ADDENDUM TO FINAL STATEMENT OF REASONS
PROPOSED REGULATIONS
Title 11. Law
Division 1. Attorney General
Chapter 19
Sections 999.224-999.229

The following comments were received via U.S. Postal Service or commercial carriers during the 45-day comment period but were inadvertently omitted from the rulemaking file due to a clerical error. The Department of Justice appreciates all of the comments received regarding these regulations and has added these comments to the rulemaking documents available online at https://oag.ca.gov/AB953/regs. As explained and specified below, these comments are substantially similarly to other comments received during the 45-day comment period and which were fully addressed at pages 9-11, 19-20, 31-34, 37-38, 41-42, 55-67 and 103-105 of the Final Statement of Reasons. None of the comments included in this addendum present any basis to revisit the final regulations approved by the Office of Administrative Law and filed with the Secretary of State on November 7, 2017. The comments contain no topics that were not considered or responded to during the rulemaking period. The effective date of the final regulations remains November 7, 2017.

Sacramento County Sheriff's Office (January 18, 2017). The commenter recommended that the definition of "stop" be revised to exclude calls for service and limit reporting to officer-initiated activities. These comments are substantially similar to those addressed at pages 9-11 and 19-20 of the Final Statement of Reasons (FSOR).

The commenter also objected to additional data elements beyond the statutory minimum, particularly data elements regarding use of force. The commenter estimated that the proposed regulations would require 15-30 minutes of officer time compared to a "scaled down version of the survey" limited to the statutory elements. According to the commenter, the additional time to complete the form coupled with the requirement that the form be completed by the end of shift would increase overtime costs and could delay response to calls for service from the community. These comments are substantially similar to those addressed at pages 41-42 and 57-67 of the FSOR.

The commenter requested that the data elements regarding the officer's age, race, and gender be removed from the regulations due to concerns about officer safety; however, neither the proposed nor final regulations require the collection of these data elements. Similar comments regarding the Department's decision not to include such demographic information and issues regarding officer safety are addressed at pages 31-32 and 37-38 of the FSOR.

Sonoma County Sheriff's Office (January 18, 2017). The commenter stated that the proposed regulations "are an overreach above and beyond the intended scope" of AB 953, and will negatively impact law enforcement service. The commenter stated that the lengthy questionnaire will deter deputies from making the contacts required to interact with the community, engage in proactive law enforcement, and would prompt officers to second guess their decisions to stop criminals. The commenter stated that the regulations will increase the workload on professional

staff, will negatively impact officer safety and increase criminal activity. These comments are substantially similar to those addressed at pages 31-32 and 57-67 of the FSOR.

The commenter also objected to the inclusion of officer specific information that could re-identify officers, compromise officer safety, and be misused by others. These comments are substantially similar to those addressed at pages 31-34 and 55-67 of the FSOR.

San Bernardino County Police Chiefs and Sheriff Association (January 23, 2017). The commenter stated that the additional data elements in the proposed regulations will be burdensome, reduce proactive policing in California and result in higher crime rates. The commenter objected to the inclusion of calls for service and other "routine law enforcement interaction" in the reporting requirements. The commenter further stated that the expansion of the definition of a stop is contrary to industry standard. The commenter added: "With all that has occurred after the passing of AB 109, Propositions 47, 57, and 64, implementing AB 953 in its new form will further encourage criminals and weaken the effectiveness of law enforcement across the State. Crime rates will continue to rise and our public's safety will be further compromised." These comments are substantially similar to those addressed at pages 9-11 and 57-67 of the FSOR.

San Bernardino County Sheriff's Office (January 24, 2017). The commenter stated that the regulations exceed the intended scope of AB 953. The commenter provided a "conservative estimate" that AB 953 will require over 200,000 hours annually of deputy time (equivalent to the loss of 131 deputy position, or approximately 22 percent of current patrol staffing), and included a one-page chart detailing this estimate.[1] These comments are substantially similar to those addressed at pages 57-67 and 103-105 of the FSOR.

The commenter also objected to the inclusion of calls for service and law enforcement activities other than traffic and pedestrian stops in the data reporting. The commenter stated that the definition of "stop" has never been defined to include calls for service and the expansion is contrary to industry standards. These comments are substantially similar to those addressed at pages 9-11 and 19-20 of the FSOR.

