

# **CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD (BOARD)**

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## **ACCOUNTABILITY AND CIVILIAN COMPLAINTS SUBCOMMITTEE MEETING** **MINUTES**

September 2, 2025, 1:04 p.m. – 2:27 p.m.

**Subcommittee Members Present:** Co-Chair DJ Criner, and Members William Armaline, Andrea Guerrero, Angela Sierra, Chauncey Smith

**Subcommittee Members Absent:** Co-Chair Lawanda Hawkins

### **1. CALL TO ORDER BY BOARD CO-CHAIRS**

Co-Chair Criner called the meeting of the Accountability and Civilian Complaints subcommittee (Subcommittee) to order.

### **2. WELCOME AND INTRODUCTIONS**

Each Subcommittee member introduced themselves.

### **3. APPROVAL OF MAY 27, 2025, MEETING MINUTES**

Member Armaline made a motion to adopt the minutes from the May 27, 2025 Subcommittee meeting, and Member Sierra seconded. California Department of Justice (DOJ) Deputy Attorney General (DAG) Alexander Simpson assisted with the roll call vote:

- **AYE:** Member Armaline, Co-Chair Criner, Member Guerrero, Member Sierra, Member Smith
- **NAY:**
- **ABSTAIN:**

With five Ayes, the meeting minutes were approved unanimously.

### **4. UPDATES BY THE DEPARTMENT OF JUSTICE**

DAGs Rebekah Fretz and Martha Gomez presented the DOJ update. DAG Fretz explained that DOJ would be providing an overview of the current draft of the civilian complaints and accountability sections of the 2026 RIPA report. DAG Fretz explained that they had provided a more detailed overview of some of the major topics covered in these two sections of the report in the last subcommittee meeting, and that in this meeting they would just cover a few new updates in the draft report and highlight a few areas for potential subcommittee discussion.

#### **Civilian Complaints Draft**

DAG Fretz stated that the analysis of the complaint data that DOJ received from RIPA reporting agencies had been added into the draft report. The section provides an overview of the civilian complaint data received by the reporting agencies and discusses the number of complaints

alleging racial or identity profiling, the dispositions of civilian complaints reported, and a cross-year comparison that includes a breakdown of the RIPA complaint data by Wave One through Wave Four agencies.

DAG Fretz reported that the Civilian Complaints section also includes an update on the status of deterrent language and complaint forms. DAG Fretz explained that in previous reports the Board had expressed concerns that Penal Code section 148.6 could have a chilling effect on members of the public seeking to file a complaint; the Board was concerned that requiring a complainant to sign a written statement acknowledging that an individual may face criminal liability for filing a false complaint could discourage members from submitting valid complaints. As of the date of the meeting, DAG Fretz explained, the constitutionality of this Penal Code section and deterrent language and law enforcement agency's complaint forms was still pending before the California Supreme Court in the case of *Los Angeles Police Protective League v. City of Los Angeles*. DAG Fretz explained that the California Supreme Court was considering three issues in that case: (1) whether Penal Code section 148.6, particularly subdivision (a)(2), constitutes improper viewpoint discrimination, in violation of the First Amendment; (2) whether the section imposes an impermissible burden on the ability to file, or on the city to accept, police misconduct complaints; and (3) whether it is error to compel the city to comply with the statute that has been ruled unconstitutional by the United States Court of Appeals for the Ninth Circuit. DAG Fretz stated that the Board had been monitoring this case for any new developments to include in the 2026 report. DAG Fretz explained that the California Supreme Court had held oral arguments on this case in May, and had requested supplemental briefing, which was submitted in mid-August. The Court had yet to issue a final opinion in the case, so the matter was still pending. DAG Fretz stated that the current report draft contained a short recap of this issue and then an update stating that the issue of deterrent language in complaint forms was still an active issue that the Board would continue to monitor.

DAG Fretz explained that the draft Civilian Complaints section did not include any recommendations or previews for what the Board would like to cover in the next year's report, so that was an issue for potential Subcommittee discussion. DAG Fretz explained that the Civilian Complaints section this year is straightforward; it does not contain any special focus. DOJ had some potential recommendations to include in the accountability section, and so the Subcommittee could discuss whether they would like to include any recommendations or preview anything for next year's report that they would like to include in the Civilian Complaints section next year.

