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Policy Report

Eliminating Racial Profiling *A Third Way Approach*

February 2000

John D. Cohen, Janet Lennon, and Robert Wasserman

Introduction

Until recently, African-American drivers on the New Jersey Turnpike stood a much greater chance than white drivers of being stopped by the State Police for a random drug search. This practice--an example of racial profiling--ended abruptly last year when public outrage forced the removal of the State Police Superintendent.

The outcome in New Jersey was, however, the exception rather than the rule. In fact, law enforcement agencies throughout the nation commonly use tactics that subject members of certain minority groups to closer scrutiny than others. When a police officer detains and investigates a person or group of people primarily because of their race-- absent of any information linking them to criminal activity--that officer is engaged in racial profiling.

For example, for several years, police have known that African-American gang members from New York City fly to Florida to buy cocaine. These gang members then use rental cars to transport the cocaine back to various locations in the Northeastern United States. Aware of this pattern, police officers from various agencies have adopted an enforcement approach in which they select primarily cars driven by African-American males traveling northbound on Interstate 95 to stop and search for drugs. While these stops have occasionally led to seizures of illegal drugs, they have also resulted in individuals who are not involved in illegal activity being stopped and detained.

Racial profiling is not limited to enforcement activities on the highway. An African- American actor is presently suing the City of New York following his arrest in the lobby of his apartment building. He was arrested, along with five other African-American males, during a police operation intended to arrest suspected drug dealers. The actor was placed into custody for five hours and strip searched, even though he was not in possession of any drugs or involved in any criminal activity.

If racial profiling were a matter of simple bigotry, it would be easy to condemn and ban. But law enforcement officials, including some African-American police chiefs in big cities, defend such tactics as an effective way to target their limited resources on likely lawbreakers. They maintain that profiling is based not on prejudice but probabilities--the statistical reality that young minority men are disproportionately likely to commit (and be the victim of) crimes. Citing these facts, the courts have repeatedly upheld the constitutionality of routinely using race as a criteria for selecting the targets of enforcement action.

Of course, there are situations in which police must take race or ethnicity into account to do their jobs effectively. An obvious example is when skin color is part of a description of specific suspects committing specific crimes. In addition, such descriptions help police narrow the pool of potential suspects and concentrate their enforcement efforts. Let's say that a police department has knowledge that jewelry store salespeople are being robbed. The robberies occur just after the store closes when the sales personnel are leaving work. Witnesses describe the suspects as male, Hispanic adults. Police are also told that prior to past robberies, witnesses have observed several Hispanic males seated in a car that matches the description of what is later to be determined as the suspect vehicle. Based on this scenario, a police officer would be justified in investigating a vehicle containing a group of Hispanic males parked adjacent to a jewelry store at closing time. And even though the criteria used by police to target this

vehicle includes that the occupants are Hispanic, the police are not using "racial profiling." However, if police officers from this department--in an effort to stop these robberies--made it a practice to stop any and all vehicles occupied by male Hispanics, anywhere in the city, at any time, they would be engaged in racial profiling.

The well-founded belief that authorities use racial profiles to justify more intensive observation and questioning of people of color has fed escalating tensions between police and minority communities. Racial profiling has triggered widespread complaints among minority men, including many middle-class professionals, of police harassment based solely on their skin color.

Political opposition to racial profiling is mounting. President Clinton recently called the practice "morally indefensible" and ordered federal law enforcement officials to collect information on the race and sex of people they stop. Vice President Al Gore and his rival for the Democratic nomination, former Sen. Bill Bradley, have promised to ban racial profiling by federal authorities.

Progressives should press for an end to profiling on both civic and practical grounds. First, racial profiling corrodes the presumption of innocence to which all American citizens are entitled. It is always dangerous to stray from the bedrock liberal principle that individuals must be judged on their own merits, not on their class, race, ethnic background, or gender. Second, whatever gains the police may reap from profiling are overwhelmed by its costs: alienating law-abiding citizens and reinforcing the view in poor communities of the police as an occupying force rather than a common instrument for self-defense.

Moreover, police now have an alternative: new, community-based strategies buttressed by real time access to information that can help them target people who have actually committed crimes as opposed to people who happen to be members of racial or ethnic minorities. After all, profiling uses race as a proxy for criminal intent or culpability because police often lack specific information about specific individuals. Modern information systems and strong police community interaction that foster the exchange of information will ensure that police make decisions based on facts and data instead of race.

The problem with racial profiling is not that it targets "dangerous people in dangerous places." It is that it targets inaccurately and in ways that breed resentment and mistrust between the police and poor communities. What we need is the right kind of targeting, based on better information about lawbreakers and closer cooperation between the police and the community. In this paper, we propose a Third Way: replace racial profiling with new tools that will help the police to make better judgments, deploy their resources more strategically, and most important of all, enlist citizens in crime-riddled neighborhoods in their own self-defense.

Specifically, we propose strategies to:

- **Deploy information technology more effectively.** We must develop and deploy information technology systems to put accurate, timely information about the location of criminal activity and the people involved in it in the hands of cops on the street, permitting them to make decisions based on data instead of race. The technology exists to dramatically improve the collection, processing, and spreading of information within the entire criminal justice system, but it has not been deployed. These same advances can make it easier for citizens to provide police with information about crime-related problems.
- **Concentrate on "hot spots."** Our crime-fighting strategies should recognize and respond to the well-documented fact that crime, and especially violent crime, is heavily concentrated in certain geographic areas. The actions of police, prosecutors, parole officers --indeed, every aspect of the criminal justice system--should be coordinated and brought to bear on these crime "hot spots."
- **Focus on high-risk offenders.** A relatively small number of people are responsible for a majority of crimes. As in "hot spots," we need to target the criminal justice system's full panoply of resources on these dangerous people.

- **Improve police recruitment and training.** We need to enhance the quality of our police forces with more stringent hiring standards and train officers to identify the conditions, trends, and behaviors that are true indicators of criminal activity.

Race and Law Enforcement

In the early part of this century, racial discrimination was codified in many state laws and the police were expected to enforce what most Americans today regard as unjust laws. Over the past three decades, there have been systematic efforts to eliminate blatant bigotry from the nation's criminal justice system. Outright discrimination is clearly much less prevalent than in the past. Nonetheless, there are still many Americans, particularly racial and ethnic minorities, who are convinced that police unfairly target them.

Undoubtedly, there are still people in our criminal justice system who are influenced by racial or ethnic prejudice. Just as surely, some instances of profiling, or of excessive force, can be attributed to a racist outlook. When racial prejudice prevents anyone in the criminal justice system from treating all citizens in a fair and equal manner, the only solution is to remove such people from positions of public trust.

But the routine use of racial profiling today has more to do with techniques of "modern" policing than old-fashioned bias. In the middle part of this century, police officials instituted a new model of "professional policing" in an effort to deal with corruption. Under this model, police officers were taken off the streets and placed in radio-dispatched patrol cars, controlled and monitored from a centralized location. Officers were responsible for large geographical areas and were evaluated based on such performance measures as number of arrests, number of calls for service handled, and response times. Departments became 911 driven, and officers were discouraged from forming close bonds with the community. The result: police officers became detached from the communities they served.

Today, many police departments (even many of those that promote community-oriented policing) still emphasize random or reactive tactics. Rarely do police officers (or their supervisors) begin their day with a specific problem to solve and a defined, information-driven solution to that problem. Generally, police officers randomly drive around a loosely defined beat area, responding to calls for service, or using a set of nonspecific criteria to decide which people and cars to stop. This culture of random policing has alienated police from the communities they are charged with protecting, fostering an "us vs. them" mentality in which racial profiling and charges of racially-inspired police brutality flourish.

The authors of this paper know from personal experience that most police officers are hard-working, decent people who are struggling to be effective with minimal resources and under difficult conditions. They are held accountable for preventing crime, but they are seldom provided up-to-date information regarding crime trends and conditions influencing crime. This operational environment requires police officers to make discretionary judgments about who to stop and when to detain people. Lacking reliable information, and sometimes training in how to establish proper "probable cause," officers often rely on "hunches" or other superficial criteria--such as a minority person traveling in "the wrong neighborhood"--to justify detaining and questioning an individual. They believe that they are making a rational decision based on their experience; that they are simply doing their job.

Some legal and law enforcement experts argue that the use of racial profiling is an effective method of strategically addressing specific crime problems. They believe that the most effective use of their limited resources is to focus on minorities because they are statistically more likely to be involved in crime. They further argue that racial profiling is appropriate when the race of an individual is one of a number of legitimate factors used by police to decide whom to stop and question.

Yet their core premise--that racial profiling is an effective and efficient way to catch criminals--is fatally flawed. When police use race-based profile resources, they often devote time and attention to individuals who are *not* involved in illegal activity--leaving actual criminals free to continue committing crimes. Assuming that all members of a race are legitimate targets for police action because they have the same skin color as individuals engaged in criminal activity is not a sound assumption on which to base an enforcement strategy.¹ The vast majority of serial killers are white. Yet no one would argue that because

all white people are potentially serial killers, they should be subject to random police stops. From a law enforcement perspective, the use of race is not the most effective method for deciding whether a person may be potentially violating the law.

Tough law enforcement does not require that the police treat some citizens unfairly. Indeed, some of the most effective community-oriented policing initiatives combine the goal of curbing crime with a commitment to treat every person with the utmost respect, regardless of the circumstances. Communities that have embraced this philosophy of policing have not only realized dramatic reductions in crime, they've also seen citizen complaints against the police plummet. San Diego, for example, has achieved a reduction in crime statistically equal to that achieved in New York City through a crime strategy based on problem solving and community mobilization. Rochester, NY, has adopted an aggressive crime reduction strategy with a commitment by the chief of police that every citizen will be treated with maximum respect. Rochester also has witnessed both a substantial reduction in crime and in citizen complaints.

Reducing Crime and Ending Racial Profiling--A Third Way Approach

Racial profiling is inconsistent with the basic freedoms and rights afforded in our democracy. It erodes the foundation of trust between communities and public authorities. Worst of all, it inflames racial and ethnic strife and undermines America's progress toward color-blind justice.

Improving the relationship between minority groups and police is one of the greatest challenges confronting our criminal justice system. According to Washington, D.C., Police Chief Charles Ramsey, "Race relations between the police and the community is one of the fundamental things that we must work through and 'get right' if we are to have any hope of significant and lasting progress on stopping illegal drugs, reducing youth crime, and improving public safety." Acknowledging the gravity of this problem, U.S. Attorney General Janet Reno and police executives from throughout the country have held three recent meetings on the subject of profiling and race relations. But no clear strategy has emerged for resolving this complex issue.

Without community support, tougher law enforcement can only go so far. If we are to make deeper inroads into crime, we must employ enforcement strategies that treat all law-abiding Americans with respect. We also must move beyond police tactics that have officers driving or walking around at random hoping to find crime, or stopping people or cars based solely on "hunches." There is growing evidence that communities can reap significant decreases in crime when police work closely with community members (business leaders, clergy and residents) to identify local conditions that breed disorder and to craft information-driven strategies to prevent crime.

In addition to the overriding imperative of better community support, the progressive alternative to racial profiling is based on the following four key strategies:

Use Technology to Enable the Police and Increase Citizen Participation

Whether in an inner city neighborhood or on an interstate highway, the use of accurate and timely information allows police to identify both the location of criminal activity and the people involved in it. Information plays a key role in the identification of "hot spots" and the repeat offenders that the criminal justice system should target. If state troopers have information about specific people or vehicles involved in the transportation of illegal drugs, they will not have to rely on race or ethnic profiles.

Advances in technology promise to significantly change the way we address crime in our cities, towns, and on our highways. The information technology revolution has improved the ability of people in the criminal justice system to collect, process, and disseminate information. Linked information systems, wireless data technology, and systems that link the community with police will provide police the critical information needed to identify trends and situations that demand law enforcement focus. Police officers can now access information and images of persons who are wanted for crimes via laptop computers in their police cars. Additionally, officers can use these same laptops to file reports and complete other administrative tasks. This allows them to stay in the field longer. Information and

communication systems will link regional agencies and enable multi-agency efforts to target the locations where crimes occur and the people who commit them. The same information systems also can monitor the performance of police officers, highlighting patterns of behavior that may signal bad decision-making.

These advances will make it easier for citizens to provide information to police regarding crime-related problems. For example, some police departments are using the Internet to enable people to file police reports and to get information regarding criminal activity in their neighborhoods. Other departments are using advanced telecommunications technology in conjunction with an easy-to-remember, non-emergency number (311) to improve the response to both emergency and non-emergency calls for service, and to create discretionary time for community-oriented policing.

Unfortunately, the criminal justice community has been slow to exploit the full potential of the new technologies. Many agencies can't afford cutting edge technology; others have senior executives who don't grasp how technology can leverage existing criminal justice resources toward more effective policing. The federal government should launch an educational campaign to raise awareness among federal, state, and local criminal justice agencies about what new information tools are available and how they can be a "force multiplier" for police.

Concentrate on Crime "Hot Spots"

Research confirms what Americans instinctively understand: crime is heavily concentrated in certain geographical locations. A small number of addresses tend to generate a large amount of crime, and these addresses tend to be clustered in particular neighborhoods. Some studies have indicated that as much as 50 percent of all crime occurs at about 3 percent of addresses. For violent crime, this concentration is even more pronounced. The pattern holds true for urban, rural, and suburban settings. It is therefore crucial for law enforcement authorities and community leaders to cooperate in targeting resources on those hot spots where most crime takes place. Efforts by police and prosecutors to target hot spots should also be coordinated with other public and community agencies, such as those responsible for after school programs, housing, and drug treatment.

Maryland Lt. Governor Kathleen Kennedy Townsend has spearheaded a statewide "HotSpots" program that should be a model for the nation. State grants initially supported 36 multi agency and community-based efforts to reclaim the neighborhoods hardest hit by crime and drugs. The state assists crime-ridden communities in developing a comprehensive strategy that includes community mobilization, community-oriented policing, community probation,² and delinquency prevention.

This information-driven approach has had dramatic results. HotSpot locations recorded significant decreases in serious crime that doubled both national and state averages, leading Maryland to double the number of HotSpots communities that receive state funds.³

Focus on High-Risk Offenders

Research also has shown that a small proportion of high-risk offenders accounts for a large proportion of crime. An exhaustive study of career criminals conducted by the National Academy of Sciences found that while half of all offenders commit more than one crime per year, 10 percent of offenders committed over 100 crimes per year. A study in Baltimore found that almost 60 percent of adults arrested are on some type of criminal justice supervision (probation and parole) at the time of their arrest.

Incredibly, however, many police departments continue to employ crime control strategies that involve the random search for people committing crime when it is clear that the majority of crime is committed by individuals who are not only well known to the law enforcement community, but who are also under criminal justice supervision.

Some jurisdictions have realized impressive reductions in crime by targeting these high-risk individuals. Boston, for example, quelled a severe epidemic of youth violence with a multi-faceted approach

involving government and the community. The police identified violence-prone youth, who were then contacted as well by social workers, probation officers, and church leaders. These youths quickly discovered that they were being closely monitored not only by law enforcement officials, but by a caring community. Coupled with this initiative was an expanded gun enforcement effort to track down those who were selling guns to youths. The results were impressive. For two years, there were no gun related homicides committed against or by a person under the age of 18. Additionally, Boston substantially reduced its level of youth violence through these collaborative initiatives.

A success like Boston's shows that it is not only assertive police action that can reduce disorder and violence. Community-backed approaches work better than reliance solely on police action.

Strengthen Police Training and Accountability

Police officers hired to protect our communities must recognize that treating citizens with respect is the highest priority of the profession. Police departments must redouble efforts to screen applicants for this ability and eliminate those who lack it. While hiring requirements should be set locally based on the specific needs of specific communities, departments across the nation are exploring residency ⁴ and mandatory education requirements as ways to enhance the quality of their law enforcement officers.

Many police agencies have begun requiring an associate's degree as a minimum academic credential while others require or offer signing and retention bonuses for people with bachelor's degrees. It is generally agreed that applicants with higher levels of education have better communications skills and show greater versatility in problem-solving. However, such requirements often make it difficult to recruit minority officers, since there is intense competition in the job market for minority candidates with college degrees.

Law enforcement agencies traditionally have tended to recruit college students majoring in criminal justice or criminology. Many police agencies will also provide continuing education benefits to their officers only for criminal justice studies. To widen the pool of potential recruits, law enforcement should look also to students with a broader educational focus.

Everywhere, the quality of police training must be dramatically improved. Law enforcement professionals must be trained to identify conditions, trends, and behaviors that are true indicators of criminal activity. They must also be trained to understand and articulate the cornerstone principles of American justice, such as the doctrine of probable cause. Police training must focus on improving the quality of decisionmaking and use of discretion. We must invest more in innovative training techniques, such as interactive software programs that present trainees with scenarios and evaluate their reactions.

Police executives must be willing to bring minority representatives into full collaboration as they develop policies and programs aimed at lessening racial tension. Police strategies and tactics should be developed with community input, so the community is aware of what objectives are being sought and how the strategies will work. Police must not only tell the community what they are doing, but must learn what true collaboration means. Community oversight boards and federal supervision over local police focus attention on this issue but do not foster collaboration and therefore, in themselves, are not the answer. Most importantly, we must remember that this is not just a problem for police. Federal, state, and local government officials (in the legislative and executive branches) must provide the leadership, the ideas, and the commitment needed to spark a new revolution in criminal justice practices, learning from what has been successful and abandoning strategies that have failed.

Finally, leadership matters. Racial tensions between the police and communities are low where police executives take a strong stand against discriminatory or biased actions and hold their police officers strictly accountable when they violate such strictures. Police officers will not become involved in situations that increase racial tensions if police managers make it clear that inappropriate police behavior will not be tolerated.

Conclusion

Today's welcome reductions in crime allow many Americans to feel safer in their communities. Yet some Americans--particularly minorities--live with fear daily, not just of crime but also of abuse at the hands of police.

A progressive anti-crime strategy, therefore, should strive toward two key aims: reducing crime and improving relations between minority communities and the police. Fortunately, these goals are compatible and mutually reinforcing. There is simply no need for Americans to choose between greater public safety and policing methods that fail to treat all citizens with equal respect.

It is, therefore, time to end racial profiling and replace it with information-driven strategies--enabled by the new tools of technology and grounded in strong community support--that constitute a Third Way approach to public safety for the 21st century.

Authors

John D. Cohen is director of PPI's Community Crime Fighting Project. A former police officer and White House policy advisor, Mr. Cohen is president and CEO of PSComm, LLC, a strategic marketing and consulting firm that advises police and other law enforcement agencies.

Janet J. Lennon is an attorney in New York and serves as adjunct professor at Pace University, advisor to the Metropolitan Black Bar Association, and director for the Bedford Stuyvesant Legal Services Corporation. Ms. Lennon previously served as both a deputy commissioner and as special counsel to the police commissioner in the New York City Police Department, and has held various prosecutorial positions in New York. Ms. Lennon is also a former president of the National Black Prosecutors Association."

Robert Wasserman is chairman of PSComm, LLC, and also serves as senior international law enforcement advisor to the U.S. Department of State. Mr. Wasserman has over 20 years of law enforcement experience, and has held numerous executive-level appointed and consulting positions within international and American law enforcement agencies including the United Nations, the White House Office of National Drug Control Policy, the New York City Police Department, and the Massachusetts Port Authority.

Notes

1. A recent report released by the National Institute of Justice found that it is the social and economic status of a neighborhood, not the racial or ethnic makeup, that is a key contributor to a community's subculture of crime and violence.
2. Community prosecution involves having prosecutors focus their activities based on the location of a crime, not the type of crime. Under community prosecution, a prosecutor will have responsibility for working with police and community members to solve problems and prosecute most arrests for crimes in that community.
3. From July through December 1998, Baltimore City, HotSpots reported a 31 percent decrease in serious crime as compared to an 11 percent decrease citywide. Statewide, for the same period, HotSpots reported a 20 percent decrease in crime compared to a 10 percent decrease in non-HotSpots.
4. Calls for police officers to live in the communities they police tend to reflect the desire for police officers to show greater sensitivity to community issues and concerns. However, others believe that the quality of policing is important, not where the officer resides. In addition, residency requirements make police recruitment more difficult, and are subject to various state laws that prohibit this criterion.

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MEMORANDUM

To: Participants in DOJ Task Force on the Use of Race and Ethnicity in Law Enforcement

From: Anthony S. Murry
Associate Deputy Attorney General

Subject: Recap of First Meeting and Timetable for Action Items

Thank you all for your participation in the February 10th meeting of the Task Force. Set forth below is a brief recap of the action items, a timetable for completion, and a schedule of our future meetings. I have also attached a list of Task Force participants.

Action Items

1. Develop a legal position regarding the use of race and ethnicity in law enforcement activities, including the conduct of traffic stops and pedestrian stops;

Civil Rights Division will produce a draft legal position paper, including a survey of existing case law, by March 15th. The Solicitor General's office is encouraged to provide as much assistance and guidance as possible.

2. Develop and disseminate Department-wide policies on the use of race and ethnicity in law enforcement;

ODAG will take the lead on dissemination of the policies that emerge from the discussion prompted by the policy statement required by Item No. 1.

3. Work with component agencies to develop training programs and materials consistent with these policies to be used when training federal, state, and local law enforcement officials;

ODAG will take the lead on this item, which requires the development of the policies described in Item No. 1.

4. Oversee development and implementation of the interim policies outlined in the Department's response to the [President's] Executive Memorandum;

Those interim policies are as follows:

- A) The INS will issue interim policy guidance that clarifies that ethnicity cannot be the sole or determinative factor in the decision to conduct any encounter -- including those not requiring "reasonable suspicion" under the Fourth Amendment. This will result in a consistent agency policy with regard to all encounters.

INS will issue this guidance to the field no later than March 15, 2000.

- B) Each agency will review its training materials to ensure that all new, incumbent, line, and supervisory agents and analysts receive training on the agency's policies with regard to the use of race and/or ethnicity in all law enforcement activities. This will include a review of the training provided to state and local law enforcement to better ensure that officers trained by federal agencies are not basing their law enforcement activities on race or ethnicity.

Each component will report back on this item no later than March 1, 2000. FBI's review will focus on the training given at Quantico.

- C) The Department of Justice will explore ways to promote data collection on race, ethnicity, and gender of people stopped or searched by state and local law enforcement officers trained by Department agencies. This data collection will assist state and local law enforcement officers in complying with principles of non-discrimination.

DEA will draft a memorandum for the Deputy Attorney General by March 1, 2000 that will explore ways to promote data collection with the appropriate supervisors of officers trained by DEA. It is understood that DEA will also articulate any drawbacks to promoting data collection in this manner.

- 5) Monitor and analyze data collected pursuant to the President's Executive Memorandum on Fairness in Law Enforcement.

The Task Force will review the data we have obtained by May 1, 2000 and assess whether it is sufficient to draw any preliminary conclusions. We will review and discuss the data collection effort on an ongoing basis.

We agreed to meet twice a month to review our progress and to discuss drafts or other pertinent matters on **Thursdays at 2:30pm**. DEA's representatives will not be available on February 24th, so we agreed to move that meeting to the following **Monday, February 28th at 2:30pm in Rm. 4260, Main Justice**.

Since we have set June 1, 2000 as our target date for completion of the Task Force's recommendation, our meeting schedule after the 28th will be as follows:

March 9th
March 23rd
April 6th
April 20th
May 4th
May 18th
June 1st

OPD has agreed to allow us to use their conference room located in Room 4260, Main Justice.

Thank you again for your service on the Task Force, and I look forward to working with you all. Please feel free to call me with any questions, comments or concerns at (202) 305-1283.

December 22, 1999

Hugh Price
President
National Urban League
1111 14th Street, NW, Suite 1001
Washington, DC 20005

Cybernetics
Canis
Meu
Prunum

Dear Mr. Price,

Thank you for your previous correspondence regarding your concerns about racial profiling, police brutality, and other issues addressing fairness in law enforcement practices. We have appreciated your input on these very important issues.

This letter is to provide you with an update on a key initiative which grew out of many of the concerns you and others from the civil rights community raised. As you know, on June 9 of this year, President Clinton issued an Executive Memorandum to the Departments of Justice, Treasury and Interior to require the collection of data on race, ethnicity, and gender of individuals stopped and subject to certain searches by federal law enforcement.

Last month, we completed the first stage of the response to the President's directive. Pursuant to the President's Memorandum, the designated federal agencies have developed and submitted their plans for data collection field tests that will be conducted over one-year period, after which they will report their findings and recommendations. The field tests are set to commence ~~between December 1999 and January 2000~~ *one the* *next* *with*. The directive also required the agencies to report on existing training programs, policies and practices regarding use of race, ethnicity and gender in federal law enforcement activities. *only this* *for* *plus the dignity of* Based on your interest, we have shared copies of the field tests and current policies and practices with your office.

During the data collection period, we are committed to making improvements to strengthen and ensure fairness in our existing law enforcement policies. To that end, the Department of Justice is establishing a working group headed by the Deputy Attorney General to evaluate and recommend immediate improvements to current policies and training. The working group is to be comprised of representatives from the Department's law enforcement agencies and the Civil Rights Division. In addition, an independent commission at Customs is reviewing the agency's policies and procedures to make additional improvements to passenger processing and search procedures.

We will continue to keep you apprised of developments on this critical issue as we continue in our efforts to help build trust between law enforcement and our nation's communities. Please let us know if you have any questions regarding the report we have sent or would like to provide further input on this important matter.

Sincerely,

Bruce Reed
Assistant to the President

December 28, 1999

Hugh Price
President
National Urban League
1111 14th Street, NW, Suite 1001
Washington, DC 20005

Dear Mr. Price,

Thank you for your correspondence regarding racial profiling, police brutality, and other issues of fairness in law enforcement. We appreciate your extensive input on these important issues.

I want to give you an update on a key initiative that grew out of the concerns you and others have raised about racial profiling. As you know, President Clinton issued an Executive Memorandum to the Departments of Justice, Treasury and Interior on June 9 of this year, directing them to collect data on the race, ethnicity, and gender of individuals who are stopped and subject to certain searches by federal law enforcement.

Last month, we completed the first stage of the response to the President's directive. The designated agencies have submitted plans for data collection field tests, which are set to commence during the next month. The field tests will be conducted over a one-year period, after which the agencies will report their findings and recommendations. The agencies have also, pursuant to the directive, reported on existing programs, policies and practices regarding the use of race, ethnicity and gender in federal law enforcement activities. Knowing of your interest, we have shared with your office copies of both the field test plans and the descriptions of current policies and practices.

As the data collection period gets underway, we want to do all we can to ensure fairness in existing law enforcement policies. To that end, the Justice Department is establishing an internal working group, to be headed by the Deputy Attorney General, to recommend any immediate improvements to current policies. In addition, an independent commission at Customs is reviewing that agency's policies to make more improvements to passenger processing and search procedures.

We will keep you apprised of further developments as we continue our efforts. Please let us know if you have any questions, and thank you for your counsel on this critical issue.

Sincerely,

Bruce Reed
Assistant to the President

Attachment

Attachment

12/01/99 WED 08:44 FAX
03/29/99 08:07 FAX

002



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March 29, 1999

VIA FAX

President William J. Clinton
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Clinton:

As you know from recent news accounts, there is growing anger and anguish over the epidemic of police brutality and abuse against people of color in the United States. This problem knows no ethnic, socioeconomic or geographic boundaries. Minority Americans want, like all Americans, to live and work in safe communities. We support the police and believe the overwhelming majority of them want to do the right thing.

But people of color refuse to be treated as second class citizens by the criminal justice system. Nor do we intend to sacrifice hard-won constitutional rights that were gained through years of sacrifice and struggle. Law enforcement agencies at every level of government must protect all citizens from crime without undercutting the civil liberties of any citizens. Experience in communities across the country shows that public safety and civil liberties can co-exist.

On February 25th, a broad, multi-ethnic coalition of civil rights, civil liberties and community-based groups called upon you to lead the nation out of this abyss that is so perilous for people of color and the entire country.

