

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

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

STOP DATA SUBCOMMITTEE
MEETING MINUTES

July 31, 2018 – 12:00 p.m. – 2:00 p.m.

Subcommittee Members Present: Doug Oden, Chief David Swing

Subcommittee Members Absent: Reverend Ben McBride

1. Call to Order

The fourth meeting of the Stop Data Subcommittee was called to order at 12:07 p.m. by Kelsey Geiser from the California Department of Justice (DOJ). The Meeting was held by teleconference with a quorum of members present.

2. Approval of May 31 Subcommittee Meeting Minutes

MOTION: Co-Chair Swing made a motion to approve the May 31, 2018 subcommittee meeting minutes. Co-Chair Oden seconded the motion.

APPROVAL: All subcommittee members in attendance voted “yes,” no “no” notes, and no abstentions. Member McBride was not present for the vote.

3. Update from Department of Justice

Ms. Geiser provided an overview of the Board’s timeline for the rest of the year as well an overview of the proposed subcommittee work for this year’s report that was discussed in previous subcommittee meetings, including an analysis of AB 71 data and a stop data analysis plan.

4. Discussion of Analysis of Stop Data and AB 71 Data

Daniel Tapia-Jimenez from the DOJ updated the subcommittee members on the status of the 2017 AB 71 analysis. The DOJ has received the data for 2017 and is in the process of formatting it for analysis. Mr. Tapia-Jimenez commented that the plan is to show how the pattern of interactions for an incident unfolds as a chain of events. Mr. Tapia-Jimenez reminded the subcommittee that this data is limited to instances in which use of force resulted in serious bodily injury or death or the discharged of a firearm and therefore cannot be generalized to all situations. Given the AB 71 data available, the proposed analysis for inclusion in the report would begin with the type of stop (traffic stop, pedestrian stop, call for service, etc.) then would evaluate whether or not the subject was impaired, whether the subject offered resistance and what kind of resistance, whether force was used and the justification for the type of force used, the following injury level, and then the final outcome. Mr. Tapia-Jimenez clarified that outcomes indicate whether or not the individual was deceased in-custody or not in custody, whether they fled, or they were cited and let to leave.

Mr. Tapia-Jimenez updated the subcommittee members on the status of the plan to analyze the stop data once it is received in its entirety at the beginning of next year. The data analysis is planning to occur in the 2020 report. Currently, the plan is to evaluate for pre-stop decisions and decisions and actions taken during the stop based on why the individual was stopped in the first place.

Kevin Walker from the DOJ stated that the analysis will utilize the “veil of darkness” technique to look at pre-stop actions or decisions to stop by comparing stops made during two different periods of the year, with and without daylight savings time. In this analysis, if racial or ethnicity profiling were found, you would see a disproportionate number of stops made of these minority groups during the summer months compared to the winter months.

Mr. Tapia-Jimenez commented that another test that will be utilized is the outcome test which will compare hit rates for different racial and identifying groups, the idea being that the lower the hit rate relative to other groups, the more suggestive that is of bias.

Mr. Tapia-Jimenez clarified that both the veil of darkness test and the outcome test do not request the collection of data on the denominators.

Board Member Comments

- Co-Chair Oden asked if the analysis of the AB71 data will include information about the sample size and the conclusions that can be made based on that sample size.
- Mr. Tapia-Jimenez responded that the nature of the AB71 data is that it is only collected if there was a discharge or a firearm or if it resulted in death or seriously bodily injury so instances that result in minor or moderate injuries will not be entered into the dataset. Mr. Tapia-Jimenez commented that techniques will be used to statistically discern whether one process or one chain of events is different for any given racial or identity group. These analyses depend on the number of operations so if the number of operations is relatively low, the standards for detecting statistical significance will increase. The techniques that will be used will account for sample size by raising or lowering the bar based on sample size.
- Mr. Walker commented that the data sample for the stop data analysis will be more rich given the larger sample size as compared to the AB71 data, allowing us to be able to use the veil of darkness technique.

Mr. Walker commented that the 2017 AB71 data did not have many cases of the civilians marked as one or more races, but stated that we anticipate this being an issue in the future for AB71 data and stop data. Mr. Walker stated that these instances can be coded into their own group of individuals marked as one or more race or ethnicity, or we can code for every combination of race or ethnicity, though this would be much more complicated. In that situation, if an officer perceived someone to be of mixed race, they would select which races they believe that person to be.

