CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD
https://oag.ca.gov/ab953/board

STATE AND LOCAL RACIAL & IDENTITY PROFILING POLICIES SUBCOMMITTEE
MEETING NOTICE AND AGENDA

Wednesday, May 27, 2020

1:00 PM

Via Blue Jeans video and telephone conference ONLY. The public is encouraged to join the meeting using the "Join Meeting" link below. The "Join Meeting" link will provide access to the meeting video and audio. We recommend that you login 5-10 minutes before the start of the meeting to allow sufficient time to set up your audio/video, and to download the Blue Jeans application, if desired.

Join Meeting
(Join from computer or phone)

A phone dial-in option will also be available.

1.888.970.4404 (Toll Free)
Meeting ID: 958 328 124

1. INTRODUCTIONS (5 min.)
   Welcome Board Member Melanie Ochoa
2. APPROVAL OF OCTOBER 23, 2019 SUBCOMMITTEE MINUTES (1 min.)
3. OVERVIEW OF PROPOSED SUBCOMMITTEE WORK BY DEPARTMENT OF JUSTICE (5 min.)
4. UPDATE ON REVIEW OF WAVE 2 BIAS-FREE POLICING POLICIES BY DEPARTMENT OF JUSTICE (30 min.)
5. DISCUSSION OF PROPOSED SUBCOMMITTEE REPORT CONTENTS (1 hour)
6. PUBLIC COMMENT (25 min.)
   Both the Blue Jeans application and dial-in number will permit public comment
7. DISCUSSION OF NEXT STEPS (10 min.)
8. ADJOURN

Documents that will be reviewed during the meeting will be available in the Upcoming Meeting section of the Board's website https://oag.ca.gov/ab953/board on May 22, 2020.

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

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD
https://oag.ca.gov/ab953/board

STATE AND LOCAL RACIAL AND IDENTITY PROFILING POLICIES AND ACCOUNTABILITY SUBCOMMITTEE MEETING MINUTES

October 23, 2019 – 2:00 p.m. – 3:26 p.m.

Subcommittee Members Present: David Robinson, Micah Ali, Andrea Guerrero, Warren Stanley, LaWanda Hawkins, Oscar Bobrow, Tim Silard
Subcommittee Members Absent: Ben McBride, Sahar Durali

1. **Introductions**
   Allison Elgart from the California Department of Justice (DOJ) called the State and Local Racial and Identity Profiling Policies Subcommittee to order at 2:00 pm. The meeting was held by teleconference with a quorum of members present.

2. **Approval of the June 10th Subcommittee Meeting Minutes**

   MOTION: Member Bobrow made a motion to approve the June 10, 2019 subcommittee meeting minutes. Member Robinson seconded the motion.

   APPROVAL: All subcommittee members in attendance voted "yes"; there were no "no" votes and no abstentions.

3. **Overview of the Subcommittee Work**
   Ms. Elgart discussed the LEA policy review matrix that was sent to subcommittee members. She noted that the DOJ would follow up with the LEAs after edits to the matrix were made based on subcommittee discussion. She shared that the policy review matrix would be included in the Draft Board Report that would be shared before the November 20 Board meeting. Ms. Elgart also drew the subcommittee's attention to the comment letter provided by Karen Glover following the September Board meeting.

4. **Discussion of Proposed Section in Report – Racial and Identity Profiling Policies and Accountability**
   Ms. Elgart explained that the Civil Rights Enforcement Section (CRES) was still obtaining additional policies from law enforcement agencies (LEAs). She indicated that CRES would share the draft policy review matrix with agencies to provide them an opportunity to respond or provide materials for the review. Member Robinson agreed to reach out to the sheriffs at the agencies from which a response had not been received to encourage them to follow up with their staff contact person.

Member Bobrow asked that the subcommittee walk through the matrix. He inquired if a checkmark in the table indicated that the agency had a stand-alone policy. Ms. Elgart explained that the included categories matched the model policy language, and engaged the subcommittee in a discussion regarding whether each of the categories shown in the draft should be included and whether any other categories should be included. There was discussion to clarify how the categories were defined. There was a request to include definitions of the categories, for example, an explanation of what constitutes accessibility.

Co-Chair Guerrero stated the importance of designing a review based on best practices, allowing the Board to identify where policies do not align with best practices. She highlighted the importance of providing fair notice about the measurement standards.

Member Bobrow asked if it was a best practice for the agency to have a stand-alone bias-free policing policy. Ms. Elgart shared that evidence-based best practices were outlined in the 2019 Board Report. She explained that some agencies have a stand-alone policy and others have incorporated policies into their general enforcement policy. She highlighted Appendix B of the 2019 Report, in which the best practices were compiled by category. She noted that the best practices categories correspond to the matrix category headings, adding that the Board could prioritize which best practices would be included in the review. Co-Chair Guerrero and Member Bobrow stated the importance of making clear that the review is based on the best practices outlined in the 2019 Report and being consistent in reviewing the categories identified in 2019. Ms. Elgart added that information about the sources from which the best practices were identified could be included in the Report. Co-Chairs Stanley and Guerrero and Member Bobrow expressed support for including the references.

Member Bobrow stated that he appreciated the clarity of the matrix for determining which elements are included in each agency's policy. He noted that using an "x" to indicate a deviation from the best practice of having a stand-alone policy might encourage an agency to develop a stand-alone policy.

Member Hawkins stated the importance of following up with agencies that have not provided policies to ensure the review can accurately include them. Ms. Elgart shared that CRES would reach out to the LEAs to share the revised draft matrix within several days, allowing the LEAs several weeks to respond and provide additional information. There was a review of the agencies from which responses were received and the agencies for which materials were obtained via their websites.

Co-Chair Guerrero suggested replacing bullet points with a paragraph for each agency to provide additional detail and other members agreed. Co-Chair Guerrero offered to provide an example, adding that the narrative should provide any additional explanation needed.

The subcommittee discussed how to refine the category headings.

There was a discussion of the best practice for data analysis by individual LEAs. Ms. Elgart clarified that the review was specific to how the agency addresses data analysis within its policies. Member Silard discussed the ability of individual LEAs to analyze data more extensively, including officer-specific data, than what is possible in a statewide analysis, allowing the agencies to be very proactive in making policy changes and taking specific actions as a result of their data analysis.

Member Silard asked if the best practices recommendations included transparency. Ms. Elgart explained that there were best practices defined for accountability and communication with the community. Member Silard proposed that the Board recommend that LEAs make their data and their policies available to the community more expediently, and not wait for the data to be made available by the DOJ.

Member Robinson raised the issue that funding concerns had not been resolved, which may be related to the unresponsiveness of LEAs. He shared that each recommendation to LEAs that will require staff time or the services of an external vendor should be accompanied by a funding recommendation to legislators. He specifically mentioned the need for funding for translation and website updates to increase accessibility and transparency. Member Silard recommended, in follow-up to previous discussions of recommended legislative policy actions, raising the budget issues and bringing important policy issues to everyone's attention. Co-Chair Guerrero shared that this was consistent with the discussion at the full Board meeting supporting a recommendation for funding at an appropriate level to implement best practices and that the recommendation should be included in the Report.

Member Silard requested an overview of actions regarding the other policy recommendations made by the Board. Ms. Elgart shared that CRES is maintaining a list of questions frequently asked by LEAs and tracking potential regulatory fixes for the future. Member Silard asked that the most important regulatory fixes be included in the Report. Ms. Elgart described the legislative fixes raised by the Board, including (1) the funding issue already discussed; (2) the conflict between state and federal law for the Penal Code section about civilian complaints; and (3) reducing the 60-day notice period for full Board meetings to 30 days. She added that the proposed regulatory fixes address

issues raised during meetings that the Research Center hosted with LEAs and related to actions during stops.

Member Silard asked if the recommendation would be for additional funding to be directed to small and medium-size LEAs or less-resourced agencies to avoid additional resources being directed to agencies that do not struggle with resources. Member Robinson shared the importance of funding for smaller agencies and described the cost burden for a small agency that would like to have external experts analyze the agency's data. Member Bobrow suggested that there could be an assessment of agencies' needs to inform budget action. Ms. Elgart asked for confirmation that the recommendation would be for funding based on outreach to identify needs, with prioritization of smaller agencies, for implementation of data collection, in-house data analysis, and implementation of best practices.

Member Hawkins requested clarification about the best practice recommendation for policies regarding data analysis. Ms. Elgart explained that the best practice only states that the agency should analyze their collected data. Member Bobrow stated that the best practice concerning agency policies would be to include the practice of data analysis in the policy.

5. **Public Comment**
   Michele Wittig from the Santa Monica Coalition for Police Reform commented that power imbalance affects the Los Angeles County Dispute Resolution Program, leading to the dissatisfaction of citizens and missed growth opportunities. Dr. Wittig also described the Los Angeles Police Department mediation program, adopted by a unanimous vote of the City Council, for mediation of less egregious complaints as an opportunity for accountability.

6. **Discussion of Next Steps**
   Ms. Elgart shared that CRES would incorporate the comments on the matrix and requested that any additional feedback be sent to her. She noted that CRES would request the missing policies from LEAs. Co-Chair Stanley highlighted the best practices included in the 2019 Report describing specific points that agencies should address in their analysis. Ms. Elgart confirmed that the text describing the funding recommendation and the narrative section regarding agencies' policies would be provided for Board review. Co-Chair Guerrero noted that she sent the example review related to SB 54.

7. **Adjourn**
   Co-Chair Guerrero adjourned the meeting at 3:26 p.m.

State and Local Racial & Identity Policies Subcommittee Meeting: May 27, 2020

I. Wave 2 Agency Bias-Free Policing Policies Review Update

Based on the review of Wave 1 agencies' bias-free policing policies in the 2020 report, this subcommittee discussed the potential of doing a similar review with Wave 2 agencies. The matrix below includes a review of the most recent policies we obtained either online or through a request to the agency. To date, we were unable to obtain policies from the Sacramento County Sheriff's Office. As was done with last year's report, the Board intends to share this review with the law enforcement agencies to ensure accuracy before it is published in the 2021 report.

The review of Wave 2 agencies' bias-free policing policies is based on best practices outlined in the 2019 report.

