, 2024].

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basic course training.³⁴²

The Legislature tasked POST with developing “courses of instruction and [] guidelines” to ensure law enforcement agencies comply with California and federal law and trainings meet the required learning objectives.³⁴³ Effective standards and guidelines provide policy directives, support the development of internal accountability measures, obtain measurable improvements in law enforcement and community relations, and are consistent with adult learning principles.³⁴⁴ One example is the 2021 Use of Force Standards and Guidelines POST developed, which advises law enforcement agencies on maintaining a policy that includes minimum standards for the application of deadly force, alternatives to the use of force, and requirements for intervention, reporting, and training.³⁴⁵ Based on this example, the racial and identity profiling standards and guidelines POST develops should provide selection and training standards to ensure agencies comply with California’s prohibition against racial and identity profiling and facilitate agency-specific policies and training to address and reduce disparities in profiling.³⁴⁶

1. Racial and Identity Profiling Guidelines’ Goals

The development of guidelines on racial and identity profiling is critical to officer compliance with RIPA. More generally, such guidelines are essential to supporting and safeguarding officers’ ability to perform their duties within the context of a constantly shifting legal and cultural landscape.³⁴⁷ Guidelines inform officers of the relevant state and federal legal standards for practices like hate crimes, use of force, and racial and identity profiling.³⁴⁸

One example of relevant legal standards officers must know is that California law provides more protection than federal law by prohibiting “the *consideration of, or reliance on, to any degree,*”

³⁴² POST, Minimum Content and Hourly Requirements, Regular Basic Course (RBC)

<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fpost.ca.gov%2FPortals%2F0%2Fpost_docs%2Ftraining%2Ftrainingspecs%2FRBC_MINIMUM_HOURLY_REQUIREMENT.docx&wdOrigin=BROWSELINK> [as of XX, 2024].

³⁴³ See, e.g., Cal. Com. on Peace Officer Stds. and Training, *POST Use of Force Standards and Guidelines* (2021) p. 8 <https://post.ca.gov/Portals/0/post_docs/publications/Use_Of_Force_Standards_Guidelines.pdf> [as of XX, 2024].

³⁴⁴ See Racial and Identity Profiling Advisory Board, *2023 Report*, at pp. 201-206, 208-210.

³⁴⁵ See Cal. Com. on Peace Officer Stds. and Training, *POST Use of Force Standards and Guidelines* (2021) <https://post.ca.gov/Portals/0/post_docs/publications/Use_Of_Force_Standards_Guidelines.pdf> [as of XX, 2024].

³⁴⁶ See Pen. Code, § 13519.4 subd. (h).

³⁴⁷ See Racial and Identity Profiling Advisory Board, *2024 Report*, at pp. 208-209.

³⁴⁸ See POST Publications and Guidelines <<https://post.ca.gov/Publication-List>> [as of XX, 2024]; see, e.g., Cal. Com. on Peace Officer Stds. and Training, *POST Use of Force Standards and Guidelines* (2021) p. 8

<https://post.ca.gov/Portals/0/post_docs/publications/Use_Of_Force_Standards_Guidelines.pdf> [as of XX, 2024]

(“These guidelines include the statewide minimum standards law enforcement executives are now required to incorporate into their agency’s use of force policy. The guidelines incorporate best practices and are intended to assist with implementation of the practical requirements of these requisite minimum standards”); Cal. Com. on Peace Officer Stds. and Training, *POST Hate Crimes Model Policy* (Mar. 19, 2024) p. vii

<https://post.ca.gov/Portals/0/post_docs/publications/Hate_Crimes.pdf> [as of XX, 2024].

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protected characteristics like race, identity, or gender in any decision made regarding a stop or actions taken during the stop.³⁴⁹ Therefore, for policy and training guidelines on racial profiling to comply with RIPA, they must reflect California’s legal standard prohibiting racial and identity profiling and offer guidance on complying with the law.³⁵⁰ RIPA also requires that the training acknowledge the harm caused by profiling to individuals, communities, and police-community relations.³⁵¹ Providing law enforcement agencies with effective guidelines can promote officer safety, improve morale, protect employment records by mitigating the risk of officer errors, and prevent officer misconduct and behavior that can lead to suspension, decertification, or costly litigation, especially at a time when law enforcement agencies are struggling to recruit and retain good people to serve in these positions.

In 2021, California enacted Senate Bill No. 2, the Kenneth Ross Jr. Police Decertification Act of 2021 (SB 2),³⁵² which allows for the decertification of officers for serious misconduct, including demonstrating bias against an individual based on their perceived membership in a protected class or group, such as race or identity.³⁵³ Therefore, as of 2021, the consequences to officers who engage in racial and identity profiling not only include personal accountability (including financial and reputational harm), citizen complaints, discipline, or job loss, but now also include decertification under SB 2. The failure to comply with laws that prevent bias and uphold officer accountability undermines police-community relations by breaching community trust and incentivizing bias-based policing at the expense of evidence-based policing. Deteriorating police-community relations not only has consequences for effective policing in the field, but also may impact the reputation of law enforcement within those communities.³⁵⁴

³⁴⁹ California prohibits “*the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description.*” (Pen. Code, § 13519.4, subd. (e) (emphasis added).) In comparison, under federal law, pretextual stops are permitted so long as an officer can point to an objective reason for the stop, and the officer’s subjective motives or hunches (which research and data show may be susceptible to racial bias) do not affect the legality of the stop. (See *Whren v. United States* (1996) 517 U.S. 806, 813.) Even under federal law, however, “a seizure justified only by a police-observed traffic violation, therefore ‘become[s] unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission’ of issuing a ticket for the violation.” (*Rodriguez v. United States* (2015) 575 U.S. 348, 350-51 (citation omitted).)

³⁵⁰ See Pen. Code, § 13519.4.

³⁵¹ See Pen. Code, § 13519.4, subd. (h)(2).

³⁵² Senate Bill No. 2 (2021-2022 Reg. Sess.) (SB 2).

³⁵³ See Pen. Code, § 13510.8, subd. (b)(5). For a fuller discussion of SB 2 and its implications, see **XXXX** pages of this Report.

³⁵⁴ See, e.g., Racial and Identity Profiling Advisory Board, *2024 Report*, at p. 205.

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2. Guidelines Development Workshop

The POST Commission convened its first workshop to develop template instruction for agencies who wish to develop and offer a 5-hour optional course for advanced officer training on racial and identity profiling on May 14-16, 2024, at the MOT. A group of subject matter experts and academy instructors, including three RIPA Board members, were selected to help develop the template for the 5-hour optional course. As part of this workshop, POST included representatives from the LGBTQ+ community, community organizations, law enforcement agencies, course instructors, POST, the California Department of Justice, and families impacted by police violence.

During the workshop, the group discussed the five-hour MOT *Racial Profiling: Issues and Impact* course outline and compliance with RIPA.

Hourly Distribution for a Model 5-Hour Course³⁵⁵

<u>START</u>	<u>END</u>	<u>SUBJECT</u>
0800	0930	Section 1: Why are We Here?
0940	1105	Section 2: Legal Considerations
1115	1220	Section 3: History of Policing
1220	1300	Section 4: Community Considerations

Participants spent the first day of the May workshop touring the MOT exhibits on the Holocaust. They did not receive a tour of the portion of the museum dedicated to training law enforcement. The next two days of the POST guidelines workshop consisted of a critical review of the MOT course outline and materials; however, participants were told they could only offer verbal feedback. The POST workshop facilitator only took edits to the course instructions given to instructors. In June, POST provided workshop participants with an online, shared working document to provide comments to the draft course materials discussed in the May workshop. Individual Board members who participated in the workshop and the full RIPA Board provided feedback reflecting many of the concerns about training relayed in prior reports.

The second workshop was hosted at POST Headquarters in Sacramento on October 8-9, 2024. Four RIPA Board members attended along with the same group of subject matter experts and academy instructors from the first workshop. At the October workshop, POST facilitators told participants for the first time that the guidelines being developed would not set standards for any existing racial and identity profiling policies or courses. As noted above, these materials would

³⁵⁵ Draft POST Guidelines.

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only serve to provide instructor guidelines and a template curriculum for optional advanced officer training.

During the workshop, participants reviewed materials provided by POST and Board members voiced concerns about the lack of references to California law in the legal standards portion of the guidelines and curriculum and the optional requirements for community stakeholder engagement. Many of those suggestions were not addressed. By and large, participants offered edits for the non-substantive portions of the materials, such as the curriculum description and various aspects of instructor preparation for the course, including “setting the tone,” “time management,” and “instructor challenges.” Despite these concerns, Board members engaged in a productive dialogue with the other subject matter experts about the goals of RIPA and law enforcement policies and training.

The result of the workshops was a draft document that included input from a diverse group of stakeholders and encouraged outreach by law enforcement agencies to the communities they serve. However, the materials POST proposes as guidelines that were shared with the participants at the conclusion of the workshop must serve as a “course of instruction” and “stress” the “development of effective, noncombative methods of carrying out law enforcement duties” including and especially Penal Code section 13519.4, subdivision (f)’s prohibition against racial and identity profiling. Guidelines that effectively and adequately capture the directives in section 13519.4 signal a firm commitment to eradicating racial and identity profiling to law enforcement as well as promoting public safety and problem-solving methods centered on evidence-based policing. The Board looks forward to continuing working with POST to develop guidelines and trainings consistent with the requirements of section 13519.4.

3. RIPA Board Members Feedback on the Workshop Process and Materials

After the workshops, the Board has three primary concerns it wishes to continue to address with POST: (1) specific tools and strategies for evidence-based policing instead of tools and strategies that give rise to bias-based policing; (2) tools for local agencies to gain “perspectives of diverse, local constituency groups and experts on particular racial, identity, an cultural and police-community relations issues in a local area;” and (3) the development and dissemination of “guidelines” and “trainings” that clearly layout a peace officer’s duty including California law’s prohibition against racial and identity profiling.

POST is developing guidelines with materials that emphasize “critical thinking skills in the areas of diversity, ethics, and values,” but deemphasize anti-bias research and tools to mitigate potential bias. The curriculum’s instruction on race is outdated and Board members recommend the underlying research and instruction materials be reviewed by academics working in the field of race and ethnic studies. For example, the topic of race is introduced by discussing the “Origins of Race” and depicts five different skull sizes as a reference for how racial classifications began. But the accompanying curriculum does not discuss the power dynamics and historic abuse of

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these racial classifications to engage in population control.

Moreover, because the guidelines lack instruction on specific actionable tools and strategies to reduce bias, officers are left without training that can effectively prevent behavior and errors that could result in misconduct, undermine officer and civilian safety, or expose officers to civil liability and the potential for decertification under SB 2. Therefore, the Board recommends that POST redirect the focus of this course away from cultural sensitivity and towards clear articulation of the law's requirements and officer accountability. This recommendation mirrors recommendations in prior Board reports.

Another area of concern with the guidelines is that they do not *require* local community engagement by law enforcement agencies. Instead, the draft guidelines only *encourage* instructors to collaborate with community members such as academics, crime victims, and civil rights groups. To manage the course's length, the guidelines grant flexibility to instructors to adjust the course curriculum to the agency's needs; however, this flexibility can be double-edged, and allows for less conformity to the established curriculum. To ensure stakeholders are consulted, the Board recommends that POST require community engagement practices per Penal Code section 13519.4 subdivision (h)(5) and a significant component of the training throughout.

Finally, the Board recommends POST create guidelines that go beyond a single training and apply to *all existing* racial and identity profiling courses to ensure law enforcement professionals are trained consistently with proper legal instruction and the latest research, law, and RIPA data. At the workshops POST informed the Board that POST legal staff have yet to review MOT's trainings or, by extension, the legal standards within those trainings. The Board understands that POST stated that their legal staff is not included in the development of course materials unless there is a concern that is flagged for their review. Given that the trainings and guidelines materials reflect outdated legal standards and must be developed in accordance with section 13519.4, the Board believes it is prudent POST legal staff review the legal standards in the trainings and guidelines before certification. POST legal staff should also review any materials and guidelines promulgated for compliance with Legislature's intent in section 13519.4.

4. Conclusions on Guidelines

Given the concerns above, the RIPA Board will continue to review the final guidelines, with expected publication early 2025. The POST-certified trainings and guidelines contrast with alternative law enforcement training models such as the Fair and Impartial Policing (FIP) training program which focuses exclusively on policing and is grounded in the latest evidence-based research on implicit bias and procedural justice. Like some of the other trainings outlined below in the section on "Emerging Research on Anti-Bias Training," FIP includes specific skills to "neutralize the effect of implicit biases." Researchers working on implicit bias training noted

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this difference: “whereas FIP offers participants a number of actionable strategies for reducing and managing implicit bias (i.e., increasing positive contacts with counter-stereotypical group members, conducting self-checks, reducing ambiguity), it is unclear whether [MOT] Tools for Tolerance educates participants about such tactics.” Put differently, awareness is not enough for officers to act differently. When it comes to police training, certifying the content may not sufficiently meet the task of improving diversity and racial sensitivity in law enforcement or eliminating profiling.

MOT’s courses have not been empirically evaluated: there is no evidence on which to determine their program’s effectiveness, as compared to other training models like FIP. To determine effectiveness of the MOT courses, POST should “augment its process for evaluating law enforcement training to include metrics that evaluate training outcomes” such as impacts to officer actions and behavior and test course participants on their knowledge and understanding, in the same manner that participants are evaluated in other Learning Domains and courses. The Board will present its review of the final guidelines in next year’s report.

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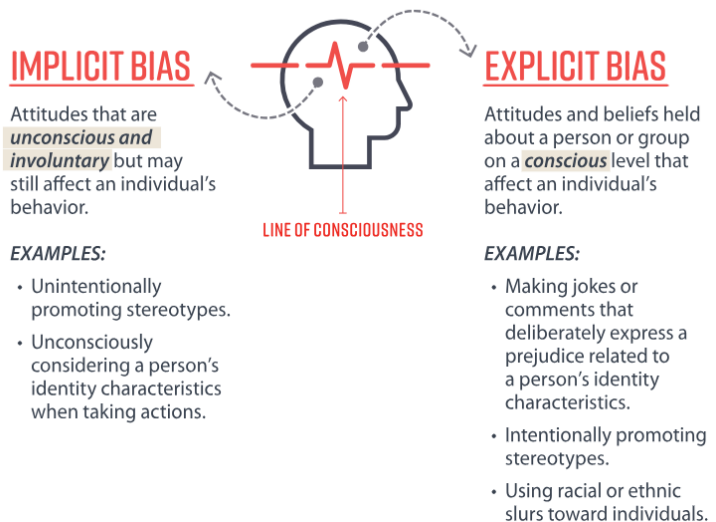
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IV. EMERGING RESEARCH ON ANTI-BIAS TRAINING AND ALTERNATIVES

An analysis of 492 studies of the efficacy of implicit bias training concluded that, “without active efforts to sustain short-term shifts created in [training], these shifts are likely to be wiped away upon re-exposure to the social environment.”³⁵⁶

In light of ongoing racial disparities, researchers have raised concerns that the positive effects of implicit bias training on reforming officer behavior are fleeting or null.³⁵⁷ The trainings’ “null effects on behavior come as no surprise to cognitive social psychologists, given that these trainings typically aim, in a single day or less, to mitigate the effects of cognitive biases that are learned over the life-span, operate outside of conscious awareness and occur automatically.”³⁵⁹ Social psychological theory suggests that communication styles, perceptions, and behaviors that arise from these biases are deeply rooted and cannot be undone with a one-day classroom training taken every few years.³⁶⁰

Explicit and Implicit Bias Can Both Affect Behavior



Source: California State Auditor

³⁵⁶ Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures* (2019) 117 *Journal of Personality & Social Psychology* 3, p. 38. In the study, the “final sample represented 87,419 participants and included 342 articles, 492 studies, and 571 independent samples.” (Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures* (2019) 117 *Journal of Personality & Social Psychology* 3, p. 9.)

³⁵⁷ This section of the Report focuses on implicit bias, as opposed to explicit bias, because “implicit measures have been shown to correlate with behavior, specifically, discriminatory behavior.” See Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, p. 154 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

³⁵⁸ See e.g., Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures* (2019) 117 *Journal of Personality & Social Psychology* 3, pp. 37-38; Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, pp. 159-160 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024]; Lai and Lisnek, *The Impact of Implicit Bias-Oriented Diversity Training on Police Officers' Beliefs, Motivations, and Actions* (2023) 34 *Psychological Science* 4, p. 3.

³⁵⁹ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, pp. 159-160 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

³⁶⁰ See, e.g., Lai and Lisnek, *The Impact of Implicit Bias-Oriented Diversity Training on Police Officers' Beliefs,*

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Several studies indicate that while focused, short-term training to reduce implicit bias can produce some immediate reductions in implicit bias, trainees tend to return to their baseline levels of implicit bias after a few months.³⁶¹ However, variations in the intensity of the training — total number of hours, distribution across weeks or months, and refresher courses — can enhance the durability of implicit bias training.³⁶² Standalone trainings are not enough to produce durable change. Overall, research suggests that anti-bias interventions must be woven into the culture of police departments to be successful. Researchers have highlighted that department policies that guide officer behavior and shift department culture toward fair and impartial policing are necessary to support trainings that raise awareness and sustain anti-bias intervention to begin to shift behavior.³⁶³

Informed by this body of research, the Board recommends that before implementing, funding, or requiring any additional officer training on implicit bias, the courses be evaluated for effectiveness. In particular, the Board advocates for collecting evidence of whether these trainings have long-term effects on individual officers' attitudes and behaviors and whether any observed changes translate into reduced disparities in enforcement outcomes. One of the Board's main priorities is to move the needle when it comes to RIPA data, ensuring that the people of California are the ultimate beneficiaries of the training officers receive. Ideally, community members should be able to see measurable changes in the way officers who participate in those trainings interact with individuals within those communities. Often these trainings can come at great expense, both in terms of time and taxpayer dollars, as such it is vital that the trainings are measured for effectiveness before reforms are implemented.

Given the limited effectiveness of short-term training, training alone cannot be relied on to reduce implicit bias,³⁶⁴ rather, some researchers have concluded that training must be accompanied by substantive cultural change within police departments, including policies that

Motivations, and Actions (2023) 34 *Psychological Science* 4, p. 12 (“To undo a lifetime of racialized socialization, organizations should invest in more than a day’s worth of diversity education”).

³⁶¹ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, pp. 157-158 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024]; Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures* (2019) 117 *Journal of Personality & Social Psychology* 3, pp. 37-38; Lai et al., *Reducing Implicit Racial Preferences: II. Intervention Effectiveness across Time* (2016) 145 *Journal of Experimental Psychology* 8, pp. 24-25.

³⁶² See, e.g., Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, at p. 42 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024] (“There also remain pragmatic questions about how to deliver such a training most effectively. For instance, what is the ideal intensity of the training both in terms of total hours as well as how those hours are distributed over weeks or months? Or how often are refresher trainings needed to maintain these effects?”).

³⁶³ Lai and Lisnek, *The Impact of Implicit Bias-Oriented Diversity Training on Police Officers’ Beliefs, Motivations, and Actions* (2023) 34 *Psychological Science* 4, pp. 3-4, 12.

³⁶⁴ Cochran et al., *Impacts of Implicit Bias Awareness Training in the NYPD* (July 2020) International Association of Chiefs of Police (ICAP) and University of Cincinnati Center for Police Research and Policy & John F. Finn Institute for Public Safety, p. 160 <<https://www.theiacp.org/sites/default/files/2020-09/NYPD%20Implicit%20Bias%20Report.pdf>> [as of XX, 2024].

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guide officers' behavior and reduce discretion during stops.³⁶⁵ “The body of evidence to date indicates that, without meaningful, lasting environmental change, implicit biases are resilient.”³⁶⁶ Environmental changes within law enforcement agencies should address officer and department goals and motivations rather than induce threat or rely on affirmation to maintain positive behaviors.³⁶⁷ For example, agencies should aim to shift department values to prioritize police-community relations and equitable treatment, rather than relying solely on punishing officers who show disparities in their stops. Additionally, an agency's training approach needs to be continually evaluated using field outcomes to understand which bias mitigation techniques work best for a particular agency and which are most directly linked to measurable reductions in disparities in enforcement practice.³⁶⁸

To effectuate change, a person ideally must first recognize their biases and examine how those biases impact their behavior. Yet, many people do not recognize the biases they hold (or how they are affected by them) and must be trained to identify them.³⁶⁹ Further, researchers have described how biases can be exacerbated when decisions must be made quickly, in ambiguous situations, and when there is subjectivity, all of which describes the conditions under which officers often work.³⁷⁰ As such, if peace officers are trained specifically to identify the subtle cues of implicit bias activating during a rapid response, some officers would be able to disrupt or inhibit a response that is rooted in their automatic bias.³⁷¹ For officers who have undergone such training, “having a heightened awareness about the potential for bias-driven errors, and/or having an attenuated race-crime mental association,³⁷² could make the difference in a consequential

³⁶⁵ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, p. 158 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024]

³⁶⁶ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, p. 158 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024]

³⁶⁷ Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures* (2019) 117 *Journal of Personality & Social Psychology* 3, p. 36; see also Lai and Lisnek, *The Impact of Implicit Bias-Oriented Diversity Training on Police Officers' Beliefs, Motivations, and Actions* (2023) 34 *Psychological Science* 4, p. 12.

³⁶⁸ Little Hoover Com., *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) p. 9 <<https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf>> [as of XX, 2024].

³⁶⁹ See, e.g., Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, p. 153 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024] (“This research area of implicit social cognition [demonstrated] that people had mental associations about social categories (such as racial groups) that could be activated automatically, even if the holder of these associations consciously repudiated them”).

³⁷⁰ See generally Eberhardt, *Biased: Uncovering the Hidden Prejudice That Shapes What We See, Think, and Do* (2019).

³⁷¹ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, p. 155 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

³⁷² The term “race-crime mental association” refers to the implicit connection made between Blackness and criminalization, for example, as a result of the sociocultural legacy of race in media portrayals in the United States. (See Smiley and Fakunle, *From “Brute” to “Thug:” the Demonization and Criminalization of Unarmed Black Male Victims in America* (2016) 26 *Journal of Human Behavior in the Social Environment* 3-4, pp. 362-363 <<https://doi.org/10.1080/10911359.2015.1129256>> [as of XX, 2024].

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split-second decision.”³⁷³

In response to evidence showing that anti-bias trainings on their own are largely ineffective, researchers continue to explore alternative interventions and revisions to existing trainings, so they are more likely to produce lasting reductions in adverse police outcomes including use of force, officer injury, and racial disparities.³⁷⁴ In response to these findings, researchers recommend:

- (1) Repeated training sessions for sustained behavior changes;³⁷⁵
- (2) Supervisor support from the top-down to influence cultural shifts within departments toward fair and impartial policing;³⁷⁶
- (3) Using body-worn camera footage to train officers and examine their behavior in the field;³⁷⁷
- (4) Integrating implicit bias-oriented and diversity trainings within broader organizational initiatives;³⁷⁸
- (5) Evaluating bias intervention as part of job performance³⁷⁹ (e.g. assessing attitudes and behavior in response to incidents of alleged bias); and
- (6) Adopting policies that limit peace officer discretion during stops, encourage intelligence-

³⁷³ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, p. 152 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

³⁷⁴ See Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures* (2019) 117 *Journal of Personality & Social Psychology* 3, p. 6.

³⁷⁵ Lai and Lisnek, *The Impact of Implicit Bias-Oriented Diversity Training on Police Officers' Beliefs, Motivations, and Actions* (2023) 34 *Psychological Science* 4, p. 12.

³⁷⁶ Lai and Lisnek, *The Impact of Implicit Bias-Oriented Diversity Training on Police Officers' Beliefs, Motivations, and Actions* (2023) 34 *Psychological Science* 4, p. 12; Cochran et al., *Impacts of Implicit Bias Awareness Training in the NYPD* (July 2020) International Association of Chiefs of Police (ICAP) and University of Cincinnati Center for Police Research and Policy & John F. Finn Institute for Public Safety, p. 110

<<https://www.theiacp.org/sites/default/files/2020-09/NYPD%20Implicit%20Bias%20Report.pdf>> [as of XX, 2024]; Rinkoff, *Leadership Approaches in Law Enforcement: A Sergeant's Methods of Achieving Compliance with Racial Profiling Policy from the Front Line* (2021) 6 *Journal of Community Safety and Well-Being* 1, pp. 38-45 <<https://doi.org/10.35502/jcswb.177>> [as of XX, 2024]; Engel and Worden, *Police Officers' Attitudes, Behavior and Supervisory Influences: An Analysis of Problem Solving* (2003) 41 *Criminology* 1, pp. 131-166.

³⁷⁷ Hetey et al., “When the Cruiser Lights Come On:” *Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, pp. 136-137 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024]; Camp et al., *Leveraging Body-Worn Camera Footage to Assess the Effects of Training on Officer Communication during Stops* (Sept. 2024) 3 *PNAS Nexus* 9, pp. 1-8 <<https://doi.org/10.1093/pnasnexus/pgae359>> [as of XX, 2024].

³⁷⁸ Lai and Lisnek, *The Impact of Implicit Bias-Oriented Diversity Training on Police Officers' Beliefs, Motivations, and Actions* (2023) 34 *Psychological Science* 4, p. 12; see also, Cochran et al., *The Impacts of Implicit Bias Awareness Training in the NYPD* (July 2020) pp. 16-17, 70 <<https://www.theiacp.org/sites/default/files/2020-09/NYPD%20Implicit%20Bias%20Report.pdf>> [as of XX, 2024].

³⁷⁹ Lai and Lisnek, *The Impact of Implicit Bias-Oriented Diversity Training on Police Officers' Beliefs, Motivations, and Actions* (2023) 34 *Psychological Science* 4, p. 12.

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based stops, and disrupt the influence of implicit biases.³⁸⁰

Some researchers have concluded that training must be accompanied by substantive cultural change within police departments, such as implementing policies that guide officer behavior, specifically policies that reduce officer discretion during stops.³⁸¹ It is not surprising that standalone anti-bias trainings designed mainly to raise awareness are not enough on their own to eliminate the negative behaviors fueled by bias: large-scale, multipronged problems like racial and identity profiling require multipronged solutions. As such, while some researchers continue to seek the proper dosage of implicit-bias training intensity,³⁸² others have turned to assessing alternatives to anti-bias training that reduce racial disparities in policing, such as changes to policing culture more broadly,³⁸³ cognitive training programs,³⁸⁴ and policies that limit discretion and guide officers' behavior.³⁸⁵ The Board is encouraged by this body of research and looks forward to continuing to be informed by emerging findings.

³⁸⁰ Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, p. 3 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024]; Hetey et al., "When the Cruiser Lights Come On:" *Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, pp. 134, 138 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024]; Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, p. 160 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

³⁸¹ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, p. 158 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

³⁸² Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures* (2019) 117 *Journal of Personality & Social Psychology* 3, pp. 5-6, 43-44; Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, p. 158, 160 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

³⁸³ Hetey et al., "When the Cruiser Lights Come On:" *Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, pp. 124-125 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

³⁸⁴ Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, at pp. 40-41 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].

³⁸⁵ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 1, p. 161 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

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A. Reduce Bias through a Cultural Shift in Policing

A cultural shift is required to end racism in policing and making that shift requires a multipronged approach, including effective accountability systems and training.³⁸⁶ Bias in policing has been portrayed as an individual psychological issue.³⁸⁷ But that view ignores the ways larger cultural forces and group dynamics influence individual behavior.³⁸⁸ In the past decade, prominent institutions such as the United Nations have concluded that what has been viewed as problematic behavior by rogue officers should instead be viewed as behavior that reflects institutional deficiencies:

“There is strong evidence that the abusive [behavior] of *some* individual police officers is part of a broader and menacing pattern, connected into larger social, historical, cultural and structural contexts, within which policing is undertaken. Law enforcement officers in the United States share and reproduce values, attitudes and stereotypes of US society and institutions.”³⁸⁹

Recognizing and adopting this broader view, researchers examined the influence of department culture on stop data. In one study, Stanford researchers worked with the Oakland Police Department to help reduce racial disparities in stops by analyzing collected stop data. The researchers utilized a sociocultural lens to identify the various ways in which racism and discrimination operate within the contexts of institutions, laws, practices, history, interpersonal interactions, and individual psychology, and how all those forces taken together can affect officer actions and contribute to bias and disparities in routine enforcement.³⁹⁰

³⁸⁶ See Hetey et al., “*When the Cruiser Lights Come On: Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, pp. 124-125, 134 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

³⁸⁷ U.N. Human Rights Council, A/HRC/54/CRP.7: International Independent Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement - Visit to the United States of America (Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement) (Sept. 26, 2023) p. 9 <<https://www.ohchr.org/en/documents/country-reports/ahrc54crp7-international-independent-expert-mechanism-advance-racial>> [as of XX, 2024].

³⁸⁸ Hetey et al., “*When the Cruiser Lights Come On: Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, p. 126 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

³⁸⁹ U.N. Human Rights Council, A/HRC/54/CRP.7: International Independent Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement - Visit to the United States of America (Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement) (Sept. 26, 2023) p. 9 <<https://www.ohchr.org/en/documents/country-reports/ahrc54crp7-international-independent-expert-mechanism-advance-racial>> [as of XX, 2024] (emphasis added).

