

GANG DATABASE TECHNICAL ADVISORY COMMITTEE

MEETING MINUTES

June 18, 2018, 10:00 am

Gardena High School, Social Hall
18120 Normandie Avenue
Gardena, CA 90248

Members Present:

Ryan Cooper, Martin Vranicar, Jeremy Thornton, Jim Considine, Sammy Nunez, Marisa Montes, Kevin Gardner, Michael Scaffiddi

Members Not Present:

Jerrod Burguan, Aaron Harvey, Wes McBride

DOJ Staff Present:

Jenny Reich, Arwen Flint, Shayna Rivera, Sandra Thurston, Jaimie Tackett, Sundeep Thind, Dionne Grubbs (Note taker), and Trini Hurtado (Conference Services)

1. Call to Order and Welcoming Remarks

The meeting was called to order at 10:05 AM by Chairperson Nunez. The agenda will cover:

- Brief Robert's Rules Presentation
- Approval of March 26, 2018 Meeting Minutes
- Tentative GDTAC Calendar and Response Times
- AB 90 Research Assessment: Gang Definitions, Duration and Desistance – Todd Hiestand, Visiting Scholar, DOJ Research Center
- Presentation on the Impact of Gang Databases – Committee Member Harvey (**Unable to attend**)
- Review 1st Draft of Regulations and Committee Discussion
- Public comment at the end of the meeting
 - Mrs. Reich asked that the public limit their comments to one-two minutes, depending on the number of speakers from the public

2. Brief Robert's Rules Presentation

Mrs. Rivera, DOJ, provided a handout and gave a brief presentation on Robert's Rules to help facilitate the record keeping and voting process.

3. Approval of (June 18, 2018) Meeting Minutes

MOTION: A motion was made to approve the minutes by Member Considine. Member Montes seconded the motion. No objections were raised. Member Scaffiddi abstained, as he was not present at the last meeting.

APPROVAL: The minutes were approved with all members besides Member Scaffidi, voting “Yes.” There were no “No” votes, Member Scaffidi abstained from the vote. Members Harvey and Burguan were not present for the vote.

4. Tentative GDTAC Calendar and Response Times

Mrs. Rivera provided the following tentative meeting information; September will be in San Diego, early December may be in Oakland, and January (if needed) may be in Sacramento again.

She also reminded the Committee that e-mail is how she will be distributing all drafts and materials so please check your e-mail periodically. About three weeks before each meeting the draft regulations will be dispersed and posted online. Committee members will have 2 weeks to review and provide feedback. DOJ then has one week to compile the comments in preparation of the next meeting. Sundeep Thind, Associate Governmental Program Analyst at DOJ, was introduced. She will take over drafting the regulations from here on out but Mrs. Rivera remains the point of contact.

5. AB 90 Research Assessment: Gang Definitions, Duration, and Desistance Presentation by Todd Hiestand, visiting Scholar, DOJ Research Center

6. Presentation on the Impact of Gang Databases by Member Harvey – Presentation was not given as Member Harvey was unable to attend.

7. Morning Break – Not taken (*Because of some technical difficulties with the audio/visual equipment, it was decided to take the lunch break while the problems were being addressed*).

8. Lunch Break

The Committee recessed at 11:30 AM, and reconvened at 12:40 PM with a quorum of members present.

9. Reviewing 1st draft of regulations and committee discussion

The committee began reviewing the comments made on the 1st draft of regulations.

Package 1:

Referencing Member Vranicar’s comment regarding Article 1d:

- Member Vranicar asked if this section should be expanded to include the databases excluded from the provisions of 186.34, 186.35 and 186.36 (reference 186.34(b)).
- Mrs. Rivera asked if we should cut and paste information from AB 90.
- Member Vranicar stated he would leave it to the drafters.
- Jaimie Tackett, DOJ, said we could reference back to the legislation. Member Vranicar thought that was agreeable.
- No vote necessary.

Referencing Member Cooper’s comment regarding Article 2d:

- Member Cooper wanted to make sure the we identify whether or not having someone, for instance, from LAPD review LASD’s records is sufficient. Or does it need to be one person from Fresno and one person from San Diego reviewing? Additionally, the reviewers should rotate or

be randomly selected to ensure the same two people from the same two nodes aren't reviewing each time.

- Mrs. Rivera explained that the way peer audits currently work in CalGang is that the Node Administrators will review each other's records. For instance, LA would review San Bernardino's, not from the same agency.
- Member Nunez asked if this would change the legislation and Mrs. Rivera answered no.
- Member Vranicar felt that it needed to be clarified in the regulations and if the DOJ would be doing that.
- Mrs. Rivera suggested that the language say, "Audit assignments would be randomly assigned by DOJ." She then asked for a motion.

MOTION: Member Vranicar motioned to approve the change. The motion was seconded by Member Montes. All other members present voted yes.

