

COMMISSION ON
PEACE OFFICER STANDARDS AND TRAINING



GAVIN NEWSOM
GOVERNOR

ROB BONTA
ATTORNEY GENERAL

November 16, 2021

Professor Steven Raphael and Chief David Swing, Co-Chairs
State of California Racial and Identity Profiling Advisory (RIPA) Board
c/o Department of Justice
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550

Dear Professor Raphael and Chief Swing:

The California Commission on Peace Officer Standards and Training (POST) is in receipt of your comment letter, dated October 22, 2021, in response to the Public Notice of Proposed Regulatory Action for Commission Regulations 1953 and 1955 related to AB 846, with your three (3) recommendations. POST is very appreciative of the insight, perspective, and recommendations of the RIPA Board.

As with any change in regulation or performance standard, the Commission must apply careful and thoughtful consideration as to the appropriateness of the regulation or standard in consultation with a diverse collection of subject matter experts and contributors, as well as legal considerations, including case law and statute.

The Board's recommendations illustrate the complexity of background investigations.

With respect to the Social Media Access Recommendation, there is a vast array of case law regarding the constitutional rights of individuals to take under consideration, as well as statute. Regarding the Background Narrative Report Recommendation, POST must ensure that the responsibilities of the Background Investigator and Psychologist are clearly bifurcated, to ensure the Investigator is not placed in a position to make medical assessments, which would be beyond his/her professional scope. And, regarding the Psychological Screening Procedures Recommendation, POST staff will need to consult with psychologists in order to determine if such recommendations comport with medical assessment protocols and reporting procedures within the profession.

AB 846 has a mandate for POST to update regulation and associated screening materials by January 1, 2022, and POST would be unable to assemble further work groups and incorporate the regulatory changes associated with the recommendations within that timeline.

Accordingly, POST will not incorporate your recommendations into the current regulatory package.

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Nevertheless, POST will further evaluate your recommendations in the future and is committed to finding solutions that not only enhance peace officer screening, but also adhere to statute and case law, thus protecting the constitutional rights of individuals. In fact, the POST Legislative Liaison is in ongoing discussion with Department of Justice staff assigned to RIPA to regularly evaluate the Board's input and to continually enhance the quality of peace officer performance and service to California communities.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S. Loggins', written over a light blue circular stamp.

SCOTT LOGGINS
Assistant Executive Director
Standards and Development Division

cc: Aisha Martin-Walton, California Department of Justice
Allison Elgart, California Department of Justice
Nancy Benanati, California Department of Justice