

## Policy Focused Data Analysis: Youth Interactions with Law Enforcement

### A. Introduction

*“All youth deserve multiple chances. Some get them. Others do not. Whether you end up incarcerated or in college should not be based on where you live, the color of your skin or how much money your family makes. Some communities have Youth Development while others have containment and suppression. We are a product of those communities that are over-policed and disinvested in. We are more likely to make police contact, not based on our behavior, but how our public resources are spent.”<sup>1</sup>*

The United States is a carceral outlier in a global context that over confines youth.<sup>2</sup> The national incarceration rate is 60 out of 100,000 youth, which is the highest rate of 92 reporting countries in the United Nations.<sup>3</sup>

The Board in past reports examined the “school-to-prison pipeline” and made recommendations aimed at reducing unnecessary interactions between students and police and reducing racial and disability disparities in the initiation of and the results of those interactions.<sup>4</sup> Schools, however, are only one pathway for youth to become entangled in the criminal legal system and the majority of law enforcement stops of youth occur in other settings.<sup>5</sup> The Board’s prior analysis of 2021 stop data demonstrated that youth are at higher risk of intrusive law enforcement contact.<sup>6</sup> At least one expert has suggested there is a “community-to-prison pipeline” that funnels youth

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<sup>1</sup> Hayward Burns Institute, *Los Angeles County: Youth Justice Reimagined* (Oct. 2020) L.A. County, p. 9 <<https://lacyouthjustice.org/wp-content/uploads/2020/10/Youth-Justice-Reimagined-1.pdf>> [as of Nov. 29, 2022].

<sup>2</sup> Trejos-Castillo et al., *The Square One Project Learned Helplessness, Criminalization, and Victimization in Vulnerable Youth* (Dec. 2020) p. 6. <<https://squareonejustice.org/paper/learned-helplessness-criminalization-and-victimization-in-vulnerable-youth-by-elizabeth-trejos-castillo-evangelina-lopoo-and-anamika-dwivedi-december-2020/>> [as of Nov. 29, 2022].

<sup>3</sup> Trejos-Castillo et al., *The Square One Project Learned Helplessness, Criminalization, and Victimization in Vulnerable Youth* (Dec. 2020) p. 5. <<https://squareonejustice.org/paper/learned-helplessness-criminalization-and-victimization-in-vulnerable-youth-by-elizabeth-trejos-castillo-evangelina-lopoo-and-anamika-dwivedi-december-2020/>> [as of Nov. 29, 2022].

<sup>4</sup> See, e.g., Racial and Identity Profiling Advisory Board (2024). *Annual Report*. p. 122 <<https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf>> [as of May 16, 2024]; .

<sup>5</sup> For example, one study concluded that there was a public housing-to-prison pipeline.(Holdera et al., *Concentrated Incarceration and The Public-Housing-To-Prison Pipeline in New York City Neighborhoods* (2021) <[holder-et-al-2022-concentrated-incarceration-and-the-public-housing-to-prison-pipeline-in-new-york-city-neighborhoods%20\(3\).pdf](https://www.holder-et-al-2022-concentrated-incarceration-and-the-public-housing-to-prison-pipeline-in-new-york-city-neighborhoods%20(3).pdf)> [as of XX, 2024].) Another coined the term foster care-to-prison pipeline. (Yamat. *Foster-Care-to-Prison Pipeline* (2020)

[https://www.cjci.org/media/import/documents/the\\_foster\\_care\\_to\\_prison\\_pipeline.pdf](https://www.cjci.org/media/import/documents/the_foster_care_to_prison_pipeline.pdf) [as of XX, 2024].)

<sup>6</sup> Racial and Identity Profiling Advisory Board (2023). *Annual Report*. <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Feb. 23, 2024].

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into the criminal legal system.<sup>7</sup> For racialized youth, exposure to police encounters emerges as early as the onset of adolescence.<sup>8</sup> Regardless of the path into the system, entry begins with a youth's interaction with police. And as scholars have found, "[a] Black child's journey through the juvenile justice system often begins with law enforcement interaction." Therefore, reform of law enforcement policies is critical to reducing the troubling disproportionalities impacting Black youth in the criminal legal system.<sup>9</sup>

This year's Report focuses on youth and policing within the broader community and the concerns those interactions have raised, building on the Board's prior recommendations to address the issue of racial profiling of youth.

## **B. Research Shows Youth Are Uniquely Impacted By Police Encounters**

Before examining the various aspects and consequences of police and youth interactions, the Board broadly defines "youth" as inclusive of "transition age youth", which the federal government's Interagency Working Group on Youth Programs' defines as persons between 16 to 24 years of age.<sup>10</sup> Even within this broad definition of youth, the Board would like to look at different age ranges among youth because of significant legal and developmental differences between these groups. The Board's inclusion of transition-age youth in these analyses, in particular, is supported by science:

It is well established that the brain undergoes a "rewiring" process that is not complete until approximately 25 years of age. This discovery has enhanced our basic understanding regarding adolescent brain maturation and it has provided support for behaviors experienced in late adolescence and early adulthood. Several investigators consider the age span 10–24 years as adolescence, which can be further divided into substages specific to physical, cognitive, and social–emotional development.<sup>11</sup>

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<sup>7</sup> Redfield and Nance, "Joint Task Force on Reversing the School-to-Prison Pipeline Preliminary Report" (February 2016) American Bar Association 67, 138, 140.

<https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1765&context=facultypub> [As of May 10, 2024].

<sup>8</sup> Del Toro et al. (2022). *The Policing Paradox: Police stops predict youth's school disengagement via elevated psychological distress*. American Psychological Association. p. 1

<sup>9</sup> Bratton and Howard Smith, *Growing Up a Suspect: An Examination of Racial Profiling of Black Children and Effective Strategies to Reduce Racial Disparities in Arrests* (2018) 45 N. Ky. L. Rev. 137, 154.

<sup>10</sup> Interagency Working Group on Youth Programs. (2022). *Transition & Aging Out*. Youth.gov. Available at: <https://youth.gov/youth-topics/transition-age-youth>.

<sup>11</sup> Arrain et al., *Maturation of the Adolescent Brain* <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3621648/>> [as of XX, 2024];

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In determining the age categories for analysis within this section, the Board also considered the minimum age whereby California juvenile courts may exercise jurisdiction over a youth, the age categories that the Board has included in prior reports, and the disproportional impact of likely erroneous reporting of perceived age on categories that would include children perceived to be younger than eight years old.<sup>12</sup> California law establishes age 12 as the minimum age whereby a juvenile court may exercise jurisdiction over a youth, with exceptions for five enumerated offenses.<sup>13</sup> Beginning in 2020, California law also directs counties to create alternative services for youth under the age of 12 who would otherwise be subject to the jurisdiction of juvenile court and to release youth under the age of 12 whose behavior brings them into contact with law enforcement to their parent, guardian, caregiver, or other county-established alternative program.<sup>14</sup>

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

## ii. Demographics of the Youth that Are Interacting with Police in California

In California, the youth demographic is large. In 2022, over 12 million (nearly one in three) Californians were under 25 years of age and nearly nine million (approximately one in five) Californians were under 18 years of age.<sup>15</sup> Given the size of this population, and their unique vulnerability, it is crucial to examine their interactions with law enforcement to determine the

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<sup>12</sup> Several characteristics of the stops within the one-nine year old age group suggest they may contain a higher proportion of errors within the age field or misunderstandings by officers relating to proper data entry practices. These entries often do not make sense, e.g., an entry where a driver was perceived as a one year old. Some of these may be due to data entry errors in which officers inadvertently missed a digit when typing in the age of someone whom they perceived to be older (e.g., officer typed “5” when they intended to type “35”). The Board expects this problem may occur less frequently for perceived ages of eight and nine because a perceived age of 80 or 90 would be less common and people tend to approximate age in increments ending in 0 or 5 for older ages. Other entries may be due to officers incorrectly completing a stop record for a child that was a passenger of a vehicle being operated by another person. These sorts of errors may be present for other age groups, but likely constitute a much smaller proportion of the stops for the other age groups, given how few stops of persons perceived to be one-nine years old occurred, relative to other age categories.