We are gratified that you heard our message. The new initiatives that you announced in your weekend radio address are, by and large, a welcome step in the right direction. We are pleased as well that Attorney General Janet Reno has accelerated the pace of her department's enforcement activities and reached out to engage civil rights and law enforcement groups in a search for solutions.

Yet there are miles to go before police misconduct is adequately under control and the tensions caused by it subside. Now

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that you are engaged, we wish to propose the following action agenda for your administration and for Congress. To produce significant and lasting progress, there must be concerted attention, aggressive enforcement and oversight, and systemic changes in law enforcement policy and practice. This action agenda will achieve those objectives.

The Problem

To recapitulate briefly, the problems of police misconduct fall into two basic categories:

- **Excessive use of force** that results all too frequently in brutality and/or fatalities at the hands of police. These outrages are often mismanaged, investigated without the requisite sense of urgency, and eventually disposed of in suspect ways that defy justice and common sense. These unjust outcomes fuel anger, turmoil and mistrust among minorities toward the entire criminal justice system.
- **Dragnet techniques** that ensnare minorities who've done little or nothing wrong. We speak of such police tactics as racial profiling, excessive stopping and frisking, traffic "safety" sweeps and use of trivial infractions as a ruse to troll for more serious offenses. These practices needlessly undercut civil liberties in the name of public safety.

African Americans aren't alone in suffering at the hands of overzealous and brutal law enforcement officers. Latinos, Asian Americans and Native Americans endure brutality and abuse as well. The offending agencies include state and local police departments, as well as U.S. Customs and the Immigration and Naturalization Service.

The Need for Leadership

We are gratified -- and relieved -- that the problem of police brutality and abuse has captured your attention. The initiatives you announced recently point in the right direction. But they are modest in our estimation. We seek a level of leadership and engagement that is commensurate with the severity and scope of a problem that has embittered America's minorities and tossed many communities into turmoil.

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We urge you and the Attorney General to provide high profile leadership and display genuine empathy for the victims of police misconduct. There must be loud and clear and recurring signals to the nation that police brutality and abuse are unacceptable and that you feel the pain suffered by the victims and their families.

Accordingly, we call upon you and Attorney General Reno to visit the actual sites of the most egregious and inexcusable incidents, meet with family members, and declare publicly that your administration will leave no stone unturned until justice is done.

Aggressive Enforcement

The measures you announced mostly point in the right direction. But they do not go nearly far enough. More specifically, we call upon your administration and Congress to take the following actions:

- Allocate at least \$20 million more – not merely \$1 million more, as you've proposed – to ensure that the Justice Department has the capacity to cope with the nature and national scope of the problem. Justice needs a dedicated team of investigators and prosecutors that can pursue the many complaints of brutality and abuse so swiftly and resolutely that the prospect of federal intervention itself is an effective deterrent to such behavior by law enforcement officers.
- The Justice Department should intensify and expedite its investigations into police department patterns and practices in communities that experience high incidences of brutality and abuse. The department should entertain appeals to reopen cases that may have been closed inappropriately.
- Each U.S. Attorney's office in the nation should be staffed by an attorney who focuses on civil rights and police misconduct cases.
- The House Judiciary Committee should convene formal hearings to receive testimony on the scope and breadth of police brutality and misconduct and formulate recommendations for legislation.

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- The White House should pressure Congress to enact the proposed Jonny Gammage Law. It would provide for independent federal prosecutors to investigate allegations of police misconduct where the use of deadly force by police results in injury or death of victim.
- Your administration and Congress should adhere to the Omnibus Crime Bill of 1994 by appropriating funds for the Justice Department to systematically collect and disseminate data on the incidence of brutality and abuse.

The federal government should not rely solely on enforcement and prosecution to combat police misconduct. Accordingly, we call upon your administration to institute the following sanctions for law enforcement agencies that are plagued by recurring patterns of brutality and abuse:

- Issue an executive order that federal law enforcement subsidies will be withheld from police departments that have an unusually high number of brutality complaints or a significant number of unresolved or pending complaints of brutality or excessive force. This and other sanctions could be imposed in a graduated fashion commensurate with the level of offensive practices and local willingness to address the problem.
- In the case of unrepentant police departments that fail to correct patterns of brutality and abuse, the Justice Department should institute legal proceedings to place the departments under federal receivership until they mend their ways.
- The Justice Department should require that all state and local police departments receiving federal law enforcement subsidies establish civilian complaint review boards that possess investigative and subpoena power.
- Your administration should allocate funds to support the efforts of community-based organizations to promote police/community trust and heal tensions. Grass-roots groups are invariably drawn into the strife to extinguish fires and foster trust. With federal support, they could be even more effective.

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Reforming Police Practice

Your announced plan to invest \$42 million in improving the caliber of local police forces makes eminent good sense. The better educated, trained and supervised police officers are, the better the job they will do and the fewer problems they'll have with those they protect.

However, we strenuously oppose your proposal for increased federal funding to hire even more police officers. America's criminal justice system is amply endowed already. The nation's prisons are saturated, filled as it is with thousands of non-violent offenders who pose no threat to society. By contrast, the federal government invests far too little in public schools and after-school programs that steer young people clear of crime in the first place. We urge you to beef up funding for prevention, instead of police.

We are deeply concerned that your plan does not adequately address the urgent need to reform the policies governing use of force and the dragnet practices that are explicitly or tacitly sanctioned by state and local police departments. In addition to increasing the capacity of Justice to investigate and sanction misconduct after the fact, we believe your administration must seek fundamental reforms in police policy and practice. Unless these tactics that treat minorities as second class citizens are addressed systematically, the deep-seated fear and distrust of police will continue to simmer and erupt.

Law enforcement agencies routinely deny the existence of policies and practices that result in brutality and abuse. They have little incentive to acknowledge them. If there's to be progress in police/civilian relations, we must move past stubborn denials to constructive remedies.

As the nation's chief law enforcement officer and the champion of racial harmony, you are best positioned to spearhead this process of ferreting out truth and restoring trust. Accordingly, we call upon you to convene a one-day White House Summit this spring. The Summit would serve several purposes:

- Shine the national spotlight on the problem of police brutality and abuse;

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- Underscore your determination to seek constructive solutions;
- Secure commitments from a cross-section of thoughtful leaders -- police chiefs, mayors and other elected officials, police union leaders, other representatives of the law enforcement community, and leaders of civil rights, civil liberties and community-based groups -- to work together in devising concrete and constructive solutions; and
- Launch a fast-track process that is directed by the Attorney General and that involves those who attend the Summit. We see this as a six-month exercise at most. Its purpose is to promulgate a set of best practice guidelines that law enforcement agencies will embrace and implement. The guidelines would be coupled with mechanisms for monitoring and enforcing compliance.

Following the Summit, the Attorney General would empanel three working groups comprised of representatives of the key sectors. Each working group would be given a specific assignment:

- One would function as a blue ribbon panel that conducts public hearings around the country to ferret out evidence of police brutality and abuse. Armed with subpoena power, it would take testimony, hold focus groups with young people and adults, and conduct surveys. The purpose of this exercise is to document the nature, scope and impact of the problem of police misconduct.
- A second working group would delve into the issue of unjustified use of force by law enforcement officers. Beyond the headline cases, how prevalent is the problem? What forms does it take? What accounts for the cases that result in fatalities, in severe brutality and abuse, and in intimidation? What sorts of situations seem to set policemen off? What lessons can be gleaned from law enforcement agencies that aren't riddled with allegations of brutality and abuse? How do they recruit and train officers? What kinds of supervisory, assignment and disciplinary regimens do they employ to keep things satisfactorily under control?

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From the evidence and information garnered through this exercise, the working group would devise a series of best practice recommendations that could be disseminated to law enforcement agencies for implementation. They would also be distributed to civilian police review boards, legislative and judicial bodies, community organizations and the media for purposes of monitoring the performance of police departments.

- The third working group would focus on the dragnet practices that ensnare so many innocent people and minor offenders and thus undercut their civil liberties. This panel would examine case studies of law enforcement agencies that have successfully reduced crime without relying beyond reason on these techniques.

More specifically, the working group would devise best practice guidelines in the following problem areas:

- Minorities complain bitterly that they are harassed by police officers who detain them for little or no reason and who then use that stop as a ruse to conduct a broader investigation. The working group would prepare guidelines governing when officers should and should not be allowed to go beyond the scope of the initial infraction.
- In the past, police were only supposed to stop people who were "suspects" or otherwise connected to specific crime. But under current practice, people can be stopped and even frisked if they are deemed "suspicious." Those who have done nothing illegal are then released because the police were "mistaken." This practice gives policemen carte blanche to abuse and intimidate.

The working group would devise guidelines, based on best practice in actual communities, that are aimed at promoting public safety without undermining the civil liberties of innocent civilians and trivial offenders.

- Once the findings and guidelines of the three working groups are completed, the Attorney General would compile them into a coherent set of recommendations. To assure that these recommendations don't gather dust on shelves once they are

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disseminated, the Attorney General should also devise mechanisms plans for monitoring implementation and prevailing upon recalcitrant police departments to comply. To be more specific:

- The Justice Department should publish an annual report on police misconduct. The report card would shine the national spotlight on specific police departments that have poor records on brutality and abuse.
- You should issue an executive order requiring police departments that receive federal law enforcement subsidies to endorse and implement the best practice guidelines or risk loss of federal funding. Similar directives could be issued to state police departments, INS and Customs.

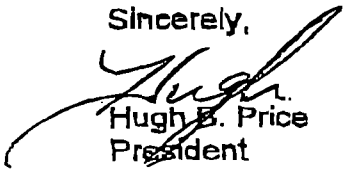
When the report of the Justice Department is prepared, we suggest you convene a second White House Summit in the fall. You would use that occasion to officially receive the report and announce your plans and timetable for implementing the various recommendations.

Mr. President – We wholeheartedly embrace your dream of One America. Transforming that dream into reality is what Urban Leaguers and the other groups in our coalition do day in and day out.

Yet the widespread and indiscriminate treatment of innocent civilians like suspects foments alienation along racial lines, perpetuates the treatment of minorities as second class citizens under law, and makes an utter mockery of your dream.

We implore you to spare no effort and expense in spearheading an aggressive drive to purge the nation's criminal justice system of bias, brutality and abuse.

Sincerely,



Hugh B. Price
President

cc. The Hon. Janet Reno
Charles Ruff, Esq.
Bruce Reed
Ben Johnson

12/01/99 WED 08:47 FAX
FROM: LUCAS LEE 1523 K ST NW

202 466 3435

1999, 04-05

18:25 #043 P.02/15



Leadership Conference on Civil Rights

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www.civilrights.org

April 2, 1999

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Brian Komar

President William J. Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

The problem of law enforcement abuse in our communities is a national issue of longstanding concern. This letter is a follow-up to the recent meeting with Attorney General Janet Reno and several of the undersigned individuals and organizations regarding steps that the Department of Justice, with the assistance of other federal agencies and White House efforts, might undertake to begin addressing, expeditiously, the growing national problem of police brutality and unlawful racial profiling.

Recent accounts of deadly police action in New York, Riverside, Pittsburgh and Houston highlight the harm that excessive force does to individuals, families, and entire communities. Unfortunately, these instances of excessive use of force by police officers are not isolated events.¹ Police misconduct and abuse — ranging from verbal harassment and racial profiling to excessive and deadly use of force and fatal encounters — takes place daily across our nation. This unwarranted and often illegal conduct erodes the trust of our citizenry and the safety of our communities. We support the majority of law enforcement officers in this country who serve our citizens well, often under difficult and dangerous conditions. However, we ask that those who engage in misconduct, or whose leadership permits it, be held accountable.

We applaud your March 13, radio address — "Strengthening Police Integrity" — as an important beginning. We encourage you to continue to speak on these issues; to bring about a fuller discourse at all levels of government; and to bring to bear the resources of the federal government in finding constructive solutions. We believe it is especially important to place the discussion of police abuse — a problem which

¹See Appendix I: Recent Cases Involving Excessive Use of Force in Law Enforcement. See also, *United States of America: Rights for All*. Amnesty International, USA (1998).

"Equality in a Free, Plural, Democratic Society"

(1/10/99)

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is frequently and disproportionately directed at members of racial and ethnic minority communities - in a larger context which discusses openly the questions of race, ethnicity, law enforcement, and the administration of justice. One must also understand this problem in the context of immigration enforcement - an area where Hispanic Americans and Asian Americans are particularly targeted. We are alarmed that local and federal law enforcement agents have engaged in unlawful use of force and illegal applications of racial profiling for immigration purposes. We reiterate, this problem must be understood in a context much broader than it has traditionally been presented.

We urge you to develop a national agenda to encourage the highest level of law enforcement service, both to protect all persons in our society and to hold police departments and federal law enforcement agencies accountable for their officers' conduct. We believe the following steps are essential elements of any national agenda to begin to address the problem of law enforcement abuse and misconduct:

1) We urge you and Attorney General Reno to continue your efforts by making major public addresses on the problems of abuse and misconduct by law enforcement officers, as well as the need for accountability. We believe that the use of the "bully pulpit" by both the President and Attorney General is an important ingredient in educating both the public and the law enforcement community about the depth of our national concern over these issues.

2) The Administration should seek, and Congress should provide, adequate funding to enable the Department of Justice (DOJ) to fulfill its obligation under the Police Accountability Act provisions of the Violent Crime Control and Law Enforcement Act of 1994. The Department of Justice should compile and annually publish detailed national data on police excessive use of force (including all fatal police shootings and deaths in custody), with analysis of patterns of concerns and policy recommendations. Unfortunately, reliance on voluntary reporting from police departments has resulted in extremely limited and misleading accounts of the use of excessive force. Many police departments do not have adequate systems or mechanisms for collecting and analyzing data on the use of force; for tracking individual officers reported to have used excessive force; or for identifying officers who failed to report excessive force by fellow officers. Similarly, reports that rely only on the numbers or outcomes of citizen complaints officially filed with a police department do not reliably reflect the use of excessive use of force in this country.²

²See, *Beyond the Rodney King Story, An Investigation of Police Conduct in Minority Communities* (1995). The report, based on national hearings on police abuse conducted by the NAACP, found that many citizens are afraid to file complaints about police misconduct, that procedures for filing complaints are not widely publicized or known, and that citizens are

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FROM: [REDACTED] 1629 K ST NW

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3) The DOJ Special Litigation Section should be provided adequate resources to enable it to fulfill its task of pursuing "pattern and practice" lawsuits against police agencies nationwide that commit widespread abuses. The Special Litigation Section continues to be severely underfunded. While you have said you want to "... ensure that prosecutors have all the resources they need to enforce our laws in these cases," the allocation of only \$1 million in new spending to the Civil Rights Division's work in this area is inadequate. Federal agencies such as the Immigration and Naturalization Service (INS) and U.S. Customs Agency must also be held accountable for "pattern and practice" violations. Federal prosecution of acts and practices of police abuse will send a strong message that such conduct will not be condoned.

4) The federal government should increase its use of Title VI of the Civil Rights Act of 1964 to seek to eliminate racially discriminatory treatment by law enforcement agencies. Far too often police departments and law enforcement agencies are not held accountable for their failure to appropriately protect the civil rights of members of racial and ethnic communities. These communities continue to live under the authority of agencies and agents who repeatedly fail to administer justice. The DOJ must send a clear sign that such unjust practices will not be tolerated.

5) Federal funding to law enforcement agencies should require agencies to institute systems of accountability within each department. Funding should be contingent upon agencies which engage in discriminatory practices, taking effective steps to eliminate them. Necessary features of accountability systems include early warning systems to identify, monitor, and discipline officers reported to engage in misconduct; clearly defined requirements for reporting misconduct at every level of command; clearly defined standards for evaluating reports or findings of misconduct in considering officers for promotions or assignments within the department; and auditing systems to discern patterns of abuse among specific officers, units, stations and departments. Agencies that fail to adopt and operate such systems should understand they risk the loss of all federal funding.

actively discouraged from filing complaints. See also *Shielded from Justice: Police Brutality and Accountability in the United States* (1998) by Human Rights Watch in the United States which among other things, found that most victims of abuse correctly perceive that criminal prosecution, either locally or federally, is rarely an option and as a result, resentment and frustration exacerbate the original abusive treatment and violent officers remain on the job.

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6) Each of the ninety-four (94) United States Attorneys' Offices should create Civil Rights units whose sole responsibility is the enforcement of civil rights laws. While we acknowledge that these offices currently assign attorneys to do civil rights work, that level of commitment is inadequate. U.S. Attorney offices should create Civil Rights Divisions or units to handle civil rights cases. These units should be prominent within the Offices. Federal prosecutors, if funded and supported as we propose, will have the resources and the greater independence from local police departments to investigate and bring actions against both local and federal law enforcement agencies. In addition, we note that state and federal authorities have successfully cooperated in recent years in the investigation and prosecution of what had previously been considered local offenses, such as crimes involving guns and drugs. Such successful cooperation in efforts to prosecute offenders could provide a model for similar cooperation in the area of civil rights abuses.

7) We urge the Administration's vigorous support of the Traffic Stops Statistics Act of 1999, recently introduced by Rep. John Conyers (D-MI). The Act, which would require the collection of existing data, would provide a crucial tool in evaluating the extent of racial and ethnic profiling in motor vehicle stops.³ While there have been many individual accounts of stops that can only be explained by the race or ethnicity of the motorist, the absence of reliable and comprehensive national statistics has allowed the problem of racial and ethnic profiling to evade systematic review.

8) Federal funding to police departments should require that adequate portions of the funds be earmarked for the purchase and deployment of video cameras on each patrol car. Mounted video-cameras, already in use in some police departments, provide protection to both the officers on the scene and the civilians stopped by the police. Videotapes of police encounters would provide reliable evidence as to who is being stopped and on what basis, as well as hard evidence of wrongdoing. The Christopher Commission concluded that were it not for the Rodney King videotape, it was doubtful that any police investigation of the incident would have resulted in sanctions against the officers. However, any such measure must be limited to assure that cameras do not become instruments of surveillance against the very communities they are designed to protect.

³ An abundance of anecdotal evidence from citizens, community groups, lawyers, judges, and law enforcement officers from across the country indicates that many traffic stops are motivated by improper considerations of race. For example, in Maryland, a U.S. District Court judge found credible evidence that Maryland troopers on I-95 engaged in a pattern and practice of racial discrimination; and in Boston, a U.S. District court judge recently noted that an African American defendant's record of motor vehicle offenses raised "deep concerns" about racial disparity and that because of these concerns, a downward departure from the sentencing guidelines was justified because the defendant's record was skewed by the cumulative effect of his minor convictions.

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9) Federal, state, local, and tribal authorities should be encouraged to establish independent and effective oversight bodies for their respective law enforcement agencies. There is strong preference for civilian and independent review authority. Such authority should have the power to investigate or review complaints of civil rights violations against law enforcement agents. Such authority should also have subpoena power to require witnesses to appear and to insist on cooperation from police departments, law enforcement agencies, and individual officers. Establishment of such independent oversight bodies should be a necessary condition for receiving federal law enforcement monies.

10) The DOJ must severely restrict collaboration between the INS and state & local law enforcement agencies in enforcing federal immigration laws. Cooperative agreements between the INS and local police and sheriff departments should be terminated. These type of agreements enhance an atmosphere of intimidation in which those fearing harassment or deportation in the Hispanic and Asian communities are apprehensive to report crimes. Likewise, collaboration between the INS and other federal government agencies, including the Drug Enforcement Agency, should be re-examined. In this case, immigration enforcement operations carried out under the guise of drug enforcement operations are not acceptable, and far too often lead to the violation of individuals' constitutional rights. Instead, INS should be given the resources to hire sufficient federal agents to adequately and efficiently respond to police requests for assistance in determining the immigration status of criminals already in police custody for criminal offenses. The Department of Justice lacks the resources to prosecute the current level of civil rights violations, and thus, delegation would only increase the likelihood of improper police activity, without a concurrent increase in resources for civil rights enforcement.

11) Law enforcement conduct and accountability in our communities should be included in the follow-up to the President's One America Initiative. The White House should sponsor a summit meeting later this year on the issues of law enforcement conduct and accountability. The issues of law enforcement are inextricably linked in this country to issues of race and ethnicity. The President's One America Initiative provides an appropriate venue and framework to bring together representatives from the Department of Justice, Immigration and Naturalization Service, other federal agencies, local and tribal law enforcement, academicians, and community-based organizations to discuss the overall direction of law enforcement in America and its impact on all Americans. Such a meeting should examine the connections between the falling crime rate and the methods employed by police and federal law enforcement agencies to aggressively combat crime. It should also address the tensions between respect for civil rights, civil liberties, and effective crime control. And similar to ideas expressed in Hugh Price's (President and Chief Executive Officer of the National Urban League) March 29, 1999 letter to you, the summit should be expected to commit your Administration to a timetable for implementing a corrective agenda.

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FROM: LUCERO, 1529 K ST NW

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We strongly believe that these proposals will serve the nation's interests as law enforcement moves into the twenty-first century. As a nation, we have the resources to increase the safety of our citizens and their trust in those charged with enforcing the law. We have the opportunity to marshal our resources to address claims of misconduct reported in significant numbers across the country. We urge you to commit the federal government to achieving these goals.

Sincerely,

Dorothy I. Height
Chairperson
Leadership Conference on Civil Rights

W. Ron Allen
President
National Congress of American Indians

Barbara Arnwine
Executive Director
Lawyers' Committee for Civil Rights
Under Law

Abraham H. Foxman
National Director
Anti-Defamation League

Margaret Fung
Executive Director
Asian American Legal Defense and
Educational Fund

Ira Glasser
Executive Director
American Civil Liberties Union

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Antonia Hernandez
President and General Counsel
Mexican American Legal Defense
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Paul Hoffman
Chair of the Board
Amnesty International-USA

Rev. Jesse Jackson
Founder and President
Rainbow Coalition/PUSH

Elaine R. Jones
Director/Counsel
NAACP Legal Defense and Educational Fund

Arthur Kinoy
Co-President
Center for Constitutional Rights

Joe Lucero
Executive Director
Asian Law Caucus

Gay McDougall
Executive Director
International Human Rights Law Group

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April 2, 1999

Page seven

Kweisi Mfume

President and Chief Executive Officer

**National Association for the Advancement of
Colored People**

Manuel Mirabal

President

National Puerto Rican Coalition

Karen Narasaki

Executive Director

**National Asian Pacific American Legal
Consortium**

Michael Posner

Executive Director

Lawyers Committee for Human Rights

Hugh B. Price

President and Chief Executive Officer

National Urban League

Rev. Dr. W. Franklyn Richardson

Pastor

Grace Baptist Church

c/o National Action Movement

Yvonne Scruggs-Leftwich

**Executive Director and Chief Executive
Officer**

Black Leadership Forum

Raul Yzaguirre

President

National Council of La Raza

12/01/99 WED 08:50 FAX
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Leadership Conference on Civil Rights

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APPENDIX I¹

This appendix lists recent instances of excessive force by police officers. While this list is by no means exhaustive, it provides representative examples of problems associated with the use of excessive force by a variety of police officers and other law enforcement officials across the country.

CALIFORNIA:

- 1999, Fullerton. A federal case was brought by the family of a Hispanic man who died from positional asphyxia as a result of being hogtied by police officers. The police department concealed the cause of death from the district attorney and coroner and did not tell the widow what had happened for nearly two years. At trial, the judge instructed the jury that a plaintiffs' verdict was permissible only if it found that the officers intended to kill the victim. The defense verdict is now on appeal. See Garcia v. Fullerton, U.S. District Court, Fullerton.
- 1998, Riverside. Tyisha Miller, a 19-year-old African-American woman, was shot 12 times as she sat in her aunt's car at a gas station. A friend and relative of Miller's found her unresponsive in a locked, idling car with a flat tire, with a gun in her lap, and called 911 for help. Four officers responded to the call and found Miller to be unresponsive. One of the officers broke the driver's side window to get the gun. Police opened fire with 24 shots, killing Miller instantly, after they say Miller moved towards the gun. A cousin who arrived at the scene before the shooting has said that she told the officers another relative was on the way with a spare key and that had the officers waited, they could have entered the car without startling Miller from her stupor. See The Press Enterprise (February 21, 26, and March 25, 1999); see also Los Angeles Times (February 17, 1999); USA Today, January 12, 1999.
- July 5, 1997, Riverside. In testimony before a grand jury, a Riverside police officer said he and two other officers picked up Jose Hilario Martinez, a 48-year-old construction worker, because he appeared to be drunk while walking along the street. According to the officer's testimony, the three officers then took Martinez to a local city park, beat him, and threw him into the park lake when Martinez refused to cooperate with their

¹This Appendix is affixed to an April 2, 1999 Letter to President William J. Clinton from the Leadership Conference on Civil Rights regarding Police Accountability and Racial Profiling.

12/01/99 WED 08:50 FAX
FROM: LUCK-LEEF 1829 K ST NW

202 456 3435

1999.04-05

18:29

#043 P.10/16

demands. See "FBI Probes Possible Civil Rights Violations." The Press Enterprise (February 25, 1998).

- April 1997, Sonoma. Kuan Chung Kao, a Taiwanese man who was drunk and wielding a pole, was shot dead less than one minute after police arrived on the scene. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 30.
- June 1996, Fairfield. James Parkinson, an unarmed mentally ill man seen running naked around a swimming pool, died after police sprayed him repeatedly with pepper spray, hit him several times with an electronic taser gun, and shackled him face-down. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 30.
- April 1996, Riverside County. Two Riverside County sheriff's deputies pulled two unarmed Mexicans suspected of being undocumented immigrants out of a car and proceeded to prod and brutally beat them with their batons, also slamming them against the car. Both victims required hospitalization for severe injuries. A TV news crew captured the gruesome beating on videotape. See "The California Beating: The Rest of the Story," New York Post (May 1, 1996).
- March 1996, Santa Clara County. Gustavo Soto Mesa, 33-years-old and unarmed, was shot in the back of the head by a Santa Clara County Sheriff's officer. The Sheriff's Office claimed that while they knew that Mesa was unarmed, he was violently resisting arrest. Shortly thereafter, the officer was cleared of all charges. See "Grand Jury Clears Deputy in Fatal Shooting: Gustavo Soto Mesa and San Jose's 27-Year Fight," Policing by Consent (August 1996).
- February 1996, Orange City. An unarmed Korean man, Hong Il Kim, died after a chase that started over a minor traffic violation. Two police officers fired 20 shots into his car after it had been cornered and forced into a parking space. Five national experts in police use of deadly force who reviewed the videotape all stated that it was avoidable and that the officers had committed a series of tactical errors that cost Kim his life. However, an internal investigation by the City of Orange Police Department cleared the two officers of wrong-doing or violating departmental policy. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 28.
- 1995, Los Angeles. Class action lawsuit involving two of the deputy gangs in the LA Sheriff's Department: the "Vikings" (Caucasians only, carrying serially numbered tattoos with Viking helmets on their inner ankles) and "Original Gangster Chango Fighters" (Chicano only). This lead case emanated from the beating of a black man who had been falsely arrested after the funeral of a friend. After Thomas won at trial, the County settled the cases (approximating about 100) for \$7.5 million. See Thomas v. Los Angeles County, U.S. District Court, Los Angeles.

12/01/99 WED 06:50 FAX
FROM TLCCR-LCEF 1625 K ST NW

202 456 3436

1999-04-05

18:30

#043 P.11/16

COLORADO:

- March 1997, Denver. A 17-year-old African-American named Gil F. Webb had his neck broken and suffered other severe injuries after being involved in a car crash in Denver in which an officer was killed. A videotape showed him being kicked by a police officer, and also grabbed by the arms, legs, and hair and slammed twice onto a wooden board after he had been removed, injured, from his car. One paramedic was fired and another suspended. The officer was cleared of criminal wrongdoing but disciplined by losing five days of holiday time. See The Denver Post (February 21, March 17, and June 30, 1998); see also Denver Westward (May 7, 1998); The Denver Rocky Mountain News (March 17, 1998).
- 1996, Denver. A police officer shot and killed an unarmed African-American man who had left a house after a domestic incident (not involving any crime). The man had previously filed a complaint against the officer who killed him. The case is pending after the original dismissal was overturned on appeal. See Podboy v. Blake, U.S. District Court, Denver.

