

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

MEETING MINUTES

9th Meeting of the Racial and Identity Profiling Advisory (RIPA) Board

June 19th, 2018, 10:00 a.m.

Billy DeFrank LGBTQ Community Center
938 The Alameda
San Jose, CA 95126

The ninth meeting of the California Racial and Identity Profiling Advisory (RIPA) Board was held on Tuesday, June 19, 2018 at 10:10 A.M.

Members Present: Angela Sierra, Warren Stanley, Andrea Guerrero, Sahar Durali, David Swing, Ben McBride, Alice Lytle, Mariana Marroquin, Oscar Bobrow, Brian Marvel, Doug Oden, Timothy Walker

Members Not Present: J. Edgar Boyd, Tim Silard, Micah Ali, David Robinson, Jennifer Eberhardt, Sandra Brown

California Department of Justice Staff Present: Kelli Evans, Special Assistant Attorney General, Executive Office; Nancy A. Beninati, Supervising Deputy Attorney General, Civil Rights Enforcement Section (CRES); Shannon K. Hovis, CRES; Kelsey Geiser, CRES; Audra Opdyke, Assistant Bureau Chief, Bureau of Criminal Identification and Investigative Services, California Justice Information Services Division (CJIS); Erin Choi, Manager, Client Services Program, Charles Hwu, Manager, Criminal Justice Information Technology Services Bureau; Randie Chance, Program Manager, Bureau of Criminal Identification and Investigation Services, CJIS; Kevin Walker, CJIS, Daniel Tapia-Jimenez, CJIS

1. Call to Order and Welcoming Remarks

The meeting was called to order at 10:10 A.M. by Co-Chair McBride.

Co-Chair McBride welcomed the Board and the members of the public to the meeting. Co-Chair McBride encouraged all meeting attendees to take a moment to remember the migrant children currently separated from their parents and in U.S. custody.

Co-Chair Guerrero echoed Co-Chair McBride's comments and commented on the Board's role in upholding the values of the people of California and in fostering a trusting, respectful relationship between the community and law enforcement.

2. Approval of the March 29, 2018 Board Meeting Minutes

MOTION: A motion was made to approve the minutes by Co-Chair Guerrero. The motion was seconded by Member Bobrow. No objections were raised.

APPROVAL: The minutes were approved with all members in attendance voting “Yes”, no members voted “No”, and no abstentions. Members Boyd, Silard, Ali, Robinson, Eberhardt, and Brown were not present for the vote.

Member Bobrow commented that in a previous meeting the Board has discussed paying tribute to the civilians and law enforcement officers killed by officer-involved shootings in the report. Member Bobrow called to have this included in the 2019 report.

3. Update from Department of Justice on Stop Data Collection

Ms. Beninati announced Ms. Hovis’s departure from the DOJ and thanked Ms. Hovis for her dedication to the Board, the drafting of the regulations, and to civil rights. Ms. Beninati also announced that the staffing of the Board would transition to Ms. Geiser.

Ms. Opdyke provided an update on the collection of the stop data among Wave 1 agencies. Ms. Opdyke commented that the infrastructure is in place and ready to begin collecting data July 1, 2018 and that all agencies are connected to the DOJ testing and training environment and are set to move over into the production environment. Ms. Opdyke noted that one Wave 1 agency will be submitting data via the Department of Justice (DOJ) web application and seven will be submitting via alternate web applications which have all been extensively tested. Ms. Opdyke commented that DOJ provided training to all agencies on data submission and that user manuals and training videos have been made available directly to the agencies as well as on the California Law Enforcement website. Ms. Opdyke commented that the DOJ has been in consistent communication with each of the agencies and this relationship will continue through the collection process through final submission.

Ms. Opdyke commented that the DOJ has begun providing demonstrations to the Wave 2 agencies in preparation for their data collection beginning January 1, 2019.

➤ Board Member Comments

- Co-Chair Guerrero asked which agencies are using the DOJ web-based application and which are not. Co-Chair Guerrero also asked what assurances are in place to ensure that the applications do not allow for the manipulation of data after it has been entered prior to the submission of data to the DOJ.
 - Ms. Opdyke responded that SFPD will be using the DOJ web-based application and the other agencies are using their own systems.
 - Mr. Hwu commented that the law enforcement agencies know the intent of the law and the illegality of non-compliance.

