



**AGENDA
REGULAR MEETING
CITY COUNCIL OF THE TOWN OF COLMA
Wednesday, September 22, 2021
Closed Session - 6:00 PM
Regular Session - 7:00 PM**

On March 17, 2020, the Governor issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings completely telephonically or by other electronic means. This suspension was extended by the Governor on June 11, 2021 by issuance of Executive Order N-08-21 which continues to allow for complete virtual City Council meetings. The purpose of these orders was to provide the safest environment for Council Members, staff and the public while allowing for public participation.

Members of the public may view the meeting by attending, via telephone or computer, the Zoom Meeting listed below:

**Join Zoom Meeting: <https://us02web.zoom.us/j/81289976261>
Passcode: 074407**

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Members of the public may provide written comments by email to the City Clerk at ccorley@colma.ca.gov before or during the meeting. Emailed comments should include the specific agenda item on which you are commenting or note that your comment concerns an item that is not on the agenda. The length of the emailed comment should be commensurate with the three minutes customarily allowed for verbal comments, which is approximately 250-300 words.

CLOSED SESSION – 6:00PM

1. In Closed Session Pursuant to Government Code Section 54957.6 – Conference with Labor Negotiators.

Agency Negotiator:	Austris Rungis, IEDA
Employee Organizations:	Colma Peace Officers Association and Colma Communications/Records Association
Unrepresented Employees:	All

PLEDGE OF ALLEGIANCE AND ROLL CALL

ADOPTION OF AGENDA

PRESENTATION

- Presentation on Arboretum Day by Cypress Lawn Arboretum Director Josh Gevertz
- Introduction of New City Planner Farhad Mortazavi

PUBLIC COMMENTS

Comments on the Consent Calendar and Non-Agenda Items will be heard at this time. Comments on Agenda Items will be heard when the item is called.

CONSENT CALENDAR

2. Motion to Accept the Minutes from the September 8, 2021 Regular Meeting.
3. Motion to Adopt a Resolution Adjusting Salary for Part-Time Staff to Meet the Minimum Wage Requirement Set Forth by the State of California and Amending the Salary Schedule.

NEW BUSINESS

4. GRAND JURY RESPONSE - RACIAL IDENTITY AND PROFILING ACT

Consider: Motion Approving the Town’s Response to the Grand Jury Report Dated July 27, 2021, Regarding “Building Better Trust Between the Community & Law Enforcement Via the Racial Identity and Profiling Act.”

5. REPORT ON AB 361 AND EXECUTIVE ORDER REGARDING REMOTE MEETINGS

Consider: Motion to Receive a Report on Assembly Bill 361 and the Status of the Governor’s Executive Order Regarding Remote Meetings, and Provide Input, if any.

REPORTS

Mayor/City Council

City Manager

ADJOURNMENT

The City Council Meeting Agenda Packet and supporting documents are available for review on the Town’s website www.colma.ca.gov or at Colma Town Hall, 1198 El Camino Real, Colma, CA. Persons interested in obtaining an agenda via e-mail should call Caitlin Corley, City Clerk at 650-997-8300 or email a request to ccorley@colma.ca.gov.

Reasonable Accommodation

Upon request, this publication will be made available in appropriate alternative formats to persons with disabilities, as required by the Americans with Disabilities Act of 1990. Any person with a disability, who requires a modification or accommodation to view the agenda, should direct such a request to Pak Lin, ADA Coordinator, at 650-997-8300 or pak.lin@colma.ca.gov. Please allow two business days for your request to be processed.

1. In Closed Session Pursuant to Government Code Section 54957.6 – Conference with Labor Negotiators.

Agency Negotiator: Austris Rungis, IEDA
Employee Organizations: Colma Peace Officers Association and Colma Communications/Records Association
Unrepresented Employees: All

This is a Closed Session item; there is no staff report for this item.



**MINUTES
REGULAR MEETING**

City Council of the Town of Colma
Meeting Held Remotely via Zoom.us
Wednesday, September 8, 2021

PLEDGE OF ALLEGIANCE AND ROLL CALL

Mayor Diana Colvin called the meeting to order at 7:00 p.m.

Council Present – Mayor Diana Colvin, Vice Mayor Helen Fisicaro, Council Members Raquel Gonzalez and John Irish Goodwin were present. Council Member Joanne F. del Rosario was absent.

Staff Present – City Manager Brian Dossey, City Attorney Christopher Diaz, Administrative Services Director Pak Lin, Chief of Police John Munsey, Director of Public Works Brad Donohue, Associate Planner Laurel Mathews, and City Clerk Caitlin Corley were in attendance.

The Mayor announced, “Welcome to another of our completely remote Council Meeting. A few notes about tonight’s meeting: We are accepting public comments through email or the chat function—you can email our City Clerk at ccorley@colma.ca.gov or use the chat function to let her know which item you would like to speak on. Please keep your comments to 3 minutes or less. Thank you.”

ADOPTION OF THE AGENDA

Mayor Colvin asked if there were any changes to the agenda; none were requested. She asked for a motion to adopt the agenda.

Action: Vice Mayor Fisicaro moved to adopt the agenda; the motion was seconded by Council Member Goodwin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Diana Colvin, Mayor	✓				
Helen Fisicaro	✓				
Raquel Gonzalez	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
	4	0			

PRESENTATION

- **20th Anniversary of September 11th Terrorist Attacks**

Mayor Colvin read a proclamation in honor of September 11th Remembrance Day and Day of Service.

She then announced, “This evening, in the spirit of our National Day of Service, I wanted to take a moment to highlight the service of several Colma residents. A team of residents,

lead by our very own Council Member John Goodwin, is taking part in the National First Responders Stair Climb, which is an annual event to raise awareness and bring support to First Responders who are suffering from Post Traumatic Stress Injuries (PTSI). The fundraising Stair Climb is held in San Francisco each year around the time of 9/11 in remembrance of those that gave their lives and those firefighters, police, EMS and dispatchers whose lives are forever affected by exposure to traumatic events. The money raised is used for the administration of the fund and the payment for first responders to attend PTSI programs.

Team Colma includes, John Goodwin, Martha Goodwin, Sean Goodwin, Juan Fuentes, John Tsiglieris, Margie Tsiglieris and Judy Wedekind. Together they have raised nearly \$2000 so far! We are so proud of this team, donating their time and energy to raise funds and to literally walk in the steps of our brave first responders who run towards danger in service of others. Thank you, Team Colma, for your hard work in honoring our first responders and ensuring that they have the support they need.

The past year has been a very trying time for our country, and indeed, for the world—the COVID-19 pandemic, devastating natural disasters, political and civil unrest here and abroad. It can be difficult to be hopeful in the face of all of this strife and suffering. But, as we remember the pain and fear we felt on September 11, 2001, I hope we can also embody the bravery and unity that Americans displayed that day. In honor of those lives lost and sacrifices made, let's face our current obstacles with that same courage and strength of character, as we work together as Americans and as citizens of the world, to ensure a bright future for the next generation."

- **Ovarian Cancer and Prostate Cancer Awareness Month**

The Mayor read proclamations in honor of September as Ovarian Cancer and Prostate Cancer Awareness Month.

- **Honor Roll Students Recognition:**

The Mayor stated, "The Town of Colma is extremely proud of its young people and their academic achievements. Tonight, we are celebrating some of the bright students who have made the honor roll at their schools. We have prepared some gifts in recognition of their success: A certificate of their achievement, a Colma pen, Colma folder, Colma facemask and a \$10 gift card to Target! Congratulations to these hardworking students and their families:

- Victor Hugo Bautista
- Daniel Ramirez
- Elaina Gonzalez
- Mia Myvett
- Liana Myvett
- Mikki M. Catimbang
- Vernice Wang
- Miguel A. Navarro Jr
- Brighton Ramos Meraz

PUBLIC COMMENTS

Mayor Colvin opened the public comment period at 7:17 p.m. and seeing no one request to speak, she closed the public comment period.

CONSENT CALENDAR

1. Motion to Accept the Minutes from the August 25, 2021 Regular Meeting.
2. Motion to Approve Report of Checks Paid for August 2021.
3. Motion to Adopt a Resolution Approving a Memorandum of Understanding Between San Mateo County and the Town of Colma, Authorizing San Mateo County to Operate the Edible Food Recovery Program Within the Town of Colma.

Action: Council Member Gonzalez moved to approve the consent calendar items #1 through 3; the motion was seconded by Council Member Goodwin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Diana Colvin, Mayor	✓				
Helen Fisicaro	✓				
Raquel Gonzalez	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
	4	0			

PUBLIC HEARING

4. 1687 AND 1773 MISSION ROAD U-HAUL RENTAL - CONDITIONAL USE PERMIT

Associate Planner Laurel Mathews presented the staff report. Mayor Colvin opened the public comment period at 7:26 p.m. Applicant Phillip Weaver made a comment. The Mayor closed the public comment period. Council discussion followed.

Council requested that condition 3(c) be amended to include the following language: "In the event the Town receives complaints regarding on-street parking and/or blocking of the roadway or driveways in the area associated with the use granted by this use permit, the permittee shall be required to modify its business practices to avoid any on-street parking and blocking of the roadway or driveways to the satisfaction of the City Planner. The City Council retains the right to modify any condition of approval and/or consider any impacts from this use in a future hearing on the use permit." Council also requested the following new condition be added to the resolution: "The permittee shall be required to provide clear signage and delineation, to the satisfaction of the City Planner, to clearly mark the applicable parking locations for the U-Haul trucks on the property site so potential customers know where to park the U-Haul truck upon return."

Action: Vice Mayor Fisicaro moved to Adopt a Resolution Approving a Conditional Use Permit to Allow a U-Haul Rental Business With Key, Paperwork, and After-Hours Drop-Off at 1687 Mission Road and Parking of Up to 8 Cargo Vans and Small Box Trucks at 1773 Mission Road (APN: 010-142-050, 010-423-040) Pursuant to CEQA Guideline 15301, Class 1(A), with the requested changes; the motion was seconded by Council Member Goodwin and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Diana Colvin, Mayor	✓				
Helen Fisticaro	✓				
Raquel Gonzalez	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
	4	0			

NEW BUSINESS

5. CONTRACT FOR BODY WORN CAMERAS, IN CAR CAMERAS, TASERS & RELATED CLOUD-BASED SERVICES

Chief of Police John Munsey presented the staff report. Mayor Colvin opened the public comment period at 7:55 p.m. and seeing no one request to speak, she closed the public comment period. Council discussion followed.

Action: Council Member Goodwin moved to Adopt a Resolution Approving and Authorizing the City Manager to Execute a Sole Source Contract with Axon to Purchase and Maintain Body Worn Cameras, in Car Cameras, Tasers and Related Cloud-Based Services; the motion was seconded by Council Member Gonzalez and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Diana Colvin, Mayor	✓				
Helen Fisticaro	✓				
Raquel Gonzalez	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
	4	0			

6. FY 2021-22 NON-PROFIT GRANT FUNDING

Mayor Colvin announced that to comply with Government Code section 1090, she would ask that any Council Members that serve as a board member or employee for any organization that is being considered for this item to please disclose that now. Council Member Goodwin stated that he had previously served on the board for the Daly City Public Library Associates but was no longer on the board; he believed he was allowed to participate in this item, but wanted to be transparent about his past association with the organization. City Attorney Christopher Diaz agreed that Council Member Goodwin was fine to participate, as he is no longer serving on the board.

Administrative Technician Darcy De Leon presented the staff report. Mayor Colvin opened the public comment period at 7:55 p.m. The following people spoke:

- ALLICE Nan Santiago, President of ALLICE
- Cody Locklear, Daly City Peninsula Partnership Collaborative
- Patricia deVere, Daly City Public Library Associates

- Laura Fanucchi, HIP Housing
- Ariel Cherbowsky Corkidi, Director of San Bruno Mountain Watch
- Sandie Arnott, North Peninsula Food Pantry and Dining Center of Daly City
- Christine Kohl-Zaugg, Executive Director of Sustainable San Mateo County submitted a written statement, which was read aloud.

The Mayor closed the public comment period at 8:35 p.m. Council discussion followed. Council made several changes to the staff recommended funding amounts, which are marked in red below:

Grantee	Grantee Request FY 2021-22	Staff Proposed Grant Amount	Approved Funding
AbilityPath (Community Gatepath)	\$7,500	\$6,500	\$6,500
ALLICE	\$1,500	\$1,500	\$1,500
Clinic by the Bay	\$8,000	\$4,000	\$4,000
CORA	\$10,000	\$5,000	\$5,000
Daly City Peninsula Partnership Collaborative	\$25,000	\$15,000	\$15,000
Daly City Public Library Associates	\$5,220	\$5,220	\$5,220
Daly City Youth Health Center	\$20,000	\$6,000	\$6,000
Human Investment Project, Inc. (HIP Housing)	\$5,000	\$5,000	\$5,000
LifeMoves	\$5,000	\$4,000	\$4,000
North Peninsula Food Pantry & Dining Center of Daly City	\$15,000	\$15,000	\$17,000
Ombudsman Services SMC	\$3,000	\$2,000	\$2,500
Operation Santa Claus	\$1,500	\$1,500	\$2,000
Peninsula Volunteers, Inc. Meals on Wheels	\$10,000	\$5,000	\$5,500
San Bruno Mountain Watch	\$3,500	\$2,000	\$2,500
Sitike Counseling Center	\$8,000	\$6,500	\$6,500
SMC Community College Foundation	\$5,000	\$4,000	\$4,000
SMC Jobs for Youth	4,000	\$3,000	\$3,000
SMC Pride Center	\$3,000	\$3,000	\$3,000
Sustainable San Mateo County	\$5,000	\$1,000	\$1,000
TOTALS	\$145,220	\$95,220	\$99,220

Action: Vice Mayor Fiscaro moved to Adopt a Resolution Determining Eligibility for Grant Funding, Approving Grants to Eligible Organizations, Finding That Each Approved Grant Serves a Public Purpose, and Authorizing Contracts with Each Eligible Organization for the Use of Town Funds; the motion was seconded by Council Member Gonzalez and carried by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Diana Colvin, Mayor	✓				
Helen Fisicaro	✓				
Raquel Gonzalez	✓				
Joanne F. del Rosario					✓
John Irish Goodwin	✓				
	4	0			

COUNCIL CALENDARING

The next Regular Meeting will be on Wednesday, September 22, 2021 at 7:00pm and it will be held remotely.

REPORTS

Council Member Goodwin attended the Council of Cities Dinner, hosted by Half Moon Bay on August 27, 2021.

City Manager Brian Dossey gave an update on the following topics:

- The Mayor, City Manager and Chief of Police will visit several new businesses tomorrow to welcome them to Town.
- The Town Picnic will return in person on Saturday, September 11, 2021, with two lunch seatings to allow for social distancing.
- There will be a Closed Session on September 22 at 6:00 p.m.
- The Town received two very nice compliments on city staff: the Recreation Department received an email thanking them for the great online content they have been putting out during the pandemic, and the Police Department received a compliment on the new monthly police report.
- Kudos to Darcy De Leon for her hard work on the Non-profit Grant Funding, which is an arduous annual task. Well done, Darcy!

ADJOURNMENT

Mayor Colvin adjourned the meeting at 9:11 p.m.

Respectfully submitted,

Caitlin Corley
City Clerk



STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Pak Lin, Administrative Services Director
 VIA: Brian Dossey, City Manager
 MEETING DATE: September 22, 2021
 SUBJECT: Minimum Wage Adjustment for Part-Time Staff

RECOMMENDATION

Staff recommends that the City Council adopt:

RESOLUTION ADJUSTING SALARY FOR PART-TIME STAFF TO MEET THE MINIMUM
 WAGE REQUIREMENT SET FORTH BY THE STATE OF CALIFORNIA AND AMENDING THE
 SALARY SCHEDULE

EXECUTIVE SUMMARY

On April 4, 2016, Governor Brown signed Senate Bill 3, which increases California's minimum wage annually, reaching \$15.00/hour for employers with at least 26 employees by January 1, 2022. The schedule requires employers with 26 employees or more to maintain a minimum wage of \$15.00/hour effective January 1, 2022.

The positions impacted by this regulatory compliance are Recreation Leader, Senior Recreation Leader, Facility Attendant and Student Aide. The proposed salary schedule attached as *Exhibit A to the Resolution* meets the minimum wage requirement of \$15.00/hour. It remains consistent with the Town's compensation differential (pay increase formula) between steps and classification.

