

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

Wednesday, September 30, 2020 – 10:04 a.m. – 11:23 a.m.

Subcommittee Members Present: Subcommittee Co-Chair Warren Stanley, Sahar Durali, Melanie Ochoa, Sheriff John McMahon

Subcommittee Members Absent: Andrea Guerrero, David Robinson, LaWanda Hawkins, Oscar Bobrow, Tim Silard

1. Introductions

Subcommittee Co-Chair Warren Stanley called the State and Local Racial and Identity Profiling Policies Subcommittee to order at 10:04 a.m. The meeting was held with a quorum of members present.

2. Approval of the Subcommittee Meeting Minutes

MOTION: Co-Chair Stanley made a motion to approve the May 27, 2020 subcommittee meeting minutes. Member Durali seconded the motion.

APPROVAL: Three subcommittee members in attendance voted “yes” (Ochoa, Durali, McMahon); there were no “no” votes and no abstentions

3. Overview Summarizing Wave One & Two Survey Responses by Research Center

Tiffany Janz from the DOJ Research Center provided a presentation summarizing the results of the Wave One and Two LEA survey responses on their uses of the 2020 RIPA Board Report. She stated that the objective of the analysis is to learn about the impact of the 2020 and prior Board Reports analysis, findings and recommendations on law enforcement agencies and identify the actions agencies are taking that advance the goal of RIPA.

She explained that The Research Center’s survey model consisted of 26 questions to Wave One and Two agencies, with both yes/no and open-ended questions. She noted that the open-ended questions were used with the belief that it would provide a richer narrative context, rather than yes/no response. Ms. Janz noted that analysis of the data consisted of tabulation of yes/no responses and calculating percentages along with thematic analysis conducted for open-ended questions. She indicated that thematic analysis allows for identifying and summarizing patterns in narrative responses.

Ms. Janz provided the results of the analysis noting that 92% of participating LEA's have incorporated the RIPA report, 78% stated that they reviewed with staff, with only 38% of the LEA's using the stop data information as a resource to hold staff accountable, with two accountability themes emerging through the analysis; data review procedures and policies.

Ms. Janz provided LEA practice change findings, explaining that all participating agencies stated that they have bias-free policing policies in place, 92% of LEA's said that they have adopted some form of RIPA Board Policy, 78% said that they have adopted a model bias-free policing policy as recommended by the RIPA Board. She stated that a consistent response theme found under practice changes were that LEA's were in the process of adopting policies or that their policies were under review. Ms. Janz stated that 69% of LEA's analyzed some of their stop data with emerging themes showing most analyze all categories and that benchmarks tend to be area-specific comparisons. She noted that 38% or 5 of 13 use the report to identify trends in their own data, with only three of those agencies providing further response preventing the Research Center from identifying those trends or themes.

Ms. Janz noted that agencies reported barriers to analyzing stop data analysis including funding/resource challenges, challenges tied to integration of data collection systems and the absence of variables. Lastly, Ms. Janz explained that while many LEA's provided affirmative responses to adopting RIPA recommendations not much information was provided on how those recommendations are incorporated relative to training and review with staff, and secondly she noted that the Research Center would like to get more specific categories that agencies are using in their stop data analysis. She stated that these are points of discussion for future surveys.

Member Ochoa inquired what variables were reportedly absent by LEA's and whether DOJ was able to identify those integration challenges. Rachel Brooks of the Research Center responded to Member Ochoa by stating that LEA's wanted to see more contextual variables, such as suspect behavior leading to use of force, arrest. In response to Member Ochoa's second question, Ms. Brooks explained that LEA consistent themes with data collection challenges included the difficulty in creating reports, along with challenges in trying to create more efficient systems on their end to then more efficiently analyze the stop data they collect. Tiffany Janz noted that only four of the responding agencies gave responses that could be categorized under the theme "response barriers due to the absence of variables". She added that LAPD's feedback concerning data integration was the need for census tract data, while San Diego PD noted that adding a stop data variable category for whether the detainee was experiencing homelessness would be helpful with their data integration and analysis.

Member Durali commented that, though the analysis is helpful, the survey responses seem cursory and lack details of how and what is actually being done to implement the RIPA recommendations. She recommended that random selection may make sense in yielding responses with greater depth of information useful for Board analysis. Member Stanley raised similar concerns, recommending a more in depth survey with a smaller group of agencies to gain greater detail about the agency and its incorporation of the RIPA recommendations.

Tiffany responded by stating that the depth of information provided in the open response fields and across questions varied widely from agency to agency. She noted that going forward Research would look to follow-up with certain agencies where additional information on implementation of recommendations is required and look to sample and ask more specific and probing questions to a subset of agencies.

4. Update on Review of Policies & Accountability by Department of Justice

Domonique Alcaraz from the DOJ reviewed Best Practices & Evidence Based approaches for accountability systems. She stated that her research was based in part, on USDOJ consent decrees entered into with other agencies with a focus on those specific actions taken to reform an agency's accountability system, with additional research sources including police research organizations, criminal justice organizations, and civil rights organizations.

