

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD (BOARD)

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

POST TRAINING AND RECRUITMENT SUBCOMMITTEE MEETING MINUTES

August 30, 2023 1:00 p.m. - 3:00 p.m.

Subcommittee Members Present: Co-Chair Melanie Ochoa, Co-Chair Ronaldo Villeda, Member Hawkins, Member Kennedy, and Member Kulkarni, Member Duryee, and Member Randolph

Subcommittee Members Absent:

1. Introductions

Co-Chair Villeda called the meeting to order at 1:00 p.m. Each POST Subcommittee member (herein Subcommittee) introduced themselves. Co-Chair Villeda concluded introductions with a welcome to all attending the meeting.

2. Approval of May 31, 2023 Subcommittee Minutes

Co-Chair Villeda opened asking if any members would like to discuss the draft meeting minutes. Co-Chair Villeda moved to adopt the meeting minutes as presented which Co-Chair Ochoa seconded. With four Ayes, zero Nays, and two Abstentions the meeting minutes were approved as presented.

3. Overview of Subcommittee Work by Department of Justice and Discussion of Subcommittee Report Section

Deputy Attorney General (DAG) Allison Elgart of the Civil Rights Enforcement Section (CRES) provided an overview of today's meeting to the Subcommittee. She informed that POST representatives will be presenting on course updates and will be able to answer questions the Subcommittee may have. She also stated that the Subcommittee will discuss the dispatch training outline as well as the contents of the draft section report at today's meeting. She then introduced POST Executive Director (Director) Manny Alvarez to present before the Subcommittee. Director Alvarez thanked the Subcommittee and members of the public for the opportunity to speak and introduced POST staff who will be able to answer questions that the Subcommittee may have:

- Public Information Officer Liaison Megan Poulus
- Basic Training Bureau Jennifer Hardesty
- Basic Training Bureau Carrie Hollar
- Jennifer Dwyer who handles all Dispatcher Training

4. Updates from POST Re: RIPA Board Course Reviews

Racial and Identity Profiling Guidelines

Director Alvarez informed the Subcommittee that POST contacted their predecessors who created the relevant trainings in 2015. Their interpretation of the law had them incorporate the guidelines into the online trainings rather than create stand-alone guidelines. He informed that POST agrees

that separate guidelines should be created and has agreed to initiate the development of the guidelines. To accomplish this, he informed that they have advertised for a retired annuitant position with expertise in the area to assist with its development. Additionally he expressed assurance that the RIPA Board will have an opportunity to participate with the creation of the guidelines as soon as hiring is complete. He stated that although there was no hard deadline that the guidelines could foreseeably be developed and published within three to four months. He then opened the floor for the Subcommittee's comments and questions.

POST Responses to Board Recommendations of LD 42 and MOT in 2023 RIPA Report

Director Alvarez provided responses to the Board's highlighted recommendations for Learning Domain 42 and the Museum of Tolerance Train the Trainer course found in the 2023 RIPA Report. He informed that POST addressed the RIPA Board's relevant guidelines and that discussion will be had at the next POST meeting scheduled in September where they will provide a POST Commission response to the guidelines. He also presented on the 21 RIPA recommendations for these guidelines. He informed that POST has currently agreed to incorporate six of the 21 RIPA recommendations but that they sought clarification on one of the recommendations in writing to better incorporate the recommendation as intended. He informed that the remaining RIPA recommendations have either already been incorporated as of this year's revision, that they were already sufficiently covered, or were not included as there was disagreement. Prior to providing detail on POST responses to LD 42 and MOT, Executive Director Alvarez provided an update on changes POST was proposing to the Commission for LD 3.

POST Update on Learning Domain 3: Principled Policing in the Community

Director Alvarez reported on the changes POST has proposed to Learning Domain 3 previously requested by a POST Commissioner. He informed changes would enhance the historical component by expanding on the history of policing in the state. Specifically the changes comprised of the following:

- Five additional pages of content in the student workbooks
- An additional learning objective
- An additional class group discussion on particular topics/events that require the groups to research and present on
- The creation of informational videos that include the community's perspective and peace officers of color who speak on their experiences with law enforcement growing up and their experience working as law enforcement officers

Director Alvarez informed the Subcommittee that the proposed changes are already underway and are targeted to be finalized by the end of the October. He also noted that proposed changes can be found on their website. He then opened the floor for questions and comments.

