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HOUSE JOINT RESOLUTION NO. 736

Offered January 21, 1999

Establishing a joint subcommittee to study traffic stops of minority drivers and certain other police practices.

Patron—Jones, D.C.

Referred to Committee on Rules

WHEREAS, many people believe that society has declared war on drugs 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, which have been affirmed in Whren v. United States, 116 S. Ct. 1769 (1996); and

WHEREAS, although race is not an inherently suspicious characteristic, research studies reveal that race is a factor in probable cause and reasonable suspicion for pretextual traffic stops, arrests and civil seizures involving thousands of African-Americans and other minorities; and

WHEREAS, African-Americans and other minorities have been stopped and searched on the pretext of failing to signal a lane change, switching lanes suddenly, following too close, driving too slow or too fast, driving with one tail light, acting nervous, looking suspicious, having an air freshener or remnant thereof on the rear view mirror, or violating some other arcane law; and

WHEREAS, however, 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 dismantling of vehicles along the roadside, the forfeiture of property, clothing and possessions strewn about the highway and ruined by canine units allowed to relieve themselves on his belongings, 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, young male African-Americans and Hispanics are especially vulnerable to such traffic stops due to certain racial profiling characteristics, such as driving late model or expensive cars, traveling at night and especially in the wrong part of town or in an affluent neighborhood, driving with two or more minority males in the car, "leaning," wearing gold jewelry, expensive clothing and dark glasses, having gold or diamond-studded teeth, sporting vogue or cultural hairstyles, listening to "hip-hop" and other loud music, and carrying beepers or in possession of telephone numbers; and

WHEREAS, recent empirical studies and information regarding national arrest data indicate that African-Americans and other minorities are disproportionately selected for traffic stops where the attendant circumstances would not otherwise justify the stop, while white motorists under similar circumstances are allowed to travel undisturbed; and

WHEREAS, concerns have been expressed, especially by minority communities, regarding policies governing high-speed pursuits and the safety of such chases by law-enforcement officers, the efficacy and safety of using unmarked cars in routine traffic stops to police officers and the public, the increasing use of pretextual traffic stops to interdict drug traffickers, and the growing number of confiscations of personal property under the civil seizure laws; and

WHEREAS, discriminatory and unprofessional police conduct, such as allowing officers to impute criminal intent to citizens based solely on their race, denigrates such citizens as a group, perpetuates negative and false stereotypes, reinforces perceptions that such persons have an innate propensity toward crime, eviscerates their self respect, and breeds resentment and contempt for American justice and the law-enforcement community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study traffic stops of minority drivers and certain other police practices. The joint subcommittee shall be composed of eleven members, which shall include six members of the House of Delegates, to be appointed by the Speaker of the House in accordance with the principles of Rule 16 of the House Rules; and five members of the Senate, to be appointed by the Senate Committee on Privileges and Elections;

In conducting its study, the joint subcommittee shall (i) review the principles of the Fourth and Fourteenth Amendments, the Supreme Court decisions in Whren v. United States, 116 S. Ct. 1769 (1996), and United States v. Armstrong, 116 S. Ct. 1480 (1996), the case law, and federal and state laws regarding the right to privacy, equal protection of the law, and search and seizure, particularly civil seizure; (ii) determine the efficacy of police civilian review boards; (iii) evaluate the cultural diversity

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60 education and training of law-enforcement officers; (iv) determine whether state and local law
61 enforcement agencies have standards and policies for police stops, the use of unmarked cars, and
62 high-speed pursuits, and whether and how police officers are appropriately trained regarding the
63 application of such policies; (v) determine whether racial profiling or other characteristics are used by
64 law-enforcement agencies in the Commonwealth to identify motorists for traffic stops; (vi) develop a
65 profile of motorists commonly identified for traffic stops; (vii) ascertain data regarding police traffic
66 stops in the Commonwealth, particularly along I-95, and determine the extent to which
67 African-American and other minority motorists are stopped, searched, held, or have property seized in
68 comparison to white motorists; (viii) identify the reasons given by police for such stops and whether
69 charges were filed; (ix) determine, based on traffic stops data for Virginia, whether African-American
70 and other minority motorists are deprived of their Fourth Amendment right to be free from unreasonable
71 searches and seizures and their right to be free from discrimination based on race under the Fourteenth
72 Amendment; (x) review and consider the proposed federal Traffic Stops Statistics Act and its
73 applicability in developing guidelines to control the abuse of police powers; (xi) evaluate the benefit of
74 traffic stops on drug interdiction; (xii) review Wilkins v. Maryland State Police, Civil Action No.
75 CCB-93-483, background materials on other traffic stops litigation in the nation, the report of Dr. John
76 Lamberth for the American Civil Liberties Union in the Wilkins case and the settlement agreement in
77 Wilkins and determine whether similar events occur in Virginia and whether any of the remedies
78 ordered by the courts or settlement agreements reached by the litigants should be considered to prevent
79 and remedy similar problems in the Commonwealth; (xiii) provide opportunities for public comment;
80 (xiv) assess whether the African-American and other minority populations are aware of their
81 constitutional rights regarding search and seizure and recommend ways to notify or clarify, as the case
82 may be, such populations of constitutional protections; and (xv) consider such other matters as the joint
83 subcommittee may deem appropriate.

84 The joint subcommittee may seek the assistance of legal experts and other knowledgeable persons in
85 considering this matter.

86 The direct costs of this study shall not exceed \$10,250. An estimated \$2,000 is allocated for
87 resources and materials. Such expenses shall be funded from the operational budget of the Clerk of the
88 House of Delegates.

89 The Division of Legislative Services shall provide staff support for the study. Technical assistance
90 shall be provided by the Office of the Attorney General, the Department of State Police, the Department
91 of Criminal Justice Services, and local law-enforcement agencies. All agencies of the Commonwealth
92 shall provide assistance to the joint subcommittee, upon request.

93 The joint subcommittee shall complete its work in time to submit its findings and recommendations
94 to the Governor and the 2000 Session of the General Assembly as provided in the procedures of the
95 Division of Legislative Automated Systems for the processing of legislative documents.

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