

## AB 953 Subcommittee – Additional Data Elements

This subcommittee will advise the Racial and Identity Profiling Advisory Board (Board) regarding recommendations the Board may wish to make to the Office of the Attorney General on the additional elements – those not enumerated in the statute – which the subcommittee believes should be considered for inclusion in the stop data collection and reporting regulations. In doing so, this subcommittee will also provide recommendations on the potential data values (i.e., responses) officers will choose in providing information for these additional proposed data elements.

In addition, this subcommittee will advise the Board on advice it may wish to provide to the Office of the Attorney General regarding data values to assign for the following three data elements, which are specifically required by the statute: (1) perceived race or ethnicity; (2) perceived gender; and (3) approximate age of the individual stopped.

### **I. BACKGROUND**

A “Data Element” is the category of information that is collected – for example, the “gender” of the person stopped. “Data Values” are fields that an officer would select in responding to the data element. AB 953 does not provide the particular data values that must be assigned to each data element. For example, “female, male, transgender, and gender non-conforming” are possible data values that could be assigned within the data element of “Perceived Gender” of the person stopped.

AB 953 requires that officers report certain data regarding stops they make of individuals, including, but not limited to, the following:

- “(b) The reporting shall include, at a minimum, the following information for each stop:
- (1) The time, date, and location of the stop.
  - (2) The reason for the stop.
  - (3) The result of the stop, such as, no action, warning, citation, property seizure, or arrest.
  - (4) If a warning or citation was issued, the warning provided or violation cited.
  - (5) If an arrest was made, the offense charged.
  - (6) 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. For motor vehicle stops, this paragraph only applies to the driver, unless any actions specified under paragraph (7) apply in relation to a passenger, in which case the characteristics specified in this paragraph shall also be reported for him or her.
  - (7) Actions taken by the peace officer during the stop, including, but not limited to, the following:
    - (A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.

(B) Whether the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any.

(C) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.” (Gov. Code, § 12525.5, subd. (b).)

This subcommittee will discuss the data elements and values provided below. This list is not exhaustive. Board members should also feel free to consider and discuss data elements and values not accounted for in this document.

## **II. CHARACTERISTICS OF THE INDIVIDUAL STOPPED**

- 1. Perceived Race/ethnicity**
- 2. Approximate Age**
- 3. Perceived Gender**
- 4. Limited English Fluency/Pronounced Accent?**

### **1. Perceived Race or Ethnicity of Individual Stopped**

AB 953 requires officers to report “the perceived race or ethnicity, gender, and approximate age of the person stopped,” based solely on the observation and perception of the officer making the stop. The subcommittee may wish to discuss the Data Values for each of these Data Elements, including the following proposed Data Values:

- a. White
- b. Black/African American
- c. Latino/Hispanic
- d. Middle Eastern
- e. Asian/Pacific Islander
- f. Native American

Some additional questions the subcommittee may wish to consider include:

- How should these categories be defined?
- Should there be any additional or other categories?

### **2. Perceived Gender of Individual Stopped**

AB 953 requires officers to report on the perceived gender of the individual stopped. The subcommittee may wish to consider the following proposed Data Values:

- a. Male
- b. Female
- c. Transgender
- d. Gender non-conforming

An additional question the subcommittee may wish to consider includes:

- Are there other Values that should be considered in addition to or instead of those proposed?

### **3. Perceived Age of the Individual Stopped**

AB 953 requires officers to report on the “approximate age” of the individual stopped. The subcommittee may wish to comment on the following proposed Data Values:

- a. 0-9
- b. 10-14
- c. 15-17
- d. 18-24
- e. 25-29
- f. 30-39
- g. 40-49
- h. 50-59
- i. 60 and older

### **4. Any Additional Data Elements Regarding Personal Characteristics of Officer**

AB 953 does not specifically identify any additional Data Elements regarding the personal characteristics of individuals. The subcommittee may wish to consider additional elements, including the following, which have been suggested by stakeholders: Limited English Fluency and/or Pronounced Accent; Sexual Orientation; Disability Status, etc. The subcommittee will consider whether it recommends adding these or other Data Elements and, if so, how to define these categories.

## **III. CHARACTERISTICS OF OFFICER**

AB 953 does not specifically identify any characteristics of the officer making the stop that must be reported. The subcommittee may want to consider recommending whether any data regarding the officer should be reported, including the pros and cons of inclusion of this information.

Further, if the subcommittee recommends including of any characteristics of the officer, the subcommittee may wish to recommend what the data elements and values should be. The Data Elements the subcommittee may wish to comment on include:

- 1. Identification Number**
- 2. Years of Experience**
- 3. Race/Gender/Age of Officer**
- 4. Type of Assignment**

Additional questions the subcommittee may wish to address include:

- 1. Identification Number**

If identifying information is requested, should the officer be identified according to his/her P.O.S.T. identification number, badge number, unique identifying number assigned by his/her agency, by some other method, or not at all?

## **2. Years of Experience**

- a. Should the officer's years of experience as a peace officer be reported?
- b. If so, should the officer type in actual years or should we offer a range of years?
- c. If a range of years is reported, what range should be used? The subcommittee may wish to consider the following ranges:
  - i. Less than four years
  - ii. 4-10 years
  - iii. More than 10 years

## **3. Race/Ethnicity, Gender and Age of Officer**

Additional questions the subcommittee may wish to consider the pros and cons of the following:

- a. Should the officer's race or ethnicity be reported?
- b. Should the officer's gender be reported?
- c. Should the officer's age be reported?
- d. Will reporting this data risk violating the privacy of peace officers, particularly for small agencies, and, if so, should privacy protections be put in place to prevent the inadvertent disclosure of the officer's identity?

## **4. Type of Assignment**

Some topics the subcommittee may wish to make recommendations on include:

- a. Should the officer's assignment at the time of stop be reported?
- b. If so, what Data Values should be provided to complete this Data Element?

Proposed Data Values include:

- i. Patrol
  - ii. Traffic
  - iii. Gang
  - iv. Special Assignment: Open
  - v. Narcotics
  - vi. Vice
  - vii. Violence Suppression/Crime Suppression
  - viii. Other
- c. Should there be an "other" category for officers to report, in an open field, categories that are not listed above?

## **IV. ARE THERE OTHER DATA ELEMENTS THAT SHOULD BE INCLUDED?**

The subcommittee may also wish to consider recommendations on whether the regulations should mandate the reporting of any additional Data Elements (i.e., additional categories of information), if the subcommittee believes those additional elements are consistent with AB 953 and reasonably necessary to effectuate the purpose of the statute.

**CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD**

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

**ADDITIONAL DATA ELEMENTS SUBCOMMITTEE**  
**MEETING NOTICE AND AGENDA**

**Tuesday, August 16, 2016, 10:00a.m. - 12:00p.m.**

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

**Los Angeles**

300 S. Spring Street  
5<sup>th</sup> Floor Conference Rm.  
Los Angeles, CA 90013

**Sacramento**

1300 "I" Street  
Conference Rm. 1540  
Sacramento, CA 95814

**Oakland**

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

**San Diego**

600 West Broadway St.,  
Suite 1800  
San Diego, CA 92101

**Other Teleconference Locations:**

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

1. Introductions (3 min.)
2. Selection of Subcommittee Chair (7 min.)
3. Discussion of advice this subcommittee wishes to provide the Racial and Identity Profiling Advisory Board regarding recommendations it might make to the Attorney General's Office on additional data elements and data values that the subcommittee believes should be considered for inclusion in the regulations. Topics for discussion may include, but are not limited to the following: (1.5 hours)
  - a. Characteristics of the Individual Stopped, including Perceived Race/Ethnicity, Approximate Age, Perceived Gender, etc.
  - b. Characteristics of the Officer, including Identification Number, Race/Gender/Age of Officer, etc.
  - c. Other Data Elements that Should Be Included
4. Next Steps (10 min.)
5. Public Comment (10 min.)
6. Adjourn

The meeting will begin at the designated time. Other times on the agenda are approximate and may vary as the business of the Board requires. Access to the meeting sites are accessible to persons with disabilities. For information or assistance with accommodation requests, please contact Supervising Deputy Attorney General Nancy A. Beninati at 510-622-2194, at least five calendar days before the scheduled meeting. For all other questions about the Board meeting please contact Legal Assistant M. Luzy Ochoa, California Department of Justice, 300 S. Spring Street, Suite 1702, Los Angeles, CA 90013, (213) 897-2636.

**CALIFORNIA RACIAL AND IDENTITY PROFILING BOARD**  
**ADDITIONAL DATA ELEMENTS SUBCOMMITTEE**  
**MEETING MINUTES**

**Tuesday August 16, 2016, 10 a.m.**

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

**Los Angeles**

300 S. Spring Street  
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Hanford, CA 93230

**Subcommittee Members Present:** Jennifer Eberhardt, Andrea Guerrero, Edward Medrano, David Robinson, Honorable Alice Lytle

**Subcommittee Members Absent:** Mike Durant, Tim Silard

**California Department of Justice Staff Present:** Nancy A. Beninati, Shannon Hovis, Rebekah Fretz, Glenn Coffman, Jerry Szymanski,

**1. Call to Order and Introductions**

The first meeting of the Additional Data Elements subcommittee was called to order at 10:25 a.m. by Nancy Beninati of the California Department of Justice (DOJ). The meeting was held by teleconference with a quorum of subcommittee members present. After the meeting was called to order, the subcommittee members, DOJ staff members, and members of the public present at each teleconference location introduced themselves.

**2. Selection of Subcommittee Chair**

**MOTION:** Member Robinson made a motion to elect Member Edward Medrano as Subcommittee Chair. The motion was seconded by Member Guerrero.

**VOTE:** The motion was passed with Member Eberhardt, Member Guerrero, and Member Robinson voting “Yes”, no “No” votes, and no abstentions. Member Lytle was not present for the vote.

### **3. Perceived Race or Ethnicity of the Individual Stopped**

Chair Medrano began the discussion period by providing an overview of the topics for discussion.<sup>1</sup> He then asked for the members’ comments regarding the data elements that should be collected on the characteristics of the individual stopped, starting with perceived race or ethnicity. Member Robinson suggested that the data values for race or ethnicity should be consistent with the categories used by the U.S. Census Bureau, and that the data collection form should have the option for officers to check multiple boxes for individuals perceived to be of mixed race.

Member Eberhardt asked what the options were if the officer cannot determine the race or ethnicity of the individual stopped. She suggested adding an “Other” category with an open field to write in the ethnicity in cases where the perceived ethnicity is not listed on the form. Member Robinson commented that adding open field or narrative boxes for race would create consistency problems, and it is important that racial categories be consistent throughout because of training issues. Member Guerrero commented that an “other” box may be insufficient without a narrative explanation. Member Eberhardt stated that there is a danger that valuable information would be lost if there is no narrative field, but they would have to find out whether adding an open field is possible from a technology perspective.

Chair Medrano suggested that there may be a need for a biracial checkbox, as well as an “other” checkbox. Member Guerrero agreed and stated that while further levels of detail would be nice, they needed to stick with macro-level categories. Member Robinson suggested that they should consider adding subcategories, for example including the data value “European” under the category “Whites.” He also suggested considering a skin tone or complexion option, such as light, medium or dark, to collect data on whether officers tend to stop individuals with certain skin tones. Member Guerrero proposed bringing up the issue of narrative fields in the Technology Committee meeting.

**MOTION:** Member Guerrero made a motion to recommend being able to check multiple boxes and include an “Other” option that includes an open field to the perceived race or ethnicity data element. The motion was seconded by Member Robinson.

**VOTE:** The motion was carried with Chair Medrano, Member Eberhardt, Member Guerrero and Member Robinson voting “Yes”, no “NO” votes and no abstentions.

### **4. Public Comment**

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<sup>1</sup> DOJ staff provided the subcommittee members with a document containing recommended topics for discussion, including lists of proposed data elements and data values for the AB 953 regulations.

Peter Bibring from the ACLU of California commented that capturing biracial information is important, and there are systems with broader data collection fields. Using narrative fields may be helpful for revision and may allow for expansion of the data categories collected in the future.

Chief Deputy Patricia Knudson from the Riverside County Sheriff's Department expressed support for including a multi-racial option under the race and ethnicity data element to help ensure that officers are accurately documenting the stop, as well as an "other" option.

## **5. Definitions for Race and Ethnicity Data Values**

Chair Medrano then asked the members for comments on how the data values under the race or ethnicity field should be defined. Member Guerrero commented that definitions may not be that important since the data collection is about the officer's perception. Member Eberhardt commented that even though the data collected is only perceived race, officers should have guidance to make sure they are collecting data consistently. Looking at the definitions and breakdowns used in the U.S. census data may be helpful, particularly for training purposes. Member Robinson agreed that making the definitions consistent with federal and state census categories would make the most sense and provide the most consistency in data collection. Member Guerrero suggested that an "other" category with a narrative box would be useful, especially for officers that are assigned to communities with large concentrations of a certain ethnic subgroup.

## **6. Public Comment**

Jennifer Orthwein from the Transgender Law Center suggested that race and ethnicity should be broken up into two separate categories, and the race category should be documented by complexion and the ethnicity category by perceived ethnicity.

Diana Tate Vermeire from the ACLU of California urged the subcommittee to consider the language of the statute and use the race elements found in the census data rather than skin tone.

Member Guerrero commented that the federal census forms make a distinction between race and ethnicity. Chair Medrano commented that the RIPA Board has discretion to recommend additional data elements, but they should not make the data collection form overly complex. Member Eberhardt suggested that the subcommittee stay with what they originally agreed upon for the race or ethnicity category.

## **7. Perceived Gender of the Individual Stopped**

Chair Medrano then asked for comments regarding the DOJ's proposed data values for perceived gender. He suggested that they expand the current list of data values to five categories: male, female, transgender male, transgender female, and gender non-conforming. Member Robinson suggested that it would be helpful for officers to have knowledge of how these categories are defined.



**MOTION:** Member Guerrero made a motion to recommend expanding the list of data values for perceived gender to the five categories proposed by Chair Medrano. The motion was seconded by Member Robinson.

**VOTE:** The motion was carried with Chair Medrano, Member Eberhardt, Member Guerrero, and Member Robinson voting “Yes”, no “NO” votes and no abstentions.

