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**Attorney General**

*State of California*  
**DEPARTMENT OF JUSTICE**



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January 26, 2021

The Honorable Kevin McCarty  
Assemblymember  
State Capitol, Rm. 2136  
Sacramento, CA 95814

**Re: Assembly Bill 1506 (McCarty) Police Use of Force (Chapter 326, Statutes of 2020)—Notice of Insufficient Funding**

Dear Assemblymember McCarty:

Attorney General Becerra appreciates your willingness to engage with the Department of Justice (DOJ) on Assembly Bill (AB) 1506 (Chapter 326, Statutes of 2020). AB 1506 requires a state prosecutor, which is the Attorney General unless otherwise specified, to investigate all officer-involved shootings (OIS) resulting in the death of an unarmed civilian, as defined by the bill. Beginning July 1, 2023, AB 1506 also requires the DOJ to operate a “Police Practices Division” that, upon the request of a law enforcement agency (LEA), would conduct a review of that LEA’s use-of-force policies.

Implementation of the undertakings in AB 1506 are subject to the appropriation of resources by the Legislature. The DOJ looks forward to working with the Legislature and the Administration through the budget process to receive the funds necessary to ensure the successful implementation of the bill. Worth noting, we believe AB 1506 will need clarifying amendments to strengthen the bill and we look forward to working with the author’s office.

The DOJ’s fiscal estimate for implementing AB 1506 is approximately \$26 million in FY 2021-22 and \$22 million in FY 2022-23. Once the Police Practices Division established by the legislation starts up on July 1, 2023, the total ongoing funds starting FY 2023-24 for all operations required under AB 1506 will reach \$30 million. Broken down by category, the criminal investigation and prosecution responsibilities will require close to \$22 million in ongoing funds and the Police Practices Division will require slightly more than \$8 million in ongoing funds. The pending Budget Change Proposal (BCP) does not include funding for the Police Practices Division in the 2021-2022 Budget and we look forward to working with the Administration and the Legislature to secure funds in the 2022-2023 Budget. Unfortunately, the BCP only allocates \$13 million General Fund in 2021-22, and \$13.5 million annually thereafter to implement the bill, which is significantly lower than our estimates and not enough resources to stand up professional teams to perform these new investigative and prosecutorial duties. As a result, the DOJ will have limited capacity to implement this bill, short of redirecting resources from other essential, mandated work, which could compromise those operations. We respectfully request your assistance in securing the necessary resources.

The DOJ estimates it will be called upon to perform its criminal investigative function under AB 1506 in approximately 40 cases involving unarmed civilians each year. This estimate is based on data tracking OIS back to 2016. There have been, on average, 140 OIS incidents involving civilian deaths every year since 2016. Approximately 14% of those incidents (20 out of 140) involved civilians who were not armed with any type of weapon. In addition, there were 9 incidents, on average, that involved a civilian armed with a replica of a firearm. The data also reveals approximately 11 incidents on average that involved civilians armed with objects that may not qualify as deadly weapons. Thus, we anticipate we will have to conduct independent criminal investigations into 40 cases each year and this is the basis for our annual costs estimate for this portion of the bill. It is also notable, however, that some investigatory work will also be necessary at the outset of each case to determine if a deadly weapon was involved or not and whether our office is responsible as the primary investigatory agency of these incidents.

The DOJ's Division of Law Enforcement (DLE), which will be responsible for the independent criminal investigations, does not currently maintain the personnel required to perform this complex investigative work on a statewide basis. DLE will need to hire and onboard personnel responsible for investigating the estimated 40 cases a year. We estimate the total ongoing cost to DLE will be approximately \$13.2 million out of the approximately \$22 million a year cost to the entire department. These costs include hiring 57 permanent positions for four investigative teams, purchasing and maintaining specialized equipment, evidence storage, technology and software maintenance, administrative overhead, ongoing specialized training, long-term case management, and responding to civil litigation and public inquiries. Unfortunately, the BCP only provides DLE with \$9.16 million in 2021-22, \$7.27 million ongoing funds beginning in 2022-23 and 34 permanent positions for three investigative teams. Based on OIS incident data, DLE determined that four investigative teams, with one each in Sacramento, Fresno, Los Angeles, and Riverside, will be necessary to handle the new independent criminal investigation responsibilities. This is because these teams will be required to rapidly respond to the scenes of OIS incidents in all 58 counties. The staffing model DLE proposes is exceptionally conservative and based on its experience conducting an independent criminal investigation of the Sacramento Police Department after the shooting of Stephon Clark and conducting interviews with LEAs. The current proposed resources are not adequate for DLE to effectively complete investigations throughout the state.

With regard to the OIS independent prosecution function under AB 1506, we estimate the total ongoing cost per year to be approximately \$4.9 million. The DOJ's Criminal Law Division expects it will need 13 attorneys and 9 legal support staff (a total of 22 new, permanent personnel) to handle the review, evaluation, report preparation, and potential prosecutions of the estimated 40 incidents per year. Unfortunately, the BCP only allocates 12 permanent positions, \$2.281 million in 2021-22, and \$4.397 million in ongoing funds.

The DOJ also anticipates approximately \$4 million in annual costs to its other divisions to implement AB 1506, including the Civil Law Division, the Directorate Division, and the Division of Operations. For example, the Directorate Division, which houses the DOJ's Public Inquiry Unit and the Communication and Imaging Resource Center, will have a significant fiscal impact of approximately \$3.7 million to handle additional complaints against LEAs and to review and redact audio and video footage for each investigation. The remaining costs fall under the Civil Law Division,

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which anticipates an increase in Public Records Act requests and potential litigation, and the Division of Operations, which will need one additional staff and resources to house investigative evidence materials. Unfortunately, the BCP proposed less than half of the requested resources including no funding for the Civil Law Division.

As I noted at the outset, Attorney General Becerra appreciates your willingness to work with the DOJ to fully and successfully implement this important legislation. We look forward to engaging with the Legislature and the Administration to secure sufficient resources and time critically needed to establish a thorough and independent process for reviewing OIS incidents under AB 1506. As Attorney General Becerra repeatedly emphasized last year during consideration of AB 1506, standing up a new operation to independently investigate and potentially prosecute peace officers involved in a shooting resulting in the death of an unarmed civilian cannot be done properly absent the necessary resources and preparation. The DOJ respectfully requests your assistance in securing the resources necessary to implement AB 1506.

Thank you for your consideration. If you or your staff have any questions, please do not hesitate to contact Martin Radosevich at [martin.radosevich@doj.ca.gov](mailto:martin.radosevich@doj.ca.gov) or [\(916\) 210-6142](tel:9162106142).

Sincerely,



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Legislative Policy Advocate  
Office of Legislative Affairs

For XAVIER BECERRA  
Attorney General

cc: The Honorable Philip Ting, Chair, Assembly Budget Committee  
The Honorable Nancy Skinner, Chair, Senate Budget & Fiscal Review Committee  
Emma Jungwirth, Principal Program Budget Analyst, California Department of Finance  
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Jessica Devencenzi, Deputy Legislative Secretary, Governor's Office of Legislative Affairs