

110TH CONGRESS
1ST SESSION

S. 2481

To prohibit racial profiling.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2007

Mr. FEINGOLD (for himself, Mr. LAUTENBERG, Mr. KENNEDY, Mr. DURBIN, Ms. STABENOW, Mr. DODD, Ms. MIKULSKI, Mr. KERRY, Mrs. CLINTON, Ms. CANTWELL, Mr. OBAMA, Mr. MENENDEZ, Mr. BROWN, and Mr. CARDIN) introduced the following bill; which was read twice and 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,*

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

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

6 (b) TABLE OF CONTENTS.—The table of contents of
7 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.

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

2 (a) FINDINGS.—Congress finds the following:

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

9 (2) The use by police officers of race, ethnicity,
10 national origin, or religion in deciding which persons

1 should be subject to traffic stops, stops and frisks,
2 questioning, searches, and seizures is improper.

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

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

17 (5) The Department of Justice Guidance is a
18 useful first step, but does not achieve the President’s
19 stated goal of ending racial profiling in America,
20 as—

21 (A) it does not apply to State and local law
22 enforcement agencies;

23 (B) it does not contain a meaningful en-
24 forcement mechanism;

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

1 (D) it contains an overbroad exception for
2 immigration and national security matters.

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

8 (7) Statistical evidence from across the country
9 demonstrates that racial profiling is a real and
10 measurable phenomenon.

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

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

22 (10) A 2001 Department of Justice report on
23 citizen-police contacts that occurred in 1999, found
24 that, although Blacks and Hispanics were more like-
25 ly to be stopped and searched, they were less likely

1 to be in possession of contraband. On average,
2 searches and seizures of Black drivers yielded evi-
3 dence only 8 percent of the time, searches and sei-
4 zures of Hispanic drivers yielded evidence only 10
5 percent of the time, and searches and seizures of
6 White drivers yielded evidence 17 percent of the
7 time.

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

11 (A) Black women who were United States
12 citizens were 9 times more likely than White
13 women who were United States citizens to be x-
14 rayed after being frisked or patted down;

15 (B) Black women who were United States
16 citizens were less than half as likely as White
17 women who were United States citizens to be
18 found carrying contraband; and

19 (C) in general, the patterns used to select
20 passengers for more intrusive searches resulted
21 in women and minorities being selected at rates
22 that were not consistent with the rates of find-
23 ing contraband.

24 (12) A 2005 report of the Bureau of Justice
25 Statistics of the Department of Justice on citizen-

1 police contacts that occurred in 2002, found that, al-
2 though Whites, Blacks, and Hispanics were stopped
3 by the police at the same rate—

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

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

8 (C) Blacks and Hispanics were much more
9 likely to report the use or threatened use of
10 force by a police officer;

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

13 (E) Blacks and Hispanics were much more
14 likely to have their vehicles searched than
15 Whites.

16 (13) In some jurisdictions, local law enforce-
17 ment practices, such as ticket and arrest quotas and
18 similar management practices, may have the unin-
19 tended effect of encouraging law enforcement agents
20 to engage in racial profiling.

21 (14) Racial profiling harms individuals sub-
22 jected to it because they experience fear, anxiety, hu-
23 miliation, anger, resentment, and cynicism when
24 they are unjustifiably treated as criminal suspects.
25 By discouraging individuals from traveling freely, ra-

1 cial profiling impairs both interstate and intrastate
2 commerce.

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

7 (16) In the wake of the September 11, 2001,
8 terrorist attacks, many Arabs, Muslims, Central and
9 South Asians, and Sikhs, as well as other immi-
10 grants and Americans of foreign descent, were treat-
11 ed with generalized suspicion and subjected to
12 searches and seizures based upon religion and na-
13 tional origin, without trustworthy information link-
14 ing specific individuals to criminal conduct. Such
15 profiling has failed to produce tangible benefits, yet
16 has created a fear and mistrust of law enforcement
17 agencies in these communities.

18 (17) Racial profiling violates the equal protec-
19 tion clause of the fourteenth amendment to the Con-
20 stitution of the United States. Using race, ethnicity,
21 religion, or national origin as a proxy for criminal
22 suspicion violates the constitutional requirement that
23 police and other government officials accord to all
24 citizens the equal protection of the law. *Batson v.*

1 Kentucky, 476 U.S. 79 (1986); *Palmore v. Sidoti*,
2 466 U.S. 429 (1984).

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

14 (19) A comprehensive national solution is need-
15 ed to address racial profiling at the Federal, State,
16 and local levels. Federal support is needed to combat
17 racial profiling through specialized training of law
18 enforcement agents, improved management systems,
19 and the acquisition of technology such as in-car
20 video cameras.

