

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

MEETING MINUTES

1ST Meeting of the Racial and Identity Profiling Advisory (RIPA) Board

Thursday, July 8, 2016, 10:00 a.m.

**Ronald Reagan State Building
300 S. Spring Street, Auditorium
Los Angeles, CA 90013**

The first meeting of the California Racial and Identity Profiling Advisory (RIPA) Board was held on Friday, July 8, 2016 at 10:07 A.M. in the Ronald Reagan State Building Auditorium, 300 S. Spring Street, Los Angeles, CA 90013.

Members Present: Angela Sierra, Oscar Bobrow, Edward Medrano, Timothy Walker, Reverend Ben McBride, David Robinson, Honorable Alice Lytle, Joe Farrow, Alex Johnson, Jennifer Eberhardt, Mariana Marroquin, Honorable Micah Ali, Tim Silard, Douglas Oden, Andrea Guerrero

Members Not Present: Pastor J. Edgar Boyd, Sahar Durali, Michael Durant

California Department of Justice Staff Present: Daniel Suvor, Chief of Policy; Nancy A. Beninati, Supervising Deputy Attorney General, Civil Rights Enforcement Section (CRES); Catherine Z. Ysrael, Deputy Attorney General, CRES; Shannon Hovis, Senior Policy Advisor, Executive Office; Rebekah Fretz, Deputy Attorney General, Bureau of Children's Justice; Joe Dominic, Director, California Justice Information Services Division (CJIS); Jenny Reich, Chief of the Bureau of Criminal Identification and Investigation Services, Audra Opdyke, Assistant Chief, Bureau of Criminal Identification and Investigation Services; Erin Choi, Manager, Client Services Program; Charles Hwu, Manager, Criminal Justice Information Technology Services Bureau; Larry Wallace, Director, Division of Law Enforcement; Jerry Szymanski, Special Assistant, Division of Law Enforcement

1. Call to Order and Welcoming Remarks

The meeting was called to order at 10:07 A.M. by Daniel Suvor, Chief of Policy for California Attorney General Kamala Harris. Mr. Suvor led the Board in the Pledge of Allegiance and asked for a moment of silence to reflect on the events of the past week and the lives lost in Baton Rouge, Minneapolis, and Dallas. He then briefly addressed the board members regarding their task and responsibilities as board members and provided a brief overview of the schedule for the meeting.

2. Introduction of Board Members and Staff from the California Department of Justice

After Mr. Suvor's opening remarks, the Board members each introduced themselves. Mr. Suvor then introduced the staff from the California Department of Justice (CDOJ) who have been working on matters related to the implementation of AB 953 and the formation of the RIPA Board.

3. Overview of AB 953, Rulemaking and Related Issues by CDOJ Staff

Deputy Attorney General (DAG) Catherine Z. Ysrael and Supervising Deputy Attorney General (SDAG) Nancy A. Beninati from the California Attorney General's Office, Civil Rights Enforcement Section, gave a presentation on AB 953, the regulatory process, and other Board-related issues. This presentation included an overview of significant deadlines, statutory definitions, and duties of Board members; key provisions of the Bagley-Keene Open Meeting Act; and proposed additional stop data elements for the Board members to consider and discuss during the meeting.

4. Remarks and Swearing in of Board Members by California Attorney General Kamala Harris

California Attorney General Kamala Harris made remarks regarding the significance of AB 953, the function of the RIPA Board, and the recent shootings in Baton Rouge, Minneapolis, and Dallas. After her remarks, Attorney General Harris administered the oath of office to the board members.

5. Overview of Technical Approach of AB 953 Presented by Staff from the California Justice Information Services Division (CJIS)

Joe Dominic, Director of CJIS, and Jenny Reich, Chief of the Bureau of Criminal Identification and Investigation Services, gave a presentation on the technological aspects of AB 953, which included an overview of the findings from CJIS's recent outreach activities to local law enforcement agencies, potential data collection methods, and the next steps they will be taking to implement a uniform stop data collection system.

