(OAL File No. Z2021-0628-01)

CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 19. RACIAL AND IDENTITY PROFILING ACT OF 2015
FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

On January 18, 2022, the Department of Justice (Department) published an Addendum to Initial Statement of Reasons to explain revisions to the modifications to these regulations as originally proposed and the reasons for those revisions. This addendum is incorporated by reference herein. In addition to the Addendum to Initial Statement of Reasons, because the Department made changes in its Second Modifications to the Proposed Rulemaking, the reasons and necessity for those changes are explained below.

Article 1. Definitions

Section 999.224, subd. (a)(16): The Department withdrew proposed language regarding the definition of "Reasonable Suspicion" providing that the witnessing of a crime can also form the basis for reasonable suspicion. But if an officer has probable cause to arrest, then they have reasonable suspicion to stop. Witnessing a crime is just one example, but not the only example. Removing the proposed language was necessary to avoid confusion and inadvertently narrowing the scope of the definition. The revised language also aligns with the legal definition that law enforcement is familiar with and will make it clear when to select this data value.

Article 3. Data Elements To Be Reported

Section 999.224, subd. (a)(2): The Department added language describing other contexts of a Pedestrian Stop. This was necessary to distinguish when a Vehicular Stop or a Pedestrian Stop would be selected as the appropriate data element. Describing that a Pedestrian Stop includes when the person stopped is a passenger on a bus or train was needed because some individuals might think a Vehicular Stop would have applied in that situation.

Section 999.224, subd. (a)(4): This subdivision was non-substantively revised to clearly indicate the numbering.

Section 999.224, subd. (a)(14)(A)1: The Department deleted the reference to the Vehicle Code and made the reference more broad by revising it to just code section. This is necessary because there are some traffic violations in codes other than the Vehicle Code.

Section 999.224, subd. (a)(14)(A)3: The Department deleted the clause "if known to the officer" for consistency with a prior revision in the previous paragraph 2 for the reasons stated in the Addendum to Initial Statement of Reasons.

Section 999.224, subd. (a)(15)(B)10: The Department revised the previous phrase of "pat search/frisk" to "*Terry v. Ohio* frisk/pat search" for consistency since "pat search/frisk" was not

used elsewhere and to conform to the use of the defined phrase "*Terry v. Ohio* frisk/pat search." This revision was necessary to ensure accuracy and consistency of data. The data value "Search of person was conducted" should not be selected by a police officer when a "*Terry v. Ohio* frisk/pat search" was conducted.

Section 999.224, subd. (a)(15)(C)2: The Department added exemplary language of how a law enforcement officer may have learned of the search condition. The Department also made revisions so that officers are required to describe how they learned of the search condition, in the existing narrative field, when the basis for a search is "Condition of parole/probation/PRCS/mandatory supervision." This change is necessary to evaluate whether certain groups are searched on the assumption that they are on parole, probation, PRCS, or mandatory supervision, which might mask other potential racial and identity profiling for the stop. This change will allow the data to be evaluated, and effect any necessary policy change recommendations, if needed.

Section 999.224, subd. (a)(16) and (16)(A)2: The Department non-substantively added a hyphen in "Force-Related," which was necessary to conform to the other uses of it in the proposed regulations. In (16)(A)2, the Department added "hitting or kicking the individual" as an example of use of physical compliance tactics and techniques by a law enforcement officer. Providing these additional examples are necessary because these tactics are sometimes used by law enforcement officers to control a person's resistance.

Section 999.224, subd. (a)(21) and (22): These two data values were revised to clarify that only the applicable data values should be selected for an officer's identified race or gender, respectively. This drafting error correction was necessary because without this change officers may have selected all of the data values, which would skew the data analysis and make it difficult to determine if an officer's identified race or gender impacted any stops or actions taken.

Article 4. Reporting Requirements

Section 999.227, subd. (d)(E) proposed (2) and example 1.: In response to comments, the Department deleted the proposed (2) and example 1. This deletion was necessary because it conflicted with other provisions of the regulations and the benefit of the data collected did not outweigh the cost, time, and impact on public safety if law enforcement officers were required to complete a stop data entry in such situations.

Section 999.227, subd. (e)(4)(D): The Department revised this provision to reflect the separation of the "Actions Taken by Officer During Stop" data element into two separate data elements "Non-Force-Related Actions Taken By Office During Stop" and "Force-Related Actions Taken By Office During Stop." This conforming revision was necessary to avoid confusion and inconsistent or incomplete reporting by law enforcement officers.

Article 5. Technical Specifications and Uniform Reporting Practices

Section 999.228, subd. (h)(3)(B): The Department revised this provision to specify that the security measures were required for the files containing Confidential Stop Data, and not just stop

data, which would be overly restrictive. This revision was necessary to distinguish between the two types of data because non-confidential stop data is subject to the Public Records Act and does not require the same protections and security measures, and would place an unnecessary requirement on stop data requestors.

Section 999.228, subd. (h)(7): The Department revised this provision to add a clause that the Confidential Stop Data Requestor is acknowledging certain conditions consistent with the regulations. This revision was necessary to give the Confidential Stop Data Requestors awareness of what they are acknowledging, and the parameters of such acknowledgments.

Section 999.228, subd. (h)(7)(A): The Department made the term Confidential Stop Data Requestor singular, rather than plural. This was necessary to conform to the use of "Confidential Stop Data Requestor" elsewhere and to conform to the verb agreement already used.

Section 999.228, subd. (h)(7)(C): The Department revised language in this provision to make clear that the requirements applied to those accessing Confidential Stop Data, rather than non-confidential stop data. This revision was necessary to clarify that the requirement does not apply to non-confidential stop data, which would be overly restrictive. The subdivision was also revised to delete the clause "through the DOJ." This deletion was necessary to correct grammar and syntax because Confidential Stop Data isn't accessed through the DOJ.

Section 999.228, subd. (h)(7)(E): The Department deleted the word "reasonable." The Department determined that including the word "reasonable" was unnecessary. The Confidential Stop Data Requestor and each Team Member have an obligation to protect the Confidential Stop Data from unauthorized access by taking appropriate precautions. Failure to comply with this obligation may result in loss of access to the data.

Section 999.228, subd. (h)(7)(G): The Department added a cross-reference to the provision describing the Non-Criminal Justice Security Requirements form. This addition was necessary to direct Confidential Stop Data Requestors to a more detailed description of the form.

Section 999.228, subd. (h)(7)(H): The Department deleted the phrase "involving unauthorized access" and defined the terms "security incident" and "breach." These revisions were necessary for Confidential Stop Data Requestors to know the types of events triggering their reporting obligations under the regulations. These definitions were also necessary for the Department to ensure that Confidential Stop Data is protected and secured from breaches or security incidents.

Section 999.228, subd. (h)(7)(I): The Department deleted the use of the word "certificate" and replaced it with the word "certification." This revision was necessary because the regulation does not prescribe a specific certificate form, only the act of certifying. Relatedly, the Department added language to require this certification be made under penalty of perjury. This addition was necessary to ensure that Confidential Stop Data Requestors not only certify that they have destroyed the data, but do so under penalty of perjury. A certification under penalty of perjury helps emphasize the importance of the data destruction requirement by imposing criminal consequences for failing to do so. This addition also helps the Department protect the Confidential Stop Data by ensuring data is destroyed appropriately.

Section 999.228, subd. (h)(7)(J): The Department deleted the word "reasonable." Instead, the Department added a cross-reference to examples of appropriate precautions. Describing examples of appropriate precautions is necessary to safeguard personally identifying information and prevent re-identification. (See also Statewide Longitudinal Data Systems (SLDS) Technical Brief 3: Statistical Methods for Protective Personally Identifiable Information in Aggregate Reporting (NCES 2011-603).)

Section 999.228, subd. (h)(7)(K): The Department corrected the cross-reference. This correction was necessary to ensure Confidential Stop Data Requestors accurately acknowledge that failure to comply with the applicable conditions could result in a loss of access to data. Additionally, language was added describing the factors the Department will use when exercising its discretion to limit or end access to data. This addition was necessary to provide the Confidential Stop Data Requestors with notice of how the Department would use its discretion in determining an appropriate remedy in response to a violation of the regulations.

Section 999.228, subd. (h)(8): The Department corrected the cross-reference. This correction was necessary to ensure Confidential Stop Data Requestors know what information is required on an application and the consequences for failing to provide that information. Additionally, language was added describing the factors the Department would use in exercising its discretion to deny a Data Request Application. This addition was necessary to provide the Confidential Stop Data Requestors notice of why the Department would deny a Data Request Application.

Section 999.228, subd. (h)(9)(I)3: The Department added a cross-reference. This addition was necessary to better inform the Confidential Stop Data Requestor and Team Members when loss of access to data may occur.

Section 999.228, subd. (h)(9)(I)4-5: The Department nonsubstantively revised the numbering.

Section 999.228, subd. (h)(9)(O) and originally proposed (Q): The Department deleted the previous (Q) and added "proposals" and "grants" to (O). The Department reevaluated the types of research material that it would consider when reviewing an application. It determined that endorsements and questionnaires would not assist the Department in reviewing an application's merits. It also determined that proposals and grants are more like the other formal approvals already listed, which can assist the Department in reviewing an application's merits. These changes were necessary to ensure that only information that assists the Department's review be submitted with an application. These changes were also necessary to help streamline the application process for Confidential Stop Data Requestors.

As a result of the deletion of the originally proposed (Q), the subsequent provisions were nonsubstantively renumbered.

Section 999.228, subd. (h)(9)(Q): The Department made revisions to the information required by the Confidential Stop Data Requestor when describing its security measures. The Department also added the requirement that the security measures comply with NIST 800-171, a well-known source setting the industry standard for security measures. These changes were necessary to

ensure that the Department can verify whether the Confidential Stop Data Requestor has the minimum security measures in place to help protect the Confidential Stop Data.

Section 999.228, subd. (h)(11): The Department clarified the renewal request process, including the timeframe when the Department would notify the Confidential Stop Data Requestor and when the Confidential Stop Data Requestor must complete the renewal process. This amendment was necessary for the Department and Confidential Stop Data Requestors to understand the obligations of each in the renewal process and the timing for the renewal process to be completed. An established timeframe for renewals will help avoid disruption to projects and research by informing the Confidential Stop Data Requestors of when they must complete the renewal process. It will also help protect individuals' information by allowing the Department to track the progress of research projects, and whether any other actions need to be taken as a result, such as ensuring the confidential data is destroyed.

Section 999.228, subd. (h)(12): The Department deleted the word "reasonable." Instead, the Department provided examples of the types of precautions that may be taken to prevent re-identification. Providing examples was necessary safeguard personally identifying information and to assist Confidential Stop Data Requestors ensure individuals are not re-identified. The Department also specified that confidential information or personally identifying information refers to Confidential Stop Data, not stop data more broadly. This revision was necessary to ensure that these provisions are not overly restrictive by applying to non-confidential stop data.

Section 999.228, subd. (h)(13): The Department revised this provision to use the defined terms "security incident" and "breach." These changes were necessary to conform to previous revisions and to accurately describe what actions the Confidential Stop Data Requestor must take when a security incident or breach occurs. The Department also replaced the term "Personal Identifying Information" with "Confidential Stop Data" to conform to use of this defined term throughout the regulations. This change was necessary because Confidential Stop Data encompasses Personal Identifying Information, as well as other information, and it is necessary to protect all of the information described as Confidential Stop Data. The Department also nonsubstantively added "is," which was necessary for grammatical purposes.

Section 999.228, subd. (h)(14): The Department added the form numbers for the forms incorporated by reference in this provision. This was necessary to ensure that the forms are clearly identified.

Additionally, the Department revised the forms that are incorporated by reference. The Department revised the DOJRC Security Variance Form for Data Access Non-Compliance of Security Requirements (DOJRC 0001) (Orig. 07/2021) to delete "should be" in the introductory paragraph. This deletion was necessary so that requestors understand their obligation to completely fill out the form. On page 2, paragraph 3, the Department added language to make clear that if compliance would take longer than a year, then a renewal would be required. Relatedly, the Department revised language in the last box on page 3. The changes on page 3 also make clear that compliance could occur, for example, within three months from form submission, or for one year and, if not, then a renewal would be required. These changes were necessary to make clear that the Department would not allow non-compliance for longer than

one year and that compliance should occur as soon as possible, regardless of the one-year limit. Selecting a one-year timeframe aligns with other form submissions at the Department and helps protect the Confidential Stop Data by prohibiting Confidential Stop Data Requestors from being out of compliance with security requirements indefinitely without any tracking or oversight.

The Department revised page 3 of the DOJRC Researcher Data Access User Agreement (DOJRC 0002) (Orig. 07/2021). To make clear that the form was being used to confirm compliance with the security requirements listed on page 2, the Department added a cross-reference at the top of page 3. This addition was necessary for the Confidential Stop Data Requestors to accurately confirm compliance. It was also necessary to protect the Confidential Stop Data. The Department also deleted the requirement to confirm compliance with an email client. This deletion was necessary because the email client information is not a security requirement, rather it is information that could help the Department determine what security is already in place. Because compliance with the security requirements exists without needing to know the particular email client, the Department deleted this entry on the form. The Department revised the web browser requirements to better describe the applicable security requirements for web browser settings. This revision was necessary to protect the Confidential Stop Data by ensuring the web browsers are secure.

The Department revised paragraph 3.d. on page 2 of the the DOJRC Researcher Confidentiality and Non-Disclosure Agreement (DOJRC 0003) (Orig. 07/2021). The Department deleted two references to "should" and replaced them with "must." This was necessary to make clear that the duty to notify the Department when there is a security incident or breach is not optional. This change was also necessary to protect the Confidential Stop Data and ensure that appropriate steps are taken when there is a security incident or breach. The Department also made a non-substantive change to correct grammar and syntax by deleting "the DOJRC." This deletion was necessary for the sentence to read correctly, and for the Information Security Officer to know who to contact.

Section 999.228, subd. (h)(15): In two places in this provision, the Department deleted the word "certificate" and replaced it with the word "certification." This was necessary because the regulation does not prescribe a certificate form, only the act of certifying. Relatedly, the Department added language to require this certification be made under penalty of perjury. This addition was necessary to ensure that Confidential Stop Data Requestors not only certify that they have destroyed the data, but do so under penalty of perjury. Certification under penalty of perjury helps emphasize the importance of data destruction by imposing criminal consequences for failing to do so. This also helps the Department protect the Confidential Stop Data by ensuring data is destroyed appropriately.

Section 999.228, subd. (h)(15)6: The Department added "of the data destruction" to make clear that the names of witnesses refers to those who witnessed the data destruction. This addition was necessary to help the Confidential Stop Data Requestors know what information to provide in their certification of data destruction and allow the Department to confirm the Confidential Stop Data was destroyed by contacting the witnesses, if needed.

Section 999.228, subd. (h)(15)7: The Department replaced "in the research team" with "of the data destruction." This revision was necessary to make clear that the positions of the witnesses refers to those who witnessed the data destruction. This addition was necessary to help the Confidential Stop Data Requestors know what information to provide in their certification of data destruction and allow the Department to confirm the Confidential Stop Data was destroyed accurately by contacting the witnesses, if needed.

Section 999.228, subd. (h)(15)8: The Department added language describing the factors the Department will use in exercising its discretion to audit data destruction. This revision was necessary to provide the Confidential Stop Data Requestors with notice of how the Department would use its discretion in determining when to audit the data destruction.

Section 999.228, subd. (i): The Department added "Confidential Stop Data" to this subdivision. This addition was necessary because it is a defined term, and it is important for the Department to remind reporting agencies to protect Confidential Stop Data when they disclose stop data to the public.

In addition, the Department has made the following corrections and non-substantive changes for accuracy, consistency, and clarity.

CORRECTIONS AND NON-SUBSTANTIAL EDITS

A non-substantial change is one that clarifies without materially altering the requirements, rights, responsibilities, conditions or prescriptions contained in the original text. (Cal. Code Regs., tit. 1, § 40.) Changes without regulatory effect include renumbering or relocating a provision, revising structure, syntax, grammar or punctuation, and, subject to certain conditions, making a provision consistent with statute. (Cal. Code Regs., tit. 1, § 100.) The following minor additional issues were noted since publication of the Notice of Modifications to Proposed Rulemaking, Addendum to the Initial Statement of Reasons, and Second Modifications to the Proposed Rulemaking:

- Deletion of a colon after (14) in section 999.224, subd. (a)(14).
- Deletion of a colon from 1115 hours in section 999.226, subd. (a)(3)(C)4.
- Change from a period to a semi-colon for consistency in the list, in section 999.226, subd. (a)(4)(A)1.
- Deletion of a colon from 1115 hours in section 999.226, subd. (a)(3)(C)4.
- Indicating the deletion of the prior subdivision (J) more clearly for the publisher in section 999.226, subd. (a)(20).
- Deletion of a repetitive "required" and replacing two instances of "that" with "whether" in section 999.228, subd. (h)(8), which was necessary for proper grammar and syntax.
- Deleting "a," adding a plural "s" to "Research Purposes," and replacing "under these regulations" with the cross-reference for the definition in section 999.228, subd. (h)(8), which was necessary for proper grammar and syntax because the defined term is plural under the regulations and to avoid redundancy.
- Deletion of a comma after "formal" and before "proposals," which was necessary for proper grammar and syntax, in section 999.228, subd. (h)(9)(O).

SUMMARY OF COMMENTS AND DEPARTMENT RESPONSES

On July 9, 2021, the Notice of Proposed Rulemaking was published in the California Regulatory Notice Register, sent to interested parties, and posted on the Department's website, available at https://oag.ca.gov/ab953/regulations. The Department received 22 comment letters during the initial 56-day comment period.[1] At the public hearings held on August 20, 2021 and September 1, 2021, the Department heard comments from six individuals. A summary of each public comment received during this period and the Department's response are attached as Attachment A.

The Department then revised the proposed modifications to the regulations to implement several of the changes proposed during the initial 45-day public comment period and to add further clarity. The Proposed Text of Modified Regulations was revised on January 18, 2022, resulting in an additional 17-day public comment period that concluded on February 4, 2022.[2] The Department received 59 comment letters during this comment period. A summary of each public comment received during this period and the Department's response are attached as Attachment B.

The Department revised the proposed modifications to the regulations a second time to implement feedback received from the Office of Administrative Law, to add clarity, and to respond to some comments received during the prior public comment period. The Second Modifications to the Proposed Regulations were revised on May 25, 2022, with a 15-day comment period concluding on June 9, 2022. The Department received 7 comments during this comment period. A summary of each public comment received during this period and the Department's responses are attached as Attachment C. A list of all of the commentators is attached as Attachment D.

The First and Second Notice of Revisions to Proposed Modifications to Regulations were sent to interested parties and posted on the Department's website, available at https://oag.ca.gov/ab953/regulations.

LOCAL MANDATE DETERMINATION

The Department has determined that the proposed revisions to the existing regulations impose a reimbursable mandate on local government. City and county law enforcement agencies subject to the reporting requirements of Government Code section 12525.5 must provide officers with the means to collect the additional data elements and data values set forth in these proposed revised regulations (in addition to the requirements set forth in Government Code section 12525.5 itself). They must also obtain the necessary personnel and/or technology to report the required stop data to the Department. These provisions may require additional investments in technology and/or personnel time, as detailed in the Revised STD 399 and STD 399 Attachment A.

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[1] Government Code section 11346.4(a) requires at least 45 days for the public to comment on the adoption, amendment, or repeal of any regulation.

[2] Government Code section 11346.8(c) requires an agency to make publicly available for at least 15 days any substantive changes to the originally proposed regulations.

ALTERNATIVES DETERMINATION

In accordance with Government Code section 111346.9, subdivision (a)(4), the Department has determined that no alternative it considered, or that it otherwise identified, or was brought to its attention, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

This determination is based on the fact that the amendments to the regulations advance California's Racial and Identity Profiling Act of 2015 (RIPA) objectives. The benefits of the amendments build off of the benefits of the existing regulations by improving the quality of data that LEAs, the Board, advocates, academics and other members of the community can analyze. Improving the quality of the stop data can better reveal whether racial or identity profiling exists. This data is essential to understanding whether there are biases (either implicit or explicit) in law enforcement activities and collecting the data is an important first step in addressing these biases if they exist. If disparities are apparent, LEAs, the Board, and researchers can evaluate why those disparities are occurring—whether they are attributed to a systemic problem or a small percentage of officers—what, if any part of those disparities can be explained by legitimate policing activities, and what can and should be done to address the disparities observed. Indeed, high-quality stop data is not only invaluable to researchers and the public, but will also provide critical guidance to LEAs, particularly with respect to officer training, if the data suggests patterns of discriminatory treatment or biases.

ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

The Department determines that the proposed regulations do not adversely affect small businesses as the reporting requirements apply to law enforcement agencies.

FORMS AND DOCUMENTS INCORPORATED BY REFERENCE

1. DOJ Research Center (DOJRC) Security Variance Form for Data Access Non-Compliance of Security Requirements, DOJRC 0001 (Orig. July 2021)
2. DOJRC Researcher Confidentiality and Non-Disclosure (CND) Agreement, DOJRC 0003 (Orig. July 2021)
3. DOJRC Researcher Data Access User Agreement, DOJRC 0002 (Orig. July 2021)
4. National Institute of Standards and Technology (NIST) Special Publication 800-171, Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations, February 2020
5. National Institute of Standards and Technology (NIST) Special Publication 800-88 Revision 1, Guidelines for Media Sanitization, December 2014

The above forms and documents are incorporated by reference because it would be cumbersome, unduly expensive, or otherwise impractical to publish the forms in the California Code of

Regulations. During the rulemaking proceeding, the forms were made available upon request, and were available for viewing on the Department's website.

NON-DUPLICATION

The proposed revised regulations, sections 999.224, 999.225, 999.226, 999.227, and 999.228, in some instances, duplicate state statutes which are cited as "authority" or "reference" for the proposed regulation. This duplication is necessary to satisfy the "clarity" standard of Government Code section 11349.1, subdivision (a)(3).