FLORIDA:

- October 1996, St. Petersburg. An African-American teenager named Tyrone Lewis was shot dead by two white police officers after he had been stopped for speeding and allegedly refused to roll down his window. His death caused two days of protest among the town's black community. Tyrone Lewis was the sixth person in the town to be fatally shot by police that year. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 41.

ILLINOIS:

- March 1999, Chicago. An internal police investigation is being conducted into whether officers used excessive force when they searched for a suspect in a police shooting. Television footage appeared to show officers forcing young black men off a bus, slamming two men to the ground, and pushing a handcuffed man against a fence and then yanking apart his legs, causing him to fall. See "Officer Shot; Conduct of Investigators Draws Probe," The Chicago-Sun Times (March 26, 1999).
- November 1998, Chicago. Vadie McGee, a 67-year-old woman, was walking home from the grocery store around 3:00 p.m. when she stopped to talk to teenagers sitting on the stoop of her apartment building. The police drove by and told McGee to "get up against the fence." When she asked who they were talking to, the police yelled that they were talking to her, and from that, McGee was handcuffed and thrown into the car. The police also yelled racial and gender epithets at McGee, who is a stroke victim. See "Woman,

12/01/99 WED 06:51 FAX
FROM: LUK-LOEF 1629 K ST NW

202 456 3436

1999-04-06

10:30

#043 P.12/16

67, Charges Brutality, Lawyer Says Police Roughed Up Activist," The Chicago Tribune (November 25, 1998).

- September 26, 1997, Chicago. Jeremiah Mearday, an 18-year-old African-American man, was stopped by police and beaten on the head with flashlights, breaking his jaw. See "Mearday Files Lawsuit in Police-Beating Case," The Chicago Tribune (September 23, 1998).

IOWA:

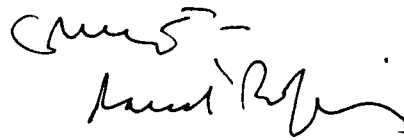
- March 16, 1999, Des Moines. Des Moines officials settled a wrongful death lawsuit with the parents and brother of a 27-year-old African-American man who was killed by police officers in June of 1997. Charles Dudley, Jr., whom family members described as being mentally retarded and hearing-impaired, was shot to death by police after pointing a pellet gun at them during a 4:00 a.m. confrontation in a thunderstorm. Three officers fired 27 shots at Dudley, hitting him four times. See "Dudley's Kin Want Apology, Federal Charges," The Des Moines Register (March 17, 1999).

MARYLAND:

- 1993, Prince George's County. Archie Elliott III, a 24-year-old African-American, was stopped by Prince George's County police for operating under the influence, searched and handcuffed behind his back, then placed in a police cruiser. After police claim to have observed a gun behind his back, police fired and hit Elliott fourteen times. Elliott died from his wounds. Police discovered the gun was unloaded, and the internal affairs investigation blamed the shooting on an improper search of Elliott, who was clad only in shorts. See The Washington Times (June 19, 1995).

MASSACHUSETTS:

- January 25, 1995, Boston. Michael Cox, an African-American police officer and a 1990 Boston Police Department Medal of Honor winner, was on duty and acting in an undercover capacity. As Cox pursued one of several suspects in what was believed to be the shooting of a police officer, Cox was mistaken as a suspect and was badly beaten by other police officers. When one of the more than twenty officers at the scene recognized Cox as a police officer, they left Cox lying in the street. The local grand jury failed to return any indictments because it was stymied by uncooperative witnesses, but Cox recently won a federal civil judgment against three officers. See "One Disgrace After Another," The Boston Globe (January 12, 1999).
- 1993, Worcester. Chris Hernandez died ten days after being arrested by two police officers. Hernandez was in a coma until his death. The police claim Hernandez fell during a struggle and resisted arrest, while a video captured the officers beating him



Talking Points on Fairness in Law Enforcement Directive November 19, 1999

Overview

- As you'll recall, the President issued a directive in June to collect data on law enforcement and racial profiling. The Administration has just completed the first stage of this process—developing plans for a data collection system and assessing current practices. We wanted to reach out and share with you the documents from this stage.
- As we move now to the next stage—actually collecting the data—we want to be sure to keep a channel open with you, so that we know your questions and concerns. We are also setting up a Justice Department working group to evaluate the data as it becomes available and to recommend improvements to current policies and practices. This next stage of collection and evaluation will proceed for one year.

Presidential Memorandum on Data Collection

- **Follow-up to the President's Directive.** The President signed an Executive Memorandum on June 9, 1999 directing the Departments of Justice, Treasury and Interior to design a system of data collection of race, ethnicity, and gender of individuals stopped or inspected by federal law enforcement; implement a field test of that system; and collect the relevant data. The directive also called for the agencies to report on current training programs, policies and practices regarding use of race, ethnicity and gender in federal law enforcement activities.
- **Data collection plans are in place.** As required by the President's directive, the Departments of Justice, Treasury and Interior have all submitted their plans for data collection field tests. This is the first stage of the process. The agencies will implement the field tests and collect data for one year, after which they will report their findings as well as recommendations. Since we know you are tracking this issue closely, we have sent copies of the agencies' data collection plans to you.
- **How data will be collected.** The Justice Department's Bureau of Justice Statistics (BJS) worked with the agencies to ensure consistency among the data collection plans. Agencies will collect race or ethnicity data using categories prescribed by OMB. Like most of the state and local jurisdictions that have begun to collect such data, race and ethnicity data will be collected through the observation of law enforcement officers rather than self-reports.
- **Type of data collected.** For non-suspect specific encounters with law enforcement, information collected will include date, time, location and length of encounter, race, or ethnicity of person stopped, reason for encounter, suspected criminal activity, and law enforcement action taken.

Data Collection Field Tests

- **Department of Justice.** The Justice Department's data collection field tests will include participation by the Drug Enforcement Administration (DEA) and the Immigration and Naturalization Service (INS). The Bureau of Justice Statistics will analyze the data collected by the agencies.

DEA. The DEA has selected geographically diverse sites to participate in its field test. Through its Operation Jetway program, DEA agents routinely make pedestrian stops in airports, train and bus stations, and parcel facilities. DEA has proposed nine Operation Jetway sites for the field test including: Detroit Metropolitan Airport; Newark International Airport; Houston International Airport; Miami International Airport; Chicago O'Hare International Airport; Charleston, SC bus station; Cleveland train station; Albuquerque, NM train station; and San Jose, CA bus station.

INS. The INS field test will include airports, "roving" patrols, a fixed land checkpoint, and a land border crossing on the U.S.-Mexico border. Airports will include: John F. Kennedy International Airport, George Bush Intercontinental Airport (Houston, TX), and Seattle/Tacoma Airport. Border Patrol agents conducting "roving patrols" stationed at the El Cajon, CA station, Yuma, AZ station, and El Paso station will participate in the field test. In addition, a fixed check point in the Southwest U.S. and the land border crossing at Del Rio, TX will participate.

Improving data collection beyond stops and searches. The Justice Department will also improve data collection on arrests to better monitor the racial and ethnic composition of persons at each stage of the Federal criminal justice system, including arrestees, and defendants prosecuted and sentenced in federal court.

- **Department of Treasury.** The Treasury Department field tests will include the two components of Treasury law enforcement with the most frequent contact with the public: the U.S. Customs Service and Secret Service Uniformed Division. The data will provide a statistical snapshot of traffic stops and pedestrian stops conducted by the Secret Service as well as more extensive inspections or interviews of entrants to the Customs Service.

U.S. Customs Service. The Customs field test will collect data on persons stopped and searched on inbound flights at 5 major air ports of entry: Chicago O'Hare International Airport, New York JFK International Airport, Los Angeles International Airport, Newark International Airport, and Miami International Airport. During the data collection field test, any complaints on personal searches will be handled through a newly established Customer Satisfaction Unit.

Secret Service Uniformed Division. The Secret Service will collect data on traffic and pedestrian stops within the Uniformed Division, Foreign Missions branch. The Foreign Missions Branch provides protection through vehicle patrols, foot patrols, and fixed posts. The field test will cover the approximately 100 officers who are responsible for the

protection of foreign diplomatic missions and personnel in the metropolitan area of the District of Columbia.

- **Department of Interior.** The Interior Department selected the National Park Service to participate in the field test. The National Park Service Rangers and U.S. Park Police make hundreds of thousands of law enforcement contacts annually. The field test will include ten sites from around the country that represent high visitation areas with exceptionally active law enforcement programs. Some of the sites selected include: Yosemite National Park, CA; Grand Canyon National Park, AZ; Blue Ridge Parkway, VA/NC; Valley Forge National Historical Park, PA; and the Baltimore-Washington Parkway.

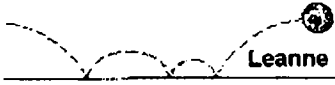
Current Policies, Practices, and Training

[Background: Note that the DOJ report contains more detailed information on use of race and ethnicity in investigations and other law enforcement interactions than the other agencies' reports, and may raise some questions. In particular, the INS policy that explicitly permits apparent ethnicity to be used as a factor for certain stops and detentions may be viewed as troubling, although it has been found constitutional by the U.S. Supreme Court. To help address possible criticism, we should stress the importance of the working group that the Deputy Attorney General will soon convene to address such issues and make recommendations – prior to the completion of the data collection time period.]

- **Interim steps to strengthen current policies.** In response to the directive, the agencies submitted detailed information on existing training programs, policies and practices regarding the use of race, ethnicity, and gender in federal law enforcement activities.. There are some interim improvements that agencies will take immediately, including a full review of Justice Department training provided for federal and state and local law enforcement on use of race/ethnicity. You should also be aware that Customs has recently instituted a number of important changes, including inspector training on cultural interaction, the establishment of a Customer Satisfaction Unit, and the creation of an independent Personal Search Review Commission to review Customs policies and procedures for international air passenger processing.
- **New working group to make long-term improvements to current policies and practices.** As data collection proceeds, the Justice Department will establish a working group headed by the Deputy Attorney General to further evaluate and recommend improvements to current policies and training. This working group, which will include representatives from the Department's law enforcement agencies and the Civil Rights Division, will evaluate existing policies as well as results from the data collection field tests as they become available. The working group will welcome your organization's input. In addition, the Independent Commission at Customs is reviewing Customs policies and procedures to further improve passenger processing and search procedures.

Next Steps

- **This is the first stage of a more than year-long effort.** We know this is an issue that is of critical importance to your organization. The document we've sent to you represents the first stage in a multistage effort to carry out the President's directive. We believe that the field tests developed by the agencies are a serious effort to carry out the President's directive.
- **We will continue to keep you abreast and seek your input of this important initiative.** Take some time to review the documents we've sent and let us know if you have further questions or concerns. We will be happy to answer any questions you have, and if you think it would be helpful, we can set up a meeting once you've had some time to review the documents. We will continue to keep you apprised of the field tests and appreciate your input of our efforts to improve existing policies, practices and training.


Leanne A. Shimabukuro

08/17/99 06:24:13 PM

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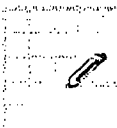
To: Anna Richter/OPD/EOP@EOP

cc:

Subject: Memorandum: Fairness in Law Enforcement

On racial profiling.... more to come.

----- Forwarded by Leanne A. Shimabukuro/OPD/EOP on 08/17/99 06:22 PM -----


Jason H. Schechter
08/09/99 02:45:48 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Memorandum: Fairness in Law Enforcement

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 9, 1999

June 9, 1999

MEMORANDUM FOR THE SECRETARY OF THE TREASURY
THE ATTORNEY GENERAL
THE SECRETARY OF THE INTERIOR

SUBJECT: Fairness in Law Enforcement: Collection of Data

We must work together to build the trust of all Americans in law enforcement. We have great confidence in our Federal law enforcement officers and know that they strive to uphold the best principles of law enforcement in our democratic society. We cannot tolerate, however, officers who cross the line and abuse their position by mistreating law-abiding individuals or who bring their own racial bias to the job. No person should be

subject to excessive force, and no person should be targeted by law enforcement because of the color of his or her skin.

Stopping or searching individuals on the basis of race is not effective law enforcement policy, and is not consistent with our democratic ideals, especially our commitment to equal protection under the law for all persons. It is neither legitimate nor defensible as a strategy for public protection. It is simply wrong.

To begin addressing the problem of racial profiling, Federal agencies should collect more data at all levels of law enforcement to better define the scope of the problem. The systematic collection of statistics and information regarding Federal law enforcement activities can increase the fairness of our law enforcement practices. Tracking the race, ethnicity, and gender of those who are stopped or searched by law enforcement will help to determine where problems exist, and guide the development of solutions.

I therefore direct you to design and implement a system to collect and report statistics relating to race, ethnicity, and gender for law enforcement activities in your department. Specifically, you shall:

- (1) develop a proposal within 120 days, in consultation with the Attorney General, for a system of data collection and an implementation plan for a field test of that system, including the law enforcement agency components, sites, data sets, training, and other methods and procedures to be included in the field testing. You shall implement field tests within 60 days of finalizing their proposals;

- (2) to the extent practicable, collect data that is sufficiently detailed to permit an analysis of actions relevant to the activities of the included law enforcement agencies by race, ethnicity, or gender. Such actions may include traffic stops, pedestrian stops, a more extensive inspection or interview than that customarily conducted

more

(OVER)

2

with entrants to the United States, requests for consent to search, or warrantless searches. Data acquired pursuant to this memorandum may not contain any information that may reveal the identity of any individual; and

(3) provide to the Attorney General a summary of the information collected during the first year of your field test, including civilian complaints received alleging bias based on the race, ethnicity, or gender of the complainant in law enforcement activities; your process for investi-gating and resolving such complaints; and the outcomes of any such investigations. The Attorney General shall report to me, in consultation with relevant agency heads, on the results of the field tests with: (i) an evaluation of the first year of the field test; (ii) an implementation plan to expand the data collection and reporting system to other components and locations within the agency and to make such system permanent; and (iii) recommendations to improve the fair administration of law enforcement activities.

In addition, within 120 days of the date of this directive, you shall provide a report to me on your training programs, policies, and practices regarding the use of race, ethnicity, and gender in your law enforcement activities, along with recommendations for improving those programs, policies, and practices.

WILLIAM J. CLINTON

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Message Sent To: _____



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High Priority Vowed for Racial Issues

Democrats Spar on Police Profiling in Debate Featuring Much Agreement

By Ceci Connolly and Thomas B. Edsall
 Washington Post Staff Writers
 Tuesday, January 18, 2000; Page A04

DES MOINES, Jan. 17—Vice President Gore and Bill Bradley appealed to minority voters in a debate here tonight by promising to put racial issues at the top of their agenda and seeking to outbid and discredit each other on diversity and civil rights.

Their testiest exchange of the hour-long debate came over racial profiling, with Bradley pointedly questioning why the Clinton-Gore administration has not taken action to ban the use of race as a factor in random searches by police.

"Al, I know that you would issue an order to end racial profiling if you were president of the United States," Bradley said. "But we have a president now. You serve with him. I want you to walk down that hallway, walk into his office and say: 'Sign this executive order today.'"

Gore shot back: "I don't think President Bill Clinton needs a lecture from Bill Bradley about how to stand up and fight for African Americans and Latinos in this country. It's one thing to talk the talk. It's another thing to walk the walk."

Gore and Bradley, two Democrats with strong records on race, agreed broadly on most issues during the televised "Black-Brown Forum" held on the federal holiday honoring the Rev. Martin Luther King Jr., but their sometimes hostile rhetoric underscored the high stakes of the caucuses to be held here in a week.

Bradley, who trails Gore in polls in this state but is tied in a new poll for the Feb. 1 New Hampshire primary, backed off one of his most controversial positions, which called for adding gays to the protected classes of the 1964 Civil Rights Act.

His stand had been criticized by civil rights leaders and gay activists who fear reopening the act in a Republican-led Congress would lead to fewer protections for minorities. During tonight's debate, moderated by Tavis Smiley of Black Entertainment Television, Gore revived the criticisms, suggesting Bradley's approach "could lead to it [the law] being seriously damaged and even lost." Bradley then tempered his earlier position: "Now, would I send such a piece of legislation to Congress if I thought the 1964 Civil Rights Act was going to be opened up? Absolutely not."

The two candidates revealed subtle but significant differences when asked about Al Sharpton, an African American political activist in New York who has made statements regarded as antisemitic and anti-white, and John Roker, the white Atlanta Braves pitcher who disparaged minorities, gays and immigrants in a recent interview in Sports Illustrated. He has been ordered to undergo psychological testing by Major League Baseball.

Bradley, after twice calling him "John Rooker," called for harsh treatment of the pitcher, adding, "I wouldn't be disappointed if they fired him." The former New Jersey senator was far more forgiving of Sharpton and defended his trip last year to the black leader's Harlem neighborhood.

"I don't agree with Al Sharpton on everything, but I think that he's got to be given respect, and people have to be allowed to grow," Bradley said. "It's a sad time when we don't look at somebody as they move through life, and we get them stuck at a particular position in life."

Gore, on the other hand, has refused Sharpton's entreaties for a public visit, although he noted tonight he did meet privately with Sharpton last year. Referring to today's commemoration of King's birthday, Gore struck a chord of forgiveness in the case of Roker, who he said has met with former Atlanta mayor Andrew Young and baseball legend Hank Aaron. "I think that America is all about redemption and part of the message of Dr. King is to love your enemies and plant the seeds of reconciliation in their hearts," the vice president said.

The two candidates seized on the refusal of the GOP presidential candidates to denounce the flying of the Confederate battle flag over the South Carolina capitol. Bradley, calling the flag an "offense to our common humanity," did not reply to the more difficult question of whether he would join the NAACP's boycott of the state. Gore said: "I do not think a president of the United States should ever boycott an individual state because the president needs to bring our people together and we need to bring the Confederate flag down."

In this state, where Hispanics now substantially outnumber African Americans, Gore and Bradley both promised to appoint Latinos to prominent government posts. Gore was equivocal in his response to the question of whether he would appoint the nation's first Latino Supreme Court justice and Bradley said: "No commitment today, but commitment that there are many who could."

On the fate of Elian Gonzalez, both Democrats refused to say whether they believe the young Cuban boy should be sent back to his father in Cuba or remain with other relatives in the United States.

The candidates showed a willingness to review current law prohibiting convicted felons from voting. Gore said he would not lift the prohibition for violent criminals under any circumstances. Bradley said that in the case of a nonviolent offender who "comes out and is able to go straight for two years, three years, I think that that person ought to be able to wipe his record clean and start the day anew."

He was also critical of disparate sentencing between blacks and whites and called for equalizing penalties for crack, which is more

prevalent in the minority community, and powder cocaine, found more often in white areas.

Both Bradley and Gore marked the King birthday during the morning, Gore in Atlanta, Bradley here in Des Moines.

During a service at historic Ebenezer Baptist Church, Gore wrapped much of his stump speech in the legacy of the slain civil rights leader. He even managed to link King to his ongoing assault on Bradley's health plan, a proposal Gore says jeopardizes the Medicare and Medicaid programs. "And I see a day when we strengthen Medicare and Medicaid--which were created during Dr. King's lifetime, and must not be torn down in ours," Gore said in a low-key 15-minute address.

With former Boston Celtics star center Bill Russell at his side, Bradley appeared at two King birthday events--one sponsored by Iowa Gov. Tom Vilsack (D), the other a discussion of race at Drake University.

Although Bradley has been critical of the Clinton administration's ethical standards, he went out of his way to link himself to Clinton's racial stands. On race, he said: "I'm more similar to Bill Clinton than I am to any other politician." Polls show that Clinton continues to receive some of his highest favorability ratings from African Americans, and this support is reflected in Gore's decisive margins over Bradley among black voters.

Bradley told the students: "It is your generation that can blow away the acrid smell of racial discrimination. . . . We are at a time when we have the opportunity to reconstruct the racial question that made such progress in the 1960s." Child poverty and child health care are the issues on which to build a new, multiracial coalition, he said.

Staff writer Ben White contributed to this report.

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Yellow Pages

Racial Profiling
Question and Answer
January 18, 2000

CMAS

protest

frustrated

Q: Yesterday, Bill Bradley challenged the Vice President to have the President sign an Executive Order to end racial profiling, instead of proposing legislation. Why doesn't the President sign such an order?

A: The President has spoken out repeatedly and forcefully against racial profiling. And he has recognized that in this highly charged issue, it is crucial to get the hard facts. To help ensure that federal law enforcement officers act in accordance with their broad policies against racial profiling, President Clinton in June signed a Presidential directive to federal agencies to gather data about when and where racial profiling occurs. Having this data will arm us to combat this problem in the most thorough and effective manner possible – so that we can act on the basis of facts and not anecdote. We've completed the first stage of this process – developing plans for field tests and assessing current practices. Over the coming year, we will do the actual data collection and analysis.

President Clinton also endorsed legislation introduced by Representative Conyers to assist state and local law enforcement agencies (who comprise the vast majority of law enforcement in this country) to collect and report similar data on traffic stops. The data collected under both the President's directive and the Conyers bill will give us a better national picture of law enforcement stops and searches, the individuals who are subjected to them, and what other steps may be necessary.

In addition, the Clinton Administration has taken decisive and strong action when police misconduct does occur. Because the Justice Department has added more resources to prosecute police misconduct, the number of officers serving time in federal prison on corruption, brutality, and other charges has increased by over 500 percent since 1994.

Talking Points on Fairness in Law Enforcement Directive November 19, 1999

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Improving data collection beyond stops and searches. The Justice Department will also improve data collection on arrests to better monitor the racial and ethnic composition of persons at each stage of the Federal criminal justice system, including arrestees, and defendants prosecuted and sentenced in federal court.

- **Department of Treasury.** The Treasury Department field tests will include the two components of Treasury law enforcement with the most frequent contact with the public: the U.S. Customs Service and Secret Service Uniformed Division. The data will provide a statistical snapshot of traffic stops and pedestrian stops conducted by the Secret Service as well as more extensive inspections or interviews of entrants to the Customs Service.

U.S. Customs Service. The Customs field test will collect data on persons stopped and searched on inbound flights at 5 major air ports of entry: Chicago O'Hare International Airport, New York JFK International Airport, Los Angeles International Airport, Newark International Airport, and Miami International Airport. During the data collection field test, any complaints on personal searches will be handled through a newly established Customer Satisfaction Unit.

Secret Service Uniformed Division. The Secret Service will collect data on traffic and pedestrian stops within the Uniformed Division, Foreign Missions branch. The Foreign Missions Branch provides protection through vehicle patrols, foot patrols, and fixed posts. The field test will cover the approximately 100 officers who are responsible for the

protection of foreign diplomatic missions and personnel in the metropolitan area of the District of Columbia.

- **Department of Interior.** The Interior Department selected the National Park Service to participate in the field test. The National Park Service Rangers and U.S. Park Police make hundreds of thousands of law enforcement contacts annually. The field test will include ten sites from around the country that represent high visitation areas with exceptionally active law enforcement programs. Some of the sites selected include: Yosemite National Park, CA; Grand Canyon National Park, AZ; Blue Ridge Parkway, VA/NC; Valley Forge National Historical Park, PA; and the Baltimore-Washington Parkway.

Current Policies, Practices, and Training

[Background: Note that the DOJ report contains more detailed information on use of race and ethnicity in investigations and other law enforcement interactions than the other agencies' reports, and may raise some questions. In particular, the INS policy that explicitly permits apparent ethnicity to be used as a factor for certain stops and detentions may be viewed as troubling, although it has been found constitutional by the U.S. Supreme Court. To help address possible criticism, we should stress the importance of the working group that the Deputy Attorney General will soon convene to address such issues and make recommendations – prior to the completion of the data collection time period.]

- **Interim steps to strengthen current policies.** In response to the directive, the agencies submitted detailed information on existing training programs, policies and practices regarding the use of race, ethnicity, and gender in federal law enforcement activities.. There are some interim improvements that agencies will take immediately, including a full review of Justice Department training provided for federal and state and local law enforcement on use of race/ethnicity. You should also be aware that Customs has recently instituted a number of important changes, including inspector training on cultural interaction, the establishment of a Customer Satisfaction Unit, and the creation of an independent Personal Search Review Commission to review Customs policies and procedures for international air passenger processing.
- **New working group to make long-term improvements to current policies and practices.** As data collection proceeds, the Justice Department will establish a working group headed by the Deputy Attorney General to further evaluate and recommend improvements to current policies and training. This working group, which will include representatives from the Department's law enforcement agencies and the Civil Rights Division, will evaluate existing policies as well as results from the data collection field tests as they become available. The working group will welcome your organization's input. In addition, the Independent Commission at Customs is reviewing Customs policies and procedures to further improve passenger processing and search procedures.

Next Steps

- **This is the first stage of a more than year-long effort.** We know this is an issue that is of critical importance to your organization. The document we've sent to you represents the first stage in a multistage effort to carry out the President's directive. We believe that the field tests developed by the agencies are a serious effort to carry out the President's directive.
- **We will continue to keep you abreast and seek your input of this important initiative.** Take some time to review the documents we've sent and let us know if you have further questions or concerns. We will be happy to answer any questions you have, and if you think it would be helpful, we can set up a meeting once you've had some time to review the documents. We will continue to keep you apprised of the field tests and appreciate your input of our efforts to improve existing policies, practices and training.

copy
PROFICIENCY

**Outreach Plan for the
Fairness in Law Enforcement Directive Report
November 18, 1999**

Timing

- Mail the reports to the groups (see list below) on Friday, November 19, 1999.
- Leanne and Irene will call the groups on Friday to inform them that we are sending them a report that is the first stage of the requirement of the President's Executive Memorandum. This report: (1) describes the extensive data collection effort that begins next month and will result in a comprehensive analysis of current policies and practices; the results will be available later next year; 2) in the meantime, we are reviewing our own policies to determine which need to be revised or clarified and if appropriate, we will not wait for the data analysis to make these changes; and 3) we want your reaction to the data collection plan and our survey of current policies of federal agencies. Leanne has drafted detailed talking points that we will send you shortly.
- If the groups would like a meeting to discuss their concerns we would accommodate their request. However, at this time, we think it is more helpful for them to review the report before having a meeting. DOJ (Richard Jerome and Julie Fernandes) agree that this is the correct approach.

Civil Rights Groups

Laura Murphy, ACLU

Wade Henderson, Leadership Conference on Civil Rights (LCCR)

Kwisi Mfume - NAACP - Baltimore

Hilary Shelton, NAACP -DC

Raul Yzaguirre, President, National Council of La Raza (NCLR)

Karen Narasaki, National Asian Pacific American Legal Consortium (NAPALC)

Hugh Price, Urban League

Jim Zogby, Arab American Institute (we are verifying this group).

Jesse Jackson - Rainbow Push

Sandy Cloud, National Conference on Christian and Jews – DC office

Police Groups

International Association of Chiefs of Police

Fraternal Order of Police

National Association of Police Organizations

National Organization of Black Law Enforcement Executive (NOBLE)

Police Executive Research Forum

Police Foundation

National Sheriff Association

Federal Law Enforcement Officers Association

Hill

House

Rep. Conyers, Ranking Member on Judiciary Committee

Congressional Black Caucus

- Rep. James Clyburn, Chairman
- Rep. Danny Davis, head of the Task Force on Race Profiling

Congressional Hispanic Caucus

- Rep. Roybal-Allard, Chairman

Congressional Asian Pacific Caucus

- Rep. Underwood, Chairman

Senate

- Senator Kennedy, Ranking Member, Judiciary Committee

THE WHITE HOUSE
WASHINGTON

Date 10/14

To: MARIA ECHAVESTE, ERIC LIU

From: The Staff Secretary

PER OUR CONVERSATIONS,
HERE'S THE TREASURY AND
INTERIOR RACIAL PROFILING
MATERIALS (I UNDERSTAND OPC
HAS JUSTICE'S) -- WE'LL
WAIT TO HEAR FROM YOU ON
WHETHER/HOW THIS NEEDS TO
GET TO BRUS. - JAW

CME -
RACIAL

CME -
RACIAL



990078-48152

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

October 8, 1999

The President
The White House
Washington, DC 20500

Dear Mr. President:

On June 9, 1999, you issued a directive, entitled *Fairness in Law Enforcement: Collection of Data*, instructing the Secretary of the Treasury, the Attorney General, and the Secretary of the Interior to design and implement a system to collect and report statistics relating to race, ethnicity, and gender for law enforcement activities. The directive also required each of the three Departments to submit, within 120 days, a report to you on existing training programs, policies, and practices regarding fairness in law enforcement, an implementation plan for a field test of the data collection system, and recommendations for improving current programs, policies, and practices.

