

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD (BOARD)

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POST TRAINING AND RECRUITMENT SUBCOMMITTEE MEETING MINUTES

MARCH 7 2022, 10 a.m. – 12:23 p.m.

Subcommittee Members Present: Co-Chair Melanie Ochoa, Ronnie Villeda, LaWanda Hawkins, Steve Raphael and Edgar Hampton

Subcommittee Members Absent: Ammar Campa-Najjar and Amanda Ray

1. Introductions

Co-Chair Ochoa called the meeting to order at 10:00 a.m. She advised that Co-Chair Brendon Woods is no longer on the Board and therefore is no longer a Co-Chair on the POST Subcommittee. Each subcommittee member introduced themselves. Co-Chair Ochoa requested that Agenda Item #3 Updates by the Department of Justice be taken out of order and heard following Agenda Item #1 Introductions.

2. Updates by the Department of Justice

Deputy Attorney General Allison Elgart with the Department of Justice presented an update. She reminded the subcommittee members that at this meeting members would get to raise, discuss and select the topics they want to include in the 2023 RIPA Report. Ms. Elgart also advised the Board that Public Defender Tamani Taylor was recently sworn in to join the Board, will be replacing Member Brendon Woods as the Public Defender Representative and will attend her first full Board meeting on March 30, 2022. Ms. Elgart further explained that members will hear updates and comments from Board members who have been attending POST training courses. Last year the subcommittee reviewed and provided comments on the POST Academy course LD #3, Principled Policing in the Community, various communications courses and a Racial Profiling and Bias course for Supervisors. Additionally, Ms. Elgart advised the members that they would receive an update on SB 2 and the AB 846 regulations regarding identifying bias in the hiring process as well as the comment letter that the Board submitted to POST. You will also hear from members who attended the POST certified Train the Trainer Museum of Tolerance (MOT) Racial Profiling curriculum session January 31- February 2. Finally, Board Member Andrea Guerrero will give an update at the March 30 full Board meeting about her presentation before the POST Commission of the RIPA Board's recommendations to POST in its 2022 report.

3. Approval of September 29, 2021 Subcommittee Meeting Minutes

Co-Chair Ochoa made a motion to approve the minutes. Member Hampton seconded the motion.

All members present voted "Yes"

There were no "no" votes, and no abstentions. The motion carried and the minutes were approved.

4. Updates from Board Members and DOJ Staff on Board Work with POST

Co-Chair Ochoa provided a power point presentation on SB 2 and the AB 846 Regulations. This was followed by Board members and DOJ staff who provided an overview of their experience as participants in the POST Certified MOT Train the Trainer Racial Profiling curriculum development session held on January 31-February 2.

SB 2

Co-Chair Ochoa advised that SB 2, is referred to as the Kenneth Ross Jr. Police Decertification Act of 2021. It created a process for decertifying peace officers and gives POST the authority to oversee the process. It granted the POST Commission the power to investigate and determine the fitness of any person to serve as a peace officer in the state, to issue or deny certification and suspend or revoke proof of eligibility or certificate on specific grounds including excessive force, sexual assault, making a false arrest, or participating in a law enforcement gang. She stated that SB 2 allows for decertification for Serious Misconduct and requires POST to define Serious Misconduct via regulation by January 1, 2023. The definition of Serious Misconduct shall additionally include dishonesty, abuse of power, physical abuse, sexual assault, demonstrating bias, participation in a law enforcement gang, failure to cooperate with an investigation into potential police misconduct, failure to intercede when present and observing another officer using force clearly beyond that which is necessary, or acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligations to uphold the law or respect the rights of members of the public.

Co-Chair Ochoa further stated that SB 2 also allows for decertification on the basis of Demonstrating Bias. It also clarifies that bias incidents can occur whether actual or perceived and shall include the act of profiling. It also includes the standards for implicit and explicit bias in the AB 846 regulations.

Co-Chair Ochoa explained that the next steps for the subcommittee might be to find out the timeline for the regulations, submitting a letter to POST or reasserting the purposes of the bill that it should not be limited to most egregious conduct or to what police agencies deem as grounds for termination.

Meagan Poulos of POST responded by advising that the SB 2 regulations will be processed in two sets: one set will be without the 'serious misconduct' provisions and one set with the "serious misconduct provisions, in March and June respectively.

