

110TH CONGRESS
1ST SESSION

H. R. 4611

To prohibit racial profiling.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2007

Mr. CONYERS (for himself, Mr. SHAYS, Ms. WOOLSEY, Mr. ELLISON, Ms. MCCOLLUM of Minnesota, Mr. FALEOMAVAEGA, Mr. GENE GREEN of Texas, Mr. BERMAN, Mr. KUCINICH, Mr. COHEN, Mr. WATT, Mr. HINCHEY, Mr. MEEK of Florida, Mr. RANGEL, Mr. BLUMENAUER, Mr. WYNN, Mr. GUTIERREZ, Mr. CLAY, Mr. OLVER, Mr. LANTOS, Mr. MCGOVERN, Mr. FRANK of Massachusetts, Ms. CORRINE BROWN of Florida, Ms. HIRONO, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. GRIJALVA, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mr. FATTAH, Mr. FILNER, Mrs. MALONEY of New York, Ms. KILPATRICK, Mr. PRICE of North Carolina, Mr. PAYNE, Mr. NADLER, Ms. WATERS, Ms. DELAURO, Mr. HONDA, Mrs. MCCARTHY of New York, Mr. SERRANO, Mr. HASTINGS of Florida, Ms. LEE, Mr. FARR, Mr. DINGELL, Mr. WEXLER, Mr. SCOTT of Virginia, Mr. JOHNSON of Georgia, Mr. LARSEN of Washington, Ms. LORETTA SANCHEZ of California, Mr. BISHOP of Georgia, Mr. CUMMINGS, Mr. RUSH, Ms. NORTON, Ms. BALDWIN, and Mr. ROTHMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit racial profiling.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “End Racial Profiling Act of 2007” or “ERPA”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings, purposes, and intent.
- Sec. 3. Definitions.

TITLE I—PROHIBITION OF RACIAL PROFILING

- Sec. 101. Prohibition.
- Sec. 102. Enforcement.

**TITLE II—PROGRAMS TO ELIMINATE RACIAL PROFILING BY
FEDERAL LAW ENFORCEMENT AGENCIES**

- Sec. 201. Policies to eliminate racial profiling.

**TITLE III—PROGRAMS TO ELIMINATE RACIAL PROFILING BY
STATE, LOCAL, AND INDIAN TRIBAL LAW ENFORCEMENT
AGENCIES**

- Sec. 301. Policies required for grants.
- Sec. 302. Administrative complaint procedure or independent auditor program
required for grants.
- Sec. 303. Involvement of Attorney General.
- Sec. 304. Data collection demonstration project.
- Sec. 305. Best practices development grants.
- Sec. 306. Authorization of appropriations.

TITLE IV—DATA COLLECTION

- Sec. 401. Attorney General to issue regulations.
- Sec. 402. Publication of data.
- Sec. 403. Limitations on publication of data.

**TITLE V—DEPARTMENT OF JUSTICE REGULATIONS AND
REPORTS ON RACIAL PROFILING IN THE UNITED STATES**

- Sec. 501. Attorney General to issue regulations and reports.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Severability.
- Sec. 602. Savings clause.

6 **SEC. 2. FINDINGS, PURPOSES, AND INTENT.**

7 (a) **FINDINGS.**—Congress finds the following:

1 (1) Federal, State, and local law enforcement
2 agents play a vital role in protecting the public from
3 crime and protecting the Nation from terrorism. The
4 vast majority of law enforcement agents nationwide
5 discharge their duties professionally and without
6 bias.

7 (2) The use by police officers of race, ethnicity,
8 national origin, or religion in deciding which persons
9 should be subject to traffic stops, stops and frisks,
10 questioning, searches, and seizures is improper.

11 (3) In his address to a joint session of Congress
12 on February 27, 2001, President George W. Bush
13 declared that “racial profiling is wrong and we will
14 end it in America.”. He directed the Attorney Gen-
15 eral to implement this policy.

16 (4) In June 2003, the Department of Justice
17 issued a Policy Guidance regarding racial profiling
18 by Federal law enforcement agencies which stated:
19 “Racial profiling in law enforcement is not merely
20 wrong, but also ineffective. Race-based assumptions
21 in law enforcement perpetuate negative racial stereo-
22 types that are harmful to our rich and diverse de-
23 mocracy, and materially impair our efforts to main-
24 tain a fair and just society.”.

