

January 26, 2007

Hon. Jerry Brown
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Patricia Galvan
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code 9005, we have reviewed the proposed initiative relating to the recording of contacts with and searches by peace officers (AG File No. 06-0041).

Background

Approximately 130,000 peace officers are employed by more than 600 state and local government agencies in California for the purpose of enforcing laws, investigating crimes, and supervising prison and jail inmates. The majority of peace officers are employed at the local level, mainly as police officers, deputy sheriffs, and probation officers. Peace officers employed by the state primarily serve as correctional and parole officers in the California Department of Corrections and Rehabilitation and as officers for the California Highway Patrol. Additional state peace officers work as investigators, special agents, park rangers, and game wardens.

Proposal

This measure requires that, anytime a peace officer makes contact with or searches a person within the state, the peace officer must record the event with an electronic device that can provide an audio and visual reproduction of the event. In addition, if a person contacted or searched by a peace officer is subsequently arrested and has criminal charges filed, the defendant must be provided with a copy of the recording. This measure provides that all charges must be dismissed if the recording cannot be provided to the defendant. This provision would apply to all pending trials where, since January 1, 1996, contact with or a search by a peace officer led to subsequent criminal charges.

Fiscal Estimates

By requiring the recording of any contact or search of individuals by peace officers, the measure would significantly increase operational costs for the state and local agencies that employ peace officers. These agencies would be required to purchase, maintain, and replace audio and visual equipment; purchase hardware for storage of audio and visual recordings; and provide training to officers on how to properly handle the recording equipment to comply with the requirements of this initiative.

The measure could also result in some savings to state and local criminal justice system agencies. To the extent that defendants were not provided with the required recordings of their contact with or searches by peace officers, a number of criminal cases could be dismissed. This, in turn, could result in fewer criminal trials, a reduction in the number of inmates held in state prisons and county jails, and a reduction in state parole and county probation operations. The magnitude of these savings are unknown and would depend mainly upon (1) the number of arrests and searches that would require a recording to be provided to the defendant, (2) the number of cases in which charges are dismissed due to the lack of a recording, and (3) the likelihood of the individual committing a subsequent crime after having charges dropped.

The net fiscal impact of this measure is unknown, but is likely to result in net costs to state and local governments in the hundreds of millions of dollars on a one-time basis, with ongoing costs in the tens of millions of dollars.

Summary of Fiscal Estimates

- Unknown net costs to state and local governments, but potentially in the hundreds of millions of dollars on a one-time basis, with ongoing costs in the tens of millions of dollars.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance