

Study: Racial disparity in kidney transplants still exists

Special to Sentinel-Voice

BIRMINGHAM, Ala. — Black Americans fare better now than they did seven years ago in the way donated kidneys are allocated for transplantation, but the playing field is still uneven, according to researchers at UAB (University of Alabama at Birmingham). An article entitled "Renal Transplantation in Black Americans" will appear in the Nov. 23 issue of the *New England Journal of Medicine (NEJM)*.

Dr. Robert S. Gaston, professor of medicine at UAB,

wrote a report in 1993 that detailed disparities in the waiting period for black and white Americans to receive a donor kidney. "Today, for complex scientific and political reasons, white Americans still receive a disproportionately larger percentage of donated kidneys for transplant and black Americans still wait longer for transplantation," Gaston said. UAB transplant surgeon Dr. Carlton Young wrote the report with Gaston.

Racial disparity appears very early in the process after

the onset of end-stage kidney disease, Gaston and Young wrote. Among the factors are:

- Black patients are less likely than whites to be identified as transplant candidates.

- Blacks are less likely to appear on transplant waiting lists in the first year of eligibility.

Medicare, which pays for kidney dialysis or transplantation, has mandated that all patients undergoing dialysis be evaluated for transplantation.

"One might expect this mandate to cause racial differences to wane, but this is not the case," Gaston said. He cited several possible reasons including a medical evaluation process that is "daunting for many patients who have limited resources."

Living donors are less of an option for black patients than whites, according to the NEJM article. One reason is because potential living-related black donors are more likely to be excluded because of previously undiagnosed health problems such as dia-

betes or high blood pressure. At UAB, only 13 percent of acceptable black candidates ultimately received a kidney from a living donor, compared with 33 percent of whites. Cadaveric kidney transplantation is also problematic for black patients for socioeconomic and immunologic reasons. Patients are given greater preference if they have a closer genetic "match" with an available kidney. "The net result, however unintentional, is preference for white candidates for transplantation," the article

stated.

"Perfect matches are associated with a better transplant outcome and we have no quarrel with giving preference for a perfect match, even though whites are much more likely to benefit from this approach," the authors note. "Due to scientific advances, however, less-than-perfect matches make little difference in outcomes and should not exert a strong influence on who receives kidneys."

The formula for allocation (See *Kidneys, Page 14*)

Supreme Court strikes down drug checkpoints as invasion of privacy

WASHINGTON (AP) — In a significant ruling on the use of police power, the Supreme Court struck down random roadblocks intended for drug searches, saying they are an unreasonable invasion of privacy under the Constitution.

Law enforcement in and of itself is not a good enough reason to stop innocent motorists, the majority concluded Tuesday in the first major ruling of the new term.

"Because the checkpoint program's primary purpose

is indistinguishable from the general interest in crime control, the checkpoints contravened the Fourth Amendment," which protects against unreasonable searches and seizures, Justice Sandra Day O'Connor wrote.

The court's three most conservative justices dissented, saying the roadblocks Indianapolis set up in high-crime neighborhoods served valuable public safety and crime-fighting goals. Chief Justice William Rehnquist and Justices Antonin Scalia

and Clarence Thomas dissented.

"Efforts to enforce the law on public highways used by millions of motorists are obviously necessary to our society," Rehnquist wrote. "The court's opinion today casts a shadow over what has been assumed ... to be a perfectly lawful activity."

Thomas joined the entire nine-page dissent. Scalia agreed with Rehnquist only in part.

Justice Anthony Kennedy, like O'Connor a sometime

"swing vote" between the court's ideological poles, sided with her in the majority.

The American Civil Liberties Union had sued on behalf of two detained motorists, and the 7th U.S. Circuit Court of Appeals in Chicago eventually found the practice was probably unconstitutional.

"Today's decision sends a clear message that even a conservative court is not willing to countenance the serious erosion of our basic con-

stitutional rights," said Steven Shapiro, ACLU's legal director.

O'Connor stressed that the high court ruling does not affect other police roadblocks such as border checks and drunken-driving checkpoints, which have already been found constitutional.

But the reasoning behind those kinds of roadblocks — chiefly that the benefit to the public outweighs the inconvenience — cannot be applied broadly, O'Connor wrote.

"If this case were to rest on such a high level of generality, there would be little check on the authorities' ability to construct roadblocks for almost any conceivable law enforcement purpose," the opinion said.

During oral arguments in October, several justices seemed troubled by the notion that by unwittingly driving into the checkpoint, a motorist is open to a criminal investigation that presumably would not have happened (See *Checkpoints, Page 14*)

Racial profiling disclosure may taint New Jersey drug cases

TRENTON, N.J. (AP) — After admitting the state's war on drugs unfairly victimized minority drivers, New Jersey's attorney general may drop drug charges against hundreds of motorists who claim they were pulled over because of their race.

The state also could be forced to settle dozens of lawsuits filed by black and Hispanic state troopers who allege they were forced to practice racial profiling.

Attorney General John J. Farmer Jr. said his office would review each pending criminal case in which bias allegedly tainted drug seizures. Criminal charges could be dropped, he said. Civil lawsuits also will be examined with an eye toward settlement.

"Where they are reasonable, we're going to settle these cases," Farmer said Monday. "We'll certainly look at it a lot more closely based on what we've discovered."

On Monday, Farmer released nearly 100,000 pages of documents showing that state troopers stopped overwhelmingly disproportionate numbers of minorities in searches for drugs. New Jersey's top law enforcement officials knew that since at least 1989 but didn't admit racial profiling was widespread until an April 1999 report.

Attorneys for the motorists and the troopers returned to a state reading room Tuesday to resume searching the documents.

"The constitutional violations are so egregious, and they've been sitting on these documents for years," public defender Kevin Walker said Tuesday.

Walker, who represents several defendants stopped on the New Jersey Turnpike,

said the state's only option is to dismiss the charges. His office is considering a court motion to ask just that.

"If they're talking about settlement, if they're taking that approach with the civil cases, it's certainly more important with the criminal ones because of the constitutional violations," Walker said.

Attorneys predicted courts would be overwhelmed with pleas to overturn drug convictions.

"I hope more people come forward. If the New Jersey justice system has any moral strength and strength of character, it should be willing to reopen cases where the convictions aren't sound," attorney William Buckman said.

Buckman led a legal challenge that ended in 1996 when a judge said troopers on the turnpike targeted minorities more than whites. Despite internal evidence to support that conclusion, the state continued to appeal the ruling until 1999.

Included in the documents released Monday are many key reports state officials denied existed, Buckman said. Some of them were evidence he requested as early as 1990 for criminal trials.

Controversy over possible racial profiling — derided in the minority community as DWB or "driving while black" — was heightened in 1998 when two troopers shot and wounded three minority men during a traffic stop. In early 1999, Gov. Christie Whitman fired the State Police superintendent after he said minorities were responsible for most of the state's cocaine and marijuana traffic.

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