AB 846

Co-Chair Ochoa made the following presentation update on AB 846. She advised that AB 846 directed POST to develop regulations for screening peace officer candidates to include measures of implicit and explicit bias (Gov Code Sec 1031.3). POST noticed the draft regulations last year and the RIPA Board submitted a letter in the public comment period requesting two things: 1) that the regulations require a review of candidates social media, and 2) to require that relevant findings, determinations and factual bases by investigators and evaluators be recorded. Co-Chair Ochoa explained that during the process, POST initially responded to the RIPA Board that it was not going to revise the regulations to address the Board two concerns because of the amount of time required to do it, however left the door open for further engagement. She went on to state that POST submitted the regulations to the Office of Administrative Law (OAL), however OAL rejected the regulations as submitted and required POST to engage the RIPA Board's comments. POST agreed to accept the Board's comments and requested that someone from POST attend an upcoming POST meeting.

Melanie Singley with POST provided a timetable for the next steps of the AB 846 regulation process. She advised that POST is conducting a survey regarding social media to stakeholders. Co-Chair Ochoa stated that the POST subcommittee will review the revised regulations and determine at that time if any further action needs to be taken by the Board.

POST Certified Museum of Tolerance (MOT) Train the Trainer Racial Profiling Curriculum Development Session on January 31-February 2

Board Member Kennedy indicated that he attended the Racial Profiling curriculum development session and made the following summary comments; 1) The curriculum was ground breaking 20 years ago and needs groundbreaking updates, 2) the curriculum updates should match public outcry regarding discriminatory treatment supported by the RIPA data, 3) the 2022 RIPA report illustrates that Black people were detained more than others, and when searched, officers did not find anything so they were being harassed, 4) police stop Black people on bicycles more than anyone else, 5) Black people are being seated on the curb, handcuffed and detained more than others and the data supports the public outcry, 6) A curriculum is needed that supports the public outcry as well as one that will eliminate racial profiling. Member Kennedy added that a grid might be useful for officers to use for them to ask themselves questions prior to stopping someone, such as why am I pulling this black person over, am I going to violate the rights of the person, is it because I have some reasonable suspicion. This needs to be incorporated into the curriculum. He would like to push for more role playing so officers can see what it feels like when you are stopped, surviving a stop, or when you are considered a suspect versus a law abiding citizen. He stated that most stops of Black people are because officers are suspicious that they are committing some type of crime, which is what the data shows. Member Kennedy shared several scenarios that were presented that he felt needed changes.

Co-Chair Ochoa asked POST if there was discussions in the training of how a decision was made to put someone on the curb, handcuff them or search them? She stated that additional actions taken during stops are overlooked in trainings even though they are some of the most obvious examples of disparities: the use of force used, the amount of searches asked for when there is no basis for reasonable suspicion are two examples. Member Kennedy added that a key question for officers is how do you stop someone without them dying or filing a complaint because they felt profiled? Domonique Alcaraz, Deputy Attorney General with DOJ indicated that there is not much in the training about the stop or what happens after the stop. When students are asked the question did you think this was racial profiling a common answer is they don't know because they don't know what is in the mind of the officer.

Co-Chair Ochoa asked POST how the Board can get more involved, who is in control of creating this POST training and the comments and feedback? Ms. Poulos indicated that this is a MOT course, POST certifies the course and in addition to the curriculum, a video will be produced. Ms. Poulos indicated that any course certified by POST goes through a rigorous process and goes through lots of steps in the process. Member Kennedy recommended that POST certify the Racial Profiling Train the Trainer course every year in lieu of every three years.

Co-Chair Ochoa requested that POST provide Board members attending the curriculum development session, its certification criteria to determine if the curriculum is hitting the criteria, because the curriculum has been certified by POST without the curriculum having been updated for 20 years. It was also asked if the Board could provide feedback on the video being created for this course. The answer

was yes. Charles Evans with POST advised that the start of the process of updating the curriculum began with virtual meetings on December 20, 2021, and then again on January 24, to look at the philosophy, content and RIPA Best practices from its 2021 and 2022 Reports to factor all of these aspects into the curriculum design. There are two additional sessions that the RIPA Board can participate in that will take place March 21-24 and on May 9, and would send this information to the Board. He stated that the RIPA Board will have an opportunity to be instrumental in crafting the nuances of all of the presentations.

