105TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 105–435

TRAFFIC STOPS STATISTICS STUDY ACT OF 1998

MARCH 11, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HYDE, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 118]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 118) to provide for the collection of data on traffic stops, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

59–006

SECTION 1. SHORT TITLE.

This Act may be cited as the "Traffic Stops Statistics Study Act of 1998".

SEC. 2. ATTORNEY GENERAL TO COLLECT.

The Attorney General shall conduct a study of stops for routine traffic violations by law enforcement officers. Such study shall include collection and analysis of appropriate available data. The study shall include consideration of the following factors, among others:

(1) The number of individuals stopped for routine traffic violations.

(2) Identifying characteristics of the individual stopped, including the race and or ethnicity as well as the approximate age of that individual.

(3) The traffic infraction alleged to have been committed that led to the stop.

(4) Whether a search was instituted as a result of the stop.

(5) How the search was instituted.

(6) The rationale for the search.

(7) Whether any contraband was discovered in the course of the search.

(8) The nature of such contraband.

(9) Whether any warning or citation was issued as a result of the stop.

(10) Whether an arrest was made as a result of either the stop or the search.

(11) The benefit of traffic stops with regard to the interdiction of drugs and the proceeds of drug trafficking, including the approximate quantity of drugs and value of drug proceeds seized on an annual basis as a result of routine traffic stops.

SEC. 3. LIMITATION ON USE OF DATA.

Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of any individual who is stopped or any law enforcement officer. Data acquired under this section shall not be used in any legal or administrative proceeding to establish an inference of discrimination on the basis of particular identifying characteristics.

SEC. 4. RESULTS OF STUDY.

Not later than 2 years after the date of the enactment of this Act, the Attorney General shall report the results of the study conducted under this Act to Congress.

PURPOSE AND SUMMARY

H.R. 118, the Traffic Stops Statistics Study Act of 1998, requires the Attorney General to conduct a study by acquiring data from law enforcement agencies regarding the characteristics of those stopped for alleged traffic violations and the rationale for any subsequent searches resulting from those violations. The Attorney General is directed to issue a report to Congress in two years which would set forth the findings of the study.

The study is to include consideration of such factors as the race or ethnicity of the individual stopped, the traffic infraction alleged to have been committed that led to the stop, whether a search was instituted as a result of the stop, how the search was instituted, the rationale for the search, whether any contraband was discovered in the course of the search, whether any warning or citation was issued as a result of the stop, whether an arrest was made as a result of either the stop or the search and the approximate quantity of drugs and the value of drug proceeds seized on an annual basis as a result of the routine traffic stop.

The data acquired under this section may only be used for research or statistical purposes, may not reveal either the identity of any individual stopped or of any law enforcement officer and shall not be used in a judicial or administrative proceeding to create an inference of discrimination on the basis of particular characteristics of the individual.

BACKGROUND AND NEED FOR LEGISLATION

The offense of "D.W.B." or "driving while black" is well-known to African-Americans across the country. There are virtually no African-American males—including Congressmen, actors, athletes and office workers—who have not been stopped at one time or another for an alleged traffic violation, namely driving while black.[1]

The Committee believes that the study is necessary because the limited amount of data that is available indicates that although African-Americans make up only 14% of the population, they account for 72% of all routine traffic stops.[2]

The Ninth Circuit Court of Appeals recognized the problem after considering the 1993 case of a Santa Monica police officer who was found to have violated the rights of two black men he stopped and arrested at gunpoint.[3] The Court found that the case was an example of how police routinely violate the constitutional rights of minorities, particularly black men, by stopping them without just cause.[4]

Lawsuits have not provided a solution. In November of 1996, the American Civil Liberties Union sought a fine for contempt of court against the Maryland State Police, arguing that police were still conducting a disproportionate number of drug searches of cars driven by African-Americans almost two years after agreeing to stop as a result of a 1992 lawsuit. Despite the agreement, state police statistics show that 73% of cars subjected to stops and searches on Interstate I–95 between Baltimore and Delaware since January of 1995 were cars driven by African-Americans despite the fact that only 14% of those driving along that stretch were black. Moreover, police found nothing in 70% of those searches.[5]

