

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

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

MEETING MINUTES

December 2, 2021 – 10:00 a.m. – 1:22 p.m.

Members Present: Co-Chair Sahar Durali, Co-Chair David Swing, Nancy Frausto, Felicia Espinosa, LaWanda Hawkins, Lily Khadjavi, Damon Kurtz, Melanie Ochoa, Steven Raphael, Angela Sierra, Brendon Woods

Members Absent: Sandra Brown, John McMahon, Amanda Ray

1. Call to Order by Board Chairs

Co-Chair Swing welcomed everyone to the RIPA Board meeting and introduced Co-Chair Durali. He advised the Board and the public that CHP Commissioner Amanda Ray had an emergency and was unable to attend the meeting.

2. Approval of November 5, 2020 Minutes

MOTION: Member Sierra made a motion to approve the November 5, 2020 Board Minutes. Member Hawkins seconded the motion.

APPROVAL: The minutes passed unanimously, without objection or abstention.

3. Update from the Department of Justice

Ms. Allison Elgart with CRES, DOJ expressed that this was the final Board meeting of the year and was looking forward to feedback and possible sign off by the Board with approval for the co-chairs to wordsmith any technical changes requested during the meeting. Ms. Elgart highlighted the areas of the report where changes were made since the Board's last review of the draft report at the November 5 meeting. Those areas included the Introduction, the section on Driving Forces for Stop Disparities, an LEA Survey update, more information on explicit bias, the Civilian Complaint Section, Policies, Bias by Proxy, and an update on the Accountability Section. She also indicated that the conclusion was added there were additions made to the appendix and that the draft Executive Summary and Fact Sheet had been added. While she indicated that major changes to the 2021 report were not possible given the production deadlines, the Board always has the option to look to next year's report to delve into or further examine issues or topics of interest.

4. Board Discussion of the 2021 RIPA Report

Co-chair Swing opened the Board discussion by inviting comments and feedback. Board member Ochoa expressed appreciation for all of the edits. She had concerns with the connection between the history and explicit bias. She stated that this area of the report was based too heavily on past history and that it was this history that was causing the problem. She gave the example of slave patrols causing the distrust versus the institutions created for the oppressive policing of particular minorities without regard for their rights and that this was built into the system without having taken efforts to dismantle that system and that people continue see the way disparities play out today. Board member Ochoa felt there was a way this could be conveyed more clearly. Board Member Ochoa offered to draft language to present to the Board. Board member Ochoa stated that the bias section she was discussing was on page six of the report.

Board member Woods agreed with Board member Ochoa, however stated that he was not sure that it was possible to make her change this year, however agreed with it and stated that the history of the slave patrols was on page six. Board member Raphael, stated that he liked the introduction and thought it was a great addition. He stated that it may be possible to address Board member Ochoa's suggestion by separating or emphasizing the history by acknowledging that it is a source of memory and mistrust thereby distinguishing it from current problems.

Board member Raphael added that the introduction could be organized in a way for the history to set the stage to explain the current problems of explicit bias. He mentioned that the report does include examples of explicit bias.

Board member Sierra stated that one way to address Board member Ochoa's concern is to connect a link between the history on page six and the systemic disparities on page sixteen. She agreed that all of the information was already contained in the draft report and a few sentences would likely provide the context. Board member Ochoa agreed that distinguishing between history being known and the historical impact on how the institution still functions are both important, and agreed that a couple of sentences would correct it. Board member Sierra then suggested that Board member Ochoa write a few sentences, working with the co-chairs if the Board agrees.

Ms. Elgart advised that this suggestion would be a little more than a word-smith, and it would be better if Board member Ochoa could draft a few sentences that could be presented to the Board during the meeting.. Board member Ochoa agreed to draft a couple of sentences during the meeting.