<sup>13</sup> California Department of Justice. (July 5, 2019). *RE: SB 439 Compliance* [Information Bulletin]. p. 1 <[https://oag.ca.gov/sites/all/files/agweb/pdfs/info\\_bulletins/2019-dle-04.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/info_bulletins/2019-dle-04.pdf)>.

<sup>14</sup> California Department of Justice. (July 5, 2019). *RE: SB 439 Compliance* [Information Bulletin]. p. 1 <[https://oag.ca.gov/sites/all/files/agweb/pdfs/info\\_bulletins/2019-dle-04.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/info_bulletins/2019-dle-04.pdf)>.

<sup>15</sup> Statista (2024). *Distribution of Resident Population in California, by Age Group*. <<https://www.statista.com/statistics/912915/california-population-share-age-group/>> [31.2 percent of Californians were under 25 years of age and 22.8 percent were under 18 years of age.] [as of Apr. 26, 2024]; U.S. Census Bureau American Community Survey 2017-2021 5-Year Estimates; U.S. Census Bureau (2023). *Quick Facts: California*. <<https://www.census.gov/quickfacts/fact/table/CA/PST045222#PST045222>> [as of Apr. 29, 2024].

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impact of those interactions, and to determine whether policies are needed to address concerns that may arise from those interactions.

Racial Identity across Age Groups in California<sup>16</sup>

	0-17 years	18-24 years	Overall
Latinx	51.9%	50.1%	40.2%
White	23.5%	26.2%	34.2%
Asian/Pacific Islander	12.1%	12.5%	15.2%
Black	4.6%	5.6%	5.3%
Native American	0.2%	0.3%	0.2%
Multiracial/Other	7.8%	5.3%	4.8%

### iii. Impact of Police Interactions on Youth.

Researchers have concluded contact with law enforcement—including simply being *stopped* by police—could have long-term consequences on youth, including higher levels of delinquency, fewer educational and employment opportunities, and negative attitudes.<sup>17</sup> The experience, when negative, could have a more harmful impact the earlier they occur in a child’s life.<sup>18</sup>

Police stops can lead to general “strain”—the phenomenon that aggregate and/or acute stressors increase the likelihood of delinquent behaviors because the psychological distress that results is correlated with a greater likelihood to engage in delinquent acts.<sup>19</sup> Police encounters can undermine children and teens’ sense of safety and stability and contribute to the development of stress, anxiety, post-traumatic stress disorder, and depression.<sup>20</sup> Direct contact with law enforcement and vicarious exposure to aggressive policing practices, such as strict enforcement of low-level crimes and extensive use of police stops, are associated with negative education outcomes, such as reduced test scores for Black children and youth and lower grade point

<sup>16</sup> Johnson et al. (2023). *Race and Diversity in the Golden State*. Public Policy Institute of California. <<https://www.ppic.org/publication/race-and-diversity-in-the-golden-state/>>.

<sup>17</sup> Wiley and Esbensen, *The Effect of Police Contact: Does Official Intervention Result in Deviance Amplification?* (2013) 62 *Crime & Delinquency* 3, 283-307.

<sup>18</sup> Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 *PNAS* 17, 8261-8268.

<sup>19</sup> Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 *PNAS* 17, 8261-8268.

<sup>20</sup> Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017* (“*Youth-Police Contact: Burdens and Inequities*”) (2021) 11 *Am. J. Public Health*. pp. 1300-1302, 1306 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8493138/>> [as of Nov. 29, 2022]; Jackson et al., *Police Stops Among At-Risk Youth: Repercussions for Mental Health* (2019) *Journal of Adolescent Health* 1-6.

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averages in teenagers.<sup>21</sup> Aggressive policing practices include strict enforcement of low-level crimes, use of force, and the extensive use of police stops.<sup>22</sup>

The “applied police model, which emphasizes extensive police contact at low levels of suspicious behavior, can lower the educational performance of African American boys, with implications for child development and racial inequality.”<sup>23</sup> The negative health consequences of police contact related to stress, fear, trauma, and anxiety can hinder children’s educational performance. “Police encounters are often harsh, entail racial/ethnic degradation, and in many cases include use of police force. They can trigger adverse health effects such as stress, fear, anxiety, and even depressive symptoms which reduce cognitive and educational performance.”<sup>24</sup>

#### iv. *Racial Disparities in Law Enforcement Contact with Youth*

Researchers suggest that police encounters with racialized youth are qualitatively different from those with White youth.<sup>25</sup> Specifically, researchers found “race makes a difference in how youth are treated by police and in their perceptions of officers.”<sup>26</sup> Youth encounters with law enforcement may be impacted by differences in the perceived maturity of racialized youth (adultifying perceptions). Multiple studies demonstrate adults perceive Black children as older and more likely to be guilty than their White peers, and perceive that police violence against them is more justified.<sup>27</sup> Adultification is a term used to describe this phenomena. Researchers found that for Black boys this adultification begins as early as age ten and is greatest for Black girls between 5-14 years of age.<sup>28</sup>

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<sup>21</sup> Gottlieb and Wilson, *The effect of direct and vicarious police contact on the educational achievement of urban teens* (2019) Children and Youth Services Review 103, 190–199.

<sup>22</sup> St. John et al., “Reducing Adverse Police Contact Would Heal Wounds for Children and Their Communities” (June 14, 2022) Child Trends: Trauma and Resilience, <<https://childtrends.org/publications/reducing-adverse-police-contact-would-heal-wounds-for-children-and-their-communities>> [as of May 8, 2024].

<sup>23</sup> Legewie and Fagan, *Aggressive Policing and the Educational Performance of Minority Youth* (April 2019) 84 American Sociological Review 2, 220-247.

<sup>24</sup> Legewie and Fagan, *Aggressive Policing and the Educational Performance of Minority Youth* (April 2019) 84 American Sociological Review 2, 220-247.

<sup>25</sup> Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017* (“Youth-Police Contact: Burdens and Inequities”) (2021) 11 Am. J. Public Health. pp. 1300-1302, 1306 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8493138/>> [as of Nov. 29, 2022].

<sup>26</sup> Brunson and Weitzer, *Police Relations with Black and White Youths in Different Urban Neighborhoods* (2009) 44 Urban Affairs Review, 858-885.

<sup>27</sup> Epstein et al. (2017). *Girlhood Interrupted: The erasure of Black girls’ childhood*. Georgetown Law Center on Poverty and Inequality. pp. 1 and 4; Goff et al, *The Essence of Innocence: Consequences of dehumanizing Black children* (2014) 106 J. of Personality and Social Psychology. pp. 526, 529, 536 <<https://search.issuelab.org/resource/the-essence-of-innocence-consequences-ofdehumanizing-black-children.html>> [as of Nov. 29, 2022].

