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Office of the City Manager

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Subject: Referral Response: Update on Various Referrals and Recommendations Regarding Stop Data Collection, Data Analysis and Community Engagement

RECOMMENDATION
Review and provide feedback on the Berkeley Police Department responses to inter-related Council and Police Review Commission referrals, reports and recommendations, including the Center for Policing Equity report recommendations, regarding stop data collection, data analysis, community engagement, and related topics.

INTRODUCTION
This report provides information regarding Council's November 14, 2017 Referral to "track yield rates, develop training to address disparities found through the yield rates, and implement policy and practice reforms that reflect cooperation between the Police Department and broader Berkeley community." This report further provides information on related recommendations from additional referrals and reports, from Council, the Police Review Commission, and the Center for Policing Equity.

BACKGROUND
The collection and analysis of stop data and force data has been the subject of several related Council referrals, including a report from the Police Review Commission and a report from the Center for Policing Equity. These reports have many common, related, or overlapping recommendations. A substantial list appears in Appendix A.

In 2017 and 2018, Department resources, capacity, competing priorities, and an unprecedented staffing shortage impacted progress on some of these recommendations.

Implementation of BPD's Body Worn Camera program was among the highest priorities in 2018, and the program is now fully implemented. Numerous referrals and recommendations call for implementation and/or use of camera footage to support training. Officers have recorded well over 28,000 videos since October 2018. Videos have already proven useful as learning tools, as evidence in criminal matters, and of great value in reviewing uses of force, as well as complaints of misconduct.

CURRENT SITUATION AND ITS EFFECTS
The Department plans include several projects that will address the recommendations and referrals. These projects are further described below.

Given these recommendations primarily concern car and pedestrian stops, and are based on data up to 2016, it should be noted that Department stop activity has declined over the past two years, likely due in part to staffing shortages, fewer motorcycle officers doing traffic enforcement, and other factors. Between 2017 and 2018: overall car stops declined 31%, while pedestrian stops were down 28%. Since virtually all of the recommendations arise from older data, and are related to officers' actions during these stops, consideration of the recent data must be made in the context of more recent reduced stop activity.

Fundamentally, the Department will continue to strive to police in a manner that is respectful, fair, equitable, constitutional, and with a focus on proactive attention to safety, along with appropriate accountability. The on-going analysis of the previous stop data remains valuable, and the context of the data is equally important to consider.

Project work will be undertaken, along with planned activities included in the biannual budget planning process, throughout 2019 and beyond. While numerous factors could impact progress on these, the Department will prioritize completing the projects described below.

1. Collecting Additional Stop Data; Preparing for RIPA Requirements

The Department recognizes the benefits of gathering additional data, and will soon be working on the best methods to achieve this goal of additional data collection.
BPD currently collects stop data through using a six-character data string that is attached to each Computer Aided Dispatch (CAD) incident. The resulting data is posted on the City's Open Data Portal in its raw form.

Far more impactful are the impending mandates of California's 2015 Racial and Identity Profiling Act, commonly known as RIPA. The RIPA legislation requires the collection of at least 19 (nineteen) categories of data, as compared to six currently collected by BPD. The Department's existing data collection method is not able to capture the data required by RIPA. The Department will be required to collect the RIPA-specified data set on Jan. 1, 2022. Larger agencies are already collecting RIPA data, using a variety of different solutions to meet RIPA requirements.

In an effort to position our Department to become an early adopter of the coming RIPA requirements, the Department is committed to implementing a data collection protocol that meets or exceeds RIPA requirements. To that end, a workgroup has been established to examine other agencies' methods for collecting data, and compare those solutions to the configurable software module currently possessed by BPD. This group will recommend a solution, and the Department will move forward with implementation. Ideally, this solution will not only capture RIPA data, but also any additional data that the Department may wish to collect.

The Department's currently licensed software includes a configurable module which could be used for officers to capture data, but staff is concerned that module's utility may be limited by a lack of interface with the computer aided dispatch system, resulting in challenges caused by numerous pieces of data having to be entered manually by officers. Manual entry of location data is problematic, as such data should properly be "geo-verified" and resulting data would need to be reviewed and validated prior to use for analysis.

Current data collected and the 2019 RIPA Template are included as Appendix A of this report. The difference is extremely impactful to data collection efforts.

