

113TH CONGRESS
1ST SESSION

H. R. 3560

To mandate the basic educational, regulatory, and management actions necessary for the prevention of racial profiling practices by law enforcement.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2013

Mr. HORSFORD (for himself, Mr. CONYERS, and Mr. THOMPSON of Mississippi) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To mandate the basic educational, regulatory, and management actions necessary for the prevention of racial profiling practices by law enforcement.

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 “Universal Racial Profiling Elimination Standards, and
6 Procedures for Effective Constitutional Rights Training
7 Act” or the “Universal RESPECT Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROHIBITION OF RACIAL PROFILING AND REVIEW OF
 FEDERAL PRACTICES IN LAW ENFORCEMENT

Sec. 101. Prohibition.

Sec. 102. Review of Federal practices in law enforcement.

TITLE II—LAW ENFORCEMENT EDUCATION REFORMS

Sec. 201. The Federal Law Enforcement Training Center.

Sec. 202. The Federal Law Enforcement Training Accreditation Board.

Sec. 203. State law enforcement officer standards and training authorities.

TITLE III—PROHIBITION ON RACIAL PROFILING

Sec. 301. Recipients of Department of Homeland Security grants for law enforcement.

TITLE IV—LAW ENFORCEMENT RACIAL PROFILING REVIEW,
 OVERSIGHT, AND REVIEW

Sec. 401. Officer for civil rights and civil liberties.

Sec. 402. Enforcement—civil rights compliance.

TITLE V— DATA COLLECTION AND REPORTING

Sec. 501. Data collection.

Sec. 502. Reporting to Congress.

TITLE VI—CONSTRUCTION, SEVERABILITY, AND EFFECTIVE
 DATE

Sec. 601. Construction; severability.

Sec. 602. Effective date.

TITLE VII—DEFINITIONS

Sec. 701. Definitions.

3 **TITLE I—PROHIBITION OF RA-**
 4 **CIAL PROFILING AND REVIEW**
 5 **OF FEDERAL PRACTICES IN**
 6 **LAW ENFORCEMENT**

7 **SEC. 101. PROHIBITION.**

8 No Federal law enforcement agent shall engage in ra-
 9 cial profiling.

1 **SEC. 102. REVIEW OF FEDERAL PRACTICES IN LAW EN-**
2 **FORCEMENT.**

3 (a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of this Act—

5 (1) the Attorney General shall review all appli-
6 cable law enforcement policies and procedures to en-
7 sure that they are sufficient to eliminate the practice
8 of racial profiling as defined in this Act, while per-
9 forming official law enforcement duties; and

10 (2) the Secretary of Homeland Security shall
11 ensure that no recipient of covered Federal law en-
12 forcement assistance, as defined in title VII of this
13 Act, engages in racial profiling.

14 (b) THE ADVISORY BOARD.—The Attorney General
15 shall conduct the review in consultation with an Advisory
16 Board comprised of stakeholders including representatives
17 from Federal, State, and local law enforcement agencies,
18 POST Commissions, law enforcement labor organizations,
19 and professional, research, and civil rights and civil liberty
20 organizations.

21 (c) UPDATES PUBLISHED.—The Attorney General or
22 Secretary of Homeland Security may publish in the Fed-
23 eral Register updates to covered programs in accordance
24 with this Act.

1 **TITLE II—LAW ENFORCEMENT**
2 **EDUCATION REFORMS**

3 **SEC. 201. THE FEDERAL LAW ENFORCEMENT TRAINING**
4 **CENTER.**

5 Not later than 2 years after the enactment of this
6 Act, the Secretary of Homeland Security, acting through
7 the Officer for Civil Rights and Civil Liberties and the
8 Director of the Federal Law Enforcement Training Cen-
9 ter, shall develop and incorporate any necessary changes
10 to all training, curriculum, and professional certification
11 classes provided by the Federal Law Enforcement Train-
12 ing Center to ensure consistency with the requirements of
13 this Act.

14 **SEC. 202. THE FEDERAL LAW ENFORCEMENT TRAINING AC-**
15 **CREDITATION BOARD.**

16 (a) IN GENERAL.—Not later than 2 years after the
17 enactment of this Act, the Secretary of Homeland Secu-
18 rity, acting through the Officer for Civil Rights and Civil
19 Liberties and the Director of the Federal Law Enforce-
20 ment Training Center, and in consultation with the Fed-
21 eral Law Enforcement Training Accreditation Board and
22 the Advisory Board, shall develop and incorporate any nec-
23 essary changes to all training, curriculum, and profes-
24 sional certification classes to ensure consistency with the
25 requirements of this Act.

