

Annual Report  
**2025**

January 1, 2025

**RACIAL AND  
IDENTITY  
PROFILING  
ADVISORY  
BOARD**

# Racial and Identity Profiling Advisory (RIPA) Board Acknowledgments

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## Executive Summary

California's Racial and Identity Profiling Advisory Board (Board) is pleased to release the 2025 Annual Report in furtherance of its legislative mandate to eliminate racial and identity profiling and improve diversity and racial sensitivity in law enforcement.

The report analyzes more than 4.7 million stops and 14,444 civilian complaints reported by 539 law enforcement agencies to understand the extent and nature of racial and identity profiling in California. In short, this data demonstrates that racial and identity profiling in California persists.

Building on the Board's prior examination of policing youth, the report conducts a quantitative and qualitative analysis of RIPA data to assess whether youth experience racial and identity disparities in police stops — finding that they do. The report is supplemented by the Statutorily Mandated Tables, which provide agency-level data for the public and stakeholders. Those tables are published along with this report. By providing a more in-depth examination of policing practices and policies with respect to law enforcement interactions with youth through the lens of RIPA data, the Board hopes to persuade policymakers to enact legislation and develop policies that will change harmful policing practices, eliminate racial and identity profiling in policing, and enhance public safety.

As a supplement to the report, the Board has also published a separate summary of the recommendations and best practices included in the report. The RIPA Board has four subcommittees — State and Local Policies, Accountability and Civilian Complaints, Stop Data Analysis, and POST Training and Recruitment. Generally, the subcommittees are tasked with drafting the section of the report that corresponds to the issues examined by their specific subcommittee and developing policy or legislative recommendations for the full Board's consideration. The recommendations found in this year's report — like in prior years — originated with the subcommittees and were considered and adopted by a majority of the Board. The Board encourages all stakeholders — including law enforcement agencies, policymakers, the California Commission on Peace Officer Standards and Training (POST), researchers, advocates, and community members — to use these recommendations and best practices to strengthen law enforcement and community relationships and improve public safety for all Californians.

## Stop Data Analysis

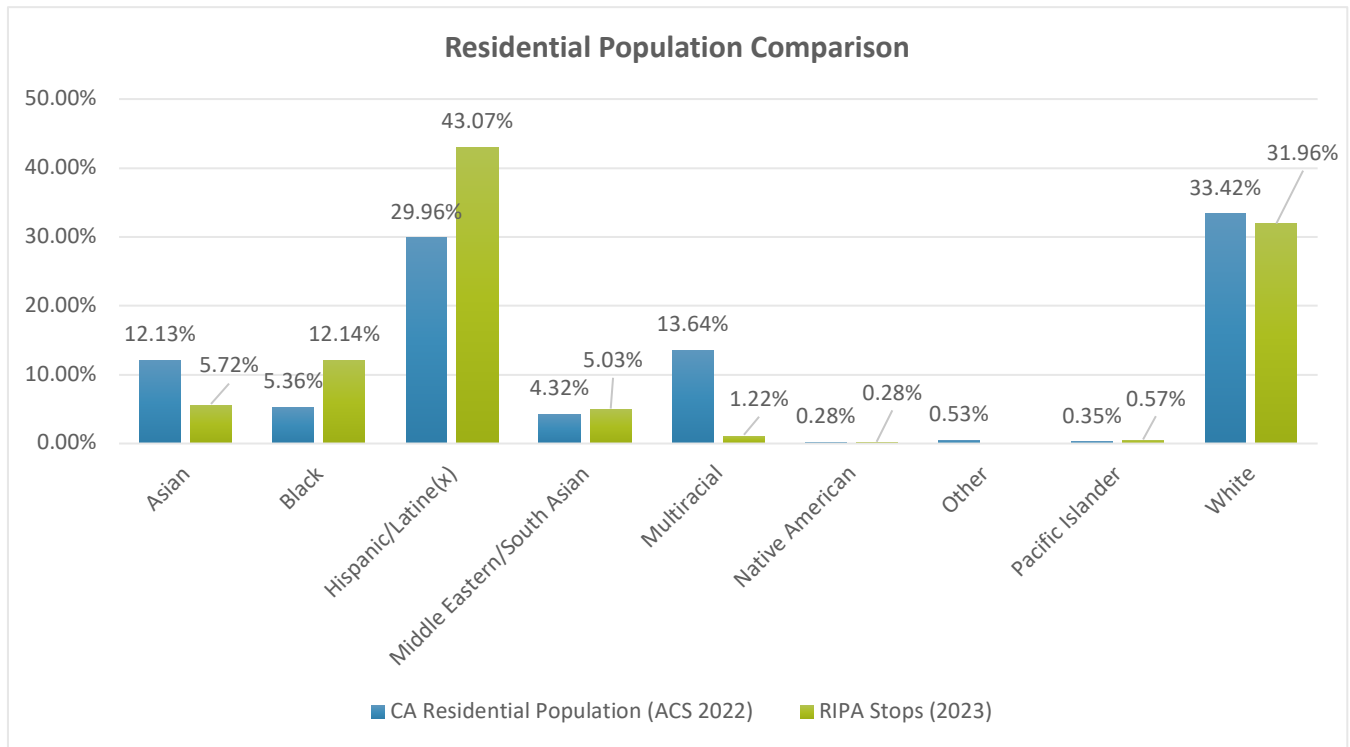
This chapter of the report analyzes the 2023 RIPA data California law enforcement agencies collected and submitted to the California Department of Justice. Between January 1, 2023, and December 31, 2023, California law enforcement agencies conducted a total of 4,721,135 stops. An analysis of those stops shows the following:

- The largest percentage of individuals stopped were perceived to be Hispanic/Latine(x) (43.07%), followed by White (31.96%), then Black (12.14%).
- Individuals perceived to be Black were stopped 126.5 percent more frequently than expected, given their relative proportion of the California population. Individuals perceived to be Hispanic/Latine(x) were stopped 43.8 percent more frequently than expected with the same comparison.

### *Stop Disparities by Race and Ethnicity*

- The data also show that although individuals perceived as Black, Native American, and Hispanic/Latine(x) were stopped and searched at higher rates than individuals perceived to be White, contraband or evidence was discovered at a lower rate during searches of those individuals than during searches of individuals perceived as White.

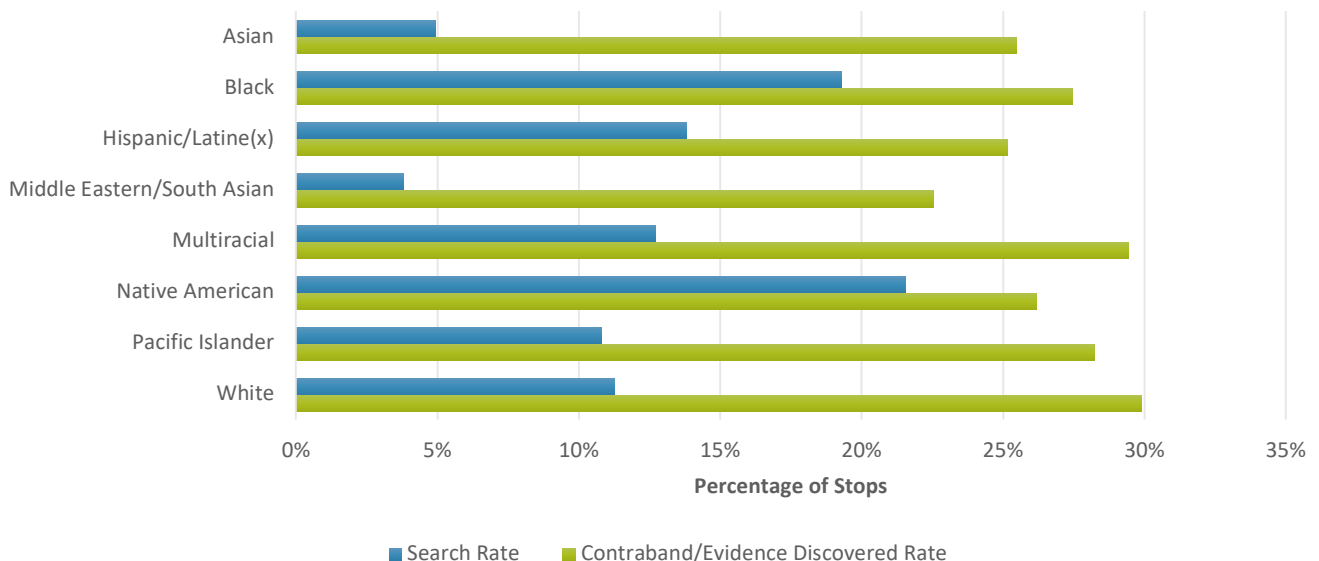
## Search Discovery Rates by Race and Ethnicity



An analysis of stops based on other identity characteristics shows:

- Most individuals stopped were perceived to be cisgender male (70.9%) or cisgender female (28.7%). Less than one percent (0.4%) of stops were reported to involve individuals perceived as transgender or gender nonconforming.
- Most individuals stopped (98.9%) were perceived to have no disability. Of the 1.1 percent of stops involving a person with a perceived disability, individuals were most commonly perceived as having a mental health disability (64.7% of stops involving perceived disabilities).

## Search and Discovery Rates

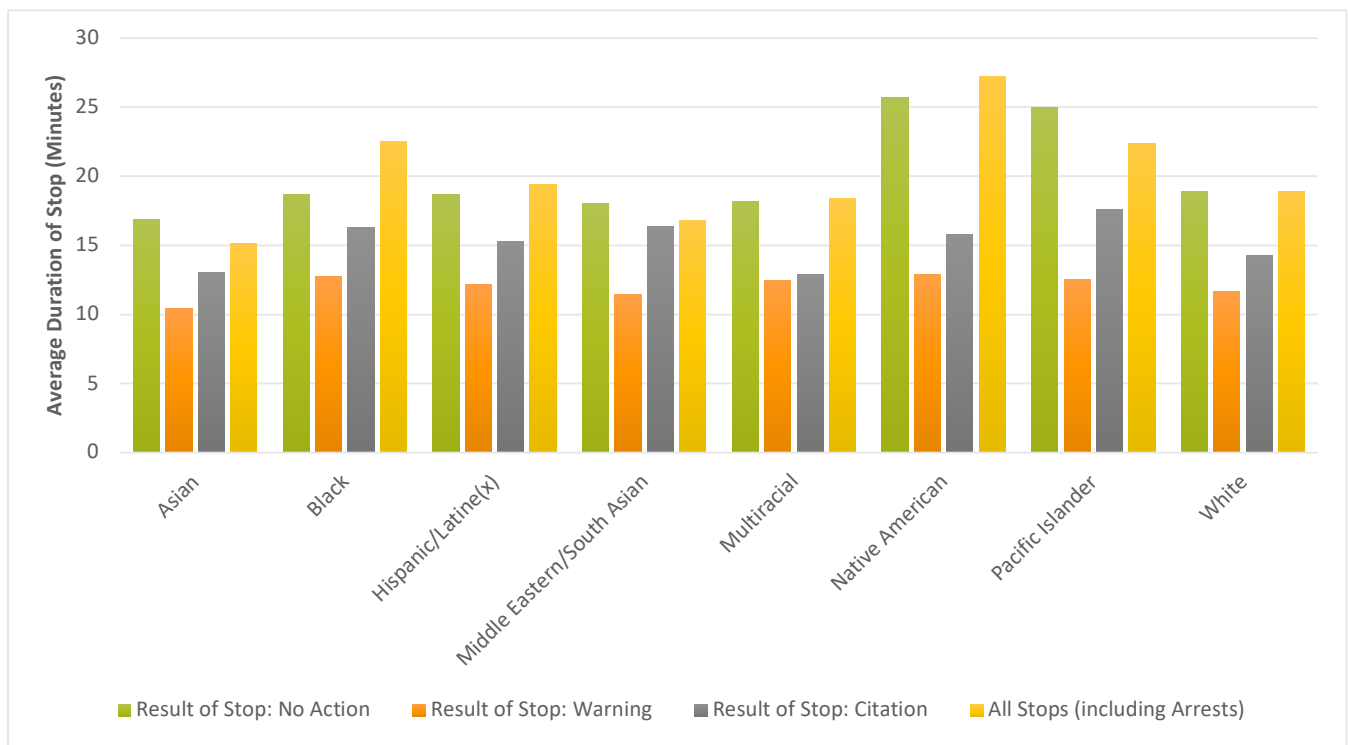


This year’s report also analyzes data on the duration of stops and the result of stops. The analysis shows the following:

- There were significant differences in the average length of stops across perceived racial and ethnic groups, even among stops with the same reported outcome. On average, stops resulting in a warning were the shortest across all groups, while stops that resulted in no action being taken were the longest. However, there were significant disparities in the length of stops for which officers reported a result of no action compared to stops that resulted in a warning or citation. For example, stops of individuals perceived to be Native American and Pacific Islander for which officers reported a result of no action were, on average, approximately twice as long as stops for those same groups that resulted in a warning. For those two groups, the average stop that resulted in no action exceeded 20 minutes.

Overall, across all racial groups, stops most often resulted in a citation (44.9%), followed by a warning (33.7%), and then arrest (14.2%). Officers reported no action taken in 6.7 percent of stops. However, stops involving individuals perceived to be Native American and Black had higher rates of arrests (24.6% and 17.3% of stops) and lower rates of citations than other groups (30.4% and 36.0% of stops).

*Duration of Stop Comparison by Race and Ethnicity*



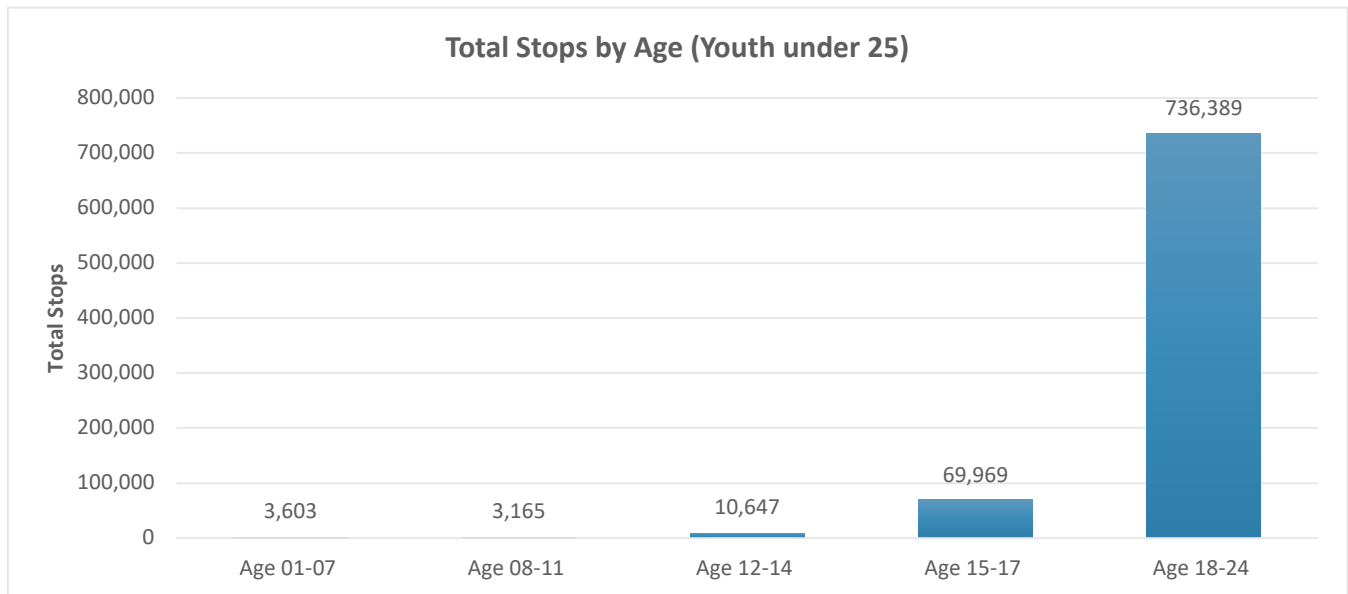


## Youth-Focused Stop Data Analysis

It is well established that the brain undergoes a “rewiring” process that is not complete until an individual reaches approximately 25 years of age. Accordingly, for the purpose of its analysis, the Board defines youth as individuals under 25 to account for the physical, cognitive, and social-emotional development that takes place during their maturation process. The report analyzes trends in the data for the 823,773 stops officers reported in 2023 that involved individuals perceived to be 24 and younger (17.5% of all stops). An analysis of the data from those stops indicates that:

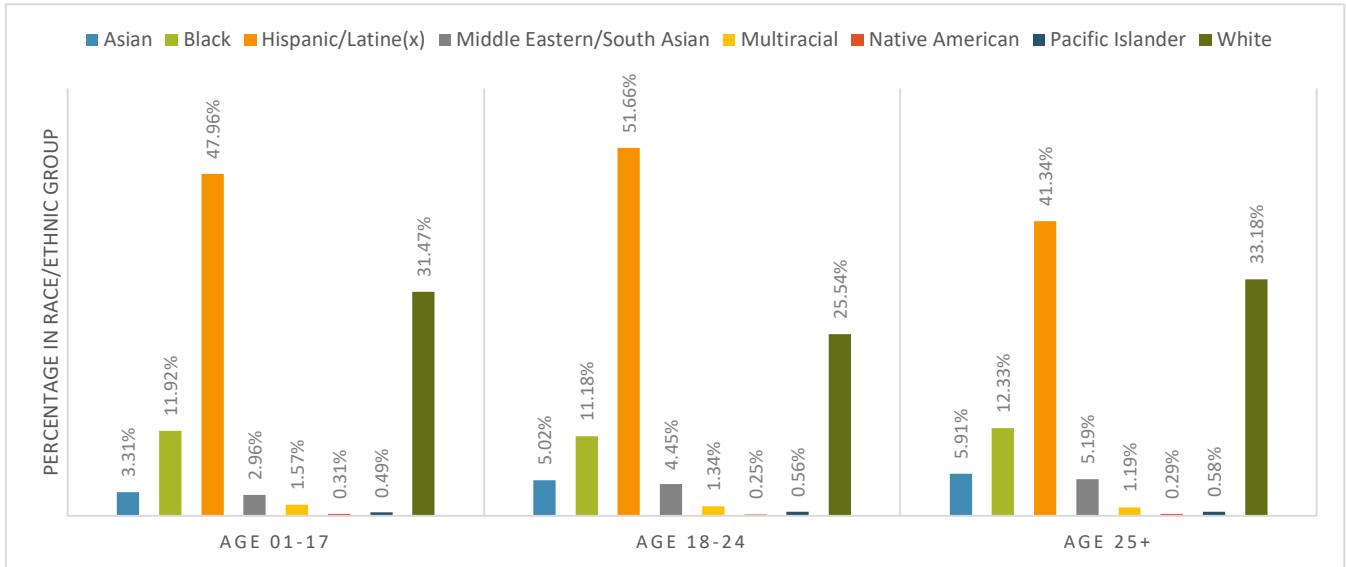
- Officers reported 736,389 stops of youth perceived to be 18–24, 69,969 stops of youth perceived to be 15–17, 10,647 stops for youth perceived to be 12–14, 3,165 stops of youth perceived to be 8–11, and 3,603 stops of youth perceived to be 1–7.

### Total Stops by Age (Youth under 25)

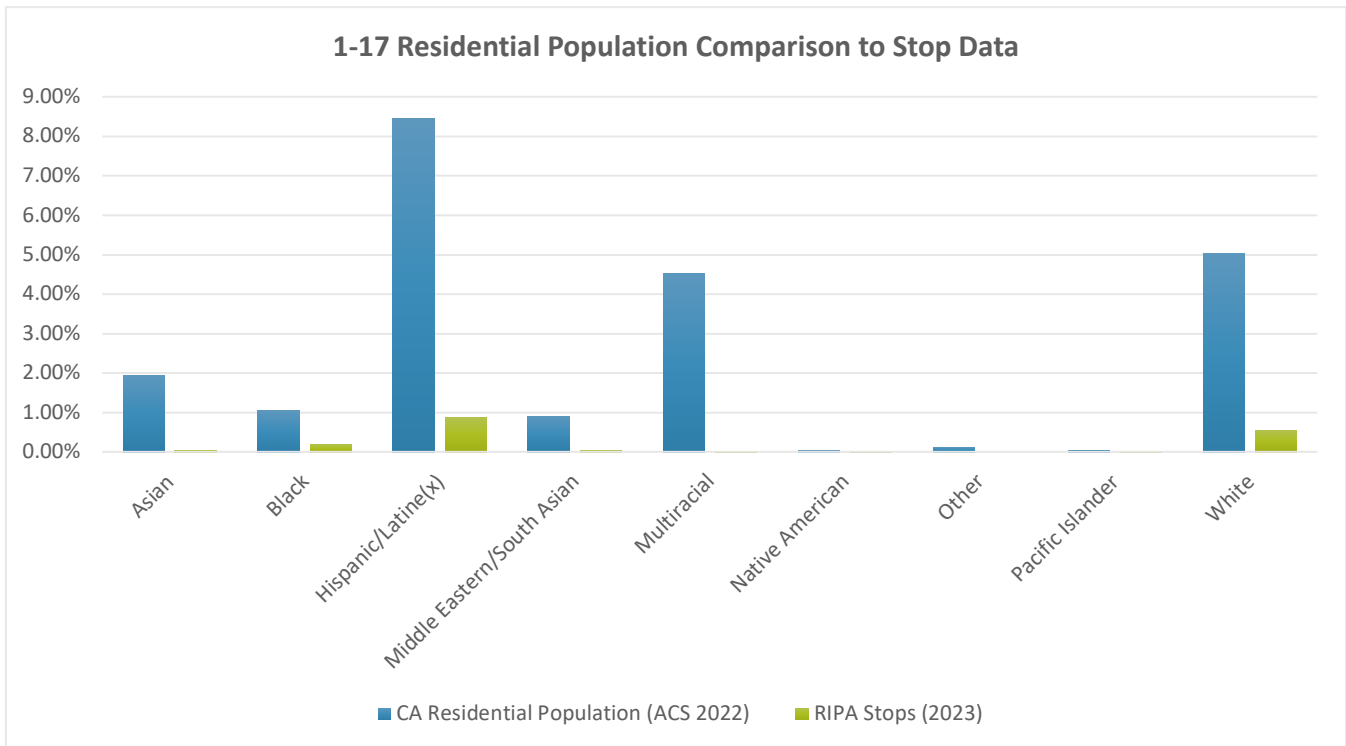


- Notable racial disparities were observed in the data for youth stops. While individuals perceived to be 1–17 were generally underrepresented in stop data compared to the residential population, those perceived as 18–24 were substantially overrepresented in stops relative to their residential population — especially those perceived as Black, Hispanic/Latine(x), and Middle Eastern/South Asian.

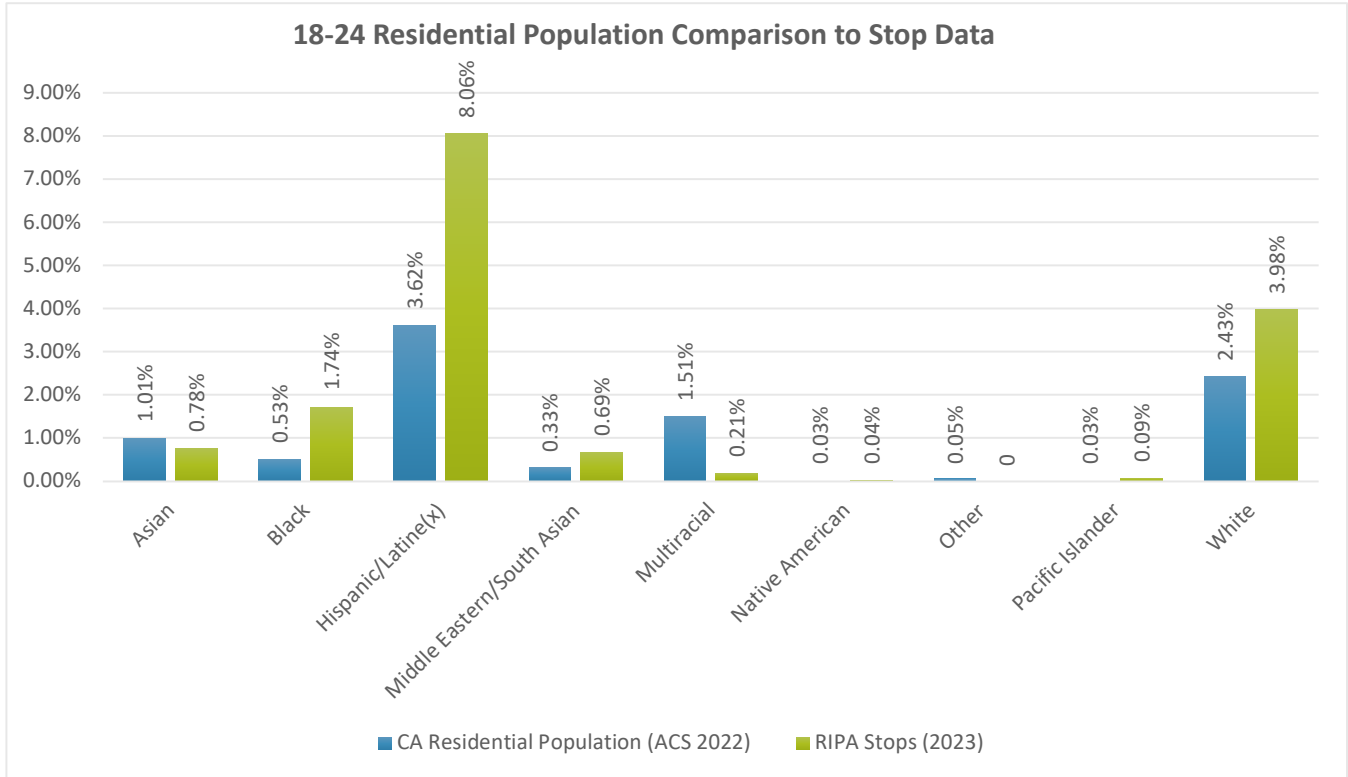
### Percentage of Stops by Age and Race/Ethnicity



### Residential Population Comparison to Stop Data (Ages 1-17)



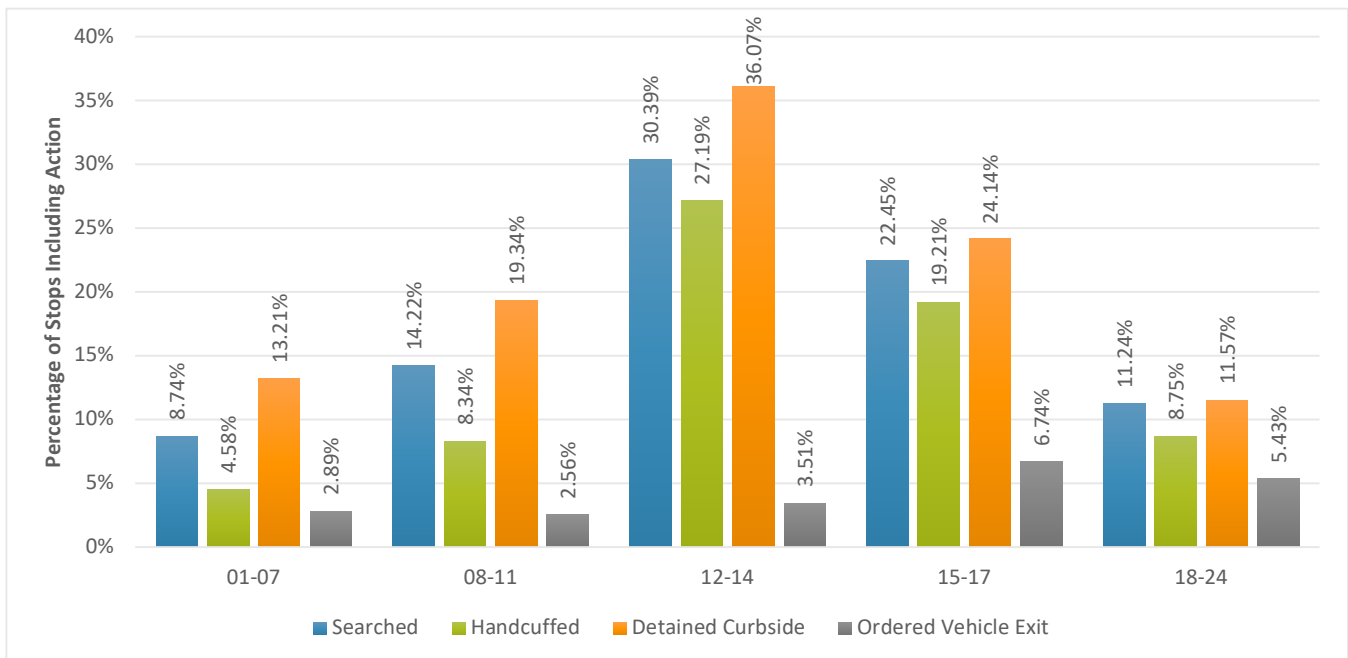
## Residential Population Comparison to Stop Data (Ages 18-24)



## Actions Taken During Stops

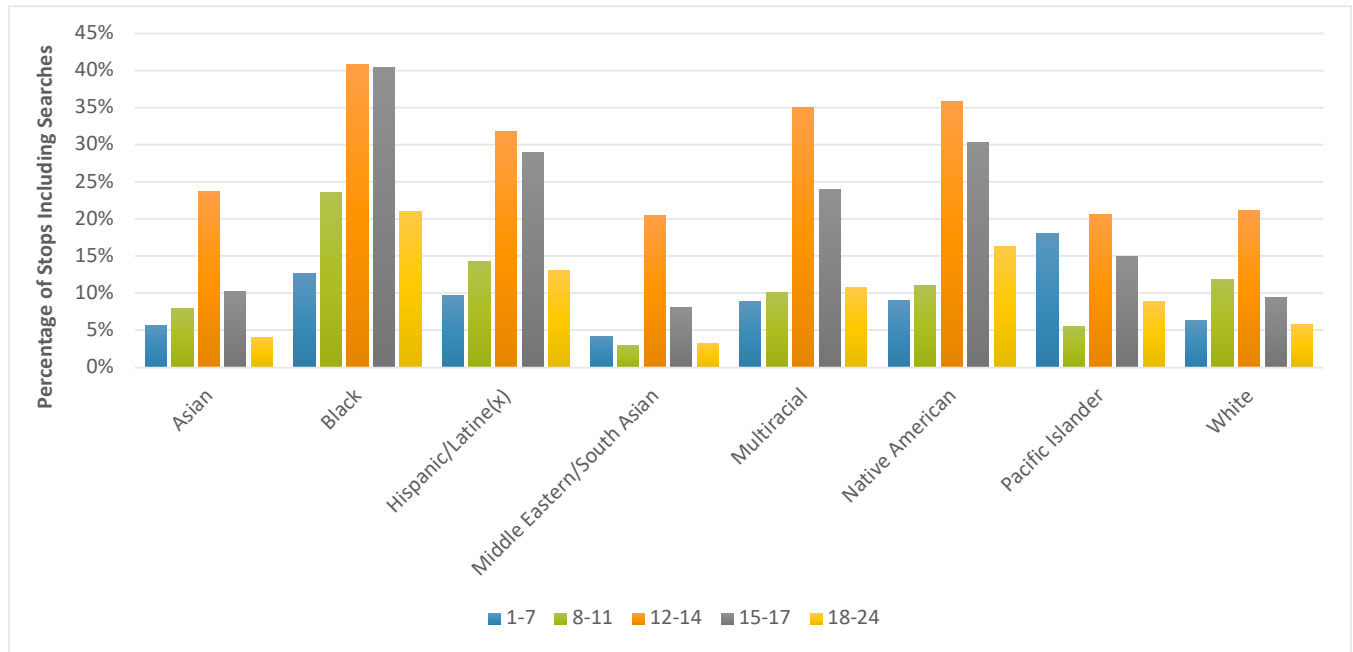
The data show significant differences in the actions taken during a stop among the different age groups. Youth perceived to be 12–14 were more likely to be searched, handcuffed, and detained curbside during a stop than any other age group, while youth perceived to be 15–17 were the most likely to be ordered to exit a vehicle.

### Percentage of Stops Including the Indicated Action Separated by Age



An intersectional analysis of the data on the actions taken during stops across race and age also shows disparities in the actions taken during stops. Black, Hispanic/Latine(x), Multiracial, and Native American youth were more likely to be searched than other groups. Officers conducted searches in more than 40 percent of stops of Black youth perceived to be 12–14 and 15–17.

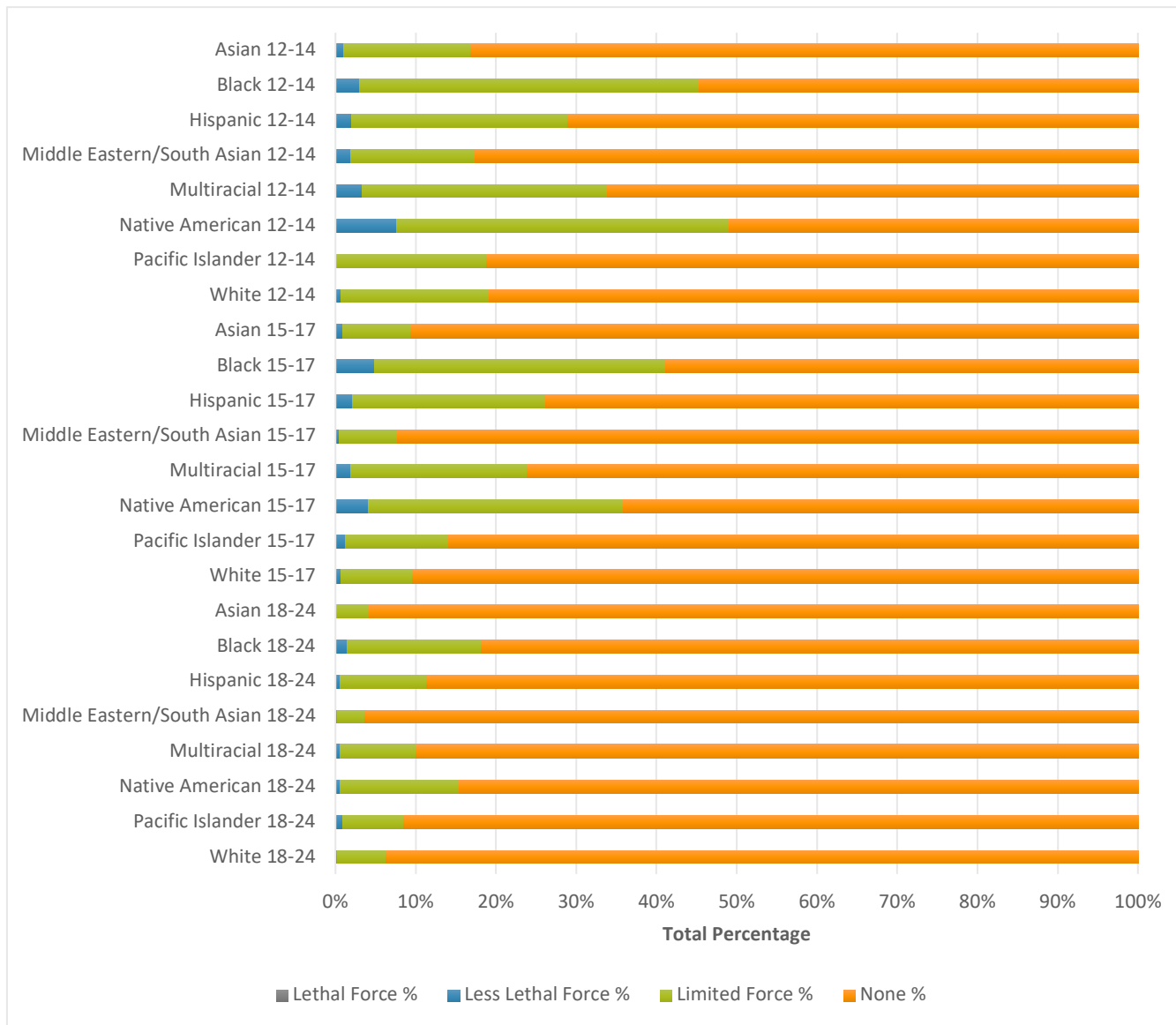
### Youth Stops Including Searches by Race and Ethnicity



### Use of Force

The RIPA data show that the use of lethal and less lethal force was not uncommon in stops of youth. Force was used at a higher rate in stops of youth 12–14 compared to other youth age categories. Officers also reported using lethal force in the form of discharging their firearm in several stops of youth 12–14. Within the 12–14 age category, overall, officers used force at the highest rate in stops of Native American and Black youth 12–14. Limited force — such as handcuffing, removal from a vehicle with physical contact, and other contact — was used at the highest rate in stops of Black youth 12–14 (42.3%) and Native American youth 12–14 (41.5%). Officers also reported using force at higher rates for Black and Native American youth 15–17 than for other racial groups in the same age category.

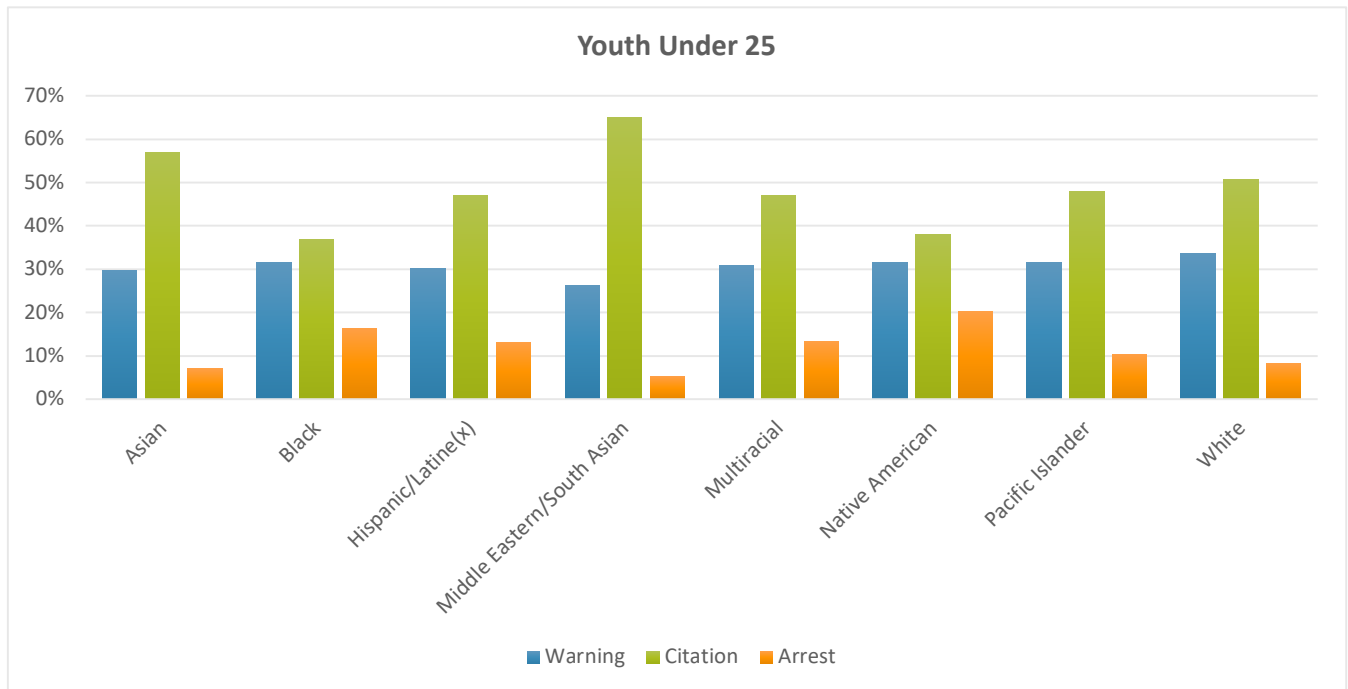
## Use of Force (Ages 12-24)



## Result of Stop

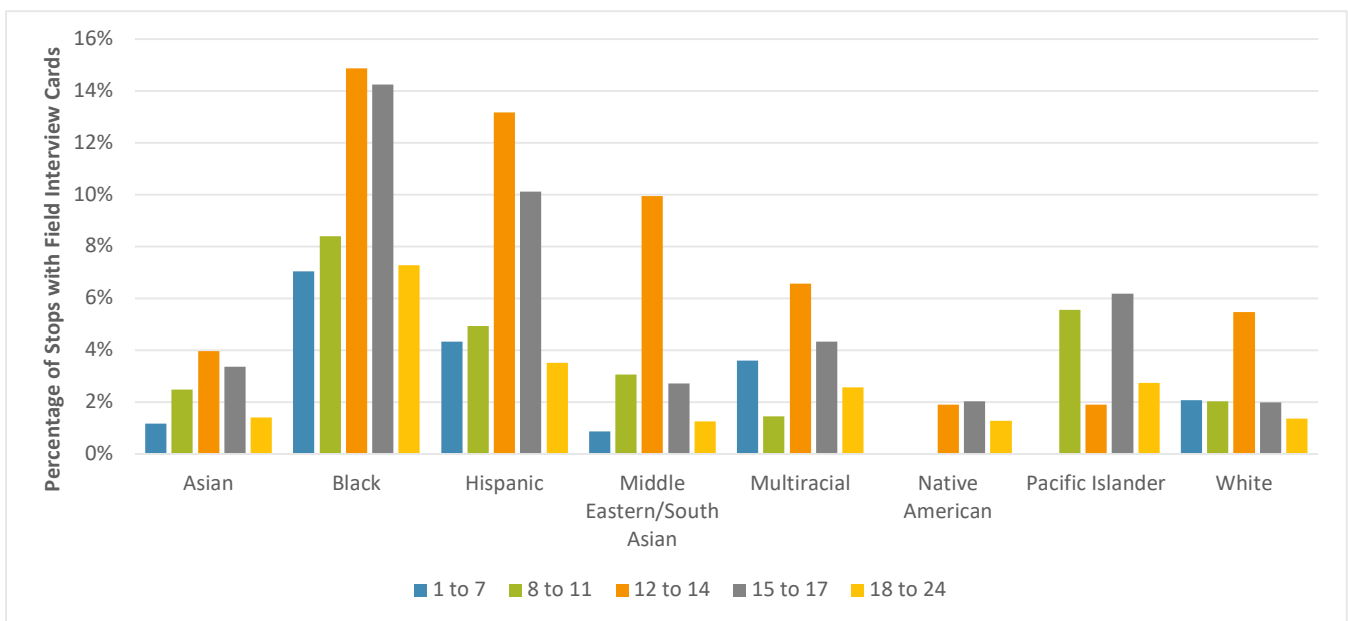
The data also show racial disparities in the results of stops of youth. Overall, across all racial groups, when officers stopped individuals perceived to be under 25, they reported issuing citations and warnings more frequently than making arrests. However, officers arrested youth perceived to be under 25 and Native American and Black at higher rates than youth from other racial groups.

## Results of Youth Stops Separated by Race/Ethnicity (Ages 1-24)



The 2024 Report examined field interview cards<sup>1</sup> and racial disparities in their use. The data in the current report show substantial racial disparities persist in the stops that resulted in the completion of a field interview card. For example, across all age groups, officers completed field interview cards most frequently for Black youth. With the exception of youth perceived as Pacific Islander or Native American, the age group for which officers completed field interview cards at the highest rate was youth perceived to be 12-14. Officers completed field interview cards at the highest rates in stops of youth perceived to be Black, Hispanic/Latine(x), and Middle Eastern/South Asian between the ages of 12-14, and Black and Hispanic/Latine(x) youth perceived to be 15-17.

### Youth Field Interview Cards by Race and Ethnicity



<sup>1</sup> See Racial and Identity Profiling Advisory Board, *Annual Report (2024)*, p. 91. Officers can complete a field interview card to record and track contacts made during stops, investigations, and arrests. Field interview cards can be used to enter data into law enforcement databases such as CalGang, a shared gang database that can be accessed by multiple law enforcement agencies. In this year's report, the Board found there are stark racial disparities in law enforcement agencies' designations of people as suspected gang members, associates, or affiliates in CalGang.

## Policy-Focused Data Analysis

This chapter of the report builds on the Board’s prior recommendations to address the issue of racial and identity profiling of youth by focusing on the role racial and other biases may play in police encounters with youth. The research discussed in the report show that youth of color are exposed to law enforcement encounters more often than White youth; that those encounters are more intrusive and more likely to result in further entanglement in the criminal legal system; and that police encounters, including being personally stopped or witnessing others being stopped, can have a profound impact on the lives of children and youth.

As noted, this year’s report defines youth as individuals under 25. The effects of policing on youth have important implications for California, where, as of 2022, more than 12 million Californians were under 25, and nearly nine million (approximately one in five) Californians were under 18. In examining the 823,773 stops of individuals perceived to be 24 and younger reported in 2023, this chapter uses four broad categories: stops based on reasonable suspicion; stops involving calls for service; officer actions taken during stops; and the ultimate results of stops. The analysis of the data shows the following:

- **Reasonable suspicion:** Officers initiated 93,372 stops of individuals perceived to be 24 and younger based on reasonable suspicion. The report notes there are racial disparities within this category of stops. In particular, youth perceived to be Black experienced a higher percentage of stops based on reasonable suspicion compared to other racial or ethnic groups. A review of six specific categories of offenses commonly seen in youth and law enforcement interactions—loitering, pedestrian roadway violations, disturbing the peace, trespassing, vandalism, and underage drinking — shows racial disparities in each of these offense categories.
- **Calls for service:** There were 65,680 stops of individuals perceived to be 24 and younger involving calls for service. The Board found gender and disability disparities within these stops.
- **ACTIONS taken by OFFICERS during stops:** The Board found disparities in actions taken by officers during stops of individuals perceived to be 24 and younger, including use of force actions, curbside or patrol car detentions, searches, and photographing the stopped individual.
- **Results of stops:** The Board found racial and ethnic disparities in stops of individuals perceived to be 24 and under, in which officers reported taking no action, and racial and ethnic, disability, and gender disparities in the use of field interview cards.

This chapter also reviews youth-specific policies of California law enforcement agencies, including policies about the use of force on youth, prohibiting deception in youth interviews, and limiting or prohibiting the use of field interview cards for youth. Although many agencies have policies regarding the use of force on youth in custody, these policies vary widely from agency to agency. Few policies provide additional protections or safeguards for youth or differentiate how youth should be treated compared to adults. For example, of the 15 largest agencies in California, only one (the Los Angeles Police Department) regulates the use of handcuffs when arresting youth. The Board is concerned by the lack of law enforcement policies relating to the use of force on youth, given that research and the RIPA data show officer interactions with youth frequently result in the use of force and that the use of force is directed disproportionately against youth of color, youth with disabilities, and gender minority youth.

## Board Recommendations

In light of this research and the RIPA data, the Board makes the following recommendations to the Legislature, law enforcement agencies, and municipalities to help eliminate racial and identity profiling and the many harmful effects of law enforcement interactions with youth:

1. The Legislature should convene a panel of experts to recommend standards, policies, and training for officers as it relates to the disparities and research set forth in the 2025 RIPA report with respect to youth, with a focus on use of force, de-escalation, and child development. Members of the panel should include, at a minimum, affected community members, experts in the development of use of force policies and trainings, child development experts, law enforcement experts, and human rights experts.
2. The Legislature should review the efficacy of existing deflection and diversion programs and explore the expansion to universal deflection or diversion for youth accused of a status offense, misdemeanor, or other low-level offense with a rebuttable presumption of eligibility that can be overcome with evidence-based considerations.
3. The Legislature, agencies, and municipalities should explore how limiting officer discretion in stops could reduce racial disparities and make specific findings from their study to act on.
4. Law enforcement agencies reevaluate proactive policing practices that have a disparate impact and collaborate with community-based organizations to find alternatives to increase public safety.

## POST Training and Recruitment

California legislators rely on the RIPA Board to review the effectiveness of training courses certified by the California Commission on Peace Officer Standards and Training (POST) in changing officer behavior to eliminate racial and identity profiling by sworn officers. This is an essential step toward eliminating the pernicious practice of racial and identity profiling by law enforcement. To that end, this chapter of the report focuses on the Board's participation in the development of POST's guidelines for racial and identity profiling training courses. The chapter also provides a review of emerging research on the effectiveness of anti-bias training, as well as recommendations to the California Legislature and POST Commission to improve peace officer training and reduce traffic and pedestrian stop disparities.

### POST Guidelines

The chapter highlights guidelines on racial and identity profiling that are currently under development by POST. Unlike guidelines POST has developed previously, it appears that the ones currently being developed will only serve as a template curriculum for an optional five-hour advanced officer training course on racial and identity profiling. While the development of this optional training course is commendable, the course does not reflect the Board's recommendation to POST to develop stand-alone guidelines for all POST-certified training courses on racial and identity profiling.

The RIPA Board will continue to work with POST in developing the guidelines, with expected publication in early 2025. The Board will present its review of the final guidelines in the 2026 Report.



## Emerging Research

Despite POST-certified trainings on racial and identity profiling offered through POST and local law enforcement agencies, there continue to be disparities in the number and outcome of stops for some racial and identity groups, raising serious questions about whether training and awareness alone are enough to eliminate bias in policing.

Several studies indicate that while focused, short-term training to reduce implicit bias can produce some immediate reductions in implicit bias, trainees tend to return to their baseline levels of implicit bias after a few months. Therefore, to create lasting reductions in stop data disparities, researchers recommend weaving anti-bias interventions into the culture of police departments to shift department culture toward fair and impartial policing. Specifically, researchers recommend:

- Repeated training sessions for sustained behavior changes;
- Supervisor support from the top down to influence cultural shifts within departments toward fair and impartial policing;
- Using body-worn camera footage to train officers and examine their behavior in the field;
- Integrating implicit bias-oriented and diversity trainings within broader organizational initiatives;
- Evaluating bias intervention as part of job performance (e.g., assessing attitudes and behavior in response to incidents of alleged bias); and
- Adopting policies that limit peace officer discretion during stops, encourage intelligence-based stops, and disrupt the influence of implicit biases.

Informed by this body of research, the Board recommends that before implementing, funding, or requiring any additional officer training on implicit bias, the courses be evaluated for effectiveness in producing sustained changes in individual officers' attitudes and behaviors and whether any observed changes translate into reduced disparities in enforcement outcomes.

## Board Recommendations

### Recommendations to the Legislature

1. Require law enforcement agencies (LEAs) to adopt a policy to prohibit racial and identity profiling that includes accountability and consequences of non-compliance (e.g., SB 2) based on the POST guidelines.
2. Require more frequent, evaluated, and evidence-based training on racial and identity profiling more than once every five years, and at a minimum of every three years.
3. Require law enforcement supervisors and field training officers receive specialized training on eliminating racial and identity profiling within their departments.
4. Explore requiring POST and Museum of Tolerance (MOT) courses on racial and identity profiling to be updated every two years with the latest RIPA findings, current legislation, and community input.
5. Require POST-certified courses on racial and identity profiling to be revised to include ways to prevent behavior that could lead to officer decertification for serious misconduct under SB 2.
6. Amend the law to increase funding and allow for additional stakeholders, beyond the MOT, to present additional options for racial and identity profiling training to law enforcement

officers.

7. Require body-worn camera footage, when available, or highly publicized incidents to be used in the racial and identity profiling training, in addition to staged scenarios.
8. Fund an independent study, under the guidance of the RIPA Board and conducted by academic researchers, that assesses the efficacy of POST's racial and identity profiling training on officers' attitudes, prejudices, and enforcement outcomes.
9. Provide funding and require POST to report annually on specific training outcomes and performance measures. POST should consider looking at implicit bias metrics before and after the trainings to evaluate their effectiveness.

## Recommendations to POST

1. Evaluate the academic research underpinning trainings during the course certification process.
2. Revise the process for evaluating law enforcement training, in course certification and its quality assessment plans, to include additional course criteria that incorporate training outcomes based on officer actions and behavior in the field.
3. Formally evaluate Learning Domain 3 and Learning Domain 42 in the Regular Basic Course comprehensive module tests.

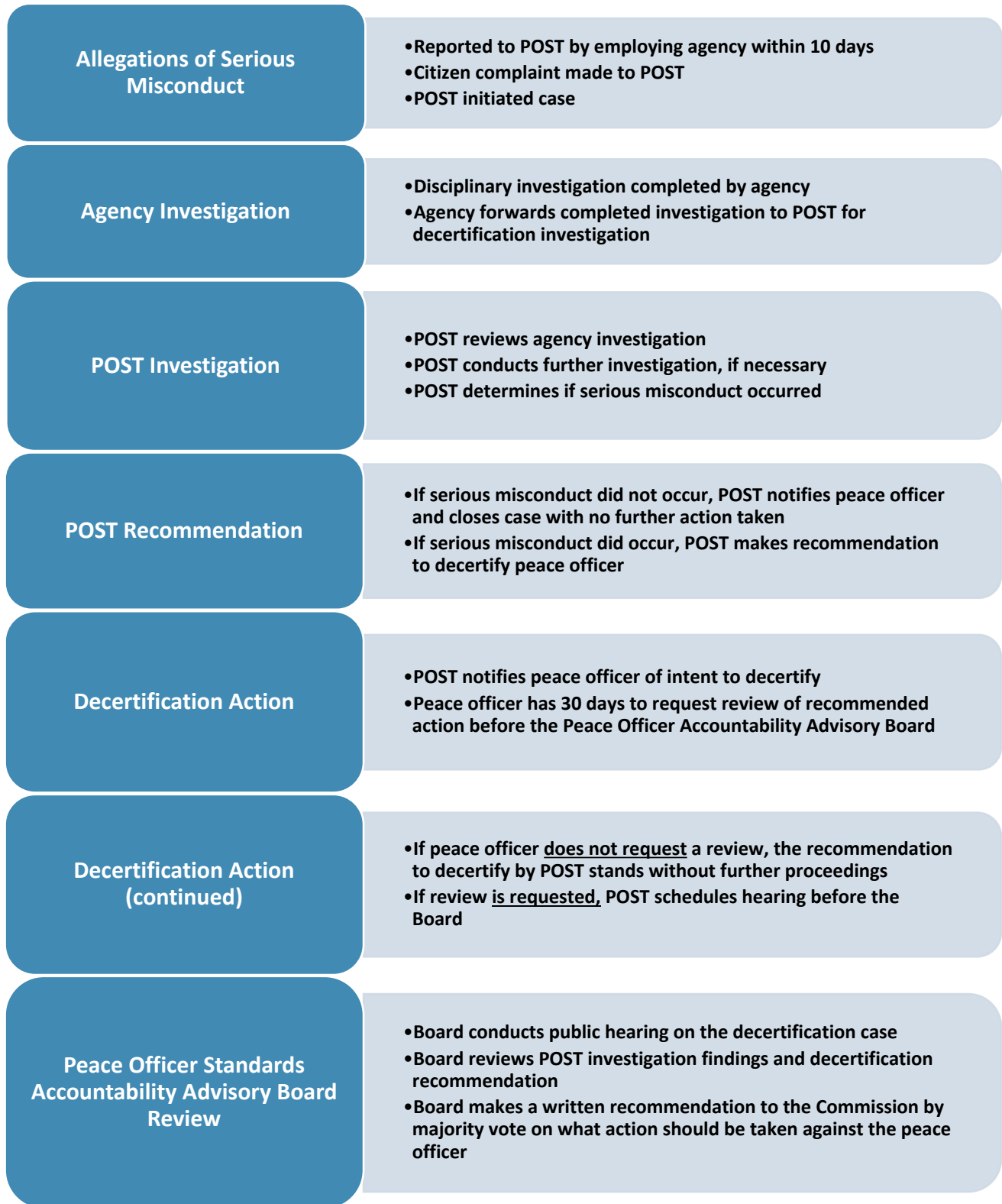
## Accountability

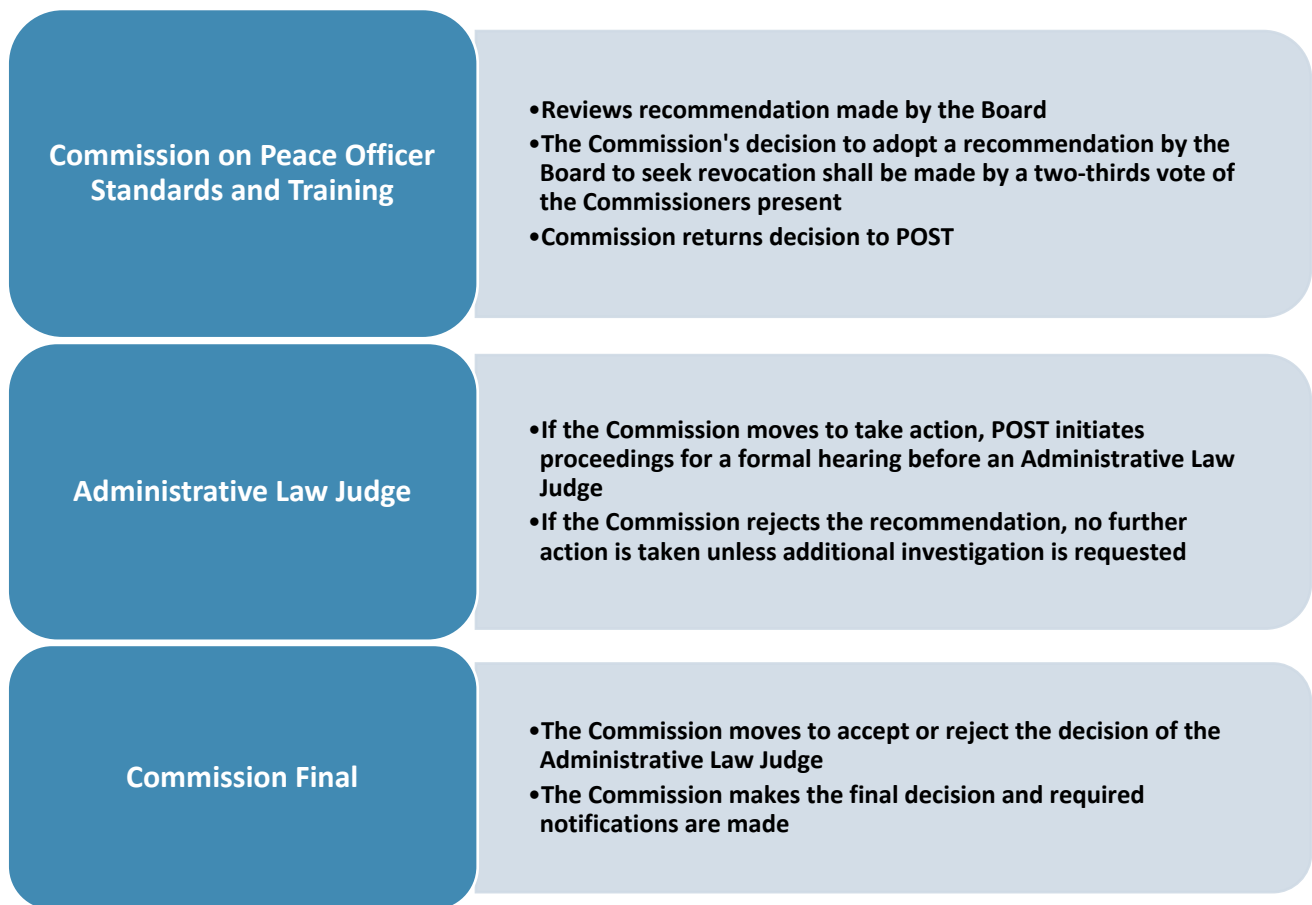
In 2021, the Legislature enacted Senate Bill No. 2, the Kenneth Ross Jr. Police Decertification Act of 2021 (SB 2), which created a statewide system to decertify or suspend peace officers who engage in serious misconduct, including officers who demonstrate bias or engage in racial and identity profiling. SB 2 aligns with the Board's goal of eliminating racial and identity profiling from policing. Therefore, this chapter of the report provides an overview of the SB 2 decertification process, including the key players in the decertification process, the grounds and processes for decertification or suspension of a peace officer, and each step of the decertification process, with the goals of informing the public and providing recommendations to POST and the Legislature to help shape SB 2 into an effective accountability tool to eliminate racial and identity profiling from policing.

SB 2 allows POST to suspend or revoke a peace officer's certification if: (1) the officer becomes ineligible to hold office as a peace officer under Government Code section 1029; or (2) the officer is terminated for cause or has otherwise engaged in "serious misconduct," which is defined by Penal Code section 12510.8, subdivision (b) and the POST regulations. For decertifications initiated based on Government Code section 1029, an officer becomes ineligible to serve as a peace officer if the officer has a conviction that meets the criteria listed in section 1029. POST can obtain conviction data from the California Department of Justice. For decertifications initiated based on an allegation of serious misconduct under Penal Code section 12510.8, subdivision (b), POST obtains information through reports from law enforcement agencies and complaints submitted by members of the public directly to POST. Under SB 2, members of the public have the option of submitting a complaint to POST anonymously.

Once it receives an allegation, POST notifies the officer's employing agency, which will conduct an investigation. Once the agency's investigation is completed, POST will conduct a review of the agency investigation and determine the need for further action, such as a hearing process to determine whether to revoke or suspend the officer's certification. POST has three years to complete its investigation of an allegation. The chart below outlines the SB 2 process for complaints:

## Peace Officer Decertification Workflow





This chapter also provides data from POST regarding the allegations POST received from January 1, 2023, to October 1, 2024. The data indicate that:

- POST has received 29,472 misconduct reports from law enforcement agencies, as well as 1,247 public complaints submitted directly to POST. Of those agency misconduct reports, 16,672 (56.57%) related to an incident that took place prior to January 1, 2023.
- As of October 1, 2024, 19,882 cases have been assigned to POST investigators. Of those, 7,967 cases have been closed. The other 9,533 misconduct reports (32.34% of the agency misconduct reports received) have not yet been assigned to a POST investigator.
- In 2023, POST closed a total of 5,194 cases. Of those cases, 5,100 were closed with no further action taken. Only 65 cases resulted in decertification.
- During the first nine months of 2024, POST resolved 2,982 cases; 2,811 cases resulted in no further action, and 171 cases resulted in decertification.
- In 2023, 85.29 percent of cases that were closed with no further action involved retroactive cases (i.e., cases involving events between January 1, 2020, and January 1, 2023). POST was required to close these cases if the conduct did not result in death or serious bodily injury per Penal Code section 13510.8, subdivision (g)(1).
- Of the allegations POST received from January 1, 2024, through October 4, 2024, physical abuse/excessive force was the most common type of serious misconduct alleged, followed by demonstrating bias, abuse of power, dishonesty, acts that violate the law, and sexual assault.

*SB 2 Complaints Involving Serious Misconduct Allegations, 2023-2024*

Basis	Allegations Received	
	Number	Percent
Physical Abuse/Excessive Force	12,654	37.68%
Demonstrating Bias	9,186	27.35%
Abuse of Power	4,528	13.48%
Dishonesty	2,523	7.51%
Acts that Violate the Law	2,225	6.63%
Sexual Assault	1,337	3.98%
Convicted of a Felony	593	1.77%
Other Serious Misconduct	537	1.60%

The most common complaint, charge, or allegation for which POST has initiated a certification action based on serious misconduct was egregious or repeated acts that violate the law, followed by physical abuse/excessive force, sexual assault, dishonesty, demonstrating bias, abuse of power, and failure to cooperate.

*SB 2 Grounds for Decertification 2023-2024*

Basis	Certification Actions	
	Number	Percent
Acts that Violate the Law	91	59.48%
Physical Abuse/Excessive Force	28	18.30%
Sexual Assault	17	11.11%
Dishonesty	11	7.19%
Demonstrating Bias	8	5.23%
Abuse of Power	6	3.92%
Failure to Cooperate	2	1.31%

As of September 27, 2024, 10 law enforcement agencies have had nine or more officers subject to an SB 2 certification action. Generally, the most common type of serious misconduct involves acts that violate the law.

*Law Enforcement Agencies with Nine or More Decertification Actions*

Last Employing Agency	SB 2 Officers	Sworn Officers	Most Common Recent Certification Action	Most Common Serious Misconduct
Los Angeles County SD	44	8858	15 Temporary Suspensions, 15 Ineligible Pursuant to GC § 1029	13 Acts that Violate the Law
Los Angeles PD	29	8665	10 Ineligible Pursuant to GC 1029	9 Acts that Violate the Law
California Highway Patrol	19	6884	8 Temporary Suspensions	7 Physical Assault/ Excessive Force

Last Employing Agency	SB 2 Officers	Sworn Officers	Most Common Recent Certification Action	Most Common Serious Misconduct
Riverside County SD	16	2862	2 Temporary Suspensions & 2 Ineligible Pursuant to GC 1029	6 Acts that Violate the Law
San Bernardino County SD	10	1875	3 Ineligible Pursuant to GC 1029	4 Acts that Violate the Law
San Francisco PD	10	1807	5 Temporary Suspensions	5 Acts that Violate the Law
San Jose PD	10	1024	6 Temporary Suspensions	5 Acts that Violate the Law
San Diego PD	9	1818	3 Ineligible, 3 Revoked	1 Dishonesty, 1 Failure to Cooperate, 1 Acts that Violate the Law
Torrance PD	9	188	8 Temporary Suspensions	5 Demonstrating Bias

As of September 27, 2024, POST has issued 78 temporary suspensions related to a pending criminal proceeding, which have been pending for an average of 321 days. Twenty-eight temporary suspensions without a collateral criminal proceeding have been pending for 338 days on average. As of September 27, 2024, only 35 temporary suspensions have reached a permanent disposition.

## Board Recommendations

The Board issues the following recommendations to the Legislature and POST, to enhance SB 2’s decertification process and effectuate the Legislature’s goal of addressing serious misconduct in policing:

1. The Board recommends that the Legislature enact legislation requiring law enforcement agencies throughout California to modify their disciplinary policies defining serious misconduct to align with the categories in Penal Code section 13510.8, subdivision (b).
2. Relatedly, the Board recommends that POST develop guidelines to assist law enforcement agencies in developing procedures to conduct adequate investigations into complaints alleging bias and guidelines that assist law enforcement agencies with aligning their policies with Penal Code Section 13510.8. The guidelines should also apprise law enforcement agencies on how to educate the public about the ways in which a complaint could be filed. In developing the guidelines for investigating complaints about demonstrating bias, POST could consult with the Board.
3. The Board recommends that POST issue guidance apprising officers and law enforcement agencies about the anti-retaliation and workplace protections afforded to an officer who files a complaint against a fellow officer or their agency or who cooperates with an investigation into an allegation of serious conduct. To provide protection for officers who report serious misconduct of fellow officers and to encourage a culture of accountability, the Board recommends that the Legislature amend Penal Code section 13510.8 to include whistleblower protection for peace officers and other individuals within a law enforcement agency who report serious misconduct by fellow peace officers.

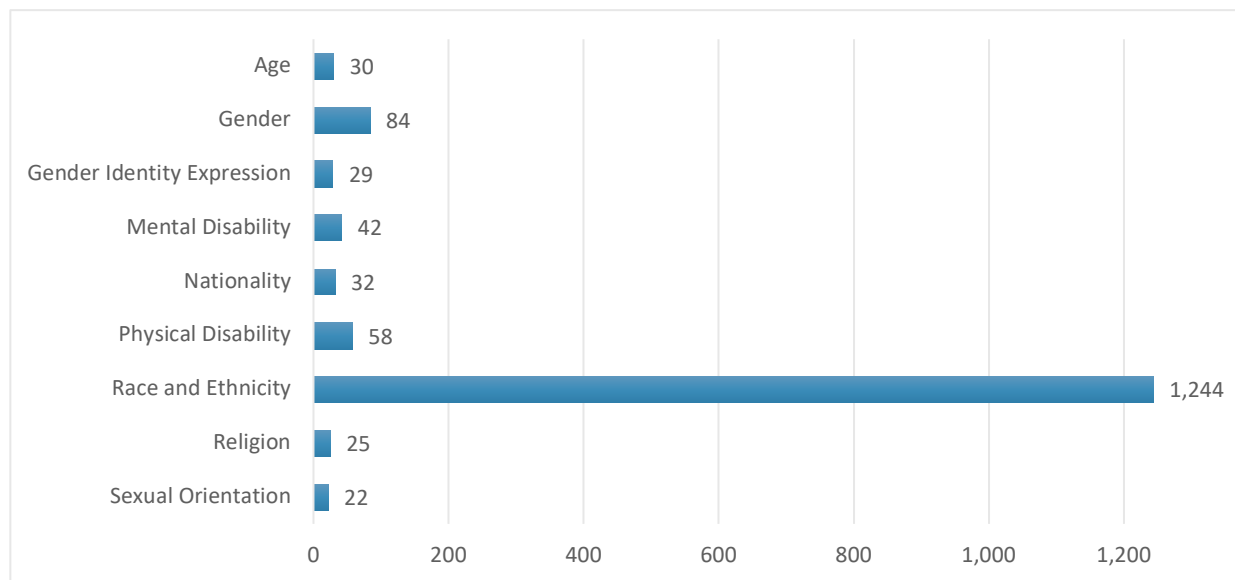
# Civilian Complaints

## 2023 Civilian Complaint Data

This chapter of the report includes the second year of analysis of complaint data reported by all four reporting waves of California law enforcement agencies. A total of 526 agencies — including municipal and district police departments, county sheriff’s departments, the California Highway Patrol, and law enforcement agencies of the University of California, California State Universities, California Community Colleges, District Attorney offices, and K-12 school district police departments — submitted complaint data in 2023. The data indicate the following:

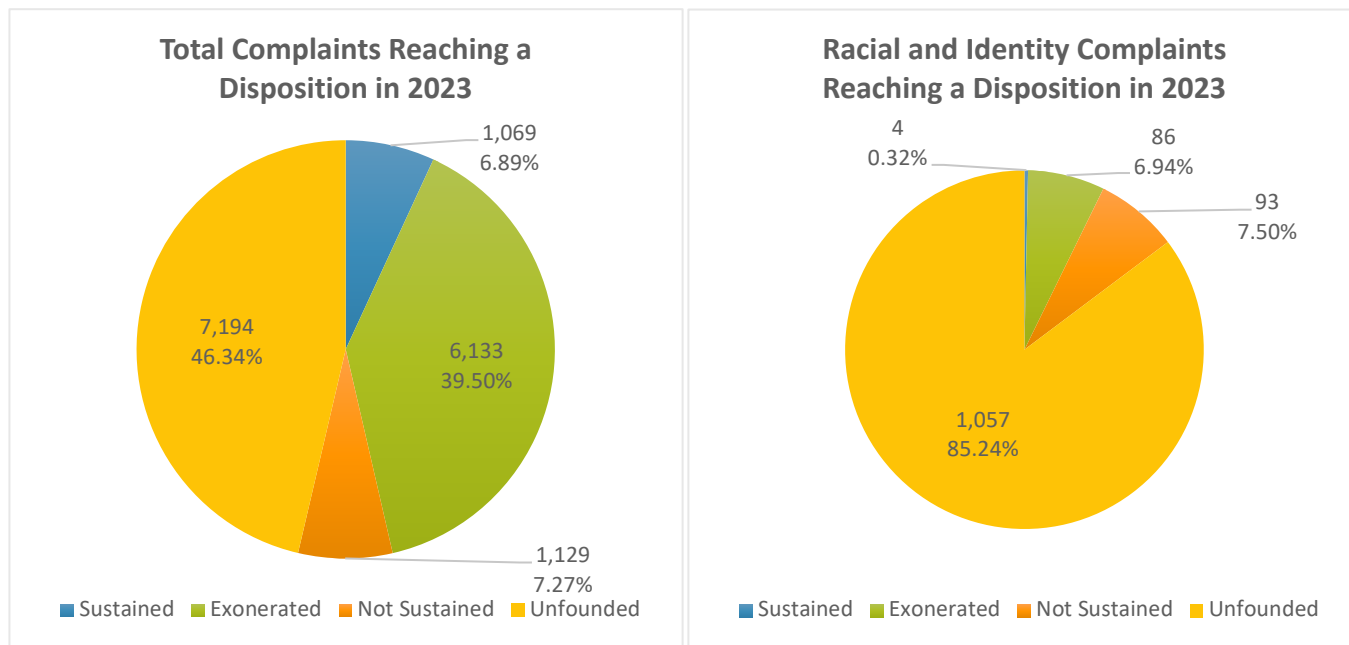
- Approximately three-quarters of reporting agencies (409, or 77.78%) reported receiving at least one civilian complaint, while nearly one-quarter (117, or 22.24%) reported that they did not receive any civilian complaints in 2023.
- In total, agencies reported that they received 14,444 complaints in 2023. Of these, 1,405 complaints (9.73%) alleged racial or identity profiling. The 1,405 profiling complaints were reported by only 147 agencies, representing 28 percent of the 526 RIPA reporting agencies and 35.94% of the 409 agencies that reported receiving complaints in 2023. By reporting group, Waves 1 through 3 — representing the largest law enforcement agencies in California — experienced an increase in the number of profiling complaints from 2022 to 2023, while Wave 4 experienced a decrease of 5.82 percent in the number of profiling complaints reported in 2023.
- Within the complaints alleging racial or identity profiling, there were 1,566 separate allegations of racial or identity profiling. The vast majority of these allegations (1,244, or 79.44%) alleged profiling on the basis of race or ethnicity.

### Total Allegations of Racial and Identity Profiling Reported in 2023



- In total, law enforcement agencies reported that 15,525 complaints reached a disposition in 2023, including 1,240 complaints alleging racial or identity profiling. The majority of all complaints, including profiling complaints, were deemed unfounded, exonerated, or not sustained. Only 6.89 percent of all complaints and 0.32 percent of profiling complaints were sustained.

## Disposition Distribution of 2023 Complaints



## Civilian Complaints Involving Youth

In addition to analyzing the 2023 complaint data, this chapter discusses how civilian complaints can serve as an accountability measure to more effectively monitor police interactions with individuals 24 and younger. The Board, with the goals of monitoring civilian complaints filed by or on behalf of youth, identifying problematic police practices that impact youth, and ensuring that police officers who harm youth are held accountable, makes the following recommendation:

The Legislature explore amending Penal Code section 13012 to require law enforcement agencies to report the number of civilian complaints reported by or on behalf of complainants, disaggregated by complainants who are 17 and younger and complainants who are 18 to 24 at the time of the underlying incident if age is known or volunteered at the time the complaint is submitted. This reporting requirement would include complaints filed by a third party on behalf of someone 24 or younger.

## Follow-up on Prior Board Recommendations

The report also provides updates regarding the Board’s prior recommendations to define “civilian complaint,” accept anonymous complaints, and address the potential deterrent effect of the advisory statement required by Penal Code section 148.6. This chapter of the report acknowledges the Legislature for introducing Assembly Bill 2923 in 2024, which would have defined “civilian complaint” and amended the language of Penal Code section 148.6. The bill did not pass, however.

Lastly, this chapter of the report continues to build on the Board’s prior recommendation that law enforcement agencies begin to incorporate the principles of root cause analysis into their civilian complaint procedures. Specifically, this chapter explores how root cause analysis is applied in the transportation and healthcare industries, as well as other areas of law enforcement, to identify common principles of root cause analysis and illustrate how those principles could be applied to civilian complaint procedures. The Board urges law enforcement agencies to analyze the root causes of civilian complaints and hopes to develop more specific recommendations in future reports to help agencies implement this practice.



## Legislative Update

The Board concluded the report with a summary of recently enacted legislation related to the work of the RIPA Board. Citing the racial disparities in the RIPA data, the Legislature passed Senate Bill No. 1020 (2023-2024 Reg. Sess.) to prohibit the use of “ethnic shooting targets,” which depict skin colors or facial features from which a person might reasonably discern race or ethnicity, in firearms training required for law enforcement recruits and officers.

This legislation exemplifies RIPA’s potential to effectuate change in policing practices and policies. With its focus on policing practices and policies, examined through the lens of youth and police interactions, this year’s report presents a wealth of data and data-driven recommendations to encourage more legislative and agency action to create enduring systemic changes in policing in California.

## Introduction

*“There is no tradeoff between effective law enforcement and protection of the civil rights of all Americans; we can and must have both.”<sup>2</sup>*

In its eighth report, the Racial and Identity Profiling Advisory Board (RIPA Board) continues its analysis of the Racial and Identity Profiling Act (RIPA) data to gain more insight into the disparities reflected in police encounters, the extent to which profiling is occurring, and the types of evidence-based policy solutions that could eliminate racial and identity profiling generally, especially for youth. In particular, the RIPA Board builds upon its prior examination of the policing of youth through a quantitative and qualitative analysis of the RIPA data to assess whether youth experience racial and identity disparities in police stops. They do.

Generally, the RIPA data show that in 2023, Black individuals were stopped at a rate of 126.46 percent more often than expected, and White individuals were stopped 4.38 percent less frequently than expected based on their proportion of the population. Even though being perceived as Black, Native American, or Hispanic/Latine(x) significantly increased the chances that an individual would be searched, searches of individuals who are Black, Native American, or Hispanic/Latine(x) were less likely to lead to the discovery of contraband than searches of White individuals.

The 2023 data for youth under 25 show similar trends.<sup>3</sup> Youth perceived to be Black were disproportionately stopped by law enforcement. Moreover, youth perceived to be youth of color and those perceived to have disabilities were more likely than others to be stopped in ways indicative of “proactive policing,” which generally suggests greater profiling. Of significant concern is the fact that officers reported using force substantially more in stops involving youth perceived to be Black and Hispanic/Latine(x). They also reported using force substantially more in stops of youth perceived to have a disability than youth perceived not to have a disability. Overall, the data indicate that the risk of being stopped or subjected to more intrusive actions — like detention, arrests, or use of force — increased based on a young person’s race/ethnicity or perceived disability.

The RIPA data for youth are particularly troubling because stops and their associated actions have harmful repercussions for youth that reverberate beyond the initial stop itself. Studies show that direct contact with law enforcement is associated with poor educational outcomes, including reduced test scores and lower grade point averages.<sup>4</sup> Moreover, intrusive police encounters undermine a youth’s sense of safety and stability, contributing to the development of stress, anxiety, post-traumatic stress disorder, and depression.<sup>5</sup> Just as alarming is research showing the criminogenic effect of police contact on youth. “Prior 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>6</sup> The 2023 RIPA data show that youth of color have more frequent encounters with law enforcement, and research shows that those interactions are more likely to lead to these negative outcomes for youth of color than for their White peers.

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2 Ramirez et al., *A Resource Guide on Racial Profiling Data Collection Systems: Promising Practices and Lessons Learned* (2000) U.S. DOJ, p. iii <<https://www.ojp.gov/pdffiles1/bja/184768.pdf>> [as of Nov. 18, 2024].

3 The 2025 Report defines youth as those under 25. (See Arain et al., *Maturation of the Adolescent Brain* (2013) 9 *Neuropsychiatric Disease and Treatment* 449, 451-452 <<https://pmc.ncbi.nlm.nih.gov/articles/PMC3621648/>> [as of Nov. 18, 2024].)

4 Gottlieb and Wilson, *The Effect of Direct and Vicarious Police Contact on the Educational Achievement of Urban Teens* (2019) 103 *Children and Youth Services Rev.* 190, 196; St. John et al., *Reducing Adverse Police Contact Would Heal Wounds for Children and Their Communities* (Jun. 2022) *Child Trends: Trauma and Resilience*, p. 2 <[https://cms.childtrends.org/wp-content/uploads/2022/05/Policingtraumabrief\\_ChildTrends\\_June2022.pdf](https://cms.childtrends.org/wp-content/uploads/2022/05/Policingtraumabrief_ChildTrends_June2022.pdf)> [as of Nov. 18, 2024].

5 See Alang et al., *Police Encounters as Stressors: Associations with Depression and Anxiety across Race* (2021) 7 *Socius* <<https://journals.sagepub.com/doi/epub/10.1177/2378023121998128>> [as of Nov. 18, 2024].

6 Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 *PNAS* 8261, 8267 <<https://pubmed.ncbi.nlm.nih.gov/30962370/>> [as of Nov. 18, 2024].

The Board remains concerned about the persistence of substantial racial disparities in the rates of stops and the actions taken during stops as they are suggestive of racial and identity profiling, not only at the instance in which an officer decides to stop a person but also throughout the encounter. Racial and identity profiling contributes to disparities beyond those seen in the RIPA data and includes downstream effects like disparities in the criminal justice system as well as in education, health, and economic wellbeing. It is why the Board takes the view that racial and identity profiling undermines public safety.

California law expressly prohibits racial and identity profiling,<sup>7</sup> and the RIPA Board is entrusted with making detailed findings about racial and identity profiling and issuing recommendations aimed at rooting out the practice. In its prior reports, the Board put forth data-driven, evidence-based policy recommendations that hold promise in achieving the goal of eliminating racial and identity profiling. The Board reaffirms these recommendations and calls upon the Legislature, policymakers, and law enforcement agencies across California to consider and adopt them.

In this year's report, the Board builds on prior recommendations to outline a comprehensive approach to not only eliminate profiling but also improve training — both in the academies and in the field — by deemphasizing policing practices that could lead to profiling and imposing effective accountability measures when officers engage in profiling or other misconduct that harms the public. These recommendations are grounded in research that has examined effective policing practices that are consistent with constitutional principles.

Improving public safety through effective policing grounded in California's prohibition against profiling and the California and United States Constitutions requires a deep and unwavering commitment from all stakeholders: the reporting law enforcement agencies in California, the Legislature, policymakers, the Commission on Peace Officers Standards and Training (POST), advocates, and communities. The Board remains committed to working with these indispensable parties to facilitate long-term systemic change and achieve the Legislature's mandate to eliminate racial and identity profiling of all Californians.

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<sup>7</sup> Pen. Code, § 13519.4, subds. (e)-(f).

# Stop Data

## III. DESCRIPTION OF OVERALL STOP DATA

RIPA requires officers to collect and report information for each stop they make. For purposes of reporting RIPA stop data, a “stop” is any detention of an individual by a peace officer or any interaction with a peace officer during which the officer conducts a search of the person or their property.<sup>8</sup> The data law enforcement agencies collect and report to the California DOJ for each stop includes, but is not limited to, demographic information for the person stopped based on the officer’s perception, information that would provide context for the stop, including events precipitating the stop — such as whether the stop was officer initiated or was in response to a call for service — actions taken by officers during the stop, the duration of the stop, and the outcome or result of the stop.<sup>9</sup>

Demographic data are collected to document law enforcement interactions with the public and determine whether certain identity groups experience disparate treatment during stops. As noted, RIPA requires officers to report demographic information based on the officer’s perception of the person stopped, which may differ from how that person self-identifies. This distinction is important because racial and identity profiling occurs based on how officers perceive civilians and act based on that perception. Some demographic characteristics collected, like race, ethnicity, or age, may be easier to perceive based on visible factors. Others, like sexual orientation or disability status, may not be as apparent and, therefore, may be perceived less consistently with how a stopped individual identifies. Therefore, when examining the analysis of the stop data in this report, bear in mind that assessments made about race or identity (i.e., Black, Hispanic/Latine(x), Native American, Disability, Gender) are not based on the actual race or identity of the individuals stopped but are based instead on an officer’s perception of the race or identity of those individuals. Accordingly, the report will refer to individuals stopped based on the category reported by officers (i.e., “Black individuals”) or their perception (i.e., “individuals perceived to be Black”).

In 2023, the sixth year of RIPA stop data reporting, all city and county law enforcement agencies, all law enforcement agencies of California public schools and universities, and the California Highway Patrol were required to report stop data. In total, 539 agencies reported 4,721,135 stops.

This chapter presents the analysis of the 2023 stop data in two parts. The first part analyzes the data law enforcement agencies collected and submitted to the DOJ using racial, gender, and identity demographics to determine whether the data reveal overall trends in stops of different groups based on racial, gender, and identity characteristics, including disability, English fluency, and LGBT status. Overall, the analysis of 2023 data presented in this chapter shows disparities not only in the rate of stops for certain demographic groups but also in the actions taken during stops and the outcomes.

The second part of this chapter, given the report’s focus on youth and policing, provides an intersectional analysis of the data collected on stops involving youth under the age of 25 using racial, gender, and identity demographics. As discussed in more detail in the Policy-Focused Data Analysis chapter below, scientific research indicates the adolescent brain undergoes a rewiring process that is

8 See former Cal. Code Regs., tit. 11 § 999.224, subd. (a)(14), now Cal. Code Regs., tit. 11 § 999.224, subd. (a)(20) (eff. Jan. 1, 2024). A detention “means a seizure of a person by an officer that results from physical restraint, unequivocal verbal commands, or words or conduct by an officer that would result in a reasonable person believing that they are not free to leave or otherwise disregard the officer.” (Cal. Code Regs., tit. 11, § 999.224, subd. (a)(7).)

9 The stop data form also includes narrative fields that require officers to include details about the reason for the stop and the basis for any search conducted. (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(14) (B).) Throughout the reporting period, each law enforcement agency is responsible for ensuring that all data elements, data values, and narrative explanatory fields in the data they submit to DOJ conform to the regulations. (Cal. Code Regs., tit. 11, § 999.229, subd. (b).) Agencies must correct any errors in the data submission process using the DOJ’s error resolution process. (*Ibid.*)

not complete until age 25.<sup>10</sup> That research has led researchers to expand the definition of adolescence to include young people up to age 24. Accordingly, this report adopts a definition of youth that includes those who are under 25.

In analyzing the data, the report uses the following age categories: 1–7, 8–11, 12–14, 15–17, and 18–24.<sup>11</sup> As shown below, the analysis of the data for youth reveals disparities for racial and identity demographics that are consistent with the trends seen in the overall data.

## IV. OVERALL DATA ANALYSIS

### A. Stops

#### Race and Ethnicity

Overall, officers perceived the highest percentage of individuals stopped as Hispanic/Latine(x) (43.07%, 2,033,482 stops), followed by White (31.96%, 1,508,816 stops), Black (12.14%, 573,293 stops), Asian (5.72%, 270,230 stops), Middle Eastern/South Asian (5.03%, 237,511 stops), Multiracial (1.22%, 57,444 stops), Pacific Islander (0.57%, 27,100 stops), and Native American (0.28%, 13,259 stops). Persons who were perceived as more than one race or ethnicity are categorized in this report as Multiracial.

Examining the proportion of individuals stopped by their race/ethnicity identity in relation to the proportion that race/ethnicity identity appears in the California population, showed noticeable disparities.<sup>12</sup> Black individuals were stopped 126.46 percent more often than expected, and Hispanic/Latine(x) individuals were stopped 43.76 percent more often than expected, given the population of the state. Conversely, Asian individuals were stopped 52.82 percent less frequently than expected, and multiracial individuals stopped 91.08 percent less frequently than expected. White individuals were stopped 4.38 percent less frequently than expected.

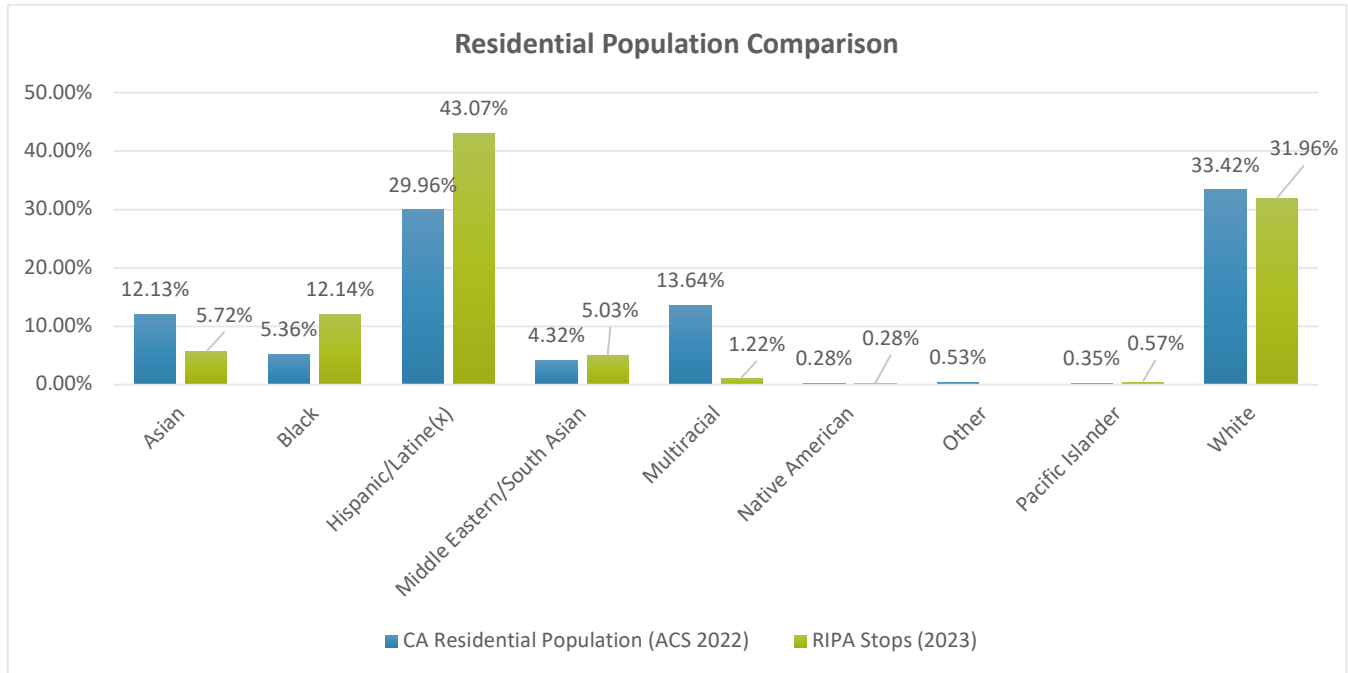
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10 Arain et al., *Maturation of the Adolescent Brain* (2013) 9 *Neuropsychiatric Disease and Treatment* 449, 451-452 <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3621648/>> [as of Nov. 18, 2024].

11 Welf. & Inst. Code, §§ 601, 602; California Department of Justice (July 5, 2019) *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)> [as of Nov. 18, 2024].

12 “The Hispanic/Latine(x) category included everyone who self-identified as any one race and Hispanic (HISPAN ≠ 0). Individuals who identified as more than one race and Hispanic/Latine(x) were categorized as Multiracial. This is the same operational definition used to identify Hispanic/Latine(x) individuals in past RIPA reports using the Census Bureau’s Hispanic/Latino Origin by Race table B03002.” (Appendix D, D.1 (describing the Disparity Test Methodology used to calculate disparities).)

Figure 1. Stop Disparities by Race and Ethnicity



## Gender

Most stops, 99.61 percent (4,702,551 stops), involved persons perceived as cisgender. Cisgender means a person whose gender identity and gender expression align with the person’s assigned gender identity at birth, whereas transgender means a person whose gender identity and gender expression do not align with the gender assigned at birth. Among transgender people, persons report being able to “pass” as cisgender, broadly meaning they are not perceived by strangers as transgender. A 2015 survey of transgender persons in the United States found that 40 percent of surveyed transgender persons interacted with police or other law enforcement in the past year, and 65 percent of those persons believed that none of the officers thought or knew they were transgender.<sup>13</sup>

The 2023 RIPA data show that cisgender males (71.13%, 3,358,186) comprised the most common gender category stopped, while cisgender females were the second most common (28.48%, 1,344,365). The remaining 0.39 percent (18,581 stops) is comprised of persons perceived as gender nonconforming (0.21%, 9,867), transgender men/boys (0.12%, 5,664), and transgender women/girls (0.06%, 3,050).

