

ASSEMBLY COMMITTEE SUBSTITUTE:

Yes

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes

JUDICIARY COMMITTEE NEWS RELEASE, March 6, 2001

Yes

FOLLOWING WERE PRINTED:

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HEARINGS:

Yes

974.90 New Jersey. Legislature. Senate. Judiciary Committee
P766 Public hearings, held March, April 2001, Trenton, 2001
2001

MEDIA ARCHIVE OF HEARINGS available

REPORTS:

Yes

974.90 Minority report supplementing the Report of the New Jersey Senate Judiciary Committee's
P766 Investigation of Racial Profiling and the New Jersey State Police Minority report supplementing the Report
2001a of the New Jersey Senate Judiciary Committee's Investigation of Racial Profiling and the New Jersey State
Police.

974.90 New Jersey. Legislature. Senate. Judiciary Committee.
P766 Investigation of racial profiling: overview and recommendations. May 31, 2001.
2001b Trenton, 2001

974.90 New Jersey. Legislature. Senate. Judiciary Committee.
P766 Report of the New Jersey Senate Judiciary Committee's Investigation of Racial Profiling and the New
2001c Jersey State Police. Trenton, June 11, 2001

SENATE JUDICIARY COMMITTEE DEPOSITIONS available.

NEWSPAPER ARTICLES:

Yes

"Racial profiling is now a crime," 3-15-2003 Star Ledger, p11.
"Amid pomp, McGreevey signs racial-profiling bill," 3-15-2003 New York Times, p.B5.
"Targeting of minority drivers is now against New Jersey law," 3-15-2003 Home News Tribune, pA3.
"NJ law: racial profiling's illegal," 3-25-2003 Asbury Park Press, p.A3.
"Governor signs bill to outlaw profiling," 3-15-2003 The Times, pA4.
"NJ law makes racial profiling illegal," 3-15-2003 Philadelphia Inquirer, p.A1.

P.L. 2003, CHAPTER 31, *approved March 14, 2003*
Assembly Substitute (*First Reprint*) for
Senate Committee Substitute for
Senate, Nos. 429 and 1422

1 AN ACT concerning certain acts of official misconduct involving
2 deprivation of civil rights by public officials and supplementing
3 chapter 30 of Title 2C of the New Jersey Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. The Legislature finds and declares that:

9 a. Public confidence in the institutions of government is
10 undermined when an official engages in any form of misconduct
11 involving the official's office.

12 b. Such misconduct, and the corresponding damage to the public
13 confidence, impairs the ability of government to function properly,
14 fosters mistrust and engenders disrespect for government and public
15 servants.

16 c. A particular concern arises when a law enforcement official,
17 duly entrusted to protect the public safety and impartially enforce the
18 laws, abuses that trust by unlawfully depriving persons of their civil
19 rights, especially in the context of racial profiling.

20 d. It is important to ensure that law enforcement officers are
21 prohibited from using racial characteristics or color, either alone or in
22 conjunction with other composite characteristics such as a generalized
23 vehicle description or the age of the driver or passengers, as the basis
24 for initiating an investigative stop.

25 e. Existing laws must be amended to provide a greater deterrent
26 to this type of conduct, as well as to enhance other provisions of the
27 law targeting official misconduct.

28 f. Accordingly, it is in the public interest to strengthen our laws
29 that define and punish acts of official misconduct by members of law
30 enforcement and other public servants.

31

32 2. a. A public servant acting or purporting to act in an official
33 capacity commits the crime of official deprivation of civil rights if,
34 knowing that his conduct is unlawful, and acting with the purpose to
35 intimidate or discriminate against an individual or group of individuals
36 because of race, color, religion, gender, ¹[age,]¹ handicap, sexual

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted February 27, 2003.

1 orientation or ethnicity, the public servant: (1) subjects another to
2 unlawful arrest or detention, including, but not limited to, motor
3 vehicle investigative stops, search, seizure, dispossession, assessment,
4 lien or other infringement of personal or property rights; or (2) denies
5 or impedes another in the lawful exercise or enjoyment of any right,
6 privilege, power or immunity.

7 b. (1) Except as provided in paragraphs (2) and (3) of this
8 subsection, a public servant who violates the provisions of subsection
9 a. of this section is guilty of a crime of the third degree.

10 (2) If bodily injury results from depriving a person of a right or
11 privilege in violation of subsection a. of this section, the public servant
12 is guilty of a crime of the second degree.

13 (3) If, during the course of violating the provisions of this section,
14 a public servant commits or attempts or conspires to commit murder,
15 manslaughter, kidnapping or aggravated sexual assault against a
16 person who is being deprived of a right or privilege in violation of
17 subsection a. of this section, the public servant is guilty of a crime of
18 the first degree.

19 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
20 law, a conviction of official deprivation of civil rights under this
21 section shall not merge with a conviction of any other criminal offense,
22 nor shall such other conviction merge with a conviction under this
23 section, and the court shall impose separate sentences upon each
24 violation of this section and any other criminal offense.

25 d. Proof that a public servant made a false statement, prepared a
26 false report, or, if the agency that employs the public servant, the
27 Attorney General or the county prosecutor having supervisory
28 authority over the agency required a report to be prepared, failed to
29 prepare a report concerning the conduct that is the subject of the
30 prosecution, shall give rise to an inference that the actor knew his
31 conduct was unlawful.

32 e. For purposes of this section, an act is unlawful if it violates the
33 Constitution of the United States or the Constitution of this State, or
34 if it constitutes a criminal offense under the laws of this State.

35

36 3. a. A person commits the crime of pattern of official misconduct
37 if he commits two or more acts that violate the provisions of
38 N.J.S.2C:30-2 or section 2 of P.L. , c. (C.) (now pending
39 before the Legislature as this bill). It shall not be a defense that the
40 violations were not part of a common plan or scheme, or did not have
41 similar methods of commission.

42 b. Pattern of official misconduct is a crime of the second degree
43 if one of the acts committed by the defendant is a first or second
44 degree crime; otherwise, it is a crime of the third degree, provided,
45 however, that the presumption of nonimprisonment set forth in
46 subsection e. of N.J.S.2C:44-1 for persons who have not previously

1 been convicted of an offense shall not apply. Notwithstanding the
2 provisions of N.J.S.2C:1-8 or any other law, a conviction of pattern
3 of official misconduct shall not merge with a conviction of official
4 misconduct, official deprivation of civil rights, or any other criminal
5 offense, nor shall such other conviction merge with a conviction under
6 this section, and the court shall impose separate sentences upon each
7 violation of N.J.S.2C:30-2 and sections 2 and 3 of P.L. , c.
8 (C.)and (C.) (now pending before the Legislature as
9 this bill).