The adoption of the resolution adjusting the salary schedule will meet minimum wage requirements for 2022. Annually, Staff will continue to present to the City Council amendments to the salary schedule to remain in alignment with state-required minimum wage.

FISCAL IMPACT

Though the hourly rate will increase for these specific positions, the Recreation Coordinators and Recreation Manager will be able to successfully manage the staffing needs while staying within the Recreation Department's current budget. If a budget adjustment is needed, Staff will bring it before the City Council as part of a later financial update.

BACKGROUND

On April 4, 2016, California Governor Jerry Brown signed legislation (SB 3, Leno) raising California's minimum wage to \$15.00/hour by 2022. After January 1, 2023, future wage increases are tied to inflation, reflecting increases in the Consumer Price Index up to 3.5% per year. Under this state law, scheduled wage increases may be temporarily suspended by the Governor during economic downturns. As of September 2021, the Town should presume that the Governor will not temporarily suspend the increase from \$14.00/ hour to \$15.00/hour.

The increased minimum wage levels are applied uniformly across the state. Local governments retain the ability to adopt local wage ordinances that increase the minimum wage more rapidly than the statewide time frame or increase the minimum wage level. The law also maintains existing exemptions in the state's minimum wage law. This legislation gives California one of the highest minimum wages in the country along with jurisdictions like Washington, New York, Washington, D.C., and Massachusetts.

State of California Minimum Wage		
Effective Date	Employers w/ 25 Employees or Less	Employers w/ 26 Employees or More
January 1, 2016	\$10.00	\$10.00
January 1, 2017	\$10.00	\$10.50
January 1, 2018	\$10.50	\$11.00
January 1, 2019	\$11.00	\$12.00
January 1, 2020	\$12.00	\$13.00
January 1, 2021	\$13.00	\$14.00
January 1, 2022	\$14.00	\$15.00
January 1, 2023	\$15.00	\$15.00+CPI

Positions that are affected by this law are Recreation Leader, Student Aide, Senior Recreation Leader and Facility Attendant. The current Step 1 hourly wage for Recreation Leader and Student Aide is \$14.00/hour.

ANALYSIS

The current pay schedule for part-time employees includes a 5% differential between steps and a 9% differential between classification.

Current Pay Schedule	Step 1	Step 2	Step 3	Step 4
Recreation Leader and Student Aide	14.00	14.70	15.43	16.22
Senior Recreation Leader and Facility Attendant	17.73	18.61	19.54	20.52

The proposed salary schedule sets the minimum wage at \$15.00/hour and maintains the incremental pay increases through favorable performance.

Effective First Pay Period Ending January 1 (or December 26, 2021)	Step 1	Step 2	Step 3	Step 4
Recreation Leader and Student Aide	15.00	15.75	16.53	17.38
Senior Recreation Leader and Facility Attendant	19.00	19.94	20.94	21.99

The first pay period ending after January 1, 2022 is January 14, 2022 – with a beginning pay period date of December 26, 2021. Future adjustments will be proposed annually and be effective on the first pay period ending after January 1 of the respective year. By updating the minimum wage annually, the Town's salary schedule will align with the mandated minimum wage schedule in case of an economic downturn and the Governor suspends the increase for the upcoming year.

Council Adopted Values

Adoption of the attached resolution is the *fair* course of action because the City Council will be bringing the salaries in alignment with the minimum wage set forth by the State of California. Adoption of the resolution is also the *responsible* course of action because the Council is satisfying the requirement to meet the State minimum wage law.

Alternatives

The Council could choose to not adopt the proposed resolution, or to request modifications to the proposed salary ranges. Doing so is not recommended, as the Town could be in violation of State law because the salary ranges are based on meeting the minimum wage requirements set forth by the State of California.

CONCLUSION

Staff recommends adoption of the attached resolution.

ATTACHMENTS

- A. Resolution (includes Salary Schedule)



**RESOLUTION NO. 2021-XX
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

RESOLUTION ADJUSTING SALARY FOR PART-TIME STAFF TO MEET THE MINIMUM WAGE REQUIREMENT SET FORTH BY THE STATE OF CALIFORNIA AND AMENDING THE SALARY SCHEDULE

The City Council of the Town of Colma does hereby resolve as follows:

1. Background.

(a) On April 4, 2016, Governor Brown signed Senate Bill 3, which increases California's minimum wage annually, potentially reaching \$15.00/hour for employers with at least 26 employees by January 1, 2022.

(b) The part-time recreation salary ranges may eventually be below any potentially increased state minimum wage, as it increases into the future.

(c) In order to ensure compliance with state law, the City Manager is, as he has in previous years, recommending that the City Council adjust the salary schedule as provided for in this Resolution, and continually adjust the salary on an annual basis to ensure compliance with state required minimum wage law.

2. Salary Scale for Part-Time Staff (including Student Aide/Recreation Leader and Senior Recreation Leader/Facility Attendant). The Town shall pay the part-time staff, the respective hourly salaries shown below, with the City Manager determining the appropriate step in accordance with Subchapter 3.02 of the Colma Administrative Code relating to Employment (See Exhibit A for Full Salary Schedule):

Student Aide/Recreation Leader				
STEP	1	2	3	4
	15.00	15.75	16.53	17.38

Senior Recreation Leader/Facility Attendant				
STEP	1	2	3	4
	19.00	19.94	20.94	21.99

3. Salary Schedule Adopted.

(a) The City Council hereby amends the pay or salary schedule, as detailed in Exhibit A, attached hereto and incorporated by reference, to memorialize the changes proposed by this Resolution, with the applicable pay or salary for each position listed, in compliance with Title 2 of the California Code of Regulations Section 570.5.

(b) No changes in pay or salary are proposed for those positions on the pay or salary schedule, except for the part-time staff, as set by this Resolution.

4. No Contract. Nothing herein shall be construed as a contract with any employee, and the City Council shall have the discretion to modify the respective salaries in accordance with any applicable state or local provisions.

5. Effective Date. This resolution shall become effective upon adoption.

Certification of Adoption

I certify that the foregoing Resolution No. 2021-__ was duly adopted at a regular meeting of said City Council held on September 22, 2021 by the following vote:

Name	Voting		Present, Not Voting		Absent
	Aye	No	Abstain	Not Participating	
Diana Colvin, Mayor					
Helen Fisicaro					
Raquel "Rae" Gonzalez					
Joanne F. del Rosario					
John Irish Goodwin					
Voting Tally					

Dated _____

Diana Colvin, Mayor

Attest: _____
Caitlin Corley, City Clerk

**Town of Colma Pay Schedule (Effective Date @ December 26, 2021)
Proposed Resolution September 22, 2021**

Exhibit A to Resolution

Position Title	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Ord/Reso Number	Add'l Incentive	Payroll Ref
Elected Officials (Monthly Compensation)									
Mayor & City Council	961.00						ORD 784		
Regular/Casual/Temporary Employees (hourly rate, compensated on a biweekly basis)									
Accounting Technician	40.51	42.54	44.67	46.91	49.26	-	Reso 2019-16	(10)(11)	8acct
Administrative Services Director	76.14	79.95	83.94	88.14	92.55	-	Reso 2019-16	(11)	8acm
Administrative Technician I	37.81	39.71	41.70	43.77	45.96	-	Reso 2019-16	(10)(11)	8at1
Administrative Technician II	39.71	41.70	43.77	45.96	48.26	-	Reso 2019-16	(10)(11)	8at2
Administrative Technician III	39.71	41.70	43.77	45.96	48.26	50.67	Reso 2019-16	(10)(11)	8at3
City Clerk	50.67	53.20	55.86	58.65	61.58	-	Reso 2019-16	(10)(11)	8clrk1
City Manager	107.40						Reso 2019-57	(9)	mgr
Community Service Officer	36.89	38.73	40.67	42.71	44.84	-	Reso 2019-16	(10)(11)	8cso
Executive Assistant to Chief of Police	39.71	41.70	43.77	45.96	48.26	50.67	Reso 2019-16	(10)(11)	8at3
Facility Attendant	19.00	19.94	20.94	21.99	-	-	Reso 2021-xx	(11)	8fa
Human Resources Manager	55.51	58.29	61.20	64.26	67.47	-	Reso 2019-16	(10)(11)	8hrm
Intern	17.00	19.00	21.00	23.00	25.00		Reso 2020-07		intr
Maintenance Technician I	36.98	38.82	40.76	42.80	44.94	-	Reso 2019-16	(7)(8)(10)(11)	8mt1
Maintenance Technician II	38.82	40.76	42.80	44.94	47.19	-	Reso 2019-16	(7)(8)(10)(11)	8mt2
Maintenance Technician III	38.82	40.76	42.80	44.94	47.19	49.56	Reso 2019-16	(7)(8)(10)(11)	8mt3
Management Analyst I	42.11	44.21	46.42	48.74	51.18		Reso 2021-03	(11)	
Management Analyst II	45.54	47.81	50.21	52.72	55.35		Reso 2021-03	(11)	
Management Analyst III	49.25	51.71	54.30	57.01	59.86		Reso 2021-03	(11)	
Police Chief	82.57	86.70	91.04	94.68	98.26		Reso 2020-32	(1)(11)	chief
Police Commander	74.79	78.52	82.46	86.57	90.90	-	Reso 2019-16	(1)(11)	8pcmd
Police Dispatcher / Clerk	46.15	47.44	48.72	50.00	51.27	-	Reso 2019-15	(6)(4)(11)	clerical
Police Dispatcher/Records Supervisor	55.62	57.16	58.72	60.26	61.81	-	Reso 2019-15	(2)(4)(11)	supervisor
Police Officer - Reserve	51.65						Ord 773		pdres
Police Officer 1	51.65	54.23	56.95	59.79	-	-	Reso 2019-14	(1)(3)(5)(11)	8po1
Police Officer 2	53.71	56.40	59.22	62.19	-	-	Reso 2019-14	(1)(3)(5)(11)	8po2
Police Officer 3	54.75	57.50	60.37	63.38	-	-	Reso 2019-14	(1)(3)(5)(11)	8po3
Police Sergeant 1	65.47	66.82	68.20	71.97	-	-	Reso 2019-14	(1)(3)(5)(11)	8sgt1
Police Sergeant 2	68.08	69.49	70.92	74.85	-	-	Reso 2019-14	(1)(3)(5)(11)	8sgt2
Police Sergeant 3	69.38	70.82	72.28	76.30	-	-	Reso 2019-14	(1)(3)(5)(11)	8sgt3
Public Works Maintenance Supervisor	47.21	49.57	52.05	54.66	57.38	-	Reso 2019-16	(7)(8)(10)(11)	8mts
Recreation Coordinator	36.87	38.72	40.66	42.68	44.81	-	Reso 2019-16	(10)(11)	8recc
Recreation Leader	15.00	15.75	16.53	17.38	-	-	Reso 2021-xx	(11)	8rl
Recreation Manager	44.07	46.27	48.58	51.02	53.56	-	Reso 2019-16	(10)(11)	recmgr
Senior Recreation Leader	19.00	19.94	20.94	21.99	-	-	Reso 2021-xx	(11)	8rls
Student Aide	15.00	15.75	16.53	17.38			Reso 2021-xx		

Additional Incentive

- (1) These positions receive a \$1,025 per year uniform allowance
- (2) This position receives a 5.0% incentive for CAD Administrator
- (3) These positions receive an additional 5% Holiday Pay
- (4) These positions receive a \$774.73 per year uniform allowance
- (5) These positions may receive a 5% incentive for Acting Commander, Acting Sergeant, Officer in Charge, Training Officer, and/or Detective
- (6) This position may receive a 2.5% incentive for Back-up CAD Administrator
- (7) These positions may receive \$120 per week stand-by pay
- (8) These positions receive an in kind uniform allowance of \$68.67 per pay period
- (9) This position receives a \$300 monthly automobile allowance
- (10) These positions may received 5% out of class pay
- (11) These positions may receive retention pay (2.5% @ 10 years; 5.0% @ 20 years)

Summary of Effective Ordinance and Resolution

- Ord 773** Reinstatement of Reserve Officer Program - up to 4 Reserve Officers (Adopted 12/13/2017)
- Ord 784** City Council Compensation (Adopted 11/14/2018)
- Reso 2004-36** Establishment of Police Recruit Program - 95% of Police Officer Step 1 (5/12/2004)
- Reso 2019-14** 2% COLA for POA from Jun 28, 2020 to Dec 26, 2020 (Adopted 4/10/2019)
- Reso 2019-15** 2% COLA for CRA from Jun 28, 2020 to Dec 26, 2020 (Adopted 4/10/2019)
- Reso 2019-16** 2% COLA for Unrepresented from Jun 28, 2020 to Dec 26, 2020 (Adopted 4/10/2019)
- Reso 2019-56** Chief of Police Contract Amendment 5 (Adopted 12/11/2019)
- Reso 2019-57** City Manager Contract Amendment 3 (Adopted 12/11/2019)
- Reso 2020-07** Addition of Intern and Student Aide Classifications and Compensations (Adopted 2/26/2020)
- Reso 2020-32** Reclassify Chief of Police position from contract to appointed by City Manager (CC Mtg 7/8/2020)
- Reso 2021-03** Additional of Management Analyst I/II/III Series (CC Mtg 01/13/2021)
- Reso 2021-xx** Minimum Wage Adjustment for Part-Time Staff (CC Mtg 9/22/2021)





STAFF REPORT

TO: Mayor and Members of the City Council

FROM: John Munsey, Chief of Police

VIA: Brian Dossey, City Manager

MEETING DATE: September 22, 2021

SUBJECT: Grand Jury Response – Racial Identity and Profiling Act

RECOMMENDATION

Staff recommends that the City Council make the following motion:

MOTION APPROVING THE TOWN'S RESPONSE TO THE GRAND JURY REPORT DATED JULY 27, 2021, REGARDING "BUILDING BETTER TRUST BETWEEN THE COMMUNITY & LAW ENFORCEMENT VIA THE RACIAL IDENTITY AND PROFILING ACT"

EXECUTIVE SUMMARY

The City Council is required under California Penal Code section 933.05 to respond to the Grand Jury Report. The Grand Jury Report is attached as Attachment A, and the Town's draft response letter is attached as Attachment B.

FISCAL IMPACT

There are no fiscal implications associated with the approval of the Town's response to the Grand Jury report.

BACKGROUND

The San Mateo County Grand Jury is a volunteer body of 19 citizens, selected at random from a pool of nominees, to investigate local governmental agencies and make recommendations to improve the efficiency of local government. The July 27, 2021 Grand Jury report contains findings and recommendations on a number of subjects that are applicable to agencies in San Mateo County – namely, findings and recommendations pertaining to the Racial Identity and Profiling Act, or "RIPA." The Presiding Judge of the County Superior Court has formally requested that the Town review the report and file a written response indicating the following:

- That the Town agrees or disagrees, in whole or in part, with the findings;

- That the recommendation has been implemented, will be implemented, requires further analysis, or will not be implemented; and
- An explanation of the reason for any disagreement with findings or recommendations;
- The response was approved by your governing body at a public meeting.

ANALYSIS

Grand Jury Findings

The proposed September 22, 2021 Grand Jury response, which includes responses to each of the Grand Jury's findings and recommendations, is attached as Attachment B.

Council Adopted Values

Approving the Town's Grand Jury response displays the VISION of the Town to consider the broader regional and statewide implications of the agency's decisions and issues as they apply to the study of the Racial Identity and Profiling.

CONCLUSION

Staff recommends that the City Council approve, by motion, the Town's proposed response to the July 27, 2021 Grand Jury report regarding "Building Better Trust Between the Community & Law Enforcement via the Racial Identity and Profiling Act."

ATTACHMENTS

- A. Copy of Grand Jury report
- B. Town's draft response letter for July 27, 2021 Grand Jury report



TOWN OF COLMA

1198 El Camino Real • Colma, California • 94014-3212
Tel 650.997.8300 • Fax 650.997.8308

September 22, 2021

Honorable Amarra A. Lee
Judge of the Superior Court
c/o Jenarda Dubois
Hall of Justice
400 County Center; 8th Floor
Redwood City, CA 94063-1655

Re: Grand Jury Report: "Building Greater Trust Between the Community & Law Enforcement via the Racial Identity and Profiling Act"

Dear Judge Lee;

The City Council received the July 27th, 2021 San Mateo Civil Grand Jury report titled, "Building Greater Trust Between the Community & Law Enforcement via the Racial Identity and Profiling Act."

The Town of Colma was requested to submit comments regarding the findings and recommendations no later than October 27, 2021.