Board Member Comments

- Co-Chair Oden commented that categorizing mixed race individuals into a particular category would be all-encompassing but would be easier and sufficient for analysis sake
- Co-Chair Swing commented that trying to identify mixed race in the field can cause a lot of confusion and said that coding for mixed race more generally would be appropriate. Co-Chair Swing commented that, if the group was divided further, the sample sizes may be too small for a viable statistical analysis.
- Co-Chair Swing asked what methodology DOJ will use to evaluate the samples and draw conclusions or inferences on what may or may not be bias related.
- Mr. Tapia-Jimenez responded that the proposed Markov chain describes use of force as a sequence of events from reason for initial contact to their evaluation of the subject to any subject resistance to the justification of use of force to the actual force used to the use of force incident outcome. These will all be modeled probabilistically and would allow us to determine the odds of the progression of the sequence of events and we will be looking at if those permutations will be more or less concentrated for one group over another. If the comparison of the chains of events are different, this could be indicative of bias, but this would be very specialized in that it is the most serious cases of use of force.
- Co-Chair swing asked if AB71 data collected information about the length of time of resistance.
- Mr. Walker responded that it does not collect that information, only the type of resistance. It is not possible to determine severity of resistance based on time, but it could be possible to create an ordinal variable that would organize the information from instances with the least amount of resistance to the most based on the type of resistance that was exhibited.
- Co-Chair Oden asked if there is a geographical variable that takes into account where the stops took place (e.g. rural versus urban or an area that is predominantly African American versus not).
- Mr. Walker responded that city and county are collected in the data.
- Mr. Tapia-Jimenez commented that we could break the instances of use of force out by agency, city, or potentially zip code
- Co-Chair Swing asked what the dominator is and suggested that the Board needs to discuss what the dominator should be in order to determine proportionality.
- Co-Chair Swing asked if AB71 collects data on the race or ethnicity of those who use force against officers.
- Mr. Walker confirmed that this data is collected but is presented in several formats on the website.

5. **Overview of Proposed Report Content**

Ms. Geiser provided the subcommittee with an overview of the report outline and highlighted the proposed work of the Stop Data subcommittee specifically. Ms. Geiser commented that the outline distributed was intended for consideration and to encourage discussion of items to be considered for inclusion in the upcoming report. Ms. Geiser stated that one approach to the report would be to include a set of best practice guides in this report that would cover the topics discussed in each subcommittee. These guides would provide an overview of the governing state and federal law on the topic as well as

a best of best practice recommendations accumulated from top research on the subject or existing model policies or trainings. These guides would not feature model language or be comprehensive or a complete list of everything that should go into a policy, but rather include elements of policies or trainings that are essential and should be included across all agencies. Ms. Geiser commented that the best practice guide for the stop data subcommittee proposed in the outline covers stops, searches, and seizures.

Ms. Geiser provided an overview of some of the recommendations made in last year's RIPA report regarding maintaining, analyzing, and utilizing stop data.

Board Member Comments

- Co-Chair Oden commented that creating a best practice guide on stops, searches, and seizures would be impactful but suggested that, if we needed to prioritize the topics for this year's report, we prioritize stops given that searches and seizures occur after the stop.
- Ms. Geiser responded that this report will likely be around 50 pages as it was last year.
- Co-Chair Swing commented that that stop data is important but that it may be more difficult to identify the dominator in that data set. Searches and seizures are actions taken after an officer has definitive knowledge about who they are talking to so by including searches and seizures, we may be able to create a more level playing field when looking at the data.
- Co-Chair Oden commented that if there is room to include stops, searches, and seizures we should do that.
- Co-Chair Swing commented that looking at consent searches would help the Board better understand how law enforcement agents are acting in terms of different ethnic groups.
- Ms. Geiser commented that this subcommittee also has an opportunity to cover data integrity and provide context to the data that is being collected.
- Co-Chair Swing commented that the best practices can be used to inform the methodology and to build trust in the accuracy data among our community.
- Ms. Choi commented that once data is submitted to DOJ, the data becomes locked. There could be some exceptions to that if an agency is collecting data via their own system and then submitting it to the DOJ. The agencies are undergoing very thorough testing with the DOJ in advance so we do not anticipate an issues but if they submit something that creates an error, DOJ will inform them of that error and they may have a chance to re-send some information to correct it, but there are certain fields, such as perceptions related data, that they will not be able to alter. Everything goes through a very detailed audit process.
- Co-Chair Swing asked that the DOJ provide a short presentation on the data security at the next Board meeting

6. Public Comment

There were no comments from members of the public

7. Approval of Next Steps

The subcommittee members approved the stop data section of the proposed outline. DOJ staff will continue to analyze the 2017 AB71 data, to draft the stop data analysis plan, and draft a best practice guide on stops, searches, and seizures. The DOJ staff will work with the subcommittee co-chairs on editing the first drafts which will then be reviewed by the full subcommittee and subsequently the Board.

8. Adjourn

The meeting was adjourned at 1:15 p.m.