**CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD**
https://oag.ca.gov/ab953/board

# STATE AND LOCAL RACIAL AND IDENTITY PROFILING POLICIES AND ACCOUNTABILITY SUBCOMMITTEE MEETING MINUTES

**May 27, 2020 – 1:10 p.m. – 2:45 p.m.**

**Subcommittee Members Present:** Subcommittee Co-Chair Andrea Guerrero, Subcommittee Co-Chair Warren Stanley, David Robinson, LaWanda Hawkins, Melanie Ochoa, Oscar Bobrow, Sahar Durali, Tim Silard
**Subcommittee Members Absent:** Micah Ali

1. **Introductions**
   Subcommittee Co-Chair Guerrero called the State and Local Racial and Identity Profiling Policies Subcommittee to order at 1:10 pm. The meeting was held with a quorum of members present.

   Co-Chair Guerrero welcomed Member Ochoa to the Board and Subcommittee. Member Ochoa shared that, in addition to serving on the Board, she is a Senior Staff Attorney with the ACLU of Southern California.

2. **Approval of the Subcommittee Meeting Minutes**

   **MOTION**: Member Robinson made a motion to approve the October 23, 2019 subcommittee meeting minutes. Subcommittee Co-Chair Stanley seconded the motion.

   **APPROVAL**: Three subcommittee members in attendance voted "yes" (Guerrero, Robinson & Stanley); there were no "no" votes and two abstentions (Ochoa & Durali).

3. **Overview of Proposed Subcommittee Work by Department of Justice**
   Allison Elgart from the DOJ stated that the first Board meeting of the year was canceled due to COVID-19. She explained that the DOJ would review Wave 2 law enforcement agencies' policies and discuss a survey of law enforcement agencies with the subcommittee, and that the DOJ would like to hear Board member recommendations regarding the report contents. Ms. Elgart noted that the review of policies was a continuation of the work that the subcommittee began in 2019 with the Wave 1 reporting agencies.

4. **Update on Review of Wave 2 Bias-Free Policing Policies by Department of Justice**

Domonique Alcaraz from the DOJ discussed the Board's review of Wave 1 agencies' bias-free policing policies. She stated that the review was based on the best practices included in the 2019 RIPA Board Annual Report. She explained that before the matrix was finalized, it was provided to agencies with a request for feedback. Ms. Alcaraz stated that this year the review would include Wave 2 agencies. She explained that a paragraph describing key elements of each agency's policies were included in the meeting materials and requested Board member feedback regarding the matrix and review process.

Member Ochoa requested that the DOJ follow up with Wave 2 agencies and ask how each agency has incorporated bias-free policing across policies, for example, in policies about bias-free policing training. She recommended that the DOJ provide the Board information about agencies' adherence to RIPA reporting requirements. Subcommittee Co-Chair Guerrero stated that the DOJ is working closely with reporting agencies and requested an update regarding monitoring of the data integrity. She added that the work of the subcommittee in 2019 focused on data integrity and recommended that the Stop Data Analysis subcommittee continue to monitor data integrity.

Subcommittee Co-Chair Guerrero requested that the DOJ follow up with Wave 1 agencies and ask about any change in policy in the last year. Member Durali recommended reviewing if the agencies' policies address remedial action. She stated that research demonstrates that policies that do not address accountability do not produce results. She stated that the existing category "supervisory review" is too vague. Member Durali recommended that for the agencies showing a checkmark for supervisory review an explanation of the supervisory review should be provided in the paragraph about the agency's policies.

Member Bobrow stated that supervisory review was not included in the policies of five of the agencies. He stated that the lack of policies addressing supervisory review undermines civilian complaint processes and the ability of agencies to address violations of bias-free policing policies. Co-Chair Guerrero requested that the DOJ follow up with the Wave 1 and Wave 2 agencies to request their policies about supervisory review and request an explanation if there is not a supervisory review policy. Ms. Alcaraz stated that the DOJ would follow up with the agencies.

Member Ochoa recommended that the Board provide best practice recommendations and a model policy regarding the handling of civilian complaints. Member Robinson stated that it would be challenging to have uniform policies for handling civilian complaints across agencies, as differences in agency size and staffing impact these policies. He stated that he supported the recommendations discussed and believes that analysis of the

data will direct the policies work. Subcommittee Co-Chair Stanley agreed that it would be difficult to produce a model policy for handling civilian complaints that would work for all law enforcement agencies.

