

HOUSE No. 02853

The Commonwealth of Massachusetts

PRESENTED BY:

Byron Rushing

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to improve the collection and analysis of data relative to traffic stops.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>

HOUSE No. 02853

By Mr. Rushing of Boston, a petition (accompanied by bill, House, No. 2853) of Andrews and others for legislation to improve the collection and analysis of data relative to traffic stops Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to improve the collection and analysis of data relative to traffic stops.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 90C is hereby amended by inserting after Section 6 the following new
2 section:

3 Section 6A. Improved Systems for Collection and Analysis of Data Relative to Traffic Stops

4 (A) Ban on racial profiling.

5 (1) No state, municipal, college or university law enforcement officer or law enforcement
6 agency shall engage in racial profiling.

7 (2) As used in this section, “racial profiling” means the use by a state, municipal, college or
8 university law enforcement officer or state, municipal, college or university police department of
9 race, ethnicity, or national origin to any degree in deciding who should be subject to traffic stops,
10 pedestrian stops, frisks and other types of bodily searches, interviews, and searches and seizures

11 of motorists, passengers, and motor vehicles, except when such characteristics are used in
12 combination with other identifying factors in seeking to apprehend a specific suspect whose
13 racial, ethnic or national origin status is part of the description of the suspect, which description
14 is particularized, timely and reliable.

15 (B) Traffic Data Review Committee.

16 (1) There is created a Traffic Data Review Committee, consisting of not more than 13
17 members, which shall independently exercise its powers, duties, and responsibilities. The Traffic
18 Data Review Committee shall have the authority to allow additional participation from various
19 groups that the Committee deems necessary for additional input.

20 (2) The Traffic Data Review Committee shall consist of:

21 (a) two legislators appointed by the General Court leadership, one member from each house;

22 (b) the Attorney General or his or her designee;

23 (c) the Secretary of Public Safety and Security or his or her designee, who shall serve as
24 chair;

25 (d) the Registrar of Motor Vehicles or his or her designee;

26 (e) the Colonel of the Massachusetts State Police or his or her designee;

27 (f) the Chief Counsel of the Committee for Public Counsel Services or his or her designee;

28 (g) one police officer from a municipal law enforcement agency, appointed by the
29 Massachusetts Police Association;

30 (h) one member of the Massachusetts Chiefs of Police Association and one member of the
31 Massachusetts Major City Chiefs Association, each selected by their respective boards of
32 directors;

33 (i) two members of community and/or civil rights advocacy organizations appointed by the
34 Governor; and

35 (j) one member of the Massachusetts academic community with specific expertise in both
36 statistical analysis and law enforcement, appointed by the Governor.

37 Members of the Traffic Data Review Committee shall be appointed within 45 days of the
38 effective date of this act.

39 (3) All Traffic Data Review Committee members shall serve, without compensation, for two
40 years and until their successors are appointed. Members may be reappointed for an unlimited
41 number of terms. The Traffic Data Review Committee shall meet at the call of the chair of the
42 Committee based on the Committee's workload but shall meet at least quarterly. The Executive
43 Office of Public Safety and Security shall provide staff and administrative services for the
44 Traffic Data Review Committee.

45 (4) The Traffic Data Review Committee shall have the following powers, duties, and
46 responsibilities:

47 (a) to operate as an advisory body, with any proposed changes to rules and policy promoted
48 by the Traffic Data Review Committee constituting recommendations, which may be reported to
49 the Governor, the Secretary of Public Safety and Security, and the General Court and/or to state,

50 municipal, college or university police departments and other entities identified as appropriate by
51 the Traffic Data Review Committee;

52 (b) to promulgate model policies for state, municipal, college or university police
53 departments that are designed to protect individuals' civil rights related to law enforcement
54 practices with regard to traffic stops, which model policies may be based in part on a review of
55 existing policies developed or adopted by state, municipal, college or university police
56 departments in the Commonwealth;

57 (c) to recommend to state, municipal, college and university police departments model rules
58 necessary to effectuate training on data collection and analysis and mechanisms to engage
59 agencies that do not fulfill the requirements of this section and to help identify potential sources
60 of funding for data collection and analysis training;

