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## Racial Profiling

**\*33 NEW JERSEY'S ISSUE WITH RACE**

Regina Waynes Joseph [FN1]

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It does not require investigative journalism or a long look in the history books to know that America has been obsessed with the issue of race since before its founding over 225 years ago. Race colors every aspect of America's society from political activities, judicial selections (or the lack thereof) and voting rights to segregated schools, employment opportunities and affirmative action in higher education.

In particular, however, America has been continually and persistently plagued with charges of racial injustice in the criminal justice system and, more specifically, how law enforcement officers stereotype African-Americans and other racial minorities as criminal suspects. "Racial Profiling", as it's now called, is said to have been caused by the War on Drugs begun in the late 1980s. But many in the African-American community contend that the issue of stereotyping African-Americans as criminal suspects and then singling them out for rough treatment is the everyday price one pays for being Black in America.

New Jersey, not unlike other states in the Union, has had a long and fractious history of racial discord [FN1]. Five years ago, in April 1998, the state **\*34** exploded once again when four African-American and Latino students, driving down the New Jersey Turnpike on their way to a college in North Carolina to participate in basketball tryouts in the hope of gaining college scholarships, were stopped by the New Jersey State Police. During the course of the stop, which many claimed was due to "driving while Black", the two state troopers fired 11 bullets while the students were in their van, wounding three of them. The troopers claimed that the driver of the van was backing up in an attempt to run the troopers over. The driver said that he was having difficulty putting the van in reverse in order to pull the van off the road consistent with the troopers' instructions. The students had no weapons nor any drugs. The bottom line is that a state grand jury found that the students had done nothing wrong and the state troopers had stopped them solely because they were Black and Latino.

The reverberations surrounding this incident extended to every community in the state and every level of government. This shooting and the outrage stemming from it were major contributors to the national debate on racial profiling. And the repercussions continue to this day.

It is against this backdrop that I and others became involved in New Jersey's discussion about race. Too often the "discussions" took place through press statements, press conferences and letters published in the newspapers. But, eventually, these dueling presentations and the high stakes which were involved forced all sides to begin to collectively weave a structured peace and start to fix a clearly broken system.

I am an African-American attorney who has lived in New Jersey for much of my life. I am also a member of

the Garden State Bar Association, which is the professional association of African-American judges, attorneys and law students in the state of New Jersey. The Association was founded in the late 1960s by attorneys who recognized the inequities which African-Americans confronted in the legal and judicial systems. The purpose of the Association is to eliminate such discrimination and inequality based on race and ethnicity.

The Garden State Bar Association became involved in the controversy surrounding the Turnpike shooting, as it became known, in April, 1999, one year after the shooting. The immediate impetus for our initial press conference were the statements made by the then Attorney General of New Jersey and the leadership of the State Police denying that illegal racial profiling existed and was a practice of the State Police.

Since members of the Association believed that to be clearly wrong, we convened a coalition of groups with similar views respecting illegal **\*35** racial profiling. We were joined by organizations such as the NAACP, the New Jersey State Council of Urban Leagues, Hispanic Bar Association, Association of Black Women Lawyers of New Jersey as well as representatives from New Jersey's Congressional delegation.

Members of the Association and much of the public could not really believe the incredible assertions which continued to come from certain state officials. In essence, their viewpoint was that illegal racial profiling did not exist and it was not a practice of the State Police.

In the summer of 1999, the New Jersey Legislative Black and Latino Caucus convened hearings throughout the state to give members of the public the opportunity to be heard respecting their grievances and interactions with the state police. The public responded and discussed fully sometimes tragic stories of encounters with the State Police. The Caucus issued its report of the hearings complete with recommendations for reform and a package of bills to provide further protection to the public and legislation geared to codify procedures used by the state police.

The evidence appeared overwhelming and drew the attention of the U.S. Department of Justice which told the State of New Jersey that it intended to sue the state for illegal police practices and discriminatory racial profiling unless the state entered into a Consent Decree which would require that the state, among other things, consent to federal monitoring of the state police and its practices and reform troopers' behavior in the field.

As a consequence of these actions by the federal government, and due to a lawsuit filed by the NAACP again charging that the State Police discriminated against African-Americans and other racial minorities in its employment practices (which requested a reopening of a Consent Decree signed by the NAACP and the state in 1975), the State of New Jersey entered into a Consent Decree with the federal government in 1999 and with the NAACP in 2000. Reforms began to take shape in the State Police but questions still abounded about the extent to which racial profiling was an ingrained practice and who was responsible for its proliferation in New Jersey.

To ferret out these questions, the New Jersey Senate Judiciary Committee convened a Special Investigation into Racial Profiling in March of 2001. For almost one month, the Judiciary Committee heard testimony from the Attorney General of New Jersey, officials in the Attorney General's office with responsibility for the state police and state police leadership. Notably lacking in the proceedings, however, were any victims of illegal police practices, advocates of victims, state troopers who claimed they suffered discriminatory treatment from the state police because they were Black or Latino or anyone other than government employees and officials.

**\*36** Once the Association pointed this fact out, the Judiciary Committee opened up the hearings to an array of the public, including victims of racial profiling, African-American state troopers who sued the state police,

and advocates such as the Association. The Judiciary Committee issued its report and findings with recommendations for reform which included many of the proposals suggested by the Legislative Black and Latino Caucus almost two years earlier.

The package of bills proposed by the Black and Latino Caucus took three to four years for consideration by the Assembly and the Senate. In 2003, Governor James McGreevey signed a civil rights bill making racial profiling a crime with imprisonment as a possible punishment. On January 15, 2002, the two former state troopers, Hogan and Kenna, who shot the four young men 11 times on the Turnpike entered into a plea bargain by which they would lose their jobs, and plead guilty to misdemeanor violations of falsification of records. In exchange, the state and the federal government agreed not to prosecute them for violating the civil rights of the four young men. Hogan and Kenna were fined \$280.00 each.

As for the four young men who were shot that April in 1998, they sued the state and settled for approximately \$12,950,000 in damages. The State Police is still undergoing change. Continued allegations of hazing and discriminatory treatment by a group of rogue troopers called the Lords of Discipline are being investigated. And the leadership of the organization remains in flux. There have been three Superintendents of State Police in as many years. And the new Acting Superintendent of the State Police recently nominated by Governor McGreevey is under a cloud since it was discovered he wrote an unpublished article in 2000 approving of racial profiling as a law enforcement technique.

The press statements, letter, editorial and testimony which follow are snapshots of the dialogue which took place from the perspective of one person and one group which tried to push for changes which had to occur in the system. These writings alone took place over the course of two years. The process of reform in New Jersey is still going on.