³⁹⁰ Parker, *Stanford Big Data Study Finds Racial Disparities in Oakland, California, Police Behavior, Offers Solutions* (2016) *Stanford News* <<https://news.stanford.edu/stories/2016/06/stanford-big-data-study-finds-racial-disparities-oakland-calif-police-behavior-offers-solutions>> [as of XX, 2024]; Hetey et al., “*When the Cruiser Lights Come On: Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, p. 124 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

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The Stanford experts developed a conceptual tool called the “culture cycle” to diagnose how bias is produced and maintained in different settings.³⁹¹ The culture cycle mapped four levels — ideas, institutions, interactions, and individuals — to examine the dynamic interplay between racial bias on an individual level and within broader police culture.³⁹² Alongside systematic analyses of law enforcement data (including stop data and body-worn camera footage), the culture cycle helped researchers “navigate the boarder context and [] learn the roles of people within it,” to diagnose problems and prescribe solutions for lasting change.³⁹³

To reduce racial disparities in stops, the researchers applied an institutional-level intervention (as opposed to the more common individual-level intervention) to shift how officers were making the decision to conduct a stop. To change officers’ decision making, the agency required officers to specifically indicate whether each stop they made was intelligence-led and, if so, to provide the specific source of intelligence. Intelligence-led means the officer had specific information, “such as suspect descriptions provided by crime victims or specific patterns of gang activity or illegal drug dealing, as opposed to relying on intuition.”³⁹⁴

Research shows that “automaticity” plays a key role in decision-making: “conscious deliberation is mentally costly” so humans developed automatic responses that are adaptive to commonly faced problems.³⁹⁵ While seemingly simple, requiring officers to indicate whether a stop is intelligence-led is in fact a theory-driven intervention designed to “mitigate specific situational triggers of bias, and in the process, alter the way officers make the decision to pull someone over.”³⁹⁶ This intervention led to a significant drop in the number of Black drivers officers stopped and reduced disparities in stops.³⁹⁷ Simply put, requiring officers to check a box made

³⁹¹ Hetey et al., “*When the Cruiser Lights Come On: Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, p. 125 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

³⁹² Hetey et al., “*When the Cruiser Lights Come On: Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, p. 125 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

³⁹³ Hetey et al., “*When the Cruiser Lights Come On: Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, p. 126 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

³⁹⁴ Hetey et al., “*When the Cruiser Lights Come On: Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, pp. 130, 134 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

³⁹⁵ University of Chicago Crime Lab, *Preventing Youth Violence: An Evaluation of Youth Guidance’s Becoming a Man Program* (2018) p. 4 <https://www.americorps.gov/sites/default/files/evidenceexchange/BAM_SIF_Final_Report_Revision_20181005_508_1.pdf> [as of XX, 2024].

³⁹⁶ Hetey et al., “*When the Cruiser Lights Come On: Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, p. 134 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

³⁹⁷ Hetey et al., “*When the Cruiser Lights Come On: Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, p. 134, 138 <https://doi.org/10.1162/daed_a_02052> [as of XX,

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them slow down and consider their reason for making the stop, rather than relying on hunches, which can be shaped by racial stereotypes. Additionally, asking officers to articulate the specific source of intelligence they relied on as the basis of an intelligence-led stop signaled that their actions were being monitored and that they were being held accountable by their department for the types of stops they were making.

The research team also explored the utility of other accountability mechanisms to reduce racial disparities and identify possible profiling, such as empirically reviewing body-worn camera footage to examine how officers treated the drivers they pulled over. The researchers found a relative lack of respect afforded to Black drivers, compared to White drivers, when it came to both word choice and tone of voice.³⁹⁸

1. Use Body-worn Camera Footage to Train

The researchers further described how using body-worn camera footage in this way can help stakeholders ensure that interactions are being carried out in a constitutional and procedurally just manner, which is an increasingly important metric of community trust and safety amid escalating relations between police and Black communities in particular.³⁹⁹ Feeding their results about racial disparities in police-community interactions back into the development of interventions to mitigate those disparities, the researchers then deployed body-worn camera footage specifically as a training tool to provide feedback to officers on their behavior and offer guidance about how to improve their interactions with the public.⁴⁰⁰ This training was about how to enact procedural justice in routine police-community interactions, namely traffic stops.

In a subsequent study, Stanford researchers analyzed changes in Oakland Police Department officers' language following their completion of this training.⁴⁰¹ The training module taught five core actions for communicating respect with drivers during a stop: (1) beginning a stop by

2024]; see also Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, 3 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024] (noting that such training leads to an 11% reduction in overall arrests of Black subjects).

³⁹⁸ Hetey et al., "When the Cruiser Lights Come On:" *Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, pp. 136-137 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

³⁹⁹ Hetey et al., "When the Cruiser Lights Come On:" *Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, p. 137 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

⁴⁰⁰ Hetey et al., "When the Cruiser Lights Come On:" *Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, p. 138 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024].

⁴⁰¹ Camp et al., *Leveraging Body-Worn Camera Footage to Assess the Effects of Training on Officer Communication during Stops* (Sept. 2024) 3 *PNAS Nexus* 9, p. 2 <<https://doi.org/10.1093/pnasnexus/pgae359>> [as of XX, 2024].

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greeting the driver and introducing themselves; (2) explicitly stating the legal justification for the stop early in the encounter; (3) expressing concern for the driver’s safety; (4) reassuring the driver during the interaction; and (5) using formal rather than informal titles when addressing the driver.⁴⁰² The researchers used a “footage-as-data approach” and reviewed body-camera recordings of officer-initiated contacts with community members before and after the training to determine whether the training was effective in changing officer language in the field.⁴⁰³ The researchers found that following the training, officers were more likely to explicitly provide drivers with the reason for the stop and express greater reassurance and concern toward the driver during the encounter.⁴⁰⁴ The training increased officers’ use of language to enact procedural justice in the field immediately after training and these changes persisted 4-weeks later.⁴⁰⁵

Overall, the Stanford researchers found that mandating intelligence-led stops and using body-worn camera footage to improve training and accountability reduced racial disparities and generally improved the culture of law enforcement in Oakland.

Body-worn camera footage of highly publicized and/or critical incidents can also be used as a training tool. For example, the San Francisco Police Department (SFPD) has policies and procedures around the handling of major and critical incidents and the explicit purpose of the General Order states:

By evaluating each major and critical incident, the Department improves future responses through measuring, monitoring, and training to uphold our commitment to policing without bias and addressing any issues in an open and collaborative manner. We will actively collaborate with City agencies and community organizations to jointly address identified challenges as we strive to maintain and build trust and respect as the guardian of Constitutional and human rights.⁴⁰⁶

⁴⁰² Camp et al., *Leveraging Body-Worn Camera Footage to Assess the Effects of Training on Officer Communication during Stops* (Sept. 2024) 3 PNAS Nexus 9, p. 3 <<https://doi.org/10.1093/pnasnexus/pgae359>> [as of XX, 2024].

⁴⁰³ Camp et al., *Leveraging Body-Worn Camera Footage to Assess the Effects of Training on Officer Communication during Stops* (Sept. 2024) 3 PNAS Nexus 9, p. 2 <<https://doi.org/10.1093/pnasnexus/pgae359>> [as of XX, 2024].

⁴⁰⁴ Camp et al., *Leveraging Body-Worn Camera Footage to Assess the Effects of Training on Officer Communication during Stops* (Sept. 2024) 3 PNAS Nexus 9, p. 4 <<https://doi.org/10.1093/pnasnexus/pgae359>> [as of XX, 2024].

⁴⁰⁵ Camp et al., *Leveraging Body-Worn Camera Footage to Assess the Effects of Training on Officer Communication during Stops* (Sept. 2024) 3 PNAS Nexus 9, p. 4 <<https://doi.org/10.1093/pnasnexus/pgae359>> [as of XX, 2024].

⁴⁰⁶ San Francisco Police Department, General Order 8.01: Major and Critical Incident Evaluation and Notification (May 2023) p. 1 <https://www.sanfranciscopolice.org/sites/default/files/2023-05/SFPDDGO_8_01_20230522.pdf> [as of XX, 2024].

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Further, as part of the agency’s stated commitment to “accountability and transparency with our community” SFPD has adopted a policy that requires a public town hall meeting to take place within ten days of an officer-involved shooting.⁴⁰⁷ At these town halls, the body-worn camera footage and other relevant video evidence is played, the command staff gives a presentation and provides the community with an update on the investigation into the shooting, and time is allotted for viewers to offer public comment.⁴⁰⁸

2. Field Supervisors Influence Priorities

A department’s organizational context, from the executive’s tone to recruitment and hiring practices to community engagement policies like SFPD’s following an officer-involved shooting, all contribute to and continuously shape an institution’s culture.^{408F}⁴⁰⁹ Field supervisors, who mediate the application of policies and implementation of programs, also critically shape departmental culture.^{409F}⁴¹⁰ Their influence in helping translate a written policy into concrete, on-the-ground practice can either reinforce and amplify training or contradict and undermine it, particularly through training follow-up.^{410F}⁴¹¹ Supervisors are the first line of defense in identifying areas of confusion in various policies and practice, training deficiencies, and problematic behavior of rank and file officers.^{411F}⁴¹² Ideally, supervisors are also mentors who create an environment in which their officers can continuously learn, improve, and take

⁴⁰⁷ See, e.g., San Francisco Police, OIS Town Hall Meeting Scheduled 028-24 (Sept. 20, 2024) <<https://www.sanfranciscopolice.org/news/ois-town-hall-meeting-scheduled-028-24>> [as of XX, 2024].

⁴⁰⁸ See, e.g., San Francisco Police, OIS Town Hall Meeting Scheduled 028-24 (Sept. 20, 2024) <<https://www.sanfranciscopolice.org/news/ois-town-hall-meeting-scheduled-028-24>> [as of XX, 2024]; SFGovTV, “SFPD OIS Virtual Townhall September 23, 2024” (Sep. 23, 2024) <<https://www.youtube.com/live/bFN99xHuluk>> [as of XX, 2024].

⁴⁰⁹ See Cochran et al., *Impacts of Implicit Bias Awareness Training in the NYPD* (July 2020) International Association of Chiefs of Police (ICAP) and University of Cincinnati Center for Police Research and Policy & John F. Finn Institute for Public Safety, p. 110 <<https://www.theiacp.org/sites/default/files/2020-09/NYPD%20Implicit%20Bias%20Report.pdf>> [as of XX, 2024].

⁴¹⁰ Cochran et al., *Impacts of Implicit Bias Awareness Training in the NYPD* (July 2020) International Association of Chiefs of Police (ICAP) and University of Cincinnati Center for Police Research and Policy & John F. Finn Institute for Public Safety, p. 110 <<https://www.theiacp.org/sites/default/files/2020-09/NYPD%20Implicit%20Bias%20Report.pdf>> [as of XX, 2024].

⁴¹¹ Cochran et al., *Impacts of Implicit Bias Awareness Training in the NYPD* (July 2020) International Association of Chiefs of Police (ICAP) and University of Cincinnati Center for Police Research and Policy & John F. Finn Institute for Public Safety, p. 110 <<https://www.theiacp.org/sites/default/files/2020-09/NYPD%20Implicit%20Bias%20Report.pdf>> [as of XX, 2024].

⁴¹² See Rinkoff, *Leadership Approaches in Law Enforcement: A Sergeant’s Methods of Achieving Compliance with Racial Profiling Policy from the Front Line* (2021) 6 *Journal of Community Safety and Well-Being* 1, pp. 39-45 <<https://doi.org/10.35502/jcswb.177>> [as of XX, 2024]; Engel and Worden, *Police Officers’ Attitudes, Behavior and Supervisory Influences: An Analysis of Problem Solving* (2003) 41 *Criminology* 1, pp. 131-166.

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advantage of teachable moments. A supervisor who does not provide adequate supervision or support, or who looks the other way when problematic behavior occurs, can effectively signal to officers that their actions do not really matter or that problematic behavior is acceptable.

As mentioned previously, the Fair and Impartial Policing (FIP) implicit bias training targets different ranks and works specifically to instill certain values in supervisors. More specifically, the training aims to develop supervisors' ability to "communicate effectively, internally and externally, about bias" which allows supervisors to "take advantage of 'teaching moments' as mechanisms for continued dialogue" fostered by the implicit bias training.⁴¹³ The FIP training stresses that supervisors play a significant role in internal communications about impartial policing, and how supervisors handle conversations about potentially biased behavior can "enhance their credibility and reputation as leaders" and reinforce messages conveyed in training.⁴¹⁴ Implicit bias trainings can be helpful in setting the stage, but, ultimately, addressing the organizational and systemic factors that shape police-community interactions on the ground are more likely to effectively reduce bias and disparities in policing.

⁴¹³ Cochran et al., *Impacts of Implicit Bias Awareness Training in the NYPD* (July 2020) International Association of Chiefs of Police (ICAP) and University of Cincinnati Center for Police Research and Policy & John F. Finn Institute for Public Safety, pp. 16-17 <<https://www.theiacp.org/sites/default/files/2020-09/NYPD%20Implicit%20Bias%20Report.pdf>> [as of XX, 2024]. Research has shown that the influence of line supervisors, usually sergeants, is "critical for achieving the successful implementation of, and compliance with, new or reformed policy" at the street level. (Rinkoff, *Leadership Approaches in Law Enforcement: A Sergeant's Methods of Achieving Compliance with Racial Profiling Policy from the Front Line* (2021) 6 Journal of Community Safety and Well-Being 1, p. 39 <<https://doi.org/10.35502/jcswb.177>> [as of XX, 2024].) Sergeants can "leverage occupational culture, in particular aspects of rank and structure, to achieve policy goals," and this is particularly useful for racial profiling policies, which "many rank-and-file officers have suggested [are] 'unpopular.'" (*Id.* at 39-40.) One study focused on supervisory influence on racial profiling policy implementation found that sergeants can adopt the following leadership methods to contribute to the legitimacy of the policy: (1) auditing, (2) being present, (3) training, (4) encouraging, (5) rewarding, and (6) disciplining. (Rinkoff, *Leadership Approaches in Law Enforcement: A Sergeant's Methods of Achieving Compliance with Racial Profiling Policy from the Front Line* (2021) 6 Journal of Community Safety and Well-Being 1, p. 43 <<https://doi.org/10.35502/jcswb.177>> [as of XX, 2024].)

⁴¹⁴ Cochran et al., *Impacts of Implicit Bias Awareness Training in the NYPD* (July 2020) International Association of Chiefs of Police (ICAP) and University of Cincinnati Center for Police Research and Policy & John F. Finn Institute for Public Safety, pp. 114-117 <<https://www.theiacp.org/sites/default/files/2020-09/NYPD%20Implicit%20Bias%20Report.pdf>> [as of XX, 2024].

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B. Address Cognitive Demands in Training

Another promising area of research has found that officer training specifically focused on managing the cognitive demands of policing resulted in less use of force, fewer discretionary arrests, fewer officer injuries, and reduced racial disparities.⁴¹⁵ From 2020-2021, a team of experts trained over two thousand officers at the Chicago Police Department using a new training model called Situational Decision-making (Sit-D). The training consisted of four 4-hour sessions with several weeks between sessions and included a mix of classroom instruction and interactive scenario-based exercises.⁴¹⁶ Sit-D trains officers to develop more varied explanations of subject behavior, process information more efficiently, and continuously update threat assessments throughout the duration of the interaction, rather than relying on initial impressions.⁴¹⁷

Sit-D uses a five-step “Thinking Tactic Model” where officers learn to recognize and regulate their responses to policing situations and consider alternative interpretations of situations to mitigate “thinking traps” that limit their perspective and exacerbate the likelihood of acting on biases.⁴¹⁸ Officers practice these skills in simulation exercises that are each debriefed with trainers and fellow officers.⁴¹⁹ Notably, the training does not explicitly focus on racial bias in policing, but instead generally encouraged officers to go beyond initial impressions to more effectively assess a situation.⁴²⁰ Not explicitly focusing on race can be a useful strategy because it tends to reduce feelings of threat among the participants, allowing them to take in more of the information that is presented because they are not as defensive.

Four months after the training, researchers evaluated the effectiveness of the training. The results

⁴¹⁵ Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, pp. 40-41 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].

⁴¹⁶ Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, p. 9 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].

⁴¹⁷ Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, pp. 3-5 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].

⁴¹⁸ In Sit-D training, “officers learn about various ‘cognitive biases’ or ‘thinking traps,’ which are mental shortcuts that might constrain their perspective on a situation, [including] [1] catastrophizing (assuming the worst possible outcome will occur), [2] minimizing (down-playing potential risks), [3] personalization (assuming others' actions are meant to antagonize oneself), [4] confirmation trap (focusing on information that supports one's assumptions), [5] over-generalization (basing interpretations too heavily on salient past experiences), [6] all-or-none thinking (thinking in absolutes and ignoring nuances), and [7] anchoring (failing to update one's impression as the situation changes).” Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, pp. 10-11 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].

⁴¹⁹ Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, p. 11 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].

⁴²⁰ Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, pp. 3-4 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].

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demonstrated that Sit-D training significantly reduced adverse police outcomes.⁴²¹ Specifically, the training reduced non-lethal force by 23 percent, reduced discretionary arrests (which may “stem from officers’ emotional responses, such as frustration with a subject’s behavior”) by 23 percent, reduced overall arrests of Black subjects (without any corresponding effects on other races) by 11 percent, and reduced officer injuries.⁴²² This training was effective because it provided concrete avenues to behave differently, namely by giving officers specific tools and strategies to evaluate multiple perspectives and consider more appropriate ways to respond.⁴²³ Importantly, this training effectively mitigated racial disparities while not explicitly focusing on race. By focusing on cognitive biases instead of on implicit racial biases (which can be considered a subset within the broader category of cognitive biases),⁴²⁴ this research suggests that disrupting the influence of implicit thought processes and attitudes on officers’ actions — by making them more intentional and deliberate — could be a more effective way to reduce racial disparities than implicit bias training.⁴²⁵

⁴²¹ The researchers analyzed Chicago Police Department administrative data aligned with the timing of the training assessments. (Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, p. 5 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].)

⁴²² Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, pp. 5, 32-33 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].

⁴²³ Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, pp. 28-29 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].

⁴²⁴ Implicit bias as a scientific concept emerged in the late 1990s from the social psychological study of implicit social cognition, or the unconscious mental processes involved in social judgments and behavior. (See, e.g., Greenwald & Banaji, *Implicit Social Cognition: Attitudes, Self-Esteem, and Stereotypes* (1995) 102 *Psychological Review* 1, p. 20; Greenwald et al., *Measuring Individual Differences in Implicit Cognition: The Implicit Association Test* (1998) 74 *J. of Personality and Social Psychology* 6). Several empirical articles highlighted bias production as occurring within the mind and stemming from humans’ cognitive machinery and the brain’s reliance on categorizing, including automatically sorting people into social categories. (See e.g., Macrae & Bodenhausen, *Social Cognition: Thinking Categorically about Others* (2000) 51 *Annu. Rev. Psychol.* 93, pp. 93-95) Because implicit bias refers to an unconscious, automatic mental process to streamline the processing of information (specifically about people and social categories) it can be considered to fall under the broader category of cognitive biases, which refer to mental shortcuts or heuristics the brain uses to process information quickly, but that can lead to inaccurate perceptions or judgments. (Ellis, *Cognitive Biases in Visualizations* (2018) pp. 1-7, 15; see also Haselton et al., “The Evolution of Cognitive Bias” (2015) *The Handbook of Evolutionary Psychology*, pp. 724-746.)

⁴²⁵ Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute Discussion Paper 2023-13, p. 8 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of XX, 2024].

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C. Limit Officer Discretion

In light of research findings indicating training alone does not produce substantial, lasting effects on officer behavior, expert Jack Glaser⁴²⁶ evaluated ways to prevent bias from influencing police civilian encounters, from the decision to conduct a stop to fatal uses of force.⁴²⁷ Glaser concluded that, “[g]iven that implicit bias trainings for police . . . have been shown not to reduce disparate outcomes in stop, search, arrest, and use of nonlethal force, limiting the discretion with which police officers use force needs to be prioritized.”⁴²⁸ Limiting discretion disrupts the effects of implicit bias by eliminating opportunities for bias in the first place. “When discretion is high – for example, when decision-makers can use their own judgment in ambiguous situations – cognitive shortcuts like stereotypes have more opportunity to influence decisions.”⁴²⁹ While training and experience will improve officers’ ability to make assessments, constraining discretion can systemically reduce disparities by lessening or eliminating the role of individual judgment from the decision to initiate a stop or conduct a search, for example.⁴³⁰

In his research, Glaser reviewed stop data from the U.S. Customs Service (now Customs and Border Patrol), New York Police Department (NYPD), and the eight largest agencies in California. Glaser found that when officers’ discretion to search was high, so were racial

⁴²⁶ Glaser is a social psychologist, graduate professor at UC Berkeley, and currently an Advisory Member to the Peace Officer Standards Accountability Advisory Board created by SB 2.

⁴²⁷ See Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 Daedalus 1, pp. 158, 164 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

⁴²⁸ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 Daedalus 1, p. 166 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

⁴²⁹ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 Daedalus 1, p. 160 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

⁴³⁰ See Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 Daedalus 1, p. 160-161 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

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disparities in search rates. “White people were being subjected to higher thresholds of suspicion than Black people and Latino people in order to get stopped and/or searched. When discretion was relatively low (when search decisions were based on more stringent, prescribed criteria), yield rates were higher overall, and far less disparate.”⁴³¹ Glaser’s analysis shows that reducing discretion effectively reduces racial disparities in policing stops and searches.

“When discretion is high—for example, when decision-makers can use their own judgment in ambiguous situations—cognitive shortcuts like stereotypes have more opportunity to influence decisions.” – See footnote XXX

Glaser appeared before the POST Commission on September 21, 2023. During Glaser’s presentation, POST acknowledged research showing that anti-bias training alone does not seem effective but nonetheless remains a common response to concerns about discrimination.⁴³² Glaser was asked, “Are we wasting time and effort by pushing something out that perhaps isn't working? And should we wait for, you know, further studies to kind of demonstrate where we should be going with the training?”⁴³³ Glaser advised POST to

concentrate their implicit bias training on management, from sergeants all the way up to chief or sheriff, to make the training more effective and a more efficient use of department resources.⁴³⁴ Glaser stated that training officers “is good for setting the stage and for motivating people to do things differently,” but policies and strategies need to be implemented to reinforce the training in the field.⁴³⁵

By addressing bias systemically through top-down training and policies, incentives within the department shift and influence the actions of individual officers more than individual training aimed at officers’ hearts and minds.⁴³⁶ Glaser also recommended limiting officer discretion by formalizing decision criteria used during stops to reduce racial bias.⁴³⁷ These recommendations to POST are consistent with the recommendations the Board makes below to improve training and ultimately eliminate disparate treatment in police-civilian encounters.

⁴³¹ Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 Daedalus 1, p. 164 <https://doi.org/10.1162/daed_a_02053> [as of XX, 2024].

⁴³² POST Commission Meeting, Reporter’s Transcript (Sept. 21, 2023) pp. 61-63.

⁴³³ POST Commission Meeting, Reporter’s Transcript (Sept. 21, 2023) p. 62:17-20.

⁴³⁴ POST Commission Meeting, Reporter’s Transcript (Sept. 21, 2023) p. 65:7-9.

⁴³⁵ POST Commission Meeting, Reporter’s Transcript (Sept. 21, 2023) p. 63-64.

⁴³⁶ See POST Commission Meeting, Reporter’s Transcript (Sept. 21, 2023) pp. 61-66.

⁴³⁷ POST Commission Meeting, Reporter’s Transcript (Sept. 21, 2023) p. 65: 10-12.

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V. BEST PRACTICES, POLICY, LEGISLATIVE RECOMMENDATIONS

In addition to the recommendations below, the Board highlights a prior recommendation from the 2022 and 2023 Reports⁴³⁸ for which the research and data analysis in the current report provides additional support and context: Expand the POST Commission to allow for additional public members, requiring a minimum of 33 percent non-law enforcement members. Include members from the public and non-sworn community, health and mental health professionals who serve vulnerable communities, and experts including individuals and communities impacted by profiling, in adult education and scientific research. Existing law requires only four public members of the 18 required in the Commission.⁴³⁹ As the current report demonstrates, the POST Commission plays an important role in policing decisions that impact everyday life, and given the impact police contact can have on an individual, it is crucial that the Commission perform its duties in a manner that includes input from the public on the policy decisions the Commission makes. Incorporating more civilian voices will increase inclusive decision-making and diverse perspectives in the development of policies and training in California's law enforcement agencies.⁴⁴⁰

A. Recommendations to the Legislature

- (1) Require LEAs to adopt a policy to prohibit racial and identity profiling that includes accountability and consequences of non-compliance (e.g. SB 2) based on the POST guidelines.

Some law enforcement agencies in California have adopted formal policies regarding bias-free policing and against racial and identity profiling, but the adoption of formal policies is not required by law.⁴⁴¹ The Board recommends that the Legislature require all state and local law enforcement agencies to adopt policies prohibiting racial and identity profiling. These policies

⁴³⁸ Racial and Identity Profiling Advisory Board, *2022 Report*, at pp. 251-252; Racial and Identity Profiling Advisory Board, *2023 Report*, at pp. 208-209. See also, Little Hoover Com., *Law Enforcement Training: What Works for Officers and Communities* (Nov. 2021) pp. 3, 23 <<https://lhc.ca.gov/report/law-enforcement-training-identifying-what-works-officers-and-communities/>>. The Little Hoover Commission (LHC), an independent state oversight agency, that conducted a study from 2020-2021 examining the effect of law enforcement trainings in California, found that, compared to other regulatory bodies, the POST Commission has far less public representation. For example, nearly 47 percent of the Medical Board of California are public members, whereas only 22 percent of the POST Commission are. (*Ibid.*)

⁴³⁹ See Pen. Code, § 13500, et. seq.

⁴⁴⁰ See Little Hoover Com., *Steps to Improve Law Enforcement Training in California* (Nov. 2021) pp. 23-24 <<https://lhc.ca.gov/report/law-enforcement-training-identifying-what-works-officers-and-communities/>>

⁴⁴¹ Compare Pen. Code, § 13519.4 (racial and identity profiling) with Pen. Code, § 422.87 (hate crime policy requirement).

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will reinforce local agencies' commitment to bias-free policing and procedures that assure the public that the law enforcement agencies are committed to providing services and enforcing laws equitably.⁴⁴²

(2) Require more frequent, evaluated and evidence-based training on racial and identity profiling more than once every five years, and at a minimum of every three years.

Relative to other states, California's mandated training on racial and identity profiling — every five years — is infrequent.⁴⁴³ Many LEAs in California require more frequent anti-bias training.⁴⁴⁴ In its 2022 review of law enforcement training, the California State Auditor recommended officers undergo racial and identity profiling training every other year.⁴⁴⁵ In addition to regular basic course training in the academy, California should require all law enforcement officers to undergo anti-bias training on a more frequent basis. This is necessary to keep up with the latest research on racial and identity profiling, reinforce anti-bias tools and

⁴⁴² Policies can also proscribe supervisory review to ensure the best outcomes and compliance at the front line. See Rinkoff, *Leadership Approaches in Law Enforcement: A Sergeant's Methods of Achieving Compliance with Racial Profiling Policy from the Front Line* (2021) 6 *Journal of Community Safety and Well-Being* 1, p. 43 <<https://doi.org/10.35502/jcswb.177>> [as of XX, 2024] (“In relation to racial profiling policies, the findings demonstrate that when sergeants are present during a police–citizen interaction, front-line officers are more likely to conform to policy decisions. Therefore, to improve levels of compliance, racial profiling policies should clearly outline when the presence of a sergeant is necessary. Mandating the presence of a sergeant may ensure an increase in compliance from front-line officers when compliance is expected to be, or has historically been, low or in other perceived controversial policy environments”).

⁴⁴³ According to the National Conference of State Legislatures (NCSL), 27 states require law enforcement officers to undergo cultural and racial bias trainings with ranging frequency and hours requirements. (National Conference of State Legislatures, *Law Enforcement Training* <<https://app.powerbi.com/view?r=eyJrIjoiaNzlmOTQyM2QzZWRIOS00MmIxLWEzOTYtYTUzMjNINzdkMWZhIiwidCI6IjM4MmZiOGIwLTRkYzMtNDEwNy04MGJkLTM1OTViMjQzMmZhZSIsImMiOiZ9>> [as of XX, 2024]). Among those, seven states/jurisdictions require annual training (Arkansas, DC, Iowa, Kansas, Nebraska, Nevada, North Carolina), four require it every two years (New Mexico, Pennsylvania, Texas, Vermont), and two require it every three years (Missouri, Minnesota). (*Ibid.*)

⁴⁴⁴ For example, after the Tiburon Police Department engaged in an incident of alleged racial profiling at a local couple's clothing store, the Department “increased the frequency of training on biased-based policing from every five years to every two years . . . [and] [i]n December 2020 and in February 2021, all department staff attended half-day trainings focused on implicit bias.” (McCrohan, *Tiburon settles racial-profiling claim for \$150,000, reform*, *The Ark* (Apr. 18, 2022) <<https://www.thearknewspaper.com/live/tiburon-settles-racial-profiling-claim>> [as of XX, 2024].) In another instance, the Solano County Civil Grand Jury found that although local law enforcement agencies appeared to comply with the state's every-five-year racial bias training requirement, the agencies should “adopt a more frequent schedule of diversity and bias training over and above the current five-year requirement.” (Solano County Civil Grand Jury 2020-2021, *Does Bias Infiltrate Solano County Law Enforcement?* <<https://solano.courts.ca.gov/system/files/final-210624-law-enforcement-bias.pdf>> [as of XX, 2024].)

⁴⁴⁵ California State Auditor, *Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct* (April 26, 2022) <<https://information.auditor.ca.gov/reports/2021-105/index.html>> [as of XX, 2024].

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strategies in the field, and continuously reiterate the importance of working to reduce disparities in policing. In addition, the Legislature should consider requiring frequent follow-up or micro trainings to make sustained improvements in officer behavior and disparate outcomes more likely.⁴⁴⁶

- (3) Require law enforcement supervisors and field training officers receive specialized training on eliminating racial and identity profiling within their departments.⁴⁴⁷

By providing supervisors with additional training on eliminating racial and identity profiling in their agencies their “power potential” can be increased, and their control over procedural matters can be leveraged by the organization to more intentionally shape policy implementation and the development of officers’ attitudes, outlooks, and views on the role police play in society.⁴⁴⁸ First line supervisors should be trained and offered explicit guidance from law enforcement executives on how to best play their role in communicating the agency’s mission, values, and policies regarding bias-free policing and how to serve as a proper example and role model for officers through their own actions.⁴⁴⁹

- (4) Explore requiring POST and MOT courses on racial and identity profiling to be updated every two years with the latest RIPA findings, current legislation, and community input.⁴⁵⁰

- (5) Require POST-certified courses on racial and identity profiling to be revised to include ways to prevent behavior that could lead to officer decertification for serious misconduct under SB 2.

