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**DATE:** April 3, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
JUDICIAL OVERSIGHT  
ANALYSIS**

**BILL #:** HB 321  
**RELATING TO:** Motorist Profiling Evaluation  
**SPONSOR(S):** Representatives Bendross-Mindingall, Fields, and Slosberg  
**TIED BILL(S):** none

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) JUDICIAL OVERSIGHT YEAS 8 NAYS 1
  - (2) CRIMINAL JUSTICE APPROPRIATIONS
  - (3)
  - (4)
  - (5)
- 

I. SUMMARY:

This bill creates a Florida Motorist Profiling Evaluation Task Force consisting of 12 members; requires each state and local law enforcement agency to develop policies and procedures that prohibit biased profiling or discriminatory practices as a primary factor in determining whether the driver of a motor vehicle should be stopped for a routine traffic violation; and requires that the law enforcement curriculum prepared by the of Criminal Justice Standards and Training Commission must include instructions on motor vehicle stops which address the prohibition of biased profiling and any other discriminatory law enforcement practices.

This bill specifically appropriates the sum of \$350,000 from the General Revenue Fund to fund the task force. The cost to state and local government of implementing this bill is unknown, see "Fiscal Analysis & Economic Impact Statement" for further information.

This bill has been substantially amended. The bill, as amended, appears to have a minimal fiscal impact on state and local government. See section entitled "Amendments or Committee Substitute Changes".

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill creates and funds a task force.

B. PRESENT SITUATION:

**Racial Profiling**

"One definition of racial profiling is 'using race as a key factor in deciding whether to make a traffic stop.' Another definition is 'using race as a key factor in deciding whether, during a traffic stop, to search the vehicle or the driver.'" Contacts between Police and the Public/Findings from the 1990 National Survey, Bureau of Justice, U.S. Department of Justice, March 2001, NCJ 184957.

It has been recently noted that "in the late 1990s the American news media exploded with coverage of the problem of racial profiling. There has been considerable attention to this issue by state and local governments and law enforcement agencies nationwide." (See the "Related Issues" section of this analysis.) A Resource Guide on Racial Profiling Data Collection Systems/Promising Practices and Lessons Learned, U.S. Department of Justice, November 2000, NCJ 184768 (monograph).

**Summit on Racial Profiling**

On November 18, 1999, Senator Kendrick Meek and former Representative Anthony Hill convened a meeting of state law enforcement officials and civil rights and civil liberties leaders to discuss the issue of motorist profiling. Correspondence to Governor Jeb Bush from Senator Kendrick Meek, dated December 3, 1999.

**Actions Taken by Florida Highway Patrol to Address Racial Profiling**

The Florida Highway Patrol (FHP) collects traffic stop data, compiled from forms filled out by troopers stopping vehicles. The forms include such data as race, sex, age, ethnicity, reason to stop, and rationale for consent search. Troopers are instructed to record their perception of race, ethnicity, and age unless information is available from a source such as a driver's license. According to FHP, "[t]he intent is to avoid having troopers question drivers about race or age. Since racial profiling is based on the officer's perception of race before making the stop, this perception is the appropriate entry for the data (even if it may be wrong)." Correspondence to staff of the Senate Committee on Criminal Justice from Richard Zeller, Office of Program Planning, Florida Highway Patrol, dated January 19, 2001.

On April 26, 1999, Colonel Charles C. Hall, the FHP Director, issued a memorandum to all sworn FHP employees that racial profiling would not be condoned and members found to be conducting

profile stops would be subject to disciplinary action. Colonel Hall stated that he expected that "all traffic stops made by FHP officers to be based solely on the violation observed." He also stated that he expected that "the race, ethnicity, gender, or economic status of the vehicle occupants will not be considered in deciding whether to search the vehicle." Such decisions, he indicated, "are to be based on evidence and the occupant's behavior patterns."

On June 24, 1999, in a memorandum to all troop commanders, Colonel Hall directed each troop commander to form, within his or her troop, a Troop Diversity Advisory Committee "to consist of at least six prominent leaders within the various minority communities who would be willing to assist you in gauging the FHP's effectiveness in enforcement, education, and information within their respective communities."