#### STATEMENT OF THE GARDEN STATE BAR ASSOCIATION IN RESPONSE TO ILLEGAL RACIAL PROFILING BY LAW ENFORCEMENT AGENCIES APRIL 14, 1999

The Garden State Bar Association is an organization of African-American attorneys in New Jersey dedicated to the elimination of discrimination and inequality based on race, ethnicity or sex in our legal and judicial systems. As officers of the Court, we are appalled at the \*37 continued denial by the Attorney General of the State of New Jersey and the leadership of the New Jersey State Police that illegal racial profiling has been and continues to be practiced by some state police officers. Figures from the U.S. Justice Department and the U.S. House Judiciary Committee indicate that 72 percent of drivers pulled over for routine traffic stops are African-American. However, African-Americans make up only 14 percent of the national population. The evidence is clear and overwhelming.

As citizens of the United States and residents of the State of New Jersey, we know that racial profiling exists. Many of us, whether male or female, have been personally stopped while driving on the highways and in the neighborhoods of this state where we live and work. Our children have been stopped. Our brothers, husbands, sisters, wives and cousins have been stopped. We have personally suffered the indignities of being stopped by police officers for no reason other than "driving while Black".

The Attorney General of New Jersey has stated that the State Police is currently undergoing several investigations, at the federal as well as the state level, concerning allegations of racial profiling by the State Police. The investigations should not concern whether racial profiling exists, but who is profiling motorists based on race,

who is condoning such illegal practices at the management level and what immediate steps need to be taken to ensure that the practice stops now. If this means changing the current leadership of the State Police and supervisory agencies, its training, monitoring and evaluation processes, then it should proceed forthwith. The citizens of New Jersey deserve no less.

African-Americans and other citizens of color should be able to live without fear of being illegally stopped by law enforcement officers for no reason other than the color of their skin. Denying us this fundamental right of freedom to travel under the Constitutions of the United States of America and the State of New Jersey places us in no better position than the Black and colored citizens of South Africa under apartheid. In that country, Black and colored citizens did not have the freedom to travel in their country whenever and wherever they wished. Many African-Americans and other citizens of color in New Jersey feel the same way.

We are often stopped because an officer questions why we are traveling in a particular neighborhood, town or highway. We are often stopped because an officer questions why we may be driving a particular make or type of vehicle. And we are disproportionately stopped when we are seen to be shopping in a particular store, mall or shopping center in a community where some officers assume we should not be. These illegal practices of profiling, based solely on race, by law enforcement officers at the state and local levels rob us of our liberty and, as we have seen all too tragically in this state and others, our property and our lives.

**\*38** Racial profiling has had a chilling effect on our lives. Paramount in our thinking are ways to avoid being picked out as suspect by the police. For example, should we decide to buy our children cars, we do not consider what we can afford to buy or what type of car Consumer Reports suggests as best, rather, we consider factors such as 1) a car that is not distinctive; 2) a car that does not fit the police profile of one that the police contend is typically used by drug dealers or other suspected criminals. So, while white children can drive their parents' 4x4 or sports car, we are much more hesitant to permit it because our children will more often get stopped for no reason at all. Conversely, we have to be careful if we want to buy a used car because if the car looks too old, our experience suggests that the police target older cars with African-Americans in them as well.

If we go shopping in Short Hills or some other upscale community, we can't dress in jeans and sneakers as the majority population can because we may be targeted as shoplifters...unfortunately, evidence has suggested that even when we do "dress better", we get targeted to be followed by some sales people and security guards anyway.

All of this has had a devastating psychological impact on us, our children and our families. Our children live in constant fear of being stopped by the police even though they are doing the right thing. This affects their decision making as adults in terms of career, lifestyle and residency choices. It affects us because we, as parents, continually worry that our children may not make it home that evening, that they may be stopped by the police just because they're Black.

Accordingly, we support the commitment of the New Jersey Legislative Black and Latino Caucus, the NAACP and the Black Ministers Council of New Jersey to ferret out discriminatory and illegal actions by State Police officers and any other law enforcement officers in the state of New Jersey. Further, we enthusiastically support the Caucus' statewide hearings investigating issues related to the abuse of power concerning police at the state and local levels. It is critical at this juncture to provide the citizens of this state with a forum to share with their elected officials their experiences with law enforcement officers. While statistics are important, the stories of men, women and children of the State of New Jersey must be told so that the community recognizes

that the illegal actions of some renegade officers are happening, not to strangers who are criminals, but to their neighbors, co-workers and ordinary, hard-working citizens just like them. And if this treatment can happen to us, it can happen to you too.

The Garden State Bar Association applauds the leadership of the State Troopers Fraternal Association, Non-Commissioned Officers Association and Superior Officers Association of New Jersey for not supporting, \*39 endorsing or condoning disparate treatment of any person or group based on race, gender, creed, religion or national origin. The Associations' statement of March 22, 1999 recognizing that there existed legitimate concerns regarding racial profiling, welcoming a fair and impartial review and stating that "anyone out there using racial profiling or in any way misusing or abusing their position must be identified and properly dealt with", sends a clear signal to their membership and the public that this is a problem which must be dealt with and eliminated.

Finally, we support recently introduced legislation in the New Jersey Legislature which requires the Superintendent of the State Police to collect and report data relating to motor vehicle stops including the number of stops; the reason for the stops; race, sex and ethnicity of the person or persons stopped; whether a search was conducted, the basis for the search and the fruits of the search; and what action was taken, whether summons or arrest. As well, the Garden State Bar Association supports Congressman John Conyers, Jr. in his tireless efforts on the national level to pass legislation which would require all police officers in the country to record the race and other data of every person stopped on the highway. We call on New Jersey's Congressional delegation to vote for the Traffic Stops Statistics Act when Congressman Conyers reintroduces it this term.

The Garden State Bar Association urges Governor Christine Todd Whitman to engage in a constructive dialogue with all segments of the community concerning these illegal police practices by some renegade police officers on the state and local level. Nineteen police chiefs from across the country met in Washington on April 9 and, according to the New York Times, admitted "...that complaints about police misconduct were often valid" and that race is a problem in policing. Their candor is welcome. Contrary to Governor Whitman's statement on March 11, 1999 in which she characterized the challenges and outcries concerning racial profiling as "partisan, political attacks", our outrage is neither partisan nor political. It is valid, it is real and it deserves a legitimate response and swift action. It is as real as the 11 bullets fired on four of our kids who drove down the New Jersey Turnpike last April on their way to a college with nothing more nefarious in their van, as reported in the Star-Ledger, than basketball shoes, textbooks, a Bible and a John Steinbeck novel.