6. Break

The Board recessed at 11:36 a.m. and reconvened at 12:11 p.m. with a quorum of members present.

7. RIPA Board Consultation and Discussion of Items to Consider for Inclusion in Regulations to Be Promulgated Pursuant to Government Code Section 12525.5

Member Sierra led off the consultation period by explaining the purpose of the consultation period. She informed the Board that the two chairpersons will be chosen at the following meeting. She also explained that the current meeting, the following meeting, and any subcommittee meetings in between the two meetings would be focused on the AB 953

regulations since the Attorney General's Office is required to issue the AB 953 regulations by January 2017 and to consult with the Board about those regulations. She proposed that, once the regulations are enacted, the subsequent meetings be focused on analyzing the stop data and law enforcement practices and training and deciding what type of issues to study for the annual report.

➤ **Questions from Members**

Member Sierra asked the board members if they had any questions regarding the matters that had been discussed that morning or any questions about AB 953 that she or California Department of Justice (CDOJ) staff could answer.

Member Silard asked what the Attorney General Office's interpretation of the phrase "improve diversity" in AB 953 is, specifically in the stated purpose of the Board to "improve diversity and racial and identity sensitivity in law enforcement." Member Sierra replied that the term should be interpreted very broadly and that the Attorney General's Office approach is to be over-inclusive. SDAG Beninati commented that improving diversity is possibly a reference to improving the diversity of our police forces. Member Medrano commented that from a law enforcement perspective, that is how they viewed it - as the Board helping improve diversity among their ranks. Member Silard clarified that he was asking whether diversity in the statute was about helping better diversify law enforcement in the state or whether diversity was part of racial and identity sensitivity. He also suggested that if law enforcement is interested in the Board engaging in the broader question of diversity that may sometime merit its own subcommittee.

Member Oden asked how they anticipated the Board conducting evidence-based research on the stop data elements. Member Sierra answered that the statute provides the Board with flexibility in pursuing this issue in a way that will be the most helpful for the state and law enforcement. Member Lytle proposed that one approach the Board could take would be to turn to the state's academic institutions for help with the evidence-based research.

Member Marroquin asked whether improving diversity and racial and identity sensitivity also included training. Member Sierra answered that the statute does contemplate that the Board would be reviewing training and giving recommendations about training.

Member Walker proposed that, as far as collecting evidence-based research, the Board should consider having more testimony from young people, a group which generally receives a lot of profiling and prejudice, even possibly turning those testimonies into surveys, and intersecting that testimony with training so that law enforcement who deal with young people can better understand the perspective of young people. Member Eberhardt recounted how she was involved with a large report about the Oakland Police Department where they analyzed stop data. She explained that how they chose to analyze that data came in part from their discussions with young people about their experiences with the police, and that these discussions helped them take a closer look at data on handcuffing and uncover huge racial disparities.

Member Lytle asked if the named stakeholders in AB 953 with which the Attorney General is to consult when drafting the regulations is an exclusive list or whether the Attorney General could

also consult with other stakeholders, such as the medical community which often deals with individuals who have been traumatized by law enforcement stops and has taken an interest in the public health aspect of criminal justice activities. Member Sierra answered that the stakeholder list in AB 953 is not exclusive, and that the Attorney General's Office is open to feedback on additional stakeholders that should be consulted.

➤ **Discussion of Stop Data Elements to Be Collected by Law Enforcement Agencies**

After taking questions from the board members, Member Sierra asked for board members to give feedback, for purposes of the AB 953 regulations, on the types of additional stop data that should be collected by law enforcement officers, particularly whether data should be collected data on why the officer was at the scene of the stop in the first place.

Member Medrano commented that officers already collect two types of data relative to officers' activities: whether it was a discretionary act or a nondiscretionary act. He suggested that it might be helpful to define the difference because he believes racial profiling is more likely to occur when an officer has discretion.