Referencing Member Montes' comment regarding Article 3a:

- Member Montes requested the release of demographic and geographic data. She stated it was her understanding of AB 90, that they shall disclose race. She would like it to read, "The DOJ shall post data that includes the total number of people in CalGang, race, gender, age of everyone, number of people added"
- Ms. Tackett said that the purpose of the regulations is to clarify or make more specific, we can't just re-state. We can include it as a reference at the very bottom. Where it will say, "authority and reference." We can include it as a reference section. Do you think that will work?
- Member Montes said she thought that would work.
- No vote was required, Member Montes was just seeking clarification.

Referencing Member Cooper's comment regarding Article 3(a)c:

- Member Cooper felt clarification was needed regarding gangs that are present in other nodes aka "gangs out of node." The way the system is set up, it needs to be noted that gangs are present in another node. Just clarification in a different area. We still can track the people, but they're just in a different area. There's a home-base for that gang in a different area.
- Mrs. Rivera stated that now it says, "Organizations designated as criminal street gangs have no less than three members." How should that be revised or clarified?
- Member Cooper thought something need to be added to that unless the gang is present in another node in the entire database.
- Mrs. Rivera asked if that should be added at the end.
- Member Vranicar agreed that it should be added at the end. He also stated it should be added in another node if it met the criteria. As long as one of the nodes contained the criteria, then he thought it would be okay. Still reportable.
- Member Montes asked, for instance, if a gang is primarily out of San Bern, then one of the gang members show up in LA. Based on the fact that it's a well-known gang out of San Bernardino, can it still be listed in LA?
- Member Cooper answered that the gang doesn't exist in LA in the database – we have to create that gang in LA.

- Mrs. Rivera stated that the nodes are “stand alone” and they acquire their own data. But then you can query to see all the data. Data is entered into a “pipeline,” so to speak.
- Member Montes stated that she would feel more comfortable if language was added that before entering information in nodes, it would need to be verified and have supporting documentation.
- Member Considine said that it won’t let you enter the information without supporting documentation.
- Mrs. Rivera asked what would that language look like?
- Member Cooper said, verify that it’s an active gang in another node. The history, comments, and possible predicates or supporting documentation. There are several fields to fill that in. We would duplicate what they have.
- Mrs. Rivera stated that she needed the actual language so the committee could vote on it because we don’t know your actual process.
- Member Cooper stated, “To verify it’s an active gang in another node. Provide the minimum supporting documentation, history/comments.”
- Mrs. Rivera asked if this was at the audit, or would it be housed in the database?
- Member Cooper stated it would be housed in the database.
- Mrs. Rivera asked if they were ready to vote.
- Member Montes questioned whether after we vote now, and then she gets feedback, can we go back and change it?
- Mrs. Rivera stated that they could. She said that DOJ will go back, make edits and compile everything. New packages will be distributed for feedback and the same process will start over. She cautioned the committee though that since there are so few meetings to try not to revisit things unless it’s something major.
- Member Thornton said that in Mr. Hiestand’s presentation, they learned about disengagement. He asked if there is a way to track someone who in the 9th grade says, “yes, I’m in a gang,” and then in the 11th grade, “no, I’m not in a gang.”
- Member Cooper replied that the only way it is tracked, is if there is other criteria out there, then it’s up to who is in the card.
- Member Nunez asked if that was up to the law enforcement agencies to do that.
- Member Cooper said yes.
- Member Considine stated that anyone can recommend we can remove someone.
- Member Cooper said they ask is there two distinct criteria? Go back and look at that. If it doesn’t meet the criteria then removed. He also stated that that if someone is purged it shows up in another section, due to error, etc., it doesn’t wipe out file and there is a reason for it.
- Member Nunez stated that it was clear how someone gets in the database. There are lots of ways to get in the database, but it’s not clear to me how you get removed. No real clear way to me how you get removed. It’s not clear, 12 months of no law enforcement activity for instance. What is the specific criteria for how to get removed?
- Member Cooper stated that AB 90 makes it clear, lays it out.
- Member Thornton asked if there are some requirements when someone says they aren’t in a gang anymore.

- Member Cooper said there is no requirement. But they may put it in their report that someone is saying they aren't in the gang anymore. It's discretionary. They could be joking or lying.

MOTION: Member Considine motioned to change the citation. The motion was seconded by Member Cooper. All other members present voted yes.

Referencing Member Cooper's comment regarding Article 3b:

- Member Cooper asked Mrs. Rivera if this is the current confidence level we are using.
- She stated yes and the committee was okay leaving it as is.

