

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

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

**POST TRAINING AND RECRUITMENT SUBCOMMITTEE MEETING NOTICE
AND AGENDA**

October 7, 2020

2:00 PM

Via Blue Jeans video and telephone conference ONLY. The public is encouraged to join the meeting using the “Join Meeting” link below. The “Join Meeting” link will provide access to the meeting video and audio. We recommend that you log in 5-10 minutes before the start of the meeting to allow sufficient time to set up your audio/video, and to download the Blue Jeans application, if desired.

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A phone dial-in option will also be available.

(408) 317-9254

Meeting ID: 753 959 638

1. INTRODUCTIONS (5 min.)
2. APPROVAL OF August 5, 2020 SUBCOMMITTEE MEETING MINUTES (2 min.)
3. UPDATE OF SUBCOMMITTEE WORK BY DEPARTMENT OF JUSTICE (20 min.)
4. PUBLIC COMMENT (10 min.)
Both the Blue jeans application and dial-in number will permit public comment.
5. DISCUSSION OF PROPOSED SUBCOMMITTEE REPORT CONTENTS AND NEXT STEPS WITH POST (1 hour)
6. PUBLIC COMMENT (10 min.)
Both the Blue Jeans application and dial-in number will permit public comment.
7. DISCUSSION OF NEXT STEPS (10 min.)
8. ADJOURN

Documents that will be reviewed during the meeting will be available at least one day prior to the meeting in the Upcoming Meeting section of the Board’s website <https://oag.ca.gov/ab953/board>.

The meeting will begin at the designated time. Other times on the agenda are approximate and may vary as the business of the Board requires. For any questions about the Board meeting, please contact Anna Rick, California Department of Justice, 1515 Clay Street, Suite 2100, Oakland, California 94612, ab953@doj.ca.gov or 510-879-3095. The meeting site is accessible to persons with disabilities. If you need information or assistance with accommodation requests, please contact Ms. Rick at least five calendar days before the scheduled meeting.

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POST TRAINING AND RECRUITMENT SUBCOMMITTEE
MEETING MINUTES

August 5, 2020

Subcommittee Members Present: Sandra Brown, Damon Kurtz, Melanie Ochoa, Angela Sierra, Warren Stanley

Subcommittee Members Absent: None

1. Introductions

Co-Chair Sandra Brown called the meeting to order at 10:05 am. The meeting was held by videoconference with a quorum of members present.

2. Approval of May 28, Subcommittee Meeting Minutes

MOTION: Co-Chair Ochoa made a motion to approve the May 28, 2020 subcommittee meeting minutes. Member Sierra seconded the motion.

APPROVAL: The five subcommittee members present voted “yes”; there were no “no” votes and no abstentions.

3. Update about AB 953 Training by Department of Justice

The Civil Rights Enforcement Section (CRES) and the Client Services Program (CSP) of DOJ will be conducting AB 953 POST-Certified training twice a day over a period of twelve months to the 400 law enforcement agencies who will be submitting RIPA data. DOJ offered the Board a one-hour abbreviated version of the training for Board feedback. The purpose of the course is to ensure uniformity in reporting stop data. Allison Steen of CSP advised that the course would include an overview of the RIPA Act, the history of the mandate, the purpose of the data, and importance of uniformity. Kimberly Newport-Hewitt of CSP shared that participants would be given an overview of the roles of the RIPA Board, law enforcement agencies, POST, and DOJ in implementing AB 953. Participants will learn how and where to report the data as well as engage in interactive scenarios officers could encounter. Participants will be tested and provided a resource guide.

CRES staff developed a series of interactive scenarios for the training based on frequently asked questions from officers from WAVE 1 and 2 reporting agencies. Kendal Micklethwaite and Domonique Alcaraz of CRES demonstrated several sample scenarios related to the data collection form and narrative fields and solicited Board member feedback. Some of the scenarios covered situations that address multiple officers at a scene, officer perception, reason for the stop, consensual encounters, narrative field

examples, actions taken during a stop, property search and seizures and results of a stop. There was a discussion about the collection of perception data by Board Members Ochoa and Brown. A scenario for reason for the stop was presented where the officer finds out the person is on parole then conducts a search. Co-Chair Brown liked this scenario and stated that officers cannot create a reason to stop after the stop. Co-Chair Ochoa would like it emphasized that this is an illegal stop and spend time discussing how officers would and should report this. She would like to see discussion on officer accountability. For example, officers would be audited when what happened during the stop does not match what has been reported. Co-Chair Sandra Brown and Member Damon Kurtz discussed the scenario for consensual stops as the basis for a search. Specifically, the potential differences between what makes a person feel they are being detained, cannot leave and must comply with officer requests and what makes the officer feel the person could leave but are freely agreeing to stay and freely agreeing to be searched. Board members felt this scenario would be a good training tool and would prompt good discussion. Co-Chair Brown and Member Kurtz agreed to provide DOJ staff an example of a consensual stop.

