

CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD (BOARD)

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POST TRAINING AND RECRUITMENT SUBCOMMITTEE MEETING MINUTES

September 8, 2022 1:30 p.m. - 3:30 p.m.

Subcommittee Members Present: Co-Chair Melanie Ochoa, Co-Chair Ronnie Villeda, Member LaWanda Hawkins, Member Steve Raphael, Member Brian Kennedy, Member Rich Randolph

Subcommittee Members Absent: Member Amanda Ray

1. Introductions

Co-Chair Ochoa called the meeting to order at 1:30 p.m. Each POST Subcommittee member (herein subcommittee) introduced themselves. Co-Chair Ochoa concluded introductions with a welcome to all attending the meeting.

2. Approval of May 25, 2022 Subcommittee Minutes

Co-Chair Ochoa opened asking if any members would like to discuss the draft meeting minutes. Co-Chair Ochoa moved to adopt the minutes, which Member Hawkins seconded. All members voted “Yes”, there were no “No votes”, and no abstentions.

3. Department of Justice Update

Department of Justice (DOJ) Administrator, Aisha Martin-Walton, provided an update on two pieces of legislation that the RIPA Board has been tracking, AB 2547 and SB 2.

Ms. Martin-Walton stated that AB 2547 would require POST to establish a definition of the word, “bias conduct” and to use that definition in an investigation of biased complaint. She also stated that it would also require POST to develop guidelines for performing effective social media guidelines in the screening of applicants. She shared that the RIPA Board submitted a letter to POST recommending that a definition be provided for racial profiling too. She also shared that this bill was introduced in February 2022 and moved through the legislative process up to August 11, where it is in the Appropriations Committee and being held under submission.

Ms. Martin-Walton stated that SB 2 would give POST authority to suspend or revoke and officer’s law enforcement certification. She also stated that POST would specifically investigate allegations of serious misconduct that could be grounds for decertification and would create a new division of 127 positions and a non-officer advisory board. She shared that the RIPA Board submitted a letter to POST in April 2022 with recommendations on the topic of serious misconduct to be considered in the regulations process. She also shared that POST is currently gearing up for work because both law enforcement agencies and the public can submit allegations of serious misconduct beginning in January 2023. She stated that POST website has a series of trainings and information workshops for those impacted by SB 2. She also stated that POST would be drafting a series of proposed regulations, hiring new employees, and briefing and receiving direction from POST

commissioners at upcoming commission meetings. She shared that the next POST Commission meeting will be in September 2022.

Co-Chair Ochoa thanked Ms. Martin-Walton for the update and concluded the DOJ update.

4. Board Discussion Regarding POST Training and Recruitment Chapter in 2023 Report

Co-Chair Ochoa opened the agenda item with discussion on the POST Training and Recruitment chapter, beginning with an update on the train-the-trainer curriculum (herein curriculum). Deputy Attorney General (DAG) Kendal Micklethwaite stated that a number of RIPA Board members have been engaged with the Museum of Tolerance (MOT) on the update to the curriculum. They shared that there have been three sessions held since February 2022 and two community meetings where RIPA Board members were able to volunteer or submit the names of individuals to participate in the curriculum update. DAG Micklethwaite stated that the draft RIPA report contains background on the curriculum update, the funding of MOT courses, the allocation for the racial profiling train-the-trainer curriculum, and comments from RIPA Board members who participated in sessions and meetings. They shared that in October 2022 there will be a final curriculum update meeting that will include factual scenarios. DAG Micklethwaite concluded their update and welcomed MOT's Rachel Salamanca and Shirley Torho to answer any questions from the subcommittee.

Ms. Torho, updated the subcommittee on developments made with the core working group on sections one and two. She noted that section one would cover the curriculum's purpose by covering implicit and explicit bias as well as the impact racial and identity profiling has on communities. Ms. Torho noted that section one's offerings would facilitate self-reflection and humanization as it reminds those taught the impact of their work on human lives. Section two would delve further to the legal definition of racial and identity profiling with the aim to help those taught understand protected characteristics through the curriculum's two-prong test whereby they will undertake a series of scenarios and case studies to apply their understanding of the Fourth and Fourteenth Amendments. Ms. Torho also mentioned that section two will incorporate a tool suggested by Board Member Kennedy called the ethical thought grid.