1 (5) The Department of Justice Guidance is a
2 useful first step, but does not achieve the President’s
3 stated goal of ending racial profiling in America,
4 as—

5 (A) it does not apply to State and local law
6 enforcement agencies;

7 (B) it does not contain a meaningful en-
8 forcement mechanism;

9 (C) it does not require data collection; and

10 (D) it contains an overbroad exception for
11 immigration and national security matters.

12 (6) Current efforts by State and local govern-
13 ments to eradicate racial profiling and redress the
14 harms it causes, while also laudable, have been lim-
15 ited in scope and insufficient to address this national
16 problem. Therefore, Federal legislation is needed.

17 (7) Statistical evidence from across the country
18 demonstrates that racial profiling is a real and
19 measurable phenomenon.

20 (8) As of November 15, 2000, the Department
21 of Justice had 14 publicly noticed, ongoing, pattern
22 or practice investigations involving allegations of ra-
23 cial profiling and had filed 5 pattern or practice law-
24 suits involving allegations of racial profiling, with 4
25 of those cases resolved through consent decrees.

1 (9) A large majority of individuals subjected to
2 stops and other enforcement activities based on race,
3 ethnicity, national origin, or religion are found to be
4 law abiding and therefore racial profiling is not an
5 effective means to uncover criminal activity.

6 (10) A 2001 Department of Justice report on
7 citizen-police contacts that occurred in 1999, found
8 that, although Blacks and Hispanics were more like-
9 ly to be stopped and searched, they were less likely
10 to be in possession of contraband. On average,
11 searches and seizures of Black drivers yielded evi-
12 dence only 8 percent of the time, searches and sei-
13 zures of Hispanic drivers yielded evidence only 10
14 percent of the time, and searches and seizures of
15 White drivers yielded evidence 17 percent of the
16 time.

17 (11) A 2000 General Accounting Office report
18 on the activities of the United States Customs Serv-
19 ice during fiscal year 1998 found that—

20 (A) Black women who were United States
21 citizens were 9 times more likely than White
22 women who were United States citizens to be x-
23 rayed after being frisked or patted down;

24 (B) Black women who were United States
25 citizens were less than half as likely as White

1 women who were United States citizens to be
2 found carrying contraband; and

3 (C) in general, the patterns used to select
4 passengers for more intrusive searches resulted
5 in women and minorities being selected at rates
6 that were not consistent with the rates of find-
7 ing contraband.

8 (12) A 2005 report of the Bureau of Justice
9 Statistics of the Department of Justice on citizen-
10 police contacts that occurred in 2002, found that, al-
11 though Whites, Blacks, and Hispanics were stopped
12 by the police at the same rate—

13 (A) Blacks and Hispanics were much more
14 likely to be arrested than Whites;

15 (B) Hispanics were much more likely to be
16 ticketed than Blacks or Whites;

17 (C) Blacks and Hispanics were much more
18 likely to report the use or threatened use of
19 force by a police officer;

20 (D) Blacks and Hispanics were much more
21 likely to be handcuffed than Whites; and

22 (E) Blacks and Hispanics were much more
23 likely to have their vehicles searched than
24 Whites.

1 (13) In some jurisdictions, local law enforce-
2 ment practices, such as ticket and arrest quotas and
3 similar management practices, may have the unin-
4 tended effect of encouraging law enforcement agents
5 to engage in racial profiling.

6 (14) Racial profiling harms individuals sub-
7 jected to it because they experience fear, anxiety, hu-
8 miliation, anger, resentment, and cynicism when
9 they are unjustifiably treated as criminal suspects.
10 By discouraging individuals from traveling freely, ra-
11 cial profiling impairs both interstate and intrastate
12 commerce.

13 (15) Racial profiling damages law enforcement
14 and the criminal justice system as a whole by under-
15 mining public confidence and trust in the police, the
16 courts, and the criminal law.

17 (16) In the wake of the September 11, 2001,
18 terrorist attacks, many Arabs, Muslims, Central and
19 South Asians, and Sikhs, as well as other immi-
20 grants and Americans of foreign descent, were treat-
21 ed with generalized suspicion and subjected to
22 searches and seizures based upon religion and na-
23 tional origin, without trustworthy information link-
24 ing specific individuals to criminal conduct. Such
25 profiling has failed to produce tangible benefits, yet

1 has created a fear and mistrust of law enforcement
2 agencies in these communities.