- Co-Chair Guerrero suggested that the DOJ ask the agencies to attest to the fact that the data will not be altered once it has been entered by the officers
- Co-Chair McBride asked how many total web applications are being used in Wave 1 data collection.
 - Ms. Opdyke responded the SFPD will be using the DOJ web-application, two agencies will be using the San Diego Sheriff's Office application, and the remaining agencies will be using their own collection system.
- Co-Chair Guerrero stated the importance of data integrity and asked for an indication of the system that was used in the data collection when the data is reported to the public.

4. Update from Board Co-Chairs and Subcommittee Co-Chairs on 2019 RIPA Report Progress

Co-Chair McBride commented that the RIPA Board received a letter from Senators Lara and Mitchell on May 30, 2018 and read the letter aloud. The letter requested that the Board consider the topic of potentially biased calls for service for inclusion in the 2019 report.

➤ Board Member Comments

Member Oden stated that there are many instances in which civilians call 911 prematurely and commented that dispatchers and law enforcement agents may require additional training in how to respond to these types of calls.

Member Durali commented that there is an urgency in addressing this topic and asked if an existing subcommittee can cover it or if a new subcommittee should be created.

Member Lytle suggested that the topic be covered by the POST Training and Recruitment subcommittee.

Member Swing commented that dispatchers and officers are being trained both formally and informally to evaluate and triage calls to look at the actions present in the call. Member Swing also stated that law enforcement officers must not be compliance in their roles for safety and to avoid escalation.

Member Bobrow commented that the regulations include a narrative portion for why the stop was made so if many calls are race-based, the stop data will include this kind of information.

Co-Chair McBride stated that the training for officers and the system for dispatchers may not be as effective as they can be and stated that this body of literature should be a core aspect of the Board's work.

Co-Chair Guerrero suggested the creation of a new subcommittee devoted to this topic.

Member Durali echoed the call for the creation of a separate calls for service subcommittee.

Member Swing encouraged the new subcommittee to look at the frequency of calls that come into the dispatch centers and the number of calls a dispatcher does not dispatch an officer in response to.

Member Lytle suggested that the Board send Senators Lara and Mitchell a letter.

Ms. Evans responded that the DOJ staff can work with the Board co-chairs in the creation of that letter.

MOTION: A motion was made to create a new subcommittee devoted to calls for service and create a response letter to Senators Lara and Mitchell by Co-Chair McBride. The motion was seconded by Member Lytle. No objections were raised.

APPROVAL: The minutes were approved with all members in attendance voting “Yes”, no members voted “No”, and no abstentions. Members Boyd, Silard, Ali, Robinson, Eberhardt, and Brown were not present for the vote.

5. Expert Panel: Stops, De-Escalation, and Force

Member Bobrow provided an overview of the panel and introduced the panelists.

➤ **Presentation by Jack Glaser; Professor and Associate Dean of Public Policy at University of California, Berkeley Goldman School of Public Policy**

Mr. Glaser presented to the Board on what is meant by racial profiling and the importance of having comprehensive data to understand disparities in policing.

Mr. Glaser described how “racial profiling” has changed from a more formalized conception of profiling in the 1990’s. Today, formalized profiling is more disavowed; however, data shows that racial disparities in law enforcement actions are clearly still in existence.

Mr. Glaser reviewed potential causes of racial or ethnic disparities including:

- Differential offending rates.
- Differential types of enforcement (for example, police deploying to different geographical areas or emphasizing different categories of offenses).
- Formal profiling (though currently, the evidence for this is scarcer).
- Informal profiling due to the influence of stereotypes and implicit bias that exists in all people.

Mr. Glaser stated that there are many other influences, such as economic and institutional differences, that contribute to these disparities as well. Mr. Glaser noted that his research has focused mainly on biases at the individual officer level that have given rise to disparate rates of stops and searches.

Mr. Glaser reviewed some challenges with policing data including:

- Collecting trustworthy and complete data.
- Benchmarking the data, or determining who should be getting stopped and searched to enable comparison.
- Outcome tests circumvent benchmarks (looking at yield rates, arrest rates, contraband and weapon yield rates that result from stops and searches and analyzing for racial and ethnic disparities).