4. Training Update and Recruitment/Hiring Overview by POST and Board Discussion of Future Collaborations.

Meagan Catafi, the Legislative Coordinator and Public Information Officer with POST, gave a presentation about POST and the AB 953 training and programs. Ms. Catafi reported that in addition to the five AB 953 mandated training courses developed by POST, they are developing updates to their use of force training pursuant to SB 230. Ms. Catafi explained that this is an extraordinary legislative session due to COVID and police reform and there are over 16 bills that would affect POST trainings and reforms in the areas of public transparency, accountability, de-escalation, use of weapons, and defensive tactics. Ms. Catafi then updated the Board on the procedural justice and implicit bias training courses and videos, as well as POST's \$1.5 million training grant with the Museum of Tolerance. Ms. Catafi also mentioned a \$5 million grant that POST received to award to interested universities and colleges to develop law enforcement programs on use of force, implicit bias, racial profiling, community policing, cultural diversity, and organizational wellness. The deadline for grant applications was August 3, 2020.

Raymond Nanadiego, a POST consultant, presented an overview of the 664 hour regular basic training course program offered by POST to new recruits through POST certified academies and courses. He stated that the primary mission is to prepare students mentally, morally and physically to advance into a field training program. The courses are taught by instructors approved by POST and are divided into 42 individual topics

called Learning Domains. Two of the Learning Domains were developed to meet the statutory requirements of AB 953: Learning Domain 3, Principled Policing in the Community, and Learning Domain 42, Cultural Diversity and Discrimination. . On the topic of recruitment, POST staff advised that they provide guidelines to law enforcement agencies and develop the training and standards for recruits in the academies going through the testing process to become officers. To become peace officer in California you must go through and pass the POST Basic Course however POST does not directly recruit or hire officers.

5. Public Comments

Karen Glover stated that she agreed with a public comment made at a prior meeting that POST training does not reflect community concerns. She then asked how POST integrates accountability into its training? Is it evaluated? She stated that the ideas of social justice and implicit bias need to be structural and presented less on a micro level. She stated that the problem with POST training is that not much has changed since the Rodney King beating.

Norma Nelson asked if law enforcement agencies are able to decide whether a written complaint of racial profiling will be filed with the RIPA Board? She explained that she had filed a complaint with a local law enforcement agency and was told there was no justification for the complaint. She stated that the Mayor publicized that for the past five years the city has had a clean record on racial profiling. Knowing she had filed a complaint, Ms. Norman thought the Mayor's statement was problematic. Co-chair Brown advised that regardless of outcome, the complaint should be recorded. Member Ochoa advised that it may not have been recorded if the agency deemed it to be an inquiry in lieu of a complaint or perhaps because the agency determined that the complaint was not justified. Ms. Elgart advised that the 2020 RIPA report explained how officer complaints are counted and the report notes that there are discrepancies in reporting. Rachel Salamanca, a member of the public that works for the Museum of Tolerance, shared her perspective based upon working on hate crimes and advised Ms. Nelson not to get discouraged; she said the best solution is for people to continue filing complaints.

Richard Hylton referenced Ms. Glover's comments and shared that he wrote two letters to POST in 2017 and 2019 expressing concerns about their training courses. Mr. Hylton commented on the scenarios presented during the meeting, stating that it is not consensual when an officer asks to pat you down for your safety and their safety, but rather it is coercion. Mr. Hylton stated that stops involving probation and parole should be based on the data. He also stated that welfare checks are not consensual and that transparency of the data collected is critical.

6. Discussion of Next Steps

Co-Chair Sandra Brown articulated three possible next steps to discuss at the next subcommittee meeting: 1) analyze the AB 953 Academy Training courses; 2) getting the RIPA Board involved earlier in the course development process; and 3) working with POST to ensure more recommendations and best practices in past RIPA reports are adopted.

7. Adjourn

Co-Chair Brown adjourned the meeting at 12:15 p.m.

