

**ECONOMIC AND FISCAL IMPACT STATEMENT  
(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**ECONOMIC IMPACT STATEMENT**

DEPARTMENT NAME California Department of Justice	CONTACT PERSON Melan Noble	EMAIL ADDRESS Melan.Noble@doj.ca.gov	TELEPHONE NUMBER (916) 210-7011
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 AB 953 Stop Data Reporting Regulations to Implement Gov. Code Section 12525.5			NOTICE FILE NUMBER Z 2016-1129-03

**A. ESTIMATED PRIVATE SECTOR COST IMPACTS** *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- |  |   |
|--|---|
| <input type="checkbox"/> a. Impacts business and/or employees  | <input type="checkbox"/> e. Imposes reporting requirements                |
| <input type="checkbox"/> b. Impacts small businesses           | <input type="checkbox"/> f. Imposes prescriptive instead of performance   |
| <input type="checkbox"/> c. Impacts jobs or occupations        | <input type="checkbox"/> g. Impacts individuals                           |
| <input type="checkbox"/> d. Impacts California competitiveness | <input checked="" type="checkbox"/> h. None of the above (Explain below): |

No costs imposed on private sector.

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.**If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*2. The \_\_\_\_\_ estimates that the economic impact of this regulation (which includes the fiscal impact) is:  
(Agency/Department)

- Below \$10 million
- Between \$10 and \$25 million
- Between \$25 and \$50 million
- Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a Standardized Regulatory Impact Assessment as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: \_\_\_\_\_

Describe the types of businesses (include nonprofits): \_\_\_\_\_

Enter the number or percentage of total  
businesses impacted that are small businesses: \_\_\_\_\_

4. Enter the number of businesses that will be created: \_\_\_\_\_ eliminated: \_\_\_\_\_

Explain: \_\_\_\_\_

5. Indicate the geographic extent of impacts:  Statewide  
 Local or regional (List areas): \_\_\_\_\_

6. Enter the number of jobs created: \_\_\_\_\_ and eliminated: \_\_\_\_\_

Describe the types of jobs or occupations impacted: \_\_\_\_\_

7. Will the regulation affect the ability of California businesses to compete with  
other states by making it more costly to produce goods or services here?  YES  NO

If YES, explain briefly: \_\_\_\_\_

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**ECONOMIC IMPACT STATEMENT (CONTINUED)**

**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ \_\_\_\_\_

a. Initial costs for a small business: \$ \_\_\_\_\_ Annual ongoing costs: \$ \_\_\_\_\_ Years: \_\_\_\_\_

b. Initial costs for a typical business: \$ \_\_\_\_\_ Annual ongoing costs: \$ \_\_\_\_\_ Years: \_\_\_\_\_

c. Initial costs for an individual: \$ \_\_\_\_\_ Annual ongoing costs: \$ \_\_\_\_\_ Years: \_\_\_\_\_

d. Describe other economic costs that may occur: \_\_\_\_\_  
\_\_\_\_\_

2. If multiple industries are impacted, enter the share of total costs for each industry: \_\_\_\_\_  
\_\_\_\_\_

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.* \$ \_\_\_\_\_

4. Will this regulation directly impact housing costs?  YES  NO

If YES, enter the annual dollar cost per housing unit: \$ \_\_\_\_\_

Number of units: \_\_\_\_\_

5. Are there comparable Federal regulations?  YES  NO

Explain the need for State regulation given the existence or absence of Federal regulations: \_\_\_\_\_  
\_\_\_\_\_

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ \_\_\_\_\_

**C. ESTIMATED BENEFITS** *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: \_\_\_\_\_  
\_\_\_\_\_

2. Are the benefits the result of:  specific statutory requirements, or  goals developed by the agency based on broad statutory authority?

Explain: \_\_\_\_\_

3. What are the total statewide benefits from this regulation over its lifetime? \$ \_\_\_\_\_

4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: \_\_\_\_\_  
\_\_\_\_\_

**D. ALTERNATIVES TO THE REGULATION** *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: \_\_\_\_\_  
\_\_\_\_\_

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**ECONOMIC IMPACT STATEMENT (CONTINUED)**

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ \_\_\_\_\_ Cost: \$ \_\_\_\_\_

Alternative 1: Benefit: \$ \_\_\_\_\_ Cost: \$ \_\_\_\_\_

Alternative 2: Benefit: \$ \_\_\_\_\_ Cost: \$ \_\_\_\_\_

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: \_\_\_\_\_

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs?  YES  NO

Explain: \_\_\_\_\_

**E. MAJOR REGULATIONS** *Include calculations and assumptions in the rulemaking record.*

*California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.*

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million?  YES  NO

*If YES, complete E2. and E3  
If NO, skip to E4*

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: \_\_\_\_\_

Alternative 2: \_\_\_\_\_

*(Attach additional pages for other alternatives)*

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 1: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

Alternative 2: Total Cost \$ \_\_\_\_\_ Cost-effectiveness ratio: \$ \_\_\_\_\_

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

YES  NO

*If YES, agencies are required to submit a Standardized Regulatory Impact Assessment (SRIA) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: \_\_\_\_\_

The incentive for innovation in products, materials or processes: \_\_\_\_\_

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: \_\_\_\_\_

**ECONOMIC AND FISCAL IMPACT STATEMENT**

**(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**FISCAL IMPACT STATEMENT**

**A. FISCAL EFFECT ON LOCAL GOVERNMENT** *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ \_\_\_\_\_

a. Funding provided in \_\_\_\_\_  
Budget Act of \_\_\_\_\_ or Chapter \_\_\_\_\_, Statutes of \_\_\_\_\_

b. Funding will be requested in the Governor's Budget Act of \_\_\_\_\_  
Fiscal Year: \_\_\_\_\_

2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)  
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ \_\_\_\_\_

*Check reason(s) this regulation is not reimbursable and provide the appropriate information:*

a. Implements the Federal mandate contained in \_\_\_\_\_

b. Implements the court mandate set forth by the \_\_\_\_\_ Court.

Case of: \_\_\_\_\_ vs. \_\_\_\_\_

c. Implements a mandate of the people of this State expressed in their approval of Proposition No. \_\_\_\_\_

Date of Election: \_\_\_\_\_

d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: \_\_\_\_\_  
\_\_\_\_\_

e. Will be fully financed from the fees, revenue, etc. from: \_\_\_\_\_

Authorized by Section: \_\_\_\_\_ of the \_\_\_\_\_ Code;

f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in \_\_\_\_\_

3. Annual Savings. (approximate)

\$ \_\_\_\_\_

4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

5. No fiscal impact exists. This regulation does not affect any local entity or program.

6. Other. Explain Please see attached addendum for estimated reimbursable costs. Due to the implementation schedule per Gov. Code section 12525.5, we do not anticipate any costs will be accrued during the current fiscal year.

**ECONOMIC AND FISCAL IMPACT STATEMENT**

**(REGULATIONS AND ORDERS)**

STD. 399 (REV. 12/2013)

**FISCAL IMPACT STATEMENT (CONTINUED)**

**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

*It is anticipated that State agencies will:*

a. Absorb these additional costs within their existing budgets and resources.

b. Increase the currently authorized budget level for the \_\_\_\_\_ Fiscal Year

2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

3. No fiscal impact exists. This regulation does not affect any State agency or program.

4. Other. Explain Please see attached addendum for estimated costs. Due to the implementation schedule set forth in Gov. Code section 12525.5, we do not anticipate any costs will be accrued during the current fiscal year.

**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

2. Savings in the current State Fiscal Year. (Approximate)

\$ \_\_\_\_\_

3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.

4. Other. Explain \_\_\_\_\_

FISCAL OFFICER SIGNATURE

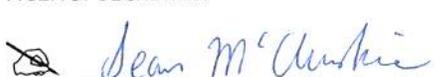


DATE

7-27-17

*The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

AGENCY SECRETARY



DATE

7-31-17

*Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.*

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE

**AB 953 Stop Data Reporting Regulations**  
**ADDENDUM TO STD 399**  
**Submitted by the California Department of Justice**

(OAL File No. Z-2016-1129-03)

**INTRODUCTION**

The attached STD 399 form and this addendum are intended to replace the prior STD 399 form and addendum published by the Department of Justice (DOJ) on December 9, 2016.

