



PP-MD-001-001

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4/25/01

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

MARYLAND STATE CONFERENCE	)	Civil Action No. CCB-98-1098
OF NAACP BRANCHES, on behalf of	)	
itself, its members, and the plaintiff	)	
class,	)	
c/o Herbert H. Lindsey, President	)	
35 Beyda Court	)	
Baltimore, Maryland 21236	)	
	)	
GARY D. RODWELL, on behalf of himself and	)	
all other persons similarly situated,	)	
8412 Brunswick Place	)	
Philadelphia, Pennsylvania 19153	)	
	)	
JOHNSTON E. WILLIAMS, on behalf of	)	
himself and all other persons	)	
similarly situated,	)	
118 Ashby Road	)	
Upper Darby, Pennsylvania 19082	)	
	)	
JAMES E. ALSTON, JR., on behalf of himself	)	
and all other persons similarly	)	
situated,	)	
3806 Gateway Terrace	)	
Burtonsville, Maryland 20866	)	
	)	
YANCEY AND ALESHIA TAYLOR, on behalf	)	
of themselves, their minor son,	)	
Yancey Taylor, Jr., and all other	)	
persons similarly situated,	)	
70 Overland Avenue	)	
Amityville, New York 11701	)	
	)	
GEORGE W. TAYLOR, JR., on behalf of	)	
himself and all other persons	)	
similarly situated,	)	
222 Andover Place	)	
Robbinsville, New Jersey 08691	)	
	)	

ERIC A. COOK, on behalf of himself and all	)
other persons similarly situated,	)
117 Burton Avenue	)
Trenton, New Jersey 08618	)
	)
JAWAD ABDULLAH, on behalf of himself	)
and all other persons	)
similarly situated,	)
Post Office Box 23685	)
Baltimore, Maryland 21203	)
	)
NELSON D. WALKER, on behalf of himself	)
and all other persons similarly	)
situated,	)
3608 Constellation Drive	)
Raleigh, North Carolina 27604	)
	)
MECCA AGUNABO I, on behalf of himself	)
and all other persons similarly	)
situated,	)
118 East South Street	)
Shaw University	)
Raleigh, North Carolina 27601	)
	)
GEORGE DAUGHTRY, on behalf of himself	)
and all other persons	)
similarly situated,	)
9612 Southall Road	)
Apartment 201	)
Randallstown, Maryland 21133	)
	)
DAVID H. PATTERSON, JR., on behalf of	)
himself and all other persons	)
similarly situated,	)
10027 Campus Way South	)
Largo, Maryland 20774	)
	)
JOHN S. MEANS, on behalf of himself	)
and all other persons similarly	)
situated,	)
2 Fifteenth Street, N.E.	)
Washington, D.C. 20002	)
	)

KENNETH R. JEFFRIES, on behalf of	)
himself and all other persons	)
similarly situated,	)
1000 Perry Street, N.E.	)
Apartment 12	)
Washington, D.C. 20017	)
	)
YVONNE DAVIS, on behalf of herself	)
and all other persons similarly	)
situated,	)
10531 Beacon Ridge Drive	)
Mitchellville, Maryland 20721	)
	)
DIANA DESMOINES, on behalf of	)
herself and all other persons	)
similarly situated,	)
250 South Reynolds Street	)
Unit 1003	)
Alexandria, Virginia 22304	)
	)
WILLIAM M. BERRY, on behalf of	)
himself and all other persons	)
similarly situated,	)
4347-C Hewitt Street	)
Greensboro, NC 27407	)
	)
VERNA A. BAILEY, on behalf of herself and	)
all other persons similarly situated,	)
215 B Third Street North	)
Brigantine, New Jersey 08203	)
	)
Plaintiffs,	)
	)
v.	)
	)
DEPARTMENT OF MARYLAND STATE	)
POLICE	)
Serve on:	)
J. Joseph Curran	)
200 St. Paul Place	)
Baltimore, Maryland 21202	)
	)

DAVID B. MITCHELL, individually and in his)
official capacity as Secretary of the)
Department of Maryland State Police,)
1201 Reisterstown Road)
Pikesville, Maryland 21208)
)
JESSE GRAYBILL, individually and in his)
official capacity as Commander of)
the Field Operations Bureau of the)
Department of Maryland State Police,)
1201 Reisterstown Road)
Pikesville, Maryland 21208)
)
GEORGE H. HALL, individually and in his)
official capacity as Commander of)
the Northern Region of the Field)
Operations Bureau of the Department)
of Maryland State Police,)
Barrack D Bel Air)
1401 Bel Air Road)
Bel Air, Maryland 21014)
)
VERNON BETKEY, individually and in his)
official capacity as a Maryland)
State Police Barrack Commander,)
Barrack D Bel Air)
1401 Bel Air Road)
Bel Air, Maryland 21014)
)
KEVEN L. GRAY, individually and in his)
official capacity as a Maryland State)
Police Barrack Commander,)
Barrack M JFK Memorial Highway)
15 Turnpike Drive)
Perryville, Maryland 21903)
)
JOHN E. APPLEBY, individually,)
236 Drexel Drive)
Bel Air, Maryland 21014)
)

GEORGE P. BRANTLY, individually and in)
 his official capacity as a Maryland)
 State Trooper.)
 Barrack M JFK Memorial Highway)
 15 Turnpike Drive)
 Perryville, Maryland 21903)
)
 BERNARD M. DONOVAN, individually and)
 in his official capacity as a)
 Maryland State Trooper,)
 Barrack M JFK Memorial Highway)
 15 Turnpike Drive)
 Perryville, Maryland 21903)
)
 STEVEN W. DULSKI, individually and in)
 his official capacity as a)
 Maryland State Trooper,)
 Barrack M JFK Memorial Highway)
 15 Turnpike Drive)
 Perryville, Maryland 21903)
)
 MELVIN FIALKEWICZ, individually)
 c/o Maryland State Police)
 1201 Reisterstown Road)
 Pikesville, Maryland 21208)
)
 JOHN R. GREENE, individually and in his)
 official capacity as a Maryland)
 State Trooper,)
 Barrack M JFK Memorial Highway)
 15 Turnpike Drive)
 Perryville, Maryland 21903)
)
 ERIC HARBOLD, individually and in his)
 official capacity as a)
 Maryland State Trooper,)
 1201 Reisterstown Road)
 Pikesville, Maryland 21208)
)

STEVEN L. HOHNER, individually and in	)
his official capacity as a	)
Maryland State Trooper,	)
Barrack D Bel Air	)
1401 Bel Air Road	)
Bel Air, Maryland 21014	)
	)
CLIFFORD T. HUGHES, individually and	)
in his official capacity as a	)
Maryland State Trooper,	)
1201 Reisterstown Road	)
Pikesville, Maryland 21208	)
	)
DAVID B. HUGHES, individually and in his	)
official capacity as a Maryland	)
State Trooper,	)
1201 Reisterstown Road	)
Pikesville, Maryland 21208	)
	)
MICHAEL T. HUGHES, individually and in	)
his official capacity as a Maryland	)
State Trooper,	)
1201 Reisterstown Road	)
Pikesville, Maryland 21208	)
	)
STEVEN O. JONES, individually and in his	)
official capacity as a Maryland	)
State Trooper,	)
Barrack M JFK Memorial Highway	)
15 Turnpike Drive	)
Perryville, Maryland 21903	)
	)
JAMES E. NOLAN, individually and in his	)
official capacity as a Maryland	)
State Trooper,	)
Barrack M JFK Memorial Highway	)
15 Turnpike Drive	)
Perryville, Maryland 21903	)
	)
PAUL J. QUILL, individually and in his	)
official capacity as a Maryland State	)
Trooper,	)
1201 Reisterstown Road	)
Pikesville, Maryland 21208	)

MARK A. RHINEHART, individually and in)
 his official capacity as a)
 Maryland State Trooper,)
 1201 Reisterstown Road)
 Pikesville, Maryland 21208)
)
 CHRISTOPHER TIDEBERG, individually and)
 in his official capacity as a)
 Maryland State Trooper,)
 Barrack M JFK Memorial Highway)
 15 Turnpike Drive)
 Perryville, Maryland 21903)
)
 ERNEST S. TULLIS, individually and in his)
 official capacity as a Maryland)
 State Trooper,)
 Barrack M JFK Memorial Highway)
 15 Turnpike Drive)
 Perryville, Maryland 21903)
)
 MICHAEL D. WANN, individually and in his)
 official capacity as a Maryland)
 State Trooper,)
 1201 Reisterstown Road)
 Pikesville, Maryland 21208)
)
 BILLY WHITE, individually and in his official)
 capacity as a Maryland State Trooper,)
 Barrack M JFK Memorial Highway)
 15 Turnpike Drive)
 Perryville, Maryland 21903)
)
 JOHN L. WILHELM, individually and in his)
 official capacity as a Maryland)
 State Trooper,)
 Barrack M JFK Memorial Highway)
 15 Turnpike Drive)
 Perryville, Maryland 21903)

JOHN AND JANE DOES, NUMBERS ONE	)
through TEN, individually and in their	)
official capacities as	)
Maryland State Troopers,	)
1201 Reisterstown Road	)
Pikesville, Maryland 21208	)
	)
Defendants.	)

SECOND AMENDED COMPLAINT AND JURY DEMAND

I. Nature of the Case

1. This is a class action lawsuit seeking declaratory, injunctive, and monetary relief against the Maryland State Police and its officers and officials, for engaging in a continuing pattern and practice of race-based stops, detentions, and searches of minority motorists traveling Interstate 95 through Maryland. Plaintiffs are a non-profit civil rights organization and the class of innocent minority motorists who — due to defendants’ custom and practice of discrimination — unlawfully and unreasonably have been detained and/or searched, ostensibly for drugs or weapons. Claims are brought pursuant to the Fourth and Fourteenth Amendments to the Constitution of the United States, 42 U.S.C. §§ 1983, [1985, and 1986,] Title VI of the Civil Rights Act of 1964, 42 C.F.R. §§ 42.101 *et seq.*, and Articles 24 and 26 of the Maryland Declaration of Rights.

II. Jurisdiction and Venue

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343, 1367, and 2201.

3. Venue is proper in the Northern Division of the District of Maryland, as the

conduct out of which this action arose occurred in this district. 28 U.S.C. §1391(b).

III. Parties

A. *Plaintiffs*

4. Plaintiff Maryland State Conference of NAACP Branches (hereafter, “the NAACP”) is a non-profit membership organization dedicated to eradication of race-based discrimination throughout Maryland and to securing equal protection of the laws for all persons. Individual members of the Maryland NAACP and its branches, including plaintiffs Gary D. Rodwell and James E. Alston, Jr., regularly travel Interstate 95 and other Maryland roadways, and at various times have been stopped and detained by Maryland State Police troopers. The NAACP brings this action [on behalf of itself and its members, and] as organizational representative for **its members and for** the class of minority motorists being subjected to race-based discrimination by the Maryland State Police. The NAACP participates as a plaintiff only for the purposes of securing declaratory and injunctive relief.

5. Individual named plaintiffs Gary D. Rodwell, Johnston E. Williams, James E. Alston, Jr., Yancey and Aleshia Taylor, George W. Taylor, Jr., Eric A. Cook, Jawad Abdullah, Nelson D. Walker, Mecca Agunabo I, George Daughtry, **David H. Patterson, Jr., John S. Means, Kenneth R. Jeffries, Yvonne Davis, Diana Desmoines, William M. Berry, and Verna Bailey** are minority motorists who regularly travel Interstate 95 through Maryland. Each of these plaintiffs has been stopped along Interstate 95, detained based upon race and/or national origin rather than legal justification, and/or searched [at least once] by Maryland State Police troopers. Furthermore, each was found to be carrying no contraband.

That is, despite lengthy detentions and extensive searches, each of the individual named plaintiffs was found to be innocent of carrying illegal drugs or weapons. These named plaintiffs bring this action on behalf of themselves and as representatives for the class of all similarly situated minority motorists.