1 (b) MODEL PRACTICES.—The Secretary of Homeland
2 Security, acting through the Director of the Federal Law
3 Enforcement Training Center shall identify, develop, and
4 update as necessary, model practices that prevent racial
5 profiling practices. The Board shall widely disseminate to,
6 and incorporate these practices into the law enforcement
7 community through the Federal Law Enforcement Train-
8 ing Accreditation Model Practice Clearinghouse and other
9 means.

10 (c) ACCREDITATION.—The Federal Law Enforce-
11 ment Training Accreditation Board, in consultation with
12 the Officer for Civil Rights and Civil Liberties, shall de-
13 velop a standard of review of anti-racial profiling compo-
14 nents of law enforcement training curricula. The Federal
15 Law Enforcement Training Accreditation Board shall in-
16 corporate into the accreditation process a review that shall
17 include at a minimum—

18 (1) the sufficiency of the anti-racial profiling
19 training curriculum;

20 (2) procedures implemented by the applicant to
21 identify racial profiling practices by the applicant, if
22 any;

23 (3) procedures implemented by the applicant to
24 prevent racial profiling practices by the applicant, or
25 its individual agents or officers;

1 (4) the sufficiency of the applicant’s remedial
2 measures and disciplinary guidelines to prevent ra-
3 cial profiling practices; and

4 (5) the capacity of the applicant to collect and
5 maintain “civil rights data” as defined by title VII
6 of this Act.

7 (d) DENIAL.—The Board shall deny accreditation or
8 reaccreditation to academies, programs, and instructors
9 not meeting the Federal Law Enforcement Training Ac-
10 creditation Board’s standards prepared under subsection
11 (c).

12 **SEC. 203. STATE LAW ENFORCEMENT OFFICER STANDARDS**
13 **AND TRAINING AUTHORITIES.**

14 (a) IN GENERAL.—Not later than 2 years after the
15 date of enactment of this Act, the Secretary of Homeland
16 Security, acting through the Office for State and Local
17 Government Coordination established under Section 361
18 of the Homeland Security Act of 2002 (6 U.S.C. 361) and
19 the Officer for Civil Rights and Civil Liberties shall review
20 the Peace Officer Standards and Training or equivalent
21 program of the States, as defined in title VII of this Act,
22 to assess the anti-racial profiling education component of
23 these curricula. The Secretary shall notify States of defi-
24 ciencies in the curriculum that do not meet the minimum

1 anti-racial profiling standards developed by the Federal
2 Law Enforcement Training Accreditation Board.

3 (b) ASSISTANCE.—The Secretary of Homeland Secu-
4 rity shall make available to the States assistance to de-
5 velop sufficient curriculum to meet minimum anti-racial
6 profiling standards.

7 **TITLE III—PROHIBITION ON** 8 **RACIAL PROFILING**

9 **SEC. 301. RECIPIENTS OF DEPARTMENT OF HOMELAND SE-** 10 **CURITY GRANTS FOR LAW ENFORCEMENT.**

11 (a) IN GENERAL.—Section 603 of the Homeland Se-
12 curity Act of 2002 (6 U.S.C. 603) is amended by inserting
13 after subsection (a) the following:

14 “(b) State, local, and tribal government recipients of
15 grants under sections 604 through 607 of this title shall
16 certify that they do not engage in racial profiling.”.

17 (b) IN GENERAL.—The Secretary of Homeland Secu-
18 rity, acting through the Officer for Civil Rights and Civil
19 Liberties and the Federal Law Enforcement Training
20 Center, shall develop guidance, outreach, training, and
21 programs that include civil rights and civil liberties train-
22 ing, in particular those designed to prevent racial
23 profiling.

24 (c) TRAINING.—Not later than one year after the
25 date of enactment of this subtitle, the Secretary of Home-

1 land Security, acting through Department officials, shall
2 develop and distribute to State, local, and tribal authori-
3 ties, courses and materials that comply with the “Grant
4 Programs Directorate Information Bulletin No. 373” or
5 successor bulletin for integration into the curricula for re-
6 cruits and recurrent training for experienced law enforce-
7 ment officers.

8 (d) GRANT PREAPPROVAL.—Beginning with grants
9 provided for fiscal year 2014, grant guidance for grants
10 under sections 604 through 607 of the Homeland Security
11 Act of 2002 shall inform recipients that expenditures on
12 any training, programs, presentations, and speakers that
13 are acquired from an entity other than the Department,
14 must be approved, in advance, by the Chief Privacy Officer
15 and the Office for Civil Rights and Civil Liberties.

