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**CALIFORNIA DEPARTMENT OF JUSTICE**  
**TITLE 11. LAW**  
**DIVISION 1. ATTORNEY GENERAL**

**CHAPTER 19. RACIAL AND IDENTITY PROFILING ACT OF 2015**

**ADDENDUM TO INITIAL STATEMENT OF REASONS (OAL File No. Z2021-0629-05)**

On July 9, 2021, the Department of Justice (Department) published proposed amendments to the existing regulations implementing California’s Racial and Identity Profiling Act of 2015, pursuant to authority provided in Government Code section 12525.5(e). These and other rulemaking documents are available for review on the Attorney General’s website at <https://oag.ca.gov/ab953/regulations>.

The Department received written public comments on the proposed regulations until September 3, 2021. The Department also held two virtual public hearings, one on August 20, 2021 and the other on September 1, 2021. Oral comments on the proposed regulations were accepted with detailed minutes of the meetings recording the comments.

The Department reviewed all comments received during the public comment period. In response to these public comments and input received internally within the Department and from the Department’s subject matter expert, the Department has further modified its proposed regulations, and has prepared this Addendum to the Initial Statement of Reasons (Addendum).

This Addendum explains the revisions to the proposed modifications and the reasons for these revisions in the “Purpose and Necessity of Revisions to Proposed Modifications to Existing Regulations” section below.

**PURPOSE AND NECESSITY OF REVISIONS TO PROPOSED MODIFICATIONS TO EXISTING REGULATIONS**

**Article 1. Definitions**

**1. Modify gender-specific language to gender-neutral language**

In addition to the revisions related to gender-neutral language the Department already proposed, the Department proposes additional modifications of gender-specific language by replacing it with gender-neutral language throughout the regulations. The proposed changes would have no regulatory effect. These modifications are consistent and comply with Assembly Concurrent Resolution No. 260 (2017-2018 Reg. Sess.).

One specific proposed modification is to replace the data value of “Hispanic/Latino(a)” with “Hispanic/Latine(x)” as used in the data element, “Perceived Race or Ethnicity of Person Stopped.” This modification is consistent with the growing use of “Latine” and “Latinx” as gender-neutral alternatives to “Latino” and “Latina.” *See Ponce v. People*, 72 V.I. 828, 2020 V.I. 2 (2020) (Swan, J., concurring, in part) (citing Ecleen Luzmila Caraballo, *This Comic Breaks Down Latinx v. Latine for Those Who Want to be Gender-inclusive*, REMEZCLA (Oct. 24, 2019) <https://remezcla.com/culture/latinx-latine-comic/> (last visited Nov. 17, 2021); Yara Simón, *Hispanic vs. Latino vs. Latinx: A Brief History of How These Words Originated*, REMEZCLA (Sept. 14, 2018) <https://remezcla.com/features/culture/latino-vs-hispanic-vs-latinx->

how-these-words-originated/ (last visited Nov. 17, 2021); Jeffrey Herlihy-Mera, *The Cross-Lingual Interse(x)tionalit(y) of 'Latinx'*, *The Chronicle* (May 1, 2018) <https://www.chronicle.com/blogs/linguafranca/2018/05/01/the-cross-lingual-intersextionality-of-latinx/> (last visited Nov. 17, 2021).

**2. Section 999.224, subd. (a)(new)(12): Revise the proposed definition of “Personally identifying information”**

The Department revised its definition of “Personally identifying information” to indicate that, in addition to “Personally identifying information,” the terms “personally identifiable information,” and “personal identifying information,” likewise have the same meaning of “personal identifying information” as set forth in Penal Code section 530.55, subdivision (b). Government Code section 12525.5, subdivision (d) uses both “personal identifying information” and “personally identifiable information” interchangeably and all three terms are used interchangeably in the existing regulations. As such, the Department determined that it was necessary to revise the proposed definition to provide guidance to officers that all three terms have the same meaning.

**3. Section 999.224, subd. (a)(new)(14)-(15): Revise the proposed definition of “Probable cause to arrest or search” by separating it out into two definitions**

In response to a comment, this proposed definition was separated into two definitions, one for “Probable cause to arrest” and “Probable cause to search.” This revision is necessary because the standard for probable cause to arrest is defined differently than the standard for probable cause to search and the threshold for each is based on a different set of circumstances. This revision requires the subsequent renumbering of the remaining paragraphs in this section.

In response to a comment, both definitions were revised to include language clarifying that probable cause requires a higher standard of proof than reasonable suspicion. This language is necessary to give officers guidance as to the types of scenarios for which they would choose the following data values under the data element, “Reason for Stop”: “Probable cause to arrest or search” or “Reasonable suspicion that the person was engaged in criminal activity.”

**4. Section 999.224, subd. (a)(new)(16): Revise the proposed definition of “Reasonable suspicion”**

In response to a comment, this definition was amended to include language clarifying that reasonable suspicion requires a lesser standard of proof than probable cause. This revision is necessary to give officers guidance as to the types of scenarios for which they would choose the following data values under the data element, “Reason for Stop”: “Probable cause to arrest or search” or “Reasonable suspicion that the person was engaged in criminal activity.”

This definition was also amended to clarify that the “person” referenced in the phrase “person is committing a crime, recently committed a crime, or is about to commit a crime” is the stopped person. This revision was necessary to give officers guidance as to the type of scenario when an officer would select the data value “Reasonable suspicion that the person was engaged in criminal activity” under the data element “Reason for Stop.”

**5. Section 999.224, subd. (a)(new)(25): Revise the title and example under the proposed definition of “Welfare check or community caretaking function”**

The title of this definition was revised to be “Welfare or wellness check or community caretaking function.” Relatedly, the title of the proposed data element, “Stop Made During the

Course of Performing a Welfare Check or an Officer’s Community Caretaking Function” was revised to be “Stop Made During the Course of Performing a Welfare or Wellness Check or an Officer’s Community Caretaking Function.”

These revisions are necessary because officers commonly refer to “welfare checks” as “wellness checks,” or use those terms interchangeably, and the revised titles of this definition and corresponding data element provide officers with guidance as to the types of scenarios that would require an officer to check “Yes” when responding to the data element.

The Department also modified the first example under this definition to provide a more common example of a welfare or wellness check. This modification was necessary to provide officers further guidance on the types of scenarios that would constitute a welfare or wellness check.

