

**CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD (BOARD)**

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

**MEETING MINUTES**

**October 11, 2023 10:00 a.m. - 2:00 p.m.**

**Board Members Present:** Chair Andrea Guerrero, Member Angela Sierra, Member Brian Kennedy, Member Chad Bianco, Member Cha Vang, Member DJ Criner, Member Sean Thuilliez, Member Lily Khadjavi, Member Manju Kulkarni, Member Melanie Ochoa, Member Rich Randolph, Member William Armaline, Member LaWanda Hawkins, Member John Dobard, and Member Ronaldo Villeda

**Subcommittee Members Absent:** Member Tamani Taylor,

**1. Call to Order and Introductions by Co-Chairs**

Co-Chair Guerrero called the meeting to order at 10:04 a.m.

**2. Board Member Introductions**

Each RIPA Board Member (herein Board) introduced themselves. New Member Sean Thuilliez introduced himself as the police chief of the City of Beaumont and the appointee of the California Police Chiefs Association. Co-Chair Guerrero concluded introductions with a welcome to all attending the meeting.

**3. Approval of June 28, 2023 Meeting Minutes**

Co-Chair Guerrero opened asking if any members would like to discuss the June 28, 2023, draft meeting minutes.

Member Vang moved to approve of the minutes as presented which Member Kulkarni seconded. Chair Guerrero proceeded with a roll call vote:

- **YES:** VANG, SIERRA, GUERRERO, KULKARNI, DOBARD, BIANCO, OCHOA, KENNEDY, HAWKINS, VILLEDA,
- **NO:**
- **ABSTENTIONS:** THUILLIEZ

With 10 members voting Yes, zero No votes, and one Abstention the meeting minutes were approved as presented.

**4. Update from Department of Justice**

Co-Chair Guerrero opened the floor for the California Department of Justice's (DOJ) presentation.

Aisha Martin-Walton of the DOJ's Civil Rights Enforcement Section provided an update on the Commission of State Mandate (CSM) as it relates to AB 953. She provided background information that whenever the state requires local government to provide a new program or higher level of services that the state must provide funds for the associated cost. On June 19, 2019, a test

claim for costs associated with compliance to AB 953 was filed with the CSM where it was determined that the following costs associated with AB 953's compliance, implementation, regulation, and reporting did create a state reimbursable mandate:

- Identifying police officers related to the data collected
- Maintaining a system to catalogue relevant data
- Electronically submitting required data to the DOJ
- Retaining of stop data
- Working with the DOJ to audit and validate the data

CSM estimated initial costs from 2020 to 2027 to be \$25.5 million and that subsequent costs on an annual basis thereafter would be \$16.5 million. The proposed costs were recommended by the Legislative Analyst Office for approval and as of June 27, 2023, the Governor authorized \$50.5 million dollars be allocated for these purposes.

Deputy Attorney General (DAG) Tanya Koshy of the DOJ's Civil Rights Enforcement Section presented the regulations that were required to incorporate AB 2773 which will require police officers to provide the reason for the stop to the person stopped and to report their reason as part of RIPA reporting requirements. The DOJ has undergone the process of amending RIPA regulations to account for the additional RIPA reportables and have made amendments to the associated regulations; the amendments underwent a public comment period and have been submitted to the Office of Administrative Law (OAL). She stated that the amendments are not expected to substantively change when OAL finalizes its approval on the changes.

Research Data Supervisor I Kevin Walker from the Department of Justice Research Center (DOJRC) presented on administrative updates. He informed that the DOJRC will be renamed as the Department of Justice Research Services (DOJRS) but stated that the change will not impact its services to the Board. Walker also introduced additional staff members who will be assisting the Board: Research Data Analysts II Raewadee Kumnertsena and Natasha Vocelka.

Walker continued his presentation and covered updates on DOJRS efforts related to data integrity and reporting. The DOJRS sought to examine the 2022 stop data reported by agencies for trends that may be indicative of incomplete reporting across the reporting period by identifying agencies that either reported no stops for a period of 1+ month(s) or had a monthly stop coefficient of variation above 0.48. From agencies that reported at least 500 stops across the year or reported 50+ stops in a single month using the aforementioned search criteria, 92 agencies of the 441 agencies examined were observed to have high variation and/or months with zero reported stops. Walker stated that the DOJ sent out letters to the 92 identified agencies that requested an explanation for these patterns within the submitted data and that their response should be sent to the DOJ prior to the next Board meeting. Supervising Deputy Attorney General (SDAG) Nancy Beninati reported that preliminary responses have been received from some of the 92 agencies and common responses for their variation included:

- Staffing shortages
- Institutions and industries being out of season (e.g., schools and tourist periods)
- Difficulty in submitting the data before the cut-off deadline

She stated that the DOJ will report on its analysis once all responses have been submitted. Walker then invited the Board for their feedback and comments.