16 (e) ASSISTANCE.—The Secretary of Homeland Secu-
17 rity shall make available to the States assistance to de-
18 velop sufficient curriculum to meet minimum anti-racial
19 profiling standards.

1 **TITLE IV—LAW ENFORCEMENT**
2 **RACIAL PROFILING REVIEW,**
3 **OVERSIGHT, AND REVIEW**

4 **SEC. 401. OFFICER FOR CIVIL RIGHTS AND CIVIL LIB-**
5 **ERTIES.**

6 (a) IN GENERAL.—The Officer for Civil Rights and
7 Civil Liberties of the Department of Homeland Security
8 shall be granted primary jurisdiction over all matters re-
9 lating to the review, implementation, and oversight of the
10 requirements of this Act.

11 (b) INVESTIGATION OF COMPLAINTS.—Section 705
12 of the Homeland Security Act of 2002 (6 U.S.C. 705) is
13 amended—

14 (1) in subsection (a), by striking paragraph (6)
15 and inserting the following:

16 “(6) investigate complaints and information in-
17 dicating possible abuses of civil rights or civil lib-
18 erties by employees and officials of the Department
19 or that are related to Departmental activities unless
20 the Inspector General of the Department determines
21 that such a complaint or such information should be
22 investigated by the Inspector General and, using the
23 information gained by such investigations, make rec-
24 ommendations to the Secretary and directorates, of-
25 fices, and other components of the Department for

1 improvements in policy, supervision, training, and
2 practice related to civil rights or civil liberties, or for
3 the relevant office to review the matter and take ap-
4 propriate disciplinary or other action; and

5 “(7) review and assess information alleging
6 abuses of civil rights, civil liberties, and racial and
7 ethnic profiling by law enforcement agencies receiv-
8 ing grants or assistance from the Department of
9 Homeland Security.”;

10 (2) by redesignating subsection (b) as sub-
11 section (e); and

12 (3) by inserting after subsection (a) the fol-
13 lowing:

14 “(b) INVESTIGATION OF COMPLAINTS.—The head of
15 each directorate, office, or component of the Department
16 and the head of any other executive agency shall ensure
17 that the directorate, office, or component provides the Of-
18 ficer for Civil Rights and Civil Liberties with speedy ac-
19 cess, and in no event later than 30 days after the date
20 on which the directorate, office, or component receives a
21 request from the Officer, to any information determined
22 by the Officer to be relevant to the exercise of the duties
23 and responsibilities under subsection (a) or to any inves-
24 tigation carried out under this section, whether by pro-

1 viding relevant documents or access to facilities or per-
2 sonnel.

3 “(c) SUBPOENAS.—

4 “(1) IN GENERAL.—In carrying out the duties
5 and responsibilities under subsection (a) or as part
6 of an investigation carried out under this section,
7 the Officer for Civil Rights and Civil Liberties may
8 require by subpoena access to—

9 “(A) any institution or entity outside of
10 the Federal Government that is the subject of
11 or related to an investigation under this section;
12 and

13 “(B) any individual, document, record, ma-
14 terial, file, report, memorandum, policy, proce-
15 dure, investigation, video or audio recording or
16 other media, or quality assurance report relat-
17 ing to any institution or entity outside of the
18 Federal Government that is the subject of or
19 related to an investigation under this section.

20 “(2) ISSUANCE AND SERVICE.—A subpoena
21 issued under this subsection shall—

22 “(A) bear the signature of the Officer for
23 Civil Rights and Civil Liberties; and

1 “(B) be served by any person or class of
2 persons designated by the Officer or an officer
3 or employee designated for that purpose.

4 “(3) ENFORCEMENT.—In the case of contu-
5 macy or failure to obey a subpoena issued under this
6 subsection, the United States district court for the
7 judicial district in which the institution, entity, or
8 individual is located may issue an order requiring
9 compliance. Any failure to obey the order of the
10 court may be punished by the court as contempt of
11 that court.

12 “(4) USE OF INFORMATION.—Any material ob-
13 tained under a subpoena issued under this sub-
14 section—

15 “(A) may not be used for any purpose
16 other than a purpose set forth in subsection (a);

17 “(B) may not be transmitted by or within
18 the Department for any purpose other than a
19 purpose set forth in subsection (a); and

20 “(C) shall be redacted, obscured, or other-
21 wise altered if used in any publicly available
22 manner to the extent necessary to prevent the
23 disclosure of any personally identifiable infor-
24 mation.”.