Referencing Member Cooper's comment regarding Article 3d:

- Member Cooper felt the whole section should be eliminated. Maybe we can suggest best practices regarding periodic audits that agencies can conduct on top of these audits?
- Mrs. Rivera asked if Member Cooper would like to motion to remove the section.
 - Member Cooper said yes.
 - Member Considine seconded the motion.
- Member Montes had a question and then suggested best practices.
- Member Montes suggested that DOJ conduct random audits.
- Mrs. Rivera stated that it should be specified in the regs.
- Member Cooper stated for instance, "LAPD looked at 32 records, 31 were out of compliance, because it lacked source documents, for instance. One was deleted due to not having enough membership." Something like that. Very summarized report.
- Member Considine suggested changing the word from "shall" to "may."
- Mrs. Rivera stated because the CGNAC and DOJ will already do audits, and then Section d was allowing agencies to do their audits. So instead of saying they "have to do their own audits," we are saying they "may."
- Member Cooper said, "for instance we aren't telling them they have to do their own audits, we are just telling them they can."
- Member Thornton asked why it wasn't required. Member Cooper responded that it would be burdensome to the smaller agencies. They go through specific training.
- Member Montes wanted to be clear on what they were voting on; that they are going to change it from "shall" to "may" and then add that DOJ may audit, correct? By changing it we still encourage best practices but hence, DOJ still has the discretion, if necessary, to audit randomly. "I think that's pretty fair."
- Member Considine said that audits are already done three to four times a year with CalGang.
- Member Montes asked if all law enforcement agencies are trained on this. Member Considine responded that whoever has access is trained.
- Member Montes said to make it clear that those who have access and input are trained. Member Cooper assured her that they receive in-depth training.
- Member Scaffiddi restated what the motion was; Change "shall" to "may" and that DOJ has the ability to audit.

MOTION: Member Scaffiddi motions to add the language. The motion was seconded by Member Montes. All other members present voted yes.

Referencing Member Vranicar’s comment regarding Article 3b:

- Mrs. Rivera stated that Member Vranicar’s suggestion seemed feasible but she didn’t want to speak for the panel.
- Member Cooper said peer audits used to be quarterly - four times a year. Now we (CGNAC) meet three times a year.
- Member Thornton said, “It’s a quality control thing. The sooner you find out if there is a problem, then the sooner you make it better. I like the idea of each quarter.” Member Cooper responded, “if you say quarterly, then it becomes mandatory that it’s done every four months.
- Member Nunez said that it should be calendared in every year.
- Mrs. Rivera asked if it could be at every CGNAC meeting.
- Member Nunez suggested every four months.
- Mrs. Rivera stated that the language could be, “at each CGNAC meeting, but at a minimum three times a year. Best practices would be to meet every four months.”

MOTION: Member Considine motions to change the language. The motion was seconded by Member Vranicar. Member Thornton opposes the motion. All other member present voted yes.

Referencing Member Vranicar’s comment regarding Article 3c:

- Mrs. Rivera stated that Member Vranicar would like to sync-up with the bi-annual.
- Member Vranicar said now we would have to change it to reflect the prior motion.
- Mrs. Rivera said she would wordsmith that to reflect the prior motion/section. It will mirror that section.

MOTION: Member Cooper motioned to mirror the above language. The motion was seconded by Member Montes. Member Thornton abstained. All other members present voted yes.

Referencing Member Montes’s comment regarding Article 4a:

- Member Montes suggested training should be given to all law enforcement who are actively inputting the information, not just those that access the database. Member Considine stated that whoever has access is trained.
- Mrs. Rivera said it could read, “Those Individuals who will be accessing and inputting information will have training.”
- Member Montes stated that she wants the language to be clear.
- Member Cooper said anyone who has access or is inputting information gets in-depth training.

MOTION: Member Montes motioned to change the language. Member Cooper seconds the motion. All other members present votes yes.

10. Afternoon Break

The Committee recessed at 1:40 PM, and reconvened at 2:00 PM.

11. Public Comment: The meeting was called to order at 2:00 PM and public comment began:

Melanie Ochoa - Ms. Ochoa wanted the focus to be on accuracy. The focus seems to be on justifying inclusion into the database. For instance, clothing should be stricken completely unless there are

external validations that clothes that individuals wear, that are categorized as gang attire, are likely to be associated with just gangs rather than just people. If anyone is wearing it, then they believe it is gang attire and they are a gang member. Gang areas, trusted informants, they are just used to check the box to justify inclusion into the database.

T. Williams – Community Activist: Mr. Williams stated that the gang database should be dissolved. It should be completely wiped out. The database was used to harass people. It's heavily policed, he believes he's in the database. You just have to be from a certain area. There should be some type of oversight – DOJ should have oversight. It's unfair. The police could be considered a gang. Something has to be done. There needs to be oversight.

Sean Garcia-Leys, Urban Peace Institute: First, he'd like to repeat what he said during public comment at the last meeting, which is that we have two sets of proposed regulations. One for CalGang and one for other shared gang databases. At this point it's still not clear what these other shared gang databases are and what these proposals would apply to. He would like to see some public presentation or discussion on the shared databases in a meaningful way that would get two questions about emerging technologies like Predictive Police software, laser program databases and software like that. Second, as far as the criteria, and I know the committee hasn't gotten to it yet; But the criteria as it exists right now, I think, is best described as a list of tools that police are able to use to quickly determine whether or not a suspicion of a gang member in the field. 186.36 says that criteria must be consistent with empirical research into gang membership and gang assistance. Mr. Hiestand's presentation was excellent. But one question I wanted to ask is; what the distinction between empirical research and legal research on police data? Because the empirical research is not easy to get through on what gang membership is, but to simply look to other jurisdictions presentation of their legal criteria is not the empirical research that 186.36 intended. I think the entire criteria needs to be struck and rewritten.