### **Actions Taken by Sheriffs and Police Chiefs to Address Racial Profiling**

In early 2001, the Presidents of the Florida Sheriffs Association and the Florida Police Chiefs Association signed a joint resolution which stated, in part, that "enforcement decisions based solely on race have no acceptable place in law enforcement operations," and resolved that the associations encourage professional traffic stops, discourage and condemn use of racial profiling or other enforcement decision making based on race, join with other professional law enforcement associations to discourage racial profiling, and provide training and other support to all law enforcement agencies to help them assure that such practices are not utilized. Resolution 2000-1, Florida Sheriffs Association and Florida Police Chiefs Association.

In a recent letter to staff, the Florida Sheriffs Association provided a non-exhaustive list of sheriff's offices that are currently collecting data on traffic stops. The listed counties include Bay, Columbia, Collier, Leon, Martin, Monroe, Okeechobee, St. Lucie and Taylor. Correspondence to staff of the Senate Committee on Criminal Justice from Mr. J.M. "Buddy" Phillips, Executive Director, Florida Sheriffs Association, dated January 31, 2001.

In a recent letter to staff, the Florida Police Chiefs Association provided a non-exhaustive list of police departments that are collecting information on traffic stops. The listed departments are in Tallahassee and Coral Gables, and it is indicated that the department in Daytona Beach is in the process of implementing mandatory procedures for collecting data, modeled on the FHP and the Tallahassee Police Department. Correspondence to staff of the Senate Committee on Criminal Justice from Mr. Harold M. Robbins, Jr., Executive Director, Florida Police Chiefs Association, dated January 29, 2001. The Metro-Dade Police Department has also indicated to staff that it began a data collection program on February 12, 2001. Correspondence to staff of the Senate Committee on Criminal Justice from Major George Aylesworth, Metro-Dade Police Department, dated January 25, 2001.

### **Enforcement of State Traffic Laws**

Section 316.640, F.S., pertaining to the enforcement of this state's traffic laws, sets forth a number of state and local law enforcement agencies that have responsibility for enforcing those laws. At the state level there is the Division of the Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles, the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, the Division of Law Enforcement of the Department of Environmental Protection, and law enforcement officers of the Department of Transportation. Each of these agencies has the authority to enforce all of the traffic laws of this state on all of the streets and highways thereof.

University police officers, community college police officers, and school safety officers have authority to enforce traffic laws of this state that occur within their jurisdiction. Similarly, police officers employed by an airport have the authority to enforce traffic laws when such violations occur on their property or facilities.

The Office of Agricultural Law Enforcement of the Department of Agricultural and Consumer Services has the authority to enforce the traffic laws of this state only as authorized under ch. 560, F.S. Section 570.15, F.S., specifies the authority of this department regarding access and inspection of certain vehicles. Section 316.640, F.S., does not expand the authority of the Office of Agricultural Law Enforcement at its agricultural inspection stations to issue any traffic tickets except those traffic tickets for vehicles illegally passing an inspection station.

At the county level the sheriff's office of each county has the authority to enforce the traffic laws of this state on all the streets and highways throughout the county wherever the public has the right to travel by motor vehicle, and may be required by the county, as statutorily provided, to enforce the traffic laws of this state on any private or limited access road or roads over which the county has jurisdiction. The sheriff's office has the authority, but is not required, to enforce the traffic laws of this state on any way or place used for vehicular traffic on a controlled access basis within a mobile home park recreation district and the recreational facilities of which district are open to the public.

Finally, the police department of each chartered municipality has the authority to enforce the traffic laws of this state on all streets and highways throughout the municipality wherever the public has the right to travel by motor vehicle, and may be required by the municipality, as statutorily provided, to enforce the traffic laws of this state on any private or limited access road or roads over which the county has jurisdiction. The police department has the authority, but is not required, to enforce the traffic laws of this state on any way or place used for vehicular traffic on a controlled access basis within a mobile home park recreation district and the recreational facilities of which district are open to the public.