California's Racial and Identity Profiling Act of 2015 (Stats. 2015, ch. 466 (AB 953)) requires the DOJ to draft and issue regulations to implement the stop data reporting requirements of Government Code section 12525.5. (Gov. Code, § 12525.5, subd. (e).) This new statutory program requires specified state and local law enforcement agencies to collect data on "stops" (as that term is defined in the statute) by their officers and to report that data to the DOJ at least annually. (*Id.*, subd. (a)(1).) The statute defines "stop" as "any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person's body or property in the person's possession or control." (*Id.*, subd. (g)(2).) The statute sets forth a schedule for compliance based on the size of each agency. (*Id.*, subd. (a)(2).) The Legislative Counsel's Digest of AB 953 notes that costs incurred by local agencies because of this state-mandated program are reimbursable:

By imposing a higher level of service on local entities that employ peace officers, the bill would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

(Legis. Counsel's Dig., Assem. Bill No. 953, Stats. 2015, ch. 466, pp. 4153-4154.) Further, Section 5 of AB 953 provides:

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

(Stats. 2015, ch. 466, § 5, p. 4159.) Accordingly, costs imposed by the statute itself are reimbursable through the state mandates process. The actual costs that will be incurred by local agencies as a result of the statute's implementation are unknown, and can likely only be determined by the Commission on State Mandates once "test claims" are filed by city and county agencies subject to the stop data reporting requirement of Government Code section 12525.5.

Separate from the statutory costs, the Administrative Procedure Act (APA) requires rulemaking agencies to estimate both the economic costs and fiscal impacts of proposed regulations. Following is a summary of the estimated economic costs to businesses and individuals and fiscal impact of the proposed stop data regulations to state and local agencies.

## **ECONOMIC COSTS TO CALIFORNIA BUSINESSES AND INDIVIDUALS**

The DOJ has determined these proposed regulations will not impose any significant economic costs on California businesses and individuals.

The DOJ received several comments from law enforcement agencies and individuals during the public comment period suggesting that the stop data collection requirements imposed by Government Code section 12525.5 would result in public safety costs by decreasing officer efficiency or providing a disincentive for officers to conduct “proactive” police work. The commenters did not, however, provide any evidence that prior data collection programs have resulted in any negative public safety outcomes.

Although some of these comments attempted to link the additional officer time to collect data on those elements added by the proposed regulations, these comments as a whole reflected a general concern about the statutory requirement to collect stop data rather than any costs specifically attributable to the proposed regulations. Any such costs, therefore, are more properly attributed to the statute than the regulations.

The DOJ has nevertheless carefully evaluated these comments and consulted with police practice/criminal justice researchers on this issue. These consultations confirmed there is no empirical evidence linking stop data collection to decreased public safety.<sup>1</sup> Accordingly, DOJ reiterates its assessment that the proposed regulations do not impose any significant economic costs on California businesses or individuals.

## **ESTIMATED REGULATORY FISCAL IMPACT ON LOCAL AND STATE GOVERNMENT**

### **A. Agencies Affected**

Government Code section 12525.5, subdivision (a) requires “each state and local agency that employs peace officers” to comply with the stop data reporting requirements set forth in subdivisions (b) and (c). The statute incorporates the definition of “peace officer” set forth in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, but then limits that definition “to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university education institution.” (Gov. Code § 12525.5, subd. (g)(1).) The statute further limits the definition of “peace officer” to exclude “probation officers and officers in a custodial setting.”

Using publicly-available data from the Commission on Peace Officer Standards and Training (POST), the DOJ has identified 415 local and 34 state agencies that will be required to collect

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<sup>1</sup> For example, Professor Emily Owens of the University of California, Irvine, explains: “I believe that assertions that there will be a substantial impact of the reporting requirements rely on two assumptions that are not obviously supported by existing empirical evidence: first, that the data collection will result in a large reduction in FTEs, and second, that the reduction in FTEs will cause a meaningful increase crime.” A copy of Professor Owens letter, and similar comments from academics, has been added to the rulemaking file [Z-2016-1129-03-01884].

and submit stop data pursuant to Government Code section 12525.5.<sup>2</sup> Each of these 449 agencies will, in turn, be subject to the proposed implementing regulations.

Section 12525.5, subdivision (a) sets forth a schedule for agencies to begin collecting and reporting stop data. Subdivision (a)(1) requires each agency to report annually to the Attorney General data on all stops conducted by that agency’s peace officers for the preceding calendar year (i.e., January 1 through December 31). Subdivision (a)(2) sets out a schedule of reporting deadlines for the initial stop data report to the Attorney General by agency size according to the following schedule:

Reporting Tier	Size of Agency	Deadline to Report Data to the DOJ	Deadline to Begin Data Collection	Approx. No. of Agencies	
				Local	State
1	1,000+	4/1/2019	1/1/2018	8	1
2	667-999	4/1/2020	1/1/2019	5	0
3	334-666	4/1/2022	1/1/2021	10	0
4	1-333	4/1/2023	1/1/2022	392	33
<b>Total Agencies (449):</b>				<b>415</b>	<b>34</b>

Therefore, the total estimated fiscal impacts will not accrue within one calendar year. Rather, agencies’ one-time costs will accrue on a rolling basis until the last agencies’ deadline to first begin reporting stop data, with additional annual ongoing costs thereafter.

## B. Prior Estimates

The legislative history of AB 953 provides some analysis of the total cost to local and state agencies to implement the statutory reporting requirement. In addition, the DOJ conducted its own survey of law enforcement agencies in May-June 2016 in order to inform its rulemaking process. That survey provided an opportunity for agencies to estimate the cost to implement the data collection and reporting requirements. Because the survey was conducted before these proposed regulations were drafted, the survey estimates—like those estimates provided to the Legislature—were necessarily limited to the statutory rather than regulatory costs. Nevertheless, a brief summary of both is included below to provide greater context to the DOJ’s estimated fiscal impact of the regulations.

### 1. Legislative History (Statutory Costs)

On August 17, 2015, the Senate Committee on Appropriations held a hearing on AB 953. Its analysis of the bill included the following information regarding AB 953’s fiscal impact related to data collection and reporting by local agencies:

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<sup>2</sup> The actual number of officers and agencies in each reporting tier may vary as agencies add or subtract officers prior to the start of stop data collection. (See proposed 11 CCR § 999.227, subd. (a)(8) [“On January 1 of each year, each reporting agency shall count the number of peace officers it employs that are subject to this chapter to determine the date that agency must start collecting stop data and reporting to the Department pursuant to Government Code section 12525.5, subdivisions (a)(1) and (a)(2).”].)

## Fiscal Impact:

Data collection, reporting, retention, and training: Major one-time and ongoing costs, potentially in the tens of millions of dollars annually to local law enforcement agencies for data collection, reporting, and retention requirements specified in the bill. Additional costs for training on the process would likely be required. There are currently 482 cities and 58 counties in California. To the extent local agency expenditures qualify as a reimbursable state mandate, agencies could claim reimbursement of those costs (General Fund). While costs could vary widely, for context, the Commission on State Mandates' statewide cost estimate for *Crime Statistics Reports for the DOJ* reflects eligible reimbursement of over \$13.6 million per year for slightly over 50 percent of local agencies reporting.

(Sen. Comm. on Approp., Rep. on Assem. Bill No. 953 (2015-2016 Reg. Sess.) as amended June 30, 2016, p. 1 [Z-2016-1129-03-01247].)

In addition, on August 4, 2015, the California Police Chiefs Association (CPCA) issued a report voicing its concerns and costs estimates regarding AB 953. In that report, 86 police agencies throughout California provided estimates of the costs associated with implementing the bill's requirements. (California Police Chiefs Association, AB 953: CPCA Concerns and Cost Estimates (Aug. 4, 2015) pp. 6-18 [Z-2016-1129-03-00161].) Of the 86 agencies that reported, two stated they would incur no additional costs, and 26 stated that additional costs were unknown. The remaining 58 agencies provided estimates ranging from \$5,000 to more than \$500,000 of fiscal impacts. Many estimates did not distinguish between one-time and ongoing costs.