Member of Justice Coalition: Personally I've been affected by the gang database. Me and my friend were stopped by LA County Sheriff's Department while driving. His friend was on probation and was also registered in their gang database. They told me they were going to be put me in the gang database as a gang affiliate. They told his friend he was going to be with him. He was never notified that he was in the databases. It should be consolidated into one database so it is regulated better. Another friend, he did 19 years in prison because of confidential informants who said he was a gang member and it was found to be frivolous and he won 3 lawsuits against CDCR, against these confidential informants. There should be standards for informants. People should be taken off.

Paul – Justice Coalition: I've been 20 years in the system. Lived in an urban area. This was in the 90s. I was not a gang member. Because I was imported in this county, taken to ICE. Accurate database is important. Keep that in mind. Matter of process. We have a lot of suggestions.

Kim McGill – Justice Coalition: Thank you for the opportunity. We wanted to add that if law enforcement agencies misuse CalGang, their access should be blocked until they have additional training and oversight before regaining access. The agency that uses CalGang standards that the Node Administrator. With regard to user agencies, it can only be used for criminal investigation, not immigration investigations. Random audits, we believe strongly that they test the validity and that it should not just be done by law enforcement agencies. DOJ should also post data on the CalGang website like the total number of names removed from the system, granted access, and removed from

access. Anyone who uses the system and access the system should have training on the use of CalGang in addition that to give that additional history. There are two things on the criteria, one is that we believe one shared database and disband other database to maintain consistency, accuracy and fairness and not have all these other databases. AB 90 said known gang area was to be eliminated.

Jake - Youth Justice Coalition: To be in the gang area or affiliated in a gang member, a cop can do whatever they like. I don't believe just because you look at me and I'm with someone doesn't mean I am a gang member. I talk to a lot of people, I want to get around. I want to know everyone's situation and story. One day I was just coming home from the park. A cop asked me where I dropped the gun at? Where do you live at? I was just playing basketball with a friend. The cop told me to watch out, that there was someone out here doing the same thing. Robbing, etc. That is racist. I don't care how I look, how I dress, you shouldn't judge me how I am.

Christopher Sanchez– Coalition representing Immigrant Families: Our comments and concerns are with the sharing of information is very severe to immigration. Considered a gang member. The sharing is a crucial part. The sharing is solely for law enforcement agencies, not immigration purposes. Some of the discussion we had how large a query and would that be considered sharing. Could someone get caught up when you're providing that information to a federal law enforcement entity? So as try and do as best as possible. If an individual is wearing certain colors that the criteria is looked at, it's really important is re-looked at to make sure we are really focusing on those individuals that are documented gang members. CalGang can be an effective tool for law enforcement agencies.

Lim Tu – UCLA Law: I'd like to know how these regulations will affect the LAPD's use of the private company, Palenteer. I was doing research and I am hoping they will regulate those companies as well.

Sergeant Grant – San Bernardino County Sheriff's Department: All of this made me reflect on my career as a deputy sheriff and I thought I would share my experience with a tool like this. I remember as a new guy on patrol in the coming months and years, we would find the same monikers and the same monikers at crime scenes and in people's houses, on their cars. When those same monikers started showing up at homicide scenes and things like that. But I have seen that impact, the one thing that I never hear about is that we never hear about the victims, and the impact on victims. Gangs and gang crime is real, and we don't hear about the victims of these crimes. Consider the victims. In my experience this database is a tool that helps people and it helps families.

Marisa Hernandez – San Bernardino SD: I'd like to read to you some examples of success stories from using the database. We had a homicide and were looking for a person of interest. The only known factors at the time were tattoos and monikers. We utilized the database and we were able to identify the subject. We have an assault on a deputy and the only known factors there were a large tattoo on this person's stomach. That person was identified and later arrested. We have an attempted homicide and the only factors were a large tattoo on their back and that suspect was later identified and later arrested. The victim was stabbed 7 times. We had another homicide, the database was used to identify the suspect and she was arrested. There was a threat, a gang member was threatening to shoot another gang member via social media, the only known information on that particular gang member. We had another gang member that was claiming to run a specific area. Other gang members within that gang, checked with another member in prison. He said that wasn't true and he ordered an assault on that gang member. We were able to go out and find that other member so he wasn't assaulted by the rest

of the gang. We do use this database on a regular basis to, not only help victims, but also other gang members.

