

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

<https://oag.ca.gov/ab953/board>

CIVILIAN COMPLAINTS SUBCOMMITTEE
MEETING NOTICE AND AGENDA

Thursday, October 1, 2020

3:00 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 log in 5-10 minutes before the start of the meeting to allow sufficient time to set up your audio/video, and to download the Blue Jeans application, if desired.

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A phone dial-in option will also be available.

(408) 317-9254

Meeting ID: 142 117 153



1. INTRODUCTIONS (3 min.)
2. APPROVAL OF JUNE 1, 2020 SUBCOMMITTEE MINUTES (2 min.)
3. UPDATE ON SUBCOMMITTEE WORK BY DEPARTMENT OF JUSTICE (40 min.)
4. DISCUSSION OF PROPOSED SUBCOMMITTEE REPORT CONTENTS (55 min.)
5. PUBLIC COMMENT (15 min.)
Both the Blue Jeans application and dial-in number will permit public comment
6. DISCUSSION OF NEXT STEPS (5 min.)
7. 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> at least one day before the meeting.

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

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

<https://oag.ca.gov/ab953/board>

CIVILIAN COMPLAINTS SUBCOMMITTEE MEETING MINUTES

June 1, 2020 – 10:03 a.m. – 11:37 a.m.

Subcommittee Members Present: Co-Chair Sahar Durali, Co-Chair David Robinson, Nancy Frausto, Tim Silard, Doug Oden, LaWanda Hawkins

Subcommittee Members Absent: Chief David Swing

1. Introductions

Co-Chair Durali acknowledged the disturbing and important moment in which the global pandemic was effecting working people, African American communities and other communities of color, while disproportionate COVID-19 enforcement was also effecting Black communities. She stated that the nation was again dealing with several shootings of unarmed African American people and the pain caused by these deaths. She expressed hope that the Board would collectively work to respond to this moment and create policies and recommendations to address these issues, in particular accountability policies in light of the record of civilian complaints against the officer involved in the killing of George Floyd. Member Oden stated that moving forward law enforcement would need to take the lead regarding training and making changes within law enforcement culture and his belief that the Civilian Complaints subcommittee and the RIPA Board are good resources for this.

Co-Chair Durali introduced new Board member Rev. Nancy Frausto who serves as Associate Rector for St. Luke's Episcopal Church in Long Beach.

2. Approval of Subcommittee Meeting Minutes

MOTION: Co-Chair Robinson made a motion to approve the June 3, 2019 and October 18, 2019 subcommittee meeting minutes. Member Hawkins seconded the motion.

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

3. Overview of Proposed Subcommittee Work by Department of Justice

Allison Elgart from the Department of Justice stated that the DOJ would share a review of Wave 2 agencies' complaint forms and procedures and the meeting would be an opportunity for the subcommittee to identify priority areas of work for the year.

Anna Rick from the DOJ shared that the Commission on Reimbursement for State Mandates partially approved the Test Claim for RIPA Reimbursement and would receive recommendations and comments on the Draft Expedited Parameters and Guidelines through

June 12, 2020. Co-Chair Robinson stated that San Diego Police Department submitted the Test Claim and the Commission determined that agencies should receive funding for stop data reporting. He stated that the Commission was developing the mechanism for agencies to submit their claims to receive funding. He added that the Board's annual reports included recommendations to the legislature to approve funding. Co-Chair Durali asked if the funding related to analysis of the data. Co-Chair Robinson stated that the Commission's decision related to data collection and other components could be raised in the comment period. Member Silard asked if the State could identify an existing funding source directed to LEAs that should be used for stop data reporting costs instead of providing new funding through reimbursement. Co-Chair Robinson stated that he believe the legislature could do this.

4. Update on Review of Complaint Forms for Wave 2 Agencies by Department of Justice

Domonique Alcaraz from the DOJ stated that in 2019 the subcommittee reviewed Wave 1 agencies' civilian complaint forms and information provided to members of the public. She explained that the DOJ would share the information from the review of Wave 2 agencies' complaint forms with the agencies to allow for input. She requested subcommittee feedback about some of the agencies' forms where the version provided online differed from the printed versions of the forms, and regarding the availability of complaint forms online.

Co-Chair Durali stated that, as outlined in the 2020 Board Report, in California there is not a mandated complaint form or mandated complaint procedures, nor is there a uniform definition of "complaint". She recommended that the LEA Survey include a question about the adoption of the Board's recommendations about complaint accessibility and complaint processes.