The City Council of the Town of Colma has reviewed the recommendations in the Grand Jury Report that affect the Town and approved the responses at its public meeting on September 22, 2021.

Findings:

The Town agrees with findings F1, F2, F3, F4, F6 and F8. The Town partially agrees with findings F5 as follows:

F5: Some LEAs mistakenly believe the County Dispatch System will handle their RIPA data collection.

Response: The Town of Colma partially agrees with this finding. The Town of Colma is aware that the County Dispatch System will not handle its RIPA data collection, but currently the Town does not have specific information regarding the collection expectations of other municipalities who utilize San Mateo County Communications.

Recommendations:

R1. Each LEA must have a fully developed implementation plan for complying with RIPA. The plan should include data collection and reporting, training methods, policies and procedures,

Diana Colvin, Mayor

Helen Fisicaro, Vice Mayor

Raquel P. Gonzalez, Council Member • Joanne F. del Rosario, Council Member • John Irish Goodwin, Council Member • Brian Dossey, City Manager

roll-out plans, personnel allocation, systems testing and data auditing. The plan should be reviewed and approved by October 30, 2021.

Response:

The recommendation has been implemented. As of July 7, 2021, the entire Colma Police Department, including police officers, supervisors, dispatchers, command, and executive staff have been trained in the implementation and collection of RIPA data. The collection of data is currently in the testing processes with the expectation that all officers are currently collecting data. The Town therefore has a fully developed implementation plan for RIPA compliance which has been reviewed and approved in advance of the October 30, 2021 deadline.

R2. Each LEA needs to acquire the necessary software and hardware required to comply with RIPA by October 30, 2021, to complete testing within 30 days and to go live by January 1, 2022.

Response:

The recommendation has been implemented. The Colma Police Department currently utilizes the RIMS Management System by Sun Ridge Systems, Inc. in conjunction with the South San Francisco Police Department. Upgrades to the information management system have been implemented by Sun Ridge Systems to allow for the collection, storage, and dissemination of data. The Town therefore has all necessary software and hardware required to comply with RIPA in advance of the January 1, 2022 deadline.

R3. Each LEA must test and confirm their readiness for RIPA data collection by November 30, 2021.

Response:

The recommendation has been implemented. As stated above the Colma Police Department began collecting data and testing the system since early July, 2021.

R4. Each LEA should provide regular updates to their governing entities, on their progress *toward preparing* for the required RIPA data collection starting on October 15, 2021.

Response:

The recommendation has been implemented. The City Council is to be informed via the City Manager who will be given updates from the Colma Chief of Police.

R5. Each LEA should, on a quarterly basis, starting in the second quarter of 2022, provide reports on RIPA data and how it is being used to address potential identity biases, including supervisory oversight (as defined by the RIPA Board). The report should be posted and easily viewable on the entity's website.

Response:

The recommendation requires further analysis. At this time, it is the Town's understanding that all data is going to be collected and disseminated by the California Department of Justice. Once the Town of Colma can visualize / understand the manner in which the DOJ will make RIPA data available, we will in turn make a determination on whether to forward the data and report

to DOJ via the Town's website, or create our own method of reporting the data, along with its utilization.

R6. By February 1, 2022, each LEA should begin considering how to obtain and use insights gained from the RIPA data to improve the operation of its department by combating implicit bias in policing and pursuing greater community trust by implementing the RIPA Board's growing list of policing best practices.

Response:

The recommendation has not yet been implemented. The Town of Colma has every intention of utilizing the insights gained through the RIPA data to improve the operations of the police department. The Town of Colma will need to evaluate the data once obtained to proceed with any substantial change to policy or procedure. The uniqueness of the Town of Colma, having under 2000 residents but as many as 30,000 people a day coming into the town, creates a challenge as to how to set a baseline for statistical analysis. The demographics of people coming into the Town of Colma may be different than the demographics of the Town. For this reason, the Town of Colma may be looking at regional demographics as opposed to strictly Town of Colma resident demographics to make an evaluation on policy. Nevertheless, the Town is committed to implementing this recommendation and plans to comply by beginning to consider using insights gained from RIPA data to improve its police department's operation by February 1, 2022.

R7. By February 1, 2022, each LEA should consider community engagement and transparency, including the possible use of "academics, police commissions, civilian review bodies, or advisory boards" as a mechanism to build community trust and provide bias-free policing.

Response:

The recommendation has not yet been implemented. The Town of Colma agrees with the recommendation and once the data is collected, looks forward to working with a multitude of entities who can give us insight into the meaning of our data.

The Town appreciates the efforts of the Grand Jury. Please contact City Manager Brian Dossey should you require any additional information. He can be reached at (650) 997-8318 or by email: brian.dossey@colma.ca.gov.

Sincerely,

Diana Colvin
Mayor

Diana Colvin, Mayor
Helen Fisicaro, Vice Mayor
Raquel P. Gonzalez, Council Member • Joanne F. del Rosario, Council Member • John Irish Goodwin, Council Member • Brian Dossey, City Manager





Superior Court of California, County of San Mateo
Hall of Justice and Records
400 County Center
Redwood City, CA 94063-1655

NEAL TANIGUCHI
COURT EXECUTIVE OFFICER
CLERK & JURY COMMISSIONER

(650) 261-5066
FAX (650) 261-5147
www.sanmateocourt.org

July 27, 2021

Town Council
Town of Colma
1198 El Camino Real
Colma, CA 94014

Re: Grand Jury Report: "Building Greater Trust between the Community & Law Enforcement via the Racial and Identity Profiling Act"

Dear Councilmembers:

The 2020-2021 Grand Jury filed a report on July 27, 2021 which contains findings and recommendations pertaining to your agency. Your agency must submit comments, within 90 days, to the Hon. Amarra A. Lee. Your agency's response is due no later than October 27, 2021. **Please note that the response should indicate that it was approved by your governing body at a public meeting.**

For all findings, your responding agency shall indicate one of the following:

- 33. The respondent agrees with the finding.
- 34. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

Additionally, as to each Grand Jury recommendation, your responding agency shall report one of the following actions:

- 65. The recommendation has been implemented, with a summary regarding the implemented action.
- 66. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- 67. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- 68. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation therefore.

JUL 29 '21 PM 1:22

Kindly submit your responses in ALL of the following formats:

49. Responses to be placed on file with the Clerk of the Court by the Court Executive Office.

- Prepare original on your agency's letterhead, indicate the date of the public meeting that your governing body approved the response address and mail to:

Hon. Amarra A. Lee
Judge of the Superior Court
c/o Jenarda Dubois
Hall of Justice
400 County Center; 2nd Floor
Redwood City, CA 94063-1655.

50. Responses to be placed at the Grand Jury website.

- Scan response and send by e-mail to: grandjury@sanmateocourt.org. (Insert agency name if it is not indicated at the top of your response.)

51. Responses to be placed with the clerk of your agency.

- File a copy of the response directly with the clerk of your agency. Do not send this copy to the Court.

For up to 45 days after the end of the term, the foreperson and the foreperson's designees are available to clarify the recommendations of the report. To reach the foreperson, please call the Grand Jury Clerk at (650) 261-5066.

If you have any questions regarding these procedures, please do not hesitate to contact David Silberman, Chief Deputy County Counsel, at (650) 363-4749.

Very truly yours,



Neal Taniguchi
Court Executive Officer

Enclosure

cc: Hon. Amarra A. Lee
David Silberman



BUILDING GREATER TRUST BETWEEN THE COMMUNITY & LAW ENFORCEMENT VIA THE RACIAL AND IDENTITY PROFILING ACT

ISSUE

California enacted the Racial and Identity Profiling Act in 2015 (RIPA, Assembly Bill 953), to highlight one of the more serious problems that can obstruct effective and fair law enforcement: implicit bias and racial and identity profiling. By requiring “stop data,” be documented and reported, law enforcement agencies will gain a tool to improve racial and identity awareness in law enforcement.

Are San Mateo County Law Enforcement Agencies (LEAs) ready to collect and report the RIPA stop data? Will the LEAs use the data to build trust within the community and improve their departments?

SUMMARY

Professor Paul Butler of Georgetown University Law Center in an NPR interview shared:

In my class at Georgetown, I have a real-life police officer come and talk to my students about what it's like to be a cop in D.C. And to demonstrate how much power he has, he plays a game with the students where he invites them to come on a ride-along, sit in the back seat of his car for a night, and the game is called “**Pick That Car.**” And he tells the student, **pick any car you want on the street, and I'll stop it. He's a good cop. He waits until he finds a legal reason.** But he says that he can follow any car for four or five minutes, and he'll find a reason. There are so many traffic infractions that any time you drive, you commit one. And **that gives police an extraordinary amount of power,** and we know that they selectively use this power against Black and brown people.¹

Peace officers² have a great deal of individual discretion on who they stop. And, as is true of all humans, they have implicit biases. Addressing implicit bias is key to addressing racism, reducing inequities in policing, and helping to eliminate needless or unwarranted peace officer-initiated

¹ NPR Interview with Paul Butler, April 16, 2021, <https://www.npr.org/transcripts/987956420> (emphasis added)

² The terms peace officer and police officer are used interchangeably in this report. The RIPA Board prefers “peace officer.”

shootings.³ The connection between racism and implicit bias is well documented,⁴ as is the fact that racism is present at individual and institutional levels.⁵

California's 2015 Racial and Identity Profiling Act, AB 953, seeks to address potential racial and identity profiling by peace officers.⁶ RIPA requires law enforcement agencies (LEAs) to collect data on every stop⁷ and capture the officer's *initial perception* of the people stopped. This data can help identify whether one demographic group is being stopped and searched more frequently than others due to implicit biases. The data collection requirement began in 2018 for the State's largest LEAs and expanded each year to the next largest LEAs. Every LEA in the County must collect stop data starting January 1, 2022 and submit stop data to the California Department of Justice (CA DOJ) annually, starting April 1, 2023.

The RIPA Advisory Board (RIPA Board) publishes an annual report examining the stop data and complaint data collected in the prior year. The report notes problems, shares successes, and offers informed recommendations on preventing and addressing racial and identity profiling. The report is released to the public at the end of the year or start of the next year. Thus, there is a significant lag time between the data collection and the RIPA Board report. Accordingly, the 2021 report, issued in January of this year, covers the stop data from 2019. If an LEA submits data identifying a potential problem but takes no action until the Board report is issued, it will be a reaction to the data versus a proactive response by the LEA in a timelier fashion.

For this Grand Jury report, all seventeen of the County's LEAs were surveyed and subsequently interviewed to ascertain their progress and plans for:

- RIPA data collection and reporting;
- using insights gained from the RIPA data to improve the operation of their departments by combating implicit bias in policing; and

³ Racial Equity Tools, Act, Communicating, Implicit Bias

<https://www.racialequitytools.org/resources/act/communicating/implicit-bias>

⁴ Gaertner S, Dovidio JF. "The aversive form of racism." In: Dovidio JF, Gaertner S, editors. *Prejudice, discrimination, and racism*. Orlando: Academic Press; 1986. pp. 61–89

⁵ Jones CP. "Levels of racism: a theoretic framework and a gardener's tale." *Am J Public Health*. 2000;90(8):1212-1215. doi:10.2105/ajph.90.8.1212

⁶ RIPA definition: "[P]eace officer," ... is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions. "Peace officer," as used in this section, does not include probation officers and officers in a custodial setting." (Gov. Code, § 12525.5 (g)(1).)

⁷ RIPA definition: "[S]top' means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control." (Gov. Code, § 12525.5 (g)(2).)

- pursuing greater community trust by implementing the RIPA Board’s growing list of policing best practices.

Those best practices include “community-based accountability.”⁸

The Board encourages law enforcement agencies to partner with local community-based organizations or colleges or universities to help with analyzing the data that drives the implementation of these best practices.⁹

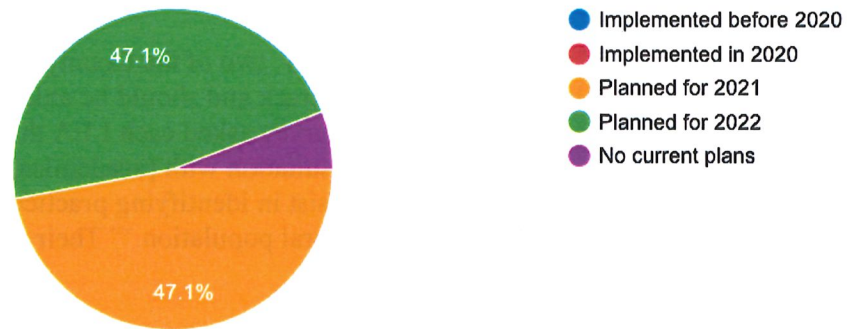
The Grand Jury found, as of the first quarter of 2021, two of the County’s LEAs are ahead in preparing for RIPA data collection, others are on track and should be able to comply, and a few are lagging in implementation. The Grand Jury survey asked each LEA their “plans for RIPA recommendation: ‘regularly analyze data, in consultation with [academics, police commissions, civilian review bodies, or advisory boards], to assist in identifying practices that may have a disparate impact on any group relative to the general population.’” Their responses are summarized in the chart below:

⁸ Racial & Identity Profiling Advisory Board, 2021, “Annual Report 2021,” at p. 91, <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2021.pdf>

⁹ 2021 RIPA Report Best Practices (ca.gov) <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2021.pdf>

What are your plans for RIPA recommendation: "regularly analyze data, in consultation with [academics, police commissions, civilian review bodies, or advisory boards], to assist in identifying practices that may have a disparate impact on any group relative to the general population."

17 responses



The Grand Jury recommends that all LEAs, in collaboration with their governing bodies:

1. finalize, implement, and test departmental systems and processes to collect and analyze RIPA stop data;
2. *start* collecting RIPA stop data *as soon as possible*, including earlier than the mandatory data collection date, to gain time to test, validate, and improve processes, and begin evaluating the collected data to identify possible signs of biased-policing;
3. plan how to analyze the RIPA stop data to improve local policing activities by “regularly analyzing data, in consultation with [academics, police commissions, civilian review bodies, or advisory boards], to assist in identifying practices that may have a disparate impact on any group relative to the general population;” and
4. evaluate and consider RIPA Board recommendations and peer-LEA examples of community engagement and transparency to build community trust and provide bias-free policing, sought by all stakeholders.¹⁰

¹⁰ Stakeholders include local governance leaders (city/town councils, Boards of Supervisors), residents, local community leaders and organizers, to name a few.

GLOSSARY

Bias – prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair.¹¹

Bias by proxy – “when an individual calls the police and makes false or ill-informed claims about persons they dislike or are biased against.”¹² The bias starts outside the agency.

BOS – Board of Supervisors, San Mateo County.

CAD – Computer Aided Dispatch; used by public safety agencies to dispatch public safety personnel and to respond to calls.

CA DOJ – California Department of Justice.

Contracting Entities – The Sheriff’s Office “provides contract law enforcement services for the cities of Half Moon Bay, Millbrae, San Carlos ... the towns of Portola Valley and Woodside, as well as for the Peninsula Corridor Joint Powers Board and the San Mateo County Transit District.”¹³ This report restricted itself to the contracting entities that are towns and cities.

County – San Mateo County.

Implicit Bias – The RIPA Board defines implicit bias as “the attitudes or stereotypes that affect a person’s understanding, actions, and decisions in an unconscious manner.”

LEA – Law Enforcement Agency – a police department or the County Sheriff’s Office.

POST –The California Commission on Peace Officer Standards and Training (POST), established by the Legislature in 1959.

RIPA – The Racial and Identity Profiling Act of 2015, California Assembly Bill 953.¹⁴

RIPA Advisory Board – Racial and Identity Profiling Advisory Board, created by AB 953.

¹¹ Unconscious Bias | diversity.ucsf.edu <https://diversity.ucsf.edu/resources/unconscious-bias>

¹² Racial & Identity Profiling Advisory Board, “2021 Best Practices,” p. 3, available at Racial and Identity Profiling Advisory Board | State of California - Department of Justice - Office of the Attorney General <https://oag.ca.gov/ab953/board>

¹³ San Mateo County Sheriff’s Office. “Patrol Services.” Undated. <https://www.smcsheriff.com/patrol-services>

¹⁴ An act to add Section 12525.5 to the Government Code, and to amend Sections 13012 and 13519.4 of the Penal Code, relating to racial profiling.

SDCS – Stop Data Collection System, the CA DOJ RIPA data input portal.

SMC – San Mateo County.

