

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

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

**POST TRAINING & RECRUITMENT SUBCOMMITTEE MEETING MINUTES**

**May 25, 2022 10:00 AM – 12:30 PM**

**Subcommittee Members Present:** Co-Chair Melanie Ochoa, Co-Chair Steven Raphael, Members LaWanda Hawkins, Amanda Ray, Brian Kennedy

**Subcommittee Members Absent:** Co-Chair Ronaldo Villeda

**1. Introductions**

Co-Chair Ochoa called the meeting to order at 10:00 a.m. and welcomed the subcommittee members and public.

**2. Approval of March 7, 2022 Subcommittee Meeting Minutes**

**Motion**

Co-Chair Ochoa moved to approve the March 7, 2022 minutes as submitted. Member Hawkins seconded the motion. There were 4 members present, 4 YAYS, 0 NAYS, and 0 abstentions.

**The Motion passed.**

Note: Member Kennedy was not present for the vote on the minutes.

**3. Overview of Subcommittee Work by the Department of Justice**

Co-Chair Ochoa turned the meeting over to Deputy Attorney General Allison Elgart for an overview of the work done by DOJ in support of the POST Subcommittee.

**DOJ Update- SB 2**

Attorney Allison Elgart reminded everyone that per the last POST Training and Recruitment Subcommittee meeting, the team decided to send a recommendation letter from the RIPA Board to POST, outlining the following proposed recommendations:

- Clearly state that bias based upon an officer’s perception of an individual’s identity and their actual identity would be a basis for decertification.
- The definition of bias should explicitly include conduct that would constitute illegal profiling as defined by Penal Code Section 13519.4.
- Acts and/or omissions of bias behavior that would render a person ineligible to be a police officer under Government Code 1031.3 should be included as grounds for decertification.
- Screening for bias should be included the hiring process.

DOJ did submit a letter with the above recommendations to POST on behalf of the RIPA Board. The POST Commission is meeting was being, May 25,2022, the same day as the POST meeting, and they included this letter as an attachment to their agenda. The POST Commission notified DOJ that their published proposed regulations had been published in March of 2022 for Public Comment. However, their published proposed regulations did not contain a regulation pertaining to the definition of “Serious Misconduct”. POST assured the Subcommittee that they will provide POST Commissioners with the proposed language for consideration at their meeting and stated that if the Commission votes to adopt

the proposed language at the May 25 meeting, they will open up a 45 day Public Comment Period with an anticipated date to begin in early June. The RIPA Board can then resubmit the recommendations letter to ensure it remains part of that Public Comment Period. Attorney Elgart then turned the meeting back over to Co-Chair Ochoa for any additional comments or updates regarding the letter of Recommendations.

Co-Chair Ochoa gave the following report on her attendance as the Board representative in a POST sponsored SB 2 Stake Holder meeting. She stated that as of today's meeting, the proposed Regulations for SB 2 have not been published. She also stated that POST did not take all of the Subcommittee's recommendations that were submitted for racial bias. POST did however address their interpretation regarding "perception" that racial bias should be held to the same standard used for an officer to have committed a hate crime. This standard, however, requires the officer to demonstrate intent to harm someone on the basis of their identity. Co-Chair Ochoa expressed that RIPA standards are based on the notion that excessive bias is not wanted in the community and that the frame of mind of the officer should not matter. If officers are treating people of certain races, religions, or sexual orientation differently than others, then that is considered bias. Officers should not be showing excessive bias to any group within our communities. Co-Chair Ochoa added that she believes that the proposed regulations that are likely to be adopted by POST presents additional issues and as a result, will require a new letter outlining additional comments. However, there may not be enough time for the POST Subcommittee to draft a new letter based on the required review and approval process from the Full Board meeting scheduled for July 28, 2022.

Attorney Elgart stated that because the POST Subcommittee does not have a meeting scheduled before the 45 day public comment window closes, the Subcommittee could vote to allow the Co-Chairs the authority to work with DOJ to draft a new letter in time to submit to the Full Board for approval. This would also allow time to address any additional comments as well as recommendations on the POST Proposed Regulations.

There were no objections raised, so the Subcommittee agreed to postpone the motion and vote until after Agenda item #6 (Public Comment).

#### **DOJ- Update: AB 846 Regulations**

Attorney Elgart also provided an update on AB 846 regulations. She stated that the POST Subcommittee authorized Co-Chair Ochoa to represent the RIPA Board to develop with POST language for a framework to assess peace officer candidates for bias as part of comments to the AB 846 regulations. POST revisited previously submitted Board comments. She added that the Board's comments to the Commission's Regulations on AB 846, were formally documented by POST and Co-Chair Ochoa. Attorney Elgart reported that those proposed changes would also be reviewed and voted on at the POST Commission meeting being held on May 25, 2022.