10
11 ¹[4. a. There is established the Office of the Independent
12 Prosecutor to investigate and prosecute criminal civil rights violations
13 involving any public servant. For purposes of Article V, Section IV,
14 Paragraph 1 of the New Jersey Constitution, the office shall be in, but
15 not of, the Department of Law and Public Safety. The Independent
16 Prosecutor shall be appointed by, and serve at the pleasure of, the
17 Governor with the advice and consent of the Senate and be under the
18 direction and supervision of the Governor. Any person appointed as
19 Independent Prosecutor shall have had prosecutorial experience,
20 including experience in the litigation of criminal cases.

21 b. The Independent Prosecutor may appoint such personnel,
22 including attorneys and clerical personnel, as necessary to carry out
23 the duties of the office. Personnel transferred to the Office of the
24 Independent Prosecutor from any other department in State
25 government pursuant to this section shall be transferred with all tenure
26 rights and any rights or protections provided by Title 11A of the New
27 Jersey Statutes or other applicable statutes and any pension law or
28 retirement system.

29 c. The Independent Prosecutor shall investigate and, if warranted,
30 prosecute cases referred to it where criminal civil rights violations
31 involving any public servant have been alleged. The office shall
32 prioritize the cases referred for prosecution or other litigation and shall
33 assist referring entities in establishing priorities among investigations
34 or cases to be disposed of by the entities themselves.

35 d. (1) The Independent Prosecutor shall designate a section of the
36 office for the purpose of establishing a liaison and continuing
37 communication between the Department of Law and Public Safety, the
38 Division of State Police, such local government units as may be
39 necessary or practicable, and interested groups, organizations and
40 associations in the community.

41 (2) The section of the office acting as the liaison shall establish
42 procedures for: (a) receiving notice from all entities enumerated in
43 paragraph (1) of this subsection of any case in which a criminal civil
44 rights violation by a public servant is suspected or has been
45 substantiated; (b) receiving referrals for the investigation of alleged
46 violations; (c) receiving referrals for the prosecution of violations; (d)

1 receiving and referring information regarding cases, administrative or
2 otherwise, under investigation by any department or other entity to the
3 appropriate authority; and (e) providing information to and
4 coordinating information among any referring entities on pending cases
5 of criminal civil rights violations which are under investigation or
6 being litigated or prosecuted. The liaison section of the office shall
7 maintain a record of every referral or investigation.

8 e. The Independent Prosecutor shall establish standards of
9 performance for the office, which shall include, but not be limited to,
10 recording the cases referred to the office by other entities,
11 investigating cases of alleged criminal civil rights violations in
12 accordance with the priorities established by the Independent
13 Prosecutor, recording the disposition of the cases referred to the
14 office, and making recommendations to the Governor and the
15 Legislature as to any procedural, regulatory, or statutory changes
16 which may be necessary to carry out the provisions of this act.

17 f. The Independent Prosecutor shall maintain a data base which
18 includes:

19 (1) referrals by other entities; and

20 (2) reports of cases prosecuted or litigated and the results of such
21 proceedings, which shall include identification of the referring entity,
22 type of violation, disposition of case, and such other data as may be
23 necessary to the work of the office and the referring entities.

24 g. The Independent Prosecutor shall have access to all necessary
25 information in the possession of the State or local public entities,
26 including individual case files and intelligence information compiled
27 and maintained by the Division of State Police in the Department of
28 Law and Public Safety.

29 h. The Independent Prosecutor shall:

30 (1) confer from time to time with departments or other units of
31 State government which have units which investigate criminal civil
32 rights violations in order to coordinate activities, share information,
33 and provide any assistance necessary to any State agency in overseeing
34 administrative enforcement activities;

35 (2) formulate and evaluate proposals for legislative, administrative
36 and judicial initiatives to strengthen enforcement of criminal civil
37 rights statutes;

38 (3) in connection with criminal civil rights enforcement activities,
39 act as the liaison for the Executive Branch of government with
40 agencies involved in criminal civil rights enforcement outside the
41 Executive Branch, including federal agencies and the Judiciary; and

42 (4) provide an annual report to the Governor and the Legislature,
43 no later than March 1 of each year, summarizing the activities of the
44 Independent Prosecutor for the preceding calendar year, including, but
45 not limited to, the number of cases referred, the number of cases
46 investigated, the number of cases in which action was taken against

1 a public servant, the number of criminal cases prosecuted and the
2 number of convictions procured.

3 i. The Independent Prosecutor shall have access to all information
4 concerning criminal civil rights enforcement activities in the possession
5 of all State departments and agencies. The office shall meet on a
6 regular basis with representatives of State departments and agencies
7 and county prosecutors to set specific goals and strategies for the most
8 effective resolution of cases of criminal civil rights violations by public
9 servants, whether by criminal, civil, or administrative enforcement
10 action, or a combination thereof.

11 j. The Legislature shall annually appropriate such sums as may be
12 necessary for the operation of the Office of the Independent
13 Prosecutor.]¹

14

15 ¹[5. a. Every allegation of a violation of this State's criminal civil
16 rights laws shall be made on a standard complaint form which shall be
17 prescribed by the Attorney General within 60 days of the effective date
18 of this act.

19 b. The Independent Prosecutor shall determine within 120 days of
20 the receipt of a completed standard complaint form required under
21 subsection a. of this section whether further action on the complaint
22 shall be taken.]¹

23

24 ¹[6.] 4.¹ This act shall take effect immediately.

25

26

27

28

29 Criminalizes deprivation of civil rights, including racial profiling, by
30 public officials.

SENATE, No. 429

STATE OF NEW JERSEY
210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Co-Sponsored by:

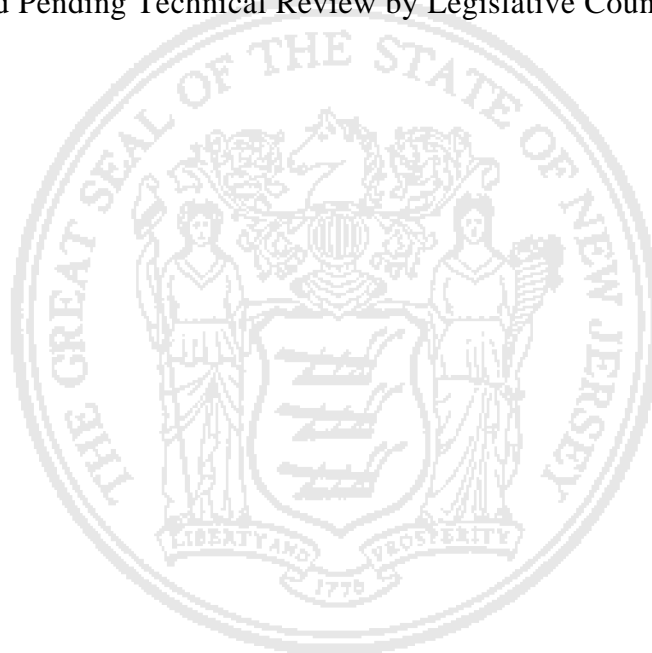
Senators Furnari, Girgenti, Martin, Turner and Adler

SYNOPSIS

Criminalizes the deprivation of civil rights by public officials.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/17/2002)

1 AN ACT concerning certain acts of official misconduct involving
2 deprivation of civil rights by public officials and supplementing
3 chapter 30 of Title 2C of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Legislature finds and declares that:

9 a. Public confidence in the institutions of government is
10 undermined when an official engages in any form of misconduct
11 involving his or her office.