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

22 (1) to enforce the constitutional right to equal
23 protection of the laws, pursuant to the fifth amend-
24 ment and section 5 of the fourteenth amendment to
25 the Constitution of the United States;

1 (2) to enforce the constitutional right to protec-
2 tion against unreasonable searches and seizures,
3 pursuant to the fourteenth amendment to the Con-
4 stitution of the United States;

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

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

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

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

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

20 (A) the Edward Byrne Memorial State and
21 Local Law Enforcement Assistance Program
22 (part E of title I of the Omnibus Crime Control
23 and Safe Streets Act of 1968 (42 U.S.C. 3750
24 et seq.)); and

1 (B) the “Cops on the Beat” program
2 under part Q of title I of the Omnibus Crime
3 Control and Safe Streets Act of 1968 (42
4 U.S.C. 3796dd et seq.), but not including any
5 program, project, or other activity specified in
6 section 1701(b)(13) of that Act (42 U.S.C.
7 3796dd(b)(13)).

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

12 (3) INDIAN TRIBE.—The term “Indian tribe”
13 has the same meaning as in section 103 of the Juve-
14 nile Justice and Delinquency Prevention Act of 1974
15 (42 U.S.C. 5603)).

16 (4) LAW ENFORCEMENT AGENCY.—The term
17 “law enforcement agency” means any Federal,
18 State, local, or Indian tribal public agency engaged
19 in the prevention, detection, or investigation of viola-
20 tions of criminal, immigration, or customs laws.

21 (5) LAW ENFORCEMENT AGENT.—The term
22 “law enforcement agent” means any Federal, State,
23 local, or Indian tribal official responsible for enfore-
24 ing criminal, immigration, or customs laws, includ-

1 ing police officers and other agents of a law enforce-
2 ment agency.

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

15 (7) ROUTINE OR SPONTANEOUS INVESTIGATORY
16 ACTIVITIES.—The term “routine or spontaneous in-
17 vestigatory activities” means the following activities
18 by a law enforcement agent:

19 (A) Interviews.

20 (B) Traffic stops.

21 (C) Pedestrian stops.

22 (D) Frisks and other types of body
23 searches.

1 (E) Consensual or nonconsensual searches
2 of the persons or possessions (including vehi-
3 cles) of motorists or pedestrians.

4 (F) Inspections and interviews of entrants
5 into the United States that are more extensive
6 than those customarily carried out.

7 (G) Immigration related workplace inves-
8 tigations.

9 (H) Such other types of law enforcement
10 encounters compiled by the Federal Bureau of
11 Investigation and the Justice Departments Bu-
12 reau of Justice Statistics.

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

16 (A) are immaterial to the investigation;

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

19 (C) would place a severe burden on the re-
20 sources of the law enforcement agency given its
21 size.

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

1 (A) any city, county, township, town, bor-
2 ough, parish, village, or other general purpose
3 political subdivision of a State;

4 (B) any law enforcement district or judicial
5 enforcement district that—

6 (i) is established under applicable
7 State law; and

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

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

14 (D) for the purposes of assistance eligi-
15 bility, any agency of the government of the Dis-
16 trict of Columbia or the Federal Government
17 that performs law enforcement functions in and
18 for—

19 (i) the District of Columbia; or

20 (ii) any Trust Territory of the United
21 States.

1 **TITLE I—PROHIBITION OF**
2 **RACIAL PROFILING**

3 **SEC. 101. PROHIBITION.**

4 No law enforcement agent or law enforcement agency
5 shall engage in racial profiling.

6 **SEC. 102. ENFORCEMENT.**

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

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

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

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

19 (3) any person with supervisory authority over
20 such agent.

21 (c) NATURE OF PROOF.—Proof that the routine or
22 spontaneous investigatory activities of law enforcement
23 agents in a jurisdiction have had a disparate impact on
24 racial, ethnic, or religious minorities shall constitute prima
25 facie evidence of a violation of this title.

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

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

11 **SEC. 201. 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 permit racial
17 profiling.

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

20 (1) a prohibition on racial profiling;

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

23 (3) the collection of data in accordance with the
24 regulations issued by the Attorney General under
25 section 401;

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

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

7 (6) such other policies or procedures that the
8 Attorney General deems necessary to eliminate racial
9 profiling.