Co-Chair Durali, had a comment about page six on the executive summary. She referenced that the last bullet concerning officer stops and curbside detentions. . She stated that if the intent of the Executive Summary is to pull out the most salient data then she is not sure how useful the raw numbers are in this bullet without percentages and a broader context stated

about it in the Executive Summary. She wanted to know the thought process for including this and what other Board members thought about it. Board member Khadjavi replied that she thought the intent was to emphasize the numbers not just the percent and to highlight that although more White individuals were stopped, more Black individuals were searched. There was such disparity in detentions and searches that this bullet shows the contrast. Co-Chair Durali requested to add two sentences, the raw numbers and percentages, to make this clearer in the Executive Summary. Mr. Kevin Walker with DOJ suggested reversing the order of the talking point to state that more black individuals have actions taken than white individuals. DOJ agreed to revise it and Co-Chair Durali agreed with this suggestion.

Board member Khadjavi added that the sample sizes for some groups are small relative to others. She wanted text added so that the reader had a clear understanding about what the data is showing. She provided an example about how the line graph for discovery rates by age and gender on page 10 does not let readers of the Executive Summary know that searches of persons 65 and older is a small proportion of all searches. She suggested adding language that would let a reader know that searches were more highly concentrated in the younger age groups. Board member Khadjavi felt this was important in instances where people may only read the Executive Summary of the report. Mr. Walker confirmed that these explanations were in the body of the report and said that staff will also add notes in the Executive Summary.

Board member Ochoa, requested that alterations be made to some of the charts in the Executive Summary to consider how they will be seen by persons who need to print the report in black and white versus in color. Mr. Walker agreed to review the charts and make changes where possible. Board member Ochoa also had a question about the complaint information on page 13. She wanted the report to indicate which agencies reported discipline. Mr. Walker indicated that there is no appendix for civilian complaints because there is a separate report for that on Open Justice and agency breakdowns can be found on the AG's Open Justice website as well. He stated that they could add an appendix table that contains the sustained complaint totals. Board member Ochoa also suggested that DOJ add a footnote reference for readers to the complaint report in Open Justice and include footnotes throughout this report with reference links to information from outside reports, such as the serious use of force data collected by DOJ and contained in another report.

Board member Khadjavi recommended that the separate Quick Fact Sheet be amended to state 'officer perception' in lieu of "perceived by the officer" to clarify for the reader that this is not the individual self-identifying, but rather it is how the officer perceived the person that they stopped.

Co-Chair Swing raised a question about the Use of Force Table Two on page 46. He asked how DOJ concluded that the definition of Firearms Pointed at a Person fell into the less than lethal use of force category on the chart and that perhaps it should have been moved or

deleted. He stated that generally law enforcement does not consider pointing a firearm at someone as a type of use of force. Board member Sierra, asked Co-Chair Swing if he wanted this type of force removed from the chart and placed in another location. He stated that he would like it removed. Co-Chair Swing clarified that law enforcement would include this information in a report however not in the category of use of force. He added that the Use of Force reporting elements in AB 71 only apply when there is deadly force or when there is serious bodily injuries or death. If someone pointed a firearm at an officer and the officer responded with deadly force, pointing a firearm would be considered as a civilian action versus an officer action. Mr. Walker stated that DOJ staff used a hybrid definition for force that borrowed from the National Institute of Justice, RIPA Data and AB 71 definitions. He added that removing the Firearms Pointed category from the chart would decrease the raw counts substantially, but that the relative size of the bars between groups would not change substantially. Board member Sierra asked if adding a footnote along the lines that not all agencies in California categorize pointing a firearm as a type of use of force. Co-Chair Swing stated he agreed with keeping the category as presented in the chart because deleting the data would not have a significant impact on the overall percentage findings. Co-Chair Swing agreed with the proposed addition of an explanatory footnote.

Co-Chair Durali asked Board member Ochoa to read the suggested concept language member Ochoa revised for the introduction of the Executive Summary. Board member Ochoa then read the proposed language based upon the above conversation and stated that additional edits could be made prior to publication.

MOTION: Co-Chair Durali made a motion to accept the Executive Summary language edits presented by Board Member Ochoa. Board member Hawkins seconded the motion.

