

**FINAL STATEMENT OF REASONS
PROPOSED REGULATIONS
Title 11. Law
Division 1. Attorney General
Chapter 19
Sections 999.224–999.229**

UPDATE TO THE INITIAL STATEMENT OF REASONS AND ADDENDUM

California’s Racial and Identity Profiling Act of 2015 (AB 953), effective January 1, 2016, succinctly explained the negative impacts of racial and identity profiling, which AB 953 and these proposed regulations seek to eliminate. The Legislature explained that “racial or identity profiling alienates people from law enforcement, hinders community policing efforts, and causes law enforcement to lose credibility and trust among the people whom law enforcement is sworn to protect and serve.” (Pen. Code, § 13519.4, subd. (d)(3).)

Government Code section 12525.5, subdivision (e), requires the Department of Justice (Department) to consult with a variety of stakeholders in drafting these regulations, including “the Racial and Identity Profiling Advisory (RIPA) Board . . . , federal, state, and local law enforcement agencies and community, professional, academic, research, and civil and human rights organizations.” As fully set forth in the Initial Statement of Reasons (ISOR) and the Addendum to the Initial Statement of Reasons (ISOR Addendum), the Department has done so, and the regulations are the result of informal and formal recommendations by these stakeholders, and considerable review and research of existing data collection programs in other jurisdictions. Among other things, the Department met with, held teleconferences, and/or engaged with stakeholders from a variety of agencies and organizations, including community and civil rights organizations that sponsored or supported AB 953; associations that represent law enforcement agencies throughout California; federal, state and local law enforcement agencies; professors and representatives from academic institutions and organizations, including those from within California and also those based in other states; representatives from the federal Bureau of Justice Statistics; and representatives from numerous civil rights, community and social and criminal justice organizations, including individuals representing the LGBT, immigrant rights, disability rights and youth rights communities, as well as members of various religious organizations.

In addition, the Department reviewed existing models for stop data collection from other jurisdictions, both within California and throughout the nation. The Department reviewed federal criminal justice statistics reporting practices, existing criminal justice statistics reporting requirements under California law including the requirements imposed by AB 71 with respect to use of force incidents. (See Gov. Code, § 12525.2.) The Department also reviewed the legislative history of AB 953, including various analyses by legislative committees.

In addition to the Department’s outreach to stakeholders and review of policies, ordinances, statutes, reports, and studies regarding stop data collection practices in California and other states, the Department also received several letters with recommendations from various civil rights and community rights organizations that sponsored or supported AB 953, before, during and after the public comment periods.

The Department solicited advice from the RIPA Board during multiple meetings, and its various subcommittees, which met throughout July, August, September and October 2016. Attorney General Becerra personally met with stakeholders from advocacy groups, academic researchers, and law enforcement to hear their recommendations on improvements and issues that should be considered in the Department's preparation of the regulations. In May 2017, the Department conducted a field test of proposed stop data elements to assist in understanding the practical effect of the regulations and to help evaluate the costs associated with different methods for collecting and reporting the data. The methodology used to obtain time estimates on completion of the stop data forms and how the cost estimates were calculated is set forth in detail in the Revised STD Form 399 and Addendum.

On December 9, 2016, the Department published proposed regulations regarding California's Racial and Identity Profiling Act of 2015. The Department heard public comment on the proposed regulations until January 27, 2017. During that time, the Department also held public hearings on January 12th (Los Angeles), January 18th (Oakland), and January 26th (Fresno). Oral comments on the proposed regulations were accepted at each of these hearings and transcribed by a certified court reporter. In addition, written comments were received by the Department throughout the public comment period, which closed on January 27, 2017. On August 1, 2017, the Department published the Notice of Availability of Modified Text of Proposed Regulations and Related Materials, making the regulations available for an additional 15-day public comment period.

After thoroughly considering the oral and written commentary from stakeholders, and reviewing stop data collection programs in other jurisdictions, the Department has finalized its proposed regulations, which will provide instructions to law enforcement agencies and their officers, as well as clarity regarding what data to report, and the logistics of how and when to report this data.

Corrections to the ISOR Addendum

A commenter noted that the final paragraph on page 27 of the ISOR Addendum contains a typographical error. That paragraph should read as follows:

The revised provision provides that interactions in such a setting is only reportable if the officer handcuffs or flex cuffs the person; points a firearm at the person; or discharges or uses a firearm, electronic control device, impact projectile, baton or other impact weapon, or chemical spray, or if a police canine bit/held the person. Although this setting was listed in the original version, the triggering ~~offenses~~ actions have been amended to be limited to those listed above.

The following should be added to the end of the third paragraph on page 2 of the ISOR Addendum (Rulemaking File, page 2378) regarding modifications to section 999.224, subdivision (a)(5):

As used here, the term "data dictionary" is a term of art in database management that refers to the documentation describing a database schema for technical users. Data dictionaries are standard components of technology projects in which new systems/databases are being developed. California's law enforcement agencies

are familiar with the use of data dictionaries in other criminal justice databases. (See, e.g., FBI, Crime Data Explorer dictionary and values, available at <https://crime-data-explorer.fr.cloud.gov/pdf/data-dictionary.pdf>.) In this case, the data dictionary developed by the Department of Justice's California Justice Information Services (CJIS) Division will provide a technical blueprint to law enforcement agencies who elect to build or modify in-house systems to collect and transmit stop data to ensure that those systems are able to "talk to" the CJIS database when the agency transmits the specific data elements provided in the regulations to the Department of Justice. For example, the data dictionary provided by the New York Police Department for its stop database provides that the "Date of Stop" shall be maintained under the variable label "datestop" in position "4" of the database and transmitted in the format "MM-DD-YYYY." See *NYPD Stop Question Frisk Database 2016*, available at https://www1.nyc.gov/assets/nypd/downloads/excel/analysis_and_planning/stop-question-frisk/2016-sqf-file-spec.xlsx.

The following should be added to the end of the fifth full paragraph on page 24 of the ISOR Addendum (Rulemaking File, page 2400) regarding modifications to section 999.227, subdivision (a)(10):

As used here, "error resolution process" is a term of art in database management, which refers to a common technical process imposed by the database manager to impose a uniform, standard mechanism for correction of submitted data to ensure compliance with the technical requirements of the database system; it does not refer to a substantive or qualitative review of the reported data. It will be used simply to obtain missing data. Law enforcement agencies are familiar with error resolution processes in place for a variety of databases maintained by the Department of Justice that require the submission of data. For example, an error resolution process would apply if an agency attempted to batch upload 6 months of data into the Department's system, but neglected to include one of the required data fields. In that case, the agency's database manager would receive an electronic notice of the error, and the data will be sent back for the agency to resolve and resubmit the corrected data as required by AB 953 and its implementing regulations.

The following should be added to the end of the sixth full paragraph on page 32 of the ISOR Addendum (Rulemaking File, page 2408) regarding modifications to section 999.229, subdivision (b):

"Error resolution process" is used here as a term of art in database management, as explained above.

Non-substantive and Grammatical Edits to the Final Text

Attachment A to this document sets forth errata made to the final text following the 15-day notice. As explained in Attachment A, these changes are "nonsubstantial or solely grammatical

in nature” (Gov. Code, § 11346.8(c)), and therefore do not require further notice or public comment. (See Cal. Code of Reg., tit. 1, § 40.)

REQUIRED DETERMINATIONS

I. LOCAL MANDATE DETERMINATION

The Department has determined that the proposed regulations do impose a reimbursable mandate on local government. City and county law enforcement agencies subject to the reporting requirements of Government Code section 12525.5 shall provide officers with the means to collect the additional data elements and data values set forth in these proposed regulations (in addition to the requirements set forth in Government Code section 12525.5 itself). They shall also obtain the necessary personnel and/or technology to report the required stop data to the Department as provided in proposed Section 999.228, subdivisions (a) and (b).

These provisions may require additional investments in technology and/or personnel time, as detailed in the Revised STD 399 and STD 399 Addendum. (See Rulemaking File, pages 2411-2437.)¹ The Department is developing a web-based application that agencies may use with minimal costs. Agencies that use this application will submit data directly to the Department and will not need to store the stop data on their systems. Reporting agencies that do not utilize the Department’s web-based application must also obtain electronic storage capacity to maintain their stop data records for three years, as provided in proposed Section 999.228, subdivision (h), and must obtain the means to transmit stop records to the Department, as provided in proposed Section 999.228, subdivision (b).

II. ALTERNATIVES DETERMINATION

The Department has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

III. NONDUPLICATION

The proposed regulation, sections 999.224, 999.225, 999.226, 999.227, 999.228, and 999.229, in some instances, duplicate state statutes which are cited as “authority” or “reference” for the proposed regulation. This duplication is necessary to satisfy the “clarity” standard of Government Code section 11349.1, subdivision (a)(3).

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING INITIAL PUBLIC COMMENT PERIOD (45-DAY COMMENTS)

The Department published the Notice of Proposed Rulemaking Action on December 9, 2016, and accepted public comments through January 27, 2017. All written comments received during

¹ All subsequent page references are to the Rulemaking File unless otherwise indicated.

this initial comment period (45-Day Comments) period are included in the rulemaking file at Tab C.

In addition, public hearings were held regarding the proposed regulations on January 12, 2017, in Los Angeles; January 18, 2017, in Oakland; and January 26, 2017, in Fresno. Transcripts of these public hearings are included in the rulemaking file at Tab D.

Summaries of the written comments, oral comments provided at the public hearings, and the Department's responses to them, are set forth below, and are organized by subject matter, i.e., in the order of the proposed regulations, beginning with Article 1. Following these comments, the Department summarizes and responds to general comments that are not directed toward specific text within the regulations.

A list of all written comments received (timely and untimely), as well as the oral comments provided at the public hearings, is included in the Table of Contents to the Rulemaking File. In addition, these comments are also referenced in an index attached to this document, which lists each comment by subject matter and in the order it is addressed in this document. (See Attachment B.)

I. COMMENTS REGARDING ARTICLE 1 [DEFINITIONS] (SECTION 999.224, AS ORIGINALLY PROPOSED)

1. 999.224, subd. (a)(3) [Custodial setting]

(a) Captain Eric Tennesen (Ventura County Sheriff's Office) commented that Government Code section 12525.5, subdivision (g)(1) appears to exempt from reporting stops by those deputies who are in a custody assignment, but noted that officers in the Sheriff's Office's custodial facilities routinely screen all people who visit inmates by requiring them to walk through a metal detector. If the metal detector is triggered, Captain Tennesen explained, the person is pulled aside, asked investigatory questions, and subject to additional screening with a handheld metal detector. Captain Tennesen commented: "Does this additional level of individualized screening trigger reporting?" (Comment 26, p. 1514; Comment 27, p. 1515.)

Response: No change has been made in response to this comment. Officers in a custodial setting—which, as defined, includes "correctional institutions, juvenile detention facilities, and jails"—are not subject to the reporting requirements of the regulations. Accordingly, interactions such as those provided above as an example are not reportable.

The Department has modified the proposed regulations to exclude from reporting interactions that take place in certain settings, including those that occur as a result of routine security screenings. Specifically, proposed Section 999.227, subdivision (c)(3), as revised, provides that the following interactions, among others, are not subject to the reporting requirements of the regulations:

Stops that occur during or as a result of routine security screenings required of all persons to enter a building or special event, including metal detector screenings, including any secondary searches that result from that screening, are not subject to the reporting requirements of this chapter.

(Final Text, p. 17)² [§ 999.227, subd. (c)(3)]; see ISOR Addendum, p. 2; Redlined Text, p. 1.) Accordingly, even if the example provided took place outside of a custodial setting, interactions that occur as a result of routine security screenings such as a metal detector, including secondary searches, would not be reportable.

(b) Captain Eric Tennesen. Captain Tennesen commented that custody deputies patrol the parking lot and visiting waiting area of custodial facilities, and often detain, question, search and arrest subjects. (Comment 26, p. 1514.) He noted that “[t]hese deputies frequently initiate consensual encounters and detentions in the parking lot, and even conduct traffic enforcement stops on the road leading to our jail.” (Comment 27, p. 1515.) He commented: “Does their definition as custodial officers exempt them from having to report any contacts? (*Ibid.*)”

Response: This comment is accepted. The Department has amended the definition of “Custodial setting” in proposed Section 999.224, subdivision (a)(3) to make it clear that the definition of custodial setting includes “parking lots and grounds within the perimeter of these enumerated facilities.” In addition, the Department has modified proposed Section 999.225, subdivision (c) to clarify that “[p]eace officers shall not report stops that occur in a custodial setting.” With respect to Captain Tennesen’s example of traffic stops made on roads leading toward a custodial facility, if that road is not within the perimeter of the facility, the officer is not in a “custodial setting” and is required to report the stop.

2. 999.224, subd. (a)(7) [Detention]

(a) A coalition of individuals and organizations³ that co-sponsored and supported the passage of AB 953 (collectively “ACLU et al.”), as well as the Peace Resource Center of San Diego, suggested that the definition of “detention” in proposed Section § 999.224, subdivision (a)(7) “should be strengthened to guard against narrow interpretations of the term.” (Comment 47,

² Unless otherwise indicated all references to the proposed regulations in this document are to the final text of the regulations, as modified following the correction of minor typographical errors on September 21, 2017 (referenced hereafter as “Final Text”).

³ The following individuals and organizations submitted Comment 47: ACLU of California; AIDS/HIV Health Alternatives; Alliance for Boys and Men of Color; A New PATH (Parents for Addiction Treatment & Healing); Anti-Recidivism Coalition; Asian Americans Advancing Justice – Asian Law Caucus; Asian Americans Advancing Justice – Los Angeles; Bend the Arc: A Jewish Partnership for Justice Southern California; CADRE (Community Asset Development Re-defining Education); Center for Neighborhood Leadership, Arizona; Central American Resource Center – LA; Children’s Defense Fund – California; Communities United for Restorative Youth Justice; Community Health Councils; Conservatives for Judicial Change; Council on American-Islamic Relations, California Chapter (CAIR-CA); Dignity in Schools Campaign; Drug Policy Alliance; Ella Baker Center; Equality California; Equal Justice Society; Faith In The Valley; Fathers and Families of San Joaquin; Felony Murder Elimination Project; Flip the Script – KPFK Radio; Healing Dialogue and Action; L.A.U.R.A. (Life After Uncivil Ruthless Acts Crime Victims/Survivors Support Group); Lawyers’ Committee for Civil Rights of the San Francisco Bay Area; Los Angeles LGBT Center; Mariposa House; Menlo House; National Center for Youth Law; National Compadre Network; National Juvenile Justice Network; PolicyLink; Public Advocates; Public Counsel; Racial Justice Now, Ohio; Sadler Healthcare; Santa Monica Coalition for Police Reform; Silicon Valley De-Bug; South Bay Packers Youth Football Organization; S.T.O.P. Police Violence Family and Community Coalition (Los Angeles); Urban Peace Institute; Western Pacific Re-Hab; White People for Black Lives; Wilks Law; Youth Justice Coalition, LA; Rabbi Neil Comess-Daniels, Beth Shir Shalom; and Rabbi Morley T. Feinstein, University Synagogue and Immediate Past President, Board of Rabbis of Southern California. (Comment 47, p. 1665-1666)

p. 1555 (ACLU et al.); Comment 65, p. 1600 (Peace Resource Center).) The commenters explained:

Although Section 999.224(a)(7) sufficiently defines the scope of the detention, an explanatory example may be useful to ensure that officers accurately and consistently capture reportable stop data. Specifically, an example should be added under the definition of ‘Detention’ to clarify the scope of interactions implicated by the term, including initial questioning by officers generally perceived by individuals as interactions where they are not free to leave.

(Comment 47, p. 1556; Comment 65, p. 1600.)

The commenters stated that, although the definition provided sufficiently defines the scope of the term “detention,” they “strongly recommend” the inclusion of a clarifying example as provided in Comment 47, p. 1556, and Comment 65, p. 1600.

Response: No changes have been made in response to these comments. As explained in the ISOR, the definition of “detention” is defined consistent with state and federal jurisprudence. (ISOR, p. 8.) The definition includes any situation in which the words or conduct of the officer would result in a reasonable person believing that they are not free to leave. The definition is included in these regulations to provide reporting agencies and officers with a single source of information defining the terms used in Government Code section 12525.5.

The proposed amendment would expand the definition of detention to encompass all situations in which an officer inquires about an individual’s presence or activities, regardless of whether a reasonable person would believe that he or she is not free to leave. Deviating from the accepted legal definition of “detention,” either to incorporate a subjective standard or to reach any situation in which an officer poses a question to an individual, would create confusion for reporting officers while expanding the scope of the legal definition of detention and likely result in inconsistent reporting.

3. 999.224, subd. (a)(11) [Reporting Agency]

(a) Peter Bibring (ACLU) expressed his support that the proposed definition of “peace officer” includes school police departments (proposed § 999.224, subd. (a)(11)). (Hearing Comment 89, p. 1687 [Los Angeles Hearing Transcript, p. 20].)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

(b) Disability Rights California recommended that the definition of “reporting agency” in proposed Section 999.224, subdivision (a)(11) be expanded to include “police and law enforcement agencies at state facilities operated by the Departments of Developmental Services and State Hospitals.” (Comment 68, p. 1615.) The commenter noted that “[e]xpressly including state facility law enforcement is consistent with AB 953’s definition of “peace officer,” citing Penal Code sections 830.3 and 830.28, subdivision (a). (*Ibid.*)

Response: No change has been made in response to this comment. AB 953 does not define “peace officer” to include the definitions provided in Penal Code sections 830.3 and 830.28, subdivision (a). Rather, Government Code section 12525.5, subdivision (a) provides that the reporting requirements apply only to those state and local agencies that employ “peace officers,” a term that Government Code section 12525.5, subdivision (g)(1) limits for purposes of reporting agencies “to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions,” excluding “probation officers and officers in a custodial setting.” (Gov. Code, § 12525.5, subd. (g)(1).)

Accordingly, the requirements of Section 12525.5 do not apply to peace officers who are employed by the Department of Developmental Services and State Hospitals.

However, any peace officer employed by a reporting agency, as that term is defined in proposed Section 999.224, subdivision (a)(11), and who conducts a stop at such a facility would be subject to the reporting requirements set forth in these regulations. (See Final Text, p. 4 [§ 999.225, subd. (d)].)

(c) Professor Jack Glaser from the University of California at Berkeley, offered a non-substantive grammatical edit to the definition of “reporting agency” in proposed Section 999.224, subdivision (a)(11)(A)(1), to make the definition easier to understand. (Comment 80, pp. 1646-1647.)

Response: This comment is accepted. The Department has amended the proposed definition of “reporting agency” in relevant part as follows: “‘Reporting agency’ includes any city or county law enforcement agency that employs peace officers, including officers who are contracted to work at other government agencies or private entities.” (See Final Text, p. 2 [§ 999.224, subd. (a)(11)(A)1].)

(d) Sergio Mendozarodriguez commented: “The proposed regulation appears to be for law enforcement agencies only. Why is this not applicable to other government agencies like DMV. As an example DMV has repeatedly used my name to correlate it to that of a criminal, solely based on similarity of names and date of birth. I would believe if my name was ‘John Smith’, this issue would not occur.” (Comment 14, p. 1490.)

Response: No change has been made in response to this comment. As noted above in response to subdivision (b) within this section of the FSOR, Government Code section 12525.5, subdivisions (a) and (g)(1) define the specific agencies and peace officers subject to these reporting requirements. Other governmental agencies, such as the Department of Motor Vehicles, are not included.

4. 999.224, subd. (a)(13) [Search]

(a) Peter Bibring (ACLU) supported the proposed definition of “search,” which includes frisks (prop. § 999.224, subd. (a)(13)). (Hearing Comment 89, pp. 1687-1688 [Los Angeles Hearing Transcript, p. 19].)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

(b) Michael Chase commented in support of the Department’s proposed definition of “search” to include consensual searches and frisks/pat-downs. (Hearing Comment 97, p. 1697-1698 [Oakland Hearing Transcript, pp. 10-13].)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

(c) California Rural Legal Assistance recommended that the definition of “search” be amended to expressly include real property (home, apartment, common area) and should not be limited to personal property or property under the control of the person stopped. (Comment 75, pp. 1634-1635.)

Response: No change has been made in response to this comment. Government Code section 12525.5, subdivision (g)(2) defines “stop” to include “any peace officer interaction 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.” However, as set forth in the ISOR Addendum, the words “under his or her” before the word “control” was added to that the definition and reads “search of a person’s body or property in the person’s possession or under his or her control.” The phrase “as defined in these regulations” was added following the term “consensual search.” These revisions were done for clarity and not for substantive reasons. The proposed regulation conforms to the definition provided in AB 953.

(d) Professor Jack Glaser commented on whether the definition of “search” should be amended to include vehicle searches and define that term (“e.g. peering in or physically entering vehicle?”). (Comment 80, pp. 1648-1649.)

Response: No change has been made in response to this comment. Additional detail is not necessary to define the term “property in the person’s possession or control.” In circumstances where a vehicle is involved in the stop, the regulations now provide the opportunity for additional detail not only by permitting the selection of additional data elements, but also because of the additional information that can be added in the explanatory field for “Basis for Search.”

5. 999.224, subd. (a)(14) [Stop]

(a) ACLU et al. and the Peace Resource Center of San Diego objected to the definition of “Stop” in proposed Section 999.224, subdivision (a)(14) and recommended that the proposed regulations be revised so that the definition of “Stop” read as explicitly stated in the statute to avoid any confusion that any search, consensual or not, is subject to reporting under the statute and regulations. (Comment 47, p. 1556; Comment 65, p. 1600.)

Response: No change has been made in response to these comments. The definition in proposed Section 999.226, subdivision (a)(13) explicitly includes the two terms set forth in Government Code section 12525.5, subdivision (g)(2): any detention, as defined in these proposed regulations, and any search, including a consensual search, as defined in these regulations. The proposed regulation conforms to AB 953’s definition of stop and will capture consensual searches, which are included in the definition of “search” and specifically a “consensual search” is defined as “a search that occurs with a person gives a peace officer consent or

permission to search the person or person's property. Consent can be given in writing or verbally, or may be implied by conduct." The Department believes that the definitions of "stop," "detention," "search" and "consensual search" make it clear that consensual and non-consensual searches are required to be reported as provided in the regulations.

(b) Los Angeles Police Department commented that the definition of "stop" is vague as well as "exceedingly broad" and could be read to include any interaction in which a search is conducted; the comment noted that this will "increase the number of required reports due to secondary searches conducted during security screenings prior to entry into public buildings." (Comment 54, p. 1580.)

Response: No change has been made in response to this comment with respect to the definition of "stop." The regulations conform to the definition of "stop" as defined in Government Code section 12525.5, subdivision (g)(2), which includes the reporting of consensual and non-consensual searches, as discussed in above in subdivision (a) of this section. However, the Department agrees with the comment concerning secondary searches conducted during security screenings, and has modified the text of the proposed regulations to exclude routine security screenings from reporting requirements. Specifically, proposed Section 999.227, subdivision (c)(3), as revised, provides that the following interactions, among others, are not subject to the reporting requirements of the regulations:

Stops that occur during or as a result of routine security screenings required of all persons to enter a building or special event, including metal detector screenings, including any secondary searches that result from that screening, are not subject to the reporting requirements of this chapter.

(Final Text, p. 17 [§ 999.227, subd. (c)(3)]; (See also ISOR Addendum, p. 2; Redlined Text, p. 1.)

(c) California Association of Highway Patrolmen commented that the proposed definition of "stop" would require reports on all California Highway Patrol (CHP) interactions, and additionally commented that the proposed regulations would require reports on all vehicle impounds, noting that the CHP impounds more than 132,000 vehicles per year, estimating that even if half are occupied vehicles, and that half of those has more than one occupant, reporting on those contacts would greatly impact the CHP's workload. (Comment 61, pp. 1589-1590.)

Response: No change has been made in response to this comment with respect to the definition of "stop." The regulations conform to the definition of "stop" as defined in Government Code section 12525.5, subdivision (g)(2).

With respect to the comment regarding vehicle impounds, it is not clear whether this comment is intended to refer to the definition of "stop" in proposed Section 999.224, subdivision (a)(14) (which defines the universe of interactions for which a reporting agency must collect data) or to the specific data value for "impound of vehicle" in proposed Section 999.226, subd. (a)(6)(C)(1) [basis for property seized]. To the extent the commenter is concerned that vehicle impounds might trigger additional reporting requirements for passengers, the Department agrees with the comment and has modified proposed Section 999.227, subdivision (b) to exclude "vehicle

impound” from this list of actions that will trigger reporting for passengers. (See Final Text, p. 17 [§ 999.227, subd. (b)(1)(B)]; ISOR Addendum, p. 25.)

(d) Butte County Sheriff’s Office commented: “The requirement that officers/deputies report the required data from non-discretionary activities (i.e. calls for service, search warrants, arrest warrants, probation searches, etc.) will skew the data and not aid in determining if an officer/deputy is engaging in biased policing.” (Comment 32, p. 1524.)

Response: No change has been made in response to this comment. The regulations conform to the definition of “stop” as defined in Government Code section 12525.5, subdivision (g)(2).

6. 999.224, subd. (a)(15) [Student]

(a) California Rural Legal Assistance recommended that the definition of “student” in proposed Section 999.224, subdivision (a)(15) be expanded to make clear that special education students in non-public school settings that are funded or paid for by public school districts are included, and to clarify that the definition encompasses those students who may receive special education services up until 22 years of age. The commenter also recommended including specific examples of students with disabilities, and provided two representative examples. (Comment 75, p. 1630.)

Response: This comment is accepted. The definition of “student” has been amended to clarify that the term “student” includes not only persons between the ages of 6 and 18 who are not otherwise exempt from compulsory education laws (which was in the original version), but also persons up to 22 years of age who are being provided special education and services, as provided in Education Code section 56026. The definition was also revised to include one of the examples provided by the commenter. (See Final Text, pp. 3-4 [§ 999.224, subd. (a)(16)]; ISOR Addendum, pp. 3-4.)

(b) Professor Jack Glaser commented on whether private or charter school students should be included in the definition of “student.” (Comment 80, pp. 1648-1649.)

Response: To the extent this comment is a recommendation to clarify the definition of “student,” that comment is accepted. The definition of “student” has been amended to provide further clarity, as explained above.

No change has been made in response to the comment that students who attend private or charter schools should be included in the definition of “student” for purposes of these regulations. This is because charter schools are subject to all laws establishing minimum age for public school attendance (see Educ. Code § 47610 subd. (c)), including Education Code section 48200; thus charter school students already included in the definition of student provide by the regulations. Private school students do not fall within the definition of “student” for purposes of these regulations and would be treated under the general reporting requirements.

7. 999.224, subd. (a)(17) [Weapon]

(a) California Rural Legal Assistance recommended that the definition of “weapon” in proposed Section 999.224, subdivision (a)(17) be expanded to include the use of water cannons or tear gas,

because, although one may think they are not generally used in individual stops, “they can be used in situations that began with a response to a reported incident rather a crowd control setting” (Comment 75, p. 1630.)

(b) Professor Jack Glaser asked whether the definition of “weapon” should include knives and other non-projectile weapons. (Comment 80, pp. 1648-1649.)

Response to (a) and (b): The Department has accepted these comments in part. As discussed in the ISOR Addendum, the definition of “weapon” set forth in proposed Section 999.224 has been deleted. (See ISOR Addendum, p. 5; Redlined Text, p. 4.) Also, for “actions taken by officer,” the data value “pepper spray or mace” in the original text has been amended to “chemical spray used (e.g., pepper spray, mace, or other chemical irritants),” which encapsulates “tear gas.” (Redlined Text, pp. 16-17; Final Text, pp. 10-11 [§ 999.226, subd. (a)(12)(A)].)

The Department did not add “water cannons” to “Actions Taken By Officers During Stop” which is where the list of specific type of weapons used, as modified, now appears. Likewise, the Department declined to include Professor Glaser’s recommendation of “knives and other non-projectile weapons” to the list of “Actions Taken By Officer During Stop” because officers typically do not carry or utilize knives in their interactions with the public during stops. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional data values were not necessary to include at this time.

8. Definition of “stop data”

Stephen Richards commented: “What is ‘stop data’?” (Comment 2, p. 1469.)

Response: This comment is accepted. The Department has modified proposed Section 999.224, subdivision (a) to add the following definition: “‘Stop data’ refers collectively to the data elements and data values that must be reported to the Department.” (Final Text, p. 3 [§ 999.224, subd. (a)(15)].)

II. COMMENTS REGARDING ARTICLE 2 [LAW ENFORCEMENT AGENCIES SUBJECT TO GOVERNMENT CODE § 12525.5] (SECTION 999.225, AS ORIGINALLY PROPOSED)

(a) Michael Chase offered a general comment in support of including off-duty and out-of-assignment officers in the reporting requirements (see Original Text, p. 4 [§ 999.225, subd. (c)]). (Hearing Comment 97, p. 1697 [Oakland Hearing Transcript, p. 12].)

(b) Peter Bibring (ACLU) similarly supported the proposed interpretation of Government Code § 12525.5 to apply “whenever they’re acting in their official capacity, and not just when they are on the job for an assignment agency.” (Hearing Comment 89, p. 1688 [Los Angeles Transcript, p. 21].)

Response to (a) and (b). No changes have been made in response to these comments. For the reasons set forth in the ISOR Addendum, the Department has modified proposed Section 999.225, subdivision (d) to delete the provision that these reporting requirements apply to off-

duty officers and to delete the examples pertaining to off-duty officers. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. As explained in the ISOR Addendum: “This amendment was made upon further review of the regulations because of the infrequent nature of such stops and the practical and logistical complications that may arise regarding the reporting by an officer who is off-duty. For example, an officer who is off-duty will be unable to complete the reporting requirement by the end of his or her shift, and may not have access to mobile or electronic devices, or other means of reporting the data electronically, as he or she would if on-duty.” (ISOR Addendum, p. 5.)

III. COMMENTS REGARDING ARTICLE 3 [DATA ELEMENTS TO BE REPORTED (SECTION 999.226, AS ORIGINALLY PROPOSED)]

A. Comments Related To Proposed Data Values And Data Elements

1. 999.226, subd. (a)(2)(C) [Duration of Stop]

(a) ACLU et al. and the Peace Resource Center of San Diego disagreed with the use of time ranges for the data element “duration of stop” and recommended that these values be replaced with a mandatory open-text field for the officer to complete by providing the estimated duration of the stop, in minutes. (Comment 47, p. 1556; Comment 65, p. 1600.)

(b) Rosa Aqeel (PolicyLink) commented that the original draft of the regulations did not account for accurate reporting of duration of the stop. Ms. Aqeel provided an example as to why the accuracy for this data value is necessary and stressed the importance of more precise collection of this information. (Hearing Comment 110, p. 1707 [Fresno Hearing Transcript, pp. 25-26].)

(c) Brandon Sturdivant (Hearing Comment 113, p. 1709 [Fresno Hearing Transcript, p. 33]) and Carolina Goodman (Comment 18, p. 1498) also recommended that the time ranges be replaced with an open field to type in the estimated duration of the stop. Professor Jack Glaser made the same recommendation, observing: “Continuous is vastly preferable. There will be a lot of meaningful variation within these intervals. Also solves the problem of unequal intervals, which is problematic for data analysis.” (Comment 80, pp. 1650-1651.)

(d) Krissy Powell (Comment 66, p. 1609) and Sean Garcia-Leys (Hearing Comment 95, p. 1693 [Los Angeles Hearing Transcript, pp. 42]) recommended adding a mandatory open narrative field if “over 60 minutes” is selected, allowing the officer to enter the exact time of the stop.

(e) Kim McGill (Youth Justice Coalition) (Hearing Comment 90, p. 1688 [Los Angeles Hearing Transcript, p. 24]) and Maritzza (last name unknown) (Youth Justice Coalition) (Hearing Comment 94, p. 1693 [Los Angeles Hearing Transcript, p. 41]) commented that the data category for duration of stop is particularly important, with Ms. McGill referencing information her organization gathered from Public Records Act requests for use-of-force data from the Los Angeles District Attorney. (Hearing Comment 90, p. 1688 [Los Angeles Hearing Transcript, pp. 23-25].)

(f) Vanessa Deleon commented: “And then the data values where it’s listed as timing. So where it’s 1 to 10 minutes, 11 to 20, those don’t capture necessary details with respect to like how long it lasted. So you’d be reevaluating those time limits.” (Hearing Comment 87, p. 1686 [Los Angeles Hearing Transcript, p. 14].)

Response to (a) through (f): These comments are accepted in part. The Department has modified the regulations because the originally proposed data values would not have provided sufficient information to analyze links between the length of a stop and any racial or identity profiling. The Department has amended the regulations for this provision (“Duration of Stop”) to require the officer to enter the approximate length of the stop in minutes in whole number increments. The reason for the amendment is to ensure that accurate information is captured, as opposed to a range of time, and to provide greater insight into the stop. (See Redlined Text, p. 6; Final Text, p. 5 [§ 999.226, subd. (a)(2)(C)]; ISOR Addendum, p. 6.)

2. 999.226, subd. (a)(3) [Location]

(a) Maritzza (last name unknown) (Youth Justice Coalition) (Hearing Comment 94, p. 1693 [Los Angeles Hearing Transcript, p. 42, ll. 14-17]) and Kim McGill (Youth Justice Coalition) (Hearing Comment 90, p. 1689 [Los Angeles Hearing Transcript, p. 27]) emphasized the importance of location as a data value.

Response: No changes have been made in response to this comment. The proposed regulations and Government Code section 12525.5, subdivision (b)(1) already include location as a required data element.

(b) ACLU et al. and Peace Resource Center of San Diego commented that the omission of descriptive data values to identify the type of location, and recommended adding several specific primary and secondary data values to this data element. The commenters specifically recommended that the proposed regulations be revised to add a new data element for “Description of Location of Stop,” with primary data values for “Vehicle Stop” and “Pedestrian Stop,” and multiple secondary data values within these two descriptions (e.g., “public street/sidewalk,” “government building,” “other,” etc.). They further recommended adding a requirement that an officer complete a mandatory open-text field when selecting the “Other” data value for “Pedestrian Stop.” (Comment 47, pp. 1556-1557; Comment 65, pp. 1600-1601.)

(c) Kena Cador (ACLU) (Hearing Comment 114, p. 1709 [Fresno Hearing Transcript, p. 35]) and Vanessa Deleon (Hearing Comment 87, p. 1686 [Los Angeles Hearing Transcript, p. 14]) similarly requested that data values be added for a description of the location, such as street, sidewalk, residence, commercial place or public transit, to provide context about where these stops are taking place

Response to (b) and (c): No change has been made in response to these comments. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional data elements were not necessary to include at this time.

(d) California Highway Patrol commented that geocoordinates may be of limited utility for freeway stops and suggested that “it may be more appropriate to add language to permit only the notation of the city or county of a vehicle stop, especially one initiated on a freeway, rather than a specific geographical coordinate.” (Comment 38, p. 1536.)

Response: This comment is accepted. The Department has amended the regulations at § 999.226, subdivision (a)(3) to eliminate the requirement that the officer report the geographic coordinates of a stop. Instead, as explained in the ISOR Addendum, this data element has been revised to require that the officer report one of the following options, in order of preference: block number and street name; closest intersection; or highway and closest highway exit. In addition, if none of those options apply, the officer may report a road marker, landmark, or other description. The officer must also report the name of the city where the stop occurred. (See Redlined Text, pp. 7-8; Final Text, p. 6 [§ 999.226, subd. (a)(3)]; ISOR Addendum, p. 6.)

3. 999.226, subd. (a)(4) [Reason for Presence at Scene of Stop]

(a) William Welsh submitted a general comment in support of this data element and in support of the Department’s decision (set forth in the ISOR) not to include a separate data value for officer-initiated contact because “Reason for presence at scene of stop and Reason for stop will already tell us whether stop is officer-initiated or not.” (Comment 11, p. 1482.)

(b) ACLU et al. and the Peace Resource Center of San Diego (Anne Barron) commented that the data values for “Reason for Presence at Scene of Stop” should be mutually exclusive and mutually exhaustive to ensure both accurate and consistent reporting and appropriate data analysis,” and therefore proposed nine additional primary data values and several sub-values for this data element. (Comment 47, p. 1557; Comment 65, p. 1601.) The commenters also recommended that an officer can only select one data value in response to this element, and made some recommendations regarding textual edits to this provision. (Comment 47, pp. 1557-1558; Comment 65, p. 1601-1602.) In addition, the commenters objected to the third example provided in Section 999.226, subd. (a)(5)(B) distinguishing “Reason for Presence at Scene” from “Reason for Search,” noting that the example actually presents two reportable interactions in this scenario—one with the driver and one with the passenger. (Comment 47, p. 1559; Comment 65, p. 1603.)

Response to (a) and (b): No changes have been made in response to these comments. However, in drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department determined that the data element for “Reason for Presence at Scene of Stop” was duplicative of other data elements and values so eliminated that data value altogether, along with the explanatory examples distinguishing “Reason for Presence at Scene” from “Reason for Stop.” (ISOR Addendum, pp. 11.) Instead the Department has added a data element entitled “Stop Made in Response to a Call for Service,” for the reasons set forth in the ISOR Addendum. (See Redlined Text, pp. 15-16; Final Text, p. 10 [§ 999.226, subd. (a)(11)]; ISOR Addendum, p. 11.) As a result of this data value being eliminated altogether, the commenters’ concerns with the third example are now moot.

(c) Professor Jack Glaser commented that the phrase “Call to service” should be a “Call for service” within an example “Reason for Presence at Scene of Stop” and that if the data value “other” was included, then it should have a narrative field for explanation. (Comment 80, pp. 1654-1655, citing prop. § 999.226, subd. (a)(4)(A)(8)(b).)

Response: No change has been made to the regulations based upon this comment. As explained in the ISOR Addendum at p. 11, the Department has deleted the data element for “Reason for Presence at Scene of Stop” (including the example referenced in this comment) replacing it instead with a data element for “Stop was in Response to Call for Service.” (Redlined Text, pp. 15-16; Final Text, p. 10 [§ 999.226, subd. (a)(11)].) In light of this revision, the recommended change is unnecessary.

(d) Los Angeles Police Department commented that: “The proposed regulations expand the ‘Reason for the Stop’ into two separate categories: ‘Reason for Presence at Scene of Stop’ and ‘Reason for Stop.’ In addition to other required data, the two sections in the proposed regulations delineate four different types of calls for service and nine different types of ‘reasonable suspicion.’ This significantly expands the amount of data required for each stop and is far beyond what is required by the legislation.” (Comment 54, p. 1579.)

Response: This comment is accepted in part. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department determined that the data element for “Reason for Presence at Scene of Stop” was duplicative of other data elements and values so eliminated that data value altogether. (ISOR Addendum, p. 11.) Instead the Department has added a data element entitled “Stop Made in Response to a Call for Service,” for the reasons set forth in the ISOR Addendum. (Final Text, p. 10 [§ 999.226, subd. (a)(11)]; Redlined Text, p. 16; ISOR Addendum, p. 11.)

4. 999.226, subd. (a)(5) [Reason for Stop]

(a) *Request for Mandatory Narrative.*

Numerous advocacy organizations and individual commenters recommended that the Department add a mandatory open-text field for the officer to describe the reason for stop. Specifically, the following commenters recommended a mandatory open-text field for reason for stop:

1. ACLU et al. (Comment 47, pp. 1555, 1558)
2. Peace Resource Center of San Diego (Comment 65, pp. 1598, 1602-1603)
3. Legal Services for Prisoners with Children (Comment 31, p. 1523)
4. Kena Cador (ACLU) (Hearing Comment 114, p. 1709 [Fresno Hearing Transcript, p. 35])
5. Peter Bibring (ACLU) (Hearing Comment 89, p. 1688 [Los Angeles Hearing Transcript, pp. 21-22])
6. Racial and Identity Profiling Advisory Board (Board Co-Chair Edward Medrano speaking for the RIPA Board) (Hearing Comment 101, p. 1703 [Fresno Hearing Transcript, p. 10])

7. Carolina Goodman (Comment 18, p. 1498)
8. Michael Chase (Hearing Comment 97, p. 1697 [Oakland Hearing Transcript, pp. 10-11])
9. Sameena Usman (Council on American-Islamic Relations) (Hearing Comment 98, pp. 1698-1699 [Oakland Hearing Transcript, pp. 15-19])
10. Vanessa Deleon (Hearing Comment 87, p. 1686 [Los Angeles Hearing Transcript, p. 14].)
11. William Welsh (Comment 11, p. 1482)
12. Kim McGill (Youth Justice Collation) (Hearing Comment 90, p. 1689 [Los Angeles Hearing Transcript, p. 23])
13. Kenneth Orr (Comment 7, p. 1475)

The commenters recommended a required narrative field for “Reason for Stop” because this data element allows officers to explain, in their own words, why they stopped the person(s), and will provide crucial context and information regarding the reason for the stop.

Legal Services for Prisoners with Children explained:

The purpose of AB953 is to be able to identify the officers who are acting on racial or other biases and to retrain them in order to stop their biases from resulting in discriminatory policing in the future. If the form that officers must fill out when they make a stop does not have open fields for officers to explain their reasons for stopping or searching a person, their biases can be hidden within a check box. (Comment 31, p. 1523.)

(b) Kenneth Orr recommended that the regulations be amended to require the officer to report on what the person did, or is suspected of doing, that prompted the contact. He explained: “I believe important to any analysis of police contact is the basis used for the stop/contact to begin with in addition to race, ethnicity, and even religion, if it is obvious, such as the use of a hijab, or other visible article of faith that might cause someone to feel they are being targeted.” (Comment 7, p. 1475.)

(c) Professor Jack Glaser (Comment 80, pp. 1656-1657) recommended an open field specifically for “other reasonable suspicion” (a sub value within the data value for “reasonable suspicion”), while Professor Jennifer Eberhardt (Comment 77, p. 1639), and Jonathan Mummolo (Comment 62, p. 1591) each recommended that the Department add a narrative field specifically for “reasonable suspicion.” Professor Eberhardt explained that it is “particularly problematic” to provide a data value for “other reasonable suspicion” without requiring a narrative field because researchers will be “left with no understanding at all of what triggered reasonable suspicion,” which would, in turn, “limit[] our ability to measure and track common situations.” (Comment 77, p. 1639.)