### **Article 3. Data Elements to be Reported**

#### **6. Section 999.226, subd. (a)(new)(2): Revise the explanatory language for the proposed new data element entitled “Type of Stop” and revise an example**

The explanatory language was revised to make clear how an officer would differentiate the type of stop the officer is conducting for purposes of this data element. This revision is necessary because the originally proposed explanatory language was circular, noting that the “Type of Stop refers to the type of stop,” and the revision makes clear what kind of information is sought through this data element and how an officer would differentiate between types of stops.

The first example was revised to make clear why the officer’s stop—though involving a Vehicle Code violation—was neither a “Vehicular Stop” nor “Bicycle Stop” but, rather, a “Pedestrian Stop.” Specifically, though the example involved a Vehicle Code violation, the stopped person was not in a Vehicle, as is defined in the existing regulations. (Cal. Code Regs., tit. 11, § 999.224, subd. (a)(18) [defining a “Vehicle” as various forms of motorized vehicles].) This revision was necessary to assist officers with understanding the types of scenarios for which they would select the data value of “Pedestrian Stop.”

#### **7. Section 999.225, subd. (a)(new)(3)(C): Revise the proposed modified description of the existing data element “Duration of Stop,” revise existing and proposed examples, and provide an additional example**

In response to comments, the description of “Duration of Stop” was amended. Existing regulations describe the duration of a stop as “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 taken into physical custody.” (Cal. Code Regs., tit. 11, § 999.226, subd. (a)(2)(C).) With respect to the language describing an end point of a stop as when the person “taken into physical custody,” the Department originally proposed replacing “taken into physical custody” with “booked.” In other words, the Department proposed defining the end point of the stop as when a person is booked.

In response to comments, the Department revised the proposed end point of the stop to be when the person is “taken into physical custody and removed from the scene of the stop.” This revision was necessary because multiple commenters advised that defining the end point as the time a person is booked would result in inconsistent data. The reason is that the time of booking depends on a wide range of factors, including whether the stopped person was treated for any injuries prior to booking, whether the stopped person would have to wait for other individuals to complete the booking process prior to their own booking, and the size of the law enforcement

agency's jurisdiction and the time it would take to go from the scene of the stop to the booking facility.

Consistent with the above revision, the first and third examples were revised to reflect that the end point of the stop is when the person was removed from the scene of the stop.

The Department also added an example of a scenario where the stop ends when the person is free to leave. This example was necessary because the existing and originally proposed examples do not reflect any scenario where a stopped person is free to leave and the additional example assists officers in calculating the duration of a stop.

**8. Section 999.226, subd. (a)(new)(4): Indicate that the data value of “Geographic coordinates” is a proposed data value and reorder the data values under this data element.**

In the proposed amendments to the existing regulations published on July 9, 2021, the Department proposed a data value of “Geographic coordinates” in the data element, “Location of Stop.” While this data value was in red font to indicate to the public that this is a proposed new data value, it was not underlined, as were other proposed additions to the regulations. To ensure the public is on notice that the Department is proposing “Geographic coordinates” as a new data value, the Department has double underlined this data value in this version of the proposed text.

In response to a comment, the Department also re-ordered the data values under this data element. The existing explanatory language indicates that the data values are listed in “order of preference.” The Department determined that it is necessary to re-order the data values to have “Geographic coordinates” come first because this is the most precise and efficient means to provide the Location of Stop.

**9. Section 999.226, subd. (a)(new)(12): Modify the title of the existing data element “Stop Made in Response to a Call for Service” and the explanatory language.**

In response to a comment, the title of this data element was revised to be “Stop Made During the Course of Responding to a Call for Service.” This revision is necessary because the existing title gives the impression that a call for service in and of itself can be the basis for a stop. Existing explanatory language within this data element already makes clear that a call for service is not a reason for stop—officers must identify a legitimate basis for a stop, such as a traffic violation or the officer's reasonable suspicion the person committed a crime. The revised title is now consistent with the existing explanatory language.

In response to a comment, the Department added explanatory language making clear that this data element is not mutually exclusive with the proposed new data element, entitled “Stop Made During the Course of a Welfare or Wellness Check or an Officer's Community Caretaking Function.” The Department also included explanatory language making clear that an officer must select both data elements if applicable to the stop. These revisions were necessary so that officers are aware that they must provide all context related to a stop. For example, if a stop was made during the course of responding to a call for service to conduct a welfare check on a caller's neighbor, the officer must select both data elements to provide complete and accurate information on the stop. These revisions were necessary for the additional reason that more complete and accurate information on stops will enhance the analyses of the Racial and Identity Advisory (RIPA) Board, and in turn, help it 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).)

**10. Section 999.226, subd. (a)(new)(13): Revise the title of the proposed new data element of “Stop Made During the Course of Performing a Welfare Check or an Officer’s Community Caretaking Function” and revise the explanatory language**

Consistent with the proposed revised title of the definition of “Welfare check or community caretaking function” to be “Welfare or wellness check or community caretaking function,” the title of this data element was modified to be “Stop Made During the Course of a Welfare or Wellness Check or an Officer’s Community Caretaking Function.” The reference to this data element in the “Reason for Stop” data element was also revised to reflect the revised title. These revisions are necessary because officers commonly refer to “welfare checks” as “wellness checks,” or use those terms interchangeably, and the revised titles of this data element and corresponding definition will make clear the types of scenarios that would require an officer to check “Yes” when responding to the data element.

In response to a comment, the Department also added explanatory language making it clear that a welfare or wellness check or an officer’s community caretaking function cannot be selected as the reason for a stop. This revision is necessary because officers must identify a legal basis for a stop, such as a traffic violation or the officer’s reasonable suspicion the person committed a crime and the revised language makes clear officers’ reporting obligations. Additionally, the revised title is now consistent with the explanatory language in the proposed corresponding definition that states that a welfare or wellness check or the officer’s community caretaking function “cannot serve as a basis for initiating a detention or search.”

