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MEMORANDUM

TO: Col. Gary Settle, Superintendent
Department of State Police

FROM: Michael A. Jagels
Senior Assistant Attorney General

DATE: August 11, 2021

SUBJECT: Regulation Relating to Motor Carrier Safety Regulations – 19 VAC 30-240.

In response to a request from the Department of State Police, I have reviewed the proposed amendments to the regulations to be set forth in 19 VAC 30-240 relating to the Community Policing Act: data collection and reporting requirements.

The 2020 session of the General Assembly passed a bill to amend the Code of Virginia by adding in and amending several Code sections (§§ 9.2-191, 15.2-1609.10, 15.2-1722.1, 52-30.1 through 52-30.4) relating to the Community Policing Act; data collection and reporting requirements. Additional updates to the Community Policing Act took place July 1, 2021 per Chapter 37 of 2020 Special Session I. Under the Community Policing Act, each time a law-enforcement officer or State Police officer stops an Individual or Driver of a motor vehicle, such officer shall collect the following data based on the officer's observation or information provided to the officer by the Individual or Driver: (i) the race, ethnicity, age, gender of the person stopped, and whether the person stopped spoke English; (ii) the reason for the stop; (iii) the location of the stop; (iv) whether a warning, written citation, or summons was issued or whether any person was arrested; (v) if a warning, written citation, or summons was issued or an arrest was made, the warning provided, violation charged, or crime charged; (vi) whether the vehicle or any person was searched; and (vii) whether the law-enforcement officer or State Police officer used physical force against any person and whether any person used physical force against any officers. In addition to stop information, each state and local law-enforcement agency shall collect the number of complaints the agency receives alleging the use of excessive force.

Upon review of the aforesaid amendments, I find them to be constitutional, consistent with the

statutory authority conferred by § 52-8.4 of the Code of Virginia, and in conformity with existing statutory provisions. This change to the regulations is exempted from the Administrative Process Act, pursuant to § 2.2-4006(A)(4)(a), because it is necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved.

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that a certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action