

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

MEETING MINUTES

14th Meeting of the Racial and Identity Profiling Advisory (RIPA) Board

September 26, 2019, 10:00 a.m.

Skyline Hills Library
Multipurpose Room
7900 Paradise Valley Road
San Diego, CA 92139

The fourteenth meeting of the California Racial and Identity Profiling Advisory (RIPA) Board was held on Thursday, September 26, 2019 at 10:00 A.M. in the San Diego Skyline Hills Library, Multipurpose Room.

Members Present: Andrea Guerrero, David Robinson, David Swing, Douglas Oden, J. Edgar Boyd, Oscar Bobrow, Sahar Durali, LaWanda Hawkins, Warren Stanley, Damon Kurtz, Steven Raphael

Members Not Present: Ben McBride, Micah Ali, Sandra Brown, Timothy Walker, Tim Silard

California Department of Justice Staff Present: Nancy A. Beninati, Supervising Deputy Attorney General, Civil Rights Enforcement Section (CRES); Allison Elgart, CRES; Catherine Ysrael, CRES; Domonique Alcaraz, CRES; Aisha Martin-Walton, CRES; Christine Sun, Special Assistant to the Attorney General; Audra Opdyke, Assistant Chief, Bureau of California Justice Information Services (CJIS); Erin Choi, CJIS; Kevin Walker, CJIS; Trent Simmons, CJIS; Tiffany Jantz, CJIS; Jannie Scott, CJIS; Alison Steen, CJIS; Domenico DeLuca, CJIS; George Whitby, CJIS; Joanne Kemmer, CJIS; and Kimberly Newport-Hewitt, CJIS.

1. Call to Order and Welcoming Remarks

The meeting was called to order at 10:07 A.M. by Co-Chair Robinson.

Co-Chair Robinson welcomed the Board and the members of the public to the meeting. Ms. Beninati introduced new DOJ staff.

2. Two new Board members introduced themselves: Damon Kurtz, the Vice President of the Peace Officers Research Association and a current Officer with the Fresno Police Department, and Steven Raphael, a Professor at the Goldman School of Public Policy who conducts empirical research on the criminal justice system.

3. Approval of the April 8, 2019 Board Meeting Minutes

MOTION: A motion was made to approve the minutes by Member Durali. The motion was seconded by Member Swing.

APPROVAL: The minutes were approved with ten members in attendance voting “yes”, there were no “no” votes, and one abstention by Member Kurtz.

4. Update from the Department of Justice

Ms. Elgart advised that copies of the draft January 2020 RIPA report are available today for review and comment and she thanked the Board, the public, agencies and DOJ staff for the hard work to produce it. She then provided information about the upcoming subcommittee meetings where the report will be discussed in more detail. The meetings will be throughout California and Ms. Elgart encouraged the public to attend. Ms. Beninati, advised that the next full Board meeting on November 20, 2019 in Oakland has been noticed, and expects with feedback from today’s meeting, upcoming subcommittee meetings and final information gathered, the report could be voted on by the Board at that meeting. If not, the Board will have the option to convene a teleconferenced meeting December 9, 2019.

Ms. Choi gave an update on the status of the stop data collection. In addition to the eight Wave 1 agencies whose stop data records were due April 1, 2019, seven additional agencies are now submitting data records. These agencies records are not due until April 1, 2020. As of September 23, 2019 650,000 Wave 2 records have been submitted. Two Wave 3 agencies – Bakersfield Police Department and the Los Angeles Unified School District Police – want to submit earlier than their April 1, 2021 due date. Ms. Choi also reported that DOJ staff met with law enforcement agencies on September 25, 2019 for a “Lessons Learned” meeting to get feedback about the stop data collection process. Some of the lessons were for DOJ to offer different training style options, to make the training shorter, and to include more training scenarios. Funding was also raised as an issue due to the staff time necessary for officers to complete the narrative fields. Ms. Benanti stated that requests for funding must be made to the Office of State Mandates in the California Department of Finance. Co-Chair Robinson echoed the concern about funding. Ms. Beninati stated that she passed along the Board’s position that RIPA data submission by law enforcement should be funded.