Department of Justice (DOJ) Administrator Aisha Martin-Walton facilitated discussion on the topic when she invited POST to discuss on RIPA Board recommendations specifically made for

Learning Domain 3 in the 2022 RIPA Report. POST said that their comments would be made at a later time upon review of those recommendations.

Member Kennedy asked POST how it would address the history function law enforcement had in the country as slave patrollers. Director Alvarez responded that law enforcement's past function as slave patrollers has been addressed in the new workbook that encourages them to review and study off hours, outside the academy training. Member Kennedy followed up his inquiry and asked whether the material would also address the pervasive nature of this function and how it impacts modern day policing. Director Alvarez confirmed that the narrative the workbook gives is that past events affect modern day life and perceptions while soliciting the reader to be cognizant of this. Co-Ochoa followed up Member Kennedy's inquiry and inquired as to the prescriptive advice given to trainees in consideration of the biases developed from past, negative law enforcement practices that may still be pervasive today. Director Alvarez stated that the content ultimately informs trainees of practices and behaviors to avoid because the content and events they will research are examples of such behaviors. Member Randolph also responded to Member Kennedy's inquiry and stated that conversations on race and addressing racism continue throughout a law enforcement officer's career. He stated that biases which mirror past, negative police practices are identified during an individual's psychological evaluation when they apply. He also stated that another measure used to correct and identify the referenced biases would be through a field training officer's observations.

Member Randolph also shared concerns about 2022 recommendations for Learning Domain 3. His first concern was the broken-windows recommendation as it relied on a resource that has archaic information that has since changed and asked the Subcommittee to consider a pin-cite to the actual page and section relied upon. His second concern was the language "...murders of Blacks[sic]..." which was used in one of their recommendations. He stated that it was offensive to use the term "Blacks" when appropriate diction such as "persons of color" should be used. Additionally, he shared that the operative word "murder" is also inappropriate as it denotes an intentional act with associated connotations. Rather he asked the Subcommittee to consider using "use of lethal force" to make the recommendation more politically correct.

Co-Chair Ochoa asked POST whether the changes made to Learning Domain 3 would have examples or events that would bridge the gap between historical and contemporary events to demonstrate the impact. She stated that although early historical events and more recent events have been noted in today's presentation, that developing a historical through-line is important to establish how biases can persist. Director Alvarez confirmed that the material is structured to recognize history's impact on modern day practices. The material will create dialogue with the desired approach of participants to seek acknowledge historical impacts and to seek solutions. He also augmented Member Randolph's comments and stated that this material is only a part of the ever-present discussion to address racism in a law enforcement officer's career.

Learning Domain 42: Cultural Diversity/Discrimination

Director Alvarez reported that POST will incorporate some of the RIPA Board's recommendations. The first recommendation they will adopt is to shift Learning Domain 42 to be

more evidence-based and to reflect through the data that racial profiling is not an effective means of policing. He also shared that this change would not preclude the trainer from additional discussions of this topic. They will also include a statement on page 2-19 under criminal profiling vs. racial profiling “Data and research show that racial profiling is not an effective means of policing.” Co-Chair Ochoa inquired whether language, which suggested that profiling was a necessary tool, was removed in addition to POST’s revision that it was not an effective tool as to not create conflicting instruction. Director Alvarez stated that POST would not be opposed to the change and asked for the Subcommittee’s assistance in identifying any instances in the material.

