

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD (BOARD)

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POLICIES SUBCOMMITTEE MEETING MINUTES

August 28, 2023 1:20 p.m.

Subcommittee Members Present: Co-Chair Melanie Ochoa, Member Lily Khadjavi, Member Rich Randolph, Member John Dobard, Member Angela Sierra, Member Chad Bianco, and Member Manju Kulkarni

Subcommittee Members Absent: Co-Chair Andrea Guerrero

1. Introductions

Co-Chair Ochoa called the meeting to order at 1:20 p.m. Each Policies Subcommittee member (herein subcommittee) introduced themselves. Co-Chair Ochoa concluded introductions with a welcome to all attending the meeting.

2. Approval of May 31, 2023 Subcommittee Minutes

Member Sierra moved to approve of the draft meeting minutes as is. Member Dobard seconded the motion. With seven Ayes, zero Nays, and zero Abstentions, the motion passed.

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

Co-Chair Ochoa opened the agenda item to discuss edits made to the Subcommittee's report section suggested at the last meeting and opened the floor to the Department of Justice (DOJ) to present on changes made.

Accountability

Deputy Attorney General (DAG) Jennifer Soliman presented on the changes made to the accountability section. She stated that the section on the union's functions have been change to:

- Add a section on union lobbying
- Amend language to remove presumptions made to frame the content as a discussion
- Amend the section on a union's avenues for reform
- Clarify when a statement is made by an organization or entity outside that is not the RIPA Board

She then invited the Subcommittee to provide their feedback on the changes made.

Member Sierra thanked the DOJ and DAG Soliman for their work thus far. She highlighted that common clauses found in union contracts that that prevent reform and accountability could be substantive to warrant recommendations which the RIPA Board could consider adopting. She recommended streamlining the topic section to focus on accountability and to trim other content such as the section on lobbying. Co-Chair Ochoa stated that the accountability section could benefit from discussing union lobbying as readers may be unaware that lobbying can affect

accountability and reform legislation from passing. Member Dobard concurred with the considerations made to streamline the content and asked the subcommittee to consider the degree to which the content is to be trimmed.

Member Randolph shared that page 16 of the draft report section may contain outdated information. He stated that investigations involving peace officers are more transparent as a result of the mandatory reporting requirements from Senate Bill 2 (SB 2) as any unethical incident involving a peace officer is referred to POST. He recommended that the referenced information be updated to reflect current standards.

Member Sierra also asked the Subcommittee and DOJ to consider expanding information on the difficulty law enforcement agencies may have when transferring peace officers to different assignments or locations. She stated that the content briefs the readers on this topic but that providing additional information would better inform as to how and why this could occur. Member Bianco asked the Subcommittee to consider removing the referenced section in its entirety, as it may inaccurately inform readers to believe that there are protections that prevent a peace officer's transfer. He shared his insight, as an administrator, that the union has little influence in his capability to re-assign peace officers to different stations or assignments. He further shared that the procedural mechanisms afforded to a peace officer contesting a transfer is to protect against an arbitrary transfer rather than a transfer because of misconduct. He further cautioned that the current application of the information would misinform readers to believe that peace officers transferring because of misconduct could exploit these mechanisms. He also shared that the Police Officer Bill of Rights (POBAR) also has no substantive authority that would prevent re-assignment from occurring. He was also concerned that the information's source may have been from a singular instance rather than an observed trend. DAG Soliman clarified that the section and information covers a general trend that occurs throughout the state. She also clarified that POBAR has language that speaks to a peace officer's reassignment and when it should occur.

Co-Chair Ochoa added that the referenced observance might be a result of an agency's interpretation of the law that makes them perceive they have an inability or may encounter impediments to transfer peace officers under certain circumstances. She added that this interpretation creates an indirect impact of the law that warrants coverage and recommends that the language be changed to reflect the nuance of the topic. Member Randolph reminded the Subcommittee that SB 2 has a substantive role in ensuring that misconduct is also reviewed by POST but also shared concerns that the information used may not have the innate understanding for the modern police practices used in the State of California.