5. Discussion of Proposed Subcommittee Report Contents

Co-Chair Durali stated that in previous Board Reports this section had focused on LEA complaint review processes, accessibility of complaint forms, and complaint data. She stated that there is a lot of variability in the accessibility of complaint procedures and in the investigation processes. She added that the subcommittee has not worked in depth on the issue of supervisory review of complaints, complaint tracking and the creation of early intervention systems and accountability as it relates to complaints. She stated that the subcommittee had previously discussed creating a model complaint form but had not done so due to the conflict between California and federal law about requirements that complainants sign their complaint and attest that they are not providing false information.

Member Oden agreed with the recommendation to discuss complaint tracking and transparency in the complaint investigation process to include both the results of the investigation and who conducted the investigation.

Member Silard recommended that the subcommittee discuss independent oversight of complaint investigation processes. He stated that San Francisco has an independent department that handles complaints instead of them being handled internally by the San Francisco Police Department. He stated that this is a good practice and, at minimum, an independent review within the locality should occur to assess whether complaints are being followed-up on, tracked and responded to.

Member Hawkins stated that there must be transparency and accountability. She stated that civilians feel there is not accountability when people making complaints do not receive a letter or call explaining the actions taken in response to their complaint. She stated that this creates doubt in the community that anything has been done.

Member Frausto stated that there is a need for public access to officers' complaint histories. Member Silard stated that there is pending legislation about this issue and he recommended that the Board support it.

Co-Chair Durali stated that she had researched some of the US DOJ investigations of law enforcement agencies and the related studies of complaint procedures finding a high level of variability and identifying supervisor misclassification of complaints, administrative closure of complaints, and removal of complaints from officers' records as problems. She stated that the US DOJ often recommended independent review of complaints. She stated that it would be very helpful to have an expert speak with the subcommittee about ideal models regarding complaints, including robust tracking mechanisms.

Co-Chair Durali stated that she also found that several of the agencies, following investigations, implemented early intervention systems, in which even when a complaint is not sustained, there is a tracking system that can allow issues to be flagged for review. She stated that it would also be good to have an expert speak to the subcommittee or the full Board about these issues. Members Silard, Frausto and Hawkins agreed.

Member Silard raised a concern about what happens when an officer who may be facing discipline might resign and seek employment with a different law enforcement agency. He asked if complaint background information is available to LEAs during their hiring process.

Co-Chair Robinson stated that this is a challenge for law enforcement agencies and he believes that the proposed legislation would help to address this issue, so that if an officer resigns any investigations resulting from complaints would have to be concluded. He stated that LEAs do have access to complaints because under POST's guidelines LEAs are required to get a waiver signed to permit the hiring LEA to review the complaint information at a separate agency, even if the complaint was not fully investigated. He stated that this will typically appear as a note in the file showing that the complaint was received and the officer

resigned. He stated that hiring LEAs can chose to follow-up with the people involved in the complaint. Co-Chair Robinson stated that he has observed that some agencies, particularly smaller agencies with fewer resources, do not always follow-up on this information. He stated that the State Sheriff's Association hopes that this legislation will pass. He stated that he would like to have an expert discuss this with the Board at the September Board meeting. He stated that it would also be helpful to have an expert discuss with the Board the legal aspects of the employee-employer relationship as relevant to improving law enforcement.

Co-Chair Durali asked if agencies can reassign the officer in question in instances when employee protections do not permit the agency to dismiss an officer about whom the agency has concerns regarding their conduct. Co-Chair Robinson stated that reassignment is sometimes an option although this varies according to the local Memorandum of Understanding, which may require an investigation to be concluded prior to reassignment. He stated that requiring additional training is an option over which agencies have a lot of control.

Co-Chair Durali stated that the Board is required to publish the data received on civilian complaints each year and it will be important to include a footnote in this section regarding how differences in the accessibility and categorization of complaints by agencies may account for some of the differences for numbers of complaints reported by agencies.

Member Oden stated that it would be important to have an expert speak with the Board about how accessible complaints received by agencies are to the public because there is often civil litigation that arises from alleged police misconduct.

Ms. Elgart stated that the DOJ would try to find an expert to speak about these issues and would work with the Board Co-Chairs to determine if it is more appropriate to invite a panel of speakers or to invite an individual expert. Co-Chair Durali stated that given the breadth of the issues it would be beneficial to have more than one expert speak. Ms. Beninati stated that it will be great to have the experts speak with the Board and the DOJ will present the first draft of the Annual Report to the Board at the September meeting and the DOJ would work to address some of these issues in the Report draft.

