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FILED
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FEB 24 2023

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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **IN AND FOR THE COUNTY OF SAN DIEGO**

9 **CENTRAL DIVISION**

10
11 TOMMY BONDS III,

12 Defendant/Petitioner,

13 v.

14 SUPERIOR COURT OF THE
15 COUNTY OF SAN DIEGO,

16 Respondent,

17 _____
THE PEOPLE OF THE STATE
18 OF CALIFORNIA,

19 _____
Real Party in Interest

HC Case No.: ~~EHC1397~~

Trial Court Case No.:

~~SCE395250~~; ~~SCE388312~~

MZ80282

20 **PETITION FOR WRIT OF MANDATE**

21

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN DIEGO**
10 **CENTRAL DIVISION**

11 TOMMY BONDS III,
12 Defendant/Petitioner,

13 v.

14 SUPERIOR COURT OF THE
15 COUNTY OF SAN DIEGO,

16 Respondent,

17 _____
THE PEOPLE OF THE
STATE OF CALIFORNIA,

18 Real Party in Interest

Case No.:

Court Case No.: M280282

**PETITION FOR WRIT OF
MANDATE**

19
20 **TO: THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
21
22

1 Tommy Bonds, by and through his attorney, the Primary Public Defender of the
2 County of San Diego, hereby petitions this Court for a Writ of Mandate vacating the order
3 denying relief pursuant to California Penal Code section 745 subdivision (a)(1) (Racial
4 Justice Act).

5 SUMMARY OF ARGUMENT

6 The Racial Justice Act¹ prohibits the state from seeking or obtaining a criminal
7 conviction or imposing a sentence “on the basis of race, ethnicity, or national origin.” (Pen.
8 Code § 745.) Relief is required when a law enforcement officer exhibits “bias or animus
9 toward the defendant because of the defendant’s race...” (Pen. Code § 745 subd. (a)(1).)

10 On January 24, 2022, Officer Cameron exhibited bias and animus when he stopped
11 Mr. Bonds in part because he is Black. Specifically, Officer Cameron is heard on body
12 worn camera indicating that part of the reason he pulled Mr. Bonds over was because he
13 saw two Black guys in the car. After concluding that there was a *prima facie* showing of a
14 RJA violation, Judge Howard Shore presided over an evidentiary hearing where Mr. Bonds
15 presented additional evidence that buttressed Officer Cameron’s own admission that race
16 was a factor in detaining Mr. Bonds.

17 Despite overwhelming evidence that Officer Cameron violated the RJA, the court
18 denied the motion. This was error. By issuing this ruling, Judge Shore disregarded
19 multiple statistical studies, expert testimony supporting a finding of bias, and body worn
20 camera video of Officer Cameron’s own comments demonstrating racial animus and bias.

21
22
¹ Hereinafter “RJA”

1 The court's ruling is not supported by substantial evidence, frustrates the legislative intent
2 of the RJA, and misapplies the law to the facts.

3 **ISSUES PRESENTED**

- 4 1. Are Respondent Court's findings supported by substantial evidence?
5 2. Does Respondent Court's application of the law violate the intent of the RJA?
6 3. Does Respondent Court's ruling ignore the plain language of section 745 subdivision
7 (c)(2) and create an impossible standard for relief?
8 4. Is dismissal an appropriate remedy for the violation?

9 **PETITION FOR WRIT OF MANDATE**

10 **I.**

11 On March 25, 2022, the San Diego City Attorney (Real Party in Interest) filed a
12 complaint charging Tommy Bonds with a single misdemeanor count of having a concealed
13 firearm in a vehicle (Pen. Code § 25400 subd. (a)(1)). (Exhibit A.)

14 **II.**

15 On April 28, 2022, Mr. Bonds was arraigned and entered a plea of not guilty. The
16 Office of the Primary Public Defender was appointed as counsel.

17 **III.**

18 On July 12, 2022, Mr. Bonds filed a motion for relief under the RJA, requesting an
19 evidentiary hearing pursuant to Penal Code section 745 subdivision (c). (Exhibit B.) Mr.
20 Bonds alleged that a violation of Penal Code section 745 subdivision (a)(1) occurred when
21 Officer Cameron detained him based on his race.

22 ///

1 IV.

2 On July 26, 2022, Real Party in Interest filed an opposition to Mr. Bonds' request
3 for relief. (Exhibit C.)

4 V.

5 On August 2, 2022, the Honorable Judge Howard Shore (Respondent Court) held a
6 hearing on Mr. Bonds' motion for relief. At that hearing, Mr. Bonds submitted Officer
7 Cameron's body worn camera footage and accompanying transcript. (Exhibit E.) In that
8 footage Officer Cameron can be heard acknowledging that he knows Mr. Bonds and
9 remembered a prior interaction with Mr. Bonds in the same car around the same location.
10 (Exhibit E at p. 1:26 - 2:6.)

11 At the beginning of the encounter Mr. Bonds asked Officer Cameron if the reason
12 he was pulled over was because, "you saw two guys, like two [B]lack guys in the car
13 obviously." Officer Cameron immediately responded with, "Well, part of it and the
14 hoodies up and stuff just the climate and everything going on in the city these days." (*Id.* at
15 p. 2:17-21.)

16 Judge Shore found that the facts presented, if true, established a substantial
17 likelihood that a violation of the RJA occurred and Mr. Bonds had met his prima facie
18 burden entitling him to an evidentiary hearing. (Exhibit D.)

19 VI.

20 On November 3, 2022, an evidentiary hearing was held. At that hearing, Mr. Bonds
21 presented evidence of the body worn camera, multiple statistical studies, testimony from
22 three expert witnesses, and testimony from Officer Cameron. (Exhibit F.)

1 VII.

2 **Quantitative Statistical Researcher Dr. Joshua Chanin**

3 Mr. Bonds presented expert testimony from Dr. Joshua Chanin. (Exhibit F at p.
4 29:11.) Dr. Chanin is a quantitative statistical researcher focusing on issues surrounding
5 the need for police reform. (*Id.* at p. 30:23-31:3.) Dr. Chanin testified about four
6 independent research studies that all found bias within the San Diego Police Department.
7 Dr. Chanin testified about his own research and findings in the San Diego Police
8 Department, that Black drivers were disproportionately stopped despite having lower odds
9 of holding illegal contraband. (*Id.* at p. 35:9-27.)

10 Additionally, Dr. Chanin discussed The Center for Policing Equity report that was
11 commissioned by the city of San Diego to analyze traffic stop data. (Exhibit F at p. 36:6-
12 26.) The Center for Policing Equity found that use of force during stops disproportionately
13 affected Blacks and Hispanics compared to Whites. (*Id.* at p. 37:23-28.) Furthermore, Dr.
14 Chanin testified about a data set from the San Diego Union Tribune finding that there were
15 disparities and disproportionate effects on Black and Hispanic residents by the San Diego
16 Police Department. (*Id.* at p. 38:1-10.) Lastly, Dr. Chanin discussed an article by
17 policescorecard.org evaluating policing in San Diego. That study reviewed RIPA (Racial
18 and Identity Profiling Act) data from San Diego Police Department and found that Blacks
19 and Hispanics are disproportionately affected by the police. (*Id.* at p. 38:11-22.)

20 **Police Policy Expert Beth Mohr**

21 Mr. Bonds presented expert testimony from Beth Mohr, police policy expert. Ms.
22 Mohr testified that she reviewed the body worn camera and police report in Mr. Bonds'

1 case. (Exhibit F at p. 13:25) After viewing the material Ms. Mohr formed the opinion that
2 Officer Cameron's behavior was consistent with racial bias. (*Id.* at p. 14:13-16.)

3 Ms. Mohr found multiple examples of bias during the interaction between Officer
4 Cameron and Mr. Bonds. First, Officer Cameron's initial acknowledgement that part of
5 the reason for the stop was seeing two Black guys in the car. (Exhibit F at p. 15:17-20.)
6 Second, Officer Cameron's assertion that in addition to seeing two Black guys part of the
7 reason for the stop was seeing the men in hoodies. Ms. Mohr found that this statement
8 demonstrated bias because it is not illegal to wear a hoodie in the car. Furthermore, there
9 was no "call out" to look for individuals in hoodies. (*Id.* at p. 15:21-16:17.) Third, Officer
10 Cameron's explanation that he is profiled when he is in east county is a way of saying, that
11 everyone gets racially profiled, and it's just the way things work. (*Id.* at p. 17:3-17.)
12 Finally, Ms. Mohr points out the casual language used to address Mr. Bonds. When
13 approaching the car Officer Cameron calls Mr. Bonds "bro." (Exhibit E at p. 1:18.) Ms.
14 Mohr relies on a study that bias is exhibited by police officers when using casual language
15 like "bro" when speaking to Black drivers. This same casual language is not used when
16 speaking to White drivers. (Exhibit F at p. 21:16 - 22:9.)

17 **Sociologist Dr. Karen Glover**

18 Mr. Bonds presented expert testimony from Dr. Karen Glover. Dr. Glover is a
19 sociologist specializing in race studies having to do with law enforcement. (Exhibit F
20 78:28-79:4.) She testified that racism today is less overt, more subtle, and less easy to
21 explicitly call out. (*Id.* at p. 82:9-13.) Dr. Glover discussed the difference between explicit
22 and implicit bias. Defining implicit bias as preferring a group but not necessarily

1 articulating it and explicit bias as explicitly calling out preferences or aversions to specific
2 groups. (*Id.* at p. 82:19-26.) She discussed coded language as implicit bias. (*Id.* at p. 83:3-
3 18.) She discussed racial profiling in the context of traffic stops and that in her work she
4 sees people of color immediately criminalized and asked if they have contraband. (*Id.* at p.
5 85:1-11.) Dr. Glover gave the opinion that even if an officer is nice and polite during a
6 traffic stop it can still be racial profiling. (*Id.* at p. 90:14-25.)

7 Dr. Glover reviewed the evidence in Mr. Bonds case and in her expert opinion
8 found the stop of Mr. Bonds consistent with racial profiling. (Exhibit F at p. 95:14-17.) Dr.
9 Glover opined that “proactive enforcement” is coded language for pretextual stops. (*Id.* at
10 p. 91:13-17.) After viewing the body worn camera and transcript, Dr. Glover found that
11 that Officer Cameron’s agreement with Mr. Bonds that part of the reason for the stop was
12 his race supports a finding of racial profiling by “imposing a criminal identity upon groups
13 of color.” (*Id.* at p. 92:5-93:4.) Additionally, Dr. Glover found that Officer Cameron’s
14 reference to hoodies is indicative of racial profiling. She explained a hoodie is a piece of
15 clothing that has been criminalized depending on who is wearing it. (*Id.* at p. 93:5-15.)
16 The hoodie discussion was an example of coded language because it is assuming that the
17 hoodie means something about criminality when connected to Mr. Bonds, a person of
18 color. (*Id.* at p. 93:6-22.)

19 Dr. Glover saw another example of bias in Officer Cameron’s statement that he is
20 profiled in east county. She explained that this was a way to diminish what was happening
21 to Mr. Bonds. (Exhibit F at p. 94:16-95:5.) Lastly, the “overly nice” interaction between
22

1 Officer Cameron and Mr. Bonds is another way to minimize the experience of racial
2 profiling and does not mean that bias was not present. (*Id.* at p. 94:16-95:13.)

3 *Officer Cameron*

4 Officer Cameron took the stand and testified that on the day he stopped Mr. Bonds
5 he was engaged in “intelligence led policing.” (Exhibit F at p. 47:4-28.) Officer Cameron
6 admitted to passing Mr. Bonds vehicle head on and making a U-turn to follow him. (*Id.* at
7 p. 49:19-23.) Officer Cameron has had prior contact with Mr. Bonds in the same car and in
8 the same part of town. (Exhibit E at p. 1:26 - 2:5.) This prior interaction gives Officer
9 Cameron prior knowledge of Mr. Bonds race.

10 When Officer Cameron approached the vehicle, Mr. Bonds states, “[Y]ou turn
11 around like you saw two guys, like, two black guys in the car obviously.” (Exhibit E at p.
12 2:17-18.) Officer Cameron replies, “well, part of it.” (*Id.* at p. 2:19.) When confronted
13 with his statement that part of the reason for the stop was that he saw two Black guys in the
14 car, Officer Cameron denied that is what he meant. (Exhibit F at p. 52:12-53:10.) Instead,
15 Officer Cameron claimed that when he said, “part of it” he was not referring to race but
16 rather, “I’m referring to the hoodie up part that [Mr. Bonds] said.” (*Id.* at p. 53:1-9.)
17 However, Mr. Bonds never said anything about hoodies. (Exhibit E.) Officer Cameron’s
18 attempt to change the meaning of his statement is unsupported by the video evidence.
19 (*Ibid.*)

20 Later in the encounter, Mr. Bonds again states, “It seem like when you all see
21 niggers, you all pull around.” (Exhibit E at p. 3:3-4.) Instead of denying that is what he
22 does, Officer Cameron claims he gets profiled in east county for how he looks. (*Id.* at p.

1 3:3-13.) During his testimony, Officer Cameron admitted that he lied about getting pulled
2 over in east county for the way he looks. (Exhibit F at p. 54:13-18.)

3 **VIII.**

4 After hearing argument from both parties, the court took the matter under
5 submission. (Exhibit F.)

6 **IX.**

7 On November 9, 2022, respondent court issued a written order denying Mr. Bonds'
8 request for relief finding no violation of Penal Code section 745 subdivision (a)(1).
9 (Exhibit G.) Respondent Court incorrectly reasoned that it could only find Officer
10 Cameron acted with bias if Officer Cameron lied on the stand when stating he did not
11 know Mr. Bonds' race at the time of the stop. (Exhibit G.) Mr. Bonds asserts that Officer
12 Cameron did lie on the stand, however, that was not required to find a violation of the RJA
13 because Penal Code section 745 does not require intentional discrimination.

14 Respondent Court relied on Officer Cameron's "courteous and respectful"
15 interaction with Mr. Bonds and his "professional and sympathetic" interaction after arrest
16 to support a finding that he did not act with bias. (Exhibit G.)

17 **X.**

18 A writ of mandate is the proper vehicle to address a denial of a motion made
19 pursuant to Penal Code section 745. (*Young v. Superior Court* (2022) 79 Cal.App.5th 138,
20 143.) The California Penal Code provides no additional avenue for redress and, therefore,
21 there is no plain, speedy, and adequate remedy at law.

22 ///

1 **XI.**

2 Tommy Bonds has filed no previous Writ of Mandate to contest the denial of his
3 motion under the RJA, and this petition is timely.

4 **PRAYER**

5 **WHEREFORE**, Mr. Bonds prays that the Court order relief by:

- 6 1. Issuing a writ of mandate directing and compelling Respondent
7 Court to vacate its order denying Mr. Bonds' motion for relief
8 pursuant to Penal Code section 745 subdivision (a)(1).
9 2. Find Officer Cameron exhibited bias or animus towards Mr. Bonds
10 based on his race, ethnicity, or national origin.
11 3. Order that dismissal is the appropriate relief for the violation of
12 Penal Code section 745\ subdivision (a)(1).
13 4. Order such other and further relief as the court deems appropriate
14 and in the interests of justice.

15 Dated: February 24, 2023

Respectfully submitted,

16 KATHERINE BRANER
17 Chief Deputy
18 Primary Public Defender

By:


KATIE BELISLE
Deputy Public Defender

19
20 Attorneys for Petitioner
TOMMY BONDS

VERIFICATION

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I, Katie Belisle, am the attorney representing Petitioner, Tommy Bonds, in the instant action. I am an attorney duly licensed and admitted to the practice of law before all courts of the State of California, and I am a Deputy Public Defender for the County of San Diego. I have read the instant Petition for Writ of Mandate, and all documents in support thereof. All facts alleged in the above document not otherwise supported by citation to the record, exhibits, or other documents are true of my own personal knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on February 24, 2023, at 451 A Street, San Diego, California.


KATIE BELISLE

MEMORANDUM OF POINTS & AUTHORITIES

1
2 Penal Code Section 745 – the Racial Justice Act – declares that “the state shall not
3 seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of
4 race, ethnicity, or national origin.” (Pen. Code § 745, subd. (a).) This was enacted by the
5 legislature because existing law was “insufficient in addressing the systemic bias” created
6 by race discrimination, resulting in a “deleterious effect” on our entire criminal justice
7 system. (Assem. Bill No. 2542 (2020 Reg. Sess.) ch. 317 § 2 subd. (a).) According to the
8 Legislature, racial discrimination “undermines public confidence in the fairness of the
9 state’s system of justice and deprives Californians of equal justice under law. (*Ibid.*)

STANDARD OF REVIEW

10
11 The issues presented in this petition raise both statutory and factual analysis. De
12 novo review is used for statutory analysis. (*Board of Registered Nursing v. Superior*
13 *Court* (2021) 59 Cal.App.5th 1011, 1037.) As to factual findings made by respondent
14 court, substantial evidence review applies. (*Public Employment Relations Board v.*
15 *Bellflower Unified School District* (2018) 29 Cal.App.5th 927, 939.)

16 Currently, the only appellate court case addressing the RJA is *Young v. Superior*
17 *Court*. The court states that writ review is necessary to address questions of first
18 impression that are of general importance to the trial courts and to the legal profession,
19 and where guidelines can be set for future cases. (*Young v. Super. Ct., supra*, 79
20 Cal.App.5th at p. 156.) As such, courts “review the factual underpinnings of a
21 discretionary determination for substantial evidence, but where such determination rests
22 on ‘incorrect legal premises,’ our review is de novo.” (*Ibid.*)

1 Here the court made factual findings that are not supported by substantial
2 evidence. Additionally, respondent court misinterpreted the statute and misapplied the
3 law to the facts requiring de novo review.

4 I.

5 **OFFICER CAMERON EXHIBITED RACIAL BIAS AND ANIMUS TOWARDS**
6 **MR. BONDS, AND THE COURT’S RULING OTHERWISE IS NOT SUPPORTED**
7 **BY SUBSTANTIAL EVIDENCE.**

8 The court’s finding that Officer Cameron did not exhibit bias against Mr. Bonds is
9 not supported by substantial evidence. In fact, respondent court’s findings are directly
10 contradicted by the evidence presented.

11 It appears respondent court believes bias must be explicit. Bias, however, can be
12 explicit or implicit. Explicit bias is “the traditional conceptualization of bias. Individuals
13 are aware of their prejudices and attitudes towards certain groups.” (“Understanding Bias:
14 A Resource Guide,” Community Relations Services toolkit for policing
15 <www.justice.gov>.) Implicit bias is “bias that occurs automatically and unintentionally,
16 that nevertheless affects judgements, decisions, and behaviors. (“Implicit Bias” National
17 Institute of Health, U.S. Department of Health & Human Services
18 <diversity.nih.gov/sociocultural-factors/implicitbias>.) Both explicit and implicit bias are
19 violations of the RJA.

20 Mr. Bonds presented testimony evidence from three experts to establish bias. Dr.
21 Joshua Chanin, a professor at San Diego State University who uses qualitative statistics in
22 researching police reform issues; Beth Mohr, a police policy expert; and Dr. Karen Glover,
a professor at California State, San Marcos with a PhD in race studies dealing with law

1 enforcement. None of the experts were contradicted; the City Attorney presented no
2 evidence.

3 **Dr. Chanin's testimony**

4 Dr. Chanin testified about four studies that show the disparities in treatment of
5 African Americans by the San Diego Police Department. First, Dr. Chanin discussed his
6 own study that found with statistical significance that Black drivers were
7 disproportionately stopped despite having lower odds of holding illegal contraband.
8 (Exhibit F at p. 35:9-27.) Second, Dr. Chanin discussed The Center for Policing Equity
9 report that was commissioned by the city of San Diego to analyze traffic stop data. (*Id.* at
10 p. 36:6-26.) The Center for Policing Equity found that use of force during stops
11 disproportionately affected Blacks and Hispanics compared to Whites. (*Id.* at p. 37:23-28.)
12 Third, Dr. Chanin shared a data set from the San Diego Union Tribune finding that there
13 were disparities and disproportionate effects on Black and Hispanic residents by the San
14 Diego Police Department. (*Id.* at p. 38:1-10.) Finally, Dr. Chanin discussed an article by
15 policescorecard.org evaluating policing in San Diego. The study reviewed RIPA (Racial
16 and Identity Profiling Act) data from San Diego Police Department and found that Blacks
17 and Hispanics are disproportionately affected by the police. (*Id.* at p. 38:11-22.)

18 Dr. Chanin's testimony clearly establishes that racial profiling is a problem within
19 the San Diego Police Department, however, respondent court did not give weight to these
20 studies when ruling.

21 ///

22 ///

1 **Beth Mohr and Dr. Glover's testimony**

2 Further supporting the fact that Officer Cameron's behavior was consistent with
3 racial bias was testimony presented by Ms. Mohr and Dr. Glover (Exhibit F.) Experts went
4 through six (6) different actions of Officer Cameron and explained how each exhibited
5 racial bias.

6 1. Officer Cameron's admission that race was part of the reason for the stop.

7 When Mr. Bonds asked if Officer Cameron pulled him over because he is Black,
8 Officer Cameron admits that was part of the reason. (Exhibit E at p. 2:19.) Each time Mr.
9 Bonds brings up his race as the reason for being stopped, Officer Cameron fails to deny
10 that race played a part in the stop. (Exhibit E.) Officer Cameron also neglects to provide
11 Mr. Bonds with any other legitimate reason for the stop. (*Id.*) Both Ms. Mohr and Dr.
12 Glover found this to support a finding that race was the reason for the stop. (Exhibit F at p.
13 15:7-12, 15:17-20, 92:8-93:4.)

14 In his testimony, Officer Cameron claimed that his statement, "well, part of it" in
15 response to Mr. Bonds asking if Officer Cameron turned around because he saw two Black
16 guys had nothing to do with race. Instead, Officer Cameron claimed that when he said
17 "part of it" he was referring to Mr. Bonds' statement about hoodies. (*Id.* at p. 52:12-53:9.)
18 This explanation cannot be true. The body worn camera shows Mr. Bonds never mentions
19 hoodies regarding why he was stopped. In fact, Mr. Bonds does not mention hoodies at all.
20 (Exhibit E.) This is an attempt of Officer Cameron to cover up his racial bias.

21 ///

1 2. Officer Cameron's statement that seeing the men in hoodies was part of the reason
2 for the stop.

3 As discussed by Ms. Mohr and Dr. Glover, Officer Cameron's feeble attempt to
4 justify the stop because he saw hoodies shows racial bias. As Ms. Mohr points out,
5 wearing hoodies is not a valid reason to follow someone unless there is a "call out" to look
6 for someone in a hoodie which was not the case here. (Exhibit F at p. 15:21-28 & 16:2-6.)
7 Dr. Glover explains further that "hoodie" as used by Officer Cameron is an example of
8 racial bias through coded language. Hoodies are criminalized when worn by people of
9 color. Officer Cameron's statement assumes that the hoodie is criminal when worn by Mr.
10 Bonds and his passenger, both Black men. (*Id.* at p. 93:5-22.)

11 3. Officer Cameron's direction of travel and vantage point.

12 Officer Cameron's credibility is called into question in Ms. Mohr's testimony. Ms.
13 Mohr points out that Officer Cameron is traveling the opposite direction as Mr. Bonds
14 passes him head on. Mr. Bonds front plate is not obscured, and no traffic violation has
15 occurred; however, Officer Cameron makes a U-turn and follows Mr. Bonds. This
16 behavior is consistent with a finding that Officer Cameron saw two Black men in the car
17 wearing hoodies and decided to find a reason to pull them over. (Exhibit F at p. 17:26-18:5,
18 18:27-19:11.) This is further bolstered by Dr. Glover's testimony that Officer Cameron
19 was engaged in proactive enforcement which is coded language for pretextual stops. (*Id.* at
20 p. 91:13-17.)

21 ///

22 ///

1 4. Officer Cameron's use of casual language.

2 Ms. Mohr discussed the racial bias displayed by Officer Cameron when he
3 approaches Mr. Bonds' car. He does not immediately give a reason for the stop and uses
4 casual language initially saying, "What's going on bro?" (Exhibit E at p. 1:18, Exhibit F at
5 p. 18:11-16.) Ms. Mohr cites to a study by Voit that evaluated tens of thousands of body
6 worn camera interactions and found that although no explicit race language was used,
7 Whites and Blacks were treated differently by officers. Voit found that when Whites were
8 stopped, officers used a more formal approach stating things like, "Sorry I had to stop you
9 sir." However, when Blacks were stopped officers used more casual language like, "Hey
10 Bro, where are you going today?" The study found this was due to implicit bias that
11 officers had towards Black drivers. (Exhibit F at p. 21:16-22:9.)

12 5. Officer Cameron's claim that he is racially profiled in east county.

13 Race is brought up multiple times by Mr. Bonds during this encounter. Each time
14 affords Officer Cameron the opportunity to deny that is the reason for the stop, an
15 opportunity Officer Cameron fails to take. Instead, Officer Cameron talks about his own
16 experiences being racially profiled when in east county. Officer Cameron claims that in
17 east county he is stopped all the time because he is "sleeved up" and wears a "snap hat
18 backwards." (Exhibit E at p. 2:26-28 -3:1-14, 7:21.) Ms. Mohr discusses this as a way
19 Officer Cameron justifies the racial profiling of Mr. Bonds and is another example of bias.
20 It is an attempt to justify racial profiling as just the way things are done. (Exhibit F 17:3-
21 17.) Dr. Glover agrees and explains that when Officer Cameron claims he is racially
22

1 profiled in east county it is an attempt to diminish Mr. Bonds experience with racial
2 profiling and is a form of implicit bias. (*Id.* at p. 94:16-95:5.)

3 Officer Cameron admits during his testimony that he has never been pulled over or
4 racially profiled. He attempted to label this lie he told Mr. Bonds a “de-escalation
5 technique.” Officer Cameron admitted that this so-called “de-escalation technique” is not
6 something he learned in the police academy, nor is it a police department approved
7 technique. When Mr. Bonds accuses Officer Cameron of racially profiling him, Officer
8 Cameron does not deny the accusation, instead he justifies his racist conduct by falsely
9 claiming that he too is a victim of racial profiling.

10 6. Officer Cameron’s “politeness” towards Mr. Bonds.

11 An important point made by Dr. Glover is that just because an officer is polite and
12 nice does not mean that officer is not engaged in racial profiling. (Exhibit F 90:14-25.)
13 This directly contradicts respondent court’s heavy reliance in the professionalism and
14 respectfulness of the interaction when finding no bias. (Cf. Exhibit F at p. 90:14-25 with
15 Exhibit G at p. 6:16-23.)

16 Respondent Court’s denial of relief hinges on the finding that Officer Cameron did
17 not commit perjury when he testified that he did not know the race of Mr. Bonds before
18 pulling him over. This finding is not supported by substantial evidence. In fact, there is an
19 abundance of evidence to support a finding that Officer Cameron did know Mr. Bonds’
20 race prior to stopping him. Officer Cameron’s prior interaction with Mr. Bonds, looking
21 into Mr. Bond’s car head on, and his statement agreeing that part of the reason for the stop
22 was seeing two Black guys in the car all strongly support a finding that Officer Cameron

1 knew that Mr. Bonds is Black. Respondent Court disregarded these undisputed facts to
2 accept Officer Cameron's testimony which was directly contradicted by his body worn
3 camera. In addition, experts Beth Mohr and Dr. Glover gave the opinion that Officer
4 Cameron's interaction with Mr. Bonds was full of bias beyond his explicit admission.
5 Respondent Court's ruling does not acknowledge any of the implicit bias pointed out by
6 the experts. Furthermore, respondent court's ruling completely ignores Dr. Glover's
7 testimony that politeness does not mean no bias.

8 This stop was replete with racial bias and a clear violation of the RJA. For the
9 above reasons the court should find that respondent court's ruling is not supported by
10 substantial evidence.

11 **II.**
12 **RESPONDENT COURT'S RULING MISINTERPRETS AND MISAPPLIES**
13 **PENAL CODE SECTION 745**

14 Respondent Court's ruling that bias could only be found if Officer Cameron lied on
15 the stand ignores the testimony of the experts and misinterprets the law. Officer
16 Cameron's admission that Mr. Bonds' race was part of the reason for the stop is an
17 example of explicit bias. Respondent Court's ruling only considers this form of bias for a
18 violation of the RJA. Not only was Officer Cameron explicitly biased when he made this
19 statement, the entire interaction demonstrates implicit bias which is also a violation of the
20 RJA.

21 ///

1 **A. Judge Shore’s Ruling Contradicts the Legislative Intent of the RJA**

2 In any case concerning statutory interpretation, a reviewing court must determine
3 the Legislature’s intent to effectuate the law’s purpose. (*People v. Gonzalez* (2017) 2
4 Cal.5th 1138, 1141.) As noted by the court in *Young*, “given the specificity of the
5 findings accompanying the Racial Justice Act, we give the detailed statement of intent we
6 have here considerable weight.” (*Young v. Super. Ct., supra*, 79 Cal.App. 5th at p. 156.)
7 Thus, this court should give the intent behind the RJA considerable weight when
8 discerning the statutory interpretation.

9 The RJA took effect on January 1, 2021. (Assem. Bill No. 2542 (2019-2020 Reg.
10 Sess.) § 2.) The Legislature found that racial discrimination “persists because courts
11 generally only address racial bias in its most extreme and blatant forms.” (*Id.* § 2(c).)
12 Moreover, “[e]ven when racism clearly infects a criminal proceeding...proof of
13 purposeful discrimination is often required, but *nearly impossible* to establish.” (*Ibid.*,
14 emphasis added.) Current law “is insufficient to address discrimination in our justice
15 system.” (*Ibid.*)

16 When first introducing the bill to the State Assembly, author and assembly member
17 Ash Karla noted the bill was “a countermeasure to the widely condemned legal precedent
18 established in the case of *McCleskey v. Kemp*... [which] require[s] defendants to prove
19 intentional discrimination when challenging racial bias in their legal process. This
20 established an unreasonably high standard for victims of racism in the criminal legal
21 system that is almost impossible to meet without direct proof that the racially
22 discriminatory behavior was conscious, deliberate, and targeted.” (Sen. Com. on Pub.

1 Safety, Sen. Nancy Skinner, Chair, (2019-2020, Regular Session); referencing *McCleskey*
2 *v. Kemp* (1986) 481 U.S. 279.) The briefings discussed how the Supreme Court in
3 *McCleskey* rejected the statistical evidence presented by the defendant that demonstrated
4 how Georgia sought the death penalty more frequently against Black defendants, because
5 the statistical evidence did not demonstrate that anyone in the petitioner’s case acted with a
6 discriminatory purpose. (*Ibid.*) Requiring intentional or purposeful discrimination, thus,
7 “established a legal standard nearing impossible to meet.” (*Ibid.*) Thus, the Legislature
8 expressly noted that as a countermeasure to *McCleskey*, the Racial Justice Act “does not
9 require the discrimination to have been purposeful *or to have prejudicial impact on the*
10 *defendant’s case.*” (*Ibid.*, emphasis added.)

11 In enacting the RJA, the Legislature found and declared, “Implicit bias, although
12 often unintentional and unconscious, may inject racism and unfairness into proceedings
13 similar to intentional bias.” (AB-2542 Criminal procedure: discrimination (2019-2020),
14 sec. 2.) Considering how this message continued throughout the legislative process, and
15 was ultimately endorsed by the Governor, the statute clearly intends to remedy the harm of
16 both explicit and implicit bias, intentional or unintentional, even when a defendant cannot
17 directly prove a prejudicial impact to his or her prosecution. Accordingly, the Legislature
18 vowed to “reject the conclusion that racial disparities within our criminal justice system are
19 inevitable, and to *actively work to eradicate* them.” (*Id.* § 2(i) emphasis added.)

20 Here, Dr. Chanin’s testimony makes it clear that SDPD historically demonstrates
21 the bias that the Legislature intended to eliminate. Just like the court in *McCleskey*,
22

1 respondent court appears to have ignored these studies because they were not specific to
2 Mr. Bonds prosecution. (*Supra.*) (Exhibit G.)

3 At the *prima facie* hearing Judge Shore commented, “The studies themselves have
4 very little bearing on my decision. As I mentioned, there’s a big difference between
5 correlation and causation...I prefer to rely on the specific facts of the case...so I’m not
6 really considering the studies or the conclusions of the experts.” (Exhibit D at p. 36:3-11.)
7 This is akin to the court in *McCleskey* and is an issue the RJA intended to remedy by not
8 requiring the discrimination to have been purposeful *or to have prejudicial impact on the*
9 *defendant’s case.* (Sen. Com. on Pub. Safety, Sen. Nancy Skinner, Chair, (2019-2020,
10 Regular Session. emphasis added.)

11 Additionally, respondent court flouted the testimony of Ms. Mohr and Dr. Glover
12 pointing to the implicit bias demonstrated by Officer Cameron. Implicit bias was intended
13 to be eliminated by the RJA. The court’s ruling rejects the intent of the Legislature.

14 **B. Respondent Court Misapplied the Law and Ignored the Plain Language of Penal**
15 **Code Section 745 Creating an Impossible Standard to Obtain Relief**

16 Relief under the Racial Justice Act is not predicated on a finding of intentional
17 discrimination. Penal Code section 745 makes clear that “[t]he defendant does not need to
18 prove intentional discrimination.” (Pen. Code § 745 subd. (c)(2).) Courts must “give effect
19 if possible to every clause and word of a statute.” (*Advocate Health Care Network v.*
20 *Stapleton* (2017) 137 S.Ct. 1652, 1659, Citing *Williams v. Taylor* (2000) 529 U.S. 362, 404
21 (internal quotes omitted.)) “The so-called surplusage cannon – the presumption that each
22 word Congress uses is there for a reason.” (*Id.*, citing A. Scalia & B. Garner, Reading

1 Law: The Interpretation of Legal Texts 174-179 (2012).) Here this means construing the
2 words, “[t]he defendant does not need to prove intentional discrimination” in Penal Code
3 section 745 subdivision (c)(2) to mean that implicit bias demonstrated by an officer is
4 enough for a violation of the RJA. Respondent Court did not apply this portion of the
5 statute.

6 Officer Cameron can be heard on his body worn camera admitting that part of the
7 reason he stopped Mr. Bonds was because Mr. Bonds is a black male. This is a clear
8 showing of intentional discrimination. This racial animus is underscored by the implicit
9 bias manifest in the entire interaction. Officer Cameron’s implicit bias is made plain by his
10 use of coded and casual language as well as his belief that racial profiling is how things are
11 done.

12 Officer Cameron took the stand at the evidentiary hearing and testified that he did
13 not mean what he said on camera about Mr. Bonds’ race being part of the reason for the
14 stop. The court points to this testimony as justification to disregard the clear showing of
15 Officer Cameron’s intentional discrimination captured on camera. Accepting Officer
16 Cameron’s testimony that he did not mean what was caught on camera sets an impossible
17 standard not envisioned by the RJA. Respondent Court’s ruling would allow an officer,
18 who is caught on camera, exhibiting racial bias, to simply testify that he “did not mean it”
19 and no violation would be found.

20 Moreover, it is a misinterpretation of the statute to stop the inquiry there. Experts
21 testified that Officer Cameron’s entire interaction with Mr. Bonds was full of implicit
22

1 biases. The court is silent as to these facts and instead bases the ruling on Officer
2 Cameron's denial that he did not mean what he said.

3 This is not the standard set by the RJA. Mr. Bonds does not need to prove
4 intentional discrimination. Allowing respondent court's interpretation to stand establishes
5 a higher burden for Mr. Bonds and is unsupported by the plain language of the statute.
6 respondent court's ruling is consistent with the old standard set forth by *McCleskey*
7 requiring a finding of intentional explicit discrimination specific to the prosecution of the
8 defendant. (*Supra.*) The RJA has made clear that is no longer the law in California.
9 Unintentional implicit bias is still grounds for a violation requiring relief. Thus,
10 respondent court's ruling illustrates a misinterpretation of the statute and cannot stand.

11 **III.**
12 **DISMISSAL OF MR. BONDS CASE IS ALLOWED BY THE RJA AND IS THE**
13 **MOST APPROPRIATE FORM OF RELIEF**

14 Given the circumstances of this case, dismissal is the only appropriate remedy.
15 While the RJA lays out relief available in section 745 subdivision (e) this list is not
16 exhaustive. Section 745 subdivision (e)(4) states, "The remedies available under this
17 section do not foreclose any other remedies available under the United States Constitution,
18 the California Constitution, or any other law." This allows a dismissal in the interest of
19 justice pursuant to Penal Code section 1385.

20 The racial bias in this case is flagrant. Officer Cameron does not dispute Mr.
21 Bonds' statement that he was pulled over because he was black. Instead, Officer Cameron
22 indicates that Mr. Bond's race was part of the reason for the stop. Officer Cameron's
actions after the stop are riddled with explicit and implicit racial bias. Bias, explicit or

1 implicit, cannot stand in our justice system. This court has a duty to uphold the law. Mr.
2 Bonds was stopped in part because he is African American. This court should not support
3 this type of brazen and offensive behavior by law enforcement in our community.


4 Therefore, the only just thing to do is to dismiss this case. Mr. Bonds would not be
5 before the court on this case if he was not African American. Dismissal is the only way to
6 send a message that individuals cannot be stopped based on their race.

7 **CONCLUSION**

8 Tommy Bonds requests that this Court grant the requested relief. Specifically, the
9 court should order the case be dismissed because Officer Cameron violated the Racial
10 Justice Act.

11
12 DATED: February 24, 2023

13 Respectfully Submitted,
14 KATHERINE BRANER, Chief Deputy
15 Office of the Primary Public Defender

16 By: 
17 KATIE BELISLE
18 Deputy Public Defender
19 Attorneys for Petitioner
20 TONY IVERSON
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CERTIFICATE OF WORD COUNT

I, KATIE BELISLE, hereby certify that based on the software in the word processor program, the word count for this document is 5,885 words.

Dated: February 24, 2023

Respectfully submitted,

KATHERINE BRANER
Chief Deputy
Primary Public Defender

By: _____

KATIE BELISLE
Deputy Public Defender

Attorneys for Petitioner
TOMMY BONDS III

PROOF OF SERVICE

FILED
Clerk of the Superior Court

FEB 24 2023

In Case Name: TOMMY BONDS III v. Superior Court

By: G. Hohman, Deputy

Case No.: CA /M280282

I am a citizen of the United States and a resident of the County of San Diego, State of California. I am over the age of 18 years and not a party to the within action. My office address is 451 "A" Street, Suite 900, San Diego, California 92101

On the date of execution of this document, I served the foregoing ~~Denial~~, to the following in the manner stated:

PETITION FOR WRIT OF HABEAS

I declare under penalty of perjury that the foregoing is true and correct.

Honorable Cindy Davis, Judge
c/o San Diego Superior Court
P.O. Box 122724
San Diego, Ca 92112-2724
Phone: (619) 450-5500
(by U.S. Mail)

Mara Elliott
San Diego City Attorney
Appellate Division
1200 Third Avenue, Suite 700
San Diego, CA 92101
Phone: (619) 533-5500
(personal service)

TOMMY BONDS III
(through counsel)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2/24/23, at San Diego, California.

Michael A. Owens
Declarant

Exhibit A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
CENTRAL DIVISION

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
TOMMY LEE BONDS III,
dob 07/24/97, Booking No. 22703137A
aka Tommy Lee Bonds;
Defendant

CT No. M280282

COMPLAINT-MISDEMEANOR

PC296 DNA TEST STATUS SUMMARY

Defendant	DNA Testing Requirements
BONDS III, TOMMY LEE	Manual review of DNA status is required

CHARGE SUMMARY

Count	Charge	Issue Type	Sentence Range	Special Allegations	Allegation Effect
1	PC25400(a)(1) BONDS III, TOMMY LEE	Misd-17(b)(4)	1 Year		

PC1054.3

INFORMAL REQUEST FOR DISCOVERY

The undersigned, certifying upon information and belief, complains that in the County of San Diego, State of California, the Defendant(s) did commit the following crime(s):

CHARGES

COUNT 1 - HAVING CONCEALED FIREARM IN VEHICLE, PENAL CODE SECTION 17(b)(4)

On or about January 24, 2022, TOMMY LEE BONDS III did unlawfully carry concealed within a vehicle which was under his/her control and direction a pistol, revolver and other firearm capable of being concealed upon the person, in violation of PENAL CODE SECTION 25400(a)(1), a misdemeanor pursuant to PENAL CODE SECTION 17(b)(4).

NOTICE: Any defendant named on this complaint who is on criminal probation for a misdemeanor offense within the City of San Diego or the City of Poway is, by receiving this complaint, on notice that the evidence presented to the court at the trial on this complaint is presented for a dual purpose: the People are seeking a conviction on the charges and simultaneously, the People are seeking a revocation of the defendant's probation, on any and all such probation grants, utilizing the same evidence, at the trial. Defenses to either or both procedures should be considered and presented as appropriate at the trial.

Pursuant to PENAL CODE SECTION 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by PENAL CODE SECTION 1054.3.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT, CASE NUMBER M280282, CONSISTS OF 1 COUNT.

Executed at City of San Diego, County of San Diego, State of California, on March 25, 2022.

COMPLAINANT

Exhibit B

1 KATHERINE BRANER
2 Chief Deputy
3 Primary Public Defender
4 County of San Diego
5 ABRAM GENSER
6 Deputy Public Defender
7 Certified Criminal Law Specialist
8 State Bar No. 276682
9 ASHKAN KARGARAN
10 State Bar No. 339205
11 451 A St., 9th Floor
12 San Diego, CA 92101
13 Telephone: (619) 338-4808
14 abram.genser@sdcounty.ca.gov

15 Attorneys for Defendant
16 TOMMY BONDS III

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

TOMMY BONDS III,

Defendant.

Case No.: M280282

**NOTICE OF MOTION AND
MOTION FOR RELIEF UNDER
THE RACIAL JUSTICE ACT
(Pen. Code § 745 subd. (a)(1))**

Date: 8-2-2022
Time: 9:00 a.m.
Dept.: 2102

Time Est.: 3 Hrs
Witnesses: 4

**TO: THE CLERK OF THE COURT AND MARA ELLIOTT, THE CITY
ATTORNEY FOR THE CITY OF SAN DIEGO, OR HER AUTHORIZED
REPRESENTATIVE:**

PLEASE TAKE NOTICE that on the above date and time or as soon thereafter as the matter may be heard, Defendant, Tommy Bonds III, will move the court to order an evidentiary hearing pursuant to Penal Code section 745 subdivision (c). Upon conclusion

FILED
Clerk of the Superior Court

JUL 12 2022

By: M. Plouffe, Deputy

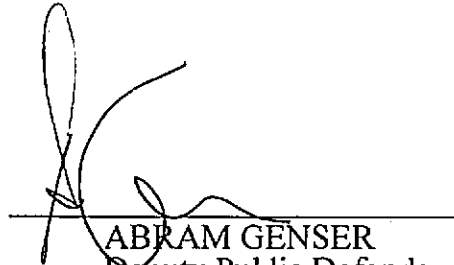
2022 JUL 12 PM 3:55

SAN DIEGO COUNTY ATTORNEY
CRIMINAL DIVISION

1 of the motion, the defense will move the court to take remedial action permitted under
2 Penal Code section 745(e)(4).

3
4
5 Respectfully submitted,

6
7 Dated: July 12, 2022



8 ABRAM GENSER
9 Deputy Public Defender
10 Certified Criminal Law Specialist

11 ASHKAN KARGARAN
12 Deputy Public Defender

13 KATHERINE BRANER, Chief Deputy
14 Primary Public Defender

15 Attorneys for TOMMY BONDS III
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1 KATHERINE BRANER
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8 Attorneys for Defendant
9 TOMMY BONDS III

F I L E D
Clerk of the Superior Court

JUL 12 2022

By: M. Plouffe, Deputy

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO**

13 THE PEOPLE OF THE STATE OF CALIFORNIA,

14 Plaintiff,

15 v.

17 TOMMY BONDS III,

18 Defendant.

Case No.: M280282

**MOTION FOR RELIEF UNDER
THE RACIAL JUSTICE ACT
(Pen. Code § subd. 745 subd. (a)(1))**

20 **I.**

21 **STATEMENT OF FACTS**

22 On December 8, 2020, Officer Eysie was conducting “proactive enforcement” in the City
23 Heights neighborhood of San Diego—“proactive enforcement” is code for making pre-textual
24 stops of black people. Using his police powers, he stopped Mr. Bonds. During the stop, Mr.
25 Bonds said to Officer Eysie: “We saw you turn around, because you saw two guys ... two black
26 guys in the car obviously.” Officer Eysie then responded: “Well ... part of it. The hoodie is up
27 and stuff ... just, the climate and everything that’s going on in the city these days.” Ultimately,
28 Mr. Bonds’ car was search and the officers uncovered a legally owned, unloaded, firearm which

1 was registered to Mr. Bonds. The weapon was not secured in a case. Because Officer Eysie's
2 actions are the very definition of racism, this motion follows.

3 **II.**

4 **STATEMENT OF THE CASE**

5 Mr. Bonds III was stopped by the police on January 24, 2022. On March 25, 2022, the
6 City Attorney's office charged Mr. Bonds III in a misdemeanor complaint alleging a violation
7 of Penal Code section 25400 subdivision (a)(1) per Penal Code section 17(b)(4). Arraignment
8 on the complaint occurred on April 28, 2022, and a readiness conference on June 28, 2022. The
9 settlement included volunteer work, a 4th waiver, an order not to possess weapons and forfeiture
10 of the firearm (despite the fact that it was legally owned). Another readiness conference is set
11 for August 16, 2022.

12 **III.**

13 **REQUESTED FOR AN EVIDENTIARY HEARING**

14 Pursuant to Penal Code section 745 subdivision (c), "If a motion is filed in the trial court
15 and the defendant makes a *prima facie* showing of a violation of subdivision (a), the trial court
16 shall hold a hearing." (Pen. Code, §745 subd. (c).)

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IV.

EXHIBIT LIST

EXHIBIT	DESCRIPTION
A	Excerpt Ijeoma Oluo, <i>So You Want To Talk About Race?</i> , Seal Press, at p. 26 (first paperback ed. 2019)
B	Blow, <i>Is America a Racist Country?</i> , N.Y. Times May 2, 2021
C	Center for Policing Equity, <i>National Justice Database City Report, San Diego Police Department, 2017-2020</i> , (June 17, 2021.) available at https://www.sandiego.gov/police/about/police-equity-report
D	Samuel Sinyangwe, <i>Evaluating Policing in San Diego</i> , p. 41, (Dec. 3, 2019) available at www.policescorecard.org/sandiego
E	Winkley & Schroeder, <i>Black, Latinos, Native Americans bear brunt of racial biases in local policing</i> , S.D. Union Tribune, March 28, 2021
F	Joshua Chanin et al., <i>Traffic Enforcement Through the Lens of Race: A Sequential Analysis of Post-Stop Outcomes in San Diego, California</i> , (2018) Criminal Justice Policy Review, Vol. 29 (6-7) 561-583
G	Winkley & Hernandez, <i>'We Have Work To Do': Another Report Finds Deep Racial Disparities In San Diego Police Data</i> , S.D. Union Tribune, June 17, 2021.
H	Bruno, <i>San Diego Police Chief Grilled Over Report on Police Bias</i> , Courthouse News Service, December 1, 2016
I	Winkley, <i>Report: Blacks Stopped By Police Across County at Higher Rates than Whites</i> , S.D. Union Tribune, Dec. 3, 2019
J	City of San Diego Memorandum, <i>SDPD's Analysis of CAB Recommendations</i> , Nov. 18, 2019, p. 4
K	Transcript of BWC of Officer Eysie from 2:56-3:36
L	Police Report of Officer Eysie (5 pages)
M	SDPD Policy & Procedures Manual

POINTS AND AUTHORITIES

I.

LAW RELATED TO THE RACIAL JUSTICE ACT

A. Procedure for a Motion Under Pen. Code Section 745.

“The state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin.” (Pen. Code, § 745 subd. (a).) “A violation is established if the defendant proves, by a preponderance of the evidence, any of the following ... a law enforcement officer involved in the case ... exhibited bias or animus toward the defendant because of the defendant’s race, ethnicity, or national origin.” (*Id.* at subd. (a)(1).)

1 "A defendant may file a motion in the trial court ... alleging a violation of subdivision
2 (a)." (*Id.* at subd. (b).) "If a motion is filed in the trial court and the defendant makes a *prima*
3 *facie* showing of a violation of subdivision (a), the trial court shall hold a hearing." (*Id.* at subd.
4 (c).)

5 "At the hearing, evidence may be presented by either party, including, but not limited to
6 statistical evidence, aggregate data, expert testimony, and the sworn testimony of witnesses."
7 (*Id.* at subd. (c)(1).) The defense bears the burden of proving a subdivision (a) violation by a
8 preponderance of the evidence. (*Id.* at subd. (c)(2).)

9 Should the court find a violation of subdivision (a), "the court may impose any of the
10 following remedies ... [any] other remedies available under the United States Constitution, the
11 California Constitution, or any other law." (*Id.* at subd.(e)(4).)

12 **B. Evidence of a Violation of Penal Code section 745 subdivision (a)(1).**

13 **1. Definition of Terms.**

14 Racism: "(1) Racism is any prejudice against someone because of their race. Or (2)
15 Racism is any prejudice against someone because of their race, when those views are reinforced
16 by systems of power." (Ijeoma Oluo, *So You Want To Talk About Race?*, Seal Press, at p. 26
17 (first paperback ed. 2019); see also Exhibit A.) "[R]acism has evolved and become less blunt,
18 but it has not become less effective. ... Now systems do the work that once required the overt
19 actions of masses of individual racists." (Blow, *Is America a Racist Country?*, N.Y. Times May
20 2, 2021; see also Exhibit B.) Mr. Blow continues: "Does the appellation [Racist] depend on the
21 system in question being openly, explicitly racist from top to bottom, or simply that there is some
22 degree of measurable bias embedded in those system? I assert the latter." (*Id.* at p. 2.) The law
23 also asserts the latter. (Pen. Code, § 745 subd. (a)(1).) The law does not require overt racism—
24 it requires only evidence of "bias or animus." (*Ibid.*)

25 Bias is "Preference before analysis that sways personal judgment. Bias is any degree of
26 prejudgment or reliance on prior assumptions in examining evidence or making a decision."
27 (Bouvier Law Dictionary, "Bias" (2012).) Our courts have stated that bias is "a mental
28

1 predilection or prejudice; a leaning of the mind.” (*Pacific Etc. Conference of United Methodist*
2 *Church v. Superior Court* (1978) 82 Cal.App.3d 72, 86 [citing Black’s Law Dictionary, p. 205.]
3 California Law defines implied bias: “Having an unqualified opinion or belief as to the merits
4 of the action founded on knowledge of its material facts or of some of them.” (Code Civ. Proc.,
5 § 229 subd. (e).)

6
7 **II.**
OFFICER EYSIE’S ACTIONS ARE INDICATIVE OF BIAS AGAINST MR. BONDS

8 **A. Four Separate Reports Have Shown Evidence of Racial Bias in Police Stops.**

9 Four independent reports, one of which was commissioned by the San Diego Police
10 Department, found evidence of racial bias in traffic stops. They are:

- 11 1. Center for Policing Equity, *National Justice Database City Report, San Diego Police*
12 *Department, 2017-2020*, (June 17, 2021.) available at
13 <https://www.sandiego.gov/police/about/police-equity-report>; City of San Diego (Exhibit
14 C) [hereinafter “SDPD Study”];
- 15 2. Samuel Sinyangwe, *Evaluating Policing in San Diego*, p. 41, (Dec. 3, 2019) available at
16 www.policescorecard.org/sandiego [hereinafter “Police Scorecard”] (Exhibit D);
- 17 3. Winkley & Schroeder, *Black, Latinos, Native Americans bear brunt of racial biases in*
18 *local policing*, S.D. Union Tribune, March 28, 2021; Samuel Sinyangwe, *Evaluating*
19 *Policing in San Diego*, p. 41, (Dec. 3, 2019) available at
20 www.policescorecard.org/sandiego [hereinafter “UT Study”] (Exhibit E.);
- 21 4. Joshua Chanin et al., *Traffic Enforcement Through the Lens of Race: A Sequential*
22 *Analysis of Post-Stop Outcomes in San Diego, California*, (2018) Criminal Justice Policy
23 Review, Vol. 29 (6-7) 561-583 [hereinafter “SDSU Study”] (Exhibit F.);

24
25 Here are some highlights from the above reports:
26

- 1 • “37% of stops of Black people were for Equipment Stops and 12% were for
2 License/Registration Stops, compared to 20% and 7.7% of stops of White People.”
3 (Exhibit C.)
- 4 • “San Diego police stopped black people at higher rates than white people in 85% of the
5 police beats in their jurisdiction... Once stopped, San Diego police were 25% more likely
6 to search ... black people than white people.” (Exhibit D.)
- 7 • “A recent analysis of a year’s worth of stops by San Diego police ... found that black
8 people across the country are searched, arrested, and subjected to force at higher rates
9 than white people.” (Exhibit I.)
- 10 • “Citywide, disparities between Black and White drivers were evidence in vehicle stop
11 data...” (Exhibit F.)
- 12 • “San Diego police, sheriff’s deputies disproportionately target minorities, data shows.”
13 (Exhibit E.)

14 During a press conference regarding the Center for Policing Equity report findings, San
15 Diego Mayor Todd Gloria acknowledged how long these issues have existed: “The data is clear.
16 We have work to do. We’ve known for some time that racial disparities exist in policing.” (Todd
17 Gloria, Speech, *Press Conference*, (June 17, 2021) (transcript on file with KPBS); see also
18 Winkley & Hernandez, *‘We Have Work To Do’: Another report finds deep racial disparities in*
19 *San Diego police data*, S.D. Union Tribune, June 17, 2021; see also exhibit G.)

20 Each report ultimately found that different racial groups are experiencing policing
21 differently: non-White people are being stopped, searched, and subjected to rates of violence at
22 higher rates than White people, both in traffic and non-traffic stops. (Exhibits C - F.) These
23 results are evidence that the race, ethnicity, or national origin of an individual affects their
24 interaction with the police. The racial disparities reported are the product of SDPD officers
25 exhibiting racial bias and animus in their policing practices. Furthermore, each report confirms
26 the findings of the others: police behavior in San Diego has consistently shown patterns of racial
27 disparities.
28

1 Despite the consistent evidence of racial disparity presented to the SDPD throughout the
2 years, San Diego Police Chiefs have repeatedly denied or undermined the data presented. When
3 confronted with the results published by San Diego State in 2016, SDPD Chief Shelley
4 Zimmerman repeated multiple times: “every human being has bias”, downplaying the report’s
5 findings. (Bruno, *San Diego Police Chief Grilled Over Report on Police Bias*, Courthouse News
6 Service, December 1, 2016 [Exhibit H].) In 2019, Chief Jordan’s response to Campaign Zero’s
7 findings followed the same theme: he discredited the results, stating, “This document is
8 completely designed to push a political agenda.” (Winkley, *Report: Blacks stopped by police*
9 *across county at higher rates than whites*, S.D Union Tribune Dec. 3, 2019; exhibit I.)

10 Not only does the SDPD ignore the mountain of statistical evidence indicating racism, it
11 disregards community and legislative outcries for change. In 2019, a Citizens Advisory Board
12 (CAB) was created in an effort to open up dialogue between the SDPD and SD community. The
13 CAB evaluated SDPD operations and provided recommendations, including a need to place a
14 temporary moratorium on pretext stops in order to “improve community relations and trust.”
15 (City of San Diego Memorandum, *SDPD’s Analysis of CAB Recommendations*, Nov. 18, 2019,
16 p. 4; see also exhibit J.) The CAB indicated that pretext stops are “perceived as a dishonest
17 interaction by definition with residents. It has negatively impacted the trust and increased the
18 tension between police and citizen interactions during stops, placing the lives of both officers
19 and community members at risk.” (*Ibid.*) The police’s response was: “While the use of pretextual
20 stops to facilitate investigations remains a controversial issue in law enforcement ... the benefit
21 as an investigative tool is profound.” (*Ibid.*)

22 Here, evidence could not be clearer. Officer Eysie himself admits that his stop of Mr.
23 Bonds was motivated by his race. (Exhibit K.) In addition, when describing his mission, he states
24 he was on “proactive enforcement” – code for making racially biased stops. (Exhibit L.) In short,
25 this was a pre-text stop based entirely on Mr. Bonds’ race.¹ This type of stop is also in violation
26

27 ¹ While *Whren v. United States* (1996) 517 U.S. 806, seems to permit pretextual stops where there in fact exists a traffic
28 violation, Penal Code section 745 is a direct countermand to this rule and prohibits pretextual stops where the basis for the
stop is race, as occurs in this case. (Pen. Code, § 745 subd. (a)(1).)

1 of SDPD's Policy and Procedures. (Exhibit M [Policy 9.31: Non-Bias Based Policing Policy:
2 "The department does not tolerate bias based policing. Bias based policing occurs when law
3 enforcement inappropriately considers factors such as race ... in deciding with whom and how
4 to intervene in an enforcement capacity."].)

5 The court should not accept this behavior and should take action to remedy this clear,
6 self-admitted, biased stop.

7 **III.**
8 **THE COURT MUST MAKE FACTUAL FINDINGS ON THE RECORD.**

9 "At the conclusion of the hearing, the court shall make findings on the record." (Pen.
10 Code § 745 subd. (c)(3).) The defense hereby requests the court make findings as required by
11 law.

12 **IV.**
13 **REQUESTED REMEDY**

14 "[I]f the court finds by a preponderance of evidence, a violation of subdivision (a), the
15 court shall impose a remedy specific to the violation found from the following list..." (Pen.
16 Code, § 745 subd. (e).) The statute then goes on to list four possible remedies which permit the
17 court to take action "specific to the violation." The first set of potential remedies which are an
18 option occur, "before judgement is entered." (*Id.* at subd. (e)(1).) The second set of potential
19 remedies occur "when a judgement has been entered." (*Id.* at subd. (e)(2).) The third set occurs
20 when the death penalty is charged. (*Id.* at subd. (e)(3).) And the final potential remedy is a
21 "catch all" provision; it states: "The remedies available under this section do not foreclose any
22 other remedies available under the United States Constitution, the California Constitution, or
23 any other law." (*Id.* at subd. (e)(4).)

24 One of the remedies available under the United States Constataion is suppression of
25 evidence. (*United States v. Leon* (1984) 468 U.S. 897 ["The tendency of those who execute the
26 criminal laws of the country to obtain conviction by means of unlawful seizures . . . should find
27 no sanction in the judgments of the courts which are charged at all times with the support of
28 the Constitution and to which people of all conditions have a right to appeal for the

1 maintenance of such fundamental rights.” (citing *Weeks v. United States* (1914) 232 U.S. 383,
2 392; see also *Davis v. United States* (2011) 564 U.S. 229, 238 [“In time, however, we came to
3 acknowledge the exclusionary rule for what it undoubtedly is--a ‘judicially created remedy’ of
4 this Court’s own making.”].)

5 Beyond simply Fourth Amendment jurisprudence, the United States Constitution
6 permits dismissal of an action where government behavior “shocks the conscience.” (*Rochin v.*
7 *California* (1952) 342 U.S. 165, 175.) Specifically, the United States supreme Court has held:
8 where “the conduct of law enforcement agents is so outrageous that due process principles
9 [may] absolutely bar the government from invoking judicial processes to obtain a conviction.”
10 (*People v. Russell* (1973) 411 U.S. 423, 431-32.)

11 Additionally, Penal Code section 1385 permits a “judge or magistrate ... in the
12 furtherance of justice, order an action to be dismissed.”

13 Because of Officer Eysie’s self-declared racism, the court should either (1) order the
14 evidence discovered during the racially motivated stop excluded or (2) order the charges
15 against Mr. Bonds III dismissed.

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V.
CONCLUSION

For on the above-mentioned reasons, the defense and Mr. Bonds III request the court order an evidentiary hearing pursuant to Penal Code section 745 subdivision (c); upon a finding of bias the defense requests the court either (1) order the suppression of the evidence found during the racially motivated stop and search of Mr. Bonds' vehicle or (2) order the entirety of the action dismissed.

Dated: July 12, 2022

Respectfully Submitted,

KATHERINE BRANER
Chief Deputy



ABRAM GENSER
Deputy Public Defender
Certified Criminal Law Specialist

ASH KARGARAN
Deputy Public Defender

Attorneys for Defendant
TOMMY BONDS III

Exhibit A

**So you
want
to talk
about
race**

Ijeoma Oluo

So you want to talk about race

racist. It seemed far more important to him that the white people who were spreading and upholding racism be spared the effects of being called racist, than sparing his black friend the effects of that racism.

No matter what I said, no matter how I described the effects that this sort of racism had on me and other people of color, he was not going to accept me using the word "racist" to describe it.

That was when I learned that this was not a friend I could talk to about this really important part of my life. I couldn't be my full self around him, and he would never truly have my back. He was not safe. I wasn't angry, I was heartbroken.

We couldn't talk about the ways in which race and racism impacted my life, because he was unwilling to even acknowledge the racism that was impacting my life and he was unable to prioritize my safety over his comfort—which meant that we couldn't talk about me.

PROBABLY ONE OF THE MOST TELLING SIGNS THAT WE have problems talking about race in America is the fact that we can't even agree on what the definition of racism actually is. Look at almost any discussion of race and racism online, and you'll see an argument pop up over who is racist, who isn't, and who has the right to claim they are suffering from racism. The most common definitions of racism (in my own summation) are as follows: (1) Racism is any prejudice against someone because of their race. Or (2) Racism is any prejudice against someone because of their race, when those views are reinforced by systems of power. While these two definitions

What is racism?

are very close to each other in many ways, the differences between these two definitions of racism drastically change how you look at and address racism in America.

For the purposes of this book, I'm going to use the second definition of racism: a prejudice against someone based on race, when those prejudices are reinforced by systems of power. And this is a definition I recommend you use in your day-to-day life if your goal is to reduce the systemic harm done to people of color by racism in America. Let me explain why.

When we use only the first definition of racism, as any prejudice against someone based on race, we inaccurately reduce issues of race in America to a battle for the hearts and minds of individual racists—instead of seeing racists, racist behaviors, and racial oppression as part of a larger system.

There are a lot of individual, unapologetic racists out there. They're easy to spot—they're the people sharing the Obama = monkey memes. They are the people sewing swastikas to their jackets and talking about "White Genocide." This book is not for them and they are not my primary concern. This book will not tell you how to get unabashed racists to love people of color. I'm not a magician. Furthermore, many of those people have very little real power on their own and tend to stay on the fringes of society. We, as a society, like our racism subtler than that. What special power virulent racists do have can often be thwarted by just staying away from wherever you see "Obama is a Muslim" signs.

What is important is that the impotent hatred of the virulent racist was built and nurtured by a system that has much more insidiously woven a quieter, yet no less violent, version of those same oppressive beliefs into the fabric of our society.

Exhibit B

CHARLES M. BLOW

Is America a Racist Country?

May 2, 2021



By Charles M. Blow
Opinion Columnist

Last Sunday, Senator Lindsey Graham of South Carolina added himself to the long list of Republicans who have denied the existence of systemic racism in this country. Graham said on “Fox News Sunday” that “our systems are not racist. America’s not a racist country.”

Graham argued that the country can’t be racist because both Barack Obama and Kamala Harris had been elected and somehow, their overcoming racial hurdles proves the absence of racial hurdles. His view seems to be that the exceptions somehow negated the rule.

In the rebuttal to President Biden’s address to a joint session of Congress, the other senator from South Carolina, Tim Scott, the lone Black Republican in the Senate, parroted Graham and became an apologist for these denials of racism, saying too that the country wasn’t racist. He argued that people are “making money and gaining power by pretending we haven’t made any progress at all, by doubling down on the divisions we’ve worked so hard to heal.”

Scott’s argument seems to leave open the possibility that America may have *been* a racist country but that it has matured out of it, that it has graduated into egalitarianism.

I personally don’t make much of Scott’s ability to reason. This is the same man who said in March that “woke supremacy,” whatever that is, “is as bad as white supremacy.” There is no world in which recent efforts at enlightenment can be equated to enslavement, lynching and mass incarceration. None.

It seems to me that the disingenuousness on the question of racism is largely a question of language. The question turns on another question: “What, to you, is America?” Is America the people who now inhabit the land, divorced from its systems and its history? Or, is the meaning of America inclusive of those systems and history?

When people say that America is a racist country, they don’t necessarily mean that all or even most Americans are consciously racist. However, it is important to remember that nearly half the country just voted for a full-on racist in Donald Trump, and they did so by either denying his racism, becoming apologists for it, or applauding it. What do you call a country thus composed?

Historically, however, there is no question that the country was founded by racists and white supremacists, and that much of the early wealth of this country was built on the backs of enslaved Africans, and much of the early expansion came at the expense of the massacre of the land’s Indigenous people and broken treaties with them.

Eight of the first 10 presidents personally enslaved Africans. In 1856, the chief justice of the United States wrote in the infamous ruling on the Dred Scott case that Black people “had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect.”

The country went on to fight a Civil War over whether some states could maintain slavery as they wished. Even some of the people arguing for, and fighting for, an end to slavery had expressed their white supremacist beliefs.

Abraham Lincoln said during his famous debates against Stephen A. Douglas in 1858 that among white people and Black ones “there must be the position of superior and inferior, and I, as much as any other man, am in favor of the superior position being assigned to the white man.”

Some will concede the historical point and insist on the progress point, arguing that was then and this is now, that racism simply doesn't exist now as it did then. I would agree. American racism has evolved and become less blunt, but it has not become less effective. The knife has simply been sharpened. Now systems do the work that once required the overt actions of masses of individual racists.

So, what does it mean for a system to be racist? Does the appellation depend on the system in question being openly, explicitly racist from top to bottom, or simply that there is some degree of measurable bias embedded in those systems? I assert the latter.

America is not the same country it was, but neither is it the country it purports to be. On some level this is a tension between American idealism and American realism, between an aspiration and a current condition.

And the precise way we phrase the statement makes all the difference: America's systems — like its criminal justice, education and medical systems — have a pro-white/anti-Black bias, and an extraordinary portion of America denies or defends those biases.

As Mark Twain once put it: “The difference between the almost right word and the right word is really a large matter. 'Tis the difference between the lightning bug and the lightning.”

Being imprecise or undecided with our language on this subject contributes to the murkiness — and to the myth that the question of whether America is racist is difficult to answer and therefore the subject of genuine debate among honest intellectuals.

Saying that America is racist is not a radical statement. If that requires a longer explanation or definition, so be it. The fact, in the end, is not altered.

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Exhibit C

San Diego City Assessment

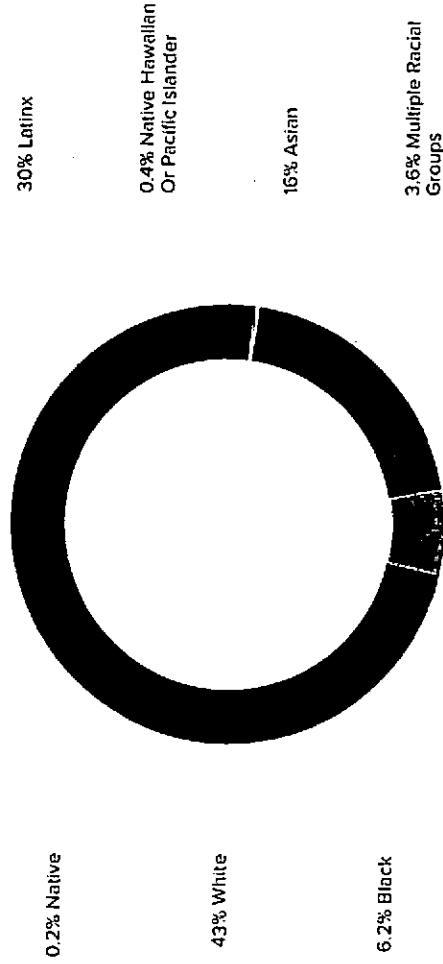
2024



San Diego City Assessment - Summary of Findings

CONTEXT: RESIDENT DEMOGRAPHICS

The population of San Diego City is 43% White, 30% Latinx, 16% Asian, 6.2% Black, 3.6% Multiple Racial Groups, 0.4% Native Hawaiian or Pacific Islander, and 0.2% Native.



San Diego City Assessment

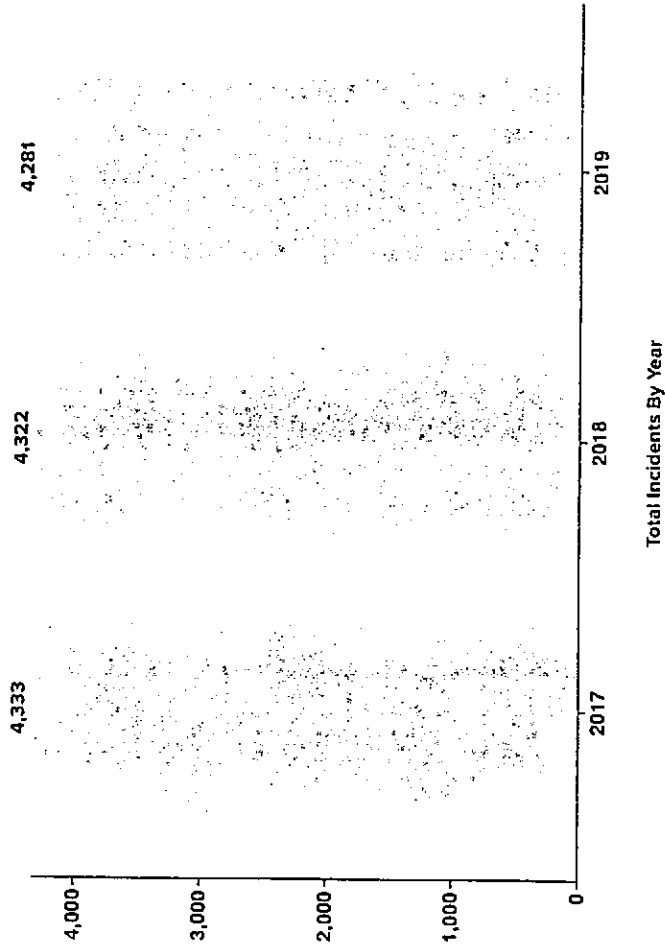
Use of Force



San Diego City Assessment - Summary of Findings

USE OF FORCE INCIDENTS PER YEAR

The number of use of force incidents recorded each year varied from a high of 4,333 in 2017 to a low of 4,281 in 2019.

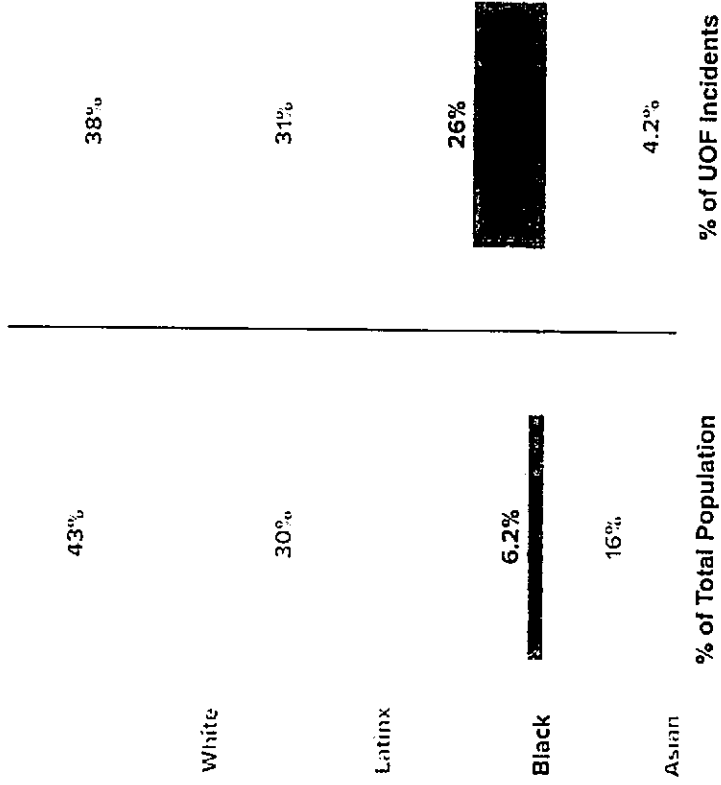




San Diego City Assessment - Summary of Findings

PERCENTAGE OF USE OF FORCE INCIDENTS, BY RACIAL GROUP, COMPARED TO POPULATION

26% of all use of force incidents recorded between 2016 and 2020 were against Black people, who made up 6.2% of the population of San Diego.





San Diego City Assessment - Summary of Findings

RATES OF USE OF FORCE INCIDENTS AFTER ACCOUNTING FOR NEIGHBORHOOD CRIME RATES, POVERTY LEVELS, AND SHARE OF BLACK RESIDENTS

Using a statistical technique called regression analysis, we found that taking into account the influence of neighborhood crime rates, poverty, and share of Black residents, Black people were subjected to force 4.6 times as often as White people.

Black people were subjected to force 4.6x as often as White people



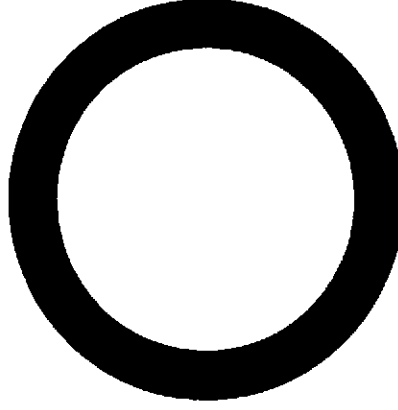
4.6 incidents involving a Black person for every 1 incident involving a White person.



San Diego City Assessment - Summary of Findings

PERCENTAGE OF INCIDENT FREQUENCY EXPLAINED BY NEIGHBORHOOD FACTORS

Statistical analysis showed that neighborhood crime rates, poverty, and share of Black residents explained 52% of the frequency of use of force, while 48% was not explained by these factors.



52% Explained

48% Unexplained

San Diego City Assessment

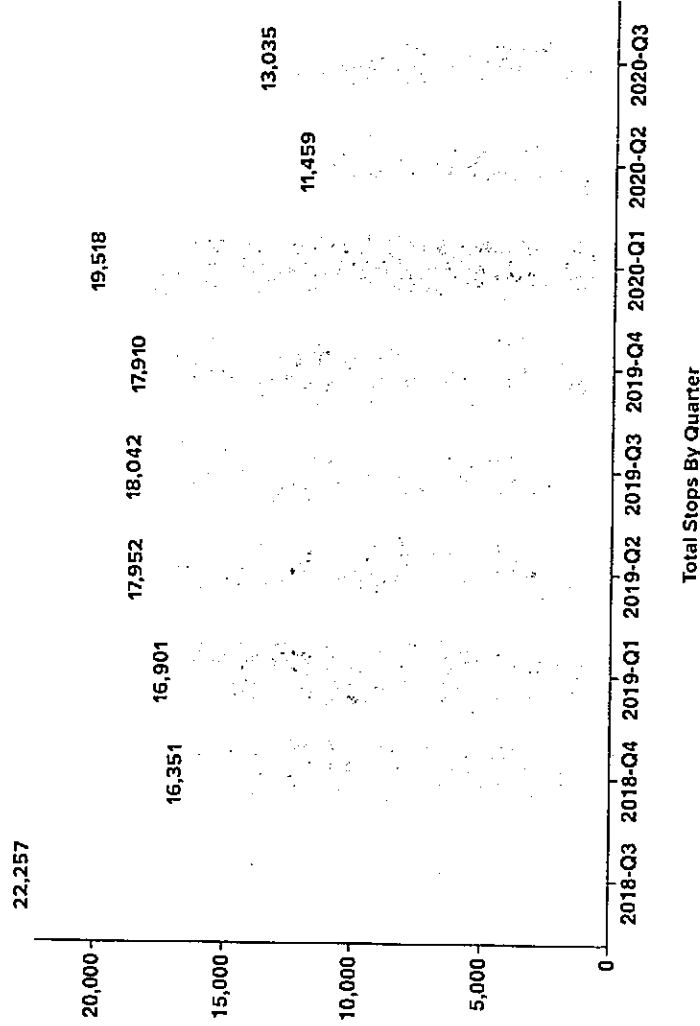
Traffic Stops



San Diego City Assessment - Summary of Findings

TRAFFIC STOPS PER QUARTER

The total number of traffic stops recorded each quarter varied from a high of 22,257 in 2018-Q3 to a low of 11,459 in 2020-Q2.

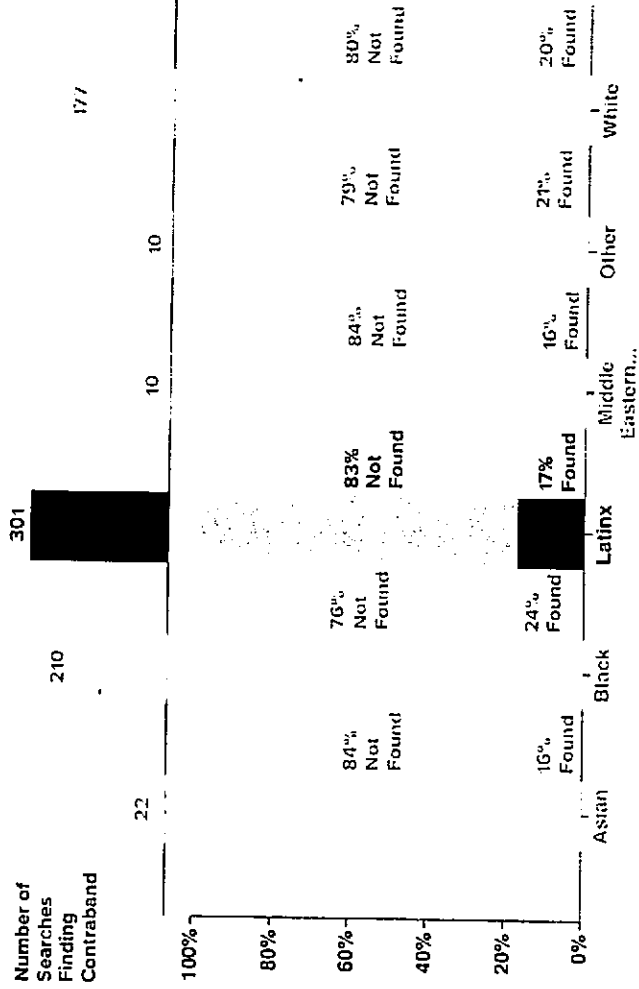




San Diego City Assessment - Summary of Findings

CONTRABAND FOUND AND NOT FOUND IN TRAFFIC STOP SEARCHES

Latinx people who were searched possessed contraband such as weapons, drugs, or stolen goods less frequently than White drivers.



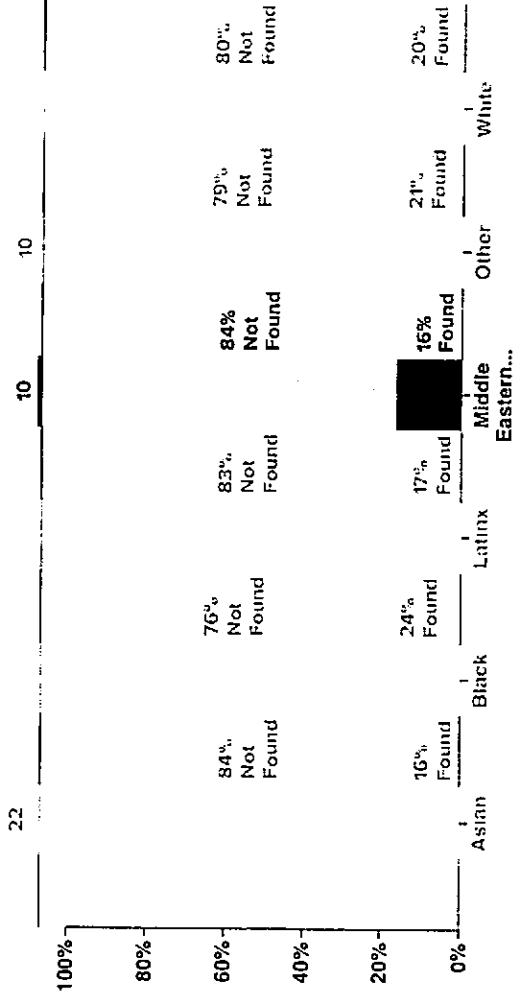


San Diego City Assessment - Summary of Findings

CONTRABAND FOUND AND NOT FOUND IN TRAFFIC STOP SEARCHES

Middle Eastern or South Asian people who were searched possessed contraband such as weapons, drugs, or stolen goods less frequently than White people.

Number of Searches Finding Contraband	301	210	177
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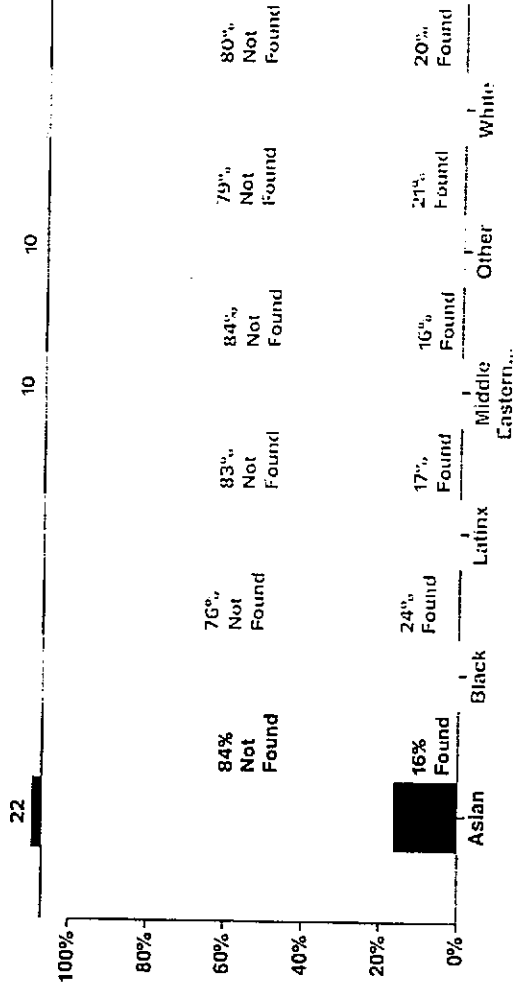


San Diego City Assessment - Summary of Findings

CONTRABAND FOUND AND NOT FOUND IN TRAFFIC STOP SEARCHES

Asian people who were searched possessed contraband such as weapons, drugs, or stolen goods less frequently than White people.

Number of Searches Finding Contraband	Total Searches
22	301
210	177

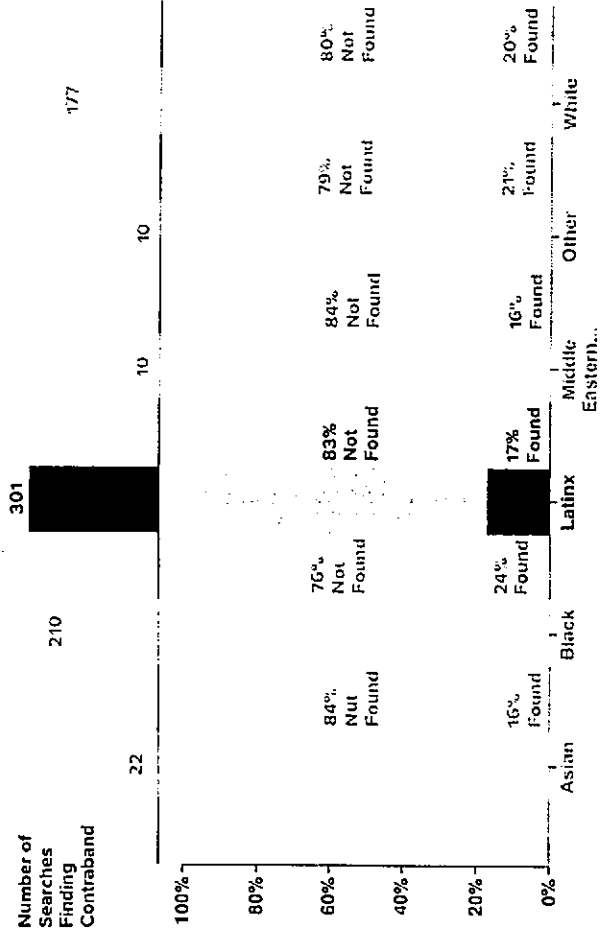




San Diego City Assessment - Summary of Findings

CONTRABAND FOUND AND NOT FOUND IN TRAFFIC STOP SEARCHES

Although searches of Latinx people did not find contraband at a higher rate than White people, because Latinx people were stopped and/or searched more often, contraband was found in a larger number of searches of Latinx people.

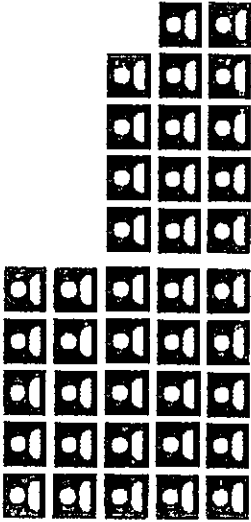




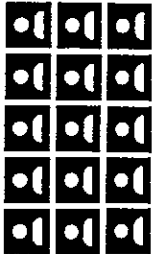
San Diego City Assessment - Summary of Findings

SEARCH RATES AT TRAFFIC STOPS

Once stopped, Black people were searched 2.6 times as often as White people.



39 searches of Black people per 1,000 stops.



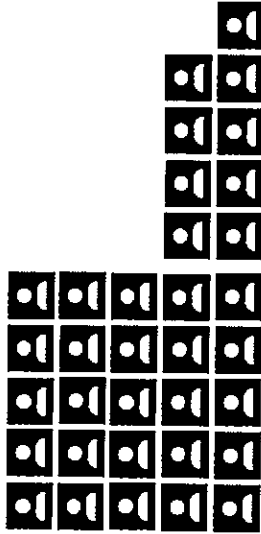
15 searches of White people per 1,000 stops.



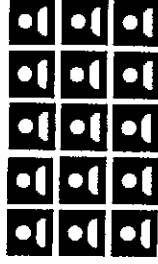
San Diego City Assessment - Summary of Findings

SEARCH RATES AT TRAFFIC STOPS

Once stopped, Latinx people were searched 2.3 times as often as White people.



34 searches of Latinx people per 1,000 stops.



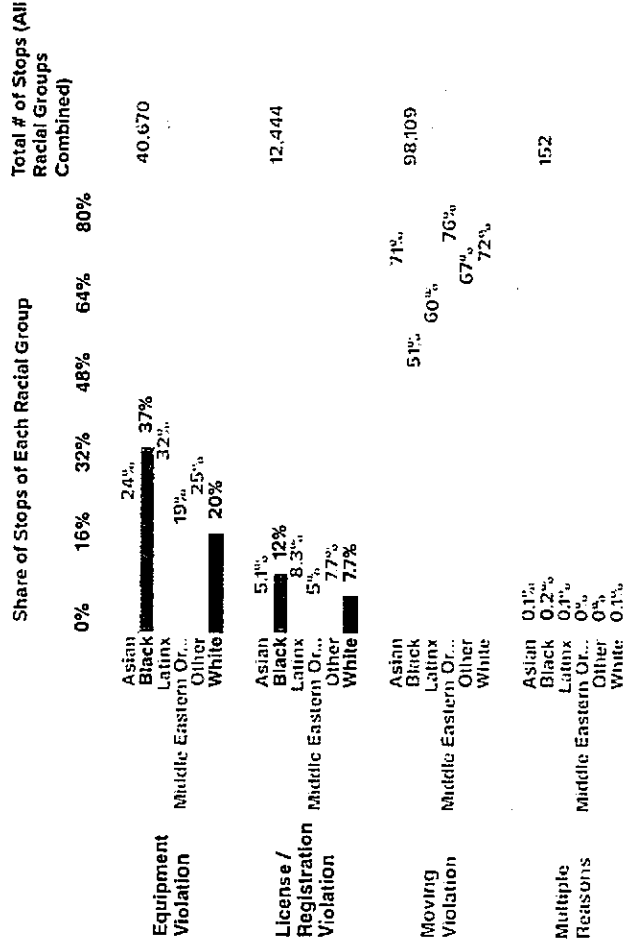
15 searches of White people per 1,000 stops.



San Diego City Assessment - Summary of Findings

PROPORTION OF TRAFFIC STOPS OF EACH RACIAL GROUP THAT ARE MADE FOR EACH STOP REASON

37% of stops of Black people were for Equipment Stops and 12% were for License / Registration Stops, compared to 20% and 7.7% of stops of White people.

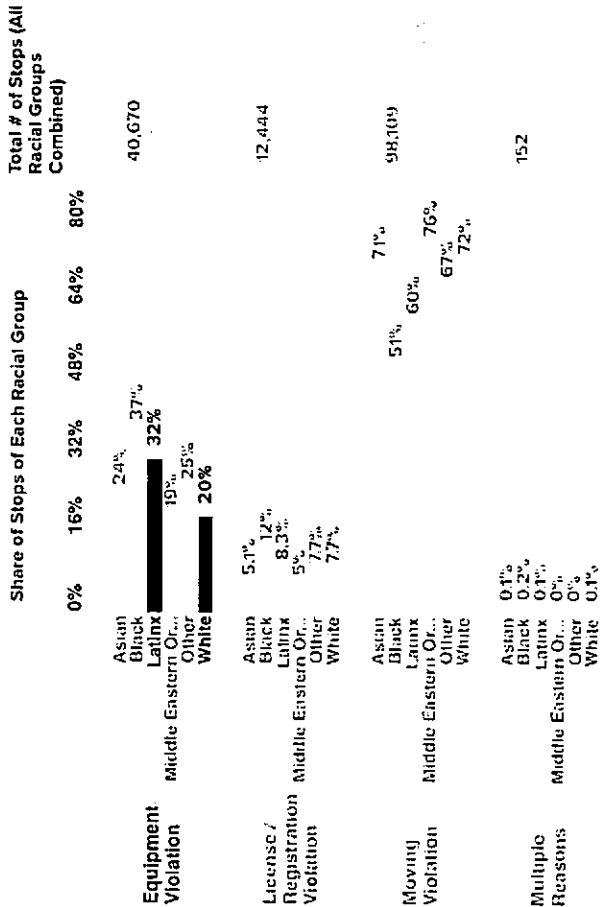




San Diego City Assessment - Summary of Findings

PROPORTION OF TRAFFIC STOPS OF EACH RACIAL GROUP THAT ARE MADE FOR EACH STOP REASON

32% of stops of Latinx people were for Equipment Stops, compared to 20% of stops of White people.

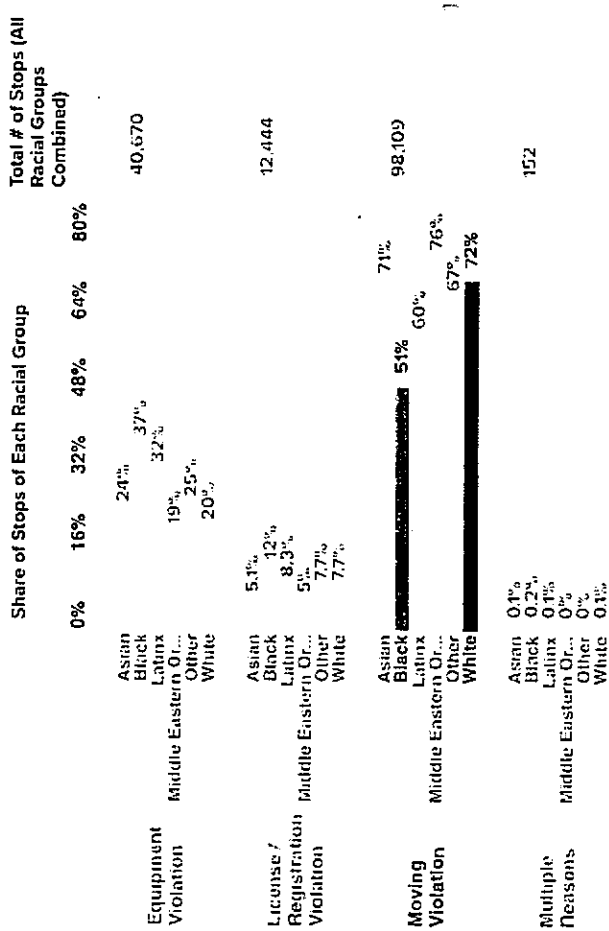




San Diego City Assessment - Summary of Findings

PROPORTION OF TRAFFIC STOPS OF EACH RACIAL GROUP THAT ARE MADE FOR EACH STOP REASON

72% of stops of White people were for Moving Violations, compared to 51% of stops of Black people.

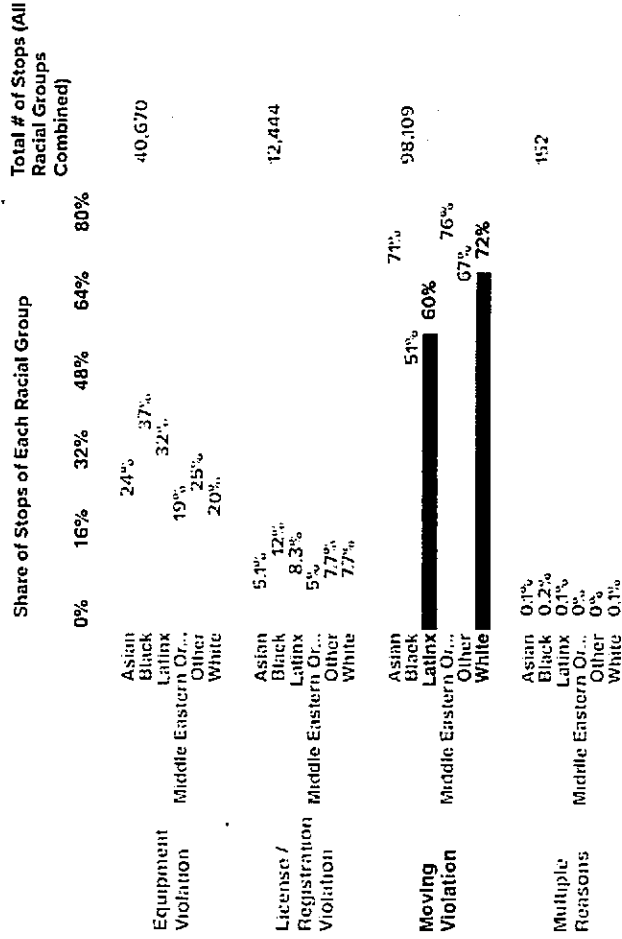




San Diego City Assessment - Summary of Findings

PROPORTION OF TRAFFIC STOPS OF EACH RACIAL GROUP THAT ARE MADE FOR EACH STOP REASON

72% of stops of White people were for Moving Violations, compared to 60% of stops of Latinx people.

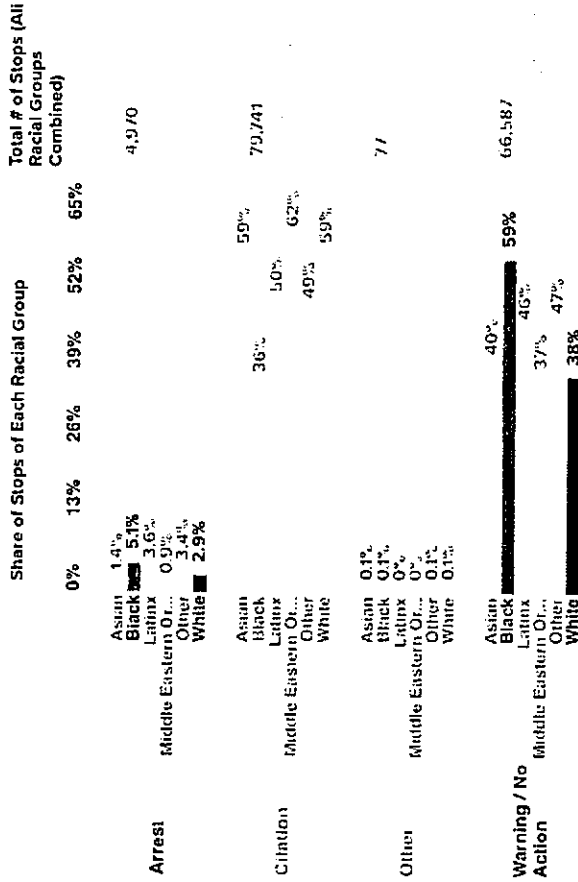




San Diego City Assessment - Summary of Findings

PROPORTION OF TRAFFIC STOPS OF EACH RACIAL GROUP THAT ENDED IN EACH OUTCOME

Once stopped, Black people were arrested 1.7 times as often as White people. They were also 1.5 times as likely to be released with a warning or no action taken.

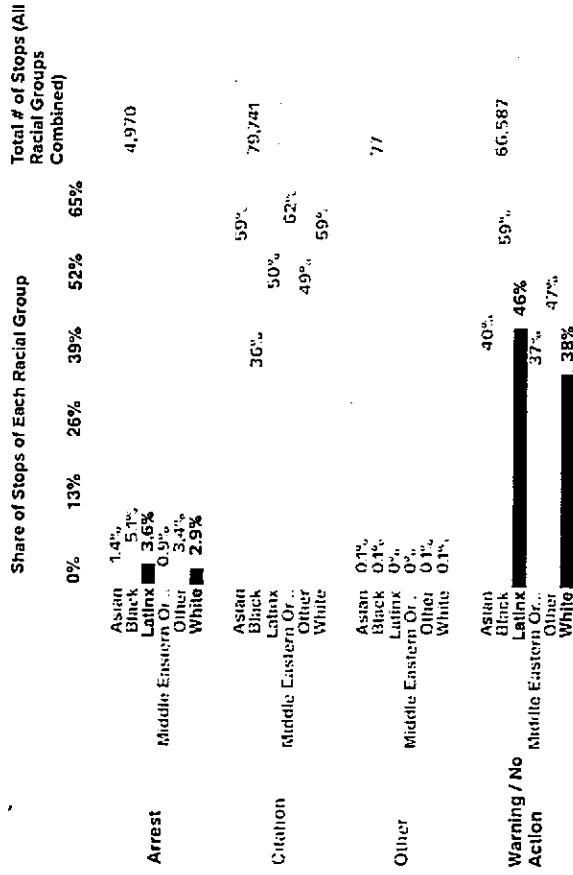




San Diego City Assessment - Summary of Findings

PROPORTION OF TRAFFIC STOPS OF EACH RACIAL GROUP THAT ENDED IN EACH OUTCOME

Once stopped, Latinx people were arrested 1.2 times as often as White people. They were also 1.2 times as likely to be released with a warning or no action taken.



San Diego City Assessment

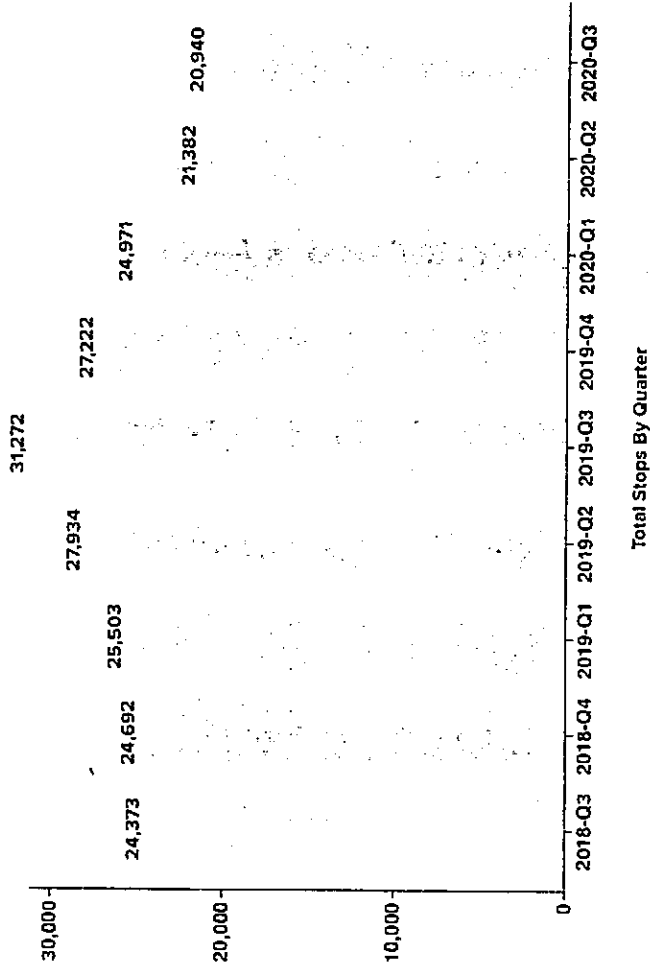
Non-Traffic Stops



San Diego City Assessment - Summary of Findings

NON-TRAFFIC STOPS PER QUARTER

The total number of non-traffic stops recorded each quarter ranged from a high of 31,272 in 2019-Q3 to a low of 20,940 in 2020-Q3.

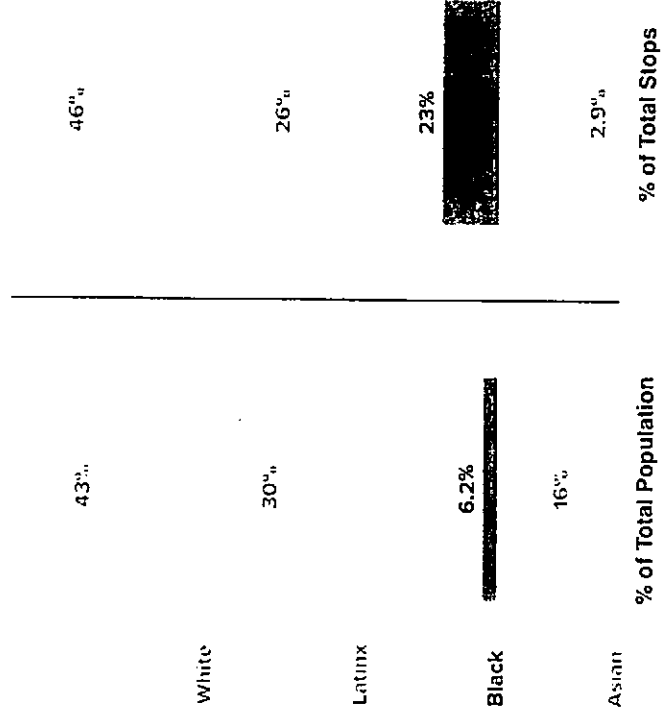




San Diego City Assessment - Summary of Findings

PERCENTAGE OF NON-TRAFFIC STOPS, BY RACIAL GROUP, COMPARED TO POPULATION

Black people, who make up 6.2% of the population of San Diego, made up 23% of all people stopped between 2018-Q3 and 2020-Q3.





San Diego City Assessment - Summary of Findings

RATES OF NON-TRAFFIC STOPS AFTER ACCOUNTING FOR NEIGHBORHOOD CRIMES RATES, POVERTY LEVELS, AND SHARE OF BLACK RESIDENTS

Using a statistical technique called regression analysis, we found that taking into account the influence of neighborhood crime rates, poverty, and share of Black residents, Black people were stopped 4.8 times as often as White people

Black people were stopped 4.8x as often as White people



4.8 stops involving a Black person for every



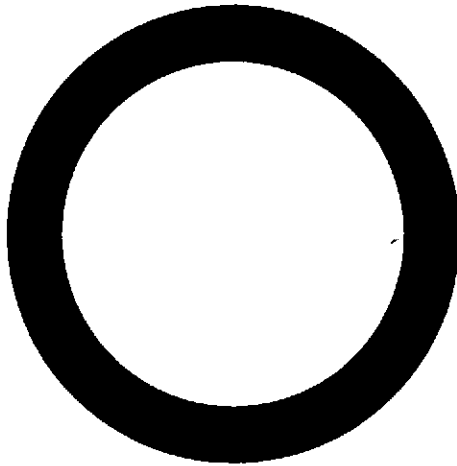
1 stop involving a White person.



San Diego City Assessment - Summary of Findings

PERCENTAGE OF STOP FREQUENCY EXPLAINED BY NEIGHBORHOOD FACTORS

Statistical analysis showed that neighborhood crime rates, poverty, and share of Black residents explained 36% of the frequency of non-traffic stops, while 64% was not explained by these factors.



36% Explained

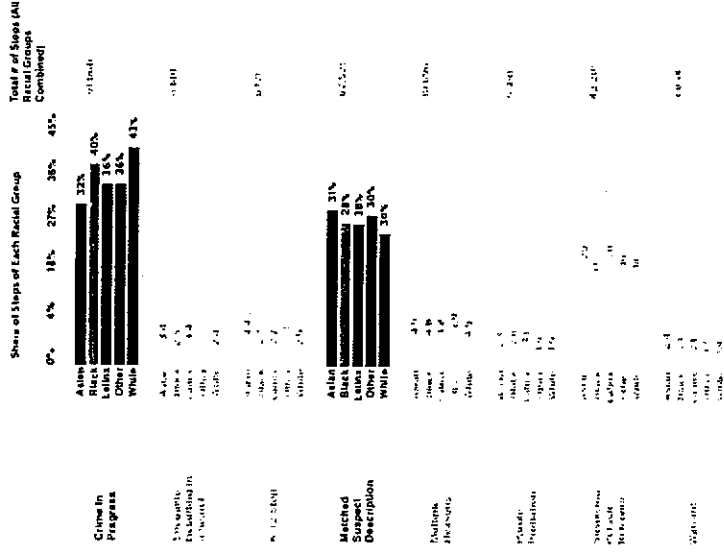
64% Unexplained



San Diego City Assessment - Summary of Findings

PROPORTION OF NON-TRAFFIC STOPS OF EACH RACIAL GROUP THAT ARE MADE FOR EACH STOP REASON

Crime in Progress and Matched Suspect Description were the most common reasons recorded for non-traffic stops among all racial groups.

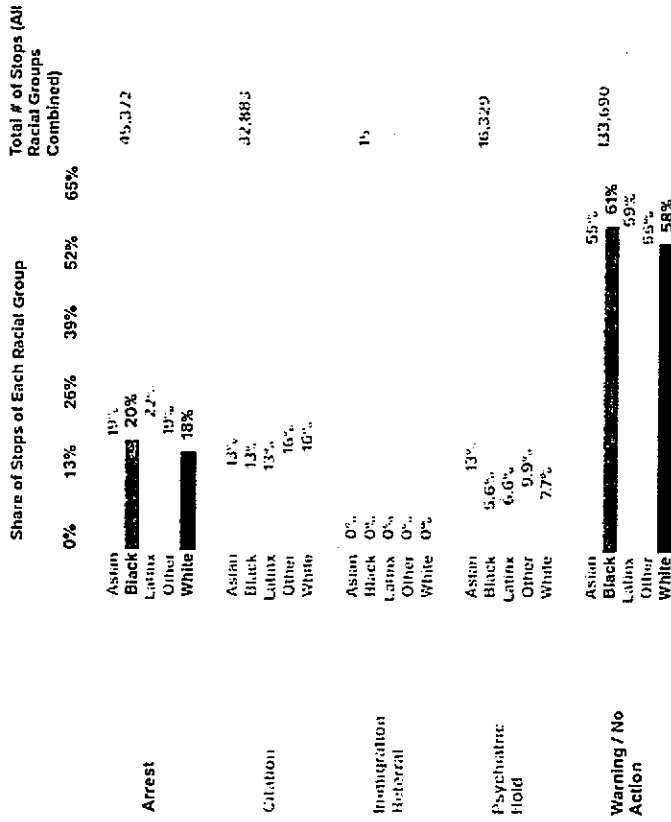




San Diego City Assessment - Summary of Findings

PROPORTION OF NON-TRAFFIC STOPS OF EACH RACIAL GROUP THAT ENDED IN EACH OUTCOME

Once stopped, Black people were arrested at similar rates to White people. They were also released with a warning or no action taken at similar rates to White people who were stopped.

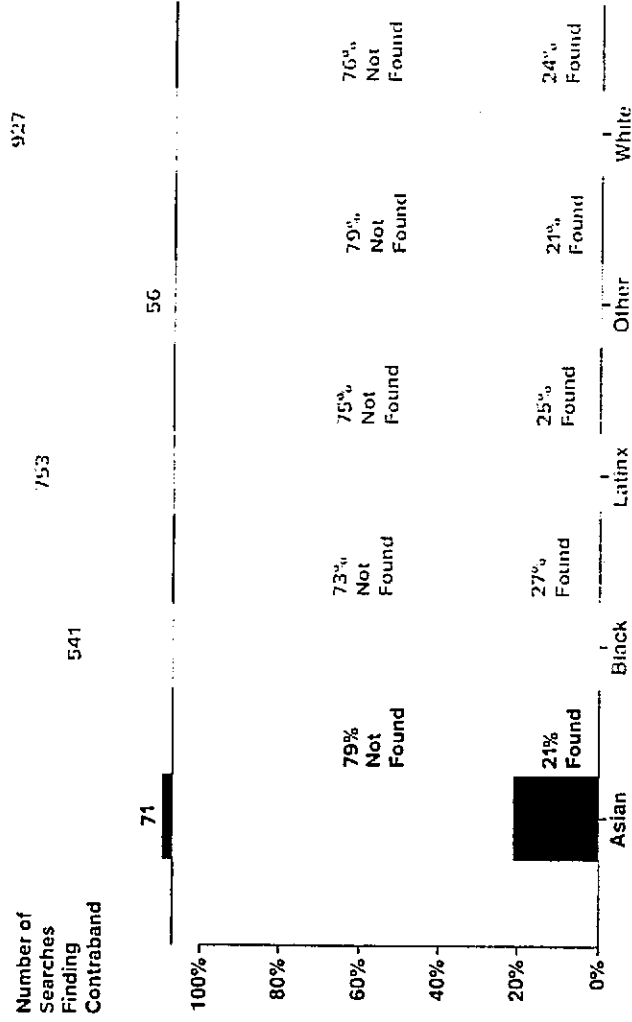




San Diego City Assessment - Summary of Findings

CONTRABAND FOUND AND NOT FOUND IN NON-TRAFFIC SEARCHES

Asian people who were searched possessed contraband such as weapons, drugs, or stolen goods less frequently than White people.

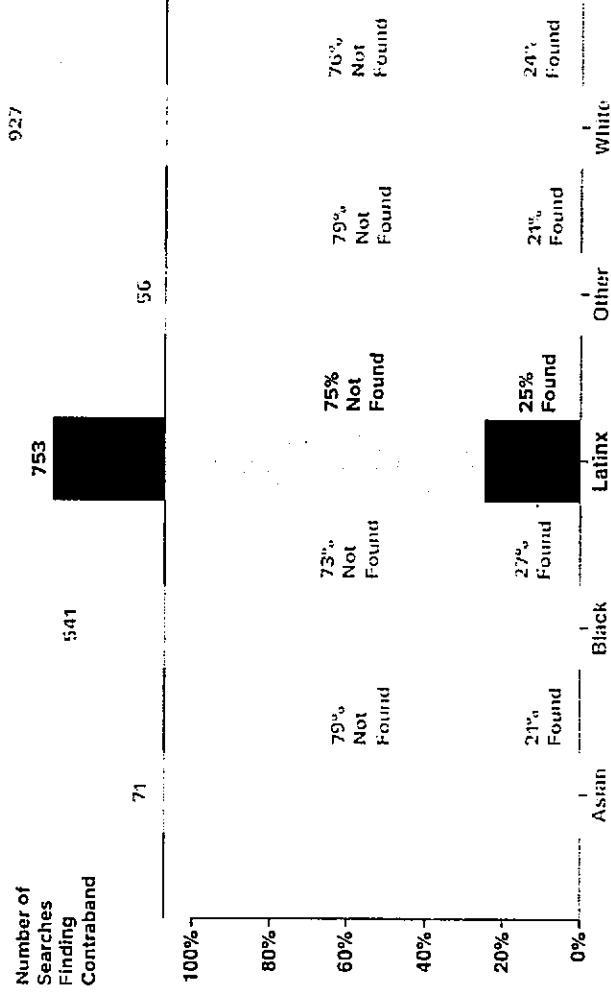




San Diego City Assessment - Summary of Findings

CONTRABAND FOUND AND NOT FOUND IN NON-TRAFFIC SEARCHES

Latinx people who were searched were roughly equally likely as White people to possess contraband such as weapons, drugs, or stolen goods.



Justice / Navigator

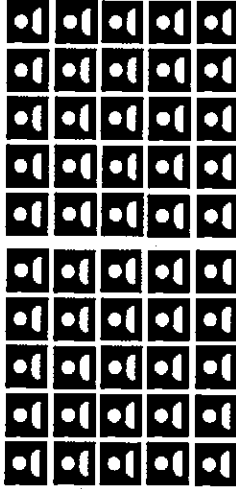
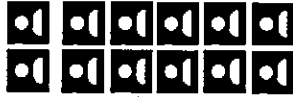
The contents of this assessment are best viewed online at justicenavigator.org.



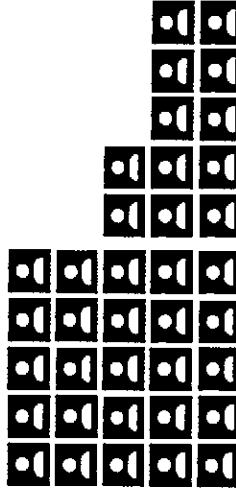
San Diego City Assessment - Summary of Findings

RATIOS OF SEARCH RATES AT NON-TRAFFIC STOPS

Once stopped, Asian people were searched 1.4 times as often as White people.



52 searches of Asian people per 1,000 stops.



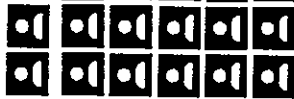
37 searches of White people per 1,000 stops.



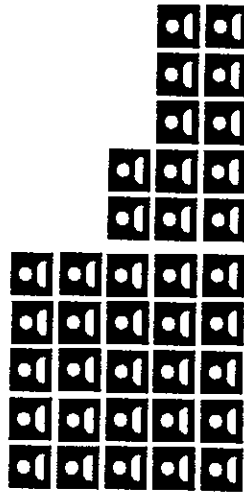
San Diego City Assessment - Summary of Findings

RATIOS OF SEARCH RATES AT NON-TRAFFIC STOPS

Once stopped, Latinx people were searched 1.4 times as often as White people.



52 searches of Latinx people per 1,000 stops.



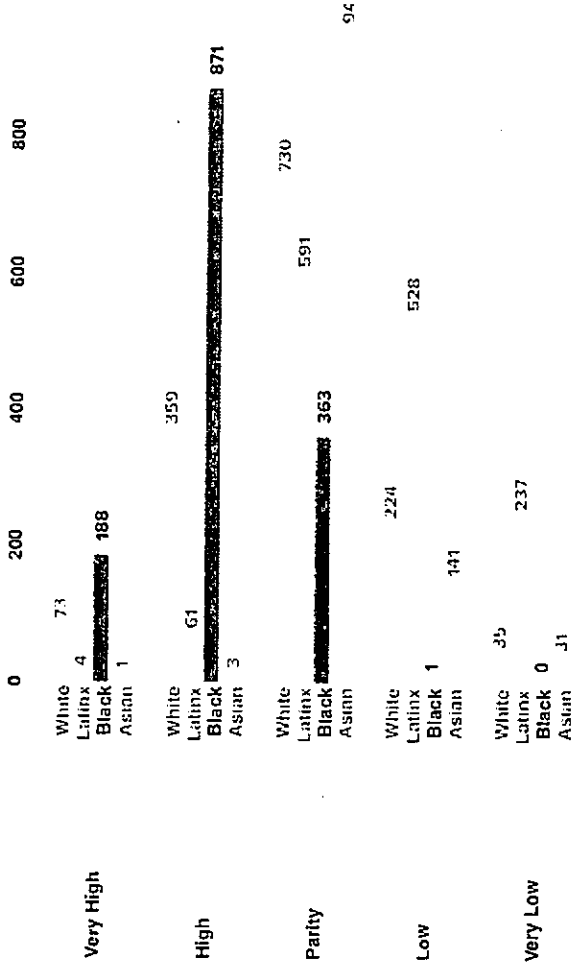
37 searches of White people per 1,000 stops.



San Diego City Assessment - Summary of Findings

COMPOSITION OF OFFICER NON-TRAFFIC STOPS RELATIVE TO EACH OFFICER'S PATROL AREA

74% of officers who made stops of Black people did so at rates that were higher than the proportion of Black people in the areas they patrol.



Frequency of Officer Stops, Relative to Resident Population

San Diego City Assessment

Next Steps



San Diego City Assessment - Summary of Findings

NEXT STEPS

Measure and monitor

Collecting and analyzing data can help you shed light on current problems and measure future progress.

[Learn more](#)

Investigate to learn more

Learn as much as possible about the situations when a disparity occurs or is most severe, in order to understand how to address it.

[Learn more](#)

Identify risk factors and develop targeted interventions

You can then address risk factors by improving written policies and partnering with the community to develop targeted interventions.

[Learn more](#)

Share results

Visit the Justice Navigator homepage to learn more about how to share results and take action.

[Learn more](#)

Justice / Navigator

The contents of this assessment are best viewed online at
justicenavigator.org.



San Diego City Assessment - Summary of Findings

ACKNOWLEDGMENTS

Funding for this platform was provided by Google.org. Players Coalition, Joyce Foundation, Silicon Valley Community Foundation, and Lyda Hill Philanthropies. Funding for development of the National Justice Database infrastructure and the original analytic plan upon which these analyses are based was provided by the National Science Foundation, under awards led by Principal Investigators Phillip Atiba Goff, Jack Glaser, Amanda Geller, Steven Raphael, and Amelia Haviland.

Suggested citation: Center for Policing Equity (2021). *Assessment of San Diego Police Department. Justice Navigator*, justicenavigator.org.

Exhibit D

Evaluating Policing in San Diego

By Samuel Sinyangwe, Co-Founder, Campaign Zero

Executive Summary

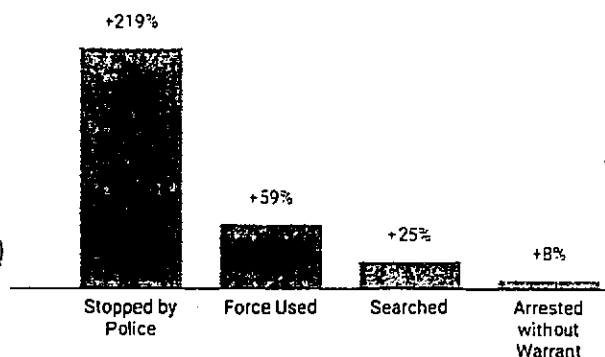
Police Scorecard evaluated the policing practices of San Diego Police Department (SDPD) and San Diego Sheriff's Department (SDSD) using data on police stops, searches, use of force, and arrests obtained through public records requests. Our analysis finds evidence of discriminatory policing by both departments. **San Diego police stopped black people at higher rates than white people in 85% of the police beats in their jurisdiction, while San Diego sheriff's deputies stopped black people at higher rates in every area of their jurisdiction.** Once stopped, San Diego police were 25% more likely to search, 8% more likely to arrest without warrant and 59% more likely to use force against black people than white people. Similar results were found for San Diego Sheriff's Department, where deputies were 21% more likely to search, 18% more likely to arrest and 47% more likely to use force against black people during a stop.

An analysis of use of force databases obtained from each department confirms and expands upon these findings - establishing that both departments not only use force more often but also use more severe forms of force against black people than other groups, even after controlling for arrest rates and alleged level of resistance. We also found evidence of anti-Latinx bias in the use of consent searches and evidence of anti-LGBT bias and bias against people with disabilities in both departments' search practices.

Finally, we reviewed each department's policy manual, use of force guidelines and police union contract and identified a range of policy solutions that would reduce police violence and discrimination, improve accountability and make San Diego safer for communities.

Anti-Black Bias in San Diego PD Stops

San Diego Police Department stopped black people at 219% higher rate per population than white people. Once stopped, black people were more likely to be searched, arrested, and to have force used against them.



Anti-Black Bias in San Diego SD Stops

San Diego Sheriff's deputies stopped black people at 130% higher rate per population than white people. Once stopped, black people were more likely to be searched, arrested, and to have force used against them.

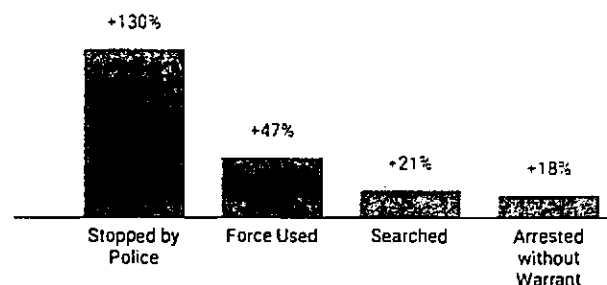


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Part 1: Analysis of San Diego Police Department

Analysis of San Diego Police Department RIPA Stops Data

Using data recently made available by San Diego Police Department under the Racial and Identity Profiling Act of 2015 (RIPA), we examined disparities by race, perceived disability status, sexual orientation and gender identity in the conduct of 158,757 police stops involving 179,710 person-stop combinations (in some cases officers stopped multiple people at once) during the 12 month period from 7/1/2018-6/30/2019.¹ During this period, San Diego police reported making 36,424 searches and 24,761 arrests during these stops and used force 3,122 times in 2,945 different encounters.²

Types and Locations of San Diego Police Stops

San Diego police reported "reasonable suspicion" as the primary reason for making half of all stops during this period (for a breakdown of the factors cited as "reasonable suspicion" in these cases, see Appendix C.1). 43% of stops were made for traffic violations and 2% were made due to "consensual encounters" resulting in a search.³

To understand which communities are most impacted by policing in San Diego, we mapped stop rates per population at the police beat level. San Diego police have 125 designated police beats throughout the city, each represented by a different beat number (as displayed on the map). The data show stop rates per population differ substantially by police beat. For example, police made 13,698 stops in the East Village (Beat #521), a rate 28x higher per population than the

San Diego Police Dept Stop Rates

San Diego Police Department Stops per 1,000 Population

	All Stops	Stops Excluding Traffic Violations
Asian		
Latinx		
Native American		
White	130.1	79.1
Pacific Islander		
Black		

¹ For this analysis, we used all of the SDPD stops data made available to date under RIPA - which includes data from July 1, 2018 - June 30, 2019.