5. Co-Chair Robinson called for the following Subcommittee reports

a. Civilian Complaints Subcommittee June 3, 2019: Member Durali reported that the members agreed that the Board should draft a model civilian complaint form in 12 threshold languages and post it on the DOJ website. She further stated that there is a conflict between a California Supreme Court decision’s interpretation of a state statute, Penal Code Section 148.6, and a 9th Circuit Court opinion regarding the language required on complaint forms regarding the threat of perjury for filing a knowingly false complaint. It is the view of some Board members that this language is a deterrent to filing a complaint. After much discussion the following two motions were made and voted upon.

MOTION: Member Bobrow made a motion that the Board request an Attorney General’s Office Opinion on the conflict between the California Supreme Court decision regarding Penal Code Section 148.6 and the Ninth Circuit Court of Appeals. Member Oden seconded the motion.

APPROVAL: All members in attendance voted “yes”, there were no “no” votes, and no abstentions.

MOTION: Member Bobrow moved that the Board ask DOJ to draft a letter recommending the Legislature address the conflict between state law and the Ninth Circuit opinion and resolve it legislatively. Member Oden seconded the motion.

APPROVAL: Co-Chair Guerrero and Members Bobrow, Oden, Raphael and Boyd voted “yes”, there were no “no” votes, and Co-Chairs Robinson and Members Stanley, Durali, Kurtz, Hawkins and Swing abstained.
(It should be noted that the total number of Board members voting was five and all five voted yes so the motion carried).

The Board was in general agreement that a model complaint form be drafted. However the form should be created after the conflict between federal and state law is resolved and therefore would not be included in the 2020 report.

b. State and Local Racial & Identity Profiling Policies and Accountability Subcommittee

June 10, 2019: Member Stanley reported that the subcommittee discussed the idea of creating model policies from the Wave 1 agencies. This led to a broader discussion on the development of model policies for all agencies regarding bias-free policing. The subcommittee agreed this was the better option for future RIPA reports. Lexipol and the International Association of Police Chiefs (IAPC) could also be a reference.

c. POST Training & Recruitment Subcommittee, June 12, 2019: Member Kurtz reported that the subcommittee discussion centered around the implementation of AB 953 and how to work with POST to create a standardized training program that is in person, online and at the academy level, recognizing that 400 agencies will be tasked with AB 953 data collection. It was reported that POST did receive a budget increase, in part due to the RIPA Board’s work.

d. Calls for Service Subcommittee, June 12, 2019: Co-Chair Robinson reported that members focused on biased based calls. Officers on the street often have no clue who the caller is and possible bias. Officers have to rely on information from the caller passed through a dispatcher. Consequently there needs to be training for the dispatcher to ask follow-up questions. The subcommittee wants to work with POST to get training for dispatchers to recognize bias. The subcommittee will also review best practices.

e. Stop Data Analysis Subcommittee, August 7, 2019: Member Swing reported that the subcommittee reviewed the data from the Wave 1 agencies. Some of the comments have been

incorporated into the draft report. The meeting increased members' understanding of benchmarking and the data regarding calls for service versus officer-initiated traffic stops.

The CJIS Research Center gave updates to the Stop Data Analysis Subcommittee report: Mr. Walker stated that DOJ continues to analyze data, and provided summary data on stops, reasons for stops, search rates and search hit rates from Wave 1 agencies between July 1, 2018 and December 31, 2018, which is over 1.7 million incidents for over 1.8 million individuals stopped.

SUMMARY

- The largest groupings of individuals stopped were Hispanics, followed by Whites and Blacks.
- The majority reasons for a stop was a traffic stop, the second was reasonable suspicion of the person engaging in a criminal activity, of which Blacks were the largest group. The third largest reason for a stop was a consensual encounter that resulted in a search.
- Some racial groups had higher search rates than Whites.
- All racial groups of color had lower hit search rates than Whites.
- Differences between the hit rates of racial groups of color and Whites were greater for higher discretion searches than lower discretion searches.
- Search hit rate differences between Whites and racial groups of color were generally less pronounced when stops were initiated in response to a call for service.