Stop – “means (1) any detention by a peace officer of a person; or (2) any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person’s body or property in the person’s possession or control.”¹⁵

Stop data – the specific racial and identity data required to be collected under RIPA.

BACKGROUND

RIPA: The Racial and Identity Profiling Act (AB 953) & the RIPA Advisory Board

The 2015 Racial and Identity Profiling Act (AB 953) is designed to address potential racial and identity profiling by peace officers. Key provisions of RIPA:

1. required all LEAs in the State to collect peace officer *perceived* demographic and relevant data on all pedestrian and traffic stops and provide that data to the CA DOJ for public reporting and analysis purposes;
2. created the Racial and Identity Profiling Advisory Board (RIPA Board) to oversee RIPA implementation and guide LEAs on appropriate procedures, training and best practices; and
3. changed existing laws on the reporting of civilian complaints (Pen. Code, § 13012) and updated POST training guidelines.¹⁶

This report focuses on the first two provisions. The *annual* data collection requirement began with the State’s largest LEAs, which submitted their initial data, covering the last half of 2018, to the CA DOJ in 2019. RIPA expanded each year to smaller LEAs each year. All County LEAs are required to start collecting RIPA data on January 1, 2022 and to submit the data to CA DOJ by April 1, 2023. The data collection focuses on implicit bias by capturing the officer’s *initial perception* of the person’s race, sex, gender identity, sexual preference, age, physical or mental handicap, and English fluency.

Unlike existing data on traffic citations, arrests, and other interactions, the focus of the RIPA data is on the officer’s observation and *perception* of the stopped person’s race and identity. AB

¹⁵ Cal. Govt. Code § 12525.5(g)(2)

¹⁶ California DOJ webinar presentation “Reporting Stop Data for the Racial & Identity Profiling Act” for the California Police Chiefs Association. October 21, 2020.

953 also expanded and clarified the definition of racial and identity profiling 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.”¹⁷

The law specifically requires that “the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped.”¹⁸ RIPA also requires that *any detention* of a person by a peace officer, *or any peace officer interaction with a person in which the officer conducts a search, including a consensual search, is recorded.*¹⁹ Thus, a traffic stop that only resulted in a warning also generates a RIPA data record, unlike previous practice where citations resulted in a record, but warnings did not.

In California there are two main types of local law enforcement agencies: first, police departments, which operate in cities and towns (or special districts) and are headed by a police chief. The police chief is hired by and reports to a city or town manager, who in turn are governed by a city or town council. The other LEA in a county is the county sheriff. A sheriff is elected by the county residents. The Sheriff does *not* report to the county board of supervisors. And a county board of supervisors is specifically barred from obstructing the “constitutionally and statutorily designated investigative ... functions of the sheriff of the county...”²⁰

The 19-member RIPA Board includes a wide range of stakeholders, representing law enforcement, academia, religious clergy, and the community.²¹ Annually, the RIPA Board:

- analyzes the stop data information, by LEA;
- analyzes current law enforcement training;
- works in partnership with State and local law enforcement agencies to review and analyze racial/identity profiling policies/practices across geographic areas in California;

¹⁷ <https://oag.ca.gov/ab953> The entirety of the new definition can be found in Penal Code section 13519.4, subdivision (e).

¹⁸ Govt. Code §12525.5(b)(6)

¹⁹ California DOJ webinar presentation “Reporting Stop Data for the Racial & Identity Profiling Act” for the California Police Chiefs Association. October 21, 2020.

²⁰ California Government Code Section 25303

²¹ California Penal Code Section 13519.4(j)(2)

- makes policy recommendations for eliminating racial and identity profiling,²² and
- publishes the following three reports:

RIP A | RACIAL AND IDENTITY PROFILING ACT 2020 REPORT QUICK FACTS

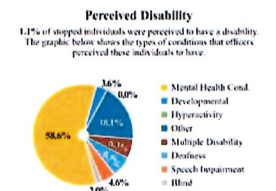
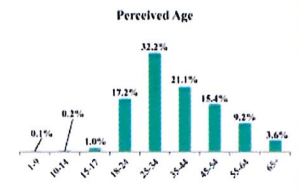
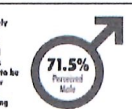
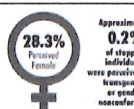
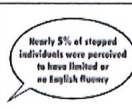
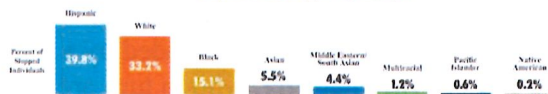
California Highway Patrol
Los Angeles County Sheriff's Department
Los Angeles Police Department
Riverside County Sheriff's Department

Between July 1, 2018
to December 31, 2018
the eight largest agencies
in California collected data on
vehicle and pedestrian stops.
RIPA defines a stop as
a detention or
search.

San Bernardino County Sheriff's Department
San Diego County Sheriff's Department
San Diego Police Department
San Francisco Police Department



Demographics of Stopped Individuals



followed-up with interviews of all seventeen LEAs in SMC. The aggregate results are available in the Discussion section.²⁴

○ An Annual Report detailing the past and current status of racial and identity profiling,

○ A Quick Facts document showing a statewide summary of the stop data (see Appendices F and G), and

○ A Best Practices document²³ This Grand Jury report examines: 1) the status of local LEA preparation for compliance with the RIPA data collection and submission requirements, 2) LEA plans to use the data to improve their agency, and 3) LEA willingness to adopt RIPA Board recommendations and peer-LEA examples to build trust between their departments and the community.

To investigate their readiness to implement and utilize RIPA to identify and/or address bias and improve relationships between law enforcement and the communities it serves, the Grand Jury surveyed and

²² California DOJ webinar presentation “Reporting Stop Data for the Racial & Identity Profiling Act”

²³ [RIPA Board Reports and Videos | State of California - Department of Justice - Office of the Attorney General](#)

²⁴ As previously mentioned, the Grand Jury is not allowed to reveal information it obtained during interviews, or via the survey, in ways that might identify the source.

Implicit Bias

The RIPA Board defines implicit bias as “the attitudes or stereotypes that affect a person’s understanding, actions, and decisions in an unconscious manner.”²⁵ These biases could be favorable or unfavorable assessments, and they are activated involuntarily and without an individual’s awareness or intention. Implicit biases differ from explicit biases, which are known to the individual and include biases that the individual may not be comfortable revealing.²⁶

All humans have biases. Explicit bias is easier to identify and address, if people are willing to speak up and have a growth mindset.²⁷ Overt racism and racist comments are examples of explicit biases.²⁸

Implicit bias affects our decision making, even when we are unaware of it. Multiple academic studies, dating back into the 1990s and repeated many times since, show that when an identical resume is sent to a large and diverse set of evaluators for a clearly defined job, a majority of evaluators – regardless of their own race, age, sex, etc. – offer the job to white males more often, and at a higher salary. The only difference is the candidate names on the resume. The researchers intentionally used names that are historically connected to a particular sex/gender, or race/ethnicity.²⁹

Similarly, orchestras that recognize the problem of implicit bias switched to curtained live auditions, thus blinding the evaluator’s view of the auditioning musician’s visible race or gender. The result: more women and people of color were hired into nationally renowned orchestras.³⁰ A pop-culture acknowledgement of the role of implicit bias is seen in the TV show “The Voice,” where the coaches conduct blind auditions of contestants.³¹

²⁵ RIPA Board 2021 Report, p. 23.

²⁶ RIPA Board 2020 Report – Best Practices; see also Eberhardt 2020 Ted Talk.

²⁷ Great Schools Partnership, “Glossary of Education Reform, Growth Mindset” August 29, 2013, <https://www.edglossary.org/growth-mindset/>

²⁸ Lorie Fridell, “This Is Not Your Grandparents’ Prejudice: The Implications of the Modern Science of Bias for Police Training,” *Translational Criminology*, Fall 2013: 10-11, <http://cebcp.org/wp-content/TCmagazine/TC5-Fall2013>

²⁹ Steinpreis, R.E., Anders, K.A. & Ritzke, D. The Impact of Gender on the Review of the Curricula Vitae of Job Applicants and Tenure Candidates: A National Empirical Study. *Sex Roles* 41, 509–528 (1999). <https://doi-org.stanford.idm.oclc.org/10.1023/A:1018839203698>

³⁰ *Orchestrating Impartiality: The Impact of "Blind" Auditions on Female Musicians*, Claudia Goldin and Cecilia Rouse *AMERICAN ECONOMIC REVIEW* VOL. 90, NO. 4, SEPTEMBER 2000 (pp. 715-741)

³¹ [https://en.wikipedia.org/wiki/The_Voice_\(American_TV_series\)](https://en.wikipedia.org/wiki/The_Voice_(American_TV_series))

Although we generally associate implicit bias in policing with racial biases, implicit bias can also be expressed in relation to non-racial factors such as gender, age, religion, or sexual orientation. As with all types of bias, implicit bias can distort one's perception and subsequent treatment either in favor of or against a given person or group. Although most police officers do not intentionally discriminate, we as a nation have been confronted with multiple episodes of officers relying on racial stereotypes in judging who to stop and search. Last year's heavily reported incidents of police violence show that implicit biases may unconsciously link African American motorists and pedestrians with crime or with a propensity towards violence or hostility. The result could explain a tendency for police to shoot unarmed black people at a higher rate than white people (per capita).³²

What is Bias-Free Policing?

LEAs committed to bias-free policing provide services and enforce laws in a professional, nondiscriminatory, fair, and equitable manner. This keeps the community and officers safe and protected. It requires LEAs to recognize explicit and implicit biases can occur at individual and institutional levels, and a focused commitment to examining and eradicating both. This results in greater effectiveness of the LEA and builds mutual trust and respect with the diverse communities the LEAs serve.³³

Why Stops Matter

A 2020 guidebook³⁴ for LEAs and stakeholders on RIPA data collection, analysis and response, prepared by New York University researchers, notes: "Despite the prominence of stops, there is much we still do not know about them, including their efficacy in achieving public safety and their impact on the public. These questions, asked by law enforcement executives and communities alike, go largely unanswered because the data needed to answer them are lacking."³⁵ This research indicates that vehicle stops and pedestrian stops disproportionately burden non-white communities and the operational realities of stops—particularly vehicle stops—pose dangers both to those stopped and to law enforcement officers.³⁶ This research concludes that collecting and analyzing stop data can shed light on all of these issues.³⁷ By

³² The Stanford Open Policing Project, <https://openpolicing.stanford.edu>

³³ RIPA Board 2020 Report – Best Practices, p.2

³⁴ Pryor, Marie, Phillip Atiba Goff, Farhang Heydari, and Barry Friedman. 2020. "Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities." New York. https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf

³⁵ Pryor, *Guidebook for LEAs*, *ibid.*, at 7.

³⁶ Pryor, *Guidebook for LEAs*, *ibid.*

³⁷ Pryor, *Guidebook for LEAs*, *ibid.*

embracing stop data collection and analysis in a transparent way, law enforcement can realize a range of benefits, such as:

- obtaining concrete evidence about whether stops are achieving law enforcement and public safety objectives;
- providing a better understanding of how stops impact the community and whether certain groups bear a disproportionate burden from those stops;
- permitting agencies to better assess the conduct of individual officers; and
- building community trust through improved transparency and dialogue about policing practices.

Again, the only way to answer these questions is to collect and analyze data.”³⁸

RIPA data: What is collected? And why *perceived* identity information?

For each stop the officer will collect RIPA Data regarding the stop, the officer’s perception of the person(s) stopped, and information about the officer. The 2021 RIPA Board report groups the information as shown in the table.³⁹

Officer Reporting Requirements
Information Regarding Stop
1. Date, Time, and Duration 2. Location 3. Reason for Stop 4. Was Stop in Response to Call for Service? 5. Actions Taken During Stop 6. Contraband or Evidence Discovered 7. Property Seized 8. Result of Stop
Information Regarding Officer’s Perception of Person Stopped

³⁸ Ibid.

³⁹ 2021 RIPA Board Annual Report, p. 21

Officer Reporting Requirements
<ol style="list-style-type: none"> 1. Perceived Race or Ethnicity 2. Perceived Age 3. Perceived Gender 4. Perceived to be LGBT 5. Limited or No English Fluency 6. Perceived or Known Disability
Information Regarding Officer
<ol style="list-style-type: none"> 1. Officer's Identification Number 2. Years of Experience 3. Type of Assignment

A full list of the fields for which data is collected is available in Appendix A.

The RIPA-recorded perception is intended to be the first one the officer has of the stopped person. For example, in a traffic stop of a car with tinted windows, or at night, the officer may not see the driver until they roll down the window. The perception is the one at that moment, when the officer first sees the driver.⁴⁰ Capturing perception allows implicit biases to be examined. It does not matter if the actual identity information differs; what counts is how the officer perceives the person and deals with them.

Data Integrity & Is Data Collection a Burden?

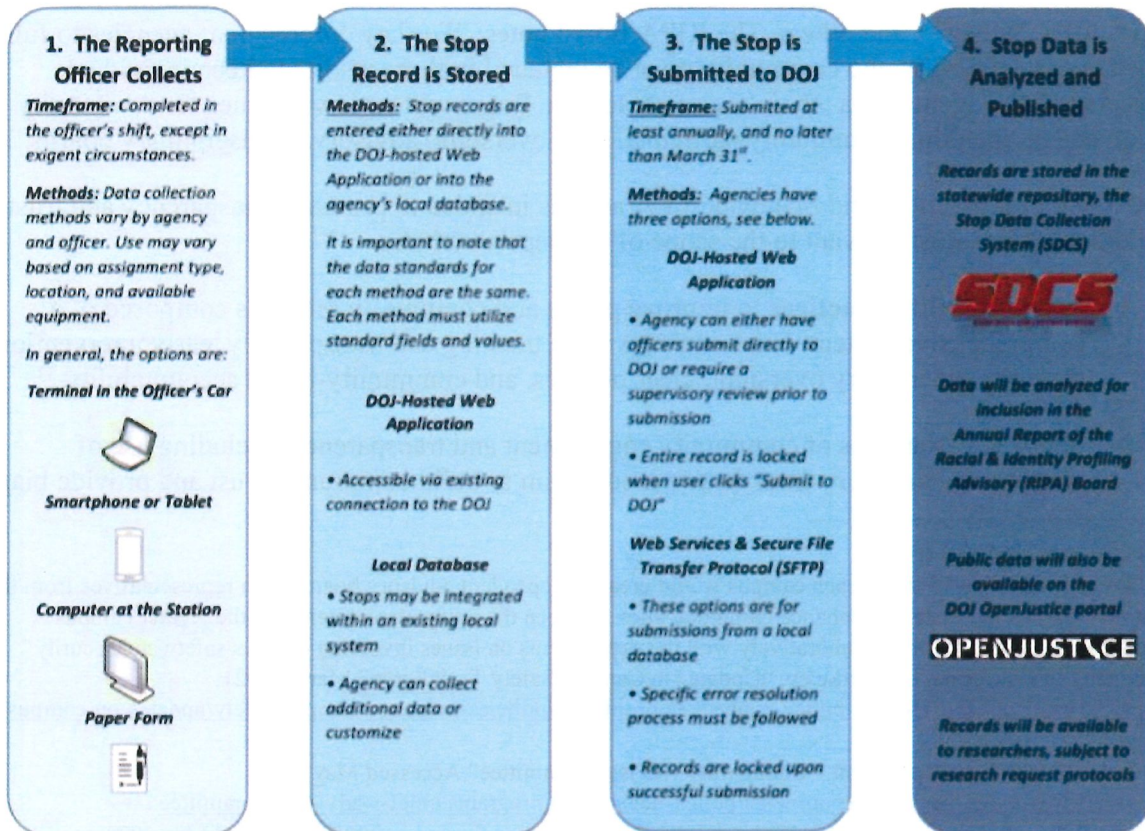
Any set of data is only as useful as the quality of its components. Incomplete and contradictory data must be minimized to make the data useful. Recognizing the importance of RIPA data integrity, the CADOJ produced a five-minute video on the subject in May 2019. [RIPA – Data Integrity](#), available on YouTube.⁴¹ A LEA that collects data without following the CA DOJ requirements will have its data rejected, requiring reexamination of the data and resubmission.⁴²

How much time does it take to gather this valuable data? Experienced LEAs elsewhere in California have found that data collection, on average, only took three- to -five minutes per

⁴⁰ DOJ webinar, “Reporting Stop Data for the Racial & Identity Profiling Act (RIPA / AB 953)”, slide 42 of 111.
⁴¹ RIPA Data Integrity, California Department of Justice, May 2, 2019, available at <https://youtu.be/F2evSciOf00>
⁴² RIPA Stop Data Collection Stop Presentation, 2018, Slide 14 of 16

person stopped.⁴³ Private software vendors have created RIPA solutions for LEAs. See Appendix B for screenshots of one vendor’s RIPA application.