Collecting this substantial amount of additional data for each car and pedestrian stop will impact operations, as officers will spend much more time entering data than the current practice of advising dispatch. The Department will work to mitigate these challenges to the greatest extent possible through the user interface design, including if possible integration with CAD to automatically populate fields such as date, time, officer, location, et al. A desired solution will minimize officer time, while using systems integration to increase and enhance data integrity.

2. Community Engagement and Data Analysis
Several recommendations focus on data analysis and community engagement in order to build trust, increase contact, and strengthen department-community relations.

Community engagement is an organizational priority, and is seen as an opportunity to not only share information, such as the data collected during stops, but to share contextual information about police activity. Our department's mission is to safeguard our diverse community. Given that mission, and the work we do in service to that mission, the department is seeking opportunities to share and discuss the data, and also to understand the perspectives of our diverse community on the fundamental question of what makes a community feel safest in their neighborhoods.

The department seeks to secure assistance to support analysis of stop data, to create tools to facilitate data analysis, to foster creation of a task force to review and discuss the data, including discussion with the community, and to create a community engagement strategy that builds on the Department's engagement activities. This work is being done through the RFP process, and will help to address a number of recommendations.

In addition, the Department will continue to provide data to the Center for Policing Equity, and continue to engage with CPE in the challenging problem of determining best analytical frameworks. CPE's report delivered in 2018 provoked questions of how best to analyze and interpret data from stops, and these questions remain unresolved. Continued work with CPE is desired to gain understanding from the data and analytical approaches.

The Department will improve the Open Data Portal's available stop data by converting all stop data from a six character string into six individual data fields on the Open Data Portal, thereby providing data in a more useful form. The Department seeks to make available on the Portal easy-to-use tools for the examination of posted data.

3. Force Policy Update; Data Collection; Release of Aggregated Data

Several recommendations relate to updating the Department's Use of Force policy, and to summarize reporting of use of force data.

To accomplish this, the Department will complete of the Use of Force policy revision, after which a new software system will be implemented for force reporting. This software will capture all use of force data. Summary Force Data will be reported to the Police Review Commission on a regular basis, and is anticipated to be placed on the Open Data Portal.

Use of Force Policy Revision; Software Implementation*

Task	Responsible	Timelines
Reconvened workgroup completing updated language within existing policy, to incorporating Council Referral	Workgroup including Operations, Use of Force Subject Matter Experts, Information Technology, Internal Affairs, Berkeley Police Association Rep.	Mid-May
Legal review	Legal, Chief	Mid-late May
PRC review	PRC, Chief	End of May
BPA Meet and Confer (as necessary)	BPA, Chief, Legal, HR	End of May, early June
Finalize Policy	Chief	Early June
Council Report	Chief/Staff	Late June
Implementation of Use of Force software system	Internal Affairs, DoIT	Late June
Implement Use of Force Data on Open Data Portal	DoIT	Late June

*Some tasks and timelines may overlap

4. Policy and Trainings as needed to address disparities

Several recommendations concern development of departmental policies and training to address disparities in policing as indicated through the data.

Any policy and training development would build upon a considerable body of current policy and previous related training.

The Berkeley Police Department has a long history of policies which reflect our commitment to constitutional policing without racial profiling, which is prohibited under Penal Code 13519(4)(f). Applicable policies include, for example:

> Policy 401, Fair and Impartial Policing (formerly General Order B-4)
> Police Regulation 282 Non-discrimination/Equal Employment;
> Police Regulation 255 Obedience – Laws and Orders
> Police Regulation 257 Enforcement of Law – Impartiality
> Police Regulation 200 Misconduct – Duty to Report
> Police Regulation 201 Misconduct –Supervisory and Command Officer Responsibilities
> General Order P-26 Personnel Complaint Procedure
> General Order H-4 Hate Crime Policy and Procedure

The Department has a long history of training to increase awareness—and thereby mitigate— the potential impacts of implicit bias, and to support policing which is based on treating people with dignity and respect, while avoiding an over-reliance of force in safeguarding our community, including, in part:

      Procedural Justice Training 2017-2018
      Fair and Impartial Policing training sessions 2010-2016
      Tactical De-escalation Training 2016
      Crisis Intervention Training 2011-present, ongoing
      POST Biased-based Policing 2014

ENVIRONMENTAL SUSTAINABILITY
Implementation of software and software enhancements may assist with the data sharing via electronic formats thereby reducing the need for paper, supplies, ink and staff time to compile some information requests.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION
RIPA Data Collection software costs are dependent on research, evaluation and comparison to the department's existing currently licensed software. Consultant costs estimated at $50,000. All projects require significant staff time.

