

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD (BOARD)

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

MEETING MINUTES

June 28, 2023 10:00 a.m. - 2:00 p.m.

Board Members Present: Co-Chair Andrea Guerrero, Member Angela Sierra, Member Brian Kennedy, Member Chad Bianco, Member Cha Vang, Member DJ Criner, Member Tamani Taylor, Member Lily Khadjavi, Member Manju Kulkarni, Member Melanie Ochoa, Member Rich Randolph, Member Sean Duryee, Member William Armaline, Member LaWanda Hawkins, and Member Ronaldo Villeda

Subcommittee Members Absent: Co-Chair Abdul Pridgen

1. Call to Order and Introductions by Co-Chairs

Co-Chair Guerrero called the meeting to order at 10:06 a.m. Each RIPA Board Member (herein Board) introduced themselves. New Member John Dobard introduced himself as the Speaker of the California State Assembly Anthony Rendon's appointee as the Vice President of policy and programs at Catalyst California. Co-Chair Guerrero concluded introductions with a welcome to all attending the meeting.

2. Approval of March 15, 2023 Meeting Minutes

Co-Chair Guerrero opened asking if any members would like to discuss the March 15, 2022, draft meeting minutes. Member Criner moved to approve of the minutes as presented which Member Khadjavi seconded. With 13 members voting Aye, zero Nay votes, and one Abstention the meeting minutes were approved as presented.

3. DOJ Presentation on Bagley Keene Meeting Rules

Co-Chair Guerrero opened the floor for the California Department of Justice's (DOJ) presentation. Supervising Deputy Attorney General (SDAG) Nancy Beninati of the Civil Rights Enforcement Section presented on the Bagley Keene Open Meeting Act (BKOMA). She opened her presentation informing the Board that the RIPA Board is considered a state body which must abide by open meeting rules and stressed that Board members cannot speak with other Board members regarding any Board business outside of public meetings.

SDAG Beninati proceeded with her presentation and noted the following:

- That the purpose of the BKOMA is to promote an open consensus-building model of decision making in the eye of the public
- That the Board has subcommittees, subject to BKOMA, which develop sections of the Board's report for its review
- That all mechanisms of decision making are conducted during public meetings
- That the Board should be careful not to engage in discussions that could be considered serial communications on Board-related items.
- That the public has a right to participate at public meetings and to public meeting materials

SDAG Beninati mentioned that although the aforementioned must be observed, staff briefings with Board members and discussions regarding scheduling, agenda items, and other logistical matters that are not substantive to the report itself are permitted to be discussed. She also advised that when speaking to members of the press Board members should make it clear whether their statements are on behalf of the RIPA Board or as an individual, because actions of the Board are only valid upon a majority vote.

4. Update from DOJ

Deputy Attorney General (DAG) Allison Elgart of the Civil Rights Enforcement Section presented on updates from the DOJ. She first presented the video shown to law enforcement officers who take AB 953 POST certified trainings to introduce new Board members to the past work of the Board and hear from the community and former Board members about the mission of the Board.

DAG Elgart informed that the most current iterations of the draft sections of the report were circulated to the Board. She informed that some of the drafts will be more developed in the future and that some data analysis components have yet to be incorporated.

DOJ Administrator Aisha Martin-Walton then presented on the fiscal application of AB 953. AB 953, which passed in 2015, had language that would allow law enforcement agencies to seek reimbursement for mandated work related to data collection upon the determination of the Commission of State Mandates. She reported that a test claim was filed in 2019 by the city of San Diego and that the Commission of State Mandates determined RIPA data collection to be a mandate and identified the estimated costs of the data collection. She stated that the 2023-2024 Governor's proposed budget included \$50.5 million to allow for law enforcement agencies to submit reimbursement claims for RIPA data collection costs.

DOJ Administrator Martin-Walton reported that the Commission of State Mandate identified the following tasks as RIPA Data Collection activities which costs could be reimbursable:

- That peace officers maintain the system
- That they match an officer's ID number
- That they electronically submit the data
- That they retain the stock data
- That they work with the DOJ to audit, validate, and correct the data after submission

She stated that the DOJ will continue to monitor the proposed budget and report back on this development. Member Ochoa asked whether there the Board would have any input on the reimbursement process and proposed that the reimbursements could be incentivized to promote data integrity before submission. DOJ Administrator Martin-Walton stated that the Commission of State Mandates has tailored the reimbursement process to the narrow language in AB 953. Co-Chair Guerrero then moved the meeting to the next agenda item.

