

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 953

Introduced by Assembly Member Weber
(Coauthor: Assembly Member Bonta)
(Coauthor: Senator Mitchell)

February 26, 2015

An act to add Section 12525.5 to the Government Code, and to amend Sections 13012 and 13519.4 of the Penal Code, relating to racial profiling.

LEGISLATIVE COUNSEL'S DIGEST

AB 953, as amended, Weber. Law enforcement: racial profiling.

Existing law creates the Commission on Peace Officer Standards and Training and requires it to develop and disseminate guidelines and training for all law enforcement officers, as described. Existing law prohibits a ~~law enforcement~~ *peace* officer from engaging in racial profiling and requires the training prescribe patterns, practices, and protocols that prevent racial profiling, as defined. Existing law requires the Legislative Analyst's Office to conduct a study of the data that is voluntarily collected by jurisdictions that have instituted a program of data collection with regard to racial profiling.

This bill, ~~which would be known as~~ *would enact* the Racial and Identity Profiling Act of 2015, *which* would, among other changes,

revise the definition of racial profiling to instead refer to racial or identity profiling, ~~would~~ *and* make a conforming change to the prohibition against ~~law enforcement~~ *peace* officers engaging in that ~~practice, and would make the prohibition specifically applicable to probation and parole officers.~~ *practice*. The bill would also require a ~~law enforcement~~ *peace* officer who is the subject of a complaint of racial or identity profiling that is sustained to participate in training to correct racial and identity profiling at least every 6 months for 2 years, starting from the date a complaint is found to have been sustained.

The bill would require, beginning July 1, 2016, the Attorney General to establish the Racial and Identity Profiling Advisory Board (RIPA) to eliminate racial and identity profiling and improve diversity and racial and identity sensitivity in law enforcement. The bill would specify the composition of the board. The bill would require the board, among other duties, to investigate and analyze state and local law enforcement agencies' racial and identity profiling policies and practices, to annually make publicly available its findings and recommendations, to hold public meetings annually, as specified, and to issue the board's first annual report no later than January 1, 2018.

The bill would require each state and local agency that employs peace officers to annually report to the Attorney General on or before March 1, 2018, and each March 1 thereafter, data on all stops, as defined, conducted by the agency's peace officers, and require that data to include specified information, including the time, date, and location of the stop, and the reason for the stop. The bill would require the agencies to retain that data for a minimum of 5 years. The bill would also require the Attorney General to analyze the data collected, report its findings from the first analysis by January 1, 2019, issue reports each January 1, thereafter, and make the reports available to the public by posting them on the Department of Justice's Internet Web site.

By imposing a higher level of service on local entities that employ peace officers, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
2 Racial and Identity Profiling Act of 2015.
- 3 SEC. 2. Section 12525.5 is added to the Government Code, to
4 read:
- 5 12525.5. (a) Each state and local agency that employs peace
6 officers shall annually report to the Attorney General data on all
7 “stops,” as defined in subdivision (j), conducted by that agency’s
8 peace officers for the preceding calendar year. Each agency’s
9 annual report shall be submitted to the Attorney General no later
10 than March 1 of the following calendar year. The first round of
11 the annual reports shall be issued on or before March 1, 2018.
- 12 (b) The reporting shall include, at a minimum, the following
13 information for each stop:
- 14 (1) The time, date, and location of the stop.
15 (2) The reason for the stop.
16 (3) The result of the stop, such as, no action, warning, citation,
17 property seizure, or arrest.
18 (4) If a warning or citation was issued, the warning provided or
19 violation cited.
20 (5) If an arrest was made, the offense charged.
21 (6) The perceived race or ethnicity, gender, and approximate
22 age of the person stopped, provided that the identification of these
23 characteristics shall be based on the observation and perception
24 of the peace officer making the stop, and the information shall not
25 be requested from the person stopped. For motor vehicle stops,
26 this paragraph only applies to the driver, unless any actions
27 specified under paragraph (7) apply in relation to a passenger, in
28 which case the characteristics specified in this paragraph shall also
29 be reported for him or her.
30 (7) Actions taken by the peace officer during the stop, including,
31 but not limited to, the following:
32 (A) Whether the peace officer asked for consent to search the
33 person, and, if so, whether consent was provided.