**\*40 STATEMENT OF THE GARDEN STATE BAR ASSOCIATION REGARDING THE NEW JERSEY ATTORNEY GENERAL'S RELEASE OF DOCUMENTS ON RACIAL PROFILING [AND] THE TURNPIKE SHOOTING CASE. . . DECEMBER 6, 2000**

#### RACIAL PROFILING

As the largest bar association in New Jersey comprised of African-American attorneys and dedicated to the elimination of discrimination and inequality, we feel compelled to once again express our position on the recent revelations regarding the long-standing, government sanctioned policy of racial profiling. In April of last year, we spoke out when both the Governor and Attorney General of this state continually denied the very existence of racial profiling by the New Jersey State Police. Indeed, on March 11, 1999, a scant 19 months ago, Governor Christine Todd Whitman characterized criticisms against this illegal policy as "partisan, political attacks". Then Attorney General, now State Supreme Court Justice Peter Verniero, said in his confirmation hearing for appoint-

ment as Supreme Court Justice in March, 1999 that the existence of racial profiling “crystallized” in his mind only after two state troopers shot 4 African-American and Latino students on the Turnpike in 1998.

Close to 100,000 pages of documents released by the New Jersey Attorney General's office last week confirm not only that racial profiling has been an ingrained, established practice of the State Police for decades, but that it was common knowledge by senior officials of the State Police, the Office of Attorney General and, more probably than not, the Governor's office of this state over several administrations. None of this information is any great surprise to us in the African-American community and, frankly, should not be a surprise to any other citizen. The fact of the matter is that African-Americans, in particular, have been targets of police at the local and state levels as long as we have been in this country.

News reports state that Attorney General John Farmer, Jr. suggests that racial profiling dates back to the New Jersey and federal government's efforts to eliminate drugs starting in the mid-1980s. We reject that theory as well. Black citizens have historically been targeted by law enforcement officers and as more Latinos have immigrated to this country, they, too, have been the subject of this abuse. The knowledge that we will be stopped for no reason other than the color of our skin is a part of our culture, our upbringing and, as we discussed last year, a part of every significant life decision that we make...from where we live, where we drive, and what car we buy.

\*41 The release of documents by the Attorney General last week was compelled by Order of the Court in response to defense lawyers' demand for production of documents for over one year which was required so that these lawyers could appropriately defend clients accused of numerous violations by New Jersey state troopers. The Court only required that the state release documents dating back to the 1980s. We suspect that data preceding the 1980s would support our belief that the practice was routine much prior to that.

The issue now is what is the state going to do about these revelations that, not only ordinary citizens, but Black and Latino state troopers have been complaining about for years? It is not enough to release these documents and say “I'm sorry” . We require that a full, independent and comprehensive investigation take place which includes not only the State Police but the Attorney General's office and any other agency of state government. Such an investigation cannot be done internally by the State Police or the Attorney General's office. Accordingly, we agree with and support the New Jersey Black and Latino Legislative Caucus' call for bipartisan hearings of both the State Senate and Assembly to determine not only who, at the highest levels of our government knew and sanctioned the policy of racial profiling, and when they knew it; but also, who were the troopers, past and present who engaged in racial profiling.

Once this is determined, there must be accountability. This business of law enforcement officers being above the law must stop now. Every citizen of this country knows that if you violate the law, you are held accountable. There can be no exceptions in this instance. Black and Latino troopers have contended that the very troopers who were the main offenders of profiling Black and Latino citizens based on their race are now in charge of the policy's dismantling. If this is true, it is past time for these employees to receive the same penalties as any other employee who breaks the law - - discipline, suspension, and discharge. Obviously, if laws have been broken, we expect that appropriate charges will be brought against any and all such persons.

Thus, we support legislation proposed more than a year ago by members of the Black and Latino Legislative Caucus which would make racial profiling a third degree crime, video cameras in State Police cars and publishing the results of Internal Affairs investigations. In addition, Rev. Reginald Jackson, as well as Assemblyman

Leroy Jones have called for the election of future Attorneys General as in other states of this country. This matter should be part of the public debate as well.

The Garden State Bar Association has contacted the Office of the Attorney General and has been invited to meet with members of the Attorney General's staff. We welcome the opportunity to discuss ways in \*42 which we may assist the Attorney General in eliminating the policy of racial profiling and institutionalizing reforms to ensure that changes are made which ensure that all citizens' civil and constitutional rights will be protected. Further, we will participate in any hearings that are held and are committed to aiding those in the state legislature and the United States Department of Justice in rooting out this disgraceful policy and ending the discriminatory treatment of African-Americans and Latino citizens in the state of New Jersey.

#### THE TURNPIKE SHOOTING CASE

Members of the Garden State Bar Association are as stunned as the four student victims that the indictments against the 2 New Jersey state troopers who shot them on the Turnpike were dismissed by Judge Smithson on October 31. The Judge said there was prosecutorial misconduct and that the substantive rights of the defendant troopers were violated by the State.

There seems little doubt to us that the substantive rights of these young men were outrageously violated as well on the night of April 23, 1998 by these state troopers. It took the shooting of these young men to force the State of New Jersey to acknowledge its discriminatory policy of racial profiling, but not until one year later. These victims demand and deserve justice. It should be no surprise that minority citizens have little faith in our state's government or its justice system given what appears to many to be differential treatment over and over again when confronted with Black and Brown victims at the hands of law enforcement.

The United States Department of Justice announced last month that it will investigate whether it should prosecute Troopers Hogan and Kenna for violating the civil rights of the students who were, in our estimation, illegally stopped because they were Black or Latino, shot at 11 times and permanently wounded as a result. We recognize that the State of New Jersey has appealed the Smithson decision in this case, however, at this point, we urge the federal Justice Department to conduct a swift and thorough inquiry and bring charges against these officers for violating the civil rights of these four students. To do any less will send the message to African-American citizens and other racial minorities in this country that our lives are not worthy of protection and that, we "...have no rights that [our system of justice is] bound to respect."

**\*43 LETTER FROM REGINA WAYNES JOSEPH TO SENATOR WILLIAM L. GORMLEY, CHAIRMAN,  
NEW JERSEY SENATE JUDICIARY COMMITTEEMARCH 21, 2001 Dear Senator Gormley:**

\* \* \*

First, we congratulate you and the State Senate Judiciary Committee for instituting its comprehensive investigation into the disgraceful, longstanding, and institutionalized policy of racial profiling against African-American and Latino motorists in the State of New Jersey. As you may know, the Garden State Bar Association has denounced this practice for some years. We have expressed our views to the public respecting this policy and actions we believe are required not only to stop it but to reform the institutions which have permitted it in statements in 1999 and 2000. Copies of these statements are attached for your convenience.

