

NLWJC - Kagan

DPC - Box 042 - Folder 004

Race-Racial Profiling

HARVARD LAW SCHOOL
CAMBRIDGE MA 02138

June 8, 1999

Re: Racial Profiling

Dear Mr. President:

I feel that I owe you this note because the stakes are high and I have reason to doubt that you were presented with the arguments below. Please forgive the breach of process. I first raised the executive order idea last fall, searching for some action to include in the book. DPC opposed the idea, but agreed to start an interagency process. It has taken just short of forever, and it is still just an order to direct research.

My initial proposal was a flat ban. When Eric Holder told me in January that there might be compelling operational needs at the Border Patrol, I crafted a compromise order – a ban but with an escape hatch if a cabinet officer were persuaded of a compelling need. The principal objections to that modified ban are that (1) it would advertise that you might support racial profiling in certain situations, and (2) it risks a news story focusing on that support, rather than your general opposition to racial profiling.

Please consider these principles.

- Be forthright about what the agencies actually do. Do not permit INS or other agencies to cover up racial profiling practices, if that is what is going on (and there remains a little bit of uncertainty, empirical and definitional). Do not defend their policies unless you both understand and agree with them. Discuss race honestly.
- I consider it a transparent evasion to just do data collection and say, "I can't ban racial profiling because I don't know for sure that INS is doing it." There are symbolic and prophylactic reasons to order a ban or modified ban, and then collect data to enforce the prohibition. Moreover, DOJ and DPC admit that the Border Patrol is doing something. So, do you support it, or don't you? And, until the facts are clear, is the presumption against profiling, or is the presumption against interfering with the INS?
- If you are not going to hide the policy, then you have three choices. First, you can order a stop to it with a flat ban: *make your actions match the rhetoric that your speechwriters are preparing*. Second, you can honestly defend the INS and say that border enforcement is different because of the nature of the offense being investigated. Third, you can take a middle ground, as I reluctantly suggested in the draft book.
- This third option would ban racial profiling but permit cabinet officers to create narrowly tailored, carefully monitored exceptions, with public notice. My belief is, if

the INS thinks they have a compelling operational need, they should say so; Dorris and Janet should be put to the test of explaining why they need it and how they are going to prevent abuses. *Meanwhile, ban the practice.*

Now think about the roundtable at DOJ. I don't know the format or who the participants are. But, as a prediction, you should expect to be asked why you don't exercise principled leadership by issuing a ban, even if there is uncertainty, rather than just conducting research. Hispanics or others there may ask you about the Border Patrol. Comparisons may be drawn in the roundtable, or by reporters, with Governor Whitman, who ultimately acted forcefully, and with Mayor Giuliani, who has ordered politeness, rather than research.

Finally, please remember that the Vice President has stated his own flat opposition to racial profiling. In a meeting I coordinated on crime policy last week, Bill Galston raised the profiling question and made an impassioned statement condemning it. The Vice President said he fully agreed. Playing devil's advocate, I presented the Border Patrol problem and pressed him, testing the firmness of his view. He quickly insisted that, "It is just wrong." Bruce Reed was present, but said nothing on that issue.

Thanks for your time.

Warm regards,



Christopher Edley, Jr.
Professor of Law and
Co-Director, the Civil Rights Project at Harvard

**CONFERENCE ON STRENGTHENING POLICE-COMMUNITY
RELATIONS
SUGGESTED HYPOTHETICALS AND QUESTIONS
FOR ROUNDTABLE DISCUSSION**

Facilitators: Charles Ogletree, Harvard Law School
Christopher Stone, Vera Institute of Justice
Moderator: The President

1. HYPOTHETICAL SITUATION

Ogletree/Stone: The police chief in a mid-size city is presented with requests from neighborhood watch organizers and other residents in a minority, high crime neighborhood to increase police patrols in that area. They particularly are concerned about young men loitering on the corners and in front of liquor stores, and they complain of gang activity and drug buys. When the chief added patrols in the past, the police were criticized strongly by others from this same community and civil rights activists for being heavy-handed.

Suggested Questions for THE PRESIDENT:

1. **Suggested Question to Hugh Price, National Urban League:**
What steps would you take to work with the police to meet the real needs of the neighborhood residents to combat crime, while also addressing the civil rights concerns?
2. **Suggested Question to Tom Frazier, Baltimore Police Department or Richard Green, Crown Heights Youth Center:**
What steps can a police department take to get community approval for increased crime control, without creating tensions and a perception of bias or lack of respect for residents?
3. **Suggested Question to Chuck Sha-King, Youth Force or Attorney General Reno:**
How can police best learn how to talk to youth?

2. HYPOTHETICAL SITUATION

Ogletree/Stone: The Chief of Police of a major city has an aggressive program to stop cars in the city that appear to be carrying gang members and to question the driver and passengers. Gang activity in the city principally has involved gangs of African American, Hispanic, Asian, and Eastern European young people.

The police chief has just come to see the Mayor about a crisis. A few hours ago, two officers, one white and one Hispanic, stopped a low-riding car carrying three teenage black males based on a minor traffic violation, but something went terribly wrong. After the stop, there was an argument and the officers thought they saw one of the passengers reach into the back seat; they saw something shiny and thought it was a gun. They opened fire, injuring the driver and one of the passengers. No gun was found in the car. However, there was a shiny metallic object (wrench?) that may have been what the officers mistook for a gun.

The chief is prepared to support a full investigation and let the chips fall where they may. She is worried that the reaction to the incident may endanger her anti-gang traffic stop program, which she believes has been crucial to bringing down crime. Her community meetings over the last few years have convinced her that the public broadly supports this program. The mayor and chief of police will hold a press conference in two hours.

Suggested Questions for THE PRESIDENT:

1. **Suggested Question to Robert Stewart, National Organization of Black Law Enforcement Executives or Bob Scully, National Association of Police Organizations:**
What strategy would you recommend to the Mayor if you were chief of police?
2. **Suggested Question to Gil Gallegos, Fraternal Order of Police or Kweisi Mfume, NAACP:**
As Mayor, what should your priorities be in responding to the incident? How broadly or narrowly do you want to focus the issue?
3. **Suggested Question to Ron Neubauer, International Association of Chiefs of Police:**
What policies have been successful in other cities in preventing these kinds of tragedies?

3. HYPOTHETICAL SITUATION

Ogletree/Stone: A new police chief has been hired and the local paper published a series of op-ed pieces discussing the issues that the new chief should address. In one, the editorial board called on the chief to move beyond the slogans of community policing to the real spirit of community policing: giving local communities, particularly communities of color, a real say in how the police serve them.

Suggested Question for THE PRESIDENT:

1. **Suggested Question to Paul Evans, Boston Police Department or Wade Henderson, Leadership Conference on Civil Rights:**

What practical steps can we take to move us closer to the spirit of community policing in cities across this country?

IF TIME ALLOWS THE FOLLOWING QUESTIONS/SITUATIONS COULD BE ADDRESSED:

4. QUESTION

Ogletree/Stone: Traffic stop enforcement is an important law enforcement tool for a variety of reasons, not the least of which is traffic safety and decreasing traffic fatalities. Secretary Slater, I know that you have a seat belt initiative that you believe is particularly important in the African American community and in other communities of color. How will addressing the concerns of racial profiling in traffic enforcement affect the receptiveness of these communities to your initiative?

5. HYPOTHETICAL SITUATION

Ogletree/Stone: Police have been called to a minority neighborhood because a man who appears to be mentally ill has been shouting abusively at residents. When two policemen arrive, they announce that they are police, but the man responds by pulling out a knife. When the police shout at the man that he should drop the knife, instead he lunges forward at one of the officers. The other officer fires his weapon, seriously wounding the man. This incident has occurred against the backdrop of increasing tensions between the police and members of the minority community.

Suggested Questions for THE PRESIDENT:

1. **Suggested Question to Dan Smith, National Sheriff's Association or Raul Yzaguirre, National Council of La Raza:**

If you are the chief of police, what steps should you take to avoid community unrest?

2. Suggested Question to Ken Lyons, International Brotherhood of Police Officers or Karen Narasaki, Asian Pacific American Legal Consortium:

What steps should we be taking to minimize these types of incidents?

[This hypothetical could also be used as springboard for discussion of fact that some incidents, while avoidable and tragic, and perhaps the result of lapses in police policy, may not be ones that can or should be prosecuted.]

3. Suggested Question to Antonia Hernandez, Mexican American Legal Defense & Educational Fund:

You are the police union representative for the officer involved in the shooting. Civil rights leaders are calling for prosecution of the officers. What position should you be taking?

**ROUNDTABLE DISCUSSION ON
STRENGTHENING POLICE-COMMUNITY RELATIONS
June 9, 1999**

President Clinton will serve as the moderator for today's roundtable discussion on police-community relations. With the assistance of Professor Charles Ogletree from Harvard Law School and Christopher Stone from the Vera Institute of Justice, the President will outline several hypothetical situations involving interactions between law enforcement officers and members of the community. He will then follow up by asking individual panel participants a series of questions as to how they would respond to such situations. Some of the examples that the President will use during this discussion are:

HYPOTHETICAL SITUATION #1:

The police chief in a mid-size city is presented with requests from neighborhood watch organizers and other residents in a minority, high crime neighborhood to increase police patrols in that area. They particularly are concerned about young men loitering on the corners and in front of liquor stores, and they complain of gang activity and drug buys. When the chief added patrols in the past, the police were criticized strongly by others from this same community and civil rights activists for being heavy-handed.

HYPOTHETICAL SITUATION #2:

The Chief of Police of a major city has an aggressive program to stop cars in the city that appear to be carrying gang members and to question the driver and passengers. Gang activity in the city principally has involved gangs of African American, Hispanic, Asian, and Eastern European young people.

The police chief has just come to see the Mayor about a crisis. A few hours ago, two officers, one white and one Hispanic, stopped a low-riding car carrying three teenage black males based on a minor traffic violation, but something went terribly wrong. After the stop, there was an argument and the officers thought they saw one of the passengers reach into the back seat; they saw something shiny and thought it was a gun. They opened fire, injuring the driver and one of the passengers. No gun was found in the car. However, there was a shiny metallic object (wrench?) that may have been what the officers mistook for a gun.

The chief is prepared to support a full investigation and let the chips fall where they may. She is worried that the reaction to the incident may endanger her anti-gang traffic stop program, which she believes has been crucial to bringing down crime. Her community meetings over the last few years have convinced her that the public broadly supports this program. The mayor and chief of police will hold a press conference in two hours.

HYPOTHETICAL SITUATION #3:

A new police chief has been hired and the local paper published a series of op-ed pieces discussing the issues that the new chief should address. In one, the editorial board called on the chief to move beyond the slogans of community policing to the real spirit of community policing: giving local communities, particularly communities of color, a real say in how the police serve them.

The thirty participants in the roundtable discussion are:

CHAIR

President William J. Clinton

PARTICIPANTS

Attorney General Janet Reno

Deputy Attorney General Eric H. Holder, Jr.

Associate Attorney General Raymond C. Fisher

Acting Assistant Attorney General Bill Lann Lee, Civil Rights Division

Secretary Rodney Slater, Department of Transportation

Ronald Daniels, Center for Constitutional Rights

Paul Evans, Boston Police Department

Thomas Frazier, Baltimore Police Department

Gilbert Gallegos, Fraternal Order of Police

Richard Green, Crown Heights Youth Center

Penny Harrington, National Center for Women in Policing

Wade Henderson, Leadership Conference on Civil Rights

Antonia Hernandez, Mexican American Legal Defense & Educational Fund

John Justice, National District Attorneys Association

Representative Sheila Jackson Lee, 18th District, Texas

Ken Lyons, International Brotherhood of Police Officers

Kweisi Mfume, NAACP

Karen Narasaki, Asian Pacific American Legal Consortium

Ron Neubauer, International Association of Chiefs of Police

Professor Charles Ogletree, Harvard Law School

Hugh Price, National Urban League

Robert Scully, National Association of Police Organization

Rev. Al Sharpton, National Action Network

Chuck Sha-King, Youth Force

Dan Smith, National Sheriff's Association

Robert Stewart, National Organization of Black Law Enforcement Executives

Christopher Stone, Vera Institute of Justice

Beverly Watts-Davis, San Antonio Fighting Back

Mayor Anthony Williams, District of Columbia

Raul Yzaguirre, National Council of La Raza

**ROUNDTABLE DISCUSSION ON
STRENGTHENING POLICE-COMMUNITY RELATIONS
June 9, 1999**

President Clinton will serve as the moderator for today's roundtable discussion on police-community relations. With the assistance of Professor Charles Ogletree from Harvard Law School and Christopher Stone from the Vera Institute of Justice, the President will outline several hypothetical situations involving interactions between law enforcement officers and members of the community. He will then follow up by asking individual panel participants a series of questions as to how they would respond to such situations. Some of the examples that the President will use during this discussion are:

HYPOTHETICAL SITUATION #1:

The police chief in a mid-size city is presented with requests from neighborhood watch organizers and other residents in a minority, high crime neighborhood to increase police patrols in that area. They particularly are concerned about young men loitering on the corners and in front of liquor stores, and they complain of gang activity and drug buys. When the chief added patrols in the past, the police were criticized strongly by others from this same community and civil rights activists for being heavy-handed.

HYPOTHETICAL SITUATION #2:

The Chief of Police of a major city has an aggressive program to stop cars in the city that appear to be carrying gang members and to question the driver and passengers. Gang activity in the city principally has involved gangs of African American, Hispanic, Asian, and Eastern European young people.

The police chief has just come to see the Mayor about a crisis. A few hours ago, two officers, one white and one Hispanic, stopped a low-riding car carrying three teenage black males based on a minor traffic violation, but something went terribly wrong. After the stop, there was an argument and the officers thought they saw one of the passengers reach into the back seat; they saw something shiny and thought it was a gun. They opened fire, injuring the driver and one of the passengers. No gun was found in the car. However, there was a shiny metallic object (wrench?) that may have been what the officers mistook for a gun.