Response to (a) through (c): The Department has accepted these comments and has amended this data element to add a brief mandatory narrative field for the officer to explain, in his or her words, the reason for the stop. (See ISOR Addendum, pp. 13-14; Final Text, p. 10 [§ 999.226, subd. (a)(10)(B)].) In addition, if a search is conducted, the Department has added a brief mandatory narrative field for the officer to explain, in his or her words, the “Basis for Search.”

(ISOR Addendum, p. 18; Final Text, p. 12 [§ 999.226, subd. (a)(12)(B)(2)].) The Department has determined that the text fields for these two data values are necessary to satisfy the statutory requirement that the officer record the reason for stop and basis for search. As further discussed in the ISOR Addendum, these two narrative fields were also added in response to recommendations from the RIPA Board, academics, and other stakeholders. (ISOR Addendum, pp. 13-14, 18.)

In addition, the Department conducted a field test of proposed stop data elements as well as evaluated costs associated with different methods for collecting and reporting the data. The methodology used to obtain time estimates on completion of the stop data forms and how the cost estimates were calculated is set forth in detail in the Revised STD Form 399 and Addendum. Results of the field test showed a median completion time of approximately 2.5 minutes (145 seconds) per stop. The median time to complete the text field for “reason for stop” was 16.1 seconds; the median time to complete the text field for “basis for search” was 22.4 seconds.

(d) California Rural Legal Assistance recommended requiring officers to provide additional data when selecting the “probable cause to search” as a “Reason for Stop.” The additional data recommended to be added are 1) witness tip; 2) suspicious smell; 3) dog signaled during canine detection; 4) attempts to conceal object; and 5) other. (Comment 75, p. 1631.)

Response: No change has been made in response to this comment. The Department has revised the regulations to delete the data value “Probable cause to search” as a choice for “Reason for Stop” because probable cause to search requires a higher legal standard than reasonable suspicion, and this data value should be encompassed within either the subcategories set forth for the data value entitled, “Reasonable suspicion that the person was engaged in criminal activity,” or the data value, “Consensual encounter resulting in a search.” Because an officer will also have to explain the “Basis for Search” as part of this data collection, “Probable cause to search” did not provide additional analytic value as an option here. (See ISOR Addendum, p. 12, Redline Text, p. 14.) Therefore, with respect to the addition of these data values within “probable cause to search,” this comment is moot.

However, as discussed in above, the data element “Reason for Stop” has been modified to add a brief mandatory narrative field regarding the reason for the stop. (See ISOR Addendum, pp. 13-14; Final Text, p. 10 [proposed § 999.226, subd. (a)(10)(B)].) The Department believes that this revision adequately addresses the concerns of this commenter surrounding the need for additional information with respect to probable cause.

(e) ACLU et al. and Peace Resource Center of San Diego recommended that the secondary data values identified for “reasonable suspicion” also be added to “probable cause to arrest” and “probable cause to search.” The ACLU also recommended re-ordering the primary data values as they appear in this provision, so that “traffic violation” is the fifth data value, and not the first. (Comment 47, pp. 1558-1559; Comment 65, pp. 1602-1603.)

Response: No change has been made in response to these comments. The Department has revised the regulations to delete the data value “probable cause to arrest,” because it is now encompassed in the subcategory “officer witnessed commission of crime,” which is a new subcategory for the data value of “Reasonable Suspicion.” This amendment is designed to

streamline the choices from which an officer must elect in reporting “Reason for Stop.” (See ISOR Addendum, p. 12.) Similarly, as discussed above, “probable cause to search” as a choice for “Reason for Stop” has been deleted in its entirety because probable cause to search requires a higher legal standard than reasonable suspicion, and this data value should be encompassed within either the subcategories set forth for the data value entitled, “Reasonable suspicion that the person was engaged in criminal activity,” or the data value, “Consensual encounter resulting in a search.” Because an officer will also have to explain the “Basis for Search” as part of this data collection, “Probable cause to search” did not provide additional analytic value as an option here. (See ISOR Addendum, p. 12, Redlined Text, p.14; Final Text, p. 9 [§ 999.226, subd. (a)(10)].) The Department believes that these revisions adequately address the concerns of this commenter surrounding the need for additional information with respect to reasonable suspicion and probable cause to arrest.

With respect to the comments concerning the reordering of the data values for “Reason for Stop,” no change has been made in response to these comments. The Department believes that the current order and flow of the data elements and data values will adequately capture the information necessary to evaluate this information as it relates to racial and identity profiling.

(f) Professor Jack Glaser recommended that the data value for “Consensual encounter resulting in consensual search” for the data element “Reason for Stop” be amended to state either that the proposed data value for “consensual encounter resulting in a consensual search” should be selected “if and only if a consensual encounter results in a consensual search” or that “even if a consensual encounter results in a consensual search.” (Comment 80, pp. 1656-1657.)

Response: This comment is accepted. The Department has amended this provision in relevant part according to the commenter’s first suggestion: “The officer shall select this data value if and only if a consensual encounter results in a consensual search.” (Final Text, p. 10 [§ 999.226, subd. (a)(10)(A)6].)

(g) Los Angeles Police Department commented that: “The proposed regulations expand the ‘Reason for the Stop’ into two separate categories: ‘Reason for Presence at Scene of Stop’ and ‘Reason for Stop.’ In addition to other required data, the two sections in the proposed regulations delineate four different types of calls for service and nine different types of ‘reasonable suspicion.’ This significantly expands the amount of data required for each stop and is far beyond what is required by the legislation.” (Comment 54, p. 1579.)

Response: This comment is accepted in part. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial or identity profiling. The Department has determined that the additional data values within the element “Reason for Stop” are necessary to fulfill the intent of AB 953. However, as noted above, the Department has revised the regulations to delete the data value “probable cause to arrest,” because it is now encompassed in the subcategory “officer witnessed commission of crime,” which is a new subcategory for the data value of “Reasonable Suspicion.” This amendment is designed to streamline the choices from which an officer must elect in determining Reason for Stop. (See ISOR Addendum, p. 12.) Similarly, as discussed above, “probable cause to search” as a choice for “Reason for Stop” has been deleted in its entirety because probable cause to search requires

a higher legal standard than reasonable suspicion, and this data value should be encompassed within either the subcategories set forth for the data value entitled, “Reasonable suspicion that the person was engaged in criminal activity,” or the data value, “Consensual encounter resulting in a search.” With respect to the commenters concern that the terms are duplicative, the Department has determined that the data element for “Reason for Presence at Scene of Stop” was duplicative of other data elements and values so eliminated that data value altogether. (ISOR Addendum, p. 11.) Instead the Department has added a data element entitled “Stop Made in Response to a Call for Service,” for the reasons set forth in the ISOR Addendum. (See Redlined Text, p. 16; Final Text, p. 10 [§ 999.226, subd. (a)(11)]; ISOR Addendum, p. 11.) The Department believes these revisions comply with AB 953 and address the commenter’s concern.

5. 999.226, subd. (a)(6) [Actions Taken by Officer During Stop]

(a) ACLU et al. and the Peace Resource Center of San Diego recommended a number of revisions related to the proposed data values for “Actions Taken by Officer During Stop.” (Comment 47, p. 1560; Comment 65, pp. 1603-1604.) These are summarized as follows:

- Revise “Handcuffed” to read “Handcuffed, zip tied or otherwise restrained,” clarifying that zip ties must also be reported;
- Remove “in apprehension” from “Use of canine,” so that this data value can capture when an officer uses a canine for a search (e.g., looking for drugs);
- Require a mandatory open-text field for “Other use of force,” where officers can briefly describe the use of force employed;
- Add “Field sobriety or drug test” as a data value;
- Add “Other agency called to scene” as a data value, and include a mandatory open-text field for the officer to specify which agency was called to the scene;
- Add “Unbuttoning the holster or grabbing the weapon” as a data value for instances where an officer does not remove or brandish a weapon but takes actions consistent with a threat of use or brandishing a weapon, because such actions are intimidating and threatening to an individual and significantly change the nature of the interaction; and
- Add “Completion of field interview card or other investigatory documentation.” (Comment 47, pp. 1560-1561.)

(b) Kena Cador (ACLU) referenced the ACLU’s written comments and specifically noted the addition of data values for “agency called to the scene” and “unbuttoning the holster or grabbing the weapon.” (Hearing Comment 114, p. 1709 [Fresno Hearing Transcript, pp. 34-35].)

Response to (a) and (b): These comments are accepted in part. (See Redlined Text, pp. 16-17; Final Text, pp. 10-11 [§ 999.226, subd. (a)(12)(A)].) The ISOR Addendum details which data values have been revised, and the basis for doing so. (ISOR Addendum, pp. 16-17.)

(c) Krissy Powell recommended that a new data element be added to record whether there was consent to stop and to search and seizure. (Comment 66, p. 1609.)

Response: This comment is accepted. Section 996.226, subd. (a)(12)(A)(17) was modified non-substantively to provide an additional check box to indicate if consent was not given. This was

done for clarity, to ensure that officers indicate affirmatively whether or not consent was given, if consent was requested. Section 996.226, subd. (a)(12)(A)(18) was amended for clarity by adding an explanatory sentence to ensure that officers understand that this data value should be selected even if the search was consensual. Section 996.226, subd. (a)(12)(A)(19) was modified non-substantively to provide an additional check box to indicate if consent was not given. This was done for clarity, to ensure that officers indicate affirmatively whether or not consent was given, if consent was requested. (See ISOR Addendum at p. 17.)

(d) Professor Jack Glaser recommended that the proposed data value “person removed from vehicle by order or physical contact” be broken into two separate values to differentiate between removal by order versus physical contact. (Comment 80, pp. 1658-1659.)

Response: This comment is accepted. As discussed in the ISOR Addendum, the previous data value for “person removed from vehicle by order or physical contact” was separated into two choices: “removed from vehicle by order” and “removed from vehicle by physical contact.” This amendment was made in response to comments and because the experience of being verbally ordered from a car and being physically removed from a car are sufficiently different to require two separate entries. (See Redlined Text, p. 16; Final Text, p. 10 [§ 999.226, subd. (a)(12)(A)(1)-(2); ISOR Addendum, p. 15.]

(e) Professor Jack Glaser commented on whether the reference to “bb guns, pellet guns, air guns, [or] gas-powered guns” as subcategories for the data values “weapon removed from holster or brandished” and “weapon was discharged or used” under the data element for “Actions Taken by Officer During Stop” were drafting errors because officers don’t use these types of weapons. (Comment 80, pp. 1658-1659.)

Response: This comment is accepted. As discussed in the ISOR Addendum (see pp. 15-16), these data values have been revised substantially. Among other edits, the terms referenced have been removed for the reasons stated by the commenter.

(f) Professor Jack Glaser commented on whether the data values of “Search of person was conducted” and “Search of property was conducted” for the data element “Actions Taken by Officer During Stop” were “meant to capture when non-consent searches (i.e., probable cause searches) are conducted as well?” (Comment 80, pp. 1660-1661.)

Response: This comment is accepted. The Department has revised these data elements to add clarifying language that these data values “should be selected if a search . . . was conducted, regardless of whether the officer asked for or received consent to search the person.” (Redlined Text, pp. 17-18; Final Text, p. 11 [§ 999.226, subd. (a)(12)(A)(18), (20)].)

(g) Professor Jack Glaser commented on whether the data value “none of the above” in “Actions Taken During Stop” (proposed § 999.226(a)(6)(A)(15)) is necessary with respect to actions taken by the officer, and whether there should be an “other” category with a narrative field. (Comment 80, pp. 1660-1661.)

Response: No change has been made in response to this comment. With respect to the data value for “none of the above,” that data value is intended to require officers to affirmatively note that none of the listed actions were taken if that is the case in a particular stop interaction. The

Department has revised this data value to clarify that “None” should be selected only if none of the enumerated data values apply and that, if “None” is selected, no other data values can be selected. (Redlined Text, p. 18; Final Text, p. 12 [§ 999.226, subd. (a)(12)(A)(23)].)

In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. Currently, there are 23 data values to select from in this category, which sufficiently captures the most relevant and probable interactions within this category, and, as such, the Department has determined that adding a data value for “other” with a narrative field is not necessary to include at this time.

6. 999.226, subd. (a)(6)(B)(1) [Basis for Search]

(a) Professor Jack Glaser recommended that “officer safety” be amended to “safety of officer and/or others in vicinity” to track the *Terry* standard for a pat down. (Comment 80, pp. 1660-1661, referencing Original Text, p. 11.)

Response: The Department has accepted this comment. The data value or “Basis of search” has been revised to “officer safety/safety of others” for those reasons stated by the commenter. (Redlined Text, p. 18; Final Text, p. 12 [§ 999.226, subd. (a)(12)(B)1.b].)

(b) Legal Services for Prisoners with Children (LSPC) (Comment 31, p. 1523), the ACLU et al. (Comment 47, pp. 1555, 1561), the Peace Resource Center of San Diego (Comment 65, pp. 1598, 1604-1605), Professor Jennifer Eberhardt (Comment 77, p. 1640), Michael Chase (Hearing Comment 97, p. 1697-1698 [Oakland Hearing Transcript, pp. 10-13]), Kena Cador (ACLU) (Hearing Comment 114, p. 1709 [Fresno Hearing Transcript, p. 35]), and the Racial and Identity Profiling Advisory Board (Board Co-Chair Edward Medrano speaking for the RIPA Board) (Hearing Comment 101, p. 1703 [Fresno Hearing Transcript, p. 10]) recommended a mandatory narrative field for “Basis for Search.” For example, LSPC explained that a narrative field for basis for search (and reason or stop) is necessary because “basis can be hidden within a check box,” which would “thwart the purpose of AB953 by obscuring the biases this law is intended to bring to the surface.” (Comment 31, p. 1523.)

Response: This comment is accepted. The Department has amended this data element to add a brief mandatory narrative field for the officer to explain, in his or her words, the “Basis for Search.” (See ISOR Addendum, p. 18; Final Text, p. 12 [§ 999.226, subd. (a)(12)(B)2].) The Department has also amended this data element to add a brief mandatory narrative field for the officer to explain, in his or her words, the reason for the stop. (See ISOR Addendum, pp. 13-14; Final Text, p. 10 [§ 999.226, subd. (a)(10)(B)].) The Department has determined that the text fields for these two data values are necessary to satisfy the statutory requirement that the officer record the reason for stop and basis for search. As further discussed in the ISOR Addendum, these two narrative fields were also added in response to recommendations from the RIPA Board, academics, and other stakeholders. (ISOR Addendum, pp. 13-14, 18.)

In addition, the Department conducted a field test of proposed stop data elements as well as evaluated costs associated with different methods for collecting and reporting the data. The methodology used to obtain time estimates on completion of the stop data forms and how the cost

estimates were calculated is set forth in detail in the Revised STD Form 399 and Addendum. Results of the field test showed a median completion time of approximately 2.5 minutes (145 seconds) per stop. The median time to complete the text field for “reason for stop” was 16.1 seconds; the median time to complete the text field for “basis for search” was 22.4 seconds.

(c) ACLU et al. and the Peace Resource Center of San Diego commented that two of the data values provided for “basis for search”—“officer safety” and “exigent circumstances/emergency”—provide an “insufficient legal basis for a search,” and further noted that “the presence of these choices further underscores the need for an open-text field to allow officers to explain the basis for safety concerns or exigency.” They also recommended that a data value of “other basis” be added as a choice for “Basis for Search.” (Comment 47, p. 1561; comment 65, pp. 1604-1605.)

Response: No change has been made in response to these comments. “Officer safety” and “exigent circumstances/emergency” may provide a legally sufficient basis for a limited pat-down search of a person’s outer clothing. The regulations include a pat-down search within the definition of “search” for the purposes of this stop data collection. (See Final Text, p. 3 [§ 999.224, subd. (a)(13)].) In addition, the regulations have been revised to include a mandatory open-text field for officers to detail the basis for the search. (Final Text, p. 12 [§ 999.226, subd. (a)(12)(B)2].) The Department believes that the addition of the required mandatory open-text field will adequately capture the information necessary to evaluate this information as it relates to racial and identity profiling.

7. 999.226, subd. (a)(6)(B)(2) [Contraband or Evidence Discovered]

(a) Professor Jack Glaser recommended that officers be required to specify the particular type of property seized when selecting the proposed data values “weapon,” “drugs/narcotics,” “other contraband,” and “other evidence” (Comment 80, pp. 1662-1663.)

Response: No change has been made in response to this comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. Therefore, the Department has determined that these additional data elements were not necessary to include at this time.

(b) Professor Jack Glaser commented with respect to the proposed data values for “cell phone,”: “Why is this noteworthy. Almost everyone carries a cell phone.” (Comment 80, pp. 1662-1663.)

Response: No change has been made in response to this comment. This box will only be checked if an officer discovers a cell phone or electronic device that constitutes either “contraband” or “other evidence,” in the circumstances of that particular encounter, and not simply a cell phone in the person’s possession.

8. 999.226, subd. (a)(6)(C)(2) [Property Seized]

(a) Disability Rights California recommended that data values be added for “mobility device” and “sensory aid or device” to the data element for “type of property seized,” explaining that “[i]ncluding these items provides not only information regarding an individual’s disability, but

also reveals practices that could constitute outright harassment of the person.” (Comment 68, p. 1616.)

Response: No change has been made in response to this comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that the 11 data values proposed in response for “Type of Property Seized,” following the August 1, 2017 modifications, provide sufficient context and information regarding a stop. (See Final Text, p. 13 [§ 999.226, subd. (a)(12)(D)(2)(a)-(k)].)

(b) Professor Jack Glaser recommended that the proposed data value “none” should be deleted. Professor Glaser explained that the data value “none” does not make sense in response to the prompt to select the “the type of property seized, if any.” (Comment 80, p. 1663.)

Response: Comment accepted. As explained in the ISOR Addendum (p. 19), this data value has been deleted as a choice for the reason set forth in this comment. (See Redlined Text, p. 20; Final Text [§ 999.226, subd. (a)(12)(D)(2)].)

9. 999.226, subd. (a)(7) [Result of Stop/Referral]

(a) Andrea Guerrero (Alliance San Diego Mobilization Fund) recommended that this data value be corrected to refer to the “U.S. Department of Homeland Security” and not to USCIS. (Comment 1, p. 1467.)

(b) ACLU et al. and the Peace Resource Center of San Diego recommended that this data value be revised to read “Referred to immigration agency (e.g., CBP, ICE, etc.) and that an additional data value be added for “Transferred/released to other agency,” with a mandatory open-text field where the specific agency can be identified. (Comment 47, p. 1562; Comment 65, p. 1605.)

Response to (a) and (b): These comments are accepted in part. As discussed in the ISOR Addendum (p. 21), the data values for “Referred to U.S. Citizenship and Immigration Services” has been revised to “Contacted U.S. Department of Homeland Security (e.g., Immigrations and Customs Enforcement, Customs and Boarder Protection).” (Redlined Text, p. 21; Final Text, p. 14 [§ 999.226, subd. (a)(13)(k)].) The Department believes that the numerous revisions to these data values, as described in the ISOR Addendum, will adequately capture the information necessary to evaluate this information as it relates to racial and identity profiling.

In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that the additional data value “transferred/released to other agency,” combined with an open-text field, is not necessary to include at this time.

10. 999.226, subd. (a)(8) [Perceived Race or Ethnicity of Person Stopped]

(a) Calvin Chang, on behalf of Empowering Pacific Islander Communities, commented that the proposed data value of “Asian or Pacific Islander” is “extremely problematic [for] our

community.” Mr. Chang explained that “these two communities should never have been aggregated in the first place given how distinct their histories are [and] because of the extreme diversity that exists within both of those communities.” He further commented on the historical discrimination against Pacific Islanders and the distinct differences between the Asian and Pacific Islander communities and treatment within the criminal justice system. For that reason, Mr. Chang recommended that the two categories of “Asian” and “Pacific Islander” be separated, consistent with California Government Code 1810.5 and with the Federal Office of Management and Budget Directive No. 15. (Hearing Comment 86, p. 1685 [Los Angeles Hearing Transcript, p. 12].)

Response: This comment is accepted. This provision has been amended to create two separate data values for “Asian” and “Pacific Islander,” and further amended to provide two distinct definitions for “Asian” and “Pacific Islander.” (See Redlined Text, pp. 8-9; Final Text, pp. 6-7 [§ 999.226, subds. (a)(4)(A), (B), (G)]; ISOR Addendum, p. 7.)

(b) Professor Jack Glaser commented that the phrasing of the proposed data values for race and ethnicity might be confusing, and suggested that slashes or parenthesis be used to set off alternatives, rather than this use of the disjunctive “or.” (Comment 80, pp. 1664-1665).

Professor Glaser also commented on whether the examples given for the “White” data value are necessary, and further commented that the definition provided for “Native American” (which is defined as “a person having origins in any of the original peoples of North, Central, and South America”) might be confused with “Latino,” which is defined as “a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.” He noted that a discerning officer might check both Native American and Latino. (Comment 80, p. 1666-1667).

Professor Glaser further recommended that the single proposed data value for “Middle Eastern or South Asian” be broken into two separate categories, observing: “The terrorist stereotype does not apply equally here, and it will be interesting to see if officers discern between these categories.” (Comment 80, p. 1667).

Response: These comments are accepted in part. To provide additional clarity regarding these data values, this provision has been amended to utilize slashes, in lieu of the word “or,” where applicable, to describe the specific data values. (See Redlined Text, pp. 8-9; Final Text, pp. 6-7 [§ 999.226, subd. (a)(4)]; ISOR Addendum, p. 7.) The definition of “White” has been revised to omit the examples provided. (Redlined Text, p. 9; Final Text, p. 7 [§ 999.226, subd. (a)(4)(H)].)

No change has been made to the definitions of “Native American” and “Hispanic/Latino”, however, because the Department believes those definitions are sufficiently clear and an officer will be able to distinguish sufficiently between the two categories in recording their perception of the person’s race or ethnicity.

Similarly, no changes have been made to the definition of ‘Middle Eastern or South Asian,’ for the reasons set forth in the Department’s original ISOR. (ISOR, p. 17.) The definition of “Middle Eastern or South Asian” in the regulations was derived in part from a commonly used definition found at Asian Americans/Pacific Islanders in Philanthropy. This data value was

chosen to enable agencies, researchers, the Racial and Identity Profiling Advisory Board (RIPA), and the public to determine whether implicit or explicit biases in law enforcement practices exist with respect to persons who appear to have origins in that geographic region of the world. Further, there is significant precedent for combining these two groups for similar analytic purposes, as well as in other contexts. (See, e.g., <http://aapip.org/files/incubation/files/amemsa20fact20sheet.pdf> [Rulemaking File, p. 125-130.]

Data collection under AB 953 must focus on race and ethnicity, and it is the Department's assessment that these categories capture that data as best as possible.

(c) Captain Eric Tennesen (Ventura County Sheriff's Office) commented on whether an officer is to report his or her perception of the person's race and ethnicity "when the deputy decided to make the stop or once he/she made contact with the particular individual?" He noted that, during most stops conducted at night, "our deputies cannot determine the race of the subject until after they are stopped, because of darkness, tinted windows, etc." He further noted that, because there is no choice of "unknown," he assumes that officers are asked to determine the race or ethnicity of the person stopped "after we make contact with the subject." (Comment 27, p. 1515.)

Response: No change has been made to the regulations in response to this comment. Consistent with the provisions of AB 953, the regulations make clear that the officer shall "make his or her determination of the person's race or ethnicity by personal observation only." (Final Text, p. 6 [§ 999.226, subd. (a)(4)].) The regulations do not specify a time when that personal observation should be made because of the varying circumstances as to when that may take place. However, consistent with the plain text of the provision, an officer is required to select at least one of the racial/ethnic categories provided, and that selection will be based upon the officer's personal observation at whatever point in the encounter the officer is able to make such an observation.

11. 999.226, subd. (a)(9) [Perceived Gender]

(a) California Rural Legal Assistance (CRLA) commented in support of the data values for "transgender man," "transgender woman," and "gender non-conforming." CRLA explained that "data regarding the perceived gender of the person stopped is critical because CRLA has found that transgender women in the rural communities we serve have been unreasonably profiled by police." (Comment 75, p. 1629.) Similarly, Michael Chase commented in support of these data values. (Hearing Comment 97, p. 1697-1698 [Oakland Hearing Transcript, pp. 10-13].)

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(b) ACLU et al. and the Peace Resource Center of San Diego recommended that the proposed data values for "perceived gender" be amended to include references to "boy" and "girl," particularly in the school setting. The commenters explained that this change is necessary in the context of reporting stops related to children. (Comment 47, p. 1562; Comment 65, p. 1605.)

(c) A coalition of organizations⁴ that advance the rights of lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals (collectively “Equality California et al.”) similarly recommended that the data values for “perceived gender” be modified as follows: “man/boy,” “woman/girl,” “transgender man/boy,” and “transgender woman/girl.” The commenters further recommended that officers be instructed to select one of these four proposed data values as well as a separate data value for “gender non-conforming” where appropriate. (Comment 48, p. 1568.)

Response to (b) and (c): These comments are accepted in part. For the reasons set forth by the commenters, these data values have been modified to read “transgender man/boy” and “transgender woman/girl” and to provide that an officer may select “gender nonconforming” in addition to one of the four enumerated categories, and that, if the officer cannot perceive if the person stopped falls within the categories of “Male,” “Female,” “Transgender man/boy,” or “Transgender woman/girl,” the officer must select “Gender nonconforming” as the only data value. (Redlined Text, p. 10; Final Text, pp. 7-8 [§ 999.226, subd. (a)(5)]; ISOR Addendum, p. 8.) The data values “male” and “female,” however, have been retained. The terms “male” and “female” are commonly used by law enforcement officers to refer to both juveniles and adults; retaining those terms will not affect the data collected by officers.

(d) Professor Jack Glaser commented with respect to “gender/transgender: How could an officer surmise this?” and further recommended that the word “stereotypes” be replaced with “conceptions” in the definition of “gender nonconforming.” (Comment 80, pp 1666-1667.)

Response: This comment is accepted in part. The definition of “gender nonconforming” has been modified to replace the word “stereotypes” with “conceptions.” (Redlined Text, p. 10; Final Text, p. 8 [§ 999.226, subd. (a)(5)(B)3].) No change has been made in response to the comment about how an officer will be able to surmise whether the person stopped is “gender/transgender.” These data values included were recommended and supported by the RIPA Board, advocacy groups, and public comment. Inclusion of these categories is consistent with the definition of “racial or identity profiling” set forth in Penal Code section 13519.4, subdivision (e), which includes “consideration of, or reliance on, to any degree . . . gender identity or expression [or] sexual orientation . . . in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop”

12. 999.226, subd. (a)(10) [Perceived Age]

(a) ACLU et al. and the Peace Resource Center of San Diego recommended that the age ranges be edited to distinguish between substantially different age ranges. (Comment 47, p. 1562; Comment 65, p. 1605.)

(b) Professor Jack Glaser commented that the unequal intervals in the proposed regulations could pose a challenge for data analysis, and recommended that the data values be replaced with an open field input asking for perceived age in years rounded to nearest integer. (Comment 80, pp. 1668-1669.)

⁴ The following organizations submitted Comment 48: the ACLU of California, Equality California, and the Los Angeles LGBT Center.

Response to (a) and (b): These comments are accepted. The regulations have been revised to require an officer to input the estimated actual age of the person stopped, in lieu of bracketed age ranges for the reasons stated by the commenter. (See Redlined Text, p. 11; Final Text, p. 8 [§ 999.227, subd. (a)(7)]; ISOR Addendum, p. 9.) The Department believes that this revision will adequately capture the information necessary to evaluate this information as it relates to racial and identity profiling.

13. 999.226, subd. (a)(11) [Person Stopped had Limited English Fluency or Pronounced Accent]

(a) California Rural Legal Assistance commented that the officer should be required to provide additional data regarding the perceived primary language, including an open field to specify the perceived language and a yes/no data value for whether interpretation/translation assistance was used. The organization explained: “In rural areas we find a lack of multiple language resource in police agencies that has resulted in confusion, improper arrest and incarceration of individuals who simply could not make themselves understood” (Comment 75, p. 1631.)

Response: No change has been made in response to this comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional data elements and data values are not necessary to include, but notes that if this circumstance presents itself during a stop an officer would be able to document this in one or both of the open narrative fields provided for reason for stop and basis for search.

(b) ACLU et al., and the Peace Resource Center of San Diego recommended that the data element be limited to “Person Stopped had Limited English Fluency” (and the phrase “pronounced accent” deleted). The commenters explained that the inclusion of “pronounced accent” may be “confusing and may lead to the collection of data related to whether an individual has a regional accent.” (Comment 47, p. 1563; Comment 65, p. 1606.)

(c) Racial and Identity Profiling Advisory Board (Board Co-Chair Edward Medrano speaking for the RIPA Board) also suggested that “accent” be eliminated from the proposed data value (Comment 101, p. 1703 [Fresno Hearing Transcript, p. 11].)

(d) Professor Jack Glaser submitted a related recommendation that fluency and accent should be separated, as these are two different issues. (Comment 80, p. 1668-1669.)

Response to (b) through (d): These comments are accepted in part. This provision has been revised to “Person Stopped has Limited or No English Fluency,” deleting the reference to a pronounced accent. (Redline Text, p. 11; Final Text, p. 8 [§ 999.226, subd. (a)(8)].) The Department believes that the revisions to this data element, as described in the ISOR Addendum, at page 10, will adequately capture the information necessary to evaluate the information as it relates to racial and identity profiling.

(e) San Francisco Police Department commented that the proposed data element “Limited English fluency or pronounced accent” might violate city policy because San Francisco is a sanctuary city. (Comment 51, p. 1575.) Similarly, the Orange County Sheriff’s Department

objected to the subjectivity for the data element for “limited English fluency or a pronounced accent,” stating that, without an English proficiency example, it will be impossible to ensure that each officer use the same standard when determining whether a person has limited English fluency. (Comment 29, p. 1519.)

Response: No change has been made in response to this comment. The fact that an officer perceives that a person has limited or no English fluency does not necessarily mean that the person is present in this country without immigration authorization. Moreover, Government Code section 12525.5, subdivision (d) prohibits reporting agencies from reporting “the name, address, social security number, or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure” to the Department as part of this data collection program. Because this data value would not be linked to any personally identifying information of the person stopped and English fluency is not indicative of immigration status, it is unlikely that this data value will impact the commenter’s status as a sanctuary city. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, and has determined that this additional data element is necessary to fulfill the intent of AB 953 for those reasons set forth in the ISOR.

14. 999.226, subd. (a)(12) [Perceived or Known Disability of Person Stopped]

(a) Disability Rights California submitted a general comment in support of the proposed data element and values for “perceived or known disability.” The organization explained that persons with disabilities are “disproportionally subjected to negative interactions with law enforcement” and noted that “[a]t least a third of people killed by law enforcement during [use-of-force] scenarios are people with disabilities.” The organization further explained that persons with mental health disabilities “often face stigma and bias because of the false assumption that people with mental health challenges are dangerous or violent,” while persons with cognitive disabilities or speech or hearing impairments who fails to understand commands by law enforcement may be seen as “noncompliant and dangerous.” (Comment 68, pp. 1613-1614.)

(b) Krissy Powell supported the collection of data regarding if those stopped had any known or perceived disability as well any indicators of their mental state. (Comment 66, p. 1609.)

(c) Michael Chase (Comment 97, pp. 1697) and Terrance Stewart (Hearing Comment 112, p. 1708 [Fresno Hearing Transcript, pp. 29-30]) also offered general statements in support of the Department’s proposed data value for “mental health disability.”

Response to (a) through (c): No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves. To the extent Ms. Powell is recommending a separate data element for state of mind, that is addressed below in Part B of this section of the FSOR.

(d) Disability Rights California recommended adding data values for “Speech or hearing impairments,” “Intellectual or Cognitive Disability,” “Autism Spectrum Disorder,” and “Other Disability.” (Comment 68, p. 1616.)

Response: This comment is accepted in part. The data values for “Perceived or Known Disability of Person Stopped” have been modified for the reasons set forth in the ISOR

Addendum. (See ISOR Addendum, p. 10; Redlined Text, p. 11; Final Text, p. 8 [§ 999.226, subd. (a)(9)].)

(e) ACLU et al. and the Peace Resource Center of San Diego recommended that an additional data value be added to capture “limited use of language.” (Comment 47, p. 1563; Comment 65, p. 1606.)

Response: This comment is accepted. A proposed data element for “speech impairment or limited use of language” has been added to the data element “Perceived or Known Disability of Person Stopped” for the reasons set forth in the ISOR Addendum. (ISOR Addendum, p. 10; Redlined Text, p. 11; Final Text, p. 8 [§ 999.226, subd. (a)(9)].)

(f) California Rural Legal Assistance recommended adding additional data values for “learning disability” and “other disability” to the data element for “Perceived or Known Disability” in order to provide an appropriate data value when an officer stops a child with attention deficit hyperactivity disorder (ADHD). (Comment 75, p. 1631-1632.)

Response: This comment is accepted in part. As explained in the ISOR Addendum, the data values for this provision have been revised, and new data values include “other disability” and “intellectual or developmental disability, including dementia.” (ISOR Addendum, p. 10; Redlined Text, p. 11; Final Text, p. 8 [§ 999.226, subd. (a)(9)].)

(g) San Francisco Police Department commented that the required data element for “perceived or known disability” might violate the federal Health Insurance Portability and Accountability Act (HIPAA). (Comment 51, p. 1575.)

(h) Disability Rights California commented that the data element would not violate HIPAA because law enforcement officer and agencies are not “covered entities” under HIPAA, further noted that the data collected by agencies is not subject to HIPAA because it is not “personally identifiable.” Disability Rights California further explained:

The Americans with Disabilities Act requires that law enforcement take affirmative steps as needed to ensure that disability discrimination does not occur. 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.

(Comment 68, pp. 1616-1617.)

Response to (g) and (h): No change has been made in response to these comments. However, as explained in the ISOR Addendum, page 10, the Department has modified this provision to clarify that the proposed regulations do not alter any existing requirements to comply with reasonable accommodation and anti-discrimination laws. (Redlined Text, p. 11; Final Text, p. 11 [§ 999.226, subd. (a)(9)].) The comments with respect to the applicability of HIPAA to these regulations are interpreted to be observations, rather than recommendations of any change to the regulations themselves; thus no changes are warranted. To the extent the comment from the SFPD is suggesting that the data element be removed because it may violate HIPAA, the proposed data element is based upon only perception, rather than obtaining medical information

from the person stopped and reporting that information. Further, as explained in the ISOR, the Department has determined that the information “is necessary to provide context to a stop, and to provide valuable data to law enforcement agencies regarding the number of stops of persons perceived or known to have disabilities, as well as actions during a stop and stop outcomes. This information will enable analysis of potential disparities in stops and stop outcomes with respect to the disability community, and help inform agencies about training needs to help officers in interactions with persons with mental or physical disabilities.” (ISOR, p. 19.)

The collection of this information is also consistent with the definition of “racial or identity profiling” set forth in Penal Code section 13519.4, subdivision (e), which includes “consideration of, or reliance on...mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop. . . .” As explained in the ISOR Addendum, the modified data elements were drafted in consultation with stakeholders that have expertise in disability rights. (See ISOR Addendum, p. 10.)

(i) Orange County Sheriff’s Department objected to the subjectivity for the data element for “perceived or known disability of person stopped because there is no uniform standard for collecting this data point and “it does a disservice to treat such haphazard perceptions as fact.” (Comment 29, p. 1519.)

No change has been made in response to this comment. As explained in the ISOR, the Department has determined that the proposed data element “is necessary to provide context to a stop, and to provide valuable data to law enforcement agencies regarding the number of stops of persons perceived or known to have disabilities, as well as actions during a stop and stop outcomes. This information will enable analysis of potential disparities in stops and stop outcomes with respect to the disability community, and help inform agencies about training needs to help officers in interactions with persons with mental or physical disabilities.” (ISOR, p. 19.)

15. 999.226, subd. (a)(13) [Officer’s Unique Identifier]

Concerns about the identification of officers are also addressed below about general concerns raised under the category “Comments Regarding Concerns About Identification of Officer.”

(a) Orange County Sheriff’s Department expressed concern for including a unique identifier or officer identification number because the proposed regulations do not include “proper safeguards to ensure an officer’s anonymity.” (Comment 29, p. 1519.)

(b) Butte County Sheriff’s Office expressed concerns to the proposed data value, explaining that the data value could result in re-identification of officers, which is “problematic for officers/deputies assigned to work in areas that are predominantly occupied by members of minority communities.” “Officers/deputies working in those areas would likely be concerned that the data would be used to suggest that they, as individual officers, are engaging in biased policing given the high number of contacts with members of minority communities. That could also result in those officers being less proactive, which has a negative impact on public safety.” (Comment 32, pp. 1524-1525.) The California State Sheriffs’ Association (Comment 35,

p. 1529), Amador County Sheriff's Office (Comment 50, p. 1572), Yolo County Sheriff's Office (Comment 60, p. 1587), and Lake County Sheriff's Office (Comment 81, p. 1678) similarly objected to the regulations because they will “almost assuredly result in the identification of specific officers in connection with particular interactions” And the Kings County Board of Supervisors objected to the regulations because they “potentially jeopardize the identity of officers, particularly in smaller jurisdictions with smaller task forces that could be identified through public reporting if human redaction requirements are overlooked.” (Comment 49, p. 1571.)

(c) California Highway Patrol (CHP) commented that this information “could lead to the identification of individual officers, especially in smaller agencies.” The CHP noted additional concerns with public records act and discovery requests, and explained that identifying officers “could compromise their safety and/or subject them to undue liability or accusations.” For that reason, the CHP recommended either eliminating this data element “or carefully considering how the information will be protected.” (Comment 38, p. 1536.) The Hanford Police Department (Comment 20, 1502) and the California Police Chiefs Association (Comment 21, p. 1505) expressed similar concerns.

(d) Jonathan Mummolo recommended that officer identifiers be recorded and made publicly available, noting that “[o]fficer identifiers, even anonymous ones that do not reveal the officer’s name, would allow for more thorough assessments of whether unjustified stops are stemming from a few “problem” officers or represent systemic problems in a department.” (Comment 62, p. 1592.)

Response to (a) through (d): No change has been made in response to these comments. As explained in the ISOR, this data element is necessary to isolate the scope of any racial or identity profiling disparities uncovered regarding who is stopped and how people are treated during stops. (ISOR, p. 19.) This data element is also necessary to allow an analysis of data at the officer level, rather than agency level as required by AB 953, so that the Department can determine the extent to which any disparities that are observed reflect agency-wide practices or are attributable to a smaller percentage of officers—information that will, in turn, inform the RIPA Board’s recommendations, including those to the Commission on Peace Officer Standards and Training and local law enforcement agencies to improve training. (ISOR, p. 19; see also Pen. Code § 13519.4, subd. (j)((3).) For that reason, and as explained in the ISOR Addendum, p. 21, this data element has been retained and non-substantively renamed as the “Officer Identification (I.D.) Number.”

In addition, the Department has included provisions in the regulations to ensure officer anonymity as contemplated in Government Code section 12525.5 which will not only promote candor and ensure data integrity but also protect officer safety and prevent reidentification. (See ISOR Addendum, p. 31-32; Redlined Text, p. 33; Final Text, pp. 21-22 [§ 999.228, subd. (g)].)

16. 999.226, subd. (a)(15) [Type of Assignment of Officer]

(a) Orange County Sheriff's Department recommended that the Department reconsider this data element (along with the data elements for “officer’s unique identifier” and “years of experience”)

and expressed concern that the proposed data value for officer assignment could lead to re-identification and unfair conclusions that may be drawn from an officer's assignment:

As currently written there are no proper safeguards to ensure an officer's anonymity. An officer working a specialized assignment may be easily identified when all data is analyzed. I am deeply concerned that the individualized data can be used to draw unfair conclusions about particular officers based solely on their work assignment.

(Comment 29, p. 1519.)

(b) California State Sheriffs' Association (Comment 35, p. 1529), Amador County Sheriff's Office (Comment 50, p. 1572), Yolo County Sheriff's Office (Comment 60, p. 1587), and Lake County Sheriff's Office (Comment 81, p. 1678) commented that information about an officer's type of assignment will lead to identification of the officer, particularly for smaller agencies. Amador County Sheriff's Office added additional detail about the number of deputies assigned to various assignments in that office. (Comment 50, p. 1572.) Kings County Sheriff's Office (Comment 43, p. 1545), Kings County Probation Department (Comment 45, p. 1548), Kings County Board of Supervisors (Comment 49, pp. 1570-1571), Riverside County Sheriff's Department (Comment 30, p. 1522), Butte County Sheriff's Office (Comment 32, p. 1525), and Los Angeles County Sheriff's Office (Comment 76, p. 1637) expressed similar concerns years of service and type of assignment of officer.

Response to (a) and (b): No changes have been made in response to this comment. The data element for "type of assignment of officer" was included in the original proposed regulations, in part to address concerns that, without this additional context about the stop, the data would be skewed. For example, an officer assigned to a gang enforcement unit might report a disproportionate number of stops of individuals of a particular race or ethnicity relative to other officers within the same agency because gangs are often—though not exclusively—organized according to particular racial or ethnic identities. Neither this commenter nor any of the commenters provided any alternative to provide this necessary context. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial or identity profiling. The Department has determined that this additional data element is necessary to fulfill the intent of AB 953. Concerns about officer anonymity and re-identification are addressed above (in comments regarding "unique identifier") and in the ISOR Addendum at pages 31-32.

17. 999.226, subd. (a)(14) [Officer's Years of Experience]

(a) Orange County Sheriff's Department commented on the proposed data element for "Officer's Years of Experience," stating that it could present re-identification concerns because "as currently written there are no proper safeguards to ensure an officer's anonymity." (Comment 29, p. 1519.) California State Sheriffs' Association (Comment 35, p. 1529), Amador County Sheriff's Office (Comment 50, p. 1572), Yolo County Sheriff's Office (Comment 60, p. 1587), and Lake County Sheriff's Office (Comment 81, p. 1678) commented that information about an officer's years of experience will lead to identification of the officer, particularly for smaller

agencies. Kings County Sheriff's Office (Comment 43, p. 1545), Kings County Probation Department (Comment 45, p. 1548), Kings County Board of Supervisors (Comment 49, pp. 1570-1571), Butte County Sheriff's Office (Comment 32, pp. 1524-1525); and Los Angeles County Sheriff's Office (Comment 76, p. 1637) offered similar comments.