Oakland PD: The Oakland Police Department (Oakland PD) has an eight page, stand-alone policy titled "Prohibitions Regarding Racial Profiling and Other Bias-Based Policing," effective November 15, 2004. In addition to this stand-alone policy, there is a section in the Rules and Regulations for All Members and Employees that touches on conduct towards others.[1] Both policies can be found on Oakland PD's website. The policy defines racial profiling and includes a statement on the limited circumstances in which characteristics of individuals may be considered. In addition to the definitions, the policy provides examples of racial profiling and establishes that consent searches should not be based on actual or perceived race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability. At the outset of the policy, there is a purpose statement establishing that the policy reaffirms the Oakland PD's commitment to providing service and enforcing laws in a fair and equitable manner and to establish a relationship with the community based on trust and respect. To assist with this community relationship building, the policy includes a section on communication with the community when conducting stops. The policy also includes a component on racial and identity training. Although the policy does not have a separate component on data analysis, the policy makes clear that the agency's Racial Profiling Manager will produce a bi-annual report that includes analysis of the data collected.

Oakland PD requires its members to not engage in, ignore, or condone racial profiling or other bias-based policing. Furthermore, the policy requires members to report incidents and makes clear that members will be subject to discipline if found out of compliance with this policy. In addition to providing for supervisory review, the policy is clear that supervisors and commanders who fail to comply with this policy will be subject to discipline. Moreover, supervisors and commanders who know or reasonably should know that their subordinates are out of compliance with this policy will also be subject to disciplinary action.

[1] Section 314.04 "Conduct Towards Others – Harassment and Discrimination" that became effective September 30, 2010.

Sacramento PD: The Sacramento Police Department (Sacramento PD) has a stand-alone bias-based policing policy dated June 5, 2017. The policy is available on the agency's website. The policy strictly prohibits the detention, interdiction, or disparate treatment of any person based on their actual or perceived characteristics by their officers and the policy makes clear that complaints of such behavior will be thoroughly investigated. The policy defines bias-based policing and racial profiling. It does include recommended components on the limited circumstances in which characteristics of individuals may be considered, communication with the community, and training. Sacramento PD's bias-based policing policy does not provide guidance regarding the collection or use of demographic data associated with stops, detentions or seizures conducted by its officers. General Order 210.08 governs the agency's Vehicle Stop Data Procedures but is limited to the collection of statistical information related solely to traffic stops. Sacramento PD has posted a statement on its website indicating that it is expanding data collection practices to meet the requirements of AB 953. The bias-based policing policy requires officers to report knowledge or information they may have about conduct that would violate this policy. The policy also provides for supervisory review.

Fresno PD: The Fresno Police Department (Fresno PD) has a stand-alone[2] policy that was effective February 1, 2017. The policy has a corresponding procedure effective as of December 18, 2018. The policy defines racial or bias based policing and includes a component on the limited circumstances in which characteristics of individuals may be considered. There is no component on encounters with the community. The procedure includes a component on officer training and encourages members to familiarize themselves with racial and cultural differences if they have not yet received training. The procedure discusses the collection of stop data through Cal DOJ's Stop Data Collection System pursuant to AB 953; neither the policy or procedure includes a component on data analysis. The procedure makes clear that is it the responsibility of all members of Fresno PD to prevent, report, and respond appropriately to discriminatory or biased practices. The policy does not address supervisory review.

Orange County Sheriff: The Orange County Sheriff's Department (OCSD) has a stand-alone[3] policy on "Bias Free Policing" and a separate policy on "Racial and Identity Profiling Act (RIPA)." The Bias Free Policing policy defines racial or bias based policing and includes a component on the limited circumstances in which characteristics of individuals may be considered. There is no component on encounters with the community. The procedure includes a component on officer training and encourages members to familiarize themselves with racial and cultural differences if they have not yet received training. The RIPA policy delineates the data fields that must be reported. Neither policy includes a component on data analysis. The Bias Free Policing policy makes clear that is it the responsibility of all members of OCSD to prevent, report, and respond appropriately to clear discriminatory or biased practices. The policy does not address supervisory review.

[2] Fresno PD's policy is provided by a private corporation through a paid subscription service offered to law enforcement agencies around the country.
[3] Orange County Sheriff's policy is provided by a private corporation through a paid subscription service offered to law enforcement agencies around the country.

San Jose PD: The San Jose Police Department (San Jose PD) has a stand-alone policy that was last revised on February 15, 2011. In addition to this policy, there are two other policies that touch on bias-free policing, namely the "C 1305 Equality of Enforcement" and "C 1308 Courtesy" sections. All three of these policies are available online. The stand-alone bias-based policing policy includes a definition of bias-based policing, which also explains that such policing can occur throughout the stop and not only upon initiation of the stop. The stand-alone policy does not contain an explanation of the limited circumstances in which characteristics of individuals may be considered. Policies C 1305 and C 1308 explain in detail how an officer should conduct themselves during interactions with the public. None of the three policies discuss bias/racial profiling training. The San Jose PD also has a separate policy on "L 5109 Documenting Detentions Pursuant to the Racial and Identity Profiling Act of 2015 (AB 953)." None of its policies discuss data analysis, accountability, or supervisory review.

Long Beach PD: The Long Beach Police Department (Long Beach PD) does not have a stand-alone bias-free policing policy. Relevant content is provided in sections "3.2 General Responsibilities – Employees" and "3.4 Conduct Toward the Public" of its manual. These policies are available on the Long Beach PD's website. While section 3.4 states that all citizens are guaranteed equal protection under the law, it does not include a definition of racial profiling or a component on the limited circumstances in which characteristics of individuals may be considered. Section 3.4 includes a section on encounters with the community in which officers are required to provide their names and department IDs or those of other officers if requested. Neither policy discusses annual training on bias/racial profiling, components for the analysis of stop data collected, accountability, and supervisory review.

Sacramento County Sheriff: *We have not received any policies from this agency and were unable to find them on their website.*

Wave 2 Agency	Stand-Alone Bias-Free Policing Policy?	Clearly Written?	Easily Accessible?	Uses Concrete Definitions of Bias-Free Policing and/or Racial & Identity Profiling	Component on Limited Circumstances in which Characteristics of Individual May Be Considered?	Component on Encounters with Community?	Component on Racial and Identity Profiling Training?	Component on Data Analysis?	Component on Requiring Accountability?	Supervisory Review?
Oakland PD	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sacramento PD	✓	✓	✓	✓	✓	✓	✓	✘	✓	✓
Fresno PD	✓	✓	✓	✓	✓	✘	✓	✘	✓	✘
Orange County Sheriff's	✓	✓	✓	✓	✓	✘	✓	✘	✓	✘
San Jose PD	✓	✓	✓	✓	✘	✓	✘	✘	✘	✘
Long Beach PD	✘	✓	✓	✘	✘	✓	✘	✘	✘	✘
Sacramento County Sheriff's			✘							

- All [agency] personnel, including dispatchers and non-sworn personnel, shall not retaliate against any person who complains of biased policing or expresses negative views about them or law enforcement in general.
- All [agency] personnel, including dispatchers and non-sworn personnel, share the responsibility of preventing bias-based policing. Personnel shall report any violations of this policy they observe or of which they have knowledge.
    - *Processes and procedures for reporting violations should be included.*

H. Model Policy Language for Supervisory Review

- Supervisors shall ensure that all personnel under their command, including dispatchers and non-sworn personnel, understand the content of this policy and comply with it at all times.
    - Supervisory processes and procedures for monitoring should be included.
- Any employee who becomes aware of any instance of bias-based policing or any violation of this policy shall report it in accordance with established procedure.
- Supervisors who fail to respond to, document, or review allegations of bias-based policing will be subject to remedial action.
    - Types of remedial action should be outlined.
    - Supervisor processes and *procedures for review should be included.*

Wave 1 Agency Bias-Free Policing Policy Review

This year, the Board undertook a review of the bias-free policing or equivalent policies for all eight Wave 1 agencies. The matrix below summarizes the Board's review of the most recent policies the Department obtained, based on the best practices outlined in the 2019 RIPA Board Report. Following the matrix is a more detailed review of each agency's bias-free policing policy and related policies that contain relevant information.

In the 2019 Report, the Board recommended various best practices to assist agencies with having clear, thoughtful, and robust bias-free policing policies. To that end, the Board reviewed the factors below. First, the Board assessed whether the policy was clear about the agency's prohibition against bias-based policing and whether that commitment was furthered by having a stand-alone policy. Additionally, the Board reviewed whether the policy defined bias-based policing and explained in what limited circumstances personal characteristics may be considered. Next, the Board evaluated whether the policy was accessible to the public and whether the policy discussed guidelines according to which agency members should interact with the community. The Board also assessed whether the policy included a component on training related to racial and identity profiling. Lastly, the Board evaluated the accountability built into the policy by looking at whether the policy discussed analysis of data collected and supervisory review. In its review, the Board was not expecting each agency to exactly follow the above-mentioned model language. Instead, the Board looked for instances where the concepts above were incorporated into the policies.

These recommendations represent an accumulation of best practices identified by the United States Department of Justice (USDOJ) and other relevant empirical research conducted by well-regarded

organizations, including the Police Executive Research Forum (PERF),[64] the International Association of Chiefs of Police (IACP),[65] the Vera Institute,[66] Fair and Impartial Policing,[67] Stanford SPARQ,[68] and the Center for Policing Equity (CPE).[69] The Department shared this review with the subject LEAs to ensure accuracy before including this information in the report.

The RIPA Board encourages all Wave 1 agencies to re-examine their policies. The Policy Review that follows may assist agencies in identifying areas of opportunity to incorporate the best practices outlined in the Board's 2019 report and the aforementioned model language.