Mr. Glaser analyzed the New York Police Department (NYPD) pedestrian stop data as a case study that utilized the outcome tests approach. This data provided evidence that white people who are stopped and searched are more likely to have criminal justice outcomes resulting from the searches. This suggests that they are being subjected to a higher level of suspiciousness in order to get stopped and searched in the first place. This indicates that marginalized groups are being subjected to lower levels of suspiciousness and yielding evidence of wrong-doing at a lower rate.

Mr. Glaser stated that the success of the outcome tests approach relies on a high degree of reliability and confidence in the completeness of the data collected. Returning to the NYPD data, Mr. Glaser commented that the reduced hit rates are a promising sign that reducing the rates of highly discretionary stops can improve the quality of the stops that are occurring but also provide insight into the racial factors contributing to the stop decisions in the first place.

Mr. Glaser stated that it is in everyone's best interest to have a high degree of accountability in the stop data reporting to provide a high degree of confidence in the integrity of the data.

➤ **Presentation by Chief Jim Bueermann (Ret.); President, Police Foundation**

Chief Bueermann presented to the Board on effective solutions to reduce the impact of bias and profiling in policing, promote de-escalation, and reduce instances of use of force. Chief Bueermann spoke to the use of research and evaluation in understanding the role of policies, practices, and trainings that are working to improve the outcomes.

Chief Bueermann recommended that the Board review the recent study produced by the National Academies of Sciences, Engineering, and Medicine on Proactive Policing and the related executive briefs. Mr. Bueermann commented that the notion of having a biased reaction is inherent to the policing culture and officers across the country are taught to proactively look for criminal behavior.

Chief Bueermann recommended that the Board to review a collaborative project between the Vera Institute and the Police Foundation called CompStat360, a data-driven, accountability model that primarily analyzes indicators of crime. Mr. Bueermann stated that for law enforcement agencies, the public's perception is their reality despite what the results of the data analysis may be.

Chief Bueermann recommended that the Board utilize a scientific approach when reviewing its data. Analyzing the data can help reveal what is happening, not necessarily why it is happening. Science can help evaluate the effectiveness of a program or approach, help define the outcomes you are seeking, and identify the obstacles to collecting the data at the desired level. Science can help reposition data collection processes as not just about collecting numbers but rather about how policing reconnects with the civilians and helping re-establish a legitimacy in police activities.

There is very little evaluation done on many of the police trainings to prove that the training actually works. Chief Bueermann stated that, in the absence of good evaluation, the best available evidence should be used.

Chief Bueermann reviewed some universal principles for what can be done to improve racial profiling and reduce use of force, including:

- Increasing awareness of implicit bias in the community and in law enforcement agencies.
 - Change policy to be proactive in terms of prohibiting overt conscious profiling and focusing on the de-escalation of force.
 - For instances of force, give officers space and time (e.g. 21-foot rule).
 - Mental health training (CIT training).
 - Focus on training police culture.
 - Talk about and change internal policies and practices.
 - Hold officers accountable for acts of conscious bias and inappropriate use of force.
 - Focus on and change the reward systems.
 - Co-produce the knowledge, understanding, and decisions around implicit bias, outcomes, crime control, and training with the community.
 - Establish ongoing auditing of the stop data being collected.
 - Create benchmarks for the stop data.
 - Train agencies on how to understand the stop data and tell the story of the data.
- **Presentation by Sergeant Vanessa Payne; Crisis Management Unit at the San Jose Police Department**

Sgt. Payne presented to the Board on the model used at the San Jose Police Department (SJPD) to train officers to identify indicators of crisis or mental health issues and provide tools to effectively de-escalate and resolve these situations.

Sgt. Payne provided an overview of the development of SJPD's Crisis Intervention Training (CIT), the first 40-hour CIT training implemented in California. All SJPD officers, first responders, and other non-sworn personnel who have contact with the public are required to attend the training.

Sgt. Payne presented statistics in support of the importance of CIT training, citing that one in five individuals from mental illness nationwide and 35.5% of all fatal officer involved-shooting nationwide involved an individual with mental illness. In San Jose, the number of calls for service involved an individual with mental illness increased from 2,558 in FY 2014-2015 to 5,086 in FY 2016-2017 and 6 of 7 officers involved shootings in 2017 involved an individual with an individual with mental illness.

The goal of a CIT program is to de-criminalize mental illness, to divert individuals with mental illness to the health care system, and to improve safety for officers, consumers, family members, and community members. The training program aims to develop relationships and partner with organizations that treat the mentally ill to build up resources. CIT training helps officers and first responders identify (not diagnose) the major mental illnesses, interact, communicate, and de-escalate situations, to de-stigmatize mental illness, and identify resources for the officers, families and the community.

