

CIVILIAN COMPLAINTS: POLICIES AND DATA ANALYSES

Since 1981, state law has required California law enforcement agencies to submit civilian complaint information to the Department. This state law was amended by RIPA in 2015 to require law enforcement agencies to submit the total number of complaints alleging racial or identity profiling, along with the number of complaints with dispositions of “sustained,” “exonerated,” “not sustained,” and “unfounded.”¹ Furthermore, RIPA requires this data to be disaggregated and analyzed for inclusion in the Board’s annual report. Included below is an overview and analysis of the civilian complaint data submitted to the DOJ, a review of the Wave 3 and Wave 4 agencies who started reporting in 2021 civilian complaint forms, and the Board’s recommendations to standardize California law on civilian complaints to ensure a uniform and equitable system.

State law gives each law enforcement agency discretion to implement their complaint processes and outreach differently.² This legal flexibility may affect the number of complaints an agency receives and the outcome of those complaint investigations. Thus, making comparisons across law enforcement agencies should be done with care, as the differences may be the result of a variety of factors. The Board has identified the following factors as important to consider in analyzing complaint data: 1) varying definitions of “civilian complaint” and variability in how complaints are categorized; 2) variable civilian complaint intake and investigation processes; 3) varying outreach and education to members of the public about an agency’s complaint process; 4) variable accessibility for people with disabilities; and 5) the potential deterrent impact of language from Penal Code section 148.6 on complaint forms.³

Overview of Civilian Complaint Data

[Insert Research Center Data Analysis]

Wave 3 and 4 Civilian Complaint Form Review

In its 2019 report, the Board made recommendations for best practices for civilian complaint

¹ “Sustained” means the investigation disclosed sufficient evidence to prove the truth of the allegation in the complaint by a preponderance of the evidence. “Exonerated” means the investigation clearly established that the employee’s actions that formed the basis of the complaint were not a violation of law or agency policy. “Not sustained” means the investigation failed to disclose sufficient evidence to clearly prove or disprove the complaint’s allegation. “Unfounded” means the investigation clearly established that the allegation is not true. Cal. Pen. Code, § 13012, subd. (a)(5)(B).









² See Cal. Pen. Code, § 832.5.

³ Racial and Identity Profiling Advisory Board Report (2020) pp. 64-75
<<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf>> (as of).







DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

procedures and policies.⁴ 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.⁵ Through this lens, the Board conducted an initial review of the Wave 1 and Wave 2 agencies’ civilian complaint forms since 2020; the Board is now extending that review to the Wave 3 agencies and those Wave 4 agencies that began reporting in 2021.⁶

LEGEND FOR AGENCY REVIEW	
 Methods of Submission	 Deterrent Language
 Telephone Access	 Translation
 Complaint Form Details	 Data
 Anonymous/Third Party Complaint	 Procedure Information

Alameda County Sheriff’s Office (Alameda Sheriff)

-  Complaints may be submitted in person at any Alameda Sheriff’s station, by phone to the Internal Affairs (IA) Office, or by mail.
-  The agency’s website, complaint form, and brochure include language from Penal Code 148.6 and Cal. Civil Code 47.5.
-  The Alameda Sheriff’s website provides several phone numbers to call to file a complaint. Members of the community can call IA directly, the specific Personnel Complaints phone lines for submitting a complaint during the day or nighttime, or the Emergency/Hearing Impaired phone line if needed.
-  The complaint form is only offered in English. Alameda Sheriff has a translation line and certified bilingual staff available to assist with translation of the form.
-  The current policy states that the Alameda Sheriff accepts anonymous complaints. The agency reports that it does not accept third-party complaints.
-  The agency’s website and complaint brochure provide specific information on the civilian complaint procedure and investigation process. This information is also summarized on the complaint form itself.

⁴ Racial and Identity Profiling Advisory Board Report (2019) pp. 41-44 <<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2019.pdf>> (as of).

⁵ Racial and Identity Profiling Advisory Board Report (2020) p. 58-80 <<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf>> (as of).

⁶ See Appendix [] for these law enforcement agencies’ civilian complaint forms.

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

Anaheim Police Department (Anaheim Police)

i Complaint forms may be retrieved online, at any police station, the City Clerk’s Office, any Anaheim public library, or the Community Services Office. The form can then be submitted in person, by mail, or online. Additionally, members of the public may submit their complaint through an online form.

✍ The online and printed or PDF forms are nearly identical except for a question about whether or not the complaint is based on racial or identity bias; this question is only included on the printed or PDF form and not the online form.

? The current policy states that the Anaheim Police accepts both anonymous and third-party complaints.

🗨 The online and print or PDF complaint forms are available in English and Spanish. The agency reports it provides forms in these two languages based on the demographics of the community they serve.