CONTACT PERSON
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ATTACHMENTS
1. Appendix A – Referrals and Recommendations, with notes
2. Appendix B – BPD Stop Data currently collected; RIPA Requirements

Appendix A: Referrals and Recommendations

Appendix A: Referrals and Recommendations

Notes in **(BOLD)** at the end of numerous recommendations denote ongoing or planned project work to address the recommendations. Many recommendations will be addressed through the same project, e.g. the RIPA implementation, Use of Force Policy, etc.

Referral to Address Disparate Racial Treatment and Implement Policy and Practice Reforms
November 14, 2017, Item 24
1. Tracking Yield rates **(RIPA)**
   a. Analyze whether officer-initiated or in response to calls for service or warrants
   b. Focus on reasons for disparate racial treatment and to identify any outliers.
2. Consider any other criteria that would contribute to a better understanding of stops, searches, citations and arrests and the reasons for such actions. **(RIPA)**
3. Develop training programs to address the organizational causes of any disparate treatment and outcomes by race uncovered by yield rates above, in accordance with the City's body worn camera policy, through examination of footage on police body cameras (e.g. more scenario-based training on procedural justice and the roots of disparate treatment, expanded de-escalation training.) **(RIPA)(TRAINING)**
4. Consulting and cooperating with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. Work closely with the PRC, providing the commission all legally available information that may be helpful to designing reforms. **(CONSULTANT; COMMUNITY ENGAGEMENT)**
5. Once released, BPD should analyze the final Center for Policing Equity report and propose improvements as needed.

PRC Report and Recommendations, "To Achieve Fairness and Impartiality"
April 24, 2018, Item 38a
A. Data Collection and Analysis Enhancements **(RIPA)**
   1. Add specific data elements to those already tracked. Maintain and analyze demographic data. Enhance the current web display for readability.
   2. Report trends regularly to PRC and City Council. Report stop data by officer (stripped of identifying information).
   3. Hire a data manager/analyst. **(BUDGET)**
   4. Enhance ability to correctly identify ethnicity of individuals.
   5. Report every use of force. **(FORCE POLICY & REPORTING)**
B. Address racial disparities shown in the data **(RIPA)(ANALYSIS)**
   1. Monitor stop, search, and enforcement/disposition outcomes across race.

2. Determine if disparities are generalized or reside in a subset of the department and develop effective mitigations including policy reviews, staff support, counseling and training, or other as appropriate.
3. Work closely with PRC to develop mitigations and track progress.
4. Develop early warning systems to minimize future problems of biased policing.

C. Body Worn Cameras **(Program implemented)**
1. Accelerate full deployment of body cameras.
2. Use camera footage to train officers and evaluate policies.

D. Other departmental steps
1. Partner with academic institutions.
2. Increase support for officer wellness and safety. **(DEPT WELLNESS PROGRAMS; GRANT SOUGHT)**
3. Strengthen informed consent procedures for search. (**RIPA**)(**POLICY**)
4. Strengthen requirements for officers to identify themselves. **(POLICY)**

E. Community relations **(CONSULTANT; COMMUNITY ENGAGEMENT)**
1. Prepare detailed action plan to build trust in and accessibility to the department, focused on communities of color.
2. Consult and cooperate with the broader community to develop and implement policy and practice reforms.
3. Increase positive community contact.