Janel Reed – Riverside PD: I also have a success story. On 12/30/2017, the San Bernardino Police Department notified the Riverside Police of two victims of carjacking and kidnapping. The two victims were sitting in their car in Riverside. They were contacted by two hooded suspects who pistol whipped and robbed them. The two suspects then forced them into their own car at gun point and drove them to San Bernardino where they were going to use the victim's car in other criminal activity and make the victims withdraw money their accounts via ATM. When the suspects pulled into a parking lot, the victims ran from the vehicle and were able to escape. They called the San Bernardino Police Department who contacted the Riverside Police Department. Our PD Gang Detectives contacted the victims and based on the victim's statements and the area the suspects drove the victims to, it was determined the suspects were gang members. The victims had general descriptions of the suspects but said one had a distinct tattoo. They contacted agencies in that area that document that specific gang. Approximately three weeks later the first suspect was identified and then the second. Both members were documented in the CalGang database.

Jonathan Feldman – Lobbyist for the California Police Chiefs Association: Some of us in this room negotiated this language as we went through the legislative process last year. There were two Bills; AB 90 and SB 505. The negotiations included law enforcement, not just police chiefs, but DA's, sheriffs, and rank and file, a bunch of the representatives here, the legislature and the governor's office. Everything that was in this bill that ended up for you guys to draft regulations off of was determined through those very detailed negotiations. We talked about sharing information with federal law enforcement partners. Originally the language was much stronger. That was taken out of the bill because the Governor would not sign it with that in there. We talked about this applying to other gang databases. That was eliminated as soon as we put in. This does apply to all shared gang databases, not just CalGang. So we can't create another shared gang database to get around this. This is going to apply to any gang databases that we share, from department to department, agency to agency. That's what was decided. That's what the legislature agreed upon, that's what we all agreed upon. We already went through that last year, you can't undo those negotiations unless you want to go back to the legislature and back to the Governor. The front end was a re-write of AB 2298. They re-wrote almost all of AB 2298. If you want to know why it was rewritten, please reach out to judicial counsel. Again, everything in this bill was discussed in detail with all of our groups. Please stick to what the agreement was as you go through these regulations.

Public comment concluded at 2:29 PM

12. Resume drafting the regulations

Chairperson Nunez – There is a reason why we are here. There is something that is wrong with the database. I agree this is a fair and accurate database, it just seems to me that we are going to have to discuss them. I don't use this tool often. It is important to ask questions. It's the only way we can vote on things. We have a job to do.

Referencing Member Montes's comment on Article 4e:

- Member Montes feels that the training should also include trauma, racial bias, etc. She feels it would be great to include non-law enforcement actors as part of this training and also to promote transparency and community building.
- Member Nunez stated that this was a great idea. "I think that folks that have been impacted by the database should be included in the training."
- Member Vranicar said there could be problems with having individuals being trained on how to access and input into the system. You're talking about a law enforcement intelligence database. Are you envisioning a separate module of training for law enforcement on what is essentially rebook-type information?
- Member Montes stated she thought it would be helpful for those that are inputting - it's necessary for those who are inputting this information that they are well-aware of racial bias and reason people join gangs.
- Member Considine stated, "You have to remember, this is may be a secretary inputting the information."
- Member Cooper added that there is ongoing training. Member Considine said that training is about entering data. The person is looking for missing info, not determining the criteria. He/She can't change anything. Member Montes felt that this was the difficulty with this.
- Member Cooper said when you are trained, you are given examples of good documentation and bad documentation. The only way it (being in the database) affects you, is if you are doing crimes. It's consolidating and telling law enforcement to look in the right direction, it's all backed up by a document. It's not just "we think he is a gangster." It's all backed up and it's to point the investigator in the right direction. When we do training, it's all covered. You have to say whether it's a good FI or a bad FI. We have a training site where you can't mess anything up.
- Member Montes asked if the committee could see the training. Member Cooper replied, no, not the Intel. There is a policy and procedures. There is a PowerPoint and hands-on usage, certification tests you have to take. In the training you have to do the minimum criteria.
- Member Nunez felt that in order to achieve a fair and accurate gang database I think a level of training on the racial bias would be helpful. There is a history of racial profiling. It would also n create more transparency. Member Cooper replied, "We already have that type of training, it's not part of CalGang, and it's training we (Law Enforcement) are required to go through. Like firearms, driving, etc. Our department huge on it."
- Member Nunez – I would like to see more of the training. It's hard for us to vote on it when we don't see the training. It's a challenge.
- Member Cooper stated it was a place to house the information.
- Member Considine said if we run into a gang member on the street, we have to report it.
- Member Scaffiddi asked, "what about evaluating the deputy on the street? Labeling them as a pro-active deputy vs. non-pro-active. It shows your supervisor that you are doing something. There is an incentive that shows your supervisor you are checking things out. I do believe for law enforcement there is an incentive. The reward is this gang-card. I think you can never have too much training. We heard a lot of praise for the database. A lot of stories of how it hurts. Everyone has a right to say something. Never hurts to have more training. It can't hurt."