📢 The complaint form includes some information about the civilian complaint process, such as whether the complainant will be informed of the results of the investigation, but it does not describe the investigation process or provide a timeline.

🔑 Both the online and printed forms include nearly verbatim language from Penal Code section 148.6.

Fresno County Sheriff’s Department (Fresno Sheriff)

i Members of the public may file a civilian complaint with the Fresno Sheriff by completing a form or calling Internal Affairs during business hours. If the call is made after hours, the complainant must contact the Watch Commander.

✍ The complaint form details information that is “needed to process [a] complaint,” including: 1) the complainant’s name, address, and telephone number; 2) the location, date, and time of the alleged incident; 3) the name, address, and telephone number (if available) of all witnesses; 4) the names or other identification of Sheriff’s Office personnel involved; 5) all details of the alleged incident prompting the complaints; and 6) a signature on both sides of the complaint. The form does not explain that a complainant only need to provide as much information that is known to them.

📢 Information about the civilian complaint process is attached to the complaint form.

🗨 The complaint form is only available in English.

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

? Because the form states the aforementioned details are “needed to process a complaint” without an additional disclaimer, a complainant may think they cannot submit a complaint unless they provide every item of information listed above. Moreover, couching the complaint as requiring the six areas of information, including a name and signature, suggests that anonymous complaints may not be processed. Therefore, it is unclear whether the Fresno Sheriff will accept anonymous complaints.

Kern County Sheriff’s Department (Kern Sheriff)

The agency reports that their current complaint form and associated policies are under review and in the process of significant updates to incorporate the best practices contained within the RIPA Board’s 2019 and 2020 Annual Reports.

🗣️ The complaint form is available in English and Spanish. Kern Sheriff is currently assessing what other translations it may be required to have for its forms under the Stipulated Judgment with California Department of Justice filed in December 2020. At this time, the agency’s practice is to use telephonic translation services available through their 9-1-1 system.

📍 Complaints against Kern Sheriff employees may be submitted in person at the Personnel Division or any substation and by mail. The agency’s website encourages members of the community to call and speak with an investigator.

📣 The complaint form includes some information about the civilian complaint process.

? Kern Sheriff accepts anonymous and third-party complaints.

🔍 The complaint form includes nearly verbatim language from Penal Code section 148.6.

Los Angeles World Airport Police (LAX Police)

📍 Complaints may be submitted online or in-person.

🗣️ The online and printed or PDF complaint form are only offered in English.

🔍 The printed or PDF complaint form includes nearly verbatim language from Penal Code section 148.6.

? The agency reports it accepts anonymous and/or third-party complaints.

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

📣 The agency’s website does not provide information on the complaint process. The printed or PDF complaint form does include details about the complaint procedure attached to it.

Riverside Police Department (Riverside Police)

📄 Complaint forms are available online and in person. Complaints are accepted in person, by phone, or by mail. Members of the community can submit their complaint to Riverside Police and/or the Civilian Police Review Commission (CPRC).

✂️ All complaints submitted within six months of the allegations are also investigated by the CPRC.

🗣️ The complaint form is available in English and Spanish, which the agency reports are the two languages spoken by most of the population they serve

? While it is unclear whether Riverside Police accepts anonymous complaints or third-party complaints, the agency states that “all persons, including non-citizens,” have the right to report employee misconduct. Moreover, the complainant’s signature is optional.

📣 The Riverside Police provide a detailed description of the complaint, investigation, and disposition process on their website. It is unclear if that information is provided to complainants who receive the complaint form in person or by mail.

San Francisco County Sheriff’s Department (San Francisco Sheriff)

📄 Complaints may be filed with the San Francisco Sheriff by mail, by phone, or in person at the Internal Affairs unit.

🗣️ The complaint form includes language from and cites to Penal Code section 148.6.

🗣️ The complaint form is offered in English and Cantonese. San Francisco Sheriff determines the languages needed for translating its complaint form by doing a bi-annual tracking of a two-week period of non-English speaking public contacts. This information is provided to the City to ensure the proper languages are being offered. Translations are provided by the City and County San Francisco Department of Human Resources in accordance with the city and county Language Access Ordinance.

✂️ The complaint form makes it optional to release medical records from the complainant to assist in the investigation.

? The agency’s website provides that they will have to get a statement from the complainant

📣 The agency’s website provides details on the civilian complaint procedure and investigation. This

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

whether the person submitting the complaint was involved or saw the incident, suggesting that they accept third-party complaints.

information is not attached to the complaint form itself.

Santa Ana Police Department (Santa Ana Police)

i Santa Ana Police accept complaints either in person or by mail.

a A detailed description of the purpose and procedure of the civilian complaint process is posted on their website and attached to the civilian complaint form. The description includes a general timeframe with respect to the length of review and information about what the complainant can expect if the complaint alleges criminal behavior.

i The agency's complaint form includes near verbatim language from Penal Code section 148.6.

