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## HOUSE JOINT RESOLUTION NO. 804

Offered January 19, 2001

*Establishing a joint subcommittee to study the incidence of racial profiling and pretextual traffic stops in the Commonwealth.*

\_\_\_\_\_  
Patron—Wright

\_\_\_\_\_  
Referred to Committee on Rules

WHEREAS, in recent years, considerable public attention has been given to allegations of racial profiling, described as the practice in which law enforcement officers target African-Americans and other minority persons for suspected illegal activities on the basis of racial and ethnic stereotypes, using traffic enforcement as a pretext to search the individual or his property or to conduct further investigation; and

WHEREAS, pretextual traffic stops, which are based on race and ethnicity together with other stereotypical characteristics to stop minority motorists, were developed as a tactic to interdict drugs on the nation's interstate highway system, particularly along the Interstate 95 corridor; and

WHEREAS, although race is not an inherently suspicious characteristic, research studies reveal that race is a factor in the disproportionate number of African-American and other minority persons, the majority of whom are law-abiding citizens, who are subjected to pretextual traffic stops, detention, arrest, and search and civil seizures; and

WHEREAS, many people believe that the war on drugs has been waged at the sacrifice of personal rights and freedom, having extended to federal, state, and local law-enforcement officers the authority to seize personal property under civil forfeiture laws and to make pretextual traffic stops and arrests; and

WHEREAS, the authority of local law-enforcement officers to seize personal property under civil forfeiture laws and to make pretextual traffic stops and arrests, was affirmed in Whren et al. v. United States, 116 S. Ct. 1769 (1996); however, in the City of Indianapolis v. Edmond, 121 S.Ct. 447 (2000), decided in November 2000, the Supreme Court opined that "the purpose of the highway checkpoint program established by the city to interdict illegal drugs was indistinguishable from the general interest in crime control and violates the Fourth Amendment"; and

WHEREAS, in many minority communities in the Commonwealth, people believe that police have used excessive force or that law enforcement is biased, disrespectful, and unfair; and

WHEREAS, such perspectives undermine the trust that is essential to effective policing, cause tensions between police and minority persons that frequently result in citizens who are less willing to (i) report crime, (ii) be witnesses or jurors in criminal cases, (iii) accept as truthful the testimony of officers, and (iv) assist in the recruitment of police officers from minority communities; and

WHEREAS, tension and mutual suspicion between police and African-American and other minority persons adversely affect all aspects of the criminal justice system, perpetuate cyclical negative repercussions, and challenge police officers to bridge this credibility gap to prevent victims of crime from avenging themselves because they lack faith in the criminal justice system; and

WHEREAS, according to the U. S. Department of Justice, throughout the country, the overwhelming majority of more than 700,000 federal, state, and local law enforcement officers perform their duties with honor and valor, putting their lives on the line daily; however, a relatively small percentage of these law enforcement officers wage war on the streets, engage in blatant racial profiling, exhibit open disdain for the communities they serve, or commit acts of severe brutality; and

WHEREAS, nearly every adult African-American male — whether young or old, rich or poor, famous or infamous, professional or unskilled, privileged or common — can relate frightening, embarrassing, degrading, and dehumanizing experiences that include being stopped by police without cause and forced to suffer the humiliation of an unwarranted and illegal body search; the forfeiture of property; and being detained and subsequently released without any charges ever being filed, simply because he fits the racial profile of a drug dealer or courier; and

WHEREAS, the findings of previous legislative subcommittees indicate that racial profiling is a primary concern among African-Americans and other minority citizens in the Commonwealth, and these subcommittees have recommended appropriate training of law enforcement officers and the collection and analysis of traffic stops statistics to determine the incidence of racial profiling and pretextual traffic stops in Virginia; and

WHEREAS, these subcommittees have also found and caution that discriminatory and unprofessional police conduct, such as allowing officers to impute criminal intent to citizens solely on the basis of their race or ethnicity, denigrates such citizens as a group, among other things, and breeds resentment and contempt for American justice and the law-enforcement community; and

