

Police Review Commission (PRC)

## POLICE REVIEW COMMISSION REGULAR MEETING

Wednesday, January 27, 2021, 7:00 P.M.

### PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, this meeting of the City of Berkeley Police Review Commission will be conducted exclusively through teleconference and Zoom videoconference and there will not be a physical meeting location available.

To access the meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device using this URL: <https://us02web.zoom.us/j/87070468124>. If you do not wish for your name to appear on the screen, use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen. To join by phone: Dial 1 669 900 6833 and enter Meeting ID 870 7046 8124. If you wish to comment during the public comment portion of the agenda, press \*9 and wait to be recognized.

### AGENDA

1. CALL TO ORDER & ROLL CALL
2. APPROVAL OF AGENDA
3. PUBLIC COMMENT

*(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on any matter within the PRC's jurisdiction at this time.)*

4. APPROVAL OF MINUTES  
Regular meeting of January 13, 2021.
5. CHAIR'S REPORT

The Police Review Commission (PRC) was created to provide independent civilian oversight of the Berkeley Police Department. It reviews and makes recommendations on police department policies, and investigates complaints made by members of the public against police officers. For more information, contact the PRC Office.

1947 Center Street, 1st Floor, Berkeley, CA 94704 • Tel: (510) 981-4950 • TDD: (510) 981-6903 • Fax: (510) 981-4955  
Email: [prc@cityofberkeley.info](mailto:prc@cityofberkeley.info) Website: [www.cityofberkeley.info/prc/](http://www.cityofberkeley.info/prc/)

**6. PRC OFFICER'S REPORT**

Status of complaints; other items.

**7. CHIEF OF POLICE'S REPORT**

Crime, budget, staffing, training updates, other items.

**8. SUBCOMMITTEE REPORTS (discussion and action)**

Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:

- a. Warrant Service Policy Subcommittee – Met Jan. 14; next meeting Jan. 28.
- b. Tow Fees Subcommittee
- c. Outreach Subcommittee
- d. Lexipol Policies Subcommittee

**9. OLD BUSINESS (discussion and action)**

- a. Proposed Acquisition & Use of Controlled Equipment Ordinance: revisit striking from the reporting requirement, use of controlled equipment included in a Use of Force report (in Section 2.100.050, Reports on the Use of Controlled Equipment).  
From: Vice-Chair Mizell  
(See materials from Jan. 13, 2021 agenda packet, p. 33.)
- b. Update on transition to new Police Accountability Board and Office of Director of Police Accountability.  
From: PRC Officer

**10. NEW BUSINESS (discussion and action)**

- a. Ask the Police Department to issue a written policy containing the instructions agreed to on inquiring about supervised release status of detainees, and when searches of such persons are allowed.  
From: Chair Calavita
- b. Election of Commission Chairperson and Vice-Chairperson for 2021  
From: PRC Officer

**11. PUBLIC COMMENT**

*(Speakers are generally allotted up to three minutes, but may be allotted less time if there are many speakers; they may comment on items on this agenda only.)*

**12. ADJOURNMENT**

**Communications Disclaimer**

Communications to the Police Review Commission, like all communications to Berkeley boards, commissions or committees, are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service. If you do not want your contact information included in the public record, do not include that information in your communication. Please contact the PRC Secretary via email for further information. City offices are currently closed and cannot accept written communications in person.

** Communication Access Information (A.R. 1.12)**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date.

**SB 343 Disclaimer**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public by being posted on the Police Review Commission's web page within three business days of the meeting.

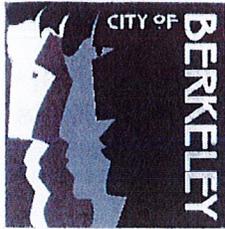
Contact the Police Review Commission at [prc@cityofberkeley.info](mailto:prc@cityofberkeley.info).



**PRC REGULAR MEETING ATTACHMENTS  
JANUARY 27, 2021**

<b><u>MINUTES</u></b>	
January 13, 2021 <i>Regular Meeting Draft Minutes.</i>	Page 7
<b><u>AGENDA-RELATED</u></b>	
<b>Item 8.</b> – PRC Subcommittees List, updated 1-15-21.	Page 11
<b>Item 9.b.</b> – PowerPoint presentation from 1-19-21 Council Worksession on Charter amendment implementation.	Page 13
<b>Item 10.a.</b> – Final policy language agreed to between PRC and BPD (Questioning finalized Oct. 28, 2020; Searches finalized Sept. 23, 2020)	Page 25
<b>Item 10.b.</b> – Excerpt from PRC Standing Rules re Elections.	Page 27
<b><u>COMMUNICATIONS</u></b>	
1-20-21 Email to the Mayor and Members of the City Council re PRC appointment to Reimagining Public Safety Task Force.	Page 29
City of Berkeley announcement – applications to serve on Reimagining Public Safety Task Force now available.	Page 31
1-13-21 Email from the BPD Chief re Serving with Honor, preserving Trust within our community.	Page 33
1-13-21 Email from a citizen re Latest Human Rights Magazine – Volume 46, No. 2: Civil Rights Reimagining Policing.	Page 43
1-5-21 Article from <a href="http://www.sfchronicle.com">www.sfchronicle.com</a> re Black and Latino drivers stopped, searched at higher rates than whites on California streets.	Page 47
RIPA Board 2021 Annual Report Executive Summary.	Page 49





Police Review Commission (PRC)

DRAFT

**POLICE REVIEW COMMISSION  
REGULAR MEETING  
MINUTES  
(draft)**

Wednesday, January 13, 2021, 7:00 P.M.

No physical location; meeting held exclusively through videoconference and teleconference.

**1. CALL TO ORDER & ROLL CALL BY CHAIR CALAVITA AT 7:02 P.M.**

Present: Commissioner Kitty Calavita (Chair)  
Commissioner Nathan Mizell (Vice-Chair)  
Commissioner Gwen Allamby  
Commissioner Michael Chang  
Commissioner Juliet Leftwich  
Commissioner Elisa Mikiten  
Commissioner Hans Isaac Moore  
Commissioner George Perezvelez  
Commissioner Ismail Ramsey

Absent: None

PRC Staff: Katherine J. Lee, PRC Officer

BPD Staff: Chief Andy Greenwood, Capt. Rico Rolleri, Lt. Peter Hong,  
Supervising Public Safety Dispatcher Valentina Edwards

**2. APPROVAL OF AGENDA**

By general consent, the agenda, as amended by moving Item #9.d. ahead of Item # 9.c., was approved.

**3. PUBLIC COMMENT**

There were 6 speakers.

On a question of personal privilege: Motion to adjourn in memory of Kenneth Jones, founding member of the BART Police Citizen Review Board.  
Moved/second (Perezvelez/Ramsey) Motion carried by general consent.

#### **4. APPROVAL OF MINUTES**

By general consent: 1) the Special Meeting minutes of December 9, 2020, were approved, as corrected to reflect that: PRC Investigator Byron Norris was present; and the Complainant waived her right to have the matter heard at a Regular Meeting; and 2) the Regular Meeting minutes of December 9, 2020 were approved.

#### **5. CHAIR'S REPORT**

Chair Calavita reported:

- The Mayor's Working Group on Fair & Impartial Policing submitted its report to the City Council; will be agendaized for Council's Feb. 23 meeting.
- New PRC Chair and Vice-Chair will be elected at the Jan. 27 meeting.

#### **6. PRC OFFICER'S REPORT**

The PRC Officer reported:

- Complaint deadlines report posted on PRC agendas page. Three current investigations; two being presented later tonight for administrative closure. Two new complaints filed since your last meeting: both complainants requested mediation; one completed and one to be scheduled. One policy complaint, to be addressed by Subcommittee.
- PRC Meeting schedule for 2021 in this week's packet.

#### **7. CHIEF OF POLICE'S REPORT**

Chief Greenwood reported:

- Staffing still a concern. Currently at 160 sworn with a lateral being hired. Current recruitment efforts won't yield a solo officer until Spring 2022.
- Been focused on COVID and COVID prevention; Dept. been impacted by the surge. 2 designated infection control officers (DICO) in Dept. to do contact tracing. Infected people are bringing the virus into work with them and not contracting from the field, but still concerned about safety measures used during calls for service.
- In late December, provisional promotions made. Andres Bejarano and Jeremy Lathrop, who were detectives, are now provisional sergeants. Matt McGee, of Youth Services, is now provisional lieutenant and commander of the Community Services Bureau.
- Officer-involved shooting occurred Sat. January 2<sup>nd</sup>. Not much detail can be shared right now; aware of deadline for releasing video and records. One person injured and expected to survive. One officer injury, not serious. Event involved multiple officers; wellness resources being provided.
- Positive COVID cases had staffing impact when multiple people in the Parking Division and jail had to quarantine.

Chief Greenwood answered questions from Commissioners.

8. SUBCOMMITTEE REPORTS (discussion and action)

Report of activities and meeting scheduling for all Subcommittees, possible appointment of new members to all Subcommittees, and additional discussion and action as noted for specific Subcommittees:

- a. Warrant Service Policy Subcommittee – meeting tomorrow night.
- b. Tow Fees Subcommittee – meeting to be scheduled.
- c. Outreach Subcommittee – on hold.
- d. Lexipol Policies Subcommittee – on hold.

9. NEW BUSINESS (discussion and action)

- a. Prioritized Dispatch for Reimagining Public Safety.

Fire Chief David Brannigan made a presentation and then answered questions, along with Lt. Peter Hong and Supervising Public Safety Dispatcher Valentina Edwards.

- b. Selection of PRC representative to Reimagining Public Safety Task Force.

**Motion that the PRC appoint Commissioner Mizell to the Reimagining Public Safety Task Force.**

Moved/Second (Perezvelez/Calavita) **Motion Carried**

Ayes: Allamby, Calavita, Chang, Leftwich, Mikiten, Mizell, Moore, Perezvelez, and Ramsey.

Noes: None

Abstain: None

Absent: None

- c. Proposed Acquisition & Use of Controlled Equipment Ordinance: revisit striking from the reporting requirement, use of controlled equipment included in a Use of Force report (in Section 2.100.050, Reports on the Use of Controlled Equipment).

**Motion to strike the language the PRC previously proposed in Section 2.100.050, “for any equipment not included in a Use of Force report.”**

Moved/Second (Mizell/Allamby)

**Motion to table this item.**

Moved/Second (Ramsey/Calavita) **Motion Carried**

Ayes: Allamby, Calavita, Chang, Leftwich, Mikiten, Moore, Perezvelez, and Ramsey.

Noes: Mizell

Abstain: None

Absent: None

- d. Update on transition to new Police Accountability Board and Office of Director of Police Accountability.

The PRC Officer gave a presentation and answered questions.

10. PUBLIC COMMENT

There were 3 speakers.

**Closed Session**

Pursuant to the Court's order in *Berkeley Police Association v. City of Berkeley, et al.*, Alameda County Superior Court Case No. 2002 057569, the PRC will recess into closed session to discuss and take action on the following matters:

**11. CONSIDER RECOMMENDATION FOR ADMINISTRATIVE CLOSURE OF COMPLAINT #2476**

**Motion to approve Complaint for administrative closure.**

Moved/Second (Calavita/Perezvelez) **Motion Failed**

Ayes: Allamby, Mikiten

Noes: Calavita, Chang, Leftwich, Mizell, Moore, Perezvelez, and Ramsey.