12 b. Such misconduct, and the corresponding damage to the public
13 confidence, impairs the ability of government to function properly,
14 fosters mistrust and engenders disrespect for government and public
15 servants.

16 c. A particular concern arises when a law enforcement official, duly
17 entrusted to protect the public safety and impartially enforce the laws,
18 abuses that trust by unlawfully depriving persons of their civil rights.

19 d. Existing laws must be amended to provide a greater deterrent to
20 this type of conduct, as well as to enhance other provisions of the law
21 targeting official misconduct.

22 e. Accordingly, it is in the public interest to strengthen our laws
23 that define and punish acts of official misconduct by members of law
24 enforcement and other public servants.

25
26 2. a. A public servant acting or purporting to act in an official
27 capacity commits the crime of official deprivation of civil rights if,
28 knowing that his conduct is unlawful, and acting with the purpose to
29 intimidate or discriminate against an individual or group of individuals
30 because of race, color, religion, gender, handicap, sexual orientation
31 or ethnicity, the public servant: (1) subjects another to unlawful arrest,
32 detention, search, seizure, dispossession, assessment, lien or other
33 infringement of personal or property rights; or (2) denies or impedes
34 another in the lawful exercise or enjoyment of any right, privilege,
35 power or immunity.

36 b. (1) Except as provided in paragraphs (2) and (3) of this
37 subsection, a public servant who violates the provisions of subsection
38 a. of this section is guilty of a crime of the third degree.

39 (2) If bodily injury results from depriving a person of a right or
40 privilege in violation of subsection a. of this section, the public servant
41 is guilty of a crime of the second degree.

42 (3) If , during the course of violating the provisions of this section,
43 a public servant commits or attempts or conspires to commit murder,
44 manslaughter, kidnapping or aggravated sexual assault against a
45 person who is being deprived of a right or privilege in violation of
46 subsection a. of this section, the public servant is guilty of a crime of

1 the first degree.

2 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
3 law, a conviction of official deprivation of civil rights under this
4 section shall not merge with a conviction of any other criminal offense,
5 nor shall such other conviction merge with a conviction under this
6 section, and the court shall impose separate sentences upon each
7 violation of this section and any other criminal offense.

8 d. Proof that a public servant made a false statement, prepared a
9 false report, or, if the agency that employs the public servant, the
10 Attorney General or the county prosecutor having supervisory
11 authority over the agency required a report to be prepared, failed to
12 prepare a report concerning the conduct that is the subject of the
13 prosecution, shall give rise to an inference that the actor knew his
14 conduct was unlawful.

15 e. For purposes of this section, an act is unlawful if it violates the
16 constitution of the United States or this State, or if it constitutes a
17 criminal offense under the laws of this State.

18

19 3. a. A person commits the crime of pattern of official misconduct
20 if he commits two or more acts that violate the provisions of
21 N.J.S.2C:30-2 or section 2 of P.L. , c. (now pending before the
22 Legislature as this bill). It shall not be a defense that the violations
23 were not part of a common plan or scheme, or did not have similar
24 methods of commission.

25 b. Pattern of official misconduct is a crime of the second degree if
26 one of the acts committed by the defendant is a first or second degree
27 crime; otherwise, it is a crime of the third degree, provided, however,
28 that the presumption of nonimprisonment set forth in subsection e. of
29 N.J.S.2C:44-1 for persons who have not previously been convicted of
30 an offense shall not apply. Notwithstanding the provisions of
31 N.J.S.2C:1-8 or any other law, a conviction of pattern of official
32 misconduct shall not merge with a conviction of official misconduct,
33 official deprivation of civil rights, or any other criminal offense, nor
34 shall such other conviction merge with a conviction under this section,
35 and the court shall impose separate sentences upon each violation of
36 N.J.S.2C:30-2 and sections 2 and 3 of P.L. , c. (now pending
37 before the Legislature as this bill).

38

39 4. This act shall take effect immediately.

40

41

42

STATEMENT

43

44 This bill creates a new crime of official deprivation of civil rights,
45 which is committed if a public official, or a person purporting to be a
46 public official, knowingly commits an unlawful act with the purpose to

1 intimidate or discriminate against another because of race, color,
2 gender, ethnicity, handicap, religion or sexual orientation, and the act
3 results in the violation of the personal or property rights of another.
4 The actor need not have the purpose of causing that result; the crime
5 is complete when the defendant knowingly acts in an unlawful manner
6 for an intimidating or discriminatory purpose.

7 Generally, the crime of official deprivation of civil rights would be
8 graded as a crime of the third degree. Official deprivation of civil
9 rights would, however, be graded as a crime of the second degree if
10 bodily injury results from the offense and it would be graded as a
11 crime of the first degree if murder, manslaughter, kidnaping or
12 aggravated sexual assault occurred during the commission of the
13 offense.

14 The bill also creates a new crime of pattern of official misconduct.
15 If the actor commits acts of official misconduct or official deprivation
16 of civil rights on two or more occasions, the separate crime of pattern
17 of official misconduct is committed. There is no requirement that the
18 separate violations be related by a common plan or scheme or method
19 of commission. The crime is defined simply by reference to the
20 number of times the defendant violated N.J.S. 2C:30-2 and to section
21 3 of the bill. Pattern of official misconduct is a crime of the second
22 degree if one of the underlying acts committed by the defendant is a
23 first or second degree crime. Otherwise, pattern of official misconduct
24 is a crime of the third degree but the presumption of nonimprisonment
25 for first offenses set forth in N.J.S.2C:44-1e. is not applicable to this
26 crime. This crime does not replace convictions for the underlying
27 violations; rather, each crime of official misconduct or official
28 deprivation of civil rights must be separately sentenced, in addition to
29 the crime of pattern of official misconduct.

SENATE, No. 1422

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MARCH 26, 2002

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

Senator JOSEPH CHARLES, JR.