6. Public Comment

Lisa Serrano stated that her organization would like to collaborate with other safe space organizations to gather to pray at the State Capitol regarding current events. She stated that her organization would also like to increase collaboration with law enforcement.

Colleen Cusack stated that she is a criminal defense attorney and has practiced for 28 years in San Diego. She stated that she has managed the clinic and bail project of a law school and taught courses to police officers at the University of Phoenix were studying and seeking to promote in their careers. She stated that is essential that the complaint process be transparent

and that there be ways for the public to see the use of discipline in order to trust officers that continue to serve. She stated that people will not submit complaint forms when they think that nothing will be done about their complaint.

Anne Baron asked if she had heard correctly that there is no requirement for law enforcement agencies to have a complaint process or form. She asked how the subcommittee received the complaints submitted to LEAs. She stated that there were peaceful protests in La Mesa at which the police department began using gas and flash bombs that escalated the situation. She stated that she did not believe this was an issue of lack of training but that this was an issue about police culture. She stated that she encouraged law enforcement agencies to have trainings in restorative justice, as this type of training can improve the culture in an agency. Anne Barron asked if there is a public communication plan for the subcommittee.

Ms. Beninati stated that the Cal. DOJ does not receive individual complaints filed with the agencies, rather the DOJ collects aggregate data from the agencies annually. She stated that under the Racial and Identity Profiling Act agencies first began reporting disaggregated information about complaints regarding racial and identity profiling. Ms. Elgart stated that information about the data that the DOJ collects is in the Board Report, including information about how complaints were resolved.

Richard Hylton stated that he thought the Attorney General should issue an opinion regarding Penal Code section 148.6. He stated that decisions of the federal judiciary generally compel the states to follow course when they determine that a provision is unconstitutional. He stated he made a complaint to the CHP about racist comments being included in the agency's data from the Reason for Stop and Basis for Search narratives. He stated that the CHP told him that his complaint lacked specificity about an allegation against an employee that could be investigated. He stated that as a member of the public he did not have access to the officer's identification but the CHP would have access to this information. Mr. Hylton stated that his review of data from La Mesa showed an increase in issuance of tickets to public transportation riders and the ticketing is disproportionately affecting Black people. He stated that racial profiling happening in the policing of fare evasion and he has submitted a complaint to the San Diego County Sheriff's Department about this. He stated that the present system of employee-employer relations in law enforcement does not work and asked why we continue this.

Marisa Lundin from California Rural Legal Assistance asked how the LEAs included in the matrix auditing the accessibility of LEA's civilian complaint procedures were determining in which languages translated complaint forms should be provided to ensure that the available forms match the language needs of their communities. She also asked if there were any procedures to receive oral complaints from civilians with low-literacy and speakers of rare

languages. Ms. Lundin stated that she was interested in how to verify that agencies have taken steps to meet the language needs of their communities.

Co-Chair Durali stated that the 2018 Board Report included the federal and state requirements for translation of complaint materials and welcomed the submission of comments and recommendations. She stated that the 2020 Board Report included recommendations regarding oral complaints. She stated that verification of the translation for complaint forms could be addressed through the review of Wave 2 agency complaint forms.

Brandy Taylor Jones asked if there is a public communication plan to inform the community of the subcommittees work. She recommended making outreach easily accessible to the public, and using social media and advertising.

Co-Chair Durali stated that the Board's page on the Office of the Attorney General website includes all of the subcommittee's meeting minutes and upcoming meeting dates and agendas. She stated that the subcommittee welcomes suggestions about how to improve outreach. Ms. Elgart stated that there is an AB 953 listserv to which anyone can subscribe to receive notifications about the Board's activities. She provided the web address to subscribe.

7. Discussion of Next Steps

Anna Rick from the DOJ stated that the DOJ had begun to develop a survey to better understand the actions that reporting agencies are taking to advance the goals of RIPA. She stated that the DOJ planned to include Wave 1 & 2 agencies in the full survey and Wave 3 agencies in the portion of the survey that did not relate to data analysis. She stated that the DOJ believes the survey will provide valuable information about the actions that LEAs are taking in response to the recommendations in the Board's Annual Reports. Ms. Rick stated that the draft Survey includes ten questions, with one question asking about actions the agencies may have taken in response to the best practices recommendations regarding civilian complaint procedures and forms in the Board's 2020 Report.