DR

POST Training Related to Racial and Identity Profiling

I. BACKGROUND ON THE CALIFORNIA COMMISSION ON PEACE OFFICERS STANDARDS AND TRAINING (POST)

POST is a state entity in the California Executive Branch that reports directly to the Governor. POST is responsible for setting the minimum selection and training standards for over 96,000 law enforcement officers and dispatchers in California; more than 6,000 agencies participate in the voluntary POST program. POST has approximately 135 staff and over 30 Law Enforcement Consultants. It has a current budget of approximately \$82 million. There is a POST Commission comprised of 15 members appointed by the Governor, one member appointed by the State Assembly and Senate each, and the Attorney General serves as an ex-officio member. The Commission selects the Executive Director. The Commission holds three public meetings per year to establish standards and regulations and to give direction to POST staff. The Commission established an advisory committee of 14 individuals, whose members the Commission appoints. The advisory committee allows organizations of interest to be informed of the Commission's work and to provide input.¹

II. LEGISLATIVE MANDATE

In 2015, RIPA amended Penal Code section 13519.4, which created specific requirements for POST with respect to training, as well as guidelines to prevent racial and identity profiling. The law requires academy level courses for new recruits and expanded training for seasoned in-service officers. The Legislature stressed that these courses should teach an understanding and respect for racial, identity, and cultural differences and development of effective non-combative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

Penal Code section 13519.4 requires that the curriculum “be evidence-based and include and examine evidence-based patterns, practices, and protocols that prevent racial or identity profiling.” In developing the training, POST must consult with the RIPA Board, which, in turn, includes its review of the law enforcement training in its annual report.

III. SUMMARY OF RACIAL AND IDENTITY PROFILING TRAINING COURSES

As the Board looks ahead to future collaborations with POST, the Board also revisited its past feedback to POST regarding their training courses so both parties can learn from and incorporate the feedback moving forward.

A. 2018 RIPA REPORT

¹ For more information on upcoming POST Commission and advisory committee meetings, please visit www.post.ca.gov.

DRAFT REPORT – PENDING EDITING AND REVIEW

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In the 2018 RIPA Report, the Board reviewed two POST training courses for in-service officers: “Biased Based Policing: Remaining Fair and Impartial” and “Principled Policing.”

1) The Board reviewed the Biased Based Policing course and provided feedback. Following that, POST replaced the “Biased Based Policing: Remaining Fair and Impartial” course with a two-hour training video course entitled, “Bias and Racial Profiling”.

2) The Board reviewed the 2015 “Principled Policing” course, which was developed in partnership with the Department of Justice, Stanford University, the Oakland and Stockton Police Departments, the California Partnership for Safe Communities, and the Empower Initiative. The Board found that this course met many of Penal Code Section 13519.4 requirements, but recommended that it be updated to include: 1) the obligations of peace officers in preventing, reporting and responding to discriminatory or biased practices by fellow police officers; 2) a discussion of California’s prohibition against racial and identity profiling; and 3) making community participation in the delivery of the course a standard practice. POST has integrated elements of the Board recommendations into the new mandated academy course entitled, “Principled Policing in the Community”.

B. 2019 RIPA REPORT

In the 2019 RIPA Report, the Board conducted evidence-based research and identified the following best practices for trainings devoted to preventing racial and identity profiling in policing:

- Training on racial and identity profiling should be evidence-based and include scientific peer-reviewed research on bias, principles of civil rights and constitutional policing, and reflect the agency’s commitment to procedural justice, bias-free policing, and community policing;
- Training on racial and identity profiling should be well-organized and delivered regularly;
- Training on racial and identity profiling should address communication and community relationships;
- Training on racial and identity profiling should include the tenets of Procedural Justice; and
- Training on racial and identity profiling should cover implicit bias, explicit bias, and cultural competency.

C. 2020 TRAINING UPDATES

Since the 2020 RIPA Report, POST has continued efforts to strengthen training courses aimed at meeting the mandates of AB 953. The following are the five standard courses offered by POST that are designed to meet the mandates of Penal Code Section 13519.4:

- Principled Policing in the Community – 26 hours, in person (academy)

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- Cultural Diversity/discrimination – 16 hours, in person (academy)
- Bias and Racial Profiling - 2 hours, video (in-service)
- Profiling and Implicit Bias Refresher for Supervisors - 2 hours, online (in-service) (Spring 2021)
- Profiling and Implicit Bias Refresher - 2 hours, online (in-service) (Fall 2020)

POST also offers other courses that relate to racial and identity profiling and principled policing.