PRC Report and Recommendations, "To Achieve Fairness and Impartiality"
Referring Key Recommendations to the City Manager
April 24, 2018, Item 38b, Supp. 1
1. Departmental Action Plan **(DESCRIBED IN THIS ITEM)**
2. Officer Identification **(POLICY)**
3. Review and update BPD Policy surrounding Inquiries to Parole and Probation Status **(RIPA)(POLICY)**
4. Enhance Search Consent Policies **(RIPA)(POLICY)**
5. Reporting Data on the Public Data Portal **(ODP)**
6. Simplifying Public Data Portal Data Structure **(ODP)**
7. Collect Data on Frisks and Summons (in Berkeley: Pedestrian stops, Citations) **(RIPA)**
8. BPD Data Dashboards
9. Enhance Existing "Early Warning" Systems

Center for Policing Equity Recommendations
May 9, 2018
1. We recommend changing the use of force data capture protocol to register every use of force by BPD officers, regardless of weapon use, injury, or complaint. **(FORCE POLICY & REPORTING)**
2. We recommend that BPD monitor search and disposition outcomes across race, and arrest and disposition outcomes associated with use of force. In particular, BPD should collect and share data with respect to contraband (distinguishing

among drugs, guns, non-gun weapons, and stolen property) found during vehicle or pedestrian searches, and that it analyze data about charges filed resulting from vehicle and pedestrian stops. **(RIPA)**

3. We recommend that BPD collect and share more detailed data with respect to use of force. In particular, we recommend that it collect and analyze data about whether the and how the person resisted arrest, and about charges filed against persons involved in use of force incidents. **(FORCE POLICY & REPORTING)**

4. We recommend that BPD more clearly track, analyze, and share data with respect to whether law enforcement actions are officer-initiated, or responses to calls for service. **(RIPA)**

5. We recommend that BPD continue to affirm that the egalitarian values of the department be reflected in the work its officers and employees do. **(ONGOING, MISSION, POLICY)**

6. We recommend that BPD consult and cooperate with the broader Berkeley community, especially those communities most affected by observed racial disparities, to develop and implement policy and practice reforms that reflect these shared values. **(CONSULTANT; COMMUNITY ENGAGEMENT)**

7. We recommend BPD track yield rates (of contraband found at searches). **(RIPA)**

8. We recommend that BPD monitor patrol deployments, using efficient and equitable deployment as a metric of supervisory success. One way to promote equitable contact rates is to monitor racial disparities (not attributable to non-police factors such as crime) and to adjust patrol deployments accordingly.

9. We recommend that BPD track crime trends with neighborhood demographics in order to ensure that response rates are proportional to crime rates.

10. We recommend that BPD engage in scenario-based training on the importance of procedural justice and the psychological roots of disparate treatment in order to promote the adoption of procedural justice throughout the organization, and to protect officers from the negative consequences of concerns that they will appear racist. **(PROCEDURAL JUSTICE TRAINING COMPLETED)**

11. We recommend that values-based evaluations of supervisors be developed to curb the possible influence of social dominance orientation on the mission of the department. CPE research has found a significant relationship between social dominance orientation and negative policing outcomes in many police departments.

12. We recommend that BPD trainings include clear messaging that racial inequality and other invidious disparities are not consistent with the values of BPD. **(TRAININGS & POLICIES IN PLACE)**

13. We recommend leveraging the Police Review Commission, as well as ensuring inclusion from all groups in the community, to help review relevant areas of the general orders manual and provide a more integrated set of policies with clear accountability and institutional resources. **(ONGOING PRC SUBCOMMITTEE WORK)**
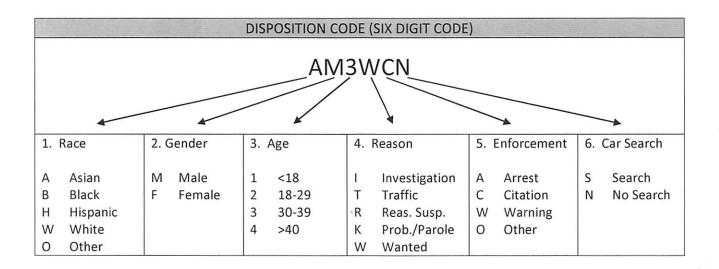
Direct the City Manager Regarding the Berkeley Police Department's Use of Force Policy
October 31, 2017, Item 26

1. Enhance BPD's use of force policy statement; and
2. Create a definition of use of force; and
3. Require that all uses of force be reported; and
4. Categorize uses of force into levels for the purpose of facilitating the appropriate reporting, investigation, documentation and review requirements and
5. Require Use of Force Report to be captured in a manner that allows for analysis; and
6. Require that the Department prepare an annual analysis report relating to use of force to be submitted to the Chief of Police, Police Review Commission and Council.
    (FORCE POLICY & REPORTING)