⁴⁴⁶ “Frequently responding to questions about race may have made all participants more sensitive to racial issues, a sensitivity that could have differentially impacted intervention and control participants, perhaps causing the decrease in discrepancies in the latter parts of the study.” Forscher et al., *Breaking the Prejudice Habit: Mechanisms, Timecourse, and Longevity* (Sept. 2017), *J. of Experimental Social Psychology* 72, p. 9
<<https://pmc.ncbi.nlm.nih.gov/articles/PMC5720145/pdf/nihms876925.pdf>> [as of XX, 2024].

⁴⁴⁷ See Lai and Lisnek, *The Impact of Implicit Bias-Oriented Diversity Training on Police Officers’ Beliefs, Motivations, and Actions* (2023) 34 *Psychological Science* 4, p. 12; Cochran et al., *Impacts of Implicit Bias Awareness Training in the NYPD* (July 2020) International Association of Chiefs of Police (ICAP) and University of Cincinnati Center for Police Research and Policy & John F. Finn Institute for Public Safety, pp. 16-17
<<https://www.theiacp.org/sites/default/files/2020-09/NYPD%20Implicit%20Bias%20Report.pdf>> [as of XX, 2024].

⁴⁴⁸ Van Maanen, *Making Rank: Becoming an American Police Sergeant* (1984) *Urban Life* 13, pp. 155-176 (described in Engel, *The Effects of Supervisory Styles on Patrol Officer Behavior* (Sept. 2000) 3 *Police Quarterly* 3, pp. 265, 286). There is a difference between “telling” one’s subordinates about a policy, and “selling” the importance of that policy. (Hersey and Blanchard, *Management of Organizational Behavior* (1988) (5th Edition) (described in Engel, *Supervisory Styles of Patrol Sergeants and Lieutenants*, *Journal of Criminal Justice* 29 (2001)).)

⁴⁴⁹ Engel, *The Effects of Supervisory Styles on Patrol Officer Behavior* (Sept. 2000) 3 *Police Quarterly* 3, p. 286.

⁴⁵⁰ Board members who attended the POST workshops found the cultural references and some of the information outdated.

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- (6) Amend the law to increase funding and allow for additional stakeholders, beyond the MOT, to present additional options for the racial and identity profiling training to law enforcement officers.⁴⁵¹

The input and facilitation by additional organizations with direct police-community experience such as Neighborhood Wellness and the Center on Juvenile and Criminal Justice (CJ CJ) can strengthen racial and identity profiling trainings offered in California and further RIPA's goals. Both Neighborhood Wellness and CJ CJ presented at the June 2024 Board meeting and discussed their particularized training aimed at addressing racial disparities and law enforcement. Their trainings emphasize empathy and combating dehumanization as intervention strategies while also providing community with a seat at the table. The increased transparency of these trainings rooted in community and the specific tools and strategies offered to mitigate bias furthers RIPA's goals. Additionally, if the number of organizations providing training is expanded beyond one organization in Los Angeles, the funding would likely be offset by cost savings in travel, lodging, and related per diem by officers outside the Los Angeles area. The Board recommends the Legislature amend RIPA to require training consultation and facilitation by other organizations skilled in providing racial and identity profiling training, like Neighborhood Wellness and CJ CJ.

- (7) Require body-worn camera footage, when available, or highly publicized incidents to be used in the racial and identity profiling training in addition to, staged scenarios.⁴⁵²
- (8) Fund an independent study, under the guidance of the RIPA Board and conducted by academic researchers,⁴⁵³ that assesses the efficacy of POST's racial and identity profiling training on officers' attitudes, prejudices, and enforcement outcomes.
- (9) Provide funding and require POST to report annually on specific training outcome and performance measures. POST should consider looking at implicit bias metrics before and

⁴⁵¹ See Former Pen. Code, § 13519.4, subd (f), (1)-(9), as amended (Stats. 2001, ch. 854, § 63); see also, Racial and Identity Profiling Advisory Board, *2023 Report*, at p. 200.

⁴⁵² Hetey et al., "When the Cruiser Lights Come On:" *Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 1, pp. 136-137 <https://doi.org/10.1162/daed_a_02052> [as of XX, 2024]. Body-worn camera footage should be used not only to evaluate trainings, but also to create their content, as the Stanford team did with the procedural justice training described earlier. See also Racial and Identity Profiling Advisory Board, *2021 Report*, p. 154 (recommendation to "use actual footage of law enforcement encounters in lieu of scripted scenarios" as a more effective teaching tool).

⁴⁵³ See Little Hoover Com., *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) p. 11 <<https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf>> [as of XX, 2024].

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after the trainings to evaluate its effectiveness.

In the 2024 Report, the Board recommended POST measure course effectiveness, but POST did not support the recommendation and responded that it would take too many resources to do so (see above). Several state agencies — Legislative Analyst Office (LAO),⁴⁵⁴ Little Hoover Commission,⁴⁵⁵ and State Auditor⁴⁵⁶ — have found that it is imperative to evaluate state training and its effect on actual law enforcement job performance. To the extent POST lacks resources, the Board supports LHC’s recommendation for academic researchers, funded by the Legislature, to partner with POST to assess the success and relevancy of its existing profiling training.⁴⁵⁷

Evaluation methods could include testing course participants on their knowledge and understanding of the role of implicit bias in policing, assessing officers before and after trainings on their openness and commitment to working to reduce disparate outcomes that may result from implicit biases, using body camera footage and other sources of agency data to systematically analyze officer actions to determine whether officers are in fact more likely to engage in the concrete behaviors that were highlighted and taught in the training for the purpose of reducing specific disparities, and analyzing agency-wide data after a large proportion of officers have completed a training to assess whether it has moved the needle on relevant behavioral outcomes (e.g. a de-escalation training would be expected to reduce the use of force among participating officers, and not the number of traffic tickets they write).⁴⁵⁸ For racial profiling courses specifically, evaluating training effectiveness pre- and post-training using body camera footage captures “nuances of officer communication that can matter for community respect and trust, but are inaccessible in administrative records.”⁴⁵⁹

⁴⁵⁴ Legis. Analyst, *2019-20 Budget: Analysis of the Governor’s Criminal Justice Proposals* (Feb. 2019) p. 44 <<https://lao.ca.gov/reports/2019/3940/2019-20-CJ-Analysis-021919.pdf>> [as of XX, 2024].

⁴⁵⁵ Little Hoover Com., *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) p. 9 <<https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf>> [as of XX, 2024].

⁴⁵⁶ See, e.g., California State Auditor, *Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct* (Apr. 26, 2022) <<https://information.auditor.ca.gov/reports/2021-105/index.html>> [as of XX, 2024] (“The Legislature should require local law enforcement departments to report to the RIPA Board the extent to which they have implemented those best practices, and should further require that departments provide the board with copies of any of the policies, procedures, or plans that they attest align with the best practices if the RIPA Board requests they do so. Finally, the Legislature should require the RIPA Board to publish annually through a scorecard, interactive dashboard, or similar means each department’s progress”).

⁴⁵⁷ See Little Hoover Com., *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) p. 11 <<https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf>> [as of XX, 2024].

⁴⁵⁸ Camp et al., *Leveraging Body-Worn Camera Footage to Assess the Effects of Training on Officer Communication during Stops* (Sept. 2024) 3 PNAS Nexus 9, p. 2 <<https://doi.org/10.1093/pnasnexus/pgae359>> [as of XX, 2024].

⁴⁵⁹ Camp et al., *Leveraging Body-Worn Camera Footage to Assess the Effects of Training on Officer*

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In its 2019-2020 Budget review, LAO advised the Legislature to monitor POST’s spending for law enforcement training by “adopt[ing] trailer bill language directing POST to report annually on specific outcome and performance measures that are tied to legislative expectations for the additional funding.”⁴⁶⁰ Specifically, LAO recommended that POST collect and report on the number of officers trained, how trainings are delivered, the cost of training per attendee, as well as the effect of specific trainings on officer job performance.⁴⁶¹

LAO recently supported the POST Commission’s request for reimbursement for RIPA-related expenses. In LAO’s 2023-2024 Budget review of the Commission on State Mandates, LAO concurred with the Commission’s finding that the requirements of RIPA related to the collection and reporting of stop data by local agencies created a state-reimbursable mandate, and recommended that \$50.5 million in reimbursement funds be set aside for local government agencies for costs incurred for RIPA compliance.⁴⁶² The Legislature approved LAO’s recommendation for these funds later that year.⁴⁶³

B. Recommendations to POST

(1) Evaluate the academic research underpinning trainings during its course certification process.⁴⁶⁴

According to the Little Hoover Commission’s review of POST trainings, “the current certification process [] does not include important questions that could help law enforcement officials understand what outcomes the training might produce or how it may impact officer

Communication during Stops (Sept. 2024) 3 PNAS Nexus 9, p. 4 <<https://doi.org/10.1093/pnasnexus/pgae359>> [as of XX, 2024].

⁴⁶⁰ Legis. Analyst, *2019-20 Budget: Analysis of the Governor’s Criminal Justice Proposals* (Feb. 2019) p. 44 <<https://lao.ca.gov/reports/2019/3940/2019-20-CJ-Analysis-021919.pdf>> [as of XX, 2024].

⁴⁶¹ Racial and Identity Profiling Advisory Board, *2023 Report*, at p. 208.

⁴⁶² Legis. Analysis Office, *2023-2024 Budget: Racial and Identity Profiling Mandate* (Feb. 2023) <<https://lao.ca.gov/Publications/Report/4715>> [as of XX, 2024].

⁴⁶³ Legis. Analysis Office, *2023-2024 Budget: Racial and Identity Profiling Mandate* (Feb. 2023) <<https://lao.ca.gov/Publications/Report/4715>> [as of XX, 2024]. More information can be found at the Commission of State Mandates and the State Controllers Office websites, both of which have an operational role in administering this state mandate. The reimbursement form is available here: <<https://csm.ca.gov/request-form.php>> [as of XX, 2024].

⁴⁶⁴ In its 2021 report, LHC recommended POST amend its certification process to include assessment of whether trainings are evidenced-based in order to understand what outcomes the training might produce or how it may impact officer behavior. (Little Hoover Com., *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) p. 7 <<https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf>> [as of XX, 2024].)

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behavior. For example, POST’s certification process does not consider:

- Was the training developed based on or informed by academic research and does it align with research evidence?
- Will the training teach skills that will prevent and reduce policing harm in marginalized groups?
- How does this training align – or not – with what officers actually do on-the-job and how will it be useful in their day-to-day work?
- Is the training current and fresh or does it repeat lessons and examples officers were exposed to in prior years?
- How will the training improve officer job performance?”⁴⁶⁵

For POST to determine the “quality and relevancy of the training to the job,”⁴⁶⁶ POST should evaluate all courses not based on the total number of hours, but whether “the training is effective in changing officer behavior or can support desired policy outcomes, such as police reform or crime reduction.”⁴⁶⁷

(2) Revise the process for evaluating law enforcement training, in course certification and its quality assessment plans, to include additional course criteria that incorporate training outcomes based on officer actions and behavior in the field.⁴⁶⁸

(3) Formally evaluate Learning Domain (LD) 3 and Learning Domain (LD) 42 in the Regular Basic Course comprehensive module tests.⁴⁶⁹

⁴⁶⁵ Little Hoover Com., *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) p. 7 <<https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf>> [as of XX, 2024].

⁴⁶⁶ Little Hoover Com., *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) p. 7 <<https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf>> [as of XX, 2024].

⁴⁶⁷ Little Hoover Com., *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) p. 7 <<https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf>> [as of XX, 2024].

⁴⁶⁸ Little Hoover Com., *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) pp. 7-9 <<https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf>> [as of XX, 2024].

⁴⁶⁹ POST Commission, *Modular Format – Module II Training Specifications* <<https://post.ca.gov/modular-format-module-ii-training-specifications>> [as of XX, 2024]. LD 3 and LD 42 are included in Module II, but they are not tested on.

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VI. VISION FOR FUTURE REPORTS

In future reports, the Board will continue to review research and evidence-based practices to prescribe protocols that inform instruction and are aimed at eliminating racial and identity profiling. In prior reports, the RIPA Board has expressed interest in learning more about the POST certification process for the group of racial and identity courses under its purview. The Board will continue to learn about POST's integration of new legal mandates such as SB 2 into the AB 953 training. As POST-certified courses are updated, the RIPA Board will continue to schedule the legislatively mandated annual reviews.

The Board will also continue evaluating POST training courses, including the field training course and the updated MOT Racial and Identity Profiling Train-the-Trainer course curriculum. In the guidelines workshop, subject matter experts from law enforcement identified that field training officers have a tremendous influence on shaping the behaviors of basic academy graduates. Evaluating the field training course and its oversight is critical to understanding the context and regulation of peace officer training in California. The Board looks forward to assisting POST should it decide to develop any additional training on profiling or how to mitigate bias.

In accordance with its response to the 2024 recommendations, the POST Commission will provide the Board with verbal updates on its regulations pertaining to racial and identity profiling. The Board expects to review POST's regulations implementing Assembly Bill No. 443 (AB 443) (2023-2024 Reg. Sess.), which requires, among other things, the Commission update its definition of "biased conduct" by January 1, 2026. The Board also appreciates and anticipates the POST Commission's written response to the Board's recommendations in this report and invites POST to also present its responses to the recommendations at a 2025 RIPA Board meeting. Finally, after collaborating on developing racial and identity profiling guidelines this year, the Board looks forward to agency implementation of policies and curriculum reflecting the perspectives of both law enforcement representatives and RIPA Board members and to the continuation of its collaboration with POST.

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Accountability

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ACCOUNTABILITY

I. INTRODUCTION

The Commission on Peace Officer Standards and Training (POST) plays a significant role in law enforcement in California. POST has the authority to certify peace officers, develop the minimum standards and training for all officers in the state, and, recently, the authority to decertify officers. The Racial and Identity Profiling Act, which California enacted to eliminate racial and identity profiling, mandates that POST and the Board collaboratively develop training and policies focused on achieving this goal. In enacting Senate Bill No. 2 (2021-2022 Reg. Sess.) (SB 2), the Kenneth Ross, Jr. Police Decertification Act of 2021,⁴⁷⁰ the Legislature provided another accountability tool to POST to address serious misconduct by officers, including those officers who demonstrate bias or engage in racial and identity profiling, and remove them from the profession. A statewide system that decertifies or suspends the certification of officers who have engaged in racial and identity profiling, like the one SB 2 establishes, aligns with the Board's goal of eliminating this practice from policing.

In light of the Board's interests in SB 2 and shared goal of eliminating racial and identity profiling, the Board was invited by POST to provide input regarding the implementation of SB 2 during a stakeholder planning workshop held shortly after SB 2 was enacted.⁴⁷¹

Consistent with the Board's historical involvement with the implementation of SB 2, this section of the report provides an overview of the decertification process under SB 2 along with data on certification actions POST initiated against peace officers beginning in 2023. In addition to examining SB 2's potential for addressing bias in policing, this section also provides recommendations to the Legislature and POST to help shape SB 2 into an effective accountability tool that furthers the goal of eliminating racial and identity profiling.

⁴⁷⁰ Stats. 2021, c. 409 (S.B.2) eff. Jan. 1, 2022.

⁴⁷¹ Racial and Identity Profiling Advisory Board, Annual Report (2023) p. 207
<<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of XX, 2024].

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II. SB 2 AND DECERTIFICATION

A. SB 2 Overview

SB 2 establishes a statewide system for the suspension or permanent revocation of a peace officer's certification due to serious misconduct. Before SB 2, POST did not maintain disciplinary records for California officers.⁴⁷² It could only cancel a peace officer's certificate awarded in error or obtained through misrepresentation or fraud. Disciplinary records were handled in a piecemeal fashion and remained at the level of the individual law enforcement agency or jurisdiction, making it difficult to track problem officers or prevent them from seeking employment at another agency elsewhere in the state.

With the enactment of SB 2, POST can review and investigate complaints of serious misconduct by officers and suspend or revoke an officer's certification in cases of serious misconduct.⁴⁷³ Under SB 2, POST is also responsible for developing the regulations and procedures for implementing SB 2 and outlining procedures for the certification and decertification.⁴⁷⁴

POST can initiate investigations if it becomes aware of serious misconduct by a peace officer in several ways, including by referrals from the officer's agency, a complaint filed by a member of the public, or other means, including through media reports⁴⁷⁵ or audits of personnel files. If the complaint originates with a member of the public, POST sends the complaint to the agency employing the peace officer for an initial investigation, the results of which POST reviews through its decertification review process.⁴⁷⁶ By the end of 2023, POST had received more than 22,000 reports of serious misconduct arising from incidents that occurred between January 1, 2020, and January 1, 2023, from law enforcement agencies and the general public.⁴⁷⁷

In addition to investigating serious misconduct allegations, SB 2 requires POST to revoke the certification of a peace officer who has become ineligible to hold office because of a criminal

⁴⁷² POST, *Peace Officer Certification* <<https://post.ca.gov/Certification>> [as of XX, 2024].

⁴⁷³ Pen. Code § 13510.8, subs. (a), (c). Serious misconduct is also defined and discussed in section C.2. of this report.

⁴⁷⁴ See Cal. Code Regs., tit. 11, §1201 et seq.

⁴⁷⁵ POST, *Penal Code § 13512 Annual Report* (2023) at p. 4.

<https://post.ca.gov/Portals/0/post_docs/publications/2023_POSAD_Report.pdf> [as of XX, 2024]; Cal. Code Regs., tit. 11, § 1206, subd. (b); POST, *Public Complaints* <<https://post.ca.gov/public-complaints>> [as of XX, 2024].

⁴⁷⁶ See POST, *Public Complaints* <<https://post.ca.gov/public-complaints>> [as of XX, 2024].

⁴⁷⁷ POST, *Penal Code § 13512 Annual Report* (2023) p. 4

<https://post.ca.gov/Portals/0/post_docs/publications/2023_POSAD_Report.pdf> (as of XX, 2024).

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conviction listed in Government Code section 1029, regardless of whether the conviction arose from on-duty or off-duty conduct.⁴⁷⁸

SB 2 imposes additional responsibilities on law enforcement agencies as well. Agencies can only employ individuals with a current, valid certification.⁴⁷⁹ SB 2 requires agencies to report the employment, appointment, or termination or separation from employment or appointment of any peace officer to POST within 10 days.⁴⁸⁰ Separation from employment or appointment includes an involuntary termination, resignation, or retirement.⁴⁸¹ They are also required to report serious misconduct by a peace officer to POST within 10 days of receiving the allegation.⁴⁸² This requirement allows for the tracking of serious misconduct by officers across the state and creates additional transparency and accountability in law enforcement.

Finally, SB 2 imposes obligations on the California Department of Justice (Cal DOJ), requiring it to provide POST with necessary disqualifying felony and misdemeanor conviction data for all persons known to be current or former peace officers.⁴⁸³ POST is authorized to use this information for decertification purposes.⁴⁸⁴

B. The Key Players in The Decertification Process

To effectively implement the statewide system to investigate and decertify officers alleged to have engaged in serious misconduct, SB 2 created two new entities. One is the Peace Officer Standards Accountability Division (POSAD), which is the investigative entity within POST that conducts investigations and makes findings on whether grounds to decertify or suspend a peace officer exist.⁴⁸⁵ The other is the Peace Officer Standards Accountability Advisory Board

⁴⁷⁸ See Pen. Code, § 13510.8; Cal. Code Regs., tit. 11, § 1212, subd. (a); see also POST, *Penal Code § 13512 Annual Report* (2023) p. 4 <https://post.ca.gov/Portals/0/post_docs/publications/2023_POSAD_Report.pdf> [as of XX, 2024].

⁴⁷⁹ Pen. Code, § 13510.1, subd. (g). The only exception is that an agency may provisionally employ a person for up to 24 months, pending their certification by POST, provided the person has received a proof of eligibility and has not previously been certified or denied certification or had their certification revoked. (Pen. Code, § 13510.1, subd. (g).) The certification requirement applies to peace officers described in Penal Code sections 830.1, 830.2 except for those described in subdivision (d) of that section, 830.3, 830.32, or 380.33, or any other peace officer employed by an agency that participates in the POST program. Peace officer identified in these sections must possess either a valid Proof of Eligibility or a Basic Certificate. (Pen. Code § 13510.1, subd. (a).)

⁴⁸⁰ Pen. Code, § 13510.9, subd. (a)(1).

⁴⁸¹ Pen. Code, § 13510.9, subd. (a)(1).

⁴⁸² Pen. Code § 13510.9.

⁴⁸³ Gov. Code § 1029, subd. (f).

⁴⁸⁴ Gov. Code § 1029, subd. (f).

⁴⁸⁵ Pen. Code § 13509.5.

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(Accountability Board), a separate entity that makes recommendations to POST about whether to decertify or suspend a peace officer based on POSAD's findings.⁴⁸⁶ The POST Commission and administrative law judges from the Office of Administrative Hearings also play primary roles in the decertification process.⁴⁸⁷

1. Peace Officer Standards Accountability Division (POSAD)

POSAD is comprised of six bureaus: a Certification Bureau, an Intake and Disposition Bureau, and four Professional Conduct Bureaus.⁴⁸⁸ The Certification Bureau is responsible for certifying officers.⁴⁸⁹ The Intake and Disposition Bureau reviews public complaints and agency reports submitted to POST.⁴⁹⁰ The Professional Conduct Bureaus conduct the decertification investigations.⁴⁹¹ As part of their process, the Professional Conduct Bureaus review investigations of peace officers conducted by law enforcement agencies, and when necessary, independently conduct further investigation into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification.⁴⁹²

At the end of its investigation, POSAD makes findings as to whether grounds for action against a peace officer's certification exist.⁴⁹³ If POSAD finds reasonable grounds for the denial, suspension, or revocation of a peace officer's certification, POSAD notifies the officer of their findings and reports those findings to the Accountability Board and POST.⁴⁹⁴ The officer has 30 days to request a review from the Accountability Board.⁴⁹⁵

⁴⁸⁶ Pen. Code § 13509.6; see also POST, *Peace Officer Standards Accountability Advisory Board* <<https://post.ca.gov/Peace-Officer-Standards-Accountability-Advisory-Board>> [as of XX, 2024].

⁴⁸⁷ See POST, *Peace Officer Decertification Workflow*, https://post.ca.gov/portals/0/post_docs/resources/sb2/Peace_Officer_Decertification_Workflow.pdf [as of XX, 2024]; see also Office of Administrative Hearings, *About the Office of Administrative Hearings*, <<https://www.dgs.ca.gov/en/OAH/About>> [as of XX, 2024].

⁴⁸⁸ SB 2 Workshop Sessions, *Peace Officer Certification Workshop #3: Decertification Investigations and Reporting Obligations* <https://youtu.be/H2hNCB5AI74?si=Tw4UV9Pf_ZNc9c1H&t=170> [as of XX, 2024].

⁴⁸⁹ POST, *Certification Bureau* <<https://post.ca.gov/certification-bureau>> [as of XX, 2024].

⁴⁹⁰ POST, *Penal Code § 13512 Annual Report (2023)* p. 8. <https://post.ca.gov/Portals/0/post_docs/publications/2023_POSAD_Report.pdf> [as of XX, 2024].

⁴⁹¹ See SB 2 Workshop Sessions, *Peace Officer Certification Workshop #3: Decertification Investigations and Reporting Obligations*, <https://youtu.be/H2hNCB5AI74?si=7_DgKZSovR1A2P40&t=172> [as of XX, 2024]; see also POST, *Penal Code § 13512 Annual Report (2023)* p. 8 <https://post.ca.gov/Portals/0/post_docs/publications/2023_POSAD_Report.pdf> [as of XX, 2024].

⁴⁹² Penal Code § 13510.8, subd. (c)(2).

⁴⁹³ See Pen. Code § 13509.5, subd. (b).

⁴⁹⁴ Pen. Code, § 13510.85, subd. (a)(1); Pen. Code, § 13509.5, subd. (b).

⁴⁹⁵ Pen. Code § 13510.85, subd. (a)(2).

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2. Peace Officer Standards Accountability Board

The Accountability Board is an advisory board of nine members appointed by the Governor and California Legislature.⁴⁹⁶ Its purpose is to review appeals of POSAD's determination that there are reasonable grounds to suspend or revoke an officer's certification and make a recommendation to the POST Commission regarding whether POSAD's determination is supported by clear and convincing evidence.⁴⁹⁷ The Accountability Board does not review POSAD determinations that there is no reasonable basis to suspend or revoke an officer's certification.

When a peace officer requests a review of POSAD's finding that reasonable grounds exist for suspension or revocation of the officer's certification, the Accountability Board holds a public hearing to review those findings before recommending that the POST Commission take action against the officer's certification.⁴⁹⁸ SB 2 requires the Accountability Board to issue an annual report on the activities of POSAD, the Accountability Board, and POST, relating to the certification program, including the number of applications for certification, the events reported, the number of investigations conducted, and the number of certificates surrendered or revoked.⁴⁹⁹ The first report was published in 2024 and is available in POST's Data

⁴⁹⁶ The Board must include: (1) one member who is a current or former peace officer with substantial experience at a command rank, appointed by the Governor; (2) one member who is a current or former peace officer with substantial experience at a management rank in internal investigations; (3) two members who are members of the public, who are not former peace officers, and who have substantial experience working at nonprofit or academic institutions on issues related to police accountability (one of these members must be appointed by the Governor and one by the Speaker of the Assembly); (4) two members who are members of the public, who are not former peace officers, and who have substantial experience working at community-based organizations on issue related to police accountability (one of these members must be appointed by the Governor and one by the Senate Rules Committee); (5) two members who are members of the public, and who are not former peace officers, with strong consideration given to individuals who have been subject to wrongful use of force likely to cause death or serious bodily injury by a peace officer, or who are surviving family members of a person killed by the wrongful use of deadly force by a peace officer, appointed by the Governor; and (6) one member who is an attorney, and who is not a former peace officer, with substantial professional experience involving oversight of peace officers, appointed by the Governor. (Pen. Code § 13509.6, subd. (d)(1) - (6).) The list and biographies of current Accountability Board members can be found on POST's website at <https://post.ca.gov/Peace-Officer-Standards-Accountability-Advisory-Board>. Each member of the Accountability Board is appointed for a term of three years and holds office until the appointment of the member's successor or until one year has elapsed since the expiration of the term for which the member was appointed, whichever occurs first. Vacancies are filled by appointment for the unexpired term of a person with the same qualification for appointment as the person being replaced. No person may serve more than two terms consecutively. The Governor must remove from the Accountability Board any peace officer member whose certification as a peace officer has been revoked and may, after hearing, remove any member of the Accountability Board for neglect of duty or other just cause. (Pen. Code, § 13509.6, subd. (e).)

⁴⁹⁷ Pen. Code, § 13509.6, subd. (b).

⁴⁹⁸ Pen. Code § 13510.85, subd. (a)(2)-(4).

⁴⁹⁹ Pen. Code § 13512, subd. (b)(1) - (10).

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Warehouse.⁵⁰⁰

3. The POST Commission

The POST Commission has 18 members, more than half of whom are peace officers, and of which four are members of the public.⁵⁰¹ Fifteen of the Commissioners are appointed by the Governor for three-year terms.⁵⁰² Racial, gender, and ethnic diversity must be considered for all appointments.⁵⁰³ The Speaker of the Assembly and the Senate Pro Tempore also each appoint one Commissioner.⁵⁰⁴ These two appointees must demonstrate expertise in one or more of the following areas: (1) implicit and explicit bias, (2) cultural competency, (3) mental health and policing, and (4) work with vulnerable populations. The California Attorney General is an ex-officio member.⁵⁰⁵ In prior reports, the Board recommended expanding the number of commissioners to include more public members to “ensure more diverse representation from the public non-sworn community.”⁵⁰⁶

4. Administrative Law Judges

Administrative law judges (ALJs) from the Office of Administrative Hearings (OAH) preside over decertification hearings. The OAH is a non-judicial administrative agency that functions like a court. The OAH hears administrative disputes and is an independent office housed within the Department of General Services.⁵⁰⁷ ALJs are appointed by the Director of OAH and are required to have practiced law for at least five years before being appointed.⁵⁰⁸ They are neutral fact finders, independent of the agencies appearing before them.⁵⁰⁹

⁵⁰⁰ POST, *Penal Code § 13512 Annual Report* (2023)

<https://post.ca.gov/Portals/0/post_docs/publications/2023_POSAD_Report.pdf> [as of XX, 2024]; POST, *Decertification: Annual Report* <<https://post.ca.gov/Decertification>> [as of XX, 2024].

⁵⁰¹ Pen. Code, § 13500, subd. (b).

⁵⁰² Pen. Code § 13500, subds. (a), (e); see, POST, The POST Commission, <<https://post.ca.gov/POST-Commission>> [as of XX, 2024].

⁵⁰³ Pen. Code § 13500, subd. (a).

⁵⁰⁴ Pen. Code § 13500, subd. (c).

⁵⁰⁵ Pen. Code § 13500, subd. (d); POST, The POST Commission, <<https://post.ca.gov/POST-Commission>> [as of XX, 2024].

⁵⁰⁶ Racial and Identity Profiling Advisory Board, *Annual Report* (2023) (“2023 Report”) p. 207 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of XX, 2024]

⁵⁰⁷ Office of Administrative Hearings, About the Office of Administrative Hearings, <<https://www.dgs.ca.gov/en/OAH/About>> [as of XX, 2024].