The illustration below, from the 2019 RIPA Board report, illustrates the collection, submission, and analysis process:



RIPA Board Best Practices and Learning from Peer LEAs

The RIPA Board offers “policy recommendations for eliminating racial/identity profiling” via an annually published RIPA Board Best Practices Report. An outline of the 2020 and 2021 Best Practices Report is available in Appendix C.

⁴³ Grand Jury Interviews.

The RIPA Board Best Practices Report includes recommendations for policies, training, and interactions with the community to eliminate “racial and identity profiling and improving diversity and racial and identity sensitivity in law enforcement.”⁴⁴

Many peer LEAs have begun implementing community advisory boards for community-based accountability and trust building, unrelated to RIPA. These include, but are not limited to, the University of California, Berkeley⁴⁵, Chula Vista⁴⁶, Davis⁴⁷, Walnut Creek⁴⁸, Fremont⁴⁹, Hayward⁵⁰, Salinas⁵¹, and others. The RIPA Board notes: “For law enforcement agencies to fully practice accountability, the community must be included in those efforts to keep individual officers and the agency as a whole accountable. The Board will review avenues for community involvement, including community participation in oversight, advisory, or disciplinary boards.”⁵²

The RIPA best practices and Statewide LEA actions intended to promote transparency and trust building that are most relevant to the scope of this report include:

- **Accountability practices** to improve police and community relations composed of a comprehensive system which includes: data tracking and transparency, early intervention systems, supervisory oversight, clear policies, and community-based accountability.⁵³
- Peer-LEA examples of community engagement and transparency, including use of **community advisory boards** as a mechanism to build community trust and provide bias-

⁴⁴ Penal Code §13519.4 (j)(1)

⁴⁵ “Recommendation 15 states each campus would create independent advisory boards with representatives from the campus who can facilitate and enhance communication between the police department and the greater campus community as well as work collaboratively with the departments on issues involving campus safety and security” University of California, UC Berkeley, “Update On Campus Safety Task Force” March, 2021.
<https://www.ucop.edu/research-policy-analysis-coordination/policies-guidance/campus-safety/updates-on-campus-safety-task-forces.pdf>

⁴⁶ Chula Vista Police Department. “Community Advisor Committee” Accessed May 2021.

<https://www.chulavistaca.gov/departments/police-department/programs/chief-s-advisory-committee>

⁴⁷ Davis Police Department, “Community Advisory Board”, (board formed in 2005), Accessed May 2021.

<https://www.cityofdavis.org/city-hall/police-department/administration/community-advisory-board>

⁴⁸ Walnut Creek, City of. “Chief’s Community Advisory Board.” Undated. Accessed May 2021.

<https://www.walnut-creek.org/government/commissions-committees/chief-s-community-advisory-board>

⁴⁹ Fremont Police Department. “Community Advisory Group (CAG).” Undated.

<https://www.fremontpolice.gov/about-us/office-of-the-chief-of-police/community-advisory-group>

⁵⁰ <https://www.hayward-ca.gov/your-government/boards-commissions/hpd-community-advisory-panel>

⁵¹ <https://www.cityofsalinas.org/our-government/boards-commissions/police-community-advisory-committee>

⁵² Racial & Identity Profiling Advisory Board, *2021 Annual Report*, p. 91,

⁵³ Racial & Identity Profiling Advisory Board, *2021 Best Practices*, p. 2,

<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2021.pdf?>

free policing, sought by all stakeholders⁵⁴. The 2021 RIPA Board notes: “13 of the 25 agencies surveyed indicated that they have a civilian review board. Of those agencies, five reported discussing the RIPA Board’s findings with their civilian review boards.”⁵⁵

- **A Stand-alone Bias-free Policing Policy** which should: use clear language, including definitions of relevant terms; express the agency’s responsibility to identify and eliminate racial and identity profiling; include references to relevant training that agency personnel receive on racial and identity profiling and bias; include components on encounters with the community, data analysis, accountability, and supervisory review; be easily accessible to both agency personnel and the public; and include cross references to other relevant agency policies on subjects such as civilian complaints, stops, use of force, training, and accountability.⁵⁶
- **Processes to Address Bias by Proxy** which occurs “when an individual calls the police and makes false or ill-informed claims about persons they dislike or are biased against.”⁵⁷ The RIPA Board recommends that all LEAs adopt a policy to prevent bias by proxy or bias-based call by filtering out the biased information.
- **Civilian Complaints practices** - The RIPA Board has in- depth recommendations on how a LEA should handle complaints from members of the public so that they are not all dismissed as unfounded.⁵⁸
- **Training on Bias** - The RIPA Board also makes recommendations related to Racial and Identity Profiling training. In California, the Commission on Peace Officers Standards and Training (POST) creates training programs and materials for use by LEAs Statewide. The RIPA Board specifically recommends that POST training: uses stop data findings from RIPA reports to examine the disparities between racial and identity groups to identify topic areas of concern for future course development; provides courses with deeper discussions on possible officer bias that leads to a stop, how the situation evolves during the stop, and communication skills to prevent stops from escalating; provides guidance and discussion about the legal implications and consequences of bias; connects recruitment academy training to field officer training and determines how implicit bias

⁵⁴ Stakeholders include local governance leaders (city/town councils, Boards of Supervisors), residents, local community leaders and organizers, to name a few.

⁵⁵ RIPA Board 2021 Annual Report, p. 85

⁵⁶ RIPA Board 2021 Best Practices, *supra*, at p. 2

⁵⁷ RIPA Board 2021 Best Practices, *supra*, at p. 3

⁵⁸ RIPA Board 2021 Best Practices, *supra*, at p. 5

and racial and identity profiling and cultural awareness training are being applied; and, ensures that field training officers have up-to-date racial and identity profiling training.⁵⁹

RIPA Stop Data Impact on New Legislation

RIPA data has triggered the creation of new legislation. For example, early in 2021, a California assemblyman proposed a change in the State's laws regarding jaywalking (AB-1238, 2021, Ting and Friedman).⁶⁰ The bill was prompted, in part, by RIPA data showing that African Americans were four and one-half times more likely to be ticketed for jaywalking than whites. A ticket for jaywalking can escalate into a violent confrontation with law enforcement.⁶¹ On June 2, 2021, AB-1238, passed in the Assembly, it has moved to the State Senate.

DISCUSSION

Do SMC LEAs Have a Bias Problem?

It is easy to believe that biased policing is only a problem of big cities in other counties. Los Angeles, Oakland, Sacramento, San Francisco, and San Jose have all had publicized problems with documented episodes of their respective peace officers exhibiting biases in their interactions with civilians.⁶²

⁵⁹ RIPA Board 2021 Best Practices, *supra*, at pp. 4-5

⁶⁰ Bill Text - AB-1238 Pedestrian access. (ca.gov)

https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=20210220AB1238

⁶¹ Ting Proposes to Eliminate Jaywalking Tickets In California | Official Website - Assemblymember Phil Ting Representing the 19th California Assembly District (asmdc.org) <https://a19.asmdc.org/press-releases/20210325-ting-proposes-eliminate-jaywalking-tickets-california>

⁶² Edwards, Ezekiel, "San Francisco Is a Hotbed of Illegal Race-Based Policing" San Francisco Is a Hotbed of Illegal Race-Based Policing | American Civil Liberties Union (aclu.org) 2018, <https://www.aclu.org/blog/criminal-law-reform/reforming-police/san-francisco-hotbed-illegal-race-based-policing> ; Louie, David, (April 10, 2015) "Report: SJPd has a big problem being racially biased," ABC, KGO-TV, <https://abc7news.com/san-jose-police-department-sjpd-report-racial-bias/649558/>; Eberhardt, Jennifer, "To end racial disparities in policing, we must look beyond the data" The Guardian, April 18, 2019, <https://www.theguardian.com/commentisfree/2019/apr/17/race-policing-oakland-biased-jennifer-eberhardt>; Bretón, Marcos, "'Implicit bias' replaces the 'R' word. This is how we explain cops killing black men." Sacramento Bee, April 8, 2018, <https://www.sacbee.com/news/local/news-columns-blogs/marcos-breton/article208230624.html>; Times Editorial Board, "Editorial: The more LAPD changes...", Los Angeles Times, May 28, 2021, <https://www.latimes.com/opinion/story/2021-05-28/lapd-changes-reform-needed> ; see also FiveThirtyEight, February 4, 2021, <https://fivethirtyeight.com/features/the-biden-administration-wants-to-address-racial-bias-in-policing-what-cities-should-it-investigate/>

When asked, SMC LEAs generally do not think they have a problem with biased policing, based in part, on how few public bias-complaints they get.⁶³ Few departments have more than a small handful of complaints annually alleging any type of bias. All have both policies and training designed to eliminate biased policing.

Analysis of data shows that speaking up or complaining to authorities such as the local police are not reliable indicators of bias-free policing. For example, in Los Angeles, from 2012 to 2014, there were 1,356 allegations of biased policing. None of the complaints were upheld.⁶⁴

“AB 953 expanded the type of complaints that agencies are required to report to the Department of Justice, as well as the specific data to be reported for complaints.”⁶⁵ Complaint data for the County’s LEAs shows that while there were a total of 43 racial or identity profiling complaints reported during 2016 to 2019, none were sustained. The complaints were examined and resolved by the LEAs. (See Appendix H).

Are the County’s LEAs prepared for RIPA?

As previously mentioned, the RIPA timeline for County LEAs requires official data collection to begin on January 1, 2022, and submission to the CA DOJ by April 1, 2023. In order to comply, each individual LEA must have processes, technology, training, and system debugging completed before the end of 2021.

Are County LEAs prepared for RIPA data collection and submission? Do they have qualified personnel to analyze and use the data? How will they use the data for greater local transparency, training, and trust building? These are the questions this investigation set out to answer. The data for all local LEAs is based on the Grand Jury’s survey⁶⁶ and subsequent interviews with the leadership of all seventeen LEAs that took place in January and February 2021. The LEAs will have moved ahead with specific RIPA-related plans since the interviews.

The survey and interview results indicate levels of preparedness across LEAs that fall along a classic bell curve.⁶⁷ Some LEAs began collecting RIPA stop data in early 2021. The majority

⁶³ Grand Jury Interviews.

⁶⁴ Mather, Kate. “LAPD found no bias in all 1,356 complaints filed against officers.” Los Angeles Times, Dec. 15, 2015.

⁶⁵ AB 953: The Racial and Identity Profiling Act of 2015 | State of California - Department of Justice - Office of the Attorney General <https://oag.ca.gov/ab953#complaints>

⁶⁶ See Appendix D for the survey form.

⁶⁷ Grand Jury Confidentiality rules dictate that the identity of individuals interviewed is kept confidential.

have begun looking at solutions to comply, and a few are lagging and relying on other LEAs to lead the way. As of the first quarter of 2021:

- Burlingame announced it would begin collecting RIPA data early.⁶⁸
- Menlo Park indicated it purchased the necessary software.⁶⁹
- Most LEAs had either decided on their technology platform for RIPA data collection or had narrowed their approach to two or three alternatives.
- A few of the LEAs had barely begun their RIPA preparations.
- At least one of the contracted entities did not know about RIPA nor that it will be able to request RIPA data from the Sheriff.⁷⁰
- Some LEAs were confused and believed the County Dispatch System would collect the RIPA data. The dispatch system is part of the existing traffic citation writing procedure. The Grand Jury did not find any technology platforms that rely on County-level dispatch systems for RIPA data collection and question the efficacy of such a system.
- None of the LEAs had a firm plan for what personnel will be needed to ensure accurate data collection and analysis. Some thought they might add the task to the existing command group while others indicated a possible need for a data analyst. For the smaller departments, sharing one data analyst may make sense.

While each LEA is responsible for its own RIPA compliance, the LEAs in SMC can consult each other through the San Mateo Police Chiefs & Sheriff Association. The group meets monthly and has a RIPA Subcommittee.⁷¹

⁶⁸ Walsh, Austin. "Police address policy reforms in Burlingame - Chief details variety of efforts department has adopted in the wake of George Floyd's killing." The Daily Journal. December 28, 2020. https://www.smdailyjournal.com/news/local/police-address-policy-reforms-in-burlingame/article_4ff4a732-48ca-11eb-9dcf-f3b429ebbeb7.htm

⁶⁹ Menlo Park City Manager's Office. "Staff Report 20-150-CC: Add institutionalized bias reform as a top priority for City staff in 2020-21 and provide input to staff on how to address police" for July 16, 2020 meeting. <https://menlopark.org/DocumentCenter/View/25679/F2-20200714-CC-Institutionalized-bias-reform>

⁷⁰ Grand Jury interviews.

⁷¹ Grand Jury interviews.

Costs

The range of technology solutions for RIPA compliance include using existing systems without the purchase of new software or hardware, using the CA DOJ option which requires human labor, or acquiring technology for budget and time-friendly solutions.

City and town LEAs anticipated initial *direct* costs to range from \$0 - \$30,000. Some had existing systems which offer RIPA add-ons as part of the annual software fee, others expected to purchase either an add-on or standalone solution. None expressed budgetary concerns.⁷²

The County's largest LEA, the Sheriff's Office, has designated patrol services for the unincorporated parts of the county. The Sheriff's Office also provides contracted law enforcement services for the cities of Half Moon Bay, Millbrae, San Carlos, for the towns of Portola Valley and Woodside, as well as for the Peninsula Corridor Joint Powers Board and the San Mateo County Transit District.⁷³ Its preliminary estimate of RIPA costs range from \$15,000 to \$250,000, depending on the technology platform.

There are also *indirect* costs involved in complying with RIPA. They include:

- basic startup costs of any new program: installation of software and debugging, which may, or may not, be included in the direct costs mentioned above;
- training of officers on the use of the software, the purposes of RIPA, RIPA compliant data collection, etc.;
- personnel costs to audit the data collection to ensure, at a minimum, accurate data collection and reporting; and
- resources required to regularly analyze and use the data for improving bias-free policing.

Technology cost miscalculations can occur as evidenced by the experience of larger agencies. For example, a 2018 San Diego Police Department news report shared that the Peace Officers Research Association of California and the California State Sheriffs' Association had raised concerns that the RIPA requirements, which began in July 2018 for the State's largest agencies, would be expensive. In February 2017, then-Police Chief Shelley Zimmerman mentioned potential RIPA-related expenses to the city council. Later in May, council members budgeted an additional \$200,000 to cover the cost of implementation. SDPD Lieutenant Jeff Jordon said the money was intended to pay for the development of new tools to meet the mandate, but the agency instead received a free mobile application and program from the San Diego County Sheriff's Department. Ultimately, the department spent \$6,228, Jordon said, and the remaining

⁷² Grand Jury interviews.

⁷³ <https://www.smcsheriff.com/index.php/patrol-services>

\$193,772 went back to the city’s general fund at the end of the fiscal year in June, a mayor’s office spokesman confirmed.⁷⁴

To prevent such miscalculations and deliver on community and local-governance expectations, SMC LEAs would benefit from early planning and consultation with peer-LEAs that are leading in this effort.

RIPA’s Bias Free Policing Opportunity

The RIPA Board recommendations map out a path for local LEAs to deliver on the aspirations of bias-free -policing. The 2020-Summer-of-Race-Reckoning and ongoing national coverage of the subject⁷⁵ reinforces the need for racial equity in policing everywhere, including San Mateo County.

The Annual RIPA Report summarizes and publishes stop data findings along with recommendations to improve bias-free-policing. Local LEAs, in collaboration with their city/town councils and residents, can review their local RIPA data. A quarterly review, engaging internal and external stakeholders, can identify opportunities for addressing potential biases and course-correcting before the Annual RIPA Report is published. The appended table below summarizes: 1) legislated requirement (**bold**), and 2) RIPA Board intent and recommendations (*italics*).