Appendix B:

BPD Data currently collected

DISPOSITION CODE (SIX DIGIT CODE)

<p align="center" style="font-size:large">AM3WCN</p>

1. Race	2. Gender	3. Age	4. Reason	5. Enforcement	6. Car Search
A Asian B Black H Hispanic W White O Other	M Male F Female	1 <18 2 18-29 3 30-39 4 >40	I Investigation T Traffic ·R Reas. Susp. K Prob./Parole W Wanted	A Arrest C Citation W Warning O Other	S Search N No Search

Appendix B:

RIPA Reporting Requirements

AB 953: TEMPLATE BASED ON THE FINAL REGULATIONS
Additional data values for the stop of a student in a K-12 public school are listed in red.

1. **Originating Agency Identifier** (prepopulated field)

2. **Date, Time, and Duration of Stop**
   Date: (e.g., 01/01/19)
   Start Time (approx.): (e.g. 1530)
   Duration of Stop (approx.): (e.g. 30 min.)

3. **Location**
   - Report one (listed in order of preference): block number and street name; closest intersection; highway and closest highway exit. If none of these are available, the officer may report a road marker, landmark, or other description, except cannot report street address if location is a residence.
   - City:_____
   - Check here to indicate stop is of a student at K-12 public school: _____
     o Name of -12 Public School _____

4. **Perceived Race or Ethnicity of Person Stopped** (select all that apply)
   - Asian
   - Black/African American
   - Hispanic/Latino(a)
   - Middle Eastern or South Asian
   - Native American
   - Pacific Islander
   - White

5. **Perceived Gender of Person Stopped** (may select one from options 1-4 AND option 5, if applicable, or just option 5)
   1. Male
   2. Female
   3. Transgender man/boy
   4. Transgender woman/girl
   5. Gender nonconforming

6. **Person Stopped Perceived to be LGBT** (Yes/No) ("Yes" must be selected if "Transgender" was selected for "Perceived Gender")

7. **Perceived Age of Person Stopped** (input the perceived, approximate age)

8. **Person Stopped Has Limited or No English Fluency (check here if Yes _____)**

9. **Perceived or Known Disability of Person Stopped** (select all that apply)
   o Deafness or difficulty hearing
   o Speech impairment or limited use of language
   o Blind or limited vision
   o Mental health condition
   o Intellectual or developmental disability, including dementia
   o Disability related to hyperactivity or impulsive behavior
   o Other disability
   o None

AB 953: TEMPLATE BASED ON THE FINAL REGULATIONS
Additional data values for the stop of a student in a K-12 public school are in listed in red.

10. **Reason for Stop** (select one - the primary reason for the stop only)
    o Traffic violation
        • Specific code (CJIS offense table; select drop down) and
        • Type of violation (select one)
            ▪ Moving violation
            ▪ Equipment violation
            ▪ Non-moving violation, including registration violation
    o Reasonable suspicion that person was engaged in criminal activity
        • Specific Code (drop down; select primary if known) and
        • Basis (select all applicable)
            ▪ Officer witnessed commission of a crime
            ▪ Matched suspect description
            ▪ Witness or victim identification of suspect at the scene
            ▪ Carrying suspicious object
            ▪ Actions indicative of casing a victim or location
            ▪ Suspected of acting as a lookout
            ▪ Actions indicative of a drug transaction
            ▪ Actions indicative of engaging in a violent crime
            ▪ Other reasonable suspicion of a crime
    o Known to be on parole/probation/PRCS/mandatory supervision
    o Knowledge of outstanding arrest warrant/wanted person
    o Investigation to determine whether person was truant
    o Consensual encounter resulting in search
    o Possible conduct warranting discipline under Education Code sections 48900, 48900.2, 48900.3, 48900.4, and 48900.7 (select specific Educ. Code section & subdivision)
    o Determine whether student violated school policy

    A brief explanation is required regarding the reason for the stop and must provide additional detail <u>beyond</u> the general data values selected (250-character maximum).