1 **SEC. 402. ENFORCEMENT—CIVIL RIGHTS COMPLIANCE.**

2 (a) THE OFFICER FOR CIVIL RIGHTS AND CIVIL LIB-
3 ERTIES.—The Officer for Civil Rights and Civil Liberties
4 may—

5 (1) request the assistance of the Inspector Gen-
6 eral to investigate compliance with civil rights pro-
7 tection standards and complaints of racial profiling
8 by law enforcement agencies in contravention of the
9 requirements of this Act;

10 (2) suspend the eligibility of State, local or trib-
11 al law enforcement agency to receive, or revoke
12 grants for violations of the requirements of this Act,
13 until such time that the practices of the agency are
14 brought into compliance with this Act; and

15 (3) suspend the eligibility of State, local or trib-
16 al law enforcement agency to receive training at
17 Federal law enforcement training facilities for viola-
18 tions of the requirements of this Act, until such time
19 that the practices of the agency are brought into
20 compliance with this Act.

21 (b) REMEDY.—The United States, or an individual
22 injured by racial profiling, may enforce this title in a civil
23 action for declaratory or injunctive relief, filed either in
24 a State court of general jurisdiction or in a district court
25 of the United States.

1 (c) PARTIES.—In any action brought under this title,
2 relief may be obtained against—

3 (1) any governmental body that employed any
4 law enforcement agent who engaged in racial
5 profiling;

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

8 (3) any person with supervisory authority over
9 such agent.

10 (d) NATURE OF PROOF.—Proof that the routine or
11 spontaneous investigatory activities of law enforcement
12 agents in a jurisdiction have had a disparate impact on
13 racial, ethnic, or religious minorities shall constitute prima
14 facie evidence of a violation of this title.

15 (e) ATTORNEY'S FEES.—In any action or proceeding
16 to enforce this title against any governmental body, the
17 court may allow a prevailing plaintiff, other than the
18 United States, reasonable attorney's fees as part of the
19 costs, and may include expert fees as part of the attorney's
20 fee.

21 **TITLE V— DATA COLLECTION** 22 **AND REPORTING**

23 **SEC. 501. DATA COLLECTION.**

24 (a) DATA COLLECTION BY LAW ENFORCEMENT EN-
25 TITIES.—Law enforcement entities receiving grants or

1 training from the Department of Homeland Security
2 shall—

3 (1) collect data on all routine or spontaneous
4 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 such investigatory activities;

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

14 (D) not include personally identifiable in-
15 formation;

16 (3) utilize a standardized form, developed in co-
17 ordination with the Department of Justice, that
18 shall be made available to law enforcement agencies
19 for the submission of collected data;

20 (4) compile data on the standardized form
21 made available under paragraph (3), and submit the
22 form to the Officer for Civil Rights and Civil Lib-
23 erties;

24 (5) maintain all data collected under this Act
25 for not less than 4 years; and

1 (6) protect the privacy of individuals whose
2 data is collected by—

3 (A) limiting the use and disclosure of the
4 data collected under this Act to the purposes
5 set forth in this Act;

6 (B) except as otherwise provided in this
7 Act, limiting access to the data collected under
8 this Act to those Federal, State, local, or tribal
9 employees or agents who require such access in
10 order to fulfill the purposes for the data set
11 forth in this Act;

12 (C) requiring contractors or other non-gov-
13 ernmental agents who are permitted access to
14 the data collected under this Act to sign use
15 agreements incorporating the use and disclosure
16 restrictions set forth in subparagraph (A); and

17 (D) requiring the maintenance of adequate
18 security measures to prevent unauthorized ac-
19 cess to the data collected under this Act.

20 (b) DATA COLLECTION BY THE OFFICER FOR CIVIL
21 RIGHTS AND CIVIL LIBERTIES.—The Officer for Civil
22 Rights and Civil Liberties shall receive and maintain data
23 from the States on—

24 (1) the implementation of racial profiling edu-
25 cation curricula in State Peace Officer Standards

1 and Training or equivalent State-level program
2 peace officer certification;

3 (2) the adoption rate by State Peace Officer
4 Standards and Training programs, of the Federal
5 Law Enforcement Training Accreditation Board
6 model practices on racial profiling;

7 (3) the number of credible complaints of im-
8 proper racial profiling practices filed against State
9 law enforcement entities, as collected under section
10 301(c)(3);

11 (4) the disposition of complaints of improper
12 racial profiling practices filed against State law en-
13 forcement entities, as collected under section
14 301(c)(3);

15 (5) the disciplinary action by State law enforce-
16 ment entities against officers and agents adjudicated
17 guilty of improper racial profiling practices, as col-
18 lected under section 301(c)(3); and

19 (6) other relevant data submitted to other agen-
20 cies.