Wave 1 Agency	Stand Alone Bias Free Policing Policy?	Clearly Written?	Easily Accessible?	Uses Concrete Definitions of Bias Free Policing and/or Racial & Identity Profiling?	Component on Limited Circumstances in which Characteristics of Individual May Be Considered?
San Francisco PD	✓	✓		✓	✓
CHP	✗	✓		✓	✓
Los Angeles PD	✓	✓		✓	✓
Riverside Sheriff	✓	✓		✓	✓
San Bernardino Sheriff	✓	✓		✗	✗
San Diego PD	✓	✓		✓	✗
San Diego Sheriff	✓	✓		✗	✓
Los Angeles Sheriff	✗	✓		✗	✗

[64] Police Executive Research Forum (PERF). Information available at https://www.policeforum.org/.
[65] International Association of Chiefs of Police (IACP). Information available at https://www.theiacp.org/.
[66] The Vera Institute of Justice. Information available at https://www.vera.org/.
[67] Fair and Impartial Policing. Information available at https://fipolicing.com/.
[68] Stanford SPARQ. Information available at https://sparq.stanford.edu/.
[69] Center for Policing Equity (CPE). Information available at http://policingequity.org/.

Wave 1 Agency	Component on Encounters with Community?	Component on Racial and Identity Profiling Training?	Component on Data Analysis?	Component Requiring Account-ability?	Supervisory Review?
San Francisco PD	✓	✗	✓	✓	✓
CHP	✓	✓	✓	✓	✓
Los Angeles PD	✓	✗	✗	✓	✓
Riverside Sheriff	✗	✓	✗	✓	✗
San Bernardino Sheriff	✓	✓	✗	✗	✗
San Diego PD	✗	✗	✗	✓	✗
San Diego Sheriff	✗	✗	✗	✗	✗
Los Angeles Sheriff	✗	✗	✗	✓	✗

San Francisco PD: The San Francisco Police Department is in the process of revising Department General Order 5.17.[70] The information in the above chart is from a review of the current policy, which was revised in May 2011. The 2011 policy, which is available in English on the SFPD website[71] mentions equal protection and Fourth Amendment laws and contains a definition of biased policing. In line with the Board's best practice recommendations, it includes a component on the limited circumstances in which characteristics of individuals may be considered, as well as a component on communication with the community to prevent perceptions of biased policing. However, the policy does not contain a

[70] In updating its anti-bias policy, the SFPD gathered various stakeholders from the community and local government, including the San Francisco Police Commission and the San Francisco Department of Police Accountability, to help draft the soon to be approved policy. Other law enforcement agencies should consider a similar approach to improve community and law enforcement relations.

[71] See San Francisco Police Department. (2011). General Order 5.17: Policy Prohibiting Biased Policing [PDF file]. Available at https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO5.17%20Policy%20Prohibiting%20Biased%20Policing.pdf.

component on racial and identity profiling training. It includes components for accountability and supervisory review. A separate policy, San Francisco Administration Code, section 96A.3, mandates SFPD to conduct analysis and reporting of collected data. Quarterly reports with the data analysis, including an executive summary, are available on the agency's website.

CHP: The California Highway Patrol does not have a stand-alone bias-free policing policy. Relevant content is integrated into the Enforcement Policy Manual and is additionally reflected in the Drug Programs Manual; neither of these manuals is available online. The Enforcement Policy Manual includes information on the requirements under current state and federal law. CHP policies define racial and identity profiling, as well as probable cause, consent, and reasonable suspicion. They include a component on the limited circumstances in which characteristics of individuals may be considered, as well as a component on encounters with the community. Annual cultural awareness training is provided to all employees and includes training on racial profiling; an eight-hour classroom-training course is alternated with an online refresher course every odd-numbered calendar year. The policies include components for the analysis of the collected data, accountability, and supervisory review.

LAPD: The Los Angeles Police Department has a three-paragraph, stand-alone Policy Prohibiting Biased Policing that is clearly written and available in English on the LAPD website.[72] The policy was updated in November 2019, expanding protected classes to include immigration or employment status, language fluency, and homeless circumstance. The policy defines bias-free policing. It includes a component on the limited circumstances in which characteristics of individuals may be considered. Furthermore, it designates failure to comply as an act of serious misconduct and requires employees to report violations of the policy. Related content is included in other policy sections, including encounters with the community. Supervisory review is addressed in a separate section of the *Department Manual. Section 4/202.2 – Automated Field Data Reports (AFDR)/Completion and Tracking* outlines officers' responsibilities for completing AFDRs and describes supervisors' responsibilities for:

- reviewing AFDRs promptly to ensure that officers are properly completing the AFDR per the AFDR Completion Guide and Supervisor AFDR Completion Guide;
- editing or directing the completing officer to revise the narrative portions of the AFDR, when appropriate;
- ensuring that a legal basis for the detention and search (if applicable) is adequately articulated in the narrative; and,
- ensuring that no identifying characteristics of the person(s) being stopped or the officer(s) involved are listed.

Watch Commanders and Commanding Officers' responsibilities related to AFDR are also specified.

The LAPD policy does not include a component on racial and identity training. However, LAPD provided to the Board a ten-page *Police Training and Education – 2019 Biased Policing Reduction*

[72] See Los Angeles Police Department. (2019). *2019 2nd Quarter Manual.* Available at http://lapdonline.org/lapd_manual/volume_1.htm#345.

Strategy document that includes detailed information about current training courses required of officers, supervisors, and command staff.

The LAPD policy does not include a component on data analysis. LAPD did, however, share a document, *Efforts to Reduce the Number of Biased Policing Complaints Report,* which outlines the LAPD's data analysis efforts. In a letter to the Department, dated December 2, 2019, the LAPD provided additional details about data analysis by a Steering Committee that meets every four weeks. The letter also describes a Stop Data Dashboard that the LAPD is developing to provide commanding officers insight into the types of stops being conducted, reasons for stops, searches conducted, and actions taken by officers in the field.

Riverside Sheriff: The Riverside County Sheriff's Department has a clearly written stand-alone[73] policy that was last revised October 7, 2019. The policy is not available online. It defines bias-based policing and includes a component on the limited circumstances in which characteristics of individuals may be considered. There is no component on encounters with the community. The policy includes a component on officer training and encourages members to familiarize themselves with racial and cultural differences if they have not yet received training. The policy does not include a component on data analysis; it does delineate, however, what data is collected for RIPA. The policy requires members to be responsible for reporting any biased-based policing they suspect or have knowledge of and encourages members to intervene whenever they see bias-based actions. The policy does not address supervisory review.

San Bernardino Sheriff: The San Bernardino County Sheriff's Department has a clearly written two-sentence, stand-alone policy prohibiting biased policing. This policy is not available on the agency's website; the agency submitted it to the RIPA Board. It does not include definitions of bias-free policing or racial and identity profiling nor a component on the limited circumstances in which characteristics of individuals may be considered. The policy contains a component on interaction with the public and states that the Sheriff's Department must provide initial and continuing training in community relations. The policy discusses data collection but does not address analysis, accountability, or supervisory review.

San Diego PD: The San Diego Police Department has a clearly written stand-alone policy that was last revised in 2015. The policy is available in English on the SDPD website.[74] The policy defines bias-based policing. It does not include recommended components on the limited circumstances in which characteristics of individuals may be considered, communication with the community, training, data analysis, or supervisory review. SDPD requires members to make every effort to prevent and report bias-based policing by fellow members.

[73] A private corporation provides Riverside's policy through a paid subscription service offered to law enforcement agencies around the country.

[74] See San Diego Police Department. (2016). *Policy Manual* [PDF file], p. 35. Available at https://s3.amazonaws.com/themis.datasd.org/policies_procedures/Policies/Complete%20Policy%20Manual.pdf

San Diego Sheriff: The San Diego County Sheriff's Department has a clearly written, seven-paragraph section in the Procedures Manual concerning their stand-alone policy, which was last revised in August 2018. The policy and procedures are available in English on their website.[75] The policy mentions Fourth Amendment laws and refers to the updated definition of racial or identity profiling, but the definition is not included in the policy itself. It contains a component on the limited circumstances in which characteristics of individuals may be considered, but does not address encounters with the community, training, accountability, or supervisory review. The policy discusses RIPA data collection, but not data analysis.

Los Angeles County Sheriff: The Los Angeles County Sheriff's Department (LASD) does not have a stand-alone policy; the policy is integrated into the Policy of Equality. Additionally, the LASD's Constitutional Policing Policy emphasizes the Department's commitment to equal protection without bias. It is clearly written and available in English on the Sheriff's website.[76] The policy does not include definitions of bias-free policing or racial and identity profiling. The policy does not include components on the limited circumstances in which characteristics of individuals may be considered, encounters with the community, training, or analysis of the collected data. It contains general supervisory review statements and refers to an Equity Oversight Panel that reviews each Equity Unit internal complaint investigation and the effectiveness of the policies and procedures. The Affirmative Action unit receives and processes external complaints of discrimination, harassment, and retaliation, who then forwards the complaints to the Equity Unit for investigation and resolution.

Vision for Future Reports

In the coming years, the Board hopes to review the bias-free policing policies of the Wave 2 and Wave 3 agencies as they begin to submit stop data. It will also seek to incorporate any revisions or updates agencies may make to their bias-free policing policies in its review. Future reports will also include any changes to best practices that may inform law enforcement agencies' bias-free policing policies and practices.

[75] See San Diego County Sheriff's Department. (2018). *Policy and Procedure Manual* [PDF file]. Available at https://www.sdsheriff.net/documents/pp/pp-20160321.pdf.

[76] See Los Angeles County Sheriff's Department. (2018). Policy and Ethics. In *Manual of Policy and Procedures.* Available at http://shq.lasdnews.net/shq/mpp/3-01.pdf; Los Angeles County Sheriff's Department. (2017). Miscellaneous Line Procedures. In *Manual of Policy and Procedures.* Available at http://shq.lasdnews.net/shq/mpp/5-09.pdf.

DEPARTMENTAL
GENERAL
ORDER

M-19

New Order
Effective Date
15 Nov 04

Index as:

Bias-Based Policing
Prohibitions Regarding Racial Profiling
and Other Bias-Based Policing
Racial Profiling

PROHIBITIONS REGARDING RACIAL PROFILING AND OTHER BIAS-BASED POLICING

I. PURPOSE

A. The purpose of this policy is to reaffirm the Oakland Police Department's commitment to providing service and enforcing laws in a fair and equitable manner, and to establish a relationship with the community based on trust and respect. Whenever our practices are, or are perceived to be, biased, unfair, or disrespectful, we lose public trust and support and diminish our effectiveness.

