

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:40 a.m. on Thursday, February 3, 2005, in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Athena Andaya, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes Office  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Senator Donald Betts  
Senator David Haley  
Jihad Muqtasid, Wichita (read by Rev. Dilce Polite)  
Danielle Dempsey-Swopes, J.D., Kansas African American Affairs Commission  
Elias Garcia, Executive Director, Kansas Hispanic-Latin American Affairs Commission  
Dick Kurtenbach, American Civil Liberties Union of Kansas and Western Missouri  
Kevin Myles, Vice President, Kansas State Conference of National Association for the Advancement of Colored People  
Chuck Grover, Kansas Association of Chiefs of Police  
Randy Rogers, President, Kansas Sheriff's Association  
William Richards, Sr., Legislative Liaison, NAACP, Topeka Branch  
Dr. Walt Chappell, Citizens for Equal Law Enforcement, Wichita  
Rev. Andrew McHenry, Maple Hill, Ks.  
Mona Brown and Shirley Wishom, Women in Action, Topeka  
Sheila Officer, Park City, Ks.  
Ralondo Henry Carr, Wichita (written only)  
William Minner, Executive Director, Kansas Human Rights Commission (written only)  
Bomani Chekandino, Prisoner of Conscious Committee, Wichita (written only)  
Kyle Smith, Kansas Peace Officers Association  
Kevin Graham, Attorney General's Office  
Col. William Seck, Superintendent, Kansas Highway Patrol  
Sandy Jacquot, League of Kansas Municipalities  
Lt. Col. Steve Smith, City of Overland Park Police Department

Others attending:

See attached list.

Chairman Brungardt called for bill introductions. The Chairman directed the Committee's attention to a requested bill by Senator Janis Lee regarding Kansas Emergency Medical Services, and a proposed amendment to K.S.A. 65-6102. Senator Hensley made a motion to introduce the proposed bill, seconded by Senator Barnett, and the motion carried.

Whitney Damron requested a bill introduction, on behalf of the City of Topeka, that would effectively remove statutory roadblocks to city and county consolidation. Senator Barnett moved to have the proposed bill introduced, seconded by Senator Brownlee, and the motion carried.

Chairman Brungardt extended a warm welcome to former Wichita Senator, Rip Gooch, who was in attendance today.

**SB 77 - Racial profiling; creating a misdemeanor violation, civil cause of action, requirements of law enforcement agencies**

Senator Brungardt opened the hearing on **SB 77**. He explained how the hearing would proceed and the time limits established due to the number of conferees signed up to testify before the Committee. Senator Donald Betts, co-sponsor of the bill, testified as to how the current version of **SB 77** came about

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MINUTES OF THE Senate Federal and State Affairs Committee at 10:340 a.m. on Thursday, February 3, 2005, in Room 231-N of the Capitol.

regarding racial profiling. He stated that a remarkable coalition of people and groups came together to work on a bill that sets the policy for the State of Kansas regarding racial profiling, and which affects every law enforcement agency in the state. (Attachments 1 and 2)

Senator Betts said that the coalition or Task Force, brought together representatives of all the major areas—individuals, law enforcement, community groups like the NAACP and Citizens for Equal Law Enforcement, and government agencies such as the Kansas African American Affairs Commission, and the Kansas Hispanic/Latino American Affairs Commission. Senator Betts stated that one year from this week in February, the Task Force is mandated to come back to the legislature with practical recommendations for collecting data and making it available for analysis. He expressed his appreciation for all the efforts of the citizens, community, law enforcement, and all who collaborated in order to begin the first stages of a policy that will eventually bridge the gap between law enforcement and the public.

Senator David Haley, co-sponsor of **SB 77**, testified in support of the proposed legislation. He stated that racial profiling was a classic example of depriving a person of his/her civil rights under the color, or pretext of enforcing the law. **SB 77** defines racial profiling, and provides a mechanism for administrative remedy. (Attachment 3)

Jihad Muqtasid, a Wichita citizen, was unable to appear before the Committee due to his being hospitalized, and his testimony was read by Rev. Dilce Polite. Mr. Muqtasid's testimony related two incidents of racial profiling he had experienced during his life; the first as a young boy walking home from his part-time job, and the other at the age of 75 after attending a religious meeting at his church. He urged the Committee to make it clear to all police officers in Kansas that racial profiling is wrong, and that it will not be tolerated. (Attachment 4)

Danielle Dempsey-Swopes, Kansas African American Affairs Commission, spoke in favor of **SB 77**, which would provide the legal foundation for preempting the practice of racial profiling by law enforcement agencies in Kansas. She stated that community members understand that they must work in partnership with law enforcement officials to engage in effective community policing. Effective community policing requires that all the members of the diverse Kansas communities have significant trust in its law enforcement officials. She said that when law enforcement officials make erroneous assumptions, the officials become ineffective. Ms. Denmpsey-Swopes added that racial profiling causes stigma, humiliation and a basic erosion of the trust that should exist between the community and those who protect and serve the community. No law enforcement agency can be successful without the trust of its community. (Attachment 5)

Ms. Dempsey-Swopes spoke about the 2002 study conducted on racial profiling in Kansas which was done with a contract between the State of Kansas with a Washington, D.C. organization called the Police Foundation Institute, a private, independent, and nonprofit organization. The study gave significant insight to the reality of the problem of racial profiling in Kansas communities. She concluded by stating that the implementation of this bill and effective community policing is likely to result in a reduction of crime in many communities and an increase in the number of real criminals caught with the help of the community.

Elis Garcia, Kansas Hispanic and Latino American Affairs Commission (KHLAAC), testified in favor of **SB 77**. He stated that by definition, racial profiling is a form of disparate treatment and thus racial discrimination. It is the KHLAAC's position that racial profiling must not be condoned or otherwise tolerated within the ranks of public service and most certainly not within the ranks of law enforcement officers who are charged with protecting and serving the public. Mr. Garcia gave two examples of how flawed first impressions or racial profiling can be. He referred to the 1995 bombing of the Alfred P. Murrah Building in Oklahoma City, and the 2002 sniper killings that terrorized residents in the Washington, D.C. area. He said that the group appearing before the Committee today in support of **SB 77** did so in unity and solidarity as Kansans to offer collective support to an initiative that will take us all one step closer to eradicating an issue that continues to this day in 2005 to haunt our "ethnic minority" communities, be it in practice or perception. (Attachment 6)

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Dick Kurtenbach, American Civil Liberties Union of Kansas and Western Missouri (ACLU), testified in support of **SB 77**. He told the Committee about studies the ACLU had done in Mission Hills, Leawood, and Prairie Village that proved racial profiling is definitely a reality. Mr. Kurtenbach shared one anecdotal example regarding racial profiling of black employees working for a private country club on the Kansas side of the state line in Kansas City. He stated that the problem is real, and **SB 77** is the start toward a meaningful response to do something about it. (Attachment 7)

Kevin Myles, Vice President of the Kansas State conference of NAACP Branches, talked about the numerous complaints he personally heard about during his capacity as NAACP President of the Wichita Branch. He said each of the cases began with the complainant being followed, then later pulled over for one of three reasons: (1) failure to signal 100 feet from a turn; (2) wide turn; or (3) wheels touching the center line. Mr. Myles explained that after the stop was initiated, the officers requested to search vehicles and usually the individuals did not know they could refuse and consent to the search. The fact that these "random" stops often take as long as a hour and a half, and the vehicles that are followed and subsequently stopped are selected on the basis of the drivers' appearance, amount to harassment. (Attachment 8)

Charles F. Grover, Chief of Police of Prairie Village and Mission Hills, Kansas, testified in favor of **SB 77** on behalf of the Kansas Association of Chiefs of Police. He told the Committee that on Monday, January 31, 2005, members of the law enforcement community within the State of Kansas were privileged to meet with Senator Betts, members of the Kansas African American Affairs Commission, and the Hispanic and Latino American Affairs Commission. The end product of the meeting produced the revised **SB 77**. His detailed handout from the Association contained some specific comments and suggestions relating to possible further revisions or changes. Mr. Grover stated that the Association believes the revised **SB 77**, as it was drafted on January 31, is a work in progress and will need further review by the revisor to ensure the intent of the document. (Attachment 9)

Sheriff Randy Rogers, Coffey county, and President of the Kansas Sheriffs Association, spoke in favor of **SB 77** as revised. He stated that the proposed bill allows law enforcement the opportunity to provide education, accountability, and responsiveness in addressing concerns relating to racial profiling. He said the Association looks forward to working on a Governor's Task Force to find ways to ensure that there is accountability and responsibility to and for the citizens of Kansas. Sheriff Rogers concluded by stating that **SB 77** provides a foundation from which to build a partnership with all concerned with the racial profiling issue. (Attachment 10)

William Richards, Sr., Legislative Liaison, NAACP, Topeka Branch, urged the Committee to support the passage of **SB 77**. He stated that the enactment into law of the remedies outlined in **SB 77** would reassure the public that legislative intent is to mandate that Kansas laws be enforced in a color-blind way. (Attachment 11)

Dr. Walt Chappell, Coordinator, Citizens for Equal Law Enforcement, testified in favor of **SB 77**, and distributed extensive handouts of documentation on the subject of racial profiling and history of the 2000 law, K.S.A. 22-4604, which acknowledged racial profiling existed in Kansas. He explained that the original **SB 77**, which was introduced this session by Senator Betts, was drafted using legislation which is already law in Oklahoma, Missouri, Nebraska, Texas and Colorado. It also included language from legislation in the U.S. Congress, and advice from the U.S. Department of Justice, Civil Rights Division attorneys, and racial profiling researchers who reviewed the draft. He added that there are 38 states that already have racial profiling legislation passed into law, 20 of which also have data collection mandated to identify where racial profiling is happening and by which officers. (Attachment 12)

Dr. Chappell stated that during the last minute meetings held with Kansas law enforcement leaders in Topeka earlier this week, that any accountability for profiling behavior by Kansas officers or their supervisors was stripped from the bill in order to gain their support. He said the cut down version of **SB 77** calls again for the Governor to develop a plan to do what was passed into law five years ago under K.S.A. 22-4604. It lists a "15 member task force" which is not asked to report its "recommendations" until February 1, 2006, which will be too late to draft and pass a bill in the 2006 legislature. It will take

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until 2007 before a bill can be introduced to implement data collection or any specific procedures to actually end racial profiling in Kansas. Dr. Chappell requested that when the Committee works the revised **SB 77**, the due date for the Task Force recommendations be changed to November 1, 2005. He said this would allow time to draft implementing legislation and a realistic fiscal note to start gathering the data required to identify where, when and by whom racial profiling is occurring so we can put a stop to this terrible practice without losing two years.

Dr. Chappell also asked that Section 3(b) be reinserted regarding a violation of this section which would be a Class A misdemeanor, as well as reinserting Section 3(c) which would make the section a part of and supplemental to the Kansas Criminal Code. He also stressed the major financial hardship on black and Hispanic families, as well as the cost of their vehicle insurance premiums being raised making it harder to keep the premiums paid. He concluded by stating that without any penalties or accountability, the few law enforcement officers who are racially profiling will continue their criminal behavior.

Rev. Andrew McHenry, Maple Hill, and former Chaplain at the Topeka Correctional Facility and Juvenile Correctional Facility, testified in favor of **SB 77**. He stated that he had been troubled for several years about the disproportionate rates of incarceration for blacks, Hispanics and Native Americans. He had worked in prison and jail ministries both professionally and in a volunteer capacity. Rev. McHenry shared with the Committee that in 2003, *The Topeka Capital-Journal* reported Police foundation findings that black and Hispanic motorists were three times more likely than whites to be pulled over by authorities on Kansas' interstate highways. He pointed out that this had several detrimental impacts: (1) drives away potential visitors and as such hurts the economy; (2) fuels existing racial tensions, particularly those between minorities and law enforcement agencies; and (3) it is blatantly unfair. A crime is a crime whether you are white, black, Hispanic, or otherwise. (Attachment 13)

Chairman Brungardt recognized Senator Betts, who presented the Committee with petitions signed by over 2,000 citizens in support of **HB 2876** (2004 Session) which opposed the practice of racial profiling, and would have outlawed the practice in Kansas. (The petitions will be on file in the Chairman's office)

Mona Brown and Shirley Wishom, Women in Action (WIA), appeared before the Committee in support of **SB 77**. Ms. Brown explained that Women In Action is a non-profit community organization taking action to improve the quality of life and ensure equal protection of the law for all citizens. She said that in the last two months, WIA has had 7-10 complaints regarding Topeka law officers relating to racial profiling. She described some of the victims and circumstances involved with the alleged profiling complaints. (Attachment 14, Part 1)

Shirley Wishom distributed copies of statistics regarding minorities being over-represented in prison populations, and the handout represents the youth in the Topeka community. The graph shows that 38% of the youth locked up in the City of Topeka are black; another 21% are of mixed race, including Hispanic and Asian Americans; which means 62% of Topeka youth in the prison population are black and of mixed race. The youth in Topeka represent less than 6% of the total population. Ms. Wishom asked how can the youth be getting so over represented in the prison population. She stated that racial profiling had to stop, because if something wasn't done, it would only escalate and then people would start retaliating or moving out of the area. She also confirmed that a Citizen Review Board was very necessary because the police should not be given authority to patrol themselves. Ms. Wishom urged the Committee to listen to what is being presented to the legislators, i.e. the stories, the complaints, and real problems that exist in relationship to racial profiling in our communities. (Attachment 14, Part 2)

Sheila Officer, Citizens for Equal Law Enforcement, Park City, Ks., testified in support of **SB 77**, and expressed some major concerns with the proposed bill. She said she had worked on last year's bill, **HB 2876**, and some of the contents of that bill was absent in the language of **SB 77**. She stated that she supported the content of the original profiling bill, but could not support revised **SB 77**. Racial profiling in reality has economical, financial, and emotional hardships for our communities. Ms. Officer talked about the level of accountability which was no longer a part of the revised **SB 77**, and asked if that was why law enforcement could support the revised version of **SB 77**. She pointed out that we as citizens hold our doctors, lawyers, and teachers accountable for their job performances and actions. She added that a

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Citizen's Review Board is definitely necessary. Ms. Officer stated that training is a component in life that allows us to get better at what we do, and education opens our mind and helps remove ignorance. She recommended training on a continuous basis, and not on an annual basis as contained in the revised bill. (Attachment 15)

William Minner, Executive Director, Kansas Human Rights Commission, submitted written testimony in favor of **SB 77**. (Attachment 16)

Bomani Chekandino, Prisoner of Conscious Committee, Wichita, furnished written testimony in support of **SB 77**. (Attachment 17)

Ralondo Henry Carr, Wichita, presented written testimony endorsing **SB 77**. (Attachment 18)

Chairman Brungardt called upon Kyle Smith, Kansas Peace Officers Association, to testify as a neutral conferee on **SB 77**. Mr. Smith stated he appeared today in support of the amended version of **SB 77**. He said that racial profiling, as defined in the bill, does happen as does racism. Mr. Smith talked about the quandary of what effective steps can be taken to address the problem in a meaningful way without unfairly tarnishing all law enforcement officers or creating unnecessary bureaucracy and problems for the criminal justice system. He emphasized that law enforcement had to have the trust and assistance of the public to be effective, and abusive racial profiling destroys that trust and respect.

Mr. Smith testified that he has been very pleased with the cooperation between the proponents of **SB 77** and the law enforcement community to work out the compromise. He said that by requiring every agency to develop a policy against racial profiling and mandating training, all involved parties can work together to minimize this problem that all should find abhorrent. (Attachment 19)

Kevin Graham, Assistant Attorney General, testified as a neutral conferee on **SB 77**. He said that **SB 77** was intended to address concerns about racial profiling and proposes a variety of requirements and additions to Kansas law regarding contacts between Kansas law enforcement officers and members of the public. He stated that Attorney General Kline stands ardently opposed to the practice of racial profiling, and supports efforts to curtail and eliminate this clearly improper and counter-productive type of activity.

Mr. Graham explained that the Attorney General could not support the original drafted language of **SB 77** because it had the potential to negatively impact the ability of Kansas law enforcement officers and agencies to detect and prevent crime as well as imposing a sizeable fiscal impact on the State and local law enforcement agencies. The compromise language that has been developed and intended to amend the original bill, addresses almost all of the major concerns of the law enforcement community. He pointed out that the proposed revision to the bill would still provide for the creation of a new civil cause of action allowing individuals to file civil law suits in Kansas courts seeking damages for alleged acts of racial profiling. He said that if this provision is passed into law the potential would be created for future fiscal impacts on the State of Kansas and local entities. The Attorney General recommends the Committee investigate the necessity of the creation of the new civil cause of action in light of federal law provisions that would appear to already address these types of cases. Mr. Graham concluded his testimony by noting that the remaining potential fiscal impacts, if the proposed amendments are adopted, would be greatly reduced from that of the original bill. (Attachment 20)

Col. William Seck, Superintendent, Kansas Highway Patrol, submitted written testimony as a neutral conferee. (Attachment 21)

Chairman Brungardt called upon Sandy Jacquot, League of Kansas Municipalities (LKM), as the first opponent to speak on **SB 77**. Ms. Jacquot stated that LKM had not seen the current revised draft of the bill that had been worked out between the law enforcement groups and Senator Betts. LKM does not condone racial profiling, and it should be prohibited. She testified that LKM would support increased training in the current training requirements for law enforcement officers. She said there should be continuing education required to keep the certification as a law enforcement officer, and that LKM would like to be involved with some of that additional training if agreed to by the Association of Chiefs of

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Police. She stated that the bill in its original form was not only a huge unfunded mandate on cities, but it creates criminal and civil liability that will deter law enforcement agencies and their officers from performing their jobs to keep Kansas communities safe. **SB 77** was inconsistent with K.S.A. 22-4604, enacted in 2000. Ms. Jacquot explained the mandates that fall primarily to local governments as outlined in her written testimony. (Attachment 22)

Chairman Brungardt asked if she and LKM would like to submit revised testimony after they had a chance to study the drafted compromised language, and Ms. Jacquot responded affirmatively and would submit revised testimony to the Committee.

Ms. Jacquot's revised written testimony is attached as part of this official record. LKM reviewed the compromise language with a few exceptions, but supported the new language. The main objection related to Subsection (c)(3), which would require law enforcement agencies to establish or utilize existing independent citizen advisory boards. Because of the number of cities that are too small to have such advisory boards, LKM continues to oppose this requirement. Explanation was given that many cities under 500 in population, or even under 1,000, have a difficult time getting citizens to even serve on the governing body. A citizen advisory board is a practical impossibility for many of the cities, and LKM would not want to see a requirement in law with which cities may not be able to comply. LKM is supportive of the creation of a Governor's Task Force to discuss the issue of data collection. (Attachment 23)

Lt. Col. Steve Smith, and on behalf of John Douglass, Chief of Police, Overland Park Police Department, testified in opposition to **SB 77** as it is in its present form. He stated that the City of Overland Park and the Overland Park Police Department are absolutely in favor of a genuine and bonafide, workable solution to the issue of race-based policing, sometimes referred to as racial profiling. The Overland Park Police Department was one of the first in the state, and even the country, to recognize and initiate action designed to eliminate all forms of race-based policing. He told about their early, non-mandated, efforts in July of 2000 of collecting and analyzing statistical data on each of their car stops, which is analyzed and reviewed on a daily basis. Officer Smith said that five years of statistical analysis of the data has shown them that the issue is not a simple matter of bias or prejudice. Instead, Overland Park Police is dealing with misconceptions, often on the part of the officer, as to why a car stop should be made or what the impetus should be.

Officer Smith encouraged the Committee not to rush to judgment and enact legislation which would use the statistical tools mentioned in the proposed bill as it would be impractical, nearly impossible to implement, and potentially have catastrophic results. He strongly suggested that additional work, between those who advocate and support this proposed legislation and those who must implement it, be done in order to produce an effective bill. (Attachment 24)

Chairman Brungardt inquired if Officer Smith had the opportunity to look at or participate in discussions on the proposed revised draft of **SB 77**, and he said he had not. The Chair encouraged him to visit with Senator Betts, and participate in any discussions regarding the revisions of **SB 77**, and offer his input. Officer Smith said he would be glad to participate.

Chairman Brungardt expressed his appreciation to everyone who traveled to Topeka, prepared their comments, and participated in today's meeting.

Senator Hensley asked if there was an indication as to when the Committee would be working **SB 77**. The Chairman announced that it was tentatively scheduled for next Wednesday, February 9.

The meeting was adjourned at 12:15 p.m. The next meeting is scheduled for Tuesday, February 8, 2005, at 10:30 a.m.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE Thurs., Feb. 3, 2005

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Ruth Kay, <sup>KS Human Rights Commission</sup>	Twila Shaw
Bill Minner <sup>KS Human Rights</sup>	Theresa Counts NAACP
W. Richard <sup>TOPEKA NAACP</sup>	Shirley Wisnom - Women In Action
E. Ann Benson	Havi West - Women In Action
Charles Jean Boyd <sup>State NAACP</sup>	Mona Brown
<del>Marilyn Mendenhall</del>	Jill Brown
Patricia McFarland	Jenah - KHP
Julia Clark	Leon Woods - Johnson County NAACP
Tamara Allen <sup>KS</sup>	Wandra Mingo - JO CO NAACP
Marina Morris	Michael J. Nelson (Wichita)
Jo Harris	John Brock
Karen Myles	Michelle Penard <sup>KS NAACP</sup>
Butch Jeds	Brandon Myers - KHR
Daniel J. James	
Albin Smith	
Deanna B. /	
Charles Grauer	
Sheriff Randy Rogers	
Jeff Be Harber	KS Sheriff's Ass'n
Rachel M. Herwood	
Thyllis A. Burtley	
Sheila Officer: <sup>Wich, KS</sup>	Citizens for Equal Law Enforcement
Michael Pope	" " " "
Janet Bauer	
Ruth Korman	

SENATE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

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Rip Zuech	Senata, Ret.
Sally Johnson	N.A.A.C.P.
Georgia M. Shannon	NAACP
Andrew McKinney	Maple Hill, KS
Tom Carver	1034 W Chestnut Junction <sup>City</sup> KS
Gouldyn Carnier	Gypsum, KS
Phyllis Katagantz	Junction City, KS 66941
Janelle Nessler	Hein Law Firm
Elias L. Garcia	Ks Hispanic & Latino Am. Affairs Comm.
Neil Kuser	Farm Bureau
Debra Kuser	Farm Bureau
Bob Vaughan	W.S.A.S.P.
Dick Kantenbach	Acme
Sister Therese Bangert	Ks. Cath. Conf.
Kyle Smith	K.B.F.
GARRY CUSHINBERRY	Topeka, KS.
H.L. Morde	TOPEKA, KS
Caery Wilhelm	Wichita, KS
Jim Sullinger	KC STAR
Pat Woods	NAACP
W. J. Lewis	Wichita, KS
Bob Brown	MSWERT LEADER'S OFFICE
David Haley	SENATE
Tim Johnson	SENATE staff



**Testimony**  
before the  
**Senate Federal and State Affairs Committee**  
on  
**SB 77**  
**An Act Concerning Racial Profiling**  
February 3, 2005

Senator Donald Betts Jr.  
404-N Capitol  
Topeka, Kansas 66612  
785/296-7387

Senator Brungardt, Committee Members,

Racial profiling may be a relatively new term, but it is not a new practice. Indeed, you might say it is as old as the dawn of man. As all of you are aware, the version of the racial profiling bill in front of you is not the first one to be brought before the Senate. We haven't been working on it since the dawn of man – it only seems that way.