## **8. Public Comment**

Chief Deputy Jackie Horton from the Riverside County Sherriff’s Department commented that breaking transgender down into transgender male and transgender makes sense.

Jennifer Orthwein from the Transgender Law Center expressed a concern that transgendered individuals will be perceived as merely male or female rather than transgendered, but she agreed that the five categories make sense. She suggested that the form could use a 5-point Likert type scale of masculinity and femininity, and that this category could be broken down into perceived sex assigned at birth followed by the scale. The five points on the gradation scale could be very masculine, more masculine than feminine, equal to perceived sex, more feminine than masculine, and very masculine.

Jo Michael from Equality California commented that the reasoning behind the scale is to accurately capture who is being affected the most, and it would be a relatively new area where data would be collected for the first time.

Chair Medrano commented that the subcommittee needs to be mindful of the legislation and not go too far into breaking down these categories into subcategories. Member Robinson commented that the goal of data tracking is to ensure that people are being treated fairly by offices. The proposed 5 points are reasonable, but they do not want so much detail that officers would have to look too closely into characteristics such as male, female, or sexual orientation and make judgments that would otherwise be irrelevant.

Member Lytle joined the meeting at 11:03 a.m. After Chair Medrano gave her a brief summary of the discussion on perceived gender, Member Lytle asked for a definition of gender non-conforming. Jo Michael from Equality California explained that gender non-conforming is meant to capture people who do not fit easily into traditional gender categories but would have nothing to do with asking people whether they identify with one of the gender categories. Chair Medrano stated that officers should be trained on how to use this data field.

## **9. Sexual Orientation**

Member Guerrero proposed that sexual orientation should be added as a data value along with the other 5 categories. Chair Medrano asked how an officer would determine sexual orientation without asking the individual. He then asked for public comment on this issue.

## **10. Public Comment**

Peter Bibring from the ACLU of California commented that there would be many incidents where there would be no basis to perceive sexual orientation, so there should be a “no perception” option. However, there are some interactions where sexual orientation is clearly perceived, such as enforcement actions that seem to target individuals based on sexual orientation. For example, there have been sting operations in Long Beach for public sex incidents that have largely targeted game men, and this would be a situation where it would be important to capture perceived sexual orientation.

Chief Deputy Jackie Horton from the Riverside County Sheriff’s Department recommended that sexual orientation not be added to the five agreed upon data values.

Jennifer Orthwein from the Transgender Law Center suggested adding the category “perceived LGB.” She expressed the concern that using the category “sexual orientation” and breaking it down into identity words such as gay, lesbian, or bisexual could be problematic and risk conflating and confusing the categories of gender and sexual orientation. She suggested either using “perceived LGB” or breaking it down into attracted to men, attracted to women, etc.

Jo Michael from Equality California also expressed a concern over the categories of gender and sexual orientation overlapping and expressed support for measuring sexual orientation by the categories “no perception” or “perception of LGB”.

## **11. Recommendations to the RIPA Board Regarding Perceived Sexual Orientation**

**MOTION:** Member Robinson made a motion to recommend adding “perceived LGB” as a data element. Member Guerrero seconded the motion.

**VOTE:** The motion was carried with Chair Medrano, Member Eberhardt, Member Guerrero, Member Lytle, and Member Robinson voting “Yes”, no “NO” votes and no abstentions.

## **12. Perceived Age of the Individual Stopped**

Chair Medrano then asked for member comments regarding the age categories recommended by the CDOJ. Member Eberhardt commented that the proposed age ranges were similar to the categories used by the Oakland Police Department, and that using ranges is helpful because it is difficult to perceive age accurately. CJIS staff commented that these are the age ranges that CJIS uses for its data collection system. There was no public comment on this issue.

**MOTION:** Member Robinson made a motion to recommend keeping the perceived age categories that were recommended by the CDOJ.

**VOTE:** The motion was carried with Chair Medrano, Member Eberhardt, Member Guerrero, Member Lytle, and Member Robinson voting “Yes”, no “NO” votes and no abstentions.

## **13. Additional Data Elements for Characteristics of the Individual Stopped**

Chair Medrano asked if the members had suggestions regarding any additional data elements that should be included in the subcommittee's recommendations to the Board. Member Eberhardt proposed adding an option for whether the officer could perceive race before the stop. She explained that the Oakland study uncovered greater racial disparities when they collected this data.

Member Lytle proposed an option for the officer's perception of the individual's mental or emotional state when stopped. Member Guerrero proposed that perception of the individual's mental or emotional state could be part of a disability section, and explained that these issues are already addressed in POST trainings. Member Robinson stated that this issue is already dealt with by legislation which requires officers to complete mental health training. He also commented that many officers respond to calls of service that involve individuals with a mental illness, so the data may look as if officers are targeting individuals with mental illnesses. The form was intended to take only a few minutes to complete, and there is a point where additional data elements will make data collection unfairly burdensome for officers.

Chair Medrano stated that he was comfortable with the data elements discussed and was in favor of not adding more. Member Eberhardt commented that demeanor could be captured in a narrative field if one is included.

#### **14. Public Comment**

Peter Bibring from the ACLU commented that the Disability Rights Project wrote a letter on this issue, suggesting that information on mental disabilities could be captured by a checkbox on the data collection form as evidence of mental disabilities or emotional distress. He pointed out that 1/3 to 1/2 of police shooting include people with mental disabilities. He also suggested that under the resolution of the stop data element, the form could include a data value for a 72-hour hold or mental health hold.

Chief Deputy Patricia Knudson from the Riverside County Sheriff's Department commented that most stops will cause individuals to exhibit high anxiety or stress, so it may be difficult for an officer to attribute an individual's emotional state during a stop to a mental health issue.

Chair Medrano asked if there is any other legislation capturing this type of information on mental disabilities, such as AB 71. Ms. Hovis answered that AB 71 has data values for disability but requires law enforcement agencies to report incidents only where the use of force by a peace officer results in serious bodily injury or death.

Member Robinson left the meeting at 11:30 a.m. due to a previous engagement, but a quorum of members was present for the remainder of the meeting.

#### **15. Limited English Proficiency**

Ms. Hovis commented that at the first RIPA Board meeting, there was a suggestion to add LEP as a data element through the use of a simple yes or no checkbox. Member Guerrero and Member Lytle both voiced support for this additional element.

**MOTION:** Member Guerrero made a motion to recommend adding LEP as an additional data element. Member Lytle seconded this motion.

**VOTE:** The motion was carried with Chair Medrano, Member Eberhardt, Member Guerrero, and Member Lytle voting “Yes”, no “NO” votes and no abstentions.

## **16. Characteristics of the Officer**

Chair Medrano then asked for comments regarding collecting data on the characteristics of the officer making the stop. He commented that law enforcement did not think that characteristics of the officers would be included in the data collection when AB 953 was passed, and there would be a lot of push back from law enforcement agencies if this information was reported. For small agencies, a single element, such as race, could lead to personal identification of the officer. He also asked whether officers would need to be provided with information on where they stand relative to the reporting.