PUBLIC COMMENTS RECEIVED DURING SECOND COMMENT PERIOD (JULY 9, 2021 – SEPTEMBER 3, 2021) AND CALIFORNIA DEPARTMENT OF JUSTICE RESPONSES

Section/Topic	Commenter (Batestamp/Page Number(s) – Comment Number)	Comment (summarized or quoted)	CA DOJ Response
§ 999.224(a)(12): Definition of Personally identifying information	Richard Hylton (002-003-01)	The comment objects to the proposed definition and exclusion of personally identifying information (PII) by noting that the definition and exclusion "offers a subterfuge for concealing narrative data and the reasons behind stops and searches" and "is in conflict with other state laws that mandates the disclosure of 'Personally identifying information' for persons who are cited and for those who cite them. It is similar for persons who are arrested and those who arrest them. To wit: a. Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person	No change has been made in response to this comment. Consistent with Government Code section 12525.5, subdivision (d) the Department proposed the definition of PII to encompass both personally identifiable information, badge number, and unique identifying information of the officer. Additionally, the Department based the exclusion of PII on the prohibitions for reporting and disclosure of PII under Government Code section 12525.5, subdivision (d). Moreover, the comment appears to quote from Government Code section 6254, subdivision (f)(1) of the Public Records Act which does not apply to the stop data collected pursuant to the Racial and Identity Profiling Act of 2015 (RIPA).

PUBLIC COMMENTS RECEIVED DURING SECOND COMMENT PERIOD (JULY 9, 2021 – SEPTEMBER 3, 2021) AND CALIFORNIA DEPARTMENT OF JUSTICE RESPONSES

Section/Topic	Commenter (Batestamp/Page Number(s) – Comment Number)	Comment (summarized or quoted)	CA DOJ Response
		involved in an investigation or would endanger the successful completion of the investigation or a related investigation: (1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds."	
	Richard Hylton (002-004-01)	The comment objects to the non-disclosure of PII, as far as	No change has been made in response to this comment. Government Code section 12525.5

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Section/Topic	Commenter (Batestamp/Page Number(s) – Comment Number)	Comment (summarized or quoted)	CA DOJ Response
		officer PII is concerned, and believes disclosure is dictated by SB 1421, which commenter states mandates disclosure of PII when an officer uses force that causes death or grievous bodily injury. The comment advocates for the disclosure of PII on the basis that SB 1421, as well as the broad sentiments of the CPRA, favor disclosure of PII.	subdivision (d) governs the disclosure of RIPA stop data and specifically prohibits the disclosure of officer's unique identifying information. Therefore, the comment is directed to issues with Racial and Identity Profiling Act, the governing statutory authority, and not these regulations. (*See* Gov. Code,§ 12525.5, subd. (d).)
§ 999.224(a)(14): Definition of Probable Cause to Arrest or Search	ACLU of Northern California, ACLU of Southern California, ACLU of San Diego and Imperial Counties, and ACLU California Action[1] (007-01)	"[W]e would recommend including language that makes it clear that probable cause must be justified by greater proof than reasonable suspicion."	The Department accepts this comment. Also, in response to other comments, the Department has created two separate definitions—one for Probable Cause to Arrest and the other for Probable Cause to Search—both of which include language stating that probable cause requires a higher standard of proof than reasonable suspicion.

[1] Hereafter, these commentators are referred collectively as the "ACLU."

PUBLIC COMMENTS RECEIVED DURING SECOND COMMENT PERIOD (JULY 9, 2021 – SEPTEMBER 3, 2021) AND CALIFORNIA DEPARTMENT OF JUSTICE RESPONSES

Section/Topic	Commenter (Batestamp/Page Number(s) – Comment Number)	Comment (summarized or quoted)	CA DOJ Response
	The San Francisco Department of Police Accountability (059-01)	"We ask that the CAL DOJ consider disaggregating the definition of 'Probable cause to arrest or search,' and providing definitions for 'probable cause to arrest' and 'probable cause to search.' While they both require the same level of suspicion and are evaluated by the totality of the circumstances, they share some important differences. . . . By aggregating the definitions, we are losing out on valuable information that points to the officer's justification in "Reason for Stop."	The Department accepts this comment and has created two separate definitions—one for "Probable Cause to Arrest" and the other for "Probable Cause to Search." As noted in the Addendum to the Initial Statement of Reasons (ISOR) at page 2, these two definitions provide more detail as to the types of circumstances that would trigger probable cause to arrest and probable cause to search.
§ 999.224(a)(16) (formerly § 999.224(a)(15) originally noticed text): Definition of Reasonable Suspicion	ACLU (007-01)	"[W]e would recommend including language that makes it clear that probable cause must be justified by greater proof than reasonable suspicion."	The Department accepts this comment and revised the definition. The definition of "reasonable suspicion" now includes language stating that reasonable suspicion requires a lesser standard of proof than probable cause to arrest or search. In response to other comments, the Department has also created two separate definitions—one for "Probable Cause to Arrest" and the other for "Probable Cause to Search"—both of which include language stating that probable cause

PUBLIC COMMENTS RECEIVED DURING SECOND COMMENT PERIOD (JULY 9, 2021 – SEPTEMBER 3, 2021) AND CALIFORNIA DEPARTMENT OF JUSTICE RESPONSES

Section/Topic	Commenter (Batestamp/Page Number(s) – Comment Number)	Comment (summarized or quoted)	CA DOJ Response
			requires a higher standard of proof than reasonable suspicion.
§ 999.224(a)(25) (formerly § 999.224(a)(24) in originally noticed text): Definition of Welfare check or community caretaking function	Lt. Scott Meadows (001-01)	"Example (A) is incorrect. Pursuant to 5150 WIC, officers may detain people who are a danger to themselves or others."	For clarity, the Department replaced this example with one that involves a more common scenario regarding officer welfare checks. This new example is consistent with the proposed definition of a "Welfare or wellness check or community caretaking function."
	Lt. Scott Meadows (001-02)	"Example (B) should read 'in public' instead of 'on the street; because 'on the Street' implies that they are actually in the street in a traffic lane (which could amount to a traffic violation or crime)."	No change has been made in response to this comment. The Department has determined that the example is consistent with the proposed definition of a "Welfare or wellness check or community caretaking function."
	Richard Hylton (029-02)	The comment recommended that welfare check or community caretaking should be added as a data value under "Reason for Stop."	No change has been made to this comment. The Department determined that adding welfare check or community caretaking as a data value under "Reason for Stop" is inconsistent with the Department's determination that this type of interaction is not in and of itself a basis for a stop. The Department determined that this type of interaction must be captured through the use of a separate data element and that officers are still

PUBLIC COMMENTS RECEIVED DURING SECOND COMMENT PERIOD (JULY 9, 2021 – SEPTEMBER 3, 2021) AND CALIFORNIA DEPARTMENT OF JUSTICE RESPONSES

Section/Topic	Commenter (Batestamp/Page Number(s) – Comment Number)	Comment (summarized or quoted)	CA DOJ Response
			required, under the "Reason for Stop" data element, to provide the basis for why the person was detained, as defined in the regulations, or searched.
	Richard Hylton (029-030-03)	"If it is true that a Welfare check may not be used as the basis for initiating a detention or search, a system validation must be created to invalidate 'Welfare check or community caretaking function' entries where they have the following accompanying values. Suspicion Type =1 'Officer witnessed commission of a crime' or Suspicion Type =9 'Other reasonable suspicion of a crime.'"	No change has been made in response to this comment. The functionality of the Department of Justice's data validation system is a technical component that is outside the scope of these regulations. California Code of Regulations, title 11, section 999.229 requires the Department to perform data validation to ensure data integrity, and requires each reporting agency to ensure that all data entered conforms to these regulations. Law enforcement agencies and the Department can voluntarily implement data validation functions to ensure the integrity of the data collection on this or any other data values.
§ 999.226(a)(2): Type of Stop	Richard Hylton (003-02)	The comment recommended that there should only be two types of stop, vehicular and non-vehicular. As a result of defining other types of stops, this data element may be "misleading," unnecessarily complex, produce ambiguity,	No change has been made in response to this comment. The Department has determined that having three categories of stops - vehicle, bicycle, or pedestrian – provides clarity and will streamline the data analysis process. These categories were incorporated into the regulations specifically because of recommendations made by the Racial and Identity Profiling Advisory Board. And, the

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		and "may produce data mayhem for legacy records."	examples further differentiate among the three types of stops, which helps avoid any complexity or ambiguity. Also, the Department has determined that for purposes of the Racial and Identity Profiling Act and data analysis, distinguishing between whether a person is stopped as a pedestrian or while riding a bicycle, rather than combining the two types of non-vehicular stops into one data element, will aid in determining whether the stop is based on racial bias.
	Center for Policing Equity (057-01; September 1, 2021 Hearing Transcript at 20:5-6); Racial and Identity Advisory Board (September 1, 2021 Hearing Transcript at 9:19-22)	The comment expressed support for this proposed data element.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

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§ 999.226(a)(3): Date, Time and Duration of Stop	Lt. Scott Meadows (001-03); ACLU (007-008-02); Racial and Identity Advisory Board (September 1, 2021 Hearing Transcript at 11:8-12)	The comment recommended that the Department not redefine when a stop ends to mean the time of booking because the time of booking varies widely, depending on various circumstances and thus, this end point could skew data analyses.	The Department accepts these comments and has revised the proposed end of a stop to mean when the person is "taken into physical custody and removed from the scene of the stop." This change is described in more detail in the Addendum to the ISOR at pages 3-4.
§ 999.226(a)(4): Location of Stop	Richard Hylton (031-05)	This comment states that because all that the CA-DOJ discloses is nearest City using the nearest city for the Veil of Darkness test is quite imprecise for accurate computations. The comment also stated that black and brown individuals are stopped more during the day, and sometime the disparities increase at night, too.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations. To the extent the comment disagrees with including the nearest city as a data value, the city or unincorporated area is reported along with one other data value, such as geographic coordinates, block number and street name, closest intersection, highway and closest highway exit.
	Chauncee Smith (from the Advancement Project)	The comment recommended that the Department reorder the data values under this data element so that the data value of "Geographic coordinates"	The Department accepts this comment and has re-ordered the data values under this data element with "Geographic coordinates" coming first in order of preference.

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	(September 1, 2021 Hearing Transcript at 14:22-15:20)	would be the first. The comment explained that "geographic coordinates would actually be the most practical and precise way to measure and track where law enforcement activities are occurring in relation to people stops."	
	Center for Policing Equity (057-02)	The comment expressed support for the proposals to permit officers to provide geographic coordinates and an unincorporated area as the Location of Stop.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.
§ 999.226(a)(5): Perceived Race or Ethnicity of Person Stopped	Richard Hylton (030-31-04)	"There must be an additional Race or Ethnicity Category. Please add the value 8. Multiracial." "CA-DOJ's Open Data Downloadables define value 8 as multiracial. That value does not exist in the AB953 Data Dictionary. Otherwise mayhem rules, as it has, to some extent.	No change has been made in response to this comment. The existing regulations require officers to select "all" of the data values that apply. Given this requirement anyone is able to conduct data analyses of stops of individuals perceived to have two or more races or ethnicities and thus an additional data value of "multiracial" is unnecessary. Additionally, the data dictionary is designed to ensure "uniform and complete reporting of stop

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		My only comment on this is that the CA-DOJ leverages the following section to the hilt, so as not to disclose the data."	data." (Cal. Code Regs., tit. 11, § 999.228, subd. (g).) Because "multi-racial" is not an existing data value under Perceived Race or Ethnicity of the Person Stopped, adding "Multiracial" to the data dictionary would not advance the goal of uniform reporting of stop data. While the reference to "multiracial" may appear in mandatory annual reports of the RIPA board, the Department has determined that adding this reference as a data value at the fact gathering stage will not aid in the collection of stop data or data analysis.
§ 999.226(a)(6): Perceived Gender of Person Stopped; § 999.226(a)(7): Perceived Sexual Orientation of the Person Stopped	ACLU (008-009-03); The Advancement Project (027-28-03); Racial and Identity Advisory Board (September 1, 2021 Hearing Transcript at 9:18-19); Chauncee Smith (from the	The comments expressed support for the proposed updated data values within this data element.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

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	Advancement Project) (September 1, 2021 Hearing Transcript at 14:17-21); Center for Policing Equity (September 1, 2021 Hearing Transcript at 20:5-11)		
§ 999.226(a)(11): Person Stopped Perceived to be Unhoused	ACLU (009-011-04); The Advancement Project (027-02); The National Homelessness Law Center (053-54-01); Center for Policing Equity (057-03; September 1, 2021 Hearing Transcript at 20:5-8); Racial	The comments expressed support for this proposed data element.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

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	and Identity Advisory Board (September 1, 2021 Hearing Transcript at 9:22-23); Chauncee Smith (from the Advancement Project) (September 1, 2021 Hearing Transcript at 14:4-16)		
§ 999.226(a)(12): Stop Made in Response to a Call for Service	ACLU (011-012-05); Racial and Identity Advisory Board (September 1, 2021 Hearing Transcript at 10:7-13)	The comment recommended that this data element and the data element, "Stop Made During the Course of Performing a Welfare Check or an Officer's Community Caretaking Function," make clear that the two are not mutually exclusive and that a call for service, welfare check, or an officer's community	The Department accepts these comments in part. The Department added language indicating that this data element is not mutually exclusive with the data element, "Stop Made During the Course of Performing a Welfare Check or an Officer's Community Caretaking Function." The Department did not make any change in response to the comment that it add language that a call for service alone does not justify a stop because the proposed explanatory language already

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		caretaking function do not alone justify a stop.	addresses this issue and states that a "call for service is not a reason for stop."
	ACLU (012-06)	The comment recommended that the regulations require a dedicated narrative field for this data element that would allow an officer to describe the conditions that led to the encounter with the stopped individual.	No change has been made in response to this comment. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that requiring officers to provide a narrative in a dedicated narrative field for this data element was not necessary to include at this time.
	ACLU (012-07)	The comment recommended that the data element title be changed to "Stop Made During the Course of Responding to a Call for Service."	The Department accepts this comment and revised the title of this data element.
	Center for Policing Equity (057-04)	The comment expressed support for this existing data element.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.
§ 999.226(a)(13): Stop Made During the Course of Performing a Welfare Check or an	ACLU (011-012-05)	The comment recommended that the regulations make clear that this data element and the data element, "Stop Made in Response to a Call for Service,"	The Department accepts this comment. The Department added language indicating that this data element is not mutually exclusive with the data element, "Stop Made in Response to a Call for Service."

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Officer's Community Caretaking Function		are not mutually exclusive and that a call for service, welfare check, or an officer's community caretaking function do not alone justify a stop.	The Department added language stating that a welfare or wellness check or an officer's community caretaking function cannot be selected as a reason for a stop. The Department further notes that the existing proposed definition of "Welfare Check or Community Caretaking Function" states that a welfare check or community caretaking function "cannot serve as a basis for initiating a detention or search," which is consistent with the recommendation.
	ACLU (012-06); Racial and Identity Advisory Board (September 1, 2021 Hearing Transcript at 10:14-19)	The ACLU recommended that the regulations require a dedicated narrative field for this data element that would allow an officer to describe the conditions that led to the encounter with the stopped individual. The RIPA Board likewise recommended a dedicated narrative field but recommended that it be optional.	No change has been made in response to these comments. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that adding a dedicated narrative field for this data element was not necessary to include at this time.

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	Richard Hylton (021-01)	"RIPA Regulations require truthful reports, but the CA-DOJ compels false reports when the encounters are 'Welfare Checks' of the homeless. With the CA-DOJ supplied and compelled data-entry items, rotters do not need to concoct their own lies; no intentional attempts to hide anything, the CA-DOJ provides two, readymade."	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations. Although it is not fully clear, if the comment is suggesting that collecting data for "Welfare Checks" and the "Unhoused" is inconsistent or will result in false reports, the Department does not agree. Collecting this data will be helpful for analysis and to further the goals of RIPA. The Department has included the new data elements for the reasons set forth in the Initial Statement of Reasons.
§ 999.226(a)(14): Reason for Stop	Richard Hylton (021-02)	"For the unhoused, 'Consensual Encounter resulting in a Search' often metamorphose into, and are little different from, 'Consensual Encounter resulting in a beating' ..... " This "is what also happens in unreported Field Interviews, and in Welfare Checks that are falsely written-up as 'Consensual Encounter resulting in a Search' and/or 'Officer	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations. To the extent the comment objects to the data value "Consensual Encounter resulting in a Search" or requests the addition of another data value, the comment is outside the scope of this rulemaking because this existing data value was not modified during this rulemaking process.

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		observed commission of a crime;' CA-DOJ requirements both, and both false entries/reports."	
	Wesley Mukoyama (036-01)	The comment expressed support for the proposed updated data values within this data element.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.
§ 999.226(a)(15) : Non-Force Related Actions Taken by Officer During Stop	Richard Hylton (003-03)	The comment disagreed with the changes to this section and suggested that any new data elements should be added to the end of the list, rather than changing the numbering and order. The concern was that such revisions would create "data mayhem."	No change was made in response to this comment, and in response to other comments, the Department reorganized this section and renumbered accordingly. The Department disagrees that there would be any confusion with the data collected and instead anticipates that the new structure will streamline the reporting process. Additionally, the Department will be updating its RIPA training for officers to incorporate the changes.
§ 999.226(a)(15)(B)7 (formerly (a)(15)(B)21 in originally noticed text)	Racial and Identity Advisory Board (September 1, 2021 Hearing Transcript at 9:24-25)	The comment expressed support for proposed data value of "Asked whether the person is on parole, probation, PRCS, or some other form of mandatory supervision."	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.
	California State Sheriffs'	The comment recommended removing the proposed data	No change has been made in response to this comment. As noted in the ISOR at page 17, the

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	Association (056-04)	value of "Asked whether the person is on parole, probation, PRCS, or some other form of mandatory supervision." The comment explained that "[a]sking questions is not a detention."	Department proposed this data value so the RIPA Board may more readily track whether any characteristics of the stopped person, such as their perceived race or gender, informs an officer's decision to ask about their supervision status and in turn, whether the officer exercised their discretion to search a person based on their supervision status. These types of analyses enable the RIPA Board to serve its function of producing detailed findings regarding racial and identity profiling.
	The San Francisco Department of Police Accountability (059-02)	The comment expressed support for this proposed data value of "Asked whether the person is on parole, probation, PRCS, or some other form of mandatory supervision" and recommended that it include a box to record whether the person's supervision is subject to a search condition. The comment explained that this box would "give us several pieces of data that could help to assess whether there is implicit bias involved in an officer's decision to search.	No change has been made in response to this comment. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling.

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		If an individual is subject to a search condition, we can look at whether certain characteristics lead an officer to exercise that search condition or not. We could also assess whether people on probation/parole, but without search conditions, are subject to searches more than others."	
§ 999.226(a)(15)(B)9 (formerly (a)(15)(B)23 in originally noticed text)	Racial and Identity Advisory Board (September 1, 2021 Hearing Transcript at 11:1-4)	The comment recommended that the Department remove the reference to *Terry v. Ohio*" from the proposed data value of *"Terry v. Ohio* frisk/pat search of the person's outer clothing was conducted	No change has been made in response to this comment. The Department determined that the inclusion of the case name provides guidance to officers as to the type of search that this data value captures.
	Racial and Identity Advisory Board (September 1, 2021 Hearing Transcript at 11:4-7)	The comment recommended that the Department remove "Example B" from the proposed data value of *"Terry v. Ohio* frisk/pat search of the person's outer clothing was conducted."	The Department accepts this comment and has revised the example to describe a *Terry v. Ohio* pat search as well as a search of the stopped individual's person and to provide officers guidance about how to report a stop that involves both types of searches. In addition, the Department determined that the first example likewise is inconsistent with a *Terry*

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			v. Ohio frisk/pat search and has modified it by striking out language.
§ 999.226(a)(15)(B)16 (formerly (a)(15)(B)30 in originally noticed text)	California State Sheriffs' Association (056-05)	The comment recommended removing the proposed data value of "Asked for identification of stopped person's passenger." The comment explained that this goes "beyond the intent of RIPA. Names are asked of passengers even though they are not being detained."	No change has been made in response to this comment. As noted in the ISOR at page 18, the Department proposed this data value so that the RIPA Board may more readily track whether any characteristics of the stopped person, such as perceived race or gender, informs an officer's decision to ask for the identification of the stopped person's passenger who is also detained when the officer pulls over the driver. These types of analyses enable the RIPA Board to serve its function of producing detailed findings regarding racial and identity profiling.
§ 999.226(a)(16) (formerly § 999.226(a)(15) in originally noticed text): Force Related Actions Taken by Officer During Stop	Racial and Identity Advisory Board (September 1, 2021 Hearing Transcript at 10:1-6)	The comment recommended that the Department separate out use-of-force actions into a separate data element from the Actions Taken During Stop data element.	The Department accepts this comment and has separated the "Actions Taken by Officer During Stop" data element into two separate data elements, one that lists all actions unrelated to force and the other that lists all force-related actions.
	Racial and Identity Advisory Board (September 1, 2021 Hearing	The comment expressed support for the addition of additional force options within this data element.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

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	Transcript at 9:24-25)		
§ 999.226 (a)(16)(A)3 (formerly (a)(15)(B)7) in originally noticed text)	ACLU (012-08); Racial and Identity Advisory Board (September 1, 2021 Hearing Transcript at 10:20-25)	The ACLU recommended that this data element include a data value regarding the use of a canine for purposes of intimidation or compliance, but not actually deployed. The RIPA Board recommended that the Department wordsmith existing proposals to "make it clearer that [they] encompasses [sic] both using canine displays as a show of force as well as using canines to apprehend a person."	The Department accepts these comments in part. The Department revised the proposed data value of "Peace officer's canine deployed for purposes of apprehending a stopped person" to be "Peace officer's canine removed from patrol vehicle to gain compliance and/or for purposes of apprehending stopped person."
	Center for Policing Equity (057-05)	The comment expressed support for proposed data values that differentiate between different types of canine use.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.
(a)(16)(A)13 (formerly (a)(15)(B)16 in	California State Sheriffs' Association (055-03)	The comment recommended removing the proposed data value of "Baton or other impact weapon drawn" as a data value	No change has been made in response to this comment. As noted in the ISOR at pages 16-17, the Department proposed the data value of "Baton or other impact weapon drawn" (as well as the data

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originally noticed text)		under the existing data element of "Actions Taken by Officer During Stop." The comment noted that "[r]emoving a baton from one's ring is not a use of force as categorized by the Department of Justice. Batons are drawn to enter or exit vehicles; sit in chairs; use as a tool to sift property and/or serve as a general tool; in addition, batons are drawn as part of crowd control efforts."	value of "Baton or other impact weapon used to strike or prod") because the existing data value of "Baton or other impact weapon used" does not sufficiently differentiate between different uses of an impact weapon. While the drawing of a baton or impact weapon may have uses other than as a demonstration of force, the Department determined that it was necessary to track and analyze the use of batons as a threat of force and a use of force. During an encounter with an individual, an officer could draw an impact weapon (i.e. as a threat of the use of force) at which point a reasonable person would believe they are not free to leave, and thus detained. Therefore, tracking this type of action provides important context to a stop.