As you hear from the other speakers today, you will see that a remarkable coalition of people and groups came together to work on a bill that sets the policy for the State of Kansas. When it comes to racial profiling, with the passage of SB 77, we will have a statute that sets the tone for every law enforcement agency in the state.

One step at a time, we will strengthen the underlying statutes with the efforts of the Task Force which brings together representatives of all the important areas – individuals, law enforcement, community groups like the NAACP and Citizens for Equal Law Enforcement, and government agencies like the Kansas African American Affairs Commission and the Kansas Hispanic/Latino American Affairs Commission. One year from this week, that Task Force is mandated to come back to this body with practical recommendations for collecting data and making it available for analysis.

I applaud the efforts of the citizens from all over the state of Kansas who felt it necessary to show their support for SB 77. I also appreciate the efforts of the community, law enforcement, KAAAC, KHLAC, and all who collaborated to begin the first stages of a policy that will eventually bridge the gap between law enforcement and the public. As we all know, change is difficult, but this first step is both crucial and necessary

**Senate Federal & State Affairs**  
**Committee**  
2-03-05  
Attachment 1

SENATE BILL No. 77

By Senators Betts and Haley

1-21

9 AN ACT concerning racial profiling.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. As used in sections 1 through 9, and amendments thereto:

13 (a) "Governmental unit" means the state, or any county, municipality  
14 or other political subdivision thereof, or any department, division, board  
15 or other agency of any of the foregoing.

16 (b) "Law enforcement agency" means the governmental unit em-  
17 ploying the law enforcement officer.

18 (c) "Law enforcement officer" has the meaning ascribed thereto in  
19 K.S.A. 74-5602, and amendments thereto.

20 (d) "Racial profiling" means the practice of a law enforcement officer  
21 or agency relying, as the sole factor, on race, ethnicity, ~~or national origin~~,  
22 in selecting which individuals to subject to routine investigatory activities,  
23 or in deciding upon the scope and substance of law enforcement activity  
24 following the initial routine investigatory activity. Racial profiling does not  
25 include reliance on such criteria in combination with other identifying  
26 factors when the law enforcement officer or agency is seeking to appre-  
27 hend a specific suspect whose race, ethnicity, ~~or national origin~~ is part of  
28 the description of the suspect.

29 ~~(e) "Routine investigatory activities" includes, but are not limited to,~~  
30 ~~the following activities by law enforcement officers and agencies: Traffic~~  
31 ~~stops; pedestrian stops; frisks and other types of body searches; Consen-~~  
32 ~~sual or nonconsensual searches of persons or possessions, including vehi-~~  
33 ~~cles, dormitory rooms, school lockers, homes, apartments of any resi-~~  
34 ~~dents, motorists or pedestrians.~~

35 (f) "Collection of data" means that information collected by Kansas  
36 law enforcement officers after each traffic or pedestrian stop.

37 ~~Sec. 2. (a) An optically scannable "uniform racial profiling data col-~~  
38 ~~lection form" shall be designed by the Kansas attorney general in con-~~  
39 ~~sultation with representatives from the police officers, sheriffs, Kansas~~  
40 ~~highway patrol, National association for the advancement of colored per-~~  
41 ~~sons, American civil liberties union, Kansas human rights commission and~~  
42 ~~Kansas civil rights advocates.~~

43 ~~(b) The data collected at each stop shall include:~~

, gender or religious dress

, gender or religious dress

(e) "Routine investigatory activities" includes, but is not limited to, the following activities conducted by law enforcement officers and agencies in conjunction with traffic stops: (1) Frisks and other types of body searches, and (2) consensual or nonconsensual searches of persons or possessions, including vehicles, dormitory rooms, school lockers, homes and apartments.

Senate Federal & State Affairs  
Committee  
2-03-05  
Attachment 2

2-2

~~1 (1) Officer identification number;  
 2 (2) law enforcement agency code;  
 3 (3) month, day, and year of stop;  
 4 (4) hour and minute of stop;  
 5 (5) who was stopped, a motorist or pedestrian;  
 6 (6) gender of person stopped, male or female;  
 7 (7) specific age of person stopped;  
 8 (8) race of person stopped, African American, Hispanic, Native  
 9 American, Caucasian, Asian, Arabic or other as stated by person stopped  
 10 or by officer observation;  
 11 (9) reason for stop: Violation of the criminal code; violation of a  
 12 county resolution or city ordinance; calls for service, suspect or vehicle  
 13 description or pre-existing knowledge or information, such as a warrant;  
 14 citizens assist or welfare; or traffic violation such as a moving violation,  
 15 equipment failure or license plate violation. If a moving violation, the  
 16 officer shall indicate the specific violation;  
 17 (10) result of stop: Citation, warning or arrest;  
 18 (11) if person was arrested, what crime or violation was alleged;  
 19 (12) number of passengers;  
 20 (13) what was the nature of the search done on the pedestrian, driver  
 21 or passenger, or of the vehicle or property or no search was conducted;  
 22 (14) search authority: By consent; tow inventory; odor of drugs/al-  
 23 cohool; plain view contraband; incidental to arrest; dog alert; search war-  
 24 rant; or other;  
 25 (15) was contraband discovered? If yes, was it illegal drugs; drug par-  
 26 aphernalia; weapons; alcohol; currency or stolen property; or other;  
 27 (16) stop location in agency boundaries, using the specific address of  
 28 each stop including street address or highway mile marker, city and  
 29 county;  
 30 (17) duration of stop listing the number of minutes;  
 31 (18) vehicle license plate number; and  
 32 (19) signature of law enforcement officer making the stop.  
 33 (c) Such form shall be used by all law enforcement agencies. The  
 34 form shall be completed by each law enforcement officer who stops a  
 35 motorist or pedestrian in Kansas.  
 36 (d) A copy of this completed form shall be given by the law enforce-  
 37 ment officer to the motorist or pedestrian who has been stopped.  
 38 (e) On a weekly basis, such forms will be mailed to the office of the  
 39 attorney general where they will be compiled into a statewide discrimi-  
 40 natory policing database.  
 41 (f) The attorney general shall monthly compile data received from  
 42 law enforcement agencies and make such data available to the public and  
 43 all law enforcement agencies.~~

2-3

~~(g) The data will be analyzed by statistical experts for patterns of racial profiling at least once every three months. The results of each three-month analysis shall be posted on the official website of the attorney general.~~

~~(h) Law enforcement agencies or individual officers who need to correct their racially biased behavior will be contacted by the attorney general's office within two weeks after a pattern of discrimination is identified as one standard deviation above the mean for all races of motorists and pedestrians stopped in a five block radius in a town or city or a 10 mile section of road or highway.~~

~~(i) Annual reports shall be submitted by the attorney general to the legislature, governor and Kansas law enforcement agencies on or before January 31 of each year. Each annual report shall be posted on the official website of the attorney general.~~

~~Sec. 3. (a) It shall be unlawful for any law enforcement officer or any law enforcement agency to engage in racial profiling.~~

~~(b) A violation of this section is a class A misdemeanor.~~

~~(c) This section shall be a part of and supplemental to the Kansas criminal code.~~

~~Sec. 4. (a) The race or ethnicity of an individual or neighborhood shall not be the sole factor in determining the existence of probable cause to take into custody or to arrest an individual or in constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a pedestrian or vehicle.~~

~~(b) This section shall be a part of and supplemental to the Kansas criminal code.~~

~~Sec. 5. (a) All law enforcement agencies in this state shall adopt uniform detailed, written policy to preempt racial profiling. This statewide policy shall be developed with input from the Kansas highway patrol, the attorney general's office, the Kansas human rights commission, the National association for the advancement of colored people, the Kansas African American affairs commission, the Kansas advisory committee on Hispanic affairs, the Kansas sheriff's association, the Kansas chiefs of police association and the Kansas peace officers association.~~

~~(b) These uniform policies and data collection procedures shall be implemented by all Kansas law enforcement officers within one year after the effective date of this act. The policies and data collection procedures shall be available for public inspection during normal business hours.~~

~~(c) The uniform policies shall include, but not be limited to, the following:~~

~~(1) A prohibition of racial profiling.~~

~~(2) Basic and continuing educational training which shall include, but~~

Sec. 2. A 15-member task force shall be appointed by the governor to design a method for the uniform collection of data. The task force shall include representatives of the Kansas attorney general's office, the Kansas highway patrol, city and county law enforcement agencies, the Hispanic and Latino American affairs commission, the advisory commission on African-American affairs, the department of revenue, Kansas district courts, Kansas civil rights advocates and others who can assist in the uniform collection of data. The task force shall make a final report and recommendations to the governor and the legislature not later than February 1, 2006.

, ethnicity, national origin, gender or religious dress of an individual or group

a and regulation

Each agency's policy shall include the definition of racial profiling found in section 1, and amendments thereto.

policies and regulations

and regulations

Annual

2-4

1 not be limited to, an understanding of the historical and cultural systems  
2 that perpetuate racial profiling, assistance in identifying racial profiling  
3 practices, and providing officers with self-evaluation strategies to preempt  
4 racial profiling prior to stopping a citizen.

5 ~~(3) The collection of uniform data on routine investigatory activities  
6 sufficient to determine if law enforcement officers and law enforcement  
7 agencies are engaged in racial profiling.~~

8 ~~(4) Establishing and appointing independent citizen review boards,  
9 including private participants which reflect the racial and ethnic com-  
10 munity, to receive, investigate and respond meaningfully within 60 days  
11 to complaints alleging racial profiling by law enforcement officers and  
12 agencies. In counties with a population of 10,000 or less, there shall be  
13 one citizen review board for all law enforcement agencies within the  
14 county. Counties with a population of 10,000 or less outside of the city  
15 limits shall have one citizen review board for the county law enforcement  
16 agencies.~~

17 ~~(5) Policies to discipline law enforcement officers and agencies who  
18 engage in racial profiling.~~

19 ~~(6) If the investigation of a complaint of racial profiling reveals the  
20 officer was in direct violation of the law enforcement agency's written  
21 policies regarding racial profiling, the employing law enforcement agency  
22 shall take appropriate action consistent with applicable laws, rules and  
23 regulations, resolutions, ordinances or policies including demerits, sus-  
24 pension or removal of the officer from the agency.~~

25 Sec. 6. Any person who ~~is subjected to racial profiling shall have a  
26 civil cause of action against any law enforcement officer or agency, or  
27 both, and shall be entitled to recover damages from any such officer, any  
28 person with supervisory authority over such officer and agency if it is  
29 determined by the court that such persons or agency engaged in racial  
30 profiling. The court may allow the prevailing plaintiff reasonable attorney  
31 fees, expert witness costs and other litigation costs reasonably incurred.~~

32 ~~Statistical or other documented proof that the routine investigatory activ-  
33 ities of law enforcement officers or agencies have had a disparate impact  
34 on racial or ethnic minorities shall constitute prima facie evidence of a  
35 violation of this section.~~

36 Sec. 7. (a) Whenever a person who is stopped or arrested believes  
37 the stop or arrest was in violation of section 3, and amendments thereto,  
38 such person may file a complaint with the Kansas human rights commis-  
39 sion. A copy of the complaint shall be forwarded to the arresting officer's  
40 employer by the commission and the citizen's review board overseeing  
41 the jurisdiction of the accused law enforcement agency.

42 (b) The Kansas human rights commission shall promulgate rules and  
43 regulations establishing procedures for filing a racial profiling complaint

(3) Establishing or utilizing current independent citizen advisory boards which include participants who

advise and assist in policy development, education and community outreach and communications related to

(4) Policies and regulations for discipline of

(5)

(6) Each law enforcement agency shall include in its policy provisions for community outreach and communications efforts to inform the public of the individual's right to file with the law enforcement agency or the attorney general's office complaints regarding racial profiling. Outreach and communications to the community shall include ongoing efforts to notify the public of the law enforcement agency's complaint process.

(7) Each law enforcement agency shall promulgate regulations establishing procedures for individuals to file complaints of racial profiling with the agency. If appropriate, a law enforcement agency may utilize current procedures for addressing such complaints.

(8) Each law enforcement agency shall compile an annual report of all complaints of racial profiling received and shall submit the report on or before January 31 to the office of the attorney general for review. The annual report shall include: (A) The date the complaint is filed; (B) action taken in response to the complaint; (C) the decision upon disposition of the complaint; and (D) the date the complaint is closed. Annual reports filed pursuant to this subsection shall be open public records and shall be posted on the official website of the attorney general.

believes such person has been subjected to racial profiling by a law enforcement officer or agency may file a complaint with the law enforcement agency. The complainant may also file a complaint with the attorney general's office. If a complaint is filed with the attorney general's office, the attorney general or the attorney general's designee shall review and, if necessary, investigate the complaint. The attorney general or attorney general's designee, shall consult with the head of the law enforcement agency before making final recommendations regarding discipline of any law enforcement officer or other disposition of the complaint. Upon disposition of a complaint by the attorney general's office, the complainant shall have a civil cause of action in the district court against the law enforcement officer or law enforcement agency, or both, and shall be entitled to recover damages

1 ~~with the commission and the process for delivering a copy of the com-~~  
 2 ~~plaint by the commission to the employing agency and the responsible~~  
 3 ~~citizen's review board. The commission shall adopt forms for complaints~~  
 4 ~~of racial profiling.~~

5 ~~(c) The commission shall compile an annual report of all complaints~~  
 6 ~~received for racial profiling and submit the report on or before January~~  
 7 ~~31 to the governor, the president of the senate and the speaker of the~~  
 8 ~~house of representatives. The annual report shall be an open record and~~  
 9 ~~shall be posted on the official website of the attorney general.~~

10 ~~Sec. 8. (a) The law enforcement agency shall investigate the com-~~  
 11 ~~plaint for purposes of disciplinary action or a criminal violation of section~~  
 12 ~~3, and amendments thereto.~~

13 ~~(b) If the complaint is not resolved by the law enforcement agency~~  
 14 ~~within 90 days from the date the complaint was filed, the citizen's review~~  
 15 ~~board overseeing complaints against such law enforcement agency shall~~  
 16 ~~independently investigate the facts alleged and submit a written finding~~  
 17 ~~of fact within 60 days after receiving the case to the citizen who filed the~~  
 18 ~~complaint, the Kansas human rights commission and the law enforcement~~  
 19 ~~agency against whom the complaint was alleged.~~

20 ~~Sec. 9. This act shall take effect and be in force from and after its~~  
 21 ~~publication in the statute book.~~ /7.

# STATE OF KANSAS

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SENATE CHAMBER

**DAVID B. HALEY**

SENATOR  
DISTRICT 4  
WYANDOTTE COUNTY

Chairman and Honorable members of the Senate Federal And State Affairs Committee: Good Morning.

I join the long list of proponents before your Committee today who support swift and affirmative final action on Senate Bill 77, sponsored by Senator Betts and myself. My statement this morning is brief primarily in deference to other proponents here whose statements the Committee might consider.

SB 77 addresses a pervasive and vexing occurrence which occurs, most unfortunately, between members of law enforcement and citizens of color. We call it "Racial Profiling". (We have even nicknamed this deplorable practice as 'Driving While Black' or as 'Driving While Brown'). SB 77 defines "Racial Profiling" on page 1 lines twenty (20) through twenty - eight (28) of the bill as:

*"..the practice of a law enforcement officer or agency relying, as the sole factor, on race, ethnicity or national origin in selecting which individuals to subject to routine investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial routine investigatory activity. Racial profiling does not include reliance on such criteria in combination with other identifying factors when the law enforcement officer or agency is seeking to apprehend a specific suspect whose race, ethnicity or national origin is part of the description of the suspect."*

Racial profiling is a classic example of depriving a person of his/her civil rights under the color, or pre-text, of enforcing the law.

Frankly Mr. Chairman, this bill, in my opinion, is but another baby step instead of the giant stride that this Legislature should be taking towards abolishing this antiquated and discriminatory practice.

In the 2000 Session, I and former Wichita State Representative Douglas Johnston, sponsored and introduced House Bill 2683 to the House Judiciary Committee which began as a measure to ban racial profiling by law enforcement. To make a long legislative story short, the powers that be insisted that the original bill would not pass as written in part due to the general public unawareness of this then "alleged" practice ...

The Substitute for HB 2683, was a drastic "watering-down" of the original bill, provided instead for the collection and reporting of statistics relating to race, ethnicity and gender by law enforcement. Although it passed in the House 115-9 and the Senate 40-0 (Journals available) and the resulting \$350,000 study (KSA 22-4604) substantiated the allegations ripe in several areas of our Great State, that bill did nothing to define in statute what "racial profiling" is and to provide specific remedies for those in law enforcement who abuse the standards of probable cause with their own misguided bigotry.

COMMITTEE ASSIGNMENTS  
ASSESSMENT & TAXATION  
JUDICIARY REAPPORTIONMENT  
PUBLIC HEALTH & WELFARE

haley@senate.state.ks.us

Senate Federal & State Affairs  
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SB 77 does both. And though this bill does not ban racial profiling, it does define racial profiling and provide a mechanism for administrative remedy. This, again, is a small step towards justice for all people.

Finally, opposition in 2000 griped about alleged costs to the Senate and whined about extra paperwork. The fiscal note presented in 2000 was erroneous citing expenses that never materialized. And Mr. Chairman, as you and I grapple towards reaching a truly color-blind society, the cost we bear as tax payers in Kansas to now support law-enforcement that erode our Constitutional rights on pure bias is for far greater.

Thank you Mr. Chairman. Questions?



**22-4604****Chapter 22.—CRIMINAL PROCEDURE  
KANSAS CODE OF CRIMINAL PROCEDURE  
Article 46.—GENERAL PROVISIONS**

**22-4604. Collection of information on law enforcement arrests and stops; request for proposal; study results.** (a) The governor, with the assistance of the attorney general and the Kansas law enforcement training commission, shall develop a request for a proposal for a system to collect and report statistics relating to the race, ethnicity, gender, age and residency by county and state of those who come in contact with law enforcement activities.

(b) Proposals submitted pursuant to the request shall contain, at a minimum:

(1) A system to collect data on a statistically significant sample of those persons who:

(A) Are arrested;

(B) while operating a motor vehicle, are stopped by a law enforcement officer; and

(C) while a pedestrian, are stopped by a law enforcement officer;

(2) which contains the race, ethnicity, gender, age and residency by county and state of such persons;

(3) which has a schedule and plan of implementation, including training;

(4) other factors which may be relevant to law enforcement officers in stopping or arresting individuals;

(5) civilian complaints received by law enforcement agencies alleging bias based on race, ethnicity, gender, age or residency by county or state; and

(6) a survey of policies of law enforcement agencies relating to the investigation of complaints based on alleged race, ethnicity, gender, age or residency bias.

(c) Data acquired pursuant to this proposal shall not contain any information that may reveal the identity of any individual.

(d) The governor, with the assistance of the attorney general, shall select the most comprehensive proposal and implement such proposal, subject to the availability of any grant or grants for such purpose from the United States department of justice or any other governmental or private agency.

(e) The results of such study shall be submitted to the governor and attorney general within 90 days after conclusion of such study. The governor shall submit the study to the legislature with one or more of the following:

(1) An evaluation of the study;

(2) an implementation plan to expand the data collection and reporting system to other law enforcement agencies and whether such system should be made permanent; and

(3) recommendations to improve law enforcement training and operations to address racial, ethnic, gender, age or residency bias.

History: L. 2000, ch. 180, § 1; July 1.

# Journal of Senate

APRIL 28, 2000

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incidental to the foregoing are hereby directed or authorized as provided in subsection (b) of section 12.":

On page 6, in line 10, by striking "state general fund" and inserting "state of Kansas— department of corrections inmate benefit fund"; in line 12, following "parolee," by inserting "for a grant for victim's rights education"; also in line 12, by striking "claimants"; by striking all in lines 13 through 16 and inserting new material to read as follows:  
"Speak Out for Stephanie Foundation, P.O. Box 7829, Overland Park, KS

66207 ..... \$50,000";

On page 5, in line 31, following "b)", by inserting "On and after January 1, 2001,";

And your committee on conference recommends the adoption of this report.

STEPHEN R. MORRIS  
NICK JORDAN  
MARK GILSTRAP  
*Conferees on part of Senate*

DAVID ADKINS  
MELVIN NEUFELD  
BILL FEUERBORN  
*Conferees on part of House*

Senator Morris moved the Senate adopt the Conference Committee Report on **HB 2660**.

On roll call, the vote was: Yeas 30, Nays 10, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barone, Becker, Bleeker, Bond, Brownlee, Downey, Feleciano, Gilstrap, Gooch, Goodwin, Harrington, Hensley, Jones, Jordan, Langworthy, Lawrence, Lee, Morris, Oleen, Petty, Praeger, Ranson, Salisbury, Steffes, Steineger, Stephens, Tyson, Umbarger, Vidricksen, Vratil.

Nays: Biggs, Clark, Corbin, Donovan, Emert, Hardenburger, Huelskamp, Kerr, Pugh, Salmans.

The Conference Committee report was adopted.

## CONFERENCE COMMITTEE REPORT

MR. PRESIDENT AND MR. SPEAKER: Your committee on conference on Senate amendments to **Substitute for HB 2683**, submits the following report:

The House accedes to all Senate amendments to the substitute bill and the committee further agrees to amend the substitute bill as printed with Senate Committee amendments as follows:

On page 1, in line 22, by striking "New";

On page 2, by striking all in lines 21 through 43;

By striking all on pages 3 through 35;

On page 39, by striking all in lines 1 through 21; in line 22, by striking "16" and inserting "2"; in line 23, by striking "Kansas register" and inserting "statute book";

On page 1, in the title, in line 10, by striking "crimes,"; also in line 10, by striking "and punishment"; in line 12, by striking the semicolon; by striking all in lines 13 through 18; in line 19, by striking "sections";

And your committee on conference recommends the adoption of this report.

