



Racial and
Identity
Profiling
Advisory
Board

Annual Report
Recommendations and Best Practices
2023

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RECOMMENDATIONS AND BEST PRACTICES

2023 RIPA REPORT

The 2023 Annual RIPA Report provides recommendations and best practices from the RIPA Board for law enforcement agencies, the Legislature, local policymakers, the Commission on Peace Officer Standards and Training (POST), community members, and advocates to promote evidence-based and data-driven policy reforms to eliminate racial and identity profiling and improve law enforcement and community relations. The Report provides context and research that inform the recommendations and best practices described below. These recommendations are not exhaustive, but provide a foundation upon which stakeholders can build and develop emerging next practices geared toward safe and equitable policing.

The Mental Health Impacts of Being Policed On Communities Impacted By Racial and Identity Profiling

- Public health officials and policymakers should treat racial and identity profiling and adverse policing as significant public health issues and recognize that police interactions can negatively impact the mental and physical health of individuals who are Black, Hispanic/Latine(x), Indigenous, and people of color. Adequate resources should be invested to understand and address the health implications of racial profiling, as well as other types of identity profiling.

Pretextual Stops

- The Board reiterates its 2022 recommendation for the Legislature, law enforcement agencies, and local district attorneys to create data-driven policies to improve public safety and develop innovative ways to address racial and identity profiling by eliminating pretextual stops.
- The Legislature, law enforcement agencies, and local district attorneys should examine emerging approaches to:
 - o Eliminate all pretextual stops and subsequent searches and ensure that a stop or search is based on reasonable suspicion or probable cause, respectively.
 - o Identify and take action to limit enforcement of traffic laws and minor offenses that pose a low risk to public safety and show significant disparities in the rate of enforcement.
 - o Limit armed law enforcement responses to traffic enforcement by allowing for stops only if there is a concern for public safety and explore amending the vehicle code to more broadly move traffic enforcement out of law enforcement's purview (e.g., to a civilian traffic unit).
 - o Ban certain searches, such as consent searches or supervision searches, during traffic stops and instead require probable cause for any search.
- The Legislature should:
 - o Evaluate moving to a probable cause standard for stops that the RIPA data shows have a statistically significant disparate outcome with little benefit to public safety.
 - o Prohibit law enforcement from asking an individual their probation, parole, or supervision status, unless there are articulable facts establishing probable cause that a crime has been committed.
 - o Consider various measures, including prohibiting consent searches or creating primary and secondary traffic enforcement systems, to determine how they might reduce disparities and inequitable enforcement of laws.

- o Consider addressing pretextual stops beyond just traffic violations, such as pedestrian-related stops (for example, explore policies that address stop-and-frisk).
- o Consider creating a package of reforms to address and end pretextual stops that includes decriminalization as a core component.
- Municipalities and law enforcement agencies should:
 - o Develop policies that prescribe the specific types of prohibited stops and, thus, limit the discretion officers have to determine what can be characterized as a public safety stop.
 - o Prohibit specific types of enforcement actions traditionally allowed in the absence of reasonable suspicion or probable cause, such as consent searches and supervision searches, unless there are articulable facts establishing probable cause a crime has been committed.
- The Board encourages the Legislature and municipalities to consider reducing fines and fees related to vehicle equipment violations. The Board recommends that jurisdictions instead consider policies and programs that assist a person in making needed vehicle repairs.
- The Board recommends that district attorneys consider the following when developing strategies to address pretextual stops:
 - o Declining to file charges that stem from a pretextual stop or search.
 - o Creating policies that direct deputy district attorneys to decline to file possessory charges based on a search that occurred during a traffic encounter, a misdemeanor offense, or a consent or probation search.
 - o Developing directives that clearly prescribe the types of stops that are restricted or prohibited, such as obstructed window or expired registration.
- The Board also encourages District Attorneys to review their own data for charges that may be a source of disparities and work with community members to develop solutions.
- Agencies, district attorneys, and lawmakers should consult with the communities they serve to develop their own policies to address pretextual stops in addition to looking at new types of traffic enforcement programs.

