CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

DEFINITIONS SUBCOMMITTEE MEETING MINUTES

Monday, September 26, 2016, 11 A.M.

Teleconference Locations: California Department of Justice Offices

Los Angeles	**Oakland**	**Sacramento**
300 S. Spring Street	1515 Clay Street	13000 "I" Street.
5th Floor Conference Room	20th Floor, Suite 2000	Conference Room 730
Los Angeles, CA 90013	Oakland, CA 94612	Sacramento, CA 95814

Other Teleconference Locations:
Kings County Sheriff's Office
1444 W. Lacey Blvd., Administration Building
Hanford, CA 93230

Subcommittee Members Present: Oscar Bobrow, Mike Durant, Kelli Evans, Mariana Marroquin, Rev. Ben McBride, Sheriff David Robinson

Subcommittee Members Absent: Alex Johnson

California Department of Justice Staff Present: Nancy A. Beninati, Shannon Hovis, Rebekah Fretz, Kathleen Radez, Glenn Coffman, Jerry Szymanski, John Appelbaum

1. Call to Order and Introductions

The meeting was called to order at 11:05 a.m. by Nancy Beninati. The meeting was held by teleconference with a quorum of subcommittee members present. After the call to order, the subcommittee members, DOJ staff, and members from the public at each teleconference location introduced themselves.

2. Approval of Minutes from Prior Meeting

MOTION: Chair Bobrow made a motion to approve the minutes from the previous subcommittee meeting on August 11, 2016. Member Marroquin seconded the motion.

VOTE: The motion carried with Chair Bobrow, Member Durant, Member Marroquin, Member McBride, and Member Robinson voting "Yes," no "No votes, and one abstention (Member Evans).

Member Durant requested that the minutes for the current meeting be sent out sooner than the day before the next meeting, to give subcommittee members more time to review them. Shannon Hovis agreed that DOJ staff would aim to send minutes farther in advance.

3. Continued Discussion of the Definition of "Peace Officer"

Chair Bobrow opened the discussion period by continuing the discussion from the prior meeting on the definition of "peace officer" for purposes of AB 953. He stated that they had a fairly thorough discussion of the definition at the last meeting, and, based on this discussion, he proposed that they recommend that the definition include any state or local law enforcement officer in California whose primary duties include the stop, detention, and arrest of people who violate the law. Since "peace officer" is already defined in the statute, the definition cannot be changed, but they can recommend that it be interpreted more expansively. He then asked for the subcommittee members' feedback on his proposed definition.

Member Evans stated that she supported the recommendation and, suggested that, for the regulations, they should make clear their position with respect to school resource officers (SROs) and other officers that work on school campuses. Although Member Evans understands it is the DOJ's position that at least those officers that contract with local entities are covered, the regulations should make sure the definition is sufficiently clear.

Member Durant commented that a SRO position is merely an assignment for a limited period of time. For the most part, SROs are sworn personnel within a department and sworn peace officers under Penal Code section 830.1(a), so they may not need to specifically include SROs in the definition. There are many unified school district police departments within the state that do not fall under section 830.1(a), but rather fall under other penal code sections. He asked whether Member Robinson's SROs in Kings County are still sworn, and whether this is just an assignment. Member Robinson replied that this is correct and in most other police departments there as well. Member Robinson also commented that the definition would encompass SROs regardless of what penal code section they fell under since the statute says "commencing with Section 830." Member Durant agreed and stated that he did not think that they needed to go beyond Chair Bobrow's proposed definition for peace officer.

Member Evans commented that this issue becomes relevant later on when they discuss other definitions regarding the activities that need to be documented and analyzed. Nancy Ms. Beninati explained that the Special Considerations and Settings Subcommittee had some discussion about schools as a special setting and hoped this issue will be revisited in the next meeting. However, to the extent that members have any comments or experience with peace officers who are SROs, the DOJ would welcome hearing those comments.

Chair Bobrow suggested that they could recommend that the definition of peace officer specifically include SROs. While this may be redundant, it would not run afoul of the statute. However, if SROs are just an assignment, they are already covered under the statute. This is why he was proposing that the language of the definition include any state or local law enforcement officer whose primary duties are to stop, detain, or arrest people who violate the law.

