

July XX, 2022

The Honorable Adrin Nazarian
1021 O Street, Room 6230
Sacramento, CA 95814

Re: AB 2547 – As Amended 6/16 – **Support If Amended**

Dear Assemblymember Nazarian:

The Racial and Identity Profiling Advisory (RIPA) Board appreciates the efforts to create an expansive and uniform definition of “biased conduct” in the context of policing to ensure that policing agencies appropriately identify and discipline officers engaged in unlawful biased conduct that harms the public. We understand that AB 2547 responds directly to concerns identified by the California State Auditor, whose April 2022 audit¹ identified officers engaged in biased conduct at several agencies. In response to the audit, AB 2547 is an attempt to address claims by department leadership that the absence of a “clear and exhaustive definition of actions or behavior considered to be bias” caused their inaction in response to known instances of unlawful officer bias.

The RIPA Board writes to respectfully request that AB 2547 be amended to clarify that the definition of bias should include the definition of racial profiling contained in Penal Code section 13519.4, subdivision (e), and expresses our support for the bill if amended.

“The RIPA Board was formed as part of the Racial and Identity Profiling Act of 2015 (AB 953) and began its work in July 2016. The Legislature charged the Board with an ambitious purpose: to eliminate racial and identity profiling and improve diversity and racial and identity sensitivity in law enforcement. By unifying a diverse group of individuals from across different sectors – law enforcement, civil and human rights, and academia – in a shared cause, the RIPA Board aims to improve law enforcement-community relations in California through collaboration, transparency, and accountability.”² With this mandate, the RIPA Board has a clear interest in the proposed definition of biased conduct to be used by policing agencies to ensure any legislative changes do not interfere with the goals of the Racial and Identity Profiling Act.

AB 2547 delegates to the Commission on Peace Officer Standards and Training (POST) the responsibility to create a definition of “biased conduct” that would provide the definition of biased conduct in any “investigation into a bias-related complaint.” (See proposed Pen. Code § 13510.6, subd. (a)(2).) It also requires that the definition include “at a minimum” four separate elements, including “conduct resulting from implicit and explicit biases,” and clarifies that relevant conduct includes an officer’s statements on social media. (*Id.* at proposed Pen. Code, § 13510.6, subd. (a)(1).)

¹ Auditor of the State of California, April 2022 audit: “Law Enforcement Departments Have Not Adequately Guarded Against Biased Conduct,” <https://www.auditor.ca.gov/pdfs/reports/2021-105.pdf>.

² Racial and Identity Profiling Advisory Board, 2021 Annual Report (2018), p. 4
<https://oag.ca.gov/sites/all/files/agweb/pdfs/ripa/ripa-board-report-2018.pdf> [as of March 28, 2022].

While it is reasonable to presume that POST would look to and incorporate definitions related to racial bias that already exist within the law in the process of crafting the definition and implementing regulations for AB 2547, we believe that it is important to specify that conduct that would constitute “racial and identity profiling” pursuant to Penal Code section 13519.4, subdivision (e), is also among the minimum requirements of the definition of biased conduct. While the goal of AB 2547 is to ensure that all officers’ biased conduct is identified and acted upon by policing agencies, if acts of racial and identity profiling are not ultimately included in this definition, the law could narrow the scope of biased conduct from what already exists today.

With this minor amendment the Legislature can avoid any possible confusion, and if amended, the RIPA Board would be pleased to support AB 2547.

Sincerely,

POST Subcommittee Co-Chairs (on behalf of the Board) or Board Co-Chairs [For Board discussion]

Cc: Members and Staff, Senate Committee on Appropriations
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