

From: [Shannon Hovis](#)
To: [AB953](#)
Subject: FW: I roundly and categorically reject these proposed regulations for the reason indicated.
Date: Wednesday, August 02, 2017 12:06:38 PM

From: Richard Hylton [mailto:]
Sent: Tuesday, August 01, 2017 7:39 PM
To: Catherine Ysrael <Catherine.Ysrael@doj.ca.gov>; Shannon Hovis <Shannon.Hovis@doj.ca.gov>
Cc: SDAT City Attorney <cityattorney@sandiego.gov>; Shelly Zimmerman <sdpdpolicechief@pd.sandiego.gov>; Salvador, Jericho <jsalvador@pd.sandiego.gov>; Haley, Chris <chaley@pd.sandiego.gov>; Michael Moore <michael.moore@cgi.com>; Fields-Bernard, Lea <LFBernard@sandiego.gov>; RHVILLA@sandiego.gov
Subject: I roundly and categorically reject these proposed regulations for the reason indicated.

I roundly and categorically reject these proposed regulations for the reason indicated.

(g) Data Publication. Data submitted to the Department will be published, **at the discretion of the Attorney General** and consistent with Government Code section 12525.5, on the Department's OpenJustice website. The data published shall include disaggregated statistical data for each reporting agency. The Department shall not release to the public the Officer's I.D. Number or Unique Identifying Information. Nothing in this section prohibits the Department from confidentially disclosing all stop data reported to the Department to advance public policy through scientific study and pursuant to the Department's data security protocols, which will ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity.

The availability of public data is not dependent on the discretion of the fool who occupies the office of Attorney General.

I categorically commend you for including the following provisions:

(e) System Security. The Department shall design its system to be easily accessible for authorized users, confidential, and accurate. The system will provide role-based authorization services. Reporting agencies will be required to authorize and remove users to the system as OAL Register Z-2016-1129-03: Proposed Regulations as Modified August 1, 2017 Page 22 of 23 necessary. **Automated systems handling stop data and the information derived therein shall be secure from unauthorized access, alteration, deletion or release.**

You must have read my email of November 2014, that was sent to CGI, San Diego Vendor, and the persons in this distribution.

(10) In order to ensure compliance with these regulations, a reporting agency, its officers, or both may review the stop data **to correct errors before submitting the stop data to the Department.** Once the stop data is submitted to the Department, however, an agency can only revise stop data through the Department's **error resolution process.** (11) Reporting agencies shall create the Officer's I.D. Number defined at section 999.226, subdivision (a)(14) for each officer required to report stops under these regulations.

The local idiots (City of San Diego) can use both processes to resolve/correct the most transparent and embarrassing errors, affecting tens of thousands of records, that have marred and plagued their data disclosures and reports.

I still worry that the people here will use the denominator trick, by not resolving "errors."

Stop reports submitted to the Department shall include the Officer's I.D. Number, but shall not include the officer's name or badge number. However, each reporting agency shall maintain a system to match an individual officer to his or her Officer's I.D. Number.

I would have kept my promise had you not done this; something that I rarely do. Here again, absent what you have required, the local idiots may have tried to conceal information that allows identification of their miscreants.

I think you could have done better in your definition of "stop data."

I may say more later.

--

Richard Hylton



Sent with [Mailtrack](#)

AB953

From: Mary Sue Meads <[REDACTED]>
Sent: Thursday, August 03, 2017 9:21 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 9:20am

Submitted by anonymous user: [REDACTED]

Submitted values are:

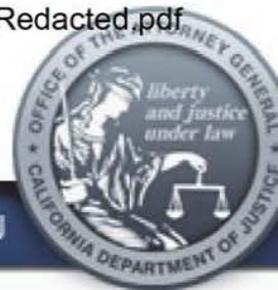
Email: [REDACTED]

Name: Mary Sue Meads

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

Overall, the police are becoming far to "militarized." They need to slow down --perhaps body cameras that cannot be turned off(?) would assist them in having the time to actually think ABOUT WHAT THEY ARE DOING. To stop someone merely because they are a person of a minority group should be unlawful. Asking someone for their ID and then shooting them as they reach into their pocket is foolish, dangerous and unfair. Most people have to reach in somewhere to pull out this ID card the police are asking for. I only use this as an example. But when the police have someone on the ground shouting "I c an't breathe" a rational person (not overtaken by excessive rage) might slow down and stop what they are doing. Perhaps there is o a psychological test persons could take BEFORE they are allowed on the force. Having said all that, I know that policing can be very difficult. But surely it is not a job for an angry people with very short fuses.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Sheila Shane <[REDACTED]>
Sent: Thursday, August 03, 2017 9:25 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 9:25am

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Sheila Shane

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment. No comments or suggestions
File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

AB953

From: Patricia Bender <[REDACTED]>
Sent: Thursday, August 03, 2017 9:26 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 9:25am

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Patricia Bender

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

I know that the law enforcement have a demanding and challenging task. However. Everyone is the product of family and life events. That some police will stop people of color more than white people is a reality. Until they are responsible for making better judgements about who and why to stop, things will continue to be problematic. That an officer would stop someone for a minor traffic offense, and end up in a car chase from a movie scene is unacceptable... the threat to lives is so unnecessary.

I think people will be shocked to find how so many more people of color are targeted if officers had to list race or color on tickets and that becomes part of a record!

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Aaron Bruce <[REDACTED]>
Sent: Thursday, August 03, 2017 9:41 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 9:41am

Submitted by anonymous user: [REDACTED]

Submitted values are:

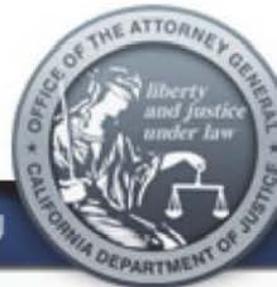
Email: [REDACTED]

Name: Aaron Bruce

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

I think Game Changer is one of the most progressive models for addressing the challenges facing Police/Community relations. I would strongly consider supporting this initiative. <http://www.imagamechanger.org/>

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Ligala Manns <[REDACTED]>
Sent: Thursday, August 03, 2017 9:32 AM
To: president@messages.whitehouse.gov; Donald J. Trump for President;
pelosi.updates@capitolenews.com; homeless@serve.org
Cc: AB953; MayorSteinberg@cityofsacramento.org; tmora@cityofsacramento.org;
jbytel@cityofsacramento.org
Subject: Re: Homeless Verteran with child

Hello, and thank you for your time. This sent a follow-up on the email that I sent last month about my son being sexually harassed and bullied. My son's physical and mental safety is of paramount concern me, and is in fact the key component in helping me to better cope with my PTSD/MST. The issues that will be forced to deal with here with the Natomas school districts lack of supportive services for my son is shameful to say the least. I strongly feel that we are up to now only being re-vitimized again and again, and Sir we really need your help. Thank you for your time.

[Sent from Yahoo Mail on Android](#)

On Tue, Jun 20, 2017 at 1:35 AM, Ligala Manns
[REDACTED] wrote:

06/20/2017

Dear Mr. President Donald Trump, thank you Sir for your great service and very valued time

Hello, my name is Ligala P. Manns and I and my eleven year old son are homeless, living in and out of my car, and on different family members (that will allow us) sofas or floors. On March 27, 2017 I was served with a sixty-day notice of termination of tenancy because the owner was selling the house and the new owners wanted us out. Unfortunately, due to the lack of housing in the area where we were asked to vacate from, I was not able to secure housing in the time that was asked, so to avoid being evicted, I moved into my car, and at the time we literally became homeless. In spite of that fact that we are currently homeless, I am very confident that we will be housed soon with the outpour of help we are receiving from SSVF, and Volunteers of America, staff here at the Mather VA hospital.

I'm also doing my best to keep my son from being further affected by our un-timely homeless situation, by trying to keep him in Herron Elementary school, which is the

nearest and safest to our last permanent residency. However, [REDACTED] pdf [REDACTED], with the Natomas Unified School District insists that “we are not homeless”, even though I provided the district office with an original copy of my letter of homelessness which was provided to me by SSVF at Mather Hospital. My son is my world, and when often times everything in my world is sometimes sad from the memories of my trauma. It’s knowing that I can keep his childhood safe, and productive with the help of our great Veteran resources.

However, [REDACTED], with the Natomas Unified School District, for reasons that I hope are not racial, stated that “there are already enough African-American students already enrolled from the South Natomas area, so your son will have to attend a school from that area, not Heron ”She is completely ignoring The McKinney-Vento Act,([McKinney-Vento Act](#)) and called my phone again today (June 19, 2017 at 3;41pm) yelling to me that we are “not homeless, and that when Mr. Singh gets back from vacation on July 12, 2017, he’ll deal with me himself” What she is saying is not true, we are currently still homeless, but I am searching in North Natomas for permanent housing every day. I also went into the office and submitted a transfer to Heron on 4-20-2017 as well as enrolled my son into the 4th “R” school-age care program.

All I want is for my son to be rightfully admitted into Heron Elementary school, that’s all I’m asking for, I will keep working with the VA staff on my other concerns. But the refusal of Natomas School District allowing my son to attend school, is not something that the VA can help with other then having provided them with the letter of homelessness. Thank you for your time

Ligala P. Manns, Disabled PTSD/MST Veteran
[REDACTED]
[REDACTED]

Ligala P. Manns

AB953

From: Joanne Britton <[REDACTED]>
Sent: Thursday, August 03, 2017 10:36 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 10:36am

Submitted by anonymous user: [REDACTED]

Submitted values are:

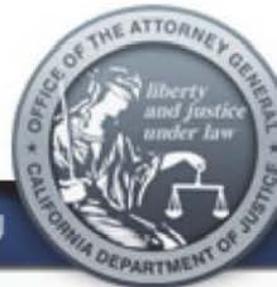
Email: [REDACTED]

Name: Joanne Britton

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

End racial profiling. Stop people based on behavior and actions not race or color, not gender identity or gender, not because they are Muslim or homeless.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

AB953

From: Marian Cruz [REDACTED]
Sent: Thursday, August 03, 2017 11:23 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 11:22am

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Marian Cruz

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment. Racial profiling has got to stop!!!

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

AB953

From: Barbara Farrell <[REDACTED]>
Sent: Thursday, August 03, 2017 11:45 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 11:45am

Submitted by anonymous user: [REDACTED]

Submitted values are:

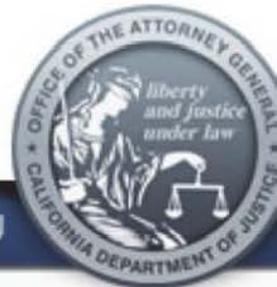
Email: [REDACTED]

Name: Barbara Farrell

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

I am aware that racial profiling is still a problem in CA, particularly in SoCal. I am asking for increased education and guidelines. I am especially concerned about the Sheriff's department.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Kathleen Radez

From: Shannon Hovis
Sent: Thursday, August 03, 2017 11:54 AM
To: Kathleen Radez
Subject: FW: 953 regs

From: Jack Glaser <jackglaser@berkeley.edu>
Date: Thursday, August 3, 2017 at 9:37 AM
To: Shannon Hovis <shannon.hovis@doj.ca.gov>
Subject: 953 regs

Hi Shannon,

I just finished reading over the latest version of the AB953 regulations (in preparation for a short interview about it with a SoCal NPR station KPCC I just did). I just wanted to let you know it's clear that you're doing a terrific job on this. It is complex, but the regs are shaping up as comprehensive and coherent. And I'm very encouraged that officer identifiers will be included. Without them the value of the data would be an order of magnitude lower.

I'll offer formal comments later (and will likely gripe about the removal of unholstering weapons from the use of force list), but just wanted to express my appreciation now. I know this has been a very heavy lift. I think it's paying off.

Thank you for all your hard work and smart thinking on this critically important law!

Jack

Jack Glaser
Professor
Associate Dean
Goldman School of Public Policy
University of California, Berkeley
<http://gspp.berkeley.edu/directories/faculty/jack-glaser>

Author of *Suspect Race: Causes and Consequences of Racial Profiling*. Oxford University Press.

Follow me on Twitter (or don't): [@JackGlaserPhD](https://twitter.com/JackGlaserPhD)

AB953

From: State of California - Department of Justice - Office of the Attorney General
<webmaster@doj.ca.gov>
Sent: Thursday, August 03, 2017 11:55 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 11:54am

Submitted by anonymous user: [REDACTED]

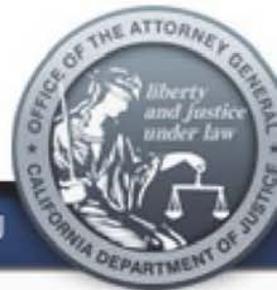
Submitted values are:

Email:

Name:

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment. Please end racial profiling by police in California.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

AB953

From: Joanne DeVine [REDACTED]
Sent: Thursday, August 03, 2017 12:09 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 12:08pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Joanne DeVine

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment. Please end racial profiling!

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

AB953

From: Lisa Hammermeister <[REDACTED]>
Sent: Thursday, August 03, 2017 12:37 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 12:36pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Lisa Hammermeister

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment. Don't listen to Donald Trump.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

AB953

From: Ullrich Linda [REDACTED]
Sent: Thursday, August 03, 2017 12:40 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 12:40pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Ullrich Linda

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

It is time for Americans to pay no more than other industrialized for our medications.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

AB953

From: Ullrich Linda <[REDACTED]>
Sent: Thursday, August 03, 2017 12:44 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 12:43pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Ullrich Linda

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

The unacknowledged racial bias and profiling by law enforcement and in our justice system is a continuation of slavery and Jim Crow laws. We cannot continue to have such disparity in police stops, police behavior and in sentencing between people of color and whites. We will not be a just and free country until this addressed and remedied.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Sean Sheppard <[REDACTED]>
Sent: Thursday, August 03, 2017 1:29 PM
To: AB953
Subject: Comment Regarding Proposed Regulations

Follow Up Flag: Follow Up
Flag Status: Completed



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 1:28pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Sean Sheppard

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

www.GameChanger1.org

There is a program in Southern California called Game Changer that utilizes collegiate and professional sporting events and athletes to bring together law enforcement and members of the community on a regular basis. The program creates safe space on a frequent basis through moderated focus groups for problems and solutions to be discussed 3 hours before the start of a sporting event, followed by human bonding time by all participants attending the game together. Profiling is frequently addressed.

Current Partner Law Enforcement Agencies in San Diego
San Diego Police Department San Diego County Sheriff Department
San Diego County Probation Department San Diego Harbor Police Department

District Attorney Bureau of Investigations Federal Border Patrol
Coronado Police Department San Diego Community College District Police Department
San Diego State University Police Department

[196] Sean Sheppard 8.3.17_Redacted.pdf

Fox Sports TV Segment 1

<https://youtu.be/O6GBkmyS7Pg>

Fox Sports TV Segment 2

<https://youtu.be/0c64z3ed3A8>

File [Game Changer Model 2017.pdf](#)



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Agustin Damian <[REDACTED]>
Sent: Thursday, August 03, 2017 7:15 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 7:15pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Agustin Damian

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

¿Quién vigilará a los vigilantes? La pregunta se formuló por primera vez en latín, pero tiene la misma importancia ahora que hace 2.000 años. El poder ha de ser controlado, como ya sabían los fundadores de nuestro país cuando diseñaron un sistema de controles y equilibrios [checks and balances] en la Constitución de los Estados Unidos. Todo organismo dotado del poder de protegernos de los enemigos dispone así mismo del poder de hacernos mucho daño.

La policía debe poder buscar pruebas, cuando anda en pos de terroristas u otro tipo de delincuentes. Pero cuando la policía puede acceder a información acerca de nosotros con demasiada facilidad, por lo general suele abusar de su poder (Véase Cops tap database to harass, intimidate). Es vital proteger a los ciudadanos de la intrusión de la policía. En Estados Unidos, hacemos esto exigiendo a la policía que se dirija a los tribunales y consiga una orden de registro.

Hoy, las fuerzas de seguridad quieren que se les autorice a hacerse con la información acerca de las tarjetas de crédito que está disponible en sitios de Internet, sin estar obligados a conseguir una orden judicial, lo que puede reportarles informaciones tales como los libros que uno ha comprado. No se encontrarán mayores dificultades para conseguir que un tribunal conceda una orden de

registro en el caso de que existan pruebas fehacientes de la existencia de un arma letal, de tal forma que se pueda este cambio para que puedan investigar a los terroristas. Cada vez que la policía solicita el permiso para evitar las órdenes de registro, debemos permanecer alerta.

Dependemos del FBI para investigar a sospechosos de terrorismo, sin embargo, ¿a quién más van a investigar? Probablemente a cualquier oposición política real, habida cuenta de que el FBI presenta una larga historia de investigación de disidentes tan sólo por sus opiniones políticas. Pincharon el teléfono de Martin Luther King Jr.; al parecer, su compromiso de toda la vida con la no violencia no era razón suficiente para no considerarle una amenaza. Más recientemente, John Gilmore, fundador de la Electronic Frontier Foundation, fue investigado por el FBI como presunto autor de un delito sin más pruebas que sus opiniones políticas.

Con frecuencia, los terroristas crean organizaciones para llevar a cabo su trabajo o conseguir financiación, por lo cual es razonable perseguir a esas organizaciones y prohibir que se les aporten recursos. Sin embargo, debemos prestar mucha atención al modo en que se tacha de terroristas a las organizaciones, porque sabemos que el FBI no lo hará de modo sensato. El FBI se ha infiltrado y ha centrado sus actividades en muchos grupos políticos pacíficos; en la década de 1980, mientras Estados Unidos apoyaba a un régimen en El Salvador que mató a miles de activistas de la oposición, el FBI prefirió penetrar y robar en el local del CISPE en vez de pedir una orden de registro para investigar.

¿Se atenderá el FBI a criterios de sensatez a la hora de decidir qué es un «grupo terrorista»? No, si de algo nos sirve la experiencia reciente. El 10 de mayo de 2001, el director del FBI, Louis Freeh, en una comparecencia en el Congreso dedicada a la "amenaza terrorista en Estados Unidos" citó a Reclaim the Streets entre los grupos que suponen una amenaza terrorista. Reclaim the Streets monta fiestas en la calle por sorpresa, en las que la gente toca música y baila. Aparece descrito en el libro No Logo, de Naomi Klein, como una de las nuevas formas de protesta contra la cultura global dominada por las marcas. Nadie ha resultado muerto o herido por Reclaim the Streets. ¿Es capaz el FBI de distinguir entre bailar y asesinar?

El Fiscal General de Estados Unidos [John] Ashcroft ha solicitado el poder de expulsar a todo no ciudadano de Estados Unidos, o bien encarcelarle indefinidamente, sobre la base de la mera sospecha de implicación con el terrorismo, sin que sea preciso pasar por los tribunales. Esto supondría para los visitantes e inmigrantes de nuestro país la negación del legítimo derecho más básico, el derecho a un juicio justo ante la imputación de un delito. Pondría a Estados Unidos al mismo nivel que cualquier estado policial. El gobierno británico ya ha anunciado planes de implantación de medidas similares; no podemos dar por sentado que Estados Unidos no secundará estas medidas.

Otra forma en la que los vigilantes pueden amenazar nuestra libertad consiste en mantenernos desinformados acerca de las actuaciones del gobierno.

Hay buenas razones para mantener en secreto los métodos de recogida de información. Si los enemigos descubren que sus planes son conocidos, pueden tomar contramedidas. Pero el gobierno de Estados Unidos también ostenta una larga tradición de ocultación de información a los ciudadanos estadounidenses para impedir el conocimiento de sus errores o su maltrato de los ciudadanos. En la década de 1960, los «Papeles del Pentágono» demostraron que el Departamento de Defensa sabía que lo que éste estaba contando a los ciudadanos acerca de la Guerra de Vietnam era falso. Los ciudadanos lo descubrieron gracias a que un heroico revelador de secretos [whistle-blower], Daniel Ellsberg, entregó una copia de estos documentos al New York Times.

De este modo, cuando vemos propuestas de ley encaminadas a impedir las filtraciones castigando a los reveladores de secretos, debemos escrutárlas con mucha atención y asegurarnos de que no estamos dando carta blanca a nuestros funcionarios para que se burlen de nosotros.

