

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD (BOARD)

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

CIVILIAN COMPLAINTS SUBCOMMITTEE MEETING MINUTES

March 1, 2024

Subcommittee Members Present: Co-Chair D.J. Criner, Co-Chair Lawanda Hawkins, Member Angela Sierra, Member Cha Vang, and Member William Armaline

Subcommittee Members Absent: Member Andrea Guerrero

1. Introductions

Co-Chair Criner called the meeting to order at approximately 1:00 p.m. Each Civilian Complaints Subcommittee (herein Subcommittee) member present introduced themselves.

2. Approval of August 23, 2023 Subcommittee Meeting Minutes

Co-Chair Criner opened asking the members to review the draft meeting minutes from the Subcommittee's August 23, 2023 meeting. Co-Chair Criner then entertained a motion to adopt the meeting minutes. Member Sierra moved to adopt the minutes as presented, which Co-Chair Hawkins seconded. There were five Ayes (Board members Criner, Hawkins, Sierra, Vang, Armaline), zero Nays, and zero Abstentions and the August 23, 2023 meeting minutes were approved as presented.

3. Overview of Subcommittee Work by Department of Justice and Discussion of Subcommittee Section in 2024 RIPA Report

Co-Chair Criner opened the agenda item and the floor to Deputy Attorney General (DAG) Jennifer Gibson of the Civil Rights Enforcement Section (CRES) to present. DAG Gibson updated the subcommittee that there would be a switch of the subtopic of accountability from the Policy subcommittee to the Civilians Complaints subcommittee. DAG Gibson presented two reasons for this switch:

1. Civilian complaints are a means of attaining accountability for misconduct. One of the possible topics for the accountability section of the 2025 RIPA report is SB 2, which allows for decertification of officers and allows members of public to file complaints.
2. It would improve efficiency by ensuring that all the topics are allowed full discussion and subcommittees have an opportunity to vote on recommendations during regularly scheduled subcommittee meetings; this would mitigate previous years' inefficiencies where additional subcommittee meetings were required to consider potential recommendations.

The Board responded positively and was in unanimous support.

Co-Chair Criner moved to the next agenda item and asked DAG Yasmin Manners of CRES to present. DAG Manners shared a PowerPoint Presentation. Firstly, DAG Manners discussed the subcommittee's recommendations made last year to the Legislature and law enforcement agencies:

1. The first recommendation was to standardize the definition of "civilian complaint" across all law agencies in California to both make the data reporting more consistent and to also make sure that people are able to access the complaint process equally across different jurisdictions.
2. The second recommendation was to review all video footage related to each civilian complaint, which included a review of body worn camera footage, drone footage, cell phone footage or anything else related to a particular complaint.
3. The third recommendation was to incorporate root cause analysis into complaint investigations.

DAG Manners stated that for the year's report, which would focus on the impact of police encounters with youth, the subcommittee could look in the context of youth interactions with police in the context of civilian complaints.

Lastly, DAG Manners raised ideas for further exploration in this year's report or in subsequent reports. This includes:

- Exploring root cause analysis to develop specific recommendations to help law enforcement agencies understand how representation should be applied in each step of the complaint process. DAG Manners noted that root cause analysis is a fairly new idea within the context of Civilian Complaints; she suggested bringing in experts, community members, and law enforcement members to develop recommendations.
- Taking a look at Civilian Complaint data over time to try and identify trends and make recommendations based on those trends. DAG Manners recommended that the subcommittee discuss more thoroughly on what types of approaches they are interested in looking at.
- Relating to SB 2 and decertification of law enforcement officers, whether the subcommittee wanted to explore the "serious misconduct" definition and a recommendation that racial and identity profiling be included as a specific ground for decertification or to research the existing criteria to determine where racial identity fits in for decertification.
- Whether the subcommittee would want to draft a letter to the Legislature to either express their opinion about AB 2923 as it's currently drafted or recommend amendments to AB 2923.

DAG Manners concluded her presentation.

Co-Chair Hawkins suggested writing a letter to make the community aware of SB 2. Co-Chair Hawkins inquired whether community members would receive a response when they file a complaint with POST through SB 2, since sometimes members of the community do not receive a response when they file a complaint with local law enforcement agencies. DAG Kendal

Micklethwaite responded that DOJ is still learning about the process for SB 2, since the regulations were just approved and implemented.

Member Sierra stated that this would be a good opportunity to invite POST to explain the SB 2 process and expectations are. Member Sierra continued that, even after the first year, if the Board did not have recommendations, the Board could have a positive impact by clarifying what members of public are interested in to better understand SB 2.