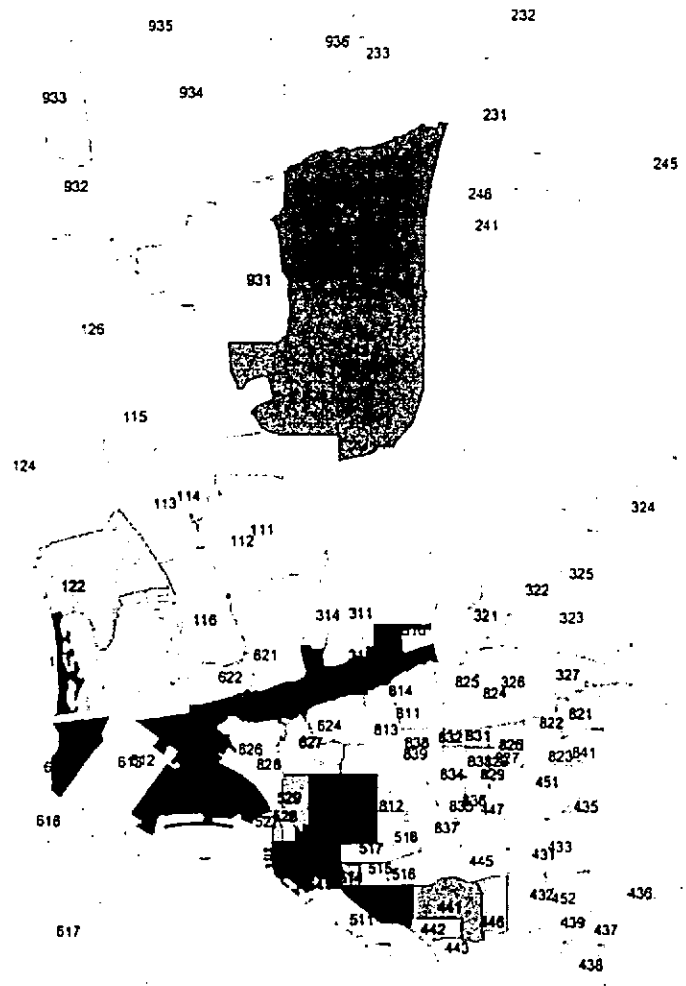
² We used person encounters for the purposes of calculating searches, arrests and use of force. SDPD assigned a stop ID to each stop and person ID for each person stopped. So search, arrest and use of force numbers reflect the number of times any person was stopped, searched, arrested or had force used against them. Since the same person could've been stopped or arrested during two or more different encounters with police during this period, the number of searches, arrests or use of force is likely higher than the number of unique individuals who were searched, arrested or had force used against them during this period. Additionally, a single use of force encounter could include multiple uses of force against the same person in the same encounter.

³ RIPA defines a consensual encounter as "an interaction in which the officer does not exert any authority over, or use any force on, a person, and the person is free to leave." Officers are instructed to select this "if a consensual encounter results in a search, regardless of whether the resulting search is consensual."

median beat, Morena (#622), Core Columbia (#524), Mission Beach (#121), Logan Heights (#512) and Border (#714) had some of the highest stop rates, while San Pasqual (#235), Broadway Heights (#435), Rancho Encantada (#245) and Scripps Ranch (#241) had the lowest rates.

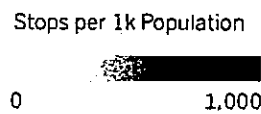
San Diego Police Stop Rates by Beat

Source: San Diego PD RIPA Stops Database, 7/1/2018 - 6/30/2019

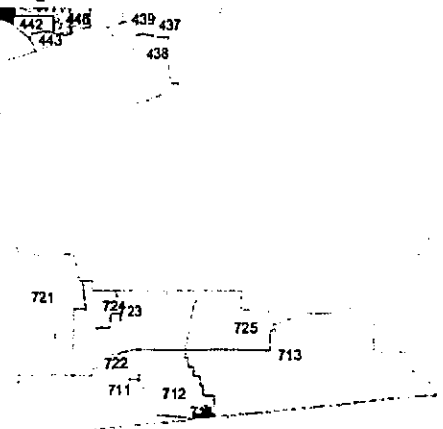


Racial Disparities in Police Stops

Racial disparities also varied by police beat. When we examine stop rates by race and police beat, we find that black people were stopped by San Diego police at higher rates than white people in 106 (85%) of the 125 San Diego police beats. Disparities in stop rates were particularly severe in some areas of the city - in 18 police beats, black people were stopped at rates more than 10x higher than white people in the same area. Beats where black people are stopped at higher rates than white people are displayed in red on the map below. We've also provided a detailed list of beats a breakdown of stop rates by race and beat [here](#).



San Diego Police Beats near the Border



Among racial and ethnic groups, San Diego Police stopped black people and Pacific Islanders at the highest rates per population. Pacific Islanders were stopped by San Diego police at 126% higher rate per population than white people. Black people were stopped at the highest rates of any other group - a rate 219% higher per population than white people.⁴ Black people were more likely to be stopped by police for both traffic violations and also for pedestrian stops.

⁴ Population data were obtained via the [2013-2017 American Community Survey](#).

Altogether, San Diego police made 35,038 stops of black people during a 12 month period in a city with a total of 88,774 black residents - an extreme level of policing impacting black San Diego residents.

"BLACK PEOPLE WERE STOPPED BY SAN DIEGO POLICE AT HIGHER RATES THAN WHITE PEOPLE IN 106 (85%) OF THE 125 SAN DIEGO POLICE BEATS."

Black People were More Likely to be Stopped by Police in 85% of San Diego Police Beats

Source: San Diego PD RIPA Stops Database, 7/1/2018 - 6/30/2019

The vast majority of these stops, across all racial groups, were initiated by officers. Fewer than 15% of stops were initiated from civilian calls for service (i.e 911 calls). For example, only 4,911 of the 35,038 stops of black people by San Diego police were initiated from civilian calls for service. This suggests racial disparities in police stops are the result of police decision-making, rather than the product of officers simply responding to calls for service from communities.

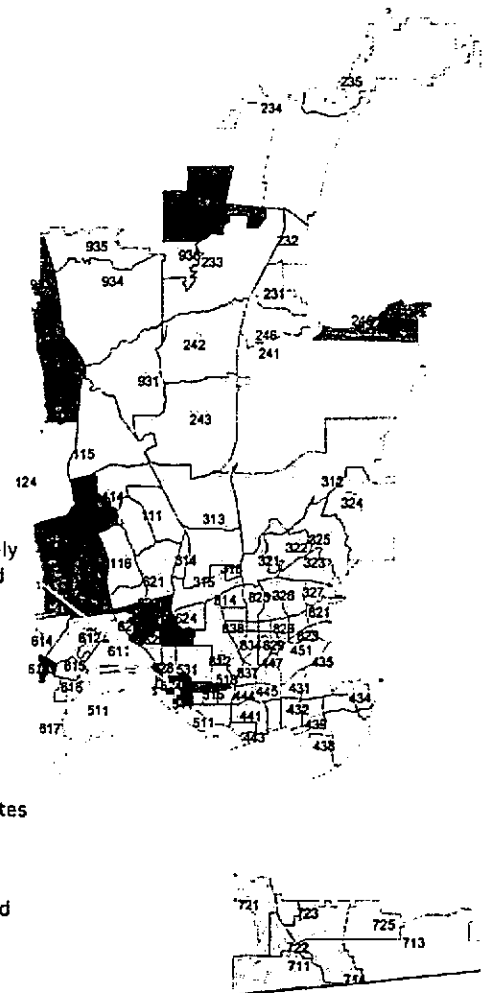
Disparities by Officer Assignment

90% of these stops were made by officers who had an assignment classified as "Patrol, traffic enforcement, field operations." The next largest assignment categories were officers with an assignment reported as "Other," followed by Gang Enforcement. When we break out stops data by assignment and race we find stops by Gang Enforcement officers have the most severe racial

Black people were 14x more likely than white people to be stopped by police in the East Village

Black-White Disparity in Stop Rates

- No Anti-Black Disparity
- More Likely to be Stopped
- 10x More Likely to be Stopped



disparities. Black and Latinx individuals were 76% of the 4,128 people stopped by Gang Enforcement officers, compared to 47% of those stopped by officers with all other assignments.

Police Conduct during Stops

24% of people stopped by San Diego police were searched, arrested or were impacted by police use of force during the stop. When we examine these outcomes by race, we find substantial racial disparities in how police treated the people they stopped. Black people were not only significantly more likely to be stopped by San Diego police - they were also

25% more likely to be searched, 8% more likely to be arrested without a warrant, and 59% more likely to have force used against them during a stop. San Diego police were also 26% more likely to search and 61% more likely to arrest Native Americans than white people during stops.

San Diego Police Stops by Race and Officer Assignment

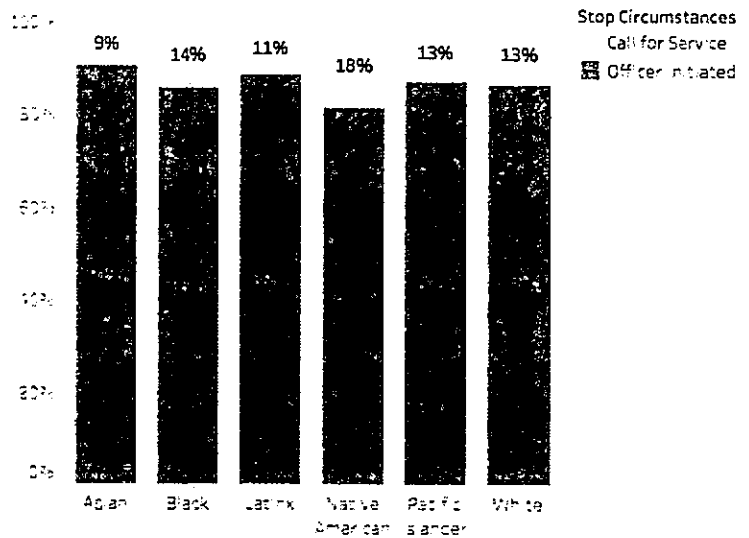
	Black	Latinx	Asian	Pacific I.	Native A.	White
Gang enforcement	30%			46%	7%	16%
Patrol/traffic enforcement, f	19%		28%	8%		44%
Compliance check	13%	18%	7%		62%	
Investigation/detective	20%		28%	8%		43%
Narcotics/drugs	23%		24%	17%		35%
Other	24%		23%			48%
Roadblock or DUI sobriety ch	20%		27%	11%		39%
Special events	29%			31%	9%	30%
Task force	36%			26%		36%
K-12 school resource officer	14%		34%	12%		38%

Evaluating Police Searches

In three-quarters of all SDPD searches, no contraband was found by officers. Moreover, when police did find contraband - it tended to have no impact on public safety. The largest category of contraband found was drugs or drug paraphernalia - representing two-thirds of all contraband found. By contrast, fewer than 1% of searches reported finding a gun. SDPD searches were only half as likely to find a firearm as searches by the LAPD in 2018. This suggests SDPD is engaged in excessive and intrusive search practices that do not appear to advance a public safety goal.

Evaluating Racial Discrimination

The contraband "hit rate" or "outcome test" has been established in the research literature as a useful, albeit imperfect measure of evaluating police searches for discrimination. Using this method, if police search a group at a higher



rate despite being less likely to find contraband during these searches (illegal guns, drugs, etc), it suggests police are discriminating against that group. Examining overall search outcomes by race yields mixed results initially: searches of Latinx people resulted in contraband being found at slightly lower rates than white people and searches of black people resulted in contraband being found at slightly higher rates. After accounting for the level of discretion officers had when making these searches, however, we find evidence of discrimination against black and Latinx people in circumstances where officers have the most discretion.

“BLACK PEOPLE WERE 23% MORE LIKELY AND LATINX PEOPLE WERE 60% MORE LIKELY TO HAVE SAN DIEGO POLICE CONDUCT A CONSENT SEARCH...AND WERE LESS LIKELY THAN WHITE PEOPLE TO BE FOUND WITH CONTRABAND DURING THESE SEARCHES.”

Consent Searches

To better understand how race may inform officer's decisions to search people, we examined the types of searches where officers have the most discretion - and therefore where officer bias may be most likely to occur. For example, officers have more discretion to conduct a search based on the consent of the person being searched than they do when conducting a search pursuant to a search warrant. The stops data provided by San Diego police includes 2,565 searches where the police reported no basis for the search other than consent being given. When we examine the data on this "high discretion" category of searches, we find evidence that officers are conducting consent searches in ways that discriminate against black and brown people. Black people were 23% more likely and Latinx people were 60% more likely to have San Diego police conduct a consent search on them during a stop.⁵ And while black and Latinx people were more likely to experience consent searches by SDPD, they were less likely than white people to be found with contraband during these searches - suggesting the presence of racial discrimination in the use of consent searches.

⁵ Consent searches were coded as searches where the only reported search basis was "consent given."

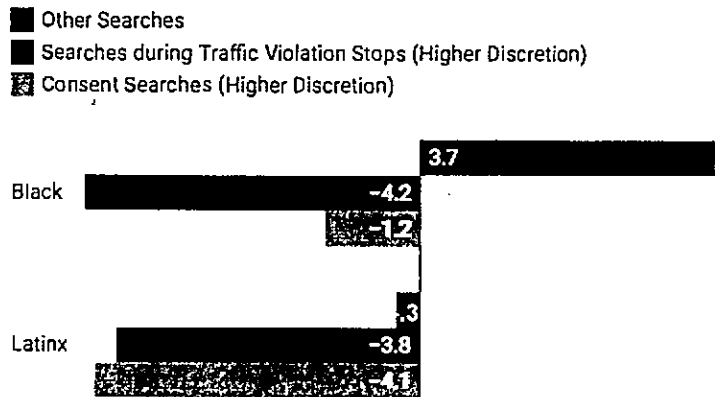
Pretext Stops

San Diego police searched 6,614 people after pulling them over for an alleged traffic violation. These types of searches are also more likely to be discretionary and vulnerable to racial bias. Because traffic violations are so common and often enforced inconsistently, officers could decide to pull someone over for a minor traffic violation as a pretext to search and investigate someone, without evidence, for an unrelated issue. The data show San Diego police were more likely to pull over people of color - especially black people - for equipment violations where police have substantial discretion (for example, driving with a brake light or plate light out).

After being pulled over for a traffic violation, San Diego police were then 44% more likely to search Latinx people and 133% more likely to search black people compared to their white counterparts. There appears to be no justification for these search disparities - police were less likely to find contraband from searches of black and Latinx people during these stops than white people.

In situations where San Diego police had more discretion, racial disparities in search outcomes were more severe.

Police were less likely to find contraband on Black and Latinx people than White people during the types of searches where officers had the most discretion, indicating racial bias.

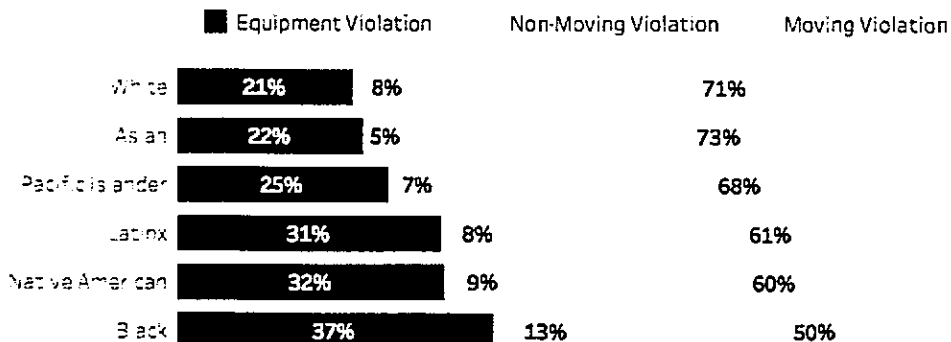


Displays the rate of contraband being found by San Diego police during a search relative to the rate for searches of white people.

These findings suggest officers are engaging in racially biased decision-making in situations where they have the most discretion - when conducting consent searches or when pulling people over for minor violations that can serve as a pretext to search people of color.

People of color are more likely to be stopped by SDPD for equipment violations.

San Diego police stops for traffic violations, 7/1/18-6/30/19



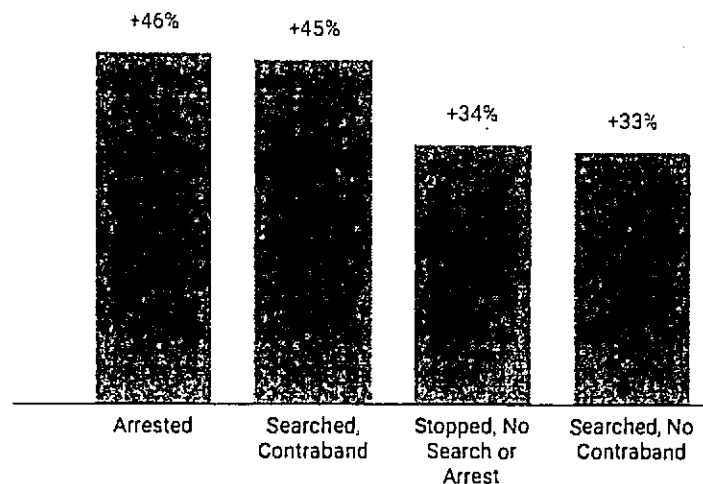
Evaluating Other Forms of Police Discrimination

In addition to search rates, there were other aspects of SDPD's conduct that show evidence of racial discrimination. San Diego police were more likely to use force against black people when making an arrest or conducting a search - whether or not contraband was found. In fact, racial disparities in the use of force *increased* for stops where San Diego police made an arrest and for stops where they found contraband following a search. Police were 46% more likely to use force against black people than white people during an arrest and 45% more likely to use force against black people found with contraband compared to whites found with contraband. This is consistent with previous research showing that police tend to punish black people more severely for the same suspected offenses (i.e. possessing contraband and/or being suspected of an arrestable offense). A deeper investigation into San Diego police use of force, which confirms these findings using a more extensive database of use of force incidents, is provided in the Use of Force section of this report.

Bias Against People with Disabilities

San Diego police were more likely to use force against Black people

San Diego Police Department were more likely to use force against Black people than White people - whether or not the person was arrested or found with evidence of a crime.



San Diego PD RIPA Stops Data, 7/1/2018-6/30/2019

“SAN DIEGO POLICE WERE MORE LIKELY TO SEARCH AND USE FORCE AGAINST PEOPLE WITH DISABILITIES DURING A STOP, DESPITE BEING LESS LIKELY TO FIND CONTRABAND”

When stops data are examined by disability status, we find that San Diego police were more likely to search and use force against people with disabilities during a stop, despite being less likely to find contraband during these encounters. Moreover, this trend persists across racial groups - white, black, and Latinx people with disabilities were all more likely to be searched than their peers despite being less likely to be found with contraband.

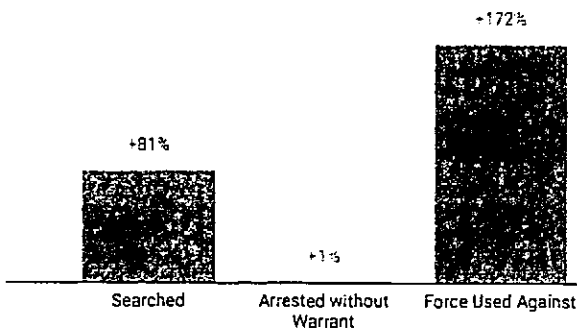
The largest disparities in searches and use of force involve encounters with people perceived to have mental disabilities. Specifically, people perceived to have mental disabilities were 81% more likely to be searched and 172% more likely to experience police use of force than people who were not perceived to have a disability. And while police found contraband 24% of the time when searching people who were not perceived to have disabilities, only 10% of searches of people perceived to have mental disabilities yielded contraband. This suggests San Diego Police Department have been engaged in biased policing towards people with disabilities, especially people perceived to have mental disabilities. And within this group, black and Latinx people perceived to have disabilities were searched at the highest rates (see Appendix C.6).

Bias Against LGBT and Gender Non-Conforming People

4,523 people stopped by San Diego police during this period were perceived by officers to be LGBT and 119 people were perceived to be Gender Non-Conforming. San Diego police were more likely to search, arrest without warrant and use force against people they perceived to be LGBT or Gender Non-Conforming. Police were more likely to search these groups despite being less likely to find contraband as a result - an indicator of police bias. This anti-LGBT bias intersected with racial bias - black and Latinx people who police perceived to be LGBT experienced the highest search rates (see Appendix C.7).

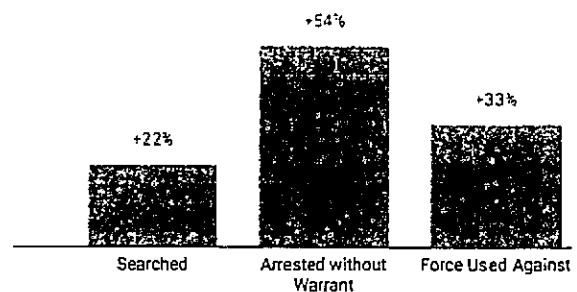
Bias Against People with Mental Disabilities in San Diego PD Stops

San Diego police were 81% more likely to search people with mental disabilities during a stop and more than twice as likely to use of force against them.



Bias Against People Perceived to be LGBT in San Diego PD Stops

San Diego police were 22% more likely to search people they perceived to be LGBT during a stop and more likely to arrest and use force against them.



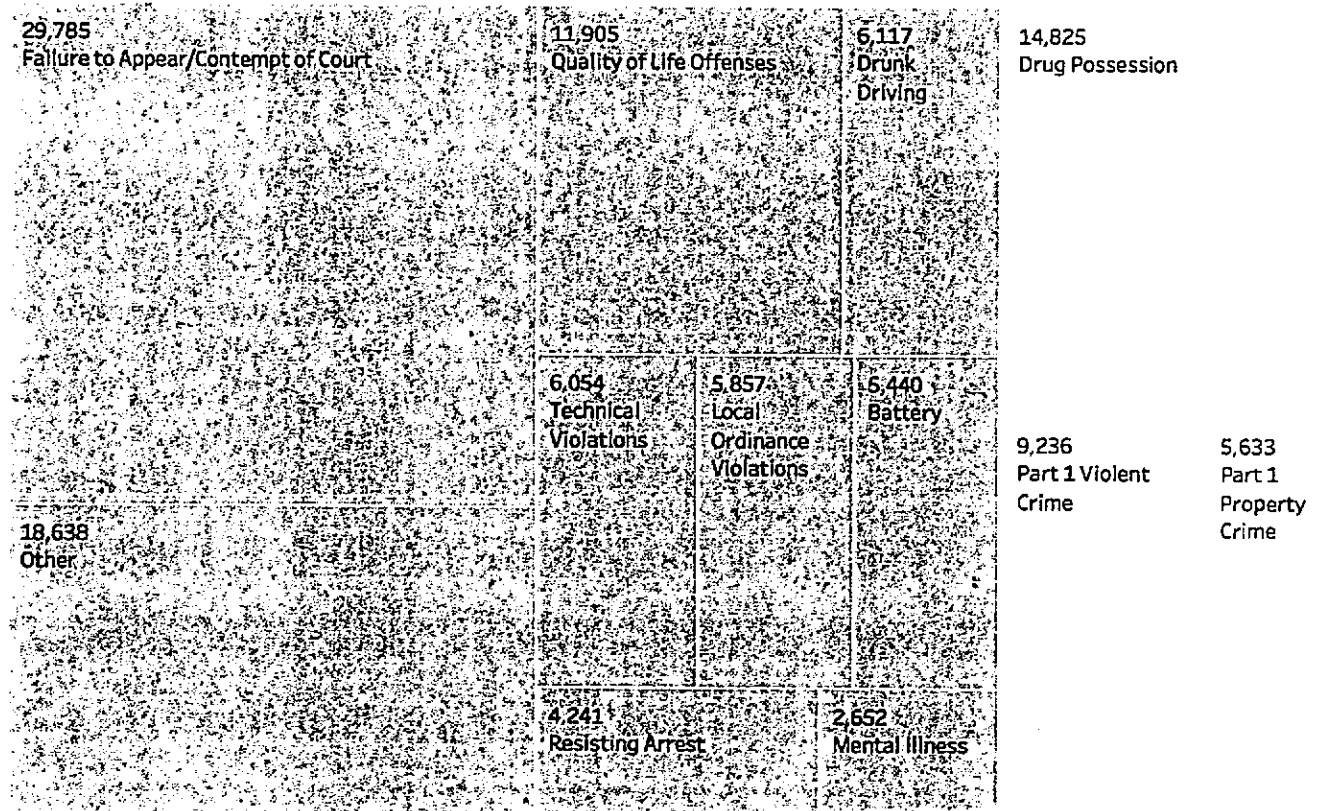
RIPA Stops Data, 7/1/18-6/30/19

Arrests

We obtained individualized arrests data San Diego Police Department including 88,372 arrests made from 2016-2018, including the demographics of each person arrested and each individual offense or violation they were charged with. 7 in every 10 arrests made by San Diego police during this period were for misdemeanor offenses. Moreover, San Diego police made nearly as many arrests for drug possession alone as they did for all Part 1 Violent and Property Crimes combined. This strategy of predominantly making low-level arrests disproportionately impacts black communities. Black people were 4.2x more likely to be arrested for misdemeanor offenses overall and 4.1x more likely to be arrested for drug possession, despite research showing black and white people use and sell drugs at similar rates. By contrast, San Diego police arrested Latinx and white people at similar rates in 2016 for drug possession and for misdemeanors overall.

San Diego police reported making 88,372 arrests from 2016-2018, charging people with over 120,000 offenses. Most were low-level offenses.

Source: Data obtained from San Diego Police Department

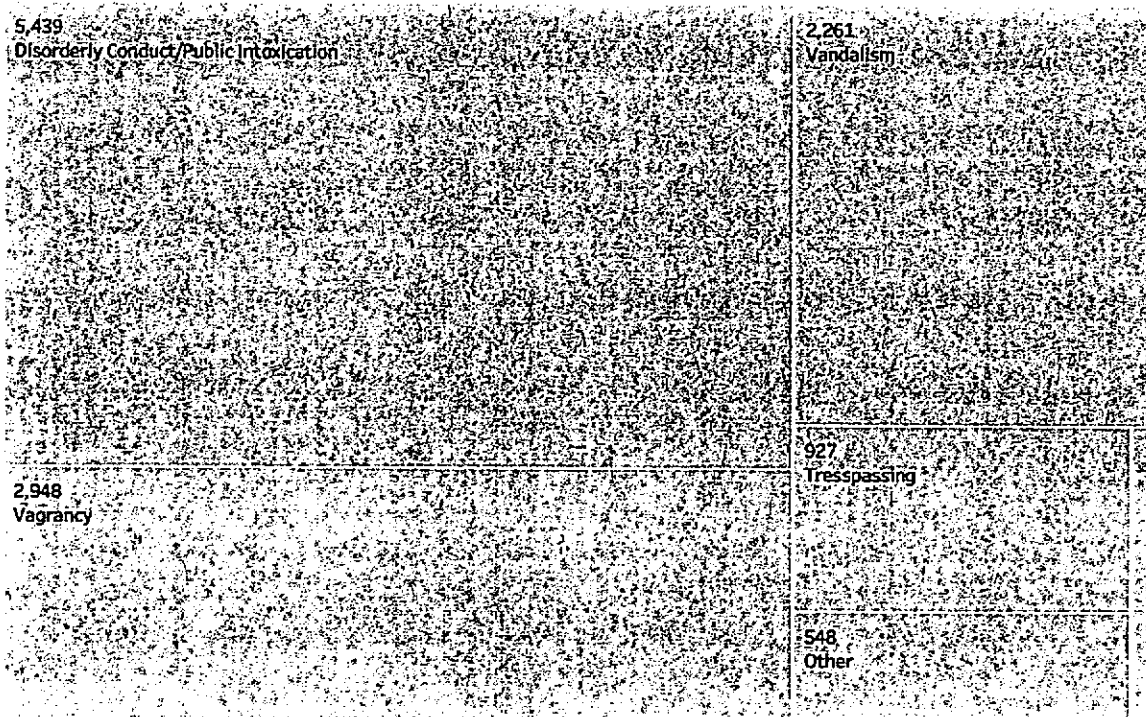


Examination of Arrests for Quality of Life Offenses.

Nearly 12,000 arrests from 2016-2018 were for Quality of Life offenses such as public intoxication, loitering, trespassing and prostitution. Of these, disorderly conduct/public intoxication made up the largest share of arrests. 2,948 people were reportedly arrested for vagrancy - living in a home or structure without consent of the owner - an issue disproportionately impacting homeless populations.

San Diego Police Department Quality of Life Arrests, 2016-2018.

Source: Data obtained from San Diego Police Department



An additional 5,857 arrests were categorized separately as municipal ordinance violations, though many were also consistent with Quality of Life arrests. For

example, "encroachment" represented the largest category of arrests for municipal code violations, which has been cited in previous reporting as a tactic used by San Diego police to target homeless populations. Similarly, the code violations of camping, urinating/defecating in public, open container of alcohol, trespassing, rules to be followed;posting, and posting handbills in park are also consistent with Quality of Life arrests. Together, these categories made up 15,633 arrests - 18% of all

SDPD Municipal Code Arrests, 2016-2018

Code Section	Violation	Number of Arrests
54.011	Municipal Code: Encroachment	2,525
58.0102(A)	Juvenile Curfew Violation	947
58.05(B)(1)	Daytime Loitering - Compulsory Edu	845
63.0102B1	Posting Handbills in Park	588
63.20.13	Rules to be Followed; Posting	377
58.01	Curfew	234
58.05(8)(2)	Daytime Loitering - Alternative Edu	128
56.54(8)	Open Container of Alcohol	101
58.D4	Minor in Possession of Tobacco	74
85.1	Parking Violation	73
52.80.01A	Trespassing on Private Business	67
56.55	Urinating/Defecating in Public	58
63.0102b12	Camping	12

San Diego police arrests from 2016-2018.

Examining Youth Arrests

San Diego police reported making 8,200 arrests of people under the age of 18 from 2016-2018. These arrests disproportionately impacted black youth, who comprised 19% of all youth arrests despite being only 7% of the population under 18 in the City of San Diego. Arrests of people for "Mental Illness" (i.e. code 5150) comprised a quarter of all youth arrests. Juvenile Curfew and Daytime Loitering - Compulsory/Alternative Education were the next most frequent offenses. Collectively, these offenses were associated with the majority of youth arrests. Moreover, these offenses are utilized almost exclusively to arrest youth. For example, the three most frequent arrest categories for youth each have fewer than 65 total adult arrests. The use of policing and arrest to address situations that overwhelmingly apply to youth should be reconsidered.

San Diego police youth arrests by race, 2016-2018.

Asian / Pacific Islander	6.9%
Black	18.8%
Latinx	47.5%
Other	1.9%
White	25.0%

San Diego police made 8,200 youth arrests from 2016-2018.

Offense categories with 100 or more SDPD arrests of people under the age of 18

	Under 18	18-29	30+
MENTAL ILLNESS / 5150	2,590	24	39
JUVENILE CURFEW VIOLATION	1,174	7	
DAYTIME LOITERING - EDUCATION	971	2	
POSS MARIJUANA SCHL GRNDS	455	54	88
MOD COURT ORD:COMMIT/PROB	396	66	
BATTERY	257	590	785
POSS MARIJ OVER 28.5 GRAM	200	26	55
DELINQUENCY	186	2	
POSS WEAPON AT SCHOOL	173	2	3
OBSTRUCT/ETC PUB OFCR/ETC	173	1,613	1,973
VANDALISM	169	855	1,063
MINOR POSSESS ALCOHOL	148	18	
THEFT PERSONAL PROPERTY	118	86	146
BENCH WARRANT:FTA:MIS CHG	111	8,263	16,801
ROBBERY	108	232	155
DISORD CONDUCT:UI/DRUG	102	2,091	3,254

Use of Force

San Diego Police Department began collecting detailed, individualized use of force data on September 25, 2016. We conducted an analysis of this dataset, which includes all use of force incidents through December 31, 2018, to determine the extent to which there were racial disparities in the use of force and how these

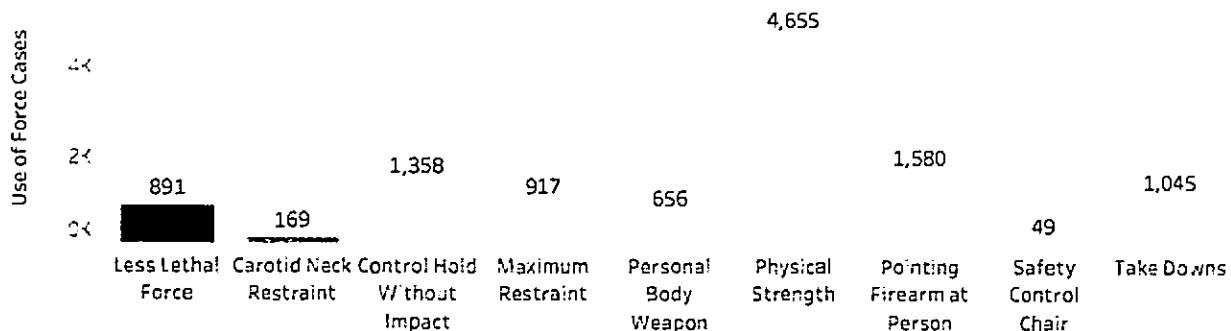
outcomes compared to other police departments in the state. During this period, San Diego police reported 13,553 uses of force⁶ in 8,660 encounters involving 8,280 different civilians.

Use of Force in Comparison to Other Departments

Among various use of force options, weaponless physical force and pointing firearms at civilians were the most frequent types of force reportedly used against civilians by San Diego police. To compare use of force by San Diego police with other agencies within the state, we developed a “use of force” index that includes the types of force that are most commonly reported across police agencies. This includes police use of batons, tasers, chemical agents, bean bag shotguns and potentially deadly tactics such as strangleholds against civilians. Collectively, the types of force in our use of force index include the most serious use of force incidents that do not involve the use of a firearm. There were 1,060 cases involving these types of force in 2017-2018 and 59,152 arrests reported by San Diego police during this period - a use of force index rate of 179.2 cases per 10,000 arrests.⁷

San Diego Police Use of Force Cases, 2017-2018

Source: Records obtained from San Diego Police Department



We obtained data on the number of uses of each of these types of force from 42 of the 100 largest California police departments via public records requests. Since SDPD’s use of force dataset begins in late 2016, we compared SDPD use of force outcomes from 2017-2018 to the number of these types of force used by the other agencies in California during this period and benchmarked use of force rates using 2017-2018 arrests data from the [FBI Uniform Crime Report](#). The data show that San Diego police used these types of force at a higher rate than 95% of the police departments in our analysis. San Diego police used strangleholds and weapons other than firearms against people at a rate 14% higher per arrest than San Jose police, 98% higher

⁶ There can be more than one use of force in a single encounter with a civilian.

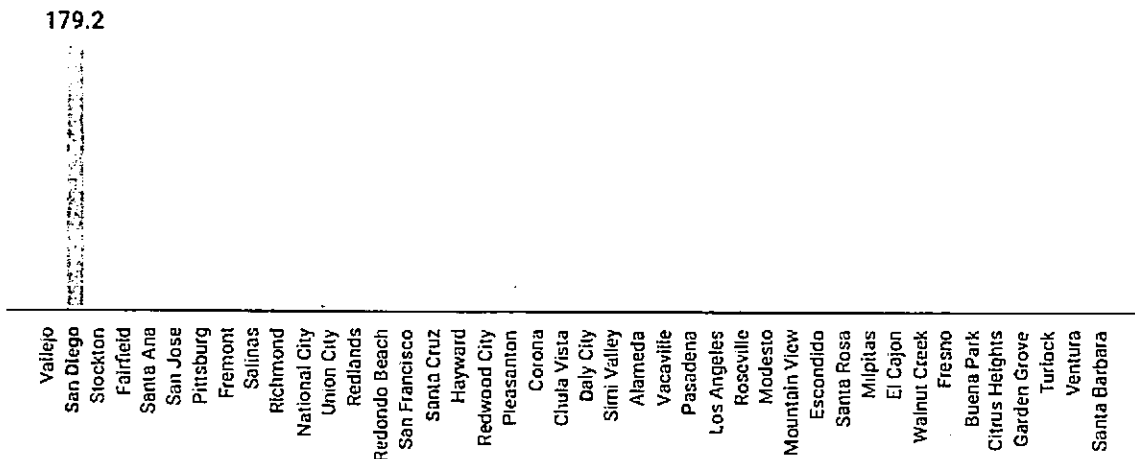
⁷ Using the number of unique cases involving the use of force yields a more conservative estimate of use of force rates consistent with the way use of force is reported in reports obtained from other large agencies such as LAPD and San Jose PD. For reference, we’ve included tables in Appendix C showing the use of force outcomes on both case and report levels. Use of force rates were benchmarked using arrest rates from the Monthly Arrests and Citations Register database.

than San Francisco police, 211% higher than Los Angeles police, and 341% higher than Fresno police (see Appendix C.10 for use of force calculations for all agencies).

SAN DIEGO POLICE USED FORCE AGAINST PEOPLE AT A HIGHER RATE THAN 95% OF THE 42 CALIFORNIA POLICE DEPARTMENTS THAT PROVIDED US USE OF FORCE DATA.

San Diego Police Department uses Force at Higher Rates than Most CA Police Departments

Use of Force Index Incidents per 10,000 Arrests, 2017-2018



The Use of Force Index includes all uses of tasers, batons and other impact weapons, projectiles, neck restraints and chemical agents reported by Agencies. Data obtained from Agencies via Public Records requests.

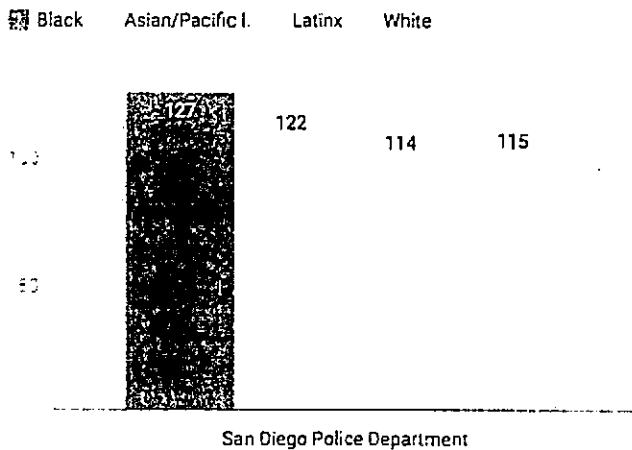
Source: Data obtained from agencies via a public records request. Created with Datawrapper.

Racial Disparities in Police Use of Force

To examine racial disparities in all use of force cases (both force involving weapons and weaponless force), we used the full SDPD use of force database spanning 9/25/2016 - 12/31/2018. We benchmarked these data by the total number of arrests made, by race, during this period. The data show that black people are 10% more likely to have San Diego police use force against them compared to white people, after controlling for arrests. Asian / Pacific Islanders were 6% more likely to have force used against them, though this was not statistically significant. By contrast, there were similar use of force rates per arrest between Latinx and white people. While there were racial disparities in the likelihood of experiencing *some form* of police use of force *once a person is being arrested*, the likelihood of being arrested in the first place varied substantially by race. Black people, in particular, had substantially higher arrest rates *and* more exposure to police use of force during arrest - resulting in a 5x higher use of force rate per resident than white people (see Appendix C.11).

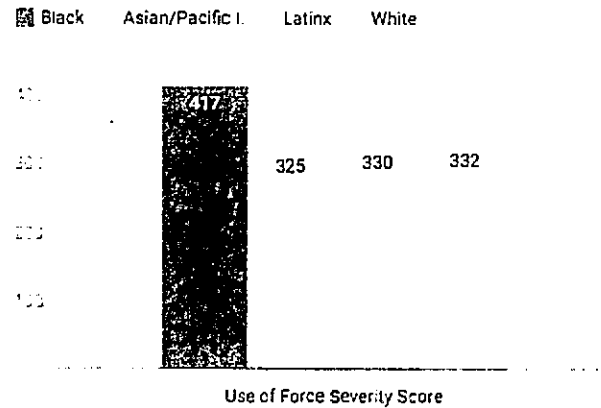
San Diego Police Use of Force by Race

Use of Force Cases per 1,000 Arrests



San Diego Police Use of Force Severity Score by Race

San Diego police used higher levels of force against Black people during Use of Force incidents



Evaluating Use of Force Severity

Overall use of force rates can mask differences in the types and severity of force that police use against different groups during use of force incidents. We calculated a weighted severity score to determine the severity of force used against each racial group by San Diego police. Using a methodology developed by the Center for Policing Equity, we assigned more severe forms of force a higher score while less severe forms of force received a lower score. This methodology assigns the following weights to each type of force:⁸

- Police shootings were assigned a weight of 6.

⁸ Incidents involving safety control chairs, maximum restraints and pointing a firearm were excluded from the force severity analysis consistent with the methodology used in the CPE report. For reference, we included the scores with all SDPD force types included in Appendix C, whereby pointing a firearm, safety control chairs and maximum restraints were assigned a score of 2 consistent with other weapon incidents.

- Beanbag Shotguns, Strangleholds and Taser Incidents were assigned a weight of 5.
- Canine incidents were assigned a weight of 4.⁹
- OC spray incidents were assigned a weight of 3.
- All other weapon incidents were assigned a weight of 2.
- Hands and body incidents were assigned a weight of 1.

The results reveal that San Diego police are not only more likely to use force against black people overall, but also use more severe forms of force on average during these encounters. Generally, San Diego police used force 25% more severe per arrest when encountering a black person compared to a white person. After controlling for the subject's level of resistance, black people were still more likely to have a more severe level of force used against them for all levels of resistance except for the most extreme (life-threatening resistance) - which represented only 1% of use of force incidents (See Appendix C.12).

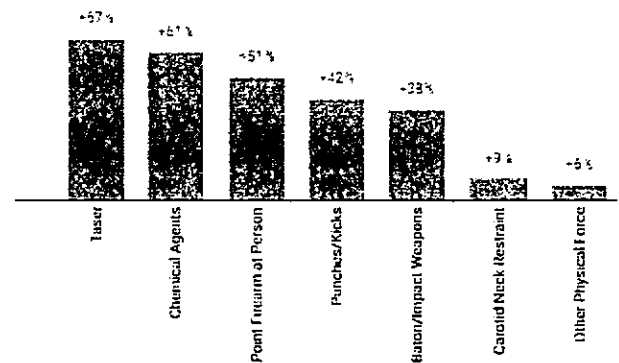
“THE RESULTS REVEAL THAT SAN DIEGO POLICE ARE NOT ONLY MORE LIKELY TO USE FORCE AGAINST BLACK PEOPLE OVERALL, BUT ALSO MORE SEVERE FORMS OF FORCE ON AVERAGE DURING THESE ENCOUNTERS.”

Types of Force Used

Among the various force options available to San Diego police, physical force¹⁰ and pointing a firearm at a civilian were used most frequently. After controlling for arrest rates, San Diego police were more likely to use most of these force types on black people, including the use of physical force, pointing firearms, pepper spray, tasers and impact weapons. Police were also more likely to point a firearm at Latinx people than white people, though Latinx people were not more likely to experience other forms of police use of

San Diego police were more likely to use weapons and other types of force against Black People

Likelihood of using type of force against Black people compared to White people, after controlling for arrest rates.



San Diego PD Use of Force and Arrests Data, 9/25/2016 - 12/31/2018

⁹ SDPD did not report any canine incidents in its use of force database during the 2016-2018 period.

¹⁰ Physical force includes weaponless force such as “physical strength,” take downs, control holds, punches and kicks.

force. Only the use of restraints and safety control chairs were more likely to be used on white people, types of force that tend to be used in the context of mental or emotional health crises.

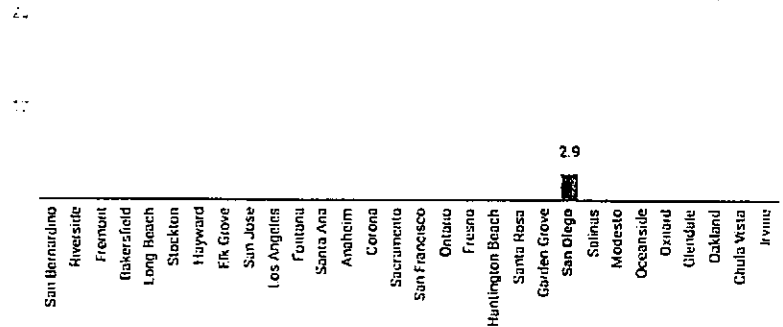
Use of Deadly Force

San Diego Police Department reported 26 deadly force incidents to California Department of Justice's URSUS database from 2016-2018, including - 19 police shootings and 7 other force incidents causing death or serious injury. Altogether, 10 people died and 9 were seriously injured in these incidents.¹¹ San Diego police made 88,372 arrests during this period, resulting in a deadly force rate of 2.9 incidents per 10,000 arrests. As such, San Diego police used deadly force at a rate slightly below the statewide average - using it *more than 37% of California's 100 largest municipal departments from 2016 through 2018*. Nevertheless, we identified several issues in these cases that suggest further changes to department policies and procedures could significantly reduce the use of deadly force in the future:

- In at least 8 of the 26 incidents (31%), the person was unarmed. By contrast, there were 7 incidents (27%) where the person was reportedly armed with a gun.
- At least 8 of 26 incidents (31%) involved people who had mental health issues or who were under the influence of drugs/alcohol at the time of the encounter. Six of these people reportedly had signs of mental illness and the other two reportedly were under the influence of drugs/alcohol at the time.
- 4 of the 19 police shootings (21%) involved San Diego police shooting at someone who was in a moving vehicle and not presenting any threat to officers or the public other than the vehicle.
- In 16 of the 19 police shootings (84%), San Diego police officers shot at the subject *without first attempting to use non-lethal force to resolve the situation*. This suggests a need for stronger deadly force policies and better enforcement of these standards to emphasize alternatives to deadly force whenever possible.

San Diego Police Department uses Deadly Force at Lower Rates than Most CA Departments

Deadly Force Incidents per 10,000 Arrests for the 30 largest CA Police Depts, 2016-2018



Analysis includes the Police Departments for the 30 largest CA cities. Deadly force incidents include all firearms discharges and other force causing death or serious injury. Data obtained via CA DOJ URSUS database.

¹¹ In one of these cases, a man died after being shot by police multiple times and then shooting himself.

Police Accountability

When civilians come forward to report police misconduct, it rarely led to accountability in San Diego. Of 226 reported civilian complaints in 2016 and 2017, only 11% were ruled in favor of civilians.¹³ Moreover, complaints alleging the most serious misconduct were never sustained. For example, of 21 civilian complaints of police discrimination, 75 use of force complaints and 2 complaints alleging criminal misconduct, none of these complaints were sustained. Moreover, due to restrictions in state law preventing accessing police officer personnel files, most of the officers involved in these incidents remain undisclosed to the public and we cannot determine what discipline, if any, they received.

Due to the recent passage of California Senate Bill 1421, records of police deadly force as well as sustained allegations of sexual assault and official dishonesty are now considered public record. However, the vast majority of complaints made against SDPD during this period are not included within the scope of that legislation and San Diego Police Department still has yet to release many of the records that *are* eligible for disclosure. For example, records of at least 8 of the 19 police shootings from 2016-2018 have not yet been released as of 11/20/2019. Among the records that have been released, the same officer - Richard Butera - is named in three different police shootings, suggesting a serious lack of accountability for police deadly force within the San Diego Police Department.

¹³ While we requested complaints data for 2018, San Diego Police Department indicated they had "no responsive records" on this subject.

Policy Review and Recommendations for San Diego Police Department

A review of San Diego police department's policy manual, procedures and police union contract identified a number of areas where new policies could contribute towards addressing the outcomes described in this report.

1. Expand Alternatives to Arrest for Low-Level Offenses

Our review of San Diego police arrest data identified a number of low-level offenses that could be decriminalized entirely or deprioritized for enforcement. These offenses tended to involve drug possession, status offenses, and quality of life offenses that posed no threat to the public or property. Instead of a policing-based response to these activities, alternative responses should be developed or expanded that send substance abuse counselors, mental health professionals and other civilian responders to the scene instead of armed police officers. In these cases, subjects should not be arrested or incarcerated but rather provided with community-based services and supports. For example, the CAHOOTS program in Eugene, OR deploys mental health providers instead of police officers to calls involving a suspected mental health crisis - responding to nearly 1 in 5 calls for service citywide. Similarly, the Los Angeles County Sheriff's Department's Mental Health Evaluation Teams have been credited with preventing as many as 671 use of force incidents and 4 police shootings in 2018 and 2019.

2. Implement More Restrictive Use of Force Policies

San Diego police policy manual and use of force procedures lacked a number of restrictions on the use force that have effectively reduced the force in other jurisdictions.

A. Require Officers to Use De-Escalation

Unlike 43 of the nation's 100 largest departments, San Diego police department policies do not explicitly require officers to use de-escalation when possible prior to using force. Instead, the policy states that de-escalation or disengagement "may" be used in some circumstances and cautions officers that this tactic "may not be possible" in some situations.

"Disengagement or de-escalation is a tactic that an officer may employ in an attempt to resolve the situation. If an officer does not have adequate recourses to safely control a situation, or if disengagement or deescalation would assist in resolving a situation with a lower force level, an officer may disengage from the incident or de-escalate the force option. Disengagement or de-escalation may require an officer to move to a tactically sound position and wait for additional resources. Disengagement or deescalation may not be possible."

De-escalation requirements have been shown to significantly reduce the use of deadly force. San Diego police department should revise their use of force procedure to clarify that the use of de-escalation is a requirement for all officers whenever possible rather than the use of force.

B. Ban Shooting at Moving Vehicles

San Diego police department's use of force procedure allows officers to shoot at moving vehicles even if the vehicle is considered the only threat:

"H.6. Officers shall not discharge a firearm at an occupant of a vehicle unless:

- a. The officer has probable cause to believe that the subject or the vehicle poses an immediate threat of death or serious physical harm to the officer and there is no reasonable alternative for the officer to avoid the harm; or,*
- b. The officer has probable cause to believe that the subject or the vehicle poses an immediate threat of death or serious physical harm to other persons."*

This policy is inconsistent with the recommendations of the US Department of Justice and law enforcement groups such as the Police Executive Research Forum, which have recommended that police departments ban shooting at moving vehicles unless an occupant of the vehicle is using deadly force by means other than the vehicle (for example, shooting at someone from the vehicle). If such a policy was implemented in San Diego, it would likely have restricted officers from shooting at vehicles in 21% of San Diego police shootings from 2016-2018.

C. Ban the use of Carotid Restraints / Strangleholds

San Diego's use of force procedure allows officers to use Carotid Restraint Holds (a form of stranglehold) against civilians in situations where deadly force would not be authorized:

"IV. I. Greater Controlling Force – The force needed to control a subject who engages in Active Resistance. This level of force may involve the use of techniques such as takedowns, distractions techniques, chemical agents and the carotid restraint."

From 9/25/2016 - 12/31/2018, San Diego police used this dangerous tactic on 208 people. Only 6 of these cases (3%) reportedly involved a "life-threatening" level of resistance from the subject, while 153 cases (74%) involved someone who was reportedly "passively" or "actively" resisting. In departments such as San Jose, Los Angeles, San Francisco, Berkeley and Corona, the use of Carotid Restraints and Chokeholds are banned or limited to deadly force situations. By banning the use of Carotid Restraints, San Diego police can reduce the risk of injury or death to civilians.

3. Address Anti-Black Bias in Policing Outcomes

Our findings indicate that black people, in particular, had both high arrest rates *and* high exposure to police use of force as a population - experiencing 5x higher use of force rate per resident. As such, policymakers should consider measures designed to both reduce the overall number of black people arrested by San Diego police

as well as measures to address anti-black bias in police use of force during the process of arrest. At the assignment level, the Gang Unit, Narcotics, and Task Force officers stopped black people at higher rates than officers working other assignments. Policymakers and police leadership should re-examine the utility of continuing to assign officers to these units given their racially disparate impact. Moreover, given the new RIPA data collection requirements, the San Diego Police Department should already have all the data needed to identify which officers, specifically, exhibit a pattern of anti-black bias in stops, searches, arrests and use of force. This information should be used to hold these officers accountable and protect black communities from discriminatory policing.

4. Ban Consent Searches and Stops for Equipment Violations

When San Diego police officers had more discretion - during "consensual" encounters or stops for routine traffic violations - they tended to use this discretion to search black and Latinx individuals at higher rates despite being less likely to find contraband during these searches. Racial disparities were particularly high for traffic stops for equipment violations, suggesting San Diego police may be conducting these stops as a pretext to investigate black and Latinx drivers. As a strategy to protect residents - especially black and brown residents - from intrusive and unnecessary police contact, SDPD officers should be required to have probable cause to initiate a search and stops for equipment violations should be banned.

5. Remove Language in the San Diego Police Union Contract to Strengthen Investigations and Accountability

A review of San Diego's police union contract identified contract language that imposes unfair and unnecessary limits on the department's ability to investigate and adjudicate allegations of officer misconduct. For example, Section 41.D.1 imposes a 3 business day delay in interrogations of officers - a period that can only be reduced on a case-by-case basis by the Assistant Chief:

"Any officer or officers under investigation will receive at least three (3) working days notice prior to an interrogation except where a delay will hamper the gathering of evidence as determined by an Assistant Chief."

Policing experts such as Professor Samuel Walker have cited provisions imposing delays in interrogating officers as "unreasonable" and inconsistent with "best-practices" including those articulated in DOJ consent decrees. Such language should be removed from the contract and replaced with a practice of interrogating officers as soon as possible following a misconduct incident/receipt of a misconduct allegation. For example, Washington D.C.'s police union Section 13.3 states that:

"Where an employee can reasonably expect discipline to result from an investigatory interview, or the employee is the target of an administrative investigation conducted by the Employer, at the request of

the employee, questioning shall be delayed for no longer than two hours in order to give the employee an opportunity to consult with a Union representative.”

6. Strengthen Community Oversight to Ensure Accountability

Low sustain rates for SDPD complaints, especially complaints alleging use of force violations, suggest changes to existing investigatory and oversight structures are warranted. For example, the current San Diego's Community Review Board on Police Practices has the power to review internal affairs investigations but cannot independently investigate complaints of misconduct or subpoena witnesses. This board should be replaced with an independent community structure that has the power to conduct independent investigations, subpoena witnesses and documents, and impose discipline as a result of their findings. For example, San Francisco's Department of Police Accountability has many of these powers and, in combination with the city's police commission, gives civilians the power to impose discipline on officers in cases where the police department fails to do so.

7. Improve Data Transparency, Reporting and Compliance with the Racial Identity Profiling Act

A. Address Inconsistencies in the Use of Force Data Reported by San Diego Police Department:

There were notable inconsistencies between the use of force and arrests databases provided by San Diego Police Department and the data that SDPD reported to the RIPA program. During the period where these two databases overlap, from 7/1/18 - 12/31/18, there were 1,554 uses of force reported to the RIPA program¹ and 2,476 uses of force reported in San Diego Police Department's use of force database. A few categories of force were required to be reported by SDPD that were not required by RIPA - for example the use of safety control chairs and maximum restraints. However, inconsistencies remained even among those types of force that were reported to both databases. Based on the number of cases in the department's use of force database, use of force involving police pointing a firearm at people, using batons, chemical spray, or other forms of physical or vehicle contact² were under-reported to the RIPA program during this period.³ Additionally, while 13 canine incidents were reported to RIPA, they weren't included within the department's use of force database, indicating the

¹ There was also 1 firearms discharge which was reported to RIPA that did not show up in the SDPD use of force database because this information was stored in a separate database. This is excluded from the chart because it was reported and provided by SDPD separately.

² Consistent with RIPA guidelines, we used cases involving carotid restraints, control holds without impact weapons, take downs, personal body weapons and physical strength to compare to the number of "Physical or Vehicle contact" incidents. This is a conservative estimate since vehicle contacts are not included in the SDSD use of force database, but are included in this RIPA category. We also included batons, hard impact weapons and control hold with impact weapons to compare to the RIPA force reporting category of "Batons and Other Impact Weapons."

³ For this analysis, we used the number of use of force cases reported in SDPD's use of force database rather than the number of instances where force was used. This obtains a more conservative estimate, consistent with how force is reported to RIPA, that counts multiple uses of the same type of force against someone as one use of force. Still, there remained more cases in the SDPD use of force database than were reported to RIPA.

department's internal databases should be strengthened to incorporate data that is inclusive of all use of force types.

San Diego police reported different use of force totals to RIPA than are included in their use of force database

Total use of force cases reported in San Diego Police Department's use of force database compared to the number of cases SDPD reported to RIPA during the 7/1/18 - 12/31/18 period

SDPD Action	RIPA Database	Use of Force Database	Percent Reported to RIPA
Baton or other impact weapon used	11	34	32%
Chemical spray used	97	136	71%
Electronic control device used	48	87	55%
Firearm pointed at person	323	432	75%
Impact projectile discharged or used	11	8	138%
Physical or Vehicle contact	1,051	1,483	71%
Canine bit or held person	13	0	Not Reported
Safety Control Chair	0	20	Not Reported
Maximum Restraint	0	276	Not Reported

B. Improve Police Data Transparency in California: We conducted our analysis based on the data reported by California's RIPA, URSUS and CCOPA programs combined with data we were able to obtain from agencies via public records requests. Despite this, there remain aspects of policing that we could not obtain data on due to a combination of unwillingness by CA Department of Justice to provide data and existing limitations on police data imposed by state law. For example, we could not obtain detailed arrests data from the Monthly Arrests and Citation Register that was more recent than 2016 because the state's OpenJustice database does not provide this information at the agency-level. Instead, the OpenJustice database aggregates data at the county-level, making it difficult to determine how many arrests a single agency within a county made or how many of those arrests were felony, misdemeanor or status offenses. While we requested this data repeatedly from the CA Department of Justice, they did not provide it.

Additionally, the state's RIPA regulations should be revised to permit more comprehensive analyses of policing practices. For example, RIPA's regulations don't require agencies to specify whether a stop is a vehicle or pedestrian stop. Instead, departments indicate a "primary reason for stop" that can include either "traffic violation" or categories such as "reasonable suspicion." As such, both vehicle and pedestrian stops based on "reasonable suspicion" are grouped together, making it difficult to understand how officers may be approaching different types of stops. Additionally, RIPA's regulations

currently prevent the public from accessing data showing the ID numbers of the officers making each stop. If we had such information, we could've evaluated which officers make the most stops - and which officers were engaging in a pattern of biased policing practices. Despite the passage of SB 1421, which made it possible to obtain records of police misconduct in limited set of cases (for example, cases involving deadly force, sustained complaints of sexual assault and official dishonesty), further legislation is needed to allow the public to access the full range of data needed to effectively track, predict and prevent police misconduct. For example, recent research has shown that data identifying all the officers named in misconduct complaints (whether or not the complaints were sustained) in addition to all use of force incidents (whether or not the incidents involve deadly force) can be used to track the spread of misconduct through a police department over time and even predict which officers will likely commit misconduct in the future. California should make this information public, as has been done in many states already, so that it can be used to design targeted interventions at the officer level in order to protect communities from harm.

Our analysis was also limited by the quality of data provided by San Diego Police Department. The department only began collecting individualized use of force data on 9/25/2016, limiting the time period of our use of force analysis. Moreover, the information they provided had important data missing. For example, the `Weapon_Type` column was completely blank. Instead, it appears some or all of this information was placed within the `UoF_Resist_Type` column along with the Levels of Resistance reportedly posed by civilians who force was used against. As such, it's unclear whether NULL values in this column referred to the person's weapon type (meaning they were unarmed) or their resistance level (meaning they posed no resistance) or both. Only 436 cases in this column denoted a person who was "confirmed" to be armed with a weapon or other object, which either means 95% of all SDPD use of force cases involve unarmed people or this information is incomplete/missing from their database. As such, San Diego Police Department should improve the quality of their use of force database by providing complete data on weapon type within the `Weapon_Type` column to permit analyses of how the department uses force against people who are armed or unarmed.

Part 2: Analysis of San Diego Sheriff's Department

Analysis of San Diego Sheriff's Department RIPA Stops Data

Using RIPA stops data obtained from San Diego Sheriff's Department, we examined disparities in the conduct of 71,886 police stops from 7/1/2018 - 7/31/2019.¹⁷ More than 14,585 police searches, 8,710 arrests and 780 use of force incidents were reported during this 13-month period. Our analysis finds strong evidence of discriminatory policing within the San Diego Sheriff's Department. Black people were more likely to be stopped, searched, arrested and to have force used against them by San Diego sheriff's deputies. People with disabilities were also more likely to be searched, arrested and to have force used against them. Moreover, racial disparities in police searches and use of force remained even after controlling for arrest rates and contraband rates.

Types and Locations of SDSD Stops

San Diego Sheriff's deputies reported traffic violations as the primary reason for making two-thirds of all stops during this period, while 26% of stops were reportedly made for reasonable suspicion and 4% were "consensual encounters."

"BLACK PEOPLE WERE MORE LIKELY TO BE STOPPED, SEARCHED, ARRESTED, AND TO HAVE FORCE USED AGAINST THEM BY SAN DIEGO SHERIFF'S DEPUTIES."

64% of SDSD stops were made in 9 areas: Del Mar, Santee, Encinitas, Solana Beach, Imperial Beach, Poway, Lemon Grove, Vista and San Marcos. Another 23% occurred in Unincorporated San Diego County and the remaining 13% occurred in cities where another law enforcement agency has primary jurisdiction.¹⁸ Deputies in

¹⁷ For this analysis, we used all of the SDSD stops data made available to date under RIPA - which includes data from July 1, 2018 - July 31, 2019.

¹⁸ 66% of stops in places where another agency had primary jurisdiction were in San Diego City and El Cajon City.

Del Mar, Santee and Encinitas stopped people at the highest rates; while unincorporated San Diego County had the lowest stop rate.

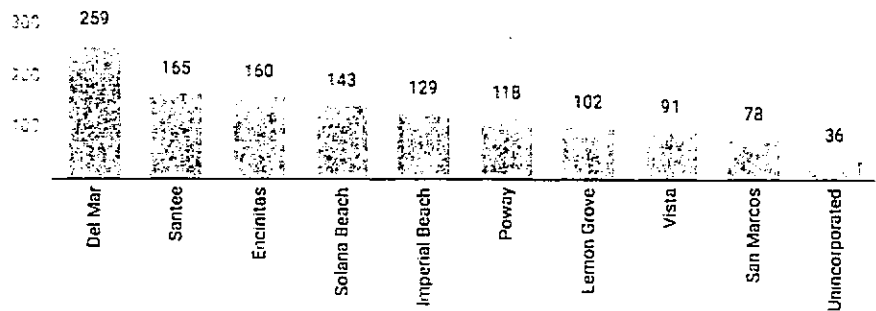
Racial Disparities in Sheriff's Department Stops

Since most SDSD stops were traffic-related, overall stop rates may reflect levels of traffic flowing through a given area rather than how police are interacting with the residents living there. To better evaluate how SDSD interacts with residents living in each area, we examined pedestrian stop rates in each area. Results show SDSD is more likely to make

non-traffic related stops in black and brown areas. The two communities with the highest proportion of residents of color - Lemon Grove and Imperial Beach - had the highest rates of non-traffic related stops. Moreover, black people were stopped at higher rates than whites in every area of the San Diego Sheriff's jurisdiction.¹⁹

San Diego Sheriff's Department Stop Rates by City.

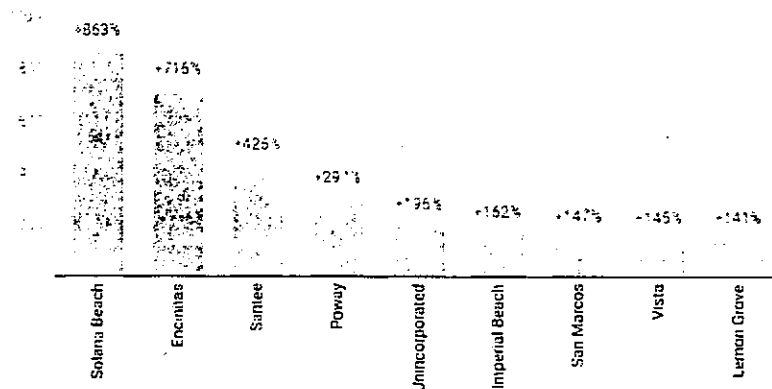
Rates per 1,000 Population.



Among racial groups, black people were stopped by San Diego Sheriff's Department at the highest rates overall (including both traffic and pedestrian stops) compared to their population within SDSD's primary jurisdiction.²⁰ Black people were 130% more likely than white people to be stopped overall and 199% more likely to be stopped for reasons other than a traffic-violation.

SDSD Stopped Black People at Higher Rates in Every Area

Likelihood of a black person being stopped by police, relative to white people.



These disparities were produced by deputy-initiated actions, rather than responses to 911 calls from communities. 9 in every 10 stops, across all racial groups, were initiated by officers rather than initiated in response to calls for service.

¹⁹ Del Mar's black population was too small to evaluate stop rates conclusively.

²⁰ Population data obtained via SANDAG 2016 Demographic Report (page 9 of that report). SDSD primary jurisdiction includes Del Mar, Imperial Beach, Poway, Santee, Encinitas, Solano Beach, Lemon Grove, Vista, San Marcos and Unincorporated San Diego County.

Sheriff's Deputy Conduct during Stops

Once stopped, black and brown people were more likely to be searched, arrested and to have force used against them. Black people were 130% more likely to be stopped and 21% more likely to be searched, 18% more likely to be arrested without a warrant and 47% more likely to have force used against them during these stops.²¹

Latinx people were also more likely than white people to have property seized²² or have force used against them by San Diego sheriff's deputies during a stop.²³ Racial disparities remained after controlling for arrests - black and Latinx people were more likely to have force used against them than whites whether or not they were arrested during a stop.

Similarly, deputies were more likely to use force against black and Latinx people whether or not they found contraband/evidence of a crime (see Appendix F.2). To conduct a deeper investigation of racial disparities in use of force, we obtained a more extensive database of SDSA use of force from 2016-2018. The results of that analysis provide further evidence of racial disparities within SDSA use of force, even after controlling for crime/arrest rates, and are presented in the Use of Force section of this report.

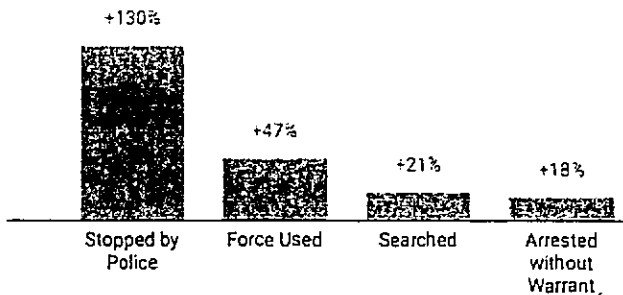
San Diego Sheriff's Dept Stop Rates

Stops per 1,000 Population in areas where San Diego Sheriff's Dept has primary jurisdiction.

	All Stops	Stops Excluding Traffic Violations
Native American		
Latinx		
White	69.7	24.5
Pacific Islander		
Asian		
Black		

Anti-Black Bias in San Diego SD Stops

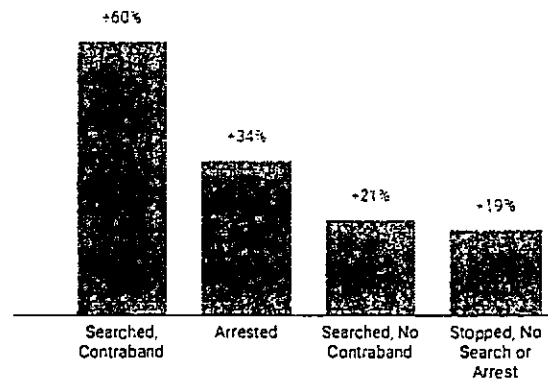
San Diego Sheriff's deputies stopped black people at 130% higher rate per population than white people. Once stopped, black people were more likely to be searched, arrested, and to have force used against them.



RIPA Stops Data, 7/1/18-7/31/19

San Diego Sheriff's deputies were more likely to use force against Black people

San Diego Sheriff's Department were more likely to use force against Black people than White people - whether or not the person was arrested or found with evidence of a crime.



RIPA Stops Data, 7/1/2018-7/31/2019

²¹ Use of Force included all stops coded as involving the use of impact weapons, electronic control devices, chemical spray, "other physical or vehicle contact", canine bites, firearms discharges and cases where a firearm was pointed at a civilian.

²² Property Seized included all stops coded as "Property Seized" or "Vehicle Impounded"

²³ Native Americans also experienced high rates of searches, arrests and use of force, though the sample size was not large enough to draw strong conclusions.

Evaluating Contraband "Hit Rates" and Racial Bias in SDDS Searches

In 77% of all searches by San Diego deputies, no contraband was found. And while San Diego Sheriff's Department searches people of color at higher rates, they are even less likely to find contraband during these searches. This suggests deputies may be engaging in biased policing practices. Moreover, two-thirds of all contraband found was either drugs or drug paraphernalia. By contrast, only 0.7% of searches found a gun. This suggests SDDS is over-searching people in general, with little to no public safety benefit, while engaging in biased policing towards communities of color in particular.

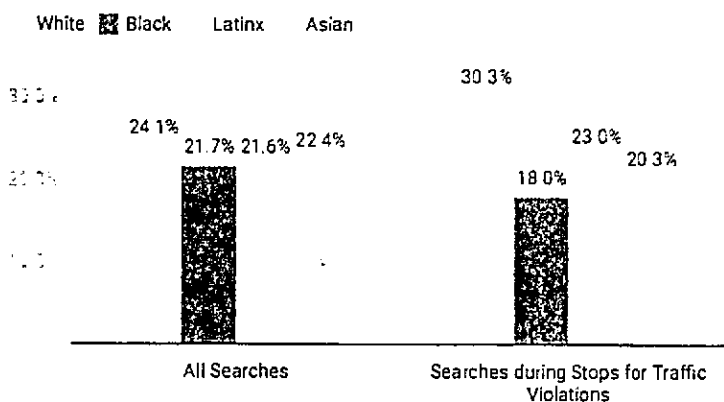
Evaluating Pretext Stops and

Consent Searches

Racial disparities were also present in the use of "consent searches" - searches where officers report asking and receiving consent from the person being searched as the only reported basis for making the search. San Diego deputies made 2,553 consent searches from 7/1/2018 - 7/31/2019 - representing nearly 1 in 5 searches conducted. These searches were conducted disproportionately on black and brown

residents - deputies were 7% more likely to conduct a consent search on a Latinx person, 13% more likely to perform a consent search on a black person or Pacific Islander, and 42% more likely to perform a consent search on a Native American person than a white person during a stop.²⁴

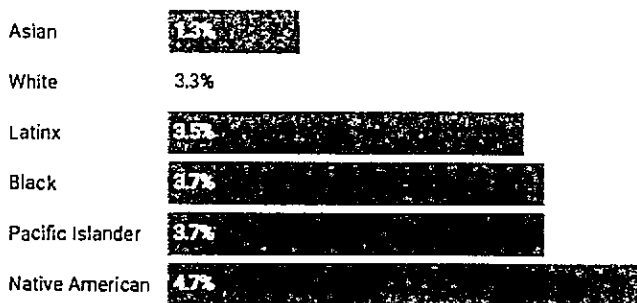
SDDS searches were less likely to find contraband on people of color, especially during traffic stops



San Diego Sheriff's Dept RIPA Stops Data, 7/1/2018-7/31/2019

SDDS Consent Searches per Stop

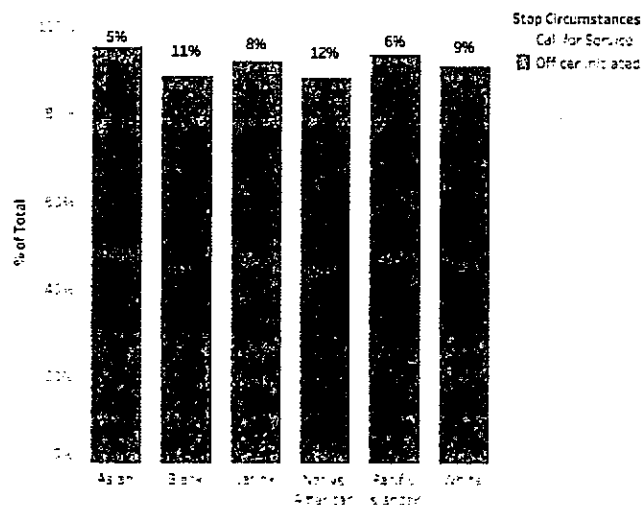
San Diego Sheriff's deputies were more likely to perform consent searches on Black and Latinx people during a stop.



²⁴ Searches where the only reported basis for the search was "consent given" were coded as Higher Discretion, while searches where the reported basis was "incident to arrest", pursuant to warrant and/or "vehicle inventory for search of property" were coded as Lower Discretion.

Deputies appeared to be engaged in biased practices regarding pretext stops. Pretext stops are when police stop someone for a minor infraction (i.e. traffic violation) as means to conduct a search and investigate unrelated issues. San Diego deputies ended up searching 2,629 people who were reportedly stopped for traffic violations. While black and Latinx people were more likely to be searched during these stops, they were substantially less likely to be found with contraband - a larger racial disparity in contraband rates than was found for other types of searches. This suggests the presence of racially biased decision-making by San Diego deputies conducting traffic-violation stops in particular.

San Diego Sheriff's Department reported Stop Reason by Race



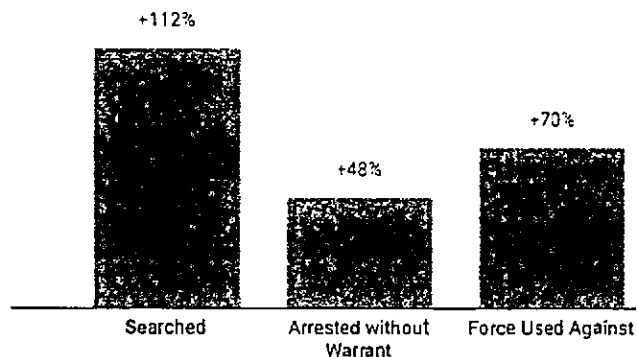
Bias Against People with Disabilities

In addition to evidence of racial bias in San Diego Sheriff's Department's stops outcomes, there's also evidence of bias against people with disabilities. Deputies reported stopping 2,489 people they perceived to have a disability. Perceived mental disabilities comprised 75% of these stops, 18% were reported as "other" or "more than one disability", and the remaining 7% were people perceived to have a physical disability such as blindness or deafness.

Once stopped, people perceived to have physical or other disabilities (not including mental disabilities) were 35% more likely to be searched, 17% more likely to be arrested without a warrant, and 51% more likely to experience police use of force during a stop. People perceived to have mental disabilities faced even more severe disparities - being searched 112% more often, arrested without warrant 48% more often and subjected to police use of force 70% more often than those who were not perceived to have a disability.

Bias Against People with Mental Disabilities in San Diego SD Stops

San Diego Sheriff's deputies were 112% more likely to search people with mental disabilities during a stop and more likely to arrest or use of force against them.



RIPA Stops Data, 7/1/18-7/31/19

These disparities intersect with racial disparities - black and Latinx people with disabilities were searched at the highest rates (see Appendix F.5). And while people with disabilities were more likely to be searched by San Diego sheriff's deputies, deputies conducting these

searches were 47% less likely to find contraband than searches of people with no perceived disability. This suggests a pattern of biased policing by SDDS of people with disabilities - especially those perceived to have mental disabilities.

San Diego sheriff's deputies were more likely to search, arrest without warrant, and use force against People with Disabilities.

Data from 7/1/18 - 7/31/19

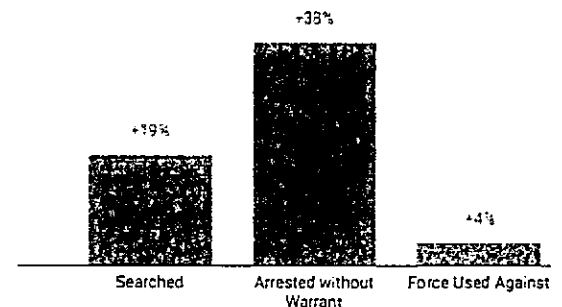
Perceived Identity	People Stopped	% Searched	% Searches Finding Contraband	% Stops with Property Seized	% Arrested Without Warrant	% Police Used Force
Mental Disability	1,874	38.2%	11.9%	3.7%	12.4%	1.7%
Physical/Other Disability	615	24.2%	14.8%	3.1%	9.8%	1.5%
No Perceived Disability	76,209	18.0%	23.7%	3.5%	8.4%	1.0%

Bias Against LGBT and Gender Non-Conforming People

1,169 people stopped by San Diego sheriff's deputies were perceived to be LGBT and 107 people were perceived to be gender non-conforming. Deputies were more likely to make an arrest or conduct a search during these stops despite there being lower likelihood of deputies finding contraband. Moreover, disparities by sexual orientation were present for all racial groups, with deputies more likely to search black and Latinx people they perceive to be LGBT than white people perceived to be LGBT.

Bias Against People Perceived to be LGBT in San Diego SD Stops

San Diego sheriff's deputies were 19% more likely to search people they perceived to be LGBT during a stop and more likely to arrest them.



RIPA Stops Data, 7/1/19 7/31/19

“DISPARITIES BY SEXUAL ORIENTATION WERE PRESENT FOR ALL RACIAL GROUPS, WITH DEPUTIES MORE LIKELY TO SEARCH BLACK AND LATINX PEOPLE THEY PERCEIVE TO BE LGBT THAN WHITE PEOPLE PERCEIVED TO BE LGBT.”

Arrests

We obtained data on San Diego Sheriff's Department arrests from the California Department of Justice's 2016 Monthly Arrests and Citations Register database.²⁵ This database shows San Diego deputies made 28,119 arrests in 2016, including arrests made by SDSA in cities that contract with the sheriff's department for law enforcement services. 67% of all SDSA arrests were for misdemeanor offenses. Moreover, San Diego sheriff's deputies made as many arrests for drug possession alone as for all Part 1 Violent and Property crimes combined. Decriminalizing or deprioritizing arrests for status offenses, drug possession and quality of life offenses would reduce the overall number of arrests made by SDSA by 34%.

San Diego Sheriff's Department made 28,119 arrests in 2016. Most were for low-level offenses.
Source: CA Monthly Arrests and Citations Register, 2016

3,550 Other Traffic-Related Offenses	2,709 Failure to Appear/Contempt of Court	1,494 Status Offenses	5,041 Drug Possession
3,507 Other	1,322 Battery	1,054 Drunk Driving	2,599 Part 1 Property Crime
3,071 Quality of Life Offenses	384	321	2,496 Part 1 Violent Crime
		259	
	308		

Quality of Life Offense Arrests

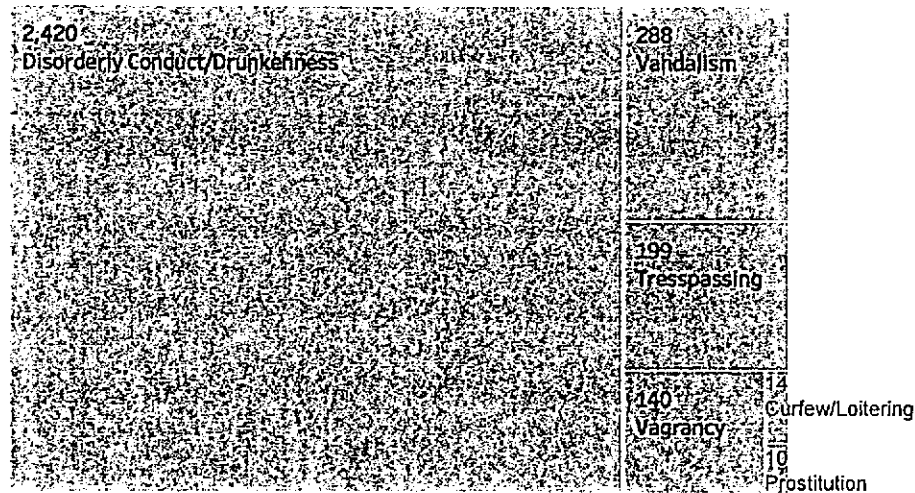
Disorderly conduct/public drunkenness represented most (79%) of the 3,071 "quality of life" offense arrests, followed by vandalism, trespassing and vagrancy. These arrests disproportionately affect black and brown

²⁵ While we also requested 2017 and 2018 arrests data from the California Department of Justice's Monthly Arrest and Citation Register database (and made multiple calls to follow up), we were not provided with these data. As such, we were limited to using 2016 data for our analysis of arrests.

communities. Black people were arrested by SDSD for quality of life offenses at a rate 2.9x higher than white people per population and Latinx people were arrested at a rate 1.2x higher than white people.

San Diego Sheriff's Department Quality of Life offense arrests in 2016.

Source: CA Monthly Arrests and Citations Register, 2016

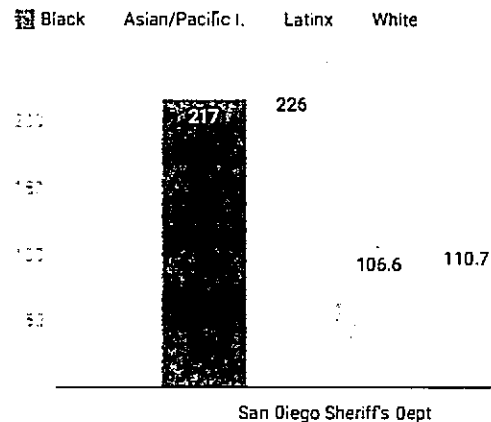


Use of Force

Our analysis of San Diego Sheriff's Department's RIPA stops data examined disparities within 808 reported use of force incidents, finding deputies disproportionately used force against people of color and people with disabilities. To expand upon these initial findings, we obtained a more comprehensive dataset from SDSD that includes 23,488 uses of force²⁶ spanning 9,543 incidents and 8,948 different civilians²⁷ from January 1, 2016 through December 31, 2018. This dataset includes information not only on the frequency and type of force used against civilians during this period, but also the reported level of resistance faced by deputies.²⁸

San Diego Sheriff Use of Force by Race

Use of Force Cases per 1,000 Arrests



Source: 2016-2018 RIPA Use of Force Data obtained from SDSD.

²⁶ There can be more than one use of force in a single encounter with a civilian.

²⁷ SDSD's dataset did not assign a unique ID number for each person force was used against. To determine the number of unique civilians whom force was used against, we assigned each unique race/sex/DOB combination as a different person. However, there may still be slight differences in our estimates of the total number of civilians impacted since there could be more than one person with the exact same race, sex and birthday (or alternatively birthday information could be entered in incorrectly/differently in different use of force reports, resulting in duplicate records).

²⁸ While we requested information on the armed/unarmed status of the subjects of SDSD force as well as whether they had a physical or mental disability, the San Diego Sheriff's Department reported they were unable to provide data on these issues for the incidents in their use of force database.

Use of Force Rates by Race

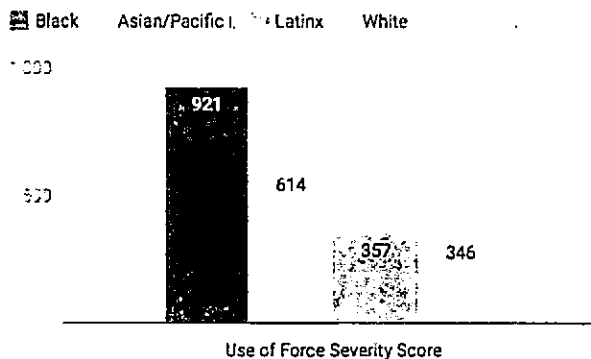
Roughly 1 in every 10 arrests made by SDSD involved the use of force during this period.

To evaluate these incidents by race, we calculated use of force rates benchmarked by arrest rates using arrest data reported by the Monthly Arrest and Citation Register (MACR). The results show San Diego Sheriff's Department is substantially more likely to use force against black people²⁹, even after controlling for arrest rates. Black people were 3% of the population within San Diego Sheriff Department's primary jurisdiction, 10% of people arrested by SDSD and 19% of people who had force used against them by SDSD. Asian / Pacific Islanders also had high use of force rates per arrest, while use of force rates were similar between white and Latinx populations.

This suggests advocacy efforts should focus both on reducing high arrest rates experienced by black residents at the hands of San Diego deputies and addressing racial bias in the application of force during arrests of black and Asian / Pacific Islander residents.

San Diego Sheriff Use of Force Severity Score by Race

San Diego deputies used more severe levels of force against Black people and Asian / Pacific Islanders per 1,000 Arrests



Source: 2016-2018 Use of Force Data obtained from SDSD

Use of Force Severity

Employing the methodology developed by the Center for Policing Equity to calculate the severity of force used by San Diego Sheriff's Department, we find SDSD not only were more likely to use force against black people but also used higher levels of force during these encounters compared to other groups. On average, when SDSD uses force against black people they use a level of force 2.7x more severe than when using force against white people. SDSD also used a more severe level of force against API and Latinx people than against whites. This suggests stricter policy restrictions on the use of higher levels of force are warranted, especially for encounters with black residents.

Types of Force Used

Of the force options available to San Diego sheriff's deputies, the use of weaponless physical force and pointing a firearm were used most frequently - collectively accounting for 90% of all reported uses of force. When these data are broken down by race, we find San Diego Sheriff's Department used almost every force option more often against black, Latinx and Asian / Pacific Islander populations, even after controlling for arrest rates. For example, Sheriff's deputies were 104% more likely to use impact weapons or projectiles; 130% more

²⁹ San Diego Sheriff's Department did not provide arrest data that distinguished between Asian and Pacific Islander arrestees. As such, we used a combined Asian / Pacific Islander category to evaluate SDSD use of force disparities.

likely to use tasers and strangleholds, 156% more likely to use weaponless physical force on black people compared with white people during arrest.³⁰ Deputies were also 292% more likely to use canines against, and 149% more likely to point firearms at Asian / Pacific Islanders during arrest.

Deadly Force

San Diego Sheriff's Department reported 95 deadly force incidents from 2016-2018, including 22 police shootings and 73 other force incidents causing death or serious injury. 12 people were killed in these incidents and 83 were seriously injured. This is 4.6x higher deadly force rate per arrest than San Diego Police Department during this period and a higher rate than 26 of the 30 largest CA sheriff's departments.

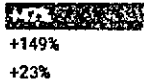
- SDSD used force against 96 people during these 95 incidents. 68 of these people (71%) were unarmed. Only 8 of the 96 people (8%) were allegedly armed with a gun.
- Tasers, strangleholds and weaponless physical force made up 67% of incidents causing death or serious injury.
- At least 14 people SDSD used deadly force on reportedly had disabilities - 13 people had signs of mental illness and one person had physical disabilities.
- Of 22 people shot by SDSD from 2016-2018, 14 (64%) were Latinx. Latinx people were 5.5x more likely to be shot by SDSD than white people per arrest.
- 4 of the 22 police shootings (18%) involved San Diego sheriff's deputies shooting at someone who was in a moving vehicle.

San Diego deputies were more likely to use nearly every type of force against People of Color

Likelihood of using force against Black, Latinx, and Asian / Pacific Islander individuals compared to White people, after controlling for arrest rates.

Black Asian / Pacific Islander Latinx

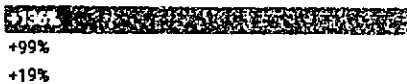
Firearm Pointed at Person



Taser



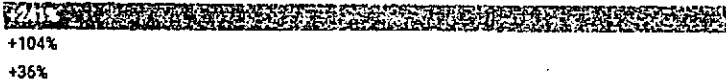
Carotid Neck Restraint



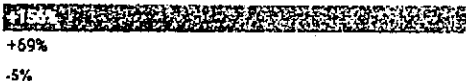
Canine



Impact Weapons and Projectiles



Weaponless Force

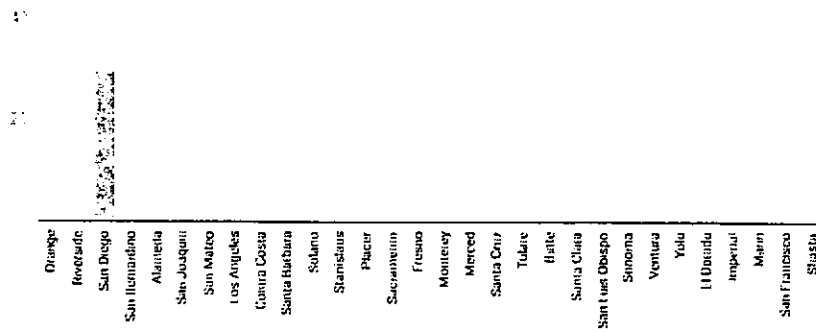


³⁰ Physical force includes weaponless force options which are categorized by SDSD as "grab/push/pull", takedowns, control holds, strikes, and "pressure point."

This suggests policy interventions should include a focus on addressing the excessive use of tasers, physical force and strangleholds while also addressing racial bias in decisions to use firearms, particularly against Latinx people.

San Diego Sheriff's Department uses Deadly Force at Higher Rates than Most Departments

Deadly Force Incidents per 10,000 Arrests for the 30 largest CA Sheriff's Depts, 2016-2018



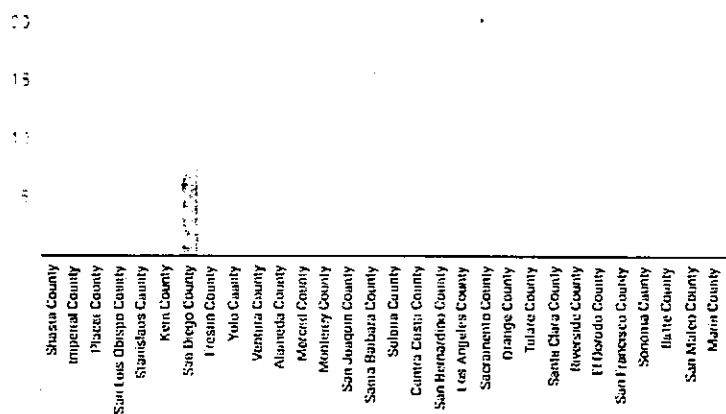
Analysis includes the Sheriff's Departments for the 30 largest CA counties. Deadly force incidents include all firearms discharges and other force causing death or serious injury. Data obtained via CA DOJ URSUS database

Deaths in San Diego County Jail

In addition to use of force incidents, San Diego Sheriff's Department reported 44 in-custody deaths attributed to causes other than use of force from 2016-2018. This includes at least 10 deaths reportedly due to suicide, 2 death due to homicide committed by another person in custody, and 4 reportedly due to "accidental" causes. Another 15 deaths are attributed to natural causes and 13 remained under investigation at the time of the report. After accounting for the adult jail population in each county, San Diego Sheriff's Department had a rate of 8.1 jail deaths per 1,000 jail population. As such, people were more likely to die in jail in San Diego County than 18 of the 25 largest counties in California - suggesting the need for urgent intervention to address treatment and conditions within jail facilities in San Diego.

San Diego Sheriff's Department had a Higher Rate of Jail Deaths than Most California Sheriffs

Jail Deaths per 1,000 Jail Population, 2016-2018



Analysis includes the Sheriff's Departments of the 30 most populous counties in California from Campaign Data Center for a Department of Justice URSUS Database 2016-2018

)Police Accountability

Nearly 9 in every 10 civilian complaints alleging San Diego sheriff's deputy misconduct are reported to the San Diego County Citizens Law Enforcement Review Board.³¹ This Review Board reported receiving 417 civilian complaints from 2016-2018, including 1,581 different allegations of deputy misconduct.³² San Diego Sheriff's Department's Internal Affairs division also reported receiving 30 civilian complaints in 2016 and 2017,³³ but did not report the number of civilian complaints specifically that were sustained.

Of the 1,581 allegations reported to the Citizens Law Enforcement Review Board, 252 alleged excessive force, 73 alleged criminal conduct and 33 alleged police discrimination. The board sustained only 18 complaints overall during this period - including 1 excessive force allegation, 2 criminal allegations and 0 allegations of discrimination. This represents a 4% complaint sustain rate overall, a 3% sustain rate for criminal allegations, 0.4% sustain rate for excessive force and 0% sustain rate for allegations of police discrimination. This is a lower sustain rate than the 7% average rate reported statewide under the CCAPO program during this period. This suggests further policy changes are warranted to strengthen the Citizens' Law Enforcement Review Board so that it can effectively hold San Diego Sheriff's Department accountable for misconduct.

³¹ For example, from 2016-17, 262 civilian complaints were reported to the San Diego County Citizens Law Enforcement Review Board compared to 30 civilian complaints reported to SDSD's Internal Affairs division.

³² Data obtained via San Diego County Citizens Law Enforcement Review Board's 2018, 2017, and 2016 Annual Reports.

³³ 2018 data was not reported by the SDSD Internal Affairs Unit

Policy Review and Recommendations for San Diego Sheriff's Department

We reviewed San Diego Sheriff's Department's policy manual, use of force guidelines and police union contract to determine where new policies could contribute towards addressing the outcomes described in this report. Our recommendations are provided below.

1. Reduce SDSA Arrests by One-Third by scaling up Alternatives to Arrest for Drug Possession, Quality of Life Offenses and Other Low-Level Offenses

34% of all San Diego Sheriff's Department arrests were reportedly for drug possession, status offenses and quality of life offenses that pose no threat to public safety. San Diego Sheriff's Department would see a substantial reduction in arrest rates by expanding the use of alternative, community-based responses to these low-level offenses.

2. Ban Consent Searches and Limit Pretext Stops

We found evidence San Diego Sheriff's Department engaged in biased police search practices - searching black and brown people at higher rates despite being less likely to find contraband during these searches. Moreover, 66% of all contraband found was either drugs or drug paraphernalia - hardly a public safety risk justifying the use of this intrusive police tactic. As such, SDSA should take action to substantially reduce the number of searches conducted - especially of black and brown residents. Banning or strongly restricting searches originating from traffic-violation stops as well as "consent searches", types of searches where San Diego deputies have the most discretion, would reduce the overall number of SDSA searches by as much as 31%. One way to accomplish this would be to require deputies to have probable cause to initiate a search.

3. Strengthen the Department's De-Escalation Policy

The San Diego Sheriff's Department Use of Force guidelines require deputies to "attempt to de-escalate confrontations by using verbalization techniques" prior to using force:

"Deputies should attempt to de-escalate confrontations by using verbalization techniques prior to, during and after any use of physical force. Commands should be given in clear, concise terms, i.e., "don't move," "slowly raise your hands over your head." Keep it simple. Arm guidance and firm grip: When verbalization proves ineffective, arm guidance or a firm grip may suffice to overcome resistance. Arm guidance or a firm grip that results in injury requires documentation."

While this limited de-escalation requirement is important, it does not contain language that is nearly as comprehensive or robust as the language contained within de-escalation policies adopted by police departments in cities like San Francisco, Seattle, New Orleans or Las Vegas. For example, Seattle Police

Department's De-escalation policy includes four approaches to de-escalating situations that officers are required to consider when possible: using communication, slowing down or stabilizing the situation, increasing distance, and shielding/utilizing cover and concealment. Of these, San Diego deputies are only required to consider using communication (i.e. "verbalization techniques").

4. Restrict the Use of Tasers

San Diego Sheriff's Department killed 3 people with tasers from 2016-2018 - representing 17% of all taser deaths statewide during this period. San Diego Sheriff's Department used tasers in 590 cases during this time, 1.7x more often per arrest than San Diego Police Department. As such, the department should impose new restrictions on the use of tasers and emphasize using de-escalation tactics and lesser forms of physical force in these situations instead. If these reforms fail to curb deaths and serious injuries from taser use, SDSD should consider banning the use of tasers entirely.

5. Ban the use of Carotid Restraints (i.e. Strangleholds)

San Diego Sheriff Department reported seriously injuring 28 people through the use of carotid restraints - a form of stranglehold - from 2016-2018. This represents 21% of all people seriously injured by this tactic statewide during this period - more than any other police agency. SDSD's use of force guidelines state that:

"The carotid restraint may be used on subjects who are actively resisting or assaultive."

This allows carotid restraints to be used even when no threat of imminent death or serious injury is present. Of the 205 people SDSD used a stranglehold on from 2016-2018, only 18 (9%) displayed "aggravated active aggression" which is the level of resistance defined by SDSD as involving a perceived threat of death or serious injury.

Banning the use of carotid restraints by SDSD or limiting this tactic to be authorized only as deadly force can help prevent further injuries. Police departments in San Jose, Los Angeles, San Francisco, Berkeley and Corona have either banned or limited the use of carotid restraints to deadly force situations where there is a threat of imminent death or serious injury. San Diego Sheriff's Department should do the same.

6. Ban Shooting at Moving Vehicles

4 of the 22 people shot by San Diego Sheriff's Department were in a moving vehicle when police fired at them. The use of force guidelines of the San Diego Sheriff's Department provide confusing and contradictory instructions to officers regarding shooting at moving vehicles:

"Shooting at a motor vehicle for the purpose of disabling that vehicle is prohibited. Shooting at or from a moving vehicle is prohibited, except when immediately necessary to protect persons from death or serious bodily injury. Shooting at or from moving vehicles is ineffective and extremely hazardous."

Deputies must consider not only their own safety but the safety of fellow deputies and the public. Tactical considerations and decisions for real and or potential threat of the vehicle should be assessed."

While this policy bans shooting at vehicles "for the purpose of disabling that vehicle" it includes an exception that authorizes shooting at or from vehicles "when immediately necessary to protect persons from death or serious bodily injury." This loophole authorizes deputies to use deadly force against someone in a moving vehicle under similar circumstances (an imminent threat of death or serious injury) as someone who is not in a vehicle. This policy should be updated to reflect best-practices in the field by banning police departments from shooting at moving vehicles unless an occupant of the vehicle is using deadly force by means other than the vehicle. At least 3 of the 4 vehicle-related shootings from 2016-2018 - representing 14% of all SDSD shootings during this period - would have been prohibited by this policy because the subjects in these cases did not use force other than a vehicle against deputies or members of the public.

7. Improve Jail Conditions and Strengthen Oversight

Our analysis found San Diego County jails have higher rates of in-custody deaths than most jails in the state - including a relatively large number of deaths due to suicide and at least one death due to homicide by another inmate. This is consistent with the analyses from Disability Rights California as well as recent reporting that finds not only does San Diego County jail have a high rate of in-custody deaths, especially suicides, but also that 82% of the in-custody deaths over the past decade were of people who were awaiting trial. While we did not have access to more detailed records describing the conditions within these facilities, the data currently available suggests the need for independent oversight and policy and practice interventions to change the conditions contributing to these outcomes.

8. Empower the San Diego County Citizens' Law Enforcement Review Board to Enforce Accountability

The San Diego County Citizens' Law Enforcement Review Board's mission is to increase public confidence in government and the accountability of law enforcement. However, the board does not currently have the power to impose discipline or determine the policies of the San Diego Sheriff's Department. Without these powers, the Sheriff's Department routinely fails to follow the board's recommendations. For example, the majority of the board's policy recommendations in 2018 were not implemented by SDSD. As such, the board's powers should be strengthened to be able to implement policy recommendations and to hold deputies accountable for misconduct.

9. Allow Residents to Submit Anonymous Complaints of Deputy Misconduct

People who've experienced violence or other forms of misconduct at the hands of San Diego sheriff's deputies have three options for filing formal misconduct complaints:

1. Submit a complaint in-person at the San Diego Sheriff's Office
2. File a complaint by mail to the SDSD Internal Affairs Unit or;
3. File a complaint by email, fax or mail with the San Diego County Citizens Law Enforcement Review Board

In order for complaints to be investigated, they must be submitted in writing and signed under penalty of perjury. Complainants must complete a form that requires they enter their full name and sign the following sworn statement:

"I hereby certify that, to the best of my knowledge, and under penalty of perjury, the statements made herein are true."

The form does not allow for anonymous complaints - creating potential barriers to communities that are hesitant to identify themselves in the process of reporting police misconduct due to potential retaliation. In 2018, for example, the San Diego County Citizens Law Enforcement Review Board ruled 55 complaints "procedurally closed" and dismissed them because they were not able to obtain a signed complaint - representing 32% of all complaints closed that year. Anonymous complaints should be accepted by San Diego County Citizens Law Enforcement Review Board just as they are in many other jurisdictions - for example, Oakland's police complaint form allows complainants to select "decline to state" as an alternative to identifying themselves.

10. Strengthen Enforcement of the Racial Profiling Ban and Use Data to Inform Interventions to Hold Deputies Accountable

Section 2.55 of the SDSD Policy Manual states that:

"Members of the San Diego County Sheriff's Department are prohibited from inappropriately or unlawfully considering race, ethnicity, religion, national origin, sexual orientation, gender, or lifestyle in deciding whether or not enforcement intervention will occur."

Despite this policy, we find substantial evidence of racial bias, especially anti-black bias, and bias against LGBT people and people with disabilities in SDSD searches and use of force. We also found severe inequities in SDSD's use of deadly force against Latinx people. Since SDSD redacted information from the dataset that could have been used to identify officers, we cannot determine which officers are responsible for producing most of these inequities. However, SDSD already has the data needed to begin enforcing this policy effectively. SDSD and an independent oversight agency should use these data to identify, intervene and hold officers accountable who's records indicate a pattern of biased policing. SDSD should also improve its use of force data collection efforts to assign unique identifiers to individuals who force was used against and to begin

systematically tracking and publishing individualized use of force data that includes more expansive information - such as the weapon type (if any) subjects had when force was used against them.

11. Address Underreporting Issues with the Arrests Data Reported by San Diego Sheriff's Department

We found substantial differences between the number of arrests SDSD reported to RIPA and arrests statistics reported in SDSD's 2018 Annual Use of Force Report. According to the annual report, deputies made 18,613 arrests during the full year of 2018. By contrast, SDSD's RIPA database includes only 4,444 arrests made during the second half of 2018 (7/1/2018 - 12/31/2018) and 8,206 arrests during the full year period covering 7/1/2018 - 6/30/2019. This suggests SDPD failed to report to RIPA roughly half of all arrests made during the second half of 2018. SDSD should improve the quality of its reporting to ensure compliance with the Racial and Identity Profiling Act.

12. Repeal the One-Year Statute of Limitations on Police Misconduct Investigations

Section 3304(d)(1) of the California Peace Officer Bill of Rights states that:

"No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct."

Under this law, investigations can be tossed out if the police department or other investigating agency takes longer than one year to complete the investigation. According to the San Diego County Citizens Law Enforcement Review Board, 15% of all cases in 2017 were dismissed because they exceeded this statute of limitations - including 22 cases investigating the deaths of civilians. California is one of only 4 states that has a law establishing a statute of limitations of one-year or less on police misconduct investigations. This section should be repealed to enable agencies to effectively investigate and adjudicate complaints of misconduct - especially for cases resulting in death or serious injury.

Appendix

Appendix A: Datasets Obtained from Police Agencies

Datasets Used in Our Analysis:

1. San Diego Police Use of Force Incidents, 9/2016 - 12/2018
2. San Diego Sheriff Use of Force Incidents, 2016-2018
3. Deadly Force Incidents (CA DOJ URSUS Database), 2016-2018
4. CCOPA CA Agency Civilian Complaints Data, 2016-2018
5. 2016 CA MACR Arrests Data and 2016-2018 SDPD Arrests
6. San Diego Police Beat Geographies
7. San Diego Police Beat Demographics
8. San Diego Police RIPA Stops Data, 7/1/18-6/30/19
9. San Diego Sheriff RIPA Stops Data, 7/1/18-7/31/19
10. Census Demographic Data (2013-2017 ACS Data)
11. San Diego Sheriff Primary Jurisdiction Demographics and Stops

Additional Datasets for Further Investigation:

1. San Diego Police Calls for Service
2. Crisis Intervention Team Deployments (Mental Health Crises), 2013-2018

Appendix B: Methodology for Cleaning and Analyzing San Diego PD Stops Data

The City of San Diego produced eight (8) datasets for the period between July 1, 2018 to June 30, 2019 which include the following information on police pedestrian and vehicle stops:

- Actions taken
- Contraband and/or evidence found
- Disability of persons
- Gender of persons
- Basis for property seizure
- Property seized
- Race of persons
- Basis for searches conducted
- Reason for stop
- Result of stop

Each dataset includes variables that are employed in this analysis. All of the datasets are made publicly available by the San Diego and additional details about the contents can be explored.³⁴ We merged the

³⁴ <https://data.sandiego.gov/datasets/police-ripa-stops/>

datasets by both the "Stop_ID" and the "PID" (Person ID) parameters to produce a row for each person stopped by police. We found a number of duplicate observations, which were the result of using datasets that have multiple rows for the same persons as a consequence of how the datasets were structured.

For example, an officer may record multiple pieces of evidence or contraband found for a single person, or an officer may cite multiple reasons as the basis to conduct a search or seize property. Similarly, a person stopped may experience multiple results of the stop. An officer can even have more than one perception of a person's gender or race. All of this is recorded in the data.

While the data is valuable for further exploration, this analysis is primarily focused on stop, search and hit rates and therefore removed duplicates to only focus on unique individual persons. The final dataset which also includes another merge/matching of population variables by race results in 179,710 observations and 55 variables.

Variables:

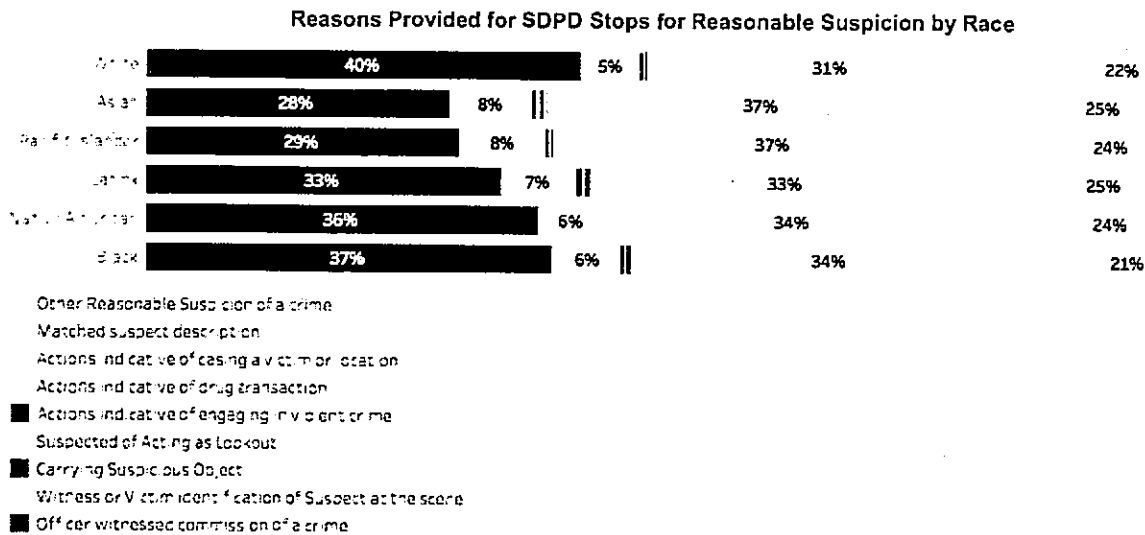
The following variables were constructed based on the dataset:

- Person Stopped = Person ID * Stop ID
- Search Conducted = Searched person, Searched property
- Property Seized = Property Seized, Vehicle Impounded
- Force Used = Electronic control weapon, Baton or Impact weapon, Pointed firearm at subject, Discharged firearm, Chemical spray and Physical or Vehicle contact³⁵
- Consent Search = Searches where "Consent given" was the only basis provided
- Mental Disability = Disability related to hyperactivity or impulsive behavior, Mental health condition, Intellectual or developmental disability including dementia, Speech impairment or limited use of language
- Physical/Other Disability = Blind/limited vision, Deafness/difficulty hearing, Other disability

³⁵ We coded "Physical or Vehicle Contact" as use of force since its definition in the RIPA guidelines is consistent with how SDPD reports use of force. The guidelines define this category as "any of the following contacts by the officer, when the purpose of such contact is to restrict movement or control a person's resistance: any physical strike by the officer; instrumental contact with a person by an officer; or the use of significant physical contact by the officer. Examples of such contacts include, but are not limited to, carotid restraints, hard hand controls, the forcible taking of a subject to the ground, or use of vehicle in apprehension." There was an additional category for "removed from vehicle by physical contact" which was not included. This category was not defined in the guidelines and, as such, may include actions that are broader than use of force - for example some of these incidents involved officers taking someone out of a vehicle who was reportedly too intoxicated to get up on their own. This would not be considered a use of force. In total, there were 338 people who were "removed from vehicle by physical contact" without any other type of force-related action attributed to the incident.

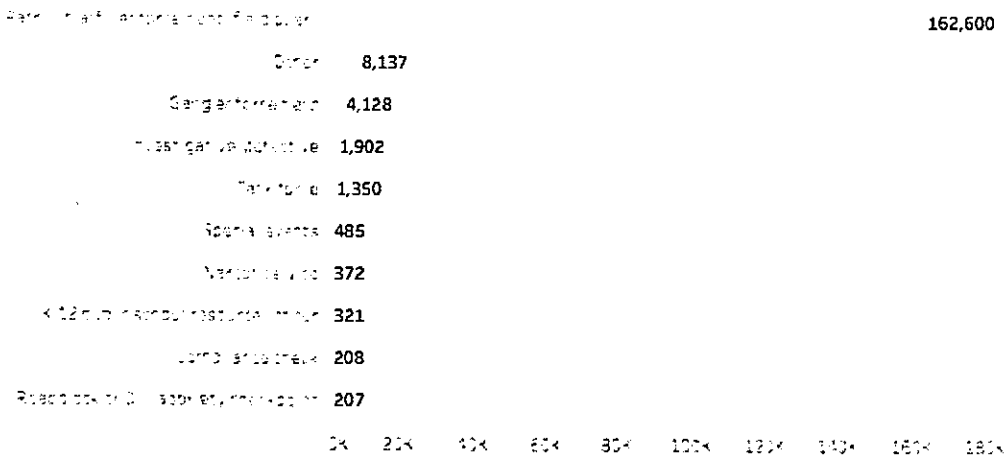
Appendix C: Additional Data Tables for Analysis of San Diego Police Department

1. San Diego Police Stops for "Reasonable Suspicion" by Type of Suspicion Cited



2.

San Diego Police Stops by Officer Assignment



3. San Diego Police Stops by Race, Searches, Arrests and Use of Force

San Diego Police Department RIPA Stop Outcomes

Data from July 2018 - June 2019

Perceived Identity	People Stopped	% Searched	% Arrested Without Warrant	% Property Seized	% Police Used Force
Asian	13,397	11.7%	6.2%	1.8%	1.3%
Black	35,038	24.4%	10.9%	3.3%	2.2%
Latinx	51,361	20.8%	9.4%	3.1%	1.8%
Native American	393	24.7%	16.3%	3.3%	1.5%
Pacific Islander	1,538	20.4%	10.2%	3.3%	1.8%
White	77,983	19.5%	10.1%	2.8%	1.4%

4. San Diego Police Contraband "Hit" Rates for Searches

San Diego Police Department RIPA Stop Outcomes
Data from July 2018 - June 2019

Race	People Searched	Contraband Found Following Search	% Searches Finding Contraband
Asian	1,574	314	19.9%
Black	8,536	2,095	24.5%
Latinx	10,665	2,303	21.6%
Native American	97	19	19.6%
Pacific Islander	313	68	21.7%
White	15,239	3,415	22.4%

5. San Diego Police Use of Force Rates during Arrest or Search

SDPD Use of Force During Police Searches

SDPD Use of Force During Arrests

	People Searched	People Force Used Against	Force Rate		People Searched	People Force Used Against	Force Rate	
								Arrested
Contraband Found	Asian	314	27	8.6%	Asian	1,062	82	7.7%
	Black	2,095	175	8.4%	Black	5,696	437	7.7%
	Latinx	2,303	197	8.6%	Latinx	6,903	514	7.4%
	Native American	19	2	10.5%	Native American	78	3	3.8%
	Pacific Islander	68	4	5.9%	Pacific Islander	219	14	6.4%
	White	3,415	192	5.6%	White	10,803	555	5.1%
No Contraband Found	Asian	1,260	72	5.7%	Not Arrested Asian	12,335	88	0.7%
	Black	6,441	374	5.8%	Not Arrested Black	29,342	319	1.1%
	Latinx	8,362	441	5.3%	Not Arrested Latinx	44,458	417	0.9%
	Native American	78	1	1.3%	Not Arrested Native American	315	3	1.0%
	Pacific Islander	245	16	6.5%	Not Arrested Pacific Islander	1,319	13	1.0%
	White	11,824	508	4.3%	Not Arrested White	67,180	500	0.7%

6. San Diego Police Department Stops by Disability Status

San Diego police were more likely to search and use force against people perceived to have disabilities.
Data from July 2018 - June 2019

Perceived Identity	People Stopped	% Searched	% Searches Finding Contraband	% Arrested Without Warrant	% Property Seized	% Police Used Force
Mental Disability	6,985	35.6%	9.5%	7.8%	1.9%	4.2%
Physical/Other Disability	1,684	5.4%	33.0%	2.6%	1.1%	1.6%
No Perceived Disability	171,041	19.6%	23.5%	7.7%	2.4%	1.5%

SDPD Search Rates by Race and Disability Status

	All Other Stops		People with Disabilities	
	No Search Conducted	Search Conducted	No Search Conducted	Search Conducted
White	81.2% (59,772)	18.8% (13,882)	68.7% (2,972)	31.3% (1,357)
Black	76.2% (25,246)	23.8% (7,889)	66.0% (1,256)	34.0% (647)
Latinx	79.8% (39,557)	20.2% (10,035)	64.4% (1,139)	35.6% (630)

SDPD Contraband Hit Rates by Race and Disability Status

	All Other Stops		People with Disabilities	
	No Contraband Found	Contraband Found	No Contraband Found	Contraband Found
White	76.5% (10,622)	23.5% (3,260)	88.6% (1,202)	11.4% (155)
Black	74.7% (5,891)	25.3% (1,998)	85.0% (550)	15.0% (97)
Latinx	77.7% (7,796)	22.3% (2,239)	89.8% (566)	10.2% (64)

7. San Diego Police Department Stops of Perceived LGBT and/or Gender Non-Conforming Individuals

San Diego police were more likely to search, arrest without warrant, and use force against people perceived to be LGBT.

Data from July 2018 - June 2019

Perceived Identity	People Stopped	% Searched	% Searches Finding Contraband	% Arrested Without Warrant	% Property Seized	% Police Used Force
LGBT	4,523	24.6%	19.2%	14.9%	2.7%	2.2%
All Other Stops	175,188	20.2%	22.7%	9.6%	2.9%	1.6%

San Diego police were more likely to search, arrest without warrant, and use force against people perceived to be Gender Non-Conforming.

Data from July 2018 - June 2019

Perceived Identity	People Stopped	% Searched	% Searches Finding Contraband	% Arrested Without Warrant	% Property Seized	% Police Used Force
Gender Non-Conforming	119	22.7%	11.1%	14.3%	2.5%	2.5%
Cisgender	179,591	20.3%	22.6%	9.8%	2.9%	1.6%

SDPD Search Rates by Race and LGBT Status

	Other		LGBT	
	No Search Conducted	Search Conducted	No Search Conducted	Search Conducted
White	80.5% (61,209)	19.5% (14,781)	77.0% (1,536)	23.0% (458)
Black	75.7% (25,881)	24.3% (8,308)	73.1% (621)	26.9% (228)
Latinx	79.4% (39,717)	20.6% (10,313)	73.6% (979)	26.4% (352)

SDPD Contraband Hit Rates by Race and LGBT Status

	Other		LGBT	
	No Contraband Found	Contraband Found	No Contraband Found	Contraband Found
White	77.5% (11,448)	22.5% (3,333)	82.1% (376)	17.9% (82)
Black	75.3% (6,254)	24.7% (2,054)	82.0% (187)	18.0% (41)
Latinx	78.4% (8,084)	21.6% (2,229)	79.0% (278)	21.0% (74)

8. San Diego Police Department Stop Results by Race

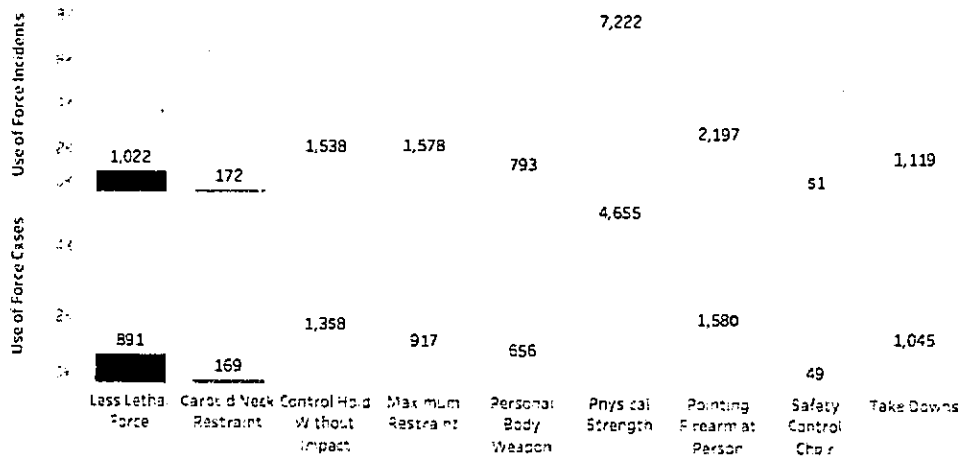
San Diego Police Department Stop Results by Race

	White	Black	Latinx	Asian	Native American	Pacific Islander
No Action	13.3% (10,395)	16.1% (5,630)	13.9% (7,136)	11.8% (1,587)	13.2% (52)	12.5% (193)
Warning (verbal or written)	15.0% (11,682)	15.4% (5,380)	16.2% (8,324)	21.2% (2,841)	12.5% (49)	17.5% (269)
Citation for infraction	23.1% (17,981)	14.7% (5,134)	22.9% (11,764)	34.1% (4,567)	15.3% (60)	23.9% (368)
In-field cite and release	7.7% (6,006)	5.2% (1,838)	7.5% (3,870)	8.5% (1,140)	4.8% (19)	8.5% (131)
Field interview card completed	20.7% (16,120)	27.5% (9,647)	21.4% (10,966)	11.7% (1,563)	26.0% (102)	16.4% (252)
Contacted parent/legal guardian	0.2% (138)	0.2% (80)	0.4% (195)	0.2% (22)	0.3% (1)	0.4% (6)
Contacted U.S. DHS	0.0% (4)	0.0% (1)	0.0% (1)			
Custodial Arrest pursuant to warrant	3.6% (2,933)	5.3% (1,869)	4.1% (2,100)	1.8% (238)	3.6% (14)	4.0% (62)
Custodial Arrest without warrant	10.1% (7,870)	10.9% (3,827)	9.4% (4,803)	6.2% (824)	16.3% (64)	10.2% (157)
Noncriminal transport or caretaking transport	1.9% (1,451)	1.2% (421)	1.3% (680)	1.1% (141)	0.5% (2)	1.4% (21)
Psychiatric hold	4.4% (3,396)	3.5% (1,210)	2.9% (1,507)	3.5% (470)	7.6% (30)	5.1% (79)
Referral to school administrator	0.0% (4)	0.0% (1)	0.0% (13)	0.0% (4)		
Referral to school counselor or other support s..	0.0% (2)		0.0% (2)			

9. Use of Force Types Used by Case and Incident Level of Analysis

We calculated use of force rates by creating a Use of Force Index that includes all types of force involving weapons as well as the use of neck restraints. For San Diego Police Department, this includes the use of tasers, chemical agents, control holds involving weapons, carotid neck restraints, hard impact weapons and extended range impact weapons.

San Diego PD Force Types Used, 2017-2018
Source: Records obtained from San Diego Police Department



10. Methodology for Calculating Use of Force Rates per Arrest

In order to evaluate use of force rates, we benchmarked use of force by arrests as has been done in [previous research](#). Data on use of force incidents by type of force used in 2017 and 2018 were obtained via public records request from each agency. While we requested data from the 100 largest cities in California, we obtained data for both 2017 and 2018 from 42 of those agencies. Calculations of use of force rates per 10,000 arrests for each agency are shown below.

Use of Force Rates for California Police Departments

Calculating Rates of Use of Force Index Incidents from 2017-2018.

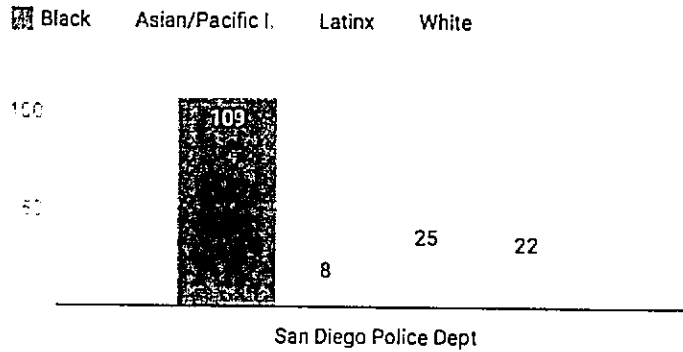
Agency Name	Use of Force Index Incidents 2017-2018	Arrests 2017-2018	Index Rate per 10,000 Arrests
Los Angeles	1,191	206,903	57.6
San Diego	1,060	59,152	179.2
San Jose	462	29,369	157.3
San Francisco	251	27,841	90.2
Fresno	169	41,597	40.6
Vallejo	172	5,015	343.0
Santa Ana	223	14,006	159.2
Stockton	256	14,762	173.4
Chula Vista	62	8,331	74.4
Fremont	74	5,146	143.8
Modesto	96	18,039	53.2
Santa Rosa	61	12,766	47.8
Garden Grove	35	11,197	31.3
Corona	57	7,534	75.7
Hayward	58	6,828	84.9
Salinas	106	8,572	123.7
Escondido	49	9,792	50.0
Pasadena	51	8,718	58.5
Roseville	33	5,726	57.6
Simi Valley	30	4,900	61.2
Fairfield	132	7,729	170.8
Richmond	40	3,264	122.5
Ventura	32	11,106	28.8
Daly City	29	3,909	74.2
El Cajon	37	8,182	45.2
Vacaville	41	6,932	59.1
Santa Barbara	27	14,225	19.0
Citrus Heights	15	4,252	35.3
Redwood City	26	3,234	80.4
Buena Park	24	6,186	38.8
Mountain View	17	3,259	52.2
Pleasanton	10	1,252	79.9
Milpitas	15	3,170	47.3
Alameda	14	2,360	59.3
Union City	30	2,663	112.7
Turlock	19	6,487	29.3
Redlands	46	4,136	111.2
Pittsburg	49	3,303	148.3
Walnut Creek	10	2,287	43.7
Redondo Beach	43	3,928	109.5
Santa Cruz	35	4,049	86.4
National City	45	3,714	121.2

The Use of Force Index includes all uses of tasers, batons and other impact weapons, projectiles, neck restraints and chemical agents reported by Agencies. Data obtained from Agencies via Public Records requests.

11. Use of Force Cases per Population

San Diego Police Use of Force per Population

The average black person experienced use of force by San Diego police at 5x higher rate than the average white person in San Diego.