RIPA Components	Understanding the RIPA Opportunity for Moving Toward Bias-Free Policing	Suggestions for Implementing RIPA ⁷⁶	Delivering on RIPA goal of Bias-Free-Policing
Stop Data	Collection & Reporting to CA DOJ (legislated)	<i>Regularly analyzing RIPA data at the LEA level</i>	<i>Training and mentoring officers and dispatch teams; evolving policies, etc.</i>

⁷⁴ Mento, Tarryn. “SDPD Didn’t Need Additional \$200K To Implement New Anti-Racial Profiling Law.” KPBS. December 20, 2018. <https://www.kpbs.org/news/2018/dec/20/sdpd-didnt-need-additional-200k-implement-new-anti/>

⁷⁵ Chang, Ailsa, Rachel Martin, Eric Marrapodi. “Summer of Racial Reckoning.” KQED. August 16, 2020. <https://www.npr.org/2020/08/16/902179773/summer-of-racial-reckoning-the-match-lit>

⁷⁶ Grand Jury Interviews

RIPA Components	Understanding the RIPA Opportunity for Moving Toward Bias-Free Policing	Suggestions for Implementing RIPA ⁷⁶	Delivering on RIPA goal of Bias-Free-Policing
<i>Technology Platform</i>	<i>Easy plug-in for quick data collection</i>	<i>Ongoing and auto-auditing</i>	<i>Sophisticated, regular reporting at LEA level for local management via neighborhoods, etc.</i>
<i>Training front line officers for data collection; Training Supervisors for data collection & auditing</i>	<i>A mindset shift whereby all LEA teams understand the need to address implicit bias aka perceptions. Noting: we're all human</i>	<i>Awareness via ongoing Implicit bias training and discussions. Creating safe and brave spaces for learning from human frailty of implicit bias.</i>	<i>Transparency with external stakeholders on the need for the journey to learn and grow in order to deliver bias-free-policing</i>
<i>Community Engagement</i>	<i>Community is aware of stop data reports via annual RIPA Reports and easily accessible online data</i>	<i>LEAs engage City or Town Councils and the public on local RIPA data on a regular basis. Data should be easily accessible</i>	<i>Engage diverse stakeholders to advise, inform, guide collaborative bias-free-public safety</i>

Analysis of Stop Data

The RIPA stop data will require analysis using statistical or analytical tools. The RIPA Board’s annual analysis compares the stop data-breakdown by race and identity against that of the community. But that comparison can be misleading when the diversity of day visitors doesn’t match that of the residents. For example, populations vary in Half Moon Bay with a high beach-day-use or seasonal-agricultural workers; and Colma has day-work, transient populations. When the day-population diversity is different from the fulltime resident population, RIPA data could either suggest or hide biases.

The mandated data collection creates an opportunity for local LEAs to use their data on a regular basis as an early alert of possible individual or unit bias. Collection and analysis could promote early addressing of potential issues via training or mentorship. Sharing the data with the local

community on a regular basis, and engaging them in ascertaining possible solutions, is a RIPA Advisory Board recommendation implemented by many California LEAs.

Using RIPA to Improve Law Enforcement

A few SMC LEAs have plans to review the data monthly or quarterly, to identify patterns of bias; but a majority don't. Pryor, et al. *Guidebook for LEAs, supra*, recommends:⁷⁷

- Data analysis is crucial; thus LEAs should either allocate resources to hire experts or look to partner with universities or researchers;
- Analysis can be used to assess both the effectiveness of specific tactics and any disparities in how those tactics are applied in the community; and
- Three levels of explanation for police-data analysis, namely: *community*, *department*, and *relationship* between community and department.

What Could Governing Bodies Expect of Their LEAs Regarding RIPA?

Municipal governing bodies (city or town councils) should already be aware of RIPA, *and* of the plans of their respective LEAs to implement it. This is important because the LEA interviews raised the following concerns:⁷⁸

- LEA may request additional funding to implement RIPA data collection;
- LEA may need to reassign personnel to enable it to make use of RIPA data to improve its operation;
- LEA may show an initial drop in traffic citations and other interactions with the public when it starts collecting RIPA data;
- RIPA data will be analyzed by CA DOJ and department deficiencies will become public for citizens, advocacy groups, and academic researchers to view and further analyze and question; and

⁷⁷ Pryor, Marie, Phillip Atiba Goff, Farhang Heydari, and Barry Friedman. 2020. "Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities." New York. https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf

⁷⁸ Grand Jury Interviews

- RIPA data may bring to light a policing problem that is not otherwise apparent to the council.

IN SUMMARY

RIPA provides LEAs with an opportunity to improve operations. Explicit bias is readily identified in the words and actions of individuals, as well as in organizations. Implicit bias, in contrast, operates subtly, often without awareness by the person whose behavior the bias affects. Collecting and analyzing stop data can shed light on ways in which implicit biases are leading to uneven and unfair law enforcement. Once the problem is known, steps can be taken to minimize the bias and reduce its impact. It is crucial for the community to trust law enforcement.

FINDINGS

All seventeen LEAs responded to the Grand Jury survey on RIPA-readiness and participated in one or more interviews. Grand Jury confidentiality rules prevent specific identification of the responses of each LEA. The Grand Jury's aggregate relevant findings are:

RIPA Data Collection and Reporting

- F1. LEAs in SMC are aware of RIPA data requirements, including the requirement that data collection starts on January 1, 2022.
- F2. County LEAs vary in their degree of understanding of: RIPA data collection requirements, technological options for collecting the data, and the need for procedures and training to collect and report the data. The LEA's RIPA-preparedness correlates to their understanding of RIPA requirements.
- F3. Burlingame and Menlo Park are to be commended for publicly announcing their plans for early implementation of RIPA data collection and reporting to the CA DOJ. The other fifteen LEAs were in various stages of planning and acquiring their RIPA data collection system.
- F4. The San Mateo County Police Chiefs & Sheriff Association RIPA Subcommittee provides a convenient forum for LEAs to benefit from peer learning and collaboration for RIPA planning, testing, deployment and best practices.
- F5. Some LEAs mistakenly believe the County Dispatch System will handle their RIPA data collection.

Using RIPA Data for Transparent Community Trust Building

- F6. LEAs vary in their understanding that implementing RIPA Board recommendations would build greater trust with their communities.

- F7. Some contracting entities were unaware of the RIPA requirements, and that RIPA data breakdown for their respective cities could be requested from the Sheriff's Office beginning in the spring of 2022.
- F8. Between now and 2022, sixteen county LEAs have plans for “regularly analyzing data, in consultation with [academics, police commissions, civilian review bodies, or advisory boards], to assist in identifying practices that may have a disparate impact on any group relative to the general population.”

RECOMMENDATIONS

RIPA Data Collection and Reporting – Milestones for January 1, 2022 compliance

- R1. Each LEA must have a fully developed implementation plan for complying with RIPA. The plan should include data collection and reporting, training methods, policies and procedures, roll-out plans, personnel allocation, systems testing and data auditing. The plan should be reviewed and approved by October 30, 2021.
- R2. Each LEA needs to acquire the necessary software and hardware required to comply with RIPA by October 30, 2021, in order to complete testing within 30 days and to go live by January 1, 2022.
- R3. Each LEA must test and confirm their readiness for RIPA data collection by November 30, 2021.
- R4. Each LEA should provide regular updates to their governing entities, on their progress *toward preparing* for the required RIPA data collection starting on October 15, 2021.

Using RIPA Data for Transparent Community Trust Building – don't wait for the annual report

- R5. Each LEA should, on a quarterly basis, starting in the second quarter of 2022, provide reports on RIPA data and how it is being used to address potential identity biases, including supervisory oversight (as defined by the RIPA Board). The report should be posted and easily viewable on the entity's website.
- R6. By February 1, 2022, each LEA should begin considering how to obtain and use insights gained from the RIPA data to improve the operation of its department by combating implicit bias in policing and pursuing greater community trust by implementing the RIPA Board's growing list of policing best practices.
- R7. By February 1, 2022, each LEA should consider community engagement and transparency, including the possible use of “academics, police commissions, civilian

review bodies, or advisory boards” as a mechanism to build community trust and provide bias-free policing.

R8. In the second quarter of 2022, each of the contracting entities should begin requesting RIPA stop data for its jurisdiction, separate from the rest of the Sheriff’s stop data.

REQUEST FOR RESPONSES

Penal Code Section 933.05 (emphasis added)

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall report one of the following:

- (1) The respondent **agrees** with the finding.
- (2) The respondent **disagrees** wholly or partially with the finding, in which case the response shall **specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.**

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, **with a summary regarding the implemented action.**
- (2) The recommendation has not yet been implemented, but will be implemented in the future, **with a timeframe for implementation.**
- (3) The recommendation requires further analysis, **with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.**
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, **with an explanation therefor.**

Pursuant to Gov. Code § 933.05, the Grand Jury requests responses from the following entities, for the listed **Findings**:

Responses to FINDINGS from City/Town Councils and the Sheriff								
FINDINGS	F1	F2	F3	F4	F5	F6	F7	F8
Atherton	X	X	X	X	X	X		X
Belmont	X	X	X	X	X	X		X

Responses to FINDINGS from City/Town Councils and the Sheriff									
FINDINGS	F1	F2	F3	F4	F5	F6	F7	F8	
Brisbane	X	X	X	X	X	X		X	
Burlingame	X	X	X	X	X	X		X	
Colma	X	X	X	X	X	X		X	
Daly City	X	X	X	X	X	X		X	
East Palo Alto	X	X	X	X	X	X		X	
Foster City	X	X	X	X	X	X		X	
Hillsborough	X	X	X	X	X	X		X	
Menlo Park	X	X	X	X	X	X		X	
Pacifica	X	X	X	X	X	X		X	
Redwood City	X	X	X	X	X	X		X	
San Bruno	X	X	X	X	X	X		X	
San Mateo	X	X	X	X	X	X		X	
South San Francisco	X	X	X	X	X	X		X	
Broadmoor Police District Board	X	X	X	X	X	X		X	
Millbrae	X	X	X	X	X	X	X	X	
San Carlos	X	X	X	X	X	X	X	X	
Portola Valley	X	X	X	X	X	X	X	X	
Woodside	X	X	X	X	X	X	X	X	
Half Moon Bay	X	X	X	X	X	X	X	X	
Sheriff	X	X	X	X	X	X	X	X	

Pursuant to Gov. Code § 933.05, the Grand Jury requests responses **from the following entities for the listed Recommendations:**

Responses to RECOMMENDATIONS from City/Town Councils and the Sheriff									
RECOMMENDATIONS	R1	R2	R3	R4	R5	R6	R7	R8	
Atherton	X	X	X	X	X	X	X	X	
Belmont	X	X	X	X	X	X	X	X	
Brisbane	X	X	X	X	X	X	X	X	
Burlingame	X	X	X	X	X	X	X	X	
Colma	X	X	X	X	X	X	X	X	
Daly City	X	X	X	X	X	X	X	X	

Responses to RECOMMENDATIONS from City/Town Councils and the Sheriff								
RECOMMENDATIONS	R1	R2	R3	R4	R5	R6	R7	R8
East Palo Alto	X	X	X	X	X	X	X	
Foster City	X	X	X	X	X	X	X	
Hillsborough	X	X	X	X	X	X	X	
Menlo Park	X	X	X	X	X	X	X	
Pacifica	X	X	X	X	X	X	X	
Redwood City	X	X	X	X	X	X	X	
San Bruno	X	X	X	X	X	X	X	
San Mateo	X	X	X	X	X	X	X	
South San Francisco	X	X	X	X	X	X	X	
Board of the Broadmoor Police Protection District	X	X	X	X	X	X	X	
Millbrae	X	X	X	X	X	X	X	X
San Carlos	X	X	X	X	X	X	X	X
Portola Valley	X	X	X	X	X	X	X	X
Woodside	X	X	X	X	X	X	X	X
Half Moon Bay	X	X	X	X	X	X	X	X
Sheriff	X	X	X	X	X	X	X	X

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

METHODOLOGY

Documents

Reports, presentations, and other documents from the California RIPA Board were reviewed, along with websites for the Sheriff's Office, police departments, and city and town councils. In response to the survey (below) certain LEAs provided additional documents. The California Department of Justice also provided materials to inform the investigation. For a comprehensive list of the documents reviewed and consulted, see the Bibliography below.

Site Tour(s)

Due to the Covid-19 pandemic, no physical site tours were scheduled for this report.

Interviews & Surveys

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

All interviews were conducted by videoconference using Zoom or Google Meets. For this report the Grand Jury interviewed:

- Law enforcement personnel at the commander, captain, or chief level, or equivalent from each LEA in the County
- Current and past members of the RIPA advisory boards
- Members of law enforcement with experience outside of the County
- At least one city manager

A comprehensive survey on RIPA preparedness and bias-free policing was sent to all 17 active LEAs in the County. All 17 responded. Appendix D shows the form used in the survey. Some of the answers from that survey, anonymized, are shown in Appendix E.

BIBLIOGRAPHY

- Assembly Bill 953 (2015, Weber). “Law enforcement: racial profiling.” An act to add Section 12525.5 to the Government Code, and to amend Sections 13012 and 13519.4 of the Penal Code, relating to racial profiling.
- Becera, Xavier, California Department of Justice. May 2, 2019. Video: “RIPA – Data Integrity” <https://youtu.be/F2evScIOFo0>
- Bretón, Marcos, “‘Implicit bias’ replaces the ‘R’ word. This is how we explain cops killing black men.” Sacramento Bee, April 8, 2018, <https://www.sacbee.com/news/local/news-columns-blogs/marcos-breton/article208230624.html>
- Butler, Paul, interview by Noel King. 2021. “Minnesota Police Officer Charged In Death Of Daunte Wright.” *NPR News, National*. April 16, 2021, <https://www.npr.org/transcripts/987956420>
- California Department of Justice. October 21, 2020. Presentation: “Reporting Stop Data for the Racial & Identity Profiling Act” for the California Police Chiefs Association.

- California Department of Justice. “AB 953: The Racial and Identity Profiling Act of 2015” <https://oag.ca.gov/ab953#complaints>
- California Government Code, Sections 12525.5(g)(1), 12525.5(g)(2), and 25303
- California Penal Code Sections 13519.4(j)(1), 13519.4(j)(2)
- Calbike: California Bicycle Coalition. 2021. “CalBike Announces New Legislation to Eliminate Jaywalking Tickets in California.” *Calbike* . March 25. Accessed April 17, 2021. <https://www.calbike.org/calbike-announces-new-legislation-to-eliminate-jaywalking-tickets-in-california/>.
- Chang, Ailsa, Rachel Martin, Eric Marrapodi. “Summer of Racial Reckoning.” KQED. August 16, 2020. <https://www.npr.org/2020/08/16/902179773/summer-of-racial-reckoning-the-match-lit>
- Chula Vista Police Department. “Community Advisor Committee” Accessed May 2021. <https://www.chulavistaca.gov/departments/police-department/programs/chief-s-advisory-committee>
- Davis Police Department, “Community Advisory Board”, (board formed in 2005), Accessed May 2021. <https://www.cityofdavis.org/city-hall/police-department/administration/community-advisory-board>
- Eberhardt, Jennifer L. 2020. *TED Talk: How racial bias works - and how to disrupt it*. June. Accessed April 30 , 2021. https://www.ted.com/talks/jennifer_l_eberhardt_how_racial_bias_works_and_how_to_disrupt_it
- Eberhardt, Jennifer, “To end racial disparities in policing, we must look beyond the data” *The Guardian*, April 18, 2019, <https://www.theguardian.com/commentisfree/2019/apr/17/race-policing-oakland-biased-jennifer-eberhardt>
- Edwards, Ezekiel. 2018. “San Francisco Is a Hotbed of Illegal Race-Based Policing.” *ACLU*. October 4. Accessed January 11, 2021. <https://www.aclu.org/blog/criminal-law-reform/reforming-police/san-francisco-hotbed-illegal-race-based-policing> .
- Fremont Police Department. “Community Advisory Group (CAG).” Undated. <https://www.fremontpolice.gov/about-us/office-of-the-chief-of-police/community-advisory-group> Accessed May 2021.
- Fridell, Lorie. Fall 2013. “This Is Not Your Grandparents’ Prejudice: The Implications of the Modern Science of Bias for Police Training,” *Translational Criminology*, Fall 2013: 10-11, <http://cebc.org/wp-content/TCmagazine/TC5-Fall2013.pdf>