Member Vang expressed interest in learning more about AB 2923 and doing a comparison of the bill to the Board's prior recommendations, to explore pathways to get closer to the Board's prior recommendations.

Co-Chair Hawkins supports AB 2923, in particular that it allows for the acceptance of verbal complaints in addition to written complaints, and that it allows complainants to check a box for "racial" to indicate that the complaint involves allegations of racial profiling. Co-Chair Hawkins also stated that the subcommittee needs to hear from law enforcement about how they feel about the bill. Co-Chair Hawkins said that in the past, members of the community were afraid to file complaints for the fear that they could be sued by law enforcement agencies. She said with the removal of this barrier, there would be more complaints.

Member Sierra agreed with Co-Chair Hawkins that it would be helpful to hear from law enforcement and try to reach a consensus on potential recommendations. Member Sierra is also interested in trends in Civilian Complaint data with a focus on youth. She suggested hearing from experts regarding methods of analysis as this could be a complicated question but something to start looking into.

Member Vang noted that an increase in complaints would not necessarily be negative as law enforcement agencies are still investigating internally. She stated that a power differential in law enforcement makes the public feel disempowered. Member Vang wants to make sure the public feels empowered to make complaints in situations where they feel they've been targeted.

Member Armaline stated that there may be methodological challenges to analyzing complaints filed by youth since youth do not file law enforcement complaints; instead, they typically go to trusted sources, such as adults or teachers, that then file complaints on their behalf. Given the complexity already presented for adults to file complaints (such as having a difficult time articulating complaints in writing, or not having time to file a complaint), which can result in an undercount of complaints by adults, it would be a methodological error to expect more complaints from youth. Member Armaline would like to review the frequency of complaints filed by youth and make it so that youth have a voice in these processes. Member Armaline he wants to make sure that we capture the experiences of youth, given that they're probably not going to be seen in the pool of formal complaints.

Member Armaline also stated that, while the subcommittee should be in conversation with law enforcement to get their feedback, as a public servant professor, Member Armaline is personally reviewed by his students in a public manner. In the same vein, he states law enforcement officers should also be reviewed at the same level as all members in public service.

Co-Chair Criner thanked Member Armaline for his comments and asked if there were any further comments. Co-Chair Hawkins agreed with Member Armaline's statement regarding public review of public servants. Hearing no further comments, the subcommittee proceeded to the next agenda item.

4. Public Comment

Co-Chairs Criner opened the meeting for public comment, and Co-Chair Hawkins invited members of the public to provide their comments.

Michele Wittig from the Santa Monica Coalition for Police Reform stated that the civilian complaints process is probably one of the most important for having the cooperation of law enforcement, in part because the raw number of civilian complaints tells us very little (i.e. whether more complaints means a better or worse department). She suggested that the committee could convene a working group to write some narrative that would frame the discussion of the data so that the data ambiguities are made clear. She told a story about a command level officer that boasted about having low numbers of complaints, indicating that the department is great; however, the department was not able to post a QR code to file complaints because their front doors were smashed in twice. She used this story as an example of the other ways people express dissatisfaction with the police, and stated that there has to be a way to get departments on board so that, when things like that happen, they stop thinking that all is well if no complaint was filed.

Richard Hylton from San Diego expressed that he did not understand the switch at the beginning of the meeting or root cause analysis, and expressed dissatisfaction with these topics. He stated that his review of the complaint data suggests that data that should have been submitted was not. For example, he stated that there were no reports of racial profiling complaints by the San Francisco Department of Police Accountability in 2023. He also stated that he made a complaint to Culver City, which was not answered. Further, Mr. Hylton said Carlsbad claims its disparities are the result of tourists. Lastly, he stated the city and county of San Diego block complaints. He states dissatisfaction with the subcommittee's agreement that complaints be made to POST because he believes that POST does not believe in racial profiling.

Hearing no additional comments, Co-Chair Hawkins moved the meeting to the next agenda item.

5. Discussion of Next Steps

Co-Chairs Hawkins and Criner invited the subcommittee and DOJ to discuss next steps in light of the meeting's discussion. Co-Chair Hawkins asked if the Board should review SB 2 and AB 2923 now or later.

DAG Manners said that it could be discussed during the current or next meeting, and the discussion would also include the contents of the letter. Co-Chair Hawkins asked the subcommittee for their thoughts. Member Vang responded that she would like more time to review SB 2 and AB 2923; Co-Chair Criner, Co-Chair Hawkins, Member Sierra, and Member Armaline agreed.

6. Adjourn

Co-Chair Criner closed the meeting by thanking all those who attended for their appearance and public comments. Meeting adjourned at 2:03 pm.