

## ATTACHMENT 1

### ECONOMIC IMPACT STATEMENT

#### A. Estimated Private Sector Cost Impacts

The Department has determined that California law enforcement agencies that currently participate in the CalGang database typically rely on in-house instructors to conduct training related to the database, and this would not change as a result of these regulations. As such, these regulations would not result in new costs or benefits to private sector businesses that provide training.

### FISCAL IMPACT STATEMENT

#### A. Fiscal Effect on Local Government

1. Additional approximate expenditures ranging from \$548,000 to \$1,813,000 in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and sections 17500 et seq. of the Government Code because this regulation.

These regulations could result in additional costs to local government to the extent that California law enforcement agencies choose to participate in the CalGang database. However, it is difficult to approximate the potential fiscal effect these proposed changes may have, due to the fact that participation in the CalGang database is voluntary. The Department has determined that most of the California law enforcement agencies that currently participate in the CalGang database already meet most of the proposed standards and would experience little to no fiscal impact.

#### *California Law Enforcement Agencies that Currently Participate in the CalGang Database*

The Department of Justice identified two main areas that could potentially result in costs to California law enforcement agencies that choose to participate in the CalGang database (hereafter referred to as user agencies): updating and reprinting field interview cards, training persons who will have direct access to the CalGang database. These regulations increase the documentation that must be created and maintained by user agencies. While it is not a requirement set forth in these regulations, some user agencies may choose to update their field interview cards that are used, for the purposes of the CalGang database, to document interactions with suspected gang members or gang associates. After conferring with existing user agencies, the Department determined that updating and reprinting field interview cards would cost a user agency approximately \$13 per booklet.

There are more than 800 law enforcement agencies in California, 187 (or approximately 23%) of which were CalGang user agencies as of April 4, 2019. According to the 2017 Crime in California report published by the Department, there were 78,715 sworn law enforcement personnel in California in 2017. If the agencies of approximately 25% of those sworn law

enforcement personnel update and reprint field interview cards as a result of these regulations, the Department estimates that local agencies could incur a cost of approximately \$266,000.

In addition, user agencies may incur an unknown cost as a result of the list of components that must be included in user training, as outlined in section 751.8 of these regulations. Currently, individuals who require direct access to the CalGang database must undergo training prior to being granted access. The existing training is standardized; however, these regulations add new components that must be incorporated into all training. Expanding the training requirements could result in user agencies needing to dedicate more work hours to participating in and/or teaching the training if it is conducted by users of the CalGang database. As the manner in which individuals satisfy the training requirements will differ across user agencies, it is difficult to estimate the potential cost that expanding the training requirements would pose to each user agency or the user agency community as a whole.

As of April 4, 2019, there were approximately 3,000 active CalGang users, all of whom would need to adhere to the new training requirements. The Department estimates that these requirements could result in as few as two and as many as eight additional hours of training being required of existing active users. Many of the existing users are employed at the Detective classification, so the Department is using that as the basis for estimating the cost of additional staff hours. According to the California Employment Development Department, the median salary for a Detective in California was approximately \$98,000 annually, or \$47 hourly, in 2018 (Retrieved April 26, 2019, from <https://www.labormarketinfo.edd.ca.gov/OccGuides/Detail.aspx?Soccode=333021&Geography=0604000073>). Using this data, the Department estimates that local agencies could incur an approximate cost ranging from \$282,000 to \$1,128,000.

It should be noted that Penal Code section 186.36 requires specified data elements to be included in the annual report published by the Department. The information specified in the regulation is not currently captured in the CalGang database; thus, it was requested from user agencies in 2017 and 2018. While all user agencies provided the information, there was no mandate in place for them to do so. As all were able to do so, this requirement of the regulation should not result in additional costs to existing user agencies.

Existing user agencies that choose to withdraw from the CalGang database as a result of these regulations would incur non-fiscal impact in the form of decreased access to cross-jurisdictional gang-related intelligence information. The CalGang database is a statewide, low cost, securely networked intelligence database that houses data on suspected members and associates of criminal street gangs, descriptions, tattoos, vehicles, and field interviews. Withdrawing from the CalGang database would eliminate the easy accessibility of the information housed therein, and require an agency to reach out to each jurisdiction in order to obtain the data.

In summary, the Department estimates that existing user agencies could incur costs ranging from \$548,000 to \$1,394,000 in order to fully comply with these regulations.

*California Law Enforcement Agencies that Do Not Currently Participate in the CalGang Database*

It is unknown how many, if any, California law enforcement agencies who do not currently participate would choose to participate in the CalGang database after these proposed regulations are adopted. The Department is assuming that it will receive requests from 10 agencies annually for the purposes of estimating the cost of these regulations.

Such agencies could incur costs as a result of some of the requirements outlined in these regulations, most of which would be related to staff time. For example, agencies that want to begin participating in the CalGang database would be required to designate a point of contact. This individual would be responsible for facilitating training, retrieving source documents, and updating CalGang records, as necessary. The extent of the staff time that would need to be dedicated to this role would depend on the number of individuals who will require direct access to the CalGang database and the records therein, the level of suspected gang activity in the area, and the level of participation in the database, among other factors. The Department estimates that these activities would occupy no more than 10% of the designated individual's time. Assuming the responsibility would be assigned to a Detective, the Department estimates that a new user agency could incur a cost of approximately \$9,800 annually for the performance of the point-of-contact duties. This would result in local agencies incurring a cost of \$98,000 annually.