#### **DOJ Update-MOT (Museum of Tolerance) Racial Identity Profiling -Train the Trainer Curriculum Update and Discussion**

DOJ Deputy Attorney General Kendal Micklethwaite provided an update on the POST Racial and Identity Profiling Train the Trainer Curriculum Update by the Museum of Tolerance (MOT). Attorney Micklethwaite reminded the subcommittee that the RIPA Board had been invited to sit in on the three

MOT curriculum update sessions that provided a forum for feedback, testimonials, and next step opportunities for going forward. Some RIPA Board members were able to attend sessions. Prior to the third meeting, there was also a brief Community meeting that allowed for preliminary feedback as well as an opportunity for testimonials on the current curriculum MOT course content. Attorney Micklethwaite stated that she did not have any details or a production timeline for when the updated curriculum will be completed and shared. MOT is expected to have another community meeting; however, the date has not yet been determined. The feedback gathered will be used to update the curriculum which will include updating the video and editing the testimonials. The video is expected to be finalized sometime in October 2022. Rollout of the full course is expected to be sometime in December 2022. She reminded the Subcommittee has raised questions about what will happen after the roll out of the course. Specifically will Board members and community members be able to provide input on future updates to the course.

Attorney Micklethwaite then provided an overview of the MOT annual budget. She stated that \$1.5 million dollars has been set aside for MOT. This includes newly allocated funds (approximately \$360,000) for the Racial Profiling Train the Trainer expenditures. This funding is new, and POST would like the assistance of the Board with developing an ongoing strategy that includes a budgeting process for moving forward and next steps. This strategy should include future course curriculum updates, identifying required expenditures (i.e., facilitators, etc. and developing a process and structure for future partnering endeavors with MOT.)

CO-Chair Ochoa asked Attorney Micklethwaite if she could provide an overview of some of the line items in the budget. Attorney Micklethwaite provided the following breakdown on MOT different courses:

Line Item: Tools– Involves the role of Law Enforcement 65 presentations, 8 hours each (Est. \$10,000 ea.)

Line Item: Command Staff Tools 2 presentations (est. \$34,000 ea.,)

Line item: Beyond Diversity and Hate Crimes 15 presentations, (est. \$13,000 ea.)

Line Item: MOT Additions 16 presentations (est. \$17,000 ea.)

Line Item: Racial Profiling and Update Training Course, 19 presentations 4 hours each (est. \$3000 ea.)

Line Item: Racial and Identity Profiling Train the Trainer Curriculum Development Update (est. \$360,000 total)

Co-chair asked about the difference between the Racial Profiling Course and the 12 year old Curriculum Update? Attorney Micklethwaite suggested that she could ask POST for more detail about the Racial and Identity Profiling MOT Curriculum update.

The POST Subcommittee agreed to have DOJ send an “Information Seeking Request” for their outstanding questions/concerns regarding the budget, course content, as well as an update process and rollout:

1. Please provide more explanation and clarification on all line items listed in the budget.
2. How have funds been allocated, distributed, and used in past years for the Racial Profiling curriculum

3. What is the process for updating the Racial Profiling Train the Trainer Curriculum?
4. What is the timeline and process for updating the course curriculum and officers with current law? Currently the framework in the curriculum doesn't reflect current law and does not appear to have not been updated for years.
5. How are facilitators screened for qualifications and hiring?
6. What is the quantitative and historical data for the type of attendees of previous (ten) years?
7. Need the ability to review course content prior to its release.

Co-Chair Ochoa stated that in addition to the above to the issues raised, she continues to be interested in the overall law enforcement training program of the MOT. Specifically, that the framework around bias training may not reflect the law, especially due to age of the training updates.

POST Subcommittee member Ronaldo Villeda shared his experience as a Board member reviewing the MOT Racial and Identity Train the Trainer directly to DOJ as he was unable to attend in an official capacity due to Bagley Keene restrictions. Attorney Micklethwaite read his comments into the record. His concerns were centered around the necessity of community partnership in course development and feedback, the lack of oversight and transparency in the process, as well as the need for measurements of course effectiveness.

Co-Chair Ochoa requested that all Subcommittee members submit any additional questions/concerns directly to DOJ so that they can be included in the Information Seeking Request for POST.

Attorney Micklethwaite advised that once POST has responded, DOJ will forward it to all POST Subcommittee members. It was also agreed that POST should attend the next Subcommittee meeting in person to go over responses.

#### **4. Discussion of Subcommittee Section in Report – Training Related to Racial and Identity Profiling**

##### **AB 846**

There was no discussion on AB 846, SB2 or the POST Museum of Tolerance Racial and Identity Train the Trainer Curriculum update during this agenda item.