The use of demographic data from both the Census and the American Community Survey were discussed in terms of benchmarks and analysis of the data collected. The Board reminded everyone that age, gender, disability and LGBT data are important along with race and should be in the report. A summary fact sheet of the report for the community was suggested.

MOTION: Member Bobrow made a motion to approve the November 8, 2018 Stop Data Subcommittee minutes. It was seconded by Co-Chair Robinson.

APPROVAL: A majority of the subcommittee members in attendance voted "yes", there were no "no" votes, and Member Oden abstained.

6. Public Comment

Captain Jeff Jordan, San Diego Police Department, Special Projects and Legislative Affairs, wanted to know why the report discusses only four categories of stops when there are 12 categories available in the High versus Low Discretionary stop data? He also wanted to hear more from academics.

Jaime, a resident of San Diego recommended that the category "Multiracial" not be separated from the racial group "Black", because from her experience, it is referring to persons in the black race so it skews the racial statistics for Blacks. She would also like to see stop data by officer assignment type.

Karen Glover, Professor at San Marcos College in Oceanside, was concerned that the Policies and Accountability section in the report is too light on accountability and too heavy on policy. Accountability should drive the report. She also cautioned on heavy reliance of Lexipol to write policies because it is an organization that is law enforcement driven and not community driven. She also feels the report should focus on what happens prior to a stop because in her view Whites

commit traffic violations who do not get stopped. Finally, baseline data in the report should include narrative from the community.

Eva Betran, Staff Attorney, ACLU Southern California, recommended that data allow for cross comparisons such as Black women and Hispanic males. She emphasized the importance of releasing the narrative field information. Finally she hopes there are ways for the public to contribute methodology ideas for future reports.

Katie Mathews, Staff Attorney, Disability Rights Organization, recommends analysis be conducted for all identity groups, not just race. She feels that intersectionality is important because people often have multiple indicators such as Black and disabled. Ms. Mathews urged the Board to compare stop data to population data and to get the report out to the DOJ Open Justice website as soon as possible.

James Holiday, Police Community Relations Citizen’s Advisory Board in San Diego, asked why the race and identity of the officers are not included in the report. He also encouraged Board members to seek out local organizations doing work in this area and attend their meetings.

7. Board Discussion of 2020 Draft RIPA Report

Member Oden stated the collection of the data was well done, but demographic data is needed for the analysis. Co-Chair Robinson emphasized the need for the report to mention the funding needs by law enforcement and cautions against drawing conclusions in the report, since only 8 agencies have reported with only 6 months of data. He recommends “preliminary data suggests”. Member Bobrow echoed the need for demographic data by areas the agencies serve. Member Swing expressed surprise that calls for service represent only 10% of stops and is concerned that because people are transitory, demographic data may not be the best comparison. Member Raphael suggested that police departments match data with city demographics, Sherriff departments match their data with county demographics, then CHP with statewide data. Co-Chair Guerrero recommended that data be broken down by officer assignment type and that the Policies and Accountability section be strengthened. Co-Chair Robinson stated that crime statistics might be included in future reports.

8. Public Comment

Christian Bordos, Alliance San Diego expressed concern about the City of San Diego’s use of smart technology traffic lights without community input and that it is surveillance mostly used in low income and neighborhoods of color.

Karen Glover, Professor at San Marcos College, Oceanside, advised that there are studies that show links between crime rates and hit rates and the Board may want to look into that.

9. Discussion and Approval of New Board Chair

Co-Chair Robinson advised the Board that Co-Chair Guerrero’s term expires at the conclusion of today’s meeting and the Board must select a replacement.

MOTION: A motion was made by Co-Chair Guerrero that Member Durali be nominated to serve as the new RIPA Board Co-Chair. It was seconded by Member Oden. Member Durali accepted the nomination.

APPROVAL: Member Durali was approved unanimously with all members in attendance voting “yes”, there were no “no” votes and no abstentions.

10. Approval of next steps

Ms. Beninati thanked Co-Chair Guerrero for her leadership and commitment to the Board while serving in this position. She also reminded everyone that the report is a draft and invited further input and feedback through the email address, AB953@doj.ca.gov

11. Co-Chair Guerrero adjourned the meeting at 1:23 P.M.