The commenter stated that the requirement that officers report "perceived" race, age and gender is not factual, accurate and reliable and that the actual information from the California driver's license should be used instead. These comments are substantially similar to those addressed at pages 57-67 of the FSOR. The commenter also objected to the lack of funding for training and technology requirements. These comments are substantially similar to those addressed at pages 57-67 of the FSOR.

[1] During a stakeholder meeting in April 2017, outside of any public comment period, the San Bernardino County Sheriff's Office provided the Department an additional chart further detailing the Sheriff's cost estimates to implement the regulations. After that meeting, the Department worked closely with the San Bernardino County Sheriff's Office, the California Police Chief's Association, and others to develop a field test that would assist the Department in calculating the costs of implementing the statute and regulations. Those cost estimates are fully set forth in the STD 399 and Revised STD 399 Addendum. The San Bernardino County Sheriff also provided public comment on the revised, and now operative version of the regulations, and these points were addressed at pages 103-105 of the FSOR. (See generally, responses to Comment 228.)

Finally, the commenter cited to homicides and shootings reported in Chicago in 2016—and the reduced rates of arrest and street stops—as "an inevitable consequence of misguided public safety policies" (including stop data reporting) "which have created a violent crime nightmare for the city." The commenter stated that AB 109 and Propositions 47, 57, and 64 will encourage criminals and weaken the effectiveness of law enforcement across the State and that crime rates will continue to rise and our public's safety will be further compromised. These comments are substantially similar to those addressed at pages 67 and 103-105 of the FSOR.

Sierra County Sheriff's Office (January 23, 2017) The commenter objected to the data elements for officer's years of experience and type of assignment because it could re-identify officers in court proceedings or elsewhere, even if redacted, and compromise officer safety. These comments are substantially similar to those addressed at pages 10-11, 31-34 and 55-56 of the FSOR.

The commenter objected to additional data elements beyond the statutory minimum and to the requirement that reporting be completed by the end of the officer's shift, stating that it will "increase the duration of interactions between peace officers and the public, thereby taxing . . . resources. . . ." The commenter stated that this reporting burden will prevent officers from responding to other calls and conducting routine patrols, it will be time consuming, it will expose them to additional risk by keeping them in potentially dangerous situations to complete reporting, and will negatively impact proactive policing. These comments are substantially similar to those addressed at pages 41-42 and 57-67 of the FSOR. The commenter further objected to the "massive training and technology costs for which no funds are provided by the state." These comments are substantially similar to those addressed at pages 57-67 of the FSOR.

Solano County Sheriff's Office (January 25, 2017). The commenter objected to the data elements for officer specific information because it could re-identify officers in court proceedings or elsewhere, even if redacted, and compromise officer safety. These comments are substantially similar to those addressed at pages 31-34 and 55-56 of the FSOR.

The commenters also objected to additional data elements beyond the statutory minimum and to the requirement that reporting be completed by the end of the officer's shift because it will increase officer interaction with the public thereby taxing resources. The commenter stated that this reporting burden will prevent officers from responding to other calls and conducting routine patrols, it will be time consuming, it will expose them to additional risk by keeping them in potentially dangerous situations to complete reporting, and will negatively impact proactive policing. These comments are substantially similar to those addressed at pages 41-42 and 57-67 of the FSOR.

The commenter further objected to the "massive training and technology costs for which no funds are provided by the state." These comments are substantially similar to those addressed at pages 57-67 of the FSOR.

SACRAMENTO COUNTY SHERIFF'S DEPARTMENT

Scott R. Jones
Sheriff

January 18, 2017

Deputy Attorney General
Catherine Z. Ysarel, Deputy Attorney General, Civil Rights Enforcement Section
California Office of the Attorney General
300 South Spring Street, First Floor, Los Angeles, CA 90013
Phone: (213) 897-2039 E-mail: AB953@doj.ca.gov

SUBJECT: DRAFT REGULATIONS FOR DATA REPORTING OF AB953, THE RACIAL PROFILING BILL

Dear Deputy Attorney General Ysarel:

I wish to express my concern over the proposed draft regulations for data reporting under AB953, the Racial and Identity Profiling Act of 2015.