Si un agente del FBI solicita nuestra colaboración, ¿qué debemos hacer? El FBI investiga y detiene a terroristas. Si el FBI estuviera investigando un plan para secuestrar aviones, me gustaría ayudarles en todo lo que pudiera. Pero el mismo FBI arrestó a Dmitry Sklyarov por el presunto desarrollo de un programa que los estadounidenses pueden utilizar para librarse de los grilletos de los e-books de Adobe. Nadie debe colaborar en la investigación de semejante "delito". Si uno no sabe si un policía piensa detener a una persona por asesinato o por fumarse un porro, ¿cómo puede uno decidir cómo habrá de comportarse correctamente?

Si Estados Unidos quiere conseguir la plena colaboración de todos los estadounidenses con el FBI y la policía, debe abolir leyes que ponen grilletos y perjudican a los estadounidenses. El Congreso debería revocar la DMCA, así como la prohibición de determinadas drogas.

La prohibición de las drogas resulta especialmente autodestructiva en estos días, porque además meter en la cárcel a un de millón de estadounidenses que, de no ser así, aportarían su contribución a la fortaleza de nuestro país, subvenciona al terrorismo. La prohibición hace que las drogas ilegales se conviertan en una fuente de beneficios tan sustanciosos que distintos grupos terroristas (entre ellos, al parecer, el de Bin Laden) obtienen la mayor parte de sus fondos traficando con éstas. La política autodestructiva estadounidense sobre las drogas se ha convertido en una vulnerabilidad que no podemos permitirnos.

Durante décadas, los enemigos externos e internos vienen y van. En ocasiones el gobierno nos protege del peligro, en otras ocasiones es él el peligro. Siempre que se plantee una propuesta de aumentar el poder de vigilancia del gobierno, debemos juzgarla no sólo en función de la situación del momento, sino en función de todo el abanico de situaciones a las que nos hemos enfrentado y habremos de enfrentarnos de nuevo. Debemos utilizar al gobierno para nuestra protección, pero nunca debemos dejar de protegernos de él.

En Estados Unidos, hemos desarrollado un sistema para vigilar a los vigilantes: los jueces les vigilan de distintas maneras; los ciudadanos los hacen de otras. Por nuestra seguridad, debemos mantener este sistema en funcionamiento. Cuando los vigilantes trabajan verdaderamente para nosotros, pueden permitirse que controlemos su trabajo. Cuando nos piden que dejemos de controlarles, debemos decir que no.

Volver a la página principal de Richard Stallman.

Por favor, envíe sus comentarios sobre estas páginas web a rms@gnu.org.

Copyright (C) 2001 Richard Stallman

Se permite la copia literal y distribución de este artículo en su totalidad por cualquier medio, siempre y cuando se conserve esta nota.

Traducción al castellano realizada por SinDominio.net, a partir del original publicado en inglés.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Agustin Damian <[REDACTED]>
Sent: Thursday, August 03, 2017 7:19 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 7:19pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Agustin Damian

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

¿Quién vigilará a los vigilantes? La pregunta se formuló por primera vez en latín, pero tiene la misma importancia ahora que hace 2.000 años. El poder ha de ser controlado, como ya sabían los fundadores de nuestro país cuando diseñaron un sistema de controles y equilibrios [checks and balances] en la Constitución de los Estados Unidos. Todo organismo dotado del poder de protegernos de los enemigos dispone así mismo del poder de hacernos mucho daño.

La policía debe poder buscar pruebas, cuando anda en pos de terroristas u otro tipo de delincuentes. Pero cuando la policía puede acceder a información acerca de nosotros con demasiada facilidad, por lo general suele abusar de su poder (Véase Cops tap database to harass, intimidate). Es vital proteger a los ciudadanos de la intrusión de la policía. En Estados Unidos, hacemos esto exigiendo a la policía que se dirija a los tribunales y consiga una orden de registro.

Hoy, las fuerzas de seguridad quieren que se les autorice a hacerse con la información acerca de las tarjetas de crédito que está disponible en sitios de Internet, sin estar obligados a conseguir una orden judicial, lo que puede reportarles informaciones tales como los libros que uno ha comprado. No se encontrarán mayores dificultades para conseguir que un tribunal conceda una orden de

registro en el caso de que existan pruebas fehacientes de la existencia de un arma letal, o tal como se puede este cambio para que puedan investigar a los terroristas. Cada vez que la policía solicita el permiso para evitar las órdenes de registro, debemos permanecer alerta.

Dependemos del FBI para investigar a sospechosos de terrorismo, sin embargo, ¿a quién más van a investigar? Probablemente a cualquier oposición política real, habida cuenta de que el FBI presenta una larga historia de investigación de disidentes tan sólo por sus opiniones políticas. Pincharon el teléfono de Martin Luther King Jr.; al parecer, su compromiso de toda la vida con la no violencia no era razón suficiente para no considerarle una amenaza. Más recientemente, John Gilmore, fundador de la Electronic Frontier Foundation, fue investigado por el FBI como presunto autor de un delito sin más pruebas que sus opiniones políticas.

Con frecuencia, los terroristas crean organizaciones para llevar a cabo su trabajo o conseguir financiación, por lo cual es razonable perseguir a esas organizaciones y prohibir que se les aporten recursos. Sin embargo, debemos prestar mucha atención al modo en que se tacha de terroristas a las organizaciones, porque sabemos que el FBI no lo hará de modo sensato. El FBI se ha infiltrado y ha centrado sus actividades en muchos grupos políticos pacíficos; en la década de 1980, mientras Estados Unidos apoyaba a un régimen en El Salvador que mató a miles de activistas de la oposición, el FBI prefirió penetrar y robar en el local del CISPEs en vez de pedir una orden de registro para investigar.

¿Se atenderá el FBI a criterios de sensatez a la hora de decidir qué es un «grupo terrorista»? No, si de algo nos sirve la experiencia reciente. El 10 de mayo de 2001, el director del FBI, Louis Freeh, en una comparecencia en el Congreso dedicada a la "amenaza terrorista en Estados Unidos" citó a Reclaim the Streets entre los grupos que suponen una amenaza terrorista. Reclaim the Streets monta fiestas en la calle por sorpresa, en las que la gente toca música y baila. Aparece descrito en el libro No Logo, de Naomi Klein, como una de las nuevas formas de protesta contra la cultura global dominada por las marcas. Nadie ha resultado muerto o herido por Reclaim the Streets. ¿Es capaz el FBI de distinguir entre bailar y asesinar?

El Fiscal General de Estados Unidos [John] Ashcroft ha solicitado el poder de expulsar a todo no ciudadano de Estados Unidos, o bien encarcelarle indefinidamente, sobre la base de la mera sospecha de implicación con el terrorismo, sin que sea preciso pasar por los tribunales. Esto supondría para los visitantes e inmigrantes de nuestro país la negación del legítimo derecho más básico, el derecho a un juicio justo ante la imputación de un delito. Pondría a Estados Unidos al mismo nivel que cualquier estado policial. El gobierno británico ya ha anunciado planes de implantación de medidas similares; no podemos dar por sentado que Estados Unidos no secundará estas medidas.

Otra forma en la que los vigilantes pueden amenazar nuestra libertad consiste en mantenernos desinformados acerca de las actuaciones del gobierno.

Hay buenas razones para mantener en secreto los métodos de recogida de información. Si los enemigos descubren que sus planes son conocidos, pueden tomar contramedidas. Pero el gobierno de Estados Unidos también ostenta una larga tradición de ocultación de información a los ciudadanos estadounidenses para impedir el conocimiento de sus errores o su maltrato de los ciudadanos. En la década de 1960, los «Papeles del Pentágono» demostraron que el Departamento de Defensa sabía que lo que éste estaba contando a los ciudadanos acerca de la Guerra de Vietnam era falso. Los ciudadanos lo descubrieron gracias a que un heroico revelador de secretos [whistle-blower], Daniel Ellsberg, entregó una copia de estos documentos al New York Times.

De este modo, cuando vemos propuestas de ley encaminadas a impedir las filtraciones castigando a los reveladores de secretos, debemos escrutárlas con mucha atención y asegurarnos de que no estamos dando carta blanca a nuestros funcionarios para que se burlen de nosotros.

Si un agente del FBI solicita nuestra colaboración, ¿qué debemos hacer? El FBI investiga y detiene a terroristas. Si el FBI estuviera investigando un plan para secuestrar aviones, me gustaría ayudarles en todo lo que pudiera. Pero el mismo FBI arrestó a Dmitry Sklyarov por el presunto desarrollo de un programa que los estadounidenses pueden utilizar para librarse de los grilletes de los e-books de Adobe. Nadie debe colaborar en la investigación de semejante "delito". Si uno no sabe si un policía piensa detener a una persona por asesinato o por fumarse un porro, ¿cómo puede uno decidir cómo habrá de comportarse correctamente?

Si Estados Unidos quiere conseguir la plena colaboración de todos los estadounidenses con el FBI y la policía, debe abolir leyes que ponen grilletes y perjudican a los estadounidenses. El Congreso debería revocar la DMCA, así como la prohibición de determinadas drogas.

La prohibición de las drogas resulta especialmente autodestructiva en estos días, porque además meter en la cárcel a un de millón de estadounidenses que, de no ser así, aportarían su contribución a la fortaleza de nuestro país, subvenciona al terrorismo. La prohibición hace que las drogas ilegales se conviertan en una fuente de beneficios tan sustanciosos que distintos grupos terroristas (entre ellos, al parecer, el de Bin Laden) obtienen la mayor parte de sus fondos traficando con éstas. La política autodestructiva estadounidense sobre las drogas se ha convertido en una vulnerabilidad que no podemos permitirnos.

Durante décadas, los enemigos externos e internos vienen y van. En ocasiones el gobierno nos protege del peligro, en otras ocasiones es él el peligro. Siempre que se plantee una propuesta de aumentar el poder de vigilancia del gobierno, debemos juzgarla no sólo en función de la situación del momento, sino en función de todo el abanico de situaciones a las que nos hemos enfrentado y habremos de enfrentarnos de nuevo. Debemos utilizar al gobierno para nuestra protección, pero nunca debemos dejar de protegernos de él.

En Estados Unidos, hemos desarrollado un sistema para vigilar a los vigilantes: los jueces les vigilan de distintas maneras; los ciudadanos los hacen de otras. Por nuestra seguridad, debemos mantener este sistema en funcionamiento. Cuando los vigilantes trabajan verdaderamente para nosotros, pueden permitirse que controlemos su trabajo. Cuando nos piden que dejemos de controlarles, debemos decir que no.

Volver a la página principal de Richard Stallman.

Por favor, envíe sus comentarios sobre estas páginas web a rms@gnu.org.

Copyright (C) 2001 Richard Stallman

Se permite la copia literal y distribución de este artículo en su totalidad por cualquier medio, siempre y cuando se conserve esta nota.

Traducción al castellano realizada por SinDominio.net, a partir del original publicado en inglés.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: [REDACTED]
Sent: Thursday, August 03, 2017 10:38 PM
To: AB953
Subject: Comment Regarding Proposed Regulations
ProfiledItem: true



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 3, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 3, 2017 - 10:37pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name:

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

Please codify into law rules that will force all levels of law enforcement in the state to provide statistics on the ethnicity of those persons stopped by said law enforcement.

Thank you.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Richard Hylton <[REDACTED]>
Sent: Friday, August 04, 2017 8:04 AM
To: AB953
Cc: Shannon Hovis; SDAT City Attorney; Catherine Ysrael; Shelly Zimmerman; Salvador, Jericho; Haley, Chris; Michael Moore; Fields-Bernard, Lea; RHVILLA@sandiego.gov
Subject: Re: I roundly and categorically reject these proposed regulations for the reason indicated.

ProfiledItem: true

The later that I mentioned in my earlier, has arrived earlier than even I thought (Yogi Berra observed that "Its getting late early.")

With respect to my rejection of the following proposed provision:

(g) Data Publication. Data submitted to the Department will be **published**, at the discretion of the Attorney General and consistent with Government Code section 12525.5, on the Department's OpenJustice website.

I direct you to the specific provision of RIPA.

(f) All data and reports made pursuant to this section are public records within the meaning of subdivision (e) of Section 6252, and are open to public inspection pursuant to Sections 6253 and 6258.

The specific use of "**published**" introduces a level of lawyer's cleverness that is unbecoming and unproductive (an amply demonstrated disability.) **Published** on the Department's OpenJustice website suggests that some public data may not be present on the OpenJustice website, if its contents does not please the AG. I have seen enough data purging of unpleasant truths, enough to last a lifetime, so I do not wish to see that provision on your final product; the final regulations.

With respect to my comment on the inadequacy of the definition of "stop data", I direct you to the much-lauded Stanford Analysis of Oakland's Stop data. On that report, on the page numbered 11, footnote 1 states:

For a stop to be included in this data set, an officer must have been required to complete a Field Interview/Stop Data Report (FI/SDR). In other words, the stop must have been self-initiated and have involved one or more members of the community who were detained, arrested, or subjected to a search or the request to be searched.

I implore you to adapt and adopt a definition that allows you to verify not only the logic of data but to electronically verify its contents, too- to some degree. These data necessarily include

relevant information, collected as the result of stops that [200]Richard Hylton 8.4.17 in Redacted.pdf is not limited to Field Interviews, Citations and Written warnings. In San Diego that would account for and allow over 70% of vehicle stops to be verified.

My patience with the foot-dragging wanes.

 Sent with [Mailtrack](#)

On Tue, Aug 1, 2017 at 7:39 PM, Richard Hylton <[REDACTED]> wrote:

Error! Filename not specified.

I roundly and categorically reject these proposed regulations for the reason indicated.

(g) Data Publication. Data submitted to the Department will be published, **at the discretion of the Attorney General** and consistent with Government Code section 12525.5, on the Department's OpenJustice website. The data published shall include disaggregated statistical data for each reporting agency. The Department shall not release to the public the Officer's I.D. Number or Unique Identifying Information. Nothing in this section prohibits the Department from confidentially disclosing all stop data reported to the Department to advance public policy through scientific study and pursuant to the Department's data security protocols, which will ensure that the publication of any data, analyses, or research will not result in the disclosure of an individual officer's identity.

The availability of public data is not dependent on the discretion of the fool who occupies the office of Attorney General.

I categorically commend you for including the following provisions:

(e) System Security. The Department shall design its system to be easily accessible for authorized users, confidential, and accurate. The system will provide role-based authorization services. Reporting agencies will be required to authorize and remove users to the system as OAL Register Z-2016-1129-03: Proposed Regulations as Modified August 1, 2017 Page 22 of 23 necessary. **Automated systems handling stop data and the information derived therein shall be secure from unauthorized access, alteration, deletion or release.**

You must have read my email of November 2014, that was sent to CGI, San Diego Vendor, and the persons in this distribution.

(10) In order to ensure compliance with these regulations, a reporting agency, its officers, or both may review the stop data **to correct errors before submitting the stop data to the Department.** Once the stop data is submitted to the Department, however, an agency can only revise stop data through the Department's **error resolution process.** (11) Reporting agencies shall create the Officer's I.D. Number defined at section 999.226, subdivision (a)(14) for each officer required to report stops under these regulations.

The local idiots (City of San Diego) can use both processes to resolve/correct the most transparent and embarrassing errors, affecting tens of thousands of records, that have marred and plagued their data disclosures and reports.

I still worry that the people here will use the denominator trick, by not resolving "errors."

Stop reports submitted to the Department shall include the Officer's I.D. Number, but shall not include the officer's name or badge number. However, each reporting agency shall maintain a system to match an individual officer to his or her Officer's I.D. Number.

I would have kept my promise had you not done this; something that I rarely do. Here again, absent what you have required, the local idiots may have tried to conceal information that allows identification of their miscreants.

I think you could have done better in your definition of "stop data."

I may say more later.

--

Richard Hylton

[Redacted signature]

 Sent with [Mailtrack](#)

--

Richard Hylton

[Redacted signature]

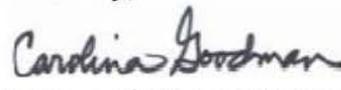
AB953

From: Carolina Goodman <[REDACTED]>
Sent: Friday, August 04, 2017 9:02 AM
To: AB953
Cc: Zhita Rea; Marjorie Green; Jane Cook; Corinne Ho; Jean Thomson; Johanna Arias; Marianne Dozier; Minnie Hadley-Hempstead; Kitty Stokes; J'aime Sirgany; Nikki DuBose; Sarah Levy
Subject: Fwd: AB 953 Revised Stop Data Regulations Posted for Public Comment
ProfiledItem: true

Dear AB 953 Rulemaking Team.

Thank you for this opportunity to review the revised "Proposed Regulations" for AB 953. I believe the changes improved the original proposal. My concern has to do with appropriate training and follow-up for compliance. Are there guidelines for this, or will you expect each law enforcement agency to develop their own?

Sincerely,

 , Committee on Community Policing
League of Women Voters, Los Angeles

Begin forwarded message:

From: AB953 <AB953@doj.ca.gov>
Subject: AB 953 Revised Stop Data Regulations Posted for Public Comment
Date: August 1, 2017 at 3:24:10 PM PDT
To: AB953 <AB953@doj.ca.gov>

TITLE 11. DEPARTMENT OF JUSTICE
Notice published August 1, 2017
NOTICE OF AVAILABILITY OF MODIFIED TEXT OF PROPOSED REGULATIONS AND RELATED MATERIALS
[OAL File No. Z-2016-1129-03]

The California Department of Justice (Department of Justice) is providing notice of changes made to the proposed regulations regarding California's Racial and Identity Profiling Act of 2015, which were published and noticed for public comment on December 9, 2016. These changes are being made in response to comments received regarding the proposed regulations and/or to clarify and conform the proposed regulations to existing law. The originally proposed regulation, this Notice, the text of the proposed regulations as modified, and a comparison of the text as originally proposed with the proposed modifications, are available at <https://oag.ca.gov/AB953/regulations>.

The Department of Justice is also providing notice of additional materials added to the rulemaking file, including an Addendum to the Initial Statement of Reasons (ISOR) and a revised STD 399 and Addendum. The entire rulemaking file is available for inspection and copying throughout the rulemaking

process during business hours at the locations listed below [2017 California Governor's Office - Redacted.pdf] linked below and also available at the website listed above:

- [Notice](#)
- [Modifications to Text as Originally Proposed](#)
- [Revised Proposed Regulations](#)
- [Addendum to the Initial Statement of Reasons](#)
- [Revised STD. Form 399 and Addendum](#)

Today's notice begins a 15-day public comment period that will conclude at 5:00 p.m. on August 16, 2017. Any person who wishes to comment on the modifications to the text of the proposed action and related materials may do so by submitting written comments to one or more of the following:

Email: ab953@doj.ca.gov

Online: <https://oag.ca.gov/AB953/regulations>

Fax: (213) 897-7605

Catherine Z. Ysrael
Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
300 S. Spring St., Suite 1702
Los Angeles, CA 90013

OR

Kathleen V. Radez
Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
1515 Clay Street, Suite 2000
Oakland, CA 9461

We encourage you to disseminate this information broadly and to alert other interested stakeholders that if they would like to receive notifications regarding these proposed regulations and on implementation of the Racial and Identity Profiling Act and activities of the Racial and Identity Profiling Advisory Board, they can subscribe to the [AB 953 Mailing List](#) by visiting <https://oag.ca.gov/ab953/subscribe>.

If you have general questions about the rulemaking process, please email AB953@doj.ca.gov.

Sincerely,
AB 953 Rulemaking Team

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

AB953

From: Rodney & Cynthia Burt <[REDACTED]>
Sent: Friday, August 04, 2017 9:49 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 4, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Friday, August 4, 2017 - 9:49am

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Rodney & Cynthia Burt

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

Profiling by police causes more problems than it is worth by building resentment of police including children of parents that are victims of this unfair practice. These children grow up resenting policemen creating generational distrust and fear of police .

Profiling is wrong and must not continue if we are to ultimately live in a society where communities work with police to resolve and reduce crime.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Richard Hylton <[REDACTED]>
Sent: Friday, August 04, 2017 4:28 PM
To: AB953
Cc: Shirley Webber; Shannon Hovis; Catherine Ysrael; sara.libby@voiceofsandiego.org; RHVILLA@sandiego.gov; Mara W. Elliott; Shelly Zimmerman; Norma Chavez-Peterson; Fields-Bernard, Lea
Subject: Police Data Collection Will Require Some Guesswork

[Voice of San Diego published an article with the above title](#), in its Sacramento Report section today.