B. The Department recognizes that there has been a growing national perception that law enforcement action is too often based on racial stereotypes ("racial profiling") or other bias-based policing – whether it is against African Americans, Latinos, Asians, Middle Easterners, South Asians, or any other race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability. In Oakland, there is concern within our communities that some members may engage in this behavior. Whether individual members agree or not, we, as an organization, must recognize that this concern exists and be responsive to it.

C. California Penal Code Section 13519.4(e) prohibits racial profiling by law enforcement officers. This Department policy explicitly prohibits racial profiling and other bias-based policing. It also states the limited circumstances in which members can consider race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability in making law enforcement decisions and actions.

II. DEFINITION OF RACIAL PROFILING

The use of race, ethnicity, or national origin in determining reasonable suspicion, probable cause or the focus or scope of any police action that directly or indirectly imposes on the freedoms or free movement of any person, unless the use of race, ethnicity, or national origin is used as part of a specific suspect description.

III. POLICY

A. Investigative detentions, traffic stops, arrests, searches and property seizures by officers shall be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution.

B. Members shall articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, pedestrian, bicycle, or vehicle stops, arrests, non-consensual searches and property seizures.

C. Members shall not consider actual or perceived race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability in establishing either reasonable suspicion or probable cause or when carrying out law enforcement activities EXCEPT when credible and reliable information links specific suspect descriptions to specific unlawful or suspicious activity.

Members seeking one or more specific persons who have been identified or described in part by any of the above listed characteristics may rely on these characteristics in part and only in combination with other appropriate factors.

IV. CONSENT SEARCHES

A. A consent search refers to searches conducted not based on probable cause, incident to arrest or pursuant to a search warrant, but based on permission granted from the person being searched.

B. Consent searches are permissible law enforcement tools; however, their use shall not be:

1. Arbitrary. In other words, the request to conduct a consent search must be reasonable and members should be able to articulate the suspicion that formed the basis for the request.

2. Based on actual or perceived race, ethnicity, national origin, gender, age, religion, sexual orientation, or disability.

C. Members shall complete a Field Contact Report (836-314) for each consent search conducted articulating the reason for the search.

D. Pursuant to Report Writing Manual Insert R-2, members shall complete a Stop-Data Collection Form (Scantron) for each consent search conducted.

E. Members shall advise individuals of their right to refuse a consent search.

V. CONDUCTING STOPS

In conducting pedestrian, bicycle, or vehicle stops, members shall:

A. be courteous, respectful, polite and professional.

B. explain the reason for the stop while asking for identification, unless impractical.

C. identify yourself.

D. ensure the length of the detention is no longer than necessary to take appropriate action for the known or suspected offense, and explain the reason for any delays.

E. answer questions the person may have regarding the stop and explain the disposition of the stop.

F. apologize for the inconvenience when appropriate.

G. if asked, provide the procedures for filing a complaint about police services or conduct outlined in DGO M-3 COMPLAINTS AGAINST DEPARTMENTAL PERSONNEL OR PROCEDURES.

VI. EXAMPLES OF RACIAL PROFILING

A. Examples of racial profiling include but are not limited to the following:

1. Example #1

While on patrol an officer observes a black male driving a new, expensive Mercedes Benz in a low-income neighborhood. The vehicle is not listed on the "hot sheet" nor is it entered in the Stolen Vehicle System (SVS). The officer decides to stop the vehicle to further investigate because he feels the car may be stolen because it appears too expensive for the driver and the neighborhood.

Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess a specific model of vehicle is prohibited.

In this particular example, the officer had neither reasonable suspicion nor probable cause to detain the vehicle. Absent additional information or observations that would lead a "reasonable" officer to believe the vehicle was stolen, such as a smashed window or signs that the vehicle was hot-wired, the officer's stop constitutes racial profiling.

2. Example #2

An officer is assigned to a predominately "white" residential neighborhood. While on patrol, the officer observes a Hispanic male driving a truck late at night. The officer knows most of the residents in the area and does not recognize the Hispanic driver. Recently there have been burglaries in that area. Based on the fact that there have been burglaries in the area, and the driver is Hispanic and the residents in the area are white, the officer stops the vehicle to further investigate.

Detaining the driver of a vehicle based on the determination a person of that race, ethnicity or national origin does not belong in a particular part of town constitutes racial profiling and is prohibited.

In this particular example, the officer's knowledge of the residents and the driver's race, even though the race differs from most of the residents in that area, does not provide reasonable suspicion. The

fact that there have been burglaries in the area may raise an officer's suspicion to vehicles driving late at night; however, even when this information is considered with the other factors discussed, it is an insufficient basis for a detention.

VII. STOP-DATA COLLECTION

Pursuant to Department Report Writing Manual Insert R-2, members shall:

A. complete a Stop-Data Collection Form for every vehicle, walking, and bicycle stop conducted during their shift. Members shall also complete a Stop-Data Collection Form for every consent search conducted.

B. print his/her name and serial number at the bottom of every Stop-Data Collection Form completed.

C. submit completed Stop-Data Collection forms to their assigned supervisor or, in the absence of the assigned supervisor, an available field sergeant or Watch Commander for review and approval.

D. deposit all completed (and approved) forms in the report writing receptacle at the end of their shift.

VIII. MEMBER RESPONSIBILITIES

Members shall:

A. not engage in, ignore, or condone racial profiling or other bias-based policing.

B. be responsible for knowing and complying with this policy.

C. report incidents of racial profiling as defined in this policy.

D. be subject to disciplinary action if deemed not in compliance with this order.

IX. COMPLAINTS

Complaints of racial profiling and other bias-based policing against members shall be:

A. considered complaints of discrimination (Class 1 violation as defined in DGO M-3) and, as such, immediately forwarded to the Internal Affairs Department.

B. immediately referred to the member's supervisor, or if the officer's supervisor is not available, to the Watch Commander.

X. TRAINING

A. Pursuant to California Penal Code Section 13519.4, each member shall:

1. attend POST racial profiling training; and

2. complete an approved refresher course every five (5) years, or sooner if deemed necessary, in order to keep current with changing racial and cultural trends.

B. The Racial Profiling Program Manager shall ensure line-up training on racial profiling and this policy is provided to sworn personnel at least once annually. This training may also be provided to non-sworn personnel.

XI. SUPERVISORY RESPONSIBILITIES

Supervisors shall:

A. not engage in, ignore, or condone racial profiling or other bias-based policing.

B. be responsible for knowing and complying with this policy.

C. ensure that subordinates under their command know and understand the content and application of this policy.

D. periodically monitor subordinates under their supervision to ensure compliance with this policy.

E. review all forms submitted by members to ensure the forms are completed in accordance with this order and Report Writing Manual Insert R-2.

F. print his/her name and serial number in the appropriate boxes signifying the form has been reviewed and approved, and return the form to the appropriate member.

G. conduct periodic audits to ensure compliance with this order.

Supervisors and commanders who fail to comply with this order shall be subject to disciplinary action.

If it is determined that members assigned to a supervisor and/or commander failed to comply with this order and the supervisor and/or commander knew of said violation, or should have reasonably known, the supervisors and/or commander shall be subject to disciplinary action.

XII. BUREAU OF FIELD OPERATIONS

The Bureau of Field Operations (BFO) is responsible for data collection processing. Accordingly, BFO shall:

A. ensure Stop-Data Collection Forms are available in the Patrol Line-up Room.

B. enter the Stop-Data Collection Forms into the SCANTRON system within five working days of receipt.

C. retain completed and scanned forms for period of not less than three years unless otherwise instructed by the Chief of Police.

D. conduct periodic audits to ensure members comply with the provisions of this order and RWM Insert R-2.

XIII. OFFICE OF INSPECTOR GENERAL (OIG)

Pursuant to the provisions of DGO N-12, Departmental Audits and Inspections, the OIG shall conduct annual reviews and audits of the Department's data collection efforts to ensure compliance with the Settlement Agreement. The OIG shall report all findings to the Chief of Police and the Program Manager.

XIV. RACIAL PROFILING PROGRAM MANAGER

A. The Racial Profiling Program Manager is responsible for the following:

1. Racial profiling grant management;
2. Coordination of stop-data collection and analysis;
3. Completion of all reports pertaining to racial profiling; and
4. Coordination with the OIG to ensure compliance with the Settlement Agreement.

B. The Racial Profiling Program Manager shall:

1. produce a written report to the Chief of Police at least twice per year that includes an analysis of the data collected, and appropriate policy recommendations.

2. periodically meet with the Oakland Racial Profiling Task Force, which is comprised of representatives of the following organizations:

   a. Oakland Police Officers' Association (OPOA);
   b. Citizens' Police Review Board (CPRB);
   c. American Civil Liberties Union (ACLU);
   d. National Association for the Advancement of Colored People (NAACP); and
   e. People United for a Better Oakland (PUEBLO).

By order of

Richard L. Word
Chief of Police

Date Signed: 26 Oct 04

CHAPTER III

Rules and Regulations for All
Members and Employees

314.00 PROFESSIONAL CONDUCT AND RESPONSIBILITIES

314.03 GENERAL CONDUCT – Members and employees shall conduct themselves at all times in such a manner as to reflect favorably upon themselves, the City, the Department and the police service. Whether on or off-duty, members and employees shall avoid any conduct that brings disrepute to the Department or impairs its efficient and effective operation.

314.04 CONDUCT TOWARD OTHERS – HARASSMENT AND DISCRIMINATION – Members and employees shall treat all persons with courtesy and respect. The Department has a zero tolerance policy for harassment and discrimination against members, employees and persons on the basis of race, religion, national origin, marital status, age, sex, sexual orientation, ancestry, physical or mental disability, or medical condition. The Department prohibits conduct that violates the specified City Administrative Instruction.

Any member or employee who harasses or discriminates against another member, employee, or any person, or engages in any inappropriate workplace conduct that violates City Administrative Instruction 71 shall be subject to severe disciplinary action, including discharge from the City service.

Any member or employee who has knowledge that another member or employee has engaged in harassment or discrimination or inappropriate conduct that violates the specific City Administrative Instruction is strictly charged with the responsibility for reporting that conduct in accordance with the provisions of Manual of Rules Section 314.48 (Reporting Violations of Laws, Ordinances, Rules or Orders).

