

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD

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

STATE AND LOCAL POLICIES & ACCOUNTABILITY
SUBCOMMITTEE MEETING MINUTES

September 6, 2018 – 1:00 p.m. – 3:00 p.m.

Board Members in Attendance: Andrea Guerrero, Mariana Marroquin, Oscar Bobrow, David Robinson

Board Members Absent: Warren Stanley, Micah Ali, Tim Silard

1. Call to Order

The third meeting of the State and Local Policies and Accountability Subcommittee was called to order at 1:07 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. Update from Department of Justice

Ms. Geiser provided an overview of the Board's timeline for the rest of the year as well as a broad review of the proposed subcommittee work for this year's report discussed in previous subcommittee meetings.

3. Overview of Proposed Report Content

Co-Chair Guerrero provided review of the work this subcommittee completed for last year's report including the baseline survey of all State law enforcement agencies. Co-Chair Guerrero stated that the survey asked law enforcement agencies about their policies on racial and identity profiling as well as policies related to reasonable suspicion, investigative stops, searches, use of force, early identification warning systems, body worn cameras, body worn cameras, supervisory review, fair and impartial policing, and prevention of biased policing. Co-Chair Guerrero highlighted that the survey revealed that many agencies rely on Lexipol and that there was a wide variety of policies across the agencies. Co-Chair Guerrero commented that the report then recommended examining existing policies and assessing what is successful in preventing racial and identity profiling in policies.

Board Member Comments

- Member Bobrow commented that a goal of the subcommittee should be to increase the training policies and practices in all cases through the State.

Co-Chair Guerrero commented that given that the survey revealed that the policies agencies have were inconsistent and there are gaps in the policies some agencies have that there is room for improvement and addition of policies.

Ms. Geiser provided the subcommittee with an overview of the report outline and highlighted the proposed work of the state and local racial and identity profiling policies 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 policies subcommittee proposed in the outline covers racial and identity profiling policies or community policing.

Co-Chair Guerrero commented that she spoke to Co-Chair Stanley and they believe that the area of community policing is relatively well-covered in existing literature and proposes that this year's report focus on the Board's mandate by creating a best practice guide on policies directly related to racial and identity profiling.

Ms. Geiser commented that the subcommittee members also have the opportunity to make any legislative or other recommendations they deem appropriate

Board Member Comments

- Member Bobrow and Member Marroquin agreed with the approach.
- Co-Chair Robinson agreed with the approach and commented that this can be expanded on as future data comes in for analysis.

4. Public Comment

Melanie O'Toole with the American Civil Liberties Union of Southern California (ACLU) commented that aspects of use of force should be included in the best practice guide. Member Bobrow commented that the analysis of the AB 71 use of force data is included in the report under the Stop Data subcommittee meeting.

Kevin Walker with the DOJ commented that the AB 71 data analysis focuses on the data itself rather than a policy analysis.

Co-Chair Guerrero commented that use of force policies were asked about in the survey last year.

Michele Wittig of the Santa Monica Coalition for Police Reform commented that bias should be included in the best practice guide in addition to racial and identity profiling.

5. Discussion of Report Contents on Bias Racial/Identity Profiling Policies

Co-Chair Guerrero suggested that the subcommittee focus its best practice guide on the policies relevant to racial and identity profiling that the Board inquired about in last year's survey to all law enforcement agencies which include:

- Reasonable suspicion and probable cause
- Investigative stops
- Searches
- Use of force
- Policies and use of early identification, warning, or risk management systems

- Policy and use of body worn cameras
- Community policing
- Supervisory review
- Fair and impartial policing
- Prevention of bias policies

Co-Chair Guerrero suggested that the subcommittee begin with this list with the exception of community policing.

Ms. Geiser commented that the Board will also have an opportunity to cover any number of these topics in future reports as well.

Member Bobrow commented that the presentations from the last Board meeting showed that many agencies do not have use of force practices and research has shown the correlation between quality use of force practices and instances of violence. Member Bobrow suggested that best practices on use of force be a focus of this year's work.

Ms. Geiser commented that best practices on stops, searches, and seizures is being covered by the stop data subcommittee and there is an opportunity to combine the work of the two subcommittees in this case and cover the topic through the lens of racial and identity profiling policies.

Co-Chair Guerrero asked Member Robinson to provide additional information about potential early identification systems.

Member Robinson commented that these systems are ways to identify officers who need additional training or support. Member Robinson stated that that question in the survey was likely confusing to many agencies and likely effected the resulting percentage.

Co-Chair Guerrero asked Member Robinson to reflect on the value of including body worn cameras, supervisory review, fair and impartial policing, and prevention of bias policing.

Member Robinson commented that it is likely that the surveys were filled out by people who may not have been fully aware of all of the policies in their organization. Member Robinson commented that these topics are reasonable to include and most agencies will already have a policy or procedure that touches on them. Member Robinson suggested including model policies from other agencies for agencies to review and refer to. Member Robinson agreed that community policing is well covered and does not need to be required in this report.

Co-Chair Guerrero commented that the last Board meeting featured a presentation by Joyce Hicks on internal investigations which is a topic that should be discussed for inclusion in this year's report or future reports. Co-Chair Guerrero also commented that the subcommittee has discussed de-escalation policies and procedures which may be connected to use of force and asked if the subcommittee members think should be covered in this year's report as well.

Ms. Geiser commented that internal investigations could potentially overlap with some of the work of the civilian complaints subcommittee.

Member Robinson commented that de-escalation will likely overlap with the work of the training subcommittee.

Co-Chair Guerrero commented that the best practice guide should be actionable and suggested that the best practice guide be broken up into segments that cover the various policies that relate to racial and identity profiling.

Member Robinson commented that if the best practice guide gets too technical it will not apply to every agency across the State. There should be consistencies across the state for topics that should be addressed in racial and identity profiling policies and the way in which those topics are implemented or approached will likely be unique to the agency based on its size and resources.

6. Public Comment

Captain Kevin Davis with the California Highway Patrol commented that, in their agency, the early identification system is a way of monitoring police activity through number of complaints and uses of force that may trigger additional supervision or training.

Joanne Berlin from the Santa Monica Coalition for Police Reform commented that the subcommittee should include best practices for what should happen when a policy is violated.

Co-Chair Guerrero commented that this may be covered by a subcommittee but that topic will be covered in the report.

Michele Wittig from the Santa Monica Coalition for Police Reform commented that civilian complaints may be underreported depending on how the complaint is categorized by the agency.

Member Robinson commented that this comment will be brought up in the civilian complaints subcommittee.

Melanie O'Toole from the ACLU commented that disciplinary policies should be included.

7. Discussion and Approval of Next Steps

Ms. Geiser encouraged all Board members and members of the public to submit names of stakeholders for the DOJ to reach out to for information and feedback on best practices.

Member Bobrow commented that the subcommittee should seek input from police review commissions.

Co-Chair Guerrero commented that the subcommittee should seek feedback from the Vera Institute and PERF.

The subcommittee members approved the racial and identity profiling policies section of the proposed outline. DOJ staff will draft a best practice guide on racial and identity profiling policies covering the policies asked about in last year's survey. 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.

Member Robinson encouraged the subcommittee to keep the focus on racial and identity profiling rather than getting too broad and too far removed from the Board's charge.

The subcommittee members approved the racial and identity profiling policies section of the proposed outline. DOJ staff will draft a best practice guide on racial and identity profiling policies covering the policies asked about in last year's survey. 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 2:15 p.m.