Response: No change has been made in response to this comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial or identity profiling. The Department has determined that this additional data element is necessary to fulfill the intent of AB 953 for those reasons set forth in the ISOR. In addition, to the extent that these comments address officer anonymity and re-identification issues, please see responses above in "Officer Identification (I.D.) Number."

(b) ACLU et al. and Peace Resource Center for San Diego. These commenters recommended that the proposed data values for "officer's years of experience" be revised to provide closer bracketed ranges of years (which are specified in the comments), to provide greater detail for analysis. (Comment 47, p. 1564; Comment 65, p. 1607.)

(c) Professor Jack Glaser recommended that this data element be converted to an open field, which would be more useful for data analysis. (Comment 80, p. 1651; Comment 78, pp. 1643-1644.)

Response to (b) and (c): These comments are accepted. The Department has amended this data element to provide manual input for the officer's actual year(s) of experience for the reasons set forth in the ISOR Addendum at p. 22. (Redlined Text, p. 22; Final Text, p. 14 [§ 999.226, subdivision (a)(15)].) The Department believes that amendment addresses the comments to provide for more refined analysis based on officers' years of experience, albeit without smaller ranges of brackets.

B. Data Elements That Commenters Requested be Added to (or Not be Added to) Data Collection

1. Person Stopped Perceived To Be LGBT

(a) ACLU et al. (Comment 47, p. 1563), Peace Resource Center of San Diego (Comment 65, p. 1606), Equality California et al. (Comment 48, p. 1567), California Rural Legal Assistance (Comment 75, pp. 1635-1636), Racial and Identity Profiling Advisory Board (Board Co-Chair Edward Medrano speaking for the RIPA Board) (Comment 101, p. 1703 [Fresno Hearing Transcript, p. 10]), and Krissy Powell (Comment 66, p. 1609) all recommended that the regulations be amended to require a yes/no data element for "perceived membership in the LGBT community."

Response: These comments are accepted. (See Final Text, p. 8 [§ 999.226, subd. (a)(6)].) In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial or identity profiling. The Department has determined that this additional data element is necessary to fulfill the intent of AB 953. As explained in the ISOR Addendum, the inclusion of data to be collected regarding whether the officer perceived that the person stopped

was LGBT is in keeping with AB 953’s goal of identifying and eliminating racial and identity profiling. It is consistent with the definition of “racial or identity profiling” set forth in Penal Code section 13519.4, subdivision (e), which includes “consideration of, or reliance on, to any degree . . . gender identity or expression [or] sexual orientation . . . in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop” (Pen. Code § 13519.4, subd. (e).) (See ISOR Addendum, p. 9.)

(b) William Welsh commented that he agreed with the Department’s decision, as expressed in the ISOR, to not include a data element for perceived LGBT status. Mr. Welsh explained: “Perceived sexual orientation ... [is] much more ambiguous than perceived race, gender, or age. This makes them [it] more difficult to collect and less useful as data points.” (Comment 11, p. 1482.)

Response: For the reasons set forth in the response to the preceding comments in subdivision (a) of this section, the Department has modified the proposed regulations to add a data element “Person Stopped Perceived to be LGBT.”

2. Homeless Status

(a) William Welsh recommended the addition of a data element for perceived homeless status of the individual stopped, noting that such element (and others identified in his comment) could provide a wealth of information, such as whether individuals who appear homeless receive different treatment. (Comment 11, p. 1482)

(b) California Rural Legal Assistance (CRLA) made the same recommendation as Mr. Welsh, explaining that perceived homeless status—like perceived sexual orientation and perceived religious orientation, discussed elsewhere—is “related to many claims of discrimination, complaints about hate violence, complaints about excessive or improper enforcement or conduct and concerns related to profiling.” CRLA further explained that such individuals “are demonstrably more vulnerable to profiling and in many cases are subjected to inappropriate treatment and escalated response by police officials because of their perceived status” and that an additional data element for perceived homeless status “will not raise issue of privacy and will not require the subject of a stop to answer personal questions inappropriate to the inquiry.” (Comment 75, p. 1635-1636.)

Response to (a) and (b): No change has been made in response to these comments. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional data elements were not necessary to include at this time.

3. Immigration Status

William Welsh recommended adding a data element be added for “whether the officer inquired regarding the individual’s immigration status.” (Comment 11, p. 1482.)

Response: No change has been made in response to these comments. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement,

including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that this additional data element was not necessary to include at this time.

4. Number of Civilians Present/Prior Contact

William Welsh recommended adding data elements for “number of civilians present during the stop” and “whether the officer had previous contact with individual.” (Comment 11, p. 1482.) He recommended adding these elements (and others identified in his comment) because of the wealth of information they will provide regarding how police behavior changes with the context of a stop.

Response: No change has been made in response to this comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional data elements were not necessary to include at this time.

In addition, the proposed data element for “number of civilians present” would likely introduce ambiguity into the regulations and resulting data in trying to determine who should or should not be counted for purposes of reporting on this data element.

With respect to the suggested data element for “prior contact,” the Department notes that this and any other explanatory information can be included in one or both of the open narrative fields, if relevant.

5. Religion

California Rural Legal Assistance (Comment 75, pp. 1635-1636), the Racial and Identity Profiling Board (Board Co-Chair Edward Medrano speaking for the RIPA Board) (Hearing Comment 101, p. 1703 [Fresno Hearing Transcript p. 11]), and Krissy Powell (Comment 66, p. 1609) suggested that an additional data element be added to capture the actual or perceived religion of the individual stopped, if known, and in particular many requested that it was particularly important to collect data about Muslim’s “given today’s political climate.” Similarly, Sukaina Hussain suggested that a data element for religion be added and coupled with a narrative explaining why the officer chose a particular religion “to identify if there are wrongful assumptions being made, if there are stereotypes that are being mislabeled” and use that for training. (Hearing Comment 119, p. 1712 [Fresno Hearing Transcript, p. 45].)

Response: No change has been made in response to these comments. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that this additional data element is not necessary to include at this time. In addition, with respect to commenters’ particular concern regarding those of the Muslim faith, the inclusion of the term “Middle Eastern or South Asian” as included in the data collection of “perceived race or ethnicity of person stopped” may provide information regarding possible racial or identity profiling regarding some individuals who may be members of the Muslim faith, whether or not the perception concerning

the individuals' religion is accurate. (See AMEMSA Fact Sheet, Rulemaking File, pp. 125-130; ISOR, p. 17.)

6. State of Mind

Krissy Powell recommended an additional data element that would require officers to record specific data values related to the stopped individual's mental state (e.g., angry, confused, scared). (Comment 66, p. 1609.)

Response: No change has been made in response to this comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional data elements were not necessary to include at this time. In addition, some of the information this proposed data element is designed to elicit may be revealed in the narrative descriptions or other data elements that are being reported, such as certain data values in response to the data element "perceived or actual disability." (See Redlined Text, pp. 11, 30; Final Text, p. 8, 20 [including data values for "mental health condition," "intellectual or developmental disability, including dementia," and, for stops of students at a K-12 Public School, "disability related to hyperactivity or impulsive behavior"].)

7. Residency in Neighborhood Where Stopped

Keunbok Lee recommended collecting information about whether the individual stopped "is in a residence in the neighborhood they were stopped or came from other neighborhood." (Comment 13, p. 1488.)

No change has been made in response to this comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that this additional data element is not necessary to include at this time.

8. Comments Regarding the Inclusion or Exclusion of Officer Demographics

(a) California State Sheriff's Association (Comment 35, p. 1529), Amador County Sheriff's Office (Comment 50, p. 1572), Yolo County Sheriff's Office (Comment 60, p. 1587), and Lake County Sheriff's Office (Comment 81, p. 1678) expressed their support for the Department's decision to exclude data elements for the officer's age, race, and gender. In addition, William Welsh recommended not including data elements for an officer's age or gender because "If the data are handled correctly, the unique identifier assigned to the officer who made the stop can already tell us the officer's race, gender and age (without revealing the officer's identity)." (Comment 11, p. 1482.)

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(b) ACLU et al. and the Peace Resource Center of San Diego recommended the collection of race and gender identity information for officers. The commenters recommended, in the alternative, that the race and gender of the officer be embedded in each officer's unique identifier, "such that the race and gender is made available to researchers and others conducting data analysis that is required under the statute." (Comment 47, p. 1563; Comment 65, p. 1606.)

(c) Andrea Donado (Greater Long Beach Interfaith Community Organization) recommended that the race of the officer be collected. (Hearing Comment 109, p. 1706 [Fresno Hearing Transcript, p. 24].)

(d) California Rural Legal Assistance recommended that data elements for the officer's race/ethnicity, gender, and age be collected (Comment 75, p. 1636); and Professor Jack Glaser recommended that additional data elements for officer demographics be collected above the two provided for in the regulations. (Comment 80, p. 1669; Comment 78, pp. 1642-1643.)

(e) Krissy Powell commented: "I would also like to advocate for collection of officer information that, when publicized, is de-identified to protect the officer. However, internally, this information regarding years of service, gender and race is critical in identifying trends for departments and individual officers." (Comment 66, pp. 1609-1610.)

(f) Professor Jennifer Eberhardt commented that having the ability to sort data by "officer race, gender, and age could be illuminating" in addition to the collection of years of experience and type of assignment. She states, "Yet, how is officer-race related to the decision made to stop and search someone? Is there any relation? Without basic information at the office level, the usefulness of the data we are collecting here is severely limited." (Comment 77, p. 1640.)

Response to (b) through (f): No changes have been made in response to these comments. The Department will collect information about an officer including his or her years of experience and type of assignment § 999.226, subdivision (a)(15) and (a)(16). However, in drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that the additional data elements above those already proposed were not necessary to include at this time.

Comments regarding data publication and re-identification are addressed above under the data element for "Officer Identification Number" and below under general comments regarding concerns about identification of officers.

9. Officer in Uniform/Number of Officers Present at Scene

William Welsh recommended adding data elements for "number of officers present at scene" and "whether the officers were in uniform and/or in patrol cars." (Comment 11, p. 1482.) Krissy Powell also recommended added a data element regarding whether the officer was in uniform. (Comment 66, p. 1609.)

Response: No change has been made in response to these comments. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial

and identity profiling. The Department has determined that these additional data elements were not necessary to include at this time. In addition, the proposed data element for “number of officers present” would likely introduce ambiguity into the regulations and resulting data in trying to determine who should or should not be counted for purposes of reporting on this data element.

10. Other Narrative Fields

(a) Several commenters recommended that the Department add a required narrative or short-text field whenever an officer selected “other” as a data value:

1. Kena Cador (ACLU) (Hearing Comment 114, p. 1709 [Fresno Hearing Transcript, p. 35])
2. Peter Bibring (ACLU) (Hearing Comment 89, p. 1688 [Los Angeles Hearing Transcript, pp. 21-22])
3. ACLU et al. (Comment 47, p. 1555)
4. Peace Resource Center of San Diego (Comment 65, p. 1599)
5. Alexandra Santa Ana (National Center for Youth Law) (Hearing Comment 99, p. 1699 [Oakland Hearing Transcript, p. 20])
6. Andrea Donado (Greater Long Beach Interfaith Community Organization/ICO) (Hearing Comment 109, p. 1706 [Fresno Hearing Transcript, p. 24])
7. Disability Rights California (Comment 68, p. 1615)
8. Faith in the Valley (Comment 52, p. 1576)
9. Professor Jack Glaser (Comment 80, pp. 1656-1657, 1662-1663)
10. Krissy Powell (Comment 66, p. 1609)
11. Sean Garcia-Leys (Comment 95, p. 1693 [Los Angeles Hearing Transcript, p. 42])
12. Carolina Goodman (Comment 18, p. 1498)
13. Racial and Identity Profiling Advisory Board (Board Co-Chair Edward Medrano speaking for the RIPA Board) (Hearing Comment 101, p. 1703 [Fresno Hearing Transcript, p. 10])

Response: No changes have been made in response to these comments. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. However, as discussed above and in the ISOR Addendum, the data elements for “Reason for Stop” and “Basis for Search” have been modified to add a required narrative field to provide additional explanation. (See ISOR Addendum, pp. 13-14, 18; Final Text, pp. 10, 12 [§ 999.226, subd. (a)(10)(B) and subd. (a)(12)(B)(2)].) The revised provisions provide that this explanation “shall include additional detail beyond the general data values selected” (Ibid.) The Department believes that these revisions will adequately capture the information necessary to evaluate this information as it relates to racial and identity profiling.

In addition, the Department has revised the regulations to eliminate the data value for “other” in several data elements. Specifically, because “Reason for Presence at Scene of Stop” has been eliminated, the “other” data values within that data element have also been eliminated. (See Redlined Text, pp. 12-13.) In addition, “other” has been eliminated from “Result of Stop.” (See Redlined Text, p. 21.) Accordingly, to the extent the commenters recommend open narratives for

these data values, these recommendations are rendered moot because these data values have been eliminated.

(b) Several commenters recommended that the Department add mandatory narrative fields without specifying any particular data element or value:

1. Kim McGill (Youth Justice Coalition) (Comment 90, p. 1689 [Los Angeles Transcript, p. 26])
2. Tony Amarante (Comment 56, p. 1582) (“Narratives are much more important than check-boxes on a form since they give the most clear meaning of events that transpired, but they aren’t always easy to write.”)
3. Nebyou Berhe (Comment 118, p. 1711 [Fresno Hearing Transcript, p. 42])

Response: These comments are accepted in part. As discussed above and in the ISOR Addendum, the data elements for “Reason for Stop” and “Basis for Search” have been modified to add a required narrative field to provide additional explanation. (See ISOR Addendum, pp. 13-14, 18; Final Text, pp. 10, 12 [§ 999.226, subd. (a)(10)(B) and subd. (a)(12)(B)(2)].) The revised provisions provide that this explanation “shall include additional detail beyond the general data values selected. . . .” (Ibid.) The Department believes that these revisions will adequately capture the information necessary to evaluate this information as it relates to racial and identity profiling. To the extent that the commenters are requesting additional open narrative fields associated with other data elements, no changes have been made with respect to these comments.

11. Prior Contacts with Officer

California Police Chiefs Association objected to the regulations because they do not allow officers to identify whether they had prior knowledge of the individual’s race or identity prior to their interaction. (Comment 21, 1505.)

Response: No change has been made in response to this comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that these additional data elements were not necessary to include at this time.

IV. COMMENTS REGARDING ARTICLE 4 [REPORTING REQUIREMENTS] (SECTION 999.227, AS ORIGINALLY PROPOSED)

A. General Reporting Requirements

1. 999.227, subd. (a)(5) [Reports/Multiple Officers]

Professor Jack Glaser commented that the final sentence of proposed Section 999.227, subdivision (a)(5) [“When this is unclear, officers shall exercise their discretion in determining which officer shall submit the report”] “may be unnecessary and imprudent” Professor Glaser explained that the need to “figure it out” is implicit in the prior clause of this provision that that

the additional sentence may be read to permit officers to “use some other, potentially arbitrary, criterion, such as seniority.” (Comment 80, pp. 1672-1673.)

Response: This comment is accepted. The Department has modified proposed Section 999.227, subdivision (a)(5) to strike this sentence. (See Redlined Text, p. 23; Final Text, p. 16 [§ 999.227, subd. (a)(5)].)

2. 999.227, subd. (a)(6) [Incident Number]

(a) Professor Emily Owens (University of California at Irvine) recommended that the regulations be amended to require reporting agencies to include an “incident number data field in order to distinguish multi-person stops from distinct individual stops made in similar places.” (Comment 46, p. 1551.)

(b) California Rural Legal Assistance similarly recommended that the regulations be modified to require “some kind of unique incident identifier code” in order to better “analyze/identify the disparate treatment of individuals involved in one particular incident.” (Comment 75, p. 1632.)

Response to (a) and (b): These comments are accepted. In order to facilitate the type of analysis suggested, the Department has modified the proposed regulations to require that, “[i]f multiple persons are stopped during one incident, then applicable stop data shall be submitted for each person within a single report[.]” (Redlined Text, p. 23; Final Text, p. 16 [§ 999.227, subd. (a)(6)].) In addition, the Department has added the following requirement: Agencies submitting records via the system-to-system web service or the secure file transfer protocol shall include a unique stop record number for each stop. The Department will use this record number to tie multiple person stops together in one incident and to relay information on errors when necessary. (Redlined Text, p. 34, Final Text, p. 22 [§ 999.229, subd. (c)].) Taken together, these requirements will permit the type of review requested by the commenters.

3. 999.227, subd. (a)(9) [Requirement that Reports be Completed by End of Shift]

(a) Los Angeles Police Department (LAPD) (Comment 54, p. 1580), Kings County Sheriff’s Office (Comment 43, p. 1545), Kings County Probation Department (Comment 45, p. 1548), Kings County Board of Supervisors (Comment 49, pp. 1570-1571), California State Sheriffs’ Association (Comment 35, p. 1529), Amador County Sheriff’s Office (Comment 50, p. 1573), Yolo County Sheriff’s Office (Comment 60, p. 1587), and Lake County Sheriff’s Office (Comment 81, p. 1678) each commented that the reporting burden on agencies and officers is compounded by the requirement that data be submitted prior to the end of the officer’s shift. The LAPD explained: “This requirement will likely result in overtime depending on calls for service, but clearly less time to respond to calls if officers are occupied throughout their shift by data recordation.” (Comment 54, p. 1580.)

Response: These comments are accepted in part. This provision has been modified to state: “An officer shall complete all stop reports for stops made during his or her shift by the end of that shift, unless exigent circumstances preclude doing so. In such circumstances, the data shall be completed as soon as practicable.” (Redlined Text, p. 24; Final Text, p. 16 [§ 999.227, subd. (a)(9)]; see ISOR Addendum, p. 24.) To the extent that these comments are recommending the removal of the requirement to submit the stop data form at the end of shift altogether, no change

has been made in response to that comment. The Department has determined that permitting officers, as a general rule, to complete stop reports during the following shift would degrade the value of the data by increasing the necessary recall time between the incident and the report and is likely to increase the reporting time because it would require officers to attempt to reconstruct—or refer to notes—for incidents that occurred one or more days in the past

4. 999.227, subd. (a)(1) [Officer Reporting]

Matt Nussbaum commented on the decision to require the police officer, instead of the person stopped, to report on the incident, and suggested adding a survey component to be completed by the person stopped so that the two accounts can be compared. (Hearing Comment 100, pp. 1699-1700 [Oakland Hearing Transcript, pp. 20-21].)

Response. No changes have been made in response to this comment. The data collection by peace officers is a legislative determination that was resolved in enacting AB 953. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that adding an additional survey component to be completed by the person stopped is not necessary to include at this time.

5. 999.227, subd. (a)(4) [Reporting For Stops With Multiple Agencies]

ACLU et al. and Peace Resource Center of San Diego recommended that the proposed regulations be revised to add clarifying language that officers subject to these reporting requirements are always required to report a stop, even if a stop is done in conjunction with one or more non-reporting agencies. (Comment 47, p. 1564; Comment 65, p. 1607.)

Response: These comments are accepted. Government Code section 12525.5 provides no exception to reporting stops when an officer is assisting a non-reporting agency. In order to clarify the reporting requirements in this circumstance and to eliminate any confusion if more than one reporting agency is involved in a reportable interaction the Department has modified this subdivision to require the following: “If a stop is done in conjunction with a reporting agency and an agency that is not subject to the reporting requirements of this chapter, the reporting agency is required to submit data on the stop, even if it is not the primary agency responsible for the stop.” (Redlined Text, p. 23; Final Text, pp. 15-16 [§ 999.227, subd. (a)(4)].)

6. 999.227, subd. (a)(11) [Requirement that Agencies Create a Unique Identifier]

Professor Jack Glaser commented with respect to proposed Section 999.227, subdivision (a)(11) regarding reporting requirements for internal agency use of officer identifier: “Only? Not for merging officer demographic data with stop data?” (Comment 80, pp. 1672-1673.)

Response: This comment is accepted in part. As discussed in the ISOR Addendum at p. 25, the Department has revised the phrase “for internal agency use” to require the reporting agency to maintain a system matching an individual officer to his or her Officer I.D. Number. Previously, the agency was required to match an individual officer to his or her stop data. Because agencies are not required to maintain stop data if they use the Department’s web-browser based application, this provision was amended to require only that the reporting agency maintain a

system to match the officer with his or her Officer I.D. Number used for reporting. (Redlined Text, p. 24; Final Text, p. 16 [§ 999.227, subd. (a)(11)].)

However, to the extent that the commenter is concerned about merging officer demographic data with stop data, nothing in the regulations prevents an agency from merging officer demographics using the method recommended by this commenter. Agencies are required to report each of the required data elements to the Department using the provided data values; when certain data values (such as the agency's ORI number or an officer's years of experience) can be appended to individual officers' reports, the Department encourages agencies to do so in order to minimize the reporting burden on officers. The Department's web application will allow functionality for the officer to input this information upon initial registration into the application and then annually thereafter.

B. 999.227, subd. (c) [Peace Officer Interactions That Are Reportable Only If the Officer Takes Additional Specified Actions]

1. 999.227(c)(1) [Special Settings That Only Require Reporting if Additional Actions Taken]

(a) ACLU et al. and Peace Resource Center of San Diego commented that “[s]ection 999.227(c)(1) and (2) require officers to report interactions where additional specified actions and then references ‘the data values set forth in Section 999.226, subdivision (a)(6)(A),’” but “the actions listed in subdivision (a)(6)(A) include a data value for ‘None of the above.’” To ensure clarity, the commenters recommended that the reference to Section 999.226 be revised. (Comment 47, p. 1564; Comment 65, p. 1607.)

Response: This comment is accepted in part. References within Section 999.227, subdivision (b)(1)(B) and (d)(1) have been revised to eliminate “None” as an action that triggers reporting interactions in those settings. (Redlined Text, pp. 25-26; Final Text, pp. 16-18 [§ 999.227, subs. (b)(1)(B), (d)(1)].)

(b) California Police Chiefs Association commented that “requiring law enforcement to report stops during mass evacuations and active shooter events only corrupts the data, as the emergency nature of those situations does not align with types of discretionary stops indicative of racial profiling.” (Comment 21, p. 1505.)

Response: This comment is accepted. The regulations have been revised to add a new provision, entitled “Peace Officer Interactions that are Not Reportable,” and added provisions that stops during mass evacuations, active shooter incidents, and during or that are the result of routine security screenings required of all persons at entrances of buildings or special events are exempt from reporting. (Redlined Text, pp. 25-26; Final Text, p. 17 [§ 999.227, subd. (c)].) These settings were exempted from reporting because in these circumstances the officer's actions are largely non-discretionary, involve public safety, and are not the types of interactions contemplated by AB 953. (ISOR Addendum, pp. 25-26.)

2. 999.227, subd. (c)(1)(A) [Traffic Control]

ACLU et al. and Peace Resource Center of San Diego commented that proposed Section 999.227, subd. (c)(1)(A) should be clarified to indicate that stops of particular vehicles based on individualized suspicion of suspected traffic or equipment violations must always be reported. (Comment 47, p. 1564; Comment 65, p. 1607.)

Response: No change has been made in response to these comments. The Department has reviewed the relevant provision and determined that the phrase “based upon individualized suspicion or personal characteristics” is sufficiently clear that peace officers subject to these regulations will understand that the reporting requirements apply in these circumstances.

3. 999.227, subd. (c)(2)-(3) [Reporting Requirements for Interactions Within Home Pursuant to Warrant, Search Condition, Home Detention or House Arrest Assignment]

Captain Eric Tennesen (Ventura County Sheriff’s Office) commented that “patrol deputies regularly go to the homes of subjects who are on probation or parole, and who are subject to warrantless search pursuant to their probation or parole.” He further questioned whether, if the deputies only contact the probationer or parolee inside the home, that interaction would trigger reporting, or is reporting required only if the deputies detain someone other than the probationer/parolee at the home. (Comment 26, p. 1514.)

Response: This comment is accepted. For those reasons provided in the ISOR Addendum, the Department has amended the proposed regulations by adding Section 999.227, subdivisions (d)(2) and (d)(3), which clarify the reporting requirements when officers are in the residence of a person subject to a warrant or search condition, or the residence of a person who is the subject of home detention or house arrest. (Redlined Text, pp. 27-28; Final Text, pp. 18-19 [§ 999.227, subs. (d)(2) and (3)]; ISOR Addendum, pp. 26-28.)

4. 999.227, subd. (c)(4) [Reporting Requirements for Programmatic Searches or Seizures]

(a) Dave Brown (San Diego County Sheriff’s Department) commented that including sporting events and courthouses will create “huge problems.” He explained: “Because San Diego is not the largest city but second largest in the state, but LA is quite a bit larger than us, and we had 3.8 million visitors to our courts that were screened last year. Roughly 10 percent are done ‘something is different’” and therefore will require a report. (Hearing Comment 88, pp. 1686-1687 [Los Angeles Hearing Transcript, pp. 15-18].)

Response: This comment is accepted. For those reasons provided in the ISOR Addendum, the Department has added Section 999.227, subdivision (c)(3), which provides that “[s]tops during or as a result of routine security screenings required of all persons to enter a building or special event, including metal detector screenings, including any secondary searches that result from that screening, are not subject to the reporting requirements of this chapter.” (Redlined Text, p. 25; Final Text, p. 17 [§ 999.227, subd. (c)(3)]; ISOR Addendum, pp. 26-28.)

(b) Professor Emily Owens commented that excluded data on stops made during programmatic searches or seizures “seems potentially problematic.” She explained that this exception “creates

a loophole whereby departments or individual officers could systematically exclude stops by declaring them to be part of a programmatic search, or the result of a ‘neutral’ decision rule ex-post.” (Comment 46, p. 1551.)

Response: This comment is accepted in part. For those reasons provided in the ISOR Addendum, the Department has deleted the general provision regarding “programmatic searches and seizures” and replaced it with more specific provisions governing routine security screenings at building or special event entrances, and checkpoints or roadblocks. (Redlined Text, pp. 25-26; Final Text, pp. 17-18 [§ 999.227, subds. (c)(3), (d)(1)(D)]; ISOR Addendum, pp. 25-28.)

D. 999.227, subd. (d) [Reporting Requirements for Stops of Students in a K-12 Public School Setting]

Kim McGill (Youth Justice Coalition) (Hearing Comment 90, p. 1689 [Los Angeles Hearing Transcript, pp. 26-27] and Alexandra Santa Ana (National Center for Youth Law) (Comment 99, p. 1699 [Oakland Hearing Transcript, p. 19]) offered general comments in support of the proposed reporting requirements and data values for stops of students in a K-12 public school setting. Michael Chase (Hearing Comment 97, p. 1697 [Oakland Hearing Transcript, p. 12]) also offered a general comment in support of the application of the proposed regulations to the school setting.

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

1. 999.227, subd. (d)(1)(D) [K-12 Public School Setting – Truancy]

California Rural Legal Assistance commented that it is “not clear whether current reporting requirements cover interactions in which students are questioned to determine whether they’re truant,” and recommended that this be made an express reporting requirement because “truancy is a frequent grounds for referring students.” Likewise, this commenter recommended that a new data value be added as “Reason for Stop” in the K-12 public school setting for “investigation to determine whether the student stopped was truant.” (Comment 75, p. 1632.)

Response: This comment is accepted in part. The Department has determined that “investigation to determine whether the person was truant” is a necessary data value for all stops, not just those that occur in a K-12 public school setting because truancy checks may occur either on or off campus, and none of the current data elements would apply in that setting. Accordingly, the regulations have been revised to add this data value to the data element “Reason for Stop” for the general reporting requirements in Article 3. (Redlined Text, p. 15; Final Text, p. 10 [§ 999.226, subd. (a)(10)(A)(5)].) Similarly, the reporting requirements for interactions with students in K-12 Schools have been amended to include interactions to determine whether a student is truant. (Redlined Text, p. 29; Final Text, p.19 [§ 999.227, subd. (e)(3)(B)]; ISOR Addendum, pp. 28-29.)

2. 999.227, subd. (d)(1) [K-12 Public School Setting – Reportable Interactions]

California Rural Legal Assistance commented that the organization is “aware of a number of incidents where police are called on ‘disruptive’ or upset parents, who are told they must leave campus” and that “[d]uring some of these encounters police have been used to threaten immigrant parents.” For that reason, this commenter recommended that the regulations be modified to remove the restriction on the type of interactions or “stops” by officers of nonstudents in the K-12 public school setting. (Comment 75, p. 1634.)

Response: This comment is accepted. The regulations have been modified to provide that “[s]tops or persons who are not students are subject to the reporting requirements set forth in Section 999.227, subdivision (a) – (d), even if the stop takes place at a K-12 Public School.” (Redlined Text, p. 28; Final Text, p. 19 [§ 999.227, subd. (e)(1)].)

3. 999.227, subd. (d)(2)(C) [K-12 Public School Setting – Basis for Search]

(a) California Rural Legal Assistance commented that “suspected possession of a weapon” and “suspected possession of a controlled substance” should be additional data values added to “basis for search” in the school setting. The organization also recommended additional sub-values to capture the basis for the suspicion (e.g., tips/informants, metal detector activated, dog signaled, etc.). The organization further recommended that the Department require officers to mark all bases that apply. (Comment 75, p. 1634.)

(b) Vanessa Deleon offered a similar comment, emphasizing the importance of capturing the basis for searches in schools. (Comment 87, p. 1686.)

Response to (a) and (b): No changes have been made in response to these comments. The specific data values for “basis for search” in the K-12 public school setting set forth in proposed Section 999.227, subd. (e)(4) are in addition to the data values for “basis for search” in the non-school setting (see proposed § 999.226, subd. (a)(12)(B)1), which include “Suspected weapons,” “visible contraband,” “odor of contraband,” and “canine detection.” Proposed Section 999.226, subdivision (a)(12)(B)1 also requires officers to select as many of the data elements as apply. The regulations now provide the opportunity for additional detail not only by permitting the selection of additional data elements, but also because of the additional information that can be added in the explanatory field for “Basis for Search” or “Reason for Stop.”

4. 999.227, subd. (d)(2)(B) [K-12 Public School Setting – Reason for Stop]

California Rural Legal Assistance commented that regulations should be modified to add a drop down menu to the data value “investigation to determine whether the student stopped was engaged in conduct warranting discipline under Education Code sections 48900, 48900.2, 48900.3, 48900.4, and 48900.7” that sets forth those violations encompassed in the listed Education Code sections. (Comment 75, p. 1629.)

Response: This comment is accepted. The regulations previously asked officers to select whether the student was stopped because he or she was engaged in conduct warranting discipline under Education Code sections 48900, 48900.2, 48900.3, 48900.4, and 48900.7 without breaking out the Education Code sections. The Department has amended the regulations to require the

officer to select the specific Education Code sections as a sub-data value under that provision to permit additional detail. (See Redlined Text, § 999.227, subd. (e)(4)(B)1; ISOR at pp. 25-26; ISOR Addendum at pp. 28-29.)

5. 999.227, subd. (d)(2)(E) [K-12 Public School Setting – Result of Stop]

California Rural Legal Assistance commented that the regulations should be modified to add an additional data value for “contact parent/legal guardian or other person responsible for the minor” in the K-12 public school setting. (Comment 75, p. 1634.)

Response: No change has been made in response to this comment. The proposed regulations require peace officers to report if the result of the stop was referral to a school administrator, school counselor, or other support staff. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that this additional data value is not necessary to include at this time.

6. 999.227, subd. (d)(2) [K-12 Public School Setting – Perceived Disability]

(a) Racial and Identity Profiling Advisory Board (Board Co-Chair Edward Medrano speaking for the RIPA Board) recommended that the Department add the following additional data value for the data element “perceived or known disability of person stopped” for students in a K-12 public school setting: “ADHD and hyperactivity.” (Hearing Comment 101, p. 1703 [Fresno Hearing Transcript, p. 11].)

(b) Krissy Powell also recommended adding a data value for “ADHD” in the K-12 public school setting. (Comment 66, p. 1609.)

Response to (a) and (b): These comments are accepted in part. The regulations have been modified to add an additional data value “Disability related to hyperactivity or impulsive behavior” among the data values presented to officers for stops of students in a K-12 public school to sufficiently account for situation in which the officer perceives or knows that the student stopped is an individual with a disability for reasons related to hyperactivity or impulsive behavior. The Department believes that this data value will provide important insights regarding interactions in a K-12 public school. (Redlined Text, p. 30; Final Text, p. 20 [§ 999.227, subd. (e)(4)(B)(1); ISOR Addendum, p. 29.]

7. 999.227, subd. (d)(2) [K-12 Public School Setting – Actions Taken During Stop]

California Rural Legal Assistance commented that the regulations should be modified to add additional data values for “written statement obtained from minor suspect” and “admission obtained from minor suspect” among the Actions Taken During Stop in the K-12 public school setting. (Comment 75, p. 1629.)

Response: This comment has been accepted in part. The regulations have been modified to add the following data value as an “Action Taken by Officer During the Stop” in the K-12 public school setting: “admission or written statement obtained from student.” The Department

believes that this data value will provide important insights regarding interactions in a K-12 public school concerning an action that is frequently taken in schools, and which was not previously captured in the original regulations. (Redlined Text, p. 30; Final Text, p. 20 [§ 999.227, subd. (e)(4)(D)(1); ISOR Addendum, p. 30.]

V. COMMENTS REGARDING ARTICLE 5 [TECHNICAL SPECIFICATIONS AND UNIFORM REPORTING PRACTICES] (SECTION 999.227, AS ORIGINALLY PROPOSED)

1. 999.228, subd. (c)(1) [Data Submission]

Professor Jack Glaser identified a drafting error in proposed Section 999.228, subdivision (c)(1), in which the term “quarterly” was erroneously used instead of “annually.” (Comment 80, pp. 1674-1675.)

Response: This comment is accepted. The text has been modified to provide: “Nothing in this section prohibits an agency from submitting this data more frequently than required under Government Code section 12525.5, subdivision (a)(1).” (Redlined Text, p. 32; Final Text, p. 21 [§ 999.228, subd. (c)].)

2. 999.228, subd. (f) [Data Publication]

(a) Professor Jack Glaser recommended that an additional identifier be added in addition to the “unique identifier” so that members of the public can have access to the data at the officer level. (Comment 78, p. 1644; Comment 80, pp. 1676-1677.)

Response: No change has been made in response to this comment. However, this subdivision, (formerly subdivision (f) now subdivision (g)) has been amended substantively to clarify the circumstances in which the Department shall publish or otherwise disclose stop data. As amended, subdivision (g) provides that the Attorney General shall publish the stop data that agencies submit to the Department on the Department’s OpenJustice website, at the Attorney General’s discretion and consistent with Government Code section 12525.5, subdivision (d). This provision has also been amended to clarify that the Department will not release to the public the Officer’s Identification Number or Unique Identifying Information. Together, these provisions are necessary to clarify what information may be published on OpenJustice. In addition, subdivision (g) provides that the DOJ is not prohibited 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 (Redlined Text, p. 33; Final Text, pp. 21-22 [§ 999.228, subd. (g)]; ISOR Addendum, p. 31.)

(b) Professor Emily Owens commented that the regulations should be revised to provide a mechanism through which officer identification numbers can be made available to researchers, subject to appropriate controls to ensure confidentiality and protect individuals from harassment. Specifically, Prof. Owens commented that section 11 CCR § 999.228, subd. (f) of the original text should clarify that it does not preclude external researchers from obtaining access to unique officer identifiers, with the following, or similar, language: “Duly authorized researchers who enter into confidentiality agreements shall be permitted access to unique officer identifiers.” (Comment 46, pp. 1550-1551.) She further commented that she had “concern[s] that the ability

of reporting agencies to maintain a system of creating and tracking officer identifiers may vary across jurisdictions in ways that may hinder the analysis of data. In order to ensure that data is consistent, I suggest that the proposed regulations provide for a standardized means of uniquely identifying officers in a way that should not reveal their identities.” (Comment 46, p. 1551.)

Response: The Department has accepted these comments. As provided in the ISOR Addendum, section 999.228, subd. (g), (formerly subdivision (f)), has been amended substantively to clarify the circumstances in which the Department shall publish or otherwise disclose stop data. As amended, subdivision (g) provides that the Attorney General shall publish the stop data that agencies submit to the Department on the Department’s OpenJustice website, at the Attorney General’s discretion and consistent with Government Code section 12525.5, subdivision (d). This provision has also been amended to clarify that the Department will not release to the public the Officer’s Identification Number or Unique Identifying Information. In addition, subdivision (g) provides that the DOJ is not prohibited 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. This provision is necessary to make clear the limited circumstances in which the DOJ is permitted to provide access to complete stop data and to address concerns expressed during the public comment period that potentially re-identifying information might be published or otherwise disclosed to the public.

As provided in the ISOR Addendum, section 999.227, subd. (a)(11) has been revised nonsubstantively to reflect the amendment of the term “Officer’s Unique Identifier” to “Officer’s Identification (I.D.) Number,” set forth at section 996.226, subdivision (a)(14). It has also been revised substantively to require the reporting agency to maintain a system matching an individual officer to his or her Officer I.D. Number. Previously, the agency was required to match an individual officer to his or her stop data. Because agencies are not required to maintain stop data if they use the Department’s web-browser based application, this provision was amended to require only that the reporting agency maintain a system to match the officer with his or her Officer I.D. Number used for reporting.

3. 999.228, subd. (g) [Retention Period]

Professor Jack Glaser commented that this provision (formerly Section 999.228, subdivision (g), and now Section 999.228, subdivision (h)) should be modified to clarify that “[a]gencies should store their stop data separately from the key linking UID with badge number.” (Comment 80, pp. 1676-1677.)

Response: No change has been made to the regulations in response to this comment. Law enforcement agencies having a multitude of record management systems (RMS) for storing departmental data. Rather than dictating storage requirements for each agency that might require extensive modifications be made to each agency RMS, the Department has determined that data storage requirements are best left to the discretion of each agency.

VI. COMMENTS REGARDING ARTICLE 6 [AUDITS AND VALIDATION] (SECTION 999.229, AS ORIGINALLY PROPOSED)

Jonathan Mummolo, a PhD candidate at Stanford University, commented that the regulations should be modified to require audits of adequate size to allow for statistical assessments. He explained that, in his experience, internal audits of stop data are often conducted using sample sizes that are too small, and that larger sample sizes “would allow for more accurate assessments of the degree to which irregularities are systemic.” (Comment 62, p. 1592.)

Response: No change has been made in response to this comment. Specific regulatory language is not necessary to ensure that the Department uses a sufficient sample size to ensure effective auditing.

VII. COMMENTS MADE IN GENERAL TO THE REGULATIONS AS ORIGINALLY PROPOSED

A. General Comments in Support of the Proposed Regulations, AB 953, and Effective Implementation

(a) Professor Jack Glaser commented: “There are a few areas where, I think, the language needs tightening up. This is an awesome document, Congrats, and thank you.” (Comment 79, p. 1645, see also Comment 78, p. 1642.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(b) ACLU et al. “commend[ed]” the Department for the proposed regulations “that reflect the discussion and public comment over the last several months before the RIPA Board, including letters sent by advocacy organizations outlining specific recommendations that have been included in the rulemaking file.” The commenters urged that their recommendations for further modifications (addressed above) be implemented “to ensure that the full promise of AB 953 is realized.” (Comment 47, p. 1554.)

(c) Peter Bibring (ACLU) thanked the Attorney General and the RIPA Board for their comprehensive job on the proposed regulations. The commenter liked the inclusion of school police departments within the definition of peace officer, the definition of search included frisks as well as full searches, issues surrounding gender identity and sexual orientation, and inclusion of collecting information about those with disabilities, especially those with mental disabilities. The commenter noted the “tremendous amount of work” that went into the proposed regulations. (Hearing Comment 89, pp. 1687-1688 [Los Angeles Hearing Transcript, pp. 19, 21].)

(d) Kena Cador (ACLU) similarly “commend[ed]” the Department for its “consideration and adoption of recommendations made by advocacy organizations over the past several months.” She added that the proposed regulations “reflect recommendations related to perceived identities and any stops of youth, particularly of youth on and around school grounds or in the school setting. . . . I think that the importance of AB 953 cannot be overstated, especially as evidenced by the public participation here today, making sure police are acting fairly and lawfully and that burdens of being stopped and searched are not falling on some racial groups more than others is

crucial and is part of the job.” (Hearing Comment 114, p. 1709 [Fresno Hearing Transcript, pp. 34-36].)

Response to (b) through (d): No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(e) Kim McGill (Youth Justice Coalition) offered a general comment that she appreciates the hard work by the Attorney General on these proposed regulations. (Hearing Comment 90, p. 1688 [Los Angeles Hearing Transcript, p. 23].) Other members of the Youth Justice Coalition offered their general support for the proposed regulations or their own person experiences with racial profiling in support of AB 953 and the proposed regulations. (Michael Wilson (Hearing Comment 91, p. 1689 [Los Angeles Hearing Transcript, pp. 28-31]); Carletta Jackson (Hearing Comment 92, p. 1690 [Los Angeles Hearing Transcript, pp. 31-33]); Maritzza (last name unknown) (Hearing Comment 94, p. 1692 [Los Angeles Hearing Transcript, pp. 38-41]); Chantelle (last name unknown) (Hearing Comment 96, p. 1693 [Los Angeles Hearing Transcript, pp. 43-45].)

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(f) Sameena Usman (Council on American-Islamic Relations) offered a general statement of support for the authorizing legislation, AB 953, and emphasized that accurate data collection will help strengthen the relationship with law enforcement and the community. (Hearing Comment 98, pp. 1698-1699 [Oakland Hearing Transcript, pp. 15-19].)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(g) Maria Lopez (Hearing Comment 106, p. 1705 [Fresno Hearing Transcript, p. 20]), Alfredo Aguero (Comment 111, p. 1707 [Fresno Hearing Transcript, p. 27]) and Aaron Pratt (Hearing Comment 102, p. 1703 [Fresno Hearing Transcript, pp. 11-13]) offered general statements in support of the proposed regulations.

