



September 24, 2018

Hon. Xavier Becerra
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Becerra:

Pursuant to Elections Code Section 9005, we have reviewed the proposed statutory initiative related to data collection and reporting requirements for law enforcement agencies (A.G. File 18-0007).

Background

Law Enforcement Officers Required to Begin Collecting and Reporting Certain Data on All Stops. In 2015, the Legislature enacted legislation requiring that the California Highway Patrol (CHP), city or county law enforcement agencies, and university education institution law enforcement agencies collect and report annually to the Department of Justice (DOJ) certain data on all stops conducted by their officers. Under the legislation, these requirements are to be phased in—based on the size of the particular law enforcement agency—beginning July 1, 2018 and reaching full implementation by January 1, 2022. Specifically, agencies are required to collect data by the following dates:

- July 1, 2018 for agencies employing 1,000 or more officers.
- January 1, 2019 for agencies employing 667 to 999 officers.
- January 1, 2021 for agencies employing 334 to 666 officers.
- January 1, 2022 for agencies employing 1 to 333 officers.

The specific data that law enforcement are required to collect include: (1) the time, date, and location of the stop; (2) the reason for the stop; (3) the perceived race or ethnicity, gender, and age of the stopped individual; and (4) the result of the stop. As required by state law, DOJ issued regulations in November 2017 that specify all the data elements that nearly 500 law enforcement agencies must collect and the collection and reporting standards they must follow.

Advisory Board on Racial and Identity Profiling. In adopting the above requirements, the Legislature also established the Racial and Identity Profiling Advisory Board (RIPA) to (1) eliminate racial and identity profiling and (2) improve diversity and racial and identity sensitivity in law enforcement. (State law defines racial and identity profiling as any use of

actual or perceived race, color, ethnicity, national origin, age, religion, gender identity or expression, sexual orientation, or mental or physical disability by law enforcement when deciding whether to make a stop and what activities will ensue after a stop is made.) Under existing state law, law enforcement officers are generally prohibited from engaging in racial and identity profiling. RIPA is required to issue an annual report on its findings on the status of racial and identity profiling, as well as recommendations for eliminating such profiling. With the assistance of DOJ, the board is also required to (1) analyze citizen complaint data alleging racial or identity profiling reported by law enforcement to DOJ, (2) analyze the stop-related data reported by law enforcement to DOJ, (3) review the racial and identity profiling policies and practices in the state, and (4) conduct research related to bias and law enforcement stop tactics.

Proposal

This measure amends state law to eliminate (1) the existing requirement that CHP, city or county law enforcement agencies, and university education institution law enforcement agencies collect and report stop-related data annually to DOJ and (2) the requirement for RIPA to annually analyze and report on this.

Fiscal Impact

Impact on State and Local Law Enforcement Costs. This measure would reduce workload and costs for the various state and local law enforcement agencies that would otherwise be required to collect and report data on all stops to DOJ. The actual impact on a particular agency would depend on the extent to which the agency is collecting and reporting such data by the time the measure would take effect. Those agencies that are collecting data by this date would experience a reduction in existing workload and costs, while those agencies that are not collecting data by this date would avoid future workload and costs that they would have otherwise incurred.

Overall, the measure would have the following direct impacts on state and local law enforcement:

- ***Reduction in and Avoidance of Ongoing Costs.*** This measure would reduce ongoing costs for law enforcement agencies to collect, store, and report stop-related data, and for DOJ to store submitted data and assist RIPA with analysis of the data. We estimate that the ongoing reduction in and avoidance of such costs could be in the high tens of millions of dollars annually. The actual magnitude would depend primarily on how agencies comply with stop-related data collection requirements. Most of the reduced costs would potentially be redirected to other state and local law enforcement priorities.
- ***Potential Avoidance of One-Time Costs.*** The measure might also result in the avoidance of one-time costs for those law enforcement agencies that have not taken steps to facilitate the collection of data when this measure takes effect. Specifically, these costs would be related to technology improvements—such as purchasing equipment or modifying existing computer programs—that might be necessary to support the required data collection and reporting. The actual magnitude of these

costs would depend on various factors (such as each agency's existing technology infrastructure and how each agency plans to collect and report stop-related data), but could range from relatively minor to the tens of millions of dollars.

Other Fiscal Impacts. The measure's elimination of stop-related data collection and reporting could also have other fiscal impacts. For example, some state and local law enforcement agencies might otherwise have used the data to improve policing policies and practices, which could result in fewer citizen complaints of racial or identity profiling requiring investigation or leading to litigation. On the other hand, collected data could otherwise highlight racial or identity profiling practices in some agencies, which could result in more citizen complaints requiring investigation or leading to litigation. The net fiscal effect of these and other impacts are unknown.

Summary of Fiscal Impact. We estimate that this measure could have the following major fiscal impacts on state and local governments.

- Reduction in and avoidance of ongoing state and local law enforcement costs—potentially in the high tens of millions of dollars annually—related to eliminating various stop-related data collection, reporting, and analysis requirements.
- Potential avoidance of one-time state and local law enforcement costs—ranging from relatively minor to the tens of millions of dollars—related to technology and equipment improvements.

Sincerely,

Mac Taylor
Legislative Analyst

Keely Martin Bosler
Director of Finance