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(a)(16)(A)8, 11 and 13 (formerly (a)(15)(B)12, 14, and 16 in originally noticed text)	Center for Policing Equity (057-06)	The comment expressed support for proposed data values that require officers to report the pointing of electronic control devices, the pointing of impact projectiles, and the drawing of batons.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.
(a)(16)(A)9 (formerly (a)(15)(B)13 in originally noticed text)	The San Francisco Department of Police Accountability (060-03)	With respect to the proposed amended data value of "Electronic control device used (e.g., deploying the device, such as using the device in drive stun mode)," the comment recommended distinguishing between using or deploying an electronic control device in drive stun mode and using it in dart mode.	This comment was accepted in part. As described in the ISOR Addendum at pages 9-11, rather than revise the data value as recommended by the comment, the Department instead proposes separating this data value into two data values: "Electronic control device used in dart-mode" and "Electronic control device used in drive-stun mode." This revision is necessary because the two different modes of an electronic control device are deployed differently and have different impacts on the body.

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§ 999.226(a)(17) (formerly § 999.226(a)16 in originally noticed text): Result of Stop	Sgt. Andrew Tucker (006-01; August 20, 2021 Hearing Transcript at 10:24-11:3)	The comment recommended that this data element include the ability to indicate if a private person's arrest was made.	No change was made in response to this comment. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that this additional data value was not necessary to include at this time because Government Code section 12525.5 focuses on collecting data from stops made by state and local law enforcement agencies, and not private persons.
	Richard Hylton (015-20-01)	The Department construes this comment as recommending that officers complete a stop data entry anytime they conduct a field interview.	No change was made in response to this comment, which is interpreted as recommending that the Department require officers to complete a stop data entry anytime they conduct a field interview. Government Code section 12525.5 requires officers to report any interaction with a person involving a detention or search. Because Government Code section 12525.5 only requires a report where there is a detention or search, there may be situations where a field interview does not involve a detention or search, and thus, there is no statutory requirement to prepare a stop data entry in these situations.

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	Richard Hylton (033-01)	"Field Interviews document [neighborhood] sweeps. The person is not free to leave. Transit sweeps are akin [to neighborhood] sweeps and they too ought to be documented by Field [Interview] entries, since the person being fare checked cannot just walk away.	The Department construes this comment as recommending that officers document transit sweep interactions with field interview cards. No change has been made in response to this comment, which is interpreted to be a recommendation to individual law enforcement agencies' practices regarding field interview cards rather than a specific recommendation of any change to these regulations.
	Richard Hylton (September 1, 2021 Hearing Transcript at 16:25-18-15); Richard Hylton (033-035-02)	"So I find field-interview-documented sweeps as being similar to fare sweeps because there is a notion, an idea that somehow neither of those things are necessarily reportable. I believe that the controlling issue as far as RIPA is concerned is whether or not the person is free to leave. Because we propose that consensual encounters is an interaction in which the officer does not exert any authority over the person, no use of force, and the person is free to leave.	No change has been made in response to this comment. The Department agrees that an interaction where a person is not free to leave and where a field interview was completed must be reported as a stop for purposes of RIPA. However, the Department has determined that the appropriate way to address the concern raised by the comment is not through any regulatory change but through additional training so that officers are aware of their obligation to report under the circumstances described in the comment.

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		Now, what happens and continues to happen in San Diego is that there are some people who are of the school of thought that field interviews do not have to be reported. So you ask them the question: Was the person free to leave? And the answer is, "Well, no." That takes care of that. But yet the police department in San Diego has failed to report 4,500 field interviews, but reported 95,000 in the RIPA period through 21 January 1st of this year. It's a major problem, and it's a major problem that the DOJ needs to acknowledge and deal with. Because sitting behind each field interview, each stop that is resolved by a field interview are a group of actions taken. Those actions are, therefore, unreported too. It means that we have a data integrity problem. Better switch to the transit	

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		sweep. They're similar. There is a thought that the person who's being challenged on their paying the fare perhaps is not being detained. I ask the opposite question: Is the person free to go? If they're asking me have I paid the fare and I can walk away from them, obviously that does not have to be reported. But I dare say that if I'm challenged on the fare and I try to go, force will be used on me. So let us not continue down this road as though this is a debatable item, because it is not.	
§ 999.226(a)(20) (formerly § 999.226(a)(19) of originally noticed text): Type of Assignment of Officer	Center for Policing Equity (September 1, 2021 Hearing Transcript at 20:5-9)	The comment expressed support for this proposed data element.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

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§ 999.226(a)(21) (formerly § 999.226(a)(20) of the originally noticed text): Race or Ethnicity of Officer	California Highway Patrol (047-048-01); California State Sheriffs' Association (056-06); California Association of Highway Patrolmen (061-01)	The comments recommended removing this proposed data value. In making this recommendation, CHP explained that information gathered from this data element "could compromise [officer] safety, and is clearly contrary to the intent of the enabling legislation, the need to prohibit collection of this data in order to protect officer identity outweighs any interest in obtaining it for research purposes;" the California Association of Highway Patrolmen echoed the concern about re-identification.	No change has been made in response to these comments. As explained in the ISOR at page 21, the Department determined that this data element was necessary because it would enable the RIPA Board to serve its function of producing detailed findings on the past and current status of racial and identity profiling. This determination is informed by research that has observed links between the race and gender of an officer and the frequency and outcome of, and actions taken during, stops. The Legislature, through Government Code section 12525.5, subdivision (e), confers discretion on the Attorney General to promulgate regulations in order to implement the data collection required under the Racial and Identity Profiling Act of 2015. Specifically, the Attorney General has discretion to include additional data elements and to "specify all data to be reported." The Attorney General is authorized under the law to require officers to provide their race and gender with their stop data entries. The Department of Justice is cognizant of concerns surrounding the re-identification of officers and in the original regulations the Department

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			implemented protections to ensure the anonymity of officers as contemplated under Government Code section 12525.5, subdivision (d). (See, Cal. Code Regs., tit. 11, § 999.228, subd. (g).) Indeed, law enforcement agencies expressed these same concerns with respect to the collection of the data elements "type of assignment" and "years of experience" when the regulations where first published in 2017. To date, the Department is not aware of any situation where an officer has been re-identified by the stop data. Additionally, the existing regulations prohibit the Department from releasing an officer's unique identifying information unless the requestor meets certain criteria and does so pursuant to the Department's data security protocols, "which will ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity." (Cal. Code Regs., tit. 11, § 999.228, subd. (g).). In the Department's proposed regulations, the Department has developed a protocol designed to strengthen the data security protocols. The Department has determined that such requirements

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			and protocols would address the concerns raised about re-identification of officers for those types of requests.
§ 999.226(a)(22) (formerly § 999.226(a)(21) of the originally noticed text: Gender of Officer	California Highway Patrol (047-048-01); California Association of Highway Patrolmen (061-01)	The comments recommended removing this proposed data element. In making this recommendation, CHP explained that information gathered from this data element "could compromise [officer] safety, and is clearly contrary to the intent of the enabling legislation, the need to prohibit collection of this data in order to protect officer identity outweighs any interest in obtaining it for research purposes"; the California Association of Highway Patrolmen echoed the concern about re-identification.	No change has been made in response to these comments. As explained in the ISOR, the Department determined that this data element was necessary because it would enable the RIPA Board to serve its function of producing detailed findings on the past and current status of racial and identity profiling. This determination is informed by research that has observed links between the race and gender of an officer and the frequency and outcome of, and actions taken during, stops. The Legislature, through Government Code section 12525.5, subdivision (e), confers discretion on the Attorney General to promulgate regulations in order to implement the data collection required under the Racial and Identity Profiling Act of 2015. Specifically, the Attorney General has discretion to include additional data elements and to "specify all data to be reported." The Attorney General is authorized under the law to require officers to provide their race and gender with their stop data entries.

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			The Department of Justice is cognizant of concerns surrounding the re-identification of officers and in the original regulations the Department implemented protections to ensure the anonymity of officers as contemplated under Government Code section 12525.5, subdivision (d). (See, Cal. Code Regs., tit. 11, § 999.228, subd. (g).) Indeed, law enforcement agencies expressed these same concerns with respect to the collection of the data elements "type of assignment" and "years of experience" when the regulations where first published in 2017. To date, the Department is not aware of any situation where an officer has been re-identified by the stop data. Additionally, the existing regulations prohibit the Department from releasing an officer's unique identifying information unless the requestor meets certain criteria and does so pursuant to the Department's data security protocols, "which will ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity." (Cal. Code Regs., tit. 11, § 999.228, subd. (g).).

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			In the Department's proposed regulations, the Department has developed a protocol designed to strengthen the data security protocols. The Department has determined that such requirements and protocols would address the concerns about re-identification of officers for those types of requests.
§ 999.227 "General Reporting Requirements"	ACLU (012-09)	The comment requested an amendment so that officers would report the number of officers that responded to a stop.	No change has been made in response to this comment. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional categories of information were not necessary to include at this time because the value to the racial and identity profiling data does not outweigh the time and cost.
§ 999.227(d)(1)(D): Checkpoints or Roadblocks Exclusion	Richard Hylton (040-041-02)	The comment expressed opposition to this existing regulatory language.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

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§ 999.227(d)(1)(E): Transit Sweep Exclusion	ACLU (012-013-10); Advancement Project (026-027-01); Richard Hylton (032-01); Richard Hylton (040-01); Richard Hylton (041-046-03); Center for Policing Equity (058-07; September 1, 2021 Hearing Transcript at 20:12-21); Chauncee Smith (from the Advancement Project) (September 1, 2021 Hearing Transcript at 12:25-14:3); Richard Hylton	The comment recommended that the regulations not exclude transit sweeps from reporting obligations.	No change was made in response to these comments. Existing regulations require officers to report certain interactions only if the officer takes any action enumerated under the "Actions Taken During Stop By Officer" data element. (*See*, Cal Code of Regs., tit. 11, § 999.227(d)(1).) The Department added language that a transit sweep constitutes the type of search that would require officers to report only if they take specified enumerated actions under the Non-Force and Force Related Actions Taken By Officer data elements. By including transit sweeps in the enumerated list, the regulation provides guidance on when an officer would have to report stops made during the course of transit sweeps. The inclusion of transit sweeps in this list is consistent with the other types of interactions included in that category of interactions where individuals are not being detained based upon an individualized suspicion but rather a programmatic enforcement action. (*See*, Cal Code of Regs. tit. 11 § 999.227(d)(1).) In response to recommendations that the Department require all interactions that take place during the course of a transit sweep to be reported, no change was made in response. In drafting these

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	(September 1, 2021 Hearing Transcript at 16:15-18; 18:4-15)		amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional categories of information were not necessary to include at this time because the value of the data to examine racial and identity profiling, would not outweigh the technological costs and time.
	California State Sheriffs' Association (056-07)	The comment noted that this proposed amendment "has the potential of agencies resorting to removal of transit police which can potentially increase crime" and that [s]howing a train ticket is not a form of detention."	No change has been made in response to this comment. The Department interprets the comment as opposing a requirement that officers report every interaction made during a transit sweep. The proposed regulations already provide that such interactions are not to be reported unless officers take enumerated actions under the Non-Force and Force Related Actions Taken During Stop by Officer data elements. The Department's proposal thus addresses what it is interpreting as a concern that reporting every interaction during a transit sweep would be a burden on agencies' time and resources.
§ 999.227(d)(2): Programmatic search or seizure	California State Sheriffs'	The comment noted that this proposed amendment "will have an impact on court/facility/event	Accepted. The Department has deleted this proposed provision from the rulemaking proceeding. The Department also notes that under

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	Association (056-08)	checks where a search is conducted. This process will create barriers and delays since a RIPA data entry will have to take place for each individual. Private security may be utilized to work around this provision, however that could impact public safety standards and security."	existing regulations certain interactions, even if they otherwise meet the definition of "detention" set forth in this chapter, shall not be construed to be "detentions" and shall not be reported as stops. (Cal. Code Regs., tit. 11, § 999.227, subd. (c).). Those types of interactions include the following three categories: (1) Stops during public safety mass evacuations, including bomb threats, gas leaks, flooding, earthquakes and other similar critical incidents, are not subject to the reporting requirements of this chapter. (2) Stops during an active shooter incident, meaning an individual is actively engaged in killing or attempting to kill people in a populated area, are not subject to the reporting requirements of this chapter. (3) Stops that occur during or as a result of routine security screenings required of all persons to enter a building or special event, including metal detector screenings, including any secondary searches that result from that screening, are not subject to the reporting requirements of this chapter.

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§ 999.228(e): Reporting Responsibilities	Richard Hylton (031-06)	"There is or used to be a section that dealt with LEA warranties on the contents of Narrative fields. I found that section disingenuous. I am growing tired and cannot locate it just now. Anyway, the CA-DOJ has the duty to anonymize data. Errors happen. The CA-DOJ, and doubtless some LEAs, use "errors" to defeat disclosure of narrative contents. For that too, the CADOJ should be equally ashamed."	The Department interprets this comment as related to existing section 999.228(e), which designates law enforcement agencies as "solely responsible to ensure that neither personally identifiable information of the person stopped, nor any other information that is exempt from disclosure" is transmitted to the Department in the Location of Stop data element or in any of the explanatory fields. No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.
§ 999.228(h): Data Publication	ACLU (013-014-11)	"Given the likelihood that the submitted data will still contain information that the Department believes it should not generally disclose, we would recommend including a provision that allows disclosure of RIPA data containing personally identifying information or other	The Department accepts this comment and has revised the existing provision regarding disclosure of confidential stop data. The revised provision defines "Confidential Stop Data" to be "personally identifying information or the Officer's I.D. Number" and permits disclosure of this data for "Research Purposes," defined as "analysis of data to conduct a systematic investigation, including research development, testing, or evaluation, which

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		confidential information under the same terms that the Department may release an officer's unique identifier—i.e. if the use is to advance public policy or for scientific study and the publication of the data, analysis, or research will not result in disclosure of the confidential information. While this is implicit in the existing regulations that permit the release of "all stop data," it does not appear that the Department is applying that protocol to allow the release of other confidential information. Such a provision would also be consistent with other provisions of the California Public Records Act, which allow release of personal information, including the current addresses of arrestees and crime victims, if the information is to be used "for a scholarly, journalistic,	is designed to develop or contribute to (A) generalizable knowledge or (B) education on racial and identity profiling in law enforcement, as defined in subdivision (e) of Section 13519.4." Any member of the public may request and receive confidential stop data so long as they meet the definition of "Confidential Stop Data Requestor," which is an individual or entity that is "requesting disclosure of Confidential Stop Data for Research Purposes" and "has, and can maintain, security measures to prevent the unauthorized access of hard copies or electronic files containing stop data" as described in the revised regulations.

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		political, or governmental purpose." Gov. Code Sec. 6254(f)(3). The Department should adopt a similar approach to ensure that the public gets access to the important information about policing practices contained in all of the RIPA data fields, and information is not inappropriately withheld even if local agencies fail to exclude confidential information from certain fields."	
	Center for Civil Rights Remedies, of the Civil Rights Project at UCLA (049-052-01)	The comment recommends that the Department expand its existing requirement to report disaggregated statistical data for each reporting agency on the Department's OpenJustice website to require disaggregation of the student stop data by each school district. The comment requested the change in order to assist in school districts in how school	No change has been made in response to this comment. The posting of RIPA data on OpenJustice is done voluntarily and within the discretion of the Attorney General. Therefore, the Department has determined that this recommendation goes beyond the scope of RIPA. However, to the extent that the comment is requesting access to the data to evaluate school policing and students, there are other provisions in the proposed regulations to allow researchers to request the information, even if it is not posted on

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		policing impacts the civil rights of the students.	the Department's website. (See § 999.228(h) : Data Publication.)
§ 999.228(j) : Retention Period	California State Sheriffs' Association (056-09)	The comment noted that this provision will "have a fiscal impact should records have to be retained indefinitely in an additional format."	The Department accepts this comment and has deleted the following language: "Each reporting agency shall also indefinitely keep a record of the information found in its source data in some other format, such as a database or spreadsheets."
§ 999.229(b): Requirement that the Department perform data validation on stop data	Richard Hylton (022-01)	"The updated RIPA Regulations must require audits of actual vs reported data, and omissions must be corrected/submitted. Please note that I have limited my suggestions to omissions. When dealing with liars, one must avoid using the word 'errors' for they may use that word to go hog-wild to produce more of them."	No change has been made in response to this comment. The Department interprets this comment to request that the regulations include processes to investigate the stop data reported to ensure that the data selected by the officers was accurate and to develop a process to correct the data if warranted. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional processes were not necessary to include at this time because the benefits that may be realized from the processes, may not outweigh the costs and time associated with these processes nor are these additional processes required under statute. Law enforcement agencies and the Department can

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			voluntarily implement data validation functions to ensure the integrity of the data collection on this or any other data values.
	Richard Hylton (August 20, 2021 Hearing Transcript at 14:2-19)	"I'll move away to another matter that has been near and dear to me; namely, the representation from DOJ "[T]he representation from DOJ that it ensures the quality and the integrity of data. I would like to see that removed, removed in its entirety because it is not true. Now, at the beginning of this I was made to understand the CJIS people are here. Well, perhaps we ought to use them. I recall very clearly Charles Hughes – I think that was his name -- he made it quite clear to the lawyers amongst you that it is impossible to do what the DOJ represents that it does. He says there's no visibility to the data; therefore, the representation of integrity cannot be made. We have	No change has been made in response to this comment, which is interpreted to be an observation rather than a specific recommendation of any change to these regulations. To the extent this comment refers to statements made by the DOJ, such statements are outside the scope of these regulations. To the extent that the comment objects to the regulations on the grounds that they do not improve the integrity of the data collected, this comment is not specific enough to respond.

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		oodles of proof that that is so. So let us do that. Thank you. Meaning, remove the representation."	
General comments	Sgt. Andrew Tucker (006-02; August 20, 2021 Hearing Transcript at 11:17-12:7); California State Sheriffs' Association (055-01)	Tucker: "For all questions related to the officer's perception of a detained/searched person's characteristics, there should be an option for the officer to note if the perception was formed before or after the decision to initiate the stop." " . . . For instance, in a car stop, when you cannot see through the windows." California State Sheriffs' Association: "A data set that we would like to propose is the addition of whether the officer/deputy knew the race/ethnicity of the individual before a stop occurred."	No change was made in response to this comment. The Department has determined that these additional categories of information were not necessary to include at this time because the RIPA data collection governs the entire interaction of an individual with an officer. Whether the officer knew the person's racial or identity characteristics at the time the person was stopped may arguably have some value for a traffic stop, but it would not have any value with respect to the remainder of the interactions. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. Individual agencies are always free to collect additional data elements not required under the statute/regulations for their own purposes.

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	Sgt. Andrew Tucker (006-03; August 20, 2021 Hearing Transcript at 11:4-8); California Police Chiefs Association and California State Sheriffs' Association (024-01)	The comment recommended revisions to the data element for the residency of the stopped person be collected, including an option for unknown or adding a checkbox if the individual lives in the jurisdiction.	No change was made in response to these comments. The Department has determined that this additional data element not necessary to include at this time because collecting this data element is not germane to determining whether racial and identity profiling occurs in policing. The Racial and Identity Profiling Act seeks to identify whether there is racial or identity profiling based upon several enumerated protected classifications. (See Pen. Code, §13519.4.). Residency is not one of those classifications identified by the Legislature. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. Individual agencies are always free to collect additional data elements not required under the statute/regulations for their own purposes.
	Richard Hylton (August 20, 2021	In response to another oral comment recommending that	No change has been made in response to this comment, which is interpreted to be an observation

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	Hearing Transcript at 13:7-14:1);	the residency of the stopped person be collected, the comment notes that "[w]hile it is true that at certain times of day and at certain distances one cannot see the ethnicity of the person being stopped, it is perhaps more true that the location of the person being stopped tells you everything that you need to know. There are certain neighborhoods here in San Diego where the notion of the "veil of darkness" becomes meaningless because one can anticipate or make a fairly good guess of who's being stopped because of where the stop is occurring. And perhaps -- again, perhaps -- it is one of the arguments that can best be made against the veil of darkness and Officer Tucker's statement where the location of the person's residence can be meaningful."	rather than a specific recommendation of any change to these regulations.