No one wants to interfere with police drug interdiction work, but the Fourth Amendment requires police to have reasonable grounds to suspect illegal activity before initiating a car search. Recent Supreme Court cases have made car stops even harder to challenge. The Court recently expanded police powers by holding that police need not inform individuals stopped that they have a right not to consent to a search of their vehicles.[6] In another case, the Court held that whenever an officer witnesses a traffic violation, the officer has probable cause to stop the driver, even if the real reason for the stop is not traffic enforcement. The real motivation for the stop does not matter.[7]

Basically, the Supreme Court has held that police have virtually unlimited discretion to stop any driver at any time for any reason.[8] Nonetheless, the color of the driver's skin should never be the reason. If everybody is expected to abide by the rules, then we must

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[1] Thomas Fields-Meyer, Maria Eftimiades, Hugh Bronstein, Ron Arias, Shawn Lewis Ramirez, Gail Schiller and Glenn Garelik, *Under Suspicion, People,* June 15, 1996 at 40.

[2] *Wilkins* v. *Maryland State Police, C.A. No. CCB–93–468, Memorandum on Support of Plaintiff's Motion for Enforcement of Settlement Agreement and for Further Relief* at 7.

[3] *Washington* v. *Skystone-Eagle Lambert,* No. 94–56685, 1996 U.S. App. LEXIS 27860 (9th Cir. 1996).

[4] *Id.* at * 42.

[5] *Wilkins* v. *Maryland State Police, C.A. No. CCB–93–468, Memorandum on Support of Plaintiff's Motion for Enforcement of Settlement Agreement and for Further Relief* at 8–9.

[6] *United States* v. *Robinette,* 117 S.Ct. 417 (1996).

[7] *Whren* v. *United States,* 116 S.Ct. 1769 (1996).

[8] *Whren* v. *United States,* 116 S.C. 1769 (1996); David Harris, *the Open Road is Not so Free, The Legal Times,* July 14, 1997 at S42.

ensure that those rules are applied equally to everybody, regardless of race.

The Traffic Stops Statistics Study Act will discourage law enforcement officers from using race as the primary factor in making determinations as to whether to institute a car search and will provide statistical data as to the nature and extent of the problem of African-Americans being targeted for traffic stops. The bill will also identify the benefits of traffic stops to fight crime by including information on the type of contraband seized, the quantity of drugs and the value of drug proceeds seized pursuant to a routine traffic stop.

HEARINGS

No hearings were held in the 105th Congress on H.R. 118.

COMMITTEE CONSIDERATION

On March 4, 1998, the Committee met in open session and ordered reported favorably the bill H.R. 118 as amended by an amendment in the nature of a substitute by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

Mr. Conyers offered an amendment in the nature of a substitute to call for a study of the issue. Mr. Canady offered an amendment to Mr. Conyers amendment in the nature of a substitute which would prohibit the use of data acquired by the study in any legal or administrative proceeding to establish an inference of discrimination on the basis of particular identifying characteristics. This amendment was adopted by a roll call vote of 19 ayes to 13 nays.

ROLLCALL NO. 1

AYES	NAYS
Mr. Hyde	Mr. Conyers
Mr. Sensenbrenner	Mr. Frank
Mr. McCollum	Mr. Berman
Mr. Gekas	Mr. Boucher
Mr. Coble	Mr. Nadler
Mr. Smith (TX)	Mr. Scott
Mr. Gallegly	Mr. Watt
Mr. Canady	Ms. Lofgren
Mr. Inglis	Ms. Jackson-Lee
Mr. Goodlatte	Mr. Meehan
Mr. Buyer	Mr. Delahunt
Mr. Bryant	Mr. Wexler
Mr. Chabot	Mr. Rothman
Mr. Barr	
Mr. Jenkins	
Mr. Hutchinson	
Mr. Cannon	
Mr. Rogan	
Mr. Graham (SC)	

*Mr. Pease was absent on official business and announced at a later time that he would have voted aye had he been present.