Youth Contacts with Law Enforcement

- Policymakers should consider:
 - o Providing youth with additional protections and safeguards prior to waiving any rights, particularly if any statements they make could lead to their inclusion in a criminal database or could be used against them in criminal proceedings.
 - o Providing youth with additional protections with respect to consent searches and field interview cards, similar to those afforded to youth in custodial interrogations, to assure statements are given voluntarily.
 - o Reforming use of force policies and practices to take into account the physical and developmental differences of youth.
 - o Requiring officers to have probable cause prior to conducting a search of anyone, especially of youth, because of the racial and identity disparities in search rates and the lack of voluntariness in agreeing to a search.

- o Taking measures to prohibit officers from requesting consent to search youth without an attorney present.

Youth and Law Enforcement: Addressing the Profiling of Students

- The Board is concerned by the research and data disparities in school discipline and referrals to law enforcement and will continue to develop its exploration of these critical issues. In 2023, the Board will examine policy recommendations and best practices regarding:
 - o Student disciplinary issues that school administrators and staff should address themselves rather than requesting assistance from or making referrals to law enforcement
 - o The efficacy of school-based police and whether school-based police should continue to be present in K-12 schools, given the research showing the negative impacts.

Accountability Models

- Law enforcement agencies should:
 - o Consider the role supervisors play in creating a healthy culture of accountability. Upon noticing changes in behavior or attitude of officers, supervisors can check in with officers to determine the underlying reason for the change in behavior and to take appropriate action to prevent it from affecting the work further.
- The Board encourages agencies and municipalities to work with community partners to incorporate the following principles identified by the United States Department of Justice when establishing or maintaining a civilian review board:
 - o A board should be independent from real or perceived influence from special interests, including law enforcement and political actors. An oversight board must be able to act impartially, fairly, and in a manner that maintains community and stakeholder trust.
 - o A board's jurisdiction and authority must be clearly defined and adequate to prevent confusion and differing interpretations of the board's authority.
 - o A board that has unfettered access to records and facilities in a timely manner provides for effective, informed, and fact-driven oversight.
 - o A board should have access to law enforcement executives and internal affairs staff, which would promote cooperation and ensure that those involved can develop mutual understanding and support for each other's role in promoting accountability for the law enforcement board.
 - o A board should have the full cooperation of officers and department staff, which will facilitate thorough investigations and obtaining sufficient information for work performed by the civilian board.
 - o A board should have sustained stakeholder support, not just support in times of crises. Lack of prolonged support may look like leaving board appointments vacant for long periods or failing to provide adequate resources, both things that undermine the civilian board in the long term.
 - o A board should have adequate funding and operational resources such that the board may perform its functions thoroughly, timely, and skillfully.
 - o A board should be transparent and be able to regularly report to the public in a manner free from influence by political actors or pressure or law enforcement boards. Civilian boards bring transparency to the otherwise opaque internal investigation process.

- o A board should have data-driven and evidence-based analyses of law enforcement policies and patterns, which may address systemic issues and result in recommendations that may improve community relations.
- o A board should outreach to the community, which enables a board to build awareness of its existence, share reports and findings with the public, build relationships with stakeholders, recruit volunteers, solicit community input and involvement, facilitate learning and greater understanding, broker improved relationships, build coalitions, and develop a greater capacity for problem-solving.
- o A board should have community and stakeholder input about how civilian oversight should function and how the issues it should address will lead to the best fit oversight system to meet the particular community's needs and expectations.
- o A board should have confidentiality, anonymity, and protection from retaliation to promote community involvement and bring legitimacy to the system.
- o A board should have procedural justice regarding how authority is exercised. Officers' perception of a procedurally just work environment is correlated to reduced misconduct and corruption and greater endorsement of policing reforms, reduced mistrust of and cynicism about the community, willingness to obey supervisors, and increased officer well-being.
- Jurisdictions seeking to appoint or establish an inspector general's office should consider the office's:
 - o Credibility. An inspector general is more likely to be perceived as neutral when they are not tied to a specific administration and chosen based on integrity and competence, rather than political affiliation. Community perception is also key to credibility.
 - o Access to information. They should have subpoena power and access to documents, databases, and people, at a minimum. Those who complain to an inspector general should be protected from retaliation. An inspector general should also have prompt access to evidence and databases.
 - o Support from relevant government institutions. Relevant government agencies should also support and provide resources to an inspector general; funding is required to carry out oversight.