## Disability Status

Of all stops, 98.94 percent (4,671,095 stops) involved an individual with no perceived disability. Of the remaining 1.06 percent of stops (50,040 stops), the most commonly perceived disability was mental health (64.68% of stops with a perceived disability, 32,364 stops), followed by “other” (11.19%, 5,600), speech impaired (8.58%, 4,291), multiple disabilities (5.41%, 2,707), deaf (4.17%, 2,089), developmental (3.24%, 1,622), blind (2.66%, 1,333), and hyperactivity (0.07%, 34).

13 Gyamerah et al., Experiences and Factors Associated with Transphobic Hate Crimes Among Transgender Women in The San Francisco Bay Area: Comparisons Across Race (2021) 21 BMC Public Health 1, 7-11 <[https://pmc.ncbi.nlm.nih.gov/articles/PMC8173924/pdf/12889\\_2021\\_Article\\_11107.pdf](https://pmc.ncbi.nlm.nih.gov/articles/PMC8173924/pdf/12889_2021_Article_11107.pdf)> [as of Nov. 18, 2024].

## English Fluency

Officers reported that 94.23 percent (4,453,010) of all stops were of individuals officers perceived to have English fluency. The remaining 5.68 percent of stops (268,125) were of individuals officers perceived to have limited or no English fluency.

## LGBT

Officers reported 36,181 (0.77%) stops of persons perceived by the officer as lesbian, gay, bisexual, or transgender (LGBT).

### B. Calls for Service

Calls for service are calls from the community requesting an officer to stop an individual or respond to a situation, while officer-initiated stops refer to stops initiated at an officer's discretion. As such, disparities between the proportion of stops that are officer-initiated compared to calls for service may indicate areas where officers and community members direct their attention and resources.

#### Key Terms

Call for service – a stop made in response to a 911 call, radio call, or dispatch.

Officer-initiated – a stop resulting from the officer's observation, not in response to a call for service.

## Race and Ethnicity

Overall, officer-initiated stops are more common than calls for service. Individuals perceived as Black had the highest rates of stops based on calls for service (12.49%, 71,586 stops) followed by individuals perceived as Native Americans (14.13%, 1,874 stops). Alternatively, calls for service occur at the lowest rates for Asian individuals (4.42%, 11,935 stops) and Middle Eastern/South Asian individuals (3.44%, 8,179 stops).

## Gender

Overall, calls for service were a more common cause for contact with persons perceived as transgender, both transgender men/boys (23.00%, 1,303 stops) or transgender women/girls (29.38%, 896 stops). In contrast, cisgender females had only 7.54 percent (101,335 stops) of encounters initiated by a call for service, with similar figures for cisgender males (8.56%, 287,502 stops) and gender nonconforming (9.22%, 910 stops).

### C. Reason for Stop

In 2023, officers could select one of six primary reasons for initiating a stop.<sup>14</sup> This part of the analysis focuses on the two most common reasons for stops: traffic violations and reasonable suspicion that the person stopped has engaged or is engaged in criminal activity.<sup>15</sup> Throughout this chapter, the remaining four reasons available to officers are examined collectively as “other reasons.”

14 The reasons for stop include traffic violation, reasonable suspicion, known to be on parole/probation/PRCS/mandatory supervision, knowledge of an outstanding arrest warrant/wanted person, investigation to determine whether the person is a truant, consensual encounter resulting in a search. (See former Cal. Code Regs., tit. 11, § 999.226, subd. (a)(10)(A), now Cal Code Regs., tit. 11, § 999.226, subd. (a)(14)(A) (eff. Jan. 1, 2024) (adding two additional primary reasons for stop).)

15 “[T]he Fourth Amendment permits an officer to initiate a brief investigative ... stop when [the officer] has ‘a particularized and objective basis for suspecting the particular person stopped of criminal activity.’” (*People v. Flores* (2024) 15 Cal.5th 1032, 1041.)

## Race and Ethnicity

Across all race and ethnicity groups, the most common reason for a stop was a traffic violation. The groups with the highest proportion of stops for traffic violations were Middle Eastern and South Asian individuals (94.50%, 224,453 stops), followed by Asian individuals (92.57%, 250,159 stops). On the other hand, officers reported the lowest proportion of traffic violations for Native American individuals (73.32%, 9,722 stops).

For those stops officers reported initiating based on reasonable suspicion, Black individuals were stopped at the highest rate (19.57%, 112,194 stops), followed by Native American individuals (18.86%, 2,500 stops).

## Gender

Gender identity groups also had noticeable differences in reasons for stops. Both transgender men/boys (58.81% traffic, 3,331 stops; 35.06% reasonable suspicion, 1,986 stops) and transgender women/girls (51.21% traffic, 1,562 stops; 41.61% reasonable suspicion, 1,269 stops) had higher rates of stops for reasonable suspicion than individuals who were perceived as cisgender or nonconforming. Perceived cisgender and gender nonconforming individuals had similar rates of stops based on reasonable suspicion: cisgender females, 10.98 percent (147,555) of stops (86.57% due to traffic violations, 1,163,807 stops), cisgender males, 13.77 percent (462,365) of stops (82.62% due to traffic violations, 2,764,663 stops), and gender nonconforming individuals 12.73 percent (1,256) of stops (83.89% due to traffic violations, 8,277 stops).

## Disability

For stops involving an individual with a perceived disability, officers reported that 20.95 percent (10,483 stops) of stops were initiated based on traffic violations, whereas 15.41 percent (7,713 stops) were due to other reasons. On the other hand, officers reported 84.37 percent of stops (3,941,159 stops) of an individual without a perceived disability were for traffic violations, while only 3.15 percent of stops (147,347) — almost five times less than the percentage for those with a disability — were for other reasons. This finding should be interpreted with caution as more research is required to fully examine the intersection between disabilities, officer training, and other demographic variables.

## English Fluency

Individual officers perceived as being fluent in English were stopped at the same rate as those with limited or no English fluency (83.7%, 3,727,213 stops for English fluent; 83.7%, 224,429 stops for limited/no English fluency) for traffic violations. Officers stopped a slightly smaller percentage of individuals fluent in English (12.97%, 577,731 stops) compared to those with limited or no English fluency (13.69%, 36,701 stops) for reasonable suspicion.

## LGBT Identity

Individuals perceived as LGBT were more likely to be stopped based on reasonable suspicion (24.39%, 8,824 stops) than individuals not perceived to be LGBT (12.93%, 605,608 stops). For stops initiated based on a traffic violation, officers stopped individuals perceived as LGBT (70.20%, 25,400 stops) at a lower rate than those perceived to not be LGBT (83.81%, 3,926,242 stops).

## D. Actions Taken During Stop

For the action taken during a stop data element, officers can select one or more of the 25 actions identified on the stop data form, including reporting that they took no action during the stop. In this

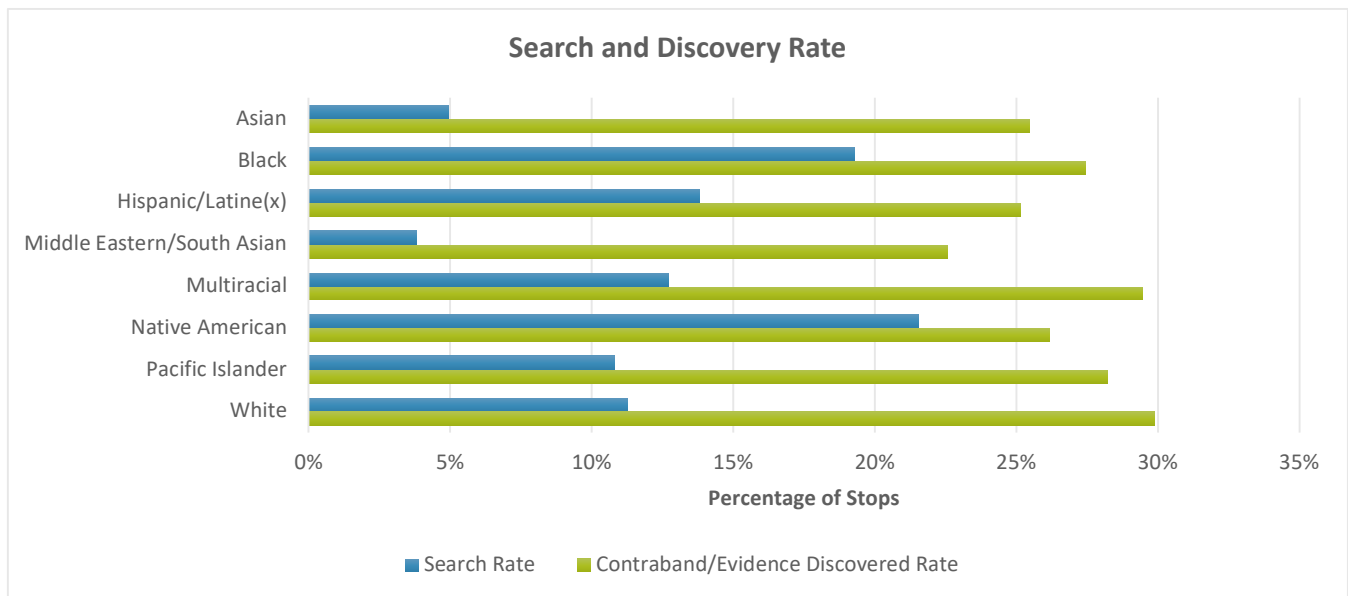


section, the analysis of the data regarding actions taken during a stop notes the prevalence of reports of no action taken, the frequency of the use of force, searches, handcuffing, detentions (curbside or in a patrol car), and ordered exits from a vehicle.

Overall, for stops in 2023, 12.63 percent (596,442) of people stopped were searched, 10.17 percent (480,363) were handcuffed, 13.04 percent (615,694) were detained curbside or in a patrol car, and 4.20 percent (198,085) were ordered to exit a vehicle. Officers reported searching and handcuffing Native American individuals at the highest rate. They reported detaining Black individuals curbside or in a patrol car or ordering them to exit a vehicle during stops at the highest rate compared to other racial/ethnic groups. Of all stops involving Native American individuals, 21.56 percent (2,858 stops) included a search, and 18.74 percent (2,485 stops) included handcuffing. Of stops involving Black individuals, 18.66 percent (107,000 stops) included detention curbside or in a patrol car, and 6.33 percent (36,306 stops) included an order to exit the vehicle. Conversely, officers reported the lowest rates of all actions in stops involving Middle Eastern/South Asian people (ranging from 1.54% to 4.62%).

The data also show that although individuals perceived as Native American (21.56%, 2,858 stops) and Black (19.28%, 110,530 stops) were searched at higher rates than individuals who are perceived to be White (11.25%, 169,763 stops), officers discovered contraband or evidence at a lower rate during searches of those individuals than they did during searches of individuals perceived as White (29.89%, 50,738 stops).

Figure 2. Search Discovery Rates by Race and Ethnicity

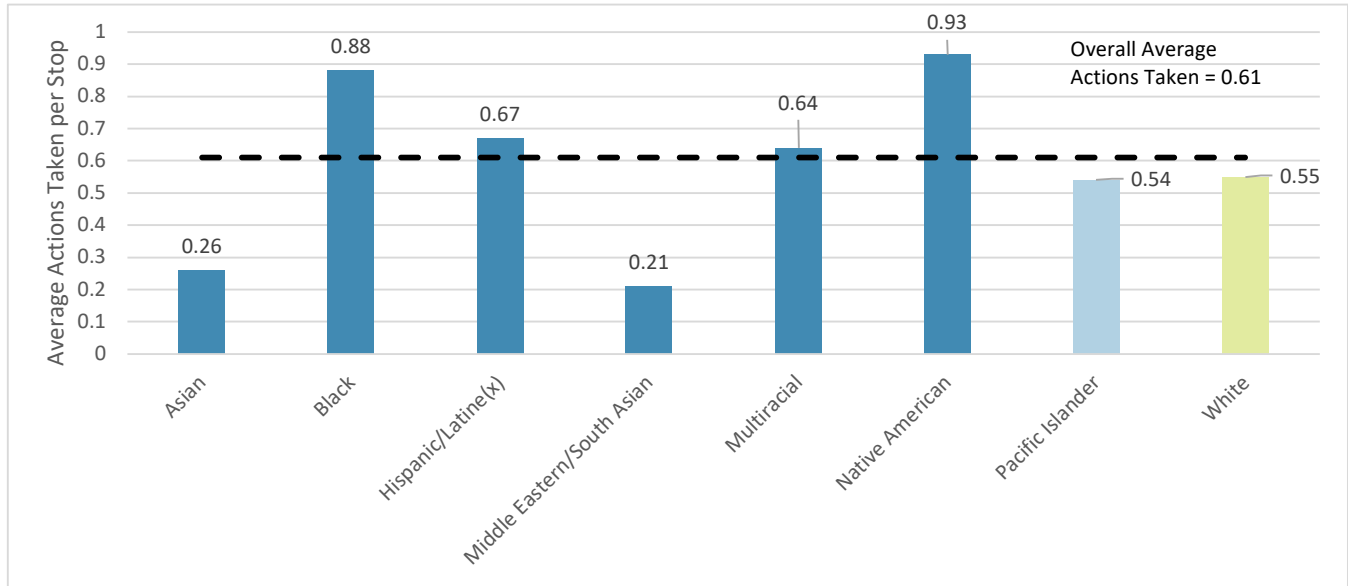


### Average Number of Actions Taken During Stop

Taking all stops into account, officers reported an average of 0.61 actions per stop. This number varied significantly by demographic group, however. Officers reported higher than the average number of actions taken during stop for Black (0.88, SD = 1.60, range (actions taken) = 0 - 11), Hispanic/Latine(x) (0.67, SD = 1.45, range = 0 - 13), Multiracial (0.64, SD = 1.46, range = 0 - 12), and Native American (0.93, SD = 1.61, range = 0 - 11) individuals. On average, officers reported a lower number of actions taken during stops of Asian (0.26, SD = 0.94, range = 0 - 11), Middle Eastern/South Asian (0.21, SD = 0.83, range = 0 - 11), Pacific Islander (0.54, SD = 1.32, range = 0 - 11), and White individuals (0.55 actions, SD = 1.32, range = 0 - 13).<sup>16</sup>

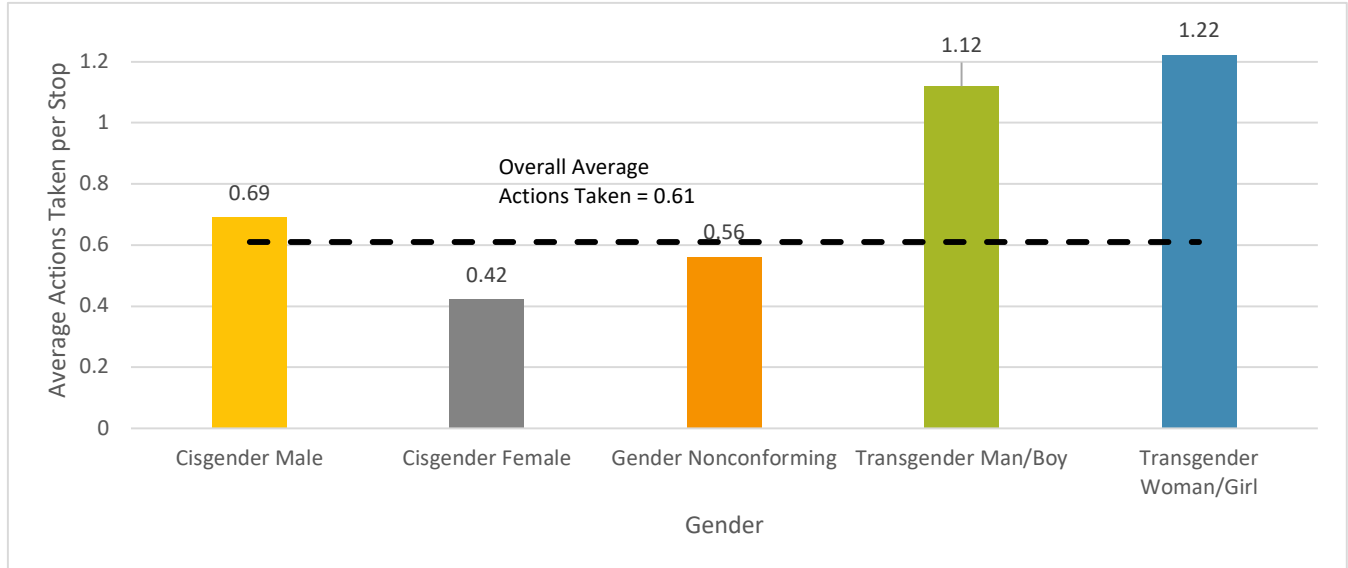
16 When reporting an average value of a set of data, we will additionally report the standard deviation (SD) and range of the underlying set. The standard deviation is a measure of how dispersed the data are in relation to the average. A larger standard deviation indicates the data points are more spread out, while a smaller standard deviation indicates

Figure 3. Average Number of Actions Taken by Race and Ethnicity



Examining the average number of actions taken during a stop for different perceived gender categories shows a higher rate of actions taken for individuals officers perceived as transgender. Only transgender man/boy (1.12, SD = 1.65, range (actions taken) = 0 - 10) and transgender woman/girl (1.22, SD = 1.70, range = 0 - 12) had actions occur at numbers higher than 1 per stop. Cisgender female (0.42, SD = 1.14, range = 0 - 13) had the lowest number of actions per stop among the different gender categories.

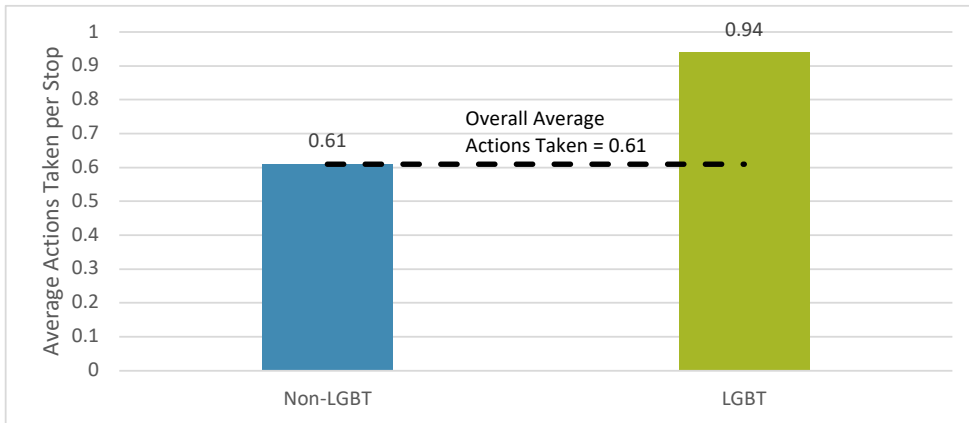
Figure 4. Average Number of Actions Taken by Gender



Officers reported an elevated number of actions in stops involving persons perceived as LGBT individuals (0.94, SD = 1.61, range (actions taken) = 0 - 12), compared to non-LGBT individuals (0.61, SD = 1.39, range = 0 - 13).

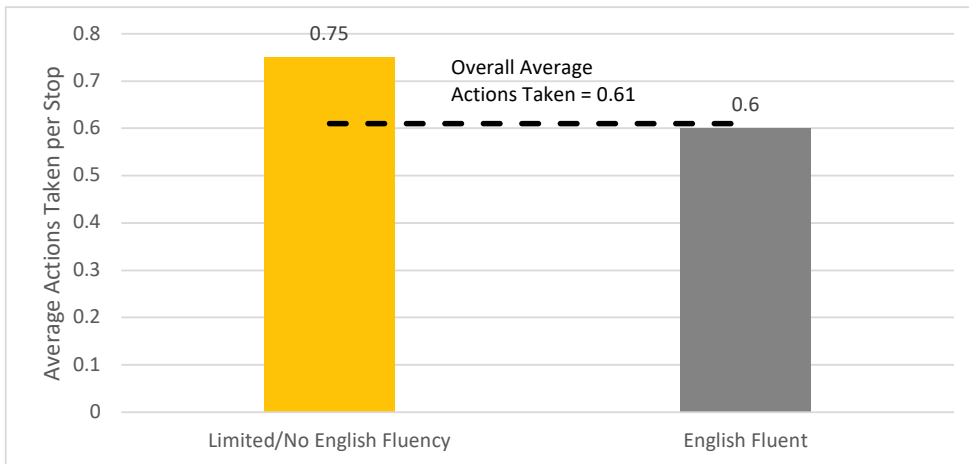
the data points are clustered more closely around the average. The range states the lowest and highest value in the set. It is found by calculating the square root of the squared difference from the average. For example, if there are five stops of length 2 minutes, 4 minutes, 7 minutes, 11 minutes and 16 minutes, the average stop length is 8 minutes. The difference from the average for each stop is -6, -4, -1, 3, and 8, and the square of those differences is 36, 16, 1, 9 and 64. The average of those five numbers is close to 25, which means that the standard deviation would be about 5. If the five stops were all the same length, the standard deviation would be zero.

Figure 5. Average Number of Actions Taken by Perceived LGBT Status



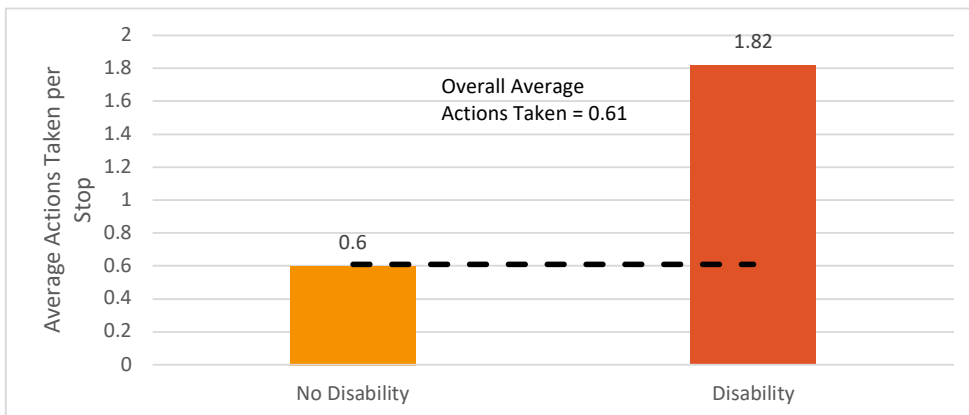
Officers reported more actions taken during a stop, on average, in stops involving people with limited/no English fluency (0.75, SD = 1.38, range (actions taken) = 0 - 12) compared to those who were fluent in English (0.60, SD = 1.51, range = 0 - 13).

Figure 6. Average Number of Actions Taken by English Fluency



Officers reported taking over three times more actions, on average, during a stop of someone with a perceived disability (1.82, SD = 1.72, range (actions taken) = 0 - 12), compared to someone without a perceived disability (0.60, SD = 1.38, range = 0 - 13).

Figure 7. Average Number of Actions Taken by Perceived Disability



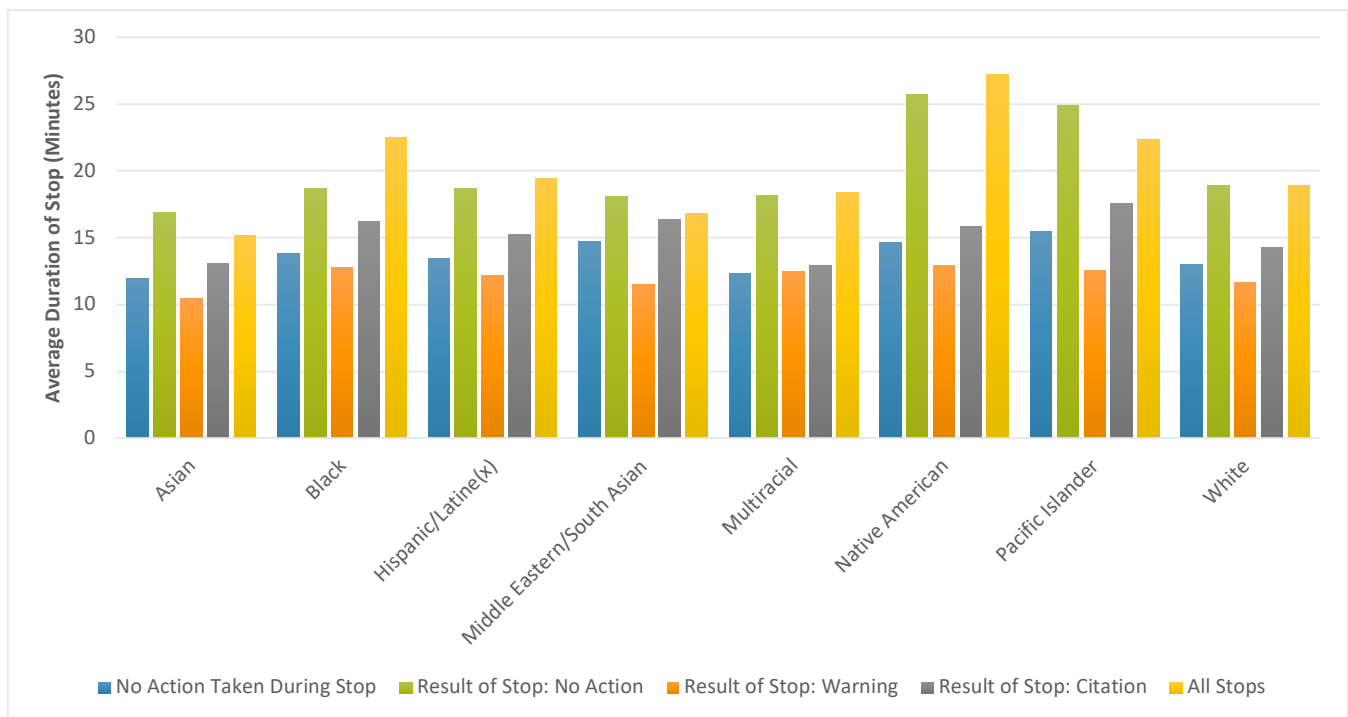
## Duration of Stop by Actions Taken

The report examined the duration of stops across race/ethnicity identified for all stops, stops in which no actions occurred, and a subset of common results of a stop. On average, stops in which individuals were given a warning were the shortest across all race and ethnicity categories while stops that resulted in “no action” were the longest.

Native American, Pacific Islander, and Black individuals had the largest disparities in stop duration between stops for which officers reported no action taken and those that involved a citation or warning. Stops of Native American individuals in which they received a warning (4,715 stops, SD = 67, range (minutes) = 1 – 1,440) were 13 minutes on average and stops for which they received a citation (4,030 stops, SD = 44, range = 1 – 1,440) averaged 16 minutes. Those stops of Native American individuals for which officers reported no action taken (1,207 stops, SD = 92, range = 1 – 1,440) averaged about twice as long at 26 minutes, and all stops (13,259 stops, SD = 77, range = 1 – 1,440) averaged around 27 minutes. Stops for which Pacific Islander individuals received a warning (9,146 stops, SD = 66, range = 1 – 1,440) averaged 13 minutes, and stops for which they were cited (12,273 stops, SD = 78, range = 1 – 1,440) averaged 18 minutes. However, stops for which no action was selected as the result of stop (1,865 stops, SD = 103, range = 1 – 1,440) averaged 25 minutes and all stops of Pacific Islander individuals (27,100 stops, SD = 82, range = 1 – 1,440) averaged 22 minutes. Stops for which Black individuals received a warning (206,681 stops, SD = 58, range = 1 – 1,440) averaged 13 minutes, and stops for which they were cited (206,494 stops, SD = 56, range = 1 – 1,440) averaged 16 minutes. Stops of Black individuals for which officers reported no action taken as the result of stop (47,493 stops, SD = 51, range = 1 – 1,440) averaged 19 minutes, and all stops of Black individuals (573,293 stops, SD = 61, range = 1 – 1,440) averaged 23 minutes.

The duration of the stop or the number of minutes a stop with an individual took to complete could offer additional insight into whether bias may have affected policing, especially in cases where the stops result in no actions taken. Note that the duration of a stop could be impacted by several factors, such as the number of actions taken, the type of action(s) taken, the reason for a stop, etc.

Figure 8. Duration of Stop Comparison by Race and Ethnicity



## E. Result of Stop

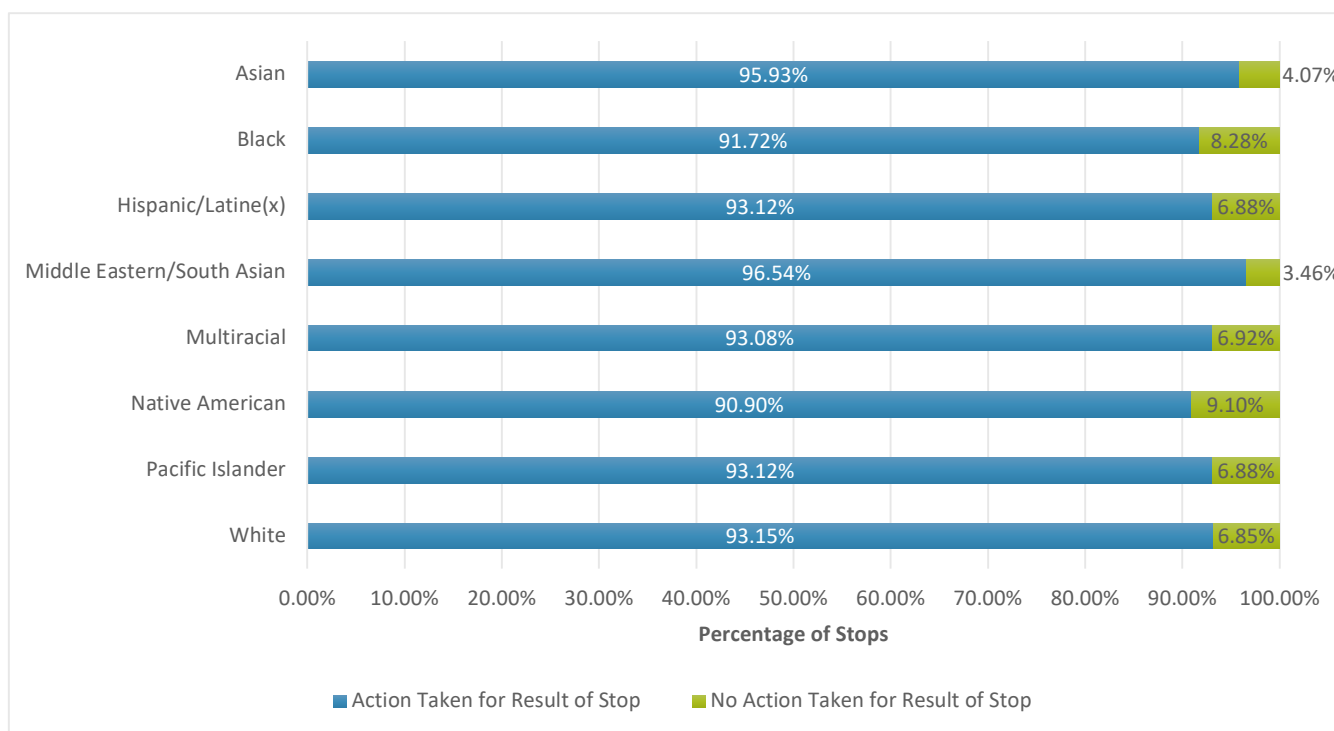
When entering stop data, officers can select up to 11 different options for the result of a stop.<sup>17</sup> Officers may also select multiple results of stop where necessary (e.g., an officer cited an individual for one offense and warned them about another). Stops were most often reported to result in individuals being issued a citation (44.93%, 2,121,406), followed by a warning (33.67%, 1,589,723), and then arrest (14.15%, 668,176). Officers reported no action taken as the result of stop in under 7 percent of stops (6.71%, 317,018). The selection of “no action taken” as the result of stop indicates that the person stopped was not engaged in criminal activity. Each of the remaining results of stops options represented less than 8 percent of the data.

### Race or Ethnicity

Citations were the most reported action taken for result of a stop, followed by warnings and then arrest for all racial and ethnic groups except for stops of those perceived as Black and those perceived as Native Americans. For those two racial groups, warnings were an equal or more common result of a stop than citations.

Further, people perceived as Black or Native American were more likely to have no action taken reported as the result of stop. Stops resulting in no action taken account for 8.28 percent (47,493 stops) of stops involving Black individuals and 9.10 percent (1,207 stops) of stops involving Native American individuals, greater than the 6.71 percent (317,018 stops) overall average. Conversely, Asian and Middle Eastern/South Asian individuals were the least likely to have a stop result in no action taken. Stops resulting in no action taken account for 4.07 percent (10,998 stops) of stops involving Asian individuals and 3.46 percent (8,229 stops) of stops involving Middle Eastern/South Asian individuals, lower than the 6.71 percent (317,018 stops) overall average.

Figure 9. Result of Stop Resulting in No Action Compared to Any Action Taken Separated by Race/Ethnicity



17 The result of stop data element refers to the outcome of the stop; officers may select from the following options: no action, warning, citation for infraction, in-field cite and release, custodial arrest pursuant to outstanding warrant, custodial arrest without warrant, field interview card completed, noncriminal transport or caretaking transport, contacted parent/legal guardian or other person responsible for the minor, psychiatric hold, or contacted U.S. Department of Homeland Security. (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(13); see also Cal. Code Regs., tit. 11, § 999.226, subd. (a)(18) (eff. Jan. 1, 2024) (adding an additional option for the result of a stop).)

The data for the other result of stop options also show disparities among racial and ethnic groups. Native American individuals were most likely to have stops resulting in an arrest (24.59%, 3,261 stops), followed by Black individuals (17.34%, 99,399 stops). Both groups were also least likely to have a stop result in a citation, with 30.39 percent of stops of Native American individuals (4,030 stops) and 36.02 percent of stops of Black individuals (206,494 stops) resulting in a citation. Stops of Asian individuals (8.86%, 23,934 stops) and Middle Eastern/South Asian individuals (5.86%, 13,911 stops) resulted in arrests at a rate lower than the overall average rate for arrests. Middle Eastern/South Asian individuals were most likely to have stops that resulted in a citation (60.26%, 143,118 stops), followed by Asian individuals (56.55%, 152,818 stops). The rates for stops that resulted in a warning were similar across all racial and ethnic groups, ranging between 30.71 to 35.65 percent.

## Gender

Disaggregating results of stop by gender categories showed differences in stops involving gender nonconforming or transgender individuals compared to cisgender individuals. Officers reported no action as the result of stop for 6 to 7 percent of stops of cisgender individuals (6.08% cisgender female, 81,795 stops; 6.96% cisgender male, 233,453 stops). In comparison, officers reported no action as a result of stop for 9 to 11 percent of stops involving gender nonconforming or transgender individuals (9.15% gender nonconforming, 903 stops; 9.69% transgender man/boy, 549 stops; 10.43% transgender woman/girl, 318 stops).

For stops that resulted in an action being taken, warnings and citations were the most common result of stop option selected for all gender categories, with relative differences for cisgender and nonconforming individuals compared to transgender individuals. Officers reported that stops involving perceived transgender individuals resulted in citations at approximately half the rate as perceived cisgender or gender nonconforming individuals, 43.56 percent (1,462,973 stops for cisgender males) to 48.52 percent (652,289 stops for cisgender females) compared to 20.20 percent (616 stops for transgender women/girls) to 20.67 percent (1,171 stops for transgender men/boys). Officers arrested individuals perceived as transgender at approximately double the rate of those perceived as cisgender or gender nonconforming, 24.44 percent (1,384 for transgender men/boys) to 27.34 percent (834 for transgender women/girls) compared to 12.2 percent (163,412 stops for cisgender women) to 14.93 percent (501,286 stops for cisgender men).

## Disability Status

The data show disparities in the result of stops for stops of individuals officers perceived to have a disability compared to individuals perceived to not have a disability. Officers reported arresting individuals with a perceived disability (28.20%, 14,109 stops) at higher rates compared to those without a perceived disability (14.0%, 654,067 stops). Officers reported no action taken as the result of a stop more often for individuals perceived to have a disability (10.67%, 5,338 stops) than for individuals perceived not to have a disability (6.67%, 311,680 stops).

Conversely, officers gave citations at lower rates to individuals with a perceived disability (7.49%, 3,750 stops) compared to individuals with no perceived disability (45.34%, 2,117,656 stops). Overall, individuals perceived to have a disability had higher rates of arrest than citations or warnings.

## English Fluency

Officers reported similar rates of no action taken as the result of a stop for individuals perceived as fluent in English (6.76%) compared to individuals with a perceived limited or no English fluency (5.94%). English fluent and individuals perceived to have limited or no English fluency had similar rates of stops resulting in citations, warnings, and arrests.

## LGBT Identity

The data show disparities in the result of stop data element for stops involving individuals perceived to be LGBT compared to individuals perceived as non-LGBT. Individuals perceived as LGBT (25.02%, 9,052 stops) were arrested at higher rates compared to those individuals officers did not perceive to be non-LGBT (14.07%, 659,124 stops). Conversely, officers issued citations to individuals perceived to be LGBT at lower rates (31.73%, 11,481 stops) than they issued citations to individuals perceived to be non-LGBT (45.04%, 2,109,925 stops). Officers reported no action taken more often for stops of individuals perceived to be LGBT (9.43%, 3,380 stops) than for stops of individuals officers perceived as non-LGBT (6.69%, 313,638 stops). As noted previously, stops where officers select no action taken as the result of stop indicates that the individuals stopped were not engaged in criminal activity.

Additional analysis is needed to fully examine these data trends and ascertain the extent to which LGBT bias may be impacting policing of individuals perceived to be LGBT in California.

### III. YOUTH-FOCUSED DATA ANALYSIS

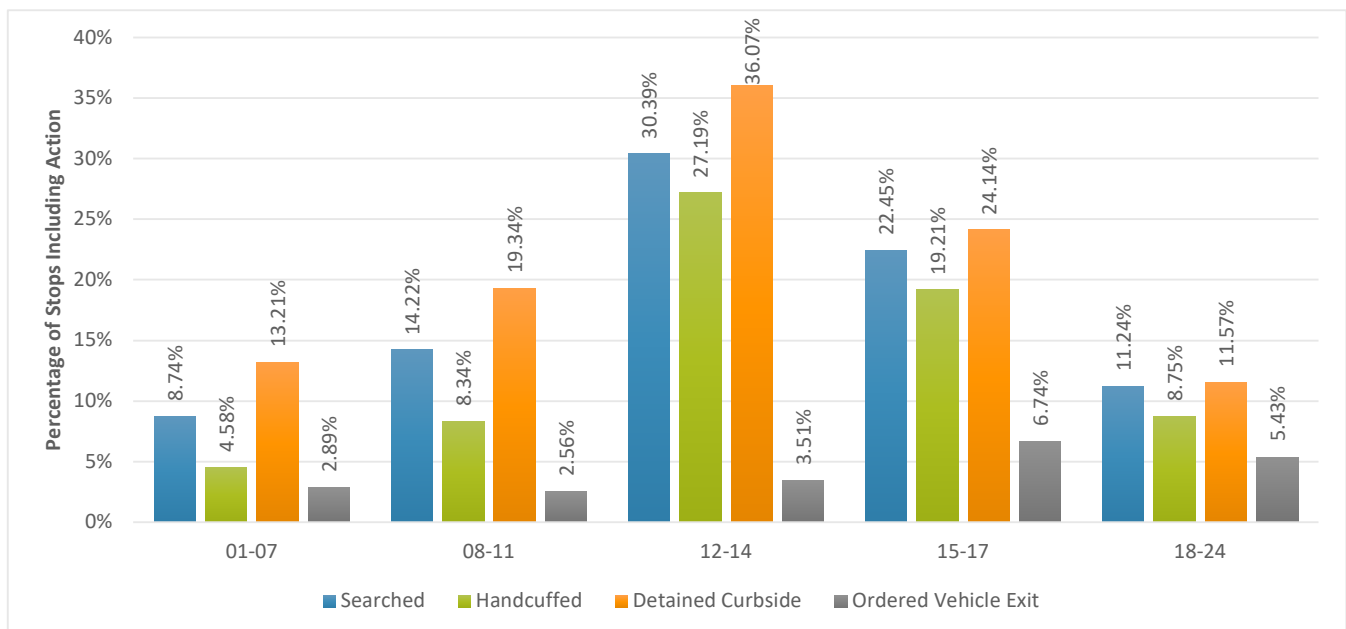
This section of the chapter focuses in greater depth on the RIPA stop data for youth, examining the extent to which the data indicate there are disparities for certain racial and identity groups. As noted previously, for this year’s report, youth is defined as individuals under age 25. For some of the analysis presented in this section, the youth categories are further disaggregated into the following age categories: 1–7, 8–11, 12–14, 15–17, and 18–24.

Law enforcement agencies reported 823,773 stops (17.45% of total stops) of individuals perceived to be under 25 in 2023. Of those 823,773 stops, 17,415 involved youth 14 or younger (21.11% of youth stops), and 6,768 (0.82% of youth stops) involved individuals under 12.

#### A. Actions Taken During a Stop

Compared to the other youth age categories, officers reported the highest percentage of searches (30.39%, 3,236 stops), handcuffing (27.19%, 2,895 stops), and detainment curbside or in a patrol car (36.07%, 3,840 stops) during stops for youth 12–14. Officers reported the highest rate of ordered vehicle exit during stops for youth 15–17 (6.74%, 4,718 stops).

Figure 10. Percentage of Stops Including the Indicated Action Separated by Age



## B. Types of Use of Force in Youth Stops<sup>18</sup>

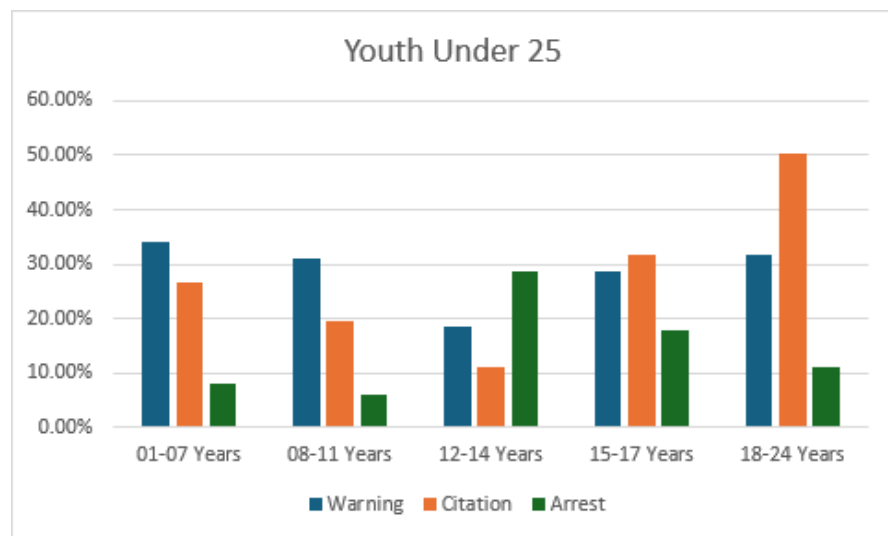
In 2023, officers reported using lethal and less lethal force in stops of youth under 25. Officers discharged their firearms in 49 stops of youth (37 stops for youth 18–24, 9 stops for youth 15–17, and 3 stops for youth 12–14). Officers also pointed their firearms at youth during 5,369 stops. Comparing across youth age groups, officers pointed their firearms most frequently at youth 18–24 (3,918 stops), followed by youth 15–17 (1,240 stops), then 12–14 (195 stops). Eight stops involved officers pointing firearms at youth 7 and younger, and another eight involved youth 8–11. Officers used their batons in 45 stops of youth under 25 (38 for youth 18–24). They reported using a chemical spray in 64 stops of youth, four of which involved youth 8–14. Officers also reported using an electronic control device in 149 stops of youth (2 for youth 12–14, 16 for youth 15–17, and 131 for youth 18–24).

## C. Result of Stop

One of the options for a result of stop that researchers consider in assessing whether bias may be occurring is the no action taken result of stop option. The RIPA data show that, in general, as age increased, the likelihood that an officer would select no action as the result of stop decreased. For example, officers reported no action taken as the result of a stop at noticeably higher rates for youth perceived to be 11 and younger compared to other age groups. The rate of no action taken was highest for youth 1–7 at 27.73 percent (999 stops), followed by youth 8–11 at 21.80 percent (690 stops), youth 12–14 at 12.19 percent (1,298 stops), and youth 15–17 at 10.29 percent (7,198 stops). The rate of no action taken decreased to 6.72 percent (49,450 stops) for youth 18–24. Therefore, based on the RIPA data officers reported, as age increased, the likelihood that an officer reported a result of a stop that involved an action being taken also increased.

The RIPA data also show disparities in the selection of arrest, citation, or warning as the result of stop for youth 14 and younger compared to youth ages 15–17 and those 18–24. Officers reported arrest as the most common result of stop for youth 12–14 (28.63%, 3,048 stops), with youth 8–11 at the lowest rates (5.94%, 188 stops). For stops that resulted in a citation, officers cited youth 12–14 at the lowest rate (10.96%, 1,167 stops), while about half the stops for youth 18–24 resulted in a citation (50.40%, 371,138 stops). Officers also issued warnings to youth 12–14 at the lowest rate (18.42%, 1,961 stops).

Figure 11. Result of Stop for Youth Under 25



18 Actions defined as use of force include the use of a baton, canine bites, use of chemical sprays, use of electronic control device, discharging a firearm, pointing a firearm, handcuffing, impact discharge, removal from vehicle with physical contact, and other contact. (Cal. Code Regs. tit. 11, § 999.226, subd. (a)(17); see Pen. Code, § 16780, subd. (a).) Use of force actions are further categorized into lethal force, less lethal force, and limited force. Lethal force includes discharging a firearm. Less lethal force includes baton use, canine bites, use of a chemical spray, use of electronic control device, pointing a firearm, and impact discharge. Limited force includes handcuffing, other contact, and removal from a vehicle with physical contact.



## IV. ANALYSIS OF THE INTERSECTION OF AGE AND OTHER IDENTITY CATEGORIES

RIPA regulations direct officers to make this estimation of age without directly asking a person their age and without the use of a person’s identification.<sup>19</sup> Persons generally estimate age by observing a variety of characteristics such as a person’s face, hair, voice, or clothing.<sup>20</sup> In estimating age, researchers have found several biases and varying levels of accuracy. For example, some researchers have found that there is an “own-age bias,” where persons can estimate age with higher accuracy when estimating members of their own age groups.<sup>21</sup> Researchers have found that people can learn to estimate age more accurately, and liquor store clerks, who must estimate age as a job function, did so more accurately than the general public.<sup>22</sup>

Particularly relevant here, researchers have found that law enforcement officers consistently overestimate the age of Black youth relative to other youth.<sup>23</sup> This bias, discussed more fully in the Policy-Focused Data Analysis chapter, is referred to as adultification bias. If adultification bias is carried through to a stop, its presence could result in a greater likelihood of Black youth being incorrectly identified as older than youth from other racial groups in the RIPA data. Therefore, it may be possible that in the RIPA data, Black youth are systematically incorrectly identified as being older than youth from other racial or ethnic groups that are the same age and, if so, interacted with during a stop in a manner consistent with their age being perceived as older instead of in a manner consistent with their actual age.

The following sections examine the disparities revealed in the data using an intersectional analysis of age and other demographic categories, including race/ethnicity, gender, perceived LGBT status, disability, and English fluency. To highlight more readily the stops of youth and for ease of describing the analyses, going forward, age has been collapsed into three categories: 1–17, 18–24, and 25 and over.

### A. Intersectional Analyses of Age and Race/Ethnicity

Across all age categories, Hispanic/Latine(x) individuals had the most stops, followed by individuals perceived to be White and individuals perceived to be Black. However, there are notable differences between the proportion of individuals stopped by their race/ethnicity and the proportion of that race/ethnicity in the California population. The largest disparities appear for Black youth 18–24, Black individuals 25 and over, and Hispanic/Latine(x) youth 18–24. For example, based on the population of the state, Black youth 18–24 were stopped 228.30 percent more often than expected, Black individuals 25 and over were stopped 170.03 percent more often than expected, and Hispanic/Latine(x) youth 18–24 were stopped 122.65 percent more often than expected. All racial/ethnic groups within the 1–17 age category are underrepresented in the RIPA data compared to California’s residential population. Figures 12–15 show the relative proportion of stops for different racial groups in each age category.

19 See former Cal. Code Regs., tit. 11, § 999.226, subd. (a)(7), now Cal. Code Regs., tit. 11, § 999.226, subd. (a)(8) (eff. Jan. 1, 2024).

20 See, e.g., Rhodes, *Age Estimation of Faces: A Review* (2009) 23 *Appl. Cognit. Psychol.* 1, 3-4; Vestlund et al., *Experts on Age Estimation* (2009) 50 *Scandinavian J. Psychol.* 301, 306.

21 See, e.g., George and Hole, *Factors Influencing the Accuracy of Age Estimates of Unfamiliar Faces* (1995) 24 *Perception* 1059 (finding that persons were more able to accurately estimate ages based on faces of persons closer to their own age).

22 Vestlund et al., *supra* note 20, at pp. 305-306.

23 Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children* (2014) 106 *J. of Personality and Soc. Psychol.* 526, 533 <<https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>> [as of Nov. 18, 2024].

Figure 12. Percentage of Stops by Age and Race/Ethnicity

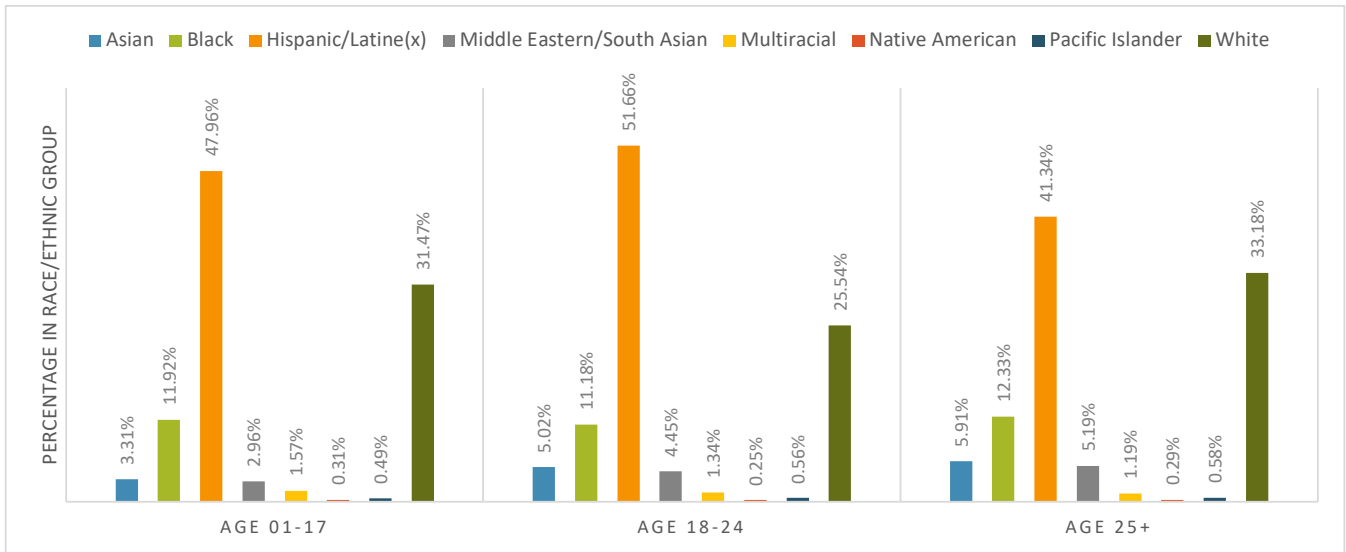


Figure 13. 1-17 Residential Population Comparison to Stop Data



Figure 14. 18-24 Residential Population Comparison to Stop Data

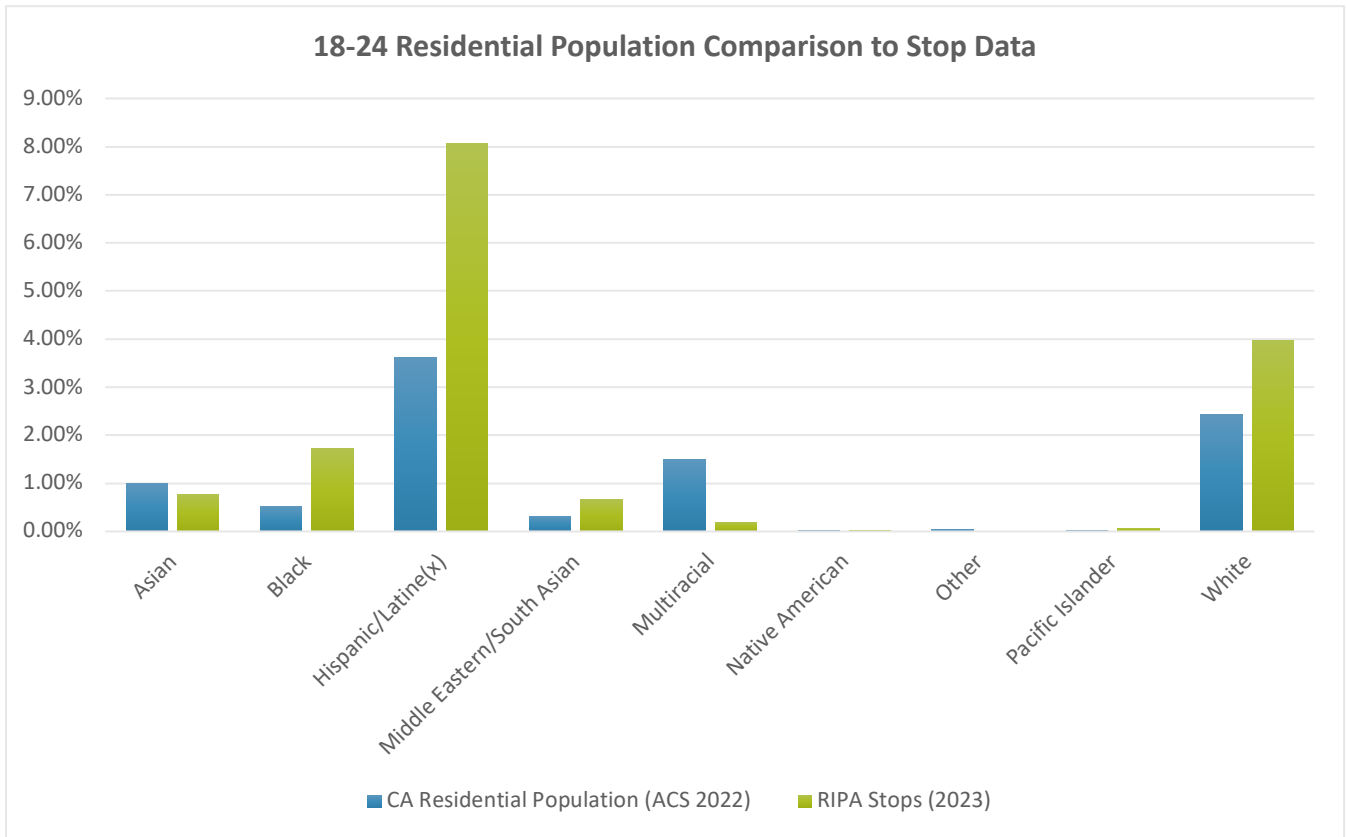
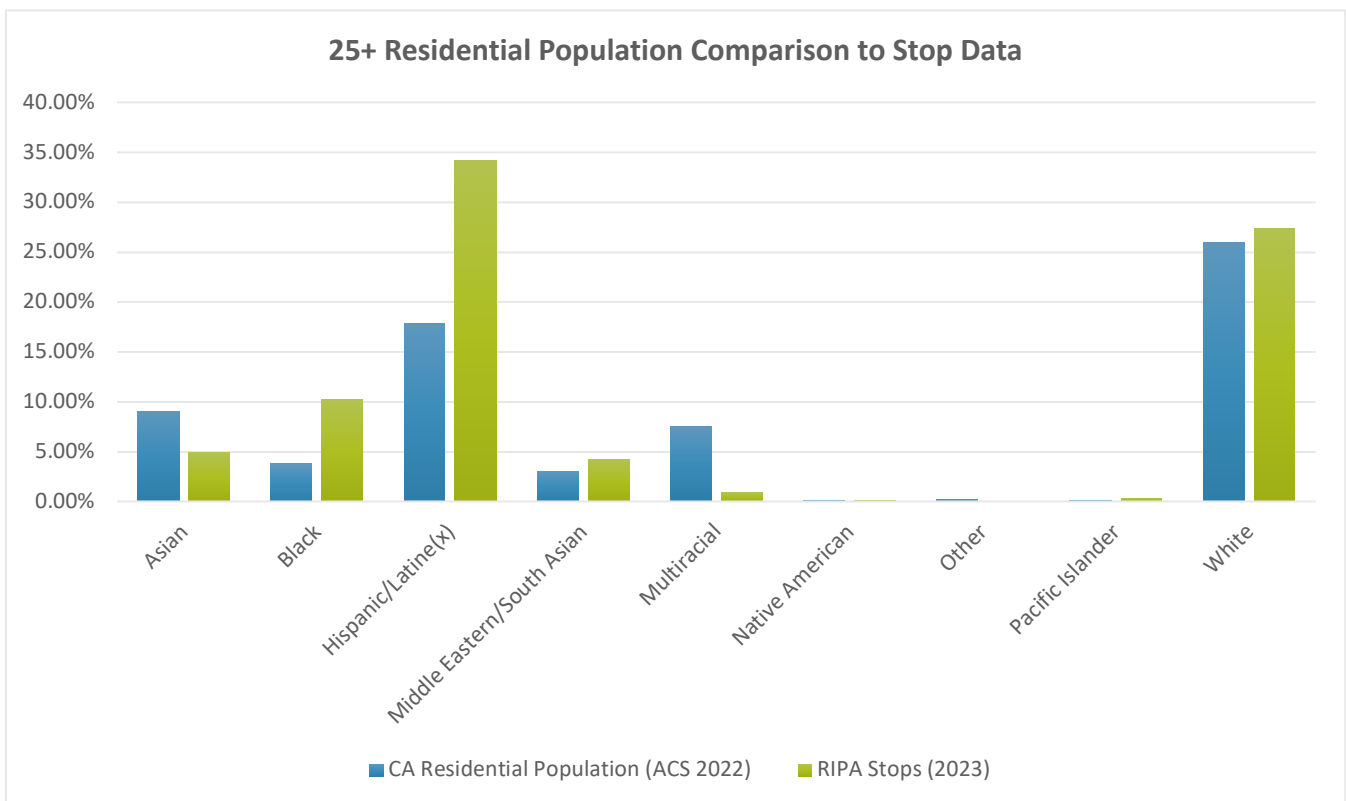


Figure 15. 25+ Residential Population Comparison to Stop Data

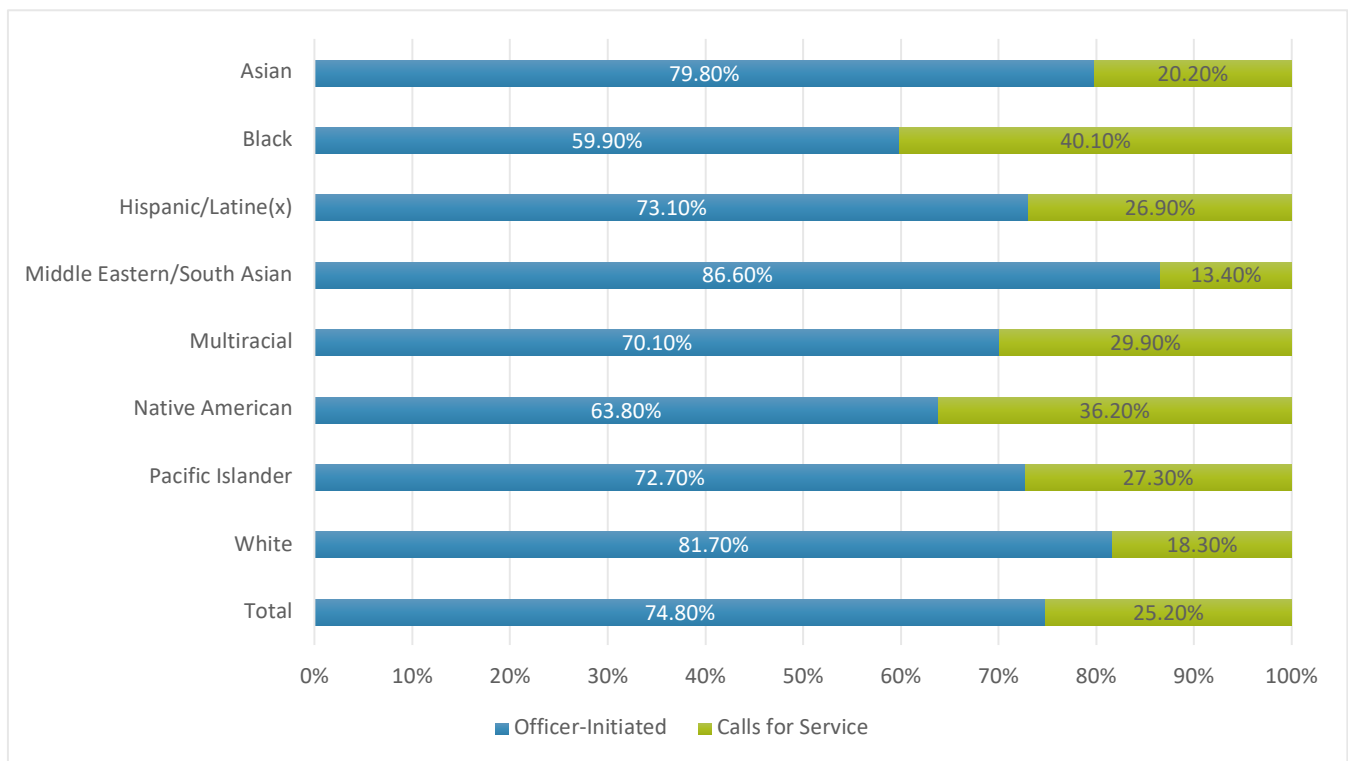


For all racial and ethnic groups, those over age 25 comprised the largest group of people stopped. Stops of persons perceived as Hispanic/Latine(x) skewed younger than other groups, with 18.71 percent (380,426 stops) of that demographic group perceived to be between 18 and 24 and 2.06 percent (41,906 stops) perceived to be 17 and younger. Stops of individuals perceived as White had an older composition, with 85.71 percent (1,923,234) of those stops being stops of individuals perceived as 25 or older.

### Call for Service

For youth 1–17, there were differences in the rates of encounters that were officer-initiated compared to calls for service for certain racial groups. Across all stops of persons perceived as 17 and younger, 25.2 percent (22,033) of stops were due to calls for service, and the remaining 74.8 percent (65,351) of encounters were officer-initiated. Of all racial groups, Black youth (40.1%, 4,175 stops) and Native American youth (36.2%, 98 stops) were most likely to be stopped in response to a call for service. Middle Eastern youth (13.4%, 347 stops) and White youth (18.3%, 5,027 stops) were least likely to have stops in response to a call for service.

Figure 16. Proportion of Stops Officer-Initiated and Call for Service of Individuals 17 and Under by Race/Ethnicity



### Reason for Stop

For Black youth 17 and under, the most common reason for an officer to initiate a stop was reasonable suspicion (55.4%, 5,775 stops).<sup>24</sup> In contrast, officers stopped Middle Eastern/South Asian individuals 17 and under for reasonable suspicion at the lowest rate (15%, 387 stops). Officers stopped Black youth for traffic violations at the lowest rate (33.5%, 3,493 stops). The highest rate of traffic violations was reported for Middle Eastern or South Asian youth (82%, 2,120 stops), followed by White youth (71.8%, 19,754 stops).

<sup>24</sup> See *supra* note 14, for list of reasons for initiating a stop.

## Actions Taken During Stop

RIPA data also show racial and ethnic disparities with respect to actions taken during stops of youth 1–17.<sup>25</sup> Within that age group, officers reported the greatest number of actions taken during stops with Black youth (1.71 actions, 10,418 stops, SD = 1.78, range (actions taken) = 0 - 11), followed by Native American youth (1.46 actions, 271 stops, SD = 1.76, range = 0 - 9), Hispanic/Latine(x) youth (1.29 actions, 41,906 stops, SD = 1.67, range = 0 - 11), Multiracial youth (1.18 actions, 1,376 stops, SD = 1.70, range = 0 - 9), and Pacific Islander youth (0.81 actions, 432 stops, SD = 1.47, range = 0 - 8). Officers reported taking fewer actions in stops involving Asian youth (0.56 actions, 2,895 stops, SD = 1.22, range = 0 - 8), White youth (0.53 actions, 27,500 stops, range = 0 - 10), and Middle Eastern/South Asian youth (0.42 actions, 2,586 stops, SD = 1.07, range = 0 - 10) compared to the overall average number of actions taken for youth 17 and under (1.05 actions, 87,384 stops, SD = 1.57, range = 0 - 11). Compared to the other age categories, across all racial and ethnic groups, officers reported the highest average number of actions taken for Black (0.97 actions) and Hispanic/Latine(x) (0.66) youth 18–24.

## Types of Actions Taken

The following sections examine specific types of actions that can occur during a stop for youth and investigate the disparities across racial and ethnic categories.

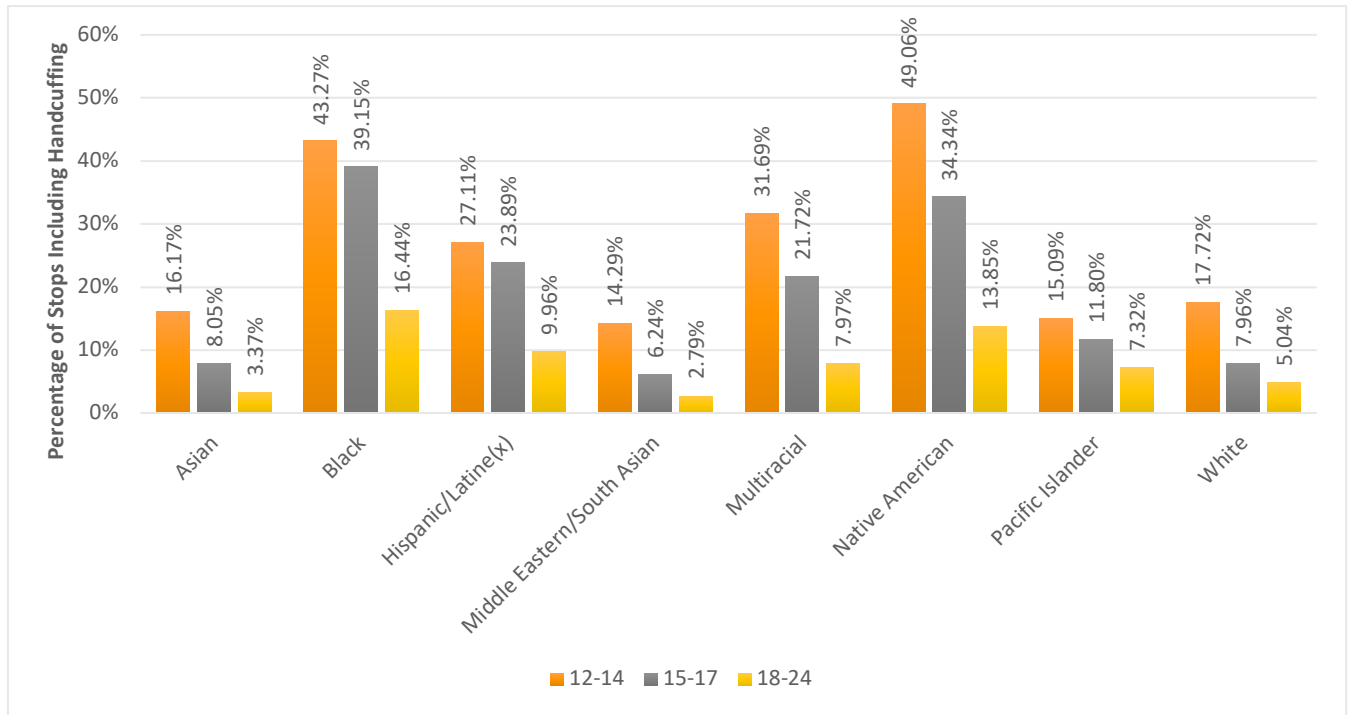
### Handcuffing

Figure 17 shows the percentage of stops that included handcuffing of youth, separated by age category and race/ethnicity. Officers handcuffed Native American youth 12–14 at the highest rate (49.06%, 26 stops), followed closely by Black youth 12–14 (43.27%, 765 stops), Black youth 15–17 (39.15%, 3,041 stops), and Native American youth 15–17 (34.34%, 68 stops). For stops involving youth 18–24, Black youth were handcuffed most often (16.44%, 13,533 stops), followed by Native American youth (13.85%, 259 stops). Officers reported the smallest percentage of stops including handcuffing in each age category for Middle Eastern/South Asian individuals. Within each racial and ethnic group, the pattern is consistent: individuals in the youngest age categories were handcuffed more often during a stop, with decreasing occurrence as the individual's perceived age increases.

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25 Actions taken during a stop include: Admission/Written Statement Obtained from Student, Asked for Consent to Search Person, Asked for Consent to Search Property, Baton, Canine Bite, Canine Search, Chemical Spray, Curbside Detention, Electronic Control Device, Field Sobriety Test, Firearm Discharge, Firearm Point, Handcuffed, Impact Projectile Discharge, No Action Taken, Other Physical or Vehicle Contact, Patrol Car Detention, Person Photographed, Property Seized, Removed from Vehicle by Order, Removed from Vehicle by Physical Contact, Search Person Consent Given, Search Property Consent Given, Searched Person, Searched Property, and Vehicle Impounded.

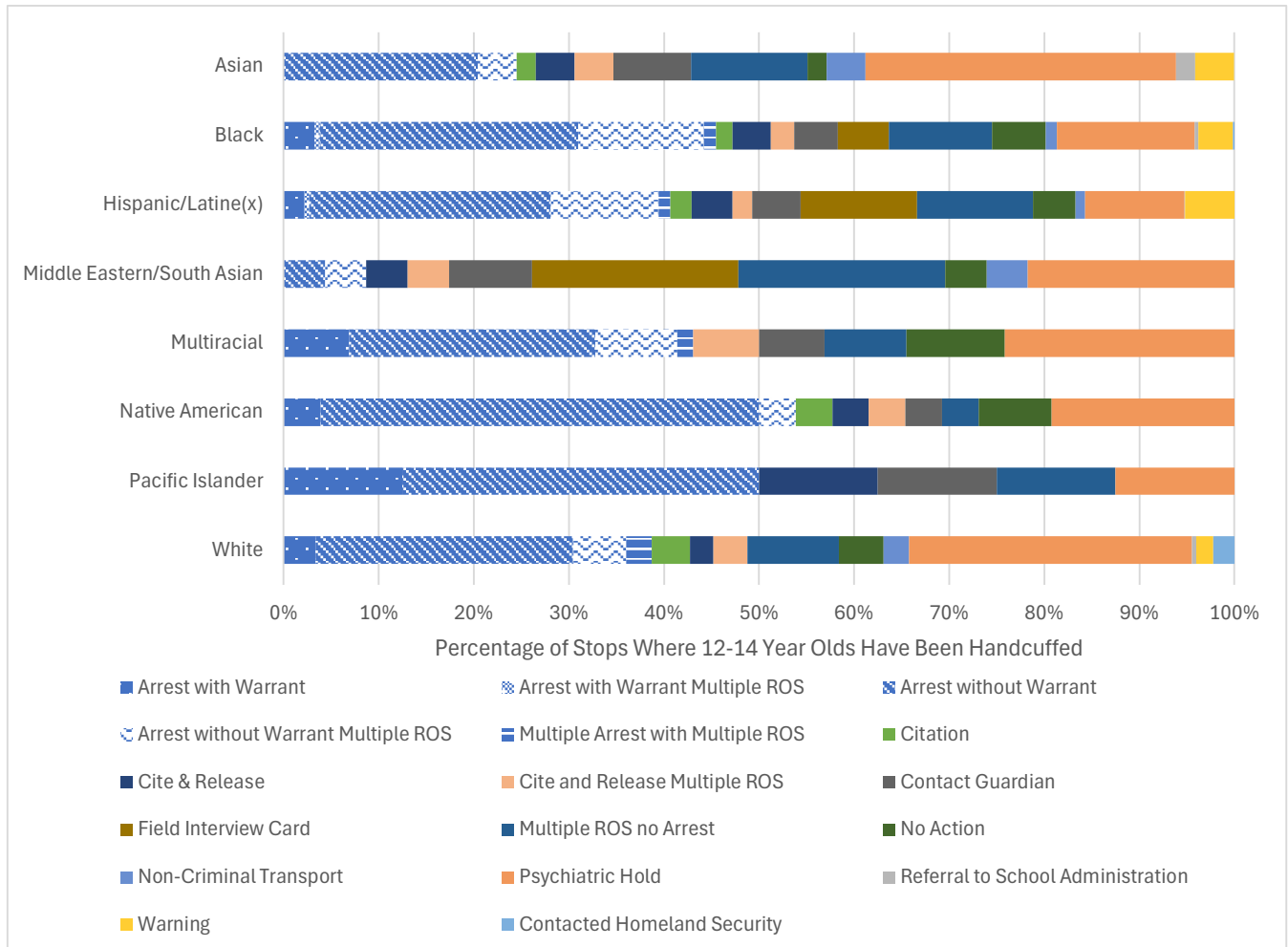
Figure 17. Percentage of Stops Including Youth Handcuffing by Race and Ethnicity



### Handcuffing by Result of Stop and Race/Ethnicity

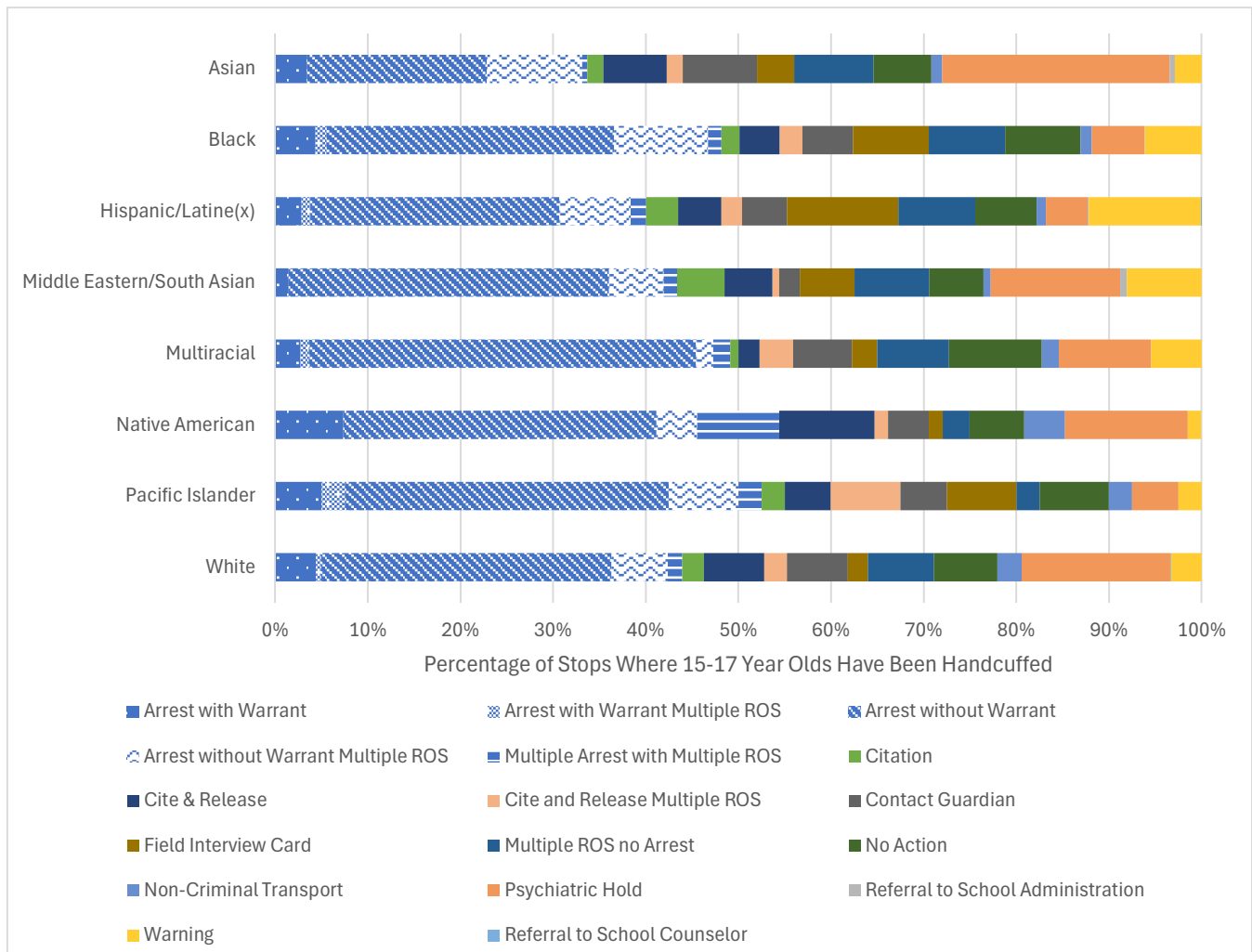
It is important to note that officers may handcuff an individual for a variety of reasons, not just to make an arrest. Analyzing the result of stop data for those who have been handcuffed can provide important context on the nature of the stop. Figures 18–20 in this section present the results of stop for youth ages 12–24 who have been handcuffed, separated by race and ethnicity. Each of the blue bar segments with a pattern (all on the left side of the figure) represent a result of stop that involves an arrest of some kind. The rest of the bar segments represent other result of stop options, including citation, warning, no action, field interview card, contact guardian or school administration, and others.

Figure 18. Result of Stop for Youth 12-14 Who Have Been Handcuffed, by Race and Ethnicity



For youth 12–14 who were handcuffed, the most common result of stop for Black (27.19%, 208 stops), Hispanic/Latine(x) (25.41%, 386 stops), Multiracial (25.86%, 15 stops), Native American (46.15%, 12 stops), and Pacific Islander (47.50%, 3 stops) youth was arrest without a warrant. For many of these groups, except for Hispanic/Latine(x) and Pacific Islander, the second most common result of stop was psychiatric hold. For Hispanic/Latine(x) youth, the second most common result of stop was field interview card (12.24%, 186 stops), and for Pacific Islander youth, arrest with a warrant, contact of guardian, multiple results of stop without arrest, and psychiatric hold are all tied at 12.50 percent of stops (1 stop in each category). For Middle Eastern/South Asian youth, the most common result of stop was psychiatric hold (21.74%, 5 stops), multiple results of stop without arrest (21.74%, 5 stops), and completion of a field interview card (21.74%, 5 stops). For White (29.75%, 133 stops) and Asian (32.65%, 16 stops) youth, the most common result of stop was psychiatric hold.

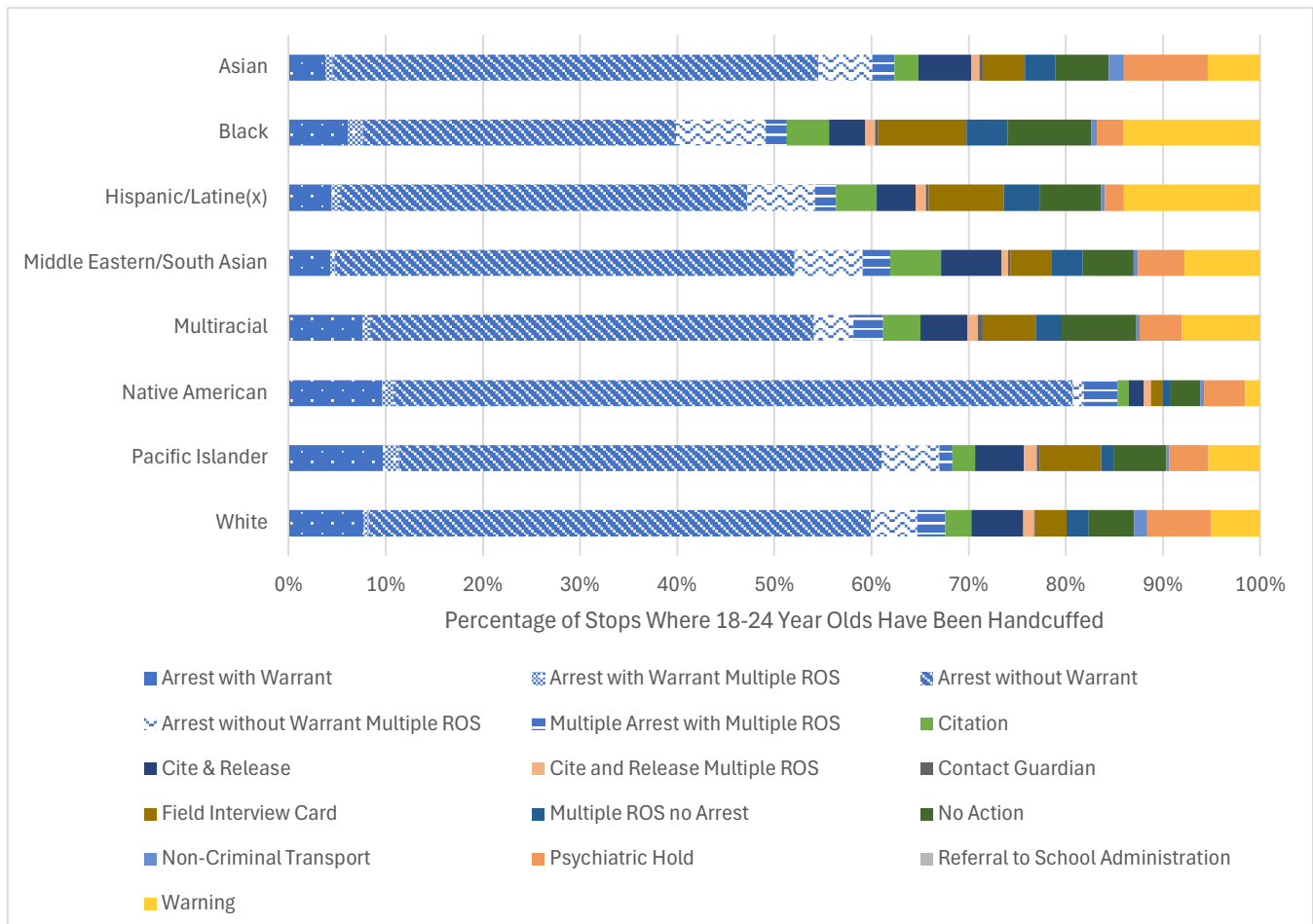
Figure 19. Result of Stop for Youth 15-17 Who Have Been Handcuffed, by Race and Ethnicity



Arrest rates for youth 15–17 who were handcuffed increased when compared to youth 12–14. Notably, the percentage of youth handcuffed where the result of a stop was a psychiatric hold decreased. Officers reported that for every racial/ethnic group except for Asian, the most common result of stop for youth 15–17 who were handcuffed was arrest without a warrant. The most common result of stop for Asian youth 15–17 who were handcuffed was psychiatric hold (24.57%, 43 stops), followed by arrest without a warrant (19.43%, 34 stops). Psychiatric hold was the second most common result of stop for all other racial and ethnic groups except for Hispanic/Latine(x) and Black youth. Officers reported arrest without a warrant, with other results of stop as the second most common result of stop for Black youth (10.10%, 307 stops) and field interview cards for Hispanic/Latine(x) youth (12.03%, 952 stops).



Figure 20. Result of Stop for Youth 18-24 Who Have Been Handcuffed, by Race and Ethnicity

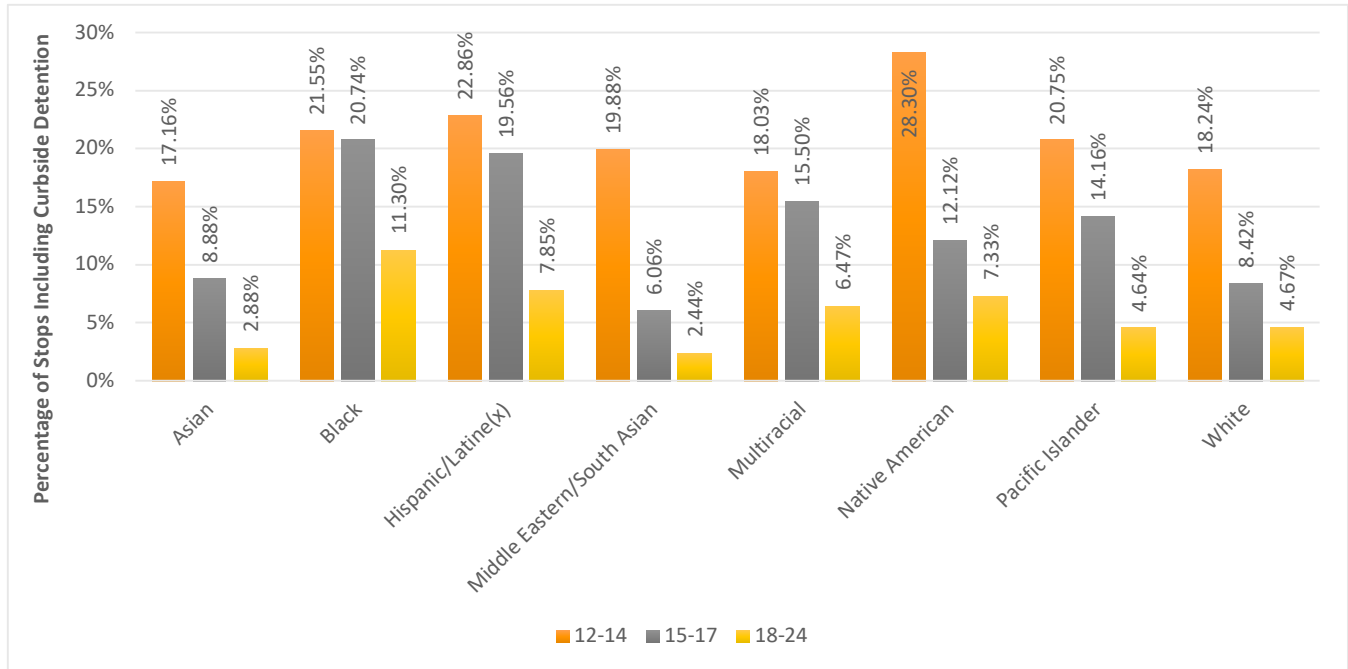


Arrest rates for youth 18–24 who were handcuffed during a stop were higher relative to the younger age categories. Across all racial and ethnic categories for youth handcuffed during a stop, arrest without a warrant was by far the most reported result of a stop, with the arrest without a warrant rate for Native Americans being the highest across all racial and ethnic groups (69.88%, 181 stops). The second most common result of stop for Black (14.08%, 1,906 stops), Hispanic/Latine(x) (14.04%, 5,319 stops), Middle Eastern/South Asian (7.77%, 71 stops), and Multiracial individuals (8.04%, 63 stops) handcuffed during a stop was a warning. For Asian youth 18–24, the second most common result of a stop was a psychiatric hold (8.66%, 108 stops). For Native American (9.65%, 25 stops), Pacific Islander (9.67%, 29 stops), and White (7.74%, 734 stops) youth, the second most common result of stop was arrest with a warrant.

### Curbside Detention, Patrol Car, Removed from Vehicle

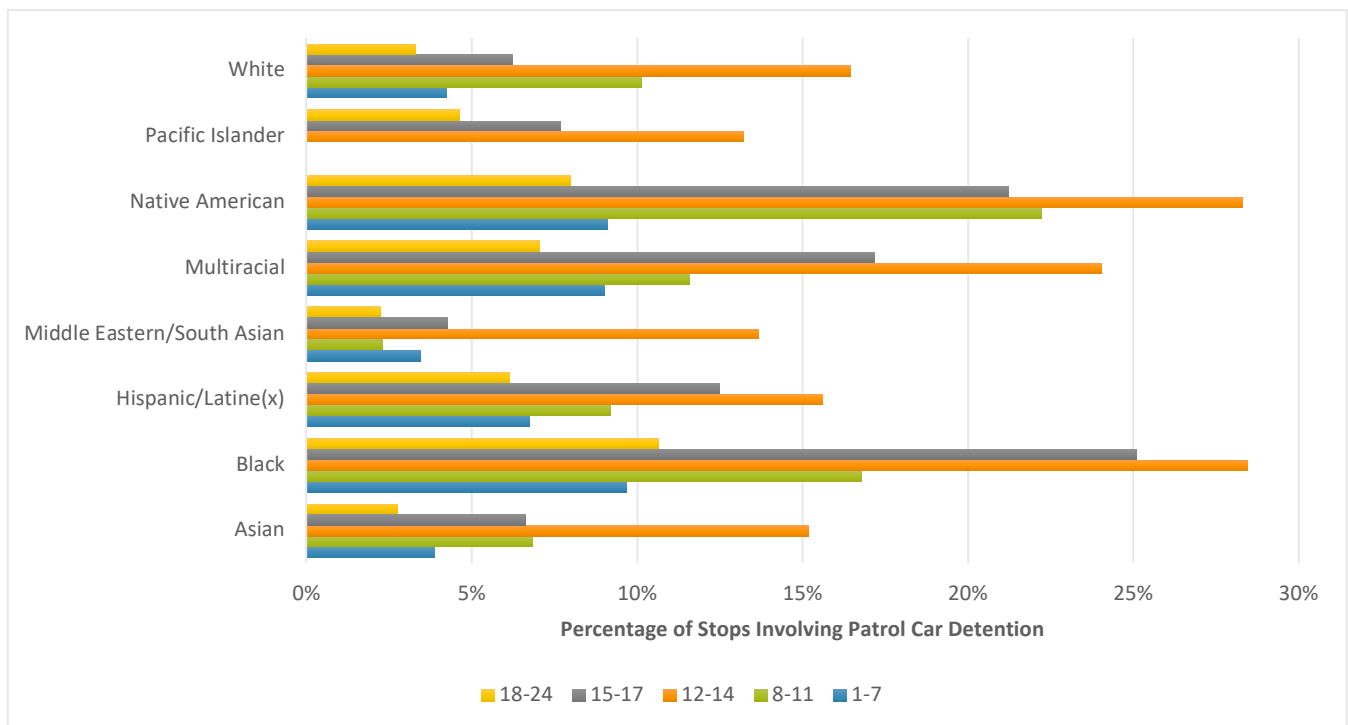
Across all race and ethnicity categories, the curbside detention patterns by age category were consistent: officers reported the highest detention rates of individuals perceived to be younger, specifically the 12–14 age category. These rates decreased as the perceived age of the individual increased. The largest within-race difference was for Native American individuals, with a more than 20-point difference in detention rates between youth 12–14 (15 stops) and those 18–24 (137 stops). Out of all groups, officers detained Native American youth 12–14 the most often (28.30%, 15 stops), followed by Hispanic/Latine(x) youth 12–14 (22.86%, 1,281 stops), and Black youth 12–14 (21.55%, 381 stops). Officers detained Middle Eastern/South Asian youth 18–24 at the lowest rate (2.44%, 801 stops), followed by Asian youth 18–24 (2.88%, 1,064 stops), and Pacific Islander youth 18–24 (4.64%, 190 stops).