⁵⁰⁸ Office of Administrative Hearings, About the Office of Administrative Hearings, <<https://www.dgs.ca.gov/en/OAH/About>> [as of XX, 2024]

⁵⁰⁹ Office of Administrative Hearings, About the Office of Administrative Hearings, <<https://www.dgs.ca.gov/en/OAH/About>> [as of XX, 2024]

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C. Grounds for Decertification

There are two primary grounds for decertification. A peace officer's certification will be revoked if the officer has become ineligible to hold office as a peace officer under Government Code section 1029.⁵¹⁰ A peace officer's certification may also be suspended or permanently revoked if the officer is terminated for cause or has otherwise engaged in serious misconduct, as described and defined in Penal Code section 13510.8, subdivision (b) and the POST regulations.⁵¹¹

1. Government Code Section 1029

The POST Commission must revoke the certification of a peace officer if the officer has become ineligible to hold office.⁵¹² Under Government Code section 1029, a person is ineligible or disqualified from holding office as a peace officer or being employed as a peace officer of the state, county, city, or other political subdivision if, among other things, the person has:

- 1) Specified criminal convictions or adjudications,⁵¹³
- 2) Had their certification revoked by POST,
- 3) Voluntarily surrendered their certification pursuant to California Penal Code section 13510.8, subdivision (f),
- 4) Met the minimum requirement for issuance of certification but has been denied issuance of certification, or
- 5) Previously been employed in law enforcement in any state or United States territory or by the federal government, whose name is listed in the National Decertification Index⁵¹⁴ of

⁵¹⁰ Pen. Code § 13510.8, subd. (a)(1).

⁵¹¹ Pen. Code § 13510.8, subd. (a)(2).

⁵¹² Pen. Code, §13510.8, subd. (a)(1).

⁵¹³ This criminal convictions and adjudications are: (1) any person who has been convicted of a felony; (2) any person who has been convicted of any offense in any other jurisdiction which would have been a felony if committed in California; (3) any person who has been discharged from the military for committing an offense, as adjudicated by a military tribunal, which would have been a felony if committed in California; (4) any person who, after January 1, 2004, has been convicted of a crime based upon a verdict or finding of guilt of a felony by the trier of fact, or upon the entry of a plea of guilty or nolo contendere to a felony; (5) any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent; (6) any person who has been found not guilty by reason of insanity of any felony; (7) any person who has been determined to be a mentally disordered sex offender; (8) any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution; and (9) any person who, following exhaustion of all available appeals, has been convicted of, or adjudicated through an administrative, military, or civil judicial process requiring not less than clear and convincing evidence. (Gov. Code § 1029, subd. (a)(1)-(9).)

⁵¹⁴ For more information on the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training see *NDI Frequently Asked Questions (FAQ)* <<https://www.iadlest.org/Portals/0/Files/NDI/NDI%20FAQ%20.pdf?ver=xINUE3YRiwlf2JimncZFkA%3d%3d>> [as of XX, 2024].

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the International Association of Directors of Law Enforcement Standards and Training, or any other database designated by the federal government.⁵¹⁵

The Cal DOJ provides POST with disqualifying felony and misdemeanor conviction data for all persons known to be current or former peace officers, which POST uses for decertification purposes.⁵¹⁶ Once this data is received by POST, it is considered a public record.⁵¹⁷ The POST Commission may also learn of disqualifying convictions during serious misconduct investigations and from the media.

Upon a preliminary determination by POSAD that a person is, or has become, disqualified under section 1029 from holding office as a peace officer, the POST Commission serves a notice of intent to revoke the peace officer's certification.⁵¹⁸ The officer has 30 days from the date the notice was mailed to provide a written response detailing the factual or legal basis supporting their contention that a disqualifying conviction did not occur, including all documents substantiating this contention.⁵¹⁹ If a written response is not received within 30 days, POSAD issues an interim order of disqualification and decertification revoking the officer's certification, pending the POST Commission's final order.⁵²⁰ If POSAD receives a written response, it reviews the response and conducts any appropriate additional investigation necessary to determine whether a disqualifying conviction occurred.⁵²¹ If POSAD determines that a disqualifying conviction occurred, it serves the interim order of disqualification and decertification on the officer or their legal representative, and the matter is placed on the consent calendar at the next regularly scheduled meeting of the POST Commission.⁵²² If the POST Commission agrees with POSAD's actions, it will summarily affirm the interim order of disqualification and decertification.⁵²³

⁵¹⁵ Gov. Code, § 1029, subd. (a).

⁵¹⁶ Gov. Code, § 1029, subd. (f).

⁵¹⁷ See Gov. Code, § 1029, subd. (f).

⁵¹⁸ Cal. Code Regs., tit. 11, § 1203, subd. (b).

⁵¹⁹ Cal. Code Regs., tit. 11, § 1203, subd. (b)(2). POSAD may grant reasonable extensions of time to respond upon a showing of good cause.

⁵²⁰ Cal Code Regs., tit. 11, § 1203, subd. (b)(3).

⁵²¹ Cal. Code Regs., tit. 11, § 1203, subd. (b)(4).

⁵²² *Ibid.*

⁵²³ *Ibid.*

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2. Serious Misconduct

The other ground for decertification is termination for cause from employment as an officer for serious misconduct or POST has determined that the officer has otherwise engaged in serious misconduct while employed as a peace officer. “Serious misconduct” is defined as:

- 1) Dishonesty relating to the reporting, investigation, or prosecution of a crime or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer⁵²⁴
- 2) Abuse of power⁵²⁵
- 3) Physical abuse⁵²⁶
- 4) Sexual assault⁵²⁷
- 5) Demonstrating bias on the basis of actual or perceived race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer’s obligation to carry out their duties in a fair and unbiased manner⁵²⁸
- 6) Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer’s obligation to uphold the law or respect the rights of members of the public
- 7) Participation in a law enforcement gang
- 8) Failure to cooperate with an investigation into potential police misconduct
- 9) Failure to intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, “taking into account the possibility that other officers may have additional information regarding the threat posed by a subject”⁵²⁹

⁵²⁴ This includes but not limited to, false statement, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data. POST, *Peace Officer Certification Actions* <<https://post.ca.gov/Peace-Officer-Certification-Actions>> [as of XX, 2024].

⁵²⁵ Including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.

⁵²⁶ Physical abuse includes, but is not limited to, the excessive or unreasonable use of force.

⁵²⁷ As described in subdivision (b) of Penal Code section 832.7, and the provision extends to acts committed amongst members of any law enforcement agency.

⁵²⁸ In December 2023, POST published notice of a proposed amendment to POST Regulation 1205 that would expand the definition of “demonstrating bias” to clarify what POST considers a demonstration of bias. See *Notice of Proposed Regulatory Action – Amend Commission Regulation 1205 – Definitions Related to Serious Misconduct*, No. 2-23-70 <https://post.ca.gov/Portals/0/post_docs/bulletin/2023-70.pdf>; *Text of Proposed Regulatory Action: Amend Commission Regulation 1205* <https://post.ca.gov/Portals/0/post_docs/regulationnotices/2023/2023-70_TPRR_Reg1205.pdf> [as of XX, 2024].

⁵²⁹ Pen. Code § 13510.8, subd. (b)(1) – (9); Cal. Code Regs., tit. 11, § 1205.

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The inclusion of “demonstrating bias” in the definition of “serious misconduct” in SB 2 is directly related to RIPA’s goal of eliminating racial and identity profiling. As SB 2’s implementing regulations explain, an officer is “demonstrating” bias “when the officer either shows or displays, by words, actions or other conduct, prejudice, intolerance, contempt, or hatred towards one or more persons due to that person’s membership within a class of persons identified in Penal Code section 13510.8, subdivision (b)(5), when such words, actions, or other conduct would lead a reasonable person to conclude that the officer has not fairly and impartially performed, or will not fairly and impartially perform, their law enforcement duties.”⁵³⁰

D. The SB 2 Decertification Process

The decertification process is multi-layered with several steps aimed at preserving due process, including investigations by both the employing agency and POSAD, an appeal of those findings before the Accountability Board, and a determination by the POST Commission regarding whether to initiate a decertification action. The chart below, from POST’s website, outlines the different procedural steps in the decertification process.⁵³¹

⁵³⁰ Cal Code Regs., tit. 11, § 1205, subd. (a)(5)(A).

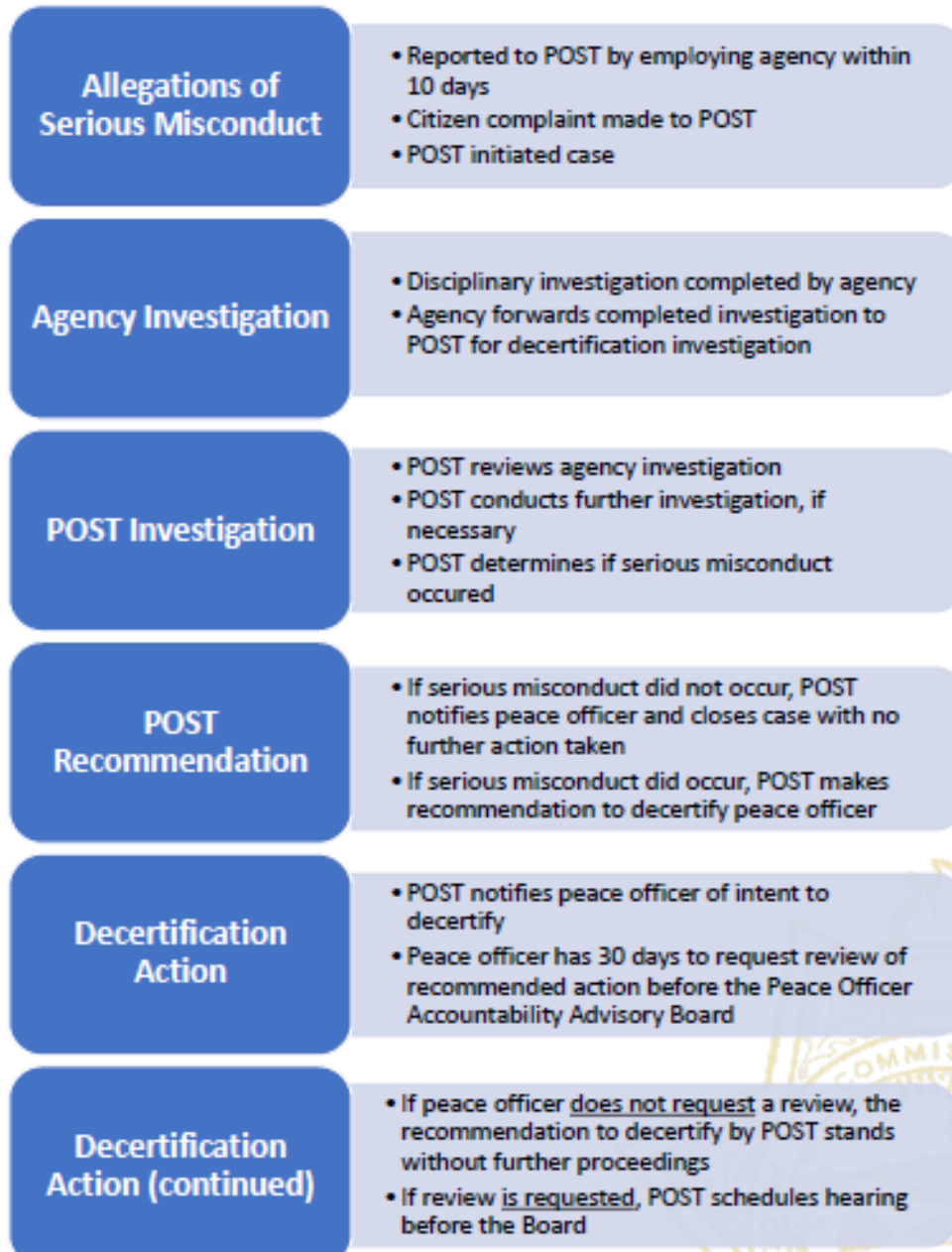
⁵³¹ POST, Peace Officer Decertification Workflow, <https://post.ca.gov/portals/0/post_docs/resources/sb2/Peace_Officer_Decertification_Workflow.pdf> (as of XX, 2024).

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Peace Officer Decertification Workflow



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1. Initiation of an Investigation Based on a Report of Serious Misconduct

Serious misconduct by a peace officer is reported to POST in several ways, including mandatory reporting by law enforcement agencies and complaints from the public. As noted previously, POST can also initiate an investigation if it becomes aware of possible serious misconduct by an officer through other means, such as through the media or an audit of a personnel file.

a) Reporting by Law Enforcement Agencies

Each law enforcement agency must internally investigate any allegations of serious misconduct by a peace officer, regardless of the officer's employment status.⁵³² Under SB 2, POST now provides oversight for those agency investigations. This means agencies must report serious misconduct allegations and findings of internal investigations of serious misconduct to POST

⁵³² Pen. Code § 13510.8, subd. (c)(1).

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within 10 days of receiving the allegation and within 10 days of the final disposition of any investigation to determine whether an officer engaged in conduct that could render the officer subject to suspension or revocation.⁵³³ The duty to report allegations of serious misconduct applies regardless of the investigative outcome and includes cases where the investigation concluded that the allegations were unfounded, not sustained, or resulted in an exoneration.⁵³⁴

The duty to report is retroactive to January 1, 2020.⁵³⁵ By July 1, 2023, agencies are required to report to POST serious misconduct involving the officers they employ that occurred between January 1, 2020, and January 1, 2023.⁵³⁶

In its review, POST's investigative unit, POSAD, is tasked with examining the thoroughness of an agency's investigation, reaching an independent determination on whether there are reasonable grounds to conclude that serious misconduct occurred. Agencies must make their investigation records available to POST, including any physical or documentary evidence, witness statements, analysis, and conclusions.⁵³⁷

POST may initiate proceedings to revoke or suspend an officer's certification for conduct that occurred before January 1, 2022, under two circumstances: (1) for serious misconduct defined as dishonesty, sexual assault, or the use of deadly force resulting in death or serious bodily injury and (2) where the employing agency made its final determination regarding an investigation after January 1, 2022.⁵³⁸

b) Public Complaints

Members of the public may also submit complaints against peace officers directly to POST.⁵³⁹ Complaints may be submitted online using POST's Public Complaint Form,⁵⁴⁰ by email or mail, by phone, or in person at POST headquarters.⁵⁴¹ Complaints may also be submitted

⁵³³ Pen. Code § 13510.9; Cal. Code Regs., tit. 11, §1207; see also POST, *Senate Bill No. 2 – Frequently Asked Questions* <<https://post.ca.gov/SB-2-FAQs>> [as of XX, 2024].

⁵³⁴ See SB 2 Workshop Sessions, Workshop #3: Decertification Investigations & Reporting Obligations <https://www.youtube.com/watch?v=H2hNCB5AI74&list=PLVY_-7Z6jpM2hhwTtiNc7x00O_COSFsGw&index=3> [as of XX, 2024].

⁵³⁵ Pen. Code § 13510.9, subd. (b).

⁵³⁶ Pen. Code § 13510.9, subd. (b).

⁵³⁷ Pen. Code § 13510.9, subd. (c).

⁵³⁸ Pen. Code § 13510.8, subd. (g)(1).

⁵³⁹ POST accepts complaints from members of the public against California peace officers described in Penal Code sections 830.1, 830.2 (except for those described in subdivision (d)), 830.3, 830.32, or 830.33. POST's certification program applies to officers described in these sections. See POST, *Public Complaints* <<https://post.ca.gov/public-complaints>> [as of XX, 2024]; see also Pen. Code § 13510.1, subd. (a).

⁵⁴⁰ POST, *Public Complaint Form* <<https://post.ca.gov/public-complaint-form>> [as of XX, 2024].

⁵⁴¹ Cal. Code Regs., tit. 11, § 1206.

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anonymously.⁵⁴²

When POST receives a complaint alleging serious misconduct, it refers the complaint to the officer's employing agency for investigation. The agency is required to forward its findings to POST for review.⁵⁴³ POST is required to review those findings to determine if decertification is warranted.

POST has the authority to investigate only those allegations of serious misconduct that could lead to decertification of a California peace officer. It lacks the authority to conduct criminal or administrative investigations that would lead only to agency discipline short of suspension or revocation of the officer's certification.⁵⁴⁴ Complaints from the public that a California peace officer committed a crime, should be reported to the district attorney in the county where the law enforcement agency is located or to the California Department of Justice.⁵⁴⁵

2. Immediate Temporary Suspensions

Under SB 2, POST's executive director is required to immediately suspend a peace officer's certificate of eligibility if circumstances indicate that the temporary suspension is in the best interest of the health, safety, or welfare of the public and any of the following occurs:

- 1) A peace officer is arrested or indicted for any crime described in Government Code section 1029; or
- 2) A peace officer is discharged from any law enforcement agency for grounds set forth in Penal Code section 13510.8, subdivision (a),⁵⁴⁶ or
- 3) A peace officer has separated from employment as a peace officer during a pending investigation into allegations of serious misconduct.⁵⁴⁷

The temporary suspension remains in effect until POST issues its final decision or until the

⁵⁴² See POST, *Public Complaint Form* <<https://post.ca.gov/public-complaint-form>> [as of XX, 2024].

⁵⁴³ POST, *Senate Bill No. 2 – Frequently Asked Questions* <<https://post.ca.gov/SB-2-FAQs>> [as of XX, 2024].

⁵⁴⁴ POST, *Public Complaints* <<https://post.ca.gov/public-complaints>> [as of XX, 2024].

⁵⁴⁵ POST, *Public Complaints* <<https://post.ca.gov/public-complaints>> [as of XX, 2024].

⁵⁴⁶ Under Penal Code section 13510.8, subdivision (a), a peace officer's certification may be revoked if the person has become ineligible to hold office as a peace officer pursuant to Government Code section 1029; a peace officer's certification may be suspended or revoked if the officer has been terminated for cause from employment as a peace officer or has otherwise engaged in serious misconduct; and a peace officer's certificate or proof of eligibility may be canceled if POST determines that there was fraud or misrepresentation made by an application during the application process that resulted in a certificate being issued.

⁵⁴⁷ Pen. Code § 13510.8, subd. (d); see also POST, *Information and Options for the Peace Officer: The Immediate Temporary Suspension (ITS) Process* <https://post.ca.gov/portals/0/post_docs/resources/sb2/Immediate_Temporary_Suspension.pdf> [as of XX, 2024].

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executive director withdraws the order.⁵⁴⁸ An individual may not exercise the powers of a peace officer during any period during which their certification is temporarily suspended.⁵⁴⁹

Whenever the executive director imposes a temporary suspension, POST must notify the officer and the agency head in writing and specify the basis for the executive director's determination.⁵⁵⁰ The notice must also advise the officer that they have the right to respond in writing within 14 calendar days if the officer believes that the immediate suspension order should be withdrawn.⁵⁵¹ Upon the receipt of a response, the executive director will consider the facts, evidence, and argument in the officer's response and must withdraw the immediate temporary suspension if the executive director determines that continuing the suspension is no longer in the best interest of the health, safety, or welfare of the public or if one of the technical grounds identified in Penal Code section 13510.8, subdivision (d) no longer exists.⁵⁵² If the executive director does not issue an order of withdrawal within 15 calendar days of service of the officer's response, the response will be treated as denied.⁵⁵³

3. POSAD Review and Investigation

Once POST receives the results of the law enforcement agency's internal investigation of serious misconduct, POSAD, the investigation unit within POST, must promptly review any grounds for decertification received from the agency.⁵⁵⁴ POSAD has the authority to review any agency or other investigative authority file, and conduct further investigation to determine whether serious misconduct has occurred. POSAD only has authority to review and investigate allegations for purposes of decertification and is required to complete the investigation within three years of receiving the completed report of the disciplinary or internal affairs investigation from the employing agency.⁵⁵⁵ No time limit applies, however, if a report of the conduct was not made to

⁵⁴⁸ Pen. Code, § 13510.8, subd. (d).

⁵⁴⁹ POST, *Information and Options for the Peace Officer: The Immediate Temporary Suspension (ITS) Process* <https://post.ca.gov/portals/0/post_docs/resources/sb2/Immediate_Temporary_Suspension.pdf> [as of XX, 2024].

⁵⁵⁰ Cal. Code Regs., tit. 11, § 1208, subd. (a).

⁵⁵¹ The officer's response must be served upon POST within 14 calendar days of the date of the mailing of the Order of Immediate Temporary Suspension, either by personal delivery on POST headquarters, or by mail, postmarked no later than 14 calendar days of the date of mailing of the order to the peace officer. (Cal. Code Regs., tit. 11, § 1208, subd. (a)(1)(A).)

⁵⁵² Cal. Code Regs., tit. 11, § 1208, subd. (a)(1)(B). For example, an officer who was charged with a felony and placed in a deferred entry of judgment program would not technically have a conviction for a felony while in the program. (See Pen. Code, § 1000.10.)

⁵⁵³ Cal. Code Regs., tit. 11, § 1208, subd. (a)(1)(B).

⁵⁵⁴ Pen. Code § 13510.8, subd. (c)(2).

⁵⁵⁵ Pen. Code § 13510.8, subd. (c)(2), (c)(5).

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POST.⁵⁵⁶

When evaluating whether to revoke an officer's certification for the incident under investigation, POSAD must consider the peace officer's entire record, including the prior conduct and service record, and any instances of misconduct, including any incidents occurring beyond the three-year time limitation for investigation.⁵⁵⁷ POSAD's investigation is considered complete once it issues a notice to the officer of its intent to deny, suspend, or revoke certification.⁵⁵⁸ The three-year time limit for POSAD's investigation is tolled during the appeal of a termination or other disciplinary action through an administrative or judicial proceeding or during any criminal prosecution of a peace officer.⁵⁵⁹

If POSAD finds reasonable grounds for the denial, revocation, or suspension of a peace officer's certification, it must promptly notify the officer in writing, providing the reasons for its conclusion. In the notice, POSAD must also provide a detailed explanation of the decertification procedure, including information about the officer's rights to contest and appeal.⁵⁶⁰

As noted previously, upon receiving notice from POSAD, the officer has 30 days to file a request for review of the determination by the Accountability Board and POST.⁵⁶¹ If a timely request for review is filed, the Accountability Board will schedule the case for a hearing. If no timely request for review is received, the officer's certification will be suspended or revoked without further proceedings.⁵⁶²

Instead of appealing the decision, the officer can voluntarily surrender their certification.⁵⁶³ In that case, the matter will be administratively closed without further legal proceedings, and the person would be permanently ineligible for employment as a peace officer in California. Voluntary permanent surrender of certification has the same effect as revocation, meaning that

⁵⁵⁶ Pen. Code § 13510.8, subd. (c)(5).

⁵⁵⁷ Pen. Code § 13510.8, subd. (c)(5).

⁵⁵⁸ Pen. Code § 13510.8, subd. (c)(5).

⁵⁵⁹ Pen. Code § 13510.8, subd. (c)(5).

⁵⁶⁰ Pen. Code § 13510.85, subd. (a)(1). POST has issued a guide that is intended to serve that purpose. See POST, *Guide to Peace Officer Decertification Proceedings and Officer Rights to Contest and Appeal* (Aug. 2023) <https://post.ca.gov/portals/0/post_docs/resources/sb2/Guide_to_Decertification.pdf> [as of XX, 2024].

⁵⁶¹ Pen. Code § 13510.85(a)(2); Cal. Code Regs., tit. 11, § 1209. The request for review must be received by POST or postmarked within 30 calendar days of the date of mailing of the notice of intent to suspend or revoke the officer's certification. (Cal. Code Regs. § 1209, subd. (b).); POST, *Guide to Peace Officer Decertification Proceedings and Officer Rights to Contest and Appeal* (Aug. 2023) p. 6. <https://post.ca.gov/portals/0/post_docs/resources/sb2/Guide_to_Decertification.pdf> [as of XX, 2024].

⁵⁶² Pen. Code § 13510.85, subd. (a)(2).

⁵⁶³ Cal. Code Regs., tit. 11, § 1209, subd. (c).

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the certification cannot be reactivated.⁵⁶⁴ This, however, would not prohibit officers from seeking employment in other states because California does not have jurisdiction over hiring in other states, but reporting misconduct to the National Decertification Index (NDI) of the International Association of Directors of Law Enforcement Standards and Training will at a minimum place other jurisdictions on notice that an officer's certification has been revoked in California.

4. Public Hearings Before the Accountability Board and the POST Commission

If the officer appeals POSAD's determination, POST schedules a public hearing before the Accountability Board. Following the hearing, the Accountability Board must issue a written decision explaining its reasons for decertification or suspension. The Accountability Board may only recommend revocation if the factual basis for revocation is established by clear and convincing evidence.⁵⁶⁵ If the Accountability Board determines that the facts and circumstances warrant a sanction other than revocation, it may recommend suspension for a period of time.⁵⁶⁶

Following the hearing before the Accountability Board, the POST Commission schedules a public hearing to review the Accountability Board's recommendation.⁵⁶⁷ A decision to adopt the recommendation to seek revocation of the officer's certification requires two-thirds of the POST Commissioners present to agree that clear and convincing evidence supports the Accountability Board's conclusion that the officer engaged in serious misconduct.⁵⁶⁸ If the POST Commission rejects the recommendation, the Commission must explain its analysis and reasons for reaching a different conclusion in writing.⁵⁶⁹

The hearings serve as a mechanism by which the Accountability Board and the POST Commission can preliminarily determine whether there are reasonable grounds to conclude that serious misconduct occurred and whether the case should be referred for a full evidentiary hearing.⁵⁷⁰ Therefore, although the officer may attend both hearings or choose to have counsel present, neither the officer nor their counsel may present witness testimony, other evidence, or

⁵⁶⁴ POST, *Guide to Peace Officer Decertification Proceedings and Officer Rights to Contest and Appeal* (Aug. 2023) p. 6 <https://post.ca.gov/portals/0/post_docs/resources/sb2/Guide_to_Decertification.pdf> [as of XX, 2024].

⁵⁶⁵ Pen. Code § 13510.85, subd. (a)(4). The clear and convincing evidence standard "requires a finding of high probability." (*In Re White* (2018) 21 Cal.App.5th 18, 28.)

⁵⁶⁶ Pen. Code § 13510.85, subd. (a)(4).

⁵⁶⁷ Pen. Code § 13510.85, subd. (a)(5).

⁵⁶⁸ Pen. Code § 13510.85, subd. (a)(5).

⁵⁶⁹ Pen. Code § 13510.85, subd. (a)(5).

⁵⁷⁰ POST, *Guide to Peace Officer Decertification Proceedings and Officer Rights to Contest and Appeal* (Aug. 2023) p. 6 <https://post.ca.gov/portals/0/post_docs/resources/sb2/Guide_to_Decertification.pdf> [as of XX, 2024].

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argument.⁵⁷¹ Only POSAD may present the findings of its investigation to the Accountability Board and subsequently to the POST Commission.⁵⁷² The officer or their counsel can address the issue of the sufficiency of POSAD’s findings only during the public comment period.⁵⁷³

If the POST Commission determines that action should be taken against the officer, POST will return the matter to POSAD for further proceedings. POSAD will then file an Accusation or Statement of Issues with the OAH for a formal hearing before an ALJ.⁵⁷⁴ If the Commission rejects the Accountability Board’s recommendation to suspend or revoke a certification, no further action is taken unless additional investigation is requested.⁵⁷⁵

5. The Administrative Hearing Before OAH

The administrative hearing on an officer’s certification is a public hearing like a civil court trial.⁵⁷⁶ The administrative law judge finds whether there is a basis to decertify an officer based on their conduct and the POST Commission may, partly or wholly, adopt or reject the ALJ’s decision.

6. POST’s Certification of the ALJ’s Decision

Within 100 days of receipt of the ALJ’s proposed decision, POST may take one of the following actions:

- 1) Adopt the ALJ’s proposed decision in its entirety.
- 2) Reduce or otherwise mitigate the proposed penalty and adopt the balance of the proposed decision.
- 3) Make technical or other minor changes in the proposed decision and adopt it as the

⁵⁷¹ Cal. Code Regs., tit. 11, § 1209, subd. (e)(2)(A).

⁵⁷² Cal. Code Regs., tit. 11, § 1209, subds. (e)(1)-(2)

⁵⁷³ Cal. Code Regs., tit. 11, § 1209, subd. (e)(2)(B).

⁵⁷⁴ POST, *Guide to Peace Officer Decertification Proceedings and Officer Rights to Contest and Appeal* (Aug. 2023) p. 8 <https://post.ca.gov/portals/0/post_docs/resources/sb2/Guide_to_Decertification.pdf> [as of XX, 2024]; Pen. Code § 13510.85, subd. (a)(6). The hearing is held in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 1150) of part 1 of Division 3 of Title 2 of the Government Code and is subject to judicial review.

⁵⁷⁵ POST, *Peace Officer Decertification Workflow* <https://post.ca.gov/portals/0/post_docs/resources/sb2/Peace_Officer_Decertification_Workflow.pdf> [as of XX, 2024, p. 2].

⁵⁷⁶ Any records introduced during the hearings of the Board and the ALJ and the review by POST are public. These public records may, in the discretion of POSAD, be redacted for the reasons set forth in Penal Code section 832.7, subdivision (b)(6) and (7). This subdivision does not preclude the Accountability Board or POST, or both, from reviewing the unredacted versions of these records in closed session and using them as the basis for any action taken. (Pen. Code § 13510.85, subd. (b).)

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decision.⁵⁷⁷

- 4) Reject the proposed decision and refer the case to the same ALJ if reasonable available, otherwise to another ALJ, to take additional evidence.⁵⁷⁸
- 5) Reject the proposed decision, and decided the case upon the record, including the transcript, or upon an agreed statement of the parties, with or without taking additional evidence. By stipulation of the parties, the agency may decide the case upon the record without including the transcript.⁵⁷⁹

POST's decision is deemed final 30 days after POST serves the decision on the involved peace officer or their legal representative.⁵⁸⁰ POST must publish the names of any peace officer whose certification is suspended or revoked and the basis for the suspension or revocation on its website.⁵⁸¹ POST must also notify the NDI of the suspension or revocation.⁵⁸²

POST must retain its records of an investigation of any person for 30 years following the date that the investigation is deemed concluded.⁵⁸³

⁵⁷⁷ Action by the agency is limited to a clarifying change or a change of a similar nature that does not affect the factual or legal basis of the proposed decision.

⁵⁷⁸ If the case is referred to an ALJ, the ALJ must prepare a revised proposed decision, based upon the additional evidence and the transcript and other papers that are part of the record of the prior hearing. A copy of the revised proposed decision must be provided to each party and their attorney.