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	California Police Chiefs Association and California State Sheriffs' Association (024-025-02)	"Question 14 on the stop data collection form requires an officer to check a variety of actions that occurred on a stop. The actions include searches, forms of detention and types of force used. After hearing from our professional colleagues, we believe that it is critical to create another set of data that allows the officer to articulate the subject's actions in a checklist format. The checklist should include no more than seven different actions an officer can select that describes the subject's actions that precipitated the officer's actions. Having this information will help researchers look for trends in the application of force which could lead to improved training and practices resulting in fewer use of force incidents."	No change has been made in response to this comment. In drafting these regulations, the Department has considered the burdens, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department agrees that this proposal could have value in that it could illuminate trends in uses of force that could lead to improved training. However, the Department will need to further evaluate the value of this proposal and may consider including it in future rulemaking, if the potential costs and associated burdens are outweighed by the value of the data to examine racial and identity profiling. Individual agencies are always free to collect additional data elements not required under the statute/regulations for their own purposes, and the Department would welcome receiving feedback from any agencies that may want to include these data elements/values.

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	California State Sheriffs' Association (055-02)	The comment recommended removing requirements for "brief explanations" throughout the regulations, noting that "[w]hile the regulations indicate not to use PII, there is a likelihood that narratives may contain some aspect of PII, which would result in additional supervisory staff time for reviewing / approving narratives. In addition, narratives deviate from the intent of RIPA transactions to be easily tabulated."	No change was made in response to this comment because the Department has determined that the open narrative fields are necessary to satisfy the statutory requirement that the officer record the reason for stop and basis for search. *See* Gov. Code, § 12525.5, subd. (b)); see also *Floyd v. City of New York* (SDNY 2013) 959 F. Supp. 2d 668, available at https://ccrjustice.org/sites/default/files/assets/Floyd-Remedy-Opinion-8-12-13.pdf., for a district court's discussion regarding why check boxes alone were insufficient to ascertain the reason for the stop and assess potential disparities, in the context of the City of New York's stop data collection program.) Moreover, requiring officers to give descriptive explanations for why they stopped a person, will help provide context to a stop and will help law enforcement agencies, the RIPA Board, researchers and the public understand the officer's rationale in making a stop, which can be viewed in totality with other actions taken by the officer, as well as the result of the stop.
	Richard Hylton (003-04)	"I am mindful that you entertain suggestions or recommendations	No change has been made in response to this comment. The Department follows all relevant

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		only from White people, but I have nothing else to do, and nothing to lose in making these suggestions, even as I am mindful that so many of my formerly rejected items are being adopted now."	laws in implementing these regulations, including the Administrative Procedure Act and Bagley-Keene Open Meeting Act. The Department considered all timely received comments, regardless of whom they were received from, and responded to them, like this comment. The Department also considers commenter's statement that "so many of my formerly rejected items are being adopted now" in the regulations, as a statement of support for the changes.
	Richard Hylton (029-01)	"My comments that you, more likely than not, will probably ignore (as your colleagues have mockingly written to each other, while ensuring that I received a copy) follow."	No change has been made in response to this comment. The Department follows all relevant laws in implementing these regulations, including the Administrative Procedure Act and Bagley-Keene Open Meeting Act. The Department considered all timely received comments, regardless of whom they were received from, and responded to them, like this comment.
Not Directed to Regulations			
	Attachment to Email 015-20	This was an attachment to an email.	No change has been made in response to the attachment as it was not related to the regulations.
	Attachment to Email 029-031	This was an attachment to an email.	No change has been made in response to the attachment as it was not related to the regulations.

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	Ad Hoc Committee on Policing and Human Relations of the Los Angeles County Commission on Human Relations (153-01)	The comment expressed support for the use of gender-neutral language throughout the regulations.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.
§ 999.224(a)(14): Definition of Probable Cause to Arrest	Capt. Doug Silva (063-01); Eric Huesman (157-01)	The definition reflects a higher standard of proof than required under the law.	No change was made in response to these comments. The proposed definition reflects the definition adopted by the Supreme Court that probable cause "demands" factual "specificity" and "must be judged according to an objective standard." *Terry v. Ohio* (1968) 392 U.S. 1, 21–22 n. 18. "Probable cause exists where the facts and circumstances within the officers' knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed by the person to be arrested." *Dunaway v. New York* (1979) 442 U.S. 200, 208 n. 9.

			The comment states that the Supreme Court does not require a preponderance of evidence for a probable cause determination, and that is true (See, *Maryland v. Pringle* (2003) 540 U.S. 366, 371 ["Finely tuned standards such as proof beyond a reasonable doubt or by a preponderance of the evidence, useful in formal trials, have no place in the [probable-cause] decision."].) The Department disagrees with this comment because the preponderance language is not contained in the proposed definitions. In response to the concern that the Supreme Court's standard that there be a "fair probability" that the person had committed a crime is a lesser standard than the one articulated by the proposed definition, the Department disagrees. *See U.S. v. Lopez* (9th Cir. 2007) 482 F.3d 1067, 1072 (explaining that fair probability" does not require "conclusive evidence of guilt" but requires "knowledge or reasonably trustworthy information to believe that a crime is being committed" and that "[m]ere suspicion, common rumor, or even strong reason to suspect are not enough." (citations omitted).
§ 999.224(a)(15): Definition of	Capt. Doug Silva (063-01); Eric Huesman (157-01)	The definition reflects a higher standard of proof than required under the law.	No change was made in response to these comments. The proposed definition reflects the definition adopted by the Supreme Court

Probable Cause to Search			that probable cause "demands" factual "specificity" and "must be judged according to an objective standard." (*Terry v. Ohio* (1968) 392 U.S. 1, 21–22 n. 18.) "Probable cause exists where the facts and circumstances within the officers' knowledge and of which they had reasonably trustworthy information are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed by the person to be arrested." (*Dunaway v. New York* (1979) 442 U.S. 200, 208 n. 9.) In response to the concern that the Supreme Court's standard that there be a "fair probability" that the person had committed a crime is a lesser standard than the one articulated by the proposed definition, the Department disagrees. (*See U.S. v. Lopez* (9th Cir. 2007) 482 F.3d 1067, 1072 (explaining that fair probability" does not require "conclusive evidence of guilt" but requires "knowledge or reasonably trustworthy information to believe that a crime is being committed" and that "[m]ere suspicion, common rumor, or even strong reason to suspect are not enough." [Citations omitted].)

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§ 999.224(a)(16)): Definition of Reasonable Suspicion	Capt. Doug Silva (063-02); Eric Huesman (157-02)	The definition reflects a higher standard of proof than required under the law.	This comment is accepted in part and the Department has removed from the rulemaking the following sentence: "Reasonable suspicion is also established when there is an observed violation of the law." To the extent that the definition of reasonable suspicion in these regulations includes the witnessing of a crime, its inclusion in the definition of reasonable suspicion is consistent with the law since reasonable suspicion is a lesser standard than probable cause. If an officer observed a crime, then the officer would have met both the reasonable suspicion and the probable cause to arrest standard. (See *D.C. v. Wesby* (2018) 138 S. Ct. 577, 586 ["A warrantless arrest is reasonable if the officer has probable cause to believe that the suspect committed a crime in the officer's presence."].) However, for clarity and to avoid officer confusion, the Department removed the sentence that witnessing of a crime can also form the basis for reasonable suspicion. With respect to the remaining comments, the proposed definition reflects the definition adopted by the Supreme Court that reasonable suspicion amounts to an "objective manifestation that the person stopped is, or is about to be, engaged in

			criminal activity" (*United States v. Cortez,* 449 U.S. 411, 417.) An officer "must be able to articulate more than an inchoate and unparticularized suspicion or hunch of criminal activity." (*Illinois v. Wardlow* (2000) 528 U.S. 119, 123-24.) The proposed definition encompasses being involved in criminal activity and accordingly meets the legal standards set forth by the Supreme Court.
§ 999.224(a)(25): Definition of Welfare or wellness check or community caretaking function	Capt. Doug Silva (063-64-03); Eric Huesman (158-03)	The comments opposed language within this definition that a welfare or wellness check cannot form the basis for initiating a stop.	No change has been made in response to these comments. To the extent that the comments oppose this language because of a belief that a welfare check or community caretaking constitutes a detention, the Department rejects this argument. A welfare or wellness check or community caretaking is not a detention, rather it is an explanation as to why the officer is on the scene or why the officer was interacting with the individual. Generally, an officer conducting a welfare or wellness check does not have the requisite reasonable suspicion necessary to detain the individual upon initial contact. A stop occurs when, during the course of an officer conducting a welfare or wellness check or engaging in community caretaking, the officer develops reasonable suspicion or probable cause that the person committed a

			crime and/or if a reasonable person would not feel free to leave. (*See, e.g.*, *United States v. Monsivais*, 848 F.3d 353 (5th Cir. 2017) (an officer's act of announcing a patdown of the defendant "converted the officers' roadside assistance or 'welfare check' into an investigatory stop or detention.").
§ 999.226(a)(3): Duration of Stop	Lt. Clyde Hussey (068-04); Antoinette L. Agostinacci (072-11); Lt. Jennifer Curwick (163-01)	The comments oppose this existing data element, requiring officers to report the duration of a stop.	No change has been made to this data element. The comments appear to oppose the requirement itself that officers provide the duration of stop, and do not specifically comment on the proposed amendment that would calculate the duration as "from the time the reporting officer, or any other officer, first detains or, if no initial detention, first searches the stopped person until the time when the person is free to leave or when the person is taken into physical custody and removed from the scene of the stop." (§ 999.226, subd. (a)(3)(C).) As explained in the Initial Statement of Reasons (ISOR) issued on August 1, 2017 when the regulations were first proposed, this data element was included because the duration of a stop would provide additional context to actions taken during a stop.

	Capt. Jeff Bell (120-121-20); San Diego Community College District (137-05; 140-05)	Capt. Bell: "The data now wants to change from when you actually detain a person to when the person is no longer detained. The CAD system calculates when the incident is open until the incident is closed. There are no inserted calculations made that are able to time when a particular person is contacted in the incident, when they were detained, when they were no longer detained and so on and so forth .....And what happens to the time frame if they are no longer "detained" but arrested? They may move off of the detention category into an arrested category. Yet they will be maintained still within that call, not moved to a different incident. This, in my opinion is simply not workable and fraught with problems. Even if you designated another status as they are no longer detained, that won't really be realistic as to what the actual time was they were not detained as there are other moving parts to a call for service. We track incidents, not individuals. Even the current reporting of time involved that a person is detained currently is inaccurate and thus means nothing."	No change has been made in response to these comments. Existing regulations require an officer to report the duration of a stop as the time when a person is first detained to the time the person is longer detained (or taken in to physical custody). Cal. Code Regs., tit. 11, § 999.226, subd. (a)(2)(C) ("'Duration of Stop' is the approximate length of the stop measured from the time the reporting officer, or any other officer, first detains or, if no initial detention, first searches the stopped person until the time when the person is free to leave or when the person is taken into physical custody.") As explained in the ISOR issued on August 1, 2017 when the regulations were first proposed, this data element was included because the duration of a stop will provide additional context to actions taken during a stop." To the extent there is concern about the challenge faced by officers of keeping track of how long the stop lasted in a multi-person incident, the existing regulatory language asks only for "approximate" length of time, not the exact length. Moreover, this requirement to provide the approximate length of time is already within the existing

		San Diego Community College District: "The proposed changes to duration of the stop, change the time from the beginning and end of the incident to when the person(s) is no longer detained. This may not be the close of the call. We are concerned the calculation of the duration of the stop would be overly complicated and create difficulty with proper determination and calculation. As an example, if an officer detains three people and determines at different points of the detention, the reason to detain one or two of the persons no longer exists and they leave, leaving the officer with one detained person, this requirement would force the officer to distract their attention to time keeping rather than officer safety."	regulations and is not part of the proposed amendments. The proposed amendments would not exacerbate any challenges an officer would have in tracking the duration of a stop that may be imposed by the existing data element. Indeed, the Department's proposed amendment may even ease that burden by clarifying when a stop ends. Specifically, the proposed amendment would calculate the duration as "from the time the reporting officer, or any other officer, first detains or, if no initial detention, first searches the stopped person until the time when the person is free to leave or when the person is taken into physical custody *and removed from the scene of the stop*." (§ 999.226, subd. (a)(3)(C).)(emphasis added). Existing regulatory language did not define what is meant by "tak[ing the person] into physical custody." As explained in the ISOR at pages 6-7, a proposal to clarify what constitutes the end of the stop was developed after the Department evaluated submitted stop data and trained agencies on their reporting obligations. The Department determined that officers wanted additional clarification on how to time the start and end of a stop.

			Because the proposal provides officers guidance on when a stop would end for a stopped individual, it would, in fact, lessen the challenges officers face in determining the duration of a stop. Finally, the Department recognizes that some agencies may have separate data collection software that focuses on calculating the length of time an incident lasts, as opposed to how long a stop lasts for any one person stopped within that incident. However, in order to comply with the Racial and Identity Profiling Act regulations, officers cannot use the incident length calculation generated by any software as the duration of the stop. Rather, in reporting stop data, the officers must calculate the time the stopped person is detained (ending at the time the person is free to leave or taken into physical custody, under the proposed amendment).
§ 999.226(a)(4): Location of Stop	Lt. Clyde Hussey (068-02); Antoinette L. Agostinacci (071-01); Hanford Police Department Chief Parker Sever (074-03); Kathleen	The comment opposed the proposed inclusion of "geographic coordinates" as a data value under this data element.	No change has been made in response to these comments because, as stated in the ISOR at page 7, law enforcement agencies have recommended this data value as a more efficient option to provide the location of the stop and providing geographic coordinates would also make the coding for statistical analysis more precise.

	Stevens (084-04); Capt. Jeff Bell (116-02); Chula Vista Police Department (130-03); San Diego Community College District (137-02; 139-02); La Mesa Police Department (160-03); Amanda O'Neill (162-01); Lt. Jennifer Curwick (163-02); Anna Stoddard (164-01); Jean Lyon (165-166-02)		To the extent there are concerns that the regulation will require that officers provide geographic coordinates, no such proposal has been made. Rather, the Department proposes officers have the option to provide geographic coordinates and has reordered the list of data values so that geographic coordinates is listed as the preferred option. Thus, concerns about the confidentiality of specific locations or stopped persons' residences are obviated by the fact that providing geographic coordinates is not required, only preferred. In response to whether location of stop refers to the "call location" or the "detention location" (see, e.g., Lt. Hussey comment, 068-02, O'Niell, 162-01), the existing regulatory language makes clear that the "'Location of Stop' refers to the physical location where the stop took place." (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(4).) A "stop" is defined as "(1) any detention . . . by a peace officer of a person; or (2) any peace officer interaction with a person in which the officer conducts a search ....." (*Id*. § 999.224, subd. (a)(14).)

§ 999.226(a)(7): Perceived Sexual Orientation of the Person Stopped	Capt. Doug Silva (064-04); Clyde Lt. Hussey (068-05); Antoinette L. Agostinacci (071-02); Martin Langeveld (083-01); Capt. Jeff Bell (117-118-06); Eric Huesman (158-04); Amanda O'Neill (162-03)	The comments opposed the inclusion of this data element.	No change has been made in response to these comments. To the extent the comments object to the inclusion of this existing data element and the proposed revisions to it, the Department refers to the ISOR Addendum, pages 8-9, issued on August 1, 2017, which explains that the data element (1) was added in response to recommendations from the RIPA Board and other stakeholders, (2) is consistent with the definition of racial and identity profiling set forth in Penal Code section 13519.4, subdivision (e), which includes "consideration of, or reliance on, to any degree . . . gender identity or expression [or] sexual orientation . . . in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop . . ." (Pen. Code § 13519.4, subd. (e)); and (3) is necessary to enable the Racial and Identity Profiling Advisory (RIPA) Board and researchers to comprehensively track interactions between police officers and individuals they perceive to be LGB+ to help assess whether bias exists with respect to gender identity or expression, or sexual orientation. In response to the concern that is unreasonable or inappropriate for an officer

			to speculate as to a person's sexual orientation and that an "unknown" category should be included as a data value, this data element is consistent with the approach adopted by the Legislature in Government Code section 12525.5, subdivision (b)(6) which likewise requires an officer to report their perception only with respect to a person's race or ethnicity, gender, and approximate age. An officer's perception as to a person's race or ethnicity, gender, approximate age, and sexual orientation is specific to that officer, and may be informed by a number of factors, including, but not limited to a number of factors, such as the officer's experience and the factual circumstances surrounding the stop. ("For many individuals, LGBT identity is not a consistently visible characteristic; therefore, the ability of officers to perceive this characteristic may often depend on context. An individual's gender expression – how the person acts, dresses, behaves, and interacts to demonstrate their gender – may influence other people's perception.") In response to the concern that the proposed revisions "force" an officer to make a determination as to a person's sexual orientation, in contrast to existing

			regulations which they contend does not, the Department disagrees with this characterization of both the proposed revision and the existing regulatory provision. Under the existing regulatory provision, officers would have to check either "Yes" or "No" to the statement "Person Stopped Perceived to be LGBT." By answering "No," the officer is functionally reporting that it is their perception that the stopped person is "Straight/Heterosexual." The proposed revision would simply transform "Yes" or "No" options to data values of "LGB+" and "Straight/Heterosexual," respectively. Under either the proposed revised data element or the existing data element, the officer would have to provide their perception as to the person's sexual orientation. Data related to LGBT status has been collected by thousands of law enforcement officers since July 1, 2018, and that data has been valuable to the RIPA Board and the public at large at understanding interactions with individuals perceived to be LGBT.

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§ 999.226(a)(11): Person Stopped Perceived to be Unhoused	Antoinette L. Agostinacci (071-03); Capt. Jeff Bell (118-08); California State Sheriffs' Association (142-02)	Agostinacci: "There are many people who appear to be unhoused but are not. This data will be skewed as a result, therefore how will it be used and quantified correctly?" Capt. Bell: "Similarly, related to "perceived unhoused" may be obvious, but where is the "known prior to the stop" option? I think I can categorically state that in our community we pretty much know who's unhoused/homeless and who's not if there is something we are contacting them about. Anybody else, I have no idea off the cuff." California State Sheriffs' Association: "The regulations propose requiring the collection of officers' perceptions as to whether the person stopped is unhoused, despite the fact that the statute itself does not require the collection of such observations. Additionally, it is less than clear how an officer would perceive such a status or that officers generally would use the same information to make that observation. The connection between whether a person is housed and the understood reason for the collection of	No change has been made in response to these comments. This proposed data element asks only for the officer to provide their perception of the stopped person's housing status, not the actual status of the stopped person. This is consistent with the statutory language of the Racial and Identity Profiling Act with respect to perception data. Govt. Code § 12525.5, subd. (b)(6) (requiring the reporting of the "perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped."; *see also id*. § 12525.5, subd. (e) (requiring the Attorney General to issue regulations specifying all data to be reported). Capturing officers' perception of a person's race or identity, as opposed to the actual race or identity, can reveal patterns to illuminate whether racial or identity profiling has or has not occurred. This is also consistent with the recommendations of the Center for Policing Equity (CPE), which, as noted in the ISOR at page 6, is a research organization that has worked with law enforcement agencies nationwide and produces analyses that identify the causes of disparities in policing.

		these observations pursuant to AB 953's requirements is unclear at best."	The CPE notes that "[u]sing the officer's perception is broadly supported in social science research as the best way to assess disparities and potential bias in stops: If bias is factoring into an officer's decision to make a stop, perception is the relevant variable. (Center for Policing Equity, Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities (2020) ("CPE Report") p. 16.) The Racial and Identity Profiling Act seeks to identify whether there is racial or identity profiling based upon several enumerated protected classifications. (See Penal Code §13519.4.). The "unhoused" is one such classification which the Legislature acknowledged as being vulnerable to racial and identity profiling. The Legislature, through Government Code section 12525.5, subdivision (e), confers discretion on the Attorney General to promulgate regulations in order to implement the data collection required under the Racial and Identity Profiling Act of 2015. Specifically, the Attorney General has discretion to include additional data elements and to "specify all data to be reported." The Attorney General is authorized under the law

			to require officers to record their perceptions with respect to an individual's housing status.
	California Police Chiefs Association (097-04)	"[D]etermining whether an individual is housed or unhoused simply adds another subjective data point and it remains unclear to what benefit to our communities."	No change has been made in response to this comment. For the reasons stated in the ISOR at pages 9-10, the Department added this data element to enable the RIPA Board to serve its function of producing "detailed findings on the past and current status of racial and identity profiling." (Pen. Code, § 13519.4, subd. (j)(3).). See also the immediately preceding response, incorporated herein, to comments from Antoinette L. Agostinacci (071-03); Capt. Jeff Bell (118-08); and the California State Sheriffs' Association (142-02) regarding § 999.226(a)(11): Person Stopped Perceived to be Unhoused .
§ 999.226(a)(12) Stop Made in Response to a Call for Service	California Police Chiefs Association (097-03)	The comment expressed support for this existing data element.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

§ 999.226(a)(13): Stop Made During the Course of Performing a Welfare or Wellness Check or an Officer's Community Caretaking Function	Capt. Doug Silva (063-64-03); Eric Huesman (158-03)	The comments oppose the language in this data element that a "welfare or wellness check or an officer's community caretaking function cannot be selected as a reason for a stop."	No change has been made in response to these comments. To the extent that the comments oppose this language on the basis that a welfare check or community caretaking constitutes a detention, the Department disagrees.A welfare or wellness check or community caretaking is not a detention, rather it is an explanation as to why the officer is on the scene or why the officer was interacting with the individual. Generally, an officer conducting a welfare or wellness check does not have the requisite reasonable suspicion necessary to detain the individual upon initial contact. A stop occurs when, during the course of an officer conducting a welfare or wellness check or engaging in community caretaking, the officer develops reasonable suspicion or probable cause that the person committed a crime and/or if a reasonable person would not feel free to leave. (*See, e.g.*, *United States v. Monsivais*, 848 F.3d 353 (5th Cir. 2017) (an officer's act of announcing a patdown of the defendant "converted the officers' roadside assistance or 'welfare check' into an investigatory stop or detention.").