Member Robinson commented that they could not change the legal definition of peace officer to just anyone who stops, detains, or arrest someone since the law is already clear on what a peace officer is. Chair Bobrow replied that although they cannot change the statute, they could recommend that the statue be interpreted to cover with as broad a net as possible with respect to

peace officers. He suggested that they make a recommendation but acknowledge that the definition of peace officer already exists in the statute.

Member McBride commented that it was important to include an official recommendation regarding SROs, considering that there could be blurred lines in different areas across the state over the definition of a peace officer and whether or not it covers SROs.

Ms. Hovis stated that the distinction they were trying to draw in the August meeting was between SROs and school district police department officers where the school district has its own police department. The Attorney General's Office is in the process of interpreting whether all sworn officers on K-12 school campuses are covered under the statute. Member Evans commented that it sounded as if there was no question at all with respect to those officers that are assigned from their local law enforcement agency; the question is whether districts that have their own police departments are covered under the existing language. The recommendation they are making would be not to change the definition but to bring these districts under the umbrella of the statute.

Chair Bobrow suggested that they recommend that the definition of peace officer include any state or local law enforcement officer in California whose primary duties include the stop, detention, and arrest of people who violate the law, including any law enforcement agency that operates in a school district. He asked if any members were opposed to this recommendation.

Member Robinson replied that he was not opposed to the recommendation, but he was concerned with the language recommending that this should be the definition of peace officer since the definition is already given in the statute. He stated that he was in favor of recommending that those who work for a unified school district who may not fall under section 830 should report if they participate in those types of activities. They are not making a recommendation to change the definition of peace officers, but just trying to ensure that large school districts are included in the reporting under AB 953.

Chair Bobrow replied that, in the recommendation, he wanted to acknowledge that peace officers are already defined in the statute, and then recommend that it should be interpreted to include any law enforcement officers as stated earlier, including officers that enforce the law in school districts. They are not changing the definition of peace officer at all, just recommending that it be interpreted to include school district police. Member Robinson agreed with this recommendation.

Member Durant commented that he was not against the recommendation, but his only concern is that school peace officers are already specifically covered under Penal Code section 830.32, so it was clearly the intent of the legislature that they be covered. Chair Bobrow replied that the statutory language says "commencing with Section 830" but then limits the definition to certain peace officers.

Public Comment: Diana Tate Vermeire/ACLU pointed out that part of the goal of the regulations is to ensure that there is consistent application and understanding of who is to report and when. She urged that part of the recommendation be that the Attorney General's Office provide clarity to the various agencies to ensure that everyone is consistently reporting the same

data. Given the time the subcommittee members have spent discussing this issue, there may also be some confusion at other levels during the reporting process. Chair Bobrow replied that they could recommend that the Attorney General's Office clarify the definition of peace officer based on their discussion.

4. Continued Discussion of the Definition of "Detention"

Chair Bobrow then turned the discussion to the definition of "detention" for purposes of reporting under AB 953. He proposed that, based on their discussion during the previous meeting, they recommend defining detention as "anytime a peace officer intentionally precludes the free movement of an individual by the show of authority, regardless of the consent of the individual. A detention does not include when a peace officer is responding to a call for service involving the enforcement of civil code violations and when responding to or documenting traffic accidents, where the officer is gathering routine witness information given to the officer consensually by individual witnesses or involved parties." He stated that, in coming up with this language, he had reread significant portions of the statue to understand its basic purpose, and the statue is focused on those people who are stopped under the circumstances provided in section 12525.5, subsection(d)(4). He then asked for comments on this proposal or the definition of detention.

Member Evans asked Chair Bobrow to explain what he meant by a "show of authority" and whether a police uniform was a show of authority. Chair Bobrow replied that a uniform would qualify, but he meant any kind of official show of authority. If an officer is in plain clothes and does not identify himself or herself as a peace officer, a person is not going to stop, so it has to be an official show of authority. An officer does not necessarily have to be in uniform as long as there is a show of a badge or some official presentation of law enforcement authority.