Figure 21. Youth Curbside Detention by Race and Ethnicity



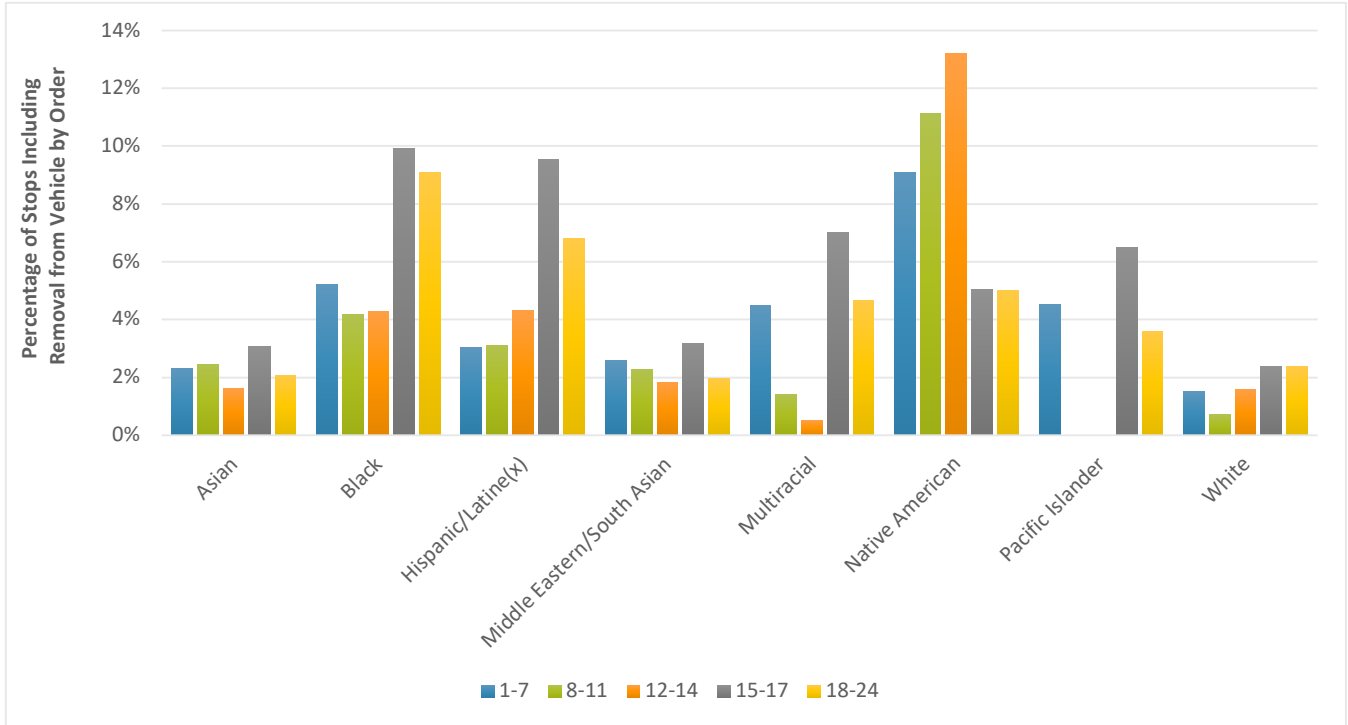
Across all the race and ethnicity categories, officers utilized patrol car detention the most often in stops involving individuals they perceived to be youth aged 12–14. Officers reported the highest rate of patrol car detention for stops involving Black youth 12–14 (28.45%, 503 stops), followed closely by Native American youth 12–14 (28.45%, 15 stops), and Multiracial youth 12–14 (24.04%, 44 stops). Except for stops involving Black or Pacific Islander individuals, officers reported the lowest rates of patrol car detention for stops involving youth 18–24. Officers reported patrol car detention in 2.25 percent (739) of stops involving Middle Eastern/South Asian youth 18–24. They reported no patrol car detention in stops involving Pacific Islander youth 1–7 and 8–11.

Figure 22. Youth Patrol Car Detention by Race and Ethnicity



Removal from a vehicle by order was most common in stops involving Native American youth 12–14 (13.21%, 7 stops), followed by Native American youth 8–11 (11.11%, 1 stop), and Black youth 15–17 (9.91%, 770 stops). These are closely followed by stops for Hispanic/Latine(x) youth 15–17 (9.53%, 3,156 stops) and Native American youth 1–7 (9.09%, 1 stop). Officers reported no stops that included removal from a vehicle by order for Pacific Islander youth 8–11 and 12–14.

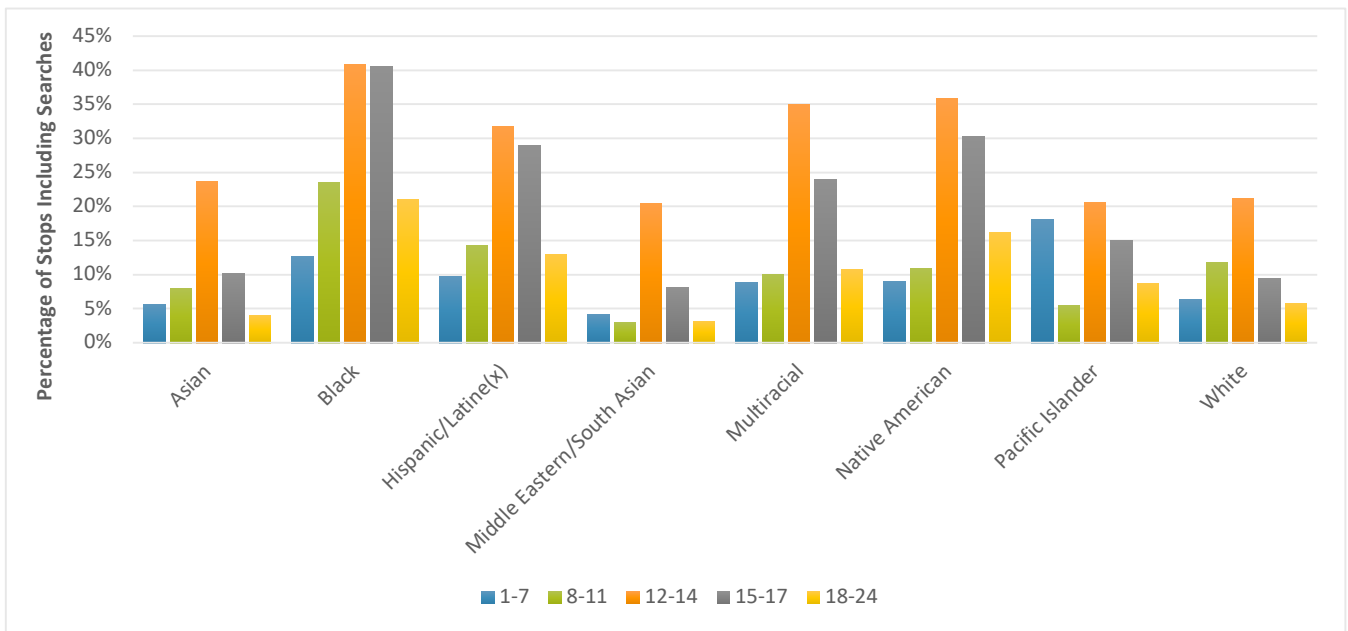
Figure 23. Removal from Vehicle by Order by Race and Ethnicity



### Searches

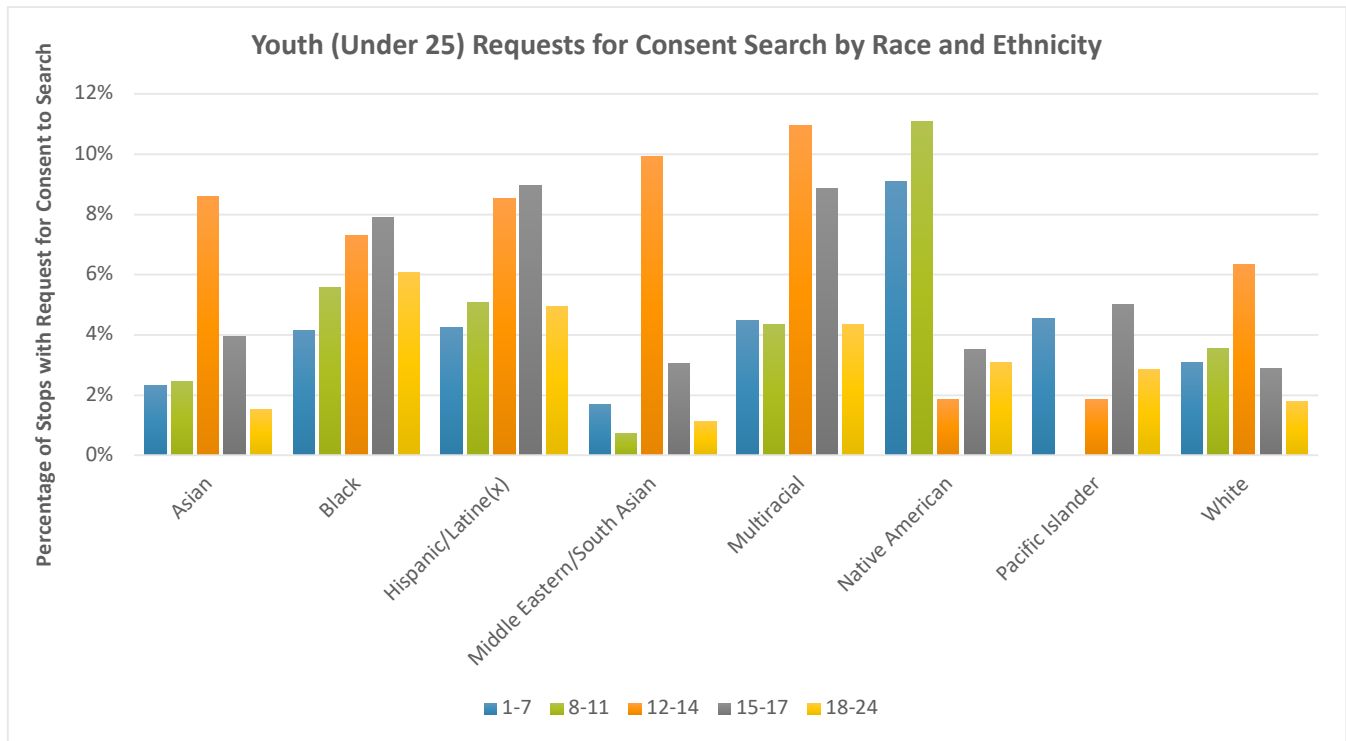
Officers reported the highest rates of search for stops involving Black youth 12–14 (40.78%, 118 stops) and Black youth 15–17 (40.48%, 721 stops), followed by Native American youth 12–14 (35.85%, 19 stops). Across all racial and ethnic groups, stops involving youth 12–14 had the highest rate of searches.

Figure 24. Youth Stops Including Searches by Race and Ethnicity



Officers reported the highest rate of requests for consent to search for Native American youth 8–11 (11.11%, 1 stop), followed by Multiracial youth 12–14 (10.93%, 20 stops), and Middle Eastern/South Asian youth 12–14 (9.94%, 16 stops). The distribution of requests for consent to search by age varied for different racial/ethnic categories. For example, Asian (8.58%, 26 stops), Middle Eastern/South Asian (9.94%, 16 stops), and Multiracial (10.93%, 20 stops) individuals had the highest rate of requests for consent to search for youth 12–14. Black (7.89%, 613 stops), Hispanic/Latine(x) (8.96%, 2,968 stops), and Multiracial (8.88%, 90 stops) youth had the highest rate of requests for consent search for youth ages 15–17. Native American youth 8–11 (11.11%, 1 stop) had the highest rate of requests for consent search among their age group.

Figure 25. Percentage of Youth Asked for Consent to Search by Race and Ethnicity



Officers reported not receiving consent to search during stops involving Black, Hispanic/Latine(x), Multiracial, and White youth aged 8–11. In stops involving all other races/ethnicities where consent was requested, it was received.

### Use of Force in Youth Stops by Race and Ethnicity

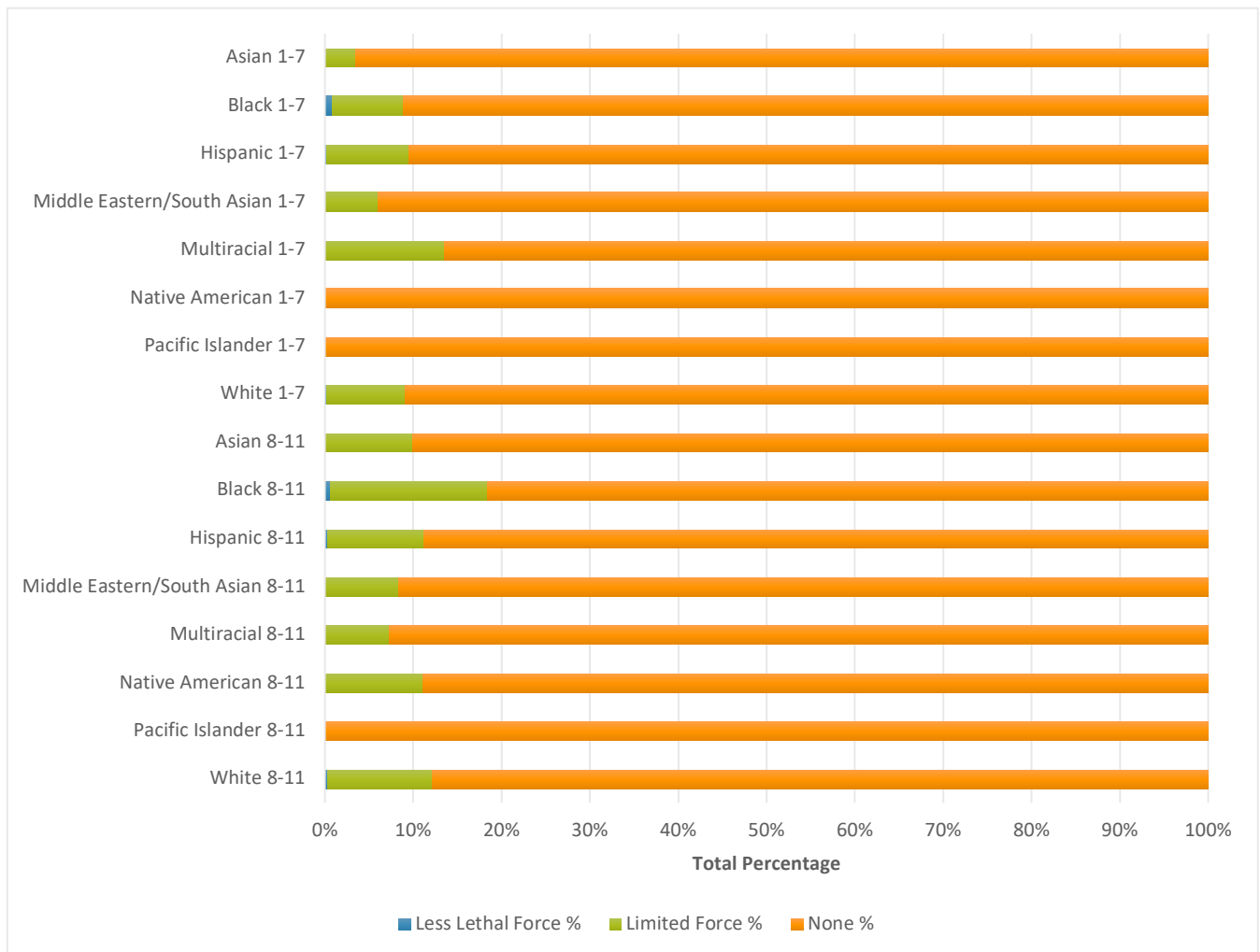
For the two youngest age groups, officers used varying level of force, except lethal force. For example, officers employed some level of force in at least one stop involving youth 1–7 of all race/ethnicity categories except for Native American and Pacific Islander youth. Less lethal force<sup>26</sup> was used in three stops involving Black youth 1–7 (0.78%), three stops involving Hispanic/Latine(x) youth 1–7 (0.17%), and two stops involving White youth 1–7 (0.21%). Officers used limited force most often in stops involving Multiracial youth 1–7 (13.51%), followed by 9.34 percent of stops involving Hispanic/Latine(x) 1–7, and in 8.88 percent of stops involving White youth 1–7.

Among stops involving youth 8–11, officers employed both less lethal and limited force. Less lethal force was only used in stops involving Black, Hispanic/Latine(x), and White youth 8–11, while limited force was used in stops involving all racial/ethnic groups except for Pacific Islander. Officers used less lethal force (0.60%, 3 stops) the most often during stops involving Black youth 8–11. Four (0.28%) stops involving Hispanic/Latine(x) youth 8–11 involved less lethal force, while two (0.24%) stops involving

<sup>26</sup> See *supra* note 18 for the definitions of the different types of use of force.

White youth 8–11 included less lethal force. Officers used limited force the most often in stops involving Black youth 8–11 (17.80%, 89 stops), followed by White youth 8–11 (11.89%, 100 stops), and Native American youth 8–11 (11.11%, 1 stop).

Figure 26. Use of Force Youth Aged 1-11



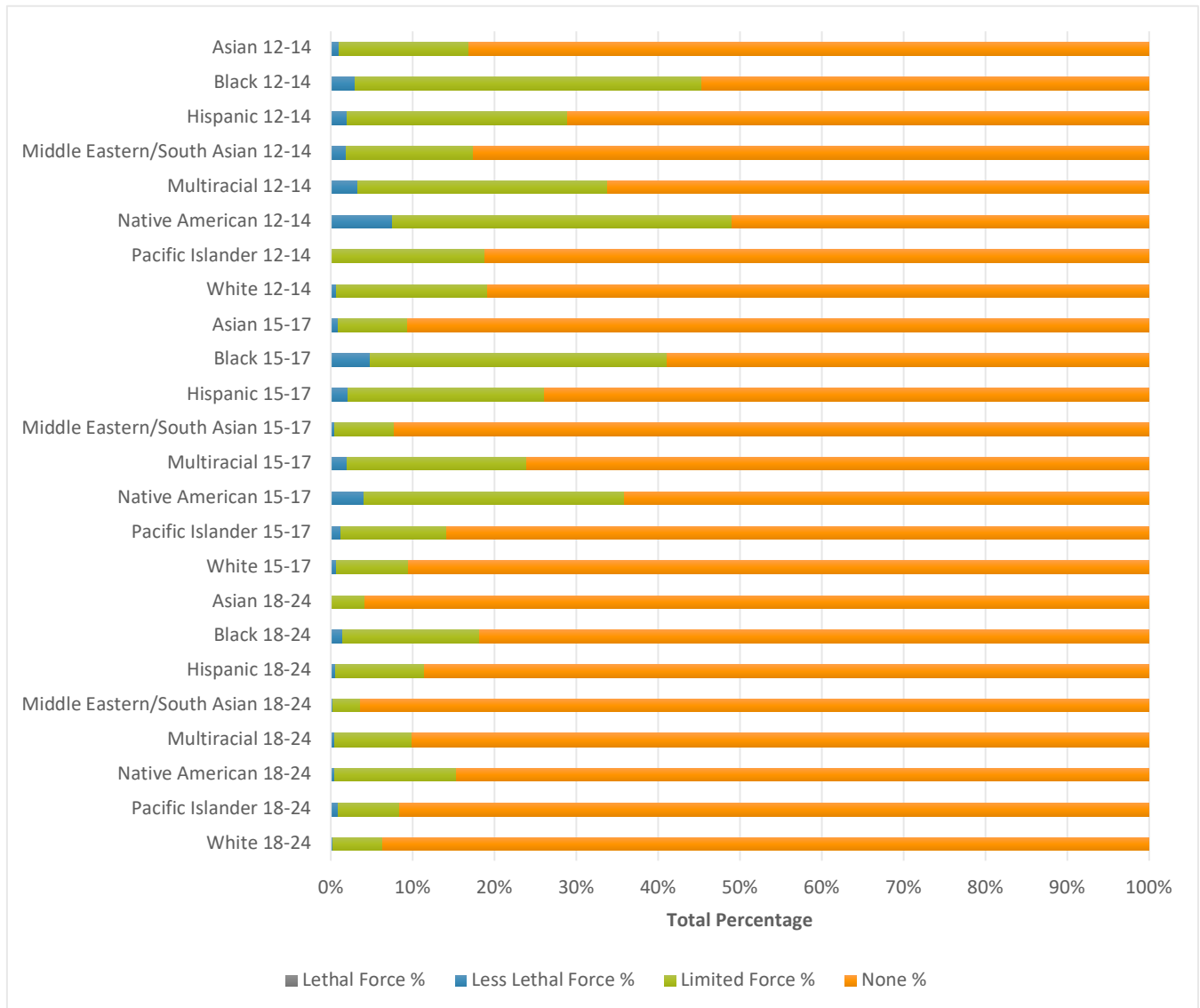
With a few exceptions, officers used force most often during stops of youth 12–14, compared to the other age categories. Within the 12–14 age category, overall, officers used some level of force most often in stops involving Native American youth (49.06%, 26 stops) and Black youth (45.36%, 802 stops). Officers reported using lethal force in the form of discharging their firearm in several stops involving youth 12–14. Specifically, in two stops involving Black youth 12–14 (0.11%) and in one stop involving a Hispanic/Latine(x) youth 12–14 (0.02%), officers used lethal force. Officers used less lethal force the most often in stops involving Native American (7.55%, 4 stops) and Multiracial (3.28%, 6 stops) youth 12–14. Additionally, officers used limited force the most often in stops involving Black youth (42.31%, 748 stops) and Native American youth 12–14 (41.51%, 22 stops). Officers reported the use of no force most often in stops involving Asian (83.71%, 252 stops), Middle Eastern/South Asian (82.61%, 133 stops), Pacific Islander (81.13%, 43 stops) youth 12–14.

For youth 15–17 officers used lethal force in stops with more racial groups, including Black (0.04%, 3 stops), Hispanic/Latine(x) (0.01%, 3 stops), Asian (0.05%, 1 stop), White (0.004%, 1 stop), and Multiracial (0.10%, 1 stop). Officers used less lethal force most often in stops involving Black (4.80%, 373 stops), Native American (4.04%, 8 stops), and Hispanic/Latine(x) (2.10%, 696 stops) youth 15–17. The same pattern holds for limited force. Officers reported using limited force the most often in stops

involving Black (36.32%, 4,570 stops), followed by Native American (31.82%, 127 stops), and Hispanic/Latine(x) (24.05%, 24,465 stops) youth 15–17. When looking at overall rates of force versus no force, officers report using force most often in stops with those same three racial/ethnic groups. Officers report using no force most often in stops involving Middle Eastern/South Asian (92.24%, 2,009 stops), Asian (90.52%, 1,967 stops), and White (90.47%, 20,962 stops) youth 15–17.

In stops involving youth 18–24, the overall use of force rates further decreased. However, officers still used lethal force in stops involving Hispanic/Latine(x) (0.01%, 21 stops), Black (0.01%, 7 stops), Asian (0.01%, 4 stops), White (0.002%, 4 stops), and Pacific Islander (0.02%, 1 stop) youth. Officers used less lethal force at the highest rates in stops involving Black (1.46%, 1,200 stops), Pacific Islander (0.93%, 38 stops), and Hispanic/Latine(x) (0.60%, 2,291 stops) youth 18–24. Officers reported using limited force most often in stops involving Black (16.69%, 13,740 stops), Native American (14.87%, 278 stops), and Hispanic/Latine(x) (10.80%, 41,071 stops) youth 18–24. Mirroring the trends in the 15–17 age category, for youth 18-24, officers reported using no force most often in stops involving Middle Eastern/South Asian (96.39%, 31,608 stops), Asian (95.81%, 35,418 stops), and White (93.69%, 176,219 stops).

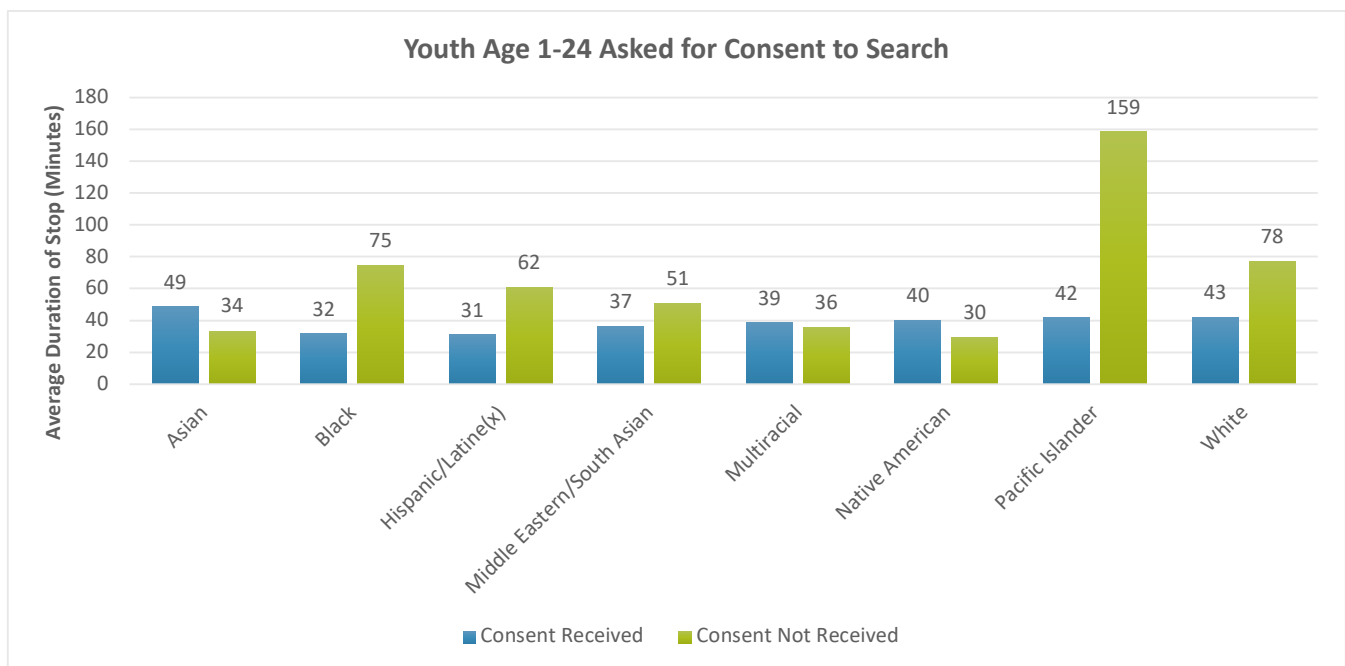
Figure 27. Use of Force Youth Aged 12-14



## Duration of Youth Stops for Searches by Race and Ethnicity

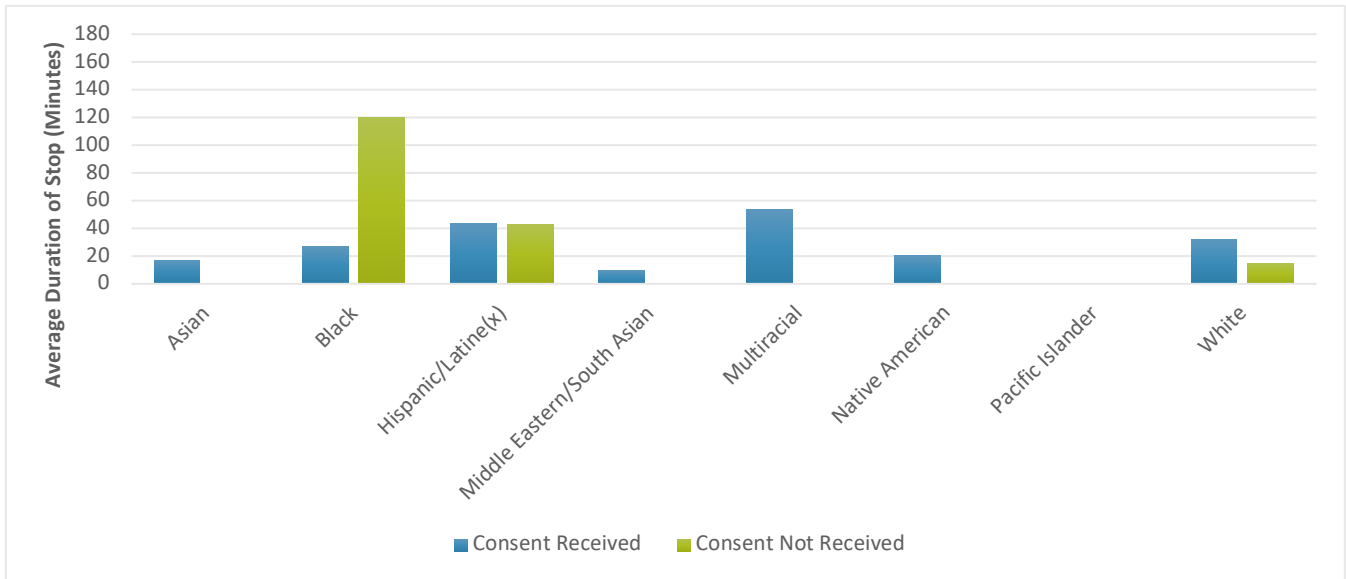
This year, the Stop Data chapter includes an intersectional analysis of duration of stops and other data elements. Overall, for every racial and ethnic group except Asian youth, officers reported longer stop durations when consent for a search was not given compared to when they received consent to search for stops involving youth. For Asian youth, stops in which the officer did not receive consent (41 minutes, 74 stops, SD = 46, range (minutes) = 2 - 216) were shorter than stops in which they obtained consent (49 minutes, 619 stops, SD = 111, range = 1 - 1,440). The largest disparity in duration between stops in which officers obtained consent and stops where consent was not received was for Pacific Islander youth, whose stops without consent averaged 63 minutes longer than stops in which the officers received consent (105 minutes, 23 stops, SD = 155, range = 10 - 476 vs. 42 minutes, 114 stops, SD = 75, range = 2 - 720). The smallest disparity was for Multiracial youth, whose stops without consent were two minutes longer on average than stops where consent was given (41 minutes, 67 stops, SD = 47, range = 1 - 240 vs. 39 minutes, 480 stops, SD = 77, range = 1 - 1,440).

Figure 28. Comparison of Searches in Youth Stops Separated by Race/Ethnicity and Consent Status



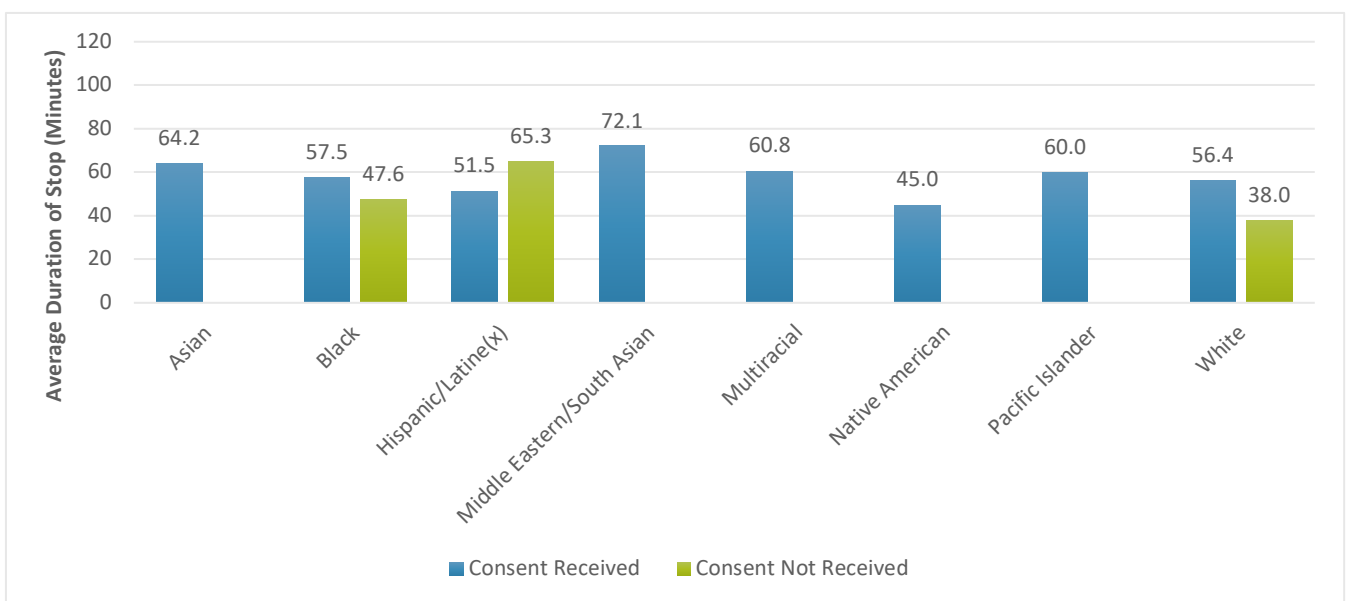
The average stop duration patterns for stops where consent was requested but not received differed by racial/ethnic group. In stops involving Black youth 8–11 (4 out of 28 stops where consent to search was requested), the average duration of the stop was almost five times as long (119 minutes, SD = 129, range (minutes) = 10 - 300 vs. 27 minutes, SD = 22, range = 5 - 77) if the officer did not receive consent. In stops involving Hispanic/Latine(x) youth 8–11, there was an average of a six-minute difference between stops where consent was received (44 minutes, 58 stops, SD = 60, range = 3 - 359) and those stops where it was not (50 minutes, 15 stops, SD = 45, range = 9 - 180). In stops involving White youth 8–11, the average stop duration was longer when consent was received (32 minutes, 26 stops, SD = 38, range = 2 - 134) compared to when it was not received (26 minutes, 4 stops, SD = 7, range = 15 - 30).

Figure 29. Average Duration of Stop in Minutes by Consent to Search and Race and Ethnicity, Youth Aged 8-11.



Among stops of youth 12–14, consent to search was not reported as received in a subset of stops. Specifically, consent to a search was not reported as received in stops involving Multiracial, Native American, and Pacific Islander youth. In stops of Middle Eastern/South Asian youth 12–14, stops were shorter when consent was not received (41 minutes, 2 stops, SD = 28, range (minutes) = 21 - 60) compared to when it was received (72 minutes, 14 stops, SD = 68, range = 20 - 270). The largest difference in stop duration was for Asian youth 12–14, where consent was received. Those stops (24 stops, SD = 60, range = 1 - 240) were, on average, 64 minutes compared to the stops where consent was not received, which were 168 minutes in duration (2 stops, SD = 68, range = 120 - 216). The duration of stop for Black youth (66 minutes, 17 stops, SD = 76, range = 7 - 300 vs. 58 minutes, 112 stops, SD = 66, range = 2 - 384), Hispanic/Latine(x) youth (54 minutes, 64 stops, SD = 51, range = 1 - 200 vs 51 minutes, 414 stops, SD = 54, range = 1 - 368), and White youth 8–11 (58 minutes, 24 stops, SD = 47, range = 1 - 180 vs 56 minutes, 136 stops, SD = 63, range = 1 - 420) was longer where consent was not received compared to those stops where officers obtained consent to search.

Figure 30. Average Duration of Stop in Minutes by Consent to Search and Race and Ethnicity, Youth Aged 12-14

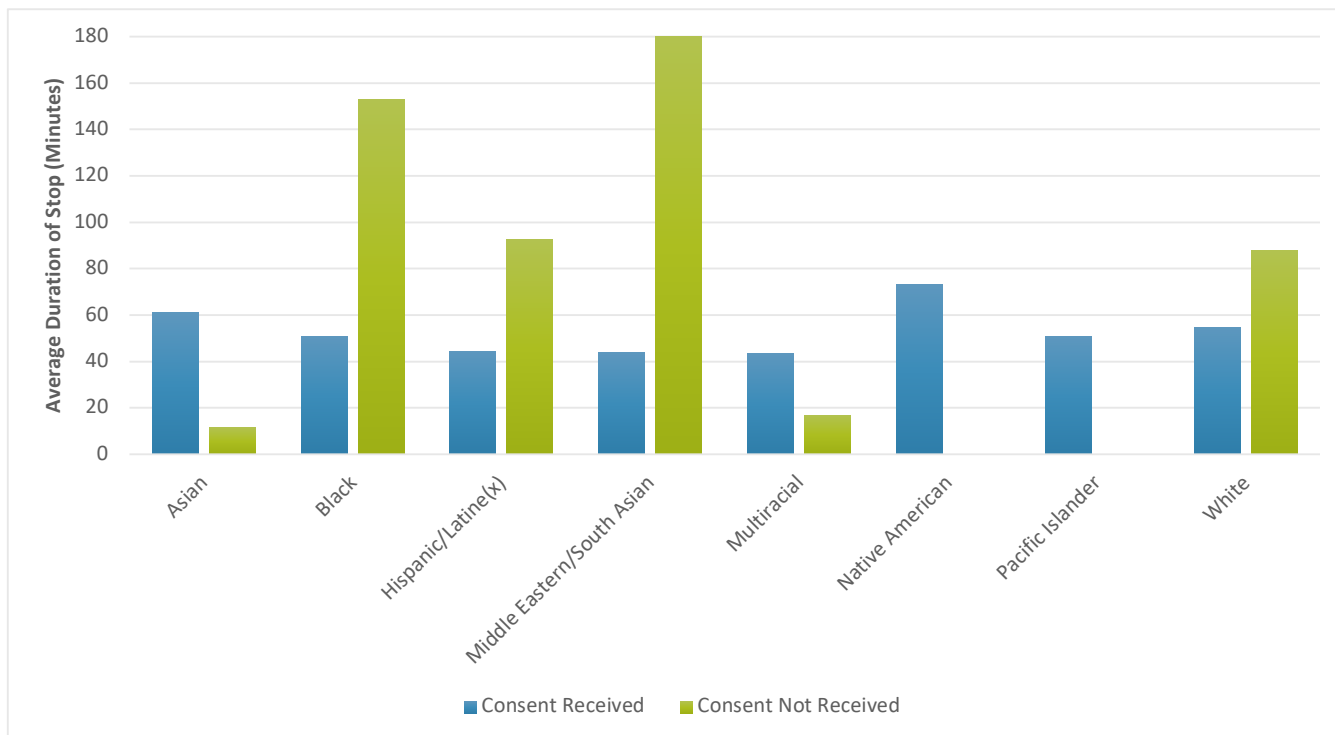




For youth 15–17, the difference in duration for stops in which consent to search was not received compared to those where it was given was significant for all racial/ethnic groups except Native American and Pacific Islander. For stops involving Black, Hispanic/Latine(x), and Middle Eastern/South Asian youth 15–17, when officers were not given consent to search, the average stop duration was longer. Specifically, average stop duration was over 20 minutes longer for stops involving Black youth (75 minutes, 62 stops, SD = 190, range (minutes) = 2 – 1,440 vs. 51 minutes, 551 stops, SD = 116, range = 3 – 1,440) and Middle Eastern/South Asian youth (66 minutes, 8 stops, SD = 83, range = 2 - 215 vs. 44 minutes, 59 stops, SD = 51, range = 5 - 300). The average duration of stops increased by almost half an hour for Hispanic/Latine(x) youth (73 minutes, 365 stops, SD = 100, range = 1 - 720 vs. 45 minutes, 2,603 stops, SD = 88, range = 1 – 1,440) and increased approximately 10 minutes for White youth (63 minutes, 87 stops, SD = 59, range = 1 - 284 vs. 55 minutes, 588 stops, SD = 81, range = 1 - 1,415) when consent was not given.

For stops involving Asian youth 15–17 (16 minutes, 9 stops, SD = 9, range = 2 - 30 vs. 61 minutes, 77 stops, SD = 164, range = 1 – 1,440) and Multiracial individuals (30 minutes, 13 stops, SD = 15, range = 1 - 60 vs. 44 minutes, 77 stops, SD = 31, range = 5 - 200), officers reported shorter stop durations when consent was not received.

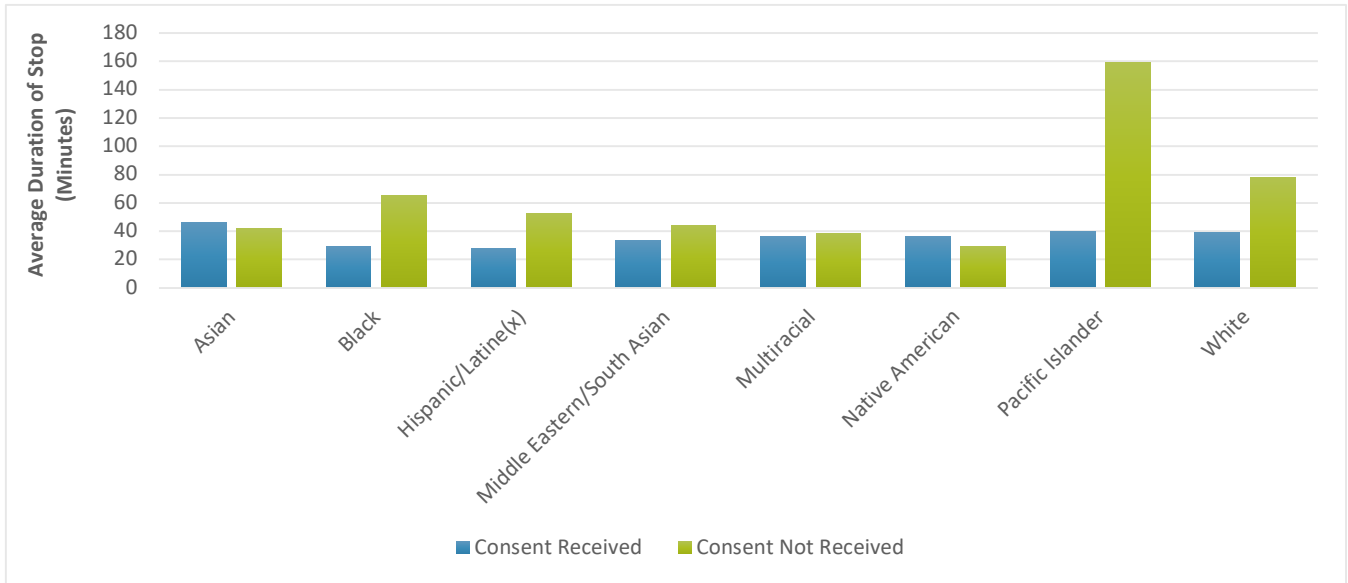
Figure 31. Average Duration of Stop in Minutes by Consent to Search and Race and Ethnicity, Youth Aged 15-17



For searches of youth 18–24, the average stop duration was longer when consent was not received compared to when consent was received during stops of certain racial and ethnic groups. The difference was more than double for Pacific Islander youth (109 minutes, 22 stops, SD = 157, range (minutes) = 10 - 476 with consent not received compared to 40 minutes, 96 stops, SD = 79, range = 2 - 720) and Black youth (66 minutes, 403 stops, SD = 151, range = 1 – 1,440 with consent not received compared to 29 minutes, 4,613 stops, SD = 54, range = 1 – 1,440).

Additional research is needed to ascertain the extent to which bias is a factor in disparities as it relates to actions taken during stops and the duration of those stops.

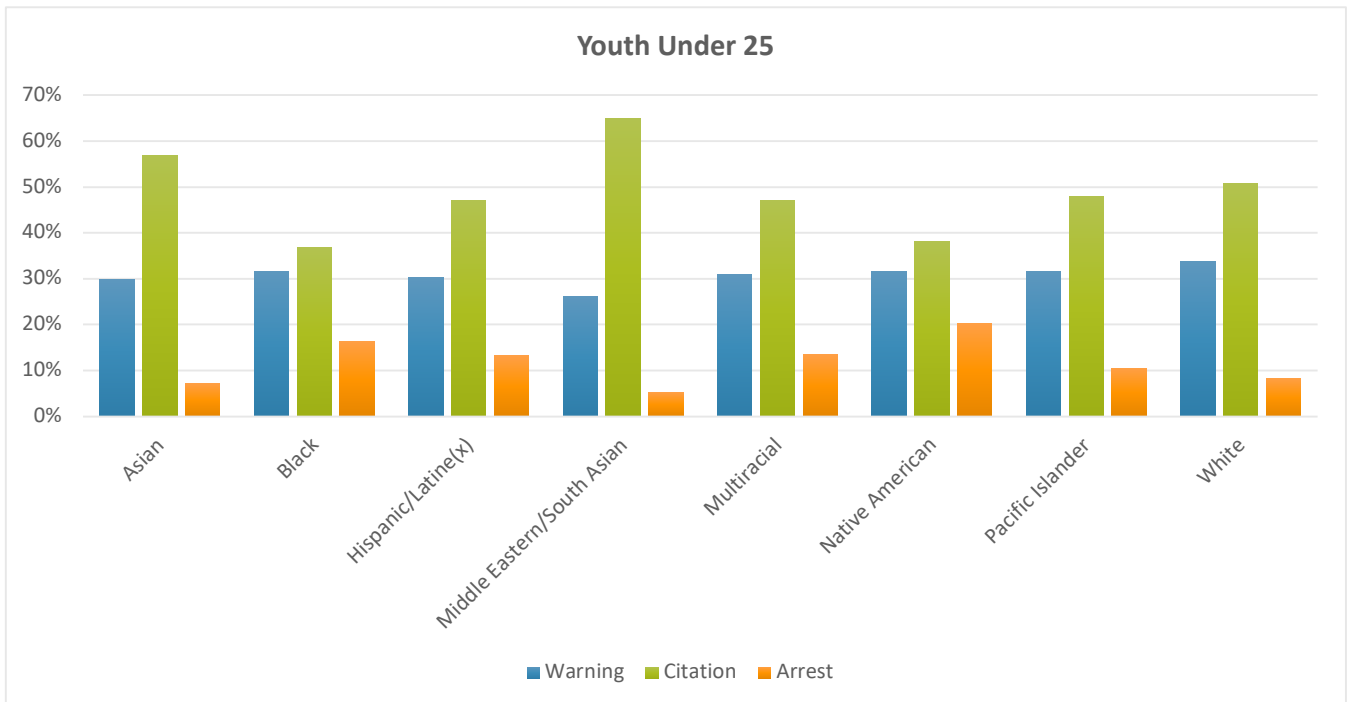
Figure 32. Average Duration of Stop in Minutes by Consent to Search and Race and Ethnicity, Youth Aged 18-24



### Result of Stop by Race/Ethnicity and Age

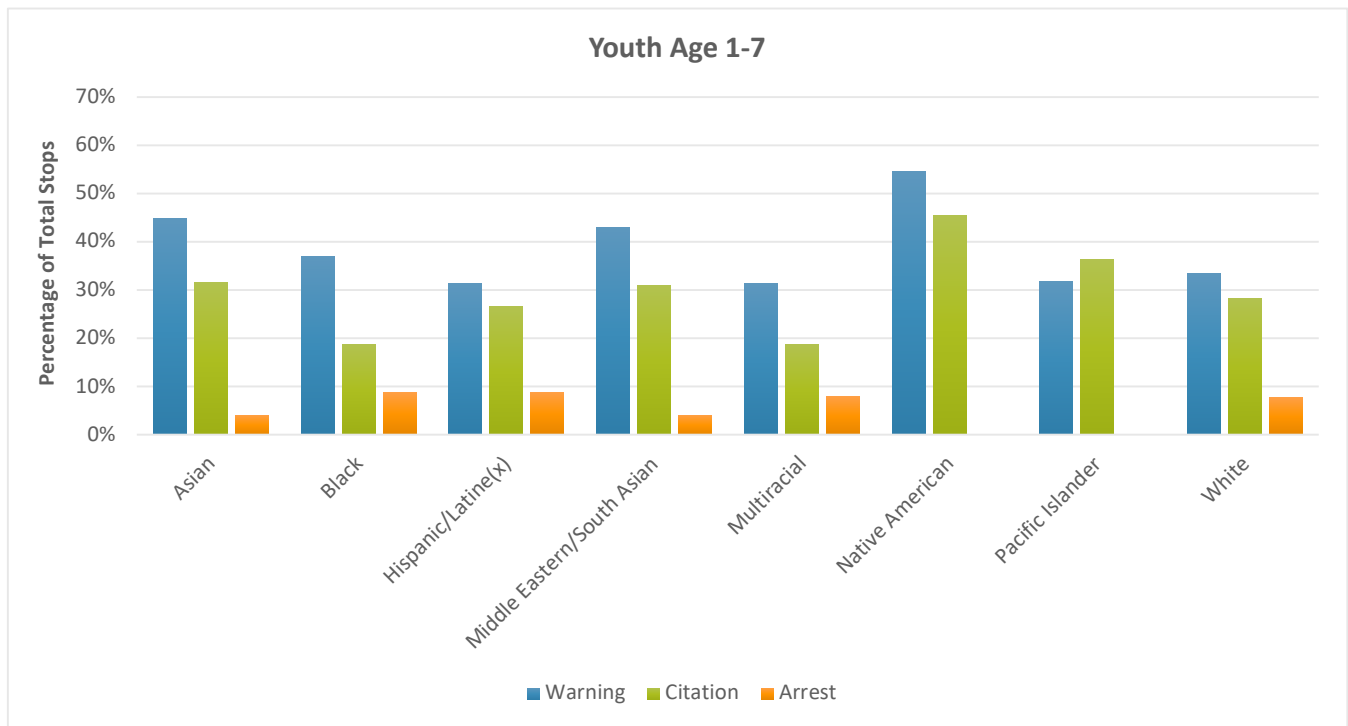
The intersectional analysis in this section examines the distribution of arrests, citations, and warnings as the result of stop based on the race and age of the individuals stopped. Across all racial and ethnic categories for youth under 25, officers gave out citations the most often, followed by warnings and then arrests. Officers reported the highest percentage of stops resulting in a citation for stops involving Middle Eastern/South Asian youth (64.98%, 22,989 stops), followed by Asian youth (56.87%, 22,670 stops), and White youth (50.71%, 109,328 stops). Officers issued warnings most often in stops involving White (33.71%, 72,672 stops), Black (31.67%, 29,371 stops), and Native American youth (31.76%, 680 stops). Officers arrested Native American youth (20.41%, 437 stops), Black youth (16.50%, 15,302 stops), and Multiracial youth (13.52%, 1,516 stops) at the highest rates.

Figure 33. Distribution of Results of Youth Stops Separated by Race/Ethnicity



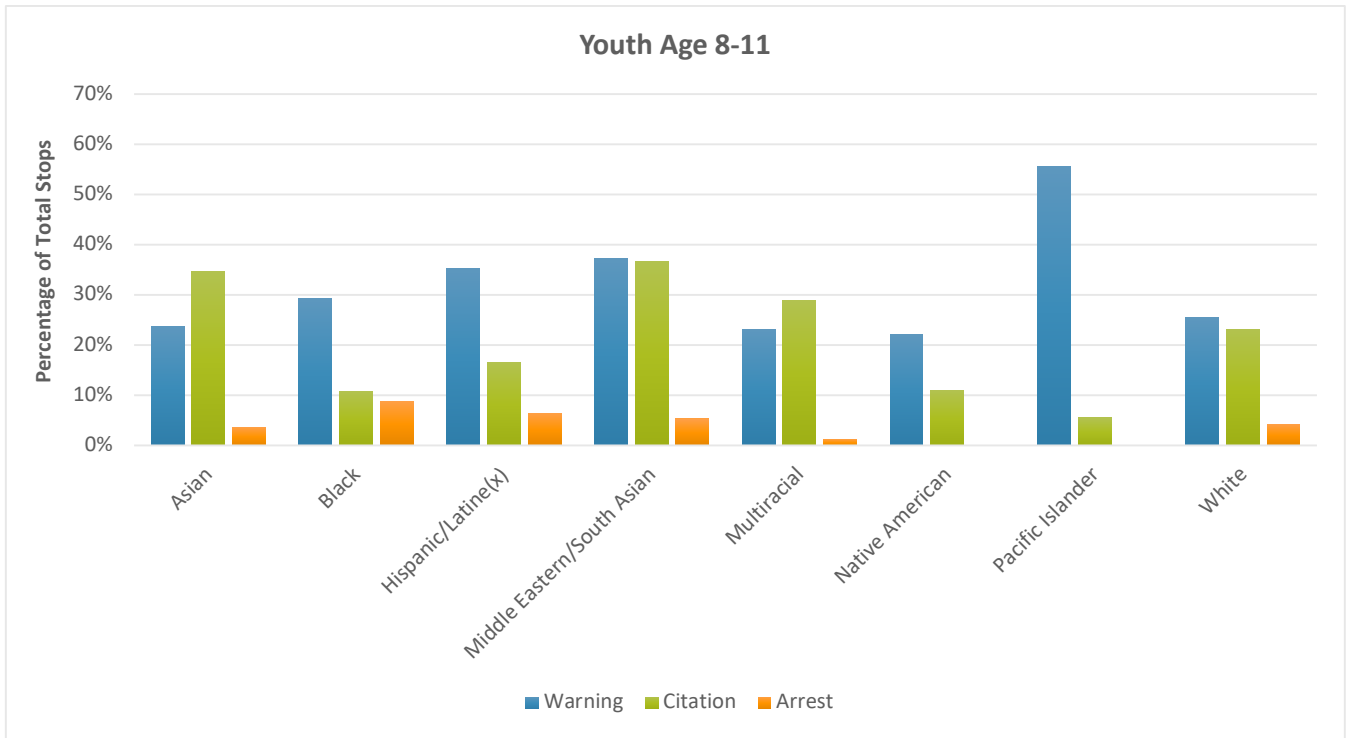
For youth 1–7, across all racial/ethnic groups except one, officers issued warnings more often than citations. The exception was for individuals perceived as Pacific Islander, who received more citations than warnings. Officers reported no arrests in stops involving Native American or Pacific Islander youth 1–7. Officers issued both warnings and citations the most often to Native American youth 1–7, compared to the other racial/ethnic groups. Officers issued warnings to Hispanic/Latine(x) youth 1–7 the least often (31.73%, 544 stops) and reported arrests most often in stops involving Hispanic/Latine(x) youth 1–7 (8.94%, 155 stops). For this age group, officers reported making arrests at similar rates for Black (8.88%, 34 stops), Multiracial (8.11%, 9), and White youth (7.85%, 76).

Figure 34. Percentage of Youth (1–7) Stops Including Warnings, Citations, or Arrests by Race and Ethnicity



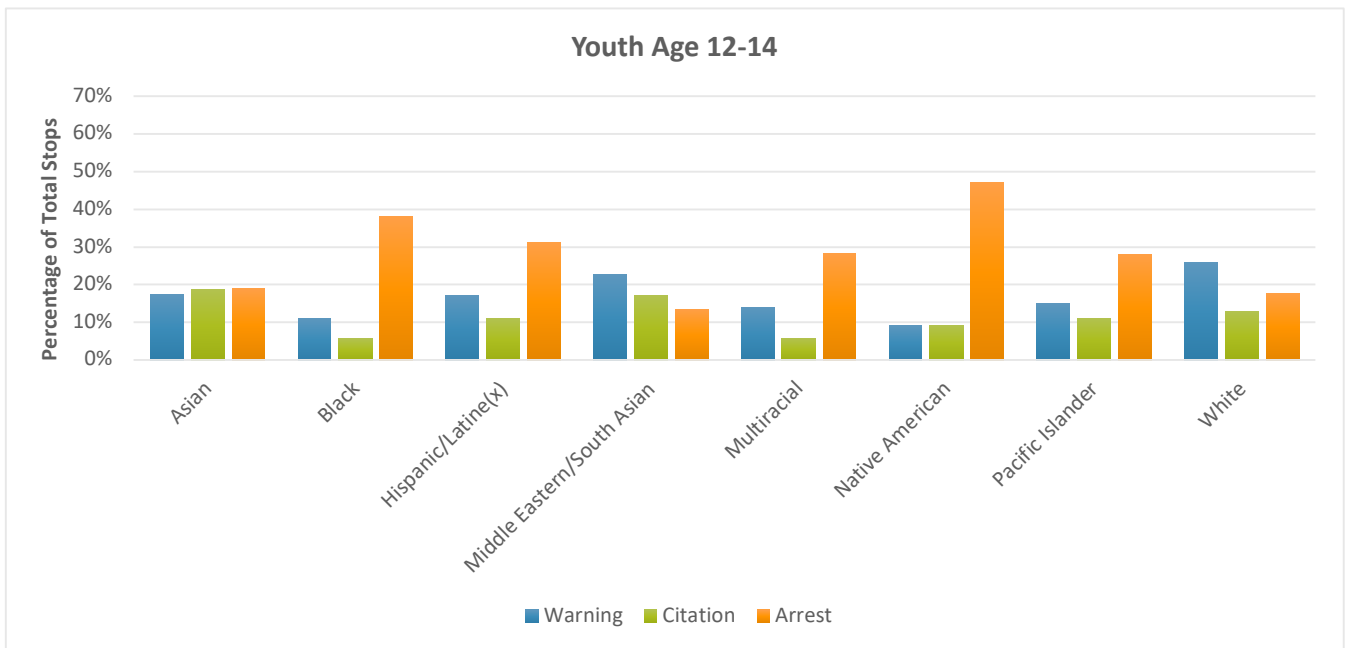
For youth 8–11, officers reported the highest rates of arrests during stops involving Multiracial youth (28.99%, 1 stop), Black youth (8.80%, 44 stops), and Hispanic/Latine(x) youth (6.55%, 94 stops). Officers reported no arrests for Native American or Pacific Islander youth for this age group. Officers issued warnings most often to Pacific Islander (55.56%, 10 stops), Middle Eastern/South Asian (37.40%, 49 stops), and Hispanic/Latine(x) (35.31%, 507 stops) youth 8–11. Officers issued citations at the highest rates in stops involving Middle Eastern/South Asian (36.64%, 48 stops), Asian (34.78%, 56 stops), and Multiracial youth 8–11 (28.99%, 20 stops).

Figure 35. Percentage of Youth (8-11) Stops Including Warnings, Citations, or Arrests by Race and Ethnicity



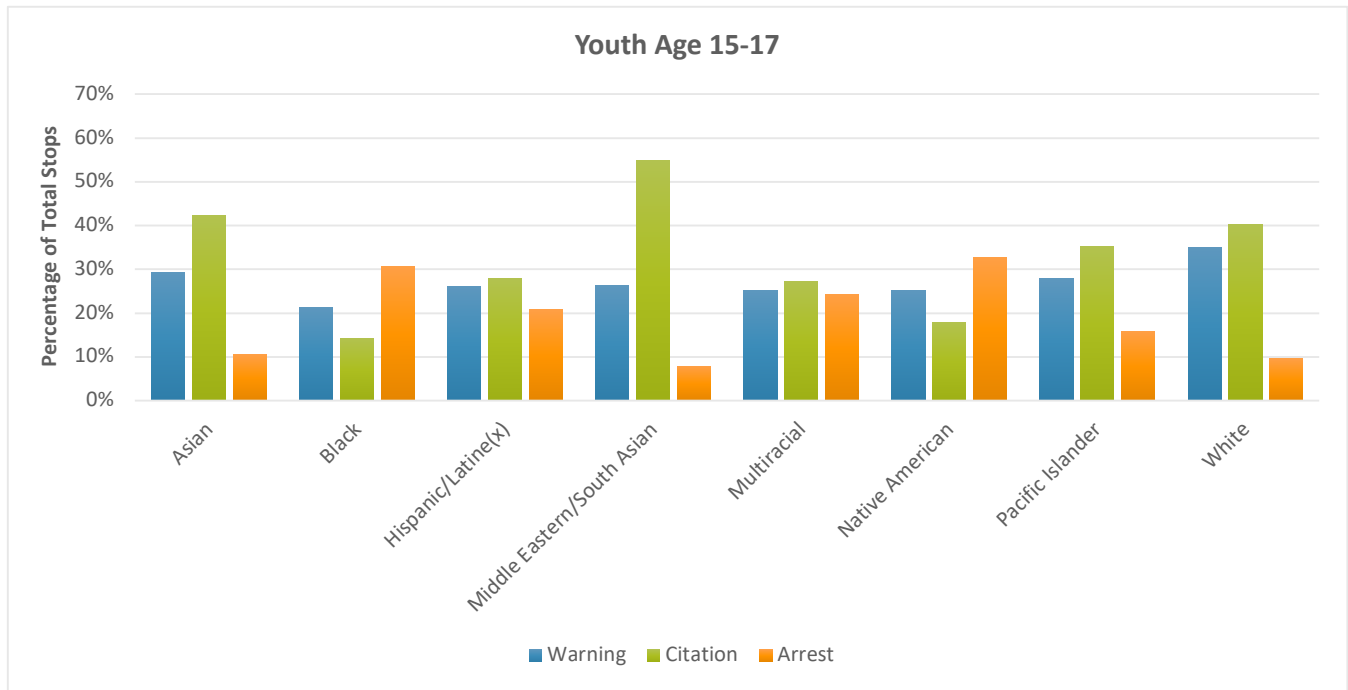
The notable trend in the data was the marked increase in rates of arrest across all racial categories for youth 12–14 compared to the younger age groups. In all except one racial category (Middle Eastern/South Asian), arrest rates were higher than warnings or citations. The arrest rate for Middle Eastern/South Asian youth 12–14 was more than double that of youth 8–11. Officers reported making an arrest in almost half (47.17%, 25 stops) of stops involving Native American youth 12–14, followed by 38.07 percent (673) of stops involving Black youth 12–14, and 31.26 percent (1,752) of stops involving Hispanic/Latine(x) youth.

Figure 36. Percentage of Youth (12-14) Stops Including Warnings, Citations, or Arrests by Race and Ethnicity



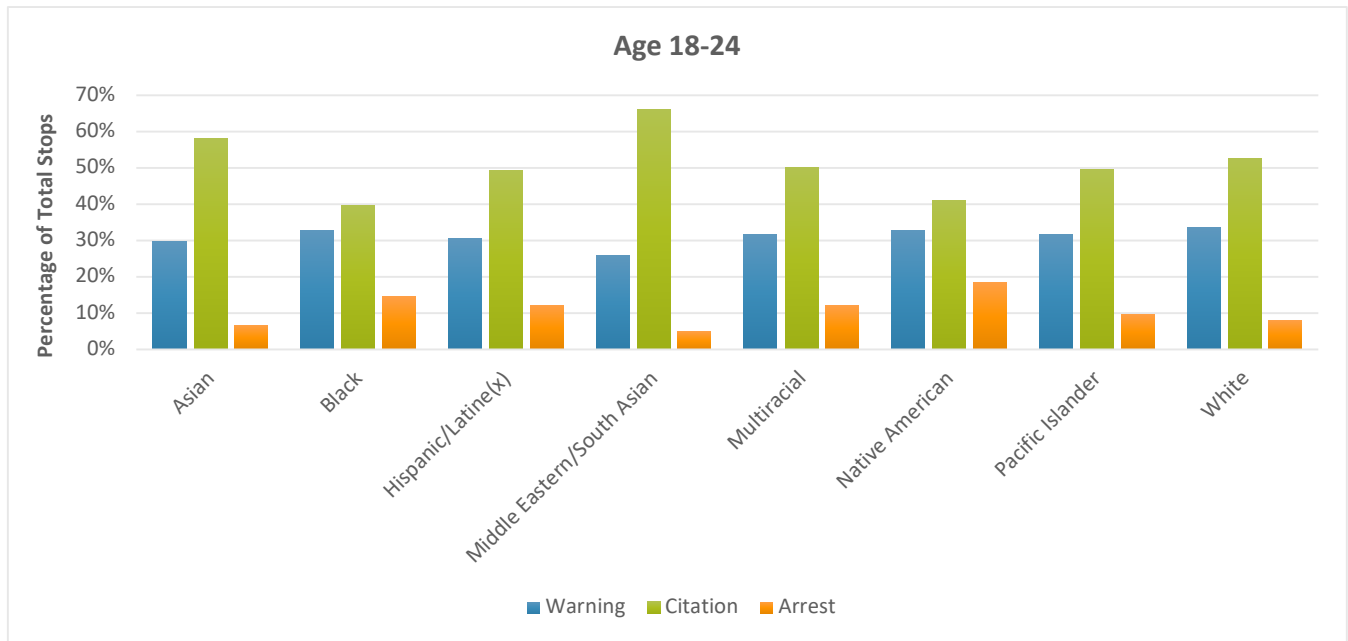
In stops involving youth 15–17, officers reported a higher rate of arrests in stops involving Native American youth (32.83%, 65 stops), Black youth (30.89%, 2,399 stops), and Multiracial youth (24.48%, 248 stops) youth. They issued the most citations to Asian (42.43%, 922 stops), Middle Eastern/South Asian (54.82%, 1,194 stops), and White (40.32%, 9,342 stops) youth. For this age group, officers issued the most warnings to White (35.03%, 8,117 stops), Asian (29.45%, 640 stops), and Pacific Islander (28.02%, 95 stops) youth.

Figure 37. Percentage of Youth (15-17) Stops Including Warnings, Citations, or Arrests by Race and Ethnicity



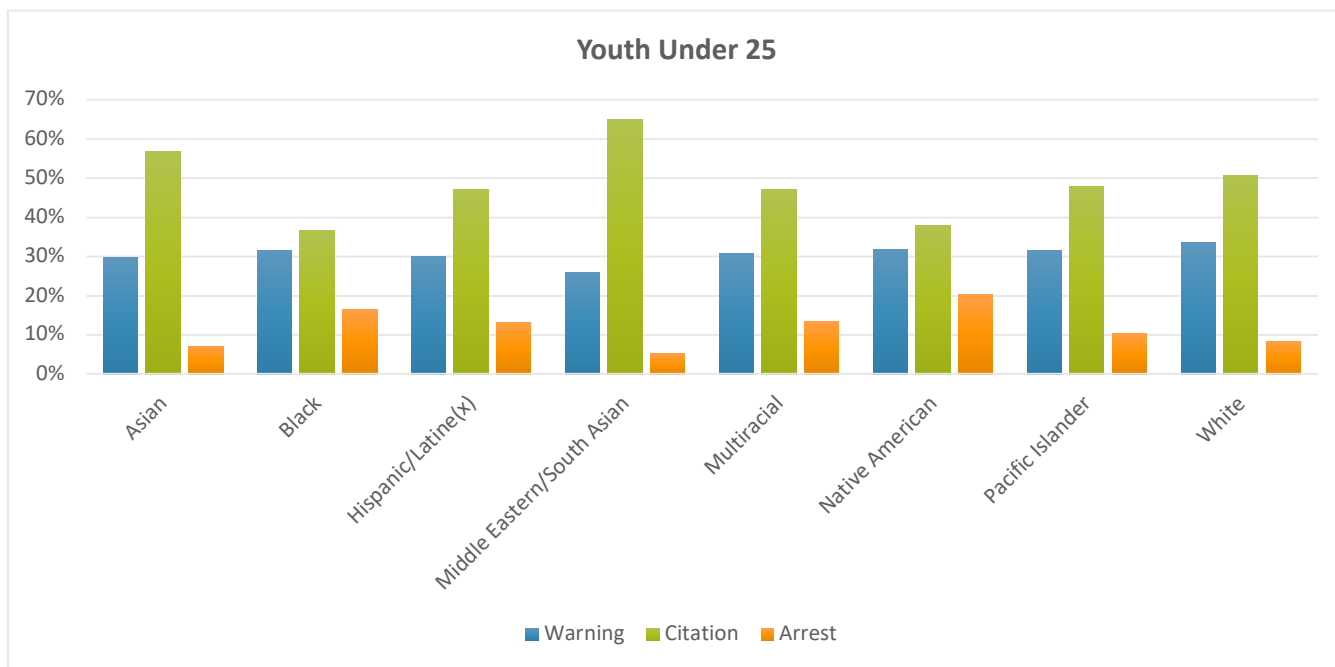
Overall, for youth 18–24, officers reported a similar distribution of citations, warnings, and arrests across all racial groups. However, officers reported arrests most often for stops of Native American (18.56%, 347 stops), Black (14.76%, 12,152 stops), and Hispanic/Latine(x) (12.46%, 47,391 stops) youth.

Figure 38. Percentage of Youth (18-24) Stops Including Warnings, Citations, or Arrests by Race and Ethnicity



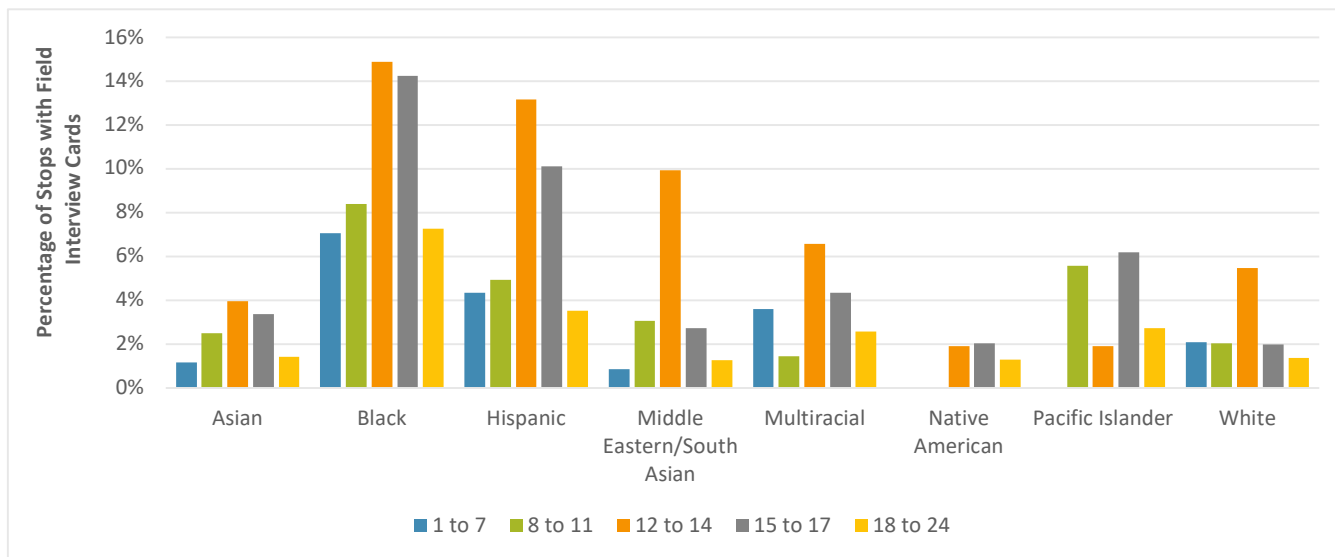
Overall, for youth under 25, across all racial groups, officers reported citations and warnings as the result of a stop more frequently than arrests. Officers arrested Native American and Black youth under 25 at higher rates than youth from other racial groups who were perceived to be under 25.

Figure 39. Results of Youth Stop Separated by Race/Ethnicity, Age 1-24



The data for field interview cards also show disparities among racial and ethnic groups. Black youth had the highest rates for completion of field interview cards in all age categories. In six of the eight racial/ethnic categories, officers completed field interview cards in stops involving youth 12–14 most often. The groups within that age group with the highest rate of field interview card completion were Black, Hispanic/Latine(x), and Middle Eastern/South Asian youth 12–14. The only two racial/ethnic groups that did not fall into this pattern for youth 12–14 were Native Americans and Pacific Islanders. For those two groups, officers completed field interview cards at a higher rate for youth 15–17 than they did for youth 12–14. Officers did not report field interview cards as the result of a stop for stops of Native American and Pacific Islander youth 1–7 and Native American youth 8–11.

Figure 40. Youth Field Interview Cards by Race and Ethnicity



## B. Intersectional Analyses of Youth and Gender

### Calls for Service and Officer-Initiated Stops

For youth 17 and younger, there were gender disparities in stops initiated based on calls for service. Persons perceived as cisgender had similar rates of stops that were officer-initiated, with 70.91 percent (17,542 stops) for cisgender females and 76.57 percent (47,461 stops) for cisgender males. However, the rates of officer-initiated stops were lower for persons perceived as gender nonconforming (60.80%, 183 stops), transgender men and boys (50.20%, 125 stops), and transgender women and girls (34.78%, 40 stops). Only cisgender males under 18 had a share of officer-initiated stops that was higher than the average for all youth under 18 who were stopped (76.57%, 47,461 stops).

As discussed earlier, the perception and presentation of a person's gender identity has a complicated relationship with law enforcement contact. This relationship not only impacts how an officer perceives a transgender person but also likely affects the circumstances in which an interaction takes place. As noted previously, for example, a 2016 to 2018 study of Bay Area transgender women found that being less likely to "pass" as cisgender was associated with a higher likelihood to experience hate crime violence, but a lower likelihood to voluntarily report that incident to police.

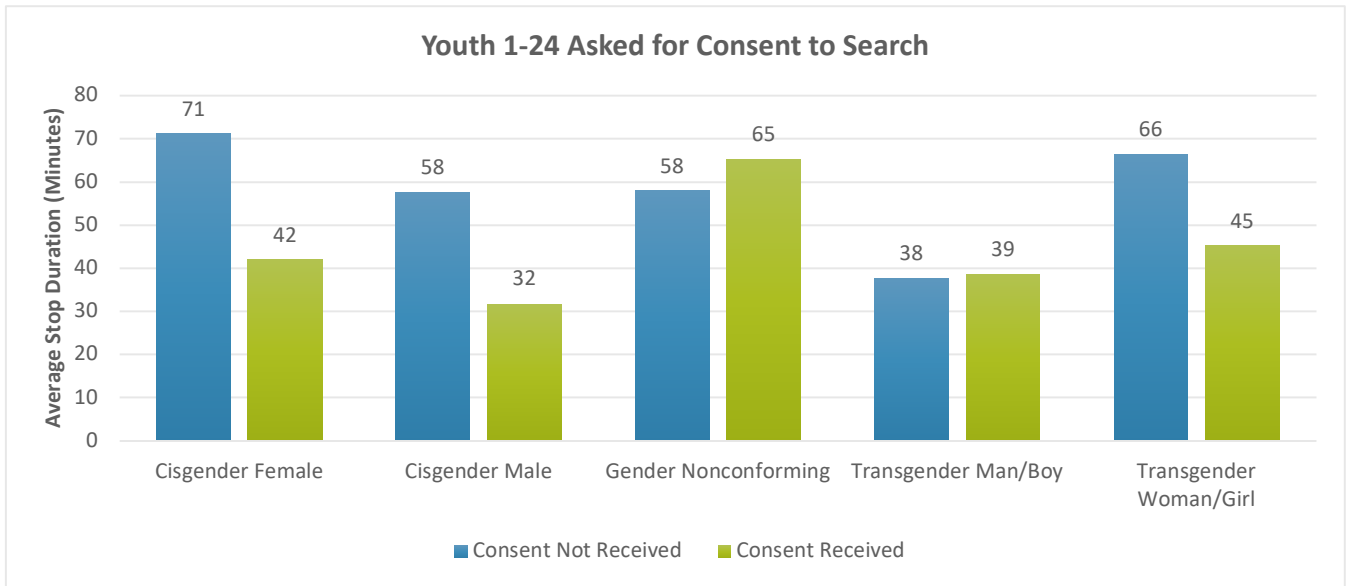
### Reason for Stop

Gender differences also appeared in officer-reported reasons for stops involving youths under 18. Officers reported a higher rate of stopping gender nonconforming and transgender youth for reasonable suspicion than cisgender youth. To that point, officers stopped transgender men and boys (60.65%, 151 stops) as well as women and girls (69.57%, 80 stops) because of reasonable suspicion for the majority of stops. Officers reported similar rates across all three reasons for stop categories for cisgender females and males. Deeper research is needed to explore the intersections between age and perceived transgender status.

### Searches Conducted During a Youth Stop by Gender and Age

Officers reported longer stop durations when consent was not received versus when it was received for cisgender females, cisgender males, and transgender women/girls. Among stops where consent was received, stops involving gender nonconforming individuals were the longest (65 minutes, 66 stops, SD = 178, range (minutes) = 5 – 1,440) and stops involving cisgender males were the shortest (32 minutes, 26,494 stops, SD = 62, range = 1 – 1,440). Among stops where consent was not received, those involving transgender men/boys were the shortest (38 minutes, 15 stops, SD = 30, range = 12 - 118) and those involving cisgender females were the longest (71 minutes, 619 stops, SD = 142, range = 1 – 1,440). The shortest within-gender disparity occurred with stops of transgender men/boys. Stops involving transgender men/boys were about a minute longer when consent was received (39 minutes, 59 stops, SD = 52, range = 3 - 300) versus not (38 minutes, 15 stops, SD = 30, range = 12 - 118).

Figure 41. Distribution of Searches in Youth Stops Separated by Gender, Age 1-24

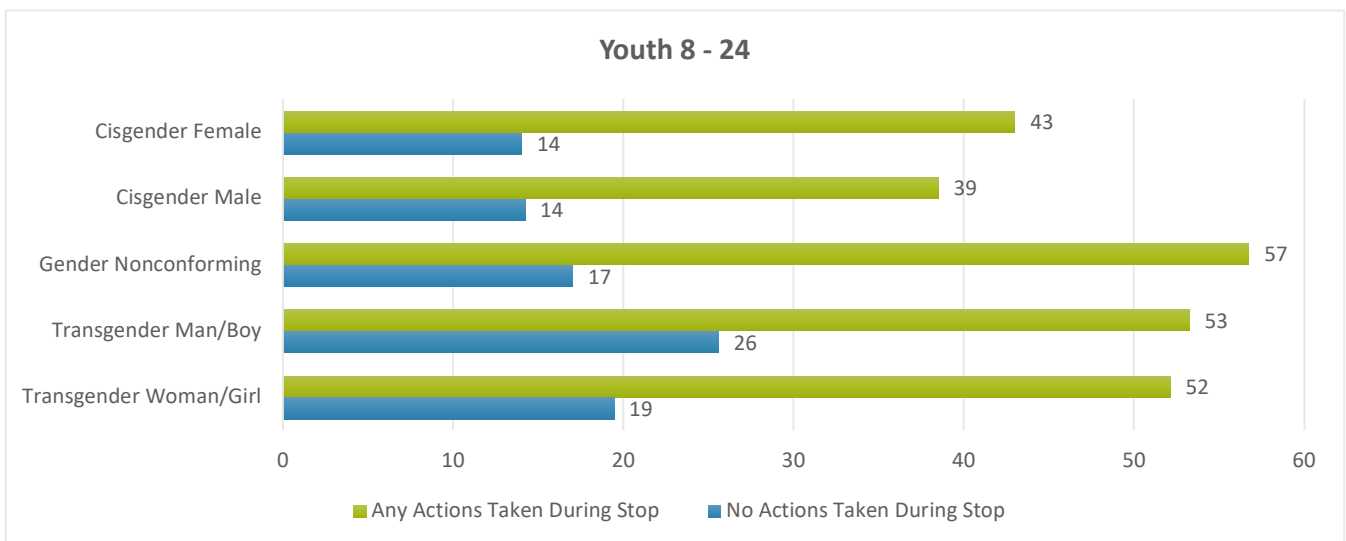


### Duration of Youth Stops by Gender and Actions Taken

Generally, stops where any action was taken were longer than those where officers reported no action taken. Among stops where any actions were taken, those involving gender nonconforming (57 minutes, 475 stops, SD = 94, range (minutes) = 1 – 1,440) and transgender youth (transgender men/boys: 53 minutes, 527 stops, SD = 62, range = 1 - 450; transgender women/girls: 52 minutes, 329 stops, SD = 77, range = 1 – 1,141) were the longest. Among stops where no actions were taken, stops involving the same gender groups were the longest (transgender men/boys: 26 minutes, 681 stops, SD = 116, range = 1 – 1,440; transgender women/girls: 19 minutes, 289 stops, SD = 86, range = 1 – 1,440; and gender nonconforming: 17 minutes, 1,630 stops, SD = 63, range = 1 – 1,275).

The smallest within-gender duration disparity was in stops involving transgender men/boys. Stops where officers reported that an action was taken were twice as long as those where no actions were taken. The largest within-gender duration disparity was for stops involving gender-nonconforming youth. Stops where an action was taken were more than three times as long compared to stops where officers reported no action taken.

Figure 42. Distribution of Actions Taken in Youth Stops Separated by Gender, Age 8-24





## Use of Force in Youth Stops by Gender and Age

In stops of youth, cisgender males have the highest number of stops involving the use of force across all age groups. Specifically, cisgender males experienced force during 228 (10.04%) stops of youth 1–7, 280 stops (13.17%) of youth 8–11, 2,144 stops (30.53%) of youth 12–14, 11,458 stops (22.66%) of youth 15–17, and 58,324 stops (11.16%) of youth 18–24. Officers reported using force at a higher rate in stops of transgender youth 18–24 — both transgender men/boys and women/girls — than all other gender groups. Transgender men/boys experienced force during 25.00 percent (2) of stops for youth 8–11, 36.00 percent (18) of stops for youth 12–14, 40.21 percent (76) of stops for youth 15–17, and 22.37 percent (215) of stops for youth 18–24. Transgender women/girls experienced force during 50.00 percent (1) of stops for youth 8–11, 50.00 percent (14) of stops for youth 12–14, 34.15 percent (28) of stops for youth 15–17, and 30.56 percent (154) of stops for youth 18–24. By comparison, cisgender females had the lowest rate of use of force for youth 8–24, with 9.96 percent (101) of stops of youth 8–11, 25.69 percent (898) of stops of youth 12–14, 16.90 percent (3,199) of stops for youth 15–17, and 7.45 percent (15,662) of stops for youth 18–24.

The data show that officers reported using lethal and less lethal force in stops of youth of all genders. For example, officers reported using a baton in 45 stops of youth under 25 (38 stops of youths 18–24). Thirty-four of those reported use of a baton involved cisgender males ages 15–24. Two reported use of a baton involved youth perceived as transgender or gender nonconforming. Officers reported using chemical spray most frequently during stops of cisgender males (46 stops), followed by cisgender females (15 stops), gender-nonconforming youth (2 stops), and transgender women/girls (1 stop). Electronic control devices were used most frequently in stops of cisgender males (8 stops), followed by cisgender females (11 stops). For 2023, officers did not report any use of electronic control devices on transgender or gender nonconforming youth. Officers reported pointing their firearms most frequently during stops of cisgender males (4,512 stops), followed by cisgender females (828 stops), gender nonconforming youth (14 stops), transgender men/boys (12 stops), and transgender women/girls (4 stops). They discharged their firearms at cisgender male youth in 42 stops, cisgender female youth in five stops, and gender nonconforming and transgender man/boy youth in one stop each.

### C. Intersectional Analyses of Age and Perceived Disability Status

A comparison of reported stops involving youth who are perceived as having a disability (2,411 stops) to youth perceived as not having any disability (84,973 stops) indicate some differences in stops for youth under 18.

#### Calls for Service by Perceived Disability

Youth perceived as having a disability had higher rates of stops based on a call for service than youth perceived to not have a disability. For youth with perceived disability, 75.1 percent of stops were initiated based on a call for service compared to youth not perceived to have a disability (23.8%). Further, youth perceived to have a disability had a higher rate of stops initiated based on a call for service than the overall category of individuals perceived as having a disability (56.96%).

#### Reason for Stop by Perceived Disability

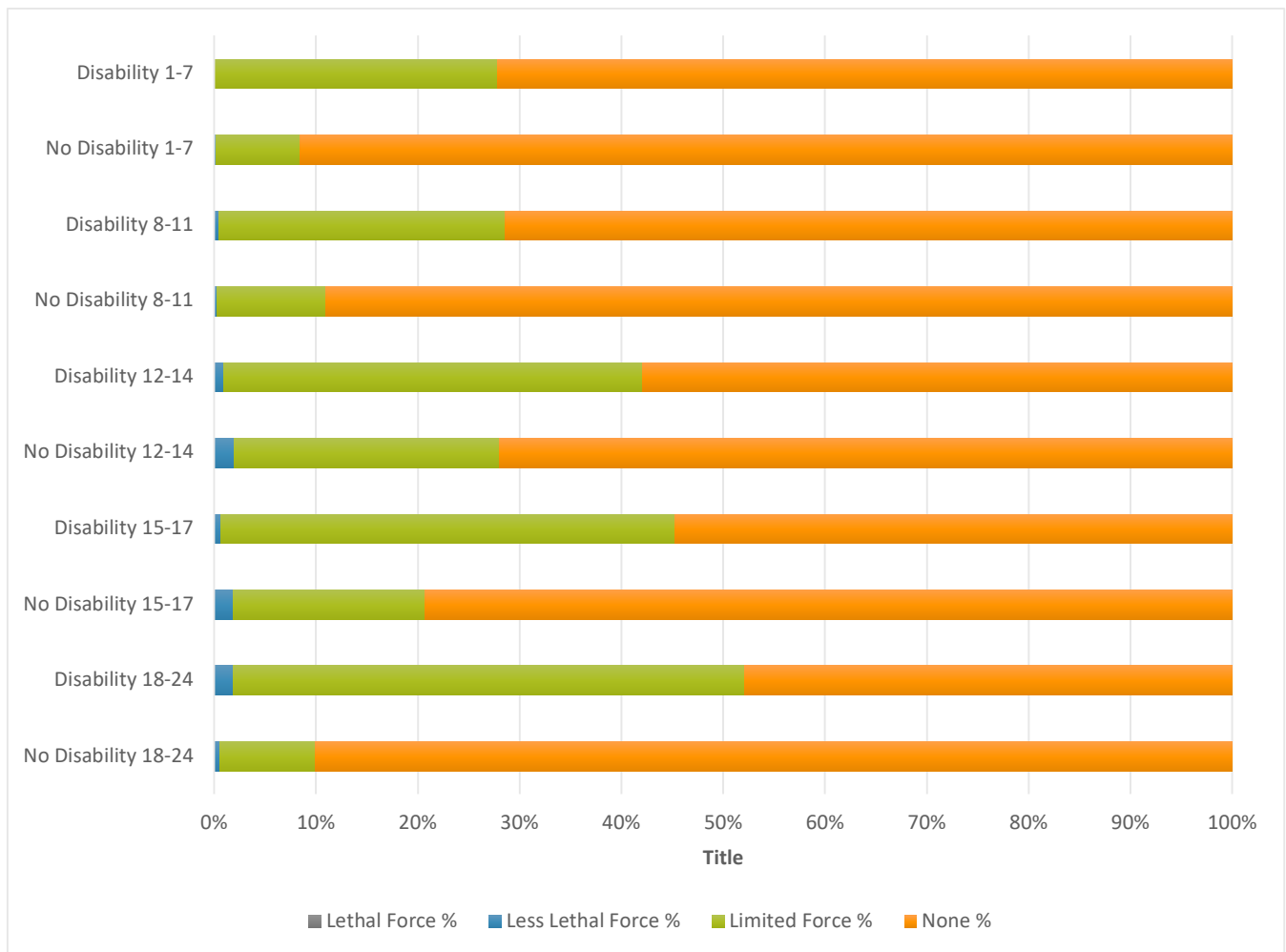
For stops that were officer-initiated, the most common reason for stopping youth under 18 with a perceived disability was reasonable suspicion (68.1%, 1,643 stops), followed by other reasons (27.9%, 671 stops), and then traffic violations (4%, 97 stops). In comparison, the most common reason for stopping individuals not perceived to have a disability was a traffic violation (58.7%, 49,914 stops), followed by reasonable suspicion (33.3%, 28,316 stops), and then other reasons (7.9%, 6,742 stops).

#### Use of Force in Youth Stops by Perceived Disability

Youth perceived to have a disability experienced force in a higher percentage of stops than youth with no perceived disability across all youth age groups. For ages 12–14, the difference is smallest, with 42.05 percent (307) of stops of youth perceived to have a disability involving the use of force, compared to 28.04 percent (2,781) of stops of youth perceived to have no disabilities. That difference is largest for youth 18–24 where 52.07 percent of stops (2,066 stops) of youth perceived to have a disability involved the use of force compared to 9.89 percent of stops (72,473 stops) of youth perceived not to have a disability.

There were two reported incidents of use of a baton (0.02%) and two reported uses of chemical spray (0.03%) during stops of youth perceived to have a disability. Electronic control devices were used in 17 stops involving youth perceived to have a disability (0.27%). Sixty-seven stops of youth perceived to have a disability involved officers pointing their firearms (1.05%). Officers reported no discharge of firearms at youth perceived to have a disability.

Figure 43. Distribution of Use of Force for Youth and Perceived Disability



## D. Intersectional Analyses of Age and Perceived English Fluency

Generally, the comparison of officers' reported stops with youth who are perceived as fluent in English to youth perceived as having limited or no fluency in English show minimal differences for youth under 18.

### Calls for Service in Youth Stops by Perceived English Fluency

Youth who were perceived as not fluent in English were stopped due to calls for service and officer-initiated stops at similar rates (74.80% officer-initiated and 25.20% calls for service) to youth perceived as fluent in English (74.43% officer-initiated and 25.57% calls for service).

### Reason for Stop in Youth Stops by Perceived English Fluency

The data show small disparities in the reasons for stops based on English fluency. For instance, officers reported 57.1 percent (47,991) of stops for traffic violations involved youth under 18 who were perceived as English fluent, while 60.8 percent (2,020) of stops for traffic violations involved youth under 18 with limited or no English fluency.

### Use of Force in Youth Stops by Perceived English Fluency

Overall, youth perceived to have limited or no English fluency experienced the use of force at a higher rate than youth with perceived English fluency. The difference is largest for youth ages 1–7, with 21.40 percent (61) of stops including force for youth with limited or no English fluency, compared to 7.75 percent (257) of stops for youth perceived to have fluency in English. The next highest rate of disparity is for youth 18–24, with 21.38 percent (5,882) of stops involving the use of force for youth with limited or no English fluency compared to 9.68 percent (68,620) of stops for youth perceived to be fluent in English. For youth 12–14, the rate of disparity is the reverse, with officers reporting using force in a lower percentage of stops of youth perceived to have limited or no English fluency (22.65% of 94 stops) than of stops of youth perceived to be fluent in English (29.23% of 2,991 stops).

Officers reported using lethal and less lethal force in stops of youth perceived to have limited or no English fluency. For example, officers discharged firearms in two stops (0.06%) and pointed their firearms in 173 stops (5.21%). Officers also reported one incident of baton use (0.03%), five uses of chemical spray were reported in stops of youth perceived to have limited or no English fluency (0.15%), and nine uses of electronic control devices (0.27%).

## E. Intersectional Analyses of Age and Perceived LGBT Status

A comparison of officers' reported stops with youth under 18 who are perceived as LGBT to youth perceived as non-LGBT shows disparities in stops.

### Calls for Service in Youth Stops by Perceived LGBT Status

Youth perceived as LGBT were stopped due to calls for service at higher rates compared to non-LGBT youth and adult LGBT individuals. For LGBT youth, 46.9 percent (442) of stops were due to a call for service, compared to non-LGBT youth (25%, 21,591 stops) and adult LGBT individuals (16.3%, 5,749 stops).

### Reason for Stop in Youth Stops by Perceived LGBT Status

Officers reported that most stops of LGBT youth that were officer-initiated were based on reasonable suspicion (53.2%, 501 stops), while for non-LGBT youth, most stops were based on traffic violations (57.5%, 49,703 stops).

## Use of Force in Youth Stops by Perceived LGBT Status

Overall, officers reported using force at a higher rate in stops involving youth perceived as LGBT than for stops for non-LGBT youth. The difference in rates for the use of force is smallest among youth ages 18–24, where LGBT youth experienced the use of force during 16.35 percent of stops (1,052 stops) compared to 10.07 percent of stops of non-LGBT youth 18–24 (73,487 stops). The difference is greatest for youth 15–17, where officers reported using force in 31.31 percent of stops (222 stops) of youth perceived to be LGBT and reported using force in 21.06 percent of stops (14,586 stops) for youth 15–17 perceived to be non-LGBT.