## 2. DOJ Survey (Statutory Costs)

Following the passage of AB 953, the DOJ surveyed local and state law enforcement agencies to obtain information on their anticipated one-time technical development and personnel costs, and anticipated costs for training, equipment, and on-going system maintenance to comply with Government Code section 12525.5. For those agencies that declined to complete a survey or omitted fiscal estimates, the DOJ supplemented the survey data with data included in the CPCA report referenced in the previous paragraph.

According to feedback provided by agencies, the anticipated costs of initially implementing the stop data reporting program ranged from \$0 to \$2 million, with additional ongoing costs anticipated, but not specified, in most responses. As these significant variances demonstrate, and based on discussions the Department has had with law enforcement agencies, the cost to local governments will vary widely based on the degree to which their current technical environments can be leveraged to perform the required new functions for the collection and reporting of stop data.

Based on these surveys, the Department estimated that the fiscal impact on state and local agencies to implement the stop data collection program required by Government Code section 12525.5 (and excluding the amount already provided in the DOJ's approved BCP) would be

approximately \$89.9 million in total costs for local agencies and \$5.0 million in total costs for state agencies. The methodology used to obtain that overall estimate is described below:

**Factors to Consider:** One-time technical development costs generally will be less for those agencies with existing record management systems that can be readily modified to accommodate additional data elements. Further, costs relating to data collection will be less for agencies that currently have mobile data capture equipment and systems. Some agencies are currently collecting stop data and thus reported minimal cost estimates for the implementation of AB 953. Local governments will also incur varied personnel-related costs based on the time needed to enter stop data in the field and associated data processing support. These costs will be greatly affected by the number of peace officers in the agencies and the volume of stops conducted.

**Basis of Estimate:** AB 953 separates agencies into four reporting categories based on the number of sworn peace officers at the agency (excluding those in a custodial setting). The larger the agency, the sooner it is required to report stop data. The average estimated one-time cost to the vast majority of agencies (those with less than 334 peace officers) totaled \$169,959 based on data submitted by 113 such agencies. Details from 26 of these agencies indicate that roughly 57% of the costs are tied to technical development and 43% are tied to personnel. Estimates from five larger agencies varied considerably, from no cost to \$2 million, depending mainly on the extent of required technical development and whether the agencies are already collecting stop data.

We took the average for each category of agency size, multiplied it by the number of agencies in that category statewide, and calculated the following totals for each category:

	Size of Agency	Average Estimated Fiscal Impact	Number of Agencies	Total Estimated Fiscal Impact <sup>3</sup>
<b>Local</b>	1,000 +	\$2,540,941	8	\$20,327,528
	667 – 999	\$272,500	5	\$1,362,500
	334 – 666	\$201,000	10	\$2,010,000
	1 – 333	\$168,959	392	\$66,231,928
	<b>Local Agencies Subtotal:</b>		<b>415</b>	<b>\$89,931,956</b>
<b>State</b>	CHP	\$1,940,000	1	\$1,940,000
	UC, CSU	\$93,917	33	\$3,099,261
	<b>State Agencies Subtotal:</b>		<b>34</b>	<b>\$5,039,261</b>
	<b>Statewide Total:</b>		<b>449</b>	<b>\$94,971,217</b>

**Limitations on Estimates Provided** Many agencies from whom we solicited input did not differentiate between one-time costs (system development) and ongoing costs (personnel and system maintenance). Thus, the estimates they provided may have overlooked some cost factors.

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<sup>3</sup> Unless otherwise indicated, cost estimates have been rounded up to the nearest whole dollar throughout this document. The summed totals in individual charts may therefore appear to be slightly off as a result of rounding in the underlying calculation.

It should also be noted that many agencies indicated they were currently unable to provide cost estimates regarding the implementation of Government Code section 12525.5.

In addition, at the time of the survey the DOJ had not yet developed its plan to provide a no-cost DOJ-hosted web application to collect and report stop data. As set forth below, agencies that elect to use the DOJ-hosted application may be able to implement the stop data collection program at significantly lower costs.

### C. Fiscal Estimate Methodology

In order to estimate the total statewide costs to implement the proposed regulations, the DOJ has developed the following methodology to identify the specific costs an agency would accrue to implement each of four plausible methods of data collection: paper collection, relay-to-dispatch, DOJ-hosted application, and agency-hosted data collection process. Each method is described in greater detail below. The regulations do not require any one particular method of data collection; therefore, the DOJ considered each plausible means of data collection to implement the statute itself as part of this fiscal estimate. Each method carries costs and benefits from a fiscal perspective:

- **DOJ-hosted application** may require up-front costs in technology investment to equip officers in the field with a laptop, tablet, or smartphone (although many departments already provide some or all of their officers with such tools), but it eliminates the need for data input services, paper publication, and data storage costs.
- **Paper-based collection** will require few upfront costs but significant ongoing resources to produce paper forms and to input the data. It will also require some minimal costs to store the data.
- **Relay-to-dispatch** eliminates the need for paper forms but requires similar costs for data input. It will also require some minimal costs to store the data.
- Modifying an existing **agency-hosted data collection process** to accommodate the statutory and regulatory requirements—or acquiring such a system—may result in significant upfront costs for technology, as well as ongoing vendor costs to maintain and support the system, but may streamline the data collection process by syncing with other agency data collection requirements. It may be especially challenging and costly for some law enforcement agencies with older record management systems to modify these systems to allow for the collection of stop data. Some agencies are using systems that are 20+ years old. If agencies are unable to make modifications to their existing systems due to the age or other limitations, an alternative would be to use the DOJ AB 953 application or other acceptable submission methods.

Based on the initial survey responses and focus group meetings with law enforcement prior to the initial notice of rulemaking issued December 9, 2016, and insight from the California Justice Information Systems (CJIS), the DOJ has constructed a model to measure the estimated fiscal impact to implement each of the first three methods of data collection: paper-based collection, relay-to-dispatch, and the DOJ-hosted application.

Each of the calculations set forth below relies on three key factors: (1) the estimated number of officers subject to the data collections requirements of Government Code section 12525.5 and

the AB 953 regulations; (2) the estimated number of stops per year upon which agencies will be required to collect and report information; and (3) the method of data collection. Our methodology follows:

### 1. Estimated Number of Officers

To estimate the number of agencies and peace officers subject to AB 953 and these regulations, as well as the number of agencies in each reporting tier, the DOJ obtained data on the number of non-jail, sworn personnel as of October 31, 2015 from the Commission on Peace Officer Standards and Training (POST). The actual number of officers and agencies in each reporting tier may vary as agencies add or subtract officers prior to the start of stop data collection.

Using the POST data, the DOJ calculated the following number of agencies and officers subject to these reporting requirements:

Tier	Agency Type	Agencies	Officers
1	Local	8	25,772
	State	1	7,226
2	Local	5	3,807
	State	0	0
3	Local	10	4,536
	State	0	0
4	Local	392	23,382
	State	33	799
<b>Statewide Totals:</b>		<b>449</b>	<b>65,522</b>

### 2. Estimated Number of Stops

The DOJ considered several methods of calculating the total number of stops, including extrapolation from the responses received in our 2016 survey to law enforcement, and determined that the best estimate should be based on comments received from law enforcement agencies during the initial public comment period:

1. The California Police Chief Association provided the following estimate for the total number of stops per year:

The California Highway Patrol (CHP) employs over 7,200 sworn officers and initiates roughly four million total public contacts per year. Since they are almost all vehicle stops, nearly every one would be reportable under these regulations. Conversely, municipal police departments employ over 37,000 officers in California, which does not include the additional 32,000 sworn and reserve sheriff officers. Even with the most conservative estimates, it is not unlikely we will see over 10 million stops reported under these regulations each year when AB953 is fully implemented. With such a high volume of reporting, the individual time it takes to fill out each report becomes increasingly significant.

(Rulemaking File Z-2016-1129-03-01503 to -01504.)

