

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

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CITIZEN COMPLAINTS SUBCOMMITTEE
MEETING MINUTES

October 31, 2018 – 10:00 a.m. – 12:00 p.m.

Subcommittee Members Present: Sahar Duarli, David Robinson, and Doug Oden

Subcommittee Members Absent: Tim Silard, Brian Marvel.

1. Call to Order and Introductions

The fourth meeting of the Civilian Complaints Subcommittee was called to order at 10:07 a.m. by Kelsey Geiser from the California Department of Justice (DOJ). The meeting was held by teleconference with quorum of members present.

2. Approval of August 6 Subcommittee Meeting Minutes

MOTION: Member Oden made a motion to approve the August 6, 2018 subcommittee meeting minutes. Co-Chair Durali seconded the motion.

APPROVAL: All subcommittee members in attendance voted “yes,” no “no” votes, and no abstentions. Members Silard and Marvel were not present for the vote.

3. Update from the Department of Justice

Ms. Geiser provided an overview of the proposed subcommittee work for the annual report including an analysis of the 2017 civilian complaint data and the inclusion of a list of best practices for civilian complaint policies and procedures.

Ms. Geiser reviewed the recommendations that the subcommittee included in the 2018 annual Board report and reviewed the initial research and compilation of best practices proposed for inclusion in the 2019 report. Ms. Geiser emphasized that this is a draft list, created with the intention of facilitating discussion. Ms. Geiser reminded the subcommittee that this list is not intended to be an exhaustive compilation of every best practice, but rather the standard components that the Board believes should make up the policy or procedure of every agency in California, no matter the size or resources of that agency.

4. Discussion of Subcommittee Section Proposed Contents

➤ **Overview of Proposed Analysis of 2017 Civilian Complaint Data**

Kevin Walker from the DOJ research center provided an overview of the proposed approach to analyzing the 2017 civilian complaint data including a statewide analysis by disposition level and an agency-level snapshot of Waves 1-3 agencies. Mr. Walker commented that the complaint dataset for all agencies subject to stop data reporting will be released alongside the report.

➤ **Discussion of Proposed Best Practice Recommendations**

Ms. Geiser reviewed the proposed best practice topic areas, emphasizing that the specific recommendations would be created in light of the current conversation and included in the full report draft to be discussed at the next Board meeting. Ms. Geiser noted that the wording in the disseminated meeting discussion document would not be the final wording to be included in the report draft.

Accessibility, Transparency and Communication

Mr. Oden commented that the subcommittee should cover the outcome of the complaints and transparency with complainants about the progress and outcomes of their complaints.

Co-Chair Robinson responded that releasing outcomes of investigations is based on personnel records which cannot be disclosed, but the Penal Code requires that complainants are informed of the investigation's completion within 30 days.

Co-Chair Durali commented that the New Jersey State Police has specific information in its policy that indicates that personnel decisions are not disclosed but the outcome is otherwise disclosed. Co-Chair Durali said that she would share the specific language with the subcommittee.

A member of the public commented that there are some changes to what is subject to disclosure under SB 1421.

Co-Chair Durali commented that the subcommittee should keep populations with disabilities in mind when drafting the recommendations.

Co-Chair Durali commented that a best practice should be that all complaints, including juvenile complaints, should be accepted.

Complaint Intake, Filing, Investigation, and Tracking

Co-Chair Robinson commented that the subcommittee previously discussed including recommendations on ensuring that anonymous complaints can be filed and have an

avenue to be investigated. Co-Chair Robinson suggested that while currently Penal Code section 148.6 requires the inclusion of a standard advisory including a signature line on a complaint form, an option could be to make that signature optional to allow for anonymous complaints to be filed. Co-Chair Robinson noted that this would be a legislative change. Co-Chair Robinson commented that this language is included to avoid false allegations not to discourage anonymous complaints.

Co-Chair Durali commented that this would leave the decision of whether or not to investigate an anonymous complaint to the discretion of the agencies which may not be consistent across the state.

Co-Chair Robinson commented that this issue was brought up to the entire Board at the last Board meeting but no specific decisions were made. Co-chair Robinson commented that there is more to this issue than a simple recommendation to remove the signature line or require that all agencies investigate anonymous complaints and it will require a lot of additional conversation.

Co-Chair Durali and Co-Chair Robinson requested that a full conversation on this topic occur at the next Board meeting and that the DOJ conduct a legal analysis of the issue.

Co-Chair Durali commented that officers should also be trained on these policies and procedures. Co-Chair Durali commented that a best practice should be that everyone at the department know how to accept and file a complaint.

Co-Chair Robinson agreed and commented that a best practice is that if an agency receives a complaint against a different agency, that they forward the complaint along to the appropriate agency and personnel.

Co-Chair Durali agreed and emphasized that often these processes and procedures are hard to the public to navigate.

Co-Chair Robinson commented that a best practice could be that a department have an internal policy that allow for an employee to file a complaint against a fellow employee.

Co-Chair Durali commented that a best practice should be that the parties involved in the complaint, including the complainant, be interviewed.

Co-Chair Robinson suggested not limiting to just interviews, but expanding it to written statements as well. Co-Chair Robinson commented that the best practice should be to accept complaints in whatever format the complainant feels most comfortable providing the complaint in, whether verbal or written.

Co-Chair Robinson commented that a best practice should be that agencies should use all investigatory techniques to find the truth of the matter. Complaints should be investigated in a timely manner within the statute of limitations and that the complainant be notified on the completion of an investigation within 30 days. Co-Chair Robinson suggested encouraging agencies to do everything in their power to complete investigations more quickly than legally required.

Co-Chair Robinson commented that a best practice should be that agencies have a policy to review their own outcomes and procedures regularly.

➤ **Discussion of Model Complaint Form**

Ms. Geiser provided an overview of what would be included in a model complaint form, including relevant information detailing specific information from the agency's policy and procedures on how to submit and follow up on a complaint.

Co-Chair Durali suggested including information about specific information on personnel to contact if a complainant needs assistance with the form.

5. Public Comment

Michele Wittig from the Santa Monica Coalition for Police Reform commented that she has a list of suggestions centered around intake, investigation, adjudication, and communication. Ms. Wittig commented about a personal experience when she submitted a complaint as a witness and the complaint was categorized differently.

Melanie Ochoa from the ACLU of Southern California suggested including best practices regarding how to investigate complaints of racial bias specifically. Ms. Ochoa suggested including a specific timeline for referring certain complaints to the District Attorney or City Attorney.

Co-Chair Durali suggested that a best practice should be if an allegation of racial bias is seen that the officer immediately ask if they would like to make a complaint rather than waiting for the complainant to say affirmatively "I want to file a complaint."

6. Adjourn

Co-Chair Robinson adjourned the meeting at 11:55 a.m.