In response to a comment, the Department added explanatory language making clear that this data element is not mutually exclusive with the data element, entitled “Stop Made in Response to a Call for Service.” The Department also included explanatory language making clear that an officer must select both data elements if applicable to the stop. These revisions were necessary so that officers are aware that they must provide all context related to a stop. For example, if a stop was made during the course of responding to a call for service to conduct a welfare check on a caller’s neighbor, the officer must select both data elements to provide complete and accurate information on the stop. These revisions were necessary for the additional reason that more complete and accurate information on stops will enhance the RIPA Board’s analyses, and in turn, help it 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).)

**11. Section 999.226, subd. (a)(new)(14)(A)2-(new)3 and (a)(14)(B): Revise the explanatory language for the proposed new data value entitled “Probable cause to arrest or search” under the existing data element “Reason for Stop” and revise reference to a new data element**

The explanatory language was revised to make clear that in selecting this data value, the officer’s probable cause was established prior to initiating the stop. This revision is necessary to provide officers guidance as to the types of scenarios that would require them to select “Probable cause to arrest or search” as the reason for stop.

As mentioned above, the reference in subdivision (a)(14)(B) to the new stop data element was revised to reflect the revised title to be “Stop Made During the Course of a Welfare or Wellness

Check or an Officer's Community Caretaking Function." This revision was necessary for the officers to know what stop data element was being referred to in this subdivision.

**12. Section 999.226, subd. (a)(new)(14)(A)2: Revise the explanatory language for the data value entitled "Reasonable suspicion that the person was engaged in criminal activity" under the existing data element "Reason for Stop" and revise reference to a new data element**

The explanatory language for this data value was revised to strike out "if known to the officer." The existing explanatory language requires an officer, when selecting this data value, to identify the primary code section and subdivision of the suspected violation of law that formed the basis for the stop "if known to the officer." Striking this language is necessary because it does not conform to other directives in this and other data values. First, it is inconsistent with the directive in this data value requiring officers to identify a code section. Second, explanatory language under the data value entitled "Traffic violation" does not likewise contain language requiring officers to identify a code section "if known to the officer." The inconsistency in the language causes challenges for data analysis, where officers have an option not to include a code section for one data value ("Reasonable suspicion that the person was engaged in criminal activity") but not another ("Traffic violation").

**13. Section 999.226, subd. (a)(new)(15)-(16)**

**a. Separate the data element entitled "Actions Taken by Officer During Stop" into two data elements: (1) "Non-Force Related Actions Taken by Officer During Stop" and (2) "Force-Related Actions Taken by Officer During Stop"**

In response to a comment, the Department 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. This revision requires the subsequent renumbering of the paragraphs in this section.

This revision is necessary to address concerns that officers may find it burdensome to identify all of the data values that apply to their stop, if the list of data values is lengthy and includes both force-related and non-force-related response options. This revision would ease the burden officers' time and, in turn, would ensure the accuracy and completeness of the information they provide on their stops.

**b. Revise the explanatory language and example under the new data element "Non-Force Related Actions Taken by Officer During Stop"**

Consistent with the revision to "Duration of Stop" to make the end date of a stop be when a person is free to leave or is taken into physical custody and "removed from the scene of the stop," the Department has revised the example to illustrate that an officer must report all actions taken from the time the stop is initiated until the person is removed from the scene (that is, at the end of the stop) or when the person is free to leave.

Like the revision to "Duration of Stop," this revision was necessary because multiple commenters advised that using the time of booking as the end point of a stop would result in inconsistent data because the time of booking depends on a wide range of factors, including whether the stopped person was treated for any injuries prior to booking, whether the stopped person would have to wait for other individuals to complete the booking process prior to their

own booking, the size of the law enforcement agency's jurisdiction and the time it would take to go from the scene of the stop to the booking facility.

Consistent with the revision to separate the "Actions Taken by Officer During Stop" data element into two separate data elements, the Department modified the explanatory language example to provide officers guidance on how they would report a stop which involved force-related actions and/or non-force-related actions.

**14. Section 999.226, subd. (a)(new)(15)(new)(B)(new)9-10: Revise the explanatory language in "*Terry v. Ohio* frisk/pat search of the person's outer clothing was conducted" and "Search of person was conducted" and revise the examples in "*Terry v. Ohio* frisk/pat search of the person's outer clothing was conducted"**

The explanatory language in the proposed data value, "*Terry v. Ohio* frisk/pat search of the person's outer clothing was conducted" and the existing data value "Search of person was conducted" were revised to make clear when an officer would select one or the other data value. These revisions are necessary to make clear to officers that the "*Terry v. Ohio* frisk/pat search of the person's outer clothing was conducted" data value should be selected only when an officer conducts a patdown of a person's outer clothing to determine whether the person was armed and dangerous for purposes of officer safety. Other searches of a person that are more intrusive (such as searching within a person's pockets) and/or are for other purposes (such as searching for illegal drugs) would require an officer to select "Search of person was conducted." Because these revisions will help officers to select one value or another, these revisions will ensure accuracy and consistency of data.

In response to a comment, the Department also modified the first example under the "*Terry v. Ohio* frisk/pat search of the person's outer clothing was conducted." The originally proposed first example describes a search that was conducted for purposes of determining whether the person was a criminal suspect, which is not a *Terry v. Ohio* frisk/pat search. The Department determined it was necessary to strike out language that was inconsistent with the purposes of a *Terry v. Ohio* frisk/pat search.

The Department also modified the second example under the "*Terry v. Ohio* frisk/pat search of the person's outer clothing was conducted." The originally proposed example describes a scenario where an officer conducted two separate searches, a *Terry* frisk/pat search and a search pursuant to the officer's reasonable suspicion. The Department determined it was necessary to revise this example to make clear that two separate searches occurred and the different legal bases for each. This revised example would thus provide guidance to officers how about to report a stop where they conduct more than one type of search.

**15. Section 999.226, subd. (a) (new)(16)(A)(new)1: Move existing data value "Handcuffed or flex cuffed"**

This data value is an existing data value under the "Actions Taken by Officer During Stop" data element. No changes have been made to this existing data value other than moving it from the "Actions Taken by Officer During Stop" data element to the proposed new data element of "Force-Related Actions Taken by Officer During Stop."

