

RACIAL &
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PROFILING
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BOARD

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The Racial and Identity Profiling Advisory Board would like to honor the memory of the Honorable Alice Lytle, who faithfully served on this Board from its inception. We will miss her wisdom and guidance, but her extraordinary contributions to the community and to eliminating racial and identity profiling will live on.

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EXECUTIVE SUMMARY

California’s Racial and Identity Profiling Act of 2015 (RIPA) is truly groundbreaking legislation — the first of its kind and scale in the United States.¹ This law requires nearly all California law enforcement agencies to collect, maintain, and analyze demographic data on all detentions and searches, thereby codifying the recommendation of the President's Task Force on 21st Century Policing which aimed to improve understanding and create evidence based policies through this data collection.² The Racial and Identity Profiling Advisory Board (Board) was created by the Act to shepherd this data collection and provide public reports with the ultimate objective to eliminate racial and identity profiling and improve and understand diversity in law enforcement through training, education, and outreach.³ The Board’s mission is enhanced by the diverse perspectives and backgrounds of its 19 members, as well as by the vibrant discourse brought to board meetings and subcommittees by members of the public and the law enforcement community. Together, the Board and stakeholders share the goals of increasing public safety, improving law enforcement-community relations, and bolstering trust through collaboration, transparency, and accountability.

In its second annual report, the Board has built on the foundation established by its inaugural report released January 1, 2018.⁴ Specifically, this report aims to enhance the transparency of the stop data collection process by providing the public with detailed information on how the data is collected and submitted and how the Department and law enforcement agencies ensure the integrity of this data. This report also provides recommendations that can be incorporated by law enforcement agencies to enhance their policies, procedures, and trainings on topics that intersect with bias and racial and identity profiling.

In summary, this report:

- 1) Reviews the information that law enforcement agencies must collect and report on each stop and how agencies and the Department are ensuring the integrity of this data.
- 2) Provides best practice recommendations for agencies in drafting policies and procedures, and trainings regarding racial and identity profiling and civilian complaints.
- 3) Analyzes the civilian complaint data submitted to the Department in 2017.
- 4) Explores how to address the potential for bias when officers respond to calls for service.
- 5) Analyzes use of force data submitted to the Department in 2017.⁵
- 6) Highlights methodologies that the Board may use to analyze the stop data once it is submitted to the Department by April 1, 2019.

¹ Pen. Code, § 13519.4.

² President’s Task Force on 21st Century Policing. Final Report of the President’s Task Force on 21st Century Policing. (2015).

³ Pen. Code, § 13519.4, subd. (j)(1).

⁴ Racial and Identity Profiling Advisory Board. Racial and Identity Profiling Advisory Board Annual Report 2018. (2018). Available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>

⁵ The Board includes recommendations related to use of force because of its inherent relationship to police stop and search practices. In addition, stop data reports are required to include information regarding actions taken during a stop, such as the discharge or use of firearms, that also constitute a use of force that must be reported to the Department separately as a use of force incident under AB 71.

Best Practices

The Board has drawn from a range of law enforcement, academic, governmental, and non-profit organizations with relevant expertise in addressing racial and identity profiling in policing to compile a set of best practices. These recommendations are provided for law enforcement agencies to consider and implement, where appropriate, to help prevent and address profiling if and when it occurs in policing. Specifically, the Board has highlighted best practice recommendations on the topics of civilian complaint policies and procedures, bias-free policing policies, and trainings related to racial and identity profiling. These recommendations do not represent the full panoply of recommendations or best practices that an agency could and should consider adopting; rather, they aim to provide a foundation on which the Board hopes and plans to continue expanding upon in future reports. These best practices can be found throughout the body of the report as well as compiled in their entirety within Appendix B, for ease of reference.

It is the Board's hope that these best practices will assist law enforcement agencies, policymakers, and community members in developing, assessing, and implementing policies, procedures, and trainings geared toward the elimination of racial and identity profiling in policing. The Board recognizes that there must be sufficient funding in order to implement these recommendations, and further acknowledges that the amount of funding and resources available to implement these recommendations varies depending on the agency. However, agencies are encouraged to seek out grants and funding that will ensure that the stop data collection is utilized to its fullest potential.

Even with a lack of resources, these are recommendations that can and should be adopted to enhance the services that law enforcement agencies provide to the community. The Board encourages cities, counties, and policymakers to work with law enforcement agencies under their purview to ensure they are allocated the necessary funding and resources to implement the best practices described in the report. The Board further recommends that the Legislature provide sufficient funding to the Commission on Peace Officer Standards and Training (POST) to assure that all agencies receive recommended and necessary trainings, including training covering RIPA data collection and analysis, de-escalation, mental health, and addiction, among other relevant topics.

Stop Data

Stop data collection for the eight largest agencies in the state began on July 1, 2018. This data must be reported to the Department of Justice (Department) by April 1, 2019. As of report release, the agencies collecting data are the California Highway Patrol, Los Angeles Police Department, Los Angeles County Sheriff's Department, Riverside County Sheriff's Department, San Bernardino County Sheriff's Department, San Diego County Sheriff's Department, San Diego Police Department, and the San Francisco Police Department. These agencies have informally been termed the "Wave 1" agencies due to the rolling nature of the stop data collection timeline. Starting next year, the Board's annual report will include a detailed analysis of this data. Because the data is not due to the Department until April 1, 2019, the Stop Data section of this report addresses the following: 1) the type of data that is collected; 2) methods of

submitting the data to the Department; 3) data integrity; and 4) potential methodologies to analyze the stop data in the future.

In keeping with the spirit of the RIPA legislation, the Board encourages agencies to view the data elements mandated by the statute and its implementing regulations as the floor, rather than the ceiling. Agencies should not feel limited by the statute or regulations, rather they should consider collecting any additional demographic or other data that would be relevant to identify trends or disparities among the interactions of their officers with the public.

Furthermore, the Board encourages all law enforcement agencies to vigorously analyze their own data to address any issues that may be identified at the local level. In doing so, the Board hopes that both the analysis methodologies used and the findings of those analyses are transparent and available to the public. Law enforcement agencies should also reach out to academics and other stakeholders who can enrich and guide agencies in conducting meaningful analysis of this data.

Racial and Identity Profiling Policies and Accountability

The Board has compiled best practices that should be considered for inclusion by law enforcement agencies to help prevent and identify racial and identity profiling if and where it exists. This section of the report provides specific best practices regarding the following: 1) the creation of a clear written policy and procedure devoted to the prevention of racial and identity profiling; 2) policy accessibility and integration into an agency's culture; 3) definitions for inclusion in the policy and consistent application of the policy's principles; 4) communication with the community; 5) training; 6) data collection and analysis; 7) accountability and adherence to policy; and 8) supervisory review.