District 31 (Hudson)

SYNOPSIS

Criminalizes the deprivation of civil rights.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning deprivation of civil rights and supplementing
2 Title 2C of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. It shall be unlawful for any person, acting under color of law,
8 ordinance, regulation or custom to purposely deprive another person
9 or purposely interfere or attempt to interfere with another person's
10 exercise of any rights, privileges or immunities secured under the
11 Constitution or laws of the United States, or the Constitution or laws
12 of this State. Any person who violates the provisions of subsection
13 a. of this section shall be guilty of a crime of the third degree.

14 b. A person is guilty of a crime of the second degree if a person
15 commits a crime of the first, second or third degree with the purpose
16 to deprive another person or interfere with another person's exercise
17 of his rights in violation of subsection a. of this section and the act
18 results in serious bodily injury. A person is guilty of a crime of the first
19 degree if a person commits a crime of the first, second or third degree
20 with the purpose to deprive another person or interfere with another
21 person's exercise of his rights in violation of subsection a. of this
22 section and the act results in death.

23 c. Nothing contained in this act shall preclude or limit the
24 prosecution or conviction of any person for bias intimidation under
25 N.J.S.2C:16-1 or any prosecution or conviction for any other offense.

26
27 2. This act shall take effect immediately .
28
29

30 STATEMENT

31
32 This bill makes it a crime of the third degree for any person to
33 purposely deprive another person or purposely interfere or attempt to
34 interfere with another person's exercise of any rights, privileges or
35 immunities secured under the Constitution or laws of the United
36 States, or the Constitution or laws of this State. A violation of this act
37 is elevated to a crime of the second degree if a person commits a crime
38 with the purpose to deprive another or interfere with another person's
39 exercise of his rights and this act results in serious bodily injury. It
40 becomes a crime of the first degree when such action results in death.

41 Nothing contained in this act would preclude the prosecution or
42 conviction of any person for bias intimidation under N.J.S.2C:16-1 or
43 any prosecution or conviction for any other offense.

44 It is the sponsor's intent to mirror in State law those protections
45 provided in the federal law concerning deprivation of civil rights

S1422 GILL, CHARLES

3

1 pursuant to the provisions of 18 U.S.C.A. 242.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 429 and 1422**

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 10, 2002

The Assembly Law and Public Safety Committee reports favorably and with committee amendments for Senate Bill Nos. 429 and 1422 (1R/SCS).

The Senate Committee Substitute (1R) for Senate Bill Nos. 429 and 1422 creates a new crime of official deprivation of civil rights. This crime is committed if a public official, or a person purporting to be a public official, knowingly commits an unlawful act with the purpose to intimidate or discriminate against another person because of race, color, gender, ethnicity, handicap, religion or sexual orientation, and (1) subjects that person to unlawful arrest, detention, including, but not limited to motor vehicle investigative stops, search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes that person in the lawful exercise or enjoyment of any right, privilege, power or immunity.

Generally, the crime of official deprivation of civil rights would be graded as a crime of the third degree. But official deprivation of civil rights would be graded as a crime of the second degree if bodily injury results from the offense and it would be graded as a crime of the first degree if murder, manslaughter, kidnaping or aggravated sexual assault occurred during the commission of the offense.

The substitute also creates a new crime of pattern of official misconduct. If the actor commits acts of official misconduct or official deprivation of civil rights on two or more occasions, the separate crime of pattern of official misconduct is committed. There is no requirement that the separate violations be related by a common plan or scheme or method of commission. The crime is defined simply by reference to the number of times the defendant violated N.J.S.2C:30-2 (official misconduct) or section 2 of the substitute (the crime of official deprivation of civil rights).

Pattern of official misconduct is a crime of the second degree if one of the underlying acts committed by the defendant is a first or second degree crime. Otherwise, pattern of official misconduct is a crime of the third degree but the presumption of nonimprisonment for first offenses set forth in subsection e. of N.J.S.2C:44-1 is not applicable to this crime. This crime does not replace convictions for the underlying violations; rather, each crime of official misconduct or official deprivation of civil rights must be separately sentenced, in addition to the crime of pattern of official misconduct.

As amended and reported by the committee, this bill is identical to the Assembly Committee Substitute for Assembly Nos. 1308/342/2140, also released by the committee on this same date.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) specify in the legislative findings and declarations section that unlawfully depriving persons of their civil rights is a particular concern, especially in the context of racial profiling;

(2) clarify that a "detention" includes a motor vehicle investigative stop.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 429 and 1422**

STATE OF NEW JERSEY

DATED: MAY 16, 2002

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bills Nos. 429 and 1422.

This substitute creates a new crime of official deprivation of civil rights, which is committed if a public official, or a person purporting to be a public official, knowingly commits an unlawful act with the purpose to intimidate or discriminate against another because of race, color, gender, ethnicity, handicap, religion or sexual orientation, and the act results in the violation of the personal or property rights of another. The actor need not have the purpose of causing that result; the crime is complete when the defendant knowingly acts in an unlawful manner for an intimidating or discriminatory purpose.

Generally, the crime of official deprivation of civil rights would be graded as a crime of the third degree. Official deprivation of civil rights would, however, be graded as a crime of the second degree if bodily injury results from the offense and it would be graded as a crime of the first degree if murder, manslaughter, kidnaping or aggravated sexual assault occurred during the commission of the offense.

The substitute also creates a new crime of pattern of official misconduct. If the actor commits acts of official misconduct or official deprivation of civil rights on two or more occasions, the separate crime of pattern of official misconduct is committed. There is no requirement that the separate violations be related by a common plan or scheme or method of commission. The crime is defined simply by reference to the number of times the defendant violated N.J.S.2C:30-2 (official misconduct) or section 2 of the substitute (the crime of official deprivation of civil rights).

Pattern of official misconduct is a crime of the second degree if one of the underlying acts committed by the defendant is a first or second degree crime. Otherwise, pattern of official misconduct is a crime of the third degree but the presumption of nonimprisonment for first offenses set forth in N.J.S.2C:44-1e. is not applicable to this crime. This crime does not replace convictions for the underlying violations; rather, each crime of official misconduct or official deprivation of civil rights must be separately sentenced, in addition to

the crime of pattern of official misconduct.

In discussing when a prosecution may be barred, the committee wishes to note that the provisions of this substitute are subject to N.J.S.2C:1-10 (when prosecution barred by former prosecution) and N.J.S.2C:1-11 (former prosecution in another jurisdiction).

STATEMENT TO
[Second Reprint]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 429 and 1422

with Assembly Floor Amendments
(Proposed By Assemblymen PAYNE and COHEN)

ADOPTED: OCTOBER 17, 2002

The Senate committee substitute for Senate Bill Nos. 429 and 1422 (2R) creates the new crimes of official deprivation of civil rights and pattern of official misconduct.

