

Assembly Bill No. 2524

Passed the Assembly August 30, 2016

Chief Clerk of the Assembly

Passed the Senate August 24, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 21627 of the Business and Professions Code, to amend Section 12525.2 of the Government Code, and to amend Sections 13010, 13010.5, 13012, 13012.6, 13013, 13014, 13023, and 13519.4 of the Penal Code, relating to criminal justice.

LEGISLATIVE COUNSEL'S DIGEST

AB 2524, Irwin. OpenJustice Data Act of 2016.

Existing law requires the Department of Justice to collect certain criminal justice data from specified persons and agencies, and to present an annual report to the Governor containing the criminal statistics of the preceding calendar year, in addition to other reports, as specified. Existing law requires the department to prepare and distribute to all those persons and agencies cards, forms, or electronic means used in reporting data to the department.

This bill would instead require the department to make available to the public information relating to criminal statistics through the department's OpenJustice Web portal, to be updated at least once per year, without requiring an increase in the frequency of reporting by local agencies. The bill would require the department to evaluate, on an annual basis, the progress of the transition from summary crime reporting to incident-based crime reporting and to report its findings to the Legislature annually through 2019. The bill would also provide legislative findings and declarations relating to the OpenJustice Web portal.

This bill would make conforming changes to related provisions concerning the interpretation and distribution of the criminal statistics, the maintenance of a specified data set, reports issued by the Racial and Identity Profiling Advisory Board, and information about homicide, hate crimes, identity theft, stolen goods, and the juvenile justice system. The bill would also make technical, nonsubstantive changes to these provisions.

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

SECTION 1. This act shall be known, and may be cited, as the OpenJustice Data Act of 2016.

SEC. 2. The Legislature finds and declares all of the following:

(a) The advent of new technology and the growth of data analytics have dramatically enhanced both the value and the accessibility of information, providing new opportunities for the public to engage with the government and benefit from information possessed by the state.

(b) The rise in digitization of information has significantly increased the speed of communication while specifically improving the efficiency at which documents may be shared across public agencies.

(c) The Department of Justice has traditionally maintained a centralized data repository for public safety information collected at the local level and submitted to the department for purposes of aggregation, analysis, and dissemination through an annual report, which is currently distributed as either a paper or static electronic annual report titled Crime in California, as well as additional specialized crime reports.

(d) In 2015, the Attorney General announced the launch of OpenJustice, a criminal justice Web portal that features both an interactive dashboard that provides data visualization with accompanying analysis and an open data portal that publishes raw data.

(e) Reinventing the department's crime reports as an Internet Web site within the OpenJustice Web portal will enable the public to receive dynamic, customized information that will significantly strengthen trust, enhance government accountability, and support real-time public policy decisionmaking.

(f) Despite the many advantages of electronic data collection, only approximately 40 percent of local law enforcement agencies currently submit required data sets through electronic means, impeding the ability of the state to implement a uniform reporting structure through which information is made available to the public more frequently and more effectively.

(g) There are significant public benefits in modernizing how public agencies engage with data and in encouraging the adoption of contemporary electronic technologies to reduce the inefficiencies and environmental impacts of paper recordkeeping.

(h) The Department of Justice is working with the Federal Bureau of Investigation and the federal Bureau of Justice Statistics

to transition California from summary crime reporting to incident-based crime reporting.

(i) It is the intent of the Legislature that following full implementation of incident-based crime reporting, the Department of Justice work to transition to exclusively electronic crime data collection and evaluate the potential for criminal justice statistical data to be updated on the OpenJustice Web portal at a frequency greater than once per year.

SEC. 3. Section 21627 of the Business and Professions Code is amended to read:

21627. (a) As used in this article, “tangible personal property” means all secondhand tangible personal property that bears a serial number or personalized initials or inscription or that, at the time it is acquired by the secondhand dealer, bears evidence of having had a serial number or personalized initials or inscription.

(b) “Tangible personal property” also means the following:

(1) All tangible personal property, new or used, including motor vehicles, received in pledge as security for a loan by a pawnbroker.