Officers reported using lethal and less lethal force. Specifically, they reported pointing their firearm in 48 stops of youth the officers perceived to be LGBT and discharged their weapons in three stops of youth perceived to be LGBT (0.65%). Officers also reported using a baton in two stops of youth perceived as LGBT (0.03%), a chemical spray in two stops (0.03%), and an electronic control device in one stop of youth perceived to be LGBT (0.01%).

Additional analysis and research are needed to determine the extent to which bias is a factor in these disparities.

# POLICY-FOCUSED DATA ANALYSIS

## III. YOUTH INTERACTION 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>27</sup>*

This year’s report focuses on the role of racial and other biases in youth and law enforcement officer encounters, in large part because of the significant racial disparities that the Board has observed in the stops of youth in previous years. In a global context, the United States is a carceral outlier in the confinement of youth.<sup>28</sup> Looking just at pretrial detention, for example, the United States detains approximately 60 out of 100,000 youth, which is the highest rate of 92 reporting countries in the United Nations,<sup>29</sup> higher than the average of countries in South America (approximately 19 out of 100,000 youth), the Middle East and North Africa (approximately 7 out of 100,000 youth), and Central and Eastern Europe (approximately 6 out of 100,000 youth).<sup>30</sup>

The Board, in prior reports, examined the role of the “school-to-prison pipeline” in police stops and made recommendations aimed at reducing interactions between students and law enforcement and racial and disability disparities in the course of those interactions, from the initiation to the outcomes.<sup>31</sup> Schools, however, are only one pathway for youth to become involved in the criminal legal system, and indeed, the majority of law enforcement stops of youth occur in other settings.<sup>32</sup>

The 2021 RIPA data indicated that youth are at higher risk of law enforcement contact that results in being handcuffed, searched, or detained curbside or in a patrol car than adults.<sup>33</sup> This data informs the Board’s examination this year of youth and law enforcement interaction, and an even broader challenge facing youth: what some experts have referred to as the “community-to-prison pipeline,” another pathway that funnels youth into the criminal legal system.<sup>34</sup>

“The arrest disparity is the entrance to a maze with fewer exits for African American youth than their white peers.”

— Rovner, *Racial Disparities in Youth Commitments and Arrests* (April 2016) The Sentencing Project, p. 7.

27 Hayward Burns Institute, *Los Angeles County: Youth Justice Reimagined* (Oct. 2020) L.A. County, p. 9 <<https://burnsinstitute.org/wp-content/uploads/2020/11/Youth-Justice-Reimagined-2020.pdf>> [as of Nov. 18, 2024].

28 Trejos-Castillo et al., *The Square One Project Learned Helplessness, Criminalization, and Victimization in Vulnerable Youth* (Dec. 2020) pp. 5-6 <<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. 18, 2024].

29 *Id.* at p. 5; Nowak, *The United Nations Global Study on Children Deprived of Liberty* (2019) p. 262 <<https://omnibook.com/view/e0623280-5656-42f8-9edf-5872f8f08562/page/294>> [as of Nov. 18, 2024].

30 Nowak, *supra* note 29, at p. 262.

31 See, e.g., Racial and Identity Profiling Advisory Board, *Annual Report (2024) (“2024 Report”)* pp. 120-122 <<https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf>> [as of Nov. 18, 2024].

32 Racial and Identity Profiling Advisory Board, *Annual Report (2023) (“2023 Report”)* pp. 137-138 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Nov. 18, 2024].

33 Racial and Identity Profiling Advisory Board, *2024 Report, supra* note 31, at p. 9 (“Within all racial and ethnic groups, the highest observed percentage of stops in which officers handcuffed, searched, or detained individuals curbside or in a patrol car was for adolescents (10-14 years old and 15-17 years old).”).

34 Redfield and Nance, *Joint Task Force on Reversing the School-to-Prison Pipeline Preliminary Report* (February 2016) American Bar Association, p. 67 <<https://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1765&context=facultypub>> [as of Nov. 18, 2024] (“[W]e should really be talking about a community-to-

The United States remains a carceral outlier even though arrest rates for people under 18, which peaked in 1999, have continued to decline.<sup>35</sup> Nationally, in most years, only about five percent of youth arrests are for offenses categorized as violent crimes.<sup>36</sup> While the overall decline in rates of youth arrests is a positive development, the Board continues to be concerned about the disparities in stops of youth in California.

At the onset of adolescence, racialized youth<sup>37</sup> are exposed to police encounters with greater frequency than White youth.<sup>38</sup> These police encounters are more likely to result in further entanglement in the criminal legal system for racialized youth than White youth. This disparity between White youth and youth of color is a longstanding issue.<sup>39</sup> As scholars have found, “[t]he arrest disparity is the entrance to a maze with fewer exits for African American youth than their white peers.”<sup>40</sup> Reforming law enforcement policies that contribute to the profiling of racialized youth has been seen as critical to reducing the troubling racial disparities impacting Black youth across later stages of the criminal legal system.<sup>41</sup>

This section of the report focuses on youth and policing beyond the school context and builds on the Board’s prior recommendations to address the issue of racial profiling of youth.

## B. Research Shows Youth Are Uniquely Impacted by Law Enforcement Encounters

For this section, the Board broadly defines “youth” as inclusive of “transition age youth,” which the federal government defines as persons between 16 and 24 years of age.<sup>42</sup> Within this definition of youth, the Board looks at different age ranges because of significant legal and developmental differences between these groups. Science supports including transition age youth in the Board’s definition of youth:

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>43</sup>

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prison pipeline or a cradle-to-prison pipeline. It starts even before young people enter the school building.”); Holder et al., *Concentrated Incarceration and The Public-Housing-To-Prison Pipeline in New York City Neighborhoods* (Sept. 6, 2022) 119 PNAS No. 36 <<https://www.pnas.org/doi/epub/10.1073/pnas.2123201119>> [as of Nov. 18, 2024].

35 Cohen et al., *When Does a Juvenile Become an Adult?* (2016) 88 Temple L.Rev. 769, 773; Rovner, *Youth Justice by the Numbers* (Aug. 2024) The Sentencing Project, p. 7 <<https://www.sentencingproject.org/app/uploads/2024/08/Youth-Justice-By-The-Numbers.pdf>> [as of Nov. 18, 2024].

36 Rovner, *Youth Justice by the Numbers*, *supra* note 35, at p. 1.

37 The term racialized youth refers to youth whose racial or ethnic identity is constructed in opposition to the dominant white identity in society. (Kumasi and Hughes-Hassell, *Shifting Lenses on Youth Literacy and Identity* (2017) 45 Knowledge Quest No. 3, 14 <<https://journals.sagepub.com/doi/10.1177/0002716219871899>> [as of Nov. 18, 2024].)

38 Weaver and Geller, *De-Policing America’s Youth: Disrupting Criminal Justice Policy Feedbacks That Distort Power and Derail Prospects* (2019) 685 Am. Acad. of Pol. & Soc. Science 190, p. 201 <<https://journals.sagepub.com/doi/10.1177/0002716219871899>> [as of Nov. 18, 2024]; Del Toro et al., *The Policing Paradox: Police Stops Predict Youth’s School Disengagement Via Elevated Psychological Distress* (2022) 58 Dev. Psychol. 1, 1.

39 For example, data examining rates of arrests from 2003 to 2013 found that Black youth are more than twice as likely to be arrested than White youth; once arrested, Black youth are more likely to have their cases referred to juvenile court; among those cases referred to court, they are less likely to receive diversion; among those cases that are adjudicated, they are less likely to receive probation and more likely to be committed to secure placement in a juvenile facility. (Rovner, *Racial Disparities in Youth Commitments and Arrests* (April 2016) The Sentencing Project, pp. 6-9 <<https://www.sentencingproject.org/app/uploads/2022/08/Racial-Disparities-in-Youth-Commitments-and-Arrests.pdf>> [as of Nov. 18, 2024].)

40 *Id.* at p. 7.

41 Bratton and Smith, *Growing Up a Suspect: An Examination of Racial Profiling of Black Children and Effective Strategies to Reduce Racial Disparities in Arrests (“Growing Up a Suspect”)* (2018) 45 N. Ky. L.Rev. 137, 154.

42 Interagency Working Group on Youth Programs, *Transition & Aging Out* (2022) Youth.Gov <<https://youth.gov/youth-topics/transition-age-youth>> [as of Nov. 18, 2024].

43 Arain et al., *Maturation of the Adolescent Brain* (2013) 9 Neuropsychiatric Disease and Treatment 449, 451-452 <<https://pubmed.ncbi.nlm.nih.gov/articles/PMC3621648/>> [as of Nov. 18, 2024].

The Board considers several factors in identifying the age categories used for the analyses in this section, including the minimum age (12) whereby California juvenile courts can exercise jurisdiction over youth and the age categories the Board has used in prior reports.<sup>44</sup>

Considering these factors, the following perceived age categories were used in the analysis of the RIPA data in this report: 1–7, 8–11, 12–14, 15–17, 18–24, and 25 and older.

## Racial Disparities in Law Enforcement Contact with Youth

Nationally, researchers have found police encounters with racialized youth are often qualitatively different from those with White youth. Racialized youth are stopped more frequently, and when stopped, they experience more intrusive police contact than their White counterparts.<sup>45</sup> When “holding socioeconomic context constant race makes a difference in how youth are treated by police and in their perceptions of officers.”<sup>46</sup> Researchers suggest that both over-policing of communities of color and law enforcement intervention with residents who look “out of place” in a community contribute to these disparities in policing.<sup>47</sup> Racial disparities in some youth contacts can be explained by structural racism, which contributes to residential segregation, with predominantly Black neighborhoods being particularly heavily policed.<sup>48</sup>

Research “provides evidence that place is an important determinant of police suspicion.”<sup>49</sup> For instance, researchers observed that Black drivers in predominantly white suburban areas were “more likely to be the subject of mobile data terminal queries (an indicator for suspicion) and that queries about Black[] [people] increased with distance from the city.”<sup>50</sup> Another study on the views of White and Black youth revealed that White youth reported being stopped by the police while “(1) associating with Black males, (2) visiting or traveling through racially mixed or majority-Black neighborhoods, or (3) dressed in hip-hop clothing.”<sup>51</sup> Because racialized youth are more likely to live in areas with a heavier law enforcement presence, they experience a greater likelihood of law enforcement contact than White youth who are more likely to live in less-policed neighborhoods.<sup>52</sup> Racial segregation does not fully account for the disparities, however. Some studies show that racial disparities in policing were present in counties with a low concentration of Black youth, higher ratios of Black to White socioeconomic inequality, and higher levels of economic competition (i.e., White-to-Black unemployment ratios).<sup>53</sup>

One phenomenon that may play a role in youth encounters with law enforcement and contribute to racial disparities from the initiation of a stop to its conclusion is the overestimation of the maturity of racialized youth, also known as *adultification*. Adultification bias is the perception of children of color as significantly older — and more likely to be guilty or dangerous — than White children of the same age. This perception bias may cause law enforcement officers to perceive Black youth as more threatening, to exercise their discretion in a more punitive manner, to use more force, and to impose

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44 Welf. & Inst. Code, §§ 601, 602; California Department of Justice *SB 439 Compliance Information Bulletin* (July 5, 2019) 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)> [as of Nov. 18, 2024].

45 Geller, *Youth-Police Contact: Burdens and Inequities in an Adverse Childhood Experience, 2014-2017* (“*Youth-Police Contact: Burdens and Inequities*”) (2021) 111 *Am. J. Public Health* 1300, 1304-1306 <<https://pubmed.ncbi.nlm.nih.gov/34014760/>> [as of Nov. 18, 2024].

46 Brunson and Weitzer, *Police Relations with Black and White Youths in Different Urban Neighborhoods* (2008) 44 *Urban Affairs Rev.* 858, 879.

47 Carroll and Gonzalez, *Out of Place: Racial Stereotypes and the Ecology of Frisks and Searches Following Traffic Stops* (2014) 51 *J. of Research in Crime and Delinquency* 559, 563; Glover, *Police Discourse on Racial Profiling* (2007) 23 *J. of Contemporary Crim. Justice* 239, 239.

48 Geller, *Youth-Police Contact: Burdens and Inequities*, *supra* note 45, at p. 1306.

49 Carroll and Gonzalez, *supra* note 47, at p. 563.

50 *Ibid.*

51 Brunson and Weitzer, *supra* note 46, at p. 879.

52 Geller, *Youth-Police Contact: Burdens and Inequities*, *supra* note 45, at p. 1306.

53 Andersen, *Race, Ethnicity, and Structural Variations in Youth Risk of Arrest: Evidence from a National Longitudinal Sample* (2015) 42 *Criminal Justice and Behavior* 900, 901-902, 904.

harsher penalties on Black youth.<sup>54</sup> “Even seasoned police officers sampled in [a] study consistently overestimated the age of Black adolescent felony suspects by approximately 4.6 years.”<sup>55</sup>

One study associated the adultification bias with an implicit bias that dehumanizes Black people and has “unique effects on the perception of Black male children.”<sup>56</sup> Adultification bias causes Black youth to be seen as less entitled to the presumption of innocence and the protections that come with childhood, and to instead be seen as dangerous, which can subject Black youth to more intrusive or forceful police actions.<sup>57</sup> This bias facilitates the use of force against youth of color and perceptions of police violence against them as more justified.<sup>58</sup>

Adultification begins to impact Black boys as early as age ten, and is greatest for Black girls between the ages of 5 and 14.<sup>59</sup> In one study, experienced law enforcement officers consistently overestimated the age of Black and Hispanic/Latine(x) children in criminal legal contexts, whereas White children were perceived as their actual chronological ages, if not younger.<sup>60</sup> The officers overestimated the age of Black youth suspected of felonies by 4.59 years.<sup>61</sup> In contrast, officers *underestimated* the age of White youth suspected of felonies by 0.78 years.<sup>62</sup> This means, for example, that officers may see a 10-year-old Black child as 15 years old — but a White child as just 9 years old.

An analysis of the 2023 RIPA data noted disparities in officer perception of the relative ages of Black youth and White youth when they were stopped *together*.<sup>63</sup> When this occurs, the data suggest that officers perceived the Black youth to be slightly older than the White youth with whom they were stopped (.19 years, or 2.3 months) on average.<sup>64</sup> This racial gap in perceived age is most visible for female youth, among whom Black youth are perceived to be .33 years (4 months) older on average.<sup>65</sup>

54 Epstein et al., *Girlhood Interrupted: The Erasure of Black Girls’ Childhood* (2017) Georgetown Law Center on Poverty and Inequality, p. 4 <<https://www.law.georgetown.edu/poverty-inequality-center/wp-content/uploads/sites/14/2017/08/girlhood-interrupted.pdf>> [as of Nov. 18, 2024]; Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children* (2014) 106 J. of Personality and Soc. Psychol. 526, 535 <<https://www.apa.org/pubs/journals/releases/psp-a0035663.pdf>> [as of Nov. 18, 2024].

55 Epstein et al., *supra* note 54, at p. 4 (citing Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, *supra* note 54, at p. 532 [“The magnitude of this overestimation also bears repeating. Because Black felony suspects were seen as 4.53 years older than they actually were, this would mean that boys would be misperceived as legal adults at roughly the age of 13 and a half.”]).

56 Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, *supra* note 54, at p. 535 (“The observed associations between dehumanization and violent outcomes for Black children provide further support for our hypothesis that Black children, in contexts of dehumanization, are prematurely treated as adults. Again, the implicit dehumanization of Black children predicted the extent to which police officers overestimate the age of Black suspects, how culpable those Black suspects are perceived to be, and the extent to which officers were more likely to use force on Black suspects than suspects of other races throughout their career, controlling for how much suspects resist arrest or are located in high-crime areas. It is important to highlight that these racial disparities were not predicted by traditional measures of explicit or implicit racial prejudice. Instead, these disparities may be a result of exposure to dehumanizing representations of Blacks [people].”).

57 Epstein et al., *supra* note 54, at p. 1; Bratton and Howard Smith, *Growing Up a Suspect*, *supra* note 41, at p. 154; see also Taylor-Thompson, *Treating All Kids as Kids* (May 24, 2021) Brennan Center for Justice <<https://www.brennancenter.org/our-work/analysis-opinion/treating-all-kids-kids>> [as of Nov. 18, 2024]; Perillo et al., *Examining the Consequences of Dehumanization and Adultification in Justification of Police Use of Force Against Black Girls and Boys* (2023) 47 Am. Psychol. Assn. 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.”).

58 Epstein et al., *supra* note 54, at pp. 1, 4; Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, *supra* note 54, at pp. 526, 529, 536, 545.

59 Epstein et al., *supra* note 54, at p. 1; Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, *supra* note 54, at pp. 529, 536; Perillo et al., *supra* note 57.

60 Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, *supra* note 54, at pp. 534-535.

61 *Id.* at p. 535.

62 *Ibid.*

63 See Appendix F, F.1.

64 See *ibid.*

65 See *ibid.*



Because RIPA data records the officer’s perception and not an individual’s actual age, it is unclear why officers are more likely to perceive Black youth as older than White youth when they are stopped together. These disparities in perceived age suggest adultification bias, but more analysis is needed to more concretely assess officer perception of the relative ages of Black and White youth when they are stopped together.<sup>66</sup>

## Impact of Law Enforcement Interactions<sup>67</sup> on Youth

Negative police encounters could have a harmful impact on a child’s life, and the earlier this negative experience occurs, the more harmful that impact is likely to become.<sup>68</sup> One study found that “the frequency of police stops predicted more frequent engagement in delinquent behavior 6, 12, and 18, mo[nths] later, whereas delinquent behavior did not predict subsequent reports of police stops.”<sup>69</sup> The research clarifies that it is not the absence of cordial language that defines a police encounter as “negative;” rather, it is the set of practices commonly associated with “proactive policing”<sup>70</sup> that are the most

“[T]he single most common proactive policing strategy — directing officers to make contact with individual boys and young men in ‘high-crime’ areas — may impose a terrible cost.”

— Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 8261, 8267.

negatively consequential on youth.<sup>71</sup> A wealth of research demonstrates that negative law enforcement 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>72</sup>

Studies also show that direct contact with law enforcement — and vicarious exposure to proactive policing practices, such as when a child observes their parent or family members stopped because of strict enforcement of low-level crimes or extensive use of police stops — are associated with negative education outcomes, including reduced test scores and lower grade point averages.<sup>73</sup>

66 The methodology used involved looking at those stops where a group of young people were stopped together at the same time. (Appendix F, F.1.) “There is no reason to assume that, when they are part of a group, Black youth are older than their White peers.” (*Ibid.*) Additional analyses, in which youths’ actual ages can be analyzed to verify these conclusions, would allow for a more conclusive analysis of adultification. (See *ibid.*) Because RIPA data records the officer’s perception and not an individual’s actual age, however, it would be difficult to conduct a more conclusive analysis using the RIPA data. (See *ibid.*)

67 The Board defines “law enforcement interactions” as those interactions between youth and law enforcement that would constitute a stop for the purposes of the RIPA data. Those interactions are defined by statute and the Code of Regulations as detentions, or interactions that results in searches. (Gov. Code, § 12525.5, subd. (g)(2); Cal. Code Regs., tit. 11, § 999.224, subd. (a)(20).)

68 Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys* (March 2019) 116 PNAS 8261, 8267 <<https://pubmed.ncbi.nlm.nih.gov/30962370/>> [as of Nov. 18, 2024].

69 *Id.* at p. 8266.

70 “Proactive policing” is a model of policing “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 Am. J. of Public Health 2321, 2321.) This model of policing encompasses tactics such as stop-and-frisk or *Terry* stops.

71 Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys*, *supra* note 68, at p. 8261; Rios et al., *Mano Suave-Mano Dura: Legitimacy Policing and Latino Stop-and-Frisk* (2020) 85 Am. Sociological. Rev. 58, 67 (“Officers used courtesy and punitive strategies during stops. Although officers often voiced or conveyed a positive intention during the initial contact with gang-associated Latinos, the final outcome of these encounters was often negative.”).

72 Geller, *Youth-Police Contact: Burdens and Inequities*, *supra* note 45, at p. 1306; Jackson et al., *Police Stops Among At-Risk Youth: Repercussions for Mental Health* (2019) 65 J. of Adolescent Health 627; Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys*, *supra* note 68, at pp. 8263-8266.

73 Gottlieb and Wilson, *The Effect of Direct and Vicarious Police Contact on the Educational Achievement of Urban Teens* (2019) 103 Children and Youth Services Rev. 190, 196; St. John et al., *Reducing Adverse Police Contact Would Heal Wounds for Children and Their Communities* (Jun. 14, 2022) Child Trends: Trauma and Resilience <<https://www.childtrends.org/publications/reducing-adverse-police-contact-would-heal-wounds-for-children-and-their-communities>> [as of Nov. 18, 2024].

Researchers conclude that contact with law enforcement — including simply being *stopped* by police — could have long-term consequences on youth, including higher levels of law-violating behavior and fewer educational and employment opportunities.<sup>74</sup> One study of more than 2,000 middle-school students showed that youth who were merely stopped (but not arrested) by police showed lower levels of school commitment, poorer grades, less participation in prosocial activities, less anticipated guilt, and higher levels of delinquency,<sup>75</sup> and that being stopped is associated a 60 percent increase in delinquency.<sup>76</sup>

A study of the mental well-being among youth who witnessed police stops demonstrated notable findings regarding the effects of those stops on their mental health.<sup>77</sup> In that study, researchers looked at a random sample of more than 2,500 youth with no history of being directly stopped by police, and more than 1,400 youth who reported “having witnessed police stops in their neighborhoods and/or schools,” but who themselves had never been directly stopped by the police.<sup>78</sup> Researchers assessed: (1) whether witnessed police stops affected youth mental well-being (depression, anxiety, and happiness); (2) whether the level of police officer intrusiveness<sup>79</sup> affected youth mental well-being; (3) whether youth experienced emotional distress (fear, anger, or feeling unsafe) during the witnessed stop, and to what degree the amount of police officer intrusiveness affected such distress; and (4) whether there were any variations by youth sex and/or youth race and ethnicity.<sup>80</sup>

The researchers made three main findings. First, youth who witnessed stops had poorer mental well-being than those who had not witnessed any stops, including greater depression and anxiety and lower levels of happiness.<sup>81</sup> Second, among those youth who had witnessed stops, any type of officer intrusiveness — pat-downs, searches, use of harsh language, racial slurs, threats of physical force or actual use of force, or handcuffing — was consistently associated with diminished mental well-being, explained in part by the emotional distress reported during the witnessed stop.<sup>82</sup> Third, while youth of color (Latine(x), Black, other race) reported less anxiety than their White counterparts after witnessing an intrusive stop, Black and Hispanic/Latine(x) youth reported greater reductions in happiness than White youth.<sup>83</sup> This last finding suggests that — at least in the case of witnessed stops — “there may be critical racial/ethnic differences in mental health responses, even if youth across the board are more likely to experience adverse mental health outcomes.”<sup>84</sup>

These disparities impact not only youth who have committed violations but also youth engaged in lawful activity. One study found that non-delinquent Black and Latino boys faced the same risk of law enforcement surveillance as “self-reported” delinquent boys.<sup>85</sup> The research 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>86</sup> Black youth “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>87</sup>

74 Wiley and Esbensen, *The Effect of Police Contact: Does Official Intervention Result in Deviance Amplification?* (2013) 62 *Crime & Delinquency* 283, 285.

75 Wiley et al., *The Unintended Consequences of Being Stopped or Arrested: An Exploration of the Labeling Mechanisms Through Which Police Contact Leads to Subsequent Delinquency* (2013) 51 *Criminol.* 927, 931.

76 *Id.* at p. 951.

77 Jackson et al., *Youth Mental Well-Being Following Witnessed Police Stops* (2022) 99 *J. of Urban Health* 783, 790-791.

78 *Id.* at p. 785.

79 “Police officer intrusiveness” was measured by asking youth who witnessed stops whether the stop involved: (1) a frisk them or pat them down; (2) a search of bags or pockets; (3) the officer’s use of harsh language; (4) the officer’s use of racial slurs; (5) the officer’s threat of physical force; (6) the officer’s use of physical force; or (7) the officer’s use of handcuffs. (*Id.* at p. 786.)

80 *Id.* at p. 784.

81 *Id.* at pp. 790-791.

82 *Id.* at p. 791.

83 *Ibid.*

84 *Ibid.*

85 Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys*, *supra* note 68, at pp. 8261-8262, 8267.

86 *Id.* at p. 8267.

87 Brunson and Weitzer, *supra* note 46, at p. 879.

These studies shed light on the enduring consequences of typical police interactions with youth. Indeed, 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>88</sup> “[T]he single most common proactive policing strategy<sup>89</sup> — directing officers to make contact with individual boys and young men in ‘high-crime’ areas — may impose a terrible cost.”<sup>90</sup>

### C. Youth-Specific RIPA Stop Data Analysis

As discussed above, proactive policing practices, which often emphasize enforcement of quality of life and other low-level violations as a tool for intrusive police activities in areas deemed high-crime areas, can have harmful effects on youth, particularly youth of color. Part of what drives disparities in police encounters and facilitates the resulting negative consequences on youth are implicit biases such as the adultification bias. This year’s RIPA data suggests that police departments across California may be engaging in proactive policing practices.

The RIPA regulations define the interactions with members of the public that officers must report.<sup>91</sup> The regulations define a stop as any detention of a person by a peace officer and any interaction in which the officer conducts a search.<sup>92</sup> A detention, as defined by the regulations, is a seizure of a person by an officer that results from physical restraint, unequivocal verbal commands, or words or conduct by an officer that would result in a reasonable person believing they are not free to leave or otherwise disregard the officer.<sup>93</sup> A search, as defined by the regulations, is a search of a person’s body or property in the person’s possession or under their control, and includes a pat-down search of a person’s outer clothing as well as a consensual search.<sup>94</sup> Although the RIPA regulations broadly cover stops, it could be assumed that some law enforcement interactions with youth do not meet this definition of a stop under the RIPA regulations and, consequently, officers are not required to report those interactions under RIPA.

Looking at the 2023 RIPA data, law enforcement officers reported 823,773 stops involving youth 24 and younger (17.5% of all stops).

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88 Legewie and Fagan, *Aggressive Policing, and the Educational Performance of Minority Youth* (April 2019) 84 *American Sociological Review* 220, 239.

89 As noted above, “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*, *supra* note 70, at p. 2321.) It encompasses tactics such as stop-and-frisk or Terry stops.

90 Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys*, *supra* note 68, at p. 8267.

91 Cal. Code Regs., tit. 11, § 999.227, subd. (a)(1).

92 *Id.* § 999.224, subd. (a)(20).

93 *Id.* § 999.224, subd. (a)(7).

94 *Id.* § 999.224, subd. (a)(19).

Figure 44. Total Stops by Age (Youth under 25)

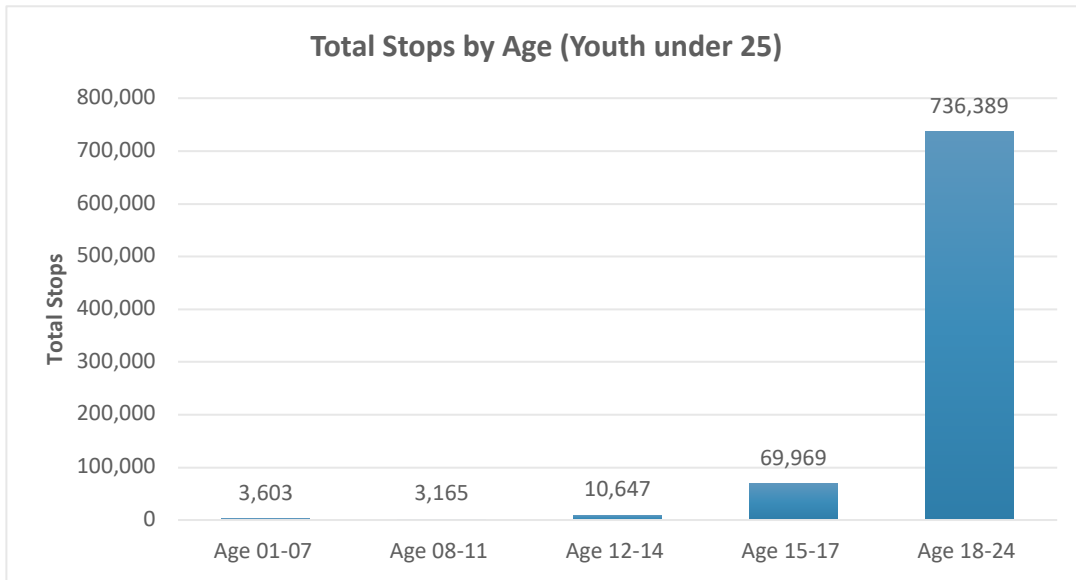
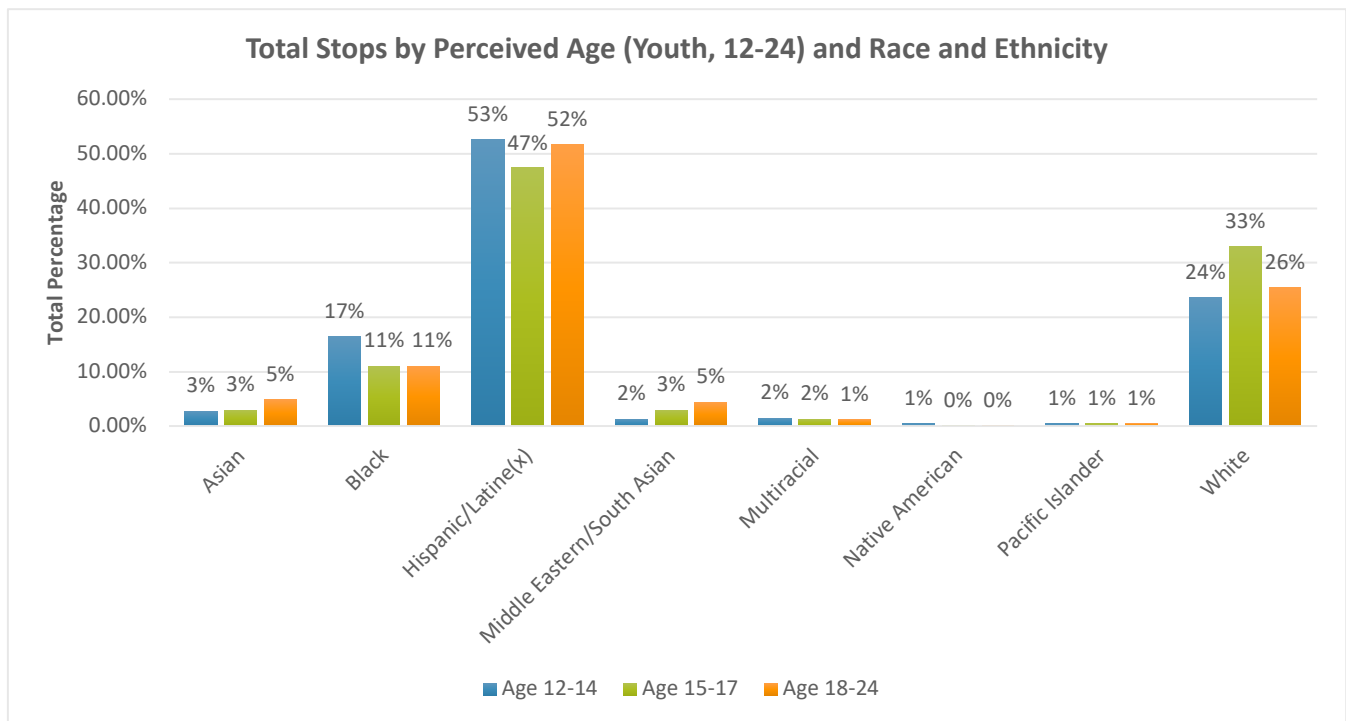


Figure 45. Total Stops by Perceived Age (Youth, 12-24) and Race and Ethnicity



## Demographics of Youth Who Are Interacting with Law Enforcement in California

In 2022, the most recent year for which population data was available at the time of the writing of this report, California was home to approximately 39 million people, of whom 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>95</sup> The LGBT population in California largely reflects the racial and ethnic diversity of the state, and younger Californians are much more likely than older Californians to identify as LGBT.<sup>96</sup> An estimated 234,000 youth ages 13–17 identify as lesbian, gay, or bisexual, and an estimated 22,200 youth ages 13–17 identify as transgender.<sup>97</sup> Among transition age youth,<sup>98</sup> about 13.6 percent of youth ages 18–24 (about 514,400 youth) identify as lesbian, gay, bisexual, and/or transgender, while Californians older than 24 are less likely to identify as LGBT.<sup>99</sup>

Current national estimates of disability prevalence from different data sources range from 8 percent to over 30 percent of the population.<sup>100</sup> Understanding that these are comparatively conservative estimates, in this report, the Board references data about disability prevalence from the American Community Survey because it provides California-specific estimates for youth and adults.<sup>101</sup> Californians over 18 make up a larger percentage of the total number of those with disabilities (an estimated 8.3% of Californians, or more than two million people) compared to Californians under 18 (an estimated 3.7% of Californians, or approximately 320,000 people).<sup>102</sup>

### Reason for Stops

This section discusses the data collected on the reasons officers reported for stopping youth. As shown below, there are large disparities between youth of color and White youth in the stop data. The disparities within this data suggest that bias may affect an officer’s decision to stop youth and how racial and identity profiling applies to stops of youth.

#### a. Reasonable Suspicion — Generally

The 2023 RIPA data show that the percentage of stops based on reasonable suspicion varied across age categories for racial or ethnic groups. However, consistently across all age groups, Black youth had the greatest percentage of stops based on reasonable suspicion compared to other racial or ethnic groups.

95 Statista, *Distribution of Resident Population in California, by Age Group* (2024) <<https://www.statista.com/statistics/912915/california-population-share-age-group/>> [as of Nov. 18, 2024] (31.2 percent of Californians were under 25 years of age, and 22.8 percent were under 18 years of age.); U.S. Census Bureau, *2017-2021 ACS 5-Year Estimates* (2022) <https://www.census.gov/programs-surveys/acs/technical-documentation/table-and-geography-changes/2021/5-year.html> [as of Nov. 18, 2024]; U.S. Census Bureau, *Quick Facts: California* (2023) <<https://www.census.gov/quickfacts/fact/table/CA/PST045222#PST045222>> [as of Nov. 18, 2024].

96 Johnson, *California’s LGBT Population* (June 8, 2022) Public Policy Institute of California <<https://www.ppic.org/wp-content/uploads/californias-lgbt-population-july-2022.pdf>> [as of Nov. 18, 2024].

97 Conron, *LGBT Youth Population in the United States* (2020) UCLA School of Law Williams Institute, p. 1 <<https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Youth-US-Pop-Sep-2020.pdf>> [as of Nov. 18, 2024].

98 As previously noted, the federal government defines “transition age youth” as persons between 16 and 24 years of age. (Interagency Working Group on Youth Programs, *Transition & Aging Out*, *supra* note 41.)

99 Flores and Conron, *Adult LGBT Population in the United States* (2023) UCLA School of Law Williams Institute, p. 13 <<https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Adult-US-Pop-Dec-2023.pdf>> [as of Nov. 18, 2024]. An estimated 8.1 percent of Californians ages 25-34 identify as LGBT, an estimated 3.7 percent of Californians ages 35-49 identify as LGBT, an estimated 2.5 percent of Californians ages 50-64 identify as LGBT, and an estimated 1.6 percent of Californians who are 65 and older identify as LGBT. (*Ibid.*)

100 National Center on Birth Defects and Developmental Disabilities, *Disability Datasets* (2024) <<https://www.cdc.gov/ncbddd/disabilityandhealth/datasets.html>> [as of Nov. 18, 2024]. Even when the Census Bureau’s American Community Survey and the Center for Disease Control’s Behavioral Risk Factor Surveillance System use the same set of six questions. Differences in data collection methods and response rates produce different prevalence estimates.

101 *Ibid.*

102 U.S. Census Bureau, *American Community Survey, ACS 5-Year Estimates Data Profiles, Table DP02, 2022*, <<https://data.census.gov/table/ACSDP5Y2022.DP02?q=DP02&t=Disability&g=040XX00US06>> [as of Nov. 18, 2024].

**Perceived Race and Ethnicity:** Among youth perceived to be 12–14, 72.9 percent of the stops of youth perceived to be Black (1,288 stops) and 64.0 percent of stops of youth perceived to be Hispanic/Latine(x) (3,589 stops) were based on reasonable suspicion. Comparatively, 51.4 percent of the stops of youth perceived to be White were based on reasonable suspicion (1,296 stops).

Among youth perceived to be 15–17, 54.0 percent of the stops of youth perceived to be Black (4,194) and 36.7 percent of stops of youth perceived to be Hispanic/Latine(x) (12,152 stops) were based on reasonable suspicion. In comparison, only 18.9 percent of the stops of youth perceived to be White were based on reasonable suspicion (4,368 stops).

Among youth perceived to be 18–24, 17.4 percent of the stops of youth perceived to be Black (14,278 stops), and 12.3 percent of stops of youth perceived to be Native American (229 stops) were based on reasonable suspicion, compared to only 7.8 percent of the stops of youth perceived to be White (14,588 stops).

**Perceived Gender:** Youth perceived as gender nonconforming or transgender had a larger percentage of stops for reasonable suspicion than youth perceived as cisgender.<sup>103</sup>

Among youth perceived to be 12–24, 24.8 percent of stops of youth perceived to be transgender or gender nonconforming were based on reasonable suspicion (969 stops), compared to 12.2 percent of stops of youth perceived to be cisgender (98,973 stops).

## b. Reasonable Suspicion — Analysis of Specific Offenses

In this section, the Board conducts a closer review of seven specific offenses commonly seen in police interactions with youth. In continuation of its work to address pretextual stops, the Board reviews stops related to loitering and pedestrian roadway violations. The Board chose to review stops related to disturbing the peace, trespassing, and vandalism because disparities in these stops could indicate the proactive policing of youth. Finally, the Board reviews stops related to an example of an age-based offense, underage drinking, because this offense is specific to youth. Youth advocates have recommended that law enforcement redirect all instances of status offenses — like underage drinking — to pre-arrest diversion services outside of the formal criminal legal system.<sup>104</sup>

This section includes comparisons of stop data to the estimated population in California to examine whether racial and ethnic groups are overrepresented in stops compared to their proportion of the population. Population estimates analyses assume that the distribution of stops will generally resemble the overall racial and ethnic distribution of residents of California.

### (1) Loitering

Despite extensive policing reform, there has been substantial continuity in policing practices to regulate urban order related to conceptions about the ideal use of public space.<sup>105</sup> Loitering charges are particularly vulnerable to overuse and the labeling of otherwise innocuous behavior of standing or waiting on the street as “loitering” shapes and reinforces perceptions of normal behavior as deviant or criminal.<sup>106</sup> In certain communities, “loitering” is viewed as disruptive to the ideal regular ordering

103 As defined in the RIPA Regulations, “‘cisgender’ means a person whose gender identity and gender expression align with the person’s assigned sex at birth.” (11 Cal. Code. Regs. § 999.226 (a)(6)(B)(1).)

104 Mendel, *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice (“Diversion: A Hidden Key”)* (2022) The Sentencing Project, p. 9 <<https://www.sentencingproject.org/app/uploads/2022/10/Diversion-A-Hidden-Key-to-Combating-Racial-and-Ethnic-Disparities-in-Juvenile-Justice.pdf>> [as of Nov. 18, 2024]; see Mendel, *Protect and Redirect: America’s Growing Movement to Divert Youth out of the Justice System* (2024) The Sentencing Project, p. 5 <<https://www.sentencingproject.org/app/uploads/2024/03/Protect-and-Redirect-Americas-Growing-Movement-to-Divert-Youth-Out-of-the-Justice-System.pdf>> [as of Nov. 18, 2024].

105 Bland, *‘Lurking’ and ‘Loitering’: The Genealogy of Languages of Police Suspicion in Britain* (2021) *Policing and Society*, pp. 664-665.

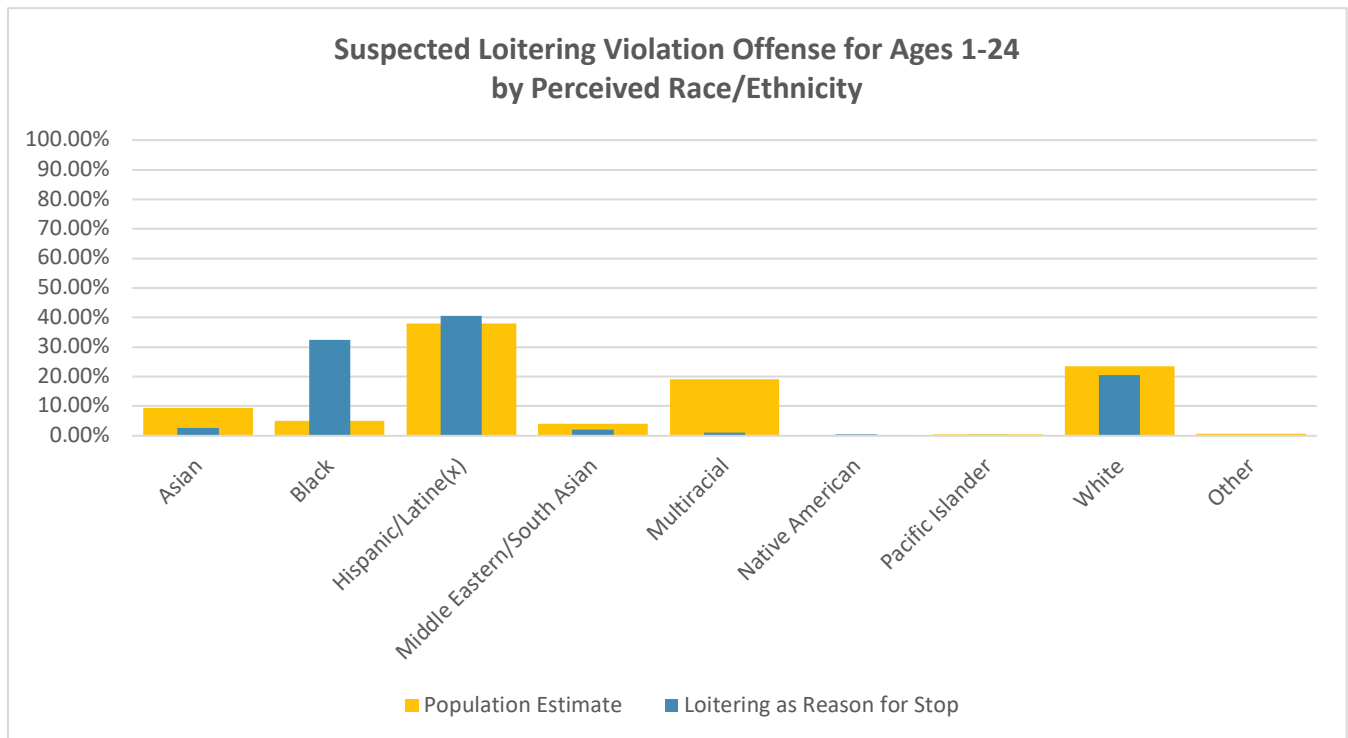
106 Bland, *supra* note 105, at p. 665.

of the urban environment.<sup>107</sup> There were racial differences in the proportions of stops of youth that officers reported for suspected loitering violations.<sup>108</sup>

Of all stops of youth 1–24 for suspected loitering violations, 40.58 percent were of youth perceived as Hispanic/Latine(x) (784 stops), 32.58 percent were of youth perceived as Black (627 stops), and 20.55 percent were of youth perceived as White (343 stops).

While the proportion of stops of White youth perceived to be 1–24 for suspected loitering offenses was lower than the proportion of White youth in California’s population, the proportion of stops of Hispanic/Latine(x) and Black youth for suspected loitering offenses significantly surpassed the proportion of those groups in the population.

Figure 46. Suspected Loitering Violations, Youth 1-24, separated by Perceived Race/Ethnicity



## (2) Pedestrian Roadway Violations

There were racial differences in the proportions of stops for youth that officers reported for suspected pedestrian roadway violations. Pedestrian roadway stops include offenses such as not crossing at a designated intersection or a pedestrian’s failure to obey a traffic sign.<sup>109</sup>

Of all stops of youth 1–24 for suspected pedestrian roadway violations, 42.76 percent were of youth perceived as Hispanic/Latine(x) (1,429 stops), 30.283 percent were of youth perceived as Black (1,012 stops), and 20.74 percent were of youth perceived as White (693 stops).

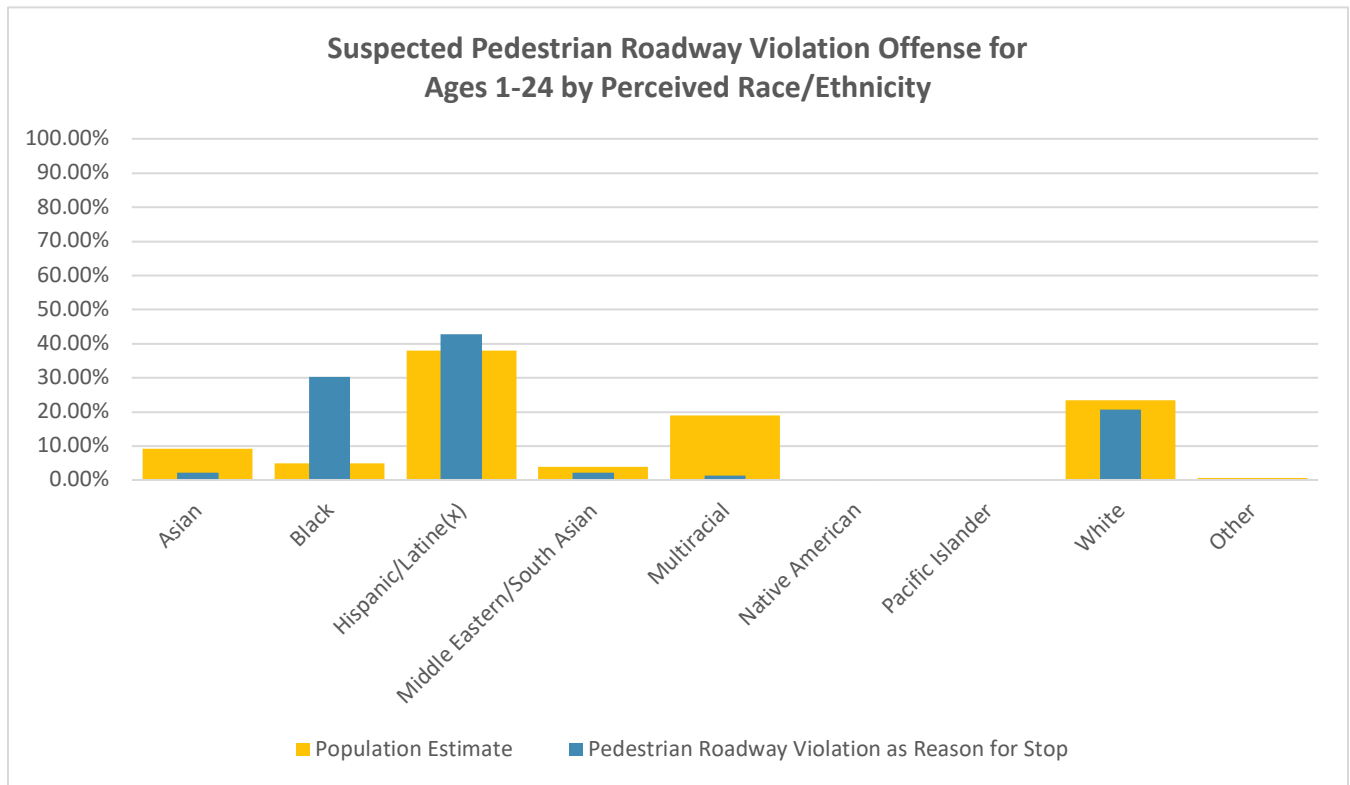
107 *Id.* at p. 668. Following ratification of the Thirteenth Amendment to the U.S. Constitution in 1865, Southern states “quickly passed ‘Black Codes’ – new laws that explicitly applied only to Black people and subjected them to criminal prosecution for “offenses” such as loitering, breaking curfew, vagrancy, having weapons, and not carrying proof of employment.” (Equal Justice Initiative, *Convict Leasing* (2013) <<https://eji.org/news/history-racial-injustice-convict-leasing/>> [as of Nov. 18, 2024].)

108 Pen. Code, §§ 555.2, 647, subds. (b)(1)-(2), (c), (d), (e), (h), (i), 653.23, subds. (a)(1)-(2), 653b, subd. (a); Pub. Util. Code, § 120451; Health & Saf. Code, § 11532 subd. (a).

109 Veh. Code, §§ 21106, subd. (b), 21451, subds. (c)-(e), 21452, subds. (b)-(c), 21453, subds. (d)-(e), 21456, subd. (b), 21456.1, 21461.5, 21462, subd. (b), 21950, subds. (b), (e), 21953, 21954, 21955, 21956, 21957, 21960, 21961, subd. (b), 21966, 23331.

While the proportion of stops of White youth for suspected pedestrian roadway violations was lower than the proportion of White youth in California’s population, the proportion of stops of Hispanic/Latine(x) and Black youth for suspected pedestrian roadway violations greatly surpassed the proportion of those groups in the population.

Figure 47. Suspected Pedestrian Roadway Offenses Youth 1-24, separated by Perceived Race/Ethnicity



### (3) Disturbing the Peace

There were racial differences in the proportions of stops for youth officers reported for suspected disturbing the peace violations.<sup>110</sup>

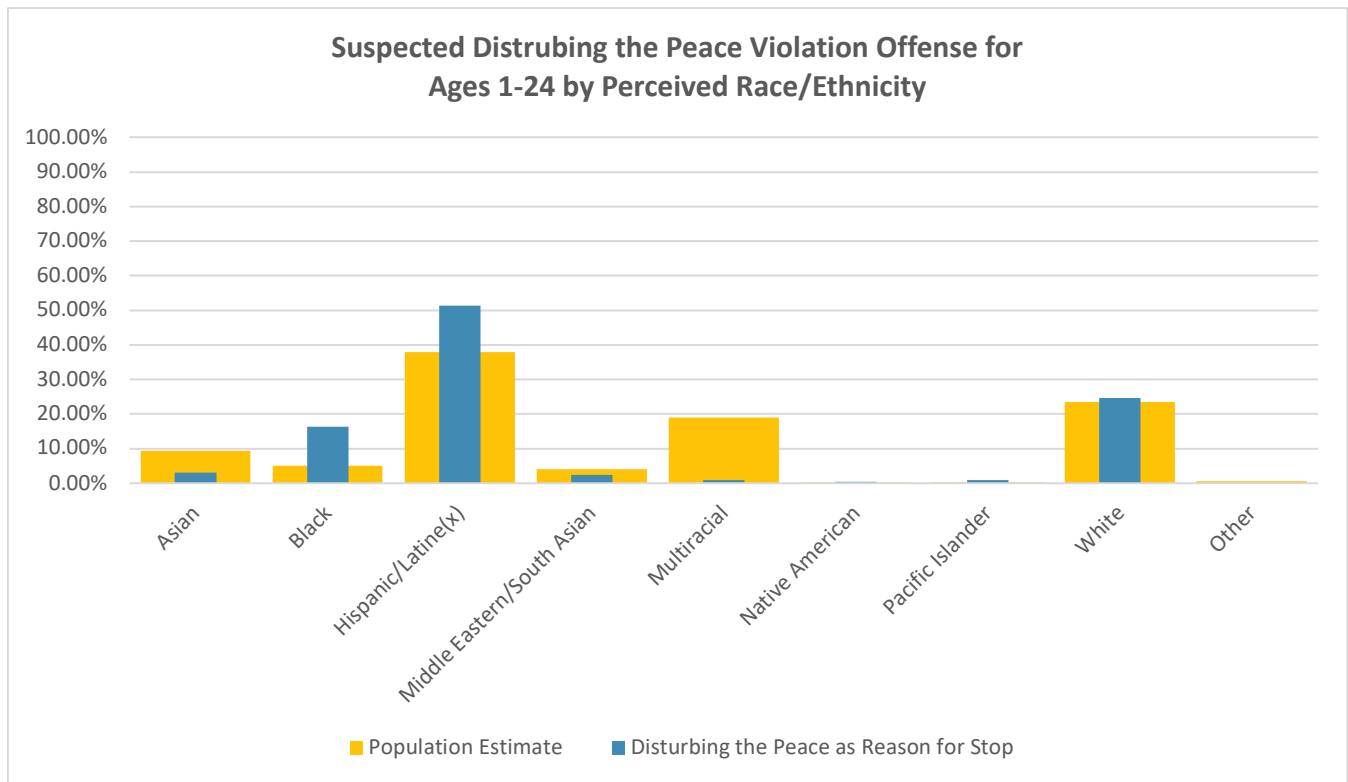
Of all stops of youth 1–24 for suspected disturbing the peace violations, 51.34 percent were of youth perceived as Hispanic/Latine(x) (1,498 stops), 16.38 percent were of youth perceived as Black (478 stops), and 24.57 percent were of youth perceived as White (717 stops).

While the proportion of stops of White youth for suspected disturbing the peace violations was comparable to the proportion of White youth in California’s population, the proportion of stops of Hispanic/Latine(x) and Black youth for suspected disturbing the peace violations significantly surpassed the proportion of those groups in the population.

110 Pen. Code, §§ 415 subds. (1)-(3), 415.5 subd. (a).



Figure 48. Suspected Disturbing the Peace Violations, Youth 1-24, separated by Perceived Race/Ethnicity



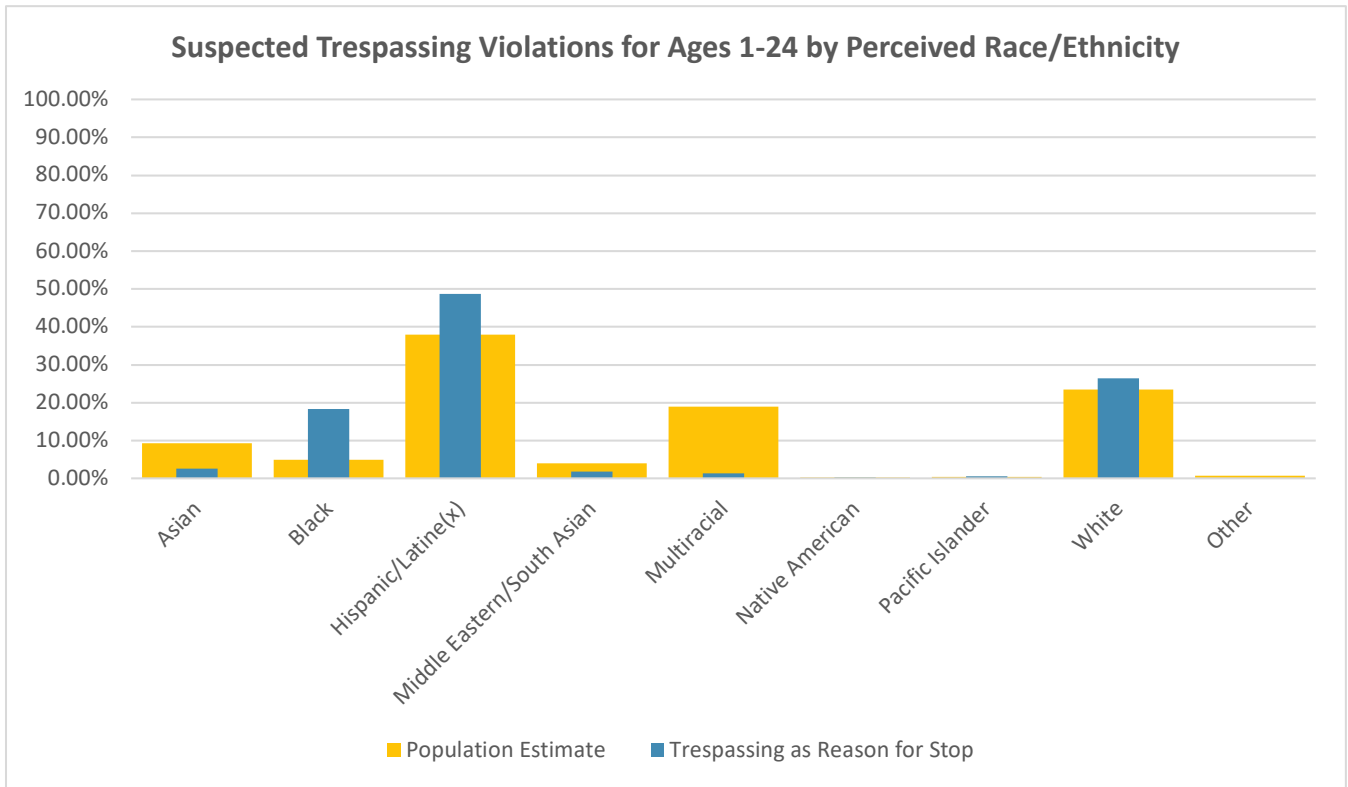
#### (4) Trespassing

There were racial differences in the proportions of stops for youth officers reported for suspected trespassing violations.<sup>111</sup> Of all stops of youth perceived to be 1–24 for suspected trespassing violations, 48.65 percent were of youth perceived as Hispanic/Latine(x) (2,693 stops), 18.32 percent were of youth perceived as Black (1,014 stops), and 26.43 percent were of youth perceived as White (1,463 stops).

The proportion of stops of Hispanic/Latine(x), Black, and White youth perceived to be 1–24 for suspected trespassing violations was greater than the proportion of those groups in the population. The disproportionality in relation to residential population was greater for Hispanic/Latine(x) and Black youth.

111 Mil. & Vet. Code, § 398; Pen. Code, §§ 369i subds. (a)(1), (b)(1), 555, 558, 587b, 601, subd. (a), 602, 602.1, subd. (a), 602.3, subd. (a), 602.4, subd. (a), 602.5, subds. (a)-(b), 602.6, 602.7, 602.8, subd. (a), 602.13, subd (a), 634; Sts. & Hy. Code, § 27174.2.

Figure 49. Suspected Trespassing Violations Youth 1-24, separated by Perceived Race/Ethnicity



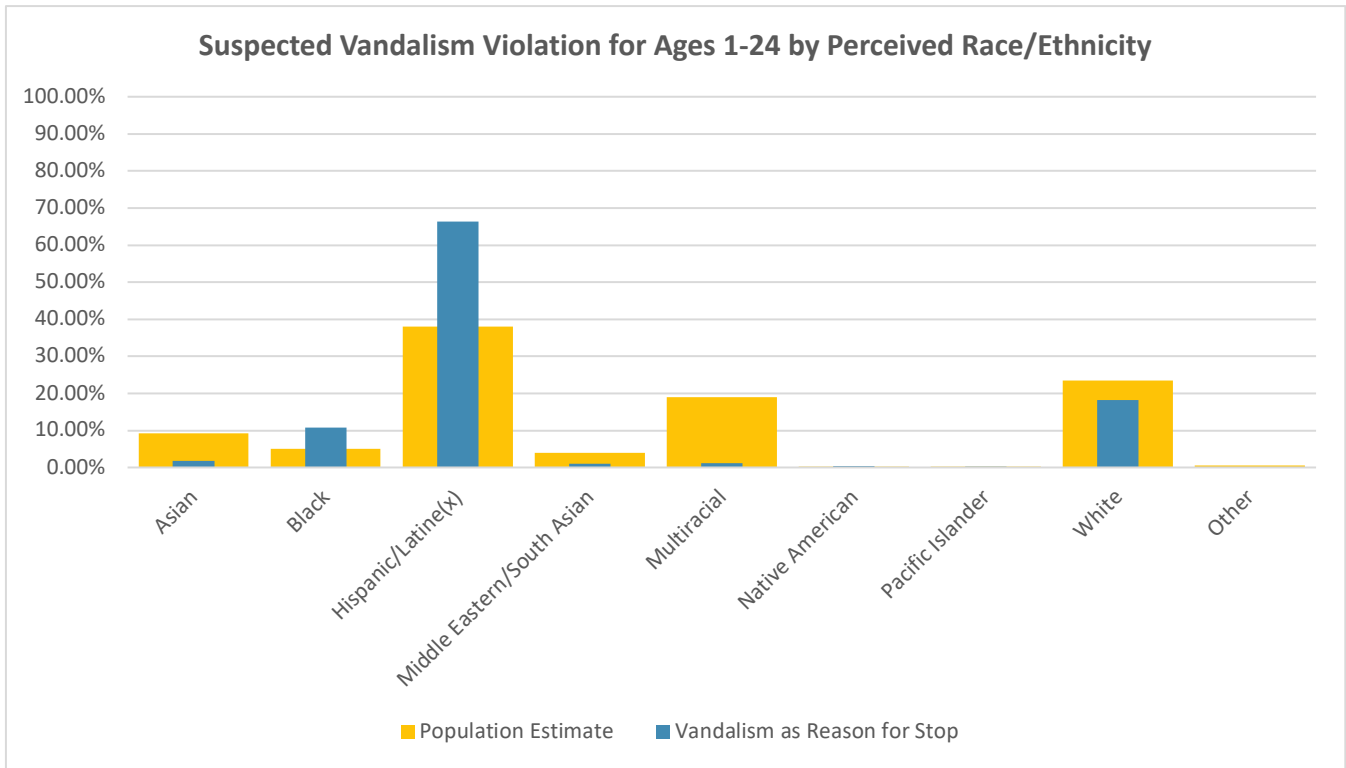
### (5) Vandalism

There were racial differences in the proportions of stops for youth officers reported for suspected vandalism violations.<sup>112</sup> Of all stops of youth 1–24 for suspected vandalism violations, 66.38 percent were of youth perceived as Hispanic/Latine(x) (2,444 stops), 10.78 percent were of youth perceived as Black (397 stops), and 18.20 percent were of youth perceived as White (670 stops).

While the proportion of stops of White youth for suspected vandalism violations was slightly lower than the proportion of White youth in California’s population, the proportion of stops for Black youth for suspected vandalism violations was greater than the proportion of Black youth in the population and the proportion of stops of Hispanic/Latine(x) youth for suspected vandalism violations greatly surpassed the proportion of Hispanic/Latine(x) youth in the population.

112 Pen. Code, §§ 594, subs. (a)-(b), 594.2 subd. (a), 594.3 subs. (a)-(b), 594.7, 640.7.

Figure 50. Suspected Vandalism Violations Youth 1-24, separated by Perceived Race/Ethnicity



### (6) Status Offenses

The term “delinquency offense” refers to an offense a minor commits that is processed in juvenile court that would be prosecuted in criminal court if an adult committed the same offense.<sup>113</sup> “Status offenses” are actions that are illegal only because of a youth’s age.<sup>114</sup> Nationally, in 2019, status offenses accounted for about 11 percent of the cases in juvenile courts.<sup>115</sup> Of all cases processed in juvenile courts, law enforcement agencies referred 18 percent of status offense cases, compared with 83 percent of delinquency cases.<sup>116</sup> Among status offense cases, law enforcement agencies were more likely to be the referral source for those related to curfew, underage drinking, and possession of alcohol than other status offense cases.<sup>117</sup>

Girls are charged more often with status offenses than delinquency offenses. While nationally, girls were involved in only 28 percent of the delinquency cases formally processed in 2019, they were involved in 44 percent of status offense cases.<sup>118</sup> Unhoused youth are also particularly vulnerable to status offenses.<sup>119</sup>

Below, the Board reviews stops related to underage drinking as an example of an age-based offense specific to youth.

113 Puzanchera et al., *Youth and the Juvenile Justice System: 2022 National Report* (2022) National Center for Juvenile Justice, pp. 92, 139.

114 Youth.Gov, *Youth Involved with the Juvenile Justice System* (2023) <<https://youth.gov/youth-topics/juvenile-justice/youth-involved-juvenile-justice-system>> [as of Nov. 18, 2024].

115 Puzanchera et al., *supra* note 113, at p. 168.

116 *Ibid.*

117 *Id.* at pp. 139, 168.

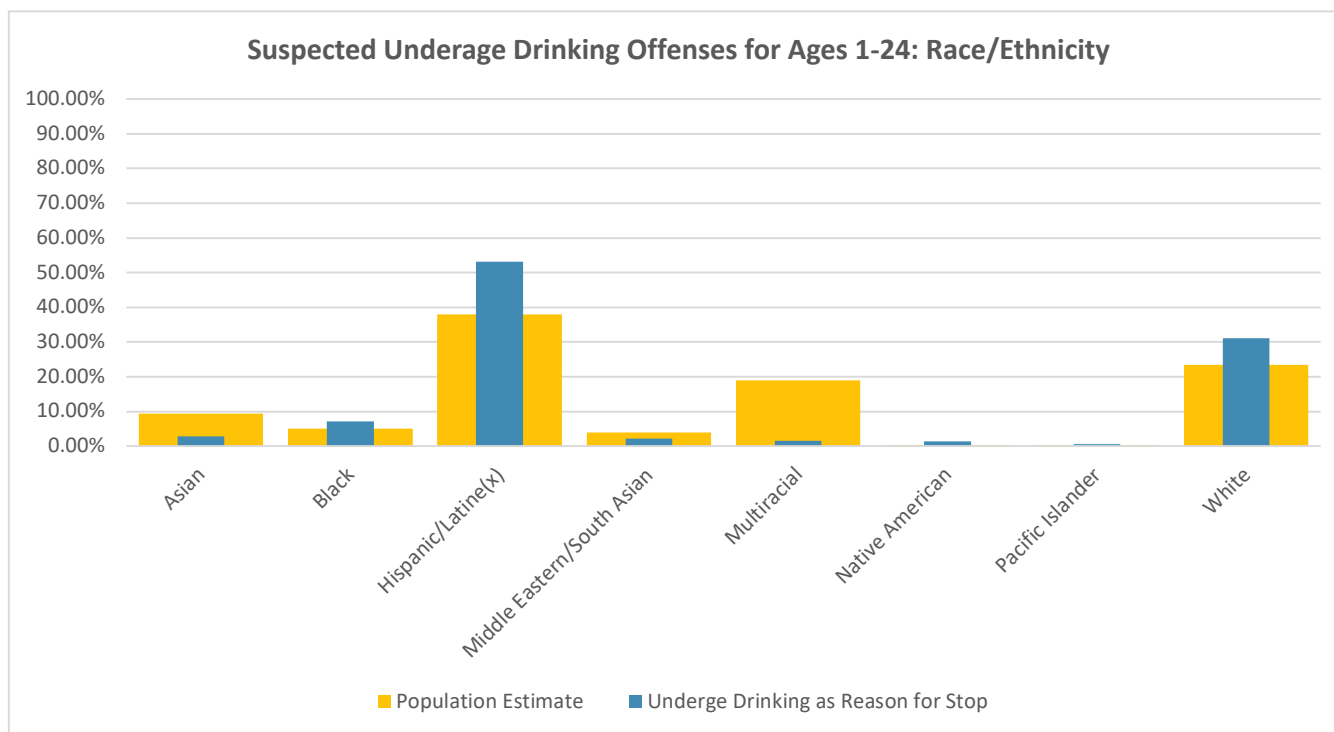
118 *Id.* at p. 169.

119 Toolis and Hammack, *The Lived Experience of Homeless Youth: A Narrative Approach* (2015) 2 *Qualitative Psychology* 1, 50-68.

## (7) Underage Drinking

In California, the use of alcohol is prohibited for youth under 21.<sup>120</sup> There were racial differences in the proportions of stops of youth that officers reported for suspected underage drinking. Of all stops of youth 1–24 for suspected underage drinking, 53.1 percent were of youth perceived as Hispanic/Latine(x) (1,845 stops) and 31.1 percent were of youth perceived as White (1,081 stops). The proportion of stops of Hispanic/Latine(x) and White youth perceived to be 1–24 for suspected underage drinking was greater than the proportion of those groups in the population. The disproportionality in relation to the residential population was greater for Hispanic/Latine(x) youth.

Figure 51. Suspected Underage Drinking Violations, Youth 1-24, separated by Perceived Race/Ethnicity



National research shows that the use of alcohol by high school students has declined since the mid-1990s and reached historic lows in 2019.<sup>121</sup> While there were not large changes in students’ perception of the availability of alcohol across this period, students’ decreased use of alcohol was tied to the students’ perceptions of possible harm from use.<sup>122</sup> This suggests the importance of a public health approach to addressing youth alcohol use.

## (8) Traffic Violations

There were racial differences in the proportion of traffic stops officers reported for equipment, moving, and non-moving violations in stops of youth. Among traffic stops of youth perceived to be 15–17, Hispanic/Latine(x) youth had 26.3 percent of their traffic stops for equipment violations (4,757 stops) and Black youth had 22.7 percent of their traffic stops for equipment violations (646 stops), while White youth had 15.4 percent of their traffic stops for equipment violations (2,728 stops).

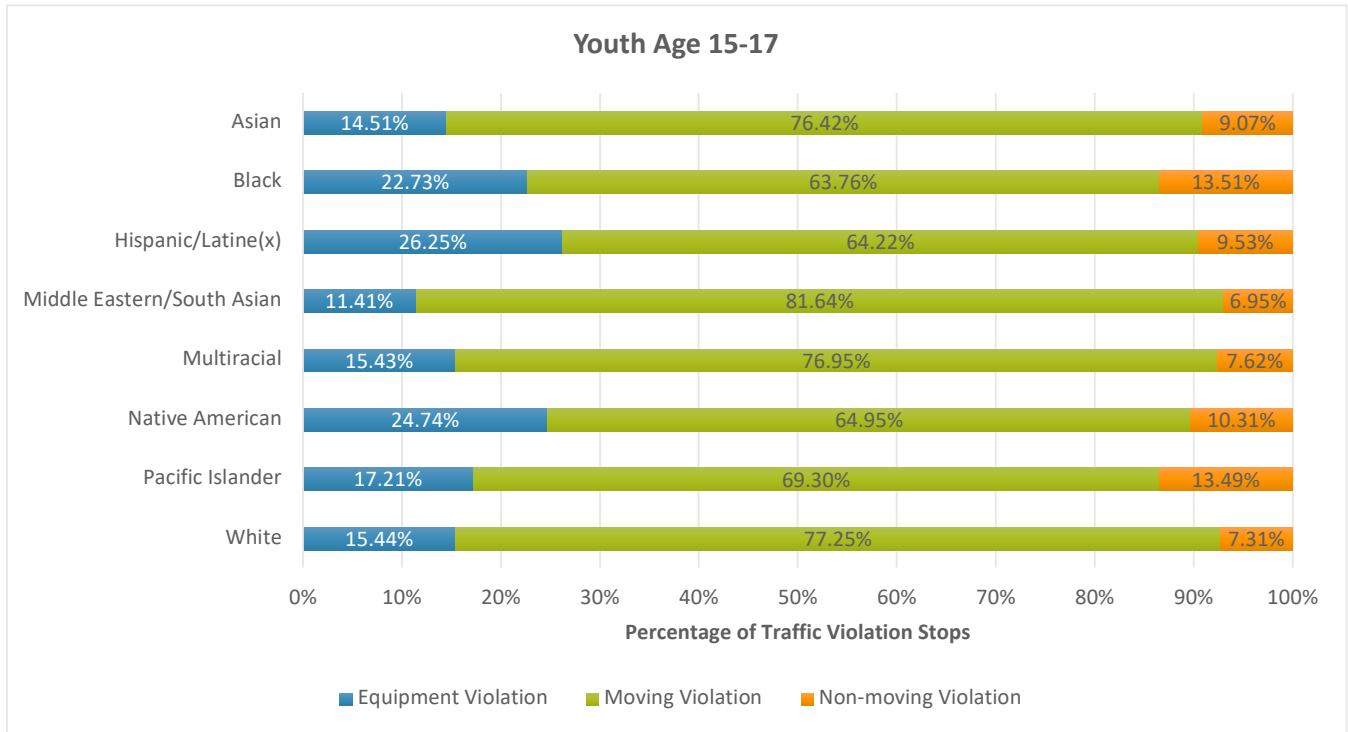
Among traffic stops of youth perceived to be 15–17, for both Black and Pacific Islander youth, 13.5 percent of their stops were for non-moving violations (384 and 29 stops, respectively). In comparison, White youth had 7.3 percent of their stops for non-moving violations (1,292 stops).

120 Bus. & Prof. Code, §§ 25658, subd. (b)-(c), 25658.5, subd. (a), 25662, subd. (a), 25663, subds. (a)-(b), 25665; Pen. Code, §§ 303, 303a, 647, subd. (f); Veh. Code, §§ 23136, subd. (a), 23140, subd. (a).

121 Puzzanchera et al., *supra* note 113, at pp. 59, 62.

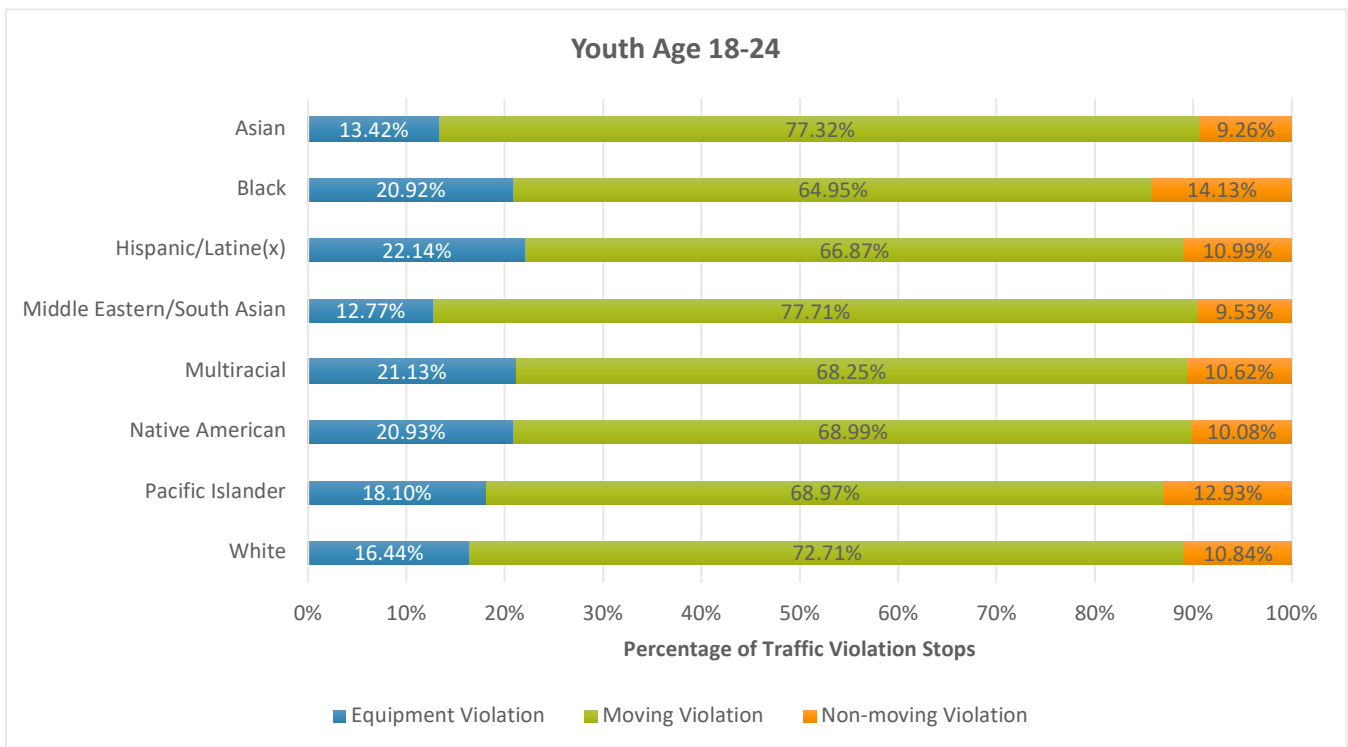
122 *Id.* at p. 63.

Figure 52. Type of Traffic Violation as Reason for Stop by Race and Ethnicity, Youth (15-17)



Among traffic stops of youth perceived to be 18–24, Multiracial youth had 21.1 percent of their stops for equipment violations (1,830 stops), and Native American youth had 20.9 percent of their stops for equipment violations (330 stops), while White youth had 16.4 percent of their stops for equipment violations (28,104 stops). In this age group, Black youth had 14.1 percent of their traffic stops for nonmoving violations (9,278 stops), and Pacific Islander youth had 12.9 percent of their stops for nonmoving violations (472 stops). In comparison, White youth had 10.8 percent of their stops for nonmoving violations (18,5286 stops).

Figure 53. Type of Traffic Violation as Reason for Stop by Race and Ethnicity, Youth (18-24)



## Calls for Service

Officers reported that calls for service were related to 51.5 percent of the stops of youth perceived to be 12–14 (5,481 stops), 22.0 percent of the stops of youth perceived to be 15–17 (15,384 stops), and 5.9 percent of the stops of youth perceived to be 18–24 (43,647 stops).

The stop data show racial, gender, and disability disparities in the percentage of stops for which there was a related call for service.

**Perceived Race and Ethnicity:** Among youth perceived to be 12–14, officers reported that 66.0 percent of the stops of youth perceived to be Pacific Islander (35 stops), and 59.8 percent of stops of youth perceived to be Black (1,057 stops) had a related call for service, compared to 47.9 percent of the stops of youth perceived to be White (1,207 stops).

Among youth perceived to be 15–17, officers reported that 37.0 percent of the stops of youth perceived to be Black (2,872 stops), and 33.8 percent of stops of youth perceived to be Native American (67 stops) had a related call for service, compared to 15.1 percent of the stops of youth perceived to be White (3,503 stops).

Among youth perceived as 18–24, officers reported that 10.2 percent of the stops of youth perceived to be Black (8,427 stops), and 9.4 percent of stops of youth perceived to be Native American (175 stops) had a related call for service, compared to 4.9 percent of the stops of youth perceived to be White (9,136 stops).

**Perceived Gender:** Among youth perceived to be 12–24, officers reported that 19.0 percent of youth perceived to be transgender or gender nonconforming (742 stops) had a related call for service, compared to 7.8 percent of the stops of youth perceived to be cisgender (63,770 stops).

**Perceived Disability:** Among youth perceived to be 12–24, officers reported that 66.1 percent of youth perceived to have a disability had a related call for service (4,031 stops), compared to 7.5 percent of stops of youth perceived to not have a disability (60,481 stops).

## Actions Taken by Officers During Stops

The section below discusses actions taken by officers during stops, which can inform how bias may impact officers' actions during a stop and the need to address the detrimental effects of those actions on youth.

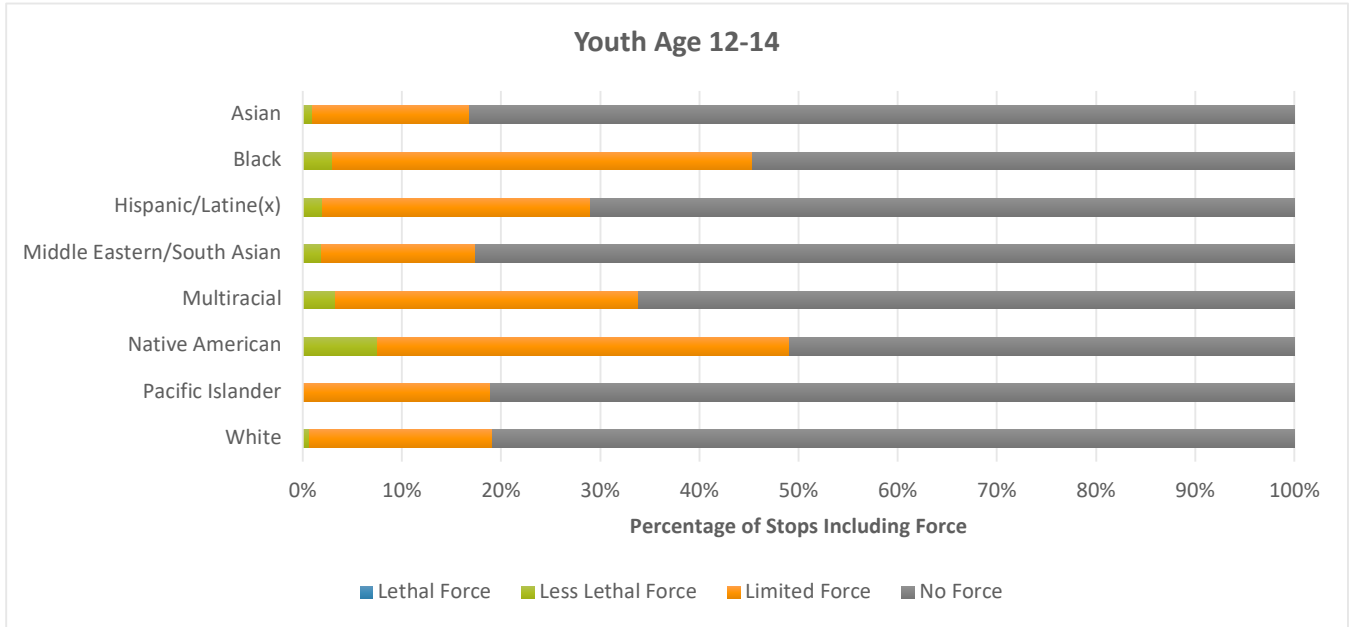
### a. Use of Force<sup>123</sup> Actions Generally

The 2023 RIPA data show racial and disability disparities in the use of force on youth. Compared to the other age categories, officers reported the use of force most frequently during stops of people aged 12–14 (29.0% of stops; 3,088 incidents where force was used), followed by people aged 15–17 (21.2% of stops; 14,808 incidents where force was used).

123 The RIPA regulations define use of force: "As used in this section, 'use of force' refers to an officer's actions towards the person stopped, defined as: (1) the use of handcuffs or flex cuffs; (2) the use of physical compliance tactics and techniques, including the use of any part of the officer's body to make contact with the stopped person to restrict movement or control a person's resistance (e.g., physical strikes, hard hand controls, the forcible taking of a person to the ground, and hitting or kicking the person); (3) the use of a peace officer's canine to gain compliance and/or to stop or apprehend a person; (4) the use of a peace officer's canine to bite or hold a person; (5) pointing a firearm; (6) discharging a firearm; (7) unholstering a firearm; (8) pointing or sparking an electronic control device; (9) using an electronic control device in dart-mode; (10) using an electronic control device in drive-stun mode; (11) pointing an impact projectile weapon at person; (12) discharging or using an impact projectile (e.g., blunt impact projectile, rubber bullets or bean bags); (13) drawing a baton or other impact weapon; (14) using a baton or other impact weapon or other object (including a firearm) to strike or prod; (15) using a chemical spray (e.g., pepper spray, mace, or other chemical irritant); (16) removing a person from a vehicle by physical contact; and (17) using a vehicle to apprehend a stopped person. (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(17)(A).)

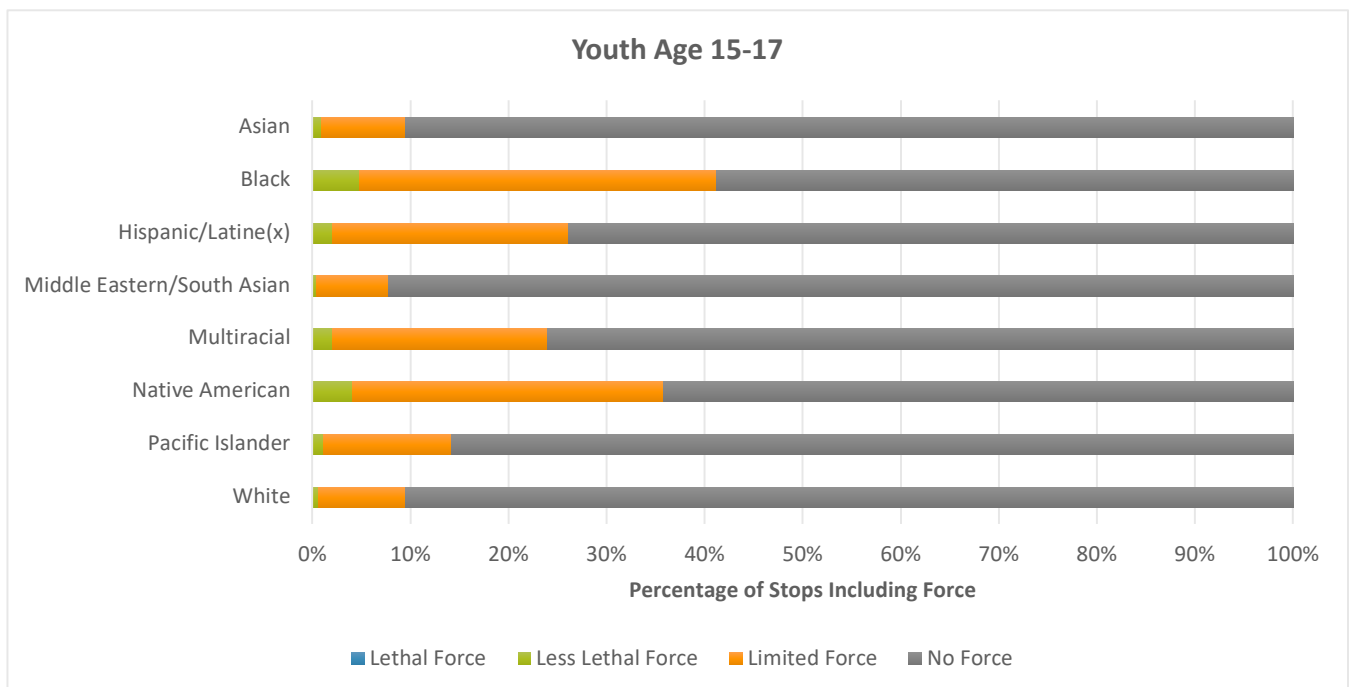
**Perceived Race and Ethnicity:** Among youth perceived to be 12–14, officers used force on 49.1 percent of the youth they stopped who they perceived to be Native American (26 youth) and 45.4 percent of the youth they stopped who they perceived to be Black (802 youth), including the use of lethal force on two youth. In contrast, officers used force on 19.2 percent of the youth they stopped who they perceived to be White (484 youth).

Figure 54. Youth (12-14), Use of Force by Race and Ethnicity



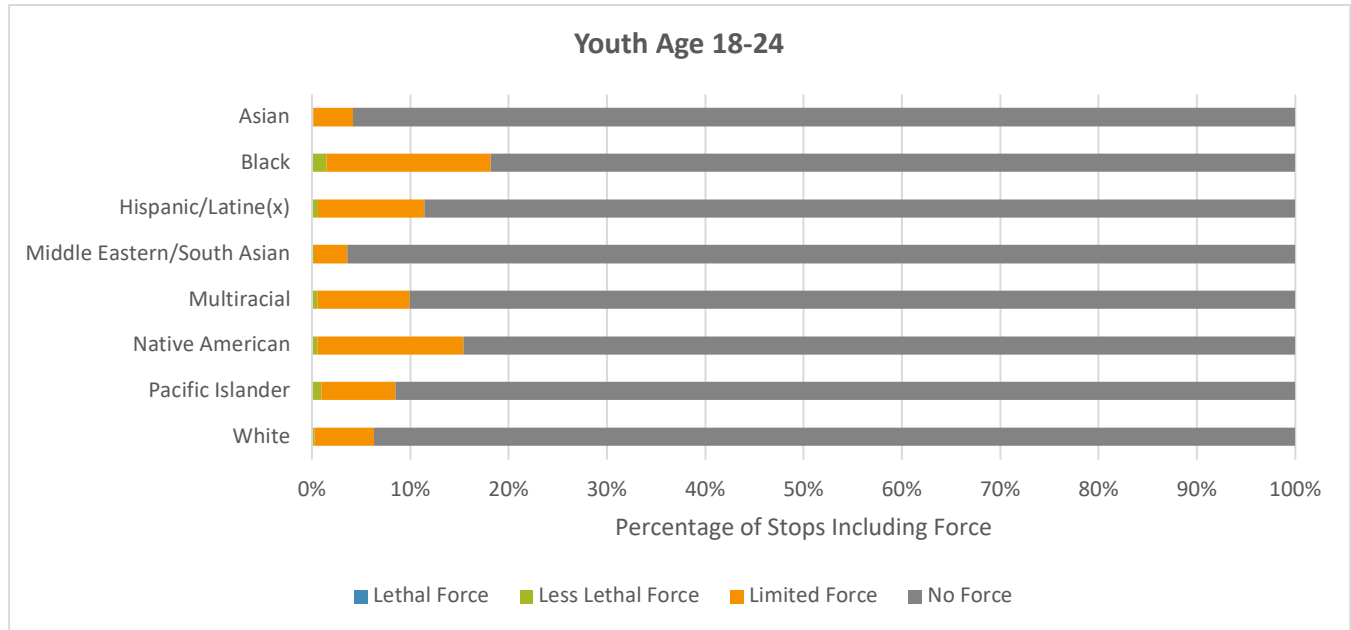
Among youth perceived to be 15–17, officers used force on 41.2 percent of the youth they stopped who they perceived to be Black (3,197 youth) and 35.9 percent of the youth they stopped who they perceived to be Native American (71 youth). In contrast, officers used force on 9.5 percent of the youth they stopped who they perceived to be White (2,207 youth).

Figure 55. Youth (15-17), Use of Force by Race and Ethnicity



Among youth perceived to be 18–24, officers used force on 18.2 percent of the youth they stopped who they perceived to be Black (14,947 youth) and 15.4 percent of the youth they stopped who they perceived to be Native American (288 youth). Officers used force on 6.3 percent of the youth they stopped who they perceived to be White (11,863 youth).

Figure 56. Youth (18-24) Use of Force by Race and Ethnicity



**Perceived Disability:** There were disparities in the use of force on youth perceived to have a disability. Among youth perceived to be 12–24, officers used force on 48.4 percent of the youth they stopped who they perceived to have a disability (3,086 youth). They used force on 11.0 percent of the youth they stopped who they perceived not to have a disability (90,054 youth).

### (1) Use of Force — Handcuffing

Compared to the other age categories, officers reported the use of handcuffs most frequently during stops of youth 12–14 (27.2% of stops; 2,895 youth handcuffed), followed by youth 15–17 (19.2% of stops; 13,441 youth handcuffed). There were racial, disability, and gender disparities in the handcuffing of youth during stops.