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

4 (C) Whether the peace officer seized any property and, if so,
5 the type of property that was seized and the basis for seizing the
6 property.

7 (c) If more than one peace officer performs a stop, only one
8 officer is required to collect and report to his or her agency the
9 information specified under subdivision (b).

10 (d) State and local law enforcement agencies shall not report
11 the name, address, social security number, or other unique personal
12 identifying information of persons stopped, searched, or subjected
13 to a property seizure, for purposes of this section. Notwithstanding
14 any other law, the data reported shall be available to the public,
15 except for the badge number or other unique identifying
16 information of the peace officer involved, which shall be released
17 to the public only to the extent the release is permissible under
18 state law.

19 (e) Not later than January 1, 2017, the Attorney General, in
20 consultation with stakeholders, including the Racial and Identity
21 Profiling Advisory Board (RIPA) established pursuant to paragraph
22 (1) of subdivision (j) of Section 13519.4 of the Penal Code, federal,
23 state, and local law enforcement agencies and community,
24 professional, academic, research, and civil and human rights
25 organizations, shall issue regulations for the collection and
26 reporting of data required under subdivision (b). The regulations
27 shall specify all data to be reported, and provide standards,
28 definitions, and technical specifications to ensure uniform reporting
29 practices across all reporting agencies. To the best extent possible,
30 such regulations should be compatible with any similar federal
31 data collection or reporting program.

32 (f) Each year, on an annual basis, each state and local law
33 enforcement agency shall make publicly available a report that
34 lists the agency's total results for each data collection criteria
35 required under subdivision (b). The reports shall include the data
36 collected during the preceding calendar year. The first round of
37 the annual reports shall be issued by each agency on or before July
38 1, 2018. The Attorney General, in consultation with RIPA, shall
39 determine the form in which agencies make the information
40 publicly available. Each state and local law enforcement agency

1 shall post the reports on the Internet Web site for that agency, or,
2 if an agency does not have an Internet Web site, the Department
3 of Justice shall post the agency's reports on its Internet Web site.

4 (g) Data reported pursuant to this section shall be retained by
5 the reporting agency for a minimum of five years.

6 (h) Each year, on an annual basis, the Attorney General shall
7 analyze the data collected. The Attorney General shall report its
8 findings from the first analysis by January 1, 2019, and shall issue
9 reports on the first day of each January thereafter. The reports shall
10 be available to the public by posting those reports on the
11 Department of Justice's Internet Web site.

12 (i) All data and reports made pursuant to this section are public
13 records within the meaning of subdivision (e) of Section 6252,
14 and are open to public inspection pursuant to Sections 6253 and
15 6258.

16 (j) (1) For purposes of this section, "peace officer," as defined
17 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
18 2 of the Penal Code, is limited to members of the California
19 Highway Patrol, a city or county law enforcement agency, ~~except~~
20 ~~probation officers and officers in a custodial setting,~~ agency, and
21 California state or university educational institutions. *"Peace*
22 *officer," as used in this section, does not include probation officers*
23 *and officers in a custodial setting.*

24 (2) For purposes of this section, "stop" means any detention by
25 a peace officer of a person, or any peace officer interaction with
26 a person in which the peace officer conducts a search, including
27 a consensual search, of the person's body or property in the
28 person's possession or control.

29 SEC. 3. Section 13012 of the Penal Code is amended to read:

30 13012. (a) The annual report of the department provided for
31 in Section 13010 shall contain statistics showing all of the
32 following:

33 (1) The amount and the types of offenses known to the public
34 authorities.

35 (2) The personal and social characteristics of criminals and
36 delinquents.