The chief is prepared to support a full investigation and let the chips fall where they may. She is worried that the reaction to the incident may endanger her anti-gang traffic stop program, which she believes has been crucial to bringing down crime. Her community meetings over the last few years have convinced her that the public broadly supports this program. The mayor and chief of police will hold a press conference in two hours.

HYPOTHETICAL SITUATION #3:

A new police chief has been hired and the local paper published a series of op-ed pieces discussing the issues that the new chief should address. In one, the editorial board called on the chief to move beyond the slogans of community policing to the real spirit of community policing: giving local communities, particularly communities of color, a real say in how the police serve them.

The thirty participants in the roundtable discussion are:

CHAIR

President William J. Clinton

PARTICIPANTS

Attorney General Janet Reno

Deputy Attorney General Eric H. Holder, Jr.

Associate Attorney General Raymond C. Fisher

Acting Assistant Attorney General Bill Lann Lee, Civil Rights Division

Secretary Rodney Slater, Department of Transportation

Ronald Daniels, Center for Constitutional Rights

Paul Evans, Boston Police Department

Thomas Frazier, Baltimore Police Department

Gilbert Gallegos, Fraternal Order of Police

Richard Green, Crown Heights Youth Center

Penny Harrington, National Center for Women in Policing

Wade Henderson, Leadership Conference on Civil Rights

Antonia Hernandez, Mexican American Legal Defense & Educational Fund

John Justice, National District Attorneys Association

Representative Sheila Jackson Lee, 18th District, Texas

Ken Lyons, International Brotherhood of Police Officers

Kweisi Mfume, NAACP

Karen Narasaki, Asian Pacific American Legal Consortium

Ron Neubauer, International Association of Chiefs of Police

Professor Charles Ogletree, Harvard Law School

Hugh Price, National Urban League

Robert Scully, National Association of Police Organization

Rev. Al Sharpton, National Action Network

Chuck Sha-King, Youth Force

Dan Smith, National Sheriff's Association

Robert Stewart, National Organization of Black Law Enforcement Executives

Christopher Stone, Vera Institute of Justice

Beverly Watts-Davis, San Antonio Fighting Back

Mayor Anthony Williams, District of Columbia

Raul Yzaguirre, National Council of La Raza

**Increasing Trust Between Communities and Law Enforcement:
Combating Racial Profiling
June 9, 1999**

Today at a Justice Department conference, President Clinton will chair a roundtable discussion with leaders from civil rights and law enforcement organizations on ways to build trust between police and the communities they serve. To address the issue of racial profiling, the President will direct federal law enforcement agencies to begin collecting and reporting data on the race, ethnicity, and gender of the individuals they stop and search. The President also will call on Congress to pass legislation to promote data collection and reporting by state and local law enforcement agencies.

Getting the Facts on Racial Profiling

Leading by example. 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 consistent with our commitment to equal justice under law and is not effective law enforcement policy. Racial profiling is simply wrong. As a necessary step to combat this problem, we need to learn the hard facts about when and where it occurs. That is why the President will direct the Departments of Justice, Treasury and Interior to:

- (1) begin collecting data on the race, ethnicity, and gender of individuals subject to traffic and pedestrian stops, inspections at entries into the U.S., and certain other searches by federal law enforcement agencies including the Immigration and Naturalization Service, Drug Enforcement Agency, Customs Service, and National Park Service ; and
- (2) after one year, report on the findings of the new data collection system and make additional recommendations based on those findings on how to ensure greater fairness in federal law enforcement's procedures.

Helping states and localities. The President also will support legislation introduced by Representative John Conyers (D-MI) to establish a new federal grant program to assist state and local law enforcement agencies to implement similar data collection systems. This legislation also will authorize the Attorney General to develop a nationwide sample and issue a report on the number and nature of traffic stops conducted by state and local enforcement throughout the country.

Surveying the American public. As recently announced by the Attorney General, this year the Justice Department will amend its National Crime Victimization Survey and begin asking Americans about their experiences with traffic stops, police use of force, and police misconduct. This new information will help measure our success in building trust and improving relations between law enforcement and the community.

More Progressive Policing for the 21st Century

Continuing the community policing revolution. To make our communities safer and stronger, we must enhance our commitment to community policing. The 21st Century Policing Initiative contained in the President's crime bill extends his successful community policing initiative and contains several measures to help strengthen the integrity and ethics of police forces across the country. Specifically, his crime bill includes: (1) \$20 million to expand police integrity and ethics training; (2) \$20 million for police scholarships to promote the best educated police force possible; (3) \$2 million for improved minority recruitment to help make sure police departments reflect the diversity of the communities they represent; (4) \$10 million to help police departments purchase more video cameras to protect both the safety of officers and the rights of the individuals they stop; and (5) \$5 million to establish citizen police academies to engage community residents in the fight against crime.

6-8-99

THE WHITE HOUSE

WASHINGTON

June 4, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed

SUBJECT: Executive Order on Racial Profiling

You are scheduled to participate Wednesday in an hour-long roundtable discussion with about 30 representatives of the civil rights and law enforcement communities, possibly including Jesse Jackson, Kweisi Mfume, Al Sharpton, Wade Henderson, Hugh Price, FOP President Gil Gallegos, Boston Police Commissioner Paul Evans, and Baltimore Police Commissioner Thomas Frazier. This discussion is meant to help the civil rights and law enforcement communities find common ground on how to deal with police abuse and misconduct, including racial profiling. Although the Attorney General, Chuck Ruff, and I have met with most of the invitees in preparation for this meeting, many remain skeptical about each other's motives and about what the meeting will accomplish. We are hopeful that your involvement in the roundtable will help keep the civil rights and law enforcement communities working together on this issue.

Also in preparation for this meeting, we have worked with the Departments of Justice and Treasury to draft an executive order on this issue. The order starts with a preamble expressing, in general but strong terms, opposition to the use of racial profiling as a tool of law enforcement. The order then directs federal law enforcement agencies to set up a system to collect data on the race, ethnicity, color, and gender of the persons they stop, search, or otherwise examine. Within one year of implementing this system, the Attorney General must report the data collected and make any appropriate recommendations on how to promote greater fairness in federal law enforcement. Justice, Treasury, and the DPC believe that this order would constitute an effective way of demonstrating federal leadership in this area. The executive order essentially would do at the federal level what the civil rights community most wants done at the state and local levels (and what legislation by Congressman Conyers would require): institute a strong system of data collection and reporting to determine and disclose exactly where racial and other discrimination exists in traffic stops and other contacts with law enforcement.

Chris Edley has proposed a different kind of executive order, which would expressly prohibit (though, as explained below, perhaps with an exception) federal law enforcement officers from taking race, ethnicity, and other specified traits into account when making stop and search decisions. This approach would require you to confront quite explicitly a difficult issue (which the data collection order allows you to avoid, at least for now): whether to allow the U.S. Border Patrol to continue its current practice of using a person's perceived national origin or ethnicity (essentially, whether the person looks Hispanic) in deciding what cars to search near the border. The Edley executive order would either (1) effectively prohibit this practice, in the face

of the strong view of both the INS and Main Justice that it is an integral part of effective border enforcement, or (2) include a specific provision allowing the Border Patrol (the largest federal law enforcement agency and the one that most regularly conducts traffic stops) to continue this practice notwithstanding that it at least appears inconsistent with the general principles underlying the order. Because DOJ, Treasury, and the Counsel's Office object to the first approach on substantive grounds (believing that where national origin is an element of the suspected criminal offense, this kind of practice is both appropriate and necessary) and because DOJ and the DPC object to the second approach on political grounds (believing that it will cause a firestorm within the Hispanic community), all your agency and White House advisors oppose Edley's alternative executive order.

A more difficult question concerns whether to issue any executive order on Wednesday. The Justice Department strongly believes that the data collection order is necessary to show that we are making progress on this issue and doing something more than just talking. Both Justice and Treasury also believe deeply in the need for data collection and reporting, and worry that if we do not issue this order now, we also will find reasons not to issue it in the future. Counsel's Office, on the other hand, recommends that you put off issuing the data collection order and simply engage in general discussion of racial profiling at the conference. Chuck notes that the order may displease both sides of the debate -- the civil rights community because it does not expressly prohibit all federal law enforcement officers from engaging in all kinds of racial profiling, the law enforcement community because it does demand collection and reporting of racial and other data (which most law enforcement groups strongly oppose at the local level). He also notes that we will be issuing this controversial order before any members of the civil rights and law enforcement communities have had a chance to speak with you directly on the issue, perhaps appearing to preempt the very discussion in which you will be participating.

DPC believes this is a close issue, but ultimately comes down on the side of releasing the executive order on Wednesday. To the extent that release of this order on Wednesday will provoke criticism on one side or the other (or both), we do not think the order will become any less controversial with the passage of time. (We are mindful that the crime bill is being marked up this week by the House Judiciary Committee and that the support of the law enforcement community for our crime proposals is important; we believe, however, that through careful consultations, we can minimize any adverse effect of this executive action on the broader debate in Congress.) We also believe, as noted above, that this executive order does something useful and allows us to exercise leadership in this area.

Sign the executive order to collect data on federal law enforcement stops.

Do not sign the executive order to collect data on federal law enforcement stops.

Let's discuss.

THE WHITE HOUSE
WASHINGTON

6-8-99

100-100000000

June 6, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Charles Ruff 

SUBJECT: Executive Order on Racial Profiling

A few comments on Bruce's memorandum concerning the racial profiling executive order:

1. Although the proposed executive order would parallel the data collection mandated for the states by the Conyers legislation, in my view it would be seen by the civil rights community as reflecting less forceful leadership on the issue of racial profiling than they are expecting. This is so particularly because both the Vice President and the Attorney General are already on the public record with statements declaring racial profiling to be improper.

2. The issue of current Border Patrol practice is a difficult one, and we are trying to work through with the INS how its need to enforce a law that has national origin as its central element can be squared with the presumptive impropriety of using ethnicity and national origin as a factor in making law enforcement decisions. The Border Patrol's current practice does permit it to use ethnicity and national origin as one element in deciding whether to make highway stops north of the Mexican border, and our goal, at a minimum, must be to ensure that any use of those indicia is carefully circumscribed and monitored so that it does not become the equivalent of a New Jersey Turnpike traffic stop.

3. On the issue of when to issue the executive order, I have two concerns. First, since it will be seen as overriding state law enforcement objections and as being less than the civil rights community expects, to issue it before meeting with both groups will leave both disappointed (and angry) and, as a matter of process, will give them the impression that you came to the meeting with your mind made up. Second, I fear that the specifics of the order will become the sole focus of the discussion and eliminate any meaningful chance to discuss the broader issues on the agenda.

I believe that the meeting will work better if you come to listen to the opposing (or at least different) views of the participants, make clear your strong belief that racial profiling is wrong, and then issue the executive order shortly thereafter, having taken the groups' recommendations into account. You will have to be prepared to address the

special problem of the Border Patrol but can do so in a setting in which you will have made your basic principles clear and can express concern that any use of national origin by the INS must be carefully constrained and monitored. I acknowledge the risk that the meeting will not be as newsworthy if you do not issue the order, but I believe the risk is greater that the participants will react badly to the timing (and the substance) of the order if it is issued beforehand.

Race - race profiling

**NATIONAL PRESS CLUB LUNCHEON SPEAKER:
JANET RENO, ATTORNEY GENERAL OF THE UNITED STATES
NATIONAL PRESS CLUB BALLROOM 1:01 P.M. EDT THURSDAY,
APRIL 15, 1999**

Good afternoon, and thank you for having me.

Across the country communities are considering the ways in which police officers do their jobs, how they handle deadly confrontations and how they protect and respect the people they serve.

Police officers have one of the hardest jobs there is. A police officer is charged with ensuring public safety, but she or he is also empowered to use force and, if necessary, to take a life to protect others from death or great bodily harm. The police are there to protect us from crime, but they must protect our rights at the same time. And to do their work effectively, the police must have the trust and confidence of the communities they serve. They must develop a partnership and a relationship with the citizens they protect.

Professional, sensitive, and dedicated police officers have done so much across this country to make their community a far better place to live. In many communities police and citizens are working together to prevent crime and to build understanding and to bring people together.

The crime rate has fallen every year for the past six years in virtually every category. Policing has contributed to that drop. The thousands of community-oriented police officers who are on the streets, due to the president's COPS initiative, have made a difference. All across America neighborhoods are safer.

But some people, especially those in minority communities, are wondering whether our success in reducing crime has been due in part to overly aggressive police officers who ignore the civil liberties of Americans. That concern has escalated and shown a more public face following the tragic shooting death of Amadou Diallo in New York two months ago.

This nation's heart goes out to the family and friends of Mr. Diallo for their terrible loss. The case is now with the courts to decide, and it would be inappropriate for me to comment.

But the issue is not just one city. The issue is national in scope and reaches people all across this country. For too many people, especially in minority communities, the trust that is so essential to effective policing does not exist because residents believe that police have used excessive force, that law enforcement is too aggressive, that law enforcement is biased, disrespectful, and unfair.

Too often I have heard stories similar to the following account. A black man is driving down

the road. He is coming back from the store, or returning home from work. A siren sounds, the lights start to flash. And in his rearview mirror he sees a police car. He pulls over. The officer comes up besides the car and asks for identification. He hands it over. The police officer asks questions, and then hands the license back, telling him without further explanation to drive on. The driver is left with unspoken questions. Why did he pull me over? Is because I am black? Is it because I am driving a nice car? Is it because people like me aren't often found in this part of town? The driver may never learn the answers. But he is left with a clear perception, the perception that he was being pulled over for being black.

