

**CALIFORNIA DEPARTMENT OF JUSTICE
TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 19. RACIAL AND IDENTITY PROFILING ACT OF 2015**

UPDATED INFORMATIVE DIGEST

Since the filing of the Notice of Proposed Rulemaking on July 9, 2021, the Department revised its regulations on January 8, 2022 and again on May 25, 2022. The modifications are described below:

Global Modification

The Department modified gender-specific language to gender-neutral language throughout the regulations and deleted some extra spaces between words that had been added as a result.

Article 1. Definitions

Section 999.224, subd. (a)(new)(12): The Department revised the proposed definition of “Personally identifying information.”

Section 999.224, subd. (a)(new)(14)-(15): The Department revised the proposed definition of “Probable cause to arrest or search” by separating it out into two definitions, one for “Probable cause to arrest” and “Probable cause to search.”

Section 999.224, subd. (a)(new)(16): The Department revised the proposed definition of “Reasonable suspicion,” including deleting a sentence about observing the violation of the law.

Section 999.224, subd. (a)(new)(25): The Department revised the title and example under the proposed definition of “Welfare check or community caretaking function” to be “Welfare or wellness check or community caretaking function.” Relatedly, the title of the proposed data element, “Stop Made During the Course of Performing a Welfare Check or an Officer’s Community Caretaking Function” was revised to be “Stop Made During the Course of Performing a Welfare or Wellness Check or an Officer’s Community Caretaking Function.”

Article 3. Data Elements to be Reported

Section 999.226, subd. (a)(new)(2): The Department revised the explanatory language for the proposed new data element entitled “Type of Stop” and revised an example.

Section 999.225, subd. (a)(new)(3)(C): The Department revised the proposed modified description of the existing data element “Duration of Stop,” revised existing and proposed examples, and provided an additional example.

Section 999.226, subd. (a)(new)(4): The Department revised this subdivision to indicate that the data value of “Geographic coordinates” is a proposed data value and reordered the data values under this data element.

Section 999.226, subd. (a)(new)(12): The Department modified the title of the proposed data element “Stop Made in Response to a Call for Service” and the explanatory language.

Section 999.226, subd. (a)(new)(13): The Department revised the title of the proposed new data element of “Stop Made During the Course of Performing a Welfare Check or an Officer’s Community Caretaking Function” and revised the explanatory language.

Section 999.226, subd. (a)(new)(14): The Department changed “Vehicle Code section” to “code section.” The Department revised the explanatory language for the data value entitled “Reasonable suspicion that the person was engaged in criminal activity” under the existing data element “Reason for Stop” and revised the reference to a new data element. The Department also revised the explanatory language for the proposed new data value entitled “Probable cause to arrest or search” under the existing data element “Reason for Stop,” and revised reference to a new data element.

Section 999.226, subd. (a)(new)(15)-(16): The Department separated the data element entitled “Actions Taken by Officer During Stop” into two data elements: (1) “Non-Force Related Actions Taken by Officer During Stop” and (2) “Force-Related Actions Taken by Officer During Stop,” and moved some of the previously existing data values to the new “Force-Related Actions Taken by Officer During Stop.” The Department also revised the explanatory language and example under the new data element “Non-Force Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(15)(new)(B)(new)9-10: The Department revised the explanatory language in “Terry v. Ohio frisk/pat search of the person’s outer clothing was conducted” and “Search of person was conducted” and revised the examples in “*Terry v. Ohio* frisk/pat search of the person’s outer clothing was conducted.”

Section 999.226, subd. (a)(new)(15)(C)2: The Department revised this existing language to require officers to describe how they learned of the search condition and provided an example.

Section 999.226, subd. (a)(new)(16)(A)(new)1: Because the Department separated the data element previously entitled “Actions Taken by Officer During Stop” into two data elements, The Department moved the existing data value “Handcuffed or flex cuffed” to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(16)(A)(new)2, 17: The Department separated the existing data value of “Other physical or vehicle contact” into two data values: (1) Physical compliance tactics and techniques” and (2) “Use of vehicle in apprehension of stopped person.” The Department also provided an additional example of physical contact.

Section 999.226, subd. (a)(new)(16)(A)(new)3: The Department revised the proposed modification to the existing data value “Canine removed from vehicle or used to search” by moving it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a) (new)(16)(A)(new)4: The Department moved the proposed data value “Peace officer’s canine bit or held person” from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a) (new)(16)(A)(new)5: The Department moved the existing data value “Firearm pointed at person” from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(16)(A)(new)6: The Department modified the existing data value “Firearm discharged or used” and moved it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(16)(A)(new)7: The Department added a data value of “Firearm Unholstered.”