Pretext Stops

DAG Micklethwaite presented on the updated changes to the pretext stop draft report section. They informed the Subcommittee most changes were to the recommendations section. They informed that the following topic recommendations were further developed based on Subcommittee's approval from the last meeting:

- Resisting arrest
- Field interview cards
- The use of specialized teams

DAG Micklethwaite also informed that a substantive portion of the updates can be attributed to recommendations, for the Subcommittee's consideration, that stemmed from a settlement between the U.S. DOJ and the Minneapolis Police Department. First, they asked the Subcommittee to consider adopting several recommendations regarding field interview cards. The first recommendation would require an officer to inform the subject of a field interview that they do not have to answer the questions asked and that they are free to leave. The second and third recommendation for the Subcommittee's consideration is to (2) inform officers that providing the physical form of identification is voluntary and (3) that officers should not consider the subject's failure to stop, answer questions, or decision to end the encounter as a way to establish reasonable suspicion. DAG Micklethwaite continued the presentation and stated that updates to the recommendation section also included the RIPA Board's past recommendations that stemmed from district attorney policies limiting pretextual stops.

DAG Micklethwaite continued that the topic on the use of specialized teams has been positioned an initial review of the topic and asked the Subcommittee to consider the following recommendations. The first recommendation, from the Los Angeles County Office of the Inspector General, is to create policies for greater oversight for these specialized teams. Another recommendation is to limit the use of no-knock warrants. The third recommendation for consideration on this topic is to increase funding for drug intervention and violence prevention programs which can improve situations before the need for police intervention.

DAG Micklethwaite closed their presentation and noted that the DOJ and DOJ Research Center (DOJRC) would continue developing the section with notable upcoming additions to include:

- DOJRC analysis on effects of the Los Angeles Police Department's stop data before and after implementing new pretext stop policies
- Review of SB 50 which limits stops for certain types of traffic infractions

They then invited the Subcommittee to provide their feedback on the draft report section.

Member Dobard provided a friendly edit to the wording on page 28 and asked DAG Micklethwaite whether the Los Angeles Department of Transportation task force's draft report, assigned to assess alternatives to law enforcement with respect to traffic safety, was considered in developing the draft report section. He recommended that the task force's report be considered to either augment shared recommendations or to supplement the draft report section where warranted.

Co-Chair Ochoa provided several points of feedback which included:

- Incorporating information on how building environment design can positively impact public safety
- The status of SB 50 as of the date the report is finalized
- Revision to discussion on CHP policies in AB 93 section

- Revisions to make recommendations more actionable
- Incorporating information that field interview card interactions can negatively impact youth trajectory
- Including a recommendation to stop the collection of field interview cards
- Adding additional examples of disparities created by specialized teams

Member Sierra raised stated that the recommendation to eliminate no-knock warrants may be premature and best considered by the RIPA Board as a whole. Member Bianco stated that the recommendations made in the AB 93 section on consensual searches may be premature as the context behind the CHP's settlement were not on-point to the issue of race; the individual was not stopped because of his race but because a traffic violation. Co-Chair Ochoa responded that former RIPA Board Member and CHP representative Amanda Ray backed the CHP policies even after the expiration of the consent decree.

Member Randolph recommended that the section on specialized teams explicitly highlight when they were disbanded in bold. He stressed the importance that current LEAs unequivocally reject the practices and actions performed by specialized teams referenced in the section.

Youth Interaction with Disabilities

DAG Yasmin Manners opened the presentation on this report section by first introducing DAG Jennifer Gibson who will be assisting the RIPA Board moving forward and has helped draft the report section. DAG Manners noted that the report section is still framed as an introduction to the topics discussed that will cover trends, impacts, and best practices. She stated that the largest update to the draft section are as follows:

- That the information has been structured in narrative form
- That the draft section includes information on mental health crises per the Board's approval
- Included DOJRC analysis on 2022 stop data regarding youth with disabilities

DAG Manners expanded on the draft report sections discussion of the DOJRC analysis. The 2022 data set discusses the number of stop where a youth perceived to have disabilities when there was reasonable suspicion, consensual encounters, and community caretaking. She stated that the DOJRC analysis discovered that youth perceived to have disabilities were more likely to encounter the aforementioned type of stops than youth not perceived have disabilities. She reported that the draft report section would also compare national trends to RIPA data.

