

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

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

STOP DATA SUBCOMMITTEE MEETING MINUTES

June 9, 2020

Subcommittee Members Present: Douglas Oden (Co-Chair), David Swing (Co-Chair), Oscar Bobrow, Pastor J. Edgar Boyd, Andrea Guerrero, LaWanda Hawkins, Lily Khadjavi, Doug Oden, and Steven Raphael.

Members Absent: Timothy Walker

1. Introductions

Aisha Martin-Walton from the Department of Justice (DOJ), Civil Rights Enforcement Section delivered a statement discussing the importance of the work of the Racial and Identity Profiling Board, especially during this present moment of the national conversation and peaceful protests in support of the Black Lives Matter movement and against disparate treatment and adverse outcomes for people of color by police.

Stop Data Subcommittee Co-Chairs Oden and Swing then called the meeting of the Stop Data Subcommittee to order at 1:05 p.m. The meeting was held by video conference with a quorum of members present.

Co-Chair Swing introduced new Board Member Lily Khadjavi. Introductions were made by Board members.

2. Approval of October 10, 2019 and November 6, 2019 Subcommittee Minutes

Co-Chair Doug Oden made a motion to approve the minutes for both the October 10, 2019 and November 6, 2019 meetings. Member Bobrow seconded the motion. A roll call vote was taken. All members voted “yes” except Member Khadjavi, who abstained.

3. Update from the DOJ

Anna Rick from the DOJ stated that the DOJ had received questions from LEAs about reimbursement for RIPA-related expenses of data collection and reporting, and the Commission on State Mandates had recently partially approved a Test Claim for RIPA Reimbursement. She stated that proposed recommendations and comments on the Draft Reimbursement Parameters and Guidelines could be filed with the Commission by June 12, 2020, and details were available on the Commission’s website.

Member Doug Oden inquired why the test claim was not fully approved. Allison Elgart from the DOJ gave further clarifying information on the state mandate and reimbursement decision.

4. Speaker and Discussion: Veil of Darkness Methodology

Kevin Walker from the DOJ Research Center provided an introduction for researchers Dr. Matt Ross and Ken Barone from the Institute for Municipal and Regional Policy (IMRP) at Central Connecticut State University. Dr. Ross and Mr. Barone gave a presentation to the board.

Mr. Barone explained that their research team has been active in the state of Connecticut for more than 10 years and they were invited to California by Assemblywoman Dr. Shirley Weber to testify before the California legislature regarding AB 953. Mr. Barone stated that five statewide analyses for stops by law enforcement in CT have been released, the most recent being May 5, 2020. Connecticut has approximately 100 police departments (far fewer than CA), which makes it easier to conduct in-depth analyses of departments identified as having significant statistical disparities in their data.

Mr. Barone explained they use seven different methods to analyze the data. The team uses what they call “preponderance of the evidence approach,” where they conduct several different analyses to determine if racial or ethnic disparities is taking place. If profiling is evident, the research team looks at what is driving the disparity and applies an appropriately tailored analysis of the department that could examine, for example, calls for service, accidents, and patrol patterns. The research team uses a conservative approach in identifying profiling practices and focuses resources on departments that have large disparities.

Though numerous methods are used in Connecticut, the Veil of Darkness (VOD) is considered the gold standard and is one of their strongest methodologies. They continue to test this model and address shortcomings to improve the methodology. Other types of analyses they use are synthetic control model, descriptive statistics, stop dispositions and the post-stop Knowles, Persico and Todd (KPT) hit rate analysis.

Mr. Barone explained that although the research is still in the early stages, they are trying to move beyond the twilight standard and include weather patterns or other factors that could increase visibility. The VOD is the most conservative test of those mentioned and it is a very difficult standard to meet. For this reason, the researchers do not rely on this method alone. Mr. Barone then provided further details on how departments are identified for further analysis. Once a department is identified, the researchers focus on a tailored analysis of the department, including calls for service, accidents, and patrol patterns for example.