The training partners with local organizations features presentations and engagement with professionals in the mental health field, covering the following topics, among others:

- Posttraumatic stress disorder and traumatic brain injury, civil commitment and legal aspects, suicide by cop, psychotic disorders, mood disorders, suicide assessment, dementia and Alzheimer's, de-escalation techniques, intellectual disabilities, autism, juvenile issues, alcohol and substance abuse, medications, homelessness, case studies, scenarios, and resources.

The training teaches officers how to identify and deal with triggers, and provides example techniques and tools to help officers slow things down and connect the individual with the resources they need. The training covers what to do and what not to do in particular situations.

In San Jose, the CIT protocol is that a dispatcher identifies an instance of mental illness or crisis then looks for a CIT officer in that district and dispatches them. In situations involving a weapon, the dispatcher will search city-wide for an available CIT officer.

➤ **Presentation by Sam Sinyangwe; Data Scientist and Policy Analyst, Campaign Zero, Mapping Police Violence, Use of Force Project**

Mr. Sinyangwe presented to the Board on his work collecting data on uses of force, analyzing policies for restrictions, and understanding the impact of policies on use of force outcomes.

Campaign Zero, Mapping Police Violence, and the Use of Force Project were created in response to a deficiency of comprehensive data around frequency of officer involved shootings, police bias and profiling, and police use of force. The goal of these projects was to create an infrastructure to collect the data, analyze it, and determine what works in terms of policy and practice to keep communities safe.

Mapping Police Violence is a data platform featuring comprehensive data on fatal use of force. The data collected reveals that 3-4 people are killed by police daily nationwide, 1,200 people per year and found variation in where these incidents were occurring and showed evidence of bias.

In addressing the topic of accountability, the data showed that 99% of fatal use of force cases in 2015 have not resulted in any officer(s) involved being convicted of a crime. Nationwide, only one in every thirteen complaints filed against a police officer is sustained and, of those complaints, only a portion results in discipline of the officer.

Mr. Sinyangwe commented that, in addressing racial disparities, the data reveals that black individuals are three times as likely to be killed by police and more likely to be unarmed when stopped even when controlled for crime rates and calls for service rates. Looking at the data on California specifically, the data showed the state has the tenth highest rate of fatal use of force incidents by population in the country. When the data is broken down by city, the rate is not consistent across jurisdiction.

Mr. Sinyangwe stated that the data that is available does not show that fatal use of force is a function of crime rates and to begin to understand what else may explain disparities such as these, it is necessary to collect data on the policy standards and practices of agencies.

Campaign Zero is a policy solutions platform that synthesizes policy data and combines with best practice evidence to identify policy solutions. When addressing training, the data shows that recruits spend less time in de-escalation, use of force, communication, and crisis intervention training than is best practice. Mr. Sinyangwe stated that the quality and type of training should be taken into consideration as well rather than focusing solely on the number of hours in trainings.

The Use of Force project analyzed the use of force policies from the 100 largest agencies in the country and found that the policies varied greatly, particularly in regards to the restrictions on use of force included in the policy. The project found that a majority of agencies lack a majority of the best practice standards and language around use of force restriction. The project analyzed the use of force policies of the 25 largest cities in California and found that only a few of the cities have the below identified best practice standards around restrictions:

- Requires de-escalation, has use of force continuum, bans chokeholds and strangleholds, requires warning before shooting, restricts shooting at moving

vehicle, requires exhaust all other means before shooting, duty to intervene, requires comprehensive reporting.

In analyzing the policies' effect on the likelihood of fatal use of force, the project found that these standards were related to a lower incidence of fatal use of force. Further, the project found that when a department has more of the standards in place, the lower the rates of fatal use of force was. The project also found that officers in departments with more restrictive use of force policies are less likely to be assaulted in the line of duty. When analyzing effects over time, the project found that in departments that implemented new restrictions in their use of force policies, the rates of police shootings were reduced in the following year.

Mr. Sinyangwe recommended a better collection of use of force data nationwide, an increased focus on identifying practices and tactics that work in reducing fatal use of force, and continuing to build a base of evidence for how these practices can be implemented over time to allow gains to be sustained.