61 (d) to identify and recommend best practices for traffic stop data collection and analysis,
62 including best practices for making use of advanced technologies, and to advise the Executive
63 Office of Public Safety and Security regarding the development of a system for state, municipal,
64 college and university police departments to electronically gather, record, and report information
65 concerning motor vehicle accidents, violations, traffic stops, and citations;

66 (e) to consider and make recommendations about how to determine the baseline data against
67 which data collected pursuant to subsection (C) shall be measured;

68 (f) to review reports compiled pursuant to subsections (E)(1) and (E)(4), and, as necessary,
69 other data or reports collected or compiled pursuant to this section, and to consider and propose
70 solutions to identify, eliminate and prevent racial profiling;

71 (g) to support and encourage state, municipal, college and university police departments in
72 their outreach to local communities concerning a) the goals of traffic enforcement, b) perceived
73 racial and ethnic disparities in traffic stops and other law enforcement activities, and c) strategies
74 for monitoring and reducing such disparities where found to exist;

75 (h) to review reports, analyses, recommendations, and conclusions compiled using data
76 collected in connection with the implementation of Massachusetts Chapter 228 of the Laws of
77 2000, and to consider such reports, analysis, recommendations and conclusions in executing the
78 powers, duties, and responsibilities under this subsection; and

79 (i) to issue an annual report to the Governor, no later than September 1, regarding the Traffic
80 Data Review Committee's activities during the previous fiscal year, which report shall also be
81 filed with the Clerks of the Senate and the House of Representatives.

82 In accordance with subsection (4)(e) above, the Traffic Data Review Committee may consider,
83 among other matters, the following:

84 i. whether the percentage of minority drivers or passengers being stopped in a given area is
85 substantially higher than the proportion constituted by the minority population within the overall
86 population residing in or traveling through that area;

87 ii. whether a disparity exists between the frequency of stops of minorities not resulting in
88 the issuance of a traffic ticket or the making of an arrest, and the proportion of minorities within
89 the overall population residing in or traveling through that area;

90 iii. whether a disparity exists between the proportion of citations issued to minorities and the
91 proportion of minorities within the population residing in or traveling through that area;

92 iv. whether a disparity exists among particular officers employed within the same law
93 enforcement agency with regard to the number of minority drivers or passengers they stop within
94 in a given area; and

95 v. whether a disparity exists between the frequency of searches performed on minority
96 drivers and the frequency of searches performed on non-minority drivers.

97 (C) Ongoing Data Collection.

98 Whenever a motorist is stopped by any state, municipal, college or university law enforcement
99 officer, the officer shall record the following data:

100 (a) the race, ethnicity, and gender of the motorist;

101 (b) the reason for the traffic stop;

102 (c) the location and time of the traffic stop;

103 (d) whether a search was initiated as a result of the stop, and whether the search was
104 conducted with consent;

105 (e) whether contraband was found or any materials were seized during a search;

106 (f) whether the stop resulted in a warning, citation or arrest;

107 (g) the name and badge number of the officer initiating the stop.

108 The state police department and each municipal, college and university police department shall
109 review each officer's stop and search documentation on at least a quarterly basis to ensure
110 compliance with this subsection.

111 (D) Electronic Data Systems.

112 Any electronic systems developed for state, municipal, college, or university police departments
113 to issue motor vehicle citations, or to gather, record, report, and study information concerning
114 motor vehicle accidents, violations, traffic stops, or citations, shall be designed in a manner that
115 facilitates the collection of the data described in subsection (C) of this section and the automatic
116 transmission of said data to the Registry of Motor Vehicles and the Executive Office of Public
117 Safety and Security. The Executive Office of Public Safety and Security shall obtain the
118 participation of the Traffic Data Review Committee in the development and implementation of
119 such electronic systems, and in the development of a uniform protocol for law enforcement
120 officers on how to use such electronic systems to record the data described in subsection (C).

121 Upon the adoption of such an electronic system by any state, municipal, college, or university
122 police department, said department shall record the data set forth in subsection (C) for all traffic
123 stops and shall, no less frequently than once a month, transmit said data by electronic means to
124 the Registry of Motor Vehicles and the Executive Office of Public Safety and Security.

125 (E) Data Analysis.