**16. Section 999.226, subd. (a)(new)(16)(A)(new)2, 17: Separate the existing data value of "Other physical or vehicle contact" into two data values: (1) Physical compliance tactics and techniques" and (2) "Use of vehicle in apprehension of stopped person."**

The existing data value of “Other physical or vehicle contact” is an existing data value under the “Actions Taken by Officer During Stop” data element. It has been moved from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

In the proposed amendments to the existing regulations published on July 9, the Department proposed striking out the reference to “carotid restraints.” The Department now proposes separating this data value into two data values of (1) Physical compliance tactics and techniques” and “Use of vehicle in apprehension of stopped person.” The Department determined that physical contact and vehicle contact are different types of force. Thus, to ensure the accuracy, consistency, and “uniform reporting practices across all reporting agencies” (Gov. Code, § 12525.5, subd. (e).) for data reported, the Department determined that two separate data values were necessary. With two separate data values, the Board may more readily track and analyze officer interactions with people inside of residences, and in turn, 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 also struck out “instrumental contact with a person by an officer” from the newly proposed data value of “Physical compliance tactics or techniques.” This deletion is necessary to ensure that officers are accurately capturing any use of an object to strike a person in the revised data value of “Baton, other impact weapon, or other object (including a firearm) used to strike,” as described in more detail below.

**17. Section 999.226, subd. (a)(new)(16)(A)(new)3: Revise the proposed modification to the existing data value “Canine removed from vehicle or used to search”**

This data value is an existing data value under the “Actions Taken by Officer During Stop” data element. It has been moved from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

The existing data value was “Canine removed from vehicle or used to search” and on July 9, 2021, the Department proposed amending it to be ““Peace officer’s canine deployed for purposes of apprehending stopped person.” In response to comments, the proposal to amend this existing data value was modified further to be “Peace officer’s canine removed from patrol vehicle to gain compliance and/or for purposes of apprehending a stopped person.” Commentators indicated that the Department’s original proposal did not clearly account for scenarios where the canine’s presence in and of itself was used to gain compliance. This revision was thus necessary to ensure that officers understood that they must report when they exhibit a canine for the purposes of gaining compliance from a stopped person.

**18. Section 999.226, subd. (a) (new)(16)(A)(new)4: Move proposed data value “Peace officer’s canine bit or held person”**

This data value is a proposed data value, first published on July 9, 2021 in the proposed amendments to the existing regulations. No changes have been made to this proposed data value other than moving them from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”



**19. Section 999.226, subd. (a) (new)(16)(A)(new)5: Move existing data value “Firearm pointed at person”**

This data value is an existing data value under the “Actions Taken by Officer During Stop” data element. No changes have been made to this existing data value other than moving it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

**20. Section 999.226, subd. (a)(new)(16)(A)(new)6: Modify the existing data value “Firearm discharged or used”**

This data value is an existing data value under the “Actions Taken by Officer During Stop” data element. It has been moved from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

This data value was modified to delete “or used.” This revision was necessary because “used” in this context was vague and could lead to inaccurate and inconsistent data reporting. To the extent an officer unlawfully used a firearm to strike a person, the Department has revised its proposed modification to the existing data value of “Baton or other impact weapon.” The originally proposed modification was “Baton or other impact weapon used to strike or prod.” To account for the use of a firearm, or other object, to strike a person, the Department modified its proposal to be “Baton, other impact weapon, or other object (including a firearm) used to strike.” This revision is necessary to ensure that officers are capturing the use of a firearm to strike an individual, and not just when they use a firearm by discharging or pointing it at a person. As noted above, the Department also struck out “instrumental contact with a person by an officer” from the newly proposed data value of “Physical compliance tactics or techniques.” This deletion is necessary to ensure that officers are accurately capturing any use of an object to strike a person in the revised data value of “Baton, other impact weapon, or other object (including a firearm) used to strike.”

**21. Section 999.226, subd. (a)(new)(16)(A)(new)7: Add data value of “Firearm unholstered”**

The Department proposes adding a data value of “Firearm unholstered.” The Department determined that this proposed amendment is necessary so that the Board may more readily track and analyze stops involving the different uses of a firearm and officers’ decisions to use a firearm in different ways; this, in turn, will help the Board 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).)

**22. Section 999.226, subd. (a)(new)(16)(A)(new)8: Move proposed data value “Electronic control device pointed at person or sparked”**

This data value is a proposed data value, first published on July 9, 2021 in the proposed amendments to the existing regulations. No changes have been made to this proposed data value other than moving it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

**23. Section 999.226, subd. (a)(new)(16)(A)(new)9-10: Revise the proposed modification to the existing data value “Electronic control device used”**

The data value of “Electronic control device used” is an existing data value. This data value was moved from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

The Department’s proposed modification to this existing data value, first published on July 9, 2021, was to include *exempli gratia* describing what is the “use[]” of an electronic control device (ECD). In response to a comment recommending revising the *exempli gratia* to distinguish between dart-mode and drive-stun mode uses of an ECD, the Department instead proposes separating this existing data value into two separate 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 ECD are deployed differently and have different impacts on the body.

Using an ECD in dart-mode means deploying two probes from a distance that penetrate the skin or clothing of the person; the probes “stimulate a portion of the nervous system with sufficient pulsed electrical energy to bring about uncontrolled muscle contractions which override an individual’s voluntary motor function.” Seattle Police Department, Use of Force Tools Policy, <https://www.seattle.gov/police-manual/title-8---use-of-force/8300---use-of-force-weapons-and-tools>; *see also Isayeva v. Sacramento Sheriff’s Dep’t* (9th Cir. 2017) 872 F.3d 938, 948–949 (citation omitted).

By contrast, using an ECD in drive-stun mode involves the ECD making the “direct contact with the subject’s body” and, unlike dart-mode, “does not override an individual’s motor responses” but “is intended to cause significant pain.” Seattle Police Department, Use of Force Tools Policy, <https://www.seattle.gov/police-manual/title-8---use-of-force/8300---use-of-force-weapons-and-tools>; *see also Isayeva*, 872 F.3d at 948–949.