It mentions age, a data element that I had neglected to comment on. It is one that is near and dear to me. One that, but for its presence, would not have allowed me to identify approximately 10,000 purged citation records, using the judicial citation files.

It shall have been a blunder if you do not require the capture of age, from the various forms of identification, when available. **I will not tolerate that.**

RIPA does not include age as a basis for a claim of or evaluation of bias or discrimination. Perception applies to the prohibited bases. So Joe Kocurek, is an idiot when he claims *"Profiling is based on perception. Officers don't ask the facts of a person's age, race or sexuality before they stop and question them. We are interested in what officers perceive about an individual and whether those perceptions alone motivate these stops."* An officer often can discern, anticipate or guess the race of a person, at stand-off distance, as when they are in a vehicle, or on the basis of the neighbourhood. It is not so with age.

Actual age is objectively verifiable and quite different from perception of age. As such, it ought not be compared to race (an artifice) or the perception of race in a environment that evaluates and claims to deal with discrimination on the basis of race. Moreover, race is a foreign key that allows the validation of a host of data elements that the DOJ shall be collecting in its "supposed" attempt to **logically verify data**. Why would a sensible person who wants to have verifiable data discard an actual value that may be verified by a number of means? Ah! "who wants to have verifiable data."

If you issue regulations that encourages the creation of unverifiable data, the term "close enough for government work" shall have a new frightening meaning. **I will not tolerate that.**

--

Richard Hylton
[REDACTED]

 Sent with [Mailtrack](#)

AB953

From: Frances J. Navarro <[REDACTED]>
Sent: Saturday, August 05, 2017 12:57 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 5, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Saturday, August 5, 2017 - 12:56pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Frances J. Navarro

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

Please stop all police from racial acts. They should be punished as criminals for abuse on the people they hurt

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

AB953

From: [REDACTED]
Sent: Tuesday, August 08, 2017 9:23 AM
To: AB953
Subject: Re: AB 953 Revised Stop Data Regulations Posted for Public Comment

I still don't understand when the legislation requires officers to "guess" to what religion (among other factors) a person practices how that does not amount to "profiling" Can somebody explain this to me? Additionally, ANY contact requires completion of the form. How does this apply in crowd control situations, not everything is a one on one encounter and it seems as though the legislation really is geared to ward discouraging police from any contact with a citizen?

From: "AB953" <AB953@doj.ca.gov>
To: "AB953" <AB953@doj.ca.gov>
Sent: Tuesday, August 1, 2017 3:24:10 PM
Subject: AB 953 Revised Stop Data Regulations Posted for Public Comment

TITLE 11. DEPARTMENT OF JUSTICE

Notice published August 1, 2017

NOTICE OF AVAILABILITY OF MODIFIED TEXT OF PROPOSED REGULATIONS AND RELATED MATERIALS [OAL File No. Z-2016-1129-03]

The California Department of Justice (Department of Justice) is providing notice of changes made to the proposed regulations regarding California's Racial and Identity Profiling Act of 2015, which were published and noticed for public comment on December 9, 2016. These changes are being made in response to comments received regarding the proposed regulations and/or to clarify and conform the proposed regulations to existing law. The originally proposed regulation, this Notice, the text of the proposed regulations as modified, and a comparison of the text as originally proposed with the proposed modifications, are available at <https://oag.ca.gov/AB953/regulations>.

The Department of Justice is also providing notice of additional materials added to the rulemaking file, including an Addendum to the Initial Statement of Reasons (ISOR) and a revised STD 399 and Addendum. The entire rulemaking file is available for inspection and copying throughout the rulemaking process during business hours at the locations listed below. In addition, the following documents are linked below and also available at the website listed above:

- [Notice](#)
- [Modifications to Text as Originally Proposed](#)
- [Revised Proposed Regulations](#)
- [Addendum to the Initial Statement of Reasons](#)
- [Revised STD. Form 399 and Addendum](#)

Today's notice begins a 15-day public comment period that will conclude at 5:00 p.m. on August 16, 2017. Any person who wishes to comment on the modifications to the text of the proposed action and related materials may do so by submitting written comments to one or more of the following:

Email: ab953@doj.ca.gov

Online: <https://oag.ca.gov/AB953/regulations>

Fax: (213) 897-7605

Catherine Z. Ysrael
Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
300 S. Spring St., Suite 1702
Los Angeles, CA 90013

OR

Kathleen V. Radez
Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
1515 Clay Street, Suite 2000
Oakland, CA 9461

We encourage you to disseminate this information broadly and to alert other interested stakeholders that if they would like to receive notifications regarding these proposed regulations and on implementation of the Racial and Identity Profiling Act and activities of the Racial and Identity Profiling Advisory Board, they can subscribe to the [AB 953 Mailing List](https://oag.ca.gov/ab953/subscribe) by visiting <https://oag.ca.gov/ab953/subscribe>.

If you have general questions about the rulemaking process, please email AB953@doj.ca.gov.

Sincerely,
AB 953 Rulemaking Team

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

AB953

From: Martha Howard <[REDACTED]>
Sent: Tuesday, August 08, 2017 9:06 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 8, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Tuesday, August 8, 2017 - 9:06pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Martha Howard

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

Immigration status should never be relevant whenever there is an encounter with police officers. The focus must to remain in the violation.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: ANGELA GARCIA-SIMS <[REDACTED]>
Sent: Tuesday, August 08, 2017 11:11 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 8, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Tuesday, August 8, 2017 - 11:11pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: ANGELA GARCIA-SIMS

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

It's essential for the safety of all California residents for law enforcement officers to begin to systematically collect racial and identify profiling data across the State. Until that information has been collected, reported to the State and analyzed, all claims of the existence or absence of this type of profiling is more likely to be discounted by those who disagree with whatever is being reported. Once accurate, systematic data exists, agencies that avoid profiling can get recognized and awarded, can help those agencies that do profile to clean up their act. Please ensure that AB 953 becomes a reality.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Jeremy Verinsky <[REDACTED]>
Sent: Thursday, August 10, 2017 10:05 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 10, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Thursday, August 10, 2017 - 10:05am

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Jeremy Verinsky

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

These proposed regulations will result in dramatic decreases in public safety and corresponding increases in crime and massive increases in costs to local agencies and the state. The regulations require peace officers to write a complete report each time they "stop" or "search" someone and this report must be completed before the end of the officer's shift. This will result in much greater time spent in the station completing reports, rather than out patrolling neighborhoods and responding to calls for service. Agencies will be left with the difficult choice of either pulling officers from the streets to complete these reports or paying them overtime at the end of their shifts to complete them.

Because this is a mandated state function, local agencies will seek reimbursement from the state for all the time spent preparing and transmitting these reports, as well as additional hiring needed to maintain safe staffing levels while officers are off the streets completing the reports. The state will incur additional costs, not only in reimbursements due to local agencies, but also in staff time to process the reimbursement requests.

This law and these proposed regulations now require peace officers to profile every person they stop as to their perceived

race/ethnicity, sex/gender identity, sexual orientation, and even age. Since peace officers are barred from inquiring of a driver why eliciting the information from the person stopped, they must profile them, the very action that this law is purportedly designed to prevent. The law even bars officers from using the information readily available to them on a driver's license and to profile the person separately to complete the report.

Requiring officers to complete each report with a unique identifier, assignment and years of service, coupled with the stop data, will easily lead to discovery of the officer's identity.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0036
(916) 319-2036
FAX (916) 319-2136

DISTRICT OFFICE
41319 12TH STREET WEST, SUITE 105
PALMDALE, CA 93551
(661) 267-7636
FAX (661) 267-7736

EMAIL
Assemblymember.Lackey@assembly.ca.gov

Assembly
California Legislature



TOM LACKEY
ASSEMBLYMAN, THIRTY-SIXTH DISTRICT

[209] Asm. Tom Lackey 8.10.17.pdf

COMMITTEES
VICE CHAIR, COMMITTEE ON
ADMINISTRATIVE REVIEW
BUDGET
HEALTH
PUBLIC SAFETY
JOINT LEGISLATIVE COMMITTEE ON
EMERGENCY MANAGEMENT

August 7, 2017

Attorney General Xavier Becerra
ATTN: Public Inquiry Unit
P.O. Box 944255
Sacramento, CA 94244-2550

Re: Proposed Regulations to Collect Data Required During Law Enforcement Stops

Dear Attorney General Xavier Becerra,

I appreciate your efforts to increase public trust between law enforcement and the communities they protect. Here are a few comments on the revised proposed regulations for data collection under the Racial and Identity Profiling Act of 2015 (RIPA).

We can increase the integrity of the data collection by preserving anonymity of the reports by eliminating the requirement to include an officer's I.D. number that is linked to their individual badge number and name. Linking reports to an officer could affect how they fill out their reports. We will get far better data if officers can remain anonymous and answer honestly without concern of their identity being unmasked. This will strengthen the aggregate data collected under RIPA and help ensure the most accurate information possible.

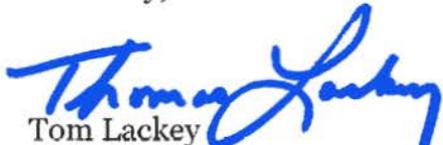
In addition, I have reservations regarding the narrative box requirement to expand on the "reason for the stop" and "reason for the search." Including a time-consuming demand decreases the time an officer will spend in the field serving their respective community. It is important that law enforcement focuses its time to protect the community and should be cognizant to not add overly burdensome paperwork. Moreover, with a state as large as California, it will be difficult to quantify non-standardized data elements such as narrative responses which could affect the quality of the data collected under RIPA.

When performing regular routine stops, officers are concerned about the safety of the individual(s) being stopped, the safety of bystanders, and their own personal safety.

Officers should be given a clear and concise report that is streamlined to ensure they aren't overburdened by the requirements of RIPA.

I appreciate you taking the time to read this letter and I hope you will consider my remarks. As a legislator and former CHP officer, I would be more than happy to help in revising the collecting data guidelines in the future.

Sincerely,


Tom Lackey
Assemblymember, 36th District

AB953

From: Ryan Suto <rsuto@aaiusa.org>
Sent: Friday, August 11, 2017 8:08 AM
To: AB953
Subject: #ReportHate Project: Los Angeles Working Group

Hello,

I hope this finds you well. My name is Ryan J. Suto, Government Relations Manager at the Arab American Institute. My organization has launched the #ReportHate Project, which aims to identify hate crimes-related concerns of local communities and provide those communities with the tools and information needed to effectively interact with relevant government offices.

We have identified LA as a perfect location for a Community Working Group, and we have begun dialogues with relevant constituents. The Working Group will bring together a broad coalition of organizations to discuss shared experiences and strategies for combating hate. We hope to host this event the week of October 9th. We also hope a representative from the Racial and Identity Profiling Advisory Board can attend.

I look forward to working with your office on this initiative, and feel free to contact me at any time.

Thank you for your time,

--

Ryan J. Suto
Government Relations Manager
Arab American Institute
e: rsuto@aaiusa.org
p: (202) 652-4984
t: [@RyanJSuto](https://twitter.com/RyanJSuto)

AB953

From: Virginia Franco <[REDACTED]>
Sent: Friday, August 11, 2017 8:22 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 11, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Friday, August 11, 2017 - 8:22am

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Virginia Franco

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

Does the following post from me align's with the issues of the general public, police racial profiling issues?:

I have had a longstanding, good friend and gardener who happens to be undocumented; he owns his own truck, with a drivers license. He has two children in school. Try as I may, have tried getting him to visit Alliance and the ACLU; he is terrified enough of the police that he and family seldom leave home; he, only to do his job.

Try as I may, cannot get Antonio to visit the organizations, above, however much I mention his protection would be respected going there; he would learn important information useful for him and his family about rights they may still have.

Sometime earlier, Antonio had a truck collision with a woman, SD citizen; although it was her fault, he was declared in fault for the accident. Interestingly, he received no other punishment, then; but, that was then, before the presidential elections.

Thank you for allowing these direct comments for help,

Virginia Franco

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Richard Hylton <[REDACTED]>
Sent: Monday, August 14, 2017 2:19 PM
To: Catherine Ysrael; Shannon Hovis; SDAT City Attorney; RHVILLA@sandiego.gov; AB953; Fields-Bernard, Lea; Shelly Zimmerman; Shirley Webber
Subject: Fwd: Surges and other foolishness aside, what is the law , according to the California DOJ?.
Attachments: 12-57267 Appellants MOTION TO SUBMIT COMPLETE REJECTED FIRST AMENDED COMPLAINT Unfiled.pdf

I was looking for something else and found this bit of filth amusing. I hope that you agree

----- Forwarded message -----

From: Richard Hylton <[REDACTED]>
Date: Fri, Dec 4, 2015 at 11:58 AM
Subject: Fwd: Surges and other foolishness aside, what is the law , according to the California DOJ?.
To: Stuart Henry <[REDACTED]>, Joshua Chanin <[REDACTED]>, Margaret Dooley-Sammuli <[REDACTED]>, Kellen Russoniello <[REDACTED]>

Not sure if I ever sent you a copy of the **surge** email.

I do know what the statute is, I merely want to see what these DOJ types may be willing to say. They do have one position that they give to Whites. Let us see if the come forward with another **or any** for me.

----- Forwarded message -----

From: Richard Hylton <[REDACTED]>
Date: Fri, Dec 4, 2015 at 11:36 AM
Subject: Surges and other foolishness aside, what is the law , according to the California DOJ?.
To: Casey Hallinan <Casey.Hallinan@doj.ca.gov>
Cc: Jacqueline Dale <Jacqueline.Dale@doj.ca.gov>, Jennifer McClory <Jennifer.McClory@doj.ca.gov>, "Goldsmith, Jan" <JGOLDSMITH@sandiego.gov>

Please read the attached or just page 3, if the entire document is too much for you.

2 From: Allen, Joseph Sent: Tuesday, July 12, 2011 2:59 PM To: Peter, Linda Cc: Ramirez, Tia; Fawcett, Danielle Subject: RE: Hylton case

I very much appreciate everyone's **surge** on this topic today. Linda's explanation below makes much sense; that is the basic explanation I had provided Judge McCurine, however, as it was just the ENE, I did not have the vehicle code policy or authority with me to back up that is how it goes **per law** or official policy.

I think we are good now with the explanation and the authority cited though emails today (plus VC 4000.3 in conjunction with the corresponding Health and Safety Code for smog checks). **We just needed something to**

shore up that potentially weak area and satisfy the judge that the [redacted] City Redacted with when they impound cars.

My MAIN responsive argument though is that the officer's individual actions were lawful. BECAUSE, even if Plaintiff could present a convincing argument that by paying his registration fee and showing proof of financial responsibility, it is erroneous to withhold registration renewal, such a scenario is for the DMV to answer, not officer Enriquez. The fact remains that, right or wrong, Plaintiff's registration tags were 9 months expired. The officer was authorized per law to cite him and impound the car. Plaintiff must take his other argument to the DMV.

Joseph L. Allen Deputy City Attorney, Civil Division
Special Litigation Unit San Diego City Attorney's Office 1200 Third Avenue, Suite 1100

What is the law , according to the California DOJ? Jennifer McClory sidestepped my question, two or more times, but she did say that I have a cute accent.

BTW I had mocked the Magistrate by quoting Cromwell. I suppose that he was displeased and remembered. He was a Rhodes scholar so I suppose Cromwell's quotations were familiar.

--
Richard Hylton
[redacted]

--
Richard Hylton
[redacted]

--
Richard Hylton
[redacted]

Appellant's
**MOTION TO SUBMIT COMPLETE
REJECTED FIRST AMENDED COMPLAINT to
Supplement his Appeal**

UNITED STATES COURT OF APPEALS FOR THE
NINTH CIRCUIT

Richard Hylton,
Petitioner/Appellant,
vs.
Anytime Towing, et al,
Respondent/Appellee.
1. Case Number 12-57267
District Court
No. 3:11-cv01039-GPC-WMC

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

Appellant's
**MOTION TO SUBMIT COMPLETE
REJECTED FIRST AMENDED COMPLAINT**

Richard Hylton in Pro Per

[REDACTED]

[REDACTED]

Telephone [REDACTED]

Plaintiff moves this Appeals Court for leave to supplement his appeal by filing a copy of the actual and intended but **REJECTED** FIRST AMENDED COMPLAINT that was REJECTED by the district court, more than six months after a motion to file it was submitted. This rejection, on April 23, 2012, occurred within 30 days of when leave to amend (requested, in accordance with Court Order, on 9/26/2011, granted 3/26/2012) was given.

It has occurred to plaintiff, rather belatedly, that a REJECTED document is not made a part of the record. It seems certain that the cover page, ONLY, is copied and retained. All else is returned to the “submitter.” On April 23, 2012, the document received by the court April 16, 2012 that is attached to the appellant’s appendix, was handled as described above. The rejection transaction is memorialized, in the record, as Document 59.

Through the heavy coat of liquid paper, on the rejected document, the “LED” of the word “FILED” remains visible. Apparently; the District Court does not have a FILED STAMP CANCELLED rubber stamp.

As far as appellant can surmise or determine, this practice of REJECTION is available only when documents are submitted by non-electronic means; i.e. paper¹. It appears that attorneys who, in the District Court, are required to file using the ECF system, absent special permission, pursuant to *local rule 5.4*, do not have their submissions suffer the same fate. Unless appellant is mistaken, properly-constructed PDF files are parsed, their pages are numbered, subjected to a secret or special algorithm and inserted into the database, within the transaction time of a submission; i.e. almost immediately. An improper but successfully submitted ECF document (or one that comes from an attorney) is always filed, it seems. Any discrepancy is handled by a different process. This seems to be unequal access to the court, because the pro-se has to clear the additional hurdle of filing a motion and obtaining permission, including what is, for all intents and purposes, a computer-**literacy** test. This is, doubtless, unequal and appears to be unconstitutional; at least it does to me. It certainly feels that way.

Appellee’s prior claims concerning the lodged FAC

¹ Paper submissions almost equals pro-se submissions; absent the filing and grant of a motion

In addition to specious claims of irrelevance, Counsel for appellees –both of them– claim (with time-line recitations and other time demonstrations or devices) or categorize the lodged FIRST AMENDED COMPLAINT as having claims, assertions and or contents that should have been made earlier. In reply, appellant has claimed that all or almost all claims were made earlier, much earlier. The **REJECTED** FIRST AMENDED COMPLAINT that was served upon appellees simultaneously with its submission for filing, to the district court, demonstrates and confirms appellant’s version of the facts.

Troubled by these facts, appellant completed the comparison of all of his certified mail receipts with the record index. All items timely mailed, were late, according to the District Court. Lateness is the result of delays at the court or on the part of its courier service. Appallingly and remarkably, two documents timely-delivered, in person, over the clerk’s window at the courthouse, were marked late too and produced record notices of discrepancy apparently for claimed lateness.

Appellant has operated at a disadvantage. The appellees have obtained improper assistance from District Court personnel and, one of whom, with others has conducted a **surge**² intended to satisfy requirements imposed or communicated by

² **From:** Allen, Joseph
Sent: Tuesday, July 12, 2011 2:59 PM
To: Peter, Linda
Cc: Ramirez, Tia; Fawcett, Danielle
Subject: RE: Hylton case

I very much appreciate everyone’s surge on this topic today. Linda’s explanation below makes much sense; that is the basic explanation I had provided Judge McCurine, however, as it was just the ENE, I did not have the vehicle code policy or authority with me to back up that is how it goes per law or official policy.

I think we are good now with the explanation and the authority cited though emails today (plus VC 4000.3 in conjunction with the corresponding Health and Safety Code for smog checks). We just needed something to shore up that potentially weak area and satisfy the judge that there is not some legal loophole City’s are playing with when they impound cars.

My MAIN responsive argument though is that the officer’s individual actions were lawful. BECAUSE, even if Plaintiff could present a convincing argument that by paying his registration fee and showing proof of financial responsibility, it is erroneous to withhold registration renewal, such a scenario is for the DMV to answer, not officer Enriquez. The fact remains that, right or wrong, Plaintiff’s registration tags were 9 months expired. The officer was authorized per law to cite him and impound the car. Plaintiff must take his other argument to the DMV.