Civilian Complaint Procedures and Policies

Having a robust process for handling civilian complaints is an important step toward building trust between law enforcement and the community and ensuring that personnel and policies are working as intended. This section of the report discusses the importance of effective complaint procedures and includes the following: 1) a statewide analysis of the 2017 complaint data submitted to the Department; 2) an agency-level snapshot of the 2017 complaint data submitted to the Department; and 3) provides several recommendations and best practices for agencies to consider in regards to their complaint procedures.

In addition, the civilian complaint section of the report provides best practices regarding 1) the creation of a clear written policy and procedure devoted to civilian complaint procedures; 2) accessibility and communication with the community; 3) details on complaint intake, filing, and tracking process; and 4) details on the investigation process.

Training Related to Racial and Identity Profiling

To address differences in various trainings, the Board has compiled best practices or standards that should be considered for inclusion by law enforcement agencies to help identify and prevent racial and identity profiling if and where it exists. This section of the report provides specific best practices regarding 1) basic training principles and topics; 2) training organization and

delivery; 3) communication and community relationships; 4) tenets of procedural justice; and 5) implicit bias.

Calls for Service and Bias by Proxy

In June 2018, the Board formed a new subcommittee focused on calls for service, the formation of which was sparked by a letter sent to the Board by two state senators expressing their concern regarding racially biased calls for service and what is sometimes called “bias by proxy.” In this report, the Board has devoted a section to this issue, focusing on calls for service through the lens of bias by proxy. The Board conducted a literature review on the issue of bias and calls for service and plans to dive deeper into the various manners in which this data can be accurately collected and analyzed, particularly assessing ways in which the data collected under RIPA can be leveraged toward this goal.

Use of Force

Because of its inherent relationship to law enforcement stop and search practices, the Board has included a review and discussion of use of force in policing in this year’s report. This section specifically addresses the following: 1) an overview of the Assembly Bill 71 (AB 71) data submitted to the Department; 2) an analysis of AB 71 data submitted to the Department in 2017; and 3) a brief overview of academic research on different aspects of law enforcement agencies’ polices regarding use of force.

Conclusion

The Board has come a long way since its inception over the past two and a half years, but there is still a great deal of work that lays ahead. The Board will continue to work on creating actionable solutions to mitigate the harmful ramifications that racial and identity profiling has upon our communities including law enforcement. The Board is hopeful that through persistent collaboration, open and respectful dialogue, and continued engagement with law enforcement and the community, strides will be made toward the identification and elimination of racial and identity profiling in California. The Board will continue to use the responsibilities bestowed upon it by the California Legislature to continually build improved relationships and mutual trust and respect between law enforcement agencies and the communities they serve.

To access a copy of the Board’s 2018 report, please see <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>. The Board also encourages those who have not seen the video explaining the work of the Board, to please view it at <https://www.youtube.com/watch?v=xffqC9Xb9Dw>).

INTRODUCTION

The Racial and Identity Profiling Act of 2015 (RIPA) is groundbreaking legislation — the first of its kind in the United States.⁶ This legislation proclaims that, “racial or identity profiling is a practice that presents a great danger to the fundamental principles of our Constitution and a democratic society. It is abhorrent and cannot be tolerated.”⁷ The legislation included requirements intended to help identify, address, and eliminate racial profiling. RIPA marks a major step toward not only understanding the problem of racial and identity profiling in California, but also toward formulating strategies to reduce the practice and its devastating consequences for all involved.

The law requires, for the first time, nearly all state and local law enforcement agencies to report data on all stops conducted by the agency’s peace officers to the California Department of Justice (Department). RIPA also established the Racial and Identity Profiling Advisory Board (Board), which is tasked with convening and working with the relevant stakeholders, consulting on the data collection, and providing public reports with the ultimate objective to eliminate racial and identity profiling and thus improve outcomes between individuals and law enforcement. The Board, which meets at least three times a year, is enhanced by the diverse perspectives and backgrounds of its 19 members who include law enforcement, attorneys, clergy, academics, community organizations, and youth. The Board and its members are unwavering in their dedication to the pursuit of increased public safety and improving law enforcement-community relations and trust in California through collaboration, transparency, and accountability.

Since its inception in July of 2016, the Board has furthered its mission by 1) actively engaging with the community at robust Board and subcommittee meetings; 2) consulting with the Department during the development of the RIPA regulations; 3) continuing its direct engagement with law enforcement agencies, community members, and other stakeholders on the implementation of stop data collection and submission; and 4) working with the Commission on Peace Officer Standards and Training (POST) on its trainings pertaining to racial and identity profiling, and by issuing its annual reports.

Each year, by January 1, the Board will produce a report that includes detailed findings on the past and current status of racial and identity profiling in law enforcement as well as policy recommendations for eliminating profiling. To view the Board’s first report released January 1, 2018, please see <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf> and the accompanying video <https://www.youtube.com/watch?v=xffqC9Xb9Dw>).⁸ RIPA requires each annual report to include the following:⁹

- An analysis of law enforcement data regarding stops by its officers and civilian complaints against officers.

⁶ Pen. Code, § 13519.4.

⁷ Pen. Code, § 13519.4, subd. (d)(2).

⁸ Racial and Identity Profiling Advisory Board. Racial and Identity Profiling Advisory Board Annual Report 2018. (2018). Available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>

⁹ Pen. Code, § 13519.4, subd. (j)(3)(A-E).