6. Plaintiff Gary D. Rodwell is a 42-year-old African-American male, currently residing in Philadelphia, Pennsylvania. A graduate of Howard University, Mr. Rodwell has completed his doctoral course work at the University of Southern California, and is working on his doctoral dissertation in education. He is employed as Executive Director of the Alliance Organizing Project, a non-profit organization located in Philadelphia that focuses on education reform. Because this plaintiff's young son attends elementary school in Baltimore and Mr. Rodwell accompanies his son to school twice a month, he regularly travels Interstate 95 between his home in Philadelphia and his son's school in Baltimore. **Mr. Rodwell also leads his son's Cub Scout troop, and regularly travels to Baltimore for troop meetings.**

7. Plaintiff Johnston E. Williams is a 34-year-old Liberian citizen and permanent U.S. resident living in Upper Darby, Pennsylvania. A graduate of Colgate University, with a degree in public administration, Mr. Williams is employed as a case worker with the Delaware County Department of Human Services. Because he has friends and family in the Washington, D.C. area, Mr. Williams often travels Interstate 95 between Philadelphia and Washington.

8. Plaintiff James E. Alston, Jr. is a 38-year-old African-American male, residing in Burtonsville, Maryland. Mr. Alston currently is employed as a Military Claims Clerk for the U.S. Department of the Army, at Fort Myer, Virginia. Additionally, Mr. Alston attends

college in the evening at the University of Maryland in College Park. As a resident of Maryland and Montgomery County, Mr. Alston regularly travels Interstate 95 between Washington, D.C. and Baltimore.

9. Plaintiffs Yancey and Aleshia Taylor are an African-American married couple in their late 30s, residing primarily in Amityville, New York. Because Mr. and Mrs. Taylor have a second home in Charlotte, North Carolina, they often travel Interstate 95 through Maryland, between their two residences. They bring this action on their own behalf, on behalf of their minor son, Yancey Taylor, Jr., who travels with them, and as class representatives.

10. Plaintiffs George W. Taylor, Jr. and Eric A. Cook are African-American males who reside near Trenton, New Jersey. Mr. Taylor, who is 24, works as a Production Supervisor for Technigraph, a company that manufactures graphic arts equipment. Mr. Cook, who is 25, works two jobs: He is a management employee with the United Parcel Service, and also works for W.W. Granger, an industrial supplies company. Because Mr. Taylor and Mr. Cook both reside near Trenton but have family and friends in Baltimore and in Norfolk, Virginia, they regularly travel together through Maryland on Interstate 95.

11. Plaintiff Jawad Abdullah is a 42-year-old Trinidadian man residing legally in Baltimore, Maryland. Mr. Abdullah holds a master's degree in engineering and a bachelor's degree in physics, and currently is working toward his Ph.D. in engineering at Morgan State University. Mr. Abdullah is employed as a Crime Lab Technician with the Baltimore City Police Department. As a Maryland resident, he regularly drives on the roads and highways of this state, including Interstate 95, to go to and from school and for other reasons.

12. Plaintiff Nelson D. Walker is a 24-year-old Liberian man and permanent U.S. resident who lives in Raleigh, North Carolina. Mr. Walker is employed as a computer technician at the IBM corporation, and attends college at Shaw University, where he is in his senior year. Because Mr. Walker resides in North Carolina but has family in Philadelphia, he periodically travels through Maryland on Interstate 95.

13. Plaintiff Mecca Agunabo I is a Jamaican national and permanent U. S. resident who lives in Raleigh, North Carolina, and attends college at Shaw University. Mr. I frequently travels Interstate 95 through Maryland, to go to New Jersey for recording sessions of his band and to New York to visit friends and family living there.

14. Plaintiff George Daughtry is a 26-year-old African-American man who resides in Randallstown, Maryland. A graduate of Morgan State University, Mr. Daughtry is employed as a Regional Supervisor with the Maryland Department of Human Resources. As a resident of Randallstown and Baltimore County, Mr. Daughtry regularly travels through Maryland on Interstate 95 and other roads and highways.

15. Plaintiff David H. Patterson, Jr. is a 30-year-old African-American male, currently residing in Largo, Maryland. A graduate of Coppin State College with a degree in criminal justice studies, plaintiff Patterson is a Captain in the United States Army. Captain Patterson was stationed until late July of 1998 at Fort Belvoir, Virginia, where he commanded a company of 396 men and women. In late July, plaintiff transferred to Baltimore, where he teaches Military Science and supervises ROTC recruiting at Morgan State University. As a Maryland resident, Captain Patterson regularly travels Interstate 95 to commute to work and to visit friends, family, and

coworkers.

16. Plaintiff John S. Means is a 33-year-old African-American man who resides in Washington, D.C. A graduate of Tuskegee University, Mr. Means is employed as a cartographer at the National Imagery and Mapping Agency (NIMA), a federal agency in Bethesda. Because he resides in Washington, D.C., but has friends and family in Maryland and the northeast, Mr. Means sometimes travels Interstate 95 through Maryland.

17. Plaintiff Kenneth Jeffries is a 33-year-old African-American man residing in Washington, D.C. Mr. Jeffries is employed as a biologist at the National Institutes of Health, in Bethesda. Because he resides in Washington, D.C., but has friends and family in Maryland, Mr. Jeffries often travels Interstate 95 between Washington and Baltimore.

18. Plaintiff Yvonne Davis is a 48-year-old African-American woman, residing in Mitchellville, Maryland. Ms. Davis works as a registered nurse. As a resident of Maryland and Prince George's County, and because she has family in Delaware, Ms. Davis periodically travels Interstate 95 between Washington, D.C. and Delaware.

19. Plaintiff Diana Desmoines is a 36-year-old African-American woman, residing in Alexandria, Virginia. Ms. Desmoines works as a consultant for a travel agency in Washington, D.C., and is required to travel frequently for her job. She regularly travels on Interstate 95 in Maryland, to and from the Baltimore-Washington International Airport in connection with her work and for other purposes.

20. Plaintiff William M. Berry is a 28-year-old African-American male who

resides in Greensboro, North Carolina. Mr. Berry is employed as the manager of a restaurant and is a member of the North Carolina National Guard. Mr. Berry lives in North Carolina, but his girlfriend until recently resided in New Jersey, and he visited her often there. Because of this, Mr. Berry regularly has traveled through Maryland on Interstate 95.

21. Plaintiff Verna Bailey is a 41-year-old African-American woman who resides in Brigantine, New Jersey. Ms. Bailey is a graduate of Widener University, and works for the Atlantic City Board of Education. Because this plaintiff lives in New Jersey, but has a sister who lives in Cockeysville, Maryland and friends in Virginia Beach, she periodically travels through Maryland on Interstate 95 between her home, Maryland, and Virginia.

B. *Defendants*

22. Defendant Department of Maryland State Police (MSP), headquartered in Pikesville, Maryland, is charged with patrolling Maryland state highways, including Interstate 95, to conduct traffic control and drug interdiction activities. MSP receives federal funds through grants from the United States Department of Justice, including a 1995 grant of \$1.7 million under the Crime Control and Safe Streets Act of 1994. MSP receives further, ongoing, federal assistance through its use of the National Crime Information Center. As such, MSP is a recipient of federal financial assistance **legally and contractually** required to conduct its activities in a racially non-discriminatory manner, pursuant to Title VI of the Civil Rights Act of 1964 and its implementing regulations. MSP is named as a defendant

herein only as to plaintiffs' claims under Title VI and its implementing regulations.

23. Defendants David B. Mitchell, Jesse Graybill, George H. Hall, Vernon Betkey, and Keven L. Gray (collectively, the "supervisory defendants") hold supervisory positions within the MSP, directly or indirectly supervising the trooper defendants. They have established, implemented, and/or enforced illegal and unconstitutional policies and practices that have caused the injuries of the named plaintiffs, and, in doing so, the supervisory defendants evinced deliberate indifference to plaintiffs' legal rights. Among other things, the supervisory defendants have knowingly allowed MSP troopers, including the trooper defendants, to target motorists for stops and searches on the basis of race. In addition, the supervisory defendants have implemented an unconstitutional policy allowing MSP troopers to detain and search motorists and vehicles by use of dogs, based only on the troopers' subjective desire to search. The actions of the supervisory defendants of which the plaintiffs complain all were taken under color of state law.

24. Defendant David B. Mitchell is Secretary of the Department of Maryland State Police, holding the rank of Colonel. In this capacity, defendant Mitchell is responsible for supervision of all operations and all functions of the Maryland State Police. He is the commanding officer of all Maryland troopers, including those troopers named as individual defendants herein. He is responsible for the training and supervision of all troopers, and for setting and enforcing policy for the Maryland State Police agency. Defendant Mitchell is named as a defendant both in his official and in his individual capacities.

25. Defendant Jesse Graybill holds the rank of Lieutenant Colonel and is Commander of MSP's Field Operations Bureau. In this capacity, defendant Graybill

oversees and supervises MSP's 23 barracks and all uniformed troopers and generally is responsible for the patrol function of the Maryland State Police. Defendant Graybill is named as a defendant both in his official and in his individual capacities.

26. Defendant George Hall is a Major with the MSP and serves as Commander of the Northern Region of MSP's Field Operations Bureau. In this capacity, defendant Hall oversees operations of all MSP barracks in the state's northern region, including the J.F.K. Barrack, North East Barrack, Bel Air Barrack, and Golden Ring Barrack. Additionally, Major Hall was responsible for creation of a computer database used by MSP to track interactions between I-95 motorists and troopers working from the J.F.K. Barrack, and he monitors MSP compliance with the Settlement Agreement entered between MSP and minority motorists in the federal lawsuit captioned *Wilkins v. Maryland State Police*, Civil Action No. CCB-93-468. Defendant Hall is named as a defendant both in his official and in his individual capacities.

27. Defendant Vernon Betkey, a Lieutenant with the MSP, at times pertinent to this action, has been employed as the Barrack Commander for MSP's J.F.K. and Bel Air Barracks. As Barrack Commander, Lt. Betkey was and is responsible for day-to-day operation of these barracks, including supervision of all troopers working from the barracks, and implementation of the *Wilkins* Settlement Agreement and the anti-discrimination policies promulgated thereunder. Defendant Betkey is named as a defendant both in his official and in his individual capacities.

28. Defendant Keven L. Gray holds the rank of MSP Lieutenant. At times pertinent to this action, he has been employed as the Barrack Commander for MSP's J.F.K.

Barrack. As Barrack Commander, Lt. Gray was and is responsible for day-to-day operation of the barrack, including supervision of all troopers working from the barrack, implementation of the *Wilkins* Settlement Agreement and the anti-discrimination policies required thereunder. Defendant Gray is named as a defendant in both his official and individual capacities.

29. Defendants John E. Appleby, George P. Brantly, Bernard Donovan, Steven W. Dulski, Melvin Fialkewicz, John R. Greene, **Eric Harbold**, Steven L. Hohner, Clifford T. Hughes, David B. Hughes, Michael T. Hughes, Steven O. Jones, James E. Nolan, Paul J. Quill, **Mark A. Rhinehart**, Christopher Tideberg, Ernest S. Tullis, Michael D. Wann, Billy White, John Wilhelm, and John and Jane Does, Numbers One through Ten (collectively, the "trooper defendants"), are, or were at times pertinent to this action, Maryland State Troopers. The actions of the trooper defendants of which the plaintiffs complain all were taken under color of state law. The trooper defendants have conducted traffic control and drug interdiction activities along Maryland roads and highways, including Interstate 95, at times pertinent to this action. By unjustly and illegally using race, ethnicity, and/or national origin as a basis for carrying out these activities, each of the trooper defendants has furthered MSP's overall pattern and practice of racially discriminatory law enforcement, and thereby injured the plaintiffs, as set forth below. In addition, certain of the trooper defendants have acted pursuant to the unconstitutional MSP policy and practice allowing troopers to detain and search motorists and vehicles by dogs, based only on a trooper's subjective desire to search. Each of the trooper defendants has acted under the supervision of one or more of the supervisory defendants. Each trooper defendant is named as a defendant in his or her

individual capacity. In addition, each current trooper is named as a defendant in his or her official capacity.