5. Update from Subcommittees

Co-Chair Guerrero opened the floor for Subcommittee Co-Chairs to report developments made in their respective sections.

Civilian Complaints

Member Criner presented on behalf of the Civilian Complaints Subcommittee. Member Criner stated that the subcommittee focused its efforts on how to make the complaints process more meaningful and developed the following recommendations for consideration:

1. To recommend a standardized definition of complaint
2. To emphasize that body-worn camera footage and potentially drone footage be reviewed during investigation of complaints
3. To incorporate root-cause analysis into the complaint process to help identify systemic issues instead of solely focusing on the actions of individual officers

He reported that the second recommendation's inclusion of drone footage was considered as it was mentioned during public comment.

State and Local Racial & Identity Profiling Policies and Accountability

Member Ochoa presented on behalf of the Policies Subcommittee. She first reported on the subcommittee's work on pretext stops. They reviewed the effectiveness certain policies reported to eliminate or reduce pre-text stop practices and looked at the initial results of the Los Angeles Police Department's (LAPD) and State of Virginia's policies and their outcome; with respect to the LAPD, a RIPA analysis will be included in this year's report. She reported that initial analysis determined from the aforementioned policies did result in fewer stops but that the degree of racial disparity occurring remained. They reviewed the outcomes of stops which included actions taken (e.g., use of force) with particular attention to outcomes of stops solely resulting in a Penal Code section 148 violation (resisting arrest).

She then reported on the subcommittee's discussion on their accountability section. They discussed the interplay between police unions, law enforcement, and cities; and qualified immunity. The subcommittee also engaged on discussion on its youth with disability section with topics that included understanding how youth experiencing mental health crises or with disabilities experience the school police system.

The floor was then opened for the Board's inquiries and comments. Member Hawkins asked whether the homeless are taken into account when discussing pretext stops. Research Data Supervisor I Kevin Walker from the Department of Justice Research Center (DOJRC) informed that there is currently no measure of whether an officer perceives a person to be unhoused within the data. Although there is consideration to make this a reportable variable, Walker explained that the data reviewed is from 2022 and the referenced consideration would not go into effect until the beginning of 2024. DAG Elgart confirmed that the variable would be included in future data collection. Walker also shared that this approach has recently been explored as researchers at the University of California San Diego has used RIPA data in combination with other data sources to identify stops associated with those unhoused.

POST Training & Recruitment

Member Ochoa reported on the POST Training & Recruitment Subcommittee. Her summary noted that:

- POST presented on the field training program
- 20 out of 42 learning domains may fall under profiling
- POST finalized the train the trainer course revisions but that the subcommittee nor the public have opportunity to review and comment
- The subcommittee will have an opportunity to review the updates to the dispatcher course once finalized
- The subcommittee is exploring the function of guidelines, what makes them distinct from training, and its application when implementing policies

Board Member Villeda also reported on his presentation to the POST Commission on June 8, 2023. He presented on the following:

- The lack of attention given to the Board's recommendations
- The urgent need for POST to consider and adopt RIPA recommendations
- Requested for separate comprehensive guidelines for expanding racial justice and identity profiling training course
- Emphasized the need for transparency on processes and published timelines for curriculum review and development
- The importance of seeking and respecting community and stakeholder input
- Called for rigorous data analysis to measure the effectiveness of the courses integration of accountability into the training curriculum to prevent and respond to discriminatory practices

He shared that POST Commission raised concern on the methodology used to establish the Board's recommendation related to facilitation. Member Villedo said that was the only item that he was asked about by the Commission and they had no other comments or questions about the Board's recommendations..

Stop Data Analysis

Member Khadjavi presented on behalf of the Stop Data Analysis Subcommittee. She reported that the subcommittee elected Member Bianco to be the Co-Chair of the subcommittee. Their most recent meeting focused on 2022 stop data and holistically all law enforcement agencies across the state are now reporting; over 500 agencies are now reporting collecting and reporting out RIPA data. She reported that traffic violations still accounted for 80% of stops as the basis for the stop. Review of the new data from new agencies also reflect this trend. She also reported that patrol officers were also identified to make the vast majority of stops and that notable disparities, with respect to race and ethnicity, especially affected Black residents. She also shared that, with the LAPD's announced changes to their pretext stop policy, the subcommittee will be able to examine the effects of the policy change in the upcoming year. The subcommittee also discussed how gender was coded relative to the data's analysis and data anomalies discovered. She closed out her report-out by noting that the subcommittee discussed more user friendly formats to the appendixes with a particular preference of changing its format from pdf to an excel spreadsheet.