Abstain: None                      Absent: None

**12. CONSIDER RECOMMENDATION FOR ADMINISTRATIVE CLOSURE OF COMPLAINT #2481**

**Motion to approve Complaint for administrative closure.**

Moved/Second (Leftwich/Calavita) **Motion Carried**

Ayes: Allamby, Calavita, Chang, Leftwich, Mikiten, Mizell, Moore, Perezvelez, and Ramsey.

Noes: None                              Abstain: None                      Absent: None

**End of Closed Session**

**13. ANNOUNCEMENT OF CLOSED SESSION ACTION**

The votes to reject the recommendation for administrative closure in Complaint #2476, and to approve the recommendation for administrative closure in Complaint #2481 were announced.

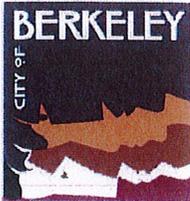
**14. ADJOURNMENT**

**By general consent, the meeting was adjourned at 10:35 p.m. in memory of Kenneth Jones, a social activist and LGBTQ+ and police oversight advocate who passed away yesterday.**

**POLICE REVIEW COMMISSION  
SUBCOMMITTEES LIST  
Updated 1-15-21**

Subcommittee	Commissioners	Chair	BPD Reps
<b>Lexipol Policies</b> Formed 5-23-18 Renewed 5-22-19 Renewed 6-10-20	Mikiten Ramsey Leftwich		Capt. Rico Rolleri Sgt. Joseph LeDoux
<b>Use of Force Policy</b> Formed 7-10-19 Renewed 7-22-20	Chang Leftwich Perezvelez Ramsey	Perezvelez	Chief Andy Greenwood Capt. Rico Rolleri Lt. Joe Okies Lt. Spencer Fomby
<b>Outreach</b> Formed 6-10-20	Allamby Mikiten Mizell		
<b>Police Acquisition and Use of Controlled Equipment Ordinance</b> Formed 7-22-20	Leftwich Mikiten Mizell	Mizell	Chief Andy Greenwood Capt. Rico Rolleri
<b>Warrant Service Policy</b> Formed 10-14-2020	Calavita Chang Ramsey  <u>Public</u> Kitt Saginor	Ramsey	Lt. Daniel Montgomery Lt. Melanie Turner
<b>Tow Fees</b> Formed 11-18-20	Calavita Leftwich Mizell		

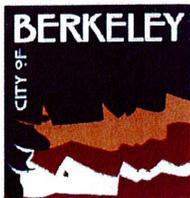




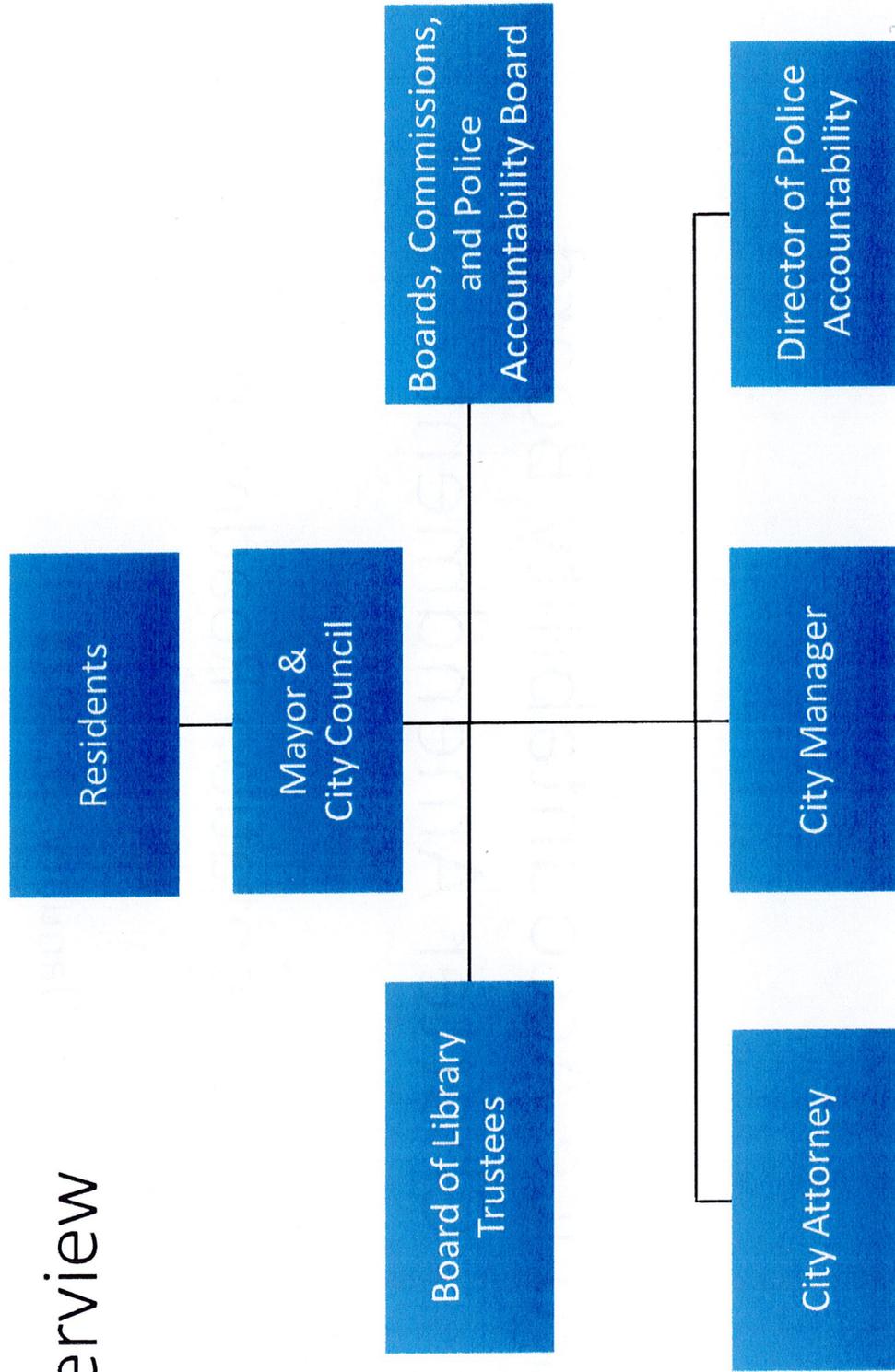
# Police Accountability Board Charter Amendment

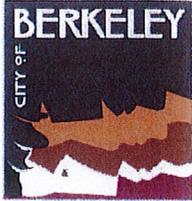
## Implementation Roadmap

January 19, 2021



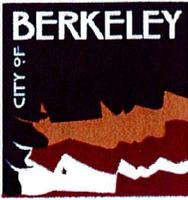
# Overview





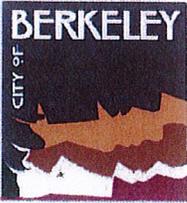
## Police Accountability Board

- 9 Board Members
  - Require approval by Mayor and City Council
  - May be removed by Mayor and City Council
- Selected responsibilities
  - Advise / make recommendations regarding Police Department practices, policies and procedures
  - Makes findings, recommends discipline, and in certain circumstances recommends the level of discipline to the Chief of Police
  - Recommends termination of Director of Police Accountability
  - Participates in hiring of Chief of Police
  - Broad access to records and subpoena power
- Training requirements and stipend



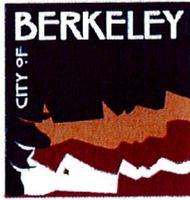
## Director of Police Accountability

- Newly established position, reports to Mayor and City Council
- Carries out the day-to-day work of the Police Accountability Board
- Oversees investigations, prepares findings and recommendations to Police Accountability Board
- Prepares annual reports to the City Council
- Training requirements



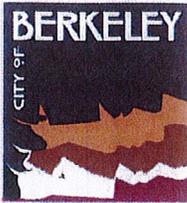
## Key Dates

- By July 1, 2021 (Resolution 69,363-N.S., July 28, 2020)
  - Establish and convene the Police Accountability Board
  - Police Review Commission staff shall serve as interim Police Accountability Board staff
- By January 3, 2022 (Charter Amendment, Section 27)
  - Establish Police Accountability Board



## Key Activities

- Establish Police Accountability Board
- Recruit and identify candidates for Director of Police Accountability
- Develop organizational structure and budget
- Develop training for Police Accountability Board



# Police Accountability Board

2021

January February March April May June

Milestone

Commence recruitment for Police Accountability Board

Application available to community

List of applicants submitted to City Council

City Council review of applications

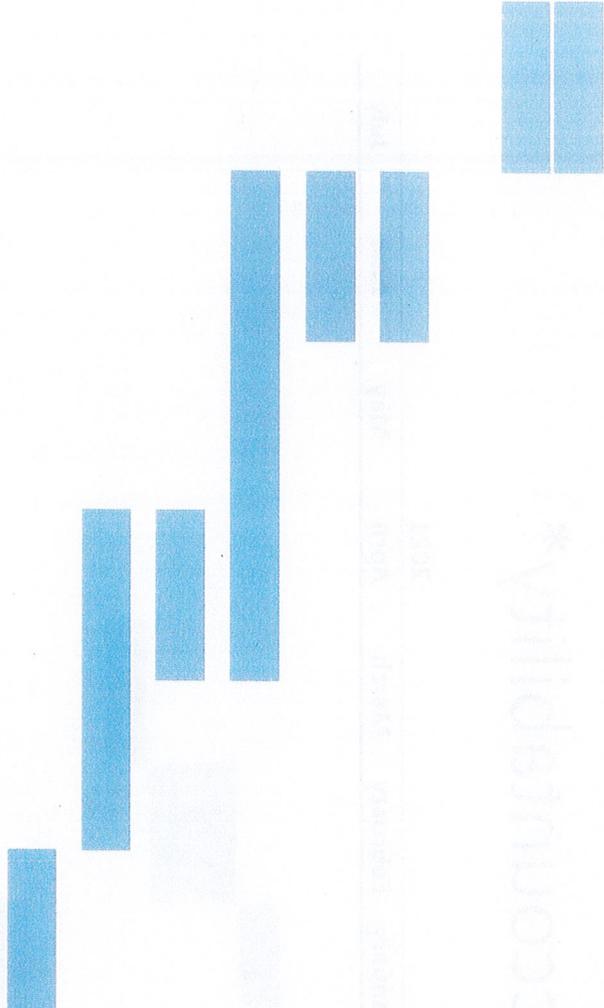
City Council submits appointments to city staff

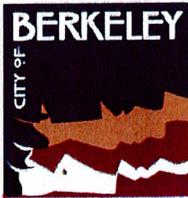
City staff submits staff report with City Council appointments

City Council action:

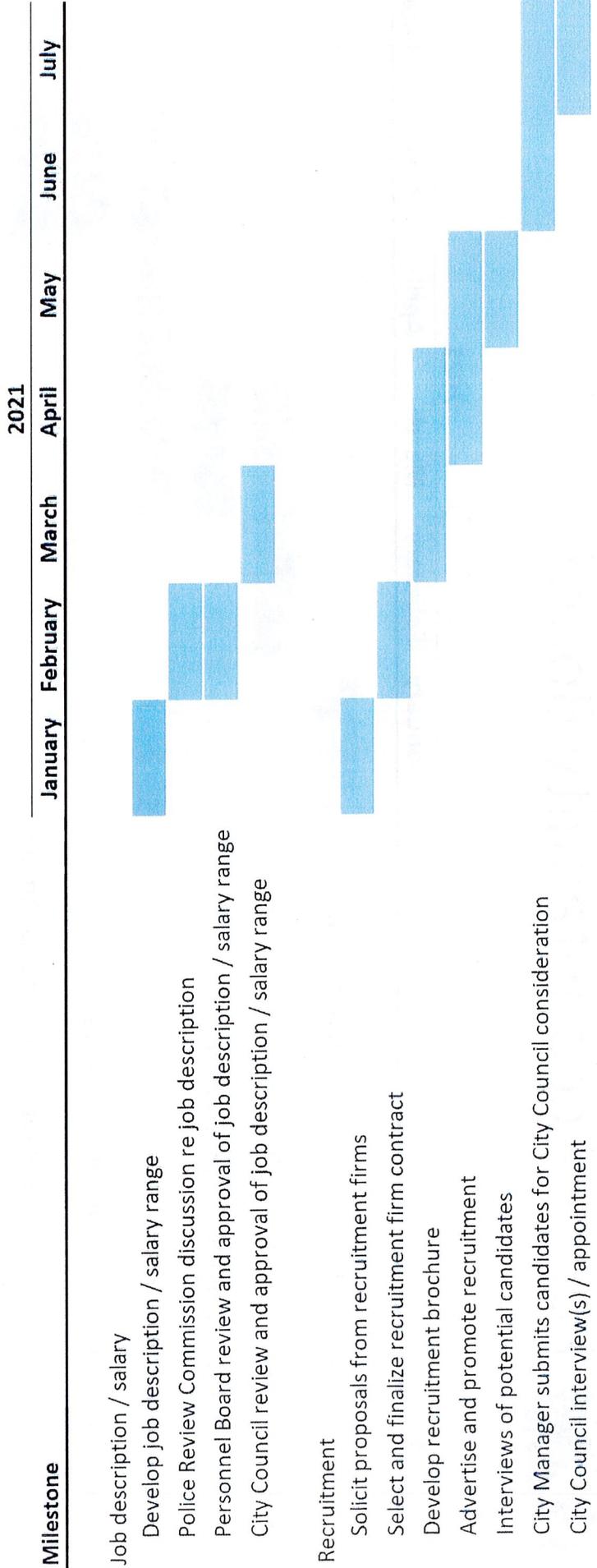
Appointments to Police Accountability Board

Appointment of Interim Director of Police Accountability

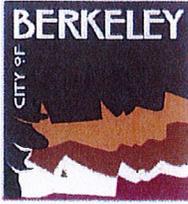




# Director of Police Accountability\*

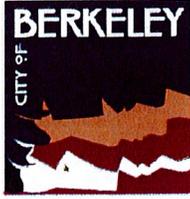


\*Timeline subject to change.



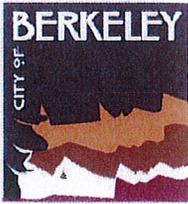
## Training

- Overview of Charter Amendment
- Memorandum of Understanding and Meet and Confer obligations
- Quasi-judicial duties and obligations of the Board
- Constitutional rights and civil liberties
- Fundamentals of procedure, evidence, and due process
- Public Safety Officers Procedural Bill of Rights Act
- Police Department operations, policies, practices, and procedures
- Duties, responsibilities, procedures and requirements associated with all ranks and assignments



## Immediate Next Steps

- Launch recruitment for Police Accountability Board
- Determine salary and benefits for Director of Police Accountability
- Commence recruitment process for Director of Police Accountability
- Develop budget for Police Accountability Board



## Key City Council Actions

- Police Accountability Board
  - Identify and submit appointments to city staff
  - Approve appointments
- Director of Police Accountability
  - Select recruitment firm
  - Approve appointment of Interim Director of Police Accountability (June 2021)
  - Approve appointment of permanent Director of Police Accountability



Final policy language agreed to between PRC and BPD (Questioning finalized Oct. 28, 2020; Searches finalized Sept. 23, 2020)

#### Asking a Person if they are on Probation or Parole.

In an effort to foster community trust, officers should not ask if a person is on probation or parole when a person has satisfactorily identified themselves, either verbally or by presenting identification documents.

Officers may determine probation or parole status through standard records checks conducted in the course of a traffic safety or investigative stop.

Officers should only ask when necessary to: 1) protect the safety of others, the person detained, or officers; 2) further a specific law enforcement investigative purpose (for example, sorting out multiple computer returns on common names); or 3) to confirm probation and parole status subsequent to a records check. If an officer needs to ask the question, "Are you on probation or parole?" the officer should do so while treating the person with dignity and respect, and being mindful that people may take offense at the question.

#### Warrantless Searches of Individuals on Supervised Release Search Conditions.

In accordance with California law, individuals on probation, parole, Post Release Community Supervision, or other supervised release status may be subject to warrantless search as a condition of their probation. Officers shall only conduct probation or parole searches to further a legitimate law enforcement purpose. Searches shall not be conducted in an arbitrary, capricious, or harassing fashion.

However, under Berkeley policy, officers shall not detain and search a person on probation or parole solely because the officer is aware of that person's probation or parole status. The decision to detain a person and conduct a probation or parole search, or otherwise enforce probation or parole conditions, should be made, at a minimum, in connection with articulable facts that create a reasonable suspicion that a person may have committed a crime, be committing a crime, or be about to commit a crime.



- a) Commissioners shall then determine how to proceed. Possible actions include, but are not limited to: considering the issue as whole commission, assigning a commissioner to research the issue, asking staff to investigate or research, or establishing a subcommittee. If a subcommittee is created it will seek BPD involvement in its policy review and, upon completing its review, will present its conclusions and recommendations to the full commission.
- b) The full commission may recommend to the BPD, City Manager, or City Council that the BPD adopt a new policy, revise an existing policy, or take no action.

#### *H. REGULAR MEETINGS*

Regular meetings shall be held on the second and fourth Wednesday of the month, except in the months of August, November, and December. The commission shall not meet in August, and shall meet only on one Wednesday of the month in November and December. Exceptions shall be made when a meeting day falls on a religious holiday.

Regular meetings shall commence at 7:00 p.m., and shall be held at the South Berkeley Senior Center and other locations as may be determined by the commission.



#### *I. ELECTIONS*

1. Annual elections for PRC Chair and Vice-Chair will be agendized for the second regular meeting in January and, whenever possible, this item will be agendized as the final item under New Business.
2. The election of the Chair will precede the election of the Vice-Chair, and the following nomination and election process will be followed for each office:
  - a) The presiding Chair declares the nomination process open.
  - b) A commissioner nominates another commissioner or him/herself. A commissioner must be present in order to be nominated.
  - c) The nomination is seconded (the nomination fails if there is no second)
  - d) The presiding Chair declares the nomination process closed, when there are no further nominations.
  - e) Each nominee is allowed two (2) minutes to express their reason for seeking the position. A nominee may decline this opportunity.
  - f) Commissioners pose questions to each candidate.
  - g) The presiding Chair calls for a roll vote and then announces the winner, except in the following circumstances:
    - i. If there is only one nominee for a position, the presiding Chair may seek or move a vote by acclamation.
    - ii. If a tie occurs among nominees, the presiding Chair will conduct a second round of voting, including any additional nominations.

- iii. If a clear winner is still not identified after a second round of voting, the presiding Chair will conduct a coin toss to break the tie and determine a winner. The PRC Secretary will assign “heads” and “tails.”
3. The PRC Secretary will record the maker and the second of the nomination motion as well as the total votes and results per office.
4. The outgoing Chair and Vice-Chair will be given the opportunity to make 2-minute departing statements after the election process takes place. The newly-elected Chair and Vice-Chair will assume their positions at the end of the meeting.

#### *J. APPOINTMENT OF MEMBERS OF THE PUBLIC TO SUBCOMMITTEES*

1. In accordance with the PRC Ordinance, the Chair may appoint members of the public to subcommittees in which they have expressed an interest, subject to approval of the commission. Members of the public seeking to serve on a subcommittee must: a) be residents of the City of Berkeley; and b) present themselves at a commission meeting before or at the time of the appointment and speak on the public record on intent to serve and what they will bring to the subcommittee work and deliberations.
2. Members of the public appointed to subcommittees shall enjoy the same voting rights and privileges on the subcommittee, as that of PRC commissioners appointed to the subcommittee, except that public members may not be selected to be the subcommittee Chair.
3. Commission members must constitute a majority of the membership of any subcommittee, but a subcommittee may convene and conduct business even if commissioners are not a majority of subcommittee members present
4. The term of appointment for members of the public appointed to subcommittees shall not exceed the life of the subcommittee. If a subcommittee must be reauthorized, any members of the public serving on the subcommittee must be reappointed by the Chair, subject to the approval of the commission.
5. A public member of a subcommittee who is absent from two consecutive subcommittee meetings is automatically removed from the subcommittee, but may be reinstated by the Chair if good cause for the absences is shown.
6. The Chair, subject to the approval of the commission, may remove a member of the public from a subcommittee for good cause. Examples of good cause are: failure to work cooperatively with subcommittee members; unruly or disruptive behavior at meetings; or failure to participate in the work of the subcommittee.
7. All actions by the Chair to appoint, reappoint, or remove a member of a public to or from a subcommittee shall occur at a commission meeting.

Lee, Katherine

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**From:** Lee, Katherine  
**Sent:** Wednesday, January 20, 2021 1:16 PM  
**To:** council@cityofberkeley.info  
**Cc:** White, David  
**Subject:** PRC appointment to Reimagining Public Safety Task Force

Honorable Mayor and Members of the City Council,

This is to let you know that the Police Review Commission has appointed Commissioner Nathan Mizell as its representative to the Reimagining Public Safety Task Force.

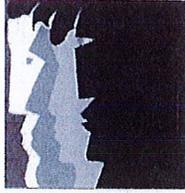
I understand this appointment was announced to you at your meeting last night, but I wanted to formally memorialize the PRC's action.

I would also add that Commissioner Mizell expressed great enthusiasm for, and interest in, serving on this Task Force, and that he was selected by a unanimous vote.

Sincerely,  
Kathy

Katherine J. Lee  
Police Review Commission Officer  
City of Berkeley  
1947 Center Street, 1<sup>st</sup> Floor  
Berkeley, CA 94704  
510.981.4960  
KLee@cityofberkeley.info





# CITY OF BERKELEY

Help shape the future of public safety in Berkeley

*City of Berkeley sent this bulletin at 01/20/2021 10:26 AM PST*

January 20, 2021

[View this message as a webpage](#)



SERVICES. RESOURCES. COMMUNITY.

News from the City of Berkeley

[Help shape the future of public safety in Berkeley](#)

[Apply to join the Re-Imagining Public Safety Task Force](#)

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Be part of Berkeley's efforts to create a new paradigm for public safety by applying to serve on a Task Force that will oversee the development of a plan to restructure the City's approach to violence prevention, crisis intervention, policing, and community safety.

