

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD (BOARD)

<https://oag.ca.gov/ab953/board>

STOP DATA ANALYSIS SUBCOMMITTEE MEETING MINUTES

January 26, 2023 3:00 p.m. - 4:00 p.m.

Subcommittee Members Present: Chair Lily Khadjavi, Member Lawanda Hawkins, Member Abdul Pridgen, and Member Tamani Taylor

Subcommittee Members Absent: Members Andrea Guerrero and Rich Randolph

1. Introductions

Chair Khadjavi called the meeting to order at 3:00 p.m. Each Stop Data Subcommittee member (herein Subcommittee) introduced themselves. Chair Khadjavi concluded introductions with a welcome to all attending the meeting.

2. Approval of October 4, 2022 Subcommittee Meeting Minutes

Chair Khadjavi opened asking if any members would like to discuss the draft meeting minutes. Member Taylor moved to adopt the meeting minutes as is, which Member Pridgen seconded. Upon discussion of the motion, Member Hawkins inquired whether the public comment received outside of the meeting would be incorporated to the meeting minutes presented. Deputy Attorney General (DAG) Allison Elgart with the California Department of Justice stated that only public comments made in the meeting would be included. There were four Ayes, zero Nays, and zero Abstentions. The motion to adopt the meeting minutes as passed.

3. Overview of Proposed Amendments to Regulations by Department of Justice

DAG Tanya Koshy introduced herself and began her presentation with background information regarding the proposed amendments. She stated that the Office of the Attorney General is directed under RIPA statute to issue regulations implementing the RIPA statute requirement with the first set of regulations being issued in 2017.

In August of last year, updated regulations were approved by the Office of Administrative law. In September 2022, Assembly Bill 2773 (AB 2773) was signed into law. That new law amends the RIPA statute and requires officers to tell the person stopped the reason for the stop and report that information in the RIPA data. Upon review of AB 2773, it was determined that another round of proposed regulations were needed which DAG Koshy noted would be presented at this meeting.

The first proposed change is to add a new data element that would require law enforcement officers to report the reason given to the stopped person. DAG Koshy the primary reason for this new data element would be to incorporate the change in law and collect what law enforcement officers communicate to the stopped individual. The proposed change would have officers select from 20 different responses which would be treated as data values. Of the 20 responses, one response would allow them to select that they did not communicate the reason for the stop if it was necessary to protect life or property from imminent threat, which was designed to reflect the exception found in AB 2337.

Additionally, the first proposed amendment would be to require officers provide a narrative in the existing narrative field under reason for the stop in two scenarios:

1. When the primary reason for the stop is different from the reason communicated to the person for the stop
2. Where the officer did not communicate a reason for the stop to the person

This would allow law enforcement officers to provide clarification and explain the purpose of their actions. Lastly, the first proposed change would be to include language to explain the reasoning behind the proposed new data element and to better distinguish between the two data elements.

The second proposed amendment would affect the reason for stop data element's language. It would first provide additional explanatory language to violations that have been used inconsistently in reference to traffic stops in an effort to guide internal data analyses. The explanatory language would be parentheticals that would define the violations referenced.

The third proposed amendment would seek to align regulations to existing practices used to report traffic violation stops by removing the following language: "When the person stopped is the driver,...". DAG Koshy stated that under existing regulations, officers are required to characterize these stops as moving, equipment, or non-moving violations when the person stopped is the driver. However, in evaluating stop data entries, it was discovered that officers were characterizing stops as moving, equipment, or non-moving violations regardless of whether or not the stopped person is a driver.

The final proposed amendment was to revert a portion of the data publication section's use of "personally identifiable information" back to "unique identifying information." DAG Koshy provided background that the 2017 regulation originally used the term unique identifying information and that the 2022 amendment, which proposed use of personally identifiable information, was an oversight. By reverting the term back to its 2017 language would make it consistent with the RIPA statute.

DAG Koshy concluded her presentation and invited the subcommittee to ask questions. She also informed the subcommittee of the proposal's timeline noting that the Office of the Attorney General aims to publicly notice the proposals to the public after incorporating the subcommittee's feedback. Members of the public along with the full RIPA Board will have the opportunity to make comments during the mandatory 45-day comment period. The final proposed regulations would then be submitted to the Office of Administrative Law (OAL) in late spring or early summer with the goal of the OAL to approve by late summer. She informed that should the process continue as planned the effective date of the proposed regulations would be January 1, 2024.

4. Discussion on Proposed Amendments to Regulations

Member Pridgen asked whether there were any substantive differences between the term "personally identifiable information" and "unique identifying information." Whether any data would be excluded or available to the public as a result of the change. DAG Koshy stated that the

proposal would not alter what would be made available to the public as the aim of the change would just align the language for consistency.

Chair Khadjavi inquired as to how the narrative field is recorded (e.g., via input on an electronic device, handwritten, etc.). Research Data Supervisor (RDS) Kevin Walker could not speak on the medium used to collect the data elements as the data entry software or method varies between agencies. Member Taylor expanded on Member Khadjavi's point and asked about the veracity of the data elements provided and the process used to ensure integrity. Member Taylor followed up and asked if another source besides the officer could be used to confirm the data elements submitted (e.g., like an auditing system). DAG Elgart responded that the RIPA Policies Subcommittee has also discussed and noted that the RIPA Board has recommended that law enforcement agencies conduct their own audits as they have access to the additional sources to confirm submitted data elements. She also confirmed that some law enforcement agencies have taken the recommendation to practice to ensure the data is accurate.

Before closing the agenda item, Chair Khadjavi asked the subcommittee whether there were any changes they would like to see to the proposal as discussion seemed to indicate the content was accepted as presented. Member Taylor shared that she could see the public being skeptical of the data elements collected as it would be self-reported as presented and with no assurance of the data's credibility from an independent source. Chair Khadjavi acknowledged this concern and shared that review of audit mechanisms is warranted.

Chair Khadjavi thanked DAG Koshy for her work and moved to the next agenda item.

5. Public Comment

Chair Khadjavi then opened the meeting for public comment.

Brian Jones commented that as an independent data analyst, he recommended that an additional data element that recorded whether the person stopped was a driver, passenger, bicyclist, or pedestrian.

Michele Wittig requested that an agenda item in the next full RIPA Board meeting be agendaized to explain the RIPA Board's approach to advancing SB 50 and AB 93. Additionally she asked that the proposed agenda item inform the public on how they could participate in the process. She also shared that SB 50's language may need to be edited to truly reflect the RIPA Board's recommendation to discontinue pre-text stops in favor of a probable cause standard.

6. Discussion of Next Steps

Chair Khadjavi opened the agenda item to the subcommittee to share their thoughts on actionable steps to be taken by either the RIPA Board or the subcommittee. Member Taylor shared that an

analysis of no knock warrants is warranted. Particularly, she asked the proposed topic be evaluated to determine its value to the stakeholder.

Supervising Deputy Attorney General (SDAG) Nancy Beninati shared that one action item in the next subcommittee meeting would be electing a co-chair. She also raised that the Peace Officers Research Association of California had issued a report on the RIPA Board's 2022 report and that former Member Steven Raphael suggested inviting them to attend this subcommittee meeting in an effort to explain RIPA's findings.

Member Pridgen stated he would be open to hearing their perspective and stated that time could be set aside to allow PORAC to present their report in a future meeting. Chair Khadjavi stated that the forum provided by this subcommittee is one of transparency and shared her willingness to have PORAC speak.

7. Adjourn

Before adjourning, Chair Khadjavi thanked everyone for attending and their continued collaborations. She adjourned the meeting at 4:00 p.m.