(2) All tangible personal property that bears a serial number or personalized initials or inscription and that is purchased by a secondhand dealer or a pawnbroker or that, at the time of the purchase, bears evidence of having had a serial number or personalized initials or inscription.

(3) All tangible personal property that the Attorney General statistically determines through the most recent Department of Justice crime data, updated pursuant to Section 13010 of the Penal Code, to constitute a significant class of stolen goods. A list of that personal property shall be supplied by the Attorney General to all local law enforcement agencies and posted on the Attorney General’s Internet Web site. That list shall be updated annually by the Attorney General, beginning January 1, 2016, to ensure that it addresses current problems with stolen goods.

(c) As used in this article, “tangible personal property” does not include any new goods or merchandise purchased from a bona fide manufacturer or distributor or wholesaler of the new goods or merchandise by a secondhand dealer. For the purposes of this article, however, a secondhand dealer shall retain for one year from the date of purchase, and shall make available for inspection by any law enforcement officer, any receipt, invoice, bill of sale, or other evidence of purchase of the new goods or merchandise.

(d) As used in this article, “tangible personal property” does not include coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals. “Commercial grade ingots” means 0.99 fine or finer ingots of gold, silver, palladium, or platinum, or 0.925 fine sterling silver art bars and medallions, provided that the ingots, art bars, and medallions are marked by the refiner or fabricator as to their assay fineness.

(e) For purposes of this article, a “significant class of stolen goods” means those items determined through the Department of Justice’s most recent OpenJustice Web portal update to constitute more than 10 percent of property reported stolen in the calendar year preceding the annual posting of the list of significant classes of stolen goods.

SEC. 4. Section 12525.2 of the Government Code is amended to read:

12525.2. (a) Beginning January 1, 2017, each law enforcement agency shall annually furnish to the Department of Justice, in a manner defined and prescribed by the Attorney General, a report of all instances when a peace officer employed by that agency is involved in any of the following:

(1) An incident involving the shooting of a civilian by a peace officer.

(2) An incident involving the shooting of a peace officer by a civilian.

(3) An incident in which the use of force by a peace officer against a civilian results in serious bodily injury or death.

(4) An incident in which use of force by a civilian against a peace officer results in serious bodily injury or death.

(b) For each incident reported under subdivision (a), the information reported to the Department of Justice shall include, but not be limited to, all of the following:

(1) The gender, race, and age of each individual who was shot, injured, or killed.

(2) The date, time, and location of the incident.

(3) Whether the civilian was armed, and, if so, the type of weapon.

(4) The type of force used against the officer, the civilian, or both, including the types of weapons used.

(5) The number of officers involved in the incident.

(6) The number of civilians involved in the incident.

(7) A brief description regarding the circumstances surrounding the incident, which may include the nature of injuries to officers and civilians and perceptions on behavior or mental disorders.

(c) Each year, the Department of Justice shall include a summary of information contained in the reports received pursuant to subdivision (a) through the department's OpenJustice Web portal pursuant to Section 13010 of the Penal Code. This information shall be classified according to the reporting law enforcement jurisdiction. In cases involving a peace officer who is injured or killed, the report shall list the officer's employing jurisdiction and the jurisdiction where the injury or death occurred, if they are not the same. This subdivision does not authorize the release to the public of the badge number or other unique identifying information of the peace officer involved.

(d) For purposes of this section, "serious bodily injury" means a bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

SEC. 5. Section 13010 of the Penal Code is amended to read: 13010. It shall be the duty of the department:

(a) To collect data necessary for the work of the department from all persons and agencies mentioned in Section 13020 and from any other appropriate source.

(b) To prepare and distribute to all those persons and agencies cards, forms, or electronic means used in reporting data to the department. The cards, forms, or electronic means may, in addition to other items, include items of information needed by federal bureaus or departments engaged in the development of national and uniform criminal statistics.

(c) To recommend the form and content of records that must be kept by those persons and agencies in order to ensure the correct reporting of data to the department.

(d) To instruct those persons and agencies in the installation, maintenance, and use of those records and in the reporting of data therefrom to the department.

(e) To process, tabulate, analyze, and interpret the data collected from those persons and agencies.

(f) To supply, at their request, to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state.