<sup>28</sup> Goff et al, *The Essence of Innocence: Consequences of dehumanizing Black children* (2014) 106 J. of Personality and Social Psychology. pp. 526, 529, 536 <<https://search.issuelab.org/resource/the-essence-of->

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A study that included experienced law enforcement officers demonstrated that the officers consistently overestimated the age of Black and Latine children in criminal legal contexts, while White children were not subjected to these overestimations.<sup>29</sup> The officers overestimated the age of Black youth suspected of felonies by 4.59 years.<sup>30</sup> Racialized children are more likely to be perceived as adults prematurely and, in turn, are perceived to have less of a need for the protections typically afforded to children.<sup>31</sup> “[T]he single most common proactive policing strategy<sup>32</sup>—directing officers to make contact with individual boys and young men in “high-crime” areas—may impose a terrible cost.”<sup>33</sup>

These perceptions of Black youth may cause police officers to perceive them as threats, exercise more punitive discretion, employ more use of force, and impose harsher penalties on Black youth.<sup>34</sup> A youth of color’s experience with adultification, in turn, colors their experience and perception of law enforcement officers and other individuals in positions of authority.

v. *How Does Increased Police Contact Impact Youth*

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[innocence-consequences-ofdehumanizing-black-children.html](#)> [as of Nov. 29, 2022]; Perillo et al. (2023). *Examining the Consequences of Dehumanization and Adultification in Justification of Police Use of Force Against Black Girls and Boys*. American Psychological Association. Vol. 47. P. 36; Epstein et al. (2017). *Girlhood Interrupted: The erasure of Black girls’ childhood*. Georgetown Law Center on Poverty and Inequality. p. 1.

<sup>29</sup> Goff et al, *The Essence of Innocence: Consequences of dehumanizing Black children* (2014) 106 J. of Personality and Social Psychology. pp. 526, 529, 536 <<https://search.issueelab.org/resource/the-essence-of-innocence-consequences-ofdehumanizing-black-children.html>> [as of Nov. 29, 2022].

<sup>30</sup> Goff et al, *The Essence of Innocence: Consequences of dehumanizing Black children* (2014) 106 J. of Personality and Social Psychology. pp. 534-535 <<https://search.issueelab.org/resource/the-essence-of-innocence-consequences-ofdehumanizing-black-children.html>> [as of Nov. 29, 2022].

<sup>31</sup> Epstein et al. (2017). *Girlhood Interrupted: The erasure of Black girls’ childhood*. Georgetown Law Center on Poverty and Inequality. p. 1; Bratton and Howard Smith, *Growing Up a Suspect: An Examination of Racial Profiling of Black Children and Effective Strategies to Reduce Racial Disparities in Arrests* (2018) 45 N. Ky. L. Rev. 137, 154; see also Taylor-Thompson, *Treating All Kids as Kids* (May 24, 2021) Brennan Center for Justice; Perillo et al. *Examining the Consequences of Dehumanization and Adultification in Justification of Police Use of Force Against Black Girls and Boys* (2023) 47 American Psychological Association 36, 38 (“Engaging in ... dehumanization does not entail literally seeing individuals as nonhuman or subhuman but rather ascribing them to fewer traits associated with humanity.”)

<sup>32</sup> As noted below, “proactive policing” has also been described as a model “in which officers actively engage citizens in high-crime areas to detect imminent criminal activity or disrupt circumstances interpreted as indicia that ‘crime is afoot.’” Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men* (Dec. 2014) 104 American Journal of Public Health 12, 2321-2327. It encompasses tactics such as stop-and-frisk or *Terry* stops.

<sup>33</sup> Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 17, 8261-8268.

<sup>34</sup> Epstein et al. (2017). *Girlhood Interrupted: The erasure of Black girls’ childhood*. Georgetown Law Center on Poverty and Inequality. p. 1

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“[T]he single most common proactive policing strategy<sup>35</sup>—directing officers to make contact with individual boys and young men in “high-crime” areas—may impose a terrible cost.”<sup>36</sup>

Racialized youth are more likely to live in areas with a heavier police presence, meaning they experience a greater likelihood of police contact than White youth who live in less policed neighborhoods.<sup>37</sup> Disparities in some youth contacts could be explained by structural racism, which contributes to residential segregation, with predominantly Black neighborhoods particularly heavily policed.<sup>38</sup>

In one study, although the vast majority of youth participants, both Black and White, “complained about routinely being subjected to what they considered unjustified police stops and physically intrusive searches . . . such unwelcome police encounters occurred less frequently for White [respondents]. In addition, Black respondents expressed hopelessness regarding the situation because they felt that officers would never see them as anything other than symbolic assailants, even when they were engaged in entirely lawful activity.”<sup>39</sup>

Studies show Black youth have a higher risk of arrest than White youth in all contextual climates.<sup>40</sup> Further, racial disparities are magnified in counties with a low concentration of Black youth compared to White youth.<sup>41</sup> Researchers found that non-delinquent Black and Latine boys faced the same risk of police surveillance as self-reported delinquent boys.<sup>42</sup> The research

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<sup>35</sup> As noted below, “proactive policing” has also been described as a model “in which officers actively engage citizens in high-crime areas to detect imminent criminal activity or disrupt circumstances interpreted as indicia that ‘crime is afoot.’” Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men* (Dec. 2014) 104 *American Journal of Public Health* 12, 2321-2327. It encompasses tactics such as stop-and-frisk or *Terry* stops.

<sup>36</sup> Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 *PNAS* 17, 8261-8268.

<sup>37</sup> Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017* (“*Youth-Police Contact: Burdens and Inequities*”) (2021) 11 *Am. J. Public Health*. pp. 1300-1302, 1306 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8493138/>> [as of Nov. 29, 2022].

<sup>38</sup> Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017* (“*Youth-Police Contact: Burdens and Inequities*”) (2021) 11 *Am. J. Public Health*. p. 1306 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8493138/>> [as of Nov. 29, 2022].

<sup>39</sup> Brunson and Weitzer, *Police Relations with Black and White Youths in Different Urban Neighborhoods* (2009) 44 *Urban Affairs Review*, 858-885.

<sup>40</sup> Andersen, *Race, ethnicity, and structural variations in youth risk of arrest: Evidence from a national longitudinal sample* (2015) 42 *Criminal Justice and Behavior* 9, 900-916.

<sup>41</sup> Andersen, *Race, ethnicity, and structural variations in youth risk of arrest: Evidence from a national longitudinal sample* (2015) 42 *Criminal Justice and Behavior* 9, 900-916.

<sup>42</sup> Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 *PNAS* 17, p. 8267.

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showed that “[p]rior law-abiding behaviors did not protect boys against future police stops, yet being stopped by police was associated with increased engagement in delinquent behavior.”<sup>43</sup>

Research has documented substantial police contact among racialized girls, who experience police contact in forms both similar to and distinct from that experienced by Black boys.<sup>44</sup> Considering that the use of force against women has been growing at a much higher rate than the use of force against men, it is important to understand the unique vulnerabilities that Black girls may face in relation to police use of force, as discussed later in this section.<sup>45</sup>

C. Youth-Specific RIPA Stop Data Analysis [Content Under Development]

1. Reasons for Stops

i. Loitering/Trespass

The 2022 RIPA data showed that, during stops for loitering violations, the rates of search, curbside or patrol car detention, and handcuffing were much higher compared to all other stops.<sup>46</sup> The rates of consent and supervision only searches that occurred during stops for loitering violations were elevated compared to all other stops, but also varied between racial and ethnic groups.<sup>47</sup>

ii. Vandalism

iii. Pedestrian Roadway Violations

iv. Bicycle Infractions

v. Status Offenses

<sup>43</sup> Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 17, p. 8267.