- Gaertner, Samuel L., and John F. Dovidio. 1986. "The aversion form of racism." In *Prejudice, Discrimination, and Racism*, by John F. Dovidio and Samuel L. Gaertner, 61-89. Orlando: Academic Press.
- Goldin, Claudia and Cecilia Rouse. Sept. 2000. "Orchestrating Impartiality: The Impact of 'Blind' Auditions on Female Musicians", AMERICAN ECONOMIC REVIEW VOL. 90, NO. 4, SEPTEMBER 2000 (pp. 715-741)
<https://ideas.repec.org/a/aea/aecrev/v90y2000i4p715-741.html>
- Great Schools Partnership, "Glossary of Education Reform, Growth Mindset" August 29, 2013, <https://www.edglossary.org/growth-mindset/>
- Green, Jason, and Robert Salonga. 2020. *San Jose police officers' racist Facebook posts exposed by blogger*. June 26. Accessed April 20, 2020.
<https://www.mercurynews.com/2020/06/26/san-jose-police-officers-racist-facebook-posts-exposed-by-blogger/>
- Jones, Camara Phyllis. 2000. "Levels of Racism: A Theoretic Framework and a Gardener's Tale." *Am J Public Health* 90 (8): 1212-1215.
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1446334/pdf/10936998.pdf>
- Louie, David, "Report: SJPd has a big problem being racially biased," ABC, KGO-TV. April 10, 2015. <https://abc7news.com/san-jose-police-department-sjpd-report-racial-bias/649558/>
- Mather, Kate. "LAPD found no bias in all 1,356 complaints filed against officers." Los Angeles Times, Dec. 15, 2015. <https://www.latimes.com/local/lanow/la-me-ln-lapd-biased-policing-report-20151215-story.html>
- Menlo Park City Manager's Office. "Staff Report 20-150-CC: Add institutionalized bias reform as a top priority for City staff in 2020-21 and provide input to staff on how to address police" for July 16 2020 meeting.
<https://menlopark.org/DocumentCenter/View/25679/F2-20200714-CC-Institutionalized-bias-reform>
- Mento, Tarryn. "SDPD Didn't Need Additional \$200K To Implement New Anti-Racial Profiling Law." KPBS. December 20, 2018.
<https://www.kpbs.org/news/2018/dec/20/sdpd-didnt-need-additional-200k-implement-new-anti/>
- MP Associates, CAPD, and World Trust Educational Services . n.d. *Racial Equity Tools; Act; Communicating; Implicit Bias*. Accessed April 14, 2021.
<https://www.raciaequitytools.org/resources/act/communicating/implicit-bias>

- Navarro, Renee. undated. *UCSF Office of Diversity and Outreach; Programs & Services; Unconscious Bias*. Accessed April 14, 2021. <https://diversity.ucsf.edu/resources/unconscious-bias>
- Parker, Clifton B. 2016. "Stanford big data study finds racial disparities in Oakland, Calif., police behavior, offers solutions." *Stanford | News*. June 15. Accessed April 20, 2020. <https://news.stanford.edu/2016/06/15/stanford-big-data-study-finds-racial-disparities-oakland-calif-police-behavior-offers-solutions/>
- Pryor, Marie, Phillip Atiba Goff, Farhang Heydari, and Barry Friedman. 2020. "Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities." New York. https://policingequity.org/images/pdfs-doc/COPS-Guidebook_Final_Release_Version_2-compressed.pdf
- Racial Equity Tools, "Implicit Bias," undated, Act, Communicating, Implicit Bias (racialequitytools.org) <https://www.racialequitytools.org/resources/act/communicating/implicit-bias>
- Racial & Identity Profiling Advisory Board. 2021. "Annual Report 2021", <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2021.pdf>
- Racial & Identity Profiling Advisory Board. 2021 "2021 Best Practices" <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2021.pdf>
- Racial & Identity Profiling Advisory Board. 2021. "2021 RIPA Report Quick Facts (ca.gov)." *Attorney General of California - Racial and Identity Profiling Advisory Board*. Accessed January 5, 2021
- Racial & Identity Profiling Advisory Board. 2020. "Annual Report 2020", <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2020.pdf>
- Racial & Identity Profiling Advisory Board. 2020 "2020 Report - Best Practices" <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2020.pdf>
- Racial & Identity Profiling Advisory Board. 2020. "2020 RIPA Report Quick Facts" 2020 R. <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-quick-facts-2020.pdf>
- Racial & Identity Profiling Advisory Board. 2020. "Supplemental Technical Report 2020" <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-tech-report-2020.pdf>
- Racial & Identity Profiling Advisory Board. 2019. "Annual Report 2019." <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2019.pdf>
- Racial & Identity Profiling Advisory Board. 2019 "2019 Report - Best Practices" <https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2019.pdf>

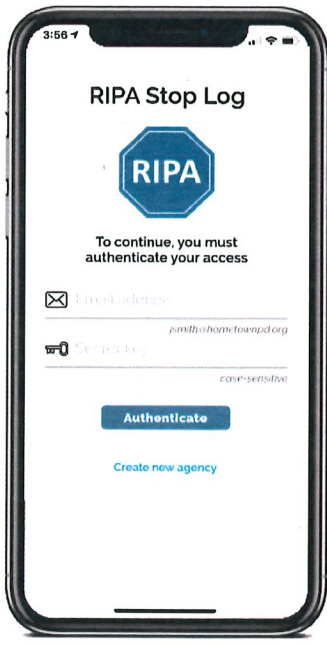
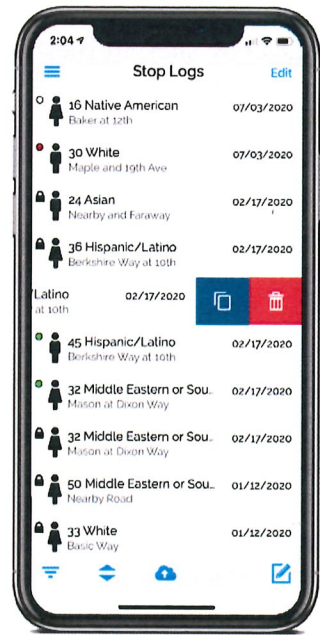
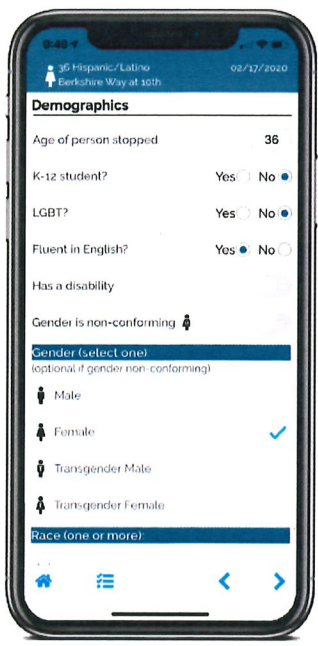
- Read, Aaron, and Randy Perry. 2016. “THE REAL STORY: AB 953 AND AB 71 EXPLAINED.” *PORAC (Peace Officers Research Association of California)*. March 1. Accessed April 30, 2021. <https://porac.org/2016/03/the-real-story-ab-953-and-ab-71-explained/>
- Redwood City Hall. “Police Advisory Committee” March 8, 2021. <https://www.redwoodcity.org/city-hall/advisory-bodies-and-committees/police-advisory-committee>
- RIPA Advisory Board. 2020. “Racial and Identity Profiling Advisory Board.” State of California Department of Justice, Office of the Attorney General. January 3. Accessed April 2, 2021. <https://oag.ca.gov/ab953/board>
- San Mateo County Sheriff’s Office. “Patrol Services.” Undated. <https://www.smsheriff.com/patrol-services>
- Sinyangwe, Samuel, “The Police Departments With The Biggest Racial Disparities In Arrests And Killings”, *FiveThirtyEight*, February 4, 2021, <https://fivethirtyeight.com/features/the-biden-administration-wants-to-address-racial-bias-in-policing-what-cities-should-it-investigate/>
- Stanford SPARQ and California Department of Justice. “Principled Policing Training – Procedural Justice and Implicit Bias.” 2015. https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/principled-policing-white-paper.pdf
- Steinpreis, R.E., Anders, K.A. & Ritzke, D. “The Impact of Gender on the Review of the Curricula Vitae of Job Applicants and Tenure Candidates: A National Empirical Study.” *Sex Roles* 41, 509–528 (1999). <https://doi-org.stanford.idm.oclc.org/10.1023/A:1018839203698>
- Times Editorial Board, “Editorial: The more LAPD changes...”, *Los Angeles Times*, May 28, 2021, <https://www.latimes.com/opinion/story/2021-05-28/lapd-changes-reform-needed>
- Ting, Phil. “Ting Proposes to Eliminate Jaywalking Tickets In California.” March 25, 2021. press release. <https://a19.asmdc.org/press-releases/20210325-ting-proposes-eliminate-jaywalking-tickets-california>
- Walnut Creek, City of. “Chief’s Community Advisory Board.” Undated. Accessed May 2021. <https://www.walnut-creek.org/government/commissions-committees/chief-s-community-advisory-board>
- Walsh, Austin. “Police address policy reforms in Burlingame - Chief details variety of efforts department has adopted in the wake of George Floyd’s killing.” *The Daily Journal*. December 28, 2020. https://www.smdailyjournal.com/news/local/police-address-policy-reforms-in-burlingame/article_4ff4a732-48ca-11eb-9dcf-f3b429ebbeb7.htm

- Wikipedia. “The Voice (American TV series)” Accessed February 2021. [https://en.wikipedia.org/wiki/The_Voice_\(American_TV_series\)](https://en.wikipedia.org/wiki/The_Voice_(American_TV_series))
- University of California, UC Berkeley, “Update On Campus Safety Task Force” March, 2021. <https://www.ucop.edu/research-policy-analysis-coordination/policies-guidance/campus-safety/updates-on-campus-safety-task-forces.pdf>

APPENDIX A: List of RIPA Data Fields and Variables

https://www.sanmateocourt.org/documents/grand_jury/2020/ripa_appendix_a.pdf

APPENDIX B: Screenshots of RIPALog Software



APPENDIX C: Outline of RIPA Board Best Practices Documents for 2020 and 2021

2020 Best Practices Document (21 pgs.) - [Best Practices - 2020 RIPA Board Report - Racial and Identity Profiling Advisory \(RIPA\) Board \(ca.gov\)](#)

<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2020.pdf>

- 1) Model Bias-Free Policing Policies
 - a) Policy Language
 - b) Definitions
 - c) Exception language - when characteristics may be considered
 - d) Encounters with Community
 - e) Training
 - f) Data Collection & Analysis
 - g) Accountability & Adherence to the Policy
 - h) Supervisory Review
- 2) Bias by Proxy Recommendations
 - a) [multiple subparts]
- 3) Civilian Complaint Forms best practices
 - a) Background
 - b) General Complaint Information
 - c) Complaint Information
 - d) Incident Information
 - e) Processing of Complaints
- 4) Lack of Uniformity in what is a complaint and how to quantify
- 5) Accessibility & Knowledge of LEA's Complaint Process
- 6) Barriers to Reporting Civilian Complaints
- 7) Complaint Access for the Disabled

2021 Best Practices Document (6 pgs.) [2021 RIPA Report Best Practices \(ca.gov\)](#)

<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-best-practices-2021.pdf>

- 1) Explicit Bias, Implicit Bias, and Other Driving Forces for Stop Data Disparities
- 2) Racial and Identity Profiling Policies and Accountability
- 3) Calls for Service and Bias by Proxy
- 4) Civilian Complaints: Policies and Data Analysis
- 5) California Commission on Peace Officer Standards and Training (Post) Training Related to Racial and Identity Profiling

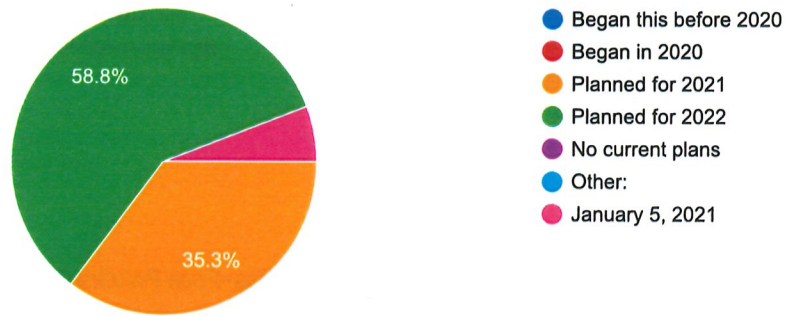
APPENDIX D: Grand Jury Survey – Delivering on DEI & Ready for RIPA

https://www.sanmateocourt.org/documents/grand_jury/2020/RIPA_appendix_d.pdf

APPENDIX E – Selected LEA Responses to GJ RIPA Survey

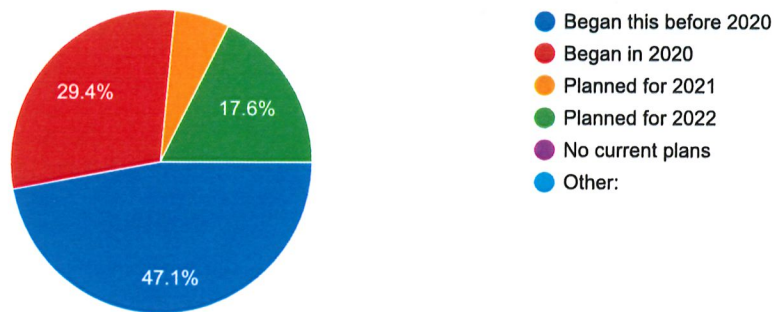
When did you begin collecting stop data with race and identity, as defined by RIPA demographics?

17 responses



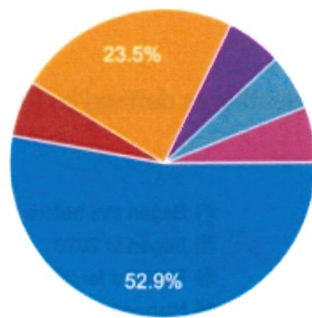
Has your LEA started preparing for compliance with Racial and Identity Profiling Act of 2015 (AB 953)? *

17 responses



Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which is clearly written and easily accessible by all employees?

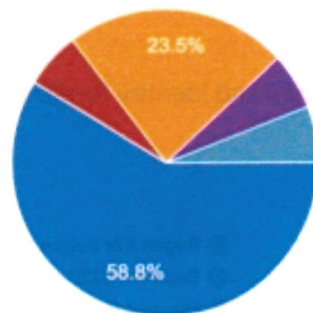
17 responses



- Implemented before 2020
- Implemented in 2020
- Planned for 2021
- Planned for 2022
- No current plans
- Our stand-alone Bias-Free policy meets the intent of the RIPA recommendations
- Policy #402 Racial/Bias Based Profiling

Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which uses concrete definitions of Bias-Free Policing and/or Racial & Identity Profiling?

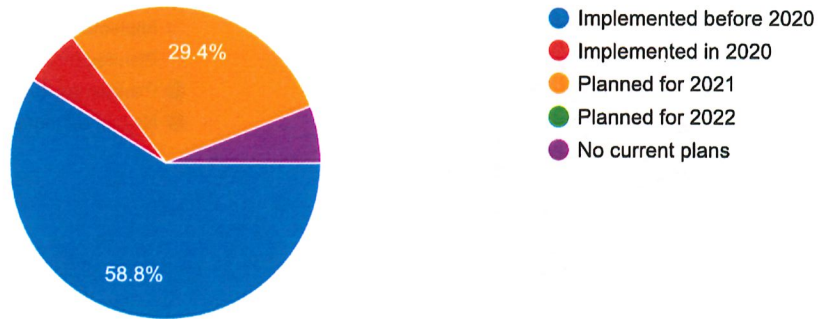
17 responses



- Implemented before 2020
- Implemented in 2020
- Planned for 2021
- Planned for 2022
- No current plans
- Policy #402 Racial/Bias Based Profiling

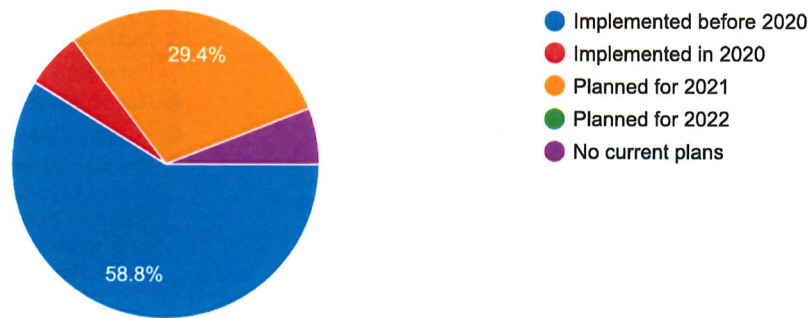
Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on limited circumstances in which characteristics of individual may be considered?