Co-Chair Durali requested that the review of Wave 2 agencies' complaint forms include an inquiry about how the agencies determine in which languages they will provide forms and how they make the complaint process accessible to speakers of rare languages. She stated that the DOJ would work on identifying experts to speak at the full Board meeting and would draft a section about best practices for accountability regarding civilian complaints for the Report. Member Frausto stated that it is also important to assess the quality of the translations and if translations are being done by persons with training in translation or by speakers of the languages that do not have training in translation. Co-Chair Durali recommended that the DOJ ask agencies what methods they are using to translate their complaint forms.

8. Service Appreciation by Department of Justice

Member Silard expressed his appreciation for the opportunity to serve on the Board and stated that he had seen great growth in the Board's work. Ms. Beninati thanked Member Silard for his input regarding the Stop Data Regulations, and contributions to the content of the Board's Reports.

Member Oden shared his appreciation for the work of the subcommittee and shared that this would be his last meeting as a member of the Civilian Complaints subcommittee. Ms. Beninati thanked Member Oden for this service to the subcommittee and was looking forward to his participation in the upcoming Stop Data subcommittee meeting.

9. Adjourn

Co-Chair Durali thanked everyone for their participation, thanked the members of the public for attending and providing comments and adjourned the meeting at 11:37 a.m.

Wave 2 Civilian Complaint Form Review Update

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

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

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

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

Sacramento County Sheriff's Department: The Sacramento County Sheriff's Department (Sacramento County Sheriff) accepts complaints: (1) online, (2) in person, (3) by phone, or (4) in writing. All complaints are investigated by the Internal Affairs Bureau. The online complaint form is available in English but no other languages. The online form includes a check box to mark if the complainant wishes to remain anonymous. A complainant also has the ability to upload any video or photos associated with the incident with the complaint. There is no information attached to this online form about the civilian complaint process. Information about who to contact and the civilian complaint process can only be found by searching Sacramento County Sheriff's online "Frequently Asked Questions" (FAQ). In the response to the relevant FAQ, there is a linked PDF civilian complaint brochure and form that can be printed out and mailed in. The PDF complaint form is available in English but no other language. Sacramento County Sheriff has represented that it is in the process of translating this form into more languages spoken in the community. Complaints that are submitted in other languages are translated by an employee who is fluent in the language or by a county contracted translation service. The PDF version of the civilian complaint form includes Cal. Penal Code section 148.6 language but the online version does not. Unlike the online version, the PDF form makes clear that a third party can submit complaints, which is a Board recommendation, and provides a space for information of an attorney or representative to be included.

Fresno Police Department: The Fresno Police Department (Fresno Police) accepts civilian complaints: (1) online, (2) in person, (3) by mail, and (4) by phone. These methods are outlined in the agency's "Complaint Procedures" brochure. The brochure states that complaint procedures help citizens, the community, and the police. Fresno Police determines the language translations needed for their complaint form and brochure by conducting a four-factor analysis as outlined in their Limited English Proficiency Services policy. Documents are then translated by certified employees or an outside agency if no employees are certified in that language. The printed civilian complaint form and brochure are available in English, Hmong, and Spanish. For those languages that do not meet the four-factor threshold, the agency attempts to provide

meaningful access for LEP individuals attempting to make a complaint through other translation resources like a language line or a certified bilingual employee. The online civilian complaint form is available in English only. Before someone can access the online form, they must click a box acknowledging that they read and understand an advisory that is nearly verbatim language from Cal. Penal Code section 148.6. This language is also included in the printed version of the form and requires a signature. The form provides a phone number to call if the complainant's contact information changes. Additionally, the form asks if photos were taken of any injuries suffered and the name of the person who took the photos. The form also asks if the complaint was filed with any other City of Fresno department or outside agency. If the complaint has been filed with another department, the form requests the date of such report and the person contacted. Lastly, the form has a specific section for racial and identity profiling complaints. The print version of the form is nearly identical to the online version, with the exception of including a mailing address. The printed forms were last revised December 2018. If a complaint is submitted in person at the station, the complainant receives a "complaint receipt" which provides the case and event number and the date on which the complaint was received. Fresno Police accepts anonymous and third-party complaints to the extent that sufficient information is provided. Details of the civilian complaint process are outlined in the brochure, which is not available with the online complaint form.

