

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

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**STATE AND LOCAL RACIAL AND IDENTITY PROFILING
POLICIES AND ACCOUNTABILITY SUBCOMMITTEE MEETING
MINUTES**

February 23, 2022 – 12:00 pm. – 1:39 p.m.

Subcommittee Members Present: Andrea Guerrero, Melanie Ochoa, Manju Kulkarni, Lily Khadjavi

Subcommittee Members Absent: Steven Raphael, Commissioner Amanda Ray

1. Introductions

Co-chair, Andrea Guerrero called the State and Local Racial and Profiling Policies and Accountability Subcommittee meeting to order at 1:00 pm. The meeting was held with a quorum of members present.

Approval of Subcommittee Meeting Minutes

MOTION: Member Ochoa made a motion to approve the August 19, 2021 subcommittee meeting minutes. Member Kulkarni seconded the motion.

APPROVAL: All subcommittee members present voted “yes;” there were no abstentions.

2. Overview of Proposed Subcommittee Work by Department of Justice

DOJ Deputy Attorney General (DAG) Allison Elgart provided the DOJ update highlighting that the first subcommittee meeting of the year presents the opportunity to begin setting up this section of the report for the upcoming year’s 2023 RIPA report. She stated that last year the policies and accountability section covered several different topics and that the purpose of this meeting is to determine what topics of interest to discuss for the upcoming year. Further, she reminded the subcommittee that they discussed accountability, and reviewed bias-free policing policies for the agencies in Waves One through Three. Additionally, she noted that the subcommittee looked at civilian oversight and, community participation and oversight. Lastly, she stated the subcommittee looked at the cross section between policies and stop data, looking at issues of transgender disparities, disability justice, consent and supervision searches, and pretext stops. Ms. Elgart also noted that with Wave 3 and Wave 4 agencies starting to collect data, and given the sheer number of agencies submitting data collection this year and in the future, doing the same policy review as in year’s past would be a massive undertaking and would affect what else the subcommittee is able to discuss and review.

She noted of further interest for the upcoming year is that the recommendations made by the subcommittee and by the full Board were sent to every member of the legislature. Additionally, she stated that the DOJ is interested in hearing from all subcommittee members about how to focus the work of the subcommittee with an understanding that this is something that the subcommittee will then bring to the full Board at the March 30th Board meeting for discussion. Relatedly, she explained that there are a number of ways that the work of the Board and the content of the Board Report are communicated out to the public, including the Report's executive summary and supplemental pull-outs of the Board's best practices and recommendations. She stated that these were sent out to an outreach list of parties who have expressed interest in the work of the Board, to community members, and to every member of the legislature. The direct recommendations from the Board were divided up by the section of the report into these best practices and recommendations; some were directed at law enforcement agencies, some municipalities, others to community members and advocates, some to POST and others to the legislature. Ms. Elgart stated that having a goal for the subcommittee of ending up with actionable items that are direct recommendations is always helpful in terms of directing the work of the Board. Additionally, she noted it is DOJ's hope for both the Board members and members of the public listening in on the meeting that they will also direct these recommendations to their own communities, so that these best practices may become more widespread.

In addition, Ms. Elgart noted that the subcommittee has the opportunity to take a deeper dive into some of the topics of interest, so more depth may be added to the analysis rather than breadth, allowing the subcommittee to have experts come to speak to the subcommittee about those various topics of interest. Further, it will enable the subcommittee to explore the data that the subcommittee wishes to look at, examining the various subjects and balancing what is already mandated with any additional needs for data analysis..

Ms. Elgart also commented on the subcommittees' interest in public access to RIPA data, specifically addressing opportunities by the Board to solicit comments from the public, including agencies, about their experiences with usage of RIPA data. She noted that a full survey of all agencies would be a huge undertaking. She explained there were a number of alternative sources for receiving public input, including by providing public testimonials or noticing to give members of the public an opportunity. She noted that DOJ is able to support by assisting with the identification of individuals interested in providing public comment in a subcommittee meeting. Additionally, she noted, DOJ could go back at and look at a survey of Wave One and Wave Two agencies on how they were using the data. She explained that the survey responses lacked detail on how agencies were using the RIPA data and that we could follow-up on those survey responses by revising the survey and resending it out to agencies.

Kevin Walker of the DOJ Research Center weighed in on the issue of available data collected to date to address issues on law enforcement and schools. He stated that there were 58 agencies, Waves One through Three, that have had their data collected. Further, he explained that many of the school police agencies have lower numbers of officers; therefore, a lot of agencies that are primarily serving schools as their primary are going to be collecting RIPA data starting in 2022. Mr. Walker explained that this means that we will not have that data for inclusion in the analyses that we do in this year's report. In addition, he explained, the pandemic plays a role in data collection. Mr. Walker stated that there will be some school data, but it may not completely representative of normalcy and may not be representative of stops across the entire state.

