



AB 953

Racial and Identity Profiling Advisory Board
California Attorney General Kamala D. Harris

What AB 953 Does

- ❖ Requires DOJ to report on citizen complaints that allege racial or identity profiling (Pen. Code, §13012)
- ❖ Expands definition of racial or identity profiling (Pen. Code, § 13519.4)
- ❖ Creates RIPA Board (Pen. Code, § 13519.4)
- ❖ Requires agencies to collect stop data (Gov. Code, § 12525.5)
 - ◆ Requires the OAG to draft and issue regulations

Significant AB 953 Deadlines

- ❖ **End of 2016**: LEAs must report citizen complaint data to OAG
- ❖ **Jan. 1, 2017**: Stop data collection regulations enacted
- ❖ **July 1, 2017**: DOJ annual crime report to include citizen complaint data
- ❖ **Jan. 1, 2018**: First RIPA Board report due
- ❖ **April 1, 2019**: LEAs begin reporting stop data (for previous calendar year)
 - ◆ April 1, 2019: Agencies with 1,000 or more officers
 - ◆ April 1, 2020: Agencies with 667-999 officers
 - ◆ April 1, 2022: Agencies with 334-666 officers
 - ◆ April 1, 2023: Agencies with 1-333 officers

Racial or Identity Profiling Redefined

“ . . . the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop . . . ”

Exception: An officer may consider or rely on characteristics listed in a specific suspect description.

(Pen. Code, § 13519.4, subd. (e).)

Examples of Activities Subject to Prohibition on Racial and Identity Profiling

“The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.”

(Pen. Code, § 13519.4.)

What is Considered a “Stop” Under AB 953?

“[A]ny detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person’s body or property in the person’s possession or control.”

(Gov. Code, § 12525.5, subd. (g)(2).)

Duties of RIPA Board

- ❖ **July – December 2016**: Advise OAG in developing regulations for collection and reporting of stop data

- ❖ **Annually** :
 - ◆ Analyze data required by AB 953 regarding citizen complaints alleging racial and identity profiling and stops

 - ◆ Analyze law enforcement diversity training

 - ◆ Work with state and local LEAs to review and analyze racial and identity profiling policies and practices across geographic areas in California

 - ◆ Conduct and consult evidence-based research on intentional and implicit bias, and law enforcement stop, search, and seizure tactics

 - ◆ Issue report regarding racial and identity profiling data reported under AB 953

Annual RIPA Board Report

- ❖ Detailed findings on past and current status of racial and identity profiling
- ❖ Policy recommendations for eliminating racial and identity profiling
- ❖ Disaggregated statistical data for each reporting law enforcement agency
- ❖ At minimum, each reporting law enforcement agency's total results for stop collection for each calendar year
- ❖ Published annually
- ❖ First RIPA report: Jan. 1, 2018

Bagley-Keene Open Meeting Act

(Gov. Code, §§ 11120–32)

Bagley-Keene Key Points

What is a meeting?

- ❖ Gathering of a majority of members of a state body
- ❖ Includes all phases of decision-making from information gathering to final vote

Bagley-Keene Key Points

Serial Communications: Prohibition

- ❖ Members of a state body must avoid serial communications outside of a public meeting among a quorum of members or through an intermediary
- ❖ Prohibition applies to ALL forms of communication

Bagley Keene Key Points

Serial Communications: Exceptions

- ❖ Staff may brief one board member one at a time
- ❖ Must not share communications from other board members during briefing

Stop Data Regulations

(Gov. Code, § 12525.5)

Stop Data Regulations

“Not later than January 1, 2017, the Attorney General, in consultation with stakeholders, including the Racial and Identity Profiling Advisory Board (RIPA)... federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations, shall issue regulations for the collection and reporting of [stop] data required under subdivision (b).”

(Gov. Code, § 12525.5, subd. (e))

What Regulations Must Specify

- ❖ All data to be reported
- ❖ Standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies
- ❖ Should be compatible with any similar federal data collection or reporting program

(Gov. Code, § 12525.5, subd. (e).)

AB 953 Rulemaking Timeline

- ❖ September 2016: Draft regulations posted
- ❖ September 2016: Proposed second RIPA Board meeting
- ❖ September – November 2016: Public comment period
- ❖ Dec. 1, 2016: Proposed day to submit regulations to OAL
- ❖ Jan. 1, 2017: Regulations issued

Goals in Consulting with Board Members & Stakeholders

- ❖ How should existing minimum Data Elements be defined?
 - ◆ Data Element: category of information reported
 - ◆ Data Value: fields to use in submitting data re Data Element
- ❖ What additional Data Elements, if any, should be required?
 - ◆ Pros/cons?
- ❖ Any practical or policy considerations to be aware of as we draft the regulations?
- ❖ Any challenges or considerations unique to particular communities or settings?