Supported by consultants from the [National Institute for Criminal Justice Reform](#), the task force will serve as a hub for community engagement around the City's efforts to "reimagine public safety." Work will include holding public meetings, hearing testimony from community members, and providing input on new or redesigned programs and initiatives that will support an equitable, community-centered, anti-racist model of public safety.

The bulk of this work will take place in spring and summer of 2021, though terms of service may be extended beyond this date.

**Community application process ensures those most impacted are included**

Fourteen Task Force members are being appointed by elected officials, select City Commissions, and community stakeholder organizations. This group will then select three additional "at-large" members from a pool of applicants, looking specifically to fill gaps in representation or knowledge among appointed members.

They'll be seeking people active in the Berkeley community who can bring subject expertise in relevant topics or speak from their own experience as a member of a historically marginalized or impacted community, using [criteria identified by the City Council](#).

Representation from impacted communities might include victims of violent crime, formerly incarcerated individuals, or people experiencing homelessness. For subject

expertise, they'll be looking to ensure the Task Force includes members with experience in violence prevention, youth services, crisis intervention, restorative justice, public health, law enforcement, and municipal budgeting.

### **How to apply**

Download the application and submit the completed form by email to [commission@cityofberkeley.info](mailto:commission@cityofberkeley.info) or mail it to:

City Clerk Department  
2180 Milvia Street, 1<sup>st</sup> Floor  
Berkeley, CA 94704

You'll be asked to provide contact and demographic information, two references, and a written statement explaining how your background qualifies you to serve on the Task Force.

Applications are due by Monday, February 8, 2021. Three at-large members will be selected from those who applied by the appointed Task Force members and confirmed by the City Council.

### **Reimagining Public Safety in Berkeley**

The Task Force is part of a larger effort to create a new paradigm of public safety in Berkeley, which aims to re-focus Police Department work on violent and criminal matters while redirecting some funding currently spent on policing to violence prevention and diversion programs, including those targeted on domestic violence, youth outreach, mental health, housing and homeless services, and restorative justice.

Other components of this initiative, passed as an omnibus package by the City Council in the summer of 2020, include:

- a pilot program to reassign non-criminal police service calls to a Specialized Care Unit
- creating a Department of Transportation to administer parking regulations and traffic laws
- audits of 9-1-1 calls and the Police Department budget

These efforts build on the Berkeley longstanding commitment to creating a more equitable community and support the City's Strategic Plan goals to "champion and demonstrate social and racial equity" and to "create a resilient, safe, connected, and prepared City."

### **Links**

- [Task Force application](#)
- Reimagining Public Safety Task Force [enabling legislation and summary report](#)
- [Re-Imagining Public Safety progress update, December 16, 2020](#)
- [City of Berkeley Strategic Plan](#)

Lee, Katherine

---

**From:** Greenwood, Andrew  
**Sent:** Wednesday, January 13, 2021 9:24 PM  
**To:** Lee, Katherine  
**Subject:** FW: Serving with Honor, preserving Trust within our community  
**Attachments:** BPDMissionVisionValues.pdf; 1029  
Employee\_Speech\_Expression\_and\_Social\_Networking.pdf

Ms. Lee,

Here is the department message which Cmsr. Ramsey asked about.

Best regards,

Andrew Greenwood  
Chief of Police  
Berkeley Police Department  
(510) 981-5700

**From:** Greenwood, Andrew  
**Sent:** Wednesday, January 13, 2021 4:02 PM  
**To:** All Police <dlPolice@cityofberkeley.info>  
**Subject:** Serving with Honor, preserving Trust within our community

Greetings,

I want to share some thoughts in the wake of January 6, especially around the trust between communities and their police.

We serve in our profession with honor. We depend on the trust of our community to do our work. The attacks we saw on officers protecting our nation's Capitol were unconscionable. We also know that perceptions of officers are being shaped by fleeting images. In our own natural and passionate responses to these events, we need to be conscious that personal social media posts are interpreted in myriad ways, exclusive of the poster's intent, and that negative perceptions can damage the trust upon which we rely.

On January 6, extremists breached the US Capitol, violently disrupted the election process, killed USCP Officer Brian Sicknick, injured dozens of US Capitol Police officers, and perhaps resulted in an LE suicide. Videos show USCP officers outnumbered and overpowered, and under violent attack. It is encouraging to see arrests being made across the country, but arrests won't bring back Ofc. Sicknick, or erase the blight of this event on our country's history.

Much to our profession's detriment, there have emerged accounts and images of officers taking selfies with people who illegally entered, and facilitating entrance to the Capitol, and of off-duty or former LEOs actively involved in the breach. These reports and images undermine trust in our profession, with the implication that some peace officers would support attacks on the Constitution, which we are sworn to support and defend.

Closer to home, we all know damage to Law Enforcement's trust and legitimacy on the national stage has local ramifications. You may have heard of a former Oakland police officer participating in the breach, and allegations that current OPD personnel endorsed that ex-officer's posts on the Capitol takeover on their own personal social media accounts. You may have heard even more recently of an Instagram page with inappropriate comments, apparently from

OPD personnel. The perception of law enforcement's advocacy and support for the deadly and seditious acts at the capitol will cause deep and lasting distrust within the community.

In our organization, speech or expression that is linked to or related to BPD that compromises or damages our mission, function, reputation or professionalism is unacceptable. What you say, do, or post impacts our Department's relationship with the community we serve, and can bring our organization into disrepute. Statements that indicate disregard for the law or the state or US Constitution, or that demonstrate support for criminal activity are unacceptable. These standards are reflected across a range of our department policies, including Policy 1029, attached, and the Police Regulations 232, 235, 238, and 250, which are included below.

These stories are a reminder that what we say, do, or post, on any social media, is visible to others. We know some will actively seek out BPD employees' social media presence, in an effort to find anything controversial. We do not have control over how posts and activity are interpreted by others, we can only control *what* we post, *if* indeed we choose to post on social media at all. We must keep in mind that even *potentially* controversial speech or images can harm to our relationship with the community we serve, and bring our organization into disrepute.

Our Mission, Vision and Values were created to be touchstones in our work, as a common goal, and to highlight what is important to us. I am attaching them here for your reference, and hope they are helpful to you, as they are to me, in focusing on our work at BPD.

Thank you for your attention to these issues, and for the honorable work you do for our community every day.

Andrew Greenwood  
Chief of Police  
Berkeley Police Department  
(510) 981-5700

\*\*\* Policies\*\*\*

PR 232 Controversial Discussion. Employees on duty shall not speak slightly of any race color, religion, ancestry, gender, national origin, age, sex, sexual orientation, marital status, political affiliation, physical disability or medical condition (including cancer and HIV status). No posters, cartoons, or written material of any kind which reflect on a particular race, color, religion, ancestry, national origin, age, sex, sexual orientation, marital status, political affiliation, physical disability or medical condition may be retained or displayed within the Police Department building (s) or vehicles assigned to the Department.

PR 235 Acts – Statements – By Employees. Employees shall not perform any acts or say or write anything for publication or otherwise which tend to disrupt or impair the performance of official duties and obligations of employees of the Department; or which tend to interfere with or subvert the reasonable supervision or proper discipline of employees of the Department.

PR 238 Organizational Membership: Employees shall not belong to nor participate in the activities of any organization, association, society or other group whose activities or purpose are subversive in nature; or which in any way may adversely influence or control the work or service of such employees in their official capacity.

PR 250 Enforcement of Law, Impartiality. Employees shall enforce law in and fair and impartial manner.

Berkeley Police Department  
Mission – Vision - Values

Mission

United in service, our mission is to safeguard our diverse community through proactive law enforcement and problem solving, treating all people with dignity and respect.

Vision

The Berkeley Police Department will be a team of leaders at every level. We will foster strong relationships with our community, inspiring trust through our service, building on our historic tradition of progressive policing, and dedicated to the safety of all.

Values

Service is our calling.

As members of this community, the Berkeley Police Department team is committed to proactive law enforcement and problem solving, holding these as our core values:

**Integrity:** We are ethical, fair, and trustworthy in all we do.

**Safety:** We strive to keep our community and each other safe.

**Respect:** We fulfill our duties with dignity, compassion, and empathy.

**Diversity:** We value the strength of a diverse workplace and community. We endeavor to reflect the community we serve, promoting inclusion and fairness.

**Professionalism:** We commit to organizational excellence through progressive training, positive attitude, and superior performance.



## Employee Speech, Expression and Social Networking

### 1029.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

#### 1029.1.1 APPLICABILITY

This policy applies to all forms of communication including, but not limited to, film, video, print media, public or private speech, use of all Internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites.

### 1029.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Berkeley Police Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

### 1029.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the Internet. Speech and expression that may negatively affect the safety of the Berkeley Police Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

# Berkeley Police Department

## Law Enforcement Services Manual

### *Employee Speech, Expression and Social Networking*

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- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

#### **1029.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Berkeley Police Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Berkeley Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Berkeley Police Department or its employees. Examples may include:
  1. Statements that indicate disregard for the law or the state or U.S. Constitution.
  2. Expression that demonstrates support for criminal activity.
  3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Berkeley Police Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief of Police or the authorized designee.
- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches,

# Berkeley Police Department

## Law Enforcement Services Manual

### *Employee Speech, Expression and Social Networking*

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marked vehicles, equipment or other material that specifically identifies the Berkeley Police Department on any personal or social networking or other website or web page, without the express authorization of the Chief of Police.

- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
  - 1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
  - 2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees should take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

#### 1029.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Berkeley Police Department or identify themselves in any way that could be reasonably perceived as representing the Berkeley Police Department in order to do any of the following, unless specifically authorized by the Chief of Police (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Berkeley Police Department.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

# Berkeley Police Department

## Law Enforcement Services Manual

### *Employee Speech, Expression and Social Networking*

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However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

#### **1029.5 PRIVACY EXPECTATION**

Employees forfeit any expectation of privacy with regard to e-mails, texts or anything published or maintained through file-sharing software or any Internet site (e.g., Facebook, MySpace) that is accessed, transmitted, received or reviewed on any department technology system.

The Department reserves the right to access, audit and disclose for whatever reason any message, including attachments, and any information accessed, transmitted, received or reviewed over any technology that is issued or maintained by the Department. This includes the department e-mail system, computer network or any information placed into storage on any department system or device.

It also includes records of all key strokes or web-browsing history made at any department computer or over any department network.

The fact that access to a database, service or website requires a user name or password will not create an expectation of privacy if it is accessed through a department computer or network. However, the Department may not require an employee to disclose a personal user name or password or open a personal social website, except when access is reasonably believed to be relevant to the investigation of allegations of work related misconduct (Labor Code § 980).

#### **1029.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief of Police or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

Berkeley Police Department  
Law Enforcement Services Manual

*Employee Speech, Expression and Social Networking*

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**1029.7 TRAINING**

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.



Lee, Katherine

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**From:** carole marasovic <daphnesflight@yahoo.com>  
**Sent:** Wednesday, January 13, 2021 6:24 PM  
**To:** Lee, Katherine  
**Subject:** Fw: Latest Human Rights Magazine - Volume 46, No. 2: Civil Rights Reimagining Policing

**WARNING:** This email originated outside of City of Berkeley.  
**DO NOT CLICK ON** links or attachments unless you trust the sender and know the content is safe.

Katherine,

Please forward to the PRC commissioners.