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(h) Krissy Powell commented: “The closer we get to meaningful data, the closer we get to meaningful stories.” (Comment 66, p. 1609.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(i) Carolina Goodman commented: “Thank you for holding elementary and secondary peace officers accountable; making sure officers report when a frisk takes place, not just a stop; requiring outcomes to be reported (cited, arrested); including gender categories (expression and identity); providing a place to include signs of mental or other disability.” (Comment 18, p. 1498.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(j) Michael Chase commented that reporting doesn't distract from public safety—"it's part of public safety." (Hearing Comment 97, p. 1697 [Oakland Hearing Transcript, p. 11].)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(k) Rich (last name unknown) (Comment 16, p. 1494) offered general statements in support of the proposed regulations and urged the Department to fully implement AB 953 as soon as possible.

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(l) Sharon Reinbott (Comment 72, p. 1624) urged the police to collect data on their stops, "so we can understand how and why you stop people of color more than us 'white folks'." She further noted that the RIPA Board "needs to have as much data as possible, and the only they can get that data is if officers enter it." She commented that officers are accountable to the public, "and entering this data is what the public wants. So do it without complaint."

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(m) Nicole Remble offered a general statement in support of the proposed regulations, while noting this is only a first step. (Comment 107, p. 1706 [Fresno Hearing Transcript, p. 21].)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(n) Brandon Sturdivant noted the level of trauma in the room and among the community that organized to pass AB 953 and urged that the recommendations move forward. (Comment 114, p. 1709 [Fresno Hearing Transcript, p. 34].)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(o) Crisantema Gallardo commented that the AB 953 was just the beginning. (Comment 115, p. 1710 [Fresno Hearing Transcript, p. 37].)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(p) Professor Steven Raphael (U.C. Berkeley) commented to "convey [his] support for the proposed regulations regarding AB 953, and in particular, the constellation of data fields that are proposed to be standard data elements to be reported by police officers from, eventually, all law enforcement agencies across the state." He commented that the regulations, if implemented, will

“permit analysis of cross-group disparities in the incidence and nature of police stops and searches,” “facilitate a burst of research on policing and best practice,” “allow nuanced analysis and will afford researchers, police departments, and advocates the ability to contextualize data patterns and to better understand some of the most pressing problems facing police departments in the state of California and in the United States more broadly.” He further commented that the regulations will “increase transparency in police practice and procedure” and “will essentially put California on the forefront of criminal justice transparency and foster a flurry of research on policing that I believe will prove beneficial to all Californians and the country.” (Comment 57, p. 1583.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(q) Professor Emily Owens (U.C. Irvine) commented to “commend the Department of Justice for proposing regulations to ensure the standardization of data collection regarding law enforcement stops of individuals.” She added that standardization of data collection “will allow independent researchers to credibly evaluate the impact of policies and practices aimed at reducing unwarranted racial disparities,” and that, without such data “there is no way to tell whether or not attempts to reduce unwarranted racial disparities are having the intended effect, or are simply imposing additional constraints on police officers.” (Comment 46, p. 1549.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(r) Professor Jennifer Eberhardt commented generally that the RIPA board meeting held January 26, 2017 in Fresno “was quite productive,” and included public comment reflecting “clear and strong support for AB 953.” She continued, “With unanimity, community members spoke of the power of data to provide them a voice and to improve police-community relations. People spoke of the urgent need to document racial disparities in policing and to begin to reduce those disparities. These themes were also apparent in the minutes from the recent public hearings in Los Angeles and in Oakland.” (Comment 77, p. 1639.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(s) Andrea Donado (Greater Long Beach Interfaith Community Organization/ICO) (Hearing Comment 109, p. 1706 [Fresno Hearing Transcript, p. 23]), offered a comment in support of the recommendations presented at the Fresno Public Hearing by Chief Ed Medrano on behalf of the RIPA Board, and urged the Department to incorporate those recommendations.

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves. The specific recommendations of the RIPA Board, as presented by Chief Ed Medrano, have been addressed above.

(t) Krissy Powell similarly expressed general support for the regulations, along with specific recommendations regarding specific provisions. (Comment 66, p. 1609.)

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any changes to the regulations.

(u) California Rural Legal Assistance likewise supported the proposed data elements in the Original Text:

We support the drafters' efforts to include specific criteria for reporting and examples clarifying when various reporting requirements apply. In our view all of the mandatory data reporting requirements included in the proposed regulations are consistent with the intent and purpose of AB 953 and fundamental to effective implementation.

(Comment 75, p. 1629.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any changes to the regulations.

(v) Peter Bibring (ACLU) commented:

“I know that throughout this process there have been a lot of comments about the potential burden on law enforcement, and obviously that’s a concern. But I think it’s important to note throughout this that having law enforcement document what they are doing to ensure that what they are doing is consistent with the constitution and fair and equitable policing is not taking police away from their job; it is part of their job. It is part of public safety to ensure that the burdens of policing don’t fall disproportionately by race or other identity characteristics in California.” (Hearing Comment 89, p. 1687 [Los Angeles Hearing Transcript, p. 20].)

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(w) Terrance Stewart commented from her personal experience:

So I hear the argument of ‘wasting time’ and ‘too much time’ to go to fill out a piece of paper. But it was a whole lot of time that they wasted pulling me over when they only arrested me, like, once or twice. And they pulled me over many of times, you know. And so I think, if they stop racially profiling, they’ll have more time. You know, that’s one thing.

(Hearing Comment 112, p. 1708 [Fresno Hearing Transcript, pp. 29-30].)

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(x) Taymah Jahsi made a similar point on behalf of Faith in the Valley, stating “So when I hear officers say it’s too time-consuming, I view that as an excuse. Because what’s more time-consuming is burying your child. I’ve done that before.” (Comment 120, p. 1712 [Fresno Hearing Transcript, p. 46].)

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(y) Skylar Porras commented that “[t]his effort is critical for the safety and security of all Californians and to assist law enforcement in building healthy relationships with all of our communities[.]” The commenter expressed hoped that the proposed regulations will be enacted “and also just the first of several steps” to improve transparency and accountability of law enforcement agencies. The commenter noted that the “proposed regulations as currently drafted, while not as strong as they could have been, are nevertheless progress[.]” The commenter specifically referenced that agencies should capture narrative as well as demographic data “to provide actual context for review.” (Comment 83, p. 1681.)

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves. Similar comments in favor of narrative fields have been addressed above.

B. Comments Regarding Concerns About Identification of Officer

Concerns about the identification of officers are also addressed above under the data element for “Officer’s Unique Identifier Section 999.226, subdivision (a)(13).”

(a) Orange County Sheriff’s Department expressed concern about the Department’s inclusion of an “officer’s unique identifier” and “officer’s years of experience” because “[a]s currently written there are no proper safeguards to ensure an officer’s anonymity.” The commenter noted that “[a]n officer working a specialized assignment may be easily identified when all data is analyzed,” and that individualized data could be used “to draw unfair conclusions about particular officers based solely on their work assignment.” (Comment 20, p. 1519.)

(b) Amador County Sheriff’s Office commented that “identifying officers endangers them physically and exposes them to liability,” and that reporting of officer characteristics, including duty assignment and length of services, could lead to re-identification concern, particularly for smaller agencies. The commenter continued: “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 that data, and when and how they should redact them where appropriate.” (Comment 50, p. 1573.) Yolo County Sheriff’s Office (Comment 60, p. 1587), Lake County Sheriff’s Office (Comment 81, p. 1678) and California Association of Highway Patrolmen (Comment 61, p. 1590) expressed similar concerns.

(c) Professor Jennifer Eberhardt commented that she is “aware that there are risks associated with collecting additional data, whether we consider narrative fields or officer-level information” and that the Department should “do everything possible to minimize those risks because there are real risks associated with not collecting this information.” She nevertheless urged the Department to maintain the officer identification number because, without that data value, the RIPA Board will be “reduced to reporting on the size of racial disparities across various regions of the state” and “will not have moved any closer to understanding what those disparities mean nor how to address them.” To limit the danger of re-identification, Professor Eberhardt recommended that “no officer-level information be released to the public: this includes the

officer unique identifier, years of experience, type of assignment, race, age, and gender.” (Comment 77, p. 1640.)

Moreover, she cautioned that “simply reporting on disparities could make things worse not better. Members of the law enforcement community could see those disparities as indicative of racial differences in crime. The public could see those same disparities as indicative of racial profiling. Rather than serving as a mechanism to improve police-community relations, this entire data exercise could serve to further polarize us.” For that reason, she concluded, “Collecting additional information through narratives and officer-level information can move us beyond polarization and focus us on the important task of addressing racial disparities in ways that are more productive and evidence based.” (Comment 77, p. 1640.)

Response to (a) through (c): These comments have been accepted in part. The Department has retained the data elements “Officer Identification (I.D.) Number” (previously, “Officer Unique Identifier”), “Years of Experience,” and “Type of Assignment”) and further modified the regulations to clarify that “The Department shall not release to the public the Officer Identification Number or Unique Identifying Information.” (Redlined Text, p. 33; Final Text, p. 22 [§ 999.228, subd. (g)]; ISOR Addendum, pp. 31-32.)

The phrase “Unique Identifying Information” is defined as “personally identifying information, the release of which, either alone or in combination with other data reported is reasonably likely to reveal the identity of the individual officer who collected the stop data information. It does not include the minimum information that is specified in Government code section 12525.5, subdivision (b).” (Redlined Text, p.4; Final Text, p. 4 [§ 999.224, subd. (a)(17)].)

The Department has also added a provision to the regulations that “Law enforcement agencies are solely responsible to ensure that neither personally identifiable information of the person stopped, nor any other information that is exempt from disclosure pursuant to Government Code section 12525.5, subdivision (d), is transmitted to the Department in the data element entitled “Location of Stop” required by Section 999.226, subdivision (a)(3) and the explanatory fields required by Section 999.226, subdivisions (a)(10) and (12)(B)2.” (Redlined Text, p. 32; Final Text, p. 21 [§ 999.228, subd. (d)].) This provision is intended to ensure that the information referred to in Government Code section 12525.5, subdivision (d) is not inadvertently reported or published in any open text fields.

The Department has included provisions in the regulations to ensure officer anonymity as contemplated in Government Code section 12525.5, which will not only promote candor and ensure data integrity but also protect officer safety. As explained in the ISOR, and consistent with Professor Glaser’s comment summarized above, the Department has previously determined that an officer identification number is necessary to validate and ensure data integrity and to conduct officer-level analysis, as required by section 12525.5 itself.

Moreover, although an Officer’s Identification (I.D.) Number must be included with each report submitted to the Department, the regulations provide that the Department shall not release that number to the public. (Final Text, pp. 21-22 [§ 999.228, subd. (g)].)

C. General Comments in Opposition to the Proposed Regulations

Numerous commentators provided general comments in opposition to the proposed regulations or AB 953. These comments are summarized below. Please note that, to the extent these commenters also provided comments regarding specific provisions of the regulations, those comments are summarized above.

(a) Alameda County Sheriff's Office commented that the regulations don't require the collection of data beyond the following data elements: perceived ethnicity (based on observations during contact); gender (based on admission or official document such as state-issued identification) age (with specified age ranges); reason for contact (consensual/probable cause/call for service); disposition of contact (arrest/citation/verbal warning/assistance provided); search results (searched-evidence seized/searched -no evidence seized/not searched); and authority for search (consent/parole or probation/arrest/vehicle inventory/probable cause/no search).

The commenter noted that collecting data beyond the scope of the elements listed above will deter law enforcement, reduce community policing, and, because officers will be required to engage in administrative duties instead of interacting with the community, there is increased potential for citizens to become victims of crime because officers are not available. The commenter further noted that data elements other than those listed above would not provide any insight into the mindset of law enforcement officers "at the point where a decision is made to contact an individual," and will require an enormous investment of time and resources. (Comment 67, p. 1611-1612.)

(b) Butte County Sheriff's Office commented on the collection and documentation of the data elements added by the regulations, commenting that this will result in increased costs and result in less discretionary time for officers/deputies. It noted that not all agencies will be able to absorb these added costs. The effect on officer/deputy time will, in turn, impact an agency's ability to provide other services to the community. The commenter also objected to the requirement that an officer must complete "a lengthy questionnaire" on every person stopped, regardless of the outcome, will impact proactive policing, which in turn will negatively impact public safety and potentially result in an increase in crime. (Comment 32, pp. 1524-1525.)

(c) California Highway Patrol commented on the time it would take officers to complete each stop data report. For example, the California Highway Patrol reported that it makes 2.8 million stops per year; thus, although the CHP already collects stop data, every additional five minutes required to complete a stop form under these regulations "would equate to over 230,000 hours of service for which CHP officers are unavailable to serve the public and respond to calls for service." (Comment 38, pp. 1536-1537.)

(d) California Police Chiefs Association (CPCA) objected to the regulations because it believes that the Department did not sufficiently consider the potential economic and public safety impacts of these reporting requirements. CPCA stated that the Notice of Proposed Rulemaking Action failed to acknowledge the impact on officer's time and law enforcement's availability to protect and serve, and in particular its impacts on crime, victimization, and the economy. CPCA provided specific estimates regarding the estimated number of stops per year that must be reported (10 million stops) and the amount of time to fill out each report (even using a

conservative estimate of 10 minutes per stop will result in a total reduction of 1.7 million hours annually, which is the equivalent of losing the working hours of 800 full-time officers. The CPCA references a report by the RAND Corporation on the economic impact of crime, and using that study, estimated that a staffing reduction of 800 officers annually will result in an anticipated economic loss of \$40 million per year. Accordingly, the CPCA urged the Department to reexamine the economic impact assessment of the regulations, as required by law. The CPCA also urged that “there must be a resistance to including any additional data fields in the draft regulations that do not further the intent of AB 953, as well as a thorough review of the necessity of each proposed requirement.”

CPCA further urged that all data must be relevant to AB 953’s intent, which was to eliminate racial and identity profiling and improve the relationship between law enforcement and the communities they serve. CPCA commented that the regulations do not allow the officers to identify if they had prior knowledge of the person’s race or ethnicity. CPCA also had specific comments regarding active shooter events and mass evacuations; these are addressed under the specific provision discussed. Finally, CPCA had specific objections regarding the officer identification provisions; although the legislation provided that such identification cannot be disclosed by the Department, there are not similar protections regarding information released through court orders or public records requests filed with the individual agency. It recommended that these additional protections be made clear, and must contain specific language that protects the identity of the officer and prevents the unique identifier from being publicly released. (Comment, pp. 1503-1505.)

(e) California State Sheriffs’ Association (Comment 35, pp. 1529-1530), Amador County Sheriff’s Office (Comment 50, pp. 1572-1574), Yolo County Sheriff’s Office (Comment 60, pp. 1587-1588), and Lake County Sheriff’s Office (Comment 81, pp. 1678-1679) submitted substantially similar comments that raised the following objections.

First, the commenters objected to the inclusion of data points beyond those specifically identified in the statute, and objected that all of this data must be completed and submitted to the reporting agency by the end of the officer’s shift.

Second, the commenters objected to the regulations because they will create significant increases in workload for law enforcement agencies, and will jeopardize public safety (because the increased time required for each interaction will result in fewer interactions and will keep them from responding to other calls). In addition, the regulations potentially impact officer privacy (because of the data elements for years of service, type of assignment, and officer I.D. numbers).

Third, the commenters noted that the data elements required “will most assuredly result in the identification of specific officers in connection with particular interactions.” And, even the requirement that agencies are to redact personally identifiable information before submitting to the Department is not enough to protect an officer’s privacy, because, for example, “type of assignment” and “years of experience” could be considered personally identifiable information, yet the regulations are not clear whether an agency can or should redact that information. And the commenter believes that persons will be able to obtain this data through court discovery.

Fourth, the commenters stated that the regulations will impact officer safety (in particular, officers may be put at risk because they will be required to stay in potentially dangerous situations (e.g., the side of a busy roadway) for longer periods of time.

Fourth, the commenters stated that the proposed regulations will require local agencies to undergo massive training and technology costs, for which no funds are provided by the state, and for which the agencies will be forced to utilize the lengthy and burdensome state mandate process to recoup these costs. Specifically, the commenter opined that the proposed regulations “will saddle local agencies 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 the reporting agencies and likely does not contemplate the additional data requirements imposed by the regulations. Local law enforcement agencies will be forced to utilize the lengthy and burdensome state mandate process to attempt to recoup the massive costs imposed upon them by AB 953 and its implementing regulations.” (Comment 35, p. 1529.)

(f) Hanford Police Department commented that by requiring such “onerous legislation it will dissuade officers from making these contacts.” The commenter continues that “officers will either stop making citizen contacts due to the work involved or they will make contacts and not report them to dispatch or utilize their body worn cameras. The second option is particularly distressing and will result in an unsafe situation for the officer and the person they are contacting.” The commenter further states that the data should not be collected based upon perceptions, the data will be flawed, an officer will report fraudulent data to avoid being detected as racially profiling, the information will become a public record to identify individual officers who would be subject to litigation, and will dramatically impact an officer’s ability to do his or her job and department budgets. (Comment 20, p. 1502.)

(g) Kings County Sheriff’s Office (Comment 43, p. 1545) and Kings County Probation Department (Comment 45, p. 1548) raised concerns that the proposed regulations 1) should be scaled back because they have morphed into 200 possible data selection components and should be reduced to the minimum data required by AB 953 itself; 2) will cost the State of California millions, and possibly more than a billion, dollars to pay for staff time and increasing technology costs; 3) will be time consuming for officers, and could range from 10-45 minutes to complete a stop data form; 4) will cause delays in priority reports needed for court, staff shortages and overtime, particularly due to the requirement that the data be input by end of shift; 5) will result in inaccurate and unreliable data because it is based upon perception rather than factual information; 6) will lead to increased racial profiling of other groups to balance out numbers; and 8) require officer demographic data, which is irrelevant and may lead to the identification of the officer, particularly for smaller agencies.

(h) Los Angeles County Sheriff’s Office objected to the regulations because they include data elements far beyond the scope of AB 953 and will place undue burden on the agency. The commenter noted that requiring deputies to report on “perceived” data elements such as perceived race, gender, age, limited English fluency or pronounced accent, or perceived or known disability will result in “inaccurate and unreliable data collection based on a deputy’s perception and speculation, at best.” The commenter also noted that the collection of officer data

“will become an officer safety issue, as well as a liability issue if such information were revealed to the public.” Collecting these additional data elements will also result in added costs to law enforcement with respect to training, implementation and technology. Finally, these additional data elements will increase a deputy’s workload, resulting in increased response time to calls and less time for proactive police work. In short, the commenter recommended that the Department reconsider these additional elements because they will result in “misconceptions, burdensome workloads, additional costs, and undue officer safety concerns.” (Comment 76, p. 1637.)

(i) Los Angeles Police Department (LAPD) objected to the proposed regulations because they “go far beyond what is required in the legislation and its intent, and create an unreasonable and excessive burden on the field officers who are tasked with recording the data. Importantly, the excessive time required to comply with the regulations will significantly 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.” (Comment 54, p. 1579.)

The commenter noted, for example, that the regulations expand the statutorily required “Reason for Stop” into two categories: “Reason for Stop” and “Reason for Presence at Scene at Stop,” with multiple choices for each data element. The commenter makes specific objections to certain specific provisions (definition of “stop,” multiple persons stopped, deadline for submitting data prior to end of officer’s shift); these objections are discussed above, under the specific provisions for “Reason for Stop” and “Reason for Presence at Scene.”

The commenter further commented that officer safety will be compromised because an officer will need to be intensely focused on his or her mobile device or mobile data terminal to record all of the data required, particularly if the officer is working alone. Finally, the commenter objected to the regulations because their implementation will likely not reveal any systemic bias, and will lead to added expense and administrative burdens, and result in decreased police services. (Comment 54, pp. 1579-1580.)

(j) Orange County Sheriff’s Department (OCSD) raised “significant concerns” regarding the proposed regulations: “1) the excessive amount of data being requested; 2) the inclusion of subjective data points; and 3) the impact on individual deputies.” (Comment 29, p. 1518.) The commenter discussed each of these concerns in detail.

First, it commented that the additional proposed data elements create “more than 200 possible data selection components,” “well beyond the data points statutorily mandated in the legislation.” Reporting such extensive data will be time consuming for officers, and could range from 10-45 minutes. Time spent completing paperwork for data collection will reduce the time spent on patrol and affect officer safety. In addition, “the process of training staff, building data collection systems and ensuring compliance within an agency cannot be done overnight.” The commenter recommended modifying the proposed regulations to limit them to the data elements specifically identified in AB 953, noting that additional data elements can be added in future years. (Comment 29, p. 1518.)

OCSD recommended that the regulations be revised to require the collection of only those data elements that were required in the original legislation, i.e., only those specifically listed in AB 953. (Comment 29, p. 1518.) The commenter noted that complying with even these specified

minimum data elements will be an enormous adjustment for law enforcement agencies, and will require training, building data collection systems and ensuring compliance.

OCSO further noted that, besides the infrastructure and training that must be developed for such data collection, the time it will take to complete a stop data form with the proposed elements could range from 10-45 minutes, and that “time spent completing paper work will diminish time spent on patrol in the community.” In addition, she is concerned that these new data collection responsibilities may impact officer safety. Accordingly, the commenter recommended that the data to be collected be limited to those categories specifically identified in AB 953, and that new data elements can be added in future years. (Comment 29, p. 1519.)

Second, the commenter objected to the subjectivity of these additional data elements, noting that data elements that “do not have a uniform standard,” such as “perceived or known disability” and “limited English fluency or a pronounced accent,” should be eliminated. (Comment 29, p. 1519.)

Third, the commenter objected to the inclusion of data elements that could identify the officer, specifically, “officer’s unique identifier” and “officer’s years of experience. (Comment 29, p. 1519.)

Finally, the commenter recommended that, instead of overly focusing on the collection of minute data points, the goals of eliminating racial profiling and stronger community relations can be best achieved by focusing energy on strong hiring practices, effective training, and engaged citizenry. (Comment 29, p. 1519.)

(k) Riverside County Sheriff’s Department objected to the regulations because “they clearly reflect a lay viewpoint that underscores a deep lack of understanding of what is involved in our basic law enforcement efforts and daily police work.” (Comment 30, p. 1521.) First, the data elements are excessive, going far beyond the initial legislation and include “some 200+ separate data elements required of our officers on each stop/detention.” (Comment 30, p. 1522.) The commenter noted that its internal review indicated that the time to complete stop data for each person stopped is 15 minutes or more. Even if the agency uses the Department’s proposed software data application, the proposed regulations will reduce the number of officers patrolling because of the administrative burden the regulations place on the agency.

Second, the commenter objected that there is “far too much subjectivity” required of its deputies in completing the proposed data elements. Third, the proposed regulations create “potentially unfair profiles of our deputies in their varied assignments.”

Fourth, the regulations create “a chilling effect” in the conduct of legitimate police work, creating an administrative burden that will reduce the number of officers patrolling the community. This may result in reduced or delayed responses to crimes, which will negatively impact state-sponsored grant programs that are based on “proactive” enforcement efforts to address existing safety concerns, and which are based on statistical data from victim crime reports. Finally, the regulations add “greatly increased additional and unneeded `staffing costs’ without any “value-added.” (Comment 30, pp. 1521-1522.)

(l) Brandon Rock. Brandon Rock offered this perspective as a patrol officer:

This is unduly burdensome upon proactive patrol officers. I find that it takes much longer to complete than a stop itself, which may have resulted in a warning and taken 2 minutes. That same stop now takes several times that long and leads to a massive decrease in traffic stops. As someone who works patrol in a very busy district, this effectively ensures the number of stops I make will be cut to 1/4 the amount, due to the limited amount of time available not running calls. My amount of proactive work has been decreased by a similar amount.

(Comment 28, p. 1516.)

(m) San Diego County Sheriff's Department objected to the regulations because they include data elements far beyond the scope of AB 953 and will place undue burden on the agency, which will deteriorate public safety. Requiring deputies to complete a lengthy questionnaire on every person stopped, regardless of the outcome of that stop, will have a chilling effect on policing. In addition, the information that the regulations require to be collected will be used by “criminals, anti-police organizations, and the defense bar to personally identify officers and establish harmful narratives about their character based on the demographics of the people they stop.” (Comment 19, p. 1501.) The commenter noted that data must be collected even if the stops are non-discretionary, and that all information collected and submitted would be publicly available and searchable. Officers may hesitate to stop a person who has committed a crime for fear of second guessing, which is not in the best interest of the public and is not the intent of AB 953. The commenter recommended that the Department revise the regulations to include only the data elements specifically identified in the statute. (Comment 19, p. 1500.)

(n) San Mateo County Sheriff objected to the regulations because of its concerns regarding the potential impact on law enforcement, because the regulations require the reporting of all stops, and “not all encounters will generate the amount of data required by the regulations. For example, officers conduct continuous contacts for a number of reasons, including dispatched calls, community engagement, etc. In addition, the commenter stated that the proposed regulations may cause officers to alter their practices when contacting the public because the collection will be a significant burden and will affect “the manner and reasoning for their contacts.” This may result in skewed data. The commenter stated that restricting officers by requiring them to engage in time consuming data collection requirements may impact proactive community policing. (Comment 33, p. 1526.)

(o) Ventura County Sheriff's Office objected to the proposed regulations because they “go well beyond the scope of data collection required by AB 953,” will impact public safety, and will reduce the amount of time a deputy sheriff will have to conduct proactive policing, because they will instead need to complete stop collection data. The commenter noted that the regulations contain more than 150 data points, compared to the only approximately 20 data points identified in Government Code section 12525.5, subdivision (b). The commenter claimed that, based on a collection tool it had developed, the difference in hours spent collecting data required by the regulations (versus data required by the statute) was 8,000 to 14,000 additional hours, representing between \$800,000 and \$1.4 million in lost proactive policing time. The commenter also claimed that it would cost an estimated \$100,000 to develop a data collection method. (Comment 69, p. 1618.)

This lost time will result in reduced stops, reduced time spent proactively patrolling, and less time to build relationships with community members. The commenter also objected to the regulations because they will do little to provide context to encounters. For example, deputies assigned to gang units will likely have disproportionate contacts with Hispanics, because most of the gangs in Ventura County are Hispanic street gangs. Additionally, the commenter noted that requiring deputies to report on “perceived” demographics will result in “guessing” on the most critical data elements. (Comment 69, p. 1619.)

(p) Robert Thayer (Comment 34, p. 1527), Kim Pearson (Comment 36, p. 1532; Comment 37, p. 1534), and Mike Strutz, (Comment 39, p. 1538) offered the following identical comment: “I have attended a presentation regarding the information the RIPA Board is suggesting our front-line law enforcement officials collect when contacting members of the public in an enforcement setting. Although their intentions are probably good, it seems the RIPA Board has overstepped the original language of the legislation and have morphed it into a challenging data collection standard that will harm public safety. I would much rather our first-responders be on the street enforcing California law rather than filling out paperwork for “data” collection that is 100% collected in a “perceived” manner from the first-responder. The original intent of collection, as described in the legislation, is sufficient enough. Future legislation should be drafted to remove the “perception” of the first responder anyway, as that in and of itself has created profiling.”

(q) Marni Watkins commented: “Please do not create a paperwork nightmare for our first responders. Our first responders need to be on the street, not filling out red tape paperwork. The original intent of collection, as described in the legislation, is sufficient enough.” (Comment 42, p. 1543.) Peggy Montgomery made a similar comment regarding paper work. (Comment 40, p. 1540.)

(r) Casey Nice commented that, “While this legislation may be well intended, it will be completely burdensome (time needed) on the police officers and because the data entered will be based on an impression made by the officer as to what category/categories a person, or multiple persons fit within, the value of the data will always be questionable, and of almost no value. Police are frequently summoned, by citizens, to respond to reported criminal or suspicious activity to areas that (for a whole host of reasons (economic?)) that are populated by the less fortunate. It appears that the intention of this legislation is to gather information that will somehow support that proposition that police actions are improper. If people are concerned that the police, or their respective agencies apply the law unequally and improperly, what value is there to collect information (provided by police) that can be relied upon? I fear that the overly burdensome requirements of this legislation may (unfortunately and improperly) cause police and or agencies to NOT take action for fear of being labeled as acting unfairly or improperly as well as (because of time requirements) being unavailable for other police duties.” (Comment 53, p. 1577.)

(s) Five Law Enforcement Associations objected based on their assessment of the regulations’ potential economic and public safety impacts. Specifically, the commenters object to the Department’s statement in the Notice of Proposed Rulemaking Action that there will be no adverse impact on the “health and welfare of California residents, (or) worker safety.” The commenters stated that students have shown that “comparable reductions have had impacts on crime, victimization, and the economy.” The commenters offered a “conservative estimate[]”

that over 10 million stops will be reported under these regulations, each requiring approximately five minutes officer time to complete the report and five minutes to relocate to a safe position to do so. Based on these two estimates, the commenters predicted “an annual impact of 1.7 million hours annually of officer time that removed from protecting the peace” or the equivalent of 800 full-time officers.” (Comment 74, p. 1627.)

Response to (a)-(s): These comments have been accepted in part. To the extent that these commenters have offered specific comments about the proposed regulations, those comments have been addressed above.

The Department received several comments from law enforcement agencies and individuals suggesting that the stop data collection requirements imposed by Government Code section 12525.5 would result in public safety costs by decreasing officer efficiency or providing a disincentive for officers to conduct “proactive” police work. The commenters did not, however, provide any evidence that prior data collection programs have resulted in any negative public safety outcomes. Although some of these comments attempted to link the additional officer time to collect data on those elements added by the proposed regulations, these comments as a whole reflected a general concern about the statutory requirement to collect stop data rather than any costs specifically attributable to the proposed regulations. Any such costs, therefore, are more properly attributed to the statute than the regulations.

The Department has nevertheless carefully evaluated these comments and consulted with police practice/criminal justice researchers on this issue. These consultations confirmed there is no empirical evidence linking stop data collection to decreased public safety. The Department also conducted a field test of proposed stop data elements as well as evaluated costs associated with different methods for collecting and reporting the data. The methodology used to obtain time estimates on completion of the stop data forms and how the cost estimates were calculated is set forth in detail in the Revised STD Form 399 and Addendum. Results of the field test showed a median completion time of approximately 2.5 minutes (145 seconds) per stop. This included 27 seconds to complete seven (7) additional elements added by the regulations.

To the extent that the commenters are concerned about costs of systems needed to satisfy the statutory data collection requirement, the Department refers to the discussion about possible means of data collection set forth in the Revised STD Form 399 and Addendum. Application of the local mandate requirements are addressed in the Revised STD Form 399 and Addendum. And, the RAND Corporation study, cited by at least one commenter, suggests a link between overall law enforcement expenditures, public safety, and business costs; the study does not say anything about how law enforcement spending and resources are best allocated, and says nothing about the potential effects (positive or negative) of data collection on public safety. In any event, the need for data collection is a legislative determination that was resolved with the enactment of AB 953.

To the extent that the commenters are recommending further, unspecified, reductions in the required data elements, the Department eliminated and streamlined many data values. (see generally, ISOR Addendum.) In addition, the Department revised the regulations to add a new provision, entitled “Peace Officer Interactions that are Not Reportable,” located at Section 999.227, subdivision (c). These settings which include mass evacuations, active shooter

incidents, and routine building and event security screenings were exempted from reporting because in these circumstances the officer's actions are largely non-discretionary, involve public safety, and are not the types of interactions contemplated by AB 953. (ISOR Addendum, pp. 25-27.) With respect to the other data elements added by the regulations, the rationale for each of the data elements included in the original text of the proposed regulations is set forth in the ISOR; the rationale for all modifications is set forth in the ISOR Addendum. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. While the Department did eliminate and streamline many data values, the Department has determined that each data element added by the regulations, as posted for public comment on August 1, 2017, is necessary to fulfill the intent of AB 953. (See generally, ISOR Addendum.)

With respect to the collection of perceived demographic information, Government Code section 12525.5 requires officers to report "the perceived race or ethnicity, gender, and approximate age of the person stopped" and further provides that "the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped." The Department's regulations are consistent with that requirement.

With respect to the comments concerning the release and use of information collected for court or other purposes, Government Code section 12525.5, subdivision (d) mandates that the data reported shall be available to the public except for the badge number or other unique identifying information of the peace officer involved and these regulations are in accord with the statute. The Department's regulations are consistent with that requirement. The release of any information not already provided to the public as directed by Government Code section 12525.5, subdivision (d) is beyond the scope of these regulations and will be subject to state and federal discovery laws as appropriate.

With respect to the comments concerning the quality of training for California peace officers, the general demands placed on peace officers on a daily basis, and the creation of additional burdens that will not solve the problem of racial profiling and bias, these comments are interpreted to be observations rather than a recommendation of any change to the regulations themselves and/or issues that are beyond the scope of these regulations and should be addressed at the agency level. However, while the regulations do not currently address training, Penal Code section 13519.4 specifies that the Peace Officer Standards and Training Commission (POST) must develop training, in consultation with the Racial and Identity Profiling Advisory (RIPA) Board, regarding racial and identity profiling.

With respect to the comments regarding when the stop data form should be completed, the Department did modify the original regulations to provide: "An officer shall complete all stop reports for stops made during his or her shift by the end of that shift, unless exigent circumstances preclude doing so. In such circumstances, the data shall be completed as soon as practicable." (Redlined Text, p. 24; Final Text, p. 16 [§ 999.227, subd. (a)(9)]; see ISOR Addendum, p. 24.) To the extent that these comments are recommending the removal of the requirement to submit the stop data form at the end of shift altogether, no change has been made in response to that comment.

The Department has determined that permitting officers, as a general rule, to complete stop reports during the following shift would degrade the value of the data by increasing the necessary recall time between the incident and the report and is likely to increase the reporting time because it would require officers to attempt to reconstruct—or refer to notes—for incidents that occurred one or more days in the past

Moreover, the suggestions that an officer would decline to fulfill his or her duties—or compromise officer safety—because they did not want to complete a stop data form or that an officer would improperly profile one group to unlawfully manipulate the stop data to achieve a desired result is beyond the scope of these regulations and should be addressed at the agency level.

(t) Kings County Board of Supervisors commented that they have concerns regarding the proposed regulations as follows: 1) the regulations expand the requirements of AB 953 with respect to the number of data elements; 2) the regulations require subjective perception in lieu of factual information; 3) the regulations invite officers to profile; 4) the regulations reprioritize the subjective information over the factual information needed for court proceedings; 5) the regulations ignore that California peace officers are the most highly trained officers in the United States and use a “one-size fits all manner” to address problems more prevalent in other States; 6) the regulations create burdens that will not solve problems, be misinterpreted, will fail to calculate the impact of commuter polices, and be misused; 7) the regulations create burdens and demands in an environment already plagued by the demands of realignment, Proposition 47 and Proposition 57; and 8) the regulations ask local and state agencies to absorb these additional costs without additional funding. (Comment 49, pp. 1570-1571.)

Response: No change has been made in response to these comments. To the extent that the Kings County Board of Supervisors has offered specific comments about the proposed regulations, those comments have been addressed above.

To the extent the commenter is recommending further, unspecified, reductions in the required data elements, the Department notes that the rationale for each of the data elements included in the original text of the proposed regulations is set forth in the ISOR; the rationale for all modifications is set forth in the ISOR Addendum. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that each additional data element added by the regulations is necessary to fulfill the intent of AB 953.

With respect to the collection of perceived demographic information, Government Code section 12525.5 requires officers to report “the perceived race or ethnicity, gender, and approximate age of the person stopped” and further provides that “the identification of these characteristics shall be based on the observation and perception of the peace officer making the stop, and the information shall not be requested from the person stopped.” The Department’s regulations are consistent with that requirement.

With respect to the comments concerning the quality of training for California peace officers, the demands of realignment and compliance with other California laws, and burdens that will not

solve problems, these comments are interpreted to be observations rather than a recommendation of any change to the regulations.

With respect to the comment suggesting that the proposed regulations “ask local and state agencies to absorb these additional costs without additional funding,” to the extent that the commenters are concerned about costs of systems needed to satisfy the statutory data collection requirement, the Department refers to the discussion about possible means of data collection set forth in the Revised STD Form 399 and Addendum. Application of the local mandate requirements are addressed in the Revised STD Form 399 and Addendum.

(u) James Sing objected to the regulations, stating: “The Proposed regulations will result in higher crime rates. Officers will stop making self initiated stops. The reporting requirements will substantially reduce officers present in the community. If you enact these regulations the criminals win.” (Comment 5, p. 1472.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves. The general comments concerning higher crime and reduction of officers in the community is addressed in response to subdivisions (a) through (s) in this section.

D. Opposition to AB 953

(a) Jason Lines objected to AB 953 itself, commenting that requiring first responders to collect and document all of the information listed in the legislation will “cause burden to the already taxed officer.” He further commented on the cost to taxpayers, noting that “Not only will AB953 overburden the Officers but the cost to the tax payers should be considered especially when taking into account the state’s budget deficit.” He expressed the concern that “this will create a situation very similar to what Chicago P.D. has experienced,” and will prevent officers from being proactive because of the time required to document stops. (Comment 41, p. 1541.)

(b) Robert Evans also objected to AB 953 itself, commenting: “You people think it’s bad in Chicago? Wait until this idiotic law goes into effect and see how much less “interaction” there is between the officer on the street and the `citizens.’” (Comment 3, p. 1470.)

(c) Liang Chen commented: “This is a ridiculous law and should not be enacted in the first place. Just use your logic first please. Could the police tell the race of a speeding driver before stopping them so that the police is able to subjectively select who to stop? There is no logically justifiable ground to support the allegation and justify the intrusive public data collection despite some statistical correlations. This law will not help solve the racial bias problem instead it poses great threat in protecting individual privacy.” (Comment 15, p. 1492.)

(d) Maria C. Trudeau commented that there are “too many regulations in California.” (Comment 8, p. 1477.)

(e) John Doe commented: “Slanted results from stops we can now paint a police agency as racist? I find this law crazy! Such as, if cops stop people in East Oakland where Black, Latino and Asian population is heavy, (specifically black) and the data says most of their stops are of

black people, then we get to officially slap a racist label on the Oakland cops???” (Comment 10, p. 1480.)

(f) Jeremy Buttgerreit commented: “This bill if enacted will severely cripple law enforcement agencies around the state. The time involved in completing this data will cause a reduction in law enforcement service to the public and increased costs which would be passed on to the taxpayers. Please consider the impact on public safety. In a way the requirements of this Assembly Bill would be counter-productive to what it is trying to accomplish.” (Comment 59, p. 1585.)

(g) Anonymous objected to the legislation itself, commenting that “[l]iberal lawmakers continue to take steps to prevent policing. This unnecessary burden will likely prevent police officers from being proactive in our neighborhoods. it will likely deter community interaction and hurt the communities that need police involvement the most.” (Comment 23, p. 1508.)

(h) Jack Tucker objected to the use of taxpayer money and officer time in collecting stop data. He asked: “Why are we spending taxpayer dollars and cop’s time on what equates to meaningless data collection. Collecting ‘perceived’ data will produce ‘perceived’ results. It seems foolish that the State of California would spend the money, but will they then make public safety decisions based on this non-empirical data? I would hope not.” (Comment 22, p. 1506.)

Response to (a) through (h): No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves. To the extent that these comments are directed at AB 953 itself, no response is necessary.

E. Miscellaneous Comments

1. Accountability

(a) Julie Dudley offered her perspective as a former teacher on the importance of paperwork to drive accountability, and noted that “when something happens in the classroom, you had to write it out. Time is nothing. Time is of the essence,” in order for teachers to be “part of the solution versus the problem.” She further comments “that’s why it’s so important for us to look at time as not an issue but part of it, to take the time to write that information down so we can see where the problem is and look forward to solutions.” (Hearing Comment 121, pp. 1712-13 [Fresno Hearing Transcript, p. 47].)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(b) Professor Karen Glover (California State University, San Marcos) commented that prior data analyses “demonstrates time and time again racial disparity is marginalized, discounted, silenced in the important realms in which we’re trying to kind of make it matter.” She continued: “So what I’m hoping that AB 953 or related legislation can do is the next step, and that is: When disparity is revealed, have a mandate that that disparity in and of itself has to be addressed immediately in the department that’s under review. A three-month—here’s an example. A three-month, six-month, one-year, five-year and ten-year review. So it’s going to be continual data

collection. And if things aren't starting to decline in the disparity that's been revealed, then accountability with the brass in the department, supervisors, not so much the traffic officers themselves, but the people who really are going to be the ones that need to be held accountable for this needs to be in place." (Hearing Comment 85, p. 1685 [Los Angeles Hearing Transcript, pp. 10-11].) She provided similar comments recommending accountability in Comment 82, p. 1680.

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

2. Training

(a) ACLU et al. and Peace Resource of San Diego commented that the proposed regulations should be modified to "specifically address standards for any intended trainings related to data collection to ensure uniform reporting pursuant to the statute." (Comment 47, p. 1555; Comment 65, p. 1599.)

(b) Equality California et al. commented that successful implementation of the regulations "must be accompanied by a robust training program for peace officers on interacting with LGBTQ communities," including "consideration of privacy protections for vulnerable LGBTQ populations" as well as "outreach and education to community members about the regulations and LGBTQ Californians' rights when interacting with law enforcement." (Comment 48, p. 1568.)

(c) Alfredo Aguero commented that officers should be provided with additional training to address bullying and kids with special needs, and recounted the experience of his son. (Comment 111, p. 1707 [Fresno Hearing Transcript, p. 27]).

(d) Sukaina Hussain commented that "the role of law enforcement is to provide that peace, to serve and protect." She continued, "[I]f we're continuing to militarize, we're not serving that purpose. So I hope the investment in this regulation really provide them education and training into making our community safer, instead of more militarized." (Hearing Comment 119, p. 1711 [Fresno Hearing Transcript, p. 45].)

(e) Anthony Amarante commented that he hoped peace officers would receive training on how to write narratives because it is "a skill that requires practice to master." (Comment 56, p. 1582.)

Response to (a) through (e): No change has been made in response to these comments. While the regulations do not currently address training, Penal Code section 13519.4 specifies that the Peace Officer Standards and Training Commission (POST) must develop training, in consultation with the Racial and Identify Profiling Advisory (RIPA) Board, regarding racial and identity profiling.