<sup>44</sup> Perillo et al., *Examining the Consequences of Dehumanization and Adultification in Justification of Police Use of Force Against Black Girls and Boys* (2023) 47 American Psychological Association 36 (noting that racialized girls experience with police contact may include elements of sexual harassment and assault); Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017* (“Youth-Police Contact: Burdens and Inequities”) (2021) 11 Am. J. Public Health. pp. 1301 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8493138/>> [as of XX, 2024].

<sup>45</sup> Perillo et al., *Examining the Consequences of Dehumanization and Adultification in Justification of Police Use of Force Against Black Girls and Boys* (2023) 47 American Psychological Association 36, 37.

<sup>46</sup> Racial and Identity Profiling Advisory Board (2023). *Annual Report*. p. 85-86 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Feb. 23, 2024].

<sup>47</sup> Racial and Identity Profiling Advisory Board (2023). *Annual Report*. p. 85-86 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Feb. 23, 2024].

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Status offenses are actions that are illegal only because of a youth’s age.<sup>48</sup> Status offenses vary across states, but generally fall under five categories: truancy, running away from home, rebellious behavior, underage drinking, and curfew violations.<sup>49</sup> The available national data shows there is substantial disproportionality with racialized youth who are alleged to have committed status offenses.<sup>50</sup> There is also a significant disproportionate representation of youth of color—particularly Black youth—among those in residential placement for status offenses; in 2011, 76.2 percent of U.S. youth age 12-17 were White, 16.6 percent were Black, and 1.8 percent were indigenous; 16.9 percent were Latine(x).<sup>51</sup>

Researchers have also found that youth of color are more likely to be incarcerated for public order offenses and status offenses when compared to White youth offenders.<sup>52</sup> Even residential placement does not guarantee positive outcomes; youth who enter the foster care system often experience instability, and it becomes nearly impossible for youth to set down roots. “Inequitable treatment persists when governmental actors do not take intergenerational violence and its psycho-social effects into account when interacting with vulnerable youth.”<sup>53</sup> Youth who have child welfare involvement become entangled in the criminal justice system, which may include staying in detention centers during their teenage years. Their entry into the system is “often due to the effects of trauma, which can lead to substance misuse and mental health challenges that bring them to the attention of law enforcement.”<sup>54</sup> Those exiting foster care or detention centers may rely on criminalized activity for survival.<sup>55</sup> For example, some may turn to sex work. A

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<sup>48</sup> Youth.gov (2023). *Youth Involved with the Juvenile Justice System*. < <https://youth.gov/youth-topics/juvenile-justice/youth-involved-juvenile-justice-system> > [as of Apr. 25, 2024].

<sup>49</sup> Zarate, “How Status Offenses Shape a Youth’s Path through the Justice System” (August 21, 2017) The Imprint, <<https://imprintnews.org/research-and-resources/status-offenses-shape-path-youth-justice-system/27910>> [as of March 27, 2024].

<sup>50</sup> SOS Project, *Disproportionate Minority Contact and Status Offenses* (Spring 2014) Coalition for Juvenile Justice, <[https://www.juvjustice.org/sites/default/files/resource-files/DMC%20Emerging%20Issues%20Policy%20Brief%20Final\\_0.pdf](https://www.juvjustice.org/sites/default/files/resource-files/DMC%20Emerging%20Issues%20Policy%20Brief%20Final_0.pdf)> [as of March 27, 2024].

<sup>51</sup> SOS Project, *Disproportionate Minority Contact and Status Offenses* (Spring 2014) Coalition for Juvenile Justice, <[https://www.juvjustice.org/sites/default/files/resource-files/DMC%20Emerging%20Issues%20Policy%20Brief%20Final\\_0.pdf](https://www.juvjustice.org/sites/default/files/resource-files/DMC%20Emerging%20Issues%20Policy%20Brief%20Final_0.pdf)> [as of March 27, 2024].

<sup>52</sup> Rovner, “Racial Disparities in Youth Incarceration Persist” (August 2022) The Sentencing Project, p. 5 <<https://www.sentencingproject.org/app/uploads/2022/08/Racial-Disparities-in-Youth-Incarceration-Persist.pdf>> [as of March 28, 2024].

<sup>53</sup> Trejos-Castillo et al., *The Square One Project Learned Helplessness, Criminalization, and Victimization in Vulnerable Youth* (Dec. 2020) pp. 13, 20 <<https://squareonejustice.org/paper/learned-helplessness-criminalization-andvictimization-in-vulnerable-youth-by-elizabeth-trejos-castillo-evangelina-lopoo-and-anamika-dwivedi-december2020/>> [as of Nov. 29, 2022].

<sup>54</sup> Kurzawski, “The Link Between Foster Care, Homelessness, and Criminalization” (March 31, 2021) The Homeless Hub <<https://www.homelesshub.ca/blog/link-between-foster-care-homelessness-and-criminalization>> [as of May 12, 2024].

<sup>55</sup> Kurzawski, “The Link Between Foster Care, Homelessness, and Criminalization” (March 31, 2021) The Homeless Hub <<https://www.homelesshub.ca/blog/link-between-foster-care-homelessness-and-criminalization>> [as of May 12, 2024].

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criminal record creates further difficulties in securing stability, including basic needs like suitable housing.<sup>56</sup>

Unhoused youth are often vulnerable to status offenses. “The result is the criminalization of homelessness, making unhoused youth more prone to displacement, unwarranted searches, and police brutality.” Moreover, stigmatizing homelessness as criminal can preclude youth from receiving or pursuing resources, which “may push youth into more remote and dangerous spaces where, with increased exposure to the elements and violence, they face an increased likelihood of abuse, injury, or death.”<sup>57</sup>

- vi. Analysis of Reason for Stop Narrative Fields for Language Related to Appearance
- 2. Actions Taken by Officers during Stops
  - i. Searches
    - a. Consent Only Searches
  - 3. Results of Stops
    - a. No Reportable Action Taken Data and Warnings Suggest Racial Profiling of Youth
    - b. Field Interview Cards (Associating with Other Youth

Officers indicated in the 2021 RIPA data that they completed a field interview card as a result of stop during 3.7 percent of all stops.<sup>58</sup> Across all age groups, officers completed field interview cards during a higher percentage of stops of individuals perceived to be Black and the second highest percentage during stops of individuals perceived to be Latine(x).<sup>59</sup> Compared to other age categories, officers completed field interview cards during a higher percentage of stops of

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<sup>56</sup> Kurzwski, “The Link Between Foster Care, Homelessness, and Criminalization” (March 31, 2021) The Homeless Hub <<https://www.homelesshub.ca/blog/link-between-foster-care-homelessness-and-criminalization>> [as of May 12, 2024].

<sup>57</sup> Toolis & Hammack, *The Lived Experience of Homeless Youth: A Narrative Approach* (2015) 2 Qualitative Psychology 1, pp. 50-68.

<sup>58</sup> Racial and Identity Profiling Advisory Board (2023). *Annual Report*. p. 121 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Feb. 23, 2024].

<sup>59</sup> Racial and Identity Profiling Advisory Board (2023). *Annual Report*. p. 121 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Feb. 23, 2024].

