

CALIFORNIA RACIAL AND IDENTITY PROFILING BOARD

STOP DATA SUBCOMMITTEE: MEETING MINUTES

Wednesday, September 6, 2017, 3:00 PM.

Teleconference Locations: California Department of Justice Offices

Los Angeles

300 S. Spring Street
1st Floor Reception
Los Angeles, CA 90013

Oakland

1515 Clay Street
20th Floor, Suite 2000
Oakland, CA 94612

San Diego

600 West Broadway St.
Suite 1800
San Diego, CA 95814

Subcommittee Members Present: Ben McBride, Doug Oden, Edward Medrano

Subcommittee Members Absent: Oscar Bobrow, Alex Johnson

California Department of Justice Staff Present: Randie Chance, Kelsey Geiser, Shannon Hovis, Kevin Walker

1. Call to Order

The first meeting of the Stop Data Subcommittee was called to order at 3:10 p.m. by Shannon Hovis from the California Department of Justice (DOJ). The meeting was held by teleconference with a quorum of members present.

2. Update from Department of Justice

Ms. Hovis provided the subcommittee with a review of the board's purview and the tasks mandated to the board by AB953 including the publication of an annual report. Ms. Hovis then laid out the general agenda for the meeting.

Ms. Hovis emphasized that while the DOJ will be supporting the work of this report, ultimately what is and is not included in the report needs to be dictated by board members.

3. Selection of Subcommittee Co-Chairs

Ms. Hovis provided an overview of the selection process stating that each subcommittee on the board will select two person teams serving as co-chairs to work together, work with Department of Justice Staff, and report their work back to the larger subcommittee and to the public. Ms. Hovis clarified that no member of the board can serve as a co-chair on more than one subcommittee, meaning there will be ten total board members serving as a co-chair.

MOTION: Member Oden nominated himself as a Subcommittee Co-Chair. Member Medrano nominated himself as a Subcommittee Co-Chair.

VOTE: Member Oden and Member Medrano were selected as Subcommittee Chairs with all present subcommittee members voting “Yes.” Member Bobrow and Member Johnson were not present for the vote.

4. Discussion of Proposed Report Content

Ms. Hovis referenced a previous document that was circulated to the full board at the last meeting and that reviewed the particular responsibilities and requirements of the board with regard to the publication of the annual report. Noting that any decisions regarding report content should ultimately be board directed, Ms. Hovis provided some ideas for topics this subcommittee may want to consider as a starting place for the discussion. Some of the ideas included:

- 1) Reviewing existing studies on law enforcement stops, searches, uses of force, among other measures to help understand the current situation.
- 2) Providing historical context on the institutional roots of racial and identity profiling.
- 3) Producing a video that could include pieces of interviews with board members about the problem, segments of public comments at meetings, officer perceptions of the problem, etc.
- 5) Exploring the variety of ways that the research community typically analyzes stop data to assist in preparing for how the board would like to analyze stop data when it’s reported to the DOJ. This would include exploring some of the major questions the board would like to see analyzed with that data and in the report.

Co-chair Medrano asked a clarifying question about if this committee is going to be centered around how the stop data will be used.

Ms. Hovis confirmed this is correct but explained that the board report must also include information on the current status of profiling, and that likely falls mostly under the purview of this subcommittee; that the citizen complaint committee may also have some role in this.

Co-chair Medrano voiced a desire for some coordination of overlapping topics of subcommittees. Ms. Hovis explained that while there is some overlap with these particular topics, the subcommittees mostly cover discrete elements of the report.

Ms. Chance of the DOJ commented that the Evidence-Based Research subcommittee should be able to handle literature reviews, and the DOJ will be able to alert subcommittee members to where overlap exists. Ms. Chance noted two topics that the stop data subcommittee would want to consider for the first report:

- 1) Defining “profiling” prior to receiving/analyzing data. Ms. Chance suggested that the subcommittee consider defining the threshold for how to know if and when profiling exists. Ms. Chance recommended that the subcommittee members review the COPS report that was e-mailed to the subcommittee prior to the meeting with regard to this topic. Ms. Chance noted that the creation of this definition may not be reasonable to include in the first report and could be left to the next report.
- 2) Defining “baselining,” meaning what comparison data the subcommittee wants to collect and use in analyzing the stop data.