Member Robinson suggested the subcommittee refers to two learning domains that are currently taught in the police academies, which provide even more detail on the definition of a detention than Chair Bobrow's proposed definition. Chair Bobrow suggested the Board could incorporate language from the POST materials into the definition, but the definition needs to be concise. Based on the language of the statute, the definition should include any show of authority that precludes the free movement of an individual, regardless of consent. If an officer stops an individual and asks for identification, and the individual gives consent, that should be documented. Member Evans requested that Ms. Hovis or Member Robinson distribute the domains to the members.

Ms. Beninati asked if the POST curriculum documents are confidential or if they can both be shared with the public. Member Robinson clarified that both documents (Learning Domain 15 and 21) are available on the POST website and can be shared with the Board and the public. He suggested that, in addition to the proposed definition from Chair Bobrow, they recommend that this curriculum be consulted by the DOJ for their final definition of detention in the regulations. Ms. Beninati asked for clarification that these documents were available on a public website and not a special website requiring a peace officer login. Member Robinson replied that this was correct; the documents are available on the public California POST website. Chair Bobrow stated that this was a lot of information, and he was hoping the subcommittee

would come to some kind of a consensus on the definition of a detention and not have to convene again.

Member McBride commented that community members want to ensure that there is a clear and concise definition of a detention and a stop. They are concerned about the discretion left up to law enforcement to determine and to record when a stop or detention has occurred based on what may be qualified as a necessity to solve a crime or a time of engagement in community policing. He proposed that the subcommittee make as concise and clear a definition of detention as possible so that if any law enforcement officer stops a citizen or community member outside of a call for service by that community member or a traffic stop that is initiated by a law enforcement official, it is a detention. If citizens are stopped by law enforcement and their forward progress and movement is impeded by nature of a question posed by an officer in an authoritative uniform, a request for identification, or a request to engage outside of a contact that they are initiating, this is a detention that needs to be recorded.

Chair Bobrow stated that the language of causing a reasonable person to believe that they are not free to leave is restrictive, and that the statute is meant to cover anytime someone is detained whether the individual consents or not. The intent of the statute is to document patterns of behavior by law enforcement that run afoul of their obligations. He proposed also including in the proposed definition actions that would cause a reasonable person to believe that they are not free to leave.

Member Durant commented that the POST Commission is a government entity that is representative not only of law enforcement but also civilians, community leaders, and activists. He stated that he believed Member McBride was on point regarding everything outside of calls for service. He also asked Chair Bobrow if his definition was written down anywhere or if it was something he was providing in a verbal representation here.

Chair Bobrow replied that he came up with the language of the definition on his own by condensing the discussion in the minutes. They had a long discussion on calls for service in the previous meeting, and he did not think calls for service should be completely excluded because there are times that police will be called to investigate a crime and then will detain people in the vicinity of that call for service, and these detentions should be documented.

Member Durant replied that he did not want to repeat this discussion either, but they need to make sure they are all on the same page. If there is a 911 call for service regarding a loud party, and the police do not make contact with anybody but simply conduct a drive by, they are not going to be able to document contacts. Therefore, not every call for service will include documented information because most of the 911 calls for service, such as a burglary report, will not have data that can be collected.

Member Evans replied that if the police are called out to take a burglary report, the individual is initiating that call, and a crime report is taken from that individual. But if a neighbor is walking down the street and gets stopped during the course of investigation for that burglary, then certainly that stop should be included, so they cannot just exclude calls for service. This goes back to the basic definition of detention - whether an officer is doing something that makes a community member feel like they are not free to leave.

Member McBride agreed and stated that if he as a citizen calls the police out to respond to an issue he is having, that does not remove the data collection that needs to happen in any subsequent law enforcement interaction with anyone else after the initial call for service. This clarification that calls for service should not just be an open ended space is important. Member Evans commented that this was the same for traffic accidents, and it will depend on what is happening in the traffic accident. If one vehicle is pulled over and the passengers are handcuffed and canines are called and for another vehicle, nothing happens, they cannot just carve out a broad exception for traffic stops. They need to go back to the current legal definition of a detention - whether the individual is free to leave or not.