**C. EFFECT OF PROPOSED CHANGES:**

This bill creates a Florida Motorist Profiling Evaluation Task Force consisting of 12 members; requires each state and local law enforcement agency to develop policies and procedures that prohibit biased profiling or discriminatory practices as a primary factor in determining whether the driver of a motor vehicle should be stopped for a routine traffic violation; requires that the law enforcement curriculum prepared by the of Criminal Justice Standards and Training Commission must include instructions on motor vehicle stops which address the prohibition of biased profiling and any other discriminatory law enforcement practices; and makes a specific appropriation of \$350,000.

See "Section-by-Section Analysis" for details.

**D. SECTION-BY-SECTION ANALYSIS:**

**Section 1.** Creates s. 943.1759, regarding a Florida Motorist Profiling Evaluation Task Force.

This bill creates a Florida Motorist Profiling Evaluation Task Force. The task force has the following duties:

- To develop a research method and design for the study of practices currently used by law enforcement agencies of the state in making motor vehicle traffic stops.
- To oversee a study of the practices currently used by law enforcement agencies of the state in making motor vehicle traffic stops, which study must include a mechanism for obtaining specific data related to the nature of traffic stops and the treatment of motorists who are the subjects of such traffic stops. Data acquired under this section may be used for research or statistical purposes only and shall not contain any information that may reveal the identity of any individual who is the subject of a motor vehicle traffic stop or any law enforcement

officer. Data acquired under this section shall not be used in any legal or administrative proceeding to establish an inference of discrimination on the basis of particular identifying characteristics.

- To determine whether practices currently used by law enforcement agencies of the state in making motor vehicle traffic stops demonstrate a prevalence of biased or discriminatory law enforcement practices.
- To report its findings and recommendations annually, by September 1, to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives and to provide a final report of its findings and recommendations by September 1, 2004.

The task force is to have 12 members, as follows:

- The Attorney General or the Attorney General's designee.
- The president of the Florida Sheriffs Association or his or her designee.
- The president of the Florida Police Chiefs Association or his or her designee.
- One member of the Florida Highway Patrol, to be appointed by the Governor.
- One member of the Florida Department of Law Enforcement, to be appointed by the Governor.
- One member of the Florida Commission on Human Relations, to be appointed by the Governor.
- The executive director of the American Civil Liberties Union of Florida or his or her designee.
- The state director of the National Association for the Advancement of Colored People or his or her designee.
- One member of the House of Representatives, to be appointed by the Speaker of the House of Representatives.
- One member of the Senate, to be appointed by the President of the Senate.
- One member of the House of Representatives, to be appointed by the minority leader of the House of Representatives.
- One member of the Senate, to be appointed by the minority leader of the Senate.

The Attorney General or the Attorney General's designee shall serve as the chair of the task force. All appointments shall be made within 30 days after the effective date of this act. Members of the task force must be appointed by July 1, 2001. In the event of a vacancy, the person who made the original appointment shall appoint a new member to fill the vacancy.

The Office of the Attorney General is required to provide clerical staff; and the Department of Law Enforcement, the Department of Highway Safety and Motor Vehicles, and the Division of the Florida Highway Patrol, are allowed, but not required, to provide technical assistance.

Members of the task force serve without compensation but are entitled to per diem and travel expenses. Members of the task force that are state employees are to receive per diem and travel expenses from the budget of their respective agencies, public members of the task force receive per diem and travel expenses from the budget of the Office of the Attorney General to the extent that resources will permit.

The task force may appoint subcommittees that include persons who are knowledgeable in a subject area pertinent to the study, but any such person contributing to a subcommittee is not a member of the task force and may not vote.

The task force may seek support in the form of grants and technical assistance from the United States Department of Justice and other applicable federal agencies in furtherance of its duties as provided in this act.

The task force is abolished September 1, 2004.

**Section 2.** Creating an un-numbered section of Florida law regarding state and local law enforcement agencies.

This bill provides that each state and local law enforcement agency must develop policies and procedures that prohibit biased profiling or discriminatory practices as a primary factor in determining whether the driver of a motor vehicle should be stopped for a routine traffic violation. A copy of the policies and procedures developed by each law enforcement agency must be submitted to the Florida Motorist Profiling Evaluation Task Force by October 1, 2001.