Ms. Torho also provided an update on sections three and four. She shared that section three will provide insight on the present standing dynamic between a wide range of marginalized communities (e.g., Black African-American, LatineX, Asian, LGBTQ communities, etc.) and law enforcement by covering the historical relationship between them. The section will help law enforcement understand their role as a public-facing section of the government and that their interactions with the public will cultivate community relationships. Ms. Torho continued noting that section four would primarily focus on the shift from traditional policing by covering community-centered practices and topics such as restorative justice, cultural humility, and procedural justice. Additionally data, contextual to the associated district the curriculum will be taught in, would be presented to inform of the present community relationship to help improve positive policing practices.

Director Salamanca, thanked Ms. Torho for the presentation and informed the subcommittee that MOT will have a meeting with the core working group on September 28 that will walk through

the sections aforementioned. In October, they will work on the video project with the goal to have deliverables completed by the end of the year. Director Salamanca closed the presentation and opened the floor for the subcommittee's questions.

With the floor open to subcommittee questions, Co-Chair Ochoa sought clarification as to when the video project would be available for subcommittee review. Director Salamanca informed that the videos would be available for review once the video scenarios and testimonials were collated together.

Member Hawkins praised Director Salamanca and Ms. Torho, for their work and asked whether a section on accountability which relays the consequences of racial identity profiling could be added. Member Hawkins added that she raised the question as the community is seeing an increase in racial identity profiling. Further, she stressed the proposed addition as an opportunity for the RIPA Board as past efforts, such as Marcy's Law, have made no mention of consequences. Ms. Torho, acknowledged the increase in racial identity profiling incidents across California and noted that she and Director Salamanca will think of ways to incorporate the proposed addition in other resources such as refreshers even if it may not be its own section in the 5-hour content presented. Ms. Torho added that consequences and accountability are infused throughout the four sections as the sections will cover the impact actions have on the community and the law enforcement agency. Director Salamanca added that a law enforcement officer's duty to intervene and address other officers on their actions will be included as an element in the video scenarios and can help demonstrate the accountability component Member Hawkins mentioned.

When Member Hawkins asked about whether punitive measures for racial profiling would be covered in the curriculum, Director Salamanca replied that it would have to be addressed and relegated to every agency. To complement Member Hawkins' question while acknowledging the curriculum's scope, Co-Chair Ochoa asked whether examples of punitive outcomes could be incorporated into curriculum. Director Salamanca confirmed that it would, noting that the curriculum would be taught to recruits with the goal of establishing what is and is not acceptable. Additionally, she noted that she and Ms. Torho, may add additional resources that individuals can reference to further expand their knowledge on the topic.

Another approach Ms. Torho mentioned was that the topic of accountability would also be covered through the use of discussion points to facilitate participation. Ms. Torho relayed that these exercises would allow for personal, insightful conversation with the hopes that those who have been racially profiled could share their own experience which would reinforce the curriculum's goal to help law enforcement officers understand the impact of their interactions.

Co-Chair Ochoa then wanted to verify that in addition to covering the Fourth and the Fourteenth Amendment that the changes made by RIPA to California law would take more precedent in the curriculum as some of the language in the Learning Domain 42's (LD42) curriculum is contrary to California law. Ms. Torho reported that they have continued to update the material as feedback is received noting DAG Micklewaite's contributions. Ms. Torho then invited the subcommittee to provide any additional resources they consider helpful for the curriculum's next revision phase.

Co-Chair Ochoa recognizes Co-Chair Villeda attendance to the meeting.

Another procedural question Co-Chair Ochoa had was whether there will be opportunity to review Director Salamanca's and Ms. Torho's deliverables before they are finalized. Director Salamanca affirmed providing that the subcommittee will have two opportunities to review and provide feedback in November and December. Member Randolph commented that the timeline provided to the subcommittee is convenient as academies will restart their programs in January and February. Member Randolph also commented that while the developing curriculum may not cover punitive outcomes as in-depth as some members wanted, Senate Bill 2 provides that consequence training be implemented after being hired and before leaving the academy.

When asked whether the community would have time to review the deliverables and provide feedback, Director Salamanca stated that community feedback would most likely occur in 2023. She highlighted that the forthcoming input from the community and certified instructors will be invaluable for updating the curriculum after its release. She went further to explain that the feedback after release will help update the curriculum in light of a proposed mechanism by POST Bureau Chief Mike Radford to have curriculum reviewed every two years.