TIM EMERT  
JOHN VRATIL  
GRETA GOODWIN  
*Conferees on part of Senate*

MICHAEL O'NEAL  
TIM CARMODY  
JANIS L. PAULS  
*Conferees on part of House*

Senator Emert moved the Senate adopt the Conference Committee Report on **Sub for HB 2683**.

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On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barone, Becker, Biggs, Bleeker, Bond, Brownlee, Clark, Corbin, Donovan, Downey, Emert, Feleciano, Gilstrap, Gooch, Goodwin, Hardenburger, Harrington, Hensley, Huelskamp, Jones, Jordan, Kerr, Langworthy, Lawrence, Lee, Morris, Oleen, Petty, Praeger, Pugh, Ranson, Salisbury, Salmans, Steffes, Steineger, Stephens, Tyson, Umbarger, Vidricksen, Vratil.

The Conference Committee report was adopted.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT AND MR. SPEAKER: Your committee on conference on Senate amendments to HB 2996, submits the following report:

The Senate recedes from all of its amendments to the bill:

And your committee on conference recommends the adoption of this report.

DAVE KERR  
ALICIA L. SALISBURY  
CHRISTINE DOWNEY  
*Conferees on part of Senate*

DAVID ADKINS  
MELVIN NEUFELD  
BILL REARDOX  
*Conferees on part of House*

Senator Kerr moved the Senate adopt the Conference Committee Report on HB 2996. On roll call, the vote was: Yeas 40, Nays 0, Present and Passing 0, Absent or Not Voting 0.

Yeas: Barone, Becker, Biggs, Bleeker, Bond, Brownlee, Clark, Corbin, Donovan, Downey, Emert, Feleciano, Gilstrap, Gooch, Goodwin, Hardenburger, Harrington, Hensley, Huelskamp, Jones, Jordan, Kerr, Langworthy, Lawrence, Lee, Morris, Oleen, Petty, Praeger, Pugh, Ranson, Salisbury, Salmans, Steffes, Steineger, Stephens, Tyson, Umbarger, Vidricksen, Vratil.

The Conference Committee report was adopted.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT AND MR. SPEAKER: Your committee on conference on Senate amendments to HB 3019, submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee of the Whole amendments, as follows:

On page 9, in line 42, by striking "of";

On page 10, in line 24, before the semicolon, by inserting ", but shall not include the boundaries of any redevelopment district in a major tourism area which includes an auto race track facility located in Wvandothe county as follows: Beginning at the intersection of Interstate 70 and Interstate 435; west along Interstate 70 to 118th Street; north along 118th Street to State Avenue; northeasterly along proposed relocated State Avenue to 110th Street; north along 110th Street to Parallel Parkway; east along Parallel Parkway to Interstate 435; south along Interstate 435 to Interstate 70"; in line 42, by striking "expansion of the"; in line 43, after "area", by inserting "be expanded";

On page 11, in line 2, by striking the first "the"; in line 9, after "the" by inserting "proposed"; also in line 9, after "boundaries", by striking "proposed"; in line 14, by striking "approval" and inserting "expansion beyond the campus boundaries"; in line 22, by striking all after the first "by"; by striking all in lines 23 and 24, and inserting "the governing body of the county, no sales tax increment collected from taxpayers doing business within the project area, but outside the boundaries of the college campus shall be pledged pursuant to section 3 as debt service for payment of principle and interest on any bonds issued for the project until it is first subject to a county-wide election and has received the approval";

**Sub. HB 2683.** An act concerning the collection and reporting of statistics relating to race, ethnicity and gender for law enforcement activities, was considered on final action.

On roll call, the vote was: Yeas 115; Nays 9; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aday, Adkins, Alldritt, Allen, Aurand, Ballard, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Carnody, Compton, Cox, Crow, Dahl, Dean, Dreher, Edmonds, Faber, Farmer, Feuerborn, Findley, Flaharty, Flora, Flower, Freeborn, Garner, Gatewood, Geringer, Gilbert, Glasscock, Grant, Gregory, Haley, Helgerson, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huff, Humerickhouse, Hutchins, Jenkins, Johnson, Johnston, Kirk, Klein, Phil Kline, Phill Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Lloyd, M. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKechnie, McKinney, Merrick, Minor, Mollenkamp, Jim Morrison, Judy Morrison, Myers, Nichols, O'Brien, O'Connor, Osborne, Palmer, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, Powell, Powers, Ray, Reardon, Rehorn, Reinhardt, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tedder, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Vining, Wagle, Weiland, Wells, Welshimer, Wilk.

Nays: Ballou, Empson, Hayzlett, Jennison, Lightner, P. Long, Neufeld, Tanner, Weber.

Present but not voting: None.

Absent or not voting: O'Neal.

The substitute bill passed.

#### EXPLANATION OF VOTE

MR. SPEAKER: **Sub. HB 2683** takes a small step towards easing the public perception that too often drivers, and even pedestrians, are detained by various law enforcement due only to their race and/or age and/or gender.

In a society that prides itself on "due process," "equal protection under the law" and against unlawful search and seizure, **Sub. HB 2683**, as presented by Rep. Carnody and passed by our Judiciary Community assists in easing our wary public's perception of this inequity. I vote yes.—DAVID HALEY

**HB 2685.** An act concerning the Kansas fair credit reporting act; amending K.S.A. 50-701, 50-702, 50-703, 50-704, 50-705, 50-706, 50-708, 50-709, 50-710, 50-711, 50-714, 50-715, 50-716, 50-717, 50-718, 50-719, 50-720, 50-721 and 50-722 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 124; Nays 0; Present but not voting: 0; Absent or not voting: 1.

Yeas: Aday, Adkins, Alldritt, Allen, Aurand, Ballard, Ballou, Barnes, Beggs, Benlon, Bethell, Boston, Burroughs, Campbell, Carnody, Compton, Cox, Crow, Dahl, Dean, Dreher, Edmonds, Empson, Faber, Farmer, Feuerborn, Findley, Flaharty, Flora, Flower, Freeborn, Garner, Gatewood, Geringer, Gilbert, Glasscock, Grant, Gregory, Haley, Hayzlett, Helgerson, Henderson, Henry, Hermes, Holmes, Horst, Howell, Huff, Humerickhouse, Hutchins, Jenkins, Jennison, Johnson, Johnston, Kirk, Klein, Phil Kline, Phill Kline, Krehbiel, Kuether, Landwehr, Lane, Larkin, Light, Lightner, Lloyd, M. Long, P. Long, Loyd, Mason, Mayans, Mays, McClure, McCreary, McKechnie, McKinney, Merrick, Minor, Mollenkamp, Jim Morrison, Judy Morrison, Myers, Neufeld, Nichols, O'Brien, O'Connor, Osborne, Palmer, Pauls, E. Peterson, J. Peterson, Phelps, Pottorff, Powell, Powers, Ray, Reardon, Rehorn, Reinhardt, Ruff, Schwartz, Sharp, Showalter, Shriver, Shultz, Sloan, Spangler, Stone, Storm, Swenson, Tanner, Tedder, Thimesch, Toelkes, Tomlinson, Toplikar, Vickrey, Vining, Wagle, Weber, Weiland, Wells, Welshimer, Wilk.

Nays: None.

Present but not voting: None.

Absent or not voting: O'Neal.

The bill passed, as amended.

**HB 2696.** An act concerning the emergency medical services board; relating to the powers and duties thereof; relating to attendants, instructor-coordinators and training officers; amending K.S.A. 65-6128 and K.S.A. 1999 Supp. 65-6129, 65-6129b and 65-6129c and repealing the existing sections, was considered on final action.

# Testimony

before the

## Senate Federal and State Affairs Committee

February 3, 2005

Jihad Muqtasid  
Wichita, Kansas  
316/684-7126

Senator Brungardt, Members of the Committee,

I come today to tell you of two incidents of racial profiling. One happened to me when I was just a boy and another recently as an old man of 75.

Sixty-four years ago, my family and I lived in Memphis, Tennessee. We were not wealthy, and I worked in a funeral home to make some extra cash. One day, as I was walking home from my part-time job, I was accosted by two police officers in a patrol car. One of them spoke to me through the passenger side window.

"Where you goin', little nigger," he asked. I responded that I was on my way home. He then motioned for me to come closer and continued to motion until I was standing right by the window. "Put your head in the window," he ordered. I responded that I was unwilling. His voice become harsher. "I told you to put your head in the window, boy!" Finally, I leaned into the patrol car.

Quickly, my tormentor rolled up the window so that my head was inside the car, my body outside, and my neck so tightly held that I could not get away. I was only eleven and not very tall. I was standing on my tip-toes to take some of the pressure off my neck.

Now both police officers were laughing and taunting me. They thought they had done something very funny. But their loudest laughter came as the patrol car pulled away from the curb. I did my best to run alongside the car, but I lost and regained my foothold several times, each time nearly choked to death before I could get my feet under me. Finally, they rolled down the window and increased speed so that I fell out of the car and onto the street.

I have been afraid of the police ever since.

So, one evening some months ago, as I drove away from a religious gathering, I noticed the patrol car that was sitting opposite the mosque at 17<sup>th</sup> and Lorraine, watching my friends as we all left. But it was me that it followed.

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**State of Kansas**  
**Senate Committee on Federal and State Affairs**  
**Testimony in support of SB277**

**Danielle Dempsey-Swopes, Executive Director**  
**Kansas African American Affairs Commission**

**February 3, 2005**

Chairman Brungardt, members of the committee,

Thank you for the opportunity to speak to you today. I am the Executive Director of the Kansas African American Affairs Commission. As you may know, our commissioners represent African American communities from all corners of the state. We have the responsibility to address many issues in the African American community. However, one of the most pressing concerns of our community is the practice of racial profiling. The Kansas African American Affairs Commission has been pleased to partner with the Kansas Highway Patrol and other state law enforcement agencies and together we urge you to support SB 77, as it will provide the legal foundation for preempting the practice of racial profiling by law enforcement agencies in Kansas.

Our community members understand that we must work in partnership with law enforcement officials to engage in effective community policing. Effective community policing requires that all the members of our diverse Kansas communities have significant trust in its law enforcement officials.

Racial Profiling generally is the invidious use of race or ethnicity as the sole criteria for engaging in investigative procedures. When law enforcement officials engage in racial profiling, they erroneously assume that individuals of one race, ethnicity, religious group or gender are more likely than others to engage in crime. When law enforcement officers make erroneous assumptions, they become ineffective. Racial profiling causes stigma, humiliation and a basic erosion of the trust that should exist between the community and those who protect and serve the community. No law enforcement agency can be successful without the trust of its community.

The Northeastern University Center for Race and Justice reports that more than 20 states now have legislation to ban racial profiling and to collect data to study the issue. SB 77 is an important first step for our state.

In 2002, the State of Kansas contracted with a Washington D.C. organization called the Police Foundation Institute, a private, independent, nonprofit organization, to conduct a study on racial profiling in Kansas. This study gave significant insight to the reality of the problem of racial profiling in Kansas communities. The Executive Summary of the researcher's findings confirmed, ". . . **that the State of Kansas is experiencing profiling of Hispanic and Black motorists. While evidence of this was not apparent in all jurisdictions, seven assessed agencies had evidence of at least one of these two groups being targeted by police in traffic**

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stops . . . All ten agencies assessed in this report were asked for alternative explanations that were considered in interpreting findings of profiling. Researchers are aware of no existing evidence that supports the assertion that the members of minority groups are more likely to violate traffic laws.”

**John C. Lamberth, Ph.D.**  
**Chief Executive Officer, Project Director**  
**Police Foundation Institute**  
*A Multi Jurisdictional Assessment of Traffic Enforcement  
and Data Collection in Kansas, Executive Summary*  
**February 2003.**

Given what the research confirms, the implementation of SB 77 is still very much needed. SB 77 requires that all law enforcement agencies adopt policies against racial profiling and provides for the training of law enforcement officers, the adoption of strategies to end such profiling, and outreach into local communities. The bill also allows for the creation of a task force that will determine a state process for collection of data on routine investigatory activities.

I am pleased to note that law enforcement officials that I have talked with over the last two months feel that these activities will allow law enforcement agencies to develop effective partnerships with Kansas minority communities. The implementation of this bill and effective community policing is likely to result in a reduction of crime in many communities and an increase in the number of real criminals caught with the help of the community. I urge you to support Senate Bill 77.

## **Senate Federal & State Affairs Committee**

Elias L. Garcia, Executive Director

Kansas Hispanic & Latino American Affairs Commission (KHLAAC)

### **Senate Bill 77 – Racial Profiling**

Honorable Chairman and honorable members of the federal & State of Kansas Affairs Committee, my name is Elias L. Garcia, Executive Director of the Kansas Hispanic & Latino American Affairs Commission and I appreciate the opportunity to speak today in support of SB 77, a bill that enjoys a broad base of community support and one that presents a unique opportunity to address one of the most pressing civil rights issues of our time – Racial profiling.

We all know what Racial Profiling is, it is the spontaneous reliance on race, gender, national origin or religious stereotypes as determining factors in law enforcement activities. We also know that the per the Department of Justice Guidance regarding the use of Race in Federal Law Enforcement Agencies, the practice of relying upon generalized stereotypes is absolutely forbidden. By definition, Racial Profiling is a form of disparate treatment and thus racial discrimination.

Further, we can all agree that racial profiling is one of the most disturbing and controversial issues confronting our society day. It is our position that racial profiling must not be condoned or otherwise tolerated within the ranks of public service and most certainly not within the ranks of law enforcement officers who are charged with protecting and serving the public. We can also all agree, that when law enforcement officials focus on what people look like, where they come from, what religion they follow, or what they wear...it puts us all at risk. DWB has become a slogan that has special meaning to members of both the African American Community and the Hispanic and Latino community. Yet, with pending national Home Land Security legislation, DWB has taken on even more significance to our Latino community as the ramifications of these national legislative initiatives have yet to be realized.

Racial Profiling is a “flawed first impressions”, and as we all know first impressions are more often than not wrong (impressions). Let me site two examples of how flawed first impressions or rather Racial Profiling can be. I refer to the 1995 bombing of the Alfred P. Murrah Building in Oklahoma City where Timothy McVeigh was able to flee while officers operated on the initial theory that “Arab” terrorists had committed this heinous crime. Or how about 2002, when two African American male snipers were able to evade police and continue terrorizing residents in Washington D.C. area, as law enforcement relied on racially-based profiles of serial killers and were searching for two anti-social white males. Racial Profiling based on spontaneous reliance on race and absent of trustworthy sources is wrong.

I would further suggest to you that it is virtually impossible to accurately reflect the true merit of a person simply by judging ones external appearance. Yet, that is exactly what Racial Profiling does. It reduces a living, breathing human being to that of a mere object, and by doing so, it paves the way to a mindset that portrays that individual as unworthy of basic human respect or dignity and this practice has no place in public service.

So, why is it necessary to be here today discussing racial profiling and SB 77 since we have already established that our communities are against it and it is against local, state and federal laws. Ladies and gentlemen we come here today not as Latinos, Hispanics, African Americans, members of law enforcement, victims or perpetrators of racial profiling. No, despite of, or in difference to our own personal perspectives on this subject, we come here today in unity and solidarity as Kansans to offer our collective support to an initiative that will take us one step closer to eradicating an issue that continues to this day in 2005 to haunt our “ethnic minority” communities, be it in practice or perception.

Honorable members of the committee, I say to you that the Kansas Hispanic and Latino community does not support the practice of Racial Profiling as defined in SB 77, and we are here today, along with members of the African American community law enforcement community, and others to add our voice in support of this bill and end racial profiling in the state of Kansas both in practice and perception. Thank you

Senate Federal & State Affairs

Committee

2-03-05

Attachment

6

2/03/05



**American Civil Liberties Union of  
Kansas and Western Missouri**  
3601 Main Street, Kansas City, Missouri 64111

*Executive Director  
Dick Kurtenbach  
816/756-0136*

**Testimony in Support of SB 77**  
**Before the Federal and State Affairs Committee**  
**Thursday, February 3, 2005**

My name is Dick Kurtenbach. I am the Executive Director of the American Civil Liberties Union of Kansas and Western Missouri. The ACLU is a non-profit, non-partisan, advocacy organization devoted to the defense and promotion of the Bill of Rights. I appear today on behalf of the organization and its over 2,500 members who reside in Kansas and in support of SB 77.

As you consider the important decision each of you must make on whether or not this committee will support the bill, I hope you have gotten beyond the question of whether or not racial profiling by law enforcement is a reality. It is. Studies sponsored by this legislature confirm it. The ACLU has done studies in Mission Hills, Leawood, and Prairie Village that confirm it. Legislation similar to SB 77 that has been in place in Missouri for several years confirms it in that state. Anecdotal evidence about the practice abounds.

I want to share just one anecdotal example that I think is particularly compelling. Several years ago I was approached by the manager of a private country club on the Kansas side of the state line in Kansas City who explained that racial profiling of her black employees was so rampant that many of her black employees were quitting because they couldn't get to and from work without getting hassled by the police. The board of directors of the club wanted stickers printed that the black employees could place on their windshields – I guess to convey the message to the police that these black folks belonged in the suburb.

Think about that -- a problem so pervasive that people could not get to and from work without constant harassment by the police. And a problem confirmed by the manager of a country club and its board of directors.

The problem is real and SB 77 is the start toward a meaningful response to do something about it. The passage of the bill is important because it is the first step toward holding those law enforcement officers who engage in this obnoxious and illegal activity accountable. And it is important because it will shed further light on the problem.

I urge you to support the legislation. Thank you.

Senate Federal & State Affairs  
Committee  
2-03-05  
Attachment 7

# Testimony

before the

## Senate Federal and State Affairs Committee

February 3, 2005

Kevin Myles  
President of the Wichita Branch NAACP  
Vice Pres of the Kansas State Conference of NAACP Branches  
c/o Ryan International Airlines  
266 N. Main St  
Wichita, KS 67202  
(316) 655-9282

Senator Brungardt, Committee Members

In my capacity as NAACP President, I have personally heard over 20 complaints which I feel should be considered Racial Profiling. Each of these cases began with the complainant being followed, then later pulled over for one of 3 reasons:

1. Failure to Signal 100 feet from a turn
2. Wide Turn
3. Wheels touched the center line

After the stop was initiated, the officers requested to search the vehicles. In most cases, the individuals are not aware of their right to refuse, so they consent. If anything is found, then a ticket or citation is written for the item or issue then determined. If nothing is found, then the complainant is released and no ticket is issued, no record kept. The fact that these "random" stops often take as long as an hour and a half, and the vehicles that are followed and subsequently stopped are selected on the basis of the drivers' appearance, amounts to harassment.

In my capacity as State Vice President, and in my discussions with Civil Attorneys and the Branch Presidents of the NAACP from around the State of Kansas, I have noted that the same pattern of pretextual stops has been occurring statewide. Furthermore, I have noted that the same three items seem to present a consistent pattern.

Senate Federal & State Affairs  
Committee  
2-03-05  
Attachment 8



# PRAIRIE VILLAGE POLICE DEPARTMENT

CHARLES F. GROVER - CHIEF OF POLICE

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**Testimony on Revised SB#77  
to the  
Senate Federal and State Affairs Committee**

**Presented by  
Chief Charles F. Grover**

**February 3, 2005**

Good morning, Mr. Chairman and members of the Committee. My name is Charles Grover and I am the Chief of Police of Prairie Village and Mission Hills, Kansas. I am here today on behalf of the Kansas Association of Chiefs of Police to comment on revised SB#77.

On Monday, January 31, 2005, members of the law enforcement community within the State of Kansas were privileged to meet with Senator Betts, members of the Kansas African American Affairs Commission and the Hispanic and Latino American Affairs Commission. The end product of those meetings produced revised SB#77 -- the reason I am here to speak to you today.

The Kansas Association of Chiefs of Police would like to make the following specific comments regarding the bill:

The bill's title and specific language refers to racial profiling, yet, the definition on Page No. 1 (d) reflects the concern of a much larger group of Kansas citizens. We believe the bill should be titled with the more modern term of "Bias-Based Policing," and language within the bill should also reflect this broader term, rather than the more limited term of racial profiling.

To encompass the more modern term, the Association would also like the term "gender" to be included in the definition stipulated on Page No. 1 (d).

The definition of "routine investigatory activities" as stipulated on Page No. 1 (e) was changed from the original bill. It was agreed, based on a document called, Overview of Changes to the Draft on 1/31/05, the bill would reflect actions on traffic stops only. Therefore, language that reflects law enforcement contacts other than traffic stops should be removed.

Senate Federal & State Affairs  
Committee

2-03-05  
Attachment 9

The Association supports the bill's language, which requires the Governor to appoint a 15-member task force to design a method of data collection. We look forward to working with representatives from many different groups to determine if a fair and equitable data collection system can be put into place in the State of Kansas.

For the past year, the Kansas Association of Chiefs of Police has conducted training sessions advising our membership of the merits of having a bias-based policing policy for each agency. Many of our members currently have such policies in place. We support the bill's requirement that each law enforcement agency provide to its members clear guidelines on bias-based policing and our Association's determination that such practices must not exist within our agencies.

The Kansas Association of Chiefs of Police supports revised SB#77 language regarding the annual training of police officers. We look forward to working with the Kansas Law Enforcement Training Center (KLETC) to aid us in developing such meaningful training for our employees.

The revised bill stipulates the establishment of or the utilization of current independent citizen advisory boards regarding bias-based policing. The Kansas Association of Chiefs of Police opposes this section of the bill. First, research into such boards demonstrates their general lack of effectiveness. The Journal of Criminal Justice – Volume 28, 2000, concludes that positive effects of such boards are not supported by the data. The Knapp Commission, the most famous criminal justice commission in our nation's history, recommended against such review boards. The City of Portland, Oregon, reported, "No conclusive evidence that civilian oversight improves police behavior or citizens satisfaction." Suffice it to say that much research needs to be done on the effectiveness of such boards before requiring them by statute.

Secondly, existing research has stated that such boards are only effective when established to meet the specific needs of a community. Local interest engenders community support for the process, which aids the board's effectiveness as a part of a larger system to provide citizen oversight. The establishment of a state mandate to form such boards flies in the face of research on review boards that demonstrate the need for a local political process to be effective.

Thirdly, the bill assumes that communities within the State of Kansas are culturally diverse and requires a review board consisting of the racial and ethnic makeup of the community. These boards maybe effective in diverse communities; however, such racial diversity is not reflected in most Kansas communities.

Like the State of Kansas, cities of Kansas are operating in the world of budget shortfalls and struggles to provide the necessary services to the citizens of our communities. The mandatory establishment of such boards as another unfunded mandate may require the possible elimination of programs that are much more effective for the citizens we serve.