3 (17) Racial profiling violates the equal protec-
4 tion clause of the fourteenth amendment to the Con-
5 stitution of the United States. Using race, ethnicity,
6 religion, or national origin as a proxy for criminal
7 suspicion violates the constitutional requirement that
8 police and other government officials accord to all
9 citizens the equal protection of the law. *Batson v.*
10 *Kentucky*, 476 U.S. 79 (1986); *Palmore v. Sidoti*,
11 466 U.S. 429 (1984).

12 (18) Racial profiling is not adequately ad-
13 dressed through suppression motions in criminal
14 cases for 2 reasons. First, the Supreme Court held,
15 in *Whren v. United States*, 517 U.S. 806 (1996),
16 that the racially discriminatory motive of a police of-
17 ficer in making an otherwise valid traffic stop does
18 not warrant the suppression of evidence under the
19 fourth amendment to the Constitution of the United
20 States. Second, since most stops do not result in the
21 discovery of contraband, there is no criminal pros-
22 ecution and no evidence to suppress.

23 (19) A comprehensive national solution is need-
24 ed to address racial profiling at the Federal, State,
25 and local levels. Federal support is needed to combat

1 racial profiling through specialized training of law
2 enforcement agents, improved management systems,
3 and the acquisition of technology such as in-car
4 video cameras.

5 (b) PURPOSES.—The purposes of this Act are—

6 (1) to enforce the constitutional right to equal
7 protection of the laws, pursuant to the fifth amend-
8 ment and section 5 of the fourteenth amendment to
9 the Constitution of the United States;

10 (2) to enforce the constitutional right to protec-
11 tion against unreasonable searches and seizures,
12 pursuant to the fourteenth amendment to the Con-
13 stitution of the United States;

14 (3) to enforce the constitutional right to inter-
15 state travel, pursuant to section 2 of article IV of
16 the Constitution of the United States; and

17 (4) to regulate interstate commerce, pursuant
18 to clause 3 of section 8 of article I of the Constitu-
19 tion of the United States.

20 (c) INTENT.—This Act is not intended to and should
21 not impede the ability of Federal, State, and local law en-
22 forcement to protect the country and its people from any
23 threat, be it foreign or domestic.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

1 (1) COVERED PROGRAM.—The term “covered
2 program” means any program or activity funded in
3 whole or in part with funds made available under—

4 (A) the Edward Byrne Memorial State and
5 Local Law Enforcement Assistance Program
6 (part E of title I of the Omnibus Crime Control
7 and Safe Streets Act of 1968 (42 U.S.C. 3750
8 et seq.)); and

9 (B) the “Cops on the Beat” program
10 under part Q of title I of the Omnibus Crime
11 Control and Safe Streets Act of 1968 (42
12 U.S.C. 3796dd et seq.), but not including any
13 program, project, or other activity specified in
14 section 1701(b)(13) of that Act (42 U.S.C.
15 3796dd(b)(13)).

16 (2) GOVERNMENTAL BODY.—The term “govern-
17 mental body” means any department, agency, special
18 purpose district, or other instrumentality of Federal,
19 State, local, or Indian tribal government.

20 (3) INDIAN TRIBE.—The term “Indian tribe”
21 has the same meaning as in section 103 of the Juve-
22 nile Justice and Delinquency Prevention Act of 1974
23 (42 U.S.C. 5603)).

24 (4) LAW ENFORCEMENT AGENCY.—The term
25 “law enforcement agency” means any Federal,

1 State, local, or Indian tribal public agency engaged
2 in the prevention, detection, or investigation of viola-
3 tions of criminal, immigration, or customs laws.

4 (5) LAW ENFORCEMENT AGENT.—The term
5 “law enforcement agent” means any Federal, State,
6 local, or Indian tribal official responsible for enforce-
7 ing criminal, immigration, or customs laws, includ-
8 ing police officers and other agents of a law enforce-
9 ment agency.

10 (6) RACIAL PROFILING.—The term “racial
11 profiling” means the practice of a law enforcement
12 agent or agency relying, to any degree, on race, eth-
13 nicity, national origin, or religion in selecting which
14 individual to subject to routine or spontaneous inves-
15 tigatory activities or in deciding upon the scope and
16 substance of law enforcement activity following the
17 initial investigatory procedure, except when there is
18 trustworthy information, relevant to the locality and
19 timeframe, that links a person of a particular race,
20 ethnicity, national origin, or religion to an identified
21 criminal incident or scheme.

22 (7) ROUTINE OR SPONTANEOUS INVESTIGATORY
23 ACTIVITIES.—The term “routine or spontaneous in-
24 vestigatory activities” means the following activities
25 by a law enforcement agent:

1 (A) Interviews.