- An analysis of the law enforcement training on racial and cultural differences required by Penal Code section 13519.4.¹⁰
- A review and analysis of racial and identity profiling policies and practices across geographic areas in California, working in partnership with state and local law enforcement agencies.
- Evidence-based research on intentional and implicit biases, and law enforcement stop, search, and seizure tactics.¹¹

RIPA also requires the Board to consult with POST regarding its trainings on racial and cultural differences. Aside from the duties of the Board, RIPA makes the following changes to law enforcement procedures and practices.¹²

- Requires the majority of California’s law enforcement agencies to collect information on stops made by their officers, and report this information to the Department.
- Tasks the Department with writing the regulations to implement this data collection in consultation with the Board and other stakeholders.¹³
- Requires the stop data collected be available to the public and prohibits the personal information of the person stopped and the unique identifying information of the officer from disclosure.
- Makes several changes to the civilian complaint data that is required to be reported to and published by the Department.¹⁴
- Expands the definition of racial profiling to include “identity profiling” and specifically provides that the consideration of a person’s personal characteristics cannot be a basis for deciding who to stop or how to treat a person who has been stopped, except when relying on a specific suspect description.¹⁵
- Makes several changes to law enforcement’s racial and cultural diversity training requirements.¹⁶

As noted above, RIPA requires the majority of California’s law enforcement agencies to collect information on all stops by their officers, excluding stops by custodial officers and those that take place in a custodial setting. A “stop” is defined as any detention or search, including consensual searches.¹⁷

Significantly, the eight largest agencies in the state (those with 1,000 or more officers) began collecting data on July 1, 2018, and are required to submit this data to the Department by April 1, 2019. These agencies are the California Highway Patrol, Los Angeles Police Department, Los Angeles County Sheriff’s Department, Riverside County Sheriff’s Department, San Bernardino County Sheriff’s Department, San Diego County Sheriff’s Department, San Diego Police Department, and the San Francisco Police Department.

¹⁰ Pen. Code, § 13519.4, subd. (3)(B).

¹¹ Pen. Code, § 13519.4, subd. (j)(3).

¹² Assem. Bill No. 1518 (2017-2018 Reg. Sess.) § 1-2.

¹³ Gov. Code, § 12525.2, subds. (a), (e).

¹⁴ Pen. Code, § 13012.

¹⁵ Pen. Code, § 13519.4, subd. (e).

¹⁶ Pen. Code, § 13519.4, subd. (h).

¹⁷ Gov. Code, § 12525.5, subd. (g)(2).

This year's report builds on the discussion in the Board's 2018 report regarding a baseline understanding of racial and identity profiling and what law enforcement agencies are doing to prevent and address it. This report does not include data regarding stops, because, as noted above, the first wave of agencies is not required to submit this data until April 1, 2019.

Specifically, this report aims to enhance the transparency of the stop data collection process by providing the public with detailed information on how the data is collected and submitted and how the Department and law enforcement agencies ensure the integrity of this data. This report also provides recommendations that can be incorporated by law enforcement agencies to enhance their policies, procedures, and trainings on topics that intersect with bias and racial and identity profiling.

In summary, this report:

- 1) Reviews the information that law enforcement agencies must collect and report on each stop, and how agencies and the Department are ensuring the integrity of this data.
- 2) Provides best practice recommendations for agencies in drafting policies, procedures, and trainings regarding civilian complaints and racial and identity profiling.
- 3) Analyzes the civilian complaint data submitted to the Department in 2017.
- 4) Explores how to address the potential for bias when officers respond to calls for service;
- 5) Analyzes the use of force data submitted to the Department in 2017.¹⁸
- 6) Highlights methodologies that the Board may wish to use in analyzing data once it is submitted to the Department by April 1, 2019.

The report also presents a blueprint of the Board's vision for work it hopes to pursue in future reports.¹⁹

As all California law enforcement agencies begin collecting stop data over the next several years, in keeping with the spirit of the RIPA legislation, the Board encourages agencies to view the data elements mandated by the statute and its implementing regulations as the floor, rather than the ceiling, as to what data an agency will collect. As the regulations state, "the data elements...are the minimum that a reporting agency shall collect and report. Nothing in this section prohibits a reporting agency from voluntarily collecting additional data."²⁰ In keeping with the spirit of the legislation, the Board encourages agencies to consider collecting and disseminating any data it deems necessary or important for identifying disparities in law enforcement interactions with the public. Agencies should not feel limited by the requirements in the regulations, but rather view these elements as a minimum requirement.

As the data is submitted to the Department, the Board, law enforcement, and other stakeholders will have the opportunity to analyze stop and complaint data by agency, together with agencies' policies, procedures, and trainings. It is the Board's hope that this analysis will help identify any unjustified disparities in law enforcement interactions with the public, and encourage law

¹⁸ The Board includes recommendations related to use of force because of its inherent relationship to police stop and search practices. In addition, stop data reports are required to include information regarding actions taken during a stop, such as the discharge or use of firearms, that also constitute a use of force that must be reported to the Department separately as a use of force incident under AB 71.

¹⁹ Appendix A of this report contains a summary of legislation enacted in 2018 related to police accountability.

²⁰ Cal. Code, § 999.227 subd. (a)(2).

enforcement agencies, policy makers and community members alike to collaborate to develop solutions.

Furthermore, the Board encourages all law enforcement agencies to vigorously analyze their own data to address any issues that may be identified at the local level. And in doing so, the Board hopes that both the analysis methodologies used and the findings of those analyses are transparent and available to the public. Law enforcement agencies should also reach out to academics and other stakeholders who can supplement and guide agencies in conducting meaningful analysis of this rich data set.

Future Board reports will provide this analytical information as well as continue to provide recommendations that may be helpful in preventing or reducing racial and identity profiling. These recommendations are intended to be utilized by law enforcement and community members in the continual improvement of their departments.

The Board understands that success will only truly occur if all stakeholders are engaged and work collaboratively and constructively. It is in this context that the Board, comprised of professionals of diverse backgrounds and perspectives, comes to the table and offers solutions to move law enforcement-community relations forward. The Board continually welcomes and values public input from community members and law enforcement whether in its public meetings or through direct submission of comments or questions to the Department to be disseminated to the members.²¹ It is the Board's hope that this relationship and engagement will continue to grow and bloom.

Best Practice Recommendations

In its 2018 report, the Board surveyed law enforcement agencies throughout the State of California regarding the policies, procedures, and trainings they utilize to address racial and identity profiling.²² The results of that survey, which include information from only those agencies that submitted a response, highlighted that agencies approach this topic in a highly variable manner. To help address these differences, the Board has compiled and analyzed best practices drawn from a range of law enforcement, academic, governmental, and non-profit organizations with relevant expertise in addressing racial and identity profiling in policing. As a result, the Board is providing these best practices for law enforcement agencies to consider and implement, where appropriate, to help prevent and address profiling if and when it occurs in policing.

Specifically, the Board has highlighted some best practices for civilian complaint policies and procedures, bias-free policing policies, and trainings related to racial and identity profiling. It cannot be emphasized enough that these recommendations do not represent the full panoply of recommendations or best practices that an agency could and should consider adopting, rather, they aim to provide a foundation on which the Board hopes and plans to continue expanding

²¹ Since its first meeting in July of 2016, the Board has met publicly 12 times and has held 21 subcommittee meetings, all of which included constructive public comment and involvement. To submit questions or concerns to the Board, please visit the Board's website at <https://oag.ca.gov/ab953/board> for contact information and subscribe to the Board's mailing list at <https://oag.ca.gov/ab953/subscribe>.