Hearing no comments, Co-Chair Guerrero moved to the next agenda item.

6. Board Discussion of 2024 Draft and Subcommittee Reports

Pretext Section

Co-Chair Guerrero guided the discussion through the RIPA report outline. Discussion on the Stop Data section was tabled as further development was needed on the section. She stated that the section on pretext stops focuses most of its content on youth interactions with law enforcement and noted that initial findings were deeply alarming as it was discovered that schools referred nearly 25,000 students to law enforcement. She then opened the floor for Board member discussion on the section. Member Randolph reminded the Board that the number aforementioned was from data collected in wave 2. He asked the Board to postpone development of its opinion until after an analysis of all data collected. He also asked that the Board consider a holistic assessment of this topic by also including positive observations and findings discovered. Member Hawkins agreed with Member Randolph's request as it would present the most accurate information for the public. She asked the Board to consider assessment of the topic at the micro-level by reviewing these interactions either by school or by district and the outcomes of these interactions. Member Ochoa provided clarification that the language of the report does not infer that law enforcement officers terrorize students. She stated that the language has been curated to be fact and evidence based. She also asked the Board to consider adding positive impacts of SROs in the school system only if it was fact or evidence based observations.

Member Bianco commented that the aforementioned figure, when compared to the student population of California as a whole, is less than one percent of a third of the student population. He asked the Board to consider framing the figure within an appropriate context so that the public can assess the figure accurately. He also stressed that the figure does not take into consideration the alternative outcome that could transpire if there was no law enforcement interaction. Member Sierra thanked her fellow Board members for the discussion and agreed in part with Member Bianco in that the data must be reviewed to better illuminate the topic. She also asked the Board to consider review of the extent that school resource officers (SROs) are involved in the school disciplinary system.

Member Kulkarni agreed with Member Ochoa's comments. She reminded the Board that their directive was to address a problem identified by both the Legislature and Governor. She stated that their report should not shy away from reporting uncomfortable findings or embed them in positive observations that are not relevant nor fact and evidence based. She reminded that the desired outcome of their work product is the ensured safety of all including the youth population and communities of color. Member Armaline commented that academia's particular concern over this subject matter is that SROs serve a variety of different institutions, which practices can vary. He stated that the concern is not particularly on individual SROs but the application of the role; the problem is more systemic than interpersonal characteristics of any one SRO.

Member Kennedy commented that while he acknowledges there can be positive interventions from SROs on youth that he appreciated the report highlighting the disparities that Black and brown

students are unfairly targeted comparative to their counterparts for the same infractions. He said that disparity lends itself to California's prison system.

Member Taylor reminded the Board that the negative practices observed could attribute itself to the idea that the origins of policing was inherently racist. She expressed the difficulty to reach desired outcomes without changing the paradigm used in policing. She reiterated Member Kulkarni's statement that the Board is tasked with addressing a problem recognized by both the Legislature and the Governor and that the findings should not have to be embedded with positives to create a neutral narrative; the Board's work is to address racial disparities in spite of its uncomfortable nature. Member Hawkins agreed and stated that even with changes to policy and practices, the problem may be pervasive as the work culture does not change.

Member Sierra asked the Board to consider the positive impacts that SROs bring as analysis would not be as complete without it. She noted that without identifying the particular actions that positively impact youth, the Board may not be able to advocate for alternative community-based resources that could continue these efforts; she noted that if findings show that SROs positively impact youth as counselors, then a recommendation can be made to advocate that more resources be directed to counselors. Member Villeda supported Member Sierra's advocacy for alternative community-based resources and described the Youth Empowerment Support (YES) teams which are currently being developed in the County of Los Angeles. YES teams are comprised of care coordinators, restorative justice coordinators, and a trust individual from the youth's community to respond to issues normally addressed by SROs as they are trained to de-escalate are gang interventionists. YES teams also attempt to address the root cause of the youth's problems and have a wide variety of tools to employ (e.g., familiarity with the court process, mental health, etc.).

Member Duryee commended those that developed the pretext draft section of the report. He asked the Board to consider the potential impact of low-level mechanical violations on traffic safety. He shared concerns this traffic stop type has become synonymous with pretext stops and stated that even without enforcement of low-level mechanical violations that pretext stops would still occur as the root issue is not addressed. He closed his comment by stating that many of the aforementioned traffic violations are illegal as can impact traffic safety such as headlight and windshield violations.

