



LEGAL DEFENSE TRUST TRAINING BULLETIN

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OFFICERS ARE SUBJECT TO NEW REPORTING REQUIREMENTS UNDER RACIAL PROFILING ACT

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On October 3, 2015, Governor Jerry Brown signed bills aimed at reducing use of excessive force and racial profiling. The most impactful among those bills was AB 953, better known as the Racial and Identity Profiling Act. Under this new law, police departments will be required to collect data on racial and gender demographics for every stop or detention of a person. For each stop, officers will be required to report identity characteristics such as race, gender and sexual orientation and accompanying data must contain specified information, including the time, date, and location of the stop, and the reason for the stop. Furthermore, police departments must submit annual reports to the state Attorney General for data on all stops.

Additionally, AB 953 will establish the Racial and Identity Profiling Advisory Board (RIPA) which will give recommendations on how to eliminate racial and identity profiling and improve diversity and racial sensitivity in law enforcement. The RIPA Board will consist of 19 appointees, but only 4 of them will be representatives from the law enforcement community.

AB 953 is set to go into effect for large agencies of 1000+ officers by 2019 and smaller agencies by 2023.

While AB 953 is backed by many supporters, police unions and associations have voiced sharp criticisms regarding its effectiveness and cost. According to Craig Lally, president of the police union Los Angeles Police Protective League, the new law will be ineffective because unless you can inside the officer's head, racial profiling is almost impossible to prove if probable cause exists.

Another criticism of AB 953 is its contradiction of discouraging and encouraging racial and identity profiling at the same time. On one hand officers are required to prepare reports of all stopped persons and intentionally perceive the race of that person, but on the other hand this exact behavior of perceiving race is defined by AB 953 as "racial profiling". This is inconsistent, confusing and counter-intuitive. Moreover, officers are requested to profile a person's race based on what they perceive which may be entirely different from the person's actual race. Requesting officers to report on a person's race

based solely on what they perceive can be misleading and inaccurate and defeats the entire purpose of the law.

Additionally, AB 953 will unnecessarily burden officers and law enforcement agencies and take away their time from policing communities. The new law requires reporting information for EVERY single stop, no matter how insignificant. According to Lt. Steve James, president of the Long Beach Police Officers Association, "We have contact with the public all the time that requires no documentation, no paperwork. Now, the amount of time we have to spend doing documentation and paperwork has gone up." Each of these reports required under AB 953 may take as much as 15 minutes to half an hour for officers to complete, adding up to a significant amount of police time lost. Moreover, there are significant costs associated with data collection, reporting, and storage that agencies will have to absorb.

Lastly, the new RIPA board created by AB 953 will have 19 members, but only 4 of them will be from the law enforcement community. With so few law enforcement representatives, the board may lack the understanding, training, and real world experience of law enforcement. RIPA policies and recommendations may be unrealistic and interfere and burden law enforcement.

While the purpose of what AB 953 sets out to achieve is admirable, the means it imposes is flawed. Race and identity statistics lack meaning within a vacuum; context is required in order for there to be any kind of understanding. Without context, the public may be misled into believing that officers are profiling based on race when they are only targeting behavior. The type of reporting mandated by AB 953 lacks nuance

and fails to take into account other factors that directly affect race and identity statistics such as neighborhood demographics, crime rates, etc. Furthermore, it may affect the way officers police their communities by incentivizing stops and arrests of other races in order to skew the statistics to be more palatable to a racially conscious public.

AB 953 is important because it may potentially impact the way law enforcement agencies operate. The new reporting requirements will considerably burden officers by requiring paperwork on stops where none was required before. The method of reporting as dictated under the new law will likely be inaccurate and misleading. AB 953 presupposes that racial and identity profiling is the cause of public mistrust to the preclusion of other factors. This law only serves to give the perception of transparency instead of providing real change.

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