The United States Court of Appeals for the Fourth Circuit noted that since 2011, both the Police Executive Research Forum (PERF) and the United States Department of Justice’s Office of Community Oriented Policing Services (COPS) “have cautioned that using drive stun mode ‘to achieve pain compliance may have limited effectiveness and, when used repeatedly, may even exacerbate the situation.’” *Estate of Armstrong ex rel. Armstrong v. Village of Pinehurst* (4th Cir. 2016) 810 F.3d 892, 902–903 (citing [https://www.policeforum.org/assets/docs/Free\\_Online\\_Documents/Use\\_of\\_Force/electronic%20control%20weapon%20guidelines%202011.pdf](https://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf) at 14). PERF and COPS also “discourage[d] its use as a pain compliance tactic.” *Id.*

The Fourth Circuit also noted that a large manufacturer of ECDs cautioned that “[d]rive-stun use may not be effective on emotionally disturbed persons or others who may not respond to pain due to a mind-body disconnect.” *Id.* at 903 (citation omitted).

Consistent with the COPS and PERF warnings, both Seattle and Baltimore Police Departments—two departments that have revised their use of force policies while under a federal consent decree—have concluded that dart-mode is “preferred.” Seattle Police Department, Use of Force Tools Policy, <https://www.seattle.gov/police-manual/title-8---use-of-force/8300---use-of-force-weapons-and-tools>; Baltimore Police Department, Conducted Electrical Weapon Policy, [https://www.baltimorepolice.org/sites/default/files/Policies/719\\_Conducted\\_Electrical\\_Weapon.pdf](https://www.baltimorepolice.org/sites/default/files/Policies/719_Conducted_Electrical_Weapon.pdf).

Given the concerns with using an ECD in drive-stun mode generally and with using this mode against people who are emotionally disturbed, the Department determined it was necessary to track these two modes of an ECD separately to see whether the race or identity of the person, or the type of interaction, impacts the ECD mode an officer selects.

**24. Section 999.226, subd. (a) (new)(16)(A)(new)11: Move proposed data value “Impact projectile weapon pointed at person”**

This data value is a proposed data value, first published on July 9, 2021 in the proposed amendments to the existing regulations. No changes have been made to this proposed data value other than moving it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

**25. Section 999.226, subd. (a) (new)(16)(A)(new)12: Move existing data value “Impact projectile discharged or used (e.g., blunt impact projectile, rubber bullets or bean bags)”**

This data value is an existing data value under the “Actions Taken by Officer During Stop” data element. No changes have been made to this existing data value other than moving it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

**26. Section 999.226, subd. (a)(new)16(A)(formerly)12: Move the existing deletion of the data value of “Canine bit or held person.”**

The deletion of this existing data value under the “Actions Taken by Officer During Stop” data element was first published on July 9, 2021 in the proposed amendments to the existing regulations. No further changes have been made to this existing data value other than moving it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

**27. Section 999.226, subd. (a)(new)(16)(A)(new)13: Move proposed data value “Baton or other impact weapon drawn”**

This data value is a proposed data value, first published on July 9, 2021 in the proposed amendments to the existing regulations. No changes have been made to this proposed data value other than moving it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

**28. Section 999.226, subd. (a)(new)(16)(new)(A)14: Revise the proposed modification to the existing data value “Baton or other impact weapon used”**

This data value is an existing data value under the “Actions Taken by Officer During Stop” data element. It has been moved from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

The Department’s proposed modification to this existing data value, first published on July 9, 2021, was to change it to “Baton or other impact weapon used to strike or prod.” As noted above, to account for the use of a firearm, or other object, to strike a person, the Department revised its proposal to “Baton, other impact weapon, or other object (including a firearm) used to strike.” This revision is necessary to ensure that officers are capturing the use of a firearm, other than to discharge or point it at a person.

**29. Section 999.226, subd. (a)(new)(16)(A)(new)15: Move existing data value “Chemical spray used (e.g. pepper spray, mace, or other chemical irritants)”**

This data value is an existing data value under the “Actions Taken by Officer During Stop” data element. No changes have been made to this existing data value other than moving it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

**30. Section 999.226, subd. (a)(new)(16)(A)(new)16: Move existing data value “Person removed from vehicle by physical contact”**

This data value is an existing data value under the “Actions Taken by Officer During Stop” data element. No changes have been made to this existing data value other than moving it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

**31. Section 999.226, subd. (a)(new)(16)(A)(new)18: Propose new data value of “None.”**

The Department proposes adding a data value of “None” under this new data element of “Force-Related Actions Taken by Officer During Stop.” To ensure the accuracy, consistency, and “uniform reporting practices across all reporting agencies” for data reported, the Department determined that adding a data value of “None.” was necessary to be consistent with the data value of “None.” under the new data element of “Non-Force Related Actions Taken by Officer During Stop” and to provide officers an option to indicate when they did not use any force or take any force-related actions.

**32. Section 999.226, subd. (a)(new)(17)(B)-(new)(C): Separate out the existing data value of “Warning (verbal or written)” into two data values**

The Department proposes revising the existing data value of “Warning (verbal or written)” under Result of Stop into two data values, “Verbal Warning” and “Written Warning.” This proposed amendment is necessary so the 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 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).)

This revision requires the subsequent renumbering of the remaining paragraphs in this section.

**33. Section 999.226, subd. (a)(new)(21)(new)(K)-(L): Revise the proposed modification to the existing data value entitled “Other” under the existing data element “Type of Assignment of Officer”**

The Department’s originally proposed modification to the existing data value of “Other” was to change it to “Contracted by another law enforcement agency or other.” The Department revised this modification by separating it out into two data values: “Contracted by another law enforcement agency” and “Other.” This revision is necessary because “Other” can account for a wide range of assignments, such as employment at a district attorney’s office. These types of assignments are not substantively the same as an officer who is contracted by another law enforcement, such as officers who are contracted by the Cal Expo Police Department.

**Article 4. Reporting Requirements**

**34. Section 999.227, subd. (b)(1)(B): Reporting requirements for passengers in vehicle stops**

**35. Section 999.227, subd. (d)(1): Reporting requirements for enumerated uniform searches or seizures**

**36. Section 999.227, subd. (e)(3)(C): Reporting requirements for students at a K-12 public school**

Existing regulations require officers to report certain interactions under limited circumstances, including when they take certain actions captured in the data values under the data element, Actions Taken by Officer During Stop. Consistent with the proposal to separate the existing data element of “Actions Taken by Officer During Stop,” into two data elements—(1) “Non-Force Related Actions Taken by Officer During Stop” and (2) “Force-Related Actions Taken by Officer During Stop”—the Department proposes revising the above listed provisions to make clear that an officer must report an interaction in specific scenarios when they take actions captured in data values under either of the two newly proposed data elements.