²² Racial and Identity Profiling Advisory Board. Racial and Identity Profiling Advisory Board Annual Report 2018. (2018). Available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>.

upon in future reports. These best practices can be found throughout the body of the report as well as compiled in Appendix B for ease of reference.

The Board began its research into best practices by reviewing the governing law on the prohibitions related to racial and identity profiling. Penal Code section 13519.4, which RIPA amended, expressly states “racial or identity profiling is a practice that presents a great danger to the fundamental principles of our Constitution and a democratic society. It is abhorrent and cannot be tolerated.”²³ The statute expressly prohibits racial and identity profiling, which is defined as “the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop, except that an officer may consider or rely on characteristics listed in a specific suspect description.”²⁴ Further, racial profiling is unlawful under federal and state constitutional law, violating the fundamental right of equal protection under the law guaranteed by the Fourteenth Amendment of the United States Constitution²⁵ and Article I, Section 7 of the California Constitution.²⁶ Along with this right to equal protection is the fundamental right to be free from unreasonable searches and seizures by government agents as guaranteed by the Fourth Amendment of the United States Constitution.²⁷

In conducting its literature review on best practices for bias-free policing and related policies, the Board focused on identifying consistent standards across a range of relevant law enforcement, academic, governmental, and non-profit organizations that have expertise in this area. Since 2009, the Civil Rights Division of the United States Department of Justice (U.S. DOJ) has conducted investigations or reached reform agreements with 15 police departments and sheriff’s departments throughout the country (two of which are California agencies), aimed at improving bias-free policing policies in law enforcement agencies and implementing procedural justice reforms.²⁸ Many of these investigation reports and consent decrees contain similar policy recommendations, several of which have also been advocated by human and civil rights organizations and researchers who have analyzed policies relating to racial and identity profiling. All of the best practice recommendations contained in this report represent an accumulation of best practices identified by the U.S. DOJ and information sourced from other relevant empirical research conducted by universally well-regarded organizations such as the Police Executive Research Forum (PERF),²⁹ the International Association of Chiefs of Police’s (IACP),³⁰ the Vera Institute,³¹ Fair and Impartial Policing,³² Stanford Social Psychological Answers to Real World Questions (SPARQ),³³ and Center for Policing Equity (CPE),³⁴ among others.

²³ Pen. Code, § 13519.4, subd. (d)(2).

²⁴ Pen. Code, § 13519.4, subd. (e).

²⁵ U.S. Const., 14th Amend.

²⁶ Cal. Const., art. I, § 7.

²⁷ U.S. Const., 4th Amend.

²⁸ U.S. Dept. of Justice Civ. Rights Div., An Interactive Guide to the Civil Rights Division’s Police Reforms (Jan 1, 2017), pp. 8.

²⁹ Police Executive Research Forum (PERF). Information available at <https://www.policeforum.org/>

³⁰ International Association of Chiefs of Police (IACP). Information available at <https://www.theiacp.org/>

³¹ The Vera Institute of Justice. Information available at <https://www.vera.org/>

³² Fair and Impartial Policing. Information available at <https://fipolicing.com/>

³³ Stanford Social Psychological Answers to Real World Questions (SPARQ). Information available at <https://sparq.stanford.edu/>

³⁴ Center for Policing Equity (CPE). Information available at <http://policingequity.org/>

The Board advises that these best practices are general recommendations, created with an eye towards achieving its goal of eliminating racial and identity profiling in policing, but are by no means exhaustive. Rather, these recommendations represent best practices that have appeared in numerous consent decrees and scholarly studies regarding policies on and related to bias-free policing. Each individual law enforcement agency should review its current policies, procedures, and trainings to determine which of the following recommendations fit best within its organization.

It is the Board's hope that these best practice resources will assist law enforcement agencies, policymakers, and community members in developing, assessing and implementing bias-free policing policies, procedures, and trainings. The Board understands that there must be sufficient funding in order to implement these recommendations, and further understands that the amount of funding and resources available to implement these recommendations varies depending on the agency; however, agencies are encouraged to seek out grants and funding that will ensure that the stop data collection is utilized to its fullest potential.

Even without additional resources, there are recommendations that can and should be adopted to enhance the services that law enforcement agencies provide to the community. The Board encourages cities, counties, and policymakers to work with law enforcement agencies under their purview to ensure they are allocated the necessary funding and resources to implement the best practices described in the report. The Board further recommends that the Legislature provide sufficient funding to POST to assure that all agencies receive recommended and necessary trainings, including training covering RIPA data collection and analysis, de-escalation, mental health, and addiction, among other relevant topics.

As the Board continues to carry out its mission, it applauds the efforts of law enforcement agencies and stakeholders to improve law enforcement-community relationships and take steps toward eliminating racial and identity profiling in California. The Board recognizes and understands that real progress cannot be effectuated without both law enforcement and community support. However, it is hopeful that real change can be achieved. California has been a leader on many fronts and this is yet another opportunity to demonstrate to the country that real progress is possible when people work together towards a shared goal, in this case, the elimination of racial and identity profiling in California.

STOP DATA

RIPA requires the majority of California’s law enforcement agencies to collect information on all stops by their officers, excluding stops by custodial officers and those that take place in a custodial setting. A “stop” is defined as any detention or search, including consensual searches.³⁵