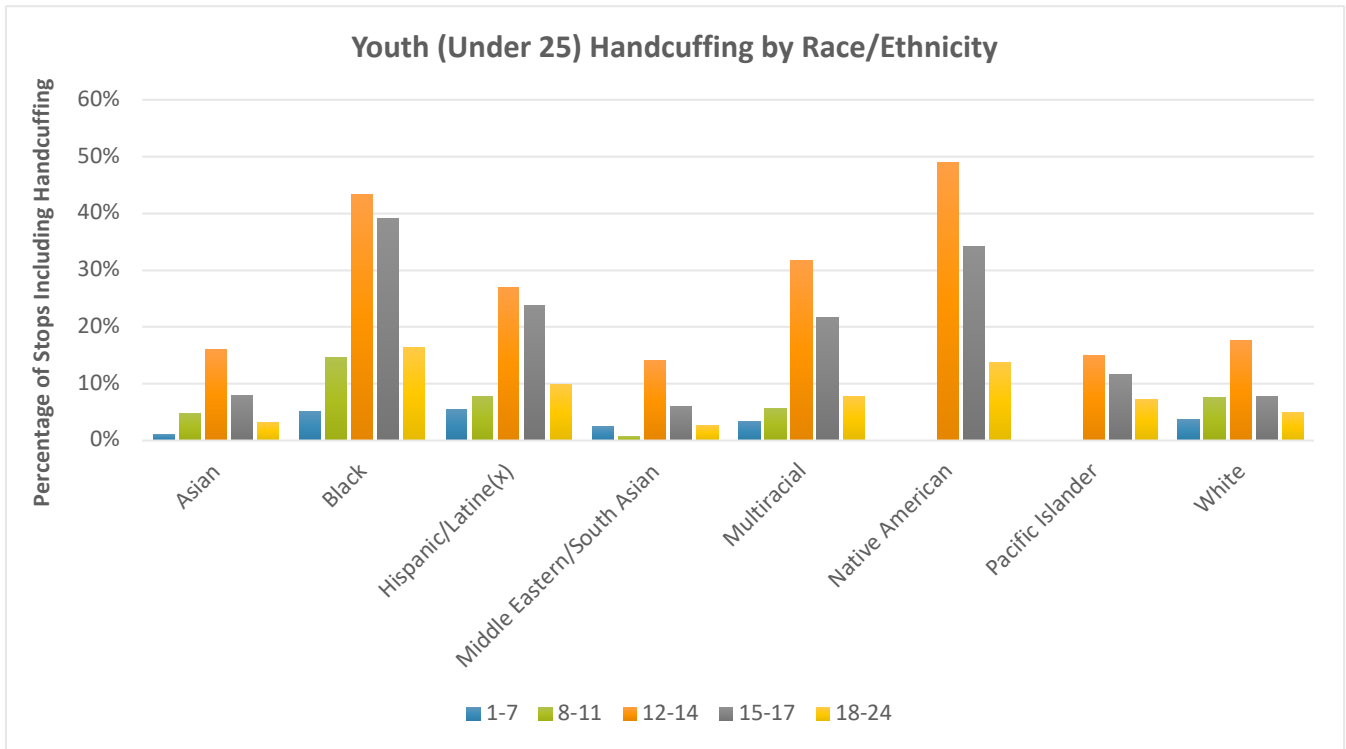
**Perceived Race and Ethnicity:** Among youth perceived to be 12–14, officers handcuffed 49.1 percent of the youth they stopped who they perceived as Native American (26 youth handcuffed) and 43.3 percent of the youth they stopped who they perceived as Black (765 youth handcuffed). Officers handcuffed 17.7 percent of the youth they stopped who they perceived as White (447 youth handcuffed).

Among youth perceived to be 15–17, officers handcuffed 39.2 percent of the youth they stopped who they perceived to be Black (3,041 youth handcuffed) and 34.3 percent of the youth they stopped who they perceived to be Native American (68 youth handcuffed). Officers handcuffed 8.0 percent of the youth they stopped who they perceived as White (1,845 youth handcuffed).

Among youth perceived to be 18–24, officers handcuffed 16.4 percent of the youth they stopped who they perceived as Black (13,533 youth handcuffed) and 13.9 percent of the youth they stopped who they perceived as Native American (259 youth handcuffed). Officers handcuffed 5.0 percent of the youth they stopped who they perceived as White (9,479 youth handcuffed).



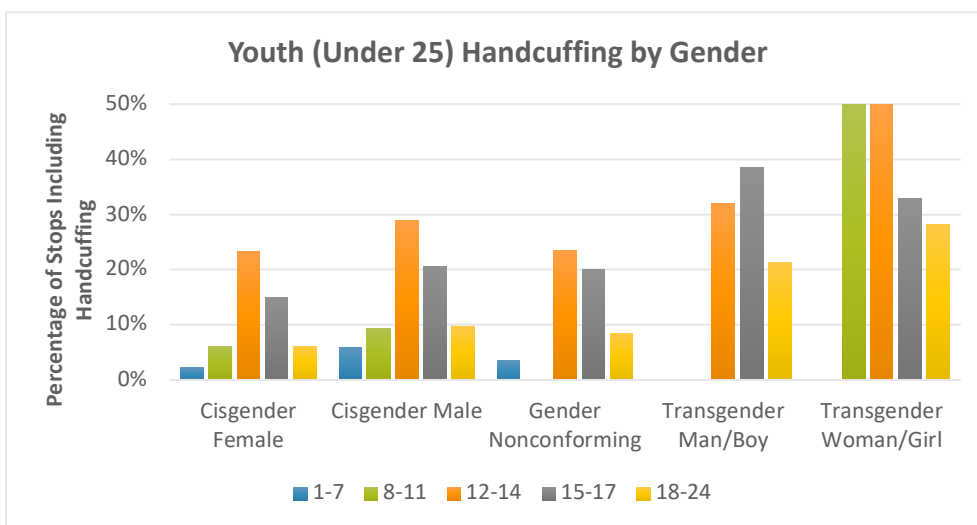
Figure 57. Percentage of Stops Including Youth Handcuffing by Race and Ethnicity



**Perceived Disability:** Among youth perceived to be 12–24, officers handcuffed 47.8 percent of the youth they stopped who they perceived to have a disability (2,912 youth handcuffed). They handcuffed 9.6 percent of youth they stopped who they perceived to not have a disability (77,822 youth handcuffed).

**Perceived Gender:** Among youth perceived to be 12–24, officers handcuffed 17.6 percent of the youth they stopped who they perceived to be transgender or gender nonconforming (687 youth handcuffed). They handcuffed 9.8 percent of youth they stopped who they perceived to be cisgender (80,047 youth handcuffed).

Figure 58. Percentage of Stops Including Youth Handcuffing by Gender



## (2) Use of Force — Firearm Pointed

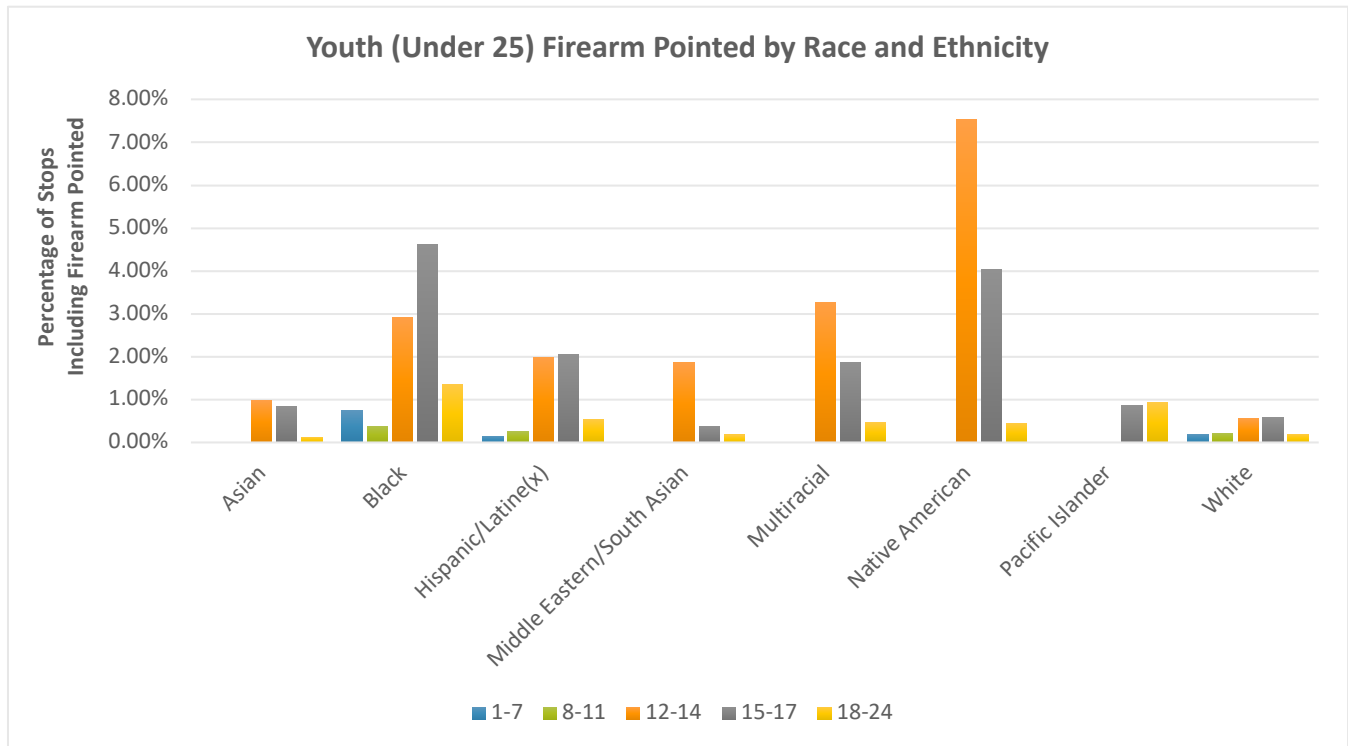
Compared to the other age categories, officers reported pointing a firearm at youth most frequently during stops of youth 12–14 (1.8% of stops; 195 stops where firearms were pointed at youth), followed by youth 15–17 (1.8% of stops; 1,240 stops where firearms were pointed at youth). The data show racial disparities in the stops where officers pointed firearms at youth.

**Perceived Race and Ethnicity:** Among youth perceived to be 12–14, officers pointed firearms at 7.6 percent of youth they stopped who they perceived as Native American (4 youth), and 2.9 percent of the youth they perceived as Black (52 youth). Officers pointed firearms at 0.6 percent of the youth they stopped who they perceived as White (15 youth).

Among youth perceived to be 15–17, officers pointed firearms at 4.0 percent of the youth they stopped who they perceived as Native American (8 youth) and 4.6 percent of the youth they stopped who they perceived as Black (360 youth). Officers pointed firearms at 0.6 percent of the youth they stopped who they perceived as White (140 youth).

Among youth perceived to be 18–24, officers pointed firearms at 1.4 percent of the youth they stopped who they perceived as Black (1,133 youth) and 1.0 percent of the youth they stopped who they perceived as Pacific Islander (39 youth). Officers pointed firearms at 0.2 percent of the youth they stopped who they perceived as White (412 youth).

Figure 59. Percentage of Stops Including Firearm Pointed by Race and Ethnicity



## (3) Use of Force — Chemical Spray Use

Among youth perceived to be 18–24, officers used chemical spray in stops of 22 youths perceived as Hispanic/Latine(x), 16 youths perceived as Black, and 5 youths perceived as White.

## (4) Use of Force — Electronic Control Device Use

Among youth perceived to be 18–24 officers used an electronic control device in stops of 70 youths perceived as Hispanic/Latine(x), 32 youths perceived as Black, and 23 youths perceived as White.

## b. Curbside or Patrol Car Detention

Compared to the other age categories, officers reported the highest percentage of curbside or patrol car detentions during stops of youth 12–14 (36.1% of stops; 3,844 youth detained curbside or in a patrol car), followed by stops of youth 15–17 (24.1% of stops; 16,863 youth detained curbside or in a patrol car).

### (1) Curbside Detention

The stop data show racial disparities in the curbside detention of youth.

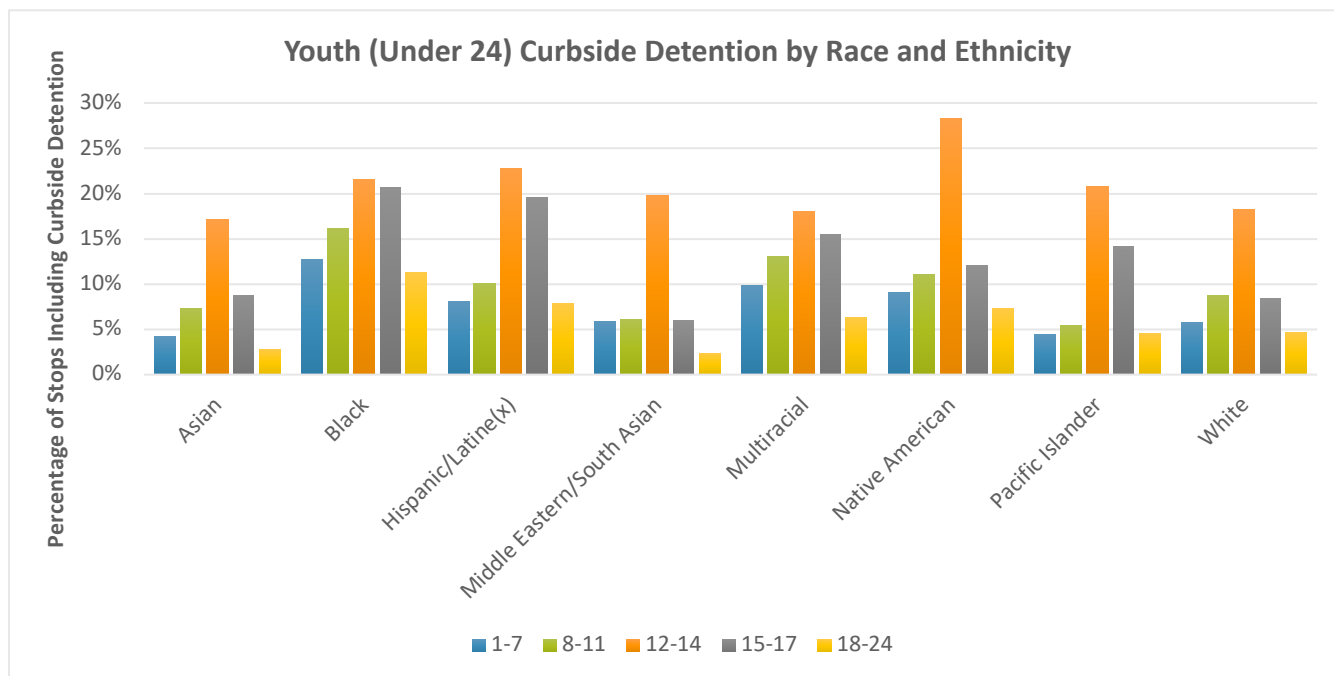
**Perceived Race and Ethnicity:** Among youth perceived to be 12–14, officers detained curbside 28.3 percent of the youth they stopped who they perceived to be Native American (15 youth) and

22.9 percent of the youth they stopped who they perceived to be Hispanic/Latine(x) (1,281 youth). Officers detained curbside 18.2 percent of the youth they stopped who they perceived as White (460 youth).

Among youth perceived to be 15–17, officers detained curbside 20.7 percent of the youth they stopped who they perceived as Black (1,611 youth) and 19.6 percent of the youth they stopped who they perceived as Hispanic/Latine(x) (6,481 youth). Officers detained curbside 8.4 percent of the youth they stopped who they perceived as White (1,950 youth).

Among youth perceived to be 18–24, officers detained curbside 11.3 percent of the youth they stopped who they perceived as Black (9,298 youth) and 7.9 percent of the youth they stopped who they perceived as Hispanic/Latine(x) (29,862 youth). Officers detained curbside 4.7 percent of the youth they stopped who they perceived as White (8,775 youth)..

Figure 60. Youth Curbside Detention by Race and Ethnicity

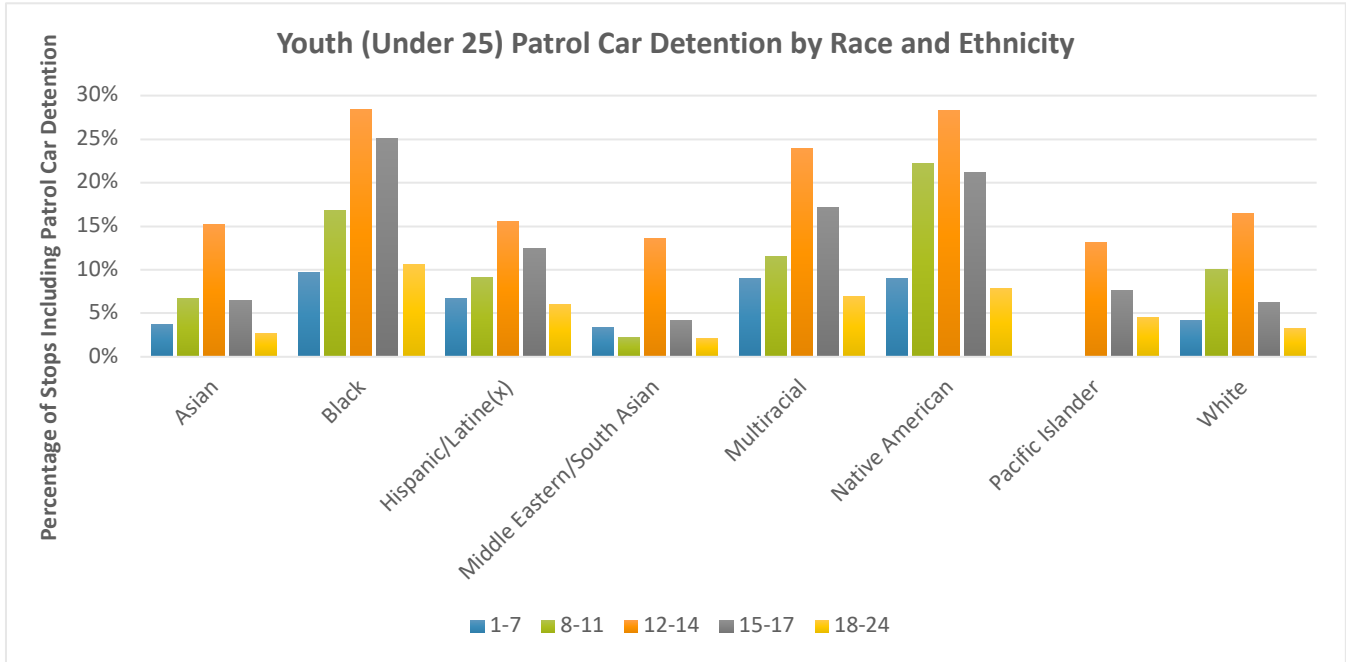


## (2) Patrol Car Detention

The stop data show racial/ethnic and disability disparities in the patrol car detention of youth.

**Perceived Race and Ethnicity:** Among youth perceived to be 12–24, officers detained 12.2 percent of the youth they stopped who they perceived as Black (11,224 youth) and 9.7 percent of the youth they stopped who they perceived as Native American in a patrol car (206 youth). Officers detained 3.8 percent of the youth they stopped who they perceived as White in a patrol car (8,042 youth).

Figure 61. Youth Patrol Car Detention by Race and Ethnicity



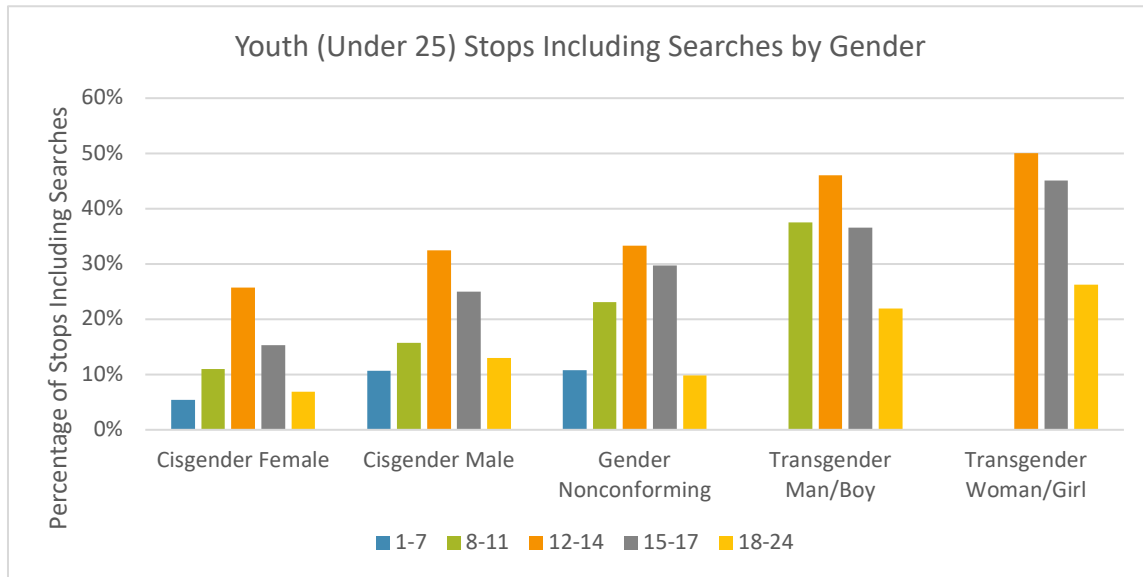
**Perceived Disability:** Among youth perceived as 12–24, officers detained 29.3 percent of the youth they stopped who they perceived to have a disability in a patrol car (1,784 youth). They detained 6.1 percent of youth they stopped who they perceived not to have a disability in a patrol car (49,249 youth).

### c. Searches

The RIPA data reveals that search rates during stops varied among youth by age group. Compared to the other age categories, officers reported the highest percentage of searches during stops of youth 12–14 (30.4% of stops; 3,236 searches), followed by stops of youth 15–17 (22.5% of stops; 15,705 searches). The stop data show racial and ethnic, disability, and gender disparities in searches of youth.

**Perceived Race and Ethnicity:** Among youth perceived to be 12–24, officers searched 23.1 percent of the youth they stopped who they perceived as Black (21,254 youth) and 18.1 percent of the youth they stopped who they perceived as Native American (383 youth). Officers searched 6.5 percent of the youth they stopped who they perceived as White (13,815 youth).

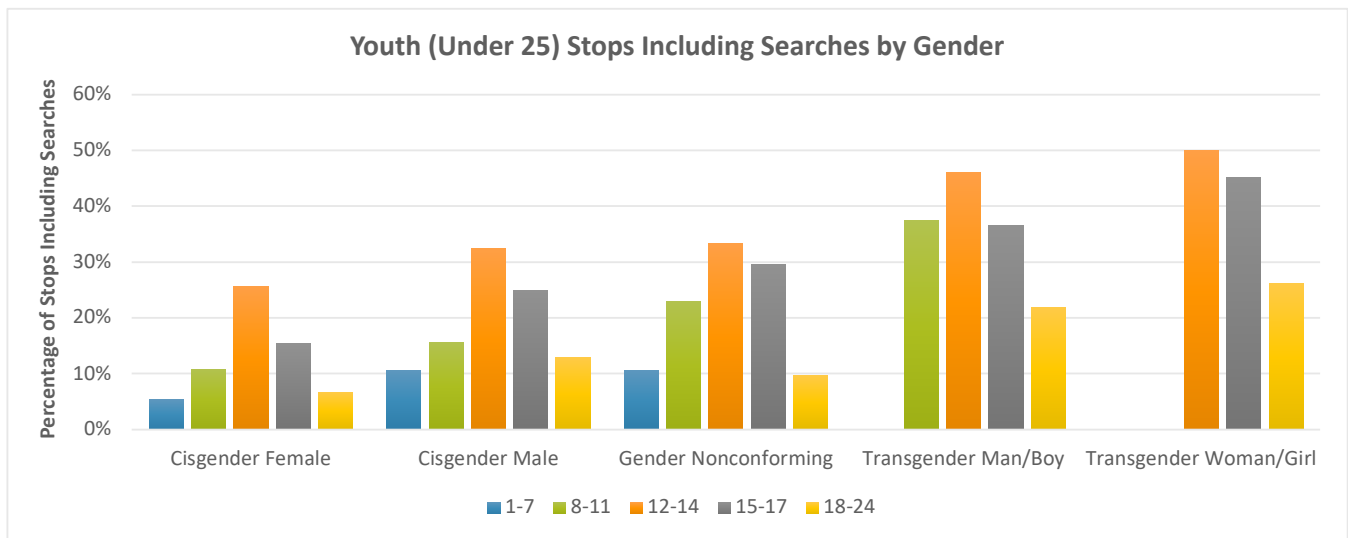
Figure 62. Youth Stops Including Searches by Race and Ethnicity



**Perceived Disability:** Among youth perceived as 12–24, officers searched 46.8 percent of the youth they stopped who they perceived to have a disability (2,854 youth). They searched 12.2 percent of the youth they stopped who they perceived not to have a disability (98,876 youth).

**Perceived Gender:** Among youth perceived to be 12–24, officers searched 19.0 percent of the youth they stopped who they perceived as transgender or gender nonconforming (744 youth). They searched 12.4 percent of the youth they stopped who they perceived as cisgender (100,986 youth).

Figure 63. Youth Stops Including Searches by Gender



**(1) Consent Only Searches**

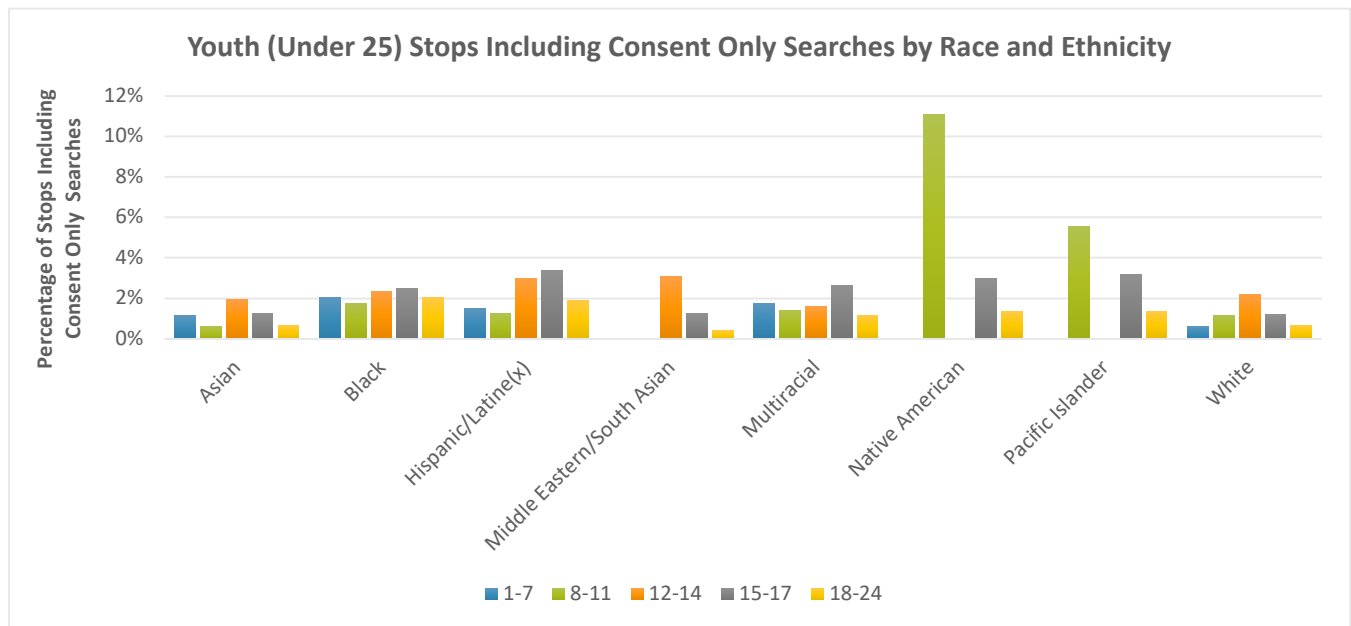
The data show officers searched 283 youth ages 12–14 (2.66% of stops) based on consent. Officers searched 1,715 youth ages 15–17 (2.45% of stops) and 11,120 youth ages 18–24 (1.51% of stops) based solely on consent. The stop data show racial/ethnic, disability, and English fluency disparities in the searches of youth based solely on consent.

**Perceived Race and Ethnicity:** Among youth perceived to be 12–14, officers searched 3.1 percent of the youth they stopped who they perceived as Middle Eastern/South Asian (5 youth) and 3.0 percent of the youth they stopped who they perceived as Hispanic/Latine(x) (170 youths) based solely on consent. Officers searched 2.3 percent of the youth they stopped who they perceived as White (57 youths) based solely on consent.

Among youth perceived to be 15–17, officers searched 3.4 percent of the youth they stopped who they perceived as Hispanic/Latine(x) (1,133 youths) and 3.2 percent of the youth they stopped who they perceived as Pacific Islander (11 youths) based solely on the consent. Officers searched 1.2 percent of the youth they stopped who they perceived as White (284 youths) based solely on consent.

Among youth perceived to be 18–24, officers searched 2.1 percent of the youth they stopped who they perceived as Black (1,710 youths) and 2.0 percent of the youth they stopped who they perceived as Hispanic/Latine(x) (7,472 youths) based solely on consent. Officers searched 0.7 percent of the youth they stopped who they perceived as White (1,356 youths) based solely on consent.

Figure 64. Percentage of Youth Stops with Consent Only Searches by Perceived Race and Ethnicity



**Perceived Disability:** Among youth perceived as 12–24, officers searched 4.6 percent of the youth they stopped who they perceived to have a disability (278 youths) based solely on consent. They searched 1.6 percent of the youth they stopped who they perceived not to have a disability (12,862 youths) based solely on consent.

**Perceived English Fluency:** Among youth perceived to be 12–24, officers searched 2.5 percent of the youth they stopped who they perceived to have limited or no English fluency (755 youths) based solely on consent. They searched 1.6 percent of the youth they stopped who they perceived to be fluent in English (12,385 youths) based solely on consent.

## (2) Supervision Searches

Officers searched 717 youth ages 1–17 and 6,186 youth ages 18–24 based solely on supervision. The stop data show racial and ethnic disparities in the searches of youth based solely on supervision.

Among youth perceived to be 1–17, officers conducted supervision searches in 1.2 percent of the stops of youth they perceived as Hispanic/Latine(x) (512 youths searched based on supervision) and 1.1 percent of the stops of youth they perceived as Black (116 youths searched based on supervision).

Officers conducted supervision searches in 0.2 percent of the stops of youth they perceived as White (58 youths searched based on supervision).

Among youth perceived to be 18–24, officers conducted supervision searches in 2.1 percent of the stops of youth they perceived as Black (1,699 youths searched based on supervision) and 1.3 percent of the stops of youth they perceived as Native American (25 youths searched based on supervision). Officers conducted supervision searches in 0.4 percent of the stops of youth they perceived as White (794 youths searched based on supervision).

### (3) Canine Searches

The stop data show disparities in the use of canines to search youth across perceived racial and ethnic identities and perceived English fluency.

**Perceived Race and Ethnicity:** Officers used canines to search four youths they stopped who they perceived as Black and between 12–14 (0.23% of stops). They used canines to search seven youth officers perceived as Hispanic/Latine(x) and between 12–14 (0.12% of stops) and one youth they perceived as White and between 12–14 (0.04% of stops).

Officers used canines to search 32 youths they stopped who they perceived as Black and between 15–17 (0.41% of stops). They used canines to search 55 youth officers perceived as Hispanic/Latine(x) and between 15–17 (0.17% of stops) and nine youths they perceived as White and between ages 15–17 (0.04% of stops).

Officers used canines to search 16 youth they stopped who they perceived as Multiracial and between ages 18–24 (0.16% of stops). They used canines to search three youths they stopped who they perceived as Native American and between ages 18–24 (0.16% of stops) and 63 youth they stopped and perceived as White and between ages 18–24 (0.03% of stops).

**Perceived English Fluency:** Officers used canines to search 74 youth who they perceived to have limited English fluency and between ages 12–24 (0.24% of stops). They used canines to search 552 youth officers perceived to be fluent in English and between ages 12–24 (0.07% of stops).

#### d. Photographing of Youth

The RIPA stop data show racial disparities in officers photographing youth during stops. Officers photographed eight youths they stopped who they perceived as Multiracial and between 12–14 (4.4% of stops). They photographed 232 youths who they perceived as Hispanic/Latine(x) and between 12–14 (4.1% of stops), 73 youths they perceived as Black and 12–14 (4.1% of stops), and 65 youths they perceived as White and between ages 12–14 (2.6% of stops).

Officers photographed 18 youths they stopped who they perceived as Pacific Islander and between 15–17 (5.3% of stops). They photographed 10 youths they stopped who they perceived as Native American and 15–17 (5.1% of stops), 306 youths they stopped who they perceived as Black and between ages 15–17 (3.9% of stops), and 249 youths they stopped and perceived as White and between 15–17 (1.1% of stops).

Officers photographed 131 youths they stopped who they perceived as Multiracial and between ages 18–24 (1.3% of stops). They photographed 43 youth they stopped who they perceived as Pacific Islander and between 18–24 (1.1% of stops), 847 youths they stopped who they perceived as Black and between 18–24 (1.0% of stops), and 976 youths they stopped and perceived as White and between 18–24 (0.5% of stops).

## Results of Stops

When completing the “result of stop” field, officers must report the outcome of the stop. The stop data regulations define the outcome options officers can select at the conclusion of a stop. The options for reportable outcomes include No Action, Verbal Warning, Written Warning, Citation for Infraction, In-field Cite and Release, Custodial Arrest pursuant to Outstanding Warrant, Custodial Arrest without Warrant, Field Interview Card Completed, Noncriminal Transport or Caretaking Transport, Contacted Parent/Legal Guardian or Other Person Legally Responsible for the Person, Psychiatric Hold, Contacted U.S. Department of Homeland Security, Referral to School Administrator, Referral to School Counselor or Other Support Staff. Officers select multiple results of stop where necessary (e.g., an officer cited an individual for one offense and warned them about another). This information helps to illuminate how bias could impact an officer’s decisions during a stop, and how those decisions can impact racialized groups more often when compared to White youth.

### a. No Reportable Action Taken Data and Warning Only Results of Stops

The percentage of stops that result in no reportable action taken is higher among younger age groups (12–14, 15–17) and lower among transitional-age youth and adults (perceived to be 18–24 and 25+). Officers reported that 12.2 percent of the stops of youth perceived to be 12–14 resulted in no action (1,298 stops resulting in no action), 10.3 percent of stops of youth perceived as 15–17 resulted in no action (7,198 stops resulting in no action), and 6.7 percent of stops of youth perceived as 18–24 resulted in no action (49,450 stops resulting in no action).

The stop data show racial and ethnic disparities in stops that resulted in the officer not taking any of the reportable actions (for example, Citation for Infraction, Custodial Arrest without Warrant, Noncriminal Transport or Caretaking Transport, Contacted Parent/Legal Guardian or Other Person Legally Responsible for the Person, and other reportable actions listed above).

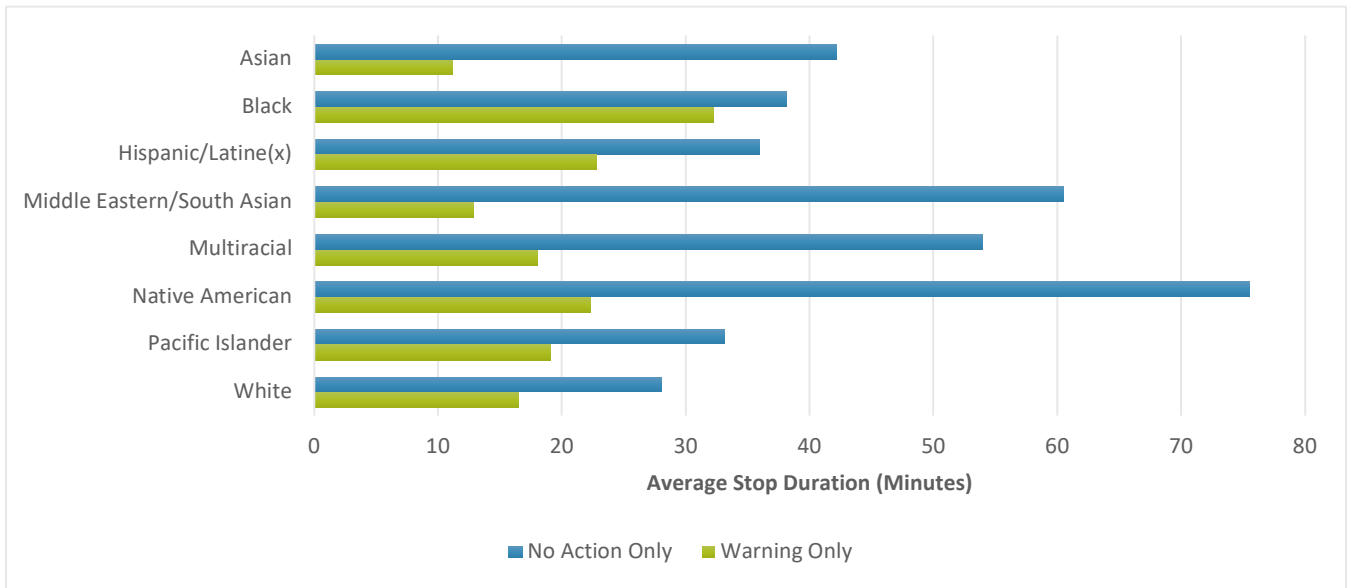
Among youth perceived to be 12–14, officers reported no action taken as the result of stop for 13.2 percent of the stops of youth who they perceived as Pacific Islander (7 youths) and 12.7 percent of the stops of youth who they perceived as Hispanic/Latine(x) (710 youths). Officers reported no action taken as the result of stop in 11.4 percent of the stops of youth they perceived as White (288 youths).

Among the stops of youth perceived to be 12–14 that resulted in no reportable action taken, on average, the stops of youth officers perceived as Native American lasted one hour and sixteen minutes, the stops of youth officers perceived as Middle Eastern/South Asian lasted 61 minutes, and the stops of youth officers perceived as White lasted 28 minutes.

Among the stops of youth perceived to be 12–14 that resulted in a warning only, on average, the stops of youth officers perceived as Black lasted 32 minutes, the stops of youth officers perceived as Hispanic/Latine(x) lasted 23 minutes, and the stops of youth officers perceived as White lasted 17 minutes.



Figure 65. Average Stop Duration, Stops in which Officers Reported Taking No Action and Stops that Resulted in a Warning Only, Age 12-14

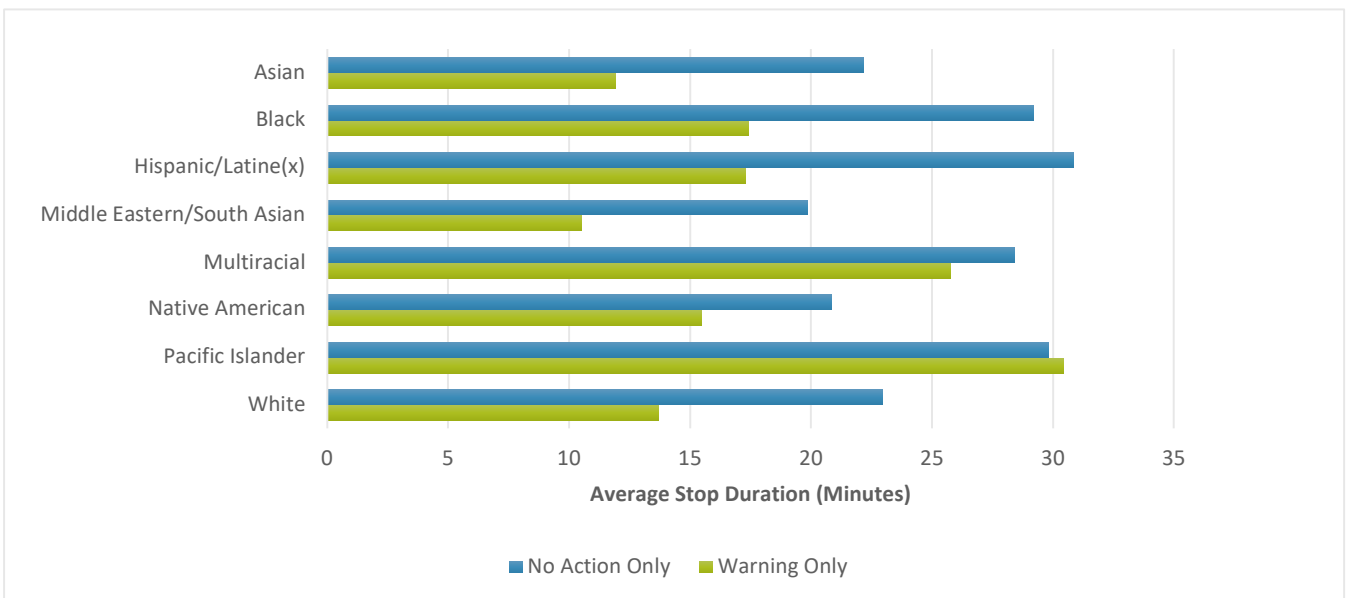


Among youth perceived to be 15–17, officers reported no action taken as the result of stop in 13.0 percent of the stops of youth who they perceived as Black (1,012 youths) and 11.7 percent of the stops of youth who they perceived as Hispanic/Latine(x) (3,891 youth). Officers reported no action taken as the result of stop in 8.0 percent of the stops of youth they perceived as White (1,842 youths).

Among the stops of youth perceived to be 15–17 that resulted in no action taken, on average, the stops of youth officers perceived as Hispanic/Latine(x) lasted 31 minutes, the stops of youth officers perceived as Pacific Islander lasted 30 minutes, and the stops of youth officers perceived as White lasted 23 minutes.

Among the stops of youth perceived to be 15–17 that resulted in a warning only, on average, the stops of youth officers perceived as Pacific Islander lasted 30 minutes, the stops of youth officers perceived as Multiracial lasted 26 minutes, and the stops of youth officers perceived as White lasted 14 minutes.

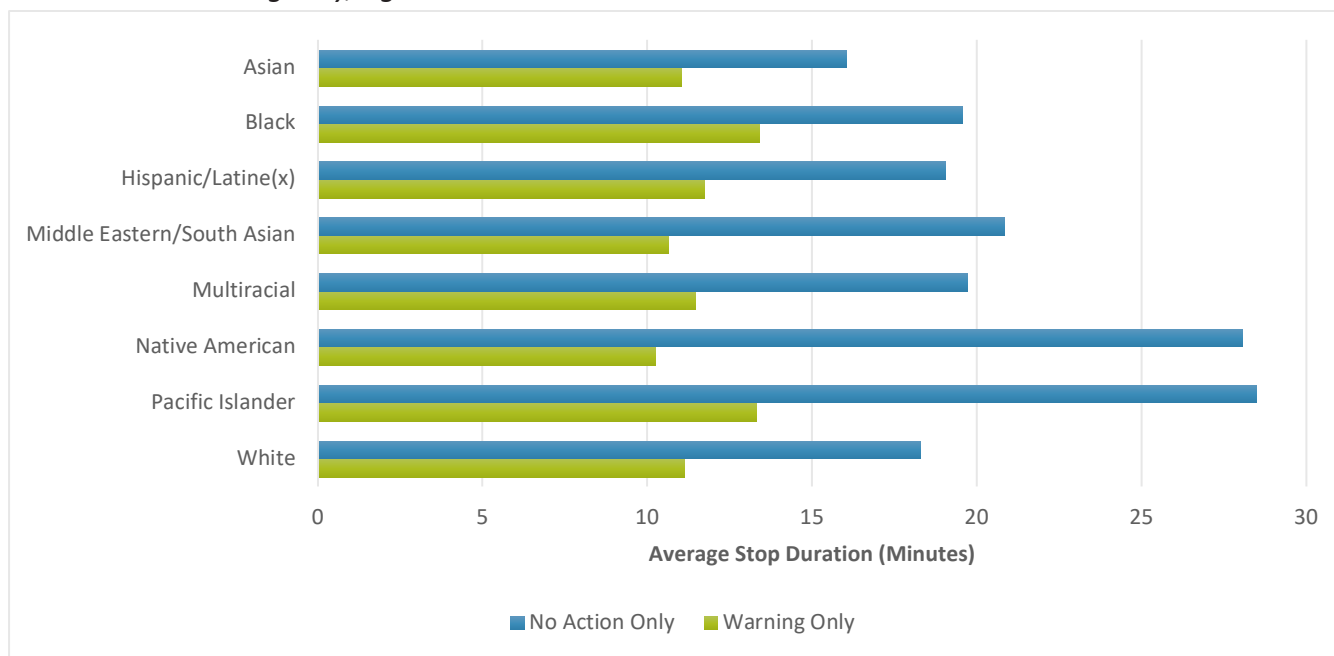
Figure 66. Average Stop Duration, Stops in which Officers Reported Taking No Action and Stops that Resulted in a Warning Only, Age 15-17



Among youth perceived to be 18–24, officers reported taking no action as the result of 9.6 percent of the stops for youth they perceived as Black (7,870 youths) and 7.8 percent of the stops for youth they perceived as Native American (146 youths). Officers reported no action taken as the result of 5.8 percent of the stops for youth they perceived as White (10,861 youths). Among the stops of youth perceived to be 18–24 that resulted in no action taken, on average, the stops of youth officers perceived as Pacific Islander lasted 29 minutes, the stops of youth officers perceived as Native American lasted 28 minutes, and the stops of youth officers perceived as White lasted 18 minutes.

Among the stops of youth perceived to be 18–24 that resulted in a warning only, on average, the stops of youth officers perceived as Black or Pacific Islander lasted 13 minutes and the stops of youth officers perceived as White lasted 11 minutes.

Figure 67. Average Stop Duration, Stops in which Officers Reported Taking No Action and Stops that Resulted in a Warning Only, Age 18-24



As the Board has discussed in prior reports, disparities in stops that result in officers taking no reportable action should be carefully evaluated to determine whether the stop was sufficiently supported by reasonable suspicion. Additionally, the racial and ethnic disparities in the duration of stops that resulted solely in the officer giving the youth a warning are as concerning as these longer detentions have a disproportional impact on racialized youth.

## b. Field Interview Cards (Associating with Other Youth)

### (1) Gang Profiling

Gang profiling is the practice through which law enforcement agencies document individuals as alleged members, associates, or affiliates of a gang and place their identities in gang databases.<sup>124</sup> Research discussed in this section reveals that gang profiling may be used as a proxy for racial profiling. Officers use field interview cards when interrogating and designating people as alleged gang members.<sup>125</sup> They also use fact-based and uncorroborated information when designating people as gang members or associates in databases.<sup>126</sup>

124 Catalyst California, *New Report from Pillars of the Community and Catalyst California Exposes the San Diego Police Department’s Racist Gang Profiling* (Apr. 2024) <<https://www.catalystcalifornia.org/campaign-tools/maps-and-data/end-gang-profiling-in-southeast-san-diego-data-and-stories-from-community-members>> [as of Nov. 18, 2024].

125 *Ibid.*

126 Pen. Code, § 186.34 (a)(2). In 1987, the Los Angeles County Sheriff’s Department developed the first gang database

CalGang is a shared gang database, meaning it is accessed by law enforcement agencies outside of the agency that created the records it includes.<sup>127</sup> Several regulations establish the criteria for designating an organization as a criminal street gang, designating a person as a gang member or associate, the policies and procedures for providing notice to a person whose information is in the database, responding to information requests and removal requests, for sharing information from a shared database, and the retention period for maintaining information about individuals in a shared database.<sup>128</sup>

Youth as young as 13 are entered into the CalGang system.<sup>129</sup> On September 30, 2023, the CalGang database included information about 19,146 people, and, of those, 172 were youth ages 13–17.<sup>130</sup> The *Attorney General’s Annual Report on CalGang* does not disaggregate the data for individuals 18–24 that are included in CalGang. Therefore, it is unknown how many of the remaining 18,974 people whose information was included in CalGang on September 30, 2023, were between 18–24.

California law requires law enforcement agencies to provide written notice to individuals prior to designating them as suspected gang members, associates, or affiliates in a shared gang database.<sup>131</sup> The notice must include the basis for the designation.<sup>132</sup> If the person is younger than 18, the law enforcement agency must provide the notice to them and their guardian.<sup>133</sup> These notices must also describe the process for the person who has been designated as a gang member, their guardian, if they are under 18, or their attorney to contest their designation in the gang database.<sup>134</sup>

Additionally, individuals can make a written request to any law enforcement agency in California about whether they have been designated as a suspected gang member, associate, or affiliate in any shared database to which the agency has access and, if so, what law enforcement agency made that designation.<sup>135</sup> A person who has been designated as a suspected gang member, associate, or affiliate can request information from the law enforcement agency that made the designation about the basis for the designation.<sup>136</sup> This information may help a person who has been designated as a gang member, associate, or affiliate to contest that designation.<sup>137</sup> Law enforcement agencies must provide a written response to these requests within 30 days.<sup>138</sup>

If a person submits written documentation to a local law enforcement agency contesting their designation as a gang member, associate, or affiliate, the agency must provide a written response within 30 days either affirming that they have removed the person from the database or stating the agency’s reason for denying the request.<sup>139</sup> The Cal DOJ’s 2023 Annual Report on CalGang reported that law enforcement agencies added 1,956 people to the CalGang database between October 1, 2022, and September 30, 2023, and at the end of that period, 19,146 individuals were included in CalGang.

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in the U.S. (REALSearch Action Research Center, *Tracked and Trapped: Youth of Color, Gang Databases and Gang Injunctions* (2012) Youth Justice Coalition, p. 1. <<https://www.youth4justice.org/wp-content/uploads/2012/12/TrackedandTrapped.pdf>> [as of Nov. 18, 2024]; Catalyst California, *supra* note 124.)

127 Pen. Code, § 186.34, subd. (a)(4).

128 Pen. Code, § 186.36, subds. (a), (l) (2)–(7).

129 Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 32, at pp. 121, 123.

130 Cal. DOJ, *Attorney General’s Annual Report on CalGang* (2023) p. 1 <<https://oag.ca.gov/system/files/media/ag-annual-report-calgang-2023.pdf>> [as of Nov. 18, 2024]; Cal. DOJ, *Attorney General’s Annual Report on CalGang: 2023 Dataset* (2023) <<https://www.oag.ca.gov/system/files/media/calgang-ag-dataset-2023.xlsx>> [as of Nov. 18, 2024].

131 Pen. Code, § 186.34, subd. (c)(1).

132 *Ibid.*

133 *Ibid.* The law allows for an exemption of the notice requirement when providing the notice would “compromise an active criminal investigation or compromise the health or safety of the minor” who has been designated as a gang member, associate, or affiliate.

134 *Id.* § 186.34, subd. (c)(2).

135 *Id.* § 186.34, subd. (d)(1).

136 *Id.* § 186.34, subd. (d)(1)(B).

137 *Id.* § 186.34, subd. (e).

138 *Id.* § 186.34, subd. (d)(3).

139 *Id.* § 186.34, subd. (e).

Yet law enforcement agencies reported receiving only 15 requests for removal from the database between October 1, 2022, and September 30, 2023,<sup>140</sup> granting only four of the 15 requests for removal.<sup>141</sup>

If the law enforcement agency denies the request contesting a person’s designation in CalGang or fails to respond by the deadline, the person requesting removal from the database can ask the court to review the documentation they provided to the agency and the agency’s decision and order the agency to remove the person from the database.<sup>142</sup> Law enforcement agencies reported that zero petitions contesting a person’s designation in CalGang were adjudicated between October 1, 2022, and September 30, 2023.<sup>143</sup> The data for petitions and removals included in the CalGang Annual Report demonstrate how infrequently a person’s information will be removed, based on their petition, once a law enforcement officer adds that information to a gang database.<sup>144</sup>

## (2) Demographics of Individuals Entered in CalGang

As noted previously, the RIPA Board does not know how many of the remaining 18,974 people whose information was included in CalGang on September 30, 2023, were between the ages of 18–24 because this information is not publicly available. The following table lists the number of youth ages 13–17 designated in CalGang and the designating law enforcement agencies.

Table 1. Youth 13-17 Included in CalGang Database

Law Enforcement Agency <sup>145</sup>	Number of Youth 13-17 Designated in CalGang Database
Los Angeles County Sheriff’s Department	37
Riverside Police Department	24
San Diego Police Department	20
Riverside County District Attorney’s Office	19
Escondido Police Department	17
Santa Ana Police Department	11
Riverside County Sheriff’s Department	10
San Bernardino County Sheriff’s Department	7
San Luis Obispo County Sheriff’s Department	5
Fontana Police Department	4
South Gate Police Department	3
Huntington Park Police Department	2
Inglewood Police Department	2
National City Police Department	2
Riverside County Probation Department	2
Burbank Police Department	1

140 Cal. DOJ, *Attorney General’s Annual Report on CalGang*, *supra* note 130, at p. 4.

141 *Ibid.*

142 Pen. Code, §§ 186.34, subd. (e), 186.35, subd. (c). There are deadlines and rules for making this request to the court. (Pen. Code, § 186.35, subd. (b).)

143 Cal. DOJ, *Attorney General’s Annual Report on CalGang*, *supra* note 130, at p. 4.

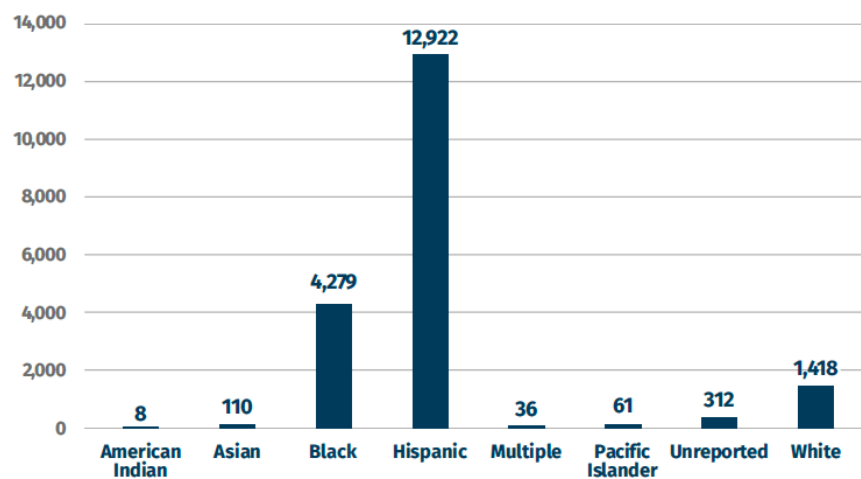
144 *Ibid.*

145 Cal. DOJ, *Attorney General’s Annual Report on CalGang: 2023 Dataset*, *supra* note 130.

Law Enforcement Agency <sup>145</sup>	Number of Youth 13-17 Designated in CalGang Database
Chula Vista Police Department	1
Gardena Police Department	1
Hawthorne Police Department	1
Orange County Sheriff's Department	1
Orange Police Department	1
Placentia Police Department	1

There are also stark racial disparities in the law enforcement agencies' designations of people as suspected gang members, associates, or affiliates in CalGang.

Figure 68. Racial/Ethnic Distribution of People Designated in CalGang



### (3) Field Interview Cards

Field interview cards are one of the source documents for the information law enforcement agencies enter into the statewide CalGang database.<sup>146</sup>

In many law enforcement agencies in California, a field interview card is one of the documents officers complete to record and “track[] contacts made during stops and investigations, as well as arrests .... [A field interview card] is generally [but not always] entered into a searchable database.”<sup>147</sup> A review of the policies of the Wave 1 and Wave 2 agencies shows that there are no policies prohibiting the use of field interview cards for youth or prohibiting their entry into the CalGang database. Just one agency, the San Diego Police Department, has a policy regarding the use of field interview cards in youth interactions, but this policy is administrative only.<sup>148</sup>

146 Cal. DOJ, *Attorney General's Annual Report on CalGang: 2023 Dataset*, *supra* note 130, at p. 1.

147 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/b2dd23\\_d3e88738022547acb55f3ad9dd7a1dcb.pdf](https://www.oig.lacity.org/_files/ugd/b2dd23_d3e88738022547acb55f3ad9dd7a1dcb.pdf)> [as of Nov. 18, 2024].

148 *San Diego Police Department Procedure 6.03—Field Interview Report* (“Officers are to forward the gold copy or a photocopy of any Field Interview conducted on individuals found or contacted on school campuses to School Police at MS 726A. Distribute the original and yellow copy as outlined above in this procedure. If the youth/juvenile is involved in high-risk behavior (refer to DP 3.08, Juvenile Procedures, for criteria), a copy of the Field Interview Report needs to be sent to the Juvenile Services Team Sergeant in the command where the juvenile was contacted.”).

These 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>149</sup>

Some agencies, like the LAPD, use field interview cards to collect information about a person's social media accounts.<sup>150</sup> In a study of the Gang Suppression Team in a predominantly Hispanic/Latine(x) community in a mid-size California city, researchers observed that officers regularly tracked social media accounts using information they obtained from field interview cards.<sup>151</sup>

They asked questions like, “What’s your Twitter handle?” or “What’s your Facebook ID? You don’t have anything to hide, do you?” Their justification was typically, “I want to see what you are up to.” Civilians appeared obligated to provide officers with their social media information to demonstrate innocence. These social media accounts were later scanned by officers, during down time or criminal investigations ... Information from these accounts was regularly collected to use as evidence in potential criminal cases.<sup>152</sup>

The study also found that police officers often assumed individuals who identified as Hispanic/Latine(x) were members of a gang, simply because of their racial and ethnic background.<sup>153</sup> Indeed, researchers found that the agency’s policies “conflated ‘criminal gang member’ with ‘Latino,’ further stigmatizing an already racially criminalized population.”<sup>154</sup> The practice entailed physical surveillance, typically in the form of stop-and-frisk, and social media surveillance of suspected Hispanic/Latine(x) gang members or those associated with them. Through these surveillance practices, officers took photographs with geographic tags and created digital profiles of individuals stopped or surveilled. Officers scanned social media accounts “to track gang-associated Latinos activities, routines, conflicts, and whereabouts.”<sup>155</sup>

Officers then uploaded information obtained through surveillance into CalGang. Researchers found that, by entering data points that were strongly associated with Hispanic/Latine(x) as an ethnic or racial group into a computer system database, and by engaging in proactive policing, the officers engendered “feelings of indignity and violation” by those they encountered, who expressed how they felt officers were using these tactics “as a means of tracking them.”<sup>156</sup> These tactics subject suspected gang-associated Hispanic/Latine(x) to what the researchers described as “racialized vulnerability to police scrutiny,” which equates to racial profiling. Researchers found that individuals subject to such policies harbored “feelings of indignity and violation.” And expressed how they felt officers were using these tactics “as a means of tracking them.”<sup>157</sup> Conversely, officers described such tactics as “techniques for making suspects behave,” reinforcing the notion that these policies were being used to stigmatize and control marginalized communities under the guise of normal police interaction.<sup>158</sup>

The RIPA stop data also show racial/ethnic, disability, and gender disparities in the use of field interview cards. Officers reported completing 23,296 field interview cards during stops of youth aged 1–24. Officers likely completed additional field interview cards during interactions with youth that did not meet the definition of “stop” as defined in the stop data reporting regulations. Therefore, field interview cards completed during those types of interactions are not captured in the stop data.

Compared to other age categories, officers completed field interview cards at a higher rate during stops of youth perceived to be 12–14 (11.1 percent of stops).

149 *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. 18, 2024].

150 *LAPD Field Interview (FI) Cards NR21240jl* (Sep. 2021) <<https://www.lapdonline.org/newsroom/lapd-field-interview-fi-cards-nr21240jl/>> [as of Nov. 18, 2024].

151 Rios et al., *supra* note 71, at pp. 59, 64, 69.

152 *Id.* at p. 69.

153 *Ibid.*

154 *Id.* at p. 68.

155 *Ibid.*

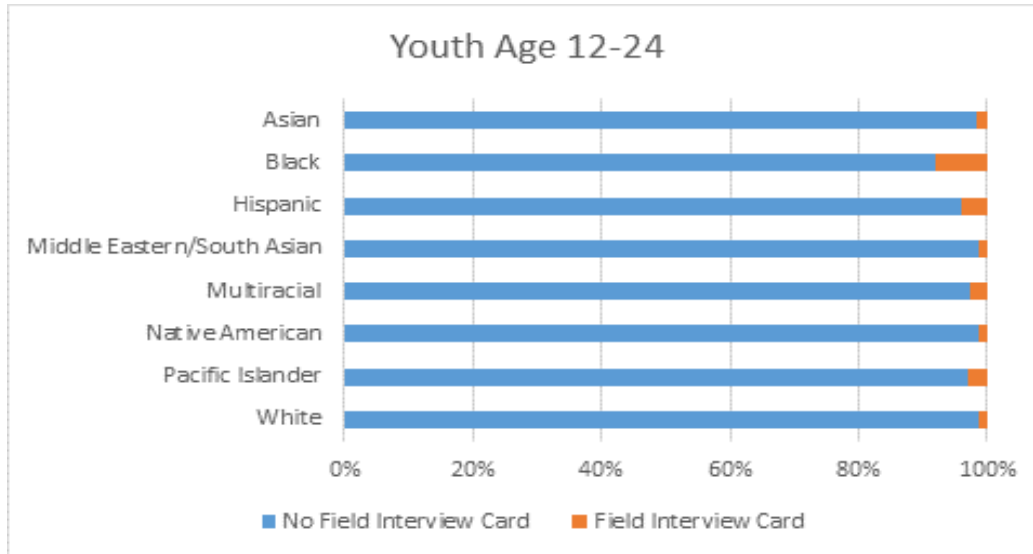
156 *Id.* at 69.

157 *Ibid.*

158 *Ibid.* (noting that such encounters “served to expand racialized punitive social control”).

**Perceived Race and Ethnicity:** Among youth perceived to be 12–24, officers reported completing a field interview card as the result of 8.0 percent of the stops of youth who they perceived as Black (7,358 youths) and 4.2 percent of the stops of youth who they perceived as Hispanic/Latine(x) (17,489 youths). Officers reported completing a field interview card as the result of 1.5 percent of the stops for youth they perceived as White (3,178 youths).

Figure 69. Field Interview Cards by Race, Youth Ages 12-24



**Perceived Disability:** Among youth perceived to be 12–24, officers reported completing a field interview card as the result of 12.1 percent of the stops of youth who they perceived to have a disability (736 youths) and 3.6 percent of the stops of youth who they perceived to not have a disability (28,857 youths).

## II. LAW ENFORCEMENT POLICIES RELATED TO YOUTH

As of 2022, there are over 12 million (nearly one in three) Californians under 25, and nearly nine million (approximately one in five) Californians under 18.<sup>159</sup> Given the size of this population, its unique vulnerabilities, and the data indicating disparities, it is crucial to adopt youth-specific policies that seek to eliminate disparities, are developmentally appropriate, and provide additional protections.

The policies of law enforcement agencies, such as those related to the use of force, can influence or shape the quality and outcomes of an officer’s interactions with youth. Researchers recommend that state and local agencies “assemble diverse groups of experts and stakeholders to draft model standards and policies that integrate best practices for working with youth.”<sup>160</sup> These policies and standards would convey clear expectations for outcomes of interactions with youth from leadership to rank and file and help “develop oversight mechanisms to ensure compliance.”<sup>161</sup>

159 Statista, *supra* note 95 (31.2% of Californians were under 25 years of age and 22.8% were under 18); U.S. Census Bureau, *American Community Survey 2017-2021 5-Year Estimates*, *supra* note 95; U.S. Census Bureau, *Quick Facts: California*, *supra* note 94.

160 McKitten and Thurau, *Where’s The State? Creating and Implementing State Standards For Law Enforcement Interactions with Youth* (May 2017) Strategies for Youth, p. 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 Nov. 18, 2024].

161 *Ibid.*

In 2021, the Board surveyed Wave 1 and 2 agencies about various policies, including their policies on civilian complaints, and reported its findings in its 2022 Report. In June, July, and August of 2024, the Board requested updated policies from Wave 1 and Wave 2 agencies relating to youth and policing and civilian complaint processes. Among those questions were:

*How does your agency define youth?*

*Does your agency have a written policy pertaining to questioning of youth?*

*Does your agency have a written use of force policy specific to youth?<sup>162</sup>*

The table below shows the policies agencies reported they have for youth interactions. It also shows policies in other areas, such as the use of field interview cards with youth and youths’ entry into the CalGang database.

Table 2. Law Enforcement Agencies: Youth Policies

LEA POLICIES Youth	Policies Regulating Use of Force Against Youth <sup>163</sup>	Policies Prohibiting Deception in Youth Interviews	Policies Limiting or Prohibiting Field Interview (FI) Cards for Youth	Policies Limiting or Prohibiting Entering Youth into CalGang Database	Policies Mandating Deflection / Pre-Arrest Youth Diversion <sup>164</sup>
Lexipol <sup>165</sup>	✓	?	✗	✗	✗
CHP	✓	✓	✗	✗	✗
Fresno PD	✓	✗	✗	✗	✗
LAPD	✓	✗	✗	✗	?
LASD	✓	✗	✗	✗	?
Long Beach PD	✗	✗	✗	✗	✗
Oakland PD	✓	✗	✗	✗	✗
OC Sheriff	✓	✗	✗	✗	✗
Riverside SD	✓	✗	✗	✗	✗
Sacramento SD	✓	✗	✗	✗	✗
Sacramento PD	✓	✗	✗	✗	✗
San Jose PD	✓	✗	✗	✗	✗

162 A copy of the survey can be found at Appendix H.

163 Agencies with a ✓ in this category have at least some use of force policies related to youth. As shown below, almost all these policies relate to force used against youth *after* they have been placed in custody.

164 Pre-arrest youth deflection or diversion is a topic covered in section III.B. of this section, below.

165 Lexipol is a private company that provides law enforcement agency policy and training manuals and documents that reflect federal and state statutes, case law, regulation, and best practices. Many law enforcement agencies in California purchase Lexipol’s policies and implement them as their own policies for their officers. As noted in the Board’s 2022 Report, “Most of the policies are 2-3 pages in length and include nearly identical language with few exceptions, likely because the agencies have not made any changes to the template provided by Lexipol.” (Racial and Identity Profiling Advisory Board, *Annual Report (2022)* (“2022 Report”) p. 150 <<https://oag.ca.gov/system/files/media/ripa-board-report-2022.pdf>> [as of Nov. 18, 2024].) For more information on Lexipol, please visit <<https://www.lexipol.com/>> [as of Nov. 18, 2024].



LEA POLICIES Youth	Policies Regulating Use of Force Against Youth <sup>163</sup>	Policies Prohibiting Deception in Youth Interviews	Policies Limiting or Prohibiting Field Interview (FI) Cards for Youth	Policies Limiting or Prohibiting Entering Youth into CalGang Database	Policies Mandating Deflection / Pre-Arrest Youth Diversion <sup>164</sup>
San Diego SD	✓	✗	✗	✗	✗
SFSD	✓	✗	✗	✗	✗
San Bernardino SD	✓	✗	✗	✗	✗
Riverside SD	✓	✗	✗	✗	✗

✗ 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.

### A. Special Considerations for Youth: Use of Force

Like all California residents, youth are protected by state and federal laws that govern law enforcement officers, and officers are required to comply with these laws when they interact with youth. In California, a “peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.”<sup>166</sup> California law further requires “officers to utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible as well,” including a requirement that “an officer may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance,” and an officer shall use deadly force “only when necessary in defense of human life.”<sup>167</sup> Further, and as noted in last year’s report,<sup>168</sup> international treaties that set standards for the use of force against civilians are applicable to law enforcement agencies within the United States.<sup>169</sup> There are also best practices guidelines published by a number of organizations regarding the use of force generally.<sup>170</sup>

<sup>166</sup> Pen. Code, § 835a, subd. (b).

<sup>167</sup> Gov. Code, § 7286, subd. (b)(1)-(2). Further, the decision by a peace officer to use force “shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies,” and is “evaluated from the perspective of a reasonable officer in the same situation, based on the totality of circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” (Pen. Code, § 835a, subd. (a)(3)-(4).)

<sup>168</sup> Racial and Identity Profiling Advisory Board, *2024 RIPA Report: Recommendations and Best Practices* (2024), p. 162 <<https://oag.ca.gov/system/files/media/ripa-best-practices-2024.pdf>> [as of Nov. 18, 2024].

<sup>169</sup> The international standard for the use of force by law enforcement limits force to that which is legitimate, necessary, and proportionate. This standard is articulated in the *United Nations’ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* and the *United Nations Code of Conduct for Law Enforcement Officials*, which derive from treaties that the United States has entered, including the *International Covenant on Civil and Political Rights*. (U.N., *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders: Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (1990) pp. 1-4 <<https://www.ohchr.org/sites/default/files/firearms.pdf>> [as of Nov. 18, 2024]; U.N. Gen. Assem., *Code of Conduct for Law Enforcement Officials* (1979) art. 3 <<https://www.ohchr.org/sites/default/files/codeofconduct.pdf>> [as of Nov. 18, 2024]; U.N. Gen. Assem., *International Covenant on Civil and Political Rights* (1966) arts. 6–7 <<https://www.ohchr.org/sites/default/files/ccpr.pdf>> [as of Nov. 18, 2024].)

<sup>170</sup> See, e.g., *Police Executive Research Forum, Guiding Principles On Use of Force* (March 2016) <<https://www.policeforum.org/assets/30%20Guiding%20Principles.pdf>> [as of Nov. 18, 2024].

However, there are no California state laws that distinguish between the amount or type of force law enforcement can use against youth compared to adults. The decision to impose limits on the use of force relating to youth is left to the individual agencies and to the individual officers themselves. A review of the use of force policies of the largest 15 law enforcement agencies in California, as well as private company Lexipol, indicates few, if any, *additional* protections, or guidelines relating to the use of force toward youth.

As noted above, the 2023 RIPA data show racial and disability disparities in the use of force on youth. For example, officers handcuffed youth perceived to be Black or Native American and 12–14 at rates more than twice as high (43.3% and 49.1%, respectively) as White youth (17.7%). These disparities were magnified for youth perceived to be 15–17; officers handcuffed youth in this age category and perceived to be Black at a rate of 39.2 percent, perceived to be Native American at a rate of 34.3 percent, and perceived to be White at a rate of 8.0 percent. Officers also handcuffed youth perceived to be 15–17 and to have a disability at more than twice the rate (45.3%) than those youth perceived not to have a disability (20.7%).<sup>171</sup>

Similarly, the 2023 RIPA data show racial disparities in law enforcement interactions, which include officers pointing firearms at youth. For example, officers pointed their firearms at youth perceived to be Black, Hispanic/Latine(x), or Native American and 12–14 at much higher rates (2.9%, 2.0%, and 7.6%, respectively) than White youth (0.6%). These disparities persisted for youth perceived to be 15–17; officers pointed firearms at youth in this age category who were perceived to be Black at a rate of 4.6 percent, Hispanic/Latine(x) at a rate of 2.1 percent, and Native American at a rate of 4.0 percent, compared to rates of youth perceived to be White at (again) 0.6 percent.<sup>172</sup>

Generalized use of force actions show similar trends. The 2023 RIPA data show officers used force against youth perceived to be Black or Native American and 12–14 at rates more than twice as high (45.4% and 49.1%) as White youth (19.2%). Again, these disparities were similar for youth perceived to be 15–17; officers used force in this age category against youth perceived to be Black or Native American more than three times (41.2% and 35.9%, respectively) as often as White youth (9.5%). Officers used force against youth perceived to be 15–17 and to have a disability at more than twice the rate (45.3%) than those youth perceived not to have a disability (20.7%).<sup>173</sup>

In the absence of policies for the use of force that are specific to youth, there is a high likelihood such disparities will persist. Without youth-specific policies, the decision to use force on youth, and the type of force used, is left entirely to officer discretion and, in the absence of effective training on engaging with and de-escalating situations involving youth, the lack of youth-specific force policies could be even more detrimental to youth. As noted earlier, research shows youth of color are likely to suffer from adultification bias, the misperception of youth of color as significantly older (and more likely to be guilty or dangerous) than White youth of the same age. This misperception bias may cause law enforcement officers to perceive Black youth as more threatening, to exercise their discretion in a more punitive manner, and to use more force on Black youth.<sup>174</sup> Policies coupled with training that limit the use of force against youth generally and prioritize de-escalation may mitigate against such outcomes.

### Use of Force in the Field vs. After Youth Have Been Placed in Custody

When looking at law enforcement policies relating to the use of force on youth, it is important to distinguish between permitted use of force “in the field” — that is, during a police encounter outside of the confines of a police station — and the permitted use of force after youth have already been placed in custody. Just one agency, the Los Angeles Police Department, has a policy that directs officers’ use of force in the field. That policy looks at what officers should do when detaining youth suspected of

171 See Appendix B, Table B28.

172 See Appendix B, Table B32.

173 See Appendix B, Table B28.

174 Epstein et al., *supra* note 54, at p. 1; Goff et al., *Measuring Racial Disparities in Police Use of Force: Methods Matter* (2021) 37 J. of Quantitative Criminol. 1083-1113.

committing a felony, a misdemeanor, or a low-level citable offense. According to the policy, youth who are suspected of *felony* offenses should “normally be handcuffed; however, there may be circumstances that would make the handcuffing of a juvenile arrestee inappropriate.”<sup>175</sup> Youth who are suspected of committing *misdemeanor* offenses may be handcuffed at the officer’s discretion.<sup>176</sup> Youth suspected of “*citable* offenses or other non-violent offenses” should not be handcuffed unless the officer “can clearly articulate a specific reason why the handcuffing was appropriate.”<sup>177</sup>

Other than this policy, there are no law enforcement policies submitted by Wave 1 or Wave 2 agencies that relate to any special considerations or prohibitions regarding the use of force against youth *in the field*. Rather, most law enforcement policies focus on placing limits on the use of force while youths are *in temporary custody at the station*.<sup>178</sup>

## Use of Handcuffs on Youth While in Police Custody

Law enforcement policies regarding the use of handcuffs while in police custody vary widely across agencies. While most agencies permit youth to be handcuffed while in temporary custody, the Riverside County Sheriff’s Department and the Fresno Police Department limit the use of handcuffs or restraints on youth under 13, unless the youth “is suspected of a dangerous felony or when the [officer] has a reasonable suspicion that the juvenile may resist” or attempt to escape.<sup>179</sup> Further, Riverside notes that youth who are detained pursuant to a child protective custody warrant “should not be handcuffed or physically restrained unnecessarily,” but if they “become threatening, violent, or combative,” they may be restrained for the safety of the deputy or others.<sup>180</sup> The San Jose Police Department permits children under 12 to be handcuffed if they are suspected of committing murder, or sexual assault, or are a danger to themselves or others.<sup>181</sup>

Some agency policies do permit handcuffing, but state that youth should not be handcuffed to a stationary object (San Diego Police Department,<sup>182</sup> Riverside Sheriff’s Department,<sup>183</sup> Fresno Police Department<sup>184</sup>) or handcuffed to an adult (Los Angeles Sheriff’s Department,<sup>185</sup> Sacramento Sheriff’s Department<sup>186</sup>). Two agencies, the Oakland Police Department and the San Francisco

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175 Los Angeles Police Department, *Juvenile Manual 7.30—Handcuffing of Juveniles*.

176 *Ibid.*

177 *Ibid.* (emphasis added).

178 *California Highway Patrol, HPM 100.69(3)—Arrests and Custody of Minors; San Francisco Police Department General Order 7.01—Policies and Procedures for Juveniles Detention, Arrest, and Custody 4, 6* <<https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO7.01%20Juvenile%20Policies%20and%20Procedures.pdf>> [as of Nov. 18, 2024]; *Sacramento Sheriff’s Department General Order 21/01* <[https://www.dropbox.com/scl/fo/q0qinzwfvvxg3dbwgjyra/h/General%20Orders?dl=0&preview=21-01+Prisoner+Security-Handcuffing.pdf&subfolder\\_nav\\_tracking=1](https://www.dropbox.com/scl/fo/q0qinzwfvvxg3dbwgjyra/h/General%20Orders?dl=0&preview=21-01+Prisoner+Security-Handcuffing.pdf&subfolder_nav_tracking=1)> [as of Nov. 18, 2024]; 14. *Sacramento Police Department General Order GO 580.02—Use of Force* <<https://www.cityofsacramento.gov/content/dam/portal/police/Transparency/policy/GO/Section-500/GO-58002-Use-of-Force-122321.pdf>> [as of Nov. 18, 2024].

179 *Riverside County Sheriff’s Department Standards Manual 306.2.3—Restraint of Juveniles* <<https://www.riversidesheriff.org/DocumentCenter/View/6956/Department-Standards-Manual-71522>> [as of Nov. 18, 2024]; *Fresno Police Department Manual 306.4—Application of Handcuffs* <<https://www.fresno.gov/wp-content/uploads/2024/04/PolicyManual-Redacted-April-2024.pdf>> [as of Nov. 18, 2024].

180 *Riverside County Sheriff’s Department Standards Manual 323.7—Child Protective Custody Warrants – Use of Force and Restraints* <<https://www.riversidesheriff.org/DocumentCenter/View/6956/Department-Standards-Manual-71522>> [as of Nov. 18, 2024].

181 *San Jose Police Department Line/Operations Procedures L 3011.5—Handcuffing Juveniles*.

182 *San Diego Police Department Procedure 3.08—Juvenile Procedures*.

183 *Riverside County Sheriff’s Department Standards Manual 324—Temporary Custody of Juveniles* <<https://www.riversidesheriff.org/DocumentCenter/View/6956/Department-Standards-Manual-71522>> [as of Nov. 18, 2024].

184 *Fresno Police Department Policy Manual 324—Temporary Custody of Juveniles* <<https://www.fresno.gov/wp-content/uploads/2024/04/PolicyManual-Redacted-April-2024.pdf>> [as of Nov. 18, 2024].

185 *Los Angeles Sheriff’s Department, Manual of Policies and Procedures 5-02/100.60—Transportation and Handcuffing of Juveniles*.

186 *Sacramento Police Department General Order GO 580.02—Use of Force* <<https://www.cityofsacramento.gov/content/dam/portal/police/Transparency/policy/GO/Section-500/GO-58002-Use-of-Force-122321.pdf>> [as of Nov. 18, 2024].

Police Department,<sup>187</sup> permit the handcuffing of youth to stationary objects, subject to the watch commander’s approval.<sup>188</sup>

### a. Hobble restraints<sup>189</sup> and TASERs<sup>190</sup> On Youth While in Police Custody

Law enforcement policies regarding the use of restraints, TASERs, or other devices on youth also vary across agencies, but notably, there are fewer agencies that have specific policies relating to or prohibiting such uses of force. The Orange County Sheriff’s Department advises that “[d]ue caution should be considered” when applying the “Hobble restraint procedure,” an “Electronic Control Device,”<sup>191</sup> or a “Conducted Energy Device” (i.e., a TASER)<sup>192</sup> on youth in custody, but the agency does not preclude their use, and the agency’s policies do not otherwise differentiate between the use of force toward youth and adults.

Similarly, the Riverside County Sheriff’s Department and the Fresno Police Department advise that the use of a TASER on youth “should generally be avoided” unless other available options are ineffective or would endanger the deputy or others.<sup>193</sup> As with the Orange County Sheriff’s Department, these agencies do not preclude the use of the TASER on youth, and the agencies’ policies do not otherwise differentiate between the use of force towards youth compared to adults.

### b. Other Agency Policies

Los Angeles Police Department prohibits the use of force on youth to compel them to participate in an in-person identification procedure or lineup.<sup>194</sup> One agency, the Long Beach Police Department, has no policy relating to the use of force against youth either in the field or while in custody.

187 *San Francisco Police Department General Order 7.01—Policies and Procedures for Juveniles Detention, Arrest, and Custody* 4, 6 <<https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO7.01%20Juvenile%20Policies%20and%20Procedures.pdf>> [as of Nov. 18, 2024].

188 *Oakland Police Department General Order O-09—Detention of Juvenile Offenders* <<https://public.powerdms.com/oakland/tree/documents/489>> [as of Nov. 18, 2024].

189 *Orange County Sheriff’s Department Policy Manual 306.4—Use of Hobble Restraint* <<https://ocsheriff.gov/sites/ocsd/files/2024-04/Department%20Manual%20%28Lexipol%29%202024-04-18.pdf>> [as of Nov. 18, 2024]. According to the policy, “The Ripp Hobble is made of one-inch wide polypropylene webbed belting with a tested strength of 700 lbs. The hobble has a one-inch wide side, alligator-jawed, friction-locking clip and steel-snap swivel. The overall length of the hobble shall be a minimum of 42 inches.” (*Orange County Sheriff’s Department Policy Manual 306.3—Authorized Equipment.*) The policy also refers to the EZ Leg Control Belt, which “is a black nylon belt that is 2 inches wide with a 7 inch loop at the end with a tensile strength of 518 pounds. The control belt is equipped with a 2 inch black buckle, 2 inch D-Ring, and 3 inch Aluminum Carabiner. (*Ibid.*) The overall length of the control belt is 90 inches.” (*Ibid.*)

190 A TASER is “a gun that fires electrified darts to stun and immobilize a person.” (*Merriam-Webster.com Dictionary, Merriam-Webster* <<https://www.merriam-webster.com/dictionary/Taser>> [as of Nov. 18, 2024].) According to Axon, the company which holds the TASER trademark, a TASER is an “energy weapon” which “deploy[s] probes from a distance” to send “electrical current to temporarily incapacitate subjects by inducing neuromuscular incapacitation, or NMI.” (Axon, *The Truth About TASER* <<https://www.axon.com/resources/the-truth-about-taser>> [as of Nov. 18, 2024].) Axon notes that this process “can be painful for individuals during that brief electrical cycle, so an exposure to a TASER energy weapon should be treated seriously. After exposure to a TASER energy weapon, it is recommended a subject be monitored for 20 minutes to ensure they are feeling well.” (*Ibid.*)

191 *Orange County Sheriff’s Department Policy Manual 309.5—Use of the Electronic Control Device* <<https://ocsheriff.gov/sites/ocsd/files/2024-04/Department%20Manual%20%28Lexipol%29%202024-04-18.pdf>> [as of Nov. 18, 2024].

192 *Orange County Sheriff’s Department Policy Manual 312.5—Use of the Conducted Energy Device (CED) – TASER X26* <<https://ocsheriff.gov/sites/ocsd/files/2024-04/Department%20Manual%20%28Lexipol%29%202024-04-18.pdf>> [as of Nov. 18, 2024].

193 *Riverside County Sheriff’s Department Standards Manual 310.5.2—Use of the TASER – Special Deployment Considerations* <<https://www.riversidesheriff.org/DocumentCenter/View/6956/Department-Standards-Manual-71522>> [as of Nov. 18, 2024]; *Fresno Police Department Policy Manual 309.4 Electronic Control Device (ECD) – Special Deployment Considerations* <<https://www.fresno.gov/wp-content/uploads/2024/04/PolicyManual-Redacted-April-2024.pdf>> [as of Nov. 18, 2024].

194 *Los Angeles Police Department Juvenile Manual* (2017) 002012.100—Juvenile Refuses to Participate in Line-Up <[https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2021/09/05\\_01\\_2011\\_DB\\_OSO\\_Juvenile-Manual.pdf](https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2021/09/05_01_2011_DB_OSO_Juvenile-Manual.pdf)> [as of Nov. 18, 2024].

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

Law enforcement interactions with youth — even the initial stop, covered by RIPA data — often involve some form of police questioning, be it requests for information to be included in a field interview card, a consent to search property, or questioning related to a law enforcement investigation. Adolescents are less capable of understanding their constitutional rights than their adult counterparts and are more prone to falsely confessing to a crime they did not commit.<sup>195</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>196</sup> The context of custodial interrogation is believed to exacerbate these pressures.

### Special Considerations for Youth of Color During Police Questioning

Youth generally are more susceptible to police coercion and pressure than adults and are more suggestible than adults to the inherent power imbalance between officer and suspect in a custodial setting.<sup>197</sup> Research shows there are unique vulnerabilities that make youth of color even more subject to coercive tactics during interrogations that could lead to false confessions. One of those additional vulnerabilities is racial bias in the officer’s assessment of whether the youth is being deceptive. Another of those vulnerabilities is adultification bias or the likelihood that the officer would perceive the youth as older — and therefore, guiltier — than their White peers.<sup>198</sup>

Research shows that the behavior of youth of color in interrogations may affect officers’ assessment of whether they are being deceptive.<sup>199</sup> Cross-cultural differences in nonverbal communication styles could cause youth of color “to appear more deceptive” to police during interrogations, which could cause an officer to increase pressure on the youth to confess.<sup>200</sup> For example, 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 police.<sup>201</sup> However, these subjective “cues” are unreliable in assessing culpability and may in fact be more indicative of cultural background.<sup>202</sup> Immaturity can also cause misperceptions of behaviors as well. For

195 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 Nov. 18, 2024]; Meyer and Reppucci, *Police Practices and Perceptions Regarding Juvenile Interrogation and Interrogative Suggestibility* (2007) 25 Behav. Sci. & L. 757, 763; Ceci and Bruck, *Suggestibility of the Child Witness: A Historical Review and Synthesis* (1993) 113 Psychol. Bull. 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 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. 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.

196 See, e.g., Luna, *supra* note 195, at p. 297; Meyer and Reppucci, *supra* note 195, at p. 763; Ceci and Bruck, *supra* note 195; Note, *Questioning the Reliability of Children’s Testimony: An Examination of the Problematic Elements*, *supra* note 195; Owen-Kostelnick et al., *supra* note 195; Redlich, *supra* note 195, at p. 952; Viljoen et al., *supra* note 195; Note, *No Match for the Police: An Analysis of Miranda’s Problematic Application to Juvenile Defendants*, *supra* note 195, at pp. 1066-1069.

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

198 Epstein et al., *supra* note 54, at pp. 1, 4; Goff et al., *The Essence of Innocence: Consequences of Dehumanizing Black Children*, *supra* note 54, at pp. 529, 536.

199 Blandón-Gitlin et al., *Race and Ethnicity as a Compound Risk Factor in Police Interrogation of Youth in The Legacy of Racism for Children: Psychology, Law, and Public Policy* (Stevenson, Bottoms, & Burke edits., 2020), p. 175.

200 Najdowski, *Stereotype Threat in Criminal Interrogations: Why Innocent Black Suspects Are at Risk for Confessing Falsely* (2011) 17 Psychology, Public Policy, and Law 562, 563.

201 Blandón-Gitlin et al., *supra* note 199, at p. 175.

202 Johnson, *Race and Police Reliance on Suspicious Non-verbal Cues* (2007) 30 Policing: An International Journal of Police Strategies & Management 277.

example, Black youth who do not make eye contact because of nervousness may be misperceived as being deceptive.<sup>203</sup>

Another vulnerability in the context of interrogations unique to people of color is *stereotype threat*.<sup>204</sup> The term *stereotype threat* describes a person's concern that they may be perceived in light of a negative stereotype that applies to their demographic group.<sup>205</sup> Unfortunately, many widely-known negative stereotypes about people of color exist, and these stereotypes contribute to both the conscious and unconscious biases people of color encounter every day. The mere existence of the stereotype "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>206</sup> "[B]ecause of negative stereotypes that depict Black people as criminals, Black (vs. White) individuals are more likely to be suspected ... of committing crimes."<sup>207</sup> Black individuals who are aware of this stereotype could experience increased stress when interrogated by police, which could be perceived inaccurately as indicative of deception or guilt.<sup>208</sup> Youth of color "are aware of negative stereotypes that apply to them, and activating stereotypes can negatively influence their performance" in a number of settings, including, for example, standardized testing.<sup>209</sup> The effects of stereotype threat "may be even more harmful" to youth than adults, because they "deplete cognitive resources and impair self-regulatory strategies, abilities that are already limited among youth."<sup>210</sup> Stereotype threat is not limited to any one racial or ethnic identity and can apply to any individual aware of the negative stereotypes that may apply to them.<sup>211</sup>

### Miranda Warnings<sup>212</sup>

When an initial law enforcement encounter progresses to placing an individual in custody and questioning, policies relating to the reading of *Miranda* warnings are implicated. As discussed below, many police agencies have policies directing law enforcement to notify youth of their rights under *Miranda* immediately upon being placed in custody. However, research demonstrates that youth may be particularly vulnerable to police questioning even if notified of their *Miranda* rights. The increased stress resulting from stereotype threat may impair a suspect's ability to comprehend legal

203 Blandón-Gitlin et al., *supra* note 199, at p. 176.

204 Najdowski, *Stereotype Threat in Criminal Interrogations: Why Innocent Black Suspects Are at Risk for Confessing Falsely*, *supra* note 199, at p. 563; Steele and Aronson, *Stereotype Threat and the Intellectual Test Performance of African Americans* (1995) 69 *Journal of Personality and Social Psychology* 797.

205 Najdowski et al., *Stereotype Threat and Racial Differences in Citizens' Experiences of Police Encounters* (2015) 39 *Law and Human Behavior* 463; Steele and Aronson, *supra* note 203.

206 Steele and Aronson, *supra* note 204.

207 Blandón-Gitlin et al., *supra* note 199, at p. 174.

208 *Ibid.*

209 *d.* at p. 175.

210 *Ibid.*

211 Interestingly, stereotype threat can also be experienced by police officers, with similar deleterious effects. (Trinkner et al., *The Force of Fear: Police Stereotype Threat, Self-Legitimacy, and Support for Excessive Force* (2019) 43 *Law and Human Behavior* 421, 422.) Officers who are concerned about being labeled as racist — i.e., the "racist police officer" stereotype — may, over time, come to resemble or embody the stereotype because of stereotype threat. (*Id.*) In one study, a researcher demonstrated that the more officers were more concerned about being labeled as racist, the higher the proportion of their uses of force occurred against Black residents. (Goff et al., *Protecting Equity: The Consortium for Police Leadership in Equity Report on the San Jose Police Department* (2012) Los Angeles: The Consortium for Police Leadership in Equity, University of California Los Angeles.) This becomes a self-perpetuating cycle. (See, e.g., Sanchez and Rosenbaum, *Racialized Policing: Officers' Voices on Policing Latino and African American Neighborhoods* (2011) *J. of Ethnicity in Criminal Justice* 152.) "[I]t is easy to imagine how an erosion in public trust could lead to increased unreasonable force, further eroding public trust." (Trinkner et al., *The Force of Fear: Police Stereotype Threat, Self-Legitimacy, and Support for Excessive Force* (2019) 43 *Law and Human Behavior* 421, 432.)

212 *Miranda v. Arizona* (1966) 384 U.S. 436. The decision in the *Miranda* case requires officers, before questioning a suspect in a custodial interrogation setting, to explain to the suspect their rights — to remain silent, to have an attorney present during questioning at no cost to them, to stop answering any questions at any time, and that any statement may be used as evidence against them.

concepts, such as the scope of their rights under *Miranda*.<sup>213</sup> Studies show that youth, generally, are less protected by the *Miranda* warnings officers give than adults under custodial interrogation. Youth also are more likely to waive their rights and speak to officers, even when it is against their interests to do so for many reasons. For example, youth suspects under 15 “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>214</sup> Youth are also more likely to waive their rights if they believe not doing so will create “the potential for immediate negative consequences.”<sup>215</sup> For example, they will waive their rights if they believe doing so will allow them to go home.<sup>216</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>217</sup>

In 2017, recognizing that children and adolescents are “much more vulnerable to psychologically coercive interrogations,”<sup>218</sup> the California Legislature passed Senate Bill No. 395, which requires that youth 15 and younger consult with legal counsel before a custodial interrogation. This consultation is mandatory and cannot be waived.<sup>219</sup> In 2020, Senate Bill No. 203 (2019-2020 Reg. Sess.) (SB 203) extended these protections to youth 17 and younger.<sup>220</sup> In 2022, California also passed the Juvenile Custodial Interrogations Reform Bill, which prohibits law enforcement from using physically and psychologically harmful interrogation techniques on youth aged 17 and younger.<sup>221</sup> The bill went into effect on July 1, 2024.<sup>222</sup>

### C. Consent Searches

As discussed in the 2022 RIPA Report, agreeing to an officer’s request to conduct a search does not necessarily feel voluntary or that there is a choice in the matter, given the inherent power imbalance between law enforcement officers and members of the public.<sup>223</sup> The 2019, 2020, and 2021 RIPA data show that individuals perceived to be Black or Multiracial were asked for consent to search at a higher rate than those who are perceived to be White.<sup>224</sup> Further, the 2023 RIPA data show that Black youth perceived to be 15–17 were stopped for an average of 51.0 minutes when they gave consent to search, but 152.8 minutes when they did not.<sup>225</sup> This stands in sharp contrast to White youth perceived to be in the same age range; those who gave consent to search were stopped for an average of 54.9 minutes, but an average of 87.7 minutes when they did not give consent.<sup>226</sup>

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213 Blandón-Gitlin et al., *supra* note 199, at p. 174.