💬 The complaint form is available in English and Spanish. Santa Ana Police report that these languages were chosen by City leadership. City staff do the translations.

Santa Clara County Sheriff's Department (Santa Clara Sheriff)

a Both the website and the PDF complaint form have information on the complaint process and investigation. The website also lists the name and contact information of other organizations that a complainant may go to if they are unsatisfied with the investigation outcome, including DOJ and the Santa Clara ACLU chapter.

i Civilian complaints may be filed at any Santa Clara Sheriff's facility, online, by phone, or mail.

💬 The PDF complaint form is available in English, Mandarin, Vietnamese, and Spanish; the online form is available in English only.

🗑️ The two complaint forms are generally the same, except the online form asks for the "associated police report."

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board's consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

🔍 The Santa Clara Sheriff’s website has a specific note to complainants that their investigation of officer conduct is wholly separate from any connected criminal prosecution and will not affect the prosecutor’s decision. Following this note, it provides:

“A complaint which is false, however, and made with knowledge of its falsity, and made with spite, hatred, or ill will, which accuses an officer of misconduct, criminal conduct, or incompetence, will expose the maker of such false complaint to a civil action brought by the officer. This advisement is not made to dissuade the making of a bona fide complaint, for such complaints should be made and investigated. It is directed only to those few individuals who believe that false complaints against officers can be made with impunity.”

Stockton Police Department (Stockton Police)

📍 Stockton Police receive complaints by phone, in person, or by mail. Civilian complaint forms can be found at Stockton public libraries, the City Clerk’s Office, or any Stockton Police station.

🗣️ The complaint form is offered in English and Spanish.

🗑️ At the top of the complaint form, it states “if your concern stems from an arrest or citation issued, it may not be investigated until the legal matter has been resolved.”

📣 The agency’s website does not explain the civilian complaint process or procedure. It is unclear whether a complaint brochure or something similar exists and is provided to complainants. The agency has its civilian complaint policy on its website.

🔍 While the complaint form does not include language from Penal Code section 148.6, the signature block of the complaint form references Civil Code section 47.5 regarding an officer’s ability to file a civil claim against the complainant for a false complaint.

❓ The current policy states that the Stockton Police accept anonymous and third-party complaints.

Ventura County Sheriff’s Department (Ventura Sheriff)

📍 Civilian complaints are accepted in person, by phone, or by mail. The forms can be found at any Ventura Sheriff station.

📣 The agency’s website has two separate places where civilian complaints are discussed. One webpage provides links to the complaint forms with no additional information about the

🔍 Penal Code section 148.6 is directly quoted and cited to in the signature block of the form. There is also an advisory about Civil Code 47.5 and Penal Code 148.5.

🗣️ The complaint form is offered in English and Spanish. Ventura Sheriff provides its complaint form in these languages because they are the primary


DRAFT REPORT – PENDING EDITING AND REVIEW


This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.


complaint process. The other webpage – connected to Internal Affairs – provides details on the process and types of dispositions. More detailed information about the process is attached to the civilian complaint form.


languages spoken in Ventura County. If any other language assistance is needed, the agency reports that it has access to translation services.


Berkeley Police Department (Berkeley Police)


 The Berkeley Police accept complaints by phone, by email, or in person at the Public Safety Building. Complaints may also be submitted to and reviewed by the Police Review Commission.

 The complaint form includes the following language before the open narrative space for a complainant to describe their allegation, “[i]f your complaint is more than 30 days from the date of incident upon which the complaint is based, please explain in your synopsis the circumstances that caused a delay in filing.”


 The complaint form lists ten types of department policy violations a complainant may allege, including “other.” The form also includes a space for specifying the type of discrimination the complainant alleges.


 The complaint form is offered in English and Spanish. The agency informed DOJ that the form is translated by a translator service.


 It seems the agency accepts third-party complaints because the form includes a field for “victim” and specifies “if other than the complainant.”


 The agency’s website and the complaint form do not have information on the civilian complaint process or procedure. There is some information on who investigates the complaints.


Culver City Police Department (Culver City Police)


 Members of the public can submit civilian complaints by phone, by mail, in person, or electronically.

 The form includes near verbatim language of Penal Code section 148.6.

 The agency makes clear on their website that anyone may file a complaint including a parent or representative of an involved party. It is not clear if the complaint may be anonymous.

 The agency’s website provides detailed information about the complaint process and procedure, including what the investigation may look into and what the disposition could be.

 Culver City Police offers its complaint form in English and Spanish. The agency informed

 In addition to covering details about the civilian complaint process and

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

DOJ that Culver City Police command staff decide what languages to translate the form into and the translation is done by a certified translator.

procedure, Culver City Police provide complaint statistics on its website. The statistics include the number of complaints and the number of sustained complaints for both external and internal complaints since 2015.