37 (3) The administrative actions taken by law enforcement,
38 judicial, penal, and correctional agencies or institutions, including
39 those in the juvenile justice system, in dealing with criminals or
40 delinquents.

1 (4) The administrative actions taken by law enforcement,
2 prosecutorial, judicial, penal, and correctional agencies, including
3 those in the juvenile justice system, in dealing with minors who
4 are the subject of a petition or hearing in the juvenile court to
5 transfer their case to the jurisdiction of an adult criminal court or
6 whose cases are directly filed or otherwise initiated in an adult
7 criminal court.

8 (5) (A) The total number of each of the following:

9 (i) Citizen complaints received by law enforcement agencies
10 under Section 832.5.

11 (ii) Citizen complaints alleging criminal conduct of either a
12 felony or misdemeanor.

13 (iii) Citizen complaints alleging racial or identity profiling, as
14 defined in subdivision (e) of Section 13519.4. These statistics shall
15 be disaggregated by the specific type of racial or identity profiling
16 alleged, such as based on a consideration of race, color, ethnicity,
17 national origin, religion, gender identity or expression, sexual
18 orientation, or mental or physical disability.

19 (B) The statistics reported under this paragraph shall provide,
20 for each category of complaint identified under subparagraph (A),
21 the number of complaints within each of the following disposition
22 categories:

23 (i) “Sustained,” which means that the investigation disclosed
24 sufficient evidence to prove the truth of allegation in the complaint
25 by preponderance of evidence.

26 (ii) “Exonerated,” which means that the investigation clearly
27 established that the actions of the personnel that formed the basis
28 of the complaint are not a violation of law or agency policy.

29 (iii) “Not sustained,” which means that the investigation failed
30 to disclose sufficient evidence to clearly prove or disprove the
31 allegation in the complaint.

32 (iv) “Unfounded,” which means that the investigation clearly
33 established that the allegation is not true.

34 (C) The reports under subparagraphs (A) and (B) shall be made
35 available to the public and disaggregated for each individual law
36 enforcement agency.

37 (b) It shall be the duty of the department to give adequate
38 interpretation of the statistics and so to present the information
39 that it may be of value in guiding the policies of the Legislature
40 and of those in charge of the apprehension, prosecution, and

1 treatment of the criminals and delinquents, or concerned with the
2 prevention of crime and delinquency. The report shall also include
3 statistics which are comparable with national uniform criminal
4 statistics published by federal bureaus or departments heretofore
5 mentioned.

6 (c) Each year, on an annual basis, the Racial and Identity
7 Profiling Board (RIPA), established pursuant to paragraph (1) of
8 subdivision (j) of Section 13519.4, shall analyze the statistics
9 reported pursuant to subparagraphs (A) and (B) of paragraph (5)
10 of subdivision (a) of this section. RIPA's analysis of the complaints
11 shall be incorporated into its annual report as required by paragraph
12 (3) of subdivision (j) of Section 13519.4. The reports shall not
13 disclose the identity of peace officers.

14 SEC. 4. Section 13519.4 of the Penal Code is amended to read:

15 13519.4. (a) The commission shall develop and disseminate
16 guidelines and training for all peace officers in California as
17 described in subdivision (a) of Section 13510 and who adhere to
18 the standards approved by the commission, on the racial and
19 cultural differences among the residents of this state. The course
20 or courses of instruction and the guidelines shall stress
21 understanding and respect for racial, identity, and cultural
22 differences, and development of effective, noncombative methods
23 of carrying out law enforcement duties in a diverse racial, identity,
24 and cultural environment.

25 (b) The course of basic training for peace officers shall include
26 adequate instruction on racial, identity, and cultural diversity in
27 order to foster mutual respect and cooperation between law
28 enforcement and members of all racial, identity, and cultural
29 groups. In developing the training, the commission shall consult
30 with appropriate groups and individuals having an interest and
31 expertise in the field of racial, identity, and cultural awareness and
32 diversity.