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individuals perceived to be 10-14 years old (14.9% overall (Black 19.1%, Latine 16.4%, Asian 11.3%, White 10.1%, and other 8.6%)).<sup>60</sup>

In 2021, there were over 30,000 people in the CalGang database, and of those, 351 were youth from ages 13 to 17.<sup>61</sup> Children as young as 13 years old can be entered into the CalGang system.<sup>62</sup>

In 2024, the Board recommended that the Legislature, municipalities, and law enforcement agencies prohibit the collection of field interview cards and entries of youth into CalGang or any agency database designed to track criminal information after youth are questioned or a field interview is conducted without the presence of an attorney.<sup>63</sup> The Board recommended that, if an agency does not adopt the previous recommendation, the agency should recognize and state in their policies that these encounters may not be fully consensual, and officers should be required to inform the individuals subject to the field interview that they do not have to respond to questions and are free to leave.<sup>64</sup>

In many police departments in California, a field interview card is a document officers fill out to record and “track[] contacts made during stops and investigations, as well as arrests . . . [that] is generally [but not always] entered into a searchable database.”<sup>65</sup> The databases record information about the interaction, such as who the person is with, if they have any monikers or nicknames, and any alleged criminal affiliations.<sup>66</sup> Some of the agencies’ field interview cards, such as LAPD’s, collect information about a person’s social media accounts.<sup>67</sup>

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<sup>60</sup> Racial and Identity Profiling Advisory Board (2023). *Annual Report*. pp. 121, 123 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Mar. 19, 2024].

<sup>61</sup> Racial and Identity Profiling Advisory Board (2023). *Annual Report*. pp. 121, 123 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Mar. 19, 2024].

<sup>62</sup> Racial and Identity Profiling Advisory Board (2023). *Annual Report*. pp. 121, 123 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Mar. 19, 2024].

<sup>63</sup> Racial and Identity Profiling Advisory Board (2024). *2024 RIPA Report: Recommendations and best practices*. p. 3 <<https://oag.ca.gov/system/files/media/ripa-best-practices-2024.pdf>> [as of May. 10, 2024].

<sup>64</sup> Racial and Identity Profiling Advisory Board (2024). *2024 RIPA Report: Recommendations and best practices*. p. 3 <<https://oag.ca.gov/system/files/media/ripa-best-practices-2024.pdf>> [as of May. 10, 2024].

<sup>65</sup> Off. of the Inspector General, *Review of Stops Conducted by the Los Angeles Police Department in 2019* (“OIG Review of LAPD Stops”) (Oct. 2020) p. 39 <<https://www.oig.lacity.org/files/ugd/b2dd23d3e88738022547acb55f3ad9dd7a1dcb.pdf>> [as of Nov. 29, 2022].

<sup>66</sup> *The CalGang Criminal Intelligence System* (Aug. 2016) Cal. State Auditor Report 2021-130, at p. 11 <<https://www.auditor.ca.gov/pdfs/reports/2015-130.pdf>> [as of Nov. 29, 2022].

<sup>67</sup> *LAPD Field Interview (FI) Cards NR21240jl* (“Field Interview Cards”) (Sep. 2021) **Error! Hyperlink reference not valid.**

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The RIPA data shows:

D. Law Enforcement Policies Related to Youth

Researchers urge state and local agencies “to assemble diverse groups of experts and stakeholders to draft model standards and policies that integrate best practices for working with youth. The standards would clearly convey expectations for outcomes to law enforcement leadership, and develop oversight mechanisms to ensure compliance.”<sup>68</sup>

LEA POLICIES Youth	Use of Force	Youth Interviews			
Lexipol <sup>69</sup>	✓	✗	?		
CHP					
Fresno PD					
LAPD					
LASD					
Long Beach PD					
Oakland PD					
OC Sheriff					
Riverside SD					
Sacramento SD					
Sacramento PD					

<sup>68</sup> Thureau, “Where’s The State? Creating and Implementing State Standards For Law Enforcement Interactions with Youth” (May 2017) Strategies for Youth, 3 <[https://strategiesforyouth.org/sitefiles/wp-content/uploads/2017/06/SFY\\_StandardsReport\\_053117.pdf](https://strategiesforyouth.org/sitefiles/wp-content/uploads/2017/06/SFY_StandardsReport_053117.pdf)> [as of May 8, 2024].

<sup>69</sup> [Add explanation of lexipol here]

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<b>San Jose PD</b>					
<b>San Diego SD</b>					
<b>SFSD</b>					
<b>San Bernardino SD</b>					
<b>Riverside SD</b>					

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

1. Special Considerations for Youth: Use of Force

Police use of force against children and adolescents who are acting in developmentally appropriate ways can lead to acute distress and the aftermath of use of force on children can be harmful in a number of ways, affecting a child's ability to cope with stressful situations later in life.<sup>70</sup> It may also lead to “a cascade of psychological sequelae,” including the development or worsening of mental illness, and result in traumatization, serious injury, lower attainment in education and employment, or death.<sup>71</sup>

An analysis of approximately 3,000 instances of use of force against youth in the United States between 2010-2021 uncovered the most common types of police force used against youth were forcibly taking a child to the ground, physical strikes or punching, and firearms pointed or used against children.<sup>72</sup> Disturbingly, Black children—who only represent 15 percent of children in the United States—made up more than 50 percent of children handled forcibly.<sup>73</sup> Officers are also more likely to use force against youth than adults. Nationally, youth are involved in just 3.5

<sup>70</sup> American Psychiatric Association, “Position Statement on Police Interactions with Children and Adolescents in Mental Health Crisis,” <<https://www.psychiatry.org/getattachment/085c5817-87e3-4fd9-8885-ed1d83ec7266/Position-Police-Interactions-with-Children-Adolescents-in-Crisis.pdf>> [as of May 12, 2024].

<sup>71</sup> American Psychiatric Association, “Position Statement on Police Interactions with Children and Adolescents in Mental Health Crisis,” <<https://www.psychiatry.org/getattachment/085c5817-87e3-4fd9-8885-ed1d83ec7266/Position-Police-Interactions-with-Children-Adolescents-in-Crisis.pdf>> [as of May 12, 2024].

<sup>72</sup> The Associated Press, *Tiny wrists in cuffs: How police use force against children* (Oct. 2021) NPR <<https://www.npr.org/2021/10/20/1047618263/tiny-wrists-in-cuffs-how-police-use-force-against-children>> [as of May 7, 2024].

<sup>73</sup> The Associated Press, *Tiny wrists in cuffs: How police use force against children* (Oct. 2021) NPR <<https://www.npr.org/2021/10/20/1047618263/tiny-wrists-in-cuffs-how-police-use-force-against-children>> [as of May 7, 2024].

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percent of law enforcement interactions, but account for 30.1 percent of those involving force.<sup>74</sup> The majority of contacts involving police use of force—81 percent—are initiated by police.<sup>75</sup> According to the Washington Post Police Shooting Database, from 2015 to 2022, 134 youth under the age of 18 were shot and killed by law enforcement across the nation. In California, during that same period, 19 children under the age of 18 were killed by law enforcement.<sup>76</sup>

Despite numerous protections for children under the law, there are no laws that specifically limit or prohibit law enforcement from using force against children. The decision to impose limits on use of force is left to the individual agencies.

## 2. Special Considerations for Youth: Questioning by Law Enforcement

A growing body of research indicates that adolescents are less capable of understanding their constitutional rights than their adult counterparts, and that they are more prone to falsely confessing to a crime they did not commit.<sup>77</sup> Research suggests that “[b]ecause adolescents are more impulsive, are easily influenced by others (especially by figures of authority), are more sensitive to rewards (especially immediate rewards), and are less able to weigh in on the long-term consequences of their actions, they become more receptive to coercion.”<sup>78</sup> The context of custodial interrogation is believed to exacerbate these risks.