These Assembly amendments:

(1) require the Division on Civil Rights in the Department of Law and Public Safety to establish a "Criminal Section," which will be responsible for receiving and reviewing complaints received from citizens, law enforcement agencies, county prosecutors, the Attorney General or any other organization alleging a violation of this State's criminal civil rights laws, including, but not limited to, official deprivation of civil rights and pattern of official misconduct;

(2) provide that when the criminal section deems a complaint to be meritorious, a prosecution pursuant to this section may be brought by the Office of the Attorney General, his assistants and deputies within the Division of Criminal Justice, or by a county prosecutor or a designated assistant prosecutor;

(3) require the Attorney General to prescribe a form, within 60 days of the effective date of this act, for the filing of complaints of alleged violations of this State's criminal civil rights laws; the information provided on this form shall be exempt from the provisions of the State's Open Public Records Act (P.L.1963, c.73; C.47:1A-1 et seq.);

(4) require the criminal section to annually report to the Governor and the Legislature the number of complaints received and reviewed and the status of each complaint; no other identifying information is to be included in these reports;

(5) establish that the record of a person charged with the crime of official deprivation of civil rights or pattern of official misconduct is to be expunged if a grand jury finds that there is not sufficient probable cause to return an indictment, the charges against the person are dismissed or the person is found not guilty at trial.

STATEMENT TO
ASSEMBLY SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 429 and 1422

with Senate Floor Amendments
(Proposed By Senator BRYANT)

ADOPTED: FEBRUARY 27, 2003

These Senate floor amendments to the Assembly substitute concerning criminalizing the deprivation of civil rights by public officials return certain provisions of the bill to the language that appeared as the bill passed the Senate on June 24, 2002 as S429 and S1422 SCS (1R).

Section 2 is amended to omit the reference to "age." These floor amendments also eliminate sections 4 and 5 of the Assembly substitute concerning the establishment of the Office of the Independent Prosecutor and the requirement that allegations of violations of the criminal civil rights laws be made on a standard complaint form.

The Legislature recognizes that in May 2002, Attorney General Administrative Executive Directive 2002-2 established the Office of Government Integrity. Among the authorized duties of the Office is the responsibility to investigate and prosecute allegations of misconduct by law enforcement officers, elected and appointed public officials at all levels of government, and by other public employees. It is the understanding of the Legislature that, in order to facilitate the performance of this duty, the Attorney General will require that all criminal complaints charging the official deprivation of civil rights be forwarded to the Office of Government Integrity for review. Based on its review of these complaints, the Office of Government Integrity will take such further action as it determines to be warranted, which may include criminal investigation and prosecution directly by the Office of Government Integrity itself, or referral of the matter to another law enforcement entity for investigation and prosecution if the Office of Government Integrity deems that course of action more appropriate under the specific circumstances involved.

[Third Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 429 and 1422

STATE OF NEW JERSEY
210th LEGISLATURE

ADOPTED MAY 16, 2002

Sponsored by:

Senator WAYNE R. BRYANT

District 5 (Camden and Gloucester)

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Senator NIA H. GILL

District 34 (Essex and Passaic)

Senator JOSEPH CHARLES, JR.

District 31 (Hudson)

Assemblyman WILLIAM D. PAYNE

District 29 (Essex and Union)

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Co-Sponsored by:

**Senators Furnari, Girgenti, Martin, Turner, Adler, Suliga, Codey, Baer,
Assemblymen Tucker, Eagler, Edwards, Gusciora and Assemblywoman
Watson Coleman**

SYNOPSIS

Criminalizes deprivation of civil rights, including racial profiling, by public officials.

CURRENT VERSION OF TEXT

As amended by the General Assembly on October 17, 2002.

(Sponsorship Updated As Of: 10/18/2002)

1 **AN ACT** concerning certain acts of official misconduct involving
2 deprivation of civil rights by public officials and supplementing
3 chapter 30 of Title 2C of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Legislature finds and declares that:

9 a. Public confidence in the institutions of government is
10 undermined when an official engages in any form of misconduct
11 involving his or her office.

12 b. Such misconduct, and the corresponding damage to the public
13 confidence, impairs the ability of government to function properly,
14 fosters mistrust and engenders disrespect for government and public
15 servants.

16 c. A particular concern arises when a law enforcement official,
17 duly entrusted to protect the public safety and impartially enforce the
18 laws, abuses that trust by unlawfully depriving persons of their civil
19 rights ², especially in the context of racial profiling².

20 d. Existing laws must be amended to provide a greater deterrent
21 to this type of conduct, as well as to enhance other provisions of the
22 law targeting official misconduct.

23 e. Accordingly, it is in the public interest to strengthen our laws
24 that define and punish acts of official misconduct by members of law
25 enforcement and other public servants.

26
27 2. a. A public servant acting or purporting to act in an official
28 capacity commits the crime of official deprivation of civil rights if,
29 knowing that his conduct is unlawful, and acting with the purpose to
30 intimidate or discriminate against an individual or group of individuals
31 because of race, color, religion, gender, handicap, sexual orientation
32 or ethnicity, the public servant: (1) subjects another to unlawful arrest,
33 detention, ²including, but not limited to, motor vehicle investigative
34 stops,² search, seizure, dispossession, assessment, lien or other
35 infringement of personal or property rights; or (2) denies or impedes
36 another in the lawful exercise or enjoyment of any right, privilege,
37 power or immunity.

38 b. (1) Except as provided in paragraphs (2) and (3) of this
39 subsection, a public servant who violates the provisions of subsection
40 a. of this section is guilty of a crime of the third degree.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate floor amendments adopted June 20, 2002.

² Assembly ALP committee amendments adopted October 10, 2002.

³ Assembly floor amendments adopted October 17, 2002.

1 (2) If bodily injury results from depriving a person of a right or
2 privilege in violation of subsection a. of this section, the public servant
3 is guilty of a crime of the second degree.

4 (3) If, during the course of violating the provisions of this section,
5 a public servant commits or attempts or conspires to commit murder,
6 manslaughter, kidnapping or aggravated sexual assault against a
7 person who is being deprived of a right or privilege in violation of
8 subsection a. of this section, the public servant is guilty of a crime of
9 the first degree.

10 c. Notwithstanding the provisions of N.J.S.2C:1-8 or any other
11 law, a conviction of official deprivation of civil rights under this
12 section shall not merge with a conviction of any other criminal offense,
13 nor shall such other conviction merge with a conviction under this
14 section, and the court shall impose separate sentences upon each
15 violation of this section and any other criminal offense.

16 d. Proof that a public servant made a false statement, prepared a
17 false report, or, if the agency that employs the public servant, the
18 Attorney General or the county prosecutor having supervisory
19 authority over the agency required a report to be prepared, failed to
20 prepare a report concerning the conduct that is the subject of the
21 prosecution, shall give rise to an inference that the actor knew his
22 conduct was unlawful.

