

***Criminal Justice & Corrections
Committee***

HB 2017

Brief Description: *Monitoring traffic-stop racial profiling.*

Sponsors: *Representatives Lovick (co-prime sponsor), Ballasiotes (co-prime sponsor), O'Brien, Veloria, Kenney, Mitchell, Hankins, Van Luven, Conway, Murray, Santos, Schual-Berke, Tokuda, McDermott, Kagi and McIntire.*

Brief Summary of Bill

- *Requires every traffic enforcement agency in Washington to collect and provide specific information relating to traffic stops.*

Hearing Date: *2/19/01*

Staff: *Matthew Zuchetto (786-7291).*

Background:

Racial profiling occurs when police officers stop motorists of certain racial or ethnic groups because the officers believe that these groups are more likely than others to commit certain crimes. Stopping a motorist solely because of the motorist's race or ethnicity is unconstitutional under both the federal and state constitution.

However, the United States Supreme Court has held that under the federal constitution a court will not examine the officer's subjective intent in making a traffic stop. Accordingly, under federal law an officer may stop a motorist for any violation of the traffic code, even when the officer's true reason for making the traffic stop was the driver's race or ethnicity. This practice is known as a pre-textual traffic stop. Pre-textual traffic stops are one of the primary ways by which officers racially profile.

On the other hand, in 1999 the Supreme Court of Washington chose not to follow the United States Supreme Court and expressly prohibited pre-textual traffic stops under the State Constitution. In Washington, a court will examine the totality of the circumstances

which includes the officer's subjective intent and the objective reasonableness of the traffic stop.

In the year 2000, the Washington State Patrol (WSP) collected data over a six month period on routine traffic stops. An analysis of the data appears to indicate that the WSP does not engage in racial profiling. However, the data also showed that minorities were arrested or issued citations and searched at higher rates than whites. According to the WSP the differences in enforcement actions and related searches between white persons and non-white persons will require more thorough analysis by WSP to account for the differences.

While some local law enforcement agencies have collected data on traffic stops, there has not been a comprehensive study by local law enforcement agencies to determine if racial profiling is occurring in some cities or counties.

Summary of Bill:

Beginning July 1, 2002, every traffic enforcement agency in Washington is required to collect and provide specific information relating to traffic stops to the Criminal Justice Training Commission (CJTC). In particular, every traffic enforcement agency shall provide the following information:

- The number of individuals stopped and whether an arrest was made or a citation or warning was issued;*
- The individual's race or ethnicity, approximate age, and gender;*
- The nature of the alleged traffic violation; and*
- Whether or not the individual was searched, and the legal basis for the search, and whether or not a canine unit was alerted.*

The information must be submitted annually and on forms provided by the CJTC. The information must not reveal the identity of the individual stopped. Further, the information must be reported with codes used to identify the areas of patrol, and the coding system will only be known to the traffic enforcement agency. The CJTC is to compile the information in a manner that assists criminal justice agencies and the Legislature in making policy to combat racial profiling. The CJTC is to use statistics that are comparable with national uniform criminal statistics published by federal agencies.

Appropriation: None.

Fiscal Note: Requested on February 18, 2001.

Effective Date: Ninety days after adjournment of session in which bill is passed.