11. **Stop Made in Response to a Call for Service** (Yes/No) (Select "Yes" only if stop was made in response to call for service, radio call, or dispatch)

12A. **Actions Taken by Officer(s) During Stop** (select all that apply)
    o Person removed from vehicle by order
    o Person removed from vehicle by physical contact
    o Field sobriety test conducted
    o Curbside detention
    o Handcuffed or flex cuffed
    o Patrol car detention
    o Canine removed from vehicle or used to search
    o Firearm pointed at person
    o Firearm discharged or used
    o Electronic control device used
    o Impact projectile discharged or used (e.g. blunt impact projectile, rubber bullets or bean bags)
    o Canine bit or held person
    o Baton or other impact weapon used
    o Chemical spray used (e.g. pepper spray, mace, tear gas, or other chemical irritants)
    o Other physical or vehicle contact
    o Person photographed

AB 953: TEMPLATE BASED ON THE FINAL REGULATIONS
Additional data values for the stop of a student in a K-12 public school are in listed in red.

- Asked for consent to search person
  - Consent given
  - Consent not given
- Search of person was conducted
- Asked for consent to search property
  - Consent given
  - Consent not given
- Search of property was conducted
- Property was seized
- Vehicle impound
- Admission or written statement obtained from student
- None

12B. Basis for Search (if search of person/property/both was conducted; select all that apply)
- Consent given
- Officer safety/safety of others
- Search warrant
- Condition of parole/probation/PRCS/mandatory supervision
- Suspected weapons
- Visible contraband
- Odor of contraband
- Canine detection
- Evidence of crime
- Incident to arrest
- Exigent circumstances/emergency
- Vehicle inventory (for search of property only)
- Suspected violation of school policy

A brief explanation is required regarding the basis for the search and must provide additional detail beyond the general data values selected (250-character maximum). This field is not required if basis for search is "condition of parole/probation/PRCS/mandatory supervision."

12C. Contraband or Evidence Discovered, if any (during search/in plain view; select all that apply)
- None
- Firearm(s)
- Ammunition
- Weapon(s) other than a firearm
- Drugs/narcotics
- Alcohol
- Money
- Drug paraphernalia
- Suspected stolen property
- Cell phone(s) or electronic device(s)
- Other contraband or evidence

12D. Basis for Property Seizure (if property was seized; select all that apply)
- Safekeeping as allowed by law/statute
- Contraband
- Evidence
- Impound of vehicle

AB 953: TEMPLATE BASED ON THE FINAL REGULATIONS
Additional data values for the stop of a student in a K-12 public school are in listed in red.

- o Abandoned property
- o Suspected violation of school policy

Type of Property Seized (select all that apply)
- o Firearm(s)
- o Ammunition
- o Weapon(s) other than a firearm
- o Drugs/narcotics
- o Alcohol
- o Money
- o Drug paraphernalia
- o Suspected stolen property
- o Cell phone(s) or electronic device(s)
- o Vehicle
- o Other contraband or evidence

13. **Result of Stop** (select all that apply)
    - o No action
    - o Warning (verbal or written): Code/ordinance cited (drop down)
    - o Citation for infraction: Code/ordinance cited (drop down)
    - o In-field cite and release: Code/ordinance cited (drop down)
    - o Custodial arrest pursuant to outstanding warrant
    - o Custodial arrest without warrant: Code/ordinance cited (drop down)
    - o Field Interview Card completed
    - o Noncriminal transport or caretaking transport (including transport by officer, transport by ambulance, or transport by another agency)
    - o Contacted parent/legal guardian or other person responsible for the minor
    - o Psychiatric hold (Welfare & Inst. Code, §§ 5150, 5585.20.)
    - o Referred to U.S. Department of Homeland Security (e.g., ICE, CBP)
    - o Referral to school administrator
    - o Referral to school counselor or other support staff

14. **Officer's Identification (I.D.) Number** (prepopulated field)

15. **Officer's Years of Experience** (total number of years worked as a peace officer)

16. **Type of Assignment of Officer** (select one)
    - o Patrol, traffic enforcement, field operations
    - o Gang enforcement
    - o Compliance check (e.g. parole/PRCS/probation/mandatory supervision)
    - o Special events (e.g. sports, concerts, protests)
    - o Roadblock or DUI sobriety checkpoint
    - o Narcotics/vice
    - o Task force
    - o K-12 public school, including school resource officer or school police officer
    - o Investigative/detective
    - o Other (manually specify type of assignment)