Chair Bobrow stated that this was why he included, in his proposed definition, a paragraph about what a detention does not include, but maybe it should be a little bit more expansive. He suggested that, based on the discussion, the language should state that a detention does not include when a peace officer is responding to a call for service and gathering routine information given to the officer consensually and when responding to and documenting traffic accidents.

Member Durant commented that he thought Chair Bobrow was on point, but he was concerned that they could sit there all day and discuss hypotheticals, but there may be things that are going to be missed if they specifically include certain actions and exclude others. Ultimately, they all have the same idea and want to make sure everything is documented appropriately so that the concerns can be met and the data can be collected. Chair Bobrow replied that the discussion the last time was that they should come up with language that encompasses hypotheticals. The language of carving out when an officer is responding to or documenting information that is in the normal course of gathering routine witness or party information is the kind of action that is exempt from what the statue was meant to encompass.

Member Evans commented that she was a senior trial attorney for years with the Department of Justice doing police pattern and practice cases across the country and was a monitor in Oakland for seven years, so she has had a chance to work with a lot of communities and police departments. She expressed a concern about broad carve-outs excluding calls for service and traffic accidents because they will lead away from the purpose of the legislation. It is one thing if an officer responds to a traffic accident and is assisting those individuals, but it could very quickly turn into a detention. Once it turns into a detention, then everything the legislation was meant to cover kicks in, so they cannot give broad carve outs.

Member Bobrow replied that this is what he was hoping to encompass in the language of his proposed definition where it talked about documenting routine witness information given to the officer consensually by the involved witnesses or parties. If they do carve out that routine gathering of information that the statute was not designed to encompass, then that would be consistent with the statute.

Public Comment: Captain Charles Cinnamo from the San Diego County Sheriff's Department commented that one of the biggest concerns they have is how this will play out in terms of facility security, especially courthouses and sheriff's offices where they use sworn law enforcement rather than contract security for those positions.

Captain Dave Brown from the San Diego Sheriff's Department commented that in those cases involving facility security, everyone is searched coming into the building, but it is not a subjective or proactive activity by law enforcement. Another potential carve out is natural disasters, such as fires and evacuations, where people are required to show identification to return to a specific area. Under the broad statutory definition, anytime someone in uniform asks for identification or conducts a search, it would be covered. But under these circumstances, no one is choosing the individual; that individual is choosing to go into the building. These situations do not provide the data the legislation is seeking anyway.

Member Bobrow replied that those are good points, but he did not think that anyone on the subcommittee considered security in a courthouse setting or screening people going into the building as detaining an individual. Captain Brown stated that they brought it up because it fit the definition of a stop. Member Bobrow replied that he did not think the statue contemplated that at all, and he did not think they needed to specifically exclude that from the definition of a detention.

Kim Love/Sacramento County Sheriff's Department commented that the intent of the legislation is to capture proactive activity. She is in complete agreement that for any detentions, whether it is a vehicle or a pedestrian stop where the officer chooses on his or her own to make that stop, data should be collected on those detentions. However, for calls for service, the officers have no say in which calls they go to because it is computer generated, and the dispatcher is going to give that call to the officer based on his or her geographical location. For these calls, the data collected would not show whether that officer is or is not biased, so it is unclear what the purpose for collecting this data would be.

Diana Tate Vermeire/ACLU commented that, as a supporter of the legislation, it was the ACLU's concern that it be as broad as possible within realistic confines of what can be collected and what is paperwork just for the sake of paperwork. The focus should be on what is a detention, and when an individual is no longer free to leave. In the case of courthouse searches, people are free to leave and are making a choice to enter, so they are not being detained. However, when a call to service turns into a detention, it needs to be clear that this data needs to be collected, regardless of whether an officer arrived on the scene because of a call to service. The purpose of the regulations and the recommendations from the Board to the Attorney General's Office as they draft the regulations is about clarification and making sure there is uniform reporting.