Calls for Service and Bias-By-Proxy

- As POST updates and develops the Dispatcher Basic Training Course, the Board recommends that POST:
 - o Create a bias training for dispatchers that must be attended by all dispatchers at least once a year; mandate participation in bias training to be repeated, sustained, and reinforced as further research supports; and perform an annual review and update of the bias training for quality assurance and effectiveness;
 - o Develop an assessment tool beyond an oral interview for determining potential bias of applicants during dispatcher hiring;
 - o Develop outreach strategies for hiring of dispatchers such that dispatchers are representative of the diversity of the community they serve; and
 - o Offer guidance to local law enforcement agencies regarding social media investigations or inquiries in the hiring of dispatchers.

- The Board encourages city governments, law enforcement agencies, and community advocates to partner to develop crisis intervention models that work for their communities.

Civilian Complaints Policies

- The Board renews its recommendation from the 2022 Report that the Legislature should:
 - o Add the following definition to Penal Code section 832.5:
 - (1) Complaint means either of the following:
 - (A) any issue brought to a department or agency where the complainant perceives that a department or agency employee engaged in criminal conduct, abusive or discriminatory behavior, inappropriate or discourteous conduct, or violation of any law or rules, policies, and regulations of the department or agency; or
 - (B) disagreement solely with the policies, procedures, or services of the department or agency and not with the performance of any personnel. If during the course of investigating this type of complaint, conduct is discovered that could be the basis of a complaint under subdivision (1)(A), the investigator shall report this conduct to a supervisor, which should be logged, tracked, and investigated separately from the original complaint.
 - o Modify or eliminate the requirement in Penal Code section 148.6 that law enforcement agencies obtain a signed advisory from complainants, referencing the possibility of criminal sanctions, before accepting a civilian complaint.
- Law enforcement agencies should:
 - o Incorporate the principles of procedural justice into as many aspects of the civilian complaints process as possible.
 - o Aim to make the complaints process accessible to everyone, and accept all complaints, in any form, from any person including minors, parents or legal guardians on behalf of their minor dependent, non-English speaking persons, anonymous, and third-party complainants. Practices that may deter members of the public from pursuing a complaint, such as running warrants or immigration checks on complainants at intake, should be prohibited.
 - o Apply the RIPA Board’s definition of “civilian complaint,” discussed above, to all custody settings, such as jails, to ensure that all complaints are captured in the data reported to the Department of Justice.
 - o Write complaint forms for a 7th to 9th grade reading level and print the forms using a minimum of size 14 text in high contrast colors.
 - o Make complaint forms as accessible as possible, including for people with disabilities, by using additional methods such as formatting text flush left, using numbered lists instead of bullet points, and correcting formatting of electronic documents to make forms more accessible for assistive technology software/screen readers.
 - o Provide complaint forms and instructions in any language spoken by more than 5% of the jurisdiction’s population, as defined in the Dymally-Alatorre Bilingual Services Act.
 - o Explicitly inquire on the complaint form whether the complaint alleges racial or identity profiling and provide space to specify the type(s) of racial or identity profiling alleged.
 - o Make complaint forms widely and permanently available in a variety of locations, such as within the agencies’ office(s), other government buildings, and community-centered sites. Each

location offering a form should include posted signage notifying the public of their right to make a complaint.