Use of Force Cases per 10,000 Population

Source: 2016-2018 Use of Force Data work sheet from SDPD

12. Use of Force Severity by Resistance Level

SDPD Force Severity by Resistance Level

Source: San Diego Police Department, 2016-2018

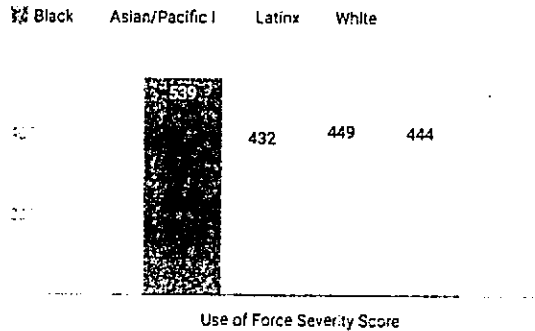
*Because San Diego police grouped subjects' resistance levels and weapon types together into the same column, we could not determine force severity against people who posed No Resistance (rows with NULL in this column could either represent people who were Unarmed or who posed No Resistance or both, but we could not determine which of these options applied based on the data provided.)

Resistance Level	Race	Score
Life-Threatening	Asian/Pacific Islander	3.0
	Black	2.8
	White	3.1
	Latinx	2.4
Assaultive	Asian/Pacific Islander	1.9
	Black	2.2
	White	2.0
	Latinx	2.1
Active Resistance	Asian/Pacific Islander	1.6
	Black	1.6
	White	1.5
	Latinx	1.6
Passive Resistance	Asian/Pacific Islander	1.5
	Black	1.8
	White	1.6
	Latinx	1.6

13. Severity Scores using CPE Methodology and Scores with All SDPD Force Options Included

San Diego Police Use of Force Severity Score by Race (All Force Options)

San Diego police used more severe levels of force against Black people per 1,000 Arrests



Source: SD Police Use of Force Data (untransformed)

Appendix D: Methodology for Cleaning and Analyzing San Diego Sheriff’s Department Stops Data

In response to our [public records request](#), San Diego Sheriff’s Department provided us with RIPA stops data (see [here](#) and [here](#)) for the period between July 1, 2018 to July 31, 2019 which included information on both police pedestrian and vehicle stops. The dataset was coded according to the [specifications](#) of the RIPA program. Using the codebook for this program, we were able to identify each variable for our analysis. Unlike the data provided by San Diego PD, the data provided by San Diego Sheriff’s Department removed the column of data indicating the assignment of the officer who made the stop, though this wasn’t used in our analysis of either department.

Appendix E: Calculating San Diego Sheriff’s Jurisdiction and Stop Rates

Since there are municipal police departments that have primary jurisdiction over some of the larger cities within the county, we benchmarked stop rates based on the population of the areas where the Sheriff’s Department has primary jurisdiction. This includes Del Mar, Santee, Encinitas, Solana Beach, Imperial Beach, Poway, Lemon Grove, Vista, San Marcos and Unincorporated San Diego County. Collectively, these areas represent 87% of all SDSD stops during the period of our analysis. We used only those stops that took place within the area of primary jurisdiction to calculate stop rates. Population totals and stop rates by race are provided below using the population of SDSD’s primary jurisdiction and detailed calculations of stop rates and demographic totals for each area of the jurisdiction are available [here](#).

	Asian	Black	Latinx	Native American	Pacific Islander	White
Total San Diego County Population	376,669	154,599	1,095,458	26,340	13,122	1,517,153
Population of Sheriff's Primary Jurisdiction (PJ)	48,300	28,185	278,182	11,258	8,403	527,743
People Stopped	5,199	6,353	23,056	598	733	42,168
People Stopped in PJ	4,235	4,523	18,296	547	603	36,798
Stops per 1k Population (PJ)	87.7	160.5	65.8	48.6	71.8	69.7
Disparity Relative to White People (PJ)	1.3	2.3	0.9	0.7	1.0	1.0
Stops Excluding Traffic Violations (PJ)	661	2,064	6,344	238	175	12,928
Stops per 1k Excluding Traffic Violations (PJ)	13.7	73.2	22.8	21.1	20.8	24.5
Disparity Relative to White People (PJ Non-Traffic)	0.6	3.0	0.9	0.9	0.9	1.0

Appendix F: Additional Data Tables for Analysis of San Diego Sheriff's Department

1. San Diego Sheriff Stop Outcomes

Perceived Identity	People Stopped	% Searched	% Searches Finding Contraband	% Arrested Without Warrant	% Stops with Property Seized	% Police Used Force
Asian	5,199	7.0%	22.4%	4.0%	1.6%	0.5%
Black	6,353	22.7%	21.7%	9.8%	3.4%	1.3%
Latinx	23,056	19.3%	21.6%	9.2%	3.9%	1.2%
Native American	598	30.1%	21.1%	13.0%	4.7%	1.8%
Pacific Islander	733	17.7%	23.1%	7.5%	2.5%	1.1%
White	42,168	18.7%	24.1%	8.3%	3.5%	0.9%

2. San Diego Sheriff Use of Force by Arrest and Contraband Rates

SDSD Were More Likely to Use Force Against Black and Latinx People Whether or Not They Make an Arrest

SDSD Were More Likely to Use Force Against Black and Latinx People During a Search Whether or Not Contraband Was Found

No Arrest	Race	Force Used		Contraband Found	Race	Force Used	
		%	Count			%	Count
No Arrest	White	0.4%	(158)	Contraband Found	White	5.2%	(99)
	Black	0.5%	(28)		Black	8.3%	(26)
	Latinx	0.5%	(104)		Latinx	7.6%	(73)
Arrest Made	White	4.6%	(213)	No Contraband Found	White	3.2%	(189)
	Black	6.2%	(54)		Black	3.8%	(43)
	Latinx	6.4%	(174)		Latinx	4.1%	(145)

3. San Diego Sheriff's Department Consent Given to Search by Race

Consented	Asian	92.1%
	Black	86.5%
	Latinx	92.8%
	White	89.2%
Did Not Consent	Asian	7.9%
	Black	13.5%
	Latinx	7.2%
	White	10.8%

4. San Diego Sheriff's Department Searches during Traffic Violation Stops by Race

SDSD Stops for Traffic Violations Leading to Searches			SDSD Stops for Traffic Violations Leading to Searches		
Race	Not Searched	Searched	Race	Not Searched	Searched
Black	1.5% (48)	4.3% (141)	Asian	20.3% (13)	79.7% (51)
Latinx	1.7% (258)	4.6% (690)	Black	18.0% (34)	82.0% (155)
White	1.3% (345)	3.7% (991)	Latinx	23.0% (218)	77.0% (730)
			White	30.3% (405)	69.7% (931)

5. San Diego Sheriff's Department Stops by Disability Status and Race

	No Disability		People with Disabilities	
	Not Searched	Searched	Not Searched	Searched
White	81.9% (33,269)	18.1% (7,371)	66.8% (1,020)	33.2% (508)
Black	78.0% (4,742)	22.0% (1,339)	62.5% (170)	37.5% (102)
Latinx	81.0% (18,296)	19.0% (4,281)	62.4% (299)	37.6% (180)

6. San Diego Sheriff Stops of Perceived LGBT and/or Gender Non-Conforming Individuals

San Diego sheriff's deputies were more likely to search and arrest people perceived to be LGBT.

Data from 7/1/2018 - 7/31/2019

Perceived Identity	People Stopped	% Searched	% Searches Finding Contraband	% Arrested Without Warrant	% Stops with Property Seized	% Police Used Force
All Other Stops	77,529	18.5%	23.2%	8.4%	3.5%	1.0%
LGBT	1,169	22.0%	16.0%	11.6%	2.7%	1.0%

San Diego sheriff's deputies were more likely to search, arrest, and seize property from people perceived to be Gender Non-Conforming.

Data from 7/1/2019 - 7/31/2019

Perceived Identity	People Stopped	% Searched	% Searches Finding Contraband	% Arrested Without Warrant	% Stops with Property Seized	% Police Used Force
Gender Non-Conforming	107	20.5%	19.2%	19.6%	4.7%	0.9%
Cisgender	78,591	18.5%	23.1%	8.5%	3.5%	1.0%

SDSD Contraband Hit Rates by Perceived LGBT Status

	Other		Perceived LGBT	
	Not Searched	Searched	Not Searched	Searched
White	75.7% (5,874)	24.3% (1,884)	85.1% (103)	14.9% (19)
Black	78.2% (1,097)	21.8% (306)	81.6% (31)	18.4% (7)
Latinx	78.3% (3,432)	21.7% (950)	82.3% (65)	17.7% (14)

SDSD Search Rates by Perceived LGBT Status

	Other		Perceived LGBT	
	Not Searched	Searched	Not Searched	Searched
White	81.3% (33,821)	18.7% (7,758)	79.5% (468)	20.5% (121)
Black	77.4% (4,803)	22.6% (1,403)	74.1% (109)	25.9% (38)
Latinx	80.7% (18,354)	19.3% (4,382)	75.3% (241)	24.7% (79)

7. San Diego Sheriff Stop Results by Race

San Diego Sheriff's Department Stop Results by Race

	Asian	White	Black	Latinx	Multiracial	Native American	Pacific Islander
No action	13.8% (716)	18.3% (7,696)	22.1% (1,404)	21.3% (4,903)	18.1% (106)	31.6% (189)	20.9% (153)
Warning (verbal or written)	28.6% (1,485)	23.1% (9,745)	28.0% (1,774)	25.3% (5,827)	26.9% (158)	24.1% (144)	25.0% (183)
Citation for infraction	47.0% (2,441)	35.2% (14,858)	20.5% (1,303)	29.7% (6,832)	28.6% (168)	10.9% (65)	31.8% (233)
In-field cite and release	1.2% (64)	2.3% (954)	2.7% (174)	2.4% (544)	4.3% (25)	2.7% (16)	2.7% (20)
Field interview card completed	3.1% (160)	7.5% (3,166)	10.7% (677)	7.8% (1,800)	5.6% (33)	9.7% (58)	6.7% (49)
Custodial arrest pursuant to warrant	1.2% (60)	2.7% (1,145)	4.1% (259)	2.8% (653)	1.9% (11)	6.0% (36)	3.8% (28)
Custodial arrest without warrant	3.8% (196)	7.9% (3,336)	9.2% (584)	8.7% (2,014)	10.1% (59)	12.4% (74)	7.0% (51)
Contacted parent/legal guardian	0.1% (5)	0.1% (63)	0.3% (16)	0.3% (63)	0.5% (3)	0.2% (1)	0.3% (2)
Noncriminal transport or caretaking...	0.3% (14)	0.5% (229)	0.5% (30)	0.3% (76)	1.0% (6)	0.8% (5)	0.5% (4)
Psychiatric hold	1.1% (57)	2.3% (963)	2.0% (125)	1.4% (315)	3.1% (18)	1.7% (10)	1.2% (9)

8. San Diego Sheriff Force Severity by Resistance Level

SDSD Force Severity by Resistance Level

Source: San Diego Sheriff's Department, 2016-2018

Aggravated / Assaultive Resistance	Asian / Pacific Islander	2.7
	Black	2.4
	Latinx	2.7
	White	2.4
Active Resistance	Asian / Pacific Islander	1.7
	Black	1.7
	Latinx	1.7
	White	1.6
Passive Resistance	Asian / Pacific Islander	1.3
	Black	1.9
	Latinx	1.7
	White	1.5
Verbal Noncompliance / Psychological Intimidation	Asian / Pacific Islander	1.8
	Black	1.9
	Latinx	1.5
	White	1.6

Exhibit E

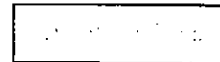


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WATCHDOG

The Color of Authority: San Diego police, sheriff's deputies disproportionately target minorities, data show



San Diego Police Department officers make a traffic stop along El Cajon Boulevard on June 23, 2020 in San Diego. (Sam Hodgson / The San Diego Union-Tribune)

Blacks, Latinos, Native Americans bear brunt of racial biases in local policing

BY LYNSAY WINKLEY, LAURYN SCHROEDER

MARCH 28, 2021 5 AM PT



Long before protests erupted across San Diego County over the death of George Floyd, a Black man who died last May after a Minneapolis police officer knelt on his neck for almost nine minutes, community leaders have called on local law enforcement officials to address persistent racial disparities in policing.

For years, study after study has shown that people of color — especially Blacks — are stopped, searched and arrested at higher rates than their White counterparts.

Racial breakdown of police, deputy stops

Traffic stops by San Diego police officers and county Sheriff's deputies by race or ethnicity of drivers.

San Diego Police July 2018 through Dec. 2020

Race/ethnicity	Total stops	San Diego population	Percent of police stops
White	180,117	42.8%	42.1%
Latino	125,629	30.3%	29.4%
Black	84,605	6.0%	19.8%
Asian	20,259	16.4%	4.7%
*Middle Eastern/ South Asian	11,120		2.6%
Pacific Islander	3,312	0.4%	0.8%
Multiple	1,423	3.6%	0.3%
American Indian	870	0.2%	0.2%

San Diego County Sheriff July 2018 through July 2020

Race/ethnicity	Total stops	County population	Percent of deputy stops
----------------	-------------	-------------------	-------------------------

Community	Stops	Population	Deputy Stops
White	68,020	45.6%	53.0%
Latino	39,234	33.7%	30.6%
Black	10,165	4.7%	7.9%
Asian	4,690	11.6%	3.7%
*Middle Eastern/ South Asian	3,891		3.0%
Pacific Islander	1,220	0.4%	1.0%
American Indian	887	0.4%	0.7%
Multiple	262	3.4%	0.2%

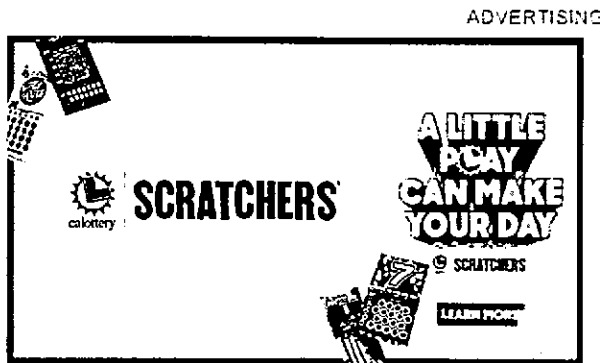
**Middle Eastern/South Asian is not a separate race for population and is included in other races. County and city population for Pacific Islander includes Native Hawaiians, Native American includes Alaska Native.*

Sources: San Diego Police Department; San Diego County Sheriff's Department; U.S. Census

MICHELLE GILCHRIST U-T

A new analysis by The San Diego Union-Tribune of nearly 500,000 stops of drivers and pedestrians made by San Diego police and sheriff's deputies shows that the county's two largest law enforcement agencies have work to do to earn the trust of minority communities.

Nearly one in five stops initiated by the San Diego Police Department from July 2018 through December 2020 involved Black people, even though they make up less than 6 percent of the city's population, the analysis showed.



San Diego officers also were more likely to use force on minority groups, including Black and Latino people, than Whites, while sheriff's deputies were more likely to use force on Native Americans.

Both departments searched Black and Native American people at higher rates than Whites. According to Sheriff's Department data, those two minority groups were less likely to be found with contraband than Whites who were searched.

Percentage of people who were searched where contraband was found by race/ethnicity

Race/ethnicity	Total searched	Contraband	No contraband	Race/ethnicity	Total searched	Contraband	No contraband
Black	21,219	26.8%		Middle Eastern/ South Asian	262	26.3%	
American Indian	207	25.6%		White	12,883	24.7%	
White	34,953	24.4%		Multiple	59	23.7%	
Hispanic	27,680	23.7%		American Indian	280	22.9%	
Pacific Islander	716	22.3%		Hispanic	7,688	22.4%	
Asian	2,630	22.1%		Black	2,346	22.3%	
Multiple	254	20.9%		Asian	346	21.1%	
Middle Eastern/ South Asian	1,109	19.7%		Pacific Islander	209	20.1%	

More than one individual can be involved in a stop. Officers are required to record the ethnicity of drivers and passengers. The Union-Tribune analyzed the race of each person involved. Officers may have listed more than one perceived race for an individual involved in a traffic stop. Individuals who were perceived as Hispanic and any other race were included in Hispanic total. Individuals perceived as more than one race were included in the Multiple category. Percentages may not equal 100 due to rounding.

San Diego police also arrested Native Americans, Blacks, Pacific Islanders and Latinos at higher rates than Whites.

The two biggest San Diego County law enforcement agencies are not an anomaly.

Black people across California were stopped at more than twice their share of the population in 2019, according to state data. And Blacks, Latinos and Native Americans all were searched at higher rates despite being found with contraband less often than Whites.

Blacks and Latinos statewide also were more likely to have force used against them than Whites, the data show.

Christie Hill, deputy advocacy director for the American Civil Liberties Union of San Diego and Imperial Counties, said the Union-Tribune's analysis "affirms what community members have been saying for years about experiencing a different type of policing compared to White people in our region."

Hill said while studies are helpful, policymakers need to act.

"There's anger, justified anger, about the lack of action, not only from law enforcement but our elected leaders because there were studies done in the early 2000s that found disparities in how the police were conducting traffic stops," she said.

Local police departments have implemented some reforms, most notably since the nationwide unrest last spring.

In the immediate aftermath of the Floyd killing, every department in the county banned a controversial neck hold known as the carotid restraint. The tactic aimed at subduing suspects by cutting off the flow of oxygen to their brains was used disproportionately on Black people, the Union-Tribune previously reported.

San Diego police also reconfigured the department's gang-suppression team, in part to reduce the impact of saturation patrols, which flood certain neighborhoods with officers. Police also adopted new policies setting limits on officers' actions during protests.

Even so, community leaders say, San Diego County sheriff and police chiefs have shied away from changes that would more directly address racial disparities in law enforcement.

Oversight groups like the city of San Diego's Community Advisory Board and the American Civil Liberties Union of San Diego and Imperial Counties have urged police agencies to ban consent searches, when officers ask to search someone despite there being no evidence of criminal wrongdoing.

San Diego police officials said their consent search rules are currently under review.

Community groups also want police to suspend pretext stops, when officers use things like minor traffic violations to pull over drivers and search their vehicles. It's a technique police have defended in the past as an important investigatory tool.

"People have not been marching and turning out to city council meetings to speak for 10 hours because they want you to change one aspect of what you're doing," Hill said.

"Folks want to see a transformation in how our cities are responding to public safety and redefining what that means."

For the ACLU and others, that transformation starts with reducing the role of police and investing in community-based solutions.

It also means further diversifying the law enforcement workforce. The San Diego Police Department is 59 percent White; the Sheriff's department is 54 percent White, records show.

At a graduation ceremony at MCAS Miramar last year, a group of new police academy graduates listen to San Diego police Chief David Nisleit (near the right, holding a piece of paper). Standing on Nisleit's left is San Diego's former Mayor Kevin Faulconer. The class of 58 newly sworn officers marked the police department's largest graduating class of police recruits in 25 years. (Courtesy of the City of San Diego)

San Diego police Capt. Jeffrey Jordon acknowledged that officer bias contributes, in part, to policing disparities. When explicit bias occurs, he said, the department is committed to taking immediate, corrective action to eliminate that behavior.

Jordon also said factors outside officers' control are more responsible for racial discrepancies in policing than bias — situations like homelessness, mental illness and criminal activity.

"I would not put officer bias at the top of the list," he said. "I think there are other risk factors that take place that cause disparate impacts at far greater extents than interpersonal ones."

Slave patrols

As evidence of disparity persists, some experts argue that minority communities should not have to prove that racial bias is at the root of such discrepancies in the data, particularly when the history of policing is deeply racist.

American policing, after all, originated soon after the revolution, when White Southerners worried about rebellions among their communities of enslaved people.

Plantation owners organized so-called slave patrols to hunt for runaways, deter any effort to revolt and maintain discipline, according to historian Gary Potter of Eastern Kentucky University.

"The history of police work in the South grows out of this early fascination, by White patrollers, with what African American slaves were doing," Potter wrote. "Most law enforcement was, by definition, White patrolmen watching, catching, or beating Black slaves."

Jack Glaser, a UC Berkeley professor and expert on racial profiling, said a wave of professionalization swept across American police agencies in the 1970s but likely did not eradicate prejudice in the rank and file.

He said law enforcement officials need to more fully demonstrate they are working to improve.

“The burden of proof shouldn’t be on the people who are arguing that there is racial bias” in policing, Glaser said. “I think at the very least there should be an equal burden of proof and that evidence of disparity should be taken very seriously.”

Using data to expose long-running disparities in law enforcement is fairly straightforward. It is more difficult to determine whether the inequities stem from bias or animus on the part of officers and deputies.

Over the years, researchers have developed tests to help identify when racial bias plays a role in local policing. For example, examining who officers choose to search most often and comparing that data to those most often found with contraband, can indicate biases.

But experts caution that even statistical tests designed to single out prejudice may not prove accurate — even if there is evidence to suggest that bias exists.

The veil of darkness test, for example, is used by criminal justice researchers across the country. It attempts to identify racial profiling by determining whether officers pull over drivers of particular ethnicities more often during daylight hours — when race is presumably more visible — than after dark.

The Union-Tribune’s veil of darkness analysis of San Diego police and sheriff’s data found little evidence of overt racial bias.

For example, Asian drivers were pulled over by sheriff’s deputies from July 2018 through June 2020 slightly more often during the day, the analysis showed. But experts said it was not clear if that was attributable to bias or to some unknown factor.

Street lights, for example, could allow deputies to observe a person’s race at night.

Law enforcement officers also may racially profile in different ways after dark, by making assumptions about a person's race based on the car they drive, the neighborhood they are in or the time of day the stop occurs. None of these tendencies may be reflected in the data.

Over-policing in communities of color — which often results in a disproportionate amount of police activity — can also mask the veil of darkness findings, said Glaser.

“The absence of a disparity is very weak evidence of an absence of bias, and that's partly because police can make inferences about the race of drivers in the dark, so the test is not pure in that sense,” he said.

The UC Berkeley professor said the veil of darkness survey is a very smart test that has been carefully developed by smart people.

“It's useful but, at the end of the day, it's prone to false negatives,” Glaser said.

Change the disparity

Misleading results are one of many reasons law enforcement officials should pay close attention to statistical disparities in police stops and other activities — regardless of whether evidence of bias is found, researchers say.

Kent Lee is co-chair of the San Diego Asian Pacific Islander Coalition, a group that formed to denounce racist behavior toward Asians and Pacific Islanders during the pandemic.

He said the possibility of bias seen in the Sheriff's Department's veil of darkness results weren't particularly surprising and noted that many communities of color have worked for years to draw attention to the uneven levels of policing in their neighborhoods.

"We know that incidents of bias already exist regularly, and it's just a matter of whether we see it or not," Lee said.

Some prejudice was especially evident during the pandemic, he added.

Long before the state's stay-at-home order was issued last March, Asian and Pacific Islander-owned businesses saw their revenue dry up as concerns about the coronavirus spread throughout the United States, local business groups said.

Asians and Pacific Islanders also reported being victims of racist and xenophobic acts.

"I think a study like this is important not just for the community to understand, but I think it's also an opportunity for law enforcement to look within and see what opportunities they have to address bias or disparities," Lee said. "I think, at the end of the day, we should all see it as beneficial when there's an opportunity to better practices and improve upon our perceptions."

Lee said law enforcement leaders have made an effort to reach out to minority communities over the years, both to diversify their own forces and to build stronger relationships. But there is much more work to be done, he said.

A number of organizations and advocacy groups are working to help law enforcement agencies eliminate implicit and overt prejudice in their ranks.

Both the San Diego police and sheriff's departments have partnered with the Center for Policing Equity, a nonprofit at Yale University that uses data to help police agencies identify and eliminate bias.

Chris Burbank is the center's vice president of law enforcement strategy and the former chief of police in Salt Lake City, Utah. He would not speak about specific findings from

his organization's work with the San Diego police and sheriff's departments but said the center sees many of the same disparities when they partner with departments.

"I think we need to start saying, 'Here's the disparity. Now, how do we change that disparity?'" Burbank said.

Reducing bias in law enforcement starts with recognizing the problem and adopting strategies and policies to eliminate it, he said.

"It's very specific to the direction given to police officers, the way we patrol (and) where we're doing the enforcement," Burbank said. "How could departments do nothing about that?"

And that's just first steps.

When statistics show where and when racial bias is occurring, law enforcement officials and community leaders should chart a path forward together, Burbank said.

Most often that begins with a hard look at the data.

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Exhibit F

Traffic enforcement in San Diego, California

An analysis of SDPD vehicle stops in 2014 and 2015

Joshua Chanin, Megan Welsh, Dana Nurge, and Stuart Henry

San Diego State University

November 2016

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EXECUTIVE SUMMARY

This Report presents the results of an independent analysis of records generated following 259,569 traffic stops initiated by San Diego Police Department (SDPD) officers between January 1, 2014 and December 31, 2015. This review focused on the extent to which these data reveal Department- and division-level racial/ethnic disparities in (1) the decision to initiate a traffic stop; (2) the decision to issue a citation; (3) the decision to conduct a field interview; (4) the decision to initiate a search; (5) the discovery of contraband; and (6) the decision to make an arrest. Our findings can be summarized as follows:

- Citywide, disparities between Black and White drivers were evident in vehicle stop data from 2014, but not 2015 or the combined 2014/2015 dataset, while no such disparities were found between Whites and either Hispanic or Asian/Pacific Islander (API) drivers in 2014 or 2015;
- Data from both 2014 and 2015 revealed distinct and divergent stop patterns by driver race/ethnicity in police divisions located above and below Interstate 8;
- Citywide and across 2014 and 2015, Black and Hispanic drivers were more likely than White drivers to be searched following a traffic stop, and despite facing higher search rates, were less likely to be found with contraband;
- Black, Hispanic, and API drivers were subject to field interviews at greater rates than White drivers;
- No meaningful difference existed in the rate at which drivers from each racial/ethnic group were arrested;
- Black drivers were less likely to receive a citation than White drivers stopped under similar circumstances, while matched Hispanic, White, and API drivers were cited at similar rates;
- Records of traffic stops conducted in 2014 and 2015 were often incomplete, raising questions as to whether data generated by the SDPD's traffic stop data card system are a reliable measure of actual traffic stops conducted; and
- City residents who participated in our focus groups and SDPD officers who participated in an electronic survey and follow-up interviews recognized a tension between the Department and minority community members.

The remainder of this executive summary provides an overview of the data and analytic methods used to examine traffic stops and post-stop outcomes, a more detailed review of our findings, and a brief description of our recommendations to the SDPD to address the identified racial/ethnic disparities.

Traffic stops

To examine the effect that driver race/ethnicity has on the likelihood that an individual will be stopped by the police, we draw on what has become known as the 'veil of darkness' technique. This approach is premised on the assumption that if officers are relying on driver race/ethnicity to guide stop decisions, then such bias will be more apparent in daylight stops, when a motorist's race/ethnicity is more likely to be visible, than stops conducted after dark, when physical appearance is harder to detect.

The veil of darkness technique, which thus far has been used by police scholars to study traffic stops in six other U.S. locations, allows researchers to avoid the difficulty of identifying and applying a benchmark against which to compare traffic stop data. This is the central challenge in the analysis of traffic stops, as the driving population in a given area may look quite different from the residential population.

To account for the possibility that the composition of daytime drivers may differ from those on the road at night, we limited the analysis to what is known as the 'inter-twilight period,' or the time period between the earliest end of civil twilight (approximately 5:09 pm on Nov. 27) and the latest (approximately 8:29 pm on Jun. 27). Focusing on this period allowed us to capitalize on a natural experiment produced by seasonal changes. Because the sun goes down much earlier in San Diego during winter months than it does in the summer, people on the road at 6:00 pm in January would experience darkness, but in July the same drive would occur in broad daylight. Thus, we are able to compare the likelihood that drivers on the road during this 3-hour and 20-minute window were stopped in daylight versus darkness, and to be confident that any differences found are due to race/ethnicity rather than other factors.

We omitted from the analysis stops that occurred as a result of a suspect description, code enforcement effort, or other type of call for service. By limiting our sample to only those stops that involve an equipment (e.g., a broken tail light) or moving violation (e.g., an illegal left turn), we are able to focus on discretionary decisions, where an officer's use of race/ethnicity may indicate disparate treatment.

Our analysis produced a series of mixed results. In 2014, Black drivers were more likely to be stopped during daylight hours than after dark, compared to White drivers. We found no such disparity in 2015 or in the combined 2014/2015 dataset.

Our review of citywide stops involving Hispanic and API drivers revealed no disparities in the day-night stop patterns of either group compared to White drivers in 2014, 2015, or the combined total. Put another way, the odds of an Hispanic or API driver being stopped during

) daylight hours are statistically similar to the odds of a stop involving an Hispanic or API driver occurring after dark, compared to the day-night stop patterns of White drivers.

To complement our citywide analysis, we also examined division-level stop patterns in 2014 and 2015. Our review of aggregate data from the five divisions located above Interstate 8 revealed no statistically significant disparities in the day-night stop patterns of either Black, Hispanic, or API drivers as compared to White drivers. Narrowing the focus to the division level, we found evidence of disparities in the day-night stop patterns of both Black and Hispanic drivers stopped in the Northeastern division, as compared to Whites. No such disparities were found between API and White drivers, or in any of the other four divisions located above I-8.

Data on stops conducted below Interstate 8 in 2014 and 2015 revealed a much different set of results. We find evidence to suggest that in the aggregate, Black and Hispanic drivers were *less* likely be stopped during daylight hours than they were after dark, as compared White drivers. In other words, when officers on patrol below I-8 were able to see a driver's race, they were more likely to stop a White driver than either a Black or Hispanic (but not API) driver. At the division level, this type of disparity was evident in stops occurring in the Central division and exclusively among Hispanic drivers stopped in the Mid-City division.

) Post-stop outcomes

The Report also includes a detailed analysis of the extent to which key post-stop outcomes vary by driver race. In an effort to eliminate other possible explanations for racial/ethnic disparities in the decision to initiate a search, issue a citation, conduct a field interview, or effectuate an arrest, we matched API, Black, and Hispanic drivers with White drivers across a set of demographic and stop-based characteristics using a statistical technique known as propensity score matching. Analysis of the post-stop outcomes between matched pairs shows distinct and sizable differences in the experiences of Black and Hispanic drivers and their matched White counterparts. No statistically significant differences were evident in our analysis of the API-White pairing.

Specifically, the data show that SDPD officers were more likely to search Black and Hispanic drivers than White drivers stopped under similar circumstances. These results were largely consistent across all search types, including high discretion searches, like consent searches, and low discretion searches, like inventory searches. Across 2014 and 2015, White drivers were searched at a greater rate than API drivers.

) Analysis of 'hit rates,' or the percentage of searches that led to the discovery of illegal contraband, revealed Black and Hispanic drivers were either less likely to be found with

) contraband or found with contraband at similar rates than matched White drivers, depending on the nature of the search. We found no meaningful differences in the hit rates of matched API and White drivers.

We also used the propensity score matching technique to evaluate how driver race/ethnicity influenced arrest and field interview rates, as well as the decision to issue a citation. Our analysis showed no statistical difference in the arrest rates of matched Black and White drivers, while Hispanic drivers were arrested slightly more often than matched Whites. Matched API drivers were arrested less frequently than their matched White counterparts.

Black drivers were subjected to field interviews more than twice as often as their matched White peers, while there was a much smaller though statistically significant difference between both Hispanic and API drivers as compared to matched White drivers. Finally, we found that Black drivers received citations less often than matched Whites, while matched Hispanic, API, and White drivers were all cited at nearly identical rates.

Recommendations

) Analysis of the 2014 and 2015 traffic stop card data, as well as the contextual insights we gained from several focus groups with San Diego community members, interviews with dozens of SDPD officers, and an electronic survey of SDPD officers suggest three broad, thematic results. First, data on the SDPD's stop and post-stop enforcement patterns show meaningful differences in the treatment of Black and Hispanic drivers, as compared to Whites. Second, these disparities, which match the perceptions of some members of San Diego's minority communities, contribute to a recognized tension between these communities and the SDPD. Third, SDPD's existing system for collecting and managing traffic stop data is fundamentally flawed.

Our recommendations to the Department are designed to address these broad findings.

Systemic disparities

1. Acknowledge the existence of racial/ethnic disparities and make combatting such disparities a priority;
2. Continue to enhance training and supervision around issues of racial/ethnic disparities;
3. Make traffic stop practices more transparent; and
4. Make traffic stop practices more systematic and data-driven.

Police-community relations

5. Make community engagement a core departmental value; and

6. Work to improve communication and transparency regarding police practices.

Data collection and management

7. Revise the current data collection system;
8. Coordinate existing data collection efforts;
9. Collect additional data;
10. Strengthen accountability and oversight of data collection and management.

We submit this Report during a challenging time for police departments and individual officers across the country. Public scrutiny of the role of police in our society and tension between law enforcement and communities of color has seldom been more acute than it is today. Analysis of 2014 and 2015 traffic stop data shows that perceptions of differential treatment are supported by data, and highlight several substantive issues that, in our view, should be given the Department's full attention. Insights from both community members and SDPD officers suggest that these are not insurmountable challenges. Rather, the goal of a fair and transparent police force defined by a strong bond with City residents is one that all involved care deeply about.

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CHAPTER 1: INTRODUCTION

In February 2015 the City of San Diego contracted with the San Diego State University School of Public Affairs to analyze the San Diego Police Department's (SDPD) enforcement of local traffic law. This Report encompasses our analysis of the 259,569 traffic stops conducted between January 1, 2014 and December 31, 2015.¹ Four questions drove our inquiry:

1. To what extent is there a department-level pattern of racial/ethnic disparity in the initiation of traffic stops?
2. To what extent are racial/ethnic disparities in the initiation of traffic stops evident at the patrol division level?
3. To what extent is there a department-level pattern of racial/ethnic disparity in the outcome of traffic stops?
4. How does the SDPD's traffic enforcement regime affect police-community relations in San Diego?

The Report is organized as follows. In Chapter 2 we contextualize our analysis by discussing policing in San Diego. We begin by describing the organization and operation of the Department and summarizing citywide crime trends. We then review the Department's recent history, which has included efforts to address allegations of officer misconduct and tension with communities of color.² Finally, we discuss in some detail findings from a previous independent analysis of SDPD traffic stop data conducted in 2000 and 2001.³

In Chapter 3 we describe the data used to complete our analysis. We review the mechanism for recording information about traffic stops, the 'vehicle stop card,' and discuss observable patterns in the volume and quality of the dataset. We also describe the process of gathering contextual information about traffic stops through conducting focus groups with San Diego community members and surveying and interviewing SDPD officers.

In Chapter 4 we examine traffic stop patterns at the Department level, at the individual patrol division level, and compare stop patterns above Interstate 8 with those occurring below I-8. After discussing the analytical challenges presented by this issue, we describe in detail the statistical method used to address the extent to which racial/ethnic disparities exist. The 'veil of

¹ The raw data files we received from the SDPD contained a total of 259,586 records. 17 records were corrupted and thus dropped from the analysis.

² Police Executive Research Forum (PERF). (2015). *Critical response technical assessment review: Police accountability - findings and national implications of an assessment of the San Diego Police department*. Washington, DC: Office of Community Oriented Policing Services, U.S. Department of Justice.

³ Cordner, G., Williams, B., & Zuniga, M. (2001). *San Diego Police Department vehicle stop study: Year-end report*. San Diego, CA.

) darkness' technique, our chosen approach, allows the researcher to isolate the effect of race/ethnicity from other factors by comparing the distribution of stops made during daylight hours, when the race/ethnicity of the driver is more apparent, to those made after sundown, when driver race/ethnicity is obscured by darkness. We complete the Chapter by comparing day-night stop patterns experienced by Asian/Pacific Islander (API), Black, Hispanic, and White drivers.

In Chapter 5 we present our analysis of post-stop outcomes, with a focus on examining how race/ethnicity affects the likelihood that a driver will have their person or vehicle searched and whether that search will lead to the discovery of contraband. We also examine how driver race/ethnicity influences the odds that a stopped driver receives a citation or is given a warning, is subject to a field interview, and whether the driver is ultimately arrested. The Chapter begins with a detailed discussion of the analytical approach driving our analysis. Propensity score matching is a technique that allows the researcher to match drivers based on a set of demographic and stop-related characteristics so as to isolate the effect of race. From there we present a detailed analysis of data on several post-stop outcomes, including searches, 'hit rates,' or the percentage of searches that lead to the discovery of illegal contraband, arrests, field interviews, and the issuance of citations and warnings.

) We conclude the Report in Chapter 6 with a brief summary of our findings and a series of recommendations.

CHAPTER 2: POLICING IN SAN DIEGO

Introduction

San Diego, California is the eighth largest city in the United States and one of the country's most diverse places to live.⁴ It is also one of the safest. As Figures 2.1 and 2.2 indicate, both violent and property crime in San Diego are relatively rare occurrences, compared to California's other major cities. Further, in 2014, the City of San Diego had the second lowest violent crime rate (3.81 per 1,000 residents) and property crime rate (19.59 per 1,000 residents) among the country's 32 cities with populations greater than 500,000.⁵ Even with slight increases in 2015, the rates of both violent crime (up 5.3 percent from 2014) and property crime (up 7.0 percent) in San Diego remain at historically low levels.⁶

Despite these optimal circumstances, the recent history of the San Diego Police Department (SDPD) has been challenged by hiring and retention difficulties, allegations of misconduct, and public criticism.⁷ In this Chapter, we discuss the context of policing in San Diego and briefly review the issues that precipitated this Report.

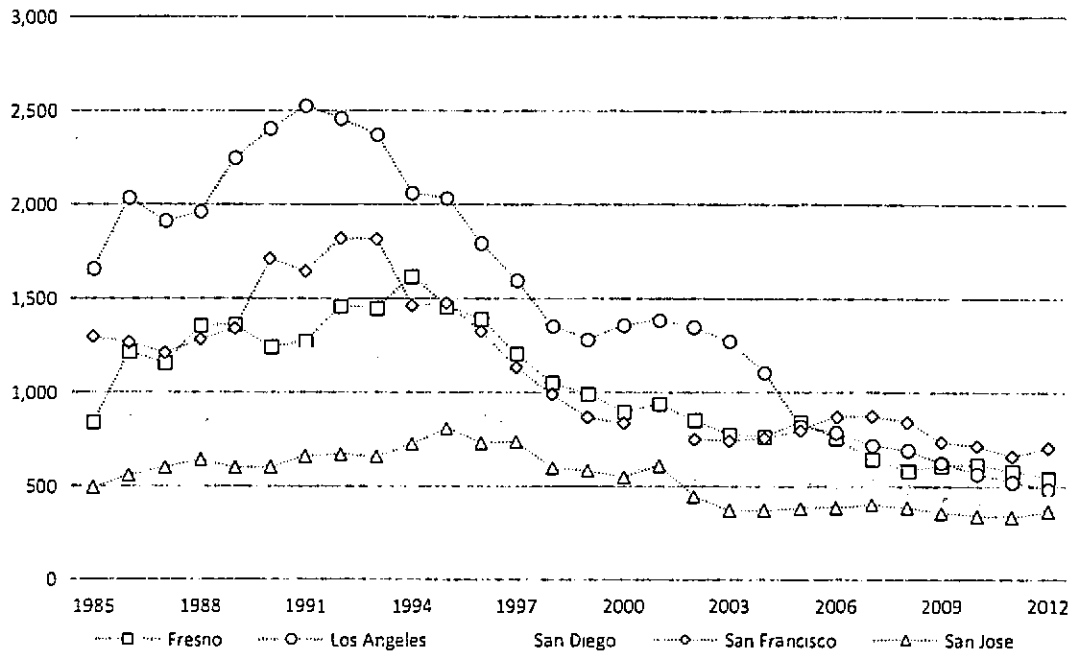
⁴ United States Census Bureau. (2015, May). Annual estimates of the resident population for incorporated places of 50,000 or more, ranked by July 1, 2014 population: April 1, 2010 to July 1, 2014. Retrieved Aug. 24, 2016, from <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>; Cima, R. (2015, August 11). The most and least diverse cities in America. Retrieved Aug. 24, 2016, from <http://priceonomics.com/the-most-and-least-diverse-cities-in-america/>.

⁵ Burke, C. (2016, Apr.). Thirty-six years of crime in the San Diego region: 1980-2015. SANDAG, Criminal Justice Research Division. Retrieved Jul. 19, 2016, from http://www.sandag.org/uploads/publicationid/publicationid_2020_20533.pdf.

⁶ Burke, C. (2016, Apr.). Thirty-six years of crime in the San Diego region: 1980-2015. SANDAG, Criminal Justice Research Division. Retrieved Jul. 19, 2016, from http://www.sandag.org/uploads/publicationid/publicationid_2020_20533.pdf.

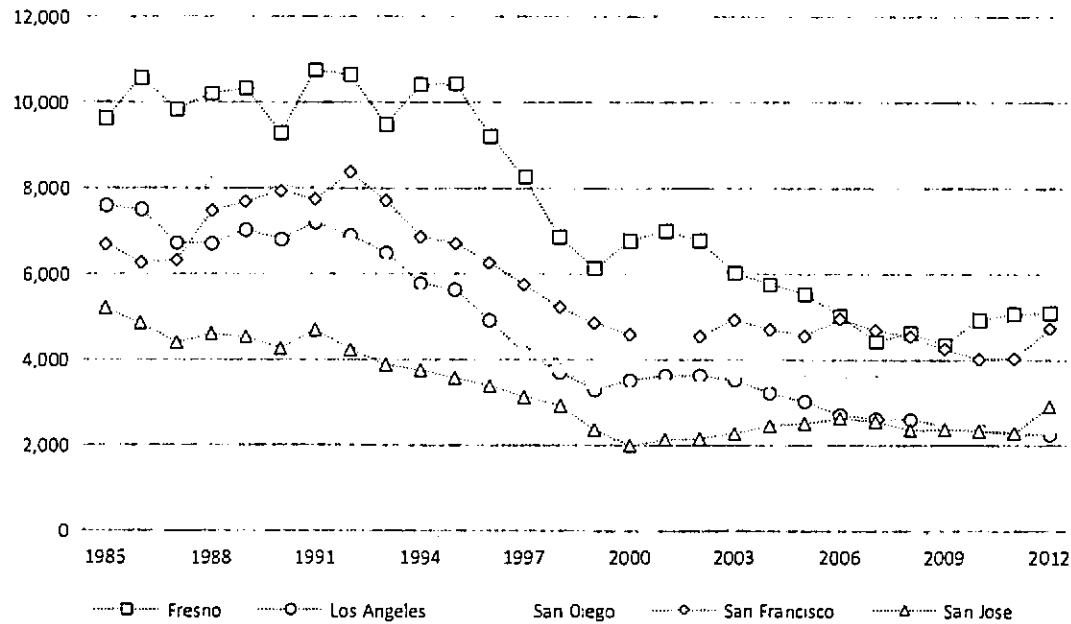
⁷ e.g., Dillon, L. (2014, Dec. 23). Misconduct issues will follow SDPD into 2015. *Voice of San Diego*. Retrieved Aug. 22, 2016, from <http://www.voiceofsandiego.org/topics/government/misconduct-issues-will-follow-sdpd-into-2015/>; Garske, M., & Stickney, R. (2014, Sept. 24). \$5.9M paid to settle ex-cop Anthony Arevalos civil lawsuit. *NBC & San Diego*. Retrieved Nov. 8, 2016, from <http://www.nbcsandiego.com/news/local/Anthony-Arevalos-Jane-Doe-Settlement-Details-SDPD-Sex-Crimes-277069491.html>; Kucher, K., Davis, K., & Repard, P. (2015, Mar. 17). Audit: SDPD flaws led to misconduct. *The San Diego Union Tribune*. Retrieved, Nov. 8, 2016, from <http://www.sandiegouniontribune.com/sdut-police-misconduct-review-justice-2015mar17-htmlstory.html>.

Figure 2.1.
Comparing violent crime rates across five major California cities



Source: Federal Bureau of Investigation (2012)

Figure 2.2.
Comparing property crime rates across five major California cities



Source: Federal Bureau of Investigation (2012)

The San Diego Police Department

As of October 3, 2016, the San Diego Police Department (SDPD) employs 1,869 sworn officers, or about 1.4 sworn officers per 1,000 residents.⁸ This ratio is notably lower than the average rate of police departments in other similarly sized American cities.⁹ The department's ongoing struggle to hire and retain qualified officers has been well-publicized,¹⁰ as have been the corresponding public safety and departmental morale concerns.¹¹

Table 2.1.
Demographic profile of sworn SDPD officers, by race/ethnicity, gender, and year

Officer Race	Male	Female	Total	Citywide demographic profile
2014				
Asian/Pacific Islander	145 (7.7%)	23 (1.2%)	168 (9.0%)	20.2%
Black	108 (5.8)	10 (0.5)	118 (6.3)	5.5
Hispanic	319 (17.0)	65 (3.5)	384 (20.5)	27.0
White	1,011 (54.0)	193 (10.3)	1,204 (64.2)	47.2
<i>2014 Total</i>	<i>1,583 (84.5)</i>	<i>291 (15.5)</i>	<i>1,874 (100.0)</i>	<i>100.0</i>
2015				
Asian/Pacific Islander	142 (7.6%)	28 (1.5%)	170 (9.1%)	20.2%
Black	105 (5.6)	12 (0.6)	117 (6.3)	5.5
Hispanic	325 (17.4)	70 (3.7)	395 (21.2)	27.0
White	997 (53.4)	188 (10.1)	1,185 (63.5)	47.2
<i>2015 Total</i>	<i>1,569 (84.0)</i>	<i>298 (16.0)</i>	<i>1,867 (100.0)</i>	<i>100.0</i>

Note: Native American and 'Other' drivers included in the Asian/Pacific Islander category. Discrepancies in the percentage totals are owed to rounding error.

⁸ City of San Diego, Report to the City Council, Public Safety & Livable Neighborhoods Committee. (2016, October 26). San Diego Police Department Sworn, Civilian and Communication Staffing Update. Retrieved Oct. 30, 2016, from http://docs.sandiego.gov/councilcomm_agendas_attach/2016/psln_161026_2.pdf.

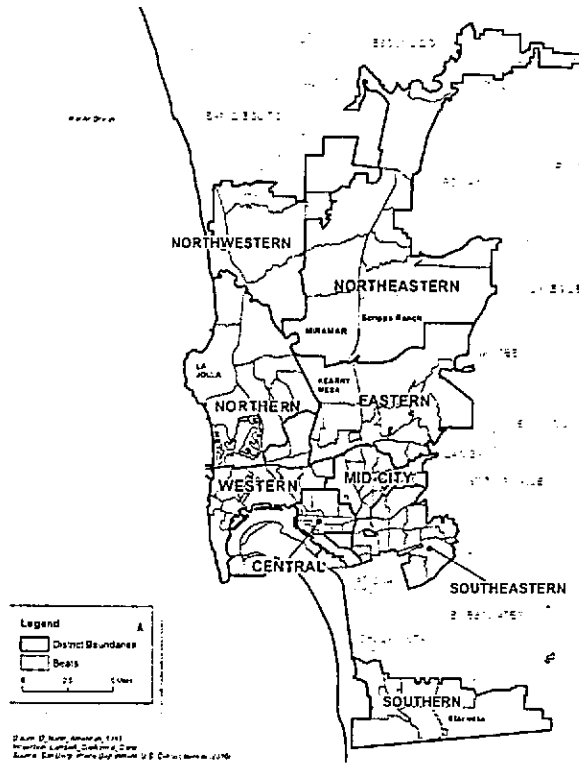
⁹ Reaves, B. (2015, May). Local police departments, 2013: Personnel, policies, and practices. *U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics*. Retrieved Aug. 24, 2016, from <http://www.bjs.gov/content/pub/pdf/lpd13ppp.pdf>.

¹⁰ e.g., Keats, A. (2016, Apr. 4). SD police hoping to rehire retirees — and it could save the chief's job too. *Voice of San Diego*. Retrieved Jul. 19, 2016, from <http://www.voiceofsandiego.org/topics/government/sd-police-hoping-to-rehire-retirees-save-the-chiefs-job-too/>; Repard, P. (2016, Mar. 11). More SOPD officers leaving despite better pay. *The San Diego Union-Tribune*. Retrieved Jul. 19, 2016, from <http://www.sandiegouniontribune.com/news/2016/mar/11/sdpd-police-retention-hiring/>

¹¹ e.g., Monroy, M. (2014, Sept. 20). SDPD's staffing problems are 'hazardous to your health.' *Voice of San Diego*. Retrieved Jul. 19, 2016, from <http://www.voiceofsandiego.org/2014/09/20/sdpds-staffing-problems-are-hazardous-to-your-health/>.

Per Table 2.1, despite efforts to diversify the force,¹² the demographic profile of the SDPD's sworn officers is disproportionately male and less racially and ethnically diverse than the citywide population.¹³ The SDPD is not unique in its relative homogeneity. In fact, according to a recent *New York Times* analysis of 2007 FBI data, the "race/ethnicity gap" between the police and residents in other major cities, including Los Angeles, San Francisco, and many others, is far greater than in San Diego.¹⁴ We also note that as of this writing SDPD's force is comprised of 16 percent female officers, slightly below the 17 percent average among departments serving cities with populations of 250,000 or more.¹⁵

Figure 2.3.
San Diego Police Department neighborhood divisions



¹² Tragaser, C. (2015, Aug. 21). San Diego Police Department academy class sees increased diversity. KPBS.org. Retrieved July 28, 2016, from <http://www.kpbs.org/news/2015/aug/21/san-diego-police-department-academy-class-sees-inc/>.

¹³ United States Census Bureau. (2015, August 12). State & County QuickFacts, San Diego (city), California. Retrieved Aug. 24, 2016, from <http://quickfacts.census.gov/qfd/states/06/0666000.html>.

¹⁴ Ashkenas, J., & Park, H. (2015, April 8). The race gap in America's police departments. *The New York Times*. Retrieved from Aug. 11, 2016, from <http://www.nytimes.com/interactive/2014/09/03/us/the-race-gap-in-americas-police-departments.html? r=0>.

¹⁵ Reaves, B. (2015, May). Local police departments, 2013: Personnel, policies, and practices. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Retrieved Aug., 24, 2016, from <http://www.bjs.gov/content/pub/pdf/lpd13ppp.pdf>.

The Department divides patrol activities across nine geographic divisions, visible in Figure 2.3. These divisions vary greatly across several relevant categories, including residents' racial and ethnic composition, their socio-economic status, as well as the presence of both crime and police.

Table 2.2.
Racial/ethnic composition of SDPD patrol division residents, ages 15 and above

	Asian/PI	Black	Hispanic	White	Total
<u>Above Interstate 8</u>					
Northern	37,473 (19.0%)	3,440 (1.7%)	25,673 (13.0%)	130,299 (66.2%)	196,885 (100.0%)
Northeastern	63,499 (35.6)	5,184 (2.9)	18,239 (10.2)	91,654 (51.3)	178,576 (100.0)
Eastern	17,685 (14.9)	6,162 (5.2)	18,201 (15.3)	76,539 (64.5)	118,587 (100.0)
Western	13,232 (11.5)	4,136 (3.6)	20,014 (17.4)	77,629 (67.5)	115,011 (100.0)
Northwestern	15,380 (27.1)	510 (0.9)	3,908 (6.9)	36,889 (65.1)	56,687 (100.0)
<i>Sub-total</i>	<i>147,269 (22.1)</i>	<i>19,432 (2.9)</i>	<i>86,035 (12.9)</i>	<i>413,010 (62.0)</i>	<i>665,746 (100.0)</i>
<u>Below Interstate 8</u>					
Central	6,605 (8.2%)	6,213 (7.7%)	32,844 (40.9%)	34,728 (43.2%)	80,390 (100.0%)
Southeastern	32,904 (25.8)	22,024 (17.3)	59,397 (46.5)	13,344 (10.5)	127,669 (100.0)
Southern	10,524 (13.0)	2,999 (3.7)	58,859 (72.6)	8,701 (10.7)	81,083 (100.0)
Mid-City	20,364 (15.5)	12,751 (9.7)	51,516 (39.2)	46,800 (35.6)	131,431 (100.0)
<i>Sub-total</i>	<i>70,397 (16.7)</i>	<i>43,987 (10.5)</i>	<i>202,616 (48.2)</i>	<i>103,573 (24.6)</i>	<i>420,573 (100.0)</i>
Citywide total	217,666 (20.0)	63,419 (5.8)	288,651 (26.6)	516,583 (47.6)	1,086,319 (100.0)

Source: The City of San Diego.¹⁶ Note: Percentage discrepancies reflect rounding error.

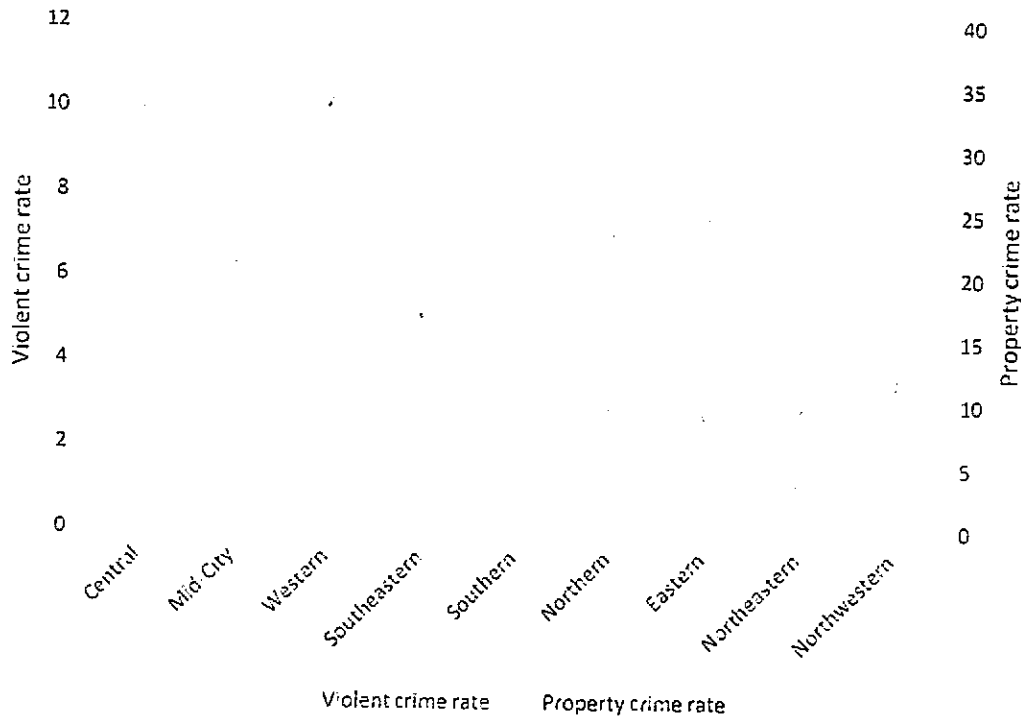
Table 2.2 displays the racial and ethnic breakdown of the Department's nine police divisions. The highest concentrations of Black residents are found in the Southeastern and Mid-City divisions, where White and Asian/PI populations are among their lowest. Similarly, Hispanic residents tend to reside in the Southern, Southeastern, and Mid-City divisions. Poverty is also concentrated in these neighborhoods. In fact, census tracts in these divisions are home to many of the San Diego's poorest residents.¹⁷ Conversely, neighborhoods located above Interstate 8,¹⁸

¹⁶ The City of San Diego, Public Safety & Livable Neighborhoods Committee (2015, Feb. 13). Report to the City Council (Report No.15-016). Vehicle Stop Data Cards: January through December 2014. Retrieved Aug. 27, 2016, from http://docs.sandiego.gov/councilcomm_agendas_attach/2015/psln_150225_3.pdf.

¹⁷ Kyle, K. (2012, August 6). Where San Diego's poorest live: Map. *The Voice of San Diego*. Retrieved Aug. 24, 2016, from <http://www.voiceofsandiego.org/community/where-san-diegos-poorest-live-map/>.

including those in the Northern, Northeastern, Northwestern, Eastern, and Western divisions, where income levels tend to be higher, are also home to greater percentages of White and API residents.

Figure 2.4.
Violent and property crime rate, by SDPD neighborhood division



Source: The City of San Diego.¹⁹

Note: Crime rates are calculated per 1,000 patrol division residents and reflect data from 2014 and 2015.

Figure 2.4 highlights the relationship between property crime and violent crime across the nine divisions.²⁰ In 2014 and 2015, the highest rate of violent crime occurred in the Central division (11.0 incidents per 1,000 residents),²¹ followed by the Mid-City (6.0) and Western (5.6)

¹⁸ We use Interstate 8 here and throughout the remainder of the Report as a rough point of demarcation for divisions and neighborhoods in the northern portion of the City and those in the southern portion of the City. The distinction between locations 'Above Interstate 8' and 'Below Interstate 8' is not exact, as two patrol divisions that we consider 'Above I-8' include small parcels of land located below I-8.

¹⁹ See The City of San Diego, Actual Crimes by Neighborhood, 2014 and 2015, *Crime Statistics and Maps: Automated Regional Justice Information System (ARJIS)*. Retrieved Oct. 14, 2016, from <https://www.sandiego.gov/police/services/statistics>.

²⁰ See Appendix 1 for a detailed description of property and violent crime across the SDPD's nine patrol divisions in 2014 and 2015.

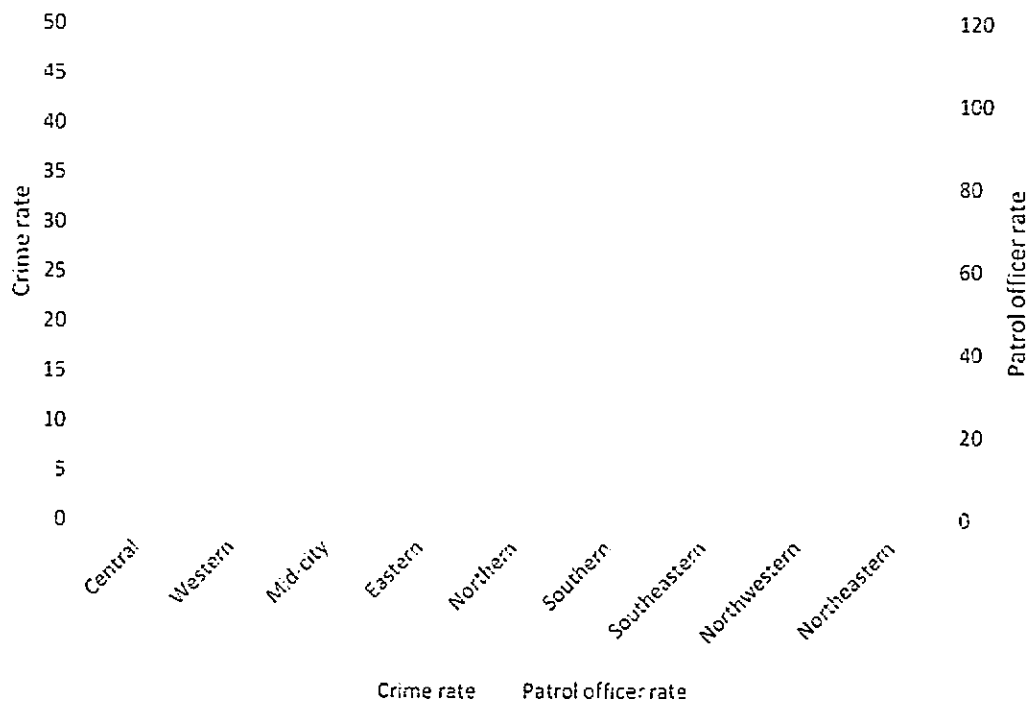
²¹ According to the the SDPD, "Crime rates per 1,000 population are commonly used to compare crime in different areas, and work well for areas that have a significant residential population. Caution is advised when comparing

divisions. The highest rate of property crime occurred in the Western (33.7 per 1,000 residents), Central (33.2), and Eastern divisions (24.4).²² On average, in 2014 and 2015, violent crime was more likely to occur below Interstate 8 (6.2 incidents per 1,000 people) than in divisions to the north of the highway (2.6), while the property crime rates were similar in each location (21.6 below Interstate 8 compared to 20.6 above Interstate 8).

Figure 2.5 shows the relationship between a division’s crime rate and the allocation of non-traffic patrol officers.²³

Figure 2.5

The relationship between division crime rates and the allocation of SDPD patrol officers



Source: San Diego Police Department, City of San Diego.

Note: Crime data reflect averages from 2014 and 2015 per 1,000 residents. Officer rates, which also reflect the average between 2014 and 2015, are listed per 100,000 residents.

crime rates in areas with few residents, especially areas with significant daytime population due to large recreational and/or commercial areas, since crime rates use residential population figures. Higher crime rates can be expected in areas such as downtown, where the large daytime working population and nighttime entertainment district crowds are not included in the area’s residential population.”

²² The correlation coefficient (Pearson’s r) between violent and property crime is 0.719, indicating a moderately positive relationship between violent and property crime.

²³ The two variables are strongly correlated (Pearson’s r = 0.8725), which means that high crime rates are associated with high patrol officer presence.

The highest concentration of non-traffic patrol officers occurs in those divisions with the highest crime rates, including the Central (99.5 officers per 100,000 residents), Western (69.8), and Mid-City (63.3) divisions. (A full documentation of officer allocation by division is found in Appendix 1.) The SDPD did not provide us with data on the geographic allocation of traffic-specific officers, who are not assigned to a particular division and thus may patrol anywhere in the City's jurisdiction.

To summarize, Black and Hispanic San Diego city residents tend to live in different neighborhoods than their White and Asian/PI counterparts. Neighborhoods south of Interstate 8, including those in the Central, Mid-City, Southern, and Southeastern Divisions, are more racially and ethnically diverse than those located north of Interstate 8, and some – but not all – of these divisions tend to face higher than average crime rates. Police presence is also higher in those predominantly non-White Divisions.

Police-Community Relations

In this section, we review the recent history of the Department with the hope of providing context for our analysis of the 2014 and 2015 traffic stop data.

In early 2014, following several high profile incidents of officer misconduct, former SDPD Chief William Lansdowne sought assistance from the U.S. Department of Justice's (DOJ) Office of Community Oriented Policing Services (COPS Office) in reviewing the Department's management of officer misconduct cases, their approach to recruitment and background screening, and the operation of the SDPD internal affairs unit. The COPS Office hired the Police Executive Research Forum (PERF) to conduct the assessment.

The 2015 PERF Report,²⁴ which detailed the findings of the yearlong audit, identified a series of organizational, policy, and personnel weaknesses that contributed to the Department's misconduct problems. The report set a comprehensive reform agenda designed to strengthen the SDPD's ability to prevent misconduct and respond effectively to incidents that do occur. PERF also made clear that the misconduct scandals had undermined the Department in the eyes of San Diego City residents, particularly among communities of color. The authors repeatedly underscored the importance of Department attention to issues of racial/ethnic bias, at one point noting that,

the most common suggestions heard from community members regarding how to

²⁴ Police Executive Research Forum (PERF). (2015). *Critical response technical assessment review: Police accountability - findings and national implications of an assessment of the San Diego Police department*. Washington, DC: Office of Community Oriented Policing Services, U.S. Department of Justice.

improve policing in San Diego were to increase police-community engagement through proactive and positive interactions and to address issues of perceived bias, especially racial bias.²⁵

This was not the first time the Department had been accused of racial/ethnic bias. In fact, in 2000, a very similar set of issues motivated SDPD leadership to request an independent review of traffic stop data nearly identical to the one we have undertaken here.

Revisiting the 2000 and 2001 data

In January 2000, in response to “concern... expressed by some community members about whether they [were] being treated fairly in contacts with law enforcement,”²⁶ SDPD officers began capturing information about every traffic stop conducted in San Diego. Dr. Gary Cordner, a criminologist at Eastern Kentucky University at the time, analyzed these data in an effort to address the extent to which officer stop and post-stop decision-making reflected race-based disparities.

Table 2.3.
SDPD traffic stop card data from 2000 and 2001

	2000	2001
Vehicle Stops	168,901	121,013
Citation rate (%)	66.1	68.8
Search rate (%)	6.4	7.1
Hit rate (%)	8.9	8.4
Arrest rate (%)	1.9	1.9

High-level descriptive data from traffic stop cards gathered in 2000 and 2001 are shown in Table 2.3. Officers completed significantly fewer stop cards in 2001 than in 2000, yet remained fairly consistent from year to year in terms of post-stop activity, including the rate at which stopped drivers were given citations, searched, and arrested.

²⁵ Police Executive Research Forum (PERF). (2015). *Critical response technical assessment review: Police accountability - findings and national implications of an assessment of the San Diego Police department*. Washington, DC: Office of Community Oriented Policing Services, U.S. Department of Justice, p. 22

²⁶ Cordner, G., Williams, B., & Zuniga, M. (2001). *San Diego Police Department vehicle stop study: Year end report*. San Diego, CA, p. ii.

The 28.4 percent decline from 2000 to 2001 led Cordner and his colleagues to openly question the accuracy of the 2001 data. The authors argued that the “very substantial decrease raises serious questions about the validity of the vehicle stop data. One question is whether officers always filled out the vehicle stop forms – the answer to this is clearly no.”²⁷ They went on to assert that the officers’ non-compliance in completing traffic stop cards “was a bigger problem in more ethnically-diverse and less-affluent divisions, possibly skewing the data.”²⁸ The researchers were unable to interpret how the missing data may have affected the rate of post-stop activity, or draw conclusions about whether unrecorded post-stop activity may have disproportionately affected certain racial/ethnic groups. As such, they urge caution in the interpretation of data gathered in 2001.

Table 2.4.
SDPD search rates in 2000 and 2001, by driver race/ethnicity

	2000	2001
Asian/Pacific Islander	3.2%	3.3%
Black	10.1	11.1
Hispanic	11.4	12.7
White	3.2	4.1

Source: Cordner et al. (2001; 2002)

Note: These data reflect what Cordner et al. term “chances of being searched” and are based on a raw comparison of search rates across all stop and search types.

As will be discussed in detail in Chapter 4, isolating the influence of driver race/ethnicity on an officer’s decision to stop a driver is a complicated task. The central challenge, noted by the Cordner-led team and many others,²⁹ is identifying the appropriate benchmark against which to compare race-based stop patterns. After acknowledging the absence of a “reliable method of determining the actual ethnic composition of the driving population,” the Cordner et al. study proceeded to compare the racial/ethnic composition of drivers stopped to the City’s demographic profile according to the U.S. Census. In 2000, “Hispanics represent 20.2% of the city’s driving-age population but 29.0% of vehicle stops; the comparable numbers for African

²⁷ Cordner, G., Williams, B., & Velasco, A. (2002). *San Diego Police Department vehicle stops in San Diego: 2001*. San Diego, CA, p. 1.

²⁸ Cordner, G., Williams, B., & Velasco, A. (2002). *San Diego Police Department vehicle stops in San Diego: 2001*. San Diego, CA, p. 2

²⁹ Engel, R.S., & Calnon, J.M. (2004). Comparing benchmark methodologies for police-citizen contacts: Traffic stop data collection for the Pennsylvania State Police. *Police Quarterly*, 7(1), 97-125; Fridell, L.A. (2004). *By the numbers: A guide for analyzing race data from Vehicle Stops*. Washington, D.C.: Police Executive Research Forum; Ridgeway, G. & MacDonald, J. (2010). Methods for assessing racially biased policing. In S.K. Rice & M.D. White (Eds.) *Race, ethnicity, and policing: New and essential readings* (pp. 180-204). New York: New York University Press.

Americans are 8.0% and 11.7%, respectively.”³⁰ The 2001 data showed similar disparities for both Black and Hispanic drivers.³¹

Cordner and colleagues also examined the influence of driver race/ethnicity on officers’ decision to conduct a search of the driver, passenger, or vehicle. Unlike with traffic stop data, researchers are not reliant upon benchmarks to assess the influence of race/ethnicity on post-stop outcomes, like citation and search rates. As Table 2.4 shows, in 2000 and 2001, Black and Hispanic drivers were searched at higher rates than either White or Asian/PI drivers.

Table 2.5.
Hit rates in 2000 and 2001, by driver race/ethnicity

	2000	2001
Asian/Pacific Islander	9.2%	10.1%
Black	13.9	12.4
Hispanic	5.1	5.0
White	13.1	11.7

Note: These data reflect a raw comparison of hit rates across all stop and search types.

Table 2.5 shows the ‘hit rate,’ or the percentage of searches that led to the discovery of contraband, achieved by SDPD officers in 2000 and 2001. Hit rates varied considerably by driver race/ethnicity while remaining fairly consistent from year to year. Black drivers were most likely to be found with contraband, followed closely by Whites. Hispanic drivers were more likely to be searched than any other racial/ethnic group, yet searches involving Hispanic drivers were substantially less likely to uncover possession of contraband.

For several reasons, most saliently the low quality of the 2001 data, we agree with Dr. Cordner’s recommended cautious interpretation of these results. With that said, Cordner’s analysis of data from stop cards completed in 2000 and 2001 appear to show race-based disparities in SDPD officers’ decision to initiate a traffic stop and various post-stop actions, including the decision to search. However, without evidence to show that post-stop outcomes were the result of race-based decisions, we cannot assume this causal link. As we discuss in Chapter 4, this is why the veil of darkness technique is so important as it controls for factors other than race/ethnicity in the decision to make a stop.

³⁰ Cordner, G., Williams, B., & Zuniga, M. (2001). *San Diego Police Department vehicle stop study: Year end report*. San Diego, CA, p. vii.

³¹ Cordner, G., Williams, B., & Velasco, A. (2002). *San Diego Police Department vehicle stops in San Diego: 2001*. San Diego, CA.

CHAPTER 3: DESCRIPTION OF THE DATA

In Chapter 3, we describe the data used for this Report, beginning with the administrative records generated by the SDPD following traffic stops conducted between January 1, 2014 and December 31, 2015. From there we go on to detail the process used to gather the perspectives of SDPD staff and members of the community.

Traffic Stop Data

When an SDPD officer completes a traffic stop, they are required under Department policy to submit what is known as a 'vehicle stop card' (see Appendix 2 for a copy of the card). Officers use the stop card to record basic demographic information about the driver, including their race, gender, age, and San Diego City residency, along with the date, time, location (at the division level), and reason for the stop. There are also fields for tracking what we term 'post-stop outcomes,' including whether the interaction resulted in:

- the issuance of a citation or a warning;
- the initiation of a field interview;
- a search of the driver, passenger(s), and/or vehicle;
- the seizure of property;
- discovery of contraband; and/or
- an arrest.

Lastly, the stop card gives officers space to provide a qualitative description of the encounter. When included, these data tend to explain why a particular action was taken or to describe the type of search conducted or contraband discovered.

Compared to other cities,³² the vehicle stop card is a solid tool for tracking officer activity and for identifying trends in the enforcement of existing traffic law. As we will discuss in Chapter 6, however, there is substantial room to improve the SDPD's current data collection efforts. Regardless of what this system looks like, the Department should consider including several data points recommended by the U.S. Department of Justice.³³ The most important potential additions include:

- race/ethnicity and gender of the officer involved;
- specific geo-location of the stop/search;

³² See, for example, Engel, R.S., Tillyer, R., Cherkaskas, J.C., & Frank, J. (2001, Nov. 1). *Traffic Stop Data Analysis Study: Year 1 Final Report*. Cincinnati, OH: University of Cincinnati Policing Institute. Retrieved Sept. 5, 2016, from [http://www.azdps.gov/about/reports/docs/Traffic Stop Data Report 2007.pdf](http://www.azdps.gov/about/reports/docs/Traffic%20Stop%20Data%20Report%202007.pdf).

³³ McMahon, J., & Kraus, A. (2005). *A suggested approach to analyzing racial profiling: Sample templates for analyzing car-stop data*. Washington, DC: Office of Community Oriented Policing Services, U.S. Department of Justice. Retrieved Aug. 12, 2016 from <http://ric-zai-inc.com/Publications/cops-p071-pub.pdf>.

- make, model, and vehicle condition; and
- driver/passenger demeanor.

While our analysis was limited by the absence of this information, the incomplete and inconsistent quality of the data, which we discuss in the following section, was a more substantial challenge.

Missing and inconsistent data

Of the several challenges we faced in converting the raw files we received from the SDPD into a reliable dataset, missing data was the most significant: 19.0 percent of the combined 259,569 stop records submitted in 2014 and 2015 were missing at least one piece of information. As Table 3.1 shows, the data were comprehensive on driver race/ethnicity and gender, as well as the date, time, location, and reason for the stop, but were less so in documenting the driver's age and residency status.

Several post-stop variables also contained high levels of missing data, including information on whether a citation was issued (10.6 percent), and whether the driver was subject to a field interview (7.9 percent) or a search (4.4 percent). There was also an exceedingly high number – 93 percent – of missing cases associated with the discovery of contraband and the seizure of property, raising questions about the reliability of these data. This may be reflective of the database management rather than either officer carelessness or non-compliance. For example, an officer simply may not have filled out a response for contraband, which would have been irrelevant if a search did not occur during a stop.

Table 3.1.
Information missing from the 2014 and 2015 datasets

Stop Feature	2014	2015
<u>Demographic/stop description</u>		
Driver race	222 (0.2%)	2 (<0.1%)
Driver age	8,655 (6.0)	0 (0.0)
Driver gender	213 (0.2)	232 (0.2)
Residency status	4,622 (3.2)	11,372 (9.9)
Stop location	3,160 (2.3)	3,315 (2.9)
Reason for stop	212 (0.2)	0 (0.0)
Stop time	482 (0.3)	408 (0.4)
Stop date	0 (0.0)	0 (0.0)
<u>Post-stop outcomes</u>		
Citation issued	11,126 (7.7)	16,352 (14.2)
Field interview conducted	4,045 (2.8)	16,352 (14.2)
Search conducted	2,044 (1.4)	9,447 (8.2)
Contraband discovery	132,782 (92.1)	109,420 (94.8)
Property seized	132,806 (92.1)	109,459 (94.8)
Arrest	1,872 (1.3)	8,845 (7.7)

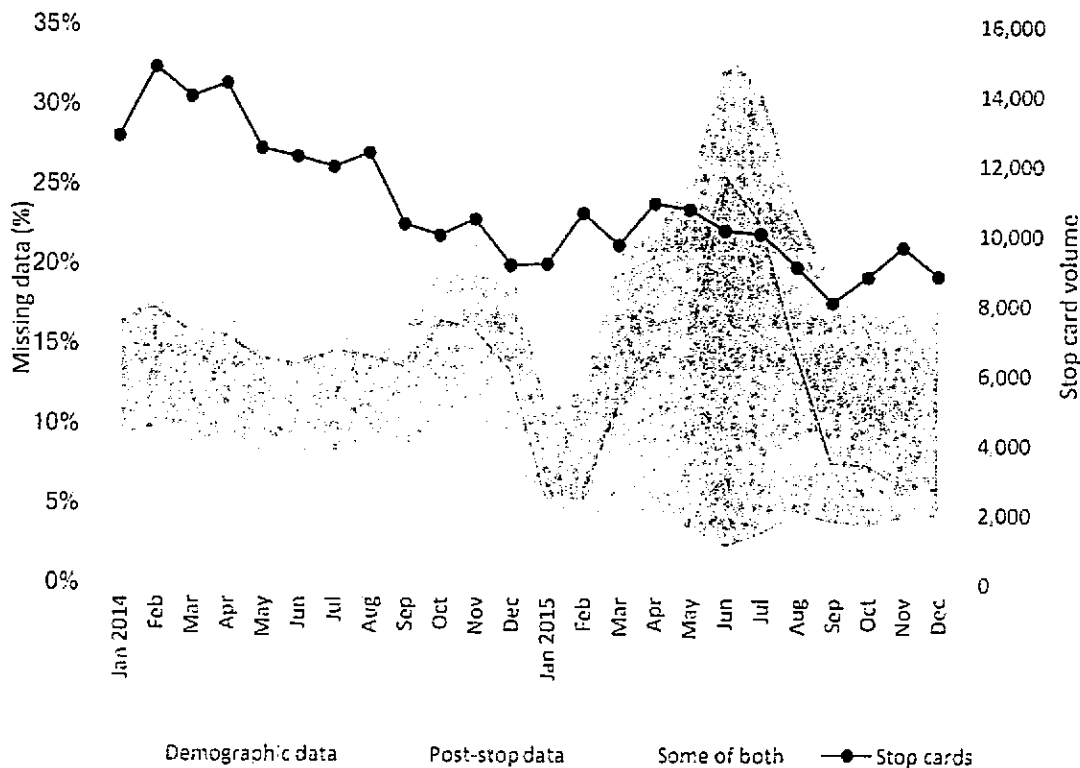
2014: N = 144,164; 2015: N = 115,405

Analyzing patterns of missing data can help explain how and why the omissions occurred and provide some insight into what they mean for the reliability of the dataset and its effect on the broader analysis.

Figure 3.1 tracks changes in the volume of missing demographic and post-stop data over time. Of all stop cards submitted in 2014, 17.4 percent were missing at least one piece of information.³⁴ Nine percent were missing demographic data, 6.1 percent were missing only post-stop data, and 2.3 percent were missing some of both.

³⁴ This figure does not include data from either the 'contraband discovery' or 'property seized' variables.

Figure 3.1.
Tracking missing data, by month



Note: Figure 3.1 does not include figures for data missing from either the 'contraband discovered' or 'property seized' variables.

In 2015, 21.1 percent of stop cards were missing at least one piece of information, with nearly half of those missing both demographic and post-stop information. A significant spike of stop cards missing both field interview and citation data occurred between March and August of that year, raising questions about the quality of these data during that period. We also note that the volume of missing data increased as monthly stop totals reached their lowest levels. In other words, the quality of the stop card data declined across the year along with the number of both recorded stops and searches.

Table 3.2 lists missing data by patrol division. The highest percentage of incomplete stop cards were filed in the Southeastern division (24.1 percent), followed by the Central (21.1 percent) and Southern divisions (20.0 percent). These findings, together with the data shown in Table 3.3, which lists missing records by driver race, suggest that this dataset does not provide the full picture of traffic stops in San Diego, particularly of those involving minority drivers and drivers stopped in divisions located below Interstate 8. As we noted previously, this is the exact pattern

that prompted Gary Corder and his colleagues to question the validity and reliability of the 2000 and 2001 data.³⁵

Table 3.2.
Incomplete stop cards submitted in 2014 and 2015, by police division

	Stop cards submitted	Missing demographic data	Missing post-stop data	Missing both types of data	Total incomplete
<u>Above Interstate 8</u>					
Northern	37,203	1,872 (5.0%)	3,567 (9.6%)	965 (2.6%)	17.2%
Eastern	31,788	1,505 (4.7)	2,217 (7.0)	1,467 (4.6)	16.3
Northwestern	16,306	903 (5.5)	802 (4.9)	784 (4.8)	15.3
Western	30,078	1,247 (4.1)	2,242 (7.5)	784 (2.6)	14.2
Northeastern	31,692	950 (3.0)	1,242 (3.9)	1,020 (3.2)	10.1
<i>Sub-total</i>	<i>147,067</i>	<i>6,477 (4.4)</i>	<i>10,070 (6.8)</i>	<i>5,020 (3.4)</i>	<i>14.7</i>
<u>Below Interstate 8</u>					
Southeastern	19,292	1,773 (9.2%)	1,866 (9.7%)	1,002 (5.2%)	24.1%
Central	29,692	1,429 (4.8)	3,070 (10.3)	1,756 (5.9)	21.1
Southern	29,351	705 (2.4)	1,362 (4.6)	3,791 (12.9)	20.0
Mid-City	27,692	1,309 (4.7)	2,304 (8.3)	1,034 (3.7)	16.8
<i>Sub-total</i>	<i>106,027</i>	<i>5,216 (4.9)</i>	<i>8,602 (8.1)</i>	<i>7,583 (7.2)</i>	<i>20.2</i>
<i>City-wide total</i>	<i>253,094</i>	<i>11,693 (4.6)</i>	<i>18,672 (7.4)</i>	<i>12,603 (5.0)</i>	<i>17.0</i>

Note 1: Missing data do not include variables indicating the discovery of contraband or property seizure.

Note 2: Table 3.2 does not include the 6,475 stop records submitted without stop location information, which explains the discrepancy between the city-wide totals listed here and those referenced elsewhere in the Report.

The frequent incidence of missing data reduced the quality of our analysis and raises concerns over whether the stop card records provide a complete picture of traffic stops in San Diego. These concerns are compounded by the unexplained changes in monthly traffic stop volume during the time period we analyzed.

Many of the questions raised about the quality of the data used in the 2000 and 2001 analysis were driven by a substantial decrease – 28.4 percent – in the number of data cards submitted between the first and second year of the Corder team’s analysis. We find a similar pattern in

³⁵ Corder, G., Williams, B., & Velasco, A. (2002). *San Diego Police Department vehicle stops in San Diego: 2001*. San Diego, CA.

the 2014 and 2015 data, as is shown in Figure 3.2. In 2015, SDPD officers completed 115,405 stop cards, nearly 20 percent fewer than the 144,164 completed in 2014.

Table 3.3.
Incomplete stop cards submitted in 2014 and 2015, by driver race/ethnicity

	Stop cards submitted	Missing demographic data	Missing post-stop data	Missing both types of data	Total incomplete
Asian/Pacific Islander	41,021	2,625 (6.4%)	2,429 (6.4%)	1,922 (4.7%)	17.5%
Black	28,535	2,136 (7.5)	2,577 (7.5)	1,302 (4.6)	19.6
Hispanic	77,934	5,258 (6.7)	5,584 (6.7)	5,563 (7.1)	20.0
White	111,855	7,051 (6.3)	8,082 (6.3)	4,690 (4.2)	17.7
Total	259,345	17,070 (6.6)	18,672 (7.2)	13,477 (5.2)	19.0

Note: These data do not include the 224 stop records submitted without driver race/ethnicity.

Data from 2000 and 2014, the first years of each study, show steep declines over the course of the year, while the volume in 2001 and 2015 is substantially lower, and comparatively flat from month to month. In January 2000, SDPD officers recorded 20,487 stops, nearly twice the annual low of 11,094, from December of that year. In 2014, there was a 39 percent drop from 14,745 stops recorded in February, that year's busiest month, to the 8,988 submitted in December, the slowest. Contrast that with 2001 and 2015, where the high-to-low monthly differences were 28.0 percent and 18.9 percent, respectively.

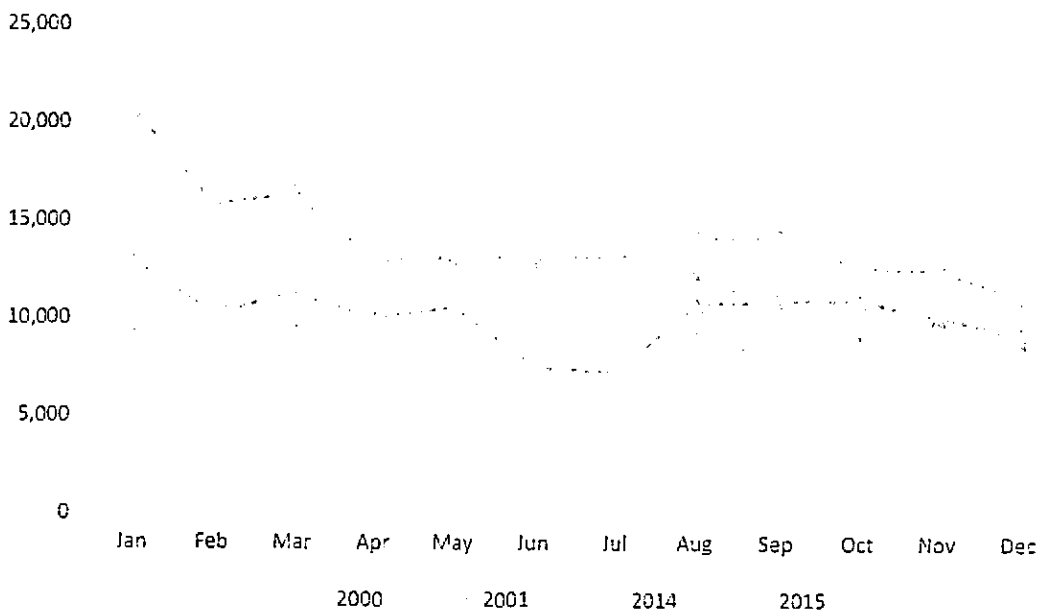
Figure 3.3 indicates that despite changes in the volume of stop cards and in the rate of missing data reported, the proportion of stops by race/ethnicity remained relatively stable. These figures help to address some concerns that the decline in stops recorded, and the overall quality of the data produced, may have disproportionately affected one or more groups of drivers, or that the downward trends indicate overt race-driven data manipulation.

In sum, the volume of stop cards submitted by SDPD officers has steadily declined between January 2014 and December 2015. Over that same period, the number of incomplete cards increased, with a disproportionate number involving traffic stops occurring in higher-minority divisions located below Interstate 8. We do not know whether these trends reflect a change in SDPD policy and/or leadership, a natural seasonal shift in driving patterns, or some other factor.

Finally, we note what appears to be substantial under-reporting of traffic stops. On August 9, 2016, we received complete judicial records of citations issued in San Diego between January 1, 2014 and December 31, 2015. These records are drawn from the physical citations issued by

SDPD officers and are wholly distinct from the vehicle stop card records that form the basis of our broader analysis. And because traffic citations are subject to judicial oversight, they are a more accurate reflection of officer activity than are the stop card records, which are not subject to external verification.

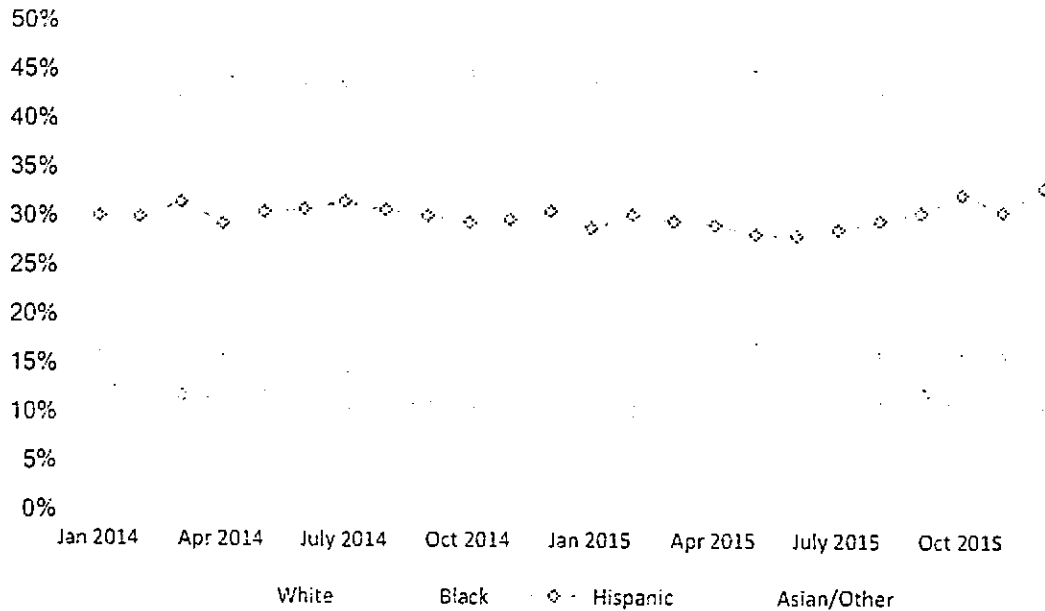
Figure 3.2.
Comparing monthly traffic stop volume, by year



According to these data, the SDPD issued 183,402 citations over this two-year period, a sum 26.1 percent greater than the 145,490 citations logged by officers via the traffic stop data card. As is shown in Table 3.4, we used stop card citation rates for each racial/ethnic group to generate rough estimates of unreported traffic stops. All told, we estimate that the SDPD conducted somewhere between 60,000 and 70,000 traffic stops for which no stop card information was submitted.³⁶ We do note that the racial/ethnic composition of the stop card citation records largely reflects the composition of the actual citations issued, which suggests that the under-reporting was not race-determinative.

³⁶ These calculations reflect at least one major assumption. We are forced to assume that the SDPD underreported citation stops at the same rate as non-citation stops. Because we do not have records of warnings given, there is no way to confirm this one way or another. We also highlight the possibility that the discrepancy between stop card records of citations issued and judicial records of citations issued may reflect missing data. In fact, 27,478 stop cards issued in 2014 and 2015 were missing information about the issuance of a citation.

Figure 3.3.
Monthly traffic stop percentages, by driver race/ethnicity



Taken together, the missing and underreported data affect the reliability of the stop card dataset. In our recommendations (Chapter 6), we discuss several ways in which the SDPD might enhance its data collection activities to ensure a full and accurate record of its traffic enforcement regime.

Table 3.4.
Comparing judicial citation records with stop card citation records

	Stop cards issued	Stop card citation records	Citation rate*	Judicial citation records	Projected traffic stops
Asian/Pacific Islander	41,021	23,483 (16.1%)	57.2%	33,919 (18.5%)	59,251
Black	28,535	13,160 (9.1)	46.1	17,040 (9.3)	36,948
Hispanic	77,934	44,165 (30.3)	56.7	55,674 (30.4)	98,243
White	111,855	64,682 (44.5)	57.8	76,769 (41.9)	132,757
Total	259,345	145,490 (100.0)	56.1	183,402 (100.0)	326,926

*Based on 2014 and 2015 stop card records.

Note: The 224 stop records submitted without driver race/ethnicity data account for the difference between the totals listed in Table 3.4 and those referenced throughout the Report.

Contextual data collection

To supplement our examination of the stop card data, we collected an array of additional data to better understand what transpires during traffic stops as well as to provide context around the state of police-community relations in San Diego.

Community focus groups

We sought to capture San Diego residents' experiences with and perceptions of policing – and of traffic stops in particular – through community focus groups. Focus group interviews are useful for extracting detailed information about individuals' and groups' feelings, perceptions and experiences, and are typically more cost- and time-effective than conducting individual interviews. Because focus groups can help facilitate a safe space where participants can share their ideas with others of similar backgrounds, the group context can be especially useful for gleaning information from participants who otherwise might be reluctant to express themselves openly about certain topics.

The SDSU research team collaborated with Harder+Company, a local research company with expertise in facilitating such group discussions. We held focus groups in four SDPD police divisions: Central, Mid-City, Southern, and Southeastern. We selected these divisions because they have the highest levels of crime, police activity, and racial/ethnic diversity. Harder+Company assisted SDSU researchers in focus group recruitment, staffing, and transcription. SDSU researchers attended and observed focus groups and undertook qualitative analyses of the interview data.

Participants were recruited through announcements placed through a variety of channels, including: Craigslist, restaurants, community centers, barber shops, libraries, and other local businesses. Selection criteria for focus group participation included that participants must be:

- between the ages 18 and 55;
- comfortable speaking in either English or Spanish; and
- a current resident of one of the communities served by the four identified SDPD divisions.

Additionally, during the screening process, we oversampled for young adults (ages 18 to 30), Blacks, Hispanics, and people who self-reported as regular drivers. These oversampling decisions were made based on empirical literature that indicates that these are the demographic groups most likely to be stopped while driving. Given that the focus group participants were not randomly selected from the population of City (or division) residents, findings from our discussions are therefore not necessarily representative of all residents' (or

those divisions' residents') perceptions. Although our sampling technique is a common and appropriate one for this type of qualitative research, it limits our ability to generalize the findings or draw inferences to the larger population.

During the Spring and Summer of 2016, we held 10 community focus groups with a total of 50 participants. Table 3.5 summarizes the number of participants by police division. Due to having to comply with Institutional Review Board requirements regarding protection of our participants' identities, we were unable to capture precise demographics. We captured this information during the recruitment and screening process, but in order to ensure anonymity, we were unable to verify participants' identities. However, of the 55 people who expressed interest in participating and met our screening criteria: 21.8% identified as Black or African-American; 32.7% identified as Hispanic or Latino; 31% identified as White or Caucasian; 3.6% identified as Asian-American; and 11% identified as another race/ethnicity not otherwise captured.

Focus group questions sought to gather information about community residents' perceptions of:

- community safety;
- the visibility and presence of police;
- the extent to which residents trust the police;
- experiences being stopped by the police while driving;
- how race/ethnicity shapes interactions with the police; and
- what improved police-community relationships might entail.

Focus group participants were provided a light meal and a \$20 gift card.

Table 3.5.
Focus groups and participants

Division	Number of groups	Participants
Central	2	10
Mid-City	3	24
Southern	3	12
Southeastern	2	4
<i>Total</i>	<i>10</i>	<i>50</i>

Officer survey

From May to June 2016, the SDSU research team conducted a department-wide, electronic survey of all 1,867 active SDPD officers. Table 3.6 lists basic descriptive information for the 365 respondents (response rate = 19.5 percent). Officers were asked about several pertinent issues, including:

- the extent to which they believe San Diego residents trust the police;
- whether recent events involving the police nationally (e.g., Ferguson, MO) have made their jobs more difficult;
- the process of collecting traffic stop data;
- how race/ethnicity shapes police interactions with the public—both generally and in the context of traffic stops; and
- how the SDPD handles the issue of racial/ethnic bias, both in training its officers and in handling incidents of race-based misconduct.

Table 3.6
Descriptive statistics for police officer survey respondents

	Frequency	Percent
<u>Race/ethnicity</u>		
Asian	11	3.0
Black	9	2.5
Hispanic	51	14.0
White	203	55.6
Other	47	12.9
No response	44	12.1
<u>Rank</u>		
Police Officer (patrol)	179	49.0
Sergeant or above	141	38.6
Other	7	1.9
No response	38	10.4
<u>Experience (years)</u>		
1 or fewer	4	1.1
Between 2 and 5	47	12.9
Between 6 and 10	62	17.0
Between 11 and 20	97	26.6
21 or more	120	32.9
No response	35	9.6

) A full copy of the survey is found in Appendix 3.

Officer interviews

Lastly, during June 2016, the SDSU research team also conducted in-depth, one-on-one interviews with 52 SDPD officers drawn from each of SDPD's nine patrol divisions as well as the city-wide traffic division. Most interviews lasted between 30 and 60 minutes and were intended to delve deeper into the topics covered by the department-wide survey. We also asked several of the same questions of officers as we did of community residents in focus groups to identify similar and divergent perspectives across these groups. Particularly, we sought to hear directly from officers about:

- their perceptions of community safety and trust in the police;
- procedures followed during traffic stops, including how stop data are collected;
- how race/ethnicity is and is not used in policing, including what training they receive around these issues;
- difficulties officers encounter in doing their jobs; and
- what can and should be done to improve police-community relations.

) We do not present the full results from each of these three additional sources of data in this Report. Rather, in Chapter 6, we draw on our findings from these data to contextualize and support our recommendations to the Department.

CHAPTER 4: EXAMINING THE DECISION TO INITIATE A TRAFFIC STOP

Introduction

Police officers in the United States do their jobs with considerable independence. They typically operate outside the view of their supervisors and are often the only source of information about their conduct. Though guided by federal, state, and local law, as well as organizational rules and norms, they alone are responsible for determining which drivers to stop, how best to make an arrest, and when to call for backup, among countless other decisions. This discretionary authority undergirds the American criminal justice system; it fills the gaps created by a society with insufficient resources to support full enforcement of the existing corpus of criminal and administrative law.

The discretionary authority granted to police officers also forces citizens to accept a certain degree of inequality. Often, one driver is stopped while another going at a similar speed is not stopped. Most rolling stops and illegal U-turns are done outside the view of the police, and thus go un-enforced. Those who are stopped and ticketed for such infractions are the exception, and thus may, rightly or wrongly, see their ticket as the product of selective enforcement or prejudice. Yet only the officer knows for sure why he or she decided to stop one car as opposed to another. It is nearly impossible to determine why these decisions are made in the way that they are.

For this reason, rather than focusing on individual stop decisions, we analyze the entire population of individual decisions in an effort to identify larger trends. It is through this broader lens that we attempt to determine whether stop patterns vary by race/ethnicity and whether such variance is indicative of systemic disparities in the way SDPD officers enforce the City's traffic laws.

In February 2015, SDPD Police Chief Shelley Zimmerman presented to the City Council's Public Safety and Livable Neighborhoods Committee a report that addressed the SDPD's traffic enforcement in 2014.³⁷ These data showed disparities between actual driver stop rates and the stop rates one would expect given the City's racial/ethnic composition: Black and Hispanic drivers were stopped more than their demographic profile would predict, while White and Asian/Pacific Islander drivers were stopped less. As is shown in Figure 4.1, these disparities carried over into 2015.

³⁷ City of San Diego, Report to the City Council, Public Safety & Livable Neighborhoods Committee. (2015, Feb. 13). Vehicle Stop Data Cards: January through December, 2014. Report No: 15-016. Retrieved Sept. 5, 2016, from http://docs.sandiego.gov/councilcomm_agendas_attach/2015/psln_150225_3.pdf.

Figure 4.1.

Comparing driver stop rates in 2014 and 2015 with San Diego's racial/ethnic composition



Yet these differences provide very little if any insight into whether there are racial/ethnic disparities in how traffic stop decisions are made by SDPD officers. Consider that in 2014, 65 percent of drivers stopped were male, despite the fact that males comprise only 51 percent of the City's population, according to the 2010 U.S. Census.³⁸ Perhaps this disparity is in fact because SDPD officers are more proactive in targeting men than women. It may also reflect the fact that more men than women drive on city streets, that men are more likely to violate traffic laws, or that more men drive in areas heavily populated by law enforcement, and are thus more likely to be observed violating the law.³⁹ In other words, some drivers run a greater risk of being stopped than others, for reasons having nothing to do with their gender. The same logic should define our thinking about driver race.⁴⁰

³⁸ Census viewer: San Diego, California population: Census 2010 and 2000 interactive map, demographics, statistics, quick facts. Retrieved Sept 28, 2016, from http://censusviewer.com/city/CA/San_Diego.

³⁹ See Fridell, L.A. (2004). *By the numbers: A guide for analyzing race data from Vehicle Stops*. Washington, D.C.: Police Executive Research Forum; Ridgeway, G., (2009). *Cincinnati Police Department traffic stops: Applying RAND's framework to analyze racial disparities*. Santa Monica, CA: RAND Corporation.

⁴⁰ Ridgeway, G. (2009). *Cincinnati Police Department traffic stops: Applying RAND's framework to analyze racial disparities*. Santa Monica, CA: RAND Corporation.

) As a result, to properly assess the effect that a driver's race/ethnicity has on the likelihood that he or she will be stopped, researchers must develop a benchmark that enables the comparison of actual stop rates with a driver's risk of being stopped in the absence of bias.⁴¹ An appropriate benchmark must incorporate the various legal and non-legal factors that shape stop risk, including when, where, and how often they drive, the make, model, and condition of their car, and their behavior and demeanor while driving.⁴²

The most common approach to this challenge has been to draw on U.S. Census figures to capture a jurisdiction's demographic profile and then use these data to make inferences about the city's driving population.⁴³ Though inexpensive and relatively easy to implement, the use of Census data has come under heavy criticism for its inability to accurately reflect not only a jurisdiction's driving population, but the various other risk factors at play.⁴⁴ Other statistical proxies, including drivers' license data⁴⁵ and no-fault traffic accident figures,⁴⁶ have also been used to address these limitations.

) Other researchers have made efforts to observe the characteristics of the driving population first hand. Rather than relying on outside information as the benchmark, some have attempted to chart the demographic profile of a jurisdiction's drivers at various locations and times of day.⁴⁷ The observational approach is both expensive and time-consuming, and not without its own challenges.⁴⁸

⁴¹ Tillyer, R., Engel, R.S., & Cherkaskas, J.C. (2010). Best practices in vehicle stop data collection and analysis. *Policing: An International Journal of Police Strategies & Management*, 33(1), 69-92.

⁴² Fridell, L.A. (2004). *By the numbers: A guide for analyzing race data from Vehicle Stops*. Washington, D.C.: Police Executive Research Forum; Ridgeway, G. & MacDonald, J. (2010). Methods for assessing racially biased policing. In S.K. Rice & M.D. White (Eds.) *Race, ethnicity, and policing: New and essential readings* (pp. 180-204). New York: New York University Press; Tillyer, R., Engel, R.S., & Cherkaskas, J.C. (2010). Best practices in vehicle stop data collection and analysis. *Policing: An International Journal of Police Strategies & Management*, 33(1), 69-92; and Walker, S. (2001). Searching for the denominator: Problems with police traffic stop data and an early warning system solution. *Justice Research and Policy*, 3, 63-95.

⁴³ Cordner, G., Williams, B., & Zuniga, M. (2001). *San Diego Police Department vehicle stop study: Year end report*. San Diego, CA, p. ii; Cordner, G., Williams, B., & Velasco, A. (2002). *San Diego Police Department vehicle stops in San Diego: 2001*. San Diego, CA.

⁴⁴ Engel, R.S., Frank, J., Klahm, C.F., & Tillyer, R. (2006, Jul.). *Cleveland Division of Police Traffic Stop Data Study: Final Report*. Cincinnati, OH: University of Cincinnati Division of Criminal Justice.

⁴⁵ Fridell, L.A. (2004). *By the numbers: A guide for analyzing race data from Vehicle Stops*. Washington, D.C.: Police Executive Research Forum.

⁴⁶ Alpert, G.P., Dunham, R.G., & Smith, M.R. (2007). Investigating racial profiling by the Miami-Dade police department: A multimethod approach. *Criminology & Public Policy*, 6, 25-56.

⁴⁷ E.g., Lamberth, J.C. (2013, Sept.). *Final Report for the City of Kalamazoo Department of Public Safety*. West Chester, PA: Lamberth Consulting.

⁴⁸ Engel, R.S., & Calnon, J.M. (2004). Comparing benchmark methodologies for police-citizen contacts: Traffic stop data collection for the Pennsylvania State Police. *Police Quarterly*, 7, 97-125.

We address the problem of whether race/ethnicity impacts police decisions to initiate traffic stops by employing a technique known as the “veil of darkness” method.⁴⁹ What follows is a description of this method and a detailed analysis of our findings.

The Veil of Darkness Technique

The veil of darkness technique allows the researcher to compare the racial/ethnic distribution of traffic stops made in daylight with that of stops made after dark.⁵⁰ The approach rests on the assumption that if driver race/ethnicity is a factor in determining who will be stopped, it will be more apparent among stops made in daylight, when drivers’ physical profile is more likely to be detectable, than at night when these characteristics are obscured by darkness.⁵¹ We do not suggest that race/ethnicity is somehow impossible to discern at night or a certainty during the day; rather, that “the rate of police knowing driver race/ethnicity in advance of the stop must be smaller at night than during daylight.”⁵²

The “veil of darkness” technique allows researchers to avoid the difficulty of identifying and applying a benchmark – a point of reference, such as Census data – against which to compare traffic stop data. This is the central challenge in the review of such data, as the driving population of a given area may look quite different from the residents of that area, as counted by the Census. Instead, using the veil technique, analysts can examine the likelihood that, for example, Black drivers will be stopped during the day versus at night, and compare that likelihood with the day-versus-night likelihood of White drivers being stopped.

The strongest argument for this approach comes from researchers who have tried to measure driver race/ethnicity at night. According to a 2003 analysis of traffic law enforcement in Santa

⁴⁹ E.g., Grogger, J. & Ridgeway, G. (2006). Testing for racial profiling in traffic stops from behind the veil of darkness. *Journal of the American Statistical Association*, 101(475), 878-887. Retrieved Aug. 24, 2016, from https://www.rand.org/content/dam/rand/pubs/reprints/2007/RAND_RP1253.pdf; Ridgeway, G., (2009). *Cincinnati Police Department traffic stops: Applying RAND’s framework to analyze racial disparities*. Santa Monica, CA: RAND Corporation; Worden, R.E., McLean, S.J., & Wheeler, A.P. (2012). Testing for racial profiling with the veil-of-darkness method. *Police Quarterly*, 15, 92-111.

⁵⁰ Ridgeway, G., (2009). *Cincinnati Police Department traffic stops: Applying RAND’s framework to analyze racial disparities*. Santa Monica, CA: RAND Corporation.

⁵¹ This assumption is potentially complicated by several unknown factors, including the presence or absence of ambient light, glare, shadowing, heavily tinted windows, and so on, at the time of the stop. Interestingly, the one study to control for ambient light found evidence of racial disparity when the effects of street lights were accounted for and no evidence of racial disparity when no such controls were included in the veil of darkness analysis. See Horrace, W.C., & Rohlin, S.M (2016). How dark is dark? Bright lights, big city: Racial profiling, *Review of Economics and Statistics*, 98, 226-232. Retrieved Oct. 24, 2016, from <https://pdfs.semanticscholar.org/84ff/4695f264da05e69cbc4e3e5dbd794bf9e298.pdf>.

⁵² Ridgeway, G., (2009). *Cincinnati Police Department traffic stops: Applying RAND’s framework to analyze racial disparities*. Santa Monica, CA: RAND Corporation, p. 12.

Cruz, California, the most difficult observational conditions occur either at dawn or dusk “or in dark areas where no supplemental lighting is provided.”⁵³ As a result, study authors relied on the use of supplemental lighting to enhance driver visibility during these periods. That the use of supplemental lighting has become commonplace among observational researchers underscores the point.⁵⁴ Others report having to eliminate nighttime observations altogether, finding “reliable data collection on the race/ethnicity of the driver... [to be] impossible” at dusk and after sundown.⁵⁵

Table 4.1.
Previous research employing the veil of darkness analytical approach

Author(s)/Year	Jurisdiction	Time Period Analyzed	Day-night Disparity Found?
Grogger & Ridgeway (2006)	Oakland, CA	Jun 2003 – Dec 2003	No
Ridgeway (2009)	Cincinnati, OH	2003 - 2008	No
Worden et al. (2012)	Syracuse, NY	2006-2009	No
Ritter (2013) ⁵⁶	Minneapolis, MN	2002	Yes
Horrace/ethnicity & Rohlin (2014)	Syracuse, NY	2006-2009	Yes
Ross et al. (2016) ⁵⁷	State of CT	Oct 2013 – Sept 2014	Yes
Taniguchi et al. (2016) ⁵⁸	Durham, NC	Jan 2010 – Oct 2015	Yes

The challenge of accurately categorizing a driver’s race/ethnicity at night is also consistent with research on the validity of eyewitness testimony. To summarize years of research, witnesses

⁵³ Rickabaugh, C.A. (2003, Sept.). *A study to analyze traffic stop data in Santa Cruz County*. Chadds Ford, PA: Lamberth Consulting, p. 30.

⁵⁴ E.g., Lange, J.E., Johnson, M.B., & Voas, R.B. (2005). Testing the racial profiling hypothesis for seemingly disparate traffic stops on the New Jersey turnpike. *Justice Quarterly*, 22, 193-223; Lamberth, J.C. (2013, Sept.). *Final Report for the City of Kalamazoo Department of Public Safety*. West Chester, PA: Lamberth Consulting.

⁵⁵ Alpert, G.P., Dunham, R.G., & Smith, M.R. (2007). Investigating racial profiling by the Miami-Dade police department: A multimethod approach. *Criminalology & Public Policy*, 6(1), 25-56, p. 36.

⁵⁶ Ritter, J.A. (2013). Racial bias in traffic stops: Tests of a unified model of stops and searches. University of Minnesota Population Center, Working Paper No. 2013-05. Retrieved Oct. 24, 2016, from http://ageconsearch.umn.edu/bitstream/152496/2/WorkingPaper_RacialBias_June2013-1.pdf.

⁵⁷ Ross, M.B., Fazzalario, J., Barone, K., & Kalinowski. (2016). State of Connecticut traffic stop data analysis and findings, 2014-15. Connecticut Racial Profiling Prohibition Project. Retrieved Oct. 24, 2016, from <http://www.ctrp3.org/reports/>.

⁵⁸ Taniguchi, T., Hendrix, J., Aagaard, B., Strom, K., Levin-Rector, A., & Zimmer, S. (2016). *Exploring racial disparity in traffic stops conducted by the Durham Police Department*. Research Triangle Park, NC: RTI International. Retrieved Oct. 24, 2016, from https://www.rti.org/sites/default/files/resources/VOD_Durham_FINAL.pdf.

) are much better at describing basic features of criminal suspects, including race/ethnicity and gender, when observed during daylight hours rather than at night.⁵⁹

The veil of darkness approach was first utilized by Grogger and Ridgeway for their review of traffic stops in Oakland, California.⁶⁰ Since then, scholars have relied on this technique to examine data from five other jurisdictions. With minor exceptions, each of the replications listed in Table 4.1 followed Grogger and Ridgeway's original method and analytical approach. We follow suit.

To measure possible day-night disparities, we take advantage of a natural experiment produced by seasonal changes throughout the calendar year. In San Diego, the sun goes down earlier during winter months than it does in the summer. Someone driving home from work at 6:00 pm in January would experience darkness, but in July the driver's commute would occur in broad daylight.

) The analysis is confined to the "inter-twilight period," or the period between the earliest end of civil twilight (5:09 pm on Nov. 27) and the latest (8:29 pm on Jun. 27), as defined by the U.S. Naval Observatory, in order to control for changes in the driving population during the course of the day.⁶¹ The veil of darkness technique allows the analyst to assess differences between daylight and darkness stop patterns within this window of time. Furthermore, because these comparisons occur within the same segment of the driving population (i.e., drivers on the road between 5:09 and 8:29 pm during darkness with drivers on the road between 5:09 and 8:29 pm during daylight), there is no need for an external benchmark.

We excluded from the analysis those stops that occurred between sundown (also as defined by the U.S. Naval Observatory) and the start of civil twilight (n=3,349), as there was no clear strategy for determining whether these stops occurred in 'daylight' or 'darkness.'⁶² We further limit our sample by including only those stops that occurred as a result of either equipment

⁵⁹ Loftus, G. R. (1985). Picture perception: Effects luminance on available information and information extraction rate. *Journal of Experimental Psychology: General*, 114, 342-356;

Meissner, C.A., Sporer, S.L., & Schooler, J.W. (2007). Person descriptions of eyewitness evidence. In R.C.L. Lindsay, D.F. Ross, J.D. Read, & M.P. Toglia (Eds.) *The handbook of eyewitness psychology, Vol. II* (pp. 1 - 34). New York: Psychology Press; Yarmey, A. D. (1986). Verbal, visual, and voice identification of a rape suspect under different levels of illumination. *Journal of Applied Psychology*, 71, 363-370.

⁶⁰ Grogger, J. & Ridgeway, G. (2006). Testing for racial profiling in traffic stops from behind the veil of darkness. *Journal of the American Statistical Association*, 101(475), 878-887. Retrieved Aug. 24, 2016, from https://www.rand.org/content/dam/rand/pubs/reprints/2007/RAND_RP1253.pdf.

⁶¹ The full schedule can be found here: http://aa.usno.navy.mil/data/docs/RS_OneYear.php.

⁶² Worden, R.E., McLean, S.J., & Wheeler, A.P. (2012). Testing for racial profiling with the veil-of-darkness method. *Police Quarterly*, 15, 92-111.

(e.g., a broken tail light) or moving violations (e.g., an illegal left turn).⁶³ As is shown in Table 4.2, these types of stops, which are the product of a highly discretionary decision-making process, comprise the vast majority of traffic stops in San Diego. Stops made as a result of a suspect description, an informant's tip, or pre-existing officer knowledge are excluded, as they involve a much lower level of discretionary authority and may lawfully include a driver's race/ethnicity as part of the justification for stop.

Table 4.2.

Describing data generated by traffic stops conducted by SDPD officers in 2014 and 2015, by stop type

Stop type	2014	2015	Total
<u>High discretion</u>			
Moving violation	103,491 (71.9%)	86,387 (74.9%)	189,878 (73.2%)
Equipment violation	38,426 (26.7)	27,453 (23.8)	65,879 (25.4)
<i>Sub-total</i>	<i>141,917 (98.6)</i>	<i>113,840 (98.6)</i>	<i>255,757 (98.6)</i>
<u>Low discretion</u>			
Radio call	763 (0.5%)	497 (0.4%)	1,260 (0.5%)
Code violation	752 (0.5)	366 (0.3)	1,118 (0.4)
Prior knowledge of suspect	277 (0.2)	263 (0.2)	540 (0.2)
Suspect information	211 (0.2)	161 (0.1)	372 (0.1)
Other	32 (<0.1)	278 (0.2)	310 (0.1)
<i>Sub-total</i>	<i>2,035 (1.4)</i>	<i>1,565 (1.4)</i>	<i>3,600 (1.4)</i>
<i>Total</i>	<i>143,952 (100)</i>	<i>115,405 (100)</i>	<i>259,357 (100)</i>

Note: Totals do not include stop records submitted without data on stop type. Discrepancies in the percentage totals are owed to rounding error.

Figure 4.2 is a scatterplot of the date and times of all stops included in the full sample. Note that black markers represent those stops that occurred after the end of civil twilight, which we classify as occurring during darkness. Grey markers represent daylight stops, which occurred prior to sunset.

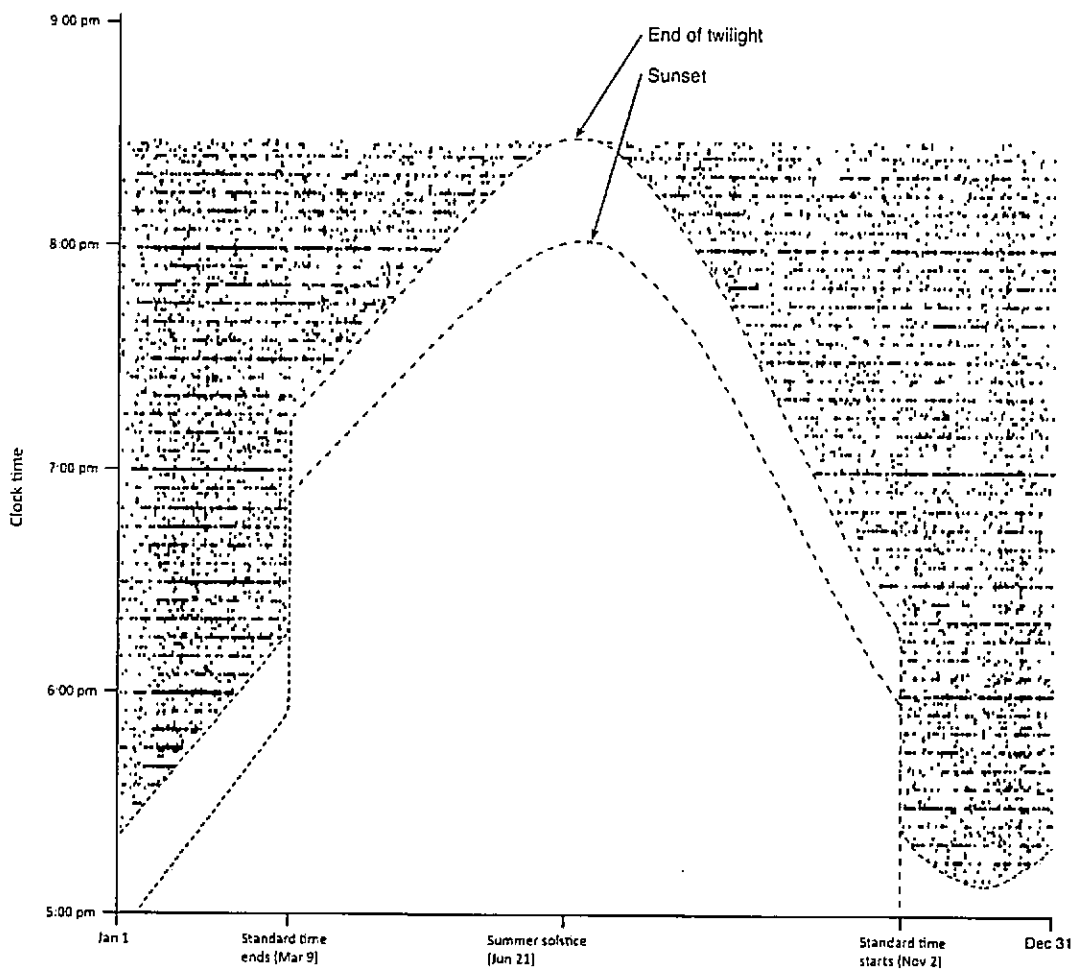
⁶³ We note that some have argued that because some equipment violations (a broken tail light, for example) are easier to identify after dark, they should be excluded from a veil of darkness analysis (Worden, R.E., McLean, S.J., & Wheeler, A.P. (2012). Testing for racial profiling with the veil of darkness method. *Police Quarterly*, 15, 92-111.). To account for this possibility, we replicated both the citywide and location-based analysis using just moving violations. The results, shown in Appendix 4, showed no meaningful difference from the analysis described herein.

Our statistical analysis aggregates and averages all stops made during the inter-twilight period in an attempt to evaluate day-night disparities between several driver categories, including:⁶⁴

- Black vs. White drivers
- Young Black vs. Young White (25 and under)
- Hispanic vs. White
- Young Hispanic vs. Young White (25 and under)
- Asian/Pacific Islander v. White
- Young Asian/Pacific Islander vs. Young White (25 and under)

Figure 4.2.

Scatterplot of traffic stops included in the veil of darkness analysis



We distinguish drivers 25 and under in light of the consistent evidence that younger drivers are

⁶⁴ As the relevant dependent variable is dichotomous (whether the stop occurred during daylight or after dark), we rely on logistic regression models to perform the analysis.

) often less willing to comply traffic laws,⁶⁵ and tend to be more reckless drivers in general.⁶⁶ The research is also very clear that young people are also more susceptible to criminological behavior than are adults further into their life course.^{67,68}

To account for potential changes to the driving population over time, our models include dichotomous variables for each 15-minute interval in the 3-hour and 20-minute inter-twilight period. This allows us to control for the likelihood that the racial/ethnic composition of drivers varies by time of day.

The driving population may also change based on the day of the week (for example, those people on the road at 7:30 pm on Friday evening may look and act differently than those driving at 7:30 on a Tuesday), so we also include dichotomous variables for the day of the week. These adjustments allow us to hold the day of the week constant, further isolating the effect of daylight. Similarly, to account for seasonal differences in the driving population, we control for the effects of stop month and stop location.

⁶⁵ Yagil, D. (1998). Gender and age-related differences in attitudes toward traffic laws and traffic violations. *Transportation Research Part F: Traffic Psychology and Behaviour*, 1, 123-135; McCartt, A.T., & Northrup, V.S. (2004). Factors related to seat belt use among fatally injured teenage drivers. *Journal of Safety Research*, 35, 29-38.

⁶⁶ Lawton, R., Parker, D., Stradling, S. G., & Manstead, A. S. R. (1997). Self-reported attitude towards speeding and its possible consequences in five different road contexts. *Journal of Community and Applied Social Psychology*, 7, 153-165; Lawton, R., Parker, D. Manstead, S. G., & Stradling, A. S. R. (1997). The role of affect in predicting social behaviors: The case of road traffic violations. *Journal of Applied Social Psychology*, 27, 1258-1276.

⁶⁷ Farrington, D.P. (1986). Age and crime. *Crime and Justice*, 7, 189-250; Jennings, W.G., & Reingle, J.M. (2012). On the number and shape of developmental/life-course violence, aggression, and delinquency trajectories: A state-of-the-art review. *Journal of Criminal Justice*, 40, 472-489; Sampson, R.J., & Laub, J.H. (1993). *Crime in the Making*. Cambridge: Harvard University Press.

⁶⁸ There is also a well-established body of research showing that males are more likely to engage in both reckless (see, for example, Keane, C., Maxim, P.S., & Teevan, J. J. [1993]. Drinking and driving, self-control, and gender: Testing a general theory of crime. *Journal of Research in Crime and Delinquency*, 30, 30-46) and criminal behavior (Synder, H.N. [2012]. Arrest in the United States, 1990-2010. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Retrieved Sept. 29, 2016, from <http://www.bjs.gov/content/pub/pdf/aus9010.pdf>). To account for the possibility that SDPD officers may as a result police males differently than they do females, we analyzed day-night disparities using a sample of male only drivers. The results, which showed no meaningful difference from the mixed gender analysis, are listed in Appendix 5.

Results

Before presenting the results of our traffic stop analysis, it may be helpful to review the metrics used to interpret the data. The findings will be presented in terms of odds ratios, which indicate the odds (or likelihood) of daylight affecting traffic stop patterns. An odds ratio of 1.0 indicates that time of day does not influence the odds of Black drivers being stopped; in that case, they are no more and no less likely to be stopped after dark than they are during daylight, compared to the stop pattern of White drivers. A positive odds ratio (>1.0) suggests that Black drivers are more likely to be stopped during the day than at night, and thus may indicate racial/ethnic disparity. A negative odds ratio (<1.0) indicates that Black drivers are more likely to be stopped at night than during the day (or, put another way, that White drivers are more likely to be stopped in daylight than after dark).

A **p-value** is commonly used measure of statistical significance. The smaller the p-value, the more confidence we have that the results would not occur under the null hypothesis (e.g., that no relationship exists between an officer's decision to stop a particular driver and that driver's race).

For example, a p-value of 0.01 means that we are 99% confident that our result is not due to chance. Following common practice in the social sciences, we report p-values of .05 and lower, which correspond to a level of confidence of 95% or higher, as statistically significant:

<u>p-value</u>	<u>Level of confidence</u>
0.001	99.9%
0.01	99%
0.05	95%

Black Drivers

Table 4.3 displays the results of our analysis of discretionary traffic stops conducted in the City of San Diego between January 1, 2014 and December 31, 2015 involving Black and White drivers. The data show that in 2014, when driver race/ethnicity was visible, Black drivers were nearly 20 percent more likely to be the subject of a discretionary traffic stop than were White drivers. When confined to drivers aged 25 and under, young Black drivers in 2014 were 43.8 percent more likely to be stopped in daylight than after dark, compared to young Whites. These findings are statistically significant at the 0.01 level and thus indicate racial/ethnic disparity in the distribution of traffic stops.

Table 4.3.