The Florida Motorist Profiling Evaluation Task Force must produce uniform statewide guidelines that may be used by state and local law enforcement agencies in the development of policies, procedures, and training curricula that will eliminate biased law enforcement and discriminatory law enforcement practices.

**Section 3.** Amending s. 943.1758, F.S., regarding law enforcement training standards.

This bill provides that the Criminal Justice Standards and Training Commission must revise its standards and training for basic recruits and its requirements for continued employment by integrating instructions on interpersonal skills relating to diverse populations into the criminal justice standards and training curriculum. The curriculum must include standardized proficiency instruction relating to high-risk and critical tasks that include, but are not limited to, stops, use of force and domination, and other areas of interaction between officers and members of diverse populations. The curriculum must also include guidelines and instructions on motor vehicle stops that address the prohibition of biased profiling and any other discriminatory law enforcement practices.

The commission must develop and implement, as part of its instructor training programs, standardized instruction in the subject of interpersonal skills relating to diverse populations. Culturally sensitive lesson plans, up-to-date videotapes, and other demonstrative aids developed for use in diverse population-related training, must be used as instructional materials.

**Section 4.** Making an appropriation.

This bill appropriates \$350,000 from General Revenue to the Office of Civil Rights within the Department of Legal Affairs. The appropriation is to fund two OPS positions within the Office of Civil Rights and to carry out the purposes of this act and the duties of the Florida Motorist Profiling Evaluation Task Force.

**Section 5.** Provides that this act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This bill provides a specific appropriation of \$350,000. Additionally, the members of the task force will draw per diem from their respective agencies; but this cost cannot be determined without knowing the number and place of meetings.

State law enforcement agencies would be responsible for collecting the required information on each traffic stop and then recording the information in a manner that would be usable for data collection and retrieval purposes. The direct fiscal impact of this requirement of this bill on state agencies is unknown because of the difficulty in determining whether collecting the information can be incorporated into current traffic stop practices or would require additional work for law enforcement officers to perform.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Local law enforcement agencies would be responsible for collecting the required information on each traffic stop and then recording the information in a manner that would be usable for data collection and retrieval purposes. The direct fiscal impact of this requirement of this bill on local governments is unknown because of the difficulty in determining whether collecting the information can be incorporated into current traffic stop practices or would require additional work for law enforcement officers to perform.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds. This bill may perhaps require counties or municipalities to take actions requiring the expenditure of funds; specifically, data collection regarding police activity, and publication of policies and procedures.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Section 1 of this bill provides that the data collected by the Florida Motorist Profiling Evaluation Task Force "shall not be used in any legal or administrative proceeding to establish an inference of discrimination on the basis of particular identifying characteristics." As to this apparent rule of evidence:

- Art. VI, cl.2, U.S.Const. (the Supremacy Clause), provides that federal law supercedes a contrary state law. It is possible that this rule of evidence would not be enforceable in federal court.

Art. V. s. 2(a), Fla.Const., provides that the "Supreme Court shall adopt rules for the practice and procedure in all courts". The Florida Supreme Court has ruled that: "Rules of evidence may in some instances be substantive law and, therefore, the sole responsibility of the legislature. In other instances, evidentiary rules may be procedural and the responsibility of this Court." *In re Florida Evidence Code*, 372 So.2d 1369 (Fla. 1979). If the court were to find the rule of evidence created by this bill to be a rule of procedure, the court would have the authority to strike the rule.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Information Supplied by Senate Committee on Criminal Justice:

**Actions by Other States to Address Racial Profiling**

At least four states -- Connecticut, Kansas, Missouri, and Washington -- have passed state legislation requiring state police and/or local police agencies to record and make public the racial and ethnic pattern of their traffic stop. In California, approximately 75 agencies, including the California Highway Patrol, have begun to implement data collection systems. A Resource Guide on Racial Profiling Data Collection Systems/Promising Practices and Lessons Learned, U.S. Department of Justice, November 2000, NCJ 184768 (monograph).