#### Accountability Draft

DAG Fretz previewed the two main topics in the Accountability section: (1) civilian oversight agencies, the draft of which had been completed; and (2) updated Senate Bill Number 2 (SB 2) certification action data that DOJ had received from POST. DAG Fretz explained that, as to civilian oversight agencies, DOJ had inserted some charts that provide a preview of the civilian oversight agencies for Wave One and Wave Two RIPA reporting agencies and had included some potential recommendations, which would be discussed after the presentation on the SB 2 updated data.

DAG Fretz explained that the Subcommittee had agreed to include updated SB 2 peace officer decertification data from POST similar to the data included in last year's report. That updated data had been added to the draft, and included SB 2 data from January 1, 2023, through August 4, 2025. Of relevance for the Board's purpose of eliminating racial and identity profiling, of the 43,958 serious misconduct allegations POST had received through August 4, officers' demonstration of bias was the second most common type of serious misconduct alleged, following the category of physical abuse and excessive force.

DAG Fretz noted the Subcommittee had previously expressed interest in including a regional comparison of SB 2 data between Northern and Southern California law enforcement agencies. Thus, the current draft also incorporated this regional analysis throughout the SB 2 data section. DAG Fretz highlighted a few of the major points currently in the draft. For POST certification actions taken against officers, which can include decertification or permanent or temporary suspensions, the certification actions were spread fairly proportionally between Northern and Southern California agencies. POST had initiated certification action so far against 554 officers and there was not a significant difference between the number of officers in Northern versus Southern California law enforcement agencies. An additional 41 actions were taken against officers employed by statewide agencies, which include the California Highway Patrol and the California DOJ. In addition, the basis of a complaint, charge, or allegation of serious misconduct did not vary significantly between Northern and Southern California agencies. There was a relatively higher proportion of complaints alleging abuse of power and demonstration of bias against Southern California agencies, and there was a relatively higher proportion of complaints alleging dishonesty against Northern California agencies.

DAG Fretz stated there was also a table in the draft report breaking down SB 2 actions by agencies with the most SB 2 actions taken against officers. Generally Southern California largest law enforcement agencies are larger than northern California's. The five Southern California law enforcement agencies with the most officers subject to SB 2 certification actions had between 12 and 62 officers subject to such actions, whereas in Northern California, the number of officers subject to SB 2 certification actions was between nine and 19. Generally, the most common type of serious misconduct involves acts that violate the law for these top agencies. DAG Fretz noted there was a more detailed breakdown in the draft report.

Next, DAG Gomez made a presentation about the updates made to the civilian oversight section. DAG Gomez noted that they had discussed during the May 2025 Subcommittee meeting that the RIPA report would include information about civilian oversight bodies and how they correlate with the reduction of racial and identity profiling. DAG Gomez stated that they would be presenting the Board's proposed recommendations related to the use of RIPA data by the civilian oversight agencies and that hopefully that would lead to further discussion on the following recommendations:

1. Civilian oversight agencies should incorporate the elimination of racial and identity profiling as part of their efforts to increase public safety.

2. Civilian oversight agencies should have unfettered access to their agency's annual RIPA data and citizen complaint data both in relation to all vehicle and pedestrian stops and citizen complaints alleging racial and identity profiling.
3. Civilian oversight agencies and researchers should consider the use of RIPA data when measuring for and reducing identity group disparities.
4. Civilian oversight agencies and researchers should use the data to measure and identify any racial and identity group disparities and policing practices, propose changes to policies and practices aimed at remedying these disparities, and continue to monitor the disparities over time.
5. Civilian oversight agencies should use RIPA data to conduct empirical self-audits, such as assessing longitudinal and annual trends, assessing trends within departments by units and individual officers, comparing the levels of racial and identity group disparities against the statewide trends to identify any spikes, seeking community input to interpret trends, and address these trends. DAG Gomez explained that this would require civilian oversight agencies to assess what those trends mean and how they need to be addressed; and assess how the implementation of policies affects certain identity groups over time.
6. Civilian oversight agencies should assess how to develop additional ways to use the RIPA data in a manner that is consistent with their model and mission and look for ways to strengthen their existing models.