- Procedural Justice/Implicit bias training, an 8-hour course for in-service officers that is voluntary but meets the legislative mandates. It covers several topic areas such as Principled Policing, Law enforcement cynicism, community relations and implicit bias. As of January 2020, 6000 officers had completed the training.
- POST modified supervisory, management and executive level courses to include the four tenets of procedural justice. The tenets are voice, neutrality, respectful treatment, and trustworthiness.
- POST produces between three to five short videos entitled, “Did You Know.” These videos are used during rollcall, training, or community meetings. The videos are about procedural justice and implicit bias and are 3-5 minutes long.
- POST has had a long-term relationship with the Museum of Tolerance (MOT) in Los Angeles. Each year, POST enters a \$1.5 million contract for instruction on a series of courses. All students who attend the POST Supervisory Leadership Institute attend the training at the MOT.
- POST has developed a Distance Learning Grant Program (DLGP) pursuant to the California State Budget Act of 2020. The DLGP is designed to award funds on a competitive basis to help with the development and facilitation of the delivery of quality training aimed at increasing equitable access to high-quality learning experiences while using distance learning technologies. The program is funded at \$5,000,000 and must address issues in one of five program areas as follows: Use of Force and De-escalation, Implicit Bias and Racial Profiling, Community Policing, Cultural Diversity and Organizational Wellness.

IV. RECENT UPDATES TO THE POST TRAINING PROGRAM FOR 2021

1. The “Bias and Racial Profiling” course is a two-hour training video, which was reviewed by the RIPA Board and released by POST in May 2020. As of July 2020, a total of 4,635 individuals had completed the training.
2. The “Principled Policing” course was updated and will be released in the Fall of 2020. It is a voluntary 8-hour course for in-service officers.

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3. The “Principled Policing in The Community” course was approved to be included in the POST Basic Academy Learning Domain 3. This is a 26-hour mandatory course for new recruits and became effective April 2020.
4. The “Principled Policing Train-The-Trainer” (T4T) is a 24-hour course. One course is dedicated for instructors in the basic academy. The other course is exclusively for in-service instructors. After the two initial T4T presentations in September 2020, the Principled Policing course for in-service students will be deployed across the state.
5. POST is developing a two-hour instructor video, tentatively titled “Principled Policing Instructor Video.” The video will be used as a resource in the above mentioned T4T instructor training. This will enable instructors to use the same video resource, whether basic or in-service. The video will 1) provide video scenario resources for Principled Policing instructors too use in their classes, and 2) enhance the instructor’s facilitation skills and effectiveness, including for this topic, by providing both facilitation tips and recommendations based on what occurs within the video program’s examples. It will also provide commentary on how instructors can bring forth additional Principled Policing-specific content beyond just the examples that happen within the video scenarios.
6. The self-paced online “refresher” training course is almost complete and will be released to the field by approximately mid-October 2020. The course will be tentatively titled “Profiling and Implicit Bias Refresher.”
7. The supervisor module for the self-paced “refresher” course is currently under development. POST anticipates releasing the supervisor module in the spring of 2021. The module will be tentatively titled “Profiling and Implicit Bias Refresher for Supervisors.”

A. BOARD MEMBER REVIEW OF PROFILING AND IMPLICIT BIAS SELF-PACED ONLINE REFRESHER COURSE

One of the five mandatory courses created by POST on racial and identity profiling and cultural diversity is entitled, “Profiling and Implicit Bias Refresher.” Officers are required to take a mandatory two-hour refresher course every five years after leaving the academy and this course is designed to meet that requirement. It is a self-paced course and is located on the POST Learning Portal, which means officers can take this course at any time.

The POST curriculum development process includes analysis, design, and review phases before the course is released to the field. POST invited the Board to participate early in the course development process for the “Profiling and Implicit Bias Refresher” and again after the content was created.

During the initial analysis phase, POST had one-on-one interviews with Board members (past and present), which included Ben McBride, Warren Stanley, Sandra Brown, Marianna

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Marroquin, and David Robinson. POST then worked with Subject Matter Experts (SME) from the Museum of Tolerance and their trained instructors to establish learning objectives in line with the mandates in Penal Code section 13519.4. Additionally, POST used both SME's and law enforcement officers to test different prototypes. In April 2020, POST invited Board members to review an online demonstration of a draft of the course and hosted content review and feedback sessions. Four current Board members, Steve Raphael, Melanie Ochoa, LaWanda Hawkins and Sandra Brown, provided comments on the course.