- Member Nunez said, “it is very important for people to know the impact on people’s lives.” Sometimes that gang labeling is very subjective. And it does affect people, and it does promote a home to prison pipe-line. I think these kinds of protocol and kinds of way to insulate for folks to believe that this is a fair and accurate database.
- Member Scafiddi stated he has great respect for law enforcement. “I believe I am the only person in this room who has worked as a gang cop, and has had people die in his arms and go out and arrest the gang member that did it. And now defend people accuses of gang violence.” He felt he has a unique perspective on this. I see both sides. I see the importance of the gang database and he understands the due process and the full picture of justice of the people that get caught up in the database that shouldn’t be there. “Going back to the original comment, I get that it’s just inputting information but redundancy training on complicit bias it not bad.”
- Member Nunez stated he knows our chief is trying to get transparency. He doesn’t think it’s a lot to ask. Member Considine asked how Sammy would you do that
- Member Scafiddi stated maybe training modules. Some amount of time for that redundancy training. A percentage of time in the program, it can be done so that it is segregated and no sensitive information is used.
- Member Cooper felt that it goes back to the question of how people are impacted..unless they are doing criminal activities. It doesn’t stop them from getting a job, etc. “I understand with implicit bias that we get the training, we do the online training, in-person training. To incorporate it into training for how to narrow down your potential field of potential suspects for a crime, to incorporate implicit bias training into that, I don’t think that’s the proper place.”
- Member Scafiddi felt that sometimes it’s just good public policy. It’s for the greater good. More at ease. More transparency. Sometimes it’s just about that. Good public policy.
- Member Nunez asked DOJ what the process was if the Committee couldn’t reach an agreement on this. We’ll have to come back to this, right?
- Mrs. Rivera said we would just need a motion to table it for the next meeting.
- Member Nunez said we could motion to add implicit bias training.

MOTION: Member Montes motioned to add the implicit bias training. Member Scafiddi seconded the motion.

NOT APPROVED: Member Nunez also voted yes. Members Cooper, Thornton, Considine, Gardner and Vranicar all opposed. The vote was against adding implicit bias training.

Package 2

Referencing Article 2b:

Mrs. Rivera stated that they are still researching this.

Referencing Article 2c:

- Member Montes would like a further definition of what access includes. “That’s why I gave those as examples, transfer, print or share bulk data.”

- Member Vranicar asked what is meant by “bulk data.” I know that in the discussions we had, there was a lot of discussion with respect of this concept of bulk data, but it was never fully explored or explained.
- Member Montes said she thought it was one law enforcement agency asking another, “Just give me every single member of this specific gang or clique.”
- Member Vranicar said that the issue was if they are an authorized user and were entitled to this information, because they are conducting an investigation with respect to that gang, perhaps I don’t necessarily see a situation where they would need all of that. If it’s for a law enforcement purpose, I don’t see what the harm.
- Member Montes said if it was put in the sense that “sharing bulk data is permitted if used in a criminal intelligence purpose.”
- Member Cooper stated we don’t give it out to anybody unless they are doing a criminal investigation.
- Member Montes asked if we can say that specifically.
- Member Considine said the bylaws already state that
- Member Cooper stated it is locked down. It’s extremely limited. Can we just say that access to the information is for criminal investigation?
- Member Montes said that if that’s already the case then we can include it.
- Jaimie Tackett said that this stipulation may be better placed in Article 3, access. Or Article 11, information sharing. As opposed to it being a definition it would be more of a stipulation, it would still be included, just in a different section. Member Montes was agreeable.
- Mrs. Rivera stated we needed to define bulk data.
- Member Cooper asked if bulk data would be a membership list.
- Member Montes said, “so we could change it from bulk data to membership list? Can we put it there for a comment and think about it so we could come up with a better definition?”
- Mrs. Rivera asked if they were all in agreement that bulk data was only to be used for investigative purposes and then at the next rendition of the bill we will provide a definition.

MOTION: Member Montes motioned to add language with an understanding that it will be amended with a definition of bulk data. Member Considine seconded the motion. All members present voted yes.

Referencing Article 2d:

- Mrs. Rivera stated that she proposed two different definitions for the “right to know.” Someone may want to propose another definition? Member Montes prefers the second definition.
- Member Vranicar stated that the federal regulations that which govern law enforcement intelligence systems and they specify uses “need to know” and “right to know” as basis for accessing the information. CalGang operates under those guidelines. That was his point for making the comments. Right now CalGang is not subject to criminal history information and he’d be worried about doing it in that fashion.
- Mrs. Rivera said she would find the definition from 28 CFR and plug it in the next review package.

MOTION: Member Vranicar motioned that Mrs. Rivera look into 28CFR part 23 and get the definition posted for us and then we can review that. Member Scaffiddi seconded the motion. All other members present voted yes.