Joseph L. Allen
Deputy City Attorney, Civil Division
Special Litigation Unit
San Diego City Attorney’s Office
1200 Third Avenue, Suite 1100

the Magistrate, and who emerged from that **surge** with a stratagem (then designed and implemented it) to assist a non-contract towing company provide one or more false declarations and papers to deceive the court. Said false declarations and papers, intended to conceal San Diego's legal violations, shows San Diego's support of a clear violation of law; i.e. the abusive use of the Non-Operational Vehicle provision of State law; violations in which Anytime Towing readily joined and participated.

Perhaps, appellees would be well advised to keep their peace and to offer no opposition to this motion. The product of the City Attorney's surge demonstrates a cynical disregard for decency and the law and of San Diego's own release procedures (congruent with those of State law.) According to then counsel, this **surge** was undertaken to meet a **need** described as follows: "We just needed something to shore up that potentially weak area and **satisfy** the judge that there is not some legal loophole City's are playing with when they impound cars."

It is not clear how satisfactory communications were made or could have been made to **satisfy** the judge (Magistrate), other than through improper ex-parte communications. It is unclear why a judge would insert, communicate or have communicated, his needs in this process, as is represented by former counsel Allen one day after the ENE/Settlement conference (held July 11, 2011.) This is especially relevant since the judge failed to include, in the record, attendance of Anytime Towing at that conference. Moreover, the same judge, at the ENE, directly advised appellant that any victory, if had, would be pyrrhic. Doubtless; he had the power to ensure that. Appellant believes he exercised that power.

Evidence of the **surge** was obtained pursuant to California's public records act, this past summer. The PRA disclosure includes hundreds of communications, the most remarkable is one where Deputy City Attorney Allen gleefully advises DMV employees Christian Milhoan and (indirectly) Trina Ward of what, to appellant, was a successful interception, excising and effective quashing, **by rejection**, of Appellant's attempt to subpoena DMV records regarding his vehicle.

Accordingly, in view of the entirety of all that has been presented, neither appellee has the moral or legal right to oppose these presentments or anything in them;

San Diego, CA 92101
(619) 533-5800 (main)
(619) 533-5886 (direct)
(619) 533-5856 (fax)
iallen@sandiego.gov

particularly not the intended beneficiary of the surge; but neither appellee is bashful.

Appellant believes that he has demonstrated and provided a very good reason why the **REJECTED** First Amended Complaint is not in the record.

For the foregoing reasons, the motion should be granted.

RESPECTFULLY SUBMITTED this January 10, 2014.

/s/ Richard Hylton

Richard Hylton

██████████
████████████████████

**CERTIFICATE OF COMPLIANCE
(F.R.A.P.32(a)(7)(c))**

Pursuant to (F.R.A.P.32(a)(7)(c)), I certify that the Appellant's MOTION TO SUBMIT **COMPLETE REJECTED** FIRST AMENDED COMPLAINT to **Supplement his Appeal**, excluding attachments, is proportionately spaced, has a Times Roman typeface of 14 points and contains less than 1600 words.

Dated January 10, 2014

s/ Richard Hylton
Richard Hylton

██████████
████████████████████

CERTIFICATE OF SERVICE

I hereby certify that I, by ECF, filed the foregoing Appellant's MOTION TO SUBMIT **COMPLETE REJECTED** FIRST AMENDED COMPLAINT to **Supplement his Appeal** and the appendix containing the Copy of the complaint, with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit on January 10, 2014.

I certify as well that on that date I caused a copy of this Appellant's MOTION TO SUBMIT **COMPLETE REJECTED** FIRST AMENDED COMPLAINT to **Supplement his Appeal and the** appendix containing the Copy of the complaint, to be served on the following counsel registered to receive electronic service. I also caused a copy to be served on counsel via electronic mail.

a. Counsel for Defendant/Appellee

Kathy Steinman (KSteinman@SanDiego.gov) (619) 533-5800
Office of the City Attorney
1200 Third Avenue
San Diego, CA 92101

b. Counsel for Defendant/Appellee

Charles J. Schmitt (Charlie@FHWB.com) (619) 595-3180
Adam Hackett (AHackett@FHWB.com) (619) 595-3180
Ford Walker Haggerty and Behar
Southern California Office:
One World Trade Center, 27th Floor
Long Beach, CA 90831

Dated this 10th day of January 2014.

s/ Richard Hylton
Richard Hylton

██████████
████████████████████

LOS ANGELES POLICE DEPARTMENT

[213] LAPD 8.14.17.pdf

CHARLIE BECK
Chief of Police



P. O. Box 30158
Los Angeles, Calif. 90030
Telephone: (213) 486-8730
TDD: (877) 275-5273
Ref #: 14.1

ERIC GARCETTI
Mayor

August 14, 2017

Catherine Z. Ysrael
Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013

Dear Ms. Ysrael:

I am writing this letter to oppose the August 1, 2017 modified regulations (11 CCR § 999.224, *et seq.*) implementing California's Racial and Identity Profiling Act of 2015 (RIPA). The Los Angeles Police Department (LAPD) supported the original legislation and firmly agrees with RIPA's purpose of eliminating racial and identity profiling and improving diversity and racial and identity sensitivity in law enforcement. However, the modified regulations continue to go well beyond what is required by the law and create an unreasonable and excessive burden on officers and supervisors. These complex regulations are confusing and require extensive and ongoing training to ensure that officers are properly collecting, reporting and retaining the required stop data.

I appreciate that the Department of Justice (DOJ) reviewed and considered some of the concerns raised in my previous letter dated January 25, 2017. The elimination of the "Reason for Presence at Scene of Stop" category removed a confusing and redundant aspect of the regulations. Similarly, the DOJ's clarification that routine security screenings and secondary searches resulting from those screenings will not be reportable helps to relieve some of the burden that will undoubtedly be experienced by officers if the modified regulations are implemented.

Unfortunately, with the addition of two open narrative fields, the modified regulations create new burdens on officers as well as their supervisors. The requirement that officers explain in narrative format the reason for the stop is time consuming and duplicative. The regulations already have a "Reason for Stop" category where officers can select one of six explanatory reasons. Similarly, despite an existing "Basis for Search" category with twelve choices, officers will also be required to explain in narrative format the basis for a search. The inclusion of these open narrative fields prolong an already time consuming process. Furthermore, field supervisors will have to review each narrative to ensure that no personally identifying information of the persons stopped or unique identifying information of any officer is included in the narratives before the stop data is transmitted to the DOJ.

Moreover, the absolute prohibition in Section 999.226(a) against asking an individual their age, race or gender conflicts with basic law enforcement tasks of issuing citations, conducting want and warrant checks, and verifying identity. While this prohibition was likely unintentional, it should be corrected to simply state that it is for the purposes of completing the RIPA report.

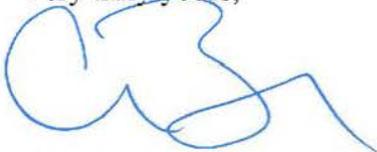
The modified regulations do nothing to reduce the time required to document and report the stop data. The estimate of 150 seconds for completion of each report is simply unrealistic, considering the complexity and number of data and sub-data fields mandated for completion, along with the duplicative narrative required. Although there is now an exception for exigent circumstances, officers are nevertheless expected to complete all stop reports by the end of their shifts. This still all but guarantees increased overtime costs. In order to mitigate those costs, officers will be taken out of the field prior to the end of their scheduled shifts to allow for sufficient time to complete the required data reporting. This means less time spent responding to calls for service and less time spent proactively policing the community.

While public safety will be negatively impacted by these burdensome regulations, so too will officer safety be compromised. As we move toward an increasing use of technology in police operations, the addition of an officer's need to intensely focus on a smart phone application or mobile data terminal to record the extensive required stop data means decreased situational awareness and makes the officer more vulnerable to attack or ambush.

The LAPD is committed to the unbiased and equitable treatment of all people. Biased policing is contrary to Constitutional Policing principles, leads to erroneous decision making, and undermines the public's trust. Data collection by the LAPD has never revealed systemic bias in public contacts. The massive amounts of data required by the proposed regulations are unlikely to change that result.

The August 1, 2017 modified regulations detract from an officer's ability to respond to calls for service and reduce the time available to engage in community policing and fulfill our public safety mission. The implementation of the stop data reporting requirements in the modified regulations will not lead to safer communities or increased accountability of police officers and their agencies. Rather, implementation will lead to excessive expense, administrative burdens, and communities with decreased police services.

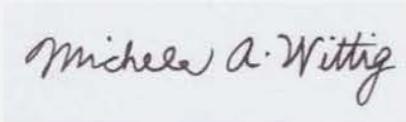
Very truly yours,



CHARLIE BECK
Chief of Police

To: Office of Attorney General, CA Dept of Justice

Date: August 14, 2017



From: Michele.Wittig@csun.edu, on behalf of The Santa Monica Coalition for Police Reform

Below, in italics, are our comments on the August 1, 2017 Draft Guidelines

Racial and Identity Profiling Act of 2015
California Code of Regulations Title 11. Law
Division 1: Enforcement Chapter 19 Proposed Text of Regulations

Article 1: Definitions § 999.224

(a) For purposes of Government Code section 12525.5 and this chapter only, the following definitions shall apply:

(2) **“Consensual search”** is a search that occurs when a person gives a peace officer consent or permission to search the person or the person’s property. Consent can be given in writing or verbally, or may be implied by conduct.

Remove the third condition: “consent... may be implied by conduct.” This is not a reasonable standard of consent. It is subjective, vague and likely to be interpreted differently by the peace officer and the person (with the officer MORE likely to infer consent by a person than the person intends).

When seeking a “consensual search” the officer must inform the person of his/her right to give or withhold consent: e.g., “May I search your purse? You have a right to refuse.” Then wait for an answer and abide by it. In other words, consent to a search, absent any lawful reason, must be actively given by the person, not inferred by the peace officer from conduct such as non-verbal acquiescence or lack of resistance.

(7) **“Detention,”** unless otherwise provided in these regulations, means a seizure of a person by an officer that results from physical restraint, unequivocal verbal commands, or words or conduct by an officer that would result in a reasonable person believing that he or she is not free to leave or otherwise disregard the officer.

Remove the third condition: “detention includes... words or conduct by an officer that would result in a reasonable person believing that he or she is not free to leave or otherwise disregard the officer.” It is subjective, vague and likely to be interpreted differently by the peace officer and the person (with increased likelihood of both false positives and false negatives).

Overall, “detention” should be defined by the officer’s use of unequivocal, active, universally understood indicators that are clearly directed (as to time, place and circumstance) to the person to be detained, not by projecting a belief onto that person.

AB953

From: Karen S. Glover, Ph.D. <kglover@csusm.edu>
Sent: Tuesday, August 15, 2017 8:18 AM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 15, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Tuesday, August 15, 2017 - 8:18am

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: kglover@csusm.edu

Name: Karen S. Glover, Ph.D.

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

I study racial profiling for my life's work as a scholar-advocate. AB 953 needs to include a much more focused engagement of accountability for police officers and departments when racial disparity is found. Please incorporate a series of "checks" of accountability at both the short- and long-term intervals. Make issues of accountability substantive and highly public so they have deterrent effects in the institution of law enforcement -- for example, each jurisdiction...local, state, and national....should have regular public reports and public meetings on racial disparity and accountability practices.

I believe one of your subcommittees is looking at RP policies in police departments. Based on my experience researching the same in recent years, you will find minimalist policies -- even in those departments with a public history of discriminatory practices. My point is policies are one thing: what matters most is the practice of the department and whether RP is tolerated which is an issue of accountability.

I recommend a "looking ahead" board/commission as part of or follow-up to AB 953. You will find racial disparity with the data collection, no doubt. Efforts would be best used in tackling the practices (most importantly accountability), rather than in continuing chasing the question of whether RP exists (the earth is not flat).

I am at your service! Please call on me. Thank you for your important work.



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>

AB953

From: Davis, Kevin M@CHP <KMDavis@chp.ca.gov>
Sent: Tuesday, August 15, 2017 11:26 AM
To: AB953
Cc: Stanley, Warren A@CHP; Desmond, Richard@CHP; Lane, Chris@CHP; Falat, Esmeralda@CHP; Siegl, Bill@CHP; Newman, Brent@CHP
Subject: AB 953 - Comments on Revised Regulations (CHP)

On behalf of the California Highway Patrol (CHP), we have reviewed the proposed regulations, revised on August 1, 2017, and respectfully request the following comments be included in the rulemaking file, for review and consideration by the Office of Administrative Law and the Office of the Attorney General (OAG):

999.226 (a)(10)(B), Reason for Stop / Narrative Field – In addition to entering the type of stop and the specific code violation which was the basis for a stop, the proposed regulations now require officers to include a brief narrative explaining the reason for the stop. The regulations specify this explanation, “*shall include additional detail beyond the general data values selected.*”

As noted in the addendum to the Initial Statement of Reasons (ISOR), this requirement is in “*response to recommendations from the Racial Identity and Profiling Advisory (RIPA) Board, academics, and other stakeholders encouraging the addition of an open narrative...in order to fully capture the statutory element for reason for stop.*” This same requirement was considered by the Legislature when Assembly Bill (AB) 953 was introduced, yet ultimately not included in the final version of the bill signed by the Governor, a seemingly clear indication that an open narrative field was deemed unnecessary by the Legislature. In addition to the fact there is no statutory basis for this requirement; the CHP opposes the inclusion of a mandatory narrative describing the reason for stop, for the following reasons:

The ISOR cites a pilot study conducted by the Office of the Attorney General (OAG) indicating the median time required to complete the narrative field was 16 seconds. As a participating agency in this field test, it should be noted specific instructions for what was required in this field were not provided, thus our officers were advised that a simple notation of “speeding,” or similar language was acceptable. This may explain why it took a minimal amount of time for officers to enter information in this field during the pilot test. However, the proposed regulations now stipulate, “*this explanation shall include additional details beyond the general data values selected,*” which will seemingly require additional narrative, beyond what was acceptable in the pilot study. Given these varying instructions, the pilot test may not be an accurate indicator of the actual amount of time necessary to complete a narrative field, and the actual time will likely increase significantly beyond what was observed in the pilot test.

In addition to the different instructions during the pilot test, there was no supervisory review of data collection included in the pilot study (data was transmitted directly to the OAG from the participating officer). In the ISOR, the OAG cites information gleaned from a case in New York (Floyd v. City of New York (SDNY) 959 F. Supp.2d 668) as evidence of the need for narrative fields. A review of this case (page 19) suggests the primary intent of the narrative field is for supervisory review (“*The narrative will enable meaningful supervisory oversight of the officer’s decision to conduct the stop...*”). As such, the inclusion of a narrative field will likely require a supervisory review of every text box, another element which was not considered in the determination of how much additional time this

requirement involves. The supervisory review, along with any time which may be done necessary for edits (e.g., if an officer enters a driver license number, etc.), will exponentially increase the amount of time agencies expend on data collection as a result of this requirement. In short, the OAG has severely underestimated the amount of extra time the inclusion of an open narrative field will involve, and the significant and unnecessary burden this will place on law enforcement agencies.

As stated previously, the proposed regulations go beyond the statutory requirements contained within AB 953. The original ISOR notes the criticality of ensuring the time it takes to collect data does not undermine a law enforcement agencies ability to promote public safety. Any expansion of statutory requirements will increase the time (and associated cost) it takes an agency to collect data, which could have an adverse impact on public safety.

Although the actual increased time associated with an open narrative field is difficult to estimate at this time, every extra minute of time spent on data collection results in the following costs for the CHP:

- Estimated number of traffic stops made by CHP per year: 2.8 million.
- 2.8 million minutes = 46,000 hours of service.

While this information is provided for illustration purposes only, if even five minutes of time is added, this would equate to over 230,000 hours of service for which CHP officers and supervisors are unavailable to serve the public and respond to calls for service.

In the Economic and Fiscal Impact Statement prepared by the OAG, they estimate there will be over 16 million stops reported by agencies each year. However, there has been no indication how 16 million text boxes, which cannot be quantified like a drop-down box, will be evaluated by the OAG. As such, given the potential adverse impact on public safety associated with extending the time officers are required to complete unnecessary narrative fields, it is recommended this requirement be removed.

If not removed, it is recommended this box be made an optional element, only required when there is clarifying, or otherwise contextual, information necessary beyond the code violation and type of stop data categories already required. The overwhelming majority of traffic stops are for vehicle code violations, thus it is unclear what an officer would enter in this field, beyond noting the elements of the code violation (e.g., "Section 22349a, California Vehicle Code, speeding in excess of 65 miles per hour," etc.) which can already be discerned by the inclusion of the code violation itself. Therefore, this requirement is not only time consuming, there is no evidence that it will enhance the data or provide any meaningful information for every traffic stop.

In addition to the inclusion of a required narrative field, the CHP also offers the following comments on other elements of the revised regulations:

999.226 (a)(2)(C), Duration of Stop – In response to comments received during the prior public comment period, this data element was changed to require the approximate length of stop in minutes, rather than selecting a range of time. As noted in the ISOR, the reason for this change is to "*ensure accurate information is captured...and to provide greater insight into the stop.*" Although this change should not significantly extend the duration of the data entry process, officers may continue to enter a round number (e.g., 10 or 20 minutes) as is current practice, rather than a specific time (e.g., 13 minutes). As such, this seems like an unnecessary change, and is not required by statute. Therefore, the CHP recommends this requirement be revised back to as it appeared in the prior version of the regulations.

999.226 (a)(6), LGBT – A new data element, with a yes/no response, was added requiring officers to indicate if a person is perceived to be lesbian, gay, bisexual, or transgender (LGBT). As noted in the revised ISOR, the OAG indicates the inclusion of this information was in response to recommendations from the RIPA Board and is in line with, “AB 953’s goal of identifying and eliminating racial and identity profiling.” However, the officer will not be permitted to inquire with a person as to their LGBT status and must base their response on perception alone. While the distinction between male and female is of obvious significance, it is unclear what value, if any, is added by asking an officer to try and identify the sexual orientation of someone stopped. Asking an officer to try and determine this requires a stereotypical judgment, a practice AB 953 was meant to eliminate. Further, whether or not someone is LGBT would be difficult, if not impossible, to detect prior to the initiation of a traffic stop, thus these would not be indicators of perceived bias. In addition to these reasons, the collection of this type of information was not required in statute, thus it is recommended this data element be removed.

999.226 (a)(7), Age of Person Stopped – This data element was changed to require the specific age of the person stopped, rather than selecting a range of ages. Further, the regulations specify that this must be based on the officer’s perception and, “the officer shall not ask the person stopped his or her age or use the age specified on the person’s identification.” According to the OAG, this change was in response to comments that the age brackets previously proposed do not adequately distinguish between different ages. Similar to other issues, estimating a person’s specific age, absent the ability to ask questions or refer to the identification will be difficult for an officer to do. Perhaps even more significant, the data will be entered **after** an officer has seen the identification, and is aware of the actual age, likely resulting in the officer simply entering the actual age. As such, this change seems unnecessary and it is recommended this data element be revised back to as it appeared in the prior version of the regulations.

While we oppose unnecessary requirements which could compromise public safety, the CHP remains steadfast in our desire to maintain public trust while complying with the law and the statutory intent of Assembly Bill 953. Thank you for your consideration of our comments.

Thank You,

Kevin Davis
Assistant Chief
California Highway Patrol
Enforcement and Planning Division
(916) 843-3330
kmdavis@chp.ca.gov

AB953

From: Stephanie Robitaille <[REDACTED]>
Sent: Tuesday, August 15, 2017 12:01 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 15, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Tuesday, August 15, 2017 - 12:00pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: [REDACTED]

Name: Stephanie Robitaille

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

I strongly support regulations to prevent racial and identity profiling in California.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

AB953

From: David Robinson <dave.robinson@co.kings.ca.us>
Sent: Tuesday, August 15, 2017 3:03 PM
To: AB953
Subject: Comment Regarding Proposed Regulations



State of California Department of Justice
Xavier Becerra ~ Attorney General

August 15, 2017

Social Network



Comment Regarding Proposed Regulations

Submitted on Tuesday, August 15, 2017 - 3:03pm

Submitted by anonymous user: [REDACTED]

Submitted values are:

Email: dave.robinson@co.kings.ca.us

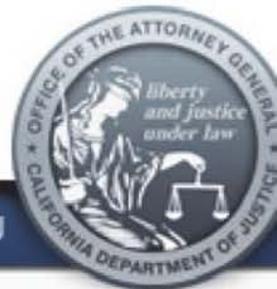
Name: David Robinson

Comments/Suggestions: May be provided in the text box below or uploaded as an attachment.