Thank you.

Respectfully,

Carole Marasovic

----- Forwarded Message -----

**From:** ABA Section of Civil Rights and Social Justice <crsj@americanbar.org>  
**To:** "daphnesflight@yahoo.com" <daphnesflight@yahoo.com>  
**Sent:** Wednesday, January 13, 2021, 09:31:53 AM PST  
**Subject:** Latest Human Rights Magazine - Volume 46, No. 2: Civil Rights Reimagining Policing



## Human Rights Magazine Vol. 46, No. 2 | January 2021



The latest issue of the **ABA Section of Civil Rights and Social Justice's** award winning **quarterly Human Rights Magazine** focuses on policing in America. The horrific events of 2020 have brought heightened attention to a longstanding problem of policing in America. Please find subscription information [here](#).

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## Reimagining Policing

by Juan R. Thomas

I'm sharing my story about my first encounter with the police more than 30 years later, but *Trayvon Martin, Laquan McDonald, Eric Garner, Tamir Rice, Sandra Bland, Stephon Clark,*

*Philando Castile, Michael Brown Jr., Alton Sterling, Rayshard Brooks, Breonna Taylor, Ahmaud Arbery, and George Floyd cannot share their stories. This, now, becomes our task.*

[Read More](#)



## A Lesson on Critical Race Theory

by Janel George

Coined by legal scholar Kimberlé Crenshaw, Critical Race Theory is the practice of interrogating race and racism in society that emerged in the legal academy and spread to other fields of scholarship.

[Read More →](#)



## How You Start is How You Finish? The Slave Patrol and Jim Crow Origins of Policing

by Connie Hassett-Walker

Though history books may say otherwise, policing in the United States has its roots in the slave patrols of the South. The institution of policing, and the larger justice system, must reconcile its past in order to evolve away from its racist roots.

[Read More →](#)



## Ending School Contracts with Law Enforcement

by Courtney Shannon

Amid the public outcry for justice following the murders of unarmed Black Americans, school districts and local governments are taking a deeper look at police presence in K-12 schools, with some cutting ties with local police departments in an effort to make schools and minority students safer.

[Read More →](#)



## Movement Lawyering in Moments of Crisis: Some Things White Allies (and Others) Can Do

by Law for Black Lives

Movement lawyering is helping by taking direction from impacted communities instead of imposing leadership. Law for Black Lives offers several suggestions for ways to offer support.

[Read More →](#)



## How Police and Communities Can Move Forward Together

by Terrence M. Cunningham

The issues in our criminal justice system extend well beyond police behavior. While policing is the focus, community members and elected officials must realize they play a crucial role in moving constructive efforts forward.

[Read More →](#)



## Crime Without Punishment

by Rebecca Brown and Cynthia Conti-Cook

In June 2020, New York State law 50-a that prevented access to police misconduct information was repealed following protests of police violence. Yet, similar secrecy laws exist in other states that serve to protect a code of silence within which police violence proliferates.

[Read More →](#)



## Police Accountability

by Dayvon Love

Police brutality has recently become a mainstream political issue with law enforcement agencies



## Comcast and Bostock Offer Clarity on Causation Standard

by Sandra Sperino

In 2020, the Supreme Court decided two important cases about causation: Comcast and Bostock. Although Bostock focused on whether Title VII prohibited discrimination based on sexual orientation and gender identity, it also clarified how "but for" cause works.

[Read More →](#)



## Human Rights Hero: The LGBTQ Rights Movement

by Angela Li

From its gay liberation roots to today's nationwide network of activists and supporters, the LGBTQ rights movement has always strived toward progress. We celebrate the movement and every one of its members whose contributions have steadily pushed society in the right direction.

[Read More →](#)

exposed for corruption. Needed change can come if community-based, culturally informed institutions are rooted in collective healing.

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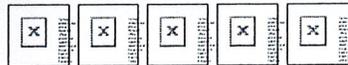
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<https://www.sfchronicle.com/news/article/Black-and-Latino-drivers-stopped-searched-at-15846187.php>

## Black and Latino drivers stopped, searched at higher rates than whites on California streets

Bob Egelko Jan. 5, 2021 Updated: Jan. 5, 2021 7:16 p.m.

Police in California were more likely to stop, search and use force against Black motorists than other drivers in 2019, the state reported Monday. The report from the state's most populous areas also found officers were more likely to search and use force against Latino drivers than whites, even though they were less likely to find contraband when they searched Blacks or Latinos than whites.

The report by the state's Racial and Identity Profiling Advisory Board examined nearly 4 million stops by California's 15 largest law enforcement agencies, including the Highway Patrol and police departments in San Francisco, Oakland, San Jose and Los Angeles. Similar disparities in treatment of white and minority drivers were documented by police departments in 2018, and state law will require data from all law enforcement agencies in 2022.

The findings show that "there is significant work to be done to prevent further disparities in who is stopped, how they are treated when stopped, and the outcomes of those stops," said the board, which includes law enforcement representatives and appointees of Gov. Gavin Newsom and Attorney General Xavier Becerra.

About 16% of all drivers stopped by officers in 2019 were Black, who made up 7% of the state's population, the report said. Whites accounted for 33% of the drivers stopped and 34% of the population; Latinos, 39% of the stops and 41% of the population; Asian Americans, 6% of the stops and 12% of the population; and those from the Middle East or South Asia, 5% of the stops and 2% of the population.

Officers who pulled drivers over were much more likely to search minorities than whites, the report found: 4.5 times as likely for Black drivers, and 2.5 times as likely for Latinos, even though both groups were slightly less likely than whites to have contraband or incriminating evidence.

There were also disparities in police use of force, which was 1.45 times as likely to be used against Black motorists and 1.18 times as likely against Latinos as against whites, the report said. Blacks were more likely than others to be ordered out of their vehicles and to be handcuffed. And among 154 motorists who were shot by officers, fatally or non-fatally, in 2019, 73 were Latino, 37 were Black and 35 were white, with the remainder from other groups.

Some of the differences can be attributed to "implicit bias" that police share with others in society, the report said.

It said the disparity in searches of motorists was partly caused by the fact that Blacks are more likely than other groups to be on probation or parole, and thus can be legally searched without evidence of wrongdoing.

But the report also said that while the great majority of police stops were for traffic violations, and only about 12% because officers claimed a “reasonable suspicion” of other crimes, they cited such suspicions in 21% of the stops of Black motorists in 2019.

And the report also cited some overt bigotry, such as the racist Facebook postings by a group of active and retired San Jose police officers that led to four suspensions in June 2020. One posting, allegedly by an active officer, said that “black lives don’t really matter,” while another from a retired officer called Black Lives Matter protesters “racist useful idiots” and “domestic enemies.”

The report suggested that police departments check the backgrounds of job applicants for evidence of explicit bias and monitor officers’ use of cell phones and computers for racist messages, like those exchanged by San Francisco police in 2011 and 2012.

“Law enforcement agencies should take other steps to remove structural practices that contribute to misconceptions about race and identity,” the report said — for example, deciding to stop posting mug-shot photos of people they have arrested, a step San Francisco took last July.

Pleasanton Police Chief David Swing, co-chair of the advisory board that issued the report, said the findings “will be used by our profession to evaluate our practices as we continue to strive for police services that are fair and impartial.”

*Bob Egelko is a San Francisco Chronicle staff writer.  
Email: [beigelko@sfchronicle.com](mailto:beigelko@sfchronicle.com) Twitter: [@BobEgelko](https://twitter.com/BobEgelko)*

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## EXECUTIVE SUMMARY

California’s Racial and Identity Profiling Advisory Board (Board) is pleased to release its fourth Annual Report (“Report”). The Report provides recommendations from the Board for all stakeholders – law enforcement agencies, policymakers, Commission on Peace Officer Standards Training (POST), community members, and advocates – to push for policy reform, rooted in best practices, to help all law enforcement agencies eliminate racial and identity profiling and improve law enforcement and community relations. This year’s Report analyzes, for the first time, a full year of Racial and Identity Profiling Act (RIPA) stop data, from January 1, 2019 to December 31, 2019, from Wave 1 and 2 agencies. In addition to analysis of the stop data, the Report provides recommendations that can be incorporated by law enforcement agencies to enhance their policies, practices, and trainings on topics that intersect with bias and racial and identity profiling.

### *Recommendations for Law Enforcement Agencies*

**Policies:** The Board has drawn from a range of law enforcement, academic, governmental, and nonprofit organizations with expertise in addressing racial and identity profiling to provide recommendations to law enforcement agencies. These recommendations do not represent the full extent of best practices, but they provide a starting point upon which agencies can build.

Accountability is a key aspect for effective policing, especially with respect to the elimination of bias. This year’s Report identifies the primary categories that make up accountability systems, and the Board hopes to continue its research with the goal of recommending best practices for each category in future years. The Report also continues the Board’s work from its 2020 Report with a review of bias-free policing policies for Wave 2 agencies and a follow-up review of the changes made by Wave 1 agencies after last year’s review.

The Report also contains recommendations related to calls for service. The Board provides an exemplar agency policy on preventing bias by proxy, provides ideas for protocols to approach calls for service that may be bias-based, and recommends that agencies adopt their own policy and train both dispatchers and officers on this important subject. For example, the Report discusses a research-based approach referred to as “adding friction” – or causing officers or community members to pause before reporting suspicious activity or initiating a stop – and discusses how that approach can help curb racial profiling. Moreover, the Report looks at how law enforcement agencies have historically responded to mental health crises and examines several types of crisis intervention strategies from around the country for law enforcement to consider with their community stakeholders.

**Civilian Complaints:** Agency-level information regarding the numbers of civilian complaints (2016-2019) is provided for Wave 1 and 2 reporting agencies. Additionally, the Board has included a review of the Wave 2 agencies’ complaint forms, a discussion of Early Intervention Systems (EIS) to identify and “flag” at-risk behavior by officers and intervene where necessary, and a discussion of feedback received from law enforcement agencies regarding the actions they have taken in response to the Board’s recommendations about complaint procedures.

The Board recommends that law enforcement agencies (LEAs) investigate all complaints fairly and thoroughly and communicate that commitment to the public. To achieve this, agencies must ensure members of the public and employees can easily submit complaints and that there is a system for recording and tracking them. The Board recommends that agencies identify ways to increase the community's involvement in considering the creation or expansion of independent civilian complaint review boards and community-centered mediation resources.

**AB 953 Survey:** To better understand how law enforcement has used the data analysis and recommendations presented by the Board in its last three reports, the California Department of Justice ("Department") surveyed Wave 1, 2 and 3 agencies. The survey also looked at how agencies engaged in RIPA data analysis and other actions taken by agencies to advance the goals of RIPA. The responses received from 25 of those agencies helped the Board to identify actions that LEAs are taking to advance the goals of RIPA.

Survey questions generally addressed the following areas:

- Use of Board recommendations and findings;
- Use of stop data for accountability purposes;
- Adoption of model bias-free policing policy language;
- Actions taken in response to best practices recommendations regarding civilian complaint procedures and forms; and
- Stop data analysis practices and resources.

The agency responses to the survey are presented throughout the Report and in Appendix E. The Board hopes that this information will be a valuable tool to help identify agency accountability and the positive ways that law enforcement has used the Board's Report to implement policy reform. For example, several law enforcement agencies reported that they reviewed the stop data with multiple levels of staff at their agencies and were using the Report to analyze concerning trends or patterns in their own stop data.