Member Raphael thanked Ms. Salamanca and Ms. Torho for the presentation and provided his insight as an educator for over 25 years regarding updating material. He encouraged content identified to be most susceptible to change be updated as feedback is provided rather than updating the content when required. The mechanism proposed could also be implemented to accountability content referenced by other members of the subcommittee as well. As an example, Member Raphael noted that recent events such as the Torrance PD e-mail scandal could be added into the course providing relevant and salient teaching material. Ms. Torho agreed, mentioning that contemporaneous events and material could be provided as additional resources to facilitators in the event the course has yet to be updated.

Continuing the course update topic, Member Hawkins asked to confirm whether the course will be updated with RIPA data every year positing that it would help facilitators recognize whether the problem is worsening. Ms. Torho confirmed that facilitator guides will provide links to where they can find the most up-to-date data which will be specific to their jurisdiction.

On the topic of 2023 community engagement, Co-Chair Villeda inquired about what improvements would be made moving forward as prior sessions encountered opportunities to increase time and space for engagement. Additionally, Member Kennedy asked whether the community would have an opportunity to comment on the curriculum prior to it being finalized. Director Salamanca noted that while such an opportunity would be possible in 2023, she will present this desire to MOT to identify how to reach the desired outcome. Member Hawkins also shared her concern for community feedback and stressed the need to give an opportunity for that engagement in January to ensure that the curriculum addresses community concerns as the current RIPA data shows an increase in racial profiling. While Member Hawkins acknowledged that the curriculum cannot directly address accountability issues, she expressed the need to incorporate accountability material.

Co-Chair Villeda also asked whether the MOT interactive exhibits were part of the curriculum as, to his knowledge, they were not working. Director Salamanca clarified that the curriculum would

not utilize the MOT interactive exhibits as they were designed for a workshop setting. Co-Chair Villeda then inquired how the updated curriculum's performance will be measured to ensure law enforcement officers truly grasp the concepts learned. Ms. Torho noted that in addition to pre- and post-test, attitude and belief questions will be added to ensure law enforcement officers grasp the sensitivity of the issue.

When Co-Chair Villeda asked about how the curriculum would be piloted to ensure it is being taught as intended, Member Randolph noted that facilitators would be evaluated on their ability to teach and adhere to the content before passing the curriculum. Co-Chair Villeda expanded on his concerns particularly noting that equating passing the curriculum as successful may not be ideal in that many law enforcement officers were able to pass the curriculum's previous iteration but that racial profiling was still pervasive. To supplement his concern, when Co-Chair Villeda had the opportunity to observe a previous iteration of this course being taught, many law enforcement officers expressed that they either did not take the training seriously or that they hated having to attend it. To recap his point, Co-Chair Villeda stressed the need to accurately measure whether the curriculum is being taught right and if those taught are approaching it with the gravity that it needs. Agreeing with Co-Chair Villeda's point that a better measurement is needed, Director Salamanca noted that particulars on piloting and roll-out of the curriculum have not been finalized but that she will discuss it in a future meeting with MOT. Upon closing, Co-Chair Ochoa, thanked MOT for their presentation and moved the meeting towards discussion on LD42.

Opening the LD42 discussion, Member Hawkins expressed a need for a piece on accountability raising Co-Chair Villeda's concern that the pass/fail rate would not be the best measurement of success. After reviewing LD42, Member Kennedy noted a couple of statements that should be reviewed prior to their inclusion.

Member Kennedy recommended that text portions in section 4-3 be re-written out of concern it would be divisive. Although Member Kennedy recognized advances in this field, he noted that it is yet to be definitive whether sexual orientation and gender identity are innately distinct from each other citing neuroscientist Charles Rosalie at the Oregon Health and Science University. Out of concern that it may be inserting a particular viewpoint, he also asked the subcommittee to consider removing the text portion as it states that to whom someone is attracted to is not a choice.

Member Kennedy also raised attention to sections 1-3 and 1-5. For section 1-3 he urged consideration for rewriting the portion asking law enforcement officers to value and celebrate religious differences. As a substitution, he provided a rewrite that omits mention of religion while still raising the value of diversity. As it can potentially be interpreted as negative, he also directed attention to text in section 1-5 that encourages law enforcement officers to abstain from relying on their personal values as it could undermine the agency's overlying mission.

Opening discussion on Member Kennedy's recommendations, Co-Chair Ochoa clarified that the referenced text were drafted from POST and not the RIPA Board. Particular to Member Kennedy's comments on section 4-3, Co-Chair Ochoa recommended no changes to the language where the subcommittee knows the statements to not be false and that the referenced language was intended to be inclusive and respectful to all identities.