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

Sacramento Police Department: The Sacramento Police Department (Sacramento Police) takes civilian complaints: (1) by phone, (2) in writing, (3) in person, or (4) by e-mail. The agency's public website includes information on the personnel complaint process and cites the Cal. Penal Code section 148.6 advisory. All information online about the personnel complaint process is available in English but no other languages. Sacramento Police does not have an online complaint form but receives complaints electronically via e-mail and allows complaints to include: the complainant's name and phone number; the complainant's date of birth, age, sex, and race; the date and time of the event; the name and badge number of the officer, if known; the vehicle number of the police vehicle involved, if known; a description of the event; and the name address and phone number of any witnesses. A separate City of Sacramento body, the Office of Public Safety Accountability (OPSA), has an online complaint form. OPSA's online complaint form is not directly linked on the Sacramento Police's website. A complainant can learn of OPSA and its online complaint form by downloading the Sacramento PD's "Complaint

¹ The 27 languages include Albanian, Armenian, Cambodian, Chinese, Dutch, English, Farsi, French, Hebrew, Hindi, Hungarian, Llongo, Indo, Italian, Japanese, Korean, Lao, Polish, Punjabi, Russian, Spanish, Swedish, Tagalog, Tamil, Thai, Urdu, and Vietnamese.

Procedure Brochure.” OPSA receives complaints: (1) online, (2) by phone, or (3) in person at their office. The online complaint form is available in English only. On August 1, 2019, Sacramento Police updated its civilian complaint procedures based upon recommendations made by Cal DOJ. As of July 2020, Sacramento Police’s Internal Affairs Division is working with the new incoming OPSA director to enter into an MOU regarding OPSA’s role and responsibilities with respect to complaints, including steps to either link the OPSA complaint form on Sacramento Police’s website or duplicate the form on Sacramento Police’s website

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Wave 2 Agency	Form Accessible Online?	Can Submit Online?	Multiple Methods of Submission?	Available in Multiple Languages? ²	Third Party Complaints Allowed?	Includes Narrative Field for Description of Complaint?	Does Not Include Language from PC §148.6? ³	Complaint Process Information Attached to Form?
Long Beach Police	✓	✓	✓	✓	✓	✓	✓	✗
Oakland Police	✓	✓	✓	✓ OS ⁴ ✗ PV ⁵	✓	✓	✓	✓ OS ✗ PV
San Jose Police	✓	✓	✓	✓	✓	✓	✗	✓
Sacramento County Sheriff	✗	✓	✓	✗	✓	✓	✓ OS ✗ PV	✗ OS ✓ PV
Fresno Police	✓	✓	✓	✓	✓	✓	✗	✗ OS ✓ PV
Orange County Sheriff	✓	✗	✓	✓	✓	✓	✗	✓
Sacramento Police	✗	✗	✓	✗	✓	✓	✗	✗

² Federal and state law require federally and state assisted law enforcement agencies to provide meaningful access to Limited English Proficient (LEP) individuals. Under federal law, to determine the extent of its obligation to provide services to the LEP population, the Federal Coordination and Compliance Section recommends that law enforcement agencies engage in a four-factor analysis. (USDOJ, Federal Coordination and Compliance Section. (2002). *Planning Tool: Considerations for Creation of a Language Assistance Policy and Implementation Plan for Addressing Limited English Proficiency in a Law Enforcement Agency*). California state law also requires local agencies that receive state funding to provide language access services to LEP populations. (Gov. Code, § 11135, subd. (a); Gov. Code, § 7290). LEAs may ask local community-based organizations to help translate complaint forms or create a database of qualified interpreters for speakers of any language, including sign language.

³ The Ninth Circuit and California Supreme Court have come to opposite conclusions regarding whether Penal Code section 148.6 is constitutional. (Compare *People v. Stanistreet* (2002) 29 Cal.4th 497, 510 [Section 148.6 is a permissible regulation of prohibited speech, namely, false allegations against peace officers, which, on its face, does not violate the First Amendment to the United States Constitution] with *Chaker v. Crogan* (2005) 428 F.3d 1215, 1222, cert. denied, 547 U.S. 1128 (2006) [Penal Code §148.6's criminal sanction violated the First Amendment of the United States Constitution because it regulated content-based speech on the basis of that speech's content].) As such, many California law enforcement agencies have removed the warning from their civilian complaint forms and accept anonymous complaints. The California Attorney General's Office has also determined that a law enforcement agency can investigate allegations of police misconduct, even if the complainant did not sign the admonition as required by Penal Code section 148.6. (Cal. Atty. Gen. Ops. No. 96-111 (1996).) The RIPA Board strongly supports the acceptance of anonymous complaints. The RIPA Board also renews its request to the California Legislature to address this conflict, since the requirements set out by the Penal Code can have a chilling effect on the submission of civilian complaints.

⁴ "OS" refers to the online submission form.

⁵ "PV" refers to the printed or PDF version of the complaint form.

The material in this document is for consideration by the RIPA Board and intended to serve only as a starting point for discussion of items to include in the upcoming report.