Member Villeda indicated that he too participated in the MOT Train the Trainer Racial Profiling curriculum development session. He stated that he is 24 years old and this course has not been updated for 20 years. He shared several thoughts: the course should exceed the minimum standard by law enforcement and ethical standards for officers regarding racial and identity profiling, the ultimate goal of the course should be to shift the culture and perception by law enforcement towards minority communities, more time is needed than 5 hours, also there were not many community members included in the course development process and they should be at the table. Member Villeda added that the facilitator's guide still includes Sheriff Lee Baca's name on it and asked how can POST hand something out so outdated and expressed concern to think academy cadets are being trained with videos and material so antiquated. Member Villeda further stated that for someone who has experienced and witnessed racial and identity profiling, he has seen it in his community, lived it, breathed it, and this course does not hit the mark and it falls short. He concluded by stating that the curriculum needs to be more substantive and motivational before as a Board member he can sign off on it.

Ms. Alcaraz and Kendal Micklethwaite, Deputy Attorneys General with DOJ gave the following overview of the Board's involvement with this course, their understanding of the course, POST and the MOT's relationship and next steps. Specifically, the Board was invited to attend the January 31-February 2 session to update POST certified MOT Racial Profiling Train the Trainer curriculum. POST had prior meetings about the curriculum without the Board's involvement. The course did not include materials on implicit or explicit bias nor Identity profiling. The facilitator went over the 5 hour course including what to consider, how to teach, they went over the law, RIPA and what the course might be missing. They indicated that the production timeline will be the end of this year. They were advised to expect a copy of the revised curriculum with participant's comments. It is their understanding that the March session will be for additional curriculum development and a training video will be created in May.

5. Board Discussion Regarding POST Training and Recruitment Chapter in 2023 Report

Subcommittee members discussed the course. They talked about a study by Emily Owens with UC Irvine that might be of interest because it was a form of procedural justice training that involved thinking through the steps of a stop as a method to get officers to reflect and ask themselves whether they should have made the stop. They indicated that racial profiling is a real problem that first should be acknowledged by law enforcement and who then the must also acknowledge that they want training to address it.

Co-chair Ochoa provided possible next steps. POST should include the detail of the 3 day session in March and continue to invite community members. The subcommittee may want to work on LD #42, to learn more about POST's training course selection and development process, in other words how does POST decide what courses are going to be reviewed and how they approach developing their training. A

question was asked whether POST considers any entities in the state other than the MOT to provide this training.

Ms. Poulos stated that MOT is the only entity providing the Train the Trainer course. The underlying Racial Profiling course is mandatory for all officers. Board members asked if POST is it looking at other POST training courses to expand course content. Co-Chair Ochoa summarized the subcommittee's discussion and next steps to include a report back on the Train the Trainer course, consider recommending that the course timeline should change, draft the letter to the Board on SB 2, provide updates on AB 846, review LD #42 and its tie to the MOT course and survey POST to conduct fact development on POST's training development process.

Charles Evans with POST advised that in 2000 the racial profiling training was required pursuant to SB 1102. AB 953 amended the penal code eliminating the MOT as the primary presenter. The POST course catalog lists other agencies presenting racial profiling training.

6. Public Comment

Ken [last name not provided] asked the subcommittee if using RIPA data to form an allegation of bias for decertification is accurate. Also he stated that he thought RIPA data was supposed to be anonymous and not assessable for those types of purposes. Co-Chair Ochoa explained that Member Raphael was asking whether it would be useful for RIPA to create some type of benchmarks. Member Raphael added that the information is not available in the RIPA data because it is anonymous. Ken stated that some of the things he had heard about it being factually accurate that police are being discriminatory towards minorities per the RIPA data is a little disingenuous. Ken stated that the RIPA data does not take into account the gender, ethnicity, or race of officers making the stops. Also that It does not take into account the area where the stops are occurring, the crime rate or the types of crimes. He asked if this is going to be worked into the RIPA data. Ken thanked the Board members for the time to address them when his time was up.