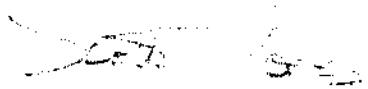
I would request the Attorney General reconsider the definition of a "stop" for the purposes of AB953 data collection to include only self-initiated activities conducted by an officer. Under the current proposed draft regulations, officers would be required to collect data on all detentions regardless if the detention was the result of a dispatched call for service or an officer's self-initiated activity such as a vehicle or pedestrian stop. Although the need for the Attorney General to collect data is understandable, the data collected from calls for service will not aid in determining if an officer is potentially racially profiling citizens. When an officer responds to a dispatched call for service, he/she has no preconceived idea of the potential suspect's race, sex, age, or gender. The officer is simply relying on information provided to him/her by the victim or witness. However, during self-initiated activities, officers utilize their personal knowledge and experience to decide who they stop, therefore rendering data collected from those stops as a more reliable indicator of racial profiling. This more reliable data would make it easier for agencies to make peer to peer comparisons and conduct early intervention if they suspect their officers are engaged in racial profiling.

The amount and type of questions contained in the proposed data collection survey are well beyond the statutory requirements of AB953. Some of the proposed questions include the officer's use of force during the encounter. The State's reporting requirements under AB71 already addresses the officer's use of force; therefore including it in the AB953 survey creates duplicative reports. Questions regarding the officer's age, race, and gender should be removed from the survey. The officer's information is irrelevant in regards to racial profiling but makes it easier for the officer to be identified by the public.

I am also concerned about the amount of time it would require officers to complete the proposed data collection survey. The additional 15 to 30 minutes it would take officers to complete the survey, could cause a delayed response to calls for service from the community. Due to the mandate that the survey be completed by the end of the officer's shift, each agency will incur increased overtime costs. A scaled down version of the survey which could be completed by the officer in the field in less than two minutes would be more amenable to a patrol environment. This would provide the Attorney General with the necessary data, and reduce personnel costs associated with the survey.

Law enforcement and our citizens agree that racial profiling has no place in policing or society. I respectfully request the Attorney General's Office to limit data collection to detentions resulting from self-initiated stops by the officer and to scale down the data collection survey.

Very Truly Yours,



Scott R. Jones, Sheriff

Sonoma County Sheriff's Office

STEVE FREITAS
Sheriff-Coroner

ROBERT GIORDANO
Assistant Sheriff
Law Enforcement Division

RANDALL WALKER
Assistant Sheriff
Detention Division

January 18, 2017

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

RE: AB953 Comments – Racial and Identity Profiling Act (RIPA) Proposed Regulations

Dear Catherine Ysrael,

The Sonoma County Sheriff's Office has reviewed AB953 and the proposed regulations the RIPA committee has published. In itself, AB953 places a significant burden on law enforcement officers and their professional staff across the state. However, the proposed additional data elements are an overreach above and beyond the intended scope of legislation as passed. The Sonoma County Sheriff's Office opposes the collection of these additional data elements and adamantly believes that this excessive data collection practice will negatively impact law enforcement service in the communities we serve. Specifically, in the areas of Community Orientated Policing practices, proactive law enforcement, and officer safety.

Law enforcement is expected and encouraged to participate in Community Oriented Policing practices. This practice means being actively engaged with our communities. Community Orientated Policing requires deputies to frequently interact with community members, stakeholders, and business professionals. This approach allows deputies to be seen by their community as being "human" and professional. Deputies develop relationships built on mutual trust and respect from these interactions, which often leads to deputies learning about problems occurring in the communities they protect. However, the requirements to complete lengthy questionnaires on most encounters as proposed by the committee will deter deputies from making these contacts. The required questionnaire will take valuable time away from public interaction activities.

The excessive and burdensome collection of data elements on contacts will seriously hamper the proactive law enforcement work that is done by our deputies, which has shown to cause an increase criminal activity[1]. I expect my deputies to be professional and contact as many people as possible within the law. This proactive approach leads to solving problems before they occur. I am confident

[1] One example can be seen at www.cbsnews.com/news/60-minutes-crisis-in-chicago-gun-violence/

that deputies will refrain from a proactive law enforcement approach because of the time it would take to complete the required data collection. Additionally, it would create an environment where law enforcement officers would second guess their decisions to stop criminals at the risk of being labeled. This is not in the best interest of the public and is not the intent of the passed legislation. Another factor to consider is the productivity of professional staff. The extra burden will cause workload impacts on records staff to ensure proper data collection and submission is completed in a timely manner.