IV. Facts Giving Rise to This Action

A. Discrimination by defendants toward all plaintiffs and the class

(1) The onset and continuing nature of MSP discrimination against minority motorists in highway drug interdiction

30. The Maryland State Police have relied upon race in conducting highway drug interdiction activities and, in so doing, have engaged in an unabated, continuing pattern and practice of discrimination, since at least 1988. For example, testimony of an MSP trooper, recounted in a published decision of the Maryland Court of Appeals,¹ shows that as of 1988, MSP policy allowed and encouraged troopers to detain and search motorists based on matches with a race-based “drug courier profile” that explicitly targeted “1) young, black males wearing expensive jewelry; 2) driving expensive cars, usually sports cars; 3) carrying beepers; and 4) in possession of telephone numbers.”

31. On information and belief, this “profile” continued in use by the MSP until at least 1992, when the Maryland Court of Appeals in the published decision referred to in the preceding paragraph ruled that MSP reliance on a match with the profile to stop and search a motorist was unconstitutional.

32. Also in 1992, MSP’s Criminal Intelligence Division issued a “Confidential Criminal Intelligence Report,” on which Maryland law enforcement personnel, including

¹*Derricott v. State*, 327 Md. 582, 585, 611 A.2d 592, 594 (Md. 1992).

MSP troopers, relied to make race-based stops and searches. This report, dated April 27, 1992, encouraged police operating in Allegany County to target African-Americans, on the alleged grounds that the county "is currently experiencing a serious problem with the incoming flow of crack cocaine," and that "[t]he dealers and couriers (traffickers) are predominantly black males and black females." MSP troopers in Allegany County relied on this report to conduct an illegal, race-based detention and search of Robert L. Wilkins and his family on May 8, 1992. The abusive treatment of the Wilkins family gave rise to the *Wilkins v. Maryland State Police* litigation, which was filed in February 1993.

33. Nevertheless, MSP troopers continued to use race as a basis for stopping, detaining, and searching motorists. For example, in July 1993, MSP trooper Michael Lewis² testified in the criminal case of *State of Maryland v. Ware*, that he decided to search Mr. Ware for drugs in significant part because Mr. Ware was a young, African-American male. Incredibly, Trooper Lewis testified that he considered race on a daily basis in his drug interdiction work. Very recently, the MSP has assigned Trooper Lewis to train other law enforcement officers on the Eastern Shore in his methods of conducting highway drug interdiction.

34. On July 12, 1994, a year after Lewis's testimony in the *Ware* case and while the *Wilkins v. Maryland State Police* litigation was pending, Charles and Etta Carter, an elderly African-American couple, were stopped on Interstate 95, detained for more than two hours, and subjected to extensive dog and hand searches by MSP troopers Paul J. Quill,

²At the time of this testimony and continuing to date, Trooper Lewis was assigned to drug interdiction in Wicomico County. He has, at times pertinent to this action, been detailed to a drug interdiction team operating on the Lower Eastern Shore.

Steven L. Hohner, and John E. Appleby. The Carters filed suit against MSP and its officials in 1996, claiming that their detention and search were based upon race. In 1997, just before the scheduled trial of the case, the defendants settled the suit by payment of a substantial monetary sum to Mr. and Mrs. Carter.

35. Beginning in 1990 and continuing until June 1996, MSP operated a specialized highway drug interdiction team, called the "Special Traffic Interdiction Force" or "STIF," along Interstate 95 in northeastern Maryland. Plaintiffs aver, on information and belief, that the STIF was made up of six Caucasian troopers working out of MSP's JFK Barrack, including defendants John E. Appleby, Bernard Donovan, Steven L. Hohner, James E. Nolan, Paul J. Quill, and John L. Wilhelm. In late May of 1996, a nationally-circulated *Associated Press* investigative analysis reported that STIF members searched African-American motorists four times as often as they did whites. A month later, MSP disbanded the STIF.

(2) **Discriminatory stops and searches conducted by MSP since 1995**

36. At the start of January 1995, the defendants and the plaintiffs reached a settlement in the *Wilkins* litigation. Among other remedies, including a substantial monetary payment to Mr. Wilkins and his family, the settlement requires Maryland State Police to maintain and produce to the Court and the American Civil Liberties Union detailed information concerning all motorist stops on Maryland roadways in which consent to search is requested or a search is performed by a drug-detecting dog.

37. **The vast majority of motorists traveling Interstate 95, some 93%, violate traffic laws by exceeding the posted speed limit, thus making themselves eligible for**

traffic stops by police.

38. White motorists account for about 75 % of the traffic and of the traffic exceeding the posted speed limit along Interstate 95 through northeastern Maryland. Black motorists constitute about 17%, and other minorities about 5 % of both categories.

39. However, MSP's *Wilkins* data show that between January 1, 1995 and December 31, 1997, about 70% of the people that MSP troopers stopped and searched on Interstate 95 were black, and about 77% were minority. Only about 23% were white.

40. According to the MSP data, the vast majority of *innocent* travelers who were stopped and searched (*i.e.*, those who were found not to be carrying any contraband) on I-95 in this period were blacks and other minorities — about 67% and 76%, respectively.

41. Racial disparities in searches conducted by the MSP's STIF were even more glaring. Between January 1, 1995 and June 30, 1996 (when the force was officially disbanded), 70% of the people searched by STIF members were African-Americans, and about 80% were minorities. Only 20% were white.

42. The MSP's *Wilkins* data also reveal a **racially discriminatory pattern and practice** in motorist stops that MSP troopers conducted on Interstate 95.

43. **In addition to targeting motorists of minority races for stop, detention, and search, plaintiffs aver, on information and belief, that MSP troopers target motorists traveling in cars with out-of-state license plates and motorists traveling to or from states other than Maryland.**

44. **Minority travelers, including certain of the named plaintiffs and members of the plaintiff class, have been deterred and discouraged from driving Maryland**

roadways and Interstate 95 in particular, as a result of MSP targeting of minorities and out-of-state motorists. Consequently, defendants' policies and practices serve as an actual barrier to plaintiffs' right to travel.

(3) Discrimination by individual trooper defendants since 1995

45. The MSP's *Wilkins* records show glaring racial disparities in searches conducted by the trooper defendants herein. These records show the following pattern for Interstate 95 searches between January 1, 1995 and December 31, 1997 (except as is otherwise indicated):

<u>Defendant</u>	<u>Percentage of Searches That Were of Minorities</u>	<u>Percentage of Searches That Were of Blacks</u>
John E. Appleby ³	85.3 %	75 %
George P. Brantly	78.6 %	71.4 %
Bernard M. Donovan	100 %	100 %
Steven W. Dulski	78.6 %	78.6 %
Melvin Fialkewicz ⁴	100 %	100 %
John R. Greene	88.2 %	76.5 %
Eric Harbold	70%	70%
Steven L. Hohner	81.8 %	79.2 %
Clifford T. Hughes ⁵	90 %	60 %
David B. Hughes	86.8 %	82.8 %

³These numbers reflect defendant Appleby's searches between January 1, 1995 and September 30, 1996. He was suspended in September 1996, following his arrest for stealing money from motorists on I-95 that he had stopped and searched. He subsequently pled guilty to criminal charges, and the MSP terminated him.

⁴For reasons unknown to plaintiffs, defendant Fialkewicz's employment by the MSP ended sometime before 1997. The MSP's *Wilkins* reports reflect no searches by him after the second quarter of 1995.

⁵MSP *Wilkins* records reflect searches by defendant Clifford T. Hughes only from June 1996. Accordingly, these percentages reflect searches between then and December 31, 1997.

Michael T. Hughes ⁶	85.5 %	82.6 %
Steven O. Jones	78.9 %	62 %
James E. Nolan	80.5 %	77.9 %
Paul J. Quill	74.4 %	59 %
Mark A. Rhinehart⁷	83.4 %	66.7 %
Christopher Tideberg	73.8 %	71.4 %
Ernest S. Tullis	97.8 %	97.8 %
Michael D. Wann	83.3 %	83.3 %
Billy White ⁸	59.1 %	54.5 %
John L. Wilhelm	56.5 %	32.6 %

46. Statistical analysis shows an egregiously discriminatory impact on minority motorists traveling Interstate 95, when benchmark population and traffic violator numbers are compared with overall *Wilkins* data, data for the Special Traffic Interdiction Force, or data for individual trooper defendants.

47. The *Wilkins* data exhibit similar discriminatory patterns for additional troopers assigned to the I-95 corridor who are not named defendants.

(4) Indifference of the MSP and the supervisory defendants

48. In June 1995, after about five months of data collection under the *Wilkins* agreement, then-MSP Deputy Superintendent James E. Harvey circulated a memorandum to all MSP Regional and Division Commanders analyzing the data. The memorandum recognized — and informed the supervisory defendants, including defendant Mitchell, who

⁶In August 1996, defendant Michael T. Hughes went on injury-related leave. MSP *Wilkins* records reflect no search by him since August 20, 1996.

⁷MSP records show Interstate 95 searches reported by Trooper Rhinehart only during the period from January through June, 1995.

⁸In the *Wilkins* litigation, the MSP admitted that during one week in March 1997, defendant White conducted an additional 10 fruitless searches of African-American motorists that are missing from the *Wilkins* records.

received a copy — that “the numbers reveal that Troopers are continuing to target non-white subjects.” Plaintiffs aver, on information and belief, that the supervisory defendants took no meaningful or effective action in response to Col. Harvey’s memorandum, so as to prevent continuation of the race-based targeting identified by Harvey. As a direct and proximate result of this supervisory inaction, the trooper defendants unlawfully continued to target minority motorists, including plaintiffs, traveling Interstate 95.

49. On or about June 28, 1995, Cecil County Circuit Court Judge Dexter Thompson ruled that a February 28, 1995 detention and search of minority motorist Marc A. Pittman and his two passengers, conducted along Interstate 95 in Cecil County by defendants David B. Hughes and Steven W. Dulski, was unconstitutional, as not supported by reasonable suspicion or probable cause. Plaintiffs aver, on information and belief, that Hughes and Dulski detained Mr. Pittman and his passengers and undertook this unlawful search based upon the motorists’ African-American race, consistent with defendants’ pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95. The search was conducted using a canine, after Mr. Pittman refused Hughes’ request that he consent to a search.⁹ All evidence of crime seized by Hughes and Dulski during their illegal detention and search of Pittman was suppressed by Judge Thompson. Thereafter, the State dismissed all charges against Pittman and his two passengers. On information and belief, plaintiffs aver that MSP supervisors took no meaningful action to investigate or discipline defendants Hughes and Dulski for their unconstitutional search and seizure of Pittman and his passengers.

50. On October 9, 1995, plaintiffs John S. Means and Kenneth R. Jeffries

⁹In violation of the *Wilkins* Settlement Agreement and MSP policy, the MSP failed to report the unconstitutional search of Pittman and his passengers to the Court.

registered a complaint with MSP's then-Chief of Field Operations, Ernest J. Leatherbury, about another incident of race-based profiling by defendant David B. Hughes. Although the Hughes incident complained of by Means and Jeffries followed on the heels of Col. Harvey's finding that troopers were continuing to target motorists based on race and the state court's ruling that Trooper Hughes had acted unconstitutionally in his search and seizure of Marc Pittman, Col. Leatherbury treated plaintiffs' complaint dismissively. Leatherbury informed Means and Jeffries that troopers under his command did not act unlawfully, and made clear that he was not interested in pursuing plaintiffs' complaint. Means and Jeffries nevertheless persisted in providing Leatherbury with the details of their complaint, specifically informing him they believed they had been stopped, detained, and searched by Hughes based upon their African-American race. Although Leatherbury told plaintiffs they could consider their complaint registered, and plaintiffs provided Leatherbury with their contact information, they never heard anything further from him or from the MSP about their complaint. Plaintiffs aver, on information and belief, that -- again -- no meaningful or effective action was taken by MSP supervisors to address or investigate the complaint against Trooper Hughes lodged by John Means and Kenneth Jeffries. As a result of this supervisory indifference and inaction, Trooper Hughes continued his pattern of harassment toward minority motorists, and within months engaged in similar mistreatment toward named plaintiffs Verna Bailey and Gary D. Rodwell.