Davis Police Department (Davis Police)

i Complaints may be submitted to the Davis Police by mail, in person, by e-mail, by phone, or by contacting the City Manager’s Office or the Independent Police Auditor.

q The complaint form includes nearly verbatim language from Penal Code 148.6 at the top of the complaint form.

a The agency’s website does not explain the civilian complaint process or procedure. The complaint form does include two pages of information regarding the civilian complaint process and procedure. It also includes the option to resolve the complaint through the “Community-Police Alternative Conflict Resolution Program” process.

o Davis Police reports that its printed civilian complaint form is currently only provided in English but will be available in Spanish and Russian soon. The agency informed DOJ that it provides translation services for most languages. The agency reported that it determined the languages needed for translating the complaint form from reviewing census data and other local resources.

? It is unclear if Davis Police accept anonymous and third-party complaints.

Petaluma Police Department (Petaluma Police)

i Petaluma Police accept complaints by mail, by phone, by fax, by e-mail, and in person.

q The form includes nearly verbatim language from Penal Code 148.6.

a The agency’s complaint form does not include an open narrative field for the complainant to write a summary of their allegations; instead, they are required to attach a summary of the allegations on an additional sheet.

o The complaint form is available in English and Spanish. Petaluma Police reports it determines which languages to translate its civilian complaint form into based on community needs. In this case, 76% of the community speaks English and the second most common language in Petaluma is Spanish. The agency uses an outside translation service to complete the translation of its form.

? The agency’s website makes clear that anyone can file a civilian complaint – even those under 18 years of age – as long as they are accompanied by an adult.

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

📣 Information on the agency’s civilian complaint process or procedure is available on its website and attached to the complaint form.

Rohnert Park Department of Public Safety (Rohnert Park)

❗ Complaints to Rohnert Park can be submitted by phone, by mail, or in person.

📣 The complaint form can be used for both a commendation and complaint, and it includes nearly verbatim language of Penal Code section 148.6.

🗨️ The form is available in English and Spanish. Rohnert Park informed DOJ that if a member of the community requests translation in another language, a certified bilingual employ would translate the text. In the event they do not have an certified bilingual employee in that language, they will then use a third-party translation service.

? The complaint form makes clear that anyone can file a civilian complaint – even those under 18 years of age – as long as they are accompanied by their parent or an adult.

📣 The complaint process is detailed on its website and on the complaint form. There is one difference between the two: the agency’s website includes an FAQ titled “What if I File a False Criminal Complaint?”

Santa Rosa Police Department (Santa Rosa Police)

❗ A civilian complaint may be made in person, by phone, by e-mail, by fax, or in person.

📣 The complaint form includes language verbatim to what is found in Penal Code section 148.6.

✂️ The form does not include an open narrative field so the complainant must attach additional sheets. The form includes the following language:

“We invite citizens to bring their concerns regarding police practices and services to our attention. If you have a complaint and are not sure how to proceed, a telephone call to any on-duty watch commander will provide you the options available.”

? The complaint form makes clear that anyone can file a civilian complaint – even those under 18 years of age – as long as they are accompanied by their parent or an adult. A complainant has the option to remain anonymous.

📣 The Santa Rosa Police website and civilian complaint form include information on its civilian complaint process or procedure.

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

🗨️ The form is available in English and Spanish. Santa Rosa Police reports it determines which languages to translate its civilian complaint form into based on community needs. In this case, 68% of the community speaks English and the second most common language in Santa Rosa is Spanish. The agency uses an outside translation service to complete the translation of its form.

Sonoma County Sheriff’s Office (Sonoma Sheriff), Sonoma Police Department (Sonoma Police), and Windsor Police Department (Windsor Police)

These agencies are reviewed together because Sonoma Police and Windsor Police are staffed by the Sonoma Sheriff on a contract basis and therefore use the same civilian complaint form governed by the same policies and procedures.

- ① The agencies accept complaints by phone, by mail, or in person at any station or a mutually convenient location. Complaints may also be filed with the Independent Law Enforcement Review and Outreach.
- 🗨️ The forms include nearly verbatim language from Penal Code section 148.6.
- 🗨️ The complaint forms are available in English and Spanish.
- ? The agencies report to DOJ that they do accept third-party and anonymous complaints.
- 📢 Information on the civilian complaint process or procedure is available on the Sonoma Sheriff’s and the Windsor Police’s websites. Sonoma Police does not have any information about civilian complaints on its website. The civilian complaint form used by the agencies does include details on the complaint investigation procedure. Both the agency’s website and the complaint form include the FAQ titled “What if I File a False Criminal Complaint?”
- 🗨️ Members of the community filing complaints are provided the opportunity to indicate what type of complaint they are filing. There are six options in addition to “other” including: discourtesy, improper procedure, neglect of duty, bias policing, conduct unbecoming, and unnecessary/excessive use of force. The complaint includes language noting the agencies do not tolerate any “intimidation or retaliatory action against any person who files a complaint against a member of this office.”