2 (B) Traffic stops.

3 (C) Pedestrian stops.

4 (D) Frisks and other types of body
5 searches.

6 (E) Consensual or nonconsensual searches
7 of the persons or possessions (including vehi-
8 cles) of motorists or pedestrians.

9 (F) Inspections and interviews of entrants
10 into the United States that are more extensive
11 than those customarily carried out.

12 (G) Immigration related workplace inves-
13 tigations.

14 (H) Such other types of law enforcement
15 encounters compiled by the Federal Bureau of
16 Investigation and the Justice Departments Bu-
17 reau of Justice Statistics.

18 (8) REASONABLE REQUEST.—The term “rea-
19 sonable request” means all requests for information,
20 except for those that—

21 (A) are immaterial to the investigation;

22 (B) would result in the unnecessary expo-
23 sure of personal information; or

1 (C) would place a severe burden on the re-
2 sources of the law enforcement agency given its
3 size.

4 (9) UNIT OF LOCAL GOVERNMENT.—The term
5 “unit of local government” means—

6 (A) any city, county, township, town, bor-
7 rough, parish, village, or other general purpose
8 political subdivision of a State;

9 (B) any law enforcement district or judicial
10 enforcement district that—

11 (i) is established under applicable
12 State law; and

13 (ii) has the authority to, in a manner
14 independent of other State entities, estab-
15 lish a budget and impose taxes;

16 (C) any Indian tribe that performs law en-
17 forcement functions, as determined by the Sec-
18 retary of the Interior; or

19 (D) for the purposes of assistance eligi-
20 bility, any agency of the government of the Dis-
21 trict of Columbia or the Federal Government
22 that performs law enforcement functions in and
23 for—

24 (i) the District of Columbia; or

1 (ii) any Trust Territory of the United
2 States.

3 **TITLE I—PROHIBITION OF**
4 **RACIAL PROFILING**

5 **SEC. 101. PROHIBITION.**

6 No law enforcement agent or law enforcement agency
7 shall engage in racial profiling.

8 **SEC. 102. ENFORCEMENT.**

9 (a) REMEDY.—The United States, or an individual
10 injured by racial profiling, may enforce this title in a civil
11 action for declaratory or injunctive relief, filed either in
12 a State court of general jurisdiction or in a district court
13 of the United States.

14 (b) PARTIES.—In any action brought under this title,
15 relief may be obtained against—

16 (1) any governmental body that employed any
17 law enforcement agent who engaged in racial
18 profiling;

19 (2) any agent of such body who engaged in ra-
20 cial profiling; and

21 (3) any person with supervisory authority over
22 such agent.

23 (c) NATURE OF PROOF.—Proof that the routine or
24 spontaneous investigatory activities of law enforcement
25 agents in a jurisdiction have had a disparate impact on

1 racial, ethnic, or religious minorities shall constitute prima
2 facie evidence of a violation of this title.

3 (d) ATTORNEY'S FEES.—In any action or proceeding
4 to enforce this title against any governmental unit, the
5 court may allow a prevailing plaintiff, other than the
6 United States, reasonable attorney's fees as part of the
7 costs, and may include expert fees as part of the attorney's
8 fee.

9 **TITLE II—PROGRAMS TO ELIMI-**
10 **NATE RACIAL PROFILING BY**
11 **FEDERAL LAW ENFORCE-**
12 **MENT AGENCIES**

13 **SEC. 201. POLICIES TO ELIMINATE RACIAL PROFILING.**

14 (a) IN GENERAL.—Federal law enforcement agencies
15 shall—

16 (1) maintain adequate policies and procedures
17 designed to eliminate racial profiling; and

18 (2) cease existing practices that permit racial
19 profiling.

20 (b) POLICIES.—The policies and procedures de-
21 scribed in subsection (a)(1) shall include—

22 (1) a prohibition on racial profiling;

23 (2) training on racial profiling issues as part of
24 Federal law enforcement training;

1 (3) the collection of data in accordance with the
2 regulations issued by the Attorney General under
3 section 401;

4 (4) procedures for receiving, investigating, and
5 responding meaningfully to complaints alleging ra-
6 cial profiling by law enforcement agents;

7 (5) policies requiring that corrective action be
8 taken when law enforcement agents are determined
9 to have engaged in racial profiling; and

10 (6) such other policies or procedures that the
11 Attorney General deems necessary to eliminate racial
12 profiling.