Lastly on this issue, the report, Civilian Oversight of the Police in Democratic Societies, underscores the issue of local control by stating, "...there is debate concerning the degree to which the power to direct local police affairs should be ceded by mayors and the political establishment in favor of...quasi-judicial bodies like some civilian review boards." It seems clear that the most effective review boards are determined by the political process within local government, and not as a mandate from an outside authority. Therefore, the Kansas Association of Chiefs of Police would only support such language that would make such review boards discretionary based on the needs of the community and determined by a local political process.

The Kansas Association of Chiefs of Police supports the language in revised SB#77 that mandates each agency promulgate rules and regulations for establishing a complaint process, which can address citizen complaints regarding this or any other grievance. The complaint process must demonstrate to each citizen the concern of law enforcement for their issues and the possible redress of their grievances.

Finally, the Association supports the annual reporting of all complaints to the Attorney General regarding bias-based policing. We would recommend to the Committee, however, that a standardize form be adopted by the Attorney General to provide guidance and uniformity for each law enforcement agency, while also considering privacy laws currently in effect.

The Association believes the revised SB#77 I have in my hands at this point is a work in progress and will need further review by the revisor to ensure the intent of the document, Overview of Changes to the Draft on 1/31/05, is incorporated into the bill.

As you can discern, the Kansas Association of Chiefs of Police is a strong supporter of the vast majority of revised SB#77, and we look forward to working with all the citizens we serve to further the professionalism of law enforcement in the State of Kansas.

I would be happy to answer any questions you might have.

# Kansas Sheriffs Association

P.O. Box 1853  
Salina, Kansas 67402-1853  
785-827-2222  
Fax 785-827-5215

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First Vice President  
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Linn County - Dist. #8

**Sheriff Sandy Horton**  
Crawford County - Alternate

Committee: Federal and State Affairs  
Re: Senate Bill 77

Dear Committee Members,

I come here today on behalf of the Kansas Sheriff's Association in support of Senate Bill 77 as amended.

Many individuals have worked together throughout this week to ensure that we accomplish what all want, and that is to see that racial profiling does not occur. I would like to thank the Kansas Hispanic/Latino American Affairs Commission, The Kansas African American Affairs Commission, the many Law Enforcement Officials, and Senator Betts all have worked hard to ensure that we continue to work for a better Kansas.

Kansas Sheriffs have been and will always be committed to ensuring that racial profiling does not occur and is not tolerated.

We would look forward to working on a Governors Task Force to find ways to ensure that there is accountability and responsibility to and for the citizens of Kansas.

Senate Bill 77 allows law enforcement the opportunity to provide education, accountability, and responsiveness in addressing concerns relating to racial profiling.

Senate Bill 77 provides a foundation from which we can build a partnership with all concerned with racial profiling. We truly want to work for a better Kansas.

Sincerely,



**Randy L. Rogers**  
Coffey County Sheriff  
President Kansas Sheriff's Association

Senate Federal & State Affairs  
Committee

2-03-05  
Attachment 10

# Testimony

before the

## Senate Federal and State Affairs Committee

February 3, 2005

William E. Richards, Sr.  
Legislative Liaison  
NAACP, Topeka Branch  
P.O. Box 1451  
Topeka, Kansas 66601  
785/234-4555

Senator Brungardt, Members of the Committee:

The Topeka Branch of the National Association for the Advancement of Colored People (NAACP) urges your affirmative support and vote for passage of Senate Bill No. 77, an Act concerning Racial Profiling.

SB 77 prescribes concrete steps toward insuring that any pattern or practice of Racial Profiling will be deemed unlawful, throughout the State of Kansas!

Minority Citizens have been accosted and harassed by Law Enforcement Officers, merely because of the color of their skin, even when no valid probable cause existed.

Legislators need to do all that they can to address the problem of Racial Profiling sooner, rather than later! The enactment into law of the remedies outlined in SB 77 would reassure the Public that legislative intent is to mandate that Kansas laws be enforced in a color-blind way!

Thank you in advance for your support of SB 77.

Senate Federal & State Affairs  
Committee

2-03-05  
Attachment 11

# Citizens for Equal Law Enforcement

Box 776, Wichita, KS 67201

(316)838-7900(Phone) (316)838-7779(Fax) equalenforcement@cox.net

02/04/2005

TO: Senator Brungardt, Chairman and Kansas Senate  
Federal & State Affairs Committee Members

## RE: Racial Profiling Testimony and Recommended Changes to the Revised SB77

It took 3 years to get KSA 22-4604 enacted into law in 2000 as a "baby step" forward to first document that racial profiling exists in Kansas. The "study" mandated by KSA 22-4604 was not completed until 2003 and cost over \$350,000. This grossly inflated price only included 9 Kansas law enforcement agencies, of which 7 actually submitted data. It confirmed what was already known.

Even with this limited sample, the study reported by the Police Foundation in Washington, D.C. showed that if you are Black or Hispanic, you are twice as likely to be stopped by Sheriff's deputies and police officers in those jurisdictions which participated. These same results are supported by an analysis of data from the Wichita police department of all 37,454 vehicle and pedestrian stops during the 6 months from January through June of 2001. It took another year before this "study" was published, but it found that not only are Blacks twice as likely to be stopped and given a traffic violation ticket but they are 3 x's more likely to be searched, arrested or have the police use physical force during these questionable stops.

The original SB77 which was introduced this Session by Senator Betts was drafted using legislation which is already law in Oklahoma, Missouri, Nebraska, Texas and Colorado. It also included language from legislation in the US Congress and advice from the US Department of Justice, Civil Rights Division attorneys and racial profiling researchers who reviewed the draft.

By going on the Internet to the Racial Profiling Data Collection Resource Center at [http://www.racialprofilinganalysis.neu.edu/plan\\_jurisdictions.php](http://www.racialprofilinganalysis.neu.edu/plan_jurisdictions.php) you will see that 38 States already have racial profiling legislation passed into law. Twenty of these, including Missouri, Colorado, Texas, Iowa and Nebraska also have data collection mandated to identify where racial profiling is happening and by which officers. In addition, many major cities across America are currently collecting data to help put a stop to this egregious violation of the civil and constitutional rights of people of color. Data collection forms and study conclusions were included in my handouts. Without this aggregate data, the pattern of racial profiling by officers at specific parts of our cities, towns or highways is hard to prove. Individual complaints are often ignored by the police and as isolated cases are easily dismissed.

SB77 was first introduced last year as HB 2876. It had strong support in the House Federal and State Affairs Committee but was not heard until late in the Session, so it had to wait until now. Between Sessions, with input from Kansas law enforcement, legislators, attorneys, researchers and other States, it was greatly modified during the past 10 months to be reintroduced as SB77. Hundreds of hours were invested to reach compromise, tighten the language and make it meaningful.

Unfortunately, during last minute meetings held with Kansas law enforcement leaders in Topeka on Monday and Tuesday of this week, any accountability for profiling behavior by Kansas officers or their supervisors was stripped from the bill—to gain their support. Having attended those meetings and strongly objecting to the continual denial by Kansas law enforcement that racial profiling even exists, our coalition is very concerned that we are asked to go back to square one with essentially the same requirements which are already in KSA 22-4604. So, after 8 years of delays and stalling, Kansas will still be without any law to actually put an end to racial profiling in our State.

Senate Federal & State Affairs  
Committee

2-03-05  
Attachment 12



Chapter 22.—CRIMINAL PROCEDURE KANSAS CODE OF CRIMINAL PROCEDURE  
 Article 46.—GENERAL PROVISIONS 22-4604 already calls for the Governor, with assistance from the attorney general to:

- (3) develop a "schedule and plan of implementation, including training."
- (5) how to deal with "civilian complaints" alleging bias based on race....
- (6) "a survey of policies of law enforcement agencies relating to the investigation of complaints"
- (e) The governor SHALL SUBMIT to the legislature:
  - (2) an implementation plan to expand the data collection and reporting system...
  - (3) recommendations to improve law enforcement training and operations to address racial, ethnic, gender, age or residency bias.

The cut down version of SB77 heard on February 3<sup>rd</sup>, 2005 calls AGAIN for the Governor to develop a plan to do what was passed into law 5 years ago. It lists a "15 member task force" which is not asked to report its "recommendations" until February 1, 2006. This is too late to draft and pass a bill in the 2006 legislature, therefore it will take until 2007 before a bill can be introduced to implement data collection or any specific procedures to actually END RACIAL PROFILING IN KANSAS.

So, when you work the revised SB77, please change this due date for the Task Force recommendations to November 1, 2005. This will allow time to draft implementing legislation and a realistic fiscal note to start gathering the data required to identify where, when and by whom racial profiling is occurring so we can put a stop to this horrendous practice without losing two more years.

As I pointed out in my oral testimony, these illegal stops and resulting fines are creating a major financial hardship on Black and Hispanic families. Now that there has been a 300% increase in revenue to the City of Wichita from fines, this means that Blacks are paying over \$1 million dollars per year more than their proportional share. It is estimated that the excess fines in Kansas on Blacks and Hispanics due to racial profiling exceeds \$7 million dollars per year. This is \$56 million dollars extra since 1998.

In ADDITION to these excessive fines, their vehicle insurance premiums go up, making it harder to keep their policies paid. Without insurance, they are left vulnerable to huge debt from accidents plus increase the likelihood that their driver's license will be suspended. If caught driving with a suspended license, their car can be impounded and the driver put in jail. The financial disaster to Black and Hispanic families who depend on that driver and car is huge. And, in most cases, it starts with a traffic stop for which White drivers would never be cited for at all. Instead, the police are using phony traffic violations as "probable cause" to stop people of color to question or search them and/or their vehicles.

Racism and racial profiling is not only a crime but it causes great distrust and lost respect for the vast majority of good and honest law enforcement officers in our State. A few "bad apples" are spoiling what should be a well deserved reputation for our police and sheriffs. So, please reinsert in Section (3) (b) A violation of this section is a class A misdemeanor. Also include Sec. (3) (c) This section shall be a part of and supplemental to the Kansas criminal code.

Without any penalties or accountability, the few law enforcement officers who are racially profiling will continue their criminal behavior. Other States have put into law the consequences, so it is time to make it clear in SB77 that the Legislature is serious and insist that racial profiling end in our State.

Respectfully Submitted,

*Walt Chappell*

Walt Chappell, Ph.D.

Coordinator

**RESOURCE CENTER**

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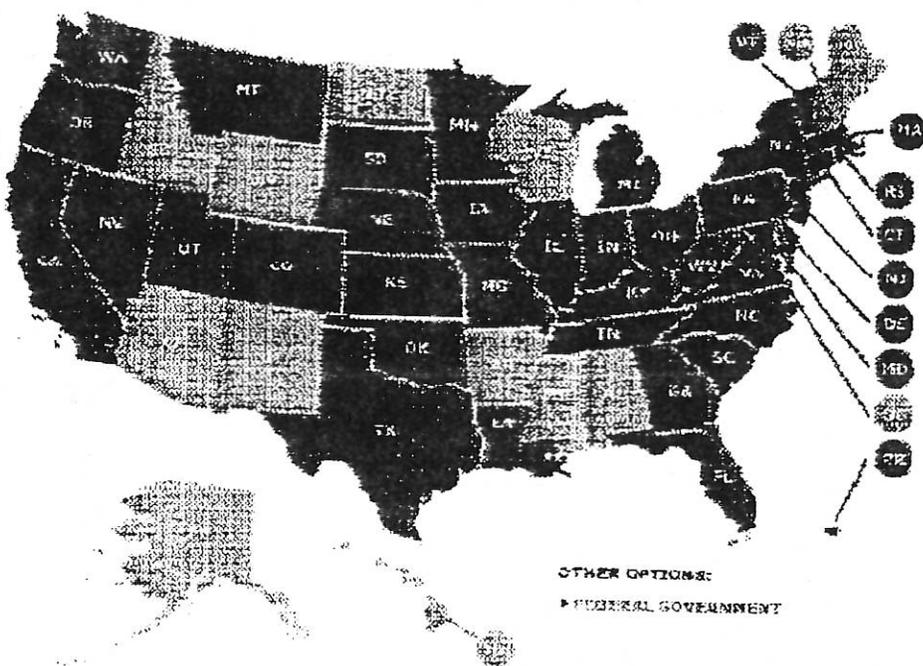
GENERAL AND ARCHIVES

**DATA COLLECTION RESOURCE CENTER**

**PLANNING, TRAINING, AND IMPLEMENTATION JURISDICTIONS CURRENTLY COLLECTING DATA**

Click on one of the following states to learn about jurisdictions currently collecting data in that state.

Legislation Enacted, Data Collected Required    
  Voluntary Data Collection    
  No Data Collection



**SPOTLIGHT**

**NEW! INTERACTIVE REPORT GENERATOR**

The Racial Profiling Data Collection Resource Center is pleased to announce a new feature of the website. An interactive report generator has been added to the Reporting & Analysis section. The generator contains the most comprehensive information on traffic stop reports to date. This new utility now allows users to quickly generate customized tables that display easy to read data extracted from various traffic stop study reports. The generator provides users with easily accessible and stream-lined data from these reports, as well as the ability to access individual reports from within the data table. [Click here](#) to access the report generator!

**WHAT'S NEW**

**ARKANSAS: TASK FORCE URGES RACIAL PROFILING SITE**

A piece of legislation mandated the creation of a racial profiling task force in Arkansas in 2003. The task force recently released a report summarizing their findings after several public forums over the past year. The committee recommended the creation of a centralized database to track complaints of profiling from citizens. Among the recommendations issued by the task force were sensitivity training

Law enforcement agencies in hundreds of jurisdictions around the country have begun to collect information about the stops and searches they conduct. The pages on this website contain records of those jurisdictions who are collecting data based on legislation, executive directives, voluntary efforts, policy decisions, and court settlements or consent decrees. Each record contains the jurisdiction's reason for collection, what data needs they included in collection, and related documents and materials about the collection process. The documents and materials include links to legislation, policies, reports analyzing the data, materials related to training programs or technology used as part of the data collection system, and articles explaining how data collection has affected the departments and the communities.

U.S. Department of Justice  
Office of Justice Programs



## Bureau of Justice Statistics Fact Sheet

December 2001, NCJ 191158

# Traffic Stop Data Collection Policies for State Police, 2001

As of March 2001, 16 of the Nation's 49 State law enforcement agencies whose primary duties include highway patrol required all their officers with traffic patrol duties to record the motorists' race and ethnicity for each traffic stop. The 16 State police agencies collecting these data represent an increase of 7 States since 1999.\*

An additional 23 State police agencies required their officers to collect race and ethnicity data under more limited circumstances, such as if an arrest occurred, or if force was used. Ten State police agencies did not require traffic patrol officers to collect race data for any stops.

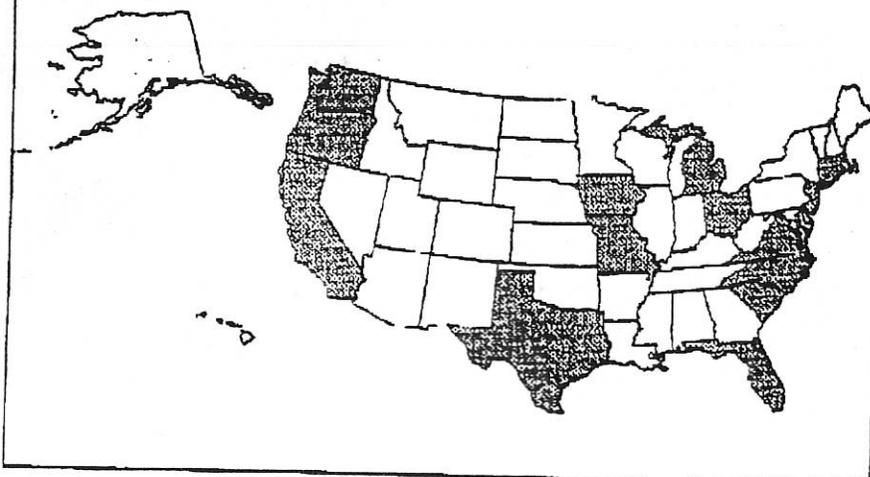
A few States reported that only some of their specialized units were required to collect race data. For example, Oklahoma and Idaho required only their criminal interdiction teams to collect race data.

### State laws prohibit racial profiling

In addition to the increase in the number of States that required State law enforcement agencies to collect race and ethnicity statistics during traffic stops, States have recently enacted statutes that prohibit law enforcement officers from engaging in racial profiling (California, Connecticut, Kentucky, Oklahoma, and Rhode

\*BJS undertook a similar data collection project in 1999. See *Traffic Stop Data Collection Policies for State Police, 1999*, February 2000, NCJ 180776.

In March 2001, 16 State police agencies required all their officers to collect race and ethnicity data for all traffic stops, an increase from 9 State agencies in 1999



Island). These statutes generally defined racial profiling as stopping a person based solely on race or ethnicity instead of an individualized suspicion arising from the person's behavior. (See *Selected State statutes* on page 3.)

Certain States have instituted new data collections as concerns over racial profiling have arisen in the media, the courts, and State legislatures. State police agencies (most frequently

designated as State police or State highway patrol) across the Nation have different procedures for collecting data on the race and ethnicity of drivers involved in a traffic stop.

To catalog State police data collection policies, BJS contacted each of the 49 State agencies. Hawaii and the District of Columbia do not have a formal State police agency.

12-4

### State policies for collecting racial/ethnic data during traffic stops

As of March 2001, 16 of the 49 State police agencies with patrol duties required officers to collect the race or ethnicity of all drivers involved in a traffic stop (table 1). Thirty-seven State agencies collected the race or ethnicity of motorists when an arrest was made, and 22 agencies did so following a vehicle or occupant search. Ten State police agencies — Arizona, Arkansas, Idaho, Illinois, Minnesota, Montana, New Mexico, North Dakota, Oklahoma, and Utah — did not require their State troopers to collect race or ethnicity data.

Race or ethnicity data were required to be collected by all State police officers under the following traffic stop-related scenarios:

*Arrest from a traffic stop* — 37 agencies collected the arrestee's race/ethnicity.

*Traffic citation* — 34 States recorded the race/ethnicity of the driver during stops in which a traffic citation was issued.

*Use-of-force encounter during traffic stop* — 28 State agencies collected the motorist's race/ethnicity when force was used during the stop.

*Search of vehicle or occupant* — 22 State police agencies collected the driver's race/ethnicity if a search was conducted. (See table 3 for complete State-by-State listings.)

### Mandate for data collection

In some cases State law enforcement agencies have been mandated to implement their data collection practices by State law or Federal consent decree, while other data collection policies were enacted because of an internal State police policy.

Of the 16 State police agencies with procedures that require the collection of race data for each stop, 7 agencies

responded to a State law or executive order, 7 implemented an internal policy, 1 (Maryland) responded to both an internal policy and a court action, and 1 State police agency (New Jersey) was acting in accordance with both internal police agency policy and a Federal consent decree.

A number of States have indicated that the legislature was considering whether to require State law enforcement officers to collect data on the race of the motorist during traffic stops.

Among the 23 State police agencies that required the collection of race data on some, but not all, stops, most (20) did so as part of an internal police policy.

### Collection of additional data items

For those State police agencies which were required to collect race and ethnicity data at least under some circumstances, other data elements were also frequently collected (table 2).

In addition to race/ethnicity data, over half of the State police agencies required law enforcement officers to record one or more of the following: the identity of the officer; the gender and age of the motorist; the type of enforcement action taken; and the date, time, and location of the traffic stop.

### Data collection format

The most common format, used by 34 agencies, to collect race or ethnicity of motorists was the paper-based form filled out by the officer at the scene. Two agencies reported that they verbally relayed the information to a radio communication dispatch.

One agency reported using a paper-based system in conjunction with mounted video surveillance.

Most agencies (25) relied on their officers' observation of the driver's race or ethnicity as the method of determining the race or ethnicity of the motorist.

### Accessibility of the data on race/ethnicity

Among the 39 State police agencies that collected race information on at least some kinds of traffic-related stops, more than half (25 States) stored these data electronically.

A dozen agencies which collected race data linked their traffic stop data to other law enforcement information systems such as dispatch information, citations, officer logs, or bureau of motor vehicle records.

**Table 1. State police agencies, by driver data collection protocols, 2000**

Circumstances under which race of the driver is collected —	States collecting data	
	Number of agencies	Percent of all agencies
All agencies	49	100%
All stops*	16	33%
Citations for traffic violations	34	68%
Use of force	26	57%
Arrests arising from traffic stops	37	78%
Vehicle/occupant searches	22	45%
No collection system in place	10	21%

\*The State police of Idaho and Oklahoma required only those officers in the criminal interdiction unit to collect the driver's race/ethnicity for all traffic stops.

**Table 2. State police agencies that required the collection of information in addition to the driver's race and ethnicity, 2001**

Data item	Number of States collecting data
Type of enforcement action taken	32
Date, time, and location of stop	30
Gender and age of motorist	29
Identity of officers involved in stop	26
Search conducted	24
License number of vehicle stopped	23
Initial reason for the stop	23
Use of force	20
Description of vehicle stopped	19

Sixteen of the 39 State police agencies that collected race data under at least some traffic stop circumstances, made their data available to the public — including 11 of the agencies which required their State troopers to collect data on all stops.

Eighteen agencies reported the use of a standardized collection form for data on race of motorists stopped.

**Selected State statutes for collection of data on race/ethnicity**

- Connecticut: Conn. Gen. Stat. § 54-1m (2001).
- Massachusetts: 2000 Mass. Legis. Serv. Ch 22A (West)
- Missouri: Mo. Ann. Stat. §§ 304.670, 590.650 (2001).
- North Carolina: N.C. Gen. Stat. § 114-10 (2001).
- Rhode Island: R.I. Gen. Laws § 31-21.1-4 (2001).
- Texas: 2001 Tex. Sess. Law Serv. Ch. 947 (Vernon).

**Selected State laws that prohibit racial profiling**

- California: Cal. Penal Code § 13519.4 (2001).
- Connecticut: Conn. Gen. Stat. § 54-11 (2001)
- Kentucky: Ky. Rev. Stat. Ann. § 15A.195 (2001).
- Oklahoma: Okla. Stat. Ann. Title 22, § 34.3 (2001).
- Rhode Island: R.I. Gen. Laws § 31-21.1-2 (2001).

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Lawrence A. Greenfeld, Acting Director.

This fact sheet was prepared by BJS staff: Kevin Strom, Peter Brien, and Steven Smith. Matthew Hickman provided review. Tina Dorsey produced and edited the report. Jayne Robinson prepared the report for publication.