### *Recommendations for Community Members*

The Report contains recommendations that advocates and community members can use to engage with policymakers and law enforcement to improve policies and accountability. The Board hopes that community members will work with law enforcement and policymakers to implement community-based solutions generally, and specifically, to respond to mental health related emergencies and develop community-centered approaches for responding to bias-based incidents. The Board encourages communities to engage with law enforcement to implement its recommendations for best practices for bias-free policing policies, civilian complaints, and accountability highlighted in the Report. The Board appreciates and thanks all of the members of the community for attending Board meetings and providing public comment and hopes community members will continue to provide the rich ideas and discussion at future meetings.

## *Recommendations for Policymakers*

To reduce the disparities between groups who are more and less likely to come into contact with law enforcement, the Board urges policymakers to engage with impacted communities to prioritize housing, education, health care, and broader criminal justice system reforms, in addition to changes to law enforcement agency practices. The Board further recommends that policymakers fund and prioritize community-based solutions to respond to health-related emergencies and socioeconomic issues, such as being unhoused. In the Report, the Board has included eight examples of crisis intervention strategies. This research has laid the groundwork for the Board to develop best practices and model policy recommendations for crisis response in 2021. The Board recommends that the Legislature continue oversight of Mental Health Services Act funding and examine how counties are using Public Safety Realignment funding for community-based services instead of law enforcement activities to meet the rehabilitation goals under state law.

The Board recommends that policymakers require law enforcement agencies to adopt policies addressing bias by proxy and mandate basic training and continuing education courses on bias by proxy prevention for police dispatchers and officers. The Board recommends that policymakers strengthen data collection regarding bias-based calls for service, and study programs for responding to bias-based calls that focus on accountability and repairing the harms caused by these calls. Additionally, the Board recommends that the legislature increase the frequency with which in-service officers receive training to prevent racial and identity profiling practices.

Regarding civilian complaints, the Board renews its request for the legislature to address the conflict between state and federal law by amending Penal Code section 148.6, as the requirements set out by the Penal Code can have a chilling effect on the submission of civilian complaints.

## *Recommendations for POST*

This year several Board members had the opportunity to review two trainings related to racial and identity profiling that were in the pre-production stage within POST, an independent state agency that is tasked with providing minimum selection and training standards for California law enforcement. One of the Board's statutory duties is to work with POST on training recommendations related to racial and identity profiling. This year, the Board recommends that POST emphasize the various perspectives of communities impacted by profiling. The training should include prominent components on officer accountability, officer reporting obligations and protections, and active bystander or peer intervention skills. The Board recommends that the training incorporate evidence-based research and data illustrating the disparate treatment of racial and other identity groups. The Board also recommends that officers receive training to mitigate the influence of bias on their behavior.

The Board reiterates the importance of dispatchers receiving mandatory training on how to identify and handle bias-based calls for service. The Board recommends that POST consider including a three-step protocol that includes "adding friction" for addressing bias-based calls for officer and dispatcher training.

The Board appreciates POST’s participation at Board meetings and receiving POST’s invitations to assist in the development of some of the trainings related to racial and identity profiling; however, the Board recommends formalizing a collaboration schedule, which will allow the Board to work closely with POST throughout the development and production process for future courses and course updates.

### *Potential Sources of Disparities Observed in the Stop Data*

Consistent with the Board’s mandate to evaluate and eliminate racial and identity profiling in policing, the Report explores several potential driving forces shaping the patterns of stop data disparities revealed in the last two years of data collection. The Report discusses explicit bias, including recent examples of racist social media postings by law enforcement officers, and how this unchecked explicit bias may lead to some of the stop data disparities we have observed. The Report further summarizes several studies that may explain how implicit biases may shape officers’ interactions. Officers who are unaware of or not actively working to overcome their biases may consequently rely on them in their decision-making and interactions with the public and this could be a contributing factor in the disparities shown in the stop data. The Report contextualizes the issues of explicit and implicit biases within the larger systemic structural inequities that influence the frequency with which officers interact with people of certain races, ethnicities, or identities.

Given the multiple possible sources of disparities observed in the stop data, the Report encourages a multi-pronged approach and provides examples of ways agencies can reduce explicit and implicit bias. The Board also invites other stakeholders to think broadly – beyond the confines of law enforcement reform – about how to reduce inequities in other systems that directly or indirectly contribute to the disparities in the stop data.

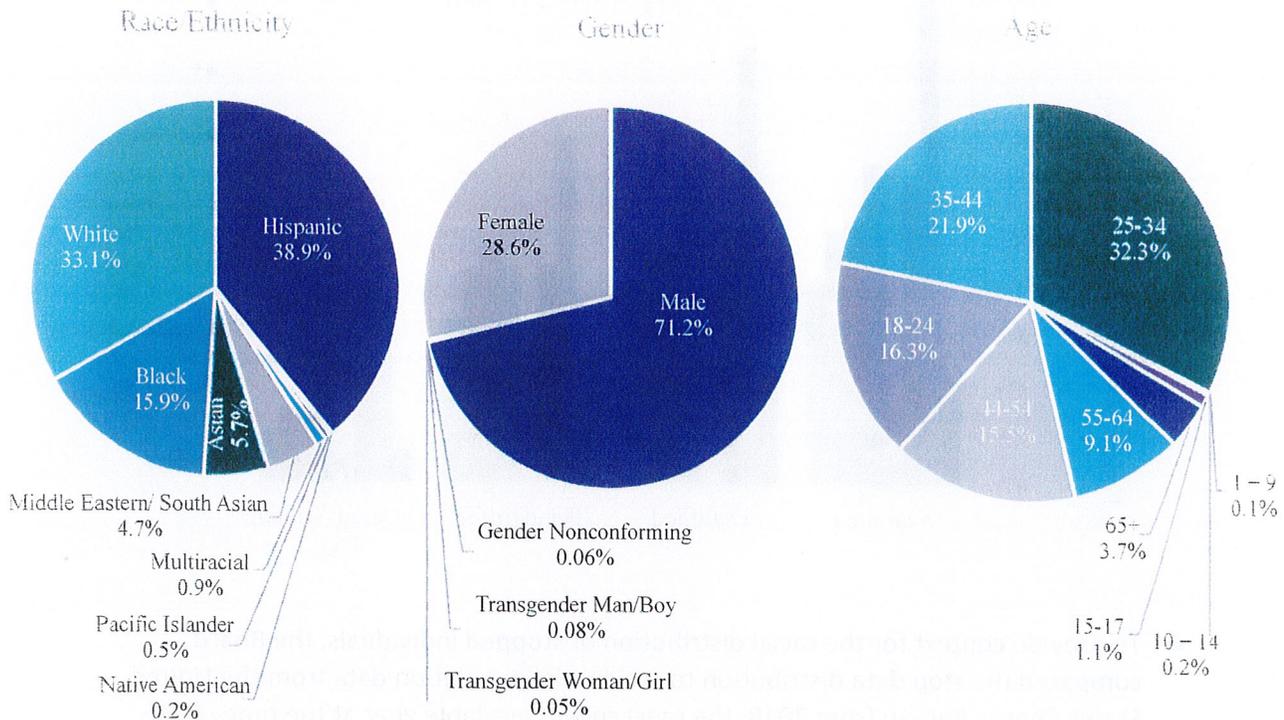
### *Findings Regarding RIPA Stop Data*

The 15 largest law enforcement agencies in California, referred to as Wave 1 and Wave 2 agencies in this Report, collected data on pedestrian and vehicle stops and submitted these data to the Department.<sup>1</sup> Reporting agencies collected data on 3,992,074 million stops between January 1, 2019 and December 31, 2019. The California Highway Patrol conducted the most stops (54.4%) of all reporting agencies, which was expected given the size and geographic jurisdiction of the agency and its primary mission with respect to highway safety. Below are some highlights from this year’s analysis:

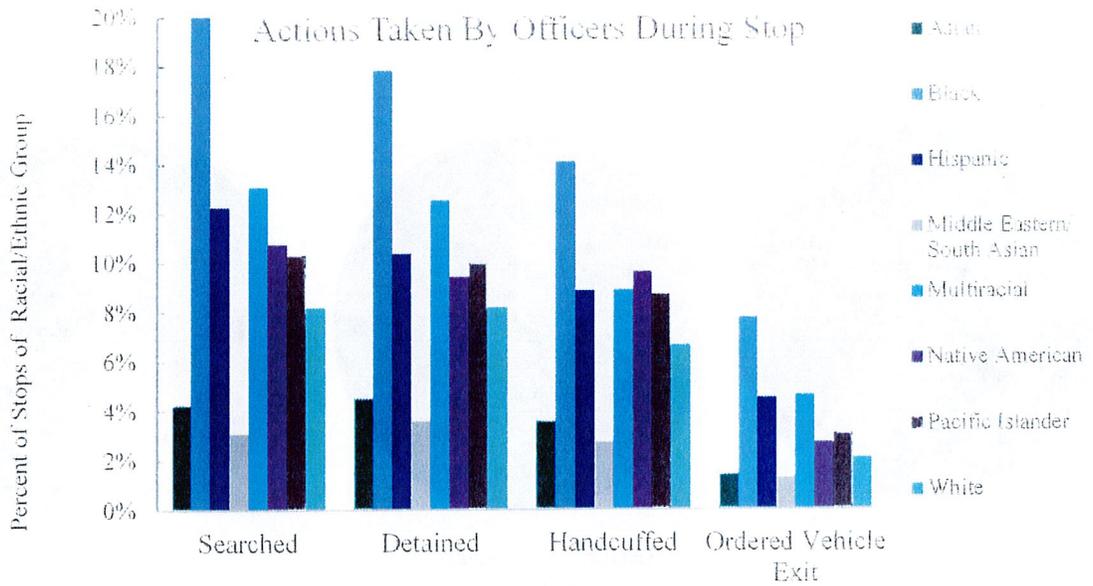
- Individuals perceived to be Hispanic (38.9%), White (33.1%), or Black (15.9%) comprised the majority of stopped individuals; officers stopped individuals of the other five racial/ethnic groups enumerated in the stop data form collectively in 12.1% of stops.
- Individuals perceived to be between the ages of 25 and 34 (32.3%) constituted the largest proportion of stopped individuals of any one age group.