Co-chair Oden commented that the definition of racial profiling has been made in the past and suggested that the subcommittee look at other sources that attempted to define the term rather than trying to create our own.

Ms. Chance agreed that the subcommittee does not need to create its own definition and suggested that DOJ can assist the board members in looking at various existing definitions of “profiling” and how various researchers have operationalized this definition in the past.

Ms. Hovis clarified that we’re not meaning to say we should provide a new definition of “racial and identity profiling,” since it’s defined in the statute itself. Ms. Chance commented that although the definition exists in the statute, it is important to know how the definition will be operationalized given the data.

Ms. Hovis asked Co-chair Oden if that distinction was made clear. Co-chair Oden responded saying that if the statute defines the term “racial profiling” then the subcommittee can come up with subcategories but they should all be related to the statutory definition.

Ms. Chance suggested that DOJ staff create a document providing examples of how researchers have operationalized this data to the members of the subcommittee.

5. Discussion of Use of Force Data

Co-chair Oden commented that it is his understanding that the subcommittee’s focus is on the officers stops and going beyond into what happened after the stops may be going beyond the scope.

Ms. Hovis suggested that the subcommittee review what is in the stop data regulations as they are currently proposed, clarifying that the prohibition on profiling is not only a prohibition on stopping citizens on the basis of their race, nationality, gender, and other characteristics but also a prohibition on taking actions against that person due to the same characteristics. The stop data regulations require officers report on a host of actions they may have taken against the person stopped and also record the outcome associated with the stop. The use of force data would potentially be interesting to this subcommittee because of the overlap with the list of actions taken captured in the stop data regulations, which includes actions describing uses of force.

Co-chair Oden noted that he was fine with this given the clarification.

Co-chair Medrano asked DOJ to speak to the difference between AB 71 data collection and AB 953 reporting, noting that AB 71 falls short of what the subcommittee is trying to do especially regarding comparisons and the census.

Ms. Lunetta agreed with Co-chair Medrano that the use of force data California collects is narrowly defined by AB 71 since the information is only collected when serious bodily injury, death, or the discharge of a firearm occurred. She commented that a small portion of

use of force incidents reported came from vehicle or pedestrian stops; the vast majority occurred with a call for service. Ms. Lunetta also noted that information in use of force data is not being collected based on perceived characteristics of an individual.

Co-chair Medrano commented that that information does not provide much context for other incidents that have occurred. It is possible to get that information on the website but the information would need to be aggregated so that it is more easily understood.

Ms. Lunetta mentioned that the use of force data is a small component of the entire universe of uses of force, making it difficult to make any comparison with the data that was collected for AB 71 because there is no baseline data to compare it to.

Co-chair Medrano noted the overlap between the two data sets and the need to make reporting consistent. Ms. Hovis clarified that the categories of information and verbiage related to actions involving uses of force matched in the stop data regulations.

Co-chair Medrano noted that the COPS office report that was circulated prior to the meeting provided many approaches to these reports and asked if the DOJ staff has begun to create a framework for what the data would look like in terms of establishing how the report will create charts, comparisons, or other analysis.

Ms. Chance responded saying that the DOJ staff has begun doing this in hope that as the regulations are finalized, that the DOJ staff can provide a menu of analytical options that the board may be interested in, although this is not yet complete.

Member McBride voiced concern that the current conversation is repetitive of conversations held around the creation of the regulations. Member McBride asked if this subcommittee will evaluate stop data as it comes in. Co-chair Medrano commented that this subcommittee will not rehash the regulations, but will discuss how the data will be analyzed and reported.

Ms. Hovis confirmed that that was correct and added that the report requires a discussion of context for the current status even though the stop data is not currently available. The literature review of the status of profiling could potentially fall under the purview of this subcommittee.