51. On April 11, 1996, defendant George Hall sent a memorandum to Lt. Col. Leatherbury, with copies to defendants Mitchell and Graybill, concerning the *Wilkins* data

collected as of that date. Defendant Hall recognized that “in a concentrated area, there exists a remarkable deviation in these figures with African-Americans being stopped and searched to a significantly higher degree than all other persuasions combined.” The area he mentioned included a large part of I-95 patrolled by troopers from the MSP’s JFK Barrack, including the segment of highway where plaintiffs John Means, Kenneth Jeffries, Gary Rodwell, Johnston Williams, Yancey and Aleshia Taylor, George W. Taylor, Jr., Eric A. Cook, Nelson D. Walker, Mecca Agunabo I, Yvonne Davis, William M. Berry, and Verna Bailey, as well as minority motorist Marc A. Pittman, were illegally stopped, detained, and/or searched. Plaintiffs aver, on information and belief, that the supervisory defendants again took no meaningful or effective action in response to defendant Hall’s memorandum, and thus failed to prevent the continuation of the race-based targeting identified by Hall.

52. Prior to their filing of a lawsuit against the Maryland State Police in 1996, Charles and Etta Carter filed an administrative complaint with MSP’s Internal Affairs Unit complaining about the abusive treatment, including race-based profiling, they were subjected to in July 1994 by defendants Paul Quill, Steven Hohner, and John Appleby. MSP investigators subsequently informed Mr. and Mrs. Carter that they had investigated their complaint, but that they found the charges to be unsubstantiated. When the Carters later pursued legal claims in court against the troopers and the MSP agency, however, defendants paid the Carters a substantial monetary sum to settle the claims just prior to trial. Plaintiffs aver, on information and belief, that despite MSP’s payment of these significant damages to settle Mr. and Mrs. Carter’s claims against

Quill, Hohner, and Appleby in early 1997, no disciplinary action was imposed upon these troopers as a result of their involvement in the Carter incident.

53. Based upon analysis of the *Wilkins* records for the years 1995 and 1996, and upon consideration of the internal memoranda issued and circulated within MSP by Deputy Superintendent Harvey and defendant Hall, the *Wilkins* Court on April 22, 1997 found that the "plaintiffs clearly have made a reasonable showing that there was a pattern and practice of stops by the Maryland State Police based upon race[.]" Accordingly, the Court extended and expanded the MSP's monitoring obligations. Plaintiffs aver, on information and belief, that MSP supervisors again took no meaningful or effective action in response to this Court's ruling, so as to prevent continuation of the trooper defendants' pattern and practice of discrimination in highway stops conducted along Interstate 95.

54. On August 27, 1997, the Maryland Court of Special Appeals ruled that the September 12, 1994 detention and search of minority motorist Cedrick Whitehead conducted along Interstate 95 in Harford County by defendant Bernard M. Donovan was unconstitutional, in that it was not supported by reasonable suspicion or probable cause. On information and belief, plaintiffs aver that in undertaking this unlawful detention and search, defendant Donovan relied upon Mr. Whitehead's African-American race, consistent with defendants' pattern and practice of discrimination in drug interdiction activities conducted along Interstate 95. As with the illegal search of motorist Marc Pittman referenced in paragraph 49, the search of Whitehead had been conducted using a canine, after Mr. Whitehead refused Donovan's request that he consent to a search. The Court rejected Donovan's contention that the search was

justified because of Whitehead's nervousness and conflicting stories among Whitehead and his passengers. Whitehead's criminal conviction was overturned, and all evidence of crime seized by Donovan during his illegal detention and search of Whitehead was suppressed pursuant to the Court's ruling. Plaintiffs aver, on information and belief, that consistent with their pattern of deliberate indifference to constitutional violations committed by the trooper defendants, MSP supervisors took no meaningful action to investigate or discipline Trooper Donovan for his unconstitutional search and seizure of Mr. Whitehead.

55. In September, 1997, named plaintiff Johnston E. Williams filed an administrative complaint with MSP's Internal Affairs Unit, complaining about the racially discriminatory and offensive treatment he and four African passengers were subjected to by defendant Billy White. Although an investigation of this complaint was undertaken by MSP, and Mr. Williams submitted to an interview by an MSP investigator, plaintiffs aver, on information and belief, that no disciplinary action has been taken against Trooper White as a result of Mr. Williams' complaint.

56. On August 8, 1998, minority motorist Barry Flack attempted -- without success -- to register a complaint with MSP supervisors about racially offensive treatment he experienced during an Interstate 95 stop conducted by defendant Michael D. Wann. Flack had just pulled onto the highway, heading south, from Route 24 in Harford County. As Flack attempted to merge and accelerate to the speed of the traffic, Wann signalled for him to pull over, allegedly for speeding. Wann was belligerent in his dealings with Flack. He repeatedly referred to Flack by the pejorative

"boy" (as in "if you have a freaking problem you can dispute it in court, boy"), and at one point uttered the first syllable "nig" before swallowing the rest of that epithet. Flack was ticketed for an alleged speeding violation, and was detained for about 25 minutes. The trooper's behavior was so offensive to Mr. Flack that he wanted to register a complaint, so he stopped at the Golden Ring Barrack off Interstate 95, and attempted to do so. The officer at the front desk was uncooperative and unwilling to accept a complaint. He told Flack he would have to go to the JFK Barrack if he wanted to make a complaint against Wann. When Flack said he didn't know how to get to the JFK Barrack, the officer wrote a telephone number on the back of the ticket Flack was holding. Flack then went to a pay telephone and tried to call the barrack at the number given him. The number turned out to be wrong, however; it was for a private home, not for the JFK Barrack.

57. After twice calling this wrong number, Flack obtained the number for MSP headquarters from information and called there. His call to headquarters was forwarded to the JFK barrack, where it was answered by Sgt. Barry Janey. Flack told Janey he wished to lodge a complaint against Trooper Michael Wann. As Flack tried to detail his complaint, he was repeatedly interrupted by Janey. Janey put Flack on hold two or three times, and then interjected comments indicating that he might have been discussing the incident with Wann while Flack was on hold. Janey said he did not believe Wann had said the words Flack claimed. Flack became frustrated, and said "I guess you're one of those people who thinks racism doesn't exist" (or words to that effect). Janey then angrily informed Flack that the Maryland State Police department is

one of the best police agencies in the country, that there are no problems with racism at MSP, and that this would be the first time *anyone* had *ever* made a complaint about race discrimination against the Maryland State Police. At that point, Flack said it did not appear Janey was going to help him file a complaint or alert a supervisor about the problem. Flack said if no one there would help him, maybe he should just go to the NAACP or the ACLU. Janey responded by saying "Why don't you go to the NAACP or the ACLU? File a complaint with them." And, at that, Sgt. Janey hung up on Flack. As such, conduct of MSP officials, beyond displaying indifference, actually discouraged and prevented Mr. Flack from registering a complaint with MSP against defendant Michael Wann.

58. On September 22, 1998, the Maryland Court of Special Appeals ruled that the March 29, 1996 detention and search of African-American motorist William Lytle conducted along Interstate 95 in Cecil County by defendant Steven O. Jones was unconstitutional, in that it was not supported by reasonable suspicion or probable cause. On information and belief, plaintiffs aver that in undertaking this unlawful detention and search, defendant Jones relied upon Mr. Lytle's African-American race, consistent with defendants' pattern and practice of discrimination in drug interdiction activities conducted along Interstate 95. The Court rejected Jones' contention that the detention and search were justified because of Lytle's nervousness, because he complained of illness when Jones began questioning him, and due to inconsistent stories between Lytle and his passenger. Lytle's criminal conviction was overturned, and all evidence of crime seized by Jones during his illegal detention and search of Lytle was suppressed

pursuant to the Court's ruling. Plaintiffs aver, on information and belief, that consistent with their pattern of deliberate indifference to constitutional violations committed by the trooper defendants, MSP supervisors plan to take no meaningful action to investigate or discipline Trooper Jones for his unconstitutional search and seizure of Mr. Lytle.

59. For these and other reasons, it is apparent the MSP and the supervisory defendants were aware, or should have been aware, that MSP troopers were engaged in racial targeting, harassment, and illegal searches of minority motorists traveling I-95. Repeatedly, the supervisory defendants had cause to investigate reports of wrongdoing by the trooper defendants, yet they failed and refused to do so, thereby exhibiting deliberate indifference to the rights of minority motorists, including the plaintiffs. The supervisory defendants took no meaningful or effective action to address these problems or to prevent continuation of the trooper defendants' egregious pattern of discrimination. This inaction and indifference on the part of the supervisory defendants has actually and/or proximately caused plaintiffs and the class they represent to suffer violations of their fundamental rights to equal protection of the laws, to be free from unreasonable government searches and seizures, and to travel interstate.

B. Suspicionless searches by MSP troopers with drug-detecting dogs

60. Maryland State Police policy permits troopers, at their individual discretion, to detain a motorist during any traffic stop for the purpose of conducting a search by a drug-detecting dog, regardless of whether the trooper has reasonable, articulable suspicion to believe the motorist is carrying drugs. The MSP and the supervisory defendants are

responsible for the continuation and enforcement of this policy. Pursuant to this policy, MSP troopers, including the trooper defendants, routinely detain motorists for the purpose of subjecting them to dog searches, even though the troopers are unable to articulate any reasonable suspicion that the motorists are carrying illegal drugs.

61. On February 2, 1998, the Maryland Court of Special Appeals ruled that MSP Troopers Jeffrey L. Kissner and Charles Stanford, who worked in Western Maryland as a two-man drug interdiction team, acted unconstitutionally by detaining motorist Kelly Graham for 20 minutes while awaiting a drug-detecting dog to search Graham's vehicle, along Interstate 81. *Graham v. State*, 119 Md.App. 444 (1998). The car in which Graham was a passenger had been stopped by Kissner for speeding. When Kissner checked the driver's license, he found his license had been suspended. Rather than simply ticketing the driver for the offenses of speeding and driving without a license, however, Kissner detained the motorists to conduct a dog search for drugs. The court held this extended detention was unconstitutional, and thus suppressed all contraband discovered during the subsequent searches. Plaintiffs aver, on information and belief, that in undertaking the detention and search of Kelly Graham, the troopers were following MSP's official policy authorizing suspicionless dog searches, and that the constitutional violations committed against Graham flowed directly from this policy. Plaintiffs further aver, on information and belief, that following the Court of Special Appeals ruling, MSP supervisors took no action to reevaluate their suspicionless dog-search policy, nor to investigate or discipline troopers Kissner and Stanford for their unconstitutional treatment of Mr. Graham.

62. MSP dog searches involve intrusion, humiliation, embarrassment, and great inconvenience to the motorists. These searches routinely involve detaining motorists for 20 minutes or longer to await a canine unit. The dog search itself takes 15 minutes or longer. As a matter of practice and policy, police release their dogs to roam at will inside vehicles that are stopped for that purpose. MSP practice also allows troopers, in their discretion, to remove all luggage and containers from the car for the dog to search on the roadside. MSP dog searches often result in dirt, filth, unpleasant smells, and insect infestation of motorists' cars.

63. The defendants' policy authorizing suspicionless dog searches is unconstitutional on its face and as applied, in that it causes MSP to detain and search motorists without constitutionally necessary justification.

64. As a direct and proximate result of the MSP policy permitting troopers to conduct discretionary dog searches without reasonable, articulable suspicion, named plaintiffs Gary D. Rodwell, James E. Alston, Jr., George W. Taylor, Jr., Eric A. Cook, Jawad Abdullah, **Diana Desmoines**, **Verna Bailey**, and the plaintiff sub-class consisting of all Interstate 95 motorists searched pursuant to this policy, were detained and searched by defendants without reasonable cause, in violation of the Fourth Amendment's guarantee against unreasonable searches and seizures.

C. *Incidents involving the individual named plaintiffs*

65. On or about July 25, 1993, named plaintiff Jawad Abdullah and two Trinidadian passengers were stopped, detained for over 45 minutes and searched along

Interstate 95 by two MSP troopers whose identities are unknown to the plaintiffs. These actions were taken by police for the stated reasons that Mr. Abdullah allegedly was speeding, was not wearing a seat belt, and looked "suspicious." Because Mr. Abdullah would not consent to an unjustified search of his car and belongings, the female trooper, who made the initial stop, called in a canine unit and the male trooper arrived with the dog and had the dog search the vehicle for drugs. No contraband of any kind was turned up during this search. On information and belief, the police targeted Mr. Abdullah for detention and search based upon his black race and his Trinidadian national origin, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95.