Modeling the effects of daylight on the odds that Black drivers will be stopped citywide for either a moving violation or an equipment violation

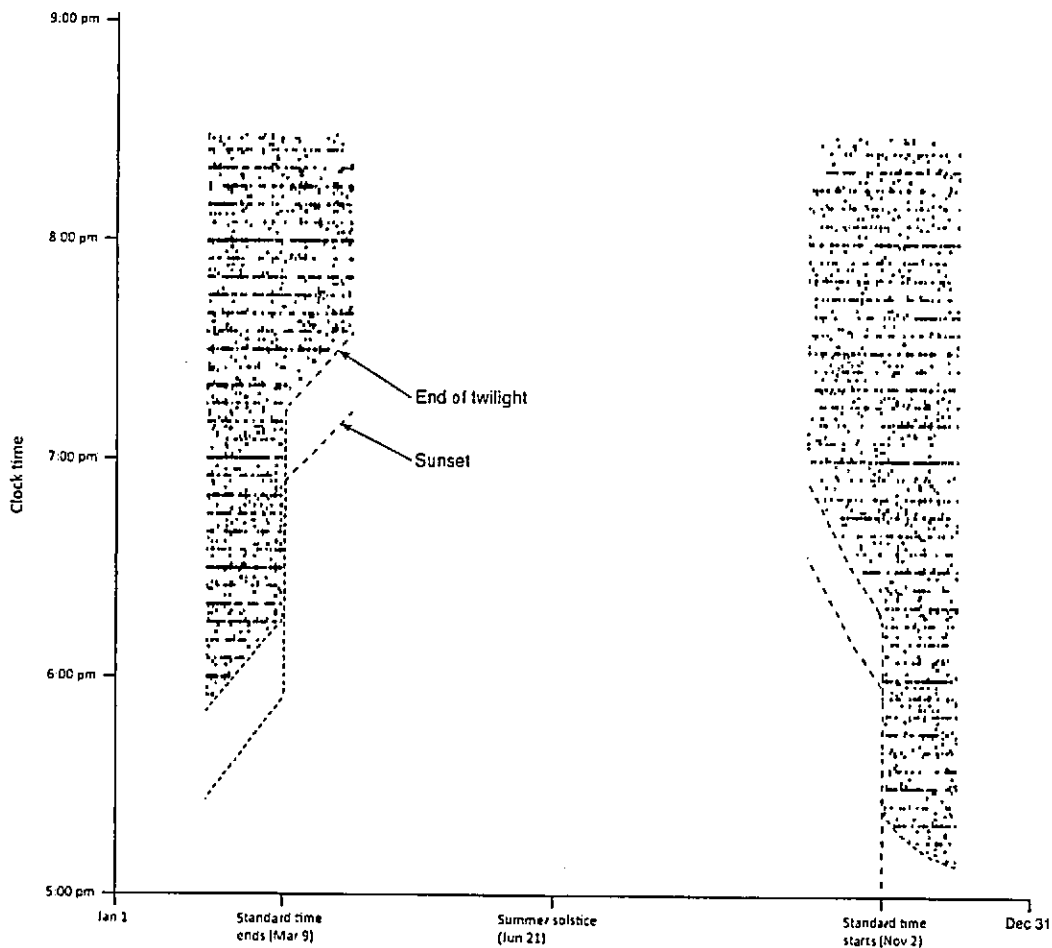
	Odds Ratio	p-value	Standard error	95% Confidence Interval	Number of Stops
<u>2014</u>					
Black v. White	1.196	0.005	0.077	1.055, 1.356	8,332
Young Black v. Young White	1.438	0.003	0.177	1.129, 1.832	2,189
<u>2015</u>					
Black v. White	0.800	0.118	0.114	0.605, 1.058	6,216
Young Black v. Young White	0.783	0.068	0.105	0.602, 1.018	1,631
<u>Combined</u>					
Black v. White	1.052	0.293	0.051	0.957, 1.156	14,548
Young Black v. Young White	1.098	0.309	0.101	0.917, 1.316	3,820

These same disparities were not present in the 2015 data. When the 2015 sample is limited to stops involving drivers aged 25 and younger, there is evidence, albeit of relatively weak statistical power, that Black drivers were *less* likely to be stopped during the day than after dark. When the 2014 and 2015 data are combined, we find no meaningful statistical distinction between Blacks and Whites.

To further control for potential seasonal differences among the driving population, we also conduct an analysis limited to inter-twilight stops occurring 30 days before and after Daylight Saving Time (DST) clock changes, which in 2014 occurred at 2:00 am on March 9th and November 2nd. In 2015, California moved clocks ahead on March 8 and back on November 1. Figure 4.3 is a scatterplot of those data included in the 2014 DST-only analysis, reflecting traffic stops occurring during 60-day periods in the Spring (Feb. 7th – Apr. 9th) and the Fall (Oct. 3rd – Dec. 2nd). The 2015 DST period includes stops recorded between February 6th and April 8th and between October 2nd and December 1st.

Figure 4.3.

Scatterplot of traffic stops included in the Daylight Saving Time veil of darkness analysis



Delimiting the analysis is a way to evaluate the robustness of the findings discussed above and to provide more thorough protection against the influence of seasonal changes to the driving population. The primary trade-off of this more conservative approach is the loss of statistical power. As Ridgeway notes, the smaller sample sizes required are still large enough to reflect significant day-night disparities, but smaller differences may not be as readily apparent.⁶⁹

As is shown in Table 4.4, our estimates shift somewhat under these more restrictive conditions, with changes most apparent in the 2014 data. When the analysis is confined to stops occurring during the DST-only period, disparities between Black and White drivers are no longer evident. Results generated by analysis of the 2015 and combined datasets remain substantively unchanged: no statistical difference exists in the likelihood that Black drivers are more likely to

⁶⁹ Ridgeway, G., (2009). *Cincinnati Police Department traffic stops: Applying RAND's framework to analyze racial disparities*. Santa Monica, CA: RAND Corporation.

be stopped by police during daylight hours than they were after dark when compared to White drivers.

Table 4.4.

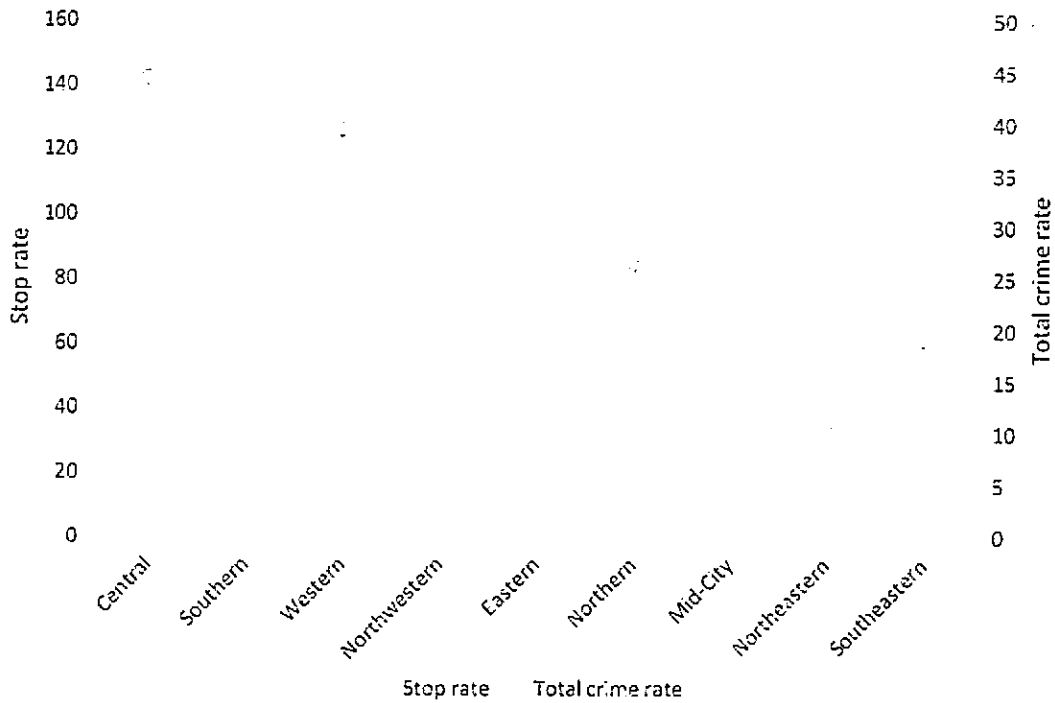
Modeling the effects of daylight on the odds that Black drivers will be stopped citywide for either a moving violation or an equipment violation during the DST period

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>2014</u>					
Black v. White	1.109	0.480	0.163	0.831, 1.479	2,564
Young Black v. Young White	1.175	0.573	0.336	0.670, 2.059	671
<u>2015</u>					
Black v. White	1.184	0.337	0.208	0.839, 1.671	1,994
Young Black v. Young White	0.720	0.343	0.249	0.365, 1.419	547
<u>Combined</u>					
Black v. White	1.143	0.233	0.128	0.918, 1.423	4,558
Young Black v. Young White	0.951	0.816	0.206	0.621, 1.455	1,218

Though we include controls for stop location in the citywide models, for several reasons we believe there is value in taking a closer look at division-level differences in the treatment of Black and White drivers. First, as shown in Figure 4.4, there appears to be a loose relationship between division-level stop rates and the localized crime rates (Pearson's $r = 0.5134$). This relationship suggests that patrol strategies in higher-crime areas, like the Central division, which is home to both the city's highest crime rate and highest stop rate, will be substantially different than in the Northern division, where both crime and stop rates are closer to citywide averages. In addition to other factors such as staffing levels and the availability of other resources, these data highlight the unique division-level circumstances that may shape patrol decisions, and which in turn may contribute to division-level differences in the racial/ethnic distribution of stops. Finally, as we discussed in Chapter 2, crime and poverty tend to concentrate in neighborhoods with comparatively high levels of minority residents. In San Diego, most of those neighborhoods are found in the police divisions located below Interstate 8.

Figure 4.4.

Examining the relationship between vehicle stop rates and crime, by SDPD police division



Source: City of San Diego and SDPD

Note: Both vehicle stop rate and crime rate listed per 1,000 division residents over 2014 and 2015.

Table 4.5 lists the volume of recorded stops by patrol division, as well as each division’s population and square mileage. The Northern division was the city’s busiest, accounting for 37,203 stops, or 14.7 percent of those recorded between January 1, 2014 and December 31, 2015. The Eastern, Northeastern, and Western divisions were the next-busiest in terms of stop volume, followed by the Central, Southern, and Mid-City divisions. Officers in the Northwestern division tallied the fewest stops, accounting for just 6.4 percent of the citywide total. Stops initiated in divisions located above Interstate 8 accounted for 58.1 percent of all recorded stops, while those recorded below I-8 represented 41.9 percent of the total.

Table 4.5.

SDPD vehicle stops, by patrol division, 2014 and 2015 combined

	Population	Square mileage	Stops
<u>Above Interstate 8</u>			
Northern	225,234 (16.4%)	41.3 (12.5%)	37,203 (14.7%)
Northeastern	234,394 (17.0)	103.8 (31.5)	31,692 (12.5)
Eastern	155,892 (11.3)	47.1 (14.3)	31,788 (12.6)
Western	129,709 (9.4)	22.7 (6.9)	30,078 (11.9)
Northwestern	70,822 (5.1)	41.6 (12.6)	16,306 (6.4)
<i>Sub-total</i>	<i>816,051 (59.3)</i>	<i>256.5 (77.8)</i>	<i>147,067 (58.1)</i>
<u>Below Interstate 8</u>			
Southeastern	175,757 (12.8)	19.1 (5.8)	19,292 (7.6)
Central	103,524 (7.5)	9.7 (2.9)	29,692 (11.7)
Southern	107,631 (7.8)	31.5 (9.6)	29,351 (11.6)
Mid-City	173,012 (12.6)	12.8 (3.9)	27,692 (10.9)
<i>Sub-total</i>	<i>559,924 (40.7)</i>	<i>73.1 (22.2)</i>	<i>106,027 (41.9)</i>
Total	1,375,975 (100.0)	329.6 (100.0)	253,094 (100.0)

Source: City of San Diego.

Note: Stop totals do not include the 6,475 stop records submitted without stop location information.

Table 4.6 lists the results of our comparison of stop rates among Black and White drivers, by stop location, across the combined dataset of 2014 and 2015 (for separate analysis of 2014 and 2015 data, see Appendix 6). There is some evidence to support the notion that drivers are treated differently in certain neighborhoods. In the Northeastern division, strong statistical evidence indicates that disparity was present: Black drivers were 60.2 percent more likely to be stopped in daylight than after dark, compared to White drivers. We find no meaningful difference in the treatment of drivers by race/ethnicity in the Eastern, Western, Northern, and Northwestern divisions. Analysis of the aggregated data from these five divisions shows no statistically significant difference in the daylight-darkness stop patterns of Black and White drivers.

Table 4.6.

Modeling the effects of daylight on the odds that Black drivers will be stopped for either a moving violation or an equipment violation in 2014 and 2015 combined, by stop location

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>Above Interstate 8</u>					
Northern	1.460	0.066	0.300	0.975, 2.184	2,319
Northeastern	1.602	0.005	0.271	1.149, 2.232	2,062
Eastern	1.050	0.752	0.162	0.776, 1.421	1,775
Western	0.936	0.670	0.145	0.692, 1.267	2,096
Northwestern	0.891	0.687	0.254	0.510, 1.599	925
<i>Sub-total</i>	<i>1.150</i>	<i>0.068</i>	<i>0.088</i>	<i>0.990, 1.337</i>	<i>9,452</i>
<u>Below Interstate 8</u>					
Southeastern	1.397	0.077	0.264	0.964, 2.024	1,064
Central	0.572	<0.001	0.080	0.434, 0.752	1,891
Southern	1.070	0.742	0.220	0.716, 1.600	753
Mid-City	0.887	0.269	0.096	0.717, 1.097	1,938
<i>Sub-total</i>	<i>0.793</i>	<i><0.001</i>	<i>0.051</i>	<i>0.699, 0.899</i>	<i>5,646</i>

We find distinct variation among divisions located below Interstate 8 across 2014 and 2015. In the Central division, stops involving Blacks are nearly 43 percent less likely to occur during the day than they are after sundown, compared to those involving White drivers. Analysis of Southern, Southeastern, and Mid-City stops shows no statistically significant disparity. Perhaps on the strength of the Central division findings, analysis of the aggregated data for these four divisions shows that compared to White drivers, Blacks are 20.7 percent less likely to be stopped during daylight hours, when driver race/ethnicity is visible, than they are after sundown, when race/ethnicity is obscured by darkness.

Table 4.7.

Modeling the effects of daylight on the odds that Hispanic drivers will be stopped citywide for either a moving violation or an equipment violation

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>2014</u>					
Hispanic v. White	0.973	0.561	0.046	0.887, 1.067	11,952
Young Hispanic v. Young White	1.052	0.608	0.103	0.868, 1.275	2,775
<u>2015</u>					
Hispanic v. White	0.935	0.223	0.052	0.839, 1.042	9,055
Young Hispanic v. Young White	0.843	0.123	0.093	0.679, 1.047	2,392
<u>Combined</u>					
Hispanic v. White	0.949	0.141	0.034	0.885, 1.018	21,007
Young Hispanic v. Young White	0.939	0.392	0.069	0.814, 1.084	5,167

Table 4.8.

Modeling the effects of daylight on the odds that Hispanic drivers will be stopped citywide for either a moving violation or an equipment violation during the DST period

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>2014</u>					
Hispanic v. White	1.044	0.686	0.111	0.847, 1.288	3,669
Young Hispanic v. Young White	1.098	0.685	0.254	0.698, 1.728	854
<u>2015</u>					
Hispanic v. White	1.295	0.035	0.158	1.019, 1.644	2,950
Young Hispanic v. Young White	0.834	0.461	0.206	0.514, 1.353	803
<u>Combined</u>					
Hispanic v. White	1.145	0.090	0.092	0.979, 1.340	6,619
Young Hispanic v. Young White	0.950	0.756	0.158	0.685, 1.316	1,657

Hispanic drivers

Tables 4.7, 4.8, and 4.9 list results of our analysis of traffic stops involving Hispanic drivers. Per Table 4.7, when aggregated at the city level, the odds of a stop involving a Hispanic driver is not affected by the change from daylight to darkness, regardless of when the stop occurred or the comparison group used, as indicated by odds ratios that align so closely to 1.0.

Table 4.8 displays the results from several models examining day/night stop rates of Hispanic drivers stopped for either an equipment violation or a moving violation during the 120-day DST period. Under these more restrictive analytical conditions, the 2014 data reveal no disparity in the treatment of Hispanic and White drivers. In 2015, however, Hispanic drivers of all ages were 29.5 percent more likely to be stopped during daylight hours than after dark, when compared to Whites. This result was statistically significant at the 0.05 level. When the analytical sample is limited to those drivers ages 25 and younger, we find no indication of disparity.

Table 4.9.

Modeling the effects of daylight on the odds that Hispanic drivers will be stopped for either a moving violation or an equipment violation in 2014 and 2015 combined, by stop location

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>Above Interstate 8</u>					
Northern	1.043	0.751	0.138	0.805, 1.350	2,596
Northeastern	1.337	0.020	0.167	1.047, 1.707	2,298
Eastern	0.956	0.715	0.117	0.753, 1.215	2,025
Western	0.953	0.656	0.102	0.773, 1.176	2,490
Northwestern	1.145	0.462	0.210	0.799, 1.640	1,063
<i>Sub-total</i>	<i>1.062</i>	<i>0.268</i>	<i>0.058</i>	<i>0.955, 1.181</i>	<i>10,893</i>
<u>Below Interstate 8</u>					
Southeastern	1.084	0.662	0.200	0.755, 1.558	1,351
Central	0.544	<0.001	0.054	0.447, 0.663	2,582
Southern	0.964	0.726	0.101	0.785, 1.184	4,547
Mid-City	0.812	0.030	0.079	0.673, 0.980	2,476
<i>Sub-total</i>	<i>0.716</i>	<i><0.001</i>	<i>0.036</i>	<i>0.649, 0.790</i>	<i>10,956</i>

Table 4.9 shows the results of our division-level analysis of stops involving Hispanic drivers for the combined dataset of 2014 and 2015 (for analysis of these data broken out by year, see Appendix 6). We find no evidence of disparity in the Northern, Eastern, Western, or Northwestern divisions, but strong evidence of disparity in the Northeastern division: compared to White drivers, Hispanics stopped in the Northeastern division were 33.7 percent more likely to be stopped before sundown than after dark ($p = 0.020$).

We find no difference in the stop rates of Hispanic and White drivers stopped in the Southeastern or Southern divisions. Central division stops involving Hispanic drivers are 45 percent *less* likely to occur during the day than they are at night compared to stops of Whites. Similarly, Hispanic drivers stopped in Mid-City are 18.8 percent less likely to be stopped before sundown than after dark. Analysis of the combined nearly 11,000 stops occurring in divisions below Interstate 8 shows that Hispanic drivers were 28.4 percent less likely to experience a daytime stop than one occurring in darkness, compared to White drivers. These findings reach a high level of statistical significance.

Asian/Pacific Islander drivers

Tables 4.10 – 4.12 document the results of our analysis of traffic stops involving Asian/Pacific Islander and White drivers. In short, we find no meaningful difference in the stop patterns of API and White drivers, regardless of driver age, stop date, stop location, or modelling strategy.

Table 4.10.

Modeling the effects of daylight on the odds that Asian/Pacific Islander drivers will be stopped citywide for either a moving violation or an equipment violation

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>2014</u>					
Asian v. White	0.986	0.801	0.056	0.882, 1.102	8,927
Young Asian v. Young White	0.953	0.695	0.117	0.749, 1.212	1,911
<u>2015</u>					
Asian v. White	0.970	0.635	0.062	0.857, 1.099	6,845
Young Asian v. Young White	0.967	0.792	0.123	0.753, 1.231	1,721
<u>Combined</u>					
Asian v. White	0.978	0.596	0.041	0.900, 1.062	15,772
Young Asian v. Young White	0.960	0.646	0.085	0.808, 1.141	3,632

Table 4.11.

Modeling the effects of daylight on the odds that Asian/Pacific Islander drivers will be stopped citywide for either a moving or an equipment violation during the DST period

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>2014</u>					
Asian v. White	1.090	0.520	0.146	0.838, 1.417	2,758
Young Asian v. Young White	1.307	0.340	0.367	0.754, 2.266	614
<u>2015</u>					
Asian v. White	1.244	0.138	0.183	0.932, 1.660	2,200
Young Asian v. Young White	1.413	0.222	0.400	0.812, 2.460	582
<u>Combined</u>					
Asian v. White	1.161	0.130	0.114	0.957, 1.408	4,958
Young Asian v. Young White	1.322	0.153	0.259	0.901, 1.941	1,196

Table 4.12.

Modeling the effects of daylight on the odds that Asian/Pacific Islander drivers will be stopped for either a moving violation or an equipment violation, by stop location

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>Above Interstate 8</u>					
Northern	0.927	0.570	0.124	0.713, 1.205	2,585
Northeastern	1.117	0.196	0.056	0.944, 1.321	3,231
Eastern	1.237	0.085	0.153	0.971, 1.575	2,016
Western	0.872	0.315	0.119	0.666, 1.139	2,196
Northwestern	0.852	0.256	0.120	0.646, 1.123	1,310
<i>Sub-total</i>	<i>0.945</i>	<i>0.259</i>	<i>0.047</i>	<i>0.858, 1.042</i>	<i>11,603</i>
<u>Below Interstate 8</u>					
Southeastern	1.357	0.179	0.308	0.869, 2.118	473
Central	1.022	0.874	0.143	0.777, 1.345	1,960
Southern	1.370	0.132	0.286	0.910, 2.063	767
Mid-City	1.064	0.647	0.144	0.816, 1.387	1,499
<i>Sub-total</i>	<i>1.010</i>	<i>0.895</i>	<i>0.078</i>	<i>0.868, 1.176</i>	<i>4,699</i>

Table 4.13 lists the demographic profile of drivers stopped in 2014 and 2015, broken out by year. We include these data to highlight the statistical similarities between the full dataset and the inter-twilight and DST-only sub-samples. The proportions of driver race/ethnicity and driver age categories are nearly identical across the two sub-samples. Critically, the DST-only sub-sample data also mirror the full data set quite closely. These similarities lend confidence in projecting to the full sample of stops the day-night disparities revealed by our review of inter-twilight stops.

Table 4.13.
The demographic profile of drivers stopped in 2014 and 2015

<u>Driver race</u>	<u>Total Sample</u>		<u>Inter-twilight Period</u>		<u>Inter-twilight – DST only*</u>	
	<u>2014</u>	<u>2015</u>	<u>2014</u>	<u>2015</u>	<u>2014</u>	<u>2015</u>
Asian/PI	22,059 (15.6%)	18,493 (16.2%)	2,588 (15.4%)	2,085 (16.3%)	807 (15.6%)	674 (16.2%)
Black	15,763 (11.1)	12,162 (10.7)	2,000 (11.9)	1,459 (11.4)	616 (11.9)	467 (11.3)
Hispanic	42,888 (30.3)	33,974 (29.8)	5,716 (34.1)	4,348 (34.0)	1,755 (33.9)	1,446 (34.8)
White	61,011 (43.1)	49,211 (43.2)	6,480 (38.6)	4,884 (38.2)	1,999 (38.6)	1,563 (37.7)
<u>Driver age</u>						
25 and under	31,544 (23.3%)	28,949 (25.1%)	3,917 (24.4%)	3,455 (27.0%)	1,223 (24.5%)	1,163 (28.0%)
Over 25	103,966 (76.7)	86,456 (74.9)	12,137 (75.6)	9,321 (73.0)	3,764 (75.5)	2,987 (72.0)

*30 days prior to and after the start and end of Daylight Saving Time: Feb. 7th through Apr. 9th and the October 3rd through December 2nd.

Note: Race/ethnicity and age column totals are unequal because of missing data.

Analysis

Application of the veil of darkness technique to SDPD's 2014 and 2015 data produced a series of mixed results. Our analysis of citywide stops conducted in 2014 found disparities in the stop patterns of Black and White drivers, yet those disparities disappeared under the more rigorous parameters of the DST-only analysis. Neither the 2015 data nor the combined 2014/2015 totals showed statistically significant differences in the treatment of Black drivers compared to White drivers, regardless of driver age or stop date.

Our review of stops involving Hispanic drivers produced a similarly mixed yet distinct pattern or results. No disparities were evident in the 2014, 2015, or combined 2014/2015 data. However, when we limited the analysis to those stops occurring within 30 days of the Daylight Saving Time changes, we found some evidence of disparity in the 2015 stop data. Comparison of stop patterns involving API and White drivers revealed no statistically significant differences between the two groups.

In addition to our citywide analysis, we also examined division-level stop patterns. Our review of aggregate data from the five divisions located above Interstate 8 revealed no statistically significant disparities in the daylight-darkness stop patterns of Black and White drivers or Hispanics and Whites. Narrowing the focus to the division level revealed strong and consistent disparities in the day-night stop rates among Black and Hispanic drivers stopped in the Northeastern division, as compared to Whites. No such disparities were evident among stops occurring in the Northern, Eastern, Western, or Northwestern divisions.

Data on stops conducted below Interstate 8 reveal a different set of results. We find substantial evidence to suggest that in the aggregate, both Black and Hispanic drivers were *less* likely be stopped during daylight hours than they were after dark, compared to stops involving White drivers. In other words, when the police were able to see a driver's race, they were more likely to stop a White driver than they were a Black or Hispanic driver. At the division level, these results were evident in stops occurring in the Central division and among Hispanic (but not Black) drivers stopped in the Mid-City division.

CHAPTER 5: ANALYZING POST-STOP OUTCOMES

Introduction

In the previous section we examined 2014 and 2015 Vehicle Stop Card data in an effort to discern if any disparity exists in the way that SDPD officers initiate vehicle stops by race/ethnicity. In Chapter 5, we examine post-stop outcomes by driver race/ethnicity. These outcomes include an officer's decision to search a driver following a traffic stop, whether contraband is discovered, and whether an officer decides to issue a ticket or give the driver a warning, among others.

Unlike with vehicle stops, where the comparison population (the demographic profile of the city's driving population) is unknown, the pattern of post-stop outcomes can be measured against an established benchmark: all drivers that were stopped. Thus, in examining post-stop outcomes, we are able to get a clear picture of the extent to which disparities exist across driver characteristics, including race, gender, and residency status, as well as stop characteristics like location and time of day.

Table 5.1.

Traffic stops and post-stop outcomes in 2014 and 2015, by SDPD patrol division

	Stops (%)	Search (%)	Hit rate (%)	Arrest (%)	FI (%)	Citation (%)
<u>Above Interstate 8</u>						
Northern	14.7	3.3	12.1	1.5	1.4	67.1
Northeastern	12.5	2.6	7.6	0.9	1.9	56.1
Eastern	12.5	2.6	6.6	0.9	1.2	67.7
Western	11.9	4.2	12.4	1.4	2.7	60.8
Northwestern	6.4	2.6	7.1	0.8	1.6	45.1
Sub-total	58.1	3.1	9.9	1.1	1.8	57.8
<u>Below Interstate 8</u>						
Southeastern	7.6	10.1	9.1	1.7	8.8	46.9
Central	11.7	5.1	6.8	1.7	2.5	60.0
Southern	11.6	3.1	8.0	1.1	1.8	69.4
Mid-City	10.9	8.6	7.9	2.0	5.3	51.4
Sub-total	41.9	6.7	8.0	1.6	4.2	53.3
Total	100.0	4.6	8.7	1.3	2.7	57.5

* Hit rate is the percentage of searches that led to the discovery of contraband

Table 5.1 lists by police division both vehicle stop totals and the incidence rates of key post-stop outcomes. In the Northern division, police conducted a search in 3.3 percent of 37,203 vehicle stops, or 1 in 30. Contrast that with the Southeastern division, where 1 in 10 stops resulted in a formal search – three times the rate in the Northern division. The same kind of variance is present in other raw post-stop data. Drivers stopped in the Western division are more than twice as likely to face a field interview (FI) than are drivers stopped in the Eastern division. A similar pattern is visible in citation rates: 45.1 percent of stops conducted in the Northwestern division resulted in the issuance of a ticket, compared to almost 70 percent of stops in the Southern division.

These observed patterns do not appear to be random. To some extent, they follow division-based differences in terms of crime rates and Department allocation of officer resources. Drivers stopped in the city's higher-crime neighborhoods tend to face a greater police presence. That the SDPD may police some areas differently than other locations is common practice among other major city police departments and is well-supported in the research literature.⁷⁰ These data are also consistent with the well-established notion that police officers stop and search drivers with two strategic goals in mind: (1) to promote public safety through traffic law enforcement and deterrence; and (2) to investigate the possibility that the driver (or passenger) has engaged in other criminal activity.⁷¹

Post-stop enforcement patterns vary just as widely across other metrics as well. As is shown in Table 5.2, drivers stopped in the middle of the night are more likely to be searched and ultimately arrested than are drivers stopped in the morning or afternoon. Similar variation is found across day of the week, month, driver gender, and race, which is shown in Table 5.3. These raw numbers suggest that on balance Black drivers, compared to drivers of other races/ethnicities, were more frequently searched and arrested following a stop, less frequently found with contraband, and the least frequently ticketed.

⁷⁰ Braga, A., Papachristos, A., & Hureau, D. (2012). Hot spots policing effects on crime. *Campbell Systematic Reviews*, 8, 1-96; Weisburd, D., & Telep, C. (2014). Hot spots policing: What we know and what we need to know. *The Journal of Contemporary Criminology*, 30, 200-220; CrimeSolutions.gov (2015). *Hot Spots Policing*. Retrieved Aug. 16, 2016 from <https://www.crimesolutions.gov/PracticeDetails.aspx?ID=8>.

⁷¹ Ashton, R.J. (2007, Jul.). Bridging the legal gap between the traffic stop and criminal investigation. *The Police Chief*, 74(7). Retrieved Aug. 16, 2016, from http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1229&issue_id=72007; *Whren v. United States*. (1996). 517 U.S. 806.

Table 5.2.**Traffic stops and post-stop outcomes, by stop time**

Time of day	Stops	Search (%)	Hit rate (%)	Arrest (%)	FI (%)	Citation (%)
Midnight - 3:00 AM	25,201	7.4	9.9	3.2	3.6	46.8
3:00 - 6:00 AM	7,584	6.6	10.6	2.3	3.0	46.0
6:00 - 9:00 AM	32,541	3.1	6.3	0.8	1.7	63.1
9:00 - Noon	52,309	2.9	6.8	0.7	1.5	64.6
Noon - 3:00 PM	33,145	2.4	6.3	0.7	1.2	66.8
3:00 - 6:00 PM	43,145	5.0	7.7	1.1	4.2	54.1
6:00 - 9:00 PM	27,703	5.7	11.0	1.5	3.6	46.8
9:00 - Midnight	36,613	5.6	10.2	1.8	3.8	45.6

These disparities may be due to the fact that more Black drivers live in high crime areas of the city or are more likely to drive late at night rather than during the day, thus the natural result of higher levels of exposure to police; they may also be the product of disparate treatment. The challenge with this kind of inquiry is to distinguish variation that may be the result of policy, like sending police officers to higher crime areas or more proactively searching those drivers stopped at after midnight, from that which is motivated by some form of bias.

Table 5.3.**Traffic stops and post-stop outcomes, by driver race/ethnicity**

Driver race	Stops	Search (%)	Hit rate (%)	Arrest (%)	FI (%)	Citation (%)
Asian/PI	41,021	4.5	5.2	0.8	2.0	57.2
Black	28,535	9.3	7.7	1.8	8.0	46.1
Hispanic	77,934	5.9	7.4	1.5	3.0	56.7
White	111,855	2.9	11.2	1.2	1.5	57.8
<i>Total</i>	<i>259,345</i>	<i>4.4</i>	<i>8.5</i>	<i>1.3</i>	<i>2.7</i>	<i>56.1</i>

Research Method

To this end, we rely on an analytical technique known as propensity score matching, which allows the researcher to match drivers across several categories thought to affect the likelihood of certain post-stop outcomes. The matching criteria include stop-related factors like location and time of day, and driver characteristics, like gender and residency status. This approach has been used to study traffic stop data in Oakland, California,⁷² Cincinnati, Ohio,⁷³ and St. Louis, Missouri,⁷⁴ among others. Though it is not the only technique that can be used to evaluate post-stop outcomes,⁷⁵ propensity score matching is the

Propensity score matching allows researchers to match drivers of different races across the various other factors known to affect the decision to ticket, search, arrest, or discover contraband.¹ Put another way, matching allows the analyst to compare the likelihood that two drivers who share gender, age, stop reason, stop location, and so on, but differ by race, will be searched, ticketed, or found with contraband.

most effective and intuitive means of isolating the effects of driver race. In the section that follows we describe our application of this technique.

A young male stopped on Friday night at 2:30 AM for speeding through a high-crime neighborhood may be more likely to receive a ticket than an elderly woman stopped on Tuesday at 1:00 PM for a broken tail light while driving in an area of town not associated with crime. If the first driver is ticketed and the second is not, can we fairly attribute that decision to the gender of the driver? Or is it because one was stopped at night and the other during the day? Or because one was stopped for a moving violation and the other for an equipment-related problem? In reality, an officer's decision to search is likely the product of these several factors taken together. Thus, we want to compare the post-stop outcomes of, for example, all

⁷² Ridgeway, G. (2006). Assessing the effect of race bias in post-traffic stop outcomes using propensity scores. *Journal of Quantitative Criminology*, 22, 1-28.

⁷³ Riley, K.J., Turner, S., MacDonald, J., Ridgeway, G., Schell, T., Wilson, J., Dixon, T.L., Fain, T., & Barnes-Proby, D. (2005). *Police-community relations in Cincinnati*. Santa Monica, CA: RAND Corporation.

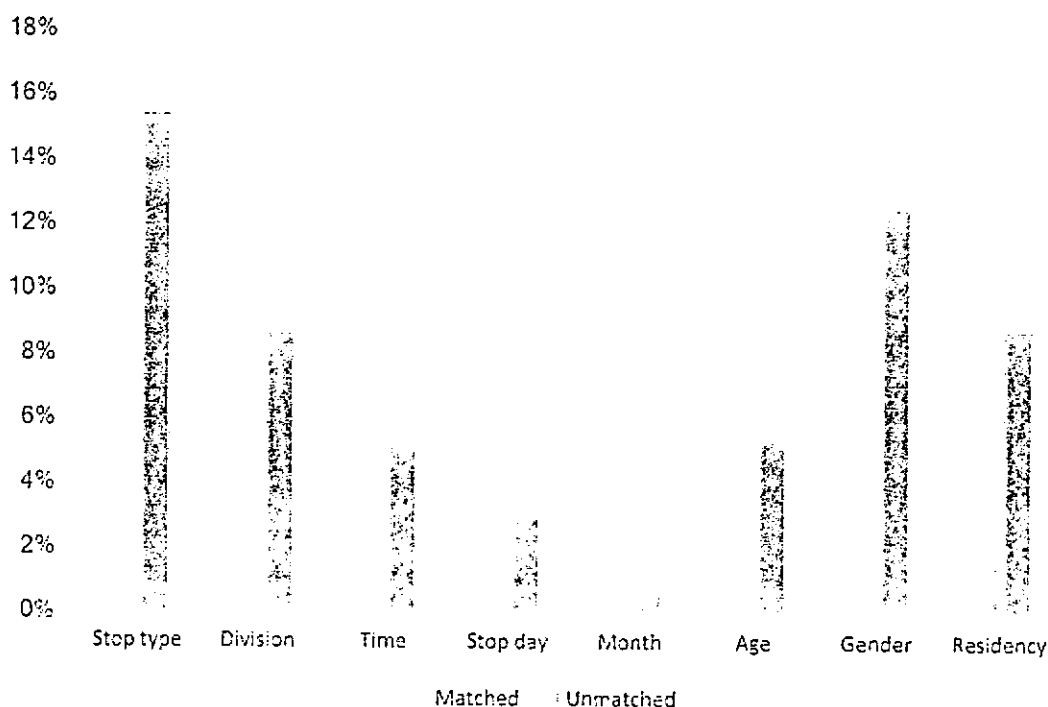
⁷⁴ Rosenfeld, R., Rojek, J., & Decker, S. (2011). Age matters: Race differences in police searches of young and older male drivers. *Journal of Research in Crime and Delinquency*, 49, 31-55.

⁷⁵ Though we believe that the propensity score matching technique is the most effective means of isolating the effect of race on post-stop outcomes, the use of this approach does have the effect of reducing the sample size available for analysis. To account for the possibility that this limits the generalizability of our findings, we also analyzed the 2014 and 2015 data using logistic regression modeling, another statistical technique widely accepted for use with data of this kind (See, for example, Baumgartner, F., Epp, D., & Love, B. (2014). *Police Searches of Black and White Motorists*. (Durham, NC). Chapel Hill, NC: University of North Carolina-Chapel Hill Department of Political Science. Engel, R., Cherkauskas, J., Smith, M., Lytle, D., & Moore, K. (2009). *Traffic Stop Data Analysis Study: Year 3 Final Report, Prepared for the Arizona Department of Public Safety*. Cincinnati, OH: University of Cincinnati Policing Institute. Our findings, which are detailed in Appendix 7, are consistent.

young men stopped late on Friday nights for speeding in a high-crime neighborhood, to see if race/ethnicity is a determinative factor in these outcomes.

Figure 5.1.

The average percentage difference between matched and unmatched Black and White drivers across eight variables used to complete matching process



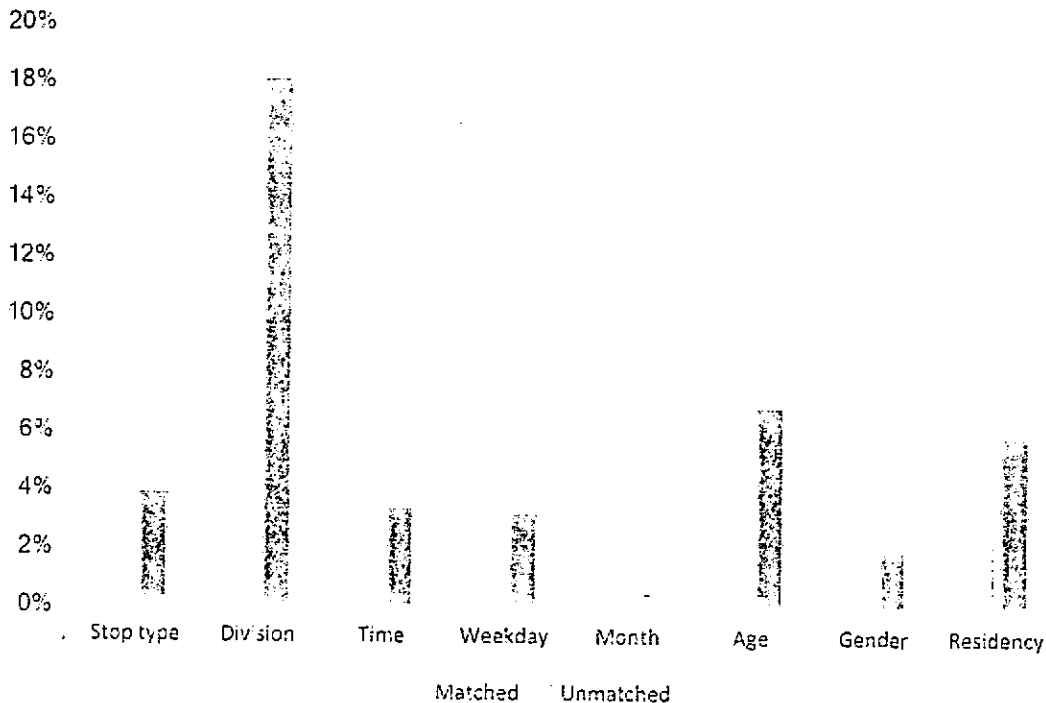
Note: Matched pairs consist of 19,948 Black and 19,948 White drivers. No matches were possible for 8,579 Black and 91,859 White drivers.

Figures 5.1 and 5.2 document the average differences between matched and unmatched drivers across the eight variables upon which the match was based. These variables include the reason for and location (police division) of the stop, the day of the week, month, and time of day during which the stop occurred, and the driver's age, gender, and residency status.

Per Figure 5.1, the stop location of matched Black and White drivers differs by only 0.44 percent, while the stop location of unmatched drivers differs by an average of 8.55 percent. Similarly, matched drivers were of identical age categories in 99.6 percent of cases, compared to 94.63 percent of cases involving unmatched Black and White drivers. Overall, the average disparity between matched Black and White drivers is 0.67 percent, compared to a 7.38 percent difference between unmatched drivers. Figure 5.2 shows similar outcomes from the matching process involving Hispanic and White drivers.

Figure 5.2.

The average percentage difference between matched and unmatched Hispanic and White drivers across eight variables used to complete matching process



Note: Matched pairs consist of 39,252 Hispanic and 39,252 White drivers. No matches were possible for 38,682 Hispanic and 72,603 White drivers.

These figures illustrate a critical attribute of the propensity score matching approach: any differences we find between Black and Hispanic drivers and their matched White counterparts in terms of searches conducted, citations issued, or contraband found, are not the result of any of the factors listed. In other words, based on the information available, race/ethnicity is the only difference between the two groups of drivers, and thus the only factor that may explain the observed differences in post-stop outcomes.⁷⁶

⁷⁶ See Ridgeway, G., (2009). *Cincinnati Police Department traffic stops: Applying RAND's framework to analyze racial disparities*. Santa Monica, CA: RAND Corporation. There are other factors thought to affect the likelihood of certain post-stop outcomes, including, for examples: officer demographics (Rojek, J., Rosenfeld, R., & Decker, S. (2012). Policing race: The racial stratification of searches in police traffic stops. *Criminology*, 50, 993-1024; Tillyer, R. Klahm, C.F., & Engel, R.S. (2012). The discretion to search: A multilevel examination of driver demographics and officer characteristics. *Journal of Contemporary Criminal Justice*, 28, 184-205.) and performance history (Alpert, G.P., Dunham, R.G., & Smith, M.R. (2004). Toward a better benchmark: Assessing the utility of not-at-fault traffic crash data in racial profiling research. *Justice Research and Policy*, 6, 43-69), age (Giles, H., Linz, D., Bonilla, D., & Gomez, M.L. (2012). Police stops of and interactions with Hispanic and White (non-Hispanic) drivers: Extensive policing and communication accommodation. *Communication Monographs*, 79(4), 407-427), make, model, and condition of the vehicle stopped (Engel, R.S., Frank, J., Klahm, C.F., & Tillyer, R. (2006, Jul.). *Cleveland Division of Police Traffic Stop Data Study: Final Report*. Cincinnati, OH: University of Cincinnati Division of Criminal Justice),

Results

What follows are the results of our comparative analysis of post-stop outcomes for Black, Hispanic, and API drivers and their matched White counterparts, beginning with the decision to search.

The decision to search

Police searches can be classified based on the legal rules that define them. The SDPD vehicle stop card lists four such search types: consent search, Fourth waiver search, search incident to arrest, and inventory search. We frame each search type in terms of the level of officer discretion that may determine the decision to initiate the search.

We classify searches occurring incident to an arrest and inventory searches as involving low levels of discretionary authority. Officers are within their legal rights to conduct a search when an arrest is made,⁷⁷ and when a vehicle is impounded.⁷⁸ Because most such searches occur automatically, race-based disparities that exist say less about officer behavior than they do about the factors that led to the arrest or impound.

Consent searches are classified as involving higher levels of officer discretion. A consent search occurs after an officer has requested and received consent from the driver to search the driver's person or vehicle. When granting consent, the driver waives his or her Fourth Amendment protection against unreasonable search and seizure.⁷⁹ A consent search involves a high degree of police discretion, as there are few if any legal strictures in place to guide the request for or the nature of a search following the grant of consent. We would expect that whatever disparity exists would manifest more clearly in the execution of discretionary searches.

In the case of a Fourth waiver search, police officers are permitted to search a person and/or vehicle if and when they determine that the driver or passenger is either on probation or on parole. By virtue of this legal status, the driver implicitly agrees to waive Fourth Amendment protection. As a result, these searches often occur in the absence of probable cause.⁸⁰

and the demeanor of the driver (Engel, R.S., Klahm, C.F., & Tillyer, R. (2010). Citizens' demeanor, race, and traffic stops. In S.K. Rice & M.D. White (Eds.), *Race, ethnicity, and policing: New and essential readings*. New York: New York University Press), among others. Because the SDPD does not collect these data, it is impossible to include them in our matching protocol.

⁷⁷ *U.S. v. Rabinson*. (1973). 414 U.S. 218; *Arizona v. Gant*. (2009). 556 U.S. 332.

⁷⁸ *South Dakota v. Opperman*. (1976). 428 U.S. 364.

⁷⁹ *Schneekloth v. Bustamonte*. (1973). 412 U.S. 218.

⁸⁰ *People v. Schmitz*. (2012). 55 Cal.4th 909.

Fourth waiver searches involve an ambiguous level of officer discretion.⁸¹ On one hand, officers who are legally permitted to conduct a Fourth waiver search have the discretionary authority to opt against doing so. Similarly, officer discretion is used in determining whether a driver or passenger is on probation or parole. In each case, this discretionary authority may be applied differently based on driver race.⁸² On the other hand, once it is determined that a driver/passenger is either on probation or parole, the officer has full legal authority to conduct a search, which reduces the import of the decision to initiate the search. Relatedly, we have no knowledge of the demographic profile of the City's probation/parole population or of the population of stopped drivers on probation/parole. Together, these factors complicate our ability to assign meaning to results generated by an analysis of Fourth waiver searches.

Table 5.4.
Comparing search rates among matched Black and White drivers

	Matched Black drivers (%)	Matched White drivers (%)	Difference (%) ⁸³	p-value
All searches	8.65	5.04	52.70	<0.001
Consent	1.39	0.75	60.09	<0.001
Fourth waiver	2.90	1.30	76.37	<0.001
Inventory	1.91	1.30	42.29	<0.001
Incident to arrest	0.90	0.89	0.56	0.480
Other (uncategorized)	1.56	0.86	58.09	<0.001

Note: The analysis is based on a total of 19,948 Black drivers and 19,948 matched White drivers.

An additional search type, the probable cause search, may occur after an officer has determined that there is sufficient probable cause to believe that a crime has been or is about to be committed.⁸⁴ The law grants officers a substantial degree of leeway in determining when the probable cause threshold has been met, which makes the evaluation of probable cause search incidence potentially very important. The SDPD Vehicle Stop card does not include a 'probable cause search' category. Given the legal and practical importance of the demonstration of probable cause prior to a search, this category of searches should be

⁸¹ Hetey, R., Monin, B., Maitreyi, A., & Eberhardt, J. (2016). *Data for change: A statistical analysis of police stops, searches, handcuffings, and arrests in Oakland, Calif., 2013-2014*. Stanford University, CA: Stanford SPARQ.

⁸² E.g., Burks, M. (2014, Jan. 30). What it means when police ask: 'Are you on probation or parole.' *Voice of San Diego*. Retrieved Nov. 21, 2016, from <http://www.voiceofsandiego.org/racial-profiling-2/what-it-means-when-police-ask-are-you-on-probation/>.

⁸³ To calculate the percentage difference used in this and subsequent tables, we divide the absolute value of the difference between the first two columns (3.61) by the average of the first two columns – in this case, search rates (6.85). $3.61/6.85 = 52.7$ percent.

⁸⁴ *Illinois v. Gates*. (1983). 463 U.S. 213.

captured. As a result of this omission, we were unable to analyze this category of police action.⁸⁵

As is documented in Table 5.4, we found statistically significant evidence of a Black-White disparity across all search types combined, and in four out of five types of searches. For all search types combined, 8.65 percent of matched Black drivers were searched in 2014 and 2015, compared to 5.04 of matched White drivers. 2.90 percent of stopped Black drivers were subjected to a Fourth waiver search, compared to 1.30 percent of matched White drivers. Black drivers were also more likely to face consent searches than were matched Whites. To a certain extent, these disparities were also evident in low-discretion searches, including inventory searches and unclassified search types. We found no statistical difference between the rate of searches conducted incident to the arrest of a Black motorist when compared to those involving matched White drivers.

Table 5.5.
Comparing search rates among matched Hispanic and White drivers

	Matched Hispanic drivers (%)	Matched White drivers (%)	Difference (%)	p-value
All searches	6.56	3.93	50.22	<0.001
Consent	0.92	0.60	42.69	<0.001
Fourth waiver	1.07	0.90	17.62	0.004
Inventory	2.68	1.06	86.49	<0.001
Incident to arrest	0.91	0.68	29.86	<0.001
Other (uncategorized)	0.99	0.70	33.84	<0.001

Note: The analysis is based on a total of 39,252 Hispanic drivers and 39,252 matched White drivers

⁸⁵ The data file we received from the SDPD included several uncategorized searches (i.e., a search was recorded, but the officer involved either did not consider it a Fourth waiver search, a consent search, a search incident to arrest, or an inventory search, or, simply neglected to categorize it as such). These incidents are referred to as 'Other (uncategorized)' searches. The current vehicle stop data card does include fields that allow the officer to describe the nature of the probable cause used to justify the search, including "Contraband visible," "Odor of contraband," "Canine alert," "Observed evidence related to criminal activity," or "Other" (See Appendix 2 for details). Yet in most cases, the officers are not consistent in this documentation. In 2014, for example, the 'Other (uncategorized)' category included 938 searches. Of these, 595 (63.4 percent) were unlabeled, while another 145 (15.5 percent) were described as 'Other,' in most cases without any additional information. Because we cannot confidently characterize some 78.9 percent of these data as meeting the probable cause standard, we neglected to create such a category.

Table 5.5 displays the results of our comparison of Hispanic drivers and their matched White counterparts. We find statistically significant evidence of a Hispanic-White disparity across all search types combined, as well as in all five types of searches. In the aggregate, officers conducted a search in 6.56 percent of stops involving Hispanic drivers, compared to the 3.93 percent of stops involving matched White drivers.

Though consent searches are relatively rare occurrences, regardless of driver race, in 2014 and 2015 Hispanic drivers were subject to consent searches more often than their White counterparts. We find statistically significant differences between Hispanic and matched White drivers across all search types, including consent searches, Fourth waiver searches, inventory searches, those conducted incident to arrest, and other uncategorized searches. Hispanic drivers were also significantly more likely to face an inventory search than are their matched White counterparts.

Table 5.6 lists the results of our analysis of searches involving matched API and White drivers. Under certain conditions, we find statistically significant evidence that White drivers were searched at greater rates than matched APIs. In the aggregate, matched White drivers were searched following 3.48 percent of stops, compared to a 2.61 percent search rate for API drivers. We also find that Whites were subject to higher rates of inventory searches, searches conducted incident to arrest, and uncategorized searches. There was no statistically significant difference in either consent or Fourth waiver search rates.

Table 5.6.
Comparing search rates among matched Asian/Pacific Islander and White drivers

	Matched Asian/PI drivers (%)	Matched White drivers (%)	Difference (%)	p-value
All searches	2.61	3.48	-28.57	<0.001
Consent	0.48	0.49	-2.06	0.390
Fourth waiver	0.64	0.74	-14.49	0.063
Inventory	0.69	1.02	-38.60	<0.001
Incident to arrest	0.35	0.68	-64.08	<0.001
Other (uncategorized)	0.50	0.64	-24.56	0.006

Note: The analysis is based on a total of 34,068 Asian/PI drivers and 34,068 matched White drivers

In sum, we find that Black and Hispanic drivers were more likely to be the subject of a police search following a traffic stop than were matched Whites. These disparities are consistent with

those generated by recent analyses of police search decisions in Minneapolis, Minnesota,⁸⁶ St. Louis, Missouri,⁸⁷ and Portland, Oregon,⁸⁸ among several other jurisdictions.⁸⁹

Hit rates

The term 'hit rate' is used to describe the frequency that a police officer's search leads to the discovery of unlawful contraband, which the SDPD defines as "property that is illegal to possess."⁹⁰ This metric is a reflection of the quality and efficiency of a police officer's decision to search and is a well-accepted means of identifying racial/ethnic disparities.⁹¹

Our hit rate analysis was complicated by several challenges stemming from the way that the SDPD captures data on the discovery of contraband. The first involved how to treat the tens of thousands of ambiguously labeled cases included as part of the raw data compiled by the SDPD. As is documented in Table 5.6, a very high number – over 90 percent – of cases were either missing information on the discovery of contraband or coded ambiguously. We acknowledge that these missing data are likely the product of the SDPD's data management system rather than officer non-compliance. Indeed, our hit rate analysis reflects the assumption that these missing/ambiguous data indicate that no contraband was discovered. With that said, we cannot offer any evidence to substantiate this assumption, and thus make these calculations with slightly less confidence than some of our others.

⁸⁶ Briggs, S.J. (2016). The impact of police deployment on racial disparities in discretionary searches. *Race and Justice*. Available online before print. DOI: 10.1177/2153368716646163.

⁸⁷ Rojek, J., Rosenfeld, R., & Decker, S. (2012). Policing race: The racial stratification of searches in police traffic stops. *Criminology*, 50, 993-1024.

⁸⁸ Renauer, B.C. (2012). Neighborhood variation in police stops and searches: A test of consensus and conflict perspectives. *Justice Quarterly*, 15, 219-240.

⁸⁹ Tillyer, R., & Klahm, C.F. (2015). Discretionary searches, the impact of passengers, and the implications for police-minority encounters. *Criminal Justice Review*. Available online before print. DOI:

10.1177/0734016815581049; Tillyer, R., Klahm, C.F., & Engel, R.S. (2012). The discretion to search: A multilevel examination of driver demographics and officer characteristics. *Journal of Contemporary Criminal Justice*, 28, 184-205; Fallik, S.W., & Novak, K.J. The decision to search: Is race or ethnicity important? *Journal of Contemporary Criminal Justice*, 28, 46-165.

⁹⁰ The Department also notes that, "Determining whether property is contraband is contextual—some property that is generally legal to possess may be illegal in certain circumstances. For example, an open container of alcohol is generally legal for adults 21 years or older, however is illegal when possessed in a vehicle. Similarly, parolees may have restrictions regarding possession of specific weapons that would otherwise be legal.

⁹¹ Persico, N., & Todd, P.E. (2008). The hit rate test for racial bias in motor-vehicle searches. *Police Quarterly*, 25, 37-53; Ridgeway, G. & MacDonald, J. (2010). Methods for assessing racially biased policing. In S.K. Rice & M.D. White (Eds.) *Race, ethnicity, and policing: New and essential readings* (pp. 180-204). New York: New York University Press; Tillyer, R., Engel, R.S., & Cherkaskas, J.C. (2010). Best practices in vehicle stop data collection and analysis. *Policing: An International Journal of Police Strategies & Management*, 33, 69-92.

Table 5.7.
Raw data on the discovery of contraband

Contraband found?	Search conducted?			Total
	Yes	No	Missing	
Yes	981	26	0	1,007
No	6,775	9,554	31	16,360
Null	337	63,488	722	64,547
Missing	3,434	163,453	10,777	177,664
<i>Total</i>	<i>11,527</i>	<i>236,521</i>	<i>11,530</i>	<i>259,578</i>

The second and related challenge resulted from the fact that according to the SDPD, contraband discovery should be considered valid for the purposes of our analysis only if it follows a search. Per Table 5.7 there were 26 cases where contraband was discovered, but no search was recorded. Furthermore, there are 3,771 cases where a search occurred, but the outcome of the search was either missing or ambiguously coded. Finally, there were 11,499 cases where search data was missing or listed as null, including 31 cases where 'no contraband' was listed.

To address these data issues, we excluded the 11,499 cases where search data was missing/null, and the 26 cases where the discovery of contraband was reported, but no search was conducted. From there, we classified cases where information on the discovery of contraband was either missing or null as indicative of a 'no contraband' finding. We recognize that there are possible implications for treating these missing cases differently and thus have included the results of additional analyses, including models where we drop all missing/null cases, in Appendix 8.

To generate the data shown in Table 5.8, we interpreted all missing and null cases as indicating that no contraband was discovered (n=242,211). From there, we calculated hit rates using the 19,948 matched Black and 19,948 matched White drivers that we used to analyze the Department's search decisions. Police searched 1,726 (8.65 percent) of Black drivers stopped and discovered contraband on 137 occasions, or 7.9 percent of the time. Of matched White drivers, 1,005 (5.04 percent) were searched, with 125 of those searched (12.4 percent) found to be holding contraband. Matched Whites were more likely to be found with contraband following Fourth waiver searches and consent searches. There were no statistically significant differences in the hit rates of matched Black and White drivers following searches conducted incident to arrest, inventory searches, or other, uncategorized searches.

Table 5.8.

Comparing hit rates among matched Black and White drivers

	Matched Black drivers (%)	Matched White drivers (%)	Difference (%)	p-value
All searches	7.9	12.4	-44.2	<0.001
Consent	7.2	14.8	-68.6	0.013
Fourth waiver	7.4	14.3	-63.2	0.002
Inventory	3.4	4.8	-34.6	0.368
Incident to arrest	14.0	13.5	3.5	0.897
Other (uncategorized)	11.6	17.5	-41.0	0.069

Note: The analysis is based on a total of 19,948 Black drivers and 19,948 matched White drivers. Missing and null cases coded as no contraband.

Table 5.9.

Comparing hit rates among matched Hispanic and White drivers

	Matched Hispanic drivers (%)	Matched White drivers (%)	Difference (%)	p-value
All searches	7.4	11.9	-46.2	<0.001
Consent	9.1	17.5	-62.9	0.002
Fourth waiver	11.0	13.1	-17.6	0.368
Inventory	2.8	4.3	-44.2	0.126
Incident to arrest	8.9	13.2	-38.6	0.089
Other (uncategorized)	13.2	15.6	-17.1	0.373

Note: The analysis is based on a total of 39,252 Hispanic drivers and 39,252 matched White drivers. Missing and null cases coded as 'no contraband.'

We used an identical four-part process to evaluate hit rates of matched Hispanic drivers and their matched White counterparts. The results are shown in Table 5.9. Police searched 2,576 (6.56 percent) of the 39,252 matched Hispanic drivers, finding contraband 191 times (7.4 percent). This figure is 46.2 percent lower than the 11.9 percent hit rate (183 of 1,542 searches uncovered contraband) of the matched White drivers who were searched. White drivers were more likely to be found carrying contraband following consent searches than were matched Hispanics. We found no meaningful difference in the hit rates following either Fourth waiver searches, inventory searches, those conducted incident to arrest, or unclassified searches.⁹²

⁹² The SDPD also captures data on incidence of property seizure following traffic stops, though the Department does not document what type of property was seized or the circumstances under which the seizure occurred. Despite the ambiguity that accompanies these data, we analyzed them using the same analytical approach applied

Table 5.10.

Comparing hit rates among matched Asian/Pacific Islander and White drivers

	Matched API drivers (%)	Matched White drivers (%)	Difference (%)	p-value
All searches	9.42	10.39	-9.78	0.465
Consent	9.68	16.56	-52.44	0.075
Fourth waiver	9.22	12.90	-33.33	0.208
Inventory	5.15	3.17	47.60	0.230
Incident to arrest	12.61	12.23	3.04	0.920
Other (uncategorized)	12.29	12.79	-3.95	0.881

Note: The analysis is based on a total of 68,136 Asian/Pacific Islander drivers and 68,136 matched White drivers. Missing and null cases coded as 'no contraband.'

In Table 5.10, we document the hit rates of searches involving 68,136 matched API and White drivers. There were no statistically significant differences evident.

To review, we compared the hit rates – the percentage of searches that led to the discovery of contraband – of searches involving API, Black, and Hispanic drivers with those of matched White drivers. Despite having higher search rates, Black and Hispanic drivers were either less likely or just as likely to be found carrying an illegal substance, a finding that is consistent with those generated by other recent studies.⁹³ Matched White and API drivers were equally likely to be found carrying contraband.

Arrest

We also used propensity score matching to compare the arrest rates of Black and Hispanic drivers with White drivers who were stopped under similar circumstances. As is shown in Table 5.11, 1.79 percent (20,872 stops led to 374 arrests) of matched Black drivers were ultimately arrested, compared with 1.84 percent (384 of 20,872) of matched White drivers. This difference was not statistically significant.

to the discovery of contraband. Property was seized from 8.9 percent of Black drivers searched, a rate 28 percent fewer than the 11.8 percent seizure rate of matched White drivers (difference statistically significant at the 0.01 level). Similarly, property was seized from 11.1 percent of Hispanic drivers stopped and searched by the SDPD, compared to the seizure rate of 12.3 percent of matched Whites (difference not statistically significant).

⁹³ Tillyer, R., & Klahm, C. (2011). Searching for contraband: Assessing the use of discretion by police officers. *Police Quarterly*, 14, 166-185; Warren, P.Y., & Tomaskovic-Devey, D. (2009). Racial profiling and searches: Did the politics of racial profiling change police behavior?. *Criminal Justice & Public Policy*, 8, 343-369; Williams, B.N., & Stahl, M. (2008). An analysis of police traffic stops and searches in Kentucky: A mixed methods approach offering heuristic and practical implications. *Policy Sciences*, Vol. 41, 221-243.

Table 5.11.

Comparing arrest rates for matched Black and White drivers

	Matched Black drivers (%)	Matched White drivers (%)	Difference (%)	p-value	Matched pairs
Arrest	1.79	1.84	-2.8	-0.69	20,872

Note: Missing and null data considered as indicative of 'no arrest.'

As we document in Table 5.12, 651 of 41,220 stops involving matched Hispanic drivers resulted in an arrest, or an arrest rate of 1.71 percent. Stops involving matched White drivers ended in arrest slightly less often (537 times, or a rate of 1.41 percent), though the difference between the two groups proved to be statistically significant.

Table 5.12.

Comparing arrest rates for matched Hispanic and White drivers

	Matched Hispanic drivers (%)	Matched White drivers (%)	Difference (%)	p-value	Matched pairs
Arrest	1.71	1.41	19.2	<0.001	41,220

Note: Missing and null data considered as indicative of 'no arrest.'

Table 5.13 documents our analysis of arrests involving matched API and White drivers. API drivers were arrested following 0.85 percent of stops (304 arrests out of 35,847 stops), 44 percent lower than the 1.33 percent arrest rate for matched Whites (477 of 35,847 stops led to an arrest). This disparity is statistically significant at the 0.001 level.

Table 5.13.

Comparing arrest rates for matched Asian/Pacific Islander and White drivers

	Matched Asian/PI drivers (%)	Matched White drivers (%)	Difference (%)	p-value	Matched pairs
Arrest	0.85	1.33	-44.04	<0.001	35,847

Note: Missing and null data considered as indicative 'no arrest.'

The findings involving Black and Hispanic drivers are inconsistent with much of the existing research on the effects of race/ethnicity on police arrest decisions. In fact, according to a 2011

paper, 24 of the 27 studies published on the issue found that Blacks and other minorities were more likely to be arrested than Whites encountering the police under similar circumstances.⁹⁴

Field Interviews

Per SDPD Procedure 6.03, which establishes Department guidelines for the use and processing of Field Interview Reports, a field interview is defined as “any contact or stop in which an officer reasonably suspects that a person has committed, is committing, or is about to commit a crime.” According to one SDPD Sergeant, FIs are “the bread and butter of any gang investigator” and important for identifying criminal suspects.⁹⁵

The traffic stop data card includes space for officers to document these encounters. Our analysis of the SDPD’s field interview records also showed statistically significant differences between matched pairs. As we show in Table 5.14, matched Black drivers were subject to field interview questioning 1,203 times (6.60 percent of stops) between January 1, 2014 and December 31, 2015, while 552 White drivers were given field interviews (2.75 percent) during that same period, a difference of just over 82 percent.

Table 5.14.
Comparing field interview rates for matched Black and White drivers

	Matched Black drivers (%)	Matched White drivers (%)	Difference (%)	p-value	Matched pairs
Field interview	6.60	2.75	82.4	<0.001	20,060

Note: Missing and null cases considered as indicative of ‘no field interview.’

Table 5.15 documents the results of our analysis of matched Hispanic and White drivers. SDPD officers conducted field interviews with 2.98 percent of matched Hispanics, a rate 37 percent greater than the 2.05 percent experienced by White drivers.

⁹⁴ Kochel, T.R., Wilson, D.B., & Mastrofski, S.D. (2011). Effect of suspect race on officers’ arrest decisions. *Criminology*, 49, 473-512. See also, Alpert, G. P., Becker, E., Gustafson, M. A., Meister, A. P., Smith, M. R., & Strombom, B. A. (2006). *Pedestrian and motor vehicle post-stop data analysis report*. Los Angeles, CA: Analysis Group. Retrieved Oct. 3, 2016, from http://assets.lapdonline.org/assets/pdf/ped_motor_veh_data_analysis_report.pdf; Smith, M. R., & Petrocelli, M. (2001). Racial profiling? A multivariate analysis of police traffic stop data. *Police Quarterly*, 4, 4-27; Withrow, B. L. (2004). Race-based policing: A descriptive analysis of the Wichita stop study. *Police Practice and Research*, 5, 223-240.

⁹⁵ O’Deane, M., & Murphy, W.P. (2010, Sept. 23). Identifying and documenting gang members. *Police Magazine*. Retrieved Aug. 16, 2016, from <http://www.policemag.com/channel/gangs/articles/2010/09/identifying-and-documenting-gang-members.aspx>.

Table 5.15.

Comparing field interview rates for matched Hispanic and White drivers

	Matched Hispanic drivers (%)	Matched White drivers (%)	Difference (%)	p-value	Matched pairs
Field Interviews	2.98	2.05	37.0	<0.001	39,505

Note: Missing and null cases considered as indicative of 'no field interview.'

Table 5.16 documents the results of our analysis of field interviews involving matched API and White drivers. Though field interviews were relatively rare occurrences overall, we find that the FI rate of matched API drivers (1.98 percent, or 710 FIs following 35,847 stops) was higher than that of matched Whites (1.67 percent, or 599 FIs following 35,847 stops).

Table 5.16.

Comparing field interview rates for matched Asian/Pacific Islander and White drivers

	Matched Asian/PI drivers (%)	Matched White drivers (%)	Difference (%)	p-value	Matched pairs
Field interview	1.98	1.67	16.99	<0.001	35,847

Note: Missing and null cases considered as indicative of 'no field interview.'

It is difficult to position these findings in context with data generated by other departments, as the vast majority of published research examining field interviews considers those FIs that occur following pedestrian stops. We note that SDPD's current data management regime does not allow officers to distinguish a field interview conducted pursuant to a traffic stop from those involving pedestrians.

Citation or warning

We close Chapter 5 with a review of data on the issuance of citations. As with the previous analyses, we use propensity score matching to account for the several factors that may affect an officer's decision to issue a citation rather than a warning, including when, why, and where the stop occurred. This allows us to attribute any disparities we observe to driver race. We interpreted missing data and those cases listed as 'null' (n = 11,550) to indicate that the driver received a warning rather than a citation.⁹⁶

⁹⁶ To account for the possibility that our findings are influenced by this interpretation of the missing and/or null data, we examined the citation/warning data under several other assumption conditions. The full results, which are consistent with those described above, are found in Appendix 10.

The findings, listed in Table 5.17, show that matched Black drivers receive a citation in 49.6 percent of stops, as compared to matched White drivers, who were cited in 56.1 percent of stops. To account for the possibility that those factors that led to a search may affect the likelihood that a driver will receive a citation, we also limited the analysis to those motorists who were stopped by the SDPD but not searched. After dropping searched drivers from the sample, we re-matched the remaining drivers using the same set of variables and procedure as described above.⁹⁷ The results, also displayed in Table 5.17, suggest that the relationship between the initiation of a search and the decision to issue a citation is unrelated to race. In fact, the percentage of citations increased slightly for both matched Black and White drivers.

Table 5.17.
Comparing citation rates for matched Black and White drivers

	Matched Black drivers (%)	Matched White drivers (%)	Difference (%)	p-value	Matched pairs
Searched drivers included	49.60	56.10	-12.3	<0.001	20,922
Searched drivers excluded	51.97	58.03	-11.0	<0.001	19,353

Note: Missing and null cases coded as indicative of 'no citation given.'

As shown in Table 5.18, SDPD officers cite matched Hispanic and White drivers at very similar rates. When searched drivers are included as part of the matched sample, the percentage of drivers given a citation is nearly identical across races. When searched drivers were omitted from the sample, the re-matched Hispanic drivers were ticketed 60.67 percent of the time, compared to 59.72 for Whites.

Table 5.18.
Comparing citation rates for matched Hispanic and White drivers

	Matched Hispanic drivers (%)	Matched White drivers (%)	Difference (%)	p-value	Matched pairs
Searched drivers included	58.44	58.36	0.1	0.833	41,340
Searched drivers excluded	60.67	59.72	1.6	0.007	39,006

Note: Missing and null cases coded as indicative of 'no citation given.'

Finally, as is shown in Table 5.19, we relatively small yet statistically significant differences in the citation rates of matched API and White drivers.

⁹⁷ The categorical balancing requirements (no statistical difference) were met for each of the independent variables used to match Black/Hispanic and White drivers.

Published research on the relationship between driver race/ethnicity and the citation/warning decision has generated inconsistent findings. In some studies, analysts have found that Black and Hispanic drivers are less likely to receive a traffic citation than White drivers.⁹⁸ In others, data show that minority drivers receive citations at greater rates than Whites stopped under similar conditions.⁹⁹ No published research that we are aware of examines the citation patterns of API drivers.

Table 5.19.
Comparing citation rates for matched Asian/Pacific Islander and White drivers

	Matched Asian/PI drivers (%)	Matched White drivers (%)	Difference (%)	p-value	Matched pairs
Searched drivers included	59.13	57.39	2.99	<0.001	35,847
Searched drivers excluded	60.11	58.66	2.44	<0.001	34,884

Note: Missing and null cases coded as indicative of 'no citation given.'

Summary

We used the propensity score matching technique to pair API, Black, and Hispanic drivers with White drivers who were stopped by the SDPD under similar circumstances. By matching drivers along these lines we were able to isolate the effect that driver race/ethnicity has on the likelihood that each group will experience one of several post-stop outcomes. We found that:

- 8.65 percent of stops involving Black drivers involved a search, a rate 52.7 percent greater than the 5.04 percent of matched White drivers who were searched. Similarly, Hispanics were searched in 6.56 percent of stops, 50.22 percent greater than matched Whites (3.93 percent). With few exceptions, these disparities were robust across all search types.

⁹⁸ Engel, R. S., Frank, J., Tillyer, R., & Klahm, C.F. (2006). *Cleveland division of police traffic stop data study: Final report*. Cincinnati, OH: University of Cincinnati. Submitted to the Cleveland Division of Police, Cleveland, OH; Schafer, J.A., Carter, D.L., Katz-Bannister, A., & Wells, W.M. (2006). Decision-making in traffic stop encounters: A multivariate analysis of police behavior. *Police Quarterly*, 9, 184-209.

⁹⁹ Engel, R. S., Tillyer, R., Cherkauskas, J. C., & Frank, J. (2007). *Traffic stop data analysis study: Year 1 Final Report*. Cincinnati, OH: University of Cincinnati. Submitted to the Arizona Department of Public Safety, Phoenix, AZ; Regoeczi, W.C., & Kent, S. (2014). Race, poverty, and the traffic ticket cycle: Exploring the situational context of the application of police discretion. *Policing: An International Journal of Police Strategies & Management*, 37, 190-205. Tillyer, R., & Engel, R.S. (2013). The impact of drivers' race, gender, and age during traffic stops: Assessing interaction terms and the social conditioning model. *Crime & Delinquency*, 59, 369-395.

- Despite occurring at greater rates, police searches of Black and Hispanic drivers were either less likely than or just as likely to be found with contraband as matched White drivers. The size and statistical strength of the disparity vary by search type.
- Matched Black drivers were subject to field interviews in 6.60 percent of stops, 2.4 times the rate of matched White drivers (2.75 percent). Police conducted field interviews in 2.98 percent of stops involving matched Hispanic drivers, 37 percent lower than the 2.05 percent FI rate of their matched White counterparts. Police conducted field interviews with 1.98 percent of matched API drivers, nearly 17 percent greater than the 1.67 percent FI rate of matched Whites.
- There was no statistical difference in the arrest rates of matched Black and White drivers. Hispanic drivers were arrested at a slightly higher rate than their matched white counterparts, while Whites were arrested at a greater rate than matched API drivers.
- Black drivers were issued citations less often than their matched White peers, while matched API, Hispanic, and White drivers were cited at nearly identical rates.

CHAPTER 6: SUMMARY AND RECOMMENDATIONS

Summary of research method and findings

In this Report, we analyzed several data sources – including records of 259,569 traffic stops conducted between January 1, 2014 and December 31, 2015, data gathered from 10 community focus groups, an electronic survey of the SDPD (n=365), and follow-up interviews with officers from all nine patrol divisions (n=52) – in an effort to address four broad questions:

1. To what extent is there a department-level pattern of racial/ethnic disparity in the initiation of traffic stops?
2. To what extent are racial/ethnic disparities in the initiation of traffic stops evident at the patrol division level?
3. To what extent is there a department-level pattern of racial/ethnic disparity in the outcome of traffic stops?
4. How does SDPD's traffic enforcement regime affect police-community relations in San Diego?

The research methodology and findings detailed over the previous several chapters are summarized below. In the subsequent recommendations section, we draw on our findings from the community focus groups, electronic survey, and officer interviews to contextualize and support our recommendations to the Department.

Method of analysis: Traffic stops

To properly assess the effect that a driver's race/ethnicity has on the likelihood that he or she will be stopped, researchers must develop a benchmark that enables the comparison of actual stop rates with a driver's risk of being stopped in the absence of bias.¹⁰⁰ An appropriate benchmark must incorporate the various legal and non-legal factors that shape this stop risk, including: when, where, and how often they drive; the make, model, and condition of their car; and their behavior and demeanor while driving.¹⁰¹

The challenge that has plagued past efforts to perform this kind of analysis is driven by what police accountability expert Sam Walker calls the "denominator" problem: researchers do not

¹⁰⁰ Tillyer, R., Engel, R.S., & Cherkaskas, J.C. (2010). Best practices in vehicle stop data collection and analysis. *Policing: An International Journal of Police Strategies & Management*, 33(1), 69-92.

¹⁰¹ Fridell, L.A. (2004). *By the numbers: A guide for analyzing race data from Vehicle Stops*. Washington, D.C.: Police Executive Research Forum; Ridgeway, G. & MacDonald, J. (2010). Methods for assessing racially biased policing. In S.K. Rice & M.D. White (Eds.) *Race, ethnicity, and policing: New and essential readings* (pp. 180-204). New York: New York University Press; Tillyer, R., Engel, R.S., & Cherkaskas, J.C. (2010). Best practices in vehicle stop data collection and analysis. *Policing: An International Journal of Police Strategies & Management*, 33(1), 69-92; and Walker, S. (2001). Searching for the denominator: Problems with police traffic stop data and an early warning system solution. *Justice Research and Policy*, 3(1), 63-95.

have an accurate way to measure the demographic profile of a city's driving population.¹⁰² There are several weaknesses in using Census data as a proxy, including well-established racial/ethnic and age-based disparities between those who live in a city and those who drive on its roads.¹⁰³ Further, a city's driving population is fluid; those who drive at 8 am may look and act substantially different than those who drive at 8 pm across many relevant stop-related risk factors.

We circumvent this problem by employing what is known as the veil of darkness technique. This approach rests on the assumption that if stop disparities exist, whether driven by race, age, or other factors, they will be more apparent among stops made in daylight, when drivers' physical profile and demeanor are more readily detectable, than at night, when these characteristics are obscured by darkness. In an attempt to isolate the effect of driver race, the analysis is confined to the "inter-twilight period," or the period between the earliest end of civil twilight (approximately 5:09 pm on Nov. 27) and the latest (approximately 8:29 pm on Jun. 27). This allows us to account for changes to the driving population during the course of the day and obviates the need for an external benchmark against which to compare actual stop patterns.

Findings: Traffic stops

Comparative analysis of discretionary traffic stops involving Black and White drivers revealed an inconsistent pattern of results. Our review of the 2014 data (aggregated at the city level) indicated that Black drivers were 19.6 percent more likely to be stopped during daylight hours, when driver race/ethnicity was visible, than after sundown, when driver race/ethnicity was obscured by darkness, compared to White drivers. Though the 2014 disparities were more pronounced when the sample was limited to drivers under the age of 25, they were not present in the 2015 data or in the combined 2014/2015 data. Similarly, our analysis of citywide data revealed no indication that officers' decision to stop Hispanic drivers was affected by the change from daylight to darkness, regardless of when the stop occurred or the comparison group used.

In addition to our citywide analysis, we also compared stop patterns by location. Analysis of stops initiated in divisions located above Interstate 8 showed that in the aggregate police were no more likely to stop either Black or Hispanic drivers during daylight hours than after dark, compared to White drivers. We found no evidence that Blacks or Hispanics were treated differently in the Northern, Eastern, Western, or Northwestern divisions, but statistically

¹⁰² Walker, S. (2001). Searching for the denominator: Problems with police traffic stop data and an early warning system solution. *Justice Research and Policy*, 3(1), 63-95.

¹⁰³ Tillyer, R., Engel, R.S., & Cherkauskas, J.C. (2010). Best practices in vehicle stop data collection and analysis. *Policing: An International Journal of Police Strategies & Management*, 33, 69-92.

significant evidence of disparity among stops initiated in the Northeastern division. Compared to White drivers, Black and Hispanic drivers stopped in Northeastern division neighborhoods were 60.2 and 33.7 percent more likely to be stopped in daylight than after dark, respectively.

Conversely, when the analysis was confined to stops occurring in divisions below Interstate 8, we found that in the aggregate Blacks were nearly 20.7 percent *less* likely to be stopped during daylight hours, when driver race/ethnicity is more likely to be visible, than after sundown, when race/ethnicity is obscured by darkness. Similarly, our review of the nearly 11,000 stops occurring below Interstate 8 shows that Hispanic drivers were 28.4 percent less likely to experience a daytime stop than one occurring in darkness, compared to White drivers. We found no statistical disparity among drivers stopped in the Southeastern or Southern divisions. Central division stops involving Black drivers were 42.8 percent *less* likely to occur during the day than they are at night compared to stops of Whites. Hispanic drivers stopped in the Central division were 45.6 percent less likely to experience a stop during daylight hours than in darkness. Similarly, Hispanic drivers stopped in Mid-City were 18.8 percent less likely to be stopped before sundown than after dark, compared to Whites.

Finally, we found no difference in the pattern of stops involving Asian/Pacific Islander and White drivers, regardless of the analytical approach taken (citywide and location-based, as well as the annual and DST-only analyses) or the nature of the comparison (all drivers, drivers 25 and under).

Method of analysis: Post-stop outcomes

In an effort to eliminate potentially confounding explanations for racial/ethnic disparities in post-stop outcomes, we matched Black, Hispanic, and API drivers with White counterparts across a set of demographic and stop-based characteristics using a statistical technique known as propensity score matching. Propensity score matching allows researchers to pair drivers of different races across the various other factors known to affect the likelihood of receiving a citation, being searched, arrested, subject to a field interview, or being found with contraband. In other words, this technique enables a much more careful and nuanced comparison of the treatment of drivers who share gender, age, stop reason, stop location, and so on, but differ by race.

Analysis of the post-stop outcomes between matched pairs shows statistically significant differences in the experiences of Black and Hispanic drivers and their matched White counterparts.

Findings: Search

After accounting for several possible explanatory factors, we found that Black drivers were searched by the SDPD following 8.65 percent of discretionary traffic stops, while matched Whites were searched 5.04 percent of the time. Analysis of specific search types revealed similar levels of disparity. Black drivers were 1.85 times more likely to submit to a consent search and 1.47 times more likely to face an inventory search. The differences were most extreme in the administration of Fourth waiver searches, where Black drivers were searched more than 2.23 times more often than matched Whites.

The data also show similar differences in the search rates involving Hispanic drivers. In fact, depending on the nature of the search, Hispanic drivers were between 17 and 87 percent more likely to be searched following a routine traffic stop than were their matched White counterparts. Analysis of search rates involving matched API and White drivers showed that White drivers were 1.33 times more likely to be searched than their matched API peers.

Findings: Hit rate

Despite being subject to higher search rates, Black drivers were less likely to be found with contraband than were matched White drivers. Hispanic drivers were also less likely to be found holding contraband, again despite being subject to more searches. In fact, contraband discovery rates were lower for searches involving Hispanic drivers, though the statistical strength of the differences with paired White drivers varied by search type. No meaningful differences were evident in the hit rates of matched API and White drivers.

Findings: Field interview, arrest, and citation

Finally, we found statistically significant disparities in the field interview rates of minority drivers, and mixed results regarding the citation and arrest rates of Black and Hispanic drivers compared to matched Whites. For Black drivers, 6.60 percent of stops involved a field interview, some 2.4 times higher than the rate at which matched White drivers were interviewed (2.75 percent). The arrest rate of Black drivers was not meaningfully different from that of matched Whites, despite the Department's more proactive approach to searching and interviewing Black drivers. We found that Black drivers were cited at lower rates (49.6 percent) than White drivers (56.1 percent) who were stopped by the SDPD under similar circumstances.

Our analysis showed that Hispanic drivers were subject to field interviews more often than matched White drivers, though the disparity was less pronounced than was the case with Black drivers. The observed disparity between Hispanics and matched Whites did not extend to either arrest or the decision to issue a citation. Hispanic drivers were given citations at almost exactly

) the same rate as matched White drivers and though we found statistical differences in the arrest rates of the two matched groups, the practical difference was rather small (1.71 percent arrest rate for Hispanics compared to 1.41 percent for Whites).

In sum, we find statistically significant and meaningful differences in the post-stop treatment of Black and Hispanic drivers compared to White drivers across several important outcomes. In an effort to put some of these data into context, we highlight the substantial race-based disparities in the search rate/hit rate data.

In San Diego, matched Black drivers were 1.72 times more likely to be searched, and – despite being searched more frequently – were 44.2 percent less likely to be found with contraband. Similarly, SDPD officers searched Hispanic drivers at 1.67 times the rate of matched Whites, yet were 46.2 percent less likely to discover contraband following searches of Hispanic drivers compared to matched Whites.

) Compare these rates to those of two cities recently investigated by the U.S. Department of Justice. In Ferguson, Missouri, the DOJ found that Black drivers were 2.07 times more likely to be searched, yet 26 percent less likely to be found with contraband than were White drivers.¹⁰⁴ These disparities contributed to the DOJ's conclusion that the Ferguson Police Department engaged in systematic bias against the city's Black population.¹⁰⁵ In Baltimore, another city recently found by the DOJ to have engaged in a pattern or practice of "discriminatory policing against African Americans,"¹⁰⁶ Black drivers were 23 percent more likely than Whites to be searched following a traffic stop, yet 74 percent less likely to be found with contraband.¹⁰⁷ Analysis of data from Los Angeles, California, a city that spent nine years under federal oversight to address a pattern or practice of unlawful police behavior, revealed a similar pattern.¹⁰⁸

By contrast, recent reports from two other jurisdictions found to have engaged in a pattern or practice of practice of unlawful conduct, Cincinnati, Ohio and Oakland, California, showed that

¹⁰⁴ United States Department of Justice, Civil Rights Division. (2015, Mar. 4). Investigation of the Ferguson Police Department, p. 65. Retrieved Sept. 8, 2016, from https://www.justice.gov/sites/default/files/crt/legacy/2015/03/04/ferguson_findings_3-4-15.pdf.

¹⁰⁵ United States Department of Justice, Civil Rights Division. (2015, Mar. 4). Investigation of the Ferguson Police Department. Retrieved Sept. 8, 2016, from https://www.justice.gov/sites/default/files/crt/legacy/2015/03/04/ferguson_findings_3-4-15.pdf.

¹⁰⁶ United States Department of Justice, Civil Rights Division. (2016, Aug. 10). Investigation of the Baltimore City Police Department, p. 47. Retrieved Sept. 8, 2016, from <https://www.justice.gov/crt/file/883296/download>.

¹⁰⁷ United States Department of Justice, Civil Rights Division. (2016, Aug. 10). Investigation of the Baltimore City Police Department. Retrieved Sept. 8, 2016, from <https://www.justice.gov/crt/file/883296/download>.

¹⁰⁸ Ayres, I., & Borowsky, J. (2008), A study of racially disparate outcomes in the Los Angeles Police Department, Prepared for the ACLU of Southern California.

Black drivers were more likely to be searched than Whites, but found little difference in the rate of contraband discovery.¹⁰⁹

To be clear, we do not intend to suggest that these similarities indicate that the SDPD suffers from the same level of the far-reaching, systemic dysfunction revealed by the DOJ's investigation of police departments in Ferguson or Baltimore, or those that lie at the center of reform initiatives pursued in the other three jurisdictions. Rather, the comparison is made to highlight the gravity of these particular findings and the pattern of disparate treatment that exists across several post-stop outcomes.

Recommendations

As other researchers have recently acknowledged,¹¹⁰ a risk in conducting analyses of racial/ethnic differences in the rates of contact with police and the outcomes of those contacts is to oversimplify the results. Either the police are racists who purposefully target people of color, or there are no differences in how people are treated by the police, despite the disparities regularly witnessed and experienced by communities of color. While shedding light on an important topic, these approaches – either attacking the police or denying that racial/ethnic bias exists – inevitably miss the complexity of the issue and thus do not offer a productive way forward.

We follow other recent research on police-community relations in taking a *problem-solving* approach to the interpretation of our analyses of police traffic stop data. That is, in this chapter, we offer potential ways of reducing racial/ethnic disparities in traffic stops and thereby repairing the harm such disparities have inflicted on police-community relations. In order to do so, we draw on not only the SDPD traffic stop data, but also data gathered from three other sources, as described in Chapter 3: focus groups with residents of communities with high numbers of traffic stops; an SDPD-wide electronic survey; and in-depth interviews with SDPD officers. Here, we draw on all of these data to present a set of recommendations that we believe, if earnestly implemented, will enable the SDPD to eliminate racial/ethnic disparities. We focus our recommendations on three themes: addressing racial/ethnic disparities; building stronger police-community relations; and improving data collection practices.

¹⁰⁹ Ridgeway, G., (2009). *Cincinnati Police Department traffic stops: Applying RAND's framework to analyze racial disparities*. Santa Monica, CA: RAND Corporation; Hetey, R., Monin, B., Maitreyi, A., & Eberhardt, J. (2016). *Data for change: A statistical analysis of police stops, searches, handcuffings, and arrests in Oakland, Calif., 2013-2014*. Stanford University, CA: Stanford SPARQ, p. 136.

¹¹⁰ See: Hetey, R., Monin, B., Maitreyi, A., & Eberhardt, J. (2016). *Data for change: A statistical analysis of police stops, searches, handcuffings, and arrests in Oakland, Calif., 2013-2014*. Stanford University, CA: Stanford SPARQ; Eberhardt, J. (2016). *Strategies for change: Research initiatives and recommendations to improve police-community relations in Oakland, Calif.* Stanford University, CA: Stanford SPARQ.

Addressing racial/ethnic disparities

The racial/ethnic disparities we found in the treatment of Black drivers – and to a lesser extent, Hispanic drivers – are by no means unique to the SDPD. In recent years, analyses of data from state and local jurisdictions across the country have identified similar disparities in the rates of stops, searches, and arrests.¹¹¹ Moreover, we did not find evidence that these disparities were the result of deliberate discrimination or racism on the part of SDPD officers. Rather, as other researchers of racial/ethnic disparities in policing have suggested, “many subtle and unexamined cultural norms, beliefs, and practices sustain disparate treatment.”¹¹²

Here, we discuss 4 recommendations aimed toward the elimination of systemic disparities:

Systemic disparities

1. Acknowledge the existence of racial/ethnic disparities and make combatting such disparities a priority;
2. Continue to enhance training and supervision around issues of racial/ethnic disparities;
3. Make traffic stop practices more transparent; and
4. Make traffic stop practices more systematic and data-driven.

Acknowledge that racial/ethnic disparities exist and make combatting such disparities a priority

Previous research has shown that there is a strong race–crime association not just among police officers, but across the general population as a whole: Black faces are more frequently associated with criminal behavior than are non-Black faces, and this association extends to how Black people – youth and adult alike – are treated throughout the criminal justice system.¹¹³ This is known as *implicit or unconscious bias*, which may be perpetuated even by the most well-meaning people. The post-stop disparities noted earlier in this Report suggest that implicit bias may exist among SDPD officers.

¹¹¹ See, for examples: Baumgartner, F., Epp, D., & Love, B. (2014). *Police Searches of Black and White Motorists*. (Durham, NC). Chapel Hill, NC: University of North Carolina-Chapel Hill Department of Political Science. Engel, R., Cherkaskas, J., Smith, M., Lytle, D., & Moore, K. (2009). *Traffic Stop Data Analysis Study: Year 3 Final Report, Prepared for the Arizona Department of Public Safety*. Cincinnati, OH: University of Cincinnati Policing Institute; Ross, M. Fazzalano, J., Barone, K., & Kalinowski, J. (2016). *State of Connecticut Traffic Stop Data Analysis and Findings, 2014-2015*. Connecticut Racial Profiling Prohibition Project.

¹¹² Eberhardt, J. (2016). Strategies for change: Research initiatives and recommendations to improve police-community relations in Oakland, Calif. Stanford University, CA: Stanford SPARQ, p. 4.

¹¹³ Eberhardt, J., Goff, P., Purdie, V., & Davies, P. (2004). Seeing Black: Race, crime, and visual processing. *Journal of Personality and Social Psychology* 87(6), 876-893; Rattan, A., Levine, C., Dweck, C., & Eberhardt, J. (2012). Race and the fragility of the legal distinction between juveniles and adults. *PLoS ONE* 7(5); Hetey, R. & Eberhardt, J. (2014). Racial disparities in incarceration increase acceptance of punitive policies. *Psychological Science* 25(10), 1949-1954.

) The first step in addressing the issue of racial/ethnic disparities is acknowledging that they exist and making it a departmental priority to combat such disparities. We acknowledge the SDPD's recent efforts to do this by incorporating curricula on implicit bias, emotional intelligence, and cultural competency into its training for front-line officers and supervisors (see Appendix 11 for a description of the SDPD's current officer training requirements).

Perhaps partly due to these recent training efforts, SDPD officers appear to already be aware of these issues to some extent. In our electronic survey of the department, we asked officers to assess whether they believed various racial/ethnic groups *feel comfortable* interacting with the SDPD. Just over a third – 38.8 percent – of officers who responded to our survey strongly agreed or agreed that Blacks feel comfortable interacting with the SDPD. In contrast, substantially more officers believed non-Black citizens feel comfortable: 61.5 percent believe Hispanics feel comfortable; 80 percent believe Asians feel comfortable; and 87.5 percent believe Whites feel comfortable interacting with the SDPD.

We also asked officers whether they believe these racial/ethnic groups have *confidence* in the SDPD. The officers who responded to our survey believe Blacks have the lowest confidence levels in the SDPD: 35.2 percent either strongly agreed or agreed that Blacks have confidence in the SDPD, while 60.5 percent believed Hispanics have confidence; 78.9 percent believed Asians have confidence; and 85.9 percent believed Whites have confidence in the SDPD. These responses indicate that officers are aware of how they may be perceived by different racial/ethnic groups.

However, only 4.23 percent of our electronic survey respondents strongly agreed or agreed that *racial/ethnic bias is a genuine problem for the SDPD*. In interviews with officers, we sought to probe deeper into these beliefs. When asked whether they would be surprised if we found racial/ethnic disparities in our analysis of the traffic stop data, the vast majority of officers we spoke to expressed beliefs in line with our survey respondents, stating that they would be surprised if racial/ethnic bias were to be found to exist in how traffic stops are conducted by the Department. A typical explanation offered to us by officers is that the demographics of drivers who are stopped are a reflection of the composition of the patrol area. As one officer explained,

The community I work in is a predominantly Hispanic community. The people I pull over, if you pull my data, it's gonna show that the people I pull over are Hispanic... So there's disparity there, that I'm pulling over Hispanics more than any other group out there. But it's not because of my perception or of a racist view I have, it's because of where I work.

Indeed, many of the individual officers we spoke to adamantly stated that not only do they not make individual decisions based on race/ethnicity, but also that in the traffic stop context, they frequently cannot see the race/ethnicity of the driver prior to pulling them over.

Only a handful of officers directly stated that race/ethnicity is a factor – whether explicit or implicit – in how traffic stop decisions are made. These officers spoke about the “race/ethnicity out of place” approach,¹¹⁴ in which officers deliberately target individuals whose race/ethnicity does not fit the dominant demographics of the area. Officers readily offered examples of this, such as stopping a White person in a predominately Black area of the Southeastern division, or a Black person in a majority-White area such as La Jolla. As one officer candidly noted, “I’m not going to lie. If I see somebody that’s totally out of place and there’s a reason to stop them, I’m going to stop them and ask them what they’re doing. I mean, I’m being truthful. Unfortunately, it sucks. It’s not like I’m trying to.” Most other officers, however, denied using race/ethnicity in this way. One officer who voiced a typical statement about this explained, “I am not looking at who the driver is, whether they are male, female, or what ethnicity they are. That is not what I am looking for because I do not write a citation based on your ethnicity. I write it based on the moving violation or traffic violation that you did.”

Continue to enhance training and supervision

In response to the PERF report, the San Diego Police Department has already made progress toward establishing a comprehensive training program for its patrol officers and supervising officers (see Appendix 11). As of the July 2016 Public Safety and Livable Neighborhoods Committee meeting, the SDPD had not only implemented an annual supervisor training on procedural justice, but had also added competency in procedural justice and community policing concepts to its promotional testing process. The SDPD has also incorporated a two-day “effective interactions” class on unconscious bias for all new officers.¹¹⁵

The Department should be credited for its prompt response to these recommendations. As the SDPD makes implicit bias curriculum a mandatory part of how both new and veteran patrol officers, sergeants, and command staff are trained, it should track officer satisfaction with the training to ensure maximal efficacy of and officer buy-in to training on these important topics.

¹¹⁴ Carroll, L. & Gonzalez, M.L. (2014). Out of place: Racial stereotypes and the ecology of frisks and searches following traffic stops. *Journal of Research in Crime & Delinquency*, 51(5), 559-584; Novak, K. & Chamlin, M. (2012). Racial threat, suspicion, and police behavior: The impact of race and place in traffic enforcement. *Crime & Delinquency*, 58(2), 275-300.

¹¹⁵ Zimmerman, S. (July 2016). *Update of the San Diego Police Department’s response to the Police Executive Research Forum (PERF) recommendations*. Testimony submitted to the Public Safety and Livable Neighborhoods Committee of the San Diego City Council.

While not indicated in Chief Zimmerman's testimony, the unconscious bias training may currently be drawn from two providers.¹¹⁶ First, the Fair and Impartial Policing (FIP) program¹¹⁷ educates patrol officers about how such bias affects people's perceptions and can thereby affect the actions that they take, as well as providing tools to help officers recognize their conscious and unconscious biases and instead take actions that are unbiased. Training for first-line supervisors (sergeants) helps these officers to identify when their supervisees may be engaging in biased behavior as well as to effectively address such behavior.

Second, the Principled Policing training has been developed by California's Department of Justice in partnership with Stanford University's Social Psychological Answers to Real-world Questions (SPARQ) organization. Principled Policing is the first Commission on Peace Officer Standards and Training (POST)-certified training on procedural justice and implicit bias in the U.S. Thus far, it has been offered to police leaders throughout California, including to representatives of the SDPD, with positive results.¹¹⁸

When we asked our community focus group participants about how to improve police-community relations, many agreed that law enforcement would benefit from training that would enhance their ability to understand – and effectively respond to – local residents, particularly those from diverse cultural backgrounds. Two residents from different divisions put it this way:

It needs to be more of a partnership model. Police are in the power position and instead of being more militarized, they need to be more emotionally trained. They are not soldiers; they are here to keep peace. Come around more, smile. (Central division)

I wish [the police] took a body language class. A lot of things that are going wrong is because they don't understand the body language of the community or the cultures of people of color. We speak really loud. If these officers are not from our culture they don't understand that. (Southeastern division)

We note that the SDPD has recently added training in emotional intelligence and effective interactions to its new officer phase training and we encourage the tracking of officer satisfaction with such training.

¹¹⁶ However, we note that a third, more comprehensive intervention, consisting not only of implicit bias training, but also training around procedural justice and reconciliation, is currently being piloted in six U.S. cities by the National Initiative for Building Community Trust and Justice. See: <https://trustandjustice.org/>.

¹¹⁷ <http://www.fairandimpartialpolicing.com>.

¹¹⁸ https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/principled-policing-white-paper.pdf.

) *Make traffic stop practices more transparent*

Traffic stops can be one of the most dangerous activities a patrol officer engages in on a regular basis; there is no such thing as a “routine” traffic stop. Indeed, a vast majority of officers who responded to our electronic survey – 96.1 percent – strongly agreed or agreed that conducting a traffic stop is an inherently dangerous activity. Recent events involving the deaths of drivers and of police officers – including a tragic incident in the summer of 2016 here in San Diego¹¹⁹ – further heighten the tension for all involved. SDPD officers receive extensive training on how to manage their own safety and the safety of the cars they pull over, from how to position their vehicles in relation to that of the cars they have stopped to how to approach a car and identify potential threats to their safety. Yet this training does not eliminate the palpable sense that anything can happen during a traffic stop. As one officer described it to us during an interview, “Every time I stop a car, I have no clue. I am stopping them for a violation. I have no clue what they have just done, what they were going to go do or what they might have... It is your most dangerous [part of the job] – you are rolling the dice every time.”

Some traffic stops may further impair police-community relations, particularly in communities where these relations may already be strained. Several San Diego residents we spoke with expressed a belief that traffic stops are conducted in a discriminatory fashion. As one Southeastern resident put it, “nine times out of ten, it's people of color [being pulled over]... That will make them feel worse about the police because they make you feel alienated because of your skin color.”

Several focus group members also expressed concern over the practice of calling multiple patrol vehicles to the scene of a vehicle stop. A common refrain was that such practices have the effect of heightening the anxiety of the driver, thereby contributing to the volatility of the interaction and alienating other members of the community, many of whom see this practice as a gratuitous or even provocative demonstration of force. As one resident of the Southeastern division stated,

If they are pulling people over, it doesn't take four [cars] to pull someone over. It's very disrespectful and makes more of a scene. I don't know if it's to show power. I understand if it's two...if someone doesn't have a partner they need help. It's always three or more.

¹¹⁹ Kennedy, M. (2016, July 29). San Diego police officer shot and killed, another injured following traffic stop. *Southern California Public Radio*. Retrieved on Aug. 24, 2016 from <http://www.scpr.org/news/2016/07/29/63075/san-diego-police-officer-shot-and-killed-another-i/>.

) In interviews, officers underscored the value of the routine practice of officers providing back-up during traffic stops due to the perceived potential dangers of such stops. While this back-up was appreciated (and reciprocated) by the patrol officers we interviewed, it tends to engender resentment among community residents, particularly those who may not understand the perceived and real risks that officers face during these encounters. Reducing the number of stops made for violations not directly related to public safety may indirectly improve community relations, given community members' perceptions about such stops.

Make traffic stop practices more systematic and data-driven

Amongst the many recommendations recently issued by President Obama's Task Force on 21st Century Policing¹²⁰ was the following:

Law enforcement agencies and municipalities should refrain from practices requiring officers to issue a predetermined number of tickets, citations, arrests, or summonses, or to initiate investigative contacts with citizens for reasons not directly related to improving public safety, such as generating revenue.

) We found no evidence of the use of quotas, nor pressure to issue citations to increase revenue. The SDPD and the City of San Diego should be commended for this, in light of recent findings of a profit motive underlying the issuance of citations in other jurisdictions across the country.

However, we urge the SDPD to make its traffic stop practices more systematic and data-driven. Traffic stops in San Diego appear to be inconsistently used as an enforcement tool, which may further contribute to negative perceptions of SDPD activity. In interviews, SDPD officers described highly varying approaches to and justifications for making traffic stops. Some officers we spoke with frequently described traffic stops as being useful for educational purposes, such as reminding drivers that they should not be texting while driving, while others stated that they hardly conduct any traffic stops at all. Still others touted the investigative usefulness of traffic stops to uncover criminal activity. This speaks to a highly-individualized approach to this form of law enforcement, which suggests one way in which disparate treatment can arise.

As noted in Chapter 5, our analysis of traffic stop data revealed that out of the 259,569 stops conducted in 2014 and 2015, only 981 resulted in the discovery of contraband. This means that contraband was found in fewer than one out of every 260 traffic stops conducted by the SDPD in the past two years. Other post-stop outcomes indicative of criminal investigation activity are

¹²⁰ President's Task Force on 21st Century Policing. (2015). *Final Report of the President's Task Force on 21st Century Policing*. Washington, DC: Office of Community Oriented Policing Services, p.26. Retrieved Aug. 24, 2016, from http://www.cops.usdoj.gov/pdf/taskforce/Implementation_Guide.pdf.

similarly rare: across the two years, roughly 4.4 percent of all stops led to a search, 2.7 percent led to a field interview, and 1.3 percent led to an arrest. Collectively, the finding that traffic stops yield minimal crime control value while potentially contributing to the deterioration of police-community relations point to the need for a reconsideration of how traffic stops are used in law enforcement. This recommendation is in line with what other researchers of this topic have noted – that “the benefits of investigatory stops are modest and greatly exaggerated, yet their costs are substantial and largely unrecognized.”¹²¹

Given the post-stop disparities discovered in our analyses, we urge the Department to consider how it might devise and implement policy guiding traffic stops to address this issue.

Strengthening police-community relations

Drawing primarily on the data we collected from our community focus groups and in-depth interviews with SDPD officers, as well as the evidence-based recommendations recently made by other researchers, we discuss two recommendations for strengthening police-community relations, particularly in police divisions where these relations may currently be strained:

1. Make community engagement a core departmental value, and
2. Improve communication and transparency regarding police practices.

Make community engagement a core departmental value

Community residents who participated in our focus groups indicated a strong desire to see and interact with police officers in their neighborhoods, and to get to know them in non-crime control situations. Residents expressed their belief that the best way to improve police-community relations is to expand opportunities for positive police-community interaction. Likewise, many of the officers we interviewed, particularly those who work in divisions with higher levels of crime and police activity, expressed awareness that police-community relations must be improved. These findings are wholly consistent with those of the PERF report, which found a belief among some members of the community that the SDPD has become disconnected from the communities it serves.¹²² Thus, we urge the Department to make community engagement a core departmental value. We note that this is a central recommendation of President’s Task Force on 21st Century Policing, which stated that “in communities that have high numbers of interactions with authorities for a variety of reasons,

¹²¹ Epp, C., Maynard-Moody, S., & Haider-Markel, D. (2014). *Pulled over: How police stops define race and citizenship*. Chicago, IL: University of Chicago Press, p. 153.

¹²² Police Executive Research Forum (PERF). (2015). *Critical response technical assessment review: Police accountability - findings and notional implications of an assessment of the San Diego Police department*. Washington, DC: Office of Community Oriented Policing Services, U.S. Department of Justice, p. 55.

) police should actively create opportunities for interactions that are positive and not related to investigation or enforcement action.”¹²³

The most frequent example officers offered of the sign that police-community relations are suffering in at least some parts of San Diego was the prevalence of the “one-finger” (middle finger) wave rather than the “five-finger” wave. Officers use this as an indication that their presence isn’t welcome, and that any efforts at outreach would be futile. As one officer put it,

I know that the people are not always very police-friendly. I would never stop my car and just say, ‘how are you doing?’ because I am going to get the one-finger salute... I think in a community where people are more police-friendly, as you drive down the street, if I were to wave at someone, they would wave back or smile. You learn people’s body language. They intentionally turn away... You get the feeling that they do not like police in that area.

These officers expressed a desire for greater community connection, and some lamented the fact that there was little or no time for community engagement or proactive policing, given staffing constraints and the ongoing demands of calls for service. It was clear from these interviews that patrol officers’ participation in community events across the nine SDPD divisions is highly variable and voluntary.

When asked what strong, positive police-community relations would look like, residents emphasized that they would involve more non-service and non-enforcement interactions with the officers who police their communities. The residents we spoke with had many suggestions for the types of activities they would like to engage in with the officers. It is important to note that some of these activities are already occurring, but unevenly across the city. One resident of the Southeastern described her attendance at one such event and how this experience made her long for more similar opportunities to engage with officers:

I went to an event in Skyline and it was awesome to connect with the community. The police low-riders were out and they were bumping old-school and it was cool to see STAR PAL (Sports Training, Academics, Recreation/Police Athletic League). It made me wish there were more programs to help kids respect the police. This experience last year made me feel more connected to the police, like when I was a kid (and there were many more events between police and residents).

¹²³ President’s Task Force on 21st Century Policing. (2015). *Final Report of the President’s Task Force on 21st Century Policing*. Washington, DC: Office of Community Oriented Policing Services. Retrieved Aug. 24, 2016, from http://www.cops.usdoj.gov/pdf/taskforce/Implementation_Guide.pdf.

Similarly, a resident from the Southern division had these suggestions for fostering positive relations:

... a carnival to get to know each other--for residents and police to say hi and get to know each other; a community meeting every month where we talk about our fears and concerns; community outreach by the cops in our community. It's not us against them—they are here to help, so let's work together.

The residents we spoke with want to get to know their local police officers and want the police get to know them; they would like to see police out of their cars and interacting with residents. Several residents stressed the importance of nurturing relationships between police and youth, so that future relationships with the community and law enforcement will improve. As a Central division resident observed,

If officers would attend community events with kids or teenagers, that would go far with respect. Be a part of the community...not in your uniform. Go to schools, go to the community garden. It will just take the police Department to want to do that. When people see that they are on the same level they will feel freer to express themselves and get the help they need.

Our focus group participants' suggestions echo those noted in the recent analysis of the SDPD conducted for the PERF report, in which the most frequent suggestions from community members were related to maximizing police-community engagement "through proactive and positive interactions."¹²⁴

We acknowledge the SDPD's existing community engagement activities. In our interviews with officers at all nine SDPD divisions, it was evident that each division's Community Liaison/Resource Officers have attempted to connect with residents through a wide variety of meetings and events and are disseminating information and sharing resources in multiple venues. Further, it is clear from both our officer interviews and community focus groups that many patrol officers are community-minded and enjoy opportunities to positively engage with residents while on patrol. In addition to the various community safety and prevention programs offered through the SDPD, including the youth programs STAR PAL and KIDZWATCH Academy, the Department also collaborates with local clergy and advocacy groups in various

¹²⁴ Police Executive Research Forum (PERF). (2015). *Critical response technical assessment review: Police accountability - findings and notional implications of an assessment of the San Diego Police department*. Washington, DC: Office of Community Oriented Policing Services, U.S. Department of Justice, p. 22.

) neighborhood-based initiatives.¹²⁵ Another way the SDPD currently promotes community engagement is through a program called Inside SDPD, in which some sessions of new officer training that every new recruit attends are open to the public. Inside SDPD allows citizens the opportunity to receive some of the same training the Department provides to its officers on topics such as use of force, procedural justice, and non-biased based policing.

We recommend that the SDPD create a system to make positive, community-based interactions and activities a fundamental component of officers' roles and to incentivize officers' community engagement activities. We also recommend that the SDPD further publicize and raise awareness about existing community meetings and events, and create additional opportunities for officers and the community to interact. We suggest that such interactions involve more of each police division's officers – not just Community Liaison/Resource officers – perhaps on a rotating basis, and that the communities with higher crime and lower police trust are prioritized in this process.

Improve communication and transparency regarding police practices

) Both community residents and law enforcement officers interviewed in our study recognized that tension exists and desired better communication and understanding. Several officers we spoke with wished community members better understood the challenges and constraints of their jobs, and many community members desired more information about local crime issues and police decision-making. Police officers expressed a desire for more citizens to request to go on police ride-alongs so they could witness the challenges officers regularly face.¹²⁶ Citizens wished officers would share more information about crime problems in their communities and efforts underway to address them. As previously noted, they also desired more interaction and collaboration.

Expanding and improving the lines of communication between police and residents should be a high priority. The SDPD should seek additional opportunities for information-sharing and clarification of police practices and procedures in the communities they serve. Greater transparency and communication about these practices will strengthen community trust and perceptions of police legitimacy.¹²⁷ Ongoing communication strategies utilizing social media outlets (Facebook, Twitter, Nextdoor, etc.) and websites should continue, but more face-to-face

¹²⁵ See the SDPD website for more information on community policing and crime prevention activities: <https://www.sandiego.gov/police/services/prevention/programs> (Retrieved Sept. 28, 2016).

¹²⁶ Any member of the community can request a ride-along through this online form: <https://www.sandiego.gov/sites/default/files/legacy/police/pdf/RideAlong.pdf> (Retrieved Sept. 28, 2016).

¹²⁷ See: Advancement Project and PolicyLink. (2014). *Engaging communities as partners: Strategies for problem solving*. Part of the *Beyond confrontation: Community-centered policing tools* series. Los Angeles, CA: Urban Peace Institute. Retrieved September 8, 2016, from: <http://www.urbanpeaceinstitute.org/key-projects/>.

outreach is needed, especially in the communities where police trust is low and residents are concerned about crime and safety, yet suspicious of police crime control strategies. In our study, Southeastern and Mid-City were the communities that were most vocal in asking for greater police communication. As two Southeastern residents noted:

They could do more meetings, maybe get involved in neighborhood watches. The community needs to have awareness (about local crime problems) and get to know the cops; give us their cards and do outreach... build a relationship between the police and the school district.

If they would actually walk beats and get to know people; I would like if they have an officer meet and greet to introduce yourself or share input or suggestions—to increase familiarity.

The SDPD is to be credited for the communication and information/resource dissemination already underway, but additional work is needed. As noted in the previous section, several residents expressed concern and confusion about traffic stop practices in their communities, particularly related to the number of cars and officers involved in such stops. The SDPD should explain the rationale behind these decisions and address communities' concerns. Obtaining the support of community members in local law enforcement can be a challenging task, but we note that there are several effective models for doing so.¹²⁸ We recommend that the SDPD consider adopting one of these models, and in doing so, identify new ways to promote transparency and communicate information about local crime and police enforcement practices with community residents, particularly in neighborhoods with higher levels of police presence, where police-community relations are most strained.

Improving data collection

Finally, we include five broad recommendations germane to the collection, analysis, and dissemination of data related to SDPD's traffic enforcement regime:

1. Revise the current data collection system;
2. Coordinate existing data collection efforts;
3. Collect additional data; and

¹²⁸ See: President's Task Force on 21st Century Policing. (2015). *Final Report of the President's Task Force on 21st Century Policing*. Washington, DC: Office of Community Oriented Policing Services. Retrieved Aug. 24, 2016, from http://www.cops.usdoj.gov/pdf/taskforce/Implementation_Guide.pdf; Advancement Project and PolicyLink. (2014). *Engaging communities as partners: Strategies for problem solving*. Part of the *Beyond confrontation: Community-centered policing tools* series. Los Angeles, CA: Urban Peace Institute. Retrieved September 8, 2016 from <http://www.urbanpeaceinstitute.org/key-projects/>.

4. Strengthen accountability and oversight of data collection and management

Revise the current data collection system

The Department's current traffic stop data collection system, which relies heavily on the traffic stop data card, produces duplicative, often inaccurate and unreliable data, is unnecessarily time-consuming, and harmful to officer morale. For these reasons, we recommend that the SDPD discontinue the use of the traffic stop data card in favor of a system that captures and compiles data gathered by officers through other means.

Stop card data are duplicative. At the conclusion of a traffic stop, SDPD officers must document the contact in several different ways. If the stop involved the issuance of a citation or a written warning, the officer must complete the requisite paperwork. The officer must complete an additional set of forms if they conduct a field interview, a search, or an arrest. Next, they must describe every encounter in a separate form, called a "journal," an internal mechanism used to track officer productivity. They must then submit an additional form logging their body-worn camera footage. Finally, they must then complete the traffic stop data card.

In interviews, SDPD officers described this documentation process as both time-consuming and filled with redundancy. Many also noted that much of the data captured by vehicle stop cards, including driver race, gender, age, and stop location, is information already captured by many of the other forms they submit. This is a key point: Eliminating the traffic stop data card will not hinder the Department's ability to document traffic enforcement patterns, nor will the public lose oversight ability.

Excessive paperwork is a noted source of officer stress,¹²⁹ a fact no doubt amplified by staffing shortages and other resource deficiencies. Whether owed to the time it takes to complete the paperwork, the notion that they are not trusted and thus must document every action taken, or some other reason, we believe that the stress associated with the use of the traffic stop cards contributes to relatively low morale Department-wide.

Stop cards harm officer morale. Lingering questions about the broad purpose of the data collection effort and the stop card data in particular likely contribute to the sense that the stop cards represent unnecessary, extraneous, and even frivolous work. In the words of one officer, "The collection of traffic stop data is useless." Others called the process a "waste of time,"

¹²⁹ Crank, J. P., & Caldero, M. (1991). The production of occupational stress in medium-sized police agencies: A survey of line officers in eight municipal departments. *Journal of Criminal Justice*, 19, 339-349; Zhao, J.S., He, N., & Lovrich, N. (2002). Predicting five dimensions of police officer stress: Looking more deeply into organizational settings for sources of police stress. *Police Quarterly*, 5, 43-62.

"worthless," "stupid," and a "joke." Officer survey responses make the point more systematically: 72 percent of respondents either disagreed or disagreed strongly with the notion that "completing the traffic stop data card is a worthwhile use of officer time." Several officers also reported feeling as though the data gathered would be used to unfairly portray their work as biased. As one officer put it, "[r]egardless of the outcome, the data will be misconstrued and manipulated." In the words of another, "[in completing the card], I feel as though I'm having to prove I'm not a racist after every traffic stop."

The effects of officer cynicism over use of the stop cards appears to stretch beyond morale. In an effort to avoid being characterized as biased, several officers discussed instances where they chose not to submit a stop card following a stop involving minority drivers, or mislabeling the driver's race/ethnicity on the stop card. Others acknowledged choosing not to stop minority drivers altogether in hopes of avoiding the possible ramifications of the encounter. That the data collection regime is contributing to what scholars refer to as depolicing suggests strongly that there is need for reform.

Stop card data are unreliable. As we noted in Chapter 3, and very much related to the point about depolicing, the traffic stop records used in this analysis was of relatively low quality. The dataset contained several instances of missing data, a problem that was most apparent among post-stop variables. Data charting the issuance of citations or warnings was absent from 10.6 percent of the 259,569 stops recorded between 2014 and 2015. Data on field interviews (7.9 percent), searches (4.4 percent), and arrests (4.1 percent), were also missing in relatively high volume. Of the poorest quality were data associated with the discovery of contraband and the seizure of property, where over 93 percent were either left blank or ambiguously labeled, 'null.'

The problems associated with missing cases are amplified by what appears to be the substantial under-reporting of traffic stops. As we have noted previously, SDPD records indicate that 183,402 traffic tickets were issued between January 1, 2014 and December 31, 2015. Yet the Department's stop card database includes records of only 145,490 stops where drivers were issued a citation. The sizable difference between actual citations and reported citations suggests that tens of thousands of traffic stops went undocumented.

This disparity raises significant questions about the reliability of data set used for this analysis, particularly in light of missing stop card data and the inconsistent month-to-month enforcement trends. These data quality issues are not new. In fact, Cordner and his colleagues raised a very similar set of concerns in their 2001 analysis of SDPD traffic stops:

This very substantial [year-to-year] decrease [in stop card records] raises serious questions about the validity of the vehicle stop data. One question is whether officers always filled out the vehicle stop forms – the answer to this is clearly no. A natural follow-up question asks what the compliance rate was – this can only be estimated, but it appears to have been about 60%.¹³⁰

The consistency of our findings with those articulated by Dr. Cordner speaks to a series of systemic weaknesses that must be addressed before the SDPD is able to generate a thorough, accurate reporting of officer traffic enforcement. For these reasons, we recommend eliminating the use of the traffic stop data card and replacing the current system with a modified data collection and management infrastructure.

Coordinate existing data collection efforts

The recommendation to replace the traffic stop data card is predicated on the development of a more effective, more efficient system for tracking vehicle stops and post-stop outcomes. Collection of stop card data should not be discontinued unless and until a viable replacement system is up and fully operational.

The current SDPD system of data collection and management is defined by duplication and siloed information. We believe the department's current architecture contains many of the necessary components of a more usable, and thus more valuable system based on the data collected via the CAD system,¹³¹ traffic citations and written warnings, as well as forms officers are required to submit in documentation of field interviews, search/seizure incidence, and arrests.

Additional data collection

In addition to the data currently collected, we recommend the SDPD capture and incorporate the following information into the new database:

- Police officer race, gender, unit (e.g., Gang Unit, Auto Theft Unit, etc.) and division (e.g., Traffic division)
- Specific stop location (address, intersection, and/or landmark)
- Vehicle make, model, and condition

¹³⁰ Cordner, G., Williams, B., & Zuniga, M. (2001). *San Diego Police Department vehicle stop study: Year-end report*. San Diego, CA., p. 1-2.

¹³¹ For an introduction to police CAD systems and a useful description of the standard capability of such systems, see Law Enforcement Information Technology Standards Council (LEITSC). (n.d.). *Standard Functional Specifications for Law Enforcement Computer Aided Dispatch (CAD) Systems*. Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. Retrieved Aug. 14, 2016, from, https://www.it.ojp.gov/documents/LEITSC_Law_Enforcement_CAD_Systems.pdf.

- Description of driver behavior and demeanor
- Probable cause search
- Nature and amount of contraband discovered and property seized

Augmenting the current data collection efforts with these additional data would put SDPD squarely in line with best practices and would yield significant benefits both for the SDPD and the City of San Diego.

Officer information. SDPD's current traffic stop data card contains no information about the officer conducting the stop, and thus no such information was available for the present analysis. To our knowledge, most if not all of the existing data collection mechanisms, from traffic citations to search detail forms, are associated with officer badge numbers, which seems to suggest that the inclusion of basic information about the officer may not represent a major challenge.

Officer data are essential for charting enforcement patterns at the officer level – necessary for identifying so-called “rotten apple” officers.¹³² The Department's existing early intervention system, a point of emphasis in the 2015 PERF report,¹³³ has the potential to be very useful in this regard. We also believe that officer data may hold the key to more effectively understanding the role that race/ethnicity plays in driving stop and post-stop patterns. Scholars have found in several instances that disparities are most pronounced in cases where the officer and the driver are of different racial or ethnic backgrounds (for example, when a White officer stops, searches, or arrests a Black driver).¹³⁴ The quality of future analysis of SDPD's traffic stop patterns would be strengthened considerably by the capture of officer race/ethnicity and gender data.

Stop location. In one-on-one interviews, several SDPD officers noted that traffic enforcement patterns follow closely the crime and demographic trends of the stop location. In the words of one officer, “The population in the area I patrol is mainly Hispanic or Black. Therefore, majority of the traffic stops, criminals, etc. are going to be those ethnicities. It has nothing to do with

¹³² For an example of what this analysis might look like, see Ridgeway, G., (2009). *Cincinnati Police Department traffic stops: Applying RAND's framework to analyze racial disparities*. Santa Monica, CA: RAND Corporation, pp. 43-48.

¹³³ Police Executive Research Forum (PERF). (2015). *Critical response technical assessment review: Police accountability - findings and national implications of an assessment of the San Diego Police department*. Washington, DC: Office of Community Oriented Policing Services, U.S. Department of Justice.

¹³⁴ Tillyer, R. Klahm, C.F., & Engel, R.S. (2012). The discretion to search: A multilevel examination of driver demographics and officer characteristics. *Journal of Contemporary Criminal Justice*, 28(2), 184-205; Brown, R.A., & Frank, J. (2006). Race and officer decision making: Examining differences in arrest outcomes between Black and White officers. *Justice Quarterly*, 23, 96-126.

race, but the population itself in the city.” Other officers suggested that traffic stops are used as a means of investigating and controlling crime. We believe analysis of the relationship between traffic enforcement and crime control is hugely important and potentially beneficial both for law enforcement purposes and for enhancing external oversight and accountability.

Yet this type of place-driven analysis is not possible when limited to division-level data. Criminological research has established definitively that crime is not randomly dispersed throughout a city or even a neighborhood.¹³⁵ Instead, what we heard from SDPD officers is largely consistent with the current research: hot spots of illegal activity vary by crime type and are a function of time of day, time of year, and, most importantly, by very narrowly defined spaces.¹³⁶ In fact, the relationship between crime and place is most effectively considered at the “micro” level.¹³⁷ According to one recent study, these crime places “can be as small as the area immediately next to an automatic teller machine or as large as a block face, a strip shopping center, or an apartment building. Often places are thought of as addresses, specific types of businesses, or blockfaces.”¹³⁸ As such, we recommend that stop data be captured in terms of the specific location of the encounter, rather than by division.

Further stop-related detail. We recommend that the SDPD incorporate into existing data collection efforts the make, model, and condition of the driver’s vehicle, as well as stop and post-stop data on stops involving cyclists and pedestrians.

An officer’s knowledge of his or her beat is critical to good police work in part because it allows the officer to recognize and act on incongruities.¹³⁹ Community policing is premised on this notion: police work to get to know the community not only to foster trust, but also to develop the skills to be able to distinguish interlopers from residents.¹⁴⁰ The same is true of patrol officers. A consistent theme from our interviews with SDPD staff was the importance of traffic stops for investigating circumstances or individuals that may appear out of place. Language used to describe vehicles that appear incongruous often goes, hand-in-hand with discussion of an individual of a particular race/ethnicity who appears out of place in certain neighborhood

¹³⁵ Braga, A.A., & Weisburd, D.L. (2010). *Policing Problem Places*. Oxford, UK: Oxford University Press.

¹³⁶ Sherman, L. W., Gartin, P. R., & Buerger, M. E. (1989). Hot spots of predatory crime: Routine activities and the criminology of place. *Criminology*, 27, 27-56.

¹³⁷ Groff, E.R., Weisburd, D., & Yang, S. (2010). Is it important to examining crime trends at the ‘micro’ level?: A longitudinal analysis of street variability in crime trajectories. *Journal of Quantitative Criminology*, 26, 7-32.

¹³⁸ Eck, J.E., & Weisburd, D. L. (2015). Crime places in crime theory. *Crime and place: Crime prevention studies*, 4. Retrieved Aug. 10, 2016, from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.362.1293&rep=rep1&type=pdf>.

¹³⁹ Mastrofski, S. D. (1983). Police knowledge of the patrol beat: a performance measure. *Police at Work: Policy Issues and Analysis*, Sage Publications, Beverly Hills, CA, 45-64.

¹⁴⁰ Greene, J. R. (2000). Community policing in America: Changing the nature, structure, and function of the police. *Criminal justice*, 3(3), 299-378.

) contexts. As one officer put it, "I do not write many tickets. I pull people over that I think might be doing bad things. Am I going to pull over the guy coming home from work because he does not have a front license plate? No. If I see two people wearing hoodies with their hoods up in a Tesla, yeah chances are I am pulling them over."

Relatedly, we believe that the SDPD would benefit from capturing data on individual behavior and demeanor. Particular behaviors on the part of either the driver or passenger – apparent nervousness, aggression or combativeness, even obsequiousness – are often associated with suspicion and thus used to justify a field interview, request for permission to search, or, when combined with other factors, a probable cause search.¹⁴¹ That an officer's perception of certain behavior may be unwittingly influenced by driver/pedestrian race/ethnicity (and stop context) is a fundamental component of implicit bias in law enforcement. More to the point, racial/ethnic differences in the characterization of a vehicle as being out of place or in the interpretation of certain behavior, have been consistently linked to racial/ethnic disparities in the treatment of drivers.¹⁴² This is critically important in light of the wide search and field interview disparities found between White and minority drivers.

) Collection of vehicle data and driver behavior/demeanor information, which is widely considered best practices,¹⁴³ would add depth and insight into future analysis, in the process allowing the SDPD to more effectively disentangle manifestations of bias from those of solid, proactive policing.