Secondly, we remain firm in our conviction, as noted in our statement on December 6, 2000 that “. . . African-Americans, in particular, have been targets of police at the local and state levels as long as we have been in this country.” We suspect that your investigative findings, particularly the stop data that has finally been released by the State Police and Office of Attorney General showing overwhelming numbers of African-American and Latino motorists stopped for years, might lead you and your Committee to agree.

Finally and most importantly, however, we are aware from press reports that the witnesses subpoenaed to testify before the Committee's hearings are employees who worked with either the New Jersey State Police or Office of Attorney General and were involved in issues related to racial profiling by the New Jersey State Police, and/or the timing of the indictments in the Hogan and Kenna criminal matters. While we understand the necessity for hearing from these witnesses in order to gather the facts in this matter, we believe that your inquiry will be incomplete and your findings inaccurate without the testimony of African-Americans and Latinos who can provide insight into why racial profiling occurred in New Jersey and our view of appropriate accountability and reform measures.

The first issue presented by the Committee as the purpose for its Special Inquiry is “an investigation into any organizational and cultural issues in the Department of Law and Public Safety and the Division of State Police that may have developed, ignored, concealed or fostered racial profiling.” One look at the lack of diversity in the upper ranks of both the \*44 State Police and Office of Attorney General for the last several decades speaks volumes to the insensitivity and lack of interest of those in charge to see what was in plain view. There was virtually no representation of persons of color in the highest ranks of the Office of Attorney General, specifically, the Division of Criminal Justice and the State Police. Additionally, we note the lack of diversity on your Committee, its legal representation and, obviously, the witnesses called. It is disheartening to find that there is not one person of color in any of these roles who will decide what accountability, sanctions and reforms will occur as a result of this disgraceful policy.

Accordingly, we would not like to see our voice silenced on this matter which primarily impacts us and our community. Therefore, we respectfully request the opportunity to testify before the full Committee prior to the close of its hearings. We look forward to hearing from your office to arrange an appropriate date and time for such testimony to take place.

Thank you for your attention to this matter.

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THE RECORD

MARCH 26, 2001

EDITORIALS

Underlying racial profiling

It took a Black attorney to point out that just about everyone involved in the state Senate Judiciary Committee's hearings on racial profiling is white.

The 11 senators on the committee are white. The committee's lawyers leading the questioning are white. And all the witnesses at the hearings so far ---top officials in both the state Attorney General's Office and the state police at the time when the racial profiling scandal was going on --- have been white.

In a letter last week to the committee, Regina Waynes Joseph, a member of the board of directors of the Garden State Bar Association, which represents 500 black lawyers, wrote: "One look at the lack of diversity in the upper ranks of both the state police and the Office of Attorney General for the last several decades speaks volumes to the insensitivity and lack of interest of those in charge to see what was in plain view."

**\*45** Not until 1999--- after the shooting of three young minority men on the turnpike and the Whitman administration's acknowledgment of the existence of racial profiling --- was Carson Dunbar appointed to be the first black superintendent of the state police.

There is no doubt racial profiling has been in plain view for a long time. Blacks say they lived with it long before it became an issue in the 1980s as part of the nation's war on drugs.

When he took office in 1990, former Gov. Jim Florio and his attorney general, Robert Del Tufo, made reducing the instance of racial profiling on the New Jersey Turnpike a top priority. They instituted guidelines on searches and seizures, started sensitivity training, and reduced complaints dramatically.

During former Gov. Christie Whitman's tenure, however, the practice of racial profiling returned.

The Judiciary Committee hearings are being held to determine why then-Attorney General Peter Verniero and his staff did not act sooner to stop it, or admit its existence, despite evidence to the contrary.

Was it, as Ms. Joseph contends in her letter, that white officials were too insensitive to realize the damage caused by racial profiling? Or did they prefer to view profiling as an effective, if controversial, tool for making drug arrests? Which was more important to them, appearing tough on crime or protecting people's civil rights?

Testimony Before the New Jersey Senate Judiciary Committee Special Investigation Into Racial Profiling April 9, 2001

Good afternoon Chairman Gormley, Senator Lynch, members of the committee, Mr. Chertoff and counsel. I am Regina Waynes Joseph, an attorney at law of the state of New Jersey, a member of the board of directors of the Garden State Bar Association and chairman of its Issues/Legislative Watch Committee. Thank you for your courtesy in extending to me an invitation to testify before you today.

First, permit me to commend you, Senator Gormley, and members of the Judiciary Committee for initiating this important inquiry into racial **\*46** profiling. Your special inquiry with the reforms which will hopefully result, has the potential to change the face and methods of law enforcement in New Jersey and throughout the country.

The purpose of our testimony today is to assist you in that effort by providing you with our views of 1) what racial profiling is and its effect on its victims; 2) why we believe it has been permitted to continue for so long; 3)

what measures must be taken to ensure that those accountable for violating the rule of law are brought to justice; and 4) recommendations for meaningful reforms in the Division of State Police and the Department of Law and Public Safety's Office of Attorney General which should go far as well in providing direction to local law enforcement agencies in the state of New Jersey.

#### Racial Profiling--A Simple Definition From an Historical Perspective

Attorney General John Farmer, in his testimony before you on April 3, 2001, complained that the police and civil rights leaders had varying definitions of racial profiling. General Farmer noted that “[e]veryone agrees that law enforcement decisions predicated solely on race are reprehensible and should be forbidden.” [FN2] He goes on to say that the state police, when denying that systemic racial profiling existed, meant the definition of racial profiling I just quoted. General Farmer then stated that civil rights leaders defined the term to mean “any consideration of race as a factor in forming a law enforcement decision.” [FN3] He told you that the state police were bitter and felt that they were being unjustifiably persecuted because they were doing their jobs properly “...using race as a factor when many courts have upheld its use and when race was prominently featured in law enforcement intelligence routinely provided by the Justice Department and other law enforcement entities.” [FN4]

It appears to me that the attorney general, as have attorneys general and state officials for decades, is presenting you with a seemingly contradictory set of circumstances which appears to be designed to attempt to defend and immunize the actions of state officials and the state police on the one hand, while suggesting that he is now caving into the demands of “civil rights leaders” to forbid the use of race as a factor in law enforcement decisions not because of “constitutional compulsion[s]” [FN5] but for policy considerations. I suggest to you that the attorney general's analysis will go far in ensuring the continued divisions and hostility \*47 between the police and the African-American and Latino community based on his improper assessment that the state police were engaged in valid law enforcement practices.