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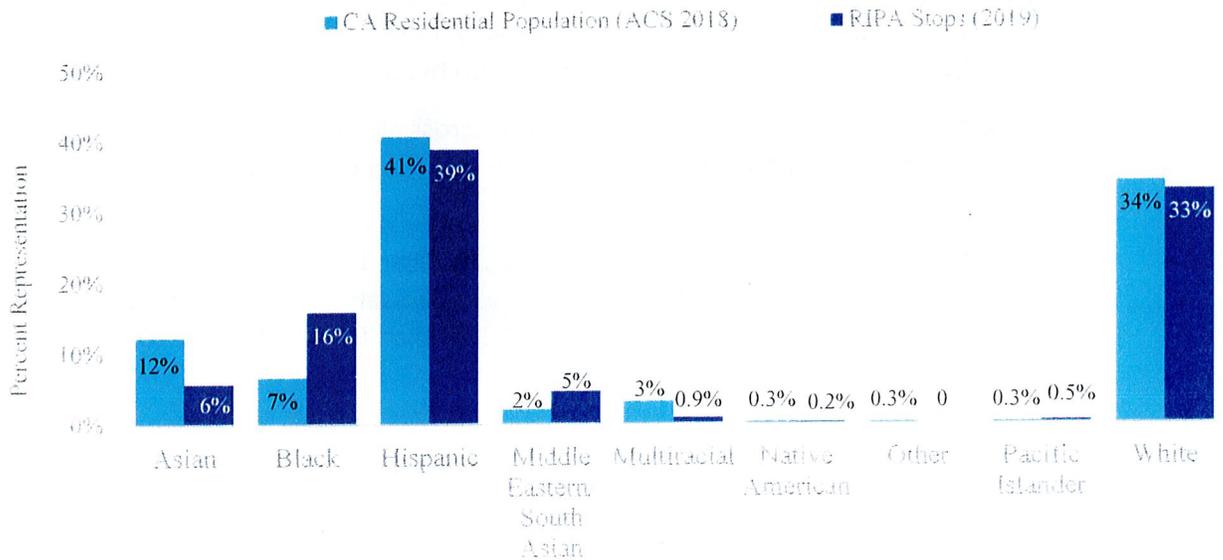
<sup>1</sup> Wave 1 agencies are the eight largest agencies in the state, which were required to start submitting stop data to the Department by April 1, 2019. Wave 2 agencies are the seven next largest agencies, which were required to start submitting stop data to the Department by April 1, 2020.



- Less than 1 percent of stopped individuals were perceived to be LGBT.
- Officers perceived 1.1 percent of the individuals they stopped to have one or more disabilities. Of those perceived to have a disability, the most common disability reported by officers was a mental health condition (63.3%).
- The most commonly reported reason for a stop across all racial/ethnic groups was a traffic violation (85.0%), followed by reasonable suspicion that the person was engaged in criminal activity (12.1%).
- Officers searched, detained on the curb or in a patrol car, handcuffed, and removed from vehicles more Black individuals than White individuals, despite stopping more than double the number of White individuals (1,322,201) than Black individuals (635,092).

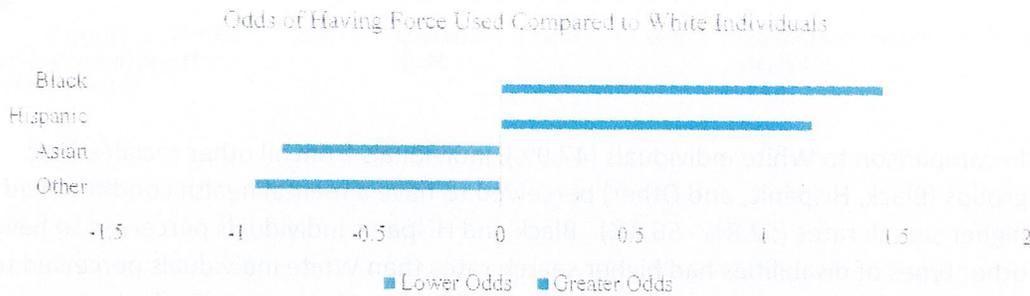


- To provide context for the racial distribution of stopped individuals, the Board compared the stop data distribution to residential population data from the United States Census Bureau from 2018, the most recent available year at the time of the analysis. Black individuals represented a higher proportion of stopped individuals than their relative proportion of the population in the ACS dataset.

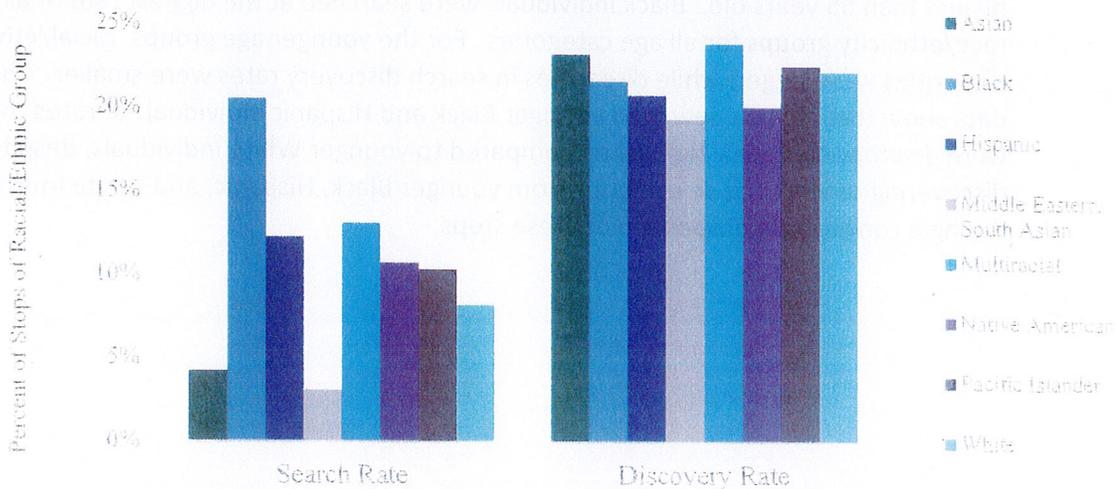


- Results of the Veil of Darkness analysis indicated that darkness (when it is presumably more difficult to perceive an individual's identity) decreased the rates at which Black and Hispanic individuals were stopped compared to White individuals.

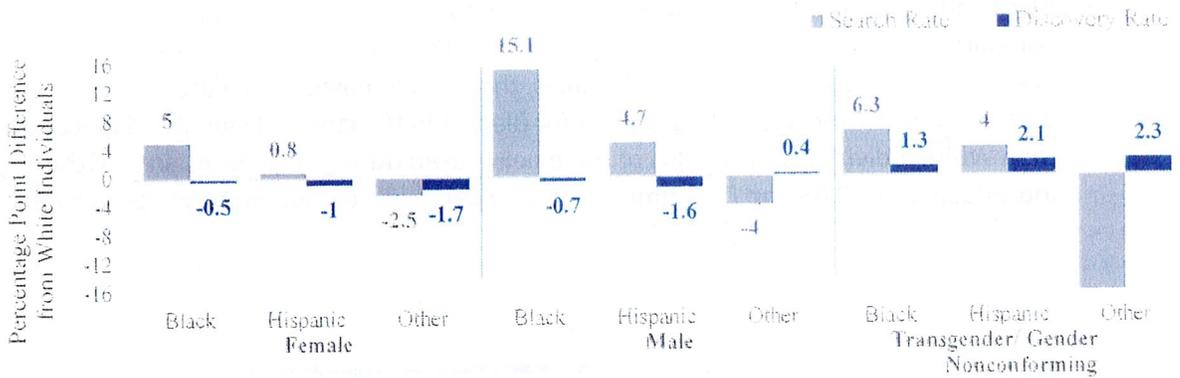
- Black and Hispanic individuals were more likely to have force used against them compared to White individuals, while Asian and other individuals were less likely. Specifically, compared to White individuals, the odds of having force used during a stop were 1.45 times and 1.18 times greater for Black and Hispanic individuals, respectively, than White individuals. The odds of force being used during stops of Asian or Other individuals were 0.83 and 0.93 times lower, respectively, compared to White individuals.



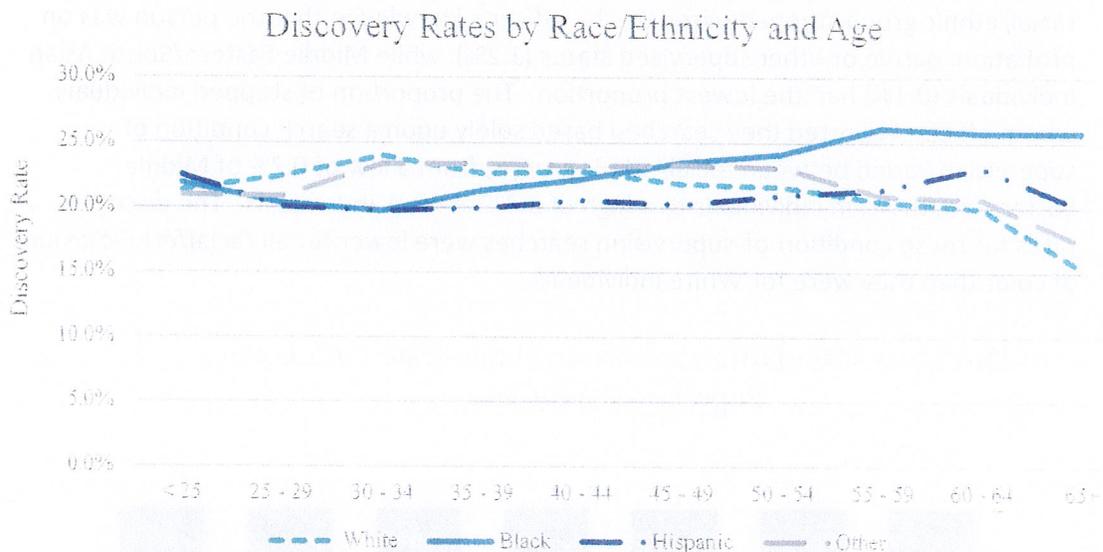
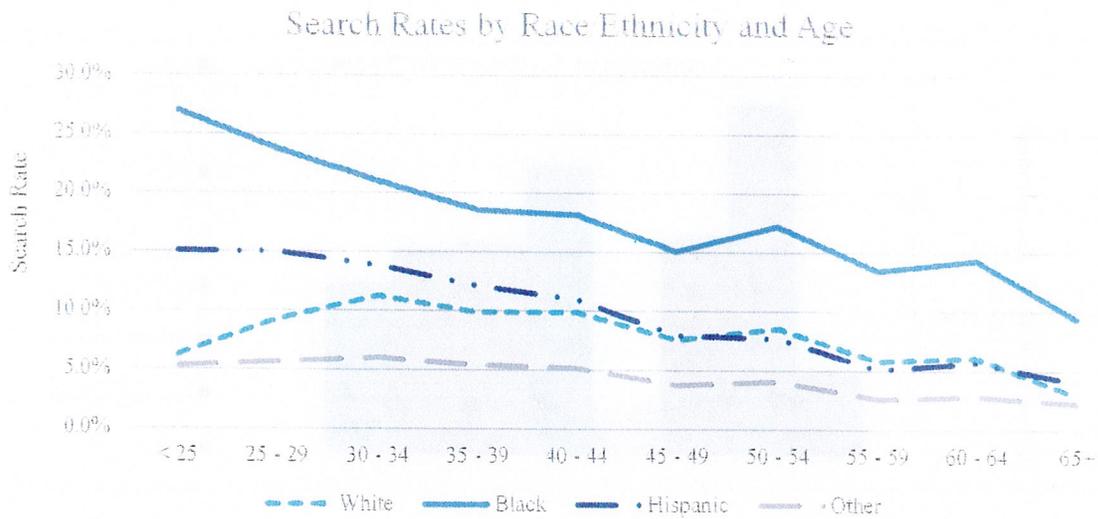
- Search discovery rate analyses showed that individuals perceived as Black, Hispanic, and Native American had higher search rates despite having lower rates of discovering contraband compared to individuals perceived as White.