**Federal Data on Traffic Stops**

In a Bureau of Justice Statistics report of the findings of a 1999 national survey on contacts between the police and the public, which was issued this month [March 2001], it was reported that, in 1999, an estimated 10.3 percent of licensed drivers were pulled over by police at least one time in a traffic stop. Contacts between Police and the Public/Findings from the 1990 National Survey, Bureau of Justice, U.S. Department of Justice, March 2001, NCJ 184957 (All data noted in this



section is from this report.) This percentage represents 19.3 million stopped drivers, and includes the 4 million drivers pulled over more than once per year. Of the 19.3 million drivers, "an estimated 77 percent (14.9 million) were white, 11.6 percent (2.2 million) were black, 8.4 percent (1.6 million) were Hispanic, and 3 percent (.6 million) were drivers of other races."

"Blacks (12.3 percent) were more likely than whites (10.4 percent) to be stopped at least once, and blacks (3.0 percent) were more likely than whites (2.1 percent) to be stopped more than once."

Two-thirds of the 1.3 million drivers searched were without the driver's expressed consent, and in nearly 90 percent of the 1.3 million searches performed no evidence of criminal wrongdoing was uncovered.

Eighty-four percent of drivers stopped by police said they had been stopped for legitimate reasons, and 90 percent felt that police had behaved properly during the traffic stop.

The following data was also reported:

The survey uncovered evidence of black drivers' having worse outcomes than whites. The question arises whether blacks having worse outcomes was true regardless of the officer's race. To answer it, black and white drivers stopped by white officers were compared, and black and white drivers stopped by black officers were compared. Results suggest that the various racial disparities had nothing to do with the officer's race. In other words, blacks generally had the worse outcome whether they were stopped by a white officer or a black officer.

A black driver (60.4 percent) was more likely than a white (51.8 percent) to be ticketed. Among drivers stopped by white officers, blacks (60.6 percent) were more likely than whites (52.1 percent) to be ticketed. Though the racial disparity was about as great among drivers stopped by black officers (65.9 percent of blacks, 58.3 percent of whites), the disparity was not statistically significant, presumably because of the small sample.

A black driver (5.2 percent) was more likely than a white (2.6 percent) to be arrested. Among drivers stopped by white officers, blacks (5.3 percent) were more likely than whites (2.6 percent) to be arrested. Though the racial disparity was about as great among drivers stopped by black officers (4.6 percent of blacks, 1.3 percent of whites), the disparity was not statistically significant, presumably because of the small sample.

A police officer was more likely to search a vehicle driven by a black (8.5 percent) than a white (4.3 percent), and that was true regardless of the officer's race.

A black driver (8.0 percent) was more likely than a white (3.5 percent) to be physically searched. Among drivers stopped by white officers, blacks (8.6 percent) were more likely than whites (3.3 percent) to be searched. Though the racial disparity was nearly as great among drivers stopped by black officers (5.7 percent of blacks, 1.8 percent of whites), the disparity was not statistically significant, presumably because of the small sample.

Black drivers stopped by police (74.0 percent) were less likely than whites (86.0 percent) to have the opinion they had been stopped for a legitimate reason. Among drivers stopped by white officers, blacks (72.7 percent) were less likely than whites (86.2 percent) to feel the stop had a legitimate basis. There was also some indication that, among drivers stopped by black officers, black drivers (75.2 percent) were less likely than whites (84.8 percent) to say the stop was for a legitimate reason.

The following data was specifically reported with regard to race and searches of vehicles:

Survey findings reported [in the report] indicated the following about the likelihood of searches and the race or ethnicity of the driver:

- Black (11.0 percent) and Hispanic (11.3 percent) motorists stopped by police were more likely than whites (5.4 percent) to be physically searched or to have their vehicle searched.
- Black (8 percent) and Hispanic motorists (7 percent) were more likely than white motorists (3.5 percent) to be subjected to a physical search of the driver.
- Police were more likely to search a vehicle driven by a black (8.5 percent) or Hispanic (9.7 percent) than by a white (4.3 percent).