	Capt. Doug Silva (064-05)	The comment opposes the first example under this data element: "Another example of some confusing language is on Page 11 Example 1: Under 'Reason For Stop' Officer A selects 'probable cause to arrest or search'. This doesn't make sense when the officer was dispatched to the location (a call for service) to check the welfare?? The officer didn't have P/C to arrest until the subject threatened the officer with the knife."	No change has been made in response to this comment. This example describes an interaction that was initiated in a response to a call for service so that the officer could perform a welfare or wellness check on a person behaving erratically. During the course of the interaction, the person displayed a knife and threatened to stab the officer and the person was arrested. The Department agrees that, within this scenario, the officer did not form probable cause to arrest until the person displayed a knife and threatened to stab the officer. Thus, in reporting the arrest of this person, the officer would select "Probable Cause to Arrest or Search" under "Reason for Stop." Since the arrest occurred during the course of performing a welfare or wellness check, the officer would also select the data element "Stop Made During the Course of a Performing a Welfare or Wellness Check or an Officer's Community Caretaking Function."
§ 999.226(a)(14): Reason for Stop	Capt. Jeff Bell (117-05)	The comment opposes the data value of "Probable cause to take into custody under Welfare and Institutions Code section 5150.": "I also noted that there is now an additional desire for information on	No change has been made in response to this comment. The Department interprets this comment as opposing the proposed data value of "Probable cause to take into custody under Welfare and Institutions Code section 5150" as unnecessary on the basis that

		the reason for stop particularly related to PC to take into custody for 5150. I'm not sure how without further information by the officer of their actual visual and personal assessment I would make a stop with PC already existing for a 5150 hold. I mean unless the person is on the bridge, or darting between traffic, and even then that isn't going to be PC for a 5150. They could be chasing their dog. Or on the bridge spray painting a sign, etc. The point is, I'm not making a stop "with PC to take into custody" without first making a personal assessment. In fact, you are required to read an admonishment to the person before you take them into custody, so I'd argue I hope that at that time I actually have PC if you will to take them based on my observations, etc."	officers are unlikely to have probable cause to take a person into custody under Welfare and Institutions Code section 5150 at the time they initiated the stop. The Department agrees that an officer would select this proposed data value when they had probable cause to take a person into custody pursuant to Welfare and Institutions Code section 5150 at the time they initiated the stop. The Department disagrees that the data value is unnecessary. As described in more detail in the ISOR at pages 12-13, the Department added this data value in response to agencies requesting a revision to the regulations to provide an option for officers to accurately account for the scenario where they take a person into custody pursuant to Welfare and Institutions Code section 5150. The Department does not take any position as to whether or not there is only a limited range of circumstances this data value would apply.
§ 999.226(a)(15) Non-Force Related Actions Taken by Officer During Stop	Hanford Police Department Chief Parker Sever (074-04, 075-07); La Mesa Police Department (161-	Sever: Splitting "Actions Taken By Officer During Stop" into two data elements will "skew the data" and "show an inaccurate rate of officers using force such as in instances of	No change was made in response to this comment. As described in the Addendum to the ISOR at page 6, the Department separated out the "Actions Taken By Officer During Stop" data element into two separate data elements to address concerns that

	04); Amanda O'Neill (162-02)	preventing escape or overcoming resistance." La Mesa Police Department: "The types of force listed by RIPA may not match those of some agency protocols [for example, drawing or displaying a force tool (baton, firearm or conducted energy device) may or may not be reported as a use of force], . . . Collecting this data in two places..... could lead to mis-matched data, which can cause further confusion when it comes to an agency's use of force statistics."	officers find the list of actions under this existing data element lengthy, making it difficult to identify all of the actions applicable to their stop. By separating the existing data element of "Actions Taken By Officer During Stop" into two data elements, officers can more easily identify and report their actions, which would ensure the accuracy and completeness of the information they provide for their stop. Additionally, in response to the concern that the data element "Force Related Actions Taken by Officer During Stop" would give the inaccurate impression of how much force officers use, the data element includes not only actions involving actual uses of force, but also any action that relates to the use of force, such as the unholstering of a firearm. Thus, by virtue of the title of this data element alone, information garnered from this data element should not give an inaccurate impression of how much force officers are using because it is intended to capture actions in addition to the actual use of force. Separating out the actions taken with force verses non-force "Actions Taken By Officer During Stop" was supported by the RIPA Board, and specifically members from law

			enforcement. In response to the concern that the data collection will duplicate the collection of data, the Department disagrees as each data value represents a separate point for collection without overlap. To the extent that the regulation categorizes certain actions as a use of force that the individual agency does not categorize as a use of force, that concern can be addressed by review and training at the agency level, as opposed to a revision of the regulations.
	Ad Hoc Committee on Policing and Human Relations of the Los Angeles County Commission on Human Relations (153-02)	The comment expressed support for separating out the "Actions Taken By Officer During Stop" data element into two data elements.	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.
§ 999.226 (a)(15)(C)2	Antoinette L. Agostinacci (071-05)	With respect to the proposed amendment requiring officers to report, when consent to search was given by the stopped person and the consent was "implied by conduct," the comment	No change was made in response to this comment which does not appear to recommend any change to the proposed amendment. Rather, the comments ask whether the regulations describe the

		posed the question, "Will DOJ be defining what implied by conduct is and therefore accepting that the search was legal?"	circumstances when a search is legal. This request goes beyond the scope and purpose of the regulations. The proposed amendments to the regulations require officers to report, when a consent to search is given, a description of the specific conduct that was reasonably interpreted as consent. (§ 999.226, subd. (a)(15)(C)2.b.). Further, the proposed amendments include an example that, in the scenario where consent was implied by conduct, the officer must "explain the specific conduct of the stopped person (i.e., the specific verbal statements, physical movements, or other behavior) that was reasonably interpreted by the officer as consent to search." (*Ibid*.) The purpose of capturing a description of the conduct implying consent of the stopped person is not to determine whether the search is legal but to provide further context to the stop. This additional context would enable the RIPA Board to serve its function of producing "detailed findings on the past and current status of racial and identity profiling, and making policy recommendations for eliminating racial and identity profiling." (Pen. Code, § 13519.4, subd. (j)(3).) Each agency should evaluate its own stop data submissions for accuracy and the Department recommends that all agencies

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			employ some type of supervisory review to evaluate the sufficiency and legality of its officer's stops.
§ 999.226 (a)(15)(C)2	City of La Mesa Police Department (161-05)	In response to the proposed requirement that officers describe, when consent to search was given by the stopped person, the specific conduct that was reasonably interpreted as consent, the comment states: "The proposed regulation change appears to be seeking a legal justification and burden of proof from the officer. Legal justifications and such a burden of proof are already sought in other processes (i.e. an officer's written report, body-worn camera video, court testimony, and judicial oversight."	No change was made in response to this comment. The purpose of capturing the conduct of the stopped person that is reasonably interpreted as consent is not to determine whether the officer's search is legal but to provide further context to the stop. This additional context would enable the RIPA Board to serve its function of producing "detailed findings on the past and current status of racial and identity profiling, and making policy recommendations for eliminating racial and identity profiling." (Pen. Code, § 13519.4, subd. (j)(3).)
§ 999.226 (a)(15)(B)5	Antoinette L. Agostinacci (072-07); Capt. Bell (118-10); Lt. Jennifer Curwick (163-04)	Agostinacci: "Officer's canine removed from vehicle or used to search: 'How is this considered a "force action'?" Capt. Bell: "Non-force actions: Canine used to search for, locate, and/or detect contraband. And the Force Actions Taken: Officer's Canine removed from vehicle or used to search. Uh, which is it? In the Non-Force action, the canine must be removed from the vehicle in	No change was made in response to these comments. The existing regulations include "Canine removed from vehicle or used to search" as a data value under the existing data element of "Actions Taken By Officer During Stop." (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(12)(A)(7).). However, as described in the ISOR at page 15, for clarity the Department initially proposed separating this existing data value into two separate data values, "Peace officer's canine used to search for, locate, and/or detect contraband"

		order to conduct that Non-Force action. So is it a Non-Force or Force?" Lt. Curwick: "'Peace officer's canine removed from vehicle.' This is not a use of force."	and "Peace officer's canine deployed for purposes of apprehending stopped person." Subsequently, as described in the Addendum of the ISOR at page 8, the Department modified the title of the latter data value in response to comments. The proposed modified title would be "Peace officer's canine removed from patrol vehicle to gain compliance and/or for purposes of apprehending a stopped person." As reflected in the text of the proposed modifications issued on January 18, 2022, the Department then categorized "Peace officer's canine used to search for, locate, and/or detect contraband" as a data value under the data element "Non-Force-Related Actions Taken By Office During Stop." The Department also categorized "Peace officer's canine removed from patrol vehicle to gain compliance and/or for purposes of apprehending a stopped person" as a data value under the data element "Force Related Actions Taken By Office During Stop." As such, the concerns raised by the comment appear to be moot.

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§ 999.226(a)(16) Force Related Actions Taken by Officer During Stop	Hanford Police Department Chief Parker Sever (074-04, 075-07)	Splitting the "Actions Taken By Officer During Stop" into two data elements will "skew the data" and "show an inaccurate rate of officers using force such as in instances of preventing escape or overcoming resistance."	No change was made in response to this comment. As described in the Addendum to the ISOR at page 6, the Department separated out the "Actions Taken By Officer During Stop" data element into two separate data elements to address concerns that officers find the list of actions under this existing data element lengthy, making it difficult to identify all of the actions applicable to their stop. By separating the existing data element of "Actions Taken By Officer During Stop" into two data elements, officers can more easily identify and report their actions, which would ensure the accuracy and completeness of the information they provide for their stop. Additionally, in response to the concern that the data element "Force Related Actions Taken by Officer During Stop" would give the inaccurate impression of how much force officers use, the data element includes not only actions involving actual uses of force, but also any action that relates to the use of force, such as the unholstering of a firearm. Thus, by virtue of the title of this data element alone, information garnered from this data element should not give an inaccurate impression of use of force because it is clearly intended to capture actions in addition to the actual use of force.

PUBLIC COMMENTS RECEIVED DURING SECOND COMMENT PERIOD (JANUARY 18, 2022 – FEBRUARY 4, 2022) AND CALIFORNIA DEPARTMENT OF JUSTICE RESPONSES

§ 999.226 (a)(16)(A)1	Antoinette L. Agostinacci (071-04); Hanford Police Department Chief Parker Sever (074-05); Kathleen Stevens (084-05); Capt. Jeff Bell (118-119-12); San Diego Community College District (137-03; 139-03); Lt. Jennifer Curwick (163-03); Anna Stoddard (164-02); Jean Lyon (166-03)	The comments opposed including "Handcuffed or flex cuffed" as a data value under this data element, contending that it is not an act of force.	No changes were made in response to these comments. The Department determined that the existing data value of "Handcuffed or flex cuffed" should be in the "Force Related Actions Taken by Officer During Stop" data element because courts have interpreted it as an act of force. (*See LaLonde v. County of Riverside* (9th Cir. 2000) 204 F.3d 947, 959 [holding that tight handcuffing can constitute excessive force where the use of force was not objectively reasonable under the circumstances]; *Carpiaux v. City of Emeryville* (N.D. Cal., Dec. 13, 2007, No. C 06-3493 CW) 2007 WL 4390657, at *5 [construing handcuffing handcuffs as a use of force and determining that the use of force in the instant matter was de minimis.]) In response to the concern that RIPA categorizes certain actions as a use of force that the individual agency does not categorize as a use of force, that concern can be addressed through review and training at the agency level, as opposed to a revision of the regulations.
§ 999.226 (a)(16)(A)7	Ad Hoc Committee on Policing and Human Relations of the Los Angeles County Commission on	"Moreover, the proposed modifications related to firearms (Article 1, #19 and #21) align with national shifts towards "point and report" and "unholstering" policies that classify these actions as	The Department interprets this comment as expressing support for the existing data value of "Firearm pointed at person" and the proposed data value of "Firearm unholstered" under the data element of "Force Related Actions Taken by Officer

	Human Relations (153-03)	force-related and mandate their reporting."	During Stop." As such, no change has been made in response to this comment, which is interpreted as an observation rather than a recommendation of any change to the regulations.
§ 999.226 (a)(16)(A)7	Antoinette L. Agostinacci (072-08); Capt. Jeff Bell (119-13)	The comments opposed including "Firearm unholstered" as a data value under this data element.	No change has been made in response to this comment. As described in the Addendum to the ISOR at page 6, the Department separated out the data values under the existing data element "Actions Taken by Officer During Stop" into two separate data elements, one that lists all actions unrelated to force and the other that lists all force-related actions. Relevant here, the latter category is titled "Force *Related* Actions Taken by Officer During Stop" (emphasis added) and thus this data element includes not only actions involving actual uses of force, but also any action that relates to the use of force, including the drawing of and/or the threat of using compliance weapons, which would include the act of unholstering a firearm or pointing a firearm. In response to the concern that this data value is "too ambiguous and too open to misinterpretation" and that it is unclear whether "unholstered" is when an officer "unsnaps his holster" or "[r]emoves and points [their firearm] (Agostinacci, 072-08),

			the Department notes that "unholstered" takes on its ordinary meaning of removing a firearm from the officer's holster. Additionally, existing regulations already include a data value of "Firearm pointed at person" which should make clear that the proposed data value of "Firearm unholstered" should not be selected for purposes of reporting when a firearm is pointed at a person. (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(12)(A)(8).).
§ 999.226 (a)(16)(A)17	Antoinette L. Agostinacci (072-09)	"Use of vehicle in apprehension of stopped person: This is already covered in the current 'other physical or vehicle contact'. Is the latter term being removed?"	No change has been made in response to this comment. In response to the question posed, and as described in the Addendum to the ISOR at pages 7-8, the Department separated the existing data value of "Other physical or vehicle contact" into two separate data values: (1) "Physical compliance tactics and techniques" and "Use of vehicle in apprehension of stopped person."
§ 999.226 (a)(16)(A)17	Hanford Police Department Chief Parker Sever (074-075-06)	The comment described the existing data value of "use of vehicle in apprehension of stopped person" as "vague" and noted that "[w]ithout a more in-depth definition, of 'use of vehicle in apprehension of stopped person", an officer would in theory have to select this data value for every traffic	No change has been made in response to this comment. As described in the Addendum to the ISOR at pages 7-8, the Department separated the existing data value of "Other physical or vehicle contact" into two separate data values: (1) "Physical compliance tactics and techniques" and "Use of vehicle in apprehension of stopped person."

		stop, thus creating a false narrative of a force action being taken.	Contrary to this comment, the proposed data value "Use of a vehicle in apprehension of a stopped person," has a specific definition, which is "the use of a vehicle to restrict movement or control a person's resistance." Thus, under this definition, officers would not have to select this data value for every traffic stop but only in stops where the officer specifically uses the vehicle to prevent the stopped person from moving or to control a person's resistance. A routine traffic stop, where an officer's vehicle is behind that of a person, would not constitute using a vehicle to apprehend a person.
§ 999.226 (a)(16)(A)17	Lt. Jennifer Curwick (163-05)	"Article 3. Data Elements To Be Reported 999.26(a)(16)(A)(17) 'Use of vehicle to restrict movement or control a person's resistance.' This is considered a detention and not a use of force."	No change has been made in response to this comment. As described in the Addendum to the ISOR on pages 7-8, the Department separated the existing data value of "Other physical or vehicle contact" under the "Actions Taken by Officer During Stop" data element into two separate data values: (1) "Physical compliance tactics and techniques" and "Use of vehicle in apprehension of stopped person." The proposed data value of "Use of a vehicle in apprehension of a stopped person," has a specific definition, which is "the use of a

			vehicle to restrict movement or control a person's resistance." The Department determined that the use of a vehicle under these circumstances is more appropriately described as a force-related action, rather than a non-force-related action. At least some departments have likewise reached this determination. As one example, the Seattle Police Department defines various vehicle-related tactics as uses of force. *See* https://www.seattle.gov/police-manual/title-8---use-of-force/8300---use-of-force-weapons-and-tools#veh.
§ 999.226 (a)(16)(A)16	Antoinette L. Agostinacci (072-10)	"Person removed from vehicle/physical compliance tactics: This is already covered in the current 'other physical or vehicle contact.' Is the latter term being removed?"	No change has been made in response to this comment. In response to the question posed, the existing data value of "Person removed from vehicle by order" has been categorized as a data value under the "Non-Force-Related Actions Taken by Officer During Stop" data element. The existing data value of "Person removed from vehicle by physical contact" has been categorized as a data value under the "Force Related Actions Taken by Officer During Stop" data element. Finally, as described in the Addendum to the ISOR at pages 7-8, the Department separated the existing data value of "Other physical or vehicle contact" into two separate data values: (1) "Physical compliance tactics and

			techniques" and "Use of vehicle in apprehension of stopped person" both of which have been categorized as data values under the "Force Related Actions Taken by Officer During Stop" data element.
§ 999.226 (a)(16)(A)2	Hanford Police Department Chief Parker Sever (074-075-06)	The comment described the existing data value of "other physical or vehicle contact" as "vague" and noted that "[w]ithout a more in-depth definition, of 'other physical or vehicle contact', any time an officer conducts a stop data with a search involved, physical contact will have been conducted and under the new proposed regulations, it would show as a force action taken."	No change has been made in response to this comment. As described in the Addendum to the ISOR on pages 7-8, the Department separated the existing data value of "Other physical or vehicle contact" into two separate data values: (1) "Physical compliance tactics and techniques" and "Use of vehicle in apprehension of stopped person." In response to the concern that the proposed data value of "Physical compliance tactics and techniques" is vague and lacks a definition, the Department disagrees. This data value has a specific definition, which is "the use of any part of the officer's body to make contact with the stopped person, when the purpose of such contact is to restrict movement or control a person's resistance" and the regulations provide examples of physical compliance tactics and techniques. Thus, under this definition, a search would not fall under this data value.

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§ 999.226(a)(16) Force Related Actions Taken by Officer During Stop	Hanford Police Department Chief Parker Sever (074-04, 075-07); Capt. Jeff Bell (119-12); Chula Vista Police Department (130-04); La Mesa Police Department (161-04)	Chief Sever: Splitting the Actions Taken By Officer During Stop into two data elements will "skew the data" and "show an inaccurate rate of officers using force such as in instances of preventing escape or overcoming resistance." Capt. Bell: "I think attempting to increase these questions may make the appearance of force look greater than what the public would recognize as force than what it really is. Or is it misconstrued? If I have a person cuffed (force) but also conducted a search (non-force) how is that evaluated? Was it a force incident or non-force incident? A 50/50?" Chula Vista Police Department: "The new regulations include reporting all types of force used during the incident. The types of force listed by RIPA may not match those of some agency protocols [for example, drawing or displaying a force tool (baton, firearm or conducted energy device) may or may not be reported as a use of force]. In some instances, such a display may serve as an effective de-escalation tool as well. Collecting this data in two	No change was made in response to these comments. As described in the Addendum to the ISOR at page 6, the Department separated out the "Actions Taken By Officer During Stop" data element into two separate data elements to address concerns that officers find the list of actions under this existing data element lengthy, making it difficult to identify all of the actions applicable to their stop. By separating the existing data element of "Actions Taken By Officer During Stop" into two data elements, officers can more easily identify and report their actions, which would ensure the accuracy and completeness of the information they provide for their stop. Additionally, in response to the concern that the data element "Force Related Actions Taken by Officer During Stop" would give the inaccurate impression of how much force officers use and may potentially lead to a "mismatch" between the stop data submitted to the Department and the agency's use of force statistics, this data element includes not only actions involving actual uses of force, but also any action that relates to the use of force, such as the unholstering of a firearm. To the extent that RIPA categorizes certain actions as a use of force that the individual

		places (one in RIPA, and another in an agency's pre-existing use of force reporting data) could lead to mis-matched data, which can cause further confusion or complication when it comes to an agency's use of force statistics." La Mesa Police Department: "The proposed regulation changes include reporting all types of force used during the incident. The types of force listed by RIPA may not match those of some agency protocols [for example, drawing or displaying a force tool (baton, firearm, or conducted energy device) may or may not be reported as a use of force]. In some instances, such a display may serve as an effective de-escalation tool as well. Collecting this data in two places (one in RIPA, and another in an agency's pre-existing use of force reporting data) could lead to mis-matched data, which can cause further confusion or complication when it comes to an agency's use of force statistics."	agency does not categorize as a use of force, that concern can be addressed through review and training at the agency level, as opposed to a revision of the regulations. The Department collects use of force data required by Government Code section 12525.2 related to officer involved shootings and serious bodily injury; however, those data sets are collected separately and are consistent with each other. To the extent that agencies have various different policies and procedures in contexts other that RIPA is beyond the scope of the regulations.

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§ 999.226 (a)(16)(A)2	Center for Policing Equity (128-01)	The comment recommends that the specific tactics and techniques listed in the data value of "Physical compliance tactics and techniques" be separated out into separate data values. "The current proposed rule would group together low-level uses of force like simple control holds together with very serious uses of force like neck restraints and kicks to the head."	No change has been made in response to this comment. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that adding these additional data values was not necessary to include at this time.
§ 999.226 (a)(16)(A)2	Center for Policing Equity (128-129-02)	The comment opposes the proposed removal of "carotid restraints" as an example of what constitutes "Other physical or vehicle contact," which is an existing data value under existing data element of "Actions Taken By Officer During Stop." The comment notes that "Although California law now prohibits law enforcement agencies from authorizing the use of chokeholds or carotid restraints, we believe that it is still important to collect separate data on law enforcement use of neck restraints. Collecting these data will help researchers to track the effectiveness of California's current law and to more accurately analyze racial disparities in serious force incidents."	No change has been made in response to this comment. The Department has determined that the data element of physical tactics and techniques will assist in analyzing whether racial disparities exist in force related actions. As explained in the ISOR at page 17, the Department removed this example to avoid any confusion because carotid restraints are not a lawful use of force under California law. While collecting such data could be useful, in drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that collecting this data

			would be confusing and the benefits would be outweighed by the burdens. If an officer did utilize a carotid restraint or chokehold, that information could be captured in the open narrative field.
§ 999.226(a)(17): Result of Stop	Kathleen Stevens (084-085-07)	"I hesitate to suggest adding more fields, given that there are already so many, but perhaps a 'Citizen Assist' or 'Community Policing' option would help the board / researchers to discern what is actually going on instead of the blanket 'No Action.'"	No change has been made in response to this comment. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that adding these additional data values for this data element was not necessary to include at this time.