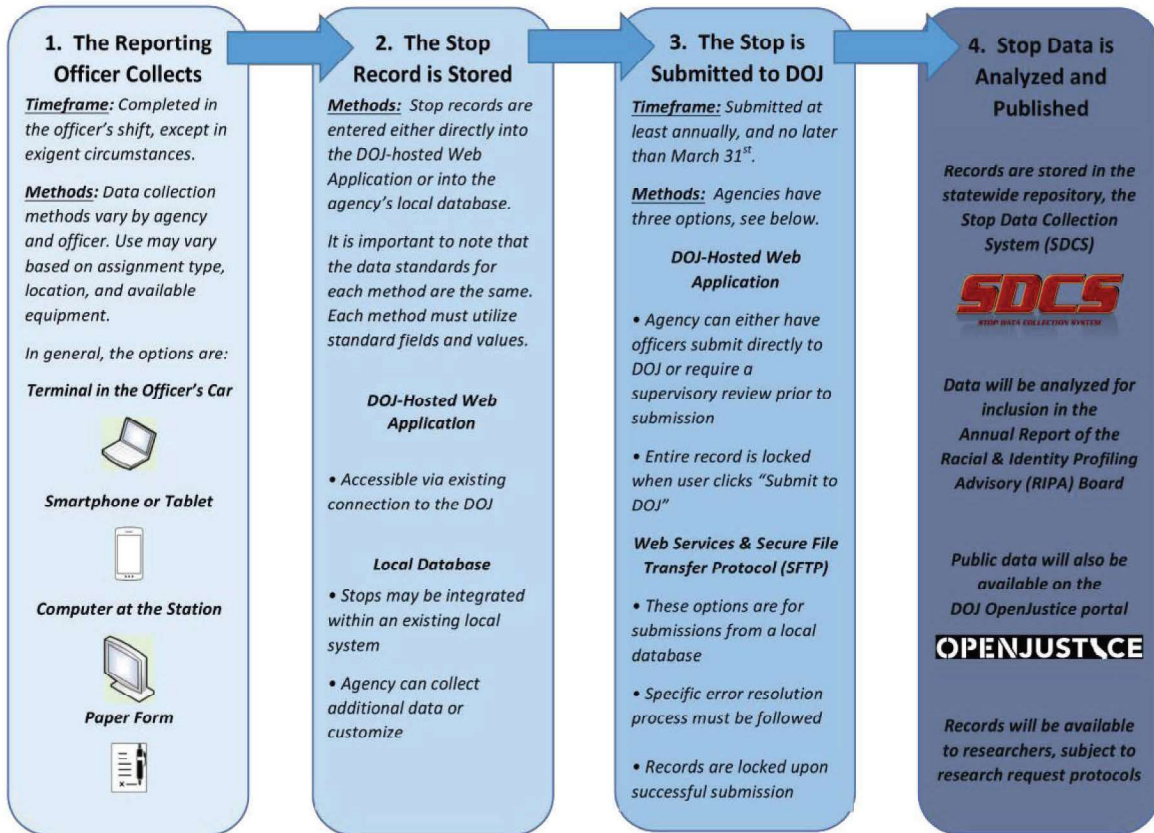
As noted above, agencies with 1,000 or more officers began collecting data on July 1, 2018, and are required to submit this data to the Department by April 1, 2019. These agencies, the eight largest in the state, include the California Highway Patrol, Los Angeles Police Department, Los Angeles County Sheriff’s Department, Riverside County Sheriff’s Department, San Bernardino County Sheriff’s Department, San Diego County Sheriff’s Department, San Diego Police Department, and the San Francisco Police Department. In future years, the Board’s annual report will include a detailed analysis of this data, once it has been submitted to the Department. As the data will not be available to review and analyze until April of 2019, this section will address the following:

- Data to be collected.
- Methods of submitting the data to the Department.
- Data integrity.
- Potential methodologies to analyze stop data.

Figure 1, below, provides an overview of the collection and submission process, from the time the officer collects the data and submits it to their agency to the time the agency submits this data to the Department.

³⁵ Gov. Code, § 12525.5, subd. (g)(2).

Figure 1: Overview of Collection and Submission Process



I. DATA COLLECTION

A. Data Collected

The data collected on each stop includes three types of information: 1) information about the stop itself; 2) perceived information about the person stopped; and 3) information about the officer making the stop. Table 1, below, details the information the officer must report.³⁶

³⁶ For more information on the specific data collected, including a data collection template with the data values, or choices, to select from regarding each data element, please see Appendix C. This template is also available on the Department's website at <https://oag.ca.gov/sites/all/files/agweb/pdfs/riipa/regs-template.pdf>.

Table 1: Officer Reporting Requirements

<i>Information Regarding Stop</i>
<ol style="list-style-type: none">1. Date, Time, and Duration2. Location3. Reason for Stop4. Was Stop in Response to Call for Service?5. Actions Taken During Stop6. Contraband or Evidence Discovered7. Property Seized8. Result of Stop
<i>Information Regarding Officer's Perception of Person Stopped</i>
<ol style="list-style-type: none">1. Perceived Race or Ethnicity2. Perceived Age3. Perceived Gender4. Perceived to be LGBT5. Limited or No English Fluency6. Perceived or Known Disability
<i>Information Regarding Officer</i>
<ol style="list-style-type: none">1. Officer's Identification Number2. Years of Experience3. Type of Assignment

When initially recording the information about each stop (the information that becomes the stop data report) officers will select from a standardized list of responses for each of the categories of information. These standardized lists will ensure that the data collected is uniform for all agencies. As will be discussed later in the section of the report, ensuring the uniformity of the data is a critical step in preserving its integrity. When providing the “reason for the stop” and “basis for the search” (if one is conducted), officers are also required to complete an explanatory field (of no more than 250 characters), in which the officer explains in their own words why the person was stopped and/or searched.

The purposed goal of this explanatory field is to obtain richer information about the reason for the stop and/or search beyond what is contained in the standardized “check the box” lists. And, as required by the RIPA regulations, the explanation provided by the officer in these open fields must include additional detail beyond the general check boxes selected. However, in doing so, law enforcement agencies must adhere to their statutory responsibility to protect the privacy of the person stopped as well as the officer involved. Thus, to ensure that privacy is maintained, the reporting officer should not include any personally identifying information of any individual

community member involved in the stop nor any unique identifying information that could identify any officer involved in the stop.³⁷

As an additional safeguard to ensure privacy, it is critical that officers and supervisors review the open explanatory fields to confirm that this privacy protected information is not submitted to the Department.³⁸ It cannot be emphasized enough that the reporting law enforcement agency is solely responsible for ensuring that personally identifying information of any individual and unique identifying information of any officer is *not* submitted to the Department.³⁹

B. Deadlines for Submitting Stop Data to the Department

The size of an agency determines when it is required to begin collecting and submitting data to the Department. Stop data collection for the eight largest agencies in the state began on July 1, 2018. These agencies have informally been termed the “Wave 1” agencies due to the rolling nature of the stop data collection timeline. Accordingly, the next set of agencies to begin data collection are thus termed “Wave 2” and so on until the final group, “Wave 4” begins collecting the data. Table 2, below, details the collection and reporting deadlines for each “Wave.”