66. In or about late October, 1993, named plaintiff George Daughtry was stopped, detained for over an hour, and searched along Interstate 95 in Howard or Prince George's County, by two MSP troopers whose identities are unknown to the plaintiffs. These actions were taken by police without any explanation. Rather, police told Mr. Daughtry this treatment was "routine," and that he and his car (a Mazda GLC) fit a profile. Without requesting Mr. Daughtry's consent for a search, police ordered him to get out of his car, and stand next to the car, at the front. Plaintiff did so, and the troopers then searched through Mr. Daughtry's car and belongings, unpacking his things and placing them along the road. No contraband of any kind was found. When they were finished, the troopers told Mr. Daughtry he would have to re-pack his car on his own. On information and belief, the police targeted plaintiff Daughtry for detention and search based upon his African-American race, consistent with the defendants' pattern and practice of discrimination in drug

interdiction activities carried out along Interstate 95.

67. During March 1994, named plaintiff Yvonne Davis was stopped and detained for over 45 minutes and searched along Interstate 95 in Cecil County by two MSP troopers whose identities are unknown to the plaintiffs. At the time of this incident, Ms. Davis, who works as a nurse, was commuting back and forth between her home in Maryland and her mother's home in New Castle, Delaware, to care for her mother, who was gravely ill with cancer. Ms. Davis was returning home, proceeding south on Interstate 95. She noticed a police cruiser on the side of the road, slowed her car to make sure she was driving within the speed limit, and moved into the right lane. Moments later, she saw the police cruiser pull onto the highway and begin to follow her. The cruiser followed her for some distance, then flashed its lights, and she pulled to the side of the road. According to the trooper, the reason for the stop was that Ms. Davis had been driving too slowly and that he thought she might be intoxicated (though no sobriety test was requested or performed). After obtaining plaintiff's license and registration, the trooper began questioning her about where she was coming from and what her purpose was on the road. When plaintiff said she was coming from New Castle, the trooper remarked snidely "Not many of *you* there." Plaintiff understood this comment as a reference to her race and the trooper's view that not many African-Americans reside in New Castle.

68. Shortly thereafter, a second trooper, who identified himself as a supervisor, arrived on the scene. The first trooper then asked plaintiff if he could search her car. Because she was afraid of being alone with the troopers in a strange

place as darkness fell and she believed her failure to consent would result in her arrest, plaintiff agreed to a search, thinking the trooper meant only to look through her car visually. Much to plaintiff's surprise and dismay, the search conducted by the trooper was far more intrusive than she had supposed when she agreed to a search. The trooper began by thoroughly searching the interior of the car and trunk, then he checked in the spare tire compartment, removed the back seat and searched the underlying area. Finally, the trooper searched through plaintiff's pocketbook, which she had left on the front seat of the car. No contraband was found. As they stood watching the first trooper search plaintiff's car, the supervisor informed plaintiff that Interstate 95 is a drug corridor, and that part of the reason she was being searched was that she and her car -- a charcoal gray, 1987 Peugeot sedan -- fit a profile for drug couriers. Draped over one car seat, plaintiff had a t-shirt supporting a black politician. The police supervisor questioned Ms. Davis briefly about this. When the search was complete and nothing had been turned up, the troopers issued Ms. Davis a written warning for driving too slowly and let her go on her way. On information and belief, plaintiffs aver that Ms. Davis was stopped, detained, and searched based upon her African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95.

69. As she drove home, plaintiff was upset and tearful, fretting about what might happen to her in the future, since the police supervisor had said she fit a profile. When she arrived at home, Davis contacted a friend and told him what had happened. Together, plaintiff and the friend telephoned the MSP barrack in Cecil County to

inquire about the incident. The two spoke with a different police supervisor than the one who had been at the scene, but this supervisor indicated he was familiar with the incident. Plaintiff told the supervisor she was worried she would be stopped repeatedly, given that she allegedly fit a profile, and asked for assurance that it would not happen again. The supervisor assured her that he did not think it would. When plaintiff asked if she had the right to refuse consent to a search, the supervisor said she did have that right. However, he qualified this by stating that the Maryland State Police know most people will cooperate with law enforcement officials.

70. Twice in the last five years, plaintiff Nelson D. Walker has been stopped and detained by the Maryland State Police while traveling along Interstate 95. First, in February 1994, he was stopped and detained for 20 minutes. The trooper questioned plaintiff extensively about where he was going and how he obtained the car he was driving, a 1990 Infiniti M30, which the trooper insinuated was too nice a car for plaintiff to own legitimately. No ticket was issued, and no reason was given to Mr. Walker to justify the stop. Plaintiffs aver, on information and belief, that there was no valid basis for this stop. Rather, plaintiffs believe, the stop was conducted based upon Mr. Walker's black race and Liberian national origin, consistent with defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95.

71. The second MSP stop experienced by plaintiff Walker occurred on or about April 15, 1995. On that occasion, Mr. Walker and two black passengers, including plaintiff Mecca Agunabo I, were stopped, detained for one-and-a-half to two hours, and

searched, and their car was partially dismantled, along Interstate 95 by two MSP troopers whose identities are unknown to the plaintiffs. The trooper made plaintiffs Walker and I and the other passenger leave the car and stand on the roadside in the rain. The police took these actions for the stated reasons that Mr. Walker was not wearing a seat belt, and that MSP was conducting drug interdiction along I-95. The troopers were insulting and verbally abusive. When Mr. I told a trooper that he needed to get out of the rain because he twice had contracted pneumonia, the trooper threatened him with jail. They searched Mr. Walker's and Mr. I's persons, removing articles from their pockets. The troopers told Mr. Walker that if he did not permit them to search, they would detain him and obtain a search warrant. They then searched the car and plaintiffs' belongings, including luggage of both Mr. Walker and Mr. I. Finding nothing, the troopers then began dismantling the car, by removing part of a door panel, a seat panel, and part of the car's sunroof. Again, no contraband was found. Following these fruitless searches, the troopers left with the car still partially dismantled. As they walked away, one of the troopers handed Mr. Walker a screwdriver and told him "you're going to need this." **In violation of the Wilkins Settlement Agreement and MSP policy, the MSP failed to report the fruitless search of Mr. Walker and Mr. I to the Court.** On information and belief, Mr. Walker and Mr. I were targeted by police based upon their black race and national origin, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95.

72. Plaintiffs George W. Taylor and Eric A. Cook have been stopped and detained by Maryland State Police troopers on Maryland roadways on three occasions in the last four years -- twice on Interstate 95. First, in mid-October, 1994, plaintiffs were

traveling Interstate 95 with several African-American friends in a caravan of three cars, from New Jersey to Baltimore. After paying a toll, the cars accelerated to the speed limit, and a Maryland trooper in a marked cruiser pulled alongside the cars, looking into each car. He then signalled for the three cars to pull over, and all three of the cars stopped. The trooper then detained the plaintiffs, without explanation, and required everyone, including the passengers in each of the cars, to produce identification. He then took the motorists' identification and returned to his cruiser, where he said he ran checks for outstanding warrants. Plaintiffs were detained for approximately 40 minutes during this process, then released with a verbal warning about alleged speeding. Plaintiffs aver, on information and belief, that this stop was conducted based upon plaintiffs' African-American race, consistent with defendants' pattern and practice of discrimination in drug interdiction activities conducted along Interstate 95.

73. The second incident involving Mr. Taylor and Mr. Cook occurred on or about September 1, 1995, when plaintiffs were stopped and detained for at least 90 minutes along Interstate 95 in Harford County by four Maryland State Police troopers whose identities are unknown to the plaintiffs. At the time of the stop, Mr. Taylor was driving and Mr. Cook was a passenger in Mr. Taylor's car. Based upon an alleged violation of a Maryland law regulating car air fresheners, and because the troopers said I-95 is a drug trafficking route, plaintiffs Taylor and Cook were subjected to two searches — first a thorough hand search of the car, their suitcases, and their personal belongings, and then a search by a drug-detecting dog. On information and belief, plaintiffs Taylor and Cook were targeted by police based upon their African-American race, consistent with the defendants'

pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95. The two comprehensive searches turned up no contraband of any kind. A verbal warning that the car air freshener allegedly created an obstruction of view violation, but no ticket, was issued. After two searches and more than an hour-and-a-half of detention, the lead trooper told Mr. Taylor and Mr. Cook to "have a nice day" and permitted them to go on their way. In violation of the *Wilkins* Settlement Agreement and MSP policy, the MSP failed to report the fruitless hand and dog searches of Mr. Taylor and Mr. Cook to the Court.

74. Just three days later, on September 4, 1995, plaintiffs George Taylor and Eric Cook were stopped once again by MSP troopers, as they returned to New Jersey from their Labor Day weekend visit to Norfolk. Due to their bad experience on I-95 earlier that weekend, plaintiffs decided to return from Norfolk via the Eastern Shore. This time, police had laser guns set up on an overpass and two MSP troopers were standing by the roadside pulling cars over. One of them signalled for Taylor and Cook to pull over, and subsequently ticketed them for alleged speeding.

75. On October 9, 1995, plaintiffs John S. Means and Kenneth R. Jeffries were stopped, detained for approximately two hours, and searched along Interstate 95 in Harford County, by MSP trooper David B. Hughes and another trooper. These actions were taken by Hughes for the stated reason that Means, who was driving the car, was following too closely to another car. After Hughes checked Mr. Means' license and registration and found everything to be in order, he separated and questioned Means and Jeffries about their reasons for being on the highway and their opinions about drug

trafficking. After about 40 minutes had passed since the stop began, another trooper arrived at the scene and Hughes asked Means to consent to a car search. When Means hesitated, Hughes told him that if he refused to consent to the search, police would detain him for a prolonged period while they obtained a court order for the search. So advised, Mr. Means gave his "consent" to the search. Hughes then searched the car and the plaintiffs' belongings completely, while the second trooper stood watching on the side of the road. No contraband of any kind was found. When he was finished, Trooper Hughes -- obviously annoyed at the fruitlessness of his search -- told Mr. Means that just because the search had come up empty, it did not mean Means and Jeffries were clean. Hughes said Means was lucky police did not impound the car, which he suggested they could have done had they wanted to do a thorough search. Mr. Means was given a written warning for the alleged offense of "following too close." After about two hours of detention, plaintiffs were released. On information and belief, plaintiffs aver that Mr. Jeffries and Mr. Means were detained and searched based upon their African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95.

76. A few minutes after resuming their trip, plaintiffs saw an African-American Maryland trooper patrolling the road. They motioned to the trooper that they would like him to stop so they could talk to him, and both cars pulled to a stop at the side of the highway. Mr. Means and Mr. Jeffries related what had happened to them to the black trooper, and informed him that they felt strongly they had been detained and searched merely because they were young African-American

men. The trooper was polite and helpful. He seemed sympathetic to the plaintiffs' complaint, and told them if they wished to make a complaint they should telephone Lt. Col. Ernest Leatherbury, who he said was the commander. He provided them with the telephone number for Col. Leatherbury, and told them to be sure to talk to Leatherbury directly.

77. Plaintiffs stopped at the next highway exit to telephone Col. Leatherbury. When Leatherbury came on the line, Mr. Means told him he and his friend wished to make a complaint about a traffic stop involving David Hughes. He said they believed they had been the victims of race-based profiling by Trooper Hughes-- that they had been stopped, detained and searched merely because they were young, African-American males. Unlike the black trooper they had spoken with, Col. Leatherbury was entirely unreceptive to this complaint. Leatherbury told Means that if Hughes had detained and searched him, Hughes undoubtedly had a good reason for doing so. Leatherbury said he "stands behind his troopers" and could not accept that they would be engaged in any kind of race discrimination or wrongdoing. After a conversation that lasted about ten minutes, Col. Leatherbury tersely told Mr. Means he could consider the complaint registered. Means felt that the complaint was not taken seriously at all, and believed no action would be taken in response to the complaint. Although he had provided Col. Leatherbury with his name and contact information, he never heard anything further about the matter, either from Leatherbury or from anyone affiliated with the Maryland State Police.