314.05 CONDUCT TOWARD OTHERS – WORKPLACE VIOLENCE – In order to provide a safe and appropriate work environment, the Department has zero tolerance for acts and threats of violence. Employees and members shall report threats or acts of violence or intimidation between members and/or employees to their supervisor. Supervisors are responsible for immediately reporting threats or acts of

violence and intimidation to the Internal Affairs Division. The following terms are defined as follows:

- Threat – An expression of intention to hurt, punish, intimidate etc. A threat of violence includes threats against people or property.

- Violence – Intentional physical force used so as to cause injury or mental or emotional harm.

314.07 CONDUCT TOWARD OTHERS – DEMEANOR – Members and employees shall perform their duties attentively and courteously, avoiding rude, threatening, harsh, insulting, insolent or demeaning language, and they shall maintain a professional bearing regardless of provocation to do otherwise.

- Members and employees shall treat superior officers, subordinates, and peers with respect. They shall be courteous and civil at all times in their relationships with one another and shall avoid any inappropriate conduct.

- All persons, except the very youthful and those known personally by the member or employee, shall at all times be addressed by their appropriate title followed by their last name. When on duty and in the presence of others, superior officers shall be referred to by rank title.

- Members and employees shall attend to requests from the public quickly and accurately, avoiding unnecessary referral to other parts of the Department.

- Orders from superior to subordinate members and employees shall be given in a civil manner, without the use of profane or derogatory language.

314.08 CONDUCT TOWARD OTHERS – RELATIONSHIPS – Members and employees shall not inappropriately convert or attempt to convert an on-duty contact to an intimate relationship.

314.15 ASSISTANCE – All members are required to take appropriate police action to aid another law enforcement officer in danger.

OFFICE OF CHIEF OF POLICE
OAKLAND POLICE DEPARTMENT

SPECIAL ORDER NO. 9042

TO:	All Personnel
SUBJECT:	New Procedures Regarding Stop Data Collection
EFFECTIVE DATE:	11 Jun 10
TERMINATION:	Upon Revision of DGO M-19, RACIAL PROFILING (Rev. 15 Nov 04) and RWM Insert R-2, COMPLETING THE STOP DATA COLLECTION FORM (Rev. 15 Jan 10)

The purpose of this order is to revise Department policy and procedure to ensure that all investigative police encounters with the public are properly documented and that required information is collected and entered into the Field Based Reporting (FBR) and Computer Aided Dispatch (CAD) systems. The provisions of this Special Order apply to all members including the Traffic Section, Crime Reduction Teams and Violence Suppression Teams.

Effective immediately, Department General Order M-19, RACIAL PROFILING and RWM Insert R-2 are revised as indicated.

New DGO M-19, Part II, B

II. DEFINITION OF RACIAL PROFILING

B. Investigative Encounter

An investigative encounter is any police encounter with a member of the public when the officer contacts a person to confirm or dispel a suspicion that the person may be involved in criminal activity. This includes detentions, vehicle stops, walking stops and consensual encounters (contacts).

Revised DGO M-19, Part III, A and RWM Insert R-2, Introduction

III. POLICY

A. When FBR Stop Data is Collected

Members shall complete an electronic **FBR Stop Data Collection** Form (SDF) for certain arrests, every detention not resulting in an arrest (vehicle, walking, and bicycle stops), every consent search of a person conducted and any other investigative encounter. A SDF shall also be completed for consensual encounters (contacts) where the member talks with a person to confirm or dispel a suspicion that the person may be involved in criminal activity, although the person is free to leave. The nature of the contact and the intent of the member is relevant in the determination to complete an FC and Stop Data Collection Form (in FBR). When in doubt, members should complete an FC and Stop Data Form.

1. The following non-discretionary arrests do not require collection of stop data. The purpose of collecting data is to examine discretionary police encounters with the public. Non-discretionary arrests <u>are limited to arrests</u> where:

   a The member receives the arrest from private person (citizen's arrest);

   b The member receives the arrest from a member of a law enforcement agency (BART, ACSO, Parole, etc.);

   c Arrests where the officer is directed to the arrested person by a credible witness, complainant, or other person who is on the scene of the arrest;

   d Arrests where the officer is directed to the arrested person by the Communications Section or a law enforcement officer AND the physical description, location (example: proximity to crime scene or last known location), timeliness and criminal activity sufficiently and reasonably identifies the arrestee to the exclusion of anyone else;

e Self-initiated arrests where the arrested person is known to the arresting officer and known to be wanted for a specific offense. Persons are "known" based on photographs, previous encounters, biological data and physical descriptions sufficiently identifying the arrestee, or the arrestee self-identified;

f Arrests resulting from an arrestee's unsolicited surrender; and

g Arrests incident to a search warrant service.

2. Mere contact with a person does not require the completion of a form. (e.g., an officer contacts a person to exchange greetings or provide assistance answering questions.)

3. Members shall document the reason(s) whenever, following an arrest, stop data is not collected, in the Consolidated Arrest Report (CAR).

IV. New DGO M-19, Part III, D-K

D. Members shall complete all Field Contact (FC) Reports in FBR by the end of the reporting member's shift via the MDT or desk top computer. Hard copy or paper FCs are no longer authorized, except when the FBR system is not operating, in which case paper FCs and paper Stop Data forms shall be completed and submitted to a supervisor for review and delayed data entry by office staff if the system is not operational by the end of the reporting member's shift.

E. Members shall complete an FBR Field Contact Report for each investigative encounter and consent search not resulting in an arrest documenting the reason for the encounter or search. Each FBR Field Contact Report shall also contain the Computer Aided Dispatch (CAD) incident number and RD number if one is assigned.

F. The collection of Stop Data information attached to the Notice to Appear (NTA) is no longer required. However, the citation number from the NTA shall be entered into the RD Number field in the FBR Stop Data Collection Form. Members shall enter the number "0" at the beginning of the RD number field when a citation number is entered.

NOTE: If a "0" is not entered, the FBR system will not accept the citation number which requires an eight character entry.

G. Members shall enter the entire CAD incident number into the FBR Stop Data Collection Form.

H. Members shall advise the Communication Section of any investigative encounter in the field including a detention, arrest, or a consensual encounter to confirm or dispel a suspicion that the person may be involved in criminal activity. This requirement includes all walking stops, car stops, bicycle stops and consensual encounters where the member talks with a person to confirm or dispel a suspicion that the person may be involved in criminal activity, although the person is free to leave.

I. Members conducting any investigative encounter shall provide the Communications Section via the radio with the reason for the encounter at the initiation of the encounter (red light violation, 11500, 459 suspect, truant, 5150, 647f, loitering, etc).

J. Members shall document **ALL** investigative encounters in the Data Driven Approaches to Crime and Traffic Safety (DDACTS) Activity Summary Report (TF3220) in the "Self- Initiated Activity Record" including the CAD incident number, and, if applicable, the RD number. Self-initiated activity shall be identified by adding the letters "SI" in the "Type" column of the list.

K. Any member failing to comply with this order shall be subject to disciplinary action.

XI. SUPERVISORY AND COMMANDER RESPONSIBILITIES

New DGO M-19, Part XI, H-O

Supervisors shall:

H. Ensure the appropriate report (CAR, FBR FC, FBR SDF, citation, Assignment Report, and when FBR is not operating, paper SDF and paper FC) is completed for every investigative encounter listed on the DDACTS Activity Summary Report (TF-3220) and that, when required, an FBR Stop Data Form is completed, prior to the reporting member's shift ends.

I. Review and approve all FBR Stop Data Collection Forms to ensure information fields are filled out correctly.

J. Ensure Field Contact Reports completed in the FBR system include the CAD incident number or RD number, and there is a corresponding completed FBR Stop Data Collection Form.

K. Review all handwritten SDF and handwritten Field Contact Reports prior to the end of his or her tour of duty to ensure information fields are filled out correctly (in the event FBR is not operational).

L. Review and approve all DDACTS Activity Summary Reports (TF-3220) to ensure information fields are filled out completely (including CAD incident and RD numbers) and shall legibly write in his/her serial number on the first page directly above the word "AREA" to document that the Activity Summary Report was reviewed and is legible and complete.

Supervisors and commanders shall:

M. Comply and ensure subordinate personnel comply with the provisions of this order.

N. Be subject to disciplinary action for failure to comply with this order.

O. Be subject to disciplinary action if it is determined that members assigned to a supervisor and/or commander failed to comply with this order and the supervisor and/or commander knew of said violation, or should have reasonably known.

By order of

Anthony W. Batts
Chief of Police Date Signed: _____

210.05
BIAS-BASED POLICING
06-05-17

PURPOSE
To provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group.

POLICY
It shall be the policy of the Sacramento Police Department that officers contact, stop, detain, search, and /or arrest persons only in accordance with established laws, legal and ethical guidelines, and department recognized training standards, and in a manner that is free from improperly biased racial, cultural, or discriminatory intentions. The detention, interdiction, or disparate treatment of any person based on their race, ethnic background, nationality, gender, gender identity, sexual orientation, religion, economic status, disability, age, or cultural background or based on a person's association with a person or group with one or more of the foregoing actual or perceived characteristics is strictly prohibited. The department will thoroughly investigate complaints of bias-based policing.

PROCEDURE
A. DEFINITIONS
   1. BIAS-BASED POLICING – The differential treatment of individuals in the context of rendering police service based solely on a classification, such as race, ethnic background, nationality, gender, gender identity, sexual orientation, religion, economic status, disability, age, or cultural background or based on a person's association with a person or group with one or more of the foregoing actual or perceived characteristics. Bias-based policing may also be defined as a police action based on an assumption or belief that any of the aforementioned classifications have a tendency to participate or engage in criminal behavior.
   2. RACIAL PROFILING – The practice of detaining a suspect based on a broad set of criteria that casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped. (Penal Code 13519.4(e)).