But, indeed, the officer may have had a good reason to make that stop. Perhaps the vehicle was speeding. Perhaps the officer was searching for a man who was driving a car identical to the one belonging to the driver. The driver's perception may be completely wrong. But if the driver is never told why he was pulled over, he has no reason to change that perception. And as he drives away, it is not just his time he will have lost, but his confidence in law enforcement as well.

Whether these feelings are based on individual experiences or based on the stories and the perceptions of others, what matters most is that these feelings are very real on the part of too many Americans. When even a U.S. attorney who is African American feels he has to instruct his son to be cautious of the police when he drives, we have a problem.

When minority communities, in the wake of a shooting, immediately assume the police officer, not the suspect, is at fault, we have a problem. And the tensions that arise between the police and minority residents have serious consequences both in terms of effective policing and community unrest.

When citizens do not trust their local police officer, they are less willing to report crime and less willing to be witnesses in criminal cases. When there is a breach of trust, it means people are more distrustful of the police, more tense when there is an encounter, and less likely to cooperate. As a result, police officers are more tense, and they may be more likely to react with more force than necessary. Suddenly, a routine encounter can become a deadly clash.

Since I became Attorney General, I have tried to get all parts of our communities to work together to deal with the problem of crime in this country -- state and local law enforcement working together with the federal government identifying a problem and working together to solve it. I've tried to get businesses and clergy, schools and social agencies to come together to the table. Crime is a problem that all of us must work together to solve because no one of us can solve it alone. It is now time for all of us to come together in our communities, with citizens from all parts of the community, to build the trust and confidence of all Americans in law enforcement.

Over the past several weeks, I have met with police chiefs, union representatives, community leaders, with young people at risk, and offenders on probation, listening as they have described

the problem and made suggestions -- good, positive, constructive proposals -- that would generate trust and build a solid relationship. Both law enforcement and community leaders understand that we are and that we must continue to be together if we are to solve this problem. There is probably no task more important to safe neighborhoods and civil rights than improving relationships and building greater trust between minority communities and law enforcement.

And every police chief I have talked to and every community leader I have met shares this commitment.

Effective policing does not mean abusive policing. Effective policing does not ignore the constitutional rights and the civil liberties that police officers are sworn to uphold. On the Ninth Street side of the Justice Department building, inscribed across the top, are the words describing the law that we live under. "The common law is derived from the will of mankind, issuing from the life of the people, framed through mutual confidence, sanctioned by the light of reason." For police officers to be effective, their enforcement of the law must be framed in mutual confidence between the people served and the people who serve them. Every American must respect the law, but the law must respect every American.

Across the country, there are nearly 700,000 law enforcement officers, and the overwhelming majority are hard-working public servants who do a dangerous job justly, fairly, with excellence and with honor. They put their lives on the line every day in the pursuit of justice and public safety, and they do that because they care about the people they are committed to serving.

I support and salute these dedicated officers. We owe them a great debt of gratitude. But we as a society cannot tolerate officers who cross the line and abuse their position by mistreating law-abiding citizens or who bring their own racial bias to the job of policing. No person should be subject to unreasonable force. No person should be targeted by law enforcement based on the color of his or her skin. Equal justice under law must mean the same thing to minority communities as it means to the nation as a whole.

Police chiefs and rank and file officers alike agree. They tell me that if we want to maintain the trust and confidence of the community, we must take decisive action against those few officers who violate their oaths and deny citizens their constitutional rights by the use of excessive force or harassment. Police organizations, such as the International Association of Chiefs of Police, and then the Police Executive Research Forum, have stated very clearly that police activity that is race or ethnic-based is neither legal, consistent with democratic ideals and principles of American policing, nor in any way legitimate and defensible as a strategy for public protection. Indeed, last Friday, representatives of Oregon and Washington state law enforcement agencies and police unions signed an unprecedented resolution condemning race-based profiling, that was facilitated by the Community Relations Service of the Justice Department.

Today I am announcing that I will be convening law enforcement leaders, community representatives, including young people, who must be heard from, civil rights advocates and

experts in police practices to identify and share strategies that are working and to understand suggestions that can be implemented to address this issue.

I will also be reviewing the suggestions that I have been provided by civil rights leaders and law enforcement officials with whom I have met.

Last week the Police Executive Research Forum brought 20 police chiefs from around the country to Washington. The chiefs were asked to bring one or two community leaders from their cities, so they could discuss the issues surrounding police misconduct. That was an excellent discussion, and very constructive.

Today I would like to focus on five areas that I think will form the foundation of our efforts to foster police integrity and eliminate police misconduct.

The first step is to expand and to promote the kind of partnership and dialogue which develops the mutual trust and confidence between police and the people they serve.

The concept of community policing can teach us a great deal, for it seeks to improve public safety by involving the community itself and the people themselves in establishing police priorities and involving police officers in the communities they serve. It involves partnerships between the police and institutions, such as the school and the clergy. In cities across this country, officers organize and participate in community activities and develop ways for the community to participate in police decision-making.

By breaking down suspicions, building up the trust, the community-oriented police officer becomes the peacemaker and the problem-solver without relinquishing his or her enforcement duties.

Sometimes it just boils down to taking the time to learn how to talk to each other. In Winston-Salem, the police department has housed its basic law enforcement training program at a school for at-risk youth. As part of that basic law enforcement training, these police trainees were working as mentors with young people in the school. I was there last week, and I talked to trainees and youth together.

One teenager was very eloquent. "I didn't like the police. I didn't trust them. I used to walk away from them when I saw them coming. When they first came to the school and started talking to me, I didn't listen to them. They kept talking to me, and I started hearing and started listening, and they really had something to say."

Those trainees and those young people, sitting together, were learning how to talk to each other, and in the limited time they had had, they were each learning from the other. It was one of the best experiences I have seen in terms of seeing police and young people relate together.

In Baltimore, police officers are working together with community service officers and parents and community volunteers to build trust and mutual respect between young people and adult authority figures. The Police Athletic League operates 27 centers around Baltimore, serving the needs of more than 7,000 youths by creating safe havens that are open after school until 10:00 p.m. at night. Unsurprisingly, in neighborhoods where Police Athletic League centers are located, crime involving young people has dropped dramatically.

And police departments can also find valuable partners in the faith community. In Boston, a group of ministers, the 10 Point Coalition, has played a vital role in the city's recent and remarkably successful fight against violent crime. The coalition's outreach and work with at-risk youth was vital. Even more critical, however, was the coalition's effort to change the way the police in Boston's inner-city community relate to each other. The coalition created a balance between the community's desire for safe streets and the community's reluctance to see their children put in jail. In this way, the coalition served as a bridge of trust and reconciliation between the community and the police.

Last month President Clinton announced that we will expand the creation of Citizen Police Academies. These academies, in intensive discussion over many weeks, explain clearly and honestly just what the police do and how they operate. These center demystify the police and enable citizens to better understand the challenges that police officers face day in and day out.

Our second undertaking is this: We must insist on police accountability. And I begin with the Department of Justice. We are conducting a self-assessment of our own use of force and civil rights processes, coordinated by the Inspector General, to ensure that we have procedures in place which hold us accountable to the American people, to all of the American people.

All law enforcement agencies -- federal, state and local -- from the director, chief or sheriff on down, must send a clear message that misconduct will not be tolerated, rude or unfair treatment will not be countenanced. But this is not a responsibility of management alone, rank and file officers must join together to promote a climate of integrity, civility, accountability and responsibility.

They must be intolerant of misconduct by fellow officers, and they must make it unacceptable to keep silent about other officers' misconduct.

Every law-enforcement agency should have a complaint process so people can file complaints without fear. If individuals fear retaliation, then they won't file complaints, and the agency will never know that it has a problem on its hands. Some police departments have moved their Internal Affairs unit to a separate building so that individuals do not have to worry about coming face to face with the officer they are complaining about. Other departments have set up a phone-in reporting process or distribute brochures on how to file a complaint.

Every police department should make sure that it has in place a vigorous system for

investigating allegations of misconduct thoroughly and fairly. A fair system ensures due process both for the officer and for those filing complaints. Departments must ensure that there is sufficient funding and staffing to pursue each complaint so citizens see that they have not been ignored. Agencies must have the will to swiftly discipline officers or agents when a complaint has been sustained. If they do not, some will think that they can cross the line with impunity.

Police departments should also know when officers use force, why the force was used and whether it was appropriate. Police agencies can implement what are known as early-warning systems to help identify officers who may need more training or reassignment, if necessary.

Finally, police departments need ways to get an independent view of their performance. In Washington, the police chief asked the Justice Department to come in and review its use of force. The Los Angeles Police Department, as a result of the Christopher Commission reforms, created an inspector general for the department. As a result of a similar commission, the L.A. Sheriff's Office now has an outside monitor.

Third, we need to ensure that police departments recruit officers who reflect the communities they serve, who have high standards and who are then properly trained to deal with the stresses and the dangers of police work. In years past, too many departments had few, if any, minority officers. That has improved significantly. We now have, not just men in blue, but women in blue; not just whites, but people of all colors.

When someone who grows up in the neighborhood becomes an officer there, they understand the people, and they know the languages spoken.

They are men and women our youth can look up to as role models. Old stereotypes and prejudices are not as likely to be passed on to the next generation of police departments if those departments represent a diverse mix of society.

I'm proud of this progress, but we need to do more. The San Antonio police department cadet program targets neighborhoods for recruits where they receive citizen complaints about the police. They attend community meetings and ask community leaders to identify candidates for the cadet program. The department works with those candidates by providing them mentors to help them prepare for the selection process.

We must also emphasize fairness and integrity in our recruitment. As Tom Frazier (sp), the chief of Baltimore's police department puts it, "we must recruit those who come to policing in the spirit of service, not in the spirit of adventure." Having recruited the right officers, we must then do a better job of training them. They must know when it is appropriate to use force and when other non-forceful means will do. They must know how to serve all the people.

The job of a police officer is very difficult. Try for a moment to picture it from the officer's perspective: You've just received a call about a drugstore that was robbed. The suspects are two

teenagers. You happen to be in the area. You see two youths walking briskly down the street. You yell out to them and suddenly they start to run. You give chase, they split up, you focus on one of the two, letting the other go. You follow him into an alley in a high-crime neighborhood.

All of a sudden, you realize he's trapped. You yell out that you're police and you order him to put his hands in the air. But instead, the panicked youth suddenly swirls around holding a tiny, shiny object that appears to be a gun. Equally panicked, you pull out your gun and without time to reflect, pull the trigger.

Was it a gun? Why did the suspect run? Did your shots hit the youth? Was he, in fact, the robber? Were you right to pursue him in the first place? We don't know the answers to such questions about this hypothetical, but the most relevant question may be whether you were trained for such an encounter and whether you did everything possible to avoid the use of force.

It is also important that residents realize that police officers in situations like I described are fearful of their own lives. They, too, fear the unpredictable nature of crime and violence on the street. We need to deal with these fears in trying to prevent excessive force incidents.

Over the last decade, 688 law enforcement officers were killed in the line of duty, 633 with firearms. We need to develop strategies to address these fears and deal with some of the stress of police work.

What we cannot do is allow officers' fears to become exaggerated and develop into mistrust of an entire community and suspicions based on stereotypes. In a recent speech, Washington D.C.'s police chief Charles Ramsey noted that those fears are brought on by a narrow view of the world. He says for many police officers, especially those working in high crime areas, their lives have become a good versus a bad guy drama played out in the communities they serve. And these officers see so many of the latter that they lose sight of the former: the good, law-abiding people who make up the vast majority of residents, even in the most crime-infested communities.

This fear among both police officers and community members tends to breed mistrust, which in turn fosters stereotypes, which in turn leads to an exaggerated sense of the differences between our two groups.

Thus our training must prepare officers for violent confrontations, but it also must deal with non-deadly confrontations. Officers must know how to interact with citizens, how to use alternatives to force, and that it is wrong to assume that the race or ethnicity of a person determines on which side of the law that person falls.

And most of all, we've got to look at teenagers and understand that the great, great, great majority, even those who get in trouble, are good kids who want to be somebody and want to make a difference. We've got to learn how to talk to them, learn how to encourage them, and work together to give them a strong and positive future.

Fourth, we must increase our civil rights enforcement. The steps I have outlined so far are things we can do to prevent incidents of police misconduct in the first place. But when they do occur, we must take swift, sure action, and that means prosecution when appropriate.

Most cases of police excessive use of force are prosecuted by state and local authorities. But the Justice Department has a very important role to play. At any given time, the Civil Rights Division and the FBI are investigating several hundred allegations of criminal police misconduct around the country. During the past five years the Justice Department has criminally prosecuted over 200 law enforcement officers for excessive force. We pursue these cases vigorously. But we recognize that the law sets a very high standard of proof. To prove a federal crime, we must prove beyond a reasonable doubt that the officers had the specific intent to use more force than was reasonably necessary under the circumstances, given their training, experience and perceptions.

We need to be successful in another way, too.

We need to do a better job in the Department of Justice of explaining to the public why we are bringing a case or why we can't bring a case, so that both police officers and the members of the community know what to expect from the Department while at the same time not doing anything that would affect a pending investigation or pending prosecution. I am resolved to pursuing that effort.

In addition to prosecuting individual officers, we also have the authority to sue police departments when we believe there is a pattern of misconduct. Under this authority, known as our "pattern and practice" authority, we can go to a court to force a police department to change the way it does business. Using this authority, we are currently investigating several law enforcement agencies across the country. In two instances, we have negotiated agreements with police departments that contain many of the good practices I outlined previously. But as we pursue our pattern and practice investigations, we also will be working with departments on preventative measures so that we can address police integrity issues without litigation, where possible.