- 1) Person stopped is perceived to be LGBT. This should be removed. It is well beyond the scope of the original intent of the law on AB953. This has nothing to do with race or racial profiling.
- 2) Perceived or know disability. This should be removed. I am not sure how a deputy or officer can perceive many of the listed choices, nor is it relevant. For example: hyperactivity or impulsive behavior
- 3) Remove "shall" on narrative requirement on Reason for Stop and Basis for Search. If the selected choices cover these two, we shouldn't have to then be mandated to explain in narrative form. As a point of argument if the Search Warrant on basis for search is selected, then it had judicial review. Why would that have to be explained.
- 4) Officer's ID number. This still leaves the door open for the officer to be identified, even if the agency has retained the information. That was not the intent of the law, nor what the law says.

5) "shall" report by end of shift. This will cause agency overtime and should be allowed to be paid by the end of the shift or as soon as practical during the next worked shift.

File



© 2017 DOJ

You may view all News & Alerts on our website at: <http://oag.ca.gov/news>

Please visit the remainder of the Attorney General's site at: <http://oag.ca.gov/>

To unsubscribe from this list, please go to: <https://oag.ca.gov/subscribe>



August 16, 2017

Attorney General Xavier Becerra
California Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

Re: Stop Data Regulations, California Racial and Identity Profiling Act of 2015 (AB 953)

To Xavier Becerra,

As the Chief Data Officer of the City and County of San Francisco and on behalf of Mayor Edwin M. Lee, I am submitting comments on the revised proposed stop data regulations. The Racial and Identity Profiling Act of 2015 is an essential measure to further racial justice throughout California's criminal justice system. By establishing requirements to track and measure disproportionality in our system, we further a data and evidence based approach to ensuring our systems become more just over time.

Part of understanding fairness in our criminal justice system requires understanding disproportionate treatment in stops. In order to understand disproportionality, we must understand how the proportion of stops compares to the racial and ethnic representation of the general population.

The best data source for the racial and ethnic representation of the general population is the Decennial Census and American Community Survey. The current California stops regulation is inconsistent with the race and ethnicity groups used by the Decennial Census and other federal surveys. We recommend the regulation use the groups that have been comprehensively tested in national, randomly selected trials that oversampled minority groups, e.g. in the Census National Content Test of 2015. This would result in the revision of definitions of the following groups: Asian and Middle Eastern or South Asian.

The attached provides additional detail on our recommendation as well as additional feedback.

Thank you for considering our feedback on this measure crucial to the long term effort towards furthering justice in our criminal justice system

Sincerely,

Joy Bonaguro
Chief Data Officer
Office of Mayor Edwin M. Lee
City and County of San Francisco

Attachment: City and County of San Francisco's comments on Stop Data Regulations, California Racial and Identify Profiling Act of 2015 (AB 953)

Major Feedback

999.226, subd. (a)(4). Perceived Race or Ethnicity of Person Stopped. We strongly support the separation of Asian and/or Pacific Islander into two separate groups, which allows for better comparisons with demographic data from common data sources (e.g. Census).

However, we remain concerned about the category of 999.226, subds. (a)(4)(A)(1) Asian and (a)(4)(A)(4) Middle Eastern or South Asian (MESA) and their respective definitions. These categories do not conform to any standard that we are aware of and are not consistent with existing demographic groups commonly used by the Census or OMB Federal Standard. This will hamper demographic comparisons, trend analysis, and, most importantly, underlying data quality. For example, to the extent Census categories reflect prevailing mental groupings in the general population and given that Officers will probably select the first dropdown option that conforms to their perception, this could create bias in the data collection process.

Instead, we recommend the regulation considers the groups that have been comprehensively tested in national, randomly selected trials that oversampled minority groups, e.g. in the Census National Content Test of 2015.¹ Without reference to an existing standard or large scale testing, the departure of the proposed regulations from existing race or ethnicity categories is problematic as described above. The table below provides a comparison, summarized as:

- The proposed California category of Asian is inconsistent with the Census as it excludes Asian Indians or other groups originating in the Indian subcontinent.
- Correspondingly, the category of Middle Eastern or South Asian in the proposed stops regulation combines components of the Census' "Asian" and "Middle Eastern or Northern African" (MENA) categories.

Moreover, the categories used in the Census allow for better comparison over time with demographic trends as the proposed MENA category can be aggregated into the White group for historical comparisons or if the Census elects to not use the new MENA category.²³

¹ Full results available here, with page 198 including groups and definitions used in the race, ethnicity and origin questions: <https://www2.census.gov/programs-surveys/decennial/2020/program-management/final-analysis-reports/2015nct-race-ethnicity-analysis.pdf>.

² The definition for "White" in the census testing is as follows when MENA is not treated as a separate category: The category "White" includes all individuals who identify with one or more nationalities or ethnic groups originating in Europe, the Middle East, or North Africa. Examples of these groups include, but are not limited to, German, Irish, English, Italian, Lebanese, and Egyptian. The category also includes groups such as Polish, French, Iranian, Slavic, Cajun, Chaldean, etc. Individuals should report the person's White group or groups in the space provided.



The table below compares consistency between the census and proposed regulations definitions.

Consistent	Census 2015 National Content Test	Proposed California Stops Regulation
No	<p>Asian. The category “Asian” includes all individuals who identify with one or more nationalities or ethnic groups originating in the Far East, Southeast Asia, or the Indian subcontinent. Examples of these groups include, but are not limited to, Chinese, Filipino, Asian Indian, Vietnamese, Korean, and Japanese. The category also includes groups such as Pakistani, Cambodian, Hmong, Thai, Bengali, Mien, etc. Individuals should report the person’s Asian group or groups in the space provided.</p>	<p>Asian. “Asian” refers to a person having origins in any of the original peoples of the Far East or Southeast Asia, including for example, Cambodia, China, Japan, Korea, Malaysia, the Philippine Islands, Thailand, and Vietnam, but who does not fall within the definition of “Middle Eastern or South Asian” or “Pacific Islander.”</p>
Yes	<p>Black or African American. The category “Black or African American” includes all individuals who identify with one or more nationalities or ethnic groups originating in any of the black racial groups of Africa. Examples of these groups include, but are not limited to, African American, Jamaican, Haitian, Nigerian, Ethiopian, and Somali. The category also includes groups such as Ghanaian, South African, Barbadian, Kenyan, 199 Liberian, Bahamian, etc. Individuals should report the person’s Black or African American group or groups in the space provided.</p>	<p>Black/African American. “Black/African American” refers to a person having origins in any of the Black racial groups of Africa.</p>
Yes	<p>Hispanic, Latino, or Spanish. The category “Hispanic, Latino, or Spanish” includes all individuals who identify with one or more nationalities or ethnic groups originating in Mexico, Puerto Rico, Cuba, Central and South American, and other Spanish cultures. Examples of these groups include, but are not limited to, Mexican or Mexican American, Puerto Rican, Cuban, Salvadoran, Dominican, and Colombian. The category also includes groups such as Guatemalan, Honduran, Spaniard, Ecuadorian,</p>	<p>Hispanic/Latino(a). “Hispanic/Latino(a)” refers to a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.</p>

³ The definition for “White” in the OMB standard is: A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. (italics added)



	Peruvian, Venezuelan, etc. Individuals should report the person’s Hispanic, Latino, or Spanish group or groups in the space provided.	
No	Middle Eastern or North African. The category “Middle Eastern or North African” includes all individuals who identify with one or more nationalities or ethnic groups originating in the Middle East or North Africa. Examples of these groups include, but are not limited to, Lebanese, Iranian, Egyptian, Syrian, Moroccan, and Algerian. The category also includes groups such as Israeli, Iraqi, Tunisian, Chaldean, Assyrian, Kurdish, etc. Individuals should report the person’s Middle Eastern or North African group or groups in the space provided.	Middle Eastern or South Asian. “Middle Eastern or South Asian” refers to a person of Arabic, Israeli, Iranian, Indian, Pakistani, Bangladeshi, Sri Lankan, Nepali, Bhutanese, Maldivian, or Afghan origin
Yes	American Indian or Alaska Native The category “American Indian or Alaska Native” includes all individuals who identify with any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment. It includes people who identify as “American Indian” or “Alaska Native” and includes groups such as Navajo Nation, Blackfeet Tribe, Mayan, Aztec, Native Village of Barrow Inupiat Traditional Government, Nome Eskimo Community, etc. Individuals should report the person’s American Indian or Alaska Native tribe or tribes in the space provided.	Native American. “Native American” refers to a person having origins in any of the original peoples of North, Central, and South America.
Yes	Native Hawaiian or Other Pacific Islander. The category “Native Hawaiian or Other Pacific Islander” includes all individuals who identify with one or more nationalities or ethnic groups originating in Hawaii, Guam, Samoa, or other Pacific Islands. Examples of these groups include, but are not limited to, Native Hawaiian, Samoan, Chamorro, Tongan, Fijian, and Marshallese. The category also includes groups such as Palauan, Tahitian, Chuukese, Pohnpeian, Saipanese, Yapese, etc. Individuals should report the	Pacific Islander. “Pacific Islander” refers to a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands, but who does not fall within the definition of “Middle Eastern or South Asian” or “Asian.”



	person’s Native Hawaiian or Other Pacific Islander group or groups in the space provided.	
Yes	White. The category “White” includes all individuals who identify with one or more nationalities or ethnic groups originating in Europe. Examples of these groups include, but are not limited to, German, Irish, English, Italian, Polish, and French. The category also includes groups such as Scottish, Norwegian, Dutch, Slavic, Cajun, Roma, etc. Individuals should report the person’s White group or groups in the space provided.	White. “White” refers to a person of Caucasian descent having origins in any of the original peoples of Europe and Eastern Europe.

Minor Feedback

999.226, subd. (a)(2)(C). Duration of Stop. While this change was made in order to address accuracy concerns, allowing an open ended minute input will likely result in data quality issues and will make the data harder to analyze (due to data cleaning overhead). For example, not all agencies may be able to create successful data validation results (e.g. checking that a number versus text was submitted). In addition, officers may struggle to translate into minutes (e.g. an hour and 15 would be 75 minutes, a cumbersome calculation). The prior ranges would probably be more accurate and parsing down to the minute yields unclear additional insights.

996.226, subd. (a)(15). Officer’s Years of Experience. This data should not be collected as part of individual stops. Instead, this should be part of the agencies lookup code for identification number. Asking officers to repeatedly answer the same question will likely generate inconsistent responses and data quality issues. Better to have agencies capture prior work experience and start date and for the agency to create a derived variable that sums the two variables and appends to the report.





BAY AREA REGIONAL OFFICE

1330 Broadway, Ste. 500
Oakland, CA 94612
Tel: (510) 267-1200
TTY: (800) 719-5798
Toll Free: (800) 776-5746
Fax: (510) 267-1201
www.disabilityrightsca.org

August 16, 2017

Submitted electronically to AB953@doj.ca.gov

Kathleen V. Radez
Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
P.O. Box 70550
Oakland, CA 94612

**RE: Notice of Proposed Rulemaking, Comments on Revised
Regulations Implementing the Racial and Identity Profiling Act of
2015 (AB953)**

Disability Rights California is an independent, private, nonprofit, disability rights organization representing people with disabilities to ensure that their rights are protected. Disability Rights California is California's designated Protection and Advocacy system.¹ We support the proposed regulations implementing the Racial and Identity Profiling Act of 2015 (Act or AB 953)² and provide the following additional comments to the draft revised language proposed.³

Disability Rights California is encouraged that lawmakers, the Department of Justice, and the Racial and Identity Profiling Board (RIPA) recognize that people with disabilities often are disproportionately subjected to negative

¹ 42 U.S.C. § 10801 *et seq.*; 42 U.S.C. § 15001 *et seq.*; CAL. WELF. & INST. CODE § 4900 *et seq.* See also DISABILITY RIGHTS CALIFORNIA, www.disabilityrightsca.org.

² CAL. CODE REGS. tit. 11 § 999.224 *et seq.*

³ Portions of these comments reiterate the recommendations we provided during the previous commenting period ending January 27, 2017.

interactions with law enforcement.⁴ In the worst instances, these interactions can escalate to use-of-force incidents. At least a third of people killed by law enforcement during such scenarios are people with disabilities.⁵

Individuals with mental health disabilities often face stigma and bias because of the false assumption that people with mental health challenges are dangerous or violent.⁶ Likewise, a person with a cognitive disability or speech or hearing impairment who fails to understand commands by law enforcement is seen as noncompliant and dangerous. In these circumstances, harmless disability-related behavior may be seen as suspicious behavior or worse, potentially violent. Police officers and law enforcement personnel are not immune to these prejudicial perceptions of persons with disabilities.⁷

⁴ *Law Enforcement Responses to Disabled Americans - Promising Approaches for Protecting Public Safety: Hearing Before the Subcomm. on the Constitution, Civil Rights and Human Rights of the S. Comm. on the Judiciary*, 113th Cong. (2014), available at https://www.judiciary.senate.gov/meetings/law-enforcement-responses-to-disabled-americans_promising-approaches-for-protecting-public-safety; David M. Perry, *How Misunderstanding Disability Leads to Police Violence*, THE ATLANTIC (May 6, 2014), <http://www.theatlantic.com/health/archive/2014/05/misunderstanding-disability-leads-to-police-violence/361786>.

⁵ DAVID M. PERRY & LAWRENCE CARTER-LONG, THE RUDERMAN WHITE PAPER ON MEDIA COVERAGE OF LAW ENFORCEMENT USE OF FORCE AND DISABILITY: A MEDIA STUDY (2013-2015) AND OVERVIEW (2016), available at <http://www.rudermanfoundation.org/news-and-events/ruderman-white-paper>.

⁶ Patrick W. Corrigan & Amy C. Watson, *Understanding the Impact of Stigma on People With Mental Illness*, 1 WORLD PSYCHIATRY 16 (2002), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1489832>; Patrick W. Corrigan et al., *Challenging Two Mental Illness Stigmas: Personal Responsibility and Dangerousness*, 28 SCHIZOPHRENIA BULLETIN 293 (2002), available at <https://www.ncbi.nlm.nih.gov/pubmed/12693435>; Patrick W. Corrigan et al., *Police Officers' Attitudes Toward and Decisions About Persons With Mental Illness*, 55 PSYCHIATRIC SERVICES 49 (2004), available at <http://ps.psychiatryonline.org/doi/abs/10.1176/appi.ps.55.1.49>; Vassiliki Psarra et al., *Greek Police Officers' Attitudes Towards the Mentally Ill*, 31 Int'l J.L. & Psychiatry 77 (2008), available at <http://www.sciencedirect.com/science/article/pii/S0160252707001082>.

⁷ Lars Hansson and Urban Markström, *The Effectiveness of An Anti-Stigma Intervention in a Basic Police Officer Training Programme: a Controlled Study*, BMC PSYCHIATRY (2014), available at <http://bmcp psychiatry.biomedcentral.com/articles/10.1186/1471-244X-14-55>; Harold Braswell, *Why Do Police Keep Seeing a Person's Disability as a*

The regulations implementing AB 953 are a critical first step to identifying law enforcement jurisdictions that exhibit discriminatory practices by requiring the collection of data that may reveal patterns of profiling and discrimination. The data will also allow the public and advocacy organizations to hold outlier jurisdictions accountable and encourage their adoption of successful disability-related practices, such as disability cultural competency training and Crisis Intervention Training. It will also allow advocacy organizations, like Disability Rights California, to focus advocacy efforts on behalf of the affected disability community. The data may also provide information about the availability of disability services in the impacted community.

Article 1. Definitions

Disability Rights California recommends adding the following Example to cover the definition of “student” under § 999.224(a)(16):

(F) Example: an interaction between an officer and a student after the student has voluntarily left school premises during compulsory instructional time and the school has notified law enforcement.

Often, students living with disabilities may struggle with the school materials because these materials are not presented in a manner compatible with their learning style. This may manifest in non-compliance with teacher instruction. Students may leave the classroom or the school premises out of frustration or to escape the perceived embarrassment of struggling to learn instructional material. The schools that these students attend may have a hands-off policy to behavioral instances and resort to notifying parents and police instead of a physical intervention to prevent the student from leaving school premises. A student who has an encounter with an officer off-premises who is dispatched due to a school call should still fall under the definition of a “student”.

Provocation?, WASH. POST, Aug. 25, 2014,
https://www.washingtonpost.com/posteverything/wp/2014/08/25/people-with-mental-disabilities-get-the-worst-and-least-recognized-treatment-from-police/?utm_term=.177d21a41a97.

Article 3. Data Elements to Be Reported

Disability Rights California urges that any data field that contains the option for an “Other” category include a narrative space that requires the officer to explain the reasoning for the “Other” selection. This is particularly important when involving a person with a disability because the individual’s disability may not be easily identified or the individual may not be willing to disclose his or her disability. The recent Economic and Fiscal Impact Statement and its accompanying addendum reported that the median time to complete the data collection with narrative fields was a mere 145 seconds or 2.5 minutes per stop.⁸

Data Elements To Be Reported

In Section 999.226(a)(9) “Perceived or Known Disability of Person Stopped,” we support and appreciate the proposed revised language that adopts recommendations submitted by Disability Rights California during the January 27, 2017 commenting period.

Disability Rights California recommends that the “Other” category contain space for a narrative description of the perceived disability.

Affirmative Inquiry about Disability

Disability Rights California recommends that the regulations expressly permit officers to affirmatively inquire about whether the subject has a disability and explain that he or she is not required to disclose that information. The Americans with Disabilities Act requires that law enforcement take affirmative steps as needed to ensure that disability discrimination does not occur.⁹ Inquiring about a disability may assist the officer in how to approach an individual in a manner that is sensitive to the individual’s disability needs and better inform the officer about the individual’s disability-related behaviors.

⁸ CAL. DEP’T OF JUSTICE, ECONOMIC IMPACT STATEMENT, AB 953 STOP DATA REPORTING REGULATIONS TO IMPLEMENT GOV. CODE SECTION 12525.5, 11 (2017).

⁹ See, e.g., *Sheehan v. City & Cnty. of San Francisco*, 743 F.3d 1211, 1231 (9th Cir. 2014).

HIPAA Restrictions Not Applicable

Disability Rights California maintains that the disability data collected pursuant to the regulations are not subject to the federal Health Insurance Portability and Accountability Act (HIPAA).¹⁰

Law enforcement officers and agencies are not “covered entities” under HIPAA, which extends only to healthcare providers and health plans.¹¹ Furthermore, AB 953 data is submitted as an aggregate, beyond the scope of HIPAA confidentiality, which governs health information that is tracked to an identifiable individual.¹² The data submitted by law enforcement is not “personally identifiable,” and therefore not subject to HIPAA.¹³ There is no subject name or any other information collected that allows the public to ascertain the identity of the subject.

Type of Property Seized

Disability Rights California recommends that “(m) mobility device” and “(n) sensory aid or device” be added to the list of property seized in Section 996.226(a)(6)(D)(2), “Type of Property Seized.”

Mobility devices includes canes, scooters, wheelchairs, and any other device that the subject may utilize to ambulate or move. Sensory aid or device could mean hearing aid or a blind cane (also known as a “White Cane”). Electronic sensory aids could be erroneously perceived by the officer as recording devices and confiscated because the officer is under the belief that the interaction is being recorded without his or her consent.

Including these items provides not only information regarding an individual’s disability, but also reveals practices that could constitute outright harassment of the subject.

¹⁰ 45 C.F.R. §§ 160.102, 162.100, 164.104 (defining covered entity under HIPAA as health plans, healthcare providers, and health care clearinghouses). See generally 42 U.S.C. § 201 *et seq.*

¹¹ 45 C.F.R. §§ 160.103, 162.103, 164.104.

¹² *Id.*

¹³ 45 C.F.R. § 160.103.

Article 4. Reporting Requirements

Student “Admission” or “Written Statement” as a Data Point without Context

Disability Rights California appreciates the additional data captured pertaining to students pursuant to proposed Section 999.227(e)(4)(c), under “Actions Taken by Officer During Stop.”

However, Disability Rights California believes that this is an important data point to obtain not only for students, but also for adults, especially those with disabilities. By collecting information about whether an officer asked for and received information relevant to Fifth and Sixth Amendment protections, lawmakers can more fully analyze the context, length, and power dynamics that transpire between peace officers and adults with disabilities. Disability Rights California recommends that this proposed language remain in Section 999.227(e)(4)(c) covering students *and* be added to the general section for all adults.

