

**CALIFORNIA RACIAL AND IDENTITY PROFILING BOARD**

**CITIZENS COMPLAINTS SUBCOMMITTEE: MEETING MINUTES**

**Wednesday, September 7, 2017, 11:00 AM.**

**Teleconference Locations: California Department of Justice Offices**

**Sacramento**

13000 "I" Street  
Sacramento, CA 95814

**Oakland**

1515 Clay Street  
20<sup>th</sup> Floor, Suite 2000  
Oakland, CA 94612

**San Diego**

600 West Broadway St.  
Suite 1800  
San Diego, CA 95814

**Other Teleconference Locations:**

Kings County Sheriff's Office  
1444 W. Lacey Blvd. Administration Building  
Hansford, CA 93230

Dolores Huerta Foundation  
1527 19<sup>th</sup> St., Suite 430  
Bakersfield, CA 93301

**Subcommittee Members Present:** Sahar Durali, Mike Durant, Doug Oden, David Robinson, Tim Silard

**Subcommittee Members Absent:** None

**California Department of Justice Staff Present:** Shannon Hovis, Randie Chance, Kelsey Geiser, Kevin Walker

**1. Call to Order**

The first meeting of the Definitions Subcommittee was called to order at 11:06 AM by Shannon Hovis from the California Department of Justice (DOJ). The meeting was held by teleconference with a quorum of members present.

**2. Update from Department of Justice**

Ms. Hovis provided the subcommittee with a review of the board's purview and the tasks mandated to the board by AB953 including the publication of an annual report. Ms. Hovis then laid out the general agenda for the meeting, and emphasized that while the DOJ will be supporting the work, this is the RIPA Board's report.

**3. Selection of Subcommittee Co-Chairs**

Ms. Hovis provided an overview of the selection process stating that each subcommittee on the board will select two person teams serving as co-chairs to work together, work with Department of Justice Staff, and report their work back to the larger subcommittee and to the public. She clarified that no member of the board can serve as a co-chair on more than one subcommittee. Ms. Hovis noted that Member Oden was selected as a co-

chair for the Stop Data Subcommittee and therefore could not serve as a co-chair for this committee.

**MOTION:** Member Durant made a motion to nominate Member Robinson and Member Durali as Subcommittee Co-Chairs. The motion was seconded by Member Oden.

**APPROVAL:** Members Robinson and Durali were unanimously selected as co-chairs. Member Silard was not present for the vote.

#### **4. Discussion of Current State of Citizen Complaint Data**

Ms. Chance commented that that the Criminal Justice Information Services (CJIS) at the DOJ has conducted collection of citizen complaint as well as completed other analysis the board may want to consider for the report but that the DOJ would like to hear from board members about what they would like to see in the report and if they see additional analysis that should be completed.

Ms. Lunetta explained that 2016 was the first year that CJIS collected citizen complaint data alleging profiling, as prescribed by AB 953. Ms. Lunetta noted that the data collected is limited to what is prescribed in the statute

- type of complaints,
- total complaints (non-criminal, misdemeanor, and felony),
- total complaints made from local detention facilities (non-criminal, misdemeanor, and felony),
- total number of complaints alleging profiling and by type:
  - race or ethnicity,
  - nationality,
  - gender,
  - age,
  - religion,
  - gender identity or expression,
  - sexual orientation,
  - mental and physical disability

Ms. Lunetta commented that this data is all collected by the number reported in the year: the number sustained, exonerated, non sustained, unfounded, and pending. She noted that one limitation is the lack of a clear distinction on the number of complaints that are followed through into the following year, as all of the data is collected on complaints finalized in the calendar year regardless of when the actual complaint was reported.

Member Oden asked if CJIS knows the nature of the complaints and if the complaints are broken down further than a general complain (e.g. use of force complaint, lack of medical attention complaint, etc.)

Ms. Lunetta responded saying that that the collection of that data is not mandated in the statute.

Ms. Hovis asked if there are agencies that did not submit any data alleging racial profiling. Ms. Lunetta said all law enforcement agencies submitted this data.

Member Durant commented that statute calls for all agencies to submit the data if they have it and suggested that if the board discovers any existing complaints that are not being reported, DOJ respond accordingly.