33 (c) For the purposes of this section the following shall apply:

34 (1) "Disability," "gender," "nationality," "religion," and "sexual
35 orientation" have the same meaning as in Section 422.55.

36 (2) "Culturally diverse" and "cultural diversity" include, but
37 are not limited to, disability, gender, nationality, religion, and
38 sexual orientation issues.

39 (3) "Racial" has the same meaning as "race or ethnicity" in
40 Section 422.55.

1 (4) “Stop” has the same meaning as in paragraph (2) of
2 subdivision (j) of Section 12525.5 of the Government Code.

3 (d) The Legislature finds and declares as follows:

4 (1) The working men and women in California law enforcement
5 risk their lives every day. The people of California greatly
6 appreciate the hard work and dedication of peace officers in
7 protecting public safety. The good name of these officers should
8 not be tarnished by the actions of those few who commit
9 discriminatory practices.

10 (2) Racial or identity profiling is a practice that presents a great
11 danger to the fundamental principles of our Constitution and a
12 democratic society. It is abhorrent and cannot be tolerated.

13 (3) Racial or identity profiling alienates people from law
14 enforcement, hinders community policing efforts, and causes law
15 enforcement to lose credibility and trust among the people whom
16 law enforcement is sworn to protect and serve.

17 (4) Pedestrians, users of public transportation, and vehicular
18 occupants who have been stopped, searched, interrogated, and
19 subjected to a property seizure by a peace officer for no reason
20 other than the color of their skin, national origin, religion, gender
21 identity or expression, housing status, sexual orientation, or mental
22 or physical disability are the victims of discriminatory practices.

23 (5) It is the intent of the Legislature in enacting the changes to
24 this section made by the act that added this paragraph that
25 additional training is required to address the pernicious practice
26 of racial or identity profiling and that enactment of this section is
27 in no way dispositive of the issue of how the state should deal with
28 racial or identity profiling.

29 (e) “Racial or identity profiling,” for purposes of this section,
30 is the consideration of, or reliance on, to any degree, actual or
31 perceived race, color, ethnicity, national origin, age, religion,
32 gender identity or expression, sexual orientation, or mental or
33 physical disability in deciding which persons to subject to a stop
34 or in deciding upon the scope or substance of law enforcement
35 activities following a ~~stop~~. *stop, except that an officer may consider*
36 *or rely on characteristics listed in a specific suspect description.*
37 The activities include, but are not limited to, traffic or pedestrian
38 stops, or actions during a stop, such as asking questions, frisks,
39 consensual and nonconsensual searches of a person or any property,

1 seizing any property, removing vehicle occupants during a traffic
2 stop, issuing a citation, and making an arrest.

3 (f) A peace officer shall not engage in racial or identity profiling.

4 (g) Every peace officer in this state shall participate in expanded
5 training as prescribed and certified by the Commission on Peace
6 Officers Standards and Training.

7 (h) The curriculum shall be evidence-based and shall include
8 and examine evidence-based patterns, practices, and protocols that
9 make up racial or identity profiling, including implicit bias. This
10 training shall prescribe evidenced-based patterns, practices, and
11 protocols that prevent racial or identity profiling. In developing
12 the training, the commission shall consult with the Racial and
13 Identity Profiling Advisory Board established pursuant to
14 subdivision (j). The course of instruction shall include, but not be
15 limited to, significant consideration of each of the following
16 subjects:

17 (1) Identification of key indices and perspectives that make up
18 racial, identity, and cultural differences among residents in a local
19 community.

20 (2) Negative impact of intentional and implicit biases,
21 prejudices, and stereotyping on effective law enforcement,
22 including examination of how historical perceptions of
23 discriminatory enforcement practices have harmed
24 police-community relations and contributed to injury, death,
25 disparities in arrest detention and incarceration rights, and wrongful
26 convictions.

27 (3) The history and role of the civil and human rights movement
28 and struggles and their impact on law enforcement.