17 responses

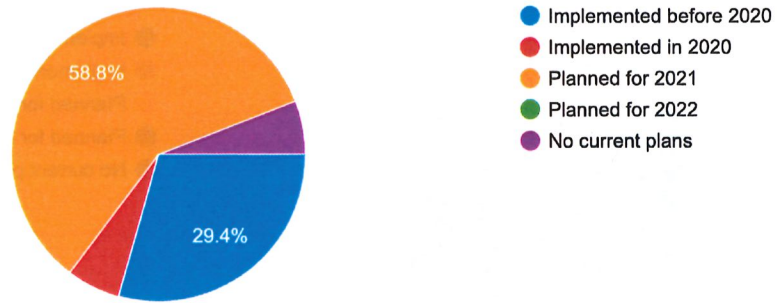


Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on encounters with community?

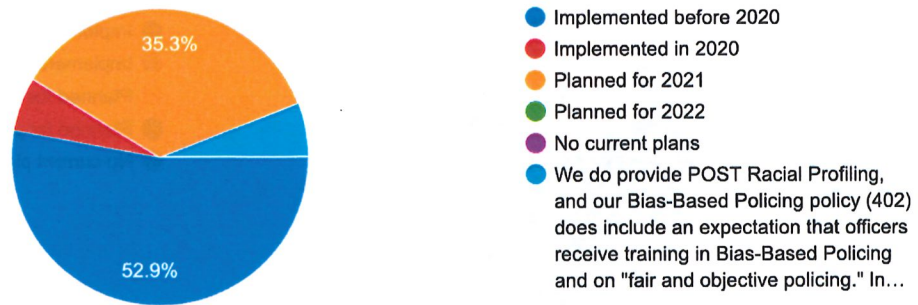
17 responses



What is the status of your LEA's RIPA recommended: "Agencies should have a policy detailing how sworn personnel and dispatchers should respond to ...or integrated into the bias-free policing policy."
 17 responses

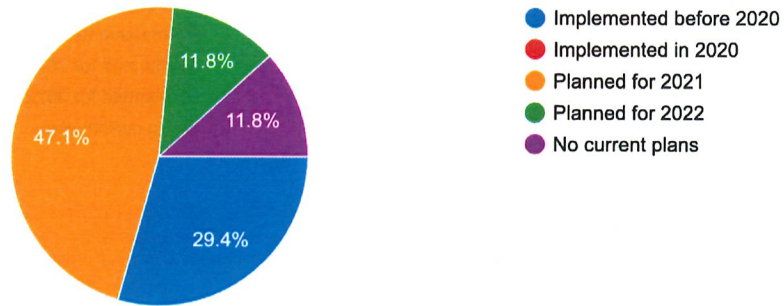


Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on Racial and Identity Profiling Training?
 17 responses



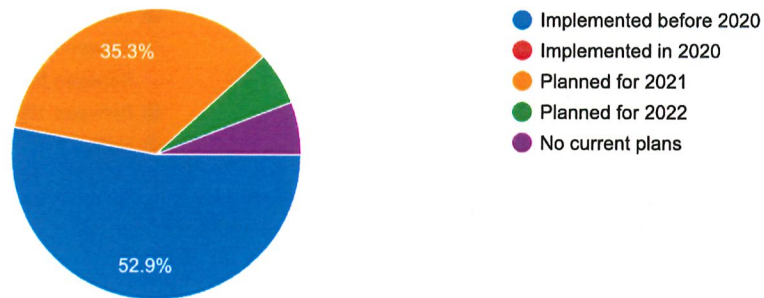
Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on Data Analysis?

17 responses



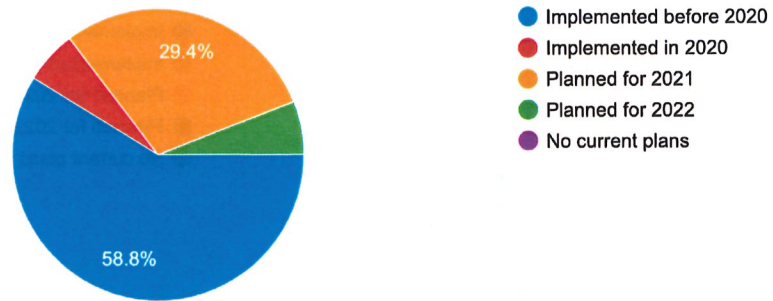
Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on requiring accountability?

17 responses



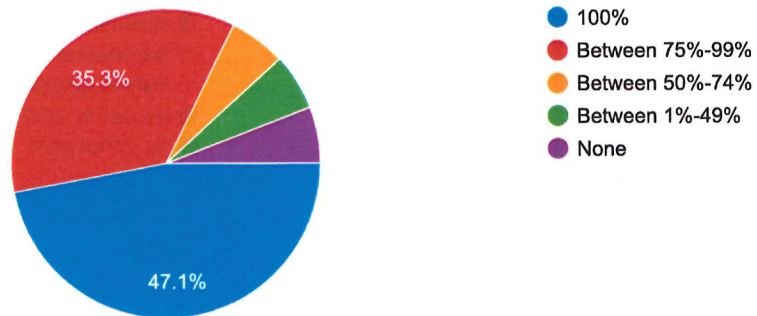
Does your LEA have a RIPA recommended Stand-Alone Bias-Free Policing Policy which includes a component on required Supervisory Review?

17 responses

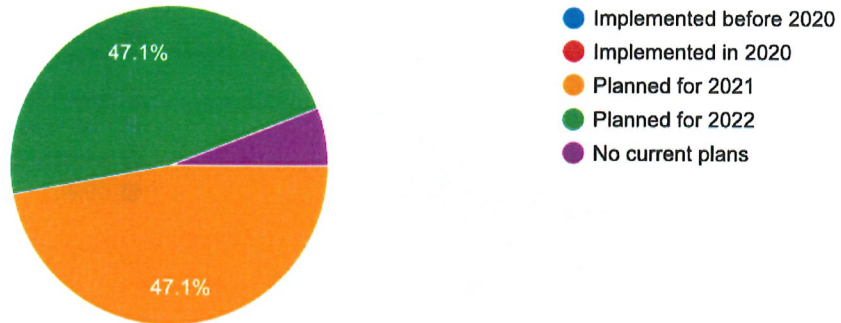


What percent of your officers have completed comprehensive training on bias free policing in the last 2 years?

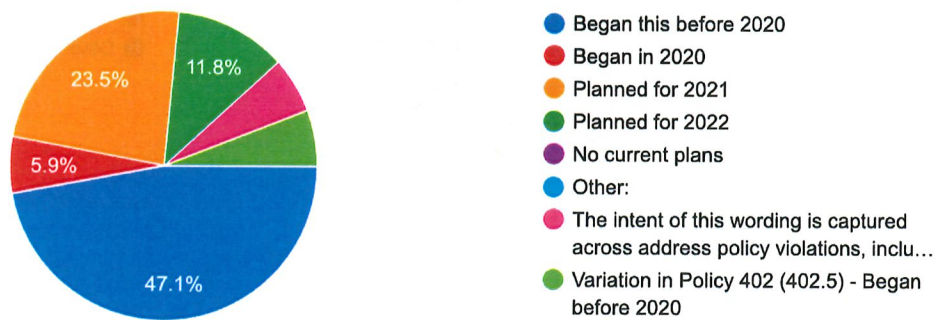
17 responses



What are your plans for RIPA recommendation: "regularly analyze data, in consultation with [academics, police commissions, civilian review bod... on any group relative to the general population."
 17 responses

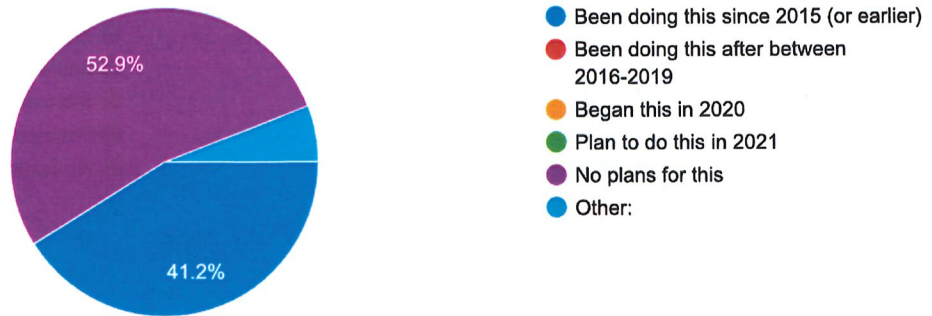


RIPA Model Policy Language for Supervisory Review: " Supervisors shall ensure that all personnel under their command, including dispatchers and no...s and procedures for review should be included."
 17 responses



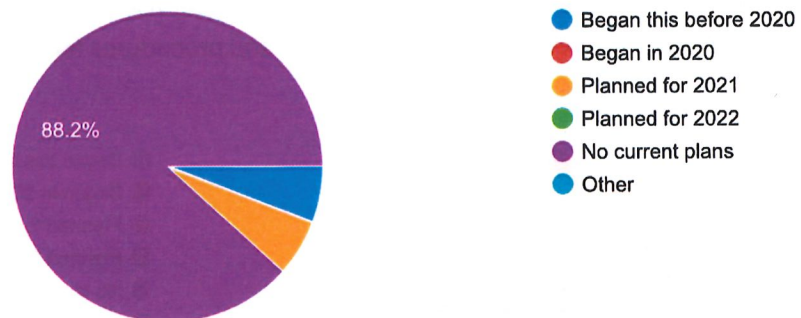
Do you currently proactively and formally seek community input when making decisions about hiring and resource allocation?

17 responses



Do you currently have a formal community advisory board for your LEA?

17 responses



APPENDIX F: RIPA Quick Facts 2020

https://www.sanmateocourt.org/documents/grand_jury/2020/RIPA_appendix_f.pdf

APPENDIX G: RIPA Quick Facts 2021

https://www.sanmateocourt.org/documents/grand_jury/2020/RIPA_appendix_g.pdf

APPENDIX H: Summary of Profiling Complaints for San Mateo County Law Enforcement Agencies 2016-2019

AB 953 amended “Penal Code section 13012 pertaining to the collection and reporting of Citizens’ Complaints Against Peace Officers (CCAPO).” To add as a separate category “complaints involving racial or identity profiling.” This took effect January 1, 2016. For more information see [Information Bulletin: Citizens' Complaints Against Peace Officers \(ca.gov\)](#)⁷⁹

Total Racial or Identity Profiling Complaints SMC LEAs 2016-2019						
Reported	Exonerated	Not Sustained	Unfounded	Pending	Sustained	(missing)
43	9	9	19	4	0	2

Source: CA DOJ, OpenJustice Data, Citizens Complaints Against Peace Officers, file: CCAPO_2016-2019_Agency_0.xlsx
from <https://openjustice.doj.ca.gov/data>

File was sorted by agency name, the SMC LEAs Identified and separately totaled, for the Racial Profiling Complaints category, which was defined in the Readme file as “The total number of complaints reported with a racial or identity profiling component.” The number of complaints for any particular agency ranged from 0 to 5 per year. Some agencies had none for the four years of available data.

⁷⁹ https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/dle-2015-06.pdf?



STAFF REPORT

TO: Mayor and Members of the City Council
 FROM: Christopher J. Diaz, City Attorney
 VIA: Brian Dossey, City Manager
 MEETING DATE: September 22, 2021
 SUBJECT: Receive a Report on AB 361 and Status of Governor's Executive Order Regarding Remote Meetings

RECOMMENDATION

Staff recommends that the City Council:

RECEIVE A REPORT ON ASSEMBLY BILL 361 AND THE STATUS OF THE GOVERNOR'S EXECUTIVE ORDER REGARDING REMOTE MEETINGS, AND PROVIDE INPUT, IF ANY

BACKGROUND

On March 17, 2020, in the face of the COVID-19 pandemic, Governor Gavin Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings completely telephonically or by other electronic means. As the City Council is well aware, this allowed City Council meetings to be conducted by Zoom with councilmembers and staff all joining from remote virtual locations.

The suspension of certain provisions of the Brown Act was further extended by the Governor on June 11, 2021 by the issuance of Executive Order N-08-21 which continued to allow for complete virtual City Council meetings until September 30, 2021. There has been no clear indication from the Governor, as of the date this report was prepared, as to whether he will further extend this Executive Order.

With the current pending expiration of the Governor's Executive Order along with the uncertainty that surrounded the Governor's potential recall, the State Legislature also took the remote meeting issue into its own hands through the adoption of Assembly Bill 361. The Governor recently signed AB 361 into law on Thursday September 16, 2021. AB 361 was passed with urgency findings so upon the Governor's signature, it became effective immediately.

ANALYSIS

AB 361 now allows local government to continue to conduct remote virtual meetings so long as there is a state-proclaimed state of emergency, but it isn't quite as flexible as it has been under the Executive Order.

As part of a package of executive orders adopted soon after the beginning of the COVID-19 pandemic, Executive Order N-29-20 allowed local governments to meet remotely without having to adhere to all of the traditional teleconferencing rules that had been part of the Brown Act for decades, including public posting of agendas at the location of remote participation by members of the legislative body and public access to those locations. With the assistance of teleconferencing and remote video technology, local governments statewide have been able to continue the business of the people while following mandated protocols against indoor gatherings. At the same time, interested members of the public could virtually attend meetings safely from home and offer public comment using a variety of methods, from emails to voicemails and video participation.

With the end of the Executive Order looming, AB 361 allows for some virtual meetings still, with a few more restrictions. In particular, the bill amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology as long as there is a gubernatorial “proclaimed state of emergency.” But this allowance also depends two factors:

- Whether state or local officials are imposing or recommending measures that promote social distancing; or
- Whether a legislative body can make findings that meeting in person would present an imminent safety risk to attendees.

Though adopted in the context of the pandemic, AB 361 will allow for virtual meetings during other state-proclaimed emergencies, such as earthquakes or wildfires, where physical attendance may present a risk.

Another key difference between the Executive Order and AB 361 is that AB 361 requires a public comment period where the public can address the legislative body directly. It expressly prohibits councils and boards from limiting public comments to only comments submitted in advance and specifies that the legislative body “must provide an opportunity for the public to ... offer comment in real time.” Additionally, the body must allow for public comment up until the public comment period is closed at the meetings. The agenda must include information on the manner in which the public may access the meeting and provide comments remotely, and if technical problems arise that result in the public’s access being disrupted, the legislative body may not take any vote or other official action until the technical disruption is corrected and public access is restored.

Finally, AB 361 will sunset on January 1, 2024, and requires the legislative body to make findings by majority vote that the state of emergency still exists and continues to directly impact the ability of the members to meet safely in person, or that officials continue to impose or recommend measures to promote social distancing.

To sum up, cities that want to continue holding virtual meetings or allowing remote participation by the public under the Brown Act should ensure that the public can make real-time comments up until the close of the public-comment period. Limiting comment to emails sent at least an hour before the meeting starts will no longer be acceptable. And the Town should push pause if there is a technical disruption as under AB 361, we should not hold a vote until the public is fully able to access the meeting.

FISCAL IMPACT

There are no financial impacts associated with the City Council receiving this report and providing any input. If the Governor's Executive Order does expire, there may be some staff costs in the event the Town needs to make findings at the local level under AB 361 to continue to justify the remote virtual meeting format.

ENVIRONMENTAL

The City Council's receipt of this report will have no impacts on the environment under the California Environmental Quality Act pursuant to CEQA Guideline 15061(b)(3) as no change is anticipated to occur with the Town's current meeting format.

Council Adopted Values

The City Council's receipt of this report is consistent with both the values of *vision* and *respect* as it is looking to the future to determine what will make the best sense based on current health conditions and is respectful of the health of all in looking at options for future meetings.

Sustainability Impact

Continuing with remote meetings could have a positive impact on sustainability as there would be less traveling associated with City Council meetings.

Alternatives

The City Council could choose not to receive the report. Doing so is not recommended, however, as the City Council will be missing out on a pertinent and relevant legal update on how the Town can conduct its public meetings.

CONCLUSION

The City Council should receive the report, discuss, and provide any input to staff.



Assembly Bill No. 361

Passed the Assembly September 10, 2021

Chief Clerk of the Assembly

Passed the Senate September 10, 2021

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2021, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the

governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify

that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to

hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference

location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:

89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of

the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to

maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to

maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or

video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant

to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body

to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register

pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for

the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in

which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until

public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph

(1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference,

at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50

percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable

emergencies, by allowing broader access through teleconferencing options consistent with the Governor’s Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public’s right of access to the meetings of public bodies or the writings of public officials and agencies

within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

Approved _____, 2021

Governor