Sonoma State University Police (CSU Sonoma Police)

- ① Civilian complaints may be submitted to the CSU Sonoma Police in person, by phone, by fax, or by mail.
- ? It is unclear whether anonymous and/or third-party complaints are accepted by CSU Sonoma Police.
- 🗨️ The complaint form is currently only available in English. The agency

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

✍️ CSU Sonoma Police reports its complaint form, policy, and procedures are largely dictated by the CSU system at large. The current form includes the agency's mission.

informed DOJ that it will determine what other languages may be necessary based on those languages most spoken in the area.

📣 The agency's website includes information on the agency's civilian complaint process or procedure is available on its website and attached to the complaint form. There is a complaint process brochure that also explains details of the investigation process including possible dispositions.

Cotati Police Department (Cotati Police)

📍 Cotati Police accept complaints by mail, by phone, online and in person. The complaint may be made at the Police Department, or another mutually convenient location.

📍 The complaint form includes language from and cites to Penal Code section 148.6.

❓ It is unclear whether anonymous and/or third-party complaints are accepted.

🗣️ The complaint form is available in English and Spanish.

✍️ The agency's printed complaint form does not include an open narrative field for the complainant to write a summary of their allegations; instead, they are required to attach a summary of the allegations on an additional sheet. The online complaint form does include an open narrative field.

📣 Information on the agency's civilian complaint process and procedures is available on the complaint form and online.

Sonoma County Junior College District Police (Sonoma College Police): [Information about complaint form].

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board's consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

Wave 3 + 4 Agency	Form Accessible Online?	Can Submit Online?	Multiple Methods of Submission?	Available in Multiple Languages? ⁷	Third Party Complaints Allowed?	Includes Narrative Field for Description of Complaint?	Does Not Include Language from PC §148.6? ⁸	Complaint Process Information Attached to Form?
Alameda Sheriff	✗	✗	✓	✗	✓	✓	✗	✓
Anaheim Police	✓	✓	✓	✓	✓	✓	✗	✗ OS ⁹ ✓ PV ¹⁰
Fresno Sheriff	✓	✗	✓	✗	?	✓	✗	✓
Kern Sheriff	✓	✗	✓	✓	✓	✓	✗	✓
LAX Police	✓	✓	✓	✗	✓	✓	✓	✗ OS ✓ PV

⁷ 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. (See U.S. Dep’t of Justice, Federal Coordination and Compliance Section, Planning Tool: Considerations for Creation of a Language Assistance Policy and Implementation Plan for Addressing Limited English Proficiency in a Law Enforcement Agency <https://www.justice.gov/crt/fcs/Law_Enforcement_Planning_Tool> (as of Dec. 14, 2020). 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). Law enforcement agencies 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.

⁸ 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 section 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. (79 Ops. Cal.Atty.Gen. 1631 (1996).) **For purposes of this review, a checkmark denotes that an agency does *not* include Penal Code section 148.6 language on their form.**

⁹ “OS” refers to the online submission form.

¹⁰ “PV” refers to the printed or PDF version of the complaint form.

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

Wave 3 + 4 Agency	Form Accessible Online?	Can Submit Online?	Multiple Methods of Submission?	Available in Multiple Languages?	Third Party Complaints Allowed?	Includes Narrative Field for Description of Complaint?	Does Not Include Language from PC §148.6?	Complaint Process Information Attached to Form?
Riverside Police	✓	✗	✓	✓	?	✓	✓	?
San Francisco Sheriff	✓	✗	✓	✗ OS ✓ PV	?	✓	✗	?
Santa Ana Police	✓	✗	✓	✓	?	✓	✗	✓
Santa Clara Sheriff	✓	✓	✓	✗ OS ✓ PV	?	✓	✓	✓
Stockton Police	✓	✗	✓	✓	✓	✓	✓	?
Ventura Sheriff	✓	✗	✓	✓	?	✓	✗	✓
Berkeley Police	✓	✗	✓	✓	✓	✓	✓	✗
Culver City Police	✓	✗	✓	✓	✓	✓	✗	?
Davis Police	✓	✗	✓	✗	?	✓	✗	✓
Rohnert Park	✓	✗	✓	✓	✓	✓	✗	✓
Sonoma College Police								
Santa Rosa Police	✓	✗	✓	✓	?	✗	✗	✓

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

Wave 3 + 4 Agency	Form Accessible Online?	Can Submit Online?	Multiple Methods of Submission?	Available in Multiple Languages?	Third Party Complaints Allowed?	Includes Narrative Field for Description of Complaint?	Does Not Include Language from PC §148.6?	Complaint Process Information Attached to Form?
CSU Sonoma Police	✓	✗	✓	✗	?	✓	✓	✓
Sonoma Sheriff, Sonoma Police, & Windsor Police	✓ ¹¹	✗	✓	✓	✓	✓	✗	✓
Cotati Police	✓	✓	✓	✓ PV ✗ OS	?	✓ OS ✗ PV	✓ OS ✗ PV	✓
Petaluma Police	✓	✗	✓	✓	✓	✗	✗	✓

¹¹ This rating does not apply to the Sonoma Police as it does not have the civilian complaint form available on its website nor any information on the civilian complaint process.