DAG Gomez said these recommendations fell in line perfectly with the more complete chapter that the Board had already reviewed.

## **5. BOARD DISCUSSION OF 2026 REPORT DRAFT**

Co-Chair Criner thanked DOJ for its report and invited the Subcommittee to discuss the draft, ask questions, and give comments to DOJ staff, noting that the meeting was the last opportunity the Board had for significant input before the report moved to finalization.

Member Guerrero asked if there were any recommendations in the draft report about a proposed set of criteria for civilian oversight agencies to measure their own effectiveness. The draft report states that there is no standard measurement to evaluate agencies' effectiveness, but there are best practices. A recommendation to evaluate effectiveness based on best practice criteria might be something to consider. DAG Gomez responded that the RIPA data itself tends to be very standardized across all the California law enforcement agencies. What the report is proposing is that civilian oversight agencies use that data to assess whether their practices and policies are leading to a reduction in racial disparities within the agency they oversee. It is not quite a best practice across the Board, because each agency would have to look at the issues they identify and then come up with policies directed towards addressing those disparities and it may be case by case of different practices or changes that may lead to that improvement in policing. Member Guerrero said this might be more pertinent to the Accountability section, so she would hold.

Member Guerrero noted that it looked like the 2022 and 2024 data for Oakland was missing, and for a few others, including Stockton and Alameda. Co-Chair Criner stated he noticed that it was missing as well. DAG Simpson responded that, if they were referring to the Civilian Complaints

section, there were some footnotes that explain some of those gaps with regards to the Oakland Police Department. That department had reported that it was unable to report civilian complaint data for 2024 within the reporting time frame due to a cyberattack that happened during that period, which was the reason for that particular gap there. Regarding some of the other missing complaint data, DAG Simpson pointed members to footnote 7, which also talked about some of the reasons there are gaps there. DOJ would make sure to address any additional gaps or put in explanatory footnotes.

Member Armaline thanked DOJ for its work, and in particular stated his appreciation for where the report lands on the analysis, where there's an emphasis on independence and teeth. In his experience, those are the issues with all of these boards and independent police auditors. The independence and the teeth parts are really important, and so landing on that and highlighting that is really important in the conclusion of that section. The more than be done the better, and as the report points out, it is backed by the data. Regarding the SB 2 matter, Member Armaline stated that it's good actually to see things level out between Southern and Northern California because he thought think the initial data was a little odd. He thinks that indicates that something's going well, that that data seems to be leveling out; that probably was an anomaly of sorts. The Board will see, as they get more years to test that. Member Armaline noted he saw one piece in the data description where it said that none of the SB 2 cases were because of law enforcement gang activity or any kind of affiliation matter. He asked if he was correct in assuming that then there were no uses of the CLEAR Act in the past year for SB 2. He explained that his question was whether it is safe to assume that that means that there were no SB 2 actions using the CLEAR Act, which is a California law that basically makes it a terminable offense for California law enforcement to be affiliated with white supremacist organizations and things of that sort.

DAG Garrett Lindsey responded that he could not answer that affirmatively, but would look into it, and that DOJ would try to get that addressed in the in the next version of the draft. Member Armaline expressed his appreciation and said it should not be taken as a big stress for the report. He believes it is more of a question he and the committee have because he was starting to get a lot of questions since that bill was authored; he is getting a lot of questions on use and knows DOJ did a couple actual seminars this year on the CLEAR Act. He was just trying to get an idea where that's falling in the data. It is not very important for the report, but an important question for the Board moving forward. DAG Lindsey said that was something where staff can look into putting the sense in there, but he could not make promises.

On the Civilian Complaints side, Member Armaline said there was one piece of data he wanted to bring up not just for DOJ staff but for committee members that really stood out for him, while noting DOJ staff was really solid on their methodology practice. He noted that at page two, there was an incredible piece of data there that it kind of depends on how one wants to think about it in terms of what it indicates: If ones look at the data, there is a total of about 1,552 racial identity profiling complaints that reached a final sort of decision, the vast majority being racial and ethnic profiling complaints, and only three are sustained. That can mean all kinds of things, but it must mean something. Member Armaline noted that you could not have over 1,500 people file a