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59 WHEREAS, it is in the public interest to determine whether racial profiling and pretextual traffic  
60 stops are prevalent in Virginia, and to eradicate even the perception that laws are enforced selectively  
61 and in a discriminatory manner on the basis of race and ethnicity; now, therefore, be it

62 RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be  
63 established to study the incidence of racial profiling and pretextual traffic stops in the Commonwealth.  
64 The joint subcommittee shall consist of 10 legislative members to be appointed as follows: six members  
65 of the House of Delegates, to be appointed by the Speaker of the House in accordance with the  
66 principles of proportional representation contained in the Rules of the House of Delegates; and four  
67 members of the Senate, to be appointed by the Senate Committee on Privileges and Elections.

68 In conducting the study, the joint subcommittee shall (i) review the principles of the Fourth and  
69 Fourteenth Amendments, the Supreme Court decisions in Whren v. United States, 116 S. Ct. 1769  
70 (1996), United States v. Armstrong, 116 S. Ct. 1480 (1996), City of Indianapolis v. Edmond, 121 S.Ct.  
71 447 (2000), and other relevant case law; (ii) develop a profile of motorists commonly identified for  
72 traffic stops in Virginia; (iii) determine whether racial profiling or other non-criminal characteristics are  
73 used by law-enforcement officers in the Commonwealth to identify motorists for traffic stops; (iv)  
74 ascertain data regarding police traffic stops in the Commonwealth, particularly along I-95, which shall  
75 include, but not be limited to, the extent to which African-American and other minority motorists are  
76 stopped, searched, detained, arrested, or have property seized in comparison to white motorists, the  
77 reasons given by police for such stops, and whether a warning or written citation was given; (v)  
78 evaluate the training of law enforcement officers relative to the principles of the Fourth and Fourteenth  
79 Amendments, and cultural diversity awareness; (vi) determine whether state and local law enforcement  
80 agencies have standards and policies for police stops, and whether and how police officers are trained  
81 regarding the application of such policies; (vii) analyze the traffic stop statistics to identify geographical  
82 regions in the Commonwealth that may need technical assistance, and determine whether  
83 African-American and other minority motorists are deprived of their constitutional rights to equal  
84 protection under the law and to be free from unreasonable searches and seizures; (viii) review and  
85 consider the proposed federal Traffic Stops Statistics Act and the approach taken in other states to  
86 address this problem; (ix) evaluate the benefit of pretextual traffic stops on drug interdiction; (x) review  
87 the findings and recommendations of previous legislative subcommittees pertaining to this problem; and  
88 (xi) consider such other related matters and recommend such action as the joint subcommittee may deem  
89 appropriate.

90 Due to the complexity and sensitivity of this issue and the interest among citizens, the joint  
91 subcommittee shall provide appropriate opportunities for public comment and broad citizen participation,  
92 to the extent practicable, in order that the perspectives of the people may be considered.

93 The direct costs of this study shall not exceed \$13,500. An estimated \$1,000 of the direct costs is  
94 allocated for materials and resources. Such expenses shall be funded from the operational budget of the  
95 Clerk of the House of Delegates.

96 The Division of Legislative Services shall provide staff support for the study. Technical assistance  
97 shall be provided by the Department of State Police, the Department of Criminal Justice Services, and  
98 the Department of Transportation, and such other local law enforcement agencies as the joint  
99 subcommittee may identify. All agencies of the Commonwealth shall provide assistance as requested to  
100 the joint subcommittee for this study.

101 The joint subcommittee shall complete its work in time to submit its written findings and  
102 recommendations to the Governor and the 2002 Session of the General Assembly as provided in the  
103 procedures of the Division of Legislative Automated Systems for the processing of legislative  
104 documents.

105 Implementation of this resolution is subject to subsequent approval and certification by the Joint  
106 Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the  
107 study.