78. On or about October 26, 1995, named plaintiffs Yancey and Aleshia Taylor

and their minor son, Yancey Taylor, Jr., were stopped and detained for approximately one hour and 20 minutes along Interstate 95 by two Maryland State Police troopers whose identities are unknown to the plaintiffs. Mr. Taylor was driving the car, Mrs. Taylor was in the front passenger seat, and their son was in the back seat. At the time of the stop, Mr. Taylor, who is disabled, was exiting the highway into a rest area because he was experiencing physical discomfort and needed a break from driving. However, the troopers accused Mr. Taylor of fleeing from police to the service area — and attempted to justify their conduct on that basis. The troopers separated Mr. and Mrs. Taylor, requiring Mr. Taylor to sit in a police cruiser and answer questions, while Mrs. Taylor was questioned in plaintiffs' car. The lead trooper repeatedly told Mrs. Taylor that he wished to search the car, and he proceeded to look through the interior of the car with a flashlight. Upon seeing a bottle of cough medicine, the trooper questioned Mrs. Taylor about the cough medicine. The trooper with Mr. Taylor told plaintiff he was checking records in four states to look for outstanding warrants. Mr. Taylor told him he had no warrants. The trooper told Mr. Taylor he must have a warrant somewhere. When Mr. Taylor assured the trooper he was not a criminal, the trooper told Mr. Taylor he did not know who or what he was, offensively insinuating that plaintiff might very well be a criminal. These actions were taken by police as a result of an alleged speeding violation. On information and belief, the Taylors were targeted by police based upon their African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95. The MSP troopers found no contraband of any kind. A warning, rather than a ticket, was issued to Mr. Taylor for an alleged speeding violation. **In violation of the**

Wilkins Settlement Agreement and MSP policy, the MSP failed to report this incident to the Court.

79. On November 9, 1995, plaintiff Verna Bailey and her five-year-old daughter were chased, stopped, detained for approximately one hour and 15 minutes and searched twice -- first by a drug-detecting dog and then by hand -- by defendant David B. Hughes and two other troopers, near the junction of Interstate 95 and 695. At the time of the stop, plaintiff was driving along the roadway with her cruise control set at 65 m.p.h. Her daughter was asleep in the back seat. Trooper Hughes began following closely behind Ms. Bailey, with his high-beams on, blocking her vision. Plaintiff changed lanes to avoid Hughes' bright lights, but he continued to ride on her bumper. Ms. Bailey became alarmed, and sped up to try to escape the car. But Hughes continued to tailgate, and plaintiff became frantic with worry. Finally, Hughes turned on his car's flashing police lights, and plaintiff realized the driver chasing her was a police officer. She pulled to the side of the road.

80. When Hughes approached Ms. Bailey's car, he accused her of speeding. Plaintiff tried to explain that she had not known he was a police officer, and that she had sped up to get away, but defendant dismissed this explanation and reprimanded plaintiff for speeding. After checking Ms. Bailey's license, Hughes began to question her about whether she was carrying illegal drugs or weapons. Ms. Bailey assured him she was not, but Hughes said he did not believe her. He told plaintiff he wanted to search her car, and gave her a consent form to sign. Plaintiff repeatedly declined to sign the form. After browbeating Ms. Bailey for some time and failing to obtain her

consent, Hughes called in a drug dog to conduct a search. In so doing, defendant had no reasonable, articulable suspicion that Ms. Bailey had committed any crime. Two more troopers arrived on the scene with a dog, and Hughes directed plaintiff to take her daughter and sit in a police car. The dog then searched her car. Following the dog search, the second trooper ordered plaintiff to give him her keys. Hughes and the second trooper then completely searched plaintiff's car and her belongings. The third trooper sat with plaintiff and her daughter in the police cruiser. As Ms. Bailey sat with her daughter on her lap, watching the car search, the third trooper searched plaintiff's pocketbook by hand. No contraband of any kind was found. Apparently angered at the fruitlessness of his efforts, Hughes then demanded that Ms. Bailey take a breathalyzer test. Plaintiff did so, and passed. Hughes wrote plaintiff one ticket for speeding and one for allowing her daughter to sleep in the back seat without a seatbelt. In all, plaintiff and her daughter were detained for approximately one hour and 15 minutes. Ms. Bailey suffered extreme fear and anguish as a result of Hughes' mistreatment. Plaintiffs aver, on information and belief, that plaintiff and her daughter were stopped, detained, and searched based upon their African-American race, consistent with defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95.

81. On January 17, 1996, named plaintiff Gary D. Rodwell was stopped, detained for approximately three hours, and searched twice — first by a drug-detecting dog and then by hand — along Interstate 95 in Harford County by defendant David B. Hughes. These actions were taken by defendant Hughes for the stated reason that Mr. Rodwell looked like a

drug dealer. Because Mr. Rodwell would not consent to an unjustified search of his car and belongings, defendant Hughes pressured and argued with plaintiff for approximately 40 minutes, then called in a canine unit and had a dog search the vehicle for drugs. In calling for a dog search, defendant Hughes had no reasonable, articulable suspicion that Mr. Rodwell had committed any crime. And although it was apparent that the dog did not alert during this search, defendant Hughes, with the help of two unknown troopers, proceeded to search the car and Mr. Rodwell's personal belongings by hand. No contraband of any kind was turned up during this extensive search.

82. Apparently angered by the fruitlessness of his efforts, defendant Hughes told Mr. Rodwell he was going to lock him up anyway, causing Mr. Rodwell substantial distress. Some time later, however, a tow truck arrived at the scene, and defendant Hughes told Mr. Rodwell the tow truck driver was taking his car to the station. After consultation with the tow truck driver, defendant Hughes left the scene. Plaintiff joined the driver in the tow truck, and the driver asked him if he had any money. Mr. Rodwell said he did not have much money with him, but that he could obtain some from a bank machine. The driver then took plaintiff to an ATM machine, where he withdrew \$80 to pay the driver an alleged towing fee. Only upon his payment of this fee was Mr. Rodwell given back his car and allowed to go on his way. On information and belief, defendant Hughes targeted Mr. Rodwell for detention and search based upon his African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95. **In violation of the Wilkins Settlement Agreement and MSP policy, the MSP failed to report the fruitless hand and dog searches of Mr. Rodwell to the**

Court.

83. On or about March 10, 1996 named plaintiff James E. Alston, Jr. was stopped, detained for approximately 45 minutes, and searched along Interstate 95 by two Maryland State Police troopers whose identities are unknown to the plaintiffs. One trooper kept his hand on his revolver as he spoke to plaintiff, causing Mr. Alston great anxiety and fear for his safety throughout the encounter. These actions were taken for the stated reason that Mr. Alston had failed to use his turn signal when changing lanes. On information and belief, the troopers targeted Mr. Alston based upon his African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95. Without legal justification, and pursuant to MSP policy authorizing suspicionless dog searches, the troopers conducted a canine search of Mr. Alston's car. They then proceeded to search plaintiff's car by hand, removing personal belongings from the car and strewing them along the roadside. Neither of these searches turned up any contraband of any kind. Following these fruitless searches, with Alston's belongings still unpacked along the road, the troopers told Alston to "have a good day," and left him to repack his car. No ticket or citation was issued, and no charges were lodged against Mr. Alston. **In violation of the *Wilkins* Settlement Agreement and MSP policy, the MSP failed to report the fruitless hand and dog searches of Mr. Alston to the Court.**

84. On May 2, 1996, plaintiff William M. Berry was stopped as he traveled south along Interstate 95 in Cecil County, detained for approximately one hour, threatened with a baseless arrest for "obstruction of justice" and searched, by defendant Michael T. Hughes and another trooper. Mr. Berry was never told why he

had been stopped. However, Hughes asserted that he was entitled to detain and search Mr. Berry because plaintiff could not locate his registration upon being stopped. Hughes ordered plaintiff to get out of his car and asked him if he was carrying drugs or a weapon. Mr. Berry assured Hughes he was not. Hughes then asked plaintiff if he had been drinking. Again, plaintiff answered no. Hughes took plaintiff's license to his police cruiser and, about 10 minutes later, a second trooper arrived on the scene. Hughes asked Mr. Berry if he would consent to a search of his car. Plaintiff hesitated, then asked what would happen if he did not consent. Defendant Hughes answered that if Berry did not consent to the search, he would immediately be arrested. Plaintiff asked what he would be arrested for. Hughes answered "obstruction of justice."

85. Under this threat, plaintiff gave his "consent" to the search. Hughes then searched plaintiff's car and belongings completely -- tossing Mr. Berry's things about, and leaving them upended and in disarray. The second trooper merely stood to the side, keeping watch over Mr. Berry. As the search was taking place, plaintiff asked Hughes the grounds on which his car was being searched. Defendant Hughes ignored Mr. Berry, however, and did not respond. Hughes appeared increasingly irritated as the search proceeded and turned up nothing. Although plaintiff was upset about the manner in which the search was being conducted, he decided he should say nothing further, so as to avoid an altercation with police. No contraband of any kind was found. When the search was finished, Hughes angrily wrote plaintiff out a ticket for failing to produce his registration card. After about an hour of detention, plaintiff was allowed to go on his way. On information and belief, plaintiffs aver that Mr. Berry was

stopped, detained, searched, and threatened based upon his African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95. In violation of the *Wilkins* Settlement Agreement and MSP policy, the MSP failed to report the fruitless search of Mr. Berry to the Court.

86. On August 13 and 14, 1997, named plaintiff Johnston E. Williams and four African passengers twice were stopped along Interstate 95 by MSP troopers. First, late on the evening of August 13, plaintiff Williams and his passengers were stopped and ticketed for an alleged speeding violation as they traveled south on I-95 from Philadelphia to the Washington suburbs. Several hours later, during the early morning hours of August 14, plaintiff and his passengers were stopped a second time as they returned to Philadelphia on the highway. Although this second stop again concerned an alleged speeding violation, it was much different -- and more troubling -- than the first. In this instance, Mr. Williams and his passengers were stopped, detained for over 45 minutes, and searched along Interstate 95 in Cecil County by defendant Billy White. These actions were taken by defendant White for the stated reasons that Mr. Williams, a Liberian native, appeared to be Jamaican, and that, according to defendant White, Jamaicans are known drug runners. Upon hearing Mr. William's foreign accent, Trooper White became extremely agitated and profane, using coarse and insulting language. Additionally, defendant White ordered plaintiff Williams to produce his immigration paperwork. By his words and actions, defendant White targeted Williams explicitly based upon his black race and Liberian national origin, consistent with defendants' pattern and practice of discrimination in drug

interdiction activities carried out along Interstate 95. The search conducted of Mr. Williams's vehicle turned up no contraband of any kind. In violation of the *Wilkins* Settlement Agreement and MSP policy, the MSP failed to report the fruitless search of Mr. Williams and his passengers to the Court.

87. Over the period from 1995 until the present, plaintiff David H. Patterson, Jr. has been repeatedly stopped by Maryland State Police troopers, detained, and pressured to consent to a search while traveling through Maryland on Interstate 95. Captain Patterson estimates the number of times he has been stopped as follows: During 1995, five times; during 1996, eight times; during 1997, 15 times; and during 1998, two times. On some, but not all, of these occasions he was detained for a prolonged period and asked to consent to a search.

88. A particularly egregious example of this harassment occurred in October, 1997. Capt. Patterson was stopped along Interstate 95 in the vicinity of Baltimore-Washington International Airport, confronted at gunpoint, detained for approximately two hours and 15 minutes, and repeatedly asked to consent to a search by two Maryland State Troopers whose identities are unknown to the plaintiffs. As he was traveling south along the highway, he observed an MSP cruiser along the road side. The car in front of him braked, and plaintiff also slowed. The cruiser then pulled onto the road and began following Capt. Patterson. The trooper pulled next to plaintiff, looked in, then dropped back behind him. A few minutes later, he signalled for Patterson to pull over, and plaintiff did so. Approximately 30 minutes then passed. Another police car arrived on the scene, and together the two troopers approached

plaintiff's car. One trooper approached the passenger side window with his gun drawn and pointed at plaintiff, while the other trooper approached on the driver's side, with his hand on his weapon. The troopers informed Capt. Patterson he had been stopped for speeding. Even before obtaining plaintiff's license or registration, one of the troopers asked Capt. Patterson to consent to a search of his car. When plaintiff questioned the need for a search and declined to consent, the troopers said they could get a search warrant if he would not consent. They said he should save himself some time by voluntarily allowing them to search, especially if he had nothing to hide. Because he knew the troopers could not justify a search or a warrant, Capt. Patterson persisted, on principle, in his refusal to consent to a search. At that point the lead trooper took plaintiff's license and registration and both troopers returned to their cars.