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

Standardizing California LEA Civilian Complaint Processes and Procedures

California law sets out limited requirements for law enforcement agencies to follow with respect to their civilian complaint processes and procedures. In its 2019 Report, the RIPA Board set out best practice recommendations regarding standardizing the civilian complaint intake and investigation process.¹² The Board also separately wrote a letter to the legislature concerning the potential deterrent effect of Penal Code section 148.6 and the conflict between state and federal law around potential violations of the First Amendment in regulating speech about peace officers.

This year the Board is recommending changes to state law to ensure best practices are codified to create a more uniform and equitable civilian complaint procedure across the state. These changes will also ensure more accurate and comparable civilian complaint data. The Board recognizes its responsibility to “eliminate racial and identity profiling in policing,” this goal necessitates that members of the public feel welcome to submit their concerns and confident that their concerns will be taken and investigated seriously.

Current State Law

Law enforcement civilian complaint processes and procedures are governed by the state’s penal code. Each law enforcement agency is required to establish a civilian complaint investigation procedure, but the law does not detail specific steps for agencies to include in the procedure. (Pen. Code § 832.5 (a)(1).) State law requires this procedure must be made available to the public. (Pen. Code § 832.5 (a)(1).)

State law requires agencies to retain civilian complaints and any reports or findings related to the complaint for a minimum of five years. (Penal Code § 832.5 (b).) However, there is a gap in the law because it does not provide a uniform definition of what constitutes a “civilian complaint.” This means that each agency has discretion to decide what community concerns are officially labeled “civilian complaints” and thus what incidents will be investigated, reported, and retained as required.

State law requires agencies to retain civilian complaints and any corresponding documentation in either the officer’s personnel file or in a separate file. (Penal Code § 832.5 (b).) However, if the agency chooses to retain them in an officer’s personnel file, the law requires the agency to remove the complaint and corresponding documentation *before* any “official determination” of promotion, transfer, or disciplinary action. (Penal Code § 832.5 (b).)

¹² See Racial and Identity Profiling Advisory Board Report (2019) pp. 41-44
<<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2019.pdf>> (as of).

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

Although state law does not provide law enforcement with instructions on *how* to assess and investigate civilian complaints, it requires agencies to report the outcome under the four categories of “frivolous,”¹³ “unfounded,”¹⁴ “exonerated,”¹⁵ or “sustained.”¹⁶

If an agency determines that a complaint, in its entirety or a portion of it, is “frivolous, or unfounded or exonerated,” then the law prohibits those complaints and corresponding documentation from being saved in the officer’s personnel file. Nevertheless, the agency is still required to save these documents in a separate file which, by law, are deemed “personnel records.” (Penal Code § 832.5 (c).) While agencies must retain these complaints and corresponding documentation, state law does not permit their disclosure to members of the public. (Penal Code § 832.7 (b)(8).) State law specifies that officers named in these complaints may be required to do counseling or additional training but no reference to the complaint may be made in their personnel file. (Penal Code § 832.5 (c)(3).) This concerns the RIPA Board: if an officer may be in need of counseling or additional training, why are agencies allowed to find these complaints as frivolous, unfounded, or exonerated and obscure the complaints and findings from public inspection?

Personnel files are generally confidential in both civil and criminal proceedings, with specific and limited exceptions outlined in state law based on the Evidence Code, Penal Code, and the California Public Records Act. (See Penal Code § 832.7; Evidence Code §§ 1043 and 1046; Gov. Code § 6250 et seq.). Some exceptions are triggered by the subject matter or finding of an investigation. For example, records relating to discharge of a firearm at a person by an officer and incidents of use of force that result in death or great bodily injury must be disclosed regardless of whether there is an investigation or what the investigation outcome is (see Penal Code § 832.7 (b)(1)(A)(i)-(ii)), whereas, other subject matters may be confidential unless there is a certain outcome to an investigation. Current state law only requires disclosure of records involving matters of “sustained” findings of sexual assault involving a member of the public and dishonesty by the officer. (See Penal Code § 832.7 (b)(1)(B)(i) and (b)(1)(C).)