Melissa Russell, DOJ Information Technology Manager provided a brief rundown of some issues that were discovered with the extraction of data from DOJ systems. This issue was identified in December 2021 by Kevin Walker and DOJ was able to immediately resolve the problem with the system. Further, Mr. Walker provided added that the problem affected the primary reason of stop Reasonable Suspicion Offense Code. He explained that there were two sections of the report that referenced this field. Those sections were 1) from data to policies addressing the profiling of transgender people, as well as 2) data driven approaches to disability justice. Mr. Walker explained that his office wanted to be sure to alert the subcommittee that there were changes in the data as a result of the fix but the overall takeaways remained the same and the extent of the changes to the distributions were minimal.

3. Discussion of Proposed Subcommittee Report Contents

Board Member Guerrero noted that DOJ's interest in the group focusing on just a few items will free the subcommittee from canvassing and surveying and provide the opportunity for deeper analysis and policy recommendations. She indicated her interest in hearing from board members to see what surfaces as priorities for the upcoming year when thinking about policy analysis and recommendations for the Board. She shared her primary interest for review is in accountability models and helping law enforcement agencies, policymakers, and the public implement meaningful accountability. Secondly, Member Guerrero noted that a recommendation was made last year on pretext stops and that there was more work to do around pretext stops to bridge the data to policy. Lastly, she noted an interest in reviewing law enforcement in schools given that the subcommittee has yet to go deep on that particular issue. Member Guerrero opened up the floor among the subcommittee for discussion of policy priorities for the upcoming year.

Member Khadjavi stated an interest in looking at the use of consent as a basis for search and mental health challenges and the interaction of law enforcement. She stated there was more work to be done in this area in getting the word out and making the RIPA data on this issue more widespread. She also expressed an interest in looking at other ways for communities to support community members in mental health challenges situations, noting the public's interest in seeing change when dealing with these mental health challenge scenarios.

Member Ochoa expressed an interest in the area of accountability, specifically an interest in identifying whether agency definitions of profiling matches the state definition of profiling and whether agencies are being held responsible for maintaining compliance with state law definitions of bias profiling. Additionally, she stated an interest in looking at those state agencies with responsibility for disbursement and whether they are upholding their obligation to withhold funding to agencies who violate state and federal law with respect to bias profiling. Also, Member Ochoa noted an interest in examining policies focused on how individuals are able to access data. Lastly, she expressed an interest in looking at those exemplars of agencies and others who are using the RIPA data who can share the positive effects of using the RIPA data, can show the value of the data being collected, and where it uncovered useful patterns or practices that have led to the adoption of recommendations remedying the prior practice. Member Ochoa also noted that in the event the subcommittee is not able to review law enforcement in schools due to a lack of data, perhaps the subcommittee could consider doing a deeper dive on youth rather than a focus on schools for this upcoming year.

4. Public Comment

Member Guerrero welcomed the public for public comment over the subcommittee discussion. She noted that Joey Williamson from the Hillsboro Police Department responded to a conversation in the online chat concerning surveying. Member Guerrero also noted and thanked Karen Glover for her insight throughout the discussion in the chat and in prior meetings surrounding the issue of the use of RIPA data. Member Guerrero asked if either Ms. Glover or Mr. Williamson wanted to make public comment related to their discussion in the chat. There was no public comment.

5. Discussion of Next Steps

Member Guerrero restated the topic issues raised during the meeting for further exploration for this year's report. The first issue raised and agreed upon by the subcommittee was the topic of pretext stops and searches and follow-up by looking at implementation of Board practices surrounding this topic. Secondly, she stated, are issues surrounding accountability

models, namely the issues raised by Member Ochoa, including ensuring policies align with state law and that state agencies are upholding their obligation to ensure funding does not go to agencies in violation of state and federal law in the form of bias profiling. Third, she noted that the subcommittee will be looking for accountability models that are inclusive of Board best practices including within the disciplinary system. Lastly, Member Guerrero shared, the subcommittee has expressed an interest in doing a deep dive on youth and looking at law enforcement in schools, which as a topic itself may have limited data to do a review for the upcoming year.

6. Adjourn

Member Guerrero thanked everyone for their participation, thanked the members of the public for attending and providing comments. She also commented that the public can email Cal DOJ or you can join us at the next meeting. She explained that the RIPA Board may be reached by email at ab953@doj.ca.gov. We welcome your comments. She adjourned the meeting at 1:39 p.m.