(g) To make available to the public, through the department's OpenJustice Web portal, information relating to criminal statistics, to be updated at least once per year, and to present at other times as the Attorney General may approve reports on special aspects of criminal statistics. A sufficient number of copies of a downloadable summary of this information shall be annually prepared to enable the Attorney General to send a copy to the Governor and to all public officials in the state dealing with criminals and to distribute them generally in channels where they will add to the public enlightenment. This subdivision shall not be construed to require more frequent reporting by local agencies than what is required by any other law.

(h) To periodically review the requirements of units of government using criminal justice statistics, and to make recommendations for changes it deems necessary in the design of criminal justice statistics systems, including new techniques of collection and processing made possible by automation.

(i) To evaluate, on an annual basis, the progress of California's transition from summary crime reporting to incident-based crime reporting, in alignment with the federal National Incident-Based Reporting System, and report its findings to the Legislature annually through 2019, pursuant to Section 9795 of the Government Code.

SEC. 6. Section 13010.5 of the Penal Code is amended to read:

13010.5. (a) The department shall collect data pertaining to the juvenile justice system for criminal history and statistical purposes. This information shall serve to assist the department, through its bureau whose mission is to protect the rights of children, in complying with the reporting requirement of paragraphs (3) and (4) of subdivision (a) of Section 13012, measuring the extent of juvenile delinquency, determining the need for, and effectiveness of, relevant legislation, and identifying long-term trends in juvenile delinquency. Any data collected pursuant to this section may include criminal history information that may be used by the department to comply with the requirements of Section 602.5 of the Welfare and Institutions Code.

(b) Statistical data collected pursuant to this section shall be made available to the public through the OpenJustice Web portal. The department may make available data collected pursuant to this section in the same manner as data collected pursuant to Section 13202.

SEC. 7. Section 13012 of the Penal Code is amended to read:

13012. (a) The information published on the OpenJustice Web portal pursuant to Section 13010 shall contain statistics showing all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) It shall be the duty of the department to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. This interpretation shall be presented in clear and informative formats on the OpenJustice Web portal. The Web portal shall also include statistics that are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

(c) Each year, on an annual basis, the Racial and Identity Profiling Advisory Board (RIPA), established pursuant to paragraph (1) of subdivision (j) of Section 13519.4, shall analyze the statistics reported pursuant to subparagraphs (A) and (B) of paragraph (5) of subdivision (a) of this section. RIPA’s analysis of the complaints shall be incorporated into its annual report as required by paragraph (3) of subdivision (j) of Section 13519.4 and shall be published on the OpenJustice Web portal. The reports shall not disclose the identity of peace officers.

SEC. 8. Section 13012.6 of the Penal Code is amended to read:
13012.6. The data published by the department on the OpenJustice Web portal pursuant to Section 13010 shall include information concerning arrests for violations of Section 530.5.

SEC. 9. Section 13013 of the Penal Code is amended to read:
13013. The department shall maintain a data set, updated annually, that contains the number of crimes reported, number of

clearances, and clearance rates in California as reported by individual law enforcement agencies. The data set shall be made available through the OpenJustice Web portal. This section shall not be construed to require reporting any crimes other than those required by Section 13012.

SEC. 10. Section 13014 of the Penal Code is amended to read:

13014. (a) The Department of Justice shall perform the following duties concerning the investigation and prosecution of homicide cases:

(1) Collect information, as specified in subdivision (b), on all persons who are the victims of, and all persons who are charged with, homicide.

(2) Adopt and distribute, as a written form or by electronic means, to all state and governmental entities that are responsible for the investigation and prosecution of homicide cases, forms that will include information to be provided to the department pursuant to subdivision (b).

(3) Compile, collate, index, and maintain an electronic file of the information required by subdivision (b). The file shall be available to the general public during the normal business hours of the department, as well as on the OpenJustice Web portal, and the department shall at least annually update the information required by this section, which shall also be available to the general public.

The department shall perform the duties specified in this subdivision within its existing budget.

(b) Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime, including age, gender, race, and ethnic background.

