

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

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CIVILIAN COMPLAINTS SUBCOMMITTEE MEETING MINUTES

June 3, 2019 – 2:00 .m. – 4:00 p.m.

Subcommittee Members Present: Sahar Durali, Sheriff David Robinson, Tim Silard, Doug Oden, David Swing.

Subcommittee Members Absent: LaWanda Hawkins

1. Call to Order and Introductions

The fifth meeting of the Civilian Complaints Subcommittee was called to order at 2:12 p.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 October 31 Subcommittee Meeting Minutes

MOTION: Co-Chair Durali made a motion to approve the October 31, 2018 subcommittee meeting minutes. Member Oden seconded the motion.

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

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 2018 civilian complaint data and the creation of model policy language for civilian complaint forms.

Ms. Geiser reviewed the meeting discussion document, reviewing the work the subcommittee did in last year’s report, and discussions the subcommittee has had in the past about work it would like to pursue in the 2020 report. The purposed work includes a review of the complaint forms of the Wave 1 law enforcement agencies and the creation of model policy language for law enforcement civilian complaint form or a full model complaint form. Ms. Geiser reviewed the research and progress that the DOJ staff completed on these work products, but emphasized that this information is just proposed and was circulated for the purpose of facilitating discussion.

4. Discussion of Wave 1 Agency Complaint Form Review

Co-Chair Robinson commented that a review of the Wave 1 forms would be a helpful section of the report, but suggested that we reach out to the agencies directly to ensure that we have all of the most updated information about their civilian complaint policies,

procedures, and forms. Co-Chair Robinson encouraged the subcommittee to allow the Wave 1 agencies time to make updates or corrections to their forms before including the current review in the report.

Co-Chair Durali and Member Silard agreed with sharing our initial findings with the agencies directly.

Member Silard asked if the subcommittee will cover the topic of the independence of the complaint investigations and suggested that this be looked at and analyzed in the review of the agencies' forms and procedures.

5. Discussion of the Analysis of the 2018 Civilian Complaint Data

Co-Chair Durali commented that the subcommittee should cover why the complaint numbers the Board has seen the previous two years are lower than expected. Co-Chair Durali commented that this could be due in large part to the accessibility of the forms and the inconsistency of complaint processes across the state. Co-Chair Durali emphasized the need to contextualize the data in a way that makes sense to the lay public.

Co-Chair Robinson commented that because there is no funding associated with this mandate, there is no incentive for agencies to correct these issues. Co-Chair Robinson commented that the Board needs to recommend a monetary incentive to the legislature to encourage agencies to take a hard look at their policies and procedures and make the necessary changes. Co-Chair Robinson commented that this issue will only become more pronounced with smaller agencies with fewer resources.

Member Oden suggested that the subcommittee encourage agencies partner with local academic partners to assist with the translation of forms.

Member Silard asked if there will be recommendations about data transparency around civilian complaint statistics.

Member Oden suggested that the subcommittee begin comparing the data to previous years' numbers and track the numbers over time – both for complaints in general and complaints specifically alleging racial and identity profiling

Co-Chair Robinson commented that another reason numbers may be low is that sometimes civilians do not want to file a formal complaint, but rather just want to talk with officers directly and sort it out over the phone or in person. Co-Chair Robinson commented that many civilians do not want to go through the formal complaint process and would rather just move on with their lives.

6. Discussion of Model Civilian Complaint Form or Model Language

Co-Chair Durali commented that the creation of a full form would be the best and most impactful use of the subcommittee's time and resources. Co-Chair Durali commented that an agency is more likely to pull a full form and use it than it is to review model language or best practices and interpret and incorporate that into their own procedures and forms. Co-Chair Durali commented that by doing this work up front, the Board is helping agencies streamline and save resources, which will be particularly useful for the smaller agencies that will begin collecting data in the next few years.

Co-Chair Robinson commented that it would be extremely helpful for all agencies if DOJ created a standard statewide form and included a myriad of language translations that agencies could pull from. Co-Chair Robinson commented that this form may need to be made customizable to a certain extent to allow for agencies to have the form reflect their unique policy or if they wish to collect information beyond the standard form.

Co-Chair Durali commented that agencies are required under the law to have appropriate language access policies already. Co-Chair Durali emphasize that this is not discretionary.

Member Swing encouraged the DOJ to create a policy, but don't host it on the DOJ site and instead have it hosted on the agency's specific site. Member Swing also commented that a more accessible form is not the only solution to improving the civilian complaint procedures, but just one aspect of potential improvements.

Member Swing suggested that the subcommittee also create a statewide model form for officer commendations as well as complaints.

Co-Chair Robinson requested that a draft of this be created and reviewed.

Co-Chair Durali asked how a commendation form addresses racial or identity profiling

Member Silard agreed with the creation of a model form but emphasized the need to grapple with the issues around Penal Code 148.6. Member Silard commented that if the 9th circuit finds the advisory unconstitutional, then the subcommittee should be able to recommend a model form that does not include the advisory. However, he suggested that the DOJ attorneys provide the subcommittee with legal research for legislative changes that the Board could recommend to solve this issue such as removing the advisory, removing the signature line, or changing the language.

Co-Chair Durali commented that the creation of a model complaint form should not be held up by a legislative fix and suggested that, if it is necessary to include in the model form, it should be included with a large note that the Board is seeking to change this advisory and is in the process of pursuing a legislative fix.

7. Public Comment

Michele Wittig from the Santa Monica Coalition for Police Reform encouraged the subcommittee to consider other locations for the forms to be made available, for example non-police department locations. Ms. Wittig commented that many agencies do not have forms in the lobby and to get the form you have to say the specific language “I want to file a complaint” to get access to the form.

A member of the public asked if the complaint numbers have been coordinated with the number of stops. He commented that the form should be streamlined and simple to help increase the number of forms that are submitted.

Julie Ally from the Santa Monica Coalition for Police Reform commented that the subcommittee should not include a model commendation form.

8. Adjourn

Co-Chair Durali adjourned the meeting at 3:45 p.m.