

## **AB 953 Subcommittee – Definitions**

### **I. BACKGROUND**

This subcommittee will advise the Racial and Identity Profiling Advisory Board (Board) on recommendations it might make to the Attorney General’s Office regarding definitions that will be included in the regulations. AB 953 requires that the regulations the Attorney General issues regarding stop data “specify all data to be reported, and provide standards, definitions, and technical specifications . . .” (Gov. Code, § 12525.5, subd. (e).)

The objective to providing definitions in the regulations will be to clarify certain terms and requirements contained in AB 953. AB 953 itself contains two definitions:

“For purposes of this section, **"peace officer,"** as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions. "Peace officer," as used in this section, does not include probation officers and officers in a custodial setting.” (Gov. Code, § 12525.5, subd. (g)(1).)

“For purposes of this section, **"stop"** means 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.” (Gov. Code, § 12525.5, subd. (g)(2).)

The subcommittees may wish to consider whether it should recommend including additional definitions in the regulations, including definitions related to various Data Elements regarding the characteristics of a stop, including but not limited to the location of stop, type of location, type of stop, reason for presence at scene, reason for stop, and result of stop.

### **II. WHAT CONSTITUTES A “DETENTION” FOR PURPOSES OF AB 953?**

As noted above, Government Code section 12525.5’s definition of “stop” includes “detentions” and “searches,” including consensual searches of a person or person’s property within his/her possession or control.

In considering which interactions with officers should be deemed a “detention” subject to reporting under this statute, the subcommittee may wish to consider whether hypotheticals or examples will be useful in describing which interactions with individuals are subject to AB 953’s stop data reporting requirement.

### **III. ACTIONS TAKEN BY OFFICER DURING STOP:**

AB 953 requires the officer to report “Actions taken by the peace officer during the stop, including, but not limited to, the following:

(A) Whether the peace officer asked for consent to search the person, and, if so, whether consent was provided.

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

(C) Whether the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.” (Gov. Code, § 12525.5, subdivision (b)(7).)

A separate subcommittee is considering the Data Elements and Data Values proposed for reporting searches of persons and/or property and the seizure of property. This subcommittee may wish to consider how additional actions taken by officer, other than those discussed above, should be defined. In other words, should additional actions taken by officer also include any or all of these data values & where unclear, how should these values be defined:

1. Asked for identification
2. Asked to exit vehicle
3. Curbside detention
4. Handcuffed
5. Patrol car detention
6. Patdown (frisk)
7. Photographed individual stopped
8. Canine contact
9. Unholstered Weapon
  - i. Firearm
  - ii. Taser
  - iii. Other (check box or open field?)
10. Discharged Weapon
  - i. Firearm
  - ii. Taser
  - iii. Other (check box or open field?)
11. Other Use of Force (check box only or drop down?)
12. Encounter resulted in death of person stopped

Questions the subcommittee may wish to discuss concerning this topic include the following:

1. The pros and cons of these above-referenced possible Data Values.
2. Deleting or adding Data Values.

#### **IV. ACTIONS REGARDING WEAPONS AND USE OF FORCE AS DATA. VALUES FOR “ACTIONS TAKEN BY OFFICER DURING STOP”**

1. The subcommittee may wish to discuss Data Values that capture an officer’s use of force, including whether a weapon was unholstered and/or discharged, respectively. During that discussion the subcommittee may want to consider appropriate categories of weapons and the detail collected for that category. For example, the subcommittee may wish to consider what should constitute a “firearm” and what “other weapon” unholstered or discharged should include.
2. Discuss how “other use of force” might be defined for purposes of these regulations.

3. The Use of Force reporting required by AB 71 (Gov. Code, § 12525.2) defines “shooting” as:

“Shooting” refers to any discharge of a firearm during an interaction between a civilian and an officer, regardless of whether any person was injured. A firearm is defined as a weapon which fires a shot by the force of an explosion, e.g., all handguns, rifles, shotguns, and other such devices commonly referred to as firearms. Notable exceptions to this category are electronic control devices, stun guns, BB, pellet, air, gas-powered guns, or weapons that discharge rubber bullets or bean bags.”

Should the Use of Force Data Value for Actions Taken by Officer During Stop include any of these excluded categories?

## **V. CHARACTERISTICS OF STOP**

AB 953 requires that the Location of Stop, Reason for Stop, and Result of Stop be reported. The subcommittee may want to consider how to define these Data Elements, including the Data Values associated with each of them. The subcommittee may also want to consider how to define the proposed additional Data Element, Reason for Initial Presence at Scene of Stop, as compared to Reason for Stop, in addition to thinking through the precise Data Values associated with these Elements.