

Warner & Pank, LLC



Governmental Relations & Legislative Advocacy

To: All CLEARS Members

From: Nick Warner
Cory M. Salzillo

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Re: Implementation Update – AB 71 and AB 953

In 2015, thousands of bills were introduced in the California Legislature and more than 800 were signed into law. Two of those – AB 71 and AB 953 – impose significant data collection and reporting requirements on law enforcement agencies. As both of these bills contain provisions that trigger workload commencing on January 1, 2016, we are sending you this information to ensure that you are prepared to comply with the law.

In anticipation of these bills taking effect, we have been working with the Governor's Administration to examine costs, identify opportunities to fund the bill's requirements, and tee up the mandate reimbursement process. We will keep in contact with you as these efforts progress. In the meantime, please contact us with concerns, questions, or suggestions.

AB 71 – Use of Force Reporting

AB 71 (Chapter 462, Statutes of 2015) requires law enforcement agencies to annually furnish to the California Department of Justice (DOJ) a report of all instances of shootings of and by peace officers and uses of force by or against peace officers resulting in serious bodily injury or death.

This bill becomes effective on January 1, 2016. That said, the bill specifies that law enforcement agencies shall begin the annual reporting on January 1, 2017. The intent and expectation of the bill's author and the DOJ, the agency that receives the reported data, is that data will be collected beginning January 1, 2016.

AB 71 provides that the annual report shall include a report of all instances when a peace officer is involved in any of the following:

- An incident involving the shooting of a civilian by a peace officer.
- An incident involving the shooting of a peace officer by a civilian.
- An incident in which the use of force by a peace officer against a civilian results in serious bodily injury or death.

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

AB 71 provides that, for each incident, the information reported to the DOJ shall include, but not be limited to, all of the following:

- The gender, race, and age of each individual who was shot, injured, or killed.
- The date, time, and location of the incident.
- Whether the civilian was armed, and, if so, the type of weapon.
- The type of force used against the officer, the civilian, or both, including the types of weapons used.
- The number of officers involved in the incident.
- The number of civilians involved in the incident.
- 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.

AB 71 requires DOJ to include a summary of these data in the annual DOJ crime report.

AB 71 defines “serious bodily injury” as 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.

NOTE: As it relates to AB 71, DOJ convened two stakeholder meetings in which they sought input from law enforcement. Attached is the **DRAFT** template of the data points that are required by AB 71 based on the feedback received at those meetings. Please note that this template is subject to change and it is exceedingly likely that changes will be made once DOJ considers the input they received.

AB 953 – Racial Profiling/Complaint Reporting

AB 953 (Chapter 466, Statutes of 2015) becomes effective on January 1, 2016. While the portions of the bill dealing with collecting and reporting demographic data from traffic and pedestrian stops that we have previously reported on do not take effect until 2018 at the earliest, parts of the bill require action beginning January 1, 2016.

Under current law, Penal Code Section 832.5 requires every department or agency that employs peace officers to establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies. DOJ is required to report the number of citizen complaints from law enforcement agencies in the annual Crime in California report pursuant to PC 13012. Agencies report the total number of complaints and the number of those complaints that are sustained. DOJ then reports a gross number and does not break down the numbers by individual agency.

As of January 1, 2016, AB 953 adds to the existing law a requirement that citizen complaints alleging racial or identity profiling also be reported, and it requires that dataset to be disaggregated into complaints by specific type of alleged profiling (i.e. X number of complaints based on racial profiling, Y number of complaints based on gender identity profiling, Z number of complaints based on religious profiling, etc.).

AB 953 also requires all of the complaints (currently and newly reported) to be noted as either sustained, exonerated, not sustained, or unfounded (DOJ currently only reports a gross number of complaints and how many of those are sustained).

AB 953 requires DOJ's reports of complaints to be disaggregated for each law enforcement agency (they currently only report a gross statewide number of complaints).

OFFICE OF THE ATTORNEY GENERAL - DEPARTMENT OF JUSTICE

GREEN: FBI ONLY

Use of force may occur when an officer is defending themselves or others; effecting an arrest or detention; preventing escape or overcoming resistance.

Government Code section 12525.2(d) defines serious bodily injury as 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.