##### **Basic Academy LD42 Chapter on Racial and Identity Profiling**

Retired Annuitant Aisha Martin-Walton provided some background information on the POST Basic Training Academy and field training program that prepares peace officers for duty. She summarized that RIPA requires POST to develop and disseminate guidelines and training for peace officers in California that adhere to commission standards. The RIPA Board oversees and reviews law enforcement training for Racial and identity Profiling on an annual basis. The POST Subcommittee has the responsibility of reviewing POST's training courses on Racial and Identity Profiling pursuant to RIPA (AB 953). This year, the POST Subcommittee is reviewing the POST Racial and Identity Profiling Train the Trainer Curriculum Update and the Racial Profiling and Identity sections of the Basic Academy Learning Domain (LD) 42: Cultural Diversity/ Discrimination. The two chapters for review are:

She recommended that Subcommittee members think about the following questions when reviewing these sections of the course:

- What elements should a racial and identity profiling course include?
- How should RIPA Stop Data be used to enhance a racial and identity profiling course?

- Should there be specific criteria for who should be involved in the development and facilitation of the course content?
- What criteria should be used to measure the success of the training?
- Does the Racial Profiling and Gender Identity Sections of LD 42 meet the goals of RIPA? If not, what recommendations would you make?

Co-Chair Ochoa asked the subcommittee members if anyone had any questions regarding the directives or input. Co-Chair Raphael had already reviewed the material shared that he liked the course’s abstract discussion on many of the topics. Specifically, he liked the instructions or guidelines that addressed hypothetical settings and how to respectfully handle certain situations that might arise but still enable the officer to obtain positive results. Member Kennedy stated that he liked that officers were actually engaging and learning prior to receiving the in person training. He also liked having the Glossary throughout course.

The subcommittee was reminded that the text of the full course for Learning Domain (LD) 42 can be found on <http://oag.ca.gov/ab953>

## 5. Public Comment

### Co-Chair Ochoa facilitated the public comment by physical location:

**Ontario Caller** – Requested that an option be provided to make these meetings available via Zoom and or video conferencing so that attendees can see each other and connect.

**Santa Monica** – Michelle Wittig stated that she appreciated that the curriculum course LD42 allows for local agencies to add their ideas and successful examples of ways to teach and share cross cultural activities.

**San Diego** – Karen Glover suggested that the Course Curriculum LD42 is too elementary and needs to be updated. Caller feels that POST has not taken racial profiling seriously. Racial profiling is a gateway into the criminal/legal system and once in the system, it is difficult to get out. Officers need to be more informed about the consequences of their actions. One experience in being racially profiled can change your entire life.

## 6. Discussion of Next Steps

### SB2 Next Steps

Co-Chair Ochoa followed up on the earlier discussion on SB2 in agenda Item #3 by making the following motion:

**Co-Chair Ochoa** moved that the subcommittee delegate the Co-Chairs to draft a letter in response to the POST Commission’s Published Regulations to be voted on by the Full Board, provided the next Full Board meeting is within the Public Comment period for SB2, Serious Misconduct regulation. The motion was seconded by Member Hawkins.

Ayes: Co-Chair Ochoa, Co-Chair Raphael, Member, Member Kennedy, Member Hawkins, Member Ray

Nays: None

There were 5 members present, 5 Ayes, 0 Nays

## **The motion passed**

### **POST Museum of Tolerance Racial and Identity Profiling Train the Trainer Curriculum Update and Discussion Next Steps**

Co-Chair Ochoa stated that DOJ would follow-up on compiling the questions/concerns of the Subcommittee regarding the MOT Budget and for the MOT Train the Trainer “Request for Information” to be submitted to POST. DOJ will forward all POST responses when they are received.

#### **Co-Chair Ochoa submitted the following additional question to add to the list:**

Will trainers who have already gone through the existing training be required to attend the updated training course?

Co-Chair Ochoa reminded the Subcommittee to submit all additional questions/concerns for the MOT Train the Trainer updated course curriculum directly to DOJ.

### **Basic Academy LD42 Chapter on Racial and Identity Profiling**

Co-Chair Ochoa suggested that the Subcommittee use the same process for LD42 that was used for LD3. Each member should document all questions/concerns/ considerations/comments and bring to the next scheduled meeting for discussion. The subcommittee unanimously agreed.

### **Next POST Subcommittee Meeting**

Co-Chair Ochoa asked DOJ if scheduling the next subcommittee meeting in late August or early September would conflict or be too close to the meeting date of the Full RIPA Board meeting.

DOJ Deputy Attorney General Allison Elgart agreed to work with the Co-Chairs to determine meeting date options. Once the available dates are agreed upon, DOJ will issue a Doodle Poll to the subcommittee to get a consensus of available dates. DOJ will solidify and schedule the next meeting based on the Doodle Poll availability and send out a meeting notice.

### **Public Comment Response Regarding Zoom Meeting Access.**

DOJ Supervising Deputy Attorney General Nancy Beninati reminded the attendees that Governor Newsome and the State Legislators rescinded the suspension of the open meeting rule of Bagley Keene that allowed meetings to be held using video conference/Zoom technology as of April 2022. Now that the order has been rescinded, all meetings need to be in person and held on sites that can accommodate the public.

Co-Chair Ochoa then asked Pastor Kennedy to say a few words to close the meeting, in light of the recent shootings in Buffalo New York and Uvalde Texas.

Co-Chair Ochoa then adjourned the meeting at approximately 12:30pm