3. Implementation

(a) Vanessa Deleon (Hearing Comment 87, p. 1686 [Los Angeles Hearing Transcript, p. 14]) and Krissy Powell (Comment 66, p. 1609) offered general comments urging effective implementation.

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(b) Jonathan Mummolo recommended that the Department “[i]mplement these reforms systematically to allow their impact to be scientifically assessed,” and suggested that certain officers and law enforcement agencies should be randomly assigned to implement the proposed regulations in order to test their effectiveness and impact against a control group before the program is rolled out statewide. (Comment 62, p. 1592.)

Response: No change has been made in response to this comment. Government Code section 12525.5, subdivision (a) establishes the implementation schedule for stop data collection and these regulations are in accord with the statute.

4. Public Access to Data

Crisantema Gallardo commented that it is important for community groups and individuals to have access to the data. (Hearing Comment 115, p. 1710 [Fresno Hearing Transcript, p. 37].)

Response: No change has been made in response to this comment. Government Code section 12525.5, subdivision (d) mandates that the data reported shall be available to the public except for the badge number or other unique identifying information of the peace officer involved and these regulations are in accord with the statute.

5. Racial and Identity Profiling and Law Enforcement Practices

(a) Several commenters offered personal and community experiences with law enforcement and perspectives on racial profiling to emphasize the importance of AB 953 generally and the need for greater accountability and improved relations between law enforcement and the community:

1. Sharon Hoffman (Comment 70, p. 1620)
2. Todd Benson (Comment 71, p. 1622)
3. Karen Glover (Comment 82, p. 1680)
4. Michael Wilson (Hearing Comment 91, p. 1689-90 [Los Angeles Hearing Transcript, pp. 28-31])
5. Victoria Castillo (Hearing Comment 103, p. 1704 [Fresno Hearing Transcript, pp. 14-16])
6. Denise Friday-Hall (Hearing Comment 105, p. 1705 [Fresno Hearing Transcript, pp. 17-20])
7. Nicole Remble (Comment 107, p. 1706 [Fresno Hearing Transcript, p. 21])
8. Genea Nicholson (Hearing Comment 108, p. 1706 [Fresno Hearing Transcript, p. 22])
9. Andrea Donado (Greater Long Beach Interfaith Community Organization/ICO) (Hearing Comment 109, p. 1706 [Fresno Hearing Transcript, p. 24])
10. Terrance Stewart (Hearing Comment 112, p. 1708 [Fresno Hearing Transcript, pp. 29-30])
11. Brandon Sturdivant (Hearing Comment 113, p. 1709 [Fresno Hearing Transcript, p. 33])
12. Kena Cador (ACLU) (Hearing Comment 114, p. 1709 [Fresno Hearing Transcript, p. 35])
13. Greg Jones (Congregation Out for Change) (Hearing Comment 117, p. 1710-11 [Fresno Hearing Transcript, p. 39])

14. Nebyou Berhe (Hearing Comment 118, p. 1711 [Fresno Hearing Transcript, p. 42])
15. Sukaina Hussain (Hearing Comment 119, p. 1711-12 [Fresno Hearing Transcript, p. 43])
16. Taymah Jahsi (Faith in the Valley) (Hearing Comment 120, p. 1712 [Fresno Hearing Transcript, p. 46])
17. Julia Dudley (Hearing Comment 121, pp. 1712-13 [Fresno Hearing Transcript, p. 47])
18. Carletta Jackson (Youth Justice Coalition) (Hearing Comment 92, pp. 1690-91 [Los Angeles Hearing Transcript, pp. 31-33])
19. Harry Shakur (Hearing Comment 93, p. 1691 [Los Angeles Hearing Transcript, pp. 34-37])
20. Chantelle (last name unknown) (Youth Justice Coalition) (Hearing Comment 96, pp. 1693-94 [Los Angeles Hearing Transcript, pp. 43-45])
21. Bobbi Butts (Hearing Comment 116, p. 1710 [Fresno Hearing Transcript, p. 38])
22. Maritzza (last name unknown) (Youth Justice Coalition) (Hearing Comment 94, p. 1692-93 [Los Angeles Hearing Transcript, pp. 38-41])

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(a) M. Gloria Hernandez submitted a request for an extension to the public comment deadline in order to “submit evidence that [F]resno police target Mexicans in order to make money off of them.” (Comment 58, p. 1584.) Ms. Hernandez did not submit any further comment or information on this topic.

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

6. Disability and Law Enforcement Practices

Irene Armendariz recounted the experience of her brother, whom she described as having schizophrenic tendency and facing prison time. Ms. Armendariz commented that information is important to see if there are any specific patterns of prejudices or abuse. (Hearing Comment 104, p. 1705 [Fresno Hearing Transcript, p. 17].)

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

7. Comments Regarding the Public Hearings

(a) Maria Lopez commented during the Fresno Public Hearing: “I’m very glad to see that everyone on this table appears to be—may not identify but appears to be a woman.” (Hearing Comment 106, p. 1705 [Fresno Hearing Transcript, p. 20].)

(b) Karen Glover commented during the Los Angeles Public Hearing: “And I’m actually wondering where the men of color are in your panel as a closing comment.” (Hearing Comment 85, p. 1685 [Los Angeles Hearing Transcript, p. 11].)

(c) Rosa Aqeel (PolicyLink) commented during the Fresno Public Hearing, that she appreciated that the hearings were held in the evening, in response to prior requests from advocacy organizations. (Hearing Comment 110, p. 1707 [Fresno Hearing Transcript, p. 25].)

Response to (a) through (c): No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

8. Department of Finance

California Department of Finance provided commentary on the original STD 399 recommending that the Department of Justice conduct an additional survey to determine what the costs of implementing the regulations, as opposed to the statutory provisions, would be to ensure that the regulations did not require a Standardized Regulatory Impact Assessment. (Comment 64, p. 1596.) In addition, the Department of Finance commented via email seeking clarification regarding (1) the cost accrual schedule; (2) a breakdown of the original cost estimate by concept and by year; (3) the magnitude of the ongoing costs related to personnel, training and maintenance; and (4) an analysis of the benefits implied by the regulation. (Comment 84, p. 1682)

Response: The Department accepts these comments. The Department of Justice refers to the Revised STD 399 and Addendum, which responds substantively to the suggestions and concerns set forth by the Department of Finance. Specifically, as explained in the STD 399 Addendum, the Department of Justice conducted a field test of proposed stop data elements as well as evaluated costs associated with different methods for collecting and reporting the data. The methodology used to obtain time estimates on completion of the stop data forms and how the cost estimates were calculated is set forth in detail in the Revised STD Form 399 and Addendum. The STD 399 Addendum also provides a cost accrual schedule, including a breakdown of costs by concept and year (pp. 2430-2431); an estimate of ongoing costs (p. 2429); and an explanation of the anticipated benefits of the statute and proposed regulations (pp. 2434-2437).

F. Comments that Do Not Require Response

(a) Sherry Clark (Comment 6, p. 1474; Comment 9, p. 1478; Comment 24, pp. 1510-1511; Comment 25, p. 1512; Comment 55, p. 1581), Elizabeth Hess (Comment 17, p. 1495), James Miramontes (Comment 4, p. 1471), and George Odemns (Comment 12, p. 1484), submitted comments relating to personal matters that are wholly unrelated to the AB 953 regulations.

Response: No response is required to these comments, which are not germane to the proposed regulations

(b) ACLU et al (Comment 73, p. 1626) provided notice of 8 additional signatories to the original letter received from the ACLU et al. on January 26, 2017 (Comment 47, p. 1553): Black Lives Matter – California, Californians for Justice, Clergy and Laity United for Economic Justice, Los Angeles Community Action Network (LA CAN), National Action Network Los Angeles, Price Student Organization Collaborative, Riverside All of US or NONE, and Starting Over, Inc.

Response: No response is required to this comment, which only provides notice of additional signatories to a prior written comment.

SUMMARY OF COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD AND DEPARTMENT RESPONSES

On August 1, 2017, the Department issued a Notice of Proposed Modified Text and Additions to the Rulemaking File. The Department of Justice accepted comments on the modified text and additions to the rulemaking file through August 16, 2017. During this time, the Department received 50 written comments. All written comments received during the 15-day comment period are included in the rulemaking file at Tab H.

Summaries of the written comments and the Department’s responses to them, are set forth below, and are organized by subject matter, i.e., in the order of the proposed regulations, beginning with Article 1. Following these comments, the Department summarizes and responds to general comments that are not directed toward specific text within the regulations.

A list of all written comments received (timely and untimely), as well as the oral comments provided at the public hearings, is included in the Table of Contents to the Rulemaking File. In addition, these comments are also referenced in an index attached to this document, which lists each comment by subject matter and in the order it is addressed in this document. (See Attachment B.)

I. COMMENTS REGARDING ARTICLE 1 [DEFINITIONS] (SECTION 999.224, AS MODIFIED)

1. 999.224, subd. (a)(2) [Consensual search]

(a) Santa Monica Coalition on Police Reform recommended that the definition of “consensual search” be modified to remove the third condition that consent to search “may be implied by conduct,” explaining that this is “not a reasonable standard of consent,” but rather “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).” Instead, the commenter recommended that the officer inform the person of “his/her right to give or withhold consent . . . [t]hen wait for an answer and abide by it.” (Comment 214, p. 2505.)

(b) Cathie Gentile agreed with these comments. (Comment 222, p. 2528.)

Response to (a) and (b): No change has been made in response to these comments. The definition of “consensual search” was not modified in the version of the regulations noticed for comment on August 1, 2017. As explained in the ISOR, page 7, the term has been defined consistent with state and federal jurisprudence.

2. 999.224, subd. (a)(7) [Detention]

(a) Santa Monica Coalition on Police Reform recommended that the regulations be further modified to remove the third condition that detention include “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,” explaining that this 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).” Instead, the commenter recommended that 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.” (Comment 214, p. 2505.)

(b) Cathie Gentile agreed with this suggestion. (Comment 222, p. 2528.)

Response to (a) and (b): No change has been made in response to these comments. The definition of “detention” was not modified in the version of the regulations noticed for comment on August 1, 2017. As explained in the ISOR, page 7, the term has been defined consistent with state and federal jurisprudence.

3. 999.224, subd. (a)(11)(B) [Reporting Agency]

The Hon. Alice Lytle (Ret.) commented on whether the definition of “reporting agency” “would include the State Police”? (Comment 230, p. 2555.)

Response: No change has been made in response to this comment, because the California Highway Patrol (CHP), which is a reporting agency subject to the reporting obligations of Government Code section 12525.5, subdivision (g)(1), includes those officers who were formerly members of the State Police (the California State Police merged with the CHP in 1995).

4. 999.224, subd. (a)(15) [Stop Data]

Richard Hylton commented, “I think you could have done better in your definition of “stop data.” (Comment 181, p. 2440.) In a separate comment, Mr. Hylton directed the Department to the analysis conducted by Professor Jennifer Eberhardt at Stanford University of stop data collected by the Oakland Police Department, which required that, “[f]or 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).” Mr. Hylton recommended that the Department “adapt and adopt a definition that allows you to verify not only the logic of data but to electronically verify is [sic] contents” to existing records, including but not limited to “Field Interviews, Citations and Written warnings.” (Comment 200, pp. 2472-2473.)

Response: No change has been made in response to these comments. The Department interprets Mr. Hylton’s comments to recommend that the Department adopt a similar definition of “stop” as that used in the Oakland Police Department study, so that the stop data can be verified against the FI/SDR report that must be completed for the stop. The proposed regulations, however, define “stop data” to refer “collectively to the data elements and data values that must be reported to the Department” (Final Text, p. 3 [§ 999.224, subd. (a)(15)]) and define “stop” consistent with the statutory definition set forth in Government Code section 12525.5. The Department has determined that this proposed definition is sufficiently clear for reporting officers and agencies to understand how the term is used in the proposed regulations. Not all interactions that meet the statutory definition of “stop” will require separate field interviews, citations, or written warnings.

5. 999.224, subd. (a)(16) [Student]

(a) Hon. Alice Lytle (Ret.) commented, “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?” (Comment 230, p. 2555.)

Response: No change has been made in response to this comment. As provided in proposed Section 999.227, the special reporting requirements in subdivision (e) apply only for stops of students at a K-12 public school. (Final Text, p. 19 [§ 999.227, subd. (e)].) Stops of students that occur outside the bounds of a K-12 public school—including students found in the home during a stop—shall be reported using the standard data elements and values in Article 3, proposed Section 999.226. (See Final Text, p. 15 [§ 999.227, subd. (a)(1)].)

(b) Disability Rights California recommended adding the following additional example under the definition of “student”:

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.

Disability Rights recommended adding this example (presumably, as one in which the officers are to apply the special reporting requirements set forth in § 999.227, subdivision (e)) because students living with disabilities may struggle with school materials that are presented in a manner that is not compatible with their learning style and may voluntarily leave the classroom or school premises out of frustration or to escape the perceived embarrassment of struggling to learn instructional material. Some schools may have a hands-off policy and notify parents instead of a physical intervention when this occurs. As a result, “[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.’” (Comment 220, p. 2521.)

Response: No change has been made in response to this comment. The Department has determined that it is not necessary to add this example because the regulations make it clear that stops of students that occur within the bounds of a K-12 public school shall be subject to the special reporting requirements in Article 4. (See Final Text, p. 19 [§ 999.227, subd. (e)].) Stops of students that occur outside the bounds of a K-12 public school shall be reported using the general reporting requirements and the standard data elements and values in Article 3, proposed Section 999.226. (See Final Text, p. 15 [§ 999.227, subd. (a)(1)].)

6. 999.224, subd. (a)(17) [Unique Identifying Information]

A coalition of organizations⁵ that co-sponsored and supported the passage of AB 953 (hereafter referred to collectively as “ACLU et al.”) commented that the explanation on pages 4-5 of the

⁵ The following organizations submitted Comment 225: 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

ISOR Addendum is “crucial” and that the Department “should ensure that the definition of “Unique Identifying Information” be interpreted consistent with the explanation in the ISOR 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. (Comment 225, p. 2536.)

Response: No change has been made in response to this comment. The Department interprets the comment to be advocating for an interpretation of the definition of “Unique Identifying Information” consistent with the ISOR Addendum rather than recommending any change to the definition itself.

II. COMMENTS REGARDING ARTICLE 2 [LAW ENFORCEMENT AGENCIES SUBJECT TO GOVERNMENT CODE SECTION 12525.5] (SECTION 999.225, AS MODIFIED)

The Department received no comments to the modifications proposed in in Article 2 of the regulations.

III. COMMENTS REGARDING ARTICLE 3 [DATA ELEMENTS TO BE REPORTED] (SECTION 999.226, AS MODIFIED)

A. Comments Related To Proposed Data Values And Data Elements

1. 999.226, subd. (a)(3) [Location of Stop]

ACLU et al. supported the proposed data element and data values for “location of stop,” but the organizations urged the Department in future revisions to the regulations to consider the recommendation in their January 27, 2017 letter (see Comment 47, p. 1553) that officers also be required to select among 10 secondary data values for the type of location. (Comment 225, p. 2536.)

Response: No change has been made in response to this comment. The Department interprets this comment to recommend changes in future revisions, and not during the current rulemaking process.

If, in the alternative, this comment is intended to recommend further modifications of the regulations before they are adopted, then no change has been made in response to that comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling.

2. 999.226, subd. (a)(2)(C) [Duration of Stop]

(a) City and County of San Francisco, (Joy Bonaguro, on behalf of Mayor Edwin M. Lee of the City and County of San Francisco) commented that the modification to require officers to enter

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, and Youth Justice Coalition, LA.

the approximate duration of a stop in minutes rather than selecting among pre-determined data values “will likely result in data quality issues and will make the data harder to analyze.” The commenter further explained that data validation will be more difficult because not all agencies will be able to create successful data validation results (e.g., checking that a number versus text was submitted). (Comment 219, p. 2518.)

Response: No change has been made in response to this comment. The Department considered and rejected the suggestion to revert this data element to a series of time ranges based on its assessment that the time required to select among a sufficiently granular list of time ranges would be greater than the time required for an officer to estimate and enter an approximate time in numerals. As explained in the ISOR Addendum, the originally proposed time ranges were too broad to allow sufficient data analysis, did not provide any means to distinguish among stops greater than 60 minutes, and were changed in response to public comment received from researchers that will be interpreting this data once it is collected.

With respect to the comment that data validation will be more difficult because not all agencies will be able to create successful data validation results (e.g., checking that a number versus text was submitted), the regulations provide in several places that only Arabic numerals (e.g. 1, 2, 3, 4) rounded up to the closest whole number can be submitted. (See §§ 999.226, subdivision (a)(7) [“Perceived Age of Person Stopped”], 999.226, subd. (a)(15) (“Years of Experience”).) While that same language is not specifically included here, under the definition of “Duration of Stop” the regulations require that the officer shall enter the “approximate length of the stop in minutes.” A specific example within the “Duration of Stop” data element states that, under that scenario, “‘Duration of Stop’ would be reported as 45 minutes.” (Proposed Section 999.226, subd. (a)(2)(C)1.)

(b) California Highway Patrol (CHP) commented that, 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).” For that reason, the CHP recommended this requirement be revised back to how it appeared in the prior version of the regulations. (Comment 216, p. 2509.)

Response: No change has been made in response to this comment. Under the definition of “Duration of Stop” the regulations require that the officer shall enter the “approximate length of the stop in minutes.” Accordingly, using the CHP’s example, an officer would be able to enter a round number (e.g., 10 or 20 minutes) rather than a specific time (e.g., 13 minutes). Similarly, no change has been made in response to this comment with respect to reverting back to time ranges for the same reasons provided in response to the City and County of San Francisco’s similar comment in subdivision (a) within this section of the FSOR.

3. 999.226, deleted subd. (a)(4) [Reason for Presence at Scene of Stop]

Los Angeles Police Department (LAPD) (Comment 213, p. 2503) and ACLU et al. (Comment 225, p. 2538), supported the Department’s decision to eliminate the data element “Reason for Presence at Scene of Stop.”

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

4. 999.226, subd. (a)(4) [Perceived Race or Ethnicity of the Person Stopped]

City and County of San Francisco “strongly support[ed] 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).” He opposed, however, the data values and definitions of “Asian” and “Middle Eastern or South Asian,” which do not correspond to the Decennial Census or OMB federal standard. He instead recommended that the regulations utilize the definitions “that have been comprehensively tested in national, randomly selected trials that oversamples minority groups, e.g., in the Census National Content Test of 2015.” (Comment 219, pp. 2515-2518.)

Response: No change has been made in response to this comment. Although comparisons with census data are one important means of evaluating possible claims of racial and identity profiling, the proposed data values were selected based on extensive dialogue with advocacy organizations to reflect practical realities of perception-based identification rather than self-identification. The definition of “Middle Eastern or South Asian” in the regulations was derived in part from a commonly used definition found at Asian Americans/Pacific Islanders in Philanthropy. This data value was chosen to enable agencies, researchers, the Racial and Identity Profiling Advisory Board (RIPA), and the public to determine whether implicit or explicit biases in law enforcement practices exist with respect to persons who appear to have origins in that geographic region of the world. Data collection under AB 953 must focus on race and ethnicity, and it is the Department’s assessment that the current categories capture that data as best as possible.

5. 999.226, subd. (a)(5) [Perceived Gender of the Person Stopped]

A coalition of organizations, including the ACLU of California, Equality California, and the Los Angeles LGBT Center (hereafter referred to collectively as “Equality California et al.”) recommended that the proposed data values for “male” and “female” be changed to “man/boy” and “woman/girl” for consistency with the other proposed data values “transgender man/boy,” “transgender woman/girl,” and “gender nonconforming.” The commenters explained: “Data collection values should use terminology inclusive of both adults and youth/juveniles, and should be consistent across values 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. (Comment 229, p. 2553.)

Response: No change has been made in response to this comment. The proposed data values were selected based on extensive dialogue with advocacy organizations to reflect practical realities of perception-based identification rather than self-identification. The terms “male” and “female” are commonly used by law enforcement officers to refer to both juveniles and adults; retaining those terms will not affect the data collected by officers.

6. 999.226, subd. (a)(6) [Person Stopped Perceived to be LGBT]

(a) Equality California et al. “strongly support[ed] the addition” of this data element, and explained that “the inclusion of this data category is essential to addressing anti-LGBT bias and discrimination during police stops.” (Comment 229, p. 2553.) The ACLU et al. also “strongly support[ed]” this addition, and explained that “[c]ollecting information about perceived sexual orientation will help the RIPA Board and the Department 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.” (Comment 225, p. 2539).

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(b) California Highway Patrol commented that, while there is an “obvious significance” of the distinction between whether the person stopped is male or female,” “it is unclear what value, if any, is added by asking an officer to try and identify the sexual orientation of someone stopped,” adding that completing this data element will require the officer to make “a stereotypical judgment, a practice AB 953 was meant to eliminate.” The commenter further noted that it would be “difficult, if not impossible,” to detect a person’s sexual orientation prior to the initiation of a traffic stop, suggesting that the data element is therefore not indicative of perceived bias. The commenter concludes that the data value is not required in the statute and should, for these reasons, be removed. (Comment 216, p. 2510.)

(c) Kings County Sheriff’s Office requested that this data be removed because it is “well beyond the scope of the original intent of the law on AB 953” and “this has nothing to do with race or racial profiling.” (Comment 218, p. 2512.)

(d) San Bernardino County Sheriff’s Department listed as an “item[] of opposition” this data element because it is an “additional reporting burden to officers.” (Comment 228, p. 2550.)

Response to (b) through (d): No change has been made in response to these comments. This data element was recommended by the RIPA Board, including votes in support of inclusion by law enforcement representatives on the Board (see ISOR Addendum, pp. 8-9); ACLU et al. (Comment 47, p. 1563); Peace Resource Center of San Diego (Comment 65, p. 1606); Equality California et al. (Comment 48, p. 1567); California Rural Legal Assistance (Comment 75, pp. 1635-1636); Racial and Identity Profiling Advisory Board (Hearing Comment 101, p. 1703 [Fresno Hearing at pp. 10]); and Krissy Powell (Comment 66, p. 1609). Including this data element is also consistent with the definition of “racial or identity profiling” set forth in Penal Code section 13519.4, subdivision (e), which includes “consideration of, or reliance on, to any degree . . . gender identity or expression [or] sexual orientation . . . in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop . . .” (Pen. Code § 13519.4, subd. (e).)

Accordingly, the prevention and eradication of racial and identity profiling, which is the intent behind AB 953, explicitly encompasses sexual orientation as well as gender identity or expression. Regarding the CHP’s comment that this category of information was not required in

AB 953 and should thus be removed, the Department notes that the categories of information identified in Government code section 12525.5, subdivision (b)(6) represent the minimum information to be collected (“The reporting shall include, at a minimum, the following information for each stop . . .”).

Moreover, the comment that sexual orientation of the person stopped may not be perceived prior to a traffic stop is not dispositive; as the statutory definition makes clear, profiling is not limited to the decision to stop a person, but extends through the “scope or substance” of activities following a stop. Moreover, the proposed modification to the regulations does not require an officer to make a determination regarding the sexual orientation of the person stopped. Rather, it only asks the officer to record that perception as “yes” or “no.”

(e) Orange County Sheriff’s Department (OCSD) objected to the “subjective[ity] of the data element “person stopped is perceived to be LGBT” because “[r]equiring 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”). (Comment 223, p. 2530.)

Response: No change has been made in response to this comment. To the extent the OCSD objects to the inclusion of this data element, the Department refers to the ISOR Addendum, pages 8-9, which explains that the data element was added in response to recommendations from the RIPA Board and other stakeholders, is consistent with the definition of racial and identity profiling set forth in Penal Code section 13519.4, subdivision (e), and that the data element is necessary to enable the RIPA Board and researchers to comprehensively track interactions between peace officers and individuals they perceive to be LGBT to help assess whether bias exists with respect to gender identity or expression, or sexual orientation. To the extent the OCSD suggests that the officer be required to ask the person stopped whether or not the person is lesbian, gay, bisexual, or transgender, that recommendation is rejected, consistent with the approach adopted by the Legislature in AB 953 (Gov. Code § 12525.5, subd. (b)(6)) with respect to other data elements, including the person’s race or ethnicity, gender, and approximate age.

7. 999.226, subd. (a)(7) [Perceived Age of Person Stopped]

(a) San Bernardino County Sheriff’s Department commented on proposed Section 999.226(a)(7), as modified, stating that the provision was “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.’” (Comment 228, p. 2550.)

Response: No change has been made in response to this comment. The regulation does not contain the phrase “actual approximate perceived age” and makes clear that the officer shall input the approximate age of the person stopped in whole number increments.

Instead, the commenter seems to be referring to the ISOR Addendum, which explains that “The Final Text now require an officer to provide the actual approximate perceived age of the person stopped.” (ISOR Addendum, p. 9.) The term “actual,” as used in the ISOR Addendum, was intended only to refer to a “specific” number, as opposed to the range of numbers provided in the originally proposed regulations to make clear that the reason for the change was to require

officers to provide the officers' perception of the specific age (recognizing that any age provided is only an approximate age), as opposed to a range of numbers.

(b) California Highway Patrol commented on the modification of this data element, which replaced a series of age ranges with an open text field for the officer to enter the perceived age of the person stopped, rounded up to the closest whole number. The commenter explained: "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." (Comment 216, p. 2509.)

Response: No change has been made in response to this comment. The specific concerns raised by the commenter appear more properly directed to the Legislature's determination that the perceived, rather than actual, age of the person stopped shall be reported. (See Gov. Code, § 12525.5, subd. (b)(6).) The regulatory language merely tracks the statute on this point.

As explained in the ISOR Addendum, page 9, the decision to require officers to input a specific number (rather than select among various age brackets) was made in response to public comments that the age brackets reflected in the original version of the proposed regulations would pose analytic problems. The commenter does not offer any rationale for reverting back to the age brackets, and the Department declines to do so based on these analytic concerns.

(c) Richard Hylton commented that the age of the person stopped should be captured from various forms of identification, when available. (Comment 203, p. 2479.) He further stated that "RIPA does not include age as a basis for a claim of or evaluation of bias or discrimination," and that "[p]erception applies to the prohibited bases." He further commented that age should thus be treated differently than race because it is objectively verifiable through identification, and "why would a sensible person who wants to have verifiable data discard an actual value that may be verified by a number of means?"

Response: No change has been made in response to this comment. The specific concerns raised by the commenter appear more properly directed to the Legislature's determination that the perceived, rather than actual, age of the person stopped shall be reported. See Gov. Code § 12525.5, subd. (b)(6).) The regulatory language merely tracks the statute on this point.

8. 999.226, subd. (a)(8) [Person Stopped Has Limited or No English Fluency]

Orange County Sheriff's Department objected to the data element "person stopped has limited or no English fluency," arguing that it is impossible to ensure uniformity in this data value without requiring "an English proficiency exam." (Comment 223, p. 2530).

Response: No change has been made in response to this comment. The proposed data element "Person Stopped had Limited or No English Fluency" was included in the first version of the regulations, but revised to remove "pronounced accent" and include "no English fluency" see ISOR Addendum, pp. 9-10. The rationale for this data element is set forth in the ISOR, page 18. Moreover, the data element is to be reported based upon the officer's perception, therefore,

there is no issue with respect to uniformity of the data or a need for an English proficiency examination.

9. 999.226, subd. (a)(9) [Perceived or Known Disability]

(a) Disability Rights of California supported the modifications to proposed Section 999.226, subdivision (a)(9). The commenter further recommended that the “other” category contain space for a narrative description for the perceived disability (or anytime an officer selects “other”). The commenter further recommended that the regulations be modified to 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,” as required by the Americans with Disabilities Act. (Comment 220, p. 2522.)

The organization also reiterated the point made in its letter dated January 27, 2017 (see Comment 68, p. 1613) that the disability data collected pursuant to the regulations are not subject to the federal Health Insurance Portability and Accountability Act (HIPAA) because law enforcement officers and agencies are not “covered entities” under HIPAA, and because the data is submitted as an aggregate and is not “personally identifiable.” (Comment 220, p. 2523.)

Response: No change has been made in response to this comment. The recommendation to include a narrative field if the officer selects “other” was previously considered and not adopted for the reasons set above. For the same reasons, the Department has determined not to make changes to the proposed text in response to this comment.

Similarly, no change has been made in response to the recommendation to further modify the regulations to expressly permit officers to affirmatively inquire about whether the person stopped has a disability. The proposed regulations provide: “Nothing in this provision alters any existing requirements to comply with reasonable accommodation and anti-discrimination laws with respect to the treatment of people with disabilities.” (Final Text, p. 8 [§ 999.226, subd. (a)(9)].) While this provision clarifies that nothing alters existing obligations of officers under reasonable accommodation and anti-discrimination laws, it is beyond the scope of these regulations to affirmatively instruct officers in their duties under state and federal disability laws.

The comments with respect to the applicability of HIPAA to these regulations are interpreted to be an observation, rather than a recommendation of any change to the regulations themselves, thus no changes are warranted.

(b) Kings County Sheriff’s Office recommended that this data element be removed, explaining, “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.” (Comment 218, p. 2512.)

(c) San Bernardino County Sheriff’s Department offered a similar comment with respect to this data value: “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!” (Comment 228, p. 2551).

Response to (b) and (c): No change has been made in response to this comment. The data element “perceived or known disability of the person stopped” was included in the originally proposed regulations; to the extent these comments are directed to the data element itself and not to the modifications, no response is required.

As explained in the ISOR, the Department has determined that the proposed data element “is necessary to provide context to a stop, and to provide valuable data to law enforcement agencies regarding the number of stops of persons perceived or known to have disabilities, as well as actions during a stop and stop outcomes. This information will enable analysis of potential disparities in stops and stop outcomes with respect to the disability community, and help inform agencies about training needs to help officers in interactions with persons with mental or physical disabilities.” (ISOR, p. 19.) It is also consistent with the definition of “racial or identity profiling” set forth in Penal Code section 13519.4, subdivision (e), which includes “consideration of, or reliance on...mental or physical disability in deciding which persons to subject to a stop or in deciding upon the scope or substance of law enforcement activities following a stop. . .” As explained in the ISOR Addendum, the modified data elements were drafted in consultation with stakeholders that have expertise in disability rights. (See ISOR Addendum, p. 10.)

The specific data element referred to by the commenters—“hyperactivity or impulsive behavior”—applies only to stops of students in the K-12 public school setting. This data element was specifically recommended by the Racial and Identity Profiling Advisory Board, as well as advocates, because the previously existing data values did not sufficiently account for situations in which the officer perceives (or knows) the student stopped to be an individual with a disability for reasons related to hyperactivity or impulsive behavior, and because this data value would provide important insights regarding interactions in the K-12 public school setting.

(d) Orange County Sheriff’s Department objected to the data element “perceived or known disability of person stopped,” arguing that “there is no uniform standard for collecting this data point and therefore it does a disservice to treat such haphazard perceptions as fact.” (Comment 223, p. 2530.)

Response: No change has been made in response to this comment. The data element “perceived or known disability of the person stopped” was included in the originally proposed regulations; to the extent this comment is directed to the data element itself and not to the modifications, no response is required. Note, however, that the officer is not prohibited from asking the person stopped whether he or she is disabled or otherwise requires special assistance if necessary under state and federal reasonable accommodation and anti-discrimination laws.

10. 999.226, subd. (a)(10) [Reason for Stop]

(a) San Bernardino County Sheriff’s Department objected to the new data value “investigation to determine whether a person was truant” under “Reason for Stop,” explaining: “This will actually result in SROs 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.” (Comment 228, p. 2550.)

Response: No change has been made in response to this comment. “Investigation to determine whether person was truant” was added to the regulations in response to comments that school-age persons are commonly detained to check for truancy, but no existing data values would be applicable in that situation. This data value was added to ensure that, when an officer detains a person for the purpose of investigating possible truancy, the officer will have an appropriate choice. The suggestion that an officer would decline to fulfill his or her duties because they did not want to complete a stop data form is beyond the scope of these regulations and should be addressed at the agency level.

(b) The Hon. Judge Alice Lytle (Ret.) commented on the data value “Consent” as a choice for “Reason for Stop” as follows: “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.” (Comment 230, p. 2555.)

Response: No change has been made in response to this comment. The explanatory field required by proposed Section 999.226, subdivision (a)(10)(B) requires that the officer “provide a brief explanation (250-character maximum) regarding the reason for the stop. This explanation shall include additional detail beyond the general data values selected for the ‘Reason for the Stop.’” (Final Text, p. 10 [§ 999.226, subd. (a)(10)(B)].) If the officer selects “consent” as the reason for the stop, this explanatory field will provide an opportunity to explain why the person was asked to consent to the stop.

11. 999.226, subd. (a)(10)(B) and (a)(12)(B)(2) [Explanatory Fields for “Reason for Stop” and “Basis for Search”]

(a) ACLU et al. commended the Attorney General for adding explanatory fields for “reason for stop” and “basis for search” and recommended that future versions of the regulations be amended to require several additional mandatory narrative fields. (Comment 225, p. 2537.)

Response: No change has been made in response to this comment which is interpreted to be an observation, rather than a recommendation of any change to the regulations themselves.

If, in the alternative, this comment is intended to recommend further modifications of the regulations before they are adopted, then no change has been made in response to that comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling.

(b) Los Angeles Police Department (LAPD) objected to the narrative fields, commenting that the text field is time consuming for the officer and duplicative of the choices provided in proposed Section 999.226, subdivisions (a)(10)(A) [reason for stop] and (a)(12)(B) [basis for search]. In addition, the LAPD commented, these narrative fields will require supervisory review in order to ensure that no personally identifying information of the person stopped or unique identifying information of any officer is included in the field. (Comment 213, p. 2503.)

(c) California Highway Patrol also objected to the text fields, noting that narrative fields were considered by the Legislature when AB 953 was introduced, yet were not included in the final

version of the bill signed by the Governor, suggesting that such fields were “deemed unnecessary by the Legislature” and therefore lack a “statutory basis.”

In addition, the CHP commented that when its officers completed the pilot study, officers were not given specific instructions regarding how to complete the text fields. The regulations, by contrast, now require that the narrative “shall include additional details beyond the general data values selected.” The CHP opined that this will seemingly required additional narrative, beyond what was acceptable in the pilot study. Further, the CHP commented that there was no supervisory review of data collection included in the pilot study. The CHP contended that supervisory review will likely be necessary for every text box, and this was not considered in how much additional time this requirement of the text fields will incur.

In the alternative, the CHP recommended that the explanatory field be made optional and only required when there is clarifying, or otherwise contextual, information necessary beyond the code violation and type of stop data categories already required. The CHP noted that, given that the vast majority of traffic stops are for Vehicle Code violations, it is unclear what detail can be provided in the text boxes beyond the statutory citations, e.g., for speeding. (Comment 216, pp. 2508-2509.)

(d) Assemblymember Tom Lackey commented that the narrative fields impose a “time-consuming demand” on officers that will decrease the time an officer will spend in the field serving their respective community. He added that “it is important that law enforcement focuses its time to protect the community and should be cognizant to not add overly burdensome paperwork.” He also expressed concern that “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.” (Comment 209, p. 2489.)

(e) Kings County Sheriff’s Office (KCSO) recommended that the narrative fields for Reason for Stop and Basis for Search be optional, particularly if the data values provided in subdivision (a)(10)(A) and (a)(12)(B) are sufficient to cover the reason for stop and basis for search, respectively. For example, the Sheriff commented, “[I]f the Search Warrant on basis for search is selected, then it had judicial review. Why would that have to be explained? (Comment 218, p. 2512.)

(f) Alameda County Sheriff’s Office also commented on the inclusion of a narrative field for the following reasons: (1) limiting the text field to 250 characters will result in confusing abbreviations or deletions of relevant information; (2) the text fields will create records that a defendant can and will access and use in court; (3) the prosecution would be required to produce this information; and (4) “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.” The commenter concluded that adding open narrative “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.” (Comment 221, pp. 2525-2527.)

Response to (b) through (f): No change has been made in response to these comments. As explained in the Revised STD Form 399 and Addendum, the Department has determined that the

text fields for these two data values are necessary to satisfy the statutory requirement that officers record the reason for stop and basis for search. As further discussed in the ISOR Addendum, page 13-14, these two narrative fields were also added in response to recommendations from the RIPA Board, academics, and other stakeholders.

*With respect to Assemblymember Lackey’s concern that the subjective responses in the narrative fields for reason for stop and basis for search will be difficult to quantify because the responses are not standardized, the Department has determined that the benefits of including such data outweigh any difficulties in quantifying this data. Moreover, other agencies have collected narrative data, and have utilized both human-coders and automated processes to productively analyze that information. (See, e.g., Jennifer Eberhardt et al., *Strategies for Change: Research Initiatives and Recommendations to Improve Police-Community Relations in Oakland, Calif.*, pp. 24-25 (June 20, 2016) [Rulemaking File, pp. 1098-1099].) Rather than replacing the standardized responses provided in the data values set forth in proposed Section 999.226, subdivisions (a)(10)(A) and (a)(12)(B), these fields will provide additional valuable context and information regarding the circumstances of the stop, which will aid agencies, researchers and the RIPA Board in their analysis of this data.*

With respect to the KCSO’s comment regarding search warrants, the Department has determined that a specific carve-out for search warrants—like that provided for “condition of parole/probation/PRCS/mandatory supervision”—is not necessary because a “search warrant” will rarely provide the basis for search (note that the subject of a search warrant served in the home is exempt from reporting). When a situation does arise in which an officer relies on a search warrant as the basis for a search outside of that exception, the narrative field will provide context on that search.

With respect to the comment concerning the need for supervisory review, it is beyond the scope of these regulations and should be addressed at the agency level. It is the Department’s view that the stop data form, regardless of the narrative field, may (and likely should) trigger internal policies requiring supervisor review of that report; however, the Department has not included such a requirement in its proposed regulations at this time. From a police accountability/management perspective, such review could provide law enforcement agencies with potentially valuable information to help ensure the officers had legal cause for stops and searches and that profiling and other civil rights violations do not occur.

(g) Hon. Alice Lytle (Ret.) commented that the explanatory field “basis for search” “might be a good place to include the requirement that the officer indicate why the consent was requested.” (Comment 230, p. 2555.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

If, in the alternative, the commenter is recommending a modification of the regulations, no change has been made in response to this comment. The explanatory field required by proposed Section 999.226, subdivision (a)(12)(B)(2) requires that the officer “provide a brief explanation (250-character maximum) regarding the basis for the search. (Final Text, p. 12 [§ 999.226, subd. (a)(12)(B)(2)].) This explanation shall include additional detail beyond the general data

values selected for the ‘Basis for the Search.’” If the officer selects “consent” as the basis for search, this explanatory field will provide an opportunity to explain why the person was asked to consent to the stop. Rather than further modifying to include additional specific examples, however, the Department has determined that further guidance for completing the explanatory fields is best left to training.

12. 999.226, subd. (a)(12) [Actions Taken by Officer During Stop]

(a) ACLU et al. did not request any further modifications to proposed Section 999.226, subdivision (a)(12), but recommended 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.’” (Comment 225, p. 2539.)

Response: No change has been made in response to this comment. The Department interprets this comment to recommend changes in future revisions, and not during the current rulemaking process.

If, in the alternative, this comment is intended to recommend further modifications of the regulations before they are adopted, then no change has been made in response to that comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling.

(b) San Bernardino County Sheriff’s Department commented on the proposed data value “Firearm pointed at a person,” explaining that this data element is “very problematic[,] especially during the service of search warrants, arrest warrants, and other high risk incidents where officers have their guns drawn.” (Comment 228, p. 2550.)

Response: No change has been made in response to this comment. The data values set forth under “Actions Taken by Officer During Stop” are not prerequisite actions for reporting in the context of a search warrant or parole condition. If, in the alternative, the commenter is suggesting a further modification of the reporting requirements in those scenarios, that comment is addressed below.

(c) Professor Jack Glaser commented that he did not like the Department’s decision to remove the data value “unholstering weapons from the use of force list.” (Comment 190, p. 2453.)

Response: No change has been made in response to this comment. As explained in the ISOR Addendum, page 15, this data value was removed in order to streamline the choices for officers by retaining the more significant categories of information and to be consistent with terms utilized in the collection of use of force data required by Government Code section 12525.2 (“AB 71”).

13. 999.226, subd. (a)(12)(D)(2) [Type of Property Seized]

Disability Rights California recommended that “mobility device” and “sensory aid or device” be added to the list of property seized in proposed Section 996.226(a)(6)(D)(2), explaining that

“[i]ncluding these items provides not only information regarding an individual’s disability, but also reveals practices that could constitute outright harassment of the subject.” The commenter further noted that “[e]lectronic 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.” (Comment 220, p. 2523.)

Response: No change has been made in response to this comment. The same comment was submitted during the 45-day comment period, and is discussed above.

14. 999.226, subd. (a)(13) [Result of Stop]

ACLU et al. supported the Department’s determination, at this point, not to require the officer to input the specific ordinance that provided the basis for a citation or arrest, but “strongly recommend[ed] 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.” The commenters recommended that “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.” (Comment 225, p. 2540.)

Response: No change has been made in response to this comment. The Department interprets this comment to recommend changes in future revisions, and not during the current rulemaking process.

If, in the alternative, this comment is intended to recommend further modifications of the regulations before they are adopted, then no change has been made in response to that comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling.

15. 996.226, subd. (a)(14) [Officer Identification (I.D.) Number]

(a) Assemblymember Tom Lackey commented that the required data element for “officer identification number” (referred to as the “unique identifier” in the originally proposed regulations), “will get far better data if officers can remain anonymous and answer honestly without concern of their identity being unmasked.” Ensuring officer anonymity, the commenter continued, “will strengthen the aggregate data collected under RIPA and help ensure the most accurate information possible.” (Comment 209, p. 2489.)

(b) Kings County Sheriff’s Office also commented that this data value “leaves the door open for the officer to be identified, even if the agency has retained the information” and that this is “not the intent of the law, nor what the law says.” (Comment 218, p. 2512.)

(c) California Police Chiefs Association (CPCA) commented that the regulations as modified “still do not adequately protect individual officer’s identity.” Acknowledging the need to account for each report and to ensure compliance, the CPCA is concerned that the officer I.D.

number may result in disclosure of an individual officer identification through court orders and public records act requests. According to the CPCA, “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.” (Comment 227, p. 2546.)

(d) Jeremy Verinsky commented that this requirement, together with the officer’s assignment and years of experience “will easily lead to discovery of the officer’s identity.” (Comment 208, p. 2488.)

(e) Professor Jack Glaser expressed the converse view, stating that he is “very encouraged that officer identifiers will be included” in the regulations. Professor Glaser explained, “Without [officer identification numbers], the value of the data would be an order of magnitude lower.” (Comment 190, p. 2453.)

Response to (a) through (e): No change has been made in response to these comments. The Department has included provisions in the regulations to ensure officer anonymity as contemplated in Government Code section 12525.5, which will not only promote candor and ensure data integrity but also protect officer safety. As explained in the ISOR, and consistent with Professor Glaser’s comment summarized above, the Department has previously determined that an officer identification number is necessary to validate and ensure data integrity and to conduct officer-level analysis, as required by section 12525.5 itself.

Moreover, although an Officer’s Identification (I.D.) Number must be included with each report submitted to the Department, the regulations provide that the Department shall not release that number to the public. (Final Text, pp. 21-22 [§ 999.228, subd. (g)].)

16. 996.226, subd. (a)(15) [Years of Experience]

(a) San Bernardino County Sheriff’s Department opposed the modification to require the officer to input his or her actual years of experience rather than selecting the appropriate time range from a set of pre-determined choices, stating that this requirement “will further increase the likelihood that individual officers will be identified and compromise their and their family’s safety.” (Comment 228, p. 2551.) Similarly, Butte County Sheriff’s Office voiced its concern that the inclusion of an officer’s years of experience (along with type of assignments, and assignments to work in areas that are predominantly occupied by members of minority communities) “could assist in identifying specific officers/deputies in smaller agencies, again potentially resulting in a decrease of proactive policing.” (Comment 32, pp. 1524-1525.)

Response: No change has been made in response to this comment. As explained in the ISOR Addendum, page 22, the Department determined that this data element will be much more useful and informative if actual years of experience of each officer are collected and analyzed, to help assess how years of experience may impact officer behavior across different agencies. To the extent that an officer’s years of experience might, in a particular circumstance, constitute “unique identifying information” as that term is used in Government Code section 12525.5, subdivision (d), then the protections set forth in that provision, as well as proposed Section 999.228, subdivision (g) of these regulations, would apply.

(b) City and County of San Francisco, commented that the officer's years of experience should not be collected as part of each individual stop report, but should instead be appended to each report by the agency as a variable linked to each officer's identification number, in order to minimize the reporting burden on officers and the risk of inconsistent responses and data quality issues. (Comment 219, p. 2518.)

Response: No change has been made in response to this comment. No response is necessary because the comment does not address the proposed modification to the data element for an officer's years of experience (i.e., replacing a range of years with actual years of experience); rather, it objects to the inclusion of years of experience as a data element.

Moreover, nothing in the regulations prevents an agency from reporting the officer's years of experience using the method recommended by this commenter. Agencies are required to report each of the required data elements to the Department using the provided data values; when certain data values (such as the agency's ORI number or an officer's years of experience) can be appended to individual officers' reports, the Department encourages agencies to do so in order to minimize the reporting burden on officers. The Department's web application will allow functionality for the officer to input this information upon initial registration into the application and then annually thereafter.

B. Additional Comments Related to Data Elements

1. Comments Regarding the Inclusion or Exclusion of Officer Demographics

ACLU et al. commented in support of the Department's determination not to include additional data elements for the officer's race and gender in the current iteration of the regulations, but "strongly urge[d] that the next Final Text include data elements for the race and gender of the officer." In addition, the organizations "urge[d] 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." (Comment 225, pp. 2541-2542.)

Response: No change has been made in response to this comment. The Department interprets this comment to recommend changes in future revisions, and not during the current rulemaking process.

2. Comment Regarding Requirement that Demographic Data be Based Upon Officer's Perception

Los Angeles Police Department (LAPD) commented on "the absolute prohibition in Section 999.226, subdivision (a) against asking an individual their age, race or gender," which it explained "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." (Comment 213, p. 2504.)

Response: No change has been made in response to this comment. The proposed regulations do not, as the LAPD suggests, create any absolute prohibition against asking or verifying a

person's age, race or ethnicity, or gender. Each of these provisions in the regulations clearly states "When reporting this data element, the office shall make his or her determination of the person's [race/gender/LGBT/age] based on personal observation only." (See, e.g., Final Text, pp. 6-8 [§ 999.226, subd. (a)(4)[race/ethnicity]; (a)(5)(A)[gender]; (a)(6)[LGBT]; and (a)(7)[age].) In other words, if it is appropriate for a law enforcement officer to ask an individual about his or her age, race or gender for other reasons, the regulations do not prohibit the officer from doing so. Moreover, such interpretation is consistent with the requirement of Government Code section 12525.5 that these data values be reported based upon "perception" as opposed to the person's actual race/age/gender.

IV. COMMENTS REGARDING ARTICLE 4 [REPORTING REQUIREMENTS] (PROPOSED SECTION 999.227, AS MODIFIED)

1. 999.227, subd. (a)(4) [Reporting Requirements When Multiple Agencies Are Involved in Stop]

(a) San Bernardino County Sheriff's Department commented on the modification to proposed Section 999.227, subdivision (a)(4), which requires the reporting agency to submit data on a stop made in conjunction with an agency that is not subject to these regulations, even if it is not the primary agency responsible for the interaction. The commenter asked how an officer who did not initiate a stop could determine the primary officer's state of mind, perception and rationale. The commenter added, "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." (Comment 228, p. 2551.)

Response: No change has been made in response to this comment. This comment does not relate to the modifications noticed for comment on August 1, 2017, but rather to a reporting agency's obligation under Government Code section 12525.5 itself, which requires covered agencies to report on all stops and searches by their officers. There is no exception in the statute when an officer is assisting a non-reporting agency. The modification made by the Department does not effect a substantive change on the obligations required by the statute. Instead, the provision included in the regulations for "primary agencies" clarifies and eliminates any confusion if more than one reporting agency is involved in a reportable interaction—confusion which would not arise when a single reporting agency is assisting a non-reporting agency.

(b) Hon. Alice Lytle (Ret.) commented: "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?" (Comment 230, page 2555.)

Response: No change has been made in response to this comment. A reporting agency is responsible for collecting and reporting to the Department all of the information required by Government Code section 12525.5 and these regulations, but agencies do retain discretion in how best to meet those requirements. It is the Department's expectation that law enforcement agencies will fully and correctly collect and report all data as required under the statute and these implementing regulations.

2. 999.227, subd. (a)(9) [Requirement that Reports be Completed by End of Shift Absent Exigent Circumstances]

(a) Kings County Sheriff's Office commented on the requirement in proposed Section 999.227, subdivision (a)(9) that "An officer shall complete all stop reports for stops made during his or her shift by the end of that shift, unless exigent circumstances preclude doing so. In such circumstances, the data shall be completed as soon as practicable." The commenter recommended that the word "shall" be stricken and the provision modified to permit the officer to complete stop reports "by the end of the shift or as soon as practical during the next worked shift" in order to avoid agency overtime and prevent the reporting obligations from deterring self-initiated activity by officers. (Comment 218, p. 2512.)

Response: No change has been made in response to this comment. As explained in the ISOR Addendum, page 24, this provision was modified to provide flexibility by adding an exception for "exigent circumstances, in which case officers should complete stop data reports as soon as practicable." The Department has determined that permitting officers, as a general rule, to complete stop reports during the following shift would degrade the value of the data by increasing the necessary recall time between the incident and the report and is likely to increase the reporting time because it would require officers to attempt to reconstruct—or refer to notes—for incidents that occurred one or more days in the past.

3. 999.227, subd. (a)(10) [Error Resolution]

(a) Hon. Alice Lytle (Ret.) commented on whether proposed Section 999.227, subdivision (a)(10) gives agencies an entire year to correct errors. (Comment 230, p. 2555.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves. Proposed Section 999.227, subdivision (a)(10) does not impose any temporal limits on agency error correction, but rather provides that the Department's error resolution process apply once data is submitted to the Department. (Final Text, p. 16 [§ 999.227, subd. (a)(10)].)

(b) Richard Hylton referred to the City of San Diego's stop data report and recommended that agencies might use "the denominator trick, by not resolving 'errors'" and thereby skew the data. (Comment 181, p. 2440.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves. The comment regarding the City of San Diego's stop data report is not germane. Nothing in the regulations permits agencies to manipulate data through "error correction" or otherwise.

4. 999.227, subd. (a)(11) [Reporting of Officer Identification Number]

Richard Hylton commented with respect to the requirement in proposed Section 999.227, subdivision (a)(11), that stop reports submitted to the Department must include the Officer's I.D. Number. The commenter stated: "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.” (Comment 181, p. 2440.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

5. 999.227, subd. (c)(3) [Security Screenings]

Los Angeles Police Department supported the Department’s clarification that routine security screenings and secondary searches resulting from those screenings will not be reportable, commenting that this modification “helps to relieve some of the burden” on officers’ time. (Comment 213, p. 2503.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

6. 999.227, subd. (d)(1)(B) [Crowd Control]

Anonymous commenter stated that “ANY contact requires completion of the form” and asked, “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 toward discouraging police from any contact with a citizen?” (Comment 205, p. 2481.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

To the extent this comment is suggesting further modification of the reporting requirements in crowd control settings, no change has been made in response to this comment. Reporting is not required for all contacts, but only for interactions in which an officer detains or searches a person (including a consensual search), subject to the specific provisions in Article 4. As relevant here, proposed Section 999.227, subdivision (d)(1)(B) provides that interaction in “[a]ny type of crowd control in which pedestrians are made to remain in a location or routed to a different location for public safety purposes” is reportable only if the officer engages in any of the actions described in the data values set forth in Section 999.226, subdivision (a)(12)(A), excluding “None.” [Final Text, p. 18 [§ 999.227, subd. (d)(1)(B)].] The Department has determined that this provision is sufficiently clear to the individuals and entities subject to these regulations, as evidenced by the absence of similar requests for clarity from law enforcement agencies or peace officers.

7. 999.227, subd. (d)(1)(C) [Underage Drinking Checks]

ACLU et al. supported the modified regulations, but recommended that the provision excepting “[i]nteractions during which persons are detained at a residence only so that officers may check for proof of age for purposes of underage drinking” in proposed Section 999.227, subdivision (d)(1)(C) is “directly contrary to the statutory requirement and should be removed at the next revision of the regulations.” (Comment 225, pp. 2540-2541.)

Response: No change has been made in response to this comment. The Department interprets this comment to recommend changes in future revisions, and not during the current rulemaking process.

If, in the alternative, this comment is intended to recommend further modifications of the regulations before they are adopted, then no change has been made in response to that comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The rationale for the referenced change is set forth in the ISOR Addendum, page 27. As explained, the Department has determined that this provision is necessary to fulfill the intent of AB 953 by properly balancing the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine perceived and actual bias. The Department has determined that these additional data elements were not necessary to include at this time.

8. 999.227, subd. (d)(1)(D)(1) [Checkpoints or roadblocks]

Hon. Alice Lytle (Ret.) noted a typo in proposed Section 999.227, subdivision (d)(1)(D)1, suggesting that the example should read “is not subject to the reporting requirements of this chapter,” consistent with the rule set forth in subdivision (d)(1)(D). (Comment 230, p. 2555.)

Response: This comment is accepted (see Attachment A). The example following the rule in Section 999.226, subdivision (d)(1)(D) was edited non-substantively to conform with the rule itself.

9. 999.227, subd. (d)(2) [Execution of Warrants and Search Conditions in a Residence]

(a) ACLU et al. supported the modified regulations, but recommended that the proposed Section 999.227, subdivision (d)(2) [regarding the execution of warrants and search conditions in the home] be removed in the next revision of the regulations, particularly as to individuals other than the subject of the warrant or search condition. (Comment 225, p. 2541.)

Response: No change has been made in response to this comment. The Department interprets this comment to recommend changes in future revisions, and not during the current rulemaking process.

If, in the alternative, this comment is intended to recommend further modifications of the regulations before they are adopted, then no change has been made in response to that comment. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling.

(b) San Bernardino County Sheriff's Department commented on the proposed data value “Firearm pointed at a person,” that this data element is “very problematic[,] especially during the service of search warrants, arrest warrants, and other high risk incidents where officers have their guns drawn.” The commenter continued, “[Officers] 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 [sic] 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.” (Comment 228, p. 2550.)

Response: No change has been made in response to this comment. The modifications noticed for public comment on August 1, 2017, did not add a reporting requirement in the scenario addressed by the commentator; rather, the modifications further reduced the reporting requirements with respect to stops made of persons other than the subject of a warrant or search condition during the execution of a warrant or search condition in the home. (Compare Original Text, p. 19 [§ 999.227, subd. (c)(2)] with Final Text, p. 18 [§ 999.227, subd. (d)(2)].) As explained in the ISOR Addendum, pages 27-28, this provision was revised to strike the appropriate balance between the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The suggestion that an officer would decline to fulfill his or her duties—or compromise officer safety—because they did not want to complete a stop data form is beyond the scope of these regulations and should be addressed at the agency level.

10. 999.227, subd. (e) [Reporting Requirements for Stops of Students at a K-12 Public School]

Hon. Alice Lytle (Ret.) recommended that proposed Section 999.227, subdivision (e) be modified as follows: “Reporting Requirements for Stops of Students and Non-Students at a K-12 Public School.” She further asked whether private and charter schools are covered by the applicable definitions in Section 999.224. (Comment 230, p. 2555.)

Response: No change has been made in response to this comment. This section sets forth the specific reporting requirements and data values for students only in the K-12 public school setting. Although subdivision (e)(1) provides, for clarity, that stops of non-students are subject to the general reporting requirements, subdivision (e) does not otherwise govern stops of non-students. It is the Department’s assessment that the recommended change would lead to confusion about when officers should apply the special provisions of subdivision (e).

The definition of “K-12 Public School,” “California state educational institution,” and “student” set forth in proposed Section 999.224, subdivisions (a)(9), and (11)(C)(1) apply: “K-12 public school” is defined to mean “California state educational institution,” which in turn is defined as “any public elementary or secondary school the governing board of a school district; or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.” This definition includes charter schools but does not include private schools. All stops at private schools are subject to the general reporting requirements and not the special reporting requirements set forth in proposed Section 999.227, subdivision (e). The Department has determined that no further clarification is necessary on this point.

11. 999.227, subd. (e)(3)(C) [Reference to “Screening devices”]

Hon. Alice Lytle (Ret.) commented: “Do the references to “screening devices” refer to anything other than magnetometers? And if so, what are they?” (Comment 230, p. 2556.)

Response: No change has been made in response to this comment. The proposed regulations do not limit the definition of “screening devices” to magnetometers; this provision would apply to metal detectors, as set forth in the example at proposed Section 999.227, subdivision (e)(3)(C)(1), as well as any other similar device used to screen persons entering or exiting a school facility.

12. 999.227, subd. (e)(4)(B) [Additional Data Values in Reporting Interactions with Students at a K-12 Public School – Perceived or Known Disability]

Hon. Alice Lytle (ret.) commented: “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.” (Comment 230, p. 2556.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

To the extent the commenter is suggesting a further modification to the proposed text, the Department notes that the data element “disability related to hyperactivity or impulsive behavior” is an additional data element for stops of students in the K-12 public school setting; officers shall select among all of the standard data values set forth in proposed Section 999.226, subdivision (a)(9)—including “intellectual or developmental disability, including dementia” and “other disability”—as well as this additional data element when reporting on stops of students in a K-12 public school setting. Because the two conditions noted by the commenter—autism and epilepsy—would be covered by the existing data values, no change has been made in response to this comment.

13. 999.227, subd. (e)(4)(D) [Additional Data Values in Reporting Interactions with Students at a K-12 Public School – Actions Taken During Stop]

Disability Rights California supported the Department’s decision to add an additional data value to the data element for “Actions Taken During Stop,” when the stop is of a student at a K-12 Public School (see proposed § 999.227, subd. (e)(4)(D)(1) [“Admission or written statement obtained from student”]), but recommended this data element should be required in the general settings as well because of specific concerns that “[i]ndividuals 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.” (Comment 220, p. 2524.)

Response: No change has been made in response to this comment. The Department previously modified proposed Section 999.227, subdivision (e)(4)(D)(1) in response to specific concerns that this additional data element might reveal racial and identity-based disparities regarding the practice by school resource officers and other law enforcement officers in schools of obtaining admissions or written statements from students. (See Redlined Text, p. 31; Final Text, p. 20 [§ 999.227, subd. (e)(4)(D)(1)].) In drafting these regulations, the Department considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine perceived and actual bias. The Department determined

that, while this additional data element is necessary in the school context, based on prior comments and consultation with stakeholders, the value of the data outside of the school setting is more limited, and therefore, the need to capture this data is outweighed by the additional reporting burden such an addition would create.

V. COMMENTS REGARDING ARTICLE 5 [TECHNICAL SPECIFICATIONS AND UNIFORM REPORTING PRACTICES] (SECTION 999.228, AS MODIFIED)

1. 999.228, subd. (e) [System Security]

Richard Hylton commented in support of proposed Section 999.228, subdivision (e), regarding data security. (Comment 181, p. 2439; Comment 200, p. 2473.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

2. 999.228, subd. (g) [Data Publication]

(a) Richard Hylton “roundly and categorically reject[ed]” the provision of proposed Section 999.228, subdivision (g) that data submitted to the Department shall be published on OpenJustice “at the discretion of the Attorney General and consistent with Government Code section 12525.5,” and stated that “the availability of public data is not dependent on the discretion of the fool who occupies the office of Attorney General.” (Comment 181, p. 2439.)

(b) Richard Hylton, in a separate comment, referenced Government Code section 12525.5, subdivision (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”], and noted that the term “published” in Section 999.228, subdivision (g) suggests “that some public data may not be present on the OpenJustice website, if its content does not please the Attorney General.” (Comment 200, p. 2473.) He recommended that he would like this provision removed from the regulations.

Response to (a) and (b): No change has been made in response to these comments. Government Code section 12525.5, subdivision (d), specifically exempts certain information from public disclosure, and this regulation merely clarifies that the Department will comply with relevant law. There is no requirement in Government Code section 12525.5 that all stop data be published on the OpenJustice website, and therefore how the Department displays such data on that website is at the discretion of the Attorney General. Proposed Section 999.228, subdivision (g) is, therefore, consistent with the general legislative intent of section 12525.5 that stop data be made accessible to the public with the exception of the badge number and other unique identifying information of the officer who collected the data.

VI. COMMENTS REGARDING ARTICLE 6 [AUDITS AND VALIDATION] (PROPOSED SECTION 999.229, AS MODIFIED)

The Department did not receive any comments to the modifications in Article 6.

VII. COMMENTS MADE IN GENERAL TO THE PROPOSED REGULATIONS, AS MODIFIED

A. General Comments in Support of Modified Regulations and/or To Urge Implementation

(a) Professor Jack Glaser offered general comments in support of the modified regulations in general, and the Officer Identification Number in particular. (Comment 190, p. 2453.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

(b) Angela Garcia-Sims explained that it is “essential for the safety of all California residents for law enforcement officers to begin to systematically collect racial and identity profiling data across the State” and that until this data 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.” (Comment 207, p. 2485.) The ACLU et al. (Comment 225, p. 2536) and Anonymous (Comment 199, p. 2470) similarly commented that it is important to finalize the regulations as soon as possible.

Response: No change has been made in response to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations.

(c) Disability Rights California offered general comments in support of the proposed regulations, as modified, in addition to the specific recommendations addressed above. The commenter explained: “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.” (Comment 220, p. 2521.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

(d) ACLU et al. offered general comments in support of the proposed regulations, as modified, in addition to the specific recommendations addressed above. The commenter explained: “We commend the Department of Justice (DOJ) for the Final Text 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 These efforts have led to overall improvements and streamlining of the regulations, and we thank the Department for its careful work.” (Comment 225, p. 2536.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

(e) Equality California et al. offered general comments in support of the proposed regulations, as modified, in addition to the specific recommendations addressed above. The commenter

explained: “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.” (Comment 229, p. 2553.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

(f) City and County of San Francisco commented that AB 953 “is an essential measure to further racial justice throughout California’s criminal justice system,” and that “[b]y 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.” (Comment 219, p. 2514.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

(g) Stephanie Robitaille commented that she “strongly support[s] regulations to prevent racial and identity profiling in California.” (Comment 217, p. 2511.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

(h) Sheila Shane stated that she has “[n]o comments or suggestions.” (Comment 183, p. 2443.)

Response: No change has been made in response to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations.

B. General Comments in Opposition to AB 953 and/or Regulations

(a) Anonymous commented, “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?” (Comment 205, p. 2481.)

Response: No change has been made in response to this comment, which is interpreted as a comment on AB 953 itself rather than a recommendation of any change to the regulations.

(b) Jeremy Verinsky offered three general points in opposition to the proposed regulations:

First, Mr. Verinsky commented that the 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” because they will require reporting on each “stop” or “search” before the end of the officer’s shift. According to Mr. Verinsky, this will result in greater time spent in the stations completing reports instead of in the field patrolling and responding to calls for service, and that agency will need to either pull officers in before the end of their shifts or pay overtime to complete reporting.

Second, Mr. Verinsky commented that the state will incur additional costs to reimburse local agencies for the time spent to prepare and transmit these reports and for additional hiring to maintain safe staffing levels, as well as additional staff time costs to process these reimbursement requests.

Third, Mr. Verinsky commented that AB 953 and these regulations will “require peace officers to profile every person they stop as to their perceived race/ethnicity, sex/gender identity, sexual orientation, and even age.” He continues: “Since peace officers are barred from inquiring or in any way 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.” (Comment 208, pp. 2487-2489.)

Response: No change has been made in response to this comment. The Department interprets this comment as an observation and comment on AB 953 itself, rather than a recommendation of any change to the regulations. To the extent this comment can be interpreted to recommend further modification to the definition of “stop” or “search” set forth in Section 999.224, that comment is addressed above. To the extent this comment can be interpreted to recommend further modification to the end-of-shift requirement set forth in Section 999.227, subdivision (a)(9), that comment is addressed above. Application of the local mandate requirements are addressed in the Revised STD Form 399 and Addendum.

Mr. Verinsky’s comment regarding the officer identification number is discussed above.

(c) Los Angeles Police Department offered four general points in opposition to the proposed regulations:

First, the LAPD commented that 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.” Specifically, the LAPD commented that the modified regulations “do nothing to reduce the time required to document and report stop data,” and criticized the field test results as “simply unrealistic.” And while acknowledging that the regulations provide an exception for “exigent circumstances,” the LAPD commented that officers will “nevertheless” be expected to complete all stop data reports by the end of each shift, which will “all but guarantee[] increased overtime costs” unless officers are taken out of the field prior to the end of their scheduled shifts to complete the required reporting. The LAPD concluded that such a change would reduce the time available to respond to calls for service and proactively police the community.

Second, the LAPD commented that the proposed regulations “are confusing” and will “require extensive and ongoing training to ensure that officers are properly collecting, reporting and retaining the required stop data.”

Third, the LAPD commented that the regulations would negatively impact both officer and public safety by furthering the “increasing use of technology in police operations.” And officer’s focus on a smart phone or mobile data terminal, the LAPD explained, may decrease his or her situational awareness, making the officer “more vulnerable to attack or ambush.”

Fourth, the LAPD commented that it is committed to “the unbiased and equitable treatment of all people” and that “[b]iased policing is contrary to Constitutional Policing principles, leads to erroneous decision making, and undermines the public’s trust.” The LAPD commented that its own data collection “has never revealed system bias in public contacts,” and that the “massive amounts of data required by the proposed regulations are unlikely to change that result.” (Comment 213, p. 2503-2504.)

Response: No change has been made in response to this comment. To the extent the LAPD has offered specific comments about the proposed regulations, including recommendations for simplifying the regulations, those comments have been addressed above. The methodology used to obtain the Department’s time estimate is set forth in detail in the Revised STD Form 399 and Addendum. With respect to the LAPD’s comment regarding the exigent circumstances exception, the Department notes that, if there are exigent circumstances, the officer is not required to complete the stop data by the end of his or her shift. (See Final Text, p. 16 [§ 999.227, subd. (a)(9)].)

To the extent, the LAPD is recommending that the regulations be modified to provide for officer training, the Department notes that Penal Code section 13519.4 requires that the Peace Officer Standards and Training Commission (POST) develop training, in consultation with the Racial and Identity Profiling Advisory (RIPA) Board, regarding racial and identity profiling.

To the extent that the LAPD is concerned about officers’ use of mobile devices—as opposed to paper data collection or other means of satisfying the statutory data collection requirement—the Department refers to the discussion about possible means of data collection set forth in the Revised STD Form 399 and Addendum.

To the extent that the LAPD is suggesting that data collection is not necessary in light of its own data collection experience, that is a legislative determination that was resolved in enacting AB 953.

The LAPD’s specific comments regarding elimination of the data value “Reason for Presence at Scene,” the explanatory fields, and the end-of-shift requirement are addressed above.

(d) Orange County Sheriff’s Department (OCSD) offered two general comments in opposition to the proposed regulations:

First, OCSD commented that the proposed regulations contain too many data elements, which will increase the reporting burden on officers and divert their attention away from public safety. The OCSD further commented that the narrative field was a particular concern, noting that the Department’s field test “did not include a narrative section.” The OCSD recommended that the regulations be further modified to include only those data points required in the initial legislation, and that new data elements could be added in future years.

Second, OCSD offered several alternatives to data collection as a means to address racial and identity profiling, including strong hiring practices, effective training, and engaged citizenry. (Comment 223, pp. 2529-2531.)

Response: No change has been made in response to this comment. The rationale for each of the data elements included in the original text of the proposed regulations is set forth in the ISOR; the rationale for all modifications is set forth in the ISOR Addendum. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that each additional data element added by the regulations is necessary to fulfill the intent of AB 953.

To the extent the commenter is offering an observation on the relative merits of AB 953 itself rather than a recommendation of any change to the regulations themselves, no response is necessary. To the extent the commenter is recommending further modification to the proposed regulations to replace data collection with these alternatives—or to address these alternatives in addition to data collection—that recommendation is rejected as inconsistent with the Department’s obligations under Government Code section 12525.5, subdivision (e).

The OCSD’s specific comments regarding particular data elements are addressed above.

(e) Burbank Police Officers’ Association (BPOA) offered two general points in opposition to the proposed regulations:

First, the BPOA commented that the increased costs (in staff hours), or lost productivity, as a result of these regulations will have a significant impact on city and county finances. The BPOA commented that many of the required information is already captured in the form of citations, police reports, and contact cards, suggesting that “[p]erhaps additional research would yield a viable alternative to obtain information that is already captured, sparing the added expense and burden to our communities.

Second, the BPOA commented that AB 953 itself “will likely have a significant negative impact on proactive law enforcement efforts.” The BPOA added that, while it is “certain the intent of any enacted changes in the law is not to decrease public safety, it is certainly appears this will be one of the unintended consequences associated with AB 953.” (Comment 226, p. 2543)

Response: No change has been made in response to this comment, which is interpreted to be an observation on AB 953 itself rather than a recommendation of any change to the regulations. To the extent the BPOA is recommending that analysis of existing records might provide an alternative to the stop data collection program mandated by Government Code section 12525.5, that is a legislative determination that was resolved with the enactment of AB 953. As discussed in the Revised STD Form 399 and Addendum, however, nothing in these regulations prevents an agency from syncing its stop data collection program with other required reporting in order to streamline officers’ overall reporting burden.

(f) California Police Chiefs Association (CPCA) offered two general comments in opposition to the proposed regulations:

First, the 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 CPCA characterizes the regulations

as creating an “excessive and almost impossible burden on supervisors and department administration” that “will adversely impact the safety of local communities.”

Second, the CPCA commented that “[t]hese 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.” Given the importance of these regulations, the CPCA argues that the 15-day comment period for the modified regulations was not long enough to “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.” (Comment 227, pp. 2545-2546.)

Response: No change has been made in response to this comment. To the extent the commenter is recommending further, unspecified, reductions in the required data elements, the Department notes that the rationale for each of the data elements included in the original text of the proposed regulations is set forth in the ISOR; the rationale for all modifications is set forth in the ISOR Addendum. In drafting these regulations, the Department has considered the need to balance the burden on law enforcement, including both officer time and technological costs, with the value of the data to examine racial and identity profiling. The Department has determined that each additional data element added by the regulations is necessary to fulfill the intent of AB 953.

Government Code section 11346.8, subdivision (d) sets forth the requisite time for notice and public comment for modifications which are “sufficiently related” to the original text. The Department complied with that provision in setting the time period for the proposed modifications, and the CPCA does not suggest that the modifications were not “sufficiently related” as required by section 11346.8, subdivision (d).

The CPCA’s specific comments about the open narrative fields and officer identification number are discussed above.

(g) San Bernardino County Sheriff’s Department (SBCSD) offered five general comments in opposition to the regulations:

First, the SBCSD commented that the “positive changes” in the modified regulations to streamline certain data elements and values “have been rendered virtually meaningless” by the addition of the open narrative fields for “Reason for Stop” and “Basis for Search.”

Second, the SBCSD commented that the proposed regulations “will drastically reduce pro-active policing in California” and “provide an enormous disincentive for officers performing fundamental law enforcement activities,” which will, in turn result in higher crime rates and decrease both public and officer safety.

Third, the SBCSD commented that the recommendations provided to the Department by law enforcement executives, and cautionary statements that the regulations will have a “catastrophic impact” on individual agencies, “have mostly fallen on deaf ears” in favor of the opinions of “academic scholars, social science researchers and a whole host of other activist groups/individuals.” According to the SBCSD, “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.” As evidence, the SBCSD pointed to a statement in

the Revised STD 399 and Addendum (“The commenters did not, however, provide any evidence that prior data collection programs have resulted in any negative public safety outcomes.”) and again referenced the City of Chicago example referenced by commenters during the 45-day public comment period. The SBCSD recommended that “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,” specifically pointing to Los Angeles, Oakland, and San Francisco to provide “clear ‘evidence’ of similar outcomes to those being experienced in other major cities like Chicago and New York City.” On a related note, the SBCSD specifically criticized the Department’s reference to Professors Jennifer Eberhardt and Emily Owens, whom the SBCSD criticized for failing to “reject the alternative (null) hypothesis – namely, that that differing offender rates are the causative factor in disparate rates of arrest rather than bias in policing.”

Fourth, the SBCSD cited the RAND Corporation study “Hidden in Plain Sight” (2010) to assert a direct link between reduced staffing levels, increased crime rates, and reduced business revenue. On that basis, the SBCSD challenged the Department’s statement that the proposed regulations will have no significant economic costs on California businesses and individuals and that the regulations do not require a Standardized Regulatory Impact Assessment.

Fifth, the SBCSD criticized the field testing results as summarized in the STD 399 and Addendum, stating that their deputies used stop watches to time the field test and calculated that it took San Bernardino deputies an average of 344 seconds to complete a stop data form. The commenter also quoted a Department staff member describing the “rudimentary online survey” as reported in the Voice of San Diego. The SBCSD also challenged the Department’s fiscal impact assessment set forth in the STD 399 and Addendum, suggesting that a more accurate estimate of annual “stops per officer” would be 677. (Comment 228, p. 2547-2552).

Response: No change has been made in response to these comments. To the extent the SBCSD is recommending that the open narrative fields be deleted from the regulations, that issue is addressed above. To the extent the SBCSD is suggesting that individual officers may decline to fulfill his or her duties because they did not want to complete a stop data form is beyond the scope of these regulations and should be addressed at the agency level.

To the extent the SBCSD is commenting that the fiscal impact statement did not summarize or respond to comments provided during the 45-day comment period, such a summary and response is beyond the scope of that rulemaking document. As discussed above, the Department has reviewed and considered all of the comments submitted during the public comment periods, and has reviewed the studies and media reports referenced in those comments. It is the Department’s assessment that none of those references provides any peer-reviewed or evidenced-based conclusion showing a causal link between data collection and public safety. In particular, the RAND Corporation study that the SBCSD relied on suggests a link between overall law enforcement expenditures, public safety, and business costs; the study does not say anything about how law enforcement spending and resources are best allocated, and says nothing about the potential effects (positive or negative) of data collection on public safety. In any event, the need for data collection is a legislative determination that was resolved with the enactment of AB 953.

The Department utilized online tools, including multiple timers, and a careful research design to obtain an accurate estimate of the time required to collect and record the stop data elements and data values required by the proposed regulations. The size of the survey was not sufficient to permit robust inter-agency comparisons—it is possible that the deputies in San Bernardino took longer, on average, to complete stop data forms relative to other officers; it is also possible these higher time estimates reflect that the officers included additional time to operate stop watches and record time while simultaneously completing the field testing reports. When comment concerning the Department staff member is read, it is clear that the staff member was not describing the timing tools as “rudimentary,” but rather was commenting on the simplistic user interface of the mock-up data collection form used in the field test to explain that, if anything, the results of the survey overestimate the time that will be required for officers to complete stop data reports using the more sophisticated web application under development by the Department.

As explained in the Revised STD 399 Addendum, the Department relied on averages from a number of sources to estimate the total number of stops for purposes of the data collection. Even if the Department were to assume that the commenter’s estimated 677 “stops per officer” should be extrapolated across all sheriffs’ departments (resulting in an increase in the estimated annual stops statewide from 16.7 million to 25.8 million), that would result in an increase in total statewide costs for use of the Department application from \$13.8 million in ongoing costs to \$17.8 million in ongoing costs (one-time costs would remain unchanged at \$8.8 million) using the same methodology set forth in the Revised STD 399 Addendum.

The SBCSD’s specific comments about the data elements are discussed above.

C. Additional General Comments

1. Accountability

Professor Karen Glover commented that “AB 953 needs to include a much more focused engagement of accountability for police officers and departments when racial disparity is found” and recommended that “a series of ‘checks’ of accountability at both the short- and long-term intervals” must be incorporated into the data collection effort. Ms. Glover further recommended “a ‘looking ahead’ board/commission as part of or follow-up to AB 953,” one that will tackle the existing practices of law enforcement agencies (“most importantly accountability”) rather than trying to determine whether racial profiling exists. (Comment 215, p. 2506.)

Response: No change has been made in response to this comment, which is interpreted to be an observation regarding AB 953 itself rather than a recommendation of any change to the regulations. To the extent the commenter is recommending further modification to the proposed regulations to address accountability, these recommendations are not related to the proposed modifications to the text of the proposed regulations, and therefore do not require a response.

2. Comments Regarding Police Practices and the Need To Address Racial Profiling

(a) Linda Ullrich commented: “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.” (Comment 195, p. 2458.)

(b) Mary Sue Meads commented that “the police are becoming far too ‘militarized,’” and “need to slow down.” She recommended that agencies should use body cameras that cannot be turned off, and suggested that requiring psychological testing before an officer is hired may address these concerns. (Comment 182, p. 2441.)

(c) Frances Navarro commented: “Please stop all police from racial acts. They should be punished as criminals for abuse on the people they hurt.” (Comment 204, p. 2480.)

(d) Patricia Bender commented that, although law enforcement “have a demanding and challenging task . . . that some police will stop people of color more than white people is a reality,” and “until they are responsible for making better judgements [sic] about who and why to stop, things will continue to be problematic . . . 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!” (Comment 184, p. 2444.)

(e) Barbara Farrell commented that racial profiling is still a problem in California, particularly in Southern California, and she is “especially concerned about the Sheriff’s department.” She also asked for “increased education and guidelines.” (Comment 189, p. 2452.)

(f) Rodney & Cynthia Burt commented about the problems created when police profile individuals, including resentment of police by children of parents who are victims of racial profiling. (Comment 202, p. 2477.)

(g) Several commenters urged an end to racial profiling, including Joanne Britton (Comment 187, p. 2450), Marian Cruz (Comment 188, p. 2451), Anonymous (Comment 191, p. 2454), and Joanne Devine (Comment 192, p. 2455).

Response to (a) through (g): No change has been made in response to these comments, which are interpreted to be observations regarding the need for improved police practice and/or further legislation, rather than recommendations for changes to the regulations.

3. Offer of Assistance

Professor Karen Glover wrote to offer her expertise to assist the RIPA Board with its review of racial profiling policies and analysis of the data collected pursuant to Government Code section 12525.5 and these regulations. (Comment 215, p. 2506.)

Response: No change has been made in response to this comment, which is interpreted to be an offer of assistance to the RIPA Board rather than a recommendation of any change to the regulations.

4. Need for Training

(a) Carolina Goodman (Committee on Community Policing, League of Women Voters, Los Angeles) asked whether there are guidelines for training and follow-up compliance, “or will you expect each law enforcement agency to develop their own?” (Comment 201, p. 2475.)

(b) ACLU et al. “urge[d] the Department 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.” (Comment 225, p. 2537.)

(c) Equality California et al. reiterated the recommendation made in a prior comment during the 45-day public comment period that successful implementation of the regulations “must be accompanied by a robust training program for peace officers on interacting with LGBTQ communities,” including “consideration of privacy protections for vulnerable LGBTQ populations” as well as “outreach and education to community members about the regulations and LGBTQ Californians’ rights when interacting with law enforcement.” (Comment 229, p. 2553.)

Response: No change has been made in response to these comments. Although the regulations do not address training, Penal Code section 13519.4 specifies that the Commission on Peace Officer Standards and Training (POST) shall develop training, in consultation with the Racial and Identity Profiling Advisory (RIPA) Board, regarding racial and identity profiling.

D. Comments that Do Not Require Response

(a) Ligala Manns (Comment 186, p. 2448) and Virginia Franco (Comment 211, p. 2492) submitted comments related to personal matters that are not germane to the proposed regulations.

(b) Lisa Hammermeister commented, “Don’t listen to Donald Trump.” (Comment 193, p. 2456.)

(c) Linda Ullrich commented “It is time for Americans to pay no more than other industrialized for our medications.” (Comment 194, p. 2457.)

(d) Aaron Bruce (Comment 185, p. 2446) and Sean Sheppard (Comment 196, p. 2460) submitted comments regarding Game Changer, a police-community relations program in Southern California.

(e) Agustin Damian provided duplicate comments in Spanish, both of which consist of a reprint of the following article: Richard Stallman, ¿Quién vigilará a los vigilantes? (Oct. 2001), <https://stallman.org/watchmen.es.html>. The English version of the article appears on the same website at <https://stallman.org/watchmen.es.html>, and provides a general discussion concerning surveillance and investigative methods by government agencies. (Comment 197, p. 2462, and Comment 198, p. 2469)

(f) Martha Howard stated: “Immigration status should never be relevant whenever there is an encounter with police officers. The focus must to remain in the violation.” (Comment 206, p. 2483.)

(g) Ryan Suto (Arab American Institute) wrote to request that a representative from the Racial and Identity Profiling Advisory Board attend an upcoming Community Working Group of the #ReportHate Project launched by the Arab American Institute. (Comment 210, p. 2491.)

(h) Richard Hylton forwarded a copy of an unrelated court filing from January 2014, together with emails regarding that court filing dated December 2015. (Comment 212, pp. 2494-2450). He also commented to register allegations that the City of San Diego altered stop data used in its study of police bias in violation of local law. (Comment 224, p. 2533.)

Response to (a) through (h): No change has been made in response to these comments, which are not germane to the regulations themselves.

SUMMARY OF COMMENTS RECEIVED OUTSIDE OF THE PUBLIC COMMENT PERIOD AND THE DEPARTMENT'S RESPONSES

The Administrative Procedure Act does not require a summary and response of comments received outside of the public comment period. In the interest of completeness, however, the Department offers here a brief summary of the comments received outside of the public comment periods and a brief response to those comments pertaining to the proposed regulations.

I. ADDITIONAL COMMENTS RECEIVED FOLLOWING THE CLOSE OF THE 45-DAY COMMENT PERIOD

(a) Jesse Daniels (Comment 122, p. 2083) submitted an identical comment to Krissy Powell's timely written comment (Comment 66, p. 1609).

No response is required. Ms. Powell's comments have been summarized and responded to above.

(b) Debbie Balestino submitted duplicate comments expressing opposition to sanctuary cities. (Comment 123, p. 2086; Comment 124, p. 2087.)

No response is required to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(c) Deshawn Keys (Comment 126, p. 2090), Sherry Clark (Comment 128, p. 2095), Virgil Robinson (Comment 130, p. 2097), and Ligala Manns (Comment 131, p. 2098) submitted comments regarding personal matters not related to the proposed regulations.

No response is required to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(d) Anthony Adrian Levintow commented: "[E]xplain to me what constructive law enforcement benefits the Act provides or please register my opposition." (Comment 125, p. 2089.)

No response is required. The benefits of the Act are addressed in the ISOR, ISOR Addendum, and the Revised STD Form 399 and Addendum.

(e) Anonymous submitted a comment on March 21 with no text in the comment field. (Comment 129, p. 2096.)

No response is required.

(f) Chris Barker commented: “This is creating profiling not taking away. You are telling the police to profile people they contact to meet the reporting requirements. The police are not concerned about any of this information when they contact people and now you are requiring them to try and profile people to report this information. You are overstepping the original intent of the original legislation that was passed. Crime will rise putting more citizens in danger.” (Comment 127, p. 2093.)

No response is required to these comments, which are interpreted to be observations related to AB 953 itself rather than recommendations of any change to the regulations themselves. To the extent the comment is a recommendation to eliminate unspecified data elements, similar comments have been summarized and responded to above.

(g) Between May 2, 2017, and July 31, 2017, Richard Hylton corresponded 50 times via email or facsimile with Department staff members working on these regulations. (Comments 132 through TBD.) Some of this correspondence related directly to the proposed regulations; other messages criticized recent stop data analysis regarding the San Diego Police Department or pertained to unrelated matters. For completeness, all of these messages have been included in the rulemaking file and are summarized and responded to below. Additional comments received from Mr. Hylton during the 15-day comment period (Comments 181, 200, 203, 212, 224, and 231) are addressed above. Additional comments received from Mr. Hylton after the close of the 15-day comment period (Comments 232-248) are addressed in Part II below.

(i) Mr. Hylton submitted two comments criticizing the Department’s use of the term “other” as a data value in Article 3 and referencing his analysis of the San Diego Police Department’s stop data with respect to the term “other.” (Comment 132, p. 2100; Comment 165, p. 2276.)

