To RIPA Board:

RIPA was intended to provide information to the public and government officials on issues pertaining to racial profiling for policing as a whole, and was never intended to be a vehicle to publicly single out any individual officer. Prior to AB 953 becoming law, PORAC and other stakeholders were repeatedly assured that the individual identifying information regarding officers would never be released or available to the public. This was critical for the protection and safety of any individual officer, and their family, as the data collected may be misconstrued, or taken out of all reasonable contexts. Along the lines of those assurances, Government Code section 12525.5 (d) included the following language: "*...the data reported shall be available to the public,* ***except for the badge number or other unique identifying information of the peace officer involved****...*"

When passing RIPA, and expecting that individual officer's identifying information (as it related to the Stop Data) would not be collected and retained, the legislature included the following language in the California Government Code: "*All data and reports made pursuant to this section are public records within the meaning of subdivision (e) of Section 6252, and are open to public inspection pursuant to Sections 6253 and 6258*" (California Government Code section 12525.5 (f)). Presumably, this was to allow the public to have access to the same information which was being reported to the Attorney General.

Notwithstanding the above assurances of individual officer anonymity (as it relates to the Stop Data), the recently proposed regulations do the opposite. The proposed regulations sought to be imposed on each department specifically require that the data collected for transmission to the State contains a unique identifier for each individual officer. Specifically, 11 CCR § 999.226(a)(13) and 11 CCR § 999.227(a)(11), require agencies to create a "unique identifier for each officer" and further requires departments to include the officer's "unique identifier" to each Stop Report submitted to the Department of Justice and to the Attorney General. The RIPA legislation never contemplated that departments would assign and retain a unique identifier.

This new mandate of creating and including a "unique identifier" raises tremendous concerns when put into the framework of the statutes passed as AB 953. If this new category of data is collected and available, an individual officer's identifying information will inevitably be released to the public. If each agency complies with the regulations and creates a unique identifier for every officer's stop data, and also maintains a system to match an individual officer to his or her stop data for internal agency use (11 CCR § 999.227(a)(11)), there is nothing to prevent a member of the public from demanding the true identity of a reporting officer, and connecting it to the Stop Data associated with each "unique identifier".

When making such a request, a member of the public will justifiably rely on the specific provision found in California Government Code section 12525.5 (f), make the request under the California Public Records Act, and appropriately argue that AB 953 expressly makes *All data and reports made pursuant to this section ... public records ... and ... open to public inspection pursuant to* [the CPRA]. With this government code section in place, law enforcement agencies would be obligated to provide the public with the requested information that these newly proposed regulations forced them to collect and maintain.

Even though 11 CCR § 999.228(f) reads in pertinent part: "the department will not release the officer's *unique identifier* to the public because doing so could lead to the disclosure of the peace officer's badge number, identity, and other *unique identifying information,*" this is inadequate protection given the contradictory statutory language included in the Government Code which expressly provides that all information collected is a public record and available for public inspection. The Government Code will take priority and supersede the regulations.

In short, when AB 953 was passed, it never contemplated that an officer's identity could be released, and with the proposed regulations in place, that is precisely what will occur.

Accordingly, PORAC would like to address the proposed regulations, in an effort to achieve the originally promised goal of providing transparency to the public, while balancing the important need of protecting individual officer's privacy and safety. PORAC continues to believe that protecting an officer's privacy and safety can be achieved without compromising the mass collection and dissemination of important information which the statute requires to be reported to the public.

Clearly, the identity of officers who collect data pursuant to the Act is best protected if the regulations forbid agencies from matching the data collected to individual officers, as opposed to creating and retaining a "unique identifier" for each officer and having that identifier connected to the data collected. PORAC requests that any reference to a unique identifier be stricken from these proposed regulations, and the regulations be redrafted to ensure the privacy and safety of each reporting officer.

As indicated previously, PORAC believes that the laudable objectives of the Racial and Identity Profiling Act of 2015 can be accomplished, and important recorded data can be provided to members of the public without exposing our law enforcement officers to personal danger associated with the release of their identity. PORAC believes this request is entirely consistent with the intent of those who authored, sponsored, and supported AB 953.

Respectfully,

Mike Durant
President
PORAC