B. GENERAL
   1. Bias-based policing and the practice of racial profiling will not be tolerated by this Department.
   2. While the practice of "racial profiling" is strictly prohibited, it is recognized that race or ethnicity may be legitimately considered by an officer in combination with other legitimate factors to establish probable cause or reasonable suspicion (e.g., suspect description is limited to a specific race or group).
   3. Officers must be able to articulate specific facts, circumstances, and conclusions that support probable cause or reasonable suspicion for any non-consensual detention and/or search or seizure, as applicable.
   4. During a contact, misunderstandings may occur from an officer's failure to explain why contact was made. The officer should inform the detainee of the reason for the contact if it will not compromise the safety of officers or other persons or an investigation.
   5. Nothing in this order shall limit an officer's ability to interview witnesses or discourage routine conversations or consensual contacts with citizens.
   6. Any employee of the Sacramento Police Department who has knowledge of, or has any information about, conduct that would amount to a violation of this order shall report that information as directed in GO 220.05 (Disciplinary Actions).

C. SUPERVISOR RESPONSIBILITIES
   Supervisors are responsible for monitoring and examining all areas of police actions and activities under

their command to ensure that employees comply with this General Order and to ensure that bias-based policing and racial profiling are not practiced.

D. TRAINING
   1. All new officers will receive initial cultural diversity and awareness training at the basic recruit training academy.
   2. Training regarding bias-based policing, cultural diversity, interaction with citizens, policy, ethics, legal requirements, and related topics will be integrated into the field training program for all new officers.
   3. The Sacramento Police Department will engage in periodic and ongoing training on the subject of bias-based policing in accordance with state law and P.O.S.T.'s Continuing Professional Training requirements and in keeping with the values and high professional standards of the Department.
   4. The Professional Standards Unit will ensure all Departmental policies, in conjunction with federal, state and local laws related to racial profiling, are properly disseminated to all employees.

E. COMPLAINTS
   All reports or complaints of bias-based policing or racial profiling will be documented and investigated in accordance with the provisions of this General Order and the Internal Investigations Manual (RM 220.01).

F. ADMINISTRATIVE REVIEW
   The Captain, OOC, or designee, shall conduct an annual administrative review of citizen complaints and concerns relating to the Department's bias-based policing policy to ensure officers are properly and professionally conducting stops and citizen contacts.

210.08
VEHICLE STOP DATA PROCEDURES
08-07-17

PURPOSE
The purpose of this order is to establish procedures for the use and collection of the Vehicle Stop Data Form (VSDF).

POLICY
It shall be the policy of the Sacramento Police Department (SPD) to utilize the VSDF to collect statistical information on traffic stops that were initiated by SPD officers.

PROCEDURE
A. DEFINITIONS
1. VEHICLE STOP DATA FORM (VSDF) – A form that is used by the Department to collect statistical information on vehicle stops initiated by SPD officers.
2. ELECTRONIC CITATION DEVICE (ECD) – A portable handheld mobile computer used to issue citations, warnings, and approved forms.

B. GENERAL
1. Department personnel shall know and comply with VSDF instructions.
2. Department personnel shall NOT use or release any VSDF information unless authorization has been given by the Chief of Police or designee.
3. A VSDF shall be completed by the primary officer after each vehicle stop.
4. Officers issuing a warning citation or a traffic citation on an ECD shall complete the VSDF directly from the device [refer to GO 523.04 Notice to Appear (Citations)].
5. Officers issuing a verbal warning or a hard copy citation shall complete the VSDF using the web link.

C. RESPONSIBILITIES
1. The VSDF Coordinator shall
   a. Generate and send a bi-weekly VSDF compliance report to sergeants identifying officers who are missing a VSDF from their traffic stops
   b. Provide the VSDF compliance report to the Deputy Chief of Operations as necessary or as requested.
2. Sergeants shall review the bi-weekly VSDF compliance report for their teams and address any missing VSDF that are incomplete or missing beyond two weeks' time.
3. Officers shall
   a. Complete a VSDF as outlined in this General Order.
   b. Complete all missing VSDF within one week of being notified by their supervisor.
   c. Review all VSDF to ensure the information on the form is accurate and complete prior to submittal.

Procedure
402

Fresno Police Department Procedures Manual

Racial/Bias-Based Profiling

Corresponding Policy 402: Racial/Bias-Based Profiling

The Fresno Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this Department to provide law enforcement services and to enforce the law equally, fairly and without discrimination toward any individual or group.

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law.

A. Guidelines

Racial or bias-based profiling is strictly prohibited. However, nothing in this procedure is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

- It is the responsibility of all members to prevent, report, and respond appropriately to identify discriminatory or biased practices.
- Members engaging in a non-consensual contact shall be prepared to articulate sufficient reasonable suspicion to justify the contact, independent of the individual's protected class, including but not limited to, traffic stops, field contacts, detentions, as well as asset seizure and forfeiture proceedings.
    - Nothing in this procedure requires any prepared documentation of a contact that would not otherwise require reporting.
    - To the extent that written documentation is completed (e.g., arrest report, F.I. card, etc.), members should include those facts giving rise to reasonable suspicion or probable cause for the contact.
    - While the practice of racial profiling is strictly prohibited, it is recognized that race or ethnicity may be legitimately considered by an officer in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

B. Stop Data Collection System

The Stop Data Collection System (SDCS) is a web based demographic data collection system for lawful detentions, administered by the State of California. Participation in the SDCS is required under Assembly Bill 953 for certain law enforcement agencies, including the Fresno Police Department. The data collected is similar to what the Department has been collecting for over 17 years, however there will be some changes as to when stop data will be collected and transmitted;

- If multiple agencies are involved in a stop and the Department is the primary agency, a Department officer shall collect the data elements and prepare the stop data report.
- When multiple officers conduct a stop, the officer with the highest level of engagement with the person detained shall collect the data elements and prepare the report.
- A SDCS entry shall be completed when a passenger in a vehicle stopped becomes detained independent of the traffic stop.

Enforcement operations, including DUI checkpoints, which stop vehicles at regular intervals are exempt from this requirement, unless the officer develops individualized suspicion regarding an occupant in the vehicle, i.e., driver appears to be under the influence of alcohol/drugs, passenger is wanted.

An officer shall complete all stop reports for stops made during their shift by the end of that shift, unless exigent circumstances preclude doing so. In such circumstances, the data shall be completed as soon as practicable.

B. Training

- Sworn members will attend POST approved training on the subject of racial profiling.
- Pending participation in such POST approved training and at all times, members are encouraged to familiarize themselves with and consider racial and cultural differences among members of our community.
- Members will thereafter be required to complete an approved refresher course every five years or sooner if deemed necessary in order to keep current with changing racial and cultural trends [PC §13519.4(i)].

C. Annual Administrative Review

The Audit & Inspections Unit (AIU) will conduct a documented annual administrative review of agency practices including public concerns and complaints regarding bias-based profiling.

- This will include an IA database search for any inquiries or complaints alleging bias-based police practices and review of monthly minutes regarding complaints received at Chief's Advisory Board (CAB) committee meetings.
- This information will be included in the Annual Bias-Based Policing Report with recommendations regarding training issues, policies and procedures, and any changes to Federal or State mandates.

Policy
402

Fresno Police Department Policy Manual

Racial- or Bias-Based Profiling

402.1 POLICY

The Fresno Police Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly and without discrimination toward any individual or group.

Race, ethnicity or nationality, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law.

402.1.1 PURPOSE AND SCOPE

This policy provides guidance to department members and establishes appropriate controls to ensure that members of the Fresno Police Department do not engage in racial or bias-based profiling or violate any related laws while serving the community.

402.2 DEFINITION

Racial- or bias-based profiling - An inappropriate reliance on factors such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability or affiliation with any other similar identifiable group as a factor in deciding whether to take law enforcement action or to provide service. (Penal Code § 13519.4)

402.3 RACIAL- OR BIAS-BASED PROFILING PROHIBITED

Racial- or bias-based profiling is strictly prohibited. However, nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

Bias Free Policing

402.1 PURPOSE AND SCOPE

The Department strives to provide law enforcement services to our community with due regard to the racial and cultural differences of those we serve. It shall therefore be the policy and practice of this Department to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group because of their race, ethnicity or nationality, religion, gender, gender identity, sexual orientation, or disability.

402.2 POLICY

Racial/Bias based profiling, for purposes of this section, is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped (Penal Code § 13519.4(e)).

402.3 RACIAL- OR BIAS-BASED PROFILING PROHIBITED

The practice of racial/bias based profiling is illegal and will not be tolerated by this Department (Penal Code § 13519.4(f)).

1. It is the responsibility of every Member of this Department to prevent, report, and respond appropriately to clear discriminatory or biased practices.
2. Every Member of this Department engaging in a non-consensual detention shall be prepared to articulate sufficient reasonable suspicion to justify the detention independent of the individual's membership in a protected class.
    (a) To the extent that written documentation would otherwise be completed (e.g., arrest report, F.I. card, etc.), the involved deputy should include those facts giving rise to the deputy's reasonable suspicion or probable cause for the contact.
    (b) Nothing in this policy shall require any deputy to prepare documentation of a contact that would not otherwise involve such reporting.
    (c) While the practice of racial profiling is strictly prohibited, it is recognized that race or ethnicity may be legitimately considered by a deputy in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

The Orange County Sheriff-Coroner Department shall investigate all complaints of alleged racial/ bias based profiling complaints against its Members. Members found to be in violation of this policy are subject to discipline in accordance with this Department's disciplinary policy.

402.4 MEMBER RESPONSIBILITY

1. All sworn Members of this Department shall be scheduled to attend POST approved training on the subject of racial profiling.
2. Pending participation in such POST approved training and at all times, all Members of this Department are encouraged to familiarize themselves with and consider racial and cultural differences among members of our community.
3. Each Member of this Department undergoing initial POST approved training shall thereafter be required to complete an approved refresher course every five years or sooner if deemed necessary in order to keep current with changing racial and cultural trends (Penal Code §13519.4(i)).

402.5 SUPERVISOR RESPONSIBILITY

Each January, the S.A.F.E Division Captain shall review the Department's effort to prevent racial/ bias based profiling and submit an overview, including public concerns, to the Sheriff. This overview shall not contain any identifying information regarding any specific complaint, citizen, or officer.

402.6 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Internal Affairs Unit Manager and the Captain or the authorized designee shall ensure that all data required by the Department of Justice (DOJ) regarding citizen complaints of racial bias against deputies is collected and reported annually to DOJ (Penal Code § 13012; Penal Code § 13020).