No response is required. A similar comment received during the 15-day comment period is summarized and responded to above.

(ii) Mr. Hylton offered suggestions regarding the specific data values for “perceived race or ethnicity of the person stopped.” (Comment 138, p. 2139; Comment 165, p. 2276.)

No response is required. Timely comments received during the 45-day and 15-day public comment periods regarding the data element “perceived race or ethnicity of the person stopped” are addressed above.

(iii) Mr. Hylton expressed his support to retain the proposed data value for “officer identification number.” (Comment 165, p. 2276; Comment 179, p. 2315.)

No response is required to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(iv) Mr. Hylton suggested that the data collected pursuant to AB 953 use the parent/child structure as that used by the City of San Diego and that each record “[m]ust have single contents.” (Comment 165, p. 2276.)

No response is required. Comments from Mr. Hylton regarding data validation received during the 15-day public comment period are summarized and responded to above.

(v) Mr. Hylton submitted several comments criticizing the Department’s delay in issuing final stop data regulations. (Comment 153, p. 2195; Comment 154, p. 2197; Comment 163, p. 2271; Comment 177, p. 2312.)

No response is required to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(vi) Mr. Hylton offered multiple comments criticizing San Diego Police Department’s participation as an “early implementer” of the stop data requirements set forth in Government Code section 12525.5. (Comment 134, p. 2106; Comment 135, p. 2130; Comment 136, p. 2134; Comment 164, p. 2272; and Comment 167, p. 2283.) These comments included criticism of the San Diego Police Department’s stop data collection practices and report. Three of these comments included a suggestion that the Department require citation information or other means of data validation as a prerequisite to the San Diego Police Department’s participation. (Comment 134, p. 2106; Comment 135, p. 2130; and Comment 167, p. 2283.)

No response is required to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves. The deadline for agency implementation of stop data collection is governed by Government Code section 12525.5, subdivision (a) and not these regulations. Comments from Mr. Hylton regarding data validation received during the 15-day public comment period are summarized and responded to above.

(vii) Mr. Hylton copied the AB 953 mailbox as well as Department staff members working on these regulations on an email addressed to the Attorney General’s Public Inquiry Unit criticizing prior email responses to him and stating that the Department failed to notify commenter about the public comment period or send proposed regulations and refused to consider prior communication to our office regarding SDPD report. He further criticized the use of City of San Diego as a “consultant” on the regulations. (Comment 155, p. 2198; Comment 176, p. 2310 (duplicate).)

Response: Mr. Hylton requested to obtain notifications of rulemaking activity on May 12, 2017, and he has been included on all subsequent communication since that time. As evidenced by this document, all of his comments relating to the proposed regulations have been considered.

(viii) Mr. Hylton copied the AB 953 mailbox and Department staff members working on these regulations on various Public Records Requests to the Department. (Comment 137, p. 2136; Comment 139, p. 2140; Comment 144, p. 2151; Comment 160, p. 2258; Comment 169, p. 2288; Comment 176, p. 2310; Comment 180, p. 2316.)

No response is required to these comments. Mr. Hylton's Public Records Requests to the Department have been addressed according to the Department's Guidelines for Access to Public Records, available at https://oag.ca.gov/sites/all/files/agweb/pdfs/consumers/prg_guidelines.pdf.

(ix) Mr. Hylton also copied the AB 953 mailbox and Department staff members working on these regulations on email correspondence with the City of San Diego relating to Public Records Requests to the City. (Comment 145, p. 2154; Comment 148, p. 2173; Comment 150, p. 2176; Comment 152, p. 2194; Comment 162, p. 2268; Comment 168, p. 2286; Comment 171, p. 2295; Comment 172, p. 2299; Comment 174, p. 2304; Comment 177, p. 2312; Comment 178, p. 2313.)

No response is required to these comments.

(x) Mr. Hylton submitted several comments criticizing the San Diego Police Department's stop data collection practices and the recent report from San Diego State University analyzing that data. (Comment 140, p. 2141; Comment 142, p. 2145; Comment 143, p. 2148; Comment 146, p. 2161; Comment 147, p. 2162; Comment 149, p. 2175; Comment 151, p. 2192; Comment 156, p. 2200; Comment 157, p. 2202; Comment 158, p. 2206; Comment 159, p. 2258; Comment 161, p. 2265; Comment 166, p. 2279; Comment 170, p. 2290.)

No response is required to these comments, which are interpreted to be observations rather than recommendations of any change to the regulations themselves.

(xi) Mr. Hylton submitted a request that the Department enable caller identification if staff members attempt to contact him via telephone ("If you call my number make sure that a Calling Line Identifier is presented"). (Comment 173, p. 2303.)

No response is required to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(xii) Mr. Hylton copied the Department on email correspondence with KBPS regarding its coverage of California's suspension of licenses for traffic fines. (Comment 175, p. 2307.)

No response is required to this comment, which is not relevant to the regulations.

(xiii) Mr. Hylton responded to a notification regarding the RIPA Board meeting to be held in Oakland on July 12, 2017, suggesting that the Oakland meeting should not include the same POST presentation included in the San Diego meeting on DATE and requesting that all of his communications be presented to the members of the RIPA Board. (Comment 179, p. 2315.)

No response is required. All of the timely and untimely comments received by the Department have been included in the rulemaking file and posted to the regulations website, <http://oag.ca.gov/AB953/regs>, and are thereby available to all members of the public, including members of the RIPA Board.

(xiv) Mr. Hylton submitted a comment in response to the written comment received from the Los Angeles Police Department (LAPD) (Comment 54), stating that the LAPD's prior data

collection was pursuant to a consent decree and objecting to the LAPD's statement that its data has never shown "systemic" bias. (Comment 133, p. 2103.)

No response is required to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

(xv) Mr. Hylton submitted a comment suggesting that he had prior correspondence with the Department regarding a vehicle registration payment. (Comment 141, p. 2142.)

No response is required to this comment, which is interpreted to be an observation rather than a recommendation of any change to the regulations themselves.

II. ADDITIONAL COMMENTS RECEIVED FOLLOWING THE CLOSE OF THE 15-DAY COMMENT PERIOD

(a) Richard Hylton responded to a notice about a RIPA Board meeting, which had been distributed to a general mailing list and included a provision that contact the sender with any questions, to comment that "I have always held myself to be a rather special individual; one deserving of special things, but draw the line when others take it upon themselves to treat me specially. For example, the special way Blacks and Browns are treated by the police. In this context, I mean the contents of the main thread, of this communication, that appears to admonish me for communications directed to people." Mr. Hylton goes on provide additional comments related to the RIPA Board. (Comment 232, p. 2561.)

No response is required to this comment, which is interpreted to pertain to the RIPA Board rather than these regulations.

(b) Richard Hylton forwarded an email chain regarding the San Diego Stop Data Report to the Department and requested that it be provided to the RIPA Board. (Comment 233, p. 2564.)

No response is required. All of the timely and untimely comments received by the Department have been included in the rulemaking file and posted to the regulations website, <http://oag.ca.gov/AB953/regs>, and are thereby available to all members of the public, including members of the RIPA Board.

(c) Richard Hylton. Mr. Hylton forwarded correspondence with the San Diego District Attorney alleging criminal violations. (Comment 234, p. 2568; Comment 235, p. 2572.)

No response is required to these comments, which do not pertain to these regulations.

(d) Richard Hylton sent a copy of an email error messaging stating that his email correspondence had been "denied by policy." (Comment 236, p. 2577; Comment 240, p. 2584.)

No response is required. As confirmed by the Department (Comment 240), the message was sent in error. All correspondence by Mr. Hylton to the AB953 mailbox has been received and included in this rulemaking file.

(e) Richard Hylton sent a series of messages related to a presentation by the California Peace Officer Standards & Training Commission (POST) at the July 2017 RIPA Board meeting held in San Diego. (Comment 237, p. 2578; Comment 238, p. 2580; Comment 239, p. 2581; Comment 241, p. 2587; Comment 242, p. 2588; Comment 246, p. 2639; Comment 247, p. 2643.)

No response is required to these comments, which are interpreted to pertain to the RIPA Board rather than these regulations.

(f) Richard Hylton sent an email regarding Oakland Police Department stop data, which he requested to “appear as a public comment to the Stop Data Subcommittee at its September 6, 2017 meeting.” (Comment 243, p. 2590.) He later sent an annotated copy of the Oakland Police Department’s 2015 Stop Data Report, which he again requested be shared with the Stop Data Subcommittee. (Comment 244, p. 2583.) He later forwarded email correspondence with the City of Oakland and others regarding the Oakland Police Department data. (Comment 245, p. 2637; Comment 248, p. 2645.)

No response is required. All of the timely and untimely comments received by the Department have been included in the rulemaking file and posted to the regulations website, <http://oag.ca.gov/AB953/regs>, and are thereby available to all members of the public, including members of the RIPA Board.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of the Proposed Action, the Initial Statement of Reasons and Addendum to the Initial Statement of Reasons, Notice of Modifications to Text of Proposed Regulations, the text of the regulations in underline and strikethrough, and the STD 399 Form and Addendum were available on the Attorney General’s website throughout the rulemaking process. Copies of those documents and the final text of the amended regulations can be accessed on the Attorney General’s website at www.oag.ca.gov/AB953/regulations.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Copies of the Final Statement of Reasons may be obtained by submitting a request via facsimile (FAX) at (213) 897-7605, via email to AB953@doj.ca.gov, via voicemail at (213) 987-2039, or via writing addressed to either of the following:

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 94612

ATTACHMENT A
NONSUBSTANTIAL CHANGES TO THE EXPRESS TERMS

The following edits were made to the final text following the 15-day notice. As explained below, these changes are “nonsubstantial or solely grammatical in nature” (Gov. Code § 11346.8(c)), and therefore do not require further notice or public comment. (See Cal. Code of Reg., tit. 1, § 40.)

Additions to the text as noticed for comment on August 1, 2017, are underlined; deletions are indicated using ~~strikeout~~.

1. The prefatory titles provided on page one have been changed from:

Article 1. Definitions
Article 2. Law Enforcement Agencies Subject to Regulations
Article 3. Data Elements to Be Reported
Article 4. Reporting Requirements
Article 5. Technical Specifications and Uniform Reporting Practices
Article 6. Audits and Oversight

to:

Article 1. Definitions
Article 2. Law Enforcement Agencies Subject to ~~Regulations~~ Government Code section 12525.5
Article 3. Data Elements ~~¶~~To Be Reported
Article 4. Reporting Requirements
Article 5. Technical Specifications and Uniform Reporting Practices
Article 6. Audits and Oversight Validation

Explanation: The titles listed on page one of the final text of the proposed regulations have been edited nonsubstantively to correct a typographical error in capitalization and to conform to the titles provided in the body of the modified text itself, as noticed for public comment on August 1, 2017. The changes do not “materially alter[] the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text.” Cal. Code of Reg., tit. 1, § 40.

2. Change section 999.224, subd. (a)(5) from:

“Data value” is a component or characteristic of a data element to be used in reporting each data element. For example, “female, male, transgender man/boy, transgender woman/girl, gender nonconforming” are each data values to use in reporting the data element “perceived gender of person stopped.” Reporting agencies shall ensure that the technical specifications for data values are consistent with these regulations and in doing so shall follow the data dictionary prepared by the Department.

to:

“Data value” is a component or characteristic of a data element to be used in reporting each data element. For example, ~~“female, male, transgender man/boy, transgender woman/girl, gender nonconforming”~~ “male,” “female,” “transgender man/boy,” “transgender woman/girl,” and “gender nonconforming” are each data values to use in reporting the data element “perceived gender of person stopped.” Reporting agencies shall ensure that the technical specifications for data values are consistent with these regulations and in doing so shall follow the data dictionary prepared by the Department.

Explanation: This provision has been edited nonsubstantively for internal consistency. The sample data values were re-ordered to conform with the data values set forth in section 999.226, subdivision (a)(5) and placed into separate quotation marks to more clearly indicate that these are each separate data values. In addition, the word “and” was added before the final term in the list. These changes do not “materially alter[] the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text.” Cal. Code of Reg., tit. 1, § 40.

3. Change section 999.224, subdivision (a)(11)(A)1 from:

“Reporting agency” includes any city or county law enforcement agencies that employ peace officers, including officers who are contracted to work at other government agencies or private entities. This includes, but is not limited to, peace officers assigned to work in cities or other jurisdictions that are not within the original jurisdiction of the city or county law enforcement agency; peace officers of city or county law enforcement agencies assigned to or contracted to work at housing or transit agencies; and school resource officers assigned to work in California state educational institutions.

to:

“Reporting agency” includes any city or county law enforcement ~~agencies~~ agency that ~~employ~~ employs peace officers, including officers who are contracted to work at other government agencies or private entities. This includes, but is not limited to, peace officers assigned to work in cities or other jurisdictions that are not within the original jurisdiction of the city or county law enforcement agency; peace officers of city or county law enforcement agencies assigned to or contracted to work at housing or transit agencies; and school resource officers assigned to work in California state educational institutions.

Explanation: This provision has been edited to correct a grammatical error in verb/subject agreement.

4. Change section 999.224, subdivision (a)(17) from:

“Unique Identifying Information” means personally identifying information, the release of which, either alone or in combination with other data reported is reasonably likely to reveal the identity of the individual officer who collected the stop data information. It does not include the minimum information that is specified in Government Code section 12525.5, subdivision (b).

to:

“Unique Identifying Information” means personally identifying information, the release of which, either alone or in combination with other data reported, is reasonably likely to reveal the identity of the individual officer who collected the stop data information. It does not include the minimum information that is specified in Government Code section 12525.5, subdivision (b).

Explanation: This provision was edited to fix a typographical error by adding a missing comma after the word “reported.”

5. Change section 999.224, subdivision (a)(18) from:

“Vehicle” means motor vehicles as defined in Vehicle Code section 670; mopeds; motorcycles; motorized scooters as defined in Vehicle Code section 407.5; and any motorized vehicles, including boats.

to:

“Vehicle” means motor vehicles as defined in Vehicle Code section 670; ~~mopeds;~~ motorcycles; mopeds, and motorized scooters as defined in Vehicle Code sections 400, 406, and 407.5, respectively; and any motorized vehicles, including boats.

Explanation: This provision was edited to correct typographical errors by replacing the semicolons with commas, adding the word “and” before the final term of the list, adding the Vehicle Code cross-references to “mopeds” in section 406 and “motorcycles” in section 400, and reordering the terms in the list to match the enumerated code sections.

6. Section 999.226, subdivision (3)(A) has been edited to underline the subdivision numbers 1 through 4 in order to fix a typographical error. The text of the subdivision itself was correctly underlined in the regulations as noticed for comment on August 1, 2017. No changes have been made to the text of this subdivision.

7. Change section 999.226, subdivision (a)(5)(B) from:

For purposes of completing this data element, the officer shall refer to the following definitions:

1. “Transgender man/boy” means a person who was assigned female at birth but who currently identifies as a man, or boy if they are a minor.
2. “Transgender woman/girl” means a person who was assigned male at birth but who currently identifies as a woman, or girl if they are a minor.

to:

For purposes of completing this data element, the officer shall refer to the following definitions:

1. “Transgender man/boy” means a person who was assigned female at birth but who currently identifies as a man, or boy if ~~they are~~ the person is a minor.
2. “Transgender woman/girl” means a person who was assigned male at birth but who currently identifies as a woman, or girl if ~~they are~~ the person is a minor.

Explanation: This provision has been edited to correct a grammatical error by replacing “they” with “the person” and the word “are” with “is” for subject-verb agreement.

8. Change section 999.226, subdivision (a)(6) from:

“Person Stopped Perceived to be LGBT” refers to the officer’s perception that the person stopped was LGBT. “LGBT” refers to lesbian, gay, bisexual or transgender. When reporting this data element, the officer shall select “Yes” or “No” and shall make his or her determination based on personal observation only, without asking whether the person is LGBT. If an officer selects “Transgender man/boy” or “Transgender woman/girl” in response to the data element for “Perceived Gender of Person Stopped,” he or she must also select “Yes” in response to this data element.

to:

“Person Stopped Perceived to be LGBT” refers to the officer’s perception that the person stopped ~~was~~ is LGBT. “LGBT” refers to lesbian, gay, bisexual or transgender. When reporting this data element, the officer shall select “Yes” or “No” and shall make his or her determination based on personal observation only, without asking whether the person is LGBT. If an officer selects “Transgender man/boy” or “Transgender woman/girl” in response to the data element for “Perceived Gender of Person Stopped,” he or she must also select “Yes” in response to this data element.

Explanation: This provision has been edited to correct a grammatical error; the word “was” has been replaced with the word “is” to make the verb tense consistent throughout the provision.

9. Change section 999.226, subdivision (a)(7) from:

“Perceived Age of Person Stopped” refers to the officer’s perception of the approximate age of the person stopped. When reporting this data element, the officer shall make his or her determination based on personal observation only. The officer shall not ask the person stopped his or her age or use the age specified on the person’s identification, recognizing that the officer’s observation may not reflect the age specified on the person’s identification. In providing this information, the officer shall input an Arabic numeral (e.g. 1, 2, 3, 4) rounded up to the closest whole number.

to:

“Perceived Age of Person Stopped” refers to the officer’s perception of the approximate age of the person stopped. When reporting this data element, the officer shall make his or her determination based on personal observation only. The officer shall not ask the person stopped his or her age or use the age specified on the person’s identification, recognizing that

the officer's observation may not reflect the age specified on the person's identification. In providing this information, the officer shall input an Arabic numeral (e.g., 1, 2, 3, 4) rounded up to the closest whole number.

Explanation: This provision has been edited to correct a grammatical error; a comma has been added after "e.g." in the final sentence.

10. Change section 999.226, subdivision (a)(10)(A)5 from

Investigation to determine whether the person was truant.
to

Investigation to determine whether the person ~~was~~ is truant.

Explanation: This provision has been edited to correct a grammatical error; the word "was" was changed to "is" for consistency.

11. Change section 999.226, subdivision (a)(10)(B) from

When reporting the "Reason for the Stop," the officer shall also provide a brief explanation (250-character maximum) regarding the reason for the stop. This explanation shall include additional detail beyond the general data values selected for the "Reason for the Stop." Officers shall not include any personal identifying information of the persons stopped or Unique Identifying Information of any officer in this explanation.

to

When reporting the "Reason for ~~the~~ Stop," the officer shall also provide a brief explanation (250-character maximum) regarding the reason for the stop. This explanation shall include additional detail beyond the general data values selected for the "Reason for ~~the~~ Stop." Officers shall not include any personal identifying information of the persons stopped or Unique Identifying Information of any officer in this explanation.

Explanation: This provision has been edited to correct a typographical error; the word "the" was deleted from references to the data element "Reason for Stop."

12. Change section 999.226, subdivision (a)(10)(B)2 from

Example: 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).

to:

Example: If the officer selected “Vehicle Code 26708 (Material Obstructing or Reducing the Driver’s View)” from the Department’s standard 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).

Explanation: This provision has been edited to correct a typographical error; the word “standard” was added for internal consistence; see prior reference to the phrase “standard CJIS Offense Table” in section 999.226, subdivisions (a)(10)(A)1, 2.

13. Change section 999.226, subdivision (a)(12)(B)2 from:

When reporting the “Basis for the Search,” the officer shall also provide a brief explanation (250-character maximum) regarding the basis for the search. This explanation shall include additional detail beyond the general data values selected for “Basis for Search.” Officers shall not include any personal identifying information of the persons stopped or Unique Identifying Information of any officer in this explanation. If the basis for the search is “Condition of parole/probation/PRCS/mandatory supervision,” this explanation is not required.

a. 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 suspicious and what type of weapons were suspected).

to:

When reporting the “Basis for ~~the~~ Search,” the officer shall also provide a brief explanation (250-character maximum) regarding the basis for the search. This explanation shall include additional detail beyond the general data values selected for “Basis for Search.” Officers shall not include any personal identifying information of the persons stopped or Unique Identifying Information of any officer in this explanation. If the basis for the search is “Condition of parole/probation/PRCS/mandatory supervision,” this explanation is not required.

a. 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 suspicious and what type of weapons were suspected).

Explanation: This provision has been edited to correct typographical errors; the word “the” has been stricken from references to the data value “Basis for Search” and quotation marks have been added to the second reference of this data value.

14. Change section 999.226, subdivision (a)(12)(A)15 from:

Other Physical or Vehicle Contact. This refers to any of the following contacts by the officer, when the purpose of such contact is to restrict movement or control a person's resistance: any physical strike by the officer; instrumental contact with a person by an officer; or the use of significant physical contact by the officer. Examples of such contacts include, but are not limited to, carotid restraints, hard hand controls, the forcible taking of a subject to the ground, or use of vehicle in apprehension.

to:

Other Pphysical or Vvehicle Ccontact. This refers to any of the following contacts by the officer, when the purpose of such contact is to restrict movement or control a person's resistance: any physical strike by the officer; instrumental contact with a person by an officer; or the use of significant physical contact by the officer. Examples of such contacts include, but are not limited to, carotid restraints, hard hand controls, the forcible taking of a subject to the ground, or use of vehicle in apprehension.

Explanation: This provision has been edited to correct a typographical error in the capitalization of the data value.

15. Section 999.226, subdivision (a)(12)(B) has been edited to correct a typographical error. The extra line space between subdivision (a)(12)(B)1 and (a)(12)(B)2 has been deleted. No changes have been made to the text of this subdivision.

16. Change section 999.226, subdivision (a)(12)(C)1 from:

None. If "None" is selected, no other data values can be selected.

to:

None. If "None" is selected, no other data values can be selected.

Explanation: This subdivision was edited to correct a typographical error by replacing straight quotation marks with curly quotation marks.

17. Section 999.226, subdivision (a)(12)(D) has been edited to fix a typographical error in the subdivision designations. Subdivisions (a)(12)(D)1.a-e and (a)(12)(D)2.a-k have underlined and the parenthesis have been removed from those subdivision designations. The text of the subdivision itself was correctly underlined in the regulations as noticed for comment on August 1, 2017.

Change 999.226, subdivision (a)(12)(D)2 from

"Type of Property Seized." If the officer seized property during the stop, regardless of whether the property belonged to the person stopped, the officer shall report the type of property seized, by selecting all of the following data values that apply:

- a. Firearm(s)
- b. Ammunition
- c. Weapon(s) other than a firearm
- d. Drugs/narcotics
- e. Alcohol
- f. money
- g. Drug paraphernalia
- h. Suspected stolen property
- i. Cell phone(s) or electronic device(s)
- j. Vehicle
- k. Other contraband or evidence

to

“Type of Property Seized.” If the officer seized property during the stop, regardless of whether the property belonged to the person stopped, the officer shall report the type of property seized, by selecting all of the following data values that apply:

- a. Firearm(s)
- b. Ammunition
- c. Weapon(s) other than a firearm
- d. Drugs/narcotics
- e. Alcohol
- f. ~~m~~Money
- g. Drug paraphernalia
- h. Suspected stolen property
- i. Cell phone(s) or electronic device(s)
- j. Vehicle
- k. Other contraband or evidence

Explanation: This subdivision was edited to correct a typographical error in the capitalization of “Money.”

18. Change section 999.226, subdivision (a)(13) from:

“Result of Stop” refers to the outcome of the stop. When reporting this data element, the officer shall select all of the following data values that apply. In addition, for warnings, citations, cite and release, and arrests (with the exception of an arrest pursuant to an outstanding warrant) the officer shall also, using the Department’s standard CJIS Offense Table, identify the code, including the section number and appropriate subdivision, that is the basis for the warning, citation, cite and release, or custodial arrest, where applicable. If more than one code section forms the basis for the warning, citation, cite and release or custodial arrest, the officer shall identify all applicable code sections and subdivisions. If 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.

to:

“Result of Stop” refers to the outcome of the stop. When reporting this data element, the officer shall select all of the following data values that apply. In addition, for warnings, citations, cite and release, and custodial arrests (with the exception of an arrest pursuant to an outstanding warrant) the officer shall also, using the Department’s standard CJIS Offense Table, identify the code, including the section number and appropriate subdivision, that is the basis for the warning, citation, cite and release, or custodial arrest, where applicable. If more than one code section forms the basis for the warning, citation, cite and release or custodial arrest, the officer shall identify all applicable code sections and subdivisions. If 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.

Explanation: This subdivision was edited to correct a typographical error by adding the word “custodial,” consistent with the data elements set forth in the preceding subdivisions.

19. Change section 999.226, subdivision (a)(16) from:

“Type of Assignment of Officer” refers to the type of assignment to which an officer is assigned at the time of the stop. When reporting this data element, the officer shall select one of the following data values:

- (A) Patrol, traffic enforcement, field operations
- (B) Gang enforcement
- (C) Compliance check (e.g., parole/PRCS/probation/mandatory supervision)
- (D) Special events (e.g., sports, concerts, protests)
- (E) Roadblock or DUI sobriety checkpoint
- (F) Narcotics/vice
- (G) Task force
- (H) K-12 Public School, including school resource officer or school police officer
- (I) Investigative/detective
- (J) Other. If other is selected, the officer shall specify the type of assignment.

to:

“Type of Assignment of Officer” refers to the type of assignment to which an officer is assigned at the time of the stop. When reporting this data element, the officer shall select one of the following data values:

- (A) Patrol, traffic enforcement, field operations
- (B) Gang enforcement
- (C) Compliance check (e.g., parole/probation/PRCS/~~probation~~/mandatory supervision)
- (D) Special events (e.g., sports, concerts, protests)
- (E) Roadblock or DUI sobriety checkpoint
- (F) Narcotics/vice
- (G) Task force

- (H) K-12 Public School, including school resource officer or school police officer
- (I) Investigative/detective
- (J) Other. If other is selected, the officer shall specify the type of assignment.

Explanation: This subdivision was edited to correct a typographical error by placing the word “probation” between “parole” and “PRCS” for internal consistency.

20. Change section 999.227, subdivision (b)(1)(A)1 from:

Example: An officer pulls over a vehicle because he or she observes the passenger of a vehicle throw a cigarette outside of the vehicle. The reason for the stop is that the passenger was suspected of violating the Vehicle Code.

to:

Example: An officer pulls over a vehicle because he or she observes the passenger of a vehicle throw a cigarette outside of the vehicle. The “Reason for Stop” ~~reason for the stop~~ is that the passenger was suspected of violating the Vehicle Code.

Explanation: This provision has been edited to correct a typographical error in the reference to the data element “Reason for Stop.”

21. Change section 999.227, subdivision (c) from:

Peace Officer Interactions that are Not Reportable

The following interactions, even if they otherwise meet the definition of “detention” set forth in this chapter, shall not be construed to be “detentions” and shall not be reported as stops.

to:

Peace Officer Interactions that ~~a~~Are Not Reportable. The following interactions, even if they otherwise meet the definition of “detention” set forth in this chapter, shall not be construed to be “detentions” and shall not be reported as stops.

Explanation: This provisions has been edited to correct two typographical errors. The word “Are” was capitalized for internal consistency, and a period was added and the line break removed following the word “Reportable.”

22. Change section 999.227, subdivision (d) from:

Peace Officer Interactions That Are Reportable Only If the Officer Takes Additional Specified Actions

to:

Peace Officer Interactions That Are Reportable Only If the Officer Takes Additional Specified Actions

Explanation: This provisions has been edited to correct two typographical errors in capitalization.

23. Change section 999.227, subdivision (d)(1) from:

Interactions that take place during the following circumstances shall only be reported if the person is detained based upon individualized suspicion or personal characteristics and/or the officer engages in any of the actions described in the data values set forth in section 999.226, subdivision (a)(12)(A), excluding “None:”

to:

Interactions that take place during the following circumstances shall only be reported if the person is detained based upon individualized suspicion or personal characteristics and/or the officer engages in any of the actions described in the data values set forth in section 999.226, subdivision (a)(12)(A), excluding “None:”;

Explanation: This provision has been edited to correct a typographical error. The final colon has been moved outside of the quotation marks around the data element.

24. Change section 999.227, subdivision (d)(1)(C)1 from

Example: An officer dispatched to a residence to investigate a noise complaint. Upon arrival, the officer suspects that some of the persons at the house party are engaged in underage drinking and he or she detains the persons to request identification to verify proof of age. Because the only action the officer takes is to detain the persons for the sole purpose of verifying proof of age, these interactions are not reportable.

to:

Example: An officer is dispatched to a residence to investigate a noise complaint. Upon arrival, the officer suspects that some of the persons at the house party are engaged in underage drinking and he or she detains the persons to request identification to verify proof of age. Because the only action the officer takes is to detain the persons for the sole purpose of verifying proof of age, these interactions are not reportable.

Explanation: This provision has been edited to correct a grammatical error. The word “is” was added between “officer” and “dispatched.”

25. Change section 999.227, subdivision (d)(1)(D) from:

Checkpoints or roadblocks in which an officer detains a person as the result of a blanket regulatory activity or neutral formula that is not based on individualized suspicion or personal characteristics.

1. Example: A checkpoint or roadblock, including a DUI sobriety checkpoint, that stops all vehicles or stops randomly selected vehicles using a neutral formula, i.e., not based on individualized suspicion or personal characteristics, is subject to the reporting requirements of this chapter.

to:

Checkpoints or roadblocks in which an officer detains a person as the result of a blanket regulatory activity or neutral formula that is not based on individualized suspicion or personal characteristics.

1. Example: A checkpoint or roadblock, including a DUI sobriety checkpoint, that stops all vehicles or stops randomly selected vehicles using a neutral formula, i.e., not based on individualized suspicion or personal characteristics, is not subject to the reporting requirements of this chapter.

Explanation: This example following the rule in section 999.226, subdivision (d)(1)(D) was edited nonsubstantively to correct a typographical error and to conform with the rule itself. Because an officer's reporting obligation is set forth in the rule itself, this conforming edit in the example does not "materially alter[] the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text." Cal. Code of Reg., tit. 1, § 40.

26. Change section 999.227, subdivision (d)(2) from:

27. Interactions that take place with a person in his or her residence who is the subject of a warrant or search condition are not subject to the reporting requirements of this chapter. A peace officer shall, however, report any interactions with persons in the home who are not the subject of the warrant or search condition, if the officer takes any of the following actions: handcuffs or flex cuffs the person; arrests the person; points a firearm at the person; or discharges or uses a firearm, electronic control device, impact projectile, baton or other impact weapon, or chemical spray on the person, or if a canine bit/held the person.

to:

28. Interactions that take place with a person in his or her residence who is the subject of a warrant or search condition are not subject to the reporting requirements of this chapter. A peace officer shall, however, report any interactions with persons in the home who are not the subject of the warrant or search condition, if the officer takes any of the following actions: handcuffs or flex cuffs the person; arrests the person; points a firearm at the person; ~~or~~ discharges or uses a firearm, electronic control device, impact projectile,

baton or other impact weapon, or chemical spray on the person;² or if a canine bit/held the person.

Explanation: This provision has been edited to correct two typographical errors. The word “or” was deleted from the second-to-last list term, and the final comma was replaced with a semi-colon.

29. Change section 999.227, subdivision (d)(3) from:

Interactions that take place with a person in his or her residence who is the subject of home detention or house arrest while an officer is on home detention or house arrest assignment, are not subject to the reporting requirements of this chapter. A peace officer shall, however, report any interactions with persons in the home who are not the subject of the home detention or house arrest, if the officer takes any of the following actions: handcuffs or flex cuffs the person; arrests the person; points a firearm at the person; or discharges or uses a firearm, electronic control device, impact projectile, baton or other impact weapon, or chemical spray on the person, or if a canine bit/held the person or.

to:

Interactions that take place with a person in his or her residence who is the subject of home detention or house arrest while an officer is on home detention or house arrest assignment, are not subject to the reporting requirements of this chapter. A peace officer shall, however, report any interactions with persons in the home who are not the subject of the home detention or house arrest, if the officer takes any of the following actions: handcuffs or flex cuffs the person; arrests the person; points a firearm at the person; ~~or~~ discharges or uses a firearm, electronic control device, impact projectile, baton or other impact weapon, or chemical spray on the person;² or if a canine bit/held the person~~or~~.

Explanation: This provision has been edited to correct three typographical errors. The word “or” was deleted from the second-to-last list term, the final comma was replaced with a semi-colon, and the final “or” was deleted.

30. Section 999.227, subdivision (e)(4) has been renumbered to correct a typographical error. In the version of the regulations noticed for comment on August 1, 2017, there were two subdivisions (e)(4)(A). The second provisions (“Perceived or Known Disability.”) has been re-designated as (e)(4)(B), and the remainder of the subdivision has been re-designated accordingly as (e)(4)(C)-(G)

31. Change section 999.227, subdivision (e)(4) from

In reporting interactions with students at a K-12 Public School, the officer shall utilize the data elements and corresponding data values set forth in section 999.226, with the addition of the following data values, which the officer shall select if applicable.

to:

In reporting interactions with students at a K-12 Public School, the officer shall utilize the data elements and corresponding data values set forth in section 999.226, with the addition of the following data values, which the officer shall select if applicable:

Explanation: This provision has been edited to fix a typographical error. The period at the end of the provision has been replaced with a colon.

32. Change section 999.227, subdivision (e)(4)(B) from:

“Reason for Stop.” When reporting this data element, the officer shall select the primary reason for the stop from among the data values in section 999.226, subdivision (a)(10) as well as the additional data values provided below. “Student violated school policy” should only be selected if other options related to violations of law (e.g., Penal Code or Education Code) do not apply.

1. Possible conduct warranting discipline under Education Code sections 48900, 48900.2, 48900.3, 48900.4, and 48900.7. When selecting this data value, the officer shall identify the primary code section and subdivision from the following options: 48900(a) through 48900 (r)(1)-(r)(2)(iii); 48900.2; 48900.3; 48900.4; and 48900.7(a).

to:

“Reason for Stop.” When reporting this data element, the officer shall select the primary reason for the stop from among the data values in section 999.226, subdivision (a)(10) as well as the additional data values provided below. “Student violated school policy” should only be selected if other options related to violations of law (e.g., Penal Code or Education Code) do not apply.

1. Possible conduct warranting discipline under Education Code sections 48900, 48900.2, 48900.3, 48900.4, and 48900.7. When selecting this data value, the officer shall identify the primary code section and subdivision from the following options: 48900(a) through 48900 (r)(1)-(r)(2)(iii); 48900.2; 48900.3; 48900.4; and 48900.7(a).

Explanation: This provision has been edited nonsubstantively to remove a cross-reference to the definitional provisions of Education Code section 48900, subdivision (r). The proposed regulation requires officers to identify the primary code section and subdivision setting forth a basis for potential student discipline. Subdivision (r) provides a basis for discipline that the student “[e]ngaged in an act of bullying.” Further subparts (r)(1)-(r)(3) provide definitional terms as to what constitutes “bullying” under this provision. These subdivisions do not provide an independent basis for discipline, and therefore could not logically be selected by an officer as the primary code section and subdivision setting forth a basis for potential student discipline. Removing these subdivision references does not “materially alter[] the requirements, rights, responsibilities, conditions, or prescriptions contained in the original text.” Cal. Code of Reg., tit. 1, § 40.

33. Change section 999.227, subdivision (e)(4)(F) (formerly subdivision (e)(4)(E)) from:

“Basis for Property Seizure.” When reporting this data element, in addition to selecting the applicable data values in section 999.226, subdivision (a)(12)(D)(1) above, the officer shall also select the following data value if applicable:

1. Suspected violation of school policy

to:

“Basis for Property Seizure.” When reporting this data element, in addition to selecting the applicable data values in section 999.226, subdivision (a)(12)(D){1} above, the officer shall also select the following data value if applicable:

1. Suspected violation of school policy

Explanation: This provisions has been edited to correct a typographical error in the cross-referenced section (removing parentheses).

34. Change section 999.228, subdivision (d) from:

Reporting Responsibilities. Law enforcement agencies are solely responsible to ensure that neither personally identifiable information of the person stopped, nor any other information that is exempt from disclosure pursuant to Government Code section 12525.5, subdivision (d), is transmitted to the Department in the data element entitled “Location of Stop” required by section 999.226, subdivision (a)(3) and the explanatory fields required by section 999.226, subdivisions (a)(10)(B) and (12)(B)(2). Unless otherwise provided, all information submitted in the stop data report, including the information entered into the data element entitled “Location of Stop” required by section 999.226, subdivision (a)(3) and the explanatory fields required by section 999.226, subdivisions (a)(10)(B) and (12)(B)(2), is subject to public disclosure consistent with Government Code section 12525.5, subdivision (d).

to:

Reporting Responsibilities. Law enforcement agencies are solely responsible to ensure that neither personally identifiable information of the person stopped, nor any other information that is exempt from disclosure pursuant to Government Code section 12525.5, subdivision (d), is transmitted to the Department in the data element entitled “Location of Stop” required by section 999.226, subdivision (a)(3) and the explanatory fields required by section 999.226, subdivisions (a)(10)(B) and (12)(B){2}. Unless otherwise provided, all information submitted in the stop data report, including the information entered into the data element entitled “Location of Stop” required by section 999.226, subdivision (a)(3) and the explanatory fields required by section 999.226, subdivisions (a)(10)(B) and (12)(B){2}, is subject to public disclosure consistent with Government Code section 12525.5, subdivision (d).

Explanation: This provisions has been edited to correct two typographical errors in the cross-referenced section (removing parentheses).