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<sup>74</sup> Thureau, “Where’s The State? Creating and Implementing State Standards For Law Enforcement Interactions with Youth” (May 2017) *Strategies for Youth*, 5 <[https://strategiesforyouth.org/sitefiles/wp-content/uploads/2017/06/SFY\\_StandardsReport\\_053117.pdf](https://strategiesforyouth.org/sitefiles/wp-content/uploads/2017/06/SFY_StandardsReport_053117.pdf)> [as of May 8, 2024].

<sup>75</sup> Thureau, “Where’s The State? Creating and Implementing State Standards For Law Enforcement Interactions with Youth” (May 2017) *Strategies for Youth*, 5 <[https://strategiesforyouth.org/sitefiles/wp-content/uploads/2017/06/SFY\\_StandardsReport\\_053117.pdf](https://strategiesforyouth.org/sitefiles/wp-content/uploads/2017/06/SFY_StandardsReport_053117.pdf)> [as of May 8, 2024].

<sup>76</sup> Washington Post Police Shooting Database: Fatal Force (“Fatal Police Shooting Database”) <<https://www.washingtonpost.com/graphics/investigations/police-shootingsdatabase/>> [as of Nov. 29, 2022].

<sup>77</sup> See, e.g., Luna, *Juvenile False Confessions: Juvenile Psychology, Police Interrogation Tactics, And Prosecutorial Discretion* (2018) 18 Nev. L.J. 291, 297 <<https://scholars.law.unlv.edu/nlj/vol18/iss1/10/>> [as of March 31, 2021]; Meyer & Reppucci, *Police Practices and Perceptions Regarding Juvenile Interrogation and Interrogative Suggestibility* (2007) 25 Behav. Sci. & L. 757, 763; Ceci & Bruck, *Suggestibility of the Child Witness: A Historical Review and Synthesis* (1993) 113 Psychol. Bull. 3, 403-409; Note, *Questioning the Reliability of Children’s Testimony: An Examination of the Problematic Elements* (1995) 19 Law & Psychol. Rev. 203-215; Owen-Kostelnick et al., *Testimony and Interrogation of Minors: Assumptions About Maturity and Morality* (2006) 61 Am. Psychologist 4, 286-304; Redlich, *The Susceptibility of Juveniles to False Confessions and False Guilty Pleas* (2010) 62 Rutgers L.Rev. 943, 952; Viljoen et al., *Legal Decisions of Preadolescent and Adolescent Defendants: Predictors of Confessions, Pleas, Communication with Attorneys, and Appeals* (2005) 29 Law & Hum. Behav. 3, 253; Note, *No Match for the Police: An Analysis of Miranda’s Problematic Application to Juvenile Defendants* (2011) 38 Hastings Const. L.Q. 1053, 1066-1069.

<sup>78</sup> See, e.g., Luna, *Juvenile False Confessions: Juvenile Psychology, Police Interrogation Tactics, And Prosecutorial Discretion* (2018) 18 Nev. L.J. 291, 297 <<https://scholars.law.unlv.edu/nlj/vol18/iss1/10/>> [as of March 31, 2021]; Meyer & Reppucci, *Police Practices and Perceptions Regarding Juvenile Interrogation and Interrogative Suggestibility* (2007) 25 Behav. Sci. & L. 757, 763; Ceci & Bruck, *Suggestibility of the Child Witness: A Historical Review and Synthesis* (1993) 113 Psychol. Bull. 3, 403-409; Note, *Questioning the Reliability of Children’s*

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In 2021, California passed the Juvenile Deceptions Bill, AB 2644, which prohibits law enforcement from using threats, physical harm, deception, or psychologically manipulative interrogation tactics when questioning a youth 17 years of age or younger about the commission of a felony or misdemeanor.<sup>79</sup> “Deception,” as used in the law, includes, but is not limited to, the knowing communication of false facts about evidence, misrepresenting the accuracy of the facts, or false statements regarding leniency.<sup>80</sup> “Psychologically manipulative interrogation tactics” include, but are not limited to: (a) maximization, minimization, and other interrogation practices that rely on a presumption of guilt or deceit; (b) making direct or indirect promises of leniency, such as indicating the youth will be released if they cooperate with law enforcement; and (c) employing the “false” or “forced” choice strategy, where the youth is encouraged to select one of two options, both incriminatory, but one is characterized as morally or legally justified or excusable.<sup>81</sup>

Although it was passed in 2022, the law’s implementation was delayed until July 1, 2024, to provide law enforcement agencies with time to draft and implement policies and procedures incorporating the law’s mandate.<sup>82</sup>

Youth, generally, are more susceptible to police coercion and pressure than adults, and are more suggestible to the inherent power imbalance between officer and suspect in a custodial setting than are adults.<sup>83</sup> Research shows there are unique vulnerabilities that make youth of color even more susceptible to coercive tactics during interrogations that could lead to false confessions.

One of those additional vulnerabilities is the injection of racial bias in the officer’s assessment of whether the youth is being deceptive and, as explained by the adultification bias, the likelihood

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*Testimony: An Examination of the Problematic Elements* (1995) 19 Law & Psychol. Rev. 203-215; Owen-Kostelnick et al., *Testimony and Interrogation of Minors: Assumptions About Maturity and Morality* (2006) 61 Am. Psychologist 4, 286-304; Redlich, *The Susceptibility of Juveniles to False Confessions and False Guilty Pleas* (2010) 62 Rutgers L.Rev. 943, 952; Viljoen et al., *Legal Decisions of Preadolescent and Adolescent Defendants: Predictors of Confessions, Pleas, Communication with Attorneys, and Appeals* (2005) 29 Law & Hum. Behav. 3, 253; Note, *No Match for the Police: An Analysis of Miranda’s Problematic Application to Juvenile Defendants* (2011) 38 Hastings Const. L.Q. 1053, 1066-1069.

<sup>79</sup> Assem. Com. on Public Safety, Off. of Sen Floor Analyses, Rep. on Assem. Bill No. 2644 (2021-2022 Reg. Sess.) as amended March 22, 2022 (“Amended AB 2644”), pp. 3-5.

<sup>80</sup> Assem. Com. on Public Safety, Off. of Sen Floor Analyses, Rep. on Assem. Bill No. 2644 (2021-2022 Reg. Sess.) as amended March 22, 2022 (“Amended AB 2644”), pp. 3-5.

<sup>81</sup> Assem. Com. on Public Safety, Off. of Sen Floor Analyses, Rep. on Assem. Bill No. 2644 (2021-2022 Reg. Sess.) as amended March 22, 2022 (“Amended AB 2644”), pp. 3-5.

<sup>82</sup> Assem. Com. on Public Safety, Off. of Sen Floor Analyses, Rep. on Assem. Bill No. 2644 (2021-2022 Reg. Sess.) as amended March 22, 2022 (“Amended AB 2644”), pp. 3-5.

<sup>83</sup> Kassin et al., *Police-Induced Confessions: Risk Factors and Recommendations* (Feb. 2010) 34 Law and Human Behavior 1, 8.