10 **TITLE III—PROGRAMS TO ELIMI-**
11 **NATE RACIAL PROFILING BY**
12 **STATE, LOCAL, AND INDIAN**
13 **TRIBAL LAW ENFORCEMENT**
14 **AGENCIES**

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

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

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

24 (2) has eliminated any existing practices that
25 permit or encourage racial profiling.

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

3 (1) a prohibition on racial profiling;

4 (2) training on racial profiling issues as part of
5 law enforcement training;

6 (3) the collection of data in accordance with the
7 regulations issued by the Attorney General under
8 section 401;

9 (4) participation in an administrative complaint
10 procedure or independent auditor program that
11 meets the requirements of section 302;

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

15 (6) such other policies or procedures that the
16 Attorney General deems necessary to eliminate racial
17 profiling.

18 (c) EFFECTIVE DATE.—This section shall take effect
19 12 months after the date of enactment of this Act.

20 **SEC. 302. ADMINISTRATIVE COMPLAINT PROCEDURE OR**
21 **INDEPENDENT AUDITOR PROGRAM RE-**
22 **QUIRED FOR GRANTS.**

23 (a) ESTABLISHMENT OF ADMINISTRATIVE COM-
24 PLAINT PROCEDURE OR INDEPENDENT AUDITOR PRO-
25 GRAM.—An application by a State or unit of local govern-

1 ment for funding under a covered program shall include
2 a certification that the applicant has established and is
3 maintaining, for each law enforcement agency of the appli-
4 cant, either—

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

7 (2) an independent auditor program that meets
8 the requirements of subsection (c).

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

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

14 (2) allow a complaint to be made—

15 (A) in writing or orally;

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

18 (C) anonymously or through a third party;

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

21 (A) is located outside of any law enforce-
22 ment agency or the law office of the State or
23 unit of local government;

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

4 (C) does not include as a member any indi-
5 vidual who is then serving as a law enforcement
6 agent;

7 (D) possesses the power to request all rel-
8 evant information from a law enforcement
9 agency; and

10 (E) possesses staff and resources sufficient
11 to perform the duties assigned to the inde-
12 pendent review board under this subsection;

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

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

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

22 (7) provide for an appropriate remedy, and
23 publication of the results of the inquiry by the re-
24 view board, if the review board determines that a
25 violation of section 101 has occurred;

1 (8) provide that the review board shall dismiss
2 the complaint and publish the results of the inquiry
3 by the review board, if the review board determines
4 that no violation has occurred;

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

8 (10) provide that a record of all complaints and
9 proceedings be sent to the Civil Rights Division and
10 the Bureau of Justice Statistics of the Department
11 of Justice;

12 (11) provide that no published information shall
13 reveal the identity of the law enforcement officer,
14 the complainant, or any other individual who is in-
15 volved in a detention; and

16 (12) otherwise operate in a manner consistent
17 with regulations promulgated by the Attorney Gen-
18 eral under section 303.

19 (c) REQUIREMENTS FOR INDEPENDENT AUDITOR
20 PROGRAM.—To meet the requirements of this subsection,
21 an independent auditor program shall—

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

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

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

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

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

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

17 (B) recommends any necessary changes to
18 the policies and procedures of any law enforce-
19 ment agency;

20 (6) require that each law enforcement agency
21 issue a public response to each report issued by the
22 auditor under paragraph (5);

23 (7) provide that the independent auditor, upon
24 determining that a law enforcement agency is not in

1 compliance with this Act, shall forward the public
2 report directly to the Attorney General;

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

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

9 (d) LOCAL USE OF STATE COMPLAINT PROCEDURE
10 OR INDEPENDENT AUDITOR PROGRAM.—

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

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

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

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

2 (a) REGULATIONS.—

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

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

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

24 (c) PRIVATE PARTIES.—The Attorney General shall
25 provide notice and an opportunity for private parties to

1 present evidence to the Attorney General that a grantee
2 is not in compliance with the requirements of this title.

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

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

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

13 (1) are not already collecting data voluntarily or
14 otherwise; and

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

17 (c) REQUIRED ACTIVITIES.—Activities carried out
18 under subsection (b) shall include—

19 (1) developing a data collection tool;

20 (2) training of law enforcement personnel on
21 data collection;

22 (3) collecting data on hit rates for stops and
23 searches; and

24 (4) reporting the compiled data to the Attorney
25 General.