- o Consider alternative means for members of the public to prepare and submit complaints remotely to facilitate greater access to the complaint process, such as an online portal or free telephonic hotline.
- o Facilitate the public's ability to participate in the complaint process by:
 - Requiring officers to inform a member of the public who describes alleged misconduct to the officer of their right to file a complaint and explain the complaint process in a manner that is easily understandable and promotes action by the complainant, if they desire;
 - Require officers to submit a complaint when a member of the public provides the officer with information about alleged misconduct by another officer, even if the community member does not wish to pursue a complaint themselves or does not express a desire for any remedy, such as discipline of the officer;
 - Ask complainants with disabilities what accommodations would help them engage with a complaint investigation more easily;
 - Provide interpreters or translators to complainants; and
 - Recognize other cultural needs of the complainant.
- o Establish clear anti-retaliation policies prohibiting department officials from taking any adverse action against a complainant, such as threats, intimidation, coercion, or harassment. Violations of these policies should be independent grounds for discipline.
- o Develop clear deadlines for each step in the complaint process and provide those deadlines to members of the community, including deadlines to:
 - Assign the complaint to a reviewer and initiate the investigation;
 - Notify a complainant of the reviewer's contact information and any tracking number associated with the complaint (preferably within 24 hours from the time the complaint was assigned to an investigator);
 - Notify an officer that a complaint was filed against them (preferably within 24 hours from the time the complaint was assigned to an investigator);
 - Contact witnesses (preferably within 24 hours from the filing of the complaint, for smaller agencies);
 - Complete the investigation (preferably within one year from the time the complaint was assigned to an investigator);
 - Provide regular updates to the complainant throughout the investigation (preferably monthly); and
 - Notify the complainant of the disposition (preferably within one week of the conclusion of the investigation).
- o Adhere to the deadlines set for each step in the complaint process, and require supervisory approval for deviations from those deadlines.
- o Use a uniform system to accept, document, investigate, and report individual complaints. Where feasible, this system should be automated, capture all information necessary for individual case tracking and systemic data from the agency's aggregated complaints, and alert those responsible for management of the complaint process when deadlines are about to expire or have expired.

- o Strive to make complainants and witnesses feel comfortable participating in the complaint process, and emphasize respectful and professional communication throughout the process.
- o Ensure regular and prompt communication with complainants throughout the complaints process by:
 - Establishing protocols and policies to engage with complainants within 48 hours of submitting a complaint;
 - Providing complainants with the following information, as soon as possible after a complaint is submitted:
 - A tracking number for the complaint, the identity of the investigator, and contact information or other information to track the progress of their complaint;
 - An opportunity to review their complaint and/or statements for accuracy;
 - Standards for review and disposition categories in the agency’s policy; and
 - A timeline for complaint investigations and procedures that must be followed.
 - Providing routine updates to the complainant regarding the status of the investigation, including any steps taken to investigate the complaint and anticipated next steps;
 - Immediately notifying the complainant if there are any delays in the investigative process; and
 - Notifying complainants as soon as possible once an investigation is completed. The notification should include:
 - The disposition of the complaint;
 - The findings underlying the disposition;
 - Copies of the documents and evidence relied on, to the greatest extent the information may be disclosed by law; and
 - An advisement that complainants may request further information and/or additional documents related to the investigation of their complaint.
- o Offer to communicate with a complainant through alternative methods to written correspondence, such as by phone or email, or with the assistance of a mediator or advocate, if the complainant prefers.
- o Investigate all complaints. No investigation should be terminated solely based on withdrawal of a complaint.
- o Consider recording all investigative interviews.
- o Examine standardized lines of inquiry in every investigation, including several lines of inquiry to detect both direct and indirect evidence of wrongdoing, such as:
 - The officer’s reason for contact (including any contextual information provided by a dispatcher);
 - Relevant contextual information during the contact, such as a perceived protected characteristic;
 - The language used during the police encounter;
 - A comparison of how the complainant was treated, relative to other individuals in similar circumstances without the same protected characteristics; and
 - The officer’s background, training, years of experience, complaint history, and patterns of behavior.