Director Alvarez also reported that POST will incorporate the recommendation that the legal section should more explicitly state that the RIPA statute recognizes that consideration or reliance to any degree of racial and identity profiling of protected characteristic in deciding any stops or actions taken is prohibited. He informed the Subcommittee that POST is seeking clarification on what is lacking in the legal section and what should be included so that POST can adopt the recommendation. Co-Chair Ochoa provided additional clarification that the implementation of the RIPA Board’s recommendation should be able to address legally inaccurate advisements that could be found in POST trainings. One advisement that the changes to the legal section should be able to address would be that racial profiling could still occur even if the peace officer has a reason for stop. Co-Chair Ochoa also mentioned that any subsequent action after a basis for a stop that takes racial identity into consideration (e.g., pulling someone out of the car, handcuffing them, etc.) is racial profiling even if the basis of the stop was reasonable. Director Alvarez responded that there is no such explicit advisement in the material that condones the aforementioned practice. He stated that racial profiling is when race alone is used for the basis of a police action and that race can only be considered when it is part of description of an individual involved in a crime. He also shared that examples given in the material should holistically cover the topic as well. Co-Chair Ochoa provided further clarification and stated that the legal section must cover the distinctions between California state law has through RIPA and federal practices under *Whren v. United States* (1996) 517 U.S. 806 as what is considered racial profiling in California has a lower threshold. Director Alvarez stated that coverage of this distinction is provided as it is mandated for instructors to do so. Co-Chair Ochoa then noted that additional coverage of the distinction is needed throughout the materials rather than its coverage to be solely reliant on instructors to effectively convey. Director Alvarez confirmed that POST will ensure that California’s more exact standard will be better conveyed in the workbook material. Director Alvarez also informed that POST will adopt the RIPA Board’s recommendation to change language in the work book to ensure that racial profiling is not considered a controversial issue.

Member Randolph responded to Co-Chair Ochoa’s concern on racial biases by stating that California is leading the way when addressing racial profiling in peace officers. He stated that the Minnesota Multiphasic Personality Inventory (MMPI) test can help identify racial biases a candidate may have and that with Senate Bill 2 there are added punitive measures.

Member Kulkarni inquired as to POST’s disposition on the other recommendations they chose not to adopt. Director Alvarez shared that some of the recommendations were not adopted because POST has already included them prior. He noted that the recommendation to discuss law

enforcement agency expectations on the matter would be difficult to properly incorporate as trainees come from various agencies.

Museum of Tolerance Train the Trainer

Director Alvarez continued his presentation and discussed the status of the Museum of Tolerance's (MOT) Train the Trainer curriculum. He stated a work group recently convened which included MOT, law enforcement, and DOJ staff. He stated that POST would adopt the workgroup's recommendation to replace references of "racial profiling" with "racial and identity profiling." He also noted that to address the RIPA Board's concerns with the Train the Trainer curriculum that POST would be willing to entertain a second course developed by the DOJ or the RIPA Board. He stated that POST would not only fund the project but that they would circulate the course throughout the state. Co-Chair Ochoa asked whether the proposed course would have parity with the MOT's curriculum. Director Alvarez confirmed and stated that the proposed course would provide certification for instructors, provide updates, and that trainers can attend either course to be certified. Member Randolph thanked POST for the collaborative proposal and encouraged the RIPA Board to reciprocate the effort by attending POST academy trainings and classes. He particularly encouraged the RIPA Board to attend trainings related to the learning domains they have reviewed. Member Kulkarni also thanked POST for their invitation and agreed that the venture could engender collaboration. She also stated that the proposed course would also represent the stakeholder community and would increase their trust in public institutions.

Director Alvarez also wanted to clarify that POST's invitation for a second course is in no way a criticism of MOT as the intent is to ensure holistic coverage of the topic. He also noted that this proposal is not unprecedented and shared examples of other trainings.

5. Discussion of Commission Approved Dispatch Training Outline

Jennifer Dwyer (Dwyer) presented on the dispatch training outline on behalf of POST. She stated that the project started in 2021 while there was effort to update the job task analysis of public safety dispatchers, which was not updated since 2011. She stated the job task analysis reviews the related knowledge, skills, abilities, and traits necessary to be a good public safety dispatcher and was an 800-question survey. She noted that the survey was circulated to 3,600 confirmed users and was also given to additional entities, such as the California Governor's Office of Emergency Services and regional consultants, to market the survey for additional responses. At the conclusion of the survey's administration, POST received a 25% response rate. Dwyer stated that there were notable observations upon review of the submitted surveys. She reported that 77% of public safety dispatcher underwent a psychological assessment during the hiring process even though it was not a requirement to do so. She also reported that 49 of the 58 counties were represented in responses.

