

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman William Mason at 1:30 p.m. on March 15, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Candy Ruff- excused  
Representative John Edmonds- excused

Committee staff present:

Russell Mills, Legislative Research Department  
Mary Torrence, Revisor of Statutes Office  
Dennis Hodgins, Legislative Research Department  
Rose Marie Glatt, Secretary

Conferees appearing before the committee:

**PROPONENTS:**

Representative Ruby Gilbert  
Senator Donald Betts Jr., District #29, Wichita  
Dr. Walt Chappell, Citizens for Equal Law Enforcement, Wichita  
Danielle Dempsy Swopes, Executive Director, KS Commission on African Affairs  
Elias Garcia, KS Advisory Commission on Hispanic Affairs  
Joe Hendrixson, Kansas Ecumenical Ministries  
Richard Kurtenbach, Civil Liberties of KS and Western Missouri  
Sheila Officer, Citizens for Equal Law Enforcement, Wichita  
Colonel William Seck, Kansas Highway Patrol  
Reverend Hill, private citizen  
Lieutenant Colonel (Army-retired) William E. Richards, National Association for the Advancement of Colored People

**\*Written Testimony Only**

\*William V. Minner, Executive Director, Kansas Human Rights Commission  
\*Brandon Meyers, Chief Legal Counsel, KHRC  
\*Robert M. Hollar, Assistant Director, KHRC  
\*Skukura Sentwali, private citizen  
\*John R. Todd, private citizen  
\*Kristy Guinn, private citizen  
\*Michael and Nicki Childers, private citizens  
\*Audrey Johnson, private citizen  
\*Deborah Pope, private citizen  
\*Ernest Williams, private citizen

**OPPONENTS:**

Sandy Jacquot, The League of Kansas Municipalities  
Terri Moses, Deputy Chief, Wichita Police Department

Others attending:

See Attached List

**HB 2876 - Racial profiling; creating a misdemeanor violation, civil cause of action, requirements of law enforcement agencies**

Ms. Torrence, Revisor of Statutes Office, stated that the bill would make it unlawful for a law enforcement officer or agency to engage in racial profiling. She reviewed definitions, requirements, training for officers, data collections, provisions and penalties for violations.

**PROPONENTS:**

Representative Ruby Gilbert, a prime sponsor of the bill, welcomed the conferees to the hearing. She addressed the committee by saying, "*At this point, they shouldn't have to pass this kind of legislation..... unfortunately they do!*" (No written testimony)  
Senator Donald Betts Jr., testified in support of **HB 2876 (Attachment 1)**. The bill is the first step in

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setting up a uniform method for a citizen to file a complaint that a law enforcement officer had engaged in racial profiling, and called for rules and procedures to punish it when it occurred. A society dedicated to the ideal of equal justice under the law, that continued to force one group of citizens to put up with unequal treatment because of the color of their skin was in direct violation of civil rights and was discrimination, pure and simple. He urged passage of the bill, with a recommendation to adopt.

Senator Betts, Jr. responded to questions regarding the prevalence of racial profiling in Wichita; definition of the term; mediation processes to promote understanding between parties; similar programs in other states; and a suggested amendment on page 3 of the bill, which would add *attorney general* to the list of persons that would receive a copy of the annual Kansas Human Rights Commission report on profiling.

Dr. Walt Chappell, Citizens for Equal Law Enforcement - Wichita, testified in support of **HB 2876** (Attachment 2). He referred to statistics from the *Gallup News Service Poll*, Wichita, Kansas Police Department Study, and the *State of Kansas STOP Study* which addressed racial profiling in Kansas. Included in his testimony were charts reflecting data from a 1999 survey of minorities in the Wichita Municipal Court as well as increased court revenue.

Danielle Dempsy Swopes, Executive Director, KS Commission on African Affairs, stated that racial and ethnic minorities in Kansas have felt the stigma and humiliation of racial profiling for some time (Attachment 3). The bill provides additional training of law enforcement officers; the collection of data on routine investigatory activities; and the adoption of strategies to end such profiling.