However, while the survey data can reveal these various racial disparities they cannot answer the question of whether the driver's race, rather than the driver's conduct at the time or any other specific circumstances surrounding the stop, is the reason the search was conducted. That is because the survey did not include questions about circumstances or driver conduct. For example, having drugs in plain view of police is a circumstance that would normally warrant a legal search of the vehicle. But since the survey did not ask drivers whether any drugs within plain view were in the vehicle, the analysis is necessarily limited.

### **Incidents of Racial Profiling in New Jersey**

One of the highest profile cases involving racial profiling and a case that is generally considered to be a watershed event in turning national attention to the issue of racial profiling was a 1998 incident in New Jersey involving three black men and one Hispanic man who were traveling on the New Jersey turnpike to a college basketball tryout. "N.J. to Pay \$12.9 M in Profile Case," Associated Press (February 2, 2001). The men were stopped for allegedly speeding and were fired upon by two white New Jersey troopers when the van the men were in went into reverse. One of the troopers has been charged with attempted murder and aggravated assault, and the other trooper has been charged with aggravated assault. Id.

In 1999, the U.S. Department of Justice filed a complaint in federal court against the State of New Jersey and the Division of State Police of the New Jersey Department of Law and Public Safety. On December 30, 1999, the U.S. Department of Justice and the State of New Jersey agreed to enter into a consent decree in which the State of New Jersey would address policy requirements and limitations on the use of race in law enforcement activities and the procedures used to conduct motor vehicle searches, document traffic stops including post-stop procedures and enforcement actions, and numerous other matters. "Joint Application for Entry of Consent Decree," United States v. State of New Jersey and the Division of State Police of the New Jersey Department of Law and Public Safety, Civil No. 99-5970 (MLC), U.S. District Court for the District of New Jersey (December 30, 1999).

On February 2, 2001, the State of New Jersey agreed to pay \$12.9 million to the four men involved in the 1998 incident on the New Jersey turnpike. Release, "State Settles with Four Men Involved in Turnpike Incident," Office of the Attorney General, New Jersey (February 2, 2001). On that same date, the New Jersey Attorney General, John J. Farmer Jr., publicly indicated that he would dismiss drug and contraband charges against 128 minority motorists. Attorney General Farmer indicated that "[i]n each case, the defendants alleged that they were stopped and their automobiles illegally searched because they were minorities." Release, "State Moving to Dismiss Charges in Cases

Alleging Racial Profiling; Prosecutions to Proceed in 17 Cases," Office of the Attorney General, New Jersey (February 2, 2001).

***Whren v. United States***

In *Whren v. United States*, 116 S.Ct. 1769 (1996), the United States Supreme Court, stated: "As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred." The Supreme Court noted it has not applied a balancing analysis when probable cause is present, except in extraordinary circumstances. *Id.*, at 1776. The Supreme Court held "the 'multitude of applicable traffic and equipment regulations'" do not provide an exception "to the traditional common-law rule that probable cause justifies a search and seizure." *Id.*, at 1777.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 3, 2001, the Committee on Judicial Oversight adopted one amendment removing everything after the enactment clause. As amended, the bill:

- Amends s. 943.1758, F.S., to require that the diverse populations instruction required for law enforcement certification consist of a module developed by the Criminal Justice Standards and Training Commission on the topic of discriminatory profiling.
- Amends s. 30.15, F.S., to require every county sheriff to incorporate an anti-racial or other anti-discriminatory policy into the sheriff's policies and practices, utilizing the Florida Police Chiefs Association Model Policy as a guide. Anti-profiling policies shall include the elements of definitions, traffic stop procedures, community education and awareness efforts, and policies for the handling of complaints from the public.
- Creates s. 166.0493, F.S., to require every municipal law enforcement agency to incorporate an anti-racial or other anti-discriminatory policy into the sheriff's policies and practices, utilizing the Florida Police Chiefs Association Model Policy as a guide. Anti-profiling policies shall include the elements of definitions, traffic stop procedures, community education and awareness efforts, and policies for the handling of complaints from the public.

The bill was then reported favorably as amended.

VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Staff Director:

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Nathan L. Bond, J.D.

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Lynne Overton, J.D.