Data-Driven Policy Reforms Example: Stops for Equipment Violations and DUI’s

Mr. Barone ended his presentation by sharing an example of how data can help end disparities. They identified a department for possible profiling issues or that showed significant statistical

disparities. Upon closer examination of the department's policies and practices, they noticed that officers were encouraged to make stops for equipment violations to help catch DUI drivers. The research team found that the department policy of stopping drivers for equipment violations did not have a correlation to DUI arrests (which was the basis for the policy). Out of 1,608 stops for auto light violations or low-level equipment violations, the department only found 1 drunk driver. Once the department stopped that practice, they actually increased the number of DUI arrests and the disparity in stop data was reduced.

Board Discussion

Member Raphael asked about the synthetic comparison method and how the researchers approached the analysis. Dr. Ross explained it was like a propensity score, and they review similar populations of cities and other factors to make comparisons. Member Raphael asked about the VOD analysis, and how equipment violations or cell phone infractions may be more visible at certain times of day and how that would affect the data. Dr. Ross explained they are exploring variations of visibility, including weather to see if that affects the data. Even when focusing on certain types of violations such as moving violations, they found the analysis was too conservative.

Member Raphael asked if there are issues with the VOD in the departmental analysis; in other words, do departments show up with significant disparities on other tests? Both researchers explained that there are some departments that have repeatedly showed up in different analyses. VOD is their strongest measuring tool but they use them all to complete the analysis or get a complete picture.

Member Khadjavi asked for more details on machine learning applications of synthetic comparison data and challenges of having very small data sets. Dr. Ross explained the current fashion in research is creating internal benchmarks and using machine learning applications to evaluate propensity scores. Member Khadjavi asked if this was applicable to pedestrian stops. Dr. Ross explained pedestrian stops may be better benchmarked with population data. Connecticut, however, does not collect data on pedestrian stops.

Member Khadjavi asked about visibility and using the time of day; for example, could researchers do a ride along with officers to measure visibility of drivers? Dr. Ross advised that research has shown it is difficult to see race during both daylight and darkness, but there is a difference in visibility so the test can measure disparities.

Data-Driven Policy Reforms Example: Limiting Consent Searches

The Researchers shared an example regarding data-based policy reforms and reducing or limiting high discretion searches such as consent searches. A department showed a high statistical disparity indicating profiling may be taking place. Specifically, the officers were asking black and brown residents to consent to search at a significantly higher rate than those who appear to be white. Further, there was a lower yield rate associated with those searches; the data showed it was not a successful police tactic. The Police Chief in response prohibited consent searches.

When the department instituted the policy, the disparity was significantly decreased. Success of searches went from a yield rate of 7% to close to 80% when consent searches were stopped.

The researchers explained that a consistent way to decrease disparities in the data was reducing or stopping consent searches. Some departments have embraced the practice while others have not. Unfortunately, when the Chief retired in the department discussed above, the policy was re-instituted and the disparity returned.

Board comment and questions

Member Raphael asked about how departments interpret or use the methodologies in the reports. Dr. Ross and Mr. Barone stated that the assumptions and reasoning behind using different methodologies has helped avoid issues that arise when researchers rely on a single method. They emphasized it is important to make the analysis as well as reports engaging and accessible to the general public as well as media.

5. Public Comment

Richard Hylton stated that the VOD should not be considered a gold standard, especially regarding the data from California. Richard Hylton stated there are better predictors of racial profiling than lighting and researchers need to consider who is more likely to be stopped at night based on employment or other factors.

Karen Glover asked about the experience of the researchers using stop data and as an accountability tool. The researchers responded that they use data to inform the community and create policy changes that increase or improve accountability.

Michele Wittig stated that it may be a red flag if the VOD does not consistently agree with the other six methods. Ms. Wittig stated that Connecticut's standards or parameters may not apply to the demographics or size of the California. She further stated that we cannot generalize the use of VOD to California and questioned why researchers prioritize avoiding false positives by all other criteria.