⁵⁷⁹ Gov. Code § 11517, subd. (c)(2)(A) - (E). If the agency takes this action, all the following apply: (1) a copy of the record must be made available to the parties. The agency may require payment of fees covering direct costs of making the copy; (2) the agency itself may not decide any case without affording the parties the opportunity to present either oral or written argument before the agency itself. If additional oral evidence is introduced before the agency itself, no agency member may vote unless the member heard the additional oral evidence; (3) the authority of the agency itself to decide the case includes authority to decide some but not all issues in the case; and (4) if the agency elects to take this action, the agency must issue its final decision not later than 100 days after rejection of the proposed decision. If the agency elects to take this action and has ordered a transcript of the proceedings before the ALJ, the agency must issue its final decision not later than 100 days after receipt of the transcript. If the agency finds that further delay is required by special circumstance, it must issue an order delaying the decision for no more than 30 days and specifying the reasons therefor. The order is subject to judicial review pursuant to Government Code section 11523.

⁵⁸⁰ A copy of the written decision must be provided to (1) the Accountability Board, (2) POSAD, (3) the involved peace officer or designated representative, and (4) the head of the agency that employs or employed the involved peace officer. (Cal. Code Regs., tit. 11 § 1212, subd. (c)(3).)

⁵⁸¹ Cal. Code Regs., tit. 11, § 1212, subd. (d). The list of officers whose certification is suspended or revoked and the basis for the suspension or revocation is available at <<https://post.ca.gov/Peace-Officer-Certification-Actions>> [as of XX, 2024].

⁵⁸² Pen. Code § 13510.85, subd. (c); Cal. Code Regs., tit. 11, § 1212, subd. (e). Records are entered into the NDI by the governing body in each state charged with establishing standards for police officer training and certification. These state agencies are known as POST Agencies. Not all states have established a POST agency. See IADLEST, NDI Frequently Asked Questions (FAQ) (Oct. 4, 2023)<<https://www.iadlest.org/Portals/0/Files/NDI/NDI%20FAQ%20.pdf?ver=xINUE3YRiwlf2JimncZFkA%3d%3d>> [as of XX, 2024.] According to the IADLEST website, the NDI currently contains 55,433 actions reported by 50 certifying agencies. IADLEST, About NDI, <<https://www.iadlest.org/our-services/ndi/about-ndi>> [as of XX, 2024]

⁵⁸³ Pen. Code § 13510.8, subd. (e).

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E. POST Certification Actions by the Numbers

1. Misconduct Reports and Investigations

Between January 1, 2023, and October 1, 2024, POST received 29,472 misconduct reports from law enforcement agencies and 1,247 public complaints submitted directly to POST. Of those agency misconduct reports, 16,672, or 56.57 percent, were related to incidents that occurred before January 1, 2023. So far, through October 1, 2024, 19,882 cases have been assigned to POST investigators, of which 7,967 have been closed. The other 9,533 misconduct reports, 32.34 percent of the agency misconduct reports received, have not yet been assigned to a POST investigator.⁵⁸⁴

To provide further context about dispositions by year, in 2023, POST closed a total of 5,194 cases. Of those cases, 5,100 were closed with no further action taken, while 65 resulted in decertification. In 2023, 85.29 percent of the cases closed with no further action involved retroactive cases, cases involving events between January 1, 2020, and January 1, 2023. According to POST, these cases were held to a higher standard, and POST was required to close them if the conduct did not result in death or serious bodily injury per Penal Code section 13510.8 subdivision (g)(1).⁵⁸⁵ For the first nine months of 2024, POST has resolved 2,982 cases. Of those cases, 2,811 cases resulted in no further action and 171 cases resulted in decertification.

When it receives a report, complaint, or other allegation of serious misconduct, POST classifies the type of serious misconduct alleged. As shown in Figure X below, of the serious misconduct allegations POST has received between January 1, 2023, and October 1, 2024, physical abuse/excessive force is the most common type of serious misconduct alleged, followed by demonstrating bias, abuse of power, dishonesty, acts that violate the law, and sexual assault.⁵⁸⁶

⁵⁸⁴ See POST, Peace Officer Certification Reporting, <<https://post.ca.gov/Peace-Officer-Certification-Reporting>> [as of Oct. 1, 2024].

⁵⁸⁵ Information retrieved from POST, Peace Officer Certification Reporting, <<https://post.ca.gov/Peace-Officer-Certification-Reporting>> [on October 1, 2024], or from direct information request to POST.

⁵⁸⁶ See POST, Peace Officer Certification Reporting, <<https://post.ca.gov/Peace-Officer-Certification-Reporting>> [as of Oct. 1, 2024].

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Figure X

Basis ⁵⁸⁷	Allegations Received ⁵⁸⁸	
	Number	Percent
Physical Abuse/Excessive Force	12,654	37.68%
Demonstrating Bias	9,186	27.35%
Abuse of Power	4,528	13.48%
Dishonesty	2,523	7.51%
Acts that Violate the Law	2,225	6.63%
Sexual Assault	1,337	3.98%
Convicted of a Felony	593	1.77%
Other Serious Misconduct	537	1.60%

2. Common Grounds for Certification Actions Initiated by POST

As of September 27, 2024, POST has initiated certification actions against 367 peace officers. One hundred and forty-nine of those actions were based on Government Code section 1029.⁵⁸⁹ According to POST’s online listing of certification actions, the most common complaint, charge, or allegation for decertification actions that POST has initiated based on serious misconduct is egregious or repeated acts that violate the law followed by physical abuse or excessive force, sexual assault, dishonesty, demonstrating bias, abuse of power, and failure to cooperate.⁵⁹⁰ As of September 27, 2024, there have been no SB 2 misconduct certification actions relating to participation in a law enforcement gang or the failure to intercede when present and observing force that is clearly unnecessary.⁵⁹¹

⁵⁸⁷ A report or complaint of misconduct may include multiple types of misconduct.

⁵⁸⁸ Number of allegations is as assessed by POST. Any one report, complaint, and/or case may include multiple allegations, and reports, complaints, and/or cases may involve one or more officers. Allegations were received by POST starting January 1, 2023, and this data is current to August 29, 2024. POST, Peace Officer Certification Reporting, <https://post.ca.gov/Peace-Officer-Certification-Reporting> [as of XX, 2024].

⁵⁸⁹ POST, *Peace Officer Certification Actions* <<https://post.ca.gov/Peace-Officer-Certification-Actions>> [as of XX, 2024].

⁵⁹⁰ See POST, *Peace Officer Certification Actions* <<https://post.ca.gov/Peace-Officer-Certification-Actions>> [as of XX, 2024]. [POST website is updated weekly; numbers will be made close to current for final draft.]

⁵⁹¹ POST, *Peace Officer Certification Actions* <<https://post.ca.gov/Peace-Officer-Certification-Actions>> [as of XX, 2024]. [POST website is updated weekly; numbers will be made close to current for final draft.]

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Figure X

Basis ⁵⁹²	Certification Actions ⁵⁹³	
	Number	Percent
Acts that Violate the Law	91	59.48%
Physical Abuse/Excessive Force	28	18.30%
Sexual Assault	17	11.11%
Dishonesty	11	7.19%
Demonstrating Bias	8	5.23%
Abuse of Power	6	3.92%
Failure to Cooperate	2	1.31%

3. SB 2 Top 10 Agencies

As of September 27, 2024, nine law enforcement agencies have had nine or more officers subject to SB 2 certification action,⁵⁹⁴ including officers who were last employed by that agency. Generally, the most common type of serious misconduct involves acts that violate the law.⁵⁹⁵

Last Employing Agency	SB 2 Officers	Sworn Officers	Most Common Recent Certification Action ⁵⁹⁶	Most Common Serious Misconduct
Los Angeles County SD	44	8858	15 Temporary Suspensions, 15 Ineligible Pursuant to GC § 1029	13 Acts that Violate the Law
Los Angeles PD	29	8665	10 Ineligible Pursuant to GC 1029	9 Acts that Violate the Law
California Highway	19	6884	8 Temporary Suspensions	7 Physical Assault/Excessive Force

⁵⁹² The basis of allegations and certification actions may include multiple types of misconduct.

⁵⁹³ A certification action is a suspension or revocation of a certificate, or an officer being made ineligible pursuant to Government Code section 1029. A certification action may be the result of one or more allegations. Further, the basis for a decertification action could evolve or change as the matter proceeds through the SB 2 process. For example, an officer may be temporarily suspended after being discharged for demonstrating bias, then subsequently the officer’s certification could be revoked following a voluntarily surrender. In that instance, the basis of the final action, revocation, would not be demonstrating bias. Certification actions began on January 1, 2023. This data is current to September 27, 2024.

⁵⁹⁴ A certification action includes a revocation or suspension of a peace officer’s certification, or an officer being found ineligible to hold office as a peace officer under Government Code section 1029.

⁵⁹⁵ POST, *Peace Officer Certification Actions* <<https://post.ca.gov/Peace-Officer-Certification-Actions>> [as of XX, 2024].

⁵⁹⁶ Multiple certification actions may occur in the course of one SB 2 process. Because temporary suspensions frequently precede more permanent SB 2 dispositions, only the most recent certification action is reported.

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Last Employing Agency	SB 2 Officers	Sworn Officers	Most Common Recent Certification Action ⁵⁹⁶	Most Common Serious Misconduct
Patrol				
Riverside County SD	16	2862	2 Temporary Suspensions & 2 Ineligible Pursuant to GC 1029	6 Acts that Violate the Law
San Bernardino County SD	10	1875	3 Ineligible Pursuant to GC 1029	4 Acts that Violate the Law
San Francisco PD	10	1807	5 Temporary Suspensions	5 Acts that Violate the Law
San Jose PD	10	1024	6 Temporary Suspensions	5 Acts that Violate the Law
San Diego PD	9	1818	3 Ineligible, 3 Revoked	1 Dishonesty, 1 Failure to Cooperate, 1 Acts that Violate the Law
Torrance PD	9	188	8 Temporary Suspensions	5 Demonstrating Bias

4. Temporary Suspensions

Currently, temporary suspensions make up around half of all certification actions POST has taken against officers. As of September 27, 2024, there are 91 temporary suspensions related to a pending criminal proceeding. They have been pending for an average of 321 days. Twenty-eight temporary suspensions without a collateral criminal proceeding have been pending for 338 days on average. Those proceedings are typically related to serious misconduct of a discharged or retired officer. As of September 27, 2024, only 35 temporary suspensions reached a permanent disposition. Of those 35, 15 temporary suspensions with related collateral criminal proceedings took an average of 353 days to resolve. The other 20, the ones without collateral criminal proceedings, took an average of 225 days to conclude. ⁵⁹⁷

F. Board Observations and Policy Recommendations

SB 2 promises to be a valuable accountability tool to address serious misconduct by peace officers. After reviewing the process, which included obtaining information from POST, the Board makes the following recommendations designed to enhance SB 2’s decertification process and effectuate the Legislature’s goal of addressing serious misconduct in policing:

- (1) The Board recommends that the Legislature enact legislation to fund a statewide public awareness campaign to inform the public about SB 2 and, more specifically, the public’s ability

⁵⁹⁷ POST, *Peace Officer Certification Actions* <<https://post.ca.gov/Peace-Officer-Certification-Actions>> [as of XX, 2024].

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to file civilian complaints directly with POST. The Board recommends that these funds not be made available to law enforcement agencies, directly or indirectly. The funds should be distributed to community-based organizations that have a demonstrated experience serving as trusted messengers for communities most impacted by issues of police misconduct.

(2) The Board recommends POST work with the RIPA Board to identify how SB 2 and POST's decertification process can be strengthened, including making recommendations to the Legislature, law enforcement agencies, experts, researchers, and community groups about harmful conduct by officers that may not fit within the nine categories of serious misconduct that serve as the basis for POST to suspend or revoke certification but is still incompatible with the duties of a peace officer. The Board further recommends that the Legislature make findings and amend Penal Code section 13510.8 to add any additional categories of serious misconduct that are harmful to the public and incompatible with a peace officer's duties.⁵⁹⁸

While California law identifies nine categories of serious misconduct that serve as the basis for POST to suspend or revoke certification, these categories do not encompass all areas of misconduct officers may engage in that are harmful to the public and incompatible with their duties as peace officers. One type of misconduct could be described as a dereliction of duty, which does not meet the definition of an act that violates the law, but if sufficiently egregious or repeated could be inconsistent with a peace officer's obligation to uphold the law or respect the rights of the public. The circumstances to which this ground for decertification would apply may vary. The common thread, however, would be the careless or intentional failure to perform one's responsibilities as a peace officer, where the failure to do so resulted in harm to the public.⁵⁹⁹

(3) The Board recommends that the Legislature amend Penal Code section 13510.8, subdivision (d) to expand the authority of the POST Executive Director to continue an immediate temporary suspension of an officer where the circumstances indicate that the officer continues to pose a danger to the public even if one of the statutory grounds for imposing the immediate temporary suspension has been resolved.

In some circumstances where POST issues an immediate temporary suspension for an officer who commits a crime, the officer may later be placed in a diversion program. In that situation,

⁵⁹⁸ The POST Commission has discussed expanding the serious misconduct categories to broaden the definition of dishonesty, to clarify the definition of excessive force, and to include dereliction of duty, actions by an officer that result in termination from employment, and unfitness for duty. See POST Commission Meeting, Sept. 12, 2024, <https://www.youtube.com/watch?v=V6C8ffkIDi8> [RT at p.]

⁵⁹⁹ Justia Legal Dictionary <<https://dictionary.justia.com/dereliction-of-duty>> [as of XX, 2024].

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the criteria needed to continue the immediate temporary suspension would be removed, and the Executive Director would be required to withdraw the suspension. POST would have no means to suspend the officer from serving as a peace officer while investigating the officer for serious misconduct even if the officer poses a significant danger to vulnerable populations. Expanding the Executive Director's authority to continue an immediate temporary suspension during the investigation could protect the public if the officer continues to pose a danger.

(4) The Board recommends that the Legislature enact legislation requiring law enforcement agencies throughout California to modify their disciplinary policies defining serious misconduct to align with the categories in Penal Code section 13510.8, subdivision (b). Research indicates that law enforcement agencies use their agency policies to bring disciplinary actions against officers. Where an agency's policies do not match those in section 13510.8, POST could have difficulty assessing whether an investigation was adequate, one of its duties under SB 2. Therefore, the Board recommends that the Legislature amend Penal Code section 13510.8 to require agencies to align their policies defining serious misconduct with the categories in section 13510.8, subdivision (b).

(5) Relatedly, the Board recommends that POST develop guidelines to assist law enforcement agencies in developing procedures to conduct adequate investigations into the complaints of serious misconduct the agencies receive and the ones that POST forwards to the agencies to investigate under SB 2. In developing the guidelines for investigating complaints about demonstrating bias, POST could consult with the Board.

(6) To provide protection for officers who report serious misconduct of fellow officers and to encourage a culture of accountability, the Board recommends that the Legislature amend Penal Code section 13510.8 to include whistleblower protection for peace officers and other individuals within a law enforcement agency who report serious misconduct by fellow peace officers.

California has a public policy of encouraging employees to notify an appropriate government or law enforcement agency, the person with authority over the employee, or another employee with authority to investigate, discover, or correct a violation when a public employee violates a law or policy.⁶⁰⁰ SB 2 does not contain any specific protection for whistleblowers within law enforcement agencies who report serious misconduct, including racial bias, by fellow officers.

⁶⁰⁰ See Gov. Code, § 8547 et seq.

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Lack of protections for reporters and fear of retaliation may prevent officers from reporting serious misconduct. Including the specific public policy of whistleblower protection for officers who report misconduct harmful to vulnerable populations would help engender a culture of accountability in law enforcement agencies statewide.

G. How to File a Complaint with POST

Members of the public can submit complaints regarding officer misconduct with POST directly on the following web-based form:

<https://post.ca.gov/public-complaint-form>

A copy of the paper form can be located here:

https://post.ca.gov/Portals/0/post_docs/forms/2-354.pdf

If you have any questions regarding the complaint process POST can be contacted at

ComplaintIntake@post.ca.gov

[\(916\) 227-2822](tel:(916)227-2822)

III. VISION FOR FUTURE REPORTS

In future reports, the Board will have access to more comprehensive SB 2 data across multiple years to assess whether SB 2 is operating as the Legislature envisioned: as a mechanism for removing officers who engage in serious misconduct from the profession.

Relatedly, in future reports, the Board will examine efforts that can be made to support the development of a national mandatory database for reporting decertified or ineligible officers. California law mandates POST report certification actions to NDI or other federal databases. Although the NDI is an important tool for tracking the decertification of officers across states, participation in the database is not mandatory for all states. Further, because decertification standards vary widely across states, an action by a peace officer that may result in decertification in California may not result in a decertification in another state and thus not be reported to the national database. In future reports, the Board will consider recommendations to facilitate collaboration between POST and similar organizations in other states to ensure that officers who have been found unfit for the profession because of documented serious misconduct will not be able to continue to work in the profession by crossing state lines.

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Complaints

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CIVILIAN COMPLAINTS

I. CIVILIAN COMPLAINT DATA

A. Overview of Civilian Complaint Data for RIPA Agencies

Each year the RIPA Report highlights trends and data related to complaints by citizens about law enforcement. This data is significant because it shows, on a micro level, trends within individual agencies by complaint type and, on a macro level, demonstrates differences in policies across agencies that may impact the complaint process. In 2023, 526 of the agencies subject to RIPA's stop data reporting requirements (RIPA agencies) submitted civilian complaint data.⁶⁰¹ These agencies include municipal and district police departments, county sheriff's departments, the California Highway Patrol, and law enforcement agencies of the University of California, California State Universities, California Community Colleges, District Attorney Offices, as well as K-12 school district police departments.⁶⁰² The sections that follow examine only complaint data submitted by RIPA reporting agencies.

RIPA agencies reported 14,444 complaints across three categories: non-criminal, misdemeanor, and felony. Most of the complaints alleged non-criminal conduct (13,825, or 95.71%), followed by complaints alleging a misdemeanor offense (480, or 3.32%). Complaints alleging conduct that constitutes a felony were the least common (139, or 0.96%).

Roughly three-quarters of RIPA reporting agencies (409, or 77.78%) reported receiving one or more civilian complaint during 2023, while just under one-fourth of agencies did not receive any civilian complaints (117, or 22.24%). A total of 147 RIPA agencies reported receiving civilian complaints alleging racial or identity profiling (28.00% of all RIPA agencies or 35.94% of agencies receiving any complaints). These 147 agencies reported 1,405 complaints alleging racial or identity profiling.

Law enforcement agencies are also required to submit data to the California Department of Justice (Cal DOJ) categorizing profiling complaint allegations into nine categories: age, physical disability, sexual orientation, race/ethnicity, mental disability, gender, religion, gender identity/expression, and nationality. RIPA agencies reported 1,405 complaints containing a total of 1,566 allegations with an element, or elements, of racial or identity profiling, constituting 9.73

⁶⁰¹ Although 539 agencies reported RIPA stop data in 2023, only 526 reported complaints data during the same year.

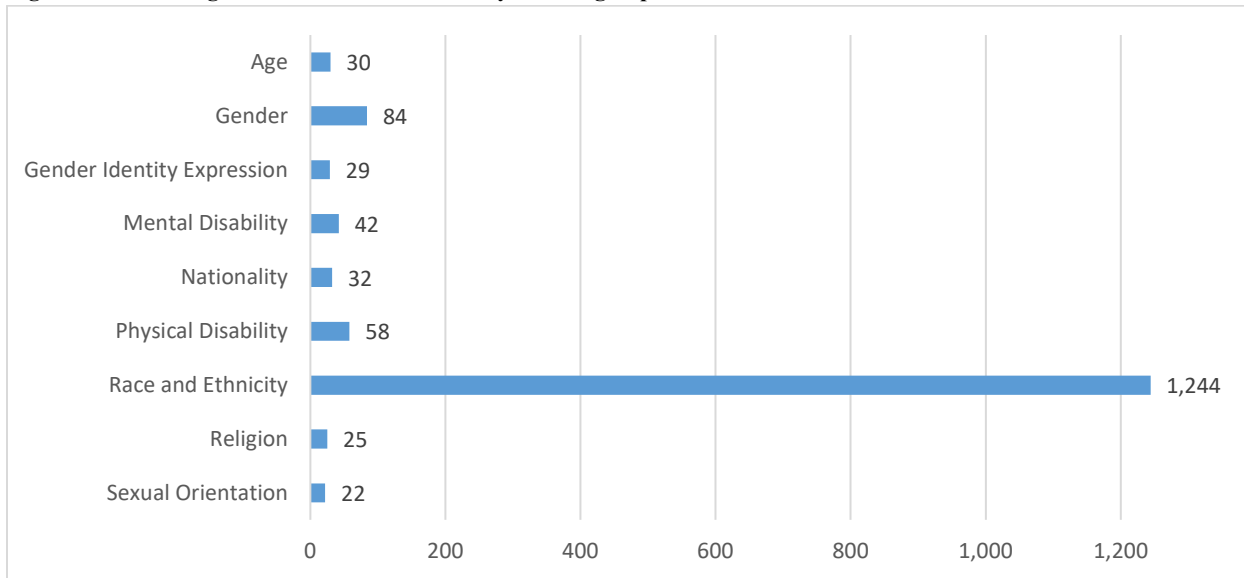
⁶⁰² For more information on the law enforcement agencies that are required to report under RIPA, see Cal. Code Regs. tit. 11, § 999.225 <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/stop-data-reg-final-text-110717.pdf> [as of XX, 2024]

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percent of the total complaints reported in 2023.⁶⁰³ Figure 1 displays the number of reported allegations that fell into each of the nine group types.

Figure 1. Total Allegations of Racial and Identity Profiling Reported in 2023



B. Dispositions of Civilian Complaints for RIPA Agencies

In addition to the number of complaints received, RIPA agencies must report the disposition (i.e., outcome) of those complaints to Cal DOJ. Complaint dispositions are categorized as: “Sustained,” meaning that the investigation disclosed sufficient evidence to prove the truth of the allegation in the complaint by a preponderance of evidence; “Exonerated,” meaning the investigation clearly established that the employee’s actions that formed the basis of the complaint were not a violation of law or policy; “Not Sustained,” meaning the investigation failed to disclose sufficient evidence to clearly prove or disprove the complaint’s allegation; and “Unfounded,” meaning the investigation clearly established that the allegation is not true.⁶⁰⁴

RIPA agencies reported 14,444 civilian complaints received in 2023. Agencies reported a total of 15,525 complaints that reached a disposition during the calendar year.⁶⁰⁵ Among the 15,525

⁶⁰³ The total number of racial and identity profiling allegations reported to the DOJ (1,566) exceeds the total number of racial and identity profiling complaints (1,405) due to reported allegations of profiling based on multiple identity group characteristics. For example, a civilian may file a complaint alleging they experienced profiling based on both their age and nationality. This example would count as a single complaint with two types of alleged identity profiling.

⁶⁰⁴ Pen. Code, § 13012, subd. (a)(5)(B).

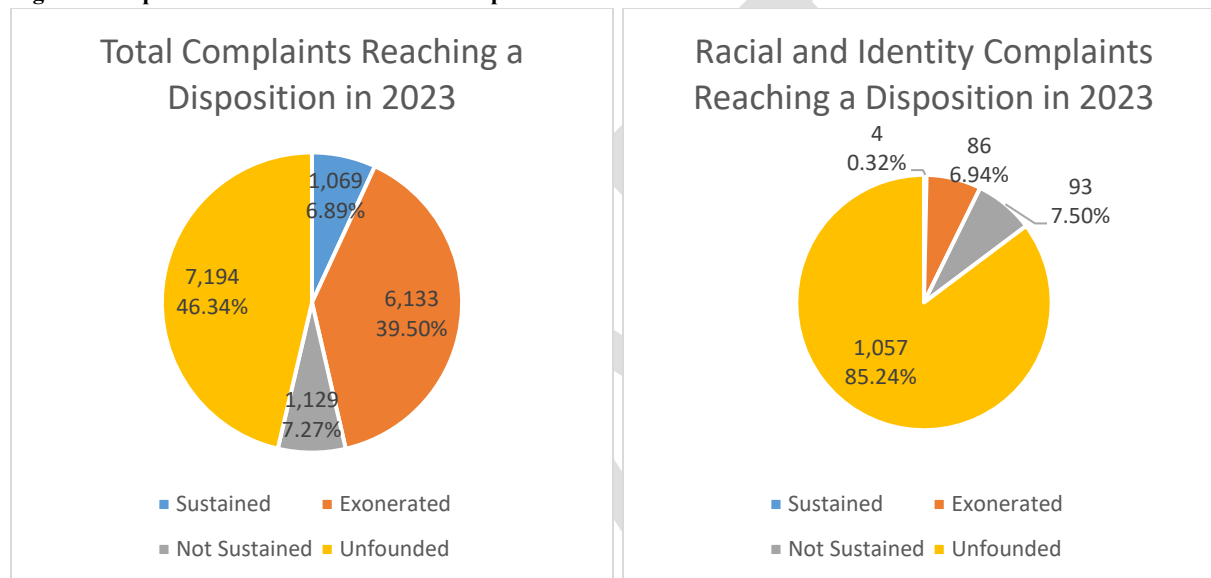
⁶⁰⁵ It is important to note that not every complaint reached disposition during the same year it was initially reported;

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complaints that reached a disposition in 2023, 1,069 were sustained (6.89%), 6,133 were exonerated (39.50%), 1,129 were not sustained (7.27%), and 7,194 were unfounded (46.34%). A total of 1,240 racial or identity profiling complaints reached disposition in 2023.⁶⁰⁶ Of these, four were sustained (0.32%), 86 were exonerated (6.94%), 93 were not sustained (7.50%), and 1,057 were unfounded (85.24%).⁶⁰⁷ Figure 2 displays the distribution of disposition types within the 2023 data for (1) all complaints that reached disposition and (2) complaints of racial and identity profiling that reached disposition.⁶⁰⁸

Figure 2. Disposition Distribution of 2023 Complaints



C. Cross-Year Comparison

A cross-year comparison can aid in monitoring individual agencies from year to year and any policy changes in complaint procedures that may correlate with the changes. For example, radical differences in complaints from year to year should be looked at with caution to any connection to policy changes. Also, because complaint procedures are handled differently in

therefore, with more complaints reaching disposition in 2023 than were reported in 2023, at least some complaints that appeared in the 2023 disposition categories were first reported in 2022 or earlier.

⁶⁰⁶ See *supra* note.

⁶⁰⁷ The 2024 RIPA Board Report analyses were based on racial and identity profiling complaints reported in 2022. For consistency with the accompanying complaint disposition analysis this report’s analyses shifted to using racial and identity profiling complaints reaching disposition in 2023 as the denominator.

⁶⁰⁸ For an agency-level breakdown of how many profiling complaints reached each disposition type in 2023, see [Appendix Table X](#).

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each agency and there is not a uniform definition of civilian complaint, it is important to keep in mind when viewing these trends that high numbers of complaints may demonstrate a robust complaint review process, while others may be more indicative of an agency-wide problem.⁶⁰⁹ For these reasons, it is imperative to view this data in relation to policies at individual agencies.

RIPA Complaint Data by Waves

To assist the large and diverse array of individual law enforcement agencies in California in implementing stop data requirements as smoothly as possible, AB 953 structured the collection and reporting of stop and complaint data on a rolling basis, using the number of officers each agency employed in setting the timeline for reporting.⁶¹⁰ These groupings were informally termed “waves” due to the rolling nature of the data collection timeline.⁶¹¹ For this year’s report, the Board continues to report the RIPA complaint data using the wave designations.⁶¹² This grouping allows for cross-year comparisons by agency size giving an opportunity to observe differences in policies and procedures that may have changed overtime. This also provides an opportunity to compare complaint data with agencies of similar sizes. The section below examines the data in these wave designations.

Figures 3 through 8 display the total number of complaints and the total number of complaints alleging racial and identity profiling submitted by all RIPA reporting agencies in Waves 1 through 3, across five years. Given that Wave 4 is over 400 agencies, aggregate cross-year comparisons are provided in the body of this section and the individual agency counts are provided in an appendix table.

1. Wave 1 Agency Complaints Reported (2019-2023)

In 2023, Wave 1 agencies reported 6,076 civilian complaints. This constituted a 33.42 percent increase relative to the total civilian complaints reported in 2022 (4,554), a 32.03 percent increase from 2021 (4,602), a 27.43 percent increase from 2020 (4,768), and 24.71 percent increase from 2019 (4,872). Three out of eight agencies experienced a decrease in the number of

⁶⁰⁹ See XX of the report for a full discussion on the definition of civilian complaints.

⁶¹⁰ Gov. Code § 12525.5, subd. (a)(2).

⁶¹¹ Racial and Identity Profiling Advisory Board, *Annual Report* (2019), p. 14; Racial and Identity Profiling Advisory Board, *Annual Report* (2020), p. 17.