Member McBride proposed that the Board consider the connection between the reason for stop and reason for presence in collaboration with officers' tenure and assignment to ensure that a loophole is not being created for officers to racially profile on the basis that they were just responding to a service call and were assigned to work in certain communities.

Member Eberhardt stated that she was strongly in favor of keeping the narrative form to provide context and additional information, and suggested that, as racial disparities are discovered through the narratives, the Board could determine what information should be added as a checkbox on the form and tracked by law enforcement agencies. She also stated that there are algorithms that can be used to mine information from the narrative.

Member Lytle proposed that two definitions of stop be used to capture data on whether the stop was a felony stop and the officer initially approached the individual with a weapon drawn.

Member Farrow agreed that capturing whether a stop was a felony stop with a weapon drawn upon approach may have some value because felony stops and routine stops are totally different sets of circumstances. DAG Ysrael asked whether this information would fall under "type of stop" as opposed to "reason for stop." Member Farrow answered that it could, and the category is something the Board should consider. Member Sierra asked if officers generally would be able to answer that question. Member Farrow responded that it was important that the directions given to officers be clearly stated, so that they are getting the same thing from each person.

Member Farrow stated that the more the Board can do with check boxes and pull-down menus, the easier it will be for law enforcement to use it, and the data collected will be more consistent. SDAG Beninati commented that the Attorney General's Office is very mindful of the issue of checkboxes and narratives and are only considering the use of narratives sparingly where they think it is most critical and are very respectful of the officers' time in the field. She also stated that it would be a huge task for their data collection people to mine a lot of narrative fields, and

asked the members to let staff know if they think certain issues should absolutely have a narrative field.

Member Guerrero commented that one of the concerns in the immigrant community is the collaboration between local law enforcement agencies and federal immigration authorities. She suggested that in the subcategories under “actions taken by officer during stop,” the Board include whether any other agency was present at the scene, which agency, and why they were there.

Member Ali asked for clarification from Member Eberhardt regarding the dissimilarities between checkboxes or pulldowns and narratives and the use of algorithms to pull information out of the narratives so that option is not ruled out. Member Eberhardt responded that sometimes checkboxes on the stop data form do not give enough information, and you need to go to the narratives to get the reason for the stop and the context. She stated that her suggestion was not to replace the checkboxes or use the narratives where possible instead of checkboxes, but rather to use the narratives to supplement the checkboxes.

DAG Ysrael asked whether the algorithm Member Eberhardt had referenced in her report on her previous research is ready to use on a large-scale basis now and whether it can be used to cull out personally identifiable information. Member Eberhardt responded that the algorithm is still in the developmental stages but has promise for future work. She also explained that this is another way in which they can deal with issues of redaction because they can store the information in unredacted form but still get the information they need from it without having to deal with privacy issues.

Member Oden suggested that one of the goals of the collection of data should be to figure out exactly which individuals are doing the profiling - whether it is a certain group of officers, a systemic problem, or a crew in a particular police department acting under the instruction of leadership – because not all officers are profiling. He proposed that this data should then be used to identify the officers that are doing the profiling and correct their training, or if the officers do not want to be corrected, to terminate them from their positions.

Member Medrano commented that the Board should be very careful about the amount of information that they are going to require officers to collect because if it is too burdensome, the officers either will not do it or they will not do it accurately. He also proposed using a checkbox to record whether the brandishing of a firearm or other weapon occurred “at the time of stop” or “during the incident.”

Member Bobrow proposed that officers be required to collect zip codes for the location of the stops. DAG Ysrael asked if it would be difficult for officers to know the zip code. Member Medrano stated that they would know the zip code, but if they are working in small community, there may only be one zip code that would cover a large area. He suggested that zip code could be an additional factor and that using intersections is okay, but proposed that location should be narrowed down to 100 blocks to get more specific information. Member Farrow remarked that it would be difficult for his officers to collect zip codes, because in Sacramento, there are twenty

different zip codes, and all his officers do not know them. Member Silard proposed that this is the level of detail that should be considered by subcommittees.