December 2001, NCJ 191158

**Table 3. Circumstances during traffic stops in which State police agencies required troopers to collect race data about motorists, by State, 2001**

	All stops	Citations	Arrests	Searches	Use of force	No stops
Alabama		■	■	■	■	
Alaska		■	■			
Arizona						■
Arkansas						■
California	■	■	■	■	■	
Colorado		■	■	■	■	
Connecticut	■	■	■	■	■	
Delaware		■	■	■	■	
Florida	■	■	■	■	■	
Georgia					■	
Idaho						■
Illinois						■
Indiana		■	■	■	■	
Iowa	■	■	■	■	■	
Kansas		■	■	■	■	
Kentucky		■	■	■	■	
Louisiana		■	■	■	■	
Maine		■	■			
Maryland		■	■	■	■	
Massachusetts	■	■	■	■	■	
Michigan	■	■	■	■	■	
Minnesota						■
Mississippi		■	■	■	■	
Missouri	■	■	■	■	■	
Montana						■
Nebraska		■	■	■	■	
Nevada		■	■	■	■	
New Hampshire		■	■			
New Jersey	■	■	■	■	■	
New Mexico						■
New York		■	■	■	■	
North Carolina	■	■	■	■	■	
North Dakota						■
Ohio	■	■	■	■	■	
Oklahoma						■
Oregon	■	■	■	■	■	
Pennsylvania		■	■	■	■	
Rhode Island	■	■	■	■	■	
South Carolina	■	■	■	■	■	
South Dakota						■
Tennessee		■	■	■	■	
Texas	■	■	■	■	■	
Utah						■
Vermont						
Virginia	■	■	■	■	■	
Washington	■	■	■	■	■	
West Virginia		■	■	■	■	
Wisconsin		■	■	■	■	
Wyoming		■	■	■	■	

Note: Hawaii and the District of Columbia do not have a formal State police agency.

12-6

## Racial Profiling is Seen as Widespread, Particularly Among Young Black Men

*More than four out of 10 black Americans say they have been the victims of racial profiling, including almost three-quarters of young black men*

*by Frank Newport*

GALLUP NEWS SERVICE – 12/9/99

PRINCETON, NJ -- The majority of white, as well as black, Americans say that racial profiling is widespread in the United States today. In a new Gallup Poll Social Audit on Black/White Relations in the U.S., 59% of a sample of national adults aged 18 and older say that racial profiling is widespread. Racial profiling is defined in the question as the practice by which "police officers stop motorists of certain racial or ethnic groups because the officers believe that these groups are more likely than others to commit certain types of crimes." This description of racial profiling definition, which is neutral in tone, leaves open the possibility that some might see racial profiling in positive terms. This, however, is not the case: 81% percent of the American public say they disapprove of the practice.

There are few regional differences in the perception of the incidence of racial profiling, although it is more likely to be considered widespread by those living in urban areas than those living in suburban and rural America.

The biggest differences regarding racial profiling observed in the survey are by race. Seventy-seven percent of blacks say that racial profiling is widespread, compared to 56% of whites. Eighty percent or more of both whites and blacks disapprove of the practice, however.

### **Racial Profiling**

*"It has been reported that some police officers stop motorists of certain racial or ethnic groups because the officers believe that these groups are more likely than others to commit certain types of crimes. Do you believe that this practice, known as "racial profiling," is widespread or not?"*

	Widespread	Not Widespread	Don't Know
	%	%	%
TOTAL	59	34	7
Whites	56	38	6
Blacks	77	16	7

### ***More than Four out of 10 Blacks Have Been Stopped Because of Their Race***

Just how widespread is racial profiling? Americans were asked if they had ever been stopped just because of their race or ethnic background. More than four out of ten blacks responded "yes." For blacks, such incidents are not isolated events. About six out of ten of those who say they have been stopped because of their race say it has occurred three or more times, including 15% who say it has happened eleven or more times:

*"Have you ever felt that you were stopped by the police just because of your race or ethnic background?"*

	Yes	No	Don't Know
	%	%	%
TOTAL	11	89	--
Whites	6	94	--
Blacks	42	57	1

*"How many times do you feel this has happened to you in your lifetime?"  
 (Base: Those who felt they were stopped by the police because of race/ethnicity)*

	<b>1-2 times</b>	<b>3-5 times</b>	<b>6-10 times</b>	<b>11 or more times</b>
	%	%	%	%
<b>TOTAL</b>	37	30	16	15
<b>Whites</b>	53	17	17	13
<b>Blacks</b>	27	39	15	15

***Almost Three-Quarters of Young Black Men Report Having Been Stopped by Police Because of Their Race***

The incidence of having been stopped on the basis of skin color or ethnic background varies widely by age and gender within the black population in this country. In particular, it is black men, and especially *young* black men, aged 18-34, who are most likely to report having been stopped because of their race:

*"Have you ever felt that you were stopped by the police just because of your race or ethnic background?"*

	<b>Yes</b>	<b>No</b>	<b>Don't Know</b>
	%	%	%
<b>Men</b>			
18-34	72	28	--
35-49	60	40	--
50+	32	65	3
<b>Women</b>			
18-34	40	60	--
35-49	34	65	1
50+	14	82	4

Almost three-quarters of young black men say believe they have been stopped by police because of their race or ethnic background. This can be compared to the much smaller number of young black women -- 40% -- who perceive themselves to have been the victim of racial profiling, and with the small percentages of both black women and men ages 50 and older who say they have been stopped because of their race.

There are few differences in these self-reported numbers by education or income among blacks. Well-educated, higher-income blacks are as likely to report being pulled over as those with lower levels of education and lower incomes.

# RACIAL PROFILING STUDY AND SERVICES

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**A Multijurisdictional  
Assessment of Traffic  
Enforcement and Data  
Collection in Kansas**



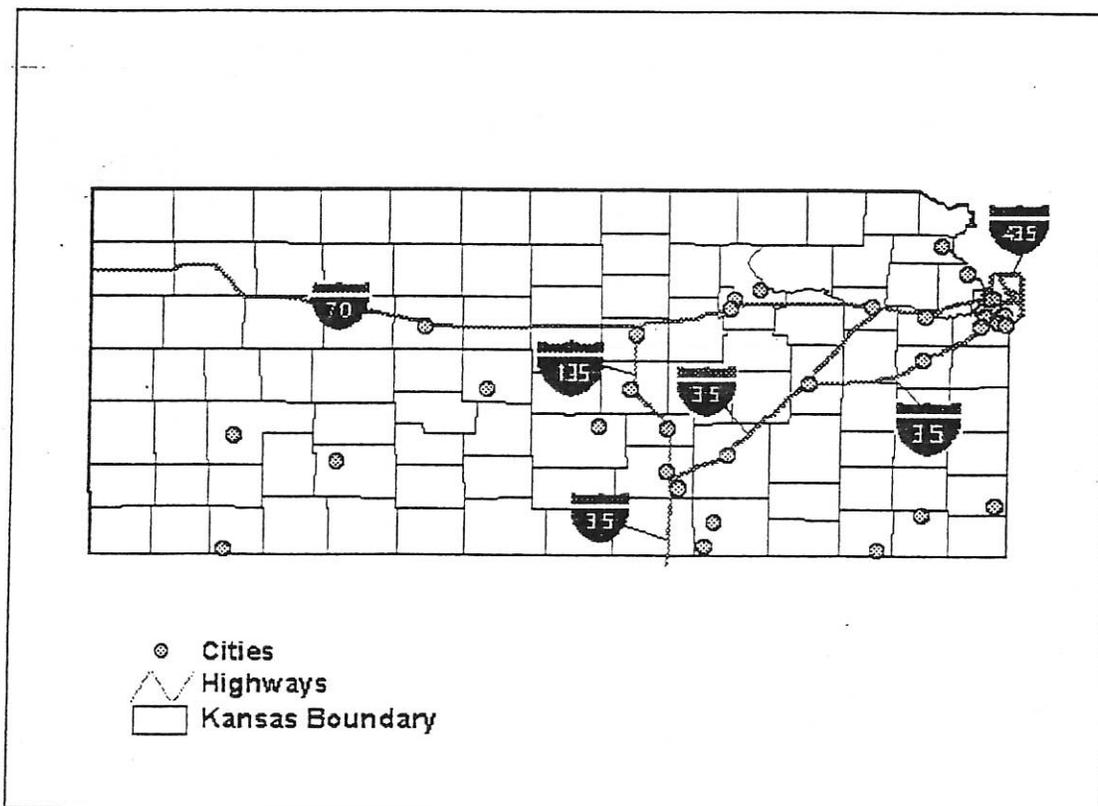


## A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas

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objectives, it was determined that ten agencies would be selected for inclusion in the study.

**Map 1 : State of Kansas: Major Cities & Routes**



In early January 2001, the governor and the attorney general sent a letter to all police agencies in Kansas requesting information on available data relating to racial profiling. On January 18, the first returns of the survey sent to these police agencies were received. From those returns, it was evident that only two departments had sufficient data available to assess racial profiling practices or the lack thereof. It was therefore necessary

## A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas

to reframe the project with one of those two departments, Overland Park, being chosen as a pilot site for the project. The report for Overland Park was submitted in April 2001, and is incorporated into this report. The other departments were given time to collect the data necessary for the study. This extended the timetable for the study, but the plan and logic, which relies on sampling of a city and police activity in a city to reach conclusions, remained the same.

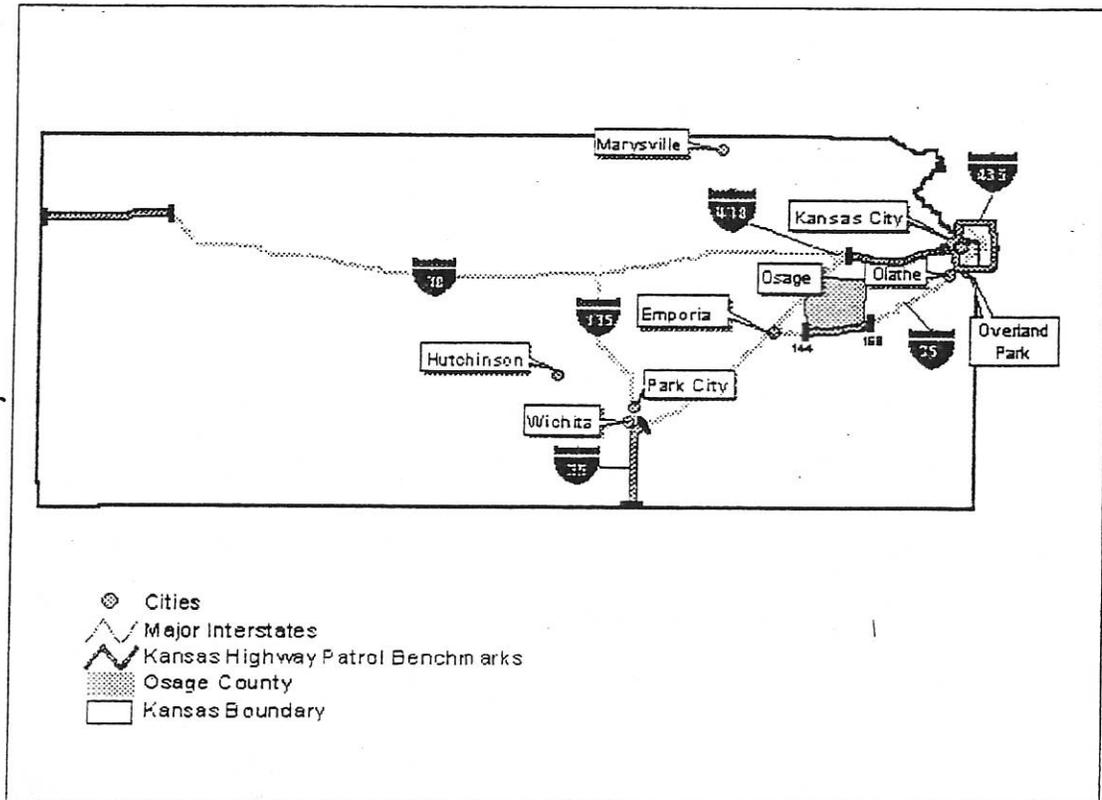
Participation in the study was voluntary and only one department, the Pottawatomie County Sheriffs' Department, declined to participate. When it became apparent that stop data were not available from the vast majority of departments and thus would have to be collected, the Kansas Highway Patrol funded the procurement of stop-data forms and the study team provided a stop data "train-the-trainer" session at no additional cost.

Given its broad presence throughout the state, the Kansas Highway Patrol was also selected for inclusion in the study. For the remaining eight departments, it was determined that in order to get the best representation of agencies statewide, a stratification would be made based on agency size. Therefore, three agency sizes were established: "large" agencies (more than 150 officers), "medium" agencies (26-149 officers), and "small" agencies (25 or fewer officers). Random selections were made of agencies fitting each category. This random selection allows us to generalize beyond the specific departments studied, to the state as a whole. The following ten agencies participated in the study:

**A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas**

Small	Medium	Large
Marysville Osage County Sheriff <sup>3</sup> Park City	Emporia Hutchinson Olathe	Kansas City Kansas Highway Patrol Overland Park Wichita

**Map 2: State of Kansas Study Sites**



<sup>3</sup> Originally, the Pottawatomie County Sheriffs' Department was selected to participate in the study. However, because of the time requirements that would be necessary, they declined to participate. Therefore, the Osage County Sheriffs' Department was randomly selected from among all other small departments to participate in the study in place of the Pottawatomie County Sheriffs' Department.

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**Table OP-5: County Analysis<sup>26</sup>**

Location	Benchmark N	Benchmark Wyandotte %	Stop N	Stop Wyandotte %	Diff %	Odds Ratio
103 & Antioch	886	3.0	263	3.8	0.8	1.3
119 & Blue Valley	1068	3.9	452	5.1	1.2	1.3
119 & Quivira	996	2.5	278	2.2	-0.3	0.9
75 & Metcalf	1498	12.5	552	16.1	3.6	1.3
95 & Metcalf	1384	11.3	333	8.1	-3.2	0.7
Antioch & Santa Fe	1127	5.4	192	3.6	-1.8	0.7
College & Metcalf	757	4.6	379	8.2	3.6	1.9
Shawnee Mission Parkway & Foster	1348	9.1	87	10.3	1.2	1.1
Highway 69	N/A	N/A	N/A	N/A	N/A	N/A
I-435	N/A	N/A	N/A	N/A	N/A	N/A

**CONCLUSIONS**

It is clear that Blacks are being stopped at a statistically significantly higher rate than their presence in the transient traffic would predict at nine of the ten Overland Park locations studied. The odds ratios at all ten intersections are above 1.0, which constitutes a further indication that Blacks are being targeted for stops. It should be noted that the degree of racial profiling shown here is not as severe as in other places where racial profiling has been assessed. For example, the likelihood that a Black motorist would be stopped on the New Jersey Turnpike by the New Jersey State Police was 4.85 times the likelihood that a non-Black motorist would be stopped. The highest odds ratio here (at Shawnee Mission Parkway and Foster) is about half of that. In other places that have

<sup>26</sup> Benchmarking was not done at the same time as benchmarking for race, sex, and age. Benchmark totals here are uncorrelated with the other benchmark totals. Benchmarking for county tags was not reliable on the two highways.

## A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas

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been assessed, the odds ratios have also been higher than in Overland Park. This is not to say that the Overland Park police do not have a problem with racial profiling, but rather that their problem may not be systemic, and could be the result of a few officers who are contributing to the problem. The mandate of this study was not to look at individual officers. In fact, the Kansas Legislature prohibited identification of individual officers and motorists.

There is little or no evidence of targeting by sex, in spite of the fact that over 63 percent of the stops made by the Overland Park Police Department are of males. The 63 percent male stops, of course, mirrors quite closely the transient population of drivers in Overland Park and does not constitute an apparent concern for the police department. With regard to age, more young drivers are stopped than would be expected by their presence in the transient population. This, of course, may well be the result of new driving skills, driving styles, and other possible factors associated with that age group.

With regard to county of origin for the transient population, the results are quite mixed. In three of the eight locations, police are stopping fewer drivers from Wyandotte County than are in the transient population. In four of the five remaining locations, police stop more drivers from Wyandotte than are in the transient motoring population. The odds ratios are 1.1 to 1.3. At only one benchmarking location does the odds ratio reach problematic levels. Overall, there is no support for the idea that drivers from Wyandotte County are being targeted by the Overland Park police.

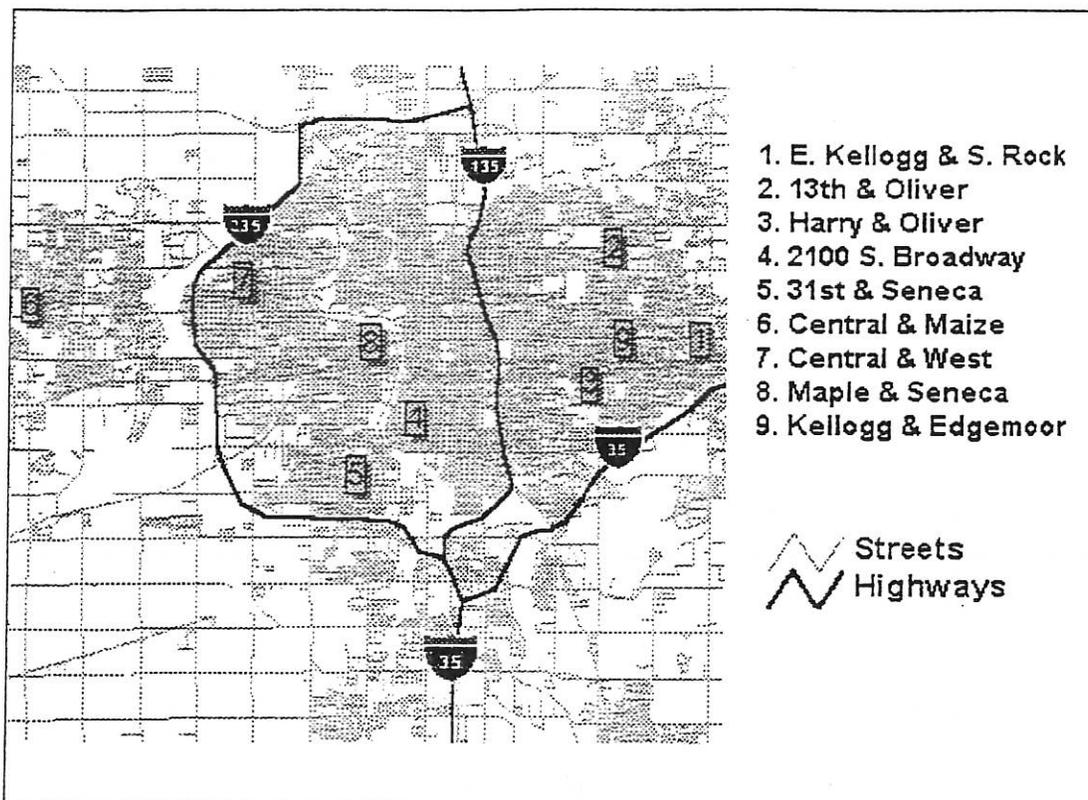
During the course of our work in Overland Park, the research team met with Chief John Douglass and many of his staff. They were extraordinarily cordial and helpful.

## A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas

Chief Douglass has evidenced an interest in issues surrounding racial profiling and in July of 2000 instituted a data collection system in the department that recorded every stop made by the Overland Park police. He has expressed concern about the practice of profiling on the basis of race. The chief and all personnel of the police department cooperated with the project in an exemplary fashion. The commitment to determine whether racial profiling was occurring and to change the situation if it were was quite evident. Lieutenant Alan Sneller was assigned as departmental liaison to the study and was helpful in assisting the project and candid in answering questions about profiling. The department was open to the prospect of determining whether profiling was occurring and taking steps to ameliorate it if it were. Over twenty Overland Park police officers assisted the study in substantial ways and evidenced a commitment to deter profiling. All of this serves as a background to the report, and supports the notion that if racial profiling is occurring in a department where there is widespread antagonism to the practice, then it may exist even more egregiously in other departments.

## A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas

Map 5: Wichita Survey Locations



Wichita has an existing program of data collection that has been ongoing since January 2001. Therefore, it was possible for us to use the data collection program in Wichita with the addition of exact location. The ongoing data collection program merely identifies stops as being within a specific geographic area that is too large to be useful in locating the stops within an appropriate perimeter for the nine benchmark locations. After some discussion, the department chose to add a line to their data collection form, which was to be filled out if a stop was within three blocks of one of 20 locations in the city. The nine locations benchmarked were included in that 20, but others were added so

**A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas**

that there would not be too much attention called to the specific locations that were being analyzed.

**RACE**

Table W-1 presents the data for race of drivers benchmarked and race of drivers stopped by the Wichita Police Department at the nine locations benchmarked. The first column in Table W-1 refers to the location of the stops. The second column refers to the

**Table W-1: Race Analysis<sup>27</sup>**

Location	Bench- mark N	Bench- mark Black %	Stop N	Stop Black %	Diff %	Odds Ratio
E. Kellogg & S. Rock	2598	8.3	203	13.3	5.0	1.68
13 <sup>th</sup> & Oliver	1600	42.2	137	48.2	6.0	1.27
Harry & Oliver	2188	22.4	151	37.1	14.7	2.05
2100 S. Broadway	1062	8.1	167	14.4	5.3	1.91
31 <sup>st</sup> & Seneca	2111	5.4	130	9.2	3.8	1.77
Central & Maize	1158	1.6	35	2.9	1.4	1.83
Central & West	1395	4.5	77	10.4	5.9	2.46
Maple & Seneca	1429	7.6	64	3.1	- 4.5	.38
Kellogg & Edgemoor	1691	10.6	178	19.1	8.5	2.00

number of motorists (N) recorded in the benchmark. The next column refers to the percentage of Blacks in the benchmark data. The next column refers to the number (N) of stops in the existing stop data. The next refers to the percentage of Blacks stopped. The next refers to the percent difference, and the final column refers to the odds ratio of being

<sup>27</sup> Note that the N (Numbers) for the Benchmark and Stop data are race identified numbers and may differ slightly from the N for sex and age, as there were different percentages of sex and age identified drivers.



## **A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas**

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changes in the way the department enforces traffic laws, including the decentralization of traffic activities and elimination of the motorcycle unit, it was agreed that this might result in a reduction in the number of stops made by the Wichita police, but would not affect the four variables that were measured in this study.

### **CONCLUSIONS**

The Wichita Police Department's efforts to address racial profiling were underway well before this study commenced. In addition to working with the community, the department began data collection in January 2001, and, with the assistance of Wichita State University, has analyzed their data and made it public. The Wichita Police Department comes as close to a department that is not engaging in racial/ethnic profiling as has been seen in studies of other police agencies (*State of New Jersey v. Soto*,<sup>31</sup> *Wilkins v. Maryland State Police*,<sup>32</sup> *Arizona v. Folkes*,<sup>33</sup> Lamberth 2001).