Member Lytle asked whether the identification number on the list of recommended characteristics of the officer to be reported was synonymous with the officer’s badge number. Member Medrano answered that identification numbers do not necessarily have to be synonymous with badge numbers, and maybe the Technology Subcommittee can weigh in on creating a new identification number. Ms. Beninati commented that the badge number would never become public; it would be reported for tracking purposes only and would be scrubbed in the event of a Public Records Act request.

Member Eberhardt commented that the identification number of the officer is useful for understanding the causes of discrepancies. She explained that this information may show that a small percentage of officers could be making all the questionable or illegal stops, or it could point to specific departments or squads.

Ms. Hovis commented that the goal of collecting the identification number was to link stops with subsets of officers, rather than identifying the particular officers, in order to understand police practices throughout the state. The language of AB 953 creates an assumption that information on officers will be collected but kept confidential. Member Medrano replied that the language of the statute could also be read as an assumption that individual officer information would not be collected.

Ms. Beninati commented that the statute states that the RIPA Board shall not disclose the personal information of officers. It is within the discretion of the Attorney General to collect this information if it will be useful in furthering the purposes of the statute, but this information will be used for internal purposes only. She explained that the purpose is to fully capture the data to help determine if an officer is stopping individuals of a particular race more often than others

because the officer is actually profiling or because the officer's assignment puts him or her in contact with individuals of that race more than others.

Member Eberhardt commented that in the Oakland study, the officers were given random numbers and a name was not attached to the numbers, so the researchers did not know the personal identity of the officers, even though the agencies themselves could probably figure out the officers' identities. Ms. Beninati stated that the DOJ would be collecting agency ORI numbers and officers would have numbers, but the officers could not be individually identified by them. CJIS staff commented that assigning random numbers while maintaining anonymity may be difficult and someone would have to assign the numbers and pass them on to the DOJ. Agencies could look at the data and only they would know which particular officers are profiling.

Chair Medrano commented that he understood the statute to require that the data be sent to the DOJ in the aggregate, and that many departments already have early warning systems to catch racial profiling. If this information is collected, it is probably the agencies are probably responsible to tell officers where they stand, and this could open up a lot of labor issues. He suggested making the identification number specific only to the agency and not the officer.

Member Eberhardt commented that the intent of collecting this information is to uncover patterns across agencies and among subsets of officers. Ms. Hovis stated that the intent of this data is also to open up a dialogue between law enforcement and the RIPA Board to discuss the findings.

Member Medrano asked how this information, once collected and retained by law enforcement agencies would be protected from Public Records Act requests. He expressed the concern that collecting this information would open law enforcement agencies up to Public Records Act legal challenges, and stated that it should be the agencies responsibilities to identify the particular officers who are profiling. Ms. Beninati replied that the protection of this information from Public Records Act requests is not limited to the Board and the DOJ but extends to other law enforcement agencies also. Member Eberhardt commented that there have been no issues from the Oakland study with collecting this type of information, but more information about the logistics of numbering is needed.

## **17. Public Comment**

Peter Bibring from the ACLU commented that there is strong support for collecting officer identification data. He stated that the statute seems to make clear that the privacy of this information would be protected, and the use of unique identifiers is important for understanding the nature of the problem. He also pointed out that very few agencies have early warning systems for identifying racial disparities.

Chief Deputy Patricia Knudson from the Riverside County Sheriff's Department expressed support for keeping the data collection and reporting to the categories listed in the statutes and not identifying the officers in any way. She commented that the legislation would not

prevent law enforcement agencies from having to defend against Public Records Act requests for this data, and this information would likely be discoverable in federal court.

Corey Salzillo from the California State Sheriff's Association commented that when negotiating this legislation, the intent was that the officer not be identified. He stated that the overarching concern was that the more they drill down into the characteristics of officers, the easier it is to identify individual officers, particularly in smaller agencies.

Member Eberhardt commented that some agencies have been collecting this type of data for years and it is important to look at how these agencies have dealt with these concerns before deciding this issue. Chair Medrano reiterated his concern that the data agencies collect and retain is not protected from disclosure under the Public Records Act. He suggested that they could recommend that agencies evaluate their own data and could make recommendations on how agencies should use this data to address issues with profiling.

**MOTION:** Chair Medrano made a motion to request that DOJ staff look further into how other agencies have collected data on the characteristics of individual officers, and then reconvene the subcommittee to discuss the findings. This motion was seconded by Member Eberhardt.

**VOTE:** The motion was carried with Chair Medrano, Member Eberhardt, Member Guerrero, and Member Lytle voting “Yes”, no “NO” votes and no abstentions.

## **18. Public Comment**

Jo Michael from Equality California noted that Equality California had joined an ACLU letter to the Attorney General that contained specific reconditions for collecting data on perceived gender and perceived sexual orientation.

Chair Medrano requested that DOJ staff forward a copy of these letters from the ACLU to the subcommittee members.

## **19. Adjournment**

The meeting was adjourned at 12:10 p.m.

**CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD**

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

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**MEETING NOTICE AND AGENDA**

**Wednesday, September 28, 2016, 1:00p.m. - 3:00p.m.**

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Stanford University  
Jordan Hall, Room 106  
450 Serra Mall,  
Stanford, CA 94305

1. Introductions (5 min.)
2. Approve minutes from prior meeting (5 min.)
3. Continued discussion from the previous meeting (1.5 hour)
  - a. Characteristics of the individual stopped, including mental health and demeanor
  - b. Public Comment
  - c. Characteristics of the officer, including individual identifying information and demographic information
  - d. Public Comment
  - e. Additional Elements
4. Public Comment (10 min.)
5. Next Steps (10 min.)
6. Adjourn

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**CALIFORNIA RACIAL AND IDENTITY PROFILING BOARD**

**ADDITIONAL DATA ELEMENTS SUBCOMMITTEE**  
**MEETING MINUTES**

**Wednesday, September 28, 2016**

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

**Los Angeles**

300 S. Spring Street  
5<sup>th</sup> Floor Conference Room  
Los Angeles, CA 90013

**Oakland**

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

**San Diego**

600 West Broadway St.  
Suite 1800  
San Diego, CA 92101

**Sacramento**

1300 "T" Street  
Conference Rm. 1540  
Sacramento, CA 95814

**Other Teleconference Locations:**

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

Stanford University  
Jordan Hall, Room 106  
450 Serra Mall  
Stanford, CA 94305

**Subcommittee Members Present:** Chair Edward Medrano, Mike Durant, Jennifer Eberhardt, Andrea Guerrero, Honorable Alice Lytle, David Robinson, Tim Silard

**Subcommittee Members Absent:** None

**California Department of Justice Staff Present:** Nancy A. Beninati, Shannon Hovis, Rebekah Fretz, John Applebaum, Kathy Radez, Glenn Coffman, Jerry Szymanski, CJIS

**1. Call to Order and Introductions**

The meeting was called to order at 1:03 p.m. by Nancy Beninati. RIPA Board members and members of the public were introduced.

**2. Approval of Minutes**

**Motion:** Member Silard moved to approve the minutes from the prior subcommittee meeting. The motion was seconded by Member Eberhardt.



**Votes:** The motion was passed with Chair Medrano and Members Eberhardt, Silard, and Lytle voting “yes”; Member Robinson voted “yes” through item number 14; there were no “no” votes and one abstention by Member Durant.