21 **SEC. 502. REPORTING TO CONGRESS.**

22 Section 345 of the Homeland Security Act of 2002
23 (6 U.S.C. 345) is amended in subsection (b), by inserting
24 the following: “The report shall include a section related
25 to the enforcement of the Universal RESPECT Act.”.

1 **TITLE VI—CONSTRUCTION, SEV-**
 2 **ERABILITY, AND EFFECTIVE**
 3 **DATE**

4 **SEC. 601. CONSTRUCTION; SEVERABILITY.**

5 If any provision of this Act or any amendment made
 6 by this Act, or any application of such provision or amend-
 7 ment to any person or circumstance, is held to be uncon-
 8 stitutional, the remainder of the provisions of this Act and
 9 the amendments made by this Act and the application of
 10 the provision or amendment to any other person or cir-
 11 cumstance shall not be affected.

12 **SEC. 602. EFFECTIVE DATE.**

13 This Act shall take effect 1 year after the date of
 14 enactment.

15 **TITLE VII—DEFINITIONS**

16 **SEC. 701. DEFINITIONS.**

17 In this Act:

18 (1) **RACIAL PROFILING.**—The term “racial
 19 profiling” means the practice of a law enforcement
 20 agent or agency relying, to any degree, on race, eth-
 21 nicity, national origin, gender, or religion in select-
 22 ing which individual to subject to routine or sponta-
 23 neous investigatory activities or in deciding upon the
 24 scope and substance of law enforcement activity fol-
 25 lowing the initial investigatory procedure, except

1 when there is trustworthy information, relevant to
2 the locality and timeframe, that links a person of a
3 particular race, ethnicity, national origin, gender, or
4 religion to an identified criminal incident or scheme.

5 (2) ROUTINE OR SPONTANEOUS INVESTIGATORY
6 ACTIVITIES.—The term “routine or spontaneous in-
7 vestigatory activities” means the following activities
8 by a law enforcement agent:

9 (A) Interviews.

10 (B) Traffic stops.

11 (C) Pedestrian stops.

12 (D) Frisks and other types of body
13 searches.

14 (E) Consensual or nonconsensual searches
15 of the persons, property, or possessions (includ-
16 ing vehicles) of individuals using any form of
17 public or private transportation, including mo-
18 torists and pedestrians.

19 (F) Data collection and analysis, assess-
20 ments, and predicated investigations.

21 (G) Inspections and interviews of entrants
22 into the United States that are more extensive
23 than those customarily carried out.

24 (H) Immigration-related workplace inves-
25 tigations.

1 (I) Such other types of law enforcement
2 encounters about which statistical information
3 is compiled for or by the Federal Bureau of In-
4 vestigation or the Department of Justice Bu-
5 reau of Justice Statistics.

6 (3) SECRETARY.—The term “Secretary” means
7 the Secretary of the Department of Homeland Secu-
8 rity.

9 (4) STATE.—The term “State” means each of
10 the 50 States, the District of Columbia, the Com-
11 monwealth of Puerto Rico, and any other territory
12 or possession of the United States.

13 (5) FEDERAL LAW ENFORCEMENT ASSIST-
14 ANCE.—The term “Federal law enforcement assist-
15 ance” means grants, infrastructure development, en-
16 dowments, or training provided by the Federal Gov-
17 ernment to State, local, or Indian tribal law enforce-
18 ment entities, as determined by the Secretary.

19 (6) LAW ENFORCEMENT ENTITY.—The term
20 “law enforcement entity” means any Federal, State,
21 local, or Indian tribal public agency or department
22 engaged in the prevention, detection, or investigation
23 of violations of criminal, immigration, or customs
24 laws.

1 (7) LAW ENFORCEMENT AGENT.—The term
2 “law enforcement agent” means any Federal, State,
3 local, or Indian tribal official responsible for enforcing
4 criminal, immigration, or customs laws, including
5 police officers and other agents of a law enforcement
6 agency.

7 (8) COVERED PROGRAMS.—The term “covered
8 programs” means any grant issued under sections
9 604 through 607 of the Homeland Security Act of
10 2002, or training at any Federal law enforcement
11 training facility under the jurisdiction of the Department
12 of Homeland Security.

13 (9) PEACE OFFICER STANDARDS AND TRAIN-
14 ING.—The term “State Peace Officer Standards and
15 Training” or “POST” means all training or certification
16 required for licensure of State and local law
17 enforcement officers within a State. The term shall
18 be used synonymously with State programs of differing
19 names.

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