Table 2: Collection and Reporting Deadlines

<i>Reporting Wave</i>	<i>Size of Agency</i>	<i>Data Collection Begins</i>	<i>Data Must be Reported to DOJ</i>	<i>Approx. # of Agencies</i>
1	1,000+	July 1, 2018	April 1, 2019	8
2	667-999	Jan. 1, 2019	April 1, 2020	7
3	334-666	Jan. 1, 2021	April 1, 2022	10
4	1-333	Jan. 1, 2022	April 1, 2023	400+

As noted above, agencies in the first wave of reporting began collecting data on July 1, 2018. These eight agencies are the California Highway Patrol, Los Angeles Police Department, Los Angeles County Sheriff’s Department, Riverside County Sheriff’s Department, San Bernardino County Sheriff’s Department, San Diego County Sheriff’s Department, San Diego Police Department, and the San Francisco Police Department. The staggered starting collection dates allow the individual agencies and the Department to ramp up the systems to collect, store, transmit, and process such a large amount of data. Once the agency begins collecting the data it is statutorily due to the Department no later than April 1 of each year; however, agencies may and are encouraged to submit the data on a more frequent basis, if practical.

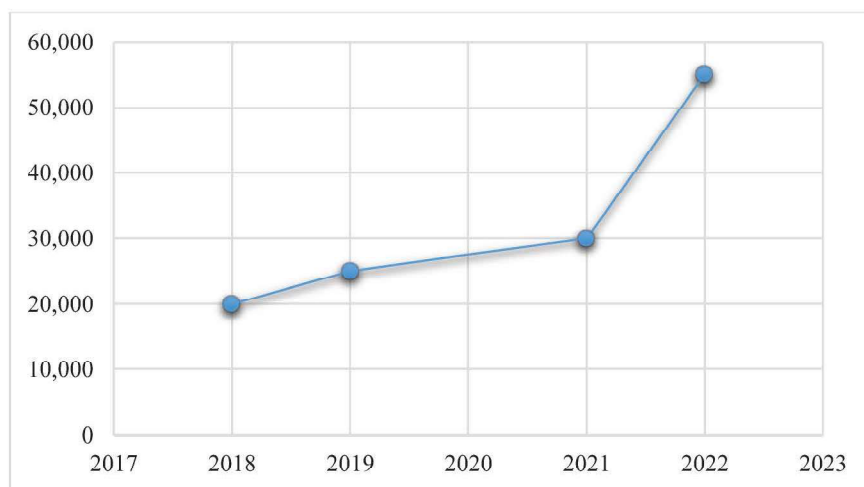
³⁷ Cal. Code Regs., tit. 11, div. 1, ch. 19 § 999.226, subds. (a)(10)(B), (a)(12)(B)(2).

³⁸ AB 1518 amended the stop data collection required by RIPA, to ensure that the badge number or other unique identifying information of peace officers not be made available to the public, and provided that law enforcement agencies are solely responsible for ensuring that personally identifying information of the individual stopped or any other information that is exempt from disclosure are not transmitted to the Department in an open text field. (Gov. Code, § 12525.2, subd. (d)).

³⁹ Cal. Gov. Code, § 12525.2, subd. (d); Cal. Code Regs., tit. 11, div. 1, ch. 19 § 999.228, subd. (d).

As shown in the chart below, the number of officers required to submit stop data is expected to grow significantly over time as more agencies begin collecting data under the deadlines set forth in the statute and illustrated above. Already, in the first year of data collection, approximately 20,000 law enforcement officers across the state are subject to the new stop data requirements, and every subsequent year the total number of officers required to report stop data increases as more agencies begin reporting. Figure 2 visually displays this information.

Figure 2: Estimated Number of Officers Subject to Stop Data Reporting Requirements⁴⁰



C. Outreach and Training

Law enforcement agencies and the Department’s California Justice Information Services Division (CJIS) have been closely collaborating to implement RIPA’s stop data collection requirements. Some of the key activities of CJIS working with reporting agencies over the last several months are listed below.

- Multiple site visits to each agency in Wave 1 and Wave 2.
- Meetings with vendors that supply agencies with local record management systems.
- Publishing technical specifications, data dictionary, and other system documents.
- Regional meetings with Wave 1 and Wave 2 agencies to review and walk through technical documents.
- Recurring conference calls with all Wave 1 and Wave 2 agencies.
- Webinars co-hosted with the Department’s Civil Rights Enforcement Section.
- Processing test records submitted to the Department prior to launching data collection.
- Creating and testing user accounts for agencies to use prior to launching data collection.
- Conducting train-the-trainer sessions with Wave 1 and Wave 2 agencies on the Stop Data Collection System.

⁴⁰ These figures are derived by adding the total number of officers who are subject to the reporting requirements, for each agency, as each tier of agencies begins to collect data. For example, the figure of 20,000 officers for 2018 represents the total number of officers who are subject to the reporting requirements from the eight agencies that began reporting on July 1, 2018. For 2019, the total number of officers from Wave 1 and Wave 2 agencies (15 agencies in all) who will be reporting data is 25,000. These numbers include officers from the previous reporting year.

- Responding to individual questions posed by law enforcement agencies on a case-by-case basis.

Now that the largest eight agencies are actively collecting data, CJIS continues to work closely with the administrators from each of these agencies and provides ongoing training as needed to support their agency's needs. CJIS also maintains a Help Desk to provide 24/7 phone support and trouble shoot any technical issues agencies may experience as they submit their data to the statewide repository. Typical support calls may involve assisting a user to reset their password or explaining a system-generated message.

Finally, individual agencies have also taken a variety of steps to ensure the successful implementation of the new stop data collection and reporting requirements. These activities include, but are not limited to drafting and implementing agency policies regarding the data collection, developing administrative bulletins, conducting in-person trainings, and online tutorials.

II. DATA INTEGRITY

In order for the required collection of stop data to meet the goal of shedding light on the state of racial and identity profiling in California, all stakeholders must be sure that the data is reliable and has been collected with a high degree of integrity.

Data integrity means that:

- Required information is reported accurately (e.g., that stop data records mirror what actually happens during the police-community interactions).
- Each record that is submitted is complete (e.g., there is no missing information about a particular stop).
- All required data is collected systematically (e.g., all stops that are subject to reporting requirements is captured).

To protect the integrity of the stop data collected under RIPA, a number of steps have been taken. Those safeguards are discussed in the following sections.

A. Data Integrity Protocols Maintained by the Department of Justice

All records submitted to the Department are stored in a statewide repository called the Stop Data Collection System (SDCS). A series of rules and user permissions are used by the SDCS to protect the quality and integrity of the data. Some of these rules are listed below.