➤ **QUESTION AND ANSWER**

Member Durali asked Mr. Glaser if he had concerns as an expert about the integrity of the data collected by AB 953.

Mr. Glaser responded that law enforcement agencies should be encouraged to adopt a standardized system for data collection and a standardization of the data variables and categories within each variable.

Member Bobrow asked Mr. Glaser if the NYPD data he presented on was required to be collected.

Mr. Glaser responded that the department was required to collect the data.

Member Marvel asked Mr. Sinyangwe how many of the people killed each year are armed versus unarmed.

Mr. Sinyangwe responded that approximately 50% were armed with a firearm, 30% are armed with other weapons, and about 20% are unarmed.

Member Marvel asked Mr. Sinyangwe what data the Use of Force project drew on when calculating the reduction in use of force in response to policy changes.

Mr. Sinyangwe said they looked at between 600-700 incidents of fatal use of police force and cross-referenced those against the identified policies to determine if an association existed.

Member Oden asked Mr. Sinyangwe asked if the Use of Force Project has compared cities with similar demographics to determine if the de-escalation model works.

Mr. Sinyangwe responded that the analysis controls for the demographics of the communities and noted that the online data source allows viewers to compare cities by population size and they would be willing to follow-up with the Board if it wants to do a comparison of specific cities based on demographics.

Member Stanley asked Ms. Payne how many hours of CIT training recruits receive when going through the Police Academy and asked if there is an annual refresher training after officers receive the 40-hour CIT training.

Sgt. Payne responded that recruits receive 16 hours of CIT training in the Academy and there is no requirement for refresher trainings after the 40-hour training at the moment, but do receive refresher courses on tactical communications through POST.

Member Bobrow asked Sgt. Payne if the SJPD has been able to measure the results of the training.

Sgt. Payne responded that the SJPD is in the process of developing a method of collecting data on training outcomes and has been working with community members to gauge impact on community relations.

Member Bobrow asked Mr. Sinyangwe if the Use of Force Project has been contacted by a national police organization to try to implement the results of the data analysis nationally.

Mr. Sinyangwe responded that they have worked directly with several cities such as Baton Rouge, LA and Orlando, FL to implement changes and aims to continue to advocate for the implementation of these changes at the legislative level as well.

Mr. Glaser stated the importance of training, culture, and practices on top of analyzing the department's policies. Mr. Glaser also stated the importance of having long-term data that shows longitudinal effects.

Sgt. Payne commented that the SJPD has mandated the CIT training in favor of full transparency and improving trust among community relations.

Member Marvel asked Mr. Sinyangwe and Mr. Glaser for raw data from their studies. Member Marvel commented that there is an expense associated with additional law enforcement training and suggested that POST's funding be removed from its dependence on fines and tickets. Member Marvel state the importance of ensuring that

Chiefs across the state have the resources and funding to implement these trainings and policy changes.

Co-Chair McBride commented that funding needs to be addressed in the POST Training and Recruitment Subcommittee.

Member Swing asked Mr. Glaser for his recommendation on how to provide context to the data once the Board has it and how to ensure data integrity.

Mr. Glaser responded that training on data entry is crucial and doing systematic auditing of the data and cross referencing against body worn camera footage.

6. Public Comment

Mark Trout expressed that he believed mental health training was important.

A member of the public asked if the Board had considered police policies on compassionate restraint that does not use firearms.

Captain Mike Kim from the SJPD commented that the SJPD use of force policy cited in the presentation was out of date and the current policy has several de-escalation procedures.

Ruben de la Rosa from Momentum stated that he believed continued data collection and the use of independent auditors was important.

Robert Geary, an advocate for houseless individuals, requested that the Board address bias against the poor which goes beyond police departments into local and state government.

7. Break

8. Expert Panel: Accountability and The Rights of Impacted Families

Member Durali provided an overview of the panel and introduced the panelists.

➤ Presentation by Joyce M. Hicks; Former Executive Director of the Office of the San Francisco Office of Citizen Complaints

Ms. Hicks presented to the Board on civilian oversight of law enforcement. Ms. Hicks served as the executive director of civilian oversight agencies in Oakland and San Francisco and provided the Board with an overview of her experience working with both agencies.