Penal Code section 832.7 also outlines the specific narrow disclosures regarding civilian complaints. Law enforcement agencies are required to provide a complainant with the complainant’s own statement(s) *at the time the complaint is filed*. (Penal Code § 832.7 (c).) It

¹³ “Frivolous” is defined as “totally and completely without merit or for the sole purpose of harassing an opposing party.” (Civil Procedure § 128.5).

¹⁴ “Unfounded” is defined as “the investigation clearly established the allegation is not true.” (Penal Code § 832.5 (d)(2).)

¹⁵ “Exonerated” is defined as “the investigation clearly established that the actions of the [officer] that formed the basis for the complaint are not violations of law or department policy.” (Penal Code § 832.5 (d)(3).)

¹⁶ “Sustained” is defined as “a final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal [], that the actions of the [officer] were found to violate law or department policy.” (Penal Code § 832.8 (b).)

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

is unclear whether this requirement extends to any additional statements the complainant may provide throughout the investigation. The other statutory requirement relating to an agency's communication with a complainant occurs at the end of the investigation. State law requires agencies to provide the complainant with written notification of the disposition of the complaint within 30 days of the disposition. (Penal Code § 832.7 (f)(1).) State law prohibits this written notification from being used as evidence in any subsequent proceeding "brought before an arbitrator, court, or judge of this state or the United States." (Penal Code § 832.7 (8)(f)(2).)

The following sections contain potential best practice and other recommendations to the Legislature for the Boards consideration:

Define "civilian complaint"

A glaring gap in state law is the lack of a definition of "civilian complaint." The Board discussed the concerns this raises and factors to consider in developing a definition at length in its 2020 Annual Report.¹⁷ After reviewing several civilian complaint definitions and revisiting the considerations raised in previous reports, the Board recommends that the legislature add the following definition to Penal Code section 832.5:

[Insert workshopped definition]

Improve the civilian complaint processes and procedure by requiring agencies to:

- Accept all complaints, in any form, including in person, by phone, by e-mail, by fax, and electronically online;¹⁸
- Create an online portal for members of the public to prepare, submit, and track their complaints;¹⁹
- Accept complaints from all people, including minors, a parent or legal guardian filing a complaint on behalf of their minor dependent, non-English-speaking persons; third-party complainants (i.e. witnesses to misconduct against another person, persons who are aware of misconduct by an officer); or anonymous parties;²⁰

¹⁷ Racial and Identity Profiling Advisory Board Report (2020) pp. 64-70
<<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf>> (as of).

¹⁸ Racial and Identity Profiling Advisory Board Report (2018) p. 32
<<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>> (as of); PERF, Police Accountability – Findings and National Implications of an Assessment of the San Diego Police Department (2015); *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

¹⁹ *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2:16-cv-01731-MCA-MAH; *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB; Community Oriented Policing Services, Standards and Guidelines for Internal Affairs: Recommendations from a community Practice (2008).

²⁰ PERF, Police Accountability – Findings and National Implications of an Assessment of the San Diego Police Department (2015); *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board's consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

- Provide complaint forms and instructions on filing a complaint in any language spoken by more than 5% of the jurisdiction’s population as defined in *Dymally-Alatorre Bilingual Services Act* (Gov. Code Section 7296.2 and 7299.6);²¹
- Assign a number²² and log every complaint when it is received with the following details:
 - [insert data points];
- Investigate all complaints received;²³
- Include clearly delineated standards for review and disposition categories in their policy, procedures, and trainings. These standards and categories should be provided to a complainant upon submission of a complaint;²⁴
- Include a timeline for complaint investigations in their policy and procedures that must be followed. This timeline should be provided to a complainant upon submission of a complaint.²⁵ Complainants should be notified of any delays in the investigation process;²⁶
- Ensure complaint forms are made available in an easily accessible location within the agencies’ offices and in a variety of governmental and community-centered public locations;²⁷
- In order to fully comply with state law, explicitly inquire on the civilian complaint form whether the complaint alleges racial or identity profiling and, if so, provide space to specify what type of racial or identity profiling alleged;²⁸

JKB; Community Oriented Policing Services, Standards and Guidelines for Internal Affairs: Recommendations from a community Practice (2008).

²¹ Racial and Identity Profiling Advisory Board Report (2018) p. 33

<<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>> (as of);

²² *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB.

²³ IACP Law Enforcement Policy Center, Investigation of Employee Misconduct; *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2:16-cv-01731-MCA-MAH; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

²⁴ IACP Law Enforcement Policy Center, Investigation of Employee Misconduct; *U.S. v. Alamance County Sheriff Terry Johnson* (2016) 2:16-cv-01731-MCA-MAH; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

²⁵ Racial and Identity Profiling Advisory Board Report (2018) p. 34

<<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>> (as of); IACP Law Enforcement Policy Center, Investigation of Employee Misconduct; *U.S. v. The City of Ferguson* (2016) 4:16-cv-000180-CP.