29 (4) Specific obligations of peace officers in preventing,
30 reporting, and responding to discriminatory or biased practices by
31 fellow peace officers.

32 (5) Perspectives of diverse, local constituency groups and
33 experts on particular racial, identity, and cultural and
34 police-community relations issues in a local area.

35 (6) The prohibition against racial or identity profiling in
36 subdivision (f).

37 (i) Once the initial basic training is completed, each peace officer
38 in California as described in subdivision (a) of Section 13510 who
39 adheres to the standards approved by the commission shall be
40 required to complete a refresher course every five years thereafter,

1 or on a more frequent basis if deemed necessary, in order to keep
2 current with changing racial, identity, and cultural trends. In
3 addition to any remedies provided in law or equity, any peace
4 officer who is the subject of a complaint of racial or identity
5 profiling that is sustained shall participate in training to correct
6 racial or identity profiling at least every six months for two years,
7 starting from the date a complaint is found to have been sustained.

8 (j) (1) Beginning July 1, 2016, the Attorney General shall
9 establish the Racial and Identity Profiling Advisory Board (RIPA)
10 for the purpose of eliminating racial and identity profiling, and
11 improving diversity and racial and identity sensitivity in law
12 enforcement.

13 (2) RIPA shall include the following members:

14 (A) The Attorney General, or his or her designee.

15 (B) The President of the California Public Defenders
16 Association, or his or her designee.

17 (C) The President of the California Police Chiefs Association,
18 or his or her designee.

19 (D) The President of California State Sheriffs' Association, or
20 his or her designee.

21 (E) The President of the Peace Officers Research Association
22 of California, or his or her designee.

23 (F) ~~The President~~ *Commissioner* of the California Association
24 of Highway Patrolmen, or his or her designee.

25 (G) The Chair of the California Legislative Black Caucus, or
26 his or her designee.

27 (H) The Chair of the California Latino Legislative Caucus, or
28 his or her designee.

29 (I) The Chair of the California Asian and Pacific Islander
30 Legislative Caucus, or his or her designee.

31 (J) The Chair of the California Legislative Lesbian, Gay,
32 Bisexual, and Transgender Caucus, or his or her designee.

33 (K) A university professor who specializes in policing, and
34 racial and identity equity.

35 (L) Two representatives of human or civil rights tax-exempt
36 organizations who specialize in civil or human rights.

37 (M) Two representatives of community organizations who
38 specialize in civil or human rights and criminal justice, and work
39 with victims of racial and identity profiling.

1 (N) Two religious clergy members who specialize in addressing
2 and reducing racial and identity bias toward individuals and groups.

3 (O) Up to two other members that the Attorney General may
4 prescribe.

5 (3) Each year, on an annual basis, RIPA shall do the following:

6 (A) Analyze the data reported pursuant to Section 12525.5 of
7 the Government Code and Section 13012 of the Penal Code.

8 (B) Analyze law enforcement training under ~~Section 13519.4~~
9 ~~of the Penal Code.~~ *this section.*

10 (C) Work in partnership with state and local law enforcement
11 agencies to review and analyze racial and identity profiling policies
12 and practices.

13 (D) Issue a report that provides RIPA's analysis under
14 subparagraphs (A) to (C), inclusive, detailed findings on the past
15 and current status of racial and identity profiling, and makes
16 recommendations for eliminating racial and identity profiling.
17 RIPA shall post the report on its Internet Web site. The first annual
18 report shall be issued no later than January 1, 2018. The reports
19 are public records within the meaning of subdivision (d) of Section
20 6252 of the Government Code and are open to public inspection
21 pursuant to Sections 6253, 6256, 6257, and 6258 of the
22 Government Code.

23 (E) Hold at least three public meetings annually to discuss racial
24 and identity profiling, and potential reforms to correct racial and
25 identity profiling. Each year, one meeting shall be held in northern
26 California, one in central California, and one in southern California.
27 RIPA shall provide the public with notice at least 60 days prior to
28 each meeting.

29 SEC. 5. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.

O