There is nothing new or complicated about racial profiling. It is simply the illegal and discriminatory targeting of African-Americans and Latinos by police for no reason other than the color of their skin. And it is firmly rooted in this country's and this state's refusal to address the legacy of slavery, repression and legal inequality with the resultant prejudices and racial biases which have been and remain the unfortunate outcomes. [FN6]

This practice did not start as part of the late 1980s war on drugs, nor is it restricted to behavior by the New Jersey State Police. Racial profiling by police, whether federal, state or local, and New Jersey's peculiar status as leader of this illegal and unconstitutional practice, has been the basis of virtually every racial uprising in this country. It is a part of our popular culture.

In 1956, Chuck Berry, the popular rock and roll singer, wrote these lyrics for the song You Can't Catch Me, the first song he ever recorded for a motion picture:

New Jersey Turnpike in the wee wee hours  
I was rolling slowly 'cause of drizzlin' showers  
Up come a flattop he was movin' up with me  
Then come sailin' goodbye

In a little old suped up mini  
I put my foot in my tank and I begin to roll  
Moanin' sirens, 'twas the state patrol  
So I get out my wings and then I blew  
my horn  
Bye-bye New Jersey I become airborne [FN7]

In the 1968 Report of the National Advisory Commission on Civil Disorders, commonly known as the Kerner Report, the commissioners made these remarks when discussing the views of African-Americans respecting police conduct, "...[p]hysical abuse is only one source of aggravation...[i]n nearly every city surveyed, the Commission heard \*48 complaints of harassment...and the stopping of Negroes on foot or in cars without obvious basis." [FN8]

I asked former United States Senator Fred Harris, who was a member of the Kerner Commission, whether he believed that racial profiling stemmed from the failed drug enforcement policies of the 1980s. Senator Harris told me that his opinion was that racial profiling began much "before that...and was not just tied to the drug business." [FN9]

This view was reinforced by former United States Assistant Attorney General Roger W. Wilkins, now the Clarence J. Robinson Professor of History and American Culture at George Mason University, who served as Associate Director and Director of the U.S. Department of Justice's Community Relations Service from 1964 to 1969. [FN10] Professor Wilkins told me that his basic charge was to assess why there was civil unrest in the cities. He said that he and his colleagues went to virtually every uprising in the United States, from Watts in 1965, the riots in 1966 and 1967 through those in the spring of 1968 after the assassination of the Rev. Dr. Martin Luther King, Jr.

Professor Wilkins said that the result of his study revealed that every riot "...was started by a police incident in which a policeman, almost always white, either shot or harassed a black citizen." He said that he "...heard time after time from Blacks and Latinos that they were stopped and talked to roughly and disrespectfully by police. The most constant refrain was friction between the Black community and white police; and the profound and persistent complaint was that they were stopped because they were Black."

Nothing has changed, Senators. Professor Wilkins made the same comment that most African-Americans and Latinos have about racial profiling, whether they live in New Jersey or elsewhere in the United States, "It is a regular feature of American life."

So what are these "profiles" that General Farmer testified are "routinely provided by the Justice Department and other law enforcement entities?" Generally, the profile is any person of color, according to Professor David A. Harris of the University of Toledo College of Law, "...regardless of their obedience to the law, their age, the type of car they drive or their station in life. In short, skin color has become evidence of the propensity to commit crime, and police use this 'evidence' against minority drivers on the road all the time." [FN11]

\*49 You heard former Superintendent of the New Jersey State Police Carl A. Williams testify here and re-

peat his assertion, the one that got him terminated by Governor [Christine] Whitman, that minorities are the ones who "...were moving the drugs. . ." [FN12] It is no secret that everyone now knows that national and your own state statistics do not support Colonel Williams' opinion. Nationally, African-Americans constitute 13 percent of the country's drug users; 37 percent of those arrested on drug charges; 55 percent of those convicted; and 74 percent of all drug offenders sentenced to prison. [FN13] Nationwide in 1999, as reported in the Philadelphia Inquirer, the percentage of drivers searched who were found with contraband were 17 percent white; 10 percent Latino; and 8 percent Black. [FN14] In New Jersey, for the year 2000, as reported by General Farmer, 53 percent of Black drivers were searched by the Moorestown station yielding 13 percent of those found with contraband; only 19 percent of white drivers were searched, however 25 percent of those white drivers were found with drugs; and 25 percent of Latino drivers were searched and only 5 percent were found to have illegal substances. Yet, despite these statistics, General Farmer, according to the Philadelphia Inquirer, as late as January, 2001, said that "...the apparent continued disparate treatment of minorities, as suggested by statistics on motor-vehicle stops, was not proof of racial profiling." [FN15] Based on his review of videotapes of traffic stops, however, General Farmer now concedes that "we have proof" and that "some of the videotapes confirm what the numbers suggest."

The bottom line is that African-Americans and Latinos have known that it is incontrovertible that we have suffered disproportionate illegal police actions for as long as we have been in this country. What is also true is that this selective enforcement has been condoned and covered up by senior management of law enforcement agencies and those to whom they report in government, whether at the local, state or federal level. The effect of these illegal police activities has been devastating on our communities.

The "profile" that law enforcement agencies have perpetuated about us is not true, Senators. It is a racist stereotype that debases law enforcement as the perpetrators and degrades us as the victims who have had no recourse at the highest levels of government in this state and this country to make it end.

**\*50** Let me give you some examples. My late father, William D. Waynes, brought my mother, my sisters, and I to Moorestown, New Jersey, in Burlington County, to live in 1964. For those of you who know the turnpike, that's Exit 4. When I grew up and had my own family, I lived variously in Newark, East Orange and Montclair, all of which are at Exit 15W of the turnpike. Since we're a very close family, I have been up and down the turnpike from 15W to 4 and back again a great deal over the past 30 years. When my daughter was a very little girl, starting around 1975, she would play a game on those trips down the turnpike. The game was to spot the Volkswagen Bugs. Every time my daughter would see a Volkswagen Bug, she would say "Mommy, there's a Bug" and she would keep count for the entire trip. As she got older, my daughter took to reading books on those trips up and down the turnpike because she loved to read. Her head would be buried in a book for the whole trip except when she saw a state police officer who had pulled over a motorist. Then my daughter would lift her head out of the book and say to me, "That's a Black person, Mommy." Her refrain would continue all the way down the turnpike and all the way back--"That's a Black person, Mommy" and that refrain has continued for almost 30 years!