Fifth and last, we must take steps to gather the data that will help define the scope of the problem and measure our efforts to solve it. Right now we have only anecdotes and allegations. We need more. For the past several years, pursuant to the requirements of the 1994 Crime Control Act, the Department of Justice has tried to develop ways of measuring the level of excessive force incidents. Because police departments often don't keep such records, and because they are not required to report to the federal government statistics on the use of force by officers, we have had only limited success in developing the information.

That's why we're trying a new tack. Every year we conduct a survey of households across the country, asking whether residents have been victims of a crime. The Crime Victimization Survey is perhaps one of the most accurate reflections of law enforcement trends. This year we're going

to update the survey to include questions on police misconduct -- questions like, "During the last year, have you had an encounter with the police in which physical force was used?" By doing this, we can get a better sense of the relationship people have with law enforcement and we will know whether the efforts police departments make are succeeding.

I believe data collection in the area of police stops is also very important. By keeping track, by race, of who is pulled over, why they were stopped, which motorists are subjected to searches and the outcomes of the stops, we can see where the problems exist and how extensive they are. If the numbers show that there is not a problem, then minority communities will have a better outlook on law enforcement and if the numbers are, in fact, disproportionate, then police departments will be able to study the issue and set out ways to reduce the discrepancy.

Just last month I traveled to San Diego, where I met Police Chief Sanders who is developing a program requiring officers on the beat who make stops to put those stops into the computers that they have with them. I watched it in action and it's easily done. It takes very little time and I don't think its disruptive of the officers' day. I think that speaks volumes for what the police can do to identify the scope of the problem and to take steps to correct it.

There is a problem. America is beginning to face it. We must come together and face it as one.

We also know that there are many examples of great policing in the field that can renew the level of trust and confidence in police, among young people, and the community they serve. Both sides must continue to reach out, talking to each other.

Together we can and will solve the problem so that police can serve their community with dedication, compassion, understanding and courage. And young people and people who feel like they have been treated unfairly can become a player in the community, a participant in the community and contribute the tremendous energy, the wonderful qualities they have that are oftentimes unnoticed and too often lost for the whole community.

I have been to so many communities in this country, seeing people come together, work together to make a difference. I am convinced that with the resolve we have used in other situations, we can successfully and quickly address this situation. It is a situation that must be solved. (Applause.)

TRANSCRIPT BY FEDERAL NEWS SERVICE, 620 NATIONAL PRESS BUILDING,
WASHINGTON, DC 20045

- FEDERAL NEWS SERVICE IS A PRIVATE FIRM AND IS NOT AFFILIATED WITH THE
FEDERAL GOVERNMENT

- COPYRIGHT © 1998 BY FEDERAL NEWS SERVICE, INC., WASHINGTON, DC 20045

USA. NO PORTION OF THIS TRANSCRIPT MAY BE COPIED, SOLD OR
RETRANSMITTED WITHOUT THE WRITTEN AUTHORITY OF FEDERAL NEWS
SERVICE GROUP, INC.

- COPYRIGHT IS NOT CLAIMED AS TO ANY PART OF THE ORIGINAL WORK
PREPARED BY A UNITED STATES GOVERNMENT OFFICER OR EMPLOYEE AS
A PART OF THAT PERSON'S OFFICIAL DUTIES.

- FOR INFORMATION ON SUBSCRIBING TO THE FNS INTERNET SERVICE, PLEASE
EMAIL JACK GRAEME AT INFO@FNBSG.COM OR CALL 202-824-0520.

1ST STORY of Level 1 printed in FULL format.

Copyright 1999 U.S. Newswire, Inc.
U.S. Newswire

April 26, 1999 19:11 Eastern Time

SECTION: NATIONAL DESK

LENGTH: 1596 words

HEADLINE: Gore April 25 Remarks as Prepared for Delivery to NAACP Detroit Metro Chapter (1/2)

CONTACT: Office of the Vice President, 202-456-7035

DATELINE: WASHINGTON, April 26

BODY:
Following is a transcript of remarks as prepared for delivery by Vice President Gore at NAACP Detroit Metro Chapter (part 1 of 2):

Sunday, April 25, 1999

As I was preparing to come here tonight, I realized something remarkable. This is the very last time the Detroit chapter will meet in the 1900s. So tonight, let us first pause to look back on a legacy of struggle for justice and righteousness that has truly defined this Century. And then let us look forward with commitment and dedication to the work that lies ahead.

The history we remember tonight is long. But the cord that connects us to ages past is short. If you close your eyes and listen to Mayor Archer, you can feel the passion of Booker T. Washington. Lean back and listen to Carolyn Cheeks Kilpatrick, and you can feel the leadership of Shirley Chisolm. Listen to John Conyers, and you can hear the justice of Thurgood Marshall. If you wonder what it was like to talk to Fannie Lou Hammer, spend a few minutes talking to Mrs. Bullah Work. If you wonder what Roy Wilkins was like, spend a few minutes with Dr. Lionel Swann. If you wonder about the wisdom of Mother Pollard, you'll get the same good advice from Mrs. Irene Graves.

Although she is not here tonight, I know you are proud to have as a member of this chapter a true American legend, not just to African Americans, but to all Americans -- Ms. Rosa Parks. Thanks to the taken just this week -- Rosa Parks now joins Nelson Mandela, Mother Teresa, and Robert Kennedy as one of the few Americans to receive our highest civilian honor, the Congressional Gold Medal.

I feel a connection to that struggle and to the NAACP in a personal way. You see, I was raised to believe in racial justice and civil rights.

My father was a United States Senator from the South who had courage. He fought against the poll tax in the 1940s, and for civil rights in the 1950s. He was one of only two Senators to refuse to sign the hateful Southern Manifesto. He voted for the Voting Rights Act of 1965 and he voted against Supreme Court nominees whose commitment was suspect. And those brave stands probably cost him his career.

U.S. Newswire, April 26, 1999

I remember when I was eight years old, we lived in a little house on Fisher Avenue, halfway up a hill. At the top of the hill was a big old mansion. One day, as the property was changing hands, the neighbors were invited to an open house. My father said: "Come, son, I want to show you something." So we walked up the hill and through the front door.

But instead of stopping in the parlor, or the ornate dining room, or the grand staircase with all the other guests, my father took me down to the basement and pointed to the dark, dank stone walls -- and the cold metal rings lined up in a row.

Slave rings.

I thank God that my father taught me to love justice. Not everyone was eager to learn. One unreconstructed constituent once said, in reference to African Americans -- though that was not the term he used -- "I don't want to eat with them, I don't want to live with them, I don't want my kids to go to school with them." To which my father replied gently: "Do you want to go to heaven with them?"

After a brief pause came the flustered response: "No, I want to go to hell with you and Estes Kefauver."

We need to know that history. We need to recognize just how far we have come in this century -- toward that more perfect union we all seek for our children. But now we must take stock of the present -- and we must look to the future. The next time you meet, it will be the dawn of not just a new century, but a whole new era in human history.

Will we build on the progress of this century toward justice and tolerance and inclusion? Will we make the 21st Century the brightest time our nation has ever seen?

In the 20th Century, we broke down barriers and overcame discrimination in our laws. We learned along the way that sometimes, good laws aren't good enough.

Tonight, I pledge to you: if you stand with me, we will lead America into a 21st Century where we break down barriers not just in our lawbooks -- but also in our workplaces, in our schoolhouses, in

We've made a lot of progress these past six years: more African-American business owners, homeowners, and CEO's than ever before. African-American poverty and unemployment are at their lowest point in recorded history. The doors to college open wider than ever before. We're bringing long-overdue justice to America's black farmers. And over the past six years, our administration has named more African-Americans to Cabinet seats, judgeships, and high posts than any administration in history.

As the NAACP has taught us for 90 years, we are not successful as a nation in spite of our diversity -- we are successful because of it.

But let's be honest: we have a lot of unfinished business ahead of us.

Today, an African American child is one and a half times more likely to grow up in a family whose head did not finish high school. Two times as likely to

U.S. Newswire, April 26, 1999

be born to a teen mother. Two and a half times more likely to be born at low birthweight. Three times more likely to live in a single parent home. Four times more likely to have a mother who had no prenatal care. And nine times more likely to be a victim of a homicide.

I'll tell you: those numbers should weigh on our national consciousness as strongly as the number "three-fifths" did 150 years ago.

To borrow from your theme, I want a "level playing field" in America.

Tonight, I want to present four ideas -- things we can do right now -- to make this nation more equal and open for all Americans. I am here tonight to ask you to stand with me, and help me put them into practice.

The first thing I want to ask you to do is help me expand economic opportunity and tap the untapped markets of America's cities -- because I believe America's inner cities are America's hidden jewel.

That begins with a strong, job-creating economy -- one that leaves no one behind, keeps interest rates low, and does even more to help African-American-owned businesses invest and grow. I was proud last year to call on the Small Business Administration to guarantee a record \$3.5 billion in loans to African-American and Hispanic-American businesses by the year 2000. But we need to do more.

Expanding opportunity also means opening new markets around the world -- and saying as loud as we can: yes, trade with Africa is good for America.

But let's be clear: some of the greatest untapped markets for our products today aren't halfway around the world, they're halfway down the street, in our inner cities and urban communities.

We need to light up our neglected neighborhoods with the spark of private investment. I am proud that I have led our Empowerment Zone initiative, which has brought more than \$2 billion of new investment to Detroit.

Now I call on Congress to fully fund our second round of Empowerment Zones, which have the potential to create 90,000 jobs and stimulate more than \$20 billion in public and private investment. Let's give our cities the hope and opportunity they deserve.

We've also proposed a new \$15 billion markets initiative to get more start-up capital into the hands of people who need it. This initiative will help create more than just jobs -- it will also create more black-owned businesses in America's cities, and I urge Congress to pass it.

It will also do one other thing: it will help more minority women smash through the glass ceiling. At a time when African-Americans earn just 62 cents on each dollar that white Americans earn, don't you think it's time for an equal day's pay for an equal day's work?

The second thing I want you to help me do is to protect civil rights in America, including affirmative action. I've heard the critics of affirmative action. They're in favor of affirmative action if you can dunk the basketball or sink a three-point shot. But they're not in favor of it if you merely have

U.S. Newswire, April 26, 1999

the potential to be a leader of your community and bring people together, to teach people who are hungry for knowledge, to heal families who need medical care.

I have a different view: America still needs affirmative action. And while scientists work to slow down the speed of light, all of us need to work to speed up the speed of justice. People like Martin Luther King died to give us the civil rights laws on the books today. The least we can do is enforce them.

Last year, from Dr. King's pulpit at Ebenezer Baptist Church, I was proud to announce the largest increase in civil rights enforcement in nearly two decades. I fought for that increase, and we won it last year. But were not done: Congress still won't vote to confirm Bill Lann Lee as head of the Civil Rights Division at the to be done. So I say to Congress: let's give Bill Lann Lee the up-or-down vote he deserves.

Civil rights include basic rights, too -- and that includes the right to be treated with respect.

Now, I am proud of our nation's law enforcement. I'm proud of the 100, 000 new community police we are putting on our streets, and the work they are doing to protect all of our families.

LANGUAGE: ENGLISH

LOAD-DATE: April 26, 1999

5TH STORY of Level 1 printed in FULL format.

Copyright 1999 U.S. Newswire, Inc.
U.S. Newswire

April 26, 1999 19:13 Eastern Time

SECTION: NATIONAL DESK

LENGTH: 1560 words

HEADLINE: Gore April 25 Remarks as Prepared for Delivery to NAACP Detroit Metro Chapter (2/2)

CONTACT: Office of the Vice President, 202-456-7035

DATELINE: WASHINGTON, April 26

BODY:

Following is a transcript of remarks as prepared for delivery by Vice President Gore at NAACP Detroit Metro Chapter (part 2 of 2):

But I want to be perfectly clear: the strong arm of justice must also respect justice. I am outraged by recent reports of "racial profiling." DWI is a crime in this nation. DWB shouldn't be. It is wrong to pigeon-hole and punish innocent citizens on the basis of race. It is wrong to stereotype somebody as a suspect simply because of the color of their skin.

Let be very clear: I believe we should abolish racial profiling in America. And any police department in America that is using it should stop right now.

Right now, our administration is exploring this issue -- to see what we can do to help end this hateful practice, once and for all.

While we work to protect rights, the third thing I want you to do is to help me give every child in this country a world-class education.

Who in this room tonight believes we need revolutionary change in our public schools?

Who believes we can do a better job of working with the parents and teachers who want to see real reform -- not ten years from now, after their child graduates, but right away?

Then stand with me for the change our children deserve.

Most of our kids in urban schools are ready to learn and ready to study. But how can we expect them to learn the skills they need for the future if 26 percent of our urban teachers who teach math have never studied math? If 40 percent who teach chemistry have never studied chemistry? And 71 percent who teach physics haven't studied physics?

How can we expect them to get the attention they need if there are 35 other students shoehorned into the classroom? How can we build the experienced, highly-trained teaching corps we need for our future when nearly half the teachers in poor, minority schools leave after only three years?

U.S. Newswire, April 26, 1999

How can we expect them to learn the Internet if in some urban schools, you blow the circuits if you even plug in a computer? African-American children are 40 percent less likely to use a computer at home. We didn't tear down the cotton curtain in this country to replace it with a digital divide.

I will fight to bring more accountability in our school system. That's why I'm working right now to pass the President's plan to turn around failing schools, and narrow the disparities in our education system. To end the social promotion that is only failing our children. To raise up standards -- and give students and teachers more of the tools to meet them. To rebuild crumbling schools, and hire 100,000 new teachers to reduce class sizes in the early grades. To bring more discipline and character education to the classroom.

At the beginning of the 21st Century, I'll tell you what else I want to do:

I want to reduce class sizes not just in the early grades, but in all grades. I want to make pre-school available to every child, in every community in America. I want to cut in half the achievement gap between rich and poor, and between racial and ethnic groups.