89. Then, in what seemed to Capt. Patterson like retaliation for his refusal to consent to a search, the troopers continued to detain him there for an extended period. Finally, one of the troopers came back to plaintiff's car with Capt. Patterson's license and registration, and advised him that he could go. No ticket or warning was issued. In total, Capt. Patterson was detained by the side of the road for approximately two hours and 15 minutes. On information and belief, plaintiffs aver that Patterson was detained and pressured to consent to a search based upon his African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95. In violation of the *Wilkins* Settlement Agreement and MSP policy, the MSP failed to report this incident to the Court.

90. On February 12, 1998, plaintiff Diana Desmoines was stopped, detained for approximately one hour, and searched along Interstate 95 in Baltimore County by two MSP troopers whose identities are unknown to the plaintiffs. Ms. Desmoines had flown into the Baltimore-Washington International Airport from the Bahamas, where she had gone on a work-related trip. She was traveling at about 55-60 miles per hour, south on Interstate 95. Her car was a hatchback, and her luggage was visible through the rear window. She then observed a police cruiser behind her with its lights flashing. Once she realized the police were after her, plaintiff pulled to the side of the road. When she inquired if anything was wrong, the lead trooper told Ms. Desmoines that the reason for the stop was *not* that she had committed any traffic offense, but rather, that the Maryland State Police were conducting "routine stops." After taking plaintiff's license and registration, the lead trooper inquired whether Ms. Desmoines had been traveling. When plaintiff informed the trooper she had just returned from a trip to the Bahamas, he asked her questions about the frequency of her visits to the Bahamas and the length of her visits. The trooper then directed Ms. Desmoines to get out of the car, which made her uncomfortable. He asked if he could look in the back of her car. Because plaintiff was afraid to be standing along the side of the road with darkness falling and she wanted the incident to be over with, she went along with this request.

91. The trooper then thoroughly searched the car, removing and opening plaintiff's suitcase and rifling through its contents. No contraband was found. Nevertheless, the trooper summoned a drug-detecting dog. In so doing, the trooper acted without legal justification and pursuant to MSP policy authorizing suspicionless

dog searches. Ms. Desmoines was forced to wait about 45 minutes for the dog to arrive. When the canine unit finally arrived, the trooper unpacked plaintiff's suitcase and presented items, one by one, for the dog to sniff. Even Ms. Desmoines' toiletry bag was opened and sniffed through by the dog. As this was done, various items spilled from the bag and fell into a ditch, where they were left by the troopers. No contraband of any kind was found. Ms. Desmoines' belongings were then returned haphazardly to her suitcase.

92. After more than an hour of detention, plaintiff was released. No citation or warning was issued, and no apology was given to plaintiff. Rather, the trooper told Ms. Desmoines to "have a nice day," and left her to collect the items from her toiletry bag that remained scattered on the ground. On information and belief, plaintiffs aver that Ms. Desmoines was stopped, detained, and subjected to hand and dog searches based upon her African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95. In violation of the *Wilkins* Settlement Agreement and MSP policy, the MSP failed to report the fruitless hand and dog searches of Ms. Desmoines to the Court.

93. Following his filing of this lawsuit, on July 25, 1998, named plaintiff James E. Alston, Jr. was stopped again by MSP troopers as he traveled Interstate 95. On this occasion, plaintiff was traveling with his four-year-old son in the back seat. Mr. Alston was driving within the posted speed limit, with his cruise control on, and had committed no traffic violation. Nevertheless, a trooper signalled for him to pull to the side of the road, which he did. In confronting Mr. Alston, the trooper alleged

plaintiff had been stopped for weaving. Plaintiff politely stated that he did not think that was the case. Mr. Alston produced his identification, and shortly thereafter the trooper released him without explanation. No ticket or warning was issued. Plaintiffs aver, on information and belief, that the troopers had no valid basis for having stopped Mr. Alston; rather, plaintiffs aver that Alston and his son were targeted by police based on their African-American race, consistent with defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95.

D. Incidents involving named defendants and unnamed class members

94. On January 22, 1995, defendant Mark Rhinehart and another trooper stopped an unnamed African-American class member and detained him for approximately 45 minutes on Interstate 95. The troopers followed the motorist for about two miles before signalling for him to pull over. When they did pull him over, they claimed they had stopped him because his license plate was partially obscured by the license plate cover. Rather than simply issuing him a ticket, however, they detained the class member for 45 minutes and made snide remarks to him questioning how he was able to afford the car he was driving. On information and belief, plaintiffs aver that defendant Rhinehart targeted the unnamed class member for this treatment based upon his African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95.

95. On March 14, 1995, defendant Eric Harbold and another MSP trooper stopped an unnamed, African-American class member and an African-American

passenger, detained the motorists for approximately one hour, and subjected them to a hand search as they traveled south on Interstate 95 through Harford County. After stopping the unnamed class member, Harbold checked his license and registration. He was then joined by another trooper, whose identity is unknown to the plaintiffs. Harbold directed the motorists to get out of the car, then -- without requesting or obtaining consent -- began searching the car and the motorists' belongings. No drugs or contraband were found. On information and belief, plaintiffs aver that defendant Harbold targeted the unnamed class member and his passenger for detention and search based upon their African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95. In violation of the *Wilkins* Settlement Agreement and MSP policy, the MSP failed to report the fruitless search of this class member to the Court.

96. On January 20, 1997, defendant Steven O. Jones and another trooper stopped an unnamed, African-American class member and an African-American friend, detained these motorists, subjected them to a prolonged visual search with a flashlight and verbally ridiculed them as they traveled through Cecil County on Interstate 95. No drugs or contraband were found. On information and belief, plaintiffs aver that defendant Jones targeted the unnamed class member and her passenger for this treatment based upon their African-American race, consistent with the defendants' pattern and practice of discrimination in drug interdiction activities carried out along Interstate 95.

V. Class Action Prerequisites

97. For the purposes of all relief sought in this case, plaintiffs Gary D. Rodwell, Johnston E. Williams, James E. Alston, Jr., Yancey and Aleshia Taylor, George W. Taylor, Jr., Eric A. Cook, Jawad Abdullah, Nelson D. Walker, Mecca Agunabo I, George Daughtry, **David H. Patterson, Jr., John S. Means, Kenneth R. Jeffries, Yvonne Davis, Diana Desmoines, William M. Berry, and Verna Bailey** bring this action pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure, on behalf of themselves and all other persons similarly situated. Each of these individual class representatives is a minority motorist who has been stopped, detained, and/or searched by one or more MSP troopers while traveling through Maryland on Interstate 95. Thus, each is a member of the proposed class. Plaintiff NAACP seeks only declaratory and injunctive relief, pursuant to Rule 23(a) and (b)(2), on behalf of itself, its members, and the plaintiff class.

98. In addition to serving as class representatives, named plaintiffs NAACP, Gary D. Rodwell, James E. Alston, Jr., George W. Taylor, Jr., Eric A. Cook, Jawad Abdullah, **Diana Desmoines, and Verna Bailey** seek to serve as representatives of the sub-class of the plaintiff class that was subjected to a search by a drug-detecting dog, in challenging the constitutionality of defendants' policy authorizing dog searches without probable cause or articulable suspicion. Named plaintiffs Rodwell, Alston, Taylor, Cook, Abdullah, **Desmoines, and Bailey** all were searched by an MSP dog, pursuant to MSP's policy of allowing dog searches at a trooper's individual and standardless discretion.

99. The class which plaintiffs seek to represent consists of all innocent minority motorists who have been since January 1, 1993, or who will be in the future, illegally

stopped, detained, and/or searched by Maryland state troopers along Interstate 95, without just cause and based upon their race and/or national origin. The plaintiff sub-class referenced in the previous paragraph consists of all plaintiff class members who also were searched by a drug-detecting dog.

100. The number of innocent minority motorists who in the past have been or in the future will be discriminated against by Maryland state troopers' arbitrary and race-based policy, custom, and practice is too numerous for practicable joinder.

101. There are questions of law and fact common to all members of the class and all class members are and/or will be directly affected by the challenged actions of the defendants. Each putative class member has been or will be subjected to arbitrary, racially discriminatory stops, detention, and/or searches conducted by Maryland State Police on Interstate 95. These common questions predominate over any minor potential variances in the circumstances of the individual detentions.

102. The claims of the representative plaintiffs are typical of the claims of the class as a whole. Each named plaintiff has in the past and will in the future travel through Maryland on Interstate 95. Each named plaintiff is innocent of carrying illegal drugs or weapons, yet has experienced in the past and may likely again experience in the future defendants' pattern and practice of race-based detentions, seizures, and/or searches of minority motorists. The experiences of the plaintiffs at the hands of MSP troopers and their risk of future harm from defendants' policy and practice of discrimination render their claims typical of those faced by the class of minority motorists they seek to represent.

103. Plaintiffs will be adequate representatives of the class in that all of the relevant

questions of fact and law applicable to the class also apply to each of them. Plaintiffs are individuals of high integrity, and will responsibly and vigorously pursue the claims of the class. They are adequately represented by counsel who have litigated numerous civil rights cases in this Court (including the case of *Wilkins v. Maryland State Police*) and who are familiar with the applicable law.

104. As with the claims of the class, the claims of the sub-class are appropriate for adjudication on a class-wide basis. First, the sub-class is too numerous for practicable joinder. Second, there are questions of law and fact common to all sub-class members, and these common questions predominate over any individual issues. Each sub-class member has been or will be subjected to a search by a drug detecting dog, pursuant to defendants' policy authorizing dog searches without probable cause or articulable suspicion. Third, the claims of individual sub-class representatives Gary Rodwell, James Alston, George Taylor, Eric Cook, Jawad Abdullah, **Diana Desmoines**, and **Verna Bailey** are typical of those of the sub-class, in that each has been detained and searched by defendants' drug-detecting dogs without reasonable cause, in violation of the Fourth Amendment's guarantee against unreasonable searches and seizures. Finally, plaintiffs Rodwell, Alston, Taylor, Cook, Abdullah, **Desmoines**, **Bailey**, NAACP, and their counsel will adequately and vigorously represent the interests of the sub-class.

105. Individual members of the putative class and sub-class have not indicated any desire to pursue their claims independently of the class, and to plaintiffs' knowledge, there currently exists no pending litigation of claims by individual class or sub-class members.

106. The prosecution of separate actions by individual members of the class or

sub-class would create a risk of adjudications which would be inconsistent or varying with respect to the individual class members, establishing incompatible standards of conduct for the defendants, or which would as a practical matter be dispositive of the interests of other members of the class or sub-class who are not parties to the adjudication.

107. Separate actions also would create a risk of adjudications disposing of interests of unnamed parties or impairing their ability to protect their interests. Unnamed minority motorists who have previously been stopped, detained, and searched, and whose identities are known only to the defendants, as well as those who will in the future be stopped, detained, and searched under defendants' arbitrary and discriminatory policy, should be protected against illegal discrimination perpetrated by the Maryland State Police.

108. This action is properly maintained as a class action inasmuch as the questions of law and fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The defendants have engaged in an unlawful pattern and practice of discrimination in highway stops and searches that is generally injurious to the class. Moreover, defendants threaten to continue this illegal pattern and practice in the future, toward both the named plaintiffs and the class of unnamed and as yet unidentified minority motorists.

VI. Causes of Action

Count I

Race Discrimination in Federally Funded Programs

(Title VI of the Civil Rights Act of 1964 and 42 C.F.R. §§ 101 *et seq.*)

(Defendant Department of Maryland State Police)

109. Plaintiffs repeat and reallege paragraphs 1 through 108, as if set forth fully herein.

110. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, provides:

[N]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

111. Federal regulations implementing Title VI further provide that no program receiving financial assistance through the U. S. Department of Justice shall

utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

28 C.F.R. § 42.104 (b)(2).

112. Defendant Maryland State Police receives federal financial assistance from the United States Department of Justice, and thus is bound to abide by the terms of Title VI and its implementing regulations, including 28 C.F.R. § 42.101 *et seq.*

113. Eleventh Amendment immunity of the State of Maryland and the Department of Maryland State Police was abrogated by Congress in its enactment of Title VI. 42 U.S.C. § 2000d-7.