- o Provide the complainant with written notification of the disposition within 30 days of the decision, including:
 - A statement of the specific disposition;
 - A summary of the investigatory steps taken;
 - The specific findings of the investigation and reasons for them;
 - Copies of the documents and evidence relied on;
 - Whether any disciplinary actions, including training, were taken as a result of the complaint; and
 - Advising that the complainant can request additional information and/or documents related to the investigation of their complaint.
- o Consider adopting a restorative justice approach when notifying a complainant of the complaint disposition. To that end, agencies should also encourage direct apologies to complainants for any failings found during a complaint investigation.
- o Audit individual complaints to verify that all available evidence was collected and analyzed, verify that the statements summarized in the investigative report are accurate, evaluate the findings and final disposition of individual complaints, and assess the timeliness of the agency's response.
- o Periodically analyze trends within their aggregate civilian complaint data. Agencies should then use this data to determine whether additional training or revisions to policies are necessary to improve the efficacy of the complaint process.

POST Law Enforcement Training and Recruitment

- The Board recommends that the Legislature:
 - o Expand the POST Commission by five people to add more diverse representation from the public and non-sworn community.
 - o Increase the minimum academy or basic training hours to more closely reflect the hours certified by POST at most academies, which exceed this amount.
 - o Analyze or audit POST's funding for training to provide clarity on the most effective use of training funds.
 - o Mandate in-service officers to take the 8-hour Procedural Justice training course rather than have it be voluntary.
 - o Require Field Training Supervisors to take extensive racial and identity profiling training prior to teaching the 440 hours of Field Training to newly certified Academy graduates.
 - o Mandate measures of effectiveness in curriculums approved or certified by POST to determine if trainings are having the desired effect.
- The Board recommends that POST:
 - o Share information with the Board on how the Board's recommendations were incorporated into the courses that the Board worked on.
 - o Discuss the Board's course feedback and best practices recommendations as an item for discussion by the Commissioners as opposed to a consent item.

- o Publish any guidelines for racial and identity profiling-related courses on the POST website, and if there are no current guidelines, undertake this process.
- o Develop a robust plan for engaging individuals from the communities most profiled, as evidenced by the annual RIPA report data, in reviewing and providing feedback on existing courses and new ones in development.
- o Appoint a community engagement coordinator to ensure meaningful community input is considered and included in all POST training courses involving interactions with the public.
- o Create broader transparency in the POST racial and identity course curriculum development and certification process by publishing this information on the POST webpage and engaging with a diverse group of interested stakeholders throughout the process.
- o Engage non-traditional experts outside of POST – such as the National Organization of Black Law Enforcement Officers, the Fair and Impartial Policing Institute, or the Center for Policing Equity – to evaluate and/or develop profiling and bias training.
- With respect to Learning Domain 42 of the Regular Basic Training Course, entitled Cultural Diversity/ Discrimination, the Board had extensive recommendations for revisions. The Board highlights a few recommendations here and encourages POST to review the complete commentary in the Report.
 - o The course objectives should prominently discuss and emphasize law enforcement agency expectations regarding unlawful racial or identity profiling behavior and accountability for engaging in those acts.
 - o The course should lay out in the introduction why learning about racial and identity profiling is a required training and, while each officer possesses personal values and thoughts, the mission of their organization must be “front of mind” such that one’s personal values and thoughts never compromise public trust and safety.
 - o Rather than its current focus on convincing officers that racial profiling is wrong, Section 2 on racial and identity profiling should be evidence-based and thus focus on the significant amount of data and research showing that racial profiling is not an effective means of policing.
 - o The learning objectives of the section on sexual orientation should discuss the difference between sexual orientation and gender identity and how they intersect with each other, as well as race, culture, and religion.
 - o The legal section should more explicitly state that the RIPA statute recognizes that racial and identity profiling – or the “consideration of, or reliance on, to any degree” protected identity characteristics in deciding any stops or actions taken – is prohibited. To put this in context, it should also acknowledge that the law recognizes the harm caused by profiling (to individuals, communities, and police-community relations) and the need for affirmative steps to prevent it from happening.
 - o The course definitions should discuss racism and racial profiling and how they intersect and should not characterize racial profiling as controversial.
 - o The course should more explicitly discuss the history of the civil rights movement rather than use euphemistic language. Such language obscures how it was not expressly impermissible under the law for officers to discriminate against people based on their racial background and to only protect White individuals from harm while permitting violence perpetuated by White individuals against Black individuals. Making that history more explicit helps officers understand 1) the trajectory of policing and 2) why people may legitimately be distrustful of policing activity given the historical context and, particularly, when we see similar trends persist today.