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an officer perceives a youth of color as an adult offender.<sup>84</sup> Research shows that the behavior of youth of color in interrogations may affect officers' assessment of whether they are being deceptive.<sup>85</sup> This is partially because of cross-cultural differences in nonverbal communication styles, which could cause BIPOC suspects "to appear more deceptive and police investigators" during interrogations, who then increase pressure on them to confess.<sup>86</sup> For instance, there are significant race-based differences even in nonverbal behaviors in response to questioning, and some behaviors—for example, inappropriate smiling, or minimal eye contact—can be deemed "suspicious" by the police.<sup>87</sup> However, these subjective "cues" have been found to be unreliable in assessing culpability.<sup>88</sup>

Another vulnerability in the context of interrogations that is unique to people of color is the stereotype threat.<sup>89</sup> There are, unfortunately, many widely-known negative stereotypes about individuals of color, and these stereotypes contribute to both conscious and unconscious biases towards individuals of color every day. The simple fact of the stereotype's existence "means that anything one does or any of one's features that conform to it make the stereotype more plausible as a self-characterization in the eyes of others."<sup>90</sup> Youth of color "are aware of negative stereotypes that apply to them, and activating stereotypes can negatively influence their performance" in many different settings, including, for example, standardized testing.<sup>91</sup> This phenomenon has been referred to as *stereotype threat*, or the apprehension that one's behavior or actions will confirm, "as self-characteristic, a negative stereotype about one's group."<sup>92</sup> "[B]ecause of negative stereotypes that depict Black people as criminals, Black (vs. White) individuals are more likely to be suspected by the police of committing crimes. If Black suspects are aware of this, they will experience increased stress and mental load when interrogated by

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<sup>84</sup> Assem. Com. on Public Safety, Off. of Sen Floor Analyses, Rep. on Assem. Bill No. 2644 (2021-2022 Reg. Sess.) as amended March 22, 2022 ("Amended AB 2644"), pp. 3-5.

<sup>85</sup> Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 175.

<sup>86</sup> Najdowski, *Stereotype Threat in Criminal Interrogations: Why Innocent Black Suspects Are at Risk for Confessing Falsely* (2011) 17 *Psychology, Public Policy, and Law* 4, 563.

<sup>87</sup> Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 175.

<sup>88</sup> Johnson, *Race and police reliance on suspicious non-verbal cues* (2007) 30 *Policing: An International Journal of Police Strategies & Management* 2, 277–290.

<sup>89</sup> Najdowski, *Stereotype Threat in Criminal Interrogations: Why Innocent Black Suspects Are at Risk for Confessing Falsely* (2011) 17 *Psychology, Public Policy, and Law* 4, 563; Steele and Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans* (1995) 69 *Journal of Personality and Social Psychology* 5, 797-811.

<sup>90</sup> Steele and Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans* (1995) 69 *Journal of Personality and Social Psychology* 5, 797-811.

<sup>91</sup> Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 175.

<sup>92</sup> Steele and Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans* (1995) 69 *Journal of Personality and Social Psychology* 5, 797-811.

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police. Signs of stress and behavior control may be wrongly perceived as signs of deception or guilt.”<sup>93</sup> This increased stress and mental load as a result of stereotype threat may also impair a suspect’s comprehension of legal concepts, such as their rights under *Miranda*.<sup>94</sup>

The effects of stereotype threat “may be even more harmful” to youth than adults, as these effects “deplete cognitive resources and impair self- regulatory strategies, abilities that are already limited among youth.”<sup>95</sup>

i. Miranda

Studies show that youth, generally, are less protected by the *Miranda*<sup>96</sup> warnings officers give than adults under custodial interrogation and that they are more likely to waive their rights and speak to officers, even when it is against their interests to do so. Youth suspects under age 15, for example, “are more likely to believe that they should waive their rights and tell what they have done, partly because they are still young enough to believe that they should never disobey authority.”<sup>97</sup> Youth suspects are also more likely to waive their rights if they believe not doing so will create “the potential for immediate negative consequences”—for example, if they believe not doing so means they will not be allowed to go home.<sup>98</sup> Relatedly, research shows that youth do not consider the long-term consequences of having their statements used against them—and being subject to adjudication as a result—when deciding whether to waive their rights.<sup>99</sup>

Recognizing the growing body of research concluding, “children and adolescents are much more vulnerable to psychologically coercive interrogations and in other dealings with the police”<sup>100</sup> than adults, in 2020, the California Legislature passed Senate Bill No. 203 (2019-2020 Reg.

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<sup>93</sup> Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 174.

<sup>94</sup> Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 174.

<sup>95</sup> Blandón-Gitlin et al., *Race and ethnicity as a compound risk factor in police interrogation of youth* (2020) in Stevenson et al., *The legacy of racism for children: Psychology, law, and public policy*, p. 175.

<sup>96</sup> *Miranda v. Arizona* (1966) 384 U.S. 436.

<sup>97</sup> Kassin et al., *Police-Induced Confessions: Risk Factors and Recommendations* (Feb. 2010) 34 Law and Human Behavior 1, 8.

<sup>98</sup> Kassin et al., *Police-Induced Confessions: Risk Factors and Recommendations* (Feb. 2010) 34 Law and Human Behavior 1, 8.

<sup>99</sup> Kassin et al., *Police-Induced Confessions: Risk Factors and Recommendations* (Feb. 2010) 34 Law and Human Behavior 1, 8.

<sup>100</sup> California Department of Justice. (March 15, 2023). *RE: Mandatory Consultation with Counsel Prior to Custodial Interrogations of Youth Under 18* [Information Bulletin]. p. 1  
<<https://oag.ca.gov/system/files/media/2023-dle-02.pdf>> [as of May 8, 2024].

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Sess.) (SB 203).<sup>101</sup> The bill requires that a youth 17 years of age or younger consult with legal counsel prior to a custodial interrogation, and this consultation may not be waived.<sup>102</sup>

## ii. Consent Searches

As discussed in a prior report, agreeing to an officer's request to conduct a search is not necessarily voluntary, given the inherent power inequality between law enforcement officers and members of the public.<sup>103</sup> Some scholars have suggested that because of these disparities and the lack of voluntariness in agreeing to a search, officers should be required to have probable cause prior to conducting a search of anyone, but especially of youth.<sup>104</sup>

[Content Under Development]

## 3. Law Enforcement Strategies and Policies that Impact Youth

- i. Predictive Policing
- ii. Probation

[Content Under Development]

## E. The Path Forward: Developmentally Appropriate Responses

### 1. Restorative Justice

Restorative justice models of conflict resolution, previously conceived of as radical or experimental, have in recent years become acknowledged as powerful alternatives to criminal sentencing and punishment. Rather than focusing on the ultimate result of conviction as a “punishment” of the accused—either retribution, incarceration, or incapacitation—restorative justice focuses on the need for “repair” of the harms caused by the accused to the wronged party. In the restorative justice system, “[u]nderstanding and responding to the needs of each involved party and the broader community is central to the collective creation of a just outcome.”<sup>105</sup>

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<sup>101</sup> Sen. Rules Com., Off. of Sen Floor Analyses, Sen. Bill No. 203 (2019-2020 Reg. Sess.) as amended July 27, 2020 (“Amended SB 203”), p. 2.

<sup>102</sup> Welf. & Inst. Code, § 625.6.

<sup>103</sup> Racial and Identity Profiling Advisory Board (2023). *Annual Report*. pp. 15, 109, 112-113, 116-118 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Feb. 23, 2024].

<sup>104</sup> Annitto, *Consent Searches of Minors* (2014) 38 N.Y.U. Rev. of L. & Social Change 1-2, 7, 18, 36-37, 41, 45, 48-49 <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2412356](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2412356)> [as of Nov. 29, 2022].

<sup>105</sup> Pointer, “What is ‘Restorative Justice’ and How Does it Impact Individuals Involved in Crime?” (August 2021) Bureau of Justice Assistance National Training and Assistance Center, <<https://bjatta.bja.ojp.gov/media/blog/what-restorative-justice-and-how-does-it-impact-individuals-involved-crime>> [as of May 7, 2024].