Member Bianco provided his insight that the some of the variance could be attributed to weather conditions. He stated that in rainy seasons, traffic stops may occur less frequently due to officers responding to increased traffic collisions. He also shared concern that the 92 identified agencies may have difficulty responding to the DOJ's letters as it may be logistically difficult for them to determine past variances and asked the Board to consider framing compliance as a future endeavor. Member Ochoa asked the DOJ to ensure that responses were verified by accompanying data and cited past examples that warrant such an approach; she referenced issues with the Los Angeles Sheriff's Department and that Los Angeles Police Department (LAPD) inconsistent responses to other reportable items.

Member Kulkarni also asked how the Board would be able to verify the accuracy of reporting as it pertains to race and noted that a number of officers from the San Francisco Police Department (SFPD) were found to have lied about the race of individuals that they stopped. SDAG Beninati informed the Board that the DOJ is working on reform with the SFPD under an existing MOU. She also relayed that it was our understanding that the San Francisco's Department of Police Accountability was reviewing the matter regarding possible discipline.

Walker continued his presentation and covered the limitations the DOJ has in its stop data collection efforts. First, he stated that Government Code section 12525.5(a)(1) creates logistical difficulties to properly account for the submitted data as it only mandates agencies to submit RIPA data to the DOJ on an annual basis. Walker stated that submission of data in bulk can make it difficult to readily address identified variances that have occurred earlier in the year.

#### **4. Subcommittee Reports**

##### **Stop Data Analysis**

Member Bianco presented on behalf of the Stop Data Analysis Subcommittee. He reported that the Stop Data subcommittee discussed the following:

- Comparison of use of force data discrepancies between RIPA and AB 71 data sets
- Youth with disability data and the variance found between age groups and disability types
- The use of field interview cards
- The amount of stops made between officer-assignment types (e.g., gang enforcement, traffic, patrol, etc.)
- Data associated with sole resisting arrests charges
- Anomalies found with simple drug possession and primary reason for stop data
- The effects of LAPD's revised policy that prohibits pretext stops
- The stops and stop outcomes of students on campus

## **Civilian Complaints**

Member Hawkins presented on behalf of the Civilian Complaints Subcommittee. She stated that the subcommittee primarily discussed the additions and revisions to this year's report. The subcommittee made a consensus that the civilian complaints data must be made more robust. They also discussed and supported the following recommendations:

- To utilize all sources of video footage for the purposes of a complaint investigation
- For root cause analysis to be implemented
- For a universal definition of civilian complaints

Member Hawkins also reported on future topics that the subcommittee would cover. She stated that the subcommittee will continue their review of root cause analysis applications to create more definitive recommendations and how early intervention systems can be optimized to obviate undesirable outcomes.

## **POST Training & Recruitment**

Member Villeda presented on behalf of the POST Training & Recruitment Subcommittee. He reported that POST Executive Director Manny Alvarez attended the August 30, 2023, subcommittee meeting to discuss POST's response to RIPA recommendations. POST stated their commitment to creating separate guidelines as recommended by the Board and noted their efforts to hire staff knowledgeable to the subject matter. POST also reviewed 31 of the subcommittee's 2023 training recommendations. They accepted seven recommendations as presented, noted that two recommendations were beyond their resources, that another two were beyond their scope, and that the remaining 20 recommendations were sufficiently included in the current material. Member Villeda stated that the subcommittee expressed their standing concern to POST that their trainings do not reflect the California legal standard of profiling as defined by California law to be more restrictive than the federal standard. POST also offered the Board the opportunity to develop its own training courses as an alternative to the Museum of Tolerance's Train the Trainer curriculum and that POST would fund its development; Member Villeda stated that the subcommittee would discuss its capacity to fulfill this initiative at a subsequent meeting. Member Villeda continued his presentation and covered the POST Training & Recruitment subcommittee's draft section of the 2024 report. He reported that the subcommittee's section would focus on examining guidelines, course development, community engagement, effectiveness of POST measures, and the accountability instructions.

## **State and Local Racial & Identity Profiling Policies and Accountability**

Member Ochoa presented on behalf of the Policies Subcommittee. The subcommittee had two meetings since the Board's last meeting and discussed pretext stops, youth with disabilities, accountability, and youth in schools. The subcommittee focused its efforts on refining recommendations to align with the Board's intent and with observed data findings. Additionally, the subcommittee revised their draft section content on obstruction, resisting, and delaying data by providing additional context in an effort to alleviate vagueness and to better inform readers.

## **6. Public Comment**

Co-Chair Guerrero facilitated public comment and invited members of the public to provide their statements.

Arlo Malmberg, a data policy analyst with the Berkeley Police Department, stated that his agency does a lot of work to reproduce the stop data analyses found in the Board's report. Malmberg asked the Board to consider defining desirable metrics that would represent a well-performing agency. Malmberg stated that this would encourage other agencies to aspire to these measures as well as highlight those who do their jobs well.

Kennedy McCain asked whether the letters sent to agencies were sent to all agencies.