On a sunny Sunday in 1974, my former husband and I decided to go out for a drive with our daughter who was less than one year of age. At the time, we lived in the Colonnade Apartments in Newark, which was adjacent to Route 280. I remember like it was yesterday thinking that we had to be careful because we would be driving into communities which were predominantly white, although on the highways surrounding those communities, and police had a tendency to target Blacks who dared to even drive where police felt they did not belong. Sure enough, on the way home from that Sunday drive, a state police officer pulled my husband over. My

husband was born and raised in Harlem, went to Catholic grade school, high school and college, as did I. He had never been arrested, never stopped by police for any reason and was a very slow driver. The officer had no reason when we asked him why he stopped us, but he asked us where we lived and where we were going. At this point, our 10-month-old daughter was crying in the car. Both my husband and I told the officer what our backgrounds were and I told the officer that I was involved with a coalition of organizations that was challenging the state police for practices just like this stop. The officer then told my husband that his license plate was crooked and gave him a ticket for this “offense.”

I will never forget the Sunday night in August in 1991 at about one in the morning when I had just completed a 14-hour drive from Atlanta, Georgia, after taking my daughter back to Spelman College to begin her sophomore year in school. I was driving alone and I had made it through \*51 North Georgia, South Carolina, North Carolina, Virginia, Maryland and Delaware on Routes 85 and 95 without incident. I had traveled all the way up the New Jersey Turnpike, Route 280 West and was a block and one-half away from my home in Montclair. I was proud of myself. I had to go to work in Little Silver in the morning and I rationalized that I would probably just be getting to bed at that hour anyway so I wasn't so late. However, as I made the turn from Undercliff Avenue onto Gates Avenue in Montclair, I was pulled over by a Montclair police officer who seemingly came out of nowhere because there was not a soul on any street, not a car, not a person. I was driving a new silver Mazda which I had bought in April of 1991 after my old 1980 Toyota died on the Driscoll Bridge on the way home from work one night. I asked the officer why he had pulled me over. He told me that they had a report that a small car had sideswiped another car on Undercliff Avenue. I told the officer, first, that mine was not a small car, second that there were NO cars on Undercliff Avenue to begin with, and third, there was not a scratch on my car since it was new. The officer wanted to know where I was going and I told him that I was going home which was a block and a half away. I told the officer further that I was outraged that I had been stopped for what I believed to be a spurious reason, which had, additionally, ruined my day. The officer, apparently realizing that we both knew that the stop was improper, made matters worse as far as I was concerned, by telling me that I could not leave until his supervisor came to verify that I could be let go. I then proceeded to wait almost one hour until six police cars with police pulled up to check me out and my credentials. Then I was allowed to go home.

On March 31, 2001, my daughter and I were driving down the turnpike again, this time to Exit 2, Swedesboro, to attend the installation of my nephew as an Eagle Scout. Between Exit 5 and Exit 4, my daughter noticed a state trooper and warned me to be careful. Shortly thereafter, we saw the trooper with sirens and lights blazing doing at least 90 miles an hour down the left lane. Everybody was moving over, all of us hoping that we weren't the one he was after. Then, as suddenly as he appeared, he turned the lights off and pulled no one over. I said to my daughter, “What was that about?” My daughter, now 27 years old, said to me impatiently, “Because he can, Mom, because he can!”

Senator O'Connor asked General Farmer if racial profiling on the highways was just the tip of the iceberg, in essence if these stops by police for no reason other than race occur elsewhere in our society. [FN16] Senator, these illegal law enforcement actions are pervasive throughout our society. We discussed this issue in some detail in our statement to the public on \*52 April 14, 1999. [FN17] We said then that “[w]e are often stopped because an officer questions why we are traveling in a particular neighborhood, town or highway. We are often stopped because an officer questions why we may be driving a particular make or type of vehicle. And we are disproportionately stopped when we are seen to be stopping in a particular store, mall or shopping center in a community where some officers assume we should not be. These illegal practices of profiling, based solely on race, by law enforcement officers at the state and local levels rob us of our liberty and, as we have seen all too

tragically in this state and others, our property and our lives.”

So, Senators, racial profiling is not just the province of the state police or the turnpike in New Jersey. But me and my family have been fortunate Black residents of New Jersey. There are horror stories which are far worse than mine, some of which have been told to the New Jersey Legislative Black and Latino Caucus at their hearings in April 1999 and some of which will be told to you by other persons as part of these hearings.

Suffice it to say that these illegal law enforcement actions have wreaked havoc on the emotional, psychological and physical well being of the African-American and Latino communities. As Elaine R. Jones, Esq., president and director-counsel of the NAACP Legal Defense and Educational Fund, Inc., noted at a symposium on April 4, 2001, the criminal justice system has demonized Black men, in particular, by portraying them as criminals. The result is that this justice system has systematically destroyed our families by taking away our fathers, brothers, husbands, sweethearts and sons even though government statistics state unequivocally that 80 percent of the country's cocaine users are white and the “typical cocaine user is a middle-class, white suburbanite.”  
[FN18]

Why has it been going on so long?

Why has it been going on for so long? Senators, I believe that there are two principal reasons for racial profiling in this state and everywhere else in this country. Superintendent Carson Dunbar stated the first reason in these hearings. He told you that the state police was a microcosm of the larger society and each officer brings to his or her position the same biases and prejudices which he or she may have formed by living in this society. I agree. To the extent that the issue of race remains an intractable, seemingly insoluble problem in the United States, some state police officers and other \*53 law enforcement officers will reflect those biases and prejudices against people of color. In addition, to the extent that law enforcement agencies encourage these officers to perceive African-Americans and Latinos as representing the “profile” of a criminal, law enforcement is promoting those biases and prejudices to fester and grow.

Secondly, the absence of African-Americans and Latinos in substantial numbers, or at the very minimum in proportion to our representation in the population of this state, in the New Jersey State Police, the New Jersey Office of Attorney General and other law enforcement agencies in this state and country contributes to the insensitivity, lack of knowledge and misperception about African-Americans and Latinos. Further, the fact that there are virtually no people of color in the management ranks in either the attorney general's office or in the New Jersey State Police goes a long way in telling the story why racial profiling has continued for so long.

Why do I say that? Because clearly if there had been an African-American or Latino in management in the attorney general's office or even in the state police, maybe that person or persons, having been stopped themselves many times by the police or knowing that their father, mother, son, uncle, or sweetheart had been stopped for no reason other than the color of their skin, maybe that person would have insisted that the attorney general or state police investigate the problem and take steps to stop these illegal practices.

Such an investigation should not have had to rely on a Black or Latino to tell the attorney general or the superintendent of the state police that racial profiling which had gone on for decades in New Jersey was wrong. But no one else in those offices did, not until the U.S. Department of Justice threatened to sue the state police for the illegal practice and not until the Black and Latino community, along with other people of good will, rose up in justified outrage when two state police officers shot four of our kids on the turnpike in April of

1998.