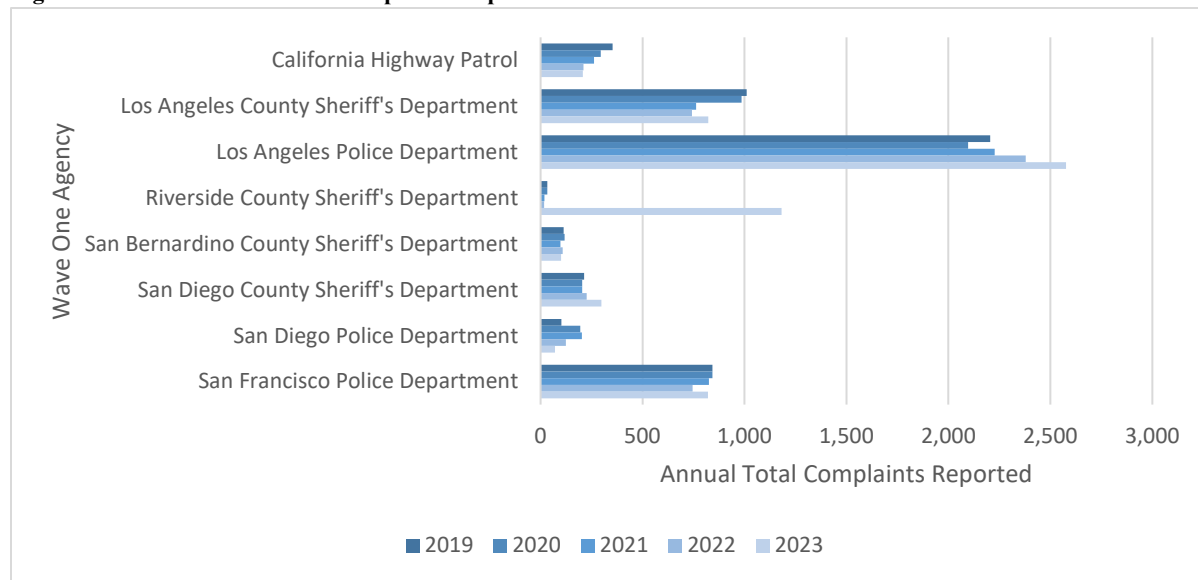
⁶¹² Agencies employing more than 1,000 peace officers (“Wave 1”) were first required to begin collecting data, followed by agencies employing 667 or more, but less than 1,000, peace officers (“Wave 2”), agencies employing 334 or more, but less than 667, peace officers (“Wave 3”), and agencies employing 1 or more, but less than 334, peace officers (“Wave 4”). (Cal. Gov. Code § 12525.5, subd. (a)(2); 2019 RIPA Report, p. 14; 2020 Report p. 18; 2021 RIPA Report, pp. 8, 22; 2022 RIPA Report, p. 27; 2023 RIPA Report, pp. 32, 173.) Some agencies assigned to Wave 4 began collecting data early. (See 2022 RIPA Report, pp. 13, 17, 147; 2023 RIPA Report, p. 32.)

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civilian complaints reported between 2022 and 2023. The agency that experienced the largest decrease was San Diego Police Department (43.55%, from 124 in 2022 to 70 in 2023).⁶¹³ In comparison, Riverside County Sheriff’s Department experienced the largest relative increase (6,847.06%, from 17 in 2022 to 1,181 in 2023).

Figure 3. Wave 1 Total Annual Complaints Reported 2019-2023



Wave 1 Total Racial and Identity Profiling Complaints (2019-2023)

Figure 4 displays the total number of racial and identity profiling complaints reported by Wave 1 agencies from 2019 to 2023. The total number of racial and identity profiling complaints reported was 847 in 2023, which is a 22.05 percent increase from 2022 (694), a 3.55 percent increase from 2021 (818), a 22.40 percent increase from 2020 (692), and a 29.71 percent increase from 2019 (653).

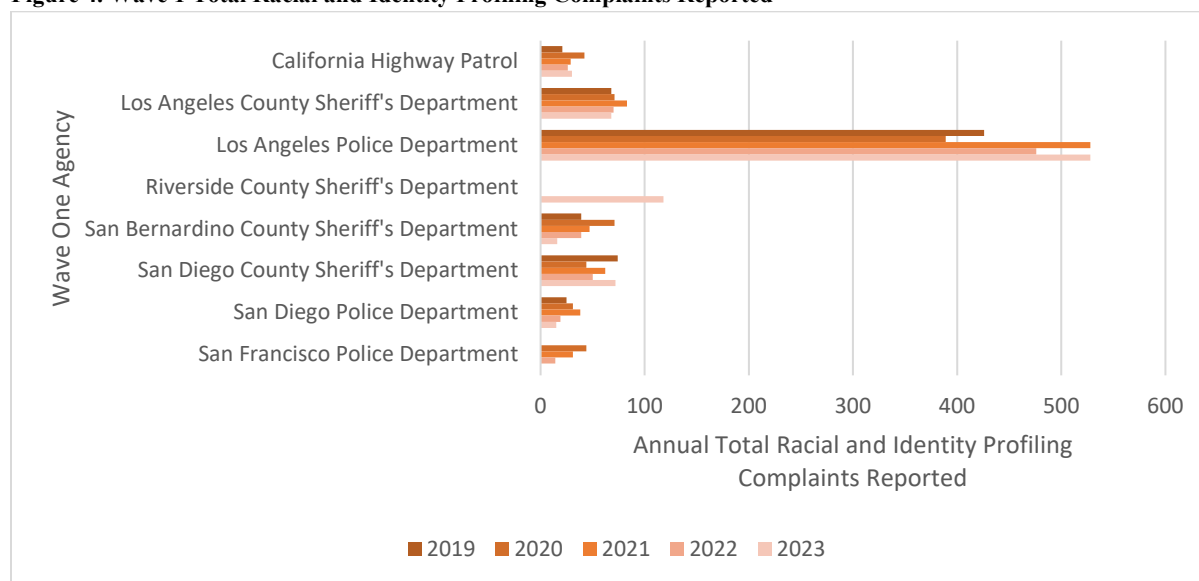
During the 2023 calendar year, half of Wave 1 agencies (4 out of 8) experienced a reduction in the number of racial and identity profiling complaints reported between 2022 and 2023. The San Francisco Police Department had the largest relative decrease (100.00%, from 14 in 2022 to 0 complaints in 2023). In contrast, the Riverside County Sheriff’s Department went from not reporting any racial and identity profiling complaints since 2018 to reporting 118 in 2023.

⁶¹³ In 2020, San Diego Police Department complaint forms did not include the Penal Code section 148.6 advisory warning. Between 2020, when the Board initially reviewed San Diego Police Department’s complaint form, and 2024, the agency added the section 148.6 advisory warning to its complaint form. (See table on page ____ below.)

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Figure 4. Wave 1 Total Racial and Identity Profiling Complaints Reported



2. Wave 2 Agency Total Complaints Reported (2019-2023)

Wave 2 agencies reported 3,298 complaints in 2023, representing a 126.20 percent increase from 2022 (1,458), a 92.30 percent increase from 2021 (1,715), a 34.49 percent increase from 2020 (2,454), and a 42.59 percent increase from 2019 (2,313).

Half of Wave 2 agencies (3 out of 6)⁶¹⁴ experienced an increase in the total number of civilian complaints reported between 2022 and 2023. The agency that experienced the largest relative increase was the Long Beach Police Department (25.50%, from 149 in 2022 to 187 in 2023). Sacramento County Sheriff's Department experienced the largest relative decrease (39.61%, from 414 in 2022 to 250 in 2023).

It is important to note that the Oakland Police Department was unable to report complaint data within the reporting timeframe for 2022 due to a ransomware attack. Since the 2022 complaint totals for Wave 2 agencies do not include Oakland PD, a percent change is not directly comparable. In 2023, Oakland PD reported 2,012 total complaints, accounting for 61.02 percent

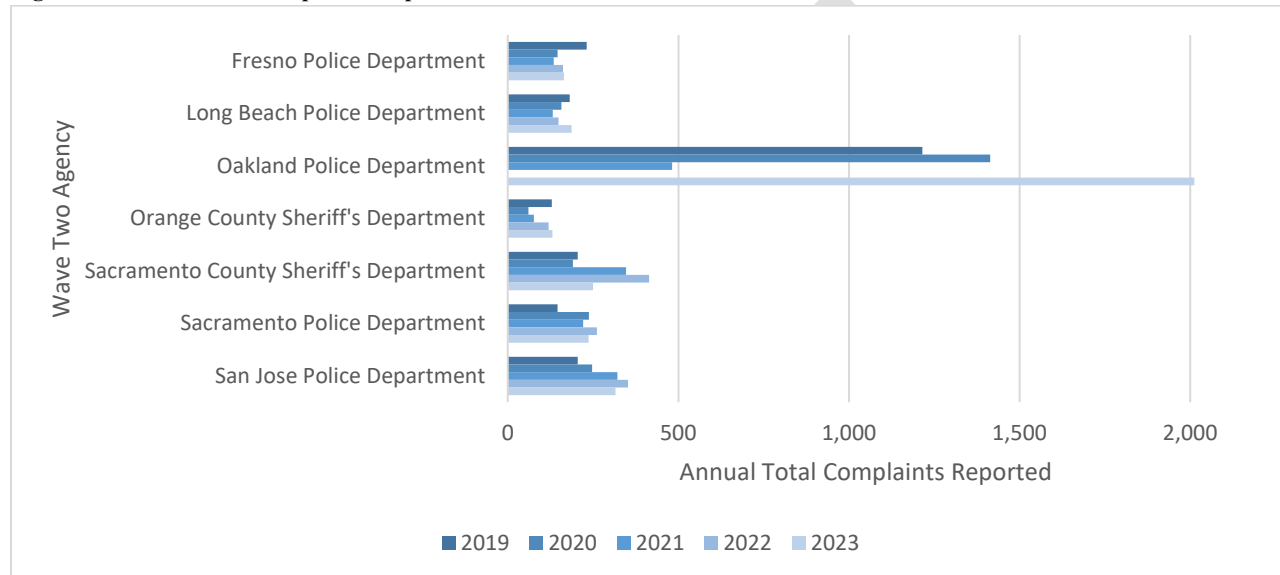
⁶¹⁴ Oakland Police Department was unable to report civilian complaint data for 2022 within the reporting timeframe due to a ransomware attack.

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of complaints for Wave 2 agencies. When excluding Oakland PD data to make 2022 and 2023 more comparable, Wave 2 agencies saw an 11.8 percent decrease from 1,458 complaints in 2022 to 1,286 in 2023.

Figure 5. Wave 2 Total Complaints Reported



Wave 2 Racial and Identity Profiling Complaints (2019-2023)

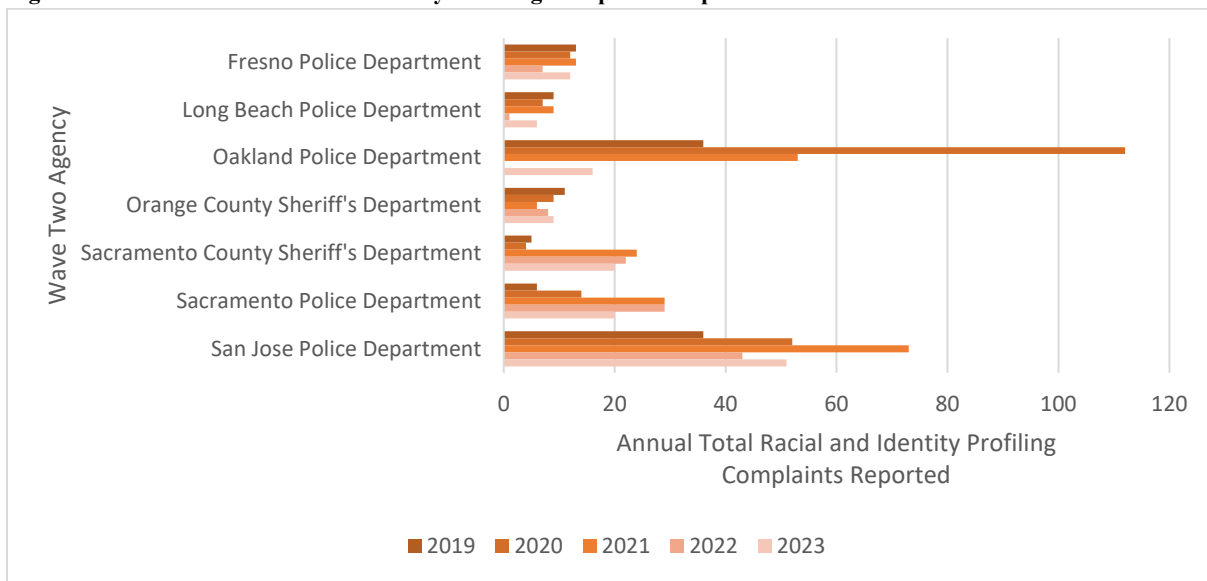
Wave 2 agencies reported a 21.82 percent increase in racial and identity profiling complaints from 2022 to 2023 (from 110 in 2022 to 134 in 2023). This also marks a decrease in racial and identity profiling complaints relative to 2021 (down 35.27% from 207) and 2020 (down 36.19% from 210). However, 2023 is an increase from 2019 (up 15.52% from 116).

One third of Wave 2 (2 of 6)⁷ agencies reported a decrease in the number of racial and identity profiling complaints between 2022 to 2023. The Sacramento Police Department experienced the largest relative decrease (31.03%, from 29 in 2022 to 20 in 2023). The Long Beach Police Department experienced the largest relative increase (500.00%, from 1 in 2022 to 6 in 2023). Oakland Police Department reported 16 racial and identity profiling complaints in 2023, or 11.94 percent of Wave 2 complaints. To compare a percent change for Wave 2 agencies with 2022, Wave 2 agencies, excluding Oakland PD, reported 118 racial and identity profiling complaints in 2023, for an increase of 8 complaints or 6.78 percent.

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Figure 6. Wave 2 Total Racial and Identity Profiling Complaints Reported



3. Wave 3 Total Complaints Reported (2019-2023)

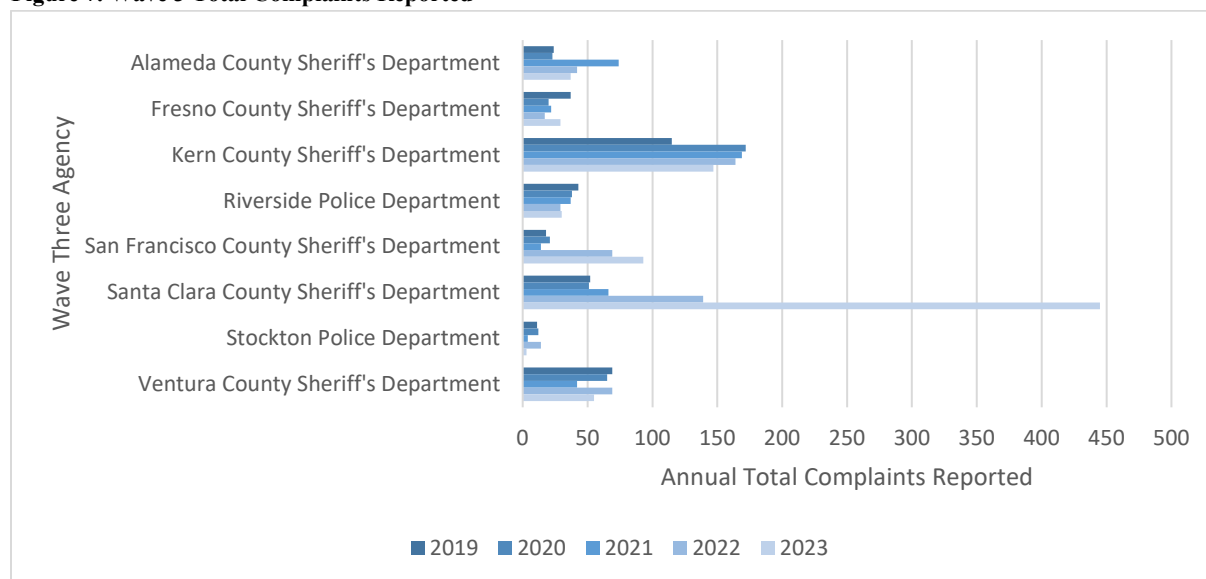
Wave 3 agencies reported 839 complaints in 2023. This was a 54.51 percent increase from 2022 (543), a 96.03 percent increase from 2021 (428), a 108.71 percent increase from 2020 (402), and a 127.37 percent increase from 2019 (369).

Of the eight Wave 3 agencies, half (4 of 8) experienced a decrease in the total number of civilian complaints reported between 2022 and 2023 while the remaining four experienced an increase in total civilian complaints. The agency that experienced the largest decrease was the Stockton Police Department (78.57%, from 14 in 2022 to 3 in 2023). The Santa Clara County Sheriff's Department experienced the largest relative increase (220.14%, from 139 in 2022 to 445 in 2023).

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Figure 7. Wave 3 Total Complaints Reported



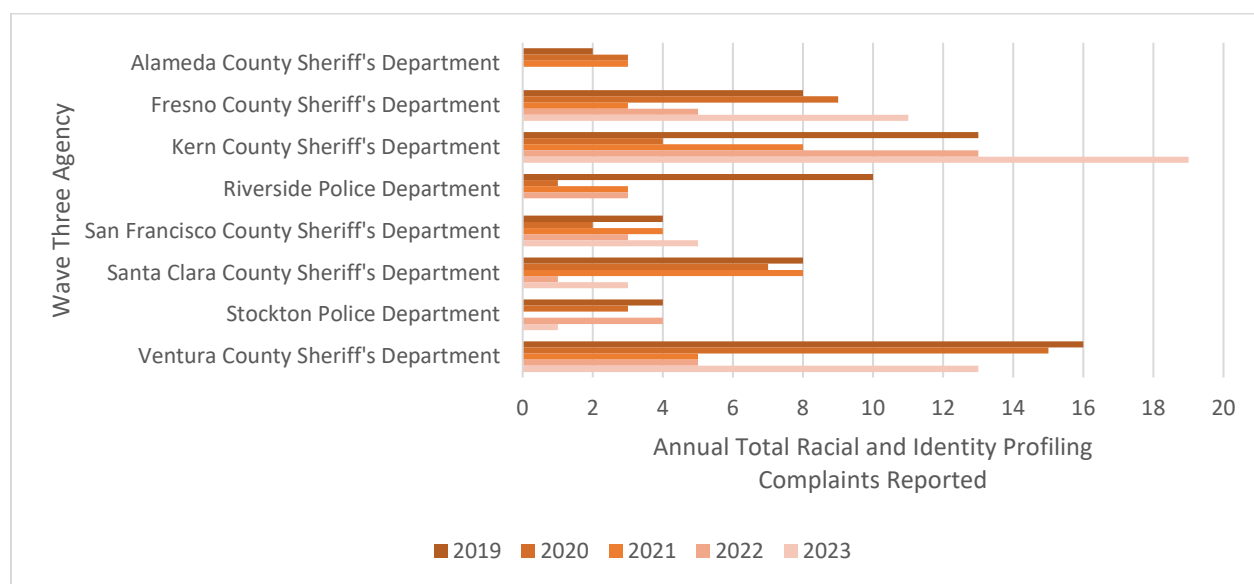
Wave 3 Racial and Identity Profiling Complaints (2019-2023)

Wave 3 agencies reported 52 racial and identity profiling complaints in 2023, a 52.94 percent increase over both 2022 and 2021 (both had 34 total racial and identity profiling complaints), an 18.18 percent increase from 2020 (44), and a 20.00 percent decrease from 2019 (65). Over half (5 of 8) of Wave 3 agencies experienced an increase in racial and identity profiling complaints between 2022 and 2023, one agency (Alameda County Sheriff’s Department) had no change in profiling complaints with zero reported for both 2022 and 2023. The agency with the largest relative increase was Santa Clara County Sheriff’s Department (200.00%, from 1 in 2022 to 3 in 2023). Riverside Police Department reported a 100.00 percent decrease in racial and identity profiling complaints (from 3 in 2022 to 0 in 2023).

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Figure 8. Wave 3 Total Racial and Identity Profiling Complaints Reported



4. Wave 4 Total Complaints Reported (2019-2023)

Wave 4 agencies reported 4,231 complaints in 2023. This was a 17.40 percent increase from 2022 (3,604), a 26.45 percent increase from 2021 (3,346), a 31.72 percent increase from 2020 (3,212), and a 17.95 percent increase from 2019 (3,587).⁶¹⁵

Wave 4 Racial and Identity Profiling Complaints (2019-2023)

Wave 4 agencies reported a 5.82 percent decrease in racial and identity profiling complaints from 2022 to 2023 (from 395 in 2022 to 372 in 2023). This also constitutes a relative increase from the three preceding years: a 1.09 percent increase from 2021 (368), and an 11.71 percent increase from both 2020 and 2019 (333).⁶¹⁶

The Board will continue to monitor reporting agencies' complaint data and recommend that

⁶¹⁵ The number of Wave 4 agencies exceeds 400. Accordingly, complaint counts for all Wave 4 agencies cannot be displayed within a single graphic in the body of this report. Instead, the cross year total complaint and racial and identity complaint totals for individual agencies are contained within [Appendix Tables XX and XX](#).

⁶¹⁶ There were five Wave 4 agencies that did not report complaints data in 2022: Arvin Police Department, Irvine Valley College Police Department, Menifee Police Department, Rio Vista Police Department, and Tulelake Police Department. Rio Vista Police Department also did not report complaints data in 2023. The four agencies that did report complaints data in 2023 reported a total of 26 complaints (.61% of all Wave 4 complaints for 2023) and account for 4.15 percent of the increase in complaints from 2022 to 2023. These four agencies also reported one racial and identity profiling complaint in 2023 (.27% of racial and identity profiling complaints).

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agencies adopt policies that allow for a more robust and effective complaint process, including adopting a universal definition of civilian complaint. For more information on best practices and policies regarding complaints please see XX of the Report.

II. YOUTH AND CIVILIAN COMPLAINTS

The Board has long recognized that California youth are vulnerable to harm during police interactions.⁶¹⁷ The 2023 RIPA data show that youth are particularly vulnerable to the use of force during those interactions. For example, as discussed in detail in the Stop Data and Policy-Focused Data Analysis chapters, officers reported using lethal force during stops with youth, discharging their firearms in nine stops involving youth aged 15-17 and in three stops involving youth aged 12-14. Officers also reported pointing their firearms at 5,369 youth during stops.⁶¹⁸ Many of those stops involved youth 15-17 (1,240 stops) and youth 12-14 (195 stops). Less lethal force, like chemical sprays or electronic control devices, was also used in stops involving youth. For example, a chemical spray was used in at least four stops involving youth 8-14. Among age categories, officers reported the highest percentage of handcuffing for youth 12-14 (27.19%, 2,895 stops).⁶¹⁹

Consistent with the overall trend in the 2023 RIPA data, there are noticeable disparities in the use of force. Across all age groups, youth perceived to have a disability experienced the use of force during stops at a higher rate than youths with no perceived disabilities. Further, the RIPA data indicates there are clear racial disparities in the use of force during police stops of youth, with Black youth, Native American youth, and Hispanic/Latine(x) youth facing greater risk of use of force than White youth. For example, one analysis of the RIPA data found that Black youth who are handcuffed are also twice as likely as White youth to have a firearm pointed at them during a stop. The Board is troubled by this data, especially when considering the developmental differences between youths and adults that make youth more vulnerable during encounters with police.⁶²⁰

⁶¹⁷ See Racial and Identity Profiling Advisory Board, *Annual Report* (2024) pp. 107-109; Racial and Identity Profiling Advisory Board, *Annual Report* (2023) p. 107; Racial and Identity Profiling Advisory Board, *Annual Report* (2022) p. 110; Racial and Identity Profiling Advisory Board, *Annual Report* (2023) p.107; see also Trejos-Castillo et al., *The Square One Project Learned Helplessness, Criminalization, and Victimization in Vulnerable Youth* (Dec. 2020) p. 5. <<https://squareonejustice.org/paper/learned-helplessness-criminalization-andvictimization-in-vulnerable-youth-by-elizabeth-trejos-castillo-evangeline-lopoo-and-anamika-dwivedi-december2020>[re-link URL to include “/” at end]> [as of XX, 2024].

⁶¹⁸ See pages 39-42 of this report.

⁶¹⁹ See pages XX of this report.

⁶²⁰ See pages 58-60 and 64-67 of this report.

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Researchers have recognized the importance of understanding the power dynamics of the encounters between police and youth in achieving the goals of reducing negative and harmful interactions and increasing law enforcement transparency and accountability when harmful interactions occur.⁶²¹ The RIPA stop data is one tool for gaining insight into the dynamics of stops involving youth. Another tool for monitoring these interactions to more accurately assess the risk of harm to youth from these interactions is the civilian complaint process. Further, Senate Bill No. 2 (SB 2), the Kenneth Ross Jr. Police Decertification Act of 2021, which authorizes POST to receive complaints of misconduct by officers directly from the public and decertify officers who have engaged in serious misconduct, provides an additional accountability tool through which communities and researchers can monitor and track problematic encounters to address misconduct that harms youth more effectively.⁶²² Increased and improved access to the civilian complaint process for police misconduct enhances equitable and accountable policing for all, including youth.

Currently, RIPA does not require the collection of complaint data specifying that a complainant is 24 or younger. Collecting that data would provide specific information about the quality of interactions between youth and law enforcement in a particular community, allowing more precise policymaking to address any concerning trends the data reveals about those interactions.

Policy Recommendations:

The Board, therefore, makes the following policy recommendations with the goals of monitoring civilian complaints filed by or on behalf of youth, identifying problematic police practices that impact youth, and ensuring that police officers who harm this vulnerable population are held accountable. Specifically, the Board recommends:

(1) The Legislature amends Penal Code 13012 to require law enforcement agencies to report the number of civilian complaints reported by youth disaggregated by or on behalf of youth who are

⁶²¹ See Geller and Fagan, *Police Contact and the Legal Socialization of Urban Teens* 5(1) The Russell Sage Foundation J. of the Social Sciences 27 (2019) <<https://www.rsjournal.org/content/5/1/26>> [as of XX, 2024] (citing *Fragile Families and Child Wellbeing Study* (2020) Princeton U. [as of XX, 2024]).

⁶²² For example, a national analysis of data for six large police departments that provided detailed demographic information on use-of-force incidents, found nearly 4,000 youngsters 17 and under experienced police violence from 2015 through 2020. Almost 800 of the children and teens — roughly a fifth of the total — were Black girls. White girls were involved in about 120 cases, representing only 3 percent of use-of-force incidents involving minors. (Li and Vansickle, *Police Hurt Thousands of Teens Every Year. A Striking Number Are Black Girls*. The Marshall Project (November 2, 2021) <<https://www.themarshallproject.org/2021/11/02/police-hurt-thousands-of-teens-every-year-a-striking-number-are-black-girls>> [as of XX, 2024].)

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17 and younger and youth who are 18 to 24.⁶²³ This reporting requirement would include complaints filed by a third party.

(2) Municipalities and law enforcement agencies modify their complaint forms to include the age of the complainant and a drop-down box to record if the complainant is 17 and younger or 18 to 24 years old.

(3) POST modifies the complaint form used to file complaints under SB 2 to allow the complainant to indicate whether the allegation arises from an incident involving a person 17 and younger or between the ages of 18 and 24.

(4) The Legislature amends Penal Code section 13510.8 to require consideration of the complainant's age as part of the totality of the circumstances in determining if a peace officer's conduct rises to the level of serious misconduct, warranting decertification.

(5) The POST Commission amends Regulation 1205 to require consideration of the complainant's age in determining if a peace officer's conduct rises to the level of serious misconduct that warrants decertification.

⁶²³ As noted previously at page ____, the Board broadly defines "youth" as inclusive of "transition age youth," which the federal government defines as persons between 16 and 24 years of age. (Interagency Working Group on Youth Programs, *Transition & Aging Out* (2022) Youth.gov <https://youth.gov/youth-topics/transition-age-youth> [as of XX, 2024].)

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III. PRIOR RECOMMENDATIONS AND FOLLOW-UP ON IMPLEMENTATION

A. Adopt Uniform Definition of “Civilian Complaints”

In 2020, the Board identified the need to define “civilian complaint” and, since 2022, has recommended legislative action.⁶²⁴ Despite the Board’s prior recommendation, in California, there is still no standard definition of “civilian complaint.”⁶²⁵ California law does not define the term, nor is there a professional or industry-wide standard on what constitutes a “civilian complaint.”⁶²⁶ As a result, law enforcement agencies decide on an agency-by-agency basis what counts as a “civilian complaint,” leading to imbalances and variability in officer accountability across the state.

For example, one agency could decide that a verbal allegation of unprofessional behavior does not rise to the level of a “civilian complaint” and is merely an “informal complaint” or “inquiry” that triggers no accountability process. However, another agency could treat same allegation as an event that prompts an internal affairs investigation. Further, variances in the definition and treatment of civilian complaints could also trigger discrepancies in agency reporting of RIPA data, leading some to underreport events that other law enforcement agencies reasonably interpret as complaints.

This variation in defining “civilian complaint” results in data collection efforts that are less consistent, producing less reliable data to inform policymaking around the issue of accountability. And, on a more immediate level, where a person’s ability to successfully file a complaint depends on their local police agency’s definition of “complaint,” differences in the definition of “civilian complaint” can also lead to inconsistencies in the public’s ability to access the complaint process.

⁶²⁴ Racial and Identity Profiling Advisory Board, *Annual Report* (2020 Report) pp. 67-70; Racial and Identity Profiling Advisory Board, *Annual Report* (2022 Report) pp. 229; Racial and Identity Profiling Advisory Board, *Annual Report* (2023 Report) pp. 179; Racial and Identity Profiling Advisory Board, *Annual Report* (2024 Report) pp. 195-196.

⁶²⁵ See Pen. Code § 832.5; see also Racial and Identity Profiling Advisory Board, *Annual Report* (2022 Report) pp. 227-229; Racial and Identity Profiling Advisory Board, *Annual Report* (2023 Report) pp. 179; Racial and Identity Profiling Advisory Board, *Annual Report* (2024 Report) pp. 195-196.

⁶²⁶ See Gov. Code § 12525.5; Cal. Code Regs., tit. 11 § 999.224; Pen. Code §§ 148.6, 832.5, 832.7, 832.8; Racial and Identity Profiling Advisory Board, *Annual Report* (2020 Report) p. 65 (“[T]here is no professional consensus within California on a definition [of “complaint”]”); Racial and Identity Profiling Advisory Board, *Annual Report* (2020 Report) p. 66 (finding that no Wave 1 reporting agency defined the term “civilian complaint” in its complaint policies).

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Policy Recommendation

This lack of consistency, and arguably the lack of accountability, concerns the Board greatly. As such, since 2022, the Board has recommended that the Legislature amend Penal Code section 832.5 to define “civilian complaint.”⁶²⁷ The Board has offered a specific definition, aimed not only at providing consistency in complaint procedures across California, but to also encourage greater accountability:

(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.*⁶²⁸

California has yet to adopt the Board’s recommendation or any standard definition of civilian complaint.⁶²⁹ The research and data analysis in this year’s report provides additional support for this recommendation. Accordingly, the Board emphasizes its past recommendation that the Legislature amend Penal Code section 832.5 to define “civilian complaint” using the definition above.