Dove Knight asked the Board whether it had any policies or data related to false allegations on people of color.

Eva Bitran expressed gratitude for the DOJ's efforts on addressing agencies who are out of compliance as it has been an explicit community concern. Bitran also echoed support that agency responses to the DOJ's inquiry should be supported by accompanied data.

Chair Guerrero thanked those who provided public comment and moved to the next agenda item.

## **7. Break**

In the interest of time Chair Guerrero asked the Board to consider moving forward to the next agenda item. Hearing no concerns, she moved to the next agenda item.

## **8. Board Discussion of Draft 2024 Board Report**

Chair Guerrero opened the next agenda item and guided the Board's discussion.

### **Pretext Stop Section**

Chair Guerrero asked the Board for their comments, questions, and concerns about the pretext stop section and directed the Board to the following recommendations:

- (1) Adopt internal policies that prohibit district attorneys from filing and law enforcement agencies from submitting to the district attorney's office for review misdemeanor criminal filings on standalone resisting arrest charges if it is the sole charge listed at the time of arrest and is not accompanied by other citable offenses, unless extraordinary circumstances exist such as an identifiable, continuing threat to another individual or there exists another circumstance of similar gravity.
- (2) Adopt internal policies that prohibit filings on standalone misdemeanor resisting arrest charges or charges where resisting arrest is charged in conjunction with trespass, disturbing the peace, driving without a valid license or a suspended license, simple drug possession, minor in possession of alcohol, drinking in public, under the influence of a controlled substance, public intoxication, or loitering, unless extraordinary circumstances exist such as an identifiable, continuing threat to another individual or there exists another circumstance of similar gravity.

- (3) Develop policies to require officers to notify law enforcement supervisors prior to making an arrest for resisting arrest and have supervisors review any case where resisting arrest is alleged in a report.
- (4) Develop policies requiring district attorneys to review body worn camera footage in any case that involves a resisting arrest allegation prior to filing charges.
- (5) Adopt internal policies that eliminate or severely limit arrests and charges filed for resisting arrest during consensual encounters unless extraordinary circumstances exist such as an identifiable, continuing threat to another individual or there exists another circumstance of similar gravity.
- (6) Adopt internal policies that prohibit arrest and filing of charges against individuals stopped for community caretaking (e.g. XX) unless extraordinary circumstances exist such as an identifiable, continuing threat to another individual or there exists another circumstance of similar gravity.
- (7) Adopt internal policies that prohibit arrest and filing of charges against individuals if the alleged resisting stems from a disability. Given the disparities demonstrated by the data, the Board hopes these recommendations can serve as guidance to communities wishing to address these inequities.

Member Sierra asked board members with law enforcement experience on their thoughts on the aforementioned recommendations. Member Randolph stated that some of the recommendations are already generally practiced; he stated that supervisor involvement is generally required and that body-worn camera footage will generally be included with the report that is submitted to the district attorney's office.

Member Villeda stated that he holistically endorses the recommendations as they add an additional layer of protections but cautions that the exceptions referenced within should not be abused to bypass the recommendations' intent. He also expressed his support for recommendations specific to those with disabilities as it addresses the disparities observed.

Member Thuilliez stated that he would be open to endorsing recommendations #3 (benefit of supervisors evaluating resisting arrest) and #4 (agreed that body worn camera footage should be reviewed) but that he could not endorse recommendation #2 as it could negatively impact an agency's ability to provide an appropriate response to ensuring the safety of minors; he shared his concern that the absence of such a response could fail at deterring repeat behavior. He stated that if you fight with the police no matter you are going to go to jail. Chair Guerrero first asked Member Thuilliez a question about the types of charges that were being recommended including trespass, disturbing the peace and driving without a license. He also shared that the definition of arrest is unclear in the recommendation as citations can be considered as an arrest. He stated some of the crimes listed in the recommendation are important to have in cases where a more serious crime cannot be charged, like a peeping tom you can arrest for trespass. He thought it might be better to address some of the offenses like driving without a license and asked the Board to consider recommending that the Legislature dissect or better define the outlined crimes so that law

enforcement can optimize their response accordingly. Chair Guerrero then clarified that the intent behind the recommendation was of the conjunction of resisting arrest with other offenses, and prohibit the filing of standalone misdemeanor resisting arrest charges to prevent the overuse as a supplemental charge.

Member Sierra stated that the focus of the discussion in the report is based upon the definition and elements of resisting arrest, like just delaying an officer which is very broad. They have been looking at the broadness of resisting arrest. The underlying charges could be pursued by not the additional resisting arrest charge.

Member Bianco wanted to discuss unintended consequences on adopting recommendation #2. He stated that over the years in conjunction with district attorneys there has to be a stand-alone resisting arrest but the report has to give very detailed reasons why. He stated that having a policy that bans outright standing resisting arrest charges should be discussed closely with district attorney. He stated that if we no longer cite for resisting arrest then everyone will start resisting arrest. The same would be true for driving without a license.