Enclosed is the report prepared by the Department of the Treasury in accordance with your directive. As discussed in the report, Treasury and its law enforcement bureaus have longstanding policies aimed at ensuring that employees do not target persons for inspection, investigation, or other law enforcement activity on any impermissible basis such as race, national origin, or gender. Our data collection field test includes two components of Treasury law enforcement bureaus: the Secret Service Uniformed Division, Foreign Missions Branch in Washington, D.C. and the United States Customs Service, Passenger Operations, at five inbound airports of entry including Chicago, O'Hare International Airport, New York JFK International Airport, Los Angeles International Airport, Newark International Airport, and Miami International Airport.

These two components were selected because of the volume and frequency of their contact with the public. The other Treasury law enforcement bureaus, the Bureau of Alcohol, Tobacco, and Firearms, the Federal Law Enforcement Training Center, and the Internal Revenue Service, Criminal Investigation Division, do not generally perform traffic or pedestrian stops. Therefore, they do not have a basis to gather a significant amount of the information requested in your Directive.

The Secret Service will collect the required data on traffic and pedestrian stops through the use of contact cards and maintain the data in a Microsoft Access or similar database. The Customs Service will collect the required data and maintain the information in the Treasury Enforcement Communication System Database on persons stopped and searched in the inbound personal processing units at the five selected ports of entry. The field test is scheduled to begin on December 1, 1999, and will provide statistical information to assist our bureaus in refining their policies and training to prevent prohibited discriminatory actions.

We agree, as you clearly state, that there is simply no room in Federal law enforcement for discriminatory conduct based on race, ethnicity, and gender. The Treasury Department shares your commitment that all members of the public be treated fairly by our law enforcement personnel. We dedicate ourselves to ensuring that the spirit of your directive is reflected not only in formal policies and procedures, but also in all of our day-to-day operations.

Sincerely,

A handwritten signature in black ink, appearing to read "L. H. Summers", written in a cursive style.

Lawrence H. Summers

Enclosure

**DEPARTMENT OF THE TREASURY
REPORT ON FAIRNESS IN LAW ENFORCEMENT
October 1999**

INTRODUCTION

On June 9, 1999, President Clinton issued a Directive, entitled *Fairness in Law Enforcement: Collection of Data*, directing the Secretary of the Treasury, the Attorney General, and the Secretary of the Interior to design and implement a system "to collect and report statistics relating to race, ethnicity, and gender for law enforcement activities." To gain a better understanding of actual practices, the Presidential Directive mandates that the Treasury, Justice and Interior Departments each develop a proposal "for a system of data collection and an implementation plan for a field test of that system." President Clinton also instructed each of the three Departments to "provide a report on the training programs, policies, and practices regarding the use of race, ethnicity, and gender in law enforcement activities, along with recommendations for improving these programs, policies, and practices." These reports are to be submitted to the President within 120 days of the Presidential Directive. This report responds to that requirement.

TREASURY'S IMPLEMENTATION OF THE PRESIDENTIAL DIRECTIVE

Treasury and its law enforcement bureaus prohibit their employees from selecting persons for inspection, investigation, or other law enforcement activity on any impermissible basis such as their race, national origin, or gender. This policy is communicated to employees by Treasury and bureau management and is part of the training Treasury bureau personnel receive. Personnel who violate this policy are subject to disciplinary action.

Although Treasury and its bureaus' policies against discriminatory practices are longstanding, no comprehensive study has been done on how these policies are followed in the field. In accordance with the Presidential Directive, Treasury has designed a data collection field test to gain a better understanding of actual practices. As outlined in the Directive, the data collected is to "be sufficiently detailed to permit an analysis of actions relevant to the activities of the included law enforcement agencies by race, ethnicity, or gender." The data acquired is not to contain any information that may reveal the identity of any individual. The Presidential Directive also provides that each Department must implement field tests within 60 days of finalizing the data collection proposal. Treasury's field test is scheduled to begin on December 1, 1999, and will conclude on December 31, 2000.¹ At the conclusion of the one-year field test, Treasury and Interior will provide the Attorney General with a summary of the information collected which will include "civilian complaints received alleging bias based on the race, ethnicity, or gender of the

¹ Although Treasury's field test period for purposes of the Presidential Directive begins on December 1, 1999, Customs has already begun collecting the relevant data.

complainant in law enforcement activities; the process for investigating and resolving such complaints; and the outcome of any such investigations.”

As discussed in more details below, Treasury’s field test will provide a statistical snapshot of traffic stops and pedestrian stops conducted by the Secret Service and the more extensive inspections or interviews of entrants to the United States conducted by the Customs Service. This data, in turn, will assist Treasury and all of its bureaus in refining their policies and training to prevent racial profiling and other prohibited discriminatory actions.

Methodology

The Department of the Treasury’s Office of Enforcement convened a working group to formulate Treasury’s data collection project and field testing plan. The working group was comprised of at least one representative from each of the Treasury law enforcement bureaus who have expertise in data collection, computer systems, and stop and search issues. The working group reviewed bureau policies and training curricula, and developed a proposal for a data collection field test.

PART I: DATA COLLECTION PROPOSAL

Treasury’s data collection proposal will allow for the review of the law enforcement activities of two components of law enforcement bureaus: the United States Secret Service Uniformed Division, Foreign Missions Branch, and the United States Customs Service, Passenger Operations, at five inbound air ports of entry.²

Treasury’s proposal will enable the Secret Service and the Customs Service to collect data on the race,³ gender, and ethnicity on such actions as traffic stops, pedestrian stops, and more extensive inspections or interviews than are customarily conducted with entrants to the United States.

² The other Treasury law enforcement bureaus, the Bureau of Alcohol, Tobacco, and Firearms, the Federal Law Enforcement Training Center, and the Internal Revenue Service, Criminal Investigation Division, do not generally perform traffic or pedestrian stops. Therefore, they do not have a basis to gather a significant amount of the information requested in the President’s Directive.

³ The Department of the Treasury will use the six combined minimum racial categories as outlined in the Office of Management and Budget’s (OMB) October 1997 order revising the Statistical Policy Directive 15 on the classification of Federal data on race and ethnicity. The combined racial categories are American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or other Pacific Islander, and White.

UNITED STATES SECRET SERVICE

The Secret Service field test will consist of data collection on traffic and pedestrian stops within the Uniformed Division, Foreign Missions Branch. Uniformed Division officers (hereafter “officers”) will record the reason(s) for the stop and data on the race, gender, and ethnicity based on their own observation.

Field Test Area: The Uniformed Division is organized into three branches: the Foreign Missions Branch, Naval Observatory, and the White House Branch. The Foreign Missions Branch has approximately 100 officers who are responsible for the protection of foreign diplomatic missions and personnel in the metropolitan area of the District of Columbia. Foreign Missions officers conduct patrols that cover Northwest Washington, D.C., and a small portion of Montgomery County, Maryland. The patrol boundaries extend from Constitution Avenue to East/West Highway in Montgomery County. Officers assigned to the Foreign Missions Branch provide protection through vehicle patrols, foot patrols, and fixed posts. It is in providing protective coverage for diplomatic locations in the District of Columbia and the surrounding metropolitan area that the officers come in contact with the public.

Authority: Title 18, United States Code, Section 3056, is the primary enabling statute that allows the Secret Service to perform its protective mission and conduct investigations. The statute authorizes the officers and agents of the Secret Service to execute warrants issued under the laws of the United States, carry firearms, and make arrests without a warrant for any offense against the United States committed in their presence.

Title 3, United States Code, Section 202, provides the officers with law enforcement authority similar to the District of Columbia’s Metropolitan Police Department.⁴ This statute charges the Uniformed Division with protecting the Executive Mansion and grounds in the District of Columbia, any building in which Presidential offices are located, the Treasury Building and grounds, the President and his or her immediate family, foreign diplomatic missions located in the metropolitan area of the District of Columbia, the temporary official residence of the Vice President and grounds in the District of Columbia, the Vice President and members of his or her immediate family, foreign diplomatic missions located in metropolitan areas (other than in the District of Columbia), and foreign diplomatic missions located in such areas in the United States, its territories and possessions, as the President, on a case-by-case basis, may direct. The statute also enables the officers to make traffic stops and arrests.

⁴ Secret Service’s powers closely correspond to those of the Metropolitan Police Department of the District of Columbia, but relate to the Secret Service’s mandated protective responsibilities.

Project Description: Secret Service Uniformed Division officers are authorized to make a traffic or pedestrian stop when, in their view, an individual is suspected of committing, has committed, or is about to commit any felony or misdemeanor prosecutable by the U.S. Attorney. It is the policy of the Uniformed Division that its officers shall, in situations justifying such action and within constitutional limits, exercise the authority to stop and frisk. This authority, when properly used, has been identified as an effective police procedure. Officers are not allowed to abuse this procedure, to harass persons, or to cause them undue discomfort, embarrassment, or inconvenience. Furthermore, officers may not make these stops on an impermissible basis such as race or gender.

Once officers make the stop, they must establish radio contact with the Foreign Missions Branch Control Center. The officer must communicate the following information: identification of unit(s) conducting the stop, license number and description of subject vehicle, reason for conducting the stop, location where stop is initiated, location where vehicle stops (if different from where initiated), number and description of occupants, and general or specialized support needed (criminal records check).

If these stops result in an arrest, this information is gathered and tracked through the Uniformed Division's case tracking system. For purposes of this project, the officers will also gather data on these contacts with the public that do not result in an arrest.

Data Collection: Where a stop has been made, but no arrest occurs, officers will be required to complete a contact card⁵ after each traffic or pedestrian stop. They will record the person's name⁶, race, gender, ethnicity, and reason for the stop. The individuals stopped will not be required to provide any information; rather, the officers will record the race, ethnicity, and gender based upon their own observations. This process was deemed appropriate to prevent the traffic or pedestrian stop from escalating into a confrontational situation. This process may produce some errors in demographic data, but is warranted to avoid unnecessary intrusion.

The officers will also indicate the reason for the stop, the location of the stop, and the reporting officer's name, unit, and section. For the purpose of this proposal, "Stop and/or Search" will mean any individual who is detained, asked to produce proof of identity, and is subjected to a name search and/or records check through the appropriate law enforcement databases. "Stop and/or Search" will not include those individuals who are subjected to a cursory stop and/or interview, such as an individual who is stopped for the purpose of permitting a motorcade to proceed, nor will it include contacts initiated by the citizen. Under those circumstances the contact card will not be completed.

⁵ The Secret Service uses the same contact card used by the District of Columbia's Metropolitan Police Department. It allows the law enforcement officer to indicate the type of stop (pedestrian, vehicle or bicycle), the location of the stop, the race and gender of the subject, and a justification for the stop or contact.

⁶ The person's name will be recorded on the contact card only for responding to potential complaints by citizens, but will not be transferred or maintained in the database.

At the end of each shift, officers will be required to turn in the contact cards to their shift supervisor. The shift supervisor will forward the contact cards to the Deputy Chief's staff office and the administrative lieutenant⁷ will be responsible for entering the information into a Microsoft Access or similar database. Each contact card will be cross-referenced with the communication base radio log, when necessary. This process allows the shift supervisor to address any inconsistencies between the contact card and the communication radio log. For example, if an officer reports four traffic stops and turns in only three contact cards, the shift supervisor will request the additional contact card from the officer.

Data Compilation: All information on stops and arrests resulting from traffic or pedestrian stops will be retained in Microsoft Access or a similar database program for statistical purposes only. As indicated above, the administrative lieutenant's staff will be responsible for entering the data into the system. These statistics will only be disseminated to the appropriate requesting agencies. The database will not include personal identification;⁸ however, the card file will be cross-referenced with a number in the database to verify accuracy and facilitate the investigation of any citizen complaint.

Complaint Activity: Any complaints that arise during this field test will be handled through the normal complaint processing channels. The current process allows for a citizen to file a complaint with the Director of the Secret Service through the Public Affairs Office. The Public Affairs Office determines the appropriate office to address the complaint, e.g., Inspection Division or Chief or Deputy Chief of the Uniformed Division. If complainants are not satisfied with the response, they may contact the Department of the Treasury. The Department of the Treasury contacts the Secret Service for additional information, provides the complainant with a response, and takes appropriate action, if that is deemed necessary.

The Deputy Chief, Foreign Missions Branch will be responsible for tracking and maintaining all complaints related to this data collection project. In addition, based on the data collected, the Deputy Chief, Foreign Missions Branch will identify any significant trends and potential concerns.

UNITED STATES CUSTOMS SERVICE

The Customs Service's field test will consist of data collection on the inbound personal search process at five air ports of entry: Chicago O'Hare International Airport, New York JFK International Airport, Los Angeles International Airport, Newark International Airport, and Miami International Airport. Customs inspectors (hereafter "inspectors")

⁷ The administrative lieutenant is located in the Deputy Chief's Office.

⁸ If the officer makes an arrest, the person's name will be included in the database.

will record data on the race, gender, and citizenship on passengers subjected to a personal search.

Field Test Area: The Passenger Operations Branch, which will serve as the test area for the Customs Service, is responsible for the passenger enforcement process. The Passenger Operations Branch's principal mission is to increase seizures of contraband while facilitating passenger traffic flow. With the ever-increasing number of passengers entering the United States and increased pressure to meet its interdiction responsibilities, while still minimizing disruptions to passengers and commercial traffic, Customs uses a passenger enforcement selectivity process as an important and necessary aspect of its drug interdiction mission. The passenger enforcement process enables inspectors to determine which passengers should receive closer attention. It identifies the potential risk of incoming flights and their passengers in order to determine the level of examination needed.

Authority: Title 19, United States Code, Section 1581 et seq., gives inspectors the authority to search, inspect, and/or examine all persons, luggage, and merchandise discharged or unladen from a carrier arriving in the United States from a foreign destination. It also enables inspectors to conduct searches of persons at the border to detect the presence of contraband. Inspectors use training, experience, subject-matter expertise, information and intelligence related to smuggling trends, and analysis of recent seizures to determine who, among the over 450 million people arriving at the borders each year, should be searched.

Project Description: The Customs Service, which voluntarily initiated such a procedure prior to the Presidential Directive, will continue to collect the required data on persons stopped and searched in the inbound personal processing units at the five selected ports of entry. The personal search data on international travelers is collected and analyzed by the Passenger Data Analysis Team. The team monitors personal searches, analyzes local and national trends, uncovers any potential problems, and reports critical areas of concerns to Customs management. The Passenger Data Analysis Team identifies potential areas of risk using a four-step process. The team will also use these steps when working with port offices to develop local passenger compliance and enforcement strategies. The four steps are: (1) identify potential risks in passenger compliance; (2) analyze and assess risks to fully comprehend issues; (3) prescribe action to mitigate the risks; and (4) track and follow-up progress action plan.

Data Collection: Inspectors use the Personal Search Worksheet to record information on any personal search⁹ for later transcription into Treasury Enforcement Communications

⁹ It is important to note that personal searches are conducted in private rooms or areas away from the view of the general public. Those personal searches that require moving a person to a medical facility for a medical examination require the approval of the port director or person designated to act in his/her absence, provided they are grade GS-13, and after consultation with Customs Counsel.

System (TECS). Inspectors are responsible for entering the data into TECS prior to the end of their shift. When the search results in a seizure and/or arrest, the worksheet becomes part of the seizure documentation. When no enforcement action results, the worksheet will be retained locally for 2 years and 3 months from the date of the search.

The TECS report includes data elements such as race¹⁰, gender, and citizenship, as well as detailed narratives regarding the circumstances surrounding the search and/or detention. Inspectors are required to ensure that times are recorded accurately, including specific start-stop times for completing various steps or types of searches (e.g., “patdown”, partial body, and drive time to and from the medical facility).

The TECS report contains the objective and articulable facts that support the particular search or detention. Inspectors complete as much information as possible concerning the description of the person and circumstances surrounding the search, including factors that not only led to a “patdown,” but also those factors that led from a “patdown” to a more intrusive search.

Inspectors obtain supervisory approval of all records of personal searches entered into the TECS database. Supervisors certify that the TECS report contains all required information and that sufficient details exist regarding the circumstances surrounding the search. Where details are missing or unclear, the supervisors coordinate with the inspectors to finalize the report.

Port directors ensure that TECS reports pertaining to personal searches are reviewed bi-annually to determine personal search effectiveness at the port, including whether there may be any improprieties in the conduct of these searches. Where reports indicate that effectiveness has decreased or that improprieties exist in the conduct of searches, the port directors assess whether corrective action is needed. In addition, supervisors are required to take remedial action for deficiencies.

Data Compilation: The Customs Service has implemented significant changes to its computer system that will improve the data integrity for all personal searches. For example, race, gender, and citizenship, which were existing data fields, have now become mandatory fields. In addition, Customs has added new mandatory data fields, such as port of departure, port of embarkation, port director and chief counsel notification, reasons for the search, and the referring officer for the search. These changes to the computer system will allow the Customs Service to better identify who they search by

¹⁰ The individuals stopped will not be required to provide any information; rather, the inspectors will record the race, ethnicity, and gender based upon their own observations.

race, gender, and citizenship, and provide the ability to do statistical and trend analyses by ports of entry and Customswide. The computer enhancements will also allow the Customs Service to conduct trend analysis on all personal searches by source country and transit country for targeting purposes. More importantly, the Customs Service will be able to perform trend analysis to identify potential concerns.

Complaint Activity: During the data collection field test, all complaints on personal searches will be handled through the newly established Customer Satisfaction Unit (CSU). The CSU ensures that complaints are correctly addressed and that passengers receive appropriate feedback. The CSU also has responsibility for providing current information to senior management and analyzing trends within the complaint system. If complainants are not satisfied with the response, they may contact the Department of the Treasury. The Department of the Treasury contacts the Customs Service for additional information, provides the complainant with a response and takes appropriate action, if such action is deemed necessary.

PART II: POLICIES, PROCEDURES AND TRAINING

The Presidential Directive also requests a report on “training programs, policies, and practices regarding the use of race, ethnicity, and gender” in “law enforcement activities, along with recommendations for improving those programs, policies, and practices.” Accordingly, Part II of this report describes the relevant Treasury and bureau policies relating to fairness in law enforcement, as well as an overview of how such policies are implemented. It also discusses the training programs Treasury and its bureaus have in place to train law enforcement personnel on the relevant policies. While only particular offices within the Customs Service and the Secret Service were discussed in Part I as part of the field test, all Treasury law enforcement bureaus are impacted by policies, procedures, and training programs, and therefore are discussed in this section.

Policies

As discussed in more detail below, Treasury and its bureaus have issued a number of policies related to fairness in law enforcement issues. In addition to these specific policies, policies in other areas may be relevant. In particular, Treasury and its bureaus, like all executive branch employees, are required to follow the *Standards of Ethical Conduct for Employees of the Executive Branch*, issued by the United States Office of Government Ethics, and the *Office of Personnel Management Employee Responsibilities and Conduct Regulations*. Additionally, Treasury has issued its own *Department of the Treasury's Employee Rules of Conduct*, which includes an explicit ban on discrimination or harassment of persons on the basis of that person's race, color, national origin, religion, sex, sexual orientation, age, or disability. Similarly, the Bureau of Alcohol, Tobacco, and Firearms (ATF), the Customs Service, the Internal Revenue Service, Criminal Investigation Division (IRS-CID), and the Secret Service each have their own policies prohibiting discrimination and sexual harassment. Finally, following a policy

review completed by Treasury's Office of Enforcement in April 1996, the Treasury Department issued a "*Policy on Off-Duty Conduct, Bias-Motivated Conduct, and Membership or Participation in Hate Groups by Law Enforcement*" to ensure that all law enforcement personnel are aware of Treasury's expectations regarding off-duty and on-duty conduct. That policy specifically addresses issues regarding integrity, professionalism, and public trust.

Specific Policies Related to Fairness in Law Enforcement

Secret Service: On August 26, 1997, former Director Lewis Merletti issued a memorandum to all Secret Service employees entitled "*Professional Behavior in the Secret Service.*" This memorandum reaffirms the Secret Service's policy of maintaining a professional work environment that is reflective of high-caliber employees. The Director reminded Secret Service employees that they should be professional and courteous when dealing with fellow employees and the public.

Further, the memorandum establishes Secret Service's "zero tolerance" discrimination policy and it holds managers and supervisors accountable to react to and properly address reports of inappropriate actions that come to their attention. It further advises all employees that they will be held accountable for any inappropriate behavior that occurs within their areas of responsibility.

Customs Service: Inspectors performing searches and seizures of persons and property at the border, the functional equivalent of the border, or extended border must adhere to the policies set forth in the Personal Search Handbook (CIS HB #3300-04A).

The goal of the Handbook is to assist inspectors in performing their enforcement duties in a manner that will ensure personal integrity and will also permit officers to perform a professional service for the public. Customs policies, procedures, and training all reinforce that the Constitution guarantees the protection of an individual's right against unreasonable searches and seizures. Customs Service employees are trained to be diligent in their efforts to protect those rights while still accomplishing their enforcement mission. Treasury and the Customs Service prohibit the abuse of constitutional or statutory authority by Customs personnel. Customs Service personnel are made aware of the limits of their authority and are required to use that authority judiciously, conscientiously, and courteously.

To ensure that this occurs, the Department of the Treasury and the Customs Service are committed to improving the passenger enforcement process. While serving as the Under Secretary of Enforcement, Raymond W. Kelly tasked the Office of Enforcement's Office of Professional Responsibility (OPR) with assessing passenger enforcement targeting and reviewing inspector training to ensure that targeting does not discriminate on the basis of

race, color, national origin, ethnicity, religion, gender, or sexual orientation. During the course of OPR's review, Mr. Kelly was nominated and confirmed as the Commissioner of Customs, and the review continued under Under Secretary James E. Johnson. Prior to the issuance of the OPR report, Commissioner Kelly implemented a number of recommended changes, including mandating more intensive training for all new inspection personnel to include improved communication and intercultural skills, providing comment cards for passengers to provide feedback on Customs' services, and establishing a Customer Satisfaction Unit to process passenger complaints. In addition, Commissioner Kelly has established two committees, one internal and one external,¹¹ to review the procedures used in personal searches. Commissioner Kelly has tasked the committees to review the criteria used to identify passengers for more intrusive inspections, as well as analyze the search data to determine if the Customs Service is correctly selecting the high-risk passenger.

The *Personal Search Handbook* outlines the procedures for conducting personal searches. Under a new policy recently introduced by Commissioner Kelly, there may be as many as ten steps involved in a personal search, which can range from a "patdown"¹² to more intrusive searches.¹³ As the personal search becomes more intrusive, the inspector must receive increasingly higher levels of supervisory approval.¹⁴ Additionally, at any point during the personal search process, the inspector and supervisor can consult with the Office of Chief Counsel. Thus, while a supervisor may approve a "patdown", a port director must approve a medical examination. An inspector, however, may terminate the secondary inspection at any time without supervisory approval.¹⁵

ATF: ATF employees are held to the highest standards and the bureau tolerates no illegal discrimination. On July 10, 1999, Director Magaw issued the Conduct and Responsibility Brief. This brief requires that employees' actions be beyond reproach and withstand public scrutiny both personally and professionally. Employees are expected to conduct themselves in a professional manner. On July 7, 1998, Director John Magaw issued a policy statement on employee professionalism. The ATF policy statement on professionalism states, "ATF employees are expected to conduct themselves in a professional manner." In addition, the policy states that all employees are responsible for

¹¹ Constance Newman, Under Secretary for the Smithsonian Institution, chairs the external committee (the Customs Personal Search Review Commission).

¹² A "patdown" is defined as "a search for contraband or other merchandise hidden on a person's body." In accordance with Customs' policy, all "patdown" personal searches require at least one "articulable fact" before the supervisor will authorize the search.

¹³ If, after the patdown, the inspector continues to have reasonable suspicion that the person has contraband or other merchandise concealed on the body, a more intrusive (non-routine) personal search will be permitted with supervisory approval. More intrusive personal searches include a partial body search, the x-ray search, body cavity search, and detention for a monitored bowel movement (MBM).

¹⁴ The Office of Chief Counsel must be consulted before movement to a medical facility.

¹⁵ At any stage in the secondary inspection process, any person involved in a personal search, who is detained two hours after a personal search has begun, will be afforded the opportunity to have someone notified by the Customs Service personnel of their delay in Customs.

maintaining the highest professional standards in the way they act and present themselves to their clients and their colleagues. This policy governs the behavior of employees within and outside of the workplace. To ensure that these high standards are attained and maintained, ATF also has a vigorous integrity and inspection program overseen by its Office of Inspection. Each component of ATF is audited on a regular basis. In addition, allegations of misconduct are investigated and, if substantiated, the bureau's Professional Review Board institutes disciplinary action.

IRS-CID: On April 28, 1999, Commissioner Charles Rossotti issued the *Reform and Restructuring Act of 1998 (RRA98) Section 1203 Procedural Handbook*, which provides guidance on the fair treatment of employees, taxpayers, and taxpayer representatives. The Handbook states that "IRS is committed to treating employees, taxpayers, and taxpayer representatives fairly and equitably without regard to their sex, age, race, color, national origin, religion, or disability." The Handbook also mandates termination of any employee who engages in discrimination or other types of unfair law enforcement practices. It is the responsibility of the supervisor to discuss the contents of the RRA98 with all employees.

Procedures

Treasury bureaus ensure employees understand and follow Treasury and bureau policies, including those outlined above, through communication, inspection, and discipline.

Communication: The bureaus ensure that employees are aware of and understand all applicable policies by having employees certify their awareness of certain policies, such as Customs' requirement that its inspectors certify that they have received a copy of the *Personal Search Handbook*. They also accomplish this goal by issuing management memoranda and statements to employees reinforcing and clarifying bureau policy, such as the Secret Service's requirement that each supervisor must remind employees of the written conduct standards during employee mid-year performance appraisals.

Inspection: All bureaus place responsibility for ensuring compliance with bureau policies on managers and supervisors. Managers are held accountable through management inspections. ATF and Customs employ self-inspection processes to help monitor compliance. For example, Customs has established its Self-Inspection Program (SIP) to verify that the Customs mission is "performed in the most effective and efficient way." The SIP allows supervisors to evaluate their success in managing, assessing, and reporting on the conditions of their individual operations. The major focus of the SIP for managers and the Management Inspections Division (MID) are areas susceptible to vulnerability and corruption, mission performance, resource utilization, and internal and external relations.

As part of the SIP, at least semi-annually, supervisors execute Self-Inspection

Worksheets (SIWs) for all areas over which they have delegated authority. SIWs have been tailored to assess particular areas of Customs' operations, including, where appropriate, passenger processing and other issues relating to fairness in law enforcement. The SIWs for Airport and Seaport Passenger Operations, for example, ask if the responding office has certified its personal search procedures for the reporting period.

Each core area examined is found to be either "Acceptable" or "Needs Improvement." Reporting supervisors and next level supervisors certify their findings and are responsible for taking corrective action where necessary. The results of the inspections are channeled through the appropriate chain of command and ultimately to the Assistant Commissioners and the Commissioner.