APPROVAL: The motion passed without objection or abstention.

5. Public Comment

Eva Betran with the ACLU of California, congratulated the Board on an excellent draft report and thanked the Board for adding explicit bias, considering the ACLU November 2020 letter.. She asked if the Board had seen the LAPD data audit and was considering any next steps or review. She urged the Board to take up the mantel of making policy recommendations based on the data accountability and calls for service for policy makers.

Co-Chair Durali thanked Ms. Betran for following up on the LAPD data integrity outlined in the Office of the Inspector General (OIG) Audit. She recalled that this issue was previously discussed at a prior meeting. Some members wanted to look at the methodology and other members wanted the data included because of the size of the LAPD agency, and perhaps even add a foot note link. Board member Raphael stated that it was mentioned in the draft

report on page 83. Board member Khadjavi mentioned that it is in the video technology section and during the previous discussions were less about body cameras and more about data audit. Co-Chair Swing suggested that the issue discussed on page 83 be moved from the technology section to the supervisory oversight section. Member Ochoa agreed with that suggestion, however would like the issue of accuracy of data to be discussed in next year's report, to acknowledge that there may be some limitations due to officer errors in reporting. Ms. Beninati explained that she understood the Board's concerns and indicated that a primary goal of the DOJ POST AB953 training was to increase officer understanding of how and when to report the data. She also stated it would be possible to describe this issue in both sections. The Board was in agreement with Ms. Beninati's suggestions and with moving language from the technology section to the supervisory section with some wordsmithing by the co-chairs to ensure it fits. The Board members also agreed to discuss the issue of data accuracy and data limitations next year for inclusion in the 2022 report.

6. Final Discussion of RIPA Board Report and Any Further Action

Ms. Elgart stated that given the discussion, if the Board is comfortable with the report, the executive summary, the fact sheet and the appendix and they were willing to give the co-chairs the ability to make the final wordsmith changes discussed, then the Board may be willing to vote to approve it today.

Co-Chair Chief Swing asked for a motion.

MOTION: Member Raphael moved that the Board approve the 2021 RIPA report and authorize the co-chairs to work with DOJ to wordsmith final changes discussed at this meeting and approve them and on behalf of the Board. Member Ochoa seconded the motion. There was a roll call vote as follows; Co-Chair Durali, yes, Co-Chair Swing yes, Member Espinosa yes, Member Frausto yes, Member Hawkins yes, Member Khadjavi yes, Member Kurtz yes, Member Ochoa yes, Member Raphael yes, Member Sierra yes, member Woods yes.

APPROVAL: The motion passed unanimously.

7. Election of New Co-Chair for 2021

Co-Chair Swing thanked Co-Chair Durali for her service on the Board and as his co-chair. Ms. Anna Rick of DOJ stated that on behalf of DOJ, Co-Chair Durali served the Board for the past four years as a founding member as a former representative of the California Legal Rural Assistance and currently the neighborhood legal Services of Los Angeles. She further stated that Co-Chair Durali served as a co-chair of the Board and the Civilian Complaints subcommittee as well as a member on the Calls for Service and Policies and Accountability Subcommittees. Ms. Rick stated that Co-Chair Durali was always an active participant and encouraged others to speak out and the Board benefited from her courage, sensitivity and active listening and expressed hope that Co-Chair Durali would continue to be engaged.

Co-Chair Durali thanked DOJ, the Board members and the public, and a special thank you to Kevin Walker and the Research Center.

Co-Chair Swing opened the floor to receive nominations for the position of RIPA Board Co-Chair. Member Woods nominated Member Raphael. Member Raphael accepted the nomination. Co-Chair Swing called for more nominations. There were no other nominations.

Co-Chair Swing asked if there was any opposition to the nomination of Board member Steve Raphael. There was no Board member opposition. Member Steven Raphael was confirmed by the Board to serve as a Co-Chair with Co-Chair Swing effective January 1, 2021.

8. Adjourn

The meeting adjourned at 1:22pm