114. Drug interdiction methods employed by the Maryland State Police discriminate, in purpose and effect, against African-American and other minority motorists traveling through Maryland. Federal financial assistance earmarked for law enforcement by defendant Maryland State Police therefore is being misused in the unlawful detention, search, and seizure of minority motorists as a result of MSP's pattern and practice of discrimination.

115. Defendant Maryland State Police's violation of 42 U.S.C. § 2000d and its implementing regulations has caused and will continue to cause the named plaintiffs and the members of the plaintiff class to suffer tremendous harm and public humiliation in that they have been and will continue to be subjected to MSP's pattern and practice of race-based discrimination.

Count II

Equal Protection

(Fourteenth Amendment, 42 U.S.C. § 1983, and Art. 24, Md. Decl. of Rights)
(All Defendants Except Department of Maryland State Police)

116. Plaintiffs repeat and reallege paragraphs 1 through 115, as if set forth fully herein.

117. Defendants, acting under color of law and in concert with one another, have engaged in a continuing pattern and practice of intentional race discrimination in drug interdiction efforts carried out in Maryland along Interstate 95. In so doing, defendants have caused the plaintiffs, and the class they represent, to suffer deprivation of their fundamental rights to liberty and to be free from unlawful searches, detentions, and seizures, on account of their minority race and/or national origin. These actions violated plaintiffs' rights to equal protection of the laws, in contravention of the Fourteenth Amendment to the Constitution of

the United States, 42 U.S.C. § 1983, and Article 24 of the Maryland Declaration of Rights.

118. Defendants David B. Mitchell, Jesse Graybill, George Hall, Vernon Betkey and Keven L. Gray, acting under color of law, institute, authorize, tolerate, ratify, permit and acquiesce in policies, practices and customs of detention, searches and seizures which involve intentional race discrimination in the provision of law enforcement services. **By their deliberate indifference and inaction when confronted with the pattern of unlawful conduct committed by the trooper defendants, the supervisory defendants directly and proximately caused the plaintiffs and the class they represent to be denied equal protection of the laws, in further violation of the Fourteenth Amendment to the Constitution of the United States, 42 U.S.C. §1983, and Article 24 of the Maryland Declaration of Rights.**

119. The defendants' acts were done in knowing violation of plaintiffs' legal and constitutional rights, and have directly and proximately caused plaintiffs humiliation, mental pain, and suffering.

Count III

Unreasonable Search and Seizure

(Fourth and Fourteenth Amendments, 42 U.S.C. § 1983, and Art. 26, Md. Decl. of Rights)
(All Defendants Except Department of Maryland State Police)

120. Plaintiffs repeat and reallege paragraphs 1 through 119, as if set forth fully herein.

121. Defendants, acting under color of law and in concert with one another, have subjected plaintiffs, and the class they represent, to lengthy detentions and searches without probable cause or reasonable suspicion to believe that any crime had been committed or that

plaintiffs were carrying drugs of any kind, in violation of the Fourth Amendment guarantee against unreasonable searches and seizures, and giving rise to plaintiffs claims pursuant to the Fourteenth Amendment, 42 U.S.C. § 1983, and Article 26 of the Maryland Declaration of Rights.

122. Additionally, defendants maintain and enforce an official policy authorizing Maryland State Police troopers, at their individual discretion and without reasonable or articulable suspicion of crime, to detain motorists for the purpose of conducting a search by a drug-detecting dog, in further violation of the Fourth Amendment guarantee against unreasonable searches and seizures **and Article 26 of the Maryland Declaration of Rights.**

123. Defendants David B. Mitchell, Jesse Graybill, George Hall, Vernon Betkey and Keven L. Gray, acting under color of law, institute, authorize, tolerate, ratify, permit and acquiesce in policies, practices and customs of detention, searches and seizures without probable cause or reasonable, articulable suspicion of crime, in their provision of law enforcement services. **By maintaining an unconstitutional dog-search policy and by their deliberate indifference and inaction when confronted with the pattern of unlawful conduct committed by the trooper defendants, the supervisory defendants directly and proximately caused the plaintiffs and the class they represent to suffer unlawful searches and seizures, in further violation of the Fourth Amendment to the Constitution of the United States, 42 U.S.C. §1983, and Article 26 of the Maryland Declaration of Rights.**

124. The defendants' acts were done in knowing violation of plaintiffs' legal and constitutional rights, and have directly and proximately caused plaintiffs humiliation, mental pain, and suffering.

Count IV
Right to Travel

(Commerce Clause, Article IV, Fourteenth Amendment, and 42 U.S.C. § 1983)
(All Defendants Except Department of Maryland State Police)

125. Plaintiffs repeat and reallege paragraphs 1 through 124, as if set forth fully herein.

126. Defendants, acting under color of law and in concert with one another, have caused the plaintiffs, and the class they represent, to be penalized and deterred in the exercise of their fundamental right to interstate travel and migration on account of their race and/or national origin. These actions violated plaintiffs' right to travel, in contravention of the Commerce Clause and the Privileges and Immunities Clauses of Article IV, the Fourteenth Amendment, **and 42 U.S.C. §1983.**

127. Defendants David B. Mitchell, Jesse Graybill, George Hall, Vernon Betkey and Keven L. Gray, acting under color of law, institute, authorize, tolerate, ratify, permit and acquiesce in policies, practices and customs of detention, searches and seizures which violate plaintiffs' fundamental right to interstate travel. **By their deliberate indifference and inaction when confronted with the pattern of unlawful conduct committed by the trooper defendants, the supervisory defendants directly and proximately caused the plaintiffs and the class they represent to be denied their right to interstate travel, in contravention of the Commerce Clause and the Privileges and Immunities Clauses of Article IV and the Fourteenth Amendment, and 42 U.S.C. §1983.**

128. Defendants' acts were done in knowing violation of plaintiffs' legal and constitutional rights, and have directly and proximately caused plaintiffs humiliation, mental pain, and suffering.

[Count V
Conspiracy to Violate Civil Rights
(42 U.S.C. §§ 1985 and 1986)
(All Defendants Except Department of Maryland State Police)

129. Plaintiffs repeat and reallege paragraphs 1 through 128, as if set forth fully herein.

130. Defendants, under color of law, custom and usage, and by way of a conspiracy among them, have caused plaintiffs, and the class they represent, to be denied equal protection of the laws and to be deprived of equal privileges and immunities under the laws, on account of plaintiffs' minority race and/or national origin, by subjecting them to lengthy, legally unjustified, and racially discriminatory detentions and searches, thereby interfering with plaintiffs' travels through Maryland, in violation of 42 U.S.C. § 1985(3). The supervisory defendants had knowledge of the conspiracy to violate plaintiffs' civil rights and of the violations committed, and had power to prevent these wrongs, but neglected or refused to do so, in violation of 42 U.S.C. § 1986.

131. Defendants' acts were done in knowing violation of plaintiffs' legal and constitutional rights, and have directly and proximately caused plaintiffs humiliation, mental pain and suffering.]

VII. Prayer for Relief

WHEREFORE, plaintiffs request that this Court:

(a) Certify, for the purposes of declaratory, injunctive, and monetary relief, a class of all minority motorists who since January 1, 1993 have been, or who will be in the future, stopped, detained, and searched on Interstate 95 by Maryland State Troopers, with named

plaintiffs Maryland State Conference of NAACP Branches (for purposes of declaratory and injunctive relief only), Gary D. Rodwell, Johnston E. Williams, James E. Alston, Jr., Yancey and Aleshia Taylor, George W. Taylor, Jr., Eric A. Cook, Jawad Abdullah, Nelson D. Walker, Mecca Agunabo I, George Daughtry, **David H. Patterson, Jr., John S. Means, Kenneth R. Jeffries, Yvonne Davis, Diana Desmoines, William M. Berry, and Verna Bailey** as representatives for the class;

(b) Certify, for the purposes of declaratory, injunctive, and monetary relief, a sub-class of all minority motorists who since January 1, 1993, have been, or who will be in the future, unconstitutionally detained and searched by MSP troopers using a drug-detecting dog along Interstate 95, pursuant to MSP policy authorizing troopers to detain motorists and conduct dog searches without probable cause or reasonable articulable suspicion of any criminal activity, with named plaintiffs Maryland State Conference of NAACP Branches (for purposes of declaratory and injunctive relief only), Gary D. Rodwell, James E. Alston, Jr., George W. Taylor, Jr., Eric Cook, Jawad Abdullah, **Diana Desmoines, and Verna Bailey** as representatives for this sub-class;

(c) Declare, pursuant to 28 U.S.C. §§ 2201 and 2202, that since at least 1993, defendants — jointly, individually, and by way of a conspiracy among them — have engaged in an unabated and continuing pattern and practice of race discrimination, purposefully and in effect, with respect to highway stops, detentions, and searches conducted along Interstate 95 in Maryland, causing the named plaintiffs and members of the plaintiff class to be treated differently than similarly situated Caucasian motorists and to suffer unreasonable searches and seizures, in violation of the Fourth and Fourteenth Amendments to the Constitution of

the United States, 42 U.S.C. §§ 1983, [1985(3) and 1986,] Title VI of the Civil Rights Act of 1964, 28 C.F.R. § 42.101 *et seq.*, and Articles 24 and 26 of the Maryland Declaration of Rights;

(d) Declare, pursuant to 28 U.S.C. §§ 2201 and 2202, that defendants' official policy authorizing MSP troopers, at their individual discretion and without probable cause or reasonable, articulable suspicion of criminal activity, to detain motorists for the purpose of conducting a search by a drug-detecting dog, is unconstitutional on its face and as applied, in that it has resulted in unjustified detentions and searches, in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States, 42 U.S.C. § 1983, and Article 26 of the Maryland Declaration of Rights;

(e) Declare, pursuant to 28 U.S.C. §§ 2201 and 2202, that defendants' policy and practices, as more fully described herein, unconstitutionally violate the rights of travelers on Interstate 95 to travel interstate, in violation of the Commerce Clause and the Privileges and Immunities Clauses of Article IV and the Fourteenth Amendment and 42 U.S.C. § 1983;

(f) Enjoin defendants immediately to discontinue their pattern and practice of race-based discrimination, and to put into place safeguards sufficient to ensure that such discrimination does not continue in the future;

(g) Enjoin defendants immediately to amend their unconstitutional policy allowing troopers to detain motorists and conduct dog searches without reasonable, articulable suspicion of criminal activity;

(h) Award plaintiffs compensatory and consequential damages pursuant to Count I, in an amount to be determined at trial, against defendant Department of Maryland State Police;

(i) Award plaintiffs compensatory and consequential damages pursuant to Counts II, III, **and** IV [and V], in an amount to be determined at trial, against the individual defendants, jointly and severally, **in their individual capacities only**;

(j) Award plaintiffs punitive damages pursuant to Counts II, III, **and** IV, in an amount to be determined at trial, against the individual defendants, jointly and severally, in their individual capacities only;

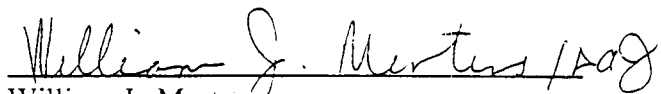
(k) Award plaintiffs their attorneys' fees and costs incurred in pursuing this action, as provided in 42 U.S.C. § 1988;

(l) Grant such other and further relief as the Court may deem just and proper.

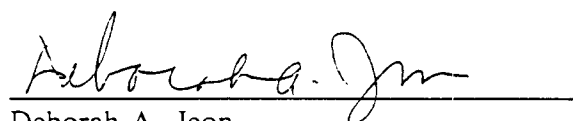
VIII. Jury Demand

Plaintiffs hereby demand a trial by jury.

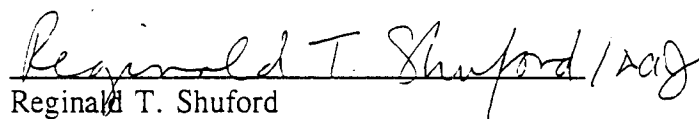
Respectfully submitted,



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