²⁶ Racial and Identity Profiling Advisory Board Report (2018) p. 34

<<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>> (as of).

²⁷ *U.S. v. Police Department of Baltimore City, et. al.* (2017) 1:17-cv-00099-JKB; *U.S. v. City of Newark* (2016) 2:16-cv-01731-MCA-MAH; Community Oriented Policing Services, Standards and Guidelines for Internal Affairs: Recommendations from a community Practice (2008).

²⁸ Agencies are currently required to report civilian complaint data at this granular level but not all agencies provide space on their civilian complaint forms for this information to be provided by the complainant. (Cal. Penal. Code § 13012(a)(5)(A)(iii); Cal. Dep’t of Justice, DLE-2015-06: Citizens’ Complaints Against Peace Officers (2015).)

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

- Inform the public of their right to make a complaint by posting signage of that right in any location where complaint forms are available;²⁹
- Provide complainants with an opportunity to review their complaint and/or statements for accuracy;³⁰
- Provide complainants with written acknowledgement of their complaint with a tracking number, the identity of the investigator, and contact information or other information to track the progress of their complaint;³¹
- Conduct audits of the complaint process;³²
- **[Insert other processes/procedure improvements recommended by the Board.]**

Improve accountability to the civilian complaint processes and procedure by requiring agencies to:

- Require an officer to inform a member of the public of their right to file a complaint and the department or agency's complaint procedures when a member of the public describes alleged misconduct by an officer;
- Require an officer to submit a complaint in the event a member of the public provides the officer with information about alleged misconduct by another officer but does not wish to pursue a complaint themselves or does not express any desire for any remedy, such as discipline of the officer;
- Prohibit the department or agency from terminating an investigation into a complaint solely on the basis of a complainant's withdrawal of a complaint;

Remove deterrent language from agency website and civilian complaint forms or brochures.

Generally, the civilian complaint process should not discourage complainants in any way.³³ Discouragement from filing a complaint can happen in many ways including by the phrasing of the content contained on the complaint form itself or in the description of the agency's complaint investigation process.

Penal Code section 148.6

²⁹ Community Oriented Policing Services, Standards and Guidelines for Internal Affairs: Recommendations from a community Practice (2008).

³⁰ Community Oriented Policing Services, Standards and Guidelines for Internal Affairs: Recommendations from a community Practice (2008).

³¹ Community Oriented Policing Services, Standards and Guidelines for Internal Affairs: Recommendations from a community Practice (2008).

³² Community Oriented Policing Services, Standards and Guidelines for Internal Affairs: Recommendations from a community Practice (2008).

³³ Community Oriented Policing Services, Standards and Guidelines for Internal Affairs: Recommendations from a community Practice (2008).

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board's consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

Penal Code section 148.6 is a longstanding concern of the RIPA Board. This law makes it a misdemeanor to knowingly file a false allegation of misconduct against a law enforcement officer and requires complainants to read and sign advisory language that states:

“YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CIVILIANS’ COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CIVILIAN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.”

The Board has identified that this language has a chilling effect that may deter members of the public from pursuing a complaint against an officer for fear of criminal sanctions in spite of having a bona fide complaint.

The RIPA Board renews its request to the California Legislature to address the inaccessibility and deterrence caused by the Penal Code by removing this advisory language and signature requirement from state law.

Civil Code 47.5

The Board has seen an increase in the inclusion of a civil advisory on agencies’ civilian complaint forms, websites, or civilian complaint procedure descriptions. The advisory varies by agency; some include the code section verbatim while others simply state that officers have the right to bring a civil action.

California Civil Code Section 47.5 allows peace officers to:

“bring an action for defamation against an individual who has filed a complaint with that officer’s employing agency alleging misconduct, criminal conduct, or incompetence, if that complaint is false, the complaint was made with knowledge that it was false and that it was made with spite, hatred, or ill will. Knowledge that

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.

the complaint was false may be proved by a showing that the complainant had no reasonable grounds to believe the statement was true and the complainant exhibited a reckless disregard for ascertaining the truth.”

(Cal. Civ. Code Section 47.5). This provision of the law has been called into question by a conflicting decisions by the California Court of Appeal. However, federal district courts have found it unconstitutional. Including this civil advisory could have a chilling effect, like Penal Code Section 148.6, in spite of the contradicting legal conclusions.

Vision for Future Reports

In the coming years, the Board will **[insert decision here]**.

DRAFT

DRAFT REPORT – PENDING EDITING AND REVIEW

This draft is a product of various subcommittees of the Racial and Identity Profiling Advisory Board. It has been provided merely for the Racial and Identity Profiling Advisory Board’s consideration and its content does not necessarily reflect the views of any individual RIPA Board member, the full RIPA Board, or the California Department of Justice.