Dwyer continued her presentation and noted that the job task analysis was then use to improve the dispatch training outline. She first assessed the basic training current efficacy to establish a baseline understanding of its current application by visiting presenters to identify practices used. She reported that in spite of the trainings outdated information, that presenters were incorporating current information and events. She reported 42 multi-disciplinary subject matter experts were used in the process of updating the dispatch training. She reported some additions include:

- Dedicated time allotments to each topic in Learning Domain 107
- Added topics on human trafficking and terrorism and extremist group awareness
- Added a new learning domain on mental health and intellectual developmental disabilities awareness

She also informed that changes were made to Learning Domain 104 to address bias by proxy. The change will better prepare dispatcher's to identify when bias by proxy is occurring and how to properly handle the call by asking additional questions. She also informed that while it is ultimately up to the local agency to address this that the changes made will empower dispatchers to act.

She informed that the changes would be rolled out in phases whereby the guidelines would be updated and circulated; then workbooks and supplemental material would be developed; and followed by a change to administer this training earlier in a dispatcher's career. Dwyer than opened the floor for Subcommittee comments and questions.

Co-Chair Ochoa thanked Dwyer for her presentation. She asked Dwyer how they can ensure responses to bias by proxy can be made more consistent throughout local agencies. Dwyer informed that while the subject of bias is woven into 19 of the learning domains that it was ultimately up to the instructor on how the topic is broached. Member Kulkarni asked Dwyer to expand on what is covered in the terrorism and extremist group awareness topic. Dwyer stated that the topic would cover both domestic and international terrorism groups; the dispatcher's role in the situation; and resources available to them. She went further to explain that the topic will help dispatcher's ask relevant questions normally not asked.

Member Kulkarni also asked whether the topic would be able to address scenarios related to white supremacists actions or bias by proxy events where people, perceived to be South Asian, Muslim, or Sikh, are suspected to be performing suspicious activities despite their activities being legal. Dwyer first addressed the former scenario and informed that dispatchers will treat the scenario as an act of terrorism once the information provided by the caller meets the state and federal definition of terrorism. She then responded to the latter scenario and informed that Learning Domain 104 will assist dispatchers in recognizing the event as a bias by proxy call and handle it appropriately. Member Kulkarni also inquired as to whether the curriculum would address the dispatcher's own biases. Dwyer confirmed that the guideline has specific learning domains that explicitly address this concern. Dwyer thanked the Subcommittee for the comments and noted that the examples provided by them could be incorporated in the workbook being developed.

Co-Chair Ochoa thanked POST for their presentation and productive discussion.

6. Public Comment

Michael DiPiero highlighted the issue of semantics. He noted that the operative word tolerance is should be substituted for another synonym as tolerance connotes an undesirable acceptance of something.

7. Discussion of Subcommittee Section in Report

Co-Chair Ochoa opened the floor for Subcommittee comments and feedback. She reiterated that the draft section should emphasize the higher standard California has regarding what constitutes as racial profiling with the recommendation to make the distinction between state and federal law clearer. She also recommended additional language to clarify the Subcommittee's position on the Los Angeles Police Department community safety partnership and San Francisco Police Department community plan. She stated that as it stands, the language suggests that the Subcommittee endorses the aforementioned projects and recommends that the language be changed to mirror the Subcommittee's focused endorsement on these projects collaboration with the public rather than the projects as a whole.

8. Public Comment

Co-Chair Ochoa opened the floor for public comment and moved to the next agenda item upon hearing no comments.

9. Next Steps

Member Kulkarni asked the Subcommittee to give significant consider POST's offer on developing an additional trainer curriculum. She stated that this would allow the Subcommittee and the stakeholder community to contribute its insight and knowledge that is distinct from MOT's and POST's. Co-Chair Ochoa directed the DOJ to follow-up with POST on the requirements for the proposed curriculum's certification.

10. Adjourn

Before adjourning, Co-Chair Ochoa thanked the members of the public, the DOJ, POST, and her fellow Subcommittee members for their attendance.