- Reported data must be complete, and follow uniform standards.
- Access to stop records is restricted.
- A specified error resolution process must be followed.
- Once submitted, perception data is locked and cannot be changed by the officer or agency.
- Transactions are stored in system audit logs.

Once an agency's records are submitted to the Department, the data can only be altered in two circumstances: 1) error validation/correction; or 2) written requests by an agency to CJIS to correct specific information on a case-by-case basis.

Automatic Error Validation/Correction

To ensure data conforms to the requirements of RIPA and its regulations, the system performs validation on every record and every field. The system automatically flags data entries that do not comply with the Department's technical specifications.

For data submitted via the Department-hosted Web Application, errors will be immediately detected. Error messages will be displayed on the screen for correction. Any valid data will be saved, but the record will be flagged with an incomplete status until any errors are resolved. Agency supervisors can access online reports to help ensure incomplete records are resolved in a timely manner.

For agencies submitting data via Web Services or SFTP, error messages are also used to identify any missing or invalid data. All valid data is saved to the system, and the system will return error messages to the submitting agency. A rigorous error resolution process dictates whether or not update messages can be transmitted to correct errors. For example, any perception data fields are locked and cannot be subsequently edited by the agency, even if a perception data field contains an invalid code. If a correction is sent, the automated process will validate whether or not the record or field can be edited. If a change is applied to a record, a detailed audit log captures the original value and edited value.

Written Requests by Agencies to Correct Data After It Has Been Submitted to the Department

Once an agency successfully submits a record to the Department, the record is considered "locked" and the agency can no longer edit the record. If assistance is needed for a correction after the record is locked, requests must be submitted to the Department in writing. Approval is not automatic and is reviewed by management on a case-by-case basis. Any records edited through this exception case would be captured in a detailed audit log to indicate the original value and edited value. As of November 1, 2018, the Department has not received any such requests.

B. Data Integrity Protocols Maintained by Law Enforcement Agencies

As part of its collaborative outreach and work with law enforcement, the Board invited all of the Wave 1 agencies to attend its November 2018 meeting to discuss the agencies various protocols for collecting, submitting, and ensuring the integrity of the stop data they collect and submit to the Department. While not all agencies were able to attend the Board meeting in person, written responses on this topic were either addressed in person, by means of a written response, or a combination of the two by all but one of the Wave 1 agencies.⁴¹ Highlights from their responses and presentations, organized by question, are outlined below.

⁴¹ Riverside County Sheriff's Department did not respond to this request for information nor did they present at the Board meeting.

How Do Officers Collect and Report Stop Data to Their Agency?

The agencies responded that officers have several methods by which to collect data, including 1) mobile digital computers in patrol vehicles; 2) tablets, cell phones or other mobile devices; 3) desktop computers at stations and, as a temporary measure, 3) paper forms that would then be used to input the data electronically. The primary data collection method is electronic. Several agencies noted the length of time officers devoted to collecting and submitting the data for each stop. As more agencies begin to collect data, the Board may wish to explore and analyze this metric as well as agency costs in future reports.

Do Agencies Have Policies and Training Courses to Implement the Stop Data Collection Requirements Mandated by RIPA?

The agencies indicated that they have implemented policies, such as bulletins and orders, and training for their officers and supervisors regarding the data collection required under RIPA. These policies and training materials include bulletins and updates, videos, online training, and ongoing training that occurs regularly during shift briefings by shift supervisors. Several agencies also provided “Train the Trainer” programs and/or other training specifically for supervisors.

The San Diego County Sheriff’s Department also created a specific RIPA Implementation Committee which is tasked with addressing issues related to the stop data collection program. The implementation committee also answers questions regarding RIPA from supervisors, the public, and deputies.

What Steps Are in Place to Ensure the Data Submitted Meets the Department’s Data Standards?

Agencies utilize a variety of automatic validation checks to ensure their systems collect required data and flag entries that contain incomplete or invalid codes. Examples are detailed below.

- An officer may not be able to navigate to the next data capture screen if required data entry fields for the current screen are left blank.
- Data fields are hidden when they do not apply; for example, if the person was not searched, the search-related fields are not shown to the user.
- If the person stopped was not a student, the check boxes that apply only to stops of students in a K-12 setting do not appear in data entry screens. Users must select choices from the reference tables identified in the Department’s technical data dictionary.
- Use of the tables from the Department’s technical data dictionary helps ensure that only valid offense codes, cities and school names are entered.

What Happens to Data After an Officer Completes a Stop Data Record? If a Record is Submitted to a Supervisor for Review, What Changes, if Any, can be Made to the Record?

California Highway Patrol

Supervisors review the record to ensure it complies with law and policy, including confirmation that the open text fields do not contain personally identifiable information (PII) or unique identifying information (UII) of any person. Supervisors also review for grammatical errors and

to confirm that the data complies with the technical specifications. Supervisors cannot edit the record but, if necessary, will return the record to the officer to correct and re-submit.

Los Angeles Police Department

Once a record is placed in a supervisory queue, it is locked (i.e., the officer cannot access the record). A supervisor can only edit the open text fields and will do so if the field contains PII or UII or other grammatical or derogatory information. A supervisor that discovers such information will either remove the PII or UII in question or notify the officer to correct the field. Once a supervisor approves the record, it is flagged so it can be exported to the Department.

Los Angeles County Sheriff's Department

The deputy completes the stop report and submits it. The supervisor will review it, paying particular attention to the open text fields to ensure there is no PII or UII included. If any changes are required, including grammar, the supervisor will send the report back to the deputy for correction. Once approved by the supervisor, the report is submitted to await transmission to the Department. The agency's Data Systems Bureau conducts random audits and reviews of the collected data.

San Bernardino County Sheriff's Department

Once a stop record is submitted, it is saved in the database but held in a review queue. The review queue is used by authorized auditing personnel to ensure no PII, UII, or any other prohibited or non-conforming data has been entered into any of the three open text fields.

The only data that is capable of being viewed and/or corrected is the information contained in the open field narrative sections of the form. All of the other data elements and values are not part of the audit process and are incapable of being changed by auditors. An authorized auditor can remove any PII or UII and clarify text entries in order to ensure compliance with the regulations and ensure any non-conforming information is corrected. The corrected form is then placed into the database for ultimate submission to the Department in accordance with the regulations. The original text and any subsequent corrections made during the auditing process are retained. The complete audit trail is saved in the database to ensure data integrity at all levels.