The effort that the Wichita Police Department is making to fight against racial/ethnic profiling is paying off, as evidenced by stops of Black motorists that are

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<sup>31</sup> 734 A.2d 350, Superior Court of New Jersey (1996).

<sup>32</sup> Civil Action No. CCB-93-483, Maryland Federal District Court (1993).

<sup>33</sup> S-0300-CR-99000631, Coconino County Superior Court (1999).

**A Multijurisdictional Assessment of Traffic  
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moderately higher than would be expected and are clearly at the lower range of the benign area for Hispanics. This result with regard to Hispanics is particularly impressive because, as this report indicates, Hispanics appear to be targeted more than Blacks in Kansas, particularly in the central portion of the state.

## A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas

### CONCLUSIONS

The data from Hutchinson should be interpreted with extreme caution. The very important issue of why there were so few stops during the period of the study was totally unexplainable by the representatives of the police department. Based on the citation data that the researchers had obtained from approximately a year before the study and again in the two months immediately preceding the study, there should have been at least three times more stops at the benchmark locations. Therefore, there is a possibility that there may have been a deliberate slow down in stops made by officers during the time period of the study. This, if it occurred, would seriously compromise the data and is the reason that extreme caution should be used in interpreting these data. However, even in these circumstances, the overall odds ratios for both Black and Hispanic motorists are 1.54 and 1.34. In the researchers' experience, where questions about the reliability of police stop data have been raised, there has uniformly been an over-reporting of non-minority stops. Therefore, it is likely that these odds ratios for Hutchinson are the lower limits for what might have been the case had we had data for all of the stops with race and ethnicity recorded.

Hutchinson is the second department that misinterpreted the training given about how race/ethnicity should be recorded. Even though a representative of the department informed the state's project director that he understood that those data were to be recorded from the totality of the stops, the officers were trained to record those data at the moment they decided to make the stop. However, the officers were taught to record the age and sex of the motorist at the conclusion of the stop. This anomaly was also

## A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas

unexplained by HPD representatives. We should note that even if the Hutchinson police had recorded every stop properly with regard to race and ethnicity, the extraordinarily low number of stops recorded would have cast doubt upon the reliability of the data.

Given the totality of the circumstances of the data collection in Hutchinson, no conclusions can be drawn about racial/ethnic profiling by the Hutchinson Police Department. As with Kansas City, we would recommend that Hutchinson collect stop data at some time in the future to determine if racial or ethnic profiling is occurring.

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### ESTABLISHING THE CONTEXT

When researchers met with the sheriff, his only explanation for the disparities was the possibility that Hispanic motorists would more likely be stopped for equipment violations. His reason for this was that there is a fairly large group of Hispanic motorists who journey to either Topeka or Kansas City and purchase old cars to take to Mexico and resell. He reasoned that these old cars might be the subject of more stops than would be expected on the basis of Hispanics in the transient population. We checked the Osage County stop data and found that none of the Hispanic motorists stopped at the benchmark locations was stopped for equipment violations. Therefore, the excessive stops of Hispanic motorists are unexplained and are likely the result of targeting.

### CONCLUSIONS

The Osage County Sheriff's Department shows disparities with regard to both race and ethnicity. The race disparities, because they occur at the location with the fewest stops and involve a small number of stops of Black motorists, are not conclusive. However, it is quite clear that there are large disparities with regard to Hispanic motorists at the two locations with the largest number of stops. The explanation suggested by the department was not supported by the data. This disparity is totally unexplained. The benchmark location at Highway 268/31/75 is the most variable location, but is also the one with the fewest stops. There is evidence of profiling of Blacks and substantial evidence of profiling of Hispanics by the Osage County Sheriff's Department.

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### CONCLUSIONS

The KHP was unique in this study in that there were multiple locations that could have been fruitfully assessed that were not. As was previously mentioned, command staff from the various areas did not select just those areas where the most stops were made; rather, they selected areas for study where they had concerns about possible profiling occurring. It is clear that their concerns were valid. There are large and consistent odds ratios with regard to race and ethnicity.

It would be simple, yet inaccurate, to compare the Kansas Highway Patrol to other departments in this study. Highway patrols have different responsibilities than do city departments and, therefore, the only valid comparisons are of similarly situated departments, i.e., other highway patrols. While there have been large-scale studies of other highway patrols in the country, i.e., Maryland, Arizona, and New Jersey (*Wilkins v. Maryland State Police*,<sup>63</sup> *Arizona v. Folkes*,<sup>64</sup> *State of New Jersey v. Soto*<sup>65</sup>), only one other study is of stops versus traffic in which odds ratios are reported. That study was done in New Jersey (*State of New Jersey v. Soto*<sup>66</sup>). In that study, the New Jersey State

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<sup>63</sup> Civil Action No. CCB-93-483, Maryland Federal District Court (1993).

<sup>64</sup> S-0300-CR-99000631, Coconino County Superior Court (1999).

<sup>65</sup> 734 A.2d 350, Superior Court of New Jersey (1996).

<sup>66</sup> *Id.*

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Police were stopping Black motorists at a considerably higher rate than are the troopers from the Kansas Highway Patrol. The odds ratio for the stopping of Blacks on the New Jersey Turnpike was 4.85, which is considerably higher than the 3.03 shown for the KHP.

Furthermore, it should again be emphasized that the KHP used the study to probe areas about which they had concerns. Nonetheless, there are serious disparities shown by the KHP in the stopping of both Black and Hispanic motorists.

## Racial Profiling is Seen as Widespread. Particularly Among Young Black Men

*More than four out of 10 black Americans say they have been the victims of racial profiling, including almost three-quarters of young black men*

*by Frank Newport*

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The biggest differences regarding racial profiling observed in the survey are by race. Seventy-seven percent of blacks say that racial profiling is widespread, compared to 56% of whites. Eighty percent or more of both whites and blacks disapprove of the practice, however.

### **Racial Profiling**

*"It has been reported that some police officers stop motorists of certain racial or ethnic groups because the officers believe that these groups are more likely than others to commit certain types of crimes. Do you believe that this practice, known as "racial profiling," is widespread or not?"*

	Widespread	Not Widespread	Don't Know
	%	%	%
TOTAL	59	34	7
Whites	56	38	6
Blacks	77	16	7

### ***More than Four out of 10 Blacks Have Been Stopped Because of Their Race***

Just how widespread is racial profiling? Americans were asked if they had ever been stopped just because of their race or ethnic background. More than four out of ten blacks responded "yes." For blacks, such incidents are not isolated events. About six out of ten of those who say they have been stopped because of their race say it has occurred three or more times, including 15% who say it has happened eleven or more times:

*"Have you ever felt that you were stopped by the police just because of your race or ethnic background?"*

	Yes	No	Don't Know
	%	%	%
TOTAL	11	89	--
Whites	5	94	--
Blacks	42	57	1

12-25



*"How many times do you feel this has happened to you in your lifetime?"  
 (Base: Those who felt they were stopped by the police because of race/ethnicity)*

	1-2 times	3-5 times	6-10 times	11 or more times
	%	%	%	%
TOTAL	37	30	16	15
Whites	53	17	17	13
Blacks	27	39	15	15

***Almost Three-Quarters of Young Black Men Report Having Been Stopped by Police Because of Their Race***

The incidence of having been stopped on the basis of skin color or ethnic background varies widely by age and gender within the black population in this country. In particular, it is black men, and especially young black men, aged 18-34, who are most likely to report having been stopped because of their race:

*"Have you ever felt that you were stopped by the police just because of your race or ethnic background?"*

	Yes	No	Don't Know
	%	%	%
<b>Men</b>			
18-34	72	28	--
35-49	60	40	--
50+	32	65	3
<b>Women</b>			
18-34	40	60	--
35-49	34	65	1
50+	14	82	4

Almost three-quarters of young black men say believe they have been stopped by police because of their race or ethnic background. This can be compared to the much smaller number of young black women -- 40% -- who perceive themselves to have been the victim of racial profiling, and with the small percentages of both black women and men ages 50 and older who say they have been stopped because of their race.

There are few differences in these self-reported numbers by education or income among blacks. Well-educated, higher-income blacks are as likely to report being pulled over as those with lower levels of education and lower incomes.

WICHITA STUDY OF 37,454 STOPS  
BLACKS 2XS MORE LIKELY TO BE STOPPED

When compared to their proportional representation throughout the community, Black citizens are stopped at disproportionately higher rates than White, Asian, Native American and Other Race citizens. Based on the U.S. Census 2000 data, Black citizens represent 11.4% of the overall population of the city of Wichita and 20.7% of the stops (See Table 3.5).

Table 3.5 Race of citizens stopped

Race	Percent of population	Number of stops	Percent or stops
Asian	4.0	1081	2.9
<b>Black</b>	<b>11.4</b>	<b>7743</b>	<b>20.7</b>
Native American	1.2	104	.3
White	75.2	26618	71.1
Other Race	8.2	1853	4.9
Not reported	-	55	.1
Total	100	37454	100

This level of disparity does not appear evident among the Hispanic community. Based on the U.S. Census 2000 data, Hispanic citizens (of all races) represent 9.6% of the overall population of the city of Wichita and 9.2% of the stops (See Table 3.6).

\*\*\*\*\*

(As reported on page 18 in the Wichita Police Department Stop Study from data gathered between January through June of 2001.)

City of Wichita  
City Council Meeting  
November 28, 2000

Agenda Report No. 00-1163.

To: Mayor and City Council  
Subject: Racial Profiling  
Initiated: Police Department  
Agenda: New Business

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**Recommendation:** Endorse the program.

**Background:** In May 2000, Mayor Knight requested information regarding the issue of racial profiling. At that time, the following goal was created: "Increase the trust between the citizens of Wichita and the Wichita Police Department, by focusing on the issue of racial profiling.

**Analysis:** Old data has been inconclusive in the department's study of profile type stops:

- drivers license information does not include race
- reasons for officer-citizen stops were not articulated
- times when people were stopped without receiving a citation were not documented

Because of these shortcomings of the current system, the Wichita Police Department created a committee comprised of both citizens and department employees to develop a data collection process for pedestrian and traffic stops. The Data Collection committee suggests the use of a single page form for initial data collection by officers and employees of the Wichita Police Department and Airport Safety Officers. In order to accurately and efficiently enter and store the data collected the committee suggests the use of an optical scan system. This proposal represents the most accurate and currently feasible way to collect the data needed.

**Financial Considerations:** The cost of the Opscan 3 system to capture the data (computer software, and forms) is \$10,195. This system will enable the Wichita Police Department capture the aforementioned data for the next six months. Funds are available from 2000 budget year unused salaries.

**Legal Considerations:** The City of Wichita Law Department has reviewed and approved the proposed data collection format and draft form.

**Recommendations/Actions:** It is recommended that the City Council endorse the program.

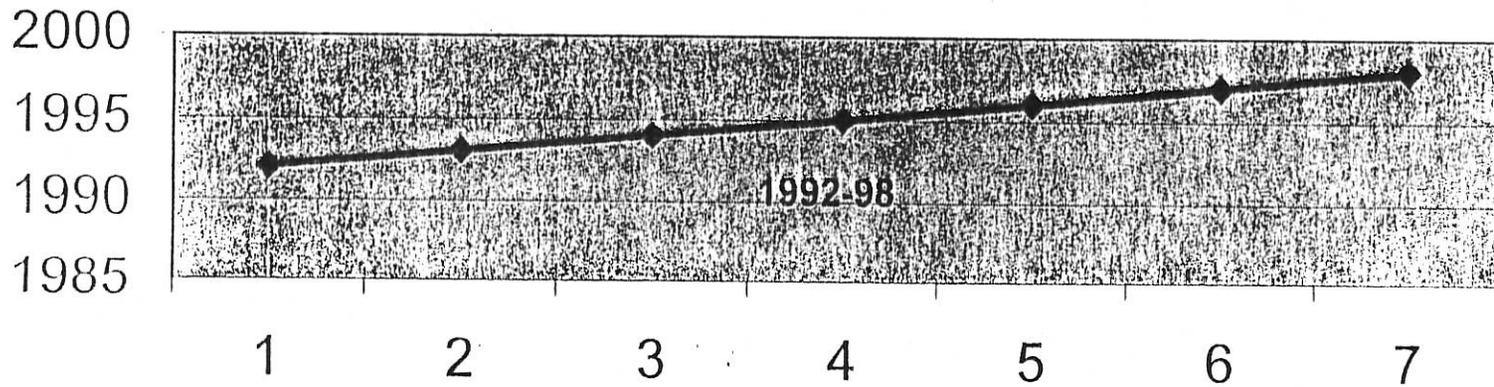
12-28

*TOTAL WICHITA MUNICIPAL COURT REVENUE  
REPORTED BY WICHITA BUDGET OFFICE*

12-29

1992	1993	1994	1995	1996	1997	1998
\$ 3,109,995	\$ 4,091,866	\$ 4,089,170	\$ 4,678,628	\$ 5,714,735	\$ 6,537,205	\$ 9,070,183

**300% INCREASE IN WICHITA MUNICIPAL COURT  
REVENUE IN 7 YEARS**



12-30

# 1999 SURVEY OF MINORITIES IN WICHITA MUNICIPAL COURT

Date	Crt. Rm.	Male	Female	<25	26-45	>46	Black	Hispanic	Asian	White	% Minority
02/24/1999	Traffic	33	6	23	13	3	13	3	3	20	
03/01/1999	Traffic	25	14	24	15	0	14	9	0	16	
03/03/1999	Traffic	12	6	8	7	3	6	4	0	8	
Subtotal	Traffic	70	26	55	35	6	33	16	3	44	
%		<b>73%</b>	<b>27%</b>	<b>57%</b>	<b>36%</b>	<b>5%</b>	<b>34%</b>	<b>17%</b>	<b>3%</b>	<b>46%</b>	
% Minority	<b>Traffic</b>										<b>54%</b>
03/01/1999	Rm. A	28	12	19	20	1	13	5	2	20	
03/01/1999	Rm. C	11	14	8	13	4	12	1	0	12	
03/03/1999	Rm. A	13	10	4	19	0	10	2	0	11	
Subtotal	Mun. Crt.	52	36	31	52	5	35	8	2	43	
%		<b>59%</b>	<b>41%</b>	<b>35%</b>	<b>59%</b>	<b>6%</b>	<b>40%</b>	<b>9%</b>	<b>1%</b>	<b>49%</b>	
% Minority	<b>Mun. Crt.</b>										<b>51%</b>
03/01/1999	Clerk's Off.	27	16	18	20	5	25	7	0	11	
03/03/1999	Clerk's Off.	16	4	11	6	3	12	0	0	8	
Subtotal	Clerk's Off.	43	20	29	26	8	37	7	0	19	
%		<b>68%</b>	<b>32%</b>	<b>46%</b>	<b>41%</b>	<b>13%</b>	<b>59%</b>	<b>11%</b>	<b>0%</b>	<b>30%</b>	
% Minority	<b>Clerk's</b>										<b>70%</b>
TOTALS	247 People	165	82	115	113	19	105	31	5	106	
%		<b>67%</b>	<b>33%</b>	<b>47%</b>	<b>45%</b>	<b>8%</b>	<b>43%</b>	<b>12%</b>	<b>2%</b>	<b>43%</b>	
% Minority	<b>Total</b>										<b>58%</b>

### Wichita Municipal Court Statistics 1999-2002

Case Description	1999	2000	2001	2002
Moving Tickets Filed	86,304	75,375	63,756	79,426
Moving Citations Paid (Guilty)	46,295	40,519	33,920	45,198
Percent of Moving Citations Paid	53.64%	53.76%	53.20%	56.90%
Parking Tickets Filed	24,460	35,878	24,870	20,250
Parking Citations Paid (Guilty)	18,027	26,885	17,899	14,449
Percent of Parking Citations Paid	73.70%	74.93%	72.01%	71.35%
Moving Warrants Received	11,408	10,677	6,169	8,202
Parking Warrants Received	4,450	9,152	4,503	4,075
Traffic Court Cases Filed	18,235	15,689	14,158	15,911
Criminal Court Cases Filed	7,353	8,250	7,620	7,691
Domestic Violence Cases Filed (Criminal)	4,014	4,071	4,398	4,320
Environmental Cases Filed (Criminal)	1,160	1,250	1,656	1,460
DUI Cases Filed (Traffic)	2,403	2,290	2,191	1,864
Source: Wichita Finance Department				

12-31

**Wichita Municipal Court Fines & Fees Revenue 1999-2002**

<b>OL3</b>	<b>Description</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>
7600	Traffic court fines	\$1,752,795	\$1,012,734	\$1,011,309	\$1,205,204
7601	DUI fines	\$278,401	\$256,064	\$269,780	\$286,660
7602	DUI diversion fines	\$101,614	\$118,117	\$115,067	\$200,667
7603	Speeding diversion fines	\$21,453	\$11,431	\$15,834	\$47,413
7604	Criminal court fines	\$599,480	\$548,113	\$544,294	\$401,960
7605	Domestic violence fines	\$13,813	\$7,032	\$25,625	\$88,276
7606	DV deferred judgment fine	\$17,752	\$22,543	\$23,912	\$17,960
7607	Petit larceny deferred judgment fine	\$15,646	\$16,754	\$15,149	\$16,330
7608	Drug court deferred judgment fines	\$9,273	\$21,649	\$15,100	\$10,660
7609	Health, Fire, OCI fines	\$43,852	\$35,422	\$29,877	\$25,736
7620	Traffic court costs	\$949,674	\$471,268	\$420,069	\$464,005
7621	Criminal court costs	\$272,755	\$270,157	\$271,426	\$229,923
7622	Moving tickets court costs	\$779,095	\$832,957	\$727,003	\$994,231
7623	Health, Fire, OCI court costs	\$15,946	\$11,743	\$12,400	\$9,071
7624	Parking late fees	\$39,025	\$66,951	\$48,778	\$40,260
7625	Fire, Health, OCI late fees	\$3,425	\$3,645	\$3,290	\$2,720
7630	Moving violation fines	\$1,673,015	\$1,470,414	\$1,298,047	\$2,086,237
7631	Parking violation fines	\$334,226	\$406,056	\$304,972	\$291,637
7642	Moving ticket warrant fees	\$35,151	\$38,140	\$29,200	\$29,530
7643	Parking ticket warrant fees	\$28,245	\$71,060	\$36,775	\$33,525
7644	Fire, Health, OCI warrant fees	\$5,370	\$4,882	\$3,912	\$2,810
7650	DUI diversion fees	\$59,831	\$68,769	\$62,085	\$50,842
7651	Speeding diversion fees	\$40,037	\$52,330	\$44,575	\$49,425
7652	DV deferred judgment fee	\$68,336	\$81,024	\$78,452	\$69,615
7653	Petit larceny deferred fees	\$27,816	\$24,757	\$23,403	\$24,564
7654	Drug diversion fees	\$32,447	\$16,325	\$22,256	\$47,211
7660	City public defender	\$266,791	\$220,909	\$199,121	\$246,116
7661	CPD fees	\$36,756	\$30,914	\$45,150	\$53,446
7662	Wichita Intervention Program	\$222,487	\$239,402	\$212,700	\$196,082
7663	Docketing fees	\$172,171	\$158,287	\$149,994	\$161,188
7664	DV program fees	\$337,101	\$168,847	\$151,035	\$185,699
7665	Bench warrant/SC fees	\$348,813	\$174,677	\$162,070	\$119,947
7666	Extension fees	\$32,872	\$21,732	\$12,901	\$20,093
7667	Probation fees	\$75,095	\$70,108	\$78,744	\$56,058
7668	Miscellaneous fees	\$78,983	\$41,273	\$36,778	\$31,538
7669	Expungement fees	\$4,550	\$2,450	\$4,350	\$4,800
7670	UA test fees	\$13,900	\$14,518	\$17,210	\$13,268
7671	Fingerprint fees	\$39,698	\$926	\$20,774	\$19,111
9040	Spider - Sedgwick County	\$106			
9179	Plant equity fees	\$1,500			
9840	Cash over (short)	\$2,349	\$613	\$494	\$1,024
<b>YEARLY TOTALS</b>		<b>\$8,846,734</b>	<b>\$7,083,763</b>	<b>\$6,542,920</b>	<b>\$7,834,841</b>

WICHITA STUDY OF 37,454 STOPS  
BLACKS 2XS MORE LIKELY TO BE STOPPED

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\*\*\*\*\*

(As reported on page 18 in the Wichita Police Department Stop Study from data gathered between January through June of 2001.)



City of Wichita  
City Council Meeting  
November 28, 2000

Agenda Report No. 00-1163.

**To:** Mayor and City Council  
**Subject:** Racial Profiling  
**Initiated:** Police Department  
**Agenda:** New Business

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**Recommendation:** Endorse the program.

**Background:** In May 2000, Mayor Knight requested information regarding the issue of racial profiling. At that time, the following goal was created: "Increase the trust between the citizens of Wichita and the Wichita Police Department, by focusing on the issue of racial profiling.

**Analysis:** Old data has been inconclusive in the department's study of profile type stops:

- drivers license information does not include race
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Because of these shortcomings of the current system, the Wichita Police Department created a committee comprised of both citizens and department employees to develop a data collection process for pedestrian and traffic stops. The Data Collection committee suggests the use of a single page form for initial data collection by officers and employees of the Wichita Police Department and Airport Safety Officers. In order to accurately and efficiently enter and store the data collected the committee suggests the use of an optical scan system. This proposal represents the most accurate and currently feasible way to collect the data needed.

**Financial Considerations:** The cost of the Opscan 3 system to capture the data (computer software, and forms) is \$10,195. This system will enable the Wichita Police Department capture the aforementioned data for the next six months. Funds are available from 2000 budget year unused salaries.

**Legal Considerations:** The City of Wichita Law Department has reviewed and approved the proposed data collection format and draft form.