Subcommittee Co-Chair Guerrero stated that the Board should include a model policy for accountability in the report to then evaluate individual agency's policies in this area. She recommended that the Board review agencies' COVID-19 enforcement policies. Subcommittee Co-Chair Stanley stated that the CHP was not including COVID-19 enforcement in stop data reports because all encounters were purely educational. Member Robinson stated that the Kings County Sheriff's Office (KCSO) had not done any COVID-19 enforcement, but he had seen videos of enforcement on social media. He stated that COVID-19 was the current public health crisis, but over time, there will be distinct public health crises. He added that it would be possible to track stops related to enforcement of a government code section. He stated that, during the Shelter-in-Place period, KCSO had seen a decrease in stops overall and was not responding to calls for service related to social distancing requirements but was taking the calls as informational. Member Robinson stated that this might result in a period of data that is markedly different from the full data set. Co-Chair Stanley agreed that traffic volume was down significantly, and there were fewer stops.

Member Durali recommended that the Board address use of force related to COVID-19 enforcement and bias-free policing policies related to COVID-19 enforcement. Co-Chair Guerrero requested consideration of how the Board can address public health crises in its report.

5. **Discussion of Proposed Subcommittee Report Contents**
Ms. Elgart reviewed the Draft Report Outline and stated that there is the opportunity to address additional areas of subcommittee interest in the report. Anna Rick from the DOJ shared an update about a Proposed Decision by the Commission on State Mandates about LEA reimbursements related to stop data reporting. She also stated that CRES and the Research Center had begun to develop a survey to identify the resources and activities that LEAs are engaging to advance the goals of RIPA. She explained that the DOJ proposes to include Wave 1 and Wave 2 agencies in the full survey and Wave 3 agencies in the portion that is not related to data analysis. Ms. Elgart asked that the subcommittee consider making the survey results part of the policies section of the Board report. Ms. Rick read the draft questions related to the adoption of model policies based on the Board's recommendations. She stated that the intention is to provide information about LEA actions based on the work that the Board has produced.

Subcommittee Co-Chair Guerrero asked if a question about accountability and supervisory review could be added to the survey. Ms. Elgart stated that it might be best to address each agency's policies related to supervisory review in the review and discussion about agencies' policies because the survey is asking how the agencies are using the Board reports. She stated that in the Board's meetings during 2019 there were questions about the impact that the Board's recommendations and data analysis have within agencies. She stated that it would be possible to make supervisory review an aspect of the survey but that this could also be addressed with the agencies in following up on the policies review.

Ms. Beninati stated that it would be important to ask agencies how they are using the stop data in a way that looks at accountability, for instance, at the officer level, how sergeants are looking at data. She stated that this was separate from the big picture question about how departments are analyzing their data. Ms. Beninati stated that DOJ is developing training that will also address accountability. Sub-committee Co-Chair Guerrero stated that the process-based questions about how agencies have changed policing to incorporate the stop data are valuable. She stated that in addition to learning how the processes are changing, it is necessary to ask, either in the policy review or in the survey, "Did you hold somebody accountable and what were the outcomes of your accountability process?"

Member Bobrow asked when the Board could expect the agencies' responses. Ms. Elgart stated that the DOJ goal was to send the survey out in several weeks, allowing 30 days for responses with additional time for follow-up, and to share the information at the September Board meeting. Ms. Beninati stated that the survey responses could be a central discussion at the next subcommittee meeting or the Board meeting.

6. **Public Comment**
   Karen Glover stated that it was not clear that LEAs are mandated to do data analysis, but they are encouraged to do the analysis. She noted that in the review of Wave 2 agencies' policies, five of the six agencies do not have a component on data analysis. She stated that until there is a connection with agencies doing data analysis, accountability would be difficult to achieve. She stated that the Lexipol policy does not address supervisory review. She added that research shows that in policing, direct line supervisors have one of the most influential roles in accountability. She stated that remediation, what occurs to address accountability, is not discussed in the policies. She added that research, which included interviews with San Diego Police Department officers, is showing a lack of officer buy-in concerning data collection. Dr. Glover asked if the Board has established a baseline number of complaints an agency has received during the initial data collection

period, and racial and identity profiling practices for comparison with the agencies' complaints and polices in five or six years.

Richard Hylton stated that LEAs' performance fails to meet up with LEAs' policies. He stated that the use of force data shows that the San Diego Police Department uses police dogs ten times more often with black people than with white people, and the discussion should focus on performance.

Julie Alley from the Santa Monica Coalition for Police Reform commented that AB 392 mandates new standards for the use of deadly force and asked how the subcommittee was addressing the new mandate in model policies and follow-up with LEAs about accountability procedures.

7. **Discussion of Next Steps**
Subcommittee Co-Chair Guerrero stated that DOJ would follow up with agencies about supervisory review and data analysis policies and add a question about accountability and supervisory review to the LEA survey. She stated that the subcommittee would consider content for the report, including law enforcement pandemic response.

8. **Adjourn**
Subcommittee Co-Chair Guerrero adjourned the meeting at 2:25 p.m.