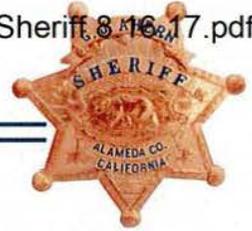
Individuals with intellectual or neurological disabilities, whether minors or adults, are at particular risk of being coerced into making statements that may appear as admissions but are in fact made in order to appease an authority figure such as an inquiring officer.

Thank you for giving us the opportunity to comment on these proposed regulations. Please let me know if you have any questions regarding these comments.

Respectfully Submitted,



Jung Pham
Staff Attorney, Disability Rights California



Gregory J. Ahern, Sheriff

Director of Emergency Services
Coroner - Marshal

(510) 272-6866

August 15, 2017

Kathleen V. Radez, Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
1515 Clay Street, Suite 2000
Oakland, CA 94612

Dear Ms. Radez,

The Alameda County Sheriff's Office submitted written comments on January 25, 2017, during the 45-day period concerning the overall proposed Assembly Bill 953 Racial Identity Profiling Act (RIPA) regulations. The purpose of this letter is to provide additional comments regarding the August 1, 2017, modified text of proposed regulations. Specifically, this letter will discuss the addition of open narrative fields to be completed by law enforcement officers detailing the "Reason for Stop" and "Basis for Search."

Under the revisions to proposed regulations, law enforcement officers are to now complete a brief explanation regarding the reason for the "stop," or detention, and, if applicable, the basis for a search if one is conducted. Both of these are in addition to pre-defined data elements for these items. For example, regarding the reason for a stop, traffic violation, reasonable suspicion, known to be on probation/parole, knowledge of outstanding warrant, investigation, and consensual encounter are the possible data elements available for collection regarding the stop by law enforcement officers. Similarly, detailed items exist for the basis of a search conducted. For both of these situations the newly proposed regulations require law enforcement officers to include an explanation in addition to the detailed data elements. The explanation field is an open-text narrative, no more than 250 characters, designed to capture additional details regarding the documented incident.

In my opinion this requirement creates a number of problems. The first being with the limitation of the requirement itself. In the proposed regulations, two examples related to additional information for a "stop" and one example for the basis of a search are given. The examples are as follows:

Stop Example 1: If the officer selected “Reasonable suspicion that the person was engaged in criminal activity/Actions indicative of a drug transaction,” the officer must use this field to briefly note the specific nature of the actions indicative of a drug transaction and why they were suspicious.

Stop Example 2: If the officer selected “Vehicle Code 26708 (Material Obstructing or Reducing the Driver’s View)” from the Department’s CJIS Offense Table, the officer shall use this field to briefly note the specific nature of the obstruction/reduction of the driver’s view (i.e., what specifically did the officer observe and how was such item obstructing or reducing the driver’s view).

Search Example: If the officer selected “Suspected weapons” as the Basis for the Search, the officer must use this field to explain the specific nature of the suspected weapons (i.e., what were the specific objects, shapes, and/or movements observed that made the officer suspect weapons and what type of weapons were suspected).

With respect to both *Stop Example 1* and the *Search Example*, entire pages of reports have been written, in great detail, to explain these types of stops/searches by law enforcement officers in order to ensure their validity and usefulness in a court proceeding. To attempt to constrain this much detail to 250 characters would cause many of the necessary factors and observations to be confusingly abbreviated or deleted entirely. Similarly, *Stop Example 2* is asking officers to write a narrative to their vehicle code stop, in 250 characters or less, where no other narrative would often be written; a citation is generally the only written record of these events.

This brings up my second concern with these fields. In my opinion, the most troubling aspect of these open narratives is the actual records they create. Throughout AB953 and RIPA there is a theme of not releasing unique identifying information. Earlier discussion was raised about how “protected” this information would be, California Public Records Act (CPRA) concerns, and other privacy and sensitivity issues. The addition of these narrative descriptions completely negates any discussion regarding this, because it is my belief by creating these fields you are creating a “record” which can and would be used in court.

For all three examples described above, a defendant would be entitled to access these records in their defense. With reference to the examples these fields contain information about their detention, their citation, or their search, which would need to be compared to the law enforcement officer’s original report. Any discrepancies, including mistakes, or abbreviations/deletions considering the 250-character limit, could be unnecessarily detrimental to the successful prosecution of cases. Any other items related to the case/interaction would also be known, and differences in the law enforcement officer’s observations vs reality could cause concerns. For example, if an officer perceives an individual to have a developmental disability and indicates as such, where the individual does not have such a disability, this could be offensive to the stopped individual.

Not only would a defendant be entitled to access this information, the prosecution would be required to provide it in the first place as discovery, since it is a known record required under

law. Any discussion of the protection of privacy or identifiable information would become irrelevant. These captured fields would need to be maintained, prepared, and provided for use in court proceedings as written records of the event. Additionally, in preparing a defense a CPRA could be served for all other interactions based on the now known officer's "Identification Number," creating an entire library of the actions of a particular law enforcement officer far outside the original intent of the law.

As I discussed in my previous letter regarding RIPA regulations, I am of the opinion this legislation was enacted to establish a method to determine if law enforcement officers specifically focus on individuals based on observable characteristics. The Alameda County Sheriff's Office has compiled the data as described in the original text of AB953 as they apply to vehicle stops for over 10 years, and we will continue to do so. It is my belief the data elements as originally proposed constitute the only data elements which could reasonably be perceived by a law enforcement officer prior to enforcement action. The previously discussed additional fields, as detailed in my prior letter, do not provide additional insight into the mindset of law enforcement officers, especially when balanced against the enormous investment of time and resources needed to collect the additional data. Adding these open narrative fields only compounds this expenditure of time for an item which I believe is both outside the original spirit of the law and creates the concerns outlined above.

I hope you will consider my suggestions and comments regarding the modified regulations. Please do not hesitate to contact me if I can provide additional information.

Sincerely,



Gregory J. Ahern
Sheriff-Coroner

GJA:dob

AB953

From: Cathie Gentile <[REDACTED]>
Sent: Wednesday, August 16, 2017 1:29 PM
To: AB953
Subject: Racial and Identity Profiling Act of 2015

Dear Attorney General Becerra:

I am writing in support of the Santa Monica Coalition for Police Reform's suggested revisions to the proposed Racial and Identity Profiling Act regulation.

Here are the suggested revisions:

(2) "**Consensual search**"

Remove the third condition: "consent...may be implied by conduct." This is not a reasonable standard of consent.

(7) "**Detention,**"

Remove the third condition: "detention includes...words or conduct by an officer that would result in a reasonable person believing that he or she is not free to leave or otherwise disregard the officer." It is subjective, vague and likely to be interpreted differently by the peace officer and the person.

Overall, "detention" should be defined by the officer's use of unequivocal, active, universally understood indicators that are clearly directed (as to time, place and circumstance) to the person to be detained, not be projecting a belief onto that person.

Thank you for your time,

Catherine M. Gentile
Santa Monica, CA



ORANGE COUNTY SHERIFF'S DEPARTMENT

550 N. FLOWER STREET
SANTA ANA, CA 92703
714-647-7000
WWW.OCS.D.ORG

SHERIFF-CORONER
SANDRA HUTCHENS

OFFICE OF THE SHERIFF

August 15, 2017

Deputy Attorney General Catherine Z. Ysrael
Civil Rights Enforcement Section
California Office of the Attorney General
300 South Spring Street, First Floor
Los Angeles, CA 90013

RE: Comments on Revised Stop Data Collection Requirements and Proposed Regulations

Dear Deputy Attorney General Ysrael:

Having reviewed the Department of Justice's (DOJ) revised proposed stop data collection requirements and regulations, I remain concerned that the regulations will negatively impact public safety. As I previously stated in my formal comments on the initial proposed regulations, in implementing AB 953 all stakeholders must consider how best to carry out the new requirements in a way that best accomplishes the two stated goals of the legislature: ending racial profiling and improving the relationship between law enforcement and the communities served. The purpose of my comments on the revised regulations is to provide the DOJ with constructive input that will further such worthy goals.

I continue to be concerned about the excessive amount of data being requested and the inclusion of subjective data points in the proposed regulations. In my view is necessary to address these concerns in order to mitigate negatives impact to public safety.

Excessive Data Elements

The approved legislation lists specific sets of data that are required to be collected. It is important to understand that complying with even these minimum requirements of AB 953 will be a major adjustment for law enforcement. Most agencies have never had to collect data on every stop made by an officer. The process of training staff, building data collection systems and ensuring compliance within an agency cannot be done overnight. The proposed implementing regulations seek to add numerous observations and data points to be gathered far beyond what the letter of the statute requires. Additionally, the newly revised regulations include two sections that require narrative descriptions. The reporting of such an extensive amount of data and written narratives will be time consuming for officers. I understand that field testing done earlier this year showed that collecting the data only took a minimal amount of time per stop, however this field test did not include a narrative section. Ultimately anytime spent completing paper work will diminish time spent on patrol in the community. I also have great concern that an officer's new data

collection responsibilities could erode their own safety. In each stop an officer's attention must be on safety; adding these data responsibilities diverts attention from officer safety. [223] Orange County Sheriff 8.16.17.pdf

My recommendation to the DOJ is to modify the proposed regulations to only include those data points required in the initial legislation. New data elements could be added in future years. The collection of data is a major change to daily patrol procedure, and law enforcement must be able to implement this change in a manner that is reasonable and manageable.

Subjective Data Points

A continued concern is the subjectivity of data elements added solely through the DOJ regulations. The DOJ regulations require officers to record if the "person stopped had limited English fluency or a pronounced accent." Absent an English proficiency exam it is impossible to ensure that each officer uses the same standard when determining whether or not a person has limited English fluency. The data standard will vary officer to officer and will certainly vary among agencies. Law enforcement time should not be spent collecting data that fails to meet basic research standards.

Similarly, DOJ requirements to record "perceived or know disability of person stopped" is impractical. There is no uniform standard for collecting this data point and therefore it does a disservice to treat such haphazard perceptions as fact.

The revised regulations added the additional data point of "person stopped perceived to be LGBT." Determining someone's sexual orientation by observation only is incredibly subjective. Requiring law enforcement to make a judgment about an individual's sexual orientation based on a cursory stop alone could result in the collection of data that is based on outdated stereotypes. It is dangerous for government to be labeling individuals based on perception rather than fact.

Data elements that do not have a uniform standard should be eliminated where possible. Without a standardized collection approach such data is useless and will likely be misused. I recommend eliminating the data points discussed above.

As previously mentioned the stated goals of AB 953 are worthwhile. Elimination of racial profiling and stronger community relations is something all law enforcement agencies should strive toward. I would suggest to those engaged on these issues that we do ourselves a disservice if we overly focus on the collection of subjective data points. Such goals are best achieved by putting our energies toward the following:

Strong Hiring Practices: Proper screening of recruits and cultivation of potential applicants can ensure that the personnel of a law enforcement agency have high integrity and are committed to the principle of "equal justice under the law."

Effective Training: The changing nature of society and law enforcement requires every evolving skills. Each member of law enforcement should have the opportunity to develop and refine those skills on a regular basis. Proper training can ensure that missteps are minimal.

Engaged Citizenry: The citizens of any giving community have the responsibility to be engaged with their law enforcement agency, to be watchful, show support and provide constructive criticism when necessary.

Californians are better served if more of law enforcements' time, resources and treasure are spent on such initiatives. My fear with regard to the DOJ's revision of the [223] Orange County Sheriff 8.16.17.pdf onerous requirements will divert us from those efforts that can truly make a difference. I strongly urge the DOJ to adopt a more reasonable approach to this legislative mandate.

Thank you for taking this comments under consideration and please do not hesitate to contact me should you need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sandra Hutchens". The signature is fluid and cursive, with the first name "Sandra" being more prominent than the last name "Hutchens".

Sandra Hutchens
Sheriff-Coroner

AB953

From: Shannon Hovis
Sent: Wednesday, August 16, 2017 3:51 PM
To: AB953
Cc: Catherine Ysrael
Subject: FW: 2005 California Penal Code Sections

From: Richard Hylton [mailto:]
Sent: Wednesday, August 16, 2017 12:16 PM
To: Catherine Ysrael <Catherine.Ysrael@doj.ca.gov>
Cc: Shannon Hovis <Shannon.Hovis@doj.ca.gov>
Subject: 2005 California Penal Code Sections

August 16, 2017

Hall of Justice

330 W. Broadway

San Diego, CA 92101

[619-531-4040](tel:619-531-4040)

FAX: [619-237-1351](tel:619-237-1351)

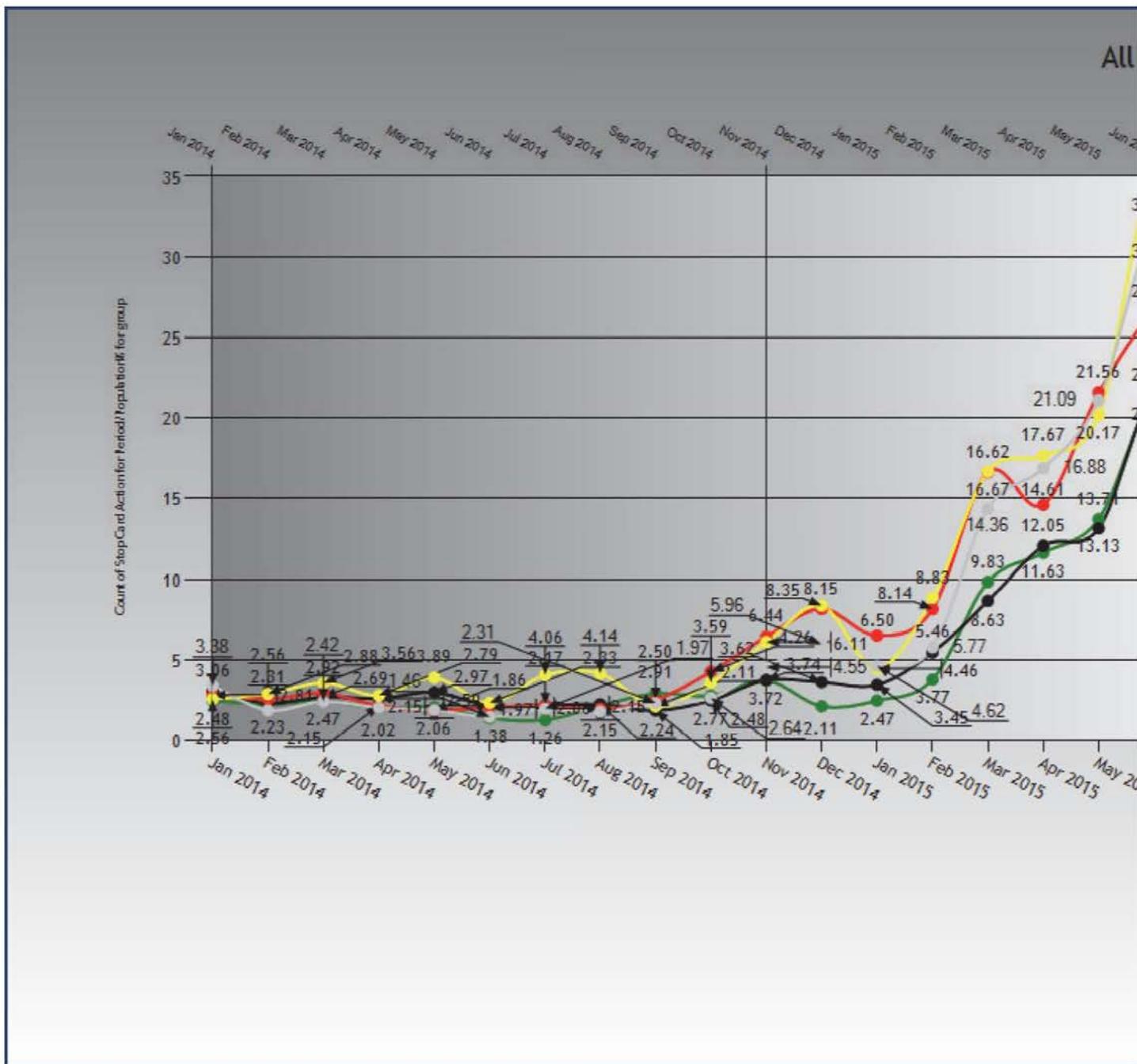
Dear District Attorney;

2005 California Penal Code Sections 132-141 provides:

Every person who upon any trial, proceeding, **inquiry**, or **investigation** whatever, authorized or permitted by law, offers in evidence, as genuine or true, any book, paper, document, **record**, or other instrument in writing, knowing the same to have been forged or **fraudulently altered** or ante-dated, is guilty of felony.

(d) The **Attorney General** or the **district attorney** of the county in which an alleged violation of subdivision (c) occurs may institute a civil proceeding.

The City of San Diego authorized an inquiry and investigation of police-bias, using data that was fraudulently altered by persons unknown. But it is believed that the alterations were made by persons who, likely, are employees or officials of the City Of San Diego and was done at the direction or with the acquiescence of other city employees or officials. All evidence is that the **fraudulently alteration** began in or around the third quarter of 2014, accelerated into 2015, has abated somewhat, but continues to date. The below represents data that was made null; **(and nothing else, for the SDSU report shows many other methods in which data was falsified)** meaning records that have vestiges of having been entered, but subsequently were removed.





But for the **fraudulently altered** records, the findings of the **inquiry**, or **investigation** would have been direr. Indeed, it is believed that findings called "threshold" findings, by the SDSU analysts, would not have been so, for the reason that the altered records disproportionately affected Black and Hispanics; Hispanics especially. Accordingly, it is also believed that the San Diego City Council would not only have accepted the investigations findings but would have adopted its recommendations.

I daresay that the **fraudulent alteration** was ordered by or acquiesced to by members of the San Diego City Council, given their sudden and unannounced decision to add data for 2015 having received prior notice, on multiple occasions that the 2015 data was being fraudulently altered.

I have identified just under a third of the 34264 records that generated the above graph. Your level of even-handedness and interest will be confirmed if you ask for that data.

Whether any of this implicates 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records in Federal investigations- is unknown to me, for the Feds though aware of all this seem to have chosen to ignore it. Things are expected to be worse in the reign of General Jefferson Beauregard.

Given current events, the timing of this communication is perfect. You need not reply to it. Not acting, timely, on it would be a mistake.

I have included a Deputy Attorney General whose ambit allegedly includes these things to this distribution. I shall send a fax too.

Richard Hylton

[REDACTED]

[REDACTED]

[REDACTED]

piu@doj.ca.gov

[224] Richard Hylton 8.16.17_Redacted.pdf

catherine.ysrael@doj.ca.gov

--

Richard Hylton



 Sent with [Mailtrack](#)

August 16, 2017

Via Electronic Mail at AB953@doj.ca.gov

Hon. Xavier Becerra, Attorney General
California Department of Justice
300 South Spring Street, First Floor
Los Angeles, CA 90013

RE: Revised Proposed Regulations to Implement AB 953

Dear Attorney General Becerra,

On behalf of a diverse coalition of organizations that co-sponsored and supported the passage of AB 953, we submit these written comments on the revised proposed regulations for the Racial and Identity Profiling Act of 2015 (AB 953). Many of the undersigned submitted comments on the originally proposed regulations in a letter of January 27, 2017 (“January 27 Letter”), and these comments on the revised regulations refer back to those original comments.

At the outset, we commend the Department of Justice (DOJ) for the revised regulations and for their efforts to reflect the discussion and public comment before the RIPA Board and with the DOJ directly over the past year or more, including comments sent by advocacy organizations outlining specific recommendations and comments on the initial proposed regulations. We recognize that in addition to the issues identified below, the DOJ considered and followed numerous technical and clarifying recommendations by our organizations and many others in the comment process, as well as the recommendations of the RIPA Board, and went to the effort of field testing forms based on draft regulations. These efforts have led to overall improvements and streamlining of the regulations, and we thank the Department for its careful work.

General Comments & Recommendations

- 1. The DOJ should finalize the regulations as currently proposed.** While we have concerns about a number of the regulatory provisions and write in specific support of others, we believe that the revised regulations set forth a workable approach that will capture data necessary to address racial disparities and bias in policing.