Co-Chair Ochoa also had comments on several statements. For one, she asked the subcommittee to reconsider the text in section 2-3 which stated that perceptions and biases are not inherently wrong. Although she does understand that the intent behind the statement is to prevent officers from feeling attacked for holding particular viewpoints, it may not be best to treat all perceptions and biases as inherently neutral; she cautioned that the statement may lead law enforcement officers to condone their preconceived perceptions and biases in the context of racial profiling.

Second, Co-Chair Ochoa noted that the LD42 text had no discussion on the role institutions and history have in shaping viewpoints, as the text frames perceptions and biases being developed via personal experience.

Third, she raised concern that the text on special protections is inaccurate as it implies that certain groups are given more rights than others; the intent behind special protections is to remove disadvantages rather than adding advantages.

Fourth, in section 2-15, Co-Chair Ochoa cautioned against the statement that stated induced guilt only reinforces a person's beliefs as the reasoning may be unfounded and expressed that guilt can be a positive factor in changing a person's behavior.

Fifth, Co-Chair Ochoa advised that section 2-16 text stating that law enforcement officers can still perform their duties without profiling should include explicit data which demonstrates they do better in its absence. Additionally in the same section she noted the ambiguity of the statement attempting to distinguish between racism and racial profiling. She expands that racism is not clearly defined to distinguish itself from the latter within the text and that omission or a re-write should occur.

Sixth, that section 2-17's statement on RIPA's duties be expanded to include its obligation to also consider any degree of protected identity characteristics in deciding any stops or actions as profiling.

Seventh, section 2-19 text noting race alone is profiling would need to adjust to reflect law.

Lastly, Co-Chair Ochoa noted that although we do have higher ethical standards for police, text such as in section 2-20 will need to be changed to denote that what is being asked specific to racial profiling is not an elevated ethical request but a minimum one. In closing, Administrator Martin-Walton thanked the subcommittee for their comments and invited them to submit additional comments in writing.

When the conversation moved to the POST section of the report, Co-Chair Ochoa sought clarification on the \$358,000 allocation from POST to MOT to teach the updated curriculum as listed on page 3 as she advised a possible rewrite for clarification purposes. Director Salamanca answered that the amount is a reallocation from their budget rather than additional monies given. Co-Chair Ochoa also provided feedback on the general comments and recommendations section as it should be more explicit to better inform those unfamiliar with the training in general. Another recommendation she made was to ensure that the legal section adds that RIPA's obligation to consider any degree of protected identity characteristics in deciding any stops or actions. For the legislative section, she suggested to include a recommendation for a legislative or post developed

definition of the word bias and profiling. In the Recent Trends and Development Section, she noted that the subcommittee should state their endorsement on some of the recommendations listed such as: Conducting a more in-depth review on POST funding, the Little Hoover Commission recommendations and others. Her last recommendation was that the best practices recommendation sent to the legislature should include conducting an analysis or audit of post funding and a measurement of the effectiveness of the trainings.

When Co-Chair Ochoa opened the floor for discussion, Member Hawkins thanked her for comments. Member Kennedy also relayed that the comments provided would also address some of the concerns Member Hawkins had regarding accountability. Co-Chair Ochoa then moved to the Public Comment agenda item.

5. Public Comment

Karen Glover shared her comment through chat inquiring whether the subcommittee could supplement MOT's training by broadening to other organizations with similar expertise.

6. Next Steps

Co-Chair Ochoa invited the subcommittee to send their written comments on the LD42 and Chapter 2 and 4 section. Administrator Martin-Walton also invited the subcommittee to send any interests they would like to work on in 2023 noting that agreed upon interests will be included in the 2022 RIPA Report. Co-Chair Ochoa expressed interest on evaluating the finalized version of the train the trainer curriculum as they will not have time to in the 2022 report.

As this is the last POST subcommittee meeting scheduled for this year, Administrator Martin-Walton relayed that drafts incorporating the subcommittee's feedback would most likely be circulated for the full board meeting in October. Supervisor Deputy Attorney General (SDAG) Beninati also added that the October RIPA meeting will also help inform and shape the revisions for the referenced material. SDAG Beninati closed thanking the subcommittee members for their time and concerted effort.

7. Adjourn

Before the meeting's adjournment, Co-Chair Ochoa thanked all involved for their time.