Elias Garcia, KS Advisory Commission on Hispanic Affairs rose in support of **HB 2876** (Attachment 4). Racial profiling and the use of race based assumption in law enforcement and public service violated the equal protection clause of the Constitution; perpetuated negative racial stereotypes; were harmful to our rich and diverse democratic society; and served to impair their efforts to maintain fairness and justice in society.

Joe Hendrixson, Kansas Ecumenical Ministries, stated that the history of the America had been deeply marked by the sin of racism, which betrayed the Christian faith as well as democratic ideals (Attachment 5). The practice of racial profiling by law enforcement officials had become so prevalent that President Bush called for an end to racial profiling in his 2002 *State of the Union* address. He urged support and passage of **HB 2876**.

Richard Kurtenbach, Civil Liberties of KS and Western Missouri, testified that his office had conducted a statistical study of traffic stops in Leawood, Prairie Village and Mission Hills and that study verified the existence of the problem (Attachment 6). He cited several instances of racial profiling in the Kansas City area and urged the Committee to take action.

Sheila Officer, Citizens for Equal Law Enforcement - Wichita stated that racial profiling does exist and it was tearing at the very heart and soul of their communities and families. Her testimony included petitions that were circulated and signed by over 250 constituents asking Legislators to support the bill (Attachment 7).

Colonel William Seck, Kansas Highway Patrol, stated that racial profiling, or biased-based policing, was an important issue and they largely support **HB 2876** (Attachment 8). In 2000, the Patrol voluntarily helped administer a statewide racial profiling study, that indicated there were some problems within their own agency. As a result, the Patrol had been holding community meetings to discuss problems and solutions. The Patrol's largest concern is that the current fiscal note of \$93,489 does not include the cost of collecting data at the law enforcement agency level.

Reverend Hill, rose in support of the bill (No written testimony). He stated that the Legislature needs to be aware of the people needs and take action to protect minorities.

Lieutenant Colonel (Army-retired) William E. Richards, President, Topeka branch of the National Association for the Advancement of Colored People testified that racial profiling was a violation of the

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Constitutional protection and equal treatment under the law (No written testimony).

The following persons did not appear before the Committee, however submitted written testimony (Attachments 9-17) to be included in the minutes: William V. Minner, Exec. Director, KHRC; Brandon Meyers, Chief Legal Counsel, KHRC; Robert M. Hollar, Assistant Director, KHRC; Private citizens: Skukura Sentwali; John R. Todd; Kristy Guinn; Michael and Nicki Childers; Audrey Johnson; Deborah Pope; Ernest Williams; and Rosalie and Pascual Villa

### **OPPONENTS:**

Sandy Jacquot, The League of Kansas Municipalities, testified that the League does not support racial profiling; however the bill carries an enormous unfunded mandate that must be addressed (Attachment 18). They questioned whether the provisions of **HB 2876** are legally compatible with the federal Patriot Act and the “war on terrorism”. She called attention to an error in her testimony, regarding a study done on racial profiling and confirmed that the League was involved in a 2000 study. The criminal and civil liability component of the bill was counterproductive to Kansas law enforcement and should be removed.. They support reasonable things that local governments can do to put a stop to profiling, short of putting a large unfunded mandate on the cities.

Terri Moses, Deputy Chief, Wichita Police Department opposed **HB 2876** (Attachment 19). She testified that both the City of Wichita and the Wichita Police Department are against racial profiling tactics, however the primary reasons for their opposition are it diminished Home rule and local control; the funding consequences of the bill and concern over language in the bill. The Wichita Police Department had developed several initiatives with a three-fold focus: data collection, public education and diversity awareness training to all employees. She concluded by stating that racial profiling was a concern in Wichita but one that should be dealt with at a local level.

Discussion followed regarding; definition of racial profiling; process of determining if profiling is being done; formulas for data collection, use of quota for law enforcement agencies; unfunded mandate verses just punishment; age range of citizens being targeted; and use of video cameras/ microphones in patrol cars.

The hearing was closed on HB 2876. The meeting adjourned at 3:10 p.m. The next meeting is March 16, 2004.