5. Continued Discussion of the Definition of "Detention"

Chair Bobrow suggested adding a word to the proposed definition of detention - anytime a peace officer *initiates* the intentional preclusion of the free movement of an individual by the show of authority, regardless of the consent of the individual. He stated that this would be more consistent with the purpose of the statute. He also suggested adding that a detention for the purposes of the statute does not include when a peace officer is responding to a call for service and responding to or documenting a traffic accident where the officer's primary purpose is gathering routine witness information given to the officer consensually by witnesses or involved parties.

Member Durant commented that this was much closer on point and suggested recommending the definition Chair Bobrow had proposed and including the information from POST that Member Robinson had shared. He noted that POST is highly recognized by sworn law enforcement and civilians as the policy makers for public safety.

Chair Bobrow commented that they were close to a consensus on the language and could either try to finalize it during the meeting or give DOJ staff an opportunity to synthesize the discussion and finalize a definition to present at the RIPA Board meeting on October 24. Member Durant suggested recording the discussion in the minutes and distributing it to the Board as the consensus of where they are going. If there is a major concern about the definition, they can openly discuss it during the RIPA Board meeting. Chair Bobrow proposed that he present the finalized definition from the DOJ to the full Board at the next meeting and invite any member of the subcommittee to express agreement or disagreement on the proposed language during the meeting since it will be a public forum.

Member Evans commented that process-wise, this makes a lot of sense, but she still thought that a carve out for calls to service is too broad. There can be calls for service where people are not free to leave. If she is calling the police to come investigate her burglary, robbery, or assault and is interacting with the officer, she is free to leave. However, if they stop her neighbor walking down the street as part of the investigation of that call for service, that person would not feel free to leave, so that stop should not be part of the carve out. Member Durant replied that his concern was that he did not think that this was the intent of the language; the intent was basically to collect the data on stops that are initiated by public safety. Member Evans replied that deciding who to stop during the investigation of the call for service is officer initiated.

Member McBride commented that one of the big concerns of advocates of this bill was not only tracking the stop but also tracking what officers are calling discretion. The point of intersection they are most concerned with is where a call for service turns into the officer using discretion to initiate a different kind of environment. The idea that one might call law enforcement to their house to provide a service, and then someone else, either within that house or around that house, would be detained and this information would not be collected is a very concerning reality for those in the community. This is leaving too much up to the discretion of law enforcement, and a carve out for calls for service seems to be inappropriate and too wide to actually meet the concern of community members who fueled this legislation.

Chair Bobrow replied that this was why he had put the second part in the proposed definition. When there are calls for service, and the officer is getting information from the person who made the call, this is different than calls for service where the officer then initiates subsequent detentions or stops. The statute should not cover every time there is a routine call for service, but it should cover the extension of those calls for service where people are detained and forced to give information or stopped based on a criteria that is covered by the statute. Therefore, having a part in the definition that covers what a detention is and is not may address the concerns on both sides.

Chair Bobrow suggested that they agree to have the DOJ synthesize their discussion and finalize a definition of detention that they can present to the Board at the next meeting in October

and allow for subcommittee members to publicly agree or disagree with the proposed language presented at the meeting. Member Durant commented that he thinks ultimately they are all in agreement, they just want to make sure they are following what they believe is supposed to be the intent of the language in the legislation.

MOTION: Member McBride made a motion to adopt the definition of "peace officer" discussed at the beginning of the meeting, i.e., acknowledge that the statute already provides a definition of peace officer, but recommend that this definition be interpreted to include any state or local law enforcement officer in California whose primary duties include the stop, detention, and arrest of people who violate the law, including any law enforcement agency that operates in a school district, and to present this definition to the full RIPA Board at the October 24 meeting. Member Evans seconded the motion.

VOTE: The motion carried with Chair Bobrow, Member McBride, Member Evans, Member Marroquin, Member Robinson, and Member Durant voted "Yes," no "No" votes, and no abstentions.

MOTION: Member McBride made a motion to have the definition of detention, including the language provided by Chair Bobrow and the detention language in the POST materials, synthesized by the DOJ and presented by the Chair to the Board for the October 24 RIPA Board meeting with members free to express their disagreement with the proposed language at the meeting. Member Durant seconded the motion.