### **3. Continued Discussion of Additional Data Elements and Values**

Chair Medrano introduced a sample RIPA survey which he developed to guide the conversation. The Chair reviewed two proposed data elements that did not prompt any comment from the Board or public: time of stop (most likely military time, to be determined based on computer process) and data of stop (items 1 and 2).

Later in the meeting, the Chair reviewed additional data elements and related data values that were approved at the prior meeting and did not require further action from this subcommittee: perceived race or ethnicity of person stopped, limited English proficiency, perceived gender of the person stopped, and perceived LGBTQ, and perceived approximate age of the person stopped (items 8, 9, 10, 11, 12).

#### **a. Location**

Member Durant expressed concern that officers reporting in rural locations might not know the block number or address.

Public comment: In response to a question from Chair Medrano, an officer from the California Highway Patrol clarified that their current data collection recorded only the office which the call came out of, not the location of the stop.

**Motion:** Member Lytle moved that the location data element require the officer to enter either the address and city or “other” with a required open field. Seconded by Member Robinson.

**Votes:** The motion passed, with Chair Medrano and Members Durant, Eberhardt, Lytle, Robinson, and Silard voting “yes”; no “no” votes or abstentions.

#### **b. Environment**

Chair Medrano solicited comments from the Board and public about whether officer should be required to record major location categories such as school, park, business, residence, or government facility. Member Robinson suggested this was unnecessary, as the required physical address will allow subsequent queries as to specific location types. Member Silard suggested that, at a minimum, the form require a checkbox for whether the location is a school facility.

Public comment: A representative from the State Sheriff’s Association asked whether the data would differentiate between a stop of a student versus a member of the public who happened to be in front of a school, noting that this issue came up with respect to AB 71. Atasi Uppal/National Center for Youth Law supported inclusion of a data element for environment, particularly for schools, and adding a variable for the stop location within a school

(inside/outside, hallway, classroom, cafeteria, etc.). Peter Bibring/ACLU endorsed adding a checkbox for school property and a second for street/sidewalk outside a school; he also recommended adding data values for park, sidewalk, government, residence, commercial, and public transit environments.

**Motion:** Member Silard moved to add a required check box indicated whether or not the stop occurred school property. Seconded by Member Lytle.

**Votes:** The motion passed, with Chair Medrano and Members Durant, Eberhardt, Lytle, Robinson, and Silard voting “yes”; no “no” votes or abstentions.

**a. Reason for Stop**

Members discussed at length whether there should be a data value to distinguish between officer-initiated stops and those prompted by a call for service, and whether AB 953 would even apply to calls for service.

Member Silard noted that calls for service might include a description of a suspect, which could prompt an officer to stop individuals matching that description. He suggested data values for “matched suspect description” and “observed crime,” and cautioned against options for “reasonable suspicion” and “probable cause” as those conclusions are frequently litigated and may result in ubiquitous checks for “reasonable suspicion” without any additional information.

Member Eberhardt noted that reasonable suspicion and probable cause have frequently been used as reasons for stops in other data collection efforts, as have traffic violations, parole/probation, and consensual encounters; all of these options can include a dropdown or narrative field for additional detail. She strongly encouraged the inclusion of both reasonable suspicion and probable cause with an open field.

Member Lytle suggested it is important to differentiate between stops in response to a potential felony and other stops, as the former invoke different emotions on the part of both citizens and officers compared to minor traffic stops.

Chair Medrano and Member Robinson both cautioned against an open field response for the “reason for stop” data element; Chair Medrano suggested that a drop down menu with preset options might be most effective. Ms. Hovis noted that technology from CJIS would support drop down menus for further detail.

Public Comment: Peter Bibring/ACLU acknowledged that officer efficiency is a reasonable concern, but that “reasons for the stop” is the most important element to understand bias, and suggested that a checkbox for “reasonable suspicion”—if included—should be accompanied by a dropdown of particular crimes or code violations, as well as an open field. Professor Jack Glaser cautioned about distinguishing between a stop based on a contemporaneous ID on the scene versus a BOLO match, and suggested that “reasonable suspicion” and “probable cause” be coupled with additional specifications—perhaps in dropdown menus, as in New York—especially if consensual encounters will also be included. Rosa Aqeel/PolicyLink would prefer no “reasonable suspicion” option unless it is coupled with a

required field for additional explanation of the basis of reasonable suspicion, and cautioned against options for “looked suspicious” or “suspicious behavior,” which are prone to abuse. Atasi Uppal/National Center for Youth Law suggested options for “observed crime” (drop down), “suspected crime” (drop down), and “suspicious behavior” (drop down or narrative).

Following this discussion, Chair Medrano and Member Eberhardt both endorsed a “reasonable suspicion” option. Member Guerrero suggested three options with drop-downs: probable cause, parole/probation, and reasonable suspicion, but expressed concern that reasonable suspicion and probable cause are legal conclusions that may not reflect the facts.

**Motion:** Chair Medrano moved to accept the data values listed in the sample survey (traffic violation, call for service, observed crime, consensual encounter, citizen arrest [minus other, which was removed), plus victim/witness identification match, matched suspect description, civil violation, parole/probation, and probable cause with dropdown, and further moved to table the discussion of reasonable suspicion pending additional information from DOJ on how other cities/states have captured that data. Seconded by Member Silard.

**Votes:** The motion passed, with Chair Medrano and Members Durant, Eberhardt, Lytle, Robinson, and Silard voting “yes”; no “no” votes or abstentions.

#### **b. Officer Initiated or Required**

There was no further comment from the Board or Public about this data item.

**Motion:** Member Robinson moved to accept the data element for “Officer initiated or Required” with data values of “self-initiated” or “required.” Seconded by Member Durant.

**Votes:** The motion passed, with Chair Medrano and Members Durant, Eberhardt, Lytle, Robinson, and Silard voting “yes”; no “no” votes or abstentions.

#### **c. Results of Stop**

Member Silard suggested adding a data value for mental health referrals. Member Guerrero agreed and suggested adding calls to Department of Homeland Security agencies (ICE, Border Patrol, etc.), emphasizing that this is a frequent outcome in the immigrant community even in the context of a stop versus a detention. Chair Medrano suggested this be broadened to “other law enforcement agency called” or providing three options for referral to another agency defined as “federal” (specify), “state” (specify), “local” (specify).

Member Silard suggested that, technology permitting, a stop on school property could prompt additional question about school disciplinary outcome, if known, or referral to school administration, mental health/support services, or child welfare. Member Robinson noted that school-specific values and elements on property seizures are being addressed by other subcommittees.

Member Silard noted that separate legislation (AB 71) will gather use of force data but only applies to the most serious incidents, and asked whether that data should be captured here.

Ms. Hovis stated that the Definitions subcommittee also voted to recommend other actions taken by officer, including use of force values, be considered by the Additional Data Elements subcommittee. .

**Public Comment:** A representative from the State Sheriff's Association suggested officer should be able to check multiple boxes. Atasi Uppal/National Center for Youth Law stated that the Special Settings Subcommittee will discuss school based incidents at its meeting on Friday, and stated that she supports breaking down different outcomes in school, either by requiring those field if the stop occurs on school grounds or by including those fields suggested on page 6 of the recent ACLU letter for all stops. Ms. Hovis noted that this letter was sent to all board members this week. Peter Bibring/ACLU expressed support for that approach.

