

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 130

(Delegate Braveboy, *et al.*)

Environmental Matters

Judicial Proceedings

Vehicle Laws - Race-Based Traffic Stops

This bill reconstitutes the data collection and reporting program related to race-based traffic stops. The bill requires each law enforcement agency in the State to collect specified data on all traffic stops and to adopt a policy against race-based traffic stops. The bill establishes a reporting program for the collection and analysis of the traffic stop data.

The bill's reporting and data collection requirements take effect July 1, 2011, and terminate June 30, 2014. Beginning on July 1, 2014, only the bill's requirements for law enforcement agencies to maintain nondiscriminatory policies continue.

Fiscal Summary

State Effect: General fund expenditures increase by \$16,800 in FY 2012. Out-year costs through FY 2014 reflect annualization and inflation. Maintaining nondiscriminatory policies by law enforcement agencies can be handled with existing resources. Revenues are not affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	16,800	21,800	22,700	0	0
Net Effect	(\$16,800)	(\$21,800)	(\$22,700)	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal. Any potential fiscal impact will vary by law enforcement agency and jurisdiction, but since this information was collected as recently as FY 2010, any such impact is assumed to be minimal. Maintaining nondiscriminatory policies by law enforcement agencies can be handled with existing resources. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: This bill reinstitutes the provisions of Chapter 343 of 2001 that abrogated in 2010.

Specifically, the bill requires law enforcement agencies in Maryland to adopt a policy against race-based traffic stops that is to be used as a management tool to promote nondiscriminatory law enforcement. The policy must also be used in the training and counseling of officers. Law enforcement officers are required to record specified information in connection with each traffic stop, including the driver's race and ethnicity, to evaluate the manner in which the vehicle laws are being enforced. A "traffic stop" does not include (1) a checkpoint or roadblock stop; (2) a stop for public safety purposes arising from a traffic accident or emergency situation; (3) a stop based on the use of radar, laser, or VASCAR technology; or (4) a stop based on license plate reader technology. The bill's provisions do not apply to a law enforcement agency that had entered into an agreement with the U.S. Department of Justice (DOJ) requiring similar data collections; however, such agencies are required to provide copies of the report made to DOJ in lieu of the bill's reporting requirements.

The Police Training Commission, in consultation with the Maryland Statistical Analysis Center (MSAC), must develop a model policy against race-based traffic stops that a law enforcement agency can use in developing its own policy. In addition, the commission is required to develop a model format for the efficient recording of the traffic stop data on an electronic device, or by any other means, for use by a law enforcement agency and guidelines that each law enforcement agency may use in data evaluation. Each law enforcement agency is required to compile the data collected by its officers and submit an annual report to MSAC by March 1 of each year reflecting the prior calendar year. MSAC is charged with analyzing the data based on a methodology developed in consultation with the Police Training Commission. By September 1 of each year, MSAC must issue a report to the Governor and the General Assembly as well as to each law enforcement agency.

Reports of noncompliance by law enforcement agencies are required to be made by the training commission and MSAC to the Governor and the Legislative Policy Committee.

Current Law: There are no statutory provisions governing the use or study of racial profiling in connection with any law enforcement practices, including traffic stops, in Maryland. Provisions established in 2001 by Chapter 343 abrogated in 2010.

Background: In 2001, Chapter 343 required the State’s law enforcement agencies to adopt a policy against race-based traffic stops that is to be used as a management tool to promote nondiscriminatory law enforcement practices. Chapter 343 phased in the effective date for law enforcement agencies over a three-year period: January 2002 for agencies with 100 or more officers; January 2003 for agencies with 50 or more officers; and January 2004 for all other agencies. Data collection was originally required for a five-year period (until December 31, 2006) with a final report due by August 31, 2007.

Provisions under Chapter 343 were statutorily extended in 2006 and 2007. Chapter 25 of 2006 extended the termination date for these requirements until December 31, 2007, and required the final report on traffic stop data from MJAC to be submitted by August 31, 2008, rather than August 31, 2007. Under Chapter 25, the termination date of Chapter 343 was extended to August 31, 2008, from August 31, 2007. Chapter 220 of 2007 extended the requirements until December 31, 2009, and required a final report from MJAC to be submitted by August 31, 2010.

In fiscal 2007, the Maryland Statistical Analysis Center (MSAC), which did the actual analysis of the traffic stop data for MJAC, transferred to the Governor’s Office of Crime Control and Prevention (GOCCP). As a result, the annual reporting requirements were actually handled by MSAC beginning in fiscal 2007. According to GOCCP, funds for local law enforcement agencies to meet these requirements were never appropriated and no reports of noncompliance were ever made.

In August 2010, GOCCP released the final report on traffic stops as required under Chapter 343 of 2001. Major findings from the report are shown in the following three exhibits. **Exhibit 1** displays the overall breakdown of the ethnicity of drivers involved in traffic stops in calendar 2009. **Exhibits 2** and **3** show the reason provided by the officer for the search of the driver’s person or property in calendar 2009.

Exhibit 1
Ethnicity of Driver in Traffic Stops

	<u>Frequency</u>	<u>Percent</u>
Asian	17,289	2.0%
African American	333,487	38.3%
Hispanic	49,493	5.7%
Other	15,450	1.8%
White	451,450	51.8%
Unknown/Missing (U/M)	4,462	0.5%
Total	871,631	100.0%

Exhibit 2
Reason for Search by Driver's Ethnicity (Males)

Reason for Search		Race						Total
		Asian	African American	Hispanic	Other	White	U/M	
Consensual	Count	50	4,243	653	83	2,822	14	7,865
	Pct	18.2%	32.8%	24.4%	20.9%	25.3%	19.4%	28.6%
Incident to Arrest	Count	180	4,469	1,368	241	5,859	53	12,170
	Pct	65.5%	34.6%	51.2%	60.7%	52.4%	73.6%	44.2%
Exigent Circumstances	Count	3	297	74	6	117	1	498
	Pct	1.1%	2.3%	2.8%	1.5%	1.0%	1.4%	1.8%
Probable Cause	Count	30	1,527	174	20	1,112	2	2,865
	Pct	10.9%	11.8%	6.5%	5.0%	9.9%	2.8%	10.4%
K-9 Alert	Count	3	633	65	10	673	1	1,385
	Pct	1.1%	4.9%	2.4%	2.5%	6.0%	1.4%	5.0%
Other	Count	9	1,757	339	37	593	1	2,736
	Pct	3.3%	13.6%	12.7%	9.3%	5.3%	1.4%	9.9%
Total Searches With Reason Reported	Count	275	12,926	2,673	397	11,176	72	27,519
	Pct	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Exhibit 3
Reason for Search by Driver's Ethnicity (Females)

Reason for Search		Race						Total
		Asian	African American	Hispanic	Other	White	U/M	
Consensual	Count	8	487	41	14	639	0	1,189
	Pct	12.7%	20.1%	18.2%	24.6%	19.4%	0.0%	19.6%
Incident to Arrest	Count	46	892	116	31	1,944	7	3,036
	Pct	73.0%	36.9%	51.6%	54.4%	59.2%	77.8%	50.1%
Exigent Circumstances	Count	0	72	9	0	20	0	101
	Pct	0.0%	3.0%	4.0%	0.0%	0.6%	0.0%	1.7%
Probable Cause	Count	2	282	16	3	265	1	569
	Pct	3.2%	11.7%	7.1%	5.3%	8.1%	11.1%	9.4%
K-9 Alert	Count	2	87	4	2	231	1	327
	Pct	3.2%	3.6%	1.8%	3.5%	7.0%	11.1%	5.4%
Other	Count	5	599	39	7	187	0	837
	Pct	7.9%	24.8%	17.3%	12.3%	5.7%	0.0%	13.8%
Total Searches With Reason Reported	Count	63	2,419	225	57	3,286	9	6,059
	Pct	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

A complete text of the report, including appendices can be found online at:
<http://www.goccp.maryland.gov/msac/documents/TSDReport2010.pdf>

State Expenditures: General fund expenditures will increase by \$16,800 in fiscal 2012, which assumes a start-up delay for GOCCP until October 1, 2011. This estimate reflects the cost of hiring one part-time, contractual statistical analyst to receive data from all law enforcement agencies in the State, compile and analyze the data, and write a report. It includes contractual salaries, fringe benefits, and minimal ongoing operating expenses.

Since the 2010 sunset of Chapter 343 of 2001, GOCCP has redirected MSAC resources to new projects. The analyst who previously handled traffic stop analysis duties has been reassigned. Consequently reinstating the traffic stop data analysis will require GOCCP to hire a part-time analyst with State funds.

The Department of State Police, the Department of Natural Resources, and the Maryland Department of Transportation advise that the bill's reporting responsibilities can be handled with existing budgeted resources.

The Police Training Commission indicates that the bill will have minimal operational and funding effect on the commission. Because these requirements recently ended, the bill's specific responsibilities for the commission can be handled with existing budgeted resources.

Local Expenditures: According to GOCCP, since the sunset of Chapter 343 of 2001, some local law enforcement agencies have discontinued collecting all or part of the requirements of the traffic stop mandate. This bill will require reinstatement of collection and reporting processes, which may involve restructuring traffic patrol and administrative staff. Some of the smaller law enforcement agencies may experience greater degrees of difficulty in reinstating these processes.

GOCCP also reports that many local law enforcement agencies have purchased special hardware and software in order to collect the required data (E-TIX via State police or using other vendors, etc.). Some related system upgrades may be necessary.

The Westminster Police Department (WPD), located in Carroll County, has 45 authorized officer positions and serves a community of approximately 18,000 residents. WPD reports that it has used a data collection sticker to document mandated traffic stop data (demographic information, searches, arrests, etc.). The sticker is affixed to the back of each citation, warning, and equipment repair order by the issuing officer. The officer then completes the sticker to reflect the facts of each traffic stop. The annual cost of the stickers is about \$650. In 2010, WPD conducted approximately 975 reportable traffic stops per month (195 total officer hours per year). The citations, warnings, and

equipment repair orders are compiled and data entry is conducted by administrative staff. WPD estimates that it takes about 30 minutes of administrative staff time per day to complete the data entry process (182.5 hours per year).

Washington County advises that it would need a part-time clerical person, at a cost of \$12,000 in fiscal 2012, to comply with the bill's requirements, however, other responding jurisdictions indicate that the bill's data collection requirements are already being performed or that they can be handled with existing budgeted resources.

Carroll County advises that it already tracks traffic stops as a requirement for some of its federal grants through the American Recovery and Reinvestment Act. In addition, the county has just received a grant for E-TIX that will, when implemented, do most of the data collection required under the bill. As a result, countywide, the bill's impact will be minimal. Furthermore, the Harford County Sheriff's Office indicates that they can handle the bill's requirements with existing resources.

Any data collection and reporting costs in all jurisdictions end with the bill's June 30, 2014 termination date, for such requirements.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor's Office of Crime Control and Prevention; Carroll, Harford, Montgomery, Washington, and Worcester counties; City of Westminster; Maryland Higher Education Commission; University System of Maryland; Department of Health and Mental Hygiene; Department of State Police; Department of Natural Resources; Maryland Department of Transportation; Department of General Services; Department of Public Safety and Correctional Services; Department of Legislative Services

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