We further recommend that the SDPD collect and track an additional mechanism for evaluating racial/ethnic disparities in the enforcement of traffic regulations: stop duration. From mere inconvenience to other job- or family-related costs, the length of a traffic stop can have substantial ramifications for drivers, regardless of whether the stop ends with a citation, a warning, or some other outcome. Discussion of the issue among community focus group members often reflected research that has found that these costs are often weigh more heavily

¹⁴¹ Alpert, G. P., MacDonald, J. M., & Dunham, R. G. (2005). Police suspicion and discretionary decision making during citizen stops. *Criminology*, 43(2), 407-434.

¹⁴² Eberhardt, J., Goff, P., Purdie, V., & Davies, P. (2004). Seeing Black: Race, crime, and visual processing. *Journal of Personality and Social Psychology* 87(6), 876-893; Novak, K. & Chamlin, M. (2012). Racial threat, suspicion, and police behavior: The impact of race and place in traffic enforcement. *Crime & Delinquency*, 58(2), 275-300.

¹⁴³ Tillyer, R., Engel, R.S., & Cherkauskas, J.C. (2010). Best practices in vehicle stop data collection and analysis. *Policing: An International Journal of Police Strategies & Management*, 33(1), 69-92.; Ramirez, D., McDevitt, & Farrell, A. (2000). A resource guide on racial profiling data collection systems: Promising practices and lessons learned. *U.S. Department of Justice*. Retrieved Aug. 15, 2016, from <https://www.ncjrs.gov/pdffiles1/bja/184768.pdf>.

) on minority drivers, as their stops have been shown to last longer than those involving White drivers.¹⁴⁴

Finally, we recommend that the SDPD take steps to increase the specificity of their documentation of post-stop outcomes in two ways: (1) begin tracking searches justified by probable cause; and (2) documenting the specific nature and amount of contraband discovered and property seized.

Pedestrian and bicycle stop data. On October 3, 2015, Governor Jerry Brown signed into law Assembly Bill 953,¹⁴⁵ which requires all law enforcement agencies in the State of California to collect and disseminate data on all traffic and pedestrian stops. The SDPD must submit its first report to the State's Attorney General by April 1, 2019. We urge the Department to institute and implement policy mandating data collection for pedestrian and bicycle stops well in advance of the AB 953 mandate. Further, we urge the department to distinguish by stop type (vehicle, bicycle, or pedestrian) data on relevant post-stop outcomes, including search, contraband discovery, and property seizure, as well as field interview, arrest, and citation.

Strengthen accountability and oversight of data collection and management

) Regardless of which approach the SDPD takes toward future data collection efforts, we strongly recommend that the Department institute a more robust set of data imputation quality control mechanisms. Adoption of the recommendation to replace the current system with one that draws more heavily on data from the CAD system and incorporates information generated by judicial records, including traffic citations and other post-stop forms, would likely reduce some of the quality assurance requirements, as their value as legal documents is predicated on thoroughness and accuracy. However, we recommend that during the transition to the new system (or in the alternative, should the Department opt to continue within the parameters of the current approach), there be much more careful organizational attention paid to ensuring data quality.

A possible first step toward this end is the incorporation of traffic stops, citations, and other post-stop outcomes into the Department's early intervention system. Doing so would seem to obviate the need for officers to submit a "journal" entry for each stop (though the use of daily activity journals may continue to be relevant for other Department purposes), freeing up

¹⁴⁴ Engel, R.S., & Calnon, J.M. (2004). Comparing benchmark methodologies for police-citizen contacts: Traffic stop data collection for the Pennsylvania State Police. *Police Quarterly*, 7, 97-125; Ridgeway, G. (2006). Assessing the effect of race bias in post-traffic stop outcomes using propensity scores. *Journal of Quantitative Criminology*, 22, 1-28.

¹⁴⁵ Racial and Identity Profiling Act of 2015, Cal. Assemb. B. 953 (2015-2016), Chapter 466 (Cal. Stat. 2015).

) additional time for other work. Further, it would allow mid- and high-level supervisors to track individual, squad, division, and department-wide trends in real time.

Relatedly, we recommend that the Department begin to brief officers on the purpose of the data collection effort and include traffic/pedestrian stop and post-stop outcomes as part of regular line-up level briefings. Finally, we recommend that the Department work to include open format traffic and pedestrian stop data files (e.g., .csv [comma-separated values] files rather than PDF) as part of the City of San Diego Open Data Portal.¹⁴⁶ Doing so would increase the visibility of these data and facilitate third-party oversight.^{147,148}

¹⁴⁶ San Diego Open Data Portal. (n.d.). Retrieved Aug. 15, 2016, from <http://data.sandiego.gov/>.

¹⁴⁷ Ross, D. (2015, May 17). How to jumpstart the release of open data on policing. *Code for America*. Retrieved Aug. 15, 2016, from <https://www.codeforamerica.org/blog/2015/05/17/5-ways-to-jumpstart-the-release-of-open-data-on-policing/>.

¹⁴⁸ The SDSU research team is investigating funding opportunities to assist the SDPD in building the robust data collection infrastructure we recommend. One promising funding source is the Research Network on Misdemeanor Justice at John Jay College of Criminal Justice. With funding from the Laura and John Arnold Foundation, the Network is in the process of identifying seven jurisdictions in which to bring together law enforcement agencies and research institutions to build data analytic infrastructure and capacity to examine trends in various forms of low-level enforcement activity: misdemeanor arrests, citations, and pedestrian and traffic stops. See: http://johnjay.jjay.cuny.edu/mjp/RN_MJ_Solicitation.pdf.

Appendix 1

Detailed data on SDPD staffing and crime in San Diego

Table A1.1.

SDPD patrol staffing, by division, watch, and year

	1st Watch	2nd Watch	3rd Watch	Total
2014				
Northern	28	32	27	87
Northeastern	20	24	17	61
Eastern	19	27	21	67
Western	35	33	24	92
Northwestern	11	9	9	29
<i>Above Interstate 8</i>	<i>113</i>	<i>125</i>	<i>98</i>	<i>336</i>
Southeastern	25	39	23	87
Central	36	34	30	100
Southern	22	24	15	61
Mid-City	35	42	38	115
<i>Below Interstate 8</i>	<i>118</i>	<i>139</i>	<i>106</i>	<i>363</i>
Traffic	41	9	10	60
Annual total	272	273	214	759
2015				
Northern	36	39	26	101
Northeastern	20	21	16	57
Eastern	21	25	21	67
Western	29	38	22	89
Northwestern	9	9	9	27
<i>Above Interstate 8</i>	<i>115</i>	<i>132</i>	<i>94</i>	<i>341</i>
Southeastern	24	30	28	82
Central	32	36	38	106
Southern	16	22	19	57
Mid-City	28	36	40	104
<i>Below Interstate 8</i>	<i>100</i>	<i>124</i>	<i>125</i>	<i>349</i>
Traffic	38	14	9	61
Annual total	253	270	228	751

Source: San Diego Police Department

Table A1.2.
Crime in San Diego, CA, by crime type, location, and year

	Population	Violent Crime (rate)	Property crime (rate)	Total crime (rate)
2014				
Northern	225,234	599 (2.7)	5,111 (22.7)	5,710 (25.4)
Northeastern	234,394	226 (1.0)	2,211 (9.4)	2,437 (10.4)
Eastern	155,892	372 (2.4)	3,486 (22.4)	3,858 (24.7)
Western	129,709	684 (5.3)	4,055 (31.3)	4,739 (36.5)
Northwestern	70,822	58 (0.8)	791 (11.2)	849 (12.0)
<i>Above Interstate 8</i>	<i>816,051</i>	<i>1,939 (2.4)</i>	<i>15,654 (19.2)</i>	<i>17,593 (21.6)</i>
Southeastern	175,757	846 (4.8)	2,408 (13.7)	3,254 (18.5)
Central	103,524	1,099 (10.6)	3,336 (32.2)	4,435 (42.8)
Southern	107,631	303 (2.8)	1,905 (17.7)	2,208 (20.5)
Mid-City	173,012	1,023 (5.9)	3,509 (20.3)	4,532 (26.2)
<i>Below Interstate 8</i>	<i>559,924</i>	<i>3,271 (5.8)</i>	<i>11,158 (19.9)</i>	<i>14,429 (25.8)</i>
Annual total	1,375,975	5,210 (3.8)	26,812 (19.5)	32,022 (23.3)
2015				
Northern	225,234	626 (2.8)	5,499 (24.4)	6,125 (27.2)
Northeastern	234,394	267 (1.1)	2,361 (10.1)	2,628 (11.2)
Eastern	155,892	446 (2.9)	4,109 (26.4)	4,555 (29.2)
Western	129,709	714 (5.5)	4,450 (34.3)	5,164 (39.8)
Northwestern	70,822	70 (1.0)	847 (12.0)	917 (13.0)
<i>Above Interstate 8</i>	<i>816,051</i>	<i>2,123 (2.6)</i>	<i>17,266 (21.2)</i>	<i>19,389 (23.8)</i>
Southeastern	175,757	888 (5.1)	2,523 (14.4)	3,411 (19.4)
Central	103,524	1,183 (11.4)	3,549 (34.3)	4,732 (45.7)
Southern	107,631	328 (3.0)	2,006 (18.6)	2,334 (21.7)
Mid-City	173,012	1,046 (6.0)	3,813 (22.0)	4,859 (28.1)
<i>Below Interstate 8</i>	<i>559,924</i>	<i>3,445 (6.2)</i>	<i>11,891 (21.2)</i>	<i>15,336 (27.4)</i>
Annual total	1,375,975	5,568 (4.0)	29,157 (21.2)	34,725 (25.2)

Source: San Diego Police Department

Appendix 2

The San Diego Police Department Vehicle Stop Data Card

VEHICLE STOP

Northern 110 120 130
 Northeastern 230 240
 Eastern 310 320
 Southeastern 430 440
 Central 510 520 530
 Western 610 620 630
 Southern 710 720
 Mid-City 810 820 830 840

Date ___ / ___ / ___ Time _____

1. Primary cause for stop (Check only one)
 - Moving violation
 - Equipment violation
 - Radio call/Citizen contact
 - Personal knowledge/Informant
 - Suspect Info (I.S., Bulletin, Log)
 - Muni, County, H&S Code
2. Race _____
3. Sex _____
4. Age _____
5. Action taken (check all that apply)
 - Citation
 - Written warning
 - Verbal warning
 - FI
 - Other _____
6. Resident Type?
 - City of San Diego Resident? Yes No
7. Arrested? Yes No
8. Searched? Yes No
 (If yes on #8, answer questions 9-13)
9. Search type? (check all that apply)
 - Vehicle Driver Passenger(s)
10. Basis for Search? (check all that apply)
 - Contraband visible
 - Canine alert
 - 4th Waiver search
 - Inventory search (prior to impound)
 - Observed evidence related to criminal activity
 - Other _____
 - Odor of contraband
 - Consent search
 - Search incident to arrest
11. Obtained Consent Search form? Yes No
12. Contraband found? Yes No
13. Property seized? Yes No

RACE A=OTHER ASIAN F=FILIPINO J=JAPANESE P=PACIFIC V=VIET
 CODE B=BLACK G=GUAMANIAN K=KOREAN ISLANDER W=WHITE
 LEGEND C=CHINESE H=HISPANIC L=LAOTIAN S=SAMOAN Z=ASIAN
 D=CAMBODIAN I=INDIAN O=OTHER U=HAWAIIAN INDIAN

PO-2000N (9-02)

This information is available in alternative formats upon request.

Appendix 3
SDPD Officer Survey

SDPD Officer Survey - May 2016

A research team from San Diego State University is gathering the opinions of SDPD officers as a part of the ongoing review of traffic stop data and police-community relations in the City of San Diego. As a part of this process, we are asking you to complete the following survey. It should take no more than 5 or 10 minutes of your time.

As the recent Department Announcement made clear, your input is extremely important. This is why we ask that you please be as honest as you can and select the response to each question that best describes your opinion about each topic.

No personally identifiable information will be collected in this survey. Your participation is voluntary and your responses will be kept confidential. Responses will not be identified by individual, but rather will be compiled together and analyzed as a group.

If you have any questions or concerns about this survey or your rights as a research subject, please contact SDSU professor Joshua Chanin at jchanin@mail.sdsu.edu.

Thank you very much for your time and for the work you do.

SDPD Officer Survey - May 2016

Police-Community Relations in San Diego

1. San Diego residents trust the San Diego Police Department.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

2. San Diego residents trust *my division* of the San Diego Police Department.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

3. The following racial/ethnic groups feel comfortable interacting with the SDPD:

	Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
Asian					
Black					
Hispanic					
White					

4. Recent events involving police in cities like Ferguson and Baltimore have made my job as a police officer more difficult.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
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5. The community in my patrol area is appreciative of police presence.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
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6. The community in my patrol area is willing to work with the police to solve neighborhood problems.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
----------------	-------	----------	-------------------	----------

7. The Department should do more to reach out to members of the community in my patrol area.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
----------------	-------	----------	-------------------	----------

8. The SDPD treats the following racial/ethnic groups fairly:

	Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
Asian					
Black					
Hispanic					
White					

9. The following racial/ethnic groups have confidence in the SDPD:

	Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
Asian					
Black					
Hispanic					
White					

10. Please use the space below to add any additional thoughts you might have about police-community relations in San Diego. Is there anything we haven't asked about this topic that you believe should be addressed?

11. Do you have any suggestions for improving police-community relations in San Diego?

SDPD Officer Survey - May 2016

Race, Crime, and Police Patrol

12. When you *do not* have the description of a suspect, a person's race or ethnicity is an important factor for:

	Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
Identifying criminal behavior					
Identifying gang-related activity					
Discovering illegal drugs, guns, or other contraband					
Enforcing traffic laws					

13. In your experience, the following racial/ethnic groups are more likely to commit crime than members of other groups:

	Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
Asian					
Black					
Hispanic					
White					

14. In your experience, the following racial/ethnic groups are more likely to carry illegal drugs, weapons, or other contraband than members of other groups:

	Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
Asian					
Black					
Hispanic					
White					

15. In your experience, the following racial/ethnic groups are subject to a disproportionate number of police stops compared to drivers of other racial/ethnic backgrounds:

	Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
Asian					
Black					
Hispanic					
White					

16. Racially or ethnically biased policing is justified if it helps keep the community safe.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
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17. Conducting a traffic stop is an inherently dangerous activity.

Strongly Agree	Agree	Disagree	Strongly Disagree	Not Sure
----------------	-------	----------	-------------------	----------

18. Please use the space below to add any additional thoughts you might have about police patrol in San Diego. Is there anything we haven't asked about this topic that you believe should be addressed?

.....

.....

SDPD Officer Survey - May 2016

Traffic Stop Data Cards

19. Completing the Traffic Stop Data Card is a worthwhile use of officer time.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

20. Officers who submit incomplete or inaccurate Traffic Stop Data Cards are held accountable.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

21. Sharing traffic stop data (where, when, and of whom stops are made) with the public increases trust in the police.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

22. Sharing traffic stop data with the public hurts morale among SDPD officers.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

23. Please use the space below to add any additional thoughts you might have about the use of Traffic Stop Data Cards. Is there anything we haven't asked about this topic that you believe should be addressed?

.....

.....

SDPD Officer Survey - May 2016

Officer Training and SDPD Culture

24. Officer racial/ethnic bias is a genuine problem for the San Diego Police Department.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

25. SDPD policy is clear on the appropriate use of race/ethnicity in making law enforcement decisions.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

26. Additional training on racial/ethnic bias would make me a more effective officer.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

27. The Department does an effective job identifying officers who are acting in a racially/ethnically biased manner.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

28. Officers who engage in biased policing are held accountable for their actions.

Strongly Agree Agree Disagree Strongly Disagree Not Sure

29. Please use the space below to add any additional thoughts you might have about SDPD policy, training, or officer culture. Is there anything we haven't asked about this topic that you believe should be addressed?

SDPD Officer Survey - May 2016

Demographics

30. What is your current rank?

Police Officer I or II

Sergeant, Detective, or Lieutenant

Captain or above

Other

31. How long have you been a member of the San Diego Police Department?

1 or fewer years

Between 2 and 5 years

Between 6 and 10 years

Between 11 and 20 years

21 or more years

32. What is the highest level of education you have completed?

High School Graduate

Some College

College Graduate

Post-Graduate Degree

33. What is your age?

24 or Younger

Between 25 and 34

Between 35 and 44

Between 45 and 54

55 or Older

34. What is your race/ethnicity?

Asian

Black

Hispanic

White

Other

35. How many hours per week do you spend enforcing traffic laws?

0-5

6-10

11-15

16-20

21+

36. To which division are you currently assigned?

Central

Eastern

Mid-City

Northern

Northeastern

Northwestern

Southern

Southeastern

Western

Not Applicable

SDPD Officer Survey - May 2016

Follow-up Interview

Thank you again for your time. We are seeking volunteers to participate in short, confidential follow-up interviews on the topics covered in this survey. If interested, please contact Joshua Chanin at jchanin@mail.sdsu.edu.

Appendix 4

Limiting the veil of darkness analysis to stops involving moving violations

The authors of a recent paper analyzing traffic stops in Syracuse, New York argued that “some kinds of equipment violations (e.g., malfunctioning headlights) are uniquely nighttime violations, and it is conceivable that the incidence of such equipment violations is also correlated with drivers’ race.”¹⁴⁹ Worden goes on to argue that the inclusion of equipment violations may bias the veil of darkness analysis. To account for this possibility, we excluded equipment violations and re-applied the veil of darkness technique to a sub-sample of records generated for stops involving only moving violations. Our findings are shown in Tables A4.1 through A4.4.

Table A4.1.

Modeling the effects of daylight on the odds that Black drivers will be stopped citywide for a moving violation

	Odds Ratio	p-value	Standard error	95% Confidence Interval	Number of Stops
<u>2014</u>					
Black v. White	1.165	0.066	0.097	0.990, 1.374	5,884
Young Black v. Young White	1.269	0.128	0.198	0.934, 1.724	1,544
<u>2015</u>					
Black v. White	0.793	0.016	0.076	0.656, 0.957	4,381
Young Black v. Young White	0.649	0.019	0.120	0.452, 0.932	1,112
<u>Combined</u>					
Black v. White	0.985	0.809	0.062	0.871, 1.114	10,265
Young Black v. Young White	0.952	0.676	0.113	0.755, 1.120	2,656

Table A4.1 shows the results of an analysis of citywide stops made during the intertwillight period involving Black and White drivers stopped for a moving violation. These data show no statistically significant difference in the 2014 stop patterns of Blacks and Whites. When limited to moving violation stops occurring in 2015, our analysis shows that Black drivers were less likely to be stopped during daylight hours than after dark, compared to Whites. Analysis of the combined 2014/2015 data showed no meaningful disparity in the stop patterns of Black and

¹⁴⁹ Worden, R.E., McLean, S.J., & Wheeler, A.P. (2012). Testing for racial profiling with the veil of darkness method. *Police Quarterly*, 15, 92-111.

White drivers.

Table A4.2.

Modeling the effects of daylight on the odds that Hispanic drivers will be stopped citywide for a moving violation

	Odds Ratio	p-value	Standard error	95% Confidence Interval	Number of Stops
<u>2014</u>					
Hispanic v. White	1.039	0.463	0.054	0.938, 1.151	8,619
Young Hispanic v. Young White	1.102	0.382	0.123	0.886, 1.372	1,849
<u>2015</u>					
Hispanic v. White	0.793	<0.001	0.047	0.706, 0.891	6,681
Young Hispanic v. Young White	0.711	0.005	0.087	0.559, 0.904	1,639
<u>Combined</u>					
Hispanic v. White	0.915	0.023	0.036	0.848, 0.988	15,300
Young Hispanic v. Young White	0.893	0.165	0.073	0.761, 1.048	3,488

Table A4.2 shows results of our comparative analysis of Hispanic and White drivers stopped for moving violations. We find no statistically significant differences in the 2014 data or in the combined 2014/2015 data. Analysis of the 2015 data shows that Hispanic drivers were less likely to be stopped for a moving violation during the day, when driver race/ethnicity is more apt to be visible to the naked eye, than were Whites.

Table A4.3.

Modeling the effects of daylight on the odds that Black drivers will be stopped for a moving violation, above and below Interstate 8

	Odds Ratio	p-value	Standard error	95% Confidence Interval	Number of Stops
<u>2014</u>					
Above Interstate 8	1.358	0.019	0.177	1.052, 1.752	3,771
Below Interstate 8	0.773	0.024	0.088	0.618, 0.967	2,240
<u>2015</u>					
Above Interstate 8	1.050	0.752	0.162	0.775, 1.422	2,983
Below Interstate 8	0.597	<0.001	0.077	0.463, 0.770	1,514
<u>Combined</u>					
Above Interstate 8	1.191	0.077	0.118	0.981, 1.446	6,754
Below Interstate 8	0.692	<0.001	0.058	0.586, 0.817	3,754

In Table A4.3 we display the results of our moving violation-only analysis of Black and White drivers by stop location. We report findings by year for stops occurring both above and below Interstate 8. The data show that in 2014, stops occurring above I-8 involving a Black driver were more likely to occur during daylight hours, when driver race/ethnicity was visible, than after dark, when it was not, compared to Whites. No such disparities were evident in either 2015 or the combined 2014/2015 data.

Conversely, records of stops initiated in those divisions located below Interstate 8 in 2014, 2015, and 2014/2015 combined show that Black drivers were more likely to be stopped during daylight hours than after dark than were Whites stopped under similar conditions.

Table A4.4.

Modeling the effects of daylight on the odds that Hispanic drivers will be stopped for a moving violation, above and below Interstate 8

	Odds Ratio	p-value	Standard error	95% Confidence Interval	Number of Stops
<u>2014</u>					
Above Interstate 8	1.089	0.339	0.097	0.914, 1.297	4,353
Below Interstate 8	0.721	<0.001	0.055	0.620, 0.838	4,485
<u>2015</u>					
Above Interstate 8	1.012	0.909	0.106	0.823, 1.243	3,390
Below Interstate 8	0.659	<0.001	0.060	0.552, 0.787	3,458
<u>Combined</u>					
Above Interstate 8	1.044	0.515	0.071	0.915, 1.193	7,743
Below Interstate 8	0.677	<0.001	0.039	0.604, 0.759	7,943

Table A4.4, which lists findings of our location-based analysis of moving violation stops involving Hispanic and White drivers, shows a similar pattern. We find no statistical difference between Hispanic and White drivers stopped for a moving violation above I-8, regardless of stop year.

These data show evidence across stop year that moving violation stops involving Hispanic drivers were less likely to occur during daylight hours than at night, when compared to White drivers.

Appendix 5

Limiting the veil of darkness analysis to stops involving male drivers

Tables A5.1 through A5.4 show results of our application of the veil of darkness technique to a sub-sample of male drivers stopped for either moving or equipment-related violations. The results are not meaningfully different from analysis of stops involving male and female drivers compared under similar conditions.

Table A5.1.

Modeling the effects of daylight on the odds that Black male drivers will be stopped citywide for either a moving violation or equipment violation

	Odds Ratio	p-value	Standard error	95% Confidence Interval	Number of Stops
<u>2014</u>					
Black v. White	1.322	<0.001	0.089	1.159, 1.509	5,981
Young Black v. Young White	1.487	0.002	0.193	1.153, 1.918	1,569
<u>2015</u>					
Black v. White	0.844	0.027	0.064	0.727, 0.981	4,616
Young Black v. Young White	0.695	0.010	0.098	0.527, 0.917	1,219
<u>Combined</u>					
Black v. White	1.084	0.108	0.054	0.982, 1.195	10,597
Young Black v. Young White	1.040	0.675	0.098	0.865, 1.252	2,788

Table A5.1 compares citywide stop patterns of Black and White male drivers. In 2014, we find that Black men were more likely to be stopped during daylight hours than after dark, as compared to White drivers. In 2015, the exact opposite was true. Black male drivers were less likely to be stopped during daylight hours than they were after dark, compared to White male drivers. Analysis of the 2014/2015 combined data show no statistically significant difference in the stop patterns of Black and White male drivers.

Table A5.2.

Modeling the effects of daylight on the odds that Black male drivers will be stopped for either a moving violation or equipment violation, above and below Interstate 8

	Odds Ratio	p-value	Standard error	95% Confidence Interval	Number of Stops
<u>2014</u>					
Above Interstate 8	1.368	0.013	0.172	1.069, 1.749	3,224
Below Interstate 8	0.998	0.984	0.104	0.813, 1.225	2,218
<u>2015</u>					
Above Interstate 8	1.142	0.347	0.162	0.865, 1.508	2,650
Below Interstate 8	0.645	<0.001	0.078	0.509, 0.816	1,553
<u>Combined</u>					
Above Interstate 8	1.254	0.015	0.117	1.044, 1.506	5,874
Below Interstate 8	0.806	0.005	0.063	0.692, 0.938	3,771

In Table A5.2, we present the Black-White comparative analysis by stop location. Stops of Black male drivers initiated above I-8 were more likely to occur during daylight hours than after dark in 2014 and 2014/2015 combined, but not 2015, when compared to stops of White men.

In 2015 and 2014/2015, stops of Black men occurring below Interstate 8 were less likely to occur during daylight hours than after dark, compared to stops involving White males.

Table A5.3.

Modeling the effects of daylight on the odds that Hispanic male drivers will be stopped citywide for either a moving violation or equipment violation

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>2014</u>					
Hispanic v. White	1.088	0.080	0.053	0.990, 1.197	8,723
Young Hispanic v. Young White	1.144	0.173	0.113	0.943, 1.389	2,119
<u>2015</u>					
Hispanic v. White	0.827	0.001	0.046	0.741, 0.923	6,728
Young Hispanic v. Young White	0.737	0.005	0.081	0.595, 0.913	1,822
<u>Combined</u>					
Hispanic v. White	0.963	0.297	0.035	0.896, 1.034	15,451
Young Hispanic v. Young White	0.928	0.308	0.068	0.805, 1.071	3,941

Table A5.3 displays the results of analysis of stop patterns of Hispanic and White male drivers, aggregated at the city level. In 2015, Hispanic males were less likely to be stopped during daylight than they were after dark, compared to White male drivers. Analysis of the 2014 and 2014/2015 combined data show no statistically significant difference in the citywide stop patterns of Hispanic and White male drivers.

Table A5.4.

Modeling the effects of daylight on the odds that Hispanic male drivers will be stopped for either a moving violation or equipment violation, above and below Interstate 8

	Odds Ratio	p-value	Standard error	95% Confidence Interval	Number of Stops
<u>2014</u>					
Above Interstate 8	1.173	0.078	0.106	0.982, 1.340	3,712
Below Interstate 8	0.767	0.001	0.062	0.655, 0.899	4,292
<u>2015</u>					
Above Interstate 8	0.990	0.920	0.100	0.812, 1.207	3,061
Below Interstate 8	0.693	<0.001	0.068	0.572, 0.840	3,109
<u>Combined</u>					
Above Interstate 8	1.087	0.214	0.073	0.953, 1.240	6,773
Below Interstate 8	0.725	<0.001	0.045	0.642, 0.819	7,401

Table A5.4 shows results of our location-based analysis of Hispanic and White male drivers stopped for either an equipment or moving violation. Analysis of the 2014, 2015, and 2014/2015 combined data show no statistically significant difference in the Above I-8 stop patterns of Hispanic and White male drivers.

As was the case with Black male drivers, stops below Interstate 8 involving Hispanic men were less likely to be initiated during daylight than after dark than were stops involving White male drivers.

Appendix 6

Division-level traffic stop patterns, by year

Tables A6.1 through A6.6 display the results of our analysis of traffic stop patterns in the nine SDPD police divisions, broken down by driver race/ethnicity and stop year.

Table A6.1.

Modeling the effects of daylight on the odds that Black drivers will be stopped for either a moving violation or an equipment violation in 2014, by stop location

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>Above Interstate 8</u>					
Northern	1.038	0.878	0.258	0.638, 1.691	1,343
Northeastern	1.908	0.002	0.394	1.273, 2.861	1,204
Eastern	1.018	0.918	0.182	0.718, 1.445	1,098
Western	1.410	0.057	0.255	0.989, 2.011	1,416
Northwestern	1.151	0.681	0.393	0.590, 2.246	594
<i>Sub-total</i>	<i>1.253</i>	<i>0.029</i>	<i>0.129</i>	<i>1.024, 1.534</i>	<i>5,226</i>
<u>Below Interstate 8</u>					
Southeastern	1.641	0.030	0.375	1.048, 2.568	740
Central	0.724	0.057	0.123	0.520, 1.010	1,306
Southern	0.952	0.844	0.236	0.586, 1.548	484
Mid-City	0.977	0.869	0.140	0.738, 1.292	1,099
<i>Sub-total</i>	<i>0.905</i>	<i>0.238</i>	<i>0.077</i>	<i>0.766, 1.069</i>	<i>3,402</i>

In Table A6.1, we list the odds that Black drivers will be stopped for a moving violation or an equipment violation in daylight, compared to White drivers, using data from 2014. In the Northeastern division, Black drivers were 90.8 percent more likely to be stopped during daylight hours, when driver race/ethnicity was visible, than in darkness ($p = 0.002$), compared to White drivers. Disparities were also evident in data from the Southeastern division ($p = 0.030$) and in our analysis of aggregate data from the five divisions located above Interstate 8 ($p = 0.029$). We found no statistically significant disparities in data from the other seven patrol divisions, or in the aggregated data from below Interstate 8.

Table A6.2.

Modeling the effects of daylight on the odds that Black drivers will be stopped for either a moving violation or an equipment violation in 2015, by stop location

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>Above Interstate 8</u>					
Northern	1.327	0.277	0.345	0.797, 2.209	1,211
Northeastern	1.072	0.749	0.235	0.699, 1.647	1,087
Eastern	1.281	0.249	0.275	0.841, 1.952	898
Western	0.817	0.375	0.186	0.522, 1.277	904
Northwestern	0.704	0.403	0.295	0.309, 1.602	392
<i>Sub-total</i>	<i>1.067</i>	<i>0.576</i>	<i>0.124</i>	<i>0.849, 1.341</i>	<i>4,226</i>
<u>Below Interstate 8</u>					
Southeastern	1.113	0.716	0.328	0.625, 1.982	456
Central	0.650	0.026	0.125	0.445, 0.949	869
Southern	1.208	0.557	0.389	0.643, 2.272	333
Mid-City	0.978	0.895	0.163	0.705, 1.358	730
<i>Sub-total</i>	<i>0.686</i>	<i><0.001</i>	<i>0.069</i>	<i>0.564, 0.834</i>	<i>2,244</i>

Table A6.2 reproduces the above analysis using data from 2015. We find no statistically significant evidence of Black-White disparity in either the Northeastern or Southeastern divisions, or the below I-8 aggregation. In 2015, stops in the Central division involving Black drivers were *less* likely to occur during daylight than after dark ($p = 0.026$), compared to White drivers. What is more, our analysis of the aggregated data from the four divisions located below Interstate 8 revealed a similar pattern: White drivers were more likely to be stopped during daylight hours than after dark ($p < 0.001$), compared to Black drivers.

We found no statistically significant disparities in data from the other eight patrol divisions, or in the aggregated data from above Interstate 8.

Table A6.3.

Modeling the effects of daylight on the odds that Hispanic drivers will be stopped for either a moving violation or an equipment violation in 2014, by stop location

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>Above Interstate 8</u>					
Northern	0.870	0.398	0.143	0.630, 1.202	1,494
Northeastern	1.250	0.139	0.188	0.930, 1.679	1,361
Eastern	0.717	0.026	0.107	0.536, 0.961	1,227
Western	1.240	0.080	0.152	0.975, 1.576	1,701
Northwestern	1.519	0.064	0.064	0.976, 2.365	679
<i>Sub-total</i>	<i>1.084</i>	<i>0.262</i>	<i>0.078</i>	<i>0.941, 1.249</i>	<i>6,058</i>
<u>Below Interstate 8</u>					
Southeastern	0.960	0.850	0.207	0.629, 1.465	916
Central	0.595	<0.001	0.072	0.469, 0.754	1,718
Southern	0.999	0.991	0.129	0.775, 1.286	2,766
Mid-City	0.950	0.682	0.119	0.743, 1.215	1,418
<i>Sub-total</i>	<i>0.755</i>	<i><0.001</i>	<i>0.049</i>	<i>0.665, 0.858</i>	<i>6,382</i>

Table A6.3 list the results of our application of the veil of darkness technique to stops conducted in 2014 involving Hispanic and White drivers. Stops in the Eastern ($p = 0.026$) and Central ($p < 0.001$) divisions involving Hispanic drivers were *less* likely to occur during daylight hours than in darkness, compared to White drivers. Analysis of the aggregated data from the four divisions located below Interstate 8 produced similar outcomes: White drivers were more likely to be stopped during periods when driver race/ethnicity was visible, compared to Hispanic drivers ($p < 0.001$).

We found no statistically significant disparities in data from the other seven patrol divisions, or in the aggregated data from above Interstate 8.

Table A6.4.

Modeling the effects of daylight on the odds that Hispanic drivers will be stopped for either a moving violation or an equipment violation in 2015, by stop location

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>Above Interstate 8</u>					
Northern	1.033	0.847	0.177	0.739, 1.445	1,368
Northeastern	1.241	0.190	0.204	0.898, 1.713	1,193
Eastern	1.206	0.284	0.211	0.856, 1.701	1,016
Western	0.711	0.037	0.116	0.516, 0.979	1,051
Northwestern	1.030	0.909	0.263	0.624, 1.698	521
<i>Sub-total</i>	<i>1.044</i>	<i>0.607</i>	<i>0.087</i>	<i>0.887, 1.228</i>	<i>4,835</i>
<u>Below Interstate 8</u>					
Southeastern	1.191	0.544	0.343	0.678, 2.093	577
Central	0.499	<0.001	0.070	0.379, 0.657	1,205
Southern	0.983	0.910	0.149	0.730, 1.323	2,212
Mid-City	0.807	0.173	0.127	0.593, 1.098	890
<i>Sub-total</i>	<i>0.697</i>	<i><0.001</i>	<i>0.055</i>	<i>0.597, 0.815</i>	<i>4,574</i>

Data from 2015 reveal similar patterns. Stops conducted in the Western ($p = 0.037$) and Central divisions ($p < 0.001$) involving Hispanic drivers were less likely to occur during daylight hours than after dark, compared to Whites. Similarly, in the aggregate, Hispanics stops conducted below I-8 were less likely to occur in daylight than after dark ($p < 0.001$), compared to Whites.

We found no statistically significant disparities in data from the other seven patrol divisions, or in the aggregated data from above Interstate 8.

Table A6.5.

Modeling the effects of daylight on the odds that Asian/Pacific Islander drivers will be stopped for either a moving violation or an equipment violation in 2014, by stop location

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>Above Interstate 8</u>					
Northern	0.722	0.048	0.119	0.523, 0.996	1,500
Northeastern	1.274	0.022	0.134	1.036, 1.566	1,912
Eastern	1.348	0.050	0.205	1.000, 1.817	1,216
Western	1.074	0.644	0.168	0.792, 1.459	1,483
Northwestern	0.811	0.232	0.142	0.575, 1.144	800
<i>Sub-total</i>	<i>0.982</i>	<i>0.784</i>	<i>0.067</i>	<i>0.859, 1.121</i>	<i>6,349</i>
<u>Below Interstate 8</u>					
Southeastern	1.110	0.691	0.293	0.662, 1.862	356
Central	0.803	0.202	0.138	0.516, 4.028	1,305
Southern	1.509	0.104	0.382	0.919, 2.480	499
Mid-City	1.300	0.133	0.226	0.923, 1.826	860
<i>Sub-total</i>	<i>1.007</i>	<i>0.947</i>	<i>0.104</i>	<i>0.822, 1.233</i>	<i>2,860</i>

Table A6.5 lists the odds that API drivers will be stopped for a moving violation or an equipment violation in daylight, compared to White drivers, using data from 2014. In the Northeastern ($p = 0.022$) and Eastern ($p = 0.050$) divisions, API drivers were more likely to be stopped during daylight hours, when driver race/ethnicity was visible, than in darkness, compared to White drivers. Data from the Northern division reveal the inverse: API drivers were less likely to be stopped during daylight hours than after dark, compared to Whites.

Statistically significant disparities were not present in the other six patrol divisions, or in the aggregated data from above and below Interstate 8.

Table A6.6.

Modeling the effects of daylight on the odds that Asian/Pacific Islander drivers will be stopped for either a moving violation or an equipment violation in 2015, by stop location

	Odds ratio	p-value	Standard error	95% confidence interval	Number of stops
<u>Above Interstate 8</u>					
Northern	1.332	0.095	0.229	0.951, 1.866	1,368
Northeastern	0.982	0.869	0.110	0.787, 1.224	1,682
Eastern	1.065	0.698	0.172	0.776, 1.460	1,046
Western	0.717	0.111	0.150	0.476, 1.079	937
Northwestern	0.863	0.430	0.161	0.599, 1.244	662
<i>Sub-total</i>	<i>0.905</i>	<i>0.176</i>	<i>0.066</i>	<i>0.783, 1.046</i>	<i>5,254</i>
<u>Below Interstate 8</u>					
Southeastern	1.382	0.391	0.521	0.660, 2.900	166
Central	1.468	0.028	0.256	1.043, 2.067	962
Southern	1.388	0.274	0.416	0.772, 2.498	344
Mid-City	0.846	0.450	0.187	0.548, 1.305	499
<i>Sub-total</i>	<i>1.023</i>	<i>0.849</i>	<i>0.122</i>	<i>0.809, 1.294</i>	<i>1,839</i>

As is shown in Table A6.6, using data from 2015, we find evidence showing that stops conducted in the Central division involving API drivers were more 46.8 percent likely to occur during daylight hours than after dark ($p = 0.028$) compared to White driver stops. Statistically significant disparities were not present in any of the other eight patrol divisions, or in the aggregated data from above and below Interstate 8.

Appendix 7

Using logistic regression to model post-stop outcomes

What follows are the results of our analysis of post-stop outcomes using multivariate logistic regression. This technique is valuable in that it allows researchers to examine the relationship between a dichotomous variable, like search/no search, and several other variables. The propensity score matching technique is more effective at isolating the effects of driver race/ethnicity and thus has stronger internal validity than do logistic regression models. Logit models allow for use of a larger sub-sample of the traffic stop population and thus have a higher degree of external validity than do the results of the matched pairs analysis.

Table A7.1.

Using logistic regression to model the likelihood that SDPD officers will search Black drivers

	Odds ratio	p-Value	Standard error	95% confidence interval	Number of stops
All searches	2.98	<0.001	0.091	2.81, 3.17	122,547
Consent	3.63	<0.001	0.269	3.14, 4.20	116,745
Fourth waiver	4.48	<0.001	0.254	4.01, 5.01	116,745
Inventory	1.99	<0.001	0.121	1.77, 2.24	116,745
Incident to arrest	1.38	<0.001	0.122	1.17, 1.64	116,745
Other (uncategorized)	2.57	<0.001	0.171	2.26, 2.93	121,704

The results shown in Table A7.1 show clearly that Black drivers are more likely to be searched than are White drivers following discretionary traffic stops, regardless of search type. Table A7.2 shows similar results when the dataset is limited to Hispanic and White drivers. Hispanics drivers were more likely to be searched than are White drivers.

Table A7.2.**Using logistic regression to model the likelihood that SDPD officers will search Hispanic drivers**

	Odds ratio	p-Value	Standard error	95% confidence interval	Number of stops
All searches	1.93	<0.001	0.052	1.83, 2.04	163,897
Consent	2.02	<0.001	0.140	1.76, 2.31	156,689
Fourth waiver	1.45	<0.001	0.086	1.29, 1.63	156,689
Inventory	2.56	<0.001	0.118	2.34, 2.81	156,689
Incident to arrest	1.20	0.008	0.084	1.05, 1.38	156,689
Other (uncategorized)	1.64	<0.001	0.097	1.47, 1.85	162,708

Tables A7.3 lists the results of four logistic regression models designed to estimate the effects of race/ethnicity on the discovery of contraband, as well as the decision to issue a citation, initiate a field interview, and make an arrest following the discretionary traffic stops of Black and White drivers. The findings are in line with the results of our matched pairs analysis: Black drivers were less likely to be cited than Whites, and Blacks were also less likely to be found with contraband. According to this analysis, Black drivers faced a greater likelihood of being subjected to a field interview and are substantially more likely to be arrested compared to White drivers.

Table A7.3.**Using logistic regression to model post-stop outcomes for Black drivers**

	Odds ratio	p-Value	Standard error	95% confidence interval	Number of stops
Citation	0.59	<0.001	0.009	0.57, 0.60	123,082
Field interview	5.32	<0.001	0.204	4.93, 5.73	123,082
Contraband*	0.68	<0.001	0.071	0.55, 0.83	122,547
Arrest	1.37	<0.001	0.081	1.22, 1.54	123,082

* Includes statistical controls for police search

Table A7.4 lists the results of four logistic regression models evaluating the post-stop outcomes of Hispanic and White drivers. These findings reflect the results of our matched pairs analysis. Hispanic drivers were less likely than White drivers to be found with contraband following a

search and were more likely to be the subject of a field interview. We found no statistical difference in either the arrest or citation rates of Hispanic and White drivers.

Table A7.4.
Using logistic regression to model post-stop outcomes for Hispanic drivers

	Odds ratio	p-Value	Standard error	95% confidence interval	Number of stops
Citation	0.99	0.320	0.011	0.97, 1.01	164,635
Field interview	1.94	<0.001	0.075	1.80, 2.09	164,635
Contraband*	0.58	<0.001	0.054	0.48, 0.70	163,897
Arrest	1.17	0.081	0.103	0.98, 1.39	164,635

* Includes statistical controls for police search

In each case, the results generated by our multiple logistic regression models are consistent with the findings produced by the propensity score matching analysis described in Chapter 5. Taken together, these two sets of results suggest that across most post-stop outcomes, including search, contraband discovery, and field interviews, Black and Hispanic drivers are subject to disparate levels of scrutiny.

Appendix 8

Describing matched and unmatched drivers

Table A8.1 lists by race/ethnicity the outcome of this matching process for Black and White drivers across eight stop characteristics upon which the match was based. These include the reason for and location (police district) of the stop, the day of the week, month, and time of day during which the stop occurred, and the driver's age, gender, and residency status.

The Matched Black Drivers column lists by percentage the distribution of 19,948 stops involving matched Black drivers: 66.0 percent were stopped for moving violations, 9.0 were stopped in the Northern patrol division, 10.1 percent were stopped between noon and 3:00 PM, and so on. The Matched White Drivers column lists similar information for the 19,948 matched White drivers. The Unmatched Black Drivers column describes the 4,150 Black drivers for which a suitable match could not be found. The rightmost column, Unmatched White Drivers, describes the 74,017 White drivers that we could not appropriately match. Table A8.2 lists the same data for Hispanic drivers and their matched (and unmatched) White counterparts.

Table A8.1.
Describing matched and unmatched Black and White drivers

	Matched Black drivers (n=19,948)	Matched White drivers (n=19,948)	Unmatched Black drivers (n=4,088)	Unmatched White drivers (n=73,979)
Reason for stop				
Moving violation	66.0	64.6	31.3	80.6
Equipment violation	32.3	33.4	66.2	18.2
Code violation	0.7	0.7	1.1	0.4
Radio call/citizen contact	0.6	0.7	0.5	0.5
Observation/knowledge	0.3	0.3	0.5	0.1
Suspect information	0.2	0.3	0.5	0.1
Other	<0.1	0.1	0.0	0.1

Table A8.1. Describing matched and unmatched Black and White drivers, cont.

Stop location				
Northwestern	3.1	3.5	0.0	9.4
Northern	9.0	9.1	0.0	25.2
Northeastern	9.2	9.2	0.0	15.7
Eastern	14.2	14.2	0.0	15.2
Southeastern	8.4	7.8	82.5	0.0
Central	17.1	17.4	0.4	9.0
Western	11.4	10.8	0.0	19.0
Southern	4.7	5.3	0.1	2.7
Mid-City	22.5	22.7	17.0	3.8
Stop time				
12:00–3:00 a.m.	13.3	13.0	14.6	8.0
3:00–6:00 a.m.	3.7	4.0	4.1	1.9
6:00–9:00 a.m.	11.7	11.1	8.6	13.7
9:00 a.m.–12:00 p.m.	17.4	17.0	12.4	23.7
12:00–3:00 p.m.	10.1	10.3	4.6	15.5
3:00–6:00 p.m.	15.5	16.2	24.8	15.4
6:00–9:00 p.m.	10.7	11.5	14.7	9.4
9:00 p.m.–12:00 a.m.	17.6	17.1	16.3	12.3
Stop day				
Monday	12.4	13.0	15.4	12.2
Tuesday	16.9	16.5	12.6	19.2
Wednesday	15.6	15.8	11.6	19.5
Thursday	16.0	15.7	14.5	17.6
Friday	15.1	14.6	16.5	13.3
Saturday	13.5	13.6	15.1	10.3
Sunday	10.4	10.8	14.4	8.0

Table A8.1. Describing matched and unmatched Black and White drivers, cont.

Stop month				
January	8.9	9.4	10.5	8.7
February	10.5	10.5	11.6	10.0
March	9.4	9.6	8.1	9.0
April	9.6	9.4	9.3	10.0
May	8.6	8.8	7.4	8.9
June	7.8	7.8	8.1	8.3
July	7.5	7.5	8.5	8.5
August	8.9	8.6	9.5	7.9
September	7.5	7.5	6.8	6.9
October	6.9	6.7	7.2	7.3
November	7.6	7.6	6.3	7.8
December	6.7	7.0	6.9	6.8
Driver age				
Under 18	0.5	0.7	0.3	1.5
18-25	24.5	24.5	29.2	18.6
26-35	32.4	31.3	30.7	26.2
36-45	17.9	18.3	17.1	18.0
46 and over	24.7	24.3	19.9	34.3
Driver gender				
Male	70.0	69.6	77.8	59.5
Female	30.0	30.4	22.2	40.5
Driver residency status				
Resident	77.7	77.6	90.1	73.3
Non-resident	22.3	22.4	9.9	36.7

Table A8.2.

Describing matched and unmatched Hispanic and White drivers

	Matched Hispanic drivers (n=39,252)	Matched White drivers (n=39,252)	Unmatched Hispanic drivers (n=24,928)	Unmatched White drivers (n=54,675)
Reason for stop				
Moving violation	69.5	71.1	61.3	82.1
Equipment violation	29.0	27.7	37.6	16.5
Code violation	0.4	0.3	0.3	0.6
Radio call/citizen contact	0.6	0.4	0.3	0.6
Observation/knowledge	0.2	0.2	0.2	0.1
Suspect information	0.2	0.2	0.2	<0.1
Other	0.1	0.1	<0.1	0.1
Stop location				
Northwestern	6.2	5.5	0.0	10.0
Northern	12.4	12.7	0.0	28.3
Northeastern	10.3	9.9	0.0	17.5
Eastern	13.4	13.9	<0.1	15.9
Southeastern	4.5	4.2	22.0	0.0
Central	17.7	17.0	3.2	6.2
Western	13.6	13.5	0.0	20.1
Southern	7.0	7.6	64.5	0.0
Mid-City	15.0	15.8	10.3	2.0
Stop time				
12:00–3:00 a.m.	10.8	10.4	8.3	8.3
3:00–6:00 a.m.	3.5	3.2	3.0	1.6
6:00–9:00 a.m.	13.8	13.4	13.0	13.3
9:00 a.m.–12:00 p.m.	19.3	20.7	19.1	23.6
12:00–3:00 p.m.	11.6	11.8	10.5	16.2
3:00–6:00 p.m.	15.1	15.5	23.0	15.4

Table A8.2. Describing matched and unmatched Hispanic and White drivers, cont.

6:00–9:00 p.m.	10.6	10.0	11.8	9.3
9:00 p.m.–12:00 a.m.	15.3	14.9	11.4	12.4
Stop day				
Monday	12.7	12.4	13.9	12.1
Tuesday	17.5	18.0	15.6	19.2
Wednesday	17.3	17.6	15.0	19.5
Thursday	16.4	16.7	15.2	17.7
Friday	14.4	14.3	16.2	13.2
Saturday	12.2	12.0	12.9	10.2
Sunday	9.5	9.1	11.3	8.1
Stop month				
January	8.8	8.5	8.6	8.9
February	10.2	10.5	10.3	9.8
March	9.2	9.1	9.4	9.0
April	9.8	9.8	9.1	10.1
May	8.9	8.7	8.4	8.9
June	8.2	7.9	8.5	8.3
July	7.6	7.8	9.0	8.6
August	8.2	8.3	8.6	8.0
September	7.1	7.1	7.3	7.0
October	7.4	7.3	7.1	7.1
November	7.8	8.0	6.9	7.6
December	6.9	7.1	6.8	6.6

Table A8.2. Describing matched and unmatched Hispanic and White drivers, cont.

Driver Age				
Under 18	0.9	0.6	0.5	1.9
18-25	24.9	25.0	29.8	16.1
26-35	30.4	30.7	27.5	25.2
36-45	20.5	20.0	19.9	16.5
46 and under	23.4	23.7	22.2	40.3
Driver gender				
Male	66.4	67.3	68.2	57.7
Female	33.6	32.7	31.9	42.3
Driver residency status				
Resident	70.8	70.7	69.0	76.8
Non-resident	29.2	29.3	31.0	23.2

Appendix 9

Modeling driver hit rates after dropping missing contraband cases

As we note in Chapter 3, 93 percent of stops recorded in 2014 and 2015 were missing information about the discovery of contraband. In the analysis discussed in Chapter 5, we interpreted these missing data to mean that no contraband was found. To account for the possibility that this assumption affected the accuracy of our analysis, we dropped the missing data and re-matched Black and Hispanic drivers with White drivers. Though the sample sizes were significantly smaller, the results are consistent with the previous 'hit rate' findings, as is shown in Tables A9.1 and A9.2.

Table A9.1.

Comparing hit rates among matched Black and White drivers after dropping missing and null cases

	Matched Black drivers (%)	Matched White drivers (%)	Difference (%)	p-Value
All searches	10.7	17.9	-50.71	<0.001
Consent	9.9	19.7	-66.25	<0.001
Fourth waiver	6.9	22.6	-106.06	<0.001
Inventory	19.8	18.6	6.17	0.024
Incident to arrest	4.1	9.0	-74.52	0.810
Other (uncategorized)	25.5	39.7	-43.55	0.055

Note: The analysis is based on a total of 1,998 Black drivers and 1,998 matched White drivers. Missing and null cases dropped.

Table A9.2.

Comparing hit rates among matched Hispanic and White drivers after dropping missing and null cases

	Matched Hispanic drivers (%)	Matched White drivers (%)	Difference (%)	p-Value
All searches	9.8	17.1	54.36	<0.001
Consent	9.6	22.2	79.43	<0.001
Fourth waiver	13.6	16.9	22.20	0.258
Inventory	3.9	5.5	33.80	0.222
Incident to arrest	11.0	18.5	51.01	0.021
Other (uncategorized)	35.2	46.1	26.77	0.097

Note: The analysis is based on a total of 3,038 Hispanic drivers and 3,038 matched White drivers. Missing and null cases dropped.

Appendix 10

Modeling driver hit rates after dropping missing contraband cases

The analysis of citation rates discussed in Chapter 5 was based on the assumption that missing and null cases indicated that no citation was issued. To address the possibility that these findings were skewed by the incorporation of ambiguous data, we re-matched drivers after dropping from the sample stop records that included either missing or null citation data. The results are shown in Table A10.1 and A10.2. The results were substantively unchanged: Black drivers remain less likely to receive a citation than White drivers, while Hispanics and Whites are ticketed at nearly identical rates.

Table A10.1.

Comparing citation rates for matched Black and White drivers after dropping missing contraband cases

	Matched Black drivers (%)	Matched White drivers (%)	Difference (%)	p-Value	Matched pairs
Searched drivers included	54.6	60.4	- 5.1	<0.001	19,103
Searched drivers excluded	54.4	60.5	- 6.1	<0.001	18,504

Note: Missing and null cases dropped.

Table A10.2.

Comparing citation rates for matched Hispanic and White drivers after dropping missing contraband cases

	Matched Hispanic drivers (%)	Matched White drivers (%)	Difference (%)	p-Value	Matched pairs
Searched drivers included	63.7	62.7	0.9	0.003	38,059
Searched drivers excluded	63.7	62.9	0.8	0.011	37,203

Note: Missing and null cases dropped.

Appendix 11

SDPD officer training

On November 4, 2016, we received the following statement from the San Diego Police Department regarding their current officer training requirements:

SDPD is a recognized leader in officer training. The concepts of de-escalation, non-biased policing, community policing and diversity are embedded in all training at the academy, and all sworn ranks receive ongoing training in these areas. The following highlights specific training courses offered in the past few years.

- *Academy Training for New Recruits:*
 - *People with Disabilities & Mental Illness—15 hours*
 - *Policing in the Community—24 hours (POST only requires 18 hours)*
Includes Community Policing, Media Sensitivity, Community Mobilization, Community Partnerships, Resource Development, Crime Prevention, etc.
 - *Cultural Diversity/Discrimination—46 hours (POST only requires 16 hours)*
Includes EEO, Cultural Diversity, Racial Profiling, Spanish, LGBT, Hate crimes
 - *Victimology and Victim Assistance—6 hours*

- *New Officer Phase Training after Academy—increased by 5 weeks in 2015:*
 - *Agency-Specific Training—immediately follows academy graduation*
Includes family wellness day (added in 2012) and one-day bus tour (added in spring 2015)
 - *Observation/Community Engagement Phase—one month, provided prior to field training phases (added in summer 2015)*
 - *Crisis Response Team Training (CRT)—40 hours, provided to all new officers (added in 2015)*
Includes de-escalation, dealing with the mentally ill, slowing down responses, awaiting adequate cover, and supervisory oversight
 - *Emotional Intelligence/Effective Interactions—16 hours, after completion of fourth field training phase, just prior to being released on their own (added fall 2015)*

- *Advanced Officer Training (AOT) required for all officers and sergeants every two years—40 hours*
 - *2015-2016 agenda includes the following topics:*
 - *Non Biased Based Policing—3.5 hours*
 - *Tactical Communication—2 hours*
 - *Defensive Tactics/Use of Force (including de-escalation)—4.5 hours*
 - *Civil Liabilities—2 hours*

- *Wellness (including emotional intelligence)—2 hours*
- *2017-2018 planned agenda includes the following topics:*
 - *Non Biased Based Policing—3 hours*
 - *Tactical Communication—2 hours*
 - *Defensive Tactics/Use of Force (including de-escalation)—5 hours*
 - *Emotional Intelligence—5 hours*
- *Command Training required for all sergeants, lieutenants and captains—40 hours (added in summer 2015)*
 - *2015 agenda included the following topics:*
 - *PERF Report and Recommendation Implementation Plan—1.5 hours*
 - *Emotional Intelligence Model—2 hours*
 - *Procedural Justice Model—2 hours*
 - *Tactical De-escalation—1 hour*
 - *Crucial Conversations/ Practical Application of Emotional Intelligence—2 hours*
 - *Employee Wellness/Self Care—1 hour*
 - *Mitigating Liabilities—2 hours*
 - *Captain's Discussion—3 hours*
 - *Non-Bias Based Policing—1.5 hours*
 - *Body Worn Camera Panel (how to enhance accountability, transparency and reduce liability)—2 hours*
 - *Leadership—4 hours*
 - *2016 agenda included the following topics:*
 - *Leadership—2 hours*
 - *Critical Incident Debrief (lessons learned)—2 hours*
 - *Demonstration Management—1 hour*
 - *Tactical Scenario Training—4 hours*
- *Fall 2015 Field Training Officer Refresher—all Field Training Officers, included the following:*
 - *Procedural Justice*
 - *Emotional Intelligence*

Exhibit G

PUBLIC SAFETY

'We have work to do': Another report finds deep racial disparities in San Diego police data



Mayor Todd Gloria speaks to the media on Thursday about a report by the Center for Policing Equity. Gloria is accompanied by police Chief David Nisleit. (Jarrod Valliere / The San Diego Union-Tribune) (Jarrod Valliere/The San Diego Union-Tribune)

Researchers said disparities against Black people remained, even after accounting for factors like poverty and crime rates

BY LYNDASAY WINKLEY, DAVID HERNANDEZ

JUNE 17, 2021 8:57 PM PT

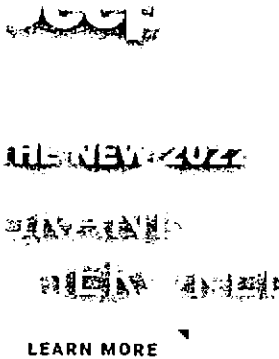
SAN DIEGO — Another study of San Diego police data has found that people of color — especially Black people — are stopped, searched and subjected to force at higher rates than their White counterparts, even after accounting for factors like poverty and crime rates.

“The data is very clear. We have work to do,” Mayor Todd Gloria said Thursday while discussing the findings during a news conference outside the San Diego Police Department headquarters.

“We’ve known for some time about the racial disparities that exist in policing,” he said. “No matter the reasons behind them, these disparities can stir up pain for members of our San Diego city community. We as a city will own this and will work to be better.”

The report, released Thursday, adds to a growing list of studies that have brought into focus long-standing, pervasive racial disparities within the county’s second-largest law enforcement agency.

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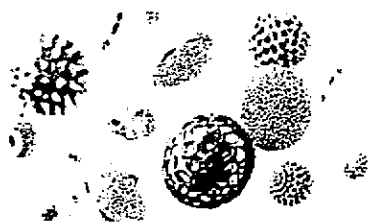
Lyndsay Winkley on San Diego News Fix:

A new report finds racial disparities in San E



Community members calling for reform often reference these kinds of studies alongside their own experiences with police. And although police leaders said after the report's release that they plan to make changes to the department's policy on consent searches — a shift activists have long advocated for — some community members have criticized city and police officials for shying away from policy initiatives that could more directly address racial disparities.

Bishop Cornelius Bowser, a police reform advocate, said the city and the Police Department have had ample opportunities in the wake of similar studies published in recent years to implement substantive policy changes that would improve the way officers interact with communities of color, particularly during traffic stops.



PAID CONTENT

The word “antibody” is on everyone’s mind these days.

By Angen

But what about an antibody option for severe asthma?

“We need more than just rhetoric,” Bowser said. “We need more than just the same old song.”

Police Chief David Nisleit vowed to take a close look at the findings and engage in conversations with the public about how to best move forward. Next week, the department and the Center for Policing Equity will host two events to share some of the report's key findings and solicit input from the public.

“From the beginning, we anticipated the findings would likely show disparities and bring up pain felt by some of our (communities of color),” Nisleit said. “These disparities do not necessarily mean discrimination, but they do allow us to take a much deeper look into why they exist and how we can address them through procedural, operational and strategic decision-making.”

The Police Department commissioned the study from the Center for Policing Equity, a nonprofit that uses data to help police agencies identify and eliminate bias, in 2019. The report looked at four years of data from 2016 into 2020 including pedestrian stops, traffic stops and use of force.

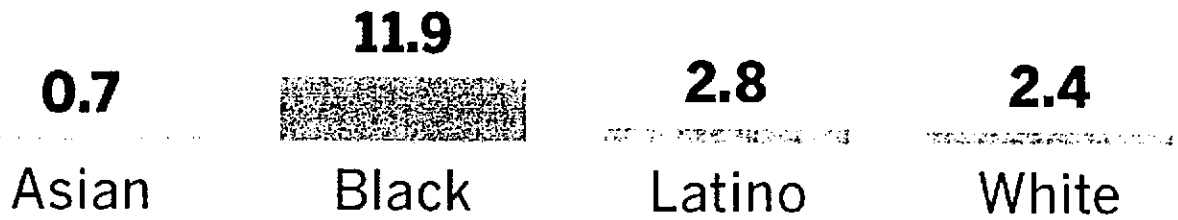
Many of the findings mirror those presented in similar studies, including a [San Diego Union-Tribune analysis](#) of nearly 500,000 police and deputy stops published earlier this year.

According to the latest report, Black people, who account for about 6 percent of the city's population, made up nearly 23 percent of all pedestrian stops.

● Report analyzes San Diego police

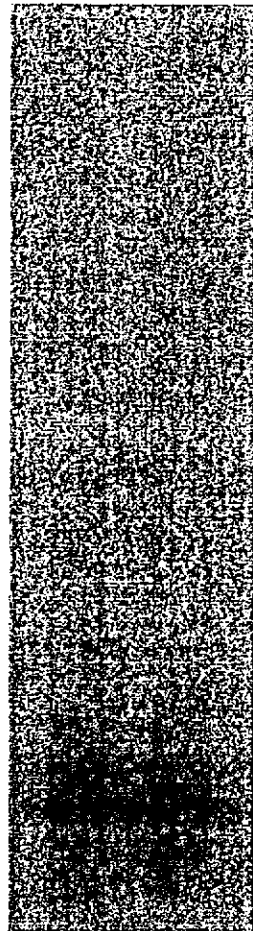
The Center for Policing Equity analyzed San Diego police pedestrian stops, traffic stops and uses of force that occurred from 2016 into 2020.

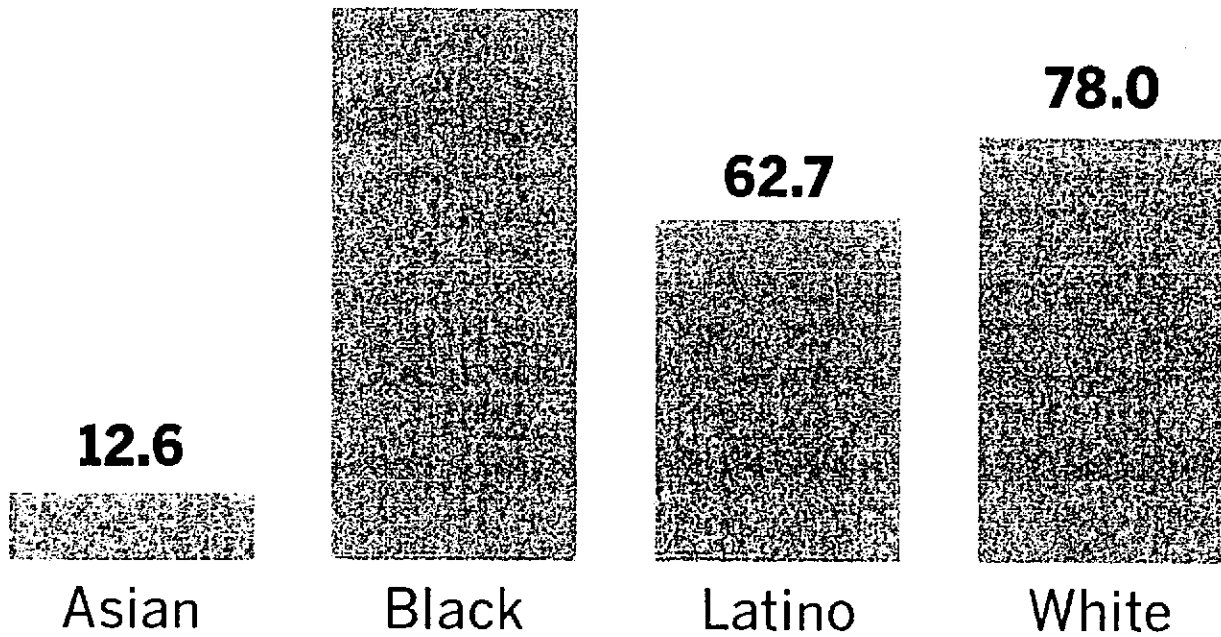
Use of force incidents per 1,000 residents by race



Non-traffic stops per 1,000 residents by race

271.8





Traffic stop and searches by race

Race	Stop counts	Search counts
Asian	11,207	133
Black	21,890	834
Latino	50,276	1,671
Middle Eastern/ South Asian	6,637	61
White	57,000	837
Other	2,089	48

Traffic stop and non-traffic stop data from Q3 2018-Q3 2020.
Use of force data from Q4 2016-Q3 2020.

Source: The Center for Policing Equity

MICHELLE GILCHRIST U-T

During pedestrian stops, Latinos and Asians were searched more often than Whites. According the report, Asian people were less likely to be found with contraband than White people who were searched.

During traffic stops, Blacks and Latinos were more than twice as likely to be searched than Whites. Latino people, however, were less likely to found with contraband than White people who were searched, the report said.

The study also broke down pedestrian stops made by every San Diego police officer. According to the analysis, not one patrol officer stopped Black people at rates that were lower than the proportion of Black residents in an officer's patrol area. However, 17 percent of the department's patrol officers stopped White individuals at rates that were lower than the proportion of White residents in those their patrol areas. More than 60 percent of patrol officers stopped Latino individuals at rates that were lower than the proportion of Latino residents in their patrol areas.

Bowser said he believes these findings were a reflection of the systemic racism many feel is at the core of police disparities.

"That's why we have to change the policies on how our communities are policed," he said.

Researchers also employed a statistical technique called a regression analysis, which investigates to what extent factors other than an individual's race — like neighborhood characteristics, poverty and crime rates — contribute to a person's likelihood of being stopped.

Even after accounting for these factors, Black pedestrians were stopped 4.2 times as often and were nearly 5 times more likely to be subjected to force when compared to White people, the report said.

"When racial disparities are present even when the influence of these neighborhood-level factors is removed from the equation, it suggests officer behavior, or department policy or practices, are likely to be playing a role," the report

≡

The San Diego Union-Tribune

Q

Regarding use of force, Latino people were also more likely to suffer force than White people. Nearly half of all children between the ages of 3 and 14 who were subjected to force were Latino.

Although department officials have acknowledged in the past that officer bias likely contributes, in part, to policing disparities, law enforcement leaders have said factors outside officers' control — situations like homelessness, mental illness and criminal activity — are more responsible for racial discrepancies.

Previous studies have shown, for example, that a large number of police stops are made in San Diego's East Village community, where many homeless people live. Although Black people account for 6 percent of the city's population, they make up 21 percent of the county's unsheltered homeless population and 30 percent of the county's sheltered homeless population, according to the latest homeless count by the San Diego Regional Task Force on the Homeless.

Over the last several years, the San Diego Police Department has implemented some reforms, including a long-sought ban on the carotid restraint, or sleeper hold.

The department also codified stand-alone de-escalation and duty-to-intervene policies, adopted new policies setting limits on officers' actions during protests and reconfigured its gang-suppression team, in part to reduce the impact of saturation patrols, which flood certain neighborhoods with officers.

Other changes are in the works.

A set of proposed policy initiatives would require officers to notify individuals they stop of their right to refuse a search and require officers to get consent to a search in writing or on body-worn camera video.

"I believe it's a positive change," Nisleit said in an interview, adding that the policy revision would not take away a tool for officers. "I'm looking at trying to do anything that we can to build trust but also try to reduce disparities."

The chief also announced a new unit that will track and analyze use-of-force instances in the hopes of learning from individual cases and finding ways to improve training for officers.

But for many advocates, true reform centers on reducing the presence of police in communities across the county and reimagining how public safety is maintained.

In 2016, after a San Diego State University study found officers were more likely to search minorities, even though White people were found with illegal items more often, several San Diego community organizations came together to form the Coalition of Police Accountability and Transparency.

Last summer, the coalition published a roadmap to reform called Police Accountability Now.

One key change proposed by the coalition would require officers to have probable cause to stop, search or detain anyone — a more stringent legal standard than the "reasonable suspicion" model officers use today.

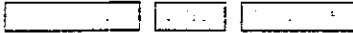
Another major policy shift would be to decriminalize or deprioritize low-level offenses like disturbing the peace, encroachment and petty theft — offenses that disproportionately affect the poor and mentally ill.

Francine Maxwell, president of the San Diego NAACP Branch, said she was pleased that the Police Department will discuss the report's findings with the public. However, she questioned whether the discussion would lead to bold action.

"How much talking can somebody do without implementation?" she asked. "There's not a true sense of urgency."

The first virtual community forum to discuss the report will be held at 5:30 p.m. Tuesday, and another will be held for youth at 5:30 p.m. on June 30. Community members can RSVP at sandiego.gov/CPEreport. The findings will also

be presented to the City Council on June 29.



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Exhibit H



Friday, November 5, 2021

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San Diego Police Chief Grilled Over Report on Police Bias

San Diego's City Council members and the public pressed San Diego Police Chief Shelley Zimmerman on Wednesday to address racial bias by San Diego police officers during traffic stops.

BIANCA BRUNO / December 1, 2016

SAN DIEGO (CN) – San Diego's City Council members and the public pressed San Diego Police Chief Shelley Zimmerman on Wednesday to address racial bias by San Diego police officers during traffic stops.

"So you acknowledge there is a difference in how people of color are policed versus whites," outgoing San Diego City Council President pro tem Marti Emerald asked Zimmerman at a special meeting Wednesday.

"Every human being has bias," Zimmerman responded. "We acknowledge the statistics show a disparity."

The dissatisfaction by audience members in the packed City Council chambers was audible when Zimmerman failed to directly acknowledge a study recently released by San Diego State University researchers that revealed bias toward those whom San Diego police officers stop, interview and search during traffic stops.

San Diego was once a national leader in collecting traffic stop data – it was one of the first cities in the nation to collect demographic data on traffic stops starting in 2000 – but the practice fell by the wayside until local journalists pressed the department on why it had failed to follow its own policy and collect the data.

More than a decade later, the City Council ordered a study on recent data collected on traffic stops.

The 130-page study, conducted by San Diego State professors Joshua Chanin, Megan Welsh, Dana Nurge and Stuart Henry, analyzed nearly 260,000 traffic stops initiated by SDPD officers between Jan. 1, 2014 and Dec. 31, 2015.

It found black and Hispanic drivers were more likely to be stopped, searched and interviewed, but were less likely to be found with illegal contraband than

white drivers who were stopped and searched.

One of the biggest points of concern touched on by the researchers, City Council members on the Public Safety and Livable Neighborhoods Committee and the public was that the traffic-stop data collected by officers following the interactions were often incomplete or even missing.

Chanin told the City Council some 25,000 to 30,000 traffic-stop cards were missing, raising questions about the process in place by the police department to collect the data. And a significant number of officers interviewed by the researchers – 72 percent – said completing the traffic-stop cards was not a worthwhile use of their time.

To many of the black and Hispanic residents in attendance, the study just confirmed what they already know: there is bias in the way policing is conducted in their neighborhoods versus predominately white communities.

Armond King was one of the first speakers to address the council committee. He asked why it's easy for him and his friends to be documented as gang members in a police data base – whether they are truly affiliated with a gang or not – but why the department isn't tracking which officers may be racially profiling during police stops.

"I and the community I represent didn't need this study. There is a simple solution: Just stop racially profiling. I've been racially profiled my entire life, since I was a kid. This is a reality," King said.

Norma Chavez-Peterson, executive director of the San Diego American Civil Liberties Union, raised concerns about what she called the "race out of place" approach, where some officers interviewed acknowledged they would stop and interview people whose race does not match the neighborhood they were in.

On page 76 of the study for example, one officer said: "I'm not going to lie. If I see somebody that's totally out of place and there's a reason to stop them, I'm going to stop them and ask them what they're doing."

Another officer said field interviews are the "bread and butter of any gang investigator."

There were some criticisms directed at the researchers for using a controversial methodology called "The veil of darkness," which compared traffic stops during the day – when officers could presumably see a driver's race – to stops made at night. Center on Policy Initiatives research director Peter Brownell said using the stops after dark as a control group doesn't account for areas with nighttime lighting or other factors that could affect the reliability of that method.

But Councilwoman Myrtle Cole, who represents Council District 4 spanning many of San Diego's black and Latino neighborhoods, said whether the figures from the study are absolutely accurate is irrelevant because it reveals what many already know: there is bias in San Diego policing.

"I am not surprised at the findings, but I'm disappointed," Cole said before looking directly at Zimmerman and saying, "Chief, we need it to stop."

Zimmerman said the department has already taken steps to address bias and that advanced officer training that will be implemented next year to further address bias in policing.

Emerald, who is being termed out at the end of the year, cautioned the report should be taken seriously and that the city needs to invest in implementing the recommendations.

"I think it is obvious the city has work to do," she said. "This is not one of those reports we want to end up sitting on a shelf."

Thanks to a motion by Cole, which the members of the committee voted unanimously in favor of, that won't happen. San Diego Mayor Kevin Faulconer and the police department will have to address the findings in the report and implement recommendations the City Council may make.

The City Council will consider the full report in February.

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PUBLIC SAFETY

Report: Blacks stopped by police across the county at higher rates than whites

San Diego officers, sheriff's deputies also exhibit anti-Latino bias, anti-LGBTQ bias and bias against people with disabilities during searches, report says

BY LYNDSEY WINKLEY

DEC. 3, 2019 8:43 PM PT



A recent analysis of a year's worth of stops by San Diego police and county sheriff's deputies found that black people across the county are searched, arrested and subjected to force at higher rates than white people.


The report also states that both the San Diego Police Department and the San Diego County Sheriff's Department exhibit anti-Latino bias, anti-LGBTQ bias and bias against people with disabilities in their search practices.

The report was disputed by law enforcement officials, who say the findings don't match their own data and unfairly paint the actions of officers as discriminatory.

The study, commissioned by the American Civil Liberties Union of San Diego & Imperial Counties at the beginning of the year, analyzed information collected under the state Racial and Identity Profiling Act. The 2015 law requires officers and deputies to gather data about the people they interact with in the field, including perceived age, perceived race, the reason for the stop and the result of the stop.

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The findings and nearly 20 policy recommendations were presented to about 150 community members Tuesday night at the local United Domestic Workers of America union hall in Rolando.

“It was incredibly upsetting and troubling to see the sorts of disparities that exist,” said David Trujillo, advocacy director for the local chapter of the ACLU. “It points to why we need transparency and accountability when it comes to policing. It’s the only way we’re going to build trust.”

Law enforcement officials from both agencies pushed back against the report. San Diego police Capt. Jeffrey Jordon said the findings unfairly suggest that officers discriminate against members of minority communities. Sheriff's officials said while they had not had time to review the entire report, some of the statistics didn't match their in-house numbers.

"This document is completely designed to push a political agenda," Jordon said.

"There's no context. There was no conversation with us about it. This isn't about problem solving, and it's not about enhancing public safety. It's about pushing these agenda points."



The Conrad Prebys Performing Arts Center

By San Diego Symphony

The Conrad Prebys Performing Arts Center is the heart of the cultural community in La Jolla.

Samuel Sinyangwe, co-founder of Campaign Zero, an advocacy group working to end police violence, wrote the report, which examined about 230,600 officer and deputy stops between July 1, 2018, and June 20, 2019.

Across the county, black people were stopped at much higher rates when compared with the population of black people in the area where the stop occurred, the report said.

In San Diego, police officers made 35,038 stops involving black people; there are about 88,500 black residents in the city. According to the report, officers — not civilians calling 911 — initiated most of those contacts.

"This suggests racial disparities in police stops are the result of police decision-making, rather than the product of officers simply responding to calls for service from communities," the report read.

The disparity was not unique to any particular neighborhood, according to the study. When the numbers were broken down by beat, officers stopped black people at higher rates than white people in 106 of 125 jurisdictions. And in 18 of those beats — including East Village, Mission Valley and Pacific Beach — black people were stopped at rates that were 10 times higher than white people stopped in the same area.

Jordon said some of the most disparate numbers may be the result of large homeless populations. About 28 percent of the people who are homeless in San Diego are black, according to local statistics.

“Even if we’re just stopping to offer services, it still has to be reported,” Jordon said.

San Diego officers also searched and used force against black people at higher rates than white people during stops, according to the report. People thought to be members of the LGBTQ community and people thought to have disabilities were also searched at higher rates than their non-LGBTQ and non-disabled counterparts.

Jordan said he plans to ask the Center for Police Equity — a think tank the department tasked in September with reviewing the same stop data — to take a closer look at the study. The organization aims to reduce police bias through policy recommendations shaped by data analysis.

He also said that although he believes the report was presented in an inflammatory way, he would be willing to meet with advocates to discuss some of the policy recommendations.

Similar disparities were noted in stops conducted by sheriff’s deputies.

According to the report, black people were stopped at higher rates than white people in all areas of the sheriff’s jurisdiction. Similar to San Diego officers, county deputies initiated most stops, not citizens calling 911.

Deputies also stopped, searched, arrested and used force against black people at higher rates than white people, the report said. Latino people had their property seized and were also subjected to force at higher rates than white people.

Force was used against black and Latino people at higher rates than white people, as well, regardless of whether contraband or evidence of a crime was found, the report said. Deputies also stopped, arrested without a warrant, searched and used force against people with disabilities at higher rates than those without disabilities.

Members of the LGBTQ community were arrested and searched at higher rates, despite a lower incidence of deputies finding contraband.

Sheriff's Department officials said although they had not reviewed the analysis in its entirety, some of the report's conclusions did not match the agency's internal numbers.

"For example, the report seems to overstate the rate at which Blacks and Hispanics are stopped within Sheriff's jurisdictions," sheriff's Lt. Justin White said in a statement.

"The numbers in the (report) do not appear to be consistent with our data."

He said the department plans to release a more comprehensive response once the report's findings have been thoroughly reviewed. He also added that the department expects all of its stops, detentions, arrests and searches to be constitutional and within Sheriff's Department policy.

The ACLU analysis included a number of policy recommendations — 10 for the San Diego Police Department and 12 for the Sheriff's Department — designed to assist both agencies in reducing the disparities noted in the report.

Some of those suggestions included writing policies that require officers to use de-escalation prior to force when possible, expanding programs that can act as alternatives

to arrests for low-level offenses and banning certain uses of force like shooting at moving vehicles and the carotid restraint.

“There is not one piece of research that establishes that police departments with more restrictive policies result in more dangers for officers or the public,” Sinyangwe said.

Trujillo, of the San Diego chapter of the ACLU, said he hoped the report and its findings would be a call to action for communities across San Diego. He encouraged people to contact their elected representatives to express their support for police transparency and accountability as well as the recommended policy changes.

Staff writer Alex Riggins contributed to this report.



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Lyndsay Winkley

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Exhibit J



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: November 18, 2019

TO: David Nisleit, Chief of Police
via Albert Guaderrama, Executive Assistant Chief

FROM: Jeffrey Jordon, Captain, Special Projects/Legislative Affairs

SUBJECT: The San Diego Police Department's Analysis of Recommendations from the
Citizens Advisory Board on Police/Community Relations.

Summary:

The Citizens Advisory Board on Police/Community Relations (CAB) evaluated the San Diego Police Department (SDPD) and developed recommendations related to four broad themes that included: Racial Profiling, Wellness, Recruitment, and Training. During their discussions, CAB received extensive presentations from Department members, and officers also responded to questions from the board.

CAB released their recommendations to Mayor Kevin Faulconer, the City Council, and the San Diego Police Department on April 22, 2019. CAB also developed a chart to track the implementation of these recommendations in the following format: fully implemented, partially implemented, not considering, and does not apply. The Department felt an extra tracking area, titled "ongoing analysis," needed to be added, since many of these items will require additional discussion between SDPD, the CAB, and other entities. The Department also believes that some of the recommendations do not fit into a single classification, and their status may fall into a combination of two categories.

SDPD considers these recommendations an opportunity to assess its current operations, participate in an open dialogue with CAB, as well as additional stakeholders, and provide clarity to its decisions and ongoing efforts to meet community expectations.

This memorandum will outline each CAB recommendation, followed by SDPD's response, and will conclude with a status update on each item proposed. The Department anticipates its responses will generate further discussion and looks forward to participating in this process.

Recommendations:

Racial Profiling:

1.20 - Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.

SDPD, Community members, and the City Attorney should collaborate on a statement addressing racial profiling, real or perceived, as an example, the over-policing within some communities. In doing so, CAB recommends historical data and anecdotes be considered in explaining the perceived or real racial profiling and implicit bias in society. In particular, they should consider historical, local law enforcement interactions with local community members.

SDPD Response:

The concept of reconciliation, where police leadership, along with elected officials, acknowledge past and present harms from policing practices that produced detrimental impacts is part of a process designed to overcome mistrust between police and the community, and begin a process of mending this relationship.

The San Diego Police Department recognizes previous efforts by leaders in policing related to this process and their statements, specifically, "All of us in law enforcement must be honest enough to acknowledge that much of our history is not pretty. At many points in American history law enforcement enforced the status quo, a status quo that was often brutally unfair to disfavored groups."

In San Diego, former Police Chief Shelley Zimmerman acknowledged "that every human being, including police officers, has bias." Her comments were made in response to a study by San Diego State University that found racial/ethnic disparities in Department stop data and she committed to implementing changes. These changes included adding training on implicit bias, cultural competency, and emotional intelligence, along with mandating the use of body worn cameras to enhance police accountability and transparency. She also brought back the Professional Standards Unit to the Department to provide additional oversight.

Chief David Nisleit has continued to implement changes by mandating additional training, fully implementing the Racial and Identity Profiling Act of 2015, and working with the Center for Policing Equity to analyze stop data to determine what additional procedural changes can be made to address disparate treatment of community members. Chief Nisleit has already changed the focus of the Gang Suppression Team to embrace a broader citywide violence reduction mission as the newly tasked Special Operations Unit.

Despite past acknowledgement of bias and changes initiated by its police chiefs, community members, including those participating on the Citizens Advisory Board, believe more could be done by the Department and elected officials to address policing practices considered unfair and harmful.

Additional steps to addressing this recommendation may be to publicly restate the Department's commitment to its Non-Bias Based Policing Policy, or develop a more robust procedure similar to the New York Police Department's policy prohibiting Racial Profiling and Bias-Based Policing.

The San Diego Police Department believes this recommendation has been partially implemented, but requires further analysis to determine additional steps for full implementation.

2.20 - Balance SDPD Gang Suppression staffing based upon Crime Rate and Gang population, as a policy.

In reviewing SDPD data, the number of documented gang members have decreased significantly (with the most recent example being the District Attorney's March 2019 removal of 332 from the terms of gang injunctions). Yet, the staffing of the gang suppression unit has not been reduced thus validating the "Over-policing" comment from underserved communities. CAB urges the SDPD to develop a staffing model that may better allocate taxpayer funds in resource allocation and staffing requirements; which needs to involve input from the Gang Suppression Team.

SDPD Response:

The Department's staffing of the Gang Suppression Team (GST), now known as the Special Operations Unit, was not developed or maintained by a correlation to the number of documented gang members within the City of San Diego. Additionally, the Department disagrees that staffing alone is a single metric that can be used to validate the perception of "over-policing" in specific communities.

GST was created in 1996, following 15 years of significant incidents of violent crime, where the City experienced 113 homicides on average annually. For the last 15 years, the number of homicides experienced in San Diego has dropped to an average of 45 annually, and this is a direct result in GST investigating crimes that have a gang nexus, as well as those that may not have been gang related. Additionally, staffing within GST has fluctuated over time, increased and contracted, as a direct consequence of violent crime incidents and the need to complete operational/investigative tasks, not the number of documented gang members.

The reduction of violent crime within the City, which has fallen to levels not seen in decades, allowed Chief David Nisleit to broaden the focus of GST to further interdict citywide violence and be a resource to patrol and investigative commands throughout the Department. The results thus far have been very promising, with the Special Operations Unit being on pace to remove a record number of firearms from our streets and this is being accomplished from a reduced number of contacts.

When violent crime does increase in a specific area, whether it is gang related or not, the Special Operations Unit will respond accordingly and coordinate its response with patrol units from throughout the Department. This has already occurred, while maintaining a broad focus on citywide violence.

Staffing within the Special Operations Unit will be maintained at a level that enables it to meet its expanded mission and remain flexible enough to handle any additional demands placed on it by the Department's executive leadership to address community concerns related to violent crime.

The San Diego Police Department considers this recommendation to not be applicable to its operations, past and present, and believes the expanded role of the Special Operations Unit reduces the likelihood this recommendation will be relevant in the future as well.

2.21 - Curbing Practices

Understanding that curbing is a practice that may be required in the service of protecting and serving, for everyone's safety, CAB recommends that the practice be used as a last resort. The public's perception of curbing varies widely across communities. It can be an effective tool in some communities but can be counterproductive in other neighborhoods. If

required, we ask it to be only as a last resort. To develop communal trust, procedural justice training and other de-escalation methodologies must be employed first.

SDPD Response:

Department Procedure 4.01, related to curbing, was recently updated on September 16, 2019 to educate officers that community members find this tactic disrespectful and the technique is only appropriate where officer safety is threatened.

The San Diego Police Department considers this recommendation to be fully implemented.

2.22 - Pilot moratorium on Pretext stops

While it is understood that officer safety and crime prevention is of utmost importance, the term 'pretext stops' does not support the trust we are looking for in interactions between residents and law enforcement. It is perceived as a dishonest interaction by definition with residents. It has negatively impacted the trust and increased the tension between police and citizen interactions during stops, placing the lives of both officers and community members at risk. Therefore, CAB recommends a 6-month Pilot Moratorium on Pretext Stops to improve community relations and trust. In particular, we recommend the pilot include one community north of 8, one community south of 8, but not pick a community in District 2.

The pilot would test whether reducing or eliminating pre-text stops can improve police/community relations while still allowing SDPD to do their job effectively and safely.

SDPD Response:

A "pretext" stop is when an officer lawfully detains a citizen for a minor crime or traffic violation, but uses this violation to investigate a more significant crime (weapons possession, human trafficking, drug possession, drunk driving etc). The Supreme Court has ruled this investigative technique is legal (see Whren v. U.S.). While the use of pretextual stops to facilitate investigations remains a controversial issue in law enforcement and is the subject of frequent legal challenges and political discussions related to constitutional rights, the benefit as an investigative tool is profound.

The Department's training, past practices in conducting pretext stops, and the inspection of body worn camera videos after these investigative stops occur significantly reduces the likelihood of unprofessional conduct by SDPD officers who conduct pretext stops.

The San Diego Police Department will not place a moratorium on pretext stops due to their overall usefulness in uncovering unlawful conduct; however, the Department is reviewing the recommendations made in Principles of Procedurally Just Policing to explore modifying policies related to stops in order to enhance trust with community members.

The San Diego Police Department considers this recommendation one which will require more analysis.

2.23 - Implementation of AB953

CAB commends SDPD for their participation in the AB 953 reporting efforts. They have done a very effective job in going above and beyond in reporting their results of the documentation required by the Assembly Bill. CAB recommends that SDPD release the information to the City Council concurrently with the reporting to the State Department of Justice. The release of data and findings to the public increases transparency and trust.

SDPD Response:

The San Diego Police Department intends to release stop data collected and reported to the Department of Justice through a partnership with the Center of Policing Equity (CPE), which will provide a thorough and independent analysis of this information to meet the expectation of CAB and all community stakeholders. An agreement between the San Diego Police Department and CPE, was already executed on September 6, 2019, and the Department is taking the next steps to forward data to CPE for analysis.

Additionally, the Department, unlike other law enforcement agencies in CA, already releases collected information through public records act requests, and plans on having representatives from CPE report their findings to City Council upon the completion of their analysis.

With the completion of the agreement with CPE, the ongoing public release of stop data, and the outlook that data analysis will be completed at or shortly after the reporting of statewide data by the DOJ, we are confident CAB will be satisfied with our efforts towards this recommendation.

The San Diego Police Department considers this recommendation fully implemented.

4.20 - Joint efforts with the community groups and residents and stakeholders on Community agreed upon action plans.

CAB encourage SDPD work collaboratively with the community/residents on community identified issues that occur or have occurred in the community, such as the Four Corners Activation Teams. These groups could be attended by community groups such as Captains roundtable, Neighborhood Watch, Town Councils, etc.

SDPD Response:

Generally, the San Diego Police Department works collaboratively with community members on every issue they bring forward and the Department is unaware of additional demands that remain unmet.

For example, SDPD participates in approximately 171 community related meetings and outreach efforts every single month. Our stated values related to "Partnerships" go beyond talking about them, but working to enhance them daily as demonstrated by these numbers. We look forward to working collaboratively with any community group that seeks to reduce crime and increase quality of life for all of our city's residents.

The Department believes this recommendation has been fully implemented.

4.21 - Moving from a Service area to a Beat type of system.

SDPD Response:

Since this CAB recommendation was given without explanation, the Department is relatively unclear about its specific intention. The Department's current geographic structure is based on 125 distinct neighborhoods, often referred to as beats, with individual neighborhood names and boundaries reflecting input obtained from residents and businesses within the area. The overall structure was adopted in the mid 1990's to reflect how our citizens view their neighborhoods and to promote community policing and clear communications about localized issues and crime statistics.

The neighborhoods vary greatly in square mileage and population size, and are not necessarily a means to designate workload for patrol officers. The Department routinely assigns multiple officers to one neighborhood, or beat, if there is a heavy workload, and conversely, assigns multiple neighborhoods to one officer if the workload is light.

Neighborhoods are grouped into Service Areas that are managed by a lieutenant, and the Service Areas are grouped into Area Commands that are managed by a captain.

In sum, the Department takes a multifaceted approach to staffing that evaluates the specific needs of beats, and how they impact a service area as a whole, to best provide policing services to community members.

The San Diego Police Department considers this recommendation to be fully implemented, but will await clarification from CAB to determine if an additional response is warranted.

4.22 - Track crime information by census tracts.

CAB believes tracking Crime by census tracks could be a very useful tool in identifying "hot spots" within each community city-wide. This will give our community a tool to identify what and where resources in these "hot spots" need to be interjected. Additionally, this could be a proactive tool in correcting any negative trends that may be surfacing in other areas in the community.

SDPD Response:

The San Diego Police Department offers several tools to assist the public understand crime in their neighborhoods, which can be accessed on the Crime Statistics and Maps page of the Department's public website at <https://www.sandiego.gov/police/services/statistics>.

Neighborhood reports that show the number of crimes and crime rates per 1,000 residents are updated monthly. Reports showing specific crimes by census tract as required for alcohol licensing and school reporting of crime are annually updated.

The site also contains links to several tools offered by the Automated Regional Justice Information System (ARJIS) website that provide crime information for local law enforcement agencies in the region. One tool provides the ability to run ad hoc crime statistics by beat, neighborhood, service area, command and council district. Another allows ad hoc mapping capabilities for a variety of crime types for customizable areas. The community can sign up for daily alerts based on selections made that define an area around an address for specified crimes. Finally, the underlying data that is used by the mapping and alert applications is made available on a weekly basis for download.

These tools provide data transparency and tools to assist community members in analyzing the data. Crime data can easily be reported by census tract; however census tract names and boundaries are not as identifiable to the public as neighborhood names and boundaries, nor do census tract statistics offer the flexibility offered by the ad hoc capabilities in the mapping application.

Internally, commanding officers, as well as officers of all ranks, have access to a "Dashboard" application, which enables personnel to perform extensive research into criminal activities throughout the City, develop appropriate responses, and analyze their results.

The San Diego Police Department considers this recommendation to be fully implemented.

4.23 Re-balancing Gang Suppression Staffing based upon crime rates.

The data suggests our gang member numbers have decreased considerably in the past 4 years and yet the staffing seems to be at a consistent level of the Gang Suppression Unit. CAB believe adjusting the staffing of this unit with the crime rate and/or gang population would reduce the perception of over policing and a better use of tax payers' funds.

SDPD Response:

This recommendation is essentially a restatement of Recommendation 2.20, and the response provided under that recommendation details the expanded mission of the Special Operations Unit (SOU). The staffing for SOU goes beyond considerations related to the gang population or crime rate to accomplish operations and investigations throughout the City to reduce violent crime and enhance the safety of community members.

The San Diego Police Department considers this recommendation to not be applicable to its current operations.

Wellness:

6.30 - Specific testing and an action plan that requires check-ups every 6 months at least.

Focused assistance to potential Post-Traumatic Stress Disorder candidates. Specific PTSD testing and a potential action plan that requires check-ups every 6 months at least for the first year of employment. Not to restrict but designed to become more aware as an organization.

SDPD Response:

Arguably, one of the more controversial recommendations from the Final Report of the President's Task Force on 21st Century Policing, from which many of the CAB's recommendations were developed, relates to annual mental health checks for sworn officers. As noted by this federal task force, "most health checks are ordered as interventions for anger management or substance abuse and are ordered reactively after an incident." Additionally, the task force noted, "The Federal Government should support the continuing research into the efficacy of an annual mental health check for officers, as well as fitness, resilience, and nutrition (6.1.3 Action Item).

The San Diego Police Department has a nationally recognized Wellness Unit, and is considered one of the top programs in the country. SDPD's Wellness Unit was honored to be recognized as the Destination Zero – Officer Wellness winner in 2016 and was the subject of a US Department of Justice Research project entitled Building and Sustaining an Officer Wellness Program

SDPD's Wellness Unit, along with members at every level in the organization, are well aware that the stressful nature of police work can negatively impact the mental health of its personnel and result in officers experiencing anxiety, depression and post-traumatic stress disorder (PTSD). Every officer is educated on the comprehensive resources available for psychological services, which are provided free of charge by the City, without limit to the number of visits an officer can make and a Department survey resulted in 85% of officers indicating they would use the services provided as needed. Additionally, these services are 100% confidential, which further encourages and increases the likelihood of participation by Department members.

The Department's Peer Support Team has long supported and provided focused assistance to officers involved in significant critical incidents, like involved shootings and in-custody deaths, which may increase the risk of PTSD as recommended by CAB.

The Wellness Unit also has daily interactions with members of the Department at every rank and they regularly visit line-ups at every command throughout the city. The unit is located at SDPD's Headquarters and they maintain office hours for walk-in visits. They are also on call for emergencies involving personnel, and their families, every hour each day of the year. The Wellness Unit keeps regularly scheduled "check-in" times, where they visit areas in the Department that are recognized for being exposed to high risk incidents and they "walk" into units just to check on personnel to see if they need assistance.

As an organization, SDPD has spent almost a decade creating a culture of wellness within its Department, ensuring its members are aware and comfortable using available resources, along with giving focused attention to officers involved in critical incidents. SDPD's Wellness Unit will continue to monitor any research into the effectiveness and efficiency of requiring mental health check-ups without cause, including the legal considerations, significant costs, and employee issues surrounding them.

Additionally, wellness efforts will be supplemented by the Department's Early Identification and Intervention Unit, which monitors records that may indicate officers have been exposed to situations that could impact their well-being or work performance.

The San Diego Police Department considers this recommendation to be partially implemented for the reasons noted above, but continually strives to discover and implement best practices which leads to this recommendation also being one that will always partially remain in an analysis category.

6.31 - Data collection to measure the use of Wellness by Officers and families.

More focus may need analyzing the effect of SDPD Officers spouses and/or loved ones on families. We would like to see a more targeted effort in identifying potential toxic stress on the Officers and their respective families. Each day the family watches their loved ones go to work with the fear their loved ones could be harmed. This trauma day in and day out has a very toxic effect on the families and may need more focused wellness efforts to reach out to the families.

SDPD Response:

The Wellness Unit already uses several mechanisms of data collection to measure its success: surveys, utilization reports, and a quarterly management reports.

For a unit that operates under a confidentiality policy, these metrics are especially critical in demonstrating the success and impact of the program.

Some of the resources provided to officers and their families include:

- Focus Psychological Services are free to family members living in the officers' household.*
- The Family Resource Team provides Peer Support for family members with communication through email, and a closed Facebook page, along with support for families after critical incidents and medical issues.*
- Family Wellness Day was created for the families of the new academy graduates. Family members are given phone numbers to both Focus and the Wellness Unit. They meet some of the Focus Psychologists, Wellness Unit and Chaplains during the event and they are able to ask questions, and express concerns they have about family member joining the police department.*

The San Diego Police Department considers this recommendation fully implemented.

Recruitment:

1.01 - Community residents involved in the selection of candidates for the respective Division.

Community residents involved in the selection of candidates for the respective Division. Using existing groups, or creating new ones such as the Captain's Roundtable, community members should be more involved in the hiring of Officers in their division wherever possible. This would provide "ownership" by each community of the officers in their neighborhoods. Using the existing community group allows SDPD to use residents that have already been meeting with the SDPD command and could have input, understanding the final decision is up to the SDPD Command. This will allow Police Officers and Community members and opportunity to actively participate in the selection decision which would develop a bond and trust between the residents and the Officers/Managers of Division.

SDPD Response:

The selection or assignment of an officer into a command is based on a number of factors. First, recent academy graduates that have completed their training are permitted to identify 3 commands they "wish" to work at as their preferred assignment. This practice has been associated with enhancing the retention of officers within the Department. For instance, an officer residing near Riverside County may not be the best fit to work in Southern Division and could look for other opportunities if they find their commute unmanageable.

Within the commands, Field Training Officers (FTOs), their supervisors, and command staff often meet to discuss how new officers performed during their training within the command, solicit feedback from training academy staff and FTO Administration, as well as speak with new officers to determine their level of interest of working within a command.

Command personnel work very hard to determine if an officer would thrive in the communities they serve before they seek to add them to their team, again an officer's past performance and personal desire are often critical indicators that predict how successful an employee will be within a command. Finally, Commanding Officers, the Chief's Executive Committee (CEC), and Community Resource Officers meet frequently with community groups and value their input. Their feedback, which is already frequently provided in many settings, about individuals who may wish to join the Department, as well as new and established officers who they believe would best serve their communities does not go unheard.

In regards to this recommendation, the San Diego Police Department believes opportunities already exist and are being utilized by command personnel to obtain input from community members regarding the selection of personnel into their commands; however, this process may not be fully developed in every command. The CEC will re-stress the importance of community input on command processes, and will encourage commanding officers to discuss the activities surrounding officer selection with community members and solicit their opinion on personnel who they feel have the best chance of meeting their expectations.

The San Diego Police Department considers this recommendation partially implemented.

1.02 - By reviewing the policy of transferring Officers "through" each community especially in underserved communities.

The intent of this policy is to give the Officers a choice of career paths addressing the practice of incentivizing the Officers wishing to stay in a certain division or transferring to other divisions to get a broader based training scenario. Currently there seems to be a disincentive to remain in the division for a more long-term assignment thus creating some stability in the Division creating better relationships with the residents and the officers.

SDPD Response:

There are numerous officers that remain within the same command for many years and in some circumstances, their entire careers. This decision, as long as they are meeting performance expectations associated with their job classification and desire to remain within the command, is usually left up to the officer.

However, there are times when an officer may look to expand their knowledge, skills and abilities, and an opportunity may not exist within their command where they currently work. The Department often times has preferred shifts and field training opportunities, as well as temporary supervisor and investigative assignments, throughout different commands when positions go unfilled.

If an officer seeks an assignment such as those outlined, and no opening currently exists for this position within their own command due to full staffing, they may seek this position in another Division. Again, this is normally up to the discretion of the officer to move to another command, but it is not a disincentive to remain in their current command particularly as it relates to promotions.

This is because promotional opportunities are based solely on the criteria contained in a legal settlement stemming from litigation between the San Diego Police Officers Association, which represents sworn officers, and the City of San Diego and SDPD.

Based on the issues discussed in this response, the San Diego Police Department believes this recommendation is not applicable to its operations.

1.03 - Youth programs involving retired Officers, community based.

CAB recommends the Youth Programs be continued at the current schools and recruit residents and retired SDPD Officers to begin interacting with the students and encouraging them to think about a career in Law Enforcement. Programs, including identifying which schools and community organizations, YMCA, could help in developing the program and help in populating the program.

SDPD Response:

SDPD Recruiters, which already includes a retired officer, attend high school career fairs and have given presentations to high schools multiple times throughout each year. Montgomery High School has a criminal justice program within their school and our recruiters go every year to speak with the students participating in it.

Our recruiters also attend YMCA camps, speak with those in attendance, and consistently pass out flyers and SDPD giveaways (wrist bands, pens, stickers, lip balms, etc.) to foster an interest in law enforcement and develop valuable relationships. In addition, STAR/PAL, the Juvenile Service Team (JST) and Cadet Program have youth community based programs which enable our Department to interact with students and encourage them to seek a career in law enforcement.

STAR/PAL and JST, along with volunteers working with them, attend numerous events throughout the year and interact on a consistent basis with our youth. The Department is also exploring giving one day of discretionary leave for any employee who refers a police cadet who can successfully pass our SDPD Police Cadet Academy. This will hopefully increase the number of applicants within our cadet program and help develop them for a career in law enforcement. In addition, Sergeant Derek Diaz works with Health Sciences High and Middle College (HSHMC) where he interacts with high schoolers and introduces them to police classes and allows them to experience in our Physical Abilities Test (PAT).

Based on the current level of established youth programs, and participation within them, the San Diego Police Department believes this recommendation has been fully implemented.

2.01 - Credit policies, tattoos and other perceived barriers.

Although more of a "practice for flexibility" CAB urges the SDPD to make these and other related policies an actual policy to avoid the perception of using these items as barriers for residents and candidates from underserved communities. Additionally, it is important we formalize the Practice as to not have the potential of policies being used as an instrument to reject certain candidates in the future.

SDPD Response:

Backgrounds and Recruiting does not discriminate against anyone within our application process regardless of credit score or tattoos. Once an applicant has successfully passed the written examination and physical abilities test, both administered by city personnel, the applicant will fill out a PIQ (Pre-Investigative Questionnaire). Those deemed to be viable applicants based on responses to the PIQ are assigned to a background detective to start a background check. Credit score is only a small component in screening out who are viable candidates. Applicants are disqualified based on the totality of the circumstances for which a background investigator finds, not solely based on a credit score. The Department's policy pertaining to tattoos is determined by the Chief of Police and any exception of hiring someone outside of this policy would be at the Chief's discretion.

The San Diego Police Department continually monitors best practices associated with police hiring practices throughout the nation, including those related to tattoos and credit scores, and considers this recommendation fully implemented.

2.02 – Recruiters need to be better trained on interviewing skills.

Officers assigned to Recruitment assignments would strongly benefit from a formalized training process that includes orienting the Officers to the importance of Interviewing skills, more welcoming first impressions to the public, have talking points included of what is the message our SDPD wants to convey to the potential candidates. The Officers need to be better equipped to represent the SDPD improving their communication skills as well as presentation skills.

SDPD Response:

We understood this portion of the recommendations to mean/refer to not “interviewing”, but more about the initial meeting and greeting that takes place at recruiting events. With this understanding in place, we thought we would offer a short clarification as to the roles Recruiters play versus their Background Investigator counterparts.

Recruiters are responsible for reaching out to perspective applicants and interacting with them at various stages in the initial testing process. They do not conduct recruit candidate background interviews or employment interviews, these are tasks a Background Investigator would handle.

With regards to welcoming first impressions, having talking points and representing SDPD, the Department currently has six full-time recruiters (one sergeant and five officers) and one part-time (retired SDPD Sergeant) as a provisional recruiter. The recruiters are comprised of two female officers and five male officers. There is no formalized training provided by the Commission on Peace Officers and Standardized Training (POST) specifically for recruiters. Each full-time recruiter gets trained by the sergeant in talking points and how to transition from being a patrol officer to marketing the opportunities and benefits of joining SDPD. One of our full time recruiters was a recruiter for the United States Marine Corps. Several other full-time recruiters have been with the unit for a long period of time and have received on the job training and greeted thousands of potential applicants through a variety of recruiting events. These recruiters have successfully attracted hundreds of officers onto our Department.

Because our recruiting team is small for an organization of 1,800 plus, the unit created PRAT (Police Recruitment Assistance Team) in 2018. This consists of approximately 80 officers throughout the Department who assist and attend recruiting events. Each PRAT officer is trained and given a PowerPoint presentation on expectations and encouraging civilians to join our Department, but often times it is their enthusiasm and honest expression of being a part of organization that is committed to enhancing the lives of others that resonates most with potential recruits.

As a result of the expressed concern with this recommendation, the San Diego Police Department will commit to analyzing the knowledge, skills, and abilities of our Recruiting Unit members to determine if improvements can be made. For instance, the Department will analyze the feasibility of expanding training and have a PRAT officer first work with one of our full time recruiters before working a recruiting event by themselves.

The San Diego Police Department considers this recommendation one which will require more analysis.

2.03 - Policies of moving Officers around; stability in the neighborhoods vs traditional Career paths.

Currently Officers appear to be more incentivized to rotate through different commands to get the experience needed for promotions. Although this may seem like a good direction in which to evaluate officers for promotions it appears to be in conflict with the model to allow Officers that wish to do so remain in the Division of their choice for an agreed upon time frame to establish better familiarity with the community and residents while not negatively impacting the Officer's career path. At this time, we feel explaining how officers are rotating through Divisions and functions to the community could impact the perception of turnover within our Divisions.

CAB has not received any data indicating the turnover in any divisions within the City. Historical law enforcement practices have had officers rotate from one division to another after a set number of years. In building positive relations between police and citizenship, this practice has been a barrier in building positive relationships between police officers and the community they serve. CAB recognizes the importance of building trust and easing tension between the police department and the communities they serve. Communities with historical tension between police and the community, in particular, would benefit from having ethical officers whom have a genuine interest to serve that community. Creating a stable law enforcement team will allow communities the opportunity to get to know the officers to build rapport with the citizens. CAB encourages SDPD to implement a practice and/or incentive that would encourage police officers to stay within a division as they advance and expand their experience in order to provide communities a community-oriented law enforcement officer.

SDPD Response:

As noted earlier in Recommendation 1.02, the Department does not provide specific incentives or encourage rotation through commands after a set number of years. SDPD does acknowledge that extensive rapid turnover within the Department, and impacting every command, has changed Department culture and required placing officers in investigative and supervisory positions throughout the Department in a departure from previous San Diego Police Department practices. This can lead to instability in the Department and the communities we serve, but is largely unavoidable due to SDPD's attrition.

Specifically, since FY2006, the SDPD has lost over 2,000 sworn officers for all reasons, with over 350 officers leaving for other law enforcement agencies.

This turnover altered the movement and assignments of officers within commands in a manner that some citizens may have never seen before.

It is believed a review of attrition statistics related to sworn personnel, along with an explanation of the promotional settlement agreement between the City and the San Diego Police Officers Association, would have likely changed CAB's assumptions related to this recommendation. We are happy to provide these statistics if requested.

Much of the instability of personnel movement experienced by the community stems from massive attrition rather than incentivized movement.

This recommendation is not applicable to current San Diego Police Department operations, but the CEC will direct commanding officers to speak with their respective community groups to further explain how attrition has impacted officer movement and promotions.

2.04 - Review of the Job Descriptions and Recruiting Policies to help in finding candidates. Recruiters represent SDPD.

SDPD Response:

SDPD's Recruiting Unit is always assessing its team and working on ways to recruit new candidates. Last year, the recruiting team did the following: attended approximately 200 events, hired a marketing company (Loma Media) to create videos and upgrade the Department's website to reach potential candidates via social media, created a monetary incentive program for referring police recruits and laterals officer to SDPD, and hiring Southwestern Police Academy graduates without having them to attend our academy. This is being done along with conducting two PAT tests a month instead of one, and giving written tests out at multiple locations.

The San Diego Police Department considers this recommendation fully implemented.

3.01 - Targeting more local recruiting sources to better balance the type of Officers we are attracting.

CAB's research suggests 30% of our candidates each year have active "on the ground" Military background. If the 30% figure is correct, and considering turnover, we estimate the total population of the officers with military background, (combat) is somewhere around 65-70%. This unbalanced workforce can define the "culture" of the Department highlighting the premise it is easier to teach a candidate to fire a weapon than it is to teach them to effectively interact in communities of color, or in general communities that are "different" from theirs. Again, CAB's goal is not to restrict candidates with combat experience but rather to better balance our police workforce to better represent San Diego's communities.

SDPD Response:

Unfortunately, CAB's research is incorrect in regards to this recommendation and it leads to faulty assumptions related to the Department's hiring practices and culture. Currently, approximately 34% of the Department's sworn personnel have a varied military background, and for years it has fluctuated between 33 to 35%.

SDPD acknowledges its Recruiting Unit consistently attends military bases, because their very diverse membership frequently expresses an interest in joining our Department. Additionally, SDPD feels that military personnel complement its culture, as a result of the "service before self" behavior that permeates our armed forces.

SDPD's Recruiting Unit targets everyone within the community that desire to make a positive difference in the lives of others and attends a variety of events throughout San Diego County and the region to find the absolute best applicants.

The San Diego Police Department considers this recommendation to not be applicable to its operations based on the incorrect assumptions that led to its development.

3.02 - Develop Recruitment material based upon a less military perspective and more of a Community partnership message.

CAB recommends review of SDPD Recruiting collateral material to highlight more of a balanced approach to recruiting material including TV ads, written and social media adjustments.

CAB was not given the opportunity to meet with the contracted recruitment firm to relay the information CAB has received from communities to ensure their perspective is addressed.

SDPD Response:

Loma Media, a partner in the Department's recruiting efforts, has fully implemented this recommendation by creating several new recruiting videos geared towards attracting diverse recruits that are from our local communities and who also desire to be a part of continuing of serving their neighborhoods. Several of the videos stress community involvement and stress being able to make positive changes.

The San Diego Police Department considers this recommendation fully implemented.

Training:

1.10 - Offer Officer Training examples, (simulation) in the community, including actual real-life examples of what an officer faces in more schools and workshops.

Create "Inside SDPD" as a mobile education unit which includes a mobile Force Option Simulator (FOS). Schedule at least bi-monthly events in rotating communities. Develop a special school-based session. SDPD could involve local community groups as partners to provide this opportunity in each community.

SDPD Response:

In-Service Training has done this in the past, and still does this periodically. For example, on October 12, 2019, a Community and Police Practice Workshop was hosted University of San Diego, with support from the BPOA, PANPAC, NLPOA and SDPD's Training Unit, to introduce community leaders to topics including: Internal Affairs, Use of Force and Simulated Force Scenarios, Traffic Stops, and the Psychological Emergency Response Teams (PERT).

However, meeting this recommendation has some challenges. For instance, the current mobile Force Option Simulator (FOS) has limited capabilities and works best in certain environments due to the extensive time that can be associated with it being set-up. The Department is currently looking at a replacement system that is more practical, less expensive, and incorporates scenarios dealing with those suffering from mentally illness.

Staffing to incorporate bi-monthly 'Inside SDPD' would also be a challenge. We would have to train several more officers, ideally from various Commands as to not to severely impact In-Service Training or one Command.

The San Diego Police Department considers this recommendation one which will require more analysis, in order to determine the steps and financial support needed for full implementation.

1.11 – Support education of community members by sharing a sample of training classes from academy curriculum.

SDPD Academy Instructor to lead an overview class as a community education session. Ensure perseverance of POST content and teaching style. Allows for community input and interaction to offer opportunities to enhance teaching methods for future. (Use of Force, Cultural, De-escalation, etc. – based on neighborhood need)

SDPD Response:

Per SB-978, on January 1, 2020, POST and all Law Enforcement Agencies must place on their website all education and training material. The material that is instructed at the San Diego Regional Public Safety Training Institute (SDRPSTI or Regional Police Academy) will be available for the public to read. Community input is always welcomed and is also addressed in recommendation 5.10 listed below.

The San Diego Police Department is in the process of implementing SB-978, along with continuing programs like “Inside SDPD.” The Department also provides community education sessions in formal settings like the Community Review Board on Police Practices and at the Public Safety and Livable Neighborhoods Community, but also provides opportunities to learn about policing at informal “Open Houses” that are held regularly at SDPD’s Patrol Divisions.

Additionally, the Department is proud of its innovative social media efforts to educate community members about academy instruction through influencers like Michelle Khare and her “Challenge Accepted” series. Ms. Khare’s latest challenge was facing training exercises performed by SDPD recruits.

Her experiences were professionally documented and the video was placed on “You Tube.” It has been viewed nearly 4 million times, allowing a local, along with a national audience, to gain insights into SDPD’s police academy.

The San Diego Police Department considers this recommendation partially implemented and requires ongoing analysis to achieve full implementation.

1.12 – Update staff evaluations to include significant measure of communication skills.

Each daily, weekly, and monthly performance review for FTOs and officers should include measuring the effectiveness of communication skills. i.e.: verbal (tone/volume), non-verbal (body language, eye contact), written (reports), and diversity competence (knowledge of culture, religion, age, gender, etc.)

SDPD Response:

This recommendation addresses evaluations at the FTO level, since it lists “ Daily Performance Reviews.” The specific examples provided are already addressed in the Field Training Guide (aka Trainee Blue Book).

The Field Training Guide lists the standards for each Performance Anchor. Specifically, pages 43 through 44 for Anchor #11 include the following:

Diversity – Understands diversity and its impact on public interaction; Reacts properly with due consideration to the diversity of those involved; Practices non-biased based policing.

Fair Treatment/Objectivity/Racial Profiling – Does not allow personal bias to influence decision-making and problem solving; Provides police services to all members of the public in a fair and impartial manner; understands non-biased base policing.

Body Language – Projects professional and appropriate non-verbal communication.

The San Diego Police Department considers this recommendation fully implemented.

1.13 - Youth programs involving Officers and are community based.

Provide Community training to residents, teachers, community leaders, and officers to encourage youth to think about a career in Law Enforcement. Presentations should be held at schools, community organizations (YMCA), city resources (libraries). Emulate Health Sciences High School Police program at other schools. Share information about the SDPD Cadet Program (ages 16-21) and actively recruit students from high schools and colleges.

SDPD Response:

As noted in the response to Recommendation 1.03, the Recruiting Unit, Community Resource Officers, Juveniles Services Team, and members of STAR/PAL frequently interact with a diverse set of community members locally, as well as groups from throughout the region, to encourage careers in law enforcement. In-Service Training provides programs like "Inside SDPD," give those interested an opportunity to see firsthand operations with the Department.

Additionally, the Department is constantly assessing whether it can expand its recruiting efforts, which has already undergone significant improvements with the hiring of Loma Media.

The San Diego Police Department considers this recommendation fully implemented.

1.14 - The department should incorporate procedural justice principles in any Policing Plan that is developed with input from department members, city staff and community leaders.

As training and manuals are regularly updated, it is important that procedural justice principles are incorporated. Internal and External Procedurally Just behavior is based on four central principles: Respectful Treatment, Fair Voice for All, Neutrality, and Trustworthiness. Review the Department's mission statement, values and operational priorities to ensure tenants of procedural justice, a guardian mindset, policing legitimacy, and public trust are included.

SDPD Response:

Procedural justice and police legitimacy are issues the San Diego Police Department has trained and tested its personnel on for years.

The Department's Vision, Value and Mission Statement were recently updated and released Department wide on July 24, 2019, at the direction of Chief David Nisleit, with input from throughout the Department and it reflects SDPD's commitment to procedural justice and legitimacy.

Our Department's commitment to the community is, we will review and update our policies to reflect best practices, stakeholder concerns, and the inclusion of tenets associated with procedural justice – which is most clearly reflected in the responses being provided to these recommendations.

This recommendation is one which will always be a work in process, since the Department's efforts to meet the dynamic changes facing law enforcement will always require its policies and procedures to be scrutinized and updated to meet community expectations and our continued desire to serve well.

The San Diego Police Department considers this recommendation partially implemented and will require constant analysis to remain relevant.

1.15 - Annually CAB Members invited to attend specific courses during each Academy.

CAB Members have been vetted by the city and are vested in the interests of both SDPD and the community. Giving CAB Members the opportunity to attend designated courses would allow for community feedback on curriculum and instruction.

SDPD Response:

SDPD has invited community members to attend specific courses during the Regional Academy in the past. SDPD will explore whether this is still permitted and seek to obtain the approval of the Academy Director, and any other approval required, for community members to observe courses provided they do not interfere with the academy training.

The San Diego Police Department considers this recommendation one which will require more analysis.

1.16 - Encourage involvement with the community by officers and increase communication with CROs.

Officers should have ongoing training for building relationships and understanding how to identify key community members. Examples of engagement in the community are: waving to others, supporting local businesses, giving stickers to children, attending community events, etc. CROs should be a link to FTOs and officers to give awareness for upcoming community events.

Every division should have a Captain Advisory Board Meeting in which officers should attend at least one per year to get to know community leaders.

SDPD Response:

Introducing police recruits to the community policing philosophy starts in the Regional Academy, and is reinforced with each officer during Field Training through Performance Anchor #8 on their Daily Performance Evaluation.

Following phase training, supervisors and command staff stress the importance of community engagement and policing during an officer's entire career, with officers being evaluated on the interpersonal and communication skills they demonstrate with community members.

CROs are also very involved in speaking with officers about community issues, they attend patrol line-ups and bring forward community complaints/requests for officers to address during their shifts. It is also common for officers to attend community meetings with command staff and CROs, particularly if

there are controversial issues being discussed that impact public safety. Many of our officers are familiar with community leaders and expect to see them during their shifts.

We will seek to fully implement this recommendation by having officers attend Community Advisory Board meetings as staffing levels allow.

The San Diego Police Department considers this recommendation fully implemented.

1.17 - Encourage community engagement with volunteer activities.

Encourage officers to be involved in community volunteer activities, (neighborhood watch, youth programs for sports, education, etc.) This experience should be a weighted factor in promotion and assignments.

SDPD Response:

The San Diego Police Department already actively encourages officers to volunteer in community activities. For example, officers participate in the Big Brothers Big Sister program of San Diego County, as well as youth sporting programs throughout the region. Of special note, Lieutenant Gutierrez's passion for boxing was channeled into developing a program for neighborhood kids to encourage them to overcome adversity. His efforts were showcased on several local media stations.

However, most of the volunteer efforts of San Diego Police Officers go largely unseen. Officer "Ito" Fuerte volunteered at David's Harp Studio to change the perceptions of San Diego law enforcement officers through music.

While efforts like these are not directly factored into promotion and assignments, the knowledge, skills, and abilities gained by officers through volunteer activities can enhance their oral interview scores in the promotional process.

Having this experience as a weighted factor in promotions would likely be very difficult, since it would need to be a meet and confer item with the San Diego Police Officers Association and not every officers can volunteer in communities as a result of professional and personal time demands in their lives.

The San Diego Police Department believes this recommendation has been partially implemented and will need further analysis to determine if, and how, this recommendation could be implemented into the promotional process.

2.10 - Build the FTO program of the Department with more experienced officers and incentivize FTO officers in their training role.

There is currently a restriction on Police Officer 3 (POIII) that needs to be removed so the Field Training Officer (FTO) pool of experienced officers can be increased. FTOs should receive an incentive based on time spent with the trainees, in addition to the frequency that each FTO is training.

SDPD Response:

There are currently 11 POIII positions budgeted with the Department and very few people have the historical knowledge to recall this position was created by Civil Service following a decade of negotiations between the City and the SDPOA. Also, when this position was approved, Civil Service

made clear this classification had to be distinct from positions and classifications that already existed within the Department. This meant Civil Service did not intend for POIIIs to become Field Training Officers, but rather the classification was designed to perform specialized duties and provide leadership for squads during a supervisor's absence.

If POIIIs want to be become Field Training Officers, they can pursue this career choice; however, since the position was implemented it was determined by the CEC that POIIIs should not perform the duties of both classifications simultaneously.

The Department strives to select the best patrol officers to be FTOs. Experience comes with time. FTOs are currently paid 5% FTO pay as an incentive, along with acquiring the knowledge, skills and abilities of a first line supervisor that should enhance their chances of promotion.

In order to further assess this recommendation, the CEC should meet before entering negotiations with the SDPOA to determine if additional incentives are warranted and whether POIII duties should/could be modified to allow them to become training officers.

This recommendation will require further analysis and potentially meeting with Human Resources and Civil Service to determine potential responses.

The San Diego Police Department considers this recommendation one which will require more analysis.

4.10 - More accountability of the Officers, FTOs, and FTO Sergeant. A closer look at the performance evaluations including goals and objectives for each officer.

The FTO positions are the closest line of safety for the new officers, and their interactions together have a huge impact on police and community interaction, respect, and trust. The community should trust and rely upon them for emergencies and assistance, therefore, we must ensure they are properly trained and are passing the correct and accurate information to the new officers. Sworn personnel of all ranks should be held to the standards of the POST curriculum.

SDPD Response:

FTO Administration has mandated "refresher training" for every FTO and FTO Sergeant every 4 months. During the most recent "refresher training," the FTO sergeants were kept after the initial training for additional training to emphasize the need for more accountability on their part. FTO Supervisors were also provided additional training over the summer during command training regarding properly documenting performance in evaluations.

Additionally, the Department has emphasized having the FTO Sergeants take a closer inspection of each daily evaluation, to ensure the interaction between the FTO and their trainee is positive with mentoring and proper training occurring, as well as making sure FTOs are modeling professional interactions with the public.

FTOs are required to attend a 40-hour POST FTO Class to become a FTO, plus they must attend a 24-hour POST FTO class every 3 years.

While all officers must pass the standards established by POST to become a police officer, the City requires officers to meet the expectations contained within their job classification and evaluation schedules are conducted with greater frequency during their probationary periods. Should officers not meet the standards of their job classification, interventions may be required and consequences,

including being separated from the Department, is possible for those who fail to meet the objectives of their performance plans.

The San Diego Police Department considers this recommendation fully implemented.

5.10 - Utilize community input to establish training.

Utilize community input through various evaluation methods to assist in developing training strategies from community forums, Inside SDPD, Captain Advisory Board Meetings, and CAB Academy visits. Written comments should be encouraged to provide in-depth feedback.

SDPD Response:

The SDRPSTI (aka Regional Academy) was developed utilizing community input over many years. The State of California Commission on Peace Officer Standards and Training (POST) requires 664 hours, and our Regional Academy is 928 hours. Many of these added hours of training came from suggestions from the community and evolve around community policing. An example of some of the classes that go above the required POST hours include: Ethics; Policing in the Community; Spanish; and Cultural Diversity/Discrimination.

Training is a dynamic process and subject to community expectations/feedback that are always evolving. SDPD will continually develop training that seeks to meet or exceed the expressed needs of community members.

The San Diego Police Department considers this recommendation fully implemented.

Summary of Recommendations and their implementation status:

<u>Rec</u>	<u>Description</u>	Implementation				
		Fully	Partially	Analyzing	Not Considering	Does Not Apply
1.20	Law enforcement agencies should acknowledge the role of policing in past and present and injustice and how it is a hurdle to the promotion of community trust.		X	X		
2.20	Balance SDPD Gang Suppression Staffing based upon Crime Rate and Gang population, as a policy.					X
2.21	Curbing Practices	X				
2.22	Pilot moratorium on Pretext stops			X		
2.23	Implementation of AB 953	X				

<u>Rec</u>	<u>Description</u>	Implementation				
		Fully	Partially	Analyzing	Not Considering	Does Not Apply
4.20	Joint efforts with the community groups and resident and stakeholders on community agreed upon action plans.	X				
4.21	Moving from a Service area to a Beat type of system.	X				
4.22	Track crime information by census tracts.	X				
4.23	Re-balancing Gang Suppression Staffing based upon crime rates.					X
6.30	Specific testing and an action plan that requires check-up every 6 months at least		X	X		

<u>Rec</u>	<u>Description</u>	Implementation				
		Fully	Partially	Analyzing	Not Considering	Does Not Apply
6.31	Data collection to measure the Wellness by Officers and families.	X				
1.01	Community residents involved in the selection of candidates for the respective Division.		X			
1.02	By reviewing the policy of transferring Officers "though" each community especially in underserved communities.					X
1.03	Youth programs involving retired Officers, community based.	X				
2.01	Credit policies, tattoos and other perceived barriers.	X				
2.02	Recruiters need to be better trained on interviewing skills			X		

<u>Rec</u>	<u>Description</u>	Implementation				
		Fully	Partially	Analyzing	Not Considering	Does Not Apply
2.03	Policies of moving Officers around; stability in the neighborhoods vs traditional Career paths					X
2.04	Review of the Job Descriptions and Recruiting Policies to help in finding candidates. Recruiters represent SDPD.	X				
3.01	Targeting more local recruiting sources to better balance the type of Officers we are attracting.					X
3.02	Develop Recruitment material based upon a less military perspective and more of a Community partnership message.	X				
1.10	Offer Officer Training examples, (simulation) in the community, including actual real-life examples of what an officer faces in more schools and workshops.			X		

<u>Rec</u>	<u>Description</u>	Implementation				
		Fully	Partially	Analyzing	Not Considering	Does Not Apply
1.11	Support education of community members by sharing a sample of training classes from academy curriculum.		X	X		
1.12	Update staff evaluations to include significant measure of communication skills.	X				
1.13	Youth programs involving Officers and are community based.	X				
1.14	The department should incorporate procedural justice principles in any Policing Plan that is developed with input from department members, citystaff and community leaders.		X	X		
1.15	Annually CAB Members invited to attend specific courses during each Academy.			X		

<u>Rec</u>	<u>Description</u>	Implementation				
		Fully	Partially	Analyzing	Not Considering	Does Not Apply
1.16	Encouraged involvement with the community by officers and increased communication with CROs.	X				
1.17	Encouraged community engagement with volunteer activities		X	X		
2.10	Build the FTO program of the Department with more experienced officers and incentivize FTO officers in their training role.			X		
4.10	More accountability of the Officers, FTOs, and FTO Sergeant. A closer look at the performance evaluations including goals and objectives for each officer.	X				
5.10	Utilize community input to establish training.	X				

Conclusion:

The San Diego Police Department has carefully considered every recommendation made by the Community Advisory Board on Community Police/Relations. In some cases, SDPD was already in the process of fully or partially implementing many of the recommendations prior to their release by CAB.

In total, SDPD reviewed the 31 recommendations and determined the following: 15 had been fully implemented, 6 partially implemented, 10 will require additional analysis and discussion with outside organizations like Human Resources and the San Diego Police Officers Association, and 5 were not applicable to the Department as a result of operational changes already implemented and assessments of CAB's specific recommendations. Five of the recommendations fell into more than one category.

The San Diego Police Department views this response as part of a process and we look forward to feedback from CAB, a continued discussion moving forward, and to determine if these responses need to be modified or expanded to meet its expectations.

Respectfully,

Captain Jeff Jordon
Special Projects/Legislative Affairs

Exhibit K

1 Case Name: People v. Tommy Bonds III

2 Case Number: M2280282

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BWC of Officer Eysie
1/24/22

1 Eysie: Officer Eysie
2 TB: Tommy Bonds III
3 UNINTEL: Unintelligible
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6 [BEGIN CLIP 2:56]
7
8 EYSIE: How you been?
9 TB: Good, but actually, why you over, you turned around 'cus you saw two niggas in a
10 car probably.
11 EYSIE: What's that?
12 TB: We saw you turn around, because you saw two guys ... two black guys in the car
13 obviously.
14 EYSIE: Well ... part of it. The hoodie is up and stuff ... just, the climate and everything
15 that's going on in the city these days.
16 TB: No, that makes sense, I'm not trying, I'm, I'm not tripping at all. I'm just fine.
17 EYSIE: Yeah, I got you.
18 TB: It is cold outside, but ...
19 EYSIE: I hear yah.
20 TB: You all pull over white people like that? I'm not trying to be rude or nothing. But
21 [UNINTEL]
22 EYSIE: Yeah. Matter of fact I get pulled over out in uh...
23 TB: I mean, I just wanted to ask, cus sometimes you see niggas and you all just pull
24 around but aight ...
25 EYSIE: No, I get it, cause, out in East County...
26 TB: Well, that's the thing ... you right, your right, out in East County, you right, you
27 right ...
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1 EYSIE: I'm sleeved up, police stop me all the time, when I'm wearing a snap back
2 backwards

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[END CLIP 3:32]

Exhibit L



San Diego Police Dept

Arrest/Juvenile Contact Report

Case No. **22003366**

CAD Event No: **E22010034016**

Case Disposition: **Arrest**

Primary Victim: **State of California**

Report No. **22003366.1**

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ARREST REPORT
 JUVENILE CONTACT REPORT WARRANT: LOCAL OUT

GENERAL CASE INFORMATION

Primary Charge: 25400 (A)(1) - PC - CARRY CONCEALED WEAPON IN VEHICLE (M)		Related Cases:
Special Studies:		Occurred On: 01/24/2022 21:23:20 (Monday)
Location, City, State, ZIP: 5038 El Cajon Blvd, SAN DIEGO, CA		Occurred On: (and Between):
Jurisdiction: Talmadge - San Diego	Beat: 824	Call Source: OFFICER
Means:	Motives:	

VICTIM/S

IBR/UCR OFFENSE/S

Offense Description: 25400 (A)(1) - PC - CARRY CONCEALED WEAPON IN VEHICLE (M)	Level: M	Against: SO	Completed? Yes	Counts:	Using:
Location Type: 13 - Highway/Road/Alley	Hate/Bias: 88 - None (no bias) (mutually exclusive)		Domestic Violence: No		
Criminal Activity: P - Possessing/Concealing	Type Security:	Gang Related:	Entry:	Point of Entry:	
Weapons/Force: 12 - Handgun	Tools:	Targets:			

ARRESTEE/S

Arrestee #1

Name: BONDS, TOMMY LEE	County Residence: R - Resident	Interpreter Language:
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ALIAS / AKA / NICKNAME / MONIKER:

Name Type:	First:	Middle:	Last:	Suffix:
Home Address, City, State, ZIP: 1038 Elkton Blvd #31, Spring Valley, CA 91977		Ras. Country: US	Place of Birth: United States of America (USA)	Undocumented:
Race: B	Sex: M	Date of Birth / Age: 07/24/1997 - 24	Height: 6' 4"	Weight: 160
Hair Color: BLK	Eye Color: BRO	Facial Hair:	Complexion:	
Hair Style:	Hair Length:	Build:	Teeth:	Suspected User: No
Employment Status:	Occupation/Grade:	Employer/School: SDSU	Employer Address, City, State, ZIP:	

CONTACT INFORMATION:

Type: MP - Mobile Phone	Number/Address: 619 385-5227
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IDENTIFICATION:

Type: CI - California ID	Number: F3653203	State: CA	Country:
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SCARS, MARKS, TATTOOS, ODDITIES:

Altra:	Suspect Actions:
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ARREST INFORMATION

Arrest Type: O - Probable Cause Arrest - New Case	LE Disposition: 3 - Misdemeanor (Adult Only)	JUS 760 Type: 2 - Booked	Citation No.:	Booking No.:
Arrested For: 25400 (A)(1) - PC - CARRY CONCEALED WEAPON IN VEHICLE (M)	Level: M	Completed: Yes	Counts:	
Arrested By: SD6963 - EYSIE, DANIEL	Arrest Date and Time: 01/24/2022 21:24:04	Arrest Location, City, State, ZIP: 5000 El Cajon Blvd, San Diego, CA 92115	Beat: 824	
Arrest Assisted By: SD6864 - CAMERON, RYAN	Transported By: SD6963 - EYSIE, DANIEL			

Reporting Officer: SD6963 - EYSIE, DANIEL	Division / Organization: Investigations II Special Operations	Reviewed By: SD5153 - BUTCHART, ALLAN
Report Date: 1/24/2022 9:26:22 PM	Detective Assigned: SD5964 - PATRICK, KEVIN	Reviewed Date: 01/25/2022 22:22:40



San Diego Police Dept

Arrest/Juvenile Contact Report

Case No. **22003366**

CAD Event No.: **E22010034016**

Case Disposition: **Arrest**

Primary Victim: **State of California**

Report No. **22003366.1**

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Miranda Read:	Admonished By:	Miranda Response:	Jail Billing Code: SDPD	Booked Location: San Diego Central Jail
Armed With: 12 - Handgun		Use of Force to effect Arrest:		
JUVENILES				
Adult Present:	Person Notified:	Juvenile Disposition:	Detention Name:	
Parents Notified By:	Notification Method:	Date and Time Notified:	Juvenile Released To:	
RELEASE INFORMATION				
Released Location:	Released On:	Released By:	Release Reason:	

SUSPECT/S (Not Yet Arrested)
WITNESSES

OTHER ENTITIES

Other Entity #1

Person Code: <input type="checkbox"/> Secured Premise <input type="checkbox"/> Discovered Crime <input type="checkbox"/> Reporting Party <input type="checkbox"/> Law Enforcement Officer				
Name:	Entity Type:	Person Code:	County Residence:	
[REDACTED]	CO - Companion		R - Resident	

ALIAS / AKA / NICKNAME / MONIKER:				
Name Type:	First:	Middle:	Last:	Suffix:
Home Address, City, State, ZIP:		Res. Country:	Place of Birth:	Undocumented:
[REDACTED]		US		Interpreter Language
Race:	Sex:	Date of Birth / Age:	Height:	Weight:
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Employment Status:	Occupation/Grade:	Employer/School:	Employer Address, City, State, ZIP:	
	11	[REDACTED]		

CONTACT INFORMATION:	
Type:	Number/Address:
MP - Mobile Phone	[REDACTED]

IDENTIFICATION:		
Type:	Number:	State:
		Country:
Injury:	Extent of Treatment:	

Reporting Officer SD6963 - EYSIE, DANIEL	Division / Organization Investigations II Special Operations	Reviewed By SD5153 - BUTCHART, ALLAN
Report Date 1/24/2022 9:26:22 PM	Detective Assigned SD5964 - PATRICK, KEVIN	Reviewed Date 01/25/2022 22:22:40



**San Diego Police Dept
Arrest/Juvenile Contact Report**

Case No. **22003366**

CAD Event No.: **E22010034016**

Case Disposition: **Arrest**

Primary Victim: **State of California**

Report No. **22003366.1**

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PROPERTY

Property Item #1.000 - CHALLENGER

Derivative No.: 0	Property Category: 3501 - Automobile/Light Truck (not Stolen or Recovered)	
Status: I - Information Only	Count: 1	Value:
Manufacturer: Dodge	Model: Challenger	
Serial No.:	Model Year: 2016	DAN:
Color: Gray / Gray	Caliber:	
Body Style: 2D - Sedan, 2-door, automobile	Recovered/ Seized Date:	
Owner: CO: A1 - BONDS, TOMMY LEE	Disposition:	
Evidence Tag:	Alert(s):	
Drug Type:	Drug Quantity:	
Search Warrant:		
Notes:		

Additional Vehicle / Plate Information

License No.: 7TCD005	License Type: PC - Regular Passenger Auto	License Year: 2022	License State: CA - California	Number of Plates: 2	Registration Expiration: May 2022	Odometer Reading:
VIN: 2C3CDZAG1GH263304	VIN Clear SVS? Yes	Lic. Clear SVS? Yes	Engine Number:	Owner's Valuation:		
Vehicle Condition:			Vehicle Items:			
Vehicle Tires/Wheels						
Left Front:	Right Front:	Left Rear:	Right Rear:	Spare:	Hub Caps:	Special Wheels:
Identifying Marks, Damage, Interior (Describe Color(s), if Customized, Etc.):						
Insurance Carrier:		Policy Number:		Vehicle Payments Current?		
Vehicle Security / Anti-Theft Devices:			Towed To / Stored At:		Drivable?	
Location Towed / Recovered From:				Location Stolen From:		
Tow Company:		Tow Company Address:			Tow Company Phone:	
Storage Authority / Reason:				Release to Owner Authorized:		Agency Hold:
Originating Agency:				Org. Agency Case Number:		Org. Agency Date of Theft:

REPORT NARRATIVE

On 01-24-2022 at approximately 2045 hours Officer Cameron #6864 and I were on patrol in full police uniform in a marked patrol vehicle while assigned to the SDPD Special Operations Unit (SOU). We were conducting proactive enforcement in the City Heights neighborhood of San Diego, CA in an effort to reduce violence. In the 4900 block of El Cajon Boulevard, I observed the vehicle with CA License 7TCD005 traveling eastbound. The vehicle had a plastic covering over the rear license plate which obscured my view, darkening the plate and creating a glare, in violation of 5201(c) VC - Obscured License Plate. I was unable to clearly view the plate until we were directly behind the vehicle. The vehicle turned quickly northbound on to 50th Street and in to an adjacent parking lot. Officer Cameron

Reporting Officer: SD6963 - EYSIE, DANIEL	Division / Organization: Investigations II Special Operations	Reviewed By: SD5153 - BUTCHART, ALLAN
Report Date: 1/24/2022 9:26:22 PM	Detective Assigned: SD5964 - PATRICK, KEVIN	Reviewed Date: 01/25/2022 22:22:40



**San Diego Police Dept
Arrest/Juvenile Contact Report**

Case No. **22003366**

CAD Event No.: **E22010034016**

Case Disposition: **Arrest**

Primary Victim: **State of California**

Report No. **22003366.1**

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activated our overhead lights to conduct a traffic stop on the vehicle. The vehicle continued eastbound in to the adjacent Chevron parking lot and yielded.

Officer Cameron contacted the driver, later identified by California Identification as Tommy Lee Bonds III DOB 07-24-1997. I contacted the passenger, later identified by school ID as [REDACTED]. During the contact, Bonds informed Officer Cameron he had a firearm in the vehicle, which was registered to him. Bonds initially told Officer Cameron he had a license to carry a concealed firearm, and handed Officer Cameron a firearm safety certificate. Bonds stated he did not know where the firearm was located in the vehicle.

In order to ensure our safety and confirm the firearm was legally stored in the vehicle, Officer Cameron asked Bonds to exit the vehicle. Bonds exited, and Officer Cameron applied his handcuffs to Bonds' wrists per department policy. I had [REDACTED] exit the vehicle, conducted a pat down of his person for my safety, and had him stand by with other SOU officers at our marked patrol vehicle.

While looking for the firearm, I slid the passenger seat forward. In the rear cargo pocket of the seat I observed a Glock style firearm inserted muzzle down, with the grip facing the driver's side. The firearm was not in a case, and did not appear to have any locking mechanism. I removed the firearm to render it safe. The firearm did not have an inserted magazine, and there was no ammunition in the chamber. Bonds was in violation of 25400(a)(1) PC - Carry Concealed Firearm in Vehicle. Officer Diaz located a 10 round Glock magazine in the center console of the vehicle, which was later found to contain 8 cartridges of 9mm ammunition. There were also 14 loose cartridges of 9mm ammunition strewn about the center console. All of these items were well within reach of Bonds from the driver's seat. All listed evidence was recovered for impound. A complete search of the vehicle for further evidence revealed only one case in the trunk which resembled a firearm case, but was full of glass pipes, and did not have room to accommodate a firearm. There were no other apparent cases or firearm safety locks in the vehicle.

Officer Cameron secured Bonds in the rear seat of our marked patrol vehicle. I conducted a records check, which confirmed the firearm was registered to Bonds. I photographed the firearm where I had originally located it, as well as the magazine and loose ammunition.

At Bonds' request, we left the vehicle parked and secured in the lot, and contacted a friend to retrieve it. [REDACTED] was released at the scene. We transported Bonds and all listed evidence to SDPD Headquarters for processing.

At Headquarters, Officer Cameron photographed Bonds and the listed evidence. Officer Cameron impounded all listed evidence in the SDPD Headquarters property room. At Bonds' request, the vehicle keys were turned over to Malik Marques Gadson at headquarters.

I admonished Bonds of his Miranda Rights using a PD145 notebook. Bonds replied yes and yes to the questions on the notebook. Bonds essentially told me he was not sure if the firearm was in the vehicle at

Reporting Officer SD6963 - EYSIE, DANIEL	Division / Organization Investigations II Special Operations	Reviewed By SD5153 - BUTCHART, ALLAN
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San Diego Police Department
Arrest/Juvenile Contact Report

Case No. 22003366

CAD Event No.: E22010034016

Case Disposition: Arrest

Primary Victim: State of California

Report No. 22003366.1

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the time of the stop, or where it was, because he and his girlfriend had recently moved. Bonds said he did not know the manner in which the firearm was being carried was illegal. Bonds thought the ammunition just had to be separate from the firearm.

We transported and booked Bonds in to San Diego County Central Jail for violation of 25400(a)(1) PC - Carry Concealed Firearm in Vehicle.

I completed a RIPA form for this contact. All officers on scene were wearing department issued body worn cameras during the contact.

Reporting Officer SD6963 - EYSIE, DANIEL	Division / Organization Investigations II Special Operations	Reviewed By SD5153 - BUTCHART, ALLAN
Report Date 1/24/2022 9:26:22 PM	Detective Assigned SD5964 - PATRICK, KEVIN	Reviewed Date 01/25/2022 22:22:40

Exhibit M

SAN DIEGO POLICE DEPARTMENT

POLICY MANUAL



— AMERICA'S FINEST CITY —

Revised 08/3/2016

EXECUTIVE ORDER

The San Diego Police Department serves the people of San Diego by performing our law enforcement function in a professional manner. We are ultimately responsible to the people we serve. To provide quality service to the community, we must rely on sound leadership, guidance and support. To this end, this Policy Manual is adopted for all members of the Department.

Policy consists of principles, values and philosophies, which guide the performance of members. It is based on police ethics and experience, the desires of the community and legal mandates. Policy is broad in scope so that it will encompass most situations. It is stated in general terms.

Methods of procedures will be disseminated in the form of Department Procedures. The Policy Manual and Department Procedures are available to all members via computer on-line. Policies and Procedures convey the same authority and require compliance by all members.

Each member must be familiar with the contents of the Policy Manual and the Department Procedures. Additions or changes will be made from time to time. Violations of any portion of the Policy and Procedures Manual may result in disciplinary action.

Commanding officers have the authority to issue special orders which may deviate from the Policy Manual as may be necessary for temporary or emergency purposes.

The Policy Manual cannot encompass all possible situations encountered in the general discharge of police duties. Because of this, members should use good judgment and common sense in determining their course of conduct and action while fulfilling their responsibilities as members of the Department.

The Policy Manual will not apply in such a way as to violate state or federal laws or abridge the constitutional rights of members of this Department. If, for any reason, any portion of the Policy Manual is held to be invalid, the remainder of the Policy manual shall not be affected.

Shelley Zimmerman
Chief of Police

**SAN DIEGO POLICE DEPARTMENT
POLICY MANUAL**

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DEFINITIONS

- Member** - Includes all employees of the Police Department, sworn and non-sworn.
- Officer** - Includes all sworn personnel.
- Superior** - A supervisor, a person higher in the chain of command or an officer of higher rank.

1.00 – ADMINISTRATION POLICIES

1.01 DEPARTMENT POLICIES, PROCEDURES, ORDERS, COMMUNICATIONS AND CORRESPONDENCE (Revised 11/04/08)

Department directives (i.e., Legal Updates, Orders, Policies, Procedures and Training Bulletins) are written directives that convey the same authority. All members of the Department will be held responsible for abiding by the information contained in Legal Updates, Orders, Policies, Procedures and Training Bulletins.

All members shall access Department directives via the Resource Library on the LAN or Automated Field Reporting (AFR) systems in accordance with Department Procedure 1.01.

1.02 DEPARTMENT ORGANIZATION TITLES

Titles shall be used to identify particular ranks and groups under the charge of those ranks. (Refer to Department Procedure 1.02.)

1.03 PURSUIT POLICY

Law violators shall be apprehended whenever feasible. A violator shall not be pursued to the point where the life of the officer, the violator or others is placed in jeopardy.

Officers shall be prepared to discontinue the pursuit if it becomes unreasonable under the circumstances. (Refer to Department Procedure 1.03.)

1.04 USE OF FORCE POLICY

Members shall only use force in accordance with law and established Department procedures. Members shall not use more force than is reasonably necessary under the circumstances.

Department policy places a greater value on the preservation of life than on the apprehension of criminal offenders. Deadly force shall be used only when all reasonable alternatives have been exhausted or appear impractical.

Members shall not mistreat persons who are in custody. Members shall handle such persons in accordance with all laws and established Department Procedures. (Refer to Department Procedure 1.04, Use of Force.)

1.05 FIREARMS POLICY

Firearms shall be considered to be defensive weapons, to be used only when necessary to protect human life or to prevent serious bodily injury.

Department policy places a greater value on the preservation of life than on the apprehension of criminal offenders. Deadly force shall be used only when all reasonable alternatives have been exhausted or appear impractical.

Members authorized to carry firearms and ammunition shall do so in accordance with law and established Department procedures.

Members shall not draw or display firearms in the performance of duty except in situations known, or reasonably believed to be dangerous. (Refer to Department Procedure 1.05, Firearms Procedure.)

1.06 USE OF LIQUID CHEMICAL AGENT POLICY (Revised 01/26/04)

Liquid chemical agent shall only be used under circumstances when it is necessary to overcome violent physical force or resistance likely to result in injury to either the suspect, officer(s), or others present (Refer to Department Procedure 1.06, Use of Liquid Chemical Agent).

1.07 USE OF TASERS POLICY (Revised 03/05/04)

Any officer trained in its use shall be authorized to use a taser.

A taser may be used when lethal force is not justifiable or necessary; and attempts to subdue the suspect have been or will be ineffective; or it will be unsafe for officers to approach within contact range of the suspect. (Refer to Department Procedure 1.07.)

1.09 CARRYING WEAPONS ON AIRLINES POLICY (Revised 01/26/04)

Officers shall comply with regulations of the U.S. Department of Transportation and the Federal Aviation Agency for carrying firearms while on board aircraft.

Officers shall limit requests for carrying weapons aboard aircraft to situations in which safe completion of the mission requires the officer to be armed during flight (Refer to Department Procedure 1.09, Carrying Weapons on Airlines).

1.10 CITIZEN COMPLAINT RECEPTION AND INVESTIGATION POLICY

Members shall encourage citizens to bring forward legitimate grievances regarding inadequate police service or misconduct by members; and those complaints shall be received courteously and without delay.

Members shall assist and cooperate in the expeditious and impartial processing of citizen complaints within established procedures.

Members shall be informed of the nature of citizen complaints made against them and the disposition of those complaints. (Refer to Department Procedure 1.10.)

1.11 COURT AND SUBPOENA POLICY (Revised 01/26/04)

The San Diego Police Department shall generally accept for service all criminal, civil, and Civil Service Commission subpoenas if received a minimum of five court days prior to the court appearance date.

Officers may be individually served up to the court appearance date and may not refuse service due to short notice.

Members of the Department shall be required to accept personal service of summons in civil cases related to the performance of their duties. (Refer to Department Procedure 1.11, Court Procedures and Subpoenas.)

1.12 OPERATION OF POLICE DEPARTMENT VEHICLES POLICY (Revised 10/22/08)

Members shall comply with the rules of the road as outlined in the California Vehicle Code. Members shall not violate traffic laws without good and justifiable cause.

Members shall operate official vehicles in a careful and prudent manner. All members required to drive shall have a valid California driver's license. Loss, expiration, or suspension of their driver's license shall be immediately reported to their supervisor.

Members shall not use their personal vehicle for any assignment while on duty unless authorized to do so by their commanding officer.

Members shall not permit persons to ride in Department vehicles except in accordance with Department procedures.

Seat belts shall be used at all times by all Department employees, sworn and non-sworn either driving or riding in the front seats of any Department vehicle.

Members involved in a police equipment accident, shall notify the radio dispatcher, render first aid as necessary and assist at the scene until additional police units arrive. No statements concerning the accident or possible civil liability shall be made.

Members shall park police vehicles in non-emergency situations, according to all laws and parking regulations. (Refer to Department Procedure 1.12.)

1.13 EMERGENCY VEHICLE OPERATION POLICY

An emergency response shall be made when the officer reasonably believes there exists a serious danger to human life.

While responding to emergency calls, officers shall drive with DUE REGARD FOR THE SAFETY OF ALL PERSONS using the highway. (Refer to Department Procedure 1.13.)

1.14 POLICY FOR REVIEWING POLICE EQUIPMENT ACCIDENTS (Revised 10/16/08)

Commanding Officers shall be responsible for addressing inadequate or poor driving habits of their subordinates.

All police equipment accidents shall be investigated by Traffic Units and processed by the Traffic Division. A field supervisor shall be dispatched to oversee all police equipment accident investigations and will make a written report. (Refer to Department Procedure 1.14.)

1.15 CONFIDENTIALITY OF SECURITY POLICY

Security procedures are confidential and shall not be disclosed to any member of the public or the news media. (Refer to Department Procedure 1.15, Confidentiality of Security Procedures.)

1.16 CITY OWNED TAKE-HOME VEHICLES POLICY

City owned vehicles shall not be taken home or used outside of normal working hours unless specifically authorized by a commanding officer or higher authority. (Refer to Department Procedure 1.16, Off-duty Use of Department Take Home Vehicles.)

1.18 PAYROLL POLICY

Official timekeeping for the Police Department shall be administered by the Payroll Section of Fiscal Management. (Refer to Department Procedure 1.18.)

1.19 BI-WEEKLY LABOR CARDS POLICY

Members shall use bi-weekly labor cards on which daily entries are made.

Area Commanders shall be responsible for the security of employees' payroll checks. (Refer to Department Procedure 1.19.)

1.20 OVERTIME COMPENSATION POLICY

The Chief of Police shall follow City regulations to administer overtime in a manner consistent with fiscal responsibility and sound management.

Authority shall be delegated to each supervisor and manager in the department to manage overtime. (Refer to Department Procedure 1.20.)

1.21 PURCHASING POLICY

Members shall follow city administrative rules for processing requests for materials and services for the Police Department. (Refer to Department Procedure 1.21, Purchasing Procedures.)

1.22 PETTY CASH FUND POLICY

Petty cash funds shall be used for official City business and purposes for which authorized. Petty cash funds shall not be used for private gain. (Refer to Department Procedure 1.22, Petty Cash Fund Procedures.)

1.23 DEPARTMENT EQUIPMENT ACCOUNTABILITY POLICY

Members shall utilize Department equipment only for its intended purpose, in accordance with established Department procedures, and shall not abuse, damage, or, through negligence, lose Department equipment.

All Department equipment issued to members shall be maintained in proper order. Loss or damage to such equipment shall be promptly reported to the member's supervisor.

Equipment supplied by the Department, must be surrendered immediately, in good condition before an extended leave of absence, suspension, resignation, discharge or retirement. (Refer to Department Procedure 1.23, Department Equipment Accountability Procedures.)

1.24 PROCESSING REQUESTS FOR COUNCIL ACTION / INTERFACE WITH CITY COUNCIL POLICY

Information and support shall be lent to the City Council to facilitate the cooperative and efficient administration of the City within the rules set forth in the City Charter.

All inquiries to the City Manager's Office, Mayor and Council shall be handled by the Chief of Police or designee. (Refer to Department Procedure 1.24.)

1.25 INSPECTIONS AND AUDITS POLICY

Every commanding officer, in furtherance of Department goals and priorities, shall maintain accountability through the conduct of required inspections or audits of all personnel, equipment and functions assigned to the command. (Refer to Department Procedure 1.25, Inspections and Audits Protocol.)

1.26 RELEASE OF CRIMINAL HISTORY, ARREST AND CRIME REPORTS, AND OTHER POLICE RECORDS POLICY (Revised 01/26/04)

The Department shall control the release of and access to criminal history, crime and arrest reports and other police records; prevent the misuse of information contained in these reports; safeguard the privacy of individual citizens; and provide essential law enforcement information needs.

Members shall treat the official business of the Department as confidential. Any information regarding official business shall be disseminated in accordance with the law and established Department procedures.

Members may remove or copy official records or reports from a police installation only in accordance with established Department procedures. Members shall not divulge the identity of persons giving confidential information except as authorized by the proper authority in performance of police duties. (Refer to Department Procedure 1.26, Access and Release of Criminal Records.)

1.29 DEPARTMENT MAIL MESSENGER SERVICE POLICY (Revised 11/05/08)

All mail shall be packaged and clearly addressed to the appropriate division or unit with the correct mail station number. All small items of mail and loose forms shall be placed in inter-office envelopes. All items of a confidential nature shall be placed in an envelope. Multiple items to be sent to the same mail station number shall be bundled together. (Refer to Department Procedure 1.29, Department Mail Service.)

1.30 PRESS RELEASE AND MEDIA RELATIONS POLICY

Members shall provide factual, accurate and timely information to all news media on a fair and equal basis without jeopardizing the rights of crime victims or of persons accused of crime, and without compromising the security of any investigation or breaching any confidential relationship. (Refer to Department Procedure 1.30.)

1.31 PRESS IDENTIFICATION CARD POLICY

Press identification cards shall be issued by the San Diego Police Department only to qualified news media representatives. (Refer to Department Procedure 1.31.)

1.45 **USE OF CITY/DEPARTMENT COMPUTER SYSTEMS POLICY**

The use of Department computer equipment, electronic systems, and electronic data, including E-mail and the Internet, is subject to the City's Administrative Regulation 90.62. Under this regulation, all computer use is limited to Department business purposes only. E-mail and the Internet may not be used to transmit confidential, sensitive, or privileged City or Department information to unauthorized persons or organizations. Information sent over these systems, or stored on these systems, are Department property. There shall be no expectation of privacy in relation to information stored in or sent through these systems.

2.00 – COMMUNICATION POLICIES

2.01 ASSIGNMENT OF RADIO TALKGROUPS AND PROPER RADIO POLICY

Operational frequencies shall be assigned by the area command they cover. The Inquiry Frequency shall be used for special requests, queries in computer systems, and checking for wants/warrants on persons.

Special frequencies shall be used only in the manner outlined under proper radio procedures. (Department Procedure 2.01.)

2.02 COMMUNICATIONS UNIT DESIGNATOR POLICY

The Commanding Officer of Communications shall be responsible for the administration and coordination of unit designators. (Refer to Department Procedure 2.02.)

2.06 TARASOFF DECISION POLICY

Officers shall ensure the safety of potential victims and try to locate the suspect when psychotherapists contact the Department regarding one of their patients who may seriously injure another person. (Refer to Department Procedure 2.06.)

2.07 SIGALERT BULLETIN POLICY

Sigalert bulletins shall be used as a means of advising the general public of emergency conditions that may exist within the county. (Refer to Department Procedure 2.07.)

2.08 AIR AMBULANCE POLICY (Revised 01/26/04)

San Diego Police Department requests for air ambulances are generally channeled through Communications Division to the San Diego Fire and Life Safety Services (F&LSS) Department. However, if F&LSS Department personnel are on the scene, the requesting police unit should contact them directly. (Refer to Department Procedure 2.08, Air Ambulance Emergency Care Service.)

2.10 LANDLINE AND CELLULAR PHONE DEVICES POLICY

Department land lines, telephones, wireless cellular devices, and fax machines are for business use. Personal use is discouraged.

Commanding officers shall be responsible for verification of all long distance calls charged to phones under their command. The Department Cellular Coordinator shall be responsible for auditing all Department cellular devices on a monthly basis. (Refer to Department Procedure 2.10.)

3.00 – INVESTIGATIONS POLICIES

3.01 ORGANIZATION AND RESPONSIBILITIES OF CENTRALIZED, AREA, AND TRAFFIC INVESTIGATIONS POLICY

Centralized units shall be classified as either "proactive" or "reactive." They shall have City-wide investigative or service responsibilities.

Any Area Command follow-up into offenses where specific investigative responsibility has been assigned to Centralized Units shall be with the knowledge of, and in coordination with, the Unit/Section having primary responsibility. (Refer to Department Procedure 3.01, Organization and Responsibilities of Centralized, Area, and Traffic Investigations.)

3.02 IMPOUNDING PROPERTY AND USE OF PROPERTY TAGS POLICY

All property determined to be of some evidentiary or monetary value shall be impounded in the Property Room.

Property or other evidence, which has been discovered, gathered, or received in connection with Departmental responsibilities, shall be processed promptly in accordance with established Department procedures. Members shall not convert to their own use, conceal, falsify, destroy, remove, tamper with or withhold any property or other evidence found in connection with an investigation or other police action. Release or destruction of property shall conform with established Department procedures. (Refer to Department Procedure 3.02, Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks.)

3.03 RELEASE AND DISPOSAL OF IMPOUNDED PROPERTY POLICY

It shall be the responsibility of Police Personnel to establish the ownership of property impounded by the Police Department. (Refer to Department Procedure 3.03.)

3.04 MARKING PHYSICAL EVIDENCE POLICY

Officers shall mark physical evidence taking care not to damage or reduce the evidentiary and monetary value. (Refer to Department Procedure 3.04, Marking of Physical Evidence.)

3.05 POLICY FOR DISPOSITION OF ARTICLES MISSING IDENTIFICATION MARKS

Impounded property, which has the original identification marks or numbers removed, changed, covered, or defaced, shall be marked before being released to the owner(s).

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Any pistol, revolver or other firearm which has had the name of the maker, model, or the manufacturer's number or other mark of identification removed shall be assigned a new identification number by the San Diego County Sheriff's Licensing Section before being released to the lawful owner. (Refer to Department Procedure 3.02, Impound, Release, and Disposal of Property, Evidence, and Articles Missing Identification Marks.)

3.06 DISPOSAL OF ALCOHOLIC BEVERAGE CONTAINERS POLICY

Alcoholic beverages required as evidence in felony cases, DWI cases, and, suspected stolen alcoholic beverages shall be impounded in accordance with impound procedures.

Confiscated alcohol beverage containers not required as evidence shall be poured out in front of the person arrested or cited or held for disposal at an area station. (Refer to Department Procedure 3.06, Disposal of Alcoholic Beverage Containers.)

3.07 INVESTIGATIONS POLICY (NEW 10/04/04)

All Department members assigned to investigative teams or units shall abide by established Department Procedures as set forth in the Investigative Procedure Manual.

Investigative supervisors, lieutenants and captains shall comply with approved crime case management procedures and review of case procedures as defined in the Investigative Procedures Manual and in Department Procedure 1.25.

3.08 JUVENILE POLICY (Revised 11/20/08)

Arrested juveniles shall be placed in detention (confinement) if it is compatible with the best interest of the juvenile and the community. Permission for detention shall first be obtained from the Field Lieutenant or Watch Commander. (Refer to Department Procedure 3.08, Juvenile Procedures.)

3.11 SCHOOL TRUANT POLICY (Revised 01/26/04)

Truant juveniles shall be turned over to school authorities or parents/ guardians. (Refer to Department Procedure 3.11.)

3.13 NARCOTIC ENFORCEMENT POLICY

All narcotics coming into the possession of members shall be impounded without exception.

An investigation shall be made of all reported or suspected violations of City, State and Federal narcotic laws. (Refer to Department Procedure 3.13.)

3.16 **INFORMANT POLICY**

Informant contacts shall be of a strictly professional nature. Off-duty social and personal business contacts shall be expressly prohibited. (Refer to Department Procedure 3.16.)

3.17 **MISSING PERSONS (Revised 11/19/08)**

Missing person reports shall be taken on all persons who have disappeared under other-than-normal circumstances. There is no waiting period before a missing person report can be filed. (Refer to Department Procedures 3.09, "At-Risk" Missing/Runaway Juveniles; 3.10, Not "At-Risk" Missing/Runaway Juveniles; 3.17, Missing Adults.)

3.18 **EXTRADITION POLICY**

The Department shall participate in the extradition of fugitives arrested in other states. (Refer to Department Procedure 3.18.)

3.21 **FIELD RELEASE AND/OR DROP/CHANGE OF CHARGE POLICY [849(b)(1) P.C.]**

Investigators shall prepare "Change of Charge" forms when they release specific charges due to insufficient grounds to obtain a criminal complaint or they change or add charges. (Refer to Department Procedure 3.21, Field Release and/or Drop/Change of Charge Form PD-1136-LA [849(b)(1) PC])

4.00 – LEGAL POLICIES

4.02 EYEWITNESS IDENTIFICATION POLICY

Officers shall avoid eyewitness identification procedures that suggest the guilt of a suspect to a victim or an eyewitness. (Refer to Department Procedure 4.02.)

4.05 PROTECTIVE ORDERS POLICY

Officers shall enforce Domestic Violence Orders. (Refer to Department Procedure 4.05.)

4.10 REPOSSESSION POLICY

Officers shall keep the peace, enforce any violations of criminal law, and avoid taking sides with either party in repossession matters. (Refer to Department Procedure 4.10.)

4.12 SUBSTANCE ABUSE TREATMENT FACILITIES POLICY (Revised 04/09/07)

Officers generally shall not arrest a subject for being under the influence of drugs or alcohol when that subject is currently admitted, or en route, to an emergency facility or other authorized treatment center, and when that person has not violated any other laws. This also applies when relatives or friends call the police on behalf of the subject.

4.13 NON-OFFICIAL OR PERSONAL CUSTODY OF RECORDS/FILES/ RECORDINGS POLICY

Members shall not maintain case files, records, photographs or recordings of investigations, contacts, or arrests of individuals for their own use, or as a private or personal file separate from the official police file or record which shall be stored and maintained at the San Diego Police Department. (Refer to Department Procedure 4.13.)

4.15 PROBATION, PAROLE, KNOCK AND TALK SEARCHES INCLUDING HIGH RISK ENTRIES AND OUTSIDE ASSISTANCE

Members who conduct probation, parole, Fourth Amendment waiver, knock and talk or high-risk searches/sweeps shall do so in a lawful manner. Such searches/sweeps shall not be arbitrary, capricious or harassing. To ensure the lawfulness of the search/sweep, a supervisor is to be present and actively involved anytime a residence or building is searched pursuant to a parole or probation condition. Acting sergeants are not acceptable for this task.

An Operation Plan shall be completed prior to any pre-planned knock and talk search, parole or probation search, high-risk entry or search warrant service. Prior to the execution of the search, all personnel involved shall be briefed on the details of the search.

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In the event that a search takes place within another agency's jurisdiction, the sergeant supervising the operation shall notify the appropriate law enforcement agency where the search is taking place prior to arriving at the search location.

If the execution of a warrant requires the involvement of SWAT, the SWAT Unit commander shall be notified at the earliest opportunity.

All team members making tactical entries shall wear Department-approved body armor and appropriate visible identification so they are easily recognized as peace officers. If forced entry is required, the supervisor shall decide if the entry should be attempted. Entry shall be made in accordance with Knock and Notice as outlined in 844PC. When a forced entry is anticipated, mission planners shall use the Regional High-Risk Entry Checklist as a guideline. (Refer to Department Procedure 4.15, (Probation, Parole, and Knock and Talk Searches Including High- Risk Entries and Outside Assistance.)

5.00 – PERSONNEL POLICIES

5.01 INJURY, ASSAULT AND MEDICAL BENEFITS POLICY

Members shall immediately report any on-duty injury or illness to their supervisor. Off-duty members who are unable to report for duty due to illness or injury, shall report the fact immediately to their command or, if unavailable to the Watch Commander, no later than one hour prior to going on duty. Members shall report the nature of their illness or injury, whether attended by a physician, and the address and phone number where they may be contacted.

The member's command shall be contacted each subsequent workday unless the commanding officer indicates that less frequent contacts are satisfactory.

Members shall not feign or falsely report illness or injury, or attempt to deceive any supervisor of the Department as to the condition of their health.

If abuse is suspected, supervisors may visit a member who is off-duty with a reported illness or injury. Unless the attending physician recommends otherwise, supervisors shall be granted access to the member at any reasonable hour.

Members having any contagious disease in their families shall immediately notify their command for approval to report for duty. (Refer to Department Procedure 5.01.)

5.03 EQUAL EMPLOYMENT POLICY

Members shall be permitted a work atmosphere free from discrimination and sexual harassment. Members shall not discriminate against, nor sexually harass other members. It shall be the responsibility of all supervisors to assure a non-discriminatory work environment. (Refer to Department Procedure 5.03.)

5.04 GRIEVANCE POLICY (Revised 10/21/08)

The Human Resources Captain shall administer the grievance process and shall establish and maintain a routing and control procedure for all grievances originating within the Department. (Refer to Department Procedure 5.04.)

5.05 SMOKING POLICY (Revised 10/21/08)

All members shall be provided with a smoke-free environment.

While on duty, members shall not smoke or use smokeless tobacco while conducting an investigation or interview or under other circumstances when it could be offensive to other individuals or where smoking and the use of smokeless tobacco is prohibited. (Refer to Department Procedure 5.05, Use of Tobacco Products.)

5.06 **OFFICER DEATHS POLICY**

The Department shall afford every consideration to the decedent's family. The family shall receive the maximum amount of assistance and support from the Department during this time. (Refer to Department Procedure 5.06.)

5.07 **TRANSFERS WITHIN THE DEPARTMENT POLICY**

The Chief of Police or designee shall have the responsibility of assigning and transferring personnel within the organization and will reserve the right to make any transfers deemed appropriate. (Refer to Department Procedure 5.07, Transfers Within The Department.)

5.08 **DIVISIONAL AND PERSONNEL FILES POLICY** (Revised 09/10/07)

The division personnel file is a working file for the short-term retention of informal documents pertaining to an employee's performance. The Department personnel file is a permanent repository for the retention of all formal and/or official documents pertaining to an employee's job performance and/or employment history. (Refer to Department Procedure 5.08, Divisional and Personnel Files.)

5.09 **EMPLOYMENT INTERVIEWS POLICY**

Employment interviews for the purpose of selecting sworn personnel for investigative and specialized assignments or new hires and promotions shall be conducted by supervisors who have completed the formal Appointing Authority Interview Training (AAIT) through the City Personnel Department. (Refer to Department Procedure 5.09, Employment Interviews.)

5.10 **UNIFORM, EQUIPMENT AND WEAPONS POLICY**

Members on duty shall wear uniforms or other clothing and be provided with equipment in accordance with established Department and city requirements.

Members on duty shall maintain a neat, well-groomed appearance, except when acting under proper and specific orders from a superior. (Refer to Department Procedure 5.10, Uniforms, Equipment, and Weapons.)

5.11 **REPAIR OR PLACEMENT OF EMPLOYEE'S PERSONAL PROPERTY POLICY**

Members shall follow city regulations for reimbursement of personal property damaged in the performance of their duties. (Refer to Department Procedure 5.11.)

5.12 OUTSIDE EMPLOYMENT POLICY

Employees shall not accept employment outside City service or participate actively in the management or operation of a business that would result in conflict of interest or reflect criticism or discredit on the employee or the city or that would affect the employees' efficiency in the performance of their regular duties.

Members seeking outside employment shall first obtain approval from their commanding officers. (Refer to Department Procedure 5.12.)

5.13 EDUCATIONAL INCENTIVE

All San Diego Police Officers of classified rank, who become qualified for an Intermediate or Advanced POST Certificate, shall be eligible for Educational Incentive Pay benefits. (Refer to Department Procedure 5.13.)

5.14 TUITION REIMBURSEMENT PROGRAM POLICY (Revised 11/04/08)

Eligible employees (sworn and non-sworn) shall be reimbursed, under certain conditions, 100% of tuition, textbooks and supplies up to a specified amount per fiscal year. (Refer to Department Procedure 5.14.)

5.15 RECRUITMENT INCENTIVE PROGRAM POLICY (Revised 09/16/2008)

Discretionary Leave shall be awarded to Department members who recruit employees that successfully complete specified training and/or probation. (Refer to Department Procedure 5.15, Recruitment Incentive Program.)

5.16 EXCEPTIONAL MERIT PAY PLAN POLICY

Non-sworn employees shall qualify for a cash award on the basis of exceptional sustained performance and/or exceptional performance on a project or assignment. (Refer to Department Procedure 5.16.)

5.17 SERVICE AWARDS POLICY

The Department shall have a Service Awards Program designed to give official recognition to heroic, meritorious or outstanding actions by sworn and non-sworn employees or Police Reserve officers. (Refer to Department Procedure 5.17.)

5.18 DISCRETIONARY LEAVE POLICY

Members shall be eligible for discretionary leave with pay for exceptional performance in their class of employment. (Refer to Department Procedure 5.18.)

6.00 – PATROL POLICIES

6.01 HANDCUFFING, SEARCHING AND TRANSPORTING POLICY

Members shall not mistreat persons who are in custody. Members shall handle such persons in accordance with all laws and established Department procedures.

Officers shall handcuff all prisoners with their hands behind them. Prisoners shall remain handcuffed whenever they are outside the confines of any jail, unless such handcuff procedure would hamper the conduct of any investigation or the physical condition of the prisoner would preclude such use.

The cord-cuff leg restrainer shall be used as a safety device to eliminate or reduce physical hazards in the restraining of violent or potentially violent prisoners.

Officers shall not apply the cord-cuff leg restraint to the head or neck of a suspect. (Refer to Department Procedure 6.01.)

6.02 BOOKING PROCEDURES POLICY (Revised 01/26/04)

Officers shall thoroughly search prisoners prior to placing them in detention or correction facilities. (Refer to Department Procedure 6.02, Booking Procedures.)

6.04 CRIME REPORT POLICY

The Chief of Police shall be responsible for furnishing a report of all felony and specified misdemeanor sex crimes to the State. The Chief's legal responsibility is delegated to all officers who have the legal duty to report any crimes that come to their attention.

Crime Analysis shall be the official repository for crime and arrest statistics generated by the Department. (Refer to Department Procedure 6.04, Crime Report Form.)

6.06 CRIME SCENE PROTECTION AND PRELIMINARY INVESTIGATION POLICY

In most major crime cases the first uniformed officer to arrive at the scene shall be responsible for making the preliminary investigation.

The Department shall direct investigative efforts towards those areas that will be most productive in identifying criminal suspects and recovering stolen property. (Refer to Department Procedure 6.06, Crime Scene Protection and Preliminary Investigation Reporting.)

6.09 **HANDLING OF INJURED ANIMALS POLICY** (Revised 01/26/04)

Officers may destroy injured animals with a service weapon, if it can be done with complete safety and it would be more humane to do so based on the severity of the injuries. (Refer to Department Procedure 6.09, Handling of Injured Animals.)

6.11 **PHYSICAL EXAMINATION POLICY**

All victims and suspects of sex crimes shall be examined if the nature of the case indicates that evidence may be present. (Refer to Department Procedure 6.11, Physical Examination of Sex Crime Victims and Suspects.)

6.12 **PARAMEDIC AND EMERGENCY TREATMENT POLICY** (Revised 02/11/11)

Officers at the scene of a medical emergency shall administer first aid to the extent of their abilities until the Fire-Rescue Department personnel or paramedics arrive and assume medical control.

Officers transporting persons in need of emergency medical treatment shall take them to the nearest primary emergency facility. (Refer to Department Procedure 6.12, Paramedic Procedures and Emergency Treatment.)

6.14 **CODE SEVEN/COFFEE BREAK POLICY** (Revised 12/24/08)

Officers and uniformed non-sworn members shall take meals only for such period of time, and at such time and place as established by Department Procedures.

At no time shall officers and uniformed non-sworn members accept free meals or drinks, reduced prices, or any other consideration that is not regularly enjoyed by the public. (Refer to Department Procedure 6.14, Code Seven, Coffee Break.)

6.15 **RIDE-ALONG POLICY**

The Department encourages citizen ride-alongs as part of the community oriented approach to policing. (Refer to Department Procedure 6.15, Ride-Along Program.)

6.16 **POLICE SERVICE DOGS POLICY**

When a police service dog is used to affect an arrest, or in some other law enforcement capacity and a bite occurs, it shall be considered a utilization of force. (Refer to Department Procedures 6.16, Police Service Dogs and 1.04, Use of Force.)

6.18 **UNDOCUMENTED PERSONS POLICY**

All people shall be treated equally, without regard to their nationality.

Officers shall not initiate police contact solely because a person is suspected of being in violation of immigration laws. (Refer to Department Procedure 6.18, Adult Undocumented Persons and 3.08, Juvenile Procedures.)

6.19 **PUBLIC INEBRIATE POLICY (NEW 01/26/04)**

Officers shall employ protective custody for public inebriates through a voluntary non-criminal detoxification process, when possible. Chronic inebriates shall be referred to the Serial Inebriate Program for prosecution and subsequent incarceration. (Refer to Department Procedure 6.19, Public Inebriates.)

6.22 **POLICY FOR RELEASING MILITARY PERSONNEL ON A VOLUNTARY PROTECTIVE CUSTODY TURNOVER**

Officers arresting military personnel for minor misdemeanors shall, at their discretion and with the consent of those arrested, release them to the custody of military authorities.

When arrested service personnel decline a protective custody turnover, they shall be handled the same as civilian arrests. (Refer to Department Procedure 6.22, Procedures for Releasing Military Personnel on a Voluntary Protective Custody Turnover.)

6.26 **HATE CRIME POLICY (NEW 01/26/04)**

Department members are to take investigative and/or enforcement actions associated with any and all reported or observed incidents of violence or threats directed at an individual, institution, or business, motivated, all or in part, because of race, religion, national origin, ethnicity, sexual orientation, disability or gender. Department members will place special emphasis on victim assistance and community cooperation in order to reduce victim/community trauma or fear.

The proper investigation of reported crimes motivated by race, religion, national origin, ethnicity, sexual orientation, disability or gender is the responsibility of all San Diego Police Department members. Each member must be sensitive to the feelings, needs, and fears that may be present in the victim and the community as a result of incidents of this nature.

In addition to our existing procedures for reporting and investigating matters of this nature, the Chief of Police may conduct inquiries into any incident brought to his/her attention. Therefore, field supervisors apprised of such an incident will ensure notification as soon as practical to their chain of command and/or to the Watch Commander's Office. (Refer to Department Procedure 6.26, Hate crimes.)

7.00 – TRAFFIC POLICIES

7.01 TRAFFIC ENFORCEMENT POLICY

The enforcement of all traffic laws shall be administered equally and fairly, regardless of the persons involved, and based solely on the nature of the offense. (Refer to Department Procedure 7.01.)

7.02 TRAFFIC COLLISION INVESTIGATION POLICY

Officers shall investigate all collisions which come to their attention that occur on a public street or highway, and all collisions that occur off-road on public or private property that involve a death, injury, drinking driver, hit and run or extensive property damage. (Refer to Department Procedure 7.02.)

7.05 ASSISTING STRANDED MOTORISTS POLICY

Officers shall stop and offer assistance to stranded motorists on freeways and to motorists stranded on surface streets when it appears assistance can be rendered safely. (Refer to Department Procedure 7.05, Assisting Stranded Motorists.)

7.09 POLICE PROTECTIVE DETAILS POLICY (Revised 12/03/07)

Police protective details are generally limited to the President or Vice President of the United States, or other dignitaries with prior approval of the Traffic Division Captain.

The San Diego Police Department Motorcycle Unit will have the primary responsibility for protective details. All pre-planning for protective details will be coordinated through this unit, which is a component of Traffic Division. (Refer to Department Procedure 7.09, Police Protective Details).

8.00 – CRITICAL INCIDENT POLICIES

8.02 INCIDENT COMMAND SYSTEM (ICS) (New 01/26/04)

The Department shall have the responsibility of providing protection for the lives and property of the citizens of San Diego and the continuation of essential services during periods of emergency.

Every effort shall be made in the management of critical incidents to restore order, prevent injuries or loss of life and reduce the potential of property damage utilizing the Incident Command System (ICS). (Refer to Department Procedure 8.02, Incident Command System.)

8.05 SWAT UNIT, PRIMARY RESPONSE TEAM AND SPECIAL RESPONSE TEAM POLICIES (Revised 01/26/04)

The SWAT unit shall always be used in support of the Incident Commander and given its mission from that ranking officer. The SWAT team leader decides upon the method of accomplishing the mission. (Refer to Department Procedure 8.05, SWAT Unit, Primary Response Team and Special Response Team.)

8.07 POLICY FOR RECALLING OFF-DUTY PERSONNEL (Revised 05/04/09)

The Department shall follow a "call-back" system of contacting off-duty personnel through a descending chain of command. "Test call-backs" shall be used to keep personnel familiar with the call-back procedure.

Off-duty sworn officers and civilian personnel who become aware of a large scale disaster or critical incident shall report for duty to their assigned duty station. (Refer to Department Procedure 8.07.)

8.09 MEDIA RELATIONS AT CRITICAL INCIDENTS POLICY

The ranking Department member in command at a critical incident is responsible for providing appropriate information to the news media. (Refer to Department Procedure 8.09.)

8.10 MUTUAL AID POLICY

The Chief of Police shall be responsible for requesting Mutual Aid when the Department is involved in a critical incident which may become or is already beyond the control of the Department's resources. (Refer to Department Procedure 8.10.)

8.11 INCIDENT REPORT POLICY

An incident report shall be prepared by the ranking field officer on all major incidents. (Refer to Department Procedure 8.11, Incident Report Procedures.)

8.13 SWAT ARMORY AND SPECIAL EQUIPMENT POLICY

No person, regardless of rank, shall be permitted to enter the Department SWAT armory without being accompanied by a member of SWAT. (Refer to Department Procedure 8.13.)

8.14 INCIDENTS INVOLVING HOSTAGES POLICY (Revised 01/26/04)

The preservation of life and prevention of injury shall be the determining factors when deciding the tactics to be utilized during incidents involving hostages. (Refer to Department Procedure 8.14, Incidents Involving Hostages/Emergency Negotiations.)

8.15 ARSON INVESTIGATIONS, BOMB THREATS, BOMBINGS, EXPLOSIVES, AND PYROTECHNIC MATERIALS POLICY (Revised 01/26/04)

Metro Arson Strike Team (MAST) investigators shall make the preliminary investigation at the scene of any suspected arson fire or bombing.

The Homicide Unit, with assistance from MAST, shall investigate arson death cases.

Area command investigators shall be responsible for bomb threats within their jurisdiction. (Refer to Department Procedure 8.15, Arson Investigation, Bomb Threats, Bombings, Explosives, and Pyrotechnic Materials.)

8.18 RIVER RESCUE POLICY

Officers shall be prohibited from making in-water rescues unless there is an immediate threat to the life of the victim. (Refer to Department Procedure 8.18, River Rescue Procedures.)

9.00 – PERSONAL CONDUCT POLICIES

- 9.01 General Duties Policy (09-01-07)
- 9.02 Obedience to Rules (01/26/04)
- 9.03 Obedience to Laws (07/10/15)
- 9.04 Obedience to Lawful Orders
- 9.05 Conflicting Orders (01/26/04)
- 9.06 Unbecoming Conduct (01/26/04)
- 9.07 Immoral Conduct
- 9.08 Gifts or Gratuities (10/15/08)
- 9.09 Abuse of Position (01/26/04)
- 9.10 Endorsements and Referrals
- 9.11 Associations (04/21/04)
- 9.12 Visiting Prohibited Establishments (04/21/04)
- 9.13 Public Statements and Appearances (01/26/04)
- 9.14 Political Activity (01/26/04)
- 9.15 Performance of Duty (01/26/04)
- 9.16 Arrests
- 9.17 Reporting for Duty
- 9.18 Neglect of Duty (01/26/04)
- 9.19 Identification (01/13/09)
- 9.20 Courtesy (03/20/15)
- 9.21 Requests For Assistance
- 9.22 Patriotic Courtesy (01/26/04)
- 9.23 Alcoholic Beverages and Drugs in Police Installations
- 9.24 Substance Abuse Policy (12/16/10)
- 9.25 Payment of Debts (01/26/04)
- 9.26 Residence and Telephone (11/04/08)
- 9.27 Investigations (01/26/04)
- 9.28 Department Reports
- 9.29 Truthfulness
- 9.30 Medical Examination, Photographs, Lineups
- 9.31 Non-bias Based Policing (03/20/15)
- 9.32 Conflict of Interest Policy
- 9.33 Duty to Report Misconduct Policy (04/29/14)
- 9.34 Backgrounds and Recruiting Standards (05/05/15)

9.01 GENERAL DUTIES POLICY (Revised 09/10/07)

Officers on duty shall at all times, lawfully protect life and property, detect and arrest violators of the law, prevent crime, preserve the public peace and enforce the laws of the state of California and the ordinances of the City of San Diego. Prior to taking law enforcement action when off duty, officers who observe or who are told of criminal activity shall first consider contacting the appropriate law enforcement agency and have on duty officers respond.

In determining whether or not to intervene, the off duty officer should consider the totality of the situation. In a case where action is necessary to prevent death, the possibility of death or serious bodily injury, significant property damage or loss, the off duty officer should consider the offense involved, the difficulty that being off duty tactically and operationally presents, and/or other factors as articulated and observed by the officer.

When within the State of California, officers shall assist any law enforcement officer who appears to be in need of immediate assistance and shall assist in the prevention of the commission of any felony or in the apprehension of any felon. Officers shall also take appropriate action where a serious threat to life or property exists.

If an off duty officer intervenes in the criminal conduct, he/she must, if reasonably possible, identify themselves, their agency and their intent to stop the criminal conduct. Any law enforcement action taken will be governed by Department policies and procedures that apply to on duty personnel.

Officers outside the boundaries of California do not have peace officer status and therefore have only the rights and obligations of private citizens.

9.02 OBEDIENCE TO RULES POLICY (Revised 01/26/04)

Members shall not commit any acts nor fail to perform any acts that constitute a violation of the policies, procedures, directives or orders of the Department, the City of San Diego Administrative Regulations, the Personnel Regulations Manual, the Civil Service Rules, or the City Charter.

9.03 OBEDIENCE TO LAWS POLICY (Revised 7/10/2015)

Members shall obey all federal, state, county, and municipal laws. If any member is arrested, charged, indicted, or is knowingly under investigation for a criminal offense, excluding traffic infractions and parking violations, that member shall immediately report the incident to his or her supervisor or the Watch Commander, in person or by telephone. To report the incident, the member must actually speak with the supervisor or Watch Commander. Text messages and voice messages are not acceptable.

9.04 OBEDIENCE TO LAWFUL ORDERS POLICY

Members shall promptly obey any lawful orders of superiors. This includes orders relayed from a supervisor by someone of the same or lesser rank. While on duty and in the presence of others, members shall address superior officers by their titles.

9.05 CONFLICTING ORDERS POLICY (Revised 01/26/04)

Members who are given an otherwise proper order which is in conflict with a previous order, policy, procedure or directive shall respectfully inform the superior issuing the order of the conflict. If the superior issuing the conflicting order does not alter or retract it, the order shall stand and the superior shall be responsible for the conflicting order and members shall not be held responsible for disobedience of the order, policy, procedure or directive previously issued.

9.06 UNBECOMING CONDUCT POLICY (Revised 01/26/04)

Officers shall conduct themselves, both on and off duty, in such a manner as to reflect favorably on the Department. Officers shall not conduct themselves in any manner that could bring the Department into disrepute or reflects discredit upon the officer as a member of the Department, or impairs the operation and efficiency of the Department or officer.

Members shall not engage in any conduct that is unbecoming an employee of the Department, nor which impairs the operation of the Department.

9.07 IMMORAL CONDUCT POLICY

Officers shall maintain a level of moral conduct in their personal and business affairs that is in keeping with the highest standards of the law enforcement profession. Officers shall not participate in any activity or incident involving moral turpitude that impairs their ability to perform as members of the Department or causes the Department to be brought into disrepute.

9.08 GIFTS OR GRATUITIES POLICY (Revised 10/15/08)

"Gift" or "Gratuity" as used herein, includes, but is not limited to, meals, beverages, money, property, loan, promise, service, or entertainment.

Members shall not solicit nor accept any gift or gratuity from any police-regulated business or person employed by, or having an interest in, a police-regulated business.

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Members shall not solicit nor accept from any person, business or organization, any gift or gratuity for the benefit of the member or others if it may be reasonably inferred that the person, business or organization:

1. Seeks to influence action of an official nature or seeks to affect the performance or non-performance of an official duty; or
2. Has an interest that may be affected directly or indirectly by the performance of an official duty.

While on duty, members shall pay full price for any goods, products or services obtained.

9.09 **ABUSE OF POSITION POLICY** (Revised 01/26/04)

A. Use of official position or identification

Members shall not use their official position, official identification cards or badges for: (1) Personal or financial gain; (2) Obtaining privileges not otherwise available to them except in the performance of duty; or (3) Avoiding consequences of illegal acts. Members shall not lend their identification cards or badges to other persons nor permit their identification cards to be reproduced.

B. Use of name, photograph or title

Members shall not permit or authorize the use of their names, photographs or official titles in connection with testimonials or advertisements of any commodity or commercial enterprise if such use identifies the person as a member of the San Diego Police Department without the prior approval of the Chief of Police.

C. Except as authorized, members shall not enter into official Department correspondence. (See DP 1.17, Department Correspondence)

D. Members shall not use the Department's name or address, nor the address of any area station, for other than official purposes. Members shall not authorize the use of the Department's name, any Department address or their official titles on any personal correspondence, including, personal checks, credit cards and other items to be deemed for personal use without the prior approval of the Chief of Police.

9.10 **ENDORSEMENTS AND REFERRALS POLICY**

Members in an official capacity shall not recommend or suggest, in any manner, the employment or procurement of a particular product, or private professional or commercial service (such as attorney, ambulance service, towing service, bondsman, crime prevention materials, private investigator firms, etc).

9.11 ASSOCIATING POLICY (Revised 04/21/04)

Members shall not maintain associations or dealings with persons, whom they know or should know, are felons or suspected felons; registered sex offenders, involved in illicit narcotic activity; involved in violent crimes; or persons under criminal investigation or indictment that may adversely affect Department operations. Such associations are only permissible in the performance of authorized official duties.

9.12 VISITING PROHIBITED ESTABLISHMENTS POLICY (Revised 04/21/04)

Members shall not knowingly visit, enter or frequent a house of prostitution, unlawful gambling house, or establishment maintained for the purpose of conducting illegal activity, except in the performance of duty or while acting under proper and specific orders from a supervisor.

While on duty, members shall not visit any adult entertainment establishments unless for authorized official duties.

9.13 PUBLIC STATEMENTS AND APPEARANCES POLICY (Revised 01/26/04)

Members shall not publicly criticize or ridicule the Department, its policies or others by speech, writing or other expression, where this is defamatory, obscene, unlawful, undermines the effectiveness of the Department, interferes with the maintenance of discipline or is made with reckless disregard for truth or known to be false.

Members shall not address public gatherings, appear on radio or television, lecture, prepare any articles for publication, act as correspondents to a newspaper or periodical, or release or divulge investigative information regarding police matters without the prior approval of the Chief of Police.

9.14 POLITICAL ACTIVITY POLICY (Revised 01/26/04)

Members shall not:

1. Use their official capacity to influence, interfere with, or affect the results of any election for political office;
2. Use or give the appearance of using their official status at any time or place for the purpose of soliciting contributions or attempting to exert influence in respect to any election for political office. This includes the use of title, wearing of the uniform or other apparel or badge or posing for campaign photographs in uniform;
3. Engage in any political activity during working hours or in any City work area;
or,

4. Permit entry into any place under their control occupied for any purpose of the municipal government of any person for the purpose of therein making, collecting or receiving any subscription or contribution or giving any notice of political activity.

9.15 PERFORMANCE OF DUTY POLICY (Revised 01/26/04)

Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by, but is not limited to, a lack of knowledge of the application of laws required to be enforced, an unwillingness or inability to perform assigned tasks, or the failure to conform to work standards established for the member's rank, grade or position.

Officers shall not fail to take appropriate action on the occasion of a crime disorder or other condition deserving police attention, or be absent without leave or be unnecessarily absent from their assigned area during a tour of duty.

The following will be considered prima facie evidence of unsatisfactory performance for all members: repeated poor performance evaluations or a written record of repeated infractions of the Department's policies, procedures, directives or orders.

9.16 ARREST POLICY

Members shall not make any arrest that they know is not in accordance with law and established Department procedures.

9.17 REPORTING FOR DUTY POLICY

Members shall report for duty at the time and place required by assignment or orders and shall be physically and mentally fit to perform their duties. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they may immediately assume their duties. Off-duty members shall be subject to recall as needed, and shall report for duty as directed by any superior. Judicial or other lawfully issued subpoenas shall constitute an order to appear under this section.

Absence from duty without leave for a period of three days shall be considered a resignation and may be processed as such.

9.18 NEGLECT OF DUTY POLICY (Revised 01/26/04)

Members shall not engage in activities or personal business that would cause them to neglect or be inattentive to their duty.

Members shall remain awake on duty. If unable to do so, they shall advise their superior who shall determine the proper course of action.

9.19 IDENTIFICATION POLICY (Revised 01/13/09)

Whether on or off duty, officers and reserve officers shall carry or have in their immediate possession, their Department identification card, except when impractical, dangerous for their safety or when the act would hamper an investigation. The carrying of a badge or firearm shall be at the option of the officer. If an officer chooses to carry a badge, the Department identification card shall also be carried. If an officer chooses to carry a firearm, both the Department identification card and badge shall be carried.

Officers shall furnish their names and Department member identification numbers to any person requesting that information when they are on duty or while representing themselves as having official capacities, except when the withholding of such information is necessary for the performance of police duties or is authorized by the proper authority.

9.20 COURTESY POLICY (Revised 03/27/15)

Members shall be courteous to all persons. Members shall be tactful in the performance of their duties, shall control their tempers, exercise the utmost patience and discretion, and shall not engage in argumentative discussion even in the face of extreme provocation. Except when necessary to establish control during a violent or dangerous situation, no member shall use coarse, profane or violent language. Members shall not use insolent language or gestures in the performance of his or her duties. Members shall not make derogatory comments about or express any prejudice concerning race, religion, politics, national origin, gender (to include gender identity and gender expression), sexual orientation, or similar personal characteristics.

9.21 REQUESTS FOR ASSISTANCE POLICY

When any person requests assistance or advice, or makes complaints or reports, either by telephone or in person, all pertinent information shall be obtained in a professional and courteous manner and shall be properly and judiciously acted upon, consistent with established Department procedures.

9.22 PATRIOTIC COURTESY POLICY (Revised 01/26/04)

Patriotic courtesy and respect for the American flag is symbolic of the oath to support and uphold the U.S. Constitution. During the playing of the National Anthem and when the Pledge of Allegiance is being recited, officers shall render one of the following salutes to the American flag:

- 1) During the playing of the National Anthem, members in uniform shall stand at attention and render a military salute;
- 2) During the Pledge of Allegiance, members in uniform shall stand at attention and place their right hand over their heart;
- 3) During the Pledge of Allegiance indoors, members in uniform and wearing a hat, shall remove their hat and hold it in their right hand, over their heart;
- 4) During the Pledge of Allegiance outdoors, members in uniform and wearing a hat, shall leave their hat on; and,
- 5) Members in civilian attire shall stand at attention and place their right hand over their heart during either the National Anthem or the Pledge of Allegiance.

9.23 ALCOHOLIC BEVERAGES AND DRUGS IN POLICE INSTALLATIONS POLICY

Members shall not bring into, nor store, alcoholic beverages, non-prescribed controlled substances, narcotics or hallucinogens in any police facility or vehicle, except in the performance of duties or as authorized by the Chief of Police. Such items shall be processed in accordance with Department procedures.

9.24 SUBSTANCE ABUSE POLICY (Revised 05/05/15)

Illegal drug use or possessing, selling, furnishing, administering, transporting, cultivating, and/or processing illegal drugs will not be tolerated. This includes "street" drugs, anabolic steroids, and misuse of prescription medication.

Unjustifiable positive test results for alcohol will also subject employees to discipline. Members shall not drink intoxicating beverages while on duty except in the performance of duty and while acting under proper and specific orders from a superior. Members shall not appear for duty, nor be on duty, while under the influence of illegal drugs or intoxicants or with an odor of intoxicants on their breath. Unjustifiable positive test results for illegal drugs or a blood alcohol level of 0.02%, or above, for alcohol shall be considered a violation of this policy.

Members, while off duty, shall refrain from consuming intoxicating beverages

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) within eight hours of the beginning of a scheduled shift or overtime assignment, or to the extent that it results in a level of impairment, intoxication, or obnoxious or offensive behavior which would discredit them or the Department, or render them unfit to report for their next regular shift.

9.25 **PAYMENT OF DEBTS POLICY** (Revised 01/26/04)

Members shall not undertake any financial obligations that they know or should know they will be unable to meet. Repeat instances of financial difficulty may be cause for disciplinary action when the employee's job performance is adversely affected or Department operations are impaired.

Non-payment of debts in dispute between members and creditors shall not be the subject of disciplinary action. Financial difficulties stemming from unforeseen medical expenses or personal disaster shall not be cause for discipline, provided that a good- faith effort to settle all accounts is undertaken.

9.26 **RESIDENCE AND TELEPHONE POLICY** (Revised 11/04/2008)

) Members shall reside within the state of California and maintain the ability to respond for duty within 90 minutes. All members shall maintain a telephone that is accessible in their residence and must keep their command informed of their correct residential

address and telephone number. Members shall report any address or telephone number changes to their command within twenty-four hours of making the change.

Newly appointed members to the Department who reside outside the residential location requirement shall take up residence within the required distance no later than the completion of their probationary period.

9.27 **INVESTIGATIONS POLICY** (Revised 01/26/04)

) Members shall not conduct any investigation, or other official action not part of their regular duties, without first obtaining permission from their superior, unless the urgency of the situation requires immediate police action. In those situations, the member must notify their superior of their actions as soon as possible.

9.28 **DEPARTMENT REPORTS POLICY**

) Members shall submit all necessary reports on time and in accordance with established Department Procedures. Reports submitted by members shall be truthful and no member shall knowingly enter, or cause to be entered, any inaccurate, false or improper information.

9.29 TRUTHFULNESS POLICY

Members shall be truthful in all matters relating to their duties.

Upon the order of a superior, or any officer appointed by the Chief of Police to conduct internal investigations, and in accordance with Constitutional and contractual guarantees, including a right to representation, members shall truthfully answer all questions specifically directed and narrowly related to their scope of employment and operations of the Department.

9.30 MEDICAL EXAMINATIONS, PHOTOGRAPHS, AND LINEUPS POLICY

Upon the order of the Chief of Police or his designee, and in accordance with Constitutional and contractual guarantees, officers shall submit to any psychological, medical, ballistics, chemical or other tests, photographs or lineups that are specifically directed and narrowly related to a particular internal investigation being conducted by the Department.

9.31 NON-BIAS BASED POLICING POLICY (Revised 3/27/15)

The department does not tolerate bias based policing. Bias based policing occurs when law enforcement inappropriately considers factors such as race, religion, national origin, gender (to include gender identity and gender expression), lifestyle, sexual orientation or similar personal characteristics in deciding with whom and how to intervene in an enforcement capacity.

Members shall not base any enforcement action, in whole or in part, on race, religion, national origin, gender (to include gender identity and gender expression), lifestyle, sexual orientation or similar personal characteristics, except when members are looking for subjects or investigating crimes involving those specific descriptors.

Members shall make every effort to prevent and report instances of discriminatory or bias based policing practices by fellow members.

9.32 CONFLICT OF INTEREST POLICY

A Department member who, in his or her official capacity, becomes involved in any incident or investigation where a potential conflict of interest exists shall immediately inform his or her supervisor of such involvement. The decision as to whether the member may continue to be involved with the incident or investigation will be at the discretion of the member's supervisor or another ranking member of the Department.

9.33 **DUTY TO REPORT MISCONDUCT POLICY (04/29/14)**

Members shall immediately report misconduct by another member.

For the purpose of this policy misconduct means conduct that causes risk to the health and safety of the public, or impairs the operation and efficiency of the Department or member, or brings into disrepute the reputation of the member or the Department. The conduct could involve a violation of any law, statute, ordinance, City Administrative Regulation, Department policy or procedure, act of moral turpitude or ethical violation. In this context misconduct involves a willful act done with a wrong intention and is more than mere negligence, error of judgment or innocent mistake.

If any member has credible knowledge of another member's misconduct they shall take immediate, reasonable action to stop the misconduct, and the member shall report the misconduct to a supervisor as soon as possible.

Supervisors shall assess the validity of any allegation of misconduct by a member. If there is evidence of misconduct, or the allegation appears credible, then the supervisor shall immediately notify their chain of command and/or the watch commander's office.

9.34 **BACKGROUNDS AND RECRUITING STANDARDS (New 05/05/15)**

All Department members assigned to the Background Investigations Unit shall abide by established POST standards and guidelines in addition to the Backgrounds and Recruiting Operations Manual.

Exhibit C

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6 Attorneys for Plaintiff

7
8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SAN DIEGO

10 THE PEOPLE OF THE STATE OF
CALIFORNIA,

11 Plaintiff,

12 v.

13 TOMMY LEE BONDS III,

14 Defendant.

Case No. M280282/1556907

OPPOSITION TO DEFENDANT'S
MOTION FOR RELIEF UNDER THE
RACIAL JUSTICE ACT, PENAL CODE
SECTION 745

Date: August 2, 2022

Time: 9:00 a.m.

Dept.: 2102

Readiness: August 16, 2022

Estimated Time: 30 minutes

Witnesses: 0

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18 I

19 INTRODUCTION

20 Police officers stopped Tommy Lee Bonds III (Defendant) for a vehicle equipment
21 violation. When asked, Defendant admitted there was a firearm in the vehicle. Officers found a
22 pistol concealed in the vehicle. Based on his belief that the stop was racially motivated,
23 Defendant brings this motion.

24 Because Defendant's belief does not give rise to more than a mere possibility a violation
25 occurred, this Court cannot hold a hearing. Even if this Court were to hold a hearing, Defendant
26 cannot meet his burden of a preponderance of the evidence that a violation occurred. His motion
27 should be denied.

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II

STATEMENT OF FACTS

On the night of January 24, 2022, San Diego Police Department Officers Daniel Eysie and Ryan Cameron were patrolling the City Heights neighborhood of San Diego. The officers saw Defendant's car traveling eastbound on El Cajon Boulevard. Defendant's car had a cover which obscured the view of the rear license plate. The officers followed Defendant as he pulled into a parking lot. When the officers activated the patrol car lights, Defendant stopped at the adjacent Chevron station.

Officer Cameron spoke with Defendant while Officer Eysie spoke with the front passenger. Defendant expressed his belief that the officers followed him because of his race. Officer Cameron responded, "Well, part of it, the hoodies up and stuff. Just, the climate of everything that's going on in the city these days."¹ After a brief discussion about other topics, Officer Cameron asked if there were any firearms in the car. Defendant said he had his registered unloaded firearm in the back.

The officers had both males get out of the car so they could secure the firearm. Defendant was placed in handcuffs. Defendant again told Officer Cameron that he believed he was stopped because of his race. Officer Cameron responded, "It's not that." Defendant then said that he did not believe the officers would have followed him if he were white. Officer Cameron replied, "Well, we can agree to disagree."

Officer Eysie found a pistol in the pocket on the backside of the front passenger seat. The unloaded firearm was registered to Defendant. Defendant was arrested for carrying a concealed firearm. The officers parked Defendant's car and allowed him to call a friend to pick up the keys. Defendant was polite and cooperative throughout the incident. Likewise, Officers Cameron and Eysie were polite and professional.

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¹ Officer Cameron is never mentioned in Defendant's brief. Defendant incorrectly states that Officer Eysie had this interaction with Defendant. The People will lodge a copy of Officer Cameron's body worn video recording as Exhibit 1. The corresponding transcript is attached to the People's brief as Exhibit 1A.

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III

STATEMENT OF THE CASE

The People charged Defendant with carrying a concealed firearm in a vehicle in violation of Penal Code section 25400(a)(1).² Defendant pleaded not guilty on April 28, 2022, and entered a time waiver. Defendant's June 28 readiness hearing was continued to August 16. This motion followed.

IV

ARGUMENT

A. BECAUSE DEFENDANT CANNOT MAKE A PRIMA FACIE SHOWING, THIS COURT SHOULD NOT HOLD A HEARING

Penal Code section 745(a), in pertinent part, states, "The state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin." A defendant may file a motion alleging a violation of Penal Code section 745. *Id.* § 745(b). If the defendant makes a prima facie case showing of a violation of Penal Code section 745(a), the trial court must hold a hearing to determine if a violation occurred. *Id.* § 745(c). Thus, if a defendant fails to make a prima facie showing, a trial court should not hold a hearing.

A "prima facie showing" means the defendant provided "facts that, if true, establish that there is a substantial likelihood that a violation of" Penal Code section 745(a) occurred. *Id.* § 745(h)(2). "'Substantial likelihood' requires more than a mere possibility, but less than a standard of more likely than not." *Id.* A "mere possibility" is nothing more than speculation. *People v. Ramon*, 175 Cal. App. 4th 843, 851 (2009). Thus, a defendant must provide facts that demonstrate more than speculation that a violation occurred.

Penal Code section 745 has five categories of violations. Only the first category is implicated by Defendant's allegation: Defendant must demonstrate that "a law enforcement

² The complaint incorrectly alleges this offense as a misdemeanor pursuant to Penal Code section 17(b)(4). This offense is a straight misdemeanor. The People will file an amended complaint correctly alleging the offense.

1 officer involved in the case . . . exhibited bias or animus towards the defendant because of the
2 defendant’s race, ethnicity, or national origin.” Penal Code § 745(a)(1).

3 “Bias” is “[a] mental inclination or tendency; prejudice; predilection.” *Black’s Law*
4 *Dictionary* 198 (11th ed. 2019). “Bias” also is “a preference or an inclination, especially one that
5 inhibits impartial judgment;” an unfair act or policy stemming from prejudice. *The American*
6 *Heritage Dictionary* 175 (9th ed. 2018). Prejudice is a preconceived judgment or opinion formed
7 with little or no factual basis. *Black’s Law Dictionary, supra*, at 1428; *see also The American*
8 *Heritage Dictionary, supra*, at 1389–90 (“irrational suspicion or hatred of a particular social
9 group”). Animus is “ill will.” *Black’s Law Dictionary, supra*, at 111; *see also The American*
10 *Heritage Dictionary, supra*, at 71.

11 Thus, for a court to find a prima facie showing of a Penal Code section 745(a)(1)
12 violation, Defendant must allege facts that, if true, demonstrate more than a mere possibility that
13 law enforcement displayed a prejudice or ill will against Defendant based on Defendant’s race.
14 Defendant cannot make that showing.

15 Defendant’s primary allegation is that Officer Cameron’s statement, “Well, part of it, the
16 hoodies up and stuff. Just, the climate of everything that’s going on in the city these days,”
17 amounts to an admission that the stop was motivated by race, and that the detention was “the very
18 definition of racism.” (Defendant’s Motion at 2, 7-9). Even considering Officer Cameron’s
19 statement at face value, Defendant is making a big leap in concluding it was an admission that the
20 stop was racially motivated. Considering the statement along with subsequent statements further
21 undercuts Defendant’s conclusion: When Defendant again brought up race as the reason for the
22 stop, Officer Cameron responded, “It’s not that.”³ Defendant then said he would not have been
23 stopped if he was white, to which Officer Cameron responded, “Well, we can agree to disagree.”

24 Defendant also alleges that “proactive enforcement” is “code for making racially biased
25 stops” of “black people.” (Defendant’s Motion at 1, 7). He cites to the police report. His citation
26 offers no support for his allegation.

27 _____
28 ³ This exchange occurred about three and a half minutes after the initial exchange that
Defendant alleges is an admission of racism.

1 Finally, Defendant relies on a number of articles and studies. These materials are
2 inadmissible, in whole or in part, for a number of reasons. Assuming for the sake of argument that
3 such materials are accurate and admissible, they are not helpful in evaluating Defendant's
4 allegations relating to this traffic stop, and should be disregarded by the Court.

5 Disregarding Defendant's articles, studies, and his proposed meaning of "proactive
6 enforcement," this leaves the following facts to establish a prima facie showing: The first
7 statement by Officer Cameron, "Well, part of it, the hoodies up and stuff. Just, the climate of
8 everything that's going on in the city these days," and Officer Cameron's two subsequent
9 unequivocal denials that the stop was racially motivated.

10 It is important to note the difference between facts, as opposed to conclusions or beliefs. It
11 is a fact that Officer Cameron said what was recorded by his body worn camera. Defendant
12 believes and concludes that what Officer Cameron said was an admission of racism. The meaning
13 Defendant assigns to any of Officer Cameron's statements is not fact. Defendant's beliefs and
14 conclusions do not establish a substantial likelihood of a violation. Defendant's beliefs and
15 conclusions are nothing more than speculation about the mere possibility of a violation.

16 Accordingly, because Defendant cannot meet his burden, this Court must deny
17 Defendant's motion without an evidentiary hearing.

18 **B. SHOULD THIS COURT ORDER A HEARING, DEFENDANT'S EVIDENCE**
19 **DOES NOT SHOW BY A PREPONDERANCE OF THE EVIDENCE A**
20 **VIOLATION OF PENAL CODE SECTION 745**

21 If a defendant meets the prima facie showing of a violation, a trial court must hold a
22 hearing. Penal Code § 745(c). At the hearing, evidence may be presented. *Id.* § 745(c)(1). This
23 evidence can include "statistical evidence, aggregate data, expert testimony, and the sworn
24 testimony of witnesses." *Id.* The defendant has the burden to show a violation of Penal Code
25 section 745 by a preponderance of the evidence. *Id.* § 745(c)(2).

26 For the same reasons discussed above, Defendant cannot meet his burden at a hearing.
27 Defendant's statistical data is not helpful in evaluating Defendant's traffic stop, and Defendant
28 cannot establish that the officers here pulled him over because of his race. Accordingly, this Court
must deny his motion at any hearing.

1 **C. DEFENDANT’S PROPOSED REMEDIES WOULD NOT ARISE FROM THIS**
2 **MOTION**

3 If a court finds a Penal Code section 745 violation, the court must impose a remedy
4 specific to the violation. Penal Code § 745(e). For a violation that occurred before judgment, the
5 court must choose from three remedies. *Id.* § 745(e)(1).

6 None of the remedies enumerated in Penal Code section 745(e)(1) apply in this case.
7 Defendant correctly points out that Penal Code section 745 remedies “do not foreclose any other
8 remedies available under the United States Constitution, the California Constitution, or any other
9 law.” *Id.* § 745(e)(4). Based on this provision, Defendant seeks suppression of evidence or a
10 dismissal. Defendant’s reading of Penal Code section 745(e)(4) cannot be correct; he is trying to
11 mix and match remedies. That subdivision cannot be read to apply the Fourth Amendment
12 remedy of evidence suppression to a Penal Code section 745 violation. The provision simply
13 states that if a defendant obtains relief under Penal Code section 745, he is not precluded from
14 seeking relief for other violations of the law.⁴

15 Finally, as to Defendant’s proposed remedy of dismissal pursuant to Penal Code section
16 1385 or as a result of a due process violation, those issues involve legal standards and
17 considerations that are far different from what the Court is tasked with under Penal Code section
18 745. Those issues would require separate briefing by both parties.

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26 ⁴ For example, consider a defendant charged with driving under the influence (DUI), with
27 an allegation that the defendant had a prior DUI conviction within ten years. If a court in such a
28 case found a Penal Code section 745 violation, the court could dismiss the prior conviction
allegation. *Id.* § 745(e)(1)(C). Penal Code section 745(e)(4) makes it clear that such a remedy
would not preclude the defendant from subsequently seeking the suppression of evidence due to a
violation of the Fourth Amendment, or exclusion of a statement taken in violation of *Miranda*.

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V

CONCLUSION

For the foregoing reasons, the People respectfully request that this Court deny Defendant's motion.

Dated: July 26, 2022

MARA W. ELLIOTT, City Attorney

By  for Taylor Hearnberger
Taylor F. Hearnberger
Chief Deputy City Attorney

Attorneys for Plaintiff

EXHIBIT 1A

Exhibit D

1 SAN DIEGO, CA, TUESDAY, AUGUST 2, 2022, 9:15 A.M.

2

3 THE COURT: THIS IS THE CASE OF PEOPLE VERSUS TOMMY
4 BONDS.

5 APPEARANCES OF COUNSEL, PLEASE.

6 MR. HEARNSBERGER: TAYLOR HEARNSBERGER FOR THE
7 PEOPLE.

8 MR. GENSER: DEPUTY PUBLIC DEFENDER ABRAM GENSER ON
9 BEHALF OF MR. BONDS, 977. I'M ASSISTED BY MY LAW CLERK.

10 THE COURT: THIS IS A MOTION TO -- FOR RELIEF UNDER
11 THE RACIAL JUSTICE ACT, AND I REVIEWED THE FOLLOWING
12 DOCUMENTS IN PREPARATION FOR THIS MOTION: A NOTICE OF
13 MOTION AND MOTION FOR RELIEF UNDER THE RACIAL JUSTICE ACT
14 PURSUANT TO PENAL CODE SECTION 745, PARENTHESIS SMALL A,
15 PARENTHESIS 1, AUTHORED BY MR. GENSER AND ASHKAN
16 KARGAREN, K-A-R-G-A-R-E-N, FIRST NAME, A-S-H-K-A-N, ON
17 BEHALF OF THE DEFENDANT. ARE YOU WAIVING THE DEFENDANT'S
18 PRESENCE?

19 MR. GENSER: YES.

20 THE COURT: OKAY. THAT'S FILE STAMPED JULY 12TH,
21 2022. I'VE ALSO REVIEWED AN OPPOSITION TO THAT MOTION
22 AUTHORED BY DEPUTY CITY ATTORNEY TAYLOR HEARNSBERGER ON
23 BEHALF OF THE PEOPLE, FILE STAMPED JULY 26TH, 2022.

24 AND TODAY'S MOTION IS TO DETERMINE, AS I
25 UNDERSTAND IT, WHETHER THERE WAS A PRIMA FACIE SHOWING
26 SUFFICIENT TO ORDER A HEARING ON THE ALLEGED VIOLATION
27 INCLUDED IN THE DEFENSE MOTION.

28 MY NORMAL PRACTICE IS TO HEAR FROM THE MOVING

1 PARTY FIRST AND ALSO GIVE YOU THE LAST WORD.

2 SO I'LL ALLOW YOU TO PROCEED, MR. GENSER, AND
3 THEN I'LL HEAR FROM THE PEOPLE.

4 MR. GENSER: THANK YOU, YOUR HONOR. IN ADDITION TO
5 THE EVIDENCE WE'RE GOING TO -- THE EVIDENCE WE'RE GOING
6 TO PRESENT TODAY CAN ALSO BE USED SHOULD THE COURT FIND
7 THAT WE'VE MADE OUR PRIMA FACIE CASE. IT WILL BE THE
8 SAME EVIDENCE TO DETERMINE WHETHER OR NOT WE'VE ALSO MET
9 THE A VIOLATION UNDER THE PREPONDERANCE STANDARD.

10 THE COURT: AS I UNDERSTAND IT, THE STATUTE OF -- AS
11 I MENTIONED IN PREVIOUS MOTIONS, THERE'S A LOT TO BE
12 ANSWERED BY THE APPELLATE COURTS WITH REGARD TO
13 INTERPRETATION OF THE STATUTE, BUT PENAL CODE SECTION
14 745, PARENTHESIS SMALL C, SAYS IF A MOTION IS FILED IN A
15 TRIAL COURT AND THE DEFENDANT MAKES A PRIMA FACIE SHOWING
16 OF A VIOLATION OF SUBDIVISION PARENTHESIS SMALL A, THE
17 TRIAL COURT SHOULD HOLD THE HEARING.

18 SO MY UNDERSTANDING IS THAT THE PRIMA FACIE
19 SHOWING IS SIMILAR TO A PITCHESS MOTION WHERE THERE ARE
20 EITHER DECLARATIONS OR OFFERS OF PROOF, AND IF I FIND
21 THAT SUFFICIENT, THEN I CONDUCT THE HEARING.

22 MR. GENSER: YOUR HONOR, ALSO, UNDER SUBSECTION
23 (C)(1), WE ARE PERMITTED TO PRESENT STATISTICAL EVIDENCE,
24 AGGREGATE DATA, EXPERT TESTIMONY, AND SWORN TESTIMONY.

25 THE COURT: AT THE HEARING. THAT'S THE HEARING
26 ORDERED AFTER I MAKE A PRIMA FACIE SHOWING. (C)(1)
27 BEGINS BY SAYING, "AT THE HEARING," COMMA, "EVIDENCE MAY
28 BE PRESENTED BY EITHER PARTY."

1 SO FOR THE PRIMA FACIE SHOWING, I DON'T BELIEVE
2 THE STATUTE WAS INTENDED FOR THE COURT TO HOLD A HEARING
3 IN ORDER TO DECIDE WHETHER TO HOLD A HEARING.

4 MR. GENSER: WELL, I THINK I'M STILL PERMITTED TO
5 PRESENT EVIDENCE TO THE COURT THAT THE COURT SHOULD HOLD
6 A HEARING. I DON'T THINK I'M LIMITED TO PAPERWORK. I
7 THINK I CAN CALL WITNESSES, AND THE COURT CAN EXAMINE
8 THEM AND DETERMINE WHETHER OR NOT I'VE MADE A PRIMA FACIE
9 SHOWING.

10 THE COURT: WELL, WHAT WOULD BE THE DIFFERENCE
11 BETWEEN THAT AND A HEARING?

12 MR. GENSER: WELL, I THINK, AS OFTEN WILL BE THE
13 CASE -- FOR EXAMPLE, IF THIS WERE A BATSON-WHEELER
14 CHALLENGE, I WOULD SAY, "YOUR HONOR, I HAVE AN
15 OBJECTION." THE COURT WOULD HOLD A PRELIMINARY HEARING
16 TO DETERMINE WHETHER OR NOT THERE'S ENOUGH EVIDENCE TO
17 SHIFT THE BURDEN TO THE PROSECUTION. AT THE PRIMA FACIE
18 SHOWING, I WOULD SAY THE JUROR THE PROSECUTION KICKED IS
19 BLACK, AND THERE IS NO RACE-NEUTRAL REASON FOR THEM
20 KICKING SAID JUROR. AND IN EVERY COURTROOM I'VE EVER
21 BEEN IN, THAT'S BEEN ENOUGH FOR THE JUDGE TO SAY, "OKAY.
22 THE BURDEN NOW SHIFTS TO THE PROSECUTION. IS THERE A
23 RACE-NEUTRAL REASON FOR EXPLAINING THAT?" THE STANDARD
24 IS EXCEEDINGLY LOW.

25 NOW, I THINK THAT I COULD PRESENT EVIDENCE THAT
26 THE JUROR WAS BLACK. FOR EXAMPLE, I COULD SAY -- PRIMA
27 FACIE SHOWING, "YOUR HONOR, IN ORDER TO SUPPORT THIS, I
28 WOULD LIKE TO TAKE THE SWORN TESTIMONY OF THIS WITNESS.

1 I'D LIKE TO INTRODUCE THE WITNESS' INSTAGRAM PAGE WHERE
2 HE CLAIMS THAT HE IS AFRICAN AMERICAN." I CAN -- SO ON
3 AND SO FORTH.

4 NOW, THAT NEVER HAPPENS BECAUSE THE PRIMA FACIE
5 CHALLENGE IS SO LOW THAT WE NEVER GET TO THAT. WE MOVE
6 RIGHT INTO THE EVIDENTIARY PART OF THINGS. I THINK THIS
7 COURT SHOULD DO THAT AS WELL, ESPECIALLY IN LIGHT OF THE
8 EVIDENCE IN THIS CASE.

9 THE COURT: LET ME HEAR FROM THE PEOPLE.

10 MR. HEARNSBERGER: YOUR HONOR, THIS ISN'T A
11 BATSON-WHEELER HEARING. WE HAVE A STATUTE HERE THAT
12 IS -- WHILE THERE -- THE COURT POINTS OUT THERE'S MANY
13 THINGS THAT WILL EVENTUALLY BE ANSWERED BY REVIEWING
14 COURTS, I THINK THE PROCEDURE HERE IS VERY CLEAR. UNDER
15 (C) AND (C)(1), THE DEFENSE HAS TO MAKE THAT PRIMA FACIE
16 SHOWING AND THEN A HEARING IS ORDERED, AT WHICH TIME
17 EVIDENCE AND TESTIMONY IS RECEIVED BY THE COURT.

18 AS THE COURT POINTED OUT, IT DOESN'T MAKE SENSE
19 TO HOLD A HEARING TO DECIDE WHETHER TO HOLD A HEARING.
20 THERE'S NO AUTHORITY TO TAKE TESTIMONY THIS MORNING. THE
21 COURT NEEDS TO CONSIDER WHAT IT HAS BEFORE IT NOW IN
22 DETERMINING WHETHER THAT SHOWING HAS BEEN MADE BY THE
23 DEFENSE.

24 THE COURT: AS I MENTIONED, THERE'S VERY LITTLE
25 APPELLATE GUIDANCE, ONLY ONE PUBLISHED DECISION, YOUNG
26 VERSUS SUPERIOR COURT OF SOLANO COUNTY, 79 CAL.APP.
27 FIFTH, 138. AND THAT CASE CONCERNED A DISCOVERY ISSUE,
28 BUT IN THE CONTEXT, IT'S THE ONLY CASE THOROUGHLY

1 DISCUSSING THE RACIAL JUSTICE ACT, AND IT DOES MENTION
2 THE PRIMA FACIE SHOWING REQUIRED. IT DOES NOT DISCUSS
3 THE PROCEDURE BECAUSE THAT WASN'T THE ISSUE IN THAT CASE,
4 BUT IT DOES TALK ABOUT THE ANALOGY TO PITCHESS MOTIONS.
5 IN PITCHESS MOTIONS, THE DEFENSE ADMITS AN AFFIDAVIT
6 UNDER PENALTY OF PERJURY, AND THAT'S NOT REQUIRED HERE.

7 BUT THE COURT THEN REVIEWS IT AND DECIDES,
8 WITHOUT HEARING ANY OTHER EVIDENCE, WHETHER OR NOT THE
9 ALLEGATIONS MADE IN THE AFFIDAVIT ARE SUFFICIENT FOR THE
10 COURT TO CONDUCT AN IN-CAMERA REVIEW. AND IN THE YOUNG
11 CASE, IT TALKS ABOUT THE SIMILARITIES. THERE'S NO CASE
12 SPECIFICALLY HOLDING WHAT THE PROCEDURE IS FOR THIS TYPE
13 OF MOTION, BUT IT SEEMS TO MAKE SENSE IN LIGHT OF THE
14 FACT THAT SUBDIVISION C OF 745 SAYS IF A MOTION IS FILED
15 IN THE TRIAL COURT AND THE DEFENDANT MAKES A PRIMA FACIE
16 SHOWING, THEN THE TRIAL COURT SHALL HOLD A HEARING.

17 WITH REGARD TO PITCHESS DECLARATIONS, THE
18 COURT'S FUNCTION IS NOT TO DECIDE WHAT IS TRUE OR NOT
19 TRUE, ONLY WHETHER DEFENSE ALLEGATIONS SHOW A REASONABLE
20 POSSIBILITY THAT THERE IS SOME TYPE OF VIOLATION. SO I
21 BELIEVE UNTIL THERE'S FURTHER APPELLATE GUIDANCE, THAT
22 SHOULD BE THE PROCEDURE HERE, AND I WILL PERMIT
23 MR. GENSER TO MAKE OFFERS OF PROOF AS PART OF THE PRIMA
24 FACIE SHOWING, AND I'M NOT GOING TO JUDGE WHETHER OR NOT
25 THOSE OFFERS ARE ACCURATE OR NOT, BUT I'M NOT GOING TO
26 HEAR ANY TESTIMONY TODAY.

27 WITH THAT IN MIND, I WILL ALLOW MR. GENSER TO
28 ADD -- YOU HAVE ALLEGATIONS CONTAINED WITHIN YOUR MOTION.

1 I'LL ALLOW YOU TO ADD TO THAT ORALLY IF YOU WISH AND
2 INDICATE WHAT ANY WITNESSES YOU WOULD HAVE CALLED WOULD
3 HAVE SAID, AND I WILL INCORPORATE THAT INTO THE SHOWING
4 FOR THE PRIMA FACIE CASE.

5 MR. GENSER: OKAY. YOUR HONOR, CAN I EXCLUDE -- LET
6 MS. MOORE KNOW HER TESTIMONY WILL NOT BE NEEDED TODAY?

7 THE COURT: SURE. UNLESS SHE WANTS TO STAY AND
8 LISTEN.

9 MR. GENSER, AS YOU KNOW FROM PREVIOUS MOTIONS,
10 I'VE READ EVERYTHING. PLEASE DON'T REPEAT EVERYTHING,
11 BUT FEEL FREE TO ACCENTUATE ANYTHING YOU'D LIKE.

12 MR. GENSER: I'D LIKE TO START BY HAVING THE COURT
13 RECEIVE EXHIBITS A THROUGH M.

14 THE COURT: ANY OBJECTION FROM THE PEOPLE?

15 MR. HEARNSBERGER: YES, YOUR HONOR. I WOULD OBJECT
16 TO A THROUGH J. THERE'S VERY -- THERE'S VERY LIMITED
17 UTILITY TO THESE EXHIBITS TO BEGIN WITH, BUT I THINK
18 THEY'RE HEARSAY AND LACKING IN FOUNDATION, NOT FOUNDATION
19 NECESSARILY FOR AUTHENTICITY, BUT FOR THE METHODOLOGIES
20 IN SOME OF THESE STUDIES. I HAVE NO OBJECTION TO K
21 THROUGH M.

22 THE COURT: OKAY. WELL, THIS ISSUE HAS COME UP
23 BEFORE, AND MY ATTITUDE IS THAT FOR THE PURPOSE OF A
24 PRIMA FACIE SHOWING, THE EVIDENCE CODE DOES NOT APPLY.
25 THE FACT THAT I RECEIVED THESE THINGS INTO EVIDENCE
26 DOESN'T INDICATE WHAT WEIGHT I'M GOING TO GIVE THEM. FOR
27 EXAMPLE, I MAY RECEIVE A STUDY AND FIND A -- OR DETERMINE
28 THE STUDY IS MEANINGLESS AND THEN NOT CONSIDER IT, BUT

1 THERE'S A DIFFERENCE BETWEEN RECEIVING THE EVIDENCE AND
2 THEN GIVING IT --

3 MR. HEARNSBERGER: OKAY.

4 THE COURT: -- GIVING IT WEIGHT. SO I WILL RECEIVE
5 THE DEFENSE EXHIBITS AT THIS TIME.

6 (DEFENSE EXHIBITS A THROUGH M WERE RECEIVED
7 INTO EVIDENCE.)

8 MR. GENSER: THANK YOU, YOUR HONOR. I WANT TO START
9 BY TALKING ABOUT THE STANDARD OF REVIEW THAT THE COURT
10 MENTIONED. IT STARTS WITH BATSON VERSUS KENTUCKY, WHICH
11 IS, OF COURSE, THE CASE THAT I MENTIONED EARLIER ON THE
12 BATSON-WHEELER CHALLENGE. THE PHRASE USED IN THAT --
13 IT'S 476 U.S. AT PAGE 96 -- IS THAT IT RAISE AN
14 INFERENCE, IS THE STANDARD IN A BATSON-WHEELER CHALLENGE.

15 NOW, CALIFORNIA INTERPRETED THAT LANGUAGE TO --
16 IN WHEELER. SO WE CALL IT A BATSON-WHEELER CHALLENGE.
17 IN WHEELER, THEY INTERPRETED THE LANGUAGE "RAISE" AND
18 "INFERENCE" TO WHERE THE DEFENSE MUST SHOW A STRONG
19 LIKELIHOOD. THE COURT FURTHER WENT ON IN PEOPLE VERSUS
20 BOX, 2000 23 CAL.4TH, 1153 AT 1188, FOOTNOTE SEVEN. IT
21 SAYS, "IN CALIFORNIA, A STRONG LIKELIHOOD MEANS A
22 REASONABLE INFERENCE."

23 SO WE USE THOSE WORDS INTERCHANGEABLY, STRONG
24 LIKELIHOOD AND REASONABLE INFERENCE. SO THE STANDARD IN
25 THIS HEARING IS THE SAME STANDARD WE USE IN A
26 BATSON-WHEELER CHALLENGE. CAN THE DEFENSE DEMONSTRATE A
27 REASONABLE INFERENCE THAT A VIOLATION OF SUBSECTION A
28 OCCURRED?

1 THE COURT: YOU'RE STATING THAT AS YOUR
2 INTERPRETATION OF (H)(2), WHICH IS THE SPECIFIC
3 DEFINITION IN 745 OF PRIMA FACIE SHOWING, SUBSTANTIAL
4 LIKELIHOOD?

5 MR. GENSER: YES. THEY USE THAT SPECIFIC LANGUAGE,
6 SUBSTANTIAL LIKELIHOOD OR STRONG LIKELIHOOD, WHICH COMES
7 FROM WHEELER, WHICH WAS THE CALIFORNIA SUPREME COURT
8 INTERPRETING BATSON. THAT WENT FURTHER IN PEOPLE VERSUS
9 BOX WHERE THE PEOPLE VERSUS BOX MADE IT VERY CLEAR THAT,
10 IN CALIFORNIA, QUOTE, UNQUOTE, "A STRONG LIKELIHOOD MEANS
11 A REASONABLE INFERENCE." SO WHAT IT'S DOING IS TAKING
12 THE BATSON STANDARD AND APPLYING IT TO CALIFORNIA, AND WE
13 FIND THE SAME LANGUAGE HERE IN SUBSECTION H OF PENAL CODE
14 SECTION 745.

15 IN ADDITION TO THE EXHIBITS THAT I HAVE
16 PRESENTED, THE COURT HAS EXHIBITS FROM THE PROSECUTION.
17 THE PROSECUTION PROVIDED THE COURT WITH A C.D. SHOWING
18 THE VIDEO. HAS THE COURT REVIEWED THE VIDEO?

19 THE COURT: YES.

20 MR. GENSER: AND THE TRANSCRIPT?

21 THE COURT: AND THE TRANSCRIPT.

22 MR. GENSER: I HAVE MY OWN COPY OF THAT IF THE
23 PROSECUTION WANTS ME TO FILE THAT. OR IF THE COURT IS
24 WILLING TO ACCEPT THOSE EXHIBITS AS WELL, I'M FINE WITH
25 THAT.

26 THE COURT: I ASSUME YOU'RE OFFERING THEM.

27 MR. HEARNSBERGER: THAT WAS GOING TO BE MY REQUEST,
28 FOR THE COURT TO RECEIVE PEOPLE'S 1 AND 1A.

1 THE COURT: THAT'S FINE. AND IT SOUNDS LIKE THERE'S
2 NO DEFENSE OBJECTION, SO --

3 MR. GENSER: NO. THE DEFENSE WOULD ASK THE COURT TO
4 REVIEW THAT. IT IS A FIVE-MINUTE VIDEO AT THE BEGINNING
5 OF THE STOP WITH OFFICER CAMERON AND OFFICER EYSIE. AND
6 FOR THE RECORD, IT'S C-A-M-E-R-O-N AND E-Y-S-I-E. IT IS
7 OFFICER CAMERON WHO DOES MOST OF THE TALKING ON THAT
8 VIDEO.

9 THE COURT: I WILL RECEIVE PEOPLE'S 1 AND 1A.

10 (PEOPLE'S EXHIBITS 1 AND 1A WERE RECEIVED
11 INTD EVIDENCE.)

12 MR. GENSER: IN THAT VIDEO, MR. BONDS SAYS TO THE
13 DETECTIVES, "I SAW YOU TURN AROUND LIKE YOU SAW TWO GUYS,
14 TWO BLACK GUYS IN A CAR, OBVIOUSLY." AND WHAT MR. BONDS,
15 THE DEFENDANT IN THIS CASE, IS SAYING TO OFFICER CAMERON
16 IS: I SAW YOU SEE ME AND TURN AROUND, AND YOU TURNED
17 AROUND AFTER ME BECAUSE YOU SAW TWO BLACK GUYS IN A CAR.
18 AND THE OFFICER RESPONDS, "WELL, PART OF IT. THE HOODIES
19 ARE UP AND STUFF."

20 SO THE OFFICER HAS TOLD MR. BONDS THAT THERE ARE
21 TWO REASONS FOR THE STOP: ONE, HE IS BLACK. TWO, HIS
22 PASSENGER HAS HIS HOODIE UP. THAT IS THE ONLY REASON
23 THAT HE EVER SAYS FOR STOPPING MR. BONDS.

24 THE COURT: FOR THE RECORD, WE'RE ON PAGE 2, LINE 17,
25 OF THE TRANSCRIPT.

26 MR. GENSER: YES.

27 THE COURT: OF PEOPLE'S 1A.

28 MR. GENSER: TO SUPPORT THIS CONCLUSION, THE OFFICER

1 GOES ON FROM THERE AND EXPLAINS. MR. BONDS IS UPSET
2 ABOUT BEING STOPPED BECAUSE HE'S BLACK AND BECAUSE HIS
3 PASSENGER HAS A HOODIE UP, AND HE SAYS, "I WONDER IF YOU
4 STOP EVERYBODY LIKE THIS." SPECIFICALLY, HE USES THE
5 N-WORD, WHICH REFERS TO AFRICAN AMERICANS. AND IN ORDER
6 TO EXPLAIN HIS RACE-BASED STOP, DETECTIVE CAMERON THEN
7 SAYS -- EXPLAINS TO HIM THAT WHEN HE'S IN EAST COUNTY, HE
8 ALSO IS RACIALLY PROFILED. AND THAT'S ON PAGE 3,
9 BEGINNING OF LINE 6.

10 AND MY CLIENT SAYS, "YEAH, YEAH, YOU'RE RIGHT,
11 IN EAST COUNTY." AND DETECTIVE CAMERON GOES ON TO
12 EXPLAIN THAT HE HAS A TATTOO SLEEVE AND THAT HE'S WHITE
13 AND THAT HE WEARS A BACKWARDS CAP SOMETIMES. AND BECAUSE
14 HE'S WHITE AND HAS A TATTOOED SLEEVE AND WEARS A
15 BACKWARDS CAP, HE ALSO IS RACIALLY PROFILED. AND HE SORT
16 OF ACTS AS IF THERE'S NOTHING ONE CAN DO ABOUT THAT.
17 THAT'S THE NATURE OF POLICING. PEOPLE GET RACIALLY
18 PROFILED.

19 HE SAYS, "LISTEN, MAN, I GET HOW FRUSTRATING IT
20 IS. I GET RACIALLY PROFILED TOO, BUT THAT'S THE WAY
21 POLICING WORKS, AND I'M RACIALLY PROFILING YOU RIGHT
22 NOW."

23 THE PROSECUTION BROUGHT UP IN THEIR -- IN THEIR
24 BRIEF THAT, TOWARDS THE END, OFFICER CAMERON SORT OF
25 DENIES THE RACIAL PROFILING. HE SAYS, "WE CAN AGREE TO
26 DISAGREE." I'M LOOKING AT PAGE 7, LINE 13. HE SAYS, "WE
27 CAN AGREE TO DISAGREE ABOUT THE RACIAL PROFILING." BUT
28 THEN, AGAIN, OFFICER CAMERON GOES ON TO SAY, "BECAUSE

1 IT'S THE SAME." HE SAYS FIRST ON LINE 21, "I UNDERSTAND
2 THE FRUSTRATION. TRUST ME. I GET IT. BECAUSE IT'S THE
3 SAME, LIKE I SAID, OUT IN EAST COUNTY FOR ME." RIGHT?
4 THIS OFFICER IS EXPLAINING THAT HE GETS RACIALLY
5 PROFILED, AND HE'S FRUSTRATED BY IT, BUT THE FACT OF THE
6 MATTER IS -- AND WHAT'S LEFT TACIT IS HE'S SAYING THE
7 FACT OF THE MATTER IS RACIAL PROFILING IS PART OF
8 POLICING, AND HE'S JUST BEING A GOOD COP.

9 STOPPING SOMEBODY FROM THEIR -- BECAUSE THEY'RE
10 BLACK AND THEY HAVE A HOOD UP, IN OFFICER CAMERON'S MIND,
11 IS JUST GOOD POLICE WORK. THAT'S WHAT'S SAID ON
12 BODY-WORN RECORDED, AVAILABLE FOR THE COURT TO LISTEN TO.
13 I HAVE -- I HAD MS. MOORE HERE AS A WITNESS. SHE'S A
14 POLICE PRACTICES EXPERT. I HAD HER REVIEW THE VIDEO,
15 TRANSCRIPT, THE DISCOVERY IN THE CASE. HER OPINION --
16 SHE WAS A SAN DIEGO POLICE OFFICER FOR TEN YEARS. SHE
17 WAS INJURED IN THE LINE OF DUTY AND RETIRED FROM POLICE
18 AS A RESULT OF HER INJURY. SHE RECEIVED THREE
19 COMMENDATIONS FOR HER POLICE WORK WHILE SHE WAS A SAN
20 DIEGO POLICE OFFICER. SHE THEN WENT ON TO DO FURTHER
21 INVESTIGATIVE WORK. SHE HAS A MASTER'S DEGREE IN PUBLIC
22 ADMINISTRATION. SHE IS A CERTIFIED LAW ENFORCEMENT
23 INSTRUCTOR. SHE TEACHES THE POST CLASS THAT EVERY
24 OFFICER COMES IN HERE AND SAYS -- THE PROSECUTION SAYS,
25 "ARE YOU POST-CERTIFIED?" SHE TEACHES THE CLASS WHERE
26 EVERY OFFICER SAYS, "YES, I AM POST-CERTIFIED." SHE'S
27 ALSO A NATIONALLY CERTIFIED LAW ENFORCEMENT INSTRUCTOR,
28 ONE OF 150 PEOPLE THAT HAS THAT DESIGNATION IN THE

1 COUNTRY.

2 SHE TEACHES A COURSE IN INVESTIGATIVE ETHICS.
3 SHE WAS ASKED TO CHAIR THE CIVILIAN OVERSIGHT BOARD WHEN
4 THE DEPARTMENT OF JUSTICE ISSUED A CONSENT DECREE FOR THE
5 POLICE IN ALBUQUERQUE. SHE'S TESTIFIED NUMEROUS TIMES IN
6 FEDERAL COURT, STATE COURT, IN CALIFORNIA, AND IN SAN
7 DIEGO. SHE HAS NEVER ONCE IN HER CAREER BEEN EXCLUDED AS
8 AN EXPERT.

9 HER OPINION WAS THAT OFFICER CAMERON ACTED WITH
10 RACIAL BIAS, AND HER OPINION IS THAT HE SAYS HE ACTED
11 WITH RACIAL BIAS TO MR. BONDS. IT'S HARD TO DISPUTE THAT
12 OFFICER CAMERON DIDN'T ACT WITH RACIAL BIAS WHEN HE
13 EXPLICITLY SAYS TO MR. BONDS, "I'M STOPPING YOU BECAUSE
14 YOU'RE BLACK AND BECAUSE OF THE WAY YOU'RE DRESSED." HE
15 ALSO MENTIONS IN HIS POLICE REPORT, WHICH I HAVE GIVEN
16 THE COURT AS AN EXHIBIT -- POLICE REPORT IS EXHIBIT L,
17 FOR THE RECORD -- HE SAYS THAT THEY ARE PROACTIVE
18 ENFORCEMENT IN CITY HEIGHTS AREA. PROACTIVE ENFORCEMENT
19 IS SIMPLY CODE FOR WE'RE STOPPING BLACK PEOPLE.

20 THE COURT: WHERE DOES THAT COME FROM?

21 MR. GENSER: IT COMES FROM PENAL CODE SECTION 745.

22 THE COURT: NOW, THAT TERM, I'VE HEARD MINORITIES USE
23 THAT TERM TO ENCOURAGE POLICE TO DO MORE POLICING. SO
24 WHY IS THERE A RACIAL INTERPRETATION OF THAT TERM?

25 MR. GENSER: THE COURT HAS HEARD MINORITIES USE THAT
26 TERM --

27 THE COURT: TO REQUEST THAT THE POLICE PATROL, FOR
28 EXAMPLE, CERTAIN NEIGHBORHOODS MORE. THEY REFER TO THAT

1 AS PROACTIVE POLICING. SO I DON'T KNOW WHAT'S RACIAL
2 ABOUT THAT TERM.

3 MR. GENSER: WHAT'S RACIAL ABOUT THAT TERM IS
4 PROACTIVE POLICING OCCURS IN PRIMARILY MINORITY
5 NEIGHBORHOODS, AND WHAT THEY DO -- THIS PARTICULAR
6 OFFICER IS A MEMBER OF THE GANG SUPPRESSION UNIT OR
7 WHATEVER RENAMING OF THE GANG SUPPRESSION UNIT THE POLICE
8 HAVE COME UP WITH NOW. I THINK IT'S SPECIAL OPERATIONS
9 OR SOME SUCH NONSENSE. BUT HE'S A MEMBER OF THE GANG
10 SUPPRESSION UNIT. AND IN CITY HEIGHTS, THERE'S AN
11 AFRICAN AMERICAN GANG. WHY BOTHER STOPPING WHITE PEOPLE?
12 THEIR GOAL IS TO GO OUT THERE AND STOP BLACK PEOPLE.

13 NOW, IN THIS PARTICULAR CASE, OFFICER CAMERON
14 AND HIS PARTNER ARE DRIVING EASTBOUND ON EL CAJON
15 BOULEVARD. MR. BONDS IS DRIVING WEST. THEY PASS EACH
16 OTHER HEAD-TO-HEAD. AFTER THEY PASS EACH OTHER, HE TURNS
17 AROUND AND BEGINS PURSUING THE CAR. THE CAR PULLS OVER
18 INTO A GAS STATION. OFFICER CAMERON TURNS THE RED AND
19 BLUE LIGHTS ON, DETAINS HIM, AND THEN GOES UP TO DO AN
20 INVESTIGATION. WHEN HE TURNED AROUND, HE HAD ALREADY
21 SEEN THAT MR. BONDS WAS BLACK, AND THERE HAD BEEN NO
22 VIOLATION. HE BEGINS FOLLOWING MR. BONDS SIMPLY BECAUSE
23 HE IS A BLACK MAN AND HIS PASSENGER HAS A HOODIE UP, AND
24 THAT IS EXACTLY WHAT HE TELLS MR. BONDS ON BODY-WORN. "I
25 HAVE STOPPED YOU BECAUSE YOU'RE BLACK, AND I HAVE STOPPED
26 YOU BECAUSE YOUR PASSENGER HAS A HOODIE UP."

27 NOW, I DON'T -- I THINK IT -- IT MAKES SENSE TO
28 JUST SAY NEITHER OF THOSE ARE A REASONABLE SUSPICION TO

1 DO A TRAFFIC STOP. NEITHER OF THOSE ARE A PROPER BASIS
2 TO DO A TRAFFIC STOP.

3 THE COURT: LET ME JUST INTERJECT SOMETHING. I WANT
4 TO MAKE SURE WE'RE CLEAR ON THE PARAMETERS. I WANT TO
5 COMPARE THAT TO AN EXTREME HYPOTHETICAL TO MAKE SURE
6 WE'RE ON THE SAME PAGE. LET'S SAY THERE'S AN ARMED
7 ROBBERY, AND A RADIO CALL GOES OUT, AND THE SUSPECT IS
8 DESCRIBED AS A BLACK MAN WEARING CERTAIN CLOTHING. THE
9 POLICE THEN SEE SOMEBODY THEY BELIEVE FITS THAT
10 DESCRIPTION, AND THEY STOP A BLACK MAN WEARING THAT KIND
11 OF CLOTHING. YOU'RE NOT SUGGESTING THERE'S ANYTHING
12 RACIALLY BIAS ABOUT THAT? THEY'RE SIMPLY FOLLOWING A
13 DESCRIPTION FROM A ROBBERY.

14 MR. GENSER: I WOULD AGREE WITH THAT. I WOULD ALSO
15 ADD THAT I DON'T THINK THAT HAS ANYTHING TO DO WITH
16 TODAY'S HEARING.

17 THE COURT: I UNDERSTAND. TRYING TO SEPARATE WHAT
18 YOU'RE CLAIMING FROM A SITUATION WHERE A BLACK MAN IS
19 STOPPED BECAUSE OF SPECIFIC INFORMATION THAT WOULD MAKE
20 IT INCOMPETENT FOR AN OFFICER TO STOP ANYONE OF ANOTHER
21 RACE.

22 MR. GENSER: YES. I THINK IF THERE'S A REPORT OF A
23 BLACK MAN WHO ROBBED A BANK, AND THERE'S A BLACK MAN
24 RUNNING AROUND WITH A GUN AND A BAG OF MONEY, I THINK
25 THAT'S A PROPER BASIS TO STOP HIM. THERE IS NO SUCH
26 REPORT IN THIS CASE.

27 THE COURT: WHAT WAS THE INITIAL JUSTIFICATION FOR
28 THE STOP IN THIS CASE?

1 MR. GENSER: THE JUSTIFICATION THAT THE OFFICER CAME
2 UP FOR HIS REPORT WAS THAT THE LICENSE PLATE WAS
3 OBSCURED, A VAGUE STATUTE, AT BEST.

4 BUT THE IMPORTANT THING FOR THE COURT TO KNOW IS
5 THAT WHEN THE OFFICER TURNED AROUND TO ENGAGE THE TRAFFIC
6 STOP, HE HAD NOT SEEN THE REAR LICENSE PLATE. THERE WAS
7 NO BASIS FOR THE STOP. THIS IS WHAT IS KNOWN AS A
8 PRETEXTUAL STOP. IF THE COURT LOOKS AT MY EXHIBIT J, I
9 HAVE CITED THE CITY OF SAN DIEGO MEMORANDUM. IT'S
10 S.D.P.D.'S ANALYSIS OF THE COMMUNITY ACTION BOARD, AND
11 THEY MADE SOME RECOMMENDATIONS. I'D LIKE TO GO OVER ONE
12 SPECIFICALLY.

13 ONE OF THE RECOMMENDATIONS THAT THE COMMUNITY
14 ACTION BOARD MADE -- AND IT'S EXHIBIT J. I'M ON PAGE
15 4 -- WAS TO HAVE A PILOT MORATORIUM ON PRETEXTUAL STOPS.
16 AND WHAT THE COMMUNITY ACTION BOARD SAYS IS, QUOTE,
17 UNQUOTE, "IT IS PERCEIVED AS A DISHONEST INTERACTION, BY
18 DEFINITION, WITH RESIDENTS. IT HAS NEGATIVELY IMPACTED
19 THE TRUST AND INCREASED THE TENSION BETWEEN POLICE AND
20 CITIZEN INTERACTIONS DURING STOPS."

21 THE RESPONSE FROM THE CAPTAIN OF THE SAN DIEGO
22 POLICE DEPARTMENT WAS FIRST TO DEFINE A PRETEXTUAL STOP
23 AND THEN TO SAY, "WHILE THE USE OF PRETEXTUAL STOPS TO
24 FACILITATE INVESTIGATIONS REMAINS A CONTROVERSIAL ISSUE
25 IN LAW ENFORCEMENT, IT IS THE SUBJECT OF FREQUENT LEGAL
26 CHALLENGES AND POLITICAL DISCUSSION RELATED TO
27 CONSTITUTIONAL RIGHTS. THE BENEFITS AS AN INVESTIGATIVE
28 TOOL IS PROFOUND."

1 WHAT THE CAPTAIN IS SAYING HERE IS: "WE
2 UNDERSTAND THERE'S RACIAL PROFILING GOING ON, AND WE
3 DON'T CARE. WE MAKE CASES BASED ON RACIAL PROFILING.
4 THIS IS HOW WE BRING IN CASES, AND WE DON'T CARE IF IT'S
5 DISHONEST."

6 THE COURT: I NOTE THAT THE -- THE RESPONSE POINTS
7 OUT THAT UNDER WHREN VERSUS UNITED STATES, UNDER FEDERAL
8 LAW, PRETEXT STOPS ARE, IN GENERAL, IRRELEVANT BECAUSE
9 THIS OBJECTIVE STATE OF MIND OF THE OFFICER IS
10 IRRELEVANT. OBVIOUSLY, THAT'S VERY DIFFERENT FROM A
11 SITUATION UNDER 745 WHERE THE INTENT OF THE OFFICER IS
12 RELEVANT. SO, CLEARLY, UNDER FOURTH AMENDMENT LAW, A
13 PRETEXT STOP IS NOT A VIOLATION OF THE LAW, BUT I
14 UNDERSTAND THAT'S NOT YOUR ARGUMENT HERE.

15 MR. GENSER: I DON'T THINK THAT THAT'S ACCURATE, YOUR
16 HONOR. I THINK WHAT WHREN HOLDS IS THAT ONE CAN'T
17 COMPLAIN OF A PRETEXTUAL STOP IF YOU'RE, IN FACT,
18 VIOLATING THE LAW.

19 THE COURT: IT'S AN OBJECTIVE STANDARD.

20 MR. GENSER: RIGHT. BUT THERE'S A DIFFERENCE BETWEEN
21 SAYING THAT THERE'S NO BEARING BECAUSE, IN FACT, IN A
22 PRETEXTUAL STOP, EVEN IF IT DOESN'T VIOLATE THE FOURTH
23 AMENDMENT, YOU CAN STILL PROCEED FORWARD ON DUE PROCESS
24 GROUNDS. AND HERE'S THE IMPORTANT PART FOR THIS MOTION,
25 THAT PENAL CODE SECTION 745, THE RACIAL JUSTICE ACT, IS A
26 DIRECT COUNTERMAND TO WHREN. IT IS TELLING THE POLICE IN
27 THE STATE OF CALIFORNIA THAT THIS BEHAVIOR IS NOT
28 ACCEPTABLE. WE DON'T CARE IN CALIFORNIA IF THERE WAS, IN

1 FACT, A TRAFFIC VIOLATION. YOU CANNOT USE RACE AS A
2 BASIS TO STOP SOMEONE.

3 AND, IN FACT, WHAT THIS OFFICER DID IS NOT ONLY
4 STOP HIM BASED ON RACE BUT THEN SAID VERY SPECIFICALLY TO
5 MR. BONDS, "I'M STOPPING YOU BECAUSE YOU'RE BLACK. I'M
6 STOPPING YOU BECAUSE YOU HAVE A HOODIE UP. AND LISTEN, I
7 GET RACIALLY PROFILED TOO, SO I'M ALLOWED TO DO IT TO
8 YOU." THAT'S NOT WHAT 745 SAYS.

9 I WANT TO TALK MORE ABOUT MS. MOORE, MY EXPERT,
10 BECAUSE SHE WOULD HAVE SAID THAT WHEN THE OFFICER TELLS
11 MR. BONDS THAT HE'S STOPPING HIM BECAUSE HE'S BLACK, WE
12 SHOULD BELIEVE HIM. THAT, IN HER OPINION, THAT IS, IN
13 FACT, HIS REASON FOR A STOP. HE'S BEING HONEST WITH
14 MR. BONDS. THIS IS WHY WE'VE BEGUN THE ENCOUNTER. AT
15 ONE POINT, MR. BONDS RESPONDS WHEN THEY'RE TALKING ABOUT
16 THE HOODIE BEING UP, THAT IT IS, IN FACT, A COLD NIGHT,
17 AND THAT'S WHY HE HAS HIS HOODIE UP.