23 e. For purposes of this section, an act is unlawful if it violates the
24 Constitution ¹of the United States or the Constitution¹ of this State,
25 or if it constitutes a criminal offense under the laws of this State.

26
27 3. a. A person commits the crime of pattern of official misconduct
28 if he commits two or more acts that violate the provisions of
29 N.J.S.2C:30-2 or section 2 of P.L. , c. (now pending before the
30 Legislature as this bill). It shall not be a defense that the violations
31 were not part of a common plan or scheme, or did not have similar
32 methods of commission.

33 b. Pattern of official misconduct is a crime of the second degree
34 if one of the acts committed by the defendant is a first or second
35 degree crime; otherwise, it is a crime of the third degree, provided,
36 however, that the presumption of nonimprisonment set forth in
37 subsection e. of N.J.S.2C:44-1 for persons who have not previously
38 been convicted of an offense shall not apply. Notwithstanding the
39 provisions of N.J.S.2C:1-8 or any other law, a conviction of pattern
40 of official misconduct shall not merge with a conviction of official
41 misconduct, official deprivation of civil rights, or any other criminal
42 offense, nor shall such other conviction merge with a conviction under
43 this section, and the court shall impose separate sentences upon each
44 violation of N.J.S.2C:30-2 and sections 2 and 3 of P.L. , c. (now
45 pending before the Legislature as this bill).

1 ³4. a. The Division on Civil Rights in the Department of Law and
2 Public Safety shall establish a Criminal Section. The Criminal Section
3 shall be responsible for receiving and reviewing complaints received
4 from citizens, law enforcement agencies, county prosecutors, the
5 Attorney General or any other organization alleging a violation of this
6 State's criminal civil rights laws, including, but not limited to, official
7 deprivation of civil rights and pattern of official misconduct.

8 b. If the Criminal Section deems a complaint to be meritorious, a
9 prosecution pursuant to this section may be brought by the Office of
10 the Attorney General, assistants and deputies within the Division of
11 Criminal Justice, or a county prosecutor or a designated assistant
12 prosecutor.

13 c. The Attorney General shall prescribe a form, within 60 days of
14 the effective date of this act, for the filing of complaints of alleged
15 violations of this State's criminal civil rights laws. The information
16 provided on this form shall be exempt from the provisions of
17 P.L.1963, c.73 (C.47:1A-1 et seq.).

18 d. The Criminal Section shall annually report to the Governor and
19 the Legislature the number of complaints received and reviewed and
20 the status of each complaint. No other identifying information shall be
21 included in these reports.

22 e. The record, as defined in subsection b. of N.J.S.2C:52-1, of a
23 person charged with the crime of official deprivation of civil rights or
24 the crime of pattern of official misconduct shall be expunged if a grand
25 jury finds that there is not sufficient probable cause to return an
26 indictment, the charges against the person are dismissed or the person
27 is found not guilty at trial.³

28

29 ³[4.] 5.³ This act shall take effect immediately.

ASSEMBLY, No. 1308

STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Assemblyman WILLIAM D. PAYNE

District 29 (Essex and Union)

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblyman JOHN F. MCKEON

District 27 (Essex)

SYNOPSIS

Creates the offense of racial profiling.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 10/11/2002)

1 AN ACT concerning racial profiling and supplementing chapter 30 of
2 Title 2C of the New Jersey Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. A law enforcement officer is guilty of racial profiling when the
8 officer uses racial characteristics or color, either alone or in
9 conjunction with other composite characteristics such as a generalized
10 vehicle description, or the age of the driver or passengers as the basis
11 for initiating an investigative stop.

12 Racial profiling is a crime of the third degree.

13

14 2. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This bill creates the offense of racial profiling. Racial profiling is
20 defined as the use of racial characteristics or color, either alone or in
21 conjunction with other composite characteristics such as a generalized
22 vehicle description, or the age of the driver or passengers as the basis
23 for initiating an investigative stop. Under the bill, racial profiling is a
24 crime of the third degree. A crime of the third degree is punishable by
25 a term of imprisonment of three to five years, a fine of up to \$15,000,
26 or both.

ASSEMBLY, No. 342

STATE OF NEW JERSEY 210th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2002 SESSION

Sponsored by:

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

SYNOPSIS

Criminalizes depriving persons of their civil rights.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 6/7/2002)

1 AN ACT concerning civil rights and supplementing chapter 40A of
2 Title 2C of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. A person who, acting under color of State law, ordinance or
8 custom, willfully deprives another person of a right or privilege
9 secured by the Constitution or laws of this State or by the constitution
10 or laws of the United States based on that person's race, color or
11 national origin, is guilty of a crime of the third degree.

12 b. If bodily injury results from depriving a person of a right or
13 privilege pursuant to subsection a. of this section, the offender is guilty
14 of a crime of the second degree.

15 c. If murder, manslaughter, kidnaping, aggravated sexual assault,
16 or an attempt to commit any of these crimes is committed against a
17 person who is being deprived of a right or privilege pursuant to
18 subsection a. of this section, the offender is guilty of a crime of the
19 first degree.

20

21 2. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill would make it a crime of the third degree for a person,
27 acting under color of State law, ordinance or custom, to willfully
28 deprive another person of a right or privilege secured by the
29 Constitution or laws of this State or by the constitution or laws of the
30 United States based on that person's race, color or national origin.
31 Third-degree crimes are punishable by a term of imprisonment of
32 three-to-five years, a fine of up to \$15,000, or both.

33 It would be a crime of the second degree under the bill if bodily
34 injury results from depriving a person of a such a right or privilege.
35 Second-degree crimes are punishable by a term of imprisonment of
36 five-to-ten years, a fine of up to \$150,000, or both.

37 The bill also provides that the commission of murder, manslaughter,
38 kidnaping, aggravated sexual assault, or an attempt to commit any of
39 these crimes, against a person who is being deprived of such a right or
40 privilege is a crime of the first degree. First-degree crimes are
41 punishable by a term of imprisonment of 10-to-20 years, a fine of up
42 to \$200,000, or both.

43 This bill embodies a recommendation made by the New Jersey
44 Legislative Black and Latino Caucus in "A Report on Discriminatory
45 Practices Within the New Jersey State Police" to correct, remedy and
46 prevent civil rights violations and employment discrimination within
47 the State Police.

ASSEMBLY, No. 2140

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MARCH 26, 2002

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

SYNOPSIS

Criminalizes the deprivation of civil rights.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/4/2002)

1 AN ACT concerning deprivation of civil rights and supplementing
2 Title 2C of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. It shall be unlawful for any person, acting under color of law,
8 ordinance, regulation or custom to purposely deprive another person
9 or purposely interfere or attempt to interfere with another person's
10 exercise of any rights, privileges or immunities secured under the
11 Constitution or laws of the United States, or the Constitution or laws
12 of this State. Any person who violates the provisions of subsection
13 a. of this section shall be guilty of a crime of the third degree.