**Motion:** A motion was made by Chair Medrano and seconded by Member Eberhardt to accept the data values listed in the sample survey (no action, warning, citation, property seizure, and arrest), plus 5150 mental health hold and other agency referral (with a drop down menu). The subcommittee did not vote on the specific agencies to include in the drop down menu.

**Votes:** The motion passed, with Chair Medrano and Members Durant, Eberhardt, Lytle, Robinson, and Silard voting "yes"; no "no" votes or abstentions.

#### **d. Charges**

Chair Medrano explained the current proposal is to include a required data element of "If arrested, offenses charged with:" with data values of "felony" and "misdemeanor." Member Durant suggested the data elements should be for specific offenses rather than category, as those distinctions are subject to change, citing Proposition 47.

**Public Comment:** John Kuhn/Butte County Sheriff's Office suggested concern that the statutes may not give you the full picture of charges in the case of wobblers. Chief Medrano clarified that the data won't collect charges, as that's a decision made at a later point by the District Attorney. Jim Epperson/California Highway Patrol asked about a request to be taken forthwith for an infraction. Ms. Beninati clarified that AB 953 requires that if a warning or citation is issued that the specific warning or citation must be recorded. A representative from CJIS offered that dropdown menus could be provided in a way that is not too onerous for officers.

**Motion:** A motion was made by Member Durant and seconded by Member Lytle to include prompts for warning, citation, and arrest with dropdown options for the specific code provision.

**Votes:** The motion passed, with Chair Medrano and Members Durant, Eberhardt, Lytle, Robinson, and Silard voting "yes"; no "no" votes or abstentions.

#### **e. Perceived Gender**

This data element, and related values, was approved at the subcommittee's prior meeting. Member Silard asked whether the committee considered adding explanatory parentheticals like

those provided on page 3 of the June 15, 2016 letter to the Board from LGBT groups to the previously-agreed upon data values for “Transgender-Male” and “Transgender-Female.” Member Eberhardt suggested this might be addressed through training, and Chair Medrano recommended that the Board include those definitions in its guidance on training.

Member Silard also noted the very serious privacy protection concerns raised on pages 5-6 of that same letter.

#### **f. Perceived LGBQ**

This data element and related values were approved at the subcommittee’s prior meeting. Member Silard questioned whether the reference to “questioning” prompts any useful data.

Public Comment: Jo Michael/Equality California noted that the June 15 letter from advocacy groups include several additional elements that would provide more depth on sexual orientation, but stated that Equality California is working on an updated letter to be presented in advance of the full Board meeting proposing a single yes/no data element of whether the officer perceives the subject to be LGBT, which would provide the opportunity for an officer to note his or her perception of the relevant “community catchall,” rather than requiring the officer to make an individualized assessment.

#### **4. Additional Comments**

Member Silard suggested the subcommittee meet again to address peace officer data, as serious concerns remained as to those proposed data elements and values.

Public Comment: Rosa Aqeel/Policy link encouraged the subcommittee to set future meetings after work or at other times when the public could more easily attend.

#### **5. Adjournment**

The meeting was adjourned at 3:10 p.m.

**CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD**

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

**ADDITIONAL DATA ELEMENTS SUBCOMMITTEE**  
**MEETING NOTICE AND AGENDA**

**Friday, October 14, 2016, 11:00a.m. - 1:00p.m.**

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

**Los Angeles**

300 S. Spring Street  
1<sup>st</sup> Floor Reception  
Los Angeles, CA 90013

**Sacramento**

1300 "I" Street  
Sacramento, CA 95814

**Oakland**

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

**San Diego**

600 West Broadway St.,  
Suite 1800  
San Diego, CA 92101

**Other Teleconference Locations:**

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

Stanford University  
Jordan Hall, Room 106  
450 Serra Mall,  
Stanford, CA 94305

1. Introductions (5 min.)
2. Approve minutes from prior meeting (5 min.)
3. Continued discussion from the previous meeting (1 hr. 40 min.)
  - a. Officer identification number & characteristics of the officer, including officer assignment and demographic information
    - i. Public Comment
  - b. Other actions taken by officer, in addition to searches & seizures
    - i. Public Comment
  - c. Other characteristics of person stopped, including perceived disability status
    - i. Public Comment
  - d. Revisit how to capture reasonable suspicion (drop down, narrative, etc.)
    - i. Public Comment
4. Next Steps (10 min.)
5. Adjourn

The meeting will begin at the designated time. Other times on the agenda are approximate and may vary as the business of the Board requires. Access to the meeting sites are accessible to persons with disabilities. For information or assistance with accommodation requests, please contact Supervising Deputy Attorney General Nancy A. Beninati at 510-879-0010 at least five calendar days before the scheduled meeting. For all other questions about the Board meeting please contact Legal Assistant M. Luzy Ochoa, California Department of Justice, 300 S. Spring Street, Suite 1702, Los Angeles, CA 90013, (213) 897-2636.

**CALIFORNIA RACIAL AND IDENTITY PROFILING ADVISORY BOARD**

**ADDITIONAL DATA ELEMENTS SUBCOMMITTEE**  
**MEETING MINUTES**

**Friday, October 14, 2016**

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Stanford University  
Jordan Hall, Room 106  
450 Serra Mall  
Stanford, CA 94305

**Subcommittee Members Present:** Chair Edward Medrano, Jennifer Eberhardt, Andrea Guerrero, David Robinson, Tim Silard

**Subcommittee Members Absent:** Mike Durant, Honorable Alice Lytle

**California Department of Justice Staff Present:** Nancy A. Beninati, Shannon Hovis, Rebekah Fretz, John Applebaum, Kathy Radez, Glenn Coffman, Jerry Szymanski, Jenny Reich

**1. Call to Order and Introductions**

The meeting was called to order at 11:10 a.m. by Chair Medrano. RIPA Board members and DOJ staff members were introduced.

**2. Approval of Minutes**

**Motion:** Member Guerrero moved to approve the minutes from the prior subcommittee meeting. The motion was seconded by Member Robinson.

**Votes:** The motion passed with Chair Medrano and Members Eberhardt, Guerrero, and Robinson voting “yes”; no “no” votes; no abstentions (Member Silard was not present at this time).

### **3. Continued Discussion of Additional Data Elements and Values**

#### **a. Officer identification number**

Chair Medrano opened the discussion by referring Board members and the public to the document provided by DOJ staff listing the data elements collected by various law enforcement agencies in California, Connecticut, New York, and Texas, as well as the recent data collection recommendation issued from the U.S. Department of Justice to the San Francisco Police Department.

Member Robinson commented that RIPA is clear that the Department of Justice cannot provide information showing the unique identifying information of the officer, and suggested that the agency generate a unique identifier for each officer that is not disclosed so that the agency can deal with issues as to specific officers within the confines of the Public Safety Officers Procedural Bill of Rights Act (POBAR).

Chair Medrano agreed with these concerns, but commented that agencies will not be able to correct problems if they cannot identify individual officers. He suggested that each officer be provided with a unique identifier that will not change by the agency and that the agency retain the cipher.