Member Ochoa clarified that these recommendations are directed toward district attorney offices and that discussion with them would occur afterwards. She also reminded the Board that these recommendations were warranted as they are substantiated by the RIPA data and are rooted to better public safety measures. The use of stand-alone obstruction charges is charged by itself and used as a mechanism to plead to things and to violate people's first Amendment rights, and that the recommendations are not out of left field but based in data. Last year's report went in depth into the harms with these types of charges that are being considered now. Chair Guerrero thanked the Board for the discussion and stated that the resisting arrest statute may need to be further addressed and evaluated by the Board in the future. Chair Guerrero expressed that the recommendation #2 may need modification after the discussion, and expressed possibly limiting recommendation #2 as the other aforementioned recommendations did not appear to raise concerns for the Board. Member Sierra agreed that perhaps it should be modified to say "limiting or exploring" to obtain a broader consensus and avoid unintended consequences.

Member Kulkarni asked the Board to consider adopting recommendation #2 as presented. She stated that the Policy subcommittee took lengthy consideration to develop the recommendation prior to its appearance before the Board. She informed that the recommendation aligns itself with findings found throughout the report and is supported by the cited Stanford study which found that the underlying charges referenced had little substantive impact to public safety; the study found that there was no nexus between the arrests made in relation to these charges in recommendation #2 and to public safety. There is no nexus between public safety and these types of arrests, but we do see stops the connection between pretextual stops and use of force and stops against African American and Latinx individuals. Member Ochoa agreed with Member Kulkarni and addressed the concerns of the recommendation's potential negative impact on youth trajectory. She stated that findings have determined that arresting youth was more detrimental to a youth's trajectory, outcome, and mental health. Pastor Kennedy stated that we need to be careful with this because in a pretext stop officers may have information and are stopping someone for another reason. He also stated that driving under the influence is serious and that we need to make sure that people

should not be let go if they are under the influence. He stated the goal is not to harass people but we need to tone down so that people who commit crimes will not be let go. Chair Guerrero stated that the underlying charges would be able to be charged.

Member Randolph said that he thought that there was some misleading information in the pretext data because it only addresses race and not other factors.

Member Kulkarni moved to adopt recommendation #2 as presented which Member Ochoa seconded. Chair Guerrero proceeded with a roll call vote:

- **YES:** KULKARNI, OCHOA, DOBARD, VANG, VILLEDA, ARMALINE,
- **NO:** RANDOLPH, THUILLIEZ, KENNEDY, HAWKINS, CRINER, BIANCO,
- **ABSTENTIONS:** SIERRA, GUERRERO

SDAG Beninati tallied and announced the results. With 6 Yes, 6 No, and 2 Abstentions the motion did not carry. Chair Guerrero then asked the Board for an alternative motion.

Member Thuilliez moved to adopt a revised recommendation #2 to remove the word “prohibit” and to insert the word “explore.”

- (2) Adopt internal policies that **explore** filings on standalone misdemeanor resisting arrest charges or charges where resisting arrest is charged in conjunction with trespass, disturbing the peace, driving without a valid license or a suspended license, simple drug possession, minor in possession of alcohol, drinking in public, under the influence of a controlled substance, public intoxication, or loitering, unless extraordinary circumstances exist such as an identifiable, continuing threat to another individual or there exists another circumstance of similar gravity.

Chair Guerrero asked for a clarification to delete the word “prohibit” and not “adopt.” Member Thuilliez then asked for a point of clarification on who the recommendation would be directed to. Chair Guerrero answered that the recommendations discussed would be sent to the district attorneys for consideration. Member Thuilliez then withdrew his motion.

Chair Guerrero then recognized Member Sierra to speak, however, Member Kulkarni asked if she could ask a clarifying question. She stated that there was a member who did not vote previously and who joined the meeting, and then stated that she wanted to make a motion to adopt #2 as currently written.

Chair Guerrero explained to Member Kulkarni that she was trying to recognize Member Sierra on an alternative motion and trying to take people in turn. Member Kulkarni asked if she could not make that motion again, and Chair Guerrero explained that the motion had been considered and that she was trying to recognize Member Sierra.



Member Sierra then moved that recommendation #2 be revised as follows:

- (2) **To explore the possibility of adopting** internal policies that prohibit filings on standalone misdemeanor resisting arrest charges or charges where resisting arrest is charged in conjunction with trespass, disturbing the peace, driving without a valid license or a suspended license, simple drug possession, minor in possession of alcohol, drinking in public, under the influence of a controlled substance, public intoxication, or loitering, unless extraordinary circumstances exist such as an identifiable, continuing threat to another individual or there exists another circumstance of similar gravity.

Member Thuilliez seconded the motion. Chair Guerrero then proceeded with a roll call vote:

- **YES:** SIERRA, THUILLIEZ, KENNEDY, CRINER, RANDOLPH, GUERRERO
- **NO:** KULKARNI, BIANCO<sup>1</sup>, VANG
- **ABSTENTIONS:** KHADJAVI, HAWKINS, OCHOA, VILLEDA, ARMALINE, DOBARD

SDAG Beninati tallied and announced the results. With 6 Yes, 3 No, and 6 Abstentions the motion carried.