13 **TITLE III—PROGRAMS TO ELIMI-**
14 **NATE RACIAL PROFILING BY**
15 **STATE, LOCAL, AND INDIAN**
16 **TRIBAL LAW ENFORCEMENT**
17 **AGENCIES**

18 **SEC. 301. POLICIES REQUIRED FOR GRANTS.**

19 (a) IN GENERAL.—An application by a State, a unit
20 of local government, or a State, local, or Indian tribal law
21 enforcement agency for funding under a covered program
22 shall include a certification that such State, unit of local
23 government, or law enforcement agency, and any law en-
24 forcement agency to which it will distribute funds—

1 (1) maintains adequate policies and procedures
2 designed to eliminate racial profiling; and

3 (2) has eliminated any existing practices that
4 permit or encourage racial profiling.

5 (b) POLICIES.—The policies and procedures de-
6 scribed in subsection (a)(1) shall include—

7 (1) a prohibition on racial profiling;

8 (2) training on racial profiling issues as part of
9 law enforcement training;

10 (3) the collection of data in accordance with the
11 regulations issued by the Attorney General under
12 section 401;

13 (4) participation in an administrative complaint
14 procedure or independent auditor program that
15 meets the requirements of section 302;

16 (5) policies requiring that corrective action be
17 taken when law enforcement agents are determined
18 to have engaged in racial profiling; and

19 (6) such other policies or procedures that the
20 Attorney General deems necessary to eliminate racial
21 profiling.

22 (c) EFFECTIVE DATE.—This section shall take effect
23 12 months after the date of enactment of this Act.

1 **SEC. 302. ADMINISTRATIVE COMPLAINT PROCEDURE OR**
2 **INDEPENDENT AUDITOR PROGRAM RE-**
3 **QUIRED FOR GRANTS.**

4 (a) ESTABLISHMENT OF ADMINISTRATIVE COM-
5 PLAINT PROCEDURE OR INDEPENDENT AUDITOR PRO-
6 GRAM.—An application by a State or unit of local govern-
7 ment for funding under a covered program shall include
8 a certification that the applicant has established and is
9 maintaining, for each law enforcement agency of the appli-
10 cant, either—

11 (1) an administrative complaint procedure that
12 meets the requirements of subsection (b); or

13 (2) an independent auditor program that meets
14 the requirements of subsection (c).

15 (b) REQUIREMENTS FOR ADMINISTRATIVE COM-
16 PLAINT PROCEDURE.—To meet the requirements of this
17 subsection, an administrative complaint procedure shall—

18 (1) allow any person who believes there has
19 been a violation of section 101 to file a complaint;

20 (2) allow a complaint to be made—

21 (A) in writing or orally;

22 (B) in person or by mail, telephone, fac-
23 simile, or electronic mail; and

24 (C) anonymously or through a third party;

25 (3) require that the complaint be investigated
26 and heard by an independent review board that—

1 (A) is located outside of any law enforce-
2 ment agency or the law office of the State or
3 unit of local government;

4 (B) includes, as at least a majority of its
5 members, individuals who are not employees of
6 the State or unit of local government;

7 (C) does not include as a member any indi-
8 vidual who is then serving as a law enforcement
9 agent;

10 (D) possesses the power to request all rel-
11 evant information from a law enforcement
12 agency; and

13 (E) possesses staff and resources sufficient
14 to perform the duties assigned to the inde-
15 pendent review board under this subsection;

16 (4) provide that the law enforcement agency
17 shall comply with all reasonable requests for infor-
18 mation in a timely manner;

19 (5) require the review board to inform the At-
20 torney General when a law enforcement agency fails
21 to comply with a request for information under this
22 subsection;

23 (6) provide that a hearing be held, on the
24 record, at the request of the complainant;

1 (7) provide for an appropriate remedy, and
2 publication of the results of the inquiry by the re-
3 view board, if the review board determines that a
4 violation of section 101 has occurred;

5 (8) provide that the review board shall dismiss
6 the complaint and publish the results of the inquiry
7 by the review board, if the review board determines
8 that no violation has occurred;

9 (9) provide that the review board shall make a
10 final determination with respect to a complaint in a
11 reasonably timely manner;

12 (10) provide that a record of all complaints and
13 proceedings be sent to the Civil Rights Division and
14 the Bureau of Justice Statistics of the Department
15 of Justice;

16 (11) provide that no published information shall
17 reveal the identity of the law enforcement officer,
18 the complainant, or any other individual who is in-
19 volved in a detention; and

20 (12) otherwise operate in a manner consistent
21 with regulations promulgated by the Attorney Gen-
22 eral under section 303.