VOTE: The motion carried with Chair Bobrow, Member McBride, Member Marroquin, Member Evans, Member Robinson, and Member Durant voting "Yes," no "No" votes, and no abstentions. When casting her vote, Member Evans stated that she was not voting "yes" on the approval of any language, but was voting "yes" only on the process moving forward. Member Robinson voted "yes" in agreement with what Member Evans had stated.

6. Discussion on How to Define "Actions Taken by Officer During Stop"

Ms. Hovis stated that, in defining the actions taken by an officer during a stop, they were referring to Government Code section 12525.5(b)(7) which states "actions taken by the peace officer during the stop, including, but not limited to, the following" and then proceeds to discuss what must be included. She suggested that the subcommittee members may want to discuss the definition of what "actions taken by an officer" should be. Ms. Beninati commented that this information is all in Section III on page 2 of the three-page Definitions Subcommittee handout, which gives some more context.

Chair Bobrow asked if there was going to be a dropdown menu for search and whether consent was given. Ms. Beninati replied that it was likely just going to be a yes or no for these questions, e.g., was consent given - yes or no, and then the officer's answer will trigger another set of questions. Member Evans asked whether these subsequent questions would include a combination of dropdowns and narratives. Ms. Beninati replied that this was still being discussed.

Ms. Hovis stated that another subcommittee was considering additional data elements, and some of the discussion has been around additional values that could be included for actions

taken by officer. Therefore, the Definitions subcommittee would want to discuss the merits of including any of these additional data values, as listed on page 2 of the handout, and if so, how they would want to define these values.

a. "Canine Contact"

Member Bobrow asked the members if they wanted to define any of the items listed in the handout for actions taken by an officer during a stop. Member Evans stated that she supported the inclusion of these elements, but the only one that was a little ambiguous was "canine contact." She asked whether this was referring to a drug-sniffing canine or a canine used for control or use of force purposes.

Member Durant replied that in most of the law enforcement departments throughout the state, dogs may be cross-trained, whether in explosives or narcotics, but that officer, maybe due to staffing levels, may be handling a beat. So a dog may be on the scene, not because a dog was specifically called, but simply because that is the officer's jurisdiction or they may be there as backup to another officer.

Member Evans suggested that the language be changed to "canine used" because "contact" is ambiguous. Chair Bobrow suggested that under canine contact, there could be subsections for search, detention, and use of force. Member Durant stated that he did not think they needed subsections under canine contact. If the dog is used, then it should be documented, but if the dog is there as another officer, there is no reason to address it.

Member McBride stated that he thinks that it is appropriate to add subsections to canine contact because the manner in which the canine is used is an important distinction to capture. Member Durant asked for explanation of why, if an officer is on patrol and he or she happens to have a dog in the back seat but the officer is handling a beat, it should be documented, even if the officer was not there to use the dog. Chair Bobrow commented that he thought the data point was whether the canine was actually used.

Member McBride stated that the distinction that he thought Member Evans was trying to make was whether there was canine contact or whether there was canine use. Member Evans replied that if the dog stays in the vehicle, nothing needs to be documented, but if the dog is used for a search or if the dog bites a suspect or witness, those are important data points, and neither of those two things are clear from the word "contact."

Chair Bobrow suggested using a dropdown for canine contact that defines the different aspects of canine use, particularly search and use of force, but not include situations where the canine remains in the back seat of an officer's car. Member Durant stated that he disagreed with this suggestion and suggested that, rather than separating out canines, they should separate out searches or use of force and include an option in the dropdowns for whether a dog was used during the search or use of force. He explained that having a canine as a separate bullet point could become very confusing for the departments. Member Evans stated that she thought this makes sense.

Member McBride stated that whenever a canine is brought outside of a vehicle, even if it is not necessarily used for a search or as a use of force, it should still be documented. Chair

Bobrow suggested that they move the use of canine into the officer's use of force discussion and keep canine contact as one of the elements that are documented under actions taken by officer, but have a separate reference for canine contact for the type of force during the stop.