Finally, I am concerned these regulations will unduly cause officer safety issues for my deputies. As productivity decreases more and more violent criminals will be walking the streets causing a greater risk of violent confrontations. The proposed regulations call for officer specific information that will undoubtedly lead to the public identification of my deputies. This public identification will likely be used by criminals, anti-police organizations, and attorneys to falsely judge the character of deputies who will be required to provide perceived information on the people they contact. This will most likely lead to allegations of racism or bias simply because a deputy is assigned to work an ethnic or minority community.

In summary, the proposed regulations will hamper law enforcement services for the communities we have sworn to protect. Additionally, Community Orientated Policing practices will be dramatically reduced and proactive work by deputies will diminish significantly. I request the Department of Justice to fully consider the impacts these proposed regulations will have on our community and encourage you to only rely on the data required by AB953.

Sincerely,

STEVE FREITAS
Sheriff-Coroner

San Bernardino County
Police Chiefs and Sheriff Association

January 23, 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 express The San Bernardino County Police Chiefs and Sheriff Association's strong opposition to the expansion of data fields required under AB953 by the RIPA Board. If approved, these added data fields will create a more arduous reporting requirement which surpasses the original intent of the legislation. This will, in turn, reduce proactive policing in California and indubitably result in higher crime rates to the detriment of the safety to both officers and the public.

The time spent by an officer completing the expanded data fields is precious time not spent protecting our schools, parks, and neighborhoods. The minutes spent by officers filling out the required form for each stop, on each involved person, will result in an increase in the response times to emergency and non-emergency Calls for Service. The effects on our agencies would compromise our ability to provide the expected law enforcement services to the communities we are sworn to serve.

When AB 953 was signed by the Governor, it expressly focused on revising the definition of "racial profiling" which was already prohibited by existing statute. The new language also required agencies to report data on "all stops, as defined, to include specified information." According to AB953, "Stop" is defined as "...any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property." Penal Code Section 13519.1(e) clarifies the context and specific actions that initiate the reporting requirements, noting "activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest." Professional law enforcement standards which are codified.

San Bernardino County
Police Chiefs and Sheriff Association
Ref: AB953 (Racial and Identity Profiling Act of 2015)

The original language of AB953 does not explicitly state that the reporting requirements apply to all law enforcement Calls for Service, such as 9-1-1 calls, non-emergency calls for service, citizen initiated contacts, etc. It appears obvious, the intent and spirit of the original law was to focus on officer-initiated traffic and pedestrian stops. A "Stop" as defined by decades of case law has never included general law enforcement duties such as routine calls for service, search and arrest warrant service, or parole / probation searches. The intentional expansion of the definition of a "Stop" is completely contrary to industry standard and decades of case law.

The inclusion of every Call for Service and routine law enforcement interaction with the public into the reporting requirements will inevitably intensify the negative impact of an already time consuming, staff intensive, technically challenging and fiscally burdensome mandate. These routine Calls for Service and other law enforcement interactions with the public (other than traffic and pedestrian stops) should not be included in the new reporting requirements.

With all that has occurred after the passing of AB109, Propositions 47, 57, and 64, implementing AB953 in its new form will further encourage criminals and weaken the effectiveness of law enforcement across the State. Crime rates will continue to rise and our public's safety will be further compromised.

It is our moral and ethical responsibility to voice our concern and opposition to the needless expansion of this new legislation as we continue to strive to meet our obligation to protect our citizenry and the brave men and women of law enforcement.

Respectfully,

Chief Karen C. Comstock
Chino Police Department
President, San Bernardino County Police Chiefs and Sheriff Association

Chief Brian Johnson
Upland Police Department
Vice President, San Bernardino County Police Chiefs and Sheriff Association

Chief Michelle Scray Brown
San Bernardino County Probation Department
Secretary/Treasurer, San Bernardino County Police Chiefs and Sheriff Association

Chief Albert S. Ramirez
Barstow Police Department

District Attorney Michael A. Ramos
San Bernardino County District Attorney's Office

Chief Investigator Michael Smith
San Bernardino County District Attorney's Office

Sheriff John McMahon
San Bernardino County Sheriff's Department

Chief Mark Owens
Colton Police Department

Chief Robert Ramsey
Fontana Police Department

Chief Robert Avels
Montclair Police Department

Chief Brad Kaylor
Ontario Police Department

Chief Mark A. Garcia
Redlands Police Department

Chief Randy De Anda
Rialto Police Department

Chief Jarrod Burguan
San Bernardino Police Department

Tim Standley

Sheriff-Coroner
County of Sierra
State of California

100 Courthouse Square/PO Box 66
Downieville CA 95936
(530)289-3700 Fax (530) 289-3318

January 23, 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
Email: AB953@doj.ca.gov

Dear Ms. Ysrael:

As the Racial and Identity Profiling Advisory (RIPA) Board continues its work to implement the stop data collection portions of Assembly Bill 953 (Chapter 466, Statutes of 2015), please consider my comments on the pending regulations designed to implement AB 953.