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Restorative justice programs have been implemented across the country in both schools and the courts to divert youth offenders out of the criminal legal system.<sup>106</sup> In 2021, there were more than 40 statutes, laws, and provisions in California implementing some form of diversion or restorative justice for youth offenders.<sup>107</sup> In Santa Cruz County, the implementation of two publicly funded youth diversion programs for youth charged with certain offenses contributed to a 27 percent drop in juvenile hall bookings between 2011 and 2020.<sup>108</sup> A 2016 study of restorative justice programs in Texas showed recidivism rates dropped from 50 percent to 31 percent when youth were permitted to access those programs rather than the traditional juvenile court system.<sup>109</sup>

However, effective restorative justice programs should account for racial disparities in outcomes. For instance, the 2016 Texas study showed that non-White youth offenders—approximately 30 percent of the group studied—only received 9 percent of the referrals to community panels.<sup>110</sup> Community panels involve the offender meeting with community volunteers and the victim to discuss the offense and come to an agreement on a contract which includes reparations to the victim and/or community, and the offender’s participation in various activities or programs designed to prevent future offending. They are a “more common restorative response to juvenile offending” and have been “demonstrated to be a cost-effective method for reducing the likelihood of reoffending.”<sup>111</sup> Disproportionate representation in restorative justice programs is also seen in other areas involving youth offenses, such as in the school setting.<sup>112</sup>

This is particularly troubling, as at least one study has indicated restorative practices in the school setting have significant benefits to youth of color, reducing the Black-White suspension gap while simultaneously boosting teacher reports of school climate and reducing overall rates of

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<sup>106</sup> Martinez, “The Promise and Limits of Restorative Justice for Youth” (August 12, 2021) The Imprint, <<https://imprintnews.org/justice/juvenile-justice-2/the-promise-and-limits-of-restorative-justice-for-youth/57793>> [as of May 7, 2024].

<sup>107</sup> Martinez, “The Promise and Limits of Restorative Justice for Youth” (August 12, 2021) The Imprint, <<https://imprintnews.org/justice/juvenile-justice-2/the-promise-and-limits-of-restorative-justice-for-youth/57793>> [as of May 7, 2024].

<sup>108</sup> Martinez, “The Promise and Limits of Restorative Justice for Youth” (August 12, 2021) The Imprint, <<https://imprintnews.org/justice/juvenile-justice-2/the-promise-and-limits-of-restorative-justice-for-youth/57793>> [as of May 7, 2024].

<sup>109</sup> Bouffard et al., *The Effectiveness of Various Restorative Justice Interventions on Recidivism Outcomes Among Juvenile Offenders* (2016) 15 *Youth Violence and Juvenile Justice* 4, 465-480.

<sup>110</sup> Bouffard et al., *The Effectiveness of Various Restorative Justice Interventions on Recidivism Outcomes Among Juvenile Offenders* (2016) 15 *Youth Violence and Juvenile Justice* 4, 465-480.

<sup>111</sup> Bouffard et al., *The Effectiveness of Various Restorative Justice Interventions on Recidivism Outcomes Among Juvenile Offenders* (2016) 15 *Youth Violence and Juvenile Justice* 4, 465-480.

<sup>112</sup> Davison et al., *Restorative for All? Racial Disproportionality and School Discipline Under Restorative Justice* (August 2022) 59 *Am. Educ. Res. J.* 4, 687-718; Hashim et al., *Justice for All? Suspension Bans and Restorative Justice Programs in the Los Angeles Unified School District* (February 2018) 93 *Peabody J. of Educ.* 2, 174-189..

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suspension.<sup>113</sup> One researcher has attributed this disproportionality to educator discretion in choosing who is referred to restorative justice programs.<sup>114</sup> Both discretion and subjectivity contribute to racial disproportionality. If restorative pathways are incorporated into an existing discipline system without transforming it, this increases the potential for discretion, making it “unlikely to realize significant gains for Black students” over the long term.

## 2. Community Policy Building

### [Content Under Development]

#### E. Board Recommendations or Best Practices

##### 1. Prior Board Recommendations Related to Youth

The Board has made a number of recommendations regarding police interaction with youth. In past years, the Board recommended:

- Policymakers should consider providing youth with additional protections and safeguards prior to waiving any rights, particularly if any statements they make could lead to their inclusion in a criminal database or could be used against them in criminal proceedings.<sup>115</sup>
- The Legislature, law enforcement agencies, and local policymakers should prohibit or limit supervision inquiries during stops (i.e. asking whether the stopped person is under a form of supervision).<sup>116</sup>
- Officers should be prohibited from detaining or searching a person simply because an officer is aware of the person’s supervision status, recommending that the officer should instead, at a minimum, have a reasonable suspicion the person is engaged in criminal activity.<sup>117</sup>
- Policymakers should consider requiring officers to have probable cause prior to conducting a search of youth or taking measures to prohibit officers from requesting consent to search youth without an attorney present.<sup>118</sup>

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<sup>113</sup> Davison et al., *Restorative for All? Racial Disproportionality and School Discipline Under Restorative Justice* (August 2022) 59 Am. Educ. Res. J. 4, 687-718.

<sup>114</sup>

<sup>115</sup> Racial and Identity Profiling Advisory Board (2023). *2023 RIPA Report: Recommendations and Best Practices*. p. 3 < <https://oag.ca.gov/system/files/media/2023-ripa-report-best-practices.pdf> > [as of May 10, 2024].

<sup>116</sup> Racial and Identity Profiling Advisory Board (2022). *2022 RIPA Report: Recommendations and Best Practices*. p. 4 < <https://oag.ca.gov/system/files/media/2022-ripa-report-best-practices.pdf> > [as of May 10, 2024].

<sup>117</sup> Racial and Identity Profiling Advisory Board (2022). *2022 RIPA Report: Recommendations and Best Practices*. p. 4 < <https://oag.ca.gov/system/files/media/2022-ripa-report-best-practices.pdf> > [as of May 10, 2024].

<sup>118</sup> Racial and Identity Profiling Advisory Board (2023). *2023 RIPA Report: Recommendations and Best Practices*. pp. 3-4 < <https://oag.ca.gov/system/files/media/2023-ripa-report-best-practices.pdf> > [as of May 10, 2024].

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- Law enforcement agencies and POST should provide scenario-based training on the law prohibiting officers from conducting a frisk for weapons or pat down during an investigatory stop except where officers have reasonable suspicion, based on articulable facts, that a person is armed with a dangerous and deadly weapon and provide scenario-based training regarding *Terry v. Ohio* frisks/pat searches.<sup>119</sup>
- Policymakers should reform use of force policies and practices to take into account the physical and developmental differences between youth and adults.<sup>120</sup>

## 2.. RIPA Board Recommendations

[Content Under Development]

### E. Conclusion and Vision for Future Reports

[Content Under Development]

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<sup>119</sup> Racial and Identity Profiling Advisory Board (2022). *2022 RIPA Report: Recommendations and Best Practices*. p. 4 < <https://oag.ca.gov/system/files/media/2022-ripa-report-best-practices.pdf> > [as of May 10, 2024].

<sup>120</sup> Racial and Identity Profiling Advisory Board (2023). *2023 RIPA Report: Recommendations and Best Practices*. p. 3 < <https://oag.ca.gov/system/files/media/2023-ripa-report-best-practices.pdf> > [as of May 10, 2024].

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