214 Kassin et al., *supra* note 197, at p. 8.

215 *Ibid.*

216 *Ibid.*

217 *Ibid.*

218 Sen. Bill No. 395 (2017-2018 Reg. Sess.) <[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB395](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB395)> [as of Nov. 18, 2024].

219 Welf. & Inst. Code, § 625.6; California Department of Justice (March 15, 2023) 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 Nov. 18, 2024].

220 Sen. Bill No. 203 (2019-2020 Reg. Sess.) <[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB203](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB203)> [as of Nov. 18, 2024]; Welf. & Inst. Code § 625.6.

221 Assem. Bill No. 2644 (2021-2022 Reg. Sess.) <[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB2644](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2644)> [as of Nov. 18, 2024]; Welf. & Inst. Code § 625.7.

222 Assem. Bill No. 2644, *supra* note 220; Welf. & Inst. Code § 625.7.

223 Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 165, at pp. 109, 112-114, 116-118.

224 *Id.* at p. 100.

225 Appendix B, Table B37.

226 *Ibid.*

## D. Legitimacy Policing

Since the 1970s, policing strategies such as hotspot policing and proactive policing have contributed to the criminalization of marginalized communities.<sup>227</sup> In recent years, community, courtesy, and procedural justice policing have emerged as modern solutions to issues of racism and excessive force among law enforcement.<sup>228</sup> “Legitimacy policing” is a term describing a model which focuses on improving the perception of law enforcement as legitimately or properly carrying out their role in the community.<sup>229</sup> Perceptions of police legitimacy can ensure that individuals are cooperative with law enforcement when they interact with officers and that the public perceives officers as respectful, trustworthy, and even-handed when interacting with the community.<sup>230</sup>

The “legitimacy policing continuum” describes how officers draw upon multiple policing practices during interactions and how the use of these practices improves or diminishes police legitimacy.<sup>231</sup> On one end of the continuum are those law enforcement practices that emphasize respectfulness, courtesy, and fairness.<sup>232</sup> On the other end of the continuum are punitive law enforcement practices, like stop-and-frisk, police harassment, and violence.<sup>233</sup> The legitimacy policing continuum is characterized by officers drawing upon approaches that fall on both ends of this “continuum” during individual interactions.<sup>234</sup>

Research shows that individuals are less likely to believe that they have been subject to racial profiling when they are treated with politeness and respect by law enforcement officers.<sup>235</sup> In contrast, punitive and investigatory law enforcement actions reduce police legitimacy, and can be seen as a form of racial profiling, “even when conducted with courtesy and respect.”<sup>236</sup>

Researchers observing the work of a Gang Suppression Team within a law enforcement agency in a small California city found that the officers used components from several policing models in their interactions with the public in marginalized communities.<sup>237</sup> For criminalized individuals, there was no difference in perceptions of legitimacy between policing that was courteous, polite, and respectful and those practices that were punitive: the stopped individuals perceived that the combination of approaches was intended to further criminalize and control them “by closely scrutinizing and regulating their daily routines and behaviors.”<sup>238</sup>

The researchers who observed the interactions of Gang Suppression Team officers with suspected gang-associated Hispanic/Latine(x) individuals found that officers flagged individuals as suspicious due to their race and their style.<sup>239</sup> Police assumed gang membership based on the “specificities of individuals’ racialized self-presentation.”<sup>240</sup> Police interactions that utilized practices from multiple areas of the “legitimacy policing continuum” contributed to feelings of indignation and violation, and individuals stated they were aware that law enforcement officers were “using courtesy approaches in pretext stops as a means of tracking them.”<sup>241</sup> Additionally, while the consistent threat of force to resolve

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227 Rios et al., *supra* note 71, at p. 58.

228 *Id.* at p. 72.

229 Mazerolle et al., *Procedural Justice and Police Legitimacy: A Systematic Review of the Research Evidence* (2013) 9 J. of Experimental Criminol. 245, 246.

230 *Ibid.*

231 Rios et al., *supra* note 71, at p. 59.

232 *Id.* at pp. 61-63.

233 *Id.* at pp. 61-62.

234 *Id.* at p. 61.

235 Tyler and Wakslak, *Profiling and Police Legitimacy: Procedural Justice, Attributions of Motive, and Acceptance of Police Authority* (2004) 42 Criminol. 253, 277.

236 Rios et al., *supra* note 71, at p. 59.

237 *Id.* at pp. 62, 64.

238 *Id.* at pp. 62-63, 68.

239 *Id.* at pp. 66-67.

240 *Id.* at p. 69.

241 *Id.* at p. 68.



conflict gave officers a feeling of authority, it also prompted resentment in the Hispanic/Latine(x) individuals they policed.<sup>242</sup> The combination of tactics typical of legitimacy policing often shifts the responsibility for harassment and excessive force from the police to the individual being policed.<sup>243</sup> This dynamic enables officers to use the stopped person's rejections of polite overtures to justify punitive treatment.<sup>244</sup> Legitimacy policing produces an environment where trust and relationship building is subordinate to the primary focus on stop-and-frisk, surveillance, and data collection.<sup>245</sup> These practices represent a general shift from a culture of investigating crime to surveilling individuals considered prone to committing crime.<sup>246</sup>

Punitive and investigatory law enforcement actions such as stop-and-frisk, hot spot policing, proactive intervention, and police saturation have historically been used — and continue to be used — to reinforce social inequities and criminaliz[e] marginalized communities.<sup>247</sup> These policing practices are “rooted within long-standing perceptions of urban ordering.”<sup>248</sup> In this sense, these practices reinforce the concept of policing as “upholding order, particularly in the urban sphere.”<sup>249</sup> Researchers found that the Gang Suppression Team officers “consistently described their surveillance strategies as techniques for making suspects behave.”<sup>250</sup> These officers regularly told suspected gang-associated Hispanic/Latine(x) individuals that they were “checking up on how they were doing.”<sup>251</sup>

As noted previously, the most common proactive policing strategy<sup>252</sup> — deploying officers to places where crime is likely to be reported, and directing officers to interact with the people most likely to be accused of crimes — “may impose a terrible cost.”<sup>253</sup> Research shows that if a law enforcement agency engages in proactive policing and disproportionately assigns officers to particular neighborhoods, this will result in more frequent contact between law enforcement and individuals within those neighborhoods.<sup>254</sup> Such proactive policing practices “extend a historical pattern of racialized criminalization in the use of stops.”<sup>255</sup> Further, and as noted above, these practices reduce police legitimacy.

Researchers recommended that law enforcement agencies that are committed to community policing “consider de-emphasizing the stop-and-frisk and other investigatory stops as significant crime prevention strategies, and instead promote and reward a dignity policing model that allows criminalized civilians to feel safe and protected by officers and departmental culture.”<sup>256</sup> The available research shows that law enforcement policies and practices that ensure law enforcement is legitimate — through which officers are respectful, trustworthy, and transparent in their actions — “can enhance citizen perceptions and attitudes toward compliance, cooperation, satisfaction, and confidence with police.”<sup>257</sup> Policies that emphasize neutral decision making during law enforcement interactions, or demonstrating dignity and respect toward individuals during such interactions, effectively improve perceptions of law enforcement legitimacy.<sup>258</sup>

242 *Id.* at p. 71.

243 *Id.* at p. 72.

244 *Ibid.*

245 *Ibid.*

246 *Id.* at p. 58.

247 *Ibid.*; Bland, *supra* note 104, at p. 667.

248 Bland, *supra* note 104, at p. 667.

249 *Id.* at p. 664.

250 Rios et al., *supra* note 71, at p. 68.

251 *Id.* at p. 69.

252 As noted above, “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*, *supra* note 70, at p. 2321.) It encompasses tactics such as stop-and-frisk or Terry stops.

253 Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent Black and Latino Boys*, *supra* note 68, at pp. 8261-8268.

254 *Id.*

255 Rios et al., *supra* note 71, at p. 58.

256 *Id.* at p. 72.

257 Mazerolle et al., *supra* note 229, at p. 264.

258 *Id.* at pp. 264-265.

### III. THE PATH FORWARD: DEVELOPMENTALLY APPROPRIATE RESPONSES AND BOARD RECOMMENDATIONS

#### A. Law Enforcement Agencies Should Adopt Policies Restricting or Proscribing the Use of Force on Youth

Law enforcement policies relating to the use of force on youth are especially important, as the research shows officer interactions with youth frequently result in the use of force, and the use of force is directed disproportionately against youth of color. The 2023 data show that of all stops of youth under 25, 11.3 percent involved the use of force.<sup>259</sup> This is consistent with proportions of all stops across all age categories, where 11.5 percent of all stops involved the use of force.<sup>260</sup> However, among all stops of youth under 25 in which force was used, 20.5 percent were of Black youth, and 58.0 percent were Hispanic/Latine(x).<sup>261</sup> Other studies outside of California also show racial disparities in the use of force.<sup>262</sup> Nationally, youth are involved in just 3.5 percent of law enforcement interactions, but account for 30.1 percent of those involving force.<sup>263</sup> The majority (81%) of police use of force against youth are initiated by police.<sup>264</sup>

A review of the 2023 RIPA data show there is clear racial disparity in the use of force during police stops of youth, with Black youth, Native American youth, and Hispanic/Latine(x) youth all facing greater risk of use of force than White youth.<sup>265</sup> Overall, 20.7 percent of youth suspects who are perceived to be Black, 12.8 percent perceived to be Hispanic/Latine(x), and 18.0 percent perceived to be Native American experience use of force in police stops, compared to just 6.9 percent perceived to be White.<sup>266</sup> Further, 18.9 percent of youth who are perceived to be Black, 11.3 percent of youth perceived to be Hispanic/Latine(x), and 16.5 percent of youth perceived to be Native American are handcuffed during stops, compared to just 5.5 percent of youth perceived to be White.<sup>267</sup>

The data further show that for youth perceived to be Black, the risk of any use of force is 3.0 times greater than for youth perceived to be White, while the risk of less lethal force is 6.2 times greater, the risk of the use of limited force is 3.0 times greater, and the risk of the use of handcuffs is 3.4 times greater.<sup>268</sup> For youth perceived to be Hispanic/Latine(x), the risk of any use of force is 1.9 times greater than for youth perceived to be White, while the risk of less lethal force is 2.6 times greater, the risk of use of limited force is 1.9 times greater, and the risk of use of handcuffs is 2.0 times greater.<sup>269</sup> For youth perceived to be Native American, the risk of any use of force is 2.6 times greater than for youth perceived to be White, while the risk of less lethal force is 3.5 times greater, the risk of use of limited force is 2.6 times greater, and the risk of use of handcuffs is 3.0 times greater.<sup>270</sup>

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259 See Appendix B, Tables B28-B28b.

260 See *Ibid.*

261 See *Ibid.*

262 A 2021 analysis of data on approximately 3,000 instances of police use of force against children aged 16 and under showed Black children made up more than 50 percent of those against whom force was used, though they are only 15 percent of youth nationwide. (Associated Press, *Tiny Wrists in Cuffs: How Police Use Force Against Children* (Oct. 2021) NPR <<https://www.npr.org/2021/20/10/1047618263/tiny-wrists-in-cuffs-how-police-use-force-against-children>> [as of Nov. 18, 2024].) The data in this analysis included incidents from 25 police departments in 17 states. (*Ibid.*)

263 McKitten and Thurau, *supra* note 160, at p. 5.

264 *Ibid.*

265 Appendix F, F.5.

266 *Ibid.*

267 *Ibid.*

268 *Ibid.*

269 *Ibid.*

270 *Ibid.*

The use of force on youth can be harmful in several ways, affecting their ability to cope with stressful situations.<sup>271</sup> In the immediate aftermath, police use of force against youth and adolescents can lead to acute distress. 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>272</sup> Further, data show that the use of force against women has been growing at a higher rate than the use of force against men nationwide; as such, it is important to understand the unique vulnerabilities that Black girls may face in connection to police use of force.<sup>273</sup>

Given the risk of harm to youth from police use of force, researchers and advocates have continuously recommended that law enforcement adopt policies and procedures that use “developmentally appropriate, trauma-informed de-escalation tactics” before exerting force on youth.<sup>274</sup> This includes providing warnings and a sufficient time for youth to respond to officer commands, restricting the use of TASERS and other weapons meant to subdue individuals, restricting the pointing of weapons at youth, and refraining from engaging in “unnecessary, overly aggressive, or otherwise improper actions” that may cause the situation to escalate.<sup>275</sup> Such policies should also include appropriate training for police officers to avoid the unnecessary escalation of police interactions with youth.<sup>276</sup> Law enforcement should employ alternatives to arrest when appropriate, and — if it is necessary to detain youth suspected of an offense — limit the use of physical restraints as much as possible.<sup>277</sup>

## B. Restorative Justice and Deflection/Pre-Arrest Diversion

As discussed at the beginning of this chapter, there are unique considerations relating to law enforcement interactions with youth, and the research demonstrates that such interaction should be qualitatively different from police encounters with adults. Law enforcement policies that are sensitive to those unique considerations — and treat youth differently than adults — are in line with the wealth of research referenced in this report. Robust law enforcement policies regarding youth should address every aspect of police interaction with youth, *starting from the initial police stop* to avoid the negative and harmful effects of police interaction on youth, especially youth of color.

“The arrest experience is traumatic and can be life-altering.”

— Illinois Juvenile Justice Commission, “Preventing Youth Arrests through Deflection.”

One way to treat youth differently, starting from the initial police stop, is to emphasize *restorative justice* models of conflict resolution when encountering youth suspected of violations. Previously conceived of as radical or experimental, restorative justice models 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 through retribution, incarceration, or incapacitation, restorative justice focuses on the need for “repairing” the harm to the wronged party the accused caused. Restorative justice models may also focus on repairing the harms the accused has experienced, “[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>278</sup> Restorative justice programs have

271 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 Nov. 18, 2024].

272 *Ibid.*

273 Tapp and Davis, *Contacts Between Police and the Public, 2020* (2022) U.S. DOJ Special Report, p. 5 <<https://bjs.ojp.gov/media/document/cbpb20.pdf>> (noting that the rate of use of force reported by women increased from 1.1 percent in 2018 to 1.2 percent in 2020, and that during the same period, the rate of reported use of force by men decreased from 3 percent to 2.7 percent); Perillo et al., *supra* note 57, at p. 37.

274 Strategies for Youth, *Policy 5: Use of Force with Youth*, p. 2 <<https://strategiesforyouth.org/Model-Policy5.pdf>> [as of Nov. 18, 2024].

275 *Ibid.*

276 Herz, *Improving Police Encounters with Juveniles: Does Training Make a Difference?* (2001) 3 J. Research & Policy 57, 59 (2001).

277 Strategies for Youth, *Policy 5: Use of Force with Youth*, *supra* note 274.

278 Pointer, *What is ‘Restorative Justice’ and How Does it Impact Individuals Involved in Crime?* (Aug. 2021) Bureau of

been implemented across the country in both schools and the courts to divert youth offenders out of the criminal legal system.<sup>279</sup>

Diversion — where youth offenders can avoid some of the negative effects of the court system — is one form of a restorative justice program that has been shown to be more effective than the juvenile courts in reducing recidivism, and is more developmentally appropriate.<sup>280</sup> Relatedly, youth who do not get the benefit of diversion accumulate longer court histories, leading to harsher consequences for any subsequent arrest.<sup>281</sup>

Diversion can be offered at many different points during a youth’s journey through the criminal legal system. *Deflection*,<sup>282</sup> also known as *pre-arrest diversion*<sup>283</sup> or *pre-booking diversion*,<sup>284</sup> occurs when authorities do not arrest the youth suspected of a violation and do not refer the case to juvenile court.<sup>285</sup> Therefore, no arrest is recorded, and there is no formal involvement in the legal system.<sup>286</sup> After arrest, youth could be offered *pre-filing* diversion (where there is an arrest, but no charges have been filed); *pre-adjudication* diversion (where there is an arrest and charges have been filed), and even *post-adjudication* restorative justice (which can occur as part of a youth’s re-entry terms).<sup>287</sup>

Although diversion *can* happen at different points in time, experts have reached a consensus that the *best* time for diversion to happen is immediately at the point of first contact with law enforcement.<sup>288</sup> Indeed, multiple studies have shown that *any* contact with the system — even just an arrest, or an initial court date — makes it more likely that a child will experience negative outcomes later in life, including making it less likely they will finish school, and more likely they will become further ensnared in the system.<sup>289</sup> As the Illinois Juvenile Justice Commission noted, “[t]he arrest experience is traumatic and can be life-altering. It typically involves being taken into custody, handcuffed, transported in a police vehicle to a police facility, fingerprinted and detained (sometimes cuffed to an object) while being ‘processed.’”<sup>290</sup>

These findings indicate that deflection or pre-arrest diversion should be the norm, not the exception. As the initial contact between youth and law enforcement is crucial, researchers recommend that law enforcement reassess their approach to youth contact entirely, with an understanding that each contact should end in a pre-arrest diversion where possible. Notably, this year, the California Legislature “reaffirm[ed] its support for utilizing research- and evidence-based, trauma-informed, community-based programs that include alternatives to arrest, incarceration, and formal involvement with the juvenile justice system, and which aim to deflect or divert youth from justice system engagement at the earliest possible point.”<sup>291</sup>

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Justice Assistance National Training and Technical Assistance Center, <<https://bjatta.bja.ojp.gov/media/blog/what-restorative-justice-and-how-does-it-impact-individuals-involved-crime>> [as of Nov. 18, 2024].

279 Martinez, *The Promise and Limits of Restorative Justice for Youth* (Aug. 12, 2021) The Imprint, <<https://imprintnews.org/justice/juvenile-justice-2/the-promise-and-limits-of-restorative-justice-for-youth/57793>> [as of Nov. 18, 2024].

280 *Id.* at p. 1.

281 *Ibid.*

282 See, e.g., Illinois Juvenile Justice Commission, *Preventing Youth Arrests through Deflection* <<https://ijjc.illinois.gov/wp-content/uploads/2021/08/IJJC-Deflection-Report-November-2020.pdf>> [as of Nov. 18, 2024]

283 Mendel, *Diversion: A Hidden Key*, *supra* note 104, at p. 7.

284 See, e.g., Ellis, *CYS Restorative Justice Diversion* <<https://tinyurl.com/5n7kbrr8>> [as of Nov. 18, 2024].

285 *Ibid.*; Mendel, *Diversion: A Hidden Key*, *supra* note 104, at p. 7; Illinois Juvenile Justice Commission, *supra* note 282.

286 Mendel, *Diversion: A Hidden Key*, *supra* note 104, at p. 7; Ellis, *CYS Restorative Justice Diversion*, *supra* note 284.

287 Ellis, *CYS Restorative Justice Diversion*, *supra* note 284.

288 See, e.g., Illinois Juvenile Justice Commission, *supra* note 282 (“Procedurally-just interactions, which avoid arrests whenever possible and advance racial equity, must be prioritized in every ... community.”).

289 Washburn, *LA County Embarks on Sweeping Youth Diversion Plan* (March 8, 2018) California Health Report, <<https://www.calhealthreport.org/2018/03/08/la-county-embarks-sweeping-youth-diversion-plan/>> [as of Nov. 18, 2024].

290 Illinois Juvenile Justice Commission, *supra* note 282, at p. 5.

291 Sen. Bill No. 1484 (2023-2024 Reg. Sess.) § 1 <[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=2023202405B1484](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=2023202405B1484)> [as of Nov. 18, 2024].

In 2021, there were more than 40 statutes, laws, and provisions throughout California implementing some form of diversion or restorative justice for youth offenders.<sup>292</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>293</sup> In 2022, Los Angeles County created and implemented its Department of Youth Development (DYD); a portion of its mission focuses on “community-based youth diversion and restorative practices.”<sup>294</sup> An internal review of DYD’s programs noted that only 5 percent of youth who enrolled in DYD’s diversion program had a petition filed within 12 months, compared to around 20 percent of youth who had not enrolled in the program.<sup>295</sup>

Unfortunately, youth of color are not referred to diversion at the same rate as White youth, depriving them of the short and long-term benefits of diversion and restorative justice programs. In Los Angeles County’s DYD program, for example, Black youth were deemed eligible for diversion at lower rates than White youth, and Black youth enrolled in diversion at much lower rates than White youth.<sup>296</sup> However, Black and Hispanic/Latine(x) youth who were enrolled substantially completed their formal diversion at a rate at least equivalent to White youth.<sup>297</sup>

Other research similarly shows youth of color referred to diversion at lower rates than their White counterparts. Nationally, 52 percent of White youth in 2019 were referred to diversion out of juvenile courts, compared to only 40 percent of Black youth, and 44 percent of Hispanic/Latine(x) youth.<sup>298</sup> These disparities appear to be increasing. In 2005, the share of White youth referred to diversion “was 20% higher than the share for Black youth; by 2019, the gap had jumped to 30%.”<sup>299</sup> Such disparities have been seen in various states.<sup>300</sup>

Effective restorative justice programs should account for racial disparities in who is referred to these programs, and at the very least, youth of color should be referred to those programs in proportion to the population.

These disparities are particularly troubling because restorative practices have significant benefits for youth of color. In Los Angeles, Black youth who successfully completed diversion had the highest share

292 Martinez, *supra* note 279.

293 *Ibid.*

294 Department of Youth Development, *About Us* <<https://dyd.lacounty.gov/about/>> [as of Nov. 18, 2024].

295 Department of Youth Development, *DYD’s Second Annual Report (2024)* <<https://dyd.lacounty.gov/wp-content/uploads/2024/07/DYD-Year-2-in-Review.pdf>> [as of Nov. 18, 2024].

296 Department of Youth Development, *LA County Department of Youth Development – Diversion Program Outcome and Equity Assessment & Cost Benefit Analysis (“LA County Department of Youth Development – Diversion Program”)* (2024) p. 13 <[https://dyd.lacounty.gov/wp-content/uploads/2024/07/DYD\\_Outcome-Equity-Report\\_Final-Report.pdf](https://dyd.lacounty.gov/wp-content/uploads/2024/07/DYD_Outcome-Equity-Report_Final-Report.pdf)> [as of Nov. 18, 2024]. There are several factors that affect the rates at which youth decide to enroll in diversion programs which are unrelated to a child’s interest in participating or motivation to participate. For example, DYD notes that factors such as youth proximity to available diversion programs may explain lower Black youth enrollment, especially if those programs are located “outside a reasonable traveling distance from their residence at a greater rate than other racial and ethnic groups.” (*Id.* at p. 31.) Other research demonstrates that the imposition of diversion fees or costs has disproportionate impact, exacerbating disparities. (Schlesinger, *Decriminalizing Racialized Youth Through Juvenile Diversion* (2018) 28 *The Future of Children* 1, 59-81; Mendel, *Diversion: A Hidden Key*, *supra* note 104, at p. 16.)

297 Department of Youth Development, *LA County Department of Youth Development – Diversion Program Outcome and Equity Assessment & Cost Benefit Analysis*, *supra* note 296, at p. 46.

298 Sickmund et al., *Easy Access to Juvenile Court Statistics: 1985-2019* (2019) <<https://www.ojjdp.gov/ojstatbb/ezajcs/>> [as of Nov. 18, 2024].

299 Mendel, *Diversion: A Hidden Key*, *supra* note 104, at p. 11.

300 For example, one study of youth accused of drug offenses in Florida noted that Black youth were significantly less likely to be given pre-adjudication diversion when compared to White youth. (Hayes-Smith and Hayes-Smith, *Race, Racial Context, and Withholding Adjudication in Drug Cases: A Multilevel Examination of Juvenile Justice* (2009) 7 *J. of Ethnicity in Criminal Justice* 3, 163-185, p. 176.) This disparity was not affected by the relative size of the Black population, racial economic inequality, concentrated disadvantage, or the crime rate. (*Id.* at p. 179.) Researchers opined that the prevalence of structural inequality and racial bias in the criminal legal system was a driver for these racial disparities. (*Id.* at p. 169.)

of improvement across development goals compared to White or Hispanic/Latine(x) youth, including social support and caring adult relationships.<sup>301</sup>

Research shows that one major driver of these disparities is the discretion authorities have in choosing who is referred to restorative justice programs.<sup>302</sup> Effective diversion programs mandate diversion for specific violations, or create a presumption for diversion for those violations, removing such discretion and making such programs available regardless of race or identity.<sup>303</sup> Researchers also recommend explicitly targeting racial disparities in diversion participation, prioritizing the reduction in such disparities.<sup>304</sup> Kentucky, for example, amended its court diversion programs significantly in 2014. Among other reforms, the new law mandated that all youth be offered diversion for certain first-time misdemeanor complaints, and limited prosecutors' authority to override diversion decisions for youth meeting the criteria.<sup>305</sup> Those changes resulted in a 4.6 percent decrease in disparities between White and Black youth referred to diversion over a four-year period.<sup>306</sup>

There are no agency-wide policies in any Wave 1 or Wave 2 agencies in California *mandating* diversion, much less pre-arrest diversion, for youth suspected of offenses. Making diversion mandatory — or, at the very least, mandating the offer of diversion to youth absent specific, articulable exceptions — would likely reduce discrepancies between White and non-White youth in participating in these programs. Los Angeles County's DYD program is a step in the right direction, and law enforcement agencies should be encouraged to assess the benefits and feasibility of such programs going forward.

### C. Prior Board Recommendations Related to Youth

The Board has, in prior reports, made several recommendations regarding police interactions with youth. These recommendations are consistent with and supported by the research discussed in this section, as they recognize and are sensitive to the unique considerations present in any law enforcement interaction with youth. They are also consistent with the unique considerations present in law enforcement's interaction with youth of color. When it approved these recommendations, the Board concluded that, if implemented, they would mitigate the harmful effects of racial and identity profiling.

The Board wishes to highlight some of the most salient ones below, both as a reminder of those recommendations the Board previously approved in this space, and to demonstrate how those prior recommendations inform, complement, and further this year's recommendations regarding youth.

- The Legislature should encourage municipalities and law enforcement agencies to implement protocols that (1) use licensed health care and mental health workers rather than law enforcement as first responders when emergency services are requested for children and adolescents in mental health crisis; (2) limit use of force against children during mental health calls; (3) train law enforcement personnel who respond to and/or interact with youth in mental health crisis on effective developmentally appropriate communication that emphasizes de-escalation techniques and non-punitive trauma-informed interventions; and (4) allocate resources to historically underfunded and underserved communities to break the cycle of poverty and criminalization of racial minority children and adolescents.<sup>307</sup>

301 Department of Youth Development, *LA County Department of Youth Development – Diversion Program*, *supra* note 296, at p. 61.

302 Mendel, *Diversion: A Hidden Key*, *supra* note 104, at p. 13; LA County Department of Youth Development – *Diversion Program*, *supra* note 296, at p. 23; 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.* 174-189.

303 Mendel, *Diversion: A Hidden Key*, *supra* note 104, at p. 27.

304 *Ibid.*

305 Harvell et al., *Assessing Juvenile Diversion Reforms in Kentucky* (September 2020) <[https://www.urban.org/sites/default/files/publication/102853/assessing-juvenile-diversion-reforms-in-kentucky\\_0.pdf](https://www.urban.org/sites/default/files/publication/102853/assessing-juvenile-diversion-reforms-in-kentucky_0.pdf)> [as of Nov. 18, 2024].

306 *Ibid.*

307 Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 31, at pp. 120-121.

- The Legislature, municipalities, and law enforcement agencies should 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>308</sup>
- 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>309</sup>
- 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>310</sup>
- Policymakers should reform use of force policies and practices to take into account the physical and developmental differences between youth and adults.<sup>311</sup>

The Board has also made other recommendations which, while not specific to youth, are also consistent with and supported by the research discussed in this section. These recommendations should, at the very least, be applied to all police interactions with youth:

- The Legislature should encourage law enforcement agencies to adopt policies that prohibit the use of force, except when necessary to prevent injury or harm to the individual or officer, against children and persons with physical and mental disabilities because the use of force “can undermine public trust and should be used as a last resort when all other reasonable means have been exhausted.” Relatedly, the Legislature should recommend that police use less confrontational tactics and de-escalation during mental health calls. Finally, the Legislature should encourage municipalities and law enforcement agencies to modify policies, procedures, and practices to avoid discrimination on the basis of disability in responding to calls involving people with mental health and physical disabilities.<sup>312</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>313</sup>
- The Legislature should prohibit law enforcement from asking an individual their probation, parole, or supervision status unless there are articulable facts establishing probable cause that a crime has been committed.<sup>314</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>315</sup>

308 Racial and Identity Profiling Advisory Board, *2024 RIPA Report: Recommendations and Best Practices*, *supra* note 168, at p. 3.

309 *Ibid.*

310 Racial and Identity Profiling Advisory Board, *2023 RIPA Report: Recommendations and Best Practices* (2023), p. 3 <<https://oag.ca.gov/system/files/media/2023-ripa-report-best-practices.pdf>> [as of Nov. 18, 2024].

311 *Ibid.*

312 Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 31, at p. 121 <<https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf>> [as of Nov. 18, 2024].

313 Racial and Identity Profiling Advisory Board, *2022 RIPA Report: Recommendations and Best Practices* (2022) p. 7 <<https://oag.ca.gov/system/files/media/2022-ripa-report-best-practices.pdf>> [as of Nov. 18, 2024].

314 Racial and Identity Profiling Advisory Board, *2023 RIPA Report: Recommendations and Best Practices*, *supra* note 310, at p. 2.

315 Racial and Identity Profiling Advisory Board, *2022 RIPA Report: Recommendations and Best Practices*, *supra* note 313, at p. 7.; see also Strategies for Youth, *Policy 2: Investigatory Stops, Non-custodial Interviews, and Search and Seizure of Youth* <<https://strategiesforyouth.org/Model-Policy2.pdf>> [as of Nov. 18, 2024].

- Policymakers should consider requiring officers to have probable cause prior to conducting a search of youth or take measures to prohibit officers from requesting consent to search youth without an attorney present.<sup>316</sup>

This year’s RIPA data, consistent with prior years, demonstrate disparities in how police interact with racialized youth and underscore how important these recommendations continue to be. This year’s focus on youth and policing allows the Board to look closely at the realities of youth interaction with police. For example, although the Board has recommended law enforcement should be prohibited from using field interview cards for youth, law enforcement agencies still complete field interview cards on Black and Hispanic/Latine(x) youth far more frequently than on White youth.<sup>317</sup> While the Board recommended that children not be entered into CalGang, 172 entries in CalGang were of youth 13–17.<sup>318</sup> Although the Board has made recommendations that would limit the amount of time a person was stopped or searched, the data show youth 15–17 and perceived to be Native American, Black, and Pacific Islander were stopped for durations longer than White youth.<sup>319</sup>

Unless the Board’s recommendations are considered and implemented, there is a high likelihood that the data will continue to show these disparities and a high likelihood that racial and identity profiling will continue to persist.

## D. Board Recommendations

The research discussed in this section shows that there are many harmful, unintended effects of law enforcement interaction with youth, and youth of color specifically. Part of these harmful effects are the result of racial and identity profiling, as shown in the RIPA data. To better align existing expectations in state law with best practices for interacting with youth, and to reduce the harmful outcomes of racial and identity profiling, the Board recommends that law enforcement agencies, municipalities, district attorneys, and the Legislature do the following:

1. The Legislature should convene a panel of experts to recommend standards, policies, and training for officers as it relates to the disparities and research set forth in the 2025 RIPA report with respect to youth, with a focus on use of force, de-escalation, and child development.<sup>320</sup> Members of the panel should include, at a minimum, affected community members, experts in the development of use of force policies and trainings, child development experts, law enforcement experts, and human rights experts.
2. The Legislature should review the efficacy of existing deflection and diversion programs and explore the expansion to universal deflection or diversion for youth accused of a status offense, misdemeanor, or other low-level offense with a rebuttable presumption of eligibility that can be overcome with evidence-based considerations.<sup>321</sup>

316 Racial and Identity Profiling Advisory Board, *2023 RIPA Report: Recommendations and Best Practices*, *supra* note 310, at pp. 3-4 <<https://oag.ca.gov/system/files/media/2023-ripa-report-best-practices.pdf>> [as of Nov. 18, 2024]. Some scholars have suggested that because of these disparities and the lack of voluntariness in agreeing to a search — as well as the racial disparities that characterize the rate of consent searches — officers should be required to have probable cause before conducting a search of anyone, especially youth. (Annitto, *Consent Searches of Minors* (2014) 38 N.Y.U. Rev. of L. & Social Change 1, 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. 18, 2024].)

317 See, e.g., Appendix B, Table B15. Officers completed field interview cards on youth perceived to be between the ages of 12 and 14 and Black in 14.9 percent of stops (263 stops), Hispanic/Latine(x) in 13.17 percent of stops (738 stops), and just 5.47 percent of stops of White youth (138 stops).

318 Cal. DOJ, *Attorney General’s Annual Report on CalGang*, *supra* note 130, at p. 1; Cal. DOJ, *Attorney General’s Annual Report on CalGang: 2023 Dataset*, *supra* note 130.

319 Appendix B, Table B38. Across all stops, youth between the ages of 15–17 and perceived to be Native American were stopped for an average of 58.0 minutes, or nearly an hour; Black youth were stopped for an average of 48.5 minutes; Pacific Islander youth were stopped for an average of 38.1 minutes; White youth in that age group were stopped for just 23.6 minutes on average. (*Ibid.*)

320 See, e.g., *Strategies for Youth, Policy 5: Use of Force with Youth*, *supra* note 274.

321 See Harvell et al., *supra* note 305.



3. The Legislature, agencies, and municipalities should explore how limiting officer discretion in stops could reduce racial disparities and make specific findings from their study to act on.<sup>322</sup>
4. Law enforcement agencies reevaluate proactive policing practices that have a disparate impact and should collaborate with community-based organizations to find alternatives to increase public safety.<sup>323</sup>

These types of partnerships can be profoundly impactful for youth and avoid many of the negative, long-lasting effects of becoming involved in the criminal legal system.<sup>324</sup>

#### IV. CONCLUSION AND VISION FOR FUTURE REPORTS

A wealth of research demonstrates that law enforcement interaction with youth can have profound consequences for those youth later in life and can affect both the youth and the community at large. Policies that recognize the youth-specific impact of law enforcement interactions can target racial disparities, benefiting the state as a whole. The Board will continue to explore the interaction between youth and law enforcement — and any policy developments that affect that interaction — in subsequent reports. The Board hopes that by identifying data trends that show disparities or demonstrate racial profiling, communities, agencies, and municipalities will use the data to develop policies to reduce and prevent disparate treatment.

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322 In response to emerging research, several law enforcement agencies in California, including California Highway Patrol (CHP) and Los Angeles Police Department (LAPD), have adopted policies to limit officer discretion in stops. (California Highway Patrol, *General Order: Search and Seizure Policy, 100.91* (Aug. 2019); L.A. County Board of Police Commissioners, *Department Manual Vol. 1: 240.06 Policy Limitation on Use of Pretextual Stops* (Mar. 2022) pp. 1–2 <[http://www.lapdpolicecom.lacity.org/030122/BPC\\_22-042.pdf](http://www.lapdpolicecom.lacity.org/030122/BPC_22-042.pdf)> [as of Nov. 18, 2024].) In Los Angeles, this policy has led to a small but statistically significant reduction in the disparities of stops between White and Black individuals. (Boehme and Mourtgos, *The Effect of Formal De-policing on Police Traffic Stop Behavior and Crime: Early Evidence from LAPD’s Policy to Restrict Discretionary Traffic Stops* (2024) *Criminol. & Pub. Policy* 517, 528 [noting that share of Black drivers stopped decreased by 3.6% since the introduction of the policy].)

323 Rios et al., *supra* note 71, at p. 72.

324 For example, organizations such as Centinela Youth Services, which has partnered with law enforcement agencies in Los Angeles County for nearly 50 years (Centinela Youth Services, *About Us* <<https://www.cys-la.org/about>> [as of Nov. 18, 2024]), has provided restorative justice services and diversion to more than 1,200 youth suspected of misdemeanors, felonies, status offenses, or high-needs youth who are truant, suspended or expelled from school. (Centinela Youth Services, *Centinela Youth Services (CYS): Everychild Restorative Justice Centers* <<https://file.lacounty.gov/SDSInter/bos/supdocs/121501.pdf>> [as of Nov. 18, 2024].) Youth who participate in CYS’s diversion programs have much lower recidivism rates (just 11%, compared to 30-60% for youth going through the normal justice process), complete 6 times more community service hours, and are 166 times more likely to pay monetary restitution. (Ellis, *CYS Restorative Justice Diversion*, *supra* note 284.)

# POST TRAINING AND RECRUITMENT

## I. INTRODUCTION

*“Implicit bias is the residue that an unequal world leaves on an individual’s mind and brain, residue that has been created and built into institutional policies and practices and socialized into patterns of behavior over hundreds of years through the workings of culture.”<sup>325</sup>*

Law enforcement training is a crucial part of eliminating racial and identity profiling. If done properly, trainings have the power to create a culture of accountability within departments. The RIPA Board plays a vital role in helping develop, analyze, and revise training related to racial and identity profiling by consulting with the Commission on Peace Officer Standards and Training (POST) on the “evidence-based patterns, practices, and protocols that prevent racial and identity profiling” prescribed in the training courses.<sup>326</sup> This year’s report focuses on the Board’s participation in POST’s development of guidelines for, at a minimum, an optional racial and identity profiling course. To meet the Penal Code section’s mandate for guidelines, the report includes recommendations to create guidelines that apply to *all* racial and identity profiling courses and assist law enforcement agencies with the development of mandatory policies that inform law enforcement professionals of relevant legal standards, including RIPA’s prohibition against racial and identity profiling.

This section of the report also includes POST’s response to the 2024 RIPA recommendations, a literature review of emerging research on the effectiveness of anti-bias training, and policy recommendations for the California Legislature and POST to improve peace officer training, reduce disparities, and ultimately end racial and identity profiling in California.

## II. POST RESPONSE TO 2024 RECOMMENDATIONS

Over the past eight years, the RIPA Board has reviewed POST’s training and course materials related to racial and identity profiling and made recommendations to align those courses with RIPA’s goal of eliminating racial and identity profiling.<sup>327</sup> POST identified the relevant courses and related materials for the Board to review. Much of these courses and materials were developed by the Simon Wiesenthal Museum of Tolerance (MOT)<sup>328</sup> with POST’s approval and certification of course content. POST partners with MOT to provide law enforcement officers, recruits, supervisors, and command staff with cultural diversity, hate crime, and racial profiling programming.<sup>329</sup> This group of courses is referred to as the Tools for Tolerance for Law Enforcement and Criminal Justice.<sup>330</sup> POST provides over \$1.5 million in funding annually, approved by the Legislature, to MOT to develop the curriculum and deliver the

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325 See Hetey et al., *“When the Cruiser Lights Come On:” Using the Science of Bias & Culture to Combat Racial Disparities in Policing* (2024) 153 *Daedalus* 123, 125 <[https://doi.org/10.1162/daed\\_a\\_02052](https://doi.org/10.1162/daed_a_02052)> [as of Nov. 18, 2024].

326 Pen. Code, § 13519.4, subds. (h) and (j)(3)(B).

327 Recommendations from the RIPA Board have varied over the years but routinely included calls for increased community engagement by POST and revisions to bolster existing training and reduce disparities in stop data.

328 The Museum of Tolerance (MOT) is a “human rights laboratory and educational center dedicated to challenging visitors to understand the Holocaust in both historic and contemporary contexts and confront all forms of prejudice and discrimination in our world today.” Museum of Tolerance, *Our History and Vision* <<https://www.museumoftolerance.com/about-us/our-history-and-vision/>> [as of Nov. 18, 2024].

329 Com. on Peace Officer Stds. and Training, *Cultural Diversity Program* <<https://post.ca.gov/cultural-diversity>> [as of Nov. 18, 2024].

330 Museum of Tolerance, *Tools for Tolerance for Law Enforcement and Criminal Justice* <<https://www.museumoftolerance.com/for-professionals/programs-workshops/tools-for-tolerance-for-law-enforcement-and-criminal-justice/>> [as of Nov. 18, 2024].

training.<sup>331</sup> MOT conducts a “Train-the-Trainer” training for all law enforcement agency instructors who teach the racial and identity profiling courses at their law enforcement agencies or academies.

Despite updated training on racial and identity bias offered through POST, and perhaps also through officers’ own law enforcement agencies, disparities in who is stopped and subjected to intrusive actions during traffic and pedestrian stops persist. Across all years of the RIPA data collection (2018-2023), RIPA data show that individuals perceived as Black, Hispanic/Latine(x), as having a disability, or transgender are consistently treated in disparate ways. The training reportedly raises cultural awareness; however, it is not effectively reducing disparities in stops and actions taken by officers.

The RIPA data show racial and identity profiling continues to impact all aspects of a stop, from the decision to initiate the stop to actions taken during the stop, including the result of the stop. For example, the 2023 RIPA data demonstrate officers reported arresting individuals with a perceived disability (28.20%, 14,109 stops) at higher rates compared to those without a perceived disability (14.0%, 654,067 stops).<sup>332</sup> Additionally, Black individuals were stopped 126.46 percent more often than expected, given their relative proportion of the California population.<sup>333</sup> Yet, officers reported taking no action as a result of a stop more frequently for individuals perceived to be Native American or Black than for other demographic groups.<sup>334</sup>

The persistence of these disparities raises serious questions about whether training and awareness alone are enough to eliminate bias in policing. Current research, discussed below, and prior reports have concluded that the most effective way to eliminate racial bias is by changing behavior, namely through a combination of training that is linked to improved behavioral changes and policies that limit officer discretion and address department culture. Anti-bias training can be helpful in setting the stage, but ultimately real and lasting culture change is needed to eliminate the pernicious practice of racial and identity profiling in law enforcement.

RIPA data should inform and strengthen the training that is designed to eliminate racial and identity profiling in California. Pursuing more data-driven training can also lead to enhanced officer and civilian safety in the field. To that end, in the 2024 Report, the Board recommended improvements to training and guidelines. POST delivered its response to the recommendations, in a June 2024 POST Commission meeting.<sup>335</sup> A summary of the Board’s recommendations and POST’s responses are as follows:

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331 In both 2023-2024 and 2024-2025, POST paid the Museum of Tolerance (MOT) \$1,566,000. (POST Finance Committee, *Contracts Requiring Approval* (June 2024) <[https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2650332/FY24-25\\_Contracts\\_Requiring\\_Commission\\_Approval.pdf](https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2650332/FY24-25_Contracts_Requiring_Commission_Approval.pdf)> [as of Nov. 18, 2024]; POST Finance Committee, *Contracts Requiring Approval* (March 2024) <[https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2454114/FY24-25\\_Contracts\\_Requiring\\_Approval.pdf](https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/2454114/FY24-25_Contracts_Requiring_Approval.pdf)> [as of Nov. 18, 2024].)





332 See page 33 of this report.

333 See page 24 of this report.

334 A stop that results in no action, such as no citation, warning, or arrest, is an indicator of pretext. Where levels of pretext stops are elevated, there are higher search rates for racial and ethnic groups of color. (See Pierson et al., *A Large-Scale Analysis of Racial Disparities in Police Stops Across the United States* (July 2020) p. 739 <<https://doi.org/10.1038/s41562-020-0858-1>> [as of Nov. 18, 2024]; see also, U.S. DOJ, *Investigation of the City of Minneapolis and the Minneapolis Police Department* (June 2023) p. 35 <<https://www.justice.gov/opa/press-release/file/1587661/download>> [as of Nov. 18, 2024].)

335 See Cal. Com. on Peace Officer Stds. and Training, *Report on Racial and Identity Profiling Advisory (RIPA) Board 2024 Annual Report* (June 13, 2024), pp. 256-271 <[https://post.ca.gov/Portals/0/post\\_docs/commissionmeetings/2024/2024-06-13\\_Commission\\_Meeting\\_Agenda.pdf](https://post.ca.gov/Portals/0/post_docs/commissionmeetings/2024/2024-06-13_Commission_Meeting_Agenda.pdf)> [as of Nov. 18, 2024].

Table 3. POST Responses to Prior Board Recommendations

RIPA Board Recommendation	POST Response	POST Response
Adopt protocols and publish separate guidelines on racial and identity profiling-related courses, apart from publication in Basic Training curriculum.	In Progress	POST convened two workshops in May and October 2024 with subject matter experts to develop guidelines for one racial and identity profiling course. However, as discussed in this Report, the POST materials used in the workshop may not apply to all trainings or provide policy recommendations to agencies. The scope of the guidelines is still under advisement.
Adopt a process and publish timelines for RIPA Board and community review of trainings (Pen. Code, § 13519.4, subd. (b)).		POST concluded its community/stakeholder input is sufficient, and POST lacks the resources to address further recommendations such as assigning a community engagement coordinator.
Allow time for meaningful feedback throughout curriculum updates and development, including community sourcing of subject matter experts.		POST agreed to provide verbal updates for (curriculum-related) regulatory items to the Board and share non-regulatory items with sufficient time to review.
Measure course effectiveness of all POST Racial and Identity Profiling [certified] courses.		POST stated it lacks legal authority to collect data on individual officer actions and performance following training. Instead, “POST believes measuring the effectiveness of [racial and identity] training should fall to local law enforcement agencies and the communities they serve.” POST agreed to request the Museum of Tolerance (MOT) include “a more in-depth review” of RIPA data in the MOT Racial and Identity Train-the-Trainer course.
Include individual officer and supervisor accountability and reporting as a required training topic in all racial and identity profiling courses. <sup>336</sup>		POST will recommend to MOT to “further incorporate the importance of accountability, [] specifically to highlight officer peer behavior and supervisor accountability.” POST stated it will ensure this topic is included in all racial and identity courses.

The Board appreciates and welcomes POST’s written responses to the Board’s recommendations and looks forward to working with POST on these matters. In addition to publishing its reviews in the RIPA reports, the Board relayed the training recommendations for each of the reviewed courses directly to POST via annual letter. Board members also made in-person presentations at regularly scheduled POST Commission meetings in March 2023,<sup>337</sup> June 2023,<sup>338</sup> and June 2024.<sup>339</sup>

336 Racial and Identity Profiling Advisory Board, *Annual Report (2024)* (“2024 Report”) p. 216 <<https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf>> [as of Nov. 18, 2024].

337 Cal. Com. on Peace Officer Stds. and Training, *POST Commission Meeting Transcript* (March 22, 2023) pp. 21-24 <[https://post.ca.gov/Portals/0/post\\_docs/commissionmeetings/2023/2023-03-22\\_Commission\\_Meeting\\_Minutes.pdf](https://post.ca.gov/Portals/0/post_docs/commissionmeetings/2023/2023-03-22_Commission_Meeting_Minutes.pdf)> [as of Nov. 18, 2024].

338 Cal. Com. on Peace Officer Stds. and Training, *POST Commission Meeting Transcript* (June 8, 2023) pp. 64-72 <[https://post.ca.gov/Portals/0/post\\_docs/commissionmeetings/2023/2023%2006-08\\_POST\\_Commission.pdf](https://post.ca.gov/Portals/0/post_docs/commissionmeetings/2023/2023%2006-08_POST_Commission.pdf)> [as of Nov. 18, 2024].

339 Cal. Com. on Peace Officer Stds. and Training, *POST Commission Meeting Transcript* (June 13, 2024) pp. 52-66 <[https://post.ca.gov/Portals/0/post\\_docs/commissionmeetings/2024/2024.06.13.\\_Full\\_Commission\\_Meeting.pdf](https://post.ca.gov/Portals/0/post_docs/commissionmeetings/2024/2024.06.13._Full_Commission_Meeting.pdf)> [as of Nov. 18, 2024].

### III. POST’S DEVELOPMENT OF ITS RACIAL AND IDENTITY PROFILING GUIDELINES

In August 2023, POST agreed to develop racial and identity profiling guidelines as a standalone document and included Board members in their development. Previously, the Board understood that Penal Code section 13519.4’s mandatory guidelines were dispersed throughout POST’s training curricula. The Board anticipated that clear, independent profiling guidelines would create uniformity across training and policy with respect to legal standards and effectiveness, whether for recruits, seasoned officers, supervisors, or command staff. The Board recommended that POST use as a model its Use of Force Guidelines, which “are intended to assist with the implementation of the practical requirements of” minimum standards and “support the development of effective training.” POST invited RIPA Board members to participate in the guideline development workshops.

In May and October 2024, POST convened subject matter experts for two workshops to develop the guidelines. POST presented the draft guidelines as having two parts: (1) instructor guidelines, and (2) an optional course curriculum. The instructor guidelines provide recommendations for instructor preparation for the course, including “setting the tone,” “time management,” and “instructor challenges.” After the information for instructors, the guidelines would have a course curriculum. POST used the POST-certified MOT Racial and Identity Profiling course curriculum for trainers — *Racial Profiling: Issues and Impact* — as the foundational curriculum for the guidelines. This MOT curriculum was updated in 2022, after 20 years, with the input of several Board members as subject matter experts. However, the RIPA Board was not provided an opportunity to review the final curriculum before its implementation and has numerous recommendations for improvement.<sup>340</sup>

At the second workshop in October, POST informed the subject matter experts and the California Department of Justice (Cal. DOJ) that the racial and identity profiling guidelines would only serve as a template 5-hour optional course for advanced officer training that agencies could adopt. Prior to the October workshop, the Board had understood that the guidelines would apply to *all* POST-certified racial and identity profiling courses, including the mandatory basic training and refresher courses. Board members understood that POST interpreted the term “guidelines” found in Penal Code section 13519.4 and other similar statutes requiring training *and* guidelines (e.g., Penal Code section 13519.10 “Use of force”; Penal Code section 13519.6 “Hate Crimes”) as a tool to assist law enforcement agencies with the development of policies. POST explained that the guidelines it is developing are instructor guidelines with a course curriculum for law enforcement agencies to teach an optional course.

While the Board agrees that it is imperative that the guidelines aid law enforcement training, Penal Code section 13519.4 instructs POST to “develop and disseminate” both “guidelines” and “trainings for all peace officers in California.”<sup>341</sup> As that subdivision makes clear, the “course of instruction and the guidelines shall stress understanding and respect for racial, identity, and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties,” including the duty to abstain from racial and identity profiling set forth in section 13519.4, subdivision (f). Given section 13519.4’s treatment and POST’s interpretation of “guidelines” and “training” as two distinct terms, the Board believes the guidelines should serve as more than just an optional training tool. Indeed, anything short of a tool that aids law enforcement agencies with the development of mandatory policies and trainings regarding a peace officer’s duty to abstain from racial and identity profiling falls short of the mandate in section 13519.4. The sections below discuss in greater detail the training requirements outlined in section 13519.4, as well as the process for POST’s development of racial and identity profiling guidelines. POST anticipates completing the guidelines by early 2025.<sup>342</sup>

340 Racial and Identity Profiling Advisory Board, *Annual Report (2023) (“2023 Report”)* pp. 195-212 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Nov. 18, 2024].

341 Pen. Code, § 13519.4, subd. (a).

342 See Cal. Com. on Peace Officer Stds. and Training, *Report on Racial and Identity Profiling Advisory (RIPA) Board 2024 Annual Report*, *supra* note 335, at p. 262.

## A. RIPA Requirements Regarding POST Trainings and Guidelines

RIPA requires POST to develop and disseminate guidelines and mandatory training for all peace officers to address racial and identity profiling.<sup>343</sup> RIPA specifies that POST courses and its guidelines on profiling must “stress understanding and respect for racial, identity, and cultural differences,” and the training must “prescribe evidence-based patterns, practices, and protocols that prevent racial or identity profiling.”<sup>344</sup> RIPA also mandates the Board to “analyze law enforcement training” proscribed by the statute.<sup>345</sup> In developing the courses, POST must consult with the RIPA Board and community groups and individuals with “an interest and expertise in the field of racial, identity, and cultural awareness and diversity.”<sup>346</sup>

Penal Code section 13519.4, subdivision (h), lists the following necessary subjects for curricula instruction:

1. Identification of key indices and perspectives that make up racial, identity, and cultural differences among residents in a local community;
2. Negative impact of intentional and implicit biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations and contributed to injury, death, disparities in arrest detention and incarceration rights, and wrongful convictions;
3. The history and role of the civil and human rights movement and struggles and their impact on law enforcement;
4. Specific obligations of peace officers in preventing, reporting, and responding to discriminatory or biased practices by fellow peace officers;
5. Perspectives of diverse, local constituency groups and experts on racial, identity, and cultural and police-community relations issues in a local area; and
6. The prohibition against racial or identity profiling in subdivision (f).<sup>347</sup>

The law also requires POST to create refresher courses on racial and identity profiling and cultural awareness for in-service officers.<sup>348</sup> Officers must take these courses, at minimum, of every five years.<sup>349</sup> There are no statutory guidelines for the refresher courses, nor does POST provide them. The POST-certified refresher courses offered by agencies differ significantly in content. For example, the Sacramento Police Department refresher course walks officers through racial profiling hypotheticals to practice applying the law and provides instruction on how the brain forms association, including the Black crime association as an example of implicit bias.<sup>350</sup> In contrast, the S.F. Bay Area Rapid Transit (BART) District Police Department refresher course curriculum is scant.<sup>351</sup> There are no hypotheticals or discussion on implicit bias, nor is there a description of the negative impacts and effects of racial profiling on individual citizens or the community.<sup>352</sup>

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343 Pen. Code, § 13519.4, subd. (a).

344 *Id.* § 13519.4, subds. (a) and (h).

345 *Id.* § 13519.4, subd. (j)(3)(B).

346 *Id.* § 13519.4, subds. (b) and (h).

347 *Id.* § 13519.4, subd. (h).

348 *Id.* § 13519.4, subd. (i).

349 *Ibid.*

350 Sacramento Police Department, *Racial Profiling Update, Course Number 23287* <<https://opendata.post.ca.gov/Home/search>> [as of Nov. 18, 2024].

351 S.F. Bay Area Rapid Transit Dist. Police Dept., *Racial Profiling Update, Course Number 23287* <<https://opendata.post.ca.gov/Home/search>> [as of Nov. 18, 2024].

352 *Ibid.*

## B. POST Current Standards for Racial and Identity Profiling

Before an officer can exercise powers as a peace officer, they must complete the Regular Basic Course academy training.<sup>353</sup> Forty-two POST-certified academies across California present this entry-level training.<sup>354</sup> Mandatory, regular basic course training consists of 664 hours of training, spread across 42 course subjects, called Learning Domains (LD).<sup>355</sup> After basic course training, newly assigned peace officers complete a field training program with the agency that will employ them to transition from a classroom setting to real-world, hands-on experience. During this time, academy graduates serve as peace officers, including acting with the authority granted to them under the law, while under the supervision of a Field Training Officer (FTO).<sup>356</sup> This field training program lasts for a minimum of 10 weeks or 400 hours.<sup>357</sup>

POST regulations and guidelines dictate training content and the framework for the LDs. POST has explained that officer training and guidelines on racial and identity profiling are scattered across various LDs, including LD 42: Cultural Diversity/Discrimination, a 16-hour course, and LD 3: Principled Policing in the Community, a 26-hour course. Neither LD 3 nor LD 42 are formally evaluated in the POST-constructed comprehensive tests at the conclusion of regular basic course training.<sup>358</sup>

The Legislature tasked POST with developing “courses of instruction and [] guidelines” to ensure law enforcement agencies comply with California and federal law and trainings meet the required learning objectives.<sup>359</sup> Effective standards and guidelines provide policy directives, support the development of internal accountability measures, obtain measurable improvements in law enforcement and community relations, and are consistent with adult learning principles.<sup>360</sup> One example is the 2021 Use of Force Standards and Guidelines POST developed, which advises law enforcement agencies on maintaining a policy that includes minimum standards for the application of deadly force, alternatives to the use of force, and requirements for intervention, reporting, and training.<sup>361</sup> Based on this example, the racial and identity profiling standards and guidelines POST develops should provide selection and training standards to ensure agencies comply with California’s prohibition against racial and identity profiling and facilitate agency-specific policies and training to address and reduce disparities in profiling.<sup>362</sup>

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353 Cal. Code Regs., tit. 11, § 1005, subd. (a)(1).

354 Com. on Peace Officer Stds. and Training, *Regular Basic Course* <<https://post.ca.gov/regular-basic-course>> [as of Nov. 18, 2024].

355 Com. on Peace Officer Stds. and Training, *Regular Basic Course Training Specifications* <<https://post.ca.gov/regular-basic-course-training-specifications>> [as of Nov. 18, 2024]; Com. on Peace Officer Stds. and Training, *Regular Basic Course*, *supra* note 354; Cal. Code Regs., tit. 11, § 1005, subd. (a)(1)(C)(1)(a)(ii); Com. on Peace Officer Stds. and Training, *SB 882 Advisory Council Meeting POST Presentation* (July 25, 2024) <<https://oag.ca.gov/system/files/media/sb882-072524-agenda-item-11.pdf>> [as of Nov. 18, 2024].

356 Cal. Code Regs., tit. 11, § 1004, subd. (a)(1)(A).

357 Com. on Peace Officer Stds. and Training, *Commission Procedure D-13—Field Training* <<https://post.ca.gov/Commission-Procedure-D-13-Field-Training>> [as of Nov. 18, 2024]; Cal. Code Regs., tit. 11, § 1004, subd. (a)(1); POST Presentation to SB 882 Advisory Committee (July 25, 2024) <<https://oag.ca.gov/system/files/media/sb882-072524-agenda-item-11.pdf>> [as of Nov. 18, 2024].

358 Com. on Peace Officer Stds. and Training, *Minimum Content and Hourly Requirements, Regular Basic Course (RBC)* <[https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fpost.ca.gov%2FPortals%2F0%2Fpost\\_docs%2Ftraining%2Ftrainingspecs%2FRBC\\_MINIMUM\\_HOURLY\\_REQUIREMENT.docx&wdOrigin=BROWSELINK](https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fpost.ca.gov%2FPortals%2F0%2Fpost_docs%2Ftraining%2Ftrainingspecs%2FRBC_MINIMUM_HOURLY_REQUIREMENT.docx&wdOrigin=BROWSELINK)> [as of Nov. 18, 2024].

359 Pen. Code, § 13519.10, subd. (a)(1). See, e.g., Com. on Peace Officer Stds. and Training, *POST Use of Force Standards and Guidelines* (2021) p. 8 <[https://post.ca.gov/Portals/0/post\\_docs/publications/Use\\_Of\\_Force\\_Standards\\_Guidelines.pdf](https://post.ca.gov/Portals/0/post_docs/publications/Use_Of_Force_Standards_Guidelines.pdf)> [as of Nov. 18, 2024].

360 See Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 340, at pp. 201-206, 208-210.

361 See Com. on Peace Officer Stds. and Training, *POST Use of Force Standards and Guidelines*, *supra* note 359.

362 See Pen. Code, § 13519.4 subd. (h).

## Racial and Identity Profiling Guidelines' Goals

The development of guidelines on racial and identity profiling is critical to officer compliance with RIPA. More generally, such guidelines are essential to supporting and safeguarding officers' ability to perform their duties within the context of a constantly shifting legal and cultural landscape.<sup>363</sup> Guidelines inform officers of the relevant state and federal legal standards for practices like hate crimes, use of force, and racial and identity profiling.<sup>364</sup>

One example of relevant legal standards officers must know is that California law provides more protection than federal law by prohibiting “the *consideration of, or reliance on, to any degree,*” protected characteristics like race, identity, or gender in any decision made regarding a stop or actions taken during the stop.<sup>365</sup> Therefore, for policy and training guidelines on racial profiling to comply with RIPA, they must reflect California's legal standard prohibiting racial and identity profiling and offer guidance on complying with the law.<sup>366</sup> RIPA also requires that the training acknowledge the harm caused by profiling to individuals, communities, and police-community relations.<sup>367</sup> Providing law enforcement agencies with effective guidelines on these topics can promote officer safety, improve morale, and prevent officer misconduct and behavior that can lead to suspension, decertification, or costly litigation, especially at a time when law enforcement agencies are struggling to recruit and retain good people to serve in these positions.

In 2021, California enacted Senate Bill No. 2, the Kenneth Ross Jr. Police Decertification Act of 2021 (SB 2),<sup>368</sup> which allows for the decertification of officers for serious misconduct, including demonstrating bias against an individual based on their perceived membership in a protected class or group, such as race or identity.<sup>369</sup> Therefore, as of 2021, the consequences to officers who engage in racial and identity profiling not only include personal accountability (including financial and reputational harm), citizen complaints, discipline, or job loss, but now also include decertification under SB 2. The failure to comply with laws that prevent bias and uphold officer accountability undermines police-community relations by breaching community trust and incentivizing bias-based policing at the expense of evidence-based policing. Deteriorating police-community relations not only have consequences for effective policing in the field, but also may impact the reputation of law enforcement within those communities.<sup>370</sup>

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363 See Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 336, at pp. 208-209.

364 See Com. on Peace Officer Stds. and Training, *POST Publications and Guidelines* <<https://post.ca.gov/Publication-List>> [as of Nov. 18, 2024]; see, e.g., Cal. Com. on Peace Officer Stds. and Training, *POST Use of Force Standards and Guidelines*, *supra* note 359, at p. 8 <[https://post.ca.gov/Portals/0/post\\_docs/publications/Use\\_Of\\_Force\\_Standards\\_Guidelines.pdf](https://post.ca.gov/Portals/0/post_docs/publications/Use_Of_Force_Standards_Guidelines.pdf)> [as of Nov. 18, 2024] (“These guidelines include the statewide minimum standards law enforcement executives are now required to incorporate into their agency’s use of force policy. The guidelines incorporate best practices and are intended to assist with implementation of the practical requirements of these requisite minimum standards”); Com. on Peace Officer Stds. and Training, *POST Hate Crimes Model Policy* (Mar. 19, 2024) p. vii <[https://post.ca.gov/Portals/0/post\\_docs/publications/Hate\\_Crimes.pdf](https://post.ca.gov/Portals/0/post_docs/publications/Hate_Crimes.pdf)> [as of Nov. 18, 2024].

365 California prohibits “the *consideration of, or reliance on, to any degree,* actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description.” (Pen. Code, § 13519.4, subd. (e) (emphasis added).) In comparison, under federal law, pretextual stops are permitted so long as an officer can point to an objective reason for the stop, and the officer’s subjective motives or hunches (which research and data show may be susceptible to racial bias) do not affect the legality of the stop. (See *Whren v. United States* (1996) 517 U.S. 806, 813.) Even under federal law, however, “a seizure justified only by a police-observed traffic violation, therefore ‘become[s] unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission’ of issuing a ticket for the violation.” (*Rodriguez v. United States* (2015) 575 U.S. 348, 350-51 (citation omitted).)

366 See Pen. Code, § 13519.4.

367 See *id.*, § 13519.4, subd. (h)(2).

368 Senate Bill No. 2 (2021-2022 Reg. Sess.) (SB 2).

369 See Pen. Code, § 13510.8, subd. (b)(5). For a fuller discussion of SB 2 and its implications, see pages 140-158 of this report.

370 See, e.g., Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 336, at p. 205.



## Guidelines Development Workshop

POST convened its first workshop on May 14-16, 2024, at the MOT. A group of subject matter experts and academy instructors, including three RIPA Board members, were selected to participate. POST also included representatives from the LGBTQ+ community, community organizations, law enforcement agencies, course instructors, POST, the Cal. DOJ, and families impacted by police violence.

During the workshop, the group discussed guidelines as containing two parts: (1) instructor guidelines, and (2) an optional course curriculum. As POST would later clarify, the guidelines presented could be used by agencies to develop and offer a 5-hour optional course for advanced officer training on racial and identity profiling. Participants at the May workshop reviewed the five-hour MOT *Racial Profiling: Issues and Impact* course outline and discussed its compliance with RIPA.

Table 4. Hourly Distribution for a Model 5-Hour Course<sup>371</sup>

START	END	SUBJECT
0800	0930	Section 1: Why are We Here?
0940	1105	Section 2: Legal Considerations
1115	1220	Section 3: History of Policing
1220	1300	Section 4: Community Considerations

Participants spent the first day of the May workshop touring the MOT exhibits on the Holocaust; unfortunately, they did not receive a tour of the portion of the museum dedicated to training law enforcement. The next two days of the POST guidelines workshop consisted of a critical review of the MOT course outline and materials; however, participants were told they could only offer revisions to the draft instructor guidelines, but not the course curriculum. In June, POST provided workshop participants with an online, shared working document to provide comments on the draft materials discussed in the May workshop. Individual Board members who participated in the workshop and the full RIPA Board provided feedback reflecting many of the concerns about training relayed in prior reports.<sup>372</sup>

The second workshop was hosted at POST Headquarters in Sacramento on October 8-9, 2024. Four RIPA Board members attended, along with the same group of subject matter experts and academy instructors from the first workshop. At the October workshop, POST facilitators told participants for the first time that the guidelines being developed would not set standards for any existing racial and identity profiling policies or courses. As noted above, these materials would only serve to provide instructor guidelines and a template curriculum for optional advanced officer training. The scope of the guidelines, however, is still under advisement.

During the workshop, participants reviewed materials provided by POST, and RIPA Board members voiced their concerns about the lack of references to California law in the legal standards portion of the guidelines and curriculum and the optional requirements for community stakeholder engagement. Specific edits addressing these suggestions, however, were not incorporated during the workshop. By and large, participants offered edits for the non-substantive portions of the materials, such as the curriculum description and various aspects of instructor preparation for the course, including “setting

371 See Museum of Tolerance, *Tools for Tolerance for Law Enforcement and Criminal Justice Professionals* <<https://www.museumoftolerance.com/for-professionals/programs-workshops/tools-for-tolerance-for-law-enforcement-and-criminal-justice/>> [as of Nov. 18, 2024].

372 See, e.g., Racial and Identity Profiling Advisory Board, *Annual Report (2022)* (“2022 Report”) pp. 261-270; Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 340, at pp. 196-206; Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 336, at pp. 206-208, 216-219.

the tone,” “time management,” and “instructor challenges.” Despite these concerns, Board members engaged in a productive dialogue with the other subject matter experts about the goals of RIPA and law enforcement policies and training.

The result of the workshops was a draft document that included input from a diverse group of stakeholders and encouraged outreach by law enforcement agencies to the communities they serve. However, the materials POST proposes as guidelines should also serve as a “course of instruction,” “stress” the “development of effective, noncombative methods of carrying out law enforcement duties,” and include Penal Code section 13519.4, subdivision (f)’s prohibition against racial and identity profiling. Guidelines that effectively and adequately capture the directives in section 13519.4 signal a firm commitment to eradicating racial and identity profiling to law enforcement, as well as promoting public safety and problem-solving methods centered on evidence-based policing. The Board looks forward to continuing working with POST to develop guidelines and trainings consistent with section 13519.4.

### RIPA Board Members’ Feedback on the Workshop Process and Materials

With the workshops concluded, the Board has three primary concerns that it wishes to continue to work with POST to address in the guidelines: (1) specific tools and strategies for evidence-based policing, instead of tools and strategies that give rise to bias-based policing; (2) tools for local agencies to gain “perspectives of diverse, local constituency groups and experts on particular racial, identity, and cultural and police-community relations issues in a local area;” and (3) the development and dissemination of “guidelines” and “trainings” that clearly lay out a peace officer’s duties, including California law’s prohibition against racial and identity profiling.

POST is developing guidelines with materials that emphasize “critical thinking skills in the areas of diversity, ethics, and values,” but do not provide much information on anti-bias research and tools to mitigate potential bias. The curriculum’s instruction on race is outdated, and Board members recommend the underlying research and instruction materials be reviewed by academics working in the field of race and ethnic studies. For example, the topic of race is introduced by discussing the “Origins of Race” and depicts five different skull sizes as a reference for how racial classifications began. However, the accompanying curriculum does not discuss the power dynamics and historic abuse of these racial classifications to engage in population control.

Moreover, because the current draft of the guidelines lacks instruction on specific actionable tools and strategies to reduce bias, officers are left without training that can effectively prevent behavior and errors that could result in misconduct, undermine officer and civilian safety, or expose officers to civil liability and potential decertification under SB 2. Therefore, the Board recommends that POST redirect the focus of this course away from cultural sensitivity and toward a clear articulation of the law’s requirements and officer accountability. This recommendation mirrors recommendations in prior Board reports.

Another area of concern with the guidelines is that they do not *require* local community engagement by law enforcement agencies. Instead, the draft guidelines only *encourage* instructors to collaborate with community members such as academics, crime victims, and civil rights groups. To manage the course’s length, the guidelines grant flexibility to instructors to adjust the course curriculum to the agency’s needs; however, this flexibility can be double-edged, allowing for less conformity to the established curriculum. To ensure stakeholders are consulted, the Board recommends that POST require community engagement practices, per Penal Code section 13519.4, subdivision (h)(5).

Finally, the Board recommends POST create guidelines that go beyond a single training and apply to *all existing and future* racial and identity profiling courses to ensure law enforcement professionals are trained consistently with proper legal instruction and the latest research, law, and RIPA data. At the workshops, POST informed the Board that POST legal staff have yet to review MOT’s trainings or, by

extension, the legal standards within those trainings. The Board understands that POST stated that their legal staff is not included in the development of course materials unless a concern is flagged for their review. Given that the trainings and guidelines materials reflect outdated legal standards and must be developed in accordance with section 13519.4, the Board believes it is prudent that POST legal staff review the legal standards in the trainings and guidelines before certification. POST legal staff should also review any materials and guidelines promulgated for compliance with the Legislature’s intent in section 13519.4.

## Conclusions on Guidelines

Given the concerns above, the RIPA Board will continue to review any updated draft guidelines before the guidelines’ anticipated publication in early 2025. The Board encourages POST to incorporate best practices from other training models described herein.

POST-certified trainings and guidelines contrast with alternative law enforcement training models. One such alternative model is the Fair and Impartial Policing (FIP) training program, which focuses exclusively on policing and is grounded in the latest evidence-based research on implicit bias and procedural justice. Like some of the other trainings outlined below in the section on “Emerging Research on Anti-Bias Training,” FIP includes specific skills to “neutralize the effect of implicit biases.” Researchers working on implicit bias training noted this difference between FIP and MOT Tools for Tolerance: “[W]hereas FIP offers participants a number of actionable strategies for reducing and managing implicit bias (i.e., increasing positive contacts with counter-stereotypical group members, conducting self-checks, reducing ambiguity), it is unclear whether Tools for Tolerance educates participants about such tactics.” Put differently, awareness is not enough for officers to act differently. When it comes to police training, certifying the content may not sufficiently meet the task of improving diversity and racial sensitivity in law enforcement or eliminating profiling. In the 2026 Report, the Board will present its review of the final guidelines.

## IV. EMERGING RESEARCH ON ANTI-BIAS TRAINING AND ALTERNATIVES

An analysis of 492 studies of the efficacy of implicit bias training concluded that, “without active efforts to sustain short-term shifts created in [training], these shifts are likely to be wiped away upon re-exposure to the social environment.”<sup>373</sup>

In light of ongoing racial disparities, researchers have raised concerns that the positive effects of implicit bias<sup>374</sup> training on reforming officer behavior are fleeting or null.<sup>375</sup> Implicit bias training’s “null effects on behavior come as no surprise to cognitive social psychologists, given that these trainings typically aim, in a single day or less, to mitigate the effects of cognitive biases that are learned over the life-span, operate outside of conscious awareness and occur automatically.”<sup>376</sup> Social psychological theory suggests that communication styles, perceptions, and behaviors that arise from these biases

373 Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures* (2019) *J. of Personality & Soc. Psychol.* 1 <<https://devinelab.psych.wisc.edu/wp-content/uploads/sites/1383/2020/04/A-Meta-Analysis-of-Procedures-to-Change-Implicit-Measures-1.pdf#:~:text=Forscher%2C%20P.%20S.%2C%20Lai%2C%20C.%20K.%2C%20Axt%2C%20J.,and%20Social%20Psychology.%20Advance%20online%20publication.%20http%3A%2F%2Fdx.doi.org%2F10.1037%2F%20pspa0000160>> [as of Nov. 18, 2024]. In the study, the “final sample represented 87,419 participants and included 342 articles, 492 studies, and 571 independent samples.” (*Ibid.*)

374 This section of the Report focuses on implicit bias, as opposed to explicit bias, because “implicit measures have been shown to correlate with behavior, specifically, discriminatory behavior.” (See Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 *Daedalus* 151, 154 <[https://doi.org/10.1162/daed\\_a\\_02053](https://doi.org/10.1162/daed_a_02053)> [as of Nov. 18, 2024].)

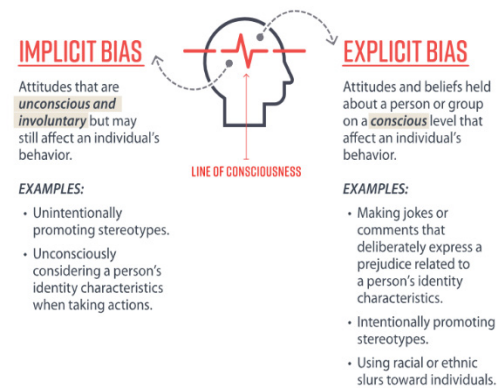
375 See, e.g., Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures*, *supra* note 373; Glaser, *supra* note 374, at pp. 159-160; Lai and Lisnek, *The Impact of Implicit Bias-Oriented Diversity Training on Police Officers’ Beliefs, Motivations, and Actions* (2023) 34 *Psychological Science* 1, 9 <<https://osf.io/preprints/psyarxiv/dxfq6>> [as of Nov. 18, 2024].

376 Glaser, *supra* note 374, at pp. 159-160.

are deeply rooted and cannot be undone with a one-day classroom training taken every few years.<sup>377</sup>

Several studies indicate that while focused, short-term training to reduce implicit bias can produce some immediate reductions in implicit bias, trainees tend to return to their baseline levels of implicit bias after a few months.<sup>378</sup> However, variations in the intensity of the training — total number of hours, distribution across weeks or months, and refresher courses — can enhance the durability of implicit bias training.<sup>379</sup> Standalone trainings are not enough to produce durable change. Overall, research suggests that anti-bias interventions must be woven into the culture of police departments to be successful. Researchers have highlighted that department policies that guide officer behavior and shift department culture toward fair and impartial policing are necessary to support trainings that raise awareness and sustain anti-bias intervention to begin to shift behavior.<sup>380</sup>

Explicit and Implicit Bias Can Both Affect Behavior



Source: California State Auditor

Informed by this body of research, the Board recommends that before implementing, funding, or requiring any additional officer training on implicit bias, the courses be evaluated for effectiveness. In particular, the Board advocates for collecting evidence of whether these trainings have long-term effects on individual officers' attitudes and behaviors and whether any observed changes translate into reduced disparities in enforcement outcomes. One of the Board's main priorities is to move the needle when it comes to RIPA data, ensuring that the people of California are the ultimate beneficiaries of the training officers receive. Ideally, community members should be able to see measurable changes in the way officers who participate in those trainings interact with individuals within those communities. Often these trainings can come at great expense, both in terms of time and taxpayer dollars, as such it is vital that the trainings are measured for effectiveness before reforms are implemented.

Given the limited effectiveness of short-term training, training alone cannot be relied on to reduce implicit bias;<sup>381</sup> rather, some researchers have concluded that training must be accompanied by substantive cultural change within police departments, including policies that guide officers' behavior and reduce discretion during stops.<sup>382</sup> "The body of evidence to date indicates that, without meaningful, lasting environmental change, implicit biases are resilient."<sup>383</sup> Environmental changes within law enforcement agencies should address officer and department goals and motivations rather than induce threats or rely on affirmation to maintain positive behaviors.<sup>384</sup> For example, agencies should aim to

377 See, e.g., Lai and Lisnek, *supra* note 375, at p. 12 ("To undo a lifetime of racialized socialization, organizations should invest in more than a day's worth of diversity education").

378 Glaser, *supra* note 374, at pp. 157-158; Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures*, *supra* note 373; Lai et al., *Reducing Implicit Racial Preferences: II. Intervention Effectiveness across Time* (2016) 145 J. of Experimental Psychol. 1001 <<https://doi.org/10.1037/xge0000179>> [as of Nov. 18, 2024].

379 See, e.g., Dube et al., *A Cognitive View of Policing* (2023) The Pearson Institute 1, 42 <<https://thepearsoninstitute.org/research/cognitive-view-policing>> [as of Nov. 18, 2024] ("There also remain pragmatic questions about how to deliver such a training most effectively. For instance, what is the ideal intensity of the training both in terms of total hours as well as how those hours are distributed over weeks or months? Or how often are refresher trainings needed to maintain these effects?").

380 Lai and Lisnek, *supra* note 375, at p. 12.

381 Cochran et al., *Impacts of Implicit Bias Awareness Training in the NYPD* (July 2020) International Association of Chiefs of Police (ICAP) and University of Cincinnati Center for Police Research and Policy & John F. Finn Institute for Public Safety, p. 160 <<https://www.theiacp.org/sites/default/files/2020-09/NYPD%20Implicit%20Bias%20Report.pdf>> [as of Nov. 18, 2024].

382 Glaser, *supra* note 374, at p. 158.

383 *Ibid.*

384 Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures*, *supra* note 373; see also Lai and Lisnek, *supra* note 375, at p. 12.

shift department values to prioritize police-community relations and equitable treatment, rather than relying solely on punishing officers who show disparities in their stops. Additionally, an agency's training approach needs to be continually evaluated using field outcomes to understand which bias mitigation techniques work best for a particular agency and which are most directly linked to measurable reductions in disparities in enforcement practice.<sup>385</sup>

To effectuate change, a person ideally must first recognize their biases and examine how those biases impact their behavior. Yet, many people do not recognize the biases they hold (or how they are affected by them) and must be trained to identify them.<sup>386</sup> Further, researchers have described how biases can be exacerbated when decisions must be made quickly, in ambiguous situations, and when there is subjectivity, all of which describes the conditions under which officers often work.<sup>387</sup> Therefore, if peace officers are trained specifically to identify the subtle cues of implicit bias activating during a rapid response, some officers would be able to disrupt or inhibit a response that is rooted in their automatic bias.<sup>388</sup> For officers who have undergone such training, "having a heightened awareness about the potential for bias-driven errors, and/or having an attenuated race-crime mental association,<sup>389</sup> could make the difference in a consequential split-second decision."<sup>390</sup>

In response to evidence showing that anti-bias training, on its own, is largely ineffective, researchers continue to explore alternative interventions and revisions to existing training, so they are more likely to produce lasting reductions in adverse police outcomes including use of force, officer injury, and racial disparities.<sup>391</sup> In response to these findings, researchers recommend:

1. Repeated training sessions for sustained behavior changes;<sup>392</sup>
2. Supervisor support from the top-down to influence cultural shifts within departments toward fair and impartial policing;<sup>393</sup>
3. Using body-worn camera footage to train officers and examine their behavior in the field;<sup>394</sup>
4. Integrating implicit bias-oriented and diversity trainings within broader organizational initiatives;<sup>395</sup>

385 Little Hoover Com., *Law Enforcement Training: Identifying What Works for Officers and Communities* (Nov. 2021) p. 9 <<https://lhc.ca.gov/wp-content/uploads/Reports/265/Report265.pdf>> [as of Nov. 18, 2024].

386 See, e.g., Glaser, *supra* note 374, at p. 153 ("This research area of implicit social cognition [demonstrated] that people had mental associations about social categories (such as racial groups) that could be activated automatically, even if the holder of these associations consciously repudiated them").

387 See generally Eberhardt, *Biased: Uncovering the Hidden Prejudice That Shapes What We See, Think, and Do* (2019).

388 Glaser, *supra* note 374, at p. 155.

389 The term "race-crime mental association" refers to the implicit connection made between Blackness and criminalization, for example, because of the sociocultural legacy of race in media portrayals in the United States. (See Smiley and Fakunle, *From "Brute" to "Thug:" The Demonization and Criminalization of Unarmed Black Male Victims in America* (2016) 26 *J. of Human Behavior in the Social Environment* 350, 362-363 <<https://doi.org/10.1080/10911359.2015.1129256>> [as of Nov. 18, 2024].

390 Glaser, *supra* note 374, at p. 152.

391 See Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures*, *supra* note 373.

392 Lai and Lisnek, *supra* note 375, at p. 12.

393 *Ibid.*; Cochran et al., *supra* note 381, at p. 110; Rinkoff, *Leadership Approaches in Law Enforcement: A Sergeant's Methods of Achieving Compliance with Racial Profiling Policy from the Front Line* (2021) 6 *Journal of Community Safety and Well-Being* 38 <<https://doi.org/10.35502/jcswb.177>> [as of Nov. 18, 2024]; Engel and Worden, *Police Officers' Attitudes, Behavior and Supervisory Influences: An Analysis of Problem Solving* (2003) 41 *Criminol.* 131.

394 Hetey et al., *supra* note 325, at pp. 136-137; Camp et al., *Leveraging Body-Worn Camera Footage to Assess the Effects of Training on Officer Communication During Stops* (Sept. 2024) 3 *PNAS Nexus* 1 <<https://doi.org/10.1093/pnasnexus/pgae359>> [as of Nov. 18, 2024].

395 Lai and Lisnek, *supra* note 375, at p. 12; see also, Cochran et al., *supra* note 381, at pp. 16-17, 70.

5. Evaluating bias intervention as part of job performance<sup>396</sup> (e.g., assessing attitudes and behavior in response to incidents of alleged bias); and
6. Adopting policies that limit peace officer discretion during stops, encourage intelligence-based stops, and disrupt the influence of implicit biases.<sup>397</sup>

Some researchers have concluded that training must be accompanied by substantive cultural change within police departments, such as implementing policies that guide officer behavior, specifically policies that reduce officer discretion during stops.<sup>398</sup> It is not surprising that standalone anti-bias training designed mainly to raise awareness is not enough on its own to eliminate the negative behaviors fueled by bias: large-scale, multipronged problems like racial and identity profiling require multipronged solutions. Therefore, while some researchers continue to seek the proper dosage of implicit-bias training intensity,<sup>399</sup> others have turned to assessing alternatives to anti-bias training that reduce racial disparities in policing, such as changes to policing culture more broadly,<sup>400</sup> cognitive training programs,<sup>401</sup> and policies that limit discretion and guide officers' behavior.<sup>402</sup> The Board is encouraged by this body of research and looks forward to continuing to be informed by emerging findings.

## A. Reduce Bias through a Cultural Shift in Policing

A cultural shift is required to end racism in policing and making that shift requires a multipronged approach, including effective accountability systems and training.<sup>403</sup> Bias in policing has been portrayed as an individual psychological issue.<sup>404</sup> But that view ignores the ways larger cultural forces and group dynamics influence individual behavior.<sup>405</sup> In the past decade, prominent institutions such as the United Nations have concluded that what has been viewed as problematic behavior by rogue officers should instead be viewed as behavior that reflects institutional deficiencies:

"There is strong evidence that the abusive [behavior] of *some* individual police officers is part of a broader and menacing pattern, connected into larger social, historical, cultural and structural contexts, within which policing is undertaken. Law enforcement officers in the United States share and reproduce values, attitudes and stereotypes of US society and institutions."<sup>406</sup>

Recognizing and adopting this broader view, researchers examined the influence of department culture on stop data. In one study, Stanford researchers worked with the Oakland Police Department to help reduce racial disparities in stops by analyzing collected stop data. The researchers utilized a sociocultural lens to identify the various ways in which racism and discrimination operate within the contexts of institutions, laws, practices, history, interpersonal interactions, and individual psychology,

<sup>396</sup> Lai and Lisnek, *supra* note 375, at p. 12.

<sup>397</sup> Dube et al., *supra* note 379, at p. 3; Hetey et al., *supra* note 325, at pp. 134, 138; Glaser, *supra* note 374, at p. 160.

<sup>398</sup> Glaser, *supra* note 374, at p. 158.

<sup>399</sup> Forscher et al., *A Meta-Analysis of Procedures to Change Implicit Measures*, *supra* note 373.; Glaser, *supra* note 374, at pp. 158, 160.

<sup>400</sup> Hetey et al., *supra* note 325, at pp.124-125.

<sup>401</sup> Dube et al., *supra* note 379, at pp. 40-41.

<sup>402</sup> Glaser, *supra* note 374, at p. 161.

<sup>403</sup> See Hetey et al., *supra* note 325, at pp. 124-125, 134.

<sup>404</sup> U.N. Human Rights Council, *A/HRC/54/CRP.7: International Independent Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement - Visit to the United States of America ("Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement")* (Sept. 26, 2023) p. 9 <<https://www.ohchr.org/en/documents/country-reports/ahrc54crp7-international-independent-expert-mechanism-advance-racial>> [as of Nov. 18, 2024].

<sup>405</sup> Hetey et al., *supra* note 325, at p. 126.

<sup>406</sup> U.N. Human Rights Council, *Expert Mechanism to Advance Racial Justice and Equality in the Context of Law Enforcement*, *supra* note 404, at p. 9 (emphasis added).

and how all those forces taken together can affect officer actions and contribute to bias and disparities in routine enforcement.<sup>407</sup>

The Stanford experts developed a conceptual tool called the “culture cycle” to diagnose how bias is produced and maintained in different settings.<sup>408</sup> The culture cycle mapped four levels — ideas, institutions, interactions, and individuals — to examine the dynamic interplay between racial bias on an individual level and within broader police culture.<sup>409</sup> Alongside systematic analyses of law enforcement data (including stop data and body-worn camera footage), the culture cycle helped researchers “navigate the broader context and [] learn the roles of people within it,” to diagnose problems and prescribe solutions for lasting change.<sup>410</sup>

To reduce racial disparities in stops, the researchers applied an institutional-level intervention (as opposed to the more common individual-level intervention) to shift how officers were making the decision to conduct a stop. To change officers’ decision-making, the agency required officers to specifically indicate whether each stop they made was intelligence-led and, if so, to provide the specific source of intelligence. Intelligence-led means the officer had specific information, “such as suspect descriptions provided by crime victims or specific patterns of gang activity or illegal drug dealing, as opposed to relying on intuition.”<sup>411</sup>

Research shows that “automaticity” plays a key role in decision-making: “conscious deliberation is mentally costly” so humans developed automatic responses that are adaptive to commonly faced problems.<sup>412</sup> While seemingly simple, requiring officers to indicate whether a stop is intelligence-led is, in fact, a theory-driven intervention designed to “mitigate specific situational triggers of bias, and in the process, alter the way officers make the decision to pull someone over.”<sup>413</sup> This intervention led to a significant drop in the number of Black drivers officers stopped and reduced disparities in stops.<sup>414</sup> Simply put, requiring officers to check a box made them slow down and consider their reason for making the stop, rather than relying on hunches, which can be shaped by racial stereotypes. Additionally, asking officers to articulate the specific source of intelligence they relied on as the basis of an intelligence-led stop signaled that their actions were being monitored and that they were being held accountable by their department for the types of stops they were making.

The research team also explored the utility of other accountability mechanisms to reduce racial disparities and identify possible profiling, such as empirically reviewing body-worn camera footage to examine how officers treated the drivers they pulled over. The researchers found a relative lack of respect afforded to Black drivers, compared to White drivers, when it came to both word choice and tone of voice.<sup>415</sup>

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407 Parker, *Stanford Big Data Study Finds Racial Disparities in Oakland, California, Police Behavior, Offers Solutions* (2016) Stanford News <<https://news.stanford.edu/stories/2016/06/stanford-big-data-study-finds-racial-disparities-oakland-calif-police-behavior-offers-solutions>> [as of Nov. 18, 2024]; Hetey et al., *supra* note 325, at p. 124.

408 Hetey et al., *supra* note 325, at p. 125.

409 *Ibid.*

410 *Id.* at p. 126.

411 *Id.* at pp. 130, 134.

412 U. of Chicago Crime Lab, *Preventing Youth Violence: An Evaluation of Youth Guidance’s Becoming a Man Program* (2018) p. 4 <[https://www.americorps.gov/sites/default/files/evidenceexchange/BAM\\_SIF\\_Final\\_Report\\_Revision\\_20181005\\_508\\_1.pdf](https://www.americorps.gov/sites/default/files/evidenceexchange/BAM_SIF_Final_Report_Revision_20181005_508_1.pdf)> [as of Nov. 18, 2024].

413 Hetey et al., *supra* note 325, at p. 134.

414 *Id.* at pp. 134, 138; see also Dube et al., *supra* note 379, at p. 3; (noting that such training leads to an 11% reduction in overall arrests of Black subjects).

415 Hetey et al., *supra* note 325, at pp. 136-137.

## Use Body-worn Camera Footage to Train

The researchers further described how using body-worn camera footage in this way can help stakeholders ensure that interactions are being carried out in a constitutional and procedurally just manner, which is an increasingly important metric of community trust and safety amid escalating relations between police and Black communities in particular.<sup>416</sup> Feeding their results about racial disparities in police-community interactions back into the development of interventions to mitigate those disparities, the researchers then deployed body-worn camera footage specifically as a training tool to provide feedback to officers on their behavior and offer guidance about how to improve their interactions with the public.<sup>417</sup> This training was about how to enact procedural justice in routine police-community interactions, namely traffic stops.

In a subsequent study, Stanford researchers analyzed changes in Oakland Police Department officers' language following their completion of this training.<sup>418</sup> The training module taught five core actions for communicating respect with drivers during a stop: (1) beginning a stop by greeting the driver and introducing themselves; (2) explicitly stating the legal justification for the stop early in the encounter; (3) expressing concern for the driver's safety; (4) reassuring the driver during the interaction; and (5) using formal rather than informal titles when addressing the driver.<sup>419</sup> The researchers used a "footage-as-data approach" and reviewed body-camera recordings of officer-initiated contacts with community members before and after the training to determine whether the training was effective in changing officer language in the field.<sup>420</sup> The researchers found that following the training, officers were more likely to explicitly provide drivers with the reason for the stop and express greater reassurance and concern toward the driver during the encounter.<sup>421</sup> The training increased officers' use of language to enact procedural justice in the field immediately after training and these changes persisted 4-weeks later.<sup>422</sup>

Overall, the Stanford researchers found that mandating intelligence-led stops and using body-worn camera footage to improve training and accountability reduced racial disparities and generally improved the culture of law enforcement in Oakland.

Body-worn camera footage of highly publicized and/or critical incidents can also be used as a training tool. For example, the San Francisco Police Department (SFPD) policies and procedures around the handling of major and critical incidents includes evaluation of critical incidents for the purpose of upholding the agency's commitment to policing without bias:

By evaluating each major and critical incident, the Department improves future responses through measuring, monitoring, and training to uphold our commitment to policing without bias and addressing any issues in an open and collaborative manner. We will actively collaborate with City agencies and community organizations to jointly address identified challenges as we strive to maintain and build trust and respect as the guardian of Constitutional and human rights.<sup>423</sup>

Further, as part of the agency's stated commitment to "accountability and transparency with our community" SFPD has adopted a policy that requires holding a public town hall meeting within ten

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416 *Id.* at p. 137.

417 *Id.* at p. 138.

418 Camp et al., *supra* note 394, at p. 2.

419 *Id.* at p. 3.

420 *Id.* at p. 2.

421 *Id.* at p. 4.