23 (c) REQUIREMENTS FOR INDEPENDENT AUDITOR
24 PROGRAM.—To meet the requirements of this subsection,
25 an independent auditor program shall—

1 (1) provide for the appointment of an inde-
2 pendent auditor who is not a sworn officer or em-
3 ployee of a law enforcement agency;

4 (2) provide that the independent auditor be
5 given staff and resources sufficient to perform the
6 duties of the independent auditor program under
7 this section;

8 (3) provide that the independent auditor be
9 given full access to all relevant documents and data
10 of a law enforcement agency;

11 (4) require the independent auditor to inform
12 the Attorney General when a law enforcement agen-
13 cy fails to comply with a request for information
14 under this subsection;

15 (5) require the independent auditor to issue a
16 public report each year that—

17 (A) addresses the efforts of each law en-
18 forcement agency of the State or unit of local
19 government to combat racial profiling; and

20 (B) recommends any necessary changes to
21 the policies and procedures of any law enforce-
22 ment agency;

23 (6) require that each law enforcement agency
24 issue a public response to each report issued by the
25 auditor under paragraph (5);

1 (7) provide that the independent auditor, upon
2 determining that a law enforcement agency is not in
3 compliance with this Act, shall forward the public
4 report directly to the Attorney General;

5 (8) provide that the independent auditor shall
6 engage in community outreach on racial profiling
7 issues; and

8 (9) otherwise operate in a manner consistent
9 with regulations promulgated by the Attorney Gen-
10 eral under section 303.

11 (d) LOCAL USE OF STATE COMPLAINT PROCEDURE
12 OR INDEPENDENT AUDITOR PROGRAM.—

13 (1) IN GENERAL.—A State shall permit a unit
14 of local government within its borders to use the ad-
15 ministrative complaint procedure or independent
16 auditor program it establishes under this section.

17 (2) EFFECT OF USE.—A unit of local govern-
18 ment shall be deemed to have established and main-
19 tained an administrative complaint procedure or
20 independent auditor program for purposes of this
21 section if the unit of local government uses the ad-
22 ministrative complaint procedure or independent
23 auditor program of either the State in which it is lo-
24 cated, or another unit of local government in the
25 State in which it is located.

1 (e) EFFECTIVE DATE.—This section shall go into ef-
2 fect 12 months after the date of enactment of this Act.

3 **SEC. 303. INVOLVEMENT OF ATTORNEY GENERAL.**

4 (a) REGULATIONS.—

5 (1) IN GENERAL.—Not later than 6 months
6 after the date of enactment of this Act and in con-
7 sultation with stakeholders, including Federal, State,
8 and local law enforcement agencies and community,
9 professional, research, and civil rights organizations,
10 the Attorney General shall issue regulations for the
11 operation of the administrative complaint procedures
12 and independent auditor programs required under
13 subsections (b) and (c) of section 302.

14 (2) GUIDELINES.—The regulations issued
15 under paragraph (1) shall contain guidelines that
16 ensure the fairness, effectiveness, and independence
17 of the administrative complaint procedures and inde-
18 pendent auditor programs.

19 (b) NONCOMPLIANCE.—If the Attorney General de-
20 termines that the recipient of any covered grant is not in
21 compliance with the requirements of section 301 or 302
22 or the regulations issued under subsection (a), the Attor-
23 ney General shall withhold, in whole or in part, funds for
24 1 or more covered grants, until the grantee establishes
25 compliance.

1 (c) PRIVATE PARTIES.—The Attorney General shall
2 provide notice and an opportunity for private parties to
3 present evidence to the Attorney General that a grantee
4 is not in compliance with the requirements of this title.

5 **SEC. 304. DATA COLLECTION DEMONSTRATION PROJECT.**

6 (a) IN GENERAL.—The Attorney General shall,
7 through competitive grants or contracts, carry out a 2-
8 year demonstration project for the purpose of developing
9 and implementing data collection on hit rates for stops
10 and searches. The data shall be disaggregated by race,
11 ethnicity, national origin, and religion.

12 (b) COMPETITIVE AWARDS.—The Attorney General
13 shall provide not more than 5 grants or contracts to police
14 departments that—

15 (1) are not already collecting data voluntarily or
16 otherwise; and

17 (2) serve communities where there is a signifi-
18 cant concentration of racial or ethnic minorities.