**Article 5. Technical Specifications and Uniform Reporting Practices**

**37. Section 999.228, subd. (h): Revise the proposal to permit the Department to confidentially disclose stop data for purposes of advancing public policy**

The Department’s proposed modification to this existing provision, first published on July 9, 2021, was to revise the language to permit confidential disclosure of stop data to non-academic organizations seeking to analyze the data to advance public policy. The Department revises this proposal further to provide guidance on (1) the type of data that would require confidential disclosure, (2) the purposes for which the Department would confidentially disclose stop data, (3) the types of entities that would be eligible to receive confidential stop data, (4) the process for requesting confidential stop data, and (5) other parameters on the use, protection, and security, and destruction of stop data.

These revisions are described in more detail below:

Subdivision (h) and (h)(1):

The Department revises this subdivision to prohibit release of “personally identifying information,” in addition to Officer’s I.D. Number. The Department further strikes out the reference to “Unique Identifying Information” in this sentence. “Unique Identifying Information” is already defined in the regulations as “personally identifying information, the release of which, either alone or in combination with other data reported, is reasonably likely to reveal the identity of the individual officer who collected the stop data information.” (Cal. Code Regs., tit. 11, § 999.224(a)(17).) The Department also proposed a definition of “personally identifying information,” first published on July 9, 2021, as “having the same meaning as “personal identifying information” as set forth in Penal Code section 530.55, subdivision (b), and includes an officer’s badge number.” Because “personally identifying information” is inclusive of “Unique Identifying Information,” the Department determined it was duplicative and unnecessary to leave in the reference to the latter in this provision. The Department also expanded its proposal to permit confidential disclosure of all stop data, provided that any material revealing the identity of any stopped person or officers is used for “Research Purposes” and is not transferred to an unauthorized third party, duplicated, revealed, or used for any other purposes and no reports or publications identify specific individuals. “Research Purposes” is

defined in subdivision (h)(1) to mean the analysis of data to conduct a systematic investigation, including research development, testing, or evaluation, which is designed to develop or contribute to generalizable knowledge or education on racial and identity profiling in law enforcement, as defined in subdivision (e) of Section 13519.4. This definition is necessary to clearly explain what would constitute the purposes for which the Department would confidentially disclose stop data.

The Department also defines “Confidential Stop Data” in subdivision (h)(2) as “personally identifying information or the Officer’s I.D.” This definition is consistent with statutory language that (1) makes an officer’s badge number and “other unique identifying information of the peace officer involved” unavailable to the public, and (2) prohibits law enforcement agencies from reporting “the name, address, social security number, or other unique personally identifying information” of stopped individual and makes these agencies “solely responsible” for ensuring that personally identifying information is not transmitted to the Department. (Gov. Code, § 12525.5, subd. (d).) This proposed definition is necessary to protect the confidentiality of personally identifying information that may be contained in stop data entries because a law enforcement agency had left in personally identifiable information in open fields of the stop data entries, despite their sole responsibility of ensuring that personally identifying information is not transmitted to the Department. (*Ibid.*)

The Department further defines a “Confidential Stop Data Requestor” in subdivision (h)(3) as an individual or entity that is requesting disclosure of Confidential Stop Data for Research Purposes and that has, and can maintain, security measures to prevent the unauthorized access of hard copies or electronic files containing confidential stop data. This definition is necessary to provide specificity around who qualifies for access to Confidential Stop Data and restrictions are based on the purposes of the requesting party’s request and the party’s ability to keep Confidential Stop Data secure from unauthorized access.

Subdivision (h)(4) defines “Team Member” to mean any individual who shares the same employer as the Confidential Stop Data Requestor or is employed by the Confidential Stop Data Requestor. This definition is necessary to provide specificity around who must be identified by the Confidential Stop Data Requestor in the Data Request Application as having access to the Confidential Stop Data.

Subdivision (h)(5) defines “Data Request Application” to mean the application developed by the Department’s Research Center to obtain approval to receive Confidential Stop Data. This definition is necessary for guidance purposes because it refers to the particular application that is required to obtain access to this data.

Subdivision (h)(6) makes clear a Confidential Stop Data Requestor that makes any request that includes Confidential Stop Data must use the requested Confidential Stop Data for Research Purposes. This is necessary for guidance purposes because it emphasizes the sole basis on which a Confidential Stop Data Requestor may use requested data.

Subdivision (h)(7) requires a Confidential Stop Data Requestor to sign a form that acknowledges that the Confidential Stop Data Requestor will adhere to various conditions. This form is necessary because it provides guidance to the Confidential Stop Data Requestor and sets clear terms for a Confidential Stop Data Requestor to follow if they wish to access Confidential Stop Data.

Subdivision (h)(7)(A) requires a Confidential Stop Data Requestor to adhere to the condition that they will make a request for Confidential Stop Data in writing, and that they are strictly prohibited from using stop data for any other purpose for which the Confidential Stop Data is provided. Subdivision (h)(8)(B) requires a Confidential Stop Data Requestor to adhere to the condition that they will not duplicate or disseminate the data to a third party. These subdivisions are necessary to set clear guidelines for the appropriate use of the Confidential Stop Data that the Confidential Stop Data Requestor and Team Members must follow.

Subdivision (h)(7)(C) requires the Confidential Stop Data Requestor to adhere to the condition that they will identify each Team Member who is expected to have access to the Confidential Stop Data. Subdivision (h)(8)(D) requires the Confidential Stop Data Requestor to adhere to the condition that they will notify the Department when a Team Member is removed from the project. These subdivisions are necessary because it ensures the privacy and confidentiality of Confidential Stop Data. Presumably, any or all of the Team Members will have access to the Confidential Stop Data, so it is necessary for the Department to be aware of everyone with access to this data.

Subdivision (h)(7)(E) requires the Confidential Stop Data Requestor to adhere to the condition that the Confidential Stop Data Requestor and each Team Member will take reasonable precautions to protect the Confidential Stop Data from unauthorized access for as long as the Confidential Stop Data Requestor maintains the data. This subdivision is further necessary to ensure the privacy and confidentiality of Confidential Stop Data.