Referencing Article 2 d and e:

- Mrs. Rivera stated that this was the “right to know” and “need to know.”
- Member Cooper said that for “right to know” and “need to know” you must be law enforcement or an agent conducting a criminal investigation. Just combined the two. It’s pretty cut and dry.
- Member Nunez asked if this is the same as the previous motion. That Mrs. Rivera will look up the definition and get back. He asked since we already voted on this, we don’t need to vote again.
- Mrs. Rivera concurred.
- Member Montes wanted to make sure that it states that the only use was for criminal investigation and not used for immigration purposes.
- Member Vranicar also wanted the definition of law enforcement.
- Member Cooper said this would add an extra layer of protection.
- No motion necessary.

Referencing Article 2f:

- Mrs. Rivera stated that this has to do with criminal predicate. Member Montes felt that it seems to be a very low threshold and would like this to be a bit stronger in language. Member Thornton agreed, but didn’t have a replacement for it. Member Considine also agreed that the threshold was low.
- Mrs. Rivera will plug in the definition from 28 CFR therefor no motion is necessary.

Referencing Article 2g:

- Mrs. Rivera stated that we need to define “Reasonable Suspicion.”
- Ms. Tackett said we can just make it more specific, but we cannot change it. You can add on it, but you can’t take the definition and pick and choose what you want from it.
- Article is tabled.

Referencing Article 2i:

- Mrs. Rivera read the article and asked Member Cooper if he would like to add his comment into the end. Member Cooper wanted to make sure if someone misuses the information. He wants to make sure that’s covered.
- Member Thornton asked what happens if someone misuses the information. Member Cooper replied that if it’s a very minor thing like using the control button a bunch of times, which they aren’t supposed to, it gets captured and they are talked to. If there is anyone that misuses the information their access is suspended. The way the system is set up we can’t delete their account but basically they’re locked out and flagged, they don’t have access. It’s rare though.

MOTION: Member Vranicar motions to add language. Member Thornton seconds the motion. All other members present vote yes.

Referencing Article 2k:

- Mrs. Rivera read the article and comment. “Unique” means different from other criteria listed. Member Montes asked what would be unique. Member Cooper said that unique is basically that the person has one of the criteria is a tattoo, the other criteria is arrested for gang-related activity.
- Member Montes, “So it’s referring to the criteria?” Member Cooper confirmed.
- Member Thornton asked if two tattoos count as two unique criteria. Member Cooper replied no.
- Member Montes says we can come back to this Article. She just wanted clarification.

Referencing Article 2l:

- Member Cooper thought that if we are going to allow a family member to be a “reliable informant” that it should be a parent, not a sibling. It should be an adult, guardian. He also felt that Law enforcement officer should qualify because they have a lot of expertise that we would be excluding if we removed them.
- Member Montes would like law enforcement to be excluded from this. She recognizes the experience of Law Enforcement but “for transparency reasons, the fact that it’s law enforcement that’s placing you in the database and then they get to categorize you..it’s probably not good.”
- Member Considine suggested maybe we can make it more general. Member Cooper said he doesn’t think it’s used very often as far as law enforcement, but not something we’d want to get rid of. It’s a good tool.
- Member Nunez asked what happens if they aren’t reliable. Member Cooper replied that the information isn’t used then.
- Member Thornton asked if someone is found to be unreliable, do you go back to other things they informed on? Member Cooper stated that “yes, we would go back and find whatever they informed on and then we deem it not reliable.”
- Member Nunez said he’s concerned that if you’re a young person that’s incarcerated and an informant says you’re a gang member, and then that is used as reliable information considering just their experience with them.
- Member Considine stated that there is more criteria that has to be used, tattoos, etc,
- Member Thornton asked if the PO would be the informant. Member Cooper replied yes. There is quality control. It is evaluated and looked at.
- Member Montes asked if the name of the informant is on the documentation. Member Considine stated that we have to verify the information. We are responsible for the information. We make sure it’s reliable. Member Cooper concurred and said that if it’s a confidential or protected informant because they are protected by 1040, 1041, then we just check the box that it’s reliable.
- Member Cooper stated that if we can’t divulge it then we drop the case. If it’s an informant either way, you’re letting someone know they are snitching. But that’s not used very often.
- Mrs. Rivera asked if the members wanted to table it for the next meeting.

Motion: Member Thornton motioned to table the article. Member Considine seconded the motion. All other members present voted yes.

Referencing Article 2m:

- Member Cooper stated that the subject of what a contact is, came up at their last meeting. You see a tattoo and then on social media may see a different thing, you can pretend to be anyone you want. What's the threshold on social media? Does it have to be a physical contact or will social media reviews suffice? We are asking for a legal opinion on that. Member Montes concurred that it would be helpful.

MOTION: Member Thornton motioned to table the article until legal opinion is given. Member Cooper seconded the motion. All other members present voted yes.

Referencing Article 2n:

- Member Montes wanted examples of agencies that qualified. Member Vranicar said Penal Code 13101 is the criminal justice database. CORI information. It defines who has access to rap sheets. Ms. Tackett read Penal Code 13101 which defined a "criminal justice agency." The term "criminal justice agency" stays in the article. No vote necessary.