Reporting of Officer Characteristics

As law enforcement organizations have pointed out for months, I have significant concerns about mandating the collection of length of service and duty assignment data from peace officers as part of AB 953 compliance. Though I am grateful that the regulations do NOT require the collection of the officer's age, race, and gender, the regulations will almost assuredly result in the identification of specific officers in connection with particular interactions despite AB 953's statutory requirement that badge number or other unique identifying information of the peace officer not be made public.

Simply put, identifying officers endangers them physically and exposes them to liability. And while this concern may be most acute as it relates to smaller agencies with fewer officers, it also exists for larger agencies as a particular set of demographic identifiers could identify a single officer.

Further, the specification that agencies shall redact any personally identifiable information prior to transmitting the data is likely not enough to protect this information from reaching the public. While I would argue that duty assignment and length of service could be considered "personally identifiable information," the regulation is less than clear on whether an agency could or should redact those particular data, and when and how they should redact them if appropriate.

Additionally, I believe interested parties will be remain able to obtain these data via court discovery (criminal and civil), even if redacted from the reports.

Additional Data Elements

AB 953 requires the collection of a significant amount of data. The proposed implementing regulations seek to add numerous observations and data points to be gathered far beyond what the letter of the statute requires.

The regulations require the collection of the following observations or data points, despite the fact that the statute itself requires the collection of none of these things: the duration of a stop; the type of stop (vehicle, non-vehicle, or bicycle); whether the stop took place in a K-12 public school setting; the reason for the officer's presence at the scene of the stop; whether any of the following actions were taken by the officer at the stop: person removed from vehicle, field sobriety check, curbside detention, handcuffed, patrol car detention, use of canine in apprehension, weapon removed from holster or brandished, weapon discharged or used, and other use of force; whether the person stopped had limited English fluency or a pronounced accent; whether the person stopped had a known or perceived disability; the officer's years of experience; and the officer's type of assignment. Additionally, the regulations require all of the stop data, those both required by statute and additionally required by the regulations, to be completed and submitted to the reporting officer's agency by the end of the officer's shift.

In this regard, the regulations will necessarily increase the duration of interactions between peace officers and the public, thereby taxing law enforcement resources that have already been spread thin. Doing so also keeps peace officers from responding to other calls and conducting routine patrols while simultaneously exposing them to more risk by keeping them in potentially dangerous situations for longer periods of time (e.g. on the side of a busy roadway). The time that will be taken to comply with the gathering and reporting of these observations and data will severely impact law enforcement's capability to undertake proactive policing and will put our communities in peril.

Related Issues

As noted above, AB 953 and the implementing regulations will create significant increases in workload for law enforcement agencies. In addition to the concerns I have listed regarding officer privacy and safety, as well as the drain on officer time, these additional duties will saddle my office with massive training and technology costs for which no funds are provided by the state. As the materials accompanying the regulations note, costs to local and state government to implement AB 953 will be no less than $81 million in one-time costs. This does not include ongoing costs to our agencies and likely does not contemplate the additional data requirements imposed by the regulations. In terms of funding, at the present time, my only

recourse will be to utilize the lengthy and burdensome state mandate process to attempt to recoup the massive costs imposed upon my agency by AB 953 and its implementing regulations.

Conclusion

I implore you to consider these concerns, which are based on the desire to protect officer safety and privacy and ensure economy of law enforcement resources, and reject the troublesome concepts highlighted by this letter. The requirements of AB 953 are significant and onerous, even without the augmentations currently being considered. I urge the Department of Justice and the RIPA Board to be cautious in adding to the overly burdensome requirements already in place. There is no place for racial bias in policing, but the collection of the additional data elements described above will only endanger officers further. Thank you for your attention to these matters.

Sincerely,

Tim Standley
Sheriff, Sierra County

cc: The Honorable Edmund G. Brown, Jr.