Racial and Identity Profiling Act (RIPA)

403.1 PURPOSE AND SCOPE

On or before January 1, 2019, the Department is required to begin collecting data on all stops conducted by peace officers within the Department. Commencing on or before April 1, 2020, the Department is required to annually report to the California Attorney General data on all stops conducted by peace officers within the Department during the preceding calendar year (Government Code § 12525.5).

403.1.1 DEFINITIONS

The following definitions relate to terms used within this policy:

Peace officer: Any sworn Department Member working outside a custodial setting.

Stop: Any detention of a person and/or search, including a consensual search, of the person's body or property in the person's possession or control.

403.2 DATA COLLECTION

Peace officers within the Department shall complete all applicable data fields in the Department's AB 953 RIPA Stop Application for each stop. The data fields include, but are not limited to, the following:

1. The time, date, duration and location of the stop.
2. The reason for the stop.
3. The result of the stop, such as, no action, warning, citation, property seized or arrest.
4. If a warning or citation was issued, the warning provided or violation cited.
5. If an arrest was made, the offense charged.
6. The perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped. When reporting the required data elements, the peace officer shall make his or her determination based on personal observation only. For motor vehicle stops, this section only applies to the driver, unless any actions specified under subsection 7 apply in relation to a passenger, in which case the characteristics specified in this section shall also be reported for him or her.
7. Actions taken by the peace officer during the stop, including, but not limited to, the following:
    (a) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.
    (b) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.
    (c) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.

Stops involving multiple peace officers shall only require reporting by one peace officer. In most cases, this shall be the peace officer making initial contact.

403.3 REPORTING TO THE CALIFORNIA ATTORNEY GENERAL

The Director of Support Services is the custodian of all data collected. The Director of Support Services or his/her authorized designee shall ensure data is collected and reported in accordance with Government Code section 12525.5 and that all data collected is used strictly within the scope of compliance with this policy. The data provided to the California Attorney General shall not include the name, address, social security number or other unique personal identifying information of persons stopped, searched or subjected to a property seizure, and shall not include any unique identifying information of the peace officer collecting the data.

All RIPA data collected is public record and open to public inspection. No identifying information about the peace officers collecting the data shall be publicly disclosed.

Department Members, other than the Director of Support Services, or his/her designee, may not access the Department's server to view RIPA data without authorization from the Sheriff. The RIPA data collected shall not be used for disciplinary purposes or for use in performance evaluations.

Pedestrian Stops - Self-Initiated:
Whenever an officer makes a self-initiated pedestrian stop on a subject(s), the officer will clear the call with the seven (7) authorized disposition codes and follow with the final disposition code to close the event. This also pertains to those self-initiated pedestrian stops that ultimately result in an arrest.

Vehicle Stops – Self-Initiated:
Whenever an officer makes a self-initiated vehicle stop, the officer will clear the call with the seven (7) authorized disposition codes relating to the driver of the vehicle and follow with the final disposition code to close the event. Any additional passengers that are sat on the curb, temporarily handcuffed, or temporarily placed in the back of a police vehicle will require separate disposition codes. This also pertains to those self-initiated vehicle stops that result in an arrest.

The following will reflect the authorized disposition codes:
1. Disposition (disposition of the call – 15 dispositions from arrest to unfounded)
2. Reason for the stop (5 reason types)
3. Race
4. Search – Vehicle or Person (searched, not searched, searched no evidence found)
5. Number of stops/subjects
6. Type of Detention (Curb, Handcuffed, Police Vehicle, None of preceding)
7. Limited Detention Reason (multiple reason types)
8. Final disposition to close event (same as #1 Disposition – choose highest level of disposition amongst the subject(s) contacted)

Laminated cards containing the latest version of disposition codes will be distributed in patrol briefings and/or obtained through BFO Admin.

L 5109 DOCUMENTING DETENTIONS PURSUANT TO THE RACIAL AND IDENTITY PROFILING ACT OF 2015 (AB 953)

Added 12-5-18

AB 953 requires ALL California law enforcement agencies to collect and report to the California Attorney General detailed data regarding all stops, which AB 953 defines as a detention or search, including a consensual search.

A “Stop” under AB 953 is a detention, by a peace officer, of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person’s body or property in the person’s possession or control. In addition to vehicle and pedestrian stops, this includes all calls for service resulting in a detention.

A “detention” under AB 953 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 he/she is not free to leave or otherwise disregard the officer.

The information required to be collected on each stop and reported to the Department of Justice (DOJ) includes information about the stop itself, the person stopped, and the officer making the stop. Specifically, the officer must report the following:

1. Date, time, and duration of stop
2. Location of stop
3. Reason for stop
4. Whether the stop was in response to a call for service (yes/no answer)
5. Actions taken by officer during the stop (e.g., curbside detention, handcuffed or flex cuffed, firearm pointed at person, firearm discharged or used, searched, etc. For searches, the officer must report whether the officer asked for consent to search the person or person's property, and whether consent was given).
6. Contraband or evidence discovered, if any
7. Property seized, if any
8. Result of stop (e.g., warning, citation for infraction, custodial arrest, etc.)

With respect to the person stopped, the officer must report his/her own perception, based upon personal observation only (and not through any other means, such as asking the person or referring to identification), regarding the following:

1. Perceived race or ethnicity of the person stopped
2. Perceived age of the person stopped
3. Perceived gender of the person stopped
4. Whether the person stopped is perceived to be lesbian, gay, bisexual or transgender
5. Whether the person stopped is perceived to have limited or no English fluency
6. Whether the person stopped is perceived or known to have a disability

With respect to the officer making the stop, the officer must report:

1. Years of experience
2. Type of assignment during the stop (e.g., patrol, traffic enforcement, field operations, narcotics/vice, investigative/detective, etc.)
3. An identification number assigned by DOJ to each officer which enables the State to analyze the stops made by the officer while protecting his/her identity. The Department is required to maintain a log of each officer and his/her identification number.

Access to the DOJ PORTAL for Stop Data Collection System:

1. A secured internet connection is required to access the DOJ PORTAL. Therefore, only Department MDT's or Department computer desktop shall be used to access this application.

a. A link to the DOJ PORTAL is located on the HOME page of the Intranet as well as the MDT.

2. The officer must log-in to the DOJ PORTAL using their assigned DOJ log-in name and personal password.

Completing the Stop Data Collection System:

1. The officer will select from an extensive list of responses for each of the categories of information, using check boxes to ensure the data collected is uniform for all agencies.
2. When providing the reason for the stop and basis for the search (if one is conducted), the officer will be required to complete an explanatory field of no more than 250 characters to explain the reason for the stop. The regulations require the explanation include additional detail beyond the general check boxes selected. No personal identifying information for any parties should be included in this narrative.

All reporting to DOJ on the DOJ PORTAL shall be completed by officers before the end of shift.

Special Circumstances and Settings:

AB 953 specifies various settings in which, for practical or public safety reasons, officers will not be required to report stops, or will only be required to report stops if the officer takes certain additional actions after stopping the person.

1. Not reportable: Stops made during public safety mass evacuations, active shooter events, and as the result of routine security screenings required of all people to enter a building or special event, do not need to be reported. Stops made of a person at their residence who is the subject of a warrant, search condition, home detention, or house arrest are not required to be reported.

2. Reporting for stops of passengers in a vehicle: Stops of passengers in a vehicle are only required to be reported if the officer engages in any of the actions with the passenger that are identified in the stop data category “Actions Taken,” except for “vehicle impounds” and “none.” For example, if an officer stops a vehicle with a passenger in the car, the officer is required to report a stop on a passenger if the officer does the following: handcuffed or flex cuffed the passenger, asked for consent to search the passenger, curb sat the passenger, removed the passenger from the vehicle by order, etc.

3. Reportable if officer takes any action under “Actions taken” during stop: Stops that take place in the following settings are only reportable if an officer takes any of the actions, excluding “none,” provided under the category of information entitled “Actions taken” and the person is detained based upon individualized suspicion or personal characteristics: (1) traffic control; (2) crowd control; (3) interactions in which people are detained at a residence so an officer can verify proof of age for

purposes of underage drinking; and (4) checkpoints or road blocks in which all people are being detained or people are being detained based on a neutral formula (e.g., a DUI sobriety checkpoint, where all vehicles are stopped or stops randomly selected vehicles using a neutral formula and not based on individualized suspicion or personal characteristics).

4. Reportable if officer takes specific actions under "Actions taken" during stop: When officers are executing warrants or search conditions, or are on home detention or house arrest assignments, they shall only report stops of people in the home who are not the subject of the warrant, etc., whom the officer takes action against. The following are examples of actions taken by the officer that require reporting: handcuffing or flex cuffing, making an arrest, pointing a firearm at the person, discharging or using a firearm, using an electronic control device, using an impact projectile, using a baton or other impact weapon, using chemical spray on the person, using a canine to bite/hold the person, etc.

5. Stops of students in a K-12 public school are subject to different reporting requirements: In a K-12 public school, only the following interactions with students are subject to stop data reporting requirements: (1) an interaction resulting in temporary custody, citation, arrest, permanent seizure of property as evidence of a criminal offense, or referral to a school administrator because of suspected criminal activity; (2) an interaction in which a student is questioned to investigate whether he/she committed any violation of law, including offenses listed under Education Code sections 48900, 4800.2, 4800.3, 4800.4, and 4800.7, or to determine whether the student is a truant; and (3) any interaction in which an officer takes any of the actions provided under the category of information entitled "Actions taken," excluding "none" and searches applied using a neutral formula.

C 1303 CONSTITUTIONAL RIGHTS:

No person has a constitutional right to violate the law, nor can any person be deprived of constitutional rights for committing or being suspected of committing a crime. The task of determining the constitutionality of a statute lies with the courts, not with the officer who seeks to properly enforce the law as it exists. The Department will enforce any federal, state or local statutes. An officer who lawfully acts in this capacity is within the scope of his authority and does not deprive persons of their civil liberties. Officers will, within the scope of their authority, make reasonable inquiries, conduct investigations and arrest on probable cause.

C 1304 TREATMENT OF OFFENDERS:

To offend a police officer's personal feelings is not a crime. A citizen will not be mistreated physically or psychologically, nor will the processes of booking and charging be delayed as a means of punishing an offender or gaining revenge.