14 b. A person is guilty of a crime of the second degree if a person
15 commits a crime of the first, second or third degree with the purpose
16 to deprive another person or interfere with another person's exercise
17 of his rights in violation of subsection a. of this section and the act
18 results in serious bodily injury. A person is guilty of a crime of the first
19 degree if a person commits a crime of the first, second or third degree
20 with the purpose to deprive another person or interfere with another
21 person's exercise of his rights in violation of subsection a. of this
22 section and the act results in death.

23 c. Nothing contained in this act shall preclude or limit the
24 prosecution or conviction of any person for bias intimidation under
25 N.J.S.2C:16-1 or any prosecution or conviction for any other offense.

26
27 2. This act shall take effect immediately .
28
29

30 STATEMENT
31

32 This bill makes it a crime of the third degree for any person to
33 purposely deprive another person or purposely interfere or attempt to
34 interfere with another person's exercise of any rights, privileges or
35 immunities secured under the Constitution or laws of the United
36 States, or the Constitution or laws of this State. A violation of this act
37 is elevated to a crime of the second degree if a person commits a crime
38 with the purpose to deprive another or interfere with another person's
39 exercise of his rights and this act results in serious bodily injury. It
40 becomes a crime of the first degree when such action results in death.

41 Nothing contained in this act would preclude the prosecution or
42 conviction of any person for bias intimidation under N.J.S.2C:16-1 or
43 any prosecution or conviction for any other offense.

44 It is the sponsor's intent to mirror in State law those protections
45 provided in the federal law concerning deprivation of civil rights
46 pursuant to the provisions of 18 U.S.C.A. 242.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 1308, 342 and 2140**

STATE OF NEW JERSEY

DATED: OCTOBER 10, 2002

The Assembly Law and Public Safety Committee reports favorably an Assembly committee substitute for Assembly Bill Nos. 1308, 342 and 2140.

This Assembly committee substitute creates a new crime of official deprivation of civil rights. This crime is committed if a public official, or a person purporting to be a public official, knowingly commits an unlawful act with the purpose to intimidate or discriminate against another person because of race, color, gender, ethnicity, handicap, religion or sexual orientation, and (1) subjects that person to unlawful arrest, detention, including, but not limited to motor vehicle investigative stops, search, seizure, dispossession, assessment, lien or other infringement of personal or property rights; or (2) denies or impedes that person in the lawful exercise or enjoyment of any right, privilege, power or immunity.

Generally, the crime of official deprivation of civil rights would be graded as a crime of the third degree. But official deprivation of civil rights would be graded as a crime of the second degree if bodily injury results from the offense and it would be graded as a crime of the first degree if murder, manslaughter, kidnaping or aggravated sexual assault occurred during the commission of the crime.

The substitute also creates a new crime of pattern of official misconduct. If the actor commits acts of official misconduct or official deprivation of civil rights on two or more occasions, the separate crime of pattern of official misconduct is committed. There is no requirement that the separate violations be related by a common plan or scheme or method of commission. The crime is defined simply by reference to the number of times the defendant violated N.J.S.2C:30-2 (official misconduct) or section 2 of the substitute (the crime of official deprivation of civil rights).

Pattern of official misconduct is a crime of the second degree if one of the underlying acts committed by the defendant is a first or second degree crime. Otherwise, pattern of official misconduct is a crime of the third degree but the presumption of nonimprisonment for first offenses set forth in subsection e. of N.J.S.2C:44-1 is not applicable to this crime. This crime does not replace convictions for

the underlying violations; rather, each crime of official misconduct or official deprivation of civil rights must be separately sentenced, in addition to the crime of pattern of official misconduct.

This Assembly committee substitute is identical to the Senate Committee Substitute (1R) for Senate Bill Nos. 429 and 1422, also amended and released by the committee on this same date.

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Press Releases

PO BOX 004
TRENTON, NJ 08625

Contact: Micah Rasmussen
609-777-2600

RELEASE: March 14, 2003

[Previous Screen](#)

McGreevey Signs Racial Profiling Bill

Governor also signs bill requiring all State Police jobs to be posted

(TRENTON)— Governor James E. McGreevey today signed Bill S-429, which bans racial profiling. McGreevey was joined by Acting Attorney General Peter C. Harvey, Senator Wayne Bryant, Assemblyman William D. Payne, Assemblywoman Bonnie Watson Coleman and the Reverend Reginald Jackson of the Black Ministers Coalition.

“For years, minority motorists have complained of being the victims of racial profiling,” said McGreevey. “They have complained of being illegally targeted, stopped, harassed and searched based on their race or ethnicity. This bill makes racial profiling a criminal act.”

Under the bill, if a public official knowingly commits an unlawful act with the purpose to intimidate or discriminate against another because of race, color, gender, ethnicity, handicap, religion, or sexual orientation and the act results in the violation of the personal or property rights of another, it will be deemed a criminal action.

"We are committed to eradicating racial profiling in New Jersey," said Harvey. "The Division of State Police has made tremendous strides in meeting the mandates of the Consent Decree, as affirmed by the independent monitors, and we are developing a comprehensive training program for use by local police departments that will target discriminatory policing. This new law is another safeguard to ensure that citizens will not face discriminatory law enforcement in New Jersey. We are committed to the principle of equal justice under law."

“This new law will end the practice of knowingly intimidating or discriminating against individuals,” Senator Bryant said. “Racial profiling by some of our law enforcement officers has pointed out the necessity to have a law to criminalize this practice. Now, every individual - regardless of race, color, religion, gender, handicap, sexual orientation or ethnicity - is guaranteed their basic constitutional rights under the law. This law will help change a culture of acceptance of civil rights infractions committed by police officers and other public servants upon minorities. With this new law, it is made very clear that no one is above the law and that protecting the civil rights of every citizen of the State is paramount.”

"This is a significant first step in resolving the issue of racial profiling which has been prevalent in New Jersey and other states for some time," said Assemblyman Payne, who helped formulate a legislative package based on a series of hearings in 1999 held by the New Jersey Black and Latino Caucus. "Enactment of this law is a signal to motorists that we intend to do everything possible to eradicate this unjust practice and hopefully other states will follow our lead."

The bill also creates a new crime of "pattern of official misconduct" which would occur if a person commits acts of official misconduct or official deprivation of civil rights on two or more occasions. The separate violations do not have to be related.

"With the enactment of this bill into law, New Jersey has addressed a significant lapse in the protection of civil rights and criminalized the practice of racial profiling," said Senator Joseph Charles, D-Hudson, chairman of the Legislature's Black, Latino and Asian Caucus. "Now, those who talk of colorblind government have an important tool in seeing that that becomes a reality."