ORI	CA0XXXXXX	Reason for Contact	Civilians Involved	number
Agency	name	Call for Service	Officers Involved	number
County	name	Field Contact		
Date	mm/dd/yyyy	Arrest Warrant Service	Civilian Perceived Armed	
Time	0000 - 2400	Search Warrant Service	Firearm	
Location	number, street, city, zip (NIBRS CODE)	Parole Search	Other Weapon	
		Probation Search		
		Wellness Check	Civilian Confirmed Armed With	
		In Custody Event	Firearm	
			Firearm Replica	
			Other Weapon	
			Other Object	

INCIDENT TYPE	USE OF FORCE BY AN OFFICER OR ASSAULT BY A CIVILIAN			
	<u>Civilian Injury</u>		<u>Officer Injury</u>	
	Yes	No	Yes	No
	<u>Civilian Injuries Caused By</u>		<u>Officer Injuries Caused By</u>	
	Handgun		Handgun	
	Long gun		Long gun	
	Knife or Blade		Knife or Blade	
	Civilian Physical Contact		Civilian Physical Contact - Threat	
	Officer Physical Contact		Civilian/Other Vehicle Contact	
	Officer Vehicle Contact		Chemical Spray	
	K-9 Officer Contact		Electronic Control Device	
	Chemical Spray		Baton	
	Electronic Control Device		Club	
	Baton		Flashlight	
	Club		Other Weapon	
	Flashlight			
	Other Weapon			
	<u>Civilian Outcome</u>		<u>Officer Outcome</u>	
	Unconscious		Unconscious	
	Internal Injury		Internal Injury	
	Abrasion/Laceration		Abrasion/Laceration	
	Obvious Disfigurement		Obvious Disfigurement	
	<u>Medical Aid</u>		<u>Medical Aid</u>	
	Minor – No Medical Assistance		Minor – No Medical Assistance	
	Moderate – Medical Assistance (Treated on Scene)		Moderate – Medical Assistance (Treated on Scene)	
	Serious – Medical Assistance at Facility & Released)		Serious – Medical Assistance at Facility & Released)	
	Admitted to Hospital		Admitted to Hospital	
	<u>Incident Resulted in Arrest</u>		<u>Incident Resulted in Arrest</u>	
	Yes	No	Yes	No
	<u>Did Death Occur as a Result of Use of Force</u>		<u>Did Death Occur as a Result of Assault</u>	
	Yes	No	Yes	No

CIVILIAN	<u>Perceived Gender</u>	<u>Perceived Race</u>	<u>Perceived Ethnicity</u>	OFFICER	<u>Gender</u>	<u>Race</u>	<u>Ethnicity</u>
	Female	American Indian	American Indian or		Female	American Indian	American Indian or
	Male	Asian	Alaska Native		Male	Asian	Alaska Native
<u>Perceived Age</u>	Transgender	Black	Arab		Transgender	Black	Arab
	Unknown	Cambodian	Asian		Unknown	Cambodian	Asian
<u>Confirmed Age</u>		Chinese	Black or African American				Black or African American
	<u>Confirmed Gender</u>	Filipino	Hispanic or Latino		<u>Age</u>		Hispanic or Latino
	Same Choices	Hawaiian	Multiple Races, Group			Chinese	Multiple Races, Group
		Hispanic	Native Hawaiian or			Filipino	Native Hawaiian or
		Japanese	Other Pacific Islander		<u>Duty</u>	Hawaiian	Other Pacific Islander
		Korean	Other		On	Hispanic	Other Race/Ethnicity/Ancestry
<u>Mental Status</u>	Stable	Laotian	Race/Ethnicity/Ancestry		Off	Japanese	White
	Unstable	Pacific Islander	White			Korean	
	Unknown	Samoan			<u>Dress</u>	Laotian	
		Unknown	<u>Confirmed Ethnicity</u>		Uniform	Pacific Islander	
<u>Intoxication</u>	None	Vietnamese	Same Choices		Plainclothes	Samoan	
	Alcohol	White				Unknown	
	Drugs					Vietnamese	
	Combination	<u>Confirmed Race</u>				White	
	Unknown	Same Choices					
<u>Resistance Type</u>	Passive						
	Active						
	Active Assaultive						