SEC. 11. Section 13023 of the Penal Code is amended to read:

13023. (a) Subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to hate crimes. This information may include any general orders or formal policies on hate crimes and the hate crime pamphlet required pursuant to Section 422.92.

(b) On or before July 1 of each year, the Department of Justice shall update the OpenJustice Web portal with the information obtained from local law enforcement agencies pursuant to this section. The department shall submit its analysis of this information to the Legislature in the manner described in subdivision (g) of Section 13010.

(c) For purposes of this section, “hate crime” has the same meaning as in Section 422.55.

SEC. 12. Section 13519.4 of the Penal Code is amended to read:

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

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

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

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

(2) “Culturally diverse” and “cultural diversity” include, but are not limited to, disability, gender, nationality, religion, and sexual orientation issues.

(3) “Racial” has the same meaning as “race or ethnicity” in Section 422.55.

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

(d) The Legislature finds and declares as follows:

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

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

(3) 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.

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

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

(e) “Racial or identity profiling,” for purposes of this section, is the consideration of, or reliance on, to any degree, actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or 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, except that an officer may consider or rely on characteristics listed in a specific suspect description. The activities include, but are not limited to, traffic or pedestrian stops, or actions during a stop, such as asking questions, frisks, consensual and nonconsensual searches of a person or any property, seizing any property, removing vehicle occupants during a traffic stop, issuing a citation, and making an arrest.

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

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

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

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

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

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

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

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

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

(i) Once the initial basic training is completed, each peace officer in California as described in subdivision (a) of Section 13510 who adheres to the standards approved by the commission shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing racial, identity, and cultural trends.

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

(2) RIPA shall include the following members:

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

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

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

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

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

(F) The Commissioner of the California Highway Patrol, or his or her designee.

(G) A university professor who specializes in policing, and racial and identity equity.

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

(I) Two representatives of community organizations who specialize in civil or human rights and criminal justice, and work with victims of racial and identity profiling. At least one representative shall be between 16 and 24 years of age.

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

(K) Up to two other members that the Governor may prescribe.

(L) Up to two other members that the President pro Tempore of the Senate may prescribe.

(M) Up to two other members that the Speaker of the Assembly may prescribe.

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

(A) Analyze the data reported pursuant to Section 12525.5 of the Government Code and Section 13012 of this code.

(B) Analyze law enforcement training under this section.

(C) Work in partnership with state and local law enforcement agencies to review and analyze racial and identity profiling policies and practices across geographic areas in California.

(D) Conduct, and consult available, evidence-based research on intentional and implicit biases, and law enforcement stop, search, and seizure tactics.

(E) Issue a report that provides RIPA's analysis under subparagraphs (A) to (D), inclusive, and detailed findings on the past and current status of racial and identity profiling, and makes policy recommendations for eliminating racial and identity profiling. RIPA shall post the report on its Internet Web site. Each report shall include disaggregated statistical data for each reporting law enforcement agency. The report shall include, at minimum, each reporting law enforcement agency's total results for each data collection criterion under subdivision (b) of Section 12525.5 of the Government Code for each calendar year. The reports shall be retained and made available to the public by posting those reports on the Department of Justice's OpenJustice Web portal. The first annual report shall be issued no later than January 1, 2018. The reports are public records within the meaning of subdivision (d) of Section 6252 of the Government Code and are open to public inspection pursuant to Sections 6253, 6256, 6257, and 6258 of the Government Code.

(F) Hold at least three public meetings annually to discuss racial and identity profiling, and potential reforms to prevent racial and identity profiling. Each year, one meeting shall be held in northern California, one in central California, and one in southern California. RIPA shall provide the public with notice of at least 60 days before each meeting.

(4) Pursuant to subdivision (e) of Section 12525.5 of the Government Code, RIPA shall advise the Attorney General in developing regulations for the collection and reporting of stop data, and ensuring uniform reporting practices across all reporting agencies.

(5) Members of RIPA shall not receive compensation, nor per diem expenses, for their services as members of RIPA.

(6) No action of RIPA shall be valid unless agreed to by a majority of its members.

(7) The initial terms of RIPA members shall be four years.

(8) Each year, RIPA shall elect two of its members as cochairpersons.

Approved _____, 2016

Governor