Although it is not clear whether this estimate was intended to include stops by sheriffs' departments, the DOJ elected to assume for purposes of this analysis that sheriffs' departments were excluded from that estimate. In addition, in order to ensure that our fiscal estimate was not too conservative, DOJ assumed that the CHP was also excluded from this estimate. Therefore, for purposes of this analysis, the DOJ assumes that the 10 million annual stops estimated by the California Police Chief Association are apportioned between police departments and state agencies other than the CHP. Using the same POST data discussed above, we determined that these agencies collectively employ 38,710 non-jail sworn officers, resulting in an estimated 258 stops per year per officer employed by a local or state agency other than a sheriff's department or the California Highway Patrol.

2. The DOJ then reviewed comments submitted by sheriff's departments and determined that the highest estimated stops per officer was provided by the Ventura County Sheriff's Department:

The data collection guidelines proposed by your office will have a detrimental impact on public safety in Ventura County and throughout the state. To put the impacts in perspective, in 2016, my deputies responded to more than 35,000 calls for service and conducted more than 62,000 traffic and pedestrian stops that resulted in detentions. This amounts to roughly 100,000 events that would trigger reporting pursuant to AB 953.

(Rulemaking File Z-2016-1129-03-01618.) Using the same POST data discussed above, we determined that the Ventura County Sheriff's Department employs 498 non-jail sworn officers, resulting in an estimated 201 stops per year for each of the 19,586 officers employed by a sheriff's department.

3. Next, the DOJ reviewed comments received from the California Highway Patrol, which estimated a total of 2.8 million stops per year by the 7,226 California Highway Patrol officers.

Extrapolating across the entire universe of agencies identified through the POST data results in the following estimated stops per year by agency type:

<b>Estimated Stops, by Agency Type (State and Local Combined)</b>			
	<b>Total Officers</b>	<b>Total Stops</b>	<b>Stops per officer</b>
<b>Sheriff</b>	19,586	3,936,786	201
<b>CHP</b>	7,226	2,800,000	387
<b>Other</b>	38,710	10,000,000	258
<b>Statewide Totals:</b>	<b>65,522</b>	<b>16,736,786</b>	<b>255</b>

### **3. Method of Data Collection**

Although the fiscal estimate provided here is limited to the regulatory costs—as distinct from those costs imposed by existing laws including Government Code section 12525.5—the DOJ's outreach to law enforcement agencies, including the survey discussed above, makes it clear that agencies are thinking about stop data collection holistically in terms of what is required by the statute and regulations together. For that reason, it is our assessment that agencies will select

among the various possible methods of data collection based on the cost of each method as a whole.

In order to determine the most likely method of data collection, the DOJ therefore constructed a model to estimate each agency's cost to collect the stop data elements and values required by both the statute and the proposed regulations using each of three potential methods. For each of method, the DOJ relied upon the following costs, which are explained in greater detail below:

<b>Cost calculations (statute plus regulations)</b>				
	<b>Type</b>	<b>Cost Item</b>	<b>Description</b>	<b>Per Unit Cost</b>
<b>DOJ Application</b>	<b>One-time</b>	<b>Devices</b>	\$150 per device (one-time)	\$150.00
	<b>Ongoing</b>	<b>Officer time:</b>	150 total seconds per stop; <sup>4</sup> \$111,800 annual salary; <sup>5</sup> 1920 hours of officer time per year	\$2.43
	<b>Ongoing</b>	<b>Device replacement</b>	full replacement cost (\$150) amortized over estimated 3-year lifespan	\$50.00
	<b>Ongoing</b>	<b>Connectivity</b>	\$100/device/year for connectivity (ongoing)	\$100.00
<b>Paper Collection</b>	<b>One-Time</b>	<b>Computers</b>	one computer (terminal, monitor, keyboard and mouse) per data input personnel	\$700.00
	<b>Ongoing</b>	<b>Printing costs:</b>	one additional sheet of paper (\$0.08 per page) per stop	\$0.08
	<b>Ongoing</b>	<b>Officer time:</b>	150 total seconds per stop; \$111,800 annual salary; 1920 hours of officer time per year	\$2.43
	<b>Ongoing</b>	<b>Data input time:</b>	167 seconds per stop (DOJ estimate of time to transfer paper to excel); \$60,758.24 annual salary; 1920 hours of time per year	\$2.05
	<b>Ongoing</b>	<b>Data storage</b>	1 gigabyte of storage is sufficient to store data for 50,000 stops; \$200 per gigabyte for 3 years storage	\$0.0013
<b>Relay-to-Dispatch</b>	<b>One-Time</b>	<b>Computers</b>	one computer (terminal, monitor, keyboard and mouse) per data input personnel	\$700.00
	<b>Ongoing</b>	<b>Officer time:</b>	300 total seconds per stop (double the field test time); \$111,800 annual salary; 1920 hours of officer time per year	\$4.85
	<b>Ongoing</b>	<b>Data input time:</b>	300 seconds per stop (double field test time); \$60,758.24 annual salary; 1920 hours of time per year	\$3.69
	<b>Ongoing</b>	<b>Data storage</b>	1 gigabyte of storage is sufficient to store data for 50,000 stops; \$200 per gigabyte for 3 years storage	\$0.0013

<sup>4</sup> As explained below, the median time to complete the complete stop data form in field testing was 145 seconds. For simplicity, we have rounded that time estimate up to 150 seconds (two and a half minutes) for this calculation.

<sup>5</sup> “California police officers made, on average, \$111,800 during 2015, according to a Sacramento Bee analysis of new data from the State Controller's Office. That figure reflects base pay, as well as overtime, incentive pay and payouts upon retirement.” Phillip Reese, *See what California cities pay police, firefighters*, Sacramento Bee (Feb. 27, 2016), <http://www.sacbee.com/site-services/databases/article2573210.html> [Z-2016-1129-03-01916.]

## **Explanation of Costs Associated with the DOJ-hosted web application:**

Technology investment: Agencies that elect to collect stop data using the DOJ application will need to provide all officers in the field with a smartphone, laptop, tablet, or other handheld web-enabled device installed with the application. The DOJ is developing the application to be compatible with all common operating systems.

Many law enforcement agencies already collect stop data electronically, as reported in the DOJ's survey; the officers employed by these agencies are likely to already have sufficient technology available in the field to utilize the DOJ application. Other agencies already provide officers in the field with smartphone or similar devices as discovered during our outreach meetings with law enforcement agencies before the regulations were posted for comment. In addition, many if not all patrol cars are equipped with mobile data terminals (MDTs). The DOJ-hosted application will be compatible with that system; therefore, no additional technology purchase or service will be required for officers with access to an MDT in order to collect stop data via the DOJ-hosted app.

As part of a recent grant proposal, CJIS determined that the cost to provide an officer in the field with a compatible device would be \$150 per device (one-time cost) plus \$100 per device per year for connectivity to the DOJ system (ongoing costs) and \$50 per device per year to account for replacement costs, which we have assumed would be amortized over an estimated three-year lifespan of the devices.

Again, these technology costs are not necessarily attributable to the proposed regulations, because an agency that elected to use a DOJ-hosted application to fulfill only the statutory-minimum data collection program (were such an application available) would incur the same costs. Nevertheless, these estimates are provided to illustrate the cost-effectiveness of this method of data collection and to provide an outer limit of the DOJ's estimated statewide costs to implement the statute and the proposed regulations.