⁶²⁷ Racial and Identity Profiling Advisory Board, *Annual Report* (2022 Report) pp. 229; Racial and Identity Profiling Advisory Board, *Annual Report* (2023 Report) pp. 179; Racial and Identity Profiling Advisory Board, *Annual Report* (2024 Report) pp. 195-196.

⁶²⁸ Racial and Identity Profiling Advisory Board, *Annual Report* (2022 Report) p. 229; Racial and Identity Profiling Advisory Board, *Annual Report* (2023 Report), p. 179; Racial and Identity Profiling Advisory Board, *Annual Report* (2024 Report) pp. 195-196.

⁶²⁹ See Pen. Code § 832.5.

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B. Remove Deterrent Language from Complaint Forms

1. Basis for the Board's Prior Recommendation

In past reports, the Board has expressed concern that certain language found in civilian complaint forms could deter members of the public from filing complaints.⁶³⁰ Specifically, the Board cautions that complaint forms that require a complainant to sign a written statement acknowledging that an individual may face criminal liability for filing a false complaint could discourage community members from submitting valid complaints.⁶³¹

The Board is concerned the advisory language in section 148.6, warning against filing a false complaint,⁶³² could have a chilling effect on members of the public seeking to file a complaint, especially since there are no statutory limitations on what types of “false” allegations that could result in prosecution (e.g., whether the inclusion of a single, inaccurate allegation that is not material to the claim of misconduct is enough for prosecution).

The Board is also concerned that requiring an individual to sign an acknowledgement, in turn requiring a complainant to reveal their identity even if they wish to remain anonymous, could deter members of the public from submitting valid complaints.⁶³³

Given these concerns, the Board previously recommended that the Legislature delete or amend the advisory language in Penal Code section 148.6 to remove the advisory warning and the requirement that a complaint is signed and in writing.⁶³⁴ To further reduce the risk that an advisory warning or signature requirement could deter the filing of a valid complaint, the Board has recommended in each report since 2018 that agencies accept anonymous complaints.⁶³⁵ A

⁶³⁰ See Racial and Identity Profiling Advisory Board, *Annual Report* (2018 Report) p. 28-29; Racial and Identity Profiling Advisory Board, *Annual Report* (2020 Report) pp. 73-75.

⁶³¹ Racial and Identity Profiling Advisory Board, *Annual Report* (2020 Report) p. 74; Racial and Identity Profiling Advisory Board, *Annual Report* (2021 Report) p. 134 n. 294; Racial and Identity Profiling Advisory Board, *Annual Report* (2022 Report) pp. 232; Racial and Identity Profiling Advisory Board, *Annual Report* (2023 Report) p. 182-83.

⁶³² Penal Code section 148.6 provides that a law enforcement agency accepting an allegation of misconduct against a peace officer shall require complainants to read and sign an advisory that states, in part: “IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.” (Cal. Pen. Code § 148.6, subd. (a)(2).)

⁶³³ See Racial and Identity Profiling Advisory Board, *Annual Report* (2020 Report) p. 73-75.

⁶³⁴ Racial and Identity Profiling Advisory Board, *Annual Report* (2020 Report) p. 74-75; Racial and Identity Profiling Advisory Board, *Annual Report* (2021 Report) p. 134 n. 294; Racial and Identity Profiling Advisory Board, *Annual Report* (2022 Report) p. 232; Racial and Identity Profiling Advisory Board, *Annual Report* (2023 Report) pp. 182-183.

⁶³⁵ Racial and Identity Profiling Advisory Board, *Annual Report* (2019 Report) p. 69; Racial and Identity Profiling Advisory Board, *Annual Report* (2020 Report) pp. 71, 74-75; Racial and Identity Profiling Advisory Board, *Annual*

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complaint process that helps bring about more complete information about an agency, its officers, and its policies and practices is in the interest of all stakeholders.

2. Deterrent Language Still Present in Complaint Forms in 2024

Despite these valid concerns and the Board’s prior recommendation, potentially deterrent language remains in many California civilian complaint forms.⁶³⁶

As of 2024, a survey of the 15 largest law enforcement agencies in California shows that 5 agencies still include potentially deterrent language, referencing the Penal Code section 148.6 advisory and/or the possibility of legal action for filing a false complaint, on their civilian complaint forms.⁶³⁷ Four agencies (Riverside County Sheriff, Sacramento County Sheriff, San Bernardino County Sheriff, San Diego Police Department, and San Diego County Sheriff) have continued to include potentially deterrent language on their complaint forms, and one agency (San Diego Police Department) has added this language to their civilian complaint form since the Board’s initial review of their complaint form in 2020. Three agencies (Fresno Police Department, Orange County Sheriff’s Department, and San Jose Police Department) have removed deterrent language from their civilian complaint forms since the Board initially reviewed their complaint forms in 2021.

INCLUDES DETERRENT LANGUAGE ON CIVILIAN COMPLAINT FORMS

<u>Agency</u>	2020/2021 ⁶³⁸	2024
California Highway Patrol	No	No
Fresno Police Department	YES	No
Los Angeles Police Dept.	No	No
Los Angeles County Sheriff	No	No
Long Beach Police Dept.	No	No
Oakland Police Dept.	No	No
Orange County Sheriff	YES	No
Riverside County Sheriff	YES	YES

Report (2021 Report) pp. 89, 134 n. 294; Racial and Identity Profiling Advisory Board, *Annual Report* (2022 Report) p. 231; Racial and Identity Profiling Advisory Board, *Annual Report* (2023 Report) pp. 180; Racial and Identity Profiling Advisory Board, *Annual Report* (2024 Report) p. 177.

⁶³⁶ In its inaugural 2018 Report, the Board reviewed civilian complaint forms of 85 agencies and found that many included the Penal Code section 148.6 advisory language. (See Racial and Identity Profiling Advisory Board, *Annual Report* (2018 Report) pp. 28-29.) The Board more closely examined complaint forms of the 15 largest California law enforcement agencies in its 2020 and 2021 Reports and found that a slight majority did not include the advisory in their complaint forms, however the advisory was present in 7 agencies’ complaint forms. (See Racial and Identity Profiling Advisory Board, *Annual Report* (2020 Report) pp. 74, 87-90; Racial and Identity Profiling Advisory Board, *Annual Report* (2021 Report) pp. 129-134; Racial and Identity Profiling Advisory Board, *Annual Report* (2022 Report) pp. 211-226.)

⁶³⁷ [Cite to Appendix for 2024 Survey of Wave 1 & 2 agencies]

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Sacramento Police Dept.	NO	NO
Sacramento County Sheriff	YES	YES
San Bernardino County Sheriff	YES	YES
San Diego Police Dept.	NO	YES
San Diego County Sheriff	YES	YES
San Francisco Police Dept.	NO	NO
San Jose Police Dept.	YES	NO

3. Recent Developments Regarding the Enforceability of Penal Code Section 148.6

As discussed in the Board’s 2023 Report, the constitutionality of Penal Code section 148.6 is currently under consideration in the matter of *Los Angeles Police Protective League v. City of Los Angeles* (Cal. Case No. S275272), indicating a continuing need for legislative clarification and intervention.⁶³⁹ The California Supreme Court is currently considering three issues: (1) whether the advisory requirement in Penal Code section 148.6, subdivision (a)(2) constitutes improper viewpoint discrimination in violation of the First Amendment; (2) whether the advisory requirement imposes an impermissible burden on complainants’ ability to file allegations of misconduct against peace officers; and (3) whether it was error to compel the City to comply with a statute that the Ninth Circuit Court of Appeals found unconstitutional.⁶⁴⁰ The matter is still pending as of the date of publication of the report.

4. Continued Relevance of Prior Policy Recommendations

Given the uncertainty regarding the enforceability of Penal Code section 148.6, the Board emphasizes its prior recommendation that law enforcement agencies accept and investigate all complaints, even when a complainant has not signed the advisory required by section 148.6.⁶⁴¹ This prior recommendation is consistent with Senate Bill 2, which allows POST to accept anonymous complaints and does not require complainants to identify themselves when attesting to the truthfulness of their allegations.⁶⁴² It is also consistent with the U.S. Department of Justice’s recommendation that, “[u]nless required by law, no threats or warning of prosecution or potential prosecution for filing a false complaint should be made orally or in writing to a

⁶³⁹ Racial and Identity Profiling Advisory Board, *Annual Report* (2023 Report) pp. 182-83.

⁶⁴⁰ *L.A. Police Protective League v. City of L.A.* (2022) 514 P.3d 892 (review granted).

⁶⁴¹ Racial and Identity Profiling Advisory Board, *Annual Report* (2023 Report) p. 183; Racial and Identity Profiling Advisory Board, *Annual Report* (2021 Report) p. 134 n. 294; Racial and Identity Profiling Advisory Board, *Annual Report* (2020 Report) p. 74.

⁶⁴² See POST Complaint Form <<https://post.ca.gov/public-complaint-form>> [as of XX, 2024] (indicating that the complainant’s name is not a required field, and only requiring the complainant to acknowledge that they have read the information on the Police Complaints Webpage and the information they alleged is “true and accurate”).

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complainant or potential complainant.”⁶⁴³

Lastly, the Board emphasizes that, if the California Supreme Court upholds Penal Code section 148.6, legislative action will be necessary to minimize the statute’s potential deterrent effect.⁶⁴⁴

C. Legislative Response to the Board’s Prior Recommendations

On February 15, 2024, the California Legislature introduced Assembly Bill No. 2923 (2023-2024 Reg. Sess.) (AB 2923), which sought, in part, to address the Board’s past recommendations by seeking to ensure a “procedurally fair civil complaint process.”⁶⁴⁵

In part, AB 2923 proposed amending Penal Code section 832.5 to define “civilian complaint.”⁶⁴⁶ Additionally, AB 2923 sought to amend Penal Code section 148.6 to add an intent requirement for false complaints, such that a complainant must knowingly and intentionally submit a false statement that is material to the complaint allegations to be prosecuted.⁶⁴⁷ The bill’s sponsor, Assembly Member Reginald Jones-Sawyer, emphasized that, as currently written, Penal Code section 148.6 is very broad, meaning that prosecution for filing a false complaint could be based on a fact that is not material to the allegation or is simply a mistake of fact.⁶⁴⁸ However, “mistakes over minor details of an incident should not bring forth prosecution.”⁶⁴⁹

The Board commends the Legislature for introducing legislation related to the Board’s concerns regarding the lack of a uniform “civilian complaint” definition and the inclusion of potentially deterrent language on civilian complaint forms. However, as no legislative amendments have been enacted, the Board highlights its past recommendations that the Legislature amend Penal Code sections 832.5 and 148.6 in accordance with the discussion above.

⁶⁴³ United States Department of Justice, *Standards and Guidelines for Internal Affairs*, *supra* note 458, at p. 17.

⁶⁴⁴ See Racial and Identity Profiling Advisory Board, *Annual Report* (2020) p. 74 (recommending that the Legislature amend Penal Code section 148.6 to delete or revise the criminal sanctions provision and eliminate the signature and writing requirements for complaints because these provisions may deter individuals from submitting valid complaints); Racial and Identity Profiling Advisory Board, *Annual Report* (2021) p. 134 n. 294 (same); Racial and Identity Profiling Advisory Board, *Annual Report* (2022) pp. 232 (same); Racial and Identity Profiling Advisory Board, *Annual Report* (2023 Report) p. 182-83 (same).

⁶⁴⁵ Cal. Assem., Public Safety Com. Hearing (Apr. 2, 2024) at 5:03:37-5:05:15 <<https://www.assembly.ca.gov/media/assembly-public-safety-committee-20240402>> [as of XX, 2024].

⁶⁴⁶ See AB 2923 <https://legiscan.com/CA/text/AB2923/id/2930681> [as of XX, 2024].

⁶⁴⁷ AB 2923 <https://legiscan.com/CA/text/AB2923/id/2930681> [as of XX, 2024].

⁶⁴⁸ Cal. Assem., Public Safety Com. Hearing (Apr. 2, 2024) at 5:03:37-5:05:15 <<https://www.assembly.ca.gov/media/assembly-public-safety-committee-20240402>> [as of XX, 2024].

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IV. APPLYING ROOT CAUSE ANALYSIS TO CIVILIAN COMPLAINTS

Last year, the Board urged law enforcement agencies to approach complaints as an opportunity to identify areas for improvement within their agency.⁶⁵⁰ To that end, the Board began exploring the underlying principles of root cause analysis and encouraged law enforcement agencies to incorporate those principles into their civilian complaint procedures.⁶⁵¹ Specifically, the Board explored when root cause analysis should be conducted, who should conduct it, and general considerations for how it should be conducted.⁶⁵²

This year, the Board continues its exploration of root cause analysis by analyzing its use in other industries to help inform the development of effective procedures to investigate and identify the root causes of civilian complaints. The Board hopes to continue this discussion in future reports — with input from law enforcement, experts, and members of the public — to develop specific recommendations on when and how to conduct root cause analysis of civilian complaints.

A. Key Principles of Root Cause Analysis

As discussed in the 2024 Report, root cause analysis is a problem-solving technique aimed at identifying the underlying causes of a negative or unwanted event and implementing changes to reduce the likelihood that a similar event will happen again.⁶⁵³ It is usually a part of — or sometimes used interchangeably with — a “sentinel event review.”⁶⁵⁴ The concept of root cause analysis derives from the idea that human errors are the product of multiple factors — both organizational and individual — none of which necessarily caused the unwanted outcome on its own.⁶⁵⁵ Moreover, root cause analysis derives from the recognition that human errors are inevitable, therefore, it is more productive to address systems that contribute to or allow errors

⁶⁵⁰ Racial and Identity Profiling Advisory Board, *Annual Report* (2024) pp. 200, 203.

⁶⁵¹ Racial and Identity Profiling Advisory Board, *Annual Report* (2024) pp. 199-203.

⁶⁵² See Racial and Identity Profiling Advisory Board, *Annual Report* (2024) pp. 201-203.

⁶⁵³ See Racial and Identity Profiling Advisory Board, *Annual Report* (2024) pp. 199-203; Hollway et al., *Root Cause Analysis: A Tool to Promote Officer Safety and Reduce Officer Involved Shootings Over Time (Root Cause Analysis)* (Dec. 15, 2017) p. 884, 903 <<https://www.law.upenn.edu/live/files/7459-%20hollway--villanova-rca-for-policing>> [as of XX, 2024].

⁶⁵⁴ See Fagan & Campbell, *Race and Reasonableness in Police Killings* (May 2020) 100 Boston U. L. Rev. 951, 1006; Hollway, et al., *Root Cause Analysis: A Tool to Promote Officer Safety and Reduce Officer Involved Shootings Over Time* (Dec. 15, 2017) 62 Vill. L. Rev. 883, 889; Hollway and Grunwald, *Applying Sentinel Event Reviews to Policing* (2019) Faculty Scholarship at Penn Law. 2100, p. 1 (sentinel event reviews are a “voluntary, multi-stakeholder, non-punitive review of [] an undesired outcome”).

⁶⁵⁵ See Agency for Healthcare Research and Quality (AHRQ) Patient Safety Network, *Root Cause Analysis* <<https://psnet.ahrq.gov/primer/root-cause-analysis>> [as of XX, 2024] (“A central tenant of root cause analysis is to identify underlying problems that increase the likelihood of errors while avoiding the trap of focusing on mistakes by individuals”).

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— such as staffing, time pressure, equipment failures, fatigue, and inexperience — than it is to address human factors, such as limitations on perception, cognition, or decision-making.⁶⁵⁶ At its core, root cause analysis is a non-blaming process that allows organizations to learn from unwanted outcomes.⁶⁵⁷ This means it should be separate from any administrative or disciplinary investigation process, so that participants will feel comfortable sharing information freely.⁶⁵⁸ Root cause analysis is also a proactive approach to addressing errors or unwanted outcomes, meaning a standard procedure and ground rules for root cause analysis should be decided before an unwanted outcome occurs.⁶⁵⁹ While specific procedures for root cause analysis may vary from industry to industry,⁶⁶⁰ and even from organization to organization, root cause analysis generally includes the following steps:⁶⁶¹

⁶⁵⁶ See Schwartz, *Systems Failures in Policing* (2018) 51 Suffolk U. L. Rev. 535, 537, 541.

⁶⁵⁷ See Hollway et al., *Root Cause Analysis: A Tool to Promote Officer Safety and Reduce Officer Involved Shootings Over Time (Root Cause Analysis)* (Dec. 15, 2017) p. 903-904 <<https://www.law.upenn.edu/live/files/7459-%20hollway--villanova-rca-for-policing>> [as of Nov. 15, 2023] (stating that root cause analysis “operates without the presumption that someone is ‘blameworthy.’ ... The blame-free analysis is crucial to [root cause analysis] because blaming and punishing people with good intentions for adverse events alienates the very people who may be in the best position to prevent the problem from occurring or have the most relevant knowledge of how to design solutions”).

⁶⁵⁸ See Fagan & Campbell, *Race and Reasonableness in Police Killings* (May 2020) 100 Boston U. L. Rev. 951, 1006 (“[Root cause analysis] models are not substitutes for accountability mechanisms but rather provide a constructive component with which officers can update and internalize alternatives available for future situations”); Aguirre, *Beyond Bad Apples: Adopting Sentinel Event Reviews in Nevada’s Criminal Justice System* (Spring 2018) 18 Nev. L.J. 1059, 1067 (sentinel event reviews do not replace liability procedures).

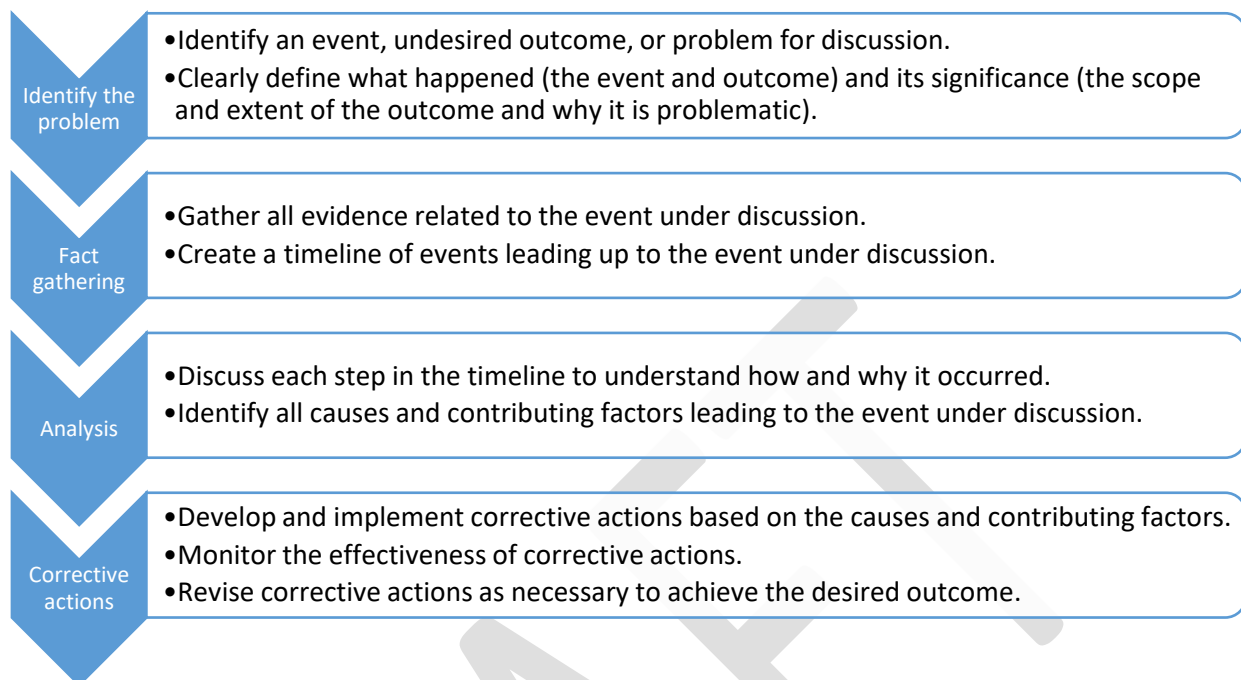
⁶⁵⁹ See Agency for Healthcare Research and Quality (AHRQ) Patient Safety Network, *Root Cause Analysis* <<https://psnet.ahrq.gov/primer/root-cause-analysis>> [as of XX, 2024] (“RCAs should generally follow a prespecified protocol”). For the Board’s prior discussion of ground rules for root cause analysis, please see the 2024 RIPA Report, p. 200-203.

⁶⁶⁰ Raper, et al., *Using Root Cause Analysis to Study Prosecutorial Error: A Collaboration Between the Montgomery County (Pennsylvania) District Attorney’s Office and the Quattrone Center for the Fair Administration of Justice* (2017) 62 Vill. L.Rev. Tolle Lege 13, 38 (“[T]he process of performing a [] [root cause analysis] lacks standardization from organization to organization”).

⁶⁶¹ See Agency for Healthcare Research and Quality (AHRQ) Patient Safety Network, *Root Cause Analysis* <<https://psnet.ahrq.gov/primer/root-cause-analysis>> [as of XX, 2024] (“RCAs should generally follow a prespecified protocol that begins with data collection and reconstruction of the event in question through record review and participant interviews. A multidisciplinary team should then analyze the sequence of events leading to the error, with the goals of identifying how the event occurred (through systematic identification and analysis of latent errors).”); Bressler, *The Sentinel Event Policy: A Response by the Joint Commission* (Summer 2000) 33 HOSPLW 519 (noting that a reduction of medical errors depends on identification of errors that occur, analysis of each error to determine the underlying factors, compilation of data about error frequency and the type and root causes of these errors, dissemination of information about these errors and their root causes, and periodic assessment of the effectiveness of efforts taken to reduce the risk of errors); Flanders & Saint, *Getting to the Root of the Matter* (June 1, 2005) AHRQ <<https://psnet.ahrq.gov/web-mm/getting-root-matter>> [as of XX, 2024] (analyzing the root

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First, the problem under consideration must be clearly and specifically defined.⁶⁶² The team conducting the root cause analysis must reach an agreement about the specific problem or event under consideration (e.g., the event that happened, the resulting impact, and the scope, extent, and significance of the problem).⁶⁶³ The process of defining the problem should be based on objective evidence, not subjective perception.⁶⁶⁴

Once the problem is defined, the team should gather and review all available evidence related to the event under consideration and use that information to develop a timeline leading up to the outcome under examination.⁶⁶⁵ Each step in the timeline should derive from the preceding

causes of a wrong-dose event by implementing a multidisciplinary team, gathering data, analyzing the contributing factors, and developing systems-oriented solutions); National Commission on Forensic Science, *Root Cause Analysis (RCA) in Forensic Science* (Jan. 27, 2017) <<https://perma.cc/5YWD-G8YZ>> [as of XX, 2024] (identifying steps to conduct root cause analysis of forensic science errors, including identifying the problem (what went wrong), identifying the root cause and contributing factors (why it went wrong), prioritizing the factors that contributed to the harm, and developing interventions that conform with the prioritization and likelihood of various factors repeating).

⁶⁶² See Root Cause Analysis and Problem Solving (April 2014) IAQG, p. 35 <<https://perma.cc/LC7T-YQNB>> [as of XX, 2024].

⁶⁶³ See Root Cause Analysis and Problem Solving (April 2014) IAQG, pp. 35, 36, 38 <<https://perma.cc/LC7T-YQNB>> [as of XX, 2024].

⁶⁶⁴ See Root Cause Analysis and Problem Solving (April 2014) IAQG, p. 36 <<https://perma.cc/LC7T-YQNB>> [as of XX, 2024].

⁶⁶⁵ See Browning, et al., Paving the Way: Lessons Learned in Sentinel Event Reviews (Nov. 2015) National Institute of Justice, p. 9 <<https://www.ojp.gov/pdffiles1/nij/249097.pdf>> [as of XX, 2024] (suggesting that agencies

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event.⁶⁶⁶

Next, the team should discuss each step leading to the event under consideration, with the intent of understanding why each step occurred the way that it did.⁶⁶⁷ This inquiry is the core of root cause analysis. The goal is to understand what factors caused the event, and what factors contributed to or allowed the event to unfold as it did.⁶⁶⁸ Here, teams should use structured analysis to identify all causes that did or may have generated or contributed to the undesirable event under consideration and select the most critical causes and contributing factors that need to be addressed.⁶⁶⁹ It is important to focus on objective causes and minimize the injection of “bad apple” theories of causation into these discussions when possible.⁶⁷⁰

Once the underlying causes and contributing factors have been identified, the team should develop and implement corrective actions to address them, with the goal of preventing the same outcome in the future.⁶⁷¹ Corrective actions that address underlying causes and contributing

conducting sentinel event reviews “[d]evote time to building and reviewing a timeline to fill in gaps in individual knowledge of what happened and when”); Hollway and Grunwald, *Applying Sentinel Event Reviews to Policing* (2019) Faculty Scholarship at Penn Law. 2100, 716–717 (noting that the moderator of sentinel event review of the Lex Street Massacre prepared a “detailed timeline of people, places, and actions – beginning with the crime itself and leading up to the discovery of the error,” which then helped identify potential participants in the review); American Society for Quality, What Is Root Cause Analysis (RCA)? <<https://asq.org/quality-resources/root-cause-analysis>> [as of XX, 2024] (describing one approach to root cause analysis—events and causal factor analysis—which involves using methodically gathered evidence to establish a timeline for the activities leading up to an incident, then identifying the causal and contributing factors).

⁶⁶⁶ See Hollway and Grunwald, *Applying Sentinel Event Reviews to Policing* (2019) Faculty Scholarship at Penn Law. 2100, 716–717 (noting that the moderator of sentinel event review of the Lex Street Massacre prepared a “detailed timeline of people, places, and actions – beginning with the crime itself and leading up to the discovery of the error,” which then helped identify potential participants in the review); Flanders & Saint, Getting to the Root of the Matter (June 1, 2005) AHRQ <<https://psnet.ahrq.gov/web-mm/getting-root-matter>> [as of XX 2024] (recommending that every provider contact with a patient and every order, test, and response should be charted to develop a timeline that can be used to observe all stepped involved in the care of the patient, to better evaluate what contributed to an incorrect medication dosage being administered).

⁶⁶⁷ See Flanders & Saint, Getting to the Root of the Matter (June 1, 2005) AHRQ <<https://psnet.ahrq.gov/web-mm/getting-root-matter>> [as of XX 2024] (recommending that every provider contact with a patient and every order, test, and response should be gathered to conduct a root cause analysis related to the administration of an incorrect medication dosage); Tobin & Tochen, The Anatomy of an NTSB Accident Investigation: A Guide for “Parties-to-the-Investigation” & Their Lawyers (April 2013) NTSB, p. 2 <<https://perma.cc/3MSD-7677>> [as of XX 2024] (noting that the NTSB spends several months gathering facts to conduct a root cause analysis).

⁶⁶⁸ See Root Cause Analysis and Problem Solving (April 2014) IAQG, p. 53 <<https://perma.cc/LC7T-YQNB>> [as of XX, 2024].

⁶⁶⁹ See Root Cause Analysis

is and Problem Solving (April 2014) IAQG, p. 53 <<https://perma.cc/LC7T-YQNB>> [as of XX, 2024].

⁶⁷⁰ See National Commission on Forensic Science, Root Cause Analysis (RCA) in Forensic Science (Jan. 27, 2017) <<https://perma.cc/5YWD-G8YZ>> [as of XX, 2024].

⁶⁷¹ See Root Cause Analysis and Problem Solving (April 2014) IAQG, p. 65 <<https://perma.cc/LC7T-YQNB>> [as of XX, 2024].

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factors — such as improving staffing levels or organizational resources — are generally thought to be stronger than training.⁶⁷² Information learned during the analysis of the event should be widely disseminated throughout the organization.⁶⁷³ The team should prioritize the factors that contributed to the harm, evaluating their severity and the probability that they will cause harm in the future, then develop interventions and corrective actions based on the likelihood that the various factors will recur.⁶⁷⁴

Finally, once the corrective actions have been implemented, it is important to monitor their efficacy and make revisions if they are not working.⁶⁷⁵

B. Root Cause Analysis in Transportation and Healthcare

Root cause analysis has been successfully applied in complex settings, such as aviation healthcare, by developing a culture of learning to minimize the likelihood of unwanted outcomes. In recent years, law enforcement has begun to draw from lessons learned in these industries to implement root cause analysis after certain events, such as officer shootings and in-custody deaths. The Board provides a summary of root cause analyses in each of these industries to demonstrate how law enforcement can benefit from information learned from these industries in applying root cause analysis to civilian complaints.

⁶⁷² See Agency for Healthcare Research and Quality (AHRQ) Patient Safety Network, Root Cause Analysis <<https://psnet.ahrq.gov/primer/root-cause-analysis>> [as of __, 2024] (noting that safety experts agree that effective root cause analysis requires focusing on stronger, systems-focused solutions, as opposed to overreliance on weaker solutions, such as educational interventions and enforcing existing policies).

⁶⁷³ See Root Cause Analysis and Problem Solving (April 2014) IAQG, p. 73 <<https://perma.cc/LC7T-YQNB>> [as of XX, 2024].

⁶⁷⁴ National Commission on Forensic Science, Root Cause Analysis (RCA) in Forensic Science (Jan. 27, 2017) <<https://perma.cc/5YWD-G8YZ>> [as of XX, 2024]

⁶⁷⁵ See Root Cause Analysis and Problem Solving (April 2014) IAQG, p. 68 <<https://perma.cc/LC7T-YQNB>> [as of XX, 2024].