In Oakland, the Community Police Review Board (CPRB) had the power to make findings on civilian complaints of police misconduct, to impose discipline on officers, and make policy recommendations to the chief of police. The staff team included a director, a policy analyst, and a seven-member Board appointed by the mayor. Approximately 700 complaints were investigated a year and were presented to the CPRB for action. If the CPRB then recommended further action, the police would make a determination on the final action and discipline of the involved officer(s). The decision-making process involved the board director, the police chief, and the city administrator.

In 2016, an Oakland Police Commission of seven appointed civilian commissioners that oversees the Oakland police department was created. The Commission oversees the Oakland Police Department (OPD) and the CPRB and has the power to review police misconduct, to impose discipline on police departments, oversees and adopts department policies and procedures. The Commission nominates the police chief and the CPRB director for appointment by the city administrator and has the power to terminate the police chief and CPRB director.

San Francisco also has a Police Commission made up of seven commissioners appointed by the Mayor and Board of Supervisors. The SF Police Commission nominates the police chief and the director of the Department of Police Accountability (DPA) (previously the Office of Citizen Complaints) for appointment by the Mayor. The Commission has the power to conduct disciplinary hearings on charges of police misconduct filed by the Police Chief or the Director of the DPA, has the power to impose discipline when warranted, and hears appeals to discipline imposed by the Chief of Police. The SF Police Commission also reviews and adopts department policies and has the power to audit the police department, the duty to audit all officer-involved shootings, and the investigations conducted by the Internal Affairs Department. The DPA investigates all civilian complaints against police officers and has subpoena power, the power to make findings and to make disciplinary recommendations to the Chief of Police. The Commission will weigh in on any matters that the DPA deems of importance. The DPA makes policy recommendations to the SFPD as well as the SF Police Commission. Every two years the DPA must audit the SFPD to review its use of force policies and its handling of claims of police misconduct.

Ms. Hicks commented that many cities have established civilian oversight processes or agencies, but there is variation in their structure and authority. In California, state law limits public access to critical information about how law enforcement agencies violate the law or department rules including information officer-involved shootings.

Ms. Hicks reviewed the top lessons she learned throughout her tenure at both police departments, including:

- Body worn camera footage is useful in investigating misconduct depends on the department policy on camera use and officers discipline in camera use.

- While discipline is an important aspect of the oversight boards' work, it generally only impacts.
- It is not enough to change policies. Officers must be trained on these policies, supervised, and have ongoing implementation and review of the policy.
- Department leadership must ensure that policies reflect fair and impartial policing, de-escalation of force, and emphasize the sanctity of life without endangering officers.

➤ **Presentation by Chief Allwyn Brown, Richmond Police Department**

Chief Brown presented to the Board on his work with the Richmond Police Department (RPD).

Chief Brown commented that RPD is connected to evidence-based best practices that allow the Department to work efficiently and keep pace with the changes with the communities served. RPD values a foundation of continuing community relationships and dialogue. Policing at the RPD flows from preventing crime and maintaining order with an emphasis on prevention through community policing through problem solving, community engagement, and organizational transformation.

Chief Brown stated that, today, RPD is known for its community policing approach which involves neighborhood policing with traditional command over each district as well as beat officers assigned to deal with calls for service and balance being ready emergency responders and invested collaborative problem solvers based in community values. The organizational transformation is based collaborative leadership on a crime and accountability system, part of which is built into the structure of the Department.

Chief Brown commented that RPD has a robust checks and balance system to ensure officers continue doing their jobs appropriately and, if this is not the case, that there is early intervention. RPD has an Office of Professional Accountability which is a version of an internal affairs department that is not housed in police headquarters to tear down invisible barriers to filing civilian complaints. The Office of Professional Accountability is run by a civilian manager and reviews complaints and offers mediation. RPD also has civilian oversight through the Police Review Commission that can accept complaints on officer use of force and racial discrimination, and can make policy recommendations for the Department to the Police Chief.

Chief Brown stated that, for use of force, there are multiple internal review layers including investigation of supervisor, lieutenant and every incident is reviewed more broadly on a monthly basis to ensure that force is being used in proportion and to review any training gaps or adjustments that should be made. RPD also features a use of force policy and use of body worn cameras and consistent footage auditing.

Chief Brown stated the importance of recruitment and establishing a culture that attracts police officers with integrity and the values of the community. The U.S. Department of Justice Office of Justice Programs Diagnostic Center conducted a recent review of RPD's community policing approach and how RPD addresses gun violence. Based on these recommendations, RPD has made a roadmap for going forward with one area of improvement being homicides.