- POST should revise its Racial Profiling Train-the-Trainer training in the following ways:
 - o The course should contain measures of effectiveness by which to evaluate course outcomes, such as a reduction in disparities in traffic stops or how many students pass or fail the course.
 - o Ongoing training for service officers should be at least once a year and the course should be updated annually in consultation with community members and non-law enforcement subject matter experts.
 - o The course must be inclusive of all identities, including gender and disability.
 - o The Museum of Tolerance and POST should work continuously to update course materials in collaboration with community members.
 - o The training would benefit greatly from acknowledging that disparities have been documented across jurisdictions in how people are treated during stops.
 - o The course should refer to racial *and identity* profiling throughout the training, rather than focusing only on racial profiling.
 - o The course should use the data to train on a specific ethical thought grid before a decision is made to stop, detain, handcuff, or order someone to sit on a sidewalk, or conduct a bicycle-related stop, to name a few examples.
 - o Throughout the curriculum, there should be a discussion of both explicit and implicit bias and how both can lead to illegal profiling behavior. Trainees should leave with the understanding that addressing bias can actually lead to better outcomes.
 - o The course would benefit from robust role-playing exercises with course participants to gain a better understanding of community members' perspectives during police stops.
 - o The facilitation team could be improved by including non-law enforcement representatives, such as someone with an expertise in teaching implicit bias. The Museum of Tolerance and POST should consider using facilitators from diverse backgrounds and organizations like those originally named as members of the curriculum development panel.
- Regarding the Racial Profiling Train-the-Trainer course, the Legislature should:
 - o Mandate that this course be updated much more frequently.
 - o Expand the responsibility for this course and its updates to include a diverse group of stakeholders beyond the Museum of Tolerance and provide funding accordingly.
- Regarding SB 2 for decertification of officers, the Board recommends the following to POST:
 - o Clarify that bias based upon an officer's perception of an individual's identity, not only the individual's actual identity, would be a basis for decertification.
 - o The definition of bias should explicitly include, but should not be limited to, conduct that would constitute illegal profiling as defined by Penal Code Section 13519.4.
 - o Acts or omissions that would render an individual ineligible as a peace officer under Government Code Section 1031.3 should be included as grounds of decertification.
- The Board's POST Subcommittee endorses the California Legislative Analyst's Office's recommendations that:
 - o The Legislature should conduct a more extensive review of how POST is spending its budget for law enforcement training.

- o POST should collect and report on the number of officers trained, how the trainings were delivered, and the cost per training attendee, as well as the effect of specific trainings on officers' job performance.
- The Board's POST subcommittee endorses the general recommendations from the State Auditor's Office to the Legislature in its report examining five law enforcement departments throughout the State. These recommendations include better aligning expectations in state law with best practices for addressing bias in policing, such as by adopting a uniform definition of biased conduct, requiring more frequent and thorough training, and increasing independent oversight.