Member Silard asked whether the Attorney General's Office had considered perceived sexual orientation as a stop data element to collect, and proposed collecting information on the gender, race, and ethnicity of the officer making the stop. Member Sierra commented that there had been a lot of discussion around those issues that would be really helpful for their office to hear. She proposed that after the next comment, the Board take a vote about whether they should form some advisory subcommittee that can really drill down on some of these issues.

Member Johnson commented that, with respect to location of stop, it is important to call out public housing explicitly because people in poverty are often the subject of a disproportionate number of stops.

Member Johnson also commented that, with regard to reason for presence at scene of stop, although there are many regular peace officers that are assigned to patrol K-12 areas, the areas with the largest density of students are being patrolled by school police officers. He raised the concern that a significant amount of data will be lost and the data will not be comprehensive because there is a lot of data that the AB 953 does not comprehend in its definition of peace officers, including stops made by school police officers and probation officers on school campuses.

Member Ali proposed that AB 953 should be interpreted to cover the entirety of the California Penal Code provisions on peace officers, commencing with Penal Code section 830 and including section 830.32 and 830.33 to include university and educational officers and housing. Member Sierra remarked that the Attorney General's Office had interpreted the statute differently to be more limited to the categories of peace officers listed.

➤ **Discussion and Action on Subcommittees**

SDAG Beninati briefly described the four subcommittees proposed by the Attorney General's Office: a Technology committee, a Definitions committee, a Search and Seizure committee, and a Special Settings and Consideration committee. CJIS Director Dominic also provided additional information regarding the purpose of the Technology committee. SDAG Beninati then instructed the Board members regarding the Bagley-Keene Act open meeting requirements for subcommittee meetings.

Member Sierra proposed merging the Definitions committee with the Special Settings and Consideration committee and adding a committee to consider additional data elements beyond the minimal requirements. SDAG Beninati informed the Board that DOJ staff will work on an agenda of issues that subcommittees will discuss to avoid overlap and to provide members and the public with information regarding the issues that will be discussed in the subcommittee meetings. Member Ali proposed that the Board could approve the subcommittees in their current state and add additional committees later or expand their jurisdictional boundaries as needed. Member Eberhardt proposed that all the subcommittees should discuss the research and data elements.

MOTION: Member Sierra made a motion to establish the four subcommittees as laid out in the proposal, as well as an additional subcommittee to consider additional data elements. The motion was unanimously adopted by a voice vote of all members present.

Member Guerrero proposed forming an outreach and engagement committee to make sure that the public is fully informed about the board meetings and can provide input.

MOTION: Member McBride made a motion to add an outreach and engagement committee, and Member Robinson seconded the motion. The motion was unanimously adopted by a voice vote of all members present.

Board members were asked to volunteer for subcommittees but aim for diversity in these subcommittees, e.g., no subcommittee made up of only law enforcement board members. The first subcommittee meetings were proposed for the end of July or the beginning of August and will likely be held telephonically.

Next RIPA Board meeting: The Attorney General’s Office explained that it may send the proposed regulations to the Office of Administrative Law so that they may be made public by the second week of September, and if it did so, board members would have the opportunity to review the proposed regulations before the second full board meeting, which could be scheduled for either the second or third week of September.

8. Public Comment Period

The public was invited to comment and asked to limit their comments to two minutes. The following individuals provided public comments:

Michele A. Wittig, Ph.D., Emerita Professor of Social Psychology, California State University, Northridge and member of the Coalition for Police Reform in Santa Monica, urged the Board to look closely at the statute’s definition of “stop” to make their interpretation as broad as possible so that it includes the most problematic instances. Ms. Wittig commented that as part of her work on the Coalition for Police Reform, they collected stories on people being stopped, and many of these people started being stopped at the ages of 12 or 13 years old when they might not even have had an identification to show the police officers. She also urged the Board not to have any subcommittees meetings that are not available to the public since public trust is why we have the statute.