Referencing Article 3b:

- Member Montes stated she would still like the definition for bulk data.
- Member Cooper stated this has to do with proxy requests. For example, law enforcement from Colorado calls up and they have a guy in custody from LA for robbery. They call to find out if we have any information on him. We would do a proxy search on behalf of this person in Colorado, state trooper for example. He said that's what is intended by this.
- Member Thornton asked if we track nation of origin. Member Cooper replied that CalGang doesn't track it, but it's an option. Place of birth is not mandatory. Member Montes replied that might be problematic but we can discuss that once we get the definition of bulk data.

Referencing Article 3c:

- Mrs. Rivera read the Article. Member Vranicar thought the reference was wrong in the article. 185.5 is the criminal profiteering section. Wasn't this reference meant to be 186.35?
- All agreed the reference was an error. Ms. Tackett will double check.

Referencing Article 3d:

- Mrs. Rivera read the Article and asked Member Cooper to provide us with an example.
- Member Cooper stated it was discussed at the previous meeting. Would this apply to the example I used in Sacramento with the 12 year old tagging? I used it as an example, I didn't give specifics. Member Nunez said he wasn't sure. Ms. Tackett felt if it was anecdotal as long as nothing specific is shared. She will check with our legal department.
- Member Nunez asked about the presentation today that Member Harvey was going to give, where he talked about himself and the implications of the database on himself, we can still talk about that? Is that okay? Member Vranicar felt that would be okay.
- No vote necessary. Checking with legal department.

Referencing Article 4(b)a:

- Member Montes feels that it's important to get an outside definition of gang member. Member Vranicar replied that it should be the definition of a "criminal" street gang so as defined by the penal code.
- Mrs. Rivera asked if the Committee should move to add another definition or if this is something Member Montes wants added to this sub-division. Member Montes said she just thinks it's important to understand the risk factors, the identifying factors of what makes an individual a gang member.
- Member Vranicar said, "when you're talking about training the users, the users have to understand what the definition is. They have to understand what the definition of criminal street gang from statute 186.22 to meet the criteria. In the audit, CalGang is required to indicate which of those are criminal street gangs. I think your concern is more addressed to the gang member." Member Montes replied that she was concerned with both.
- Member Nunez said that his concern is that there are folks that may be in the database that aren't gang members. They may just live in the neighborhood, go to school, etc. How does that person have control of their life? I feel sometimes mistakes happen. I would like, in my opinion, for folks to have some way -- People are not necessarily in a gang. It's not that they've done a crime. It's an association of who they hang with. I just want to make sure we are very careful with this.
- Member Montes is also worried about what an associate is because of family members, where they live, yet they may be classified as associates. Member Cooper said that for CalGang purposes, the definition of "associates" is someone whom we believe has not been jumped in yet, they are not a full-fledge member. They will still have to have an additional criteria with it that he's admitting. A member is someone who meets the criteria.
- Member Nunez asks if the associate would be in the database. Member Considine replies yes, as an associate.
- Member Vranicar said that AB 90 already indicates that individuals who are in the database that are in effect, if they are classified or designated as a suspected gang member, associate or affiliate in a shared gang database, then they can request removal. And throughout 186.34, 186.35 all of those references are to all three or four. Sometimes they use suspected gang member or gang member associate or affiliate. So it seem to me that any discussion relative to removing from the database, associates, affiliates, or others who are designated are not for this process under regulation, but for subsequent legislation.
- Member Cooper stated that we don't use the term "affiliate" anymore in the system. We might say this guy affiliates with this gang, but as far the level, it's either a member or associate.
- Member Thornton asked if there are boxes that are checked, for member or associate. Then if the associate box is checked you find out who is the member. I think the best case if someone self-identifies. How do people in the community identify a gang members?
- Member Montes said, "maybe we first need to define 'gang member' and what makes an 'associate.' It seems we are using the same criteria to define both. That seems to be problematic.'
- Member Nunez asked what the implications are if you are an associate or a member. In immigration the consequences are the same.

- Member Considine said there is a right to know, need to know
- Member Thornton said he only knows what he sees on police reports, that's where the frustration is. When someone runs a stop light, and that's the perspective. What's a gang member? What does the community think? He thinks this definition should be incorporated.
- Member Nunez said there are also varying levels of membership. There are folks that get caught up in there.
- Member Cooper said that as far as the system, it's an associate or member. That's it. There might be a note that says "he's the president of the hell's angels."
- Mrs. Rivera suggested that they talk at the next meeting to flush out some of these definitions.

MOTION: Member Thornton motioned to table definitions. Member Montes seconded the motion. All other members present voted yes.

12. Closing Remarks & Adjournment

Chairperson Nunez said that he enjoyed the discussions today. He appreciated the opportunity. "I can say I know people that are caught up in this database. I hope we do these regulations right the first time. Safe travels, Thank you everyone."

The meeting was adjourned at 4:12 p.m.

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