➤ **Presentation by Christy E. Lopez, Distinguished Visiting Professor, Georgetown Law**

Ms. Lopez presented to the Board on organizing principles for police accountability.

Ms. Lopez stated that creating a culture of accountability where conducting oneself with integrity should be the norm. Creating this culture requires a comprehensive approach that considers mechanisms for prevention of problems and misconduct and mechanisms to help detect and respond to problems. This approach requires that accountability be reflected in policies, training, and practice meaning it is reflected in every day supervision, in performance assessments, and through robust formal accountability systems. Formal accountability systems must include formal investigations of allegations of misconduct, mechanisms to effectively refer more serious allegations to criminal investigation, and reflect coordination with oversight entities.

Ms. Lopez commented that accountability systems should be seen as legitimate inside and outside the agencies which require agencies to be mindful that their rules are not at odds with the agency's mission, strategy, or tactics, that the accountability processes are fair, consistent, and transparent, and that the process is timely, effective, and due. Police officers must trust the integrity of their leaders and know that their leaders are holding them accountable to honor the profession and uphold the standards of the community, not because they do not want to take responsibility themselves. The most effective systems don't rely solely on the formal mechanism and rather create a general culture of accountability. The formal mechanisms alone not sufficient to ensure police accountability.

➤ **Presentation by Roxanna Altholz, Assistant Clinical Professor of Law; Associate Director, International Human Rights Law Clinic at U.C. Berkeley School of Law**

Ms. Altholz presented to the Board on the crime victims' rights movement in the U.S., the supports provided to crime victims in California, and the structural barriers that prevent victims of police violence from vindicating their rights as crime victims.

Ms. Altholz stated that the crime victims' rights movement in the U.S. has its roots in the women's rights movement to secure respectful treatment of victims of rape and sexual assault as well as roots in the rights of law and order conservatives to protect the due process revolution. The early movement focused on whether victims should participate in

the criminal justice system at all, but more recently legislation has expanded victims' rights to participate in criminal proceedings. Ms. Alholz stated that, currently, all states protect victims' rights and 33 states have passed constitutional amendments recognizing victims' rights. Ms. Alholz commented that victims have a right to information about the proceedings and the outcome, the opportunity to participate in the proceedings, the right to fair and respectful treatment, and the right to economic restitution.

Ms. Alholz commented that California has been at the forefront of these legal protections. Victims' rights in California are enforceable once law enforcement and prosecutors become aware of the crime victim and remain enforceable through parole and beyond in the case of restitution. Law enforcement and prosecutors are required by law to inform victims of their rights at the time of initial contact with crime victims through the distribution of Marcy's cards that enumerate the rights. Most of these rights are not enforceable unless there is a prosecution.

Ms. Alholz stated that California has a robust compensation system that pays for services for crime victims including mental health services, loss support and income, funeral and burial costs, home security upgrades, and child care services when a caregiver is killed or disabled because of a crime. Ms. Alholz stated that compensation can be provided to victims of state and federal crimes regardless of whether a crime has been investigated or prosecuted. However, only 20% of crime victims nationwide are aware of victim's restitution funds and 4% of needs are addressed by the systems.

Ms. Alholz commented that she and her research team were unable to find a case in California or nationwide where the family of a victim of fatal police use of force was able to access these resources. Ms. Alholz stated that one reason for this finding could be a lack of familiarity with the existence of these rights and another may be because in many cases no charges are brought. Another issue is that individuals who are in custody or on parole or probation are not eligible for victims' rights compensation and services, which may disparately impact communities of color.

Ms. Alholz commented that in circumstances of fatal police use of force, until the determination of whether the use of force was justified, the families of the victims do have the same rights have crime victims. These instances fracture the relationship between the victim, their families, and the State and undermines a sense of belonging and citizenship.

➤ **QUESTION AND ANSWER**

Member Oden asked Ms. Hicks if she has found a difference in effectiveness between commissions that have subpoena power and those that do not.

Ms. Hicks responded that, based on her experiences, external agencies without subpoena power have difficulty with officer cooperation. However, even with subpoena power

there are delaying tactics and it matters that the director of the civilian oversight agency and the Police Chief have a relationship that supports the agency's power to compel.

Member Oden asked if the commission positions are paid or unpaid and noted a potential deterrence of those who do not have the financial resources from serving on these boards.