	Jean Lyon (166-04)	"The RIPA board is now proposing that officers identify what type of warning was issued to an individual, either written or verbal. Although agencies commonly issue warnings, there is no consistency throughout the State on how these warnings are issued. Some agencies provide written and verbal, some just written or verbal. The Davis Police Department does not provide written warnings. Without any consistency in the method of issuing warnings, analyzing this data point would be pointless."	No change has been made in response to this comment. As explained in the Addendum to the ISOR at page 12, the Department revised the existing data value of "Warning (verbal or written)" under Result of Stop into two data values, "Verbal Warning" and "Written Warning." The Department determined that this proposed amendment is necessary so the RIPA Board may more readily track and analyze whether any characteristics of the stopped person, such as perceived race or gender, informs an officer's decision to issue one type of warning versus the other. These analyses would in turn enable the RIPA Board to serve its function of producing "detailed findings on the past and current status of racial and identity profiling." (Pen. Code, § 13519.4, subd. (j)(3).) The Department recognizes that some departments permit officers to provide only one type of warning or another. However, this consideration does not merit revising or removing this proposed data element. Rather, this consideration would inform the analyses, findings, and recommendations issued by the RIPA Board.
§ 999.226(a)(20): Type of	Capt. Jeff Bell (116-117-04)	"I also see that the proposal is looking for "off duty and/or working private event" along with contracted by another	No change has been made in response to this comment.

Assignment of Officer		LEO. I'm not all that familiar with contracted by another law enforcement agency, but I know some entities that go work for example at the Rose Parade or maybe major sports events. But I don't think that is the vast majority of leos in California. And for agencies such as ours, we don't even allow for our officers to work as an officer for a private event, etc. However, does this apply also to mutual aid incidents? Would you place that into the other assignment? I know a few years back we sent officers to Ridgecrest during the fires to assist. And there may be some pretty hectic situations going on with officers in these types of incidents. But it's not clear if this pertains to these kinds of circumstances."	As explained in the ISOR at p. 14, Government Code section 12525.5 does not limit reporting obligations to officers while they are on duty. The Department is aware of agencies that do permit off-duty officers to work at private events. This data value provides those officers making detentions or searches while off duty or working at a private event the proper option to select regarding their assignment at the time of the stop. In response to the question posed, Department interprets the comment's reference to "mutual aid incidents" to mean an arrangement or agreement for one agency to assist another (or for both agencies to assist each other). If an officer makes a stop while working under such a circumstance, the officer would not select the proposed data value of "Off duty and/or working a private event" unless the officer is either off duty or working a private event when making the stop. An officer should complete a stop data report under their own agency's ORI number unless they are working under a contract that provides otherwise. (*See* Cal. Code Regs., tit.

			11, § 999.226, subd. (a)(1).) For additional guidance on an officer's reporting obligations when two law enforcement agencies are working together, see Cal. Code Regs., tit. 11, § 999.227, subdivision (a)(4).
§ 999.226(a)(21): Race or Ethnicity of Officer	Lt. Clyde Hussey (068-01); Antoinette L. Agostinacci (072-12); Martin Langeveld (083-02); Hanford Police Department Chief Parker Sever (075-08); Kathleen Stevens (084-01); Capt. Jeff Bell (121-21); California Police Chiefs Association (96-01); Chula Vista Police Department (130-02); San Diego Community College District (137-01; 139-01); California State Sheriffs' Association (141-01); City of La Mesa Police	The comments recommended removing this proposed data value. The comments raised concerns about the privacy of officers' identities in smaller departments, where there may be a single officer of any one race or ethnicity or gender.	No change has been made in response to these comments. As explained in the ISOR at page 21, the Department determined that this data element was necessary because it would enable the RIPA Board to serve its function of producing detailed findings on the past and current status of racial and identity profiling. This determination is informed by research that has observed links between the race and gender of an officer and the frequency and outcome of, and actions taken during, stops. The Legislature, through Government Code section 12525.5, subdivision (e), confers discretion on the Attorney General to promulgate regulations in order to implement the data collection required under the Racial and Identity Profiling Act of 2015. Specifically, the Attorney General has discretion to include additional data elements and to "specify all data to be reported." The Attorney General is authorized under the law to require officers to provide their race and gender with their stop data entries.

	Department (160-01); Amanda O'Neill (162-04); Lt. Jennifer Curwick (163-06); Anna Stoddard (164-03); Jean Lyon (165-01)		The Department of Justice is cognizant of concerns surrounding the re-identification of officers and in the original regulations the Department implemented protections to ensure the anonymity of officers as contemplated under Government Code section 12525.5, subdivision (d). (See, Cal. Code Regs., tit. 11, § 999.228, subd. (g).) Indeed, law enforcement agencies expressed these same concerns with respect to the collection of the data elements "type of assignment" and "years of experience" when the regulations where first published in 2017. To date, the Department is not aware of any situation where an officer has been re-identified by the stop data. Additionally, the existing regulations prohibit the Department from releasing an officer's unique identifying information unless the requestor meets certain criteria and does so pursuant to the Department's data security protocols, "which will ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity." (Cal. Code Regs., tit. 11, § 999.228, subd. (g).). In the Department's proposed regulations, the Department has developed requirements

			to strengthen the data security protocols. The Department has determined that such requirements and protocols would address the concerns raised by the comments about re-identification of officers for those types of requests. In response to the concern that "[f]ederal and state law prohibits the agency from asking or requiring our employees to disclose their race or ethnicity" and that "[s]uch disclosure would be voluntary," the Department is not aware of a specific federal or state law that prohibits the collection of race or ethnicity of an officer for purposes of stop data or other types of data collection. Similarly, in response to the concern that the "California Fair Employment and Housing Act [FEHA] prohibits California employers from either directly or indirectly asking about an employee's gender or sex," the Department has not identified any provision within the FEHA or within its implementing regulations that would prohibit the collection of race or ethnicity of an officer for purposes of stop data or other types of data. Indeed, the Legislature, through Government Code section 12525.5, subdivision (e), specifically authorized the Attorney General

			to issue regulations on the Racial and Identity Profiling Act and gave the Attorney General discretion through the regulations to "specify all data to be reported." Thus, the Attorney General is authorized under the law to require officers to provide their race and gender with their stop data entries. Similarly, the Legislature has required employers to provide demographic information to the state in other contexts. As one example, Government Code section 12999 requires private employers of 100 or more employees to report to Department of Fair Employment and Housing pay and hours-worked data by job category and by sex, race, and ethnicity. (Gov. Code, § 12999(a)-(b).) In addition, the Department of Fair Employment and Housing has recently released a report demonstrating the value of such data collection. (See, https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2022/03/DFEH-Pay-Data-Results-Press-Release-2022-03-15-1.pdf.) As such, there is precedent and support for this type of data collection under state law.

	Kathleen Stevens (084-02); Capt. Jeff Bell (121-21; 121-22)	Stevens: "[H]ow are we to decide what race and gender the officers are? I know several officers who have mixed backgrounds and do not look like the race they identify with most, because genetics don't ask how you feel about things. Same goes with gender. Are we making our best guess to their racial and gender identity based on how they present at work - or are we forcing them to identify themselves in a specific way just for this purpose? And what is it supposed to prove. Is a Black officer automatically considered not prejudiced if they pull over a Black driver? What if that officer actually looks white instead of Black?" Capt. Bell: "I suppose it might make a difference depending on who's looking at the data, but I know I would not identify as anything other than male. And any identification other than that would be inaccurate and unauthorized."	No change has been made in response to this comment. As explained in the ISOR at page 21, the Department determined that this data element was necessary because it would enable the Board to serve its function of producing detailed findings on the past and current status of racial and identity profiling. This determination is informed by research that has observed links between the race and gender of an officer and the frequency of, outcome of, and actions taken during stops. Under the proposed data element, officers themselves would self-identify their race or ethnicity as well as their gender. There would be no need for any other personnel within the law enforcement agency to make any determination as to the race, ethnicity, or gender of the officer making the stop. Further, as described in the Initial Statement of Reasons at page 27, agencies can link the data elements of Race or Ethnicity of Officer, and Gender of Officer to the officer's Identification Number, thus obviating the need to input this information for every stop. In addition, see incorporated herein by reference, the immediately preceding response to Lt. Clyde Hussey (068-01); Antoinette L. Agostinacci (072-12); Martin Langeveld (083-02); Hanford Police

			Department Chief Parker Sever (075-08); Kathleen Stevens (084-01); Capt. Jeff Bell (121-21); California Police Chiefs Association (96-01); Chula Vista Police Department (130-02); San Diego Community College District (137-01; 139-01); California State Sheriffs' Association (141-01); City of La Mesa Police Department (160-01); Amanda O'Neill (162-04); Lt. Jennifer Curwick (163-06); Anna Stoddard (164-03); Jean Lyon (165-01) regarding § 999.226(a)(21): Race or Ethnicity of Officer
§ 999.226(a)(22): Gender of Officer	Lt. Clyde Hussey (068-01); Antoinette L. Agostinacci (072-12); Hanford Police Department Chief Parker Sever (075-08); Martin Langeveld (083-02); Kathleen Stevens (084-01); Capt. Jeff Bell (121-21; 121-22); San Diego Community College District (137-01; 139-01); Amanda O'Neill (162-04);	The comments recommended removing this proposed data value. The comments raised concerns about the privacy of officers' identities in smaller departments, where there may be a single officer of any one race or ethnicity or gender.	No change has been made in response to these comments. As explained in the ISOR at page 21, the Department determined that this data element was necessary because it would enable the RIPA Board to serve its function of producing detailed findings on the past and current status of racial and identity profiling. This determination is informed by research that has observed links between the race and gender of an officer and the frequency and outcome of, and actions taken during, stops. The Legislature, through Government Code section 12525.5, subdivision (e), confers discretion on the Attorney General to promulgate regulations in order to implement the data collection required under

	Lt. Jennifer Curwick (163-07); Anna Stoddard (164-03); Jean Lyon (165-01)		the Racial and Identity Profiling Act of 2015. Specifically, the Attorney General has discretion to include additional data elements and to "specify all data to be reported." The Attorney General is authorized under the law to require officers to provide their race and gender with their stop data entries. The Department of Justice is cognizant of concerns surrounding the re-identification of officers and in the original regulations the Department implemented protections to ensure the anonymity of officers as contemplated under Government Code section 12525.5, subdivision (d). (See, Cal. Code Regs., tit. 11, § 999.228, subd. (g).) Indeed, law enforcement agencies expressed these same concerns with respect to the collection of the data elements "type of assignment" and "years of experience" when the regulations where first published in 2017. To date, the Department is not aware of any situation where an officer has been re-identified by the stop data. Additionally, the existing regulations prohibit the Department from releasing an officer's unique identifying information unless the requestor meets certain criteria and does so pursuant to the Department's data security protocols, "which will ensure

			that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity." (Cal. Code Regs., tit. 11, § 999.228, subd. (g).). In the Department's proposed regulations, the Department has developed a protocol designed to strengthen the data security protocols. The Department has determined that such requirements and protocols would address the concerns raised in the comments about re-identification of officers for those types of requests. In response to the concern that "[f]ederal and state law prohibits the agency from asking or requiring our employees to disclose their race or ethnicity" and that "[s]uch disclosure would be voluntary," the Department is not aware of a specific federal or state law that prohibits the collection of race or ethnicity of an officer for purposes of stop data or other types of data collection. Similarly, in response to the concern that the "California Fair Employment and Housing Act [FEHA] prohibits California employers from either directly or indirectly asking about an employee's gender or sex," the Department has not identified any provision within the FEHA or within its implementing

			regulations that would prohibit the collection of race or ethnicity of an officer for purposes of stop data or other types of data. Indeed, the Legislature, through Government Code section 12525.5, subdivision (e), specifically authorized the Attorney General to issue regulations on the Racial and Identity Profiling Act and gave the Attorney General discretion through the regulations to "specify all data to be reported." Thus, the Attorney General is authorized under the law to require officers to provide their race and gender with their stop data entries. Similarly, the Legislature has required employers to provide demographic information to the state in other contexts. As one example, Government Code section 12999 requires private employers of 100 or more employees to report to Department of Fair Employment and Housing pay and hours-worked data by job category and by sex, race, and ethnicity. (Gov. Code, § 12999(a)-(b).) In addition, the Department of Fair Employment and Housing has recently released a report demonstrating the value of such data collection. (See, https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2022/03/DFEH-Pay-Data-Results-Press-Release-2022-03-

			15-1.pdf.) As such, there is precedent and support for this type of data collection under state law.
	Chula Vista Police Department (130-01); City of La Mesa Police Department (160-02)	The comments oppose this data element, contending that individuals who are transgender or nonbinary may not want their employers or peers to know their gender identity and this data element would effectively "out" these officers. The comments further observe that this data element "appears to be in violation of existing statutory privacy requirements."	No change has been made in response to these comments. As explained in the ISOR at page 21, the Department determined that this data element was necessary because it would enable the RIPA Board to serve its function of producing detailed findings on the past and current status of racial and identity profiling. This determination is informed by research that has observed links between the race and gender of an officer and the frequency and outcome of, and actions taken during, stops. The Legislature, through Government Code section 12525.5, subdivision (e), confers discretion on the Attorney General to promulgate regulations in order to implement the data collection required under the Racial and Identity Profiling Act of 2015. Specifically, the Attorney General has discretion to include additional data elements and to "specify all data to be reported." The Attorney General is authorized under the law to require officers to provide their race and gender with their stop data entries.

			The Department of Justice is cognizant of concerns surrounding the re-identification of officers and in the original regulations the Department implemented protections to ensure the anonymity of officers as contemplated under Government Code section 12525.5, subdivision (d). (See, Cal. Code Regs., tit. 11, § 999.228, subd. (g).) Indeed, law enforcement agencies expressed these same concerns with respect to the collection of the data elements "type of assignment" and "years of experience" when the regulations where first published in 2017. To date, the Department is not aware of any situation where an officer has been re-identified by the stop data. Additionally, the existing regulations prohibit the Department from releasing an officer's unique identifying information unless the requestor meets certain criteria and does so pursuant to the Department's data security protocols, "which will ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity." (Cal. Code Regs., tit. 11, § 999.228, subd. (g).). In the Department's proposed regulations, the Department has developed requirements to strengthen the data security protocols. The

			Department has determined that such requirements and protocols would address the concerns raised by the comments about re-identification of officers for those types of requests. In response to the concern that "[f]ederal and state law prohibits the agency from asking or requiring our employees to disclose their race or ethnicity" and that "[s]uch disclosure would be voluntary," the Department is not aware of a specific federal or state law that prohibits the collection of race or ethnicity of an officer for purposes of stop data or other types of data collection. Similarly, in response to the concern that the "California Fair Employment and Housing Act [FEHA] prohibits California employers from either directly or indirectly asking about an employee's gender or sex," the Department has not identified any provision within the FEHA or within its implementing regulations that would prohibit the collection of race or ethnicity of an officer for purposes of stop data or other types of data. Indeed, the Legislature, through Government Code section 12525.5, subdivision (e), specifically authorized the Attorney General

			to issue regulations on the Racial and Identity Profiling Act and gave the Attorney General discretion through the regulations to "specify all data to be reported." Thus, the Attorney General is authorized under the law to require officers to provide their race and gender with their stop data entries. Similarly, the Legislature has required employers to provide demographic information to the state in other contexts. As one example, Government Code section 12999 requires private employers of 100 or more employees to report to Department of Fair Employment and Housing pay and hours-worked data by job category and by sex, race, and ethnicity. (Gov. Code, § 12999(a)-(b).) In addition, the Department of Fair Employment and Housing has recently released a report demonstrating the value of such data collection. (See, https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2022/03/DFEH-Pay-Data-Results-Press-Release-2022-03-15-1.pdf.) As such, there is precedent and support for this type of data collection under state law. Under the proposed data element, officers themselves would self-identify their gender

			and, as such, can identify in a manner that safeguards their need for privacy as it relates to their gender. There would be no need for any other personnel within the law enforcement agency to make any determination as to the gender of the officer making the stop. In response to the concern that this data element "appears to be in violation of statutory privacy requirements," the Department is not aware of the specific statutory provision with which this proposed data element would be in conflict. Nor has the Department identified any state or federal statutory provision that prohibits the collection of gender identity for purposes of stop data entries, or similar types of information. The Department is cognizant of concerns surrounding the re-identification of officers and in the original regulations the Department implemented protections to ensure the anonymity of officers as contemplated under Government Code section 12525.5, subdivision (d). (See, Cal. Code Regs., tit. 11, § 999.228, subd. (g).) Indeed, law enforcement agencies expressed these same concerns with respect to the

			collection of the data elements "type of assignment" and "years of experience" when the regulations where first published in 2017. To date, the Department is not aware of any situation where an officer has been re-identified by the stop data. Additionally, the existing regulations prohibit the Department from releasing an officer's unique identifying information unless the requestor meets certain criteria and does so pursuant to the Department's data security protocols, "which will ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity." (Cal. Code Regs., tit. 11, § 999.228, subd. (g).). In the Department's proposed regulations, the Department has developed requirements to strengthen the data security protocols. The Department has determined that such requirements and protocols would address the concerns raised by the comments about re-identification of officers for those types of requests.

§ 999.227 (d)(1)(E): Transit Sweep Exclusion	Brady Collins (070-01); Laura Raymond (076-01); Scarlett De Leon (077-01); Lyndsey Nolan (078-01); Ava Marinelli (079-01); Hector Huezo (080-01); Araceli Amezquita (082-01); Steph Shaw (090-01); Claire Savage (107-01); Kaitlyn Quackenbush (108-01); Sherin Varghese (109-01); Kristen Studard (110-01); Greg Irwin (111-01); the Alliance for Community Transit – Los Angeles (112-01); Veronica Shirley (113-01); Joselyn Hughes (114-01); Kelsey Mcrae (115-01); Meghan Urisko (123-01); Stephen Jones (125-01);	The comments recommended that the regulations not exclude transit sweeps from reporting obligations.	No change was made in response to these comments. Existing regulations require officers to report certain interactions only if the officer takes any action enumerated under the "Actions Taken During Stop By Officer" data element. (*See*, Cal Code of Regs. tit. 11 § 999.227(d)(1).) The Department added language that a transit sweep constitutes the type of search that would require officers to report only if they take specified enumerated actions under the Non-Force and Force Related Actions Taken By Officer data elements. By including transit sweeps in the enumerated list, the regulation provides guidance on when an officer would have to report stops made during the course of transit sweeps. The inclusion of transit sweeps in this list is consistent with the other types of interactions included in that category of interactions where individuals are not being detained based upon an individualized suspicion but rather a programmatic enforcement action. (*See*, Cal Code of Regs. tit. 11 § 999.227(d)(1).) In response to recommendations that the Department require all interactions that take place during the course of a transit sweep to be reported, no change was made in response. In drafting these amendments, the

	Dana Bell (126-01); Los Angeles County Bicycle Coalition (127-01); Edna Monroy (132-01); Alex Fierro-Clarke (133-01); Harrison McDonough (134-01); Amelie Cherlin (135-01); Andy Perrine (136-01); Nancy Matson (143-01); Hermes Padilla (144-01); Maryann Aguirre (145-01); Sonia Suresh (147-01); Silvia Marroquin (148-01); Elizabeth Medrano (149-01); Cynthia Strathmann (150-01); Mateo Gil (151-01); Carmina Calderon (155-01); Kery Ramirez (156-01); Leo Baeck Temple (159-01);		Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional categories of information were not necessary to include at this time because the value of the data to examine racial and identity profiling, would not outweigh the technological costs and time.

PUBLIC COMMENTS RECEIVED DURING SECOND COMMENT PERIOD (JANUARY 18, 2022 – FEBRUARY 4, 2022) AND CALIFORNIA DEPARTMENT OF JUSTICE RESPONSES

§ 999.227(d)(3): Programmatic search or seizure	Antoinette L. Agostinacci (071-072-06)	"Person inside a residence – this is related to when an officer is executing a search or arrest warrant naming the person etc.: Currently, officers are not required to do RIPA on those subjects. Why has this changed?"	No change has been made in response to this comment. Contrary to the comment, neither the existing regulatory provision nor any proposed amendments would require an officer to report an interaction with a person who is the subject of a warrant or search condition that takes place inside that person's residence. (§ 999.227(d)(3); see Cal. Code Regs., tit. 11, § 999.227, subd. (d)(2)). The proposed amendment just clarifies that such interactions are reportable if they take place anywhere other than the person's residence.
§ 999.228(c):	Capt. Jeff Bell (120-18); San Diego Community College District (137-04, 139-04)	Capt. Bell: "How are agencies to report whether an officer made any stops or not? The Stop Data is the stop data. If they don't make a stop, there is no data." San Diego Community College District: "No Stop Data - Reporting that an officer did not have any stop data for the preceding calendar year reported could be for a multitude of reasons (i.e. officer is on maternity leave, workers comp injury, special assignment/task force, administrative assignment, etc.) Are these reasons applicable or is this data only for officers working in the	No change has been made in response to these comments. This requirement does not require every reporting agency to report specific individual officers within that agency that has not made any stops within the preceding calendar year. Rather, as described in the ISOR at page 24, this proposed requirement would require reporting agencies to report to the Department when no officer within that agency has conducted a stop. As described in the ISOR at page 24, this proposal was necessary to clarify that all state and local entities that qualify as reporting agencies, even those that do not regularly conduct any

		field that have not conducted a stop? Unless clarified, this has the potential to delve into the private reasons for officers who have been off work or have administrative assignments."	stops (such as some District Attorney's Offices) must report to the Department on an annual basis, consistent with their reporting obligations under Government Code section 12525.5, subdivision (a). As an example, a coroner's office may employ a peace officer and thus it would meet the definition of a reporting agency. If, in the preceding calendar year, no peace officer within the coroner's office conducted any stops, the coroner's office would have to report as much to the Department under the proposed requirement. Stated otherwise, if zero stops were conducted by a reporting agency, the reporting agency would have to report this information to the Department.
§ 999.228(g): Data Standards	Richard Hylton (086-03)	The comment requests that "Multi-racial" be added to the data dictionary published by the Department.	No change has been made in response to this comment. The data dictionary is designed to ensure "uniform and complete reporting of stop data." Cal. Code Regs., tit. 11, § 999.228, subd. (g). Because "multi-racial" is not an existing data value under "Perceived Race or Ethnicity of the Person Stopped," adding "multi-racial" to the data dictionary would not advance the goal of uniform reporting of stop data.