422 *Ibid.*

423 San Francisco Police Dept., *General Order 8.01: Major and Critical Incident Evaluation and Notification* (May 2023) p. 1 <[https://www.sanfranciscopolice.org/sites/default/files/2023-05/SFPDDGO\\_8\\_01\\_20230522.pdf](https://www.sanfranciscopolice.org/sites/default/files/2023-05/SFPDDGO_8_01_20230522.pdf)> [as of Nov. 18, 2024].



days of an officer-involved shooting.<sup>424</sup> At these town halls, the body-worn camera footage and other relevant video evidence is played, the command staff gives a presentation and provides the community with an update on the investigation into the shooting, and time is allotted for viewers to offer public comment.<sup>425</sup>

## Field Supervisors Influence Priorities

A department's organizational context, from the executive's tone to recruitment and hiring practices to community engagement policies like SFPD's following an officer-involved shooting, all contribute to and continuously shape an institution's culture.<sup>426</sup> Field supervisors, who mediate the application of policies and implementation of programs, also critically shape departmental culture.<sup>427</sup> Their influence in helping translate a written policy into concrete, on-the-ground practice can either reinforce and amplify training or contradict and undermine it, particularly through training follow-up.<sup>428</sup> Supervisors are the first line of defense in identifying areas of confusion in various policies and practice, training deficiencies, and problematic behavior of rank and file officers.<sup>429</sup> Ideally, supervisors are also mentors who create an environment in which their officers can continuously learn, improve, and take advantage of teachable moments. A supervisor who does not provide adequate supervision or support, or who looks the other way when problematic behavior occurs, can effectively signal to officers that their actions do not really matter or that problematic behavior is acceptable.

As mentioned previously, Fair and Impartial Policing (FIP) implicit bias training targets different ranks and works specifically to instill certain values in supervisors. More specifically, the training aims to develop supervisors' ability to "communicate effectively, internally and externally, about bias" which allows supervisors to "take advantage of 'teaching moments' as mechanisms for continued dialogue" fostered by the implicit bias training.<sup>430</sup> The FIP training stresses that supervisors play a significant role in internal communications about impartial policing, and how supervisors handle conversations about potentially biased behavior can "enhance their credibility and reputation as leaders" and reinforce messages conveyed in training.<sup>431</sup> Implicit bias training can be helpful in setting the stage, but, ultimately, addressing the organizational and systemic factors that shape police-community interactions on the ground are more likely to effectively reduce bias and disparities in policing.

## B. Address Cognitive Demands in Training

Another promising area of research has found that officer training specifically focused on managing the cognitive demands of policing resulted in less use of force, fewer discretionary arrests, fewer officer injuries, and reduced racial disparities.<sup>432</sup> From 2020-2021, a team of experts trained over two thousand officers at the Chicago Police Department using a new training model called Situational Decision-making (Sit-D). The training consisted of four 4-hour sessions with several weeks between sessions and

424 See, e.g., San Francisco Police Dept., *OIS Town Hall Meeting Scheduled 028-24* (Sept. 20, 2024) <<https://www.sanfranciscopolice.org/news/ois-town-hall-meeting-scheduled-028-24>> [as of Nov. 18, 2024].

425 See, e.g., SFGovTV, "SFPD OIS Virtual Townhall September 23, 2024" (Sep. 23, 2024) <<https://www.youtube.com/live/bFN99xHuluk>> [as of Nov. 18, 2024].

426 See Cochran et al., *supra* note 381, at p. 110.

427 *Ibid.*

428 *Ibid.*

429 See Rinkoff, *supra* note 393; Engel and Worden, *supra* note 393.

430 Cochran et al., *supra* note 381, at pp. 16-17. Research has shown that the influence of line supervisors, usually sergeants, is "critical for achieving the successful implementation of, and compliance with, new or reformed policy" at the street level. (Rinkoff, *supra* note 393, p. 39.) Sergeants can "leverage occupational culture, in particular aspects of rank and structure, to achieve policy goals," and this is particularly useful for racial profiling policies, which "many rank-and-file officers have suggested [are] 'unpopular.'" (*Id.* at pp. 39-40.) One study focused on supervisory influence on racial profiling policy implementation found that sergeants can adopt the following leadership methods to contribute to the legitimacy of the policy: (1) auditing, (2) being present, (3) training, (4) encouraging, (5) rewarding, and (6) disciplining. (*Id.* at p. 43.)

431 Cochran et al., *supra* note 381, at pp. 114-117.

432 Dube et al., *supra* note 379, at pp. 40-41.

included a mix of classroom instruction and interactive scenario-based exercises.<sup>433</sup> Sit-D trains officers to develop more varied explanations of subject behavior, process information more efficiently, and continuously update threat assessments throughout the duration of the interaction, rather than relying on initial impressions.<sup>434</sup>

Sit-D uses a five-step “Thinking Tactic Model” where officers learn to recognize and regulate their responses to policing situations and consider alternative interpretations of situations to mitigate “thinking traps” that limit their perspective and exacerbate the likelihood of acting on biases.<sup>435</sup> Officers practice these skills in simulation exercises that are each debriefed with trainers and fellow officers.<sup>436</sup> Notably, the training does not explicitly focus on racial bias in policing, but instead generally encourages officers to go beyond initial impressions to more effectively assess a situation.<sup>437</sup> Not explicitly focusing on race can be a useful strategy because it tends to reduce feelings of threat among the participants, allowing them to take in more of the information that is presented because they are not as defensive.

Four months after the training, researchers evaluated the effectiveness of the training. The results demonstrated that Sit-D training significantly reduced adverse police outcomes.<sup>438</sup> Specifically, the training reduced non-lethal force by 23 percent, reduced discretionary arrests (which may “stem from officers’ emotional responses, such as frustration with a subject’s behavior”) by 23 percent, reduced overall arrests of Black subjects (without any corresponding effects on other races) by 11 percent, and reduced officer injuries.<sup>439</sup> This training was effective because it provided concrete avenues to behave differently, namely by giving officers specific tools and strategies to evaluate multiple perspectives and consider more appropriate ways to respond.<sup>440</sup> Importantly, this training effectively mitigated racial disparities while not explicitly focusing on race. By focusing on cognitive biases instead of on implicit racial biases (which can be considered a subset within the broader category of cognitive biases),<sup>441</sup> this research suggests that disrupting the influence of implicit thought processes and attitudes on officers’ actions — by making them more intentional and deliberate — could be a more effective way to reduce racial disparities than implicit bias training.<sup>442</sup>

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433 *Id.* at p. 9.

434 *Id.* at pp. 3-5.

435 In Sit-D training, “officers learn about various ‘cognitive biases’ or ‘thinking traps,’ which are mental shortcuts that might constrain their perspective on a situation, [including] [1] catastrophizing (assuming the worst possible outcome will occur), [2] minimizing (down-playing potential risks), [3] personalization (assuming others’ actions are meant to antagonize oneself), [4] confirmation trap (focusing on information that supports one’s assumptions), [5] over-generalization (basing interpretations too heavily on salient past experiences), [6] all-or-none thinking (thinking in absolutes and ignoring nuances), and [7] anchoring (failing to update one’s impression as the situation changes).” (*Id.* at pp. 10-11.)

436 *Id.* at p. 11.

437 *Id.* at pp. 3-4.

438 The researchers analyzed Chicago Police Department administrative data aligned with the timing of the training assessments. (*Id.* at p. 5.)

439 *Id.* at pp. 5, 32-33.

440 *Id.* at pp. 28-29.

441 Implicit bias as a scientific concept emerged in the late 1990s from the social psychological study of implicit social cognition, or the unconscious mental processes involved in social judgments and behavior. (See, e.g., Greenwald and Banaji, *Implicit Social Cognition: Attitudes, Self-Esteem, and Stereotypes* (1995) 102 *Psychological Review* 4, 20; Greenwald et al., *Measuring Individual Differences in Implicit Cognition: The Implicit Association Test* (1998) 74 *J. of Personality and Social Psychology* 1464.) Several empirical articles highlighted bias production as occurring within the mind and stemming from humans’ cognitive machinery and the brain’s reliance on categorizing, including automatically sorting people into social categories. (See, e.g., Macrae and Bodenhausen, *Social Cognition: Thinking Categorically about Others* (2000) 51 *Annu. Rev. Psychol.* 93, 93-95.) Because implicit bias refers to an unconscious, automatic mental process to streamline the processing of information (specifically about people and social categories) it can be considered to fall under the broader category of cognitive biases, which refer to mental shortcuts or heuristics the brain uses to process information quickly, but that can lead to inaccurate perceptions or judgments. (Ellis, *Cognitive Biases in Visualizations* (2018) 1-7, 15; see also Haselton et al., *The Evolution of Cognitive Bias in The Handbook of Evolutionary Psychology* (Buss edit., 2005) pp. 724-746.)

442 Dube et al., *supra* note 379, at p. 8.

### C. Limit Officer Discretion

In light of research findings indicating training alone does not produce substantial, lasting effects on officer behavior, expert Jack Glaser<sup>443</sup> evaluated ways to prevent bias from influencing police-civilian encounters, from the decision to conduct a stop to fatal uses of force.<sup>444</sup> Glaser concluded that, “[g]iven that implicit bias trainings for police ... have been shown not to reduce disparate outcomes in stop, search, arrest, and use of nonlethal force, limiting the discretion with which police officers use force needs to be prioritized.”<sup>445</sup> Limiting discretion disrupts the effects of implicit bias by eliminating opportunities for bias in the first place. “When discretion is high – for example, when decision-makers can use their own judgment in ambiguous situations – cognitive shortcuts like stereotypes have more opportunity to influence decisions.”<sup>446</sup> While training and experience will improve officers’ ability to make assessments, constraining discretion can systemically reduce disparities by lessening or eliminating the role of individual judgment from the decision to initiate a stop or conduct a search, for example.<sup>447</sup>

In his research, Glaser reviewed stop data from the U.S. Customs Service (now Customs and Border Patrol), New York Police Department (NYPD), and the eight largest agencies in California. Glaser found that when officers’ discretion to search was high, so were racial disparities in search rates. “White people were being subjected to higher thresholds of suspicion than Black people and Latino people in order to get stopped and/or searched. When discretion was relatively low (when search decisions were based on more stringent, prescribed criteria), yield rates were higher overall, and far less disparate.”<sup>448</sup> Glaser’s analysis shows that reducing discretion effectively reduces racial disparities in policing stops and searches.

“When discretion is high—for example, when decision-makers can use their own judgment in ambiguous situations—cognitive shortcuts like stereotypes have more opportunity to influence decisions.”

– Glaser, *Disrupting the Effects of Implicit Bias: The Case of Discretion & Policing* (2024) 153 Daedalus 151, 160.

Glaser appeared before the POST Commission on September 21, 2023. During Glaser’s presentation, POST acknowledged research showing that anti-bias training alone does not seem effective but nonetheless remains a common response to concerns about discrimination.<sup>449</sup> Glaser was asked, “Are we wasting time and effort by pushing something out that perhaps isn’t working? And should we wait for, you know, further studies to kind of

demonstrate where we should be going with the training?”<sup>450</sup> Glaser advised POST to concentrate its implicit bias training on management, from sergeants all the way up to chief or sheriff, to make the training more effective and a more efficient use of department resources.<sup>451</sup> Glaser stated that training officers “is good for setting the stage and for motivating people to do things differently,” but policies and strategies need to be implemented to reinforce the training in the field.<sup>452</sup>

By addressing bias systemically through top-down training and policies, incentives within the department shift and influence the actions of individual officers more than individual training aimed

443 Glaser is a social psychologist, graduate professor at UC Berkeley, and currently an Advisory Member to the Peace Officer Standards Accountability Advisory Board created by SB 2.

444 See Glaser, *supra* note 374, at pp. 158, 164.

445 *Id.* at p. 166.

446 *Id.* at p. 160.

447 See *id.* at pp. 160-161.

448 *Id.* at p. 164.

449 Cal. Com. on Peace Officer Stds. and Training, *POST Commission Meeting Transcript* (Sept. 21, 2023) pp. 61-63 <[https://post.ca.gov/Portals/0/post\\_docs/commissionmeetings/2023/2023-09-21\\_Commission\\_Meeting\\_Minutes.pdf](https://post.ca.gov/Portals/0/post_docs/commissionmeetings/2023/2023-09-21_Commission_Meeting_Minutes.pdf)> [as of Nov. 18, 2024].

450 *Id.* at p. 62:17-20.

451 *Id.* at p. 65:7-9.

452 *Id.* at pp. 63-64.

at officers' hearts and minds.<sup>453</sup> Glaser also recommended limiting officer discretion by formalizing decision criteria used during stops to reduce racial bias.<sup>454</sup> These recommendations to POST are consistent with the recommendations the Board makes below to improve training and ultimately eliminate disparate treatment in police-civilian encounters.

## V. BEST PRACTICES, POLICY, LEGISLATIVE RECOMMENDATIONS

In addition to the recommendations below, the Board highlights a prior recommendation from the 2022 and 2023 Reports<sup>455</sup> for which the research and data analysis in the current report provides additional support and context: *Expand the POST Commission to allow for additional public members, requiring a minimum of 33 percent non-law enforcement members. Include members from the public and non-sworn community, health and mental health professionals who serve vulnerable communities, and experts including individuals and communities impacted by profiling, in adult education and scientific research. Existing law requires only four public members of the 18 required in the Commission.*<sup>456</sup> As the current report demonstrates, the POST Commission plays an important role in policing decisions that impact everyday life, and given the impact police contact can have on an individual, it is crucial that the Commission perform its duties in a manner that includes input from the public on the policy decisions the Commission makes. Incorporating more civilian voices will increase inclusive decision-making and diverse perspectives in the development of policies and training in California's law enforcement agencies.<sup>457</sup>

### A. Recommendations to the Legislature

1. Require law enforcement agencies to adopt a policy to prohibit racial and identity profiling that includes accountability and consequences of non-compliance (e.g., SB 2) based on the POST guidelines.

Some law enforcement agencies in California have adopted formal policies regarding bias-free policing and against racial and identity profiling, but the adoption of formal policies is not required by law.<sup>458</sup> The Board recommends that the Legislature require all state and local law enforcement agencies to adopt policies prohibiting racial and identity profiling. These policies will reinforce local agencies' commitment to bias-free policing and procedures that assure the public that the law enforcement agencies are committed to providing services and enforcing laws equitably.<sup>459</sup>

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453 See *id.* at pp. 61-66.

454 *Id.* at p. 65:10-12.

455 Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 372, at pp. 251-252; Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 340, at pp. 208-209; see also, Little Hoover Com., *supra* note 385, at pp. 3, 23. The Little Hoover Commission (LHC), an independent state oversight agency that conducted a study from 2020-2021 examining the effect of law enforcement trainings in California, found that, compared to other regulatory bodies, the POST Commission has far less public representation. For example, nearly 47 percent of the Medical Board of California are public members, whereas only 22 percent of the POST Commission are. (Little Hoover Com., *supra* note 385, at pp. 3, 23.)

456 See Pen. Code, § 13500, et. seq.

457 See Little Hoover Com., *supra* note 385, at pp. 23-24.

458 Compare Pen. Code, § 13519.4 (racial and identity profiling) with Pen. Code, § 422.87 (hate crime policy requirement).

459 Policies can also proscribe supervisory review to ensure the best outcomes and compliance at the front line. (See Rinkoff, *supra* note 393, p. 43 ("In relation to racial profiling policies, the findings demonstrate that when sergeants are present during a police-citizen interaction, front-line officers are more likely to conform to policy decisions. Therefore, to improve levels of compliance, racial profiling policies should clearly outline when the presence of a sergeant is necessary. Mandating the presence of a sergeant may ensure an increase in compliance from front-line officers when compliance is expected to be, or has historically been, low or in other perceived controversial policy environments".))

2. Require more frequent, evaluated and evidence-based training on racial and identity profiling more than once every five years, and at a minimum of every three years.

Relative to other states, California’s mandated training on racial and identity profiling — every five years — is infrequent.<sup>460</sup> Many law enforcement agencies in California require more frequent anti-bias training.<sup>461</sup> In its 2022 review of law enforcement training, the California State Auditor recommended officers undergo racial and identity profiling training every other year.<sup>462</sup> In addition to regular basic course training in the academy, California should require all law enforcement officers to undergo anti-bias training on a more frequent basis. This is necessary to keep up with the latest research on racial and identity profiling, reinforce anti-bias tools and strategies in the field, and continuously reiterate the importance of working to reduce disparities in policing. In addition, the Legislature should consider requiring frequent follow-up or micro trainings to make sustained improvements in officer behavior and disparate outcomes more likely.<sup>463</sup>

3. Require law enforcement supervisors and field training officers to receive specialized training on eliminating racial and identity profiling within their departments.<sup>464</sup>

By providing supervisors with additional training on eliminating racial and identity profiling in their agencies their “power potential” can be increased, and their control over procedural matters can be leveraged by the organization to more intentionally shape policy implementation and the development of officers’ attitudes, outlooks, and views on the role police play in society.<sup>465</sup> First line supervisors should be trained and offered explicit guidance from law enforcement executives on how to best play their role in communicating the agency’s mission, values, and policies regarding bias-free policing and how to serve as a proper example and role model for officers through their own actions.<sup>466</sup>

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460 According to the National Conference of State Legislatures (NCSL), 27 states require law enforcement officers to undergo cultural and racial bias trainings with ranging frequency and hours requirements. (Nat. Conf. of State Legs., Law Enforcement Training <<https://app.powerbi.com/view?r=eyJrjoiNzlmOTQyM2QzZWRIOS00MmIxLWEzOTYtYTUzMjNINzdkMWZlhiwidCl6IjM4MmZiOGlwLlTRkYzMTND EwNy04MGJkLTM1OTViMjQzMmZhZSIsImMiOjZ9>> [as of Nov. 18, 2024].) Among those, seven states/jurisdictions require annual training (Arkansas, D.C., Iowa, Kansas, Nebraska, Nevada, North Carolina), four require it every two years (New Mexico, Pennsylvania, Texas, Vermont), and two require it every three years (Missouri, Minnesota). (*Ibid.*)

461 For example, after the Tiburon Police Department engaged in an incident of alleged racial profiling at a local couple’s clothing store, the Department “increased the frequency of training on biased-based policing from every five years to every two years ... [and] [i]n December 2020 and in February 2021, all department staff attended half-day trainings focused on implicit bias.” (McCrohan, *Tiburon Settles Racial-Profilng Claim for \$150,000, Reform*, The Ark (Apr. 18, 2022) <<https://www.thearknewspaper.com/live/tiburon-settles-racial-profilng-claim>> [as of Nov. 18, 2024].) In another instance, the Solano County Civil Grand Jury found that, although local law enforcement agencies appeared to comply with the state’s every-five-year racial bias training requirement, the agencies should “adopt a more frequent schedule of diversity and bias training over and above the current five-year requirement.” (Solano County Civil Grand Jury 2020-2021, *Does Bias Infiltrate Solano County Law Enforcement?* <<https://solano.courts.ca.gov/system/files/final-210624-law-enforcement-bias.pdf>> [as of Nov. 18, 2024].)

462 Cal. State Auditor, *Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct* (April 26, 2022) <<https://information.auditor.ca.gov/reports/2021-105/index.html>> [as of Nov. 18, 2024].

463 “Frequently responding to questions about race may have made all participants more sensitive to racial issues, a sensitivity that could have differentially impacted intervention and control participants, perhaps causing the decrease in discrepancies in the latter parts of the study.” (Forscher et al., *Breaking the Prejudice Habit: Mechanisms, Timecourse, and Longevity* (Sept. 2017) 72 J. of Experimental Social Psychology 1, 9 <<https://pmc.ncbi.nlm.nih.gov/articles/PMC5720145/pdf/nihms876925.pdf>> [as of Nov. 18, 2024].)

464 See Lai and Lisnek, *supra* note 375, at p. 12; Cochran et al., *supra* note 381, at pp. 16-17.

465 Van Maanen, *Making Rank: Becoming an American Police Sergeant* (1984) *Urban Life* 13, pp. 155-176 (cited in Engel, *The Effects of Supervisory Styles on Patrol Officer Behavior* (Sept. 2000) 3 *Police Quarterly* 263, 265, 286). There is a difference between “telling” one’s subordinates about a policy, and “selling” the importance of that policy. (Hersey and Blanchard, *Management of Organizational Behavior* (1988) (5<sup>th</sup> ed.) (cited in Engel, *Supervisory Styles of Patrol Sergeants and Lieutenants* (2001) *J. of Criminal Justice* 29, pp. 341-355).)

466 Engel, *The Effects of Supervisory Styles on Patrol Officer Behavior*, *supra* note 465, at p. 286.

4. Explore requiring POST and MOT courses on racial and identity profiling to be updated every two years with the latest RIPA findings, current legislation, and community input.<sup>467</sup>
5. Require POST-certified courses on racial and identity profiling to be revised to include ways to prevent behavior that could lead to officer decertification for serious misconduct under SB 2.
6. Amend the law to increase funding and allow for additional stakeholders, beyond the MOT, to present additional options for racial and identity profiling training to law enforcement officers.<sup>468</sup>

The input and facilitation by additional organizations with direct police-community experience, such as Neighborhood Wellness and the Center on Juvenile and Criminal Justice (CJCJ), can strengthen racial and identity profiling trainings offered in California and further RIPA's goals. Both Neighborhood Wellness and CJCJ presented at the June 2024 Board meeting and discussed their particularized training aimed at addressing racial disparities and law enforcement. Their trainings emphasize empathy and combating dehumanization as intervention strategies, while also providing the community with a seat at the table. The increased transparency of these trainings rooted in the community and the specific tools and strategies offered to mitigate bias further RIPA's goals. Additionally, if the number of organizations providing training is expanded beyond one organization in Los Angeles, the funding would likely be offset by cost savings in travel, lodging, and related per diem by officers outside the Los Angeles area. The Board recommends the Legislature amend RIPA to require training consultation and facilitation by other organizations skilled in providing racial and identity profiling training, like Neighborhood Wellness and CJCJ.

7. Require body-worn camera footage, when available, or highly publicized incidents to be used in the racial and identity profiling training, in addition to staged scenarios.<sup>469</sup>
8. Fund an independent study, under the guidance of the RIPA Board and conducted by academic researchers,<sup>470</sup> that assesses the efficacy of POST's racial and identity profiling training on officers' attitudes, prejudices, and enforcement outcomes.
9. Provide funding and require POST to report annually on specific training outcome and performance measures. POST should consider looking at implicit bias metrics before and after the trainings to evaluate its effectiveness.

The Board continues to believe that measuring outcomes and effectiveness is critical and will continue to work with POST and other stakeholders to achieve that. In the 2024 Report, the Board recommended POST measure course effectiveness, but POST did not support the recommendation and responded that it would take too many resources to do so (see above). Several state agencies — Legislative Analyst Office (LAO),<sup>471</sup> Little Hoover Commission (LHC),<sup>472</sup> and the State Auditor<sup>473</sup> —

467 Board members who attended the POST workshops found the cultural references and some of the information outdated.

468 See Former Pen. Code, § 13519.4, subd (f), (1)-(9), as amended (Stats. 2001, ch. 854, § 63); see also, Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 340, at p. 200.

469 Hetey et al., *supra* note 325, at pp. 136-137. Body-worn camera footage should be used not only to evaluate trainings, but also to create their content, as the Stanford team did with the procedural justice training described earlier. (See Racial and Identity Profiling Advisory Board, *Annual Report (2021)* ("2021 Report") p. 154 <<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2021.pdf>> [as of Nov. 18, 2024] (recommendation to "use actual footage of law enforcement encounters in lieu of scripted scenarios" as a more effective teaching tool).)

470 See Little Hoover Com., *supra* note 385, at p. 11.

471 Legis. Analyst's Office, *2019-20 Budget: Analysis of the Governor's Criminal Justice Proposals* (Feb. 2019) p. 44 <<https://lao.ca.gov/reports/2019/3940/2019-20-CJ-Analysis-021919.pdf>> [as of Nov. 18, 2024].

472 Little Hoover Com., *supra* note 385, at p. 9.

473 See, e.g., Cal. State Auditor, *supra* note 462 ("The Legislature should require local law enforcement departments to report to the RIPA Board the extent to which they have implemented those best practices, and should further require that departments provide the board with copies of any of the policies, procedures, or plans that they attest align

have found that it is imperative to evaluate state training and its effect on actual law enforcement job performance. To the extent POST lacks resources, the Board supports LHC’s recommendation for academic researchers, funded by the Legislature, to partner with POST to assess the success and relevancy of its existing profiling training.<sup>474</sup>

Evaluation methods could include testing course participants on their knowledge and understanding of the role of implicit bias in policing, assessing officers before and after trainings on their openness and commitment to working to reduce disparate outcomes that may result from implicit biases, using body camera footage and other sources of agency data to systematically analyze officer actions to determine whether officers are in fact more likely to engage in the concrete behaviors that were highlighted and taught in the training for the purpose of reducing specific disparities, and analyzing agency-wide data after a large proportion of officers have completed a training to assess whether it has moved the needle on relevant behavioral outcomes (e.g., a de-escalation training would be expected to reduce the use of force among participating officers, and not the number of traffic tickets they write).<sup>475</sup> For racial profiling courses specifically, evaluating training effectiveness pre- and post-training using body camera footage captures “nuances of officer communication that can matter for community respect and trust, but are inaccessible in administrative records.”<sup>476</sup>

In its 2019-2020 Budget review, LAO advised the Legislature to monitor POST’s spending for law enforcement training by “adopt[ing] trailer bill language directing POST to report annually on specific outcome and performance measures that are tied to legislative expectations for the additional funding.”<sup>477</sup> Specifically, LAO recommended that POST collect and report on the number of officers trained, how trainings are delivered, the cost of training per attendee, as well as the effect of specific trainings on officer job performance.<sup>478</sup>

LAO recently supported the POST Commission’s request for reimbursement for RIPA-related expenses. In LAO’s 2023-2024 Budget review of the Commission on State Mandates, LAO concurred with the Commission’s finding that the requirements of RIPA related to the collection and reporting of stop data by local agencies created a state-reimbursable mandate, and recommended that \$50.5 million in reimbursement funds be set aside for local government agencies for costs incurred for RIPA compliance.<sup>479</sup> The Legislature approved LAO’s recommendation for these funds later that year.<sup>480</sup>

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with the best practices if the RIPA Board requests they do so. Finally, the Legislature should require the RIPA Board to publish annually through a scorecard, interactive dashboard, or similar means each department’s progress.”)

474 See Little Hoover Com., *supra* note 385, at p. 11.

475 Camp et al., *supra* note 394, at p. 2.

476 *Id.* at p. 4.

477 Legis. Analyst’s Office, *supra* note 471, at p. 44.

478 Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 340, at p. 208.

479 Legis. Analyst’s Office, *2023-2024 Budget: Racial and Identity Profiling Mandate* (Feb. 2023) <<https://lao.ca.gov/Publications/Report/4715>> [as of Nov. 18, 2024].

480 *Ibid.* More information can be found at the Commission of State Mandates and the State Controller’s Office websites, both of which have an operational role in administering this state mandate. The reimbursement form is available here: <<https://csm.ca.gov/request-form.php>> [as of Nov. 18, 2024].

## B. Recommendations to POST

1. Evaluate the academic research underpinning trainings during the course certification process.<sup>481</sup> According to the Little Hoover Commission’s review of POST trainings, “the current certification process [] does not include important questions that could help law enforcement officials understand what outcomes the training might produce or how it may impact officer behavior. For example, POST’s certification process does not consider:
  - Was the training developed based on or informed by academic research and does it align with research evidence?
  - Will the training teach skills that will prevent and reduce policing harm in marginalized groups?
  - How does this training align – or not – with what officers actually do on-the-job and how will it be useful in their day-to-day work?
  - Is the training current and fresh or does it repeat lessons and examples officers were exposed to in prior years?
  - How will the training improve officer job performance?”<sup>482</sup>

For POST to determine the “quality and relevancy of the training to the job,”<sup>483</sup> POST should evaluate all courses not based on the total number of hours, but whether “the training is effective in changing officer behavior or can support desired policy outcomes, such as police reform or crime reduction.”<sup>484</sup>

2. Revise the process for evaluating law enforcement training, in course certification and its quality assessment plans, to include additional course criteria that incorporate training outcomes based on officer actions and behavior in the field.<sup>485</sup>
3. Formally evaluate Learning Domain (LD) 3 and Learning Domain (LD) 42 in the Regular Basic Course comprehensive module tests.<sup>486</sup>

## C. Vision for Future Reports

In future reports, the Board will continue to review research and evidence-based practices to prescribe protocols that inform instruction and are aimed at eliminating racial and identity profiling. In prior reports, the RIPA Board has expressed interest in learning more about the POST certification process for the group of racial and identity courses under its purview. The Board will continue to learn about POST’s integration of new legal mandates, such as SB 2, into the AB 953 training. As POST-certified courses are updated, the RIPA Board will continue to schedule the legislatively mandated annual reviews.

The Board will also continue evaluating POST training courses, including the field training course and the updated MOT Racial and Identity Profiling Train-the-Trainer course curriculum. In the guidelines

481 In its 2021 report, LHC recommended POST amend its certification process to include assessment of whether trainings are evidenced-based in order to understand what outcomes the training might produce or how it may impact officer behavior. (Little Hoover Com., *supra* note 385, at p. 7.)

482 *Ibid.*

483 *Ibid.*

484 *Ibid.*

485 *Id.* at pp. 7-9.

486 Cal. Com. on Peace Officer Stds. and Training, *Modular Format – Module II Training Specifications* <<https://post.ca.gov/modular-format-module-ii-training-specifications>> [as of Nov. 18, 2024]. LD 3 and LD 42 are included in Module II, but they are not tested on.



workshop, subject matter experts from law enforcement identified that field training officers have a tremendous influence on shaping the behaviors of basic academy graduates. Evaluating the field training course and its oversight is critical to understanding the context and regulation of peace officer training in California. The Board looks forward to assisting POST should it decide to develop any additional training on profiling or how to mitigate bias.

In accordance with its response to the 2024 recommendations, the POST Commission will provide the Board with verbal updates on its regulations pertaining to racial and identity profiling. The Board expects to review POST's regulations implementing Assembly Bill No. 443 (AB 443) (2023-2024 Reg. Sess.), which requires, among other things, the Commission to update its definition of "biased conduct" by January 1, 2026. The Board also appreciates and anticipates the POST Commission's written response to the Board's recommendations in this report and invites POST to also present its responses to the recommendations at a 2025 RIPA Board meeting. Finally, after collaborating on developing racial and identity profiling guidelines this year, the Board looks forward to agency implementation of policies and curriculum reflecting the perspectives of both law enforcement representatives and RIPA Board members and to the continuation of its collaboration with POST.

# ACCOUNTABILITY

## III. INTRODUCTION

POST plays a significant role in law enforcement in California. POST has the authority to certify peace officers, develop the minimum standards and training for all officers in the state, and, recently, the authority to decertify officers. The Racial and Identity Profiling Act, which California enacted to eliminate racial and identity profiling, mandates that POST and the Board collaboratively develop training and policies focused on achieving this goal. In enacting Senate Bill No. 2 (2021-2022 Reg. Sess.) (SB 2), the Kenneth Ross, Jr. Police Decertification Act of 2021,<sup>487</sup> the Legislature provided another accountability tool to POST to address serious misconduct by officers, including those officers who demonstrate bias or engage in racial and identity profiling, and remove them from the profession. A statewide system that decertifies or suspends the certification of officers who have engaged in racial and identity profiling, like the one SB 2 establishes, aligns with the Board's goal of eliminating this practice from policing.

In light of the Board's interests in SB 2 and the shared goal of eliminating racial and identity profiling, the Board was invited by POST to provide input regarding the implementation of SB 2 during a stakeholder planning workshop held shortly after SB 2 was enacted.<sup>488</sup>

Consistent with the Board's historical involvement with the implementation of SB 2, this section of the report provides an overview of the decertification process under SB 2 along with data on certification actions POST initiated against peace officers beginning in 2023. In addition to examining SB 2's potential for addressing bias in policing, this section also provides recommendations to the Legislature and POST to help shape SB 2 into an effective accountability tool that furthers the goal of eliminating racial and identity profiling.

## IV. SB 2 AND DECERTIFICATION

### A. SB 2 Overview

SB 2 establishes a statewide system for the suspension or permanent revocation of a peace officer's certification due to serious misconduct. Before SB 2, POST did not maintain disciplinary records for California officers.<sup>489</sup> It could only cancel a peace officer's certificate awarded in error or obtained through misrepresentation or fraud. Disciplinary records were handled in a piecemeal fashion and remained at the level of the individual law enforcement agency or jurisdiction, making it difficult to track problem officers or prevent them from seeking employment at another agency elsewhere in the state.

With the enactment of SB 2, POST can review and investigate complaints of serious misconduct by officers and suspend or revoke an officer's certification in cases of serious misconduct.<sup>490</sup> Under SB 2, POST is also responsible for developing the regulations and procedures for implementing SB 2 and outlining procedures for the certification and decertification.<sup>491</sup>

POST can initiate investigations if it becomes aware of serious misconduct by a peace officer in several ways, including by referrals from the officer's agency, a complaint filed by a member of the public, or

487 Stats. 2021, c. 409 (S.B.2) eff. Jan. 1, 2022.

488 Racial and Identity Profiling Advisory Board, *Annual Report (2023)* ("2023 Report") p. 207 <<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf>> [as of Nov. 18, 2024].

489 Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification* <<https://post.ca.gov/Certification>> [as of Nov. 18, 2024].

490 Pen. Code, § 13510.8, subds. (a), (c). Serious misconduct is also defined and discussed in section C.2. of this report.

491 See Cal. Code Regs., tit. 11, §1201 et seq.

other means, including through media reports<sup>492</sup> or audits of personnel files. If the complaint originates with a member of the public, POST sends the complaint to the agency employing the peace officer for an initial investigation, the results of which POST reviews through its decertification review process.<sup>493</sup> By the end of 2023, POST had received more than 22,000 reports of serious misconduct arising from incidents that occurred between January 1, 2020, and January 1, 2023, from law enforcement agencies and the general public.<sup>494</sup>

In addition to investigating serious misconduct allegations, SB 2 requires POST to revoke the certification of a peace officer who has become ineligible to hold office because of a criminal conviction listed in Government Code section 1029, regardless of whether the conviction arose from on-duty or off-duty conduct.<sup>495</sup>

SB 2 imposes additional responsibilities on law enforcement agencies as well. Agencies can only employ individuals with a current, valid certification.<sup>496</sup> SB 2 requires agencies to report the employment, appointment, or termination or separation from employment or appointment of any peace officer to POST within 10 days.<sup>497</sup> Separation from employment or appointment includes an involuntary termination, resignation, or retirement.<sup>498</sup> They are also required to report serious misconduct by a peace officer to POST within 10 days of receiving the allegation.<sup>499</sup> This requirement allows for the tracking of serious misconduct by officers across the state and creates additional transparency and accountability in law enforcement.

Finally, SB 2 imposes obligations on the California Department of Justice (Cal DOJ), requiring it to provide POST with necessary disqualifying felony and misdemeanor conviction data for all persons known to be current or former peace officers.<sup>500</sup> POST is authorized to use this information for decertification purposes.<sup>501</sup>

## B. The Key Players in The Decertification Process

To effectively implement the statewide system to investigate and decertify officers alleged to have engaged in serious misconduct, SB 2 created two new entities. One is the Peace Officer Standards Accountability Division (POSAD), which is the investigative entity within POST that conducts investigations and makes findings on whether grounds to decertify or suspend a peace officer exist.<sup>502</sup> The other is the Peace Officer Standards Accountability Advisory Board (Accountability Board), a separate entity that makes recommendations to POST about whether to decertify or suspend a peace

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492 Cal. Com. on Peace Officer Stds. and Training, *Penal Code § 13512 Annual Report (2023)* at p. 4 <[https://post.ca.gov/Portals/0/post\\_docs/publications/2023\\_POSAD\\_Report.pdf](https://post.ca.gov/Portals/0/post_docs/publications/2023_POSAD_Report.pdf)> [as of Nov. 18, 2024]; Cal. Code Regs., tit. 11, § 1206, subd. (b); Cal. Com. on Peace Officer Stds. and Training, *Public Complaints* <<https://post.ca.gov/public-complaints>> [as of Nov. 18, 2024].

493 See Cal. Com. on Peace Officer Stds. and Training, *Public Complaints*, *supra* note 492.

494 Cal. Com. on Peace Officer Stds. and Training, *Penal Code § 13512 Annual Report*, *supra* note 492, at p. 4.

495 See Pen. Code, § 13510.8; Cal. Code Regs., tit. 11, § 1212, subd. (a); see also Cal. Com. on Peace Officer Stds. and Training, *Penal Code § 13512 Annual Report*, *supra* note 492, at p. 4.

496 Pen. Code, § 13510.1, subd. (g). The only exception is that an agency may provisionally employ a person for up to 24 months, pending their certification by POST, provided the person has received a proof of eligibility and has not previously been certified or denied certification or had their certification revoked. (*Ibid.*) The certification requirement applies to peace officers described in Penal Code sections 830.1, 830.2 except for those described in subdivision (d) of that section, 830.3, 830.32, or 380.33, or any other peace officer employed by an agency that participates in the POST program. Peace officers identified in these sections must possess either a valid Proof of Eligibility or a Basic Certificate. (*Id.* § 13510.1, subd. (a).)

497 *Id.* § 13510.9, subd. (a)(1).

498 *Ibid.*

499 *Ibid.*

500 Gov. Code, § 1029, subd. (f).

501 *Ibid.*

502 Pen. Code, § 13509.5.

officer based on POSAD's findings.<sup>503</sup> The POST Commission and administrative law judges from the Office of Administrative Hearings also play primary roles in the decertification process.<sup>504</sup>

## Peace Officer Standards Accountability Division (POSAD)

POSAD is comprised of six bureaus: a Certification Bureau, an Intake and Disposition Bureau, and four Professional Conduct Bureaus.<sup>505</sup> The Certification Bureau is responsible for certifying officers.<sup>506</sup> The Intake and Disposition Bureau reviews public complaints and agency reports submitted to POST.<sup>507</sup> The Professional Conduct Bureaus conduct the decertification investigations.<sup>508</sup> As part of their process, the Professional Conduct Bureaus review investigations of peace officers conducted by law enforcement agencies, and, when necessary, independently conduct further investigation into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification.<sup>509</sup>

At the end of its investigation, POSAD makes findings as to whether grounds for action against a peace officer's certification exist.<sup>510</sup> If POSAD finds reasonable grounds for the denial, suspension, or revocation of a peace officer's certification, POSAD notifies the officer of their findings and reports those findings to the Accountability Board and POST.<sup>511</sup> The officer has 30 days to request a review from the Accountability Board.<sup>512</sup>

## Peace Officer Standards Accountability Advisory Board

The Accountability Board is an advisory board of nine members appointed by the Governor and California Legislature.<sup>513</sup> Its purpose is to review appeals of POSAD's determination that there are

- 503 *Id.* at § 13509.6; see also Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Standards Accountability Advisory Board* <<https://post.ca.gov/Peace-Officer-Standards-Accountability-Advisory-Board>> [as of Nov. 18, 2024].
- 504 See Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Decertification Workflow* <[https://post.ca.gov/portals/0/post\\_docs/resources/sb2/Peace\\_Officer\\_Decertification\\_Workflow.pdf](https://post.ca.gov/portals/0/post_docs/resources/sb2/Peace_Officer_Decertification_Workflow.pdf)> [as of Nov. 18, 2024]; see also Office of Administrative Hearings, *About the Office of Administrative Hearings*, <<https://www.dgs.ca.gov/en/OAH/About>> [as of Nov. 18, 2024].
- 505 Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification Workshop #3: Decertification Investigations and Reporting Obligations* <[https://youtu.be/H2hNCB5AI74?si=Tw4UV9Pf\\_ZNc9c1H&t=170](https://youtu.be/H2hNCB5AI74?si=Tw4UV9Pf_ZNc9c1H&t=170)> [as of Nov. 18, 2024].
- 506 Cal. Com. on Peace Officer Stds. and Training, *Certification Bureau* <<https://post.ca.gov/certification-bureau>> [as of Nov. 18, 2024].
- 507 Cal. Com. on Peace Officer Stds. and Training, *Penal Code § 13512 Annual Report*, *supra* note 492, at p. 8.
- 508 See Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification Workshop #3: Decertification Investigations and Reporting Obligations*, *supra* note 505; see also Cal. Com. on Peace Officer Stds. and Training, *Penal Code § 13512 Annual Report*, *supra* note 492, at p. 8.
- 509 Pen. Code, § 13510.8, subd. (c)(2).
- 510 See *id.* § 13509.5, subd. (b).
- 511 *Id.* § 13510.85, subd. (a)(1); *id.* § 13509.5, subd. (b).
- 512 *Id.* § 13510.85, subd. (a)(2).
- 513 The Board must include: (1) one member who is a current or former peace officer with substantial experience at a command rank, appointed by the Governor; (2) one member who is a current or former peace officer with substantial experience at a management rank in internal investigations; (3) two members who are members of the public, who are not former peace officers, and who have substantial experience working at nonprofit or academic institutions on issues related to police accountability (one of these members must be appointed by the Governor and one by the Speaker of the Assembly); (4) two members who are members of the public, who are not former peace officers, and who have substantial experience working at community-based organizations on issues related to police accountability (one of these members must be appointed by the Governor and one by the Senate Rules Committee); (5) two members who are members of the public, and who are not former peace officers, with strong consideration given to individuals who have been subject to wrongful use of force likely to cause death or serious bodily injury by a peace officer, or who are surviving family members of a person killed by the wrongful use of deadly force by a peace officer, appointed by the Governor; and (6) one member who is an attorney, and who is not a former peace officer, with substantial professional experience involving oversight of peace officers, appointed by the Governor. (Pen. Code, § 13509.6, subd. (d)(1)-(6).) The list and biographies of current Accountability Board members can be found on POST's website at <https://post.ca.gov/Peace-Officer-Standards-Accountability-Advisory-Board>. Each member of the Accountability Board is appointed for a term of three years and holds office until the appointment of the member's successor or until one year has elapsed since the expiration of the term for which the member was appointed, whichever occurs first. Vacancies are filled by appointment for the unexpired term of a person with the same

reasonable grounds to suspend or revoke an officer’s certification and make a recommendation to the POST Commission regarding whether POSAD’s determination is supported by clear and convincing evidence.<sup>514</sup> The Accountability Board does not review POSAD determinations that there is no reasonable basis to suspend or revoke an officer’s certification.

When a peace officer requests a review of POSAD’s finding that reasonable grounds exist for suspension or revocation of the officer’s certification, the Accountability Board holds a public hearing to review those findings before recommending that the POST Commission take action against the officer’s certification.<sup>515</sup> SB 2 requires the Accountability Board to issue an annual report on the activities of POSAD, the Accountability Board, and POST, relating to the certification program, including the number of applications for certification, the events reported, the number of investigations conducted, and the number of certificates surrendered or revoked.<sup>516</sup> The first report was published in 2024 and is available in POST’s Data Warehouse.<sup>517</sup>

## The POST Commission

The POST Commission has 18 members, more than half of whom are peace officers, and of which four are members of the public.<sup>518</sup> Fifteen of the Commissioners are appointed by the Governor for three-year terms.<sup>519</sup> Racial, gender, and ethnic diversity must be considered for all appointments.<sup>520</sup> The Speaker of the Assembly and the Senate Pro Tempore also each appoint one Commissioner.<sup>521</sup> These two appointees must demonstrate expertise in one or more of the following areas: (1) implicit and explicit bias, (2) cultural competency, (3) mental health and policing, and (4) work with vulnerable populations. The California Attorney General is an ex-officio member.<sup>522</sup> In prior reports, the Board recommended expanding the number of commissioners to include more public members to “ensure more diverse representation from the public non-sworn community.”<sup>523</sup>

## Administrative Law Judges

Administrative law judges (ALJs) from the Office of Administrative Hearings (OAH) preside over decertification hearings. The OAH is a non-judicial administrative agency that functions like a court. The OAH hears administrative disputes and is an independent office housed within the Department of General Services.<sup>524</sup> ALJs are appointed by the Director of OAH and are required to have practiced law for at least five years before being appointed.<sup>525</sup> They are neutral fact finders, independent of the agencies appearing before them.<sup>526</sup>

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qualification for appointment as the person being replaced. No person may serve more than two terms consecutively. The Governor must remove from the Accountability Board any peace officer member whose certification as a peace officer has been revoked and may, after hearing, remove any member of the Accountability Board for neglect of duty or other just cause. (Pen. Code, § 13509.6, subd. (e).)

514 *Id.* § 13509.6, subd. (b).

515 *Id.* § 13510.85, subd. (a)(2)-(4).

516 *Id.* § 13512, subd. (b)(1)-(10).

517 Cal. Com. on Peace Officer Stds. and Training, *Penal Code § 13512 Annual Report*, *supra* note 492; Cal. Com. on Peace Officer Stds. and Training, *Decertification: Annual Report* <<https://post.ca.gov/Decertification>> [as of Nov. 18, 2024].

518 Pen. Code, § 13500, subd. (b).

519 *Id.* § 13500, subds. (a), (e); see Cal. Com. on Peace Officer Stds. and Training, *The POST Commission*, <<https://post.ca.gov/POST-Commission>> [as of Nov. 18, 2024].

520 *Id.* § 13500, subd. (a).

521 *Id.* § 13500, subd. (c).

522 *Id.* § 13500, subd. (d); Cal. Com. on Peace Officer Stds. and Training, *The POST Commission*, *supra* note 519.

523 Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 487, at p. 208.

524 Office of Administrative Hearings, *About the Office of Administrative Hearings*, *supra* note 504.

525 *Ibid.*

526 *Ibid.*

## C. Grounds for Decertification

There are two primary grounds for decertification. A peace officer's certification will be revoked if the officer has become ineligible to hold office as a peace officer under Government Code section 1029.<sup>527</sup> A peace officer's certification may also be suspended or permanently revoked if the officer is terminated for cause or has otherwise engaged in serious misconduct, as described and defined in Penal Code section 13510.8, subdivision (b) and the POST regulations.<sup>528</sup>

### Government Code Section 1029

The POST Commission must revoke the certification of a peace officer if the officer has become ineligible to hold office.<sup>529</sup> Under Government Code section 1029, a person is ineligible or disqualified from holding office as a peace officer or being employed as a peace officer of the state, county, city, or other political subdivision if, among other things, the person has:

1. Specified criminal convictions or adjudications,<sup>530</sup>
2. Had their certification revoked by POST,
3. Voluntarily surrendered their certification pursuant to California Penal Code section 13510.8, subdivision (f),
4. Met the minimum requirement for issuance of certification but has been denied issuance of certification, or
5. Previously been employed in law enforcement in any state or United States territory or by the federal government, whose name is listed in the National Decertification Index<sup>531</sup> of the International Association of Directors of Law Enforcement Standards and Training, or any other database designated by the federal government.<sup>532</sup>

The Cal DOJ provides POST with disqualifying felony and misdemeanor conviction data for all persons known to be current or former peace officers, which POST uses for decertification purposes.<sup>533</sup> Once this data is received by POST, it is considered a public record.<sup>534</sup> The POST Commission may also learn of disqualifying convictions during serious misconduct investigations and from the media.

Upon a preliminary determination by POSAD that a person is, or has become, disqualified under section 1029 from holding office as a peace officer, the POST Commission serves a notice of intent to

527 Pen. Code, § 13510.8, subd. (a)(1).

528 *Id.* § 13510.8, subd. (a)(2).

529 *Id.* § 13510.8, subd. (a)(1).

530 These criminal convictions and adjudications are: (1) any person who has been convicted of a felony; (2) any person who has been convicted of any offense in any other jurisdiction which would have been a felony if committed in California; (3) any person who has been discharged from the military for committing an offense, as adjudicated by a military tribunal, which would have been a felony if committed in California; (4) any person who, after January 1, 2004, has been convicted of a crime based upon a verdict or finding of guilt of a felony by the trier of fact, or upon the entry of a plea of guilty or nolo contendere to a felony; (5) any person who has been charged with a felony and adjudged by a superior court to be mentally incompetent; (6) any person who has been found not guilty by reason of insanity of any felony; (7) any person who has been determined to be a mentally disordered sex offender; (8) any person adjudged addicted or in danger of becoming addicted to narcotics, convicted, and committed to a state institution; and (9) any person who, following exhaustion of all available appeals, has been convicted of, or adjudicated through an administrative, military, or civil judicial process requiring not less than clear and convincing evidence. (Gov. Code, § 1029, subd. (a)(1)-(9).)

531 For more information on the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training see IADLEST, *NDI Frequently Asked Questions (FAQ)* (Oct. 4, 2023) <<https://www.iadlest.org/Portals/0/Files/NDI/NDI%20FAQ%20.pdf?ver=xINUE3YRiwlf2JimncZFkA%3d%3d>> [as of Nov. 18, 2024].

532 Gov. Code, § 1029, subd. (a).

533 *Id.* § 1029, subd. (f).

534 See *id.* § 1029, subd. (f).

revoke the peace officer’s certification.<sup>535</sup> The officer has 30 days from the date the notice was mailed to provide a written response detailing the factual or legal basis supporting their contention that a disqualifying conviction did not occur, including all documents substantiating this contention.<sup>536</sup> If a written response is not received within 30 days, POSAD issues an interim order of disqualification and decertification revoking the officer’s certification, pending the POST Commission’s final order.<sup>537</sup> If POSAD receives a written response, it reviews the response and conducts any appropriate additional investigation necessary to determine whether a disqualifying conviction occurred.<sup>538</sup> If POSAD determines that a disqualifying conviction occurred, it serves the interim order of disqualification and decertification on the officer or their legal representative, and the matter is placed on the consent calendar at the next regularly scheduled meeting of the POST Commission.<sup>539</sup> If the POST Commission agrees with POSAD’s actions, it will summarily affirm the interim order of disqualification and decertification.<sup>540</sup>

## Serious Misconduct

The other ground for decertification is termination for cause from employment as an officer for serious misconduct or POST has determined that the officer has otherwise engaged in serious misconduct while employed as a peace officer. “Serious misconduct” is defined as:

1. Dishonesty relating to the reporting, investigation, or prosecution of a crime or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer<sup>541</sup>
2. Abuse of power<sup>542</sup>
3. Physical abuse<sup>543</sup>
4. Sexual assault<sup>544</sup>
5. Demonstrating bias on the basis of actual or perceived race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer’s obligation to carry out their duties in a fair and unbiased manner<sup>545</sup>
6. Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer’s obligation to uphold the law or respect the rights of members of the public
7. Participation in a law enforcement gang

535 Cal. Code Regs., tit. 11, § 1203, subd. (b).

536 *Id.* § 1203, subd. (b)(2). POSAD may grant reasonable extensions of time to respond upon a showing of good cause.

537 *Id.* § 1203, subd. (b)(3).

538 *Id.* § 1203, subd. (b)(4).

539 *Ibid.*

540 *Ibid.*

541 This includes but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data. (Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification Actions* <<https://post.ca.gov/Peace-Officer-Certification-Actions>> [as of Nov. 18, 2024].)

542 Including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest.

543 Physical abuse includes, but is not limited to, the excessive or unreasonable use of force.

544 As described in subdivision (b) of Penal Code section 832.7, and the provision extends to acts committed amongst members of any law enforcement agency.

545 In December 2023, POST published notice of a proposed amendment to POST Regulation 1205 that would expand the definition of “demonstrating bias” to clarify what POST considers a demonstration of bias. (See Cal. Com. on Peace Officer Stds. and Training, *Notice of Proposed Regulatory Action – Amend Commission Regulation 1205 – Definitions Related to Serious Misconduct*, No. 2-23-70 <[https://post.ca.gov/Portals/0/post\\_docs/bulletin/2023-70.pdf](https://post.ca.gov/Portals/0/post_docs/bulletin/2023-70.pdf)>; Cal. Com. on Peace Officer Stds. and Training, *Text of Proposed Regulatory Action: Amend Commission Regulation 1205* <[https://post.ca.gov/Portals/0/post\\_docs/regulationnotices/2023/2023-70\\_TPRA\\_Reg1205.pdf](https://post.ca.gov/Portals/0/post_docs/regulationnotices/2023/2023-70_TPRA_Reg1205.pdf)> [as of Nov. 18, 2024].)

8. Failure to cooperate with an investigation into potential police misconduct
9. Failure to intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, “taking into account the possibility that other officers may have additional information regarding the threat posed by a subject”<sup>546</sup>

The inclusion of “demonstrating bias” in the definition of “serious misconduct” in SB 2 is directly related to RIPA’s goal of eliminating racial and identity profiling. As SB 2’s implementing regulations explain, an officer is “demonstrating” bias “when the officer either shows or displays, by words, actions or other conduct, prejudice, intolerance, contempt, or hatred towards one or more persons due to that person’s membership within a class of persons identified in Penal Code section 13510.8, subdivision (b)(5), when such words, actions, or other conduct would lead a reasonable person to conclude that the officer has not fairly and impartially performed, or will not fairly and impartially perform, their law enforcement duties.”<sup>547</sup>

#### D. The SB 2 Decertification Process

The decertification process is multi-layered with several steps aimed at preserving due process, including investigations by both the employing agency and POSAD, an appeal of those findings before the Accountability Board, and a determination by the POST Commission regarding whether to initiate a decertification action. The chart below, based on the chart from POST’s website, outlines the different procedural steps in the decertification process.<sup>548</sup>

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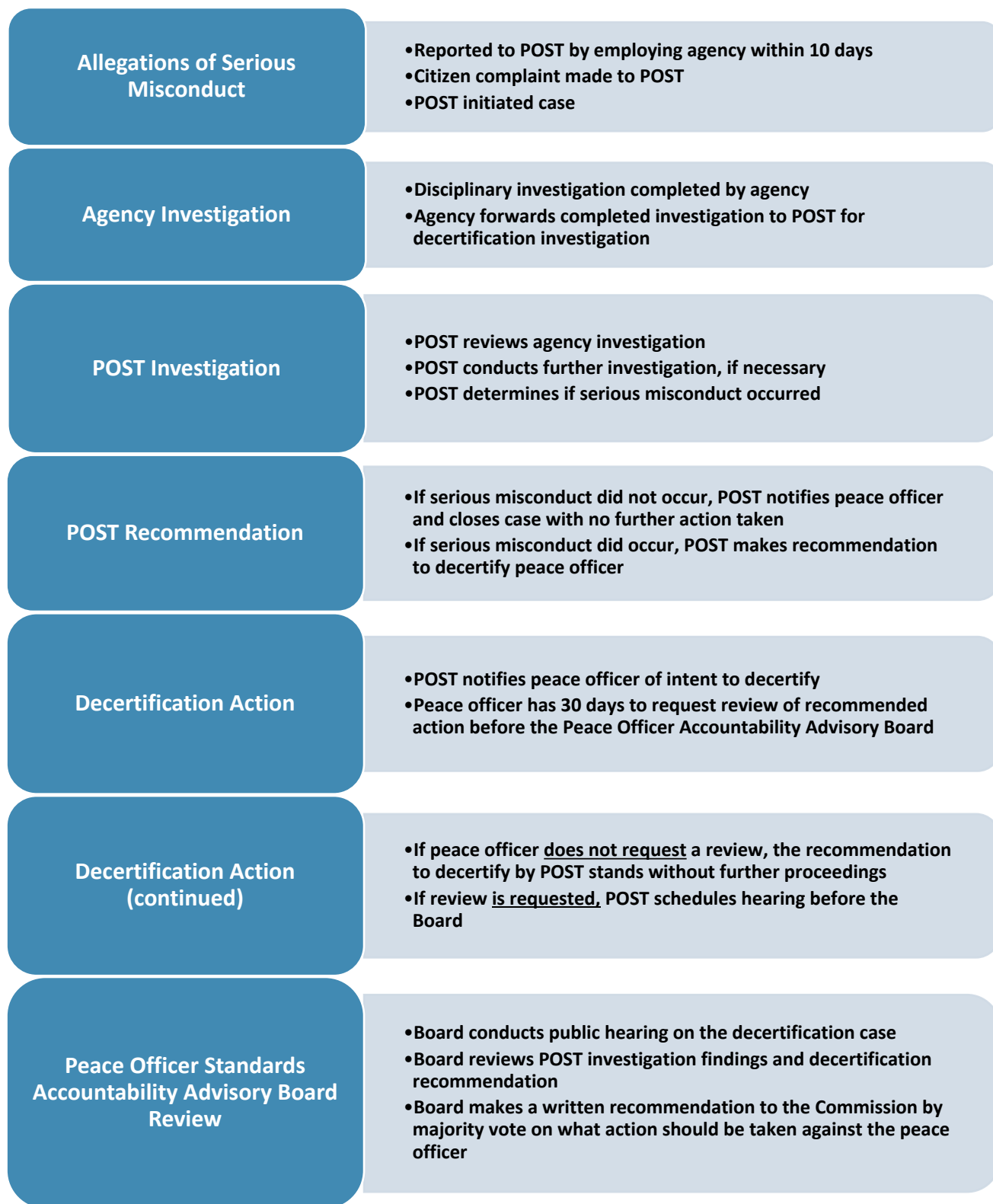
546 Pen. Code, § 13510.8, subd. (b)(1)-(9); Cal. Code Regs., tit. 11, § 1205.

547 Cal Code Regs., tit. 11, § 1205, subd. (a)(5)(A).

548 Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Decertification Workflow*, *supra* note 504.



## Peace Officer Decertification Workflow



### Commission on Peace Officer Standards and Training

- Reviews recommendation made by the Board
- The Commission's decision to adopt a recommendation by the Board to seek revocation shall be made by a two-thirds vote of the Commissioners present
- Commission returns decision to POST

### Administrative Law Judge

- If the Commission moves to take action, POST initiates proceedings for a formal hearing before an Administrative Law Judge
- If the Commission rejects the recommendation, no further action is taken unless additional investigation is requested

### Commission Final

- The Commission moves to accept or reject the decision of the Administrative Law Judge
- The Commission makes the final decision and required notifications are made

## Initiation of an Investigation Based on a Report of Serious Misconduct

Serious misconduct by a peace officer is reported to POST in several ways, including mandatory reporting by law enforcement agencies and complaints from the public. As noted previously, POST can also initiate an investigation if it becomes aware of possible serious misconduct by an officer through other means, such as through the media or an audit of a personnel file.

### a. Reporting by Law Enforcement Agencies

Each law enforcement agency must internally investigate any allegations of serious misconduct by a peace officer, regardless of the officer's employment status.<sup>549</sup> Under SB 2, POST now provides oversight for those agency investigations. This means agencies must report serious misconduct allegations and findings of internal investigations of serious misconduct to POST within 10 days of receiving the allegation and within 10 days of the final disposition of any investigation to determine whether an officer engaged in conduct that could render the officer subject to suspension or revocation.<sup>550</sup> The duty to report allegations of serious misconduct applies regardless of the investigative outcome and includes cases where the investigation concluded that the allegations were unfounded, not sustained, or resulted in an exoneration.<sup>551</sup>

<sup>549</sup> Pen. Code, § 13510.8, subd. (c)(1).

<sup>550</sup> *Id.* § 13510.9; Cal. Code Regs., tit. 11, §1207; see also Cal. Com. on Peace Officer Stds. and Training, *Senate Bill No. 2 – Frequently Asked Questions* <<https://post.ca.gov/SB-2-FAQs>> [as of Nov. 18, 2024].

<sup>551</sup> See Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification Workshop #3: Decertification Investigations and Reporting Obligations*, *supra* note 505.

The duty to report is retroactive to January 1, 2020.<sup>552</sup> By July 1, 2023, agencies are required to report to POST serious misconduct involving the officers they employ that occurred between January 1, 2020, and January 1, 2023.<sup>553</sup>

In its review, POST's investigative unit, POSAD, is tasked with examining the thoroughness of an agency's investigation, reaching an independent determination on whether there are reasonable grounds to conclude that serious misconduct occurred. Agencies must make their investigation records available to POST, including any physical or documentary evidence, witness statements, analysis, and conclusions.<sup>554</sup>

POST may initiate proceedings to revoke or suspend an officer's certification for conduct that occurred before January 1, 2022, under two circumstances: (1) for serious misconduct defined as dishonesty, sexual assault, or the use of deadly force resulting in death or serious bodily injury and (2) where the employing agency made its final determination regarding an investigation after January 1, 2022.<sup>555</sup>

## **b. Public Complaints**

Members of the public may also submit complaints against peace officers directly to POST.<sup>556</sup> Complaints may be submitted online using POST's Public Complaint Form,<sup>557</sup> by email or mail, by phone, or in person at POST headquarters.<sup>558</sup> Complaints may also be submitted anonymously.<sup>559</sup>

When POST receives a complaint alleging serious misconduct, it refers the complaint to the officer's employing agency for investigation. The agency is required to forward its findings to POST for review.<sup>560</sup> POST is required to review those findings to determine if decertification is warranted.

POST has the authority to investigate only those allegations of serious misconduct that could lead to decertification of a California peace officer. It lacks the authority to conduct criminal or administrative investigations that would lead only to agency discipline short of suspension or revocation of the officer's certification.<sup>561</sup> Complaints from the public that a California peace officer committed a crime, should be reported to the district attorney in the county where the law enforcement agency is located or to the California Department of Justice.<sup>562</sup>

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552 Pen. Code, § 13510.9, subd. (b).

553 *Ibid.*

554 *Id.* § 13510.9, subd. (c).

555 *Id.* § 13510.8, subd. (g)(1).

556 POST accepts complaints from members of the public against California peace officers described in Penal Code sections 830.1, 830.2 (except for those described in subdivision (d)), 830.3, 830.32, or 830.33. POST's certification program applies to officers described in these sections. (See Cal. Com. on Peace Officer Stds. and Training, *Public Complaints*, *supra* note 492; see also Pen. Code, § 13510.1, subd. (a).)

557 Cal. Com. on Peace Officer Stds. and Training, *Public Complaint Form* <<https://post.ca.gov/public-complaint-form>> [as of Nov. 18, 2024].

558 Cal. Code Regs., tit. 11, § 1206.

559 See Cal. Com. on Peace Officer Stds. and Training, *Public Complaint Form*, *supra* note 557.

560 Cal. Com. on Peace Officer Stds. and Training, *Senate Bill No. 2 – Frequently Asked Questions*, *supra* note 550.

561 Cal. Com. on Peace Officer Stds. and Training, *Public Complaints*, *supra* note 492.

562 *Ibid.*

## Immediate Temporary Suspensions

Under SB 2, POST's executive director is required to immediately suspend a peace officer's certificate of eligibility if circumstances indicate that the temporary suspension is in the best interest of the health, safety, or welfare of the public and any of the following occurs:

1. A peace officer is arrested or indicted for any crime described in Government Code section 1029; or
2. A peace officer is discharged from any law enforcement agency for grounds set forth in Penal Code section 13510.8, subdivision (a),<sup>563</sup> or
3. A peace officer has separated from employment as a peace officer during a pending investigation into allegations of serious misconduct.<sup>564</sup>

The temporary suspension remains in effect until POST issues its final decision or until the executive director withdraws the order.<sup>565</sup> An individual may not exercise the powers of a peace officer during any period during which their certification is suspended temporarily.<sup>566</sup>

Whenever the executive director imposes a temporary suspension, POST must notify the officer and the agency head in writing and specify the basis for the executive director's determination.<sup>567</sup> The notice must also advise the officer that they have the right to respond in writing within 14 calendar days if the officer believes that the immediate suspension order should be withdrawn.<sup>568</sup> Upon the receipt of a response, the executive director will consider the facts, evidence, and argument in the officer's response and must withdraw the immediate temporary suspension if the executive director determines that continuing the suspension is no longer in the best interest of the health, safety, or welfare of the public or if one of the technical grounds identified in Penal Code section 13510.8, subdivision (d) no longer exists.<sup>569</sup> If the executive director does not issue an order of withdrawal within 15 calendar days of service of the officer's response, the response will be treated as denied.<sup>570</sup>

## POSAD Review and Investigation

Once POST receives the results of the law enforcement agency's internal investigation of serious misconduct, POSAD, the investigation unit within POST, must promptly review any grounds for decertification received from the agency.<sup>571</sup> POSAD has the authority to review any agency or any other investigative authority's file and conduct further investigation to determine whether serious misconduct has occurred. POSAD only has the authority to review and investigate allegations for

563 Under Penal Code section 13510.8, subdivision (a), a peace officer's certification may be revoked if the person has become ineligible to hold office as a peace officer pursuant to Government Code section 1029; a peace officer's certification may be suspended or revoked if the officer has been terminated for cause from employment as a peace officer or has otherwise engaged in serious misconduct; and a peace officer's certificate or proof of eligibility may be canceled if POST determines that there was fraud or misrepresentation made by an application during the application process that resulted in a certificate being issued.

564 Pen. Code, § 13510.8, subd. (d); see also Cal. Com. on Peace Officer Stds. and Training, *Information and Options for the Peace Officer: The Immediate Temporary Suspension (ITS) Process* <[https://post.ca.gov/portals/0/post\\_docs/resources/sb2/Immediate\\_Temporary\\_Suspension.pdf](https://post.ca.gov/portals/0/post_docs/resources/sb2/Immediate_Temporary_Suspension.pdf)> [as of Nov. 18, 2024].

565 Pen. Code, § 13510.8, subd. (d).

566 Cal. Com. on Peace Officer Stds. and Training, *Information and Options for the Peace Officer: The Immediate Temporary Suspension (ITS) Process*, *supra* note 564.

567 Cal. Code Regs., tit. 11, § 1208, subd. (a).

568 The officer's response must be served upon POST within 14 calendar days of the date of the mailing of the Order of Immediate Temporary Suspension, either by personal delivery on POST headquarters, or by mail, postmarked no later than 14 calendar days of the date of mailing of the order to the peace officer. (*Id.* § 1208, subd. (a)(1)(A).)

569 *Id.* § 1208, subd. (a)(1)(B). For example, an officer who was charged with a felony and placed in a deferred entry of judgment program would not technically have a conviction for a felony while in the program. (See Pen. Code, § 1000.10.)

570 Cal. Code Regs., tit. 11, § 1208, subd. (a)(1)(B).

571 Pen. Code, § 13510.8, subd. (c)(2).

purposes of decertification and is required to complete the investigation within three years of receiving the completed report of the disciplinary or internal affairs investigation from the employing agency.<sup>572</sup> No time limit applies, however, if a report of the conduct was not made to POST.<sup>573</sup>

When evaluating whether to revoke an officer's certification for the incident under investigation, POSAD must consider the peace officer's entire record, including the prior conduct and service record, and any instances of misconduct, including any incidents occurring beyond the three-year time limitation for investigation.<sup>574</sup> POSAD's investigation is considered complete once it issues a notice to the officer of its intent to deny, suspend, or revoke certification.<sup>575</sup> The three-year time limit for POSAD's investigation is tolled during the appeal of a termination or other disciplinary action through an administrative or judicial proceeding or during any criminal prosecution of a peace officer.<sup>576</sup>

If POSAD finds reasonable grounds for the denial, revocation, or suspension of a peace officer's certification, it must promptly notify the officer in writing, providing the reasons for its conclusion. In the notice, POSAD must also provide a detailed explanation of the decertification procedure, including information about the officer's rights to contest and appeal.<sup>577</sup>

As noted previously, upon receiving notice from POSAD, the officer has 30 days to file a request for review of the determination by the Accountability Board and POST.<sup>578</sup> If a timely request for review is filed, the Accountability Board will schedule the case for a hearing. If no timely request for review is received, the officer's certification will be suspended or revoked without further proceedings.<sup>579</sup>

Instead of appealing the decision, the officer can voluntarily surrender their certification.<sup>580</sup> In that case, the matter will be administratively closed without further legal proceedings, and the person would be permanently ineligible for employment as a peace officer in California. Voluntary permanent surrender of certification has the same effect as revocation, meaning that the certification cannot be reactivated.<sup>581</sup> This, however, would not prohibit officers from seeking employment in other states because California does not have jurisdiction over hiring in other states, but reporting misconduct to the National Decertification Index (NDI) of the International Association of Directors of Law Enforcement Standards and Training will at a minimum place other jurisdictions on notice that an officer's certification has been revoked in California.

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572 *Id.* § 13510.8, subd. (c)(2), (5).

573 *Id.* § 13510.8, subd. (c)(5).

574 *Ibid.*

575 *Ibid.*

576 *Ibid.*

577 *Id.* § 13510.85, subd. (a)(1). POST has issued a guide that is intended to serve that purpose. (See Cal. Com. on Peace Officer Stds. and Training, *Guide to Peace Officer Decertification Proceedings and Officer Rights to Contest and Appeal* (Aug. 2023) <[https://post.ca.gov/portals/0/post\\_docs/resources/sb2/Guide\\_to\\_Decertification.pdf](https://post.ca.gov/portals/0/post_docs/resources/sb2/Guide_to_Decertification.pdf)> [as of Nov. 18, 2024].)

578 Pen. Code, § 13510.85(a)(2); Cal. Code Regs., tit. 11, § 1209. The request for review must be received by POST or postmarked within 30 calendar days of the date of mailing of the notice of intent to suspend or revoke the officer's certification. (Cal. Code Regs. § 1209, subd. (b); Cal. Com. on Peace Officer Stds. and Training, *Guide to Peace Officer Decertification Proceedings and Officer Rights to Contest and Appeal*, *supra* note 577, at p. 6.)

579 Pen. Code, § 13510.85, subd. (a)(2).

580 Cal. Code Regs., tit. 11, § 1209, subd. (c).

581 Cal. Com. on Peace Officer Stds. and Training, *Guide to Peace Officer Decertification Proceedings and Officer Rights to Contest and Appeal*, *supra* note 577, at p. 6

## Public Hearings Before the Accountability Board and the POST Commission

If the officer appeals POSAD's determination, POST schedules a public hearing before the Accountability Board. Following the hearing, the Accountability Board must issue a written decision explaining its reasons for decertification or suspension. The Accountability Board may only recommend revocation if the factual basis for revocation is established by clear and convincing evidence.<sup>582</sup> If the Accountability Board determines that the facts and circumstances warrant a sanction other than revocation, it may recommend suspension for a period of time.<sup>583</sup>

Following the hearing before the Accountability Board, the POST Commission schedules a public hearing to review the Accountability Board's recommendation.<sup>584</sup> A decision to adopt the recommendation to seek revocation of the officer's certification requires two-thirds of the POST Commissioners present to agree that clear and convincing evidence supports the Accountability Board's conclusion that the officer engaged in serious misconduct.<sup>585</sup> If the POST Commission rejects the recommendation, the Commission must explain its analysis and reasons for reaching a different conclusion in writing.<sup>586</sup>

The hearings serve as a mechanism by which the Accountability Board and the POST Commission can preliminarily determine whether there are reasonable grounds to conclude that serious misconduct occurred and whether the case should be referred for a full evidentiary hearing.<sup>587</sup> Therefore, although the officer may attend both hearings or choose to have counsel present, neither the officer nor their counsel may present witness testimony, other evidence, or argument.<sup>588</sup> Only POSAD may present the findings of its investigation to the Accountability Board and subsequently to the POST Commission.<sup>589</sup> The officer or their counsel can address the issue of the sufficiency of POSAD's findings only during the public comment period.<sup>590</sup>

If the POST Commission determines that action should be taken against the officer, POST will return the matter to POSAD for further proceedings. POSAD will then file an Accusation or Statement of Issues with the OAH for a formal hearing before an ALJ.<sup>591</sup> If the Commission rejects the Accountability Board's recommendation to suspend or revoke a certification, no further action is taken unless additional investigation is requested.<sup>592</sup>

## The Administrative Hearing Before OAH

The administrative hearing on an officer's certification is a public hearing like a civil court trial.<sup>593</sup> The administrative law judge finds whether there is a basis to decertify an officer based on their conduct and the POST Commission may, partly or wholly, adopt or reject the ALJ's decision.

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582 Pen. Code, § 13510.85, subd. (a)(4). The clear and convincing evidence standard "requires a finding of high probability." (*In Re White* (2018) 21 Cal.App.5th 18, 28.)

583 Pen. Code, § 13510.85, subd. (a)(4).

584 *Id.* § 13510.85, subd. (a)(5).

585 *Ibid.*

586 *Ibid.*

587 Cal. Com. on Peace Officer Stds. and Training, *Guide to Peace Officer Decertification Proceedings and Officer Rights to Contest and Appeal*, *supra* note 577, at p. 6.

588 Cal. Code Regs., tit. 11, § 1209, subd. (e)(2)(A).

589 *Id.* § 1209, subd. (e)(1)-(2)

590 *Id.* § 1209, subd. (e)(2)(B).

591 POST, *Guide to Peace Officer Decertification Proceedings and Officer Rights to Contest and Appeal*, *supra* note 577, at p. 8; Pen. Code, § 13510.85, subd. (a)(6). The hearing is held in accordance with the Administrative Procedure Act Chapter 5 (commencing with section 1150) of part 1 of Division 3 of Title 2 of the Government Code and is subject to judicial review.

592 POST, *Peace Officer Decertification Workflow*, *supra* note 504, at p. 2.

593 Any records introduced during the hearings of the Board and the ALJ and the review by POST are public. These public records may, in the discretion of POSAD, be redacted for the reasons set forth in Penal Code section 832.7, subdivision (b)(6) and (7). This subdivision does not preclude the Accountability Board or POST, or both, from reviewing the unredacted versions of these records in closed session and using them as the basis for any action taken. (Pen. Code, § 13510.85, subd. (b).)

## POST's Certification of the ALJ's Decision

Within 100 days of receipt of the ALJ's proposed decision, POST may take one of the following actions:

1. Adopt the ALJ's proposed decision in its entirety.
2. Reduce or otherwise mitigate the proposed penalty and adopt the balance of the proposed decision.
3. Make technical or other minor changes in the proposed decision and adopt it as the decision.<sup>594</sup>
4. Reject the proposed decision and refer the case to the same ALJ if reasonably available, otherwise to another ALJ, to take additional evidence.<sup>595</sup>
5. Reject the proposed decision, and decided the case upon the record, including the transcript, or upon an agreed statement of the parties, with or without taking additional evidence. By stipulation of the parties, the agency may decide the case upon the record without including the transcript.<sup>596</sup>

POST's decision is deemed final 30 days after POST serves the decision on the involved peace officer or their legal representative.<sup>597</sup> POST must publish the names of any peace officer whose certification is suspended or revoked and the basis for the suspension or revocation on its website.<sup>598</sup> POST must also notify the NDI of the suspension or revocation.<sup>599</sup>

POST must retain its records of an investigation of any person for 30 years following the date that the investigation is deemed concluded.<sup>600</sup>

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594 Action by the agency is limited to a clarifying change or a change of a similar nature that does not affect the factual or legal basis of the proposed decision.

595 If the case is referred to an ALJ, the ALJ must prepare a revised proposed decision, based upon the additional evidence and the transcript and other papers that are part of the record of the prior hearing. A copy of the revised proposed decision must be provided to each party and their attorney.

596 Gov. Code, § 11517, subd. (c)(2)(A)-(E). If the agency takes this action, all the following apply: (1) a copy of the record must be made available to the parties. The agency may require payment of fees covering direct costs of making the copy; (2) the agency itself may not decide any case without affording the parties the opportunity to present either oral or written argument before the agency itself. If additional oral evidence is introduced before the agency itself, no agency member may vote unless the member heard the additional oral evidence; (3) the authority of the agency itself to decide the case includes the authority to decide some but not all issues in the case; and (4) if the agency elects to take this action, the agency must issue its final decision not later than 100 days after rejection of the proposed decision. If the agency elects to take this action and has ordered a transcript of the proceedings before the ALJ, the agency must issue its final decision not later than 100 days after receipt of the transcript. If the agency finds that further delay is required by special circumstances, it must issue an order delaying the decision for no more than 30 days and specifying the reasons for the delay. The order is subject to judicial review pursuant to Government Code section 11523.

597 A copy of the written decision must be provided to (1) the Accountability Board, (2) POSAD, (3) the involved peace officer or designated representative, and (4) the head of the agency that employs or employed the involved peace officer. (Cal. Code Regs., tit. 11 § 1212, subd. (c)(3).)

598 *Id.* § 1212, subd. (d). The list of officers whose certifications are suspended or revoked and the basis for the suspension or revocation is available on POST's website. Cal. Com. on Peace Officer Stds. and Training, Peace Officer Certification Actions <<https://post.ca.gov/Peace-Officer-Certification-Actions>> [as of Nov. 18, 2024].

599 Pen. Code, § 13510.85, subd. (c); Cal. Code Regs., tit. 11, § 1212, subd. (e). Records are entered into the NDI by the governing body in each state charged with establishing standards for police officer training and certification. These state agencies are known as POST Agencies. Not all states have established a POST agency. (See IADLEST, *NDI Frequently Asked Questions (FAQ)*, *supra* note 531.) According to the IADLEST website, as of the writing of this report, the NDI contains 55,433 actions reported by 50 certifying agencies. (IADLEST, *About NDI* <<https://www.iadlest.org/our-services/ndi/about-ndi>> [as of Nov. 18, 2024].)

600 Pen. Code, § 13510.8, subd. (e).

## E. POST Certification Actions by the Numbers

### Misconduct Reports and Investigations

Between January 1, 2023, and October 1, 2024, POST received 29,472 misconduct reports from law enforcement agencies and 1,247 public complaints submitted directly to POST. Of those agency misconduct reports, 16,672, or 56.57 percent, were related to incidents that occurred before January 1, 2023. So far, through October 1, 2024, 19,882 cases have been assigned to POST investigators, of which 7,967 have been closed. The other 9,533 misconduct reports, 32.34 percent of the agency misconduct reports received, have not yet been assigned to a POST investigator.<sup>601</sup>

To provide further context about dispositions by year, in 2023, POST closed a total of 5,194 cases. Of those cases, 5,100 were closed with no further action taken, while 65 resulted in decertification. In 2023, 85.29 percent of the cases closed with no further action involved retroactive cases, i.e., cases involving events between January 1, 2020, and January 1, 2023. According to POST, these cases were held to a higher standard, and POST was required to close them if the conduct did not result in death or serious bodily injury per Penal Code section 13510.8 subdivision (g)(1).<sup>602</sup> For the first nine months of 2024, POST has resolved 2,982 cases. Of those cases, 2,811 cases resulted in no further action and 171 cases resulted in decertification.

When it receives a report, complaint, or other allegation of serious misconduct, POST classifies the type of serious misconduct alleged. As shown in Table 5 below, of the serious misconduct allegations POST has received between January 1, 2023, and October 1, 2024, physical abuse/excessive force is the most common type of serious misconduct alleged, followed by demonstrating bias, abuse of power, dishonesty, acts that violate the law, and sexual assault.<sup>603</sup>

Table 5. SB 2 Complaints Involving Serious Misconduct Allegations, 2023-2024.

Basis <sup>604</sup>	Allegations Received <sup>605</sup>	
	Number	Percent
Physical Abuse/Excessive Force	12,654	37.68%
Demonstrating Bias	9,186	27.35%
Abuse of Power	4,528	13.48%
Dishonesty	2,523	7.51%
Acts that Violate the Law	2,225	6.63%
Sexual Assault	1,337	3.98%
Convicted of a Felony	593	1.77%
Other Serious Misconduct	537	1.60%

601 See Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification Reporting* <<https://post.ca.gov/Peace-Officer-Certification-Reporting>> [as of Nov. 18, 2024].

602 Information retrieved from *ibid.*, or from direct information request to POST.

603 Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification Reporting*, *supra* note 601.

604 A report or complaint of misconduct may include multiple types of misconduct.

605 Number of allegations is as assessed by POST. Any one report, complaint, and/or case may include multiple allegations, and reports, complaints, and/or cases may involve one or more officers. Allegations were received by POST starting January 1, 2023, and this data is current to August 29, 2024. (Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification Reporting*, *supra* note 601.)



## Common Grounds for Certification Actions Initiated by POST

As of September 27, 2024, POST has initiated certification actions against 367 peace officers. One hundred and forty-nine of those actions were based on Government Code section 1029.<sup>606</sup> According to POST’s online listing of certification actions, the most common complaint, charge, or allegation for decertification actions that POST has initiated based on serious misconduct is egregious or repeated acts that violate the law followed by physical abuse or excessive force, sexual assault, dishonesty, demonstrating bias, abuse of power, and failure to cooperate.<sup>607</sup> As of September 27, 2024, there have been no SB 2 misconduct certification actions relating to participation in a law enforcement gang or the failure to intercede when present and observing force that is clearly unnecessary.<sup>608</sup>

Table 6. SB 2 Grounds for Decertification 2023-2024.

Basis <sup>609</sup>	Certification Actions <sup>610</sup>	
	Number	Percent
Acts that Violate the Law	91	59.48%
Physical Abuse/Excessive Force	28	18.30%
Sexual Assault	17	11.11%
Dishonesty	11	7.19%
Demonstrating Bias	8	5.23%
Abuse of Power	6	3.92%
Failure to Cooperate	2	1.31%

## SB 2 Top 10 Agencies

As of September 27, 2024, nine law enforcement agencies have had nine or more officers subject to SB 2 certification action,<sup>611</sup> including officers who were last employed by that agency. Generally, the most common type of serious misconduct involves acts that violate the law.<sup>612</sup>

606 Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification Actions*, *supra* note 598.

607 *Ibid.*

608 *Ibid.*

609 The basis of allegations and certification actions may include multiple types of misconduct.

610 A certification action is a suspension or revocation of a certificate, or an officer being made ineligible pursuant to Government Code section 1029. A certification action may be the result of one or more allegations. Further, the basis for a decertification action could evolve or change as the matter proceeds through the SB 2 process. For example, an officer may be suspended temporarily after being discharged for demonstrating bias, then subsequently the officer’s certification could be revoked following a voluntarily surrender. In that instance, the basis of the final action, revocation, would not be demonstrating bias. Certification actions began on January 1, 2023. This data is current to September 27, 2024.

611 A certification action includes a revocation or suspension of a peace officer’s certification, or an officer being found ineligible to hold office as a peace officer under Government Code section 1029.

612 Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification Actions*, *supra* note 598.

Table 7. Law Enforcement Agencies with Nine or More Decertification Actions.

Last Employing Agency	SB 2 Officers	Sworn Officers	Most Common Recent Certification Action <sup>613</sup>	Most Common Serious Misconduct
Los Angeles County SD	44	8858	15 Temporary Suspensions, 15 Ineligible Pursuant to GC § 1029	13 Acts that Violate the Law
Los Angeles PD	29	8665	10 Ineligible Pursuant to GC 1029	9 Acts that Violate the Law
California Highway Patrol	19	6884	8 Temporary Suspensions	7 Physical Assault/ Excessive Force
Riverside County SD	16	2862	2 Temporary Suspensions & 2 Ineligible Pursuant to GC 1029	6 Acts that Violate the Law
San Bernardino County SD	10	1875	3 Ineligible Pursuant to GC 1029	4 Acts that Violate the Law
San Francisco PD	10	1807	5 Temporary Suspensions	5 Acts that Violate the Law
San Jose PD	10	1024	6 Temporary Suspensions	5 Acts that Violate the Law
San Diego PD	9	1818	3 Ineligible, 3 Revoked	1 Dishonesty, 1 Failure to Cooperate, 1 Acts that Violate the Law
Torrance PD	9	188	8 Temporary Suspensions	5 Demonstrating Bias

## Temporary Suspensions

Currently, temporary suspensions make up about half of all certification actions POST has taken against officers. As of September 27, 2024, there are 91 temporary suspensions related to a pending criminal proceeding. They have been pending for an average of 321 days. Twenty-eight temporary suspensions without a collateral criminal proceeding have been pending for 338 days on average. Those proceedings are typically related to serious misconduct of a discharged or retired officer. As of September 27, 2024, only 35 temporary suspensions reached a permanent disposition. Of those 35, 15 temporary suspensions with related collateral criminal proceedings took an average of 353 days to resolve. The other 20, the ones without collateral criminal proceedings, took an average of 225 days to conclude.<sup>614</sup>

<sup>613</sup> Multiple certification actions may occur over the course of one SB 2 process. Because temporary suspensions frequently precede more permanent SB 2 dispositions, only the most recent certification action is reported.

<sup>614</sup> Cal. Com. on Peace Officer Stds. and Training, *Peace Officer Certification Actions*, *supra* note 598.

## F. Board Observations and Policy Recommendations

SB 2 promises to be a valuable accountability tool to address serious misconduct by peace officers. After reviewing the process, which included obtaining information from POST, the Board makes the following recommendations designed to enhance SB 2's decertification process and effectuate the Legislature's goal of addressing serious misconduct in policing:

1. The Board recommends that the Legislature enact legislation requiring law enforcement agencies throughout California to modify their disciplinary policies defining serious misconduct to align with the categories in Penal Code section 13510.8, subdivision (b).
2. Relatedly, the Board recommends that POST develop guidelines to assist law enforcement agencies in developing procedures to conduct adequate investigations into complaints alleging bias and guidelines that assist law enforcement agencies with aligning their policies with Penal Code section 13510.8. The guidelines should also apprise law enforcement agencies about how to educate the public in ways in which a complaint could be filed. In developing the guidelines for investigating complaints about demonstrating bias, POST could consult with the Board.
3. The Board recommends that POST issue guidance apprising officers and law enforcement agencies about the anti-retaliation and workplace protections afforded to an officer who files a complaint against a fellow officer or their agency or who cooperates with an investigation into an allegation of serious misconduct. To provide protection for officers who report serious misconduct of fellow officers and to encourage a culture of accountability, the Board recommends that the Legislature amend Penal Code section 13510.8 to include whistleblower protection for peace officers and other individuals within a law enforcement agency who report serious misconduct by fellow peace officers.

## G. How to File a Complaint with POST

Members of the public can submit complaints regarding officer misconduct with POST directly on the following web-based form:

<https://post.ca.gov/public-complaint-form>

A copy of the paper form can be located here:

[https://post.ca.gov/Portals/0/post\\_docs/forms/2-354.pdf](https://post.ca.gov/Portals/0/post_docs/forms/2-354.pdf)

If a member of the public have any questions regarding the complaint process POST can be contacted at

[ComplaintIntake@post.ca.gov](mailto:ComplaintIntake@post.ca.gov)

(916) 227-2822

### III. VISION FOR FUTURE REPORTS

In future reports, the Board will have access to more comprehensive SB 2 data across multiple years to assess whether SB 2 is operating with respect to bias complaints as the Legislature envisioned: as a mechanism for removing officers who engage in serious misconduct from the profession.

Relatedly, in future reports, the Board will examine efforts that can be made to support the development of a national mandatory database for reporting decertified or ineligible officers. California law mandates POST report certification actions to NDI or other federal databases. Although the NDI is an important tool for tracking the decertification of officers across states, participation in the database is not mandatory for all states. Further, because decertification standards vary widely across states, an action by a peace officer that may result in decertification in California may not result in a decertification in another state and thus not be reported to the national database. In future reports, the Board will consider recommendations to facilitate collaboration between POST and similar organizations in other states to ensure that officers who have been found unfit for the profession because of documented serious misconduct will not be able to continue to work in the profession by crossing state lines.

# CIVILIAN COMPLAINTS

## III. CIVILIAN COMPLAINT DATA

### A. Overview of Civilian Complaint Data for RIPA Agencies

Each year the RIPA Report highlights trends and data related to complaints by citizens about law enforcement. This data is significant because it shows, on a micro level, trends within individual agencies by complaint type and, on a macro level, demonstrates differences in policies across agencies that may impact the complaint process. In 2023, 526 of the agencies subject to RIPA's stop data reporting requirements (RIPA agencies) submitted civilian complaint data.<sup>615</sup> These agencies include municipal and district police departments, county sheriff's departments, the California Highway Patrol, and law enforcement agencies of the University of California, California State Universities, California Community Colleges, District Attorney Offices, as well as K-12 school district police departments.<sup>616</sup> The sections that follow examine only complaint data submitted by RIPA reporting agencies.

RIPA agencies reported 14,444 complaints across three categories: non-criminal, misdemeanor, and felony. Most of the complaints alleged non-criminal conduct (13,825, or 95.71%), followed by complaints alleging a misdemeanor offense (480, or 3.32%). Complaints alleging conduct that constitutes a felony were the least common (139, or 0.96%).

Roughly three-quarters of RIPA reporting agencies (409, or 77.78%) reported receiving one or more civilian complaint during 2023, while just under one-fourth of agencies did not receive any civilian complaints (117, or 22.24%). A total of 147 RIPA agencies reported receiving civilian complaints alleging racial or identity profiling (28.00% of all RIPA agencies or 35.94% of agencies receiving any complaints). These 147 agencies reported 1,405 complaints alleging racial or identity profiling.

Law enforcement agencies are also required to submit data to the California Department of Justice (Cal DOJ) categorizing profiling complaint allegations into nine categories: age, physical disability, sexual orientation, race/ethnicity, mental disability, gender, religion, gender identity/expression, and nationality. RIPA agencies reported 1,405 complaints containing a total of 1,566 allegations with an element, or elements, of racial or identity profiling, constituting 9.73 percent of the total complaints reported in 2023.<sup>617</sup> Figure 70 displays the number of reported allegations that fell into each of the nine categories.

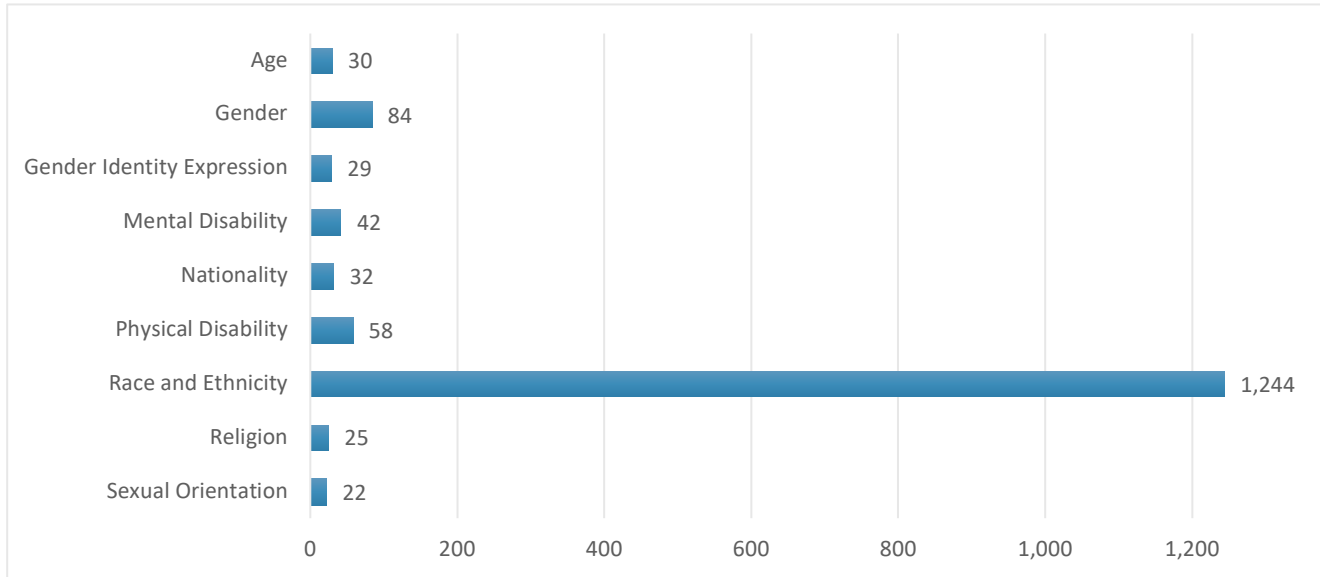
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615 Although 539 agencies reported RIPA stop data in 2023, only 526 reported complaints data during the same year.