DAG Manners also stated that the draft report section would discuss the impacts stops have on youth with disabilities. She shared that the following effects were observed:

- Increased involvement with the criminal justice system
- Subsequent trauma, stigmatization, and long-term mental health impacts
- Distrust in state actors and decreased belief of institutional legitimacy
- Negative impact in school performance

She also shared that stops may also infringe on the Americans with Disability Act if municipalities over-rely on law enforcement when responding to mental health emergencies. She continued that

best practices from prior reports have been clarified to provide a care-first model for this year's report. The report section would advocate for community responses to these events rather than a police response and would communicate best strategies for a care-first model. Another recommendation made would be to overhaul police responses to behavioral health emergencies that would entail collaboration between law enforcement and mental health professionals.

DAG Manners then invited the Subcommittee to provide feedback and direction. Co-Chair Ochoa raised concern that the recommendations made are too police-centric and do not accompany the discussion that precede them. She instead recommended that the recommendations pivot towards alternative solutions that align with the report's findings. She also recommended that the community caretaking definition be defined at the outset to better inform readers ahead of its discussion and to better relay that a community intervention response is an intermediary solution to the more ideal solution of having mental health crises responded by a psychiatric expert. Member Kulkarni supplemented Co-Chair Ochoa's sentiments on seeking alternatives to law enforcement responses to mental health crises but asked the Subcommittee to consider additional alternatives outside of prescription medication interventions as well. She also recommended that recommendations related to trainings should more detailed and explained.

DAG Manners thanked the Subcommittee for their feedback before Co-Chair Ochoa moved to the next agenda item.

4. Public Comment

Co-Chair Ochoa then opened the floor for members of the public to provide their comments in today's meeting.

Michael asked the Subcommittee to consider keeping the discussion on union lobbying in the accountability report section. He stated that it would better inform the public of the power lobbying can have on bills passing. He also asked the Subcommittee to consider pretext analysis on motorcyclist with affiliated organization stickers or paraphernalia. He also raised concern on the recommendation to reduce police encounter by increasing use of traffic enforcement cameras as it could raise unintended consequences.

Karen asked subcommittee members with law enforcement experience to supplement their statements with the relevant data and scientific findings in a better effort to help facilitate conversation.

Co-Chair Ochoa closed the agenda item and informed the public of resources they could refer to when filing a complaint.

5. Discussion of Next Steps

Co-Chair Ochoa opened the agenda item and entertained motions to approve recommendations that did not need further editing as a result of this meeting's discussion. For the pretext draft report section Co-Chair Ochoa moved to approve recommendations 3 and 4 as is. Member Kulkarni seconded the motion. With five Ayes, two Nays, and zero Abstentions, the motion passed.

Member Kulkarni moved to approve recommendations on pages 27 and 28 of the pretext draft report with the added language on recommendation 2 “to prohibit the collection of information for submission to criminal databases” and recommendation 4 “to ban the collection of and entry to criminal databases”. Co-Chair Ochoa seconded the motion and opened the floor for Subcommittee discussion. Member Sierra sought clarification on whether the approved subcommittee recommendations voted on would allow for RIPA Board to formally adopt the recommendations as a whole. Co-Chair Ochoa confirmed that the motions would allow the recommendations to be considered for the RIPA Board’s adoption. With five Ayes, two Nays, and zero Abstentions the motion passed.

Co-Chair Ochoa then moved discussion to the recommendations found on page 33 of the pretext draft report section. Member Sierra stated that the recommendation to eliminate no-knock warrants may be premature and asked the Subcommittee to consider this recommendation for a following report. Supervising Deputy Attorney General (SDAG) Nancy Beninati reminded the Board it could postpone incorporating the recommendation for a future report as more information could be collected to bolster the related topic item. The Subcommittee then agreed to table discussion of these recommendations to the next meeting.

Co-Chair Ochoa then entertained a motion to approve recommendations in the youth with disabilities draft report section on pages 16 and 17. SDAG Beninati clarified that the referenced recommendations on pages 16 and 17 were intended to display solutions made by advocates and researchers. She stated that the Subcommittee would not necessarily have to adopt or approve of the recommendations as it was meant to provide information. Co-Chair asked the Subcommittee to consider the recommendations for the Subcommittee to endorse. The Subcommittee then agreed to table discussion of these recommendation to a later date.

6. Adjourn

Co-Chair Ochoa thanked all for their attendance and wished all a good day before adjourning the meeting.