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

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

9 (1) \$5,000,000, over a 2-year period for a dem-
10 onstration project on 5 sites; and

11 (2) \$500,000 to carry out the evaluation in sub-
12 section (d).

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

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

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

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

24 (2) the acquisition and use of technology to fa-
25 cilitate the collection of data regarding routine inves-

1 tigtatory activities sufficient to permit an analysis of
2 these activities by race, ethnicity, national origin,
3 and religion;

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

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

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

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

21 (7) the establishment or improvement of man-
22 agement systems to ensure that supervisors are held
23 accountable for the conduct of their subordinates;
24 and

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

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

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

14 **SEC. 306. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated such sums
16 as are necessary to carry out this title.

17 **TITLE IV—DATA COLLECTION**

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

19 (a) **REGULATIONS.**—Not later than 6 months after
20 the enactment of this Act, the Attorney General, in con-
21 sultation with stakeholders, including Federal, State, and
22 local law enforcement agencies and community, profes-
23 sional, research, and civil rights organizations, shall issue
24 regulations for the collection and compilation of data
25 under sections 201 and 301.

1 (b) REQUIREMENTS.—The regulations issued under
2 subsection (a) shall—

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

5 (2) provide that the data collected shall—

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

9 (B) include the date, time, and location of
10 the investigatory activities; and

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

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

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

23 (5) provide that law enforcement agencies shall
24 maintain all data collected under this Act for not
25 less than 4 years;

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

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

6 (A) analyze the data for any statistically
7 significant disparities, including—

8 (i) disparities in the percentage of
9 drivers or pedestrians stopped relative to
10 the proportion of the population passing
11 through the neighborhood;

12 (ii) disparities in the percentage of
13 false stops relative to the percentage of
14 drivers or pedestrians stopped; and

15 (iii) disparities in the frequency of
16 searches performed on minority drivers
17 and the frequency of searches performed
18 on non-minority drivers; and

19 (B) not later than 3 years after the date
20 of enactment of this Act, and annually there-
21 after, prepare a report regarding the findings of
22 the analysis conducted under subparagraph (A)
23 and provide the report to Congress and make
24 the report available to the public, including on
25 a website of the Department of Justice.

1 **SEC. 402. PUBLICATION OF DATA.**

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

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

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

11 (1) released to the public;

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

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

17 **TITLE V—DEPARTMENT OF JUS-**
18 **TICE REGULATIONS AND RE-**
19 **PORTS ON RACIAL**
20 **PROFILING IN THE UNITED**
21 **STATES**

22 **SEC. 501. ATTORNEY GENERAL TO ISSUE REGULATIONS**
23 **AND REPORTS.**

24 (a) REGULATIONS.—In addition to the regulations re-
25 quired under sections 303 and 401, the Attorney General

1 shall issue such other regulations as the Attorney General
2 determines are necessary to implement this Act.

3 (b) REPORTS.—

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

9 (2) SCOPE.—Each report submitted under
10 paragraph (1) shall include—

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

15 (B) a discussion of the findings in the
16 most recent report prepared by the Bureau of
17 Justice Statistics under section 401(a)(8);

18 (C) the status of the adoption and imple-
19 mentation of policies and procedures by Federal
20 law enforcement agencies under section 201;

21 (D) the status of the adoption and imple-
22 mentation of policies and procedures by State
23 and local law enforcement agencies under sec-
24 tions 301 and 302; and

1 (E) a description of any other policies and
2 procedures that the Attorney General believes
3 would facilitate the elimination of racial
4 profiling.

5 **TITLE VI—MISCELLANEOUS**
6 **PROVISIONS**

7 **SEC. 601. SEVERABILITY.**

8 If any provision of this Act or the application of such
9 provision to any person or circumstance is held to be un-
10 constitutional, the remainder of this Act and the applica-
11 tion of the provisions of this Act to any person or cir-
12 cumstance shall not be affected thereby.

13 **SEC. 602. SAVINGS CLAUSE.**

14 Nothing in this Act shall be construed to limit legal
15 or administrative remedies under section 1979 of the Re-
16 vised Statutes of the United States (42 U.S.C. 1983), sec-
17 tion 210401 of the Violent Crime Control and Law En-
18 forcement Act of 1994 (42 U.S.C. 14141), the Omnibus
19 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
20 3701 et seq.), and title VI of the Civil Rights Act of 1964
21 (42 U.S.C. 2000d et seq.).

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