616 For more information on the law enforcement agencies that are required to report under RIPA, see Cal. Code Regs., tit. 11, § 999.225.

617 The total number of racial and identity profiling allegations reported to the DOJ (1,566) exceeds the total number of racial and identity profiling complaints (1,405) due to reported allegations of profiling based on multiple identity group characteristics. For example, a civilian may file a complaint alleging they experienced profiling based on both their age and nationality. This example would count as a single complaint with two types of alleged identity profiling.

Figure 70. Total Allegations of Racial and Identity Profiling Reported in 2023



## B. Dispositions of Civilian Complaints for RIPA Agencies

In addition to the number of complaints received, RIPA agencies must report the disposition (i.e., outcome) of those complaints to Cal DOJ. Complaint dispositions are categorized as: “Sustained,” meaning that the investigation disclosed sufficient evidence to prove the truth of the allegation in the complaint by a preponderance of evidence; “Exonerated,” meaning the investigation clearly established that the employee’s actions that formed the basis of the complaint were not a violation of law or policy; “Not Sustained,” meaning the investigation failed to disclose sufficient evidence to clearly prove or disprove the complaint’s allegation; and “Unfounded,” meaning the investigation clearly established that the allegation is not true.<sup>618</sup>

RIPA agencies reported 14,444 civilian complaints received in 2023. Agencies reported a total of 15,525 complaints that reached a disposition during the calendar year.<sup>619</sup> Among the 15,525 complaints that reached a disposition in 2023, 1,069 were sustained (6.89%), 6,133 were exonerated (39.50%), 1,129 were not sustained (7.27%), and 7,194 were unfounded (46.34%).

Figure 71 also displays the distribution of disposition types within the 2023 data for (1) all complaints that reached disposition and (2) complaints of racial and identity profiling that reached disposition.<sup>620</sup> A total of 1,240 racial or identity profiling complaints reached disposition in 2023. Of these, four were sustained (0.32%), 86 were exonerated (6.94%), 93 were not sustained (7.50%), and 1,057 were unfounded (85.24%).<sup>621</sup>

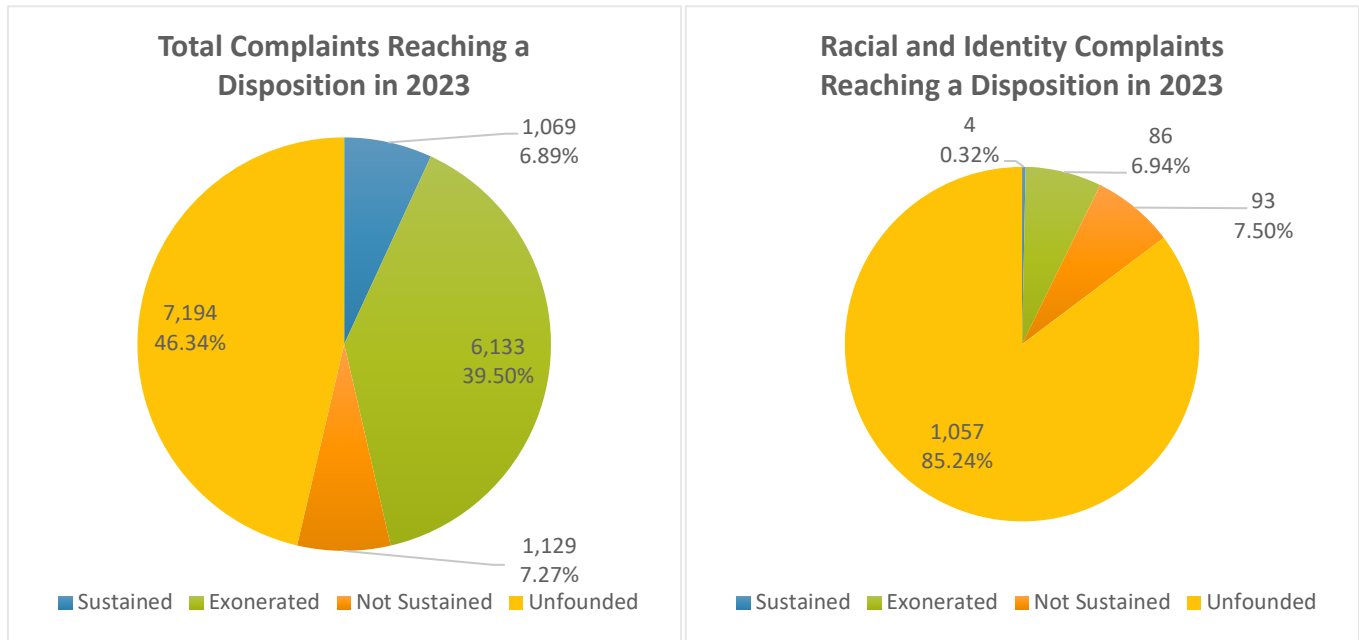
<sup>618</sup> Pen. Code, § 13012, subd. (a)(5)(B).

<sup>619</sup> It is important to note that not every complaint reached disposition during the same year it was initially reported; therefore, with more complaints reaching disposition in 2023 than were reported in 2023, at least some complaints that appeared in the 2023 disposition categories were first reported in 2022 or earlier.

<sup>620</sup> For an agency-level breakdown of how many racial and identity profiling complaints reached each disposition type in 2023, see Appendix A, Table A24.

<sup>621</sup> The 2024 RIPA Report analyses were based on racial and identity profiling complaints reported in 2022. For consistency with the accompanying complaint disposition analysis this report’s analyses shifted to using racial and identity profiling complaints reaching disposition in 2023 as the denominator.

Figure 71. Disposition Distribution of 2023 Complaints



### C. Cross-Year Comparison

A cross-year comparison can aid in monitoring individual agencies from year to year and any policy changes in complaint procedures that may correlate with the changes. For example, radical differences in complaints from year to year should be looked at with caution to any connection to policy changes. Also, because complaint procedures are handled differently in each agency and there is not a uniform definition of civilian complaint, it is important to keep in mind when viewing these trends that high numbers of complaints may demonstrate a robust complaint review process, while others may be more indicative of an agency-wide problem.<sup>622</sup> For these reasons, it is imperative to view this data in relation to policies at individual agencies.

### RIPA Complaint Data by Waves

To assist the large and diverse array of individual law enforcement agencies in California in implementing stop data requirements as smoothly as possible, RIPA structured the collection and reporting of stop and complaint data on a rolling basis, using the number of officers each agency employed in setting the timeline for reporting.<sup>623</sup> These groupings were informally termed “waves” due to the rolling nature of the data collection timeline.<sup>624</sup> For this year’s report, the Board continues to report the RIPA complaint data using the wave designations.<sup>625</sup> This grouping allows for cross-year

622 See pages 232-234 of this report for a full discussion on the definition of civilian complaints.

623 Gov. Code, § 12525.5, subd. (a)(2).

624 Racial and Identity Profiling Advisory Board, *Annual Report (2019) (“2019 Report”)* p. 14 <<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2019.pdf>> [as of Nov. 18, 2024]; Racial and Identity Profiling Advisory Board, *Annual Report (2020) (“2020 Report”)* p. 17 <<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf>> [as of Nov. 18, 2024].

625 Agencies employing more than 1,000 peace officers (“Wave 1”) were first required to begin collecting data, followed by agencies employing 667 or more, but less than 1,000, peace officers (“Wave 2”), agencies employing 334 or more, but less than 667, peace officers (“Wave 3”), and agencies employing 1 or more, but less than 334, peace officers (“Wave 4”). (Cal. Gov. Code § 12525.5, subd. (a)(2); Racial and Identity Profiling Advisory Board, *2019 Report, supra* note 624, at p. 14; Racial and Identity Profiling Advisory Board, *2020 Report, supra* note 624, at p. 18; Racial and Identity Profiling Advisory Board, *Annual Report (2021) (“2021 Report”)* pp. 8, 22. <<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2021.pdf>> [as of Nov. 18, 2024]; Racial and Identity Profiling Advisory Board, *Annual Report (2022) (“2022 Report”)* p. 27 <<https://oag.ca.gov/system/files/media/ripa-board-report-2022.pdf>> [as of Nov. 18, 2024]; Racial and Identity Profiling Advisory Board, *Annual Report (2023) (“2023 Report”)* pp. 32, 173

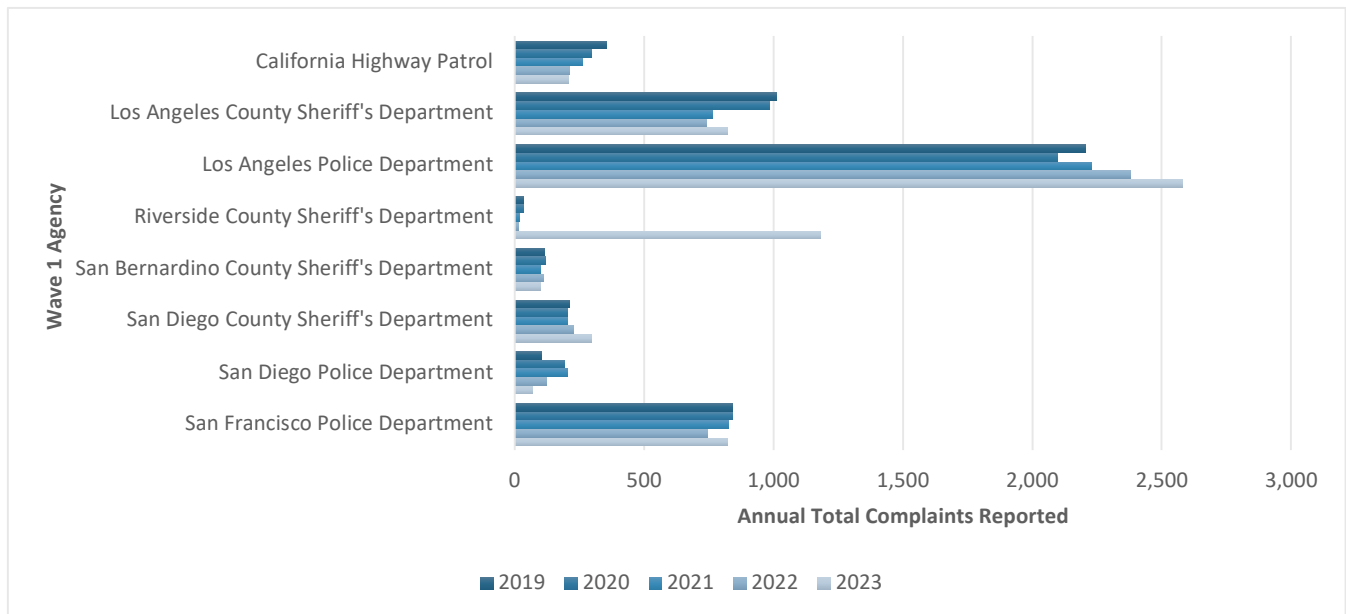
comparisons by agency size giving an opportunity to observe differences in policies and procedures that may have changed overtime. This also provides an opportunity to compare complaint data with agencies of similar sizes. The section below examines the data in these wave designations.

Figures 72 through 77 display the total number of complaints and the total number of complaints alleging racial and identity profiling submitted by all RIPA reporting agencies in Waves 1 through 3, across five years. Given that Wave 4 is over 400 agencies, aggregate cross-year comparisons are provided in the body of this section and the individual agency counts are provided in an appendix table.

### Wave 1 Agency Total Complaints Reported (2019-2023)

In 2023, Wave 1 agencies reported 6,076 civilian complaints. This constituted a 33.42 percent increase relative to the total civilian complaints reported in 2022 (4,554), a 32.03 percent increase from 2021 (4,602), a 27.43 percent increase from 2020 (4,768), and 24.71 percent increase from 2019 (4,872). Three out of eight agencies experienced a decrease in the number of civilian complaints reported between 2022 and 2023. The agency that experienced the largest decrease was San Diego Police Department (43.55%, from 124 in 2022 to 70 in 2023).<sup>626</sup> In comparison, Riverside County Sheriff’s Department experienced the largest relative increase (6,847.06%, from 17 in 2022 to 1,181 in 2023).

Figure 72. Wave 1 Total Annual Complaints Reported 2019-2023



### Wave 1 Racial and Identity Profiling Complaints (2019-2023)

Figure 73 displays the total number of racial and identity profiling complaints reported by Wave 1 agencies from 2019 to 2023. The total number of racial and identity profiling complaints reported was 847 in 2023, which is a 22.05 percent increase from 2022 (694), a 3.55 percent increase from 2021 (818), a 22.40 percent increase from 2020 (692), and a 29.71 percent increase from 2019 (653).

During the 2023 calendar year, half of Wave 1 agencies (4 out of 8) experienced a reduction in the number of racial and identity profiling complaints reported between 2022 and 2023. The San Francisco

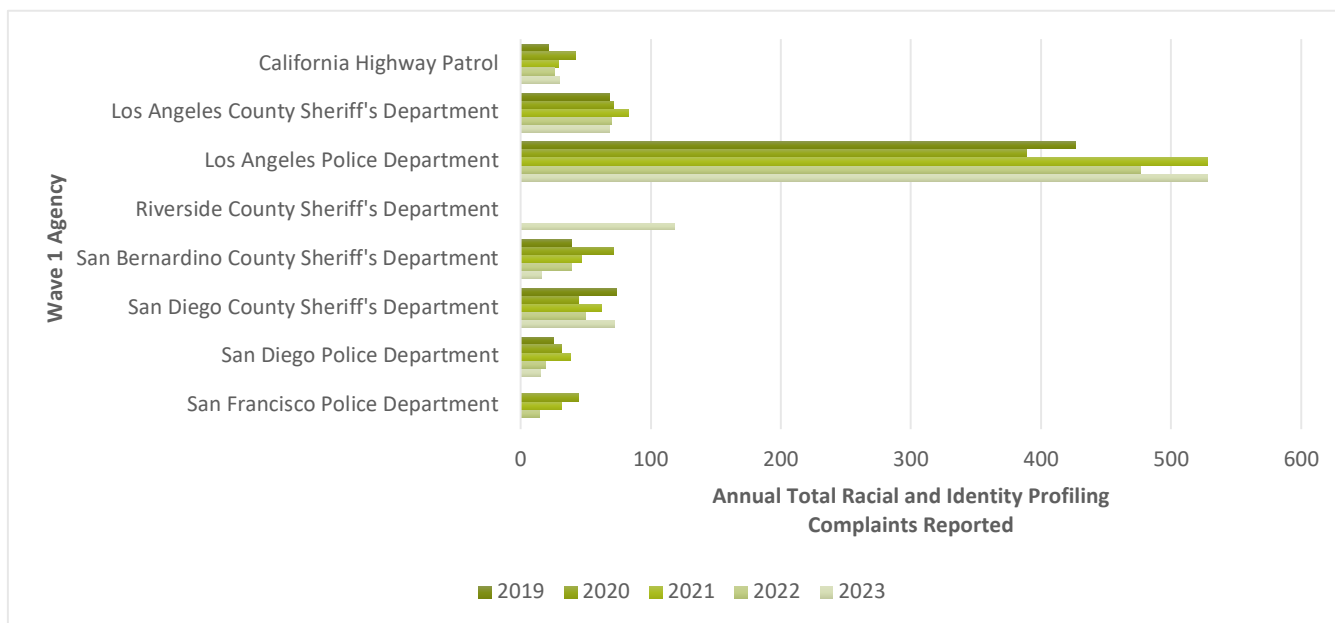
<https://oag.ca.gov/system/files/media/ripa-board-report-2023.pdf> [as of Nov. 18, 2024].) Some agencies assigned to Wave 4 began collecting data early. (See Racial and Identity Profiling Advisory Board, *2022 Report, supra*, at pp. 13, 17, 147; Racial and Identity Profiling Advisory Board, *2023 Report, supra*, at p. 32.)

626 In 2020, San Diego Police Department’s complaint forms did not include the Penal Code section 148.6 advisory warning. Between 2020, when the Board initially reviewed San Diego Police Department’s complaint form, and 2024, the agency added the section 148.6 advisory warning to its complaint form. (See Table 8, *infra*.)



Police Department had the largest relative decrease (100.00%, from 14 in 2022 to 0 complaints in 2023). In contrast, the Riverside County Sheriff’s Department went from not reporting any racial and identity profiling complaints since 2018 to reporting 118 in 2023.

Figure 73. Wave 1 Total Racial and Identity Profiling Complaints Reported



### Wave 2 Agency Total Complaints Reported (2019-2023)

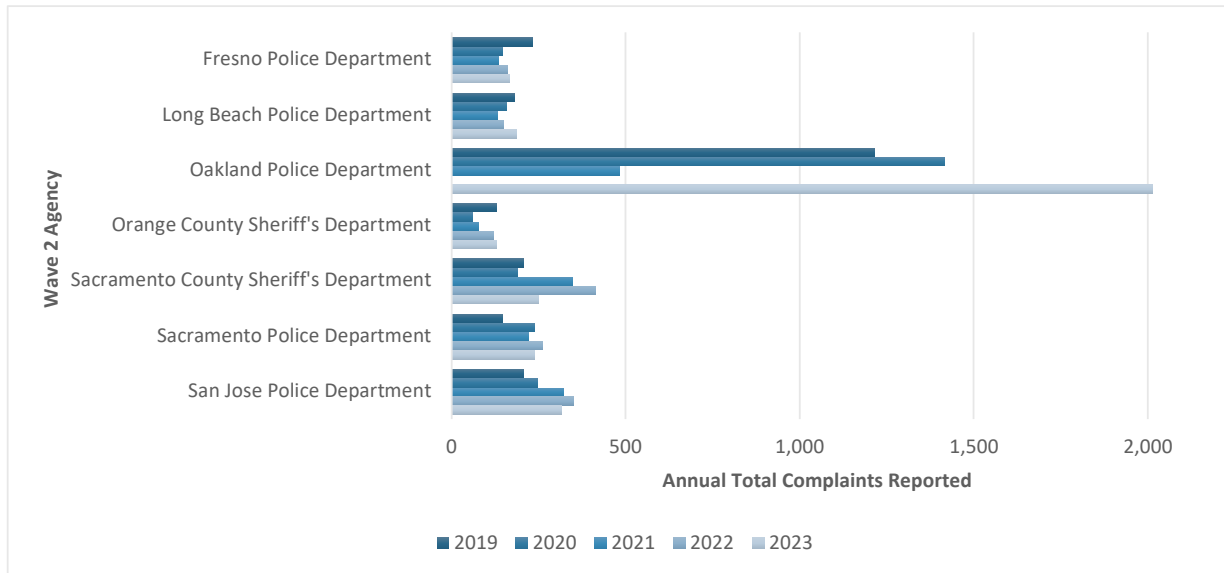
Wave 2 agencies reported 3,298 complaints in 2023, representing a 126.20 percent increase from 2022 (1,458), a 92.30 percent increase from 2021 (1,715), a 34.49 percent increase from 2020 (2,454), and a 42.59 percent increase from 2019 (2,313).

Half of Wave 2 agencies (3 out of 6)<sup>627</sup> experienced an increase in the total number of civilian complaints reported between 2022 and 2023. The agency that experienced the largest relative increase was the Long Beach Police Department (25.50%, from 149 in 2022 to 187 in 2023). Sacramento County Sheriff’s Department experienced the largest relative decrease (39.61%, from 414 in 2022 to 250 in 2023).

It is important to note that the Oakland Police Department was unable to report complaint data within the reporting timeframe for 2022 due to a ransomware attack. Since the 2022 complaint totals for Wave 2 agencies do not include Oakland PD, a percent change is not directly comparable. In 2023, Oakland PD reported 2,012 total complaints, accounting for 61.02 percent of complaints for Wave 2 agencies. When excluding Oakland PD data to make 2022 and 2023 more comparable, Wave 2 agencies saw an 11.8 percent decrease from 1,458 complaints in 2022 to 1,286 in 2023.

627 Oakland Police Department was unable to report civilian complaint data for 2022 within the reporting timeframe due to a ransomware attack.

Figure 74. Wave 2 Total Complaints Reported



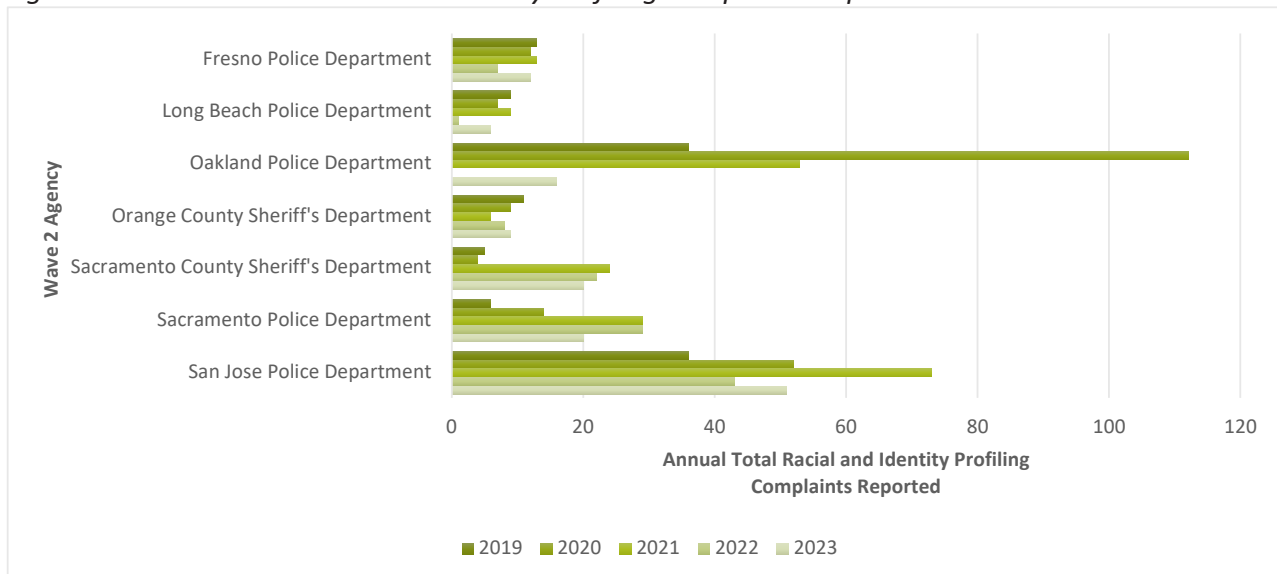
### Wave 2 Racial and Identity Profiling Complaints (2019-2023)

Wave 2 agencies reported a 21.82 percent increase in racial and identity profiling complaints from 2022 to 2023 (from 110 in 2022 to 134 in 2023). This also marks a decrease in racial and identity profiling complaints relative to 2021 (down 35.27% from 207) and 2020 (down 36.19% from 210). However, 2023 is an increase from 2019 (up 15.52% from 116).

One third of Wave 2 (2 of 6) agencies reported a decrease in the number of racial and identity profiling complaints between 2022 to 2023. The Sacramento Police Department experienced the largest relative decrease (31.03%, from 29 in 2022 to 20 in 2023). The Long Beach Police Department experienced the largest relative increase (500.00%, from 1 in 2022 to 6 in 2023).

Oakland Police Department reported 16 racial and identity profiling complaints in 2023, or 11.94 percent of Wave 2 complaints. To compare a percent change for Wave 2 agencies with 2022, Wave 2 agencies, excluding Oakland PD, reported 118 racial and identity profiling complaints in 2023, for an increase of 8 complaints or 6.78 percent.

Figure 75. Wave 2 Total Racial and Identity Profiling Complaints Reported

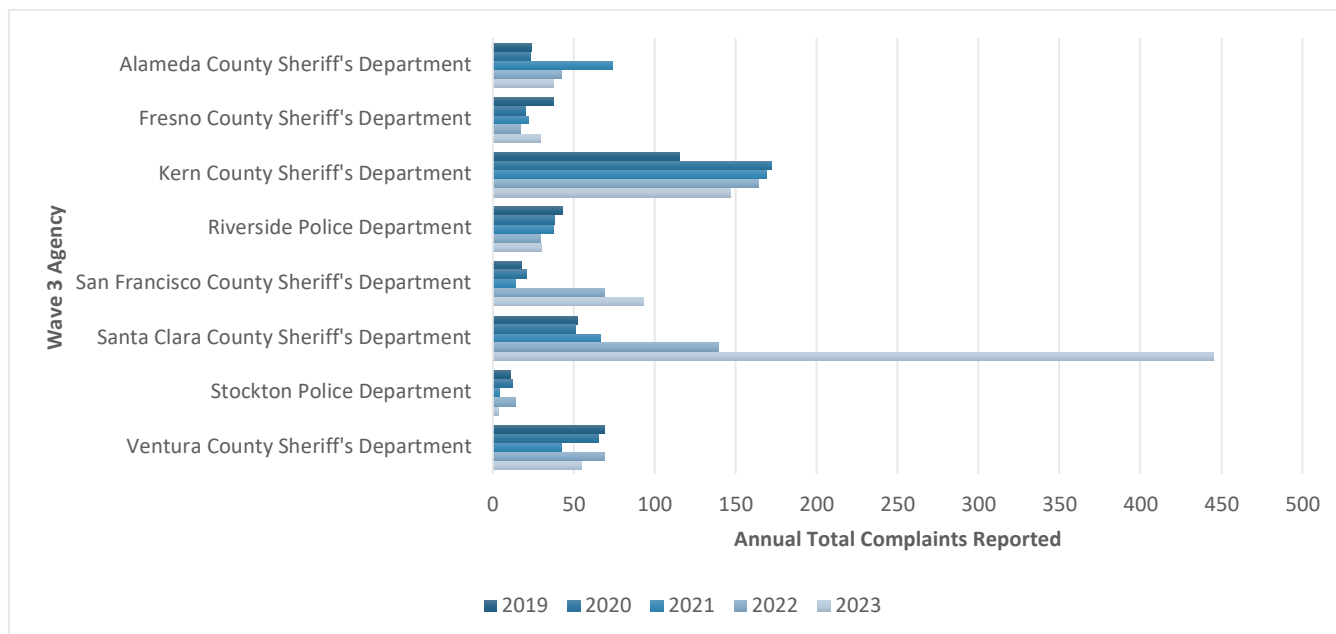


### Wave 3 Total Complaints Reported (2019-2023)

Wave 3 agencies reported 839 complaints in 2023. This was a 54.51 percent increase from 2022 (543), a 96.03 percent increase from 2021 (428), a 108.71 percent increase from 2020 (402), and a 127.37 percent increase from 2019 (369).

Of the eight Wave 3 agencies, half (4 of 8) experienced a decrease in the total number of civilian complaints reported between 2022 and 2023 while the remaining four experienced an increase in total civilian complaints. The agency that experienced the largest decrease was the Stockton Police Department (78.57%, from 14 in 2022 to 3 in 2023). The Santa Clara County Sheriff’s Department experienced the largest relative increase (220.14%, from 139 in 2022 to 445 in 2023).

Figure 76. Wave 3 Total Complaints Reported

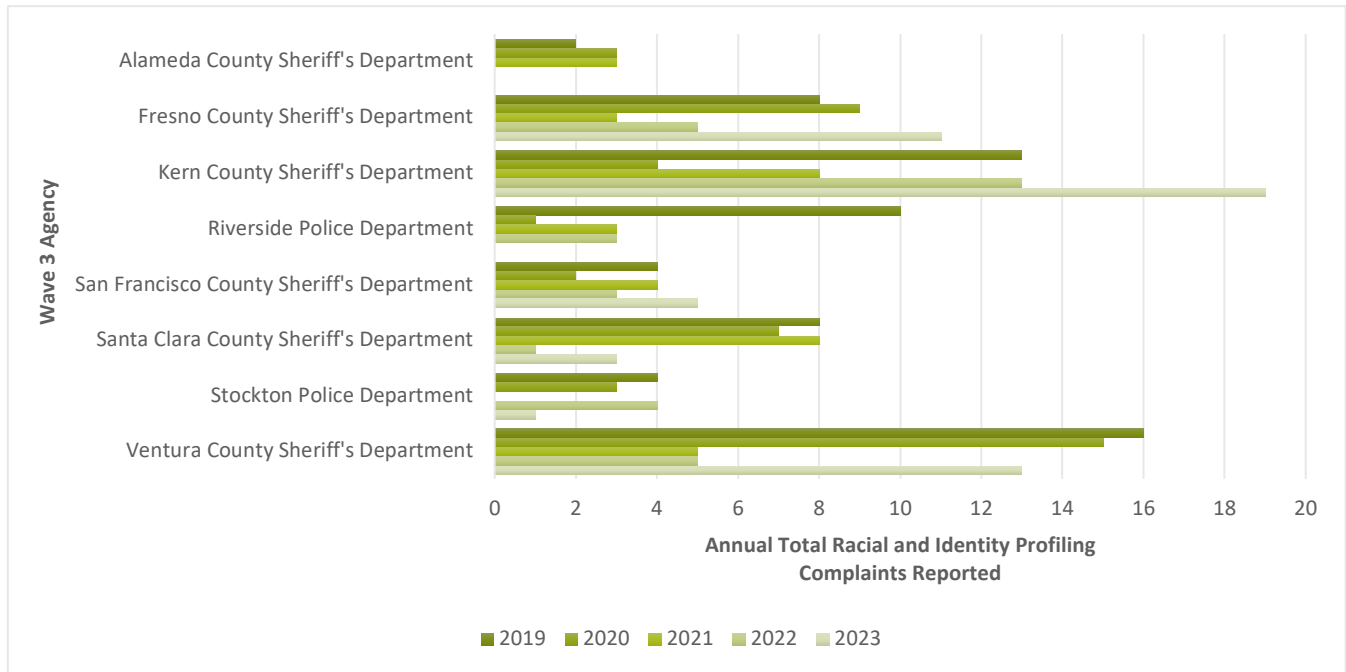


### Wave 3 Racial and Identity Profiling Complaints (2019-2023)

Wave 3 agencies reported 52 racial and identity profiling complaints in 2023, a 52.94 percent increase over both 2022 and 2021 (both had 34 total racial and identity profiling complaints), an 18.18 percent increase from 2020 (44), and a 20.00 percent decrease from 2019 (65).

Over half (5 of 8) of Wave 3 agencies experienced an increase in racial and identity profiling complaints between 2022 and 2023, one agency (Alameda County Sheriff’s Department) had no change in profiling complaints with zero reported for both 2022 and 2023. The agency with the largest relative increase was Santa Clara County Sheriff’s Department (200.00%, from 1 in 2022 to 3 in 2023). Riverside Police Department reported a 100.00 percent decrease in racial and identity profiling complaints (from 3 in 2022 to 0 in 2023).

Figure 77. Wave 3 Total Racial and Identity Profiling Complaints Reported



### Wave 4 Total Complaints Reported (2019-2023)

Wave 4 agencies reported 4,231 complaints in 2023. This was a 17.40 percent increase from 2022 (3,604), a 26.45 percent increase from 2021 (3,346), a 31.72 percent increase from 2020 (3,212), and a 17.95 percent increase from 2019 (3,587).<sup>628</sup>

### Wave 4 Racial and Identity Profiling Complaints (2019-2023)

Wave 4 agencies reported a 5.82 percent decrease in racial and identity profiling complaints from 2022 to 2023 (from 395 in 2022 to 372 in 2023). This also constitutes a relative increase from the three preceding years: a 1.09 percent increase from 2021 (368), and an 11.71 percent increase from both 2020 and 2019 (333).<sup>629</sup>

The Board will continue to monitor reporting agencies' complaint data and recommend that agencies adopt policies that allow for a more robust and effective complaint process, including adopting a universal definition of civilian complaint. For more information on best practices and policies regarding complaints, please see part III of this chapter, Prior Recommendations and Follow-up on Implementation.

628 The number of Wave 4 agencies exceeds 400. Accordingly, complaint counts for all Wave 4 agencies cannot be displayed within a single graphic in the body of this report. Instead, the cross year total complaint and racial and identity complaint totals for individual agencies are contained within Appendix A, Tables A23, A24.

629 There were five Wave 4 agencies that did not report complaints data in 2022: Arvin Police Department, Irvine Valley College Police Department, Menifee Police Department, Rio Vista Police Department, and Tulelake Police Department. Rio Vista Police Department also did not report complaints data in 2023. The four agencies that did report complaints data in 2023 reported a total of 26 complaints (.61% of all Wave 4 complaints for 2023) and account for 4.15 percent of the increase in complaints from 2022 to 2023. These four agencies also reported one racial and identity profiling complaint in 2023 (.27% of racial and identity profiling complaints).

## II. YOUTH AND CIVILIAN COMPLAINTS

The Board has long recognized that California youth are vulnerable to harm during police interactions.<sup>630</sup> The 2023 RIPA data show that youth are particularly vulnerable to the use of force during those interactions. For example, as discussed in detail in the Stop Data and Policy-Focused Data Analysis chapters, officers reported using lethal force during stops with youth, discharging their firearms in nine stops involving youth aged 15–17 and in three stops involving youth aged 12–14. Officers also reported pointing their firearms at 5,369 youth during stops.<sup>631</sup> Many of those stops involved youth 15–17 (1,240 stops) and youth 12–14 (195 stops). Less lethal force, like chemical sprays or electronic control devices, was also used in stops involving youth. For example, a chemical spray was used in at least four stops involving youth 8–14.<sup>632</sup> Among age categories, officers reported the highest percentage of handcuffing for youth 12–14 (27.19%, 2,895 stops).<sup>633</sup>

Consistent with the overall trend in the 2023 RIPA data, there are noticeable disparities in the use of force. Across all age groups, youth perceived to have a disability experienced the use of force during stops at a higher rate than youths with no perceived disabilities. Further, the RIPA data indicate there are clear racial disparities in the use of force during police stops of youth, with Black youth, Native American youth, and Hispanic/Latine(x) youth facing greater risk of use of force than White youth. For example, one analysis of the RIPA data found that Black youth who are handcuffed are also twice as likely as White youth to have a firearm pointed at them during a stop.<sup>634</sup> The Board is troubled by this data, especially when considering the developmental differences between youths and adults that make youth more vulnerable during encounters with police.<sup>635</sup>

Researchers have recognized the importance of understanding the power dynamics of the encounters between police and youth in reducing negative and harmful interactions and increasing law enforcement transparency and accountability when harmful interactions occur.<sup>636</sup> The RIPA stop data are one tool for gaining insight into the dynamics of stops involving youth. Another tool for monitoring these interactions to assess the risk of harm to youth more accurately from these interactions is the civilian complaint process. Further, as discussed in the previous chapter, SB 2, which authorizes POST to receive complaints of misconduct by officers directly from the public and decertify officers who have engaged in serious misconduct, provides an additional accountability tool through which communities and researchers can monitor and track problematic encounters to address misconduct that harms youth more effectively.<sup>637</sup> Increased and improved access to the civilian complaint process for police misconduct enhances equitable and accountable policing for all, including youth.

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630 See Racial and Identity Profiling Advisory Board, *Annual Report (2024) (“2024 Report”)* pp. 107-109 <<https://oag.ca.gov/system/files/media/ripa-board-report-2024.pdf>> [as of Nov. 18, 2024]; Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 625, at p. 107; Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 625, at p. 110; see also Trejos-Castillo et al., *The Square One Project Learned Helplessness, Criminalization, and Victimization in Vulnerable Youth* (Dec. 2020) p. 5. <[CJLJ8562-Vulnerable-Youth-Square-One-Report-201214-WEBv2.pdf](https://www.cjlj8562-vulnerable-youth-square-one-report-201214-WEBv2.pdf)> [as of Nov. 18, 2024].

631 See pages 39-42 of this report.

632 See page 23 of this report.

633 See page 22 of this report.

634 Appendix F. 4.

635 See pages 58-60 and 64-67 of this report.

636 See Geller and Fagan, *Police Contact and the Legal Socialization of Urban Teens* (2019) 5(1) The Russell Sage Foundation J. of the Social Sciences 27 <<https://www.rsfjournal.org/content/5/1/26>> [as of Nov. 18, 2024] (citing *Fragile Families and Child Wellbeing Study* (2020) Princeton U. [as of Nov. 18, 2024]).

637 For example, a national analysis of data for six large police departments that provided detailed demographic information on use-of-force incidents, found nearly 4,000 youth 17 and under experienced police violence from 2015 through 2020. Almost 800 of the children and teens — roughly a fifth of the total — were Black girls. White girls were involved in about 120 cases, representing only three percent of use-of-force incidents involving minors. (Li and Vansickle, *Police Hurt Thousands of Teens Every Year. A Striking Number Are Black Girls* (Nov. 2, 2021) The Marshall Project <<https://www.themarshallproject.org/2021/11/02/police-hurt-thousands-of-teens-every-year-a-striking-number-are-black-girls>> [as of Nov. 18, 2024].)

Currently, RIPA does not require the collection of complaint data specifying that a complainant is 24 or younger. Collecting that data would provide specific information about the quality of interactions between youth and law enforcement in a particular community, allowing more precise policymaking to address any concerning trends the data reveal about those interactions.

### Policy Recommendation

The Board, therefore, makes the following policy recommendation with the goals of monitoring civilian complaints filed by or on behalf of youth, identifying problematic police practices that impact youth, and ensuring that police officers who harm this vulnerable population are held accountable. Specifically, the Board recommends:

The Legislature explore amending Penal Code section 13012 to require law enforcement agencies to report the number of civilian complaints reported by or on behalf of complainants disaggregated by complainants who are 17 and younger and complainants who are 18 to 24 at the time of the underlying incident, if age is known or volunteered at the time the complaint is submitted. This reporting requirement would include complaints filed by a third party on behalf of someone 24 or younger.

## III. PRIOR RECOMMENDATIONS AND FOLLOW-UP ON IMPLEMENTATION

### A. Adopt Uniform Definition of “Civilian Complaints”

In 2020, the Board identified the need to define “civilian complaint” and, since 2022, has recommended legislative action.<sup>638</sup> Despite the Board’s prior recommendation, in California, there is still no standard definition of “civilian complaint.”<sup>639</sup> California law does not define the term, nor is there a professional or industry-wide standard on what constitutes a “civilian complaint.”<sup>640</sup> As a result, law enforcement agencies decide on an agency-by-agency basis what counts as a “civilian complaint,” leading to imbalances and variability in officer accountability across the state.

For example, one agency could decide that a verbal allegation of unprofessional behavior does not rise to the level of a “civilian complaint” and is merely an “informal complaint” or “inquiry” that triggers no accountability process. However, another agency could treat the same allegation as an event that prompts an internal affairs investigation. Further, variances in the definition and treatment of civilian complaints could also trigger discrepancies in agency reporting of RIPA data, leading some to underreport events that other law enforcement agencies reasonably interpret as complaints.

This variation in defining “civilian complaint” results in data collection efforts that are less consistent, producing less reliable data to inform policymaking around the issue of accountability. And, on a more immediate level, where a person’s ability to successfully file a complaint depends on their local police agency’s definition of “complaint,” differences in the definition of “civilian complaint” can also lead to inconsistencies in the public’s ability to access the complaint process.

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638 Racial and Identity Profiling Advisory Board, *2020 Report*, *supra* note 624, at pp. 67-70; Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 625, at p. 229; Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 625, at p. 179; Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 630, at pp. 195-196.

639 See Pen. Code, § 832.5; see also Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 625, at pp. 227-229; Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 625, at p. 179; Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 630, at pp. 195-196.

640 See Gov. Code, § 12525.5; Cal. Code Regs., tit. 11, § 999.224; Pen. Code, §§ 148.6, 832.5, 832.7, 832.8; Racial and Identity Profiling Advisory Board, *2020 Report*, *supra* note 624, at pp. 65 (“[T]here is no professional consensus within California on a definition [of “complaint”]”), 66 (finding that no Wave 1 reporting agency defined the term “civilian complaint” in its complaint policies).

## Continued Relevance of Prior Policy Recommendation

This lack of consistency, and arguably the lack of accountability, concerns the Board greatly. As such, since 2022, the Board has recommended that the Legislature amend Penal Code section 832.5 to define “civilian complaint.”<sup>641</sup> The Board has offered a specific definition, aimed not only at providing consistency in complaint procedures across California, but also to encourage greater accountability:

*(1) Complaint means either of the following:*

*(A) any issue brought to a department or agency where the complainant perceives that a department or agency employee engaged in criminal conduct, abusive or discriminatory behavior, inappropriate or discourteous conduct, or violation of any law or rules, policies, and regulations of the department or agency; or*

*(B) disagreement solely with the policies, procedures, or services of the department or agency and not with the performance of any personnel. If during the course of investigating this type of complaint, conduct is discovered that could be the basis of a complaint under subdivision (1) (A), the investigator shall report this conduct to a supervisor, which should be logged, tracked, and investigated separately from the original complaint.<sup>642</sup>*

California has yet to adopt the Board’s recommendation or any standard definition of civilian complaint.<sup>643</sup> The research and data analysis in this year’s report provides additional support for this recommendation. Accordingly, the Board highlights its past recommendation that the Legislature amend Penal Code section 832.5 to define “civilian complaint” using the definition above.

## B. Remove Deterrent Language from Complaint Forms

### Basis for the Board’s Prior Recommendation

In past reports, the Board has expressed concern that certain language found in civilian complaint forms could deter members of the public from filing complaints.<sup>644</sup> Specifically, the Board cautions that complaint forms that require a complainant to sign a written statement acknowledging that an individual may face criminal liability for filing a false complaint could discourage community members from submitting valid complaints.<sup>645</sup>

The Board is concerned the advisory language in Penal Code section 148.6, warning against filing a false complaint,<sup>646</sup> could have a chilling effect on members of the public seeking to file a complaint, especially since there are no statutory limitations on what types of “false” allegations that could result in prosecution (e.g., whether the inclusion of a single, inaccurate allegation that is not material

641 Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 625, at p. 229; Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 625, at p. 179; Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 630, at pp. 195-196.

642 Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 625, at p. 229; Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 625, at p. 179; Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 630, at pp. 195-196.

643 See Pen. Code, § 832.5.

644 Racial and Identity Profiling Advisory Board, *Annual Report (2018) (“2018 Report”)* pp. 28-29 <<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>> [as of Nov. 18, 2024]; Racial and Identity Profiling Advisory Board, *2020 Report*, *supra* note 624, at pp. 73-75.

645 Racial and Identity Profiling Advisory Board, *2020 Report*, *supra* note 624, at p. 74; Racial and Identity Profiling Advisory Board, *2021 Report*, *supra* note 625, at p. 134, fn. 294; Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 625, at p. 232; Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 625, at pp. 182-183.

646 Penal Code section 148.6 provides that a law enforcement agency accepting an allegation of misconduct against a peace officer shall require complainants to read and sign an advisory that states, in part: “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.” (Pen. Code, § 148.6, subd. (a)(2).)

to the claim of misconduct is enough for prosecution). The Board is also concerned that requiring an individual to sign an acknowledgement, in turn requiring a complainant to reveal their identity even if they wish to remain anonymous, could deter members of the public from submitting valid complaints.<sup>647</sup>

Given these concerns, the Board previously recommended that the Legislature delete or amend the advisory language in Penal Code section 148.6 to remove the advisory warning and the requirement that a complaint is signed and in writing.<sup>648</sup> To further reduce the risk that an advisory warning or signature requirement could deter the filing of a valid complaint, the Board has recommended in each report since 2018 that agencies accept anonymous complaints.<sup>649</sup> A complaint process that helps bring more information to an agency about its officers and its policies and practices is in the interest of all stakeholders.

### Deterrent Language Still Present in Complaint Forms in 2024

Despite these valid concerns and the Board's prior recommendation, potentially deterrent language remains in many California civilian complaint forms.<sup>650</sup>

As of 2024, a survey of the 15 largest law enforcement agencies in California shows that 5 agencies still include potentially deterrent language, referencing the Penal Code section 148.6 advisory and/or the possibility of legal action for filing a false complaint, on their civilian complaint forms.<sup>651</sup> Four agencies (Riverside County Sheriff, Sacramento County Sheriff, San Bernardino County Sheriff, and San Diego County Sheriff) have continued to include potentially deterrent language on their complaint forms, and one agency (San Diego Police Department) has added this language to their civilian complaint form since the Board's initial review of their complaint form in 2020. Three agencies (Fresno Police Department, Orange County Sheriff's Department, and San Jose Police Department) have removed deterrent language from their civilian complaint forms since the Board initially reviewed their complaint forms in 2021.

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647 Racial and Identity Profiling Advisory Board, *2020 Report*, *supra* note 624, at pp. 73-75.

648 *Id.* at pp. 74-75; Racial and Identity Profiling Advisory Board, *2021 Report*, *supra* note 625, at p. 134, fn. 294; Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 625, at p. 232; Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 625, at pp. 182-183.

649 Racial and Identity Profiling Advisory Board, *2019 Report*, *supra* note 624, at p. 69; Racial and Identity Profiling Advisory Board, *2020 Report*, *supra* note 624, at pp. 71, 74-75; Racial and Identity Profiling Advisory Board, *2021 Report*, *supra* note 625, at pp. 89, 134, fn. 294; Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 625, at p. 231; Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 625, at p. 180; Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 630, at p. 177.

650 In its inaugural 2018 Report, the Board reviewed the civilian complaint forms of 85 agencies and found that many included the Penal Code section 148.6 advisory language. (See Racial and Identity Profiling Advisory Board, *2018 Report*, *supra* note 644, at pp. 28-29.) The Board more closely examined the complaint forms of the 15 largest California law enforcement agencies in its 2020 and 2021 Reports and found that a slight majority did not include the advisory in their complaint forms, however the advisory was present in 7 agencies' complaint forms. (See Racial and Identity Profiling Advisory Board, *2020 Report*, *supra* note 624, at pp. 74, 87-90; Racial and Identity Profiling Advisory Board, *2021 Report*, *supra* note 625, at pp. 129-134; Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 625, at pp. 211-226.)

651 See Appendix H.



Table 8. Agency’s Complaint Form Includes Deterrent Language

Agency	2020/2021 <sup>652</sup>	2024
California Highway Patrol	NO	NO
Fresno Police Department	YES	NO
Los Angeles Police Dept.	NO	NO
Los Angeles County Sheriff	NO	NO
Long Beach Police Dept.	NO	NO
Oakland Police Dept.	NO	NO
Orange County Sheriff	YES	NO
Riverside County Sheriff	YES	YES
Sacramento Police Dept.	NO	NO
Sacramento County Sheriff	YES	YES
San Bernardino County Sheriff	YES	YES
San Diego Police Dept.	NO	YES
San Diego County Sheriff	YES	YES
San Francisco Police Dept.	NO	NO
San Jose Police Dept.	YES	NO

### Recent Developments Regarding the Enforceability of Penal Code Section 148.6

As discussed in the Board’s 2023 Report, the constitutionality of Penal Code section 148.6 is currently under consideration in the matter of *Los Angeles Police Protective League v. City of Los Angeles* (Cal. Case No. S275272), indicating a continuing need for legislative clarification and intervention.<sup>653</sup> The California Supreme Court is currently considering three issues: (1) whether the advisory requirement in Penal Code section 148.6, subdivision (a)(2) constitutes improper viewpoint discrimination in violation of the First Amendment; (2) whether the advisory requirement imposes an impermissible burden on complainants’ ability to file allegations of misconduct against peace officers; and (3) whether it was an error to compel the City to comply with a statute that the Ninth Circuit Court of Appeals found unconstitutional.<sup>654</sup> The matter is still pending as of the date of publication of the report.

### Continued Relevance of Prior Policy Recommendations

Given the uncertainty regarding the enforceability of Penal Code section 148.6, the Board highlights its prior recommendation that law enforcement agencies accept and investigate all complaints, even when a complainant has not signed the advisory required by section 148.6.<sup>655</sup> This prior recommendation is consistent with SB 2, which allows POST to accept anonymous complaints and does not require complainants to identify themselves when attesting to the truthfulness of their allegations.<sup>656</sup> It is also

652 See Racial and Identity Profiling Advisory Board, 2021 Report, *supra* note 625, at p. 127.

653 Racial and Identity Profiling Advisory Board, 2023 Report, *supra* note 625, at pp. 182-183.

654 *L.A. Police Protective League v. City of L.A.* (2022) 514 P.3d 892 (review granted).

655 Racial and Identity Profiling Advisory Board, 2023 Report, *supra* note 625, at p. 183; Racial and Identity Profiling Advisory Board, 2021 Report, *supra* note 625, at p. 134, fn. 294; Racial and Identity Profiling Advisory Board, 2020 Report, *supra* note 624, at p. 74.

656 See Cal. Com. on Peace Officer Stds. and Training, Complaint Form <<https://post.ca.gov/public-complaint-form>> [as of Nov. 18, 2024] (stating that POST will accept a complaint even if the complainant “wish[es] to remain anonymous,” only requiring the complainant to acknowledge that they have read the information on the Police Complaints

consistent with the U.S. Department of Justice’s recommendation that, “[u]nless required by law, no threats or warning of prosecution or potential prosecution for filing a false complaint should be made orally or in writing to a complainant or potential complainant.”<sup>657</sup>

Lastly, the Board will continue to monitor *Los Angeles Police Protective League v. City of Los Angeles* (Cal. Case No. S275272). If the California Supreme Court upholds Penal Code section 148.6, legislative action may be necessary to minimize the statute’s potential deterrent effect.<sup>658</sup>

### C. Legislative Response to the Board’s Prior Recommendations

On February 15, 2024, the California Legislature introduced Assembly Bill No. 2923 (2023-2024 Reg. Sess.) (AB 2923), which sought, in part, to address the Board’s past recommendations by seeking to ensure a “procedurally fair civil complaint process.”<sup>659</sup>

In part, AB 2923 proposed amending Penal Code section 832.5 to define “civilian complaint.”<sup>660</sup> Additionally, AB 2923 sought to amend Penal Code section 148.6 to add an intent requirement for false complaints, such that a complainant must knowingly and intentionally submit a false statement that is material to the complaint allegations to be prosecuted.<sup>661</sup> The bill’s sponsor, Assembly Member Reginald Jones-Sawyer, emphasized that, as currently written, Penal Code section 148.6 is very broad, meaning that prosecution for filing a false complaint could be based on a fact that is not material to the allegation or is simply a mistake of fact.<sup>662</sup> However, “mistakes over minor details of an incident should not bring forth prosecution.”<sup>663</sup>

The Board commends the Legislature for introducing legislation related to the Board’s concerns regarding the lack of a uniform “civilian complaint” definition and the inclusion of potentially deterrent language on civilian complaint forms. However, as no legislative amendments have been enacted, the Board highlights its past recommendations that the Legislature amend Penal Code sections 832.5 and 148.6 in accordance with the discussion above.

## IV. APPLYING ROOT CAUSE ANALYSIS TO CIVILIAN COMPLAINTS

Last year, the Board urged law enforcement agencies to approach complaints as an opportunity to identify areas for improvement within their agency.<sup>664</sup> To that end, the Board began exploring the underlying principles of root cause analysis and encouraged law enforcement agencies to incorporate those principles into their civilian complaint procedures.<sup>665</sup> Specifically, the Board explored when root cause analysis should be conducted, who should conduct it, and general considerations for how it should be conducted.<sup>666</sup>

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Webpage and that the information they alleged is “true and accurate”).

657 U.S. DOJ, *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice*, Community Oriented Policing Services, p. 17 <<https://portal.cops.usdoj.gov/resourcecenter/RIC/Publications/cops-p164-pub.pdf>> [as of Nov. 18, 2024].

658 Racial and Identity Profiling Advisory Board, *2020 Report*, *supra* note 624, at p. 74 (recommending that the Legislature amend Penal Code section 148.6 to delete or revise the criminal sanctions provision and eliminate the signature and writing requirements for complaints because these provisions may deter individuals from submitting valid complaints); Racial and Identity Profiling Advisory Board, *2021 Report*, *supra* note 625, at p. 134, fn. 294 (same); Racial and Identity Profiling Advisory Board, *2022 Report*, *supra* note 625, at p. 232 (same); Racial and Identity Profiling Advisory Board, *2023 Report*, *supra* note 625, at pp. 182-183 (same).

659 Cal. Assem., Public Safety Com. Hearing (Apr. 2, 2024) at 5:03:37-5:05:15 <<https://www.assembly.ca.gov/media/assembly-public-safety-committee-20240402>> [as of Nov. 18, 2024].

660 See AB 2923 <https://legiscan.com/CA/text/AB2923/id/2930681> [as of Nov. 18, 2024].

661 *Ibid.*

662 Cal. Assem., Public Safety Com. Hearing, *supra* note 659, at 5:03:37-5:05:15.

663 *Ibid.*

664 Racial and Identity Profiling Advisory Board, *2024 Report*, *supra* note 630, at pp. 200, 203.

665 *Id.* at pp. 199-203.

666 *Id.* at pp. 201-203.

This year, the Board continues its exploration of root cause analysis by analyzing its use in other industries to help inform the development of effective procedures to investigate and identify the root causes of civilian complaints. The Board hopes to continue this discussion in future reports — with input from law enforcement, experts, and members of the public — to develop specific recommendations on when and how to conduct root cause analysis of civilian complaints.

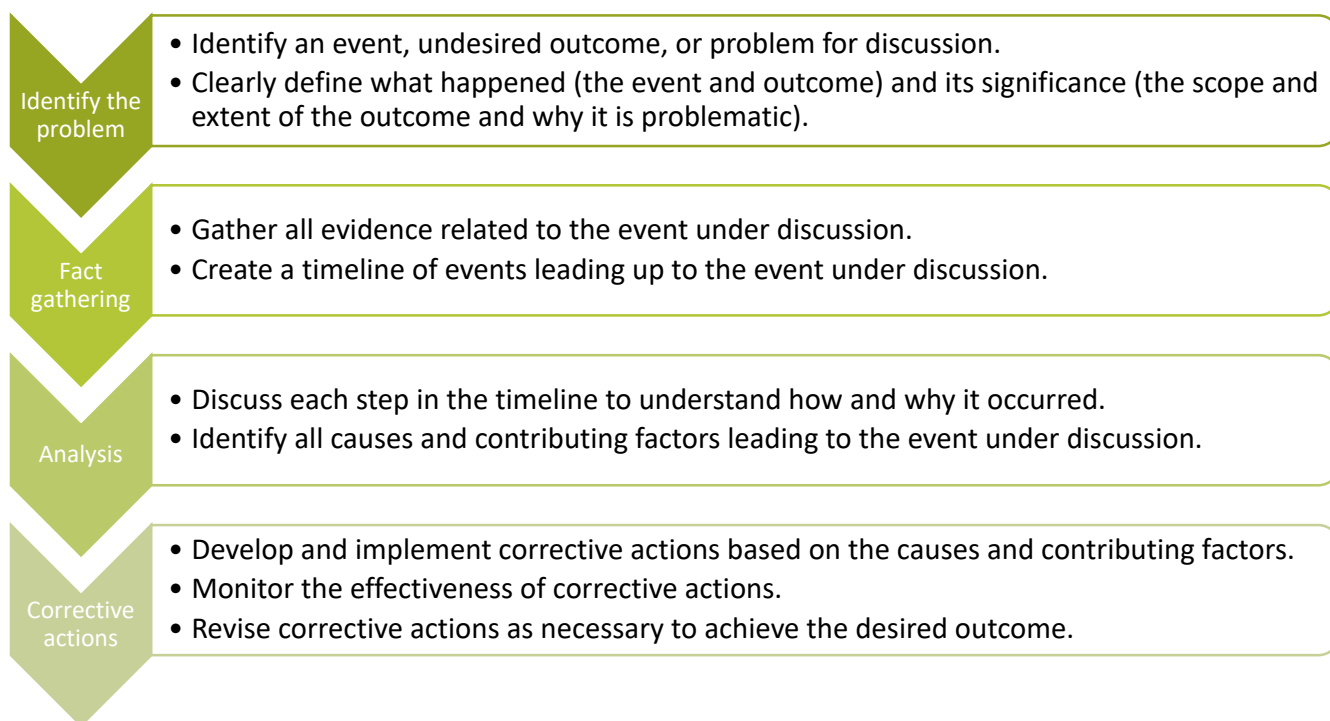
## A. Key Principles of Root Cause Analysis

As discussed in the 2024 Report, root cause analysis is a problem-solving technique aimed at identifying the underlying causes of a negative or unwanted event and implementing changes to reduce the likelihood that a similar event will happen again.<sup>667</sup> It is usually a part of — or sometimes used interchangeably with — a “sentinel event review.”<sup>668</sup> The concept of root cause analysis derives from the idea that human errors are the product of multiple factors — both organizational and individual — none of which necessarily caused the unwanted outcome on its own.<sup>669</sup> Moreover, root cause analysis derives from the recognition that human errors are inevitable; therefore, it is more productive to address systems that contribute to or allow errors — such as staffing, time pressure, equipment failures, fatigue, and inexperience — than it is to address human factors, such as limitations on perception, cognition, or decision-making.<sup>670</sup>

At its core, root cause analysis is a non-blaming process that allows organizations to learn from unwanted outcomes.<sup>671</sup> This means it should be separate from any administrative or disciplinary investigation process, so that participants will feel comfortable sharing information freely.<sup>672</sup> Root cause analysis is also a proactive approach to addressing errors or unwanted outcomes, meaning a standard procedure and ground rules for root cause analysis should be decided before an unwanted outcome occurs.<sup>673</sup>

While specific procedures for root cause analysis may vary from industry to industry,<sup>674</sup> and even from organization to organization, root cause analysis generally includes the following steps:<sup>675</sup>

- 667 *Id.* at pp. 199-203; Hollway et al., *Root Cause Analysis: A Tool to Promote Officer Safety and Reduce Officer Involved Shootings Over Time* (2017) 62 Vill. L. Rev. 883, 884, 903.
- 668 See Fagan and Campbell, *Race and Reasonableness in Police Killings* (2020) 100 Boston U. L. Rev. 951, 1006; Hollway et al., *Root Cause Analysis: A Tool to Promote Officer Safety and Reduce Officer Involved Shootings Over Time*, *supra* note 667, at p. 889; Hollway and Grunwald, *Applying Sentinel Event Reviews to Policing* (2019) Faculty Scholarship at Penn Law. 2100, p. 1 (sentinel event reviews are a “voluntary, multi-stakeholder, non-punitive review of [] an undesired outcome”).
- 669 See Agency for Healthcare Research and Quality, *Root Cause Analysis* (2019) <<https://psnet.ahrq.gov/primer/root-cause-analysis>> [as of Nov. 18, 2024] (“A central tenant of root cause analysis is to identify underlying problems that increase the likelihood of errors while avoiding the trap of focusing on mistakes by individuals”).
- 670 See Schwartz, *Systems Failures in Policing* (2018) 51 Suffolk U. L.Rev. 535, 537, 541.
- 671 See Hollway et al., *Root Cause Analysis: A Tool to Promote Officer Safety and Reduce Officer Involved Shootings Over Time*, *supra* note 667, at pp. 903-904 (stating that root cause analysis “operates without the presumption that someone is ‘blameworthy.’ ... The blame-free analysis is crucial to [root cause analysis] because blaming and punishing people with good intentions for adverse events alienates the very people who may be in the best position to prevent the problem from occurring or have the most relevant knowledge of how to design solutions”).
- 672 See Fagan and Campbell, *supra* note 668, at p. 1006 (“[Root cause analysis] models are not substitutes for accountability mechanisms but rather provide a constructive component with which officers can update and internalize alternatives available for future situations”); Aguirre, *Beyond Bad Apples: Adopting Sentinel Event Reviews in Nevada’s Criminal Justice System* (2018) 18 Nev. L.J. 1059, 1067 (sentinel event reviews do not replace liability procedures).
- 673 See Agency for Healthcare Research and Quality, *supra* note 669 (“RCAs should generally follow a prespecified protocol”). For the Board’s prior discussion of ground rules for root cause analysis, please see *2024 Report*, *supra* note 630, at pp. 200-203.
- 674 Raper et al., *Using Root Cause Analysis to Study Prosecutorial Error: A Collaboration Between the Montgomery County (Pennsylvania) District Attorney’s Office and the Quattrone Center for the Fair Administration of Justice* (2017) 62 Vill. L.Rev. Tolle Lege 13, 38 (“[T]he process of performing a [] [root cause analysis] lacks standardization from organization to organization”).
- 675 See Agency for Healthcare Research and Quality, *supra* note 669 (“RCAs should generally follow a prespecified protocol that begins with data collection and reconstruction of the event in question through record review and



First, the problem under consideration must be clearly and specifically defined.<sup>676</sup> The team conducting the root cause analysis must reach an agreement about the specific problem or event under consideration (e.g., the event that happened, the resulting impact, and the scope, extent, and significance of the problem).<sup>677</sup> The process of defining the problem should be based on objective evidence, not subjective perception.<sup>678</sup>

participant interviews. A multidisciplinary team should then analyze the sequence of events leading to the error, with the goals of identifying how the event occurred (through systematic identification and analysis of latent errors).”); Bressler, *The Sentinel Event Policy: A Response by the Joint Commission* (Summer 2000) 33 HOSPLW 519 (noting that a reduction of medical errors depends on identification of errors that occur, analysis of each error to determine the underlying factors, compilation of data about error frequency and the type and root causes of these errors, dissemination of information about these errors and their root causes, and periodic assessment of the effectiveness of efforts taken to reduce the risk of errors); Flanders and Saint, *Getting to the Root of the Matter* (June 1, 2005) AHRQ <<https://psnet.ahrq.gov/web-mm/getting-root-matter>> [as of Nov. 18, 2024] (analyzing the root causes of a wrong-dose event by implementing a multidisciplinary team, gathering data, analyzing the contributing factors, and developing systems-oriented solutions); National Commission on Forensic Science, *Root Cause Analysis (RCA) in Forensic Science* (Jan. 27, 2017) <<https://perma.cc/5YWD-G8YZ>> [as of Nov. 18, 2024] (identifying steps to conduct root cause analysis of forensic science errors, including identifying the problem (what went wrong), identifying the root cause and contributing factors (why it went wrong), prioritizing the factors that contributed to the harm, and developing interventions that conform with the prioritization and likelihood of various factors repeating).

676 See *Root Cause Analysis and Problem Solving* (April 2014) IAQG, p. 35 <<https://perma.cc/LC7T-YQNB>> [as of Nov. 18, 2024].

677 See *ibid.*

678 See *ibid.*

Once the problem is defined, the team should gather and review all available evidence related to the event under consideration and use that information to develop a timeline leading up to the outcome under examination.<sup>679</sup> Each step in the timeline should derive from the preceding event.<sup>680</sup>

Next, the team should discuss each step leading to the event under consideration, with the intent of understanding why each step occurred the way that it did.<sup>681</sup> This inquiry is the core of root cause analysis. The goal is to understand what factors caused the event, and what factors contributed to or allowed the event to unfold as it did.<sup>682</sup> Here, teams should use structured analysis to identify all causes that did or may have generated or contributed to the undesirable event under consideration and select the most critical causes and contributing factors that need to be addressed.<sup>683</sup> It is important to focus on objective causes and minimize the injection of “bad apple” theories of causation into these discussions when possible.<sup>684</sup>

Once the underlying causes and contributing factors have been identified, the team should develop and implement corrective actions to address them, with the goal of preventing the same outcome in the future.<sup>685</sup> Corrective actions that address underlying causes and contributing factors — such as improving staffing levels or organizational resources — are generally thought to be stronger than training.<sup>686</sup> Information learned during the analysis of the event should be widely disseminated throughout the organization.<sup>687</sup> The team should prioritize the factors that contributed to the harm, evaluating their severity and the probability that they will cause harm in the future, then develop interventions and corrective actions based on the likelihood that the various factors will recur.<sup>688</sup>

Finally, once the corrective actions have been implemented, it is important to monitor their efficacy and make revisions if they are not working.<sup>689</sup>

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679 See Browning et al., *Paving the Way: Lessons Learned in Sentinel Event Reviews* (Nov. 2015) National Institute of Justice, p. 9 <<https://www.ojp.gov/pdffiles1/nij/249097.pdf>> [as of Nov. 18, 2024] (suggesting that agencies conducting sentinel event reviews “[d]evote time to building and reviewing a timeline to fill in gaps in individual knowledge of what happened and when”); Hollway and Grunwald, *Applying Sentinel Event Reviews to Policing*, *supra* note 668, at pp. 17-18 (noting that the moderator of sentinel event review of the Lex Street Massacre prepared a “detailed timeline of people, places, and actions – beginning with the crime itself and leading up to the discovery of the error,” which then helped identify potential participants in the review); American Society for Quality, *What Is Root Cause Analysis (RCA)?* <<https://asq.org/quality-resources/root-cause-analysis>> [as of Nov. 18, 2024] (describing one approach to root cause analysis — events and causal factor analysis — which involves using methodically gathered evidence to establish a timeline for the activities leading up to an incident, then identifying the causal and contributing factors).

680 See Hollway and Grunwald, *Applying Sentinel Event Reviews to Policing*, *supra* note 668, at pp. 17-18 (noting that the moderator of sentinel event review of the Lex Street Massacre prepared a “detailed timeline of people, places, and actions – beginning with the crime itself and leading up to the discovery of the error,” which then helped identify potential participants in the review); Flanders and Saint, *supra* note 675 (recommending that every provider contact with a patient and every order, test, and response should be charted to develop a timeline that can be used to observe all steps involved in the care of the patient, to better evaluate what contributed to an incorrect medication dosage being administered).

681 See Flanders and Saint, *supra* note 675 (recommending that every provider contact with a patient and every order, test, and response should be gathered to conduct a root cause analysis related to the administration of an incorrect medication dosage); Tobin and Tochen, *The Anatomy of an NTSB Accident Investigation: A Guide for “Parties-to-the-Investigation” & Their Lawyers* (April 2013) NTSB, p. 2 <<https://perma.cc/3MSD-7677>> [as of Nov. 18 2024] (noting that the NTSB spends several months gathering facts to conduct a root cause analysis).

682 See *Root Cause Analysis and Problem Solving*, *supra* note 676, at p. 53.

683 See *ibid.*

684 See National Commission on Forensic Science, *supra* note 675.

685 See *Root Cause Analysis and Problem Solving*, *supra* note 676, at p. 65 <<https://perma.cc/LC7T-YQNB>> [as of Nov. 18, 2024].

686 See Agency for Healthcare Research and Quality, *supra* note 669 (noting that safety experts agree that effective root cause analysis requires focusing on stronger, systems-focused solutions, as opposed to overreliance on weaker solutions, such as educational interventions and enforcing existing policies).

687 See *Root Cause Analysis and Problem Solving*, *supra* note 676, at p. 73.

688 National Commission on Forensic Science, *supra* note 675.

689 See *Root Cause Analysis and Problem Solving*, *supra* note 676, at p. 68.

## B. Root Cause Analysis in Transportation and Healthcare

Root cause analysis has been successfully applied in complex settings, such as aviation healthcare, by developing a culture of learning to minimize the likelihood of unwanted outcomes. In recent years, law enforcement has begun to draw from lessons learned in these industries to implement root cause analysis after certain events, such as officer shootings and in-custody deaths. The Board provides a summary of root cause analyses in each of these industries to demonstrate how law enforcement can benefit from information learned from these industries in applying root cause analysis to civilian complaints.

### Aviation and Transportation

Aviation is widely regarded as the poster child of successful root cause analysis.<sup>690</sup> Commercial aviation has experienced significant improvements to safety over time due, in part, to systematic review of accidents and “close call” incidents.<sup>691</sup>

Two primary agencies drive root cause analysis in aviation: the National Transportation Safety Board (NTSB) and the Aviation Safety Reporting System (ASRS). The NTSB conducts after-action reviews of all aviation accidents in the United States.<sup>692</sup> The NTSB learns of these events through required notifications from transportation providers, as well as from publicly available reports and state and local authorities.<sup>693</sup> The NTSB then “investigates everything from aircraft hardware to weather to pilot decision-making in order to determine what happened,”<sup>694</sup> identify the probable cause(s) of the incident, and then determine what measures would best tend to prevent similar incidents in the future.<sup>695</sup> The investigation begins with a visit to the crash site and may include witness interviews conducted under oath and sometimes public hearings.<sup>696</sup> This process can take months.<sup>697</sup> Once the investigation concludes, the team drafts a report that includes proposed findings of probable cause and safety recommendations.<sup>698</sup> The NTSB then issues recommendations.<sup>699</sup>

Similarly, the ASRS was designed by the Federal Aviation Administration (FAA) to analyze voluntarily submitted incident reports from pilots, air traffic controllers, dispatchers, cabin crew, maintenance crew, and others and identify the hazardous or dangerous conditions ground-level practitioners and experts recognized as posing risks to safety.<sup>700</sup> ASRS reviews de-identified information gathered through voluntary reporting,<sup>701</sup> then issues reports and observations regarding the cause(s) of aviation incidents after the incident is reviewed by aviation safety experts (including experienced pilots, air traffic controllers, and mechanics).<sup>702</sup> However, unlike the NTSB, the ASRS does not issue corrective actions itself; it provides information to other authorities, such as the FAA, who can then take corrective actions.<sup>703</sup>

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690 See Armacost, *Police Shootings: Is Accountability the Enemy of Prevention?* (2019) 90 Ohio St. L.J. 907, 926; Rossmo and Pollock, *Confirmation Bias and Other Systemic Causes of Wrongful Convictions: A Sentinel Events Perspective* (Summer 2019) 11 Ne. U. L. Rev. 790, 795 (“The best-known example of the sentinel event approach is the after-action reviews by the National Transportation Safety Board”).

691 Armacost, *supra* note 690, at p. 927; Rossmo and Pollock, *supra* note 690, at p. 794 (“As a result [of NTSB after-action reviews], the aviation industry has experienced significant increase in safety”).

692 Armacost, *supra* note 690, at p. 927.

693 Tobin and Tochen, *supra* note 681, at p. 2.

694 Rossmo and Pollock, *supra* note 690, at p. 795.

695 Tobin and Tochen, *supra* note 681, at p. 2.

696 *Ibid.*

697 *Ibid.*

698 *Ibid.*; Armacost, *supra* note 690, at p. 927.

699 See Tobin and Tochen, *supra* note 681, at p. 2.

700 Armacost, *supra* note 690, at pp. 928-929.

701 *Ibid.*

702 See Plantz, *The Patient Safety and Quality Improvement Act: A Total Eclipse* (Spring 2019) 87 UMKC L. Rev. 751, 771-72; Armacost, *supra* note 690, at p. 929.

703 See Plantz, *supra* note 702, at pp. 771-772.

Beyond these national organizations, agencies within the transportation industry have also developed varying root cause analysis procedures.<sup>704</sup> Moreover, the principles of root cause analysis have been applied beyond aviation to the transportation sector generally to address issues such as traffic safety.<sup>705</sup>

## Healthcare

Root cause analysis is also routinely used in the medical field<sup>706</sup> to address a broad range of incidents, like operations on the wrong patient,<sup>707</sup> incorrect medication orders and/or dosages,<sup>708</sup> and infant abductions.<sup>709</sup> However, that was not always the case.<sup>710</sup> Traditionally, “efforts to ‘correct’ [an] error [in the medical field were] narrowly reactive, focusing on shaming, blaming, and training the individual to prevent the error’s occurrence from being repeated by the specific person who erred.”<sup>711</sup> However, attitudes within the medical field began to shift after the Institute of Medicine released an article titled *To Err is Human* in 1999, estimating that 44,000 to 98,000 patients died from medical errors each year that are often caused by “system-wide weaknesses in policy, organization, equipment, and technology.”<sup>712</sup> Following this article, there was a “seismic shift in medicine’s approach to error,” with the industry beginning to accept the “notion that medical error is frequent; that error is inevitable in high-stress, complex settings; and that by improving systems — including policies, organization, protocols, and technologies — hospitals can make it more difficult for human error to occur.”<sup>713</sup> In part, the medical field looked to aviation to develop a forward-looking, systems-oriented review method.<sup>714</sup>

The Joint Commission, an organization that regulates and accredits hospitals in the United States, mandates that hospitals use root cause analysis to analyze sentinel events.<sup>715</sup> After an event results in death or harm to a patient, hospitals must use root cause analysis to identify the reasons it occurred and corrective measures for improvement.<sup>716</sup> Once corrective measures are implemented, hospitals

704 See *Root Cause Analysis and Problem Solving*, *supra* note 676, at p. 19.

705 See, e.g., Fleet Forum, *Analyzing and Investigating Road Traffic Crashes* <<https://knowledge.fleetforum.org/knowledge-base/article/crash-analysis>> [as of Nov. 18, 2024] (providing guidance for companies to conduct root cause analysis of traffic crashes); Transportation Alternatives, *The Case for Self-Enforcing Streets* (June 2020) p. 16 <<https://static1.squarespace.com/static/63e29e189cbb31405a731aac/t/66154d0bf54a857c2fb871b7/1712672011657/CaseForSelfEnforcingStreets.pdf>> [as of Nov. 18, 2024] (arguing that “every fatal or serious crash should be followed by a published engineering assessment of the street conditions that contributed to the crash and changes that could have prevented the crash or limited the severity of the injuries”); Sarode et al., *Traffic Stops Do Not Prevent Traffic Deaths* (Jul. 1, 2021) 91(1) *J. Trauma Acute Care Surg.* 141 (arguing that “future studies should also consider understanding the root causes of [motor vehicle crashes] to design effective measures”); see also U.S. Dept. of Transportation, *Speed Management: A Manual for Local Rural Road Owners* <<https://highways.dot.gov/safety/local-rural/speed-management-manual-local-rural-road-owners/2-identify-speeding-issues>> [as of Nov. 18, 2024] (providing guidance similar to the steps of root cause analysis to remedy traffic anomalies on rural roads).

706 Agency for Healthcare Research and Quality, *supra* note 669 (root cause analysis is now “widely deployed as an error analysis tool in health care”).

707 Chassin and Becher, *The Wrong Patient* (June 4, 2002) 136 *Annals of Internal Medicine* 11 <<https://www.acpjournals.org/doi/10.7326/0003-4819-136-11-200206040-00012>> [as of Nov. 18, 2024]

708 Flanders and Saint, *supra* note 675.

709 Baum Goodwin, *Striving for a Secure Environment: A Closer Look at Hospital Security Issues Following the Infant Abduction at Loyola University Medical Center* (2001) 10 *Ann. Health L.* 245.

710 Schwartz, *supra* note 670, at p. 542 (noting that medicine has more recently embraced safety initiatives like root cause analysis).

711 Liang and Ren, *Medical Liability Insurance and Damage Caps: Getting Beyond Band Aids to Substantive Systems Treatment to Improve Quality and Safety in Healthcare* (2014) 30 *Am. J. L. and Med.* 501, 525; see also Schwartz, *supra* note 670, at p. 542 (noting that medicine was traditionally guided by the “perfectibility model” which assumes that providers will not make mistakes if they’re properly trained and are motivated by the threat of discipline or lawsuits).

712 Schwartz, *supra* note 670, at p. 542.

713 *Id.* at pp. 542, 544-545.

714 Armacost, *supra* note 690, at pp. 930-931.

715 Agency for Healthcare Research and Quality, *supra* note 669; Aguirre, *supra* note 672, at p. 1067; Kellogg et al., *Our Current Approach to Root Cause Analysis: Is It Contributing to Our Failure to Improve Patient Safety?* (2017) 26 *BMJ Quality & Safety* 381 <<https://qualitysafety.bmj.com/content/qhc/26/5/381.full.pdf>> [as of Nov. 18, 2024] (noting that most hospitals use root cause analysis, which has been mandated by the Joint Commission since 1997).

716 Mulholland, *Unanticipated Consequences of Unanticipated Outcomes Disclosures* (Spring 2002) 35 *HOSPITALS* 211.

must monitor whether they are working.<sup>717</sup> Hospitals are encouraged to report sentinel events that result in death or serious injury to the Joint Commission, along with the root cause analysis and corrective actions so that the Joint Commission can identify trends requiring industry-wide recommendations.<sup>718</sup>

The efficacy of root cause analysis depends on the types of corrective actions generated by the root cause analysis procedures.<sup>719</sup> For example, one study found that less than half of the root cause analyses reviewed included recommendations directed at “robust, system-level improvements,” meaning that many corrective actions still focus on addressing individual errors rather than system-wide improvements.<sup>720</sup> Thus, the limitation of the root cause analysis in that example can be attributed, not to the root cause analytical approach, but instead to cultural resistance within the organization to adopt necessary changes and to an ethos of learning from past mistakes. In general, truly effective corrective actions remove or provide safeguards against hazards, while the least impactful measures merely warn personnel of the hazard.<sup>721</sup>

### C. Root Cause Analysis in Law Enforcement

As in the medical field, the traditional approach to problem events in policing focuses on individual actions and blame through administrative investigations and discipline.<sup>722</sup> Like aviation and the medical field, the theory underlying root cause analysis — that bad outcomes in complex systems are rarely the result of one person’s mistake, but rather result from the combination of multiple errors that are exacerbated by underlying weaknesses in the organization — can be successfully applied to policing.<sup>723</sup>

The decision-making processes of police officers are often like those of doctors or pilots. Like pilots and healthcare professionals, officers must make “split-second, life or death decisions under conditions of uncertainty,” requiring them to process large amounts of information in little time.<sup>724</sup> “Each decision point can lead to errors out of mere negligence or institutional errors.”<sup>725</sup> Thus, it is unrealistic to expect that there will be no errors in police responses.<sup>726</sup> Instead, these errors present an opportunity for law

<sup>717</sup> *Ibid.*

<sup>718</sup> *Ibid.*

<sup>719</sup> Kellogg et al., *supra* note 715 (“Safety scientists believe that the lack of improvement in adverse event rates in healthcare is largely because our methods of approaching change are ineffective”).

<sup>720</sup> *Ibid.*

<sup>721</sup> *Ibid.*

<sup>722</sup> See National Institute of Justice, *Mending Justice: Sentinel Event Reviews* (Sept. 2014) p. 1 <<https://www.ojp.gov/pdffiles1/nij/247141.pdf>> [as of Nov. 18, 2024] (“Most criminal justice agencies have error detecting processes in place,” but “[t]oo often, these become a ‘gotcha’ process that assigns blame, which can drive errors underground, making them harder to detect and correct.”).

<sup>723</sup> See Schwartz, *supra* note 670, at pp. 545-546 (“There is every reason to believe that police could improve their protocols, policies, and technology in similar ways [to aviation and healthcare]. A variety of systems interventions come to mind that could lessen the frequency with which officers are placed in complex, high-speed, high-stress, high-stakes situations, and improve officers’ decision making in such situations when they occur.”); Rossmo and Pollock, *supra* note 690, at p. 795 (“Doyle proposes that the systems or sentinel event approach, which has seen great success in medicine and transportation, can be adopted to understand wrongful convictions or ‘near misses’ (i.e., narrowly escaped wrongful convictions)”; Fagan and Campbell, *supra* note 668, at pp. 1004-1006 (arguing that there is an increasing need for police to discuss tactics, including through root cause analysis); Browning et al., *supra* note 679, at pp. 2-3 (finding that sentinel event reviews can be successfully applied in the criminal justice system).

<sup>724</sup> See Schwartz, *supra* note 670, at p. 545.

<sup>725</sup> Aguirre, *supra* note 672, at p. 1064.

<sup>726</sup> See Armacost, *supra* note 690, at pp. 910-911 (“In fact, the killing of unarmed civilians by police results from multiple causes, both human and systemic, that set the stage for the traffic moment when the shot was fired. Our current focus on only the immediate cause — and the narrow time frame that defines his actions — ignores this broader set of causal factors. This is not to say that the shooter is not blameworthy. But the single-minded focus on the officer who discharged his weapon leaves the officer’s colleague embedded in the same organization that led to his mistakes. It misses the opportunity to address the systemic and organizational features that make it possible (or probable) that individual officers will continue to make mistakes or misbehave.”); *Id.* at p. 924 (“While we cannot completely eliminate human error, we can change the circumstances in which fallible human beings work, particularly the circumstances that increase the likelihood of operator error or aggravate the consequences of unsafe acts”).



enforcement agencies to “respond, change course, and improve outcomes.”<sup>727</sup>

Many academics have considered the applicability of root cause analysis to policing over the past decade. For example, the National Institute of Justice has been exploring the feasibility of using sentinel event reviews in the criminal legal system since 2011.<sup>728</sup> Root cause analyses have also been conducted to understand sentinel events such as wrongful convictions,<sup>729</sup> police shootings,<sup>730</sup> and deaths or self-harm in detention facilities.<sup>731</sup>

Some law enforcement agencies have already implemented root cause analysis to assess sentinel events and identify areas for improvement.<sup>732</sup> The application of root cause analysis to racial disparities in traffic stops, certain types of low-level violations, sometimes associated with pretext stops, and discretionary searches may illustrate the benefits of its use in identifying the causal factors of racial disparities in police encounters. For instance, one study looked at data showing that a “department made nearly 151 consent searches of Black motorists and 46 of Hispanic/Latine(x) motorists with hit-rates of 7.9 and 15.2 percent respectively.”<sup>733</sup> A root cause analysis found that the practice of consent searches contributed to these disparities.<sup>734</sup> Following this finding, the department prohibited consent searches which led to an increase in finding contraband and a decrease in racial disparities in stops.<sup>735</sup>

Similarly, in another agency, the researchers identified that the agency’s policy of stopping drivers for low-level equipment violations, with the intent of catching drivers who were driving under the

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727 Aguirre, *supra* note 672, at p. 1064.

728 Ritter, *Testing a Concept and Beyond: Can the Criminal Justice System Adopt a Nonblaming Practice?* (Dec. 1, 2015) National Institute of Justice <<https://nij.ojp.gov/topics/articles/testing-concept-and-beyond-can-criminal-justice-system-adopt-nonblaming-practice>> [as of Nov. 18, 2024].

729 See Rossmo and Pollock, *supra* note 690 (analyzing 50 wrongful convictions, using a sentinel events approach informed by root cause analysis, to understand why these failures occurred); Raper et al., *supra* note 674 (conducting root cause analysis of errors leading to a conviction); Brown and Neufeld, *Chimes of Freedom Flashing: For Each Unharmful Gentle Soul Misplaced Inside a Jail* (2021) 76 N.Y.U. Ann. Surv. Am. L. 235, 271 (analyzing wrongful convictions and arguing that “whenever a serious error or misconduct undermines the integrity of the criminal legal process,” root cause analysis should be conducted).

730 See National Institute of Justice, *A Glimpse at Ongoing Sentinel Event Review Research Projects* (Dec. 13, 2015) <<https://nij.ojp.gov/topics/articles/glimpse-ongoing-sentinel-event-review-research-projects>> [as of Nov. 18, 2024] (noting that Michigan State University conducted root cause analysis of nonfatal shootings in Milwaukee, Detroit, and Indianapolis); Schwartz, *supra* note 670, at p. 539 (arguing that, when there is a police killing, departments must discuss “whether the shooting was preventable, and the ways in which technology, schedules, protocols, and policies could be adjusted to prevent another shooting in the future”); Armacost, *supra* note 690, at p. 910 (arguing for a “prevention-first approach” to events such as police shootings, that applies systemic analysis to prevent future shootings); Fagan and Campbell, *supra* note 668, at pp. 1004-1006 (arguing for increased discussion and root cause analysis of police tactics in response to events such as police shootings).

731 See National Institute of Justice, *A Glimpse at Ongoing Sentinel Event Review Research Projects* (Dec. 13, 2015) National Institute of Justice, *supra* note 730 (noting that the Vera Institute worked with the New York Department of Corrections and Department of Public Health and Mental Hygiene to analyze predictors of self-harm and assess whether the self-harm predictor tool resulted in tangible changes to jail policies and practices); Pope and Delany-Brumsey, *Creating a Culture of Safety* (Dec. 2016) Vera Institute <<https://www.vera.org/publications/culture-of-safety-sentinel-event-suicide-self-harm-correctional-facilities>> [as of Nov. 18, 2024].

732 See Thacher, *The Learning Model of Use-of-Force Reviews* (Aug. 2020) 45 Law & Soc. Inquiry 755, 756 (“The most sophisticated police agencies do more than establish rules and monitor how well officers comply with them. They use incident reviews partly as a tool for learning to document the complex circumstances that police encounter in the field, to scrutinize existing responses to them, and to articulate alternative approaches that might be taken, not just by responding officers but also by others who shape the possibilities available to them”).

733 Barone et al., *State of Connecticut: Traffic Stop Data Analysis and Findings, 2018* (May 2020) p. 45 <[https://assets.website-files.com/6076e3f57e39855392637f16/608969ac86055d0bd5d5e680\\_2018-Connecticut-Racial-Profiling-Report.pdf](https://assets.website-files.com/6076e3f57e39855392637f16/608969ac86055d0bd5d5e680_2018-Connecticut-Racial-Profiling-Report.pdf)> [as of Nov. 18, 2024].

734 See *ibid.*

735 Ross et al., *Testing for Disparities in Traffic Stops: Best Practices from the Connecticut Model* (2020) 19 Criminol. & Pub. Policy 1289, 1297 <<https://onlinelibrary.wiley.com/doi/epdf/10.1111/1745-9133.12528>> [as of Nov. 18, 2024] (finding that, by prohibiting consent searches, “[p]olice searches were more successful at finding contraband, i.e., a 63-percentage point increase, and the department ceased to be identified as having a disparity in subsequent annual analyses”).

influence, was the primary source of disparities in traffic stops and was ineffective at catching DUI drivers.<sup>736</sup> Following this analysis, the agency required their officers instead to look for objective evidence of driving under the influence which led to a decrease in racial disparities and an increase in identifying drivers under the influence.<sup>737</sup>

In the examples above, once the problem was defined, the teams gathered and reviewed all available evidence related to the disparities and efficacy of those policies. The team then used that information to develop policies that addressed those disparities and emphasized evidence-based approaches to crime fighting, which led to a drop in racial disparities and more effective policing.

A 2024 survey of the 15 largest law enforcement agencies in California indicated that 12 agencies conduct root cause analysis for some events.<sup>738</sup> The Board suggests that law enforcement agencies consider extending root cause analysis to their complaint procedures as well.

Like aviation and healthcare, there is no single, best procedure to follow for successful root cause analysis in policing. For example, the National Institute of Justice argues for a broad understanding of which events should trigger root cause analysis: “Sentinel events can also include episodes that are ‘within policy’ but disastrous in terms of community relations (such as the arrest of Harvard professor Henry Louis Gates), whether or not everyone agrees that the event should be classified as an ‘error.’ ... In fact, anything that stakeholders can agree should not happen again could be considered a sentinel event.”<sup>739</sup>

Similarly, the International Association of Police Chiefs recommends that agencies collect data related to sentinel events and near misses — specifically, “information about suspect and officer demographics as well as the location, time, date, and other relevant contextual factors” — and analyze this data “on a recurring basis to identify any problematic trends.”<sup>740</sup> More broadly, one scholar even encourages law enforcement agencies to specifically consider “the ways in which both systemic racism and institutional racism are part of the analysis of root causes of a civilian death.”<sup>741</sup>

However, some general challenges have been identified with respect to root cause analysis in policing. These include the need to balance incident liability and risk management, the role of internal disciplinary processes, the role of confidentiality protections,<sup>742</sup> and a general lack of data regarding the “frequency, nature, or causes of policing errors.”<sup>743</sup> Considering this, experts in the criminal legal field believe that root cause analysis reviews should have their own features unique to their jurisdiction.<sup>744</sup>

## D. Root Cause Analysis and Civilian Complaints

Civilian complaints provide a wealth of information for law enforcement agencies to identify and address areas for improvement. For example, an allegation of discourteous conduct can help an agency understand what types of actions the public perceives as problematic. An investigatory interview of the officer involved in the discourteous conduct allegation might reveal what factors caused the officer to act as they did. For example, the agency might learn that the officer was working overtime during the incident, revealing potential morale and staffing issues within the department. Thus, a single complaint could reveal factors beyond the feelings or circumstances of the individual officer involved

<sup>736</sup> See *ibid.*

<sup>737</sup> See *id.* at pp. 1297-1298.

<sup>738</sup> Appendix H.

<sup>739</sup> National Institute of Justice, *Mending Justice: Sentinel Event Reviews*, *supra* note 722, at p. 4.

<sup>740</sup> Koper et al., *An Evidence-Assessment of the Recommendations of the President’s Task Force on 21<sup>st</sup> Century Policing – Implementation and Research Priorities* (2016) Center for Evidence-Based Crime Policy, George Mason University, International Association of Chiefs of Police, p. 19.

<sup>741</sup> Fagan and Campbell, *supra* note 668, at p. 1006.

<sup>742</sup> Doyle, *Sentinel Events Initiative: Looking Back to Look Forward* (Dec. 5, 2013) National Institute of Justice <<https://nij.ojp.gov/topics/articles/sentinel-events-initiative-looking-back-look-forward>> [as of Nov. 18, 2024].

<sup>743</sup> Schwartz, *supra* note 670, at p. 558.

<sup>744</sup> Doyle, *supra* note 742.

in the complaint, which may demonstrate the likelihood that similar unwanted outcomes (i.e., negative interactions with the public that result in civilian complaints) will occur in the future.

Therefore, the Board strongly encourages law enforcement agencies to analyze the root cause(s) of civilian complaints. Agencies may choose to analyze individual complaints and/or trends among aggregated complaint data. In other words, an agency could choose to analyze the root cause(s) of each complaint it receives. Alternatively, it could choose to conduct a root cause analysis of a random sample of complaints alleging racial or identity-based profiling. Or the agency could choose to do both. What is important is that agencies use information learned through civilian complaints to identify areas for improvement within their organization and develop corrective actions to reduce the likelihood of unwanted outcomes in the future.

The Board hopes to develop more specific recommendations in future reports based on existing complaint and root cause analysis procedures, best practices, and community input to help law enforcement agencies implement this practice.

## V. VISION FOR FUTURE REPORTS

The Board remains committed to analyzing civilian complaint data and practices to make the complaint process more meaningful to members of law enforcement and the public. To that end, in the coming years, the Board hopes to look closer at trends in complaint data over time and develop further recommendations to help law enforcement agencies incorporate root cause analysis into the complaint process. The Board encourages law enforcement agencies, experts, and members of the public to provide public comments regarding these topic areas for discussion in future reports.

## LEGISLATIVE UPDATES

This section highlights legislation enacted in 2024 that may impact the Board’s work towards eliminating racial and identity profiling. Below is an overview of the primary changes resulting from the enacted legislation.

### Senate Bill 1020 – Prohibiting Ethnic Shooting Targets in Firearms Training

Senate Bill No. 1020 (2023-2024 Reg. Sess.) prohibits the use of “ethnic shooting targets” in firearms training mandated by the Commission on Peace Officer Standards and Training (POST) and presented to law enforcement recruits and officers. An “ethnic shooting target” is a target depicting skin colors or facial features from which a person might reasonably discern a race or ethnicity of the person depicted. The bill provides exceptions for realistic training simulators and video playback that utilizes live actors.

Studies published by the American Psychological Association demonstrate that participants shoot at an armed target who is Black more quickly than an armed target who is White and are less likely to shoot an unarmed target if they are White than if they are Black. Citing RIPA data showing disparities in police stops for individuals perceived to be Black versus White, as well as an analysis of RIPA data by the Public Policy Institute of California, the Legislature noted there are “significant racial disparities in police-shootings,” which prompted the bill. The Legislature noted that the use of ethnic shooting targets “only reinforces the inherent racial bias ... that White individuals are less dangerous” than other individuals from other ethnic groups, and that Senate Bill 1020 would “start the long process of correcting inherent racial bias that certain ethnic groups are more dangerous than others.”