126 (1) The Registry of Motor Vehicles shall maintain all data described in subsection (C) in an
127 electronically accessible database and shall issue to the Secretary of Public Safety and Security
128 and to the Attorney General a semi-annual summary report of said data. The report shall include,
129 for each police department, statistical data setting out, in a month-by-month format, the number
130 of traffic stops made, the number of citations issued, the number of searches conducted, the race
131 of the drivers stopped, the race of the drivers searched, and any other information as may be
132 requested by the Traffic Data Review Committee. The Registry of Motor Vehicles shall also

133 issue to the state police department and each municipal, college and university police department
134 subject to this section a semi-annual summary report of the data collected within each
135 department's jurisdiction. Each report shall include, for each month, statistical data setting out
136 the number of traffic stops made, the number of searches conducted, the race of the drivers
137 stopped, the race of the drivers searched, and any other information as may be requested by the
138 Traffic Data Review Committee. The semi-annual reports required by this subsection shall be
139 submitted no later than April 1 and September 1 and each report shall include data collected
140 during the preceding half of the fiscal year, regardless of whether complete data is available for
141 that period. No information revealing the identity of any individual shall be contained in the
142 reports. The reports submitted pursuant to this subsection shall be public records.

143 (2) The heads of the state police department and each municipal, college and university
144 police department subject to this section, or his/her designee, shall review the underlying data
145 and summary reports collected and compiled pursuant to this section on a regular basis in an
146 effort to determine whether any racial disparities in the department's traffic stops exist, and to
147 appropriately respond to any such disparities.

148 (3) On an annual basis, the Secretary of Public Safety and Security shall transmit the data
149 collected by the state police department and by each municipal, college and university police
150 department in accordance with this act to a university in the Commonwealth with experience in
151 the analysis of such data, which shall prepare an analysis and a report. This analysis and report
152 shall be submitted to the Governor and the Traffic Data Review Committee not more than 90
153 days after receipt of the data by the university, and shall be deemed a public record. The report
154 shall include a multivariate analysis of the collected data in accordance with generally accepted
155 statistical standards and will identify any statistically significant disparities.

156 (F) Data Availability.

157 Any individual charged with a criminal offense based on evidence or statements obtained as the
158 result of a motor vehicle stop shall have the right to obtain data collected pursuant to this section
159 concerning any officer who participated in the stop or the search that resulted in the seizure of
160 evidence, from the Registry of Motor Vehicles, the Executive Office of Public Safety and
161 Security, and from the police department or the department of the officer(s) involved in the
162 traffic stop or search; provided that information revealing the name, street address, date of birth,
163 and driver's license number of individuals involved in motor vehicle stops who are not law
164 enforcement officers or their agents shall not be disclosed; and provided further that information
165 revealing the home address, date of birth, personal telephone number or any personal identifying
166 information other than the name, badge number, and department of a law enforcement officer
167 shall not be disclosed. Requests for such data may specify a single or multiple incidents, dates,
168 locations or any other combination of data collected pursuant to subsection (C).

169 (G) Enforcement.

170 The attorney general may bring a civil action in the superior court for injunctive or other
171 appropriate equitable relief to enforce the provisions of this section. A person claiming to be
172 aggrieved by a violation of this section may not institute an individual action for damages or
173 other relief under this section, but nothing in this paragraph shall be construed to limit any other
174 rights or remedies, including, but not limited to, a civil action for a violation of constitutional
175 rights under section 11I of chapter 12 of the General Laws or 42 U.S.C. section 1983 or motions
176 for suppression or dismissal or other relief in a criminal case.

177 The attorney general shall issue an annual summary report of the complaints received concerning
178 the enforcement of the provisions of this section and the actions taken with respect to such
179 complaints. The report shall be submitted to the Traffic Data Review Committee not more than
180 90 days after the end of each fiscal year, including the first fiscal year-end following the
181 effective date of this act, regardless of whether data based on a full fiscal year is available. No
182 information revealing the identity of any individual shall be contained in the report. The reports
183 submitted pursuant to this subsection shall be public records.

184 SECTION 2.

185 Subsection (C) of Section 6A of Chapter 90C shall take effect 12 months from the effective date
186 of this act, at which time Chapter 228 of the Acts of 2000 shall be repealed.

187 Subsection (E) of said Section 6A shall take effect at such time as the Executive Office of Public
188 Safety and Security makes available to law enforcement agencies an electronic system described
189 in subsection (D).