San Diego Police Department

Once the data is submitted internally, it is maintained in a secured file. A supervisor does directly review the data and an officer cannot make changes once it submits the data to that secured file. Officers must verify, through the use of their daily journals and specific reports, that they have submitted stop data. The supervisor is required to inspect unit history files and approve reports related to data collection to ensure compliance.

San Diego County Sheriff's Department

Deputies cannot change any data once it has been submitted via the agency's application. A sheriff's captain or the RIPA Implementation Committee reviews the database to ensure that it is compliant with Department standards and does not include PII, UII, or errors. San Diego County

Sheriff's Department has an automated process to bulk check for known PII or UII patterns, such as dates and names. Results are reviewed to identify positive PII or UII matches, and errors. If PII, UII, or an error is found in the narrative text fields, only the portion of text that constitutes PII, UII, or error is removed through a manual edit process only available to personnel with administrative privileges.

The changes are captured in an audit log along with the original state of the stop, the time of change, who made the change, and the reason it was necessary. If data errors are encountered as part of the Department submission process, the same edit process is used to fix errors before resubmitting.

San Francisco Police Department

Officers submit data directly to the Department's state repository of stop data, via the Department's web-based application. Currently San Francisco Police Department is not utilizing the supervisory review function of the Department's web-based application, but they informed the Board that they are considering implementing that in the future.

III. METHODS OF DATA SUBMISSION TO THE DEPARTMENT

In the spirit of facilitating the ability of a large and diverse array of individual law enforcement agencies to successfully comply with the stop data requirements, the regulations provide agencies with three methods to submit data. These three methods of submitting data to the statewide repository are: 1) a Department-hosted Web Application, 2) Web Services, and 3) Secure File Transfer Protocol. The Department developed these three submission methods to provide flexibility to meet the needs of an agency's local infrastructure. It is important to note that the data standards for each of these methods are the same. Each method utilized standard fields and validation checks, which will be discussed in the next section of this chapter. Table 3, below, details the submission methods initial reporting agencies will be using.

Table 3: Wave 1 Agency Submission Methods

<i>Agency</i>	<i>Type of Data Submission</i>
California Highway Patrol	Web Services
Los Angeles Police Department	Secure File Transfer Protocol
Los Angeles County Sheriff's Department	Web Services
Riverside County Sheriff's Department	Secure File Transfer Protocol*
San Bernardino County Sheriff's Department	Web Services*
San Diego Police Department	Web Services*
San Diego County Sheriff's Department	Web Services*
San Francisco Police Department	Department-hosted Web Application

**These agencies are using a locally installed copy of an application developed by the San Diego County Sheriff's Departments.*

For additional detail on the three submission methods, please see Appendix D.

IV. POSSIBLE METHODOLOGIES FOR ANALYZING STOP DATA

The 2018 Board report identified different methodologies that could be used to analyze the data regarding stops that is being collected by law enforcement agencies in California, to identify if and where there may be racial and identity profiling.⁴²

Any methodology that evaluates bias suffers from some weakness, so overreliance on one method may lead to inaccurate conclusions. For this reason, the Board presents two possible methodologies that could be used to analyze the data in future reports. Either of the two methodologies, as explained in more detail below, could be applied to analyze the stop data for future Board reports. The benefit of pursuing these proposed analyses is that they can evaluate whether potential racial bias is present in pre-stop decisions and post-stop outcomes.

Pre-stop decisions refer to an officer's decision to stop a given individual. The pre-stop method analyzes the number of stops, and potentially disparate numbers for various identity groups, i.e.,

⁴² Racial and Identity Profiling Advisory Board. Racial and Identity Profiling Advisory Board Annual Report 2018. (2018) pp. 62-68. Available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf>

“pre-stop” data, which is also called the “Veil of Darkness” methodology because it compares the data under conditions where there is daylight and darkness.⁴³

Post-stop outcomes refer to the outcomes of a stop and, for purposes of RIPA, would include whether a search conducted during a stop was successful in yielding contraband or evidence. This second “post-stop” method looks specifically at how often searches conducted during a stop were successful across identity groups and the disparity between search and search success rates. This method is referred to as the “outcome test” because it looks at the results of the stop.⁴⁴

The stop data collected under RIPA will contain additional information outside of what could be used to perform the pre-stop and post-stop tests above. For this reason, the Board will also include descriptive analyses to provide readers information that may not be provided using the two methodologies below. These additional types of analyses may take the form of providing the number of civilians of the various identity groups that were stopped. Additionally, these identity groups may be broken down by the proportion of their members that have certain actions (such as use of force, being handcuffed, or having property seized) taken on them, or have certain outcomes (such as being released with no action, being arrested without a warrant, or having a parent or legal guardian contacted) to their stops. Providing these additional statistics and analyses may provide readers with more context in which to view the results of the pre-stop and post-stop analyses. They could also provide more insight into post-stop outcome measures that the examinations of search hit rates do not include.

The below discussion on veil of darkness technique and outcome tests should not be interpreted to be the only forms of analysis that the Board may decide to explore with respect to the stop data analysis that will take place in future Board reports. Indeed, gaining an understanding of the issues the Board is tasked with examining may require the use of additional or supplemental analysis or alternative methods to be employed in the future.

The Board is considering these two analytical approaches for several reasons. First, these methods are well-established in the research literature.⁴⁵ As thoroughly employed, analyzed and critiqued methods, their strengths and weaknesses are well known and will be kept in mind when discussing the results and determining future directions. Second, as established methods, there are also a number of modifications or adjustments that can be made if the need arises. Third, their relatively simple approach makes their application and interpretation straightforward for both the Board and for members of the public to understand. Moreover, the successful replication of findings will build confidence in the findings.

⁴³ Grogger and Ridgeway. *Testing for Racial Profiling in Traffic Stops from Behind a Veil of Darkness*. (2012) 109(1) Journal of the American Statistical Association, pp. 878-887.

⁴⁴ Knowles et al. *Racial Bias in Motor Vehicle Searches: Theory and Evidence*. (2001) 109(1) Journal of Political Economy, pp. 203-229.

⁴⁵ In an ongoing meta-analysis of 155 (at the time of this writing) police racial profiling studies, researchers found that 47 percent ($n = 459$) of the effect sizes of analyses examining racial profiling in stops were from studies using the VOD technique. These researchers also found that 25 percent ($n = 771$) of the effect sizes from all the racial profiling studies they examined were from hit rate analyses (Mitchell, Lawshe, and Morales. *Racial Profiling: A Meta-Analytic Synthesis of the Research*. (2018) Paper presented at the meeting of The American Society of Criminology, Atlanta, GA.