Co-chair Medrano commented that the subcommittee members require some examples either from states or cities to figure out how they want to analyze this data.

Co-chair Oden commented that he was confused in terms of what the subcommittee is supposed to be doing regarding coming up with findings as those cannot be determined until the data is collected and analyzed.

Member McBride asked if there is opportunity to include the practices and methods that should be employed around the data that will be received, and whether this subcommittee is tasked with creating a construct.

Ms. Hovis agreed and commented that the board is required by law to include some information on the past and current state of profiling. Given that stop data is not currently available, the board will likely have to turn to existing studies.

Member McBride asked if it is possible to access the data from agencies that are currently collecting for example, San Jose, Oakland, and the CHP, and if anyone saw any obstacles should the subcommittee attempt to leverage the data from a sample set of cities to go into this initial report.

Ms. Chance responded that if the board is interested in reviewing existing reports, the DOJ staff is happy to gather and disseminate those reports. The DOJ staff has reviewed a lot of them but not all. Ms. Chance noted that there is also a subcommittee on state and local policies and accountability, so if the subcommittee is planning to discuss the policies around profiling and trainings, there are two other subcommittees that are going to cover that. If this subcommittee wishes to look at how data has been analyzed in the past, DOJ staff can assist.

Co-chair Medrano mentioned that looking at how data is analyzed would be helpful, as well as recommendations on pros and cons of the different methods. Ms. Chance mentioned that one of the SPARQ documents that Ms. Hovis circulated to the subcommittee prior to the meeting does a good job of discussing pros and cons and suggested that the subcommittee members review that report.

6. Continuation of Discussion of Proposed Report Content

Ms. Hovis suggested that the subcommittee members define the scope of what they think the committee should achieve for this specific report. Ms. Hovis noted that there was agreement that looking at how stop data is currently analyzed by the research community and understanding the universe of research methods as well as working toward how this board should analyze in the future is important piece of work for this subcommittee. Ms. Hovis asked the subcommittee if there were other topics it wants to cover or other deliverables it would like to achieve.

Member McBride commented that the subcommittee has an opportunity to ensure that people's experiences are included. Member McBride commented that these voices should be lifted up so the report becomes more than just numbers and instead includes narrative, story, and impact either by using videos from board meetings or creating some other way that the public can bring in their stories around stops.

Co-chair Medrano commented that however the subcommittee decides to analyze the data, it must ensure the findings are easy to understand and correlate with what is actually occurring in our communities.

Co-chair Oden suggested that the report should include analysis regarding urban centers versus rural centers in terms of how the stops differ.

Member asked if any of that data already being collected, including the data from the CHP, can be used in this first report.

Ms. Hovis responded saying that Sharad Goel and the Open Policing Project at Stanford University have analyzed CHP's stops as well as the stops of around 20 other state highway patrols nationally. Ms. Hovis continued saying that this report is among the reports that the DOJ staff can send the subcommittee. Ms. Hovis requested that if members know of different studies, to share that information with DOJ staff to build up the repository of resources.

Member McBride mentioned Member Eberhardt's work with the Oakland Police Department as well as San Jose State's work with the San Jose Police Department. Ms. Chance mentioned the San Diego report produced by San Diego State University. Ms. Hovis mentioned the USDOJ's expansive report produced with the San Francisco Police Department.

7. Public Comment

Rosa Aqeel from Policy Link commented that including testimonies from members of the public is critical to making sure that the report reflects the experiences of Californians from across the state. Ms. Aqeel agreed that looking at other reports would be helpful and noted she is encouraged that the committee is moving forward in a logical manner.

Chief Mike Carroll from the Newark Police Department agreed that including definitions and goals before data analysis will allow for necessary transparency. He voiced concern that the report will appear manipulated if definitions and goals are provided after the data is collected. Chief Carroll agreed with the approach of looking at previously published studies, and suggested that any data or reports disseminated to the committee members should be made available to the public as well.

Ms. Hovis noted that information distributed to the board is publicly available upon request; however, the intention is to post as much as possible of what is shared with the subcommittees on the board website.