Minimum Elements LEAs Must Collect & Report

- ❖ Time, date, and location of stop
- ❖ Reason for stop
- ❖ Result of stop, (e.g., no action, warning, citation, property seizure, or arrest)
 - ◆ Warning or citation issued, if one issued
 - ◆ Offense charged, if arrest made
- ❖ Perceived race or ethnicity, gender, and approximate age
 - ◆ Must be based on perception
 - ◆ Cannot ask person stopped
- ❖ Actions taken by officer during stop:
 - ◆ Whether officer asked for consent to search person
 - ◆ Whether search was conducted, basis for search and result
 - ◆ Whether property was seized, basis for seizing property and type seized

Stop Data Elements & Values

For Discussion

Time of Stop (required)

- ❖ Report Time of Stop (military time)
 - ◆ Beginning of Stop (required)
 - ◆ End of Stop
- ❖ Alternative: Add element for Duration of Stop
 - ◆ E.g. – less than 10 min., 10-20 min., etc.
- ❖ Why: Allows Board to analyze post-stop behavior, such as duration of stop

Location of Stop

Location (required)

- ❖ Geocoordinates of specific address
- ❖ If not available: closest intersection/cross streets
- ❖ If cross streets not available: closest exit (e.g., on freeway)
- ❖ Residence:
 - ◆ Only cross streets, not specific address
 - ◆ Why: AB 953 prohibits reporting on individual's home address

Location Type

- ❖ Public Sidewalk/Street
- ❖ Freeway/highway
- ❖ Public Park
- ❖ Public Building
- ❖ Commercial
- ❖ Residence
- ❖ Other Private Property
- ❖ K-12 setting
- ❖ Secondary school setting
- ❖ Other

Type of Stop

- ❖ Vehicle
 - ◆ Driver
 - ◆ Passenger
- ❖ Pedestrian
- ❖ Bicycle
- ❖ Other
 - ◆ Open field Check box? Drop down?

Reason for Presence at Scene of Stop

(if different from reason for stop)

- ❖ Traffic Patrol
- ❖ Foot Patrol/Officer-initiated activity
- ❖ Call for service/Radio
 - ◆ Citizen call re suspicious/criminal activity
 - ◆ Radio dispatch with suspect description
 - ◆ Radio dispatch re suspicious/criminal activity in progress
- ❖ Interviewing witness to crime/suspected criminal activity/vehicle accident
- ❖ Citizen Flag Down
- ❖ DUI or Sobriety checkpoint
- ❖ Traffic Control
- ❖ Crowd Control
- ❖ K-12 Assignment/detail
- ❖ Probation/Parole Check
- ❖ Other: narrative field (*optional*)

Reason for Stop (required)

- ❖ Reasonable suspicion individual stopped was engaged in criminal activity (Drop down menu with offense table)
- ❖ Traffic violation
 - ◆ Moving violation (check box only/open field for officer to write in violation)
 - ◆ Equipment violation (check box only/open field for officer to write in violation)
- ❖ Other?
- ❖ Required narrative field in addition to selecting specific field
 - ◆ Benefits: Useful for researchers; validates information provided in drop-down menus
 - ◆ Disadvantages: More time consuming; may inadvertently reveal personal information of individual (redaction costs)

Perceived Race/Ethnicity of Person Stopped (required)

- ❖ White
- ❖ Black/African American
- ❖ Latino/Hispanic
- ❖ Middle Eastern
- ❖ Asian/Pacific Islander
- ❖ Native American

Perceived Gender of Individual Stopped (required)

- ❖ Male
- ❖ Female
- ❖ Transgender
- ❖ Gender non-conforming
- ❖ Other categories to consider?

Perceived Age of Individual Stopped (required)

- ❖ 0-9
- ❖ 10-14
- ❖ 15-17
- ❖ 18-24
- ❖ 25-29
- ❖ 30-39
- ❖ 40-49
- ❖ 50-59
- ❖ 60 and older

Perceived Limited English Proficiency

- ❖ Limited English proficient or pronounced accent
(check if applicable)

Actions Taken by Officer During the Stop

- ❖ Asked for identification
- ❖ Asked to exit vehicle
- ❖ Curbside detention
- ❖ Handcuffed
- ❖ Patrol car detention
- ❖ Patdown (frisk)
- ❖ Photographed individual stopped
- ❖ Canine contact
- ❖ Unholstered Weapon
 - ◆ Firearm
 - ◆ Taser
 - ◆ Other (check box or open field?)
- ❖ Discharged Weapon
 - ◆ Firearm
 - ◆ Taser
 - ◆ Other (check box or open field?)
- ❖ Other Use of Force (check box only or drop down?)
- ❖ Encounter resulted in death of person stopped

Actions Taken by Officer During the Stop Search of Person or Property – Basis (required)

- ❖ Did the officer ask for consent to search the person or their property?
 - ◆ If yes, was consent given?