Chair Guerrero continued with review of the pretext section's recommendations and asked the Board consider and provide feedback on the following recommendations related to field interview cards (FICs):

- (1) Prohibit the collection of field interview cards and entries in absence of an arrest.
- (2) Prohibit the collection of field interview cards and entries of youth into CalGang or any agency database designed to track criminal information after youth are questioned or a field interview is conducted without the presence of an attorney.
- (3) In the alternative to recommendation (1) and (2) herein, agencies should recognize (and include in their policies) that these encounters may not be fully consensual, and officers should be required to inform the individuals subject to the field interview that they do not have to respond to questions and are free to leave. Additionally officers should be required to:
  - a. Inform individuals that providing a physical form of identification is voluntary;
  - b. Not use a person's failure to stop, answer questions, decision to end the encounter, or attempt or decision to walk away to establish reasonable suspicion for initial stop or detention, search, citation, or arrest of the person if an officer is engaged in, or attempting to engage in, a field interview.

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<sup>1</sup> Member Bianco originally voted "Yes" but during the roll call vote asked to change his vote to "No."

- (4) The Legislature should consider prohibiting law enforcement agencies from creating criminal databases that are not tied to information about an arrest or conviction.
- (5) Ban the collection of and entries into any agency databases designed to track criminal information if the entry is collected from a stop for community caretaking or when a person might be experiencing a mental health crisis. Law enforcement supervisors shall review any case where a field interview card is filled out after a community caretaking or crisis intervention contact. This recommendation does not apply to collecting information that might assist law enforcement in its approach to interacting with the individual in crisis or in engaging in their legal requirements under disability accommodation laws.
- (6) Make the removal process from CalGang and other agency databases designed to track or store criminal information more transparent. Require agencies to conduct regular audits, including determining if notice is properly provided to a person entered into a database and evaluating the processes for removal from the databases to ensure compliance with the laws.
- (7) Create funding incentives for agencies to adopt policies prohibiting the input of non-criminal information into agency databases for tracking purposes and audit those practices.

Member Kennedy stated that he approved of recommendation #6 and that some individuals entered into CalGang are not gang members and shared particular concern for youth who may have been entered in the system. Member Sierra asked the Board to consider further discussion on recommendations # 1 and #2. She asked that the Board weigh these recommendations on whether they have substantive support by the report and whether further development is warranted. Member Bianco stated that he supported Member Kennedy's statement but stated that he could not support recommendations #1, #2, #3, and #6 as there may unintended consequences that could occur. Member Randolph also stated that he supported Member Kennedy's statement but noted that the recommendations do not consider law enforcement mechanisms related to these recommendations that are already in place. He stated that youth are already not interviewed for crimes unless an attorney or their parent is present. He asked the Board to reconsider attending law enforcement trainings or ride-alongs as it could help alleviate the misunderstandings that can develop.

Member Ochoa stated that while there is law that prohibits an officer from questioning youth without an attorney that there is currently no law in place that prohibits a police officer from questioning youth in the field and filling out field interview cards on them. She stated that the referenced recommendations are made in consideration with the observed findings that field interview cards are characteristically inaccurate when compared to other sources such as body-worn cameras and that youth are a substantive demographic to consent searches.

Member Khadjavi moved to adopt recommendations # 1-7 which Member Kulkarni seconded. Chair Guerrero then proceeded with the roll call vote:

- **YES:** KHADJAVI, KULKARNI, KENNEDY, VANG, CRINER, DOBARD, HAWKINS, OCHOA, VANG, GUERRERO
- **NO:** RANDOLPH, THUILLIEZ, BIANCO
- **ABSTENTIONS:** SIERRA

SDAG Beninati tallied and announced the results. There were 10 Yes, 3 No, and 1 Abstention and the motion carried.

Chair Guerrero continued with review of the pretext section's recommendations and asked the Board to consider and provide feedback on the final set of pretext recommendations:

- (1) Create policies that provide for greater oversight of specialized teams and require law enforcement agencies to develop policies that define clear objectives and outcomes for the specialized teams. These policies should address enforcement of any violation of the law or deviation from the programmatic mission.
- (2) Provide funding programs that focus on community-based drug and violence intervention programs rather than specialized law enforcement response models.

Member Randolph asked the Board to consider precisely defining recommendation #2's language as the two subjects referenced were too broad. Chair Guerrero explained that the recommendation's references to intervention programs and specialized law enforcement response models were contextualized in the relevant chapter. Member Khadjavi stated that the recommendation's language was designed to be broad to prevent restrictions of the Legislature's capacity.