"Today New Jersey has taken a significant step forward in protecting the rights of equity and justice for all persons," said Senator Nia H. Gill. "More than thirty years have passed since the Civil Rights Movement in this country, and yet some public officials still choose to use their power for discrimination and intimidation. It is my sincere hope that this law will reinforce the messages of the Civil Rights Movement for these officials--that each individual is entitled to dignity, respect, and equitable treatment."

"This is a signal to all citizens, police officers and civil servants that New Jersey is taking a major step in eliminating discriminatory behavior based on race," said Assemblyman Wilfredo Caraballo. "We want this message taken across the nation."

"It is time to heal the wounds of past acts of bigotry, hate and bias," said Assembly Deputy Majority Leader Neil M. Cohen. "New Jersey is setting an example for the whole nation to follow that we won't tolerate degrading and humiliating treatment of our citizens."

"This law ensures that minority motorists will no longer have to drive scared when traveling on the state's roads," said Assemblyman Gordon M. Johnson. "Now we can attempt to rebuild the minority community's confidence in our public servants."

"The reforms contained in this law will make all public servants more responsive and responsible," said Assemblyman John F. McKeon. "New Jersey will be a national leader in eradicating these despicable practices once and for all."

The legislation does not prohibit law enforcement officers from initiating investigative stops based upon information contained in a "be on the lookout" description. The law also does not prevent law enforcement officers from using race or ethnicity as a means of identifying or apprehending a known suspect or wanted person if that information is provided as one of several identifying characteristics.

McGreevey also signed bill S-412, which requires the Superintendent of the State Police to prepare and regularly update a catalogue listing all enlisted officer and officer employment titles and positions in the State Police. It also requires that job descriptions be required for each title and position.

The bill also requires that no appointment can be made to a special title or position until a notice announcing the title or position has been posted. The notice must be posted

conspicuously at division headquarters, each troop headquarters and all the other division facilities. Adequate time must also be given to permit interested and qualified officers and troopers to apply.

“This bill ensures that everyone in the State Police has the same opportunity to apply for jobs within the ranks,” said McGreevey. “The two bills that I have signed today are part of the ongoing process of ensuring that New Jersey has the highest standards of law enforcement in the nation.”



State of New Jersey Governor's Office

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March 06, 2001

To All Interested Parties:

SENATE JUDICIARY COMMITTEE INVESTIGATION INTO RACIAL PROFILING William Gormley, Chairman of the Senate Judiciary Committee (the "Committee"), announced in September 2000, that the Committee would conduct a review of racial profiling, the New Jersey State Police, and the timing of the indictments in the Hogan and Kenna criminal matters. Michael Chertoff, a partner at Latham & Watkins and former U.S. Attorney, was appointed Special Counsel to the Committee. The Committee served the Office of Attorney General ("OAG") and Governor Whitman's office with several written requests for information and documentation. In response, OAG released over 90,000 pages of documentation and Governor Whitman's office released approximately 3,500 pages of documentation. OAG's production was supplemented several times in response to additional requests for information by the Committee. Custodians of the record were also identified by OAG and Governor Whitman. In total, approximately 100,000 pages of documentation were reviewed in connection with the Committee's investigation. Mr. Chertoff and his legal team of five lawyers, led by Scott Louis Weber, and two paralegals reviewed and coded every document over a two-month period. The results of the document review were made available to the Committee and counsel to the Senate minority. As a result of the document review, special counsel and counsel to the Senate minority identified 34 witnesses and determined that 28 of the witnesses would testify in depositions or before hearing officers. Special counsel and counsel to the Senate minority also determined that the remaining 6 witnesses were for historical purposes and would simply be interviewed. From January 30 through March 1, 2001, special counsel and counsel to the Senate minority conducted joint interviews and depositions of the witnesses. All interviews and depositions were open to members of the Committee. With the exception of one or two individuals all witnesses have now been interviewed or deposed. The interviews and depositions took approximately 150 hours and resulted in approximately 4,000 pages of transcript. Copies of 29 transcripts have been posted on the Legislature's Internet site and the remaining transcripts will be posted as soon as they become available. At the suggestion of special counsel, the inquiry into the Hogan and Kenna cases has been focused upon the timing and public release of the indictments so as to not interfere with the pending criminal cases. The Committee has not investigated the substance of the charges or sufficiency of the evidence in either criminal case. The timing and public release of the indictments will be addressed during the remainder of the inquiry. The Committee is currently working to determine the witness list and order of presentation. Public hearings are scheduled for March 19, 20, 27, and 28, 2001. All hearings will be conducted from 10 AM to 5 PM and may be extended to 8 PM to accommodate witness testimony.

March 8, 2001

The Special Inquiry currently undertaken by the Senate Judiciary Committee into the issue of racial profiling shall include the following:

- (1) 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;
- (2) a review of the accuracy and completeness of any evidence presented to the Senate Judiciary Committee in 1999 concerning racial profiling, and the truthfulness and completeness of any testimony presented to the Committee in 1999 concerning racial profiling;
- (3) a review of actions concerning racial profiling taken by the Division of State Police or the Office of the Attorney General following the ruling by Judge Francis in State v. Pedro Soto, including any statistical analyses and the dissemination or concealment of that statistical information;
- (4) an examination of the reasonableness of the State's actions in the appeal and subsequent withdrawal of the State's appeal in State v. Pedro Soto;
- (5) a review of the State's actions, following the Soto ruling, in discovery motions and evidence suppression motions brought by defendants alleging racial profiling, up to and

including the State's decision to release 95,000 pages of documents, and including its compliance with disclosure and discovery requirements;

- (6) a review of activities within the Department of Law and Public Safety and the Division of State Police, and the actions by individual State officials, concerning the investigation into racial profiling that was started in late 1996 by the United States Department of Justice Civil Rights Division, including any statistical analyses undertaken by the Division of State Police or the Department of Law and Public Safety and the dissemination or concealment of such statistical information;
- (7) a review of any activities within the Department of Law and Public Safety and the Division of State Police concerning allegations of racial profiling or racial discrimination involving the State Police;
- (8) a review of the circumstances surrounding the timing and public release of the indictments of Troopers Hogan and Kenna;
- (9) a review of activities within the Division of State Police and the Department of Law and Public Safety concerning the State Police Review Team and the development of the Interim Report and the Final Report;
- (10) a review of circumstances surrounding the resignation of Col. Carl Williams; and
- (11) an examination of the circumstances surrounding the Consent Decree entered into with the United States Department of Justice on December 30, 1999, the content of the Consent Decree, and the status of those and other reforms.



Senior Democratic Member

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