Ms. Beninati stated that, regarding basis for search of a person or property, the DOJ is considering using the term canine detection instead of canine contact under actions taken by officer, they are looking at rewording it as canine contact in apprehension.

Member Evans commented that she thought they were all in agreement that if a canine is used in a display of force, in a search, or bites someone, all those incidents should be captured. Member Robinson pointed out that the canine use would only apply in a stop or detention as defined pursuant to AB 953, not in all circumstances, so if no stop/detention occurs, the canine is irrelevant. Member Durant replied that he agreed with that point, and his concern is that it appears that if a dog simply leaves the vehicle, it is now an incident that must be documented.

Ms. Hovis suggested that maybe they should discuss how to define use of canine in apprehension. Member Durant commented that most dogs are trained to track, and when they track and locate a suspect, depending on the reaction of the suspect, most dogs are taught a bark and hold. They are not going to attack the suspect, and the handler is going to be very close to the dog when the apprehension occurs. But documenting when a dog merely shows up to a scene is not the intent of the statutory language.

Member McBride commented that given the generational and historical effects of policing and the use of force, taking a canine outside of the police vehicle is an important data point that should be documented, in the same way that it is important to note the unholstering of a weapon. Member Marroquin stated that she agreed with Member McBride.

Chair Bobrow stated that the impact of taking a police dog out of a vehicle versus leaving it in the vehicle is very different. He suggested that they hold a vote on whether the use of a canine and how that canine is used needs to be documented. He agreed that if the canine remains in the vehicle, it does not need to be documented, but once the dog comes out of the vehicle, it should be documented, regardless of how the dog is used.

Member Robinson commented that in Kings County, their dog handlers document all this information already, as part of their everyday duties. They document every time they put their dog into deployment, whether it is for crowd control, an apprehension, a drug search, or even a community event, so even if the use of the canine is not captured in this data as part of AB 953, it is being documented.

b. "Unholstered Weapon" and "Holstered Weapon"

Chair Bobrow then moved the discussion to "unholstered weapon" and asked whether there were weapons, in addition to firearm and taser, that the members thought should be listed as an unholstered weapon. Member Robinson pointed out that the only actual weapon is a firearm. The other items that an officer carries are not weapons, other than a knife, and the officer is not trained to use them as weapons. Therefore, individual devices, such as tasers, should have their own data value and should not be documented under the weapons sections. Member McBride asked if Member Robinson could provide a source, such as POST standards,

or whether this has just been an accepted definition in police culture. Member Robinson replied that there may be a source, but this is more of an accepted definition.

Member McBride stated that from a community perspective, they see the firearm, taser, and baton as weapons. Member Robinson stated that he did not disagree, but he thought they should all be listed out separately. Chair Bobrow stated that he did not know how to define the items an officer carries other than as weapons. Member Evans commented that it is fairly common in many places across the country and in the USDOJ to refer to these items as weapons and break them down into lethal, less-lethal, and non-lethal weapons.

Member Durant asked if the points listed in the handout were guidelines created by the Attorney General's Office for discussion points or if they came from another source. Ms. Beninati replied that they are just discussion points from the Attorney General's Office. Ms. Hovis stated that the proposed data values also came from the Additional Data Elements Subcommittee. Ms. Beninati also noted that nothing from the DOJ has been done in a vacuum but has included extensive input from stakeholders, including the RIPA Board and RIPA Board subcommittees, law enforcement agencies, academics, and advocacy groups.

Member Durant asked what the intent is of having the Definitions Subcommittee consider these issues since they have another subcommittee considering the data elements and data values for reporting searches of person and property. Ms. Beninati replied that the purpose is to come up with definitions for the data elements that they felt needed further clarification. Member Durant asked if the other subcommittees were getting the same question on these data values. Ms. Hovis replied that no, the additional data elements subcommittee was looking at what additional data values should be added, but the list in the handout was data values that have already been considered and discussed by that subcommittee. The purpose of the Definitions Subcommittee is to consider which of these data values need to be further defined and to consider how to define them.