Subdivision (h)(7)(F) requires the Confidential Stop Data Requestor to adhere to the condition that the location where the Confidential Stop Data Requestor and each Team Member will access the requested data must be accurate and neither the Confidential Stop Data Requestor nor any Team Member will access the requested data outside of the reported location. This subdivision is necessary to ensure the privacy and confidentiality of Confidential Stop Data.

Subdivision (h)(7)(G) requires the Confidential Stop Data Requestor to adhere to the condition that they will attest that they are in compliance with the Department's security protocols by signing the Non-Criminal Justice Information Security Requirements. This subdivision is necessary to ensure that the Confidential Stop Data Requestor has the security protocols and safeguards for the privacy and confidentiality of Confidential Stop Data.

Subdivision (h)(7)(H) requires the Confidential Stop Data Requestor to adhere to the condition that the Confidential Stop Data Requestor must report all security incidents and breaches involving unauthorized access within 24 hours. This subdivision is necessary to protect the privacy of individuals identified in the Confidential Stop Data and minimize the dissemination of Confidential Stop Data in the event of a security breach.

Subdivision (h)(7)(I) requires the Confidential Stop Data Requestor to adhere to the condition that within 90 days of concluding the research project or report identified in the Data Request Application, described below, the Confidential Stop Data Requestor must destroy the requested data. Subdivision (h)(8)(I) also requires the Confidential Stop Data Requestor to adhere to the condition that within 30 days of the data destruction, the Confidential Stop Data Requestor must notify the Department of the research project or

report's completion and must submit a signed and dated certificate of data destruction. This subdivision is necessary to ensure the privacy and confidentiality of Confidential Stop Data.

Subdivision (h)(7)(J) requires the Confidential Stop Data Requestor to adhere to the condition that the Confidential Stop Data Requestor must take reasonable precautions to prevent re-identification of officers and stopped persons whose personally identifying information may be contained in these data. This subdivision is necessary to ensure the privacy and confidentiality of Confidential Stop Data.

Subdivision (h)(7)(K) requires the Confidential Stop Data Requestor to adhere to the condition that the Confidential Stop Data Requestor must acknowledge that the failure to comply with the conditions identified in the form may result in the loss of access to the Department's data for this and/or future research projects. This subdivision is necessary to set clear guidelines for the appropriate use of the Confidential Stop Data that the Confidential Stop Data Requestor and Team Members must follow.

Subdivision (h)(8) requires a Confidential Stop Data Requestor to electronically submit a Data Request Application and notes that the Department may deny an application for failure to provide the required information in the application. This subdivision is necessary to establish a uniform application process and provide guidance on how and to whom a request for Confidential Stop Data must be submitted.

Subdivision (h)(9) establishes the Data Request Application information that must be furnished by a Confidential Stop Data Requestor in order to determine whether Confidential Stop Data will be released. This subdivision is necessary because it sets clear guidelines for a Confidential Stop Data Requestor to follow if they wish to access Confidential Stop Data.

Subdivision (h)(9)(A) requires the Confidential Stop Data Requestor to specify whether the request is new or a modified request. This subdivision is necessary because the Department receives many requests for data, including Confidential Stop Data, and this subdivision will help eliminate confusion as to what information must be included and how to track an existing request.

Subdivisions (h)(9)(B), (h)(9)(C), and (h)(9)(D) require a Confidential Stop Data Requestor to include the date, as well as the Confidential Stop Data Requestor's name, phone number, email address, physical address, city, state, and postal code. These subdivisions are necessary because the Department must verify that the Confidential Stop Data Requestor meets the eligibility requirements for access to Confidential Stop Data and has determined that this information is necessary for that validation.

Subdivision (h)(9)(E) requires the Confidential Stop Data Requestor to include contact information for their information security officer or information technology manager, if applicable. This subdivision is necessary because it provides the Department with a point of contact in the case that there is a data breach affecting the Confidential Stop Data. If the Confidential Stop Data Requestor does not have an information security officer or information technology manager, the Department shall contact the Confidential Stop Data Requestor directly in the event of a data breach.



Subdivisions (h)(9)(F), (h)(9)(G) and (h)(9)(H) require the Confidential Stop Data Requestor to include the project title, name of public agency or research body (if applicable), and date of anticipated completion of the project or report. These subdivisions are necessary because the Department must verify that the Confidential Stop Data Requestor meets the eligibility requirements for access to Confidential Stop Data. This subdivision also ensures that the Confidential Stop Data will not be used for an indefinite period of time, thus decreasing the risk of unauthorized disclosure.

Subdivision (h)(9)(I) requires the Confidential Stop Data Requestor to include the names of Team Members who will have access to the Confidential Stop Data; where those Team Members will access the Confidential Stop Data; a signature, acknowledging that (1) the indicated location of where each Team Member will access the requested data is accurate and no Team Member will access the requested data outside of the reported location and (2) the failure to comply with these terms may result in the loss of access to the Department's data for this and/or future research projects; and whether those Team Members are part of a data analysis team or an information technology team. This subdivision is necessary to set clear guidelines for the appropriate use of the Confidential Stop Data that the Confidential Stop Data Requestor and Team Members must follow. This subdivision is further necessary to ensure the privacy and confidentiality of Confidential Stop Data. Presumably, any or all of the Team Members will have access to the Confidential Stop Data, so it is necessary for the Department to be aware of everyone with access to this data.

Subdivision (h)(9)(J)-(Q) lists the information that is required for the Confidential Stop Data Requestor to include in its Data Request Application related to the research project for which they need the stop data and the Confidential Stop Data Requestor's credentials.

These provisions are necessary to ensure the authenticity, viability, and validity of the research project, and to ensure the Confidential Stop Data Requestor has all required employer approvals to conduct the research. These provisions are also necessary to ensure that the Confidential Stop Data will be used for the stated Research Purposes. The provisions related to institutional review board approval are further necessary because the reports or projects requiring access to Confidential Stop Data involve human subjects, and approval by any institutional review board or Committee of the Protection of Human Subjects would provide additional security and safeguards for the privacy and confidentiality of Confidential Stop Data.

Subdivision (h)(9)(R)-(T) lists the information that is required for the Confidential Stop Data Requestor to include in its Data Request Application related to the Confidential Stop Data Requestor's security protocols. These provisions are necessary to ensure that the Confidential Stop Data Requestors have met the minimum security standards to protect and safeguard the data, and prevent unauthorized access to the data. The Department chose the requirements set forth, such as the NIST 800-171, Revision 2, and SOC 2 type I or type II audits, or FedRAMP Authorization because these are well-known security requirements and standards.