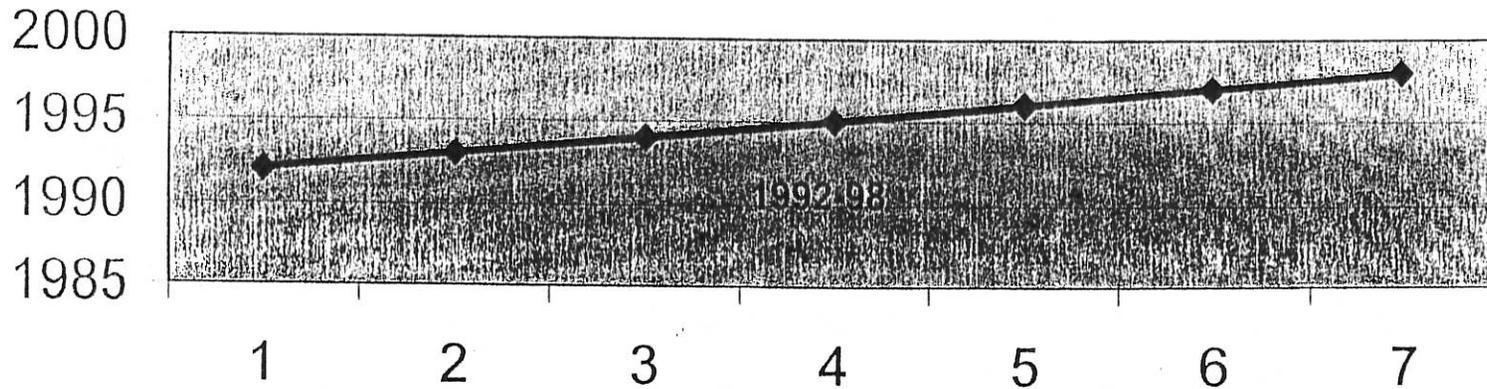
**Recommendations/Actions:** It is recommended that the City Council endorse the program.

**TOTAL WICHITA MUNICIPAL COURT REVENUE  
REPORTED BY WICHITA BUDGET OFFICE**

12-35

1992	1993	1994	1995	1996	1997	1998
\$ 3,109,995	\$ 4,091,866	\$ 4,089,170	\$ 4,678,628	\$ 5,714,735	\$ 6,537,205	\$ 9,070,183

**300% INCREASE IN WICHITA MUNICIPAL COURT  
REVENUE IN 7 YEARS**



# 1999 SURVEY OF MINORITIES IN WICHITA MUNICIPAL COURT

12-36

Date	Crt. Rm.	Male	Female	<25	26-45	>46	Black	Hispanic	Asian	White	% Minority
02/24/1999	Traffic	33	6	23	13	3	13	3	3	20	
03/01/1999	Traffic	25	14	24	15	0	14	9	0	16	
03/03/1999	Traffic	12	6	8	7	3	6	4	0	8	
Subtotal	Traffic	70	26	55	35	6	33	16	3	44	
<b>%</b>		<b>73%</b>	<b>27%</b>	<b>57%</b>	<b>36%</b>	<b>5%</b>	<b>34%</b>	<b>17%</b>	<b>3%</b>	<b>46%</b>	
<b>% Minority</b>	<b>Traffic</b>										<b>54%</b>
03/01/1999	Rm. A	28	12	19	20	1	13	5	2	20	
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Subtotal	Mun.Crt.	52	36	31	52	5	35	8	2	43	
<b>%</b>		<b>59%</b>	<b>41%</b>	<b>35%</b>	<b>59%</b>	<b>6%</b>	<b>40%</b>	<b>9%</b>	<b>1%</b>	<b>49%</b>	
<b>% Minority</b>	<b>Mun.Crt.</b>										<b>51%</b>
03/01/1999	Clerk's Off.	27	16	18	20	5	25	7	0	11	
03/03/1999	Clerk's Off.	16	4	11	6	3	12	0	0	8	
Subtotal	Clerk's Off.	43	20	29	26	8	37	7	0	19	
<b>%</b>		<b>68%</b>	<b>32%</b>	<b>46%</b>	<b>41%</b>	<b>13%</b>	<b>59%</b>	<b>11%</b>	<b>0%</b>	<b>30%</b>	
<b>% Minority</b>	<b>Clerk's</b>										<b>70%</b>
<b>TOTALS</b>	<b>247 People</b>	<b>165</b>	<b>82</b>	<b>115</b>	<b>113</b>	<b>19</b>	<b>105</b>	<b>31</b>	<b>5</b>	<b>106</b>	
<b>%</b>		<b>67%</b>	<b>33%</b>	<b>47%</b>	<b>45%</b>	<b>8%</b>	<b>43%</b>	<b>12%</b>	<b>2%</b>	<b>43%</b>	
<b>% Minority</b>	<b>Total</b>										<b>58%</b>

# Testimony

before the

## Senate Federal and State Affairs Committee

February 3, 2005

Rev. Andrew McHenry  
406 Prairie  
P.O. Box 26  
Maple Hill, KS 66507  
(785/256-4277 Office  
785/256-4535 Home  
pastorandrew70@yahoo.com  
(former Chaplain at Topeka Correctional Facility & Topeka Juvenile Correctional Facility)

I have worked in prison and jail ministries for several years – in both professional and volunteer capacities – and on both state and county levels. Something that has always troubled me has been the disproportionate rates of incarceration. In Kansas, blacks make up roughly 6 percent of the general population, but comprise around 35 percent of the prison population. There are also disproportionate rates of incarceration for Hispanics and Native Americans.

Racists have declared that this happens because minority groups are more criminally-minded. I think we should all agree that this is not an acceptable answer.

I remember one corrections officer saying to me, "These aren't all the people who committed the crimes; these are just the ones who got caught." Ever since Dr. Karl Menninger wrote his classic *The Crime of Punishment*, it has been agreed that the majority of criminal activity goes undetected. Therefore, the ones who get punished are the ones the police focus on, and the fact that Kansas police engage in racial profiling undoubtedly plays a role in who gets caught.

In 2003, the *Topeka Capital-Journal* reported Police Foundation findings that black and Hispanic motorists are three times more likely than whites to be pulled over by authorities on Kansas' interstate highways. This has several detrimental impacts:

- 1) It drives away potential visitors and as such hurts the economy. Racial minorities are less likely to visit Kansas if they fear being needlessly harassed by law enforcement.
- 2) It fuels existing racial tensions, particularly those between minorities and law enforcement agencies. The law enforcement community needs to foster good relations with Kansas' communities of all races. Racial minorities (as with caucasians) should be able to trust the police, not fear them.

Senate Federal & State Affairs  
Committee  
2-03-05  
Attachment 13

- 3) It is blatantly unfair. A crime is a crime whether you are white, black, Hispanic, etc. A white criminal should not have any loopholes to evade law enforcement more easily than criminals of other races.

I therefore support SB 77 and hope the legislature passes it. Thank you for your consideration.

WOMEN IN ACTION  
917 1/2 SE 12TH ST  
TOPEKA, KS 66607

Mona Bro...  
and  
Shirley Wishom

Senate Federal and State Affairs Committee  
Capitol Building, Room 133-S  
Topeka, Ks. 66607

TESTIMONY IN SUPPORT OF SENATE BILL 77

Senator Brungardt, Committee Members,

Women In Action is a non-profit community organization taking action to improve the quality of life and ensure equal protection of the law for all citizens. We want to eliminate or at least minimize racial discrimination.

Over the last several months, WIA has been holding weekly meetings to address community complaints of racial discrimination and differential treatment by law enforcement officers in Topeka, Kansas. We have learned that racial profiling is a serious, escalating problem for African Americans and other minorities. Senate Bill 77 is a necessary bill if racial profiling is ever going to be stopped.

Racial profiling is not only humiliating and demeaning but also affects the quality of life and the safety of all citizens and should be nothing less than criminal. The following are some excerpts of racial profiling that WIA have documented from victims in Topeka, Kansas:

Victim #1: A young black man who is known throughout the Topeka community, as he is mildly retarded and travels the streets on buses to and from his volunteer jobs. He wears headphones most of the time and is extremely nice, speaking to everyone. He was leaving his job and had crossed the street to catch the bus, when police officers rushed up on him and said they were going to take him to the police station, claiming a black person was seen with a gun.

He tells the police he did nothing and does not want to go. The officers pepper spray him in the face. He falls down and is roughly handcuffed. Meanwhile, his employer comes out and states he just left work and could not have been doing anything, (The young man's employer was threatened to be charged with interfering with an arrest.) The young black man was taken to jail anyway and left. No charges were filed but an excessive bond was placed on him and his relatives were unable to get him out. He was forced to stay overnight with violent and non-violent offenders, terrified until the next day when the police department realizes who he is and releases him. The torment of his stay in jail without cause is unspeakable.

Senate Federal & State Affairs  
Committee  
2-03-05  
Attachment 14, Part 1

- Victim # 2: A young black man who regularly jogs around Washburn University, was stopped while jogging. The officer pointed a gun against his head and said, "Tell me where your brother is." He threatened the young man and said he could blow his brains out and no one would even know it. The officer gives him a speeding ticket and says have a nice day. This black man works at a reputable Job in Topeka and has no involvement in illegal activity.
- Victim # 3: A young black man was sitting outside his house in his car parked in his driveway with his white girlfriend. (The white girl did have warrants). The police officers approach the vehicle and said that the car was stolen and asked for his ID. Even though he was not driving, his license was suspended and the officers said he was under arrest. They told his girlfriend to leave and then pointed a red laser to his head, which is illegal. The victim was told to empty his pockets, the police took his money, then proceeded to his house, kicked the door in saying it was open and searched his house. He was thrown in jail given 20,000 bond for a suspended license and placed in a cell where his family members were unable to locate him. He was held over 48 hours before his family was able to get an attorney to have him released on a habitués corpus.
- Victim# 4: A black woman, who has a good paying job and drives a Cadillac Alexis. Reported she has been pulled over at least 8 times. Officers asking her "where are the drugs?" This woman became so distraught that she has stopped driving her Cadillac, as her only recourse to avoiding the persistent harassment by police officers.
- Victim# 5: A black man whom worked at a Car dealership, had problems with the clerk at a convenience store, the clerk was rude and did not provide the correct change. The two argued and she called the victim "the N word" The clerk calls the police and the victim waits for them to arrive. The police officer advised each to just go their separate ways no harm done. After the Black man leaves to return to his job, when he arrives he is told the Police officer called his job and said he was causing problems at the store and his employer fired him. The officer didn't take the victims name, and only knew that he worked for the dealership by reading the name on his uniform.
- Victim# 6: A young black man is consistently pulled over by police officers and asked to empty his pockets, the officers took all of his money and said they were keeping it.
- This young man to avoid racial profiling stops, has moved out of Topeka and is afraid to visit his mother for fear the she will continue to be harassed. On one Police stop the officer asked did he have any drugs, told him to drop his pants and the officer proceeded to put his hand up his rectum. The young man screamed and said he is violating his rights, the officer remarked this is where y'all hide it at sometimes.
- Victim#7: A 56-year-old black man receives a call from a young black man outside his

house for help. The 56-Year-old man opens his door to see the Police slamming the young man up against the car brutally handcuffing him. The young man is saying why are you doing this to me? the police tell him to shut up or they will let the dog on him. The 56-year-old black man standing on his porch tells the young man to not resist that they will get to the bottom of this later. The police tell the 56 year old to go back in his house and shut the door. The older black man says he will stay on his porch; the police then take the older man to jail and charge him with interfering. The young man that was being detained was never charged with any crime and was released.

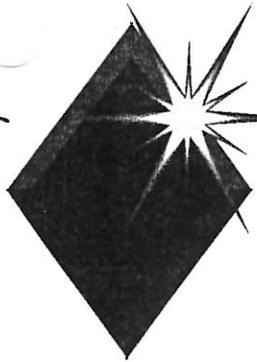
The above incidents have been received by WIA within just a two-month period in Topeka Kansas. Unless Racial profiling is monitored to identify the Racial Profiling patterns of the officers, the police that are guilty of targeting blacks will never be held accountable. The above cases are just a few of the complaints that WIA has received in the Law Enforcement area. However, People are coming in multiple numbers weekly and sharing their stories of racial profiling and police harassment.

Women In Action Strongly support passage of Senate Bill 77 and commend Senator Betts and Haley for introducing this legislation. WIA look forward to providing testimony, please let us know if there is anything we can do to assist in the passage of this vital bill.

Shirley Wishom & Mona Brown, WIA



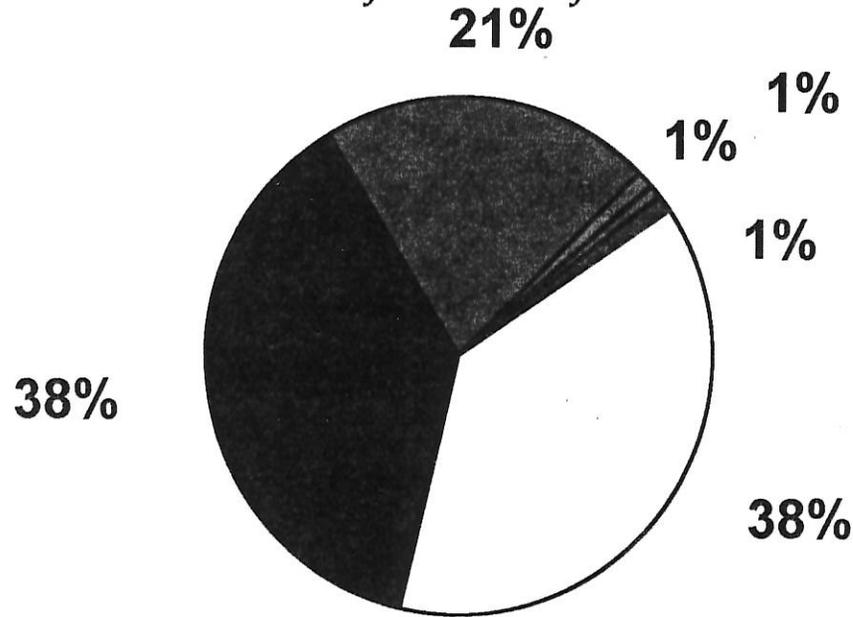
Shirley W. Tom



# Ethnicity of youth locked in Topeka

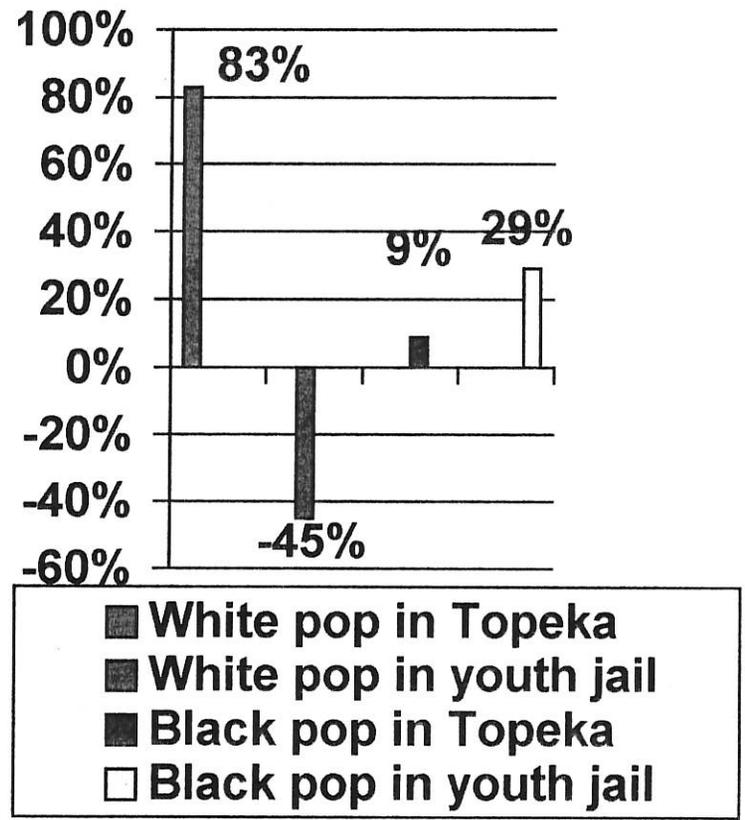
## ◆ Ethnic Profile of Youth Admitted to Topeka Juvenile Correctional Facility.

(source: Kansas Juvenile Justice Authority)



# Black American Youth Over Represented in Youth Jails

- Whites represent 83% of Shawnee County Pop.
- White youth are under represented in Topeka youth jail pop, by 45%.
- Blacks represent 9% of Shawnee County Population.
- Black youth are over represented in Topeka youth jail pop, by 29%.



February 2, 2005

Speech in Support of Senate Bill 77

Good Morning,

My Name is Sheila Officer. I am a resident of Park City, Ks. I am a citizen with major concerns about racial profiling. More importantly, I am a registered voter and your constituent.

I would like to thank you for this opportunity to address this forum on a subject that is important not only to everyone in this room, but throughout America.

You see Racial Profiling, Biased Based Policing, whatever the name you would like to use; the name is not the issue. The issue is “ **WHAT ARE WE GOING TO DO ABOUT IT? Because, in reality, whatever you call it, it has the same results!**

We've had meeting, meeting, meetings, and more meetings. It is past time for meeting and greeting and then fleeing.

**What do I need to tell them?**

a) **Statistics /Revenue in Wichita**

**ANSWER: No, I will let someone else give you statistics.**

b) **Do I need to tell them that it is morally/legally and spiritually wrong?**

**ANSWER: No, the constitution and our US Codes lay the framework for informing you that it is legally wrong. God's law tells you that it's morally and spiritually wrong, sinful.**

c) **Do I need to define it? Call it soft profiling or hard profiling.**

d) **Do I need to argue the defense that it even exist?**

I pondered and prayed and asked the Lord, What must I say that will open one's ears to hear, one eyes to see and one's heart to act!

I'm prayerful that God gave has given me that answer. So, I would like to talk with you a brief moment about **ACCOUNTABILITY**.

**SHOES OF ACCOUNTABILITY**

1) **We all have a pair, some people more pairs than others.**

2) **God said, we will all be held accountable for what WE DO, OR FAIL TO DO.**

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Committee

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3) The law says, “ You will be accountable for your actions.” Civil/Criminal.

Accountability- Our Law Enforcement Officials are accountable to us, the public in whom they serve.

Accountability- Webster defines accountability as: Liable to be held responsible; able to be explained; trustworthy.

With regard to the *REVISED* Senate Bill 77, it appears that the level of accountability for our LEO is absent the bill. It is no wonder that the Sheriff Department and KHP can now find the bill acceptable.

Original Bill- entailed accountability. Sect 3- Violation of CR in RP is a Class A Misdemeanor- Accountability-

If racial profiling is not a problem, and law enforcement is not doing it, then what’s the problem with having this level of accountability in the bill? Citizens are Accountable- are we not held accountable for our actions. They are the LAW. NOT ABOVE the law, and not the sole law of the land however, they are instruments of our justice system and they serve the public, the people, the community, and us.

ARE WE TO ASSUME THAT “policing our own,” means “We can do it alone.” And, does that mean that it is done better, or even done at all.

ARE WE TO ASSUME THAT, because we have a Black Police Chief that adamantly sings the profound song “We don’t have it here, that we are to believe that it does not exist. Even in his own house, his officers readily admit that RP exist. That they themselves have fallen victim to their white colleagues biased based actions.

ARE WE TO ASSUME THAT, in an organization whose history has proven that in interacting with people of color has dictated hostile, illegal, and biased based actions towards us as a people, has dissipated in Kansas.

ARE WE SAFE THEN TO ASSUME, that if it exist internally, that it is exercised externally, via the services we receive.

ACCOUNTABILITY-

Now we hold our doctors, in shoes of accountability,  
Our lawyers, in shoes of accountability,  
Our teachers, in shoes of accountability,

Are we to believe our local law enforcement officials will sufficiently, unbiasedly, and objectively police themselves?

Page 3

Speech in support of SB77

Do we want to continue to be escorted to the edge of insanity and unaccountability?

It is insane to think that this organization can has or will properly, unbiasedly, objectively, sufficiently and legally, "*police it's own.*"

**ACCOUNTABILITY- Training- Sect 6-2 Training is a component in life that allows us to get better at what we do. Education opens our mind and helps remove ignorance.**

**Recommend training on a continuous basis. The *revised* bill changed it to annual training.**

**Accountability- Understanding the History of race in America, and the Cultural Systems that perpetuate racial profiling should be mandated, *ongoing training* in our Leo's training agenda It is unacceptable that on an issue that daily effects officer's attitudes, actions and interaction with the community, should be given little credence in the officer's manual.**

**ACCOUNTABILITY- You our legislators.**

**You are our custodians of democratic system—**

**You are our voices when ours grow faint or is silenced.**

**You are our listening ears when our voices fall on deaf ears.**

**You are our avenue for action when our hands have become handcuffed**

**All eyes of Kansas are upon you. You have come to an accountable position for such a time as this!**

**Thank you.**

JAMES E. BUTLER, Chairman  
MANHATTAN  
DAVID A. HANSON  
TOPEKA  
BRENDA C. JONES  
KANSAS CITY  
ERROL V. WILLIAMS  
TOPEKA  
DEBORAH A. WHEELER  
EMPORIA  
BETH M. BRADRICK, Ph.D.  
PITTSBURG  
LOU ANN THOMS  
TOPEKA



**K A N S A S**

**KANSAS HUMAN RIGHTS COMMISSION**

**LANDON STATE OFFICE BLDG. - 5<sup>TH</sup> FLOOR  
900 S.W. JACKSON - SUITE 568 S.  
TOPEKA, KANSAS 66612-1258  
(785) 296-3206  
www.khrc.net**

**KATHLEEN SEBELIUS, C. NOR**  
WILLIAM V. MINNER  
EXECUTIVE DIRECTOR  
RUTH GLOVER  
ASSISTANT DIRECTOR  
BRANDON L. MYERS  
CHIEF LEGAL COUNSEL  
JUDY FOWLER  
SENIOR LEGAL COUNSEL  
BARBARA GIRARD  
STAFF ATTORNEY  
BILL WRIGHT  
TOPEKA INVESTIGATIVE  
ADMINISTRATOR  
ORIE KIRKSEY  
TOPEKA INVESTIGATIVE  
ADMINISTRATOR  
JANE L. NEAVE  
WICHITA INVESTIGATIVE  
ADMINISTRATOR  
KAREN K. MCDANELD  
OFFICE MANAGER

**TESTIMONY OF THE KANSAS HUMAN RIGHTS COMMISSION** TTY (785) 296-0245  
**REGARDING** FAX (785) 296-0589  
**S.B. 77** 800# 1-888-793-6874  
**FEBRUARY 3, 2005**

Staff Attending Hearing: William V. Minner, Executive Director  
Brandon L. Myers, Chief Legal Counsel  
Ruth Glover, Assistant Director

The bill defines and adds the crime of racial profiling by any law enforcement officer or law enforcement agency to the Kansas Criminal Code. This bill proposes to enact various provisions prohibiting racial profiling by law enforcement officers, and provides various rights and remedies to persons who believe they have been victimized by such racial profiling.

The bill establishes the Kansas Human Rights Commission as a conduit for filing and forwarding racial profiling complaints. The bill provides that persons who are stopped or arrested and believe they are a victim of racial profiling may file a complaint with the Commission. The Commission would be responsible for forwarding the complaint to the law enforcement officer's employing agency and the responsible citizen's review board. The Commission would be required to adopt rules and regulations to govern filing the complaint and the process for delivering a copy of the complaint by the Commission to the law enforcement officer's employing agency and the responsible citizen's review board.