More importantly, we believe the DOJ should finalize the regulations promptly to ensure that local police agencies have adequate time to implement data collection practices by the statutory deadlines. The regulations have already been substantially delayed beyond the original statutory deadline of January 1, 2017, which has in turn led to legislation to delay data collection at large departments. We urge the DOJ to finalize the regulations as currently proposed and without any additional delay, and to address concerns set forth in this letter in future revisions of the regulations.

2. **We strongly support the proposed open-field explanations for data elements “Reason for Stop” and “Basis for Search.”** In our January 27 Letter, we strongly recommended that the DOJ revise the regulations to create open-text fields to allow officers to enter short descriptions in their own words for the data elements “Reason for Stop” and “Basis for Search.” As we noted, such open fields are necessary to capture the wide variety of factual reasons that might justify a stop or search under the totality of the circumstances test adopted by courts, and will help the DOJ identify specific data values not currently included that should be added.

The revised regulations include open-field explanations for “Reason for the Stop,” § 999.226(a)(10)(B), and “Basis for the Search,” § 999.226(a)(12)(B)(2), each limited to 250 characters. We strongly support these revisions as sound additions that address our recommendation. Moreover, while the primary objection to adding open fields was the time it would take for officers to complete them, the DOJ’s field testing demonstrated that officers’ median time to complete them was 16 and 22 seconds, respectively. This minimal additional time for law enforcement officers is far less than those opposed to open fields predicted, and is more than worth the additional information the fields will provide.

For future revisions of the regulations, we continue to recommend that the regulations include mandatory open-text fields for officers to clarify any response of “other,” such as disability, § 999.226(a)(9)(F), use of force, § 999.226(a)(12)(A)(15), contraband discovered in a search, § 999.226(a)(12)(C)(11), or property seized, § 999.226(a)(12)(D)(2)(k). Allowing such clarification would both ensure the collection sufficient information and help identify additional preset data values that should be added.

3. **The DOJ should work to develop standards and materials for trainings on data collection.** In our January 27 Letter, we recommended that to the extent data collection trainings are contemplated as part of the implementation process, that the regulations address standards for those trainings. From the face of the regulations and the number of explanations and examples, it is clear that training will be required to ensure that officers correctly and accurately collect and report data. While the final regulations contain no specifications on training, we urge the DOJ continue outside the regulatory framework, in consultation with the RIPA Board, to develop standards and materials for trainings to ensure that officers across the state have accurate and uniform data collection practices.

Specific Comments on Proposed Regulations

Article 1. Definitions, 11 CCR § 999.224.

4. **“Unique Identifying Information.”** The revised regulations now define “Unique Identifying Information” in § 999.224(a)(17) as “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.” Importantly, the revised regulations state that this definition “does not include the minimum information that is specified in Government Code section 12525.5, subdivision (b).” The Addendum to Initial Statement of Reasons (“Addendum”) explains that new definition “ensures that information about the stop itself – as opposed to any information collected regarding the officer who

made the stop – cannot be considered to be an ‘Officer’s Unique Identifying Information.’” (Addendum at 4-5.)

The qualification as explained in the Addendum is crucial. AB 953 requires that information about every stop reported to the DOJ be made public so that academics, journalists, advocates, and community members have access to data that sheds light on policing practices and racial disparities in enforcement. Even if information about the officer (such as gender or years on force) is withheld, information about the stop should be made available to the public. The DOJ should ensure that the definition of “Unique Identifying Information” be interpreted consistent with the explanation in the Addendum and that all information “about the stop itself — as opposed to any information collected regarding the officer who made the stop” be released to the public.

Article 3. Data Elements to Be Reported, 11 CCR § 999.226.

5. **“Location of Stop.”** In our January 27 Letter, we recommended that the data element for location of stop defined in section 999.226(a)(3) be revised to include not only the street address or geolocation information but a description of the location as well, and suggested a list of ten secondary data values for pedestrian stops (such as “public street/sidewalk,” “public transportation/transit,” and “public park/playground”), as well as three for vehicle stops. The revised regulations still lack any description of the location of each stop.

The lack of any description of location is a significant omission. As we explained in our January 27 Letter, when analyzing policing practices for bias, the nature of the location of a stop matters. A stop listed as taking place at the address of a housing complex might indicate very different kinds of enforcement depending whether it takes place in the complex grounds, in an apartment, or on the sidewalk outside. Similarly, a stop listed at a commercial address might differ in nature depending whether it occurs inside the commercial building, on the public sidewalk outside, at an adjacent park, or in a subway station underneath. Even if the address information uniquely identified the type of stop, researchers will not readily be able to cross-reference every address with the type of location.

While information set forth in the “reason for stop,” including the open-text explanation field, may contain some description of the location of the stop, it will not do so consistently for each stop. Providing detail on the nature of each location will allow researchers and the RIPA Board that is charged with analyzing and identifying solutions to biased policing to better understand not just in what locations individuals are most frequently stopped but also the nature of the enforcement at each stop that might give rise to racial disparities. We strongly recommend that in the next revision of the regulations, the DOJ add a data element for “Description of Location of Stop” with the data values previously recommended in our January 27 Letter.

6. **“Reason for Presence at Scene of Stop.”** We support the deletion of the data element for “Reason for Presence at Scene.” In our January 27 Letter, we noted that the data values were overlapping and confusing and recommended significant revision of the data values, as well as noting the confusion between “Reason for Presence at Scene” and “Reason for Stop.” As explained in the Addendum, “Reason for Stop” is “confusing and redundant” not only with “Reason for Stop” but with “Type of Assignment.” We believe that all

information sought by this data element fits better within other elements and support its removal in the revised regulations.

7. **Addition of “Person Stopped Perceived to be LGBT.”** We strongly support the addition of the new data element “Person Stopped Perceived to be LGBT,” § 999.226(a)(6), in the revised regulations. Collecting information about perceived sexual orientation will help the RIPA Board and the DOJ analyze policing patterns for bias against the LGBT community, which is distinct from bias on the basis of perceived gender identity and is a crucial part of the identity profiling AB 953 is intended to combat.
8. **Reporting “Reason for Stop” changed from all reasons to “primary reason.”** The original proposed regulations required that in reporting information on the “reason for a stop” select as many data values as applied. The revised regulations alter this requirement so that officers should select only one “primary reason” for the stop. § 999.226(a)(5)(A). The Addendum indicates that the change was made “in response to comments noting that it is critical for officers to isolate the primary reason for the stop, because there will typically be one primary reason and selecting this reason alone will help prevent against the selection of reasons that may have presented themselves during the detention or search. The amendment was also made due to concerns that allowing multiple responses might reduce data integrity and complicate data analysis.” (Addendum at 11.)

The proposed change, while it simplifies reporting, may not accurately capture the nuanced nature of law enforcement. Police frequently make stops in which they may be motivated by more than one investigatory purpose, and the reporting of only a “primary reason” for the stop would omit information about stops with multiple motivations. We recommend that the DOJ finalize the regulation as is, but examine this data element as reporting goes forward and compare reporting of the check-box data with the data reported in the open-text explanation, and consider whether returning to a scheme in which officers select all reasons for a stop will more accurately capture the reasons for a stop.

9. **Changing “Weapon removed from holster or brandished” to “Firearm pointed at person” is underinclusive.** In “Actions Taken by Officer During Stop,” § 999.226(12)(A), the revised regulations remove the data value “Weapon removed from holster or brandished” and replace it with “Firearm pointed at person.” Under this language, officers will not report circumstances where they point electronic control weapons or pepper spray at subjects, as well as circumstances where they unholster firearms or remove them without pointing them directly at subjects. Such actions are intimidating and threatening to an individual and significantly changes the nature of interaction between individuals and law enforcement, thus should be captured in the interest of accurate and comprehensive data analysis. Indeed, in our January 27 Letter, we recommended that the regulations move in the opposite direction to capture more physical conduct by officers that suggests physical violence, by adding a data element for firearms to capture “Unbuttoning the holster or grabbing the weapon.”

While the regulations reflect an attempt to streamline the data values for use of weapons, such streamlining can be accomplished while gathering more complete information on the threatening display of weapons. We strongly recommend that the next revision of the regulations add data values for “Firearm removed from holster or brandished,” “Electronic

control device or chemical spray removed from holster or brandished,” and “Electronic control device or chemical spray pointed at person.”

- 10. Removal of specific ordinance information from “Result of Stop.”** In the data element for “Result of Stop,” § 999.226(a)(13), the original version of the regulations required an officer to identify specific state code or ordinance that provided the basis for a citation or arrest. The revised regulations remove language requiring the officer identify the ordinance used, and instead indicate that “[i]f the Result of Stop is based on an ordinance, the officer shall select ‘local ordinance viol’ from the Department’s CJIS Offense Table without the need for the specific section number.” *Id.*

Removing reporting of which ordinance is used for a citation or arrest leaves out important information about the nature of the stop. Local ordinances encompass an enormous range of activity and are often used for problematic “broken windows”-style or pretextual enforcement, such as local ordinances for littering, sitting on sidewalks, or curfew, that often show racial disparities in enforcement. Tracking information for which ordinances are used as the basis for citations or arrests will be crucial in distinguishing pretextual enforcement and quality-of-life violations that often evidence racial disparities from more serious public safety issues.

In light of this change, it is also unclear whether the regulations allow officers to specify a specific ordinance as a “reason for stop” in § 999.226(a)(10). Such an omission there would be only partly mitigated by the open field explanation for “reason for stop” that would allow officers to specify the ordinance, and would generally be problematic for similar reasons.

While the Addendum indicates this change was made to streamline these reporting requirements, including such information should be relatively easy to do. An officer issuing a citation or making an arrest for an ordinance violation can easily fill in the ordinance number in an open field (or a field with data verification to ensure it is entered in the correct format for the local jurisdiction’s municipal code), or the DOJ could provide technical assistance to local agencies to customize a drop-down of their local ordinances.

We strongly recommend that the next revision of regulations require that officers specify the local ordinance used to issue a citation or make an arrest or that provided reasonable suspicion to make a stop.

Article 4. Reporting Requirements, 11 CCR § 999.227.

- 11. Exception for reporting for underage drinking checks in homes.** The revised regulations add a new exception to the reporting requirement for “Interactions during which persons are detained at a residence only so that officers may check for proof of age for purposes of underage drinking.” § 999.227(d)(1)(C). The Addendum explains that this change was made to “prevent undue burden on law enforcement,” because “when officers are called to a party at a residence and suspect underage drinking, they detain all persons at the party, and unless these interactions are included in this section, a stop report will be required on all persons at the party.” (Addendum at 27.)

As both the examples and the Addendum make clear, this exception excludes from reporting detentions based on individualized suspicion. Whatever burden this imposes on law enforcement is required by the text of AB 953, which requires reporting of information on “on *all stops* conducted by that agency’s peace officers,” where a stop is defined to include “*any detention* by a peace officer of a person.” Govt. Code § 12525.5(a)(1), (g)(2) (emphasis added). There is no basis to distinguish detentions based on individualized suspicion to check for underage drinking from a myriad other types of detentions that may burden law enforcement. This exclusion is directly contrary to the statutory requirement and should be removed at the next revision of the regulations.

- 12. Exception for reporting on individuals detained during execution of a warrant or search condition in a home.** The original proposed regulations set forth an exception for reporting for individuals who were detained subject to a warrant or search condition in a home. The revised regulations extend that exception to other individuals detained, unless they are subject to physical restraint, arrest, or display or use of a weapon. § 999.227(d)(2). The Addendum indicates that the change was made “in response to comments from law enforcement that officers typically search everyone when they enter a home pursuant to a warrant or search condition, which would require reporting stops on all of these persons.” (Addendum at 28.)

The exception is unwarranted and should be eliminated in future revisions of the regulations. As with the exception for detentions in the home during checks for underage drinking, the exception contradicts AB 953’s statutory requirement that agencies report “all stops,” where a stop is defined to include “any detention by a peace officer of a person.” Moreover, the information related to the detention of individuals during execution of warrants has obvious value: it reflects the discretion by officers to obtain warrants on certain individuals, as well as the discretionary actions by officers who conduct some of the most intrusive actions that police can take – entry into private homes – and tracks disparities in how these intrusive measures impact Californians. Even if excluding officers interactions with individuals confined to home detentions might be justified by their quasi-custodial nature, that rationale certainly does not apply with the same force to interactions based on warrants or even on search conditions. We therefore recommend that the next revision of regulations remove the exception for reporting detentions in the home during enforcement of warrants and search conditions, particularly as to individuals other than the subject of the warrant or search condition.

- 13. Race and Gender of Officer.** Like the original proposed regulations, the revised regulations do not require the reporting of an officer’s race and gender. A full understanding of racial and gender bias in policing requires an understanding of the interaction between race and gender of officers with that of subjects. Without such information, the RIPA Board’s analysis will be unable to determine whether and how the race or gender identity of officers impact the prevalence of racial and gender disparities in policing. We strongly urge that the next revised regulations include data elements for the race and gender of the officer. In addition, we urge the DOJ to work to obtain race and gender information for officers

correlated to their Officer Identification Numbers, such that the race and gender of the officer recording the stop is made available to the RIPA Board and other researchers conducting analysis of the data.

The undersigned signatories to these written comments commend the DOJ for incorporating feedback from community groups and organizations working with and on behalf of individuals most impacted by frequent law enforcement interactions and stops. As stated at the beginning of this letter, we believe that the DOJ should adopt the revised regulations as currently proposed so that data collection may commence and AB 953 may be implemented in a timelier manner. However, we strongly urge the DOJ to consider further revisions to the regulations at a later date within the next two years to address the additional concerns outlined in this letter, especially those concerns identifying where the regulations fail to fully implement the statutory requirements of AB 953. The full promise of AB 953 cannot be achieved until comprehensive and robust data collection actually begins.

Sincerely,

ACLU of California
Advocates Delivering Love
Alliance for Boys and Men of Color
All of Us or None
Asian Americans Advancing Justice – LA
A New PATH
Clergy & Laity United for Economic Justice
Community Coalition
Courage Campaign
Drug Policy Alliance
Equal Justice Society
Equality California
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Legal Services for Prisoners with Children
National Action Network
National Center for Youth Law
PolicyLink
Root and Rebound
Southern Christian Leadership Conference of Southern California
Urban Peace Institute
Youth Justice Coalition, LA



BURBANK POLICE OFFICERS' ASSOCIATION

[226] Burbank Police Officers Association 8.16.17.pdf
P.O. Box 229 Burbank, California 91503

(818) 842-1133

August 16, 2017

Office of the Attorney General
Catherine Z. Ysrael
Deputy Attorney General California Department of Justice Civil Rights Enforcement
Section 300 S. Spring St., Suite 1702
Los Angeles, CA 90013

Comment Regarding Proposed Regulations

This letter is submitted on behalf of the members of the Burbank Police Officers' Association to express concerns for the proposed regulations/requirements being considered as part of AB 953. We believe the regulations, as proposed, will have far-reaching negative consequences, both financially and as a degradation to the quality of life in our communities.

While the actual financial costs associated with the implementation of the requirements under AB 953 have yet to be realized, the increase in costs, or lost productivity, will have a significant impact on city/county finances. As clearly articulated in other letters of opposition, there will exist costs associated with staff hours necessary for the recordation of the mandated information. With much of the required information already being captured (citations, police reports, contact cards), it is perplexing as to the immediate need to create redundancy. Perhaps additional research would yield a viable alternative to obtain information that is already captured, sparing the added expense and burden to our communities.

Apart from the financial costs, we believe AB 953 will likely have a significant negative impact on proactive law enforcement efforts. As currently written, AB 953 would require the mandated information to be collected resultant from a variety of law enforcement-related activities. In one example, each contact during a DUI Checkpoint operation would need to be documented and reported. Based on the shear mathematics associated with the number of vehicles traveling through a checkpoint, the number of personnel working, and the necessary time needed to complete the mandated documentation, it is likely these operations would need to be discontinued. While we are certain the intent of any enacted changes in the law is not to decrease public safety, it certainly appears this will be one of the unintended consequences associated with AB 953.

As we are certain you would agree, adherence to law and order is the cornerstone of a modern society. Law enforcement officials are hired, trained, and sworn to uphold the law and protect our communities. We believe creating overly burdensome and costly requirements will erode the ability of law enforcement to address crime and traffic issues. The reduction, or inability, of any law enforcement agency in California to address community concerns should be alarming.

We strongly urge the board members to consider the unique nature of proactive police work performed by law enforcement agencies throughout California, and the impact the proposed regulations would have on their work. Law enforcement professionals strive to ensure our communities and our roadways are as safe as possible. We respectfully request that you not take any action that would inhibit those efforts.

Sincerely,

Jay Hawver, President
Burbank Police Officers' Association



California POLICE CHIEFS Association Inc.

P.O. Box 255745 Sacramento, California 95865-5745 Telephone (916) 481-8000 FAX (916) 481-8008
E-mail: lmcgill@californiapolicechiefs.org • Website: californiapolicechiefs.org

EXECUTIVE BOARD

President
EDWARD MEDRANO
Gardena
1st Vice President
DAVID SWING
Morgan Hill
2nd Vice President
RON LAWRENCE
Citrus Heights
3rd Vice President
ERIC NUNEZ
Los Alamitos
Immediate Past President
KEN CORNEY
Ventura
Director at Large
ROB HANDY
Huntington Beach

DIRECTORS

Region 1
ANDREW MILLS, Eureka
Region 2
DEAN PRICE, Gridley-Biggs
Region 3
JEFF WEAVER, Sebastopol
Region 4
TOD SOCKMAN, Galt
Region 5
AARON EASTON, Marysville
Region 6
JIM LEAL, Newark
Region 7
SCOTT HELLER, Oakdale
Region 8
MAX BOSEL, Mountain View
Region 9
AMY CHRISTEY, Pacific Grove
Region 10
JOE GARZA, Reedley
Region 11
MARIO KRSTIC, Farmersville
Region 12
PAT WALSH, Lompoc
Region 13
JIM SMITH, Monterey Park
Region 14
ROB HANDY, Huntington Beach
Region 15
MARK GARCIA, Redlands
Region 16
FRANK McCOY, Oceanside
TOM CHAPLIN
Walnut Creek
DAN DeSMIDT
Belmont
CHRIS DEWEY
Ukiah
ERIC NUNEZ
Los Alamitos
SAL ROSANO, Retired
Santa Rosa
JENNIFER TEJADA
Emeryville
Associate Member
RON RAMAN, Captain
Pittsburg
Associate Member
RICK ARMENDARIZ, Assistant
Chief
Modesto
Associate Member
DERRICK ABELL, Captain
Manhattan Beach
LESLIE MCGILL, CAE
Executive Director
Ex-Officio

August 16, 2017

Catherine Z. Ysrael
Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
300 S. Spring St., Suite 1702
Los Angeles, CA 90013

Ms. Ysrael:

After review, the California Police Chiefs Association (CPCA) remains significantly concerned that the modified regulations – *as amended on August 1, 2017* – implementing the California Racial and Identity Profiling Act of 2015 (RIPA) continue beyond the scope of the enacting legislation. The new regulations present an excessive and almost impossible burden on supervisors and department administration and still do not adequately protect individual officer's identity. Although the modified regulations do help clarify and streamline the reporting process in several ways, the overall impact still creates a major burden on police resources that will adversely impact the safety of local communities.

CPCA and our members fully support actions to identify and eliminate racial and gender bias, and any other form of non-criminal profiling in our profession. Since the Governor signed Assembly Bill 953 (RIPA), CPCA has worked tirelessly within the regulatory process to provide constructive input during the development of these regulations. Our goal has always been to align the regulations with the legislative intent and spirit of RIPA, while minimizing the impact on effective and efficient policing practices. However, the modified regulations still do not satisfy that balancing test.

Unfortunately, the inclusion of two open narrative fields in the modified regulations create significant burdens on officers as well as their supervisor. For the officer, it is time consuming and duplicative to explain in narrative format the reason for the stop, which will already be reported under the "Reason for Stop" field. The exact same concern exists regarding the narrative field required to explain the basis for a search. Furthermore, field supervisors or other administrative staff for the reporting agency will now be required to review each narrative to ensure no personally identifying information is included before transmitting the data to Department of Justice (DOJ). The impossible burden that places on each agency is clear when considering the volume of anticipated individual reports. California Highway Patrol has 7,000 officers and makes 4 million stops each year, and Los Angeles Police Department has over 10,000 officers and makes millions of more contacts each year. Clearly, the time and effort expenditure required to review each individual report will likely prove an insurmountable drain on agency resources.