Member Kennedy asked the Board to consider amending the recommendation to direct funding to both intervention programs and specialized law enforcement response models. He stated that specialized law enforcement teams provide a warranted service to the communities that they operate in. He advocated for funding both as to provide communities with a two-prong approach. Member Bianco agreed with Members Kennedy and Randolph. He stated that specialized teams are assigned to communities to address particular crimes that the community has identified itself to be victims of and that to advocate away from specialize teams would be to go against the community's wishes. Chair Guerrero explained that this recommendations' intentions are not to eliminate specialized teams but rather provide greater opportunity for intervention programs to be used. Member Ochoa responded to the Board's concerns and stated that the recommendations are based on findings that indicate specialized teams are ineffective at providing social services compared to intervention programs. To alleviate the Board's concern, she recommended that the following language be removed from recommendation #2: "rather than specialized law enforcement response models." Members Sierra and Thuilliez stated their agreement with Member Ochoa's proposed change for recommendation #2.

Member Thuilliez asked the Board to consider revision to recommendation #1's language as the use of the word "greater" is too broad and posed an undefined upper limit. Member Kulkarni responded that the intent behind the recommendation is not to eliminate or encumber specialized teams but rather to obviate the existence of police gangs which have been known to have detrimental impact to the communities they are assigned to. Member Sierra asked the Board to consider replacing the word "greater" with "sufficient and measurable" in the recommendation which Member Dobard stated his agreement with. Member Villeda stated his endorsement of the recommendations discussed. He stated that the recommendations before them would not only benefit the community but would help lift additional responsibilities from law enforcement to programs that specialize in such responsibilities.

Member Sierra moved to adopt recommendations # 1 and 2 as revised:

- (1) Create policies that provide for **sufficient and measurable** oversight of specialized teams and require law enforcement agencies to develop policies that define clear objectives and outcomes for the specialized teams. These policies should address enforcement of any violation of the law or deviation from the programmatic mission.
- (2) Provide funding programs that focus on community-based drug and violence intervention programs

Member Bianco seconded the motion. Chair Guerrero then proceeded with the roll call vote:

- **YES:** SIERRA, THUILLIEZ, KENNEDY, RANDOLPH, GUERRERO, BIANCO, DOBARD, OCHOA, KHADJAVI, VANG, HAWKINS
- **NO:** None
- **ABSTENTIONS:** KULKARNI, VILLEDA

SDAG Beninati tallied and announced the results. With 11 Yes, 0 No, and 2 Abstentions the motion carried.

### **Accountability Section**

Chair Guerrero asked the Board for their comments, questions, and concerns about the accountability section and directed the Board to the following recommendation:

The RIPA Board calls upon researchers to review agency-level data and the structure of unions, POBR, and questions of collective bargaining on their impact on police behavior, specifically with regards to bias. The Board encourages examination of these questions and the data in order to provide more evidence regarding the impact of unions on law enforcement accountability.

Member Randolph asked for clarification on the recommendation as the proposal may be out of the Board's purview and mission. He stated the police unions that he spoke to shared their concerns that the Board may be infringing on labor rights that protect public employees. He also shared his

own concern that by promoting the aforementioned recommendation that the Board may be perceived to be anti-labor and potentially damage relationships with stakeholders. Member Ochoa responded that the recommendation's intent is to examine the indisputable dynamic between police unions and punitive policies and protections. Chair Guerrero and Member Ochoa added that the recommendation is within their purview as it is related to the Board's mission to review accountability measures and that the recommendation is not controversial respectively. Member Sierra agreed with Chair Guerrero and Member Ochoa and stated that she did not believe that the recommendation's language exhibits anti-union sentiments and how unions can partner with management for enhanced accountability. Member Bianco added that he believed the recommendation was saying that unions were meddling in disciplinary matters, but that what they do is represent individuals in disciplinary matters. He stated that there was zero influence by the union with respect to investigations and discipline. He also stated that the teacher's union was a far more powerful union and that the recommendation was calling for researchers to take something up that does not exist. Chair Guerrero addressed the Board's concern on whether the recommendation is within the Board's scope by stating that the relevant report section explains the nexus between the Board's mission to review accountability and police unions.

Member Randolph moved to adopt the recommendation, but remove the word "negative" from the paragraph/body of text preceding the recommendation:

Scholars and researchers have uncovered some potential **negative** union influences on police accountability.

Chair Guerrero sought clarification from Member Randolph that his motion is not part of the Board's recommendation but the contextual text which preceded the recommendation. Member Randolph then clarified that the paragraph remove the word "negative" from the paragraph/body of text preceding the recommendation and to adopt the recommendation as presented which Member Kennedy seconded. Chair Guerrero then proceeded with the roll call vote:

- **YES:** RANDOLPH, KENNEDY, BIANCO, SIERRA, VANG, DOBARD, KHADJAVI, HAWKINS, THUILLIEZ, GUERRERO
- **NO:** VILLEDA
- **ABSTENTIONS:** KULKARNI, OCHOA

SDAG Beninati announced the results. There were 10 Yes, 1 No, and 2 Abstentions and the motion carried.