- A vast majority of stopped individuals were perceived as either (cisgender) male (71.2%; 2,841,218) or (cisgender) female (28.6%; 1,143,261), with all other gender groups collectively constituting less than 1 percent of the data. Within each gender group, Black and Hispanic cisgender males and cisgender females had higher search rates but lower discovery rates in comparison to White cisgender males and females. Black and Hispanic transgender/gender nonconforming individuals had higher search and discovery rates than White transgender/gender nonconforming individuals.

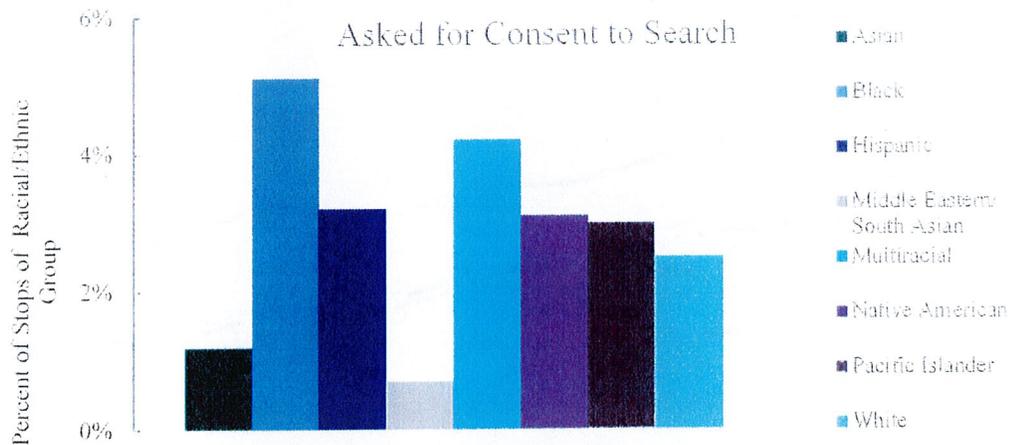


- In comparison to White individuals (47.0%), individuals from all other racial/ethnic groups (Black, Hispanic, and Other) perceived to have a mental health condition had higher search rates (52.8% - 56.3%). Black and Hispanic individuals perceived to have other types of disabilities had higher search rates than White individuals perceived to have other types of disabilities. Additionally, Black and Hispanic individuals perceived to have no disability had higher search rates in comparison to White individuals perceived to have no disability.
- The proportion of searched individuals that fall within each age category generally decreases as the age categories get higher; officers perceived over 50% of individuals they searched to be less than 40 years old, and over 80% of individuals they searched to be less than 55 years old. Black individuals were searched at the highest rate of all the race/ethnicity groups for all age categories. For the younger age groups, racial/ethnic disparities were larger, while disparities in search discovery rates were smaller. The data show that officers searched younger Black and Hispanic individuals at rates that were disproportionately high when compared to younger White individuals, despite discovering contraband or evidence from younger Black, Hispanic, and White individuals during a comparable proportion of these stops.

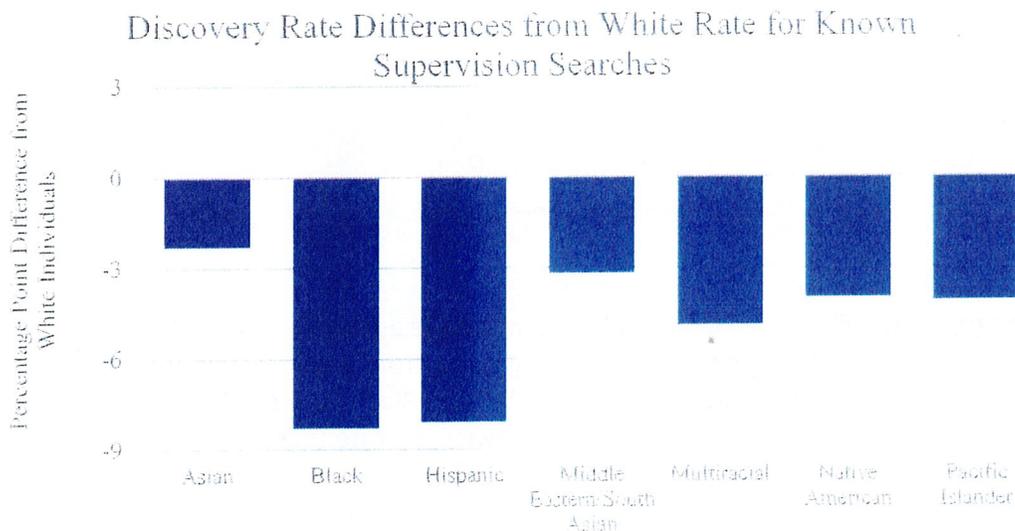


- The proportion of stopped individuals whom officers asked for consent to perform a search varied widely between racial/ethnic groups, from a low of 0.7% of Middle Eastern/South Asian individuals to a high of 5.1% of Black individuals. Officers asked for consent to search Black individuals (5.1%) at twice the rate that they asked White individuals (2.5%). Officers also performed “consent only” searches (where the only basis for the search was that the stopped individual provided consent) of Black individuals (2.4%) at a rate twice the rate they performed these consent only searches of White individuals (1.2%). Despite having higher consent only search rates than White

individuals, Black and Hispanic individuals had lower rates of discovery of contraband or evidence for consent searches than White individuals.



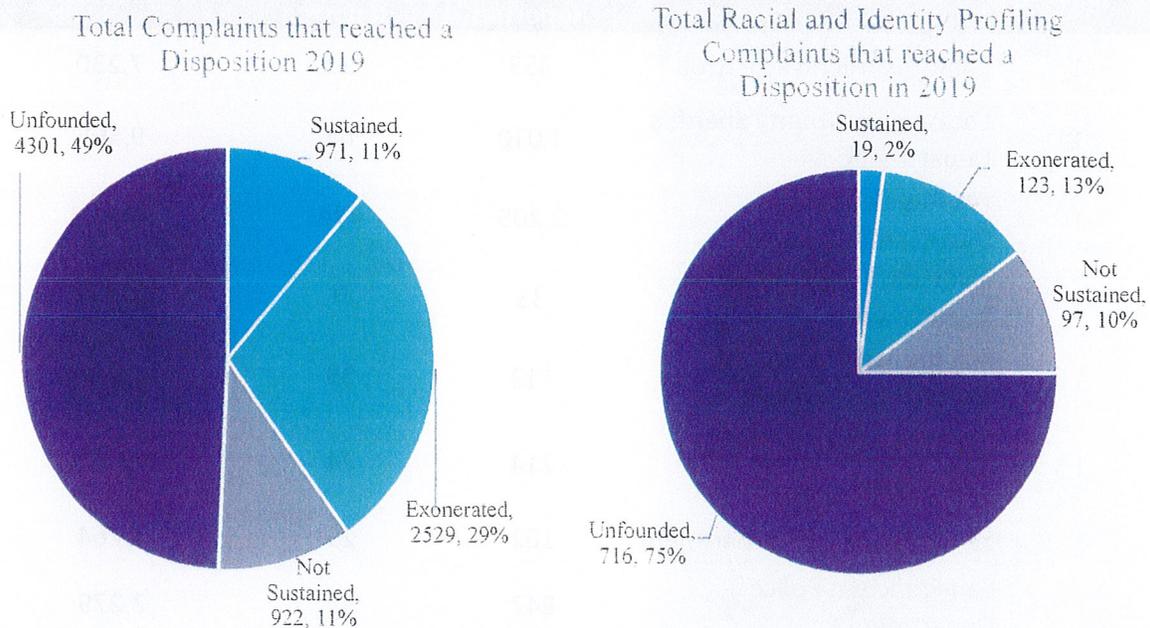
- Stopped individuals perceived to be Black had the highest proportion of any racial/ethnic group stopped based on the officer’s knowledge that the person was on probation, parole or other supervised status (1.2%), while Middle Eastern/South Asian individuals (0.1%) had the lowest proportion. The proportion of stopped individuals whom officers reported they searched based solely upon a search condition of supervision varied between racial/ethnic groups, from a low of 0.2% of Middle Eastern/South Asian individuals to a high of 3.4% of Black individuals. The discovery rates for these condition-of-supervision searches were lower for all racial/ethnic groups of color than they were for White individuals.



## Findings Regarding Civilian Complaint Data

The Report includes an analysis of complaints of racial or identity profiling received in 2019 by the 452 law enforcement agencies subject to RIPA's stop data reporting requirements. Of these agencies, 146 (39.7%) reported 1,153 complaints alleging racial or identity profiling, 955 of which reached disposition in 2019. The figure below displays the proportions of complaints reported by stop data reporting agencies that reached disposition in 2019 broken down by disposition type.

Disposition Distribution of 2019 Complaints



### Complaint Disposition Key

**Sustained:** investigation disclosed sufficient evidence to prove truth of allegation in complaint by preponderance of evidence.

**Exonerated:** investigation clearly established that employee's actions that formed basis of allegations in complaint were not a violation of law or agency policy.

**Not sustained:** investigation failed to disclose sufficient evidence to clearly prove or disprove complaint's allegation.

**Unfounded:** investigation clearly established that allegation is not true.

Agency-Level Data Snapshot: 2019 Civilian Complaints for Wave 1 and 2 Agencies

Table 1 displays civilian complaint totals broken down for Wave 1 and 2 agencies. The table provides the following information: the total number of complaints reported; the number of complaints reported alleging racial or identity profiling; and the number of sworn personnel each agency employed in 2019.<sup>2</sup>

**Table 1: Complaints Reported in 2019 by Agency**

Reporting Wave	Agency	Total Complaints Reported	Total Profiling Complaints Reported	Total Sworn Personnel
1	California Highway Patrol	353	21	7,230
1	Los Angeles County Sheriff's Department	1,010	68	9,565
1	Los Angeles Police Department	2,205	426	10,002
1	Riverside County Sheriff's Department	33	0	1,788
1	San Bernardino County Sheriff's Department	113	39	1,927
1	San Diego County Sheriff's Department	214	74	2,601
1	San Diego Police Department	102	25	1,764
1	San Francisco Police Department	842	0	2,279
2	Fresno Police Department	231	13	806
2	Long Beach Police Department	182	9	817
2	Oakland Police Department	1,215	36	740
2	Orange County Sheriff's Department	129	11	1,888
2	Sacramento County Sheriff's Office	205	5	1,348
2	Sacramento Police Department	146	6	678
2	San Jose Police Department	205	36	1,150

<sup>2</sup> Sworn personnel totals are calculated from the information contained within the Law Enforcement Personnel file available at <https://openjustice.doj.ca.gov/data>. The DOJ collects the Law Enforcement Personnel data through a one-day survey taken on October 31 of each reporting year.

## *Conclusion*

The Board remains committed to fulfilling the promise of the Racial and Identity Profiling Act to eliminate racial and identity profiling and improve law enforcement-community relations. The stop data results demonstrate there is significant work to be done to prevent further disparities in who is stopped, how they are treated when stopped, and the outcomes of those stops. The Board hopes that all stakeholders will review its data analyses and recommendations – rooted in evidence-based best practices – regarding bias-free policing, bias by proxy, civilian complaint processes and forms, accountability, and early intervention, and explore crisis intervention models to inform data-driven policy and practice reforms.