Peter Bibring, Staff Attorney and Director of Police Practices at the ACLU of Southern California encouraged the Board in its work to solicit and consider the voice of communities across California that are affected by disparities and work with these communities.

Benjamin Mudd, Attorney at Public Counsel, encouraged the Board to include school police stops in the data recording because each year 90 percent of California students referred to law enforcement are students of color. He stated that Los Angeles USD school police has over 500 officers, over 400 of which are sworn, and they have a budget of over \$ 67 million, so it is

essential that we get their data. He explained that this is important partially because of the power dynamics at schools where students are not free to come and go as they please and the inherent power dynamics between law enforcement and students. He also pointed out that student interaction with school police is often a student's first encounter with law enforcement and informs their future dealings with law enforcement - whether law enforcement is to be trusted or held in contempt.

Barney King, stated he was a member of Black Riders, commented that we need to go further and make an officers pay for any funeral expenses and take away an officer's pension if the officer is involved in any kind of police brutality against any citizen, especially minorities, or killings, especially the killing of any unarmed minorities. He also stated that we need to outlaw all grand juries on a nationwide level. He asked the Board how can we get that started and hold the city and county responsible when they murder innocent people.

Jessica Bibby, a third year law student, suggested that the type of identification that is asked for by the police officer during the stop be included in the data collected. She gave the example that her brother was asked for his passport in addition to his driver's license when he was pulled over by police. She stated that the identification asked for can be important in connection with perceived race and also informs other issues, such as immigration, and that is unfair for anyone to be asked for documents that are not required to operate a vehicle.

Michelle Hope Walker, 2016 independent presidential candidate, commented that the Board could be more racially diverse and should have a mixture of people from different social classes and experiences. She asked that notice of the meetings be broadcast more to the public and when the next meeting would be.

An unnamed member of the public commented that it is very hard to have programs like this when police departments are not diverse and officers and people from minority communities are not participating in these types of programs and coming together to discuss these issues. He stated that when everyone comes together to the same platform to speak and listen to each other, that is when programs like this will truly be beneficial.

Justin Creo expressed disappointment that more people his age and older were not at the meeting. He stated that the perception of the black community in America is a problem and needs to be changed, and that he came to the meeting because he wanted to talk to people with power because he was tired of just trying to bring attention this issue through social media and online.

An unnamed member of the public commented that the whole police culture needs to change and officers need more cultural training to change their perception that a black man or a Mexican is dangerous to the them so that they are not ready to grab a gun when they see them.

9. Final Comments by Board Members

Ms. Hovis asked if board members had any final comments. Member Ali highly encouraged staff to clearly delineate each subcommittee, the staff person or who will be assigned to that

subcommittee, and any budget and authority the subcommittee may have, so that the board members will understand the capacity by which the committees can leverage their authority. He also spoke on the need for formality at committee meetings so the business can be conducted in an expeditious manner.

Member Oden proposed that meeting notices be placed in all ethnic newspapers, ethnic stations, and public service announcements on the radio so that the regular people on the street who do not read the newspaper or are not part of the official stake holders have notice of the meetings. He also thanked the attendees who came out and participated in the meeting.

Member Walker addressed the public comment about wanting to talk to people in power by stating that the real power is in the people and that being at the meeting is a statement in itself. He also assured the public that racial profiling and other events in the media is something that a majority of board members either have experience with or understand. He thanked the public commenters for their feedback and encouraged the public to work jointly with the Board.

Member McBride proposed the use of technological platforms for millennial outreach and commented on the continued need to come together and implement the law now that it has been passed. He also thanked the public attendees for their comments.

Member Marroquin requested that information about the meetings be made available in Spanish and thanked the public attendees for their comments. Ms. Hovis responded that she will make sure that the website dedicated to the implementation of AB 953 is translated into Spanish and that meeting notices, agendas, and other relevant documents that the Board will be working on are posted on the website. The meetings will also continue to be live streamed.

10. Adjournment:

The meeting was adjourned at 1:45 p.m.