Program level supervisors and managers are tasked with analyzing the results of self-inspections as a quality control measure and making program modifications in response to substantive findings. In addition, program managers must intervene in areas where critical deficiencies have been identified. Finally, the Customs Service has also appointed program coordinators for each major office within the Customs Service. They manage and oversee the SIP and coordinate with MID.

Discipline: All Treasury law enforcement bureaus discipline employees who violate bureau policies. Such discipline may range from verbal counseling to dismissal, depending upon the particular circumstances of the violation.

Training

Treasury and its law enforcement bureaus also have training programs in place to ensure that all employees are aware of Treasury and bureau policies. In January 1999, in conjunction with a review of the Customs Service's Office of Internal Affairs by the OPR, all of the Treasury law enforcement bureaus were asked to provide an accounting of the ethics and related training broadly categorized as "professionalism" provided to law enforcement officers (LEOs). LEOs were identified as individuals who are authorized to make arrests and carry firearms and badges in the performance of their duties. The bureaus were asked to include basic and in-service level training courses.

The courses listed under the broad professionalism category exemplify the integration of ethics and integrity throughout the LEO's training process. Professionalism, as defined in this report, includes ethical conduct and integrity, as well as the related principles of honesty, respect, quality, impartiality, and selflessness. In addition, other principles related to professionalism, such as sexual harassment prevention, interpersonal awareness, corruption prevention, use of force, cultural diversity, and civil rights, are also introduced and continuously reinforced throughout all phases of training.

FLETC: The Federal Law Enforcement Training Center (FLETC) is responsible for providing law enforcement training for over 70 Federal agencies. In addition to

providing training to the Treasury law enforcement bureaus, other participating organizations include the United States Park Police, the Immigration and Naturalization Service, and the Border Patrol. FLETC, with facilities located in Georgia and New Mexico, primarily trains Federal LEOs, but also provides state, local, and international LEOs with training tailored to their special needs.

All Treasury law enforcement bureaus receive basic training at FLETC. Additionally, most of the Federal organizations conduct some or all of their advanced and in-service law enforcement training operations at FLETC, and over twenty have established on-site offices to oversee their training programs. Three of Treasury's law enforcement bureaus - IRS-CID, ATF, and the Customs Service - conduct their bureau-specific training at FLETC; while the Secret Service performs its bureau-specific training at its facility in Beltsville, Maryland.

For the purpose of this report, FLETC provides two courses of interest to all Federal LEOs - the *Criminal Investigator Training Program* (CITP) and the *Mixed Basic Police Training Program* (MBPTP). The CITP course, an in-depth study of basic law enforcement concepts and techniques, has an overall instructional period of 367 hours, 6% of which is devoted to the area of professionalism. Among the subjects taught within the professionalism area are human behavior, modern investigative technology, cultural sensitivity, civil rights, anti-corruption, sexual harassment prevention, and use of force. The over 70 participating organizations are eligible to participate in this course.

MBPTP is a study of basic law enforcement concepts of importance to the LEO and has an overall instructional period of 342 hours, of which 8.4% is dedicated to discussions of professionalism. During the MBPTP, new officers also receive training offered by the Behavioral Science Division, stressing the importance of individual awareness and responsibility for ethical conduct within the law enforcement occupation. In addition, several topics similar to those taught in the CITP course, such as civil rights and the Federal Torts Claims Act, are also discussed. Among the agencies participating in the MBPTP are the Capitol Police, U. S. Supreme Court Police, and the Secret Service, Uniformed Division.

Secret Service: The Secret Service offers two orientation-level training courses outlining agency requirements. These two courses also include discussions on ethics, interpersonal awareness, and the minimum standards of conduct required by all LEOs.

Secret Service provides advanced training for new officers in the Uniformed Division, as well as special agents. The new officers complete the *Uniformed Division Officer Training Course*, which discusses professionalism as it relates to the mission and activities that Secret Service Uniformed Division Officers perform. This course has a total of 500 instructional hours, of which 12% is dedicated to the professionalism subjects of ethics and integrity. New Secret Service special agents complete the *Special Agent Training Course*, with an instructional period of 550 hours of which 20% is dedicated to

aspects of professionalism. As part of their overall instruction, special agents and inspectors are informed that Secret Service does not target persons or groups for investigation based on their race, color, national origin, gender, sexual orientation, or political or religious affiliation, but rather for known or suspected criminal activity.

On-the-job training and advanced in-service training programs supplement classroom study. The Secret Service offers in-service training to all LEOs during the term of their careers. One example of the courses offered is the *Leadership and Organizational Behavior* course. This course focuses on such subjects as ethics, integrity, moral dilemmas, and employee responsibility. Over 20% of the course is dedicated to subjects that would be considered professionalism. Secret Service also offers to all employees a course entitled *Conference on Employee Diversity Issues*. This 40-hour course discusses key issues facing management and non-management employees in the area of mixing cultures on the job.

Customs Service: The Customs Service does not have a new employee orientation course. However, new inspectors and investigators must successfully complete basic training before they are sworn in and allowed to perform inspectional or investigative functions.

The *U.S. Customs Service Integrated Training Program* (USCSI) is specialized training that FLETC and the Customs Academy provide jointly for the Customs Service. Included in this 11-week program is an examination of cross-cultural communications. Professionalism is discussed with respect to victim/witness assistance, carrying and use of firearms, and employee conduct and responsibilities. Prior to the appointment of Raymond W. Kelly as Commissioner of Customs, these and similar subjects related to professionalism were allotted 5.2% of the entire program time. Upon his appointment as Commissioner, Mr. Kelly mandated that all inspectors and special agents receive extensive training on interpersonal communication, cultural interaction, confrontation management, personal search policy, and passenger enforcement selectivity. These training courses, totaling 40 hours of instruction, have now become integral parts of the USCSI. Refresher training in these topics is currently being conducted at the 38 airports handling the largest passenger volume. The USCSI now has over 20% of its instructional hours dedicated to professionalism.

The Customs Service's Internal Affairs training staff presents an 8 hour program of ethics reinforcement and anti-corruption training to all students attending USCSI. In addition to familiarizing new inspectors with the code of conduct, this curriculum focuses on two additional areas: (1) directing students' attention on the ethical issues and challenges of attending their professional responsibilities; and (2) providing them the analytical tools necessary to preserving their integrity.

The goal of the USCSI course is to prepare inspectors to perform their duties in a manner

that will ensure personal integrity and will also permit inspectors to perform a professional service for the public. During this course, inspectors who perform searches and seizures are taught that they must adhere to the policies set forth in the Personal Search Handbook.¹⁶

The *Customs Basic Enforcement School* (CBES) which includes the Criminal Investigator's Training Program consists of a total of 720 hours of criminal investigator training. Of these 720 training hours, 31 hours are specifically dedicated to the review of the professional and ethical requirements of Federal service. In addition, ethical and professional standards are included in most of the numerous blocks of instruction throughout the entire 17-week program.

Customs provides several courses at the in-service level for its employees. Of particular interest are: *Customs Supervisory School*, *Special Field Agent Seminar* (SAFS), *Sector Enforcement Specialists*, *Senior Inspector*, and the *Technical Enforcement Officers*. With the exception of SAFS, the training courses are taught in part by the Customs Internal Affairs Training Staff at the Customs Academy and consist of a total of 400 hours, 6% of which is dedicated to professionalism training. The training that is provided at this level to career employees, as well as those entering or already in supervisory positions, serves to reinforce the corruption prevention material taught at the basic level of training. SAFS is a 40-hour course taught by the Southern Police Institute. Included in this course is 4 hours of discussion of the code of values that guides agents' choices and actions.

ATF: There are three basic training programs related to the overall subject of fairness in law enforcement and professionalism: *CORE Training*, *New Professional Training*, and *Supervising in ATF*.

CORE training is a 3-day orientation program provided to all professional series employees and currently includes 4 hours of training dedicated to ethics, integrity, sexual harassment, and equal employment. This program places special emphasis on the issue of discrimination and specifically informs employees that they may not discriminate or harass other employees, applicants for employment, or other persons dealing with the bureau, on the basis of race, color, religion, national origin, sex, sexual orientation, age, or disability. One of the fundamental purposes of *CORE* training is to instill in the new employee the concept of professionalism and the need to treat all people in a fair and impartial manner.

New Professional Training (NPT) is a 13-week basic training course for new special agents and a 9-week basic training course for new inspectors. During the NPT course, special agents and inspectors learn the laws and regulations enforced by ATF, investigative techniques, and policies and procedures. Professionalism and integrity are

¹⁶ See section on Fairness In Law Enforcement Policies for further discussion of the *Personal Search Handbook*.

central themes and are continually reinforced throughout the training programs. As part of their overall instruction, special agents and inspectors are informed that ATF does not target persons or groups for investigation based on their race, color, national origin, gender, sexual orientation, or political or religious affiliation, but rather for known or suspected criminal activity.

Supervising in ATF is a 2-week training program design to teach new ATF supervisors how to apply the principles of professionalism and integrity as first-line supervisors. The program currently includes 8 hours of integrity, ethics, and related training.

IRS-CID: IRS-CID new employee orientation course focuses on the core values of professionalism including ethics, respect, honesty, quality, and selflessness, and uses group activities and role-playing scenarios.

The IRS-CID advanced level course, *Special Agent Investigative Techniques*, provides training in tax law and investigative techniques and serves as a re-introduction to the core values model introduced at the basic level. The core values model provides IRS agents with a sense of the attributes necessary for becoming successful Federal LEOs. While ethics and integrity are the crux of the model, other values such as honesty, respect, and selflessness are emphasized as well throughout the course.

IRS-CID offers numerous in-service training courses and requires that its agents receive continuing professional education each year. One course is of particular interest, the *New Group Manager Orientation Program*, which discusses ethics and integrity in managing employees, employee performance, and discipline issues in a fair and ethical manner, responsibility and accountability as a manager, ethical choices as a manager, and prevention of sexual harassment. Over 50% of a combined total of 24 hours is dedicated to professionalism training.

RECOMMENDATIONS

The Presidential Directive also requests recommendations for improving the training programs, policies, and practices of Treasury and its bureaus. Accordingly, this section of the report addresses these issues. The recommendations are as follows:

- (1) That at the conclusion of the field test, Treasury and its law enforcement bureaus review and analyze the data collected from the projects being conducted by the Secret Service and the Customs Service and, based on this review and analysis, make any necessary changes to Treasury or bureau policies and procedures.
- (2) That the bureaus ensure that specific professionalism training, as defined by this report, is provided at the start of the LEOs' federal employment. All Treasury law enforcement bureaus should have new employee orientation courses in order to instill the core values of professionalism within all LEOs at the beginning of their careers. This

orientation will also allow LEOs to identify with their bureau, its mission, vision, values, and expectations. Specifically, the bureaus should look to the IRS course, which utilizes role-play, group scenarios, and other group-oriented activities, as an adequate model when reevaluating their orientation-level training courses.

(3) That FLETC conduct a formal curriculum review conference every 2 to 3 years for the Criminal Investigators Training Program and Mixed Basic Police Training Program. FLETC should continue its practice of periodically reviewing courses offered to the new LEOs to ensure those specific training subjects within the area of professionalism, diversity, sensitivity, interpersonal awareness, EEO issues, sexual harassment, ethics, and cultural diversity are conducted in a uniform, comprehensive, and timely manner. Individual subjects may be reviewed any time at the request of FLETC or a participating organization.

(4) That the bureaus continue to ensure that specific training on diversity, sensitivity, interpersonal awareness, EEO issues, sexual harassment, ethics, and integrity are provided. Professionalism training must continue throughout an individual's career and should focus on the specific areas evidencing a need for improvement or reassessment. The training officers should conduct an annual review of current policy and procedures on professionalism and ensure that all lesson plans are current. The review should also ensure that all LEOs are receiving sufficient hours dedicated to professionalism subjects. All training should be provided in a timely manner and with the highest possible level of quality necessary to meet the challenges of today's LEO.

CONCLUSION

As discussed in this report, Treasury and its law enforcement bureaus have longstanding policies aimed at ensuring that their employees do not target persons for inspection, investigation, or other law enforcement activity on any impermissible basis such as their race, national origin, or gender. Treasury and its bureaus also have put in place processes to ensure that such policies are complied with and that if violations do occur appropriate disciplinary steps are taken.

As the President's Directive recognizes, however, the Federal Government must continue to search for ways to ensure that its law enforcement officials do not engage in unlawful profiling based on race, gender, ethnicity, or any other prohibited forms of discriminatory conduct. Through Treasury's field test, it will develop a better understanding of how its policies are applied by Secret Service and Customs Service personnel in making traffic stops and pedestrian stops, and in conducting more extensive inspections and interviews than customary with entrants to the United States. This understanding should not only enable Treasury to provide the data needed to respond to the President's Directive, but also to enhance its policies, procedures, and training aimed at preventing discriminatory activities by its personnel. As recommended in this report, Treasury and all its relevant bureaus will review and analyze the data collected during the field test and then, if

necessary, revise their policies, procedures, and training to reflect what was learned through the data collection.

As the President has made clear, there is simply no room in Federal law enforcement for discriminatory conduct based on race, ethnicity, and gender. Indeed, the President's commitment that all members of the public be treated fairly by Federal law enforcement personnel is clear, longstanding, and consistent. The Treasury Department shares this commitment, and dedicates itself to achieving the President's goals. The information presented in this report is but one aspect of the Department's effort to ensure, in both word and practice, that its commitment to fairness in law enforcement is reflected not only in formal policies and procedures, but also in all of its day-to-day operations.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



October 8, 1999

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

The Department of the Interior (DOI) received your memorandum of June 9, 1999, to the Secretary, titled Fairness in Law Enforcement: Collection of data. The Secretary has asked me to assure you that the DOI is committed to active participation in this important study.

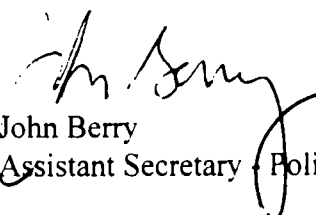
The Office of the Secretary, specifically the Office of Managing Risk and Public Safety, Law Enforcement and Security Team is coordinating this program for the DOI. Mr. Irving D. Tubbs, Jr. leads the team. We have been pro-active in meetings with the Department of Justice (DOJ), the Office of the Attorney General (OAG) and the Office of Policy Development, Domestic Policy Council.

On July 1, 1999, we presented DOI's draft plan to representatives of the DOJ and the OAG. The plan has since been modified in order to capture a suggestion from the DOJ, Bureau of Justice Statistics. On August 30, 1999, Mr. Tubbs presented the revised draft plan in a meeting called by the Office of Policy Development, Domestic Policy Council.

On September 2, 1999, we agreed in conversation with the Department of Justice to present our plan separately from that of the DOJ and the Department of Treasury. The DOI plan is attached.

If there are any questions or comments you may contact me on 202-208-4203, or your staff may contact Mr. Tubbs on 202-208-6319.

Respectfully,


John Berry
Assistant Secretary for Policy, Management and Budget

Enclosures

United States Department of the Interior

Fairness in Law Enforcement: Collection of Data

The Department of the Interior (DOI) as opposed to the Departments of Justice and Treasury is not a law enforcement agency. The DOI is a land management agency composed of 8 bureaus, five of which have a law enforcement component in order to meet our legislated mandate to protect public lands, Indian lands, cultural, historical and natural resources, and parks and to protect fish and wildlife and their habitats as well as our employees, residents, contractors, and visitors. As use and visitation has increased in those areas administered by the DOI, our law enforcement programs have become larger and more pro-active.

The Office of Managing Risk and Public Safety (MRPS) is responsible for the design, implementation and coordination of this program. The mission of the MRPS Law Enforcement and Security Team is to ensure the Secretary of the Interior's responsibilities for effective Departmental law enforcement and security policies. The Team has primary responsibility for policy direction, evaluation, inspection, and support of law enforcement and security programs Department-wide. Team members represent the Secretary in interagency law enforcement and security matters and facilitate intra-agency coordination and cooperation.

In formulating the Fairness in Law Enforcement: Collection of Data plan (plan) the mission and authority of the various bureau's law enforcement components were reviewed as potential participants and/or eliminated. A description of the bureau law enforcement programs and the rationale for our decisions follow:

Bureau of Indian Affairs

The Bureau of Indian Affairs Office of Law Enforcement Services (OLES) writes that their mission "is to uphold the constitutional sovereignty and customs of Tribes, while protecting the rights of all people; to protect life and property; ensure employment suitability and to promote and preserve peace within Indian country. This office is responsible for the overall management of the BIA Law Enforcement Program, and has primary responsibility for the investigation of crimes which occur in Indian country. By the end of this calendar year the OLES expects to have a law enforcement program with approximately 424 Police Officers and Criminal Investigators. Because of their mission and legislative authority, the overwhelming number of people BIA law enforcement deals with on a daily basis are Indians. The decision was made to remove this component from consideration.

Bureau of Land Management

The Bureau of Land Management employs 206 law enforcement officers (56 special agents and 150 rangers) and describe their mission as "tasked with providing visitor and resource protection services in support of all BLM program areas. BLM officers conduct high-priority investigations and enforcement actions that focus on resource protection and public health and safety, with the goal of ensuring compliance with both Federal criminal laws and land use regulations on public lands under BLM's management jurisdiction. BLM law enforcement is also committed to reducing illegal drug activities on public lands, at the direction of the Office of National Drug Control Policy. The BLM focuses its efforts on reducing marijuana cultivation and illicit drug lab manufacturing, both of which pose a direct threat to the land, its natural resources, and legitimate land users. Bureau of Land Management law enforcement officers patrol approximately 264 million acres of public land, but have no General Authority legislation. After consideration of this component's mission, staffing, responsibilities and authorities, it was removed from consideration.

Bureau of Reclamation

The mission of the Bureau of Reclamation is "to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public."

The Bureau of Reclamation presently has a law enforcement program only at Hoover Dam. The law enforcement authority for Hoover Dam, an American Icon, was ceded by the General Services Administration when the dam was turned over to the Department of the Interior. The law enforcement component is a 14 person Police Department. The decision was made to remove this small component from consideration.

U. S. Fish and Wildlife Service

The U. S. Fish and Wildlife Service has two law enforcement components. The Division of Law Enforcement presently has 218 Special Agents responsible for specific law such as the Lacey Act, Endangered Species Act, CITES, and other laws, treaties and regulations. Their jurisdiction extends to all property, regardless of ownership, within the United States and territories. The Division of Refuges presently has 686 "commissioned" refuge officers. Of these only 70 are full time law enforcement officers. The remaining commissioned refuge officers are collateral duty officers whose primary duties range from tractor operator to resource management specialists and biologists. Because neither component of the U. S. Fish and Wildlife Service has General Authorities legislation, the decision was made to remove these components from consideration.

Participating Components

National Park Service

The "Organic Act" of August 25, 1916, states that "the Service thus established shall promote and regulate the use of Federal areas known as national parks, monuments and reservations... by such means and measures as conform to the fundamental purpose of the said parks, monuments and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

The National Park System of the United States comprises 378 areas covering more than 83 million acres in 49 States, the District of Columbia, American Samoa, Guam, Puerto Rick, Saipan, and the Virgin Islands. These areas are of such national significance as to justify special recognition and protection in accordance with various acts of Congress.

The National Park Service "General Authorities Act" of 1976 states: "The Committee intends that the clear and specific enforcement authority contained in this subsection, while necessary for the protection of the Federal employees so involved, will be implemented by the Secretary, to ensure that law enforcement activities in our National Park System will continue to be viewed as one function of a broad program of visitor and resource protection."

The National Park Service law enforcement program today consists of two separate and distinct, but interrelated components. Approximately 2200 National Park Rangers and Special Agents provide law enforcement protection for the majority of the 378 National Park Areas. They are for the most part, a full service law enforcement agency with additional expertise in many other skills, such as emergency medical services and search and rescue. These law enforcement personnel make hundreds of thousands of law enforcement contacts each year. For this reason, it was decided that this component should be a part of this study and program.

The United States Park Police force is the oldest uniformed Federal Law Enforcement agency in the U. S. Its lineage traces to 1791. The United States Park Police is primarily responsible for National Park Service areas in Washington, DC, New York, NY and San Francisco, CA. Additionally, officials at the rank of Captain are assigned to 6 of the 7 NPS regional offices and in other areas as Law Enforcement Advisors to the National Park Service law enforcement program. They are a full service police agency with internationally recognized expertise in Presidential and dignitary protection and in the handling of high-profile national events and celebrations and crowd control during extremely large gatherings and demonstrations. The present staff consists of 645 officers. These law enforcement officers also make hundreds of thousands of law enforcement contacts each year. It was decided that this component should be a part of this study and program.

Designated Sites

The MRPS in consultation with the National Park Service and the U. S. Park Police designated the following sites for the first year test and study:

In the Pacific West Region: Lake Mead National Recreation Area, NV/AZ, and Yosemite National Park, CA.

In the Intermountain Region: Grand Canyon National Park, AZ, and Glen Canyon National Recreation Area, AZ, UT.

In the Midwest Region: Jefferson National Expansion Memorial, St. Louis, MO, and Indiana Dunes National Lake Shore, IN.

In the Southeast Region: Natchez Trace Parkway, MS/TN, and the Blue Ridge Parkway, VA/NC.

In the Northeast Region: Valley Forge National Historical Park, PA, and Delaware Water Gap National Recreation Area, PA/NJ.

In the National Capitol Region: The Baltimore Washington Parkway patrolled by U. S. Park Police officers.

Due to the lack of significant visitation and law enforcement contacts, the decision was made to remove the Alaska Region from site consideration.

The proposed sites represent high visitation areas where there are exceptionally active law enforcement programs.

Data Sets

The DOI will utilize those codes developed and agreed to in consultation with the Departments of Justice and Treasury and approved by the Attorney General. The DOI proposes to collect the information by hard copy, paper forms. The form DOI proposes to use is attached for your consideration. The U. S. Park Police Planning and Development unit has drafted a General Order is presently drafting a General Order which we propose to utilize in the collection of data. Both NPS components have reviewed the form and concur that it will capture the necessary information. One important consideration discussed at both meetings we attended is that in identifying race and ethnicity, we will use officer perception vs. questioning those individuals with who there is a law enforcement contact. For all contacts which result in a search, warrant, and/or arrest, we will question the subject concerning the required information.

Training

PRESENT

All permanent employee, DOI commissioned and sworn law enforcement officers are trained at the Federal Law Enforcement Training Center (FLETC) administered by the Department of the Treasury. Seasonal employees who are commissioned must have completed one of 13 NPS approved academies. Included in the training received is the clear message that racial profiling is wrong and against Federal government policy.

PLANNED

The MRPS in consultation with those bureaus which have a law enforcement program and the FLETC will develop an orientation briefing on racial profiling and the collection of data. All officers, rangers and special agents assigned to the designated sites will be trained and participate in this program. All law enforcement contacts will require the completion of that attached form. Additionally, the MRPS will develop and implement a 1 hour discussion of Racial Profiling, which will be a mandatory core requirement of all DOI in-service training.

Reporting

The DOI will conduct the field test using hard copy, paper only. The final DOI report will be placed in whatever format is required by the Attorney General, in order that we might submit a report which is compatible with the Justice and Treasury reports.

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
UNITED STATES PARK POLICE
FIELD CONTACT FORM

Date	Time	☐ A.M. ☐ P.M.	Case #
Location			

Operator/Subject Name	Last	First	Middle
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Drivers License No/SSN

Current Address

City/Town	State	Zip Code
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Birthdate	Race	Ethnicity	Sex	Weight	Height	POB
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VEHICLE DESCRIPTION

Vehicle Lic.No.	State	Year/Make	Body Typ	Color
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OFFICER OBSERVATIONS

Officer Signature	Badge	Worksite
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Supervisor Signature

Came -
Parent Profiling

Eni -
As we
discussed the
other day...

Learn

The Washington Times
MONDAY, MAY 17, 1999

Racial quotas, racial profiles

By Edward Blum
and Marc Levin

The recently publicized incident of police brutality in New York City has brought the issue of racial profiling to the forefront of national debate. The critics of racial profiling by police officers are correct in their analysis: using race as a proxy for criminality is wrong. It offends the very meaning and purpose of the Constitution and an entire body of civil rights laws. Skin color and ethnicity are meaningless qualities within the American judicial system. Equal protection under law is built on colorblind principles.

Rep. John Conyers has accurately stated that "stopping our citizens to be searched on account of their race is an unacceptable activity on the part of law enforcement."

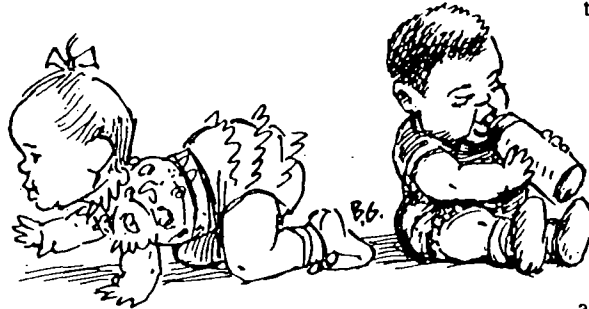
It is baffling, however, that so many of the critics of police racial profiling encourage schools and universities to engage in the very same racial stereotyping when it involves admissions and curriculum. In this case, the racial advocacy groups argue that skin color is paramount, nearly primordial. In fact, they contend that the cultural differences between the races are so enormous that race is virtually synonymous with identity.

Apparently, the civil rights groups decrying police profiling by race

Edward Blum is chairman and Marc Levin is executive director of the Campaign for a Color-Blind America, Legal Defense and Educational Foundation based in Houston.

believe that it is "bad" stereotyping, but when universities profile applicants by race, that is "good" stereotyping. Well, they can't have it both ways. Either skin color tells us something about how a person should be treated in society or it doesn't.

This should force Jesse Jackson to rethink his absurd claim that "to ignore race and sex is racist and sexist." Mr. Jackson wants the cops to ignore it, but not the admissions committee. Many academics continue to argue that racial classifications and preferences to achieve "diversity" are simply benign forms of profiling. After all, they say, blacks bring a unique life perspective to the



classroom.

Is this true? What personality characteristics and life experiences do all black students have that is not to be found in their white classmates? Are there distinct personality characteristics and life experiences that are found in all Hispanics? All Jews? All Asians? If there are, what are they? Obviously, these claims are patently false; they are the delusions of the "race mat-

ters" crowd who make contradicting arguments about the nature and importance of skin color.

Skin color is merely an accident of birth. It does not mean someone is smart or ignorant, hard working or lazy, sensitive or unfeeling, artistic or athletic, reads novels or TV Guide. In the final analysis, people are individuals, whose identity is shaped by innumerable characteristics and experiences, of which race is the least important. All policies that classify people and then treat them differently based on race are inescapably a form of intolerable stereotyping.

After racial preferences were struck down and minority enrollment shrank at the University of Texas School of Law, a professor remarked that it was unimaginable that he may be forced to teach civil rights law to a class that had only one or two African Americans.