Member Guerrero relayed a discussion at the Technology Subcommittee meeting with CJIS staff that officer anonymity is technically possible, and suggested this Subcommittee focus on the type of information that would be required by the officer.

Member Eberhardt explained that officer-level data is necessary not just to identify particular officers who might be engaged in problem behavior but also to understand the nature of the data and what may be producing racial disparities, if any. For example, the Oakland Police Department analysis did not single out particular officers, but revealed that only 20 percent of the department was making the majority of stops and searches, and that more senior officers and women were making relatively fewer stops.

**Motion:** Later in the meeting, Chair Medrano moved that agencies assign each officer a permanent unique identifier to be used in reporting data to the DOJ and in any RIPA data report, with the cipher to be retained by the agency. Seconded by Member Guerrero.

**Votes:** The motion passed with Chair Medrano and Members Eberhardt, Guerrero, Robinson, and Silard voting “yes”; no “no” votes; no abstentions.

#### **b. Officer demographic information**

Member Robinson commented that officer demographic information (gender, race, years of service, etc.) should not be included because it will necessarily be amenable to re-



identification for smaller agencies. If the information is collected, it should stay within the department and not be relayed to the public.

Ms. Hovis commented that the DOJ deals with the risk of re-identification whenever it releases data, particularly in the context of OpenJustice, and represented that the DOJ errs on the side of caution: if there is a possibility of re-identification, the practice is either to redact or report that data in a summary fashion only. Nancy Beninati further commented that while the DOJ redact the information or object to disclosure in response to a PRA request, release could still be ordered pursuant to litigation on a case-by-case basis. Neither the DOJ staff nor members of the Board were aware of examples in which an agency decision to redact such information had been challenged in litigation or overturned by a court.

Member Eberhardt explained that a lot of agencies collect officer demographics and assignment information in order to determine if disparities can be traced to particular assignments or other factors. She cautioned that if the data is too limited to examine such causes, the public will assume that disparities result from officer bias. She noted that both LAPD and OPD collect this information and have never had a problem with redacting it. She later explained that demographic information could be used to determine whether gender or length of service matters based on aggregate analysis that would not identify any particular officer.

Member Robinson responded that the agencies already have that information in officer's personnel files, and reiterated it should not be reported to the DOJ—particularly if it cannot be included anyway in the public data.

Turning to the type of information that might be collected, Member Guerrero identified two categories of data in the sample document: service characteristics (special assignment, beat, length of service, and rank) and demographic characteristics (age, race, and gender).

(Member Silard arrived at this point.)

Nancy Beninati explained that if this information were reported to the DOJ but redacted from public release to avoid officer re-identification, the RIPA Board might still be able to make use of it in preparation of its annual report if it could be reviewed during a closed session or protected in some other manner, but Ms. Beninati was not aware whether that was possible. Ms. Beninati stated that DOJ staff will need to conduct additional research to determine whether and how officer-level data could be shared with the RIPA Board without resulting in public disclosure of officer identity, but that was not an issue that had been resolved as of the meeting.

Member Silard suggested a distinction might be made based on agency size, and that perhaps these concerns don't exist for agencies with greater than 334 officers (the first three tiers of RIPA reporting). Chief Medrano agreed with this idea, noting that the issue is of particular concerns for smaller agencies where only a small number of officer might fit a particular demographic profile. Member Eberhardt cautioned that the re-identification problem might still exist at larger agencies, but suggested this type of tiered system could present an initial safeguard if coupled with review by the DOJ. Member Guerrero raised a concern that limiting data collection to larger agencies might be inconsistent with the intent of RIPA.

Public comment: Michelle Wittig/Coalition for Police Reform, Santa Monica, commented that the purpose of RIPA is to address racial profiling of members of the public, and that it's not important to know the race/ethnicity of the police officer, but rather whether there are individual officers regardless of any demographic characteristic that are bad apples. She emphasized the need for consistent data over time, and noted that, in Santa Monica, the officer's identifying number changes with every shift. Chair Medrano clarified that the officer's unique identifier will not change over time.

Peter Bibring/ACLU commented that the charge of this project is to identify patterns, and therefore it is crucial that the Board has access to officer demographic data even if the data is not available to the public. For example, we want to know whether greater experience reduces disparities, or whether African American officers show the same association of particular subject characteristics with criminality as do white officers. The text of the legislation, particularly Gov. Code, § 12525.5(d) supports this by suggesting that other unique identifying information would be collected but not made public where race or other demographic information within smaller agencies might permit re-identification.

Professor Jack Glaser/U.C. Berkeley commented that there are multiple opportunities to ensure officer identities are not made public and a lot of ways to do this. First, agencies might have an opportunity to redact demographic information susceptible to re-identification when they merge that information from officer files according to the agency-assigned unique identifier. Second, the DOJ would have an opportunity to review both public data and data analysis to prevent the release of information susceptible to re-identification. Professor Glaser also noted that officer demographics are critical as the purpose of RIPA is not to weed out bad apples but to identify trends as to the nature of the problem, which is often a systemic rather than individual problem.

Gena Rinaldi/Disability Rights California agreed; officer identities should be protected, but demographic information will help patterns to emerge at the department level, which is important. Omitting demographics will limit what we can do afterwards in terms of analysis.

Cory Salzillo/State Sheriff's Association commented that the DOJ will not always know when or what to redact because it will vary by agency and, in any event, the information may be discoverable in litigation. He questioned why the race, age, or duty of the officer matters, arguing that, if there is a trend showing that a particular officer is stopping an inordinate number of Hispanics, etc., the officer's demographic profile is not relevant. In response to a question by Member Eberhardt, Cory noted that being unable to provide any examples of disclosure suggests we are moving "into uncharted territory."

Member Guerrero commented that she appreciates all of these concerns, but noted that individual agencies are always susceptible to PRA requests that would expose the identity of an officer, and that the Subcommittee's proposals today would not necessarily increase that liability. She further commented that the purpose of RIPA is to respond to an ongoing national and statewide debate because there is an epidemic of violence and abuse and we do not understand why. The purpose of RIPA is not limited to how individual departments should respond to bad apples—that's already the agency's job—but to enable state level analysis.

Chair Medrano asked DOJ staff whether there is a standard used by DOJ to determine when redaction is necessary to prevent reidentification. Ms. Hovis reported that CJIS is working on a standard and that redactions are currently handled on a case-by-case basis.

Chief Medrano suggested that it would be possible for agencies to merge unique identifiers with personnel files in order to report officer demographic information to DOJ, and allowing the data to pre-load so the officer does not have to fill it in during each stop. As a technical point, Chair Medrano later suggested that the system should record the officer's birth year rather than prompt for age, which will change over time.

**Motion:** Chair Medrano moved that, in addition to the officer's unique identifier, agencies should be required to collect and report the reporting officer's age, gender, length of service, and race, provided that the regulations should specifically address redaction of any information that could be used to re-identify the officer. The regulations should not require data element for rank because it is subject to change over time. Seconded by Member Guerrero.

**Votes:** The motion passed with Chair Medrano and Members Eberhardt, Guerrero, and Silard voting "yes"; Member Robinson voting "no"; no abstentions.