19 (c) REQUIRED ACTIVITIES.—Activities carried out
20 under subsection (b) shall include—

21 (1) developing a data collection tool;

22 (2) training of law enforcement personnel on
23 data collection;

24 (3) collecting data on hit rates for stops and
25 searches; and

1 (4) reporting the compiled data to the Attorney
2 General.

3 (d) EVALUATION.—Not later than 3 years after the
4 date of enactment of this Act, the Attorney General shall
5 enter into a contract with an institution of higher edu-
6 cation to analyze the data collected by each of the 5 sites
7 funded under this section.

8 (e) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to carry out activities
10 under this section—

11 (1) \$5,000,000, over a 2-year period for a dem-
12 onstration project on 5 sites; and

13 (2) \$500,000 to carry out the evaluation in sub-
14 section (d).

15 **SEC. 305. BEST PRACTICES DEVELOPMENT GRANTS.**

16 (a) GRANT AUTHORIZATION.—The Attorney General,
17 through the Bureau of Justice Assistance, may make
18 grants to States, law enforcement agencies, and units of
19 local government to develop and implement best practice
20 devices and systems to eliminate racial profiling.

21 (b) USE OF FUNDS.—The funds provided under sub-
22 section (a) may be used for—

23 (1) the development and implementation of
24 training to prevent racial profiling and to encourage
25 more respectful interaction with the public;

1 (2) the acquisition and use of technology to fa-
2 cilitate the collection of data regarding routine inves-
3 tigatory activities sufficient to permit an analysis of
4 these activities by race, ethnicity, national origin,
5 and religion;

6 (3) the analysis of data collected by law en-
7 forcement agencies to determine whether the data
8 indicate the existence of racial profiling;

9 (4) the acquisition and use of technology to
10 verify the accuracy of data collection, including in-
11 car video cameras and portable computer systems;

12 (5) the development and acquisition of early
13 warning systems and other feedback systems that
14 help identify officers or units of officers engaged in,
15 or at risk of engaging in, racial profiling or other
16 misconduct, including the technology to support such
17 systems;

18 (6) the establishment or improvement of sys-
19 tems and procedures for receiving, investigating, and
20 responding meaningfully to complaints alleging ra-
21 cial, ethnic, or religious bias by law enforcement
22 agents;

23 (7) the establishment or improvement of man-
24 agement systems to ensure that supervisors are held

1 accountable for the conduct of their subordinates;
2 and

3 (8) the establishment and maintenance of an
4 administrative complaint procedure or independent
5 auditor program under section 302.

6 (c) **EQUITABLE DISTRIBUTION.**—The Attorney Gen-
7 eral shall ensure that grants under this section are award-
8 ed in a manner that reserves an equitable share of funding
9 for small and rural law enforcement agencies.

10 (d) **APPLICATION.**—Each State, local law enforce-
11 ment agency, or unit of local government desiring a grant
12 under this section shall submit an application to the Attor-
13 ney General at such time, in such manner, and accom-
14 panied by such information as the Attorney General may
15 reasonably require.

16 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums
18 as are necessary to carry out this title.

19 **TITLE IV—DATA COLLECTION**

20 **SEC. 401. ATTORNEY GENERAL TO ISSUE REGULATIONS.**

21 (a) **REGULATIONS.**—Not later than 6 months after
22 the enactment of this Act, the Attorney General, in con-
23 sultation with stakeholders, including Federal, State, and
24 local law enforcement agencies and community, profes-
25 sional, research, and civil rights organizations, shall issue

1 regulations for the collection and compilation of data
2 under sections 201 and 301.

3 (b) REQUIREMENTS.—The regulations issued under
4 subsection (a) shall—

5 (1) provide for the collection of data on all rou-
6 tine or spontaneous investigatory activities;

7 (2) provide that the data collected shall—

8 (A) be collected by race, ethnicity, national
9 origin, gender, and religion, as perceived by the
10 law enforcement officer;

11 (B) include the date, time, and location of
12 the investigatory activities; and

13 (C) include detail sufficient to permit an
14 analysis of whether a law enforcement agency is
15 engaging in racial profiling;

16 (3) provide that a standardized form shall be
17 made available to law enforcement agencies for the
18 submission of collected data to the Department of
19 Justice;