complaint of racism, and only three of them are found to be sustained. The rest are either completely written off or they're evaluated as basically not true. He questioned whether this data suggested people are liars, or showed that it is necessary to look at how these cases are being adjudicated, because that is a massive disparity. Member Armaline expressed that the Board cannot just give that data point and not say anything about it. A critical community organization reading this could believe it looks like law enforcement is just basically ignoring their complaints because it is a wild amount. Sociologically they would have statistical methods to test whether it is so extreme — they would have to put it through additional rigor. Member Armaline expressed that believes it is something the Board needs to address within the report. He does not have the answer in his mind, because he is still working through it, but he believes one thing the Board might consider is to give some kind of commentary on how these decisions are being made. Maybe that is something the Board needs to review next because, just on the raw statistics, it is a wild data point.

Co-Chair Criner stated that he agreed with Member Armaline that the Board should add commentary to this statistic, or some footnote or something to explain why there is such a vast disparity that exists. Co-Chair Criner noted that the statistic actually adds more questions than it does answers, and he believed the Board did not want to leave their community with questions, especially in today's divided nation. He asked if the Subcommittee could give any direction regarding what Member Armaline had stated. Member Armaline noted he was asked to look through and see if there is anything really meaningful in the data and that's a very meaningful finding. He does not want to derail the discussion.

Co-Chair Criner explained that we was going to make sure the Subcommittee would go where it needed to go in moderating the meeting, but he did not want to overlook something because members of the community were also in the meeting, and he did not want the community to feel like the Subcommittee was just overlooking the statistic or pushing past it. Co-Chair Criner expressed that the Board's responsibility is to be responsible especially in the Accountability Subcommittee. Co-Chair Criner asked if DOJ staff had anything they wanted to respond, and noted that what their Board members stated is a major concern.

Member Smith thanked Member Armaline for raising the issue of the very small likelihood of having any complaints sustained. He stated that it goes beyond reason that it could be such a low number just in terms of the reality of everyday life. Member Smith expressed that this data was an indicator of problems with processes in terms of how complaints are reviewed and decided. He wondered if there are any suggestions on what they could say in the report on this issue; although the Board has the statistics right at a macro level, it does not know what happened in each particular matter, and could not re-review those decisions. Member Smith noted that the Board could just take note of the fact that there such a small number of sustained complaints and kind of unpack it a little bit in a way that's not overly presumptuous, but just indicates that this points to a potential issue.

Member Armaline stated that sometimes in academic work, in scholarship, academicians find something that they do not expect to find, and that really becomes the finding itself, and expressed that maybe the Board just needs to say that this is a concerning piece of data.

Statistically speaking, this is questionable, for a number of reasons he could explain methodologically, but as the Subcommittee does not have the information now to delve into the issue, it should be assessed in the following report, with potentially a whole section on how these decisions are actually being adjudicated, because maybe that's the real issue. Member Armaline expressed that this information kind of tees them up to get into this issue for the next time around.

Member Sierra agreed with the Subcommittee's discussion, noting that while the Subcommittee is concerned, it would take some exploring, and this could be part of the Subcommittee's vision for next year for this chapter. Member Sierra stated that maybe the Subcommittee could invite people who are doing the SB 2 reviews and investigations to come present about the process and, when they see that kind of statistic, what are they doing to ensure is there a problem or not a problem. There is a lot to ask about and to learn. She'd be hesitant about jumping to too many conclusions at this point other than noting it and noting the Board's concern and the statistical issue that's been raised.

Member Armaline stated that in those conversations the Board could confront them with the data, and ask, how is this possible? What your process was to get to this, and what was the difference between the one maybe your agency sustained and the hundreds that you dismissed? It allows the Board to ask some really important questions, perhaps just directly confronting them with that data. It's not something that can be done for this report. The Board will have to be very thoughtful about that language so that they can open that door in a really useful way and let constituents know the Board is going after this — that the Board sees it and is getting after it. That would be his preference in terms of what the Board is communicating.

Member Smith stated he is in agreement, and noted that he is still processing to see if there was anything else that they could do. He thinks this is a good starting point.

Co-Chair Criner asked where does the Board move from here? What is the recommendation to staff regarding this very important item? He asked if Member Armaline would like to spearhead it.