ATTACHMENT B
TABLE OF SUMMARY AND RESPONSE TO PUBLIC COMMENTS

| Person/Organization | Comment No. | Batestamp No. |
|---|-------------|---------------|
| SUMMARY OF COMMENTS RECEIVED DURING THE 15-DAY PERIOD AND DEPARTMENT RESPONSES (AUG. 1, 2017 - AUG. 16, 2017) | | |
| I. COMMENTS REGARDING ARTICLE I [DEFINITIONS] (SECTION 999.224, AS ORIGINALLY PROPOSED) (FSOR, p. 3) | | |
| 1. 999.224, subd. (a)(3) [Custodial setting] (FSOR, p. 4) | | |
| Capt. Eric Tennesen (Ventura County Sheriff's Office) | 26-27 | 1514-1515 |
| 2. 999.224, subd. (a)(7) [Detention] (FSOR, p. 5) | | |
| ACLU et al. | 47 | 1555 |
| Peace Resource Center of San Diego | 65 | 1660 |
| 3. 999.224, subd. (a)(11) [Reporting Agency] (FSOR, p. 6) | | |
| Peter Bibring (ACLU) | 89 (Oral) | 1687 |
| Disability Rights California | 68 | 1615 |
| Prof. Glaser (UC Berkeley) | 80 | 1646-1647 |
| Sergio Mendozarodriguez | 14 | 1490 |
| 4. 999.224, subd. (a)(13) [Search] (FSOR, p. 7) | | |
| Peter Bibring (ACLU) | 89 (Oral) | 1687-1688 |
| Michael Chase | 97 | 1697-1698 |
| California Rural Legal Assistance | 75 | 1634-1635 |
| Prof. Glaser (UC Berkeley) | 80 | 1648-1649 |
| 5. 999.224, subd. (a)(14) [Stop] (FSOR, p. 8) | | |
| ACLU et al. | 47 | 1556 |
| Peace Resource Center of San Diego | 65 | 1600 |
| Los Angeles Police Department | 54 | 1580 |
| California Association of Highway Patrolmen | 61 | 1589-1590 |
| Butte County Sheriff's Office | 32 | 1524 |
| 6. 999.224, subd. (a)(15) [Student] (FSOR, p. 10) | | |
| California Rural Legal Assistance | 75 | 1630 |
| Prof. Glaser (UC Berkeley) | 80 | 1648-1649 |
| 7. 999.225, subd. (a)(17) [Weapon] (FSOR, p. 10) | | |
| California Rural Legal Assistance | 75 | 1630 |
| Prof. Glaser (UC Berkeley) | 80 | 1648-1649 |
| 8. Definition of "stop data" (FSOR, p. 11) | | |
| Stephan Richards | 2 | 1469 |
| II. COMMENTS REGARDING ARTICLE II [LAW ENFORCEMENT AGENCIES SUBJECT TO GOVERNMENT CODE § 12525.5] (SECTION 999.225, AS ORIGINALLY PROPOSED)] (FSOR, p. 11) | | |
| Michael Chase | 97 (Oral) | 1697 |
| Peter Bibring (ACLU) | 89 (Oral) | 1688 |

| Person/Organization | Comment No. | Batestamp No. |
|---|-------------|-----------------|
| III. COMMENTS REGARDING ARTICLE III [DATA ELEMENTS TO BE REPORTED] (SECTION 999.226, AS ORIGINALLY PROPOSED) (FSOR, p. 12) | | |
| A. Comments Related to Proposed Data Values and Data Elements (FSOR, p. 12) | | |
| 1. 999.226, subd. (a)(2)(C) [Duration of Stop] (FSOR, p. 12) | | |
| ACLU et al. | 47 | 1556 |
| Peace Resource Center of San Diego | 65 | 1600 |
| Rosa Ageel (Policy Link) | 110 | 1707 |
| Brandon Sturdivant | 113 | 1709 |
| Carolina Goodman | 18 | 1498 |
| Prof. Glaser (UC Berkeley) | 80 | 1650-1651 |
| Krissy Powell | 66 | 1609 |
| Sean Garcia-Leys | 95 (Oral) | 1693 |
| Kim McGill (Youth Justice Coalition) | 90 (Oral) | 1688 |
| Maritzza (last name unknown) (Youth Justice Coalition) | 94 (Oral) | 1693 |
| Vanessa Deleon | 87 (Oral) | 1686 |
| 2. 999.226, subd. (a)(3) [Location] (FSOR, p. 13) | | |
| Maritzza (last name unknown) (Youth Justice Coalition) | 94 (Oral) | 1693 |
| Kim McGill (Youth Justice Coalition) | 90 (Oral) | 1689 |
| ACLU et al. | 47 | 1556-1557 |
| Peace Resource Center of San Diego | 65 | 1600-1601 |
| Kena Cador (ACLU) | 114 (Oral) | 1709 |
| Vanessa Deleon | 87 (Oral) | 1686 |
| California Highway Patrol | 38 | 1536 |
| 3. 999.226, subd. (a)(4) [Reason for Presence at Scene of Stop] (FSOR, p. 14) | | |
| William Welsh | 11 | 1482 |
| ACLU et al. | 47 | 1557-1559 |
| Peace Resource Center of San Diego | 65 | 1600-1603 |
| Prof. Glaser (UC Berkeley) | 80 | 1654-1655 |
| Los Angeles Police Department | 54 | 1579 |
| 4. 999.226, subd. (a)(5) [Reason for Stop] (FSOR, p. 15) | | |
| ACLU et al. | 47 | 1555, 1558 |
| Peace Resource Center of San Diego | 65 | 1598, 1602-1603 |
| Legal Services for Prisoners with Children | 31 | 1523 |
| Kena Cador (ACLU) | 114 (Oral) | 1709 |
| Peter Bibring (ACLU) | 89 (Oral) | 1688 |
| Racial and Identity Profiling Advisory Board (RIPA) (Co-Chair Chief Ed Medrano) | 101 (Oral) | 1703 |
| Carolina Goodman | 18 | 1498 |
| Michael Chase | 97 (Oral) | 1697 |
| Sameena Usman (Council for American-Islamic Relations) | 98 (Oral) | 1699 |
| Vanessa Deleon | 87 | 1686 |
| William Welsh | 11 | 1482 |
| Kim McGill (Youth Justice Coalition) | 90 (Oral) | 1689 |
| Kenneth Orr | 7 | 1475 |

| Person/Organization | Comment No. | Batestamp No. |
|--|--------------------|----------------------|
| Prof. Glaser (UC Berkeley) | 80 | 1656-1657 |
| Prof. Eberhardt (Stanford) | 77 | 1639 |
| Jonathan Mummolo | 62 | 1591 |
| California Rural Legal Assistance | 75 | 1633 |
| Los Angeles Police Department | 54 | 1579 |
| 5. 999.226, subd. (a)(6) [Actions Taken by Officer During Stop] (FSOR, p. 18) | | |
| ACLU et al. | 47 | 1560-1561 |
| Peace Resource Center of San Diego | 65 | 1603-1604 |
| Kena Cador (ACLU) | 114 (Oral) | 1709 |
| Krissy Powell | 66 | 1609 |
| Prof. Glaser (UC Berkeley) | 80 | 1658-1661 |
| 6. 999.226, subd. (a)(6)(B)(1) [Basis for Search] (FSOR, p. 20) | | |
| Prof. Glaser (UC Berkeley) | 80 | 1660-1661 |
| Legal Services for Prisoners with Children | 31 | 1523 |
| ACLU et al. | 47 | 1555, 1561 |
| Peace Resource Center of San Diego | 65 | 1598, 1604-1605 |
| Prof. Eberhardt (Stanford) | 77 | 1640 |
| Michael Chase | 97 (Oral) | 1697 |
| Kena Cador (ACLU) | 114 (Oral) | 1709 |
| RIPA Board (Co-chair Chief Ed Medrano) | 101 (Oral) | 1703 |
| Prof. Glaser (UC Berkeley) | 80 | 1662-1663 |
| Disability Rights California | 68 | 1616 |
| Prof. Glaser (UC Berkeley) | 80 | 1662-1663 |
| 7. 999.226, subd. (a)(6)(B)(2) [Contraband or Evidence Discovered] (FSOR, p. 22) | | |
| Prof. Jack Glaser (UC Berkeley) | 80 | 1662-1663 |
| 8. 999.226, subd. (a)(6)(C)(2) [Property Seized] (FSOR, p. 22) | | |
| Disability Rights California | 68 | 1616 |
| Prof. Jack Glaser (UC Berkeley) | 80 | 1663 |
| 9. 999.226, subd. (a)(7) [Result of Stop/Referral] (FSOR, p. 23) | | |
| Andrea Guerrero (Alliance San Diego Mobilization Fund) | 1 | 1467 |
| ACLU et al. | 47 | 1562 |
| Peace Resource Center of San Diego | 65 | 1605 |
| 10. 999.226, subd. (a)(8) [Perceived Race or Ethnicity of Person Stopped] (FSOR, p. 23) | | |
| Calvin Chang (Empowering Pacific Islander Communities) | 86 | 1685 |
| Prof. Glaser (UC Berkeley) | 80 | 1664-1667 |
| Capt. Eric Tennesen (Ventura County Sheriff's Office) | 27 | 1515 |
| 11. 999.226, subd. (a)(9) [Perceived Gender] (FSOR, p. 25) | | |
| California Rural Legal Assistance | 75 | 1629 |
| Michael Chase | 97 (Oral) | 1697 |
| ACLU et al. | 47 | 1562 |
| Peace Resource Center of San Diego | 65 | 1605 |
| Equality California et al. | 48 | 1568 |
| Prof. Glaser (UC Berkeley) | 80 | 1666-67 |

| Person/Organization | Comment No. | Batestamp No. |
|---|--------------------|-------------------------|
| 12. 999.226, subd. (a)(10)[Perceived Age] (FSOR, p. 26) | | |
| ACLU et al. | 47 | 1562 |
| Peace Resource Center of San Diego | 65 | 1605 |
| Prof. Glaser (UC Berkeley) | 80 | 1668-1669 |
| 13. 999.226, subd. (a)(11) [Person Stopped had Limited English Fluency or Pronounced Accent] (FSOR, p. 26) | | |
| California Rural Legal Assistance | 75 | 1631 |
| ACLU et al. | 47 | 1563 |
| Peace Resource Center of San Diego | 65 | 1606 |
| RIPA Board (Co-chair Chief Ed Medrano) | 101 (Oral) | 1703 |
| Prof. Glaser (UC Berkeley) | 80 | 1668-1669 |
| San Francisco Police Department | 51 | 1575 |
| 14. 999.226, subd. (a)(12) [Perceived or Known Disability of Person Stopped] (FSOR, p. 28) | | |
| Disability Rights California | 68 | 1613-1614, 1616-1617 |
| Krissy Powell | 66 | 1609 |
| Michael Chase | 97 | 1697 |
| Terrance Stewart | 112 (Oral) | 1708 |
| ACLU et al. | 47 | 1563 |
| Peace Resource Center of San Diego | 65 | 1606 |
| California Rural Legal Assistance | 75 | 1631-1632 |
| San Francisco Police Department | 51 | 1575 |
| Orange County Sheriff's Department | 29 | 1519 |
| 15. 999.226, subd. (a)(13) [Officer's Unique Identifier] (FSOR, p. 30) | | |
| Orange County Sheriff's Department | 29 | 1519 |
| Butte County Sheriff | 32 | 1524 |
| California State Sheriffs' Association | 35 | 1529 |
| Amador County Sheriff's Office | 50 | 1572 |
| Yolo County Sheriff's Office | 60 | 1587 |
| Lake County Sheriff's Office | 81 | 1678 |
| Kings County Board of Supervisors | 49 | 1571 |
| California Highway Patrol | 38 | 1536 |
| Hanford Police Department | 20 | 1502 |
| California Police Chiefs Association | 21 | 1505 |
| Jonathan Mummolo | 62 | 1592 |
| 16. 999.226, subd. (a)(15) [Type of Assignment of Officer] (FSOR, p. 31) | | |
| Orange County Sheriff's Department | 29 | 1519 |
| California State Sheriff's Association | 35 | 1529 |
| Amador County Sheriff's Office | 50 | 1572 |
| Yolo County Sheriff's Office | 60 | 1587 |
| Lake County Sheriff's Office | 81 | 1678 |
| Kings County Sheriff's Office | 43 | 1545 |
| Kings County Probation Department | 45 | 1548 |
| Kings County Board of Supervisors | 49 | 1570-1571 |

| Person/Organization | Comment No. | Batestamp No. |
|--|--------------------|----------------------|
| Riverside County Sheriff's Department | 30 | 1522 |
| Butte County Sheriff's Office | 32 | 1525 |
| Los Angeles County Sheriff's Office | 76 | 1637 |
| 17. 999.226, subd. (a)(14) [Officer's Years of Experience] (FSOR, p. 32) | | |
| Orange County Sheriff's Department | 29 | 1519 |
| California State Sheriff's Association | 35 | 1529 |
| Amador County Sheriff's Office | 50 | 1572 |
| Yolo County Sheriff's Office | 60 | 1587 |
| Lake County Sheriff's Office | 81 | 1678 |
| Kings County Sheriff's Office | 43 | 1545 |
| Kings County Probation Department | 45 | 1548 |
| Kings County Board of Supervisors | 49 | 1570-1571 |
| Butte County Sheriff's Office | 32 | 1524-1525 |
| Los Angeles County Sheriff's Office | 76 | 1637 |
| ACLU et al. | 47 | 1564 |
| Peace Resource Center of San Diego | 65 | 1607 |
| Prof. Glaser (UC Berkeley) | 80 | 1670-1671 |
| B. Data Elements That Commenters Requested Be Added to (or Not be Added to) Data Collection (FSOR, p. 33) | | |
| 1. Person Stopped Perceived To Be LGBT (FSOR, p. 33) | | |
| ACLU et al. | 47 | 1563 |
| Peace Resource Center of San Diego | 65 | 1606 |
| Equality California et al. | 48 | 1567 |
| California Rural Legal Assistance | 75 | 1635-1636 |
| RIPA Board (Co-Chair Chief Ed Medrano) | 101 (Oral) | 1703 |
| Krissy Powell | 66 | 1609 |
| William Welsh | 11 | 1482 |
| 2. Homeless Status (FSOR, p. 34) | | |
| William Welsh | 11 | 1482 |
| California Rural Legal Assistance | 75 | 1635-1636 |
| 3. Immigration Status (FSOR, p. 34) | | |
| William Welsh | 11 | 1482 |
| 4. Number of Civilians Present/Prior Contact (FSOR, p. 34) | | |
| William Welsh | 11 | 1482 |
| 5. Religion (FSOR, p. 35) | | |
| California Rural Legal Assistance | 75 | 1635-1636 |
| RIPA Board (Co-chair Chief Ed Medrano) | 101 (Oral) | 1703 |
| Krissy Powell | 66 | 1609 |
| Sukaina Hussain | 119 (Oral) | 1712 |
| 6. State of Mind (FSOR, p. 35) | | |
| Krissy Powell | 66 | 1609 |
| 7. Residency in Neighborhood Where Stopped (FSOR, p. 36) | | |
| Keunbok Lee | 13 | 1488 |
| 8. Comments Regarding the Inclusion or Exclusion of Officer Demographics (FSOR, p. 36) | | |

| Person/Organization | Comment No. | Batestamp No. |
|---|--------------------|----------------------|
| California State Sheriff's Association | 35 | 1529 |
| Amador County Sheriff's Office | 50 | 1572 |
| Yolo County Sheriff's Office | 60 | 1587 |
| Lake County Sheriff's Office | 81 | 1678 |
| William Welsh | 11 | 1482 |
| ACLU et al. | 47 | 1563 |
| Peace Resource Center of San Diego | 65 | 1606 |
| Andrea Donado (Greater Long Beach Interfaith Community Organization/ICO) | 109 (Oral) | 1706 |
| California Rural Legal Assistance | 75 | 1636 |
| Prof. Glaser (UC Berkeley) | 80 | 1668-1669 |
| Krissy Powell | 66 | 1609 |
| Prof. Eberhardt (Stanford) | 77 | 1640 |
| 9. Officer in Uniform/Number of Officers Present at Scene (FSOR, p. 37) | | |
| William Welsh | 11 | 1482 |
| Krissy Powell | 66 | 1609 |
| 10. Other Narrative Fields (FSOR, p. 37) | | |
| Kena Cador (ACLU) | 114 (Oral) | 1709 |
| Peter Bibring (ACLU) | 89 (Oral) | 1688 |
| ACLU et al. | 47 | 1554-1555 |
| Peace Resource Center of San Diego | 65 | 1599 |
| Alexandra Santa Ana (National Center for Youth Law) | 99 (Oral) | 1699 |
| Andrea Donado (Greater Long Beach Interfaith Community Organization/ICO) | 109 (Oral) | 1706 |
| Disability Rights California | 68 | 1615 |
| Faith in the Valley | 52 | 1576 |
| Prof. Glaser (UC Berkeley) | 80 | 1664-1665 |
| Krissy Powell | 66 | 1609 |
| Sean Garcia-Leys | 95 (Oral) | 1693 |
| Carolina Goodman | 18 | 1498 |
| RIPA Board (Co-chair Chief Ed Medrano) | 101 (Oral) | 1703 |
| Kim McGill (Youth Justice Coalition) | 90 (Oral) | 1689 |
| Tony Amarante | 56 | 1582 |
| Nebyou Berhe | 118 (Oral) | 1711 |
| 11. Prior Contacts with Officer (FSOR, p. 39) | | |
| California Police Chiefs Association | 21 | 1505 |
| III. COMMENTS REGARDING ARTICLE IV: REPORTING REQUIREMENTS (SECTION 999.227, AS ORIGINALLY PROPOSED) (FSOR, p. 39) | | |
| A. General Reporting Requirements (FSOR, p. 39) | | |
| 1. 999.227, subd. (a)(5) [Reports/multiple officers] (FSOR, p. 39) | | |
| Prof. Glaser (UC Berkeley) | 80 | 1672-1673 |
| 2. 999.227, subd. (a)(6) Incident number (FSOR, p. 39) | | |
| Prof. Owens (UC Irvine) | 46 | 1551 |
| California Rural Legal Assistance | 75 | 1632 |

| Person/Organization | Comment No. | Batestamp No. |
|--|--------------------|----------------------|
| 3. 999.227, subd. (a)(9) [Requirement that Reports be Completed by End of Shift] (FSOR, p. 40) | | |
| Los Angeles Police Department | 54 | 1580 |
| Kings County Sheriff's Office | 43 | 1545 |
| Kings County Probation Department | 45 | 1548 |
| Kings County Board of Supervisors | 49 | 1570 |
| California State Sheriff's Association | 35 | 1529 |
| Amador County Sheriff's Office | 50 | 1572 |
| Yolo County Sheriff's Office | 60 | 1587 |
| Lake County Sheriff's Office | 81 | 1678 |
| 4. 999.227, subd. (a)(1) [Officer Reporting] (FSOR, p. 40) | | |
| Matt Nussbaum | 100 (Oral) | 1699-1700 |
| 5. 999.227, subd. (a)(4) [Reporting For Stops With Multiple Agencies] (FSOR, p. 41) | | |
| ACLU et al. | 47 | 1564 |
| Peace Resource Center of San Diego | 65 | 1607 |
| 6. 999.227, subd. (a)(11) [Requirement that Agencies Create a Unique Identifier] (FSOR, p. 41) | | |
| Prof. Glaser (UC Berkeley) | 80 | 1672-1673 |
| B. 999.227, subd. (c) Peace Officer Interactions That Are Reportable Only If the Officer Takes Additional Specified Actions (FSOR, p. 42) | | |
| 1. 999.227(c)(1) [Special Settings That Only Require Reporting if Additional Actions Taken] (FSOR, p. 42) | | |
| ACLU et al. | 47 | 1564 |
| Peace Resource Center of San Diego | 65 | 1607 |
| California Police Chiefs Association | 21 | 1505 |
| 2. 999.227, subd. (c)(1)(A)[Traffic Control] (FSOR, p. 42) | | |
| ACLU et al. | 47 | 1564 |
| Peace Resource Center of San Diego | 65 | 1607 |
| 3. 999.227(c)(2)-(3) [Reporting Requirements for Interactions Within Home Pursuant to Warrant, Search Condition, Home Detention or House Arrest Assignment] (FSOR, p. 42) | | |
| Capt. Eric Tennesen (Ventura County Sheriff's Office) | 26 | 1514 |
| 4. 999.227(c)(4) [Reporting Requirements for Programmatic Searches or Seizures] (FSOR, p. 42) | | |
| Dave Brown (San Diego County Sheriff's Department) | 88 (Oral) | 1686 |
| Prof. Owens (UC Irvine) | 46 | 1551 |
| C. 999.227(d) [Reporting Requirements for Stops of Students in a K-12 Public School Setting] (FSOR, p. 44) | | |
| Kim McGill (Youth Justice Coalition) | 90 (Oral) | 1689 |
| Alexandra Santa Ana (National Center for Youth Law) | 99 (Oral) | 1699 |
| Michael Chase | 97 (Oral) | 1697 |
| 1. 999.227, subd. (d)(1)(D) [K-12 Public School Setting – Truancy] (FSOR, p. 44) | | |
| California Rural Legal Assistance | 75 | 1632 |
| 2. 999.227, subd. (d)(1) [K-12 Public School Setting – Reportable Interactions] (FSOR, p. 44) | | |
| California Rural Legal Assistance | 75 | 1634 |

| Person/Organization | Comment No. | Batestamp No. |
|--|--------------------|----------------------|
| 3. 999.227, subd. (d)(2)(C) [K-12 Public School Setting – Basis for Search] (FSOR, p. 45) | | |
| California Rural Legal Assistance | 75 | 1634 |
| Vanessa Deleon | 87 (Oral) | 1686 |
| 4. 999.227, subd. (d)(2)(B) [K-12 Public School Setting – Reason for Stop] (FSOR, p. 45) | | |
| California Rural Legal Assistance | 75 | 1632-1633 |
| 5. 999.227, subd. (d)(2)(E) [K-12 Public School Setting – Result of Stop] (FSOR, p. 45) | | |
| California Rural Legal Assistance | 75 | 1634 |
| 6. 999.27, subd. (d)(2) [K-12 Public School Setting – Perceived Disability] (FSOR, p. 46) | | |
| RIPA Board (Co-chair Chief Ed Medrano) | 101 (Oral) | 1703 |
| Krissy Powell | 66 | 1609 |
| 7. 999.227, subd. (d)(2) [K-12 Public School Setting – Actions Taken During Stop] (FSOR, p. 46) | | |
| California Rural Legal Assistance | 75 | 1631 |
| IV. COMMENTS REGARDING ARTICLE V [TECHNICAL SPECIFICATIONS AND UNIFORM REPORTING PRACTICES] (SECTION 999.227, AS ORIGINALLY PROPOSED) (FSOR, p. 46) | | |
| 1. 999.228, subd. (c)(1) [Data Submission] (FSOR, p. 46) | | |
| Prof. Glaser (UC Berkeley) | 80 | 1674-1677 |
| 2. 999.228, subd. (f) [Data Publication] (FSOR, p. 47) | | |
| Prof. Glaser (UC Berkeley) | 80 | 1676-1677 |
| 3. 999.228, subd. (g) [Retention Period] (FSOR, p. 47) | | |
| Prof. Glaser (UC Berkeley) | 80 | 1676-1677 |
| V. COMMENTS REGARDING ARTICLE 6 [AUDITS AND VALIDATION] [SECTION 999.229, AS ORIGINALLY PROPOSED] (FSOR, p. 47) | | |
| Jonathan Mummolo | 62 | 1592 |
| VI. COMMENTS MADE IN GENERAL TO THE REGULATIONS AS ORIGINALLY PROPOSED (FSOR, p. 48) | | |
| A. General Comments in Support of Regulations, AB 953, and Effective Implementation FSOR 48 (FSOR, p. 48) | | |
| Prof. Glaser (UC Berkeley) | 79 | 1645 |
| ACLU et al. | 47 | 1554 |
| Peter Bibring (ACLU) | 89 (Oral) | 1687-1688 |
| Kena Cador (ACLU) | 114 (Oral) | 1709 |
| Kim McGill (Youth Justice Coalition) | 90 (Oral) | 1688 |
| Michael Wilson | 91 (Oral) | 1689 |
| Carletta Jackson | 92 (Oral) | 1690 |
| Maritzza (last name unknown) (Youth Justice Coalition) | 94 (Oral) | 1692 |
| Chantelle (last name unknown) (Youth Justice Coalition) | 96 (Oral) | 1693 |
| Sameena Usman (Council for American-Islamic Relations) | 98 (Oral) | 1698-1699 |
| Maria Lopez | 106 (Oral) | 1705 |
| Alfredo Aguero | 111 (Oral) | 1707 |
| Aaron Pratt | 102 (Oral) | 1703 |
| Krissy Powell | 66 | 1609 |
| Carolina Goodman | 18 | 1498 |
| Michael Chase | 97 (Oral) | 1697 |
| Rich (last name unknown) | 16 | 1494 |

| Person/Organization | Comment No. | Batestamp No. |
|--|--------------------|----------------------|
| Sharon Reinbott | 72 | 1624 |
| Nicole Remble | 107 (Oral) | 1706 |
| Brandon Sturdivant | 113 (Oral) | 1709 |
| Crisantema Gallardo | 115 (Oral) | 1710 |
| Prof. Raphael (UC Berkeley) | 57 | 1583 |
| Prof. Owens (UC Irvine) | 46 | 1549 |
| Prof. Eberhardt (Stanford) | 77 | 1639 |
| Andrea Donado (Greater Long Beach Interfaith Community Organization/ICO) | 109 (Oral) | 1706 |
| California Rural Legal Assistance | 75 | 1629 |
| Terrance Stewart | 112 (Oral) | 1708 |
| Taymah Jahsi (Faith in the Valley) | 120 (Oral) | 1712 |
| Skyler Porras | 83 | 1681 |
| B. Comments re Concerns About Identification of Officer (FSOR, p. 53) | | |
| Orange County Sheriff's Department | 20 | 1519 |
| Amador County Sheriff's Office | 50 | 1572-1573 |
| Yolo County Sheriff's Office | 60 | 1587 |
| Lake County Sheriff's Office | 60 | 1587 |
| California Association of Highway Patrolmen | 61 | 1590 |
| Prof. Eberhardt (Stanford) | 77 | 1640-1641 |
| C. General Comments in Opposition of the Proposed Regulations (FSOR, p. 54) | | |
| Alameda County Sheriff's Office | 67 | 1611-1612 |
| Butte County Sheriff's Office | 32 | 1524-1525 |
| California Highway Patrol | 38 | 1536-1537 |
| California Police Chiefs Association | 21 | 1503-1505 |
| California State Sheriffs' Association | 35 | 1529-1530 |
| Amador County Sheriff's Office | 50 | 1573-1574 |
| Yolo County Sheriff's Office | 60 | 1587-1588 |
| Lake County Sheriff's Office | 81 | 1678-1679 |
| Hanford Police Department | 20 | 1502 |
| Kings County Sheriff's Office | 43 | 1545 |
| Kings County Probation Department | 45 | 1548 |
| Los Angeles County Sheriff's Office | 76 | 1637-1638 |
| Los Angeles Police Department | 54 | 1579-1580 |
| Orange County Sheriff's Department | 29 | 1518-1519 |
| Riverside County Sheriff's Department | 30 | 1521-1522 |
| Brandon Rock | 28 | 1516 |
| San Diego County Sheriff's Department | 19 | 1500-1501 |
| San Mateo County Sheriff's Office | 33 | 1526 |
| Ventura County Sheriff's Office | 69 | 1618-1619 |
| Robert Thayer | 34 | 1527 |
| Kim Pearson | 36 | 1532 |
| Mike Strutz | 39 | 1538 |
| Marni Watkins | 42 | 1543 |

| Person/Organization | Comment No. | Batestamp No. |
|---|--------------------|----------------------|
| Peggy Montgomery | 40 | 1540 |
| Casey Nice | 53 | 1577 |
| Five Law Enforcement Associations | 74 | 1627-1628 |
| Kings County Board of Supervisors | 49 | 1570-1571 |
| James Sing | 5 | 1472 |
| D. Opposition to AB 953 (FSOR, p. 65) | | |
| Jason Lines | 41 | 1541 |
| Robert Evans | 3 | 1470 |
| Liang Chen | 15 | 1492 |
| Maria C. Trudeau | 8 | 1477 |
| John Doe | 10 | 1480 |
| Jeremy Buttgerreit | 59 | 1585 |
| Anonymous | 23 | 1508 |
| Jack Tucker | 22 | 1506 |
| E. Miscellaneous (FSOR, p. 66) | | |
| 1. Accountability (FSOR, p. 66) | | |
| Julie Dudley | 121 (Oral) | 1713 |
| Karen Glover | 85 (Oral) | 1683 |
| Karen Glover | 82 | 1680 |
| 2. Training (FSOR, p. 66) | | |
| ACLU et al. | 47 | 1555 |
| Peace Resource Center of San Diego | 65 | 1599 |
| Equality California et al. | 48 | 1568 |
| Alfredo Aguero | 111 (Oral) | 1707 |
| Sukaina Hussain | 119 (Oral) | 1711 |
| Anthony Amarante | 56 | 1582 |
| 3. Implementation (FSOR, p. 67) | | |
| Vanessa Deleon | 87 (Oral) | 1686 |
| Krissy Powell | 66 | 1609 |
| Jonathan Mummolo | 62 | 1592 |
| 4. Public Access to Data (FSOR, p. 68) | | |
| Crisantema Gallardo | 115 (Oral) | 1710 |
| 5. Racial and Identity Profiling and Law Enforcement Practices (FSOR, p. 68) | | |
| Karen Glover | 82 | 1680 |
| Genea Nicholson | 108 (Oral) | 1706 |
| Greg Jones (Congregation Out for Change) | 117 (Oral) | 1710-1711 |
| Denise Friday-Hall | 105 (Oral) | 1705 |
| Nicole Remble | 103 (Oral) | 1706 |
| Andrea Donado (Greater Long Beach Interfaith Community Organization/ICO) | 109 (Oral) | 1706 |
| Terrance Stewart | 112 (Oral) | 1708 |
| Brandon Sturdivant | 109 (Oral) | 1708 |
| Kena Cador (ACLU) | 114 (Oral) | 1709 |
| Nebyou Berhe | 118 (Oral) | 1711 |

| Person/Organization | Comment No. | Batestamp No. |
|--|--------------------|----------------------|
| Sukaina Hussain | 119 (Oral) | 1711-1712 |
| Taymah Jahsi (Faith in the Valley) | 120 (Oral) | 1712 |
| Julia Dudley | 121 (Oral) | 1712-1713 |
| Victoria Castillo | 103 (Oral) | 1704 |
| Sharon Hoffman | 70 | 1620 |
| Todd Benson | 71 | 1622 |
| Michael Wilson | 90 (Oral) | 1689-1690 |
| Carletta Jackson (Youth Justice Coalition) | 92 (Oral) | 1690-1691 |
| Harry Shakur | 93 (Oral) | 1691 |
| Chantelle (last name unknown) (Youth Justice Coalition) | 96 (Oral) | 1693-1694 |
| Bobbi Butts | 116 (Oral) | 1710 |
| Maritzza (last name unknown) (Youth Justice Coalition) | 94 (Oral) | 1692-1693 |
| M. Gloria Hernandez | 58 | 1584 |
| 6. Disability and Law Enforcement Practices (FSOR, p. 69) | | |
| Irene Armendariz | 104 (Oral) | 1705 |
| 7. Comments Regarding the Public Hearings (FSOR, p. 69) | | |
| Maria Lopez | 106 (Oral) | 1705 |
| Karen Glover | 85 (Oral) | 1685 |
| Rosa Aqeel (PolicyLink) | 110 (Oral) | 1707 |
| 8. Department of Finance (FSOR, p. 69) | | |
| California Department of Finance | 64 | 1596 |
| F. Comments that do not Require Response (FSOR, p. 70) | | |
| Sherry Clark | 6 | 1474 |
| Sherry Clark | 9 | 1478 |
| Sherry Clark | 24 | 1510-1511 |
| Sherry Clark | 25 | 1512-1513 |
| Sherry Clark | 55 | 1581 |
| Elizabeth Hess | 17 | 1495 |
| James Miramontes | 4 | 1471 |
| George Odemns | 12 | 1484-1487 |
| ACLU | 73 | 1626-1628 |
| SUMMARY OF COMMENTS RECEIVED DURING THE 15-DAY PERIOD AND DEPARTMENT RESPONSES (Aug. 1, 2017 - Aug. 16, 2017) | | |
| I. COMMENTS REGARDING ARTICLE I [DEFINITIONS] [PROPOSED SECTION 999.224, AS MODIFIED] (FSOR, p. 71) | | |
| 1. 999.224, subd. (a)(2) [Consensual search] (FSOR, p. 71) | | |
| Santa Monica Coalition on Police Reform | 214 | 2505 |
| Cathie Gentile | 222 | 2528 |
| 2. 999.224, subd. (a)(7) [Detention] (FSOR, p. 71) | | |
| Santa Monica Coalition on Police Reform | 214 | 2505 |
| Cathie Gentile | 222 | 2528 |
| 3. 999.224, subd. (a)(11)(B) [Reporting Agency] (FSOR, p. 71) | | |
| Hon. Alice Lytle (Ret.) | 230 | 2555 |

| Person/Organization | Comment No. | Batestamp No. |
|--|--------------------|----------------------|
| 4. 999.224, subd. (a)(15) [Stop Data] (FSOR, p. 72) | | |
| Richard Hylton | 181 | 2440 |
| Richard Hylton | 200 | 2472-2473 |
| 5. 999.224, subd. (a)(16) [Student] (FSOR, p. 71) | | |
| Hon. Alice Lytle (Ret.) | 230 | 2555 |
| Disability Rights California | 220 | 2521 |
| 6. 999.224, subd. (a)(17) [Unique Identifying Information] (FSOR, p. 73) | | |
| ACLU et al. | 225 | 2536 |
| II. COMMENTS REGARDING ARTICLE 2 [LAW ENFORCEMENT AGENCIES SUBJECT TO GOVERNMENT CODE SECTION 12525.5] (SECTION 999.225, AS MODIFIED) (FSOR, p. 73) | | |
| No comments received | | |
| III. COMMENTS REGARDING ARTICLE 3 [DATA ELEMENTS TO BE REPORTED] (SECTION 999.226, AS MODIFIED) (FSOR, p. 74) | | |
| A. Comments Related to Proposed Data Values And Data Elements (FSOR, p. 74) | | |
| 1. 999.226, subd. (a)(3) [Location of Stop] (FSOR, p. 74) | | |
| ACLU et al. | 225 | 2536 |
| 2. 999.226, subd. (a)(2)(C) [Duration of Stop] (FSOR, p. 74) | | |
| City and County of San Francisco | 219 | 2518 |
| California Highway Patrol | 216 | 2509 |
| 3. 999.226, deleted subd. (a)(4) [Reason for Presence at Scene of Stop] (FSOR, p. 75) | | |
| Los Angeles Police Department | 213 | 2503 |
| ACLU et al. | 225 | 2538 |
| 4. 999.226, subd. (a)(4) [Perceived Race or Ethnicity of the Person Stopped] (FSOR, p. 75) | | |
| City and County of San Francisco | 219 | 2515-2518 |
| 5. 999.226, subd. (a)(5) [Perceived Gender of the Person Stopped] (FSOR, p. 76) | | |
| Equality California et al. | 229 | 2553 |
| 6. 999.226, subd. (a)(6) [Person Stopped Perceived to be LGBT] (FSOR, p.76) | | |
| Equality California et al. | 229 | 2553 |
| ACLU et al. | 225 | 2539 |
| California Highway Patrol | 216 | 2510 |
| Kings County Sheriff's Office | 218 | 2512 |
| San Bernardino County Sheriff's Department | 228 | 2550 |
| Orange County Sheriff's Department | 223 | 2530 |
| 7. Section 999.226, subd. (a)(7) [Perceived Age of Person Stopped] (FSOR, p. 78) | | |
| San Bernardino County Sheriff's Department | 228 | 2550 |
| California Highway Patrol | 216 | 2510 |
| Richard Hylton | 203 | 2479 |
| 8. 999.226, subd. (a)(8) [Person Stopped Has Limited or No English Fluency] (FSOR, p. 79) | | |
| Orange County Sheriff's Department | 223 | 2530 |
| 9. 999.226, subd. (a)(9) [Perceived or Known Disability] (FSOR, p. 79) | | |
| Disability Rights California | 220 | 2522-2523 |
| Kings County Sheriff's Office | 218 | 2512 |
| San Bernardino County Sheriff's Department | 228 | 2551 |
| Orange County Sheriff's Department | 223 | 2530 |

| Person/Organization | Comment No. | Batestamp No. |
|--|--------------------|----------------------|
| 10. 999.226, subd. (a)(10) [Reason for Stop] (FSOR, p. 81) | | |
| San Bernardino County Sheriff's Department | 228 | 2550 |
| Hon. Judge Alice Lytle (Ret.). | 230 | 2555 |
| 11. 999.226, subd. (a)(10)(B)(2) and (12)(B)(2) [Explanatory Fields for "Reason for Stop" and "Basis for Search"] (FSOR, p. 82) | | |
| ACLU et al. | 225 | 2537 |
| Los Angeles Police Department | 213 | 2503 |
| California Highway Patrol | 216 | 2508-2509 |
| Assemblymember Tom Lackey | 209 | 2489 |
| Kings County Sheriff's Office | 218 | 2512 |
| Alameda County Sheriff's Office | 221 | 2525-2527 |
| Hon. Alice Lytle (Ret.) | 230 | 2555 |
| 12. Section 999.226, subd. (a)(12) [Actions Taken by Officer During Stop] (FSOR, p. 84) | | |
| ACLU et al. | 225 | 2539 |
| San Bernardino County Sheriff's Department | 228 | 2550 |
| Prof. Glaser (UC Berkeley) | 190 | 2453 |
| 13. 999.226, subd. (a)(12)(D)(2) [Type of Property Seized] (FSOR, p. 85) | | |
| Disability Rights California | 220 | 2523 |
| 14. 999.226, subd. (a)(13) [Result of Stop] (FSOR, p. 85) | | |
| ACLU et al. | 225 | 2540 |
| 15. 996.226, subd. (a)(14) [Officer Identification (I.D.) Number] (FSOR, p. 86) | | |
| Assemblymember Tom Lackey | 209 | 2489 |
| Kings County Sheriff's Office | 218 | 2512 |
| California Police Chiefs Association | 227 | 2546 |
| Jeremy Verinsky | 208 | 2488 |
| Prof. Glaser (UC Berkeley) | 190 | 2453 |
| 16. 996.226, subd. (a)(15) [Years of Experience] (FSOR, p. 87) | | |
| San Bernardino County Sheriff's Department | 228 | 2551 |
| Butte County Sheriff's Office | 32 | 1524-1525 |
| City and County of San Francisco | 219 | 2518 |
| B. Additional Comments Related to Data Elements (FSOR, p. 88) | | |
| 1. Comments Regarding the Inclusion or Exclusion of Officer Demographics (FSOR, p. 88) | | |
| ACLU et al. | 225 | 2541-2542 |
| 2. Comments Regarding Requirement that Demographic Data be Based Upon Officer's Perception (FSOR, p. 88) | | |
| Los Angeles Police Department | 213 | 2504 |
| IV. COMMENTS REGARDING ARTICLE 4 [REPORTING REQUIREMENTS] (PROPOSED SECTION 999.227, AS MODIFIED) (FSOR, p. 89) | | |
| 1. 999.227, subd. (a)(4) [Reporting Requirements When Multiple Agencies Are Involved in Stop] (FSOR, p. 88) | | |
| San Bernardino County Sheriff's Department | 228 | 2551 |
| Hon. Alice Lytle (Ret.) | 230 | 2555 |

| Person/Organization | Comment No. | Batestamp No. |
|--|--------------------|----------------------|
| 2. 999.227, subd. (a)(9) [Requirement that Reports be Completed by End of Shift Absent Exigent Circumstances] (FSOR, p. 89) | | |
| Kings County Sheriff's Office | 218 | 2512 |
| 3. 999.227, subd. (a)(10) [Error Resolution] (FSOR, p. 90) | | |
| Hon. Alice Lytle (Ret.) | 230 | 2555 |
| Richard Hylton | 181 | 2440 |
| 4. 999.227, subd. (a)(11) [Reporting of Officer Identification Number] (FSOR, p. 90) | | |
| Richard Hylton | 181 | 2440 |
| 5. 999.227, subd. (c)(3) [Security Screenings] (FSOR, p. 90) | | |
| Los Angeles Police Department | 213 | 2503 |
| 6. 999.227, subd. (d)(1)(B) [Crowd Control] (FSOR, p. 90) | | |
| Anonymous | 205 | 2481 |
| 7. 999.227, subd. (d)(1)(C) [Underage Drinking Checks] (FSOR, p. 91) | | |
| ACLU et al. | 225 | 2540-2541 |
| 8. 999.227, subd. (d)(1)(D)1 [Checkpoints or roadblocks] (FSOR, p. 91) | | |
| Hon. Alice Lytle (Ret.) | 230 | 2550 |
| 9. 999.227, subd. (d)(2) [Execution of Warrants and Search Conditions in a Residence] (FSOR, p. 92) | | |
| ACLU et al. | 225 | 2541 |
| San Bernardino County Sheriff's Office | 228 | 2550 |
| 10. 999.227, subd. (e) [Reporting Requirements for Stops of Students at a K-12 Public School] (FSOR, p. 92) | | |
| Hon. Alice Lytle (Ret.) | 230 | 2556 |
| 11. 999.227, subd. (e)(3)(C) [Reference to "Screening devices"] (FSOR, p. 93) | | |
| Hon. Alice Lytle (Ret.) | 230 | 2556 |
| 12. 999.227, subd. (e)(4)(A) [Additional Data Values in Reporting Interactions with Students at a K-12 Public School – Perceived or Known Disability] (FSOR, p. 93) | | |
| Hon. Alice Lytle (Ret.) | 230 | 2556 |
| 13. 999.227, subd. (e)(4)(C) [Additional Data Values in Reporting Interactions with Students at a K-12 Public School – Actions Taken During Stop] (FSOR, p. 94) | | |
| Disability Rights California | 220 | 2524 |
| V. COMMENTS REGARDING ARTICLE 5 [TECHNICAL SPECIFICATION AND UNIFORM PRACTICES] (SECTION 999.228, AS MODIFIED) (FSOR, p. 94) | | |
| 1. 999.228, subd. (e) [System Security] (FSOR, p. | | |
| Richard Hylton | 181 | 2439 |
| Richard Hylton | 200 | 2473 |
| 2. 999.228, subd. (g) [Data Publication] (FSOR, p. | | |
| Richard Hylton | 181 | 2439 |
| Richard Hylton | 200 | 2473 |
| VI. COMMENTS REGARDING ARTICLE 6 [AUDITS AND VALIDATION] (PROPOSED SECTION 999.229, AS MODIFIED) (FSOR, p. 95) | | |
| No comments received | | |

| Person/Organization | Comment No. | Batestamp No. |
|--|--------------------|----------------------|
| VI. COMMENTS MADE IN GENERAL TO THE PROPOSED REGULATIONS, AS MODIFIED (FSOR, p. 95) | | |
| A. General Comments in Support of Modified Regulations and/or to Urge Implementation (FSOR, p. 95) | | |
| Prof. Glaser (UC Berkeley) | 190 | 2453 |
| Angela Garcia-Sims | 207 | 2485 |
| ACLU et al. | 225 | 2536 |
| Anonymous | 199 | 2470 |
| Disability Rights California | 220 | 2521 |
| Equality California et al. | 229 | 2553 |
| City and County of San Francisco | 219 | 2514 |
| Stephanie Robitaille | 217 | 2511 |
| Sheila Shane | 183 | 2443 |
| B. General Comments in Opposition to AB 953 and/or Regulations (FSOR, p. 97) | | |
| Anonymous | 205 | 2481 |
| Jeremy Verinsky | 208 | 2487-2489 |
| Los Angeles Police Department | 213 | 2503-2504 |
| Orange County Sheriff's Department | 223 | 2529-2531 |
| Burbank Police Officers' Association | 226 | 2543 |
| California Police Chiefs Association | 227 | 2545-2546 |
| San Bernardino County Sheriff's Department | 228 | 2547-2550, 2552 |
| C. Additional General Comments (FSOR, p. 103) | | |
| 1. Accountability (FSOR, p. 103) | | |
| Karen Glover | 215 | 2506 |
| 2. Comments Regarding Police Practices and the Need to Address Racial and Identity Profiling (FSOR, p. 103) | | |
| Linda Ullrich | 195 | 2458 |
| Mary Sue Meads | 182 | 2441 |
| Frances Navarro | 204 | 2480 |
| Patricia Bender | 184 | 2444 |
| Barbara Farrell | 189 | 2452 |
| Rodney & Cynthia Burt | 202 | 2477 |
| Joanne Britton | 187 | 2450 |
| Marian Cruz | 188 | 2451 |
| Anonymous | 191 | 2454 |
| Joanne DeVine | 192 | 2455 |
| 3. Offer of Assistance (FSOR, p. 104) | | |
| Karen Glover | 215 | 2506 |
| 4. Need for Training (FSOR, p. 104) | | |
| Carolina Goodman | 201 | 2475 |
| ACLU et al. | 225 | 2537 |
| Equality California et al. | 229 | 2553 |
| D. Comments That Do Not Require a Response (FSOR, p. 104) | | |
| Ligala Manns | 186 | 2448 |

| Person/Organization | Comment No. | Batestamp No. |
|---|--------------------|----------------------|
| Virginia Franco | 211 | 2492 |
| Lisa Hammermeister | 193 | 2456 |
| Linda Ullrich | 194 | 2457 |
| Aaron Bruce | 185 | 2446 |
| Sean Sheppard | 196 | 2460 |
| Agustin Damian | 197 | 2462 |
| Agustin Damian | 198 | 2466 |
| Martha Howard | 206 | 2483 |
| Ryan Suto | 210 | 2491 |
| Richard Hylton | 212 | 2494 |
| Richard Hylton | 224 | 2532 |
| SUMMARY OF COMMENTS RECEIVED OUT OF THE PUBLIC COMMENT PERIOD AND THE DEPARTMENT'S RESPONSES | | |
| I. ADDITIONAL COMMENTS RECEIVED FOLLOWING THE CLOSE OF THE 45-DAY COMMENT PERIOD (FSOR, p. 105) | | |
| Jesse Daniels | 122 | 2083 |
| Debbie Balestino | 123 | 2086 |
| Debbie Balestino | 124 | 2087 |
| Deshawn Keys | 126 | 2090 |
| Sherry Clark | 128 | 2095 |
| Virgil Robinson | 130 | 2097 |
| Ligala Manns | 131 | 2098 |
| Anthony Adrian Levintow | 125 | 2089 |
| Anonymous | 129 | 2096 |
| Chris Barker | 127 | 2093 |
| Richard Hylton | 132-180 | 2100-2316 |
| II. Additional Comments Received Following the Close of the 15-Day Comment Period (FSOR, p. 109) | | |
| Richard Hylton | 232-248 | 2561-2648 |