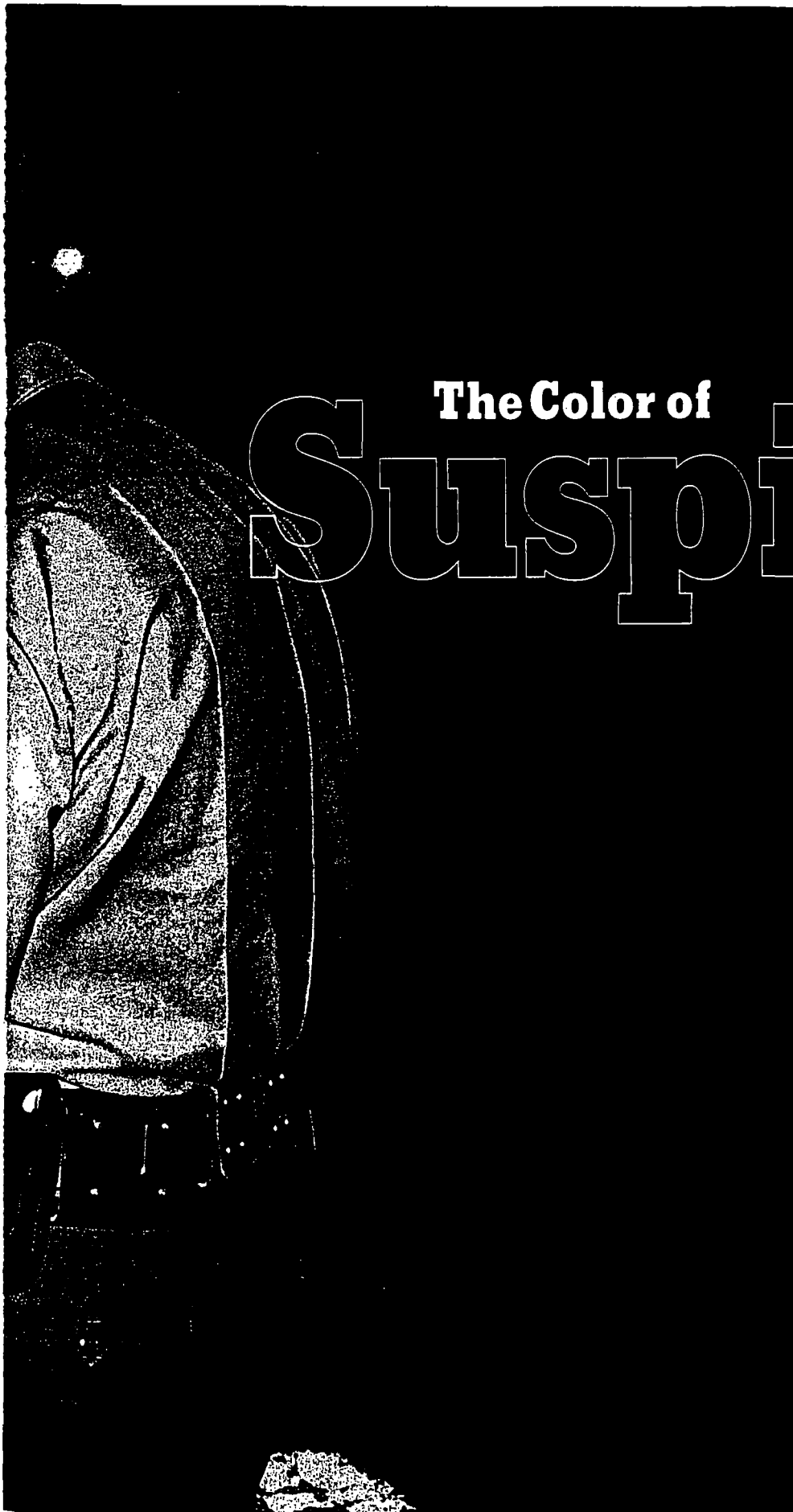
Why is this? Did the professor believe that white law students were unable to learn and appreciate civil rights laws without a black student in the class with them? His premise would make it necessary to have Jews in a classroom to learn about the Holocaust and Latinos to learn about Cinco de Mayo.

A few years ago, Jesse Jackson told an audience that when he walks alone at night in inner-city neighborhoods, he is relieved when the footsteps he hears behind him are from whites, rather than from blacks. His implication was abundantly clear: whites are less prone to criminal behavior than blacks. The media jumped all over this remark and Rev. Jackson was forced to "clarify" his statement the following day. In truth, Rev. Jackson was caught in the same act of "racial profiling" as

many police forces are today.

The use of skin color as feature of importance in public policy has led to some grave consequences, the most insidious being the demand for racial proportionality in all areas of American life. For example, a George Washington University Law professor has called on black jurors to acquit nonviolent black defendants, even if the evidence against them is irrefutable. He believes that the number of blacks in prison should match their percentage in the overall population. A few years ago, former California Assembly Speaker Willie Brown proposed legislation that would have required high schools to graduate minority students at the same rate as majority students, regardless of their grades.

Current university "affirmative action" policies incorrectly make race a proxy for victimization and disadvantage, just as some police departments make race a proxy for probable criminality. Both are wrong. We cannot get beyond race as a country by continuing to base our policies on it. We cannot end discrimination by continuing to practice it. Most importantly, we cannot achieve a colorblind 21st century unless we eliminate racial profiling in every part of our society.



*Crane
Rund
Coffey*

**From the
front seat of a
police cruiser
racial profiling is
not racism
It's a tool — and
cops have no
intention
of giving it up**

The Color of Suspicion

By Jeffrey Goldberg

Sgt. Mike Lewis of the Maryland State Police is a bull-necked, megaphone-voiced, highly caffeinated drug warrior who, on this shiny May morning outside of Annapolis, is conceding defeat. The drug war is over, the good guys have lost and he has been cast as a racist. "This is the end, buddy," he says. "I can read the writing on the wall." Lewis is driving his unmarked Crown Victoria down the fast lane of Route 50, looking for bad guys. The back of his neck is burnt by the sun, and he wears his hair flat and short under his regulation Stetson.

"They're going to let the N.A.A.C.P. tell us how to do traffic stops," he says. "That's what's happening. There may be a few troopers who make stops solely based on race, but this—they're going to let these people tell us how to run our department. I say, to hell with it all. I don't care if the drugs go through. I don't."

He does, of course. Mike Lewis was born to seize crack. He grew up in Salisbury, on the Eastern Shore — Jimmy Buffett country — and he watched his friends become stoners and acid freaks. Not his scene. He buzz-cut his hair away and joined the state troopers when he was 19. He's a star, the hard-charger who made one of the nation's largest seizures of crack cocaine out of Route 13. He's a national expert on hidden compartments. He can tell if a man's lying, he says, by watching the pulsing of the carotid artery in his

Photographs by Jake Chessum

How Cops Talk About Race

neck. He can smell crack cocaine inside a closed automobile. He's a human drug dog, a walking polygraph machine. "I have the unique ability to distinguish between a law-abiding person and an up-to-no-good person," he says. "Black or white." All these skills, though, he's ready to chuck. The lawsuits accusing the Maryland State Police of harassing black drivers, the public exco-riation — and most of all, the Governor of New Jersey saying that her state police profiled drivers based on race, and were wrong to do so — have twisted him up inside. "Three of my men have put in for transfers," he says. "My wife wants me to get out. I'm depressed."

What depresses Mike Lewis is that he believes he is in possession of a truth polite society is too cowardly to accept. He says that when someone tells this particular truth, his head is handed to him. "The superintendent of the New Jersey State Police told the truth and he got fired for it," Lewis says.

This is what Carl Williams said, fueling a national debate about racial profiling in law enforcement: "Today, with this drug problem, the drug problem is cocaine or marijuana. It is most likely a minority group that's involved with that." Gov. Christine Todd Whitman fired Williams, and the news ricocheted through police departments everywhere, especially those, like the Maryland State Police, already accused of racial profiling — the stopping and searching of blacks because they are black.

The way cops perceive blacks — and how those perceptions shape and misshape crime fighting — is now the most charged racial issue in America. The systematic harassment of black drivers in New Jersey, the shooting of Amadou Diallo, an unarmed African immigrant, by New York City police officers earlier this year, and other incidents in other states have brought the relationship between blacks and cops to a level of seemingly irreversible toxicity.

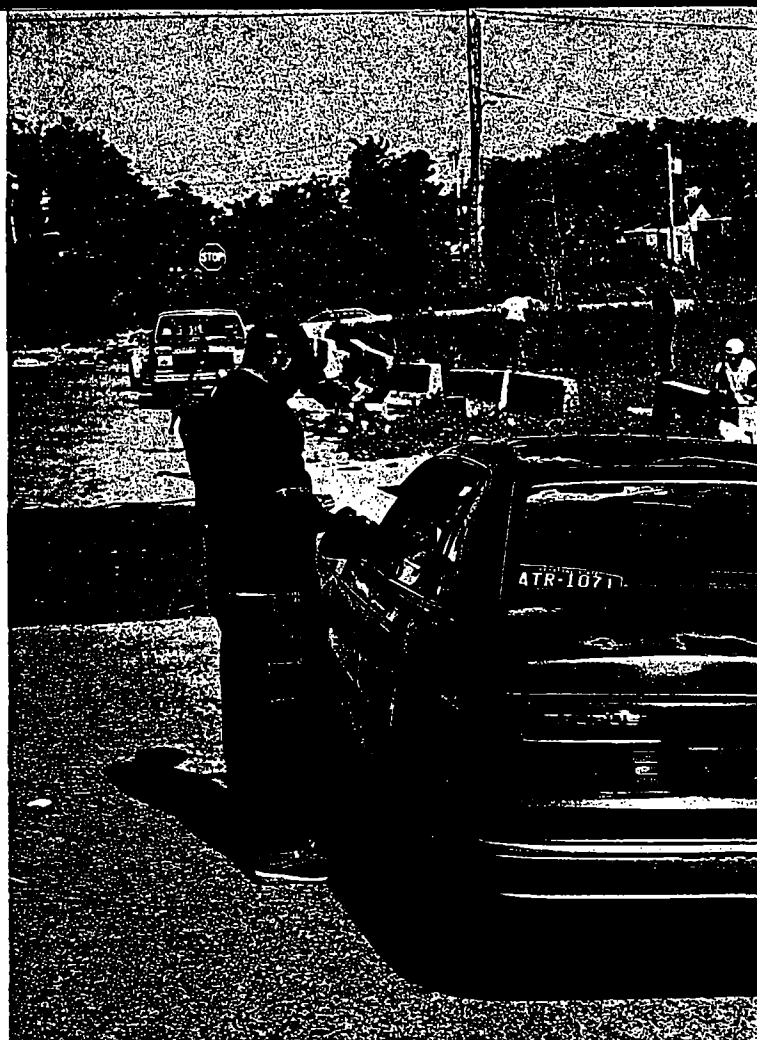
Neither side understands the other. The innocent black man, jacked-up and humiliated during a stop-and-frisk or a pretext car stop, asks: Whatever happened to the Fourth Amendment? It is no wonder, blacks say, that the police are so wildly mistrusted.

And then there's the cop, who says: Why shouldn't I look at race when I'm looking for crime? It is no state secret that blacks commit a disproportionate amount of crime, so "racial profiling" is simply good police work.

Mike Lewis wishes that all this talk of racial profiling would simply stop.

As we drive, Lewis watches a van come up on his right and pass him. A young black man is at

CASE 2: May 29, Philadelphia. Officers Mark Robinson, left, and Gene Jones questioning the occupants of a car in the Logan neighborhood after the car, which had an improperly placed license plate, ran a stop sign. The driver said he had just bought the car at auction and showed his bill of sale. The officers did not issue a ticket, only a verbal warning.



the wheel, his left leg hanging out the window. The blood races up Lewis's face: "Look at that! That's a violation! You can't drive like that! But I'm not going to stop him. No, sir. If I do, he's just going to call me a racist."

Then Lewis notices that the van is a state government vehicle. "This is ridiculous," he says. Lewis hits his lights. The driver stops. Lewis issues him a warning and sends him on his way. The driver says nothing.

"He didn't call me a racist," Lewis says, pulling into traffic, "but I know what he was thinking." Lewis does not think of himself as a racist. "I know how to treat people," he says. "I've never had a complaint based on a race-based stop. I've got that supercharged knowledge of the Constitution that allows me to do this right."

In the old days, when he was patrolling the Eastern Shore, it was white people he arrested. "Ninety-five percent of my drug arrests were dirt-ball-type whites — marijuana, heroin, possession-weight. Then I moved to the highway, I start taking off two, three kilograms of coke, instead of two or three grams. Black guys. Suddenly I'm not the greatest trooper in the world. I'm a racist. I'm locking up blacks, but I can't help it."

His eyes gleam: "Ask me how many white people I've ever arrested for cocaine smuggling — ask me!"

I ask.

"None! Zero! I debrief hundreds of black

smugglers, and I ask them, 'Why don't you hire white guys to deliver your drugs?' They just laugh at me. 'We ain't gonna trust our drugs with white boys.' That's what they say."

Mike Lewis's dream: "I dream at night about arresting white people for cocaine. I do. I try to think of innovative ways to arrest white males. But the reality is different."

A big part of Lewis's reality is a black man named Keith Hill. Lewis killed Keith Hill three years ago. Hill was speeding down Route 13 when Lewis pulled him over. He approached the car, Hill rolled down the window and Lewis smelled burning marijuana. He ordered Hill out of the car, began to search him and came up with thousands of dollars of cash and packets of marijuana. Hill suddenly resisted. What flashed through Lewis's mind was his friend Edward Plank, a trooper killed by a coke runner on this same highway a few months before.

They fought, Hill knocking Lewis into a ravine. They wrestled, and Hill went for Lewis's gun. "We were in a clinch, just breathing heavy," Lewis recalls, "and I said, 'Man, it's just pot, it's not worth it.'" But Hill kept going for the gun, Lewis tells me. He couldn't get it, and ran. He looped through a housing development and back to his car. Hill gunned the engine just as Lewis got himself in front of the car. Lewis drew his weapon and fired, striking Hill twice in the chest.

Jeffrey Goldberg is a contributing writer for the magazine.



search. "They're decent people," Bromwell says. How can you tell?

"They looked me in the eye, and the driver's hand didn't shake when he handed me his license—"

Lewis interrupts: "No visible sign of contraband, no overwhelming odor of air fresheners emanating from the vehicle, no signs of hard driving" — that is, driving long hours without making stops. He is listing Drug Enforcement Administration-endorsed indicators of drug smuggling. Smugglers use air fresheners to fool drug-sniffing dogs. Signs of hard driving — "these guys drive straight through because they don't want to leave their drugs alone," Lewis says — include loose-fitting clothing, day-old beards and food wrappers on the floor. These signs, though, can also indicate the presence of college students — which is, in fact, the case here.

Did you stop them because they were black men from New York? I ask.

"Tell you the truth," Bromwell says, "we couldn't see who was driving these cars. They were speeding."

After the New York cars pull into traffic, Lewis shows Bromwell and his partner, Rob Penny, the newspaper clippings, hoping they will back

crimes that draw the attention of the police. Blacks make up 12 percent of the population, but accounted for 58 percent of all carjacks between 1992 and 1996. (Whites accounted for 19 percent.) Victim surveys — and most victims of black criminals are black — indicate that blacks commit almost 50 percent of all robberies. Blacks and Hispanics are widely believed to be the blue-collar backbone of the country's heroin- and cocaine-distribution networks. Black males between the ages of 14 and 24 make up 1.1 percent of the country's population, yet commit more than 28 percent of its homicides. Reason, not racism, cops say, directs their attention.

Cops, white and black, know one other thing: they're not the only ones who profile. Civilians profile all the time — when they buy a house, or pick a school district, or walk down the street. Even civil rights leaders profile. "There is nothing more painful for me at this stage in my life," Jesse Jackson said several years ago, "than to walk down the street and hear footsteps and start thinking about robbery — and then look around and see somebody white and feel relieved." Jackson now says his quotation was "taken out of context." The context, he said, is that violence is the inevitable by-

have what you might call a profile. pull up alongside a car with black males in it. something don't match — maybe the style of the car with the guys in it. ... We go from there.'

ark Robinson, plainclothes officer, Philadelphia

Lewis speaks often of the shooting, and of Eddie Plank's death. One day, he collects for me old newspaper stories of trooper shootouts. I'm reading them when we pass two members of his interdiction squad parked on the median of Route 13. They've stopped two cars with New York license plates filled with young black men. "What's up?" Lewis asks Gary Bromwell, a bulky, sullen trooper.

The two cars were pulled over for speeding and weaving, but that was a pretext. The goal of Lewis's unit, the criminal-interdiction unit, is to find drugs, guns and untaxed cigarettes in the cars of smugglers. However, in order to stop a suspected gunrunner or drug mule, troopers first have to find a reason in the state's traffic laws.

Bromwell issues written warnings and sends them on their way. I ask Bromwell, who is white, why he didn't ask the young men their consent to search the cars. Reasonable suspicion — anything the trooper can articulate before a judge — is enough to justify a consent

him up. "Eddie Plank," he says. "Killed by a black male. My shooting — a black. Robbie Bishop, down in Georgia, killed by a black. North Carolina trooper, killed by a black."

Bromwell looks uneasy. I ask him if he believes in a connection between the race of the shooters and the crimes they commit.

"People might think it," Bromwell says, walking away, "but they don't say it." He flashes Lewis a look that says, Shut up, and quick.

Why a Cop Profiles

This is what a cop might tell you in a moment of reckless candor: in crime fighting, race matters. When asked, most cops will declare themselves color blind. But watch them on the job for several months, and get them talking about the way policing is really done, and the truth will emerge, the truth being that cops, white and black, profile. Here's why, they say. African-Americans commit a disproportionate percentage of the types of

product of poor education and health care. But no amount of "context" matters when you fear that you are about to be mugged.

At a closed-door summit in Washington between police chiefs and black community leaders recently, the black chief of police of Charleston, S.C., Reuben Greenberg, argued that the problem facing black America is not racial profiling, but precisely the sort of black-on-black crime Jackson was talking about. "I told them that the greatest problem in the black community is the tolerance for high levels of criminality," he recalled. "Fifty percent of homicide victims are African-Americans. I asked what this meant about the value of life in this community."

The police chief in Los Angeles, Bernard Parks, who is black, argues that racial profiling is rooted in statistical reality, not racism. "It's not the fault of the police when they stop minority males or put them in jail," Parks told me. "It's the fault of the minority males for committing

the crime. In my mind it is not a great revelation that if officers are looking for criminal activity, they're going to look at the kind of people who are listed on crime reports."

Chief Parks defends vigorously the idea that police can legitimately factor in race when building a profile of a criminal suspect.

"We have an issue of violent crime against jewelry salespeople," Parks says. "The predominant suspects are Colombians. We don't find Mexican-Americans, or blacks or other immigrants. It's a collection of several hundred Colombians who commit this crime. If you see six in a car in front of the Jewelry Mart, and they're waiting and watching people with briefcases, should we play the percentages and follow them? It's common sense."

What if you follow the wrong Colombian, or track an Ecuadorean by mistake? "We're not using just race," he says. "It's got to be race, plus other indicators, so that won't happen."

I asked Parks to comment on the 3-out-of-10 hypothetical. In Maryland, the state police, as part of a settlement of an American Civil Liberties Union lawsuit, reported that on a particular stretch of highway, the police came up with drugs in 3 out of every 10 consent searches. This was deemed unacceptable by the A.C.L.U. "Three out of 10?" Parks said. "That would get you into the Hall of Fame. That's a success story." He continued: "At some point, someone figured out that the drugs are being delivered by males of this color driving these kinds of vehicles at this time of night. This isn't brain surgery. The profile didn't get invented for nothing."

Profiling in Black and White

"Some blacks, I just get the sense off them that they're wild," Mark Robinson says. "I mean, you can tell. I have what you might call a profile. I pull up alongside a car with black males in it. Something doesn't match — maybe the style of the car with the guys in it. I start talking to them, you know, 'nice car,' that kind of thing, and if it doesn't seem right, I say, 'All right, let's pull it over to the side,' and we go from there."

He is quiet and self-critical, and the words sat in his mouth a while before he let them out.



"I'm guilty of it, I guess."

Guilty of what?

"Racial profiling."

His partner, Gene Jones, says: "Mark is good at finding stolen cars on the street. Real good."

We are driving late one sticky Saturday night through the beat-down neighborhood of Logan, in the northern reaches of Philadelphia. The nighttime commerce is lively, lookouts holding down their corners, sellers ready to serve the addict traffic. It's a smorgasbord for the two plain-clothes officers, but their attention is soon fo-

cused on a single cluster of people, four presumptive buyers who are hurrying inside a spot the officers know is hot with drugs.

The officers pull to the curb, slide out and duck behind a corner, watching the scene unfold. The suspects are wearing backward baseball caps and low-slung pants; the woman with them is dressed like a stripper.

"Is this racial profiling?" Jones asks. A cynical half-smile shows on his face.

The four buyers are white. Jones and Robinson are black, veterans of the street who know

'Racial profiling is a tool we use, and don't let anyone say otherwise. Like up in the valley, I knew who all the crack sellers were — they look like Hispanics who should be cutting your lawn'

— Deputy Bobby Harris, Los Angeles

Sheriff's Department



How Cops Talk About Race

CASE 3: June 5, South Central Los Angeles. Deputy Larry Basham, far right, questioning three men he and his partner saw drinking from beer bottles in Lennox Park. The officers gave the men a verbal warning for drinking in public and possessing alcohol in a public park, and told them to go home.

that white people in a black neighborhood will be stopped. Automatically. Faster than a Rastafarian in Scarsdale.

"No reason for them to be around here at this time of night, nope," Jones says.

Is it possible that they're visiting college friends? I ask.

Jones and Robinson, whose intuition is informed by experience, don't know quite what to make of my suggestion.

"It could be," Jones says, indulgently. "But, uhhhh, no way."

Are you going to stop them?

"I don't know what for yet, but I'm going to stop them."

The whites step out of the building, separate and dissolve into the night before Jones gets to make his stop. Jones is unhappy; he's proud of his tracking skills. "They're hard to see in the dark, I guess," he says, smiling.

So, race is a legitimate proxy for criminality?

"No," Jones says. Few cops ever answer yes at the outset. "But it depends. I mean, you're a cop.

You know who's committing the crimes. It's your neighborhood. That's how it works."

Jones and Robinson are assigned to Philadelphia's 35th Police District, one of the more drug-ridden districts in a drug-ridden city. Certain sections of Philadelphia are still very much lawless. Last year, the city hired John Timoney, who served as first deputy commissioner under William Bratton in New York City, to revive a police department that had become tragically inept. Timoney, by all accounts, has done a remarkable job reforming the department, and letting the criminal underclass know that their actions will bring consequences.

But Philadelphia is not quite Rudolph Giuliani's New York. Jones and Robinson are surprised to hear, for instance, that the smoking of marijuana in public places is actively discouraged by New York police. They express this surprise after they try to clear a drug corner of young men who continue smoking fat blunts even after Robinson and Jones alert them to the fact that they are in the presence of law-enforcement officers.

"You know, the city is cracking down on marijuana smoking," Jones tells the men. They stub out their joints — but not before one man takes one last, deep drag — and move across the street.

Jones shakes his head and says, "It's like there aren't any laws out here."

Like many black cops, Jones and Robinson have more in common with their white colleagues than they do with, say, the Rev. Al Sharpton. "The problem with black politicians is that they think the cop is automatically guilty," Jones says.

One day, while driving through a particularly rank stretch of their police district, Jones decides that I should interview drug dealers on the subject of police harassment and racial profiling. The point he hopes to make is that the complaints of racial harassment are illegitimate. Jones approaches one group of dealers, heavy-lidded young men drinking 40-ounce bottles of malt liquor. One dealer, who gives his name as Si-Bee, is asked by Jones whether the police are harassing young blacks or simply enforcing the law.

"Why can't I just sit on my corner?" Si-Bee says in response. "Unless you've got probable cause, you can't come and harass me." To which Jones replied: "Whoa. Probable cause. Big word."

"Cops come busting on us for no reason," a young man named Mustafa says. "It's just plain and simple harassment. Just messing with us."

"Which are worse?" Jones asks. "White cops or black cops?"

"Black," comes the reply, virtually in unison.

We return to the car, and Jones laughs: "That one," he says, pointing out the window, "I arrested for dealing. That one we got in a stolen car. That one, the one who wouldn't talk to me, I arrested two months ago. I'm going to court soon to testify against him."

We stop at another corner, another group of feckless youth. Same questions, same responses. I decide to switch subjects. Instead of talking about Philadelphia, I want to know what happens when they drive the New Jersey Turnpike.

"That's the worst," one young man says. "I never ride the turnpike."

I turn to Jones, waiting for a smirk.

It never comes.

"I'm going to have to agree with the brother on that one," he says.

What?

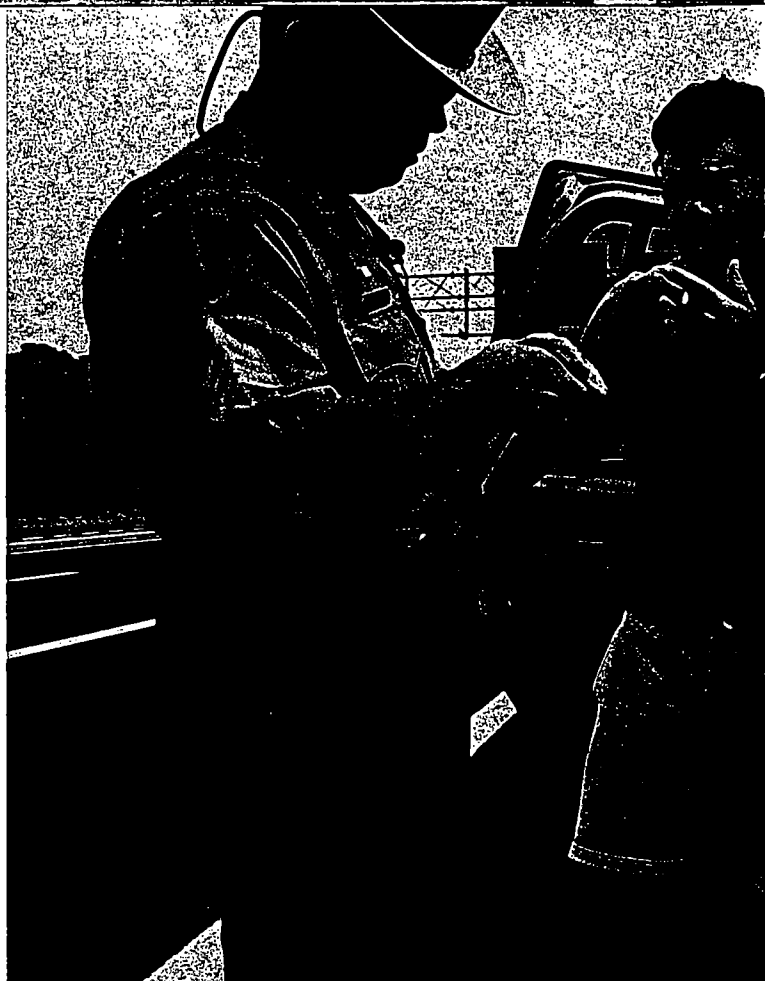
Jones, it turns out, is a staff sergeant in the New Jersey National Guard. "Yeah, when I go to Jersey for Guard weekends, I take the back roads," he says. "I won't get on the turnpike. I won't mess with those troopers."

'Driving While Black,' and Other Exaggerations

Here's the heart of the matter, as Chief Greenberg of Charleston sees it: "You got white cops

How Cops Talk About Race

Case 4: June 3, Maryland. Sergeant Lewis with a man he has just stopped for not wearing his seat belt. Lewis smelled alcohol on the man's breath, asked him to get out of the vehicle and then smelled burning marijuana inside. The man, charged with possessing 7.7 grams of pot, including the container, will have a court date in September.



who are so dumb that they can't make a distinction between a middle-class black and an under-class black, between someone breaking the law and someone just walking down the street. Black cops too. The middle class says: 'Wait a minute. I've done everything right, I pushed all the right buttons, went to all the right schools, and they're jacking me up anyway.' That's how this starts."

So is racism or stupidity the root cause of racial profiling?

Governor Whitman, it seems, would rather vote for stupidity.

"You don't have to be racist to engage in racial profiling," she says. We are sitting in her office in the State House in Trenton. She still seems a bit astonished that her state has become the Mississippi of racial profiling.

Whitman, though burned by the behavior of her state troopers, is offering them a generous dispensation, given her definition of racial profiling. "Profiling means a police officer using cumulative knowledge and training to identify certain indicators of possible criminal activity," she told me. "Race may be one of those factors, but it cannot stand alone."

"Racial profiling," she continues, "is when race is the only factor. There's no other probable cause."

Her narrow, even myopic, definition suggests that only stone racists practice racial profiling. But the mere sight of black skin alone is not enough to spin most cops into a frenzy. "Police chiefs use that word 'solely' all the time, and it's such a red herring," says Randall Kennedy, Harvard Law professor and author of the book "Race, Crime and the Law." "Even Mark Fuhrman doesn't act solely on the basis of race."