Karen Glover stated that if you go back to RIPA meeting in 2017 in San Diego the public expressed concerns about POST training, specifically the difference between how POST presented people versus how they lived. POST has been working on this for 4 years. She asked if POST talked with the community and stated that the community should be at the center of the training. Ms. Glover added that the training should move beyond the idea that "you can't get into officers minds," because now we all have the data. She added that not to dismiss the work of the Museum of Tolerance (MOT), but if POST is investing \$1.5 million every year in this training, the fact that this racial profiling course has not been updated in 20 years old is stunning. Also there are a lot of other community based organizations that would love to receive a fraction of this money and could provide meaningful input. Finally regarding the study by Emily Owens, Ms. Glover advised that she resists procedural justice because it suggests that officers should just be nice, but it does not matter how nice the officer is when the end result is still a discriminatory practice.

Michele Wittig stated that former RIPA Board member Judge Alice Lytle took community seriously in course development. When the community saw the past videos for the racial profiling course, it astounded everyone because it created a false equivalency between what the target of the stop is feeling and what the officer is feeling. As a result it got a lot of community pushback. Finally, Ms. Wittig asked the subcommittee to remember that there is both the Train the Trainer course and the course

itself, then thanked the subcommittee for its hard work and the commitment needed to address these important issues.

Mr. Hylton stated that three years ago a person from POST made excuses why the videos suggest that there was no such thing as racial profiling because it is in the minds of those who complain. He added that POST refuses to change the training video and if hearing correctly today, those videos remain. Also that RIPA Board Member Judge Lytle went beyond stating that the community should be more involved and the videos should reflect what happens in the street. Mr. Hylton stated that we have misplaced reliance on POST. POST does not believe in racial profiling. They are agnostic to it. He then asked why are the people disproportionately stopped Black and Brown people. He asked what causes that. The people who are disproportionately stopped have no action taken with respect to the outcome therefore are stopped for no reason. Mr. Hylton asked if someone could articulate the reason. Mr. Hylton was asked to wrap up his comments by Member Ochoa. Finally, Mr. Hylton stated that the people who believe that you don't know what is in an officer's mind do not have an explanation.

7. Election of Subcommittee Co-Chair

Co-Chair Ochoa moved this agenda item from Agenda Item #8 to Agenda Item #7.

Co-Chair Ochoa made a Motion to nominate member Villeda to serve as the Co-chair of the RIPA POST subcommittee. Member LaWanda seconded the nomination. Member Villeda accepted the nomination.

All members present voted yes.

There were no "no" votes and no abstentions. The motion passed.

8. Next Steps

Co-Chair Ochoa moved that the subcommittee would draft a letter on SB 2 to submit to POST for consideration by the full Board on March 30. Member Raphael seconded the motion.

All members present voted yes.

There were no "no" votes and no abstentions. The motion passed.

Co-Chair Ochoa agreed to draft the SB 2 letter to be submitted to the Full Board on March 30 for consideration to send to POST and Member Raphael agreed to assist.

Co-Chair Ochoa discussed and agreed upon the remaining POST subcommittee next steps below and stated earlier in the meeting:

- 1) Monitor AB 846 as it moves through the regulation process.
- 2) Follow up on ways to engage in the development of the POST certified Racial Profiling Train the Trainer curriculum.
- 3) Identify subcommittee member questions and forward them to POST via DOJ about POST's training course selection and course development processes.
- 4) Review LD #42 from the standpoint of focusing on the MOT Train the Trainer curriculum and the chapter of LD #42 that focuses on racial profiling.

There was additional discussion about the MOT Train the Trainer Racial Profiling curriculum and the chapter on Racial Profiling in LD #42. It was expressed that there was a disconnect between the MOT curriculum and LD #42 course and a reiteration that the course material is 20 years old. Also that the RIPA Board is being asked to review a racial profiling curriculum for a course that neither MOT nor POST has ever seen. It was further stated that POST has advised that the training course content is up to the academies, yet it was emphasized that POST certifies the course. One Board member asked to attend the actual training course and was advised by DO that this would be possible in the future.

Ms. Elgart advised the subcommittee that this was Member Hampton's last POST meeting and his last day on the RIPA Board will be at the March 10 Stop Data Subcommittee meeting. She then reminded everyone that the full Board meeting will be on March 30, 2022.

9. Adjourn

Co-chair Ochoa apologized for not having sufficient time to hear more from the individuals who provided public comment and then adjourned the meeting at 12:23 pm.