18 HER ULTIMATE CONCLUSION -- AND SHE ALSO BASES
19 THIS ON THE POLICY AND PROCEDURES MANUAL. I HAVE CITED
20 THE POLICY AND PROCEDURES MANUAL AS MY EXHIBIT M, BUT I'D
21 LIKE TO SHOW THE COURT THE SPECIFIC SECTIONS WHICH
22 MS. MOORE WOULD HAVE DISCUSSED, SPECIFICALLY SECTION 7.01
23 REGARDING TRAFFIC ENFORCEMENT POLICY. UNDER THE POLICY
24 AND PROCEDURES FOR THE POLICE, IT SAYS, "THE ENFORCEMENT
25 OF ALL TRAFFIC LAWS SHALL BE ADMINISTERED EQUALLY AND
26 FAIRLY REGARDLESS OF THE PERSONS INVOLVED AND BASED
27 SOLELY ON THE NATURE OF THE OFFENSE."

28 ALSO, ON PAGE 35 OF THE SAME EXHIBIT, UNDER

1 SECTION 9.31, THE TITLE IS HEADED "NON-BIASED POLICING.
2 THE DEPARTMENT DOES NOT TOLERATE BIAS-BASED POLICING.
3 BIAS-BASED POLICING OCCURS WHEN LAW ENFORCEMENT
4 INAPPROPRIATELY CONSIDERS FACTORS SUCH AS RACE, RELIGION,
5 NATIONAL ORIGIN, GENDER, LIFESTYLE, SEXUAL ORIENTATION,
6 SIMILAR PERSONAL CHARACTERISTICS IN DECIDING WITH WHOM
7 AND HOW TO INTERVENE IN AN ENFORCEMENT CAPACITY."

8 DETECTIVE MOORE WOULD OPINE THAT BOTH OF THOSE
9 SECTIONS WERE VIOLATED BY THIS OFFICER. TO BE EXTRA
10 CLEAR WITH REGARDS TO THE POLICY MANUAL, THERE IS AN
11 EXECUTIVE ORDER ON THE FIRST PAGE. IT SAYS THAT EACH
12 MEMBER OF THE POLICE DEPARTMENT MUST BE FAMILIAR WITH THE
13 CONTENTS AND POLICY MANUAL OF DEPARTMENT PROCEDURES.

14 YOUR HONOR, MY NEXT WITNESS WOULD HAVE BEEN --
15 WOULD HAVE BEEN PROFESSOR JOSHUA CHANIN. HE AUTHORED
16 DEFENSE EXHIBIT F. HE IS ALSO FAMILIAR WITH THE REPORTS
17 UNDER E, D, AND C. HE IS A STATISTICIAN AT SAN DIEGO
18 STATE UNIVERSITY. HE REVIEWED HUNDREDS OF THOUSANDS OF
19 POLICE STOPS. HE'S A DOCTOR IN THE FIELD OF STATISTICS.
20 HE WAS PREPARED TO COME TO THIS COURT AND EXPLAIN THE
21 SCIENTIFIC METHOD BY WHICH THEY REACHED THE CONCLUSIONS
22 IN THIS CASE. THERE HAVE BEEN FOUR SEPARATE REPORTS, ALL
23 COMING TO THE SAME CONCLUSION, THAT THE SAN DIEGO POLICE
24 DEPARTMENT USES -- USES RACIAL BIAS WHEN IT MAKES TRAFFIC
25 ENFORCEMENT STOPS.

26 I WOULD LIKE TO SPECIFICALLY POINT OUT EXHIBIT
27 D, WHICH WAS A STUDY COMMISSIONED BY THE POLICE
28 DEPARTMENT WHERE THEY WENT OUT AND SAID, "LISTEN, WE HAVE

1 TO HAVE -- WE HAVE TO FIGURE OUT WHETHER OR NOT THESE
2 ALLEGATIONS ARE TRUE. WE'VE GOT A PUBLISHED ARTICLE BY A
3 SAN DIEGO STATE PROFESSOR SAYING WE'RE ACTING WITH BIAS.
4 LET'S DO OUR OWN STUDY." THEIR OWN STUDY CAME BACK WITH
5 THE FACT THAT THEY WERE BIASED.

6 DOCTOR CHANIN WOULD HAVE TESTIFIED THAT EACH OF
7 THESE REPORTS WERE CONDUCTED IN A SCIENTIFIC MANNER AND
8 THAT THEIR CONCLUSIONS ARE SCIENTIFICALLY AND
9 STATISTICALLY VALID. WHAT HE WOULD HAVE CITED IS THE
10 ULTIMATE CONCLUSION: THAT AFRICAN AMERICANS ARE STOPPED
11 AT AN ASTRONOMICALLY HIGHER RATE THAN THEIR WHITE
12 COUNTERPARTS.

13 THE COURT: BUT MY JOB IN THIS CASE IS TO DETERMINE
14 WHETHER A PARTICULAR OFFICER SHOWED THAT BIAS, NOT WHAT
15 THE STATISTICS SHOW. THAT OFFICER MAY OR MAY NOT FALL
16 WITHIN THAT STATISTICAL RANGE.

17 MR. GENSER: I THINK THE COURT IS WRONG ABOUT THAT.
18 UNDER PENAL CODE SECTION 745, SUBSECTION (C)(1), THE
19 COURT SAYS, "AT A HEARING, EVIDENCE MAY BE PRESENTED BY
20 EITHER PARTY, INCLUDING BUT NOT LIMITED TO, STATISTICAL
21 EVIDENCE."

22 THE COURT: THAT DOESN'T SAY HOW I SHOULD WEIGH IT.

23 MR. GENSER: HOW COULD STATISTICAL EVIDENCE EVER
24 PROVE WHETHER OR NOT A PARTICULAR OFFICER ON A PARTICULAR
25 OCCASION ACTED IN RACIAL BIAS? THAT'S NOT WHAT
26 STATISTICS DOES. WHAT THIS STATUTE TELLS THIS COURT IS
27 THAT YOU CAN CONSIDER STATISTICS, AND THE FACT THAT
28 AFRICAN AMERICAN PEOPLE ARE STOPPED AT AN ASTRONOMICALLY

1 HIGHER RATE MATTERS, AND THE COURT CAN DECIDE PURELY
2 BASED ON THAT. THAT'S ALL THE COURT NEEDS TO DECIDE
3 WHETHER OR NOT AN OFFICER ACTED WITH RACIAL BIAS. THE
4 GREAT NEWS IN THIS CASE IS THAT'S NOT ALL THE EVIDENCE
5 THERE IS. WE HAVE THE OFFICER TELLING US, IN HIS OWN
6 WORDS, THAT HE'S ACTING WITH RACIAL BIAS.

7 MY NEXT WITNESS WOULD HAVE BEEN GENEVIEVE
8 JONES-WRIGHT. MS. JONES-WRIGHT RUNS A POLICY COMMITTEE
9 IN SAN DIEGO. I WANT TO GET THE NAME RIGHT. SHE RUNS --
10 SHE'S THE EXECUTIVE DIRECTOR OF THE COMMUNITY ADVOCATES
11 FOR A JUST AND MORAL GOVERNANCE. AND THEIR JOB IS TO
12 PROMOTE, YOU KNOW, DUE POLICY ADVOCACY AGAINST RACIAL
13 PROFILING. SHE HAS A BACKGROUND DOING THAT. IN
14 ADDITION, SHE'S A LAWYER. SHE ACTED AS A PUBLIC DEFENDER
15 FOR MANY YEARS. SHE'S AN ADJUNCT PROFESSOR AT THE POINT
16 LOMA NAZARENE UNIVERSITY WHERE SHE TEACHES CRIMINAL
17 JUSTICE, INCLUDING COURSES ON COMPASSION RELATED TO LAW
18 ENFORCEMENT AND ETHICS RELATED TO LAW ENFORCEMENT. SHE
19 ALSO SITS ON THE BOARD OF SEVERAL COMMUNITY ORGANIZATIONS
20 AND TEACHES IN THIS AREA AND IS GENERALLY AN EXPERT IN
21 THE AREA OF PUBLIC POLICY.

22 SHE WOULD HAVE TESTIFIED -- I SHOULD ALSO ADD
23 THAT MS. JONES-WRIGHT HAS PERSONALLY BEEN RACIALLY
24 PROFILED AND HAS EXPERIENCED RACIAL PROFILING BY THE SAN
25 DIEGO POLICE DEPARTMENT. SHE WOULD HAVE TESTIFIED BEFORE
26 THIS COURT THAT AFTER VIEWING THE VIDEO AND READING THE
27 TRANSCRIPTS, SHE BELIEVES THAT OFFICER CAMERON ACTED WITH
28 RACIAL BIAS IN THIS PARTICULAR INSTANCE.

1 IN ADDITION, SHE WOULD TELL THIS COURT THAT SHE
2 BELIEVES THE ONLY APPROPRIATE REMEDY FOR THIS IS
3 DISMISSAL, AND THE REASON THAT IS THE ONLY APPROPRIATE
4 REMEDY IS THAT ANYTHING SHORT OF THAT TELLS THE POLICE
5 THAT THIS BEHAVIOR WILL ONLY RECEIVE A SLAP ON THE HAND
6 AND TO KEEP IT UP. IT'S A WINK AND A NOD FROM THE COURT
7 TO KEEP UP THE GOOD WORK. AND HER TESTIMONY, AS AN
8 EXPERT IN PUBLIC POLICY, WOULD HAVE BEEN TO EXPLAIN THAT
9 THIS CANNOT BE PERMITTED, SHOULD NOT BE PERMITTED, AND IT
10 IS WRONG.

11 IN THIS CASE, ALL WE HAVE TO SHOW IS THAT THERE
12 IS SOME EVIDENCE OF BIAS. THAT CAN BE IMPLICIT BIAS. IT
13 CAN SIMPLY MEAN THAT, BASED UPON THE OFFICER'S LIFE, HIS
14 TRAINING, WHATEVER HE'S GONE THROUGH, SOMETHING IN HIS
15 BRAIN TREATED MR. BONDS DIFFERENTLY THAN SOMEONE ELSE.
16 THE GOOD NEWS IS THAT'S NOT ALL WE HAVE. IMPLIED BIAS
17 ALONE IS ENOUGH FOR THE COURT TO HOLD A HEARING, AND IN
18 ADDITION TO FIND THAT THERE WAS A VIOLATION, BUT THAT'S
19 NOT WHAT WE HAVE HERE. WE HAVE EXPLICIT BIAS BY THIS
20 POLICE OFFICER. ON TOP OF THE EXPLICIT BIAS, WE HAVE
21 STATISTICAL AND AGGREGATE DATA. BUT WE DON'T HAVE TO
22 STOP THERE. WE HAVE EXPERT TESTIMONY OF A POLICE
23 PRACTICES PERSON TELLING THIS COURT THAT IT IS EXPLICIT
24 BIAS.

25 THERE IS AN OLD SAYING. WHEN SOMEONE TELLS YOU
26 WHO THEY ARE, BELIEVE THEM. THIS IS RACE-BASED POLICING.
27 THE OFFICER TELLS US THAT THAT'S THE WAY HE PRACTICES.
28 HE TELLS US THAT IT HAPPENS TO HIM, AND THERE'S NOTHING

1 HE CAN DO ABOUT IT BECAUSE THAT'S THE WAY POLICE IN SAN
2 DIEGO ACT. THE POLICE IN SAN DIEGO ACT BASED ON RACE.

3 THERE IS DIRECT UNCONTROVERTED EVIDENCE OF BIAS
4 STRAIGHT FROM THE OFFICER'S MOUTH. THE BELIEF THAT IT IS
5 EXPLICIT IS BASED ON POLICE PRACTICES, EXPERTS IN PUBLIC
6 POLICY, THE SAN DIEGO POLICE DEPARTMENT'S OWN POLICY AND
7 PROCEDURES, AND THE WRITTEN REPORT AND RECORDED
8 STATEMENTS OF THE OFFICER.

9 I WANT TO SPEND JUST A SECOND TALKING ABOUT THE
10 PROSECUTION. WE WORK IN AN ADVERSARIAL SYSTEM. THE
11 PROSECUTION GENERALLY OPPOSES MY MOTIONS, BUT NOT ALL OF
12 THEM. I'VE HAD A NUMBER OF MOTIONS WHERE THE PROSECUTION
13 COMES IN AND SAYS, "YOU KNOW WHAT? I AGREE WITH YOU.
14 WHAT HAPPENED --" A FOURTH AMENDMENT VIOLATION, FOR
15 EXAMPLE. SOMETIMES THE PROSECUTION LOOKS AT THE CASE AND
16 SAYS, "THIS IS A FOURTH AMENDMENT VIOLATION, AND I'M
17 GOING TO AGREE." SOMETIMES I MOVE TO CONTINUE A CASE,
18 AND I EXPLAIN TO THE PROSECUTION I NEED MORE TIME BECAUSE
19 I'M STILL DOING INVESTIGATION. THE PROSECUTION CAN'T
20 OPPOSE THAT, BUT MORE OFTEN THAN NOT, THEY DON'T. THE
21 PROSECUTION DOESN'T HAVE TO COME IN HERE TODAY AND OPPOSE
22 THIS MOTION. INSTEAD, THEY CHOOSE TO.

23 THE PROSECUTION HAS MADE A DECISION TO COME IN
24 HERE AND OPPOSE THIS MOTION. WHAT'S MORE, THE
25 PROSECUTION SAYS IN THEIR MOTION ON PAGE 4, LINE 19, "THE
26 DEFENDANT IS MAKING A BIG LEAP IN CONCLUDING THAT THERE
27 WAS AN ADMISSION BY OFFICER CAMERON AND THAT THE STOP WAS
28 RACIALLY MOTIVATED." WHAT A SLAP IN THE FACE TO THE

1 BLACK AND BROWN PEOPLE OF THIS COMMUNITY, THAT WHEN A COP
2 TELLS SOMEBODY, "I'VE PULLED YOU OVER BECAUSE YOU'RE
3 BLACK. I'VE PULLED YOU OVER BECAUSE YOUR PASSENGER IS
4 WEARING A HOODIE," CLEARLY RACIST MANEUVERS, CLEARLY,
5 THAT THIS PROSECUTION WOULD COME INTO THIS COURT AND
6 OPPOSE THIS MOTION AND SAY THAT THE DEFENSE IS
7 OVERSTEPPING. IT IS SHOCKING, AND IT IS HEARTBREAKING
8 THAT OUR ELECTED OFFICIALS WOULD MAKE A DECISION TO
9 OPPOSE WHAT IS CLEAR RACIST BEHAVIOR.

10 I WANT TO TALK ABOUT DEFENSE EXHIBIT B, WHICH IS
11 AN ARTICLE BY CHARLES BLOW OF THE NEW YORK TIMES. IN
12 THAT ARTICLE, CHARLES BLOW SAYS, "RACISM HAS EVOLVED AND
13 BECOME LESS BLUNT, BUT IT HAS NOT BECOME LESS EFFECTIVE.
14 NOW SYSTEMS DO THE WORK THAT ONCE REQUIRED THE OVERT
15 ACTION OF MASSES OF INDIVIDUAL RACISTS."

16 THE CITY ATTORNEY'S OFFICE IS ONE OF THOSE
17 SYSTEMS THAT IS IN PLACE, WHERE THIS PROSECUTION CAN COME
18 IN AND SAY, "IT'S NOT ME. THIS IS AN ADVERSARIAL SYSTEM.
19 I'M JUST DOING MY JOB." "I'M JUST DOING MY JOB" IS A
20 SHOCKING DERELICTION OF DUTY.

21 I WANT TO CONCLUDE WITH THIS: I DID A MOTION IN
22 FRONT OF THIS COURT SOMETIME AGO, AND IN THAT MOTION, MY
23 CLIENT, WHO IS AFRICAN AMERICAN, HAD BEEN STOPPED BY THE
24 POLICE. A BE-ON-THE-LOOKOUT HAD GONE OUT FOR AN AFRICAN
25 AMERICAN WOMAN WEARING PURPLE LEGGINGS, WHO IS 20 TO 24
26 YEARS OLD, WHO HAD A LONG BLONDE WEAVE. THE POLICE USED
27 THAT TO STOP MY CLIENT WHO WAS 48 YEARS OLD, WHO WAS
28 WEARING BLACK LEGGINGS, AND WHO HAD BLACK HAIR. THE ONLY

1 CONNECTION BETWEEN THEM WAS THAT SHE WAS BLACK.

2 I CAME TO THIS COURT, AND I ARGUED BEFORE THIS
3 COURT THAT THAT WAS CLEAR EVIDENCE OF RACISM, AND THE
4 COURT AND I DISAGREED. AND THE COURT DID NOT GRANT MY
5 MOTION IN THAT CASE, BUT THE COURT SAID SOMETHING THAT, I
6 THINK, IS OF VALUE. THE COURT SAID, "IF I SEE RACISM, NO
7 ONE WILL COME DOWN HARDER THAN ME. NO ONE WILL COME DOWN
8 HARDER THAN ME." THAT WAS THE QUOTE FROM THIS COURT,
9 THAT "WHEN I SEE RACISM, NO ONE WILL COME DOWN HARDER
10 THAN ME," AND I AM HERE TODAY TO FIND OUT IF THAT'S TRUE.
11 I'LL SUBMIT, YOUR HONOR.

12 THE COURT: THANK YOU, MR. GENSER.

13 I'LL HEAR FROM THE PEOPLE.

14 MR. HEARNSBERGER: THANK YOU, YOUR HONOR. PERSONAL
15 BELIEFS ASIDE, THIS COURT'S ROLE IS TO DETERMINE WHETHER
16 THE DEFENSE HAS -- WHETHER THE COURT HAS BEFORE IT FACTS
17 THAT ESTABLISH A PRIMA FACIE SHOWING. THE DEFENSE JUST
18 MADE A PASSIONATE ARGUMENT THAT CONTAINED A LOT OF
19 BELIEFS, A LOT OF CONCLUSIONS, EXPERT OPINION, BUT NOT
20 FACTS. THE FACTS ARE WHAT WAS SAID. THE COURT HAS IT
21 BEFORE IT, AND THAT'S THE REASON I LODGED THE BODY-WORN
22 RECORDING, SO THE COURT CAN, OBVIOUSLY, MAKE AN OBJECTIVE
23 REVIEW OF THIS INTERACTION BETWEEN THE DEFENDANT AND THE
24 OFFICER, NOT -- AND THAT'S REALLY WHAT NEEDS TO HAPPEN
25 HERE.

26 THERE'S VERY LITTLE VALUE TO EXPERT TESTIMONY
27 SAYING, "I BELIEVE THIS IS WHAT THE OFFICER MEANT WHEN HE
28 SAID THIS." THE DEFENSE JUST SAID SEVERAL TIMES THAT

1 OFFICER CAMERON EXPLICITLY SAID, "THIS IS THE REASON I
2 STOPPED YOU, IT'S BECAUSE OF YOUR RACE." THAT'S NOT WHAT
3 HE SAID AT ALL. OFFICER CAMERON ALSO DIDN'T SAY, "I GET
4 STOPPED BECAUSE I'M WHITE." HE TALKED ABOUT HIS TATTOOS
5 AND THE WAY HE WEARS HIS HAT, AND HE DRIVES IN EAST
6 COUNTY. OFFICER CAMERON DID NOT SAY, "I STOPPED YOU
7 BECAUSE OF YOUR RACE." HE -- IN RESPONSE TO THE
8 DEFENDANT BRINGING THAT UP, OFFICER CAMERON SAYS, "WELL,
9 THE HOODIE IS UP, AND EVERYTHING THAT'S BEEN GOING ON IN
10 THIS CITY." THAT IS A FAR CRY FROM A UNEQUIVOCAL
11 ADMISSION THAT THAT'S THE REASON HE STOPPED HIM, BECAUSE
12 OF HIS RACE.

13 I -- THE DEFENDANT CERTAINLY CAN'T BE FAULTED
14 FOR HAVING THAT BELIEF. THAT'S CERTAINLY REASONABLE FOR
15 HIM TO FEEL THAT WAY, BUT THAT'S A BELIEF AND A FEELING
16 AND A CONCLUSION THAT THE DEFENSE IS REACHING, WHICH IS
17 HOW THE DEFENSE IS READING THAT STATEMENT BY OFFICER
18 CAMERON WHILE IGNORING THE TWO SUBSEQUENT STATEMENTS BY
19 OFFICER CAMERON THAT ARE UNEQUIVOCAL, THAT ARE VERY
20 CLEAR. HE SAYS -- WHEN THE DEFENDANT BRINGS IT UP AGAIN,
21 OFFICER CAMERON SAYS, "NO, IT'S NOT THAT." AND THEN WHEN
22 THE DEFENDANT BRINGS IT UP AGAIN, OFFICER CAMERON SAYS,
23 "WELL, WE CAN AGREE TO DISAGREE." HE DOESN'T WANT TO
24 ARGUE ABOUT IT ANYMORE, BUT HE'S OBVIOUSLY SAYING TO THE
25 DEFENDANT, "I DIDN'T PULL YOU OVER BECAUSE OF YOUR RACE."

26 AGAIN, IT'S A CONCLUSION THAT THE DEFENSE IS
27 REACHING, BUT THAT'S NOT WHAT OFFICER CAMERON SAID. AND
28 WHEN CONSIDERED FAIRLY IN THE CONTEXT OF THE ENTIRE

1 INTERACTION AND THE ENTIRE BODY-WORN, NOT JUST THAT FIRST
2 STATEMENT, IT'S NOT ANYTHING MORE THAN A BELIEF OR
3 SPECULATION. IT DOESN'T RISE TO THE STANDARD OF A
4 SUBSTANTIAL LIKELIHOOD, AND THAT'S THE DEFENSE BURDEN
5 WITH THIS PRIMA FACIE SHOWING.

6 SO THE STANDARDS THAT THE DEFENSE REFERENCED FOR
7 BATSON-WHEELER, AGAIN, DON'T APPLY TO THIS CASE. THE
8 LEGISLATURE HAS GIVEN US A DEFINITION OF SUBSTANTIAL
9 LIKELIHOOD, AND THAT IS MORE THAN A MERE POSSIBILITY. AN
10 EXPERT'S CONCLUSION AS TO WHAT THE OFFICER MEANT WHEN HE
11 SAID THAT AND THE DEFENSE'S CONCLUSION DOESN'T REACH THAT
12 STANDARD THAT'S -- THAT DOESN'T REACH ANY MORE THAN A
13 POSSIBILITY.

14 IT'S FAIR FOR SOMEONE TO REACH THAT CONCLUSION
15 BASED ON WHAT THE OFFICER SAYS, BUT IT IS FAR FROM CLEAR
16 AS TO WHAT HE MEANT. ANOTHER VERY FAIR READING OF THAT
17 IS HE'S NOT ACKNOWLEDGING WHAT THE DEFENDANT WAS
18 ALLEGING, BUT HE'S SAYING THE HOODIES AND THINGS THAT
19 HAVE BEEN GOING ON, WHICH SEEMS TO BE REFERRING TO
20 VIOLENCE IN THE COMMUNITY OR VIOLENCE IN THE CITY. AT NO
21 POINT DOES HE SAY, "YES, I PULLED YOU OVER FOR THAT
22 REASON." IN FACT, HE CLEARLY DENIES IT TWICE WHEN THE
23 DEFENDANT ACCUSES HIM OF THAT. SO THE DEFENSE HAS NOT
24 MET THAT BURDEN.

25 THE EXPERT TESTIMONY IS VERY LIMITED OR OF NO
26 RELEVANCE TO THE OFFICER'S SUBJECTIVE BELIEF OR
27 MOTIVATION OR JUST THE MEANING OF OFFICER CAMERON'S
28 STATEMENT WHEN HE SAID THAT. AND THE STATISTICS OFFER --

1 I BELIEVE THE STATS AND THE STUDIES COULD BE HELPFUL IN
2 CERTAIN 745 MOTIONS. I THINK IT WOULD BE MORE APPLICABLE
3 TO DISPARITIES IN CHARGING, ALLEGING ELEVATORS, OR
4 SENTENCING, BUT I DON'T THINK THE STATISTICS ARE
5 INFORMATIVE AT ALL AS TO THIS PARTICULAR ENCOUNTER
6 BETWEEN THE DEFENDANT AND OFFICER CAMERON.

7 AGAIN, THE DEFENSE OBVIOUSLY IS PASSIONATE AND
8 FIRM IN THEIR POSITION, BUT THE FACT IS THE RECORDING AND
9 THE TRANSCRIPT, WHICH THE COURT HAS CONSIDERED, AND THAT
10 DOESN'T REACH THE STANDARD OF A SUBSTANTIAL LIKELIHOOD.
11 IT'S NOTHING MORE THAN A MERE POSSIBILITY OR SPECULATION.

12 THE COURT: ALL RIGHT. I PROMISED MR. GENSER THE
13 LAST WORD, BUT I WANT TO ASK YOU A COUPLE OF QUESTIONS.
14 I GET YOUR TAKE ON YOUR EVALUATION OF THE LAW SINCE, AS I
15 MENTIONED SEVERAL TIMES, WE HAVE NO APPELLATE GUIDANCE ON
16 MANY OF THESE ISSUES. THE ACTUAL VIOLATION IN 745(A)
17 READS AS FOLLOWS: "THE STATE SHALL NOT SEEK OR OBTAIN A
18 CRIMINAL CONVICTION OR SEEK, OBTAIN, OR IMPOSE A SENTENCE
19 ON THE BASIS OF RACE, ETHNICITY, OR NATIONAL ORIGIN."
20 AND THEN IT SAYS, "A VIOLATION IS ESTABLISHED IF THE
21 DEFENDANT PROVES BY A PREPONDERANCE OF THE EVIDENCE ANY
22 OF THE FOLLOWING." AND IT MENTIONS THE JUDGE, AN
23 ATTORNEY IN THE CASE, LAW ENFORCEMENT OFFICER IN THE
24 CASE, OR IF AN EXPERT WITNESS OR A JUROR EXHIBITS BIAS OR
25 ANIMUS TOWARD THE DEFENDANT BECAUSE OF THE DEFENDANT'S
26 RACE, ETHNICITY, OR NATIONAL ORIGIN.

27 NOW, THE QUESTION I'VE RAISED IN THE PAST -- AND
28 THIS IS UNANSWERED AS WE SIT HERE NOW -- IS: SINCE THE

1 VIOLATION, IS THE STATE -- AND THE STATE IS DEFINED AS A
2 PROSECUTORIAL AGENCY -- SEEKING A CRIMINAL CONVICTION OR
3 A SENTENCE BASED ON RACE OR ETHNICITY OR NATIONAL ORIGIN?
4 IS THE CONDUCT OF A LAW ENFORCEMENT OFFICER IN THE FIELD
5 BEFORE THE STATE EVEN GETS THE CASE TO PROSECUTE EVEN
6 RELEVANT TO THIS VIOLATION?

7 AND, OF COURSE, MR. GENSER AND -- IN THE PAST --
8 THE CITY ATTORNEY HAS NOT OPPOSED THIS. IT HAS RELIED ON
9 THE STATEMENT IN THE STATUTE REGARDING A LAW ENFORCEMENT
10 OFFICER EXHIBITING ANIMUS OR RACIAL BIAS TOWARD THE
11 DEFENDANT, DOESN'T SAY WHEN. BUT LET'S SAY,
12 HYPOTHETICALLY, THE BIAS IS IN THE FIELD BEFORE THE STATE
13 GETS THE CASE, THEN THE STATE GETS THE CASE FOR
14 PROSECUTION, AND FROM THAT POINT ON, THERE'S NO BIAS OF
15 ANY KIND -- THIS IS A HYPOTHETICAL -- INDICATED BY THE
16 OFFICER OR ANYONE ELSE WHEN HE TESTIFIES. DOES THE
17 STATUTE APPLY?

18 MR. HEARNSBERGER: I THINK IT DOES, YOUR HONOR.

19 THE COURT: OKAY. ALL RIGHT. I WANTED TO GET YOUR
20 TAKE ON THE LAW.

21 MR. HEARNSBERGER: OBVIOUSLY, LACKING ANY APPELLATE
22 GUIDANCE ON THAT, MY READING IS THAT IT WOULD APPLY.

23 THE COURT: NOW, THE SECOND ISSUE IS WITH REGARD TO
24 THE THOROUGH DISCUSSION MR. GENSER GAVE TO THE STANDARD.
25 NOW, THE STATUTE DEFINES PRIMA FACIE SHOWING MEANS THE
26 DEFENDANT PRODUCES FACTS THAT, IF TRUE, ESTABLISH THERE
27 IS A SUBSTANTIAL LIKELIHOOD OF VIOLATION OF SUBDIVISION A
28 OCCURRING. AND THEN IT SAYS, FOR PURPOSES OF THIS

1 SECTION, A SUBSTANTIAL LIKELIHOOD REQUIRES MORE THAN A
2 MERE POSSIBILITY, BUT LESS THAN A STANDARD OF MORE LIKELY
3 THAN NOT.

4 SO, OBVIOUSLY, IN ANY GIVEN CASE, THE COURT HAS
5 TO MAKE A DECISION WHETHER THE ALLEGATIONS ARE MORE THAN
6 A MERE POSSIBILITY. NOW, IN DOING THAT -- AND I KNOW
7 MR. GENSER KNOWS THIS FROM MY PAST RULINGS -- I DON'T
8 PLACE MUCH WEIGHT ON STUDIES BECAUSE THEY DON'T TELL ME
9 IF A PARTICULAR OFFICER SHOWED RACIAL BIAS ON A
10 PARTICULAR OCCASION. THEY MAY MAKE A SUGGESTION THAT
11 IT'S A POSSIBILITY, BUT IT'S THE FACTS OF THE CASE THAT
12 TELL ME WHAT THAT OFFICER, AT LEAST BY INFERENCE, WAS
13 THINKING WHEN HE STOPPED THE DEFENDANT.

14 SO I AGREE THE STATISTICS ARE MORE USEFUL WHEN
15 YOU GET TO SENTENCING. FOR EXAMPLE, THERE WAS ONE CASE
16 INVOLVING DISCOVERY WHERE A DEFENDANT ALLEGED
17 SUCCESSFULLY THAT HE HAD BEEN TREATED DIFFERENTLY FOR
18 SENTENCING PURPOSES. THE DEFENDANT WAS CHARGED WITH THE
19 SAME CRIME, AND HE WAS THE ONLY PERSON OF THAT RACE. AND
20 THE COURT FOUND THAT WAS SUFFICIENT TO WARRANT DISCOVERY.

21 IN THE PRETRIAL PHASE, STATISTICS THAT A POLICE
22 DEPARTMENT ACTS IN A CERTAIN WAY DON'T TELL ME HOW THIS
23 OFFICER BEHAVED ON A PARTICULAR OCCASION, BUT THIS CASE
24 IS A LITTLE BIT DIFFERENT FROM SOME OF THE OTHER CASES IN
25 THAT THE CONCEPT OF RACE COMES UP IN A DISCUSSION BETWEEN
26 THE OFFICER AND THE DEFENDANT. IN OTHER CASES I'VE HAD,
27 THERE'S NEVER ANY DISCUSSION OF THAT. BUT HERE, AS WAS
28 POINTED OUT IN PAGE 2, LINE 15, THE DEFENDANT SAYS --

1 WELL, PART OF IT IS UNINTELLIGIBLE. IT STARTS OUT BY
2 SAYING, "GOOD, ACTUALLY, BUT YOU PULLED OVER. YOU TURNED
3 AROUND LIKE YOU SAW --" UNINTELLIGIBLE -- "IN A CAR
4 PROBABLY."

5 AND THE OFFICER, "WHAT'S THAT?"

6 THEN HE SAYS IN LINE 17, "I SAID YOU SAW -- YOU
7 TURNED AROUND LIKE YOU SAW TWO GUYS, LIKE, TWO BLACK GUYS
8 IN A CAR, OBVIOUSLY."

9 AND THEN 19, THE OFFICER SAYS, "WELL, PART OF
10 IT, YOU KNOW, THE HOODIE IS UP AND STUFF. JUST --"

11 THE DEFENDANT SAYS, "I MEAN, IT'S COLD OUTSIDE."

12 THEN THE OFFICER SAYS, "THE CLIMATE AND
13 EVERYTHING THAT'S GOING ON IN THE CITY THESE DAYS, SO --"

14 SO CLEARLY, THAT'S NOT AN EXPLICIT STATEMENT.

15 "I STOPPED YOU BECAUSE YOU'RE BLACK." BUT DOESN'T

16 THAT -- DOES THAT NOT LEAD TO AN INFERENCE THAT THAT WAS

17 A REASON WHY THE DEFENDANTS WERE STOPPED SINCE THE

18 OFFICER DIDN'T ISSUE A BLANKET DENIAL WHEN THE DEFENDANT
19 ACCUSED HIM OF THAT?

20 MR. HEARNSBERGER: WELL, AN OFFICER CAN RESPOND TO
21 THAT IN SO MANY DIFFERENT WAYS.

22 THE COURT: BY THE WAY, I UNDERSTAND THERE'S A BIG
23 DIFFERENCE BETWEEN THE DEFINITION OF A PRIMA FACIE

24 SHOWING AND WHAT'S REQUIRED TO SHOW AN ACTUAL VIOLATION.

25 AFTER A HEARING, THE COURT HAS TO BE CONVINCED BY A

26 PREPONDERANCE OF THE EVIDENCE, MEANING HE HAS TO -- THE

27 COURT HAS TO DECIDE IT'S MORE LIKELY THAN NOT THAT THE

28 DEFENDANT WAS STOPPED BECAUSE OF RACIAL BIAS. WE'RE NOT

1 AT THAT POINT. I'M JUST DECIDING WHETHER OR NOT THERE'S
2 SUFFICIENT EVIDENCE OF A PRIMA FACIE SHOWING, MEANING
3 MORE THAN A MERE POSSIBILITY, TO JUSTIFY A HEARING. I
4 JUST WANT TO MAKE IT CLEAR THAT'S MY FOCUS TODAY.

5 MR. HEARNSBERGER: THE WAY I SEE IT IS THE DIFFERENCE
6 BETWEEN, AGAIN, FACTS AND CONCLUSIONS. IT'S NOT A FACT
7 THAT THAT STATEMENT IS AN ADMISSION OR AN ACKNOWLEDGMENT
8 OF THE DEFENDANT'S ACCUSATION.

9 THE COURT: I AGREE. I'M SORRY TO INTERRUPT. BUT
10 COMPARING IT TO PITCHESS, THERE ARE MANY ALLEGATIONS THAT
11 ARE FREQUENTLY MADE IN PITCHESS MOTIONS THAT I DON'T
12 AGREE WITH. YOU KNOW, THE DEFENSE ALLEGES, YOU KNOW, THE
13 OFFICER DID THIS, OR THE DEFENSE ALLEGES THE OFFICER DID
14 THAT. BUT IF I DECIDE THAT IF THE ALLEGATION IS TRUE
15 IT'S SUFFICIENT TO WARRANT AN IN-CAMERA REVIEW, THEN I
16 HAVE TO ORDER AN IN-CAMERA REVIEW.

17 SO THE LANGUAGE HERE SEEMS TO PARALLEL THAT OF
18 PITCHESS BECAUSE IT SAYS PRIMA FACIE SHOWING MEANS THE
19 DEFENDANT PRODUCES FACTS THAT, COMMA, IF TRUE, COMMA,
20 ESTABLISH THERE WAS A SUBSTANTIAL LIKELIHOOD OF A
21 VIOLATION, MEANING THE LEGISLATURE RECOGNIZES IT MIGHT
22 NOT BE TRUE. SO I HAVE TO ASSUME, HYPOTHETICALLY, JUST
23 AS IN A PITCHESS MOTION, THAT THE FACTS ALLEGED ARE TRUE
24 FOR THE PURPOSE OF DECIDING WHETHER THERE'S A PRIMA FACIE
25 SHOWING. THAT'S NOT THE CASE WHEN I DECIDE IF A
26 VIOLATION HAS BEEN PROVEN BY A PREPONDERANCE OF THE
27 EVIDENCE. I WANT TO MAKE SURE YOU UNDERSTAND HOW I'M
28 THINKING. YOU CAN CORRECT ME IF YOU THINK I'M WRONG IN

1 MY ANALYSIS OF THE STATUTE.

2 MR. HEARNSBERGER: THERE'S A COUPLE DIFFERENT WAYS TO
3 READ IT, YOUR HONOR. ONE WAY TO READ IT IS THAT THE
4 DEFENDANT MAKES AN ALLEGATION AS A FACT, THE FACT BEING
5 THAT THE STOP WAS MADE RACIALLY MOTIVATED. AND IF THAT'S
6 THE FACT, THEN THE COURT HAS TO TAKE THAT AS TRUE AND
7 ORDER A HEARING. BUT THERE HAS TO BE SOME EVIDENCE FOR
8 THAT, SO THAT'S WHY I'M TRYING TO SEPARATE FACTS FROM
9 ALLEGATIONS OR CONCLUSIONS OR BELIEFS. THE DEFENDANT
10 WANTS THE COURT TO TAKE AS FACT THE OFFICER'S MEANING IN
11 THAT STATEMENT. I DON'T THINK THAT IS A FACT. THAT IS A
12 CONCLUSION.

13 SO I AGREE THAT THE FACT -- THE COURT DOESN'T
14 HAVE TO -- OBVIOUSLY, ISN'T MAKING A FACTUAL FINDING AT
15 THIS STAGE, AND IT'S SOMEWHAT DIFFICULT BECAUSE WE HAVE
16 FACTS AND ALLEGATIONS. THERE'S SOME OVERLAP THERE, BUT
17 THE ONLY FACTS WE HAVE ARE WHAT THE DEFENDANT SAID AND
18 WHAT THE OFFICER SAID. AND THEN THE DEFENSE IS MAKING
19 CONCLUSIONS BASED ON THAT, BUT THAT DOESN'T RISE BEYOND
20 THE LEVEL OF A POSSIBILITY. I CAN SEE THAT SOMEONE WOULD
21 READ IT THAT WAY OR HEAR IT THAT WAY, BUT THERE'S ALSO A
22 CONTRARY WAY TO READ IT AND HEAR IT: SO IT'S, AGAIN, NOT
23 BEYOND A MERE POSSIBILITY. I DON'T THINK THE CONCLUSION
24 IS A FACT.

25 THE COURT: OKAY. ALL RIGHT. THANK YOU. I
26 APPRECIATE THAT.

27 I PROMISED YOU THE LAST WORD, MR. GENSER.

28 MR. GENSER: YOUR HONOR, I JUST WANT TO RESPOND TO A

1 COUPLE THINGS THE COURT SAID IN TALKING WITH THE
2 PROSECUTION. I WANT TO TALK ABOUT SUBDIVISION A, (A)(1).
3 THE COURT SEEMED TO IMPLY THAT (A)(1) MIGHT NOT APPLY
4 UNTIL A CASE IS FILED.

5 THE COURT: I JUST RAISED THE QUESTION. I DON'T
6 REALLY KNOW, AND I'M ASSUMING IT DOES UNTIL I'M TOLD
7 OTHERWISE.

8 MR. GENSER: I WANT TO ADD THAT WHEN THEY INCLUDE A
9 LAW ENFORCEMENT OFFICER, THERE WOULD NEVER BE A TIME WHEN
10 MY CLIENT HAS AN INTERACTION WITH A LAW ENFORCEMENT
11 OFFICER AFTER THE CASE HAS BEEN FILED. IT WOULD ALWAYS
12 GO THROUGH DEFENSE, AND IT WOULD ESSENTIALLY RENDER THAT
13 A REDUNDANCY, WHICH IS WHY BOTH THE PROSECUTION AND
14 MYSELF DON'T READ IT THAT WAY.

15 THE COURT: WELL, UNLESS THE OFFICER AT TRIAL
16 TESTIFIES DEMONSTRATING SOME TYPE OF BIAS.

17 MR. GENSER: THAT WOULD BE SUBSECTION (A)(2). (A)(2)
18 SAYS DURING THE DEFENDANT'S TRIAL, AND THEN GOES ON TO
19 TALK ABOUT THE PEOPLE. (A)(1) IS SOMEBODY INVOLVED IN
20 THE CASE. SPECIFICALLY, QUOTE, UNQUOTE, "INVOLVED," I
21 THINK THAT IMPLIES THROUGHOUT THE PROCESS OF THE CASE.

22 THE COURT: I ACCEPT THAT INTERPRETATION.

23 MR. GENSER: I ALSO THINK THAT IN PENAL CODE SECTION
24 745, THIS COURT -- SPECIFICALLY UNDER SUBSECTION C WHERE
25 IT TALKS ABOUT A PRIMA FACIE CASE, THE COURT HAS TO
26 ASSUME THE LEGISLATURE KNEW WHAT THAT MEANT AND THE
27 SITUATIONS WHERE WE USE THAT PHRASE. FOR EXAMPLE, IF I
28 WANT TO PRESENT A WITNESS AT A PRELIM, I HAVE TO MAKE A

1 PRIMA FACIE CASE THAT I'M EITHER PRESENTING THAT WITNESS
2 TO, YOU KNOW, SUPPORT SOME DEFENSE OR UNDERMINE SOME
3 ELEMENT, AND ALL THAT REQUIRES IS ME STANDING UP AND
4 SAYING, "THIS WITNESS WILL DISCUSS THIS AFFIRMATIVE
5 DEFENSE," AND THAT'S A PRIMA FACIE CASE, OR IN THE
6 BATSON-WHEELER CONTEXT, WHICH WE ALREADY TALKED ABOUT.
7 IT IS AN EXCEEDINGLY LOW STANDARD. THE STANDARD HAS BEEN
8 MET HERE, YOUR HONOR.

9 THE COURT: OKAY. ALL RIGHT. WELL, I APPRECIATE THE
10 HARD WORK BOTH SIDES HAVE PUT INTO THIS, AND, YOU KNOW,
11 I -- I'M NOT AFRAID TO SAY WHEN I DON'T KNOW SOMETHING,
12 BECAUSE THE LEGISLATURE, I THINK, HAS NOT THOUGHT THROUGH
13 SOME OF THESE ISSUES SUFFICIENTLY TO PROVIDE PROPER
14 GUIDANCE TO ATTORNEYS AND JUDGES, BUT WE WILL FIND OUT IN
15 THE FUTURE, WITH APPELLATE COURT DECISIONS, WHAT SOME OF
16 THESE PROVISIONS MEAN. SO, FOR EXAMPLE, THE DEFINITION
17 OF PRIMA FACIE SHOWING BEING MORE THAN A MERE POSSIBILITY
18 BUT LESS THAN A STANDARD OF MORE LIKELY THAN NOT. WHAT
19 DOES THAT MEAN? WE HAVE TO USE COMMON SENSE.

20 I GET BACK TO WHAT I SAID WHEN IT COMES TO --
21 THIS IS A CASE WHERE THERE'S A SPECIFIC DIALOGUE BETWEEN
22 THE OFFICER AND THE DEFENDANT ABOUT RACE. AND I AGREE
23 WITH THE PROSECUTION THAT THERE'S NO EXPLICIT ADMISSION
24 THAT THE STOP WAS BECAUSE OF RACE. BUT, AS I MENTIONED,
25 THE STATUTE DESCRIBES A PRIMA FACIE SHOWING AS A
26 DEFENDANT PRODUCING FACTS THAT, IF TRUE -- THEY DIDN'T
27 HAVE TO PUT IN "IF TRUE." I THINK BY PUTTING THAT IN,
28 THEY MEAN THE COURT IS NOT TO DETERMINE WHETHER THEY'RE

1 TRUE OR NOT, ONLY WHETHER, IF THEY'RE TRUE, THERE'S A
2 SUFFICIENT BASIS TO CONCLUDE THERE COULD BE A VIOLATION.

3 SO THE STUDIES THEMSELVES HAVE VERY LITTLE
4 BEARING ON MY DECISION. AS I MENTIONED, THERE'S A BIG
5 DIFFERENCE BETWEEN CORRELATION AND CAUSATION, AND WE CAN
6 SPEND DAYS AND DAYS TALKING ABOUT THE USE OF STATISTICS
7 AND WHETHER OR NOT THE STATISTICS SHOW WHAT THIS OFFICER
8 DID ON A PARTICULAR OCCASION, DEMONSTRATED RACIAL BIAS.
9 I PREFER TO RELY ON THE SPECIFIC FACTS OF THE CASE JUST
10 LIKE IN A PITCHES MOTION, SO I'M NOT REALLY CONSIDERING
11 THE STUDIES OR THE CONCLUSIONS OF THE EXPERTS. I'M
12 SIMPLY FOCUSING ON WHAT HAPPENED ON THIS CASE, AND I
13 THINK THE DEFENSE, FOR THE PURPOSE OF A PRIMA FACIE
14 SHOWING, HAS SATISFIED THE BURDEN, AS I UNDERSTAND IT.

15 BUT THAT IS NOT AN INDICATION THAT I BELIEVE
16 THERE'S BEEN A VIOLATION BY A PREPONDERANCE OF THE
17 EVIDENCE. THAT'S FOR A FUTURE DETERMINATION. BUT I
18 THINK FOR THE PURPOSE OF TRIGGERING THE HEARING, THERE'S
19 BEEN A SUFFICIENT SHOWING.

20 NOW, LET ME JUST INDICATE WHAT I JUST SAID ABOUT
21 STUDIES. AT THE HEARING -- AND, AGAIN, THERE'S NO --
22 ABSOLUTELY NO APPELLATE AUTHORITY PUBLISHED THAT
23 DESCRIBES WHAT'S SUPPOSED TO HAPPEN AT THE HEARING EXCEPT
24 WHAT EVIDENCE CAN BE OFFERED, SO I CAN FORESEE A HEARING
25 THAT CAN TAKE A WEEK WHERE BOTH SIDES OFFER STATISTICAL
26 EVIDENCE THAT, ON THE ONE HAND, THE POLICE DEPARTMENT IS
27 RACIALLY BIASED. ON THE OTHER HAND, THE PROSECUTION
28 EXPERTS CAN CONCLUDE IT'S NOT TRUE. THE FACTS OF THE

1 CASE ARE WHAT'S MOST IMPORTANT TO ME. SO I DON'T KNOW
2 HOW WE WOULD STRUCTURE SUCH A HEARING, WHAT THE PARTIES
3 WOULD INTEND TO OFFER AS EVIDENCE AT THE HEARING. THAT'S
4 ALL AN OPEN QUESTION.

5 BUT I'M ONLY SUGGESTING THAT WE DISCUSS THAT
6 BECAUSE I HAVE NO IDEA HOW LONG SUCH A HEARING WOULD
7 TAKE. AND SINCE I'M BOOKED UP ON A REGULAR BASIS WITH
8 PRETRIAL MOTIONS, I WOULD HAVE TO SET ENOUGH TIME -- SET
9 ASIDE ENOUGH TIME FOR SUCH A HEARING.

10 DO YOU HAVE ANY SENSE, MR. GENSER, OF THE
11 LENGTH -- THE LENGTH OF TIME IT WOULD OCCUPY?

12 MR. GENSER: I THINK IF WE RESERVE A DAY, IT WOULD BE
13 ENOUGH. I THINK IT WILL BE LESS. I BELIEVED COMING IN
14 THIS MORNING WE COULD GET IT DONE IN HALF A DAY. I STILL
15 BELIEVE I CAN DO IT IN HALF A DAY.

16 THE COURT: HOW ABOUT THE PEOPLE?

17 MR. HEARNSBERGER: AGREE.

18 THE COURT: OKAY. THE ONE THING I DID NOT DO WAS
19 BRING MY CALENDAR IN TO COURT. GIVE ME ONE MOMENT. I
20 HAVE TO GO GET MY CALENDAR. MAYBE YOU CAN USE THESE
21 COUPLE OF MINUTES TO TALK TO EACH OTHER ABOUT A POSSIBLE
22 DATE. OKAY. LET'S GO OFF THE RECORD.

23 (OFF THE RECORD.)

24 THE COURT: OKAY. WE'RE BACK ON THE RECORD. I NOW
25 HAVE MY CALENDAR IN FRONT OF ME. ANY THOUGHTS ON A DATE?

26 MR. GENSER: YES, YOUR HONOR. WE WERE LOOKING AT
27 SEPTEMBER 27TH, AND I'VE LET THE PROSECUTION KNOW THAT IF
28 HE HAS A CONFLICT, I WOULD BE OPEN TO MOVING THAT DATE.

1 THE COURT: I'M OUT OF TOWN. SORRY.

2 MR. GENSER: OCTOBER 4TH?

3 THE COURT: NO. HOW ABOUT THE FOLLOWING, OCTOBER 10?

4 MR. GENSER: OCTOBER 11? IS THAT ACCEPTABLE TO THE
5 PEOPLE?

6 MR. HEARNSBERGER: YES, YOUR HONOR, TENTATIVELY.
7 I'LL BE IN TOUCH WITH THE DEFENSE AND THE COURT VERY SOON
8 IF I HAVE ANY ISSUES, BUT I THINK THE 11TH SHOULD BE
9 FINE.

10 THE COURT: OKAY. WE'LL SET IT FOR HEARING PURSUANT
11 TO PENAL CODE SECTION 745 ON OCTOBER THE 11TH, AT
12 9:00 A.M., IN THIS DEPARTMENT. AND IF EITHER SIDE PLANS
13 ON SUBMITTING ANY ADDITIONAL PLEADINGS, I'M NOT GOING TO
14 SET A FIRM DEADLINE, BUT I'D LIKE TO HAVE THEM AT LEAST A
15 WEEK BEFORE THE HEARING. WHAT I DON'T WANT IS ANYBODY
16 WALKING IN ON THE DATE OF THE HEARING WITH SOMETHING FOR
17 ME TO READ, BECAUSE I READ EVERYTHING THOROUGHLY BEFORE A
18 HEARING, AS YOU KNOW.

19 NOW, I HAD ORIGINALLY SIGNED THE MEDIA REQUEST
20 WITH TODAY'S DATE ONLY TO AVOID THEM HAVING TO SUBMIT A
21 NEW REQUEST. DO YOU AGREE TO CONTINUE THE MEDIA COVERAGE
22 SO I DON'T HAVE TO SIGN A NEW ORDER?

23 MR. GENSER: SO STIPULATED.

24 MR. HEARNSBERGER: YES, YOUR HONOR.

25 THE COURT: ALL RIGHT. WHOEVER IS HERE, YOU DON'T
26 HAVE TO SUBMIT A NEW ORDER. I'LL MODIFY IT NOW BEFORE I
27 FORGET. I WILL CHECK THE BOX ABOVE "ALL PROCEEDINGS."
28 OKAY. IT'S BEEN MODIFIED. ALL RIGHT. THANK YOU. WE'LL

1 BE IN RECESS ON THIS CASE.

2 MR. HEARNSBERGER: THANK YOU.

3 MR. GENSER: THANK YOU, YOUR HONOR.

4 (OFF THE RECORD.)

5 THE COURT: LET'S GO ON THE RECORD. THIS IS BACK ON
6 THE BONDS CASE.

7 OFFICERS, CAN WE HAVE YOU STATE YOUR NAMES FOR
8 THE REPORTER, PLEASE.

9 OFFICER CAMERON: FIRST NAME RYAN, LAST NAME CAMERON
10 C-A-M-E-R-O-N.

11 OFFICER EYSIE: LAST NAME, E-Y-S-I-E.

12 THE COURT: I HAVE SET A HEARING FOR OCTOBER THE
13 11TH, 9:00 A.M. I'M ORDERING YOU BACK FOR THAT HEARING.
14 WHETHER OR NOT YOU GET A SUBPOENA, IT DOESN'T MATTER.
15 I'M ORDERING YOU BACK. TAKE CARE.

16 * * *

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1 STATE OF CALIFORNIA)

2 : SS.

3 COUNTY OF SAN DIEGO)

4 I, NANCY B. CASTREJON, OFFICIAL REPORTER FOR THE
5 SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR
6 THE COUNTY OF SAN DIEGO, DO HEREBY CERTIFY:

7 THAT AS SUCH REPORTER, I REPORTED IN MACHINE
8 SHORTHAND THE PROCEEDINGS HELD IN THE FOREGOING CASE;

9 THAT MY NOTES WERE TRANSCRIBED INTO COMPUTER FORMAT
10 UNDER MY DIRECTION, AND THE PROCEEDINGS HELD ON AUGUST
11 2, 2022, CONTAINED WITHIN PAGES 1 THROUGH 40, ARE A TRUE
12 AND CORRECT TRANSCRIPTION.

13 DATED THIS 19TH DAY OF AUGUST, 2022.

14

15

nancy castrejon

NANCY B. CASTREJON
CSR NO. 14186

16

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Exhibit E

Copy of BWC video will be lodged separately

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6 Attorneys for Plaintiff

7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF SAN DIEGO

9 THE PEOPLE OF THE STATE OF
10 CALIFORNIA,

11 Plaintiff,

12 v.

13 TOMMY LEE BONDS III,

14 Defendant.

Case No. M280282/1556907

TRANSCRIPTION OF BODY WORN
CAMERA RECORDING
CAMERON BWC 1
[5:08]

15
16 O: Officer Cameron D: Defendant O2: Officer Eysie

17 [Unintelligible background conversation throughout.]

18 O: What's goin' on, bro'? How you doin'?

19 D: Good and yourself?

20 O: Good.

21 D: Can I keep my seatbelt on?

22 O: Yeah, that's cool, bro'.

23 D: I saw you before actually.

24 O: You mind just puttin' his window, uh, is it down?

25 D: (Unintelligible.)

26 O: I think I have, were you over here, parked on the curb?

27 D: Yeah, you remernber me at that. Yes, sir.

28 O: Yeah. Yeah, yeah, yeah.

1 D: How ya been?
2 O: Good, man. Do you have your driver's license real quick?
3 D: Yes, I do.
4 O: I forget, was the last time I pulled you over for the license plate covered?
5 D: Um, yes. That actually, I actually got a ticket for it actually, so I'm taking it off.
6 O: All right.
7 D: I'll show you the ticket too, but
8 O: All right, no worries.
9 D: I actually got one in LA, so that and my taillight I have to take off.
10 O: Cool.
11 D: This is my little, if you're wondering who he is, this is my best friend's little brother.
12 He had me come talk to him.
13 O: How ya been?
14 D: Good, actually. But I would like you, pulled over, you turned around, like you saw
15 (unintelligible) in the car probably.
16 O: What's that?
17 D: I said, you saw you turn around like you saw two guys, like, two black guys in the car
18 obviously.
19 O: Well, part of it the hoodies up and stuff, just . . .
20 D: I mean, it's cold outside.
21 O: . . . the climate and everything that's goin' on in this city these days, so.
22 D: Nah, that makes sense. I wasn't, I'm not try'na pl-, I'm not trippin' at all, I'm just
23 like, um, . . .
24 O: Yeah, I know. I got you.
25 D: . . . it is cold outside, but.
26 O: I hear you.
27 D: Do you all pull over white people like that? I'm not try'na be rude or nothin', but . . .
28 O: Yeah.

1 D: . . . I'm asking a serious question.
2 O: No I, matter of fact, I get pulled over out in, uh, . . .
3 D: I mean, I wonder. All you act, (unintelligible), it seem like when you all see niggers,
4 you all pull around (unintelligible).
5 O: No, I get it. 'Cause out in East County . . .
6 D: Well it's the, yeah, you right, you right. East County, you right.
7 O: I got, . . .
8 D: You right.
9 O: . . . I'm sleeved up.
10 D: Nah, you right.
11 O: They stop me all the time . . .
12 D: You right.
13 O: . . . 'cause I'm wearin' a snap hat backwards.
14 D: East of East County, right. (Unintelligible), I ain't trippin', but I was like, damn. We
15 saw you flip around, I'm like, okay, we finnin to get pulled over.
16 O: I forget, where were you, where you livin' at?
17 D: Around the Henley Street. I live, I go right down the street (unintelligible). I go to
18 SDSU.
19 O: Okay. What are you studying there again?
20 D: Business management.
21 O: That's right.
22 D: My last year. Fuck yeah. (Unintelligible).
23 O: All right.
24 D: (Unintelligible). I actually just left (unintelligible).
25 O: Huh?
26 D: I just, actually just left the house, my house, to (unintelligible) to come pick him up.
27 O: Okay. Right on.
28

1 D: He wanted to talk because he's been goin' through his own stuff with life and stuff
2 like that, stuff like that.
3 O: He what?
4 D: He wants to talk because he's goin' through his own stuff with life (unintelligible).
5 O: I got'cha.
6 D: (Unintelligible). So that's all it was.
7 O: Yeah. Right on.
8 D: Then I had to get gas which is why I came down here. (Unintelligible).
9 O: And your first name again was?
10 D: Tommy.
11 O: Tommy. Nothing crazy in the car tonight, right? No guns or anything like that in the
12 car, right?
13 D: Gun legally? Yes.
14 O: You have a gun?
15 D: Yes, sir. Legally, it's registered to me. (Unintelligible).
16 O: Is it underneath your seat or where's it at?
17 D: Um
18 O: Don't reach for it, just
19 D: Yeah, I believe it's in the back.
20 O: We'll just make sure
21 D: But it's, it's not loaded. It's separated, . . .
22 O: Okay, cool.
23 D: . . . and yeah.
24 O: He's saying he, hey Eysie. Eysie.
25 O2: Yeah?
26 O: He's sayin' he has his gun in the back. He's said it's legally his and all that, so.
27 O2: Okay. Trunk . . .
28 O: Cool.

1 O2: ... or back seat?
2 D: I don't know. It's one or the other, but ...
3 O: But it ...
4 D: ... it's not loaded. I need you to know that. It's somewhere in the vehicle.
5 O2: Trunk or back seat?
6 D: I believe in the, it might be here in the (unintelligible), it might be in the back seat,
7 but you know. But it's legal. I have it registered.
8 O: He's got his card and everything, so we'll just ...
9 D: I'm not worried about that.
10 O: You want to come on this side (unintelligible). Just make sure everything is on the up
11 and up with it, bro', and ...
12 D: Same thing as last time. Everything's straight. I don't have anything to hide from you.
13 O: What's that?
14 D: I said everything's the same thing as last time. Everything's good and ready to go.
15 O: Yeah, I know. I got you.
16 D: It just sucks to get pulled over by the same cop again 'cause you're a black male
17 though. Just sayin'.
18 O: Well ...
19 D: Just drivin' through.
20 O: It's, this is the area we work and, ...
21 D: I, I, I hear, ...
22 O: You know ...
23 D: ... I hear what you're sayin', but I'm sayin', to be the same black male and deal with
24 him twice, you be doin' it again, it's like, wow. Coincidence of the year.
25 O: I get it.
26 D: That's all.
27 O: Uh, ...
28 D: Yeah?

1 O: . . . let's do it this way. Put your satchel and your phone up on the dash. That way it
2 doesn't fall off and what not. No other weapons on you, right?
3 D: No. What? I got to get out the car now?
4 O: Yeah, I'm gonna have you step out real quick.
5 D: For why?
6 O: 'Cause we're gonna make sure the guns legally registered to you and all that, that's
7 all.
8 D: Comin' out.
9 O: Just spin around real quick.
10 D: Like that?
11 O: You're just gonna be detained for now, man.
12 D: Wait, what's that? Hey, hey, hey. Can I get somebody to tell me (unintelligible)? No,
13 I, look, listen. There's nothing to
14 O: Relax.
15 D: I'm relaxed, but I'm just like, damn, for a traffic stop?
16 O: Okay, well when someone tells us there's a gun in the car, we're gonna make sure . . .
17 D: Okay. I hear what you're sayin'. I hear what you're sayin'.
18 O: . . . that it's legally yours and all that, so. So just roll with us. We'll make sure it
19 comes back to you. It's registered to you and everything?
20 D: Yes. (Unintelligible).
21 O: Honestly, it's for your safety and for our safety.
22 D: I hear what you're sayin'. I'm not goin' nowhere. You said you (unintelligible) me
23 last time.
24 O: I know.
25 D: I'm just confused on why. The fuck.
26 O: Just keep walkin' back towards the front of the car. Just face the car. I'm just gonna
27 pat you down for the weapons.
28 D: I ain't got nothing on me.

1 O: Cool.

2 D: There might be some weed in the car I got from the dispensary.

3 O: That's cool, man. I'm not (unintelligible).

4 D: No, I'm just letting you know (unintelligible).

5 O: Have a seat. It's not that.

6 D: This low-key is. But, I mean, would y'all stop if it was two white boys drivin' down
7 with hoodies in their car? You would never turn around like that and pull them over.
8 Honestly.

9 O: Yes, we would.

10 D: But I'm not upset, I'm not upset with you guys about it. You're doing your job.

11 O: All right.

12 D: But I think, honestly

13 O: Well, we can agree to disagree.

14 D: Yeah.

15 O: But I haven't disrespected you in any way.

16 D: And I hope I haven't either. I mean, I'm just tryin' to talk to you.

17 O: No, you're not, I get, I, I understand.

18 D: I'm just like, . . .

19 O: I understand.

20 D: . . . it's unfortunate. I should've kept my ass at home.

21 O: I understand the frustration. Trust me, I get it. 'Cause it, same, like I said out in
22 East County for me.

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Exhibit F

1 JUDGE: HOWARD H. SHORE, JUDGE
GENSER: ABRAM GENSER, DEFENSE
2 HEARNSBERGER: TAYLOR HEARNSBERGER, PROSECUTION
CLERK: UNKOWN NAME, COURT CLERK
3 MOHR: BETH MOHR, WITNESS 1
DR. CHANIN: DR. JOSHUA CHANIN, WITNESS 2
4 CAMERON: OFFICER RYAN CAMERON, SDPD, WITNESS 3
DR. GLOVER: DR. KAREN GLOVER, WITNESS 4
5

6 Clerk: ... for Department 2102 is now in session.

7 Judge: All right, this is a case of People versus Tommy Bonds. Could I have the
8 appearances of counsel, please?

9 Hearnberger: Good morning, Your Honor. Taylor Hearnberger for the People.

10 Genser: Morning, Your Honor. Deputy Public Defender Genser 977 for Mr. Bonds.

11 Judge: All right. Thank you. Let me first put on the record what I have here. I
12 have a defendant's motion for relief under the Racial Justice Act pursuant
13 to penal code section 745(a)(1) authored by Mr. Genser on behalf of the
14 defendant. And there's a second name on the motion, Ashkan Kargaran, A-
15 S-H-K-A-N, the last name, K-A-R-G-A-R-A-N. And that was file stamped
16 July 12, 2022. I have the opposition to the defendant's motion authored by
17 Mr. Hearnberger file stamped July 26th, 2022, um, together with, within
18 exhibit, which is the transcript of the body worn camera footage. Um, I
19 have a, um, if I can find it here, a notice of lodgment of an exhibit, which is
20 the actual, um, CD or DVD of the body worn camera footage, uh, that was
21 filed by the People.

22 I have the, um, People's objections to proposed defense opinion testimony
23 authored by Mr. Hearnberger filed stamped October 27th, 2022. Um, and
24 I believe that's all the pleadings I have. Um-

25 Genser: And would it possible for you to move your microphone a little closer to
26 you?

27 Judge: Sorry. Uh, have you heard anything or-

28 Genser: I, I have. I'm just worried that since we're recording instead of transcribing

1 that the record won't be as, as-

2 Judge: Okay, thank you. Um, have I described all the pleadings that I should have
3 as far as both sides are aware?

4 Hearnberger: Yes, Your Honor.

5 Genser: Yes, Your Honor.

6 Judge: Okay. And then I've been given, um, a couple of rules. One looks like a, an
7 exhibit list, and the other looks like a witness list. Um, and who is going to
8 be ... Uh, I see Officer Cameron's name is on here. Who is going to be
9 calling Officer Cameron, the defense or-

10 Genser: Uh, I'll be calling all of the witnesses.

11 Judge: Uh, okay. All right. So let me just make a few preliminary comments. Um,
12 first of all, um, I doubt that I would be ruling today, because as I've
13 mentioned before, in issues of first impressions in cases where there was
14 very little appellate guidance, I like to make a complete record of my
15 rulings so that an appellate court can determine whether I, um, evaluated
16 and applied the law correctly or incorrectly. And I find that written, um,
17 decisions assist the appellate courts in that regard.

18 Um, this is a hearing pursuant to, um, penal code section 745, and the, I
19 think it's been made clear, uh, since the [inaudible 00:03:32], uh, hearing
20 that the defense is relying on penal code section 745(a)(1), specifically the
21 language relating to a law enforcement officer exhibiting bias or animus
22 toward the defendant because of the defendant's race, ethnicity or national
23 origin. Now, the, the, um, statute itself does not define what bias or animus
24 is or how the court should go about determining it, except to say that at the
25 hearing, certain evidence is admissible. And that's set forth in, uh, penal
26 code section 745, um, let's see, it's subdivision (b), I believe.

27 Genser: I think it's (c)(1), Your Honor.

28 Judge: There's so many sub-paragraphs here ... Oh yes, you're correct. 745(c). Um,

1 and then, uh, subdivision 1, um, indicates the hearing evidence may be
2 presented by either party, including but not limited to statistical evidence,
3 aggregate data, extra testimony and the sworn testimony witnesses. The
4 court may also appoint an independent expert. Uh, I will indicate I have not
5 done that. And subdivision (c)(2) says a defendant shall have the burden of
6 proving a violation of subdivision A by a preponderance of the evidence.
7 And at the conclusion of the hearing, the court shall make findings on the
8 record, and my written ruling will be those findings.

9 Now, uh, one observation, um, the statute does not indicate the rules of
10 evidence that apply, except to say that certain listed items are admissible,
11 um, kind of like, for example, 1170.95, which has now been renumbered,
12 um, murder re-sentencing. The statute specifically, the current version,
13 specifically states the evidence code shall apply to the evidentiary hearing.
14 There's no statement like that by the legislature here, so that's another issue
15 or first impression is what are the rules. Um, and so, um, you know, my
16 attitude is that anything that's relevant would be admissible subject to my
17 weighing, um, that evidence according to the, um, according to the, the
18 manner which is the evidence is presented.

19 Now, the People have raised a couple objections that I want to address, um,
20 in their opposition. Uh, there are two main categories I think to your
21 objection, um, and I want to make sure I have the correct ones, the studies,
22 the foundation for the studies. And the other is the nature of the opinion
23 testimony. But I want to talk about the studies first. I, I pointed out, I think,
24 at the [inaudible 00:06:28] hearing that, um, no study or, or group of
25 statistics can tell a trier of fact what was going on in a mind of a particular
26 person on a particular occasion. They're in the nature of, I, I suppose an
27 analogy would be character evidence to show that certain conduct fits
28 within a pattern that, um, has been, uh, analyzed and recorded, uh, over the

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years.

So, um, it, there's a difference between admitting the study and giving it a certain amount of weight. And I, I think it would, um, the, the in your objections, you talked about the foundation for the studies. I'm inclined to allow the defense, to allow for whatever studies they want subject to my weighing. It, um, I may admit it and find that it has absolutely no value. And I'm just making a point that unlike a jury trial, you know, where we can spend days laying the foundation for particular studies, I don't think would be of much benefit here, because I'm a trier of fact. I don't have to worry about filtering evidence for a jury to consider.

And so, um, I'm happy to consider anything Mr. Genser offers in the way of studies subject to my weighing it. So I don't know if that will save us time or not, because I know you had issues with regard to the foundation for certain studies and, and I understand that. And you're free to argue why you believe certain studies have no merit. Um, but I'll let you respond.

Hearnberger: I, I don't have much to add, Your Honor. I, I understand the Court's ruling.

Um-

Judge: Well, I ... That was not a ruling.

Hearnberger: Okay.

Judge: I'm just telling you what I'm thinking right now, so-

Hearnberger: I just, it, for ... I certainly would like to ask Dr. Shannon some questions about the SDSU Study, and he'll be able to intelligently speak about that study because he co-authored it. But he won't be able to intelligently speak. I, I'm not aware that he has, um, personal knowledge of the other studies that on cross-examination he'd be able to, to talk about those. So, um-

Judge: I'm not gonna preclude your cross-examining him. You know, I'm just saying that I, I don't wanna get bogged down in a lengthy argument over admissibility where I'm the trier of fact and I will have the opportunity to

1 decide how much weight any of these studies has in my final decision.
2 And, and again, the focus is on what a particular officer was, the state of
3 mind of a particular officer on a particular occasion. Um, so he may in fact
4 have been acting consistently with what the studies allege or he may have
5 been acting in completely contradiction to what the studies allege. I don't
6 know. Uh, but I'm the trier of fact, and I will consider that once I've read all
7 the evidence. So I just don't wanna get bogged down in a lengthy
8 foundational hearing.

9 Hearnberger: Understood. I don't have anything to add, Your Honor.

10 Judge: Okay.

11 Hearnberger: Thank you.

12 Judge: Now, with regard to the opinion, um, evidence, uh, the ... I, I haven't heard
13 it yet. Uh, apparently the People know more about what's gonna be offered
14 than I do. But, um-

15 Genser: And just to speed it up, I have no intention of asking the expert what the
16 internal thoughts of anyone else are. That's not my intention, and it's not
17 her area of expertise. She's not a mind reader.

18 Judge: See, if I'd known that, you would've saved me several hours of reading.
19 Um (laughs), no, I, I, I'm just teasing. Um, yeah, the, the case law is pretty
20 clear. For example, in the case involving a murder charge, no expert, the
21 expert may be absolutely right, but no expert can take the stand and say,
22 "In my opinion the defendant premeditated and deliberated." That's a
23 question for the trier of fact.

24 Um, and there were cases that, you know, [inaudible 00:10:08] cases, there
25 are many different areas where the courts have made clear that experts can
26 testify indirectly that certain conduct is consistent with a certain state of
27 mind, but they cannot give an ultimate opinion as to, in, in the form, in my
28 opinion, "This is what the officer was thinking when he sought the

1 defendant." So Mr. Genser has represented that's not gonna happen, so
2 you're free to object if you think that a line has been crossed, but, um, I'm
3 not gonna spend any more time on it now. I had the cases ready to cite, but
4 apparently it's not necessary.

5 Genser: Sure.

6 Hearnberger: Thank you. And I ... My objection was based on offers approved at the last
7 hearing, but if that is not gonna be the testimony, then that's fine.

8 Judge: Okay. Now, with regard to the exhibits, um, I noticed that you did have the
9 transcript attached as Exhibit A, um, to your opposition. Now, this court
10 requires that within the, um, audio recording, there has to be a transcript
11 accompanying it. Um, I assume the defense isn't going to be objecting to
12 the People offering the, the DVD.

13 Genser: We're actually gonna stipulate to Defense Exhibit A, which is a thumb
14 drive. Um, I believe the court has the list of, of things that are on the thumb
15 drive.

16 Judge: Okay. So I don't need to have this marked and the DVD.

17 Genser: No, I, I, I think it makes more sense to keep the exhibits separate between
18 hearings.

19 Judge: Okay. All right. I, I agree. All right. Then we'll just take it one exhibit at a
20 time. All right. So with that since the burden of proof is on the defense, the
21 defense, the party, burden of proof usually goes first. So I'll allow you to
22 proceed, Mr. Genser. And, uh, what would you like to do first?

23 Genser: Thank you, Your Honor. I, I'd like to start by, uh, offering exh- Defense
24 Exhibit A. It is a thumb drive is the body worn camera as edited by People,
25 so it's edited down from the original 49 minutes to five minutes and eight
26 seconds. There is a transcript that the People originally provided at the last
27 hearing, which is also on there. On the thumb drive, I have also provided
28 the four statistical studies, um, and I have put the, uh, police department's

1 Policy and Procedural Manual, um, on the thumb drive as well. So that's
2 Exhibit A.

3 Judge: All right. And where is Exhibit A?

4 Genser: I have it.

5 Judge: Okay. And it's marked?

6 Genser: Mm-hmm.

7 Judge: All right. So is there any objections on receiving Exhibit A?

8 Hearnberger: I will, I'll stipulate to the body worn and the transcript, um, understanding
9 the Court's rulings about the studies. I have no further objections on that
10 issue. Um, I don't think the San Diego Police Department policy is
11 relevant. And that's one of the objections I, uh, briefed on, uh, relevant to,
12 uh, at the Morris testimony. I don't think that's relevant, uh, for this
13 hearing.

14 Judge: Well, I don't know what's in there, but I'll receive A with the understanding
15 that I will weigh the evidence. And if I find the policy is irrelevant to my
16 decision, I will say so in my ruling. All right, so Defendant's A will be
17 received.

18 Genser: Thank you, Your Honor. Defense calls Mohr.

19 Judge: Okay.

20 Speaker 2: Do you solemnly state that the evidence you shall give in this matter shall
21 be the truth, the whole truth and nothing but the truth so help you God?

22 Mohr: Yes, I do.

23 Speaker 2: Thank you. If you could please take a seat at the witness stand.

24 Judge: And the attorney will ask the name. And since we're recording, you can
25 pull the mic toward you once you get seated and comfortable.

26 Mohr: Thank you, Your Honor.

27 Judge: You might want to raise it just a little bit. All right. Thank you.

28 Mohr: Thank you.

- 1 Judge: All right. Whenever you're ready, you can proceed.
- 2 Genser: Thank you. Uh, Ms. Mohr, could you state your, uh, name for the record
3 and spell your first and last name?
- 4 Mohr: Mohr, M-O-H-R.
- 5 Genser: Um, you are here today to testify as a police practices expert. Is that
6 correct?
- 7 Mohr: Yes, sir.
- 8 Genser: Uh, before I ask you about your opinion, I want to discuss your
9 qualifications.
- 10 Mohr: Certainly.
- 11 Genser: Uh, have you ever worked as a police officer?
- 12 Mohr: Yes, I have. I'm retired from the San Diego Police Department.
- 13 Genser: Could you describe your employment as a police officer?
- 14 Mohr: Sure. I went to the Academy in 1984 and worked as a patrol officer and in
15 special investigative assignments in Vice and sex crimes. And I was
16 injured in the line of duty and retired in 1992, I believe.
- 17 Genser: Uh, did you ever received any awards or honors as a police officer?
- 18 Mohr: I did. I received three commanding officer citations. All of those were
19 investigated, uh, investigative acumen.
- 20 Judge: Okay. Can I just ask what years you were with the San Diego PD?
- 21 Mohr: Yes, sir. In 1984 and 1992.
- 22 Judge: Um, can, can I ask one question? I, um ... What, what month in 1984?
- 23 Mohr: Uh, 10/10/84, so, uh, October.
- 24 Judge: Okay. No, I, it's just your name sounds familiar to me. And the, were you
25 involved in any way in the Joselito Cinco Case involving the murder of
26 two San Diego police officers?
- 27 Mohr: Uh-
- 28 Judge: Your name sounds familiar from the witness list, but I may be wrong.

1 Mohr: Uh, I, I could've been.

2 Judge: Okay. All right. Yeah, if, if, if I had any ... Let me just indicate why I asked
3 the question. I was involved when I was in the District Attorney's Office
4 with that case, and there were hundreds of officers involved in that case.
5 And, um, if I had had personal contact with Ms. Mohr, um, and had
6 familiarity with her, I would have to state that on the record. But based on
7 what she said, I don't believe I do. So let's move on.

8 Genser: And just for the record, I, I don't think that that would be a conflict, and I
9 would waive the conflict if one existed.

10 Judge: All right. All right. Thank you.

11 Hearnberger: I would too. Thank you.

12 Judge: All right. Sorry for the interruption. You, you can continue with your
13 training and experience.

14 Genser: You mentioned that you had a, a, a citation, uh, from the captain, chief?

15 Mohr: So it was a commanding officer citation.

16 Genser: What is that?

17 Mohr: Uh, it's one of the, at the time, it was the highest award that you could get
18 as a police officer.

19 Genser: Um, after working for the police, did you continue to do investigative
20 work?

21 Mohr: I did. I went to work for the Public Defender's Office up in Whatcom
22 County, Washington, uh, doing primarily felony investigations and death
23 penalty mitigation investigations.

24 Genser: Um, did you at some point earn a Master's Degree in Public
25 Administration?

26 Mohr: Yes, I did. Uh, I moved to, uh, New Mexico. I received a Master's in Public
27 Administration from the University of New Mexico. And my, um, thesis,
28 my master's thesis was on the use of performance measurement and

1 [inaudible 00:17:22].

2 Genser: Um, did you become a private investigator at some point?

3 Mohr: I did. I'm licensed as a private investigator in California, Arizona and New
4 Mexico.

5 Genser: Um, are you a certified law enforcement instructor as well?

6 Mohr: I am. I'm certified, uh, by the State of California to teach post, uh, police
7 officer, sorry, peace officer, uh, standard and training courses. Uh, so, uh,
8 one of, one of about 150 people that are certified nationally to teach law
9 enforcement courses under the DOJ's new program trying to standardize
10 training throughout the, the United States.

11 Genser: And POST is the class that when, when an officer comes in and wants to
12 testify about hearsay, that's the, they always say, "I'm POST certified."
13 That's the class that you teach.

14 Mohr: Yes, sir.

15 Genser: Um, you have also taught various courses related to training law
16 enforcement. Is that correct?

17 Mohr: Yes.

18 Genser: Um, I wanna talk about a couple of the courses that you've taught, um, one
19 in particular. Have you taught a course in investigative ethics?

20 Mohr: Yes.

21 Genser: Could you describe that?

22 Mohr: Sure. It's actually a, a half-day segment out of a two-day course on, uh,
23 investigations, interviewing and interrogation. And, uh, in the ethics
24 portion, I teach about how officers have responsibilities around their
25 investigations. I teach about, uh, false confessions and the concerns that
26 can happen around individuals who falsely confess, um, and just ethics
27 generally for law enforcement officers.

28 Genser: Um, you were also tasked, tasked as the Chair of the Civilian Oversight

1 Board related to a Department of Justice Consent Decree. Is that correct?

2 Mohr: Yes, sir. The City of Albuquerque, uh, entered into a consent decree with
3 the Department of Justice over, uh, use of force and various other issues.
4 And we created out of that a Civilian Oversight Board and I chaired that
5 board for the first two years of its existence.

6 Genser: Have you testified as a police practices expert before?

7 Mohr: Yes, I have.

8 Genser: In federal and state court?

9 Mohr: Yes.

10 Genser: Um, outside of California?

11 Mohr: Yes.

12 Genser: Within California?

13 Mohr: Yes (laughs).

14 Genser: Um, in San Diego particularly?

15 Mohr: Yes, sir.

16 Genser: Um, specific to the area of racial bi- bias, racial profiling, do you review
17 reports and publications to stay abreast of the most current information?

18 Mohr: Yes, I do.

19 Genser: Um, in preparation for today's hearing, could you just describe the number
20 of articles that you reviewed in order to, I supposed, you know, stay on top
21 of this issue?

22 Mohr: So, uh, in, in preparation for this but also, uh, two other cases that I'm, uh,
23 working on, one which was a death penalty heinous case out of Cincinnati
24 and another is a, um, civil suit out of the City of Chicago, I have done quite
25 a bit of reading and research about the areas of cognitive bias as a sort of
26 overarching umbrella and then implicit bias and confirmation bias talking
27 about, uh, the different ways that people either consciously or
28 unconsciously act in particular ways.

1 Genser: Um, did you provide me with a bibliography of articles that you have
2 reviewed?
3 Mohr: Yes, I did.
4 Genser: Um, I'm gonna mark that as Exhibit B.
5 Judge: All right, Defendant's B for identification. How many page document?
6 Genser: Um, it is a ... Where does the court like the tag back front?
7 Judge: As lo- anywhere where it's not interfering with the print.
8 Genser: Okay. It is a, um, one, two, a three page document labeled Bibliography.
9 Judge: All right. Defendant's B for identification, three page.
10 Genser: Uh, permission to approach?
11 Judge: Yes.
12 Genser: Do you have what's been marked as Exhibit B in front of you?
13 Mohr: Yes, I do.
14 Genser: What is that?
15 Mohr: So this is a bibliography, um, it's lifted as a portion of a bibliography out of
16 a [inaudible 00:21:48] report that I'm doing for a federal court elsewhere,
17 uh ... And this is just a list of articles that I've read, and including one book
18 chapter that I've written, uh, talking about, uh, confirmation bias and other
19 types of, um, other types of biases.
20 Genser: And that's ... I, I didn't count it, but it's probably 40 articles. Does that
21 sound right?
22 Mohr: Hm, probably.
23 Genser: Okay. Um, let's turn to this case for a moment. Um, what did you review in
24 this case in order to prepare you to testify today?
25 Mohr: Uh, I watched the officer's body worn camera video. I, um, read the
26 officer's reports. Um, I reviewed some standard operating procedures for
27 the, um, San Diego Police Department. Um, and I also reviewed a
28 transcript of the body worn camera video.

- 1 Genser: Um, okay. Um, with that, um, based upon your training and experience,
2 your review of the records, do you have an opinion about whether or not
3 the officer in this case, um, shown in the video acted with racial bias?
- 4 Mohr: Yes, I do.
- 5 Genser: And what is that opinion?
- 6 Hearnberger: Objection, foundation, relevance.
- 7 Judge: Well, I think I, I think I indicated that I would not permit someone to
8 testify as to somebody else's state of mind, but that certain conduct was
9 consistent in, in the form of either a hypothetical or ... The, the way it's
10 phrased, I will sustain the objection, because I think that's-
- 11 Genser: I'll rephrase it.
- 12 Judge: All right.
- 13 Genser: Based upon your review of the records, your training and experience, was
14 the officer's behavior consistent with, um, what you understand to be racial
15 bias?
- 16 Mohr: Yes, it was.
- 17 Genser: Um, I wanna talk about how you arrived at that opinion. Um, I wanna talk
18 about a couple of things observed on the video, and I wanna start with the
19 part of the video where Mr. Bonds asks Officer Cameron if he pulled him
20 over because he saw, quote, unquote, two Black guys in a car. And I
21 believe Officer Cameron responds by saying that, indeed, part of the reason
22 he stopped Mr. Bonds was his race. Is that accurate?
- 23 Hearnberger: Objection, leading, uh, misstates the Exhibit 1A.
- 24 Genser: This is an expert, Your Honor.
- 25 Judge: Well, obviously it has to be accurate information. What part do you believe
26 is misstated?
- 27 Hearnberger: Officer Cameron's response.
- 28 Judge: Well, I'll allow the witness to answer, and you can cross-examine and point

1 out any, any errors in her understanding of the facts. So overruled for now.

2 Genser: Do you recall that section of the, uh, um, of the video that I'm referring?

3 Mohr: Yes.

4 Genser: Um, was that statement important to your opinion?

5 Mohr: It was. There, there was several aspects of the entire stop as observed on

6 the video that, uh, shaped my opinions on this case, and that's one of them.

7 Um, Mr. Bonds essentially asks, "Did you pull us over because it's two

8 Black guys in a car?", uh, and the officer essentially responds, "Part," he

9 says, "Partly." That's, in other words, "That's partly the reasons I pulled

10 you over." And he goes on to talk about that the passenger had a hood up

11 on his hoodie. And so those were the, um, initial reasons that the officer

12 gave for the stop when he was asked by Mr. Bonds.

13 Genser: Uh, based upon your, uh, expertise, knowledge, training and experience, is,

14 uh, being Black a valid reason to conduct a traffic stop?

15 Mohr: It is not unless you're looking for a particular individual relative to a

16 particular case who happens to be Black.

17 Genser: Um, did Officer Cameron's statement that part of the reason they stopped

18 Mr. Bonds was Mr. Bonds' race support your ultimate conclusion that

19 Officer Cameron acted with racial bias?

20 Mohr: Yes.

21 Genser: The next thing I wanna talk to you about is when the officer says, uh, in

22 addition to Mr. Bonds' race, that he stopped them because the the

23 passenger had his hoodie up.

24 Mohr: Yes.

25 Genser: Do you recall that?

26 Mohr: I do.

27 Genser: Um, was that important to your opinion?

28 Mohr: Yes, it was.

1 Genser: Why?

2 Mohr: Well, wearing a hoodie in a car isn't illegal. So for that to be apart of the
3 reason for the stop, again, unless they were seeking a particular individual
4 from, say, a bank robbery from a few minutes prior who was wearing that
5 color hoodie or something, um, just wearing a hoodie isn't a valid reason to
6 conduct a traffic stop.

7 Genser: And just to be clear, based upon your review of all of the documents in this
8 case, there was no call that they were responding to.

9 Mohr: Correct

10 Genser: Um, in fact, I believe in the, in the officer's police report, they state that
11 they were on proactive enforcement.

12 Mohr: Yes.

13 Genser: Okay. Um, did Officer Cameron's statement that the other reason that he
14 stopped Mr. Bonds was based on the pa- based on the fact that the
15 passenger was wearing a hoodie, did that support your opinion that Officer
16 Cameron acted with racial bias?

17 Mohr: Yes, that shaped my opinion as well.

18 Genser: Um, as, as Mr. Cameron, as Officer Cameron and Mr. Bonds are
19 interacting, when Officer Cameron asks Mr. Bonds about the passenger's
20 hoodie being up, he mentions that it's cold outside. Did that weigh into
21 your opinion?

22 Mohr: Somewhat.

23 Genser: How?

24 Mohr: Well, uh, cold is sort of relative term in San Diego, but it was January. So,
25 you know, having a hoodie up may be reasonable, but again, there's
26 nothing illegal about wearing a hoodie, uh, regardless of the weather.

27 Genser: Uh, I wanna talk about the officer's, um, statement where he talks about
28 East County and being detained in East County. Are you familiar with that

1 section of the-

2 Mohr: Yes.

3 Genser: Okay. Um, at s- at, at ... There's actually two points in the transcript that
4 the, at the first point when Mr. Bonds is asking Officer Cameron being
5 stopped because of his race, I believe Officer Cameron responds that he
6 also is profiled in East County.

7 Mohr: Yes.

8 Genser: Um, how did that weigh into your opinion?

9 Mohr: So when the officers asked about, um, why were, you know, "Why were
10 we stopped? Is it 'cause it's two Black guys in car?", he initially says,
11 "Well, partly," and then, you know, "Your passenger had a hoodie up. And
12 then he goes on to talk about the fact he is also profiled. He says he gets
13 pulled over in East County because he has a sleeve of tattoos and wears his
14 hats backwards. And so what I took from that is, you know, "It's not that I,
15 uh," speaking from the officer essentially, you know, "Oh, it's not that I
16 intended to do this," as much as, "This happens to me too, and that's just
17 the way it is."

18 Genser: Um, at some point during the contact, uh, Mr. Bonds is actually detained.

19 Mohr: Yes.

20 Genser: Is it your opinion that Mr., that Officer Cameron and Offr- Officer Icey had
21 probable cause when they detained, when they detained him?

22 Hearnberger: Objection, relevance, foundation.

23 Judge: Uh, I'm not, I'm gonna overrule it subject to cross-examination a possible
24 motion to strike. You can answer. And I'm ki- I wanna hear what the
25 reasons are for whatever answer's given.

26 Mohr: So let me back up a little bit. At the very beginning of the video, we see
27 that the two vehicles, the officer's vehicle and Mr. Bonds' vehicle passed
28 face-to-face. The front plate is not obscured. Now, the officer decides to

1 make a U-turn and pull in behind Mr. Bonds, uh, and then he initiates the
2 traffic stop. So from the very beginning, the point of stop, the point of him
3 turning around to go behind Mr. Bonds was, in my expert opinion,
4 precisely what the officer said it was, which is two guys in a car who were
5 Black, one of whom was wearing a hoodie.

6 So the officer pulls around and discovers that, uh, there's a, some sort of a
7 film over the rear license plate, and in his report he says that's why he
8 makes the stop. Um, but the fact that there's no obscured front plate, you
9 know, the U-turn ... So from the very beginning, he sees the two guys, he
10 makes the U-turn, he has this interaction. He doesn't immediately say, uh,
11 if I, uh, I don't recall that he ever says on the wor- body worn camera, he
12 never actually says, "I pulled you guys over because of your license plate."
13 Um, he addresses Mr. Bonds very casually, you know, "Hey bro." And, uh,
14 then he goes on to talk about, uh, he's asked why they were pulled over.
15 And the reason was, "Oh, because two Black guys in a car." "Well, it was
16 partly, but your friend has his hoodie on."

17 So now we've got this traffic stop that was initiated because of who was in
18 the car, and he, the officer, uh, is interacting with Mr. Bonds and then says,
19 "So do you have any weapons in the car?" And Mr. Bonds says, "Yes." So
20 at that point, the officer has a concern. But the fact that the, this stop
21 should've never been made based on a lawful reason is the problem that I
22 see with that.

23 Genser: Does it bear on your opinion that the officer acted with racial bias that the
24 initial contact was without probable cause?

25 Mohr: It does.

26 Genser: How so?

27 Mohr: So if you just are stopping people for no reason, then you should stop
28 everyone. Right? I mean, the officers set up road blocks and they look to

1 see if anyone has been drinking or if there's other issues. But if you're
2 gonna pull over one particular vehicle, you need to at least have reasonable
3 suspicion that something is occurring, uh, that is illegal. So you're either
4 looking for a specific individual or that specific vehicle, uh, or you have
5 some sort of specific information as to why you'd be stopping that vehicle
6 and those individuals, um, or you need to have a traffic violation. At the
7 point at which the officer made that U-turn, he had no knowledge of a
8 traffic violation yet.

9 Genser: Um, you used the phrase reasonable suspicion, and you're using that in a
10 technical legal sense. Is that correct?

11 Mohr: Yes, sir.

12 Genser: Um, at the end of the transcript, um, Mr. Bonds and Officer Cameron are
13 again sort of talking about race, and again, Officer Cameron brings up the
14 fact that, I think he says, quote, unquote, because it's the same, like, like I
15 said, out in East County for me.

16 Mohr: Yes.

17 Genser: The fact that he brings that up again, did that bear on your opinion?

18 Mohr: It did, yeah. The fact that the officer's response is, "Hey, I get profiled too,"
19 um, is, you know, a- a way to develop rapport with someone, but it's not an
20 explanation of why, you know- what legal reason the officer actually
21 pulled Mr. Bonds over for.

22 Genser: Um, have you had a chance to review the San Diego Police Department
23 Policy and Procedure Manual?

24 Mohr: I did.

25 Genser: Um, are you familiar with section 9.31?

26 Mohr: Yes.

27 Genser: What's section 9.31 about?

28 Mohr: It's a section about bias based policing.

- 1 Genser: Um, based upon your training and experience, do you believe that oper-
2 Officer Cameron met the obligations outlined for him in section 9.31?
- 3 Mohr: I do not.
- 4 Genser: Why not?
- 5 Mohr: So, again, the initial reason for the stop, the initial reason for the U-turn
6 even before the stop, was based on who was in the vehicle. Um, the officer
7 then makes the U-turn, he makes the stop, and when he's asked, you know,
8 oh, "You stopped us because it- there was two Black guys in the car,"
9 obviously, I believe is the statement from Mr. Bonds, and the officer says,
10 "Partly." Well, even partly is not okay. The- there's not supposed to be any
11 reason based on race that a person would be stopped unless you are seeking
12 someone out of that race for a specific investigatory reason, a specific
13 crime.
- 14 Genser: Your honor, just for the record, I- I have that on Exhibit A, but I know the
15 court does not have it in front of you. Uh, section 9.31 states, and I'll- I'll
16 read- it's, uh, sort of lengthy, but I'll state the beginning part. It's, "The
17 department does not tolerate bias based policing. Bias based policing
18 occurs when law enforcement inappropriately considers factors such as
19 race, religion, national origin, gender, to include gender identity and
20 gender expression, lifestyle, sexual orientation, or similar personal
21 characteristics in deciding with whom and how to intervene in an
22 enforcement capacity." Um, are you also familiar with, uh, policy and
23 procedure section 7.01?
- 24 Mohr: Yes.
- 25 Genser: Um, what's that section about?
- 26 Mohr: Uh, that speaks to traffic enforcement. That traffic, uh, laws will be
27 enforced equally.
- 28 Genser: Just for the record again, your honor, since the court doesn't have it in front

1 of him, uh- in front of you, 7.01 reads, "The enforcement of all traffic laws
2 shall be administered equally and fairly regardless of the person involved
3 and based solely on the nature of the offense." Um, based upon your
4 training and experience, do you believe that Officer Cameron met the
5 obligations of policy and procedure 7.01?

6 Mohr: I do not.

7 Genser: Why not?

8 Mohr: So, again, the officer pulled the, uh, gentleman in the car over partly
9 because of their race, partly because someone was wearing a hoodie. Uh,
10 that's the reason for the U-turn. He tells them that's the reason for the stop.
11 And when they complain about, you know, hey, stopping two Black guys
12 in a car, he responds, "Partly. Partly, that's the reason I stopped you,
13 because it's two Black guys in a car." That is not okay. That is precisely
14 what is not supposed to happen in terms of, uh, you know, equal treatment
15 and unbiased policing.

16 Um, the- the other thing that's in the video, and I apologize if I'm jumping
17 the gun, but I don't want to forget, um, is how casually the officer, uh, has a
18 conversation with Mr. Bonds. And there's actually some very good studies
19 out there. One of them was on this list, a couple of them on the list, but one
20 of them involves a- a study by Voit. And they looked at tens of thousands
21 of body worn camera interactions, um, with police officers and citizens,
22 and what they determined was that using this huge data source, there was,
23 uh, you know, no racist language used in any of these stops. But what they
24 found was that the, uh, white citizens were treated slightly differently than
25 Black citizens. And essentially, uh, the officers said something to the effect
26 of, "Oh, I'm sorry I had to stop you, sir," when pulling over a white person,
27 a white male. And when they were pulling over a Black male, they'd say
28 something along the lines of, you know, "Hey bro, where you going

- 1 that, uh, everyone is treated fairly and that the facts are brought out in the
2 investigation.
- 3 Hearnberger: Make sure that it's done right and ultimately that's, um... For- for example,
4 a false confession is of little use and could put someone in hot water that
5 shouldn't be in hot water, correct?
- 6 Mohr: Yes, sir.
- 7 Hearnberger: Um, regarding, uh, some of the articles that you've reviewed, um, and you
8 testify in as a police practices expert, um, have you published any articles
9 on police, uh, practices?
- 10 Mohr: Um, I have an forthcoming book chapter. Uh, the book is The Art of
11 Investigation Revisited. Uh, Dr. Chelsea Bins has been collecting, uh,
12 investigators nationwide and I was one of, I believe, 10 that was asked to
13 do an article. The title of my chapter is Skepticism.
- 14 Hearnberger: Have you published any articles or studies on issues of racial bias?
- 15 Mohr: Uh, I've pub- I have another, uh, article that's in press, talking about
16 implicit bias in investigations and fraud examinations.
- 17 Hearnberger: Now, you stated on direct examination that it was your opinion that the
18 officers in this case did not have probable cause to stop the defendant's
19 vehicle, correct?
- 20 Mohr: Correct.
- 21 Hearnberger: Um, you're aware that the- there's differing- differing standards for, uh,
22 conducting a detention, making an arrest, and searching a vehicle, correct?
- 23 Mohr: Correct.
- 24 Hearnberger: And the standard for making a detention, whether that be stopping a
25 pedestrian on the street or stopping a vehicle, is reasonable suspicion.
26 That's correct?
- 27 Mohr: Yes, sir.
- 28 Hearnberger: Probable cause would be a higher standard than that.

1 Mohr: Correct.

2 Hearnberger: And are you aware that it is a violation of the vehicle code to have an
3 obscured license plate in California?

4 Mohr: Yes.

5 Hearnberger: So you would agree that if- if an officer is following a vehicle and sees a
6 license plate that they can't quite make out, um, that would give a- give an
7 officer concern that that is a violation of the vehicle code, correct?

8 Mohr: Yes.

9 Hearnberger: And under the law, and under proper police practices, uh, there's- a
10 detention doesn't occur until the officer actually stops the vehicle, correct?

11 Mohr: I believe so.

12 Genser: [inaudible 00:40:21].

13 Judge: Well, she gave her opinion about the legality of probable cause, so, um,
14 that door was opened. So, overruled. You can answer if you have an
15 answer.

16 Mohr: I'm sorry, could you repeat the question.

17 Hearnberger: S- uh, the... A detention occurs not while an officer's following a vehicle,
18 but once an officer activates his lights or otherwise signals that driver to
19 pull over, correct?

20 Mohr: And they actually pull over. Yes, sir. (laughs)

21 Hearnberger: Yes. Thank you.

22 Now, when... I want to talk about a couple of the statements that were
23 made, uh, by the officer. Um, your testimony on direct, that was when-
24 when the defendant said, "You pulled us over because of our race," I
25 believe your- your recollection of the officer's statement was, "Partly." Is
26 that correct?

27 Mohr: Uh, yes, sir.

28 Hearnberger: Okay.

1 Mohr: If you have the actual transcript, I'd be happy to read the actual statement
2 into the record, but.

3 Judge: I have it here, if you want.

4 Hearnberger: If... I have an extra copy, but I- if we want to s- stay.

5 Judge: Well, I didn't know if you want it marked separately, or.

6 Hearnberger: I've got a statement of what the court has received, but-

7 Judge: Well, that's on a thumb drive. I have the hard copy that you submitted as an
8 exhibit, which I assume is the same.

9 Hearnberger: I'll m- I'll mark a separate copy.

10 Judge: Okay. It might be neater on the records to have a hard copy of whatever the
11 witness is being cross-examined on. All right. So, it's a how many page
12 document?

13 Hearnberger: Seven, I believe.

14 Genser: Yes. Oh, I'm sorry. There's a title page, so it's eight.

15 Judge: Well, whatever you're marking, counsel, tell me how many pages is yours.
16 Is it eight? Or is-

17 Hearnberger: Seven.

18 Judge: All right. Seven page document will be People's One, for identification.

19 Hearnberger: I already started with People's One for my other exhibits, your honor. I
20 haven't marked them, but I wrote the numbers on the tags.

21 Judge: And that's why I tell people, never pre-mark in this court, because for
22 exactly that reason. So-

23 Hearnberger: People's One will be the transcript. I'll- I'll start over.

24 Judge: I always go in chronological order. That's why I tell attorneys never pre-
25 mark.

26 Hearnberger: Okay.

27 Judge: All right, People's One, seven page transcript.

28 Hearnberger: May I approach?

1 Judge: Yes.

2 Hearnberger: So I'm showing the witness People's One, the second page, starting at line
3 13, is when this discussion begins about race.

4 Mohr: Yes, sir. Line 13. Uh, they're, uh, in conversation with the officer and, uh,
5 the, um, D, which I assume is the defendant, says, uh, how you... Well, the
6 officer says, "How you been?" And he says, uh... The defendant says,
7 "Good, actually. But why are you pulling over? You turned around like
8 you saw two niggers in the car, probably." And the officer says, "What's
9 that?" The defendant says, "I said we saw you turn around like you saw
10 two guys, like, two Black guys in the car, obviously." And the officer then
11 says, "Well, part of it, the hoodies up and stuff."

12 You want me to go on? 'Cause there's a little more.

13 Hearnberger: No, that's fine.

14 And then you testified on direct about a discussion about East County, the
15 tattoos, and the snapback hat. And let me make sure that I understand. It's
16 your opinion that, when the officer's saying that he gets pulled over too,
17 that he's not just trying to build rapport with the defendant, but he is
18 actually affirmatively stating that, um, that's a statement that he just
19 racially profiled the defendant in this stop?

20 Mohr: So, the way I'm taking it, in watching the video and reading the transcript,
21 you know, when the officer's asked, oh, "You pulled us over 'cause two-
22 it's two Black guys," uh, as an officer, I would have said, no, absolutely
23 not. I pulled you over because of this reason. Your plate was obscured.
24 Okay, so it makes it very clear. Instead of doing that, the officer says,
25 "Well, partly," and goes on to talk about the hoodic. And then later on,
26 when he's asked again, instead of saying, you know, oh, definitely did not
27 pull you over because of your race, he says, "Yeah, I get it. It happens to
28 me too. I'm all tatted up, I got my hat on backwards, and I get essentially

1 profiled in the East County as well." And so, the way I'm taking that is,
2 instead of saying, no, absolutely not, he's saying, yeah, it happens to me
3 too. It's a bummer, isn't it?

4 Hearnberger: So the items you reviewed in this case are body worn... Uh, we're looking
5 at the transcript. So you watched the body worn recording that corresponds
6 with- with this transcript, uh, People's One. Is that correct?

7 Mohr: Yes, sir.

8 Hearnberger: Um, how much body worn did you review?

9 Mohr: All of it that I was provided. It- it's this entire incident up through, um, the
10 arrest. I didn't watch the whole day's worth, if that's what you're asking.

11 Hearnberger: So I'm- I'm asking, at what- what... What interactions did you review? You
12 obviously reviewed the- the vehicle stop, this discussion that we're talking
13 about. What else did you review subsequent to this discussion that we're
14 talking about right now?

15 Mohr: Uh, I watched to the end of the clip that I was provided.

16 Hearnberger: H- how long was that clip?

17 Mohr: It matches the, uh... I don't actually know how long precisely, but it
18 matches the transcript. So, um, it ends with the discussion around, uh,
19 officer saying, "I haven't disrespected you, uh, in any way," and Mr. Bond
20 saying, "I hope I haven't either. I mean, I'm just trying to talk to you." And
21 you know, Mr. Bond says, "It's unfortunate. I should have kept my ass at
22 home." The officer says, "I understand the frustration, trust me, 'cause the
23 same, like I said, out in East County." And that was... That was what I saw.

24 Hearnberger: Okay. So that's the entirety of the body worn recording that you reviewed
25 for this case?

26 Mohr: Yes, sir. That's what I was provided.

27 Hearnberger: And which police f- report did you review?

28 Mohr: Um, I reviewed, uh, the reports that were provided to me. I can grab them

1 if you want to see exactly what I have, but...

2 Hearnberger: Who wrote the report?

3 Mohr: Um, I believe there was two officers. I'd have to look, I'm sorry.

4 Hearnberger: Would it refresh your recollection to review a copy of the- of the report?

5 Mohr: Yes, sir.

6 Hearnberger: You want a copy? This conversation [inaudible 00:47:43].

7 Mohr: Yeah, that's- that's the one.

8 Hearnberger: May I approach?

9 Judge: Yes.

10 Hearnberger: I'm handing the witness a five page San Diego Police Department report.

11 Mohr: Yes, sir. I reviewed this. There were some additional pages as well. Um,

12 there was some photographs, still photographs, uh, that were printed and,

13 uh, then I believe Mr. Bond's jail records, as well.

14 Hearnberger: But as far as the, uh, officer narrative, that's the only police report that you

15 reviewed, correct?

16 Mohr: I believe so, sir.

17 Hearnberger: And who authored that report?

18 Mohr: Uh, this was, uh, Officer Daniel Eysie. I apologize if I'm saying that right.

19 And reviewed by Allen Bouchart.

20 Hearnberger: And the body worn clip you reviewed, we're talking about this interaction

21 between the defendant and the officer that's standing at the driver's

22 window, correct?

23 Mohr: Correct.

24 Hearnberger: Whose body worn camera recording was that?

25 Mohr: Uh, I believe that was Officer Eysie, but I'm not positive.

26 Mm-hmm.

27 Hearnberger: Did you speak with o- Officer Eysie about this case?

28 Mohr: I did not.

1 Hearnberger: Did you speak with Officer Cameron about this case?
2 Mohr: I did not.
3 Hearnberger: Nothing further. Thank you.
4 Judge: Thank you. Redirect.
5 Genser: No, thank you.
6 Judge: All right, thank you very much. You can step down.
7 Mohr: Thank you, your honor.
8 Clerk: [inaudible 00:49:30].
9 Judge: Uh, they haven't been offered yet, so.
10 All right.
11 Genser: Your honor, the defense calls Dr. Joshua Chanin.
12 Dr. Chanin: [inaudible 00:50:22].
13 Genser: I think we're gonna have you go to the stand to take you [inaudible
14 00:50:25].
15 Dr. Chanin: The stand?
16 Genser: Yeah. Is that okay to have him-
17 Hearnberger: Your honor?
18 Judge: Yes, that's fine.
19 Genser: You can be up there so you can be on the record.
20 Dr. Chanin: Mm-hmm.
21 Clerk: Do you solemnly state that the evidence you shall give in this matter shall
22 be the truth, the whole truth, and nothing but the truth, so help you God?
23 Dr. Chanin: I do.
24 Clerk: Thank you. Please be seated.
25 Judge: A- at the distance we're at, are you comfortable removing your mask-
26 Dr. Chanin: Sure.
27 Judge: ... for the purpose of your testimony?
28 Dr. Chanin: Yeah. Thank you.

- 1 Genser: Good morning, Dr. Chanin.
- 2 Dr. Chanin: Good morning.
- 3 Genser: Could you spell your first and last name for the record?
- 4 Dr. Chanin: J-O-S-H-U-A, Joshua, Chanin, C-H-A-N-I-N.
- 5 Genser: Your honor, does the court, uh, want me to do that? Spell the first and last
6 name. I know that sort of-
- 7 Judge: No, that's fine.
- 8 Genser: Okay.
- 9 Judge: It's fine.
- 10 Genser: Um, could you describe your educational background?
- 11 Dr. Chanin: Sure. Uh, I graduated from University of Pennsylvania with a BA in
12 history in 1998. Uh, from there, I went to law school. Uh, graduated, uh, in
13 2006. Um, never practiced, did not sit for the bar. Um, but went on directly
14 to a PhD program in public administration, and have worked in academia
15 ever since.
- 16 Genser: Um, did you obtain your PhD?
- 17 Dr. Chanin: I did, yes. Yep.
- 18 Genser: Um, what do you presently do for a living?
- 19 Dr. Chanin: I am an associate professor of public affairs at San Diego State, where I
20 teach courses in both public admin and criminal justice.
- 21 Genser: And what experience do you have with, uh, statistics outside of an
22 academic setting?
- 23 Dr. Chanin: Uh, outside of an academic setting? Well, I- I conduct research, uh, using
24 quantitative, uh, statistical techniques. Um, I've published various papers,
25 uh, using, uh, statistical analyses, and have taught courses in- in data
26 analytics and statistics.
- 27 Genser: Um, do you have a specialized area of research?
- 28 Dr. Chanin: I would say that my research is- is specialized in police reform, sort of

1 broadly. Um, that has ranged from looking at, uh, formal efforts to drive
2 change at- at the local level, um, and studying the effects of- of data and
3 patterns in data on changes to, uh, bureau- police bureaucracies.
4 Genser: Um, and has your research been published?
5 Dr. Chanin: Yes. I've published, um, about 20 papers and two books.
6 Genser: Um, do you also keep abreast of other publications in your field?
7 Dr. Chanin: Sure. Yeah.
8 Genser: Um, okay. I want to start by talking about, um, the article that you have
9 authored. Your honor, for the court's record, um, this was in my motion
10 filing. It was Exhibit F, if the court wants to look at it. Um, otherwise, it is
11 on, for this hearing, Exhibit A, the thumb drive.
12 Judge: Okay, thank you.
13 Genser: Um, you authored a, um- a paper titled Traffic Enforcement Through the
14 Lens of Race. Is that correct?
15 Dr. Chanin: Yes.
16 Genser: Um, what was your role in writing and publishing this article?
17 Dr. Chanin: Uh, I was the lead author, and so I was responsible for, um, drafting the
18 the language used and the analytics that went into, um, the analysis at the
19 center of the paper.
20 Genser: When you say analytics, what do you mean by that?
21 Dr. Chanin: Uh, com- compiling the data, uh, running statistical models to try to, um,
22 anticipate, predict what the data will show. Um, so, probably, yeah.
23 Genser: I- is that something that is standard in the industry?
24 Dr. Chanin: Very much so, yeah.
25 Genser: Is it widely accepted?
26 Dr. Chanin: Absolutely, yes.
27 Genser: Okay. Uh, sorry, that's, uh... There are some court rules. When we're gonna
28 talk about science, you got to-

- 1 Dr. Chanin: Sure.
- 2 Genser: ... ask those questions.
- 3 Dr. Chanin: Understood, yeah.
- 4 Genser: Um, so, I suppose sort of as a- as a enca- so- so encapsulated, it's, the- the
5 field is statistics. Is that right? Or is that wrong?
- 6 Dr. Chanin: Um, I mean, I- I won't, uh, burden the court with, uh- with academics ar-
7 academic arguments about what field is what field. Um, but- but generally
8 speaking, I would- I would characterize this as sort of criminal justice
9 research where statistics are at the center of the- the analysis driving the-
10 the research.
- 11 Genser: Um, as an overview, what was your paper about?
- 12 Dr. Chanin: Uh, it- it used, uh, a quarter of a million traffic stops from the city of San
13 Diego to look at the effects of police enforcement on, uh, the race of
14 drivers that were stoppcd, and the enforcement, uh, after stop, vis a vis
15 race.
- 16 Genser: Um, how did you get that data?
- 17 Dr. Chanin: Uh, the data came from the San Diego Police Department?
- 18 Genser: Um, and- and how did... How did you get it from them?
- 19 Dr. Chanin: We were hired, uh, to- to analyze, to s- to serve as an independent, uh,
20 team of academic analysts to look at data that was being collected by the
21 San Diego Police Department. So, at the behest of, um, the party enrolled,
22 excuse me, who sat on the city council, uh, and with agreement with the
23 mayor, um, they transferred data to us and agreed to have us, uh- my- my
24 academic team, um, comprised of four professors at San Diego State, uh,
25 analyze the data and produce a- a report. And- and the academic article
26 that- that you mentioned, uh, was- was sort of derivative of a product of
27 that initial research.
- 28 Genser: Um, are you familiar with the- the RIPA law?

- 1 Dr. Chanin: Sure, yes.
- 2 Genser: What is that?
- 3 Dr. Chanin: Uh, it's a law in the state of California that requires police departments to
4 capture and disseminate, uh, information on every s- encounter, uh,
5 whether traffic, uh, pedestrian, or otherwise, and report that to- to the state.
- 6 Genser: Um, what are the findings of your report?
- 7 Dr. Chanin: I... Uh, very, very broadly, that there was, um- there was evidence of, um,
8 racially dispar- disparate treatment in the enforcement of traffic laws in the
9 city of San Diego.
- 10 Genser: Um, and that was based upon the review of, I think you said, 250,000...
- 11 Dr. Chanin: 259,000 plus from two- two, uh- 2014 and 2015. Yep.
- 12 Genser: Um, just from a sort of mathematical statistical perspective, the- when
13 you... In order to form that opinion, is that because it was, um, statistically
14 significant?
- 15 Dr. Chanin: Yes. Um, we looked at every traffic stop that was conducted over that two
16 year period, and that's the entire population of- of traffic stops. And so, um,
17 we did not need to extrapolate or draw any conclusions about the
18 representation of the sample. We had the entire population. And so, yes,
19 that's as- that's as valid as it comes.
- 20 Genser: Okay. Um, and your finding ultimately was, in your report, that people of
21 color tend to be stopped more frequently and... Well, is that accurate?
- 22 Dr. Chanin: There's some- some nuance to that finding, based on the- the year and the
23 location of the stop. Um, so I would say that, in 2014, um, Black drivers
24 were stopped, um, more often than- than white drivers, or at
25 disproportionate rates to white drivers. It- it's not entirely the case based on
26 what we've found in- in 2015. Um, and we can talk about why, uh, I- I
27 believe that was the case, and sort of where some of that nuance comes
28 from. But, um, yeah.

1 Genser: Why do you believe that was the case?

2 Dr. Chanin: Um, it's- it is, I think, a combination of- of lots of things, not least of which
3 is that it- it's- it's really, really hard, as a- as a- as an analyst, to parse all of
4 the factors that go into explaining patterns of- of traffic stops, uh, from
5 where the stop occurred to the nature of the stop, um, to try to figure out
6 how to explain patterns in where people drive, when they drive. So this is
7 just difficult work, and I think that, um, some of the other research out
8 there somewhat oversimplifies the- the analysis, and- and if you look at our
9 work, uh, and you compare just raw numbers, traffic stops to, uh, predicted
10 traffic stops based on census data, um, Black and Hispanic drivers are
11 always disproportionately stopped based on- on- on that simple
12 methodology. We tried to incorporate a bunch of other factors and, um, had
13 some difficulty doing so.

14 Um, and so I think that that- that is one- one explanation. It's that this is
15 just really difficult work, and I- I think that- that, um- and- and this is
16 something that my academic team and I talked quite a bit about, and- and
17 we supposed that there was some change in the behavior of the police
18 department from 2014 to 2015, um, based on the- the collection of data and
19 the reporting of data recognizing that we were watching, in effect.

20 Genser: Okay. W- when did... Does that coincide also with the passage of RIPA?

21 Dr. Chanin: That's a good question, and I'm not exactly sure when- when, um, RIPA
22 was codified.

23 Genser: Okay. Um, I mentioned the phrase statistical significance. What is that?

24 Dr. Chanin: Uh, statistical significance is- is, uh, a figure that attaches to a set of results
25 that is designed to give the reader, uh, some sense for the- for the kind of
26 confidence that they can take in interpreting the data, uh, to suggest that it
27 is, uh, a valid and represent- representative outcome of the entire
28 population. So if we find something, uh, that- that we call statistically

1 significant, then the- the- the reader ought to interpret that data with- with
2 confidence that it is a real finding, as opposed to just noise or, um, a- a- a
3 function of randomness.

4 Genser: So, right. So I- I suppose as a- a- a... When you say a function of
5 randomness, you mean that- that the ch- it's simple chance that this stop
6 happened to be a police officer and a Black driver. And it's- it's your
7 finding that it was statistically significant that people of color are stopped
8 at a- a higher rate than white people?

9 Dr. Chanin: Yeah, if you look at, you know, th- this quarter of a million stops, uh, we
10 found with statistical confidence that it is- it is not randomness, when we
11 look at the- the entire cross-section of stops conducted over this two year
12 period, the findings that, in- in certain cases, Black drivers were over-
13 stopped or stopped disproportionately was not a function of noise or
14 randomness, that it was a statistically significant finding.

15 Genser: Um, a... As somebody who is not a statistician, were there- was there
16 another part of your report that you found particularly relevant to this issue
17 that you wanted to discuss?

18 Dr. Chanin: Yeah. I mean, I think that- that the- the part of the report that get- that got,
19 back- back then, the most attention, was- was what we've just been talking
20 about, is the stop data. But I think that, uh, I would- I would highlight the
21 importance of what happened after the stop as sort of indicative of- of the
22 way that, um, Black and Hispanic drivers are- are thought of and policed
23 in- in San Diego. There is very clear evidence that the statistical
24 methodology is much stronger. Um, we are better able to discern what
25 happens after the stop, and we found very clear evidence that Black drivers
26 were disproportionately stopped, um, despite the- the- having lower odds
27 of- of holding illegal contraband. Uh, and the same is true of Hispanic
28 drivers. Uh, and furthermore, we found that- that Black and Hispanic

1 drivers that were stopped, uh, were subject to field interviews, uh, at
2 significantly higher rates than either white or Asian drivers.

3 Genser: Um, and I'm not sure if I said it before, but, but the data you collected was
4 specific to the San Diego Police Department.

5 Dr. Chanin: Correct.

6 Genser: Okay. Um, did you review, um, the Center for Policing Equity, our report?

7 Dr. Chanin: Yes.

8 Genser: Um, could you describe that report a little bit?

9 Dr. Chanin: Yeah. Give me... Give me a second to pull that one up. Hmm.

10 Genser: I can probably show it to you if you want to take a look at it.

11 Dr. Chanin: No, I haven't on my phone, if that-

12 Genser: Yeah, that's fine.

13 Dr. Chanin: If that's fine. Um-

14 Genser: If that'll refresh your recollection, go ahead.

15 Dr. Chanin: Yeah. Um... So the center for policing equity is a very, very well
16 recognized, highly respected, uh, nonprofit organization led by high profile
17 academics that, that are, um, you know, widely published and their
18 research is widely cited. Uh, and they were... They were paid by the city of
19 San Diego to analyze, uh, traffic data over among other things; traffic data
20 from 17, 18, and 19. It looks like.

21 Genser: Okay. Um, did they also include 2020?

22 Dr. Chanin: Hmm.

23 Genser: I have that in my, in my, in my little notes here, but I could be wrong.

24 Dr. Chanin: Bear with me.

25 Genser: Sure.

26 Dr. Chanin: Uh, yeah, it looks like you're right. So through Q2 of 2020.

27 Genser: Um... And I'm sorry. I, I, I wanted to go back to your report for one more,
28 one more second. Did you make recommendations as a result of your

1 analysis?

2 Dr. Chanin: We made several recommendations. Yeah.

3 Genser: What were your recommendations?

4 Dr. Chanin: Um... So I'm on page V and VI, uh, we listed 10 recommendations. Uh,
5 number one was acknowledged the existence of racial and ethnic
6 disparities, and we combating such disparities a priority. Number two,
7 continue to enhance training and supervision around the issues of race,
8 racial and ethnic disparities. Number three, make traffic practices more
9 transparent. Number four, make traffic, traffic stop practices more
10 systematic a- and data driven. Number five, make community engagement
11 a core, [inaudible 01:06:46] value. Number six, work to improve
12 communication and transparency regarding police practices. Number
13 seven, provides a current data collection system. Number eight, coordinate
14 existing data collection efforts. Nine, collect additional data and 10,
15 strengthen accountability and oversight and data collection and
16 management.

17 Genser: Is your knowledge today [inaudible 01:07:10] your recommendations?

18 Dr. Chanin: Not to my knowledge.

19 Genser: Okay. Um, do you keep an eye on it to see whether or not they have done
20 any of those things?

21 Dr. Chanin: Not as closely as I once did, but, uh, if they had made significant changes,
22 then I would certainly be aware.

23 Genser: Okay. Um, let me go back to the Center for Policing Equity report. Um,
24 what were the findings from that report?

25 Dr. Chanin: Uh, it looks like they examined use of force, uh, traffic stop, post-op
26 outcomes, non-traffic stop and, and post-op outcomes following non-traffic
27 stops. And, and to varying degrees, they found that, that Blacks and
28 Hispanics were disproportionately affected compared to whites.

1 Genser: Um, did you review a dataset from The San Diego Union-Tribune, um,
2 from Winkley and Schroeder?
3 Dr. Chanin: Yes.
4 Genser: Um... Was that... Do you know the how they collected their data?
5 Dr. Chanin: I don't know whether those data were transferred from SDPD or whether
6 they were the subject of a PRA request, um, but it looks like they examine
7 data that was the, the, the product of RIPA, uh, collection.
8 Genser: Okay. Um, and what was their finding?
9 Dr. Chanin: Rather similar. Uh, they found, um, disparities, uh, disproportionate, uh,
10 effects on Black and Hispanic, uh, residents.
11 Genser: And then did you review a, uh, an article evaluating policing in San Diego
12 from policescorecard.org?
13 Dr. Chanin: Yes, I did.
14 Genser: What was their... Uh... Well, I suppose I should start with the based on
15 your review of that, did they review similar RIPA data?
16 Dr. Chanin: Yes.
17 Genser: Um, and what was their finding?
18 Dr. Chanin: Well honestly, the same. You know, honestly, the same that Blacks and
19 Hispanics are disproportionately affected.
20 Genser: And so just to be clear, there's this four separate reports. All based upon
21 scientific statistical analysis. That all find the same thing that Black and
22 Hispanic people tend to do worse in traffic signs.
23 Dr. Chanin: I would agree with that statement. Yep.
24 Genser: That's all I've got. Thank you.
25 Judge: All right, cross examination.
26 Hearnberger: Thank you. Good morning.
27 Dr. Chanin: Hey.
28 Hearnberger: So the study that you... So you're the lead of this study, um, Traffic

1 Enforcement in San Diego.

2 Dr. Chanin: Correct.

3 Hearnberger: And that is data from San Diego Police Department stops from the years
4 2014 and 2015, correct?

5 Dr. Chanin: That's right.

6 Hearnberger: And, uh, you compiled the data. You did your analysis. You reached
7 conclusions, and then the study was published in late 2016.

8 Dr. Chanin: That's right. Mm-hmm.

9 Hearnberger: And you have several sections here and, uh, some appendices as well.
10 Um... And co- correct me if I'm wrong, but it seems that you wanted to...
11 Although they're related issues, you wanted to separate, um, the analysis of
12 the traffic stops from, uh, post-op outcomes such as searches.

13 Dr. Chanin: That's right. Yeah.

14 Hearnberger: Okay. So you had mentioned... You had mentioned in direct that, um, in
15 the year 2014, uh, you did see some significant, uh, disparities in the
16 numbers for, uh, people of color as opposed to white drivers.

17 Dr. Chanin: That's right. Yeah.

18 Hearnberger: Um... And then in 2015.

19 Dr. Chanin: Mm-hmm.

20 Hearnberger: Or let me, let me correct myself. When you combine the numbers from
21 both 2014 and 2015, there was no meaningful statistical distinction bet-
22 between traffic stops of Black drivers and white drivers.

23 Dr. Chanin: That's right. Yeah.

24 Hearnberger: And I, I would... I think we can certainly agree that it's very difficult to,
25 um, to do a statistical analysis in this area, because there's lots of other
26 factors just besides the numbers, is that right?

27 Dr. Chanin: Yeah. So, so for example, um... We, we talk a lot about benchmarking and,
28 and the trick really is figuring out how, how to, or what baseline against

1 which to compare traffic stop patterns. Um... And, and the most common,
2 the easiest way to do it is to look at the census data and say, okay, well, X
3 percentage of Black drivers live in this area and so we would expect that
4 the same percentage of, of traffic stops would involve Black drivers. Um...
5 But part of the problem with that analysis is that the driving population is
6 different from the census data. And, and it's very difficult to figure out
7 who's driving, when they're driving and so on. So it becomes a ve- very
8 sort of tricky game of, of figuring out how best to, to analyze traffic stop
9 patterns. And so we, we, we, we pursued what has become sort of the
10 leading analytical method.

11 And it's, it's, it's much harder to discern obvious patterns than if you're, you
12 know, following the, the, the old way of doing things, which is just to, to
13 look at, um, traffic stop patterns versus census patterns. Um... And, and
14 indeed, we did look at, at, at traffic patterns versus census patterns and
15 found, like, everybody else that we've talked about this morning, uh, that
16 Black and Hispanic drivers were, were disproportionately stopped based on
17 expectations of, of census figures.

18 Hearnberger: So the benchmark, I think that you're referencing that you sought to
19 incorporate in your study was the veil of darkness.

20 Dr. Chanin: That's right. Yeah.

21 Hearnberger: And can you explain that briefly?

22 Dr. Chanin: Sure. Briefly, um, the, the premise is that if, if there is, um... If, if race is a
23 factor in the, the traffic stop itself, then that will be much more evident at
24 daylight hours as opposed to in darkness when the, the police officer has a
25 much more difficult time of, of discerning the race of the driver. And so we
26 compare the... To, to just finish the thought, we compared stop patterns that
27 happened during daylight hours with those that happened at night.

28 Hearnberger: And you need to sort of establish that benchmark because, uh, just besides

1 the raw numbers, there's so many factors that go into, um... Well, they go
2 into this area such as gender, social economic standards, or, uh, social
3 economic, uh, differences. Uh, are those a couple of things that you have to
4 contend with?