The real question about racial profiling is this: Is it ever permissible for a law-enforcement officer to use race as one of even 5, or 10, or 20, indicators of possible criminality?

In other words, can the color of a man's skin help make him a criminal suspect?

Yes, Whitman says. She suggests she doesn't have a problem with the use of race as one of several proxies for potential criminality. "I look at Barry McCaffrey's Web site," she says, referring to the Clinton Administration's drug czar, "and it says certain ethnic groups are more likely to engage in drug smuggling."

It is true. Despite President Clinton's recent declaration that racial profiling is "morally indefensible," the Office of National Drug Control Policy's Web site helpfully lists which racial groups sell which drugs in different cities. In Denver, McCaffrey's Web site says, it is "minorities, Mexican nationals" who sell heroin. In Trenton, "crack dealers are predominantly African-American males, powdered cocaine dealers are predominantly Latino."

The link between racial minorities and drug-selling is exactly what Whitman's former police superintendent, Carl Williams, was talking about. So was Williams wrong?

"His comments indicated a lack of sensitivity to the seriousness of the problem."

But was he wrong on the merits?

"If he said, 'You should never use this solely; race could be a partial indicator, taken in concert with other factors'" — she pauses, sees the road down which she's heading, and puts it in reverse — "but you can't be that broad-brushed."

"Racial profiling," is a street term, not a textbook concept. No one teaches racial profiling. "Profiling," of course, is taught. It first came to the public's notice by way of the Federal Bureau of Investigation's behavioral-science unit, which developed the most famous criminal profile of all, one that did, in fact, have a racial component — the profile of serial killers as predominantly white, male loners.

It is the Drug Enforcement Administration, however, that is at the center of the racial-profiling controversy, accused of encouraging state law-enforcement officials to build profiles of drug couriers. The D.E.A., through its 15-year-old "Operation Pipeline," finances state training programs to interdict drugs on the highway. Civil rights leaders blame the department for the burst of race-based stops, but the D.E.A. says it discourages use of race as an indicator. "It's a fear of ours, that people will use race," says Greg Williams, the D.E.A.'s operations chief.

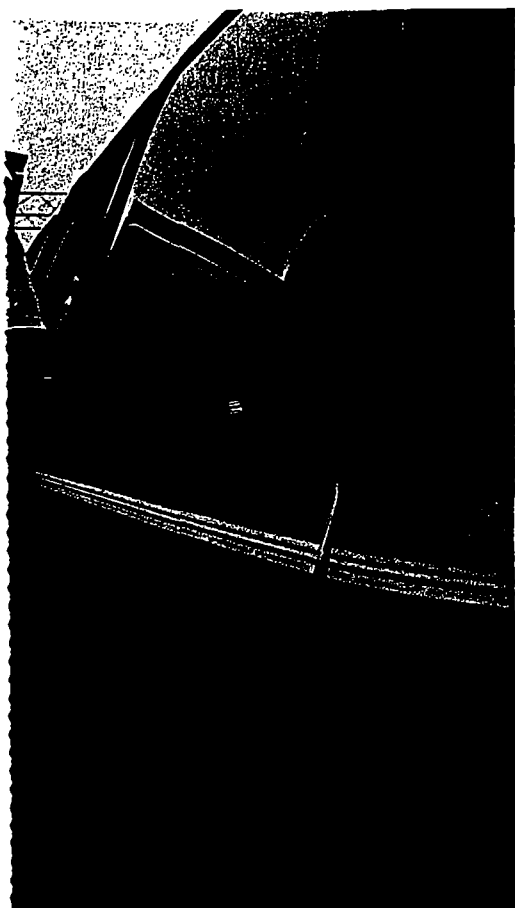
Cops use race because it's easy, says John Crew, the A.C.L.U.'s point man on racial profiling. "The D.E.A. says the best profile for drug interdiction is no profile," he says. "They say it's a mistake to look for a certain race of drivers. That's their public line. But privately, they say, 'God knows what these people from these state and local agencies do in the field.'"

The A.C.L.U. sees an epidemic of race-based profiling. Anecdotes are plentiful, but hard numbers are scarce. Many police officials see the "racial profiling" crisis as hype. "Not to say that it doesn't happen, but it's clearly not as serious or widespread as the publicity suggests," says Chief Charles Ramsey of Washington. "I get so tired of hearing that 'Driving While Black' stuff. It's just used to the point where it has no meaning. I drive while black — I'm black. I sleep while black too. It's victimology. Black people commit traffic violations. What are we supposed to say? People get a free pass because they're black?"

How to Jack Up a Black Man: A Primer

"You know, the black people out here are different," Girolamo Renzulli says. He is formerly of New York, now serving as a Los Angeles County deputy sheriff. We are standing in the parking lot of the Lennox sheriff's station on the edge of South Central Los Angeles. Renzulli speaks in low tones.

"How so?"



"Even criminals have dignity as human beings that must be honored," Baca says.

This is not necessarily an opinion shared by his men. Bobby Harris is a senior deputy at the Lennox station, who, with four other deputies, shot and killed one man this year, and, Harris says, "the year ain't over yet." Deputy Harris is not shy about sharing his position on profiling, which does not dovetail with Sheriff Baca's — at least as Baca described his position to me.

"Racial profiling is a tool we use, and don't let anyone say otherwise," Harris says. "Like up in the valley," he continues, referring to the San Fernando Valley, "I knew who all the crack sellers were — they look like Hispanics who should be cutting your lawn. They were driving cars like this one" — he points to an aging Chevy parked in the station's lot — "and all the cars had DARE stickers on them. That's just the way it is."

If it is unclear whether Sheriff Baca is sincerely oblivious to the goings-on at the Lennox station, many chiefs, I've found, are not terribly interested in knowing too much about the tactics their subordinates use to

Here is Baltimore's Police Commissioner, Thomas Frazier, on racial profiling: "To say that being of any particular race makes you a suspect in a particular type of crime is just wrong, and it's not done in Baltimore."

Roll call in Los Angeles, and the subject is an upcoming demonstration protesting the police killing last December of a 19-year-old woman in neighboring Riverside County. Tyisha Miller is the West Coast's Amadou Diallo. She was shot to death while slumped in her car with a gun on her lap. The police officers say they opened fire when she reached for the gun.

"I hear Al Sharpton is coming out for this," one deputy says.

"Can you believe it? They're going to turn this thing into another goddamn O.J.," another responds.

"And Jesse Jackson is coming."

"Oh, for Chrissakes."

All but two of the deputies are white. One is Hispanic, and he hangs with the whites. The other deputy is black, and he does not participate in the conversation. He instead stares at a fixed point on the wall in front of him. All of

**ninety-five percent of my drug arrests were
light-ball-type whites. . . . Then I moved to the highway,
start taking off two, three kilograms of
coke. . . . Black guys. Suddenly I'm not the greatest
rooper in the world. I'm a racist.'**

gt. Mike Lewis, Maryland State Police

"They're just, I don't know, different."

Like how?

"Wild," he says. "You'll see."

The Los Angeles Sheriff's Department does not look at black men differently than it looks at white men: it is heinous to even suggest it, the Sheriff himself, Leroy Baca, says. He has 8,000 sworn officers under his command; the Sheriff's Department polices unincorporated areas of Los Angeles County and 40 different towns.

"It's happened before," Baca will acknowledge. "When I was a lieutenant, I knew a deputy who stopped interracial couples. We removed him from the field, disciplined him and transferred him out."

Today, though, it just doesn't happen. Baca reads to me from his "Core Values" statement, which, among other items, promises that sheriff's deputies will have the "courage" to stand up to "racism, sexism, anti-Semitism and homophobia."

bring down the crime numbers — crime reductions that, in this performance-driven era of policing, are key to job preservation. In Baltimore, for instance, rank-and-file officers know full well who a multi-agency drug interdiction team that operates at the city's train station is looking for.

"Everyone knows they're looking for 'Yo girls,'" says Craig Singleterry, a black Baltimore police officer. "Yo girls," Singleterry explains, are young black women with long nails and hair weaves who carry such accouterments as Fendi bags and who deliver drugs and money for dealers in New York.

"Of course we do racial profiling at the train station," says Gary McLhinney, the president of the Baltimore Fraternal Order of Police. "If 20 people get off the train and 19 are white guys in suits and one is a black female, guess who gets followed? If racial profiling is intuition and experience, I guess we all racial-profile."

the white men in the room wear their hair in crew cuts. Many of them are ex-marines. Many also wear a tattoo of the Grim Reaper on their ankles. Deputies assigned to hard-core gang areas often tattoo themselves identically, very much like the gangs they fight. It is the white deputies who do this, in the main, and civil rights activists have loudly accused the Sheriff's Department of harboring racist gangs, identifiable by the tattoos they wear. Because of the criticism, deputies keep their tattoos a secret, even though they see nothing wrong with them. "If it was a picture of a black man hanging from a tree, I could see people getting upset," one deputy, Jeffrey Coates, told me.

Coates is perhaps the hardest-charging deputy at Lennox. He is a heavily muscled white man, a power lifter who usually wears a mustache but shaved it off for SWAT tryouts. SWAT culture frowns on facial hair.

The first time I met *Continued on page 64*

PROFILING

Continued from page 57

Coates, he was training a new deputy, a black woman named Angela Walton. Walton and Coates seemed to work well together. It can be unpleasant to be a black female deputy in Los Angeles, and Coates would rise to her defense. Once, he recalled, a suspect taunted Walton, saying, "I bet yo' training officer treats you real good."

"I wanted to beat his [expletive] face in," Coates remembered. "I told him to shut up, just shut up. Then he called me a nigger. I mean, what's that about? How am I a nigger?"

Coates was reared in Iowa, but he has an expert feel for the streets of South Central. He also seems to attract gunfire. Not long after I rode with him, he and his partner were shot at by a man with a revolver, who missed. Last year, Coates and a partner killed a man who opened fire on them from seven feet away. After the shooting, Coates paid a mandatory visit to the department psychiatrist. "He asked me how I felt. I said, 'I feel, [expletive] him.

"Afterward, the black newspaper wrote, 'Deputies kill another black man,'" Coates said. "But if this guy dumped me, they wouldn't have said anything." Coates doesn't have much patience for those who protest the killing of Tyisha Miller, or those who complain about racial profiling: "I say, get your own house in order. Stop the black-on-black homicide."

On one of the days we rode together, Coates and his partner for the day, Andy Ruiz, responded to a domestic call that involved an angry young black man with a tire iron. They pulled up just as the young man walked into the street. Coates grabbed the tire iron. Ruiz pulled out his 9-

millimeter pistol. He later said, "I was ready to shoot him, really."

Inside the apartment the young man with the tire iron was trying to destroy, there were empty bottles of malt liquor on the television console. Coates: "You ever hear Chris Rock? He does this thing: 'Guy says, I got a job, man! Like he's proud. Well, [expletive], you supposed to have a job.'" This is an inexact recollection of a Chris Rock routine in which he delineates the differences between "blacks" and "niggers." Rock is very popular with white cops.

Coates spent one day giving me what might be called a master class in the art of the pretext stop — pulling over blacks and Hispanics, hoping to come up with dope, or guns, or information. "There's a law against almost everything as it relates to a vehicle," Coates said. Coates knows the law, and uses it.

For example, Coates spotted a type of car, a Monte Carlo, which is known to be favored by gangsters, moving along in traffic. He pulled in behind the car and studied it for a moment.

"No mud flaps," Coates said, turning on his lights.

They pulled the car over, and asked the three teenagers, shaven-headed Hispanics, to step outside. They patted them down and looked through the vehicle. The teen-agers freely admitted to being members of the South Los gang.

"Now the reason we stopped you was that you have no mud flaps on your rear tires," Coates said. "But the real reason we stopped you is because we saw that you're rolling out of your area. Why don't you turn it around and go home."

The men argued: "We're just going to Costco."

For what?

"Pet food."

"Pit bull?" Coates asked.

"Two," one of the men answered.

Coates, same day, different vehicle, a purple Buick Regal with a bumper sticker that reads, "Don't you wish you were a pimp." Coates knows the owner of the car — he put him in jail. Behind the wheel is his wife. "There's got to be some violations on that car," Coates said.

There were two women in the car, smoking, and three very small children. Not one was in a car seat. "There's something hanging from your mirror, ma'am," Coates said, covering his bases. "Now, you've got to have the baby in a car seat, O.K.?"

The Regal pulled off, and Coates shook his head. "I should take her to jail just for the secondhand smoke," he said. "Smoking inside a car with little babies? Can you believe that? This place is crazy."

Coates doesn't believe that everyone in his patrol sector is guilty of something. He told me he believes that slightly less than half are guilty of something. He has a good hit rate — most of the drivers he stops are driving without licenses or registration.

But sometimes, in his sweep of the neighborhood, he makes a wrong call. One day, while patrolling with Walton on a bleak street of boarded-up bungalows and dead-eyed black men, he stopped a car without license plates. An obvious stop, but it's what happened after the car was stopped that warrants notice. Every male Coates stops he asks to step to the police cruiser and place his hands on the hood. Coates will then pat him down for a weapon.

The man driving this particular car acceded readily to this, but he was agitated. "This is my neighborhood," he said. He was a black man in his 30's. He seemed terribly embarrassed.

Coates knew something

was off when the man produced his license, registration and insurance card, the trifecta of responsibility.

"I'm sorry. I was just taking the car from the garage back home," the man said. "I should have plates, you're right."

He explained why he was nervous: "I work at Northrop. I don't want anybody to see me like this." He had his palms flat on the hood of Coates's cruiser as he was talking. Walton was standing nearby, her hand near her weapon.

Coates dismissed him without writing a citation. The man thanked the deputy profusely, and took off.

It was a troubling moment, and I asked Coates if it's his policy to remove every male from any car he stops, no matter what the cause for the stop.

"Yes. Officer safety."

"Would you do that in a different part of the county?"

"I wouldn't do it in Santa Clarita," he said, pausing — realizing, perhaps, what that sounded like. "I mean, it all depends."

Do you recognize that you might have just created an enemy on this traffic stop?

"I was polite," he responded. "I always treat people with respect." This is true — he is generally respectful, even affable. But good manners do not necessarily neutralize humiliation.

As I was leaving, I asked Coates if he wore the Grim Reaper tattoo on his ankle.

"I haven't lied to you yet," he said. "So I'm going to have to take the Fifth on that one."

Playing the Percentages

The sheriff's station in Santa Clarita is located on a street named after a nearby amusement park, Magic Mountain. Santa Clarita is part of Los Angeles County, but it is geographically and culturally close to Simi Valley — and a world away

from the ghettos of South Central. Not a lot happens out in Santa Clarita, which is why sheriff's deputies patrol in single-officer cars. Deputy Sam Soehnel is assigned to patrol the middle-class and white Valencia area, as well as the small, rundown Mexican section known as Old Newhall. Most of his problems are in Old Newhall.

"A lot of Hispanics are heavy drinkers," he says. "It's cultural." If pretext stops happen at all, they happen in Old Newhall.

A typical Saturday, a typical call. Someone has found a bank door ajar. Soehnel comes to talk to the semi-hysterical woman who discovered the open door. "Do you think someone is locked in the vault?" she asks. The manager comes, and closes up.

"People have very active imaginations here," Deputy Soehnel says.

Imaginations run wild, for instance, when residents see a black man or a Hispanic man someplace he "shouldn't be."

"If you're in a nice area," Soehnel explains, "and you see a Hispanic guy, he just sticks out, if he's just walking around, hanging out. People will call 911. If it's off a citizen's call, I can make contact with the individual. Ascertain what they're doing in the area."

I ask if it's his policy to pull people out of their cars during traffic stops.

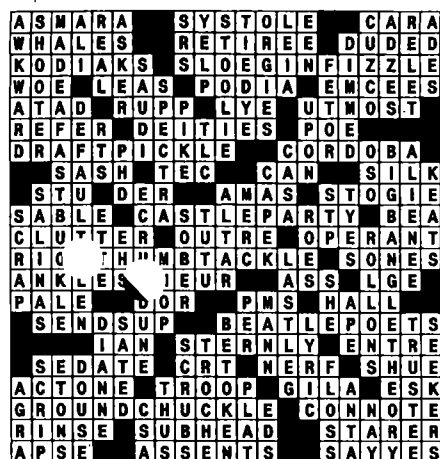
"It depends. A nice area, a guy in Valencia, no. But if it's somebody you're not used to seeing, unfamiliar, yes. On this job, you learn that it's the nice guys that get killed."

Recently, there was a home-invasion robbery on his beat. A black suspect. "We get a lot of 911 calls," Soehnel says. "I got a call, 'There's a black guy walking around on people's lawns.' I get there, he's wearing an electric-company uniform. This woman sees a black

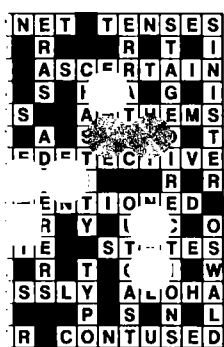
Continued on page 85

ANSWERS TO PUZZLES

OF JUNE 13, 1999



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PROFILING

Continued from page 64

guy walking on her lawn and goes ballistic."

Soehnel is sympathetic. To the woman.

"You play the percentages," he says. "That's the way it works. People see a black guy, they think: 'car-jacker.'"

Or rapist.

Getting Profiled To Death

"Amadou Diallo was profiled to death," says Ben Ward, New York City's first black police commissioner. The night Diallo was killed — the night Rudolph Giuliani's experiment in "zero tolerance" came to an end — the Street Crime Unit that fired the famous 41 shots was on the hunt for a black rapist.

Ward is no Sharpshooter; he was one of the first black police officials to talk openly about what he called the "the dirty little secret" of black-on-black crime. Yet he believes, he says, that most police officers are spectacularly unqualified to discern the difference between lawbreakers and honest citizens.

"The demonstrable evidence shows that they stink at identifying criminals," he says, noting that the Street Crime Unit of the N.Y.P.D. reported that its officers stopped 45,000 people in 1997 and 1998, and arrested only 9,500.

The sociologist Jerome Skolnick once wrote that police officers keep in their minds a picture of the "symbolic assailant." In his work, Skolnick identified that "symbolic assailant" as a young black man.

It's not only white cops who keep that symbolic assailant in mind when they're out on patrol.

"Sometimes, I hate the young black males because of what they do to their community," Mark Buchanan, a black antigang officer in Boston, told me. "But then I think to myself, 'If this is the way I feel, and I'm black, what must white officers think about blacks?'"

I took this question to Mike Lewis, the Maryland state trooper who thinks often — very often — about race. We were driving through a black ghetto on the backside of Salisbury. It is, he says, a pit stop on the crack highway.

Has this job made you prejudiced? I ask.

He turned his head in surprise. It

looked as if he wanted to say something, but nothing came out.

Finally, he says: "Let me tell you something. We respond to calls here, and let's say it's a domestic. We get there, 3, 4 in the morning, and the parents are cracked out, and the kids are up watching TV and eating popcorn, and the place is crawling with roaches. When I go home, the first thing I do is take a shower."

So are you prejudiced?

This is how he answers: "We arrested a Salisbury police sergeant a few months ago, for drugs. We knew he was involved with drugs. For years. He was black."

Black, black, black, black. It is what Mike Lewis sees. It is what Jeffrey Coates sees. It is tunnel vision. They understand half the equation — blacks commit more of certain types of crimes than whites. But what they don't understand is, just because blacks commit more crimes than whites doesn't mean that most blacks commit crimes.

"I see a 16-year-old white boy in a Benz, I think, 'Damn, that boy's daddy is rich.' I see a 16-year-old black, I think, 'That boy's slinging drugs,'" says Robert Richards, a black police sergeant in Baltimore who admits that tunnel vision is a hazard of the job. But like many black cops, he sees nuance where white cops see, well, black and white. "When I start thinking that way, I try to catch myself. If I'm walking down the street and I pass a black male, I realize that, chances are, he's not a criminal."

It is, in some respects, nearly impossible to sit in judgment of a Mike Lewis or a Jeffrey Coates. If Coates says he must pull black men out of their cars and search them on traffic stops, well, Coates has been shot at before, and most critics of the Sheriff's Department have not. But if Coates — and his department, by extension — believe that it is permissible to conduct pretext stops in South Central but impermissible to do so in Santa Clarita, then there's a problem.

The numbers cops cite to justify aggressive policing in black neighborhoods and on the highways tell only part of the story — an important part, but only part. For one thing, blacks make up only 13 percent of the country's illicit drug users, but 74 percent of people who are sentenced to prison for drug possession, according to David Cole, a law professor at George-

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town University and the author of "No Equal Justice."

Common sense, then, dictates that if the police conducted pretext stops on the campus of U.C.L.A. with the same frequency as they do in South Central, a lot of whites would be arrested for drug possession, too.

Of course, this doesn't happen, because no white community is going to let the police throw a net over its children.

What Gets Talked About, And What Doesn't

Bob Mulholland is the sort of white cop who scares even white people. He is tall and thick and his eyes are hard. He works Philadelphia's 35th Police District with Gene Jones and Mark Robinson.

The three men meet up one afternoon on a drug corner.

Jones had been talking about the unequal application of the law. He is a mash of contradictions. One moment, he will speak of the need to "fry" black drug dealers. The next, he will talk about the absurd double standard in law enforcement — the way in which white drug users know with near 100-percent certainty that they will never go to jail for marijuana possession. How they know that they will never be jacked up during a pretext stop. How white cops cut white kids a break.

"We were doing a drunk-driving checkpoint one night," he said. "And I began to notice that when the cops caught a white kid drunk, they would say things like: 'I'm going to call your father. You're in big trouble.' With black guys, they'd just arrest them. Well, I mean, black kids got fathers, too."

Jones and Robinson like Mulholland. They told me he was fair. So I asked him if he ever sees a double standard in law enforcement, if the ghetto is policed one way and a white neighborhood another.

"My job is to clear this corner of [expletives]," he says. "That's what I do."

Do you ever cut anyone slack? Maybe a student who's waiting for a bus?

"My job is to clear this corner of [expletives]," he says, again.

But would you do that equally? If this wasn't the ghetto, but a university campus, would you clear the corner of white kids drinking beer?

"I don't give a [expletive] who's on the corner. My job is to clear the

corner of [expletives]."

Jones and Robinson return to their car and sit in silence.

"Well," Jones says.

"That's what you call a back-in-the-day kind of attitude," Robinson says. The "day" being the time when white cops didn't have to worry about repercussions. I ask them if they believe Mulholland would in fact apply his corner-clearing skills with equal vigor in a white neighborhood.

"No," Jones says.

"No," Robinson says.

"Sometimes, white guys come from white neighborhoods to this job," Jones says. "They don't know a lot of black people, except what they see on TV. So they think they've got to act all hard. They get scared easy."

"Bob's a good guy, though," he continues. "He's a good cop. He's not a racist." Jones and Robinson are truly perplexed. White cops are impossible to understand sometimes. Sometimes they're your friends. And sometimes. . .

"You won't believe this," Robinson tells me one day. "I got stopped."

Really?

"Yeah, in Abington." Abington is a white suburb over the Philadelphia city line. "It was weird. I was stopped at a light, and this police officer behind me puts his lights on, so I pull it to the side, thinking he's going to pass me. I was thinking like a cop. And then another car comes. The first cop comes over to my window and says he stopped me because my inspection sticker was placed abnormally high on the windshield."

Gene Jones begins to laugh.

"I thought they were going to pull out rulers," Robinson continues. "I mean, inspection sticker too high on the windshield?"

I ask Robinson what he was wearing. "What I've got on now," a denim shirt and a baseball cap.

"Then he sees the police emblem on my car, and he says, 'Oh, you're a cop?' I said, Yeah."

Why do you think he pulled you over in Abington? I ask.

"I don't know. Maybe because my car is kind of old."

He doesn't believe this even as he says it.

"Maybe it was that other thing," he continues. "The thing we were talking about."

Mark Robinson, the cop who profiles, was just profiled, and he can't even call it by name. ■

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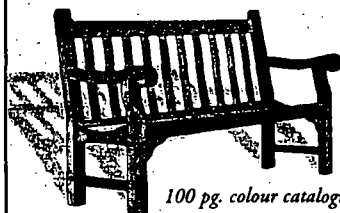
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March 29, 1999

VIA FAX

President William J. Clinton
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Clinton:

As you know from recent news accounts, there is growing anger and anguish over the epidemic of police brutality and abuse against people of color in the United States. This problem knows no ethnic, socioeconomic or geographic boundaries. Minority Americans want, like all Americans, to live and work in safe communities. We support the police and believe the overwhelming majority of them want to do the right thing.

But people of color refuse to be treated as second class citizens by the criminal justice system. Nor do we intend to sacrifice hard-won constitutional rights that were gained through years of sacrifice and struggle. Law enforcement agencies at every level of government must protect all citizens from crime without undercutting the civil liberties of any citizens. Experience in communities across the country shows that public safety and civil liberties can co-exist.

On February 25th, a broad, multi-ethnic coalition of civil rights, civil liberties and community-based groups called upon you to lead the nation out of this abyss that is so perilous for people of color and the entire country.

We are gratified that you heard our message. The new initiatives that you announced in your weekend radio address are, by and large, a welcome step in the right direction. We are pleased as well that Attorney General Janet Reno has accelerated the pace of her department's enforcement activities and reached out to engage civil rights and law enforcement groups in a search for solutions.

Yet there are miles to go before police misconduct is adequately under control and the tensions caused by it subside. Now

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President William J. Clinton
March 29, 1999
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that you are engaged, we wish to propose the following action agenda for your administration and for Congress. To produce significant and lasting progress, there must be concerted attention, aggressive enforcement and oversight, and systemic changes in law enforcement policy and practice. This action agenda will achieve those objectives.

The Problem

To recapitulate briefly, the problems of police misconduct fall into two basic categories:

- **Excessive use of force** that results all too frequently in brutality and/or fatalities at the hands of police. These outrages are often mismanaged, investigated without the requisite sense of urgency, and eventually disposed of in suspect ways that defy justice and common sense. These unjust outcomes fuel anger, turmoil and mistrust among minorities toward the entire criminal justice system.
- **Dragnet techniques** that ensnare minorities who've done little or nothing wrong. We speak of such police tactics as racial profiling, excessive stopping and frisking, traffic "safety" sweeps and use of trivial infractions as a ruse to troll for more serious offenses. These practices needlessly undercut civil liberties in the name of public safety.

African Americans aren't alone in suffering at the hands of overzealous and brutal law enforcement officers. Latinos, Asian Americans and Native Americans endure brutality and abuse as well. The offending agencies include state and local police departments, as well as U.S. Customs and the Immigration and Naturalization Service.

The Need for Leadership

We are gratified -- and relieved -- that the problem of police brutality and abuse has captured your attention. The initiatives you announced recently point in the right direction. But they are modest in our estimation. We seek a level of leadership and engagement that is commensurate with the severity and scope of a problem that has embittered America's minorities and tossed many communities into turmoil.

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We urge you and the Attorney General to provide high profile leadership and display genuine empathy for the victims of police misconduct. There must be loud and clear and recurring signals to the nation that police brutality and abuse are unacceptable and that you feel the pain suffered by the victims and their families.

Accordingly, we call upon you and Attorney General Reno to visit the actual sites of the most egregious and inexcusable incidents, meet with family members, and declare publicly that your administration will leave no stone unturned until justice is done.

Aggressive Enforcement

The measures you announced mostly point in the right direction. But they do not go nearly far enough. More specifically, we call upon your administration and Congress to take the following actions:

- Allocate at least \$20 million more – not merely \$1 million more, as you've proposed – to ensure that the Justice Department has the capacity to cope with the nature and national scope of the problem. Justice needs a dedicated team of investigators and prosecutors that can pursue the many complaints of brutality and abuse so swiftly and resolutely that the prospect of federal intervention itself is an effective deterrent to such behavior by law enforcement officers.
- The Justice Department should intensify and expedite its investigations into police department patterns and practices in communities that experience high incidences of brutality and abuse. The department should entertain appeals to reopen cases that may have been closed inappropriately.
- Each U.S. Attorney's office in the nation should be staffed by an attorney who focuses on civil rights and police misconduct cases.
- The House Judiciary Committee should convene formal hearings to receive testimony on the scope and breadth of police brutality and misconduct and formulate recommendations for legislation.