JOHN McMAHON, SHERIFF - CORONER

January 24, 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 express my opposition to the expansion of additional AB953 data fields by the RIPA Board, which, if approved by the DOJ, will establish an extraordinarily onerous reporting requirement that far exceeds the original intent, letter and spirit of the legislation. This proposed reporting requirement will drastically reduce pro-active policing in California, in turn, undoubtedly resulting in higher crime rates and compromise both public and officer safety.

Every minute spent by an officer filling out the expanded data fields for "stops," is precious time not spent by officers proactively patrolling and protecting schools, parks, businesses and residential neighborhoods. The amount of "down-time" spent by officers spending 10-20 minutes filling out the required form on each stop, for each person, will inevitably result in a reduction in response times to emergency and non-emergency calls for service. A 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 over 200,000 hours annually (equivalent to the loss of potentially 131 deputy positions, which is approximately 22 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.

AB953, as originally drafted and passed by the legislature was expressly focused on revising the existing definition of "racial profiling," which was already prohibited by statute, to include

racial or identity profiling. The language in the new law also expressly required law enforcement agencies to annually report data on "all stops, as defined, to include specified information." AB953 defines a **"stop"** as, "...***any*** **detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer *conducts a search*, including a consensual search, of the person's body or property in the person's possession or control.**" The law (PC13519.4, subd. (e).) further clarifies both the context and specific activities that triggers the reporting requirements, noting that these "activities include, but are not limited to, ***traffic or pedestrian stops,*** **or** ***actions during a stop***, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest."

The original language of the law does not refer explicitly that the reporting requirements apply to all law enforcement Calls for Service (CFS), such as Emergency 9-1-1 CFS, Non-Emergency CFS, Citizen-Initiated CFS (flag-downs), etc. Clearly, the intent of the bill's author, differs from the perceived letter and spirit of the law – which, appears to focus solely on officer-initiated traffic stops and pedestrian stops. "Stop," as defined by the criminal justice system over decades of established case law has never included other law enforcement activities, such as routine Calls for Service, search warrant or arrest warrant service, probation searches or parole searches. The expansion of how a "stop" is defined is entirely contrary to the industry standard and decades of case law that defines what constitutes stops and detentions. In fact, CCR 999.224 states, "....**the Legislature's definition of certain terms in Section 12525.5, such as "stop,"** ***differ*** **from definitions found in state and federal jurisprudence."**

The inclusion of this new definition of "stops" now includes every Call for Service and routine interaction with the public into potentially triggering the proposed reporting requirements. This will exacerbate the inevitable negative impact of an already time-consuming, staff intensive and technically/fiscally challenging mandate. As such, these routine Calls for Service and other law enforcement activities (other than traffic and pedestrian stops) should not be included in the new reporting requirements as established under the heading "Specific Reporting Requirements for Certain Settings." (Notice of Proposed Rulemaking Action, December 9, 2016).

Additionally, this new law mandates the creation of a new DOJ data base, and the RIPA Commission has spent several months now adding even more required data fields than originally specified by AB953. However, because this "data" is based on the **"perception"** of the officer as to the subject's race, age and gender, **not the ACTUAL race, age and gender**, the entire "data" base will be filled with erroneous and speculative information – rather than information that is factual, accurate and reliable.

In August 2016, during our first AB953 meeting with the DOJ, members of my Executive Staff were informed that even when an officer has obtained a CDL from a person on a traffic/pedestrian stop, they can't use the information off the CDL, or any form of identification for that matter, as a basis for inputting the information into the data fields regarding the subject's, race, age, gender, etc. Instead, officers have to ignore this factual

information and instead rely on their first impression and "perception" as to the person's age, race, gender, identity, etc.

There are significant issues that deal with the mandated on-going training (Basic Academy, Advanced Officer, Remedial, etc.), technical issues with existing CAD systems, interface and compatibility issues with DOJ computer systems, consistency of reported data; how it is defined, as well as the fiscal issues regarding exorbitant, unfunded/unbudgeted costs (on-going and one-time) and potential lack of full and/or timely reimbursement to local agencies from the state.

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. This is an inevitable consequence of misguided public safety policies, which have created a violent crime nightmare for the city. This is especially true in the inner-city neighborhoods that are most in need of proactive policing and enforcement action to protect the innocent residents who are literally captives in their own homes for fear of being shot and/or killed.