**Motion:** Chair Medrano moved that, in addition to the above data elements, agencies should be required to collect and report the reporting officer's assigned, using pre-filed options (patrol, special task force, traffic, etc.) to be determined by CJIS.

Member Silard commented that this data element will help clarify whether seemingly-skewed data is a result of officer assignment (for example, an officer assigned to a Latino gang task force) versus bias. Chair Medrano agreed, noting that this request has come up before and will help to address that concern, along with the data element for self-initiated versus required action.

**Votes:** The motion passed with Chair Medrano and Members Eberhardt, Guerrero, and Silard voting "yes"; Member Robinson voting "no"; no abstentions.

### **c. Other actions taken by officer**

Chair Medrano referred the subcommittee members to item 21 on the sample template, explaining these options were provided by the Definitions Subcommittee for this Subcommittee's review. He also noted that the FBI has started an initiative to collect officer use-of-force data nationwide and suggested that, to the extent possible, these data collection efforts should be considered together to avoid multiple reports or inconsistencies. He asked DOJ staff whether CJIS could address how to make the choices for actions taken by officer consistent with the proposed FBI requirements, as well as A.B. 71. Jenny Reich explained that CJIS is looking now at the various requirements and exploring technology options for standard collection and transmission.

Public Comment: Professor Glaser asked whether "other use of force" could be broken down further to distinguish actions along the continuum of physical force (i.e., guiding a subject into a vehicle versus a blow to the body).

A member of the public in San Diego commented that he attended the Definitions Subcommittee meeting and that the discussion there did not consider “guiding” without injury to be reportable. Chair Medrano explained that agencies define use of force differently, and that it might be difficult for the data form to get more detailed.

Member Eberhardt commented that there was some discussion about including a data value for pointing a firearm as a mid-point between unholstering and discharge, explaining that the community sees a big difference between a “low ready” position versus a pointed firearm, and that such concerns resulted in a change of policy at OPD. Ms. Hovis confirmed that the Definitions Subcommittee minutes do not reflect any decision on whether to add “pointing a firearm.” Member Silard suggested added a category for pointing a weapon; specifically, a firearm (versus Taser, etc.)

**Motion:** Member Silard moved to add an option between unholstered weapon and discharged weapon to reflect that the officer pointed his or her firearm at the subject. Seconded by Member Eberhardt.

**Votes:** The motion passed with Chair Medrano and Members Eberhardt, Guerrero, Robinson, and Silard voting “yes”; no “no” votes; no abstentions.

**d. Other characteristics of the person stopped, including perceived disability status**

Member Silard asked DOJ staff to direct the subcommittee to the letter received by advocacy groups. Ms. Hovis referred the subcommittee to two letters:

- A June 14, 2016 letter from ACLU of California, Disability Rights of California, NAMI California, The Arc California, National Black Disability Coalition, Independent Living Resource Center San Francisco, and a community advocate recommended that officers be required to responded yes or no to a number of disability data options, including Welfare and Institutions Code § 5150 or § 5585.20; other signs, symptoms, or evidence of mental illness, mental health disability, or emotional crisis; signs or evidence of intellectual/developmental disability; signs or evidence of autism spectrum disorder; signs or evidence of deaf or hard of hearing; and other disability.
- A September 15, 2016 letter from ACLU of California, Asian Americans Advancing Justice, Youth Justice Coalition, Alliance for Boys and Men of Color, and PolicyLink recommended a data element for signs of perceived disability and set forth the following corresponding data values with check boxes for either “yes” or “no”: signs of deaf/hard of hearing; signs of other physical disability; signs of mental health/psychiatric condition or episode; and signs of developmental/intellectual disability.

Chair Medrano suggested this data element should utilize check boxes rather than yes/no responses to streamline reporting. Member Robinson agreed, and recommended that that data

element specifically include “perceived” so that officer do not feel they need to ask the subject about specific disabilities.

Public Comment: Disability rights advocates in Oakland represented that these letters reflect their position.

**Motion:** Member Medrano moved to recommend the more expansive of the two lists (the June 14, 2016 letter). Seconded by Member Robinson.

**Votes:** The motion passed with Chair Medrano and Members Eberhardt, Guerrero, Robinson, and Silard voting “yes”; no “no” votes; no abstentions.

#### **e. Reasonable suspicion**

Chair Medrano directed Subcommittee members to the minutes from the last meeting and list of data elements collected by other jurisdictions provided by DOJ staff.

Member Silard commented that there was agreement at the last meeting that a checkbox for “reasonable suspicion” doesn’t provide sufficient information about the underlying facts that lead the officer to that legal conclusion. He further commented that his recollection of police reports is that there tend to be a discrete number of recurring bases for reasonable suspicion.

Chair Medrano referenced a discussion at the last meeting to include a narrative box limited to 140 characters or less, or other options to minimize the reporting time. Member Eberhardt would prefer an open box.

Member Silard referred Subcommittee members to page 9 of the data elements document, providing the various options used by the NYPD in its data collection, and suggested the DOJ should use the lists on pages 9 and 17 of that document as a starting point to provide as broad a range as possible, with a required text box if the officer selects “other.”

Member Eberhardt commented that NYPD is removing “furtive movements” as an option because it is too subjective; as a result, it is a field where you are likely to see racial disparities. Member Silard suggested the option should be retained if that is the reason the officer made a stop, and that including this as a data option is not a commentary on whether it is a sufficient basis for a stop. Member Eberhardt explained that providing the data value might offer officers a justification for a stop that is not truly justifiable. Chair Medrano referenced page 17 (U.S. DOJ recommendations to SFPD), where the U.S. DOJ recommended that the option for furtive movements be retained but coupled with a required brief explanation.

Public comment: Professor Glaser noted that the NYPD form is only for pedestrian stop and frisk, which is why it omits any traffic stop options. He further explained that NYPD was removing furtive movements because it is subjective, accounted for half of all stops in New York, and resulted in a particularly low yield rate for contraband and weapons. He suggested the list include “other” and should require additional details regardless of the officer’s selection because a yes/no response does not provide a lot of information. He commented that NYPD

found most stops were attributed to a small number of stop basis, and that fruitful stops were attributed to an even small number.

Peter Bibring/ACLU agreed with the proposal to incorporate the U.S. DOJ recommendations, plus a Penal Code drop box. He suggested the text box should be an option for all reports and not limited to “other,” and suggested the DOJ incorporate the language used by OPD prompting the officer to provide “additional information” where necessary.

Michelle Wittig/Coalition for Police Reform, Santa Monica suggested that, if furtive movements is included as an option, DOJ should follow the example on 17 to require further explanation.

A representative from the Los Angeles County Sheriff’s Department asked whether the “reasonable suspicion” category would provide drop down options or simply a field to describe. Chair Medrano clarified that the current proposal was that the officer would be prompted to select a basis for the stop from a pre-set selection or to select “other” and enter a brief description.

Chair Medrano concluded that none of this discussion was contrary to the decisions made at the prior meeting, and that the committee did not have any further specific recommendations to make on the data values for “reasonable suspicion.”

#### **4. Adjourn**

Chair Medrano adjourned the meeting at 1:00 p.m.