			To the extent that the comment is seeking to add "Multi-racial" as a data value under Perceived Race or Ethnicity of the Person Stopped, no change has been made in response to this comment. The existing regulations already require officers to select "all" of the data values that apply. Given this requirement, the Department is able to conduct data analyses of stops of individuals perceived to have two or more races or ethnicities and thus an additional data value of "multiracial" is unnecessary. While the reference to "multiracial" may appear in mandatory annual reports of the RIPA board, the Department has determined that adding this reference as a data value at the fact gathering stage will not aid in the collection of stop data or data analysis.
§ 999.228(h): Data Publication	San Diego Community College District (137-138-06; 140-06)	The suggestion that the public submit a request for information under the auspices of 'research' and under a different standard than the California Public Records Act is greatly concerning."	No change has been made in response to this comment. Government Code section 12525.5, subdivision (d) and existing regulations prohibit the Department from releasing an officer's unique identifying information. The Department has chosen to balance its obligations to make stop data information publicly available, while protecting confidential information, by releasing such protected information only in a confidential manner and pursuant to the Department's data security protocols, "which

			will ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity." (Cal. Code Regs., tit. 11, § 999.228, subd. (g).). As described in more detail in the Addendum to the ISOR at pages 13-19, the Department has established a process that requires certain threshold security protocols in order for the Department to transmit unique identifying information to requestors to advance public policy and/or for scientific study. Further, the Department proposes that any entity or person that receives unique identifying information must use such information for certain stated purposes and that such information is not transferred to an unauthorized third party, duplicated, revealed, or used for any other purposes and that reports or publications derived therefrom do not identify specific individuals. Such information will only be provided under this protocol and will continue to otherwise be confidential unique identifying information that is not subject to disclosure.
	Jean Lyon (166-05)	"Confidential Stop Data Information is defined in the proposed regulations as personally identifying information or an Officer's I.D. In the current AB953	No change has been made in response to this comment. Government Code section 12525.5, subdivision (d) and existing regulations prohibit law enforcement from

		regulations, this information was not to be released by DOJ or the reporting agency to ensure officer confidentiality. The proposed regulations seek to loosen that confidentiality for research purposes. This increases the chance for security breaches and accidental release of information and no longer protects the identity of those stopped and the officers that stopped them."	transmitting to the Department the name, address, social security number or other unique personal information of the person stopped, as well as prohibiting the Department from releasing an officer's unique identifying information. Existing regulations permit the confidential disclosure of stop data to "advance public policy through scientific study." The Department has chosen to permit the confidential data to be shared for public policy and/or scientific study and in doing so has codified and strengthened the existing data security protocols which are aimed at protecting confidential information to advance this goal. The Department's proposed data security protocols, will continue to "ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity." (Cal. Code Regs., tit. 11, § 999.228, subd. (g).). The proposed amendments seek to guard against the "security breaches and accidental release of information" about which the comment is concerned. As described in more detail in the Addendum to the ISOR at pages 13-19, the Department has established a process that requires certain threshold security protocols in order for the Department to transmit unique identifying

			information to any requestor. Further, the Department proposes that any entity or person that receives unique identifying information must use such information for certain stated purposes and that such information is not transferred to an unauthorized third party, duplicated, revealed, or used for any other purposes and that reports or publications derived therefrom do not identify specific individuals. The Department has determined that such requirements and protocols would address the concerns raised by the Commenters about re-identification of officers.
	Ad Hoc Committee on Policing and Human Relations of the Los Angeles County Commission on Human Relations (153-04)	"[The proposed modifications to the confidential disclosure of stop data (Article 5, #37) advance a culture of transparency and accountability by creating clear pathways for researchers outside of the law enforcement field to access and analyze policing data."	No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.
§ 999.228(j); Retention Period	Capt. Jeff Bell (120-19); San Diego Community College District (137-138-06; 140-06)	Capt. Bell: "The public records act component is another issue. Since the State is requiring the Data, why are the agencies then additionally burdened with attempting to provide the data independently from the State? Is the stop data only that data that has been submitted and validated by DOJ, or to	No change has been made in response to these comments. The California Public Records Act, not these regulations, obligates law enforcement agencies, as well as other public entities, to make certain records in their possession publicly available. As such, law enforcement agencies are obligated to respond to requests for records made by

		include current unvalidated data? And the proposed regulation says we are to keep the data indefinitely, but then keep a record of its source data for minimum of 3 years. It just seems like when the State has submitted its year-end report it has done so with the data supplied. And that data and the report, finalized, ought to be what is available to the public…not something that hasn't been finalized and reviewed. This just seems to create yet another undue burden on public entities and possibilities that data provided are not going to be consistent" San Diego Community College District: "Each reporting agency is responsible for responding to requests made to the agency for its stop data and shall not refer requestors to DOJ. – The Stop Data report is for public review, why then would each agency need to provide a different report to the public."	members of the public. The proposed amendment clarifies that agencies cannot absolve themselves of that obligation by referring requests to the Department. In response to the concern that the data retained by the Department may be inconsistent with, or is more "finalized" than the data retained by the law enforcement agency, existing regulations address this concern. Specifically, the Department performs data validation on stop data to ensure data integrity and quality assurance and each agency is "responsible for ensuring that all data elements, data values, and narrative explanatory fields conform to these regulations and for correcting any errors in the data submission process, and shall do so through the Department's error resolution process." (Cal. Code Regs., tit. 11, § 999.229, subd. (b)). As such, the data retained by both agencies should be consistent. Also, the Department has removed the proposed requirement that agencies indefinitely keep a record of the information found in its source data in some format, as explained in the Addendum to the ISOR at page 19.

PUBLIC COMMENTS RECEIVED DURING SECOND COMMENT PERIOD (JANUARY 18, 2022 – FEBRUARY 4, 2022) AND CALIFORNIA DEPARTMENT OF JUSTICE RESPONSES

General Comments	Lt. Clyde Hussey (068-01); Kathleen Stevens (084-03); Capt. Jeff Bell (117-118-06); Eric Huesman (158-05); Amanda O'Neill (162-05)	The comments generally oppose the proposed regulations that seek data on an officer's perceptions of a person's identities. Some comments further recommend that the regulations permit officers to indicate whether they formed those perceptions prior to initiating the stop or whether they were formed after initiating the stop, or suggest having "unknown" be an option.	No change has been made in response to these comments. The specific concerns raised by the comments appear more properly directed to the Legislature's determination that the perceived, rather than actual, race or identities of stopped persons shall be reported. (*See* Gov. Code § 12525.5, subd. (b)(6).) That is, the regulations are consistent with the statutory language of the RIPA, which does not require that the stop data entries capture whether the officer's perception of a person's identity or race is formed prior to initiating a stop or taking any other action related to the stopped person. (Govt. Code § 12525.5, subd. (b)(6) [requiring the reporting of the "perceived race or ethnicity, gender, and approximate age of the person stopped, provided that the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped;" *see also id*. § 12525.5, subd. (e) requiring the Attorney General to issue regulations specifying all data to be reported].) In response to the concern that officers have to ask for this information, the statute is clear that officers only to provide their perceptions of the race or ethnicity, gender, and

			approximate age of the person stopped and must not request that information from the stopped person. (Gov. Code, § 12525.5, subd. (b)(6).) The additional data elements that require officers to provide their perceptions of other components of the stopped person's identity are consistent with this statutory requirement, prohibiting officers from asking for this information. Finally, capturing officers' perception of a person's race or identity, as opposed to the actual race or identity, can reveal patterns to illuminate whether racial or identity profiling has or has not occurred. This is also consistent with the recommendations of the Center for Policing Equity (CPE), which, as noted in the Initial Statement of Reasons on page 6, has worked with law enforcement agencies nationwide and produces analyses that identify the causes of disparities in policing. The CPE notes that "[u]sing the officer's perception is broadly supported in social science research as the best way to assess disparities and potential bias in stops: If bias is factoring into an officer's decision to make a stop, perception is the relevant variable. (Center for Policing Equity, Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law

			Enforcement Agencies, Government, and Communities (2020) ("CPE Report") p. 16.)
	Antoinette L. Agostinacci (072-13); Kathleen Stevens (084-06); Capt. Jeff Bell (118-09); Jean Lyon (166-167-06)	The comments generally have concerns with the use of None as a data value and the use of No Action as a data value. Agostinacci: "ACTION section – term: NONE – 100% misrepresented in the 2022 report quick facts and false direction given to officers in the AB953 final regulations. In the reports that have	No change has been made in response to these comments. The Department has not proposed amendments or subsequent modifications to these particular data values,

		been published, it's stating the term "none" in the ACTION section is indicating that the persons stopped were found not to be engaged in criminal activity. This is not the case in every situation where someone was stopped. The options for the ACTION section, however, don't cover every situation and limits officers on what options they can and cannot choose from. Furthermore, officers were directed by DOJ to use none for the following reason: "23. None. This data value should only be selected if none of the enumerated data values apply. If "None is selected, no other data values can be selected." NOWHERE in the regulations does it state the term NONE to mean the subject was found not to be engaged in criminal activity." Stevens: I would like to comment on the thought that because officers are taking "no action" they are stopping people out of bias. Given the options provided, "no action" is the only choice for most noncriminal related actions on officers' part. Policing is about much more than arresting people, but the Results options are essentially all related to presumed criminal activities. Some examples of	and therefore the comments are outside the scope of the rulemaking. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. Currently, there are several data values to select from. If none of the data values apply, then None or No Action must be selected. It is not possible to add all possible scenarios to the regulations. The Department has determined that the existing and proposed data values sufficiently capture the most relevant and probable scenarios and, as such, the Department has also determined that adding other data values or an additional narrative field is not necessary at this time. Regarding the concern that the No Activity or None data values may affect the accuracy of information in the annual mandatory reports published by the RIPA board, should any concerns regarding accuracy become apparent, the Department will share those concerns with the RIPA Board.

		what I am talking about: We detain someone who appears to be breaking into a car, and find that it's their car and they've locked their keys inside. We see someone driving badly and pull them over and determine that they are lost, not intoxicated. We respond on a report of a prowler and find someone looking for their escaped dog. And sometimes we stop someone because they do match the description of someone we're looking for, criminally or otherwise (missing person, attempt to contact, welfare check), and quickly realize they are not the individual we are looking for. If we do take an action in any of these situations, it's more along the lines of assisting the person, by calling a tow company or a cab, or helping them to search for their pet, providing directions or giving a quick explanation as to why we stopped them. However, there are no options for assisting someone in the Results. So, we choose 'No Action.'" Capt. Bell: "I see that the proposals are also asking for now much more related to Non-Force Actions Taken vs Force Actions taken. I have issues with even the current field choice of "no action"	

		taken on a stop, because there is no further boxes to check. For example, just because there is no action taken on a stop according to the RIPA options, doesn't actually mean no action was taken…you just failed to define it. For example, I may not be taking any further action as you delineate, but I may be writing a report recommending charges, or possibly forward/referring to another agency, etc. Maybe I have some additional investigative work to do to gather much more information…IDK at that time that I have enough to arrest or file a report." Lyon: "In the recently released 2022 RIPA Report, specifically on the Quick Facts data sheet, it states, Officers reported 'no action taken' for Black individuals 2.3 times as often as they did for White individuals, indicating those stopped Black individuals were not engaged in criminal activity. This is a highly inaccurate and very subjective conclusion to the data presented. When officers choose 'no action taken,' it doesn't mean they took no action. It means the action taken did not fit into the other 9 categories provided for them to choose from. For example, if an	

		officer responds to a report of a theft, they may detain an individual while investigating that theft. If the officer determines there is not enough evidence to arrest, they will release the detained subject, take a case and refer that case to the District Attorney's office for prosecution. There may, or may not be an arrest in the future, but not during the original detention. None of the current selections apply to this disposition of a detention."	
	Hanford Police Department Chief Parker Sever (074-01); Martin Langeveld (083-03); California Police Chiefs Association (096-97-02); California State Sheriffs' Association (142-03)	The comments oppose the additional requirements because of the time and resources it takes to complete a stop data entry. Chief Sever: "As more and more data points are required to be submitted for each and every stop an officer does, the amount of time an officer can be handling calls for service, responding to emergency situations and interacting with the public decreases." Langeveld: "This entire legislation has gone way too far. Other states are collecting stop data with 4 or 5 fields. California is collecting stop data with	No changes have been made in response to these comments. As reflected in the proposed revisions noticed on January 18, 2022, the Department proposes four new data elements that need to be completed for all stops: 1. Type of Stop 2. Person Stopped Perceived to be Unhoused 3. Race or Ethnicity of Officer 4. Gender of Officer As described in the ISOR at page 27, agencies can link two of those five new data elements (Race or Ethnicity of Officer, and Gender of Officer) to the officer's Identification Number, thus obviating the need to input this information for every stop.

		over 50 fields. We now have to essentially write a report every time we stop someone, even if it results in a simple warning for a minor infraction. This takes officers off the streets, checking boxes about race and gender identity, instead of protecting our communities." California Police Chiefs Association: "Current RIPA regulations already require a significant amount of data to be collected and reported by law enforcement. As such, upon full implementation, these requirements will amount to thousands of hours statewide in compliance demands on local agencies. CPCA has historically raised concerns with balancing the demand to collect necessary information and not overburden law enforcement agencies who are already dealing with limited resources and additional unfunded mandates from the State." California State Sheriffs' Association: "In this regard, the regulations will necessarily increase the duration of interactions between peace officers and the public, thereby taxing law enforcement resources that have already been spread thin. Doing so also keeps	As further described in ISOR at page 27, other proposed changes to the regulations clarify existing obligations, which will offset the additional time it takes to fill in information for the two other new data elements. Two other data elements—(1) "Non-Force-Related Actions Taken By Officer During Stop" and (2) "Force Related Actions Taken By Officer During Stop" simply divide the existing data element of "Actions Taken By Officer During Stop" into two data elements for clarity and ease of reporting. Moreover, as described in the Addendum to the ISOR at page 6, the Department separated out the "Actions Taken By Officer During Stop" data element into two separate data elements to address concerns that officers find the list of actions under this existing data element lengthy, making it difficult to identify all of the actions applicable to their stop. By separating the existing data element of "Actions Taken By Officer During Stop" into two data elements, officers can more easily identify and report their actions. For example, if an officer took no force-related action against a person, they need only select "None" under "Force Related Actions Taken By Officer During Stop." Thus, the division of the Actions Taken into two categories is

		peace officers from responding to other calls and conducting routine patrols while simultaneously exposing them to more risk by keeping them in potentially dangerous situations for longer periods of time (e.g., on the side of a busy roadway). The time that will be taken to comply with the gathering and reporting of these observations and data will severely impact law enforcement's capability to undertake proactive policing and will put our communities in peril."	designed to streamline the reporting process and could reduce the time it takes to complete a stop data entry. In addition to the new data elements that must be filled for all stops, there are four other categories of information that need to be checked "Yes" only under certain, applicable circumstances: 1. Stop Made During the Course of Performing a Welfare or Wellness Check or an Officer's Community Caretaking Function. 2. The stopped person is a passenger in a vehicle. 3. The stopped person is inside a residence, where an officer was executing a search or arrest warrant naming or identifying another person, conducting a search pursuant to a condition of another person's parole, probation, PRCS, or mandatory supervision, or conducting a compliance check on another person under home detention or house arrest. 4. The officer works with the non-primary agency in a stop done in conjunction with an agency that is not subject to the reporting requirements of this chapter. These categories need not be checked unless applicable to the stop. As the titles of these

			categories reflect, the scenarios where these categories would be applicable are limited. The Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional data values and data elements were necessary to provide additional context that would enable the RIPA Board to serve its function of producing "detailed findings on the past and current status of racial and identity profiling, and making policy recommendations for eliminating racial and identity profiling." (Pen. Code, § 13519.4, subd. (j)(3).) Moreover, the Department has determined that many of these revisions will clarify and streamline the reporting process thus reducing confusion and the time it takes to complete a stop data entry.
	Hanford Police Department Chief Parker Sever (074-02)	"Issues, such as employee and citizen and citizen confidentiality as well as skewing of data based on vague language, arise with the newly published regulation changes set to take place in the near future if approved by the AB 953 committee."	No change has been made in response to this comment which is interpreted as an observation, not as a recommendation to make any changes. The comment's reference to vague language, citizen confidentiality, and the skewing of data is not specific enough for the Department to respond to.

			In response to the concern that the regulations would permit the release of confidential information to the public, Government Code section 12525.5, subdivision (d) and existing regulations prohibit law enforcement from transmitting to the Department the name, address, social security number or other unique personal information of the person stopped, as well as prohibiting the Department from releasing an officer's unique identifying information. Existing regulations permit the confidential disclosure of stop data to "advance public policy through scientific study." The Department has chosen to permit the confidential data to be shared for public policy and/or scientific study and in doing so has codified and strengthened the existing data security protocols which are aimed at protecting confidential information to advance this goal. The Department's proposed data security protocols, will continue to "ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity." (Cal. Code Regs., tit. 11, § 999.228, subd. (g).). As described in more detail in the Addendum to the ISOR at pages 13-19, the Department proposes a process that requires

			certain threshold security protocols in order for the Department to transmit unique identifying information to any requestor. Further, the Department proposes that any entity or person that receives unique identifying information must use such information for certain stated purposes and that such information is not transferred to an unauthorized third party, duplicated, revealed, or used for any other purposes and that reports or publications derived therefrom do not identify specific individuals.
	Capt. Jeff Bell (116-01)	"There is so much to say about this, but I will try to limit my comments to the proposals at hand. It's too bad that there aren't more law enforcement officers who've worked the streets and/or are from small communities that can actually speak into some of these proposals and how they appear to be looking for needles in a haystack. I've watched multiple RIPA board meetings and have been sorely disappointed by the lack of speaking into the issues I see as apparent in this whole process… particularly from a law enforcement perspective. I've worked in law enforcement since 1984, and I have certainly seen my	No change has been made in response to this comment which is interpreted as an observation, not as a recommendation to make any changes. The Department notes that when amending the existing regulations it has followed the process outlined in the California Administrative Procedures Act (APA), which requires a minimum of 45 days for the public to comment on any amendments to regulations. (Govt. Code, § 11346.4(a).) Before the official rulemaking process began, the Department held preliminary public meetings with the Racial and Identity Profiling Advisory Board's Stop Data Analysis Subcommittee on October 8, 2020 and November 12, 2020, to hear from the

		share of problem officers… of every color. However it does sadden me to see discussions in the board meetings with no apparent attempts to elaborate the issues that may come into play with some of these changes. Even the public comment component is not really satisfactory to deal with comments that have been made or statements that seem to make it appear that racism is inheritably systemic in our profession."	Board and the public prior to beginning the official rulemaking process. In this rulemaking, the Department provided 57 days for the public to comment. Additionally, the Department held two public hearings, one on August 20, 2021 and the other on September 1, 2021. The Department also provided 17 days for the public to comment on the proposed modifications issued on January 18, 2022, which exceeds the 15 days required under the APA. (Govt. Code, § 11346.8(c).) In response to the concern that the issue of racial and identity profiling from a law enforcement perspective has not been heard or considered by the Department or by the RIPA Board, the Department notes that it and the Board (which has at least four members from the law enforcement community) have certain obligations under RIPA and that when carrying out these obligations the Department invites all members of the public including members of the law enforcement community to participate and engage in RIPA Board meetings and the rulemaking process.