And at a time when our nation is becoming more diverse, I am deeply committed to the goal of integration. Today, more than one-third of all black and Hispanic students attend schools with greater than 90 percent minority enrollment. A minority student is 16 times more likely than a white student to be in a high-poverty school. I say we should use voluntary tools such as charter schools, magnet schools, and public school choice to seek more diversity, not less, in our schools. Schools are our best hope to break the chains of racial isolation in our nation.

Some people say "be patient." But it's too late to be patient. Our children will not be young forever, and their future won't wait. We need to fix our schools today. Stand with me, and we will.

We need a strong economy. We need revolutionary change in our schools. But our children can't reach for their dreams if they're ducking for cover. The tragedy at Columbine High School in Colorado shows just how much more work we must do -- to make our communities safe, to banish violence and hate, and to replace a culture of violence with a culture of values.

And this is the fourth thing I want you to help me do. Help me build a safer society and safer schools for all our children.

I just came from Littleton, Colorado, where I met with the families of the children who were brutally slain last week at Columbine High School. Included among the dead was a 17 year-old boy named Isaiah, who was killed simply because he was black.

Julian Bond likes to say that when he was a child, bad boys fought with knives, not automatic weapons. And crack was something that, if you stepped on it, would break your mothers' back.

For parents, last Tuesday's tragedy yielded more questions than answers: how do two teenage boys get their hands on TEC-9 assault weapons, sawed off shotguns, and pipe bombs?

U.S. Newswire, April 26, 1999

I want to work with you to change a popular culture that glorifies violence and mayhem. We must cut off our young people's easy access to guns and deadly weapons. We must invest in the programs that prevent our children from turning to a life of crime and drugs in the first place.

I call on Congress to pass a new initiative to help schools hire and train 2,000 new community police officers -- to work closely with teachers and students to prevent violence. Let's pass it into law.

And I believe we need more drug counselors and violence prevention coordinators in our middle schools. I have seen the work that is being done through peer mediation and violence prevention programs -- and it is cooling tempers and saving lives. I call on Congress to work with us and hire another 1,300 drug counselors and violence prevention coordinators across the country.

And I'll tell you what my wife Tipper would say if she were here. She would say: "Al, don't forget to tell them this: when a first-grade teacher sees a new class of students the first week of the year, they can tell you at the end of that first week that one, two, or three of those kids are troubled already, even at that age. And we need to have more resources devoted to community mental health centers and mental health treatment and mental health counseling for families that need it.

These are some of the things we must do at the national level. But we all know: responsibility begins in the home.

Parents, we've got to talk to our children. We've got to know what's going on in our children's lives. If a child is making pipe bombs in the garage, we've got to know about it. We've got to teach them right from wrong. And we must teach them that embracing the right values can transcend a moment's cheap sensation. Or a sudden impulse of hatred and revenge. Or the easy surge of power learned from a violent culture with too few anchors, too little family stability, and a dearth of spiritual nurturing.

It's not just the responsibility we have to our children -- it's the responsibility we have to each other. Take your child to school. Meet your child's teachers. Trade phone numbers with other parents and teachers. Turn off the television at night. Help them with their homework. Pick up their report cards. Play a role in their lives.

Ladies and gentlemen, stand with me, and help me do these four things. For if we can build a nation of opportunity through jobs and education, and a nation of safety and justice through and strong values, then we can reach for our highest aspirations. Then we can build that more perfect union our founders envisioned.

I believe that God's hand has touched the United States of America -- not by accident, but on purpose. He has given us not just a chance, but a mission, to prove to men and women throughout this world that people of different racial and ethnic backgrounds, of all faiths and creeds, can not only work and live together, but can enrich and ennoble both themselves and our common purpose.

We don't need more division in America. We don't need more scapegoats. What we need is more love and understanding and cooperation. We need to work

U.S. Newswire, April 26, 1999

together on solutions, to give our children and our families the future they deserve.

Jesus said in the Gospel of Matthew: "Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind. This is the first and greatest commandment. And the second is like unto it, thou shalt love thy neighbor as thyself. On these two commandments hang all the laws and the prophets."

So let us not be weary in well-doing as we address the unfinished agenda of NAACP. Let us make his dream our agenda for action. And always remember, in the words of the hymn:

"In Christ there is no east or West, In him, no South or North, but one great fellowship of love throughout the whole wide earth.

"Join hands, disciples of the faith, whate'er your race may be, who serves my father as a child is surely kin to me."

LANGUAGE: ENGLISH

LOAD-DATE: April 26, 1999

Race-race profiling



NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.

Representing America's Finest

750 First Street, N.E., Suite 920 • Washington, D.C. 20002-4241

(202) 842-4420 • (800) 322-NAPO • (202) 842-4396 FAX

E-mail: napo@erols.com

President
THOMAS J. SCOTTO
President, Detectives' Endowment Association of New York City New York, NY

Executive Vice President
B. D. "BUD" STONE
President, Berkeley POA Berkeley, CA

Recording Secretary
MIKE DERBYSHIRE
President, Central Coast Chapter, PORAC Salinas, CA

Treasurer
WILLIAM BIRDSEYE
Treasurer, Police Officers Association of Michigan Livonia, MI

Sergeant-at-Arms
MARTIN MCKEAN
Executive Secretary, Ohio PBA Barea, OH

Executive Secretary
SANDRA J. GRACE
Secretary, New Bedford Police Union New Bedford, MA

**FOR IMMEDIATE RELEASE
April 14, 1999**

**CONTACT: (202) 842-3560
JODY HEDEMAN COUSER**

Executive Director -
ROBERT T. SCULLY
General Counsel
STEPHEN R. McSPADDEN
Legislative Consultants
JULES BERNSTEIN
LINDA LIPSETT

**NATIONAL POLICE GROUP
ALARMED WITH BILL THAT
WOULD REQUIRE THE
COLLECTION OF DATA
DURING TRAFFIC STOPS**

WASHINGTON, DC - The National Association of Police Organizations (NAPO) announced today its alarm over the 'Traffic Stops Statistics Study Act of 1999,' introduced by Representative John Conyers, Jr. (D-MI), and other members of Congress. Representative Conyers introduced a similar bill in the last Congress, which NAPO lobbied actively against, and thanks in part to NAPO's efforts, the bill died in the Senate. NAPO represents more than 220,000 sworn law enforcement officers through 4,000 police unions and associations nationwide.

The bill would require the Attorney General to conduct a study of stops for routine traffic violations by law enforcement officers. It would require officers to record the following types of information: the number of individuals stopped for routine traffic violations; and identifying characteristics of each individual stopped, including race and/or ethnicity, approximate age, and gender, among other requirements.

"What I think needs to be made clear to the American public is that there is no need for new legislation on this issue. The Attorney General of this country already has the authority to collect this data in any area of the country where she sees a problem of alleged racial profiling by

police officers during traffic stops," said Robert T. Scully, executive director, NAPO. "Representative Conyers is reintroducing a bill that died in the Senate during the last Congress. The new version is essentially the same as last year's with one major exception. Last year's legislation limited the use of the data obtained from the study only for research or statistical purposes. The data, in last year's bill, could not have been used selectively in any legal or administrative proceeding to establish inferences of racial discrimination. In other words, the data could not be used to go after certain police departments or individual police officers in an unreasonable or unfair way. The newly proposed bill, however, would make the data readily available to the cottage industry of lawyers who make their living suing police officers across the country," continued Scully.

"Has Representative Conyers forgotten the need to have probable cause for a traffic stop? If an individual, whether that person be African-American, Caucasian, Latino, or any other race or ethnic group, has been pulled over by an officer with probable cause to make that traffic stop, and it turns out that that individual has done nothing wrong, then what is the problem? As a society, sometimes law-abiding citizens will be inconvenienced when police aggressively enforce the laws and investigate crimes," said Scully. "Just being stopped by the police when they have good reason to do so should not cause those stopped to believe that their rights were violated. Isn't one's safety on the street more important than the occasional, if not rare, occurrence of the aggravation or inconvenience one might face when being questioned by an officer," continued Scully. "As the nation's violent crime rate continues to drop, is it an acceptable time to change police practices that have contributed to this drop in crime?" continued Scully.

"NAPO is strongly opposed to any instances of blatant racial discrimination, such as pulling over an automobile, searching personal property or detaining an individual, when based solely on the individual's race, ethnicity, gender or age and not on any reasonable suspicion of danger or violations of law. As the former Police Commissioner of New York City, William J. Bratton, was quoted in a recent *New York Times* article, officers develop what can be called 'street smarts' or 'awareness,' sometimes also called the *sixth sense*. Having a sixth sense is often a sign of a seasoned or skilled law enforcement officer – one that you would surely want protecting your neighborhood," said Scully.

"NAPO acknowledges that the police profiling debate is a challenge faced by both America's law enforcement officers, as well as by the public. The solution to this challenge is not found in the legislation introduced by Representative Conyers," said Scully.

The bill is based on two presumptions. First, that law enforcement officers routinely stop racial and ethnic minorities of color for traffic violations purposely to discriminate against such individuals, and secondly, that the number of citations issued are disproportionate as compared to numbers of citations for individuals whose color is white. This is not the case. Often police officers do not know the race or ethnic background of an individual when they see a traffic offense, especially at night but often even during daylight. Officers are trained to immediately pursue a vehicle for a traffic infraction irrespectable of the driver's appearance.

If passed into law, the bill would place a burden on the police and lengthen traffic stops. For example, to obtain the information required by the bill, the police officer would have to ask about race or ethnicity and age. Also, for each stop the officer would also have to develop a record as to whether a search was instituted, how it was conducted, the rationale for the search, and the nature of any contraband, all in addition to asking about other items. The information on personal characteristics would likely be considered highly offensive by many individuals. If an officer is uncertain of someone's ethnic background (there are many dark-skinned individuals who may look African American but may be Latino or vice versa; or who may look Latino but may be of Arabic origin or perhaps of another ethnic group such as Sudanese, Ethiopian, Pakistani, or Iranian), the officer would often have to ask for this information and can be expected to meet resistance and hostility to such questions. Also, the time necessary to fill out these forms would take away from law enforcement efforts.

One of the most vulnerable moments for a law enforcement officer, is when he or she pulls over a car for a traffic violation. The statistics on the numbers of officers killed feloniously or assaulted in the line of duty during traffic stops confirm this danger. Since the advent of the automobile, approximately 300 law enforcement officers are known to have died during traffic stops, and approximately 80% of those were shot to death. The proposed study would make a dangerous situation worse and escalate bad tempers, by bringing race into the discussion. An officer's life may be put further at risk, as well as the passenger's if the officer has to act in self-defense.

It is also unclear what the study would prove. If the study focuses on inner city police departments, it would indicate a greater number of minorities stopped as compared with suburban police departments, reflecting the population makeup of those communities. As proposed, this study would have a weak statistical basis. It is inconceivable that the data will be accurate unless an officer

does verify racial and ethnic background and the violator responds cooperatively. If some of the individuals stopped for a traffic offense do not want to cooperate and provide this personal information – which can be expected, the data will be skewed and inaccurate.

“This bill threatens to produce a practice of reverse discrimination. Law enforcement officers across the country will find themselves even more threatened by lawsuits and that threat may surface in a practice of reverse discrimination. It could even potentially lead to an unofficial parity based on race, ethnicity, age or gender. Does the American public really want to see a lower standard of probable cause being applied to Caucasians and a higher standard being applied to African-Americans or Latinos? This will result in lawlessness. This will send the wrong message to criminals across the country,” said Scully.

“I urge everyone, law enforcement and members of the general public alike, to come together in discussions on how to handle this debate. Let’s search for solutions rather than create problems. To those persons running to the microphone to criticize the police, I urge you to unite and work with us, rather than igniting more hostility by adding fuel to the fire,” said Scully.

The National Association of Police Organizations (NAPO) is a coalition of police unions and associations from across the United States that serves in Washington, DC to advance the interests of America's law enforcement officers through legislative and legal advocacy, political action and education. Founded in 1978, NAPO now represents more than 4,000 police unions and associations, over 220,000 sworn law enforcement officers, 3,000 retired officers and more than 100,000 citizens who share a common dedication to fair and effective crime control and law enforcement.

###

Race - Racial Profiling

- Prisoners

- EO??

Racial Profiling Mtg

1. INS enforcement

EH: ethnicity can't be taken out

can't be only thing

to say we're not going to do this is to make mockery of this
from start.

more imp the closer you get to the border

IV: Getting the data makes a huge difference

the more for every person you encounter

Crime-racial profiling



"Christopher F. Edley, Jr." <edley @ law.harvard.edu >
03/12/99 05:28:11 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP
cc: Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP, Jose_Cerda_III @ Ingate2.eop.gov, Robert B. Johnson/WHO/EOP
Subject: Re: racial profiling

Note: Some recipients have been dropped due to syntax errors.
Please refer to the "\$AdditionalHeaders" item for the complete headers.

A related issue is whether we already have statutory authority to do some or all of the data collection that Conyers has proposed directed, as I understand it, at state and local enforcement.

At 05:01 PM 3/12/99 -0500, Maria_Echaveste@who.eop.gov wrote:
> I understand that you had a followup meeting on racial profiling while I
> was away. I assume that you were having a staff level discussion to
> explore further the options for the crime section of the book, as we had
> discussed at the last meeting I hosted. From the readout I've received it
> appears that the agencies are in agreement to go forward with some type of
> data collection but not an executive order, primarily because of the
> difficulties presented by INS and customs enforcement needs. Did you
> discuss what an executive order would look like or did you all conclude
> that the difficulties presented by INS and customs forced the decision not
> to have an executive order? At this morning's radio address, both Wade and
> Raul raised the issue of the INS and I told them from what I knew there was
> some legal basis for stopping people based on ethnicity--they would like to
> talk about this in greater detail. Also, Mfume told me he thought we were
> vulnerable because in the 94 crime bill, DOJ was authorized to collect data
> on profiling/police abuse but congress had never appropriated money and we
> had never asked for money. do you know anything about this? What can you
> tell me about all of this and where we go from here?