20 (4) provide that law enforcement agencies shall
21 compile data on the standardized form created under
22 paragraph (3), and submit the form to the Civil
23 Rights Division and the Bureau of Justice Statistics
24 of the Department of Justice;

1 (5) provide that law enforcement agencies shall
2 maintain all data collected under this Act for not
3 less than 4 years;

4 (6) include guidelines for setting comparative
5 benchmarks, consistent with best practices, against
6 which collected data shall be measured; and

7 (7) provide that the Bureau of Justice Statis-
8 tics shall—

9 (A) analyze the data for any statistically
10 significant disparities, including—

11 (i) disparities in the percentage of
12 drivers or pedestrians stopped relative to
13 the proportion of the population passing
14 through the neighborhood;

15 (ii) disparities in the percentage of
16 false stops relative to the percentage of
17 drivers or pedestrians stopped; and

18 (iii) disparities in the frequency of
19 searches performed on minority drivers
20 and the frequency of searches performed
21 on non-minority drivers; and

22 (B) not later than 3 years after the date
23 of enactment of this Act, and annually there-
24 after, prepare a report regarding the findings of
25 the analysis conducted under subparagraph (A)

1 and provide the report to Congress and make
2 the report available to the public, including on
3 a website of the Department of Justice.

4 **SEC. 402. PUBLICATION OF DATA.**

5 The Bureau of Justice Statistics shall provide to Con-
6 gress and make available to the public, together with each
7 annual report described in section 401, the data collected
8 pursuant to this Act.

9 **SEC. 403. LIMITATIONS ON PUBLICATION OF DATA.**

10 The name or identifying information of a law enforce-
11 ment officer, complainant, or any other individual involved
12 in any activity for which data is collected and compiled
13 under this Act shall not be—

14 (1) released to the public;

15 (2) disclosed to any person, except for such dis-
16 closures as are necessary to comply with this Act; or

17 (3) subject to disclosure under section 552 of
18 title 5, United States Code (commonly know as the
19 Freedom of Information Act).

1 **TITLE V—DEPARTMENT OF JUS-**
2 **TICE REGULATIONS AND RE-**
3 **PORTS ON RACIAL**
4 **PROFILING IN THE UNITED**
5 **STATES**

6 **SEC. 501. ATTORNEY GENERAL TO ISSUE REGULATIONS**
7 **AND REPORTS.**

8 (a) REGULATIONS.—In addition to the regulations re-
9 quired under sections 303 and 401, the Attorney General
10 shall issue such other regulations as the Attorney General
11 determines are necessary to implement this Act.

12 (b) REPORTS.—

13 (1) IN GENERAL.—Not later than 2 years after
14 the date of enactment of this Act, and each year
15 thereafter, the Attorney General shall submit to
16 Congress a report on racial profiling by law enforce-
17 ment agencies.

18 (2) SCOPE.—Each report submitted under
19 paragraph (1) shall include—

20 (A) a summary of data collected under sec-
21 tions 201(b)(3) and 301(b)(1)(C) and from any
22 other reliable source of information regarding
23 racial profiling in the United States;

1 (B) a discussion of the findings in the
2 most recent report prepared by the Bureau of
3 Justice Statistics under section 401(a)(8);

4 (C) the status of the adoption and imple-
5 mentation of policies and procedures by Federal
6 law enforcement agencies under section 201;

7 (D) the status of the adoption and imple-
8 mentation of policies and procedures by State
9 and local law enforcement agencies under sec-
10 tions 301 and 302; and

11 (E) a description of any other policies and
12 procedures that the Attorney General believes
13 would facilitate the elimination of racial
14 profiling.

15 **TITLE VI—MISCELLANEOUS** 16 **PROVISIONS**

17 **SEC. 601. SEVERABILITY.**

18 If any provision of this Act or the application of such
19 provision to any person or circumstance is held to be un-
20 constitutional, the remainder of this Act and the applica-
21 tion of the provisions of this Act to any person or cir-
22 cumstance shall not be affected thereby.

23 **SEC. 602. SAVINGS CLAUSE.**

24 Nothing in this Act shall be construed to limit legal
25 or administrative remedies under section 1979 of the Re-

1 vised Statutes of the United States (42 U.S.C. 1983), sec-
2 tion 210401 of the Violent Crime Control and Law En-
3 forcement Act of 1994 (42 U.S.C. 14141), the Omnibus
4 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
5 3701 et seq.), and title VI of the Civil Rights Act of 1964
6 (42 U.S.C. 2000d et seq.).

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