	Capt. Jeff Bell (116-03)	"I also note that the board is recommending new offence code changes along with repealing others. There is or can be an issue pertaining to this in that when those codes change any record that has not been submitted to DOJ that has one of those 22 inactivated codes will show up as an error if you try to submit that code. This will require staff to have to go into the stop data record and change/reselect the code to the proper and updated code section. Maybe this is only a slight alteration, but may be more significant for larger agencies as well."	No change has been made in response to this comment. Officers would not be required to submit stop data in a manner consistent with the proposed amendments until the effective date. The Department intends to select a future effective date that will allow the Department and the LEAs enough time to update their databases. The Department will work with the LEAs before the effective date to ensure that there is minimal interruption and error codes. As such, there would be no need for staff to "change/reselect" any information for purposes of submitting information to the Department. The Department also anticipates that there will be a transition period, since agencies have until April 1, to submit the prior year's records to the Department. During this period, codes will be validated based on the Date of the Stop and the requirements in effect when the stop occurred.
	Capt. Jeff Bell (118-11)	"I am also concerned about whether the reporting in URSUS is going to have incongruity with RIPA reporting. This information is already being provided with regards to firearm discharging, etc."	No change has been made in response to this comment which is interpreted as an observation, not as a recommendation to make any changes to the regulations. The Department collects data under Government Code section 12525.2 (URSUS) and Government Code section 12525.5 (RIPA). There is nothing inconsistent with the data that is being collected under these two statutes, and specifically with respect to the

			discharge of a firearm.. Specifically, URSUS requires agencies to report "any discharge of a firearm during an interaction between a civilian and an officer, regardless of whether any person was injured." (*See* https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcment/16-12-cjis-use-force-incident-reporting-ursus.pdf.) RIPA regulations previously and continue to require the discharge of a firearm to be reported. In response to the concern that agencies will not consistently report data correctly to the Department, this issue can be resolved with training as well as appropriate supervisor and quality control by the local agency.
	Capt. Jeff Bell (119-14)	"I would be interested, have the folks on the RIPA board attended a citizen academy or gone out on a ride along to assess what happens in the field?"	No change has been made in response to this comment which is interpreted as a question to the RIPA Board, not as a recommendation to make any changes to the regulations.
	Capt. Jeff Bell (119-15)	"I know that the board has had issues with asking for consent on searches and made some verbal implications that this is a problem. Well, just for the record even the California Legal Sourcebook recommends as do our local DA's, that officers ask for consent of subjects for search anyway. In fact, there's a form for it. Now that might be a legit question, did the subject sign a consent	No change has been made in response to this comment which is interpreted as an observation on the RIPA Board and its data analyses, not as a recommendation to make any changes to the regulations.

		form? Does your agency have a consent form?"	
	Capt. Jeff Bell (119-16)	"With each new addition to questions/inquiry, the RIPA board needs to also understand that this is all software data that has to be added, altered, changed etc. These aren't quick and easy fixes or changes. Our vendors need the ability to get screen displays out and readable, ensure the data entry points are properly made, and with each change or alteration, have to ensure that the original entry screens are producible. There are many, many more things happening behind the scene, but I'm not so sure that the board seems to grasp this fact. Is this to be just a never ending, oh we realized we need this as well…and this, and this."	No change has been made in response to this comment, which is interpreted as an observation on the time and resources it would take to modify agencies' stop data collection systems to incorporate any changes that result from these proposed amendments, an issue that the Department recognizes. As described in the ISOR at page 26, private vendors have provided the Department with estimates ranging from 12 to 240 hours to modify stop data collection systems. The costs are addressed in the STD 399 Addendum. The Department intends to select a future effective date that will allow the Department and the LEAs enough time to update their databases. The Department will work with the LEAs before the effective date to ensure that there is minimal interruption and error codes.
	Capt. Jeff Bell (119-120-17)	"And how this works with the ability to see the prior year's values seems very problematic. Just imagine this in attempting to search our data. Say someone is looking for all the handcuffing actions taken. We will have to conduct searches that may have data in one field, and may yet be in another field the next year. And the next. How will all this data come together in one	No change has been made in response to this comment, which is interpreted as an observation rather than a recommendation to make any changes to the regulations. To the extent that the comment questions how the data can be collected with differences for data elements between different years, the Department anticipates that there will be a transition period, since agencies have until April 1, to submit the prior year's records to

		outcome will be questionable at best and I'm not sure there will be a way to merge information together."	the Department. During this period, codes will be validated based on the Date of the Stop and the requirements in effect when the stop occurred. To the extent that the comment questions the need to change the data elements collected, because the changes to the regulations could make the prior collected data confusing, the Department disagrees. Many of the changes were requested by the RIPA Board to allow it to serve its function of producing "detailed findings on the past and current status of racial and identity profiling, and making policy recommendations for eliminating racial and identity profiling." (Pen. Code, § 13519.4, subd. (j)(3).) The data can be analyzed regardless if it was captured in a different field than in a previous year. Obviously new data values will not have anything from previous years to compare.
	Capt. Jeff Bell (121-23)	"Or better yet, what does it mean if an officer is black, and his stats shows he stops about 80- 85% of Hispanics? I can tell you what it means, it means he'd be the only black officer in our agency, and one that performs law enforcement in a community who's primary demographic is about 80-85% Hispanic. That means, out of 10 traffic stops, I have about an 80% probability of that person being of	No change has been made in response to this comment, which is interpreted as an observation rather than a recommendation to make any changes to the regulations. The Department interprets this comment to pertain to either the RIPA statute requiring the collection of stop data or to the data analysis obligations of the RIPA Board, which is outside the scope of these regulations.

		Hispanic descent. What happens then is anybody's guess."	
	Richard Hylton (086-01)	"Was it 2016, when I wrote, using what I learned from people who are better at these things that you people, on how your data Integrity regime should be constructed. To no avail. My name appears 54 times in you Final "Notice of Reasons" documents; often disrespectfully and often with derision, when not accompanied by lies or omissions. Months later, I determined that at least two people, in DOJ-CJIS, held similar opinions on Data Integrity as I did. Doubtless they were overruled by ignorant and arrogant lawyers. What do you have to show for it? You have **1.2 million** unreported stop records, or parts of records from the LAPD, and a CalGang Database that is a bloody useless shambles. I do not need to repeat what happened in Oakland. Have no need to gloat about your shortcomings."	No change has been made in response to this comment, which is interpreted as an observation rather than a recommendation to make any changes to the regulations. To the extent that the comment objects to the regulations on the grounds that they do not improve the integrity of the data collected, this comment is not specific enough to respond. Law enforcement agencies and the Department can voluntarily implement data validation functions to ensure the integrity of the data collection on this or any other data values.
	Richard Hylton (086-02)	"Heed the advice of CJIS on the planned reassignment of Reason, Result and Action Codes (Add the new ones.)"	No change has been made because this comment is not specific enough to respond.
	Richard Hylton (086-04)	"Do not, repeat do not, carve out any new groups of stops for reporting exclusion. Heed instead the sage advice of your "partner" CPE (collect data for	No change has been made because this comment is not specific enough to respond.

		all encounters) and what is contained in your Best Practices Document. Practice what you preach."	
	Richard Hylton (086-05)	"Since you are lawyers, you should be able to reconcile, or try to reconcile, the RIPA provisions on OII and PII with contradicting state law, since using state law, I have obtained names and addresses of arrestees and persons cited, in one or more reporting jurisdictions, and Officer ID's for more than a million LAPD stops/arrests. As it stands, this item or issue is an ideal crutch for your failure to disclose narrative fields; to make noting of the conspicuous failure to evaluate Bias By Proxy and other forms of bias that the narratives would disclose."	No change has been made in response to this comment. The comment is not specific enough to respond to, and seems directed towards issues with the underlying statute, RIPA, and not these regulations.
	Richard Hylton (091-01)	"The above attached item contains the specific recommendations that issued from the Center From Policing Equity. I agree with each and all of the following specific items, and so does your CJIS' Kevin, the guy with the spectacular haircut, and one or more of the people from CJIS: • Integrate stop data collection with existing systems (e.g., dispatch, records management) to facilitate auto-population and minimize copying errors.	No change has been made in response to this comment because the Department interprets this comment as recommendations for individual law enforcement agencies and not as recommendations to make any changes to the regulations. The four bulleted recommendations are from a report issued by the Center for Policing Equity. These recommendations were intended for law enforcement agencies on how to enter data in a manner that reduces errors. (Center for Policing Equity, Collecting, Analyzing, and Responding to Stop Data: A Guidebook for

		• Enable the system to retain core information about a stop, such as location, time, date, and officer information, and automatically populate these data for multiple-person stops.38 • Build logic into the system that prevents conflicting answers or flags errors (e.g., an improbable date) for the officer entering data. • Use geocoding technology to formalize recording of address fields (e.g., suggest a geocodable location when an officer enters an approximate or incorrect address). • Build in standard checks for personnel who are conducting audits to compare certain fields and look for glaring inconsistencies (e.g., search = incident to lawful arrest; arrest = no)."	Law Enforcement Agencies, Government, and Communities (2020) ("CPE Report") p. 25.)
	Richard Hylton (091-02)	"Hylton, who does not enjoy the pigmentation privilege that you people value, remembers when his similar hard-learned suggestions (thank you Officer Jericho Salvador) were met with your insolent response :"Nothing in the RIPA Regulations permit the submission of false data." I suppose that 1.2 million missing and/or otherwise false records caused you, the AB953 team to find religion. Judge Orrick's admonition to Oakland, concerning its	No change has been made in response to this comment, which is interpreted as an observation rather than a recommendation to make any changes to the regulations.

		false data and reports, could have only been helpful. Your redemption may be made complete if you can prevail upon your partner, CPE, not to equate Blackness with crime; inadvertently or otherwise. As the racist clown, at POST, instructed: Perception is reality."	
	California Police Chiefs Association (097-05)	"Whatever additional data points or narratives end up being approved for implementation, we respectfully request that DOJ ensures adequate time for agencies to incorporate the new data fields into their reporting systems and train their officers in the new collection fields prior to any effective implementation date. Wave 4 agencies, which number over 400, just began collecting RIPA stop data January 1st after creating their own data collection systems or using DOJ's system. System configuration and officer training play a large role in the stop data collection process and we want to ensure that any implementation date take into consideration the time necessary for agencies to adequately prepare for any changes."	The Department intends to provide agencies adequate time to modify their stop data collection systems to incorporate these proposed amendments. The Department has taken into account the time it would take for agencies to implement these changes and, as such, intends to request a later effective date to allow time for the changes. Additionally, and as described in the ISOR at page 26, the Department has reached out to private vendors and received estimates that modifications to stop data collection systems would take anywhere from 12-240 hours to complete. As such, by delaying the effective date, the Department will provide agencies sufficient

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			time to modify their stop data collection systems.
	Richard Hylton (098-01)	"Please do better than that; adopt them all, unchanged. I have no pride of authorship to any of this. I learned all I know for LEA people; White people mostly. And now, I ,and anyone who can see and read will notice that CJIS folk hold and held similar views."	No change was made in response to this comment which generally requests the Department to adopt all prior comments made by the commenter. The Department has responded to each of the prior comments.
	Richard Hylton (098-100-02)	"I have written the below while asking that they be combined into a single set of comments. The fact that you have provided a number, suggest that you even invite telephonic communications. I do not need an invitation, but truth be known, I would not, under normal circumstances, approach you nice people closer than barge pole distance for your turpitude frightens me. But, given the importance of the issues and your demonstrated capacities to ignore or not receive my mail, I was compelled to call. This, and the message that appears in the voice-mailbox attached to (510) 879-1983, which message is also attached to this communication,	No change has been made in response to this comment. The Department follows all relevant laws in implementing these regulations, including the Administrative Procedure Act. As required, the Department has responded to all public comments received during the rulemaking process in the Final Statement of Reasons.

		demands that all the within happens. Somewhere in your communications you state that persons who write comments, have a right to receive responses. I hereby assert and claim that right. I do look forward to hearing from you, eventually."	
Other	Richard Hylton (087-089; 093-95)		This email, dated November 27, 2021, is part of an email thread that ends with two email comments sent on February 1, 2021. Because this email was sent prior to start of the second comment period, it does not require a response. To the extent this email can be construed as a comment for the first comment period, which ended on September 3, 2021, it does not require a response because it is untimely. However, the Department did not make any change in response to this email because it was not specific enough and appeared to be an observation rather than a recommendation to make any changes to the regulations.
	Richard Hylton (092, 101-06)		These emails are duplicates of email comments already addressed above.

	Richard Hylton (Email attachments to email comment at 091-095)		These emails are attachments to the email comment sent on February 1, 2021 and addressed above (See Responses to Hylton, 91-01-02). These emails were sent prior to the start of the second comment period and thus do not require a response. To the extent these emails can be construed as comments for the first comment period, which ended on September 3, 2021, they do not require a response because they are untimely. However, the Department did not make any change in response to this email because it was not specific enough and appeared to be an observation rather than a recommendation to make any changes to the regulations.

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Section/Topic	Commenter (Batestamp/Page Number(s) – Comment Number)	Comment (summarized or quoted)	CA DOJ Response
§ 999.226(a)(16) Force Related Actions Taken by Officer During Stop	Hilary Rau, Center for Policing Equity (178-01)	Commenter suggests that the physical compliance tactics and techniques grouped together in Article 3 (a)(16)(A)(2) should be separated out into distinct categories to distinguish different types of force used because low level uses of force like simple control holds are combined with more serious uses of force like neck restraints and kicks to the head.	No change has been made in response to this comment. In drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that adding these additional data values for this data element was not necessary to include at this time.
	Hilary Rau, Center for Policing Equity (178-01)	The Commenter opposes the proposed removal of "carotid restraints" as an example of what constitutes "Other physical or vehicle contact," which is an existing data value under existing data element of "Actions Taken By Officer During Stop." The Commenter notes that "Although California law now prohibits law enforcement agencies from authorizing the use of chokeholds or carotid restraints, we believe that it is still important to collect separate data on law	No change has been made in response to this comment, in part because it can also be viewed as not pertaining to changes in this comment period. As stated previously in response to this comment, the Department believes that the data element of physical tactics and techniques will assist in analyzing whether racial disparities exist in force related actions. As explained in the ISOR at page 17, the Department removed this example to avoid any confusion because carotid restraints are not a lawful use of force under California law.

		enforcement use of neck restraints. Collecting these data will help researchers to track the effectiveness of California's current law and to more accurately analyze racial disparities in serious force incidents."	While we agree with the Commenter that collecting such data could be useful, in drafting these amendments, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that collecting this data would be confusing and the benefits would be outweighed by the burdens. If an officer did utilize a carotid restraint or chokehold, that information could be captured in the open narrative field.
§ 999.228(h): Data Publication			

§999.228(h)(7)(I); (h)(15), and (h)	Hilary Rau, Center for Policing Equity (179-02)	Commenter opposes the requirement that Confidential Stop Data Requestors certify under penalty of perjury that they have destroyed the data.	No change has been made in response to this comment. Contrary to the Commenter's suggestion, an accidental failure to destroy confidential data is not permitted under these regulations. The regulations also require that there be witnesses to the data destruction, again lessening the likelihood of an accidental failure to destroy the data. Requiring the Confidential Stop Data Requestors to certify, under penalty of perjury, helps emphasize the importance of the data destruction by imposing criminal consequences for failing to do so. This also helps the Department protect the Confidential Stop Data by ensuring data is destroyed accordingly. Additionally, data destruction is a common process that businesses, research institutions, and government agencies already have in place, including policies relating to data destruction. NIST SP 800-88, which was incorporated by reference into the regulations, sets forth the methods for destroying the data. Given that this is a common practice with confidential and sensitive data, we do not believe that requiring a declaration stating that the data has been destroyed after it the project is completed will have a chilling effect on requestors seeking the data.

	Eric Thurnberg, Chula Vista Police Department (182-08-182-10)	Comments oppose release of Confidential Stop Data, including Personally Identifiable Information and an Officer's I.D., and raises issues about possible secondary dissemination from the Confidential Stop Data Requestors.	No change has been made in response to these comments, in part because it can also be viewed as not pertaining to changes in this comment period. The current regulations provide for the release of personally identifiable information and the officer's identification number to advance public policy through scientific study. (See § 999.228, subd. (g), which states "[n]othing in this section prohibits the Department from confidentially disclosing all stop data reported to the Department to advance public policy through scientific study and pursuant to the Department's data security protocols, which will ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity.") The Department has used these amended regulations to ensure that the Confidential Stop Data, such as the Personally Identifiable Information and an Officer's I.D. are protected, both by requiring codified security measures and ensuring that any publication does not identify any individual. The Department also has several enforcement mechanisms in the regulations that will result in Confidential Stop Data Requestors losing access to current data, or future data, if they violate the regulations.

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General Comments	Eric Thurnberg, Chula Vista Police Department (182-11)	Comment generally opposes the regulations as being time-consuming, not likely to help in data reporting, and too complex.	No change has been made in response to this comment. In proposing these changes, the Department has sought extensive input from various stakeholders, including law enforcement, academics, community members and the RIPA Board which includes members from all of the above mentioned groups. Many of the changes that have been proposed in these amendments came directly from law enforcement and are being adopted to streamline the data reporting process, while ensuring that law enforcement agencies have a rich data set to analyze and enhance the work in their organizations. The Department also has sought to balance the concerns raised by this comment, while ensuring that the data collected is accurate and can be analyzed. Lastly, the commenter does not specify exactly what he believes is complex, and therefore we are unable to specifically address that comment.

Comments Not Directed at Modified Text or Forms			
	Eric Huesman (168-01-02); Eric Thurnberg, Chula Vista Police Department (181-01), (181-02-182-03), (182-05), (182-06),	Comments are identical to previously submitted comments, but do not relate to modifications to the text for this 15-day comment period.	No change has been made to the regulations because the comments do not relate to any modification to the text or forms for this 15-day comment period. The Department already addressed these comments in the responses to the 45-day and first 15-day comment periods.
	Richard Hylton (170-01)	Comments seem supportive of the proposed changes to the regulations, but do not relate to modifications to the text for this 15-day comment period.	No change has been made to the regulations because the comments do not relate to any modification to the text or forms for this 15-day comment period.
	Richard Hylton (171-02)	Commenter quotes Monica Montgomery and Dr. Martin Luther King, Jr. to criticize the proposed regulations; however, they do not relate to modifications to the text for this 15-day comment period.	No change has been made to the regulations because the comments do not relate to any modification to the text or forms for this 15-day comment period.

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	Richard Hylton (170-03)	Comments seem supportive of the proposed changes to the regulations, but do not relate to modifications to the text for this 15-day comment period.	No change has been made to the regulations because the comments do not relate to any modification to the text or forms for this 15-day comment period.
	Cameron Fenske (172-01 – 173-03)	Comments suggested additional language be added.	No changes have been made to the regulations because the comments do not relate to any modification to the text or forms for this 15-day comment period.
	Richard Hylton (174)	Comment generally references the regulations and rulemaking process.	No change has been made in response to this comment which is interpreted as an observation. The comment is not specific enough for the Department to respond to and does not appear related to the changes made in this comment period.

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	Richard Hylton (175)	Comment corrects a typo made in the previous comment made by Richard Hylton.	No change has been made in response to this comment which is interpreted as an observation. The comment is not specific enough for the Department to respond to and does not appear related to the changes made in this comment period.
	Eric Thurnberg, Chula Vista Police Department (182-4), (182-7)	Comments raise concerns regarding the data value.	No change has been made in responses to these comments as they are not related to changes made in this comment period. The comments can also be interpreted as observations rather than specific recommendations.
	Eric Thurnberg, Chula Vista Police Department (182-8)	This comment generally refers to the new language on page 30.	No change has been made in response to this comment as it is not specific enough for the Department to respond to and does not appear related to the changes made in this comment period.

	Eric Thurnberg, Chula Vista Police Department (182-9)	This comment generally refers to the release of an Officer's I.D.	No change has been made in response to this comment as it is not related to the changes made in this comment period.

Attachment D: List of Commenters

First Comment Period (July 9, 2021-September 3, 2021)

Written Comments:

1. Scott Meadows
2. Richard Hylton
3. Andrew Tucker
4. ACLU of ACLU of Northern California, ACLU of Southern California, ACLU of San Diego and Imperial Counties, and ACLU California Action
5. Richard Hylton
6. Richard Hylton
7. Richard Hylton
8. California Police Chiefs Association and the California State Sheriffs' Association
9. Advancement Project California
10. Richard Hylton
11. Richard Hylton
12. Wesley Mukoyama
13. Richard Hylton
14. California Highway Patrol
15. The Center for Civil Rights Remedies at UCLA's Civil Rights Project
16. National Homeless Law Center
17. California State Sheriffs' Association
18. Center for Policing Equity
19. San Francisco Department of Police Accountability
20. California Association of Highway Patrolmen

Oral Comments:

August 20, 2021 Hearing

1. Andrew Tucker
2. Richard Hylton

September 1, 2021 Hearing

1. Dr. Stephen Rafael on behalf of the Racial and Identity Advisory Board
2. Richard Hylton
3. Hillary Rau
4. Chauncee Smith

Second Comment Period (January 18, 2022-February 4, 2022)

1. Doug Silva
2. Clyde Hussey
3. Brady Collins
4. Antoinette L. Agostinacci

5. Hanford Police Department Chief Parker Sever
6. Laura Raymond
7. Scarlett De Leon
8. Lyndsey Nolan
9. Ava Marinelli
10. Hector Huezo
11. Araceli Amezquita
12. Martin Langeveld
13. Kathleen Stevens
14. Richard Hylton
15. Steph Shaw
16. Richard Hylton
17. California Police Chiefs Association
18. Richard Hylton
19. Claire Savage
20. Kaitlyn Quackenbush
21. Sherin Varghese
22. Kristen Studard
23. Greg Irwin
24. Alliance for Community Transit - Los Angeles
25. Veronica Shirley
26. Joselyn Hughes
27. Kelsey Mcrae
28. Jeff Bell
29. Meghan Urisko
30. Stephen Jones
31. Dana Bell
32. Los Angeles County Bicycle Coalition
33. Center for Policing Equity
34. Eric Thunberg
35. Edna Monroy
36. Alex Fierro-Clarke
37. Harrison McDonough
38. Amelie Cherlin
39. Andy Perrine
40. San Diego Community College District
41. California State Sheriffs' Association
42. Nancy Matson
43. Hermes Padilla
44. Maryann Aguirre
45. Sonia Suresh
46. Silvia Marroquin
47. Elizabeth Medrano

48. Cynthia Strathmann
49. Mateo Gil
50. Ad Hoc Committee on Policing and Human Relations of the Los Angeles County Commission on Human Relations
51. Carmina Calderon
52. Kery Ramirez
53. Eric Huesman
54. Leo Baeck Temple
55. La Mesa Police Department
56. Amanda O'Neill
57. Jennifer Curwick
58. Anna Stoddard
59. Jean Lyon, Davis Police Department

Second 15-Day Comment Period (May 25, 2022 – June 9, 2022)

1. Eric Huesman
2. Richard Hylton
3. Cameron Fenske
4. Richard Hylton
5. Richard Hylton
6. Hilary Rau, Center for Policing Equity
7. Eric Thunberg, City of Chula Vista Police Department