All the while, here in California - on the heels of AB109, Propositions 47, 57 and 64 - as AB953 is implemented in its new form, criminals will be soon be further emboldened, effective law enforcement diminished, crime rates will continue to rise and public safety compromised to an unprecedented degree. It seems to me a moral and ethical obligation to voice opposition to the unwarranted expansion of this new legislation in whatever way is appropriate to fulfill our collective obligation to the safety of our officers and the citizens they bravely serve and protect.

The following chart (Attachment A) demonstrates the actual workload impact, associated loss of available officer work hours, increased response times to Calls for Service, and the overall fiscal impact as measured in one-time and on-going costs, as well as staffing costs to comply with public records act requests, increased citizen complaints, civil law suits and mandated auditing functions.

Respectfully,

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

SAN BERNARDINO COUNTY SHERIFF DEPARTMENT
AB 953 RACIAL AND IDENTITY PROFILING ACT
STAFFING & WORKLOAD IMPACT COST ANALYSIS

All CFS (1 FORM)

	Estimated # of Minutes for Deputy in Completing 1 Form		
	10 Minute	15 Minute	20 Minute
Dispatched CFS in Minutes	6,479,710	9,719,565	12,959,420
On-View CFS in Minutes	2,848,880	4,273,320	5,697,760
Total CFS in Minutes	9,328,600	13,992,900	18,657,200
Dispatched CFS in Hours	107,995	161,993	215,990
On-View CFS in Hours	47,481	71,222	94,963
Total CFS Hours	155,476	233,215	310,953
Dispatched CFS in FTEs	63	95	127
On-View CFS in FTEs	28	42	56
Total CFS in FTEs	91	137	183
Estimated Annual Cost per Distpatched CFS in FTEs	$ 10,836,000	$ 16,340,000	$ 21,844,000
Estimated Annual Cost per On- View CFS in FTEs	$ 4,816,000	$ 7,224,000	$ 9,632,000
Total Estimated Annual Cost	$ 15,652,000	$ 23,564,000	$ 31,476,000

$ 23,564,000

HALF CFS (1 FORM)

	Estimated # of Minutes for Deputy in Completing 1 Form		
	10 Minute	15 Minute	20 Minute
Dispatched CFS in Minutes	3,239,855	4,859,783	6,479,710
On-View CFS in Minutes	1,424,440	2,136,660	2,848,880
Total CFS in Minutes	4,664,295	6,996,443	9,328,590
Dispatched CFS in Hours	53,998	80,996	107,995
On-View CFS in Hours	23,741	35,611	47,481
Total CFS Hours	77,739	116,607	155,476
Dispatched CFS in FTEs	32	47	63
On-View CFS in FTEs	14	21	28
Total CFS in FTEs	46	68	91
Estimated Annual Cost per Distpatched CFS in FTEs	$ 5,504,000	$ 8,084,000	$ 10,836,000
Estimated Annual Cost per On- View CFS in FTEs	$ 2,408,000	$ 3,612,000	$ 4,816,000
Total Estimated Annual Cost	$ 7,912,000	$ 11,696,000	$ 15,652,000

HALF DISPATCHED CFS (1 FORM) & ALL ON-VIEW CFS (2 FORMS)

	Estimated # of Minutes for Deputy in Completing 1 Form		
	10 Minute	15 Minute	20 Minute
Dispatched CFS in Minutes	3,239,855	4,859,783	6,479,710
On-View CFS in Minutes	2,848,880	4,273,320	5,697,760
Total CFS in Minutes	6,088,735	9,133,103	12,177,470
Dispatched CFS in Hours	53,998	80,996	107,995
On-View CFS in Hours	47,481	71,222	94,963
Total CFS Hours	101,479	152,218	202,958
Dispatched CFS in FTEs (1/2 Dispatched CFS, 1 Form)	32	47	63
On-View CFS in FTEs (All On-View CFS, 2 Forms)	56	84	112
Total CFS in FTEs	88	131	175
Estimated Annual Cost per Distpatched CFS in FTEs	$ 5,504,000	$ 8,084,000	$ 10,836,000
Estimated Annual Cost per On- View CFS in FTEs	$ 9,632,000	$ 14,448,000	$ 19,264,000
Total Estimated Annual Cost	$ 15,136,000	$ 22,532,000	$ 30,100,000

Legend:

Dispatched CFS	647,971
On-View CFS	284,888
Total	932,859

* 2015 Annual Report Data

Minutes to Hour	60
Avail work hours per FTE	1,707
Ave. Dep/Det Annual Sal	$ 172,000.00

SOLANO COUNTY SHERIFF'S OFFICE
Thomas A. Ferrara, Sheriff-Coroner

530 Union Avenue, Ste. 100, Fairfield, CA 94533
(707) 784-7000

January 25, 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

Dear Ms. Ysrael:

As the Racial and Identity Profiling Advisory (RIPA) Board continues its work to implement the stop data collection portions of Assembly Bill 953 (Chapter 466, Statutes of 2015), please consider my comments on the pending regulations designed to implement AB 953.