Ms. Hicks responded that the positions are unpaid positions.

Member Marvel asked Ms. Alholz if the premise of her research is that if an officer is assaulted and they use deadly force that the person assaulting them is a victim.

Ms. Alholz responded that to determine whether an officer used reasonable force an investigation would have to occur. The question is whether, during that investigation, the victim's families should be able to avail themselves of rights and services.

Member Lytle commented that it is important for the Board to recognize that peace officers are being asked to support a system that is greatly handicapped by systemic injustice that put peace officers and citizens lives at risk.

Chief Brown responded that it is important to understand the systemic injustices but also requires a pledge to do better going forward. Some improvements can be made, have been made, and have yet to be achieved. A large part of this is how engaged, empowered, and educated the communities that are policed are and how well they understand their role in prevention that would benefit from improved police-community relations that are constantly shifting. It is necessary to remain agile and adaptive. The systems should be early identifiers of officers who are no longer able to serve effectively and to help with community engagement.

Member Bobrow asked Chief Brown if the DOJ analysis of RPD was made available to the public.

Chief Brown responded that the information is available on the Office of Justice Diagnostic Center's website.

Member Bobrow asked Chief Brown if there is a relationship between the reduction of violence and homicide based on the personnel in the RPD.

Chief Brown responded that the people building trust and the willingness of people to come forward when a crime does occur are certainly related to a reduction of violence.

Member Bobrow asked Chief Brown which internal audits in the RPD exist on use of force by officers.

Chief Brown responded that any time use of force is used, a sergeant must go to the scene and conduct the initial investigation and documentation that then goes to an internal

manager who reviews the information that may then move forward and enter the internal data system that is reviewed by a committee to continue the investigation, the cause, and the response.

Co-Chair McBride asked the panelists if there are mechanisms or best practices that help analyze when officers are no longer able to provide good public service before it becomes a danger.

Ms. Lopez responded that many of the best practices in that area are centered around officer wellness which can be problematic due to existing stigma. An example program in this area is Ethical Policing Is Courageous (EPIC) peer-intervention program in New Orleans, LA which teaches officers how to intervene with other officers. An emerging best practice is offering support mechanisms such as support groups from the moment they begin.

Chief Brown commented that RPD has an active peer support program that has evolved and is often a first level activated in many situations.

Member Marroquin asked how community members are involved with officer trainings.

Chief Brown responded that RPD has the Community Safety Academy designed to teach residents how to be involved with crime prevention, how to connect with organizations, and they are also trained on particular police scenarios such as use of force, all of which helps the community have a deeper understanding of the job while being empowered to go out to the community and help prevent crime.

9. Public Comment

Aaron Zisser, the Independent Police Auditor, City of San Jose, commented that a major role of civilian oversight is community engagement and outreach. Mr. Zisser invited the Board to engage with some of the local organizations involved in supporting families effected by officer-involved shootings such as Silicon Valley De-bug and Uncle Bobby, Cephus Johnson who is Oscar Grant's uncle and is convening a group of families of effected by officer-involved shootings.

Reverend Rowan Fairgrove commented that she reviewed the police involved shootings in San Jose from the last fifteen years and found that, in the initial reporting, the person shot is characterized with a derogatory characterization and described as having a weapon and the notion that every victim is a perpetrator must be taken into account.

Mark Trout commented that that officers should be trained on mental illness.

Russ Turner asked the Board to engage with the media and the Writers Guild of America to help tell the story and engage a larger audience.

Gabrielle Antolovich of the Billy DeFrank LGBT Community Center commented that further research should be conducted into the biological basis prejudice and its systemic connections.

10. Discussion of 2019 Report and Next Steps

Ms. Hovis thanked the Board for its important work.

Co-Chair Guerrero and Co-Chair McBride proposed that the Board issue a statement in response to the separation of migrant children from their families.

MOTION: Member Oden moved to adopt the statement presented by Co-Chair Guerrero. The motion was seconded by Member Bobrow. No objections were raised.

APPROVAL: The minutes were approved with all members in attendance voting “Yes”, no members voted “No”, and no abstentions. Members Boyd, Silard, Ali, Robinson, Eberhardt, and Brown were not present for the vote.

11. Closing Remarks and Adjournment

The meeting was adjourned by Co-chair Guerrero at 2:00 p.m.