Chair Bobrow suggested adding "baton" and "pepper spray" under the "unholstered weapon" and "discharged weapon" data values. Several of the other members expressed verbal agreement with this suggestion.

c. "Other Use of Force"

Chair Bobrow then asked how they wanted to define "other use of force." Member Robinson commented that use of force was extensively covered under AB 71, so if they add anything, they should try to avoid duplicate reporting. Ms. Hovis replied that AB 71 requires reporting on incidents involving shootings and uses of force that result in serious bodily injury or death.

Member McBride suggested including the use of a police vehicle as another use of force. Chair Bobrow suggested that they could recommend adding subcategories for physical force and use of police vehicle.

Ms. Hovis suggested that the subcommittee could recommend including subcategories under "other use of force" or just make a recommendation of how "other use of force" should be defined in the regulations. Ms. Hovis suggested that, if the subcommittee wanted to add

subcategories, DOJ staff would convey this to the Additional Data Elements Subcommittee, or the subcommittee could just define "other use of force." Member Evans commented that an open hand or a punch is something very different and a much lower use of force than a vehicle, so these actions need to be disaggregated.

Chair Bobrow proposed that they agree to adopt the proposed data values, but change "use of canine" to "canine contact"; add "baton" and "pepper spray" under "unholstered weapon" and "discharged weapon"; and add "physical force" and "use of police vehicle" under "other use of force."

Member Evans asked if there would still be an "other" catchall category under the weapons categories for weapons such as beanbag guns. Ms. Beninati stated that there are two options: (1) there could just be "other" as a category and they would not know what the other is or (2) there could be an "other" category with a blank to be filled in by the officer. Chair Bobrow proposed adding baton and pepper spray and an other category with a blank.

Member Robinson asked if the proposal was that the subcommittee's recommendations go to the Additional Data Elements Subcommittee for discussion. Chair Bobrow replied that this was correct.

Public Comment: Sergeant Chris Cross from the San Diego County Sheriff's Department urged that some of the redundancy between AB 71 and AB 953 be eliminated. In particular, Item 12 - whether the encounter resulted in death of person stopped - will be covered under AB 71.

Chair Bobrow stated that he was not sure if they could exclude an item from what they are collecting just because it is collected somewhere else. Member Durant replied that based on what they are hearing back from law enforcement, they are not in disagreement with the proposed data elements, they just do not want to have duplicate reporting. Member Evans commented that this may be addressed through a technological solution. They do not want officers to have to do duplicative data entry, so once this data is captured, hopefully it can populate both data sets.

Chair Bobrow stated that if they left out a police encounter that resulted in the death of the person stopped because it is covered under AB 71, they would be remiss in regard to what they are tasked to do. Member Durant replied that he did not think they were tasked to do this; they were asked to give their opinion on these data values, and this is a different subcommittee's task. Ms. Hovis replied that this subcommittee's task is how to define the data values where they need to be defined. Including baton or pepper spray is a way of more specifically defining "unholstered weapon" or "discharged weapon," so this is an intersection of the two subcommittees. Ms. Beninati reminded the members to not forget that at the next RIPA Board meeting, they will have the opportunity to address the recommendations from any other subcommittee, as well as what this subcommittee has discussed.

7. Recommendations on How to Define "Actions Taken by Officer During Stop"

MOTION: Member Evans made a motion that the following recommendations be made to the Additional Data Elements Subcommittee for recommendation to the full RIPA Board and the Attorney General's Office: (1) adopt the proposed data values for "actions taken by officer during stop," but change "canine contact" to "use of canine;" (2) add "baton," "pepper spray," and "other" with a blank as subcategories under both the "unholstered weapon" and "discharged weapon" data values; and (3) add "physical force" and "use of police vehicle" under the "other use of force" data value. Member McBride seconded the motion.

VOTE: The motion passed with Chair Bobrow, Member McBride, Member Evans, Member Marroquin, Member Robinson, and Member Durant voting "yes, " no "no" votes, and no abstentions.

8. Next Steps

The second RIPA Board meeting will be on October 24, 2016 in Sacramento. No further Definitions Subcommittee meetings will be held before that meeting.

9. Adjournment

The meeting was adjourned at 1:12 p.m.