

SUPREME COURT OF NEW JERSEY

ORDER

This matter coming before the Court on a Criminal Case Management conference, on notice to all interested parties, to resolve outstanding discovery issues and other issues, and it further appearing that certain admissions and agreements were entered involving the scope and manner of discovery, which were placed on the Court record on September 12, 2000;

It is therefore on this 12th day of September, 2000;

ORDERED that the following shall be entered as an order relating to racial profiling issues and discovery:

A) The State of New Jersey through representatives of the Attorney General's Office agrees for the purposes of these criminal litigations that from January 1, 1988 through April 20, 1999, a colorable basis to allow discovery regarding racial profiling has been established and that defendants perceived to be African-American, Black or Hispanic are entitled to discovery for motor vehicle stops that originated as a result of observations made by State Troopers on the New Jersey Turnpike, its extensions, Routes 80, 78, the Garden State Parkway and any and all other interstate roadways or parkways, whether the actual stop was on or off the interstate. This is not meant to limit discovery applications by defendants based on claims of racial profiling by the State Police on other roadways within the State of New Jersey;

B) In lieu of a Vaughn Index, a Crudup type hearing will be held to resolve all issues as to a claim of privilege by the State for non-disclosure of items of discovery or to resolve any claim that a specific defendant is not entitled to discovery for reasons enumerated in State v. Ballard . It is agreed that there is no initial burden imposed upon a defendant to compel the hearing, but rather the State shall make application on notice of motion to the defense as to what they seek to withhold from discovery;

C) Discovery of data relating to motor vehicle stops shall be for the time period and roadways delineated in Paragraph A and will be limited to a specific number of random dates, which number is to be determined at a future case management conference or hearing. It is further agreed and ordered that the data to be provided will be segregated and broken down as to barracks on the various roadways included in Paragraph A; as an example, Turnpike Newark Barracks, Cranbury/New Brunswick Barracks and Moorestown Barracks. If additional discovery relating to data is required, same shall be determined upon application to the Court.

D) The State shall determine what form of data banks, indexing, bar coding or the like has been used by any State government agency or branch or by the State Police to record, organize or list data which involves discovery to be furnished per this Order or future orders and is to provide same to the defense to facilitate review of the discovery to be provided. If the State alleges that any portion of the process is privileged, an application shall be made pursuant to Paragraph B of this order to resolve said issue;

E) The State shall provide to the defense rough data estimates to the extent presently available as to the total number of motor vehicle stops, racial make up of the persons in said stops and data as to the number of consent searches and racial make up of occupants in the motor vehicles stopped for the time period stated in Paragraph A by October 2, 2000 to enable each expert to make recommendations as to the number of random days of data to be provided pursuant to this order. Motor vehicle stops data shall be provided to the extent that such data exists for all highways for which challenges are currently pending. Consent search data shall be provided to the extent that it currently exists. Nothing in this Order shall require the State to create, compile or analyze data where it has not already done so. The State and defense shall then send to the Court in writing their recommendation as to the number of random days to be utilized without sending a copy to the adversary by October 20, 2000. If data supplied by the State is insufficient for the experts to determine the number of randomly selected days that would be statistically reliable, the Court and the parties will

conduct an additional case management conference or conduct a hearing to address that issue;

F) Nothing herein is meant to or should be construed to limit future discovery applications by defendants based on claims of racial profiling by the State Police.

IT IS FURTHER ORDERED subject to availability of the State's expert, a case management conference and/or hearing to resolve other discovery issues shall be held on Wednesday, November 8, 2000, at 10:00 a.m. at Judge Walter Barisonek's courtroom.

JUDGE WALTER R. BARISONEK

[Notices to the Bar](#)