Officer time: In order to assess the amount of officer time to complete a stop data collection form—including the specific time attributable to the additional data elements added by the proposed regulations—the DOJ conducted a field test. Nine law enforcement agencies participated in a field test for the AB 953 project in order to provide a measure of the time to complete the stop data form and to test out certain data elements and values in the field. The LEAs were chosen among the nine (9) largest LEAs and designated first reporters, as well as additional LEAs that expressed interest during the initial outreach conducted by the AB 953 team. Those agencies that participated are:

1. California Highway Patrol
2. Gardena Police Department
3. Los Angeles County Sheriff's Department
4. Los Angeles Police Department
5. Orange County Sheriff's Department
6. San Bernardino County Sheriff's Office
7. San Diego County Sheriff's Office
8. San Diego Police Department
9. Ventura City Police Department

These LEAs were provided 30 individualized survey links (one for each officer participating) that would allow each testing officer to enter 14 stops and provide comments during a final

feedback survey. The web tool used to complete the field test randomly placed officers into one of two groups: the first group was assigned to complete a statute-only form for its first seven stops, followed by a statute-plus-regulations form for the remaining stops; the second group started with the statute-plus-regulations form and then finished with the statute-only form. Both forms included a narrative box requiring officers to explain (in 150 characters or fewer) the reason for the stop and, if applicable, the basis for search. In total, 2,928 individual stop records were utilized for analyses. A complete description of the field testing methodology and results has been added to the rulemaking file.

Results of the field test showed a median completion time of approximately 2.5 minutes (145 seconds) per stop. This included 27 seconds to complete the seven (7) additional eliminates added by the regulations based on the definition of “racial profiling” set forth in the Penal Code as well as the recommendations of the Racial and Identity Profiling Advisory Board and public comments to the regulations as originally proposed in December 2016.<sup>6</sup> Those additional data elements are:

1. Stop made in response to a call for service (check if “yes”).
2. Other actions taken by officer during stop (in addition to searches and seizures).
3. Officer’s perception that the person stopped had limited or no English fluency.
4. Perceived or known disability of person stopped.
5. Number of officers engaged in actions taken during the stop.
6. Officer’s years of experience.
7. Type of assignment of officer.

It also includes the time to complete the text field for reason for stop (required for all stops) and the text field for “basis for search,” which was applicable to only 20% of the stops conducted during the field test. The DOJ has determined that the text fields for these two data values are necessary to satisfy the statutory requirement that officer record the reason for stop and basis for search; therefore, the time to complete these narrative fields has not been included in the fiscal estimate attributed to the regulations. The median time to complete the text field for “reason for stop” was 16.1 seconds; the median time to complete the text field for “basis for search” was 22.4 seconds.

Data transmission: Stop data reports collected via the DOJ-hosted web application will be reported directly to the DOJ. Agencies will not accrue any additional costs for data transmission beyond the connectivity cost set forth above.

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<sup>6</sup> The templates used in the field test reflect the current data elements and values set forth in the modified proposed regulations to be noticed for a 15-day public comment period in June 2017. Since the time of the field test, the DOJ has simplified or eliminated certain data values and replaced the prior data element “reason for presence at scene” with a simple box to be checked if the stop was made in response to a call for service. The DOJ has also added a new data element for the officer to indicate whether the officer perceives the person stopped to be lesbian, gay, bisexual, or transgender (single yes/no response). The DOJ has determined that none of these changes is likely to increase the time required to complete the form; in fact, replacing the more detailed “reason for presence at scene” with these two yes/no questions is likely to reduce the time to complete the form.

Storage and related costs: Agencies that use the DOJ web application to collect stop data will have two options for data storage:

- Agencies may elect to have the DOJ retain sole possession of the transmitted stop data. In this case, the DOJ will assume responsibility for the requisite 3-year retention period. Because these records will remain in the DOJ's control, agencies will not be responsible for any storage costs.
- As an alternative, agencies may elect to have the DOJ transmit data back to the agency for storage. Because this option is not required by the regulations, any costs associated with this option are not attributable to the regulations.

Because the regulations do not require any minimum period of data storage for those agencies that elect to collect data using the DOJ-hosted application, these agencies will not incur any costs attributable to the regulations to store the data at DOJ.

**Explanation of Costs Associated with Paper Data Collection:**

Printing Costs: An agency that elects to implement Government Code section 12525.5 via paper data collection would be required to produce and distribute a stop data form to officers to complete in the field. The main costs to produce the form are attributable to the statute itself, with only de minimus additional costs to produce the slightly longer form that includes the additional data elements set forth in the regulations.

In order to assess these additional costs, the DOJ created two mock forms: one limited to the statutory elements ("statute form") and a second including the additional data elements set forth in these regulations ("statute plus regulations form"). The statute form is two pages; the statute plus regulations form is three pages. Assuming a standard production cost of \$.08 for the single additional page required to produce the statute plus regulations form will cost \$.08 more per stop compared to the statute form.

Officer Time: In addition to the physical forms, agencies will incur costs in the form of the time it takes an officer to complete the paper forms. For purpose of this analysis, the DOJ assumes that the time to complete a paper form will be less than or equal to the time to complete the web form used in our field test.

Data Input and Transmission: Section 12525.5, subdivision (a) requires agencies "to annually report to the Attorney General data on all stops conducted by that agency's peace officers for the preceding calendar year." The statute is silent on the method of data transmission, although the statutory requirement that the DOJ promulgate regulations that "provide standards, definitions, and technical specifications to ensure uniform reporting practices across all reporting agencies" could readily be understood to indicate that the Legislature intended that all stop data be transmitted electronically to the DOJ. This is consistent with other data transmitted to the DOJ in other law enforcement contexts such as Live Scan fingerprinting.

Although data input is not properly a regulatory cost, the DOJ nevertheless provides an estimate here in the interest of completeness. The data input staff at CJIS determined that the average time required to input a paper stop data form into a spreadsheet would require 167 seconds of time per

stop. Based on an average annual salary of \$60,758.24 for a data clerk (including benefits), the data input cost attributable to the regulations is \$2.05 per stop. Based on this calculation, local agencies would accrue total costs of \$2,814,7276 annually to input 13,730,379 local stop data forms.

Each data input personnel (or fraction thereof) would also require a computer, including a terminal, monitor, keyboard, and mouse. Based on CJIS's research, the DOJ has determined that the necessary computer equipment would cost no more than \$700 per data input person (or fraction thereof).

In addition, AB 953 requires agencies to transmit (or report) data at least annually to the DOJ. The proposed regulations do not increase the reporting frequency, but do provide three methods of data transmission to the DOJ:

Submission of Data. Agencies shall be provided with the following options to submit their stop data to the Department: (1) a web-browser based application, which shall include mobile capabilities for agencies that choose to use the Department's developed and hosted solution to submit stop data; (2) a system-to-system web service for agencies that elect to collect the data in a local system and then submit the data to the Department; and (3) a secured file transfer protocol for agencies that elect to collect the data in a local repository and then submit the data to the Department. Agencies that select option 3 shall be permitted to submit batch uploads of stop data in Excel spreadsheets and other delimited text formats of electronic documentation that complies with the Department's interface specifications.

(Proposed 11 CCR § 999.228, subd. (b).)

Of these three options, only option three (secured file transfer) is applicable for agencies that use paper data collection. The use of secured file transfer is not, however, specific to these regulations, but rather a standard procedure used by law enforcement agencies to transmit sensitive information electronically. To the extent an agency does not already have a secured file transfer protocol in place, CJIS staff intend to provide technical support, bringing the cost at or near zero for this requirement.

Data Storage: An agency that elects to collect data using paper forms will be required by the regulations to maintain that data for three years. The DOJ estimates that one gigabyte of storage is sufficient to store data for 50,000 stops. At an estimated cost of \$200 per gigabyte for three years of storage, an agency will accrue ongoing costs of approximately \$0.0013 per stop.

**Explanation of Costs Associated with Relay-to-Dispatch:**

This method eliminates the need for paper forms. Therefore, the in-field data collection costs will be limited to the officer's time to complete the stop data report.

Because data input would happen real-time via a radio or telephone conversation with the officer in the field (rather than input of a completed stop-data form), the data input time would be equal to the entire time required for an officer to complete the stop data form (including both statutory

and regulatory elements). According to the field test, the average total time to complete a stop data report is 150 seconds. Assuming that it will take twice as long to verbally complete a stop data form, the DOJ estimates that the average time to complete a stop data form via relay-to-dispatch will be 300 seconds, including 54 seconds attributable to regulatory elements. The data input time in this scenario will be equal to the officer’s time on the phone or radio to complete the report (300 seconds).

The same options for data transmission and data storage discussed above for paper collection apply to relay-to-dispatch.