Section 999.226, subd. (a)(new)(16)(A)(new)8: The Department moved the proposed data value “Electronic control device pointed at person or sparked” from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(16)(A)(new)9-10: The Department revised the proposed modification to the existing data value “Electronic control device used” and moved it from the “Actions Taken by Officer During Stop” data element to the new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a) (new)(16)(A)(new)11: The Department moved the data value “Impact projectile weapon pointed at person” from the “Actions Taken by Officer During Stop” data element to the data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a) (new)(16)(A)(new)12: The Department moved the data value “Impact projectile discharged or used (e.g., blunt impact projectile, rubber bullets or bean bags)” from the “Actions Taken by Officer During Stop” data element to the new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(16)(A)(new)13: The Department moved the proposed data value “Baton or other impact weapon drawn” from the “Actions Taken by Officer During Stop” data element to the new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(16)(new)(A)14: The Department revised the modification to

the existing data value “Baton or other impact weapon used” to “Baton or other impact weapon used to strike or prod” and moved it from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(16)(A)(new)15: The Department moved the existing data value “Chemical spray used (e.g. pepper spray, mace, or other chemical irritants)” from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(16)(A)(new)16: The Department moved the existing data value “Person removed from vehicle by physical contact” from the “Actions Taken by Officer During Stop” data element to the proposed new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(16)(A)(new)17: The Department proposed adding the new data value of “Use of vehicle in apprehension of stopped person.”

Section 999.226, subd. (a)(new)(16)(A)(new)18: The Department proposed the new data value of “None” under this new data element of “Force-Related Actions Taken by Officer During Stop.”

Section 999.226, subd. (a)(new)(17)(B)-(new)(C): The Department separated the existing data value of “Warning (verbal or written)” into two data values “Verbal Warning” and “Written Warning.”

Section 999.226, subd. (a)(new)(20)(new)(K)-(L): The Department revised the proposed modification to the existing data value entitled “Other” to change it to “Contracted by another law enforcement agency or other” under the existing data element “Type of Assignment of Officer.”

Section 999.226, subd. (a)(new)(21)-(22): The Department revised the explanatory language for these two proposed data elements to make clear that officers should only select the applicable data values.

Article 4. Reporting Requirements

Section 999.227, subd. (b)(1)(B): Reporting requirements for passengers in vehicle Stops

Section 999.227, subd. (d)(1): Reporting requirements for enumerated uniform searches or seizures

Section 999.227, subd. (e)(3)(C): Reporting requirements for students at a K-12 public school

With separating the existing data element of “Actions Taken by Officer During Stop,” into two data elements—(1) “Non-Force Related Actions Taken by Officer During Stop” and (2) “Force-Related Actions Taken by Officer During Stop” —the Department revised the above listed provisions to make clear that an officer must report an interaction in specific scenarios when they take actions captured in data values under either of the two newly proposed data elements.

Section 999.227(d)(2): Programmatic search or seizure

In response to a comment, the Department deleted this proposed provision. Because the provision had been proposed to be added in this package, the existing subdivisions were not impacted by any subsequent renumbering.

Section 999.227, subd. (e)(4)(D): Reporting requirements for students at a K-12 public school

Because of the separation of the existing data element of “Actions Taken by Officer During Stop,” into two data elements—(1) “Non-Force Related Actions Taken by Officer During Stop” and (2) “Force-Related Actions Taken by Officer During Stop” —the Department revised this subdivision to accurately cite the applicable regulation subdivisions and data elements.

Article 5. Technical Specifications and Uniform Reporting Practices

Section 999.228, subd. (h): The Department revised the proposal to permit confidential disclosure of stop data to non-academic organizations seeking to analyze the data to advance public policy, including the type of data that would require confidential disclosure, the purposes for which the Department would confidentially disclose stop data, the types of entities that would be eligible to receive confidential stop data, the process for requesting confidential stop data, and other parameters on the use, protection, and security, destruction of stop data, and set forth several definitions, such as “Confidential Stop Data,” “Confidential Stop Data Requestor,” “Team Member,” “Data Request Application,” and “Research Purposes.”

Section 999.228, subd. (i): The Department revised this proposed language to add that Confidential Stop Data would also not be disclosed.

Section 999.228, subd. (j): The Department removed the proposal to require agencies to keep a record of information found in its source data indefinitely.