

108TH CONGRESS
2D SESSION

S. 2112

To prohibit racial profiling by Federal, State, and local law enforcement agencies.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2004

Mr. VOINOVICH (for himself and Mr. BREAU) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To prohibit racial profiling by Federal, State, and local law enforcement agencies.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Uniting Neighborhoods
5 and Individuals To Eliminate Racial Profiling Act” or
6 “UNITE Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) The overwhelming majority of Federal,
10 State, and local law enforcement officers throughout

1 the Nation discharge their duties professionally and
2 without bias.

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

8 (3) Racial profiling violates the equal protection
9 clause of the United States Constitution.

10 (4) Using race, ethnicity, or national origin as
11 a proxy for criminal suspicion violates the constitu-
12 tional requirement that police and other government
13 officials accord to all citizens the equal protection of
14 the law. *Arlington Heights v. Metropolitan Housing*
15 *Development Corporation*, 429 U.S. 252 (1977).

16 (5) Racial profiling fosters discord in commu-
17 nities.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) COVERED GRANT PROGRAM.—The term
21 “covered grant program” means any grant program
22 administered by the Department of Justice.

23 (2) LAW ENFORCEMENT AGENCY.—The term
24 “law enforcement agency” means a Federal, State,
25 local, or Indian tribal public agency engaged in the

1 prevention, detection, or investigation of violations of
2 criminal, immigration, or customs laws.

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

9 (4) RACIAL PROFILING.—The term “racial
10 profiling” means any police initiated action that re-
11 lies on the race, ethnicity, or national origin rather
12 than the behavior of an individual or information
13 that leads the police to a particular individual who
14 has been identified as being, or having been, en-
15 gaged in criminal activity.

16 (5) RACIAL PROFILING PLAN.—The term “ra-
17 cial profiling plan” means the plan developed and
18 implemented by a State or local law enforcement
19 agency in accordance with this Act.

20 (6) TASK FORCE.—The term “Task Force”
21 means the National Task Force on Racial Profiling
22 established under section 201.

23 **SEC. 4. PROHIBITION ON RACIAL PROFILING.**

24 No Federal, State, or local law enforcement agent or
25 agency shall engage in racial profiling.

1 **SEC. 5. INTENT OF ACT.**

2 This Act does not and should not impede the ability
3 of Federal, State, and local law enforcement to protect the
4 country and its people from any threat, be it foreign or
5 domestic, including matters of homeland security and the
6 tracking and identification of terrorists organizations.

7 **TITLE I—PROGRAM TO ELIMI-**
8 **NATE RACIAL PROFILING BY**
9 **FEDERAL LAW ENFORCE-**
10 **MENT AGENCIES**

11 **SEC. 101. POLICIES TO ELIMINATE RACIAL PROFILING.**

12 (a) IN GENERAL.—Federal law enforcement agencies
13 shall—

14 (1) maintain adequate policies and procedures
15 designed to eliminate racial profiling; and

16 (2) cease existing practices that encourage ra-
17 cial profiling.

18 (b) POLICIES.—The policies and procedures referred
19 to in subsection (a) shall include—

20 (1) a prohibition on racial profiling;

21 (2) educational training on racial profiling
22 issues as part of Federal law enforcement training;

23 (3) procedures for receiving, investigating, and
24 responding meaningfully to complaints alleging ra-
25 cial profiling by Federal law enforcement agents of
26 the agency; and

1 (4) procedures to discipline Federal law en-
2 forcement agents who engage in racial profiling.

3 **TITLE II—PROGRAM TO ELIMI-**
4 **NATE RACIAL PROFILING BY**
5 **STATE AND LOCAL LAW EN-**
6 **FORCEMENT AGENCIES**

7 **SEC. 201. NATIONAL TASK FORCE ON RACIAL PROFILING.**

8 (a) ESTABLISHMENT.—There is established within
9 the Department of Justice, the National Task Force on
10 Racial Profiling.

11 (b) DUTIES.—

12 (1) IN GENERAL.—The Task Force shall—

13 (A) establish goals and objectives;

14 (B) form subcommittees to conduct re-
15 search, host meetings, conferences, and sympo-
16 siums;

17 (C) establish focus groups to accomplish
18 the goals and objectives outlined by the Task
19 Force.; and

20 (D) oversee State-based administrative
21 complaint procedures.