The Commission would not be required to investigate the complaint or seek remedies for the complaining party. Rather, the employing law enforcement agency would be required to investigate the complaint allegation and take appropriate disciplinary action. In certain situations, the responsible citizen's review board would be responsible for investigating the complaint.

The Commission would be required to provide an annual report of all complaints received to the Governor, President of the Senate, and Speaker of the House of Representatives. The report would be posted on the Attorney General's website and considered an open record.

The Commission is required to promulgate rules and regulations regarding the complaint process. We do not predict that the rules and regulations to implement this program will be extensive. It is expected that they will mainly be necessary to specify the contents, form and manner of filing and service of the complaint document.

The Commission does not object to accepting these proposed duties.

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The bill also requires law enforcement agencies to collect data, with the data analyzed periodically by statistical experts for patterns of racial profiling. A pattern of discrimination is defined by the bill and the Attorney General's office is responsible for contacting the law enforcement agencies or officers who meet the pattern's definition. The bill requires all law enforcement agencies to adopt detailed written policies preempting racial profiling. The framework for the policies is provided. The bill also establishes the right to file a civil action for damages, attorneys fees, etc. for those who believe they have been subjected to racial profiling.

No investigative or remedial role for the Commission is proposed. Any investigative or remedial role for the Commission would require significant amendments to the Kansas Act Against Discrimination due to the Kansas Supreme Court interpretations that the current form of the statute does not provide jurisdiction to the Commission with regard to law enforcement agency arrest procedures and similar issues. (See: City of Independence v. Kansas Commission on Civil Rights, 218 Kan. 243 (1975) and Kansas Commission on Civil Rights v. Howard, 218 Kan. 248 (1975)).

The most difficult and the most uncertain portion of this bill's review is estimating the number of racial profiling complaints the Commission might receive and process. Studies completed in recent years indicate a substantial number of complaints could be filed, perhaps overshadowing current complaints received pursuant to the Kansas Act Against Discrimination and the Kansas Age Discrimination in Employment Act. Based upon our review of the "Racial Profiling Study and Services: A Multijurisdictional Assessment of Traffic Enforcement and Data Collection in Kansas", we estimated 18,960 potential complaints annually.

The main determinate in the Commission's cost of implementing the bill is the number of complaints received. We have endeavored to reach an accurate cost estimate, but the uncertainty regarding the number of complaints made this task difficult. If we have underestimated the racial profiling complaints, additional funds will be needed. If the number of complaints falls below the estimate, a lesser amount will be needed.

The Commission's costs to implement this bill are primarily clerical personnel to receive and distribute complaints, communications for increased telephone and postage bills, office supplies, and rent for additional space to accommodate increased numbers of employees. Some staff training will be necessary, but can be accommodated internally. The Commission's role in this matter is primarily informational and clerical in nature.

It is respectfully recommended that a specific provision be added to the bill to set a time limitation upon filing of a complaint of this nature with the Commission. For example, employment and public accommodations complaints must be filed with the Commission within six months of the last date of incident. Housing discrimination complaints must be filed with the Commission within one year of the alleged discriminatory incident. To not establish a time limit could, in future years, subject the Commission to processing and law enforcement agencies and/or citizen's review boards to investigating complaints years after the incident has occurred.

The bill requires citizen's review boards that have investigated a complaint to submit a written finding of fact to the Commission. If the law enforcement agency investigates a complaint, a written finding of fact is not forwarded to the Commission. We respectfully recommend uniformity between the two passages by requiring the law enforcement agency to forward a copy of its written finding of fact the Commission and other parties listed.

We also respectfully suggest the same confidentiality provisions as for the Commission's existing records, which require a court order to obtain such records. The actual complaints are considered open records, but the investigative materials and its conclusion are considered closed records.

Presumably, incidents occurring before July 1, 2005, the effective date of the bill if adopted, could not form the basis for a complaint.

Senate Federal and State Affairs Committee Topeka, Kansas 66612

Chairman Brungardt and Member:

Good day. It is yet unfortunate that in 2005 African people, citizens of the US, are still fighting for human rights (including civil rights) over 100 years after Emancipation. Even with the Bill of Rights and the Civil Rights Act we still find ourselves treated as second class citizens without protection under the laws of the Constitution. We support the Racial Profiling Bill (SB77), that is before a committee of the Kansas Legislature again, and the majority of the African community supports it as well.

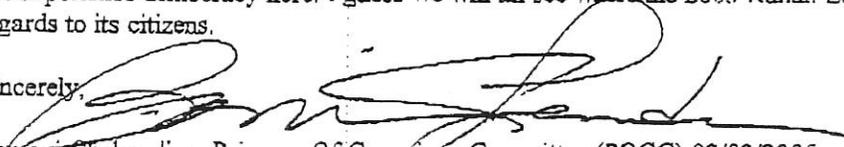
However, we strongly suggest that: 1) violation of this law would be a felony rather than a misdemeanor. Because it should be a serious offense when one who has taken an oath to uphold the laws break them; and 2) there is a policy to exchange information with each stop, this objective data can be tracked and evaluated providing a more accurate number of individuals stopped in a particular area. Studies have shown that racial profiling is a common practice here in Kansas and throughout the US.

*One example that the US Justice Department reported in 1997 - that in Philadelphia that of 516 traffic stops 262 identified racial or ethnic information about motorists; of the 262 stops, 85.9 percent were either African, Asian, or Latino: 4% Asian (11), 79% African (207), 2.7% Latino (7), and 14.1% white (37). In Wichita, not only are African motorist stopped more often but we are held longer than white motorists. The 2003 study ordered by the Kansas Legislature found that African people are nearly 3 times as likely as white people to be stopped by police; and more importantly, a study by the Wichita Police Department itself found that Blacks are more likely than European-Americans to be stopped.*

The primary argument against the bill is the cost. If one endorses the bill in principle and it is morally right then the issue isn't the cost but rather how do we direct resources to stop this injustice, the blatant violation of Constitutional rights. It may cost the state some money but it costs violated citizens much more - their dignity. Moreover, the integrity of this country continues to be at stake. Either it is a democracy or it is not -- either the rights of all citizens are protected or they are not. *The Honorable Malcolm X said, "Just because you have colleges and universities, doesn't mean you have education. The colleges and universities in the American educational system are skillfully used to miseducate."* This is why bills must have teeth - too many have been miseducated to believe that if something is on the law books change will happen, not necessarily so, or we wouldn't be here today dealing with racial profiling by law enforcement when federal and state constitutions already forbid it.

**In closing, racial profiling that leads to arrest and convictions contribute to a myriad of other violations, for example: African, Native Americans, Latinos being judged by all-white juries and non-violent drug offenders serve long unwarranted expensive prison terms when treatment works (not just for 1st offenders). We urge this committee to pass SB77.** It is insidious that the only times that the ruling class (white people) pretend to embrace Africans as American are at tax time and war time. When the war-mongering White House administration decide to attack some nation for its oil or other resources or its strategic military position then they want Black women and men to go fight in the name of "democracy" somewhere else when we do not experience democracy here. I guess we will all see where the 2005 Kansas Legislature stand in regards to its citizens.

Sincerely,

  
Boniani Chekandino, Prisoner Of Conscience Committee (POCC) 02/02/2005

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Attachment 17



# Testimony

before the

## Senate Federal and State Affairs Committee

February 3, 2005

Ralondo Henry Carr  
Wichita  
316/687-3736

Senator Brungardt, Members of the Committee:

My name is Ralondo Henry Carr. I am a student at Wichita State University. I recently received my bachelor of arts degree in Criminal Justice, Ethnic Studies.

I am a returning adult student working on my master's of arts degree. I am a former Shocker basketball player and played professionally as well.

As a result of my family and I traveling all over the world, I have had many experiences with racial profiling. I will be speaking today on what we have endured, both in the state of Kansas and other places, regarding racial profiling.

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## Kansas Bureau of Investigation

Larry Welch  
*Director*

**Testimony in Support of SB 77**  
Before the Senate Federal and State Affairs Committee  
Kyle G. Smith  
Kansas Peace Officers Association  
February 9, 2005

Phill Kline  
*Attorney General*

Chairman Brungardt and Members of the Committee,

On behalf of the Kansas Peace Officers Association I appear today in support of the agreed amended version of SB 77. While I wish it were otherwise, we all know that racial profiling, as defined in the bill, happens. As does racism. The question is what effective steps can be taken to address the problem in a meaningful way without unfairly tarnishing all law enforcement officers or creating unnecessary bureaucracy and problems for the criminal justice system. Law enforcement must have the trust and assistance of the public to be effective. Abusive racial profiling destroys that trust and respect.

I've been very pleased to watch the cooperation between SB 27's proponents and the law enforcement community work out this compromise. By requiring every agency to develop a policy against racial profiling and mandating training, we can work together to minimize this problem that all should find abhorrent.

The Kansas Peace Officers Association is proud to stand in support of this legislation that will help insure that all Kansans are treated alike and also enhances the professionalism of Kansas law enforcement.

I'd be happy to respond to questions.

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STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

PHILL KLINE  
ATTORNEY GENERAL

120 SW 10TH AVE., 2ND FLOOR  
TOPEKA, KS 66612-1597  
(785) 296-2215 • FAX (785) 296-6296  
WWW.KSAG.ORG

February 3, 2005

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
Testimony Concerning Senate Bill No. 77

Dear Chairman Brungardt and Members of Committee:

Thank you for allowing me to appear today on SB 77, which is intended to address concerns about "racial profiling" and proposes a variety of requirements and additions to Kansas law regarding contacts between Kansas law enforcement officers and members of the public. Attorney General Phill Kline stands ardently opposed to the practice of racial profiling, and supports efforts to curtail and eliminate this clearly improper and counter-productive type of activity. Attorney General Kline was not able to support the original language of SB 77 as the original bill had the potential to negatively impact the ability of Kansas law enforcement officer and agencies to detect and prevent crime as well imposing a sizeable fiscal impact on the State and local law enforcement agencies.

Thanks to the hard work of a number of individuals from local and State law enforcement agencies, the Office of the Governor and Senator Betts and his staff, compromise language has been developed intended to amend the original bill in ways that address almost all of the major concerns of the law enforcement community. It should be noted that the proposed revision to the bill would still provide for the creation of a new civil cause of action allowing individuals to file civil law suits in Kansas courts seeking damages for alleged acts of racial profiling. If this provision is passed into law the potential would be created for future fiscal impacts on the State of Kansas and local entities (both from the costs of defending the cases in court and the possibility of civil judgments being awarded.) The Attorney General recommends the committee investigate the necessity of the creation of this new civil cause of action in light of federal law provisions that would appear to already address these types of cases. [It should be noted that the remaining potential fiscal impacts – if the proposed amendments are adopted – would be greatly reduced from that of the original bill.]

Attorney General Kline applauds the committee's efforts on this legislation and encourages the committee to carefully review SB 77 (with the proposed amendments) with the goal of crafting the best possible legislation to address the issue of racial profiling and promoting the fair and unbiased enforcement of the laws of the State of Kansas.

Respectfully,

OFFICE OF THE ATTORNEY GENERAL  
PHILL KLINE

Kevin A. Graham  
Assistant Attorney General

Senate Federal & State Affairs  
Committee

2-03-05

Attachment 20



# KANSAS

WILLIAM R. SECK, SUPERINTENDENT

KANSAS HIGHWAY PATROL

KATHLEEN SEBELIUS, GOVERNOR

## Testimony on SB 77 Senate Federal and State Affairs Committee

Presented by  
Colonel William Seck  
Kansas Highway Patrol

February 3, 2005

Good morning, Mr. Chairman and members of the committee. My name is Colonel William Seck, and I respectfully submit the following written testimony on behalf of the Kansas Highway Patrol on SB 77.

The Kansas Highway Patrol takes bias-based policing or "racial profiling" very seriously and does not tolerate this unethical practice. The Patrol has taken and continues to take active steps to eliminate biased-based policing:

- In June of 2004, the Kansas Highway Patrol implemented a biased-based policing policy to reaffirm the Patrol's commitment to unbiased policing.
- In an ongoing effort to strengthen relationships with Kansas' minority community, the Patrol held meetings in Salina and Garden City to discuss racial profiling in an attempt to discuss all concerns on this matter. Because these meetings were well received and proved to be successful, it is our intention to continue this initiative in other areas of the state. By working together, it is our goal that we address concerns and work to eliminate bias-based policing.
- To educate our personnel on this issue, the Patrol provides training for its law enforcement officers, which includes hands-on or scenario-based learning. We continue to provide the latest curriculum addressing "professional traffic stops," which include classes on "cultural awareness" and "cultural diversity".
- The Patrol works hard to recruit and hire individuals for law enforcement positions within the agency that reflect the diverse population we serve.
- Complaints alleging bias-based policing against an agency officer is handled and investigated by the Patrol's Professional Standards Unit. The Kansas Highway Patrol is continuously looking for ways to improve the services we provide.

122 SW 7<sup>th</sup> Street, Topeka, Kansas 66603  
Voice 785-296-6800 Fax 785-296-5956 www.KansasHigl

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The Patrol fully supports the concept of eliminating bias-based policing but has concerns with existing language found in SB 77. After discussion with some of our law enforcement partners across Kansas, it seems that many of these same concerns are commonly shared. In an effort to address these concerns and to support the primary concept, the Patrol joined a group of stakeholders.

By working together with representatives of the Kansas Hispanic/Latino American Affairs Commission, the Kansas African American Affairs Commission, the Kansas Attorney General's Office, the KBI, the Kansas Law Enforcement Training Center, the Kansas Sheriff's Association, the Kansas Peace Officer's Association, the Kansas Association of Chiefs of Police, the Kansas Trooper's Association and many other law enforcement officials and Senator Donald Betts, we have fashioned substitute language for SB 77. We feel these revisions demonstrate the law enforcement community's commitment to unbiased policing but also address concerns with the current version of the bill.

Substitute language for SB 77 (drafted by the working group) addresses the need for no tolerance policies. In doing so, it would require all law enforcement agencies in this state to adopt a detailed, written policy to regulate and prevent racial profiling. It also addressed the need for ongoing training for officers in an effort to ensure a better understanding of the issues. And finally, it put into motion a 15-member Governor's Task Force to look at practices that would hold officers accountable and conscientious of all of their actions.

The Kansas Highway Patrol supports substitute language for SB 77, drafted by the working group including Senator Betts, for the benefits it provides to the citizens of Kansas. The Patrol appreciates the opportunity to address you today and urges this committee to give the proposed substitute language for SB 77 favorable consideration.

###



# LKM

League of Kansas Municipalities

300 SW 8th Avenue  
Topeka, Kansas 66603-3912  
Phone: (785) 354-9565  
Fax: (785) 354-4186

**To:** Senate Federal and State Affairs  
**From:** Sandy Jacquot, General Counsel  
**Date:** February 4, 2005  
**Re:** Opposition to SB 77

Thank you for allowing me to address this committee on behalf of the League of Kansas Municipalities in opposition to SB 77. LKM does not condone racial profiling, but this bill presumes that racial profiling is running rampant in the State of Kansas. LKM does not believe that to be the case. This bill is not only a huge unfunded mandate on cities, it creates criminal and civil liability that will deter law enforcement agencies and their officers from performing their jobs to keep Kansas communities safe. In addition, this bill is inconsistent with K.S.A. 22-4604, which was enacted in 2000. The League has not seen a current fiscal note on this bill, but the fiscal impact on similar bills in the past has been significant.

This bill creates the crime of a class A misdemeanor for law enforcement officers who engage in racial profiling, whether or not the factor of race is legitimate in solving a crime and in fact does result in a conviction. In addition, it creates a civil cause of action against any law enforcement officer, agency and supervisor, using data gathered by the law enforcement agency itself as prima facie evidence of a violation. The chilling effect this bill will have on law enforcement during a time of need for more vigilance in law enforcement is incredible and it is difficult to understand why such a measure is being contemplated.

During the 2000 legislative session a bill passed and was codified as K.S.A. 22-4604. That bill was a compromise and proposed a sampling type of study for which the State would do a request for proposals and award a contract for the study. The Legislature realized at that time the onerous mandate such a study would put on local government and agreed the State would conduct the study. The results would then be presented to the Governor and the Attorney General and provide recommendations to improve law enforcement training and operations to lessen any identified racial profiling problem. To our knowledge, there has not been a study done or any problem identified in the area of racial profiling. SB 77 presupposes a problem and shifts the burden back to local governments to perform almost all of the tasks in the bill and bear all of the liability, despite the language of K.S.A. 22-4604. This is simply untenable without a showing that there is an extreme problem.

To put this in perspective, the following mandates will fall primarily to local governments: Adopt detailed written policies that will be developed and dictated by a specified committee on which cities have one representative, collect data on every "routine

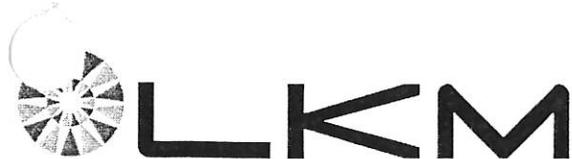
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investigatory activity," establish citizen review boards to respond to complaints, establish procedures to discipline officers and anything else the Attorney General says a law enforcement agency must do. The data collection consists of 19 different pieces of information on a form that, after development, will be mandatory. These must be mailed in once a week to the Attorney General. In addition, of course, is the civil and criminal liability faced by the officers and agencies, which includes the recovery of monetary damages. To estimate the fiscal impact I will use the figure of approximately 500,000 traffic offenses adjudicated each year in municipal courts alone, and that is a conservative figure. Assuming that the data collection only took a law enforcement officer 3 minutes per stop, that equates to 25,000 staff hours per year. Assume further that it took a city official the same time per stop to compile the information required for the Attorney General, which doubles the staff hours to 50,000. This totals 24 employees working 40 hour weeks for one year. Your analysis should also factor in the 105 counties, the Kansas Highway Patrol and all of the college and university law enforcement agencies this bill would affect. In 2000 when the data collection bill was heard, the cost estimates from state agencies were very high, just for data collection. In fact, the Highway Patrol estimated between \$436,441 and \$1,092,319 per year depending on how the data collection was implemented. I will leave it to your own calculation to estimate how much time per shift a law enforcement officer could spend doing data collection, rather than law enforcement.

LKM would like to remind the committee that not all cities in Kansas have multiple law enforcement officers and the capabilities of each city vary. If the state proposes to establish such onerous criteria for law enforcement agencies to comply with, the state needs to provide a commensurate level of funding to achieve the result this bill is aimed at achieving. In addition, the criminal and civil liability component of this bill is going to be counterproductive to law enforcement in this state and should be removed. LKM strongly urges this committee **not** to report SB 77 favorably for passage.



---

League of Kansas Municipalities

**To:** Senate Federal and State Affairs  
**From:** Sandy Jacquot, General Counsel  
**Date:** February 7, 2005  
**Re:** SB 77

Thank you for allowing the League of Kansas Municipalities to update its testimony delivered February 4, 2005, to address the most recent compromise proposal on SB 77, referred to as the racial profiling bill. LKM has reviewed the compromise language and with just a few exceptions supports the new language.

The main objection to the new language relates to Subsection (c)(3), which would require law enforcement agencies to establish or utilize existing independent citizen advisory boards. Because of the number of cities that are too small to have such advisory boards, the League continues to oppose this requirement. In many of our cities under 500 in population, or even under 1000, cities have a difficult time getting citizens to even serve on the governing body. A citizen advisory board is a practical impossibility for many of our cities and we would not want to see a requirement in law with which cities may not be able to comply. These are cities that have perhaps one or two officers, or even a part time city marshal. LKM is willing to assist these cities in putting together a plan to address and eliminate racial profiling and is willing to agree to an annual training component for all law enforcement officers to help eliminate biased based policing. In addition, we are supportive of a local complaint procedure. While it will be difficult for very small cities to comply with those requirements, LKM will assist as needed on those components. In addition, LKM is supportive of the creation of a governor's task force to discuss the issue of data collection.

With the exception of the issues set forth above, LKM will support SB 77 if amended as proposed. I will be present at the Senate Federal and State Affairs committee meeting on Wednesday, February 9, when the committee is scheduled to discuss SB 77. Thank you again for allowing me to update my testimony to reflect the League's position on the proposed compromise language to SB 77.

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John M. Douglass, Chief of Police  
Overland Park Police Department  
913 327-6935; john.douglass@opkansas.org  
February 2, 2005

Chairman Pete Brungardt and Members of the Federal and State Affairs Committee:

I am here today to speak in opposition of Senate Bill #77 as it is in its present form. Please understand that we at the City of Overland Park and the Overland Park Police Department are absolutely in favor of a genuine and bonafide, workable solution to the issue of race-based policing, some times referred to as racial profiling.

Let me preface my comments by saying the Overland Park Police Department was one of the first in the state, and even the country, to recognize and initiate action designed to eliminate all forms of race-based policing. On our own, without any kind of mandate or requirement, we began collecting statistical data in July of 2000 on each of our car stops. That data is analyzed and reviewed to this day. We have joined with our NAACP partners in Olathe and Northeast Johnson County to continuously work on this problem since July of 2000 as well. We have been recognized by the local Kansas City Chapter of the Southern Leadership Conference for our efforts in this area and other areas of racial consciousness. Yet as dedicated as we are to the proposition that a solution must be found to this issue, we are equally dedicated to the idea that there is no simple or easy fix and there is no way to simply mandate a solution.

Five years of statistical analysis of our data has shown us that the issue is not a simple matter of bias or prejudice. If it were so, it would be easy to solve. Instead, we are dealing with misconceptions, often on the part of the officer, as to why a car stop should be made or what the impetus should be. We are in a quagmire of statistical data which gives the impression of scientific truth, but upon close examination is more of a road map to more questions than an answer to the issue. While I truly believe that we are on the road to developing an analytical tool that will lead us to bonafide conclusions, we are not there yet. And, I can tell you from my past experience, that to rush to judgment and enact legislation which would use the statistical tools mentioned in this proposed statute would be impractical, nearly impossible to implement and potentially have catastrophic results.

So where do we go? Many of the things in this proposed statute are reasonable and should be retained. Many of them are not. Items such as a strict interpretation of a statistic answer sound good, but functionally, contain many more variables than are practical to be effective. The idea that this should be a criminal sanction when the problem is often, if not most often, perpetrated by the unknowing is nothing but wrong. I strongly suggest that additional work between those who advocate and support this legislation and those who must implement it be carried out so that a worthwhile and effective bill will be produced.

John M. Douglass  
Chief of Police

Senate Federal & State Affairs  
Committee  
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Attachment 24