Peter Bibring agreed with importance of incorporating testimonial. He recommended the subcommittee look at a report produced by the ACLU of Southern California and Ian Ayres, Professor of Law and Economics at Yale Law School. Mr. Bibring also raised a concern about attempts to define racial profiling in a data operational manner, explaining that racial profiling is often defined as an intentional act and no data analysis can identify the subjective mental state of a person, it can only provide strong evidence of disparities. Many reports that have tried to do this have been inconclusive such as the LAPD's analysis of racial profiling from 2006. Mr. Bibring urged the committee to think about the data analysis not as looking to prove intentional discrimination but instead to look for unjustified racial disparities that are not the product of any legitimate law enforcement activity.

Captain Dave Brown stated his interest in determining if there have been any changes made to the stop data regulations. He raised a concern about including anecdotes from the public

without letting law enforcement tell the other side, cautioning this this could make the divide between police and citizens even greater. Captain Brown noted that profiling allegations go against what most police are trying to do. He also suggested that the subcommittee pay particular attention to beach and tourist areas because the registered voters or property owners are not necessarily who are in the town, which may lead to a skewed results.

Ms. Chance commented that the COPS report goes into some of those contextual components that the board will also consider as part of the analytic aspect of the project.

Co-chair Oden asked Ms. Hovis how the subcommittee could address the issue with the testimonials raised by Captain Dave Brown and asked if there is a way that law enforcement's perspective could be incorporated.

Ms. Hovis commented that this is a question for everyone on the subcommittee to consider and suggested that the subcommittee could include portions board member interviews, including board members who are also members of law enforcement, talking about the nature of this problem. Ms. Hovis suggested that other members of law enforcement could also be asked to speak to this issue.

Chief Carroll asked about members of law enforcement who had been falsely accused of racial profiling or from accusations that are unfounded. Chief Carroll voiced concerns about the testimonials because it is difficult to accurately portray both side and because he believed this subcommittee was about data rather than storytelling.

Ms. Aqeel commented that the qualitative data the testimonials will provide will improve the report and not influence the trends that researchers identify through analysis of the quantitative data. Ms. Aqeel commented that stories are essential to making the report real.

8. Approval of Next Steps

Co-chair Medrano reviewed next steps stating that the subcommittee would like to review some examples of reports, recommendations, and a rough draft framework of what the DOJ staff has already considered.

Ms. Chance confirmed that DOJ staff will provide all of this information to the subcommittee members and it will be made available to the public.

Co-chair Medrano concluded that the subcommittee must address how testimonials have been used effectively.

Member McBride suggested that to allow the DOJ time to compile examples of the reports and for the subcommittee members to review them, the subcommittee should not meet again before the larger board meeting on September 27, 2017.

Ms. Chance agreed that it would take DOJ staff some time to turn around a document that outlines a variety of ways you can analyze stop data, and that lists pros and cons and recommendations.

Co-chair Medrano suggested that the co-chairs work offline with staff about what was discussed in the meeting and report out at the September 27th meeting that this subcommittee plans to look more in depth at what has been done in other jurisdictions as well as what framework has already been put together by DOJ staff.

Ms. Hovis commented that by the September 27th board meeting, each subcommittee should have identified what components it will contribute to the full report. Ms. Hovis suggested that the pieces for this subcommittee might include: 1) providing context of state of profiling at present based on available information 2) looking at how stop data can be analyzed and weighing the pros and cons of analyzing data in different ways, and 3) how to operationalize this for the board and discussing how the board is going to analyze the data. Testimonials are other pieces that could go into the report but it is up to the subcommittee's discretion.

ACTION: Co-chair Medrano synthesized the next steps for approval. Co-Chair Oden and Co-Chair Medrano will work with DOJ staff to aggregate all information discussed in the meeting. After the September 27th meeting, another subcommittee meeting will be scheduled. The subcommittee members agreed to this plan.

9. Adjournment

The meeting was adjourned at approximately 4:42 p.m.