#### 4. Agency Costs, by Method of Data Collection

The following chart provides a summary of the one-time, ongoing, and 5-year total (one-time costs plus 4 years of data collection) to implement each of these three methods of data collections, based on the average number of officers in each reporting tier and an estimated 255 stops per year per officer (as explained above). For the purpose of this estimate only, the DOJ assumes that the agency using the DOJ-application would need to purchase a new device for every officer, including ongoing connectivity and replacement costs for each of those devices. In reality, many officers already have access to the necessary hardware and connectivity, as explained above. Nevertheless, even with this assumption, the DOJ application proves to be significantly more cost effective across all levels of agency size:

<b>Per-Agency Cost Calculations, By Data Collection Method</b>						
<b>Tier</b>	<b>Avg. Officers</b>	<b>Estimated Stops</b>	<b>Collection</b>	<b>One-time</b>	<b>Ongoing</b>	<b>5-year total</b>
1	3,666	934,943	<b>DOJ Application</b>	<b>\$549,967</b>	<b>\$2,818,340</b>	<b>\$11,823,329</b>
			Paper	\$16,100	\$4,264,485	\$17,074,042
			Relay-to-Dispatch	\$28,700	\$7,987,221	\$31,977,584
2	761	194,157	<b>DOJ Application</b>	<b>\$114,210</b>	<b>\$585,277</b>	<b>\$2,455,317</b>
			Paper	\$3,500	\$885,593	\$3,545,874
			Relay-to-Dispatch	\$6,300	\$1,658,683	\$6,641,033
3	454	115,668	<b>DOJ Application</b>	<b>\$68,040</b>	<b>\$348,675</b>	<b>\$1,462,742</b>
			Paper	\$2,100	\$527,588	\$2,112,450
			Relay-to-Dispatch	\$4,200	\$988,152	\$3,956,807
4	57	14,509	<b>DOJ Application</b>	<b>\$8,534</b>	<b>\$43,735</b>	<b>\$183,476</b>
			Paper	\$700	\$66,177	\$265,408
			Relay-to-Dispatch	\$700	\$123,947	\$496,488

Based on this analysis, it is the DOJ assessment that most agencies—if not all—will elect to use the free DOJ application to collect stop data. The exception may be for agencies with existing agency-hosted data collection systems that are able to negotiate with their vendors to modify existing systems at a lower cost (including hardware, software, and officer time). The DOJ therefore assumes for purposes of this fiscal estimate that the costs associated with the DOJ application provide an upper limit on the estimated fiscal impact to implement these regulations.

#### **D. Estimated Fiscal Impact on State and Local Agencies**

The DOJ's fiscal estimate for local and state agencies applies the same methodology set forth above, with two exceptions:

1) The officer's time to collect the required data in the field. As noted above, only 27 seconds of the 150-second median time to complete the stop data form is attributable to the regulations. Therefore, using the same calculations set forth above, this results in an average regulatory cost of \$0.44 per stop (compared to a combined statute-and-regulatory cost of \$2.43).

2) Number of devices. As noted above, many officers in the field already possess the necessary equipment and connectivity to use the DOJ application. For purposes of our statewide fiscal estimates, the DOJ assumes (conservatively) that only 25 percent of officers have such equipment and that 75 percent of officers will require new devices, as well as the associated ongoing costs for connectivity and device replacement.

Although the APA only requires a two-year fiscal estimate, the DOJ provides here an estimate of the annual fiscal costs through full implementation in FY 2023 in order to demonstrate that the proposed regulations remain below the major regulation threshold set forth in the APA. These estimates account for an estimated annual inflation rate of 3%. In addition, the DOJ has assumed that the number of officers and stops will increase at a rate of 0.43% annually. This number is based on the average increase in law enforcement personnel statewide from 2012 through 2016, the time period during which agency employment began to increase again following the great recession. In contrast, the average annual growth from 2003 through 2015 was just 0.23%.<sup>7</sup>

The following costs are accrued in each fiscal year, based on the collection and reporting schedule set forth in Government Code section 12525.5, subdivision (a):

- **FY2017-2018:** Tier 1 one-time costs and 9 months of data collection
- **FY2018-2019:** Tier 1 ongoing costs; Tier 2 one-time costs and 9 months of collection
- **FY2019-2020:** Tiers 1-2 ongoing costs
- **FY2020-2021:** Tiers 1-2 ongoing costs; Tier 3 one-time costs and 9 months of collection
- **FY2021-2022:** Tiers 1-3 ongoing costs; Tier 4 one-time costs and 9 months of collection
- **FY2022-2023:** Tiers 1-4 ongoing costs

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<sup>7</sup> Source: Department of Justice, OpenJustice: Criminal Justice Personnel, at <https://openjustice.doj.ca.gov/crime-statistics/criminal-justice-personnel>.

### AB 953 Stop Data Reporting Regulations: Estimated Fiscal Impact

			FY2017-2018			FY2018-2019			FY2019-2020		
State/ Local	Reporting Tier	No. of Agencies	Total Officers	Estimated Stops	Costs	Total Officers	Estimated Stops	Costs	Total Officers	Estimated Stops	Costs
Local	1	8	25,772	6,571,860	\$7,226,403	25,888	6,601,433	\$5,969,228	26,004	6,631,140	\$6,175,972
Local	2	5	3,807	970,785	none	3,824	975,154	\$1,104,445	3,841	979,542	\$912,305
Local	3	10	4,536	1,156,680	none	4,556	1,161,885	none	4,577	1,167,114	none
Local	4	392	23,382	5,962,410	none	23,487	5,989,241	none	23,593	6,016,192	none
<b>Local Totals:</b>		<b>415</b>	<b>57,497</b>	<b>14,661,735</b>	<b>\$7,226,403</b>	<b>57,756</b>	<b>14,727,713</b>	<b>\$7,073,673</b>	<b>58,016</b>	<b>14,793,988</b>	<b>\$7,088,277</b>
State	1	1	7,226	1,842,630	\$2,026,152	7,259	1,850,922	\$1,673,663	7,291	1,859,251	\$1,731,630
State	2	0	0	0	none	0	0	\$0	0	0	\$0
State	3	0	0	0	none	0	0	none	0	0	none
State	4	33	799	203,745	none	803	204,662	none	806	205,583	none
<b>State Totals:</b>		<b>34</b>	<b>8,025</b>	<b>2,046,375</b>	<b>\$2,026,152</b>	<b>8,061</b>	<b>2,055,584</b>	<b>\$1,673,663</b>	<b>8,097</b>	<b>2,064,834</b>	<b>\$1,731,630</b>
<b>Combined Total:</b>		<b>449</b>	<b>65,522</b>	<b>16,708,110</b>	<b>\$9,252,555</b>	<b>65,817</b>	<b>16,783,296</b>	<b>\$8,747,336</b>	<b>66,113</b>	<b>16,858,821</b>	<b>\$8,819,907</b>

			FY2020-2021			FY2021-2022			FY2022-2023		
State/ Local	Reporting Tier	No. of Agencies	Total Officers	Estimated Stops	Costs	Total Officers	Estimated Stops	Costs	Total Officers	Estimated Stops	Costs
Local	1	8	26,121	6,660,980	\$6,389,877	26,239	6,690,954	\$6,611,190	26,357	6,721,064	\$6,840,169
Local	2	5	3,859	983,950	\$943,903	3,876	988,377	\$976,595	3,893	992,825	\$1,010,419
Local	3	10	4,598	1,172,366	\$1,689,830	4,618	1,177,641	\$0	4,639	1,182,941	\$1,203,904
Local	4	392	23,699	6,043,265	none	23,806	6,070,460	\$9,012,368	23,913	6,097,777	\$6,205,837
<b>Local Totals:</b>		<b>415</b>	<b>58,277</b>	<b>14,860,560</b>	<b>\$9,023,610</b>	<b>58,539</b>	<b>14,927,433</b>	<b>\$16,600,153</b>	<b>58,802</b>	<b>14,994,606</b>	<b>\$15,260,328</b>
State	1	1	7,324	1,867,618	\$1,791,605	7,357	1,876,022	\$1,853,657	7,390	1,884,464	\$1,917,859
State	2	0	0	0	\$0	0	0	\$0	0	0	\$0
State	3	0	0	0	\$0	0	0	\$0	0	0	\$0
State	4	33	810	206,508	none	813	207,437	\$307,967	817	208,371	\$212,063
<b>State Totals:</b>		<b>34</b>	<b>8,134</b>	<b>2,074,126</b>	<b>\$1,791,605</b>	<b>8,170</b>	<b>2,083,459</b>	<b>\$2,161,624</b>	<b>8,207</b>	<b>2,092,835</b>	<b>\$2,129,922</b>
<b>Combined Total:</b>		<b>449</b>	<b>66,411</b>	<b>16,934,686</b>	<b>\$10,815,215</b>	<b>66,709</b>	<b>17,010,892</b>	<b>\$18,761,777</b>	<b>67,010</b>	<b>17,087,441</b>	<b>\$17,390,251</b>