### **POST Section**

Chair Guerrero asked the Board for their comments, questions, and concerns about the POST section and directed the Board to the following recommendation:

- (1) The Board hopes to collaborate closely with POST on the topics and research to include in POST guidelines on racial and identity profiling throughout the development. The Board will commit to working with POST to reach an agreement

for how and when they will work together to develop guidelines for the racial and identity profiling courses and curriculum.

- (2) Adopt a process and publish timelines for Board and community review that will engage community and stakeholder input on how to improve trainings. (Pen. Code 13519.4, subd. (b).)
- (3) Allow time for meaningful feedback throughout curriculum updates and development, including community sourcing of subject matter experts.
- (4) Measure course effectiveness by examining RIPA data outcomes and official reports to infer behavioral changes.
- (5) Include individual officer and supervisor accountability and reporting as a required training topic in all racial and identity profiling courses.

Member Kulkarni asked the Board to consider removing recommendation #1 and suggested that it be included as part of the preceding text. She also asked the Board to consider to include specificity in recommendation #2 and #3's time frame.

Member Bianco moved to adopt recommendations # 1-5 as presented which Member Randolph seconded. Chair Guerrero made a friendly amendment to remove recommendation #1 from the motion before proceeding with the roll call vote:

- **YES:** RANDOLPH, KENNEDY, BIANCO, SIERRA, VANG, DOBARD, KHADJAVI, HAWKINS, THUILLIEZ, GUERRERO, VILLEDA, KULKARNI, OCHOA
- **NO:** None
- **ABSTENTIONS:** None

SDAG Beninati announced the results: There were 13 Ayes, 0 Nays, and 0 Abstentions and the motion carried unanimously

### **Civilian Complaints Section**

Chair Guerrero asked the Board for their comments, questions, and concerns about the civilian complaints section and directed the Board to the following recommendation:

The Board therefore recommends that all law enforcement agencies review all related video footage in each complaint investigation. This recommendation is intended to expand on the Board's prior best practices for investigatory procedures to ensure that all complaint investigations are thorough and objective. Thus, review of video footage should take place in addition to, and generally not replace, other investigatory procedures, such as witness interviews, when investigating civilian complaints.

There was no commentary and Member Bianco moved to adopt the recommendation as presented which Member Khadjavi seconded. Chair Guerrero then proceeded with the roll call vote:

- **YES:** RANDOLPH, KENNEDY, BIANCO, SIERRA, VANG, DOBARD, KHADJAVI, HAWKINS, THUILLIEZ, GUERRERO, VILLEDA, KULKARNI, OCHOA
- **NO:** None
- **ABSTENTIONS:** None

SDAG Beninati announced the result. There were 13 Yes, 0 No, and 0 Abstentions. The motion carried unanimously

### **Youth and Law Enforcement Section**

Chair Guerrero asked the Board for their comments, questions, and concerns about the youth and law enforcement stop section and directed the Board to the following recommendations:

- (1) Based on the findings in the Board's 2023 Report and the present Report demonstrating racial bias in policing in schools, the Board recommends that the Legislature repeal the part of Education Code Section 38000 authorizing school districts to operate police departments.
- (2) The Board recommends that the Legislature define specific student behaviors or code violations that constitute disciplinary issues that should be handled by school staff for which law enforcement officers would be prohibited from citing or arresting students on K-12 campuses. The Board recommends that the Legislature revise the Education Code to specify student behaviors or code violations that constitute disciplinary issues for which school personnel should not request assistance from or make referrals to law enforcement.
- (3) The Board recommends that the Legislature more clearly define how suspected offenses related to fighting, assault and battery without injury or threats of assault and battery and marijuana possession by students on K-12 campuses should be treated.
- (4) The Board recommends that school districts adopt policies prohibiting staff from contacting law enforcement regarding students except in emergencies involving a serious threat to school safety or imminent risk of serious physical harm to students or staff. The Board further recommends that districts require staff to receive approval from the school principal before reporting a student to law enforcement. The Board recommends that districts adopt policies requiring that staff who summon law enforcement or who report a student to law enforcement promptly document why law enforcement response was necessary.

- (5) The Board recommends that the Legislature prohibit law enforcement officers from pursuing or using force in an effort to detain, apprehend, or overcome resistance of students who are fleeing relating solely to low-level disciplinary conduct.
- (6) The Board recommends that school districts adopt policies establishing that under no circumstance should law enforcement use force against students that is not legitimate, necessary, and proportionate.