22 (2) REPORT.—Not later than 6 months after
23 the date of enactment of this Act, the Task Force
24 shall, based on information from the subcommittees,
25 hearings, and other reliable sources, prepare a com-

1 prehensive report that outlines lessons learned and
2 best practices, as well as recommendations for elimi-
3 nating racial profiling.

4 (c) MEMBERSHIP.—

5 (1) IN GENERAL.—The Task Force shall con-
6 sist of—

7 (A) 1 member appointed by the President,
8 subject to the approval of the Attorney General
9 and the head of the Department of Justice Civil
10 Rights division;

11 (B) 1 member appointed by the Demo-
12 cratic leadership of the House of Representa-
13 tives and the Senate;

14 (C) 1 member appointed by the Republican
15 leadership of the House of Representatives and
16 the Senate; and

17 (D) 6 members appointed by the members
18 appointed under subparagraphs (A), (B), and
19 (C).

20 (2) INTEREST CATEGORIES.—The 6 members
21 appointed under paragraph (1)(D) shall represent
22 and have expertise in each of the following cat-
23 egories:

24 (A) Law enforcement.

25 (B) Civil rights.

1 (C) Community or faith-based.

2 (D) Government.

3 (E) Political or legislative.

4 (F) Professional research.

5 (3) CHAIRPERSON.—The member appointed by
6 the President shall serve as the chairperson of the
7 Task Force and shall have a permanent office with
8 the Department of Justice.

9 (4) PERIOD OF APPOINTMENT.—Members of
10 the Task Force shall serve 2-year terms, with the
11 exception of the chairperson who shall serve a 4-year
12 term.

13 (5) VACANCIES.—Any vacancy in the Task
14 Force shall not affect its powers, but shall be filled
15 in the same manner as the original appointment.

16 (d) RACIAL PROFILING EDUCATION AND AWARENESS
17 PROGRAM.—

18 (1) IN GENERAL.—The Task Force shall estab-
19 lish an education and awareness program on racial
20 profiling that includes information regarding the
21 negative effects of racial profiling on individuals and
22 law enforcement.

23 (2) PURPOSES OF PROGRAM.—The purposes of
24 the program established under paragraph (1) are
25 to—

1 (A) encourage State and local law enforce-
2 ment agencies to cease existing practices that
3 may promote racial profiling;

4 (B) encourage involvement by State and
5 local law enforcement agencies with the commu-
6 nity to address the problem of racial profiling;

7 (C) assist State and local law enforcement
8 agencies in developing and maintaining ade-
9 quate policies and procedures to prevent racial
10 profiling; and

11 (D) assist State and local law enforcement
12 agencies in developing and implementing inter-
13 nal training programs to combat racial profiling
14 and foster enhanced community relations.

15 (3) AVAILABILITY.—The program established
16 under paragraph (1) shall be offered—

17 (A) to State and local law enforcement
18 agencies; and

19 (B) at various regional centers across the
20 country to ensure that all law enforcement
21 agencies have reasonable access to the program.

1 **SEC. 202. PLAN TO ELIMINATE RACIAL PROFILING BY**
2 **STATE AND LOCAL LAW ENFORCEMENT**
3 **AGENCIES.**

4 (a) PLAN REQUIRED FOR GRANTS.—Not later than
5 12 months after the date of enactment of this Act, each
6 State and local law enforcement agency that desires funds
7 under a covered grant program shall include, with its ap-
8 plication for funds, certification that such agency is devel-
9 oping and is in the process of implementing a plan—

10 (1) to maintain adequate policies and proce-
11 dures designed to eliminate racial profiling; and

12 (2) that meets the requirements of subsection
13 (b).

14 (b) PLAN REQUIREMENTS.—

15 (1) IN GENERAL.—To meet the requirements of
16 this subsection, a plan shall—

17 (A) strictly prohibit law enforcement
18 agents from engaging in racial profiling;

19 (B) provide information to the public relat-
20 ing to the State-based administrative complaint
21 procedures in section 203;

22 (C) require appropriate action to be taken
23 against any law enforcement agent who, after
24 an investigation, is proven to have engaged in
25 racial profiling in violation of the agency's plan;
26 and

1 (D) include educational training on racial
2 profiling issues as part of law enforcement
3 training.

4 (c) IMPLEMENTATION OF PLAN.—Not later than 24
5 months after the date of enactment of this Act, each State
6 and local law enforcement agency that submitted the cer-
7 tification described in subsection (a) shall certify to the
8 Attorney General that the plan implemented by the agency
9 meets the requirements of subsection (b).