6. Initial Stop Data Analysis Highlights by DOJ

Mr. Walker from DOJ gave a presentation on the stop data collection. Mr. Walker explained DOJ is in preliminary stages of updating its analyses for this year's report. There was a brief discussion about the DOJ dashboard on the OpenJustice website at the DOJ. The DOJ then gave a demonstration of the dashboard.

7. Discussion of Proposed Stop Data Analysis Chapter in 2021 Report (15 min.)

Mr. Walker discussed the different methods being used in this report and reviewed the agencies that are collecting stop data in 2019. Fifteen agencies are reporting. CHP was a large portion of the stop data, with LAPD and LA Sheriff's department being the second and third largest reporting agencies. The identity data on who is stopped is consistent from 2018-2019 and there was little variance in the data between the two years.

The reason for the stop was primarily traffic violations, followed by reasonable suspicion. Individuals who were perceived as black were searched for reasonable suspicion at about 1.8 times more likely than someone perceived to be white. Data was reviewed on the search rates and yield rates of those who were searched. Those perceived to be black are searched at 2.5 times the rate of those perceived to be white.

Dr. Trent Simmons, from the DOJ, reviewed the search yield rate for searches. Individuals perceived to be black and Hispanic are searched at a significantly higher rate than white individuals but have significantly lower yield rates, indicating those searches are not effective. The research team considered factors such as high discretion vs. low discretion searches, as well as variations by individual officers or department policies.

Mr. Walker showed a few intersections of the data analysis and opened it up to the board for discussion or questions.

Board Comment and Questions:

Co-Chair Swing inquired about probation status, and if other Board members had a recommendation regarding how to approach the analysis or if there was specific data the Board was interested in looking at in further detail. Member Khadjavi then inquired if officers were required to ask if someone is on probation or parole. Co-Chair Swing explained it is a discretionary search. Co-Chair Oden added there is no right to refuse to search during a probation investigation.

Co-Chair Swing was interested in how to analyze probation and parole searches as well as what we can learn from the data. Mr. Walker explained how the Research Center treated the types of searches and whether they were either high or low discretion. Member Raphael said the grouping of lower discretion searches is appropriate and the OpenJustice dashboard should include this tool as well. Mr. Walker explained DOJ is working on producing information. Member Raphael suggested separating out some of the CHP data and police department data. Dr. Simons explained that DOJ has already started to explore separating this data out.

7. Public Comment

Richard Hylton stated that the dashboard does not allow him to look at CHP and how it deals with citations. Specifically, Mr. Hylton stated that he believed the research team should investigate further into use of force: when guns are fired, pointed at a person, and dogs are used against members of the public. Mr. Hylton asked the team to look into L.A. and San Francisco on the topic of use of force. He also stated it may be important to include a comment on how the virus has affected enforcement rates.

8. Discussion of Next Steps (5 min.)

Mr. Walker explained that DOJ is working to produce American Community Survey census tables and intersectional analyses for this year's report. The DOJ welcomes feedback or questions on what to analyze or explore in the data this year. It was noted that SWITRS data is still in draft form and it will be completed soon; the 2019 data may not be finalized by the time our next RIPA report is issued but the 2018 data should be finalized. The team will be exploring alternative benchmarks for these if that is the case.

9. Service Appreciation by Department of Justice

Domonique Alcaraz thanked Member Pastor J. Edgar Boyd for his leadership and service on the Board. Ms. Alcaraz also thanked Member Andrea Guerrero for her service and active engagement with the Board and leadership.

Aisha Martin-Walton thanked Member Doug Oden for his leadership, reliability, and wisdom. Ms. Martin-Walton also gave thanks to Member Timothy Walker, in absentia, for his service to the Board.

Supervising Deputy Attorney General Nancy Beninati gave her thanks to the outgoing Board members and Co-Chair Swing similarly thanked his colleagues. .

10. Adjourn

Co-Chair Swing adjourned the meeting at 3:02 p.m.