Co-chair Robinson asked if the agencies are parceled out in the analysis. Ms. Lunetta responded saying that the raw data released on Open Justice did spell the data out by agency.

Member Oden asked if the complaints that have been reported are alleging racial profiling. Ms. Lunetta responded that if the complaint had a racial or identify profiling component, it was notated on the form, and reported to the DOJ.

Co-chair Durali asked Ms. Lunetta to explain the definitions of exonerated, sustained, etc. used in the analysis documents provided. Ms. Lunetta noted that the definitions come directly from Penal Code section 13012. Co-chair Robinson suggested that these definitions be included in the board's report. Co-chair Robinson also noted that in the documents sheriffs' offices are listed as departments, which is not accurate as most identify as offices.

Ms. Lunetta commented that currently there is no way to know which of the racial identity profiling complaints are associated with non-criminal, misdemeanor, and felony complaints, and suggested this be modified for future collection.

Co-chair Robinson asked if it would be possible to include county population, city population, or number of sworn personnel to provide context. Ms. Chance said CJIS is considering completing a per capita type analysis in the future.

Member Durant suggested that the board request this analysis be completed by the DOJ. Member Oden seconded that request.

Co-chair Durali suggested the report cover differences in how agencies delineate the procedures for filing complaints and suggested the subcommittee think about minimum requirements. For example, she noted some complaint forms are not provided in multiple languages.

Ms. Chance emphasized that the current report is on a tight timeline and suggested that the board members focus on what would be achievable to include in this report.

Co-chair Durali suggested that the board ask the agencies to submit their complaint forms, where they can be found, and what languages they are available in for the board to

review. Co-chair Durali noted that it would be important to look at the discrepancies if there is no mandated way for these forms to be laid out.

Ms. Lunetta noted that there are other statutes that give law enforcement agencies the latitude to implement their citizen complaint programs as they see fit.

Co-chair Robinson suggested that the subcommittee collect the complaint form information from the 10 agencies that are reporting first.

Member Oden voiced a concern that if some of the complaints do not relate to racial profiling the results will be skewed. Co-chair Robinson agreed with Member Oden's concern and agreed that the report could clarify that it is only addressing complaints that deal with racial profiling.

Ms. Hovis clarified that statute requires that the board analyze all citizen complaint data reported under Penal Code section 13012, which includes how the DOJ has historically collected citizen complaint data and data on complaints alleging profiling.

Member Silard commented that the main focus of the first report is data and suggested that the board focus on identifying data gaps. He suggested that the board consider including use of force complaints that have a racial or identify component to them. Member Silard also suggested that the board lay out its opinion of best practices for complaint forms that include languages, whether the public is aware that they can file a complaint, the process of handling the complaints, and different approaches in different jurisdictions.

Ms. Lunetta noted that the DOJ does not have any authority to collect data beyond what is in the statute.

Member Silard commented that although the board cannot mandate anything, the board can advise and provide recommendations.

Ms. Hovis suggested two approaches to dealing with data gaps: 1) working with DOJ staff on how to adjust data collection practices within the statute to make the information more meaningful, and 2) identifying statutory changes this committee would recommend to make this data more useful.

Co-chair Durali noted a potential gap in comparing data from agencies that have different processes.

Member Silard suggested the board preview the intent to broaden the scope of this analysis in future reports and indicate to the public that the board is aware that there are larger issues that must be addressed. Member Silard voiced concern that if the first report is uninformative the public could be frustrated with the board and its work.

Co-chair Robinson suggested that the subcommittee focus on the complaint forms and processes of the 8 largest agencies that will submit stop data in the first wave. Member Silard mentioned that this would be consistent with the stop data and agreed that these 8 agencies would elucidate good information.

Ms. Hovis suggested the subcommittee could provide a broad overview of findings in the report, link to OpenJustice to see more detailed data by agency, and go into more detail for the top 8 reporting agencies.

Member Silard asked if the board could meet statutory requirement of the board to analyze citizen complaint data by making agency level data statewide available on OpenJustice and then going into greater detail in the report on California's largest agencies. Ms. Hovis agreed that would be a possible approach.