Mr. McCollum offered an amendment to Mr. Conyers amendment in the nature of a substitute which would include in the study statistics on the approximate quantity of drugs and the value of drug proceeds seized on an annual basis as a result of the traffic stops. The amendment was adopted by voice vote. The Conyers amendment in the nature of a substitute, as amended by the amendments offered by Mr. McCollum and Mr. Canady, was adopted by a voice vote a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R.118, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 6, 1998.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 118, the Traffic Stops Statistics Study Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs), who can be reached at 226–2860, and Leo Lex (for the state and local impact), who can be reached at 225–3220.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.
cc: Hon. John Conyers. Jr.
Ranking Minority Member

H.R. 118—Traffic Stops Statistics Study Act of 1998

CBO estimates that enacting this legislation would have no significant impact on the federal budget. The bill would not affect direct spending or receipts, so pay-as-you-go procedures would not apply. H.R. 118 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995.

H.R. 118 would require the Attorney General to conduct a study of stops for routine traffic violations by law enforcement officers. Under the bill's provisions, the Attorney General would collect and analyze data from a sample of law enforcement agencies and submit a report to the Congress within two years of the bill's enactment. Based on information from the Department of Justice, we estimate that implementing this legislation would cost less than $500,000, annually, assuming appropriation of the necessary amounts.

H.R. 118 would only have an impact on the budgets of state, local, or tribal governments if those governments chose to provide information to the Attorney General in connection with this study. In any event, the costs of providing this information are not likely to be significant.

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs), who can be reached at 226–2860, and Leo Lex (for the state and local impact), who can be reached at 225–3220. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Rule XI, clause 2(l)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The title of this Act is the "Traffic Stops Statistics Study Act of 1998."

Section 2. Attorney General to Collect

Section 2 of H.R. 118 authorizes the Attorney General of the Department of Justice to conduct a study of law enforcement stops for traffic violations. The study shall include a collection and analysis of information identifying the race or ethnicity and age of the person stopped, the traffic infraction alleged to have been committed that led to the stop, whether there was a search conducted as a result of the stop, how the search was instituted, the reasons for conducting the search, whether any contraband was discovered in the course of the search, whether any warning or citation was issued as a result of the stop, whether an arrest was made as a result of

either the stop or the search, the approximate quantity of drugs and the value of drug proceeds seized on an annual basis as a result of the routine traffic stop.

Section 3. Limitation on Use of Data.

This section places limitations on the use of data acquired for the study. The section provides that data acquired under this section may only be used for research or statistical purposes, may not reveal either the identity of any individual stopped or of any law enforcement officer and cannot be used in a judicial or administrative proceeding to create an inference of discrimination on the basis of particular characteristics of the individual.

Section 4. Results of the Study

This section gives the Attorney General no longer than 2 years to complete the study and report the results of the study to Congress.

AGENCY VIEWS

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, January 23, 1998.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of September 12, 1997, enclosing a proposed substitute to H.R. 118, the Traffic Stops Statistics Act of 1997. We apologize for the delay in responding to you.

We were pleased to work with the staff of the Committee in developing this substitute to the bill as introduced, and the Department supports the substitute. A study could provide valuable information to help the Department analyze whether routine traffic stops by law enforcement officers result from discrimination based on race or ethnicity in violation of Federal law.

You asked that we comment on how the legislation would be implemented if passed. At present, a specific set of methods for conducting the proposed study has not been devised. However, some of the probable requirements are described below. The first step in the study would be to select an appropriate sample of law enforcement agencies which would be queried with a brief questionnaire to ascertain the extent to which they maintain accessible records on traffic stops in an automated or manual form. We would then ask each agency to supply a record layout or data list specifying the kinds of information maintained on each stop, the level of completeness of such records, and methods for sharing such data electronically. The responses by agencies to these items would help to clarify the availability of the type of information specified in the bill. As a part of this process, we would determine how police departments could participate in the study. In order to carry out these tasks, sufficient funding should be authorized in the bill.

I hope this information is helpful to the Committee. Please do not hesitate to call upon us if we may be of further assistance.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

cc: Hon. John Conyers, Jr.
Ranking Minority Member.

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