Member Armaline made a motion that staff come back to the Board with draft text noting the data point and opening the door for the Board to ask some further questions about the data for the follow-up report. The text would note that the Board finds this to be a wildly disparate statistic that there are 1,500 complaints of racism and only three are substantiated. It requires a stretch of the imagination that sociologists would not be allowed to use. As a result of that, the Board is going to have to look into the methods of law enforcement agencies adjudicating these. And there is no way for the Board to understand the statistic without looking into that in the future, and that is something the Board plans on doing. The motion would be for DOJ to come up with a paragraph or two for insertion in this section that notes this statistical data point and how the Board plans on looking deeper into this data given its oddity. Member Armaline stated he was seeking a second.

DAG Simpson stated that a motion is not needed for adding language of the type that's being discussed. The Board doesn't need to be as formal as that. DOJ is not trying to dissuade a motion

but is taking notes about the suggested language and can insert language in the section on vision for future reports. A caveat is that, because this meeting is the final Subcommittee meeting, the language can be inserted in the draft that the full Board will be looking in October, but there won't be an opportunity for just the subcommittee to talk about this. DOJ will be as thorough as possible in capturing the Subcommittee's discussion. Member Armaline stated that he approves this approach and offered to help with drafting.

Member Sierra addressed the recommendation that civilian oversight agencies should incorporate the elimination of racial and identity profiling as part of efforts to increase public safety. Civilian oversight agencies should explicitly incorporate this goal given that the Board has made a strong case for the elimination of racial and identity profiling and explained that type of profiling is unlawful. Civilian oversight agencies are addressing unlawful practices, so that is and always should be a goal of them already. Noting this, and making sure that they are explicitly incorporating that as a goal, will be very helpful especially for individuals who are not really thinking in that direction. Regarding measuring effectiveness and best practices, and the idea that there is not a one-size-fits-all, civilian oversight agencies should be looking at the data for their particular agency to help them figure out effectiveness. Member Sierra expressed that she was not sure if that had already been incorporated, but the Board is recommending that civilian oversight agencies should go back and look at what the Board has provided as best practices to be able to incorporate those as much as really is applicable to their style or their type of civilian oversight agency.

Regarding the recommendation that there should be unfettered access to all the data, Member Sierra asked DOJ staff whether the recommendation would be to include the data and documents underlying the RIPA data that an agency may have with respect to its officers, in addition to the data being reported to DOJ. If so, the Board may get questions about this at the Board meetings. It is something for the Board to think about. Does that apply to all the models of civilian oversight agency, or are there going to be some models where they don't typically have confidential information? Member Sierra expressed that staff may already know the answer to this question, or relatedly, whether there should be any kind of limiting principle, or whether the Board should be prepared to discuss this issue when these recommendations are brought up.

Member Sierra addressed the vision for the report in the Civilian Complaints section. In addition to what had been discussed about Accountability and Civilian Complaints, Member Sierra noted that the Subcommittee also discussed how there may be an increase or decrease in complaints. It's hard to interpret that because it could be that they have more open complaint procedures, and that's why they're getting more complaints, or it could be a positive or negative reason why you have an increase in complaints or a decrease in complaints. Member Sierra noted that the Board did not really have a solution to that. One possibility for the vision for the next report is maybe pick one or two agencies where some changes are seen to determine whether the Board can explore with them, or there have been changes in policies that may explain those changes or what might be the explanations for that, so the Board is able to show that it can use this type of information to develop some best practices. DOJ staff did not have a response but stated that the matter was duly noted.

Member Smith stated that the Board had decided that the 2026 RIPA report's theme was community safety or public safety, and that it would also try to integrate the attacks on immigrant communities within that. He asked about what DOJ is thinking in terms of integrating that into the overall theme given the issue's significance in terms of public importance. The data is from a different time period, and so wouldn't reflect the current situation, but Member Smith requested that DOJ makes sure that that core theme is integrated as much as possible and in a reasonable way.

Member Guerrero reminded the Subcommittee that DOJ has scheduled a special RIPA Board meeting for October, focused on the issue of immigration and immigrants being subject to racial profiling by federal agents. That will be an important place to have a discussion with regard to this report. Member Guerrero stated that it might not make sense to have immigration as a throughline, given the expansive scope of everything the Board is looking at, but it might make sense in the introduction to just recognize the times we're living in and the relevance of this data and the laws in place in California. If there is a decision on racial profiling in California by federal agents from the Supreme Court, which is expected any day now, the Board could acknowledge that decision, and hopefully it will be a good one. The report could include a discussion reminding the public that the California laws govern California agencies and federal laws govern federal agencies and there is no law on racial profiling at the federal level.