Ms. Hovis drew attention to the fact that the DOJ released an information bulletin that was distributed in the last board meeting that stated in order to accurately report this data to the DOJ, LEAs should specifically inquire on their citizen complaint forms whether the complainant alleges racial or identify profiling and, if so, the specific type or types of racial or identity profiling alleged. If agencies ask these questions is something the subcommittee may want to consider.

## **5. Public Comment**

Joel/America Civil Liberties Union of Northern California commented that there should be qualitative data included in the report, particularly surrounding citizen complaints. He commented that the report should highlight the stories of individuals who have filed complaints, and provided comments at the RIPA board meetings. Joel added that it would be helpful for the report to include qualitative data around use of force as well.

Lieutenant Dave Gilmore/San Diego County Sheriff's Department commented that there is use of force data collected, reported, and sent to the state under AB 71 and most agencies have some method of publically advertising this data.

Ms. Lunetta clarified that the use of force data collected by the DOJ is specific to the details per incident and DOJ does not have information on use of force-related complaints.

**Joel** voiced a desire to see additional geographic diversity in the report and suggested including areas that have the highest per capita rate of citizen complaints,

## **6. Continued Discussion of Proposed Report Content**

Member Silard mentioned that it would be helpful for the board to ask for a sample of agencies complaint forms. Co-chair Durali and Co-chair Robinson agreed with this request and suggested including a sample form in the report.

Co-chair Durali voiced concern over a lack of representation from more rural areas in the state. Ms. Hovis noted that looking at practices across geographic areas would align with one of the responsibilities of the report.

Ms. Hovis suggested that the committee might also consider that a higher number of complaints may be because an agency has better communicated how to file complaints. Co-chair Durali agreed with this comment and suggested getting data from the largest agency in each county or splitting up by geographic area. Co-chair Durali voiced concern about not receiving an accurate picture of the data by focusing on the 8 agencies delivering data in the first wave.

Co-chair Robinson agreed with this and suggested looking at the 6 geographic zones previously established by the DOJ.

Member Durant voiced concern about the time constraint and mentioned that AB953 only requires the board report on the 8 agencies reporting data first. Co-chair Robinson clarified that in regard to citizen complaints, the board is evaluating a totality not just the 8 largest. Co-chair Robinson suggested that the subcommittee collect complaint information from the largest and smallest public safety agencies in the 6 geographic zones.

Co-chair Durali prioritized addressing what the forms look like, what languages the forms are available in, how the forms are made available, and whether there is an independent investigator or an investigator from the department.

Ms. Chance noted that the wave 1 agencies will likely be included in the largest of the zones and voiced concern that this sample may not be representative. Co-chair Durali clarified that this collection would be helpful to know what the processes look like, not necessarily to get statistical significant in comparing the processes.

Member Silard reviewed a few physical citizen complaint forms from the City of Berkeley and Alameda County and noted that Alameda County asked for a narrative of the incident, location of the incident, and if there were any witnesses while Berkeley had a three page form that provides space for narrative but asks many more questions such as if there were photos taken, if the incident was videotaped, if there was an arrest, if there were any injuries suffered and they have check boxes for incident type including three types of improper use of force. Member Silard asked DOJ if it would be possible to ask the agencies if there is data available beyond the data that is reported to the DOJ regularly.

## **7. Approval of Next Steps**

Co-chair Robinson synthesized next steps including that the subcommittee will request citizen complaint forms and other information from a subset of agencies (to be decided by co-chairs), with one option being to obtain data from the 8 first wave agencies as well as the largest and smallest agencies in the six geographic zones. Co-chair Robinson also

mentioned asking these agencies for their citizen complaint forms as well as the languages the forms is available in, how the form is made available, if there is a policy on investigation. Co-chair Robinson also mentioned including definitions of sustained, founded, unfounded, etc. as well as providing context to the agency by providing data per capita.

The co-chairs will work with DOJ staff and the subcommittee will meet again after the September 27<sup>th</sup> board meeting.

**MOTION:** Member Oden made a motion to approve the path forward laid out by Co-chair Robinson. The motion was seconded by Co-chair Durali.

**APPROVAL:** The steps forward were unanimously approved.

## **9. Adjournment**

The meeting was adjourned at approximately 12:54 p.m.