>
>
>

Professor Christopher Edley, Jr.
Harvard Law School,
Cambridge MA 02138
(617)-495-4614; (f) 496-5156

The television monitor flickers on and we see a smeary black-and-white shot of a gangly man in a checkered shirt. He is standing by a car, alongside some highway in the boondocks, trailer trucks roaring by. On the tape, it is the dead of winter, overcast and blustery, and the man keeps brushing long strands of hair from his eyes as he nervously answers questions from the two Arkansas state troopers towering over him. He is nobody, some jobless hillbilly plucked from the traffic stream by two cops who have been specially trained—like us—to spot suspicious characters.

The troopers give the man the once-over and tell him they want to search his car. He reluctantly agrees and is shoved into the backseat of their unoccupied prowler car, behind the dash-mounted video camera, and from then on, we watch through his eyes as the Pipeline team searches his car.

When the trunk lid pops open, the man begins to whimper. When one of the troopers reaches in and tosses a black plastic garbage bag onto the hood of the patrol car, he lets loose with a piercing off-camera shriek.

"Help me! Help me, God! Help me, God! Please, God, save me! Oh, God! Oh, my God!"

He keeps it up, alternating between wails and moans, for what seems like an eternity, gibbering at the visions he is conjuring of his near future. Just when he seems finished, when it seems certain his lungs can take no more, he starts up again, screaming even louder than before. *"Oh, God, save me! Oh, sweet God, please! Please save me!"*

"Now, look, look," our instructor says excitedly, pointing at the screen. "The troopers are finally gonna hear him!"

As a gut-wrenching howl erupts from inside the patrol car, one of the cops looks up slowly from the Screamer's trunk and gives the camera a puzzled glance. Comedy.

The classroom explodes with laughter.

CURTIS V. RODRIGUEZ IS A SAN JOSE LAWYER. HE LOOKS FAR YOUNGER THAN HIS forty years, has a couple kids, owns a house, drives a nice car. He's a prime example of an emerging army in California: educated urban professionals who happen not to have white skin.

Last June, he and a friend, fellow attorney Arturo Hernandez, drove Rodriguez's Mazda Millenia to Merced on a mundane legal task: taking pictures of a client's house. On their way through the windy Pacheco Pass, in the mountain range separating the Pacific coast from the dusty farms of the San Joaquin Valley, they saw some cars that had been pulled over and were being searched by California Highway Patrol officers. In every instance, it seemed, the car's driver was a dark-skinned male.

On the way back, hours later, they saw more. One after another, every couple of miles.

"After seeing the third car in a row—same deal, driver is a dark-skinned Latino and the cops have them standing off on the side of the road—Art and I looked at each other and said, 'Do you believe this?'" Rodriguez says. "It was obvious whom they were stopping. It's not like there are that many dark-skinned Latinos on the road, but that's all they had. Art got the camera out and started taking pictures of the stops, because we figured no one would believe us."

Hernandez began snapping away, getting photos of a fourth car whose dusky occupants were being questioned by the roadside. As the Millenia whizzed by the fifth such vehicle, a highway patrolman looked up and saw Hernandez with the Olympus. Soon, the Mazda's rearview mirror was filled with the chrome grille of the trooper's hard-charging Crown Victoria.

"I'm driving like a saint," Rodriguez recalls. "I'm going under

**YOU MEAN YOU PULLED OVER
SOMEONE BECAUSE HE
LOOKED LIKE A DRUG DEALER?
THE JUDGES GASPED. WHAT
WAS YOUR PROBABLE CAUSE?**

the speed limit, straight down the middle of the lane. There's nothing he can do to me. But he turns on his lights and pulls me over. He walks up and tells me I was weaving, which is a total lie, because I was driving that car like it was on rails."

The trooper then told Rodriguez he wanted to search the Mazda, and Rodriguez scoffed. To hell with that, he thought. I didn't go to law school for nothing. No way, he told the officer, am I consenting to a search. I know my constitutional rights. Art and I are criminal lawyers. The Fourth Amendment protects us from this kind of nonsense. If you want to search the car, get a warrant. Otherwise, just give me a ticket and let me go.

The trooper was unmoved. He looked at the two attorneys calmly and ordered them out of the vehicle. I'm in fear for my life, he informed them in a monotone. The passenger made suspicious motions, which gives me the right to search your car—for my own safety. Rodriguez's license and registration were taken back to the cruiser, where a drug dog sniffed at them indifferently. Not surprisingly, the search turned up nothing.

Rodriguez was dumbfounded. "The whole thing was about as illegal as you can get. He had no cause to pull me over. He had no reason to search my car. He knows I'm a lawyer, and he goes ahead and does it anyway! So the thing I'm wondering is, what happens to the people who aren't lawyers?"

What sometimes happens is this: They get frisked, and sniffed by dogs, their luggage gets dumped out and pawed, on occasion their cars are towed away and dismantled back at the police station. Other times, their vehicles are taken apart on the spot. If they're lucky, they are simply left standing alongside the road, frightened and mystified, holding an expensive traffic ticket they didn't deserve and wondering why, out of all the cars on the highway, the police came after them.

In most cases, it can be summed up in two words: Operation Pipeline. Like tens of thousands of other innocent motorists, Curtis Rodriguez had been sucked up and spit out by one of the federal government's more secretive antidrug campaigns, a giant vacuum cleaner of a program financed by the U. S. Drug Enforcement Administration and run by hundreds of state and local police agencies across the country. Over the past thirteen years, Operation Pipeline has been waging an expanding and largely invisible war on the nation's highways against "mules," people who haul cash and drugs for dope dealers. In its time, Pipeline has scored some impressive victories. But as with any war, it has left considerable collateral damage in its wake: legions of law-abiding motorists who have been ticketed, interrogated, and searched simply because they looked or acted funny—or happened not to be white.

"It isn't just blacks and Hispanics, though they do seem to be the majority," says Utah attorney W. Andrew McCullough. "In my experience, any motorist who looks different is a candidate for getting pulled over by these folks."

Complaints of racially motivated traffic enforcement are nothing new, of course. But in the last couple of years, these complaints have become louder and more persistent. Some legal experts, such as constitutional-law professor David A. Harris of the University of Toledo, believe we are in the midst of a "national

epidemic of race-based traffic enforcement.”

That perception has been strengthened by recent civil-rights suits filed in Maryland and New Jersey and statistical studies done in North Carolina and Florida proving that on some highways, the traffic laws have been enforced far more stringently against dark-skinned drivers. Because of these documented cases of roadside racism, Democratic congressman John Conyers of Michigan was able to persuade the Republicans in the House last year to pass a bill requiring traffic police to record the race of the drivers they stop so that the phenomenon could be studied nationwide, but the measure died in the Senate. Last September, the California legislature overwhelmingly passed a similar bill—sponsored by Senator Kevin Murray of Los Angeles, who himself had been subjected to a questionable search—only to see it vetoed by Governor Pete Wilson.

For the most part, police characterize these cases as isolated lapses in judgment by rogue officers or insensitive police commanders who've sent out the “wrong signal” to the troops. But what no one has seemed to notice so far is the thread that connects many of these seemingly unrelated cases: this unheralded federal program called Operation Pipeline.

I ended up inside Pipeline last summer as an investigator for the California Legislature after hearing stories from law-enforcement sources about special CHP units that were pulling Latino motorists off the interstates on a whim and rousting them in an effort to find guns, cash, and drugs. What was happening on California's highways, I discovered, was happening across the country—methodically and with increasing frequency.

Operation Pipeline has helped give rise to a new catchphrase in the minority community: DWB, Driving While Black, or Driving While Brown. Yet few outside of law-enforcement circles have even heard of Operation Pipeline.

The DEA, Operation Pipeline's federal sponsor, doesn't talk about it much, which is odd, since the agency considers Pipeline to be “one of the nation's most effective drug-interdiction programs.”

But with 301 police commands in forty-eight states now participating in Pipeline in some fashion—from the tiny Picayune Police Department in Mississippi to the New York State Police—the program is in danger of becoming a victim of its own excess. The problems have become so obvious to the CHP that the agency recently embarked on a major overhaul of its Pipeline program.

Two months before Curtis Rodriguez had his car tossed, a reporter had asked a veteran California Highway Patrol sergeant to explain the operating principle behind this campaign to remove contraband from highway travelers. The answer: volume, volume, volume.

“It's sheer numbers,” he said. “Our guys make a lot of stops. You've got to kiss a lot of frogs before you find a prince.” California Highway Patrol canine units kissed nearly thirty-four thousand frogs in 1997. Only 2 percent of them were carrying drugs. In other states, up to 95 percent of all Pipeline searches have been found to be dry holes.

An Ohio trooper testified in a drug-seizure case a few years ago that he'd personally conducted 786 searches in a single year, sometimes for no other reason than to keep in practice. The state judge, James Brogan, was outraged.

“If we multiply this among all agencies and officers who are currently using routine traffic stops to search the vehicles of citizens they suspect of no crime, the number of individual citizens being asked to relinquish their privacy rights . . . is staggering,” Brogan wrote.

Within the past year, according to one DEA official, Attorney General Janet Reno and her top aides have begun asking ques-

tions about Pipeline, wondering why the program keeps spawning complaints from black and Hispanic motorists and lawsuits accusing the police of racism and selective enforcement.

Frankly, it's not much of a mystery. The answer can be found in the muddy median strip of I-95, a four-lane concrete corridor that cuts through the desolate coastal swamps of Florida. It's where Operation Pipeline arose and where it grew to become what it is today.

LIKE THE PHRENOLOGISTS OF THE NINETEENTH CENTURY, WHO BELIEVED THAT A person's personality could be divined from the shape of his skull, Robert L. Vogel Jr. believes he can spot drug traffickers from the general cut of their jib.

“Bob has a God-given sixth sense,” Vogel's dark-haired wife, Jeannie, says earnestly. “A lot of people are jealous of that or can't understand it.”

Vogel discovered his unusual talent in the mid-1980s, while working as a Florida state trooper, cruising I-95 outside Daytona Beach and Port Orange, looking for traffic miscreants. Certain drivers, he noticed, just gave him a bad feeling inside. When he searched their cars, he would frequently find drugs or weapons.

A compact, soft-spoken Vietnam vet who bears a faint resemblance to Richard Gere, Bob Vogel is a deliberate, methodical man, serious about his job, so he began compiling his observations about the drivers who set off the alarm bells in his head. He discovered common traits among them and gathered these together into a list of “indicators,” which he began mentally checking off whenever he pulled someone over.

He broke down the indicators into two types: physical and behavioral. The physical indicators were the ones he could see as he scanned the interior of his quarry's car. Such things as car phones and pagers, radar detectors and radio scanners, were obvious. But there were many others. Cops regard the indicators as something akin to a magician's secrets. Our Pipeline instructor warned against disclosing them in court lest “the bad guys” find out. But in truth, records of them can be found in a good public library. Among the most common:

- Air fresheners, especially the ones that look like leaves or little pine trees. Pipeline cops call them “the felony forest.” They can be used to mask the odor of drugs. Having fabric softener, coffee grounds, or laundry detergent lying around is also a sign something could be amiss.

- Fast-food wrappers on the floor. Evidence of “hard travel”; suggests a desire not to leave the drug load, even to get a sit-down meal. Pillows and blankets in the car fall under this rubric as well.

- Maps with cities circled on them. A circled “drug source” or “drug destination”—which covers just about all major cities—is more evidence of a motorist's true nature.

- Tools on the floor, for easy access to those hidden compartments full of drugs and money. Tinted windows, new tires on an older car, or high mileage on a new car are also worrisome signs.

- A single key in the ignition. Most people, presumably, have lots of keys on their key chains. Solitary keys suggest someone just handed the driver a key.

- Not enough luggage for a long trip or too much luggage for a short one. Rental cars are extremely suspicious, as is an auto-registration certificate in someone else's name.

Vogel acknowledges that each of these indicators can be found in the cars of innocent citizens and, by itself, is no indication of criminal activity. But when they are found in combination, he insists, it means you've got a potential drug mule on your hands. Spotting them is nothing more than good, basic police work, he says, and, as shown by the thousands of drug seizures Pipeline units make every year, obviously he is right.

But it's when you get to the next step—the behavioral indicators—that things get a bit trickier, that Vogel's sixth sense comes into play. It's also when good, basic police work can sometimes mutate into racism and stereotyping. In a deposition in 1997, Utah state trooper Paul Mangelson, one of the nation's best-known Operation Pipeline instructors and a frequent consultant to other police agencies, offered an insight into how the behavioral indicators work: "The secret of criminal interdiction is being able to read people. And there are things about people and things they do that are a definite tip-off," Mangelson explained. "I don't necessarily teach this, but on a freeway, prior to stopping somebody, I like to pull up in the inside lane, traffic permitting, and observe the individual."

"Now, when you pull up alongside of somebody and take a look at them," Mangelson was asked, "would this be any joe morrist or somebody that has already attracted your attention?"

"Somebody that I've already decided I'm going to stop. I want to see his reaction as I pull up alongside of him. For example, will he make eye contact with me? And I maintain that if a guy is doing something illegal, ninety-nine times out of a hundred he won't look at you. Number two, he knows good and well that you are there, and he is going to have a death grip on that steering wheel, and you can probably see that his knuckles are turning white. That's a very good indicator that guy is dirty. Something is illegal in that car."

Other indicators, he said, are adornments like "earrings, nose rings, eyelid rings. Those are things that are common denominators with people who are involved with crimes. Tattoos would go along with that," particularly tattoos of "marijuana leaves."

Bumper stickers also give him a feel for the soul of the driver.