Member Guerrero noted that all law enforcement agents are subject to protection under the U.S. Constitution's Fourth Amendment. The discussion would remind everyone that these protections are foundational. The Board has to see what the Supreme Court says because if they issue a good decision, the Board just leans into that and that becomes the answer to the profiling question. The report might pick up a few more things just for context and a reminder of what California is doing to mitigate the harm against immigrant communities. Member Guerrero stated that she would not want to narrow a report that is about a lot of different communities down to immigrants because that's the one factor that isn't actually tracked, but they could acknowledge it in the context of the landscape. The Board could pick up some content from the special meeting it's going to have. Member Guerrero noted that the Board has jurisdiction over certain things, and should definitely relate that to the broader community and elevate these very important questions about what federal agents can and cannot do. The Board would not be able to answer that question except to say what the situation is, but there are upcoming opportunities that the Board could use and the most flexible way to address this is in the introduction, a landscape setting way that could also incorporate the discussion the Board is going to have at its full meeting in October.

Member Smith noted that he believed the approach expressed by Member Guerrero was a good start, but it is inconsistent with where the Board landed in the last full Board meeting. In the full Board meeting, the Board talked about addressing this issue in a more robust way as opposed to just the introduction. This is something for the Board to think about a little bit more. When it was discussed in the full Board meeting, the Board understood the difference between federal authorities, and state and local authorities. Member Smith noted that we are seeing collaboration

between local law enforcement agencies and federal immigration enforcement and some of the ripple effects are very damaging.

Member Guerrero responded that that is going to be the topic of the October meeting, noting that there is a real need for clarity regarding what people in the community can and should expect of local and state law enforcement. If they are called by the federal agencies or if they are called by community members, which they have been as well, there is a role for them if they are there, and jurisdictions are starting to pick this up, but across the state, California has duty-to-intervene statutes and a duty to record and duty to report and those are focused on local and state law enforcement officers. Member Guerrero expressed that the ethical intention of these responsibilities is for officers to do one of those or all of those things, intervening being the most challenging of them. There is an opportunity to have this discussion at the October meeting and the Board is going to bring in a lot of expertise and information about this to help the public understand what's going on, remind the public that SB 54 prohibits collaboration, and explain that when it happens, the Attorney General can and should take action. Member Guerrero noted that the Attorney General will speak to that at the October meeting. Member Guerrero expressed that collaboration is distinct from a call for service or a call for mutual aid, and that we as a community need to need to make clear what the expectations are, given the laws that we do have on the books that have to do with how state and local officers respond and what the intent of those are.

Member Armaline agreed with Member Smith's comments, and stated that he understood Member Guerrero's comments as well, stating that he shared Member Smith's concerns. Member Armaline noted that he was the one who brought up the issue of federal immigration efforts in the Board meeting, and because of this, he felt that he should speak to it. Member Armaline expressed that it was important for the Board to make clear that it is abundantly aware of the contexts of releasing this report, and that those contexts could be quite severe. Member Armaline noted that the interaction between state and federal law enforcement is that they very much impact one another, and it would be silly to assume that the Board's work continues to be meaningful if the federal government continues down this road. Member Armaline opined that the actions of federal law enforcement were completely lawless in American cities at this point in terms of law enforcement, citing the fact that there were unidentifiable agencies literally kidnapping people off the street on a daily basis. Member Armaline noted that we have no way of knowing what of those individuals are local law enforcement, what of those individuals are federal, and which agencies, and are they even agents. We don't know. We literally know nothing.