I have been told by First Assistant Attorney General Paul Zoubek that the attorney general's office is the largest law firm in the state of New Jersey. He indicated that he is aware that there are virtually no minorities in the senior ranks of the attorney general's office. I do not have the numbers from him concerning exactly how many African-Americans and Latinos work for the attorney general and in what capacity. We stand ready, however, to consult with his office respecting how to change the recruitment, hiring and retention practices in the Office of Attorney General to ensure that more African-Americans and Latinos get an equal opportunity to practice in that office.

**\*54** The problem with the state police, however, is much more intractable and, over the past 26 years, has taken several lawsuits and two consent decrees to address. Specifically, as you know, in October 1975, the state of New Jersey, state police and New Jersey Department of Civil Service entered into a consent decree with the United States of America which contended that the state police engaged in a "...pattern or practice of discrimination based on race, sex and national origin in all aspects of employment." [FN19] The consent decree required, among other things, that the state police "...seek to achieve a long-term goal of hiring sufficient numbers of black and Spanish-surnamed members of the state police necessary to result in a workforce consisting of 14% black or Spanish-surnamed members combined within five years of the entry of this decree."

The state police did not achieve these goals within five years, with the result that the United States of America continued its oversight of the state police until 1992, when the 14 percent goal was achieved. But the state police soon took measures to change that progress. In January 1993, shortly after being released from the oversight of the United States Department of Justice because of a pattern and practice of discrimination in hiring of minorities, the New Jersey State Police imposed the requirement of a four-year college degree or 60 college credits plus two years of military or police service as the minimum educational qualifications to compete for entry-level state trooper jobs. Prior to 1993, the state police required no education beyond a high school diploma or its equivalent.

Further, in 1999, the state police, by the attorney general, accepted a recommendation to eliminate the alternative requirement of 60 college credits plus two years of military or police service so that the only acceptable requirement was a bachelor's degree from an accredited four-year college.

No other state police agency in the United States had a four-year college requirement when New Jersey adopted it in 1993. Of 48 other state police agencies surveyed by the NAACP in 1992, 39 required a high school diploma and nine required one or two years of college, five of which permitted the substitution of military or police experience for some or all of the formal education. [FN20] Hiring in the five classes before 1993 was approximately 15 percent Black and 8.8 percent Latino. For the five classes from 1993 through 1998, the hiring was only 4.3 percent Black and 3.6 percent Latino. Consequently, the NAACP and the New Jersey State **\*55** Conference of the NAACP and several individuals sued the state of New Jersey again in 1996. Another consent decree was entered into in June 2000, which requires, among other things, that the state police must consider people with two years of college and two years of work experience for hiring into entry-level trooper positions.

There is a direct correlation between the absence of African-American and Latino state troopers and racial profiling, Senators. And until this state makes a good faith effort to recruit, hire and retain people of color, there will be no change. As important is how minority officers are treated once they are hired into the state police. I know that you are aware of a pending lawsuit by 13 African-American troopers against the state police for dis-

criminationary treatment by white officers and supervisors. Attorney ReneJ Steinhagen represents both the NAACP and the 13 troopers, and Ms. Steinhagen will be testifying before you tomorrow. I hope that you will give her and several of her clients every opportunity to reveal the difficulties the NAACP has encountered in enforcing the terms of the consent decree and the problems faced by minority troopers daily.

Equally important respecting why racial profiling has continued for so long in this state is the political climate and the feelings of the people here in New Jersey and around the country. In the 1999 National Opinion Poll conducted by the Joint Center for Political and Economic Studies of Washington, D.C., the following question was asked in part: Do you think police regularly employ racial profiling when on patrol? 69 percent of Black respondents answered yes and 47 percent of white respondents replied yes. Despite this feeling, however, it has been recently reported that polls have shown that "...while blacks have become increasingly distressed about evidence of racial profiling, whites, who make up three-quarters of the population, are largely indifferent. And Republicans showed the lowest level of concern." [FN21]

Hopefully, the pollsters have gotten it wrong and all people, regardless of color, believe that this illegal treatment of African-Americans and Latinos must stop now. Moreover, we certainly hope that our legislators, irrespective of the fact that they are politicians who may very well pay heed to polls, will do the right thing and push reform measures vigorously.

#### **\*56 Accountability**

There has been much discussion during these hearings regarding who will or will not be accountable for the illegal racial profiling by the state police. We are aware that this committee has taken steps with respect to the former attorney general, however, we believe that, unfortunately, there is plenty of blame to go around for permitting this festering illegal activity to lie dormant for so long.

Accordingly, we believe that it is simply unthinkable to permit those persons who have violated the rule of law in this state time and time again to go unpunished. We recognize that Senator Lynch, among others, has properly, in our view, and continually pursued this line of questioning of the attorney general and his aides. The response that they chose to spend their time fixing the problem rather than retroactively determining who had violated the law of this state and meting out the appropriate discipline or, if appropriate, criminal charges is simply unacceptable. There is no way that, in our society which so values the rule of law, it is right or just that differential treatment can be accorded to people who have broken the law just because they are law enforcement officers or state officials. Accordingly, we urge this committee to ensure that measures are taken to bring to account those who have violated rules, regulations, policies and our laws. If that means discipline or criminal charges, then our society and values demand no less.

#### **Recommendations for Reform**

We know that your deliberations will include meaningful reforms. We suggest the following:

1. Remove the Division of State Police from the supervision of the Department of Law and Public Safety and have the division report directly to the governor. It has been very clear from these hearings that the Office of Attorney General has a conflict of interest between its role as defender of the state police and supervisor which ensures that the agency complies with the law. It is also very clear that in the matter of racial profiling

and enforcement of individuals' civil rights in this state, that the status quo of racial profiling ruled the day. There must be a separate system of accountability for the state police to ensure that this conflict of interest does not continue.

2. Appoint a special prosecutor to investigate those in the state police, Office of Attorney General or any other state agency who may have engaged in wrongdoing with respect to the denial of, covering up, and continuation of racial profiling in this state. Such a special prosecutor would have the power to institute charges and disciplinary action, as appropriate.

\*57 3. Appoint a civilian review board with members from the public, Legislature and the executive branch of government to review compliance of the two consent decrees--racial profiling under the jurisdiction of the U.S. Department of Justice and the NAACP consent decree pertaining to the recruitment, hiring, promotion and retention of minority troopers so that activities respecting these two matters are accessible to the public view and so that New Jersey doesn't have to revisit this issue again in another 26 years.