Chair Guerrero then recognized Member Kulkarni. Member Kulkarni moved to adopt the recommendations as written. Chair Guerrero asked for a second and Member Bianco responded that he would not second the motion without hearing discussion on the recommendations. Member Randolph agreed. Member Ochoa seconded Member Kulkarni's motion. Chair Guerrero proceeded with a vote. Member Kulkarni voted "yes," Member Ochoa voted "yes," Member Bianco stated this was ridiculous and voted "no," Members Sierra stated that she could not vote in favor of it without having discussion and would abstain, Member Kennedy voted "no," Member Vang voted "yes," Member Dobard voted "abstain," Member Khajavi voted "yes," Member Hawkins stated that she was abstaining because they needed to have a discussion, Member Randolph voted "no," Member Villeda voted "yes," Member Thuilliez indicated he was having a hard time hearing so would sit this vote out, and Member Guerrero voted "abstain" and stated they would abstain from voting and also agreed that discussion should be had prior to a motion.

Member Guerrero stated that the motion did not carry. Chair Guerrero then opened the floor for discussion.

SDAG Beninati requested to be recognized to clarify that that abstentions do not function as "no" votes and that a motion passes upon the majority of yes to no votes. She stated that currently as the vote stood there were 3 "no" votes, 5 "yes" votes, and 5 "abstention" votes. She stated if Members who had abstained did so because they wanted to have discussion, that casting an abstention would not do that, but that casting a "no" vote would. She then asked if Board Members wished to reconsider their vote in light of the clarification because it appeared that some of them had abstained because they wished to have discussion.

Members Hawkins, Sierra, Dobard, and Chair Guerrero changed their abstentions to "no" votes. The vote totals were then updated as follows:

**YES:** KULKARNI, OCHOA, VANG, KHADJAVI, VILLEDA

**NO:** BIANCO, KENNEDY, RANDOLPH, SIERRA, HAWKINS, GUERRERO, DOBARD

**ABSTENTIONS:** THUILLIEZ

SDAG Beninati then tallied and announced the results. There were 5 Yes, 7 No, and 1 Abstention. The motion did not carry.

Chair Guerrero then opened the floor for Board discussion. Member Sierra held concerns that recommendation #1 was premature and that further exploration is warranted. She suggested that the Board should perform further review to find additional alternatives to compare with the



proposed recommendation to determine its effectiveness. Member Bianco stated that 2022 data) the recommendation is based on (i.e., 26,000 California students were arrested in 2022 required additional context as when compared to the overall student population the 2022 data accounted for less than .03%. He raised concern that recommendation's focus on less than .03% of the student population potentially disregards the safety of the rest of the student population.

Chair Guerrero encouraged the Board to review the draft report section. She stated that the report section contextualizes the recommendation and asked the Board to consider the racist origins of police in schools. Member Kennedy responded that regardless of its origins and initial purpose, school resource officers (SROs) should be considered as beneficial assets as they are highly trained. He asked the Board to consider recommendations which positively leverage this asset for more productive outcomes rather than its outright elimination. Member Randolph mirrored Member Kennedy's statements. He stated that SROs provide the much needed benefit of protecting schools from external threats. He encouraged the Board to attend ride-alongs or tour with an SRO to better inform themselves when making recommendations. Member Hawkins agreed with Members Kennedy and Randolph and asked the Board to consider how to improve SROs interaction outcomes rather than their outright elimination.

Member Vang stated that the recommendations listed were appropriate. She stated that the recommendations align itself with the body of data collected and that data which demonstrates the effectiveness of SROs is still outstanding. She stated that the recommendations approach still considers student safety as paramount but also takes the much needed consideration to not handle students as criminals. Member Kulkarni added emphasis to Member Vang's consideration to not treat students as criminals. She stated that the school-to-prison pipeline is well observed with the nexus being an SRO which has been established to disparately impact students of color.

Member Villeda stated his support for the recommendations. He stated that the recommendations prevent the criminalization of students which has been observed to negatively impact their life trajectories. He also reiterated Member Kulkarni's concern that students of color are disparately impacted by their interactions with SROs. He closed by asking the Board to consider different alternatives outside of school resource officers.

In the interest of time Chair Guerrero thanked the Board for their feedback and concerns and tabled the discussion for the next full board meeting.

## **9. Public Comment**

Co-Chair Guerrero opened the floor to members of the public for their comments.

Michelle Wittig asked the Board to consider including a section on why racial and identity disparities in pretext stops are the focus of the pretext section as it would explain the report's assessment of pretext stops. She asked the Board to include a definitive definition of pretext stop. She also added that given that an officer's intentions cannot be measured, the report must explain how the data indirectly assesses intent from patterns and trends found in the data.

Richard Hylton stated his concern that the definition of complaint is not universally understood and the damage that can be occur. He also stated that the disparate impact reported by the DOJ in

the report and the number reported on its website do not match. He encouraged review of this matter to determine the correct number.

Chair Guerrero thanked members of the public for their participation.

### **10. Discussion of Next Steps**

Chair Guerrero stated that next steps would be the continued discussion of recommendations listed in the youth in schools section of the report. She then opened the floor for the DOJ to provide additional updates. SDAG Beninati reminded the Board that the Co-Chair elections will also occur at the next Board meeting.

### **10. Adjourn**

Co-Chair Guerrero thanked all for their attendance and adjourned the meeting.