10 (d) PLAN REVISIONS.—

11 (1) IN GENERAL.—Any revisions to a racial
12 profiling plan that is developed and implemented by
13 a State or local law enforcement agency in accord-
14 ance with this title must be submitted to the Attor-
15 ney General for review.

16 (2) REVIEW.—The Attorney General may, at
17 the Attorney General's discretion, determine that a
18 State or local law enforcement agency is not in com-
19 pliance with the requirements of subsection (b).

20 (e) COMPLIANCE.—At any time during the implemen-
21 tation or revision of an agency's racial profiling plan, the
22 Attorney General may, if the Attorney General determines
23 that the agency or the plan has not met the requirements
24 of this section—

1 (1) make recommendations to the State or local
2 law enforcement agency to assist the agency in de-
3 veloping a plan that complies with this title; or

4 (2) withhold the grant that the agency desires,
5 in whole or in part, until the agency establishes com-
6 pliance.

7 **SEC. 203. STATE-BASED ADMINISTRATIVE COMPLAINT PRO-**
8 **CEDURES.**

9 (a) ESTABLISHMENT OF GRIEVANCE PROCE-
10 DURES.—A State that desires funding under a covered
11 grant program shall establish and maintain State-based
12 administrative complaint procedures that meet the re-
13 quirements of subsection (b).

14 (b) REQUIREMENTS.—To meet the requirements of
15 this subsection, complaint procedures shall—

16 (1) be uniform and nondiscriminatory;

17 (2) allow any person who believes there has
18 been a violation of section 4 to file a complaint;

19 (3) provide that a complaint be sworn in writ-
20 ing, signed by the person filing the complaint, and
21 notarized;

22 (4) allow the State to consolidate complaints
23 filed under paragraph (2);

24 (5) provide that a hearing may be held, on
25 record, at the request of the complainant;

1 (6) provide the appropriate remedy if the State
2 determines that a violation of section 4 has oc-
3 curred;

4 (7) provide that the State shall dismiss the
5 complaint and publish the results of the procedures
6 if the State determines that no violation of section
7 4 occurred;

8 (8) provide that the State shall make a final de-
9 termination with respect to a complaint prior to the
10 expiration of the 90-day period which begins on the
11 date the complaint is filed, unless the complainant
12 consents to a longer period for making such a deter-
13 mination;

14 (9) provide that if the State fails to meet the
15 deadline applicable under paragraph (8), the com-
16 plaint shall be resolved within 60 days under alter-
17 native dispute resolution procedures established pur-
18 suant to this section;

19 (10) provide that the record and other mate-
20 rials from any proceedings conducted under the com-
21 plaint procedures established by this section shall be
22 made available for use under the alternative dispute
23 resolution procedures; and

24 (11) provide a record of all complaints and pro-
25 ceedings to the Task Force.

1 (c) INVOLVEMENT OF ATTORNEY GENERAL.—If the
 2 Task Force makes the determination that any State or
 3 local law enforcement agency or individual law enforce-
 4 ment agent receives a number of complaints to indicate
 5 possible noncompliance with this Act, the complaints shall
 6 be referred to the Attorney General for further investiga-
 7 tion in accordance with procedures established by the At-
 8 torney General.

9 **TITLE III—GRANT PROGRAM TO** 10 **ELIMINATE RACIAL PROFILING**

11 **SEC. 301. GRANT PROGRAM.**

12 (a) GRANTS AUTHORIZED.—The Attorney General,
 13 through the Bureau of Justice Assistance, may make
 14 grants to State and local law enforcement agencies to as-
 15 sist such agencies in developing programs to eliminate ra-
 16 cial profiling.

17 (b) USE OF FUNDS.—Grants awarded pursuant to
 18 subsection (a) shall be used by State and local law enforce-
 19 ment agencies to—

20 (1) develop and implement plans to eliminate
 21 racial profiling in accordance with section 202; and

22 (2) establish and maintain administrative com-
 23 plaint procedures for racial profiling complaints in
 24 accordance with section 203.

1 (c) APPLICATION.—Each State or local law enforce-
2 ment agency desiring a grant under this section shall sub-
3 mit an application to the Attorney General at such time,
4 in such manner, and accompanied by such information as
5 the Attorney General may reasonably require.

6 **TITLE IV—AUTHORIZATION OF**
7 **APPROPRIATIONS**

8 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated such sums
10 as are necessary to carry out this Act.