She noted in her research that there did not exist a singular, exemplar policy resulting in looking at concepts where accountability touches and incorporating best practices for each accountability area. Ms. Alcaraz stated that the research led to ten different accountability areas, all of which will be covered in the presentation excepting EIS, which, given the depth of the subject matter, will be discussed in detail in the Civilian Complaint subcommittee meeting. The different accountability areas are the following:

- 1) Data tracking and transparency: Tracking should take place for all police interactions to find trends, and to be able to incorporate data when oversight is taking place via supervisors.
- 2) Early Intervention Systems: To be discussed in Complaints subcommittee
- 3) Video Technology: Research has shown that these technologies are only as good as the policies which agencies have on these technologies coupled with accountability on these policies
- 4) Supervisory Oversight: Best practices include having a sufficient number of 1st line supervisors, adequately trained on leadership and trained on how to identify issues among officer pool. In addition, 1st line supervisors should possess a workload that allows them to be proactive and able to engage supervisors with line officers, review arrest reports,

officer activity reports on a daily basis to ensure officer actions that are taken are in line with the constitution, law and policy.

5) Clear Policies & Pathways: Best practices show policies should exist to be able to submit complaints on those who are not following policies. The policies should explicitly provide that all officers are required to police in a constitutional manner and follow all laws and policies of the agency.

6) Misconduct Complaints: Best practices are to ensure any and all allegations of misconduct brought by the public, internally by peers, or by supervisors be thoroughly investigated and that the investigators in these investigations are given specialized training on how to conduct these investigations.

7) Discipline: Best practices provide that discipline systems should include progressive discipline and tracking and that discipline boards should include not just be made up of law enforcement but also participating community members equipped with a disciplinary vote.

8) Community Based Accountability: Best practices include policies which increase avenues for the community to submit complaints and allowing community members to participate in civilian complaint investigations.

9) Recruitment, Hiring & Promotions: Best practices include increasing diversity in hiring and the use of this measure as a critical tool for the accountability of officers seeking promotions with a discipline history or history of civilian complaints.

10) Performance Evaluations: Best practices include rewarding officers for positive behaviors including civilian commendations, commitment to community engagement and accurate report writing.

5. Discussion of Proposed Subcommittee Report Contents

Ms. Alcaraz shared that DOJ provided updates to Wave One agencies on their bias-free policing policies and updates for all agencies on their supervisory review based upon Board discussion. She shared that all agencies now have a section in the report about its supervisory review that includes whether an agency has a review and if so, what and how they carry out the review. Ms. Alcaraz noted that supervisory review content is specific to the submission of RIPA stop data. Additionally, she noted that San Diego PD, LAPD and Long Beach PD all updated their bias-free policies and included in their policies best practices the Board put forth in last year's report.

Member Durali recommended under Recruitment, Hiring & Retention best practices that the evaluation for white-supremacist ties of a recruit's social media footprint be added as a best practice under this accountability category. Member Ochoa requested that DOJ follow-up from its initial research on accountability systems to determine which agencies exclude AB 953 data in performance evaluations as a matter of policy. Additionally, she inquired as to whether DOJ may be able to create or identify more

meaningful ranges of discipline within law enforcement agencies to limit discretion and increase more fair and consistent punishments. Member Ochoa also requested DOJ consider the substantive value implications of agency discipline for lying about home illness relative to discipline for use of force and what those implications suggest about the values and standards the officers should uphold. She also noted that for practices involving civilians in disciplining systems that the mechanism for selection and screening civilians is key to effective accountability and that in some cases, civilians can be more lenient than department brass. Lastly, Member Ochoa recommended that disciplinary records for dishonesty, in part due to their exculpatory value, should be included with other serious discipline records imposed and maintained perpetually.

Member Ochoa raised the issue of the nature of explicit bias detailing that bias based policing and racial profiling both exist even if there are other grounds to stop, but the decision to do so, is motivated, in part, by race and that these are biases that the RIPA legislation was designed to address. She also recommended the use of explicit language within RIPA legislation to connote mandatory action and as another measure of reinforcement. Member Ochoa also recommended body camera audits as another accountability measure to better ensure what is documented by law enforcement has a substantial connection to what occurred in the officer-civilian encounters.

6. Public Comment

Michele Wittig from the Santa Monica Coalition for Police Reform commented that given the discussion surrounding best practices and model police policies she is hopeful that the Board would not fail to incorporate the outstanding work from prior year's reports to be brought forward and integrated into RIPA model accountability policies.

7. Discussion of Next Steps

Ms. Martin of DOJ shared that the highlighted best practices brought forward today accompanied by the Board recommendations provide guidance for the work of the subcommittee going forward. Additionally, Ms. Elgart encouraged the Board to provide feedback regarding the report or any matters discussed today. Lastly, Ms. Elgart confirmed that a draft of the 2021 report will be made available for board members at the upcoming November 2020 RIPA Board Meeting.

8. Adjourn

Subcommittee Co-Chair Stanley adjourned the meeting at 11:23 a.m.