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President William J. Clinton
March 29, 1999
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- The White House should pressure Congress to enact the proposed Jonny Gammage Law. It would provide for independent federal prosecutors to investigate allegations of police misconduct where the use of deadly force by police results in injury or death of victim.
- Your administration and Congress should adhere to the Omnibus Crime Bill of 1994 by appropriating funds for the Justice Department to systematically collect and disseminate data on the incidence of brutality and abuse.

The federal government should not rely solely on enforcement and prosecution to combat police misconduct. Accordingly, we call upon your administration to institute the following sanctions for law enforcement agencies that are plagued by recurring patterns of brutality and abuse:

- Issue an executive order that federal law enforcement subsidies will be withheld from police departments that have an unusually high number of brutality complaints or a significant number of unresolved or pending complaints of brutality or excessive force. This and other sanctions could be imposed in a graduated fashion commensurate with the level of offensive practices and local willingness to address the problem.
- In the case of unrepentant police departments that fail to correct patterns of brutality and abuse, the Justice Department should institute legal proceedings to place the departments under federal receivership until they mend their ways.
- The Justice Department should require that all state and local police departments receiving federal law enforcement subsidies establish civilian complaint review boards that possess investigative and subpoena power.
- Your administration should allocate funds to support the efforts of community-based organizations to promote police/community trust and heal tensions. Grass-roots groups are invariably drawn into the strife to extinguish fires and foster trust. With federal support, they could be even more effective.

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Reforming Police Practice

Your announced plan to invest \$42 million in improving the caliber of local police forces makes eminent good sense. The better educated, trained and supervised police officers are, the better the job they will do and the fewer problems they'll have with those they protect.

However, we strenuously oppose your proposal for increased federal funding to hire even more police officers. America's criminal justice system is amply endowed already. The nation's prisons are saturated, filled as it is with thousands of non-violent offenders who pose no threat to society. By contrast, the federal government invests far too little in public schools and after-school programs that steer young people clear of crime in the first place. We urge you to beef up funding for prevention, instead of police.

We are deeply concerned that your plan does not adequately address the urgent need to reform the policies governing use of force and the dragnet practices that are explicitly or tacitly sanctioned by state and local police departments. In addition to increasing the capacity of Justice to investigate and sanction misconduct after the fact, we believe your administration must seek fundamental reforms in police policy and practice. Unless these tactics that treat minorities as second class citizens are addressed systematically, the deep-seated fear and distrust of police will continue to simmer and erupt.

Law enforcement agencies routinely deny the existence of policies and practices that result in brutality and abuse. They have little incentive to acknowledge them. If there's to be progress in police/civilian relations, we must move past stubborn denials to constructive remedies.

As the nation's chief law enforcement officer and the champion of racial harmony, you are best positioned to spearhead this process of ferreting out truth and restoring trust. Accordingly, we call upon you to convene a one-day White House Summit this spring. The Summit would serve several purposes:

- Shine the national spotlight on the problem of police brutality and abuse;

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- Underscore your determination to seek constructive solutions;
- Secure commitments from a cross-section of thoughtful leaders -- police chiefs, mayors and other elected officials, police union leaders, other representatives of the law enforcement community, and leaders of civil rights, civil liberties and community-based groups -- to work together in devising concrete and constructive solutions; and
- Launch a fast-track process that is directed by the Attorney General and that involves those who attend the Summit. We see this as a six-month exercise at most. Its purpose is to promulgate a set of best practice guidelines that law enforcement agencies will embrace and implement. The guidelines would be coupled with mechanisms for monitoring and enforcing compliance.

Following the Summit, the Attorney General would empanel three working groups comprised of representatives of the key sectors. Each working group would be given a specific assignment:

- One would function as a blue ribbon panel that conducts public hearings around the country to ferret out evidence of police brutality and abuse. Armed with subpoena power, it would take testimony, hold focus groups with young people and adults, and conduct surveys. The purpose of this exercise is to document the nature, scope and impact of the problem of police misconduct.
- A second working group would delve into the issue of unjustified use of force by law enforcement officers. Beyond the headline cases, how prevalent is the problem? What forms does it take? What accounts for the cases that result in fatalities, in severe brutality and abuse, and in intimidation? What sorts of situations seem to set policemen off? What lessons can be gleaned from law enforcement agencies that aren't riddled with allegations of brutality and abuse? How do they recruit and train officers? What kinds of supervisory, assignment and disciplinary regimens do they employ to keep things satisfactorily under control?

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From the evidence and information garnered through this exercise, the working group would devise a series of best practice recommendations that could be disseminated to law enforcement agencies for implementation. They would also be distributed to civilian police review boards, legislative and judicial bodies, community organizations and the media for purposes of monitoring the performance of police departments.

- The third working group would focus on the dragnet practices that ensnare so many innocent people and minor offenders and thus undercut their civil liberties. This panel would examine case studies of law enforcement agencies that have successfully reduced crime without relying beyond reason on these techniques.

More specifically, the working group would devise best practice guidelines in the following problem areas:

- Minorities complain bitterly that they are harassed by police officers who detain them for little or no reason and who then use that stop as a ruse to conduct a broader investigation. The working group would prepare guidelines governing when officers should and should not be allowed to go beyond the scope of the initial infraction.
- In the past, police were only supposed to stop people who were "suspects" or otherwise connected to specific crime. But under current practice, people can be stopped and even frisked if they are deemed "suspicious." Those who have done nothing illegal are then released because the police were "mistaken." This practice gives policemen carte blanche to abuse and intimidate.

The working group would devise guidelines, based on best practice in actual communities, that are aimed at promoting public safety without undermining the civil liberties of innocent civilians and trivial offenders.

- Once the findings and guidelines of the three working groups are completed, the Attorney General would compile them into a coherent set of recommendations. To assure that these recommendations don't gather dust on shelves once they are

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disseminated, the Attorney General should also devise mechanisms plans for monitoring implementation and prevailing upon recalcitrant police departments to comply. To be more specific:

- The Justice Department should publish an annual report on police misconduct. The report card would shine the national spotlight on specific police departments that have poor records on brutality and abuse.
- You should issue an executive order requiring police departments that receive federal law enforcement subsidies to endorse and implement the best practice guidelines or risk loss of federal funding. Similar directives could be issued to state police departments, INS and Customs.

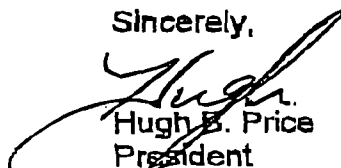
When the report of the Justice Department is prepared, we suggest you convene a second White House Summit in the fall. You would use that occasion to officially receive the report and announce your plans and timetable for implementing the various recommendations.

Mr. President - We wholeheartedly embrace your dream of One America. Transforming that dream into reality is what Urban Leaguers and the other groups in our coalition do day in and day out.

Yet the widespread and indiscriminate treatment of innocent civilians like suspects foments alienation along racial lines, perpetuates the treatment of minorities as second class citizens under law, and makes an utter mockery of your dream.

We implore you to spare no effort and expense in spearheading an aggressive drive to purge the nation's criminal justice system of bias, brutality and abuse.

Sincerely,



Hugh B. Price
President

cc. The Hon. Janet Reno
Charles Ruff, Esq.
Bruce Reed
Ben Johnson



Leadership Conference on Civil Rights

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www.civilrights.org

April 2, 1999

President William J. Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

The problem of law enforcement abuse in our communities is a national issue of longstanding concern. This letter is a follow-up to the recent meeting with Attorney General Janet Reno and several of the undersigned individuals and organizations regarding steps that the Department of Justice, with the assistance of other federal agencies and White House efforts, might undertake to begin addressing, expeditiously, the growing national problem of police brutality and unlawful racial profiling.

Recent accounts of deadly police action in New York, Riverside, Pittsburgh and Houston highlight the harm that excessive force does to individuals, families, and entire communities. Unfortunately, these instances of excessive use of force by police officers are not isolated events.¹ Police misconduct and abuse — ranging from verbal harassment and racial profiling to excessive and deadly use of force and fatal encounters — takes place daily across our nation. This unwarranted and often illegal conduct erodes the trust of our citizenry and the safety of our communities. We support the majority of law enforcement officers in this country who serve our citizens well, often under difficult and dangerous conditions. However, we ask that those who engage in misconduct, or whose leadership permits it, be held accountable.

We applaud your March 13, radio address — "Strengthening Police Integrity" — as an important beginning. We encourage you to continue to speak on these issues; to bring about a fuller discourse at all levels of government; and to bring to bear the resources of the federal government in finding constructive solutions. We believe it is especially important to place the discussion of police abuse — a problem which

¹See Appendix I: Recent Cases Involving Excessive Use of Force in Law Enforcement. See also, *United States of America: Rights for All*. Amnesty International, USA (1998).

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Brian Komar

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FROM : LCCR-LCEF 1629 K ST NW

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President William J. Clinton

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is frequently and disproportionately directed at members of racial and ethnic minority communities - in a larger context which discusses openly the questions of race, ethnicity, law enforcement, and the administration of justice. One must also understand this problem in the context of immigration enforcement - an area where Hispanic Americans and Asian Americans are particularly targeted. We are alarmed that local and federal law enforcement agents have engaged in unlawful use of force and illegal applications of racial profiling for immigration purposes. We reiterate, this problem must be understood in a context much broader than it has traditionally been presented.

We urge you to develop a national agenda to encourage the highest level of law enforcement service, both to protect all persons in our society and to hold police departments and federal law enforcement agencies accountable for their officers' conduct. We believe the following steps are essential elements of any national agenda to begin to address the problem of law enforcement abuse and misconduct:

1) We urge you and Attorney General Reno to continue your efforts by making major public addresses on the problems of abuse and misconduct by law enforcement officers, as well as the need for accountability. We believe that the use of the "bully pulpit" by both the President and Attorney General is an important ingredient in educating both the public and the law enforcement community about the depth of our national concern over these issues.

2) The Administration should seek, and Congress should provide, adequate funding to enable the Department of Justice (DOJ) to fulfill its obligation under the Police Accountability Act provisions of the Violent Crime Control and Law Enforcement Act of 1994. The Department of Justice should compile and annually publish detailed national data on police excessive use of force (including all fatal police shootings and deaths in custody), with analysis of patterns of concerns and policy recommendations. Unfortunately, reliance on voluntary reporting from police departments has resulted in extremely limited and misleading accounts of the use of excessive force. Many police departments do not have adequate systems or mechanisms for collecting and analyzing data on the use of force; for tracking individual officers reported to have used excessive force; or for identifying officers who failed to report excessive force by fellow officers. Similarly, reports that rely only on the numbers or outcomes of citizen complaints officially filed with a police department do not reliably reflect the use of excessive use of force in this country.²

²See, *Beyond the Rodney King Story, An Investigation of Police Conduct in Minority Communities* (1995). The report, based on national hearings on police abuse conducted by the NAACP, found that many citizens are afraid to file complaints about police misconduct, that procedures for filing complaints are not widely publicized or known, and that citizens are

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3) The DOJ Special Litigation Section should be provided adequate resources to enable it to fulfill its task of pursuing "pattern and practice" lawsuits against police agencies nationwide that commit widespread abuses. The Special Litigation Section continues to be severely underfunded. While you have said you want to "... ensure that prosecutors have all the resources they need to enforce our laws in these cases," the allocation of only \$1 million in new spending to the Civil Rights Division's work in this area is inadequate. Federal agencies such as the Immigration and Naturalization Service (INS) and U.S. Customs Agency must also be held accountable for "pattern and practice" violations. Federal prosecution of acts and practices of police abuse will send a strong message that such conduct will not be condoned.

4) The federal government should increase its use of Title VI of the Civil Rights Act of 1964 to seek to eliminate racially discriminatory treatment by law enforcement agencies. Far too often police departments and law enforcement agencies are not held accountable for their failure to appropriately protect the civil rights of members of racial and ethnic communities. These communities continue to live under the authority of agencies and agents who repeatedly fail to administer justice. The DOJ must send a clear sign that such unjust practices will not be tolerated.

5) Federal funding to law enforcement agencies should require agencies to institute systems of accountability within each department. Funding should be contingent upon agencies which engage in discriminatory practices, taking effective steps to eliminate them. Necessary features of accountability systems include early warning systems to identify, monitor, and discipline officers reported to engage in misconduct; clearly defined requirements for reporting misconduct at every level of command; clearly defined standards for evaluating reports or findings of misconduct in considering officers for promotions or assignments within the department; and auditing systems to discern patterns of abuse among specific officers, units, stations and departments. Agencies that fail to adopt and operate such systems should understand they risk the loss of all federal funding.

actively discouraged from filing complaints. See also *Shielded from Justice: Police Brutality and Accountability in the United States* (1998) by Human Rights Watch in the United States which among other things, found that most victims of abuse correctly perceive that criminal prosecution, either locally or federally, is rarely an option and as a result, resentment and frustration exacerbate the original abusive treatment and violent officers remain on the job.

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6) Each of the ninety-four (94) United States Attorneys' Offices should create Civil Rights units whose sole responsibility is the enforcement of civil rights laws. While we acknowledge that these offices currently assign attorneys to do civil rights work, that level of commitment is inadequate. U.S. Attorney offices should create Civil Rights Divisions or units to handle civil rights cases. These units should be prominent within the Offices. Federal prosecutors, if funded and supported as we propose, will have the resources and the greater independence from local police departments to investigate and bring actions against both local and federal law enforcement agencies. In addition, we note that state and federal authorities have successfully cooperated in recent years in the investigation and prosecution of what had previously been considered local offenses, such as crimes involving guns and drugs. Such successful cooperation in efforts to prosecute offenders could provide a model for similar cooperation in the area of civil rights abuses.

7) We urge the Administration's vigorous support of the Traffic Stops Statistics Act of 1999, recently introduced by Rep. John Conyers (D-MI). The Act, which would require the collection of existing data, would provide a crucial tool in evaluating the extent of racial and ethnic profiling in motor vehicle stops.³ While there have been many individual accounts of stops that can only be explained by the race or ethnicity of the motorist, the absence of reliable and comprehensive national statistics has allowed the problem of racial and ethnic profiling to evade systematic review.

8) Federal funding to police departments should require that adequate portions of the funds be earmarked for the purchase and deployment of video-cameras on each patrol car. Mounted video-cameras, already in use in some police departments, provide protection to both the officers on the scene and the civilians stopped by the police. Videotapes of police encounters would provide reliable evidence as to who is being stopped and on what basis, as well as hard evidence of wrongdoing. The Christopher Commission concluded that were it not for the Rodney King videotape, it was doubtful that any police investigation of the incident would have resulted in sanctions against the officers. However, any such measure must be limited to assure that cameras do not become instruments of surveillance against the very communities they are designed to protect.

³ An abundance of anecdotal evidence from citizens, community groups, lawyers, judges, and law enforcement officers from across the country indicates that many traffic stops are motivated by improper considerations of race. For example, in Maryland, a U.S. District Court judge found credible evidence that Maryland troopers on I-95 engaged in a pattern and practice of racial discrimination; and in Boston, a U.S. District court judge recently noted that an African American defendant's record of motor vehicle offenses raised "deep concerns" about racial disparity and that because of these concerns, a downward departure from the sentencing guidelines was justified because the defendant's record was skewed by the cumulative effect of his minor convictions.

President William J. Clinton

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9) Federal, state, local, and tribal authorities should be encouraged to establish independent and effective oversight bodies for their respective law enforcement agencies. There is strong preference for civilian and independent review authority. Such authority should have the power to investigate or review complaints of civil rights violations against law enforcement agents. Such authority should also have subpoena power to require witnesses to appear and to insist on cooperation from police departments, law enforcement agencies, and individual officers. Establishment of such independent oversight bodies should be a necessary condition for receiving federal law enforcement monies.

10) The DOJ must severely restrict collaboration between the INS and state & local law enforcement agencies in enforcing federal immigration laws. Cooperative agreements between the INS and local police and sheriff departments should be terminated. These type of agreements enhance an atmosphere of intimidation in which those fearing harassment or deportation in the Hispanic and Asian communities are apprehensive to report crimes. Likewise, collaboration between the INS and other federal government agencies, including the Drug Enforcement Agency, should be re-examined. In this case, immigration enforcement operations carried out under the guise of drug enforcement operations are not acceptable, and far too often lead to the violation of individuals' constitutional rights. Instead, INS should be given the resources to hire sufficient federal agents to adequately and efficiently respond to police requests for assistance in determining the immigration status of criminals already in police custody for criminal offenses. The Department of Justice lacks the resources to prosecute the current level of civil rights violations, and thus, delegation would only increase the likelihood of improper police activity, without a concurrent increase in resources for civil rights enforcement.

11) Law enforcement conduct and accountability in our communities should be included in the follow-up to the President's One America Initiative. The White House should sponsor a summit meeting later this year on the issues of law enforcement conduct and accountability. The issues of law enforcement are inextricably linked in this country to issues of race and ethnicity. The President's One America Initiative provides an appropriate venue and framework to bring together representatives from the Department of Justice, Immigration and Naturalization Service, other federal agencies, local and tribal law enforcement, academicians, and community-based organizations to discuss the overall direction of law enforcement in America and its impact on all Americans. Such a meeting should examine the connections between the falling crime rate and the methods employed by police and federal law enforcement agencies to aggressively combat crime. It should also address the tensions between respect for civil rights, civil liberties, and effective crime control. And similar to ideas expressed in Hugh Price's (President and Chief Executive Officer of the National Urban League) March 29, 1999 letter to you, the summit should be expected to commit your Administration to a timetable for implementing a corrective agenda.

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We strongly believe that these proposals will serve the nation's interests as law enforcement moves into the twenty-first century. As a nation, we have the resources to increase the safety of our citizens and their trust in those charged with enforcing the law. We have the opportunity to marshal our resources to address claims of misconduct reported in significant numbers across the country. We urge you to commit the federal government to achieving these goals.

Sincerely,

Dorothy L. Height

Chairperson

Leadership Conference on Civil Rights

W. Ron Allen

President

National Congress of American Indians

Barbara Arnwine

Executive Director

Lawyers' Committee for Civil Rights
Under Law**Abraham H. Foxman**

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Antonia Hernandez

President and General Counsel

Mexican American Legal Defense
and Educational Fund**Paul Hoffman**

Chair of the Board

Amnesty International-USA

Rev. Jesse Jackson

Founder and President

Rainbow Coalition/PUSH

Elaine R. Jones

Director/Counsel

NAACP Legal Defense and Educational Fund

Arthur Kinoy

Co-President

Center for Constitutional Rights

Joe Lucero

Executive Director

Asian Law Caucus

Gay McDougall

Executive Director

International Human Rights Law Group

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President William J. Clinton
April 2, 1999
Page seven

Kweisi Mfume

President and Chief Executive Officer
National Association for the Advancement of
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President
National Puerto Rican Coalition

Karen Narasaki

Executive Director
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Rev. Dr. W. Franklyn Richardson

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Grace Baptist Church
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Yvonne Scruggs-Leftwich

Executive Director and Chief Executive
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Raul Yzaguirre

President
National Council of La Raza

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Leadership Conference on Civil Rights

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APPENDIX I

This appendix lists recent instances of excessive force by police officers. While this list is by no means exhaustive, it provides representative examples of problems associated with the use of excessive force by a variety of police officers and other law enforcement officials across the country.

CALIFORNIA:

- 1999, Fullerton. A federal case was brought by the family of a Hispanic man who died from positional asphyxia as a result of being hogtied by police officers. The police department concealed the cause of death from the district attorney and coroner and did not tell the widow what had happened for nearly two years. At trial, the judge instructed the jury that a plaintiffs' verdict was permissible only if it found that the officers intended to kill the victim. The defense verdict is now on appeal.
See Garcia v. Fullerton, U.S. District Court, Fullerton.
- 1998, Riverside. Tyisha Miller, a 19-year-old African-American woman, was shot 12 times as she sat in her aunt's car at a gas station. A friend and relative of Miller's found her unresponsive in a locked, idling car with a flat tire, with a gun in her lap, and called 911 for help. Four officers responded to the call and found Miller to be unresponsive. One of the officers broke the driver's side window to get the gun. Police opened fire with 24 shots, killing Miller instantly, after they say Miller moved towards the gun. A cousin who arrived at the scene before the shooting has said that she told the officers another relative was on the way with a spare key and that had the officers waited, they could have entered the car without startling Miller from her stupor. See The Press Enterprise (February 21, 26, and March 25, 1999); see also Los Angeles Times (February 17, 1999); USA Today, January 12, 1999.
- July 5, 1997, Riverside. In testimony before a grand jury, a Riverside police officer said he and two other officers picked up Jose Hilario Martinez, a 48-year-old construction worker, because he appeared to be drunk while walking along the street. According to the officer's testimony, the three officers then took Martinez to a local city park, beat him, and threw him into the park lake when Martinez refused to cooperate with their

¹This Appendix is affixed to an April 2, 1999 Letter to President William J. Clinton from the Leadership Conference on Civil Rights regarding Police Accountability and Racial Profiling.

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demands. See "FBI Probes Possible Civil Rights Violations." The Press Enterprise (February 25, 1998).

- April 1997, Sonoma. Kuan Chung Kao, a Taiwanese man who was drunk and wielding a pole, was shot dead less than one minute after police arrived on the scene. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 30.
- June 1996, Fairfield. James Parkinson, an unarmed mentally ill man seen running naked around a swimming pool, died after police sprayed him repeatedly with pepper spray, hit him several times with an electronic taser gun, and shackled him face-down. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 30.
- April 1996, Riverside County. Two Riverside County sheriff's deputies pulled two unarmed Mexicans suspected of being undocumented immigrants out of a car and proceeded to prod and brutally beat them with their batons, also slamming them against the car. Both victims required hospitalization for severe injuries. A TV news crew captured the gruesome beating on videotape. See "The California Beating: The Rest of the Story," New York Post (May 1, 1996).
- March 1996, Santa Clara County. Gustavo Soto Mesa, 33-years-old and unarmed, was shot in the back of the head by a Santa Clara County Sheriff's officer. The Sheriff's Office claimed that while they knew that Mesa was unarmed, he was violently resisting arrest. Shortly thereafter, the officer was cleared of all charges. See "Grand Jury Clears Deputy in Fatal Shooting: Gustavo Soto Mesa and San Jose's 27-Year Fight," Policing by Consent (August 1996).
- February 1996, Orange City. An unarmed Korean man, Hong Il Kim, died after a chase that started over a minor traffic violation. Two police officers fired 20 shots into his car after it had been cornered and forced into a parking space. Five national experts in police use of deadly force who reviewed the videotape all stated that it was avoidable and that the officers had committed a series of tactical errors that cost Kim his life. However, an internal investigation by the City of Orange Police Department cleared the two officers of wrong-doing or violating departmental policy. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 28.
- 1995, Los Angeles. Class action lawsuit involving two of the deputy gangs in the LA Sheriff's Department: the "Vikings" (Caucasians only, carrying serially numbered tattoos with Viking helmets on their inner ankles) and "Original Gangster Chango Fighters" (Chicano only). This lead case emanated from the beating of a black man who had been falsely arrested after the funeral of a friend. After Thomas won at trial, the County settled the cases (approximating about 100) for \$7.5 million. See Thomas v. Los Angeles County, U.S. District Court, Los Angeles.

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COLORADO:

- **March 1997, Denver.** A 17-year-old African-American named Gil F. Webb had his neck broken and suffered other severe injuries after being involved in a car crash in Denver in which an officer was killed. A videotape showed him being kicked by a police officer, and also grabbed by the arms, legs, and hair and slammed twice onto a wooden board after he had been removed, injured, from his car. One paramedic was fired and another suspended. The officer was cleared of criminal wrongdoing but disciplined by losing five days of holiday time. See The Denver Post (February 21, March 17, and June 30, 1998); see also Denver Westward (May 7, 1998); The Denver Rocky Mountain News (March 17, 1998).
- **1996, Denver.** A police officer shot and killed an unarmed African-American man who had left a house after a domestic incident (not involving any crime). The man had previously filed a complaint against the officer who killed him. The case is pending after the original dismissal was overturned on appeal. See Podboy v. Blake, U.S. District Court, Denver.

FLORIDA:

- **October 1996, St. Petersburg.** An African-American teenager named Tyrone Lewis was shot dead by two white police officers after he had been stopped for speeding and allegedly refused to roll down his window. His death caused two days of protest among the town's black community. Tyrone Lewis was the sixth person in the town to be fatally shot by police that year. See United States of America Rights for All (New York: Amnesty International USA, 1998), at 41.

ILLINOIS:

- **March 1999, Chicago.** An internal police investigation is being conducted into whether officers used excessive force when they searched for a suspect in a police shooting. Television footage appeared to show officers forcing young black men off a bus, slamming two men to the ground, and pushing a handcuffed man against a fence and then yanking apart his legs, causing him to fall. See "Officer Shot; Conduct of Investigators Draws Probe," The Chicago-Sun Times (March 26, 1999).
- **November 1998, Chicago.** Vadie McGee, a 67-year-old woman, was walking home from the grocery store around 8:00 p.m. when she stopped to talk to teenagers sitting on the stoop of her apartment building. The police drove by and told McGee to "get up against the fence." When she asked who they were talking to, the police yelled that they were talking to her, and from that, McGee was handcuffed and thrown into the car. The police also yelled racial and gender epithets at McGee, who is a stroke victim. See "Woman,

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FROM: LUCY-LOEF 1629 K ST NW

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67, Charges Brutality, Lawyer Says Police Roughed Up Activist," The Chicago Tribune (November 25, 1998).

- September 26, 1997, Chicago. Jeremiah Mearday, an 18-year-old African-American man, was stopped by police and beaten on the head with flashlights, breaking his jaw. See "Mearday Files Lawsuit in Police-Beating Case," The Chicago Tribune (September 23, 1998).

IOWA:

- March 16, 1999, Des Moines. Des Moines officials settled a wrongful death lawsuit with the parents and brother of a 27-year-old African-American man who was killed by police officers in June of 1997. Charles Dudley, Jr., whom family members described as being mentally retarded and hearing-impaired, was shot to death by police after pointing a pellet gun at them during a 4:00 a.m. confrontation in a thunderstorm. Three officers fired 27 shots at Dudley, hitting him four times. See "Dudley's Kin Want Apology, Federal Charges," The Des Moines Register (March 17, 1999).

MARYLAND:

- 1993, Prince George's County. Archie Elliott III, a 24-year-old African-American, was stopped by Prince George's County police for operating under the influence, searched and handcuffed behind his back, then placed in a police cruiser. After police claim to have observed a gun behind his back, police fired and hit Elliott fourteen times. Elliott died from his wounds. Police discovered the gun was unloaded, and the internal affairs investigation blamed the shooting on an improper search of Elliott, who was clad only in shorts. See The Washington Times (June 19, 1995).

MASSACHUSETTS:

- January 25, 1995, Boston. Michael Cox, an African-American police officer and a 1990 Boston Police Department Medal of Honor winner, was on duty and acting in an undercover capacity. As Cox pursued one of several suspects in what was believed to be the shooting of a police officer, Cox was mistaken as a suspect and was badly beaten by other police officers. When one of the more than twenty officers at the scene recognized Cox as a police officer, they left Cox lying in the street. The local grand jury failed to return any indictments because it was stymied by uncooperative witnesses, but Cox recently won a federal civil judgment against three officers. See "One Disgrace After Another," The Boston Globe (January 12, 1999).
- 1993, Worcester. Chris Hernandez died ten days after being arrested by two police officers. Hernandez was in a coma until his death. The police claim Hernandez fell during a struggle and resisted arrest, while a video captured the officers beating him