5 Dr. Chanin: Yeah. Uh, mo- most of the research suggests that those things aren't really,
6 uh, predictive. Um... The, the things that tend to matter more are really sort
7 of place based, uh, what the crime rate is in an area. Um... For example, the
8 kind of car that someone is driving, um, the, the, the particular views held
9 by the officer and the, the connections that he or she has drawn between,
10 um, whe- when and where to make traffic stops, and, and the odds that they
11 will find something illegal that has happened. Um... So there's, there's lots
12 of sort of situational factors, there's lots of environmental factors,
13 contextual factors. It's very difficult to develop a statistical model that
14 incorporates all that stuff.

15 Hearnberger: And some of the findings that you... As you said during 2014, you did find
16 that people of color were stopped at a disproportionately higher rate than
17 white drivers, correct?

18 Dr. Chanin: That's right. Yeah.

19 Hearnberger: But in 2015, there was no meaningful statistical distinction. Is that correct?

20 Dr. Chanin: I, I wouldn't say no meaningful statistical distinction. Um, I would say that
21 it did not meet the 5% threshold that we had identified, but if you look at
22 the... If you look at the data, um, we do find... Well, I'll just leave it at that.
23 That, that we decided that in the report to establish, uh, a, a 5% threshold
24 and it did not meet that standard. So yes.

25 Hearnberger: Okay. So, uh, I want to make sure we're talking about the same thing.

26 Dr. Chanin: Mm-hmm.

27 Hearnberger: So, like... So the report states on page 36, "When the 2014 and 2015 data
28 are combined, we find no meaningful statistical distinction between Blacks

1 and whites."

2 Dr. Chanin: If we... If we combine data, that's right.

3 Hearnberger: Okay. So when you're talking about this 5% threshold, is that what we're
4 referring to?

5 Dr. Chanin: Indeed. Yeah.

6 Hearnberger: And we- we're talking about your analysis, um, incorporating the veil of
7 darkness, uh, methodology. Um, [inaudible 01:16:35] you didn't see
8 conclusions that, uh, Black drivers were no- not as likely to be stopped
9 during the day when you believe that race is more visible. Is that correct?

10 Dr. Chanin: Uh, in, in... That... That's what the combined data would show, is that there
11 was no meaningful difference in the stop patterns that occurred during the
12 day compared to those at night.

13 Hearnberger: Thank you. Nothing further, Your Honor.

14 Judge: I'd like to ask a few questions, um, for my closure. Um, in your statistical
15 analysis, um, did you consider the race of the officer conducting the stop?

16 Dr. Chanin: We would've like to have considered the race of the officer but that's not
17 information that we were given by the San Diego Police Department.

18 Judge: So you have no opinion at this point as to whether the stops you're
19 referring to, um, involve officers of the same or a different race as the
20 driver.

21 Dr. Chanin: No, no. In, in, in this particular setting, that's not something that we
22 included.

23 Judge: Okay. Um, and also, is it correct that in doing any statistical evaluation,
24 you have to distinguish between correlation and causation?

25 Dr. Chanin: Absolutely. Yes.

26 Judge: All right, so for example, uh, hypothetically if, if you have a statistic that
27 says a disproportionate or a greater number of a certain minority are
28 stopped. I take it you did not automatically conclude that that's a result of

1 bias, ra- racial bias. Am I correct?

2 Dr. Chanin: Hmm. This is something that we thought very careful about and you will
3 find zero instances of the word bias in this report. Um, we are merely
4 looking at disparities. It's impossible to figure out what's in the data, why
5 this occurred. Um, we can... We can draw conclusions, uh, but those are,
6 are not, um, things that we felt comfortable providing on to this, to this
7 work.

8 Judge: Yeah. It, it seems to be a lingering issue as to what the word bias means in
9 certain circumstances. So I take it that's something you've confronted, for
10 sure.

11 Dr. Chanin: Yes.

12 Judge: Okay. Last question. Um... On page 69 of your report, there's an interesting
13 statement that, that you explained. At the bottom of page 69, it says of your
14 study, uh, that was referred to by Mr. Genser, "We found no evidence of
15 Blacks or Hispanics were treated differently in Northern, Eastern, Western
16 or Northwestern divisions, but statistically significant evidence of disparity
17 among stops initiated in the Northeastern division." Uh, any theory as to
18 why that would be the case?

19 Dr. Chanin: Yeah. I mean, it, it's really difficult to say. Um... I, I mean, uh, the, the, the
20 most obvious interpretation in those data was that the, there's different
21 policing strategies that are used in, in each division. They all have, um,
22 separate bureaucracies, uh, separate people that are running those divisions.
23 And the, the approach that officers take in, in the Northeastern division, uh,
24 was different, is different from that take in Northern, Eastern, or Western,
25 or Northwestern divisions. And that, that may have contributed, um...
26 There's also... The- there's looking at the, the population of drivers in those
27 divisions. Um, it, it's really speculative at this point. Um... But it, it's worth
28 noting [inaudible 01:20:26]-

1 Judge: I appreciate that. And you do, that's why I went and asked you about it
2 because of it was in your report. Okay, that's all I have at this point. Any
3 redirect?

4 Genser: Uh, yes. Just briefly. Um, the prosecution asked you about, uh, a number
5 of, um... The prosecution asked you, you've got a number of difficulties in
6 analyzing the data. Despite those difficulties, you were still able to form
7 conclusions.

8 Dr. Chanin: Yes.

9 Genser: And those conclusions were significant in a statistically scientific manner.

10 Dr. Chanin: Yes.

11 Genser: Um... The judge asked you about sort of the idea of whether or not you can
12 establish bias, and I, I think you said you don't use the word bias in the,
13 um, in your report, and part of that is there's no scientific way to analyze
14 bias.

15 Dr. Chanin: Correct.

16 Genser: But based upon your data, the recommendations you made were aimed at
17 confronting bias.

18 Dr. Chanin: Yes.

19 Genser: Okay. Thank you.

20 Judge: Any re-cross?

21 Hearnberger: No. Thank you.

22 Judge: All right. Thank you very much, [inaudible 01:21:28]. You may step down.

23 Dr. Chanin: Thank you.

24 Judge: Thank you for coming. Okay.

25 Genser: It's 10:47 at the court. You want to take a long break or [inaudible
26 01:21:42] we're just gonna keep going?

27 Judge: Um...

28 Genser: I, I'm, uh... I'm ready to keep going, but I, I'm [inaudible 01:21:47].

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1 Hearnberger: I'm fine.

2 Judge: Okay, no, we can keep going.

3 Genser: Okay. Defense calls Officer Cameron.

4 Judge: Mr. Camera Man, would you like a chair?

5 Camera Man: Oh. (laughs)

6 Judge: We can get you a chair, if you want.

7 Camera Man: If you don't mind, actually.

8 Court: I'll grab one [inaudible 01:22:19].

9 Judge: Okay. I should have asked earlier.

10 Camera Man: (laughs) [inaudible 01:22:24]-

11 Judge: I hate it when camera men pass out on my courtroom floor, so...

12 Court: [inaudible 01:22:32], sir.

13 Camera Man: [inaudible 01:22:32].

14 Genser: [inaudible 01:22:32] do it in front of microphone, just so we can get it on

15 [inaudible 01:22:34].

16 Cameron: Good morning, You Honor.

17 Judge: Morning.

18 Clerk: Would you please raise your right hand?

19 Cameron: You want me to stand?

20 Clerk: Stand up. Do you solemnly state that the evidence you shall give at this

21 manner shall be the truth, the whole truth, and nothing but the truth, so help

22 you God?

23 Cameron: I do.

24 Clerk: Thank you.

25 Genser: Good morning, officer.

26 Cameron: Good morning.

27 Genser: Uh, I'm gonna talk to you a little bit about how you-

28 Judge: State, state his name and spell [inaudible 01:23:09]-

1 Genser: Oh, I'm sorry. Could you say your name and spell your last name for the
2 record?
3 Cameron: Sure. Ryan Cameron, C-A-M-E-R-O-N.
4 Genser: Um, you're a police officer?
5 Cameron: Yes, sir.
6 Genser: Um, you want me to go through his whole resume or I will just stipulate
7 he's a police officer?
8 Court: I will stipulate that he's a police officer.
9 Genser: All right.
10 Judge: For San Diego Police Department?
11 Court: Yes.
12 Judge: Okay.
13 Genser: Okay. Um, let's just do a little bit... How long have you been a police
14 officer for?
15 Cameron: Just over 11 years.
16 Genser: Okay. Um, and you did the academy and all the training?
17 Cameron: Yes, sir.
18 Genser: Ah, okay. Um... On December 8, 2020, you and Officer Eysie were doing
19 proactive enforcement. Is that right?
20 Judge: Was it December or January?
21 Genser: It's December 8, 2020. I could be wrong.
22 Judge: I have it as January 24... Oh, no. I'm sorry.
23 Genser: Oh no, that's right. January 24. Uh...
24 Judge: But the people's response, I think, misstated the year. It say January 24,
25 2022. Is that the right year?
26 Cameron: Yes, it was 2022.
27 Judge: Oh, okay. All right. I'm sorry.
28 Genser: Yeah, I'm sorry. I've been talking about... I, I've said the wrong date a

1 couple of times also. I meant, uh... I, I think it's January 24, 2022. Does
2 that sound right?

3 Cameron: Yes, sir.

4 Genser: Okay. Um, do you're out doing proactive enforcement on that date. Is that
5 right?

6 Cameron: We're doing intelligence led policing. Yes, sir.

7 Genser: Okay. Um, is there a difference between proactive enforcement and
8 intelligence led policing?

9 Cameron: I would say so.

10 Genser: What is it?

11 Cameron: Intelligence led policing is using statistics, uh, crime patterns that bring us
12 to a certain area to conduct saturation patrol.

13 Genser: Okay. Um, it was officer... [inaudible 01:25:00] say Eysie, is that his
14 name?

15 Cameron: Eysie.

16 Genser: Eysie. Um, Officer Eysie wrote a report in this case. Did you have a chance
17 to look at it?

18 Cameron: Yes I did, sir.

19 Genser: Um, he states in his report that you're conducting proactive enforcement. Is
20 that wrong?

21 Cameron: That's what the report says. Yes.

22 Genser: Is that wrong?

23 Cameron: The report says proactive enforcement. Yes, sir.

24 Genser: And you are conducting proactive enforcement.

25 Cameron: Two terms. I call it intelligence led policing. It's not my report.

26 Genser: Okay. Uh, what I want to find out is, is it, is it your position that what
27 Officer Eysie wrote is wrong?

28 Cameron: No.

1 Genser: No? Okay. Are you part of the street gang unit or what used to be a street
2 gang unit?
3 Cameron: Uh, we're the Special Operations now.
4 Genser: Okay, but you used to be the street ga- gang unit.
5 Cameron: Used to be the crime suppression team or the gang suppression team.
6 Genser: Okay. Um, and so you have changed names since being the gang
7 suppression team to, um... What... What's the new name?
8 Cameron: Our Department changed it to the Special Operations Unit.
9 Genser: Did your job functions change as a result of the name change?
10 Cameron: Yes it did.
11 Genser: How?
12 Cameron: We, um, we conduct our enforcement on, like I stated, statistics, in areas
13 where they're experiencing high volumes of vi- violent crimes. So that's
14 our new mission.
15 Genser: Okay. Um... When you spotted miss... Well, firstly, on, on, the date that
16 this incident occurred, you were driving. Is that correct?
17 Cameron: Yes, sir.
18 Genser: Okay. And when you first spotted Mr. Bonds' car, you were on El Cajon
19 Boulevard. Is that right?
20 Cameron: Yes, sir.
21 Genser: And El Cajon Boulevard runs east-west.
22 Cameron: Correct.
23 Genser: And you were traveling west at the time. Yes?
24 Cameron: Yes, sir.
25 Genser: And Mr. Bonds was traveling east?
26 Cameron: That's correct.
27 Genser: Okay. Um, I'm going to, uh, mark in exhibit. It will be a defense.
28 Judge: Next in order, I believe, would be C.

- 1 Genser: C, yeah. The... One of my pens doesn't work on this exhibit.
- 2 Judge: [inaudible 01:27:02] read the exhibit.
- 3 Genser: The exhibit is a map of the area.
- 4 Judge: Oh, one-page document?
- 5 Genser: One-page document and it is a map of the area in question.
- 6 Judge: Right.
- 7 Genser: And I have highlighted the, uh, gas station where the incident occurred
- 8 using a red pen.
- 9 Judge: All right.
- 10 Genser: May I approach?
- 11 Judge: Yes, just have the record reflect the Defendant C for identification.
- 12 Genser: Defendant C, yeah. Okay. Thanks.
- 13 All right. Thank you. Okay, and do you have Defend C in front of you?
- 14 Cameron: Yes, sir.
- 15 Genser: Is that a map of the area where this incident occurred?
- 16 Cameron: That's correct.
- 17 Genser: And there is a red pen in the gas station where the stop of Mr. Bonds.
- 18 Cameron: Yes, sir.
- 19 Genser: Um... Okay. So as you're driving west and he's driving east, you guys pass
- 20 each other?
- 21 Cameron: Correct.
- 22 Genser: Um, and then you make a decision to do a U turn and get behind him?
- 23 Cameron: Correct.
- 24 Genser: Okay. Um... When you made that U turn, you had observed that there were
- 25 two Black men in the car. Is that correct?
- 26 Cameron: No.
- 27 Genser: That's not true.
- 28 Cameron: No, sir.

1 Genser: Okay. You understand you're under oath, right?

2 Cameron: Yes, sir.

3 Hearnberger: Objection, argumentative.

4 Judge: I'll leave the last answer. Overruled [inaudible 01:28:21].

5 Genser: What's a pretext stop?

6 Cameron: Pretext stop is an investigative stop or is what is called you see something
7 and you pull something over for another reason.

8 Genser: Okay. So you want to stop a vehicle for one reason, and you look for some
9 other reason like a traffic violation in order to make contact. Is that
10 accurate?

11 Cameron: Sure.

12 Genser: Um... When we're talking about proactive enforcement, that includes
13 making pretextual stops, is that correct?

14 Cameron: I wouldn't say so. No.

15 Genser: Okay. Do you make pretextual stops?

16 Cameron: No, we don't.

17 Genser: Never?

18 Cameron: No.

19 Genser: Okay. And you did not make a pretextual stop in this case, right?

20 Cameron: No, I did not.

21 Genser: Okay. Mr. Bonds at some point pulls into a gas station. Is that right?

22 Cameron: That's correct.

23 Genser: And you followed him to the gas station?

24 Cameron: Yes, I did.

25 Genser: And when you pulled in behind him, you activated your blue and red
26 flashing lights.

27 Cameron: Yes, sir.

28 Genser: Okay. Um... And that was to signal to him that he was being detained,

1 right?

2 Cameron: Correct.

3 Genser: Um, and he was detained at that point. Correct?

4 Cameron: Yes, he was.

5 Genser: Not free to leave.

6 Cameron: Correct.

7 Genser: Um... Your Honor, at this point, I would normally play the video but I
8 know the court has already seen the video and read the transcript.

9 Judge: I have.

10 Genser: Does the court want me to play the video for the record or [inaudible
11 01:29:52]-

12 Judge: Well, it's in evidence, so unless there's some reason for your examination,
13 you want to play it. I mean, I, I know what's on and I've watched it several
14 times.

15 Genser: No, we just do it for the benefit of the court. So if the court doesn't want
16 me to do it, I will dispense with playing a video.

17 Judge: No, that's fine. I...

18 Genser: Okay. Um... You get out of your vehicle and you approached Mr. Bonds,
19 Bonds' vehicle, right?

20 Cameron: Yes, sir.

21 Genser: And Officer, uh, Eysie is on the other side.

22 Cameron: Correct.

23 Genser: Okay. Um... Did you hear Mr. Bonds say to you, uh, you turn your car
24 around because you saw two guys, two Black guys in the car? Do you
25 recall hearing that from Mr. Bonds?

26 Cameron: He said that.

27 Genser: Okay. Um, and you heard that?

28 Cameron: Correct.

1 Genser: And you responded to him? Is that right?

2 Cameron: I did.

3 Genser: And you told Mr. Bonds that in fact, part of the reason you stopped him is
4 because you saw two Black guys in a car.

5 Cameron: That's [inaudible 01:30:44]-

6 Hearnberger: Objection, leading. Misstates the testimony.

7 Judge: Well, I could quote exactly from the transcript.

8 Genser: Sure. Mr. Bonds says to you, "I said you..."

9 Judge: You got page number and line?

10 Genser: Uh, page 2, uh, line 17. And we're going to go to, uh, 26.

11 Judge: Okay.

12 Genser: Um, Mr. Bonds said, "I said, you, you saw you turn around, like you saw
13 two guys, like two Black guys in the car, obviously." And you said, "Well,
14 part of it. The hoodies up and stuff." Just then. Mr. Bonds sort of
15 interrupted and said, "I mean, it's cold outside." And after the interruption,
16 you continued, "The climate of everything that's going on in the city these
17 days." So... And then Mr. Bonds then said, "Now, that makes sense. I
18 wasn't... I'm not trying to pull a... I'm not tripping at all. I just, like..." Um...
19 And you said, "Yeah, I know. I got you." Is that accurate?

20 Cameron: What you just read?

21 Genser: Yeah.

22 Cameron: Correct.

23 Genser: That's what you said.

24 Cameron: Correct. I was referring to, about the Black marks. It has nothing to do with
25 anything. When he passed by, both the hoodies being up absolutely
26 because both their hoodies were up, which prevents a side profile. So I
27 cannot see who's inside that vehicle. And that's what I'm referring to then.

28 Genser: So what you're saying is when he says, "I saw you turn around because I

1 saw two Black guys in the car," and you said, "Well, part of it." What
2 you're saying is that that wasn't actually part of it?

3 Cameron: Part of it, excluding the Black part because I cannot see what race was in
4 that vehicle. I saw two hoodies up.

5 Genser: Okay.

6 Cameron: That if I'm passing the vehicle, as he's going east, I'm going west, I glanced
7 over, two hoodies up, which he said and they were up, I cannot see what
8 race that person is next split second that I pass. So I'm referring to the
9 hoodie up part that he said, and I was referring to that. Yes.

10 Genser: Did you not have your traffic lights, your, uh, lights on in your car?

11 Cameron: We had headlights on, yeah.

12 Genser: Um, what was the climate in the city that you were referring to?

13 Cameron: It's been very active and very violent.

14 Genser: Okay. What I mean... What does that mean?

15 Cameron: Sure. The last six months leading up to this, um, vehicle stop, just in a one
16 mile radius of where this traffic stop happened, there's approximately 1000
17 violent crimes in that area. Excuse me. Crimes reported in that area. Just
18 reported. Of those 1000 crimes reported, over 500 are violent crimes within
19 one mile of that traffic stop. And of those crimes, 200 arrests have been
20 made for violent crimes; for murder, shootings, stabbings, armed
21 carjackings, armed robberies, et cetera.

22 Genser: Okay. Uh-

23 Cameron: Not to mention the gang war that has been going on in the city leading up
24 to that point.

25 Genser: Now, Mr. Bonds is not, uh, to the best of your knowledge, was not in a
26 gang, right?

27 Cameron: That's correct.

28 Genser: Okay. He's just the guy driving down the street-

1 Cameron: Correct.

2 Genser: ... who happens to be Black and wearing a hoodie?

3 Cameron: That has nothing to do with it.

4 Genser: Okay. Um, the hoodie does though, right?

5 Cameron: Correct.

6 Genser: Okay. Um... Let me talk about your response. So after this part where you
7 say, you know, it's the climate in the city. Um, he goes on to ask you, you
8 pull over white people like that, you recall that?

9 Cameron: I do.

10 Genser: And your response was, "Listen, uh..." You know, you're white. Isn't that
11 true?

12 Cameron: Yes, sir. I am.

13 Genser: Okay. Your response is, "I get pulled over myself out in East County,
14 because I got a sleeve tattoo, and I got my snap back backwards and a
15 result of that, you also get racially profiled." Is that what you said?

16 Hearnberger: Objection, leading. Argumentative. Misstates testimony.

17 Judge: Well, he didn't... I don't think he mentioned racial profiling. I was... I
18 wanted to read the exact response.

19 Genser: Sure. So your response to Mr. Bonds was you say, "I get pulled over out
20 and..." Uh, then Mr. Bonds interrupts. You said, "No, I get it out in East
21 County." And you say you get pulled over because you're sleeved up. And
22 because you're wearing a snapback hat backwards. That's page 3, 2 through
23 30. Is that what you said?

24 Cameron: Yes, sir. It's a form of de escalation that I use. I've never been stopped in
25 East County. I've never been stopped in the county of San Diego. When
26 someone throws the race card out, I use that and I've developed it over my
27 career as a way to de escalate away from that situation because race has no
28 relevance, has no bearing on a traffic stop. And that conversation just goes

1 in the constant loop. So I nipped it in the bud by using that example.

2 Genser: Isn't that a good way to sort of nip that in the bud, be to say no, I didn't stop
3 you because of your race?

4 Hearnberger: Objection, leading.

5 Judge: Well, uh, I don't know that it's irrelevant what the alternatives would be.
6 The, the question is what happened here, so I'm gonna sustain it on that
7 ground.

8 Genser: So your de escalation technique is a lie to them that you also get racially
9 profiled.

10 Hearnberger: Objection, leading. Argumentative.

11 Judge: Overruled. I mean, the witness just said he made the story up, so...

12 Genser: Sure.

13 Cameron: Yeah. I mean, it's put him at ease. People like to be heard. Like, throw they
14 throw the race card out. We get that nonstop all day. So, you develop
15 techniques to deescalate that situation, because that, that scenario never
16 goes anywhere good. It nipped it right in the bud, right then and there, and
17 it was over.

18 Genser: Just to be clear, when Mr. Bonds brought that up, the race card so to speak,
19 you did not say, "I'm not stopping you because you're black." Right?

20 Cameron: No, I used that deescalation technique. When you straight up say that, it
21 oftentimes doesn't work. It doesn't go anywhere.

22 Genser: Is this your-

23 Cameron: I mean-

24 Genser: Have you been trained this way?

25 Cameron: May I finish?

26 Genser: Was this the way that you were trained, Officer?

27 Judge: Well, let, let him finish his answer, then you can ask.

28 Cameron: So, it's a technique that we've developed, that I've seen and I've used

1 multiple times, that deescalates the situation every time.

2 Genser: Is this the way that you were trained?

3 Cameron: It's a technique that I developed throughout my career.

4 Genser: Is this the way that you were trained?

5 Cameron: Can you specify that?

6 Genser: Yeah, did you receive training and experience in this deescalation... Uh,

7 excuse me. Did you receive training in this particular deescalation

8 technique?

9 Cameron: No, I did not.

10 Genser: Okay. It's something you came up with?

11 Cameron: I developed it over my career, yes.

12 Genser: Okay. During this initial stop, you actually never explained to Mr. Bonds

13 why you stopped him.

14 Hearnberger: Objection, leading.

15 Judge: Well, it is, but I'll allow it. Overruled.

16 Cameron: Can you rephrase the question? Or restate it?

17 Genser: Yeah, you don't tell Mr. Bonds the reason for the stop, right?

18 Cameron: Uh, we went right into a conversation and developed a rapport right out of

19 the bat.

20 Genser: Well, Mr. Bonds was accusing you of stopping him, of stopping him

21 because he was black, right? You understood that?

22 Cameron: I understood he was throwing the race card out there, yes, sir.

23 Genser: Okay. Did you at some point, prior to pulling him out of the car, explain to

24 him the reason for the stop?

25 Cameron: We discussed it, 'cause he mentioned the last interaction we had, and that

26 was for tinted windows, I believe. This was for the license plate cover. So,

27 it was mentioned during there. It wasn't flat out explained, "This is exactly

28 why I stopped you." We were in a conversation at that point.

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1 Genser: Okay. So, you never said to Mr. Bonds, "I'm stopping you because of, uh,
2 something on your license plate?"
3 Cameron: I believed it was understood between the two of us.
4 Genser: Okay. So, so, you decided that that was a good thing to just leave... You
5 know, don't make that specific?
6 Heamsberger: Objection, leading, argumentative.
7 Judge: Uh, overruled. You can answer.
8 Cameron: To my understanding, we understood why he was being pulled over.
9 Genser: Um, you asked Mr. Bonds whether or not he had any weapons in the car,
10 right?
11 Cameron: Yes, sir.
12 Genser: And he told you that he was in legal possession of a gun?
13 Cameron: He stated he had a firearm, yes.
14 Genser: Uh, he also told you that it was legally possessed?
15 Cameron: He stated that it was registered to him.
16 Genser: Okay. Um, based upon your training and experience, um, guns can be
17 legally owned in the State of California, is that right?
18 Cameron: Yes, sir.
19 Genser: And guns can be legally transported in the State of California?
20 Cameron: In the correct way, yes, sir.
21 Genser: And they can be legally transported in a car in California?
22 Cameron: Absolutely.
23 Genser: Um, did you have any information that led you to believe that the gun was
24 not legally possessed?
25 Cameron: Of course, it's always officer safety. I wanna make sure that it is legally
26 stored and legally poss- possessed for safety of myself, for Mr. Bonds,
27 everyone on scene.
28 Genser: That's not what I asked you. Um, the question was, did you have any

1 information that the gun that he mentioned was not legally possessed?

2 Cameron: I don't know. I don't know if it's legally possessed, I don't know if it's

3 illegally possessed. All I know is that there's a firearm in this vehicle.

4 Genser: Okay. And so, you had no information about whether or not that firearm

5 was legally, lawfully in the car?

6 Cameron: Well, I asked him where the gun was and he couldn't tell me where the gun

7 was. So, that weighs- raised my awareness that if he doesn't know where

8 this vehi- this gun is in the vehicle, that's kind of a concern.

9 Genser: Okay.

10 Cameron: When I'm in my vehicle, I know exactly where my gun is.

11 Genser: I'm not asking you what you would do and what your concerns were. I'm

12 asking you whether or not you had any concrete information that that gun

13 was possessed illegally.

14 Hearnberger: Objection, relevance.

15 Judge: I, I take it that before you began to conduct your investigation, you had no

16 information about, about, uh, the weapon, correct?

17 Cameron: Before he stated he had a weapon?

18 Judge: Right.

19 Cameron: I had no idea.

20 Judge: Okay.

21 Genser: And then, after he stated that he had a gun, you continued to still have no

22 information about the gun, right?

23 Cameron: Correct, 'cause he couldn't tell me where that gun was.

24 Genser: Just that it existed?

25 Cameron: He told me that he had a gun in the car, yes.

26 Genser: Okay. Um, you asked him whether, if it was in trunk or in the car compar-

27 uh, you know, in the backseat area, right?

28 Cameron: Correct.

1 Genser: And he told you he wasn't sure?

2 Cameron: Correct.

3 Genser: All right. Um, at that point, you asked him to step out of the car?

4 Cameron: Correct.

5 Genser: Um, and the reason you did that was to conduct a search for the gun, is that

6 right?

7 Cameron: It was to make sure that that firearm was legally possessed and legally

8 stowed in that vehicle. In the totality of the circumstances, when someone

9 tells me that they have a firearm in the car and they can't tell me exactly

10 where it is, that's a concern.

11 Genser: I understand that that's a concern, but you understand that you're not

12 allowed to search cars for legal- legally owned and possessed guns, right?

13 Hearnberger: Objection, relevance, calls for legal conclusion.

14 Judge: Sustained.

15 Genser: Um, you told Mr. Bonds that, "When someone tells us there's a gun in the

16 car, we're gonna make sure it's legally yours." Is that what you said?

17 Cameron: Correct.

18 Genser: You said that, because that's what you do?

19 Cameron: Under the circumstances someone tells you they have a firearm and they

20 can't tell you where that firearm is, like I've stated several times, it's not a

21 search, it's a pat down for that weapon. Just like if I stopped a pedestrian on

22 the street and they say they have a gun, I'm gonna pat them down.

23 Genser: Okay. Well, you... I mean, you pulled Mr. Bonds out of the car, right?

24 Cameron: The same principle. It's not a search. It's a pat down for that weapon.

25 Genser: You pulled Mr. Bonds out of the vehicle, right?

26 Cameron: He willfully stepped out of the vehicle.

27 Genser: You asked him to step out?

28 Cameron: Absolutely.

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1 Genser: You ordered him to step out?
2 Cameron: Sure.
3 Genser: Okay. And you patted him down?
4 Cameron: Correct.
5 Genser: He did not have a gun on him?
6 Cameron: Correct.
7 Genser: Okay. At that point, did you know whether or not the gun in the car was
8 legally possessed?
9 Hearnberger: Objection, asked and answered.
10 Judge: Overruled. You can answer.
11 Cameron: Say it again.
12 Genser: At the point that you have patted Mr. Bonds down and you are certain that
13 he does not have a firearm on him, did you know whether or not the
14 firearm in the vehicle was legally possessed?
15 Cameron: Did not.
16 Genser: Okay. Um, you hadn't observed anything illegal in the car, is that correct?
17 Inside the car, is that right?
18 Cameron: Correct.
19 Genser: Did you handcuff Mr. Bonds when you pulled him out of the car?
20 Cameron: Yes, I did.
21 Genser: Um, and at this point, you're handcuffing him and detaining him for a...
22 The stop was for a license plate violation, right?
23 Cameron: It was a license plate cover violation.
24 Genser: Okay.
25 Cameron: And he's being handcuffed for officer safety, because he can't tell me
26 where that firearm is. It's not on his person, so now we have to figure out
27 where exactly it is, 'cause he can't tell me.
28 Genser: Wait a minute. I'll... Ju- you keep saying this officer safety idea. If I am

1 legally in possession of a gun and I am walking down the street lawfully,
2 you don't get to handcuff me in order to ask me questions, right?

3 Cameron: If it was-

4 Hearnberger: Objection, argumentative, leading.

5 Judge: This phrase, sustained.

6 Genser: Do you... Based upon your training and experience, if a person is in lawful
7 possession of a handgun and you wanna have an encounter or write a
8 traffic ticket to that person, does that always take place with them in
9 handcuffs?

10 Cameron: Those circumstances are different. If you could tell me where that firearm
11 was, if you could say, "Hey, it's in my front waistband right now or it's
12 locked away in that glove box," that takes the officer safety element out of
13 it. But when I don't know where this gun is, yeah, I'm gonna be concerned.

14 Genser: I- I'm not asking you about your concerns. I'm asking you whether or not in
15 your mind, based upon your training and experience, if someone is in
16 lawful possession of a gun and you stop them for either a consensual
17 encounter or for a traffic stop, does, does that traffic stop always happen or
18 the consensual encounter always happen with them in handcuffs?

19 Cameron: Not always.

20 Hearnberger: Objection, vague, compound.

21 Judge: Well, he answered, "Not always." So, I'll leave the answer.

22 Hearnberger: Okay.

23 Genser: When does it not happen?

24 Cameron: In this exact circumstance, sir, when a firearm cannot be articulated to that
25 officer where exactly that gun is. That's an officer safety concern.

26 Judge: I, I just wanna remind Counsel-

27 Cameron: So, you're-

28 Judge: ... that this is not a 1538.5 motion. The focus is on racial bias, so-

- 1 Genser: Yes, it is.
- 2 Judge: And so, I, I don't wanna explore all the law relating to search and seizure
3 and... There's plenty of case law on when officers can investigate based on
4 their suspicion of weapons.
- 5 Genser: Um, I, uh, I believe this is relevant to that iss- issue, Your Honor.
- 6 Judge: Okay.
- 7 Genser: Okay. Um, at some point shortly thereafter, uh, Mr. Bonds says, uh, this to
8 you. Um, and I'm looking at page five and I'm on line 16. Mr. Bonds says,
9 "It just, it su- it, it just sucks to get pulled over by the same cop again,
10 'cause you're a black male. Just saying." And you say, "Well..." And he
11 says, "I'm just driving through." And then you say, "It's... This is the area
12 we work." Is that accurate?
- 13 Cameron: Yes, sir.
- 14 Genser: Okay. Now again, in that part you don't say, "Mr. Bonds, this has nothing
15 to do with your race." Right?
- 16 Cameron: I don't have to. It does nothing to do with it. What does me stating that
17 either way have to do with anything?
- 18 Genser: Well, I'm just talking about deescalation techniques, right? That was
19 something that was really important to you.
- 20 Cameron: Sure.
- 21 Genser: And at this point, you'd pulled Mr. Bonds out and he's still bringing up this
22 whole race issue. And in your mind, you're thinking, "I've gotta
23 deescalate." Right?
- 24 Cameron: Well, at this point, he's in handcuffs, he's calm, he's collected. There's no
25 need to address the race card again. It's done and over with.
- 26 Genser: No reason to deescalate at this point, right? And so, now you can just kind
27 of say whatever. Right?
- 28 Hearnberger: Objection, leading, argumentative.

- 1 Judge: Well, I believe it's vague. So, sustained.
- 2 Genser: So, he's already in handcuffs at this point and you're not worried about
3 deescalation, is that accurate?
- 4 Cameron: In what form? I don't, I don't understand the question.
- 5 Genser: Sure. I think I just asked you whether or not you continue to deescalate
6 after a person's in handcuffs, and you said that that wasn't a priority for
7 you. Is that accurate?
- 8 Cameron: No, I'm saying that it was deescalated. Everything was calm, everything
9 was safe.
- 10 Genser: Okay. And sure, he is still bringing up that, that you're stopping him
11 because he's black, right?
- 12 Cameron: He has the right to say whatever he wants, sir.
- 13 Genser: And your response to that is to say, "This is where we work." Right?
- 14 Cameron: That's what I said, yes, sir.
- 15 Genser: Okay. Um, one other thing. After he's in handcuffs and you've, you know,
16 you've done the deescalation already, um, at the end you get back to it and
17 again, he sort of... Mr. Bonds is talking about race again and you again
18 point out that it's the same for you out in East County.
- 19 Hearnberger: Objection, misstates the evidence, leading.
- 20 Judge: Which evidence is misstated?
- 21 Hearnberger: The transcript.
- 22 Judge: Okay.
- 23 Genser: I, I think it's okay to paraphrase the transcript, Your Honor.
- 24 Judge: Well, as long as it's a... It's, it's much more accurate to read from it, but if,
25 if the paraphrase conveys a different meaning than the actual quote, it's
26 always better to use the actual quote.
- 27 Genser: I agree, but I don't think it does convey a different meaning.
- 28 Judge: Well, let, let him answer the question again.

1 Genser: Okay. So, Mr. Bonds is again accusing you of racism and you say, "Trust
2 me, I get it, 'cause it's, it's the same, like I said, out in East County for me."
3 And again, even though he's already in handcuffs, he's already detained,
4 you're talking, the situation's deescalated. You thought to yourself, "I better
5 lie to this guy again."
6 Hearnberger: Objection, vague, argumentative, leading-
7 Judge: It is-
8 Hearnberger: ... compound.
9 Judge: It's argumentative. Sustained on that ground.
10 Genser: At that point, you chose to lie to Mr. Bonds again-
11 Hearnberger: Leading, argumentative.
12 Judge: Well, you told him the same story that you had told him earlier about being
13 stopped in East County, correct?
14 Cameron: That's... Uh, it's hard to say with the paraphrasing that he's doing.
15 Genser: No, that was reading. I wasn't paraphrasing.
16 Judge: The... Your reference to being stopped in East County, you indicated was,
17 was made up to deescalate, correct?
18 Cameron: Yes, Your Honor. Absolutely.
19 Judge: All right.
20 Genser: All right. That's a lie, right?
21 Cameron: Yes, sir.
22 Genser: Okay. Isn't it true that... Well, let me ask you this. How did you come up
23 with that as a deescalation technique?
24 Cameron: Like I told you, I just developed it over my 11 year career.
25 Genser: And so, over the course of your 11 year career, you've determined that
26 when someone is accusing you of race based policing, the best way to
27 respond to that is to say, "I experience race based policing also."
28 Hearnberger: Objection, misstates the testimony, leading.

1 Judge: Overruled. You can answer.

2 Cameron: It's a technique that I developed that puts that person at ease. People wanna
3 be heard, right? They wanna be heard, so I'm acknowledging that he's
4 being heard and I deflect and move on, and that's a technique that I've
5 developed.

6 Genser: And, and you're not just acknowledging that they're being heard. You're
7 also saying, "I get it, 'cause it happens to me, too." Right?

8 Cameron: Sure, it's an exact technique. It's like a hostage negotiation, showing up to a
9 scene that someone has just shot somebody and they're barricaded. That
10 hostage negotiator often says, "Hey, it's okay. You're not in trouble, just
11 come out." It's a way to deescalate and move away from that. If-

12 Genser: Do you have-

13 Cameron: ... I can make that-

14 Genser: Do you have hostage training?

15 Cameron: No. I'm saying that that's what they do, sir. I'm a police officer. I've been
16 on many scenes of negotiations, yes.

17 Genser: Those people are specially trained though, right?

18 Cameron: They-

19 Hearnberger: Objection, argumentative, leading, relevance.

20 Judge: It's irrelevant. Sustained.

21 Genser: I, I just wanna make sure. You- you're talking... You're comparing what
22 you did to what hostage negotiators do?

23 Hearnberger: Objection, argumentative, relevance.

24 Judge: Sustained.

25 Genser: Okay. Um, just to be clear so I can understand what you're saying with
26 regards to this East County thing. Mr. Bonds says to you, "You're stopping
27 me because I'm black." Your deescalation technique is, is to say in
28 response to them, "I also get stopped based upon my race"?

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1 Hearnberger: Objection, asked and answered.

2 Judge: Well, I don't think he said because of his race.

3 Cameron: That's correct, sir. I said nothing about my race.

4 Genser: Right. You said because you-

5 Judge: Can I just... I, I just wanna shortcut this.

6 Genser: Sure.

7 Judge: So basically, your deescalation technique is to identify with the person who
8 is accusing of, of racial bias by saying, "I've been profiled-

9 Cameron: Correct.

10 Judge: ... in some way."

11 Cameron: Correct. It just brings... Lets them be heard and it just brings everything
12 down and we move past that, because it has no relevance, no bearing. It's a
13 non factor.

14 Judge: All right. All right, let's move on.

15 Genser: That's all I've got. Thank you.

16 Judge: Any, uh, questions?

17 Hearnberger: Yes. Thank you, Your Honor. Good morning, Officer Cameron.

18 Cameron: Good morning.

19 Hearnberger: I, um, I think it would be helpful, even though the Court has, um, has seen
20 the body worn recording, I think it'd be helpful to publish it. Um, so I have
21 a, I have a separate copy or I think it might be just easier to publish the, the
22 thumb drive at this point.

23 Judge: Okay, but what, what would the relevance of publishing it be?

24 Hearnberger: Well, I- I'd like to talk through the video with the officer.

25 Judge: Okay.

26 Hearnberger: Does... Madam Clerk, do you have the exhibit?

27 Clerk: I do.

28 Hearnberger: Defense A.

1 Judge: So for the record, this is Defense A. It's been received into evidence, I
2 believe by stipulation. Um, playing the file entitled Cameron BWC1.
3 Video: What's going on, bro? How you doing?
4 Good, and yourself?
5 Good.
6 Can I take my seatbelt off?
7 Yeah. That's cool, man.
8 [inaudible 01:53:32].
9 I think I had... Were you over here parked on the curb [inaudible 01:53:38].
10 Hearnberger: For the record, I'm pausing the video at 40 seconds. Officer Cameron, is
11 that your body worn recording of this incident?
12 Cameron: Yes, it is, sir.
13 Hearnberger: Okay. Um, fair to say in that initial interaction you asked for his driver's
14 license, and then he provided it?
15 Cameron: Correct.
16 Hearnberger: Okay. Uh, how long did it take for you to realize that you had had contact
17 with the defendant previously?
18 Cameron: Seconds.
19 Hearnberger: Uh, was it your impression from your interaction with him that after you
20 started talking, he recognized you as well?
21 Cameron: Yes.
22 Hearnberger: Okay. And was it your impression that, uh, when he was acknowledging,
23 uh, "Actually, I got a ticket for it, so I'm taking it, it off," was he referring
24 to your prior interaction with him, in your mind?
25 Cameron: Correct.
26 Hearnberger: Okay. And based on your interaction, what were the two of you talking
27 about? Which violation were you talking about?
28 Cameron: We were talking about the tinted windows, which he referred to, and the

1 license plate cover.

2 Hearnberger: And which license plate are we talking about?

3 Cameron: Uh, the rear license plate.

4 Hearnberger: For the record-

5 Video: Was the last time I pulled you over for the license plate cover [inaudible
6 01:55:37]? Well, probably with the hoodies up and stuff [inaudible
7 01:55:37]. 'Cause out in East County-

8 Yeah, yeah, East County [inaudible 01:55:37]-

9 Hearnberger: For the record, I paused the video at one minute and 24 seconds. Officer
10 Cameron, we just saw, um, your interaction with the defendant on the race
11 issue. Correct?

12 Cameron: Yes, sir.

13 Hearnberger: And you mentioned East County. Um, was it your impression that the
14 defendant was calm during this time?

15 Cameron: Yes, he was. He was actually laughing.

16 Hearnberger: Do you feel like it was effective... The, the tone and the manner in which
17 you were speaking with him, do you feel like that was effective?

18 Cameron: Yes, it was.

19 Hearnberger: In the past during other traffic stops when people feel like they've been
20 stopped unfairly, do they sometimes get agitated or worse?

21 Cameron: Yes, sir.

22 Video: [inaudible 01:56:24].

23 Hearnberger: My apologies. For the record, I'm beginning the video again at one minute
24 and 35 seconds.

25 Video: [inaudible 01:56:31]. And your first name again, man?
26 Tommy.
27 Tommy? [inaudible 01:57:14]. You have a gun?
28 Yes, sir [inaudible 01:57:19].

1 Hearnberger: For the record, I'm stopping the recording at two minutes and 38 seconds.
2 Officer, would it be fair to say that you remained calm when the defendant
3 told you there was a firearm in the vehicle?
4 Cameron: Yes, sir.
5 Hearnberger: Um, do all... In your experience, in your 11 years, uh, is it fair to say
6 you've worked with a lot of different officers?
7 Cameron: Yes, I have.
8 Hearnberger: How do most officers or many officers react when someone tells them
9 there's a firearm in the vehicle?
10 Genser: Objection, relevance.
11 Judge: Well, the witness's knowledge of police practices is relevant. Overruled.
12 You can answer.
13 Cameron: Uh, they've gotten on edge. Um, they kinda... They show their, their
14 edginess or nervousness, um, oftentimes.
15 Hearnberger: Okay. What are some of the, uh, actions that officers often take when they
16 learn there's a firearm in a vehicle, as far as what orders they give?
17 Cameron: They- they'll often pull their firearm, tell them not to move, uh, you know,
18 keep their hands where they can see them and whatnot.
19 Hearnberger: Why didn't you do that?
20 Cameron: Uh, 'cause I had a rapport. He was being very cordial with me. He's
21 relaxed, he's not making any furtive movements. Um, in my 11 year career,
22 more specifically in the unit I work, we come into contact with people with
23 firearms every day, and, uh, you just learn to re- read body language and
24 develop skills to navigate thru when someone says that they're armed.
25 Hearnberger: I'm beginning the video at two minutes and 38 seconds.
26 Video: [inaudible 01:59:02].
27 He's got his card in one of those [inaudible 01:59:16]. Just to make sure
28 everything is on the up and up here, bro, and-

1 Because I remember last time [inaudible 01:59:23].
2 Yeah, I know. I got you.
3 It just sucks to get pulled over by the same cop again because you're a
4 black male, though. You know? That's [inaudible 01:59:31].
5 Can you put your satchel and phone up on the dash? That way it doesn't
6 fall off and whatnot. No other weapons on you [inaudible 01:59:51]? Yeah,
7 I'm gonna have you step out.
8 For what?
9 'Cause we're gonna make sure there's no illegal [inaudible 01:59:58].
10 You're just gonna be detained for now, man [inaudible 02:00:05]. Well,
11 when someone tells us there's a gun in the car, we're gonna make sure that
12 it's legal [inaudible 02:00:21] and make sure it comes back to you, it's
13 registered to you and everything. [inaudible 02:00:30] it's for your safety
14 and for our safety [inaudible 02:00:38]. Just face the car. I'm just gonna pat
15 you down [inaudible 02:00:48]. I understand, man. It's not-
16 Hearnberger: Paused the video at four minutes and 42 seconds. Uh, Officer, when you
17 said, "Have a seat. It's not that." What was, "It's not that" in reference to?
18 Cameron: It's the, referring to his race stuff, because of his race.
19 Hearnberger: I'm starting the video at four minutes and 44 seconds.
20 Video: [inaudible 02:01:31].
21 Hearnberger: Stopped the video at four minutes and 54 seconds. Officer, when you said,
22 "Well, we can agree to disagree," what was that in reference to?
23 Cameron: It's in reference to him throwing the reason was race, and it's me saying
24 that essentially I'm not gonna go down that road. We can agree to disagree.
25 Hearnberger: And we'll conclude the video with that, at four minutes and 54 seconds.
26 Now going back to the initial talk about the hoodies, why, why did you tell
27 the defendant about the hoodies?
28 Cameron: Just given the area that we're in, the crime that's occurring. Uh, oftentimes

1 people will use the hoodie to conceal their identity, if they're wanted or,
2 you know, it's a common practice that individuals will use.

3 Hearnberger: When you saw, when you first saw the defendant's vehicle, um, how many
4 people did you see that were in the car?

5 Cameron: Uh, two people.

6 Hearnberger: Okay. And how many of them were wearing hoodies?

7 Cameron: Both.

8 Hearnberger: Do you recall if the, uh, side windows were rolled up or rolled down?

9 Cameron: They were down, I believe.

10 Hearnberger: Okay. Your Honor, with the Court's permission, I'd like to mark People's 2,
11 which is a DVD and People's 2A, which is the corresponding transcript.

12 Judge: All right, People's 2 DVD and 2A, transcript. How many pages is the
13 transcript?

14 Hearnberger: The transcript is three pages. Now Officer Cameron, when you learn that
15 there's a firearm in the vehicle, um, I think you said that one of the reasons
16 is you wanna make sure it's properly owned or possessed by the driver,
17 correct?

18 Cameron: Yes, sir.

19 Hearnberger: Are you also seeking to make sure that the firearm is being legally carried
20 in the vehicle?

21 Cameron: That's correct, sir.

22 Hearnberger: And based on your training and experience, um, one can legally possess a
23 firearm, but they might not be legally carrying it in public, is that right?

24 Cameron: That's correct, sir.

25 Hearnberger: Okay. So after... We just watched the video and you were detaining Mr.
26 Bonds in handcuffs, did someone search the vehicle?

27 Cameron: Yes, they did.

28 Hearnberger: Who did?

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1 Cameron: Uh, my partner, Officer Ecee and I believe a cover officer.

2 Hearnberger: Okay. And did they... Did someone inform you that a firearm was found in
3 the vehicle?

4 Cameron: Yes, sir.

5 Hearnberger: Okay. What was your understanding of, uh, the legality of how the firearm
6 was carried?

7 Cameron: Illegally.

8 Hearnberger: How was that?

9 Cameron: Uh, the gun was unloaded, but inserted on the driver, in the rear passenger
10 seat pocket with the grip facing towards the driver.

11 Hearnberger: Okay. Was it concealed in that pocket?

12 Cameron: Correct.

13 Hearnberger: Okay. So at that point, did someone place, uh, the defendant under arrest?

14 Cameron: Yes.

15 Hearnberger: And what, what is your role on scene at that time, once an arrest is made?
16 What other things need to be done?

17 Cameron: Uh, we need to document it with pictures, uh, document the scene, the
18 vehicle, uh, collect the evidence and secure the, uh, prisoner in our vehicle.

19 Hearnberger: Okay. Did... Who took, who, who handled that? Who put the defendant in
20 the back of your patrol vehicle?

21 Cameron: I did.

22 Hearnberger: Did you have subsequent discussions with the defendant after he was
23 placed under arrest and put in the control- patrol vehicle?

24 Cameron: Yes, I did.

25 Hearnberger: How did that come about?

26 Cameron: Uh, he was asking me questions. He was concerned about the, uh, I guess,
27 severity of the, the crime.

28 Hearnberger: I'm sorry, the severity?

1 Cameron: Of the crime, yes.

2 Hearnberger: Okay. With the Court's permission, I'd like to play People's Exhibit 2 for
3 the witness.

4 Judge: What is it?

5 Hearnberger: It's a body worn camera recording of, uh, Officer Cameron and the
6 defendant's interaction.

7 Judge: Okay. What- what's the relevance of that? I, I thought the Defense was
8 focused on the stop.

9 Hearnberger: Well, it, it shows that Officer Cameron treated the defendant like a person.
10 He was respectful, he took the time to talk with him and calm him down.
11 The Defense is alleging that this officer is biased and this officer showed
12 the defendant a great level of respect during the course of this encounter,
13 and that's with the People are presenting this for.

14 Judge: All right. Do you have a copy for the Court?

15 Hearnberger: The... For the-

16 Judge: The tran- a copy of the transcript?

17 Hearnberger: Yes.

18 Judge: Thank you.

19 Video: Yes [inaudible 02:07:31]. Uh, it's gonna say you've been arrested, but it...
20 Listen, Tommy. Listen to me for a second, man. Tommy, I do this a lot.
21 I arrest guys who have extensive criminal history. I don't think you have
22 much to worry about, but I'm not the judge.
23 [inaudible 02:08:07]
24 [inaudible 02:08:08] it's going to be super low. It's a misdemeanor charge.
25 [inaudible 02:08:13] definitely low?
26 Yeah.
27 [inaudible 02:08:16]
28 I'd do that. I'll bring my own [inaudible 02:08:16]. I'd bring my whole

1 wallet. [inaudible 02:08:20]
2 Okay, listen. I don't want to jam you up more than that. I don't want to
3 have to tow your car. Do you want me to park it on the street? [inaudible
4 02:08:26] Do you have a license to [inaudible 02:08:26] after that, or?
5 [inaudible 02:08:26]
6 So, what I can do, is I can park it on the street. Lock it up. You take the
7 keys with you and you can release the keys to whoever you want in jail.
8 All right? And I can guarantee you, before that even happens, you're
9 probably gonna be out on bail.
10 It's gonna be a matter of how crowded it is down there. Getting your
11 fingerprints processed. I mean.
12 [inaudible 02:08:26]
13 I highly doubt it. If you work hard to get bailed out, you're probably gonna
14 get bailed out by tomorrow.
15 [inaudible 02:08:26]
16 All right. So, I'm gonna bring this... listen. Listen, bro.
17 I know it's hard to live through right now, but it's not the end of the world.
18 You're a smart kid.
19 Ah.
20 You're still gonna finish school.
21 [inaudible 02:09:15]
22 That's gonna be up to the court. Yeah, you- you can essentially petition to
23 get that back. Just say look, whatever happens, right when the judge says,
24 "Hey, bring your license for this," they'll give you your firearm back. But
25 that's gonna be through the court. That's not through us.
26 All right? We're just, unfortunately- listen, unfortunately, our hands are
27 tied. We have to do what we have to do. But it's gonna be just- just roll
28 with me, and let this be a learning lesson. Bro, that's it.

1 [inaudible 02:09:43]
2 So, you want me to lock it? Lock it, lock it?
3 Yeah, [inaudible 02:09:52].
4 Does he have anything else in there that- that you might need it? He just
5 has his cell phone, probably?
6 [inaudible 02:09:58]
7 I just don't want him to take anything that's yours.
8 [inaudible 02:10:00]
9 All right. Hang tight.
10 Hearnberger: That was [People's 2 02:10:12], for the record. Officer Cameron, is that an
11 accurate recording of your conversation with the defendant?
12 Cameron: Yes, it is.
13 Hearnberger: At this time, the people would move to admit [People's 2 and 2A 02:10:21]
14 into evidence.
15 Judge: Any objection?
16 Genser: No.
17 Judge: All right, [People's 2 and 2A 02:10:27] are received.
18 Hearnberger: Officer Cameron, what ultimately became of the defendant's vehicle?
19 Cameron: Uh, I drove it around, looking for a parking spot on the street. Uh,
20 ultimately didn't find a parking spot. So, I essentially made a deal with the
21 clerk at the gas station to allow me to park it there for a short term, until
22 one of Tommy's friends could come pick it up.
23 Hearnberger: Did you- how did- how was the defendant able to contact that friend to
24 come pick up the car?
25 Cameron: Uh, I got the number from, uh, Tommy and [Mr. Bonds 02:10:53], and I
26 called that, uh, friend to come down to HQ. I gave him the keys on [Mr.
27 Bonds' 02:10:58] [inaudible 02:10:59].
28 Hearnberger: Thank you. Nothing further.

1 Judge: All right. Any redirect?

2 Genser: Yes. Um, are you familiar with the, uh, policy and procedure manual for
3 the San Diego Police Department?

4 Cameron: Yes, sir.

5 Genser: Are you familiar with section, uh, seven- uh, 7.01, which discusses, uh,
6 enforcing traffic laws equally and fairly?

7 Cameron: I don't know the specifics of that.

8 Genser: Wanna look at it?

9 Cameron: What's that?

10 Genser: Wanna look at it?

11 Cameron: Sure. Thank you. The highlighted section?

12 Genser: Yep.

13 Are you familiar with that section?

14 Cameron: I am now.

15 Genser: Okay. You weren't before?

16 Cameron: It's a long manual, sir. I try to be familiar with everything.

17 Genser: Okay. Are you familiar with the, uh, SDPD's policy on non- non-biased-
18 based police, uh, policing?

19 Cameron: Yes, sir.

20 Genser: What is it?

21 Cameron: It's a very vague question, sir. Can you narrow it down?

22 Genser: Yeah, what's the policy of SDPD about- about, uh, race-based policing?

23 Cameron: That race has no base in our policing.

24 Genser: Okay. Um, if it were determined that your behaviors were race-based, what
25 are potential punishments that could [inaudible 02:12:31]?

26 Hearnberger: Objection. Relevance, argumentative.

27 Judge: Well, I- I assume he means it to relate to credibility, so overruled. You can
28 answer. If you know.

1 Cameron: I have no idea. I'm not a supervisor. I'm just a police officer.

2 Genser: Isn't it true that you could be demoted?

3 Hearnberger: Objection. Ob- objection, asked and answered. Lacks personal knowledge.

4 Judge: It was asked and answered, sustained. He said he doesn't know.

5 Genser: You don't know what potential punishments are for police misconduct?

6 Hearnberger: Objection, asked and answered, argumentative.

7 Judge: Sustained. He said he doesn't. You can't repeat the question.

8 Genser: Is it possible to fire a police officer?

9 Hearnberger: Objection, relevance.

10 Judge: Well, I can take judicial notice. It's possible to fire a police officer, if that'll

11 help.

12 Genser: That does help, thank you. Um, polices can be- police officers could be

13 fired for misconduct, isn't that true?

14 Hearnberger: Objection, relevance, argumentative.

15 Judge: Yeah, I think at this point, the- the- I- I- I get the point. But I don't think

16 pursuing it is going to assist me in my decision.

17 Genser: Your honor, it goes to bias, and I think it's important.

18 Judge: Well, I- I- I- I think, in general, you can assume, if you don't know the

19 specific consequences, that there could be negative consequences. You

20 understand that, correct?

21 Cameron: Yes, your honor.

22 Genser: And you understand those negative consequences could be up to, and

23 including, termination?

24 Hearnberger: Objection, asked and answered, argumentative.

25 Judge: Sustained.

26 Genser: That's all I've got.

27 Judge: All right, thank you, officer. You can step down.

28 Cameron: Thank you, your honor.

1 Judge: All right, now, um, there was one other witness on the witness list, Dr.
2 Glover.
3 Genser: Yes, there is.
4 Judge: Okay. Do you want to call her now?
5 Genser: I do.
6 Judge: All right.
7 Genser: Uh, defense calls Karen Glover.
8 Hearnberger: Your honor, I'd ask for an author of proof. I became aware of this witness
9 just before the hearing this morning. I have no author of proof or any
10 indication of her qualifications or what...
11 Genser: I intend to establish her resume [inaudible 02:14:28].
12 Judge: L- let's just call her and then you can object if you're not satisfied. I have
13 no idea what her testimony's going to be.
14 Dr. Glover: [inaudible 02:15:17].
15 Thank you, sir.
16 Genser: It's full of water. [inaudible 02:15:17].
17 Dr. Glover: Thank you.
18 Clerk: [inaudible 02:15:17] please stand and raise your right hand. Do you
19 solemnly state that the evidence you shall give in this matter shall be the
20 truth, the whole truth, and nothing but the truth, so help you God?
21 Dr. Glover: Yes.
22 Clerk: Thank you.
23 Genser: Good morning, Doctor Glover.
24 Dr. Glover: Good morning.
25 Genser: Could you, uh, state your name and spell your last name for the record?
26 Dr. Glover: Karen S. Glover, G-L-O-V-E-R.
27 Genser: Could you briefly tell us about your educational background?
28 Dr. Glover: I have a PhD in sociology from Texas A&M.

1 Genser: Um, and do you have a specialization in your PhD studies?
2 Dr. Glover: I do.
3 Genser: What's that?
4 Dr. Glover: Race studies having to do with law enforcement.
5 Genser: Um, how are you currently employed?
6 Dr. Glover: I'm a professor at Cal State San Marcos.
7 Genser: And could you describe the sort of classes that you teach?
8 Dr. Glover: Sure. I teach, um, a race class, specifically. I teach a upper division class,
9 uh, [inaudible 02:16:14] was the last class that our criminology major
10 takes, uh, analyzing the criminal justice system.
11 And I teach, on occasion, not since COVID, a class on racial profiling.
12 Genser: Um, are you published in the area of criminology and ethnic relations?
13 Dr. Glover: I am, yes.
14 Genser: Um, are you specifically published in the area related to racial profiling?
15 Dr. Glover: Yes, I am.
16 Genser: Could you describe some of your publications?
17 Dr. Glover: Sure. I have a book called "Racial Profiling: Research, Racism, and
18 Resistance." I have, um, um, an article based on interviews with law
19 enforcement officers about racial profiling. Uh, and a book chapter related
20 to some of the same data.
21 Those are some of the main publications.
22 Genser: Um, are you also in the process of further research on these same issues?
23 Dr. Glover: Yes, I am.
24 Genser: Um, could you b- briefly describe your current research?
25 Dr. Glover: One project is, um, police accountability model based upon the RIPA data.
26 RIPA is the Racial and Identity Profiling Act of 2015 in California, and it
27 mandates data collection and I'm hoping to be able to use some of that data
28 collection in a- what I call "accountability model."

1 Genser: Um, do you stay abreast of the goings on within the industry? Um, reading
2 literature, attending meetings, government organizations, that sort of thing,
3 related to this issue?

4 Dr. Glover: I- I do. I'm always tapping into that literature, yes.

5 Genser: Um, I want to sort of chat specifically about one of those organizations. Do
6 you regularly attend the meetings of the RIPA Board?

7 Dr. Glover: I do. I attend as a community member. Um, I'm not on the Board, but I
8 attend the meetings regularly, yes.

9 Genser: Um, what is the RIPA Board?

10 Dr. Glover: The RIPA Board is, um, based upon the law I just mentioned, Racial and
11 Identity Profiling Act of 2015 in California. Uh, basically the RIPA law
12 mandates that a advisory board be seated.

13 They have seated an advisory board. It consists of law enforcement
14 practitioners, of community advocates, of, uh, academics, and they work in
15 conjunction with the California Department of Justice in their goal, their
16 shared goal, uh, to eliminate racial profiling and other types of profiling.

17 Um, they are mandated to- they release an annual report each year. They're
18 about to release their- their, uh, next one. And the main thrust of the
19 board's work is to work with law enforcement agencies across California to
20 collect data on profiling issues, including racial profiling issues.

21 Genser: Um, as you have attended meetings, have you noticed, um, sort of some
22 issue that the RIPA Board has with police officer training?

23 Dr. Glover: There's a lot of different issues that come up at the RIPA Boards. I've
24 attended almost all of them since COVID and, prior to that, I attended them
25 when they were in San Diego, when they weren't online.

26 Um, recently, in, I want to say, in their last meeting and they've brought it
27 up, uh, prior to that, but in the last meeting, they were specifically, uh,
28 expressing some concerns about training through POST, which is Peace

1 Officer Standings & Training that offers officers training in issues of
2 diversity, for instance.

3 And they were concerned about the content of the training, how it hadn't
4 been updated in- in, uh, 20 years, I believe is one of the markers that
5 they're raising. That's one of the things that they're talking about.

6 Genser: Um, before we get into the facts related to this case, I want to define some
7 terms with you. Um, what is racism?

8 Dr. Glover: Racism is, um, a relatively easy way to understand it is it's a system or a
9 collection of practices in society, including actions and communications,
10 what I call "discourse," uh, that facilitate [whites 02:20:44] and the same
11 practices, actions, communications, disadvantage our communities of color
12 in economic, political, and social realms.

13 Genser: Could you describe how race and ethnicity has "content?"

14 Dr. Glover: Yes. Uh, that term "content" is something that I, um, learned from some
15 race scholars, Omi and Winant, and...

16 Genser: Sorry, could you spell that?

17 Dr. Glover: Sure. Uh, Omi, O-M-I, and Winant, W-I-N-A-N-T. And it's- it's a- it's a
18 similar idea to stereotyping but, for me, it's more of a sophisticated
19 understanding where it made kind of me, uh, understand the concept a bit
20 better.

21 Basically, what it means is when we think about race or racial groups,
22 we're also thinking about what those groups are made of, what their content
23 is.

24 Genser: Um, is there a difference between modern racism and, say, pre-Civil Rights
25 racism?

26 Dr. Glover: There is.

27 Genser: Um, what is that?

28 Dr. Glover: Racism can change. It can shift, depending on social times, social

1 conditions, and, um, some of the- the main research of our era, what we
2 would call the "colorblind racism era," is that, in the pre-Civil Rights era,
3 uh, racism was much more overt, much more explicit, much more, for
4 instance, easier to, um, uh, call out in official ways, if you will.

5 And, um, the Civil Rights era, the '50s and '60s in the United States,
6 ushered in a fair amount of law having to do with discrimination based
7 upon race. And there was, if you will, a promise that that law would
8 eliminate racism.

9 Um, but what scholars who've studied these issues, um, demonstrate is
10 racism didn't go away with the introduction of these laws. It changed form,
11 it became, generally speaking, uh, with some exceptions, of course, uh,
12 more overt, more subtle, um, less easy to explicitly call out, um, it- it's
13 changed its nature. It's- it's more subtle.

14 Genser: Um, what is bias?

15 Dr. Glover: An easy description of bias is having, um, we use the term "preference" for
16 a group, affiliation for a group, uh, versus, uh, having animus or, um,
17 aversion to a group.

18 Genser: Um, how is implicit bias different from explicit bias?

19 Dr. Glover: Well, they're basically embracing the terms that those two words mean.
20 And it- it's suggesting that implicit bias is, uh, you may have, for instance,
21 an affinity, a preference for a group, but you don't necessarily articulate it.
22 It's not necessarily, um, what I call "front of mind" for you, but it's just
23 something that generally you would associate with that group, uh, and- and
24 make associations of positivity with that group, for instance.

25 It, um, explicit means you would explicitly be calling out your affinities or
26 your aversions to those groups.

27 Genser: And then, so, sort of the counter of that is that, implicitly, you might not
28 even recognize your own bias?

1 Dr. Glover: Yes.

2 Genser: Um, what is coded language?

3 Dr. Glover: Coded language, uh, can mean a- a variety of things. Part of my work is
4 studying discourse or communication in society. That's part of what I do in
5 my- in my qualitative studies.

6 Coded language can mean, um, basically that you are using terms and
7 language, um, in indirect ways, that you- you may not be doing it
8 intentionally, but you turn, uh, you turn to the use of particular words, uh,
9 rather than be- r- rather than using other words that are more explicit and
10 things.

11 Genser: Um, can you give me an example of the way that language might be coded
12 in a police encounter?

13 Dr. Glover: Language could be coded in a police encounter, uh, talking about the social
14 space around, uh, around where the stop takes place, for instance. Calling it
15 an "inner city space," for instance. Inner city, we don't have to say anything
16 about anyone's race or social class, but that word, in and of itself, signals
17 that, to many people, that they would- they would associate that term with,
18 uh, a raced group.

19 Genser: Um, what is racial profiling?

20 Dr. Glover: Racial profiling is a complex issue that, um, generally is defined by saying
21 that law enforcement officers use race as a reason to make traffic stops or
22 to intervene with an individual [inaudible 02:26:36].

23 Um, it could be outside of any behavioral, um, actions of the individual
24 being stopped. Or it could be racial profiling also entails decision making
25 about who to stop, if there are- are lots of speeders, for instance. Who
26 would the law be enforced against? It's also part of racial profiling. Um...

27 Genser: In- in your research, you, uh, you talk about the- the doing and the being of
28 racial profiling. Um, could you explain that?

1 Dr. Glover: Uh, just to clarify, that's, um, kind of new theorization in my head. Um, I'm
2 actually writing on it right now. Uh, so it's not anything that's out there in
3 my research, just to clarify that.

4 But it really is this idea that, uh, when we talk about racial profiling, we
5 really need to make sure that we're talking about, if you will, both entities
6 involved.

7 Um, the doing is the actions and processes of the law enforcement officer
8 involved and the actual actions and such.

9 And then the being of racial profiling is what the experiences of the- of the
10 person have the- having the criminal identity imposed upon them and- and
11 their experience, um, is very important to recognize, study, and consider
12 in- in these issues of racial profiling.

13 Genser: Um, when it comes to racial profiling, you discuss the issue of- of
14 microaggressions and macroaggressions. What are those?

15 Dr. Glover: In a simple way of putting it, microaggressions are, um, it's often used
16 when discussing issues of race and racism. Microaggressions will be that
17 one-on-one encounter where some kind of, um, devaluing of a person of
18 color, uh, happens in a one-on-one, uh, encounter.

19 And then macroaggression, and these have kind of larger, more, um,
20 complicated, um, ideas to- to go with them as well, but the macro
21 encounter would be when you really dev- having the devaluing, um, the
22 putting down of a whole group, as opposed to the individual that's a
23 member of that group.

24 Genser: Can you describe how a microaggression and a macroaggression might
25 both come into play during a police traffic stop?

26 Dr. Glover: Yes. In, um, when we think about the- the theorizations, they help us
27 understand, really, the weight in the- in the, um, the power and the burden
28 of racism in society.

1 So, part of how we understand it is, if there's a traffic stop with a person of
2 color, and they are, for instance, in s- in some of my work, immediately
3 criminalized, like, the first question that, you know, some of my interview
4 respondents received was, "Do you have any contraband on you?"

5 They, even prior to saying, you know, "Hello, where's your driver's
6 license?" So, the immediacy of that criminalization, um, would be
7 considered a microaggression.

8 And then, in the larger context of things, as a sociology, we're always
9 looking at the larger [inaudible 02:30:14] as well. Uh, it's also a reflection
10 of that person of color as a member of that group, getting criminalized and
11 how that group, uh, draws criminalization.

12 Genser: Um, could you also talk a little bit about the difference in racial profiling
13 studies between quantitative and qualitative analysis?

14 Dr. Glover: I can. Um, I'm a qualitative researcher. I, uh, research people, uh, generally
15 with interviews and I also do, as I mentioned earlier, discourse analysis,
16 which is looking at, for instance, texts and books, um, and those types of
17 things.

18 Um, and quantitative work is working, really, in- in the number side of
19 things, doing statistical analysis. A lot of our racial profiling research is
20 quantitative and it is, if you will, um, going back to the RIPA Board and
21 the- the mandate of the RIPA law, officers have to document who they're-
22 who they're making traffic stops on and that is quantified.

23 And a lot of our racial profiling research is- is quantit- uh, quantified.

24 Genser: Uh, you- you ran into Dr. [Chanin 02:31:27] out in the hallway, is that...

25 Dr. Glover: I did.

26 Genser: Um, he is a quantitative researcher, is that right?

27 Dr. Glover: Yes. But he, uh, I would also argue, we don't know each other that well,
28 but, uh, I think he's also a theorist.

1 Genser: Um, have you done research into the harmful effects of racial profiling?

2 Dr. Glover: I have.

3 Genser: Um, in your research, could you- uh, did you talk about the idea of a
4 double consciousness?

5 Dr. Glover: Yes. Double consciousness is a term from W.E.B. Du Bois, and it is this
6 reference to... Du Bois was talking about the black community, but it- it
7 applies to other communities of color as well.

8 Uh, double consciousness is this idea that people of color are aware that
9 they have a self identity, if you will, of being due rights and protections,
10 for instance, that's a- the Constitution offers fourth amendment protections,
11 14th amendment protections.

12 Their self identity understands and knows that they are due those
13 protections. But in their everyday-ness, in their- in their practical lives,
14 encountering folks, uh, including law enforcement officers, those
15 protections, for instance, the fourth and 14th amendment, are not extended
16 to them in- in real ways.

17 And- and they are having to live their lives with that knowledge and- and,
18 really, the burden and weight of that.

19 Genser: Um, have you done sort of research into the ar- idea of how the experience
20 of being racially profiled can be sort of like a watershed moment in
21 people's lives?

22 Dr. Glover: I have. Yes.

23 Genser: If you could describe that a little bit?

24 Dr. Glover: Yes, in my book, um, when I interviewed, um, people of color about the
25 experience of being racial profiled, earlier I had done research interviewing
26 law enforcement officers about racial profiling.

27 Uh, but I was interviewing, for my book, uh, people of color who'd been
28 profiled and, uh, the one dominant theme, which is what happens with

1 qualitative work, is themes emerge, one dominant theme emerged, and that
2 was, uh, really, how the incident was, uh, very memorable for them, a
3 watershed moment. They were changed by that particular moment.
4 Part of what racial profiling is about is its capacity to really change
5 people's lives, in part by, uh, introducing them to the criminal justice
6 system in a formal way. Um, and, um, larger issues.
7 So, they- um, the way that I captured it in my book was they have a break
8 from, I use the term "citizenship," I wouldn't necessarily use that term
9 today. Um, but it really meant a break from, someone who gets rights and
10 protections from the state.
11 And- and what a moment that is for them. It's not an inconvenience, it's not
12 a, um, something that is soon forgot. It's actually very important in their
13 lives, according to the folks that I've studied.
14 Genser: And that sort of centers around the idea of rights that are- are due to them,
15 but not received in practice?
16 Dr. Glover: Yes.
17 Judge: I think we're going to have to break. Um, do you a rough estimate for your
18 direct- the rest of your direct?
19 Genser: 15 minutes?
20 Judge: And a rough estimate from cross?
21 Hearnberger: I- I don't know what our conclusion's going to be, but I think my cross will
22 be brief.
23 Judge: Okay, um, if we can take five minutes, we can finish the witness up
24 without taking a lunch break. I don't know how you feel about that.
25 Hearnberger: Is this- is this the remedy [inaudible 02:35:30]?
26 Judge: I- I don't know about my staff, how my staff feels about it.
27 Clerk: It's fine.
28 Judge: Okay.

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1 Genser: Oh, keep going.
2 Judge: Um, I need a five-minute break.
3 Genser: That's fine.
4 Judge: All right, let's take a few minutes and we'll resume.

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1 JUDGE: HOWARD H. SHORE, JUDGE
HEARNSBERGER: TAYLOR HEARNSBERGER, PROSECUTION
2 GENSER: ABRAM GENSER, DEFENSE
DR. GLOVER: DR. KAREN GLOVER, WITNESS 4
3 CLERK: UNKNOWN NAME, COURT CLERK

4 Clerk: ... to come to order, department 2102 [inaudible 00:00:02].

5 Judge: All right. We are back in session. Case of People versus Tommy Bonds
6 and we are in the midst of the direct examination by Mr. Genser of, uh, Ms.
7 Glover. You may continue.

8 Genser: Thank you. Um, could you explain the idea of spatial context?

9 Dr. Glover: Spatial context just refers to the importance of social space, in, uh,
10 criminological examinations, for instance.

11 Genser: Um, how might that come into play in a traffic stop?

12 Dr. Glover: It comes into play in a sense that, some areas in our communities, um, are
13 considered, either formally or informally, high crime areas, or not high
14 crime areas. Those types of things.

15 Genser: Um, does the idea of spatial context intersect with the idea of coded
16 language?

17 Dr. Glover: It can, yes.

18 Genser: How so?

19 Dr. Glover: Um, as I mentioned earlier, the, you know, the term, it's, kind of, a classic
20 when we're talking about this, uh, the term inner city refers to both the
21 social space, but it also has this content or this connection to a particular
22 demography or groups, and a living class.

23 Uh, another instance will be, uh, if an officer is stopping someone, and,
24 um, has the issue of racial profiling brought up, the officer might say, "This
25 is where we're deployed to. This is where we, uh, patrol," and, and so, it
26 seems like a common sense thing that they would be stopping particular
27 groups if they were patrolling in this particular area.
28

- 1 Genser: Okay. Um, could you discuss the idea of procedural justice?
- 2 Dr. Glover: Procedural justice is a theory, uh, used a lot in, in police studies. It
3 emerged out of, uh, psychology, and, kind of that end of things. It centers,
4 it has various level, but it really centers on how law enforcement is, um,
5 legitimized.
6 In part, it's used in police studies to help understand the disconnect and
7 distrust with some communities and law enforcement. And one of the
8 mean ways that, uh, procedural justice is examined is, during traffic stops,
9 and whether the person being stopped feels a sense that they are treated
10 fairly by the law enforcement officer, um, is the, I would describe it as, is
11 the character relational as opposed to very authoritarian?
- 12 Genser: Okay. So, so how might procedural jus- the idea of procedural justice go
13 awry in, sort of, the context of a traffic stop?
- 14 Dr. Glover: I'm not sure if, uh, I would say it would go awry, um, but the idea of
15 procedural justice, which, again, has been adopted in a lot of police studies,
16 is, um, a, a critical look at the, at the theory is, that, you can still have racial
17 profiling going on, even though the stop itself is relational.
18 Um, in this, in this particular case, I believe, the, officer Cameron and Mr.
19 Bonds actually either, kind of, reference each other, being respectful to
20 each other. Um, so, even when the stop itself may be, uh, kind and no well
21 authoritarian approach from either side, uh, it can still be a racial profiling
22 stop.
- 23 Genser: So, the fact that an officer is being real nice doesn't necessarily mean that
24 it's not racial profiling?
- 25 Dr. Glover: Right.
- 26 Genser: Okay. Um, okay, let's turn your attention to this case. Uh, did you watch
27 the video associated with, uh, Mr. Bonds and officer Cameron?
- 28 Dr. Glover: Yes.

- 1 Genser: Uh, did you have the transcript associated with that video?
- 2 Dr. Glover: Yes.
- 3 Genser: Uh, did you review the police report offered by officer Eysie?
- 4 Dr. Glover: Yes.
- 5 Genser: Um, okay. I wanna start by talking about the, the patrol. In officer Eysie's
6 reports, he states they were on "proactive enforcement". Do you recall
7 reading that?
- 8 Dr. Glover: Yes.
- 9 Genser: Based upon your training and experience, is that an example of coded
10 language?
- 11 Hearnberger: Objection, foundation.
- 12 Judge: Uh, overruled. I'll hear the answer.
- 13 Dr. Glover: When I hear something like, proactive enforcement, I think of pretextual
14 stops, which is the idea of, uh, law enforcement, for instance, making a
15 stop on a relatively low level violation, with the, um, anticipation that there
16 might be a larger criminality involved. And, and that's what I thought of
17 when I hear about, uh, proactive policing.
- 18 Genser: And that proactive policing that we talked about, in, in the specific
19 incidence with Mr. Bonds, does that coincide with that idea of spatial
20 context that we discussed?
- 21 Dr. Glover: Um, it, it can, in the sense that, the social space that they were in, uh,
22 could've been considered a, a high, high crime area.
- 23 Genser: Um, okay. I wanna talk about officer Cameron's stated reason for the stop.
24 Um, Mr. Bonds asked officer Cameron if he turned around because he saw
25 two Black guys in a car, and officer Cameron responded that, that was part
26 of the reason for the stop. Uh, do you recall hearing that on the audio?
- 27 Dr. Glover: I recall hearing something like that. I'm not sure if he was asked if he did
28 that, or if Mr. Bonds was stating that happened.

- 1 Genser: W- would it help to take a look at the transcript?
- 2 Dr. Glover: Uh, sure.
- 3 Genser: I'm gonna show you, um, page two, um... and then it's, uh, it's starts right
4 around line 14.
5 You can just look at it.
- 6 Dr. Glover: I don't see the asking him, myself.
- 7 Genser: Um, Mr. Bonds says, I think, at one point, um, and I'll, I'll tell you the
8 exact parts I'm, I'm looking at. Um, he says, "I said, uh, you saw... uh, you
9 turned around, like, you saw two guys, like, two Black guys in the car,
10 obviously." That?
- 11 Dr. Glover: Yes.
- 12 Genser: And, when he's on the video, he's, sort of, phrasing that as a, as a question.
- 13 Dr. Glover: Okay. The, okay. So, on the video, it may have been obvious that it was a
14 question. Okay.
- 15 Genser: Um, and then, officer, um, Cameron responds, "Well, part of it. Um, the
16 hoodies up and stuff."?
- 17 Dr. Glover: Yes.
- 18 Genser: Um, you recall hearing that on the-
- 19 Dr. Glover: Yes.
- 20 Genser: ... on the video? Okay.
21 Um, based upon your training and experience, is this an example of racial
22 bias?
- 23 Dr. Glover: I would say, yes.
- 24 Genser: Um, how so?
- 25 Dr. Glover: The officer is agreeing with the statement or question having to do with the
26 stop, involving Black people in the car.
- 27 Genser: Is it an example of racial profiling?
- 28 Dr. Glover: I would say, yes.

1 Genser: How so?

2 Dr. Glover: Racial profiling is about imposing a criminal identity upon groups of color,
3 uh, sp- specifically Black and, and mix folks, uh, in particular. And this
4 goes along, along those lines.

5 Genser: Um, along with saying that, that race was part of the reason for the stop, he
6 also explains that they had their hoodies up, um, do you recall that part?

7 Dr. Glover: Yes.

8 Genser: Um, based upon your training and experience, is this an example of racial
9 bias?

10 Dr. Glover: Yes.

11 Genser: Uh, how so?

12 Dr. Glover: A hoodie is a piece of clothing, and it has, what we would call in
13 criminology, that piece of clothing, um, has been criminalized. Depending
14 on who wears it, um, it, it can draw attention and, uh, invoke some
15 thoughts of threat, if you will, depending on who's wearing it.

16 Genser: A- and so, if an officer says, I, I see two guys with hoodies up, can that be
17 an example of coded language?

18 Dr. Glover: Yes.

19 Genser: How so?

20 Dr. Glover: The officer is not having to map out or describe what a hoodie means.
21 There's an assumption that the hoodie means something about criminality
22 when it's connected to pat- uh, people of color.

23 Genser: Um, we, we talked earlier about the doing and the being of racial profiling,
24 how does this, that idea fit into Mr. Bonds' stop?

25 Dr. Glover: Uh, well, uh, clearly we're, you know, we're seeing the doing of racial
26 profiling, based upon my expertise, and the explicitness of the statements
27 from the officer. Um, there's also, in the video transcript, you know,
28 indication that Mr. Bonds is, uh, feeling some, I'm not sure if I can speak to

1 this, you know, it sounds, kind of, psychological, but he is concerned about
2 getting out of the car, for instance.
3 He makes a connection between getting out of the car for a traffic stop, so
4 he's, um, similar to the people I interview, experiencing some stress, under,
5 under that encounter.
6 Genser: A- and how does that, the encounter, fit in with the idea of procedural
7 justice?
8 Dr. Glover: Can you put that in a different way, sir?
9 Genser: Yeah, I, I mean, so, I... I still think maybe a better way to, to put it is, we
10 talked about the idea of, of being due certain rights, and then not receiving
11 those certain rights. Does this stop fit into that, sort of, a category?
12 Dr. Glover: In the sense that, um, the folks would be pulled over for a relatively minor
13 stop, don't expect to have such a large, um, uh, intrusion, uh, by the state,
14 in a sense it does, that we would feel we'd be protected from that, if I'm
15 understanding that question.
16 Genser: What about the idea that officer, um, officer Cameron tells Mr. Bonds that
17 he also is racially profiled, or profiled in East County?
18 Hearnberger: Objection, vague.
19 Judge: I'm not sure. Lemme hear what the witness' answer is, subject to motion to
20 strike.
21 Genser: And I suppose my question is, how did that play into your analysis?
22 Dr. Glover: Well, if we connect it to earlier idea of procedural justice, procedural
23 justice, I think it turn- you know, serves two functions. Uh, procedural
24 justice is, you know, on one level about being relational in a traffic stop,
25 uh, and saying, the officer saying that they have shared experiences with
26 Mr. Bonds, in that way, would, on some level, go to build this, uh,
27 relational condition, if you will, in the stop.
28 Um, bringing another aspect to it, um, and that is, if the officer can also say

1 they've experiencing these, they've experienced profiling, then it has the
2 effect of diminishing Mr. Bonds' experience with racial profiling,
3 specifically, which is, uh, well documented, uh, process. We have a lot of
4 data about racial profiling happening with communities of color, relative to
5 White communities.

6 Genser: And so, based upon your training and experience, that, the sort of, s-
7 subterfuge of telling Mr. Bonds that he's also racially profiled, and the
8 being, you know, overly nice, is, sort of, a guise to minimize the fact that
9 he's being racially profiled, is that accurate?

10 Dr. Glover: Um, generally I would say, yes. I would say, I'm not sure [inaudible
11 00:13:26], uh, guys, but I would clearly say that, it is, based upon my
12 understanding in racial profiling, an attempt to, uh, minimize the
13 experience of racial profiling.

14 Genser: And so, based upon all of your training and experience, you've, uh, you-
15 your book, your, uh, research, your writing, is this stop an example of
16 racial profiling?

17 Dr. Glover: I would say, yes.

18 Hearnberger: Objection, asked and answered. Foundation.

19 Judge: Overruled. You can answer.

20 Dr. Glover: Yes.

21 Genser: Thank you. That's all I have.

22 Judge: All right. Cross examination?

23 Hearnberger: Good afternoon.

24 Dr. Glover: Hi.

25 Hearnberger: Do you recall how long the body worn video recording was that you
26 viewed?

27 Dr. Glover: Oh, goodness.

28 Genser: I will stipulate that it's five minutes, and eight seconds, and it's the one that

1 is on Exhibit A.

2 Hearnberger: Thank you.

3 And, you read a report offered by officer Eysie, is that correct?

4 Dr. Glover: Yes.

5 Hearnberger: What's your understandin- uh, understanding of the roles of officer
6 Cameron and offr- officer Eysie during this stop?

7 Dr. Glover: Um, officer Cameron taking the... and if I say something technical, I don't
8 really mean to say something technical here, but I would say he's taking the
9 lead in the traffic stop, uh, with the other officer, uh, kind of, all along the
10 periphery, from what I can tell. Um, I'm not sure if the other officer was...
11 well, I'll leave it, I'll leave it there.

12 Hearnberger: Okay.

13 Did you talk to officer Cameron about this case?

14 Dr. Glover: No.

15 Hearnberger: Did you talk to officer Eysie about this case?

16 Dr. Glover: No.

17 Hearnberger: No further questions.

18 Judge: Any redirect?

19 Genser: No. Thank you.

20 Judge: I, I will ask just a couple of questions here, um-

21 Dr. Glover: Yes, sir?

22 Judge: ... you defined, uh, if my notes are correct, and I'm paraphrasing, 'cause I
23 don't write down exactly, but, when you were asked by Mr. Genser to
24 define racism, you said, a system of practices that essentially benefit
25 Whites to the disadvantage of minorities?

26 Dr. Glover: Yes, sir.

27 Judge: Um, now, my understanding of the dictionary definition of racism is that,
28 it's the unfair treatment of people belonging to a different race, so that

1 anyone can be a racist, is that correct?

2 Dr. Glover: No.

3 Judge: Explain why.

4 Dr. Glover: Racism is about power, and power is about being able to, um, get interest
5 met, even in the face of, um, contestation to that. It's really about being
6 able to have, um, access to resources, and it's not something that each
7 group holds equally. In our society, Whites hold power, have access to
8 resources, et cetera, in different ways than people of color.

9 Judge: So, I, and I, also, I know there's a tendency today to blur the definition of
10 racism, I mean, from an anthropological standpoint, racism refers to race
11 rather than ethnicity or nationality, correct? So, that-

12 Dr. Glover: Well-

13 Judge: ... if a person says, "I hate Japanese," or, "I hate Jews," or, "I hate
14 Christians," that's not racism, because they're referring, it's a form of
15 bigotry. Racism is one sub-class of bigotry, correct?

16 Dr. Glover: It's a complicated issue, but I'm agreeing [inaudible 00:17:09] with what
17 you're saying.

18 Judge: Yes. So, going back to, to what you just said, um, are you saying that, if a
19 person from a minority, let's say, his- uh, Hispanic-

20 Genser: Your honor, could the, could the court pull the [inaudible 00:17:22] closer?

21 Judge: ... I'm sorry, Hispanic or, or Black, or Asian says, "I hate all Whites."
22 That's not racism?

23 Dr. Glover: In the formal sense that racism involves issues of power, a person who is
24 not in the dominant group, which is the White group, they can say, I hate
25 the White group, but in their everyday-ness, they don't have the ability,
26 through their actions, to impact the lives of White people, in the sense that
27 White people, [inaudible 00:18:01] everyday actions, especially in, for
28 instance social institutions, like law enforcement, uh, to impact the lives of,

1 of people of color.

2 Judge: Okay. Uh, I mean I, I, I'm just surprised, because the dictionary definition,
3 for example, I have here the Oxford, uh, Dictionary, "racism: the unfair
4 treatment of people belonging to a different race."

5 Genser: Now, could the court cite the year?

6 Judge: There's no year there. But I'll give you another definition, American
7 Heritage Dictionary, discr- uh, "racism is discrimination or prejudice based
8 on race." And another, uh, uh, definition is that, the [inaudible 00:18:39]
9 race accounts for differences in human character or ability, and that a
10 particular race is superior to others.

11 So, I mean, none of the different, no dictionary that I'm familiar with,
12 defines racism as belonging to one class of people. Just, it's just
13 discrimination or, or hatred of another race, so that's why I asked the
14 question.

15 Your definition appears to be different from the dictionary definition.

16 Dr. Glover: I, I study racism, sir. Yes.

17 Judge: Yeah?

18 Dr. Glover: Mm-hmm.

19 Judge: Okay. No, I mean, I've, for example, I've had gang cases-

20 Dr. Glover: Mm-hmm.

21 Judge: ... where Hispanics and Blacks are fighting each other, and the Hispanics
22 refer to, if you excuse my language, niggers, and, and the Blacks use, um,
23 discriminatory language against Hispanics. Neither of them would be
24 considered Caucasian. But, um, it seems to me that, that kind of language
25 would fall under the classification of, of bigotry, would it not?

26 Dr. Glover: Bigotry, yes, sir.

27 Judge: Okay. All right. Um, anything else from either side?

28 Hearnberger: No, Your Honor.

1 Genser: Yes, Your Honor. Um, in my brief I, I, uh, supplied the court with Exhibit
2 A, which is an excerpt from a book, uh, written by Ms. Oluo, O-L-U-O. In
3 that book, she defines racism as, "being prejudice against somebody
4 because of their race, when those views are reinforced by systems of
5 power."
6 Would you agree that, that's an accurate definition?
7 Dr. Glover: Yes, that's more full definition.
8 Genser: Um, it sounds a little bit like, what the judge was talking about, is the idea
9 of prejudice versus the idea of racism. A, a person of any race can have
10 prejudice against a person of another race, would you agree?
11 Dr. Glover: Yes.
12 Genser: But not any race can, can be racist?
13 Dr. Glover: Correct.
14 Genser: That might be a double negative. I suppose I should be more specific.
15 Judge: Well, actually, it's an interesting discussion, but the statute refers to bias,
16 not racism.
17 Genser: It's racial bias. Would you agree that racism and bias are similar situated
18 topics? Racism ex- is an example of bias?
19 Dr. Glover: Yes, and I would, if I may, make the distinction that, discrimination is
20 action, prejudice is, having an attitude, I hate all Japanese. Those are
21 distinct issues. One is action, that can actually impact the everyday lives of,
22 of people of color.
23 Judge: I mean, the language, while the witness is still here, I just wanna... ha- have
24 you read the language of penal code, section 745? With regard to what it
25 prohibits?
26 Dr. Glover: No.
27 Judge: Okay. So, let me just read it, 745(a) says, "The state shall not seek or
28 obtain a criminal conviction, or seek, obtain, or impose a sentence on the

1 base of race, ethnicity or national origin. A violation is established if the
2 defendant proves, by a preponderance of the evidence any of the
3 following;"

4 And then what's an issue here, uh, is sub-paragraph one, um, it starts out
5 the judge and attorney in the case, and this is the critical language here, "a
6 law enforcement officer involved in the cases, and expert witness or a
7 juror," and then it says, "this is the conduct, exhibited bias or animus
8 toward the defendant because of a defendant's race, ethnicity, or national
9 origin." So, that's the language the statute uses.

10 Now, I'm not sure if the legislature was in tune with all of the sociological
11 research when they wrote that, but-

12 Dr. Glover: Okay. And correction. I have read that, sir. I'm sorry.

13 Judge: Okay.

14 Dr. Glover: ... once you started reading it, I realized that's... Okay.

15 Judge: Yeah. No. So, so, I'm saying, it doesn't mention the term racism per se, it
16 just says, a bias or animus, because of race, ethnicity or national origin.
17 Um, and that was your understanding?

18 Dr. Glover: Yes. My understanding is, they're referring to communications or actions
19 based upon racial bias.

20 Judge: All right. So, someone, this is a hypothetical, I'm not suggesting this
21 applies in this case.

22 Dr. Glover: Mm-hmm.

23 Judge: But somebody, hypothetically, could express a bias against someone based
24 on race... I'm sorry... based on race or ethnicity or national origin in one
25 situation, and not express it in another situation, and that person would not
26 be labeled a racist. A racist implies a very sweeping character, um, um,
27 trait, right?

28 Somebody who's a racist, usually is not a racist one day and not a racist the

1 next day?

2 Dr. Glover: I would agree with the last part of that, yes. In my work, we're not so much
3 interested in identifying racists, we're interested in understanding the
4 system of racism, as it applies to our everyday-ness.

5 Judge: Okay. All right. Okay. Thank you.

6 Genser: I, I have some-

7 Dr. Glover: Thank you, sir.

8 Genser: ... I have some concerns about the court's line of questioning, that I just,
9 sort of, wanna clear up. And I wanna, sort of, talk a little bit about the idea
10 of race. Um, and, and by and large, people identify their race as it's based
11 on the U.S. census, isn't that accurate?

12 So, we have, so the censuses... I'm gonna [inaudible 00:24:03] sort of, clear
13 about my question. The U.S. census does not have a section for Hispanic,
14 is that right? That's an ethnicity.

15 Dr. Glover: I, I don't remember the last form, but, uh, I know that we have many
16 options now that we can, were actually expanded. I think in 20-uh, 2020
17 they may expanded the numbers of identities people could mark. Uh, but,
18 Hispanic, Latino is an ethnicity, yes.

19 Genser: Right. But, Hispanic, traditionally, has not been considered an
20 individualized race?

21 Dr. Glover: Correct.

22 Genser: And so, often people of Hispanic background will identify as White?

23 Dr. Glover: Yes, the, because they weren't given another option, yes.

24 Genser: Right. And then, as the sub text to be, to identifying as White, they will
25 say, I am Hispanic, or they will say, depending upon, Hispanic implies
26 coming from Spain, I believe? It doesn't fit Brazil. Brazil people are Latin.

27 Judge: That's Portuguese.

28 Genser: Right. It, so, Brazil people are Latin, Mexican, Ecuadorian, Colu- people

1 from Colombia are Hispanic, is that accurate?

2 Dr. Glover: Well, um, I don't know if you want to go into a whole lecture here, but, uh,
3 part of what we do is, identify what, with some exceptions, um, cultural
4 practices of a group that we call Hispanic, or Latinx, and Spanish language
5 being one of the, kind of, collective measures, even though, as you're, uh,
6 distinguishing all those countries, they could have, be in cultural
7 experiences and histories, but, uh, uh, somewhat, unfortunately, they all get
8 looped together.

9 Genser: And so, sometimes this phrase, racist, that the judge was using, can it, can
10 be, can refer to disparaging a person of a certain ethnicity, not necessarily
11 race as well?

12 Dr. Glover: Yes.

13 Genser: So, you can be racist against a Hispanic person, who identifies as White, is
14 that correct?

15 Dr. Glover: Yes, if I'm understanding your question.

16 Genser: Or, for example, people from... there's no option a- among the list races for
17 people from, like, Saudi Arabia, but that is a very specific ethnicity, right?

18 Dr. Glover: Yes.

19 Genser: And the statute that the judge read to you, covers both race and ethnicity.

20 Dr. Glover: Which is what we, we do sometimes, is, we sometimes are using those
21 words interchangeably, and because we, we'd say that, ethnicity has been
22 racialized.

23 Genser: Here is part of my concern with the court's line of questioning that I wanna
24 ask you about. The question of, like, can White people be ra- can Black
25 people be racist against White people? I think your response to that was,
26 no?

27 Dr. Glover: Right. In my understanding of what racism actually is, no.

28 Genser: And it is one of the theories, sort of, offered, by White supremacy, that

1 Black people are being racist against them, isn't that accurate?

2 Dr. Glover: We do have, uh, the notion of reverse discrimination. I'm not sure if that's

3 what you're referring to, but...

4 Genser: Yes. Um, but based upon the definition we discussed today, reverse

5 discrimination is, it's not a thing?

6 Dr. Glover: I would say it is not a thing, based upon the expertise.

7 Genser: Thank you.

8 Judge: I, I just wanna make clear, since the witness is here, that, um, I understand

9 the language of the statute, and I'm just trying to correlate the witness'

10 testimony with what the statute says. So, a- a- according to my

11 understanding, where it says, this is an example of bias, "The judge, an

12 attorney in the case, a law enforcement officer involved in the case, an

13 expert witness or juror exhibited bias or animus toward the defendant,

14 because of the defendant's race, ethnicity or national origin." That statute

15 would apply, for example, to a Black judge, sh- discriminating against the

16 White defendant.

17 There's nothing in the statute that limits the application of this to any

18 particular race or ethnicity or national origin. Anyone is capable of

19 violating it.

20 Genser: While I think academically that might be true, I, I don't think that, that's

21 particularly pithy to this hearing.

22 Judge: Well, no. I mean, I have to go by what the words of the law say. So-

23 Genser: I-

24 Judge: ... and it's not going affect my ruling in this case, because we don't have

25 that issue raised, but I'm only exploring it because of the wit- witness'

26 interesting testimony. So, I'm not suggesting it's relevance in my ruling.

27 But, I don't see anything in the statute that, that precludes any person, of

28 any ethnicity, from violating it.

1 Anyway.

2 Genser: I, I think that might be true. And I also note, you know, that the court

3 asked, previously, about whether or not it would matter if the officer were

4 Black or White, and I don't think it would, under the statute.

5 Judge: Yeah. No, I, I, I agree. I agree.

6 Okay. Thank you, very much. I'm sorry to keep you through the lunch

7 hour, but, at least we finished. We don't have to have you come back this

8 afternoon.

9 Dr. Glover: Okay. [inaudible 00:29:08] sir, thank you very much.

10 Judge: All right. Thank you. You may step down.

11 All right. Any other witnesses from the defense?

12 Genser: No, the defense rests.

13 Judge: Any-

14 Genser: I'm sorry, rests subject to the admission of exhibits.

15 Judge: Yeah, let's go through that, and I wanna make sure nobody walks out with

16 any of the exhibits. I wanna make sure I know where everything is.

17 All right, let's start [inaudible 00:29:30]. We received A, where is

18 defendant's A?

19 Genser: I have it right here.

20 Judge: Okay. Um, defendant's B-

21 Genser: I think B and C are up there. Don't worry, I'll grab 'em.

22 Judge: Defendant's B is a bibliography, where is that?

23 Genser: [inaudible 00:29:46].

24 Judge: For, um-

25 Genser: Here. And map C is here, I just get those to you.

26 Judge: Ye- yes. Any objection to B? Bibliography?

27 Hearnberger: No objection. Well, yeah. No objection.

28 Judge: Defendant's B is received.

1 Um, any, let's see, the next one is defendant's C, which is the map. Any
2 objection?

3 Hearnberger: No objection.

4 Judge: All right. That's received. And, let's see, people's one is the transcript. Any
5 objection to that?

6 Genser: No.

7 Judge: All right. That's received. And where is that? People's one?
8 Okay.
9 People's two and three have been rec- uh, two and two A, have been
10 received. The DVD and the, a different transcript. You have those there?
11 Judge: Where is two A? Maybe I have it. Let's see. Yes, I do. Here's two A.
12 Let's see...
13 Okay. Um, and that covers all the exhibits. All right, so, defense rests?

14 Genser: Yes.

15 Judge: And, any additional evidence from the people?

16 Hearnberger: Uh, Your Honor, I would just ask the court to take judicial notice of penal
17 code, section 25850, sub B, which talks about the authority to search a
18 vehicle when there's a firearm involved.

19 Judge: What's the section again?

20 Hearnberger: 25850, subdivision B.

21 Judge: I don't know if it's necessary to take judicial notice of it, since it's a statute,
22 you can simply argue with... there's plenty of case law, um... I do all the
23 15385 motions, so I'm familiar with all the case law in the area of, of
24 searching for weapons. Michigan vs. Long, and there's a whole list of
25 cases, so, I'm not sure that it's necessary. But, let me take a look at the
26 statute.

27 Genser: Wait, what, what's the code section?

28 Hearnberger: 25850.

1 Genser: Vehicle code?

2 Hearnberger: Penal.

3 Genser: Oh.

4 Judge: All right, it's entitled carrying a loaded firearm in public. Examination of
5 firearm by a peace officer.

6 All right, I, I will look at that statute, I don't wanna take... it's a lengthy
7 statute, I don't wanna take the time to read it now.

8 Uh, any other evidence from the people?

9 Hearnberger: No, Your Honor.

10 Judge: All right. So, the normal practice I follow, um, is I have the party with the
11 burden of proof argue first, and also have a last word in rebuttal. So, um,
12 feel free to address the court, Mr. Genser and then I'll hear from, uh,
13 defense co- uh, the people.

14 Genser: Um, here's what I wanna talk about, as far as it goes with this, uh, this
15 hearing, and I wanna start by, sort of, giving the court, what I think is an
16 example.

17 Um, when I was a kid, when I was, I don't know, 16 years-old, I was, I got
18 in trouble in school, I got in-school suspension. Um, I grew up in
19 Connecticut, sort of, a bastion of liberalness, um, and when I got in trouble,
20 my school had 1,200 kids, I got in-school suspension, and there were four
21 Black kids at the school, and all four of them were in-school suspension.

22 And, at the time, I thought nothing of it. I said, that's that. That's the way
23 life goes. And it has, many years have passed since then, where I have
24 since realized the obvious racism of it. The obvious racism of it. And, what
25 I needed, at 16 years-old, was an expert. I needed an expert to come in and
26 point out that this is clearly, obviously racist.

27 Now, I understand that the school could come in and make up some BS
28 story about why these kids are bad, and what they did. And, they're gonna

1 have a story. They always have a story. But the fact of the matter is, we
2 rely on expertise in order to tell us what's what.

3 The court has heard three un-contradicted experts. I wanna go back to, um,
4 penal code, section 745 for a second, where it talks about the presentation
5 of evidence, um, under c-1. And it says, both sides are permitted to present
6 experts. The, the prosecution has the opportunity to come in and bring in
7 their own experts. They have an opportunity to present their own reports,
8 showing what a great non-biased job the police have.

9 But, the fact of the matter is, there aren't any. And there are no experts out
10 there that are gonna say what the prosecution would like for them to say.
11 Um, this court should rely on the experts. They are professionals in their
12 field. In police practice, you heard that this was a biased stop. Statistically,
13 you heard that this was a biased stop. And, from a racial profiling expert,
14 you heard that this was a biased stop.

15 And, contrary to that, you have officer Cameron, who is testifying up there
16 with an absurd, shaking voice, looking like he was about to cry, because
17 he's being questioned about the things that he did, about the choices he
18 made, about his own poor behavior. His own racism.

19 And that's what it is. What, what we saw on that video, from officer
20 Cameron, is racism. Plain and simple. Clear as day. When someone tells
21 you who they are, believe them. Officer Cameron told you who he was on
22 the video, and he has had months between our last hearing and today, to
23 come up with some absurd, absurd story.

24 Um, I did a hearing in front of Your Honor, where a BOLO went out, a, a
25 be on the lookout went out for a person from a car jacking, and the BOLO
26 was looking for a Black woman, with a blond weave, wearing purple plaid
27 pants. And the officers used that BOLO to stop my client, who was a Black
28 woman, with a black weave, wearing black pants. And the court ruled in

1 that case that there was absolutely no evidence of racism.

2 But what the court said was, if I saw racism, I would come down hard on
3 that person. Everyone knows what this is. Everyone knows what it is. The
4 question becomes, do we have the courage to do the right thing? The city
5 does not. For a long time in this trial, we had Mr. Doyle in the back seat, in
6 the back row, with the, the District Attorney's office, trying to see how this
7 court is gonna rule on a motion like this, where the cop tells us he's
8 stopping this guy for bias, and he wants to know whether or not he can go
9 back to his officers and say, "Guys, it's okay. Business as usual."

10 It's not business as usual anymore. That's what this law is. It's not business
11 as usual in San Diego. It is not the era of Wren. It's the era of justice, and
12 this court should start leading that. This court has to do the right thing. The
13 court should grant the motion.

14 Um, I wanna talk about one final thing, um, since the court has indicated it
15 does not intend to rule today, and I wanna talk about remedy. Um, the
16 court has indicated that, under the remedy section, uh, subsection one talks
17 about what happens before a judgment, and subsection two talks about
18 what happens after a judgment. And, what the court has intimated in the
19 past is that, in the court's mind, because there's these two options, you have
20 to choose one of those.

21 Judge: Well, no. No. Let me stop you there. E, E four says, the remedies available
22 under this section do not foreclose any other remedies available under the
23 United States Constitution, the California Constitution or any other law.

24 Genser: I agree. And what the court has stated in the past, actually at the prima
25 facie hearing, was that, well, this is a h- this hearing is taking place before
26 judgment, so I must apply the remedy from subsection one. If that were
27 true, the c- there would never be a situation where subsection four applies.
28 And that would mean that the, the legislature has, essentially, written in a

1 nullity.

2 That cannot be the case.

3 Judge: No, I agree. I, I, I, I agree. I didn't mention four, but it was a passing
4 thought at the prima facie hearing, but I understand that four-

5 Genser: There is-

6 Judge: ... had just as much power as the other sub sections.

7 Genser: Any remedy, short of dismissal, is going to be a message from this court
8 that, this will be a slap on the hand. That, we're not gonna punish you for
9 what is obvious racism.

10 Judge: What other remedies would there be at this stage?

11 Genser: I, I, I can, I could think of other ones that I could fashion, to be perfectly
12 honest with you.

13 Um, but, I don't think that, that's my role. I think that the remedies are
14 defined in there, and I think that the court should consider dismissal. I
15 think the court should grant it. I'll submit.

16 Judge: Okay. Thank you, Mr. Genser. Let me hear from the people.

17 Hearnberger: Thank you, Your Honor. It's the defense burden in this case, and, given the
18 testimony we heard today, I don't see that we're in a much different
19 position than we were at the initial hearing.

20 We still have the defense insisting that, what officer Cameron said was an
21 explicit, uh, explicit evidence of his bias. And it's simply not the case. So,
22 first of all, starting with, the, the experts we heard from today, did not...
23 well, let's start with, uh, Ms. Mohr.

24 She wasn't even sure which officer was which, she didn't speak with the
25 officers about the case, she was unsure of the actual words that were used.
26 So, her, and obviously she can't read officer Cameron's mind. So, she really
27 didn't add anything, uh, anything to what we already had in the record,
28 from the prior hearing.

1 Um, she, she's talking about her opinion of how she would take the
2 statement. Um, she doesn't know anything about officer Cameron and other
3 stops that he's been involved with.

4 Um, she didn't recall sp- specifics about them mentioning the license plate.
5 Both the defendant and officer Cameron, what they both recognized each
6 other, and recalled that this had come up before. They had interacted about
7 it before.

8 So, her review of the case was limited. She had, didn't have a full
9 understanding of the facts of the case, and she certainly can't opine on
10 officer Cameron's, uh, state of mind.

11 Uh, the last expert we heard from talked about her research, and a lot of, a
12 lot of terminology, and a lot of things that she has found when she's talked
13 to people. But that does nothing to inform us about this traffic stop.

14 She also didn't speak with officer Cameron or officer Eysie, overview any
15 more than that initial five minute body worn clip. So, while she said it was
16 consistent with the research that she's done, and the folks that she's talked
17 to, um, it's, that's all that she said.

18 Um, and again, she wouldn't be able to offer an actual opinion as to officer
19 Cameron's, uh, thought process, at that time.

20 Uh, doctor Chanin provided some information about some other studies
21 that he has reviewed, but mostly talked about his study, which, I think, the
22 results of which were inconclusive, at best. They cer- shertainly, certainly
23 showed some disparate traffic stops in 2014, but 2014 and 2015 taken
24 together, um, didn't show, uh, much of a disparity.

25 And, at any rate, we're six years out from when that study was published.
26 So, the testimony of these three experts really has not added much, if
27 anything, uh, to the court's analysis here.

28 What we still have is, the five minute video of the a- initial reaction,

1 excuse me, between the defendant and officer Cameron, as well as officer
2 Cameron's testimony. And officer Cameron looked a little nervous on the
3 stand, I think anyone in his position would be, given the accusations that
4 the defense is throwing at him, that he's a racist.

5 He got on the stand, and he explained, we have some additional context for
6 this video. "When the defendant accused me of pulling him over because of
7 his race, I don't want that situation to escalate. I don't want people to get
8 agitated." So, he said, I think the term he used is, "I'm gonna nip it in the
9 bud right there."

10 So, he's, he deflects the comment, and he provides a different explanation
11 for that. And he explained his thought process, and the reasons he did
12 things today. He explained why he told the defendant, "Look, I get pulled
13 over too." It's a de-escalation technique. He's not trying to get the person
14 agitated or angry or upset with him. He's trying to keep the status quo, and
15 make sure everyone's safe, and the traffic stop goes smoothly.

16 Now, the defense is... there's been a, a fair amount of talk about, in this
17 case, about, when the defendant said, "You stopped us, or followed u-
18 followed us," at least, initially, "... you followed us because we're black."
19 And the officer doesn't say, "No, sir." He says, "Well, the hoodies up and
20 stuff, and, uh, part of the climate that's going on in the city these days."
21 Referring to a lot of violence in the area of this traffic stop.

22 It's easy to second guess, and say, oh well, if someone accused you of
23 stopping them cans, 'cause of their race, you would just say, "No, sir.
24 Absolutely not." Well, the officer explained why that wasn't, why he didn't
25 choose those words, because that's not going to probably be received well.
26 So, he answers in a little more of a gentle fashion, and he o- he gives his
27 explanation for why he followed.

28 Now, when we're looking at this traffic stop, we're looking at a, a polite

1 interaction, the defendant's calm and respectful, the officer is calm and
2 respectful. Uh, they talk about the traffic violation, they talk about, he
3 excha- or hands over his driver's license. It's all pretty routine. They make
4 some small talk about school, and the officer asks about firearms.

5 The defendants are honest and says, there's a firearm in the car. Now,
6 under... the defense didn't argue, uh, just now about it, but seemed to
7 suggest, in his questioning of the officer, that, he had no legal basis to go
8 into the car to get that firearm, but 25850 B, of the penal code, explicitly
9 provides that authority. Just because a firearm is, was lawfully purchased
10 or possessed, doesn't mean it's lawfully carried.

11 As in, it could be carried concealed in a vehicle, which is a misdemeanor,
12 or, loaded in a vehicle, which is a misdemeanor.

13 I think it's significant that, when the defendant tells officer Cameron there's
14 a firearm in the vehicle, officer Cameron stays completely calm, he doesn't
15 start yelling orders, he doesn't tell him to put his hands on the dash, he
16 doesn't pull out his gun and say, "If you move, I'll shoot."

17 Now, the defense wants this court to believe that officer Camcron is a
18 racist. And yet, when a Black man says, "I have a gun in the car," this
19 supposed racist doesn't bat an eye. He continues to remain calm, polite,
20 respectful. And he says, "Okay, where is it?" They talk about it. "Okay, put
21 your stuff on the dash, I'm gonna have you get out."

22 He doesn't haul him out of the car. Those are not the actions of a racist
23 officer.

24 Now, when he thinks the discussion about race is over, for the, at least for
25 the time being, the defendant is, gets out of the car, he's placed in
26 handcuffs, and there's a pat down. And then, the defendant brings race up
27 again. And this time, the officer says, "No, it's not that." He haso- he has
28 him, he pats him down, he's sitting him on the, uh, bumper of the patrol

1 car, and he says, "It's not that." He looks him in the eye, and he tells him
2 that.

3 And then, when the defendant brings it up again, the officer says, "Well,
4 look. We can agree to disagree." So, he's, we have this, at best, vague
5 statement at the outset of the traffic stop, in response to the accusation of,
6 of racial bias, and then we have two unequivocal denials.

7 Now, moving on to the subsequent conduct in the stop, and I thought it was
8 important for the court to hear that, because, again, the allegation in this
9 case is not that officer Cameron doesn't know any better, and he has
10 implicit bias, and it was a subconscious thing. The allegation in this case is
11 that, officer Cameron is racist.

12 And the way he treated the defendant throughout this traffic stop is,
13 absolutely shows that, that is, the defense allegation is not true.

14 Judge: I, I'm going to correct one thing, you, you said that a couple of times, and I
15 think I made clear, earlier, and in my discussion with doctor Glover, that,
16 the statute focuses on a particular course of conduct in a particular moment
17 in time. So, my ruling is not, in any way, whether or not the officer is a
18 racist, only whether or not I believe it's been proven that he exhibited bias
19 because of the defendant's race on this particular occasion.

20 So, I just wanna make that distinction. I'm not labeling anyone.

21 Hearnberger: I understand, Your Honor, but I, I do, I am addressing the defense
22 allegation, and, um, they, they were stating that his actions showed that
23 he's racist, and obviously bias would fall under that category.

24 I'm focused on the way he treated the defendant during his stop, and that it
25 shows he's not bias. He takes the time... the defendant wants to talk, once
26 he's been arrested, he takes the time to talk to the defendant, and you can
27 see in the recording, he's saying, "Look, it's not that big a deal, you're still
28 gonna be able to finish school. You're gonna be able to bail out. This is not

1 the end of the world. I'm gonna take care of your car for you."
2 Those are not the actions of a, of someone that's biased. Of someone's,
3 that's racist. If he was biased, if he was racist, and the defendant wanted to
4 talk, he'd say, "No, you're under arrest because you had a concealed
5 firearm, we don't need to talk. You're, we're going downtown."
6 He took the time to talk to h- with him, he took the time to explain things
7 to him, he showed him respect. Then he also says, "I'm gonna make sure
8 your car is taken care of." He lets them make arrangements for his car.
9 These are not the actions of a racist officer, of a biased officer.
10 All the de- when, this all comes down to, what, what is, evidence the
11 defense has, is some experts that know nothing about this officer, know
12 nothing about his day-to-day, uh, what he's doing on a day-to-day basis, in
13 the line of duty, haven't talked to this officer about this stop. The defense is
14 still driving home this theory that, when he says, "Well, the hoodies up on,
15 and everything," is a statement of, an admission of explicit bias. And the
16 evidence is just not there.
17 The court has heard officer Cameron's testimony, is able to observe the
18 context in the video, observe his actions, and how he handled this stop.
19 And defense has not met their burden, it's not more likely than not that
20 officer Cameron acted with any bias due to the defendant's race.
21 Judge: All right. Thank you.
22 Heamsberger: Thank you.
23 Judge: As I promised, I'll give you the last word, Mr. Denser.
24 Genser: Submitted.
25 Judge: Okay. Um, I will do my ver- I have a lot to think about, a lot to re-read. I
26 will do my best to get a ruling out as quickly as possible. I can safely say,
27 it's not gonna be this week. Um, but hopefully by next week I will be able
28 to issue a written ruling.

1 And, I appreciate the hard work, both sides, that went into this. So, we will
2 be in recess, and, uh, you'll be receiving my ruling shortly.
3 Hearnberger: Thank you very much, Your Honor.
4 Genser: Thank you, Your Honor.
5 Hearnberger: Thank you.
6 Judge: Thank you, counsel.
7 Clerk: And, Your Honor, as to the readiness hearing that is currently set, are we
8 confirming that?
9 Judge: What date is it?
10 Clerk: That is November 22.
11 Judge: Yeah. For, for now, that date remains.
12 Clerk: Thank you, Your Honor.
13 Hearnberger: Thank you.
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Exhibit G

SUPERIOR COURT OF CALIFORNIA

County of San Diego

DATE: November 9, 2022 DEPT. 2102 REPORTER A: CSR#

PRESENT HON. HOWARD H. SHORE

JUDGE

CLERK: C. Imperial

BAILIFF:

REPORTER'S ADDRESS: P.O. BOX 128

SAN DIEGO, CA 92112-4104

M280282

THE PEOPLE OF THE STATE OF CALIFORNIA,
By: Taylor Hearnberger, Deputy District Attorney

vs.

TOMMY LEE BONDS, Defendant.
By: Abram Genser, Deputy Public Defender

EX-PARTE MINUTE ORDER

The matter that was taken under submission November 3, 2022 is now ruled on. **SEE ATTACHED** Statement of Decision on Defendant's motion for relief under the Racial Justice Act (Penal Code Section 745(a)(1)).

Defendant remains at liberty on OR.

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FILED
NOV 09 2022
By: G. [unclear]

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
CENTRAL DIVISION

THE PEOPLE OF THE STATE OF CALIFORNIA,	} Case No.: M280282
Plaintiff,	
V.	} STATEMENT OF DECISION ON DEFENDANT'S MOTION FOR RELIEF UNDER THE RACIAL JUSTICE ACT (PENAL CODE SECTION 745(a)(1))
TOMMY LEE BONDS,	
Defendant.	

The Court, having conducted a hearing pursuant to Penal Code Section 745(c)¹, finds as follows:

I. INTRODUCTION

Defendant's pre-trial motion requires this court to determine whether defendant has proven a violation of subdivision (a) by a preponderance of the evidence. Specifically, Defendant alleges that a law enforcement officer involved in the case has exhibited bias or animus towards the Defendant because of Defendant's race, as set forth in Section 745(a)(1). Before addressing the merits, however, this court will make several observations regarding application of the statute.

¹ All further references are to the Penal Code unless otherwise noted.

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A. Timing and available remedies

This is a pre-trial motion. At the *prima facie* hearing on this motion, this court noted that Section 745(e)(1) sets forth available remedies for a violation found before judgment is entered, and that dismissal of the underlying charges is not included as a remedy. Defense counsel contends that section 745(e)(4), by not foreclosing other remedies, would in fact permit such dismissal in the furtherance of justice. Without resolving that issue here, this court simply notes that one of a number of issues of statutory interpretation that will have to be resolved in the appellate courts is whether the specific pre-judgment remedies set forth in Section 745(e)(1) are exclusive, or whether 745(e)(4) allows for additional pre-judgment remedies.

B. Application of Section 745(a) to certain law enforcement activity

The conduct prohibited by section 745(a) is set forth as follows: "The state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin." Section 745(h)(4) defines "state" as the Attorney General, a district attorney, or a city prosecutor. It makes no mention of law enforcement. However, Section 745(a)(1) declares that a violation is established if the defendant proves by a preponderance of the evidence that "...a law enforcement officer involved in the case...exhibited bias or animus toward the defendant because of the defendant's race, ethnicity, or national origin." Thus, an additional issue for the appellate courts will be whether conduct by an officer before the "state" becomes involved can be a basis for a violation if there is no evidence of bias once a prosecutorial agency begins its participation.

This is the situation in the case before the court here, i.e., the challenged law enforcement conduct occurred before prosecutorial involvement. However, because the City Attorney has not raised this issue, this court will assume the statutory language applies to conduct occurring before state involvement.

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C. Rules of evidence

Section 745(c) provides that either party may present evidence "...including, but not limited to, statistical evidence, aggregate data, expert testimony, and the sworn testimony of witnesses." However, the section does not provide any guidance to the court regarding criteria for admissibility. In contrast, former Section 1170.95 (now 1172.6), governing homicide resentencing hearings, specifically states that, with enumerated exceptions, the Evidence Code shall govern the admissibility of evidence at the hearing.

Without such statutory guidance, this court finds that Evidence Code section 300 applies. It states that the Evidence Code applies to every action in superior court except as otherwise provided by statute. In addition, Evidence Code Section 2 states that the Code's provisions "are to be liberally construed with a view to effecting its objects and promoting justice." Consequently, all of Defendant's proffered studies and articles were received without an extensive foundational hearing for each, with the court indicating it would simply weigh the evidence and give each study whatever weight it deserved.

II. THE EVIDENCE

Defendant's evidence can be classified in three categories: 1) Studies and articles containing statistical data, 2) expert testimony, and 3) the testimony of San Diego Police Officer Ryan Cameron, along with the body worn camera footage of his interaction with Defendant.

A. Defendant's exhibits

Defendant offered and the court received Defendant's Exhibit A, a thumb drive containing studies, articles, statistics, and the body worn camera footage of the

1 incident in question; Exhibit B, a three-page bibliography describing publications by
2 witness Beth Mohr; and Exhibit C, a map of the incident location.

3 Generalized statistics can lead to possible inferences regarding a law enforcement
4 officer's state of mind based on perceived patterns of behavior, but such statistical
5 evidence cannot by itself prove the state of mind of a particular law enforcement
6 officer on a specific occasion. The type of statistics that *can* assist the court in regard
7 to a particular officer, for example, might consist of that officer's past enforcement
8 activity. For example, if an officer's own history demonstrates a pattern of bias in
9 past encounters, such information might be useful in determining that officer's state of
10 mind on the occasion in question, as a form of character evidence. But there is no
11 way for a court to draw such conclusions from general statistics without speculating
12 whether a particular officer's conduct on a specific occasion falls within those
13 statistics and any conclusions based on such statistics.

14 B. People's exhibits

15 The People offered People's 1, a transcript of the body worn camera footage, and
16 People's 2 and 2A, a DVD and transcript of the officer's post-arrest interaction with
17 Defendant.
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19 C. Testimony

20 Defendant called four witnesses. No additional witnesses were called by the
21 People. Beth Mohr testified as a police practices expert. Her testimony included her
22 opinion that the officer's behavior in this case was consistent with racial bias. Dr.
23 Joshua Chanin testified as an expert and discussed the significance of various
24 statistics, as well as recommendations he has made to law enforcement to avoid bias
25 in police contacts. Dr. Karen Glover testified as an expert and discussed various
26 terminology and concepts applicable to the subject of racial profiling and racism in
27 general. Defendant called Officer Ryan Cameron as a witness and questioned him
28 extensively about his interaction with Defendant.

1 Certain expert testimony expressing the opinion that Officer Cameron's behavior
2 toward Defendant was consistent with racial bias and profiling was based in part on a
3 review of the body worn camera footage and police reports of the incident that
4 resulted in Defendant's arrest. Because the expert testimony interpreting the available
5 evidence conflicts with Officer Cameron's testimony, and because the experts did not
6 speak with Officer Cameron personally before testifying to their opinions, it is
7 important to note those conflicts in reaching a decision here.

8 Ms. Mohr testified that, in her opinion, the initial interchange between the officer
9 and the defendant constituted an implied admission by the officer that the stop was
10 based in part on race. On page 2 of P's 1 (BWC transcript), line 13, Defendant says,
11 "But why you, pulled over, you turned around, like you saw two niggas in the car
12 probably." And at line 16, "...we saw you turn around like you saw two guys, like,
13 two Black guys in the car obviously." Officer Cameron responds at line 18, saying,
14 "Well part of it, the hoodies up and stuff..." At line 20, the officer continues, "...the
15 climate of everything that's going on in the city these days..." And at line 21,
16 Defendant responds, "...Nah, that makes sense..."

17
18 Ms. Mohr testified that the officer's response constituted an admission that part of
19 the reason for the stop was because of Defendant's race. Officer Cameron, on the
20 other hand, testified that when he conducted the stop, he did not see that the men in
21 the car were Black until he approached them after stopping the vehicle. He testified he
22 only saw the hoodies, and that there had been a great deal of violence during that time.
23 He testified that he had formerly worked in the gang suppression team, now renamed
24 the special operations unit. He testified he made the stop after observing a rear license
25 plate violation.

26 In reaching her conclusion that Officer Cameron was demonstrating racial bias and
27 engaging in racial profiling, Ms. Mohr also referred to Officer Cameron's statements
28 on page 3 of People's 1, where he responds to defendant's suggestion that he was
pulled over because he's Black, and asking if the officer pulls over white people like

1 that. The officer responds by telling defendant that he (Officer Cameron) gets pulled
2 over in East County all the time. Ms. Mohr testified that the officer's statements
3 implied that he too has been profiled in East County, and, therefore, he was impliedly
4 admitting that he was racially profiling the defendant when he stopped him.

5 However, Officer Cameron testified that what he told defendant about being
6 stopped in East County was not true, and that he made up the story in order to de-
7 escalate the situation. He testified that although this approach was not part of his
8 formal training, he has found from past experience that making up such stories when a
9 defendant "plays the race card" can be an effective way of letting the person know
10 you identify with what he's saying in order to avoid an escalation.

11 CONCLUSION

12
13 This court can only conclude Defendant has proven by a preponderance of the
14 evidence that Officer Cameron exhibited bias or animus because of defendant's race if
15 it concludes that officer Cameron lied when he testified that he didn't know the
16 occupants of the vehicle were Black before he stopped the vehicle. The record reflects
17 that the officer's interaction with defendant was courteous and respectful. His
18 interaction with Defendant after the arrest, as depicted in People's 2, was professional
19 and sympathetic with defendant's concerns about school. There is nothing in the
20 record that would support a conclusion that Officer Cameron committed perjury when
21 he testified at the hearing. Therefore, it is not more likely than not that Officer
22 Cameron exhibited bias or animus toward Defendant because of his race, ethnicity, or
23 national origin.


24 Accordingly, defendant's motion is DENIED.

25 This order is without prejudice to the defendant to allege a violation of the
26 provisions of Section 745(a) related to trial or sentencing, events which have not yet
27 occurred.
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IT IS SO ORDERED

DATED: November 9, 2022



HOWARD H. SHORE
JUDGE OF THE SUPERIOR COURT