Member Guerrero stated that they don't know nothing. Her bread and butter, what she does every day, is go after DHS agents; for the last 20 years, this has been her area of expertise, and so she knows a lot about the intersection of state and federal law. This is a real opportunity, as the Board pointed out, for the RIPA Board to say something. It should absolutely say something, and that is best placed not buried in a section, but in the introduction to set the landscape—we see this, we understand this is going on. Member Guerrero noted that this was also an opportunity to clarify with the public where the gaps are in federal law, because quite frankly,

those who do this work, largely in the border region, have been expressing frustration about the actions of federal law enforcement for a number of years. Member Guerrero characterized this as the “border-fication” of California, and that this is what is happening right now. Member Guerrero expressed that this was an opportunity for the Board to level set with everyone that the Fourth Amendment should be the Board’s north star, and hopefully the Supreme Court will use it in the right way. And if they don’t, the Board will have to address that, because if the Supreme Court erodes the Fourth Amendment, that has implications for California. There are things the Board can say, but it should not say grandstanding sorts of things because there are very specific things the Board can say about what the community should expect from state law enforcement in dealing with federal agencies.

Member Guerrero noted that this topic would be the subject of the October meeting. The Board will be able to take from that and put that into the report in some very concrete ways so that everybody knows. Member Guerrero stated that she doesn’t think anyone else knows this except for people in the border region, like what the federal rules are for search and seizure in California. They are heinous laws, and the Board can call them out like this. People are not connecting that federal agents can do what they’re doing in Los Angeles under the law that Congress made that is on the books. The courts can only interpret the law. And if the law is bad, then we’re going to get bad interpretations. Member Guerrero noted that right now, in California, there is law that is good, RIPA. At the federal level, there is no equivalent, and the law at the federal level is very bad, and that there is one particularly evil statute where federal law enforcement is relying on to support all of the actions they are currently taking.

Member Guerrero expressed that the Board needs to help people understand that while we have expectations here in the State of California about how law enforcement should act to protect the public, the Board should also make clear that our ultimate salvation comes in taking out this particular law. The law is 8 U.S.C. 1357. Member Guerrero expressed that this law contained all the bad stuff, and that this was one statute passed during the McCarthy era, a long time ago. Member Guerrero discussed that the power given under that law should have been done away with before and should be done away with now. There is no true sanctuary in California. There’s nothing ultimately that we can do except control our own people, our own officers, create expectations for them. Member Guerrero noted that there had been four or five Custom and Border Patrol shootings in San Diego in the last two weeks, and the San Diego police are investigating, which Member Guerrero believes is what should happen. Local law enforcement should be investigating aggressions against Californians. Member Guerrero characterized this approach as the kind of level setting that should be done in the Board meeting and in the report, so that people know where to point their energy and ire.

Member Smith thanked Member Guerrero for sharing her expertise, noting that this is a very important issue that the Board needs to make sure it is addressing, meeting the moment. This is not just an everyday issue, this is very unique in terms of the scale and long-term devastation, and it’s impacted a lot of us as human beings, as Californians, as Board members, in a wide variety of ways. As the Board spoke about a couple months ago, Member Smith asked that whatever the Board does, it should be noted in the report, whether it’s a page, two pages, or

whether it's weaved throughout the report, just to make sure that it's meaningful and responsive to the moment. Member Smith stated that that's the thing that's most important to him.

Co-Chair Criner expressed appreciation to the members for their comments and confirmed there were no more edits, additions, recommendations, or disagreements that needed to be addressed, and introduced the last item for discussion, which is the vision and future report section, inviting members to raise any topics or suggestions that needs to be included.

Member Smith stated that he has two items. The first, which he noted had been talked about earlier in the meeting, is making some form of statement about the low frequency of sustained complaints. Member Smith stated the Board should make some form of a statement about it this year and then provide an indication about the future of trying to look into it in a more in-depth way. The second is the immigration enforcement issue. It is not likely to go away immediately; potentially that's something that the Board can continue to address in the future too, particularly because in this year's report, there is a gap in terms of the frequency of the data. Member Smith noted that at some point in time, the Board will have data covering this year. It would be good to provide an indicator that this isn't something that is a one-time thing, and that the Board plans to pick it up in the future and continue to stay on it.