## **E. Statutory Implementation Costs Not Affected by the Regulations**

As required by the APA, the above analysis is limited to the additional costs to state and local agencies to implement the proposed regulations beyond the minimum cost to implement the statute itself. In order to provide additional context to that analysis, the following is a brief summary of the ways in which the proposed regulations do not expand the data collection and reporting obligations on officers and agencies set forth in Government Code section 12525.5:

### **1. Officers/Agencies Subject to Reporting**

The proposed regulations do not expand the basic reporting requirements of section 12525.5, which mandates that every “state and local agency that employs peace officers shall annually report to the Attorney General data on all stops conducted by that agency’s peace officers for the preceding calendar year.” (Gov. Code, § 12525.5, subd. (a)(1).) The statute further defines “peace officer,” as used in this section, to be “limited to members of the California Highway Patrol, a city or county law enforcement agency, and California state or university educational institutions” and to exclude “probation officers and officers in a custodial setting.” The regulations do not extend the reporting requirements to any officers or agencies not otherwise required to report stop data by the statute.

### **2. “Stops”**

The proposed regulations do not expand the definition of “stop” set forth in section 12525.5, subdivision (g)(2), which provides: “For purposes of this section, ‘stop’ means any detention by a peace officer of a person, or any peace officer interaction with a person in which the peace officer conducts a search, including a consensual search, of the person’s body or property in the person’s possession or control.” For clarity, the regulations reiterate the same definition of “stop.” (See proposed 11 CCR § 999.225, subd. (a)(14).) The regulations provide the DOJ’s interpretation of how the statutory definition of “stop” should be applied in certain special settings, including schools, emergencies (bomb threats, active shooters, etc.), building and event security, and the execution of search warrants. The regulations mirror the definition of “stop” in the statute, and, in fact, make clear that a number of incidents that might otherwise technically fit the statutory definition of “stop” should be excluded in order to maintain the integrity of the data and to collect information relevant and consistent with the intent of the statute. As a result, the regulations are likely to result in some cost savings to agencies by clarifying that some incidents that might otherwise within the statutory definition of “stop” are not subject to stop data collection.

### **3. Data Collection**

The regulations do not impose any limitations on how an agency might instruct its officers to collect the data required by the statute and the proposed regulations. The DOJ, in this STD 399, has identified four potential methods of data collection: paper, relay-to-dispatch, a DOJ-provided web application, or an agency-hosted data collection process. The regulations permit agencies to use any of these methods—or any other method that an agency might identify to collect stop data—to collect that data elements set forth in the statute and proposed regulations.

#### **4. Data Transfer**

The regulations require the DOJ to accept stop data reports from agencies using any one of the three plausible methods of data transmission available for electronic records: direct upload through a web based browser, system-to-system file transfer, or secure file transfer protocol. The regulations require the DOJ to permit agencies to use any one of these three methods.

#### **5. Review and Redaction**

Although the regulations instruct officers not to include personal identifying information in any narrative field and instruct agencies that they must redact any personal identifying information from stop records before they are transmitted to the DOJ (proposed 11 CCR § 999.228, subd. (d)), that provision is included for clarity purposes only. Government Code section 12525.5, subdivision (d) already provides: “State and local law enforcement agencies shall not report the name, address, social security number or other unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section.”

In order to comply with this statutory requirement, any agency that collects stop data internally (via paper forms, relay-to-dispatch, or agency-hosted data collection) before transmitting it to the DOJ will be required to review those records and redact any personal identifying information before submitting those records to the DOJ. Similarly, the Information Practices Act only permit agencies to disclose personal identifying information to another government agency “when required by state or federal law.” (Civil Code § 1789.24, subd. (f).) Because this review and redaction requirement derives from Government Code section 12525.5 itself (as well as the Information Practices Act), these costs are not attributable to the proposed regulations.

#### **6. Reporting Frequency**

Although the regulations permit agencies to submit stop data to the DOJ as frequently as they choose, the regulations do not require agencies to submit data any more frequently than once per year, as required by Government Code section 12525, subdivision (a).

#### **7. Unique Identifier**

Although the regulations provide some direction to agencies on how to develop and use unique officer identifiers in order to protect officer confidentiality while satisfying the statutory requirement that agencies report incident-level data to the DOJ, the requirement to develop and maintain such a system flows from the statute and not the proposed regulations.

#### **8. Narratives**

The original version of the regulations did not require an open narrative in any categories, instead offering an “other” category for certain elements, such as reason for stop and reason for search. However, we received numerous comments from advocates, academics, as well as the Racial and Identity Profiling Advisory (RIPA) Board, arguing that open narratives, particularly for reason for stop and basis for search, are essential to any data collection of stops.

Based on the public comment received, as well as an analysis of nearly 3,000 stop reports collected during our field test, the DOJ has concluded that a narrative field is necessary in order to collect and report two of the required statutory elements: reason for stop and basis for search. Solely providing officers with a list of pre-determined data values, including an “other” category, from which to select would not satisfy the statutory requirement that reason for stop and basis for search be reported. For that reason, the DOJ has determined that the time to complete these two narrative fields (and any associated technology costs to collect and report these fields) are attributable to the statute itself and not the regulations.

## **9. Error Correction**

The proposed regulations provide for an optional error resolution process by which an agency may correct its data after the data has been transmitted to the DOJ:

In order to ensure compliance with these regulations, a reporting agency, its officers, or both may review the stop data to correct errors before submitting the stop data to the Department. Once the stop data is submitted to the Department, however, an agency can only revise stop data through the Department’s error resolution process.

(Proposed 11 CCR § 999.227, subd. (a)(10).) As provided in the regulations, this error correction process is optional; the regulations do not impose any affirmative obligation on agencies to utilize that process.

### **F. Benefits of Data Collection**

The benefits of collecting data regarding stops by law enforcement officers have been recognized by law enforcement agencies, advocates, academics, and other stakeholders. The ACLU of North Carolina describes three broad types of benefits that result from enhanced data collection efforts like those required by AB 953 and the proposed regulations:

Data collection has benefits recognized by the law enforcement community, including the Police Executive Research Forum. First, data collection can provide significant information about a department’s traffic stops and their results, which can improve a department’s efficiency. It can help departments discern whether racial disparities are rooted in the department’s culture or in a small number of officers who may need additional training. Most importantly, data collection can help guide dialogue within communities about racially biased policing and show affected community members a police department’s willingness to work with them in addressing the issue.

(ACLU of North Carolina, Road Work Ahead, p. 1 (May 2014) at <http://acluofnc.org/files/RoadWorkAhead-DatacollectionreportMay2014.pdf> [as of Jan. 5, 2017] [Z-2016-1129-03-01721].)

Using this framework, the remainder of this memorandum expands upon the specific benefits we anticipate to result from implementation of AB 953 and the proposed regulations, as originally set forth in the ISOR. Please note, however, that it is difficult to quantify these benefits. As the U.S. Department of Justice explains:

Calculating the benefits from engaging in data collection and analysis is a very difficult matter. In many respects, only potential benefits can be cited. Individual departments will have to determine how far they are willing to go in using the data collected and for what purposes they are willing to use the data.