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1. Aviation and Transportation

Aviation is widely regarded as the poster child of successful root cause analysis.⁶⁷⁶ Commercial aviation has experienced significant improvements to safety over time due, in part, to systematic review of accidents and “close call” incidents.⁶⁷⁷

Two primary agencies drive root cause analysis in aviation: the National Transportation Safety Board (NTSB), and the Aviation Safety Reporting System (ASRS). The NTSB conducts after-action reviews of all aviation accidents in the United States.⁶⁷⁸ The NTSB learns of these events through required notifications from transportation providers, as well as from publicly available reports and state and local authorities.⁶⁷⁹ The NTSB then “investigates everything from aircraft hardware to weather to pilot decision-making in order to determine what happened,”⁶⁸⁰ identify the probable cause(s) of the incident, and then determine what measures would best tend to prevent similar incidents in the future.⁶⁸¹ The investigation begins with a visit to the crash site and may include witness interviews conducted under oath and sometimes public hearings.⁶⁸² This process can take months.⁶⁸³ Once the investigation concludes, the team drafts a report that includes proposed findings of probable cause and safety recommendations.⁶⁸⁴ The NTSB then issues recommendations.⁶⁸⁵

⁶⁷⁶ See Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 926; Rossmo & Pollock, *Confirmation Bias and Other Systemic Causes of Wrongful Convictions: A Sentinel Events Perspective* (Summer 2019) 11 Ne. U. L. Rev. 790, 795 (“The best-known example of the sentinel event approach is the after-action reviews by the National Transportation Safety Board”).

⁶⁷⁷ Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 927; Rossmo & Pollock, *Confirmation Bias and Other Systemic Causes of Wrongful Convictions: A Sentinel Events Perspective* (Summer 2019) 11 Ne. U. L. Rev. 790 (“As a result [of NTSB after-action reviews], the aviation industry has experienced significant increase in safety”).

⁶⁷⁸ Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 927.

⁶⁷⁹ Tobin & Tochen, *The Anatomy of an NTSB Accident Investigation: A Guide for “Parties-to-the-Investigation” & Their Lawyers* (April 2013) NTSB, p. 2 <<https://perma.cc/3MSD-7677>> [as of XX 2024].

⁶⁸⁰ Rossmo & Pollock, *Confirmation Bias and Other Systemic Causes of Wrongful Convictions: A Sentinel Events Perspective* (Summer 2019) 11 Ne. U. L. Rev. 790, 795.

⁶⁸¹ Tobin & Tochen, *The Anatomy of an NTSB Accident Investigation: A Guide for “Parties-to-the-Investigation” & Their Lawyers* (April 2013) NTSB, p. 2 <<https://perma.cc/3MSD-7677>> [as of XX 2024].

⁶⁸² Tobin & Tochen, *The Anatomy of an NTSB Accident Investigation: A Guide for “Parties-to-the-Investigation” & Their Lawyers* (April 2013) NTSB, p. 2 <<https://perma.cc/3MSD-7677>> [as of XX 2024].

⁶⁸³ Tobin & Tochen, *The Anatomy of an NTSB Accident Investigation: A Guide for “Parties-to-the-Investigation” & Their Lawyers* (April 2013) NTSB, p. 2 <<https://perma.cc/3MSD-7677>> [as of XX 2024].

⁶⁸⁴ Tobin & Tochen, *The Anatomy of an NTSB Accident Investigation: A Guide for “Parties-to-the-Investigation” & Their Lawyers* (April 2013) NTSB, p. 2 <<https://perma.cc/3MSD-7677>> [as of XX 2024]; Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 927.

⁶⁸⁵ See Tobin & Tochen, *The Anatomy of an NTSB Accident Investigation: A Guide for “Parties-to-the-Investigation” & Their Lawyers* (April 2013) NTSB, p. 2 <<https://perma.cc/3MSD-7677>> [as of XX 2024].

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Similarly, the Aviation Safety Reporting System (ASRS) was designed by the FAA to analyze voluntarily submitted incident reports from pilots, air traffic controllers, dispatchers, cabin crew, maintenance crew, and others and identify the hazardous or dangerous conditions ground-level practitioners and experts recognized as posing risks to safety.⁶⁸⁶ ASRS reviews de-identified information gathered through voluntary reporting,⁶⁸⁷ then issues reports and observations regarding the cause(s) of aviation incidents after the incident is reviewed by aviation safety experts (including experienced pilots, air traffic controllers, and mechanics).⁶⁸⁸ However, unlike the NTSB, the ASRS does not issue corrective actions itself; it provides information to other authorities, such as the FAA, who can then take corrective actions.⁶⁸⁹

Beyond these national organizations, agencies within the transportation industry have also developed varying root cause analysis procedures.⁶⁹⁰ Moreover, the principles of root cause analysis have been applied beyond aviation to the transportation sector generally to address issues such as traffic safety.⁶⁹¹

⁶⁸⁶ Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 928-29.

⁶⁸⁷ Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 928-29.

⁶⁸⁸ See Plantz, *The Patient Safety and Quality Improvement Act: A Total Eclipse* (Spring 2019) 87 UMKC L. Rev. 751, 771-72; Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 929.

⁶⁸⁹ See Plantz, *The Patient Safety and Quality Improvement Act: A Total Eclipse* (Spring 2019) 87 UMKC L. Rev. 751, 771-772.

⁶⁹⁰ See *Root Cause Analysis and Problem Solving* (April 2014) IAQG, p. 19 <<https://perma.cc/LC7T-YQNB>> [as of XX 2024] (comparing root cause analysis procedures of Boeing and Airbus).

⁶⁹¹ See, e.g., Fleet Forum, *Analyzing and investigating road traffic crashes* <<https://knowledge.fleetforum.org/knowledge-base/article/crash-analysis>> [as of Dec. XX, 2024] (providing guidance for companies to conduct root cause analysis of traffic crashes); Transportation Alternatives, *The Case for Self-Enforcing Streets* (June 2020) p. 16 <<https://static1.squarespace.com/static/63e29e189cbb31405a731aac/t/66154d0bf54a857c2fb871b7/1712672011657/CaseForSelfEnforcingStreets.pdf>> [as of XX, 2024] (arguing that “every fatal or serious crash should be followed by a published engineering assessment of the street conditions that contributed to the crash and changes that could have prevented the crash or limited the severity of the injuries”); Sarode et al., *Traffic stops do not prevent traffic deaths* (Jul. 1, 2021) 91(1) J. Trauma Acute Care Surg. 141 (arguing that “future studies should also consider understanding the root causes of [motor vehicle crashes] to design effective measures”); see also U.S. Dept. of Transportation, *Speed Management : A Manual for Local Rural Road Owners* <<https://highways.dot.gov/safety/local-rural/speed-management-manual-local-rural-road-owners/2-identify-speeding-issues>> [as of Dec. XX, 2024] (providing guidance similar to the steps of root cause analysis to remedy traffic anomalies on rural roads).

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2. Healthcare

Root cause analysis is also routinely used in the medical field⁶⁹² to address a broad range of incidents, like operations on the wrong patient,⁶⁹³ incorrect medication orders and/or dosages,⁶⁹⁴ and infant abductions.⁶⁹⁵ However, that was not always the case.⁶⁹⁶ Traditionally, “efforts to ‘correct’ [an] error [in the medical field were] narrowly reactive, focusing on shaming, blaming, and training the individual to prevent the error’s occurrence from being repeated by the specific person who erred.”⁶⁹⁷ However, attitudes within the medical field began to shift after the Institute of Medicine released an article titled *To Err is Human* in 1999, estimating that 44,000 to 98,000 patients died from medical errors each year that are often caused by “system-wide weaknesses in policy, organization, equipment, and technology.”⁶⁹⁸ Following this article, there was a “seismic shift in medicine’s approach to error,” with the industry beginning to accept the “notion that medical error is frequent; that error is inevitable in high-stress, complex settings; and that by improving systems — including policies, organization, protocols, and technologies — hospitals can make it more difficult for human error to occur.”⁶⁹⁹ In part, the medical field looked to aviation to develop a forward-looking, systems-oriented review method.⁷⁰⁰

The Joint Commission, an organization that regulates and accredits hospitals in the United States, mandates that hospitals use root cause analysis to analyze sentinel events.⁷⁰¹ After an

⁶⁹² Agency for Healthcare Research and Quality (AHRQ) Patient Safety Network, *Root Cause Analysis* <<https://psnet.ahrq.gov/primer/root-cause-analysis>> [as of XX, 2024] (root cause analysis is now “widely deployed as an error analysis tool in health care”).

⁶⁹³ Chassin & Becher, *The Wrong Patient* (June 4, 2002) 136 *Annals of Internal Medicine* 11 <<https://www.acpjournals.org/doi/10.7326/0003-4819-136-11-200206040-00012>> [as of XX 2024]

⁶⁹⁴ Flanders & Saint, *Getting to the Root of the Matter* (June 1, 2005) AHRQ <<https://psnet.ahrq.gov/web-mm/getting-root-matter>> [as of XX 2024]

⁶⁹⁵ Baum Goodwin, *Striving for a Secure Environment: A Closer Look at Hospital Security Issues Following the Infant Abduction at Loyola University Medical Center* (2001) 10 *Ann. Health L.* 245.

⁶⁹⁶ Schwartz, *Systems Failures in Policing* (2018) 51 *Suffolk U. L.Rev.* 535, 542 (noting that medicine has more recently embraced safety initiatives like root cause analysis).

⁶⁹⁷ Liang & Ren, *Medical Liability Insurance and Damage Caps: Getting Beyond Band Aids to Substantive Systems Treatment to Improve Quality and Safety in Healthcare* (2014) 30 *Am. J. L. and Med.* 501, 525; see also Schwartz, *Systems Failures in Policing* (2018) 51 *Suffolk U. L. Rev.* 535, 542 (noting that medicine was traditionally guided by the “perfectibility model” which assumes that providers will not make mistakes if they’re properly trained and are motivated by the threat of discipline or lawsuits).

⁶⁹⁸ Schwartz, *Systems Failures in Policing* (2018) 51 *Suffolk U. L.Rev.* 535, 542.

⁶⁹⁹ Schwartz, *Systems Failures in Policing* (2018) 51 *Suffolk U. L.Rev.* 535, 542, 544-45.

⁷⁰⁰ Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 *Ohio St. L.J.* 907, 930-31.

⁷⁰¹ Agency for Healthcare Research and Quality (AHRQ) Patient Safety Network, *Root Cause Analysis* <<https://psnet.ahrq.gov/primer/root-cause-analysis>> [as of XX 2024]; Aguirre, *Beyond Bad Apples: Adopting Sentinel Event Reviews in Nevada’s Criminal Justice System* (Spring 2018) 18 *Nev. L.J.* 1059, 1067; Kellogg, et al.,

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event results in death or harm to a patient, hospitals must use root cause analysis to identify the reasons it occurred and corrective measures for improvement.⁷⁰² Once corrective measures are implemented, hospitals must monitor whether they are working.⁷⁰³ Hospitals are encouraged to report sentinel events that result in death or serious injury to the Joint Commission, along with the root cause analysis and corrective actions, so that the Joint Commission can identify trends requiring industry-wide recommendations.⁷⁰⁴

The efficacy of root cause analysis depends on the types of corrective actions generated by the root cause analysis procedures.⁷⁰⁵ For example, one study found that less than half of the root cause analyses reviewed included recommendations directed at “robust, system-level improvements,” meaning that many corrective actions still focus on addressing individual errors rather than system-wide improvements.⁷⁰⁶ Thus, the limitation of the root cause analysis in that example can be attributed, not to the root cause analytical approach, but instead to cultural resistance within the organization to adopt necessary changes and to an ethos of learning from past mistakes. In general, truly effective corrective actions remove or provide safeguards against hazards, while the least impactful measures merely warn personnel of the hazard.⁷⁰⁷

Our current approach to root cause analysis: is it contributing to our failure to improve patient safety? (2017) 26 BMJ Quality & Safety 381 <<https://qualitysafety.bmj.com/content/qhc/26/5/381.full.pdf>> [as of XX 2024] (noting that most hospitals use root cause analysis, which has been mandated by the Joint Commission since 1997).

⁷⁰² Mulholland, *Unanticipated Consequences of Unanticipated Outcomes Disclosures* (Spring 2002) 35 HOSPLW 211.

⁷⁰³ Mulholland, *Unanticipated Consequences of Unanticipated Outcomes Disclosures* (Spring 2002) 35 HOSPLW 211.

⁷⁰⁴ Mulholland, *Unanticipated Consequences of Unanticipated Outcomes Disclosures* (Spring 2002) 35 HOSPLW 211.

⁷⁰⁵ Kellogg, et al., *Our current approach to root cause analysis: is it contributing to our failure to improve patient safety?* (2017) 26 BMJ Quality & Safety 381 <<https://qualitysafety.bmj.com/content/26/5/381.citation-tools>> [as of XX 2024] (“Safety scientists believe that the lack of improvement in adverse event rates in healthcare is largely because our methods of approaching change are ineffective”).

⁷⁰⁶ Kellogg, et al., *Our current approach to root cause analysis: is it contributing to our failure to improve patient safety?* (2017) 26 BMJ Quality & Safety 381 <<https://qualitysafety.bmj.com/content/26/5/381.citation-tools>> [as of XX 2024].

⁷⁰⁷ Kellogg, et al., *Our current approach to root cause analysis: is it contributing to our failure to improve patient safety?* (2017) 26 BMJ Quality & Safety 381 <<https://qualitysafety.bmj.com/content/26/5/381.citation-tools>> [as of XX 2024].

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C. Root Cause Analysis in Law Enforcement

As in the medical field, the traditional approach to problem events in policing focuses on individual actions and blame through administrative investigations and discipline.⁷⁰⁸ Like aviation and the medical field, the theory underlying root cause analysis — that bad outcomes in complex systems are rarely the result of one person’s mistake, but rather result from the combination of multiple errors that are exacerbated by underlying weaknesses in the organization — can be successfully applied to policing.⁷⁰⁹

The decision-making processes of police officers are often like those of doctors or pilots. Like pilots and healthcare professionals, officers must make “split-second, life or death decisions under conditions of uncertainty,” requiring them to process large amounts of information in little time.⁷¹⁰ “Each decision point can lead to errors out of mere negligence or institutional errors.”⁷¹¹ Thus, it is unrealistic to expect that there will be no errors in police responses.⁷¹² Instead, these

⁷⁰⁸ See NIJ, *Mending Justice: Sentinel Event Reviews* (Sept. 2014) p. 1 <<https://www.ojp.gov/pdffiles1/nij/247141.pdf>> [as of XX, 2024] (“Most criminal justice agencies have error detecting processes in place,” but “[t]oo often, these become a ‘gotcha’ process that assigns blame, which can drive errors underground, making them harder to detect and correct.”).

⁷⁰⁹ See Schwartz, *Systems Failures in Policing* (2018) 51 Suffolk U. L. Rev. 535, 545-46 (“There is every reason to believe that police could improve their protocols, policies, and technology in similar ways [to aviation and healthcare]. A variety of systems interventions come to mind that could lessen the frequency with which officers are placed in complex, high-speed, high-stress, high-stakes situations, and improve officers’ decision making in such situations when they occur.”); Rossmo & Pollock, *Confirmation Bias and Other Systemic Causes of Wrongful Convictions: A Sentinel Events Perspective* (Summer 2019) 11 Ne. U. L. Rev. 790, 795 (“Doyle proposes that the systems or sentinel event approach, which has seen great success in medicine and transportation, can be adopted to understand wrongful convictions or ‘near misses’ (i.e., narrowly escaped wrongful convictions)”; Fagan & Campbell, *Race and Reasonableness in Police Killings* (May 2020) 100 Boston U. L.Rev. 95, 1004-06 (arguing that there is an increasing need for police to discuss tactics, including through root cause analysis); Browning, et al., *Paving the Way: Lessons Learned in Sentinel Event Reviews* (Nov. 2015) National Institute of Justice, p. 2-3 <<https://www.ojp.gov/pdffiles1/nij/249097.pdf>> [as of XX, 2024] (finding that sentinel event reviews can be successfully applied in the criminal justice system).

⁷¹⁰ See Schwartz, *Systems Failures in Policing* (2018) 51 Suffolk U. L.Rev. 535, 545.

⁷¹¹ Aguirre, *Beyond Bad Apples: Adopting Sentinel Event Reviews in Nevada’s Criminal Justice System* (Spring 2018) 18 Nev. L.J. 1059, 1064.

⁷¹² See Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 910-11 (“In fact, the killing of unarmed civilians by police results from multiple causes, both human and systemic, that set the stage for the traffic moment when the shot was fired. Our current focus on only the immediate causer—and the narrow time frame that defines his actions—ignores this broader set of causal factors. This is not to say that the shooter is not blameworthy. But the single-minded focus on the officer who discharged his weapon leaves the officer’s colleague embedded in the same organization that led to his mistakes. It misses the opportunity to address the systemic and organizational features that make it possible (or probable) that individual officers will continue to make mistakes or misbehave.”); Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 924 (“While we cannot completely eliminate human error, we can change the circumstances in

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errors present an opportunity for law enforcement agencies to “respond, change course, and improve outcomes.”⁷¹³

Many academics have considered the applicability of root cause analysis to policing over the past decade. For example, the National Institute of Justice has been exploring the feasibility of using sentinel event reviews in the criminal legal system since 2011.⁷¹⁴ Root cause analyses have also been conducted to understand sentinel events such as wrongful convictions,⁷¹⁵ police shootings,⁷¹⁶ and deaths or self-harm in detention facilities.⁷¹⁷

Some law enforcement agencies have already implemented root cause analysis to assess sentinel

which fallible human beings work, particularly the circumstances that increase the likelihood of operator error or aggravate the consequences of unsafe acts”).

⁷¹³ Aguirre, *Beyond Bad Apples: Adopting Sentinel Event Reviews in Nevada’s Criminal Justice System* (Spring 2018) 18 Nev. L.J. 1059, 1064.

⁷¹⁴ Ritter, *Testing a Concept and Beyond: Can the Criminal Justice System Adopt a Nonblaming Practice?* (Dec. 1, 2015) NIJ <<https://nij.ojp.gov/topics/articles/testing-concept-and-beyond-can-criminal-justice-system-adopt-nonblaming-practice>> [as of XX, 2024]

⁷¹⁵ See Rossmo & Pollock, *Confirmation Bias and Other Systemic Causes of Wrongful Convictions: A Sentinel Events Perspective* (Summer 2019) 11 Ne. U. L. Rev. 790 (analyzing 50 wrongful convictions, using a sentinel events approach informed by root cause analysis, to understand why these failures occurred); Raper, et al., *Using Root Cause Analysis to Study Prosecutorial Error: A Collaboration Between the Montgomery County (Pennsylvania) District Attorney’s Office and the Quattrone Center for the Fair Administration of Justice* (2017) 62 Vill. L. Rev. Tolle Lege 13 (conducting root cause analysis of errors leading to a conviction); Brown & Neufeld, *Chimes of Freedom Flashing: For Each Unharmful Gentle Soul Misplaced Inside a Jail* (2021) 76 N.Y.U. Ann. Surv. Am. L. 235, 271 (analyzing wrongful convictions and arguing that “whenever a serious error or misconduct undermines the integrity of the criminal legal process,” root cause analysis should be conducted).

⁷¹⁶ See *A Glimpse at Ongoing Sentinel Event Review Research Projects* (Dec. 13, 2015) NIJ <<https://nij.ojp.gov/topics/articles/glimpse-ongoing-sentinel-event-review-research-projects>> [as of XX, 2024] (noting that Michigan State University conducted root cause analysis of nonfatal shootings in Milwaukee, Detroit, and Indianapolis); Schwartz, *Systems Failures in Policing* (2018) 51 Suffolk U. L. Rev. 535, 539 (arguing that, when there is a police killing, departments must discuss “whether the shooting was preventable, and the ways in which technology, schedules, protocols, and policies could be adjusted to prevent another shooting in the future”); Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 910 (arguing for a “prevention-first approach” to events such as police shootings, that applies systemic analysis to prevent future shootings); Fagan & Campbell, *Race and Reasonableness in Police Killings* (May 2020) 100 Boston U. L. Rev. 951, 1004-1006 (arguing for increased discussion and root cause analysis of police tactics in response to events such as police shootings).

⁷¹⁷ See *A Glimpse at Ongoing Sentinel Event Review Research Projects* (Dec. 13, 2015) NIJ <<https://nij.ojp.gov/topics/articles/glimpse-ongoing-sentinel-event-review-research-projects>> [as of XX, 2024] (noting that the Vera Institute worked with the New York Department of Corrections and Department of Public Health and Mental Hygiene to analyze predictors of self-harm and assess whether the self-harm predictor tool resulted in tangible changes to jail policies and practices); *Creating a Culture of Safety* (Dec. 2016) Vera Institute <<https://www.vera.org/publications/culture-of-safety-sentinel-event-suicide-self-harm-correctional-facilities>> [as of XX, 2024].

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events and identify areas for improvement.⁷¹⁸ The application of root cause analysis to racial disparities in traffic stops, certain types of low-level violations, sometimes associated with pretext stops, and discretionary searches may illustrate the benefits of its use in identifying the causal factors to racial disparities in police encounters. For instance, one study looked at data showing that a “department made nearly 151 consent searches of Black motorists and 46 of Hispanic/Latine(x) motorists with hit-rates of 7.9 and 15.2 percent respectively.”⁷¹⁹ A root cause analysis found that the practice of consent searches contributed to these disparities.⁷²⁰ Following this finding, the department prohibited consent searches which led to an increase in finding contraband and a decrease in racial disparities in stops.⁷²¹

Similarly, in another agency, the researchers identified that the agency’s policy of stopping drivers for low-level equipment violations, with the intent of catching drivers who were driving under the influence, was the primary source of disparities in traffic stops and was ineffective at catching DUI drivers.⁷²² Following this analysis, the agency required their officers instead to look for objective evidence of driving under the influence which led to a decrease in racial disparities and an increase in identifying drivers under the influence.⁷²³

In the examples above, once the problem was defined, the teams gathered and reviewed all available evidence related to the disparities and efficacy of those policies. The team then used that information to develop policies that addressed those disparities and emphasized evidence-based approaches to crime fighting, which led to a drop in racial disparities and more effective

⁷¹⁸ See Thacher, *The Learning Model of Use-of-Force Reviews* (Aug. 2020) 45 Law & Soc. Inquiry 755, 756 (“The most sophisticated police agencies do more than establish rules and monitor how well officers comply with them. They use incident reviews partly as a tool for learning to document the complex circumstances that police encounter in the field, to scrutinize existing responses to them, and to articulate alternative approaches that might be taken, not just by responding officers but also by others who shape the possibilities available to them.”).

⁷¹⁹ Barone, et al., *State of Connecticut: Traffic Stop Data Analysis and Findings*, 2018 (May 2020) p. 45 <https://assets.website-files.com/6076e3f57e39855392637f16/608969ac86055d0bd5d5e680_2018-Connecticut-Racial-Profilng-Report.pdf> [as of XX, 2024].

⁷²⁰ See Barone, et al., *State of Connecticut: Traffic Stop Data Analysis and Findings*, 2018 (May 2020) p. 45 <https://assets.website-files.com/6076e3f57e39855392637f16/608969ac86055d0bd5d5e680_2018-Connecticut-Racial-Profilng-Report.pdf> [as of XX, 2024].

⁷²¹ Ross et al., *Testing for Disparities in Traffic Stops: Best Practices from the Connecticut Model* (2020) 19 Criminology & Public Policy 1289, 1297 <<https://onlinelibrary.wiley.com/doi/epdf/10.1111/1745-9133.12528>> [as of XX, 2024] (finding that, by prohibiting consent searches, “[p]olice searches were more successful at finding contraband, i.e. a 63-percentage point increase, and the department ceased to be identified as having a disparity in subsequent annual analyses”).

⁷²² See Ross, et al., *Testing for Disparities in Traffic Stops: Best Practices from the Connecticut Model* (2020) Criminology and Public Policy, p. 1297 <<https://onlinelibrary.wiley.com/doi/epdf/10.1111/1745-9133.12528>> [as of XX].

⁷²³ See Ross, et al., *Testing for Disparities in Traffic Stops: Best Practices from the Connecticut Model* (2020) Criminology and Public Policy, p. 1297-98 <<https://onlinelibrary.wiley.com/doi/epdf/10.1111/1745-9133.12528>> [as of XX].

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policing.

A 2024 survey of the 15 largest law enforcement agencies in California indicated that 12 agencies conduct root cause analysis for some events.⁷²⁴ The Board suggests that law enforcement agencies consider extending root cause analysis to their complaint procedures as well.

Like aviation and healthcare, there is no single, best procedure to follow for successful root cause analysis in policing. For example, the National Institute of Justice argues for a broad understanding of which events should trigger root cause analysis: “Sentinel events can also include episodes that are ‘within policy’ but disastrous in terms of community relations (such as the arrest of Harvard professor Henry Louis Gates), whether or not everyone agrees that the event should be classified as an ‘error.’ ... In fact, anything that stakeholders can agree should not happen again could be considered a sentinel event.”⁷²⁵

Similarly, the International Association of Police Chiefs recommends that agencies collect data related to sentinel events and near misses — specifically, “information about suspect and officer demographics as well as the location, time, date, and other relevant contextual factors” — and analyze this data “on a recurring basis to identify any problematic trends.”⁷²⁶ More broadly, one scholar even encourages law enforcement agencies to specifically consider “the ways in which both systemic racism and institutional racism are part of the analysis of root causes of a civilian death.”⁷²⁷

However, some general challenges have been identified with respect to root cause analysis in policing. These include the need to balance incident liability and risk management, the role of internal disciplinary processes, the role of confidentiality protections,⁷²⁸ and a general lack of data regarding the “frequency, nature, or causes of policing errors.”⁷²⁹ Considering this, experts in the criminal legal field believe that root cause analysis reviews should have their own features

⁷²⁴ [2024 Survey of Wave 1 & 2 agencies]

⁷²⁵ NIJ, *Mending Justice: Sentinel Event Reviews* (Sept. 2014), p. 4 <<https://www.ojp.gov/pdffiles1/nij/247141.pdf>> [as of XX, 2024].

⁷²⁶ Koper, et al., *An Evidence-Assessment of the Recommendations of the President’s Task Force on 21st Century Policing – Implementation and Research Priorities* (2016) Center for Evidence-Based Crime Policy, George Mason University, International Association of Chiefs of Police, p. 19.

⁷²⁷ Fagan and Campbell, *Race and Reasonableness in Police Killings* (May 2020) 100 *Boston U. L. Rev.* 951, 1006.

⁷²⁸ Doyle, *Sentinel Events Initiative: Looking Back to Look Forward* (Dec. 5, 2013) NIJ <<https://nij.ojp.gov/topics/articles/sentinel-events-initiative-looking-back-look-forward>> [as of XX, 2024].

⁷²⁹ Schwartz, *Systems Failures in Policing* (2018) 51 *Suffolk U. L. Rev.* 535, 558.

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unique to their jurisdiction.⁷³⁰

D. Root Cause Analysis and Civilian Complaints

Civilian complaints provide a wealth of information for law enforcement agencies to identify and address areas for improvement. For example, an allegation of discourteous conduct can help an agency understand what types of actions the public perceives as problematic. An investigatory interview of the officer involved in the discourteous conduct allegation might reveal what factors caused the officer to act as they did. For example, the agency might learn that the officer was working overtime during the incident, revealing potential morale and staffing issues within the department. Thus, a single complaint could reveal factors beyond the feelings or circumstances of the individual officer involved in the complaint, which may demonstrate the likelihood that similar unwanted outcomes (i.e. negative interactions with the public that result in civilian complaints) will occur in the future.

Therefore, the Board strongly encourages law enforcement agencies to analyze the root cause(s) of civilian complaints. Agencies may choose to analyze individual complaints and/or trends among aggregated complaint data. In other words, an agency could choose to analyze the root cause(s) of each complaint it receives. Alternatively, it could choose to conduct a root cause analysis of a random sample of complaints alleging racial or identity-based profiling. Or the agency could choose to do both. What is important is that agencies use information learned through civilian complaints to identify areas for improvement within their organization and develop corrective actions to reduce the likelihood of unwanted outcomes in the future.

The Board hopes to develop more specific recommendations in future reports, based on existing complaint and root cause analysis procedures, best practices, and community input, to help law enforcement agencies implement this practice.

⁷³⁰ Doyle, *Sentinel Events Initiative: Looking Back to Look Forward* (Dec. 5, 2013) NIJ <<https://nij.ojp.gov/topics/articles/sentinel-events-initiative-looking-back-look-forward>> [as of XX, 2024].

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V. VISION FOR FUTURE REPORTS

The Board remains committed to analyzing civilian complaint data and practices in order to make the complaint process more meaningful to members of law enforcement and the public. To that end, in the coming years, the Board hopes to look closer at trends in complaint data over time and develop further recommendations to help law enforcement agencies incorporate root cause analysis into the complaint process. The Board encourages law enforcement agencies, experts, and members of the public to provide public comments regarding these topic areas for discussion in future reports.

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Legislative Updates

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LEGISLATIVE UPDATES

This section highlights legislation enacted in 2024 that may impact the Board’s work towards eliminating racial and identity profiling. Below is an overview of the primary changes resulting from the enacted legislation.

Senate Bill 1020 – Prohibiting Ethnic Shooting Targets in Firearms Training

Senate Bill No. 1020 (2023-2024 Reg. Sess.) prohibits the use of “ethnic shooting targets” in firearms training mandated by the Commission on Peace Officer Standards and Training (POST) and presented to law enforcement recruits and officers. An “ethnic shooting target” is a target depicting skin colors or facial features from which a person might reasonably discern a race or ethnicity of the person depicted. The bill provides exceptions for realistic training simulators and video playback that utilizes live actors.

Studies published by the American Psychological Association establish that participants shoot at an armed target who is Black more quickly than an armed target who is White and are less likely to shoot an unarmed target if they are White than if they are Black. Citing RIPA data on the disparities in police stops for individuals perceived to be Black versus White, as well as an analysis of RIPA data by the Public Policy Institute of California, the Legislature noted there are “significant racial disparities in police-shootings” which prompted the bill. The Legislature noted that the use of ethnic shooting targets “only reinforces the inherent racial bias . . . that White individuals are less dangerous” than other individuals from other ethnic groups, and that SB 1020 would “start the long process of correcting inherent racial bias that certain ethnic groups are more dangerous than others.”

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