THE POLICE OFFICER ASKS THE MAN
HE HAS JUST PULLED OVER HOW HE IS
DOING. "NOT VERY GOOD," THE MAN
REPLIES. "COULD BE WORSE," THE
OFFICER SAYS. "COULD BE BLACK."

"Deadhead stickers are things that almost—the people in those kinds of vehicles are almost always associated with drugs."

How about ACLU stickers? "Yeah, I look for them."

"What about, for instance, Hispanics in an out-of-state vehicle?"

"A lot of Hispanics are transporting narcotics," Mangelson said. "That's common knowledge. I don't think it matters whether they're in an out-of-state vehicle or not."

What if he saw pornography in the car? "I would certainly have a belief that drugs could be in the vehicle."

Not surprisingly, such unorthodox crime-fighting techniques were not immediately embraced by the courts. In Florida, Bob Vogel was viewed as something of an oddball at first. Judges, he learned, were simply unwilling to make allowances for a cop with clairvoyance.

When the federal eleventh-circuit court of appeals got a look at Vogel's police work, the judges denounced it as illegal, unconstitutional, and possibly un-American. You mean you pulled over someone because you thought he *looked* like a drug dealer? the judges gasped. What was your probable cause?

"That trooper Vogel's 'hunch' about the appellants proved correct is perhaps a tribute to his policeman's intuition, but it is not sufficient to justify, *ex post facto*, a seizure," the judges wrote in a 1986 opinion. To condone Vogel's methods, they wrote, would mean that every car on the road could be pulled over and

searched, which "would run counter to our Constitution's promise against unreasonable searches and seizures."

Undeterred by the stinging judicial rebuke and the queasiness of some of his bosses, Vogel plowed ahead. "No one else was doing this but me, and there were some people who were nervous about it, but there always has to be someone to test the waters," Vogel says quietly. "I've never been a quitter."

He looked over the legal opinions and slightly changed his approach. Instead of pulling over a driver merely for looking suspicious, he would find other reasons to stop the shifty-looking ones. He found them by the hundreds in the thick volumes of the Florida vehicle code: rarely enforced laws against driving with burned-out license-plate lights, out-of-kilter headlights, obscured tags, and windshield cracks. State codes bulge with such niggling prohibitions, some dating from the days of the horseless carriage.

"The vehicle code gives me fifteen hundred reasons to pull you over," one CHP officer told me.

For Vogel, it was the perfect solution to his problem. Since it's nearly impossible for drivers to go ten feet without violating some obscure ordinance, Vogel would simply tag along and wait for it to happen. Then he would pounce. Nobody could complain about that; he was duly enforcing the traffic laws of the State of Florida. And with that one refinement, Operation Pipeline was up and running.

After Vogel pulled a car over, he would search it, and, sure enough, sometimes he would find drugs. Once in a while, he would find a lot of drugs. Newspaper reporters started writing stories about him, marveling at the way he was able to turn a routine traffic stop into a major drug bust.

Within a year of being publicly flayed by the highest federal appeals court in the Southeast, Bob Vogel was honored four times with law-enforcement awards. *60 Minutes* sent down a camera crew and produced a flattering profile depicting a dedicated, hardworking policeman trying his best to fight the drug war. Vogel became a local hero. In 1988, he was elected sheriff of Volusia County, and one of his first official acts was to set up a special

antidrug unit in his image: the oddly named Selective Enforcement Team, handpicked deputies who had Vogel's training methods instilled by the master himself.

Vogel had his admirers in Washington as well. By 1987, the DEA had formally adopted his highway drug-interdiction system and begun funding a training program to preach Vogel's gospel around the country. (Though Vogel did not invent the notion of using profiles to spot potential drug couriers, he pioneered their adaptation to highway travelers, and my CHP instructors credited him as Pipeline's creator. Previous police use of drug-courier profiles had been largely confined to airports.)

With DEA financing, training courses were set up, and they began churning out thousands of Pipeline graduates a year, officers who would return home and train thousands more.

It spread like a virus.

IF YOU COME INTO CONTACT WITH ONE OF THE ESTIMATED TWENTY-SEVEN THOUSAND Operation Pipeline grads currently cruising the highways, chances are you'll never know it. The officer who pulls you over will look the same as any other traffic cop. Same hat. Same badge. Same car. He will not tell you he is a narcotics officer, and you will never suspect it, because, after all, who ever heard of drug agents passing out tickets for broken taillights?

The mechanics of a Pipeline stop are much like a minuet, except the trooper is the only one who hears the music or knows

the steps—all of which lead inexorably to a thorough search of your car.

"I'm looking for anything that will get me in that car or get him out of the car," Utah trooper Mangelson explained in his 1997 deposition.

Because of various court rulings and constitutional impediments, things must be done delicately and in the proper order, so as not to overtly violate your rights.

It will begin like any traffic stop. You'll be asked for your license and registration, and while looking over your papers, the officer will ask you a series of questions about your travel plans. He'll be friendly and polite: Where are you heading? How long will you be there? He'll ask what you do for a living, or something equally innocuous.

"And when I'm doing this, you know, I'm not sitting there grilling you," Mangelson said. "I'm doing it in a way that you probably don't even realize what I'm doing."

What he's doing is called an interrogation, and your responses are being watched very closely. Did you have to think before answering? Did you repeat his questions? Are you being too helpful, too cooperative, or too talkative? Those are all bad signs, as bad as monosyllabic answers. If you have a passenger, the passenger will be taken off to the side and interrogated separately. The officer will check to see if your stories match.

"Criminals on the road are—how can I put it? I've always used this theory. If a guy can convince me of his legitimacy of being where he is or where he's going, then there's probably not much criminal activity going on," Mangelson said. "But by the same token, if he tells me he's going to Salt Lake, and I say, 'What takes you to Salt Lake?' and he goes, 'I'm going to see a friend.' If I say, 'What's your friend's name?' and he doesn't know the friend's name or he rattles some name off the wall, [I ask] 'What's his address?' He's now becoming extremely nervous, and he can't tell me the friend's address, doesn't know the phone number. 'How are you going to visit your friend if you don't know his address or phone number?' By now, he's trembling. The veins are poking out on the side of the neck and you can see his heart beating there and his hands are shaking and his mouth is so dry, he can't even talk to you. You know he's dirty. And he knows I'm on to him."

The indicators are tallied up. No indicators, no problem. Unless you've got a gun or a kilo of cocaine lying on the front seat, you'll be kicked loose. You may not even get a ticket. Many Pipeline officers don't write them or write only enough of them to maintain the facade that they are traffic policemen.

If your indicators are on the high side, however, this is what will happen. You'll be given your papers back, and then the officer will hang around and strike up a conversation. What most drivers don't realize is that at this point, they have magically crossed into a whole new legal universe. At the moment your license and registration are returned, you are technically free to leave. In the eyes of the law, the traffic stop is over. Now you and Officer Friendly are just having a "consensual" chat. And your new friend is free to ask you anything.

From here, it's almost a script.

You'll be told that the local police have been having a problem with people ferrying guns and drugs along this part of the highway, but they're doing their best to stop it. Good, you may say. Glad to hear it. The officer will nod and say he's happy you see it that way. By the way, you wouldn't happen to have any guns or drugs in your car, would you?

Me? you will ask. Oh, no. Of course not.

Then the officer will look at you and say, Then you don't mind if I take a look-see, do you?

If you're like nine out of ten people who get asked this question, you'll gulp and say, No, no, officer, go right ahead.

You'll be asked to consent—orally or on paper—to a search, but don't think too hard or hesitate to comply, because those are more indicators of drug trafficking, as is refusing to allow the search. (And here's where things can get dangerous, where the psychopath who won't be taken might pull his gun. A 1992 Pipeline stop in South Carolina resulted in a shoot-out that killed the officer and wounded his suspect. And this past January, a veteran Pipeline officer in Georgia was murdered during a stop.)

"If they refuse, the stuff's in the trunk," our CHP instructor tells us matter-of-factly. A refusal justifies calling out the dogs and letting a drug-sniffing canine take a walk around your car. If Fido gets a whiff of something, the cop doesn't need your permission anymore.

Most drivers consent. This can authorize a complete search of everything, including your luggage and your person. It allows the officer literally to take your car apart with an air hammer, which has happened. One of the CHP's first Pipeline officers, Richard Himbarger, was legendary for carrying an electric screwdriver in his patrol car and removing heater ducts, fenders, trunk lids, and interior body panels, right by the side of the road.

"Once they've given consent," our CHP instructor tells us, "they've dug their own grave."

DEPUTY LOU GARCIA WAS ASSIGNED TO SHERIFF VOGEL'S SELECTIVE ENFORCEMENT Team in 1989. A canine-unit officer, Garcia would be summoned at all hours to walk his drug dog, Condor, near the cars the SET squad had pulled over on I-95. Lots of times, he'd be out on the highway at 3:00 A.M., splashing through swamps with Condor, chasing down panic-stricken motorists who'd bolted into the darkness. He didn't mind. Garcia was thrilled to have been chosen to work with Vogel's crew. The sheriff took good care of his boys: overtime, fancy Stetson hats, rapid promotions. By all accounts, Vogel was equally thrilled to have Lou Garcia on his team, and he commended the officer repeatedly.

"Thanks to you, our drug- and money-interdiction program is working," Vogel wrote in one enthusiastic letter.

The son of a New Mexico coal miner, Garcia had come to the Volusia County Sheriff's Office after fifteen years in the U. S. Army as a paratrooper, a military policeman, and a drill instructor. He hired on at the sheriff's office in 1985 at \$10.50 an hour and was in paradise. "When I finally got to be a deputy, I felt I had achieved my goal in life."

But his wife, Angie, began noticing that her husband was increasingly moody after his shift. "He'd get home sometimes after being out on that highway," she says, "and he'd just be shaking his head, and I'd ask him what was wrong, and he'd say, 'You won't believe what they're doing out there.'"

Garcia says he soon discovered the secret of Vogel's highly touted highway interdiction program: The cops concentrated on minority drivers, narrowing the universe of motorists to those they thought most likely to have drugs or guns, even though, in reality, drugs and guns turn up in searches of their vehicles with the same frequency as in those of white drivers. Garcia says he was present at a gathering of deputies on the median of I-95 when Vogel instructed them to focus their attention on black and Hispanic drivers. Vogel denies that happened, but another deputy, Frank Josenhans, corroborates Garcia's story.

Still, it wasn't as if Garcia needed to hear it from the sheriff's mouth. "I knew who they were stopping. I saw the people. It was blacks, mostly, and they were all being pulled over for weaving. The black race was the only race I knew of that wasn't able to stay in a lane. Black people just couldn't seem to do it."

What Garcia was witnessing in Volusia County was not an aberration. As more and more police departments signed up for Operation Pipeline, it began happening in other places, too. Sometimes the police didn't even bother to hide it. Georgia state troopers told an Atlanta reporter in 1987 that they watched for rented cars from south Florida driven by blacks or Latinos.

Officer Richard Curtis of the Lexington, Kentucky, police department admitted under oath in a drug-interdiction case that race was one of the indicators looked at, as were out-of-state license plates. In another case, Alabama state trooper John Guthrie testified that his indicators included "Texas plates" and "Mexicans."

The "cocaine-courier profile" used by the New Mexico State Police along I-40 surfaced in court in the late 1980s. The very first indicator: "The vehicle occupants are usually resident aliens from Colombia." This profile, it turned out, had been sent to police departments nationwide by the DEA's El Paso Intelligence Center, the department that manages the Pipeline program and provides its annual funding of roughly \$800,000.

Ironically, that's the same amount of money the taxpayers of Eagle County, Colorado—which encompasses the ski resort of Vail—forked over to settle a class-action suit filed on behalf of 402 black and Hispanic drivers who had been stopped and searched by the High Country Drug Task Force, a Pipeline unit funded directly by the DEA. The task force "systematically violated the constitutionally protected rights of blacks and Hispanics to travel and be free from unreasonable seizures," U. S. district judge James Carrigan wrote in a blistering criticism of the program in 1990. The evidence that race was used as an indicator, Carrigan ruled, was "undeniable," and such practice amounted to "a racist assumption."

Federal public defender Bryan Lessley obtained internal Oregon State Police records showing that the number of Hispanics being stopped on the highways near Grants Pass by a Pipeline unit was "grossly out of proportion" to the number of Hispanics on the road. He uncovered state-police training manuals that told Pipeline students a "high percentage" of narcotics traffickers were Hispanic.

In New Jersey, state-police Pipeline units assigned to the southern end of the New Jersey Turnpike were found by a superior-court judge to have had "at least a de facto policy . . . of targeting blacks for investigation and arrest," which resulted in the dismissal of six hundred cases. A former New Jersey state trooper, Kenneth Wilson, admitted in a sworn statement that he was trained to target blacks and Hispanics. A statistical analysis by John Lamberth of Temple University backed up Wilson's claims. Lamberth found that though blacks made up only 13 percent of the drivers on the turnpike, they accounted for nearly half the stops made by drug-seeking troopers.

The Maryland State Police made perhaps the biggest tactical blunder in the program's history in 1992, when a Pipeline unit pulled over a black family in a rental car outside Washington, D. C., ordered them out into the rain, and then ran a drug-sniffing dog in and out of their car, over their repeated objections. The driver turned out to be a Harvard Law graduate, Robert Wilkins, a public defender who was on his way home from a family funeral in Chicago. Wilkins slapped the Maryland State Police with a civil-rights suit and accepted a settlement that forced the cops to keep detailed records of their Pipeline stops for the next three years. The results were more proof of Pipeline's unique affinity for minorities: Of the 732 people who were detained and searched during 1995 and 1996, 75 percent were black and 5 percent Hispanic. The Maryland ACLU has filed another civil-rights suit based on those figures.