C 1305 EQUALITY OF ENFORCEMENT:

People throughout the city have a need for protection, administered by fair and impartial law enforcement. As a person moves about the city, that person must be able to expect a similar police response to his/her behavior - wherever it occurs. When laws are not evenly enforced, a reduction in respect and resistance to enforcement follows.

The element of evenhandedness is implicit in uniform enforcement of law. The amount of force or the method employed to secure compliance with the law is governed by the particular situation. Similar circumstances require similar treatment - in all areas of the city as well as for all groups or individuals. In this regard, Department members will strive to provide equal service to all persons in the community.

C 1306 BIAS-BASED POLICING:

Revised 02-15-11

Bias-Based Policing occurs when an officer engages in conduct based on a person’s race, color, religion (religious creed), age, marital status, national origin, ancestry, sex, sexual orientation, actual or perceived gender identity, medical condition, or disability.

Bias-Based Policing can occur not only at the initiation of a contact but any time during the course of an encounter between an officer and a member of the public.

Officers will not engage in biased and/or discriminatory-based policing as this undermines the relationship between the police and the public and is contradictory to the Department’s mission and values.

C 1307 RESPONSIVENESS TO THE COMMUNITY:

Department members will strive to be responsive to the needs and problems of the community consistent with the Department's mission. While the law governs the Department's task, the policies formulated to guide the enforcement of the law must include consideration of the public will. This responsiveness will be evident at all levels of the Department by a willingness to listen and a genuine concern for the problems of individuals

and/or groups. The total needs of the community are an integral consideration of the programs designed to carry out the Department's mission.

C 1308 COURTESY:
Revised 10-14-10

Department members will be courteous and professional to the public. Department members will be tactful in the performance of their duties, control their tempers and exercise the utmost patience and discretion even in the face of extreme provocation. Except when necessary to establish control during a violent or dangerous situation, no member shall use course, profane or derogatory language. The Department recognizes that there are an extremely limited number of investigative situations where profane or derogatory language may be a reasonable tactic or tool (i.e. undercover assignments). In these specific situations, the use of profanity or derogatory language must be justified by the Department member based on the totality of the circumstances.

Members are reminded that their conduct, either on or off duty, which adversely reflects upon the Department is deemed to be conduct unbecoming an officer refer to DM Section C 1404 (Conduct Unbecoming an Officer).

C 1309 KNOWLEDGE OF CONDITIONS:
Department members have the responsibility of being thoroughly familiar with conditions which affect their assignments. Department members will inform superiors of these conditions in as much detail as their superior requires.

C 1310 BEHAVIOR TOWARD OTHER DEPARTMENT MEMBERS:
Revised 10-10-06

Department members will be respectful, courteous and considerate in their demeanor toward co-workers in the Department.

C 1311 BEHAVIOR INVOLVING DISCRIMINATION OR HARASSMENT:
Revised 10-10-06

The City of San Jose does not tolerate illegal discrimination or harassment and is committed to providing a work environment free of discrimination and harassment. All Department members are expected to be familiar with and comply with the City's Harassment and Discrimination Policy under City Policy Manual section 1.1.1. Discrimination or harassment based upon the following protected categories/status is prohibited:

- Race
- Color
- Religion (Religious Creed)
- National origin
- Ancestry

- Age (40 and above)
- Sex
- Gender
- Pregnancy, childbirth or related medical condition
- Sexual orientation
- Marital status
- Disability (Physical and Mental, including HIV and AIDS)
- Medical condition (cancer/genetic characteristics)
- Actual or perceived gender identity

"Discrimination" includes, but is not limited to, any practice, process or action in the workplace which works against equality of opportunity and against the ability of each person to be employed and to advance on the basis of merit without regard to the foregoing protected categories.

"Harassment" is defined by the existence of the following: conduct that is based on a protected category, conduct that is unwelcome and workplace harm that creates a hostile working environment or results in a tangible employment action.

Department members will not engage in conduct in violation of the City's Discrimination and Harassment Policy, and no member will bring any racist, sexist or otherwise discriminatory material into any San Jose Police facility, other than for legitimate law enforcement purposes. Members are responsible for maintaining a work environment free of discrimination and harassment, complying with the Duty Manual and City Policies on the matter and taking appropriate measures to ensure that such conduct does not occur. Accordingly, acts of discrimination or harassment in the work place in violation of City Policy Manual section 1.1.1 are unacceptable and will not be tolerated.

Department members who violate the City's Discrimination and Harassment Policy are subject to disciplinary action, up to and including termination.

C 1312 SEXUAL HARASSMENT:
Revised 10-10-06

Sexual harassment is a form of workplace harassment prohibited by City Policy Manual section 1.1.1. Refer to the City Policy Manual section 1.1.1 for descriptions of the type of conduct that can be considered sexual harassment, as well as for the City's policy on consensual sexual or romantic relationships.

C 1313 REPORTING POTENTIAL DISCRIMINATION/HARASSMENT, INCLUDING SEXUAL HARASSMENT:
Revised 10-10-06

3.2 GENERAL RESPONSIBILITIES - EMPLOYEES

Revised 12/21/2007

While on-duty, employees shall take appropriate action at all times to:

- Treat all persons equally and with fairness, regardless of race, ethnicity, creed, sexual orientation, disability or social status.
- Be responsible for the protection of life and property from criminal attack and in emergency situations when the welfare of the community is threatened
- Enforce all State and local laws in a reasonable and prudent manner.
- Enforce local ordinances relating to the control of crime and regulation of conduct.
- Take such action as may be necessary and operate in such a manner as to assure the citizens of the City that orderly activities of the community may proceed without disruption from criminal and irresponsible elements.
- Cooperate with and assist citizens of the community and units of the City, County, State and Federal Government with such problems and in such situations as customs and traditions dictate, in matters both criminal and non-criminal.
- Be responsible for the care, handling, security and proper disposition of property obtained during the performance of their duties. The arresting officer is responsible for the security of all personal property in the possession or under the control of the arrestee at the time of arrest. With the exception of vehicles, this responsibility is transferred to Booking Desk personnel or transporting officers when they accept custody of the arrestee.
- Unless otherwise directed, employees shall report to their daily assignment at the time and place specified and shall be properly uniformed and equipped. They shall give careful attention to orders and instructions, avoiding unnecessary talking or movement.

3.4 CONDUCT TOWARD THE PUBLIC

Employees shall be courteous and orderly when working with the public. Employees shall perform their duties quietly, avoiding harsh, violent, profane or insolent language, and shall always remain in control of their behavior regardless of provocation. On request, employees are required to supply their names and Departmental ID Number (DID #) or the names and DID # of other employees. Employees shall respond to requests from the public quickly, efficiently and in a courteous and professional manner, avoiding unnecessary referral to other parts of the Department.

Impartial Attitude

Employees shall remain impartial toward all individuals with whom they come in contact. **All** citizens are guaranteed equal protection under the law. Exhibiting partiality for or against a person because of race, sex, national or ethnic origins, age, influence, or for any other reason, is considered conduct unbecoming an officer. Similarly, unwarranted interference in the private business of others when not in the interests of justice is also considered conduct unbecoming an officer.

DRAFT OUTLINE[1]

2021 RIPA Annual Report

1. **Executive Summary**
2. **Introduction**
    a. Letter from Board Co-Chairs
    b. Purpose and intent of this year's report
        i. Summary of the report contents
        ii. Board ideas for moving from analysis/review to policy and practice recommendations – how do we make this count?
    c. Overview of the work completed since the release of the 2020 report
        i. Board meetings and subcommittee meetings.
        ii. Submission of Wave 1 and 2 stop data records
        iii. Kickoff meetings and commencement of stop data collection for Wave 3 agencies
        iv. Survey of Wave 1 and Wave 2 LEAs

3. **Stop Data Analysis** *(Stop Data Subcommittee)*
    a. Analysis of stop data – January 1, 2019 through December 31, 2019
        i. Stop Demographics
        ii. Decision to Stop
        iii. Comparisons to Census, SWITRS, and Light Condition Data
        iv. Post-Stop Outcomes (search rates, yield rates)
    b. Board-focused research questions – intersectional analyses

4. **Racial and Identity Profiling Policies and Accountability** *(State and Local Policies and Accountability Subcommittee)*
    a. Overview of the Board's charge in regard to racial and identity profiling policies
    b. Review of "Bias-Free Policing" or equivalent policy from all Wave 2 agencies

5. **Calls for Service and Bias by Proxy** *(Calls for Service Subcommittee)*
    a. Update to list of best practices for avoiding bias by proxy in calls for service
    b. Intersection of mental health and law enforcement and best practices for LEAs

6. **Complaints: Policies and Data Analysis** *(Civilian Complaints Subcommittee)*
    a. Overview of civilian complaint data reported to the DOJ and the Board's charge in regard to civilian complaint policies and procedures
    b. Analysis of 2019 civilian complaint data
        i. Overview of data examined
        ii. Analysis of civilian complaints for stop data reporters statewide

[1] This proposed outline is for the RIPA Board's consideration and its purpose is to serve as a starting point for discussion of topics to include in the upcoming report. All topics are subject to change.

iii. Agency-level data snapshot
iv. Findings discussion and implications

c. Update (if any) on factors impacting disparities in complaint reporting
d. Update (if any) on Penal Code section 148.6
e. Review of Civilian Complaint Forms of Wave 2 agencies

7. **Training** *(POST Training and Recruitment Subcommittee)*
   a. Overview of the Board's charge in regard to POST and training
   b. Overview of the development of a POST-certified training on AB 953
   c. Update and details on Self-Paced Refresher Course
   d. Update and details on Racial Bias and Profiling Video

8. **Update on Relevant Legislation Enacted in 2020**

9. **Conclusion**
   a. Goals/vision for future reports

Appendices

Data that is required to be reported per Penal Code section 13519.4, subdivision (j)(3)(E): Each report shall include disaggregated statistical data for each reporting agency. The report shall include, at a minimum, each reporting law enforcement agency's total results for each data collection criteria under subdivision (b) of Section 12525.5 of the Government Code for each calendar year.

We will also include a methodology appendix to reduce the size of the stop data section of the report while still maintaining transparency. In addition, we plan to include an appendix similar to the Technical Report Section 2 from the 2020 RIPA Report.