- ❖ Did the officer search the person or their property?
 - ◆ If yes, what was the basis for the search? (check all that apply)
 - Consent given
 - Probation/Parole
 - Warrant
 - Incident to Arrest
 - Weapons
 - Visible contraband
 - Odor of contraband
 - Incident to patdown/frisk
 - Canine sniff
 - Other

Actions Taken by Officer – Search of Person or Property: Evidence/Contraband Discovered/Property Seized (required)

- ❖ If the person or their property was searched, what type of contraband or evidence was discovered (if any), and what type of property was seized (if any)? (check all that apply)
 - ◆ Firearms
 - ◆ Other weapons
 - ◆ Narcotics
 - ◆ Alcohol
 - ◆ Money
 - ◆ Other contraband
 - ◆ Other evidence
 - ◆ Drug paraphernalia
 - ◆ Stolen property
 - ◆ None

Actions Taken by Officer – Basis for Seizing Property (required)

- ❖ If property was seized, what was the basis for seizing that property?
 - ◆ Safekeeping
 - ◆ Forfeiture
 - ◆ Contraband
 - ◆ Evidence
 - ◆ Vehicle impound
 - ◆ Other

Result of Stop (required)

- ❖ Arrest: specify offense
- ❖ Citation: provide citation given
- ❖ Warning: provide warning given
 - ◆ Verbal v. Written
 - ◆ Specific offense from CJIS Offense Table
- ❖ Property Seizure
- ❖ Any other report filed
- ❖ No Action

Agency and Officer Information

For Discussion

ORI Identification Number

- ❖ 9-character identification code assigned by Federal Bureau of Investigation for every LEA in the United States
- ❖ LEAs typically use in reporting data to federal Bureau of Justice Statistics (BJS)

Officer Identification Number

“Notwithstanding any other law, the data reported shall be available to the public, *except for the badge number or other unique identifying information of the peace officer involved*, which shall be released to the public only to the extent the release is permissible under state law.”

(Gov. Code, §12525.5, subd. (d).)

❖ What identification number is best to use?

- ◆ P.O.S.T. identification number
- ◆ Badge number or other unique identification number assigned by agency

Type of Assignment of Officer

- ❖ Patrol
- ❖ Traffic
- ❖ Gang
- ❖ Special Assignment: Open
- ❖ Narcotics
- ❖ Vice
- ❖ Violence Suppression/Crime Suppression
- ❖ Other: open field?

Officer's Years of Experience

- ❖ Actual number of years

- ❖ Range of years

 - ◆ Less than four years

 - ◆ 4-10 years

 - ◆ More than ten years

California Justice Information Services Division

Overview of Technical Approach

Overview of Technical Approach – Outreach

- ❖ Law enforcement agencies surveyed
- ❖ Stop data collection protocols discussed with other States
- ❖ U.S. Department of Justice – Bureau of Justice Statistics data collection discussion

Overview of Technical Approach - Findings

- ❖ Survey
 - ◆ Are agencies collecting stop data?
 - ◆ When do agencies collect?
 - ◆ How do agencies collect?
 - ◆ Preferred method of submission to DOJ:
 - Data upload from agency RMS/CAD
 - Web-Based Portal

- ❖ Other States
 - ◆ Insight into data elements being collected
 - ◆ Issues and/or obstacles encountered
 - ◆ Variety of technical capabilities and options

- ❖ Bureau of Justice Statistics
 - ◆ The importance of data standardization

Overview of Technical Approach

- ❖ Cost effective and least impactful
- ❖ Intuitive and user-friendly
- ❖ Leverage existing infrastructure used by LEA's to access criminal justice data
- ❖ Ensure data quality
- ❖ Leverage Open Justice Data portal to provide visualization, analytics and reporting capability

Overview of Technical Approach

Technical Approach – Data Collection

- ❖ Data collection methods:
 - ◆ Secure file transfer
 - ◆ Web-based system
 - ◆ System-to-system interface

Overview of Technical Approach – Next Steps

- ❖ Finalize Data Elements and Values
 - ◆ Develop data dictionary and data specifications
- ❖ Establish Technical Subcommittee
 - ◆ Discuss technical solutions to develop user-friendly interfaces
 - ◆ Ensure uniform reporting
 - ◆ Early adoption during development phase - via pilot agencies

Overview of Technical Approach - Next Steps

❖ Agency Vendor Consultation

- ◆ Incorporate AB 953 functionalities into vendors' products
- ◆ Schedule roll-out as part of software maintenance releases, to reduce costs

❖ LEA First Wave Consultation

- ◆ Work with large agencies (1,000+ officers) to assist with collecting, extracting and transmitting stop data to DOJ

Next Steps

❖ Subcommittees

- ◆ Technology Committee
- ◆ Definitions Committee
- ◆ Search/Seizure Committee
- ◆ Special Settings/Considerations Committee

❖ Public Meetings

- ◆ Subcommittee Meetings – July/August 2016
- ◆ Full Board Meeting - September 2016



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