A GRANDMOTHERLY WOMAN IN A SLAB-SIDED PLYMOUTH FURY III ZIPS BY. NOT A chance, I think. Next is a man in a suit, driving a gigantic white Lincoln Navigator, cell phone pressed to his ear. Mr. Business. With my luck, he'd turn out to be a lawyer. Pass. A teenage girl in her mom's station wagon. Ditto. Then comes the carload of Mexicans.

They look as though they're having one hell of a time, laughing, arms hanging out the window. Then they spot the CHP cruiser I'm sitting in, and the party is over. They look around furtively, sit up straight, won't meet my steely gaze. The driver begins practicing the ten-and-two hand position on the steering wheel that he probably hasn't used since driver's ed. Bingo. A whole bunch of indicators right there. These guys are mine.

That is the result of my first drill using the lessons I gained from Pipeline school. I am sitting in the front seat of the head instructor's patrol car, shaded by a giant oak. We are parked perpendicular to a bucolic two-lane highway in the hills beyond Susanville, California, checking out the sparse midmorning traffic. It is day two of my Pipeline training class, and I am putting my newly acquired observational skills to the test.

No one has instructed me to look for Mexicans; in fact, we were informed that racial profiling is illegal and frowned upon. But we were also taught that it is the Colombians and the Mexicans whose cartels are bringing most of the dope in and that a lot of drug mules are hired off the streets of Tijuana for \$500 in cash. Not many gringos I've seen fit that description.

Plus, the Mexicans just *look* shifty to me. What are they doing, I wonder, driving around, yukking it up at 10:30 in the morning in the middle of the week? I am at work. Why aren't they? And if they are unemployed, where'd they get the money for that nice Mercury?

**ROBERT WILKINS,
LAWYER, WASHINGTON, D. C.**

On his way back from a family funeral in Chicago on May 8, 1992, was pulled over by Maryland State Police. He and his family were made to stand in the rain while troopers used a dog to search their car.



wou
how
forc
I
dru,
they
the il
ple v
and
I
thin
whe
pic
pulle
ban
driv
Mex
ness
mirro
It
by th
minor
If
prete
drug-
meth
going
nation
learn
crim
ter all
sands
salary
think
An
goes
nothin
Even
in the
So, in
harass
findin
a futur
frisked
IN 1996
metho
search
a car d
traffic d
differen
"single
tonin S
cide wh
should
Sinc
cal poli
ments n
of my C
Last
of an lo

And then I realize the problem with Operation Pipeline. If I were looking for unsafe drivers, as most patrolmen do, it wouldn't make any difference to me what the driver looked like or how he acted when he drove by or whether I thought he could afford his car. All I would care about would be how he was driving.

But that's not my job as a Pipeline officer. My job is to get drugs and guns off the highway, so I look for people who look like they might have them. And since I have only a limited time out on the highway each day, I'm not going to waste it pulling over people who look like upstanding citizens—people who look like me and my friends, for instance.

I remember what my instructors told me repeatedly. If something appears "abnormal," investigate. Always ask yourself whether this is something that you would do or say. If not, be suspicious. And suddenly, the baseline for determining who gets pulled over and searched is a forty-three-year-old white suburbanite's vision of normalcy. Most of the white people I have seen driving by, I have to admit, look pretty normal to me. But the Mexicans don't. Plus, there are all those indicators: their nervousness upon seeing a police car, the air freshener dangling from the mirror, their goddamn refusal to look at me.

It's no wonder, I realize, that 90 percent of the people arrested by the CHP's Pipeline units during the last two years have been minorities. They never stood a chance.

If I were empowered to do so, I could pull them over on some pretext to satisfy my curiosity. Maybe I would find something—drug-tainted money, a loaded gun, a kilo or two of cocaine or methamphetamine. Or maybe just a peaceable carload of people going from here to there, not owing me or anyone else an explanation. But if I do this long enough and use the indicators I've learned to pull over a volume of people, I will invariably find criminals. That was a big bag of dope in the Screamer's trunk, after all. But does that justify scaring the bejesus out of the thousands of other motorists—the honest ones whose taxes pay my salary and pave these roads—whom I will misjudge? Will they think being interrogated and searched was a fair trade?

And what of the enormous waste of police manpower that goes into stopping and searching thousands of cars in which nothing more incriminating than old gum wrappers is found? Even the cops admit that highway seizures don't make a dent in the quarter-trillion-dollar-a-year American narcotics industry. So, in the end, one is left to wonder: What is the point of all this harassment, this inefficiency, this futility? Is it really a way of finding contraband? Or is it, perhaps, a way of acclimating us to a future in which we will be routinely shadowed, stopped, and risked by the police—a nation of suspects?

IN 1996, THE U. S. SUPREME COURT UNANIMOUSLY ENDORSED BOB VOGEL'S method of stopping people for minor traffic violations in order to search their cars for drugs. An officer's real reason for pulling over a car didn't matter a whit, the justices said, so long as some type of traffic offense—no matter how trivial—occurred first. It made no difference that the motor-vehicle codes gave the cops a license to single out almost whomever they wish for a stop," Justice Antonin Scalia wrote. It was not the role of the Supreme Court to decide whether there were too many traffic laws or which ones should no longer be enforced.

Since that ruling, known as the Whren decision, state and local police participation in Operation Pipeline has soared. Enrollments in DEA training schools are way up. "After Whren," one of my CHP instructors told me, "the game was over. We won."

Last fall, another Supreme Court decision, rejecting the search of an Iowa motorist's car without probable cause, was widely

hailed in the media as reinforcing the privacy rights of drivers. But since Pipeline officers are trained to legally justify a "reasonable suspicion," or, of course, get the driver's permission, before searching a car, this court decision may actually boost the popularity of Operation Pipeline.

That's why it's so ironic that Bob Vogel is no longer on the front lines of this particular war. Though his methods have received the stamp of unanimous approval from the highest court in the land, he's quit teaching and has mothballed his drug-interdiction program. After a while, he said, it just wasn't worth it.

In 1992, *The Orlando Sentinel* began printing stories that essentially accused Vogel's SET unit of being racist thugs who were stealing money from innocent travelers. The newspaper said it found nearly two hundred cases in which deputies had taken a driver's cash but made no arrests, and 90 percent of those cases involved minority drivers.

And then the tapes came out. It seemed Vogel's boys had been videotaping their stops for posterity, and 148 hours of them were turned over to the newspaper. Example: a May 16, 1990, stop of a white driver. SET sergeant Dale Anderson strolls up to the car and asks the man how he's doing.

"Not very good," the driver replies.

"Could be worse," Anderson reminds him. "Could be black."

The civil-rights suits flew fast and furious after that. The U. S. Justice Department announced an investigation, and FBI agents started snooping around. A federal grand jury was empaneled.

The *Sentinel* won a Pulitzer prize for its exposé, a fact that grates on Vogel to this day. "Anybody who saw those stories would have thought I was some racist, tobacco-chewing, Billy Bob, redneck southern sheriff," he complains. He leans forward slightly and asks me, mistakenly, if I was aware that the editor who oversaw the *Sentinel's* coverage was an African-American.

"I'll bet they didn't tell you that part," he says.

Eventually, the hubbub subsided. The discrimination suits were dismissed after federal judges declared that they had not seen convincing evidence of racial injustice. And the Justice Department, while muttering darkly about Vogel's methods, declined to prosecute him on civil-rights charges, reportedly because it didn't think a jury would convict him.

Critics called the investigation a whitewash, but there was more involved than that. History, for one thing. For more than a decade, Bob Vogel's controversial system has been officially endorsed, financed, and espoused by the DEA—an arm of the Justice Department. Having Operation Pipeline's creator brought up on federal civil-rights charges would have put the Justice Department and every other police agency involved in a rather awkward spot, especially when so many civil-rights suits were pending.

Vogel sees this as total vindication. "I've been investigated by just about everyone—the FBI, the Justice Department, the NAACP, the ACLU—and they haven't been able to win a solitary case," he says. "This whole thing is something that drug lawyers grabbed ahold of to try to beat some arrests by dragging race into it."

If that's true, he is asked, then why has this program had such lopsided racial results in state after state? Why are the statistics so one-sided?

Vogel stiffens. "Let me have my assistant, Lenny Davis, come in and answer that question for you. He might have an explanation for it." A few minutes later, Chief Deputy Davis, a large, friendly black man, sits down and solemnly assures me that the reason so many blacks and Hispanics are being pulled over is because so many of them are involved in the drug business.

Vogel sits next to his chief deputy, nodding. But he doesn't say a word. ■

FAX TRANSMISSION

PRESIDENT'S INITIATIVE ON RACE

NEW EXECUTIVE OFFICE BUILDING
WASHINGTON, D.C. 20503
(202) 395-1015
FAX: (202) 395-1020

To: Elena Kagan **Date:** March 12, 1999
Fax #: 456-2878 **Pages:** 2, including this cover sheet.
From: Christopher Edley
Subject: Racial Profiling and the President's Book on Race

COMMENTS:

John -

This simply cannot be allowed to happen. We have policy processes for a reason. This one is running extremely well. We would like to talk with you about this.

Bruce + Elena

HARVARD LAW SCHOOL
CAMBRIDGE MA 02138

March 12, 1999

MEMORANDUM

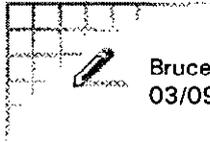
To: Eric Holder
Jim Johnson

cc: Maria Echaveste, Chuck Ruff, Elena Kagan, Ben Johnson

Re: Racial Profiling and the President's Book on Race

1. Sorry that my teaching schedule precluded attending Elena's meeting on 3/11. It was reported to me that both of you now oppose the President saying in his book that he wants the Attorney General, in consultation with enforcement agencies and others, to prepare an executive order establishing federal policy. Instead, you both favor a directive on data collection, covering federal agencies.
2. I am rather puzzled by this conclusion, because I had inferred from the earlier discussion that both Justice and Treasury favored something rather bolder from the President. (The caution of the White House staff was unsurprising; cf. the lagged responses on other race issues.) I see nothing wrong with data collection, but it strikes me as too little too late after months of agency debate on this issue, the public uproar, our certainty that the President is deeply troubled by the practice, and his desire to lead on race. Admittedly an executive order is largely about symbolism, but leadership so often is.
3. Before pressing ahead to put the executive order idea in front of him in the book draft, I'd like an opportunity to understand your substantive and political reasoning. By copy of this memorandum I'm asking Maria Echaveste to have a conference call for the four of us to talk this through a bit. It should only take 15 minutes.
4. Ultimately, what I foresee on this and several other issues is that my book team will draft what in my best judgment the President would probably want to say, and leave it to the Deputy Chief of Staff to add a memorandum conveying the objections and reservations of key White House and agency folks. I hope the memorandum is shorter than the book.
5. I don't have perfect pitch, nor do I (generally) believe in miracles. So I'm perfectly prepared not only to move forward with a minority view, but to have the President decide against me. What I don't want to do, however, is let a staff process deprive the President of an opportunity to consider bold options.

I hope Maria's office will schedule something in the very near future.



Bruce N. Reed
03/09/99 05:51:45 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP

cc:

Subject: holder

Justice Dept. Eyes Racial Profiling

By Laurence Arnold
Associated Press Writer
Tuesday, March 9, 1999; 5:44 p.m. EST

WASHINGTON (AP) -- The Justice Department's No. 2 official assured black and Hispanic leaders from New Jersey on Tuesday that his agency is serious about investigating whether state troopers stop motorists on the basis of skin color.

Emphasizing the importance he gives the issue, Deputy Attorney General Eric Holder told the group he believes New Jersey troopers stopped him two decades ago because he is black.

New Jersey is one of several states where police have been accused of using ``racial profiling'' to determine which cars to stop. Similar accusations have popped up in Florida, Maryland, Connecticut and elsewhere along the Interstate 95 corridor.

Holder spent more than an hour behind closed doors with members of the New Jersey congressional delegation, the Black Ministers Council of New Jersey and the state Legislature's Black and Latino Legislative Caucus.

The New Jersey officials praised Holder but said they believe the Justice Department is taking too long with its inquiry.

``The answers that we wanted are still somewhat begging, because too much time has elapsed,'' said Sen. Frank Lautenberg, D-N.J. ``The first time that the Department of Justice was aware of this, definitely aware, was way back in 1996. We are now in 1999 and we are still waiting for some action.''

The Rev. Reginald Jackson, director of the Black Ministers Council, said Holder promised at least a preliminary response ``in a matter of months, which is encouraging to us.''

``These things take time, and we want to make sure that we're being fair to both sides,'' Holder told reporters as he left the meeting. ``We go into this with an open mind. We don't presume there is in fact a problem. We're

going to look at the data we have, talk to people who are involved in this, and then try to come up with an appropriate course of action."

In the private meeting, Holder told of being pulled over by State Police in New Jersey when he was a Columbia University student in the 1970s, traveling between New York and Atlantic City and sporting an Afro hair style.

Police stopped him, he told reporters, even though "I didn't think I was doing anything wrong."

Later, Democratic Rep. Donald Payne, New Jersey's only black congressman, said he too has encountered racial profiling by his state's troopers.

"I fit the profile -- driving a new car, coming up from the South. I was stopped," he said.

Racial profiling is part of a larger question of how police treat minorities, Payne said, adding that it has become "the number one topic of discussion" among Congressional Black Caucus members.

State Police officials and Gov. Christie Whitman insist racial profiling is not an accepted practice among New Jersey troopers.

Still, Whitman fired State Police Superintendent Carl Williams on March 1 following published remarks in which he said minorities were responsible for most of the cocaine and marijuana traffic.

At a subcommittee hearing earlier Tuesday, Lautenberg urged Attorney General Janet Reno to appoint a task force on racial profiling.

Reno said her department "is actively pursuing a review of the New Jersey State Police and this issue. ... We want to do a thorough review and complete it as soon as possible."