Reporting of Officer Characteristics

As law enforcement organizations have pointed out for months, I have significant concerns about mandating the collection of length of service and duty assignment data from peace officers as part of AB 953 compliance. Though I am grateful that the regulations do NOT require the collection of the officer's age, race, and gender, the regulations will almost assuredly result in the identification of specific officers in connection with particular interactions despite AB 953's statutory requirement that badge number or other unique identifying information of the peace officer not be made public.

Simply put, identifying officers endangers them physically and exposes them to liability. And while this concern may be most acute as it relates to smaller agencies with fewer officers, it also exists for larger agencies as a particular set of demographic identifiers could identify a single officer.

Further, the specification that agencies shall redact any personally identifiable information prior to transmitting the data is likely not enough to protect this information from reaching the public. While I would argue that duty assignment and length of service could be considered "personally identifiable information," the regulation is less than clear on whether an agency could or should redact those particular data, and when and how they should redact them if appropriate. Additionally, I believe interested parties will be remain able to obtain these data via court discovery (criminal and civil), even if redacted from the reports.

Additional Data Elements

AB 953 requires the collection of a significant amount of data. The proposed implementing regulations seek to add numerous observations and data points to be gathered far beyond what the letter of the statute requires.

The regulations require the collection of the following observations or data points, despite the fact that the statute itself requires the collection of none of these things: the duration of a stop; the type of stop (vehicle, non-vehicle, or bicycle); whether the stop took place in a K-12 public school setting; the reason for the officer's presence at the scene of the stop; whether any of the following actions were taken by the officer at the stop: person removed from vehicle, field sobriety check, curbside detention, handcuffed, patrol car detention, use of canine in apprehension, weapon

removed from holster or brandished, weapon discharged or used, and other use of force; whether the person stopped had limited English fluency or a pronounced accent; whether the person stopped had a known or perceived disability; the officer's years of experience; and the officer's type of assignment. Additionally, the regulations require all of the stop data, those both required by statute and additionally required by the regulations, to be completed and submitted to the reporting officer's agency by the end of the officer's shift.

In this regard, the regulations will necessarily increase the duration of interactions between peace officers and the public, thereby taxing law enforcement resources that have already been spread thin. Doing so also keeps peace officers from responding to other calls and conducting routine patrols while simultaneously exposing them to more risk by keeping them in potentially dangerous situations for longer periods of time (e.g. on the side of a busy roadway). The time that will be taken to comply with the gathering and reporting of these observations and data will severely impact law enforcement's capability to undertake proactive policing and will put our communities in peril.

Related Issues

As noted above, AB 953 and the implementing regulations will create significant increases in workload for law enforcement agencies. In addition to the concerns I have listed regarding officer privacy and safety as well as the drain on officer time, these additional duties will saddle my office with massive training and technology costs for which no funds are provided by the state. As the materials accompanying the regulations note, costs to local and state government to implement AB 953 will be no less than $81 million in one-time costs. This does not include ongoing costs to our agencies and likely does not contemplate the additional data requirements imposed by the regulations. In terms of funding, at the present time, my only recourse will be to utilize the lengthy and burdensome state mandate process to attempt to recoup the massive costs imposed upon my agency by AB 953 and its implementing regulations.

Conclusion

I implore you to consider these concerns, which are based on the desire to protect officer safety and privacy and ensure economy of law enforcement resources, and reject the troublesome concepts highlighted by this letter. The requirements of AB 953 are significant and onerous, even without the augmentations currently being considered. I urge the Department of Justice and the RIPA Board to be cautious in adding to the overly burdensome requirements already in place. There is no place for racial bias in policing, but the collection of the additional data elements described above will only endanger officers further. Thank you for your attention to these matters.

Sincerely,

Thomas A. Ferrara
Sheriff-Coroner
Solano County

cc: The Honorable Edmund G. Brown, Jr.
All Members of the Racial and Identity Profiling Advisory Board
Diane Cummins, Department of Finance