Additionally, while the estimated time for the officer in the field to fill out an individual report is purported to be two and a half minutes, that still equates hundreds of thousands of hours of officer time taken away from proactive policing every year when these regulations are fully implemented. It is critical that DOJ track the amount of time these new requirements ultimately take, both for the individual officer and the department, so that we accurately understand the total impact on law enforcement resources. In the end, any excessive and impractical burdens need to be addressed to ensure public safety resources are not diverted away from protecting our communities.

The modified regulations also fail to adequately protect the individual identify of each officer. By requiring a unique identifier for each officer, these regulations continue to risk disclosure of individual officers through court orders and public records requests. If the intent of the legislation was to utilize statewide data collected through these reports to identify possible racial bias in order to better guide our ongoing training, policies and procedures, then there is no purpose for identifying individual officers. We understand the need for DOJ to account for each report and to ensure compliance, but the method proposed by these regulations will expose individual officers. Due to the potential for an individual officer's reporting history to be used against them without context or adequate review, any reference to a unique identifier should be removed from the modified regulations to ensure the public anonymity of each reporting officer.

These regulations will arguably have the greatest single impact on policing in recent California history, and as such, must be given great consideration regarding all potential consequences. Providing a short 15-day comment period for the modified regulations did not allow for a meaningful conversation with statewide law enforcement groups, city officials, and business leaders regarding the adverse impacts the changes will have on our ability to provide public safety for the near 40 million residents of California. CPCA remains committed to finding a balance that allows us to capture the necessary data required by RIPA, but unfortunately the modified regulations still create unnecessary burdens to law enforcement without commensurate benefit the stated goals of RIPA. As such, CPCA is asking for a thoughtful consideration of the comments entered above, and equal consideration to the concerns of all law enforcement across the state.

Thank you,



Edward Medrano
President



Jonathan Feldman
Legislative Advocate



JOHN McMAHON, SHERIFF - CORONER



August 15, 2017

Catherine Z. Ysrael
Deputy Attorney General
Civil Rights Enforcement Section
California Office of the Attorney General
300 South Spring Street, First Floor
Los Angeles, CA 90013

Kathleen V. Radez
Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
P.O. Box 70550
Oakland, CA 94612

Ref: AB953 (Racial and Identity Profiling Act of 2015):

To whom it may concern,

The purpose of this letter is to reiterate my opposition to the continued expansion of the proposed AB953 regulations by the RIPA Board, who continue inserting additional AB953 data elements, values and, most concerning, two separate mandated 250 word open narrative fields.

Although the DOJ made some recent changes and attempted to minimize the reporting burden on officers by deleting or consolidating several data elements and/or values, these positive changes – which were discussed previously in person with both the Attorney General, his staff and Assembly Member Weber – have been rendered virtually meaningless by the subsequent new additions referenced above. Upon review of the Revised Proposed Regulations, Addendum to Initial Statement of Reason and the Economic and Fiscal Impact Statement (OAL Register Z-2016-1129-03), if approved by the Attorney General, they will establish an extraordinarily onerous reporting requirement that far exceeds the original intent, letter and spirit of the legislation.

Despite the recent assertions by the DOJ, this proposed reporting requirement will drastically reduce pro-active policing in California, provide an enormous disincentive for officers performing fundamental law enforcement activities that actually increase the safety of both

the officers and those persons being contacted, questioned, detained, searched and/or arrested. This in turn, will undoubtedly result in higher crime rates and decrease both public and officer safety. It appears most of the collective pleas by law enforcement executives - executives who are actually both practitioners and experts in the law enforcement profession - have mostly fallen on deaf ears. These same executives have repeatedly cautioned the DOJ and RIPA Board about the catastrophic impact these expanded reporting requirements will have on their individual agencies, as well as on public safety statewide. Instead, the DOJ relies upon the opinions of academic scholars, social science researchers and a whole host of other activist groups/individuals as the basis for establishing the proposed reporting regulations. Unfortunately, instead of deferring to the actual experts - law enforcement executives - the validity of their arguments and opinions are diminished by discounting them virtually in their entirety.

This discounting of law enforcement's collective opinions is evidenced in many of the explanations and rationalizations written by DOJ in their various reporting documents. For example, in the revised Economic and Fiscal Impact Statement report (page 2) the DOJ states: "The commenters did not, however, provide any evidence that prior data collection programs have resulted in any negative public safety outcomes." This statement is factually incorrect and entirely ignores many law enforcement executive's written and verbal statements, including my own, that provided numerous examples and "evidence" to the contrary. In fact, in my original letter of opposition sent to the DOJ and RIPA Board (January 24, 2017) I specifically reference the absolute devastation violent crime was having in the City of Chicago since implementing similar (yet drastically less comprehensive and time consuming) stop data reporting. Specifically, I included the following example:

*The City of Chicago is a great example of similar policies: In 2016, nearly **800 homicides and 4,300 shootings** were reported because of similar "stop" data reporting requirements, as well as the "Ferguson Effect," the Chicago Police Chief believes his officers (like many officers throughout the United States) are feeling "vilified" and "others have been slowed down as they learn new legal requirements for documenting street stops." (Chicago Sun Times, The Watchdogs, 12/24/16). Specifically, arrests in Chicago are down over 28 percent and "street stops" are down an astonishing 82 percent.*

These crime, arrest and proactive stop statistics are not simply conjecture or opinion, they can be verified by many independent sources - a simple internet search will yield similar statistics for a vast number of cities throughout the United states that have experienced similar negative outcomes as a result of stop data reporting requirements, federal consent decrees and other state legislative mandates. In California, cities like Los Angeles, Oakland and San Francisco provide clear "evidence" of similar outcomes to those being experienced in other major cities like Chicago and New York City. Despite these precipitous drops in proactive policing levels and contemporaneous increases in crime rates - especially violent crime like murder, robbery and assaults/shootings and stabbings - DOJ continues to reject any link between stop data collection and decreased public safety. The DOJ, along with their selected social science researches like Jennifer Eberhardt and, more recently, Emily Owens, undoubtedly will continue ignoring the reality of what is actually occurring because it does not fit their predisposed hypothesis about racial bias in policing and disparate arrest rates for

minorities. They continue to conclude there is no correlation between the two and hypothesize that disparate arrest rates are directly related to implicit and/or explicit bias in policing. They do this despite acknowledging that their research does not include rejecting the alternative (null) hypothesis – namely, that differing offender rates are the causative factor in disparate rates of arrest rather than bias in policing. Despite their exclusion of this critical benchmark, as well as several others (quantity, quality and location of driving), none of their previous research, specifically Eberhardt's study of the Oakland Police Department, proved conclusively or with complete certainty that racial bias was a primary causative factor in disparate stop and arrest rates among different racial groups.

A few months ago, my Department participated in the DOJ field test. As part of this field test, my deputies physically timed themselves with stop watches to determine the exact amount of time it took to complete each of the fourteen stops. The deputies were instructed to exclude any downtime as the result of being diverted away from the task of filling out each required form field. Based on this time-in-motion field test of DOJ's form, **it took our deputies an average of 5 minutes 44 seconds (344 seconds)** to complete a form. In the recent revision to the proposed regulations, DOJ indicated their assessment of how long it took each officer to complete a form was 2 minutes and 30 seconds (145 seconds). Recently, a high ranking member of the DOJ's Civil Rights Enforcement Section was quoted in an article published on August 4, 2017, by the Voice of San Diego as stating the field test "took two and a half minutes to complete the form, on average, but that was using a **rudimentary online survey.**" Rudimentary online survey? Shouldn't a more scientific time measurement tool been utilized to determine the most critical aspect of this field test – answering the essential question with a high level of specificity and accuracy, how long on average will it take to complete the proposed form?

Including two new open narrative fields in the proposed regulations and expanding them to 250 characters maximum will certainly have the direct effect of adding at minimum another 38 seconds (as determined by DOJ in the field test of 150 character maximum), and at maximum another full minute or more (62 seconds). Even assuming the DOJ's original estimate of 2 ½ minutes is correct, the true time impact for each report will be at least 3 ½ minutes (210 seconds), **which is 40% greater than what DOJ continues to assert for officer time.** As stated previously, it took the San Bernardino County Sheriff's Department deputies an average of 5 minutes and 44 seconds to complete one form. Applying the same 40% increase due to the 250 character maximum in each narrative form filed, **it is projected the actual time spent by our deputies filling out each form will be closer to eight minutes.**

Consequently, I urge the Attorney General to require the DOJ to stop minimizing the potential negative impacts of these regulations, to stop underestimating the true workload impacts to officer completion times, to stop miscalculating the amount of actual annual stops per officer, and to stop misrepresenting the true economic and fiscal impacts to the affected agencies, the state and small businesses as a result of reduced staffing levels (FTE's lost to time spent filling out forms) and increased crime rates – the two of which have been proven by the RAND Corporation study ("Hidden in Plain Sight, by Paul Heaton, 2010) to have a direct correlation to loss of business revenue. Continuing to assert, as the DOJ has done in its revised regulations and reports, that there is no significant economic costs on California businesses

and individuals is disingenuous to the general public and entirely ignores the reality that small businesses do not and will not thrive in communities ravaged by crime and policed by a law enforcement agency that is under staffed, overworked and demoralized due to legislative and political over-reach. The revised proposed AB953 regulations are clearly **major regulations**, with the associated costs exceeding \$50 million, as defined in Government Code section 11346.3c and Health and safety code section 57005. As a result, the DOJ should be required to comply with the law and submit a Standardized Regulatory Impact Assessment (SRIA).

Additional Items of Opposition:

999.226(a)(6) "Person Stopped Perceived to be LGBT" - new addition, added in response from the RIPA Board and other stakeholders (not law enforcement). *Additional reporting burden to officers.*

999.226(a)(7) "Perceived Age of Person Stopped" – revised to require officers to provide the "actual approximate perceived age of the person stopped." *These two words are not compatible. "Actual," by definition, cannot be "Approximate."*

999.226(a)(10)(A)(5) "Investigation to determine whether a person was truant." – new revision requiring that "any interaction in which a student is questioned to determine whether student is truant shall be reported as a stop." *This will actually result in SRO's not "questioning" kids who are possibly truant – simply because officers don't have the desire or time to trigger yet another report form. This is another example of imposing regulations that far exceed the definition of "stop" and are not consistent with the original statute.*

999.226(a)(10)(B) "Required Narrative Explanation for reason for Stop." – new addition, now requires officers for fill out an open form field, with **250 character maximum**, further explaining the reason for the stop. *This was added at the recommendation of the RIPA Board, academics and other stakeholders (not law enforcement). As outlined above, this narrative form is completely contrary to the original statute, as well as the written and verbal assurances by DOJ to law enforcement that the form would NOT have narratives because they recognized how time consuming they would be as compared to drop-downs.*

999.226(a)(12)(A)(8) "Firearm pointed at a person" – this replaces the previous language about "weapons removed from holster or brandished." However, the revised regulations now added "Firearm **pointed** at a person." *This is still very problematic especially during the service of search warrants, arrest warrants, and other high risk incidents where officers have their guns drawn. This revision will cause officers to avoid pointing their guns at people when, based on officer safety and training, they in fact, should be in order to protect themselves, their partners and others. Why? Because they will do whatever is necessary to avoid filling out a 5-8 minute form on an incident that otherwise would not have required a form. The result? Officer safety is compromised an officers are placed in addition danger of being killed and/or injured due to under-reacting because they are adverse to the bureaucratic paperwork imposed by so-called "experts" who have never actually performed the job.*

999.226(a)(12)(B)(2) **“Required brief Narrative explanation for Basis for Search.”** - new addition, now requires officers for fill out an open form field, with **250 character maximum**, further explaining the basis for the search. *The argument against this is the same as for the reason for Stop narrative.*

999.226(a)(15) **“Officer’s years of Experience.”** – new revision requiring officers to now “input their actual years of experience,” instead of selecting an age range. *This will further increase the likelihood that individual officers will be identified and compromise their and their family’s safety.*

999.227(a)(4) – new revision requiring when an agency that is subject to these requirements is assisting an agency is not, they are still required to report. *This begs the question of how an officer that did not make the decision to stop and/or search then determines the other primary officer’s state of mind, perception and rationale. This is entirely impractical and won’t work in real life. It also will inhibit officers from assisting other agencies in order to avoid burdensome reporting requirements on a case they did not even initiate.*

999.227(d)(2) and (3) **“Interactions that are reportable Only if the Officer takes Additional Specified Actions”** – these revisions apply to **interactions during search warrants, arrest warrants, house arrest, etc.** and includes, among several other things, if the officer **“handcuffs the person,” “points a firearm at the person.”** *Both of these triggering requirements, which apply to any person not subject of the warrant service, are completely impractical and will actually make these types of interactions less safe, exposing officers to higher levels of danger unnecessarily. Anyone inside a residence during a search warrant/arrest warrant will virtually always have an officer’s gun pointed at them and handcuffed until the entire house is rendered safe, all persons located within, and all persons searched for weapons. Consequently, these so-called “exceptions” are not exceptions at all and a form will be required on every person in a residence on every search/arrest warrant, probation/parole search, etc. performed. This is entirely unnecessary reporting burden that should be changed to reflect the true nature of what occurs during these already inherently dangerous law enforcement activities.*

*Additionally, on page 27 of the Addendum to Initial Statements of Reasons, the DOJ made the following statement: “Although this setting was listed in the original version, the triggering offenses have been amended to be limited to those listed above.” The triggering **“offenses.”** **Equating legitimate law enforcement activities and tactics like pointing their firearm at a person, handcuffing a person or using lawful force to arrest a person a “triggering offense” should be more correctly stated “triggering activity.”***

999.228 (e)(4) (B) – new addition to the data value **“Perceived or Known Disability.”** This new data value, added by the RIPA Board, now requires an officer to report if they “perceive (or know) the student stopped to be an individual with a disability for reasons related to **hyperactivity or impulsive behavior.”** *This addition is entirely absurd and, because it is based on perception, not fact, renders the vast majority of the student population in this category! Has the RIPA Board actually been to a High School campus recently? Teenagers, by the fact that they are teenagers, are hyperactive and prone to impulsive behavior!*

Workload and lost FTE Analysis:

A revised conservative estimate of the impact AB953 will have on the San Bernardino County Sheriff's Department, in terms of reduced available work hours per deputy is about 150,000 hours annually (**equivalent to the loss of potentially nearly 90 deputy positions, which is approximately 15 percent of current patrol staffing levels**). The effects on our agency would be devastating and dramatically compromise our ability to provide effective law enforcement services to the communities we are sworn to serve.

The officer workload calculations included in DOJ's revised Economic and Fiscal Impact Statement, especially as they were applied to Sheriff's Departments are completely erroneous and vastly underestimated. As outlined on page eight of the DOJ's economic/fiscal statement, the DOJ asserts the annual number of stops per officer, based on the Ventura County Sheriff's data of about 100,000 of their annual Calls for Service (CFS) triggering a report, is 201. In contrast, the San Bernardino County Sheriff's Department handles about 930,000 total CFS per year. Approximately 285,000 are Officer Initiated (Proactive) CFS and 650,000 are Dispatched CFS. Applying a conservative assumption that half of Dispatched CFS (325,000) would result in a triggering event requiring a report form, **it is estimated that our "stops per officer" would be 677.** (There are about 900 authorized deputy sheriff positions in field and specialized operations assignments).

Once these proposed regulations are finalized, the actual officer time and stops per officer will be the primary factors determining the true impact to public and officer safety. The time available for officers to engage in proactive patrol will either be no longer achievable or desirable, specifically because the reporting requirements are simply too time consuming, confusing, and onerous.

Respectfully,



John McMahon, Sheriff-Coroner
San Bernardino County Sheriff's Department
655 E. Third Street
San Bernardino, CA 92415
(909) 387-3671



August 16, 2017

Catherine Z. Ysrael
Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
300 S. Spring St., Suite 1702
Los Angeles, CA 90013

Kathleen V. Radez
Deputy Attorney General
California Department of Justice
Civil Rights Enforcement Section
1515 Clay Street, Suite 2000

Re: Additional Recommendations on the revised Stop Data Regulations under AB 953 and Collecting Data on Gender Identity and Sexual Orientation

Dear Ms. Ysrael and Ms. Radez,

As advocates from organizations advancing the rights of lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals, we are submitting additional recommendations regarding the revised STOP Data Regulations on the implementation of Assembly Bill No. 953, the Racial and Identity Profiling Act of 2015, specifically in regards to the collection of data based on gender identity and sexual orientation. We continue to believe that with successful implementation, AB 953 will be an important step towards eliminating discrimination based on gender identity and sexual orientation.

Overall, we appreciate the extent to which the regulations reflect many of our proposed suggestions for the collection of data specific to gender identity. To this end, we **strongly support** the addition in the revised regulations, under **§999.226, subd. (a)(6), "Person Stopped Perceived to be LGBT."** We believe that the inclusion of this data category is essential to addressing anti-LGBT bias and discrimination during police stops.

In addition, we would like to draw your attention to one textual change that we request be made to the revised regulations, as well as to reaffirm our prior requests for a robust training program.

1) Suggested change to the revised regulations under §999.226, subd. (a)(5)(A), “Perceived Gender of Person Stopped”

- **Change Male to Man/Boy**
- **Change Female to Woman/Girl**

Reasoning: We **strongly support** the inclusion of all the gender categories in the current regulations, and would simply encourage a textual edit to ensure that the categories are uniform. Data collection values should use terminology inclusive of both adults and youth/juveniles, and should be consistent across values. We **strongly support** the use of the terms Transgender Man/Boy and Transgender Woman/Girl, as the most respectful way to refer to people who are perceived to fit those categories. However, all data categories should reflect the reality that officers will encounter both adults and youth/juveniles, to reduce officer confusion in increase likelihood of accurate reporting. Further, using male and female versus man and woman relies on sex designation versus the perceived gender designation, and could create confusion with the transgender data categories.

2) Robust Data Collection:

While not explicitly addressed in the regulations, we strongly believe that to successfully implement these regulations, the following considerations must be considered:

- Any data collection roll-out, must be accompanied by a robust training program for peace officers on interacting with LGBTQ communities;
- That there must be consideration of privacy protections for vulnerable LGBTQ populations; and
- The roll-out of this program shall be accompanied by outreach and education to community members about the regulations and LGBTQ Californians’ rights when interacting with law enforcement.

Please let us know if you have any questions or would like to discuss any aspects of this letter. We look forward to serving as a resource as you develop the regulations.

Sincerely,

ACLU of California

Equality California

Los Angeles LGBT Center

Revised Proposed Regulations -- Comments

Page 2, 999.224(a) (11)(B)

Presumably this would include the State Police?

Pg. 3, 999.224(a)(16)

Given the fact that a person who is expelled or suspended is a student for "purposes of these regulations" how are we handling the student found on school premises after being expelled or suspended? Or found in the home during a stop?

Page 13, Reason for Stop

Shouldn't reporting information here include the reason why a person consenting to a police encounter is thereafter asked to consent to a search? Profiling could definitely occur at the point the officer asks for consent. Perhaps (B) on pg. 15 requires this information, however, it is not clear.

Pg. 18, "When reporting the 'Basis for the Search' ,,,

It seems to me that this might be a good place to place the requirement that the officer indicate why the consent was requested.

Pg. 23, (a) General Reporting Requirements

Suppose two "reporting agencies" are involved in a stop, but the "primary agency" arrives significantly later in time than the other. How do we avoid missing important data as a result?

Page 24, (10)

Does this regulation give the reporting agency a whole year to "correct errors"?

Pg. 26, (D)1

On the last line of that paragraph should there not be a "not" between "characteristics" and "is"?

Page 2

Pg. 28, (3)

Do we not wish to include "and non-students" between "Students" and "at a K-12 Public School"?

Also, are private and all charter schools covered by the definitions in 999.224?

Pg. 29, Do the references to "screening devices" refer to anything other than magnetometers? And if so, what are they?

Pg. 30, (A),1 Disability related to hyperactivity or impulsive behavior

These are by no means the only types of disability found in public schools. At least two, autism and epilepsy, can be extremely difficult to handle. I would like to elaborate on this at the next meeting.

Blank

Blank

Blank

Blank