(Community Oriented Policing Services, *How to Correctly Collect and Analyze Racial Profiling Data: Your Reputation Depends on It!*, p. 107 (2002) at [https://cops.usdoj.gov/html/cd\\_rom/inaction1/pubs/HowToCorrectlyCollectAnalyzeRacialProfilingData.pdf](https://cops.usdoj.gov/html/cd_rom/inaction1/pubs/HowToCorrectlyCollectAnalyzeRacialProfilingData.pdf) [as of Jan. 4, 2017] [Z-2016-1129-03-00727].) Unfortunately, the DOJ has no means at this time to more specifically estimate the economic benefits that may result from either AB 953 or the proposed regulations.

**a. Improved Agency Efficiency**

The first category of anticipated benefits from implementation of AB 953 is improved agency efficiency. Studies have shown that biased policing—whether it is the result of implicit or explicit bias—results in inefficiencies and resource misallocation. As the ACLU of North Carolina explains:

[A] report by the Institute of Race and Justice lists several potential benefits of a strong data collection program. First, it can help provide important information about the characteristics of different types of stops and their results. Second, data on traffic stops could allow law enforcement agencies to be able to address questions about the effectiveness of their traffic stops. This is an often overlooked but important benefit of data collection, given the aforementioned evidence suggesting that officers need to complete an exorbitant number of stops to find contraband.

(Road Work Ahead, p. 12 [fns. omitted].)

For example, a recent assessment of traffic stop data from the San Francisco Police Department found that officers there were significantly more likely to search black drivers after a traffic stop compared to white drivers, and that searches of black drivers were significantly less likely to result in contraband compared to searches of white drivers. (Community Oriented Policing Services, U.S. Department of Justice, Collaborative Reform Initiative: An Assessment of the San Francisco Police Department, p. 75 (Oct. 2016), at <https://ric-zai-inc.com/Publications/cops-w0817-pub.pdf> [as of Jan. 4, 2017] [Z2016-11129-03-00270]; see also New York Civil Liberties Union, Stop-and-Frisk Data, at <http://www.nyclu.org/content/stop-and-frisk-data> [as of Jan. 7, 2017] [revealing that nearly 9 out of 10 people stopped and frisked were completely innocent] [Z-2016-1129-03-01908].)

AB 953 and these proposed regulations will enable the Department and the RIPA Board to conduct similar analysis for agencies statewide and develop training recommendations to promote more equitable and efficient policing.

In addition to addressing racial bias, the data collected pursuant to AB 953 and the proposed regulations will help to inform training recommendations across other metrics. For example, data regarding the number of stops of persons with perceived disabilities or limited English proficiency may help alert an agency of the need for enhanced training to provide better, more efficient services to those communities.

## **b. Understanding and Addressing Disparities**

Biased policing—whether implicit or explicit, individual or systemic—results in both tangible and intangible costs for law enforcement agencies. At a minimum, agencies expend financial and staff resources to investigate and respond to citizen complaints about racial profiling. (See, e.g., Community Oriented Policing Services, U.S. Department of Justice, Collaborative Reform Initiative: An Assessment of the San Francisco Police Department, p. 62 (Oct. 2016), at <https://ric-zai-inc.com/Publications/cops-w0817-pub.pdf> [as of Jan. 4, 2017] [Z2016-1129-03-000257] [SFPD report discussing the number of complaints received by the SFPD annually alleging racial bias].) In other cases, law enforcement agencies and municipalities may pay steep financial costs to litigate and settle claims related to allegations of bias. (See, e.g., Susanna Capelouto, *Racial profiling costs Arizona county \$22 million*, CNN (Jan. 3, 2014), available at <http://www.cnn.com/2014/01/03/us/racial-profiling-payments> [as of Jan. 4, 2017] [Z2016-1129-03-02076].)

The data collection required by the proposed regulations will provide invaluable information to understand where disparities exist, address those disparities, and reduce the high costs of both real and perceived disparities. For example, a recent study of the Oakland Police Department’s stop data recommended additional targeted training for new officers based upon its findings that less-experienced officers show more racial disparities in their stops. (See ISOR, p. 20, citing Jennifer L. Eberhardt, et al., *Strategies for Change: Research Initiatives and Recommendations To Improve Police Community Relations in Oakland, Calif.*, p. 5 (June 20, 2016), at <https://stanford.box.com/v/Strategies-for-Change> [as of Nov. 21, 2016] [Z-2016-1129-03-01079].) By requiring similar data collection and analysis statewide, AB 953 and the proposed regulations will enable the Department and RIPA Board to detect similar patterns and craft targeted training recommendations to eliminate such disparities.

## **c. Improved Community Relations**

In addition to the immediate benefit to law enforcement agencies with respect to obtaining data regarding stops of their officers, an equally important benefit, albeit less quantifiable, of such data collection is its role in enhancing trust between agencies and the communities they serve, as a result of increased transparency and accountability. As the President’s Task Force on 21st Century Policing explained:

[L]aw enforcement’s obligation is not only to reduce crime but also to do so fairly while protecting the rights of citizens. Any prevention strategy that unintentionally violates civil rights, compromises police legitimacy, or undermines trust is counterproductive from both ethical and cost-benefit perspectives. Ignoring these considerations can have both financial costs (e.g., lawsuits) and social costs (e.g., loss of public support).

(Final Report of the President’s Task Force on 21st Century Policing, p. 42 (May 2015) at [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf) [as of Jan. 4, 2017] [Z-2016-1129-03-01974].)

Agencies expend both financial and staff resources to compensate for a lack of community cooperation as a result of the trust deficit between some law enforcement agencies and the

communities they serve. Although the link between enhanced data collection and improved community relations is well-recognized, it remains the most difficult benefit to quantify:

[I]t has so far been difficult to quantify the benefits of releasing data for the purpose of improved police community relations. “Better community relations” have been loosely observed, with unstandardized, qualitative measurements not fitting neatly into a metrics report.

(R. Sibley, P. Gibbs, and E. Shaw, The benefits of data in criminal justice: Improving police community relations, The Sunlight Foundation (Apr. 30, 2015) at <https://sunlightfoundation.com/2015/04/30/thebenefitsofdataincriminaljusticeimprovingpolicecommunityrelations/> [as of Jan. 5, 2017] [Z-2016-1129-03-02064].)

Just as policing strategies that undermine legitimacy and trust accrue both financial and social costs, efforts to counteract such trends—like AB 953 and the Department’s implementing regulations—accrue corresponding financial and social benefits. The U.S. Department of Justice has recognized similar benefits to data collection:

An additional benefit from data collection is that it focuses attention on the issue, and may result in making members of the community feel that their concerns are at least being addressed in a substantive fashion. If police departments begin to engage their communities and interact with community groups and leaders, as part of the attempt to defuse racial profiling accusations, there may be positive benefits from this as well. The results from analysis of data collected will offer much new information about police practices and patterns, which will allow for valuable discussion and consideration of the appropriate roles for police and community members. And finally, the data collected can show police managers a great deal of information about the efficiency and productivity of the staffing patterns and practices currently employed.

(Community Oriented Policing Services, How to Correctly Collect and Analyze Racial Profiling Data: Your Reputation Depends on It!, p. 107 (2002) at [https://cops.usdoj.gov/html/cd\\_rom/inaction1/pubs/HowToCorrectlyCollectAnalyzeRacialProfilingData.pdf](https://cops.usdoj.gov/html/cd_rom/inaction1/pubs/HowToCorrectlyCollectAnalyzeRacialProfilingData.pdf) [as of Jan. 4, 2017] [Z-2016-1129-03-00727]; see also U.S. Department of Justice, A Resource Guide on Racial Profiling Data Collection Systems: Promising Practices and Lessons Learned, p. 55 (Nov. 2000) at <http://permanent.access.gpo.gov/lps47663/184768.pdf> [as of Jan. 4, 2017] [Z-2016-1129-03-01454] [similar].)

Ultimately, as explained in the ISOR:

Increased transparency, including the publication of this data, as required by AB 953, will be an important step in building bridges between the public and law enforcement agencies that will ultimately promote overall public safety for officers and the communities they serve.

(ISOR, p. 3.)