Member Guerrero stated that because this is the Complaints and Accountability section, one thing to consider is how to capture complaints about federal agents, which is not captured in the RIPA data. Member Guerrero stated that she did not know if there are fields that DOJ separately captures about who the aggressor is in the complaints. These are not complaints about law enforcement or the agency. Instead, these would be external complaints. Member Guerrero noted that one of the roles that state and local law enforcement can play, is to report federal immigration actions. In the RIPA data, the only thing that we have related to DHS is if the individual stopped is passed off to Homeland Security, which is not the same thing as complaints about federal law enforcement. Member Guerrero noted that it was worth just thinking about how state and local law enforcement are recording complaints, and maybe this would be a recommendation. Member Guerrero noted that complaints about other agencies is not in the RIPA regulations right now, and expressed that maybe there's room for a regulatory change to capture that, but that means that people are filing complaints, and people need to be willing to do that.

Member Guerrero expressed that a lot of people are not willing to do that, but when they are willing to do that, that becomes a helpful data point. It also becomes basis for a call for service. It's the basis for an incident report, which for those who litigate is the way they find out who's at the scene, what officers are involved, what was going on, because we can't get that out of the federal government. There is a role for the recording with body cams, the reporting of incident reports, and in certain instances the intervention and definitely the investigation, and so just something for the Board to noodle on and maybe this is a next year thing, because there are a fair number of people who are now making complaints to local and state law enforcement agencies about federal agencies.

Member Armaline seconded the suggestion, and asked whether there was a way for the Board to start recording what are Californians' experiences with these federal agencies. The Board could be creative about how it pulls that data. Member Armaline stated that Member Guerrero just came up with some really good examples of what they could do, and noted that Member Smith had put some ideas in the chat. There are some really good ways they could start to get at that; maybe they can continue to be creative and think about how they can collect that data or work with others who are collecting that data. Member Armaline stated that it would be surprising to him if people weren't already collecting some of this data, either through some of the state's universities or through some community organizations or both, with Californians around the state. Member Armaline stated that maybe they can all do a little bit of work to dig for some of that information. Member Armaline stated that he completely backs what Member Guerrero just suggested and thinks they should be creative in how they pull together that kind of data and that they could give voice to some of that stuff.

Co-Chair Criner stated that he agreed and does see what Member Smith placed in the comment box (chat) for staff to look over. Co-Chair Criner confirmed with DOJ that also saw Member Smith's comments.

DAG Simpson thanked Board members for their thoughts about these topics, noting that, in the vision for future reports, there should be a discussion not just about the concerning level of sustained complaints within the SB 2 data, but also a discussion for future reports about how best to analyze or assess complaints about state and local agencies and their interaction with federal immigration efforts. Regarding members having referenced that there will be data from this year available for next year's report, DAG Simpson explained that the data is always one year looking backwards. The Board would not have any complaints data for 2025 until next year's report. That would be the time that potentially the Subcommittee could also analyze the complaints that are coming in. But with regards to this report, a portion of the vision for future reports section could also discuss this issue, and how the Subcommittee and the Board should generally best address complaints about federal immigration enforcement. Member Guerrero agreed, and suggested that the language around the future report could be broad enough because, due to the timeline, the Board basically has to say it now. The language could be broad enough to capture the impact of court decisions on, and federal policies on, racial profiling. For example, if the U.S. Supreme Court comes down with a decision it could happen any time from now until December, the Board will want to dig in on that one way or the other, whether good or bad, as it would affect us here in California. Member Guerrero noted that the Board will want to understand the impact of that, as well as any Congress-made law that would impact or affect us. Member Guerrero expressed that she could imagine a variety of things that might happen, and it should just be broad enough language that is grounded enough in how those things will impact the mandate on racial profiling and Californians at large.

## **6. PUBLIC COMMENT**

Co-Chair Criner confirmed that members have no other items to discuss. Co-Chair Criner invited public comment. There were no members of the public who wished to provide public comment. Members of the public were thanked for their attendance.

## **7. DISCUSSION OF NEXT STEPS**

Co-Chair Criner asked DOJ if there were any questions regarding next steps that needs to be made, any questions, regarding the Board's direction.

DAG Simpson stated that DOJ staff had been chatting offline to make sure that there were no questions that they had. Subcommittee members were thanked for their consideration of the draft and their great feedback. DOJ staff will take all the comments and make sure to synthesize them in the appropriate sections that were talked about and also address any of the edits that all the Board members have given.

## **8. ADJOURN**

Co-Chair Criner stated appreciation to staff and public and invited a motion to adjourn. Member Sierra moved to adjourn and Member Smith seconded the motion. The meeting was adjourned at 2:27 pm.