If a Data Request Application is approved, subdivision (h)(10) requires a Confidential Stop Data Requestor and all Team Members to submit a notarized identification verification. Subdivision (h)(10) further states that the Department's Research Center will securely transfer the requested

data to the Confidential Stop Data Requestor after the notarized identification verification is received. This subdivision is necessary to verify the identities of the persons who will have access to Confidential Stop Data, and their qualifying affiliation with an eligible Confidential Stop Data Requestor.

Subdivision (h)(11) describes the process for renewing an application. The project renewal request must update the application within 90 calendar days before the expiration date of the application by describing any changes to the following information: (1) any personnel changes and updated contact information, including the removal or addition of the Confidential Stop Data Requestor or Team Members; (2) any technology changes to the location or procedures around where the stop data is stored or accessed; (3) any environmental changes to the location or procedures around where the stop data is stored or accessed; and (4) the name and contact information of the Confidential Stop Data Requestor information security officer or IT manager, if applicable. The Department provided a 90-day timeframe to renew the application to allow the Confidential Stop Data Requestor sufficient time to gather the data necessary to request a renewal.

This subdivision is necessary to establish an application renewal process to accommodate project delays caused by unforeseen events. This subdivision is also necessary because it is vital for the Department to have up-to-date information in order to ensure the continued security of the Confidential Stop Data.

Subdivision (h)(12) requires the Confidential Stop Data Requestor and any Team Member to protect the confidentiality and take reasonable precautions to prevent the re-identification of officers and stopped persons whose unique identifying information or personally identifying information may be contained in stop data. This subdivision is necessary to ensure the privacy and confidentiality of Confidential Stop Data.

Subdivision (h)(13) requires in the event of a security breach that the Confidential Stop Data and Team Member(s) provide notice to the Research Center within 24 hours, submit a notification letter to the Department for publication on the Department's website when the breach affects the Personal Identifying Information of 500 individuals or more, and reimburse the Department for any losses or expenses resulting from the security breach. Subdivision (h)(13) further requires that the information security officer or information technology manager identified in the Confidential Stop Data Requestor's Data Request Application will be the Department's primary point of contact in case there is a security breach. If no information security officer or information technology officer identified in the Data Request Application, this subdivision requires the Confidential Stop Data Requestor to be the Department's primary point of contact. This subdivision is necessary to protect the privacy of individuals identified in the Confidential Stop Data and minimize the dissemination of Confidential Stop Data in the event of a security breach.

If the Confidential Stop Data Requestor requests remote access, subdivision (h)(14) requires the Confidential Stop Data Requestor and each applicable Team Member to complete and submit a Researcher Confidentiality and Non-Disclosure Agreement and a Researcher Data Access User Agreement, both of which are incorporated by reference. Subdivision (h)(14) further states that if the Confidential Stop Data Requestor or any Team Member is unable to meet the security requirements of the Researcher Data Access User Agreement, that Confidential Stop Data Requestor or Team Member may submit a Security Variance Form for Data Access Non-

Compliance of Security Requirements, which is incorporated by reference, for consideration by the Department's Research Center. This subdivision is necessary to establish a uniform process for remote access that protects the privacy of individuals identified in the Confidential Stop Data by ensuring that the Confidential Stop Data, if accessed remotely, is not used for an unauthorized purpose and that the Confidential Stop Data Requestor is taking precautions to protect Confidential Stop Data.

Subdivision (h)(15) requires that notice be given to the Department when the project described in the Data Request Standard Application has been completed and requires destruction of the data within 90 days of the conclusion of the research project or report. Subdivision (h)(15) further requires that the Confidential Stop Data Requestor's notice must come in the form of a signed and dated certificate, providing certain information. Subdivision (h)(15) further requires that the notice of data destruction must be submitted within 30 days of the data destruction. This subdivision is necessary to protect the privacy of individuals identified in the Confidential Stop Data by ensuring that the Confidential Stop Data is not used for an unauthorized purpose after a project has ended and by ensuring that the data has been destroyed so that it cannot be accessed or stored indefinitely. Additionally, the Department chose to incorporate the destruction methods in NIST 800-88 (December 2014) because it sets forth destruction methods that ensures the protection of confidential information.

**38. Section 999.228, subd. (j): Remove the proposal to require agencies to keep a record of information found in its source data indefinitely.**

In response to a comment, the Department struck a proposal to require reporting agencies to keep a record of information found in its source data in some other format.

**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS**

The Department relied on the following studies, reports, and documents in proposing these amendments:

1. Memorandum concerning subject matter expert feedback
2. Baltimore Police Department, Conducted Electrical Weapon Policy (July 1, 2016) [https://www.baltimorepolice.org/sites/default/files/Policies/719\\_Conducted\\_Electrical\\_Weapon.pdf](https://www.baltimorepolice.org/sites/default/files/Policies/719_Conducted_Electrical_Weapon.pdf)
3. Herlihy-Mera, *The Cross-Lingual Interse(x)tionalities of 'Latinx'*, The Chronicle (May 1, 2018) <https://www.chronicle.com/blogs/linguafranca/2018/05/01/the-cross-lingual-intersextionality-of-latinx/>
4. Police Executive Research Forum and United States Department of Justice, Community Oriented Policing Services, 2011 Electronic Control Weapon Guidelines (March 2011) [https://www.policeforum.org/assets/docs/Free\\_Online\\_Documents/Use\\_of\\_Force/electronic%20control%20weapon%20guidelines%202011.pdf](https://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf)
5. Caraballo, *This Comic Breaks Down Latinx v. Latine for Those Who Want to be Gender-inclusive*, REMEZCLA (Oct. 24, 2019) <https://remezcla.com/culture/latinx-latine-comic>
6. Seattle Police Department, Use of Force Tools Policy, <https://www.seattle.gov/police-manual/title-8---use-of-force/8300---use-of-force-weapons-and-tools>

7. Simón, *Hispanic vs. Latino vs. Latinx: A Brief History of How These Words Originated*, REMEZCLA (Sept. 14, 2018) <https://remezcla.com/features/culture/latino-vs-hispanic-vs-latinx-how-these-words-originated/>