Accountability Section

The Co-Chair moved the Board to discuss the accountability section which included review of police union roles, civilian oversight bodies, and the investigation and oversight process. She prefaced that the right to collective bargaining has been recognized as a human right and that the question before the Board is not whether law enforcement officers have that right but rather what role unions have if any in the accountability process when weighed against the public's right to oversee use of force powers granted to them. She then opened the floor for Board conversation.

Member Randolph informed that Senate Bill 2 (SB 2) obligates law enforcement to report any kind of bias or civil rights violations committed by its members. He also asked the Board to consider whether the topic before them is wholly necessary as SB 2 addresses this component and that the topic itself is not a directive of the Board's mission to eliminate racial profiling. Co-Chair Guerrero

thanked Member Randolph for his comments and shared that the prior Board asked for this topic's exploration and inclusion as it elevates the special protections afforded to law enforcement officers that do not apply to the public (e.g., waiting times before being interviewed by investigators, being provided evidence in advance, etc.).

Hearing no additional comments, Co-Chair Guerrero moved to the next draft report section and reminded the Board that comments can be submitted to the DOJ via e-mail.

Civilian Complaints Section

Co-Chair Guerrero opened the floor for Board discussion. Member Ochoa inquired whether the placeholder page which discussing the implementation of body-worn cameras and drones was strictly for its use in the complaint process or more broadly. She stated that if consideration was for the former that the inclusion of dashboard cameras should be included as well. She stated that the latter would require the Board to consider their use more thoroughly as there are implications when used for purposes of surveillance. DAG Manners answered that the placeholder page was in consideration of these technologies during the investigative complaint process. Member Hawkins inquired whether youth who interact with law enforcement officers are SROs are familiar with the complaint process. Member Randolph stated that when a law enforcement officer issues a citation to the youth, that their parent/s or guardian/s are notified and aware of the occurrence and that the complaint process would occur after parent or guardian notification.

POST Training and Recruitment

Upon hearing no comments Co-Chair Guerrero asked for any closing remarks before moving to the next agenda item. Member Ochoa inquired whether the incoming data analysis would include review of any missing or inaccurate data related to use of force. Mr. Walker answered that once the referenced data under the use of force incident reporting system is made available for the same period of time that the RIPA data has been, that the DOJ will review both and perform an analysis then. Member Randolph asked what years would be compared as different years had a different amount of agencies reporting which could make the data less reliable. Mr. Walker explained that same year will be used to compare the use of force incident reporting system and the RIPA data. Member Randolph also recommended that when using findings from outside the state, that language be added to alert readers so that they could be aware of the potential changes in dynamic between the two states.

7. Break

In the interest of time Co-Chair Guerrero asked the Board to consider moving forward to the next agenda item. Hearing no concerns, she moved to the next agenda item and skipped the scheduled break in the agenda.

8. Public Comment

Co-Chair Guerrero facilitated public comment and invited members of the public to provide their statements.

Karen Glover expressed that the equivalency argument used to direct the Board's report to be artificially balanced is detrimental to RIPA's goals and directives. She stated that there are other spaces to present and highlight the good work law enforcement does, but that RIPA's discussion should center on review of the data and practices around racial profiling. She closed her comment by appreciating the Board's work.

Michael Dipiero from northern California inquired whether AB 953 would be incorporated into police academy training. The commenter also asked whether there was accountability information on officer involved shootings on people who were fleeing and were unarmed. He also asked the Board to consider adding a reportable variable for motorcyclist. He also advocated for RIPA data integrity and for law enforcement to be from the community as a way for law enforcement officers to engender the public's trust.

Co-Chair Guerrero thanked those who provided public comment and inquired with Mr. Walker whether motorcycles were an identifiable variable. Walker informed that the revised regulations, effective beginning of next year, would require an officer to differentiate the nature of the officer stop based on the stopped person's activities but that motorcycle stops would not be disaggregated from vehicular stops. Co-Chair thanked Walker for his response and asked the Board to consider advocating for the variable to stand alone. She closed the agenda item and directed the public to provide any additional comments via e-mail.

9. Discussion of Next Steps and any Action Items

Co-Chair Guerrero opened the floor to the DOJ for a discussion of next steps as there were no action items for the Board to vote on. DAG Elgart reported that next steps were to incorporate the Board's and the public's feedback and that the DOJ would be in contact with the Board to schedule subcommittee meetings.

10. Adjourn

Co-Chair Guerrero thanked all for their attendance and adjourned the meeting.