4. Pass the package of bills proposed by the New Jersey Legislative Black and Latino Caucus aimed at reforming the state police and ridding this state of racial profiling. These include: 1) creating the offense of racial profiling as a third-degree crime; 2) requiring every trooper who stops a motorist to provide name and rank, the reason for the stop, and the means of filing a formal complaint if the motorist wishes; 3) establishment of a special affirmative action compliance unit in the Division of State Police to develop new goals and timetables for correcting the state police's deficiencies in hiring, retention and promotion of minorities; 4) maintenance of records, logs, audio and videotapes for 10 years after their creation; 5) establishment of a telephone hotline for citizen complaints of police misconduct; 6) criminalizing the tampering of video cameras or tapes placed in a patrol car by a law enforcement officer; 7) establishment of a psychological evaluation test to be administered to all applicants to the state police to reveal racial bias or insensitivity; 8) elimination of the four-year college degree requirement for entry-level state trooper which is already stayed by the consent decree; 9) requiring state police officers to prepare and file reports on every motor vehicle stop they initiate, also known as the Traffic Stop Statistics Act at the federal level; and 10) establishment of a civilian board of review to review and investigate complaints and allegations of misconduct by state police troopers and officers.

It was with chagrin that we have watched the State Assembly bypass this important legislation for over two years and ignore the entreaties of the members of the Legislative Black and Latino Caucus last week as they attempted to get action on these bills. Comments by legislators decrying racial profiling ring hollow when the public sees that no action is being taken at all on these important matters.

#### Conclusion

Finally, I spoke earlier about a trip last weekend to Swedesboro for the initiation of my nephew, Langston Clement, as an Eagle Scout. For me, it was a remarkable ceremony. I had no idea when I went to Swedesboro that the ceremony was just for him. I thought other boys were going to be \*58 installed as well. But what was most amazing to me in this day and time was that, not only was Langston the only boy receiving this honor, but the entire auditorium of people honoring my nephew, with the exception of my immediate family, was all white. The entire Boy Scout troop was white, the troop masters were white, the dignitaries were white, the mothers who helped my sister with the reception were all white. Town officials came from Logan Township, Woolwich Township and Swedesboro to honor my nephew. There was no sense that there was anything remarkable going on. It was just what this town and these people normally do and would have done for one of their own, regard-

less of color.

I submit to you, Senators, that we in this state and this country have to reach the point, as I am sure many already have, of acting like the good people of Swedesboro who know my sister and her family for who they are and the contributions they can make positively to this society, irrespective of their race. Until we all achieve that, we will be in the same situation described by Dr. Kenneth B. Clark, who was one of the first witnesses to appear before the Kerner Commission. Dr. Clark said, "I must again in candor say to you members of this commission--it is a kind of Alice in Wonderland--with the same moving picture re-shown over and over again, the same analysis, the same recommendations, and the same inaction." [FN22] Hopefully, that will not be the case here in New Jersey again.

Thank you for your time and patient attention.

[FN1]. Regina Waynes Joseph practices law in New York and New Jersey focusing on the areas of labor and employment litigation, corporate and not-for-profit, education, civil rights and entertainment law. She is immediate past president of the Garden State Bar Association.

[FN1]. See generally, New Jersey's history in ratifying certain amendments to the U.S. Constitution designed to ensure full citizenship for African Americans at <http://www.house.gov/Constitution/Amend.html>. Amendment XIII which abolished slavery was ratified in 1865, New Jersey ratified it in 1866 after rejecting the amendment in 1865; Amendment XIV intended to grant Black citizens equal protection of the laws among other things was ratified in 1868, New Jersey ratified it in 1866, subsequently rescinded the ratification and readopted its resolution of rescission over the Governor's veto in 1868, finally expressing support for the amendment in 1980; Amendment XV which granted African Americans the right to vote was ratified in 1870, New Jersey ratified it in 1871 after having rejected it in 1870, See also, THE KERNER REPORT: THE 1968 REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS, (New York: Pantheon Books, 1988), describing the riots in several New Jersey cities during the 1960s. One of the principal causes for the riots discussed by Black residents was their belief of unfair treatment by the police.

[FN2]. New Jersey Senate Judiciary Committee Hearing on Racial Profiling, 7, lines 7-16 (April 3, 2001) [hereinafter Hearing] (testimony of John Farmer, Attorney General of New Jersey).

[FN3]. Id. at lines 17-21.

[FN4]. Id. page 8, at lines 9-14.

[FN5]. Id. at lines 8-9

[FN6]. David A. Harris, Driving While Black, Racial Profiling On Our Nation's Highways, An American Civil Liberties Union Special Report, 2 (June, 1999), at <http://archive.aclu.org/news/1999/n060299a.html>.

[FN7]. Chuck Berry, You Can't Catch Me, in movie "Rock, Rock, Rock" and recorded on Havana Moon, Chess 1645 (1956).

[FN8]. THE KERNER REPORT, supra note 1, at 303.

[FN9]. Telephone Interview with former U.S. Senator Fred Harris (April 3, 2001).

[FN10]. Telephone Interview with Professor Roger W. Wilkins (April 3, 2001).

[FN11]. David A. Harris, *supra* note 6, at 3.

[FN12]. Hearing, *supra* note 2, at 370, line 9 (March 20, 2001) (testimony of Carl A. Williams).

[FN13]. David A. Harris, *supra* note 6, at 7.

[FN14]. Tom Avril, Farmer Says N.J. Profiling Continues, Philadelphia Inquirer, April 14, 2001 at 1 (Internet ed.) (See also page B1 and appears in current internet edition without tables, as: Tom Avril, Farmer Says Profiling Persists at <http://www.philly.com/mld/philly/archives>).

[FN15]. Tom Avril, *supra* note 14, at 3.

[FN16]. Hearing, *supra* note 2, at page 47, lines 21-25, page 48, line 1.

[FN17]. Statement of the Garden State Bar Association in Response to Illegal Racial Profiling by Law Enforcement Agencies (April 14, 1999) (unpublished manuscript).

[FN18]. David A. Harris, *supra* note 6, at 6.

[FN19]. United States of America v. State of New Jersey, Civil Action No.\_\_\_\_, (D.N.J., consent decree filed October 7, 1975).

[FN20]. Plaintiffs' Statement of Undisputed Material Facts in Support of Motion for Partial Summary Judgment, NAACP v. State of New Jersey, No. MER-L-002687-96 (N.J. Super. Ct. Law Div. 1996).

[FN21]. Iver Peterson, In Assembly, Silence on Verniero's Fate, N.Y. TIMES April 7, 2001, at <http://query.nytimes.com/gst/abstract.html?res=FAOD1FF7385AOC748CDDAD0894D9404482>.

[FN22]. THE KERNER REPORT, *supra* note 1, at 483.

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