

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 339 (Delegate Carter, *et al.*)

Environment and Transportation

Judicial Proceedings

Vehicle Laws - Race-Based Traffic Stops - Policy and Reporting Requirements

This bill restores the data collection and reporting program related to race-based traffic stops for a five-year period. Each law enforcement agency in the State must collect specified data on all traffic stops.

The bill takes effect June 1, 2015, and terminates May 31, 2020.

Fiscal Summary

State Effect: It is anticipated that the agencies subject to the bill's collection, analysis, and reporting requirements can handle any fiscal impact within existing resources. Revenues are not affected.

Local Effect: The fiscal impact varies by law enforcement agency and jurisdiction, but since this information was collected as recently as FY 2014, any such impact is assumed to be minimal. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The bill temporarily reinstates the provisions of Chapter 173 of 2011 that abrogated in 2014.

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 (which is already required under current law). In addition, the commission is required to develop a model format for the

efficient recording of 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. Law enforcement officers must 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. 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. The bill's provisions do not apply to a law enforcement agency that is subject to an agreement with the U.S. Department of Justice (DOJ) requiring similar data collection; however, such agencies are required to provide copies of the report made to DOJ in lieu of the bill's reporting requirements.

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 *study* of racial profiling in connection with any law enforcement practices, including traffic stops, in Maryland. Such provisions, reestablished in 2011 by Chapter 173, abrogated as of June 30, 2014.

However, law enforcement agencies are required to adopt a policy against race-based traffic stops to be used as a management tool to promote nondiscriminatory law enforcement as well as in the training and counseling of officers. The policy must specifically prohibit using an individual's race or ethnicity as the sole reason to initiate a traffic stop.

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.

Background: In 2001, Chapter 343 required the State's law enforcement agencies to adopt a policy against race-based traffic stops 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, and a final report was likewise delayed.

- 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 the Maryland Justice Analysis Center (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, MSAC, which did the actual analysis of the traffic stop data on behalf of 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 the requirements of the original legislation were never appropriated, and no reports of noncompliance were ever made. However, in August 2011, GOCCP provided funding to the Department of State Police (DSP) to distribute to law enforcement agencies the technology to electronically submit data on traffic stop records. "E-Tix" and Race-Based Reporting Modules were developed as part of an overhaul of the Delta+ software. As a result, any agency with access to the software and these modules could submit data on individual traffic stops. DSP stored the data in a central repository. As of January 1, 2013, law enforcement agencies were required to report race-based traffic stop data electronically through the E-Tix and the Race-Based Reporting Modules of Delta+.

In September 2014, GOCCP released the final report on traffic stops as required under Chapter 173 of 2011. Major findings from the report are shown in the following three exhibits. **Exhibit 1** displays the overall breakdown of the race/ethnicity of drivers involved in traffic stops in calendar 2013. **Exhibits 2** and **3** show the reason provided by the officer for the search of the driver's person or property in calendar 2013. A complete text of the report, including appendices can be found [here](#).

Exhibit 1
Race/Ethnicity of Driver in Traffic Stops
2013

	<u>Frequency</u>	<u>Percent</u>
Asian	19,304	2.5%
African American	300,410	39.5%
Hispanic	49,237	6.5%
Other	21,740	2.9%
White	359,304	47.2%
Unknown	10,565	1.4%
Total	760,560	100.0%

Note: In another 53 stops, the information on race/ethnicity was missing.

Source: Governor's Office of Crime Control and Prevention

Exhibit 2
Reason for Search by Driver's Race/Ethnicity (Males)
2013

Reason for Search		Race/Ethnicity						Total
		Asian	African American	Hispanic	Other	White	U/M	
Consensual	Count	51	1,663	340	92	1,639	2	3,787
	Pct	18.0%	19.9%	17.6%	26.7%	21.9%	6.6%	20.6%
Incident to Arrest	Count	126	2,331	1,032	88	2,793	11	6,381
	Pct	44.3%	27.9%	53.5%	25.5%	37.3%	36.7%	34.6%
Exigent Circumstances	Count	4	83	16	3	48	0	154
	Pct	1.4%	1.0%	0.9%	0.8%	0.6%	0.0%	0.8%
Probable Cause	Count	73	2,773	288	106	1,932	3	5,175
	Pct	25.7%	33.2%	14.9%	30.8%	25.8%	10.0%	28.1%
K-9 Alert	Count	22	721	51	38	850	3	1,685
	Pct	7.7%	8.6%	2.6%	11.0%	11.3%	10.0%	9.1%
Other	Count	8	772	202	18	231	11	1,242
	Pct	2.8%	9.3%	10.5%	5.2%	3.1%	36.7%	6.7%
Total Searches with Reason Reported	Count	284	8,343	1,929	345	7,493	30	18,424
	Pct	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Note: U/M indicates the race/ethnicity was unknown or missing (not recorded).

Source: Governor's Office of Crime Control and Prevention

Exhibit 3
Reason for Search by Driver's Race/Ethnicity (Females)
2013

Reason for Search	Race/Ethnicity							
		Asian	African American	Hispanic	Other	White	U/M	Total
Consensual	Count	8	320	28	23	544	0	923
	Pct	12.7%	18.1%	15.3%	31.5%	21.8%	0.0%	16.7%
Incident to Arrest	Count	32	481	75	25	1,015	1	1,629
	Pct	50.8%	27.2%	41.0%	34.2%	40.6%	20.0%	40.6%
Exigent Circumstances	Count	1	20	1	2	5	0	29
	Pct	1.6%	1.1%	0.5%	2.7%	0.2%	0.0%	0.6%
Probable Cause	Count	15	580	46	18	576	1	1,236
	Pct	23.8%	32.7%	25.1%	24.7%	23.0%	20.0%	24.2%
K-9 Alert	Count	1	95	13	1	278	0	388
	Pct	1.6%	5.4%	7.1%	1.4%	11.1%	0.0%	8.2%
Other	Count	6	274	20	4	81	2	387
	Pct	9.5%	15.5%	10.9%	5.5%	3.2%	40.0%	9.7%
Total Searches with Reason Reported	Count	63	1,770	183	73	2,499	4	4,592
	Pct	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Note: U/M indicates the race/ethnicity was unknown or missing (not recorded).

Source: Governor's Office of Crime Control and Prevention

State Expenditures: GOCCP, DSP, and the Maryland Department of Transportation advise that the bill's data collection, analysis, and reporting responsibilities can be handled with existing budgeted resources. The Office of the Attorney General indicates a potential minimal impact; however, the Department of Legislative Services advises that any such impact can be handled with existing resources. The Judiciary advises that the bill is not expected to have any fiscal or operational impact.

The Police Training Commission also indicates that the bill has a minimal operational and funding impact on the commission, which can be handled with existing budgeted resources.

Local Expenditures: According to GOCCP, since the sunset of Chapter 173 of 2011, some local law enforcement agencies may have discontinued collecting all or part of the information associated with the traffic stop reporting mandate. The bill requires reinstatement of collection and reporting processes, which may involve restructuring traffic patrol and administrative staff. Some smaller law enforcement agencies may experience greater degrees of difficulty in reinstituting these processes. However, Garrett and Montgomery counties advise that the bill has no fiscal impact.

Additional Comments: As the bill terminates May 31, 2020, it is unclear how or if reports for the final year of implementation would be compiled and submitted. Law enforcement agencies could submit data for calendar year by March 1, 2020, but any data for the first five months of calendar 2020 would not be compiled or submitted to MSAC. MSAC could submit the calendar 2019 report early (by May 31, 2020, rather than September 1, 2010); however, it would not have access to data for the first five months of calendar 2020 to submit a report for that period.

Additional Information

Prior Introductions: None.

Cross File: SB 413 (Senator Gladden, *et al.*) - Judicial Proceedings.

Information Source(s): Garrett and Montgomery counties, Office of the Attorney General, Governor's Office of Crime Control and Prevention, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, Maryland Department of Transportation, Department of Legislative Services

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