Pursuant to Penal Code section 186.36, any individual with access to the CalGang database or the records contained therein are required to undergo the comprehensive training. The Department estimates that required training hours could range from four to 16, depending on the method of instruction and length of each component instituted by the Node Administrator. Based on the number of existing user agencies (187) and active users (3,000), the Department estimates that approximate 16 individuals per new user agency would need to participate in training. The Department estimates that local agencies could incur approximate costs ranging from \$30,000 to \$120,000 in staff time as a result of attending training.

As noted above, the training is typically provided by node or user agencies; however, the agencies could also choose to work with an outside vendor to provide some specific components of the required training, such as database security or implicit bias. The costs resulting from contracted training would depend on the components being taught, the number of participants, and the length of the class(es), and would vary widely. As such, the Department cannot estimate the potential cost to local agencies.

Pursuant to Penal Code sections 186.34, user agencies are required to notify an individual prior to designating him/her as a gang member or gang associate in the CalGang database. It also authorizes an individual to request information from a law enforcement agency as to whether s/he is designated in the CalGang database, requires the agency receiving the request to respond, except as specified, and outlines a process by which an individual can contest his/her designation in the database. While the specific information that must be contained in the designation notifications and information request responses are delineated in Sections 753.6, 754, and 754.2 of the regulation, the statute implements the requirements on local agencies. As such, the associated costs are not a result of the regulations. In an effort to alleviate impact to user agencies, the Department has made every attempt to enact performance standards rather than prescribing actions, as often as possible.

In summary, the Department estimates that local agencies could incur approximate costs ranging from \$128,000 to \$218,000 annually as a result of new user agencies being added after enactment of these regulations.

Agencies seeking to become node agencies would incur more costs than those that simply want to participate as user agencies. Section 751 of these regulations stipulates the requirements to become a node agency, including the ability to provide technical support and pay costs associated with training of users, designation of staff to manage the node, and travel expenses for participation in meetings that occur three times per year. Also included in a node agency's responsibilities are account management for the user agencies it services and coordination of any requests for CalGang statistics from external entities.

The Department funds a contract with the vendor responsible for maintenance of the CalGang database, including any systematic changes. As such, technical support services required of node agencies is limited to assisting users in navigation of the database and communicating needs to the Department, the costs of which would be staff time.

Travel expenses for participation in meetings would vary, depending on meeting location. The triannual meetings last three days each, occur in different locations throughout the state, and are attended by Node Administrators or their designees. Taking into account potential airfare, hotel, and per diem costs, the Department estimates that travel costs would average \$2,000-\$2,500 annually for any new node agency.

The Department estimates that each node agency could potentially need one-half to one position dedicated to the Node Administrator duties, depending on the size of the node for which the node agency would have oversight responsibilities and the number of user agencies therein. That individual would be responsible for the technical support, user training, and account management duties identified above. The individual would also be responsible for conducting peer audits as required by these regulations, at each triannual meeting noted above. As there are currently no node agencies located in Northern California, the Department estimates that there could be a need for approximately two more node agencies. If two new node agencies were established and each new node agency appointed one Node Administrator at the Detective classification, then the state could incur additional costs of approximately \$196,000 annually.

In summary, the Department estimates that local agencies could incur costs totaling approximately \$201,000 annually if two new node agencies were established after enactment of these regulations.

## B. Fiscal Effect on State Government

1. Additional expenditures of approximately \$2,431,000 in the current State Fiscal Year and ongoing.

These regulations could result in additional costs to State government, specifically the Department. The Department received an ongoing appropriation and position authority for 11.0

new positions, beginning in the Fiscal Year 2017-2018, in relation to an audit conducted by the California State Audit regarding the CalGang database and Assembly Bill 90 (2017), which requires the CalGang regulations. This appropriation, based on input from the Department, was designed to enable the Department to address the following areas of responsibility:

- Drafting regulations to establish parameters for usage, data governance, etc.
- Providing administrative support to the technical advisory committee.
- Overseeing the review of the approximately 200,000 individual records currently in the system.
- Developing marketing materials such as Information Bulletins to increase both agency usage and knowledge and understanding of regulations.
- Developing, implementing, and maintaining training and audits.
- Conducting system user outreach to discuss enhancements and additional features to better meet agency needs.
- Creating and publishing quarterly and annual reports.
- Ensuring implementation of audit recommendations and legislative mandates.
- Building safeguards to protect against entry of incomplete and unverified records, as well as those for which criteria for entry has not been met.
- Ensuring that individuals are notified prior to being designated in the CalGang system.
- Generating relevant CalGang statistics.
- Facilitating coordination between the California Gang Node Advisory Committee, technical advisory committee, and technical and administrative teams within the Department, as well as all associated meeting.

In developing the regulations, the Department has determined that it will need one Associate Governmental Program Analyst (AGPA) in addition to the resources already appropriated. The AGPA is needed to address the expanded audit and training responsibilities of the Department, as outlined in these regulations. There are currently three positions dedicated to performing the administrative functions outlined above; however, the demand for training has exceeded their capabilities, as has the need to conduct back-end audits of new and existing data within the CalGang database.

The Department is not currently pursuing a Budget Change Proposal for the necessary position, but may do so in the future. The estimate provided above is based on the salary and benefits of one AGPA position.