The Board members² expressed that while a classroom setting course is the preferred form of delivery, the modules of this online course were structured and designed very well. The Board members liked that the course included the topics of constitutional rights, implicit bias, connecting with the community, procedural justice, accountability, and de-escalation. The Board was also pleased to see that if an officer answers the question incorrectly, they could not proceed and would need to answer the question correctly before going forward to the next scenario.

This notwithstanding, Board members concluded that because the content, scenarios, and desired outcomes are critical to the course success, the subject areas listed above need to be strengthened, clarified, discussed in greater detail, or changed. The Board offered a variety of recommendations for improvement. Board members expressed concerns that the course included scripted bias scenarios as a teaching tool even though actual footage of officer-involved situations is available and would be more effective. The Board members expressed that greater care should be taken when selecting teaching examples needed to achieve the desired outcome. The Board felt that the course would benefit from providing more guidance and discussion about the legal implications and consequences of bias. Additionally, the Board recommended that inclusion of some classroom discussion regarding the reasons why certain bias scenarios were selected should be added. The Board also pointed out that the course did not sufficiently emphasize officer accountability, the reporting obligations, and how officers should respond after observing biased behavior by their peers, nor did the course take advantage of teaching opportunities provided in scenarios applying reasonable suspicion and the use of social media.

B. BOARD MEMBER REVIEW OF BIAS AND RACIAL PROFILING VIDEO COURSE

Another of the five mandatory courses created by POST on racial and identity profiling and cultural diversity is entitled, "Bias and Racial Profiling." Officers are required to take a mandatory two-hour refresher course once every five years after leaving the academy and this course is designed to meet that requirement. Officers can view this training video either in a facilitated group or individual setting. Before her passing in December 2018, RIPA Board member the Honorable Alice Lytle was very involved in the early development of this curriculum, served as an SME, and provided guidance to POST. Other SME's working on the training course video included representatives from the Fresno County District

² These are a compilation of comments made by individual Board members – they are not verbatim and do not necessarily reflect those of more than one reviewer.

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Attorney's Office, the Council on Islamic Relations, the Museum of Tolerance, the Stockton Police Department, the Glendale Community College Police Department, and an advocate of the LGBTQ community. Course development meetings were held with collaborators in October and December of 2018 and again in February 2019. Additionally, POST interviewed the SME's individually.

In April 2020, following the post-production of the video, RIPA Board members were invited to view the final version of the video prior to its release in May 2020. Board member participants included Sandra Brown, Angela Sierra, Nancy Frausto, Melanie Ochoa, and David Swing. Board members³ reviewed the video and provided POST the following comments.

Some Board members were overall pleased with the outcome of the course. It was thought to be designed to enhance critical thinking and attempted to tackle difficult subjects in a way that did not seem artificial. Some felt it was professional and well put together. Some members liked the historical segments. Board members felt that it could be helpful for community members to see the included conversations between officers.

Some Board members expressed concerns about specific scenarios that needed deeper discussions involving parole and probation, explicit versus implicit bias, the use of highly offensive terms to describe groups of individuals, and the need to use real data to illustrate the disparate treatment of people of color. Some Board members believed that the training should include the role of contemporary police, illustrate how misconduct can create the views of policing as seen today, and provide officers with the tools to combat personal or agency issues. The Board members also believed that the training was lacking because it did not include anything about RIPA stop data; it did not use actual incidents and events involving officers; it did not use real examples of ways to communicate with differing groups of people when stopped (i.e. people with hearing or learning disabilities or LEP); it did not discuss the "wrongness" of a stop and the bias that led to the stop as examples; and it did not cover the situation where officers may not be fully aware of how their actions change as the stop evolves.

Unfortunately, POST advised that it could not adopt any of the above recommendations by the Board members due to the limited time available between the time that POST previewed the video to the Board members and the video's release. POST explained that the video was already in post-production and it could not be revised. Because POST was unable to change the video, but did want the input of the Board and the Department, POST invited Department personnel that staffs the RIPA Board to review and edit the participant's guide based on Board member suggestions. The guide would then be used to edit the facilitator's guide that is used during the presentation of the course. POST did incorporate most of these comments into the guide; so while the recommendations that the Board made were not incorporated into the video itself, many of the comments will be addressed during the classroom discussion portion of the training. POST has expressed a strong desire and

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